

RAMSEY COUNTY
History
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Education was a serious matter in 1911 when these boys and girls attended the Stoen School on the western prairie of Minnesota. It has been preserved and restored as the one-room country school at the Ramsey County Historical Society's Gibbs Farm Museum in Falcon Heights. See the articles beginning on Page 4.

RAMSEY COUNTY HISTORY

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On the Cover: School children pose with their teacher, Andrew Peterson, the man in the hat. Ernie Kittleston, who gave this photograph to the museum, is the little boy second from the left in the front row. See articles beginning on page 4.

Acknowledgements: Photographs with the articles on pages 4-13 are from former Stoen school students and teachers. Those of Walter Hill on page 18; Walter Sanborn and his family on pages 22-27, and Kittsondale on page 29 are from the Minnesota Historical Society's audio-visual library. Other Hill family photographs are from the James J. Hill Papers at the James J. Hill Reference Library, St. Paul, and are used with the library's permission. The photograph on page 31 is from the Ramsey County Historical Society's historic sites survey file.

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A Message from the Editorial Board

While this issue of *Ramsey County History* focuses on the school house at the Gibbs Farm Museum, the peregrinating family of James J. Hill and the career of Judge Walter Sanborn, the Editorial Board already is looking ahead to the fall issue. On November 1, the city of St. Paul will celebrate the 150th anniversary of the naming of the city. *Ramsey County History* will share in this celebration with an article on "the real" Pierre "Pig's Eye" Parrant, a look back at the early days of St. Paul and a fascinating account of the experiences of one of the city's first settlers—the Perry family. We at *Ramsey County History* look forward to this landmark event next fall and hope you will, too.

We also remain interested in your comments on articles in past issues of this magazine. We're inviting you to bring a bag lunch and participate in the second in our new discussion series based on these articles. Please join us from 12-1 p.m. Thursday, July 18, in Courtroom 408, Landmark Center, St. Paul.

—John M. Lindley, chairman, Editorial Board

Walter Sanborn and the Eighth Circuit Court

Thomas H. Boyd

At the time of his death in 1928, Walter Henry Sanborn had become known as one of America's foremost jurists. Tributes were forthcoming from distinguished judges and lawyers throughout the country. The city of St. Paul, however, had long been aware of Judge Sanborn's talent in the law and his commitment to public service. Although his appointment to the United States Court of Appeals for the Eighth Circuit caused him to travel throughout the ten western states in that circuit, Judge Sanborn always returned to St. Paul and his home on 143 Virginia Avenue.

"For 40 years children of the neighborhood have been reared to watch their play and hold their shouts when, in the evenings, the lights in the judge's library sent out the message that he was at work," the St. Paul *Pioneer Press* wrote upon his death. "He was the first hero of many men and women who are now approaching old age. And they stilled the enthusiasm of their childhood's play that the judge might have the quiet he needed to write the great decisions with which his name is couched."

Early Life

Sanborn's roots and early years were not unlike those of David H. Souter, the newest associate justice of the United States Supreme Court. Sanborn was born on October 19, 1845, in the same farm house that was the birthplace of his father, grandfather and great grandfather. The home was a large brick house on top of "Sanborn Hill", two miles from Epsom, New Hampshire. From this vantage point, one could see the faint but majestic line of Mount Washington 100 miles away. Sanborn fondly recalled the beauty of this place during a speech in 1908 when he declared that he could "never forget what a panorama of hills and valleys and moun-

tains passes in review before him for hours as he reaches the head of Lake Winnepesaukee, nor how, as he stands there, that vast multitude of mountains to the north stretched up towards Mount Washington, fills the horizon and mounts toward the zenith."

Sanborn's parents, Henry F. and Eunice Davis Sanborn, each came from families distinguished by patriotism and public service and throughout his life, Sanborn was proud of his family's heritage. In fact, Sanborn remarked that, "the product of New England most valued by its people has been men, intelligent, thoughtful, righteous men. . . . Love of justice and persistence have been striking characteristics of the New England people."

