

## Proceedings

In Memory of

### CHIEF JUSTICE BROWN

At the opening of court on Tuesday, January 8, 1924, in the court room at the State Capitol, Chief Justice Wilson presiding, Hon. Thomas D. O'Brien, a former Associate Justice, addressed the Court and said:

May it please the Court:

Shortly after the death of the late Mr. Chief Justice Brown, a committee, selected from the State Bar Association of Minnesota, was honored with the request that it prepare a memorial of him and present it to your Honors at a proper time and place, for inscription upon the permanent records of this Court.

It is proper that I should announce, so that this fact may also be of record, that in nearly, if not all, of the Judicial Districts in Minnesota, today has been set apart for some suitable action by the Bench and Bar of each District, in which the veneration accorded to the memory of the late Chief Justice may be expressed. The executive officers of the State, as well as many of the Judges of the District and Probate Courts, are present to grace this occasion, so that, over the entire domain included within the jurisdiction of this high tribunal, the life and character of Mr. Chief Justice Brown is receiving the universal tribute of love and respect to which it is so well entitled.

May I, upon behalf of the Committee, ask that its memorial be read by Mr. Chester L. Caldwell, Secretary of the State Bar Association.

Mr. Caldwell then read the following

#### MEMORIAL

CALVIN LUTHER BROWN, Associate Justice of the Supreme Court of the State of Minnesota from 1899 to 1912, and Chief Justice from then until his death, was born at Goshen New Hampshire, April 26<sup>th</sup>, 1854, and died at his home in Minneapolis, Minnesota, September 24<sup>th</sup>, 1923.

Like his close friend and predecessor, Mr. Chief Justice Start, he possessed the heritage of New England ancestry. His great-grandfather, William Brown, was a soldier of the Revolution; his grandfather, Luther Brown, took part in the war of 1812, and his father, John Harrison Brown, for many years a District Judge in this State, was in the Commissary Department of the Union Army during the Civil War, stationed at Madison, Wisconsin, with the rank of Captain.

When the late Chief Justice was but one year old his parents settled at Shakopee, in this State. Minnesota was then a territory, so that during the subsequent sixty-seven years of his life he witnessed and took part in the development of the State to its present position.

As a boy in Shakopee he saw the trembling fugitives from the Sioux massacre of 1862; he experienced the thrill of horror which swept over the nation at the assassination of Lincoln; he

saw the survivors of the Minnesota regiments return to their homes after the suppression of the rebellion; he knew when the first mile of railway was constructed in Minnesota and when the Indians ceased to come with their Red River carts to barter with the fur traders; and then, when the St. Paul and Pacific Railway pierced the "Big Woods" and emerged upon the prairie, he joined in the movement which filled the western lands of Minnesota with happy homes and prosperous citizens.

In 1870 the family removed to Willmar, Kandiyohi County, Minnesota, and there, on September 1st, 1875, the late Chief Justice married Miss Annette Marlow, who bore him five children; one, Olive, dying in infancy, and four who survived him—Alice A., now the wife of Dr. B. J. Branton, of Willmar; Edna M., and Margaret E., residents of Minneapolis, and Montreville J. Brown, attorney at law of St. Paul.

Mrs. Brown, an ideal mother and helpmeet, died at Minneapolis, October 13th, 1919.

After some ventures into other fields, usually to be expected of a restless and ambitious young man in a frontier state, Calvin L. Brown seriously took up the study of law, and was admitted to the Bar of Minnesota, February 22nd, 1870. He first practiced in Willmar, in partnership with his brother, Horace W. Brown, and in 1878 removed to Morris, Stevens County, where he served as County Attorney from 1883 until his appointment by Gov. McGill on March 10th, 1887, as District Judge of the Sixteenth Judicial District.

Presiding for eleven years as District Judge, he earned the approbation and love of all with whom he came in contact, with the result that in 1898 he was elected Associate Judge of the Supreme Court for the term commencing January 1, 1900. Before the beginning of his term Mr. Justice Buck resigned, and Gov. Lind, on November 20th, 1899, appointed the newly elected Justice to fill the vacancy: In 1913, when Mr. Chief Justice Start refused to accept a re-election, Justice Brown was elected Chief Justice, and continued to serve in that position until his death.

The real life work of the Chief Justice began with his elevation to the Supreme Court, and his legal attainments, his clear vision and common sense, and his gentle heart and intellectual honesty may be gathered from the opinions written by him, beginning with *Skone vs. Barnard*, 78 Minn., 200. Since then he delivered the opinion of the Court in cases which cover the whole field of law, and show him to have been a profound lawyer as well as a practical man of affairs.

The dignity, poise and patience with which he presided in the Supreme Court as its Chief Justice, and the unflinching courtesy which he extended to counsel appearing in that tribunal, won him the universal esteem of the members of the bar in addition to their admiration for him as a jurist.

The Chief Justice was essentially an original thinker, and in the performance of his judicial duties he first endeavored to arrive at what he felt should be the law and justice of the case under consideration. Following this, he studied precedents to test the correctness of his judgment, and when he found sufficient authority to support his own conclusions, he immediately and in longhand wrote his opinion, the first draft of which was generally so clear and simple as to need little or no revision.

