

NARCISSUS AUGUSTUS DORN 1852-1926

In Council Bluffs, Iowa on May 27, 1852, was born to the Dorns their first son whom they named Narcissus Augustus. Within a year the family moved to California and the infant was brought across the plains. They came with a party, and each family traveled in the typical covered wagon drawn by oxen. The trip took six months and it was a great hardship to care for the baby for as Harvey Housh advises, "On the route to California my grandparents had their hands full with the child, N. A., in addition to their other duties, and they could not possibly have had the two children with them on the trip." ¹

As the party progressed the contour became rough and impossible. At the suggestion of the leader the members discarded many non-essential objects for the purpose of lightening the wagons. At times the passengers each walked, and at one point Mrs. Dorn holding the baby slid down the mountainside. Grandson Harvey Housh describes this,

To save time or to simplify proceedings she placed the infant N. A. in the apron she was wearing, and so holding him, slid down the mountain slope. I don't know how far it was- perhaps a quarter of a mile. ³

Little N. A. grew up with his family, helping on the farm and attending school. He possessed a brilliant mind and, as was possible in those days, qualified by examination for a teacher's certificate. He taught in the Springfield School District in Monterey County. Later in San Jose he read law in the office of Lawrence Archer. On October 3, 1874 he was admitted to practice before the Supreme Court of California. ⁴ His struggle for learning and profession is well described in the following brief sentences by his son Carl,

My father, the oldest of ten, was mostly self-educated. He became a school teacher, then studied law, being admitted to the Bar, October 13, 1874. ⁵

A popular young lawyer he was chosen District Attorney and served as such 1876 and 1877. He was elected again serving 1880 to 1882. Thereafter he was in private practice in Salinas, in partnership with W. M. R. Parker. In 1890 he was nominated by the Republican Party for the office of Superior Judge of Monterey County, and subsequently elected for the term extending from January 1, 1891 to January 1897. In 1896 he was re-elected for the term ending in January 1903. In November 1902 Judge Dorn was a candidate for election to a third term but was defeated by Bradley V. Sargent. ⁶

Following his retirement from the bench Judge Dorn moved to San Francisco where he practiced privately. In 1906 he was joined in partnership with his son, Carl D. Dorn, and later this was enlarged to include Theodore J. Savage. As a matter of fact Judge Dorn did little practicing for the reason that his marriage, in December 1902, to a very rich woman, required that a great portion of his time be devoted to managing her affairs.

First marriage. Family. Divorce. While teaching in the Springfield School District the young instructor became acquainted with Daniel McCusker, a wealthy Irish rancher. His daughter Josephine had been sent for schooling to the Notre Dame Academy, in San Jose, but had been compelled to leave because of ill health. That her education might progress N. A. Dorn from the local district school was engaged to give her private lessons. Notwithstanding the vigilance of the parents in not letting pupil and teacher out of their surveillance, the young couple fell in love and prepared for marriage. Knowing that her father never would consent nor physically permit a ceremony, an elopement was agreed upon. The attitude of the McCusker's in opposing a marriage was not shared by Dorn's parents, who participated in the elopement. They drove from their home in Green Valley to the McCusker ranch six

miles south of Watsonville and took the nineteen years old Josephine to Santa Cruz. There early in the morning of October 1, 1873, Narcissus Augustus Dorn and Josephine McCusker pronounced the vows of matrimony before Justice of the Peace Wellington.⁷ The ceremony took place in the Pacific Ocean House. It was witnessed by Samuel Drennan of Santa Cruz, and interestingly by the groom's father, N. A. J. Dorn of Green Valley.

Daniel McCusker was furious and threatened to disown and disinherit his daughter. Within a year his son-in-law had passed the bar and the young couple decided to settle in Salinas. Friends had pleaded with him and won his heart. He decided that as he had been public in his denunciations of the marriage, he must give equal force to the reconciliation. Accordingly the young couple were gotten to the Mansion House in Watsonville in a ruse. A great many people were there, when suddenly McCusker came in and embraced his daughter. Then he bought champagne for all assembled.⁸

Narcissus Augustus and Josephine McCusker Dorn had seven children in their twenty-two years of marriage.