The history of the Sanborns in America began in 1632 when ten-year-old William Sambourne arrived in Boston with his grandfather, Steven Bachiler. They settled in Hampton, New Hampshire, where William grew up and was elected to four terms as selectman of the town. William's son, Josiah, was elected to the New Hampshire legislature in 1695. It was Josiah's son, Rueben, who altered his surname to "Sanborn" and purchased the land near Epsom, known later as Sanborn Hill. The property became the family seat and was passed down to the eldest male child of each generation. Rueben's son, Frederick, was born there in 1789. On March 20, 1816, Frederick married Lucy L. Sargeant, the daughter of the Reverend Benjamin Sargeant, who had joined the Continental Army as a drummer boy when he was only fifteen and had served throughout the Revolutionary War. Later he became a Baptist minister and preached for many years in Pittsfield, New Hampshire. It was there that he literally died in the pulpit while he was reading a hymn to his congregation. Frederick and Lucy Sanborn had two sons: Henry F., born on February 26,

1819, and John B., born on December 15, 1826.

Henry grew up on Sanborn Hill and enrolled at Dartmouth College, but he was forced to leave after a year because of failing health. He returned to Epsom and operated the family's farm, but he also occupied seats in the New Hampshire House and Senate, as well as serving for six years as an Epsom selectman. In 1843, he married Eunice Davis.

Walter was the eldest of Henry and Eunice's children. He and his brother, Edward, grew up working on the family's farm. The Sanborns inspired a strong work ethic by giving them substantial responsibility, but they also encouraged their children to grow intellectually. Walter Sanborn attended the local public school as he was growing up. He was an avid reader at an early age, and took part often and with some success in local lyceums and spelling competitions.

His character as a youth seems to have been marked by great determination and substantial industry in attaining his goals. In 1863, after his parents decided to send him to school in Meriden, New Hampshire, for a year to prepare him for admission to Dartmouth, he journeyed to Meriden with his friend, Almon F. Cate, to interview with the school's principal. The principal informed them that due to their lack of formal education they would need two more years of preparation for admission to college. Sanborn and Cate left the principal's office, walked seven miles to a train station, took a train to Dartmouth and requested immediate admission.

They were interviewed by Professor James W. Patterson, later United States senator from New Hampshire. The applicants persuaded Patterson to grant them conditional admission, providing they maintained a regular academic schedule while also performing make-up work in

certain areas. Sanborn's academic performance was excellent. In 1866, he was one of only two students elected by the student body to participate in the annual college debate. The following year he graduated as class valedictorian. Sanborn's cousin recalled in a 1909 interview for the *Boston Sun Post*, Sanborn's persistence, dedication and hard work even at home between terms: "He studied and plowed, hayed and studied, and studied and dug potatoes and schuck corn, but he always studied."

While pursuing his bachelor's degree, Sanborn also taught school in New Hampshire during the winter terms. He was a firm and skilled teacher. After graduation, he was appointed principal of the Milford high school, where he served until 1870. The school board pronounced him the most "successful teacher Milford ever had and the first one that prepared boys for college." Not that all of his pupils were "boys." It was during his tenure as principal that Sanborn met his future wife, Emily F. Bruce, a student at Milford.

The Practice of Law

Walter Sanborn's uncle, John B. Sanborn, had attended Dartmouth for a year before leaving to study law. In 1854, John B. Sanborn left New Hampshire, settled in Minnesota and began a law practice in St. Paul where he became active in politics. In 1859, he was elected to the Minnesota House and two years later to the Minnesota Senate. After the Civil War broke out, Governor Alexander Ramsey appointed Sanborn adjutant and quartermaster general of Minnesota. He subsequently was named colonel in command of the Fourth Minnesota Infantry Regiment and eventually rose to the rank of brigadier general.

After the war, in September, 1867, General Sanborn was appointed to the Peace Commission created to negotiate treaties with Native American tribes. Known as "Black Whiskers," he was one of the few commissioners whom the Native Americans trusted. In the midst of his Peace Commission service and during a brief layover in Omaha, Nebraska, John wrote to his nephew, Walter:

"As soon as we return I shall establish myself in the business of law in St. Paul or some other point, and shall be glad to have



Walter Sanborn as a young man. Photo: *Minneapolis Star Tribune*.

you study law with me. How much money you can make, just as I can make, will depend entirely upon the effort and trial. I have been absent from St. Paul so much that I should be a new man there almost but think there would be work enough to do."