Although occupying the highest judicial position in the State, he never lost his simplicity or kindness of heart, and although pre-eminently of a domestic disposition, he mingled freely with other men in a spirit of fraternity, and was Grand Master of the Grand Lodge of Masons of Minnesota during the years 1894 and 1895.

His sympathetic and broad Christian charity came into full play in connection with the performance of the duties imposed upon the Chief Justice as a member of the Board of Pardons. No shrinking waif, unhappy parent or distracted wife failed of a sympathetic hearing from him,

and even when he could give no assurance of mercy, his sympathetic bearing and kindly counsel brought solace to the class upon whom the punishment for crime often bears the heaviest.

His is the story of a real American, and although to some the maxim noblesse oblige may present the picture of an armored knight of the old regime the American, saturated with traditions of his country, it brings a vision of a sturdy, self-reliant and self-supporting man who reveres God, believes in the sanctity of the home, recognizes the dignity of labor and equality of all men before the law; of one who appreciates a government of laws and not of men, and who classifies humanity not by wealth, religion or race but by conduct and attainments.

And so this man, who endured the privations of the frontier, remained unsullied by its rudeness. With only the scant aid of inadequate educational institutions he mastered the intricacies of the great legal profession. Called to high positions, he remained a kindly, simple gentleman, unspoiled by the temptations of place and power. He thought upon the things which are good and true and beautiful and we do not so much sorrow at his death as rejoice in the fact that we knew him and loved him, and that his name will always stand high on the Honor Roll of Minnesota.

THOMAS D. O'BRIEN, Chairman  
DAVID F. SIMPSON  
G. E. QVALE  
S. A. FLAHERTY  
L. L. COLLINS  
JOHN D. SULLIVAN  
C. A. SEVERANCE  
W. D. BAILEY  
L. L. BROWN  
I. A. CASWELL  
CHESTER L. CALDWELL

HON. STEPHEN A. FLAHERTY, Judge of the District Court for the Sixteenth Judicial District, then said:

May it please the Court:

It is indeed an appreciated privilege to have the opportunity of participating in these exercises held in honor of my highly esteemed friend, the late Chief Justice Brown. Our acquaintance commenced nearly forty-three years since, and intimate, friendly relations existed between us from that time until the termination of his life. While occasions of this character have their proprieties, which should not be disregarded, and it is realized that usually whatever one speaks of himself is too much, some reference to my early associations with him may be permitted and entitled to indulgent consideration.

When we first met, in 1881, at Morris, he had been admitted to the bar six years, and three years before that had taken up his residence and opened an office there for the practice of his profession. I had but a year previously begun the study of law and was admitted to practice in 1882, in what was then the due and usual course. We were then comparatively young men, of nearly the same age, he being my senior by about a year. He was at that time a careful student of the law, and an able, successful lawyer, with a rapidly increasing practice, and a constantly

widening circle of favorable acquaintances. My own attempt to undertake the trial of a case was very much delayed by the fear of having him as an opponent, and only unavoidable necessity at last overruled this timidity— my partner having deliberately contrived to abandon me to my fate. The Sixteenth Judicial District of this State was organized in 1887, and his appointment as its first judge was cordially approved and endorsed by the people of that district. While he occupied that position, my practice enabled me to observe and note his work on the bench, and it was quite usual for us to ride circuit together with horse teams. Until his election as an Associate Justice of this Court and the removal of his family from Morris, year after year we took outings and spent our vacations together in fishing expeditions and otherwise. It may not be amiss to add that we were next door neighbors for a long time and that our families were always on the most intimate and friendly terms.

These things are recalled here only for the purpose of indicating that for a long, interesting and important period in the life of the late Chief Justice, my opportunities for knowing and understanding him were ample and extremely favorable. And, it may as well be said now, that no person of my acquaintance ever stood less in need of that charitable saying, that nothing save good should be spoken of the dead.

He was a man to whom nature had been very generous. In person he was tall, erect, well-formed and strong; active and graceful in his movements, and he had an attractive and expressive countenance, bespeaking friendliness and the kindly, humane sentiments. His mental gifts were of a very high order, although because of his plain, quiet and unassuming manner, this might easily escape the notice of an ordinary, casual observer. His mind was clear, comprehensive and acute, and so well-balanced and poised were his mental faculties that it would be difficult to determine which predominated. His memory was retentive and ready, and enabled him to recall with ease and at will almost everything that had come to his attention in his reading or experience. His sense of honesty was inborn, innate, and part of his very being, and not at all in kind or quality like that so-called honesty which results from a careful calculation of policies and consequences. And, crowning all, he had that combination of virtues and qualities called character. Nothing could tempt him to court applause or angle for compliments. He avoided and shunned all this, for his modesty was such that the most deserved praise would not be welcome, and probably would disconcert and embarrass him. In his association with people as he passed through life, he was cordial and affable, but not effusive, and he possessed, to a surprising degree, the capacity for making and retaining the most devoted friends. It may be owing to this trait of character that, although he was frequently a candidate for public positions and apparently did not greatly exert himself to promote his success, he never suffered defeat. So easy it all appeared, and so much a matter of course were his successive promotions in public life, and at convenient stages, too, that it might have seemed as if "his conscious destiny made way."

