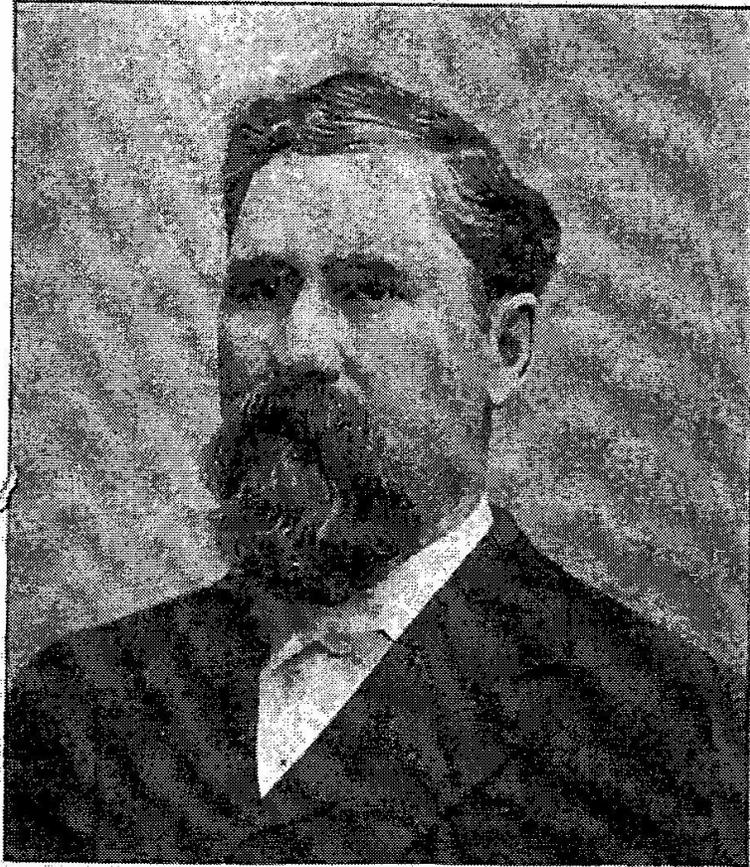


Walter H. Sanborn.



BIOGRAPHICAL.



WALTER H. SANBORN,

U. S. Judge, Eighth Judicial Circuit.

BIOGRAPHICAL SKETCH

— OF —

WALTER HENRY SANBORN,

UNITED STATES JUDGE

FOR THE

EIGHTH JUDICIAL CIRCUIT,

AND

EX-OFFICIO JUDGE OF THE UNITED STATES
CIRCUIT COURT OF APPEALS.

ST. PAUL
THE DISPATCH PRINTING COMPANY.
1892.

IN presenting this sketch, the purpose has been to avoid fulsome eulogy and to briefly outline a few facts which cannot fail to be of interest to the lawyers of the Eighth Judicial Circuit; to tell them something about the man who is to sit in judgment upon the causes in which they shall, from time to time, appear before him. That they will appreciate this modest and sincere endeavor, and, as time and opportunity for a better acquaintance shall unfold to their recognition the pure character and eminent judicial abilities of the subject of this brief biography, cordially applaud the wisdom of the chief executive in making this most admirable appointment, there is no reason whatever to doubt.

WALTER HENRY SANBORN, Judge of the United States Circuit Court for the eighth circuit, and ex-officio Judge of the United States Circuit Court of Appeals for the eighth circuit, was born on "Sanborn's Hill", in Epsom, N. H., on the 19th day of October, 1845.

The ancestral farm on "Sanborn's Hill" was purchased and occupied by his lineal ancestor, Eliphalet Sanborn, as early as 1752, and has descended by the law of primogeniture to the eldest son in the Sanborn family from generation to generation to the present time. It is now owned by Judge Sanborn and Gen. John B. Sanborn, his uncle, and is the summer home of the judge and his family. It comprises about three hundred acres of land, and upon it stand two large houses, one of which, the Sanborn homestead, is more than a century old and stands upon the hill so that Mount Washington is visible from its veranda.

Walter Henry Sanborn is the eldest son of Hon. Henry F. Sanborn, of Epsom, N. H. and Eunice Davis, of Princeton, Mass., who were married in 1843. He is, in truth, a son of the American Revolution. The grandfather of his mother, Thomas Davis, was a soldier for the colonies in the war of the revolution, and one of those patriots who served under Prescott at Bunker Hill, participated in the battle at White Plains, assisted to compel and

witnessed the surrender of Gen. Burgoyne, and ceased his services only with the close of the war. His direct lineal ancestor on the father's side, Eliphalet Sanborn, served as a soldier for the colonies in the revolution and died from the effects of injuries received in that service.