General Sanborn offered to give his nephew a place in his office where he could continue to study law and eventually practice upon admission to the bar. He also offered to provide board and lodging and to give him one quarter of the office's net earnings every three months. However, General Sanborn made it clear that, at least for the time being, "business shall all be done in my name."

He concluded by stating, "the effect of this proposition is to give you a good compensation if you work hard and do business," and added, "if, there should be no business you get your entire time to study and have nothing to pay out except for clothes. I get no interest on my investment unless the money is made out of the business. At the end of a year we can tell better how matters stand and what ought to be done next. . . ."

Besides teaching, Walter Sanborn had continued to take courses at Dartmouth and had begun to study law at night, on Saturdays and during vacations in the law office of Bainbridge Wadleigh, later United States senator from New Hampshire. In 1870, after receiving a master's degree

from Dartmouth, Sanborn left for St. Paul.

As was the custom, he continued to study law in his uncle's office, chiefly copying legal documents by hand until his admission to the bar. "There were neither stenographics nor typewriters in use in the law offices or the courts of this city in those days, and pleadings, notices and testimony were written out in longhand," he wrote later.

Sanborn and other young men preparing to practice law studied the styles of the great lawyers of the day. In St. Paul they included Cushman K. Davis, later United States senator; James Gilfillan, subsequently chief justice of the Minnesota Supreme Court; Charles E. Flandrau, who became a Minnesota Supreme Court justice and had led the defense of New Ulm during the Dakota Conflict; George B. Young, another Supreme Court justice; Greenleaf Clark, who also went on to serve on the Minnesota Supreme Court; Horace Bigelow, who practiced with both Flandrau and Clark and enjoyed an excellent reputation as an appellate advocate; and, of course, John B. Sanborn.

Because the St. Paul College of Law, which later became the William Mitchell College of Law, was not founded until 1900, Sanborn and his peers "learned in the law offices how to commence and conduct lawsuits, as directed by our employers, and, from our actual observation of the actual trials of them in this court . . . we learned how to try lawsuits. Nor was this such a bad law seminary after all."

Walter Sanborn was admitted to practice in Minnesota on January 28, 1871, along with Homer C. Eller, Charles E. Otis, W. D. Cornish, John D. O'Brien, C. D. O'Brien, and Hascal R. Brill. All of these men went on to successful law practices and each eventually ascended to the bench.

Upon admission to the bar, Sanborn and his uncle's practice began in earnest. Sanborn & Sanborn would exist for more than twenty years and involve Walter Sanborn in more than 4,000 cases, many of them significant and well-publicized. As was common in those days, Sanborn's practice included a variety of areas of the law.

In 1881, Walter Sanborn represented the colorful Judge Eugene St. Julien Cox

during a trial before the Minnesota Senate. Cox had practiced law in St. Peter, Minnesota, before the Civil War. During the war, he served in the Union army for a short time, then returned to Minnesota to lead a company of Minnesota volunteers who, among other things, provided protection in New Ulm during the Dakota Conflict in 1862. He later served in the Minnesota House and Senate. In 1878, he was elected to the district court in southwestern Minnesota. Before long Cox was charged with performing his duties while under the influence of alcohol and he was impeached by the Minnesota House.

The prosecution was managed by Loren Warren Collins, who later became a Minnesota Supreme Court justice. The defense initially objected to the charges against Cox on the grounds that they failed to state impeachable offenses. This argument was based on the premise that one could not be impeached for offenses that did not exist at common law. The defense further argued that the charges related to personal conduct and in no way alleged the improper discharge of his duties as judge. In his brief, Sanborn frequently drew an analogy between Cox's predicament and the impeachment trial before the United States Senate of the "sometimes tipsy Andy Johnson." Thirteen years earlier, President Andrew Johnson had been acquitted of articles of impeachment. He was rumored to be an alcoholic after he appeared to be intoxicated at the 1864 inauguration of Abraham Lincoln.

Sanborn's argument was unsuccessful. While the vote barely achieved the requisite two-thirds affirmative ballot, Cox was nonetheless convicted of seven of the original twenty articles of impeachment. He was removed from office March 22, 1882. Although unsuccessful, Sanborn and his colleagues were praised for their defense.