As District Judge he made an admirable record, and gave abundant proof of the great natural ability and attainments that were thereafter more conspicuously exhibited in a higher and ampler sphere of activity. He was careful, diligent and prompt in the disposition of all work and business that required his attention. While presiding on the trial of actions it is but little to say that he was impartial, fair-minded and just. He paid the utmost degree of attention to the evidence, and on arguments of counsel upon questions of law he followed them closely, seldom interrupting, and scarcely ever assuming to anticipate the result of a line of reasoning. He was notable for his patience, which was imperturbable, even under conditions when some manifestation of displeasure or restlessness might well be expected and excused. He never showed the least inclination to take the management of a case on trial out of the hands of

counsel, or to do or say anything that would give the slightest intimation in advance toward which side his judgment might lean or his sympathies be enlisted. His instructions to juries were concise, and were invariably written out with rapidity while counsel were summing up.

When he took his seat on the bench of this Court, he brought to the performance of his important and onerous duties all the advantages of previous experience in a subordinate position, together with all that deep, continued and extensive study of the law could furnish to a vigorous mind, still growing and capable of further development. He looked upon the functions of a court of justice, and the administration of the law, almost, if not wholly, in the light of a sacred office, and consecrated his life and all his energy to the work here, with the zeal and ardor of one who was confident that he had found his true calling. It may not be true, but to me, it has always seemed, that a position on the bench of this Court requires and calls for many renunciations, as well as for the most arduous, exacting mental labor. While Chief Justice Brown was not by habit or temperament disposed to put forth great and spasmodic efforts on occasions, to be followed by periods of needed relaxation, his ability was better ordered, and enabled him to support prolonged and sustained effort. It is not for me to discuss his work here, but it cannot be questioned that he labored faithfully and greatly to the end of his days in accordance with his lofty conceptions of the duty of his position. It may be observed, that the mere bulk alone which must have passed through his hands was prodigious, as shown by the reported decisions. The volumes containing his opinions when fully published will be found to be nearly half of the official reports of this state. No claim is made, of course, that bulk or mass affords any true measure of the extent, importance, or almost infinite variety of the matters embraced. At this point one might be tempted to dwell on his opinions, written in judicial tone and temper, and bearing the impress of a powerful mind, keen and discriminating. However I withhold comment, and will conclude this imperfect and altogether inadequate tribute by saying that The Honorable Calvin L. Brown, by reason of his fine character as a man, and his long and distinguished judicial career, has left a name and a memory ever to be cherished by friends and acquaintances, and has maintained and advanced the standing and honor of this Court.

HON. JOHN LIND, former Governor of Minnesota, then addressed the Court and said:

May it please the Court:

The usage of the bar of this state to meet, as we meet today, to give expression to our memories, our esteem and our affection for the life and character of a departed member of our profession, is a custom which we should never permit to be commonplace or perfunctory. The man whose memory we meet to honor was not only a member of our profession, but a great judge of this Court—the head of the judicial department of our beloved state—during the most active and fruitful years of his life. In this instance, therefore, it is more than a usage. We all feel at this moment as though we were looking into a new-made grave, dug to receive the mortal remains of a man whom we all respected and loved. My acquaintance with Judge Brown covered a period of nearly thirty years. Whether or not he was born in this state I do not know, but he must have spent the years of his youth, as well as his manhood, with us, for I remember that his father was the District Judge of one of our judicial districts when I was a mere boy. I also remember that I tried one of my early cases before him, I think in 1877, at Beaver Falls, then the county seat of Renville County. Gorham Bowers, later judge of that district (another great and good man in the early history of our state), was my opponent. Judge Powers was my senior

both in years and experience, and I remember with gratitude to this day how the elder Judge Brown, with suggestion and kindness, but without bias, encouraged me to present my case in good form. I mention this only to emphasize my conviction that the similar traits that we so often observed in his eminent son were inborn and in no sense simulated or prompted by political ambition. In District Court I do not recall that I appeared before Judge Calvin Brown but once, but my impression of him then and the estimate in which he was held by the bar in his district, convinced me that he was a worthy successor of his father. Later when I was in office in this city a vacancy occurred in this Court. It did not take me long to determine that Judge Brown was the best fitted available man to fill that position and I accordingly appointed him. One of the considerations that actuated me in making the appointment was the fact that Judge Brown, while not a farmer's son, had spent part of the active years of his life in the midst of a farming community and was in touch by observation and contact with that independence and spirit of true democracy that we are likely to find better developed in an intelligent town meeting community than anywhere else.

