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Charles E. Whittaker

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A Tribute to Judge John B. Sanborn

Charles E. Whittaker*

The thirtieth day of last June witnessed the closing of another chapter in the illustrious history of the United States Court of Appeals for the Eighth Circuit, for on that day one of its most distinguished judges, John B. Sanborn of Minnesota, retired from its active bench.

Perhaps we should have expected the announcement, as Judge Sanborn was in his seventy-fifth year, had rendered more than thirty-five years of devoted and distinguished judicial service, of which more than twenty-seven were upon the bench of the Eighth Circuit, and had thus earned both the leisure and the license to return to the pursuit of his well-known love, to hunt and fish at will in the beautiful Minnesota woods and waters surrounding the scenes of his boyhood, particularly along the St. Croix, where he maintains his summer home. Yet, momentarily at least, it startled us; for his long and lustrous service on that court had fixed him in our mind as so much of its warp and woof that when thinking of the one we thought also of the other, and subconsciously regarded both as permanently enduring.

When full realization of the fact and effects of the announcement sunk home, we felt mixed emotions. One was of gladness for his sake, for we know that, if it is ever to be done, man must satisfy the longings of his heart today, as tomorrow will never come; another was an acute sense of public loss; but the dominant emotion felt was the one expressed by Longfellow in *The Day Is Done*:

“A feeling of sadness and longing,
That is not akin to pain,
And resembles sorrow only
As the mist resembles the rain.”

Then came meditations upon a valued friendship of many years, rendered precious by our most companionable relations as colleagues on the Eighth Circuit, which brought into view on the mirror of memories the variety of virtues of John Sanborn that have made him what he is—one of the finest gentlemen of our

* Associate Justice, Supreme Court of the United States.

acquaintance, and a judge equal to any of the great who have graced the bench of the Eighth Circuit, which include his brilliant cousin, Walter H. Sanborn, the illustrious Stone, the scholarly Van Valkenberg, the keen Kenyon, the redoubtable Riddick, and the conciliatory Collett, to mention but a few and to speak only of the dead.

Our attempts to single from the quantity of his qualities those most responsible for his stature have been only partially rewarding, for all have played their part; yet, we think there are two that have greatly influenced, if they have not dominated, all the others. To say that John Sanborn is a quiet and kind man of culture who has unwaveringly practiced the principles of honor, truth, integrity and fairness is but to recount the most obvious of his virtues. Nor may explanation of his stature be completed by acknowledging the great depth of his wisdom, the keenness of his analytical and inquiring mind, the soundness of his judgment and his mastery of the law, or even by recognizing, in addition, his constant quest for truth and, when found, his fearless declaration of it whether popular or not. For any true appraisal of Judge Sanborn's stature must include two other qualities—humbleness and simplicity—even if they only blended with and added luster to those mentioned heretofore.

These traits of humbleness and simplicity inhere in the very nature of John Sanborn and have been reflected in his every act and deed. But neither his unassuming modesty nor his plain and unsophisticated ways could ever be thought of as submissive, meek or fearful, for all who have dealt with him have fully recognized the depth of his convictions, his stout adherence to them, and that, in his judicial work, he has feared but one thing—that in a moment of abstraction, or of human weakness, he might commit some error and thus wield judicial power to the serious prejudice of a fellowman. His disdain of display, particularly of erudition, has not only been slyly articulated but is subtly evident in nearly all of his opinions. They are found throughout Volumes 55 to 269 of the Second Series of the Federal Reporter, and any examination of them will disclose their clarity and conciseness and that such is largely due to their simple words and structure. Surely these works of Judge Sanborn prove the wisdom of Emerson's words that "Nothing is more simple than greatness. Indeed to be simple is to be great."

Judge Sanborn has still another quality that should not escape attention. He has always rather strictly adhered to the tried and true standards of value in forming his judgments. He has not believed that the things which are time-honored are otherwise dis-

honored. He has not believed in change for the sake of change alone. Nor has he thought it to be the business of the courts to arouse the conscious of the people or seek to cause them to alter their institutions. Rather, he has thought it to be his duty to observe the rule of stare decisis, to respect the legislative processes, and rigidly to follow and enforce the law whether he thought it to be wise or not.

Though his retirement does not mean that his judicial service has ended, as he still remains a Senior Circuit Judge, yet hereafter his labors need be rendered only at will. Surely he must derive great satisfaction from his reflections, and no less from his anticipations, for henceforth, in the words of Whittier, there need be:

“No doubtful balance of rights and wrongs,
No weary lawyers with endless tongue;
But low of cattle and song of birds,
And health, and quiet, and loving words.”

To this stalwart but humble and simple man, judge and friend, we extend a fond salute.