Sanborn demonstrated a genius for procedural matters throughout his career. An example stems from events that began on the first Tuesday of March, 1889, when the St. Paul City Council reelected William P. Murray as attorney for the city. Murray, who already had served for four years, was also Democratic party counsel. Sanborn, a Republican, discovered that under Minnesota law the election of St.



Mrs. Walter Sanborn with her son, Henry. Photo: T.M. Swem.

Paul's corporate counsel was to be held on the *second* Tuesday in March. He moved that the City Council hold its election the following Tuesday. O. E. Holman, a fellow Republican, was elected instead, but Murray refused to surrender his office and Sanborn instituted proceedings to halt further action by Murray as city attorney. The Minnesota Supreme Court upheld Sanborn's interpretation of the law and Holman took office.

In 1891, Sanborn was involved in the celebrated Warner divorce case, representing Lucien Warner. The case was closely followed by the St. Paul newspapers. Warner was a prominent businessman and leader in the community. Two years after his first wife died, Warner had married Sadie Jones, widow of General Fielden A. Jones, in 1886. Sanborn portrayed the Warners' relationship as one in which Mrs. Warner was violently obsessive and jealous of her husband's every activity. Sanborn described Warner's life to the jury as "a little hell" because his wife was constantly accusing him of adultery, physically and verbally assaulting him, and scheming to get his property. Her attorney, on the other hand, introduced evi-

dence showing that Warner had physically assaulted his wife.

In an era when some behaviors were more often accepted, Sanborn declared that, "it is the right of a man when his wife makes false charges in the presence of his family to compel her to leave the room. That is what Mr. Warner did and none more . . . she deserved the caning she received." Sanborn's defense resulted in a verdict for Warner.

Sanborn & Sanborn was considered an excellent training ground for aspiring attorneys. Young men who studied in the Sanborns' law office include Frederick N. Dickson and Charles Bechhoefer, both of whom eventually were appointed to the Ramsey County District Court; W.W. Dunn, later a United States senator; and Samuel Whaley, who became United States commissioner.

Family and Community

In 1874, Sanborn married Emily F. Bruce, his former pupil who had gone on to graduate from Wheaton College. Five years later they built their home at 143 Virginia Avenue on St. Anthony Hill where they raised their four children: Bruce, who

became an attorney with the St. Paul firm of Sanborn, Graves & Ordway, and served on the St. Paul City Council; Henry, who was an agent for the St. Louis and San Francisco Railway Company in Kansas City; and Grace and Marian, both of whom remained in St. Paul and married, respectively, C.G. Hardin and Grant Van Sant.

A year before his marriage, Walter Sanborn was elected to the St. Paul City Council. After the Sanborns moved to Virginia Avenue, he was elected again in 1885 to represent the St. Anthony Hill area. He was the council's youngest member, and he served through the early 1890s. While on the council, Sanborn was responsible for such improvements as paving the streets in the St. Anthony Hill area and establishing cable and electric railways throughout the city. Indeed, in 1889, he engineered the council's approval of the streetcar line built by Tom Lowry, president of the St. Paul City Railway Company. Sanborn argued that rapid transit was essential to the city's development and would open suburban areas by allowing people to travel to the city's outskirts and build homes.

In the meantime, Sanborn's law practice had not only become lucrative, but he had also gained the esteem of his peers. He was treasurer of the Minnesota State Bar Association from 1885 through 1892, and president of the St. Paul Bar Association in 1890.

During his two decades of practice in St. Paul, Sanborn developed a reputation for fairness, an ingenious grasp of the law, and a highly aggressive presentation. The *St. Paul Dispatch* described him in 1891:

"He always is thoroughly prepared to present his case in the best possible manner before he enters the court at all, and stands ready to meet any surprise that may be sprung on him during the progress of a trial. In the conduct of a case he asks no favors and he concedes none. He fights stubbornly every point from beginning, and strues the records so full of objections that he usually manages to get a new trial if he is defeated in the first battle."

