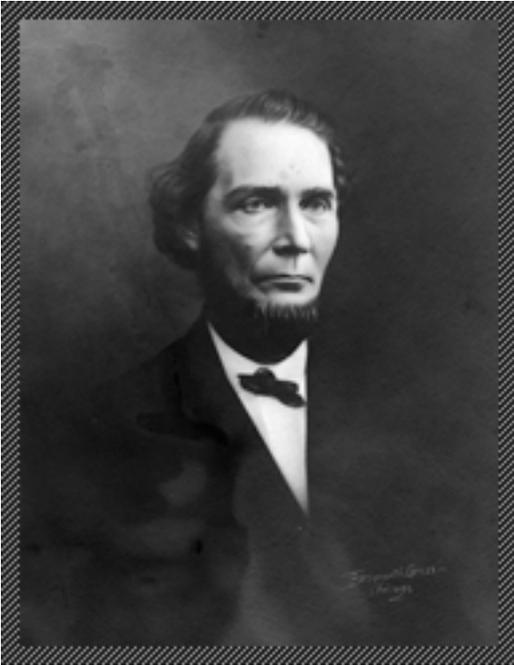


Anthony Thornton 1870-1873

© Illinois Supreme Court Historic Preservation Commission
Image courtesy of the Abraham Lincoln Presidential Library

One of seven Supreme Court justices elected under the new 1870 Illinois Constitution, Anthony Thornton was born on November 9, 1814, on a tobacco plantation



near Paris, Bourbon County, Kentucky, to Anthony and Mary Towles Thornton. Both parents had descended from British immigrants to Carolina County, Virginia, and in 1807 nearly one hundred Thornton family members moved with their slaves from Virginia to Kentucky.¹

Orphaned at the age of five, young Thornton resided with a grandfather and then an aunt. He attended county common schools, and at the age of sixteen, joined a sister in Gallatin, Tennessee, where he attended a preparatory school. He enrolled in Center College at Danville, Kentucky, then in the fall of 1834 graduated from Miami College in Oxford, Ohio. Returning to Kentucky, he studied law in the Paris office of an uncle, John R. Thornton and obtained his law license before the age of twenty-two.²

In October 1836, Anthony Thornton traveled west by river, rail, and stagecoach, intending to settle in Missouri. Stopping at Shelbyville, Illinois, to visit another uncle, banker and merchant William F. Thornton, he decided instead to establish a law practice in that town. “When he arrived here,” wrote a Shelbyville resident, “he found a town of

only two hundred[,] the residences being nearly all made of logs, while the country surrounding was one vast expanse of timber and uncultivated prairie land.”³

While in the state capital of Vandalia for his bar examination, Thornton met legislator Abraham Lincoln, and they and other attorneys rode the circuit together on horseback. “These twice a year trips about the circuit were not within a good deal of pleasure,” noted a newspaper reporter. “There was more riding than court and there were hardships. In those days travelers were forced to ride through swamps and sloughs belly-deep in mud and swarming with venomous insects. But it was a brilliant and congenial company and it was an unmixed delight to drop into that charmed circle in the tavern where they happened to be spending the night.”⁴

Thornton “was favored with success from the very start” of his Shelbyville practice, according to a county historian, “and during the first year had as much business as he cared to attend to in the courts of Shelby and adjoining counties.”⁵ Thornton garnered an excellent reputation and was “usually retained in all cases of importance.” A Whig who strongly supported Henry Clay, Thornton became a delegate to the 1847 Constitutional Convention, which framed the state’s second Constitution. Thornton served on the Committee for Law Reform and made a strong but unsuccessful effort to provide for merit selection rather than election of judges.⁶

In 1850, he won election as a Whig to the Illinois General Assembly and served for one term. That same year, he married Mildred Thornton, the daughter of William F. Thornton of Shelbyville. They became parents of two sons before her death in 1856. After the passage of the Kansas-Nebraska Act in 1854, Anthony Thornton joined the Democratic party, and at the Shelby County Courthouse in August, he debated Abraham

Lincoln on the slavery issue. Thornton supported Stephen A. Douglas and the controversial Nebraska Act, granting citizens in newly organized territories the right to decide whether to permit slavery. A few years later, during the Civil War, the Kentucky-born Thornton did not join in the conflict against Confederate relatives and friends. “My birthplace was in the South,” he explained. “My sympathies were, therefore, with the Southern people. I never had a wish for their success in the mad attempt to disrupt the Union, and put out the light of liberty forever. But I could not engage in the deadly strife with brothers and near relatives. Still, at no time during the terrible struggle, did I falter in my devotion to the union of the States.”⁷

In 1862, Thornton again was a member of the state constitutional convention, but voters failed to ratify the proposed document.⁸ The following year, he became the Shelby County agent for bounties to war draftees. “He handled over \$100,000,” reported a county historian, “without being called upon to give any security whatever.”⁹

