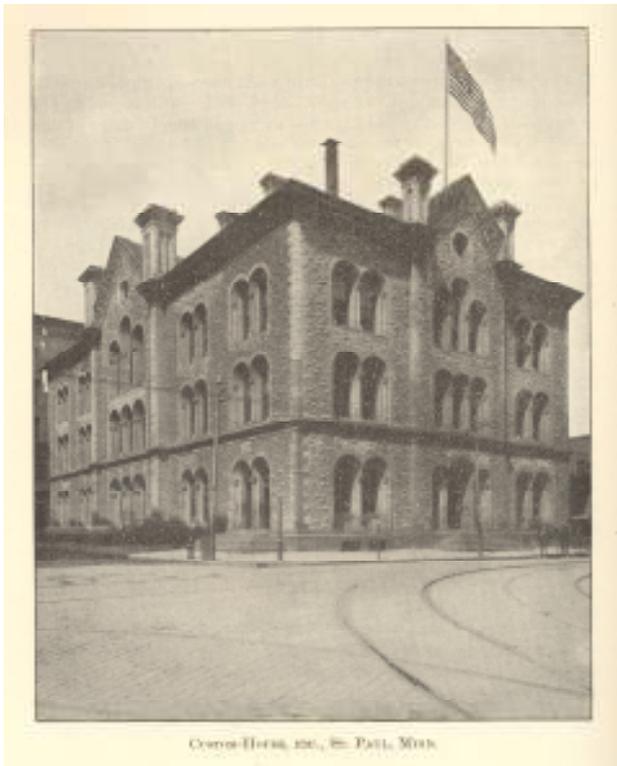


“Judge Dillon’s Farewell”

(1879).

“Judge Dillon’s Farewell” is the headline of a story in the *St. Paul Daily Globe* on Saturday, June 28, 1879, about a tribute the state bar gave to U. S. Circuit Court Judge John Forrest Dillon, who had announced his resignation from the federal court. He was nominated by President Ulysses Grant for an open seat on the Eighth Circuit on December 9, 1869, and confirmed by the Senate on December 22, 1869. He served until September 1, 1879, when he resigned to accept a teaching position at Columbia University in New York.

The ceremonies were held in the court house in St. Paul, attended by



dozens of lawyers and other spectators.¹ Tributes were given by former Governor Cushman Kellogg Davis, U. S. Attorney William W. Billson, former Chief Justice Thomas Wilson, former Attorney General Gordon E. Cole and the ubiquitous Charles E. Flandrau. These were prototypical nineteenth century lawyers’ testimonials—effusive expressions of affection and admiration interspersed with historical references. General Cole, for instance, called Dillon’s decade the “golden age” of the circuit court.² The judge’s “response” is eloquent by the standards of most eras.

¹The old Federal Court House was constructed in 1873 and occupied by the federal courts until 1900. This photo is taken from the website of the Federal Judicial Center.

² This remark brings to mind Pushkin’s comment on “golden ages”:

We should not be seduced by this charming picture. The concept of a golden age is natural to all nations and proves only that people are never satisfied with the present and, from experience having little hope in the future, they adorn the irrevocable past with all the colourful fancies of their imagination.

“The History of the Village of Gorukhino” in *The Complete Prose Tales of Alexandr Sergeye-vitch Pushkin* 143, 157 (trans. Gillon R. Aitken) (W. W. Norton & Co., 1966)

At the time the “farewell” ceremony, Dillon was, in the words of court historian Jeffrey Brandon Morris, “probably the best-known lower federal court judge in the nation.” In this incisive profile, Professor Morris gives the reasons for Dillon’s fame and influence:

The first circuit judge for the Eighth Circuit, John F. Dillon, was, as practitioner, professor, scholar, and judge of both state and federal courts, one of the most influential shapers of nineteenth century constitutional law. Dillon was born in upstate New York in 1831 but moved with his family to Davenport, Iowa, in 1838. His early life was marked by hardship and poverty. Like [Samuel Freeman] Miller a physician before he was an attorney, Dillon’s career as a doctor was cut short by a hernia, which made it difficult for him to continue the horseback riding that was required to practice medicine on the frontier. Dillon was admitted to the bar in 1852 and shortly thereafter became county attorney. In 1858 he was elected judge of Iowa’s Seventh Judicial District. Six years later, he was elected to the Iowa Supreme Court and became its chief justice in 1867. President Ulysses S. Grant appointed Dillon the first circuit judge for the Eighth Circuit, and Dillon took up his duties on December 22, 1869.

