

PROCEEDINGS  
IN MEMORY OF THE  
HONORABLE RENSSELAER R. NELSON.

On the afternoon of December 14, 1904, at the court room in the building then used as the State Capitol, Honorable Edward C. Stringer, President of the Minnesota State Bar Association, in its behalf addressed the supreme court, then in session, and presented the memorial which on the preceding December 6 had been presented to the United States District Court for the District of Minnesota, Lochren, J., presiding, the state judges of the District Court for Ramsey County sitting with him. Before reading the memorial he made use of the language in which he had addressed judge Lochren.

"In behalf of the committee appointed by your Honor to draft a Memorial on the death of the Honorable Rensselaer E. Nelson, who for forty years served his country in the capacity of judge of the federal court of this state, I beg leave to present a Memorial to this court and to these courts on his death. It is fitting, and I think desirable, that a brief record of the life of Judge Nelson be perpetuated for future generations by the entry thereof in the record of the courts of this state. And for that reason it should be recorded that Judge Rensselaer R. Nelson came of English and Irish parentage and was born at Cooperstown, New York, May 12, 1826. His father, Samuel Nelson, was for many years Chief Justice of the Supreme Court of the state Of Hew York, and was from 1845, associate justice of the supreme court of the United States, until his resignation in 1872, one year prior to his death.

"Judge Nelson was graduated from Yale College in the class of 1847, was admitted to the bar in 1849, commenced the practice of law in Buffalo, New York, the same year. In 1850 he came to St. Paul, and here engaged in the practice of his profession. Shortly after he removed to Douglas County, Wisconsin, and in 1854 was elected district attorney for that county. Two years later he reached St. Paul, and in 1857 was appointed territorial judge of Minnesota by President Buchanan. When Minnesota was admitted to the Union, in 1858 Judge Nelson was appointed United States District Judge of Minnesota, his appointment being immediately confirmed by the Senate without the customary reference to a committee. This position he held until his voluntary retirement in 1896, on the seventieth anniversary of his birth.

"The committee thus appointed, your Honors, desire to present the following

MEMORIAL:

The Bar of the state of Minnesota desires that a Memorial be spread upon the records of the courts of our state, expressive of its keen sense of loss to the state and to our profession in the death of the Honorable Rensselaer R. Nelson, who died at St. Paul, Minnesota, October 15, A. D. 1904; expressive also of its full appreciation of the sterling qualities of mind and heart which he possessed.

Nearly half a century of his well-spent life was passed in the highest calling of our profession, and at the time of his voluntary retirement from the office of Judge of the United States Court for the District of Minnesota, he was the oldest federal judge in point of continuous

service in the United States. Before Minnesota was admitted to the Union of states, he presided over her territorial courts. He neither sought nor would he accept political honors; he made the law his mistress, and the bench the acme of his ambition. He was no common man, but was a prince among gentlemen. No sordid or mean trait marred his character. The stream of his life was pure and undefined, and the purity of his thought was equalled by his high sense of honor. He never wittingly wronged a human being. Sensible of the frailty of humanity, he tempered Justice with Mercy. A close student of human nature, endowed alike with keen perception and clear judgment, insensible alike to fear or favor, he held the scales of Justice on an even beam. His eminent fitness for the position he held so long, and whose arduous duties he discharged so faithfully and with marked ability, was recognized by all.

Judge Nelson was an honorable, just, capable and upright judge. His long period of service on the bench withdrew him somewhat from the activities of life other than judicial; his judicial robes aside, he was ever a social, genial, entertaining and delightful companion; in the discharge of his official duties, dignified, courteous, high-minded, he maintained at the level of his own lofty conception the honor and dignity of the bench.

Monuments erected by the hand of man soon crumble and decay. But there are those that defy the ravages of time. Of these is a judicial record "without spot or blemish, or any such thing"—imperishable so long as the records of our courts exist. Such a monument have the life and work of Judge Nelson erected to his memory.

Deeply sensible of our loss in his death which has taken from us an honored and revered brother, we respectfully ask that this Court spread upon its records this brief expression of our regard for his memory.

Edward O. Stringer.  
Thomas Wilson.  
J. M. Gilman.  
Wm. W. Billson.  
C. D. O'Brien.  
Austin H. Young.  
Greenleaf Clark.  
Martin J. Severance.  
George W. Bachelder.  
George N. Baxter.

CHARLES W. FARNHAM, Esq., Secretary of the Minnesota State Bar Association, then read the addresses which had been delivered before the United States District Court, as follows:

MR. JOHN M. GILMAN said:

"May it please your Honors:

"When I came to this city, on September 10, 1857, Judge Nelson was territorial judge. In May, 1858, the state was admitted to the Union, and soon thereafter Judge Nelson was appointed United States district judge by the President. He held that position for thirty seven or thirty eight years. Besides his duties as district judge of this state, he was also clothed with the judicial powers of circuit judge. I knew Judge Nelson intimately from the time he was appointed district judge until he retired from that position some eight years ago. I had considerable business both in the state court and in the United States circuit and district courts.

"Judge Nelson, as district judge, also had jurisdiction of criminal cases under the federal statutes, which consisted chiefly of indictments under the national currency and Indian laws. When he became judge we had a large number of Indian tribes, the Sioux and Pottawattomies having large reservations in the western part of the state. Both of those tribes became belligerent, and in 1862 the Indian war broke out. The Chippewas, who had large reservations in the northern part of the state, were not engaged in that rebellion. At the time that war broke out we had six regiments at Fort Snelling ready to go south to engage in the Civil War. The Indian outbreak deterred those men from going to the South. General Sibley was appointed commander and immediately took charge of these six regiments, and pursued the Indians as far as the Missouri river. He did not, however, overtake them. The Indians were in a starving condition, and when General Sibley returned they followed and ultimately surrendered to him. Many were indicted and tried, and some thirty of their number were simultaneously executed at Mankato. Those facts I well remember. Bear in mind that within twenty four hours after that outbreak the Indians had murdered some eight hundred of the male population, of the state and Northwest. The country northwest of Minneapolis and St. Paul was then very sparsely settled, and the entire male population was practically wiped out. The women and children, when relieved, came mostly to St. Paul, and all the private houses in the town were filled with these unfortunates. While this trouble lasted, Judge Nelson was holding court and protecting the Indians from violence, under the federal laws.

"In addition to his duties as district judge in criminal matters, Judge Nelson also acted as judge of the federal court under the bankruptcy law, which was enacted, I think, in 1867. This work kept him on the bench daily for many years. He also assisted the circuit judge, and frequently completed the term business of that court. He was, therefore, constantly engaged in district and circuit court duty. I had a great many cases before Judge Nelson as district judge in bankruptcy matters, and also as circuit judge, and can say with confidence, that a fairer, better judge never occupied a bench in this state. I can endorse everything that was said in that Memorial.

"For thirty five years I had business before him at every term of court, and know as well as any man what his qualifications, disposition and character were as a judge and jurist. He was never worried or annoyed by counsel; he never showed any favors to counsel that he liked or animus to those he disliked. He was always ready and willing to listen to counsel, and never intimated what his decision would be until counsel were through. If the case involved important legal questions, and he had time, he would adjourn court until he could confer with the circuit judge, who was holding court in another room, but if he could not take time to confer, with the circuit judge he would dispose of the matter according to his understanding of the law. And he would always state the reasons for his decisions. His opinions were always accepted with grace, even by the defeated party. Under all circumstances Judge Nelson was disposed to do his duty faithfully. I never knew him to take offense at the manner in which his decisions were reviewed by a higher tribunal. If a case that he had decided was reversed or modified, he never complained, never had any fault to find, but accepted the decision as conclusive upon the question; and upon a retrial of the action he was always disposed to follow closely the decision of the higher tribunal.

"I recollect very well having a case that involved a large amount of real estate. I was for the defense, and interposed a demurrer to the complaint, which Judge Nelson sustained. It went to the supreme court. I engaged Senator Davis to look after it until It came on for hearing, when I would be present. Senator Davis took no part in the argument I supposed, from what took place

at the hearing, that the case would be decided in my favor. Justice Gray delivered the opinion of the court, and to my surprise reversed Judge Nelson, on the theory that the statutes of Minnesota favored that view of the Law. Senator Davis, who was very friendly with Justice Miller, asked how the court came to decide that way. Judge Miller said, 'The decision is all wrong, there is no doubt about that, but Judge Gray was very positive in his views, and I didn't think best to quarrel with him; I knew the case would come out all right, and therefore I didn't make any objection.' This decision necessitated the taking of testimony and another hearing before Judge Nelson, and in determining the matter he followed the decision of Judge Gray just as far as possible, never complained that the supreme court was wrong, never complained that he had been overruled, or anything of the kind, but said he had nothing to do but to follow that decision. And that was his way in every case that went up on appeal from his decision. I never knew him to complain of being overruled by the higher court, but, on the contrary, he accepted the decision of that court as conclusive. He never made any distinction as to persons and never showed partiality.

"Judge Nelson was not only disposed to follow the decisions of the higher courts on any question that had gone up from his decision, but always took great pains to find out the principle upon which it had been rendered; and when he ascertained it he would follow it. That was one great characteristic. I think he attempted to do exactly what was right in everything that came before him. He never, to my knowledge, had a word to say, outside of court, about any case that had been before him. He always delivered his opinions from the bench; and never outside of the bench or disconnected with the court, did he have anything to say.

"Judge Nelson had not only a fine judicial and discriminating mind, but aside from his legal and judicial attainments he was a gentleman of the very highest order. For twenty years I lived in a house adjoining Judge Nelson's home, saw him daily and had an opportunity to form a correct opinion in regard to the character, quality and genius of the man, and never found anything in him that was not perfectly just and right. He knew exactly how to treat his neighbor. There were many matters that we were both concerned in with reference to our adjoining properties, and I knew he was just and correct in his views and disposed to carry out in every respect what he considered just and right. I might relate many incidents that occurred between us regarding our property, but will pass those by. However, I desire to say that I heartily endorse everything contained in the Memorial which has been read, and if it were possible that anything could be added I would gladly concur in that. "I recollect a certain case before Judge Nelson when he was acting as circuit judge, where one of the attorneys referred to and read a decision in the federal court in which Judge Nelson's father, Samuel Nelson, had delivered the opinion of the court. I recall that he repeated the name of Samuel Nelson with a great deal of emphasis: 'This is the opinion of Samuel Nelson, one of the judges of the highest court in this country.' I then thought, and still think, he was trying to impress the name of Samuel Nelson on R. R. Nelson, in order to control the opinion of R. R. Nelson in the particular case then being argued. However, when R. R. Nelson came to decide the case, he decided it according to the decisions of the Supreme Court of the United States without reference to that case at all.

'This simply shows Judge Nelson could not be prejudiced one iota by any attorney who might appear before him or by any party that might be interested in the case; he would not listen to anything which would tend to prejudice him from laying down the law as he understood it in the particular case. That was Judge Nelson's character throughout, and every lawyer that practiced before him was satisfied of that fact.

"The Memorial has been read setting forth the qualities and character of Judge Nelson. It is fitting that we who knew and appreciated him, who practiced before him daily for thirty five

years, should express our opinion and estimate of him, and that this Memorial should be made a matter of record. I therefore second the motion that has been made that the report be received and spread upon the minutes."

HON. M. J. SEVERANCE then said:

"May it please the Court:

"Well might I have urged my own infirmity as a plea in bar to my appearance here today; but I should have been disloyal to the promptings of my heart had I shunned this occasion and failed to pay my tribute, though it be nothing but the widow's mite, to the life of one devoted to the exaltation of our race.

"When we look for the highest proof of the universal recognition of duty performed, we shall find it in the disposition of all the living to embalm the memory of the worthy dead. It is not a privilege, but it is the duty of those who survive to rescue from oblivion any noble example and weld it into the endless chain of virtue that should run commensurate with human existence. The future is entitled to all the treasures of the past, and with them it continues to maintain and build higher the fabric of social and national integrity. It is the myriads of lives devoted to the primitive conceptions of duty, but which history disdains to notice, that send down their countless rivulets to fill the reservoirs of national development. It is the inspiration flowing from such considerations as these that directs my voice whilst speaking in eulogy of Judge Nelson today.

"I am not speaking of a pampered child of fame. I am only speaking of one who, in the ordinary walks of social, civil and judicial life, illustrated those higher qualities of heart and mind that the world approves and conscience demands.

"Judge Nelson was the worthy son of a noble sire, and his ancestry imposed on him the duty of bearing its standard in the vanguard of distinction and success, and that standard he never deserted in life. He was cradled in the lap of luxury and reared amid aristocratic surroundings. But of aristocracy he brought nothing to his western home save, its culture and decorum. He dismissed all of its pride, except such as adheres to the gentleman. Thus endowed, with a generous habit of mind, fraternal in all his instincts, he would not chafe or fret in the company of that simple, uncultured democracy that always lays the foundation of a state.

"When speaking in memoriam I never cast a name for any man's religion or politics. If I find that he had a controlling desire to live in harmony with the purposes of his Creator, and suffered that desire to color all the activities of his life, then he answers my conception of true religion, no matter whether he drew his inspiration from Plato, Buddha, or the Greater Nazarene. If I find that in civil life he subordinated every selfish motive to the common weal, and exalted political rectitude high above the conquests of party, then he answers my conception of patriotism and civic duty, no matter whether he drew his inspiration from the tomb of Lincoln or the shades of Monticello. Believing that the life of Judge Nelson fell within the boundaries of these conceptions, I revere his memory and commend his example to all the living.

"Judge Nelson was conservative by nature, but he was not so conservative as to balk in the pathway of progress, for he was willing to explore any new conception that had any basis other than a mania for mere speculation. He came to Minnesota, as Webster said of the Pilgrim Fathers, 'to settle on bare creation.' Only the smoke of a few log cabins indicated to him that he had any companions here. He stood on the lowest and highest rounds of the ladder that measures the heights of Minnesota's development. Yet in his whole career, the wild life of the pioneer

never even dimmed the burnish of his character.

"In every phase of our social, civil and judicial life, he was an actor and participator, and in all this did he so well bear his part and demean himself that the voice of censorious criticism never assailed him. In social life he was not an autocrat bidding all others be silent; but urbane, benignant and considerate of the feelings of others, he gave to every occasion the ease and confidence of social equality. He never chilled social communion by making his own the standard of another's excellence. Piquant, lively and radiant in conversation, he wooed the friendship of all around him. No one ever left his presence shivering, but all left it aglow with the warmth of mutual esteem. The life of such a man always removes a segment from the social circle which can never be restored except by another of equal endowments.

"In civil life he was attentive and alert to every movement that concerned his city, state or nation, and he never deserted the forum or the assembly as long as either was held in debate. He wore the toga of a citizen with a full comprehension of all of its duties. He saw his state ascend to its proud position in the empire of liberty, and he believed that he had seen the dawn of the day. And he said to me a few months before he died, 'That if all the signs of the times were not all delusive and Christianity did not trail its banners and admit its defeat, the reign of universal equity would soon come, when men shall beat the sword into plowshare and the spear into the pruning-hook.' And it seemed to give him infinite delight,—to believe that the time was approaching when the nations 'would learn war no more forever.' He never did believe that training for human slaughter was the only exercise that could give virility to human government, but did believe that it is the virility of national conscience, not of physical power, for which the world has longed in all the ages of its grief. When The Hague catches a few more strains from Calvary, then we may expect that all civilized nations will deride the horrors of war; then the Shekinah, in all its glory, will hang over the dedication of the Temple of Peace.

"He saw the jealous ruler over the forest sullenly retire from this very spot. He saw this city develop under genial civilization, until it held within its walls every institution that gives culture and grace to the mind, and those other institutions born of a Christianized civilization, all throbbing with love for the unfortunate of our race. And when his eyes were closing on Time I feign would believe that their last lingering glance rested on yonder Parthenon where the heart of Minnesota is beating amid the trophies of her patriotism.

"As to his Judicial career I hesitate to say anything, lest I dilute the phrases of the Memorial. The great Plutarch, familiar with the pomp and abuse of Roman office through the reign of all the Caesars, said, 'That it is the man that gives dignity to the office, and not the office that gives dignity to the man,' and this truth has no higher illustration than in the life of Judge Nelson. With a thorough literary education, deeply studied in the law, with an honest purpose in every act, he could but distinguish the office he held so long. He did not consider his office a badge of nobility, but only a trust whose duties he was bound to perform. Though presiding in a court representing the power of the nation, he did not hold it as the sword of Damocles over other courts of lesser jurisdiction, but in a spirit of amity and judicial courtesy he permitted them all to revolve harmoniously in the orbit of the nation's economy. He never exercised an offensive dominion over the members of the bar. He did not claim to be the oracle of Delphi, but only a co-worker with them in the labor of unravelling the problems of the law. He was willing to listen, anxious to be convinced, and he delighted in nothing more than in the certainty of truth. He never joined that restless and mistaken throng that rails at the technicalities of the law, for he would not sacrifice the syllogisms of a thousand years to that eager haste that would dispose of life and liberty at a single bound. He presided over his court with that dignity born of labor,—a

dignity that is never arrogant, but always more than fraternal. Always lovable, always courteous, always self-poised, he attracted to himself the friendship of all, and never provoked a sneer, for he never inflated his office with the hydrogen of personal conceit. Add to these graces the effluence of a sensitive and an enlightened conscience, and you find Judge Nelson as he was. Fortunate it was for him and for his fame that he left so few ellipses in his career, and fortunate indeed it is for us that he left his unsullied judicial mantle to fall on one who will never dishonor its folds.

"He lived long beyond three score years and ten, and this overtime the Psalmist (petulant and morose in view of his own troubled life) has filled with all the spectres of discontent, 'labor and sorrow.' But Judge Nelson never fell under the shadow of this curse, for a constant interchange of the amenities of life banished all the gloom of his age. Though years and years ago the unkindly hand of Death smote her the ivy that entwined, yet this did not embitter his life, for he was ever buoyant in the belief that he had only to cross the river to renew a tie that eternity would never dissolve.

"Human life, like Nature, has its Indian summer, and it often comes in this 'overtime,' when the frost of age has killed the deadly nightshade of passion and painted the foliage of life with the radiance of its setting sun. It was during this period, when Judge Nelson was reviewing the past and rounding out his life with remaining beauties, that the bow was drawn that sent the arrow to his heart. But it was not premature, for so smoothly, considerately and justly had he run the current of his life that he trespassed on no one and left no enemies behind him, unless such, as Aristides had, those provoked at virtue.

"If I had omitted all I have said and simply said that Judge Nelson from the beginning to the end of life walked aright before God and man, I should have said everything that human eulogy can bestow upon the dead. All else is nothing but the desire of friendship or the ambition of rhetoric to leave no virtue untinted.

"Something I see around me here to-day inspires me to speak for a single moment, perhaps beyond the proprieties of this occasion. I plead the license of that friendship I would not dare to plead before any other court on earth. Speaking for myself, and presuming to speak for the Judge upon the bench, and for half a score of others I see around me, all frosted with age,—and all of whom saw the North Star burst from the twilight and blaze for the first time in the firmament of the republic—we know that when Judge Nelson left the world he did not close the door behind him but left it standing ajar for us. Death cannot much longer riot in our sanctuary. When a few more have gone, the casket holding Minnesota's first generation will be closed forever. But we are not dismayed at the prospect that lies before us. Neither do we shrink from the common lot. When the Marshal of Death shall serve his summons on us, undaunted and serene we will embark on that ocean that has no further shore; and when our bark swings out into the waves we will turn to those we leave behind us, and, pointing through the mist to the flag of the Republic, we will commit it to their hands and then bid them a cheerful and final adieu."

HON. A. H. YOUNG then said:

"May it please the Court:

"I esteem it a privilege to be permitted to say a few words on this occasion. Only a short time ago, on an occasion similar to that which brings us together today, Judge Nelson in speaking of an honored member of the bar just laid to rest said, 'May we during our lives emulate his virtues, so that when our time comes to pass away from earth we may leave a name honored

and respected.'

"It is only in exceptional cases that the services of a single life, however worthy, will be so marked as to give to the person a place above and distinct from that of his fellows. In the main we stand in this life shoulder to shoulder in our respective places in the contribution we make to the progress of the world, but to each is given the ability to live a life worthy of emulation. I believe it was the controlling purpose of Judge Nelson to live such a life and to leave to the world a name, as a private citizen and as a public officer, worthy to be honored and respected and so has his expressed desire been fully realized that he has left a name which we by this memorial service honor and respect, and it will be honored and respected by all who knew him in his years of service.

"It was not my privilege to have an intimate personal acquaintance with Judge Nelson, but for well-nigh forty years I had known him as a judge upon the bench and entertained for him as a man the highest respect, and for his judicial ability and probity the greatest confidence.

"It is much to be able to say of one occupying a position charged with judicial responsibilities that by his life and service he won the confidence of the public whom he served. The public are critical, litigants are selfish, and to be able to so adjudge between contestants as to retain the confidence of all for impartial fairness calls into exercise qualities of wisdom and of justice. It is not in a spirit of adulation that we ascribe to Judge Nelson such qualities. He was a wise man, he was a just judge. During all the years of his service upon the bench large responsibilities were laid upon the judiciary—to so interpret and administer the law as to hold in check an element restless and impatient of legal restraint and so to safeguard the rights of the people. His natural qualities of mind, taken in connection with his legal training and high sense of justice, constituted Judge Nelson a sane and valued judicial officer. Removed, as he was, from any inducement to seek political preferment, his aim was to walk uprightly before the world and to justly interpret and apply the law in all cases brought before his jurisdiction.

"We are too little given to praise men while engaged in the active discharge of public duties; we are more inclined to criticize than to praise, but when a life has been completed and active service is closed, it is both pleasant and profitable to speak in fitting terms of a noble life and make an enduring record, not of deeds—for they will live in their fruit—but of our appreciation for a life of valued service, a life full of years, well-rounded and complete.

"In his life Judge Nelson was ever worthy the esteem of all who knew him personally, and in the discharge of his duties as a public officer he made for himself a record which any man might well covet, that of an able and just judge. Up to the limit of his three score years and ten he faithfully performed the work given him to do in a public office then which there is none more honorable. And then when, by long service, he had earned for himself the right to lay aside the judicial ermine, which by law was his for life, he quietly and with dignity handed back the robe of honor and responsibility, and patiently abided the call to a higher and to a more enduring service. What honor and dignity crown the life of such a man! It is such lives that constitute the true measure of human greatness. He did not seek for fame. The trust with which he was charged was too sacred in its nature to admit of applause for even the most faithful servant. He simply sought to execute with fidelity the trust committed to him and so by a life of virtue and faithful service to leave a name which should command the honor and respect of those he left behind, and we who here today participate in this service do ourselves honor by causing to be placed upon the records of this court a Memorial expressive of our appreciation of the faithful life and service of our friend and brother."

MR. GEORGE W. BACHELDER then said:

“May it please the Court:

"I had the honor to be appointed upon this committee. I was unable to attend the meeting of the committee for the purpose of framing the Memorial to be presented to this Court, but I have heard it read here today, and can endorse all that it says. If I could repeat the Memorial it would be a good deal more than I myself could say of Judge Nelson.

"I cannot claim to have been a particular comrade of Judge Nelson; I had not the experience which some of my brethren, who have spoken here, had with him in matters in court and of business. And yet I do not think any one who had lived in Minnesota forty years would be unacquainted with Judge Nelson. I first became acquainted with Judge Nelson in 1857, some time after he had been appointed a judge of the territorial court, when he held a term of court at Faribault. Shortly before I met Judge Nelson I had met Judge Flandrau, who was also judge upon the same bench and was holding a term of court in Owatonna. I enquired of him about the new judge who was going to hold our term of court. This was the second term of court which was held in Rice county, Judge Chatfield having already held one term. Judge Flandrau, after extolling him highly as a lawyer and a jurist, concluded by saying: 'And one of the best fellows that you ever met.' This was a characteristic expression of Judge Flandrau, and, as I always found, a saying worthy to be made of Judge Nelson. I should not have remembered it so well, probably, if I had not been reminded of it at all times when I met Judge Nelson.

"The term of the court was very short, lasting only a few days. Of course the business was very light. There were not a great many attorneys in this state at that time. Oscar F. Perkins, John M. Berry and myself, as far as I recollect, constituted the bar of Rice county. The portly and dignified manner of Judge Nelson in presiding over the court at that time, and his cordial affable disposition, shown both on and off the bench, impressed not only the attorneys in attendance, but the jurymen and all others who had the pleasure of being present on that occasion. I attended another term of court, in St. Paul, at which Judge Nelson presided as territorial judge. Judge Nelson, I soon learned, was a man whose acquaintance could be very easily made and very easily kept. His conduct, while judge of the district court was of the same even character; always affable off the bench, always dignified on the bench, and always bent upon doing exact justice on the bench, and always bent upon doing exact justice.

"But it was on the federal bench that Judge Nelson's character and reputation seem to have been largely made. He was admirably adapted to the position. During an experience of thirty eight years as judge of that court, he enjoyed the good opinion and confidence of the bar of the whole state and of the community in which he lived. He established a character and reputation of which any man might be proud. Judge Nelson, in my opinion, was not a very ambitious man. He did not, so far as I know, aspire to higher than those that were given to him. He seemed to be entirely satisfied.

"I always looked upon Judge Nelson as a remarkably fortunate man, not only in his personal traits and in his ability as a presiding judge, but the environments of his youth had been everything which he could wish. Notwithstanding his agreeable surroundings, which frequently are regarded as a bar to final success, Judge Nelson never buried his talents in the earth, but built upon and improved them and made of himself a distinguished lawyer and jurist.

"The career of Judge Nelson upon the federal bench was very long, very distinguished, and, I have no doubt, very useful. He was blessed with great length of years, beyond what most men are permitted to enjoy, and during his whole life he maintained the good qualities that have been spoken of by those who have preceded me, and continued to be the same good judge, and

refined gentleman so long as he lived. Rarely do we find a man who, at the close of his life, has so completely finished his work as had Judge Nelson. I believe he accomplished all he aspired to accomplish. And when he began to feel the finger of Time in the declining years of his life, he gracefully withdrew from his position on the bench, undoubtedly not caring longer to listen to the discussions of the attorneys in court or to be burdened with the responsibility of deciding and settling the disputes of litigants. His work had been done, and well done. He retired to private life, no doubt intending to enjoy the ease comfort and quietness of that life. No doubt during the last eight years he had more enjoyment than he had even when upon the bench. His work was all done, and well done, and we trust that he is now meeting his reward.

HON. E. C. STRINGER then said:

"Your Honor:

"Many have been kept from attending this service by engagements that could not be broken, and there are also some without the state who have expressed themselves as desirous of paying a tribute to the memory of Judge Nelson. With the permission of the Court I will read a portion of a letter, expressive of such desire, written by the Honorable Eugene G. Hay, in which he says:

I very much regret my inability to attend. As a practicing attorney in the United States District and Circuit Courts of Minnesota during a part of Judge Nelson's long career as presiding judge, and for a little more than four years as an officer of this court, I learned to know Judge Nelson intimately and to honor, love and respect him. Of all the official or professional relations of my life, none were to me more pleasant than those sustained with Judge Nelson during the time I occupied the position of United States attorney for Minnesota. He was at all times an upright and painstaking judge, jealous always that exact justice should be meted out in his court and those who were so fortunate as to know him intimately will, I believe, join me in saying that he was one of the most lovable of men. As an administrator of the law in the pioneer days and through the years of Minnesota's growth and development, he contributed very largely to the fabric of government which now clothes that splendid commonwealth. I deeply mourn his death and will always revere and honor his memory.

At the conclusion of these addresses JUDGE LOCHREN made the following response:

"Gentlemen of the Bar:

"The Memorial which you present sets forth with clearness and brevity the Manly virtues, ability and amiable traits of character of Judge Nelson, which endeared him to the bar and won and held the esteem and veneration of the people of our State. It will, as is most fitting, be entered of record in these courts, where he presided so ably and worthily during thirty eight years of his vigorous manhood.

"Called to this bench in his youth, his life work was here; and the records of these courts disclose the character and extent of that work, and bear witness to the learning, ability, integrity and industry with which that work was performed. These records contain his decisions, which his successors will consult for their guidance; fortunate to have such helps in their efforts to emulate his usefulness. His amiable personal and social characteristics, which attached to him all who came within the range of his acquaintance, have been referred to by many of you who knew him intimately. He also possessed that quiet, natural dignity, with nothing of coldness in it, which compelled decorum in his presence.

“I will conclude by quoting words which he himself spoke of another on a like occasion and which as aptly apply to himself: 'No judge ever was influenced by purer motives or surrounded by a higher moral atmosphere. \* \* \* He was learned in the law, which he administered wisely, and thus won confidence and esteem.'

"The clerks will record the Memorial in the minutes of this day."

At the conclusion of the reading of these addresses the following response was made on behalf of the supreme court.

ASSOCIATE JUSTICE LOVELY said:

“During the last twenty four years of Judge Nelson's judicial service I was engaged in the trial of many causes in the court over which he presided, and as we became quite intimate in our personal associations I enjoyed the valuable privilege of his friendship. He had reached the meridian of life when I first appeared in his court in 1876. From then on until the end of his service I was in attendance at all of the district or circuit courts of the United States held either at St. Paul or in the southern divisions at Mankato or Winona, where the ablest lawyers of the state appeared in the transaction of professional business, very many of whom have since passed before to their rewards.

"He was the first federal judge of the District of Minnesota, appointed in 1858 upon its admission into the Union, and from that time until his voluntary retirement in 1896 at the age of seventy, he had served uninterruptedly through what must be regarded as the most important period of the development of the jurisprudence of the country in the extension of federal jurisdiction of the national courts arising from the constitutional amendments' adopted immediately after the Civil War. He went upon the bench very early in life and remained there until he reached the allotted age of three score and ten. The labors imposed upon him were often exceedingly difficult. Our state was developing in commercial importance, and property interests of the highest magnitude were continually presented for judicial investigation.

"While his professional experience before his appointment must have been necessarily limited, he had through legal training considerable general culture and much knowledge of the world. He was exceptionally free from narrow prejudices, possessed of a catholic disposition towards his fellow men and always inclined to apply the golden rule of the Gospel to the affairs of life. He was learned in the procedure under the old rules of equity and the common law, though never constrained by their useless restraints, for he was progressive and displayed an anxiety to adapt the capacities of the law to the demands of modern times. When I first met Judge Nelson he had become through study and experience an able and learned jurist, trained in the precedents of his forum, and possessed of a comprehensive grasp of the general principles of jurisprudence. He disliked technicalities and looked upon the rules of practice as a means to forward rather than retard the enforcement of justice. His duties exacted unremitting attention to his work during the entire thirty eight years of his service on the bench, but it was not observable to me that it ever tried his equanimity or disturbed a serene composure which seemed natural to the man, becoming to a judge, and most gratefully appreciated by those who were called to present their contentions in his court while his forbearance was often put to the proof, he was equal to the emergencies of each situation and the lawyer who went into his court for the first time, coming often at a distance from rural localities, perhaps with prejudice against a forum with which he was not familiar, left his presence with the pleasant impression that he had to the fullest extent his day in court and would be kindly welcomed again, and if mistakes were made

by counsel the generous and sympathetic disposition of Judge Nelson seemed to overlook them and the younger members of the bar came to regard him with paternal respect. He was a sincere friend, transparently honest in all things, his thoughts were fashioned on his tongue but restrained in expression by the courteous gentility of the old school of which he was one of the best examples.

"The breadth of his humanity and his love of justice were well illustrated in his exercise of equitable jurisdiction. He entered upon the trial of cases submitted to the court with a determined purpose to subordinate all pride of opinion if it existed, which I doubt, to a mastery of the facts and the application of the obligations of truth and right. Recognizing the value of authority and the aid which the learning and ability of the bar could give, he was an attentive listener so long as argument could possibly aid in the investigation of the cause at bar. As a result I doubt if the record of any federal judge will present fewer reversals than those submitted on renew from his judgments during the extended period of his continuous services on the bench. I always believed that he was peculiarly fortunate in the aptitude and capacity he displayed as a presiding judge in common-law actions. He found the jury system in the constitution, he believed in it, and recognized its value as a potent instrument in the administration of justice, always willing to give full latitude and scope to its functions. Where suitors asked redress for wrongs to their person or property in this tribunal he insisted that the jury should exercise the full measure of authority, and in the admission of evidence, if there was doubt, he resolved it in favor of the most liberal rules of evidence. So too it may be said that in a court whose jurisdiction was the continued subject of controversy, and the Federal authority supreme in that question, the possession of this power excited no desire on to display it or deny recognition to the jurisdiction of the state courts. Whenever doubt existed in this respect he declined to entertain the cause. The arbitrary element had no place whatever in his character, for he possessed that most essential quality of his station, a judicial humility which tempered his judgments with a sweetness that went far to reconcile the unsuccessful practitioner to the result of adverse judgment.

"He had a very keen appreciation of the ludicrous and was at times capable of exquisite humor but reserved the manifestation of this inclination for his private and social relations, rather than for exhibition on the bench. Here poised and kindly self-respecting man, firm in the conduct of the business in hand. Apparently the most unobtrusive of judges, his courteous demeanor and complete self-control secured that obedience to the exercise of essential authority his duty required him to maintain. I have seen him preside over several troubled controversies at the bar where the seal of counsel expressing the feelings of their client engendered opposition that well nigh reached the limits of propriety and toleration, but on all such occasion Judge Nelson never lost his self command, above the jarring factions he presided with dignity and held the balance even.

" 'Calm as the patient planets gleam  
That walk the cloudless skies.'

"Judge Nelson's judicial career was almost phenomenal. The recorded decisions which he delivered display ability of a high order but his purpose was to be right rather than brilliant, and in this aim he was more than successful.

"At the end of a long life of usefulness he retired from the bench to in his days of rest the solace of kind friends and the ministrations of a daughter. During this period he was a genial companion whose society was enjoyable to the young and old alike. He has at last laid down life's burden without fear or dread, reposing in the confidence of a Christian that the services to the humblest supplicants for justice would entitle him as a reward to the fulfillment of the

promise, 'Inasmuch as ye have done it unto the least of these, ye have done it unto me.'

"The highest compliment that will be paid to his public service is that judicial record deserves to be the object of emulation by those upon whom his mantle has fallen.

"His righteous life yields a lesson that will not be forgotten. It is a valuable possession of his country and this commonwealth. It will long be referred to with respect and commendation, for 'The actions of the just smell sweet and blossom in the dust,'

"The appreciative and appropriate memorial tribute of the bar to Judge Nelson's memory I am authorized to say is gratefully received by this court and will be spread in full upon its records."