

By: Jack H. (Nick) McCall



Q: Stephanie, what prompted you to write a book on U.S. Supreme Court Justice (and longtime Knoxville) Edward Terry Sanford?

A:

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Why write a book about a somewhat forgotten U.S. Supreme Court Justice who died in 1930? The operative word is “forgotten.”

In the early 1990s, I was serving as a law clerk for then Magistrate Judge Thomas W. Phillips with the United States District Court for the Eastern District of Tennessee. The federal court was still located in the old post office. The magistrates did not use the main courtroom often, but when we did, I enjoyed looking at a portrait that hung behind the bench. A history fanatic, I decided to learn more about the man staring back at me.

I learned that the portrait was hanging in the courtroom because its subject, Justice Edward Terry Sanford, had once sat on the Eastern and Middle Districts of Tennessee from 1908 to 1923. What separated Sanford from other fine jurists who had worn the robes of the Eastern District court was that he was the only one elevated to the U.S. Supreme Court, where he served from 1923 until 1930.

As a three-time graduate of the University of Tennessee, I was embarrassed that I had never heard of Sanford, a Knoxville born UT alumnus. I went into research mode. A folder of material eventually swelled into an expandable file. All the while, Don Ferguson with the Eastern District Court’s Historical Society was urging me to try my hand at writing a book. Soon, however, the project was shelved due to the dementia battle of one family member, followed by the terminal illness of another loved one. In 2008, Tennessee Supreme Court Justice Sharon Lee suggested that returning to my research and pursuing the dream of writing the book might help me clear my head. I began spending a great deal of time in libraries and historical centers. The Internet revealed more discoveries, such as newspaper archives and online governmental records. A Washington, D.C. trip to the National Archives and Library of Congress will forever rank as this historian’s dream vacation.

About three years ago, I began the task of actually publishing the book. I discussed potential publishers with authors known to me. Because of the subject matter, I decided to pitch my idea to the University of Tennessee Press. From the Press’s website, I obtained the requirements for a book proposal and submitted the requested materials. My proposal was selected by an editor for review by anonymous evaluators—if they found the project worthwhile, it would be presented to the board members for a vote. The editor gave me some helpful hints to improve the presentation for the evaluators. Nearly two months later, I received positive feedback from the review, along with further suggestions.

The Press’s board only meets twice each year, so waiting for its approval was agonizing. After what seemed like an eternity, my proposal was accepted and I was sent a contract. The real work of editing and re-editing began at that point. However, watching the transformation of the draft into a more polished work has been a memorable experience.

This experience has provided me many pleasures and surprises. The best part of writing the book was the historical research. Sanford’s legal practice and his political aspirations were intertwined with the business pursuits of his father, Edward Jackson Sanford, an extremely successful businessman of the Gilded Age. As his father’s legal representative, Sanford was an eyewitness to significant local historical events, such as the Coal Creek Mining Rebellion and the lawsuits following the Fraterville Mine Disaster of 1902. He was also active in the development of Lenoir City as a proposed “utopian” community. During the period that Sanford lived in Knoxville, he was involved in the improvement of teacher training across the South. A much acclaimed program, “The Summer School of the South,” was started on UT’s campus during Sanford’s tenure on the Board of Trustees by his friend, UT President Charles Dabney, with whom Sanford was active in the Southern Education Board. Sanford also served an influential role in the development and growth of Nashville’s George Peabody College for Teachers.

After a rewarding stint with the Department of Justice, during which he was involved in 1906 in *United States v. Shipp*, 203 U.S. 563, the only Supreme Court criminal trial in its history, Sanford was named district court judge by President Theodore Roosevelt. Sitting in Knoxville, Greeneville, Chattanooga, Nashville, and Cookeville, Sanford heard countless moonshining cases and other interesting matters dealing with such diverse topics as ex-slave pensions, WWI espionage, and the tobacco wars of the Black Patch area of Middle Tennessee.

I particularly enjoyed exploring the 1920s, a period much like today, when the middle and upper classes felt threatened by immigration issues, economic woes, and other forces impacting the normal order of society. Sanford’s 1925 opinion in *Gitlow v. New York*, 268 U.S. 652, often defines his short time on the Supreme Court. Speaking for the Court, Sanford declared that the core civil liberties in the Bill of Rights applied to the states as well as the federal government. *Gitlow* is cited as precedent for the expansion of civil rights and civil liberties in the 1950s and 1960s. The decade also saw Sanford’s concurrence in a decision now described by many as one of the greatest miscarriages of justice in U.S. history, *Buck v. Bell*, 274 U.S. 200 (1927), in which the Court accepted eugenical arguments and collaborated in the involuntary sterilization of scores of powerless women. Sanford, an enlightened and fair-minded man, failed to register any dissent in face of the popularity of the eugenic cause. The case ultimately was cited by Nazi defendants at Nuremberg in defense of their wartime crimes.

In view of the many ways that Sanford impacted our state and our country, I believe it is important to recognize this Supreme Court Justice. Now, after years of starts and stops, a book is emerging to help us remember.

EDWARD TERRY SANFORD: A Tennessean on the U.S. Supreme Court

By Stephanie L. Slater, University of Tennessee Press 2017



“The Last Word” column is coordinated by KBA Member Nick McCall. If you have an idea for a future column, please contact Nick at nick.mccall@gmail.com.