Serving as circuit judge for the Eighth Circuit was no sinecure. Dillon held terms in each district, requiring about ten thousand miles of travel each year. Yet he was able to teach medical jurisprudence at the University of Iowa, found and edit for one year the *Central Law Journal* and write three treatises: the 808-page *Treatise on the Law of Municipal Corporations* (first published in 1872); a 138-page book, *Removal of Causes from State Courts to Federal Courts* (1875); and a sixty-three-page work, *The Law of Municipal Bonds* (1876).

Dillon’s treatise, which remedied the almost total lack of accumulated knowledge about municipal corporations, as well as a work by Thomas A. Cooley, would be the sources most cited by judges, attorneys, and delegates to constitutional conventions seeking to limit what cities might do under delegated police powers and taxing power. Certain passages from Dillon’s book became standard citations for the restrictions on the taxing and spending powers of states and local governments. They supplied the bar with numerous constitutional principles on which to restrict the powers of legislative bodies and popularized within the profession principles encompassing laissez-faire policies desired by much of the emerging business class. Dillon’s treatise stressed the constitutional constraints on

municipal bond repudiation and fostered the notion of an interventionist judiciary resisting political pressures.

Meanwhile, from the bench, Dillon began to articulate principles that would ultimately be employed by businesses seeking freedom from government regulation. The first such, which became known as “Dillon’s Rule,” was the principle that municipal corporations were “mere tenants at will of the legislature,” which could create, destroy, abridge, or control them.” His second principle was that taxation had to be for a public purpose. If that concept is more properly credited to Cooley, Dillon added to it his weight as judge and treatise writer. Dillon wrote the opinion in *Hanson v. Vernon* [27 Iowa 28 (1860)], in which the Iowa Supreme Court held invalid a statute that authorized counties and cities to levy taxes for the purpose of subsidizing private railroad corporations. The courts were, Dillon wrote, not at liberty to strike down laws on the ground that they conflicted with judicial notions of natural rights and sound public policy. However, the court held that because the tax had appropriated private property for private purposes (to assist railroads, which were private corporations organized for the profit of their investors), it was not in the nature of a law. Furthermore, the citizens affected by the statute had been deprived of their property without due process of law. While the Iowa Supreme Court would overturn its own decision a year later [*Stewart v. Supervisors of Polk County*, 30 Iowa 9 (1870)], the public-purpose maxim would gain widespread approval after 1870 as state legislatures and state constitutional conventions considered enacting restrictions on the functions of cities, their debt ceilings, and tax structures.

When Dillon resigned from the circuit court in 1879, he was probably the best-known lower federal court judge in the nation. He moved to New York and became perhaps the nation’s leading railroad attorney, living until 1914. Within a dozen years, Dillon the attorney and scholar would urge a philosophy of constitutional conservatism and a standard of judicial review not far from that of the most outspoken advocates of laissez-faire. But that was later. As shall be seen in discussion of the Granger cases, Dillon the circuit judge had been far more flexible.³ △

...

³ Jeffrey Brandon Morris, *Establishing Justice in Middle America: A History of the United States Court of Appeals for the Eighth Circuit* 24-25 (Univ. of Minn. Press, 2007) (citing sources). Dillon died in New York on May 6, 1914, aged eighty-two..

THE ST. PAUL DAILY GLOBE

SATURDAY MORNING,

JUNE 28, 1879

.....

JUDGE DILLON'S FAREWELL.

*TRIBUTE OFFERED BY THE
MINNESOTA BAR.*

A Banquet Declined — Address on Behalf of the Bar Presented by Judge Flandrau — Remarks by Messrs. Davis, Billson, Cole and Wilson — Response by Judge Dillon—Judge Nelson Orders the Proceedings Spread on the Records.

