

PROCEEDINGS

In Memory Of

FORMER CHIEF JUSTICE START

On the morning of April 30, 1920, in the court room at the State Capitol, CHIEF JUSTICE BROWN presiding, the following memorial of FORMER CHIEF JUSTICE START was presented to the court and read by Chester L. Caldwell, Esq.

MEMORIAL

CHARLES MONROE START, CHIEF JUSTICE OF THE SUPREME COURT of the state of Minnesota, from January, 1895, until January 1913, died at his home in St. Paul, December 19, 1919.

Judge Start was born at Bakersfield, Vermont, October 4, 1839. He was of New England ancestry, and throughout his entire life exemplified the best qualities of that people, for he was simple in taste, frugal and temperate in his habits of life, and, while stern and unyielding in his sense of right and wrong, his predominating characteristic was a sense of justice and an inflexible determination to deal justly with all those with whom he came in contact.

To be just in the determination of individual rights is much more difficult than to be honest. The ordinary man is honest and naturally well disposed, but he is often saturated with prejudices and is a victim of environment, and in attempting to adjudicate upon individual rights he is hampered by the mental bias he has acquired from his associations and habits of life.

He who can overcome these human tendencies and look upon each individual as a being, endowed by his Creator with rights equal before the law to those of every other citizen, and fearlessly protect those rights, has reached the pinnacle of juridical integrity, without regard to the concrete correctness of any particular decision which he may render.

If this test he applied to Judge Start, it will show him to have been one of the really great men of his generation.

His early life was that of the ordinary Vermont farmer's son, helping his parents to secure a scanty sustenance from a rocky soil. Later, when he entered Barre Academy, his vacations were spent in earning sufficient to keep him at school, and when he entered the office of his preceptor in the law, Judge William C. Wilson of Vermont, he earned his board in Judge Wilson's family by the performance of those chores which were considered a necessary part of a Vermont boy's education. This period of apprenticeship was not without its romance, for he subsequently married his preceptor's daughter, Miss Clara A. Wilson, who continued, throughout his long life, to be his devoted helpmeet.

No higher tribute could be paid to the character of this lady than was expressed in the chivalrous attitude which Judge Start always maintained towards women.

It was typical of him that he should enlist as a private in the Union Army, which he did in 1863, as a member of Company I, of the Tenth Vermont Volunteers, and as was naturally to be expected, his character and talent earned him a commission the following month. Shortly afterward he was compelled to resign because of disability and next we find him in Minnesota in 1863 entering upon the practice of law at Rochester.

In the state of his adoption, his integrity, ability and devotion to duty have always been

recognized by his fellow citizens. Thus he was prosecuting attorney for Olmsted county for eight years; attorney general of Minnesota from January 1, 1880 until March 12, 1881; judge of the Third judicial district from 1881 until 1895; and Chief Justice of the state from 1895 until he voluntarily retired in January, 1913. His opinions appear in sixty-one of our reports: Volumes 60 to 120 inclusive; they are models of clearness, showing close application and deep research and indicate a simple and direct honesty and devotion to the fundamental principles of our system of government, rather than any desire to individualize himself or to secure a reputation by the expression of sensational views.

The high regard in which he was held by the bar of the Third judicial district is shown by the fact that when he presided, three jury trials in civil cases were the exception.

Judge Start believed in human progress, and was alert to sustain legitimate progressive legislation, but he believed that such legislation should be a matter of gradual development, realizing as he did the danger of sudden revolutionary changes.

A memorandum, in his own hand-writing, found amongst his papers after his death illustrates his attitude:

"A reform movement ought not be sent straight to the mark, like a cannon ball, without regard to the wreck and ruin which may follow. It should be strenuous, but fair; persistent, but deliberate; it should be based upon justice and controlled by reason, for no permanent reform can, or ought to be, secured in any other way."

Only those who knew him intimately knew how kind and sympathetic were his mind and heart. In his opinions he avoided, as far as possible, harsh statements, and advised against any unnecessary reflections on counsel practicing before the court. "Perhaps," he said upon one occasion, "some statement which we make while smarting under the discourtesy of a practitioner, may in future years cause grief or embarrassment to some innocent child."

His attitude upon public questions was always that of the sincere and patriotic American; after the Spanish War he delivered an address at Rochester before Custer Post G. A. R. in which he said:

"Since the victory of Manila, we have suggestions from influential sources, that we must permanently hold the Philippine Islands, and enter upon a career of colonization and imperialism, and become a potent factor in the political factors of the world.

"This is to be deprecated. Let us remember that when we entered upon this war, the national honor was pledged that it was not for the purpose of conquest, nor the acquisition of more territory, and that it will be an act of national perfidy not to keep that pledge. Also that our nation is a union of sovereign and equal states, with no place for dependent colonies."

Every quality of good citizenship so necessary to America at this time of unrest was possessed by judge Start. He was devoted, heart and soul, to the American system of government; he was invincible in honesty, devoted to the public services, an uncompromising champion of individual liberty. He realized that law is necessarily a progressive science, but had reverence for, and held fast to all that was good in the past. He respected authority, but hated arbitrary power and had so developed and trained the natural impulses of his character, that he was an ideal officer of justice.

Burt W. Eaton, Chairman.
Thomas D. O'Brien,
David F. Simpson,
L. L. Collins,
Harold J. Richardson,
Victor Stearns,
Chester L. Caldwell,
Committee.

St. Paul, April 30, 1920.

BUNN W. WILLSON, ESQ., then addressed the court and read the following eulogy, prepared by his father, HONORABLE CHARLES C. WILLSON:

HONORABLE CHARLES MONROE START was born October 4, 1839, at Bakersfield, Vermont. His father, Simeon Gould Start and his mother, Mary Sophia (Barnes) Start, were also natives of that state. His father was a farmer by occupation, and was justice of the peace in his township, for twenty-five years. From his farm and the assistance of his children he made a humble livelihood. His son Charles worked as a farm laborer summers and taught country school winters, and in that manner obtained the necessary means to defray his expenses in securing an education.

In July, 1862, he enlisted as a private in Company I of Tenth Vermont Infantry. In the following August he was commissioned first lieutenant and went with his regiment to Virginia, but in December of that year he resigned from the service on a surgeon's certificate of physical disability. The next summer, 1863, he came to Rochester, Minnesota, and entered my law office as a student to learn the Minnesota practice. He had previously studied law in the office of Honorable William C. Wilson at Bakersfield, Vermont. On August 10, 1865, he married Miss Clara A. Wilson, a daughter of the judge in whose office he had read Blackstone.

In the spring of 1864 he was elected city attorney of Rochester, Minnesota, and held that office several years. In November, 1871, he was elected county attorney of Olmsted county, Minnesota and held that office eight years. In November, 1879, he was elected attorney general of this state. In March, 1881, Judge William Mitchell of the Third judicial district of this state was appointed one of the justices of the Supreme Court, and Governor Pillsbury appointed Mr. Start judge of the district court in the place of Judge Mitchell. Judge Start held that office by successive elections until January 7, 1895. In the preceding November he was elected Chief Justice of this state and held that office by successive elections until January 6, 1913.

