

Judges on Horseback

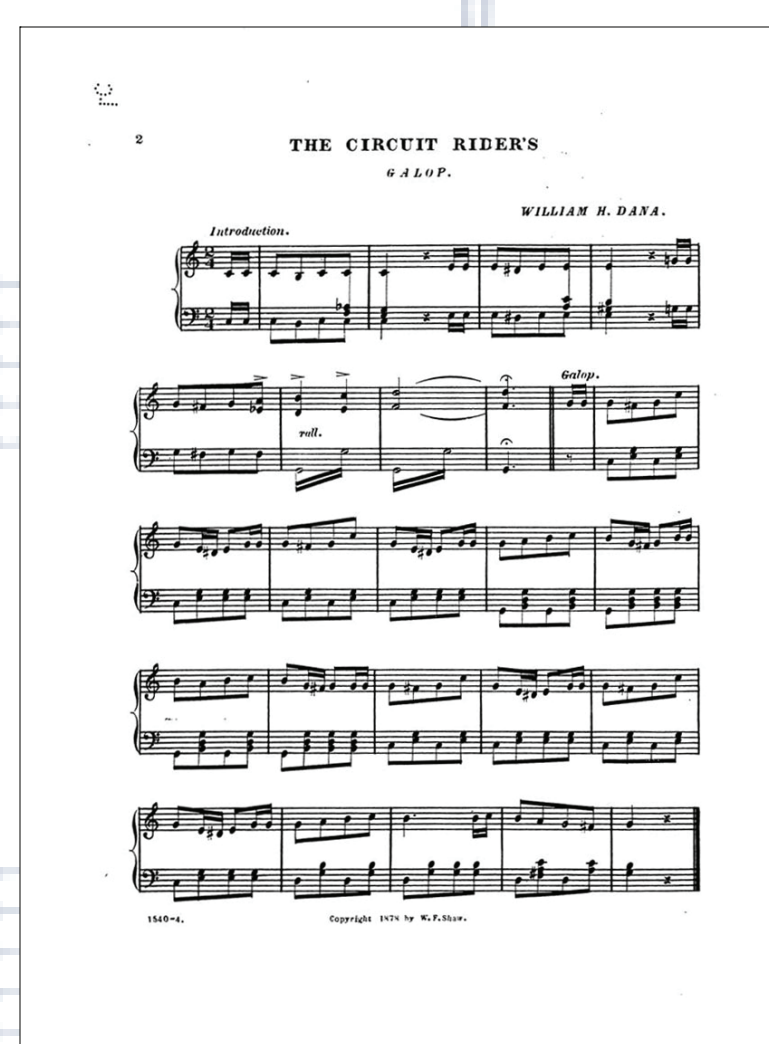
Judges, like other government officials of the period, often traveled by horseback. Image of Ernest Knaebel, U.S. Attorney for Colorado, ca. 1895-1905. (Courtesy of Denver Public Library, Western History Collection, X-62893)



Circuit riding has a long and storied history. The concept had precedent in the English *nisi prius* courts at Westminster, but its application to the landscape of the United States caused difficulties for the traveling justices, especially as the boundaries of the nation expanded. Whether Supreme Court Justices should (or could) be asked to ride circuit, traversing the country and serving at both levels of the appeals process, was a matter of much controversy in the early days of the republic. The constitutionality of circuit riding was challenged by Chief Justices John Jay and John Marshall, among others, and, with the health of the already-overworked justices at stake, many shared George Washington's view that "these disagreeable tours" could not continue for much longer.

They went by horseback or carriage. The difficulty of travel across the harsh terrain of a wide-ranging circuit was compounded by Congress's lack of provision for lodging. The justices were obliged to either stay with friends (in which case their impartiality was called into question) or seek public accommodation, which was sometimes unavailable and usually crowded. It was not uncommon to share a room with several strangers. Even after the advent of the railway, traveling was not made much easier. Because of their low salary, justices and judges sometimes accepted free passes from the railroads, but this process was considered improper, particularly when railroads so frequently were parties of appellate cases in this period.

Judges were not the only ones who "rode circuit." Methodist preachers were most famed for the practice, as shown in this Harper's Weekly cover from 1867. (Image courtesy of Library of Congress Prints and Photographs Division)



Left & background: The Circuit Rider's Galop by William H. Dana, 1878. (Image courtesy of Library of Congress Music Division)



An 1885 cartoon by J. Keppler that appeared in *Puck*. Its caption reads, "Our overworked Supreme Court. It is unequal to the ever-increasing labor thrust upon it. Will Congress take prompt measures for the relief of the people?" Note the appearance of Eighth Circuit Justice Samuel F. Miller at the center. (Image courtesy of Library of Congress Prints and Photographs Division)

Circuit riding presented surprising dangers, too. Justice James Iredell wrote of an attempted swamp crossing on his way to circuit court in Savannah, Georgia: "I directed Hannibal [the slave accompanying Iredell] who was before to proceed with great caution, and if he found the water grew very deep to stop. He did, and I directed him to return immediately, and I afterwards discovered that in two minutes he would have been in swimming water." The Charleston newspaper reported only that the court session had been canceled because "the judge did not attend."

Sometimes the dangers were not due to the weather. Justice Stephen J. Field was riding circuit on the train to San Francisco when he was assaulted by a co-defendant in a suit he had heard while sitting on the Circuit Court for the Northern District of California. A deputy U.S. Marshal accompanying Field shot and killed the assailant. Field and the deputy Marshal were arrested for murder, and the resulting Supreme Court case, *Cunningham v. Neagle* (1890), brought criticism of circuit riding to light. It may have even been partially responsible for its overhaul the following year.