In that same year, the *St. Paul Globe* noted that while he was never "colloquial or small," Sanborn was nonetheless capable of responding in kind to statements that came "hissing over the lawyer's table dur-

ing the trial of any case." Four years later the *St. Paul Dispatch* noted that "not only as an advocate has he won distinction among the members of his profession, but he is noted among them for his illuminous and exact expositions of the law A hard-headed, self-contained, somewhat reserved man, the impression he invariably leaves behind him is that he possesses in reserve resources of intellect and character which will not be drawn upon except as occasion may demand."



John B. Sanborn as adjutant general of Minnesota, June, 1861. Photo: Minneapolis Star Tribune.

The Eighth Circuit

Since its adoption, the Constitution has evolved and has been interpreted within the federal appellate courts. The Judiciary Act of 1789 created the federal circuit court but failed to provide for the appointment of circuit judges. Instead, each Circuit Court was made up of two justices of the United States Supreme Court and a federal district court judge who sat twice a year in each district of the circuit. While the Circuit Court had some appellate jurisdiction over the district courts, it was primarily a trial court. As the nation expanded, the Circuit Court's jurisdiction and docket grew and Congress realized that the Circuit Court needed to be reorganized.

In 1869, nine circuit judgeships were

created. The circuit justice, the circuit judge, or a district court judge could preside over trials and any two of them could sit together as a panel. While this provided some relief, the Circuit Court continued to burden the members of the Supreme Court. In 1891, Congress enacted the Circuit Court of Appeals Act which relieved the Supreme Court justices of circuit court duty by creating nine more circuit court judges. Thereafter, circuit court panels were composed entirely of circuit and district court judges. President Benjamin Harrison appointed Walter H. Sanborn to the United States Court of Appeals for the Eighth Circuit in 1892.

At the time of Sanborn's appointment and throughout his service, the Eighth Circuit included ten states and three territories, or one-third of all of the United States. It was the largest circuit in population and size in the country, and it had the heaviest docket. At that time, the court was three years behind in its docket. Cases were being filed at a rate of 600 to 700 a year with a court that could only dispose of approximately 450 cases a year. The Eighth Circuit sat in St. Louis and other places the court designated.

Sanborn's appointment to the Eighth Circuit was largely due to the efforts of Minnesota Senator Cushman K. Davis who was determined to put a Minnesotan on the Eighth Circuit. It was of great significance to the perceived, as well as the actual, development of Minnesota. A Minnesotan had not been appointed to the federal bench since President James Buchanan appointed Rensselaer R. Nelson to the district court in 1858. Sanborn's appointment was considered to establish St. Paul as the center for law and justice in the northwest.

Judge Sanborn took the bench for the first time in St. Louis on May 2, 1892. The remainder of the panel included Circuit Court Judge Henry Clay Caldwell of Arkansas and District Court Judge Oliver P. Shiras of Iowa.

The first case argued during this session was the Omaha Bridge case. The Union Pacific Railway Company had agreed to lease to the Chicago Rock Island Railway Company and the Chicago Milwaukee & St. Paul Railway Company equal possession and use of its tracks and bridge across



The Sanborn house, still standing at 143 Virginia Avenue in St. Paul.

the Missouri River at Omaha for 999 years. Such leases were common as the western United States developed, but the Union Pacific had attempted to repudiate its leases. The other railroads sued, demanding performance. The Union Pacific argued that the contracts were unfair.

The panel ruled that the contracts were valid, and Judge Caldwell assigned Judge Sanborn to write the opinion.

"The great purpose of the contract here in question" he wrote, "was to fill the gap in the line of the Rock Island Company between Council Bluffs and Beatrice, and thus establish a continuous line of railroad from Chicago . . . to Denver It is true that the lines would be a competitor of the Pacific Company, but . . . the public policy of this nation is to foster, not repress, competition; it is to promote, not repress, continuous lines of transportation; and, reading the charter of this company in the light of the general legislation to which we have referred, we are constrained to hold that the Union Pacific Railway Company was thereby fairly empowered to make this contract."

Standard Oil's Break-Up

Through his many years on the Eighth Circuit, Sanborn authored more than 1,300 opinions, many of them authoritative in the areas on corporate law, personal

injury, contributory negligence, naturalization, and several other fields of law. Perhaps his most important case involved the break-up of the Standard Oil Trust. By the end of the nineteenth century, there was a growing fear of the danger and improper exercise of monopolistic power to the detriment of public interest. The result was the Sherman Antitrust Act of 1890.