Justice Start was slightly under medium height, but of quick and vigorous action, and of untiring industry. He had unusual self-control and never permitted himself to indulge in disparaging remarks concerning anyone. His self-control in this regard and his unflinching cordiality kept him in office nearly all the first fifty years of his residence in this state. As judge of the district court he was well esteemed and had the confidence and good opinion of everyone. He was upright, and impartial between high and low, rich and poor, frugal in expense and entirely void of ostentation.

The story of Justice Start's life should stimulate the youth of the county to imitate his rugged, untiring industry and his unswerving purpose to acquire an education and a position of usefulness and honor. Proud and grateful should every youth of our county be, that he is a

citizen and member of this republic where the humblest can attain any position of trust and honor which he is capable. The obligations of this citizenship are paramount to ever other duty. To the member of the legal profession they especially appeal.

Justice Start's purity of life and devotion to duty exhibited the great benefits and concurrent obligations which membership in the American republic imposes. If we look around among the prosperous and successful men or our acquaintance we find that nearly all came up from humble and obscure origin. From such origin Chief Justice Start rose to the highest judicial honor in the gift of his fellow countrymen.

In Continental Europe feudalism, more or less modified, still obtains. The eldest son in succession from a remote conquering ancestor, holds, by entail, title to land, and exacts rent and military service from his tenants.

The land is not taxed or assessed directly in any way. Rent, income taxes, licenses and tariffs on imports are the chief sources of revenue. Many of the uneducated children of these servile tenants find their way to America, and are prone here to regard with aversion anyone having wealth or position, as their fathers regarded the landowners of their native country.

To stem this disloyal tendency of some of the newcomers, Justice Start's voice and example were never wanting. He was ever ready to uphold and honor the Stars and Stripes, the emblem of his country. In youth he marched under arms beneath its folds and in mature manhood he invested his earnings in his country's securities and gave his voice in its loyal support. In what other country could his successive honors have been acquired? It is to be regretted that there are here a few ungrateful sons born to such great opportunities who give their voice and effort, plausible and insidious, to that socialism that would overthrow this republic and bring ruin, riot and misfortune in the place of present prosperity and happiness. If such a man there be in the legal profession, let him repent and take Chief Justice Start for his example, or unrepentant be disbarred. He is unworthy to speak in this honorable court. Let him go down

"To the vile dust from whence he sprung, Unwept, unhonored and unsung,"

HONORABLE THOMAS S. BUCKHAM then addressed the court and said:
May it please this court:

I hardly know upon what ground a man who has been so long divorced from all connection with the courts of the state as I have should be entitled on such an occasion as this to take part in the program of the day. My only excuse for being here at all is the fact of my long acquaintance, my somewhat intimate acquaintance, with the late Chief Justice Start, and the suggestion of the present Chief Justice of this court that he considered it to be appropriate for me to say something on this occasion; a suggestion coming from such a source being to a member of the bar in the nature of a command.

I was very much pleased with the memorial presented by the committee. I knew Mr. Start pretty well during his whole lifetime. I knew something of his ancestry and of his parents and of the men among whom he spent his early years, men who best represent the original settlers of New England, men who have no superiors the whole world over. He might well feel proud of his origin and his ancestry, and the committee did well to speak of him as a representative of the time-honored original New England Vermont stock.

I will not go except very briefly into any statement of the acquaintance which I had with Judge Start. I knew him when he first came to the state. I was the judge of a neighboring district, living at Faribault. I met him often, met him quite intimately, held court for him a

number of times when he was cleaning up his work as a lawyer to take his seat on the bench. I never met him as a practicing lawyer in the trial of a cause, but he did try one or two cases before me just before his own appointment the only remembrance that I carry of those cases was the extreme zeal and urgency with which he pleaded the cause of his clients. He was matched at that time against one of the leading lawyers of the state, the late Gordon E. Cole of Rice county, and I watched of the cases with a good deal of interest on account of his Vermont origin.

I am not going to eulogize Judge Start as a lawyer and a judge. The memorial which was presented here states exactly what I should say if I could say it as well as that does. He was an able judge, he was an upright an honest judge, he was a very modest and unassuming citizen, a warm, cordial friend, one of those men whom it is a delight to remember. The mere fact that he was elected and re-elected in his own district and afterwards to the supreme bench of this state at a time when the selection of judges was left almost entirely to the action of the bar, when no man could presume to stand for an election who was not the choice of the bar, and no man could expect to be elected who was oppose by the bar, is sufficient proof that he was held in high esteem by the lawyers of the state and that he deserved the honors which were put upon him.

I think one of the most entertaining and one of the most instructive exercise on the part of a practicing lawyer who know anything personally about the judge who writes an opinion, is to trace back that opinion and the course of reasoning which it employs, to what he knows of the character and habits, mental and moral, of that judge; or if he does not know the judge, to build up a picture of him by the reading of his written opinions. That is the way the judge lives in the memory of the bar, through the opinions in which he was the spokesman of the court when personal memory of him wholly or partially fades away. I doubt not most of the lawyers here have forgotten the earlier judges of this court. They live in their memories only by tradition, Judge Emmett, Judge Flandrau, Judge Atwater, the first court before whom I had the honor to appear; and Judge Berry, Judge Wilson and Judge McMillan, the last judges whom I ever addressed, before today. But though we have lost memory of them personally we trace them in their reports.

Now I think that the opinions of Judge Start, which of course were in substance the opinions of the other judges of the court, and which I have read and carefully studied, for they often criticized the views which I had presented as a district judge, show just two characteristics on the part of Judge Start which have been so strongly dwelt upon in the memorial presented here, and in the remarks of Mr. Willson, namely, his unbending love of justice and his view of the duty of a supreme court judge in passing upon a ease brought before him on appeal. And this is the impression that I always had of the man from his opinions apart from my knowledge of him and of his own statements. He never troubled himself with anything but the exact particular points that he was called upon to decide. He did not discuss the length and breadth and height and depth of the principles involved in the case itself. It was sufficient for him to decide the controversy in hand and decide it rightly. He did not consider it necessary to solve any future problems. He was content to let those questions take care of themselves when the time came. There was very much water to pass under the bridge before that time arrived. Possibly the bridge itself might be carried away and it might be necessary to find some other method of crossing the stream; but the present duty was to decide the instant case. He considered his duty done ordinarily with a case when he either directed that the successful litigant should proceed to put his judgment into execution or that he must go back and begin over again and try his ease anew. I don't mean to intimate for a moment that he could not exhaustively consider legal questions. I could refer to cases in our reports in which he has shown his ability to do that, but his object

always was, and so he said, to see that the case he was examining, whether he would write the opinion or not, was so decided that absolute justice so far as it is possible for human beings to do it, should be rendered the parties.