Mabel T. Dorn, the oldest was born in 1875, followed by Narcissus in 1876, Daniel in 1877, Carl in 1879, Ethel in 1881, Elsie in 1883 and Marcella in 1887.

After twenty-two years the marriage of N. A. Dorn and Josephine McCusker failed. The reasons are not patent for the reason that the pleadings in both actions for divorce allege statutory desertion as the basis for the requested decree. On July 23, 1895, Judge Dorn filed a petition for divorce alleging his wife's statutory desertion from September 3, 1893." He asked for custody of the children then aged as follows, Mabel, 19; Daniel, 17; Carl, 15; Ethel, 14; Elsie, 12; and Marcie, 8. The judge was represented by Attorneys S. F. Geis and John J Wyatt. Josephine Dorn filed a cross-complaint.³² She charged her husband with desertion from September 3, 1893. She asked for the custody only of Marcie, the youngest child. She was represented by Attorney William H Webb.

As Judge Dorn was the sole Superior Judge in Monterey County, it was necessary to bring in a jurist from another county. The one assigned was Honorable William M. Conley from Madera.¹¹ Hearing the case this learned judge on July 29, 1895 gave judgment as follows;

- (a) Decree of divorce given to Mrs. Josephine McCusker Dorn
- (b) Custody of Marcie given to mother
- (c) Custody of other children given to father¹²

Mrs. Josephine Dorn never remarried. Born in Monterey County on September 9, 1854 she died in Santa Cruz on November 19, 1946 at the advanced age of ninety-two years, two months and ten days. Her remains were interred in the I.O.O.F. Cemetery in Salinas. She was a daughter of pioneers. Her father Daniel McCusker was a native of Ireland. Her mother Mrs. Catherine Bennett McCusker was born in Georgia.

Second marriage. Seven and a half years following the divorce Judge Dorn in San Francisco on December 11, 1902, married Sarah Jane de la Montanya, a woman of great wealth. The wedding which took place in her home at 1524 Taylor Street was a notable social event.¹³ They had no children. Following the wedding the bride and groom left immediately for a long tour of Europe. Upon their return they established residence at 1802 Pacific Avenue. It was here that Judge Dorn died on July 1, 1926.³⁶ His widow survived him by many years. Her death occurred on February 14, 1955.¹⁴

Judge Dorn at the time of his death had attained the age of seventy-four years, one month and four days. His widow born in San Francisco, of pioneer parents, on August 9, 1859, was in her ninety-sixth year at the time of her passing.

Children of N. A. Dorn. The first child of N. A. Dorn and Josephine McCusker Dorn, Mabel Theresa, was born in 1875. She was educated locally and in Notre Dame Convent in San Jose where she studied for three years, and withdrew due to ill health. She continued to study music and languages, and was preparing to enter Toland Medical College in San Francisco, when she met Charles Hirst and married him in 1896 in the Catholic Church in Salinas. They had three children. After sixteen years they were divorced and Mrs. Hirst took up the study of law, and was admitted to practice in 1918. About twelve years later she married James Early in 1924. After his death, as her hearing had been very poor, she studied lip reading and taught it in the public schools.

Narcissus Dorn, named after his father, was born in Salinas in 1876 and died of a diphtheria epidemic three weeks later.

Daniel Dorn was born in Salinas in 1877 and died of tuberculosis in 1896 in Tucson, Arizona.

Carl D. Dorn was born in 1879 and became a lawyer, having been admitted to practice on September 10, 1902. In 1904 he married Mae Means (Steele) in San Jose. A son was born August 4, 1905, and named after his grandfather, N. A. Dorn. A daughter, Carlma Adelaide, followed on August 28, 1907. After moving to San Francisco he was in partnership with his father in the firm of Dorn and Dorn. Carl Dorn was a very active member of the Druids, and in 1908 Noble Grand Arch of California. He was at one time a member of Salinas Lodge No. 204 F. and A. M. Early in life he joined Santa Lucia Parlor No. 97, N.S.G.W., in Salinas, and served as its president. After moving to San Francisco he affiliated with Balboa Parlor No. 234 on June 29, 1909. He withdrew from the organization 1918. He died in San Francisco, on September 17, 1964.