During the early part of the 20th century, the federal government sought to block a proposed merger of J. Pierpont Morgan's Northern Pacific Railway, James J. Hill's Great Northern Railway, and the Chicago, Burlington & Quincy Railway. The government alleged that such a merger unlawfully restrained interstate commerce and violated the Sherman Antitrust Act. The Great Northern and the Northern Pacific generally competed for northwest traffic.

In 1901, these two railroads combined to purchase approximately 98 percent of the stock of the C. B. & Q., which extended across the central midwest and provided a feeder line for both trunk railroads into Chicago. That same year, Hill and Morgan formed the Northern Securities Company and exchanged their railroad stock for stock in the new holding company. With Sanborn concurring, Judge Amos M. Thayer of Missouri wrote the circuit court opinion that ordered the Northern Securi-

ties Company to divest itself of the stock of the two railroads. Thayer pointed out that the holding company represented "a small coterie of men [who held] the power to suppress competition between two competing interstate carriers." A divided United States Supreme Court affirmed the Eighth Circuit's decision.

In 1906, St. Paul attorney, Frank B. Kellogg, was appointed to prosecute the great Standard Oil Trust for alleged violations of the Sherman Antitrust Act. Kellogg had come to Minnesota from Potsdam, New York, and settled in Olmsted County in 1865. In 1875, he had studied law in the office of H.A. Eckholdt, a Rochester attorney, and was admitted to the Minnesota Bar in December, 1877. A year later, Kellogg was elected Rochester city attorney and in 1881 he was elected Olmsted county attorney. In 1884, Kellogg moved to St. Paul where he entered into partnership with Senator Cushman K. Davis. Once in St. Paul, Kellogg continued to be active in politics. In 1917, he was elected to the United States Senate. He went on to serve as secretary of state under President Calvin Coolidge and received the Nobel Peace Prize in 1929 for his work in framing the Kellogg-Briand Peace Treaty of 1928.

However, well before his election to the Senate, Kellogg and Cordenio A. Severance were appointed special counsel for the Interstate Commerce Commission in an investigation of the Harriman railroads. Thus, they were the logical choice to prosecute the case against Standard Oil.

Kellogg and Severance argued that the Standard Oil Trust must be broken up to increase competition in the petroleum industry. Evidence revealed that Standard Oil manufactured more than three-fourths of all crude oil refined in the United States, owned and operated more than one-half of all the tank cars used to distribute its products, marketed more than four-fifths of all the illuminating oil sold in the United States, exported more than four-fifths of all illuminating oil exported by the United States, and sold more than nine-tenths of all the lubricating oil sold to the American railroads.

A massive record was developed before a special master appointed by the Eighth Circuit. This record, along with the attor-

neys' arguments, was presented to a panel of four judges, Sanborn, Wallis Van Devanter of Colorado, William C. Hook of Kansas, and Elmer B. Adams of Missouri, who sat both as trial and appellate court so as to expedite eventual review by the United States Supreme Court.

On November 20, 1909, through an opinion Sanborn wrote, the panel ordered Standard Oil dissolved. Sanborn pointed out that the purpose of the Sherman Act "was to prevent the stifling and the substantial restriction of competition in interstate and international commerce."

Sanborn applied the precedent set by the Eighth Circuit in the Northern Securities case to hold that Standard Oil had obtained the power to unlawfully restrict interstate commerce as a result of the transfer of the stock of the nineteen other oil companies. Consequently, Standard Oil had the authority to manage and operate those corporations, and the power to prevent competition among them. "The court must forbid the performance of . . . illegal acts which have had, and are having a direct and substantial effect to restrain commerce among the states and with foreign nations, to continue the unlawful monopoly and all like acts which have the same effect." Although the court had determined that the Sherman Act had been violated, Sanborn warned that "the court must steer as best it may between its duty 'to prevent and restrain violations of' this act of Congress and its duty not to deprive the defendants of their right to engage in lawful competition for interstate and international commerce."