He was a man who in his every action showed a strong, genuine sympathy with what has come to be called the average man, the man who without attempting, or thinking that he could if he did so attempt, to unravel the mysteries of the divine economy of the universe, wrestles manfully but blindly all his life with those great problems that Job and his friends so ineffectually discussed, who struggles through a lifetime unable to understand why so often the bad man flourishes like the green bay tree while the "good man's share in life was gall and bitterness of soul," but yet who keeps on with the struggle, does his duty as he best sees it to his community, to his country, to those of his own household, and finally passes on to that world, if it may be called a world, where he will doubtless be enlightened further—that is the man that Judge Start always spoke of with respect and feeling, and I was glad which will be the record of this court, or part of it, of his life should make a strong point of that feature of his character.

I knew Judge Start quite well. I knew his family somewhat before he came to this state. They lived in the same county in Vermont where I resided as a boy. They were well known in that community and highly respected. When we both moved to this state and I came to know him personally, I admired him and had a strong personal loss outside of his loss as an honored citizen. After he came to St. Paul to live I did not see so much of him as I had in former years, but it had been a great pleasure even in this imperfect way to testify as a lawyer, as a neighboring judge, and as a personal friend, to my opinion of his ability, his character, his learning and his sterling integrity.

HONORABLE FRANK B. KELLOGG presented the following tribute to the memory of his former associate at the Rochester bar:

To the Honorable the Chief Justice, Associate Justices and Commissioners of the Supreme Court of Minnesota

I am honored by your kind invitation to pay my humble tribute to the life and character of the late Chief Justice. It was my good fortune to know Judge Start intimately for 45 years. When I went to Rochester from the farm in 1875 to study law, he was one of the first men whose acquaintance I made, and from that time until his death, he was to me, as to many others, a kind friend and a wise and able counselor, and I know of no one who needs encouragement, advice and assistance more than the young lawyer.

Judge Start was of English descent. He came from that virile, self-reliant New England stock. He was born and reared in Vermont, educated in the schools and colleges of Vermont, and started his profession in the Green Mountain state. He enlisted in the army as a private in the great Rebellion which threatened the destruction of the Union, was promoted to lieutenant, and after serving about six months, was compelled to relinquish his commission because, of ill health. He came to Minnesota in October, 1863, and settled at Rochester. He was one of those vigorous, forward-looking, able young men who came, in the early days, to the Great West—a land of surpassing richness and unequalled opportunity—there to lay the foundation of his future career. The next half century that followed in the development of this country and the world were the most important ever recorded in history. Never was there such progress and advancement in science, art, invention, increase of wealth, production and commerce as during this period. He took his place among the able, progressive men of his day. At the bar, as city attorney of Rochester, county attorney of Olmsted county, attorney general of his state, judge of

the district court and Chief Justice of this supreme tribunal, he met the expectations of friends and the public. He was a thoroughly educated and profound lawyer, a patriotic, liberty-loving citizen, and a just judge. He had the attributes necessary to success—untiring energy, fixedness of purpose and devotion to duty. His most pronounced characteristics were patriotism, a thorough understanding of the duties of citizenship, and of the principles upon which rest the foundation of representative democracy. He was liberal in his political views. The champion of the weak and unfortunate, with an unshakeable confidence in the wisdom of democratic institutions and in the destiny of his country. And yet he thoroughly believed in the conservative force in political life; that his study of the science of government, his respect for law and precedent make him so.

De Tocqueville once said that "when the American people is intoxicated by passion or carried away by impetuosity of its ideas, it is checked and stopped by the almost invisible influence of its legal counsellors."¹

And yet the lawyer is not a reactionary. He has been a leader in all great movements for the development and advancement of representative government. He lends stability to these evolutionary forces, which sometimes stir people to unwise innovations. There never was a time in the history of the world when there was more need of these conservative forces of society than at present, if we are to preserve the principles of representative democracy. Of all governments which the wisdom of the ages has devised, ours is more nearly fitted to preserve liberty, encourage individual enterprise and promote the highest development of civilization. Our Constitution was not the inspired conception of a few men, but the evolutionary work of centuries of experience and struggles for self-government. It was bought by human sacrifice and sanctified by the blood of martyrs. Those great principles of our Constitution which constitute the foundation of human liberty and progressive nationalism cannot be lightly discarded. Freedom of speech, of religious belief, protection to the person, the right to pursue one's own vocation, to enjoy the fruits of individual energy and enterprise, permanency and stability of law, protection against the tyranny of government or the tyranny of the mob, integrity of the courts and all the other constitutional rights, are priceless heritages of a free people. There are today, in this land, as in other countries, revolutionary and disturbing forces at work. Great organizations, largely of foreigners, teaching their doctrines of destruction and revolution—the Communists, Socialists, I. W. W., the Bolshevists and others. These organizations and their propaganda must be uprooted and destroyed, the people must be educated in sound principles of government, the world must return to the pathways of peace and industry, or our twentieth century civilization will disappear as the Roman civilization disappeared over fifteen centuries ago.

While Judge Start's sympathies were with the great mass of the toiling millions of his countrymen, while he was quick to lend his influence to aid in those reforms necessary to human happiness, no man whom I ever knew had a more profound understanding of those conservative principles of government necessary to society than he. He was charitable to the weak and unfortunate, but strong and merciless in his prosecution of evil. Laws, in his judgment, were made for the benefit of society and to be obeyed. He did not believe that the principles of our constitutional form of government, with the guarantees of the Bill of Rights, were mere matters of expediency, to be cast aside in the changing tides of public opinion, and he looked with apprehension upon the wide-spread propaganda teaching the people of this country doctrines so foreign to our institutions. He believed that those principles were better safeguards to human

¹ [Democracy in America C. XVI]

liberty and happiness than the speculative philosophy and untried theories of agitators and political opportunists.

It is unnecessary for me to say that he had the greatest veneration for the judicial office. Political honors were often within his grasp, but he never swerved from his purpose to devote his life to the administration of the law. No one realized more than he that law is the embodiment of the highest ideals of civilization. It has governed the relations of men in the most primitive and savage state, and in the modern and highest developed society. Before history recorded and left to succeeding generations the deeds of men, law was the governing power and controlling influence of communities and nations. With the growth of government, the uplifting of physical and social conditions, law has been keeping pace with the march of progress. Its invisible forces dominate and control nations, man in all his relations in society, the tremendous transactions of modern economic life, and the minutest details of our social and industrial fabric. It is all-pervading and ever-present. Without it there is no government, no social order, no home. Its administration is the highest and noblest duty of man to his fellows. Its purity and stability are necessary to the peace, happiness and prosperity of peoples. Its corruption is the destruction of the state and of the nation. For more than a quarter of a century, Judge Start realizing these principles, labored to make them vital forces of society and government.

His career was long and honorable. With learning and ability, with patience and a belief in our institutions, he helped to write the judicial history of the state, and he left it as a legacy to his country. His last days were troubled by the great conflict which cast its shadow over the world, but through it all, he believed in the destiny of his country and that this government and all its institutions would be preserved for the benefit of the countless generations to come. It is fitting that we honor his memory and exalt the judicial office that they may both be perpetuated.