The Sanborns have been respected and honored by their contemporaries in every generation. Eliphalet Sanborn, as early as 1752, located the family on Sanborn's Hill and served in the revolutionary war, was elected and re-elected town Clerk of Epsom in the memorable years 1773, 1775, 1776 and 1777, and was one of its Selectmen in 1772, 1773 and 1774. His son, Hon. Josiah Sanborn, was elected and re-elected a member of the New Hampshire State Senate for three terms, a member of the House of Representatives for eight terms, and a Selectman of his native town for twenty years.

Gen. John B. Sanborn, his uncle and partner, under whose-direction and advice the character of Judge Sanborn as a lawyer and a citizen was formed, left his native town of Epsom and settled in St. Paul in 1854. He was elected a member of the House of Representatives of Minnesota in 1859, 1872 and 1881, and a member of the Minnesota State Senate in 1861 for two years, and again in 1890 for a term of four years.

He was Adjutant General and Quarter-Master General of Minnesota from April 24th, 1861, to January 1st, 1862, and organized and equipped the first five regiments of infantry, two batteries of artillery and four squadrons of cavalry from Minnesota in the war of the rebellion. He was Colonel of the Fourth Minnesota Infantry Volunteers from 1862 to August 4th, 1863; Brigadier General from August 4th, 1863; Brevet-Major General from August, 1864, to July, 1866, and Special Commissioner to treat with the Indian tribes east of the Rocky Mountains in 1867 and 1868.

Hon. Henry F. Sanborn, the father of the Judge, entered Dartmouth College, but after a year of the college course was compelled by failing health to abandon a professional career and return to the farm. He was elected State Senator of New Hampshire in 1866, when that body was composed of but twelve members, and was re-elected in 1867. He was a member of the New Hampshire House of Representatives in 1855, and Selectman of his native town for six years.

Eunice Davis Sanborn, his mother, is a well educated, cultured lady of lofty christian character, a sweet disposition, and untiring energy and perseverance. His parents appreciated and provided for their children the best education New England afforded, and, what was more important,

cultivated habits of industry and instilled the spirit of worthy ambition in the minds of their children as they grew to manhood.

The Judge's early education was obtained in the New England District School. There, from the age of five to fifteen, he attended school in the winter and spring, while he worked on the farm in the summer and in the vacations. Dartmouth College students generally taught the winter terms, and in the autumn one of them came back and taught a high school in the town hail. Under the tuition of these students, with but two short terms at the academy, young Sanborn studied the latin, greek, and mathematics required to enable him to enter college, until his parents thought if he could have one year's course at Meriden, N. H., where was then located a famous school for boys, he would be prepared for college, and in September, 1863, they sent him to Meriden to fit him for college. He was then in his 18th year, and had taught his first district school for \$20 a month and boarded himself the winter preceeding at Princeton, Mass. He went to Meriden with Almon F. Cate, another ambitious youth from Epsom, and together they interviewed the principal of the academy and the boarding house keeper. Epsom had had its lyceum and its spelling schools every winter, and these boys had been the leading debaters, speakers and spellers of the town — the

pride of their little community – and it struck these bumptious country boys that their advent at Meriden did not create quite as much of a sensation as it should. They therefore concluded to try to get away from there. They decided to go to Dartmouth College, which was about twenty miles from Meriden, and try to be admitted. They left their trunks at Meriden, walked seven miles to the railroad, and took the train for college. They were admitted on condition that they would read and pass an examination during freshman year upon several books of Homer. They accepted the terms and entered college.

Sanborn was a green country boy not yet eighteen, and during his four years in college he taught school three months every winter, and during his senior year six months to get money to assist his father in defraying his expenses; yet he made up his conditions, gradually crept upward in scholarship, was chosen by all the students of the college, when a junior, as one of the two participants in the annual college debate, led his class for the last two years of the course, and, upon comparison of averages, for the entire four years, and graduated with the highest honors, the valedictorian of his class in June, 1867.

In February, 1867, he became principal of the high school at Milford, N. H., and held this position until February, 1870. When Mr. Sanborn took charge of

the Milford High School, its former principal, Mr. Whittemore, had just been deposed by the town authorities and had established an opposition school in the village, which many of the better scholars attended. The high school had but about thirty scholars and these were disorganized, listless and fault finding.

In February, 1870, under Mr. Sanborn's charge, this high school had, for the first time, in Milford, fitted young men for college, had eighty scholars, was the pride of the town, and one of the best schools in the State.

Mr. Sanborn studied law nights, Saturdays, and in vacations, during these three years, in the office of Hon. Bainbridge Wadleigh, subsequently United States Senator from New Hampshire, and in February, 1870, declined a proffered increase of salary, resigned his position as principal, and came to St. Paul, Minnesota, where he continued his law studies until February, 1871, when he was admitted to the bar in the Supreme Court of that State.

