

Chapter 13

Justice Joseph Story

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Introduction

Joseph Story was born on 18 September 1779 in Marblehead, Massachusetts and died on 10 September 1845, a few days shy of his 66th birthday. Story was, and remains, the youngest person ever to be appointed to sit on the Supreme Court of the United States, being appointed by President Madison at the age of 32 in 1811. At the time of his death, Story was regarded as one of America's finest jurists, and he was also one of the most successful legal authors in the country. As a judge, his opinions helped build the foundation for an American common law method, encouraged the rise of the corporation and economic progress, and manoeuvred the balance of power from the States to the national polity. His love for the law is evidenced by his role as the first Dane Professor of Law at Harvard while continuing to sit as a judge on circuit and in the Supreme Court.

Story's life had a profound impact on the development of American law in three ways: as a judge, as a writer, and as a teacher.¹ This chapter examines Story's key contributions in each of these respects, assisted primarily by the detailed biographies compiled by Gerald Dunne² and by R Kent Newmyer.³

Story's work and his ideas resonate down the tunnels of time, in particular in a nation such as Australia that is built on a federal structure and that searches (as did America in the era of Story), at times unconsciously, at times consciously, for its own approach to its legal system.

Historical context

A full appreciation of the immense contribution of Story to American history, American legal history and the development of the common law requires some

- 1 Pound, "The Place of Judge Story in the Making of American Law" (1914) 48 *American Law Review* Rev 676, 678.
- 2 Dunne, *Justice Joseph Story and the rise of the Supreme Court* (Simon and Schuster, New York, 1970).
- 3 Newmyer, *Joseph Story: Statesman of the New Republic* (University of North Carolina Press, Durham, 1985).

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