HONORABLE LORIN CRAY then addressed the court and said:

May it please the court:

I feel quite incompetent to speak of the virtues of our brother lawyer, Charles M. Start, late Chief Justice of this court.

As a man, a lawyer and a judge, he has attracted public attention in this and other states for many years, very generally commended very seldom otherwise.

After years engaged in the successful practice of the law, in March, 1881, he assumed the duties of judge of the district court of the Third judicial district of this state, where he served with marked ability until January, 1895, when he was raised to the exalted position of Chief Justice of this court, which position he held with honor to both this court and to himself, until a short time before his death

It was my good fortune to make the acquaintance of Judge Start as early as 1886, and in all sincerity I can say that I have highly prized that acquaintanceship, and in the friendship that resulted from it, which grew stronger and more intimate as time passed by.

There is to the practitioner a comfort and satisfaction, that cannot be easily expressed, in knowing when approaching a forum, that if he have law and natural justice on his side, he is going to prevail, and in knowing, that although he may err in law or in its application, his cause will be given all due consideration, and that his views, if candidly expressed, will be duly weighed. All this he could confidently expect from our deceased brother.

Judge Start, as a jurist, seemed by mere intuition to be able to grasp the salient points in a case, to solve intricate legal problems, to brush away technicalities, and take in the entire subject and determine how and where natural justice required that the law should be construed and

applied.

Supremely honest in his convictions, courageous to a fault, his decisions, eminently satisfactory to one seeking after justice, must have been eminently satisfactory to himself as well, and to have met with the approval of his own conscience, which was a controlling factor in all of his acts, and which is the highest reward due to any man.

When he left us, he left a spotless record and an unsullied name, both as a jurist and a citizen. His taking away was a great and distinct loss to the law-loving people of our state. His life was an inspiration to all members of the bar who knew him well, and all they whose mentor he was, are the better because of having known him.

When a boy living in the country, I wrote to an able and quite noted lawyer in this state, asking the privilege of studying law in his office; my inquiry elicited no response. This lawyer was not Charles M. Start. Not he, who was always considerate of the young, kindly of heart, and courteous to a fault.

He loved his profession, and when in health his greatest pleasure was found, in work at his desk, and among his books. The profession profited, and the bench was more highly honored, because of this.

He has passed from his labors to the other shore, and memories of his true worth close the book.

HONORABLE CHRISTOPHER D. O'BRIEN then addressed the court and said:

According to the traditions of the bar, this court assembles today to inscribe upon its records in enduring form, our recognition of a useful and well spent life—a life that was beneficial to this commonwealth and to our entire republic, the life of a citizen who, while among us, and during all of his years, well and fully performed all of his duties to God and to his fellowmen.

It is well for us to contemplate such lives as these. It is well that they should be described by those who are living witnesses to their existence. It is well that such history should be preserved in the enduring records of this court for the benefit of generations yet to come.

The services of Justice Start to his country and fellow citizens began with his early manhood when he gave them to the Union cause in our Civil War. Upon its termination, he gave them to the people of this state through our profession, as county attorney, attorney general, district judge, and Chief Justice of this court. For more than forty years he gave his fellow citizens his services in these public positions, and in each of them all of his duties were fully, efficiently and honestly performed, with no thought of self-advancement, with no ambition other than the complete, performance of the duties that arose, and with a full appreciation of his responsibility to his Creator and his fellow citizens.

I know of no profession save that of the ministry, which exacts more industry, fidelity and self-sacrifice from its members than does that of the law, and in that profession, there is no position more exacting than that of a judge. For a judge must surrender to the proper performance of his duties a large share of those associations and personal activities that form most of the comforts and attractions of life. He can have no intimate associations among the members of the bar, because that might create scandal. He cannot associate closely with the officers or managers of large corporate interests for a like reason, and socially he must be reserved and dignified to an unusual degree. It follows that the occupants of the bench are largely men who have selected that walk in life because of their desire and ambition to be useful

to the community and to devote themselves to the welfare of their fellow citizens rather than to their own.

To pass upon the multitude of questions affecting the lives, liberties, properties and social conditions of their fellow citizens; to disentangle the intricate convolutions and entanglements of human life; to look through and behind the mass of misrepresentation, intentional or unintentional, that envelope all litigation; to see through them only the light of truth; to recognize and distinguish the "ignis fatuus" of self interest, passion, cupidity, malice and falsehood that may be present in any cause, from the truth; to resolve the varying and contradictory representations of the litigants; to determine the effect of such representations upon the manifold human interests which cause their presentation; and, at the last, to resolve these controversies by the sole light of truth, reason and justice, present to the human mind one of the greatest problems which it can contemplate. Verily, the judge must bring to the performance of his high and complex duties, the best capacity, the best training and the best skill of which the human mind is capable, and this must be again controlled and reinforced by a spirit of justice, truth, charity and mercy, to entitle the conclusions of the court to the respect and obedience which just decisions deserve.

Not only are the mental difficulties almost beyond description, but if possible a judge must bring to the performance of his duties such physical equipment as will enable him to give to those duties his full mental capacity. And when it is reflected that hour by hour, day by day, month by month and year by year, the entire mental capacity of a Judge must be given to the determination of causes which, though presenting all of the difficulties that have been hinted at, absolutely vary from each other, so that one instance is not an aid to the determination of the other cause, the duties of a judge and of a court become almost beyond the capacity of the human language to adequately describe.

It is, however, a great satisfaction to know that our citizens do recognize in the capable judge the qualities which enable him to fulfill the duties of his office. And though popular election is charged with many faults, insufficiencies and mistakes, our experience is, in this state at least, that the popular instinct rarely goes wrong, and that when the proper man has been found to accept the duties of such high office, whether in the district courts or in this court, the performance of those duties by him has been recognized by the electorate by constant and continual re-election during the time he may desire it. This is true as to a large majority of the members of our judiciary. It is particularly true in the case of Justice Start, who was continued in his high office of Chief Justice up to, and until the time when he felt the right to retire from the performance of his duties for the brief interval of rest and reflection which was allowed to him.

It is easy, to indulge in high-toned sentiments. It is easy to couple together oratorical superlatives, and cast them lightly upon the grave of a man who has passed away. But a good, faithful and efficient man deserves more than that. He deserves the grave, studied and sincere expression of approval of those of his fellow citizens who know what has been, and how well it has been done. It is the work and the history of such a man that we commemorate today.

Of course we have among us, or have had among us, men of great brilliancy. I sometimes doubt if they are the most useful. A meteor comes from obscurity, casts its brilliant light around its pathway, and descends into darkness. It challenges our admiration, but not any permanent recollection. For my own part, I prefer the more lasting rays of those useful planets, who, while not so brilliant, are steadier and more effective whose light continues to illuminate the rugged pathways of human experience, even when they have gone to the most distant extremity of their orbit.