Several days ago the GLOBE mentioned that the members of the bar were contemplating some means whereby to express their regret at Judge Dillon's leaving the bench to accept a professorship in Columbia College of New York. To this end a committee was appointed to devise some fitting testimonial agreeable to Judge Dillon.

In furtherance of the design the committee addressed the following communication to Judge Dillon:

St. Paul, June 20, 1879.

Hon. John F. Dillon,

DEAR JUDGE: The bar of Minnesota, learning that you are about to terminate your judicial relations with this district, desires to manifest its very high esteem for you as a man, a friend and a judge, and invites you to meet us at a dinner to be given in your honor at the Metropolitan Hotel in this city at such time as may be agreeable to you. We hope you will gratify us by accepting this invitation, and designate such time as will best suit your pleasure and official engagements. With much respect, truly your obedient servants and friends,

JOHN B. SANBORN,
CHAS. E. FLANDRAU,
GEO. L. OTIS,
GEO. YOUNG,
HARVEY OFFICER,
Committee.

In reply, the committee received the following letter:

ST. PAUL, June 26, 1879. —Gentlemen: Your invitation to a dinner proposed in my honor was received some days since. I have been waiting to see if some fortunate interval in my official duties would not allow me to accept it. But it has turned out otherwise, and the demands upon my time are such that I must leave the city on to-morrow. Much to my regret, I am compelled to decline during my present stay, an invitation, which you scarcely need to be assured, it would have given me the sincerest pleasure to have accepted. I beg to tender to the bar my thanks for this renewed mark of their regard.

With great respect, I am, very truly and sincerely yours,

JOHN F. DILLON.

Messrs. Charles E. Flandrau and others, Committee.

Failing in their first effort, the committee concluded to present the judge an address expressive of the unanimous feeling of the bar at the judge's retiring. This wish was communicated to and accepted by Judge Dillon.

Yesterday at 4 o'clock was the hour designated for the ceremony. At that time the United States circuit court room was filled with a large audience, the St. Paul bar being represented in large numbers, and besides several ladies graced the occasion with their presence.

Among the notables present were:

From Stillwater — Messrs. McCluer and Marsh.

From Faribault — Gordon E. Cole.

From Winona — Judge Thomas Wilson.

From St. Paul — Messrs. Officer, Clark, Squires, Cornish, Kerr, Sanborn J. B. and W. H., Goodrich, Pierce, Masterson, Davis, Rogers E. G. and F. E., Clough, Gilman, Young, Billson, Greene, Beales, Egan, Allis, Webb, Hendrickson, Reid, Otis, Galusha, Edgerton, J. D. O'Brien, Eller, James Smith, Jr., Wilson, J. F. O'Brien, Flandrau, Heat and others.

From Red Wing — Mr. McClure.

From Minneapolis — H. H. Horton.

Judge Dillon being engaged in chambers was summoned to the court room, and ascending the dais with Judge Nelson, was presented with a handsome bouquet from Mrs. Judge Nelson, and others ornamented the desk.

So soon as Judges Dillon and Nelson were seated Judge C. E. Flandrau, chairman of the bar committee, addressed the court, saying:

THE ADDRESS OF THE BAR
PRESENTED BY JUDGE FLANDRAU.

May it please your Honors:

The great majority of the members of the bar of this district have grown up with it since its organization, and will probably continue to practice in it until their retirement. It is natural therefore that we should feel a deep interest in the question as to who shall be in trusted with the administration of its affairs.

When the growth of the West rendered it necessary to increase the force of the federal judiciary by the creation of the circuit judges, we were all much rejoiced when we learned that Justice Dillon had received the appoint for this, our circuit. He was no stranger to us, his fame as a jurist had preceded him. His services have so endeared him to us all, that when we learned of his intention to resign his position, although in exchange for new honors, our regret was very great, and we determined that he should take with him an avowal of our sentiments.

A committee of the bar of the district has prepared an address to be presented to Judge Dillon, and have conferred upon me the honor of bearing it to him. With the permission of your honors I will now proceed to deliver it.

ST. PAUL, June 27th, 1879.