After I left St. Paul, I became engaged in active practice and had cases in this court from time to time. For some reason that I can neither explain nor justify, I felt sensitive about calling on the Judge personally at his room; it is only in the last two or three years that I have done so, and when I did, we had most interesting conversations about the profession and about affairs in the state generally. I may be pardoned for mentioning one of the topics we discussed at our last meeting. I made the remark that in the 150 volumes of our *Minnesota Reports*, then available, virtually the whole realm of human relationship and activities had been covered, in principle at least, and I hoped that the Court would take some steps to indicate to the bar the desirability of confining their citations to our own reports as much as possible. He said he did not know how that could be done very well, but that he hoped that he and his colleagues would hereafter confine themselves to quoting our own cases and those of the Supreme Court of the United States when necessary, as much as possible. We both agreed that less hunting for "authorities" and more studious work and reflection would give us better lawyers and better decisions. This was the last conversation I had with him.

He was a great citizen, as well as a great lawyer. I shall not stop to review his work. It is of record and known to us all. I realize, as every member of this Court should and must, that if it is to retain the respect and confidence of our citizenship, which it has had in the past and now enjoys, then this Court as the guardian of our institutions and our bill of rights, is one of the political divisions of our government, and in respect of questions of that character that come before it, it must apply the principles embodied in our constitution in the light of conditions as they are today and not to be hampered or misled by specious arguments that those principles when once applied to economic and social conditions have become static, settled and defined, and must in all future time be applied today as they were when invoked and applied to the conditions of centuries ago. Principles do not change, but they must be applied to human affairs in the light of the conditions as they are. That our late Chief Justice on the whole saw his responsibility and his duty in this regard is apparent from his many opinions bearing on questions involving constitutional government.

In the departure of Calvin Brown the State of Minnesota lost a great man, a great citizen and a great and good judge. May the spirit which guided him and Gilfillan and Start guide us, and guide his future successors.

ATTORNEY GENERAL CLIFFORD L. HILTON then addressed the Court and said:

The legal attainments and the judicial career of Chief Justice Brown have been justly commended in the memorial and the previous addresses. From an intimate acquaintance of many years, it is of Calvin Luther Brown, the man, the citizen and the public official, I would speak.

Of sterling New England stock, to a marked degree he possessed a stable, unflinching respect for rectitude of conduct, and yet with entire absence of puritanical censure for its lack in others. His standards were for his own guidance, not for use in criticism of his fellows. He made ample provision for the education, care and comfort of his family. This primary duty to those of his own household did not, however, cause him to forget the needs of others. In an unostentatious way he was ever doing kindly, generous deeds that carried blessing and benediction to many. These acts of charity and kindness were never heralded abroad, and only after his death did many of them come to light. His family life was beautiful. The reverence and respect of his children were deserved. His home was an ideal one, and his happiest hours were in the family circle. Yet his kindliness of disposition and love of his fellowmen, his interest in all human affairs, made him a most gracious and enjoyable companion.

In later years he was "the first citizen of the state," an appellation often given to the one holding the high position which he so honorably filled. All through his life, in private walk as well as in public office, his regard for the duties of a citizen was grounded deeply in the fundamentals. The obligations of a citizen were as sacred to him as were those guiding him in official life. Loyalty to his country and devotion in its service were as natural to him as the breath of life. In this man were properly blended all the elements of a sturdy, God-fearing, loyal American citizen.

Justice Brown's service on the Supreme Court as an Associate and as Chief Justice extended over a period of twenty-four years and is a lasting memorial of his ability and concentration. His written opinions will more and more, as time passes, magnify his reputation as a jurist.

Before closing I desire to refer to another official position held by him, which displayed an element in his character not so well known to the public. Under our constitution the pardon board is composed of the Governor, the Chief Justice and the Attorney General. For more than five years it was my privilege to serve with Judge Brown on that board. Opportunity was thus afforded me of seeing and knowing him as but few did. The duties imposed upon the board of pardons are arduous and trying, calling for the exercise of good judgment, the tempering of justice with mercy as occasion requires, and with all the utmost restraint, lest one allow sympathy and sentimentality to sway and control action. Many a time the circumstances and heart-rendering appeals of suffering relatives make the denying of clemency most difficult. To one of Judge Brown's kindly nature such a denial was a truly heroic act when duty required it. Never to my own knowledge was he unduly swayed by sentiment, sympathy, influence or anything other than his high sense of duty.

He has served his day and generation well. His fellow citizens and associates honor his memory. His life and work furnish an inspiring example worthy to be followed.

HON. ELL TORRENCE then said:

May it please the Court:

It is not within my power to convey to the members of this Court any information not already possessed by you regarding the character and judicial attainments of the late Chief Justice Brown.

He was your associate and co-laborer; your relations with him were intimate; you knew him better, perhaps, than anyone who may on this occasion address you. Your opportunities for estimating his ability as a jurist were many and exceptional. The memorial submitted by your committee and now awaiting the action of the Court is illuminating, comprehensive and just.

My tribute, therefore, will be personal and brief. Personal, because of our mutual friendship; and brief, because virtue is its own interpreter.

Many years ago I visited the home of my childhood for the last time. On the morning of my departure I partook of a simple breakfast with my aged father and mother. A single candle lighted the table. Few words were spoken and the silence was oppressive. Finally my father said:

"My son, I have no advice to give you, but I have a wish that I hope may be exemplified in your life. My wish is that you possess of all things the grace of humility. Clothed with that grace, your life will be simplified and without offense to others. The possession of that grace will exempt you from envy and jealousy and perhaps save you the mortification of being requested to occupy a lower seat,"

In my opinion, Chief Justice Brown exemplified that grace in its completeness. All kindred virtues flourished in its train—kindness, friendliness, gentleness, simplicity and modesty marked his daily life. His life was destitute of display and pomp and parade. He was without pretense and was genuinely good.