The beneficial effects of the services of Judge Start as Chief Justice of Minnesota, did not cease with his death. In the just and wise opinions formulated by him in this court, we find the proper methods as well as the proper directions for the administration among the citizens of the community, of proper and equitable rules, as well for the conduct of the citizens in their dealing with each other, as for the settlement of their varying contentions and disputes, and this court, and other courts of like character, will continue, as long as the republic endures, to reap the benefit of his judgment and opinions. To the practitioner, they will point the way to a serviceable, orderly and effectual performance of the duties of his profession. To the judges who succeed him they will show with what a just, equitable and clear mental apprehension he determined the causes brought before him. And so his services and influence will continue, particularly in this court, and with the bar of Minnesota for many, many years still to come.

Like Chief Justice Marshall, and Chancellor Kent, his determination of the vexed questions of human affairs in all phases of life, will remain to be found for the benefit of our profession, and our citizenship at large. That all of his duties were well and completely fulfilled, those of his profession who knew him in his lifetime, know full well. That his life was a high, virtuous, useful and beneficial life to his fellow citizens we stand here today to testify of our own knowledge and without fear of contradiction. That he is today in the receipt of the greatest reward that the soul of man is capable of receiving, we sincerely believe. And that "he is now in the greatest of courts, in the presence of the greatest of judges, an eternal witness to the administration of those great laws which are perfect in their justice, as well as in their mercy, we confidently believe. And so, his life work done, and so well done, he rests in that eternal peace and happiness that "passeth all understanding."

HONORABLE WILLIAM E. HALE then addressed the court and said:

May it please the court:

I first became acquainted with Chief Justice Start in the years of 1880 and 1881, when he was attorney general of this state and I was prosecuting attorney of Hennepin county. During this time I saw him occasionally, in consultation about cases pending in this court, which I had tried and which he was to argue. I also tried some cases before him while he was judge of the district court, in Olmsted county. But I became better acquainted with him after he came to this court. I rarely came to the Capitol that I did not drop in at his chambers and have a few moments of friendly conversation—not about law and cases but about men and things in general. I formerly lived in Wabasha county, and knew many of the people in southern Minnesota whom he knew, and he liked to talk about them and the early days of Minnesota. There are others, of course, who knew him much more intimately than I did, and who can bear testimony to his great worth as a man and a friend, but from my somewhat limited acquaintance with him, covering a period of more than forty years, I can truthfully say that he was my friend.

He was true to his principles and to his friends; never unfaithful to the former or forgetting the latter. In devotion to what he considered right, he was as inflexible as steel. As Chief Justice of this court, he gave the best part of his life to the state he so much loved. He came here in the fullness of his manhood, well equipped for the responsible duties which he had assumed. He came to this state from New England, bringing with him many of the characteristics of the early settlers of the birthplace of our American civilization; among them, industry, honesty and economy.

He was quite set in his ways, and at times seemed blunt in the expression of his opinions.

But to those who knew him best, this was never offensive; for they knew that beneath the outside appearance there was an honest mind, and a great warm, sympathetic heart—as tender as that of a woman.

He was in no sense a politician, nor was he known as a mixer among men, and he resigned his office some years ago, rather than engage in a political contest for re-election.

The key to his success in life was his singleness of purpose, his close application, and determination to make out of himself all that could be made. He was never blown about by the flaws of fortune, or cast down into the quicksands of irresolution.

In his opinions there is entire absence of technicalities. He never indulged in fine-spun theories. He was broad-minded, taking comprehensive views of the law and facts. His appeal was to an innate sense of justice, to reason and intelligence, and he did it in plain and familiar phrases. He never attempted a display of his learning, or attempted to write a thesis on the law of the case in support of a proposition; he was generally content to cite a few of the leading cases, instead of all the cases on the subject, taken from some encyclopedia. And these opinions will be his monument so long as the records of the court are preserved.

He believed in self-government—a government of laws—and he believed in their enforcement, as necessary for the safety and happiness of the people. The law never leads civilization, but always follows in its wake. Its purpose is to regulate and control the relations of men with each other, and their relations to the state, and to produce, if need be, justice out of injustice. The nation today seems to stand almost upon the verge of a new and remarkable destiny—for good or bad we cannot tell, and there never was a time in its history when it was in greater need than at the present time of able, conscientious and fearless men to fashion, interpret and enforce the laws. We are a government of laws, and unless they can be enforced to protect all alike, in their lives, liberties and property, anarchy and barbarism will follow and the government and civilization will come to an end.

And now as we look backward over the long and useful period of the life of our friend, and call to mind the many whom we and he knew, but who have gone with him out into the unknown, we are reminded of the lines written by Lowell on his sixty-eighth birthday:

"As life runs on, the road grows strange
"With faces new, and near the end
"The milestones into headstones change,
"Neath every one a friend."

HONORABLE ALBERT SCHALLER then addressed the court and said:

It would be repetition to say again what has been so well and truly said of the life, the character and the heroic virtues of the man in whose honor we are here assembled. It is truly meet and just that the great tribunal, over which he so ably presided for so many years, should specialty assemble in his honor, and join in the tributes paid to his memory.

Repetition is perhaps the highest praise. We read that the choirs of angels are continually repeating in praise of their Creator the words: "Holy, Holy, Holy," "Hosanna in the Highest." So it will not be deemed unfitting that we, following so venerable a precedent, laud again and again the great qualities which distinguished the former Chief Justice.

We knew his upright character, his stern integrity, his loving kindness. We knew the loyal American, the good citizen, the kind father, the learned, honest and upright judge, and

withal the faithful Christian gentleman.

Perhaps the most prominent trait in the character of the late Chief Justice was his Christian sincerity. His faith was childlike, his trust in God was absolute, his devotion to duty was profound. The virtues which we so highly honor today were the outgrowth and fruition of his faith, his trust and his devotion.

But of what avail are praise from human lips, or marble monuments, or eloquent testimonials, when we have passed the portals of death, if are not justified by a life filled with good deeds, those messengers from earth which penetrate to the very throne of God?

Charles M. Start at his mother's knee learned to honor God and obey His commandments. This teaching dominated all of his actions; to it he held fast to the hour of his death.

His sincere faith, his simple Christian trust and his devotion to duty for duty's sake sustained him throughout a long and useful life, and finally led him into, the very presence of God—the eternal, kind and loving Father of us all, who knows our frailties and forgives them, and who rewards our good deeds with the eternal joys of the Beatific Vision.

HONORABLE W. B. DOUGLAS then addressed the court and said:

May it please the Court:

It was my good fortune to know Judge Start well. Our association covered a period nearly a quarter of a century, most of the time in that relation which an active member of the bar bears to the Chief Justice of our highest court. Five of those years we were associates upon the State Board of Pardons for a short time as members of this court. Naturally a strong friendship developed between us and it deepened at his fireside after he laid away the ermine he had worn with such conspicuous courage and devotion to the public service.

His was a rare mind and his temperament naturally judicial. True it is that in separating the wheat from the chaff he was sometimes misunderstood by the bar, but let us not forget that

“The truest steel the readiest spark discloses.”

The clear, incisive opinions written by him and preserved as a part of the published records of this court are his best monument. They show us a man of wide vision and constructive mind; still one whose energy and studious habits clearly proved that he knew and respected the precedents. However, he was fearless in extending, developing and applying settled principles in such a manner as to deal justly, humanly and charitably with constantly changing conditions.