Hon. John F. Dillon, United States Circuit Judge, Eighth Circuit:

DEAR JUDGE — The members of the bar of this State have learned with profound regret that you have decided to sever your connection with the bench of this circuit. They have enjoyed for the long series of years during which you have been its presiding justice such agreeable relations with you personally and officially, and have held you in such high esteem as a man and a judge, that they desire to make some public expression of the sentiments universally entertained by them, on the occasion of this their last opportunity of holding official communication with you.

We will not ask you or the world to weigh our opinion by the standard of our professional consequence, we know that we represent a frontier district and we have nothing to say as to our own importance but we can without egotism affirm that we are a fearless and independent bar, and that nothing could induce us to give expression to what we did not conscientiously believe. Let the value of our views there be measured by their sincerity.

We recognize in you a man of extraordinary learning in all the branches of knowledge that combine to make a thoroughly good judge.

We all concede to you all those qualities of temperament which are essential to the same end. You have been patient when we have been tedious. You have been amiable when we have been irritable. You have always shown clear when we have been in doubt. It has been an edifying pleasure to us to listen to your lucid expositions of the many difficult questions which we have, in the discharge of our professional duties, so often submitted to you for solution. The varied interests that have been referred to your decision, have

involved the welfare of the greatest enterprises of the Northwest, and these contests have arrayed in antagonism forces of corresponding magnitude. Yet your wisdom and impartial justice have enabled you to satisfy all interests and make your judgments respected by all parties.

The highest tribute we can pay to your excellence as a judge is to say that in all the long years in which we have practiced before you, and in all the varied contests which we have represented as counselors in your court, instances which any of us can recall, in which we have suffered defeat, are very rare indeed where we have not on reflection been compelled to acknowledge the correctness of your decisions, and in no case have we even had occasion to doubt your perfect impartiality and conscientious discharge of duty.

We have by one long and intimate association with you ceased merely to respect and venerate you as a judge, but we have also learned to love you as a friend. Your departure from us therefore involves much more than the ordinary consequences of official change. The loss to the bench may be supplied, and the wheels of the law revolve as before, but the severance of the closer ties which unite us are irreparable.

There could be no more fitting occasion than the present one of leave taking for us to assure you that nothing has ever occurred in the administration of your official duties in this district, or elsewhere in your circuit, which has in the slightest degree abated that perfect trust you early inspired and which time has ripened into faith.

"We've seen the actions of your dally life
scanned with all the industrious malice of
a foe.
And nothing meets our eyes but deeds
of honor." ⁴

It is gratifying, however, to know that the step that you have decided upon does not wholly withdraw you from the profession, but merely changes the sphere of your usefulness. We hope to share the benefits of your labors in many valuable contributions to the literature of the law, which your learning, experience, and the dignified repose which will attend your future duties will

⁴ This stanza is taken from "Daniel," a play in verse by Hannah More (1745-1833). The original reads:

I've scann'd the actions of his daily life
With all the industrious malice of a foe,
And nothing meets mine eyes but deeds of honour

Sacred Dramas; The Search for Happiness and other Poems 92 (1827).

so eminently qualify you to produce. We congratulate the bar of the future on securing so competent an instructor.

No word that we could utter could add anything to the high compliment which has been paid you by the venerable institution which has chosen you to fill one of the highest places in its bestowal. The bar of the whole West will feel honored in your selection, and will take pride in your success.

We bid you an affectionate farewell, and assure you that the best wishes of the whole bar of Minnesota will always follow you wherever duty or pleasure may call you.

CHAS. E. FLANDRAU,
JOHN B. SANBORN,
GEO. L. OTIS,
GEO. B. YOUNG,
HARVEY OFFICER.
Committee.

Allow me to present to you an engrossed copy of the address with the compliments of the bar of the State. I am also commissioned to move His Honor Judge Nelson, on behalf of the bar, to allow the address to be entered upon the records of the court, which motion I now make, and ask that it may be granted.

EX-GOV. DAVIS' REMARKS.⁵

Judge Dillon: The bar of this State received the announcement of your resignation with expressions of regret more touchingly eulogistic than words can here express with due regard to the formality of this proceeding.

Men of sensibility will not say in his presence concerning a person who is the object their affection, nor can such a person hear without embarrassment those words which fully ratify the feeling which prompts them.