We can contemplate with professional pride his judicial learning, his industry and fidelity in the discharge of the duties of his exalted office. We can contemplate with satisfaction the enduring record he has left in the decisions of this Court. But, best of all, his moral qualities crowned the labors, of his brain and mind with that spiritual inspiration and power that leavens society and gives strength to free institutions.

His patriotism was of the finest texture, woven out of the best traditions and teachings of the founders of the Republic. With an undivided heart, Judge Brown truly loved and faithfully served his country. At the last annual meeting of the Minnesota Commandery of the Military Order of the Loyal Legion of the United States he was chosen its Commander, a worthy successor to former Chief Justice Gilfillan and Justice Collins of this Court. He was the first one without a military record to hold that office, the honor coming to him through the services rendered by his father, Captain John II. Brown, in the war for the preservation of the American Union.

The few surviving officers of the Loyal Legion entertained for Judge Brown the highest respect and admiration, and they looked forward to a happy year with their beloved Commander. But, alas! another vacant chair.

We who knew and shared the friendship of Calvin Luther Brown will always think of him, not like a distant lighthouse, casting brilliant rays across the storm-tossed sea of life, but as a friend, with a lamp, walking by our side, and by precept and example, disclosing step by step the path of safety and right living.

HON. ALBERT SCHALLER, a former Associate Justice, then addressed the Court and said:

May it please the Court:

It is meet and just that the representatives of the Bench and Bar of this state assemble here at this time to do honor to the memory of one who sat on the Supreme Bench of this state for so many years.

During more than a quarter century, he gave to the Jurisprudence of this state a high purpose, a firm courage, an exalted devotion to the principles of the law, a keen and judicial mind, deep learning and a great love of justice.

His judicial opinions show a clarity of vision, a profound knowledge of the law and of human nature and its foibles, a sympathy with human weakness and withal a respect for the dignity of man, and a charity and kindness which were the outstanding human traits of this truly great judge.

Other great justices have interpreted the law and administered justice. Others have contributed to the growth of the principles of the law. Many others have spent their time and devoted the powers of great intellects, learning and wisdom in the exhaustive work of the bench, but none had in greater measure the lovable, human qualities of the late Chief Justice.

He was always kindly and human, easily approachable and always helpful. His personality invited confidence and affection—little children loved him and trusted him as an older brother. They gave and received love for love and trust for trust.

His charity for his fellow man was as universal as all humanity, and his desire to be helpful was as broad. He did not distinguish between conditions in life, except, perhaps that he might deal more patiently with the ignorant and the unfortunate.

No one ever asked him for help in vain. He gave from his pecuniary resources as freely as he gave from the treasures of his vast experience, or his tender heart.

He was uncompromising in the performance of his duty, but he did what he had to do in such a way that the hand that dealt the blow also salved the wound. Never a sting was left by anything he said or wrote. He shot no poisoned arrow to rankle and fester in the wound.

He was a man of simple tastes, simple and direct in word and deed. He despised sham, ostentation and parade. In Court and in conference he presided with urbanity and dignity. His conclusions were arrived at after a thorough examination and were supported by clear and logical reasoning based on apposite authorities.

In all his associations with other members of the Court his attitude was frank and open, kindly and helpful. He had no overweening pride of opinion; treated his associates with the greatest respect and friendliness. He was essentially a modest man.

The personnel of the Court over which he presided was harmonious, kindly and considerate. Differences of opinion occasionally arose, and questions were freely debated, but the discussions were invariably conducted with a view single to arriving at a correct decision. The kindly spirit of the great-hearted Chief Justice pervaded the Court and its officers, whether in chambers, on the Bench or in the consultation room.

Every human being adds in some measure to the total sum of good or evil in the progress of humanity. The good must necessarily overcome and survive the evil. It must do so because of its very nature.

He who contributes to the advancement of the race by his learning, his wisdom, his

science or his character, is accomplishing lasting good. His name is written among the great ones of the earth. He takes his place in history and is remembered by mankind. But the name of him who, in addition to such great achievement, loves and helps his fellow man; the name of him to whom the poor, the neglected and the obscure, created in the image and likeness of the Creator, are as brethren, and who treats them as such, stands out more brightly on the tablets of the Recording Angel.

We assemble here today to honor the memory of a great citizen, a learned and just and upright judge, a kindly human soul, whose services have placed him high on the honor roll of this great commonwealth.

But even more do we sincerely mourn the loss of the great-hearted, considerate, charitable, tolerant and lovable man, whom his friends knew in life as Calvin L. Brown.