To me, this strong desire ever present with Judge Start, to deal kindly with and excuse many weaknesses in human nature as far as settled rules and sound policy permitted, contributed much to placing him as a man and public officer among our greatest and most deserving. Perhaps this characteristic was better understood by the few who were privileged to serve with him upon the board of pardons. While Judge Start hated crime and could not tolerate or excuse certain acts, still the folded records in many cases, if opened, would bear striking testimony to this trait in his character.

Mentally he was a rugged man and tenaciously stood for high ideals. Coming as he did from old Vermont, I have often wondered what effect that rugged environment had in his development. Certain it is, however, that he shared many of the characteristics of his distinguished predecessor, Chief Justice Gilfillan, who (as we know) was born under like

surroundings at Bannockburn, and each brought to the then far Northwest many of the sterling qualities of the people with whom they were early associated.

HONORABLE L. L. BROWN then addressed the court and said:

May it please your honors:

When I came to the Third judicial district as a law student Judge Start was on the bench. There he continued until promoted to the Chief Justiceship, where he so long conscientiously dedicated his full strength to the service of the state. The office was an honor to him as it is to any man, but he in turn reflected honor upon the office. He was the servant of his obligation to duty, and at all times, without stint or reservation, delivered the full wealth of his power to the fulfillment of his obligation. This is not simply an extravagant eulogy, which Judge Start of all men did not approve on such occasions as this. It is a plain statement of what the people of the whole state know, hut the people of the Third judicial district knew Judge Start best, and we wish to place upon the record of this occasion, where we are come not to praise but to truly and solemnly record a genuine estimate of the public services of one who has passed beyond the range of praise or blame, the testimony of those people, and their estimate of Judge Start as a jurist and citizen that it may be known of those who come after. Their estimate not one only now expressed, but one fully formed and unanimously vouched for as neighbors long before he came to this bench, and while he worked among them. That estimate is an historical fact. Politically the Third district was opposed to Judge Start. By the statute his term was fixed at six years; by a higher law, decreed by the people of that district as one man, it was made for life. This is the value long ago placed upon the character and services of Judge Start by his neighbors who knew him well and over whose court he so long presided. This might be said of other men, but when this simple fact has been recorded we have done enough. It proves more than many words of eulogy. It is a complete and fitting memorial, and no more need be said—but a word yet.

I was examined and admitted in Judge 'Start's court, and there commenced practice very poorly prepared. And, as courage consists in equality to the problem before one, accordingly distraught by misgivings and doubt as well as want of bread, the problem of my obtaining any footing at the bar was a serious one. My fate was as has been that of other beginners in the hands of the court. What is in a man will come out will shine through the judge. It is possible being a great judge, but it is not possible to be a great judge without being a great man, and Judge Start was a great judge. That I would here be short of my duty to Judge Start's memory is my justification for this personal allusion, when I say that the man shining through gave to me, as it did to others, the encouragement which has saved the day for many a young practitioner. All of the discipline which Judge Start administered to me in after years was drowned in his earlier kindness and consideration, and he did not go to his reward without knowing what I record here. A wonderful human heartedness, broad, clear and just, with simplicity and uprightness, characterized the man.

All in all, the Chief Justice, although conservative, was always in touch as judge and citizen with that occult thing, the spirit of the times, and his work on this bench is and will remain a solid major factor in the jurisprudence of this state as moulded by its judges. All men seem to think that humanity and its institutions may change, recede and deteriorate. By that token we ought to believe that advancement and improvement toward greater enlightenment and justice is possible, and I am one of those, as was the Chief Justice, who do so believe. That is faith in humanity which we must have and which we call sanity.

Cardinal Newman, paints the canvas in these words:

"To consider the world in its length and breadth, its various history, the many races of man, their starts, their fortunes, their mutual alienation, their conflicts; and then their ways, habits, governments, forms of worship; their enterprises, their aimless courses, their random achievements and acquirements, the impotent conclusion of long-standing facts, the tokens so faint and broken of a superintending design, the blind evolution of what turn out to be great powers or truths, the progress of things, as if from unreasoning elements, not towards final causes, the greatness and littleness of man, his far-reaching aims, his short duration, the curtain hung over his futurity, the disappointments of life, the defeat of good, the success of evil, physical pain, mental anguish, the prevalence and intensity of sin, the pervading idolatries, the corruptions, the dreary hopeless irreligion, that condition of the whole race, so fearfully yet exactly described in the Apostle's words, 'having no hope and without God in the world,'—all this is a vision to dizzy and appal, and inflicts upon the mind the sense of a profound mystery, which is absolutely beyond human solution."¹

If we broaden this canvas to include the passing tragedy which has shattered the world and the epidemic of unmoral materialism following in its wake, this is a serious picture, but not appalling. Though the hopes of some are at zero, the mystery is not beyond human solution, and that solution can come, and will come as the timely fruit of the hard labor of those rugged men and women of the type and character of him whose memory we recall to-day.

WILLIAM D. MITCHELL, ESQ., then addressed the court and said:

May it please the court:

The work that our judges have to do upon the courts of the states and of the nation may be properly grouped under two heads.

At times they have to consider controversies of great public interest, involving governmental questions of importance, the decision of which, sometimes temporarily, but often permanently, determines in some degree the direction of governmental activity and affects the character and powers of the government under which our people live.

On the other hand, by far the larger part of their work is in the ordinary administration of justice between private citizens, having to do with matters of a purely personal and private nature.

Although epochal decisions of great public questions may seem overshadowing in importance, it is, after all, the daily administration of justice among the people, the ordinary affairs of every day life that is of vital interest to the greatest number, and it is the manner in which that work is done which creates in their minds either satisfaction or discontent with our judicial system.

In looking back over the work performed by Chief Justice Start during his eighteen years upon this bench, it seems to me that among all, the daily administration of justice among the people, in that ordinary affairs of every day life, that is of vital interest to the greatest number, and it is the manner in which that work is done which creates in their minds either satisfaction or discontent with our judicial system.

[¹ Apologia pro Vita Sua. Part VII]

In looking back over the work performed by Chief Justice Start during his eighteen years upon this bench, it seems to me that, among all his accomplishments, the outstanding feature of Of his judicial career is the splendid manner in which he did the very work of which I speak; the administration of justice in disputes between all kinds and classes of people, arising in the ordinary every day affairs of life.

He believed that, to the average suitor, justice was denied, unless speedy and without delay, and with that in mind, as presiding justice of this court, he endeavored, notwithstanding the great volume of litigation before it, to promptly dispose of its business.

Earnestly and conscientiously he strove during all those years to produce results which appealed to his sense of right justice, and to make all litigants, or whatever station in life, feel that their causes had received painstaking attention.

He sometimes chafed under the restraint of the rules of law, the application of which in particular cases seemed to produce results which did not accord with his conscience, and within the limits of the judicial power, endeavored to mitigate their harshness in practical application.