Ethel Dorn was born in 1881. She received her degree from the University of California and became a public school teacher. In 1905 she married Dr. Walter Whitlock and by him had a son and daughter. Divorced she subsequently married John Ruff and became a teacher in the San Francisco Public Schools, retiring in 1949 but continuing to reside in San Francisco.

Elsie Dorn was born in 1883 and passed away in 1905, in Moravia. She was not married and her death at so early an age was due to tuberculosis.

The youngest child, Marcella, known affectionately as Marcie, was born in 1887. She became Mrs. Louis Frizzi and had two daughters. She passed away in Vallejo in 1949.

Judge Dorn as stated earlier died in San Francisco on July 1, 1926, aged seventy-four years, one month and four days. His estate, according to probate records, was appraised at \$458,236.00. Although nominally maintaining a law office with his son Carl, under the name of Dorn and Dorn, he practiced very little during his quarter of a century residence in San Francisco, devoting his efforts to his own affairs, and the management of his wife's large interests. He was a just and kindly man as his children attest. Referring to her father, his daughter, Mrs. Early, writes "He was a noble father, never forgot his children, although they fled the roost, always ready to help with further education." ¹⁶

Concerning his religious beliefs, she advises

My father said he was a hard-shell Baptist, and none here so never went to church-but he was a wonderfully informed man and a nature lover, and I always thought that he must be

near to his Creator to have such a love. We children were never baptized as children, although he married my mother a Catholic but by a Justice of the Peace, but said when we were able to judge for ourselves he would give his consent. ¹⁷

And give his consent he did in the case of at least one child. When Mrs. Early was attending Notre Dame College in San Jose and about fifteen years of age at the time, she became interested in the Catholic Church, and desired to join it. Her father said that if she still felt so inclined in six months he would consent. He did and Mabel Theresa Dorn was baptized. Thus started a life of religious consolation for her, and now at age ninety she refers to the Mass which daily she attends as her "Rock of Gibraltar." This is mentioned because as will be noted later the religious dispersion of the Dorns is very interesting.

Twelve years on the bench. Judge Dorn served twelve years on the Superior Court of Monterey County, the specific period from 1891 to 1903. This was an interesting era in the history of the United States, and reflected itself in developments in Monterey County. It was a span in which people were becoming conscious of the growth of big business and its concomitant influence on politics. In this period also labor began asserting itself and there were strikes and riots in San Francisco and other parts of California.¹⁸ Wealthy people were using their fortunes to some extent to promote culture, a notable example of this being the endowment of Stanford University by Leland and Jane Stanford. Drinking was at a high and temperance societies were preaching the gospel of total abstinence. In 1895 the Women's Christian Temperance Union gave a public library to the city of Salinas. The theory behind this, of course, was that of having a place where people might read, and avoid the saloons. Speaking of the changes in the upward trend of social evolution Anne B. Fisher says, "Flowers still bloomed in the Salinas Valley, but culture as well was bursting its buds to flower in Salinas City." ¹⁹

David Jacks was the financial tycoon of the county.²⁰ He owned vast acreages and held many mortgages. Obviously he wanted lower taxes, and the State Board of Equalization conducted a hearing in Salinas. The editor of the local newspaper, The Owl, opposed this attempt to reduce taxes. All of this created a certain amount of strife, some emotional and some physical. Jacks had a Spaniard put off his lands, calling him a squatter. The indignant dispossessed shot Jacks. Anne Fisher writes,

The next day in court, Atacio Campos, a bronze native, son of the Salinas, was acquitted for stealing a cow, even though a piece of Campos' lasso stayed on the animal's neck when her owner found her. Intent of the crime had failed to be established. Yes, the court was a thrilling place in Salinas that year.²¹