The Standard Oil decision was the first meaningful application of the Sherman Act and Judge Sanborn's opinion was widely hailed as a milestone that ushered in a new era. The *Lincoln Star* proclaimed the case as "second to none that has been rendered perhaps since the historic Dred Scott decision, for it assails the bulwarks of aggregated wealth and menaces the continuance of the trust as an agent of malevolence in money-getting." *New York Current Literature* reported that, "the judges have handed down a decision that amounts to an industrial Magna Charta." The Supreme Court affirmed the Circuit Court's decision in 1911.

The case brought Judge Sanborn into

such prominence that he became a leading contender for appointment to the United States Supreme Court to replace associate justice, Rufus W. Peckham. Frank Kellogg was one of the greatest supporters of Sanborn's appointment, even before the Standard Oil decision was published. However, President William Howard Taft chose instead to appoint his long-time friend, Horace H. Lurton of Tennessee. Some contended that Taft's choice was attributable at least in part to Taft's previous political alliance with John D. Rockefeller who, of course, owned Standard Oil.

Sanborn considered the judicial branch of America's democratic system to be the guardian of that system's continued existence. In 1903, he expressed those thoughts while addressing the Minnesota state bar: "For the first time in the history of the world, a great nation has vested the power to finally decide and declare the supreme law of the land in a judicial tribunal independent alike of the executive and the legislative branches of government. . . . The primary purpose of all government is to establish and maintain an impartial arbitrator to peaceably settle the disputes of men."

End of a Career

Walter H. Sanborn died of pneumonia in his apartment in the Angus Hotel, where he lived in the latter days of his life, on the morning of May 9, 1928. Despite declining health, he had continued working up until three days before his death and had just returned from a court session in St. Louis. In observance of his passing, the Eighth Circuit suspended proceedings scheduled for that date.

Soon after his death, the judges of the Eighth Circuit held a special session in tribute to their late colleague: "For thirty-six years, no labor was spared, no selfish motive indulged by him. . . . Firm in his convictions, he was yet ever willing to give patient and sympathetic attention to all, especially to those who differed with him. Steadfast in his opinions, but never opinionated, logical in reasoning, he was able to bring an array of precedent to support the conclusions which he reached."

The son of Judge Sanborn's uncle and former law partner, John B. Sanborn, Jr., followed in the tradition set by the elder