On the first day of May, 1871, he formed a partnership with Gen. John B. Sanborn, his uncle, under the name of John B. and W. H. Sanborn, and continued to practice as a member of this firm until February 10, 1892, when he was nominated Circuit Judge by President Harrison.

In May, 1881, his only brother, Edward P. Sanborn,

Esq., became a member of this firm, but the firm name remained unchanged.

On the tenth day of November, 1874, he married Emily F. Bruce, of Milford, N. H., and their family consists of two daughters, Grace and Marian, and two sons, Bruce and Henry. The family residence was built by Mr. Sanborn in 1879, and stands in spacious grounds on St. Anthony Hill. Mrs. Sanborn is a lady of rare tact, refinement and beauty, admirably fitted to grace any position.

In the practice of his profession Mr. Sanborn has been clear, careful, accurate, energetic and untiring. Few, if any, lawyers in the northwest have worked as many hours in their profession as he has during the last twenty-two years; few, if any, have turned off more work, become more eminent in their profession, or accumulated as the fruits of their labors a more comfortable competency.

He has been one of the attorneys in more than forty-four hundred law suits, and the leading counsel in many noted cases.

In 1881 he was one of the counsel for the defense in the famous impeachment trial of Judge E. St. Julian Cox, and made an argument upon the legal questions involved that by its research, comprehensiveness and power at once placed him in the front rank of the lawyers of the State.

In 1886 he argued in the Supreme Court of the United States the famous case of *Hobbs vs. McLean*, 117 U. S., 567, which Hon. Charles E. Flandreau and he had conducted from its inception, and in which they gained for their clients a judgment of over \$40,000.

In 1889, while he was a member of the City Council of St. Paul, Hon. William P. Murray, the then democratic corporation attorney of St. Paul, caused himself to be chosen corporation attorney of that city for the then ensuing term on the first Tuesday in March of that year, under a law which fixed that election on that day. Mr. Sanborn discovered that this law was unconstitutional, and that the proper day for the election was on the second Tuesday of March, 1889; caused the City Council to meet on that day and elect Hon. O. E. Holman corporation attorney. Mr. Murray then refused to surrender the office, and Mr. Sanborn conducted *quo warranto* proceedings, prepared and made the brief and argument in *State vs. Murray*, 41 Minn., 123, whose decision vindicated his opinion and triumphantly seated Mr. Holman, his client.

In the year 1889 the legislature of Minnesota passed the law called "The Dressed Beef Act", Minnesota Laws of 1889, chap. 8, page 51, which, under the guise of an inspection law, prohibited the sale in

Minnesota of beef dressed without the State. Mr. Sanborn took the position that this act was in violation of the commercial clause of the constitution of the United States. He prepared and delivered a powerful argument in support of this position before the judiciary committees of the legislature and many of its members in opposition to the passage of the bill. The bill passed, and when the first arrest for the violation of this law was made he obtained a writ of *habeas corpus* from the United States Circuit Court, and in that Court and the Supreme Court of the United States made exhaustive briefs and powerful arguments against this law. The United States Court sustained his position *In re Barber*, 39 Fed. Rep., 641, and this decision was affirmed in *Minnesota vs. Barber*, 136 U. S. 313, by the Supreme Court of the United States.

In 1891, in the case of *Warner vs. Warner*, the most noted divorce case that has been tried in Minnesota for a decade, he was the leading attorney for Mr. Warner, the defendant, and succeeded in obtaining a judgment in his favor.

He is a ready, fluent and forcible speaker. In 1879 he delivered the Fourth of July oration in St. Paul, and his services as a public speaker have been frequently in demand. One of his democratic opponents once said of him:

“It is a pleasure to sit and listen to Walter Sanborn make a speech, and I have often availed myself of that pleasure, both in the council chamber and in the court room, and admired him even when his every utterance was so contrary to my views that it almost made me angry. His mind under every circumstance is as clear as a sunbeam, and he has a marvelous faculty of making others see a thing just as he does.”

By the members of the bar of Minnesota he has been universally respected and held in personal favor and esteem.

In 1885 he was chosen treasurer of the State Bar Association and has ever since held that position.

In 1889 the lawyers of St. Paul chose four members of the bar from whom the Governor was to appoint two as Judges of the District Court. Mr. Sanborn was one of the four chosen.

In 1890 he was elected president of the St. Paul Bar Association.

He is a prominent free mason, and no mason in the State has been more highly esteemed or honored.