One of the leading cases decided by Judge Dorn was Estate of Trescony.²² It appears that Alberto Trescony, a tin-smith who had amassed a fortune and owned twenty thousand acres, made a will in which he left one third of his estate in trust for his grandchildren, Anita Christal and Leo Albert Christal, minors. Their mother, his daughter, had predeceased her father. The remaining two thirds of the estate was bequeathed to others. The will was admitted to probate and a trust established for the grandchildren. There were items in the will that needed clarification and Judge Dorn made such interpretations as he deemed proper in the premises. In due time the probate statutory period ended and the estate was distributed in accordance with the will as interpreted by the Court. From the action no appeal was taken. Later when the trustees for the Christal children submitted their report, the law firm of Pierson and Mitchell of San Francisco appeared in behalf of the minors demanding that a proper construction of the will required that the more than one third of the estate he set aside as their share. The case attracted widespread attention. Judge Dorn denied the petition and an appeal was taken to the Supreme Court. The judgment of the Superior Court was affirmed. The higher court's decision followed technical rather than equitable principles. The merits of the children's claim appear not to have been passed upon. No appeal from the order distributing the estate had been taken and subsequent re-

opening of the case was precluded. Said the Supreme Court, "Even though it be conceded that the trusts created by the will were in restraint of alienation, contrary to the provision of the statutes on the subject, the decree of distribution is not for that reason to be disregarded." ²³

Another important case decided by Judge Dorn and which twice was appealed to the Supreme Court was the matter of the guardianship of Isabel Soberanes, a widow declared incompetent and whose son, Abel Soberanes, had been named guardian. Another son, Benito, sought a modification of actions taken by Abel but his petition was denied. The Supreme Court upheld the lower court on both appeals. ²⁴

City of Monterey v. Jacks was a case involving the pueblo lands of Monterey. It appears that state law authorized the trustees of the cities of California to file with the United States Land Commission claims for lands which the municipality might own from Spanish or Mexican days. The City of Monterey hired Attorney D. R. Ashley to prosecute its claims to the pueblo lands in the Federal jurisdiction. In 1866 a state law authorized the cities involved to finance the legal costs involved by sale of a portion of the lands in question. Ashley's fee was \$991.50. A public auction was held and he and David Jacks, the sole bidders, offered \$1002.00 and the pueblo lands were sold to them. Now the City of Monterey sought to recover a portion of the lands that, in its opinion at least, should not have been sold. The municipality contended that only a portion of the pueblo lands might be sold; not the parcel in its entirety. Judge Dorn decided against the City and an appeal was taken. The Supreme Court in a divided opinion upheld the lower court. ²⁵ The Supreme Court decision emphasizes two points, namely, (1) that the authority to sell such amount of the lands as was necessary to meet legal expenses, could permit sale of all the pueblo lands; and (2) that traditionally under Spanish and Mexican Law, as interpreted by the old case of *Hart v. Burnett*, the control of the pueblo lands was vested in the government, the city holding same in trust only.

A cursory review of the Supreme Court Reports for the period of Judge Dorn's service indicates that in most appeals from his court his judgment was affirmed. He most certainly was a very learned and able judge and brought much prestige and luster to the Superior Court of the State of California in and for the County of Monterey.

Descendants. The largest number of descendants of the pioneer parents Nicodemus and Rebecca Dorn came through their oldest son, Judge Dorn. He had seven children, who were their grandchildren. Then there followed nine great-grandchildren, twenty-three great, great-grand, children, forty-one great, great great, grandchildren and four great, great great, great-grandchildren. Total descendants through him number eighty-four.

from:

HISTORY OF THE DORN FAMILY
California Pioneer Settlers of Green Valley
by Peter Thomas Conmy
Director of Historical Research
Grand Parlor, Native Sons of the Golden West
1963

1 As noted earlier the first child born to the Dorns was a girl, Ellen. This infant was born in Iowa, place and date unknown. She died in infancy in that state. Concerning her, Harvey Housh writes as follows, "The child, Ellen, lived and died in Iowa. She was frail and the weather was severe. I do not know if there was a further cause of death. I do not know whether she died at Council Bluffs where the Dorns were last or on the farm. (Grandfather had received forty acres of good land and a team of mules because of his having been a veteran of the Mexican War.) I think she was buried in Council Bluffs." (Letter from William Harvey Housh, March 30, 1963.)