How well he performed his duties is evidenced by the fact that from the time he assumed the office of Chief Justice of this court, until he voluntarily laid it aside eighteen years later, he continuously enjoyed the universal respect and confidence of the people of this commonwealth. His work added to the dignity of this court, and brought luster to his name. He was, in every true sense, a guardian of the rights and liberties of the whole people, and for his long and faithful service to this state, he deserves the grateful remembrance of his fellow citizens.

HONORALBE GOERGE W. PETERSON then addressed the court and said:

There is splendid representation here on behalf of the senior bar and the judges. I would like to pay my respects and the homage of those similarly situated in behalf of the relatively junior bar. Even so it is almost 25 years since I came to the bar of this court. The court has wholly changed except one. I think there should be a reference in this memorial to the letter of Judge Start of October 29, 1918. It was addressed to the bar. It was written of the court. I read from it as follows:

"As the years have gone the Minnesota Supreme Court has become more and more a humanitarian, equitable, nontechnical and business-dispatching court. It is, indeed, such a court. The humblest has his personal and property rights protected. Laborer, mechanic, farmer, business man—all are alike before it. There are no favorites. It has been the effort of the court to make law and justice approach and co-ordinate without impairing the law. The symmetry of the rule has been made to yield to practical justice. All this has not come about without some struggle. It is the work of no one man. A procession of men have helped.

"A court is very much a composite of the men who form it. A good judge ought to be vigorous, keen-sighted, forward-looking, industrious and of exact legal learning. He should be fair-minded, conscientious, patient, forbearing, and withal he must not have lost the common touch which, puts him in appreciative contact with average humanity and its aspirations and its problems. He must not truckle to class, nor fear public clamor, nor yield to public nor private threat. He must be independently square. If he is unwilling to lose judicial life rather than break with the truth, he is unfit to have it."

It is not unfair to any man to say that no other man could have written so fine a letter, and

even then Death plucked him by the cloak to come with him.

In *Leavitt v. City of Morris*,¹ Judge Start showed a broad and comprehensive constitutional sympathy. In *Railway Company v. City of Minneapolis*,² in a dissenting opinion, he showed great independence, courage, and a fine appreciation of constitutional limitations. In *Gilfillan v. Schmidt*,³ he dissented from the doctrine of *Sheehan v. Flynn*,⁴ but in *Oftelie v. Town of Hammond*,⁵ he consistently adopted that doctrine and wrote the opinion of the court.

He said of a distinguished member of this bar, "He was never false to any man or cause." Could those words be more fittingly said of anyone than of Judge Start? He was never false to any man or cause. He wore the white rose of a stainless life, and gracefully bore that grand old name of gentleman. He loved his work, his chambers and his books of Kipling, taken from "When Earth's Last Picture is Painted," are appropriate:

"And only the Master shall praise us, and only the Master shall blame; And no one shall work for money, and no one shall work for fame, But each for the joy of the working and each, in his separate star, Shall draw the Thing as he sees it for the God of Things as They Are!"

HAROLD J. RICHARDSON, ESQ., then addressed the court and

On this occasion I cannot attempt to speak in words of eulogy, but to my affection and love for a life-long friend. Judge Start was an heroic ideal of my boyhood. He was then judge of the Third judicial district. He was the first citizen of his beloved city of Rochester; first in patriotic and civic affairs; first in the affections of the people.

Yet he took time to be one with the school boys who met him in the street, and who used, on frequent occasions, to visit the court room. He was a neighbor, one of my father's closest friends, and today there comes to me words which my father used to say of him in those years: "Judge Start is one of God's noblemen."

The last years of Judge Start's life were among his bravest and best. He had finished his great work as Chief Justice of this court. Yet with the wisdom which ruled his life, he renewed his practice of the law and so kept in contact with the world's work. It was a privilege to associate with him and to enjoy his friendship, to witness his devotion to the law and his wisdom and skill in the practice of it during those years. It was an inspiration when the war came on to observe the depth of his love for his country, and to see the glow of his fiery and courageous patriotism.

And now this Valiant-for-Truth, having fought his fight, has passed over. He has left his sword in the opinions he has written, to be wielded by those who shall succeed him in the Pilgrimage.

The memory of his wisdom and his skill, his faith and his devotion, will linger as a legacy in the hearts of all who knew him. Let it be said of all his life as was said those earlier days in Rochester: "Judge Start was one of God's noblemen."

[¹ 105 Minn. 170, 117 N.W. 393]

[³ 64 Minn. 29, 66 N.W. 126]

[⁵ 78 Minn. 275, 80 N.W. 1123]

[² 115 Minn. 473, 133 N.W. 174]

[⁴ 59 Minn. 436, 61 N.W. 462]

HONORABLE THOMAS D. O'BRIEN then addressed the court and said:

May it please the court, Mr. Burt W. Baton, chairman of the committee on memorial, is in a hospital at Rochester and unable to be present. Judge Callahan of Rochester, and Mr. Webber of Winona, are unavoidably detained by their professional engagements and asked that their names be included among those who desire to pay their tribute. I now move that the memorial and the addresses which have been presented be made a part of the permanent records of this court.

CHIEF JUSTICE BROWN then said: Former Associate Justice David F. Simpson expected to be present today to pay his last tribute to the memory of Judge Start, but is unavoidably absent, and this may be noted as a part of the proceedings of the day. Associate Justice Quinn had prepared his tribute also to the memory of Judge Start, but he is unable to be present and his remarks will be spread upon the records of the proceedings of the day. We will now listen to Judge Lees, who will speak for the court.

JUDGE LEES then said:

If Judge Start could speak, he would protest against praise of himself or his work, despite the fact that eulogy of the dead is the common thing. It would be his wish that whatever was said of him should be temperate in expression, and should not overdraw his virtues, and I shall attempt to be mindful of what he would wish.

My acquaintance with him began in 1887, when he had already been judge of the district court of the Third judicial district for over six years. I was a practitioner before him from that time until he became Chief Justice, and met him frequently both in and out of court. The admiration of him which was then formed continued to the end of his life and prompts me to pay a tribute to his memory.

His natural temperament was fervent. He had been a vigorous advocate when at the bar. He was the contemporary of Thomas Wilson, William Mitchell, Charles C. Willson, W. C. Williston, Thomas S. Buckham, and other lawyers of Southern Minnesota of perhaps equal ability. They all agreed that in the trial of an action he was a dangerous antagonist, skilful, in the examination of witnesses, eloquent and forceful in argument, and sure in his knowledge of the facts and the law of his case. He made his client's cause his own and championed it with the utmost earnestness and zeal, but always fairly, for he abhorred everything that savored of fraud or sharp practice. So marked was this trait that when as a trial judge he detected anything indicating trickery or deceit, he would flame with indignation and thereafter the party whom he believed to be guilty of it stood little chance of getting a favorable decision. His conclusions as to the rights of the parties were apt to be unconsciously communicated to the jury by his demeanor. As a consequence, verdicts were usually in accordance with his idea of what they should be. His findings in cases tried without a jury were generally followed by a memorandum summing up the evidence and stating the law he deemed applicable. An attorney once said to him that in following this practice he furnished a ready-made brief party in case of an appeal. He retorted, that such was not this purpose, that he wrote only to point out to the defeated litigant and his attorney why the case was lost. He was prompt in the dispatch of business and looked with disfavor on the tendency of many attorneys to put off the trial of their cases. To the younger members of the bar, he was invariably helpful and considerate; with the older ones, who sometimes ventured to presume on their standing and experience, he was firm and decisive, so that few attempted to take any undue liberties a second time. He came to be regarded as one of

the ablest trial judges in the state, and this reputation had much to do with his advancement to the position of Chief Justice of this court. It is interesting to note that when he came here his brother, Henry R. Start, was one of the judges of the Supreme Court of Vermont, having been elected in 1890 and holding office until his death in December, 1905.