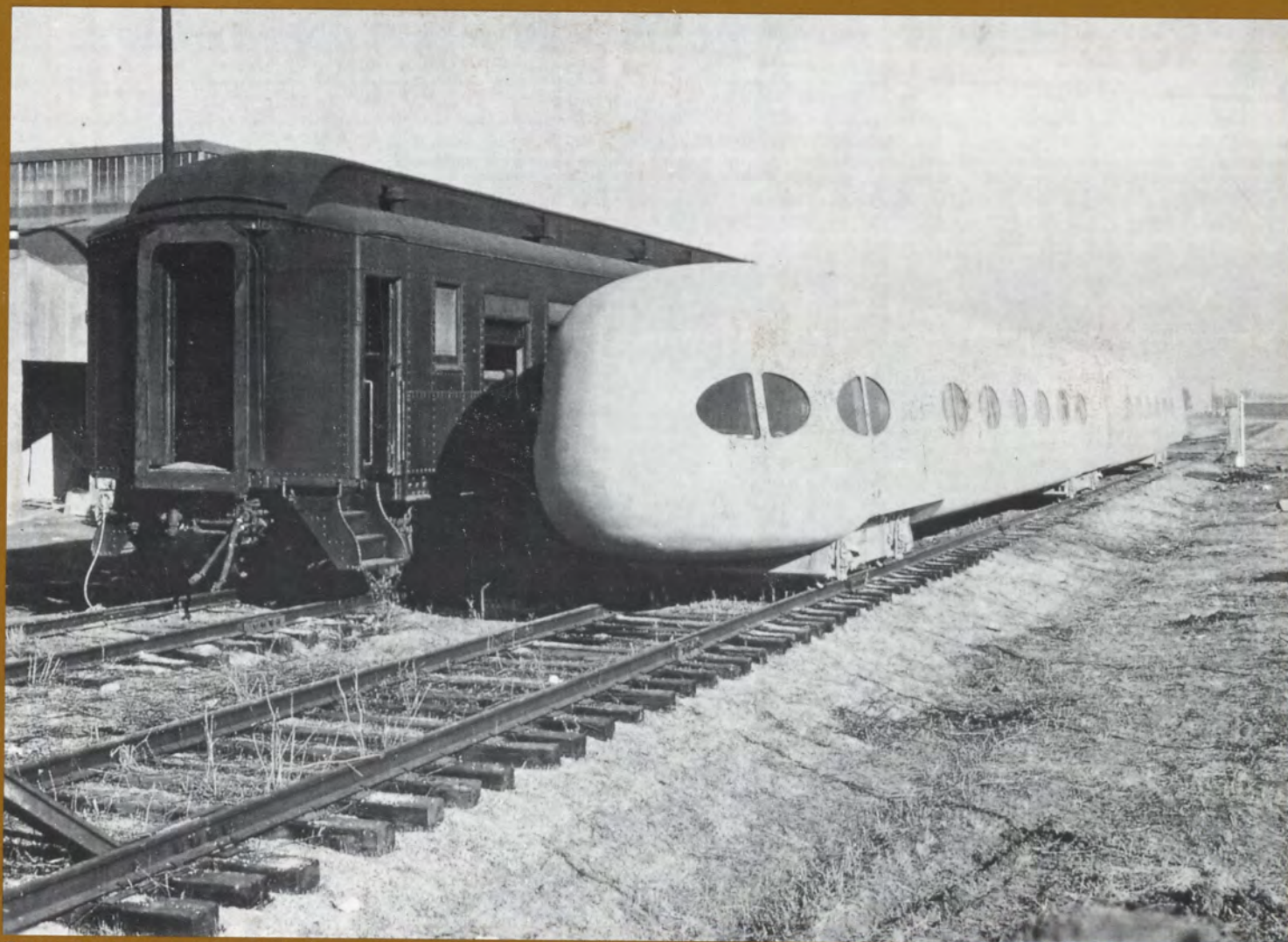
Sanborns. After practicing law in St. Paul, he was elected to the Minnesota legislature and later appointed to the Ramsey County district court. In 1925, President Coolidge appointed him to the United States district court for Minnesota. In 1932, he was appointed to the Eighth Circuit where he served until his death in 1964. A young lawyer named Harry Blackmun was his first law clerk and succeeded John Sanborn on the Eighth Circuit.

From 1892 through 1964, the Sanborns provided continuous service on the Eighth Circuit. As a result, Walter and John Sanborn often have been referred to as the "Hands" of the Eighth Circuit, a comparison to the legendary Learned and Ignacious Hand of the United States Court of Appeals for the Second Circuit.

Judge Sanborn once remarked that "there is a place where a judge is not on dress parade. It is in the conference room where the first impressions of novel issues and the reasons for them are stated, where the earnest presentation of differing views makes a little the fierce joy of conflict. Here, if anywhere, the capacity, industry, knowledge and temper of the man may be clearly seen The qualities which go to make the ideal judge [are] breadth of comprehension of controlling principles and public policies, freedom from reliance upon technicalities, intellectual power, accurate and useful knowledge of the law, industry, exemption from both emotional and intellectual prejudice, patience, courtesy and singleness of purpose to know and to do the right." The Honorable Walter Henry Sanborn lived up to his own description of "the ideal judge."

A fully annotated and footnoted copy of this article is available in the Ramsey County Historical Society office, 323 Landmark Center, 75 West 5th Street, St. Paul, Minnesota 55102.

Thomas H. Boyd is an attorney with the St. Paul law firm of Winthrop & Weinstine. He is a member of the Board of Directors of the Eighth Circuit Historical Society and also serves on the Board of Directors of the Ramsey County Historical Society and its Editorial Board.



Prototype of a streamlined passenger coach next to a standard railroad coach of the 1930s at Inglewood, California. The new coach was designed by Cortlandt Hill, grandson of James J. Hill. At 32,000 pounds, the bullet-shaped coach was one-fifth the weight of the older coach. See story beginning on page 14.

R.C.H.S.
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