Then in the fall of 1864, he won election to the U.S. Congress and served on the Committee on Claims and Bankruptcy, handling vast numbers of war claims. In 1866, he married a Shelby County teacher, Katherine H. Smith, daughter of Addison Smith of Springfield, Ohio. The couple became parents of one son and one daughter.¹⁰

Declining re-nomination to the Congressional seat, Thornton returned to his law practice. The new 1870 Illinois Constitution increased the number of Supreme Court justices from three to seven, and other downstate Democrats insisted that candidates be selected by party convention. Thornton, however, restated his career-long belief that “a candidate for judge should be under no obligations to any party, and should not be chosen by a partisan convention.”¹¹ In July 1870, he defeated Aaron B. Shaw by more than 8,000

votes to become a justice of the Illinois Supreme Court. “The judges were occupied during their entire time,” he later observed. “Our practice was to read the abstracts and briefs, confer about the facts and law of the case, and then make a minute of our conclusions. All the judges were required to be present at these conferences. When the opinions were written, they were read in the presence of all the judges, and either approved or condemned.”¹²

Biographer George D. Chafee further described Thornton’s responsibilities: “While upon the bench he wrote one hundred and eighty-two decisions, reversed one hundred of these cases, and affirmed eighty-two. In addition to this he had to hear and join in considering an equal number of cases that each of the other judges wrote opinions upon.”¹³ Thornton heard approximately 2,000 cases during his short tenure.

In an 1870 case, *The People ex rel. Cutler v. Ford*, Thornton delivered the decision that removed George E. Ford from the roll of Illinois attorneys. Ford had made false representations regarding a land sale, “for the purpose of cheating the party out of his money,” then refused to return the payment. “The defendant has neglected his duties, betrayed confidence, practiced deceit, and turned recreant to virtue,” Thornton wrote. “He has not alone degraded himself—he has tarnished the fair fame of a profession always esteemed honorable.”¹⁴

After three years on the Supreme Court, on May 31, 1873, Thornton resigned to return to private life. “The truth is,” fellow attorney Usher Linder explained, “no man of his talents, who has a good practice as a lawyer as he had, can abandon it and forsake the pleasant walks of private and professional life for the insignificant compensation given to our Supreme Judges.”¹⁵

Resuming his Shelbyville law practice, on January 4, 1877, Thornton and eighty-seven other lawyers met in Springfield and formed the Illinois State Bar Association. Elected its first president, Thornton served three successive terms.¹⁶

In 1879, Thornton and his family moved from Shelbyville to nearby Decatur but returned to Shelbyville two years later. In 1895, Illinois Governor John P. Altgeld appointed Thornton to the State Board of Arbitration, his last public office. “Through his whole career as a lawyer, wrote Attorney General H. J. Hamlin, Thornton “always held to the view that the common law of this State was broad enough to reach most any question that could be presented for trial and decision.”¹⁷

On September 10, 1904, eighty-nine-year-old Thornton died at his “Maple Hill” home in Shelbyville. Following an Episcopal service on the lawn of his home, he was interred in the family plot at Glenwood Cemetery.¹⁸

¹ *Historic Sketch and Biographical Album of Shelby County, Illinois* (Shelbyville, IL: Wilder Pub. Co., 1900), 122; *Shelbyville Democrat*, 15 September 1904, 1.

² Newton Bateman and Paul Selby, eds., *Historical Encyclopedia of Illinois and History of Shelby County*, 2 Vols. (Chicago: Munsell, 1910), 2: 729.

³ John M. Palmer, ed., *The Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 458.

⁴ Vandalia newspaper clipping, Abraham Lincoln Presidential Library vertical file.

⁵ *Combined History of Shelby and Moultrie Counties, Illinois* (Philadelphia: Brink, McDonough & Co., 1881), 161.

⁶ Charles C. Bingaman, “The Life and Times of Anthony Thornton, ISBA’s First President,” *Illinois Bar Journal* (January 1977), 314; Arthur Charles Cole, *The Constitutional Debates of 1847* (Springfield: Illinois State Historical Library, 1919), 66.

⁷ *Historic Sketch*, 134.

⁸ 216 Ill. 11.

⁹ *Historic Sketch*, 117.

¹⁰ 216 Ill. 16; Bateman and Selby, 73; Palmer, 459; *Shelbyville Democrat*, 1; *Historic Sketch*, 135.

¹¹ *Historic Sketch*, 135.

¹² 216 Ill. 11; *Historic Sketch*, 135.

¹³ *Historic Sketch*, 118.

¹⁴ *People ex rel. Cutler v. Ford*, 54 Ill. 520 (1870).

¹⁵ Usher F. Linder, *Reminiscences of the Early Bench and Bar of Illinois* (Chicago: Chicago Legal News Co., 1879), 214.

¹⁶ Bingaman, 315.

¹⁷ 216 Ill. 18.

¹⁸ *Shelbyville Democrat*, 1.