In the words spoken by him on the occasion of the death of his illustrious predecessor on the Bench: "May the example of his pure life, his high character, his faithful devotion to duty, be an inspiration to those who in future are to follow in his footsteps as trusted judicial servants of the state."<sup>1</sup>

HON. LORIN CRAY, former Judge of the Sixth Judicial District, then said:

May it please the Court:

'Mid the responsibilities and duties of this care-burdened life of ours it is well that we for a moment pause to do homage to the memory of one who has passed beyond the tasks cast upon us by its problems and perplexities.

Chief Justice Calvin L. Brown was a man whom it was a pleasure to know.

It was as well a pleasure to stand before him in forensic contest.

Always mild in manner and courteous to all was he.

When at critical times we have felt that we were standing on slippery places and that we could not find firm foundation on which to place our feet, he was always ready and willing to bear with us and afford opportunity to gather and make ready for another assault on the works of our adversary, so that if fall we must, our fall might be on easier fields.

Honored by all of us in life, greatly missed from among us in death, we can ill afford to spare such a one as he from among us.

In these days when we are nervously moving along all lines at such a furious pace, and incline to be forgetful of man's duty to man, we must guard with jealous care the vulnerable places in Bench and Bar, and to such as he we may well look for a guiding star.

Outside of his official duties he worked painstakingly to tiring about such simplification of the practice in Court as to make more easy, more speedy, and more economical the disposition of cases, all in earnest effort to secure the administration of justice swift and sure to all, rich and poor alike.

He had scant patience with that distorted sentimentalism which would unreasonably shield the wrongdoer and let the law-abiding one care for himself.

Just and righteous in both public and private life, when the chair midway between your chairs was made vacant, we may well feel assured that he heard that welcome call, "Come unto Me."

[<sup>1</sup> 144 Minn. liii]

HON. J. L. WASHBURN then said:

May it please the Court:

It is not fitting to seek for superlative phrases in which to eulogize adequately the life and character of our honored and loved late Chief Justice. His was a simple unostentatious life, free from all semblance of vainglory.

He administered his high offices of trial judge, Associate Justice and Chief Justice, covering a period of more than twenty-five years, with singleness of purpose, without fear or partiality and with distinguished ability.

He always sought to administer justice according to law, and not in violation. He recognized that the rights and contentions of parties must be related to the law, even though sometimes it might appear that a controversy would be more fairly concluded between the individual contenders by forgetting the law. That has sometimes been done at the expense of making a poor or uncertain rule of conduct for future contestants.

It is not proper for me to cite volumes and pages, but the recorded decisions of Justice Brown in this Court, though they may have been dissenting ones, destined thereafter to become the unanimous opinion of this Court, conclusively establish his independence, his fearlessness and the subjection of self and all thought of personal advantages in the one object of arriving at a just and righteous judgment under the law.

Justice Brown came to Duluth when he was a Judge of the District Court to assist our over-worked judges, and I had the good fortune to appear before him. I think this was my first acquaintance with him. I have been here often when he was an Associate Justice, but in recent years I have seldom appeared personally in this Court.

I know of no judge who more than he always presided in the same simple, dignified manner without any suggestion of antagonism, always willing to listen to argument and to consider patiently the issues and the authorities, moved only to arrive at a just decision. If others have had a different experience, I have not known of it.

In private he was friendly, and he associated with members of the Bar on a basis of freedom and equality without embarrassment to them or to himself.

He was well versed in public affairs and his judgment was sound and discriminating in matters affecting the nation, the state and the people. It is devoutly hoped that the influence of such men in this nation, and especially in this state, shall not wane. It is devoutly to be hoped that each generation will produce enough of such men to preserve the foundation principles of our government and guide it in the true way of progress without departing therefrom—enough of such men to protect our scheme of government, which the people wisely established for themselves, from destruction by those who have no sympathy with it and perhaps no use for any government, and to cause those who have wandered off or have been led astray by selfish politicians into byways, to turn around and reach again the main traveled road of representative government, wherein alone perpetuity and progress are to be attained, liberty enjoyed and the protection of individual rights assured.

We had hoped that Chief Justice Brown could have been spared to us for another decade, but we can still be thankful that there are others to take his place and, stimulated by his example, carry forward the work of his high office.

The more we dwell upon the merits of those who have gone, the more we emulate their virtues and seek to avoid their mistakes, if they made them the better fit the living will be to serve wisely in their own day and generation.

We honored Chief Justice Brown in life. We trusted him and he did not betray the trust. Let us cherish his memory and assure to him the permanent place of honor in the annals of this state to which his life, his character and his distinguished service entitle him.

HON. F. H. PETERSON, former State Senator from the Forty-ninth Senatorial District, then said:

May it please the Court:

I met Judge Brown at the term of Court held at Breckenridge almost immediately after his advancement to the Bench, and practiced before him in Wilkin and neighboring counties until his appointment to the Supreme Court. Since then from time to time in this Court.

It did not take long for the lawyers who appeared before him up in the Sixteenth District to learn the character of the new judge, and to appreciate the just but kind-hearted and helpful man, who had come to preside over their Court. The esteem in which he was held as a District Judge grew as the years went by and he was called to the performance of a higher duty in this Court.

As I recall my long acquaintance with him I can easily note the characteristics that have specially impressed his personality upon me.