2 Ibid.

3 Ibid.

4 Date of admission verified by the State Bar.

5 Letter from Carl D. Dorn, May 23, 1960. Note error in date of admission to practice. Mr. Dorn undoubtedly wrote from memory. The State Bar date was taken from official records. (Letter from the State Bar of California, Historical Record Department, July 21, 1960.)

6 Judge Dorn was defeated by 147 votes. He received 1907 votes and Bradley V. Sargent, 2054.

7 Santa Cruz County, Record of Marriages, Volume II, page 232.

8 Ralph Salazaar, "Josephine McCusker Dorn," Pajaronian, 1942.

9 Santa Cruz County. County Clerk Action No. 2483. Judgment Book 446, 542. This action was dismissed, July 25, 1895.

10 Santa Cruz County. County Clerk Action No. 2485. Judgment Book 446, 542. Oddly enough book actions, Nos. 2483 and 2485 state the date of marriage as October 1, 1872, whereas it was a year later.

11 Judge William M. Conley was Grand President, N.S.G.W., 1898-99. For a biographical sketch see Peter T. Conmy, William Maxwell Conley, 1866, 1954, Pioneer California Journal, "The Recorder (San Francisco), April 26, 27 and 28, 1954.

12 The decree relating to the custody of the children did not mention, Mabel, the oldest child, for the reason that at this time she was married, and, therefore, emancipated from parental control.

13 San Francisco Chronicle, December 6, 1902, 5,5; San Francisco Chronicle. December 12, 1902, 14,5.

14 Judge Dorn left an estate valued at \$458,236. His widow, Sarah J. de la Montanya Dorn was appointed administratrix. (San Francisco, County Clerk, Probate No. 44867, Volumes 90, 367.

15 On December 3, 1953, Douglas Dorn, son of Fred A. Dorn, and adopted son of Sarah J. Dorn, applied for guardianship of Sarah, because of her physical condition and advanced age. The petition was opposed by Jacques de la Mantanya, Sarah's brother. After a hearing the petition was granted and Douglas Dorn appointed Guardian by Honorable Timothy I. Fitzpatrick, Judge. Following Sarah's death, Douglas Dorn and his mother, Zoe Gray Dorn, were appointed executor and executrix of the estate.

16 Letter from Mabel Dorn Early, May 30, 1960. Mrs. Ethel Dorn Ruff in a telephone conversation advised the writer of her father's love for and kindness to her children. She reported that when she was attending high school, her father finishing court about the same time school was letting out would join her and her brother, Carl, for a game of tennis. The judge was close to his children.

17 Letter from Mabel Dorn Early, July 7, 1962.

18 For a description of the labor movement in California the reader is referred to Ira B. Cross, A History of the Labor Movement in California. (Berkeley: University of California Press, 1935.)

19 Anne B. Fisher, The Salinas Upside-Down River, page 247. (New York: Farrar and Rinehart, Incorporated, 1945.)

20 A short sketch of David Jacks (1822-1910) may be found in Rockwell D. Hunt, ed., California and Californians, Volume IV, pages 80-82. (Chicago: The Lewis Publishing Company, 1962 5v.)

21 Fisher, op. cit., page 251.

22 Estate of Trescony, 119 California 56R .

23 Estate of Trescony, 119 California 568.

The opinion of the Supreme Court was written by Justice Ralph Harrison, Justices Charles -H. Garoutte and William C. Van Fleet concurring. Justice Garoutte (1854-1910) was Grand President, N.S.G.W 1887-88.)

24 Soberanes v. Soberanes, 97 California 140 (1893) and 106 California 1 (1895)

25 City of Monterey v. Jacks 1939 California 542 (1903). The leading California case on pueblo lands is Hart v. Burnett, 15 California 530 (1860.)