Judge Start became a member of this court when its business had reached the high water mark. The April calendar for 1895 had 340 cases upon it; 98 were continued to the October term and the remainder disposed of. The calendar for October contained 357 cases, and all but 37 were disposed of. With but five judges on the bench, this meant working at white heat for all of them. He was convinced that justice delayed is apt to be justice denied and that, so far as possible, all cases on the calendar should be disposed of during the term. He believed that a long drawn out opinion is not helpful to the bench or bar, and that it is unnecessary to write a legal essay in deciding a case involving no novel application of legal principles.

No man ever sat here who was more concerned that cases should be correctly decided. He often remarked that this is a court of last resort and that errors in its judgments are subject to review only in the few instances in which a question arising under the Federal Constitution is presented. He was solicitous that no fact or principle of law which might have a bearing upon the decision should be overlooked. He did not spare himself the labor of examining and considering the records and briefs in every case before the court. He was a tireless worker, wholly absorbed in his work. Being asked by a friend how he had spent the summer vacation, he replied: "Principally in reading our decisions since last October and annotating the statutes and reports." His annotations of his set of *Minnesota Reports* are a marvel of industry.

He respected himself and his position, but was wholly free from pride of office. By habit, as well as by instinct, he was strongly democratic. At bottom he was a Puritan—not in a religious sense, but in that his code of morality was strict. He was not inclined to condone an offense or excuse an offender by putting the responsibility on heredity or environment. He believed that a man should answer personally for his conduct and he consistently acted on his belief. Those who did not know him well, thought they saw in him asperities of temper and manner. In truth, he was a warm-hearted man, deeply attached to his friends, and with impulses which were invariably kindly. He enjoyed the visits of members of the bar who dropped into his chambers for a chat. Such visits were less frequent than he wished them to be because most of us feared we might be trespassing on his time, known to be greatly occupied.

Judged by the standards of today, he was a conservative. He did not look with favor upon experiments in government, believing that the original lines laid down in the Constitution should be followed in the development of the state. He respected property rights, stating more than once that the small property holder was concerned even more than the man of wealth in having secured to him and his children the fruits of his industry and self denial.

Endowed by nature with an alert and vigorous mind and of a strong and resolute character, he impressed his convictions upon others to a marked degree. Of unflinching probity and with a deep sense of duty to which he was always true, he justly gained the respect and confidence of the public. He was an important figure in Minnesota. His death marks the passing of an earlier generation of lawyers who have had the principal part in giving to the state the system of laws by which, it is governed.

ASSOCIATE JUSTICE QUINN'S tribute is as follows:

It was the sturdy manhood of Chief Justice Start that appealed most to me. There was in

him no fawning or yielding of self-respect. His chart of life was: "To thine own self be true." He lived always on the heights, he "walked on the mountain range" and never descended to the plains where lesser men falter. The nobility of his character permitted homage to none, save to his God and the eternal truth. While such abounding self-respect may at times lend to man an apparent austerity, yet it constitutes the chief source of power, leadership and greatness among men.

Such a man was Judge Start. It was his rugged, unflinching manliness, manifested in his every act, which attracted the profound respect of all classes, and endeared him so closely to his associates of the bench and bar. It was this which in early life led him to the duties of a soldier where all manly qualities are so fittingly employed. It was this trait of his character that caused him to so despise everything like cant, hypocrisy and subterfuge. Show and pomp were entirely foreign to his nature. Neither could he tolerate the slightest taint of fraud or deceit. His decisions abound with unmeasured condemnation of everything approaching dishonesty or double dealing.

Believing in himself, he believed in humanity. He spent his life administering justice with the single aim to make it approximate, as nearly as possible, the justice of the infallible Ruler of the Universe. He believed in the teaching that "the law was made for man and not man for the law." He studied deeply the ever growing complexity of our modern life and strove to adapt the law to humanity's needs as they arose. His legal attainments were of the highest order, his knowledge of precedents profound, but they were always subordinated to his idea of service to man. Precedents were to him but guides blazing the way, he never permitted them to thwart what he believed to be the purpose of the law, that is, the protection of those who were entitled to protection. His life after quitting this bench was devoted to generous ministrations to obtain what he believed to be justice to all men.

I have said that such a man was likely to be judged as cold and austere, but to those whose privilege it was to come within the circle of the friends of Charles M. Start, was given to know the wealth of his personal feeling for his fellows. His nature was singularly desirous of comradeship; he craved the society and companionship of men. But he was drawn to them, never by their wealth or prominence, but solely by their honor and manliness, which qualities he discerned with almost unerring intuition. During the "overtime" allowed him at the close of his life, it was his never failing delight to gather with his friends and satisfy his longing for human fellowship. Those whose privilege it was to join in this circle were often amazed at his sparkling wit, quiet humor and rich fund of anecdote. His gentleness, however, never permitted him to say for the sake of humor a word that might wound the feelings of any man; rather would he choose such incidents as made himself the object of the witticism. Justly was he ever allowed to do most of the entertaining, and his good sense, originality, freedom from personalities and purity of thought and language, made these occasions a delight never to be forgotten.

It is a singular truth that men often characterize themselves in characterizing others. I think our departed friend did this when he so aptly said of his long loved friend and associate, Judge Severance:

"He was gentle and genuine, tender and true. His genial humor, his sympathetic kindness, his perfect integrity, his chivalrous manliness and his pure life endeared him to his friends and associates and made him one of the best-loved of men and judges."¹

[¹ 102 Minn. XXXII]

JUSTICE BROWN then said:

Intimate personal as well as official relations with Judge Start for twelve years of his term of service as Chief Justice, constant and almost daily association with him during that time, qualify me to bear witness to the truth of the Memorial, and of the deserved tribute paid to his memory by those who have addressed the court. Nothing can be added to what has been so well and eloquently presented. One of the conspicuous characteristics of Judge Start in his judicial work was a strong inclination to turn all fair doubts in controversies submitted to him for decision, in favor of human as distinguished from strict property rights. Yet in no case would he violate settled rules or principles of law to reach result of that kind. He was honest to himself, upright in the performance of his duties, and his conscience led him along the path of rectitude in the discharge of all his obligations, official as well non-official.

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.

The Memorial will be spread upon the records of the court there testimony of an exemplary life, a faithful public servant.