History, even though it speaks with the voice of friendship, does not say and cannot say to him all that absence and the future will require. This bar cannot however forego the opportunity of this sad moment of parting, of this moment which gathers up into the heart the full sense of the fact that we are to stand before you as a judge no more to cause you to feel how great is our esteem for you, how great our deprivation is.

⁵ Cushman Kellogg Davis was a dominant figure in state politics in the nineteenth century. A successful lawyer, he served in the state legislature, 1867-68, U. S. Attorney, 1868-1871, governor, 1874-1876, and U. S. Senator from 1887 to death in November 1900, at age sixty-two.

It so happened that we urged your appointment as circuit judge many years ago. Of the many eminent names which were under consideration for that nomination your own was preferred by us not for any personal reasons, because few of us then enjoyed your acquaintance. We had, however, become familiarized with your judicial character by frequent application in our courts of your decisions as a judge of the supreme court of Iowa, and we were guided to our preference by them. We found in them learning always more than sufficient for the case; intellectual vigor to which that learning was an armor, not an incumbrance; mental independence creative in its character; a judicial conscience which dealt with the case and not with its consequence.

With these our prepossessions you came to us, and there is not a member of this bar in whom they have not passed into convictions which are adorned and made forever beautiful by an abiding love and esteem for those personal traits which experience only can teach and which absence cannot destroy or even dim.

The resolution which you have taken, while it grieves, does not impair us. There are limitations to all endeavor and ambition, and surely the administration of the laws of seven commonwealths which hold six millions of people, which present diverge institutions, codes which though perhaps analogous are yet so different as to perplex, where civilization and empire are so visibly overspreading a region where Terminus has not yet set up his land-mark, where a legal system must be created in a few years which will survive when the erasing finger time has made illegible the decrees which establish it — surely these are boundaries which circumscribe the greatest capacity and resolution.

It was for you and not for us to say where you should pause. It is our gain and your glory that so much of this vast work been done. It will not pass away, It will endure in precedents, guiding human concerns when all recollection is lost.

It is then to you to speak of an act of your judicial career which has benefited this State and is appreciated by our people more perhaps than has been signified to you. The financial catastrophe of 1873 afflicted us deeply. It left our future unsecured. Our great railway system, which had been proficient and partially continued towards the British possessions, was paralyzed at the moment when communication seemed very near. The land grant depended upon the completion of the enterprise, and it was not easy to see how this could be done in the time of disappointed and clamorous interests and in the debility of bankrupt corporations. But in this court the expansive and administrative forces of the system of law here administered was fully proved. The settlement of private right was made instrumental to the public good, and both private right and public good were profited and increased.

The road was built; the lands were earned; the frontier was advanced, and the homes of thousands stand to-day where we feared the wilderness would be unbroken for many years. By this court has earned what courts seldom receive— the gratitude of a people for a judicial act.

Our regret at your retirement from this bench would be greatly increased were we not assured that the new field of usefulness to which you have been invited affords an ampler verge for what you would necessarily have been continued to contribute to had you remained in your present office.

It has become apparent that our system of laws some time ago arrived at that stage of complexity and contradiction of precedent which demands a reformation and second growth. The time, which we can all remember, has passed when an authority in point when exhumed by mousing industry was a kind of fetich before which judges bowed and opposing counsel were dumb. Principle, so long suffocated beneath the mass of cases, has been compelled to rise and to remit them to their auxiliary places. This, a time like those when the great civilians were ordered by Justinian to formulate the immense mass of the Roman law; when commerce and extending empire compell Mansfield to project by a continuous judicial travail of thirty years the commercial code of all English speaking people; when the failing feudal abuses, vicious in their last extremity, compelled D'Aguessean to remodel the law of France. These works were done by judges. The work soon to be done in our day must principally be done by judges. We hope and expect that in your new vocation you will continue to contribute powerfully to that, great result which is destined to condense and make more certain and symmetrical our cumbrous jurisprudence.

Nothing more remains for me to say except to assure you of our abiding esteem, affection and respect and to hope that in all stations to which you may be called, your way of life may be made pleasant by honor, love and troops of friends and by the gladsome light of jurisprudence.

DISTRICT ATTORNEY BILLