

PROCEEDINGS

IN MEMORY OF

ASSOCIATE JUSTICE DICKINSON.

On the afternoon of June 20, 1902, in the court room at the state capitol, Mr. W. R. Begg, secretary of the State Bar Association, addressed the supreme court then in session, as follows:

"May it please the Court:

"The bar of the state of Minnesota has recently lost by the death of Hon. Daniel A. Dickinson, of Duluth, one of its most distinguished and illustrious members. The state has lost a patriot of unsullied purity and spotless integrity. The State Bar Association, which I am here to represent, has thought fit that there be recorded in this high tribunal some proper and permanent memorial in recognition of the ability and the virtue of our departed brother. To that end a memorial has been prepared by the president of this association, which I will read, and I ask to have it entered upon the records of the court.

MEMORIAL.

The members of the bar, deeply mourning the loss of their universally beloved brother, Daniel Ashley Dickinson, respectfully present for preservation among the records of this court, of which for twelve years he was a distinguished member, a brief memorial of his many virtues.

For a third of a century Judge Dickinson devoted his undivided energies to the administration of justice in our own state, spending fifteen of these years at the bar, and seventeen upon the bench. To this service he brought a character of singular purity and probity, a cultivated but peculiarly practical mind, a sound, legal judgment, scorn for every form of wrong, candor and patience unsurpassed, and industry unstinted.

In all the relationships of life, public and private, the ease and accuracy with which he appreciated the attendant obligations and amenities were equalled only by the alacrity with which he performed them, and by the constancy with which he imposed upon himself higher standards of conduct than he exacted from others. It is rarely indeed that we are permitted to contemplate a character so altogether pleasing from so many different points of view. Upon the law, upon our profession, upon the judiciary, and upon mankind, he reflected honor; and it is but justice that we and those who follow us should honor him.

HON. M. J. SEVERANCE then addressed the court as follows.

"May it please the Court:

"Again I must speak in eulogy of the dead. Pleasure, veiled by sadness, is the inspiration of the sacred duty I cannot shun, for I stand in the afterglow of a life that will linger with me as long as memory lasts. When the great orb of day sinks in the dark waves of night, it is not only a recollection of its noonday splendor that entrances the mind, but more, it is the afterglow that lingers behind and bathes the forest and the vales with its cerulean light. So when a useful and lovable life comes to its setting, it is in the radiance it leaves behind that we recall its living splendor. An ended life that does not leave this trail of light behind is a life lived worse than in

vain. The dying do not carry the influence of their character into eternity, but they leave it on this side of the river, either to encourage or discourage the living. Fortunate, indeed, was Judge Dickinson in leaving behind him the iridescent effulgence of a perfect, virtuous and symmetrical life. As I extol the virtues of the deceased, I shall invoke no mantle of charity to cover and hide his faults, for he was as perfect as it was ever given to man to be.

"I should not dare thus to speak before this august court, without reserve, were I not fully aware that one member of this court, at least, from long association with the deceased, must know that I am paying no tribute to rhetoric, and that I am not beguiled into fulsome praise by that generous judgment the living are always prone to pass upon the dead. Sometimes there stands beside high endowments towering passion that topples over and wrecks the brightest virtues; but in him of whom I speak, his moral and mental attributes were mingled in such equal poise that virtue always controlled his action. 'He was one of those who always placed his ear down by his heart, listened, and then followed its chidings.'

"For years I was associated with Judge Dickinson in the practice of the law. Time and time again afterwards I appeared before him as he presided in the District Court, and here again when he adorned this bench, a place he ought never to have left until he went to the tomb; and I knew him better than I know myself. A lofty sense of duty always over-shadowed him and controlled his every action, often impelling him beyond his physical strength. Constitutionally frail, yet he never shunned a duty or refused a burden.

"At the end of his collegiate course, warned that his vigor must be reinforced, he went before the mast as a common sailor and for more than a year he rode the billows of the sea, quaffing the ocean breezes that renewed his lease of health and life; after this, on foot and alone, he traveled through the principal European countries, visiting all places of renown and alone musing over their history. In our Civil War he acted well his part, and when it was ended he found his reward in the new household of the Republic. In his whole career he never trembled at anything but his own infirmity, fearing that through it his duty might elude him.

"In his practice as a lawyer, chaste in thought and chaste in speech, he never sacrificed the dignity of his character to angry debate, and he never prostituted the forensic arena to snarling contention, for he could shiver a lance with any foe and still maintain the poise of a gentleman. At the end of any trial in which he was ever engaged, he left the court room with the respect of all, no matter what the result might be, for never in his life did he hurl a poisoned arrow. To what height would such an example, if universally imitated, raise the dignity of our profession that so often suffers from abuse and flippant raillery. He was peculiarly-fitted for a judge—with an acute and analytical mind, always subservient to the highest demands of justice, and passionless as a dove nothing could disturb the balance of his judgment. When a young lawyer stumbled before him, he did not permit him to fall, but put out his generous hand and saved him from chagrin and placed him at his ease. All who knew Judge Dickinson will always remember the sweet placidity of his temper and the graceful ease of his demeanor in every walk of life. If, dying, he left a single enemy behind, I do not know it; and it is not because he was an overlooked cipher in life but because he illustrated all the humanities that exalt human character. "One of the proudest of all the Roman emperors returning to his palace from the Coliseum, where he had been confounded at the spectacle of a fragile girl down in the deep arena with folded arms serenely smiling on a crouching tiger, wrote to the great Tertullian, and said: 'What is this Christianity the Roman maidens have? Tell me, Tertullian, I wish to know.' Tertullian, who knew if ever anybody did, for he lived when the azure morn of Christianity still sparkled with the dew of Jesus' breath, replied: 'Christianity is the innocency of life, nothing more and

nothing less, and its creed is,—do unto others as you would have others do unto you.' By this creed Judge Dickinson fashioned his life and on it he rested his hopes in death.

"Then, as I review the life and character of Judge Dickinson, when the long shades of evening are falling upon my own, when ambition and envy are dead in my bosom, I find that in civic life he left no duty unperformed; that in social life he knew no creed but the Brotherhood of Man; that in his professional life he always wore the robe of a chivalrous gentleman, and when he left this bench, he laid aside the unstained ermine of an upright, just and able judge. Then the universal verdict must be that the name of Judge Dickinson must forever stand high among the illustrious names that have adorned the bench and bar of Minnesota.

"I cannot, I will not, enter his home where love's altar is still bedewed with weeping, but I leave its broken hearts to heal in the mellow radiance he left behind him."

HON. GKEENLEAF CLARK then addressed the court as follows:

"It is permitted us on this occasion to contemplate an honorable and useful career. We may speak without reserve, for it is closed and the record is made up. It cannot now be marred by any misadventure.

"Daniel Ashley Dickinson was born at Hartford, Vermont, October 28, 1839. Having lost both his parents in childhood, he was reared and educated under the guardianship of his grandfather at Mendon, Vermont. He graduated at Dartmouth College in 1860, and at once entered upon the study of law in the office of Smith M. Weed at Plattsburg, N. Y. He entered the naval service of the United States as assistant paymaster May 15, 1863, and resigned this position January 28, 1865. He then returned to Plattsburg, and having been admitted to the New York bar, practiced his profession there, in association with Mr. Weed, until 1868, when he removed to Mankato, in this state, where he resided and continued the practice of law until January, 1875, when, having been elected Judge of the Sixth Judicial District, he entered upon the discharge of the duties of that office, which he held until June 3, 1881, when he was appointed by the governor Associate Justice of this court to fill the vacancy caused by the death of Justice Cornell, which position he held in virtue of two successive elections until October, 1893. After his retirement from the bench he resumed the practice of law at Duluth as a member of the prominent law firm of Billson, Congdon & Dickinson, which relationship continued until his death on February 12, 1902, at the age of sixty-two years.

"It appears that he was for nearly nineteen years engaged in the discharge of judicial duties. In estimating the value of the elements which contributed to make up Judge Dickinson's character as a jurist, I should give especial prominence to the characteristic of mental composure. He was endowed by nature with a sound mind, which was cultivated and strengthened by education, study and experience, and he had its operations under full control. His understanding was not obscured nor his reasoning powers perverted by passion or emotion, or the weight of responsibility, or the difficulty of the matter, or its delicate or perplexing nature. This sedateness was a potent factor in the development of a steady and reliable character, for 'he that is slow to anger is better than the mighty, and he that ruleth his spirit than he that taketh a city.' With such mental equipment, and in such mental attitude, he heard, considered, and investigated with painstaking, persevering and conscientious industry the matters that came before him, anxious only for the light and the right; and as a consequence he must have done, and he did do, good work.

"His service on the district bench was in public view, and the people of his district had

opportunity to observe the fair, impartial, and dignified manner in which his duties were discharged, and to feel the influence of his kind, serene, and genial spirit. He attached the people to him and secured their confidence and respect in, I think, an unusual degree. Work on this bench is in seclusion. It is communicated to the world by its announced and published results, and its value is largely estimated and determined by the opinions of the bar, but the reputation Judge Dickinson had acquired on the district bench was not impaired by the new and severer test.

"As a lawyer, the qualities of which I have spoken made him a safe adviser and fitted him for good work. He brought to the bar, after his retirement from the bench, the maturity of his powers, and his work was important and successful. His whole life was filled up with useful work; he was faithful to every trust; no blemish rests upon his career, and he lies in an honored grave."

HON. W. J. HAHN then addressed the court as follows:

"May it please the Court:

"It is difficult to estimate the far-reaching influence for good of a manly life, however circumscribed and obscure the orbit of its existence. Who, then, will pretend to measure the helpfulness and elevating power of such a life, whose circuit embraced so large and prominent a space, as did that of our departed friend? Personality, consciously and unconsciously, exerts a more potent force upon individuals and upon the community than almost anything else. In the contemplation, therefore, of the lives of the just, the pure in heart, the gentle in spirit, the noble in aim, we not only do ourselves honor, but serve a duty to the living in honoring the dead. We have met today to perform that duty. A just man, whose purity at heart, gentleness of spirit, nobleness of aim, are recognized and acknowledged by all who were brought within the immediate sphere of his daily life, has gone to his reward. Daniel A. Dickinson will no longer, by his genial presence and manly bearing, serve as an ocular example to his brethren at the bar or to the community in which he lived. But his spotless life, the high sense of duty which ever actuated him, his honorable career at the bar and on the bench, will stimulate and elevate in an ever-increasing circle both bar and people.

"But our departed brother has not only left his impress for good as a man and as a citizen, but in a larger and more obvious degree has stamped his personality upon the public administration of the affairs of this great and growing state. When we remember what Judge Dillon has so truthfully suggested, 'That the strength of the nation largely depends upon its laws and the manner in which they are administered,' we cannot fail to grasp the importance and sacredness of the judicial office. 'What we most need,' said Chief Justice Taney, 'what is of the highest importance to each one of us is a pure, just, wise and fearless administration of the law. If this be true, what more honorable legacy can a lawyer leave than the record of nineteen years devoted to a conscientious performance of this high prerogative? It was during Judge Dickinson's occupancy of a seat upon this bench that this court attained its high position among the able courts of last resort in this country. To his calm, judicial temperament, his studious attention to the arguments at the bar, his upright character, his wise and conscientious consideration of the points involved, and to his fearless pursuit of the conclusion which his judgment dictated, no small part that deserved reputation is due. A more attentive listener "never sat upon this bench. A more courteous gentleman never held the scales of justice in equipoise. A judge actuated by a higher sense of duty never took part in the administration of this department of the government. May we not justly apply to him the words he so fitly spoke in this court on the occasion of the memorial services in memory of Justice Mitchell? He then said;

'The result of the years of his patient, tireless, earnest, honest work here are wrought into, and constitute an important part of, the grand structure of the law of this state and country, a temple of justice wherein dwelleth righteousness.' What higher eulogy than this need any lawyer covet? What more desirable sentiment can he hope may be engraved upon his tomb? What monument more enduring can he expect to leave?

"It is not what we have, but what we are; not what places we filled, but how we filled the place we occupied; not how our talents compared with another, but how we used the talents we had, that will, at the great assize, determine the question of the success or failure of our existence. Tested, by this formula the life and work of Judge Dickinson will receive the plaudit, 'Well done, good and faithful servant.'"

HON. W. B. DOUGLAS then addressed the court as follows:

"In affirming all that has been said on this occasion, it is a distinctive privilege to me, as one of the younger generation of lawyers who knew Judge Dickinson but slightly, to pay humble tribute to his work and to his memory. My best acquaintance with him comes from the respect paid by others, and from his recorded work. The opinions of the court expressed by him always impressed me as being clear, terse, just, forceful and logical; and if deductions can be drawn therefrom as to his general characteristics, they are, if anything, that he leaned to the generous and charitable side. He was a man of high ideals, and has gone to the reward which is due to the most honorable of the members of our profession."

HON. W. W. BILLSON then addressed the court as follows:

"May it please the Court:

"It is the good fortune of a good judge of a court of last resort, that his fame does not rest upon the shifting sands of popular tradition. In the judicial opinions which he commits to writing, his moral and intellectual stature are chiseled by his own hands in materials more enduring than marble, and with an unconscious fidelity which puts the sculptor and the biographer to shame. It is therefore doubtless true that we can say nothing here to-day which will materially exalt or depress the ultimate estimate of our valued friend. As for myself I am persuaded that Judge Dickinson's opinions are and always will be read with admiration and profit by those interested in solving the questions with which they deal. I believe he has won for himself that splendid immortality which awaits all those judges of last resort who are able to state the rules of the law luminously, to apply them with sound discrimination, and by rational and moral interpretations to subdue and adapt them to the ends of justice.

"My intimate acquaintance with Judge Dickinson covered only the closing decade of his life. During that period, however, I have been a very interested and indeed a charmed observer of his modes of thought and action.

"I concur enthusiastically in what I believe to be the feeling of all whose privilege it was to know him well, that upon what, in the broadest sense may be termed the moral side of his nature, he was remarkably constituted. The flaw, which, more sadly perhaps than any other, mars the moral order of this world of ours, is the rift which in the average man so obstinately opens between his perception of duty and his performance of it. Who can estimate the regeneration that would ensue if the chasm between 'I ought' and 'I will' could be closed up, so that action would never lag behind insight, and so that to see a duty and to do it would be one

and the same thing. The peculiarity about Judge Dickinson was that in him the closing up of this troublesome gap seemed to have been practically accomplished. Toward an act, or a forbearance, no matter how distasteful, which seemed to him to be suggested by considerations of fitness or propriety, he moved as the needle does to the pole; no effort seemed to be put forth, he simply gravitated toward it by what seemed a law of his nature. The pleasure of life which is so commonly derived from the gratification of some form of ambition, he extracted from a simple sense of duty performed. His life was nothing short of an inspiration "to all who came in contact with it."

At the conclusion of these addresses the following responses were made on behalf of the court:

ASSOCIATE JUSTICE COLLINS said:

"It is an honor and a fitting custom that there should be entered upon the minutes of this court a memorial of one who has occupied a place as one of its judges. By so doing, we preserve the memory of those who, during their lives, were called upon to discharge the highest judicial duties in this, the court of last resort in the state. As one of his associates for nearly six years I follow the commendable custom and pay tribute to the high character and great worth of Daniel Ashley Dickinson, an associate justice of this court for upwards of twelve years. Like so many who have reached high public office in our country he was the builder of his own fortune, rising from the ranks to the highest position attainable in the legal profession of our state.

"With the high character of his work on this bench members of the bar of this state are well acquainted. His written opinions are contained in Volumes 28 to 54, inclusive, of the *Minnesota Reports*. His peculiar qualifications for judicial duties were strongly marked and always noticeable. He was never effusive, always straightforward, was particularly free from bias or prejudice of any kind, and singularly modest. He possessed a mind which grasped the full details of a case, seeing with great clearness all the legal rules and the principles involved, and reaching a logical conclusion thereon with accuracy and facility. His strong natural sense of justice led him to patiently hear and weigh the arguments made, and to be susceptible to the moral aspects of every cause. By following these instincts which taught him to uphold what was right and to condemn what was wrong, aided by his great legal learning and unbiased mental attitude, his conclusions were in accordance with vital and basic principles. In every relation of life he was most honorable and conscientious, and in his domestic relations peculiarly devoted and unselfish.

"As the sole survivor of the four gentlemen who were associated with him in the performance of the work of this bench from November, 1887, to October, 1893, I can bear witness to the unfailing courtesy and constant amiability of his manner and temper, qualities which robbed of all irritation those inevitable differences of opinion which must arise when causes are to be decided. His resignation of the judicial office caused, to all who knew him, a feeling of deep loss, and his absence was sincerely regretted by those with whom he had been so closely associated for many years."

"Of his untimely demise, after a long period of sickness, we heard with deep sorrow, and the tribute to his worth by means of this memorial, is the testimony of his brethren of the legal profession to the value of his work and services. Few men there are who perform their full duty as citizens, or in the public service, with greater zeal, integrity and honor than did he who has

passed away and to whose memory we are this day paying an affectionate and deserved tribute."

CHIEF JUSTICE START then said:

"Gentlemen of the Bar:

"Justice Dickinson was not self-centered or self-asserting, but a modest, unassuming, lovable man of positive convictions, decided ability, pure character, and lofty ideals. He was a judge who had a high appreciation of the exalted character of the judicial function, and brought to the discharge of his judicial duties ripe learning and an earnest desire to do equal justice to all men without fear or favor. The court gratefully receives your memorial, for it is a just and true estimate of his character and public services, which we heartily endorse. It is but just that the memorial and the responses thereto should be entered upon the records of the court as a tribute to the memory of a patriotic citizen, an eminent judge, and a good man. So ordered."