One of these was the absolute confidence which he inspired in lawyers practicing before him in his fairness, impartiality, and ability to analyze testimony and apply to it the appropriate principles of law, so that whether the case was for the jury of the Court, or upon review in the Appellate Court, we felt very certain that he would grasp the facts and without fear or favor apply to them the law and, so far as lay in his power, would reach a just conclusion. This feeling was common to all who knew him.

In troublesome problems that sometimes came before the legislature—when new and untried ventures were placed on the statute books which we knew would be contested in the courts, members always felt that in Judge Brown we had a judge who not only knew the law and would bring to the construction of the particular act his great skill as a jurist, but that he would look at it as a patriot, with a wide outlook upon life and with a mind animated by a sincere desire for the uplift and betterment of all the people.

He was a great lover of justice. To him the important thing about a lawsuit was that it should be decided right and that exact justice, so far as possible, should be given the litigants, and when technical rules of construction interfered with this main purpose they met with slight favor at his hands. You will search his opinions in vain for traces of narrowness bigotry or partiality.

Always it was the larger and finer view of life and the application of the broad principles of justice and equity that moved him.

His varied experience in life, the environment in which he grew to manhood and his association with the plain country folk in the pioneer day gave him a rare insight into life and character and enabled him to draw just conclusions where many men might have been misled and hesitated or gone wrong entirely.

Judge Brown was the soul of courtesy and kindness. He decided after hearing and deliberation. He listened to the merest tyro at the Bar explain his views of the law with as much patience and courtesy as he did the most erudite scholar argue a new and untried proposition.

He started out with the presumption that litigants and counsel were sincere in their contentions and yielded respect to all arguments presented in good faith, but he had no time for the shyster or trickster and, when occasion warranted, was unsparing in his denunciation of sharp practice.

He recognized the fact that he held an exalted position as the head of the highest Court of a great state, and he actually was the embodiment of the simple dignity of his high office, but his official position never turned his head; his dignity was wholly without ostentation and he was easily approached, cordial and affable to all.

His many excellent qualities made him a very useful citizen and a much-loved friend.

That part of him which is human has ended at the narrow door of the grave. His memory, however, will be living and fragrant as long as the generation with which he labored shall survive. His wisdom, his great common sense and ability as a jurist shall abide permanently of record shaping human conduct and guiding business dealings between man and man so long as the state shall endure and wherever the opinions of this Court are read and cited.

Extravagant and fullsome eulogy as applied to Judge Brown is as much out of place as it would be distasteful to him.

Enough for me to say that this plain, sincere man, rising out of the common walks of life, saw before him the road to great service for the state and his fellow men. He laid hold upon the opportunity and calmly and steadfastly trod the road that opened before him. With vigorous hands he seized upon the opportunities for work that came within his reach. He gave his whole strength and the highest light he could summon to the accomplishment of this work.

Tired out with his toils he fell asleep with his hands still full of unaccomplished tasks and while the sun of his day appeared to be still high in the heavens.

It remains for us who are left, each in his separate sphere, "to carry on" so that the state shall not suffer loss and the great onward sweep of humanity shall not be hindered.

FORMER JUSTICE O'BRIEN then said:

May it please the Court:

This concludes the addresses arranged for by the committee. It may be that some other member of the bar present desires to be heard.

I now move that the memorial and addresses be made part of the permanent records of this Court.

CHIEF JUSTICE WILSON then said that ASSOCIATE JUSTICES HOLT and QUINN would respond on behalf of the Court.

ASSOCIATE JUSTICE HOLT then said:

The uncertainty of life was brought home to us with startling effect when early Monday morning, September 34 last, the sad message was received of the passing, during the night, of our beloved Chief Justice. Not one of his family and, in all probability, not even he suspected the approach of the Grim Reaper. Every member of the Court vividly recalled his customary visit of a few minutes in their chambers the Saturday previous then apparently in full physical and mental vigor, eagerly planning for the future. But often was he heard to express the wish

thus quickly to pass when his time came.

Judge Brown became an Associate Justice of this Court November 30, 1899, after having been a District Judge for twelve and one-half years. His judicial services thus covered a period of more than thirty-six years. His opinions will be found in nearly eighty volumes of the *Minnesota Reports*. This will exceed by about one-fourth the work in which any other judge participated. His period of service on this bench extended more than a year beyond that of Judge Berry, the next in duration.

His long judicial experience, aided by a retentive memory, gave him a firm grasp of the law, as announced in the decisions of this Court. He also followed current events with great interest, enjoyed travel and meeting people, was a keen observer, and well versed in the political history of the state and nation. This, added to a natural broadmindedness, served to develop a marked trait in Judge Brown's opinions and his method in consultation, namely: Discerning and laying hold of the dominant points of the controversy, ignoring or brushing aside trivial matters, whether of law or fact. He did not favor placing a decision upon closely drawn distinctions. Chief Justice Start often used to turn to Judge Brown when a complicated or doubtful legal problem came up, with the remark: "How does it strike your good New England common sense?" The answer, as a rule, was so convincingly stated as to win ready assent. Whether speaking for the majority or expressing a dissent, his opinions disclosed a mind always alive to the great truth that courts exist for the purpose of administering justice, and that legal principles and procedure are but means to an end. He weighed well the practical results to follow from a decision. Local self-government as exemplified in the town meeting, wherever granted by the law, appealed strongly to him. At the same time he was ever mindful of the Court's responsibility in protecting the rights and liberties of the individual as guaranteed by the Constitution. His opinions are direct, clear, and forceful, written in a style which does not suggest that he had only the meager schooling afforded the children of the early pioneers in this state.