In 1886, 1887 and 1888 he was elected and re-elected Eminent Commander of Damascus Commandery No. 1, of St. Paul, the oldest organization of Knights Templar in the State, and one of the strongest and most famous in the country,

In 1889 he was elected Grand Commander of the

Knights Templar of the State of Minnesota, and in the great parade at Washington at the triennial conclave in October of that year he was marshal of the eleventh division, and organized and led the Templars of ten States.

In the political and municipal affairs of St. Paul he has played no unimportant part.

In 1878 he was elected a member of the City Council of St. Paul, and was then its youngest member. In 1880 he moved his residence from the ward he represented to St. Anthony Hill, and in 1885 he was again elected a member of the City Council from that district, which is the wealthiest and most influential in the city.

He entered the City Council in 1885 for the purpose of obtaining and putting in operation some system of rapid transit to the hill district.

Before his first term expired the first cable line in St. Paul, extending from the heart of the city through the St. Anthony hill district, had been constructed and was in operation, and the horse cars were discarded.

Mr. Sanborn has, since, been re-elected without opposition, and was still serving in the City Council when he was appointed to the bench.

When he entered the City Council in 1885 there was not a foot of pavement or cement walk in the hill

district. Under his energetic supervision a tract of one hundred and sixty acres, including Summit Avenue and the tract northerly and westerly of it, has been paved, boulevarded and to a large extent supplied with cement walks, until, it is said, that no city can boast of a single residence tract so large that is so beautifully, expensively and uniformly improved.

During his term of service in the City Council, a system of cable and electric railways, whose superior cannot be found in any city, has been obtained, adopted and put in operation, and every horse car in the city removed.

To Mr. Sanborn, more than to any other member of the City Council, is this vast improvement due. Night after night, in committee meetings, in the council, and daily on the street, he was the earnest and untiring advocate of the electric and cable systems. He was the leading spirit on the committees that prepared, recommended and finally passed the ordinances under which the systems were constructed. In June, 1888, he was elected Vice-President of the Council, and in June, 1889, for one hundred and fifty-two ballots he received the same number of votes for president as his successful competitor.

An earnest and zealous republican, he was chosen President of the Union League of St. Paul in 1890.

In May, 1890, he was chosen Chairman of the Re-

-publican City Convention, and in every political contest for the last fifteen years he has been active, energetic and influential.

Uniformly at his post, always active, intelligent and forceful in the discharge of his duties as an officer, a citizen and a lawyer, few citizens of St. Paul have done more efficient service or had larger influence in promoting the growth and progress of St. Paul and Minnesota than has Walter H. Sanborn.

On the tenth day of February, 1892, Mr. Sanborn was nominated Judge of the United States Circuit Court for the Eighth Circuit, and on March 17th, 1892, his appointment was confirmed by the unanimous vote of the Senate.

This appointment makes him one of the three members of the United States Circuit Court of Appeals for the Eighth Circuit, and gives him rank in the judiciary of this nation inferior only to that of the nine justices of the Supreme Court of the United States.

The Eighth Circuit is the largest Judicial Circuit in the United States and comprises the States of Minnesota, North Dakota, South Dakota, Wyoming, Colorado, Nebraska, Iowa, Kansas, Missouri and Arkansas, and the Circuit Court of Appeals of that circuit takes jurisdiction over the States above named and the Indian Territory, New Mexico, Oklahoma and Utah.

In the prime of a vigorous manhood, the master of an acute and analytical mind and a sound judgment, long trained to the consideration and determination for a large and wealthy clientage of business men of the questions now to come before him for a judicial decision, he enters upon the duties of his high office with the best wishes and most sanguine anticipations of the people of the northwest, who highly recommended him and strenuously urged his appointment.

GEORGE THOMPSON.

St. Paul, April, 1892.

ACKNOWLEDGMENTS

The foregoing article was scanned by the MLHP from a copy of George Thompson's biographical sketch of Judge Sanborn held by the New Hampshire State Library, which may be the only public library to own an original. It is reformatted and case names italicized. Several typographical errors have been corrected.

Judge Sanborn served on the appellate court for thirty-five years. He took senior status in 1919. A testimonial dinner was given by the St. Louis Bar Association on April 8, 1927. After his death on May 10, 1928, memorial services were held for him by the Ramsey County Bar Association. These proceedings are collected in "Walter Henry Sanborn (1845-1928)" (MLHP, 2011-12).

Memorials to several members of the Sanborn family firm are also posted on the MLHP: "Edward Peyson Sanborn (1853-1934)" (MLHP, 2010), and "Memorial Proceedings for John B. Sanborn, Jr. (1964)" (MLHP, 2012).

George Thompson, the author of this pamphlet, was born in Devonshire, England, in 1840; he came to St. Paul in 1883, and acquired the *St. Paul Dispatch* in 1885 and the *Pioneer Press* in 1909. He died in 1917.

