

= Emory Washburn =

Emory Washburn (February 14 , 1800 ? March 18 , 1877) was a United States lawyer , politician , and historian . He was Governor of Massachusetts for one term (from 1854 to 1855) , and served for many years on the faculty of Harvard Law School . His history of the early years of the Massachusetts Supreme Judicial Court is still considered a foundational work on the subject .

Born in Leicester , Massachusetts , Washburn attended Dartmouth and Williams before studying law . After establishing what grew to become a successful and distinguished law practice in Worcester , Washburn entered politics as a Whig . After serving several years in the state legislature , he was elected governor in 1853 . Despite his support for a reform @-@ minded agenda , he was swept out of office on the Know Nothing tide in 1854 .

Washburn joined the faculty of Harvard Law in 1856 , where he was a popular and influential figure until his retirement in 1876 . His publications , in addition to his history of the SJC , include a history of his hometown of Leicester and numerous treatises on legal subjects .

= = Early life = =

Emory Washburn was born on February 14 , 1800 in Leicester , Massachusetts to Joseph and Ruth (Davis) Washburn , both of whom came from families with deep roots in New England . He was the sixth of seven children . His father died when he was seven years old , and the local pastor , Zephaniah Swift Moore , became a major influence in his early years . He first attended Leicester Academy , and then entered Dartmouth College , where Moore taught languages , at the age of thirteen . He accompanied Moore when the latter moved to Williams College in 1815 , graduating two years later in a class of seven ; he was influential in establishing an alumni association at Williams , serving as its first president .

Washburn then embarked on the study of law , first with Charles Dewey , a Williamstown judge and lawyer , and then at Harvard Law School under Asahel Stearns . Although he did not graduate from Harvard , he was admitted to the bar and opened a practice in Charlemont , Massachusetts . After six months there he returned to his hometown of Leicester , where he practiced until 1828 . In that year he moved to Worcester , where he would live and practice for the next thirty years . In 1830 he married Marianne Cornelia Giles , with whom he had three sons and one daughter .

= = Political career = =

Washburn was elected to the Massachusetts House of Representatives in 1826 , serving two terms ; his only notable activity was in committee work preparing a feasibility study for a railroad from Boston to the Connecticut River . He was a regular supporter of the Western Railroad in its efforts to develop the railroad westward from Boston . Washburn asserted that railroads could " ... ward off the attack of any invader . " He would serve in the state legislature again in 1838 and 1877 . From 1830 to 1834 he served on the staff of Governor Levi Lincoln , Jr . , and in 1841 he was elected to the State Senate , where he served two years . In the second of those years he was chairman of the judiciary committee . In 1844 he was appointed a justice of the Court of Common Pleas , a post he held until 1847 . During these years he also established and maintained what was described by one of his peers , George Frisbie Hoar , as one of the largest and most successful law practices in Worcester County , partnering with John Davis among others .

In 1853 Washburn traveled to England to research English constitutional law . While he was away , the Whig Party nominated him as its gubernatorial candidate ; he did not learn of his nomination until his ship reached Halifax , Nova Scotia . In the election he defeated Henry W. Bishop (Democrat) and Henry Wilson (Free Soil) with 46 % of the vote . Since a majority of votes was at the time required to win , the election was determined in the state senate . Washburn was the last governor elected in this fashion (plurality voting was enacted in 1855) ; he would also be the last Whig governor . During his one year in office , he successfully promoted and enacted significant pieces of legislation on a broad social welfare agenda , including measures concerning debt relief ,

assistance to the poor and insane , and financial aid for female medical students .

One major event that took place during Washburn 's tenure was Anthony Burns ' arrest and trial under the terms of the Fugitive Slave Law of 1850 . The case galvanized anti @-@ slavery activists , who protested outside the courthouse and sought both legal and extra @-@ legal remedies to secure Burns ' release . Washburn refused to intercede in the matter , bringing criticism , and Burns remained in custody at the time Washburn left office . Burns was eventually returned to slavery , after which abolitionists purchased his freedom .

The 1854 campaign saw the rise of the secretive Know Nothing movement in Massachusetts politics . Washburn stood for reelection , but the Whig party apparatus was generally unaware of Know Nothing strength and dismissive of its candidates . One commentator described the Know Nothing slate as " spavined ministers , lying tooth @-@ pullers , and bugging priests " , and Washburn 's opponent , former Whig Henry J. Gardner , as a " rickety vermin " who stood no chance of winning . The outcome of the November election was a landslide : Washburn received only 21 % of the vote , and Know Nothing candidates won every major state and Congressional office , as well as most of the seats in the state legislature .

= = Law professor = =

The following year he was offered a position as a lecturer at Harvard Law School , which became a full professorship in 1856 . The seat had previously been occupied by Judge Edward G. Loring , who Harvard 's Overseers refused to retain after he ruled that Burns be returned to slavery . For the next twenty years , Washburn served as one of three dominant figures (along with Theophilus Parsons and Joel Parker) in shaping the law school 's practices and curriculum . Legal historian Charles Warren wrote of the three , " Parker was the great lawyer ; Parsons the great teacher ; and Washburn , the great man . " The three men established a collegial and open learning environment at the law school . Washburn produced a significant number of legal treatises and books during his Harvard tenure ; his Treatise on the American Law of Real Property formed the basis for Harvard 's courses and later textbooks on the subject for the next century . His interests in history and the law were comingled in these years , with a number of his publications covering aspects of both subjects .

In 1860 Washburn joined in public calls for the repeal of the state 's personal liberty laws . These laws , which were designed to make enforcement of the Fugitive Slave Act of 1850 as difficult as possible , were characterized by their opponents as an affront to the interests of slave owners , and as a source of heightened tension between north and south . When the American Civil War broke out in 1861 , Washburn led calls for harmony in the law school , which had students from both northern and southern states . He also served , despite his relatively advanced age , in a home guard militia unit , and supported the war effort by writing , giving speeches , and donating money .

Washburn was a popular and dedicated teacher . Students would sometimes attend his lectures just to hear him speak , and he was always willing to help students with matters both academic and personal . He also regularly assisted recent graduates as they made their way into the profession .

In 1870 the Law School hired Christopher Langdell to be its first dean . Langdell began to institute significant changes in the school , which Washburn for the most part went along with . He finally resigned his professorship in 1876 , and opened a law practice in Cambridge . He was encouraged to run for United States Congress , but refused . He was instead convinced to stand once again for the Massachusetts House , to which he was elected . He died in office on March 18 , 1877 in Cambridge , and was buried at Mount Auburn Cemetery .

= = Historian = =

Washburn had a long and abiding interest in local and state history . In 1826 he published a short history of Leicester in a Worcester magazine . This work formed the basis for his Historical Sketches of the Town of Leicester , Massachusetts , published in 1860 . He was elected a member of the American Antiquarian Society in 1827 , beginning a lifelong association with that organization . He

served as the society 's secretary for foreign correspondence from 1866 @-@ 1867 , and then secretary of domestic correspondence from 1867 @-@ 1877 . A large portion of his personal and business papers also resides within its collections . He later became a contributing member to the New England Historical and Genealogical Society and was a member of the Massachusetts Historical Society and the American Academy of Arts and Sciences . In 1840 he published Sketches of the Judicial History of Massachusetts , which provides a basic history of the colonial Massachusetts Superior Court of Judicature (antecedent to the current Massachusetts Supreme Judicial Court) and its justices . Biographer Robert Spector describes it as " the starting point and basis " for legal historical work relating to the court . Washburn considered himself to be more of an antiquarian than a historian : he believed it important to conserve artifacts and historical information , leaving the interpretation of those to others . He wrote of the importance , for example , of the need for the state to preserve its own historical documents (something not given much attention in its early years) .

= = Publications = =

Washburn , Emory (1840) . Sketches of Massachusetts Judicial History . Boston : Little , Brown . OCLC 12348114 .

Washburn , Emory (1855) . Brief Sketch of the History of Leicester Academy . Boston : Phillips , Sampson . OCLC 8999551 .

Washburn , Emory (1860) . Historical Sketches of the Town of Leicester , Massachusetts . Boston : J. Wilson . OCLC 1727577 .

Washburn , Emory (1860 ? 1862) . A Treatise on the American Law of Real Property . Boston : Little , Brown . OCLC 426759176 .

Washburn , Emory (1863) . A Treatise on the American Law of Easements and Servitudes . Philadelphia : George W. Childs . OCLC 3004970 .