Others have already recounted the valuable public labors and private virtues of Judge Brown. Able men and distinguished men and jurists have preceded him as Chief Justices; but it is safe to say that not one of them attained a higher place in the esteem and affection of his associates or of the members of the bar. His uniform good nature, his fair, courteous and considerate treatment of everyone he met was every day in evidence. Kind, plain and unassuming though he was, a quiet dignity always characterized his presence, whether on or off the bench, so that no one was tempted to impose upon his good nature. A mere hint from him sufficed to direct an argument into proper channels.

His public work was not wholly confined to that of a judge. The leaders, irrespective of party, in both houses of the legislature had great confidence in him, and through them he secured the enactment of laws to simplify practice and prevent delays in litigation.

Chief Justice Brown will long be remembered not only as an able and upright judge and a helpful and considerate associate, but also as a noble and gracious man, a model citizen, and, above all, as one tender, true, and beloved in his home.

ASSOCIATE JUSTICE QUINN then said:

Gentlemen of the Bar:

It is not in eulogy that I would speak of our friend who has been called away. Rather

would I speak in gratitude and love. Intellectual force, power of leadership, attainment of high place, excite admiration and stir eulogy but to touch and to hold the chords of loving remembrance and gratitude, nobler qualities are required. Intelligence may be selfish; leadership unscrupulous; ambition ruthless; but to reach into the hearts of men and "grapple them to the soul with hooks of steel," true love and the great spirit of helpful service must be given. These finer gifts were Calvin L. Brown's to a pre-eminent degree. True, his native ability was of the highest order, his power of leadership unsurpassed, his attainment of place the most exalted in our commonwealth; but to such a character as his, ability was but an instrument for greater service; power of leadership, a gracious gift leading men to better work; position, an enlarged opportunity to be just and kind.

Faithful service was the outstanding characteristic of his life. In him, helping hand was natural and spontaneous. We who were associated with him in daily life can see him as he passed from one to another, offering the kindly word of encouragement, the anxiously sought word or phrase, the lucid statement of the law, the citation directly in point. Never was his assistance proffered in a spirit of obtrusion, never with an air of superiority, never for the purpose of self-exaltation. He sought no credit for himself; neither did he tolerate any display of deference or homage from anyone. His help was offered solely that right might be done. Harmonious in his own life and thought, he earnestly sought consistency in the work of the Court. That the Jurisprudence of Minnesota might become more coherent, he made full use of

"All his reasoning powers divine  
To penetrate, resolve, combine."

With all his constant desire to help, his aid was never given to an unworthy cause. In what he believed to be right he was as unyielding as granite. Friends could not influence him, foes could not daunt him. Always open to new ideas and to reason, he formed his conclusions with deliberation. To them, when formed, he was as true as a magnet. He never compromised with wrong. He chose the right and none could swerve him from it. Full well he knew that life was a battle. It left its deep scars upon him. Fair, manly, unflinching, he fought a good fight. He left us at a time when, perhaps, more than at any other in its history, the Court needed his wise counsel, his serene and patient leadership, his inspiring aid.

Except from those closest and dearest to him, the warmth of his nature did not receive full appreciation. His kindly heart was partially hidden by the stern lines of a face which betokened his inflexible will, his towering integrity and the purity of his character. It was in his home, by his own fireside, that his kindly nature shone the brightest. Most dearly he prized the hour that he could spend in close companionship with those who blessed "the little group" which he so tenderly called his own. Truly may it be said that through all his toil and stress, his home was to him "as a hiding place from the wind, and a covert from the tempest; as rivers of water in a dry place, as the shadow of a great rock in a weary land. There peace was found and harmony prevailed. There he fell asleep, as he would have wished, in the quiet hours of the night, in the very heart of his home. In the last analysis, the measure of a man's worth is the love he leaves in the hearts of his fellow men. By this standard, we find no words to tell of this friend, who made life beautiful for us. It is because of our great love for Calvin Luther Brown that we stand bereft today.

"Gently Death came to him and bent to him asleep;  
His spirit passed, and, lo, his lovers weep,  
But not for him, for him the unafraid—  
In tears, we ask, 'Who'll lead the great crusade?'"

CHIEF JUSTICE WILSON then said:

We have met today in honor of one whose career, character, and ability well deserve these just tributes that have been paid him. He was a grand man; his obvious simplicity and directness of character gave him a universal friendship. The state has lost an able jurist and a leading citizen. We do but a sacred duty in these memorial services in recording our esteem, admiration and gratitude for the great service which Chief Justice Brown has given to the state.

He was a just man; and he may justly be called a great and good man.

The memorial and memorial addresses presented will be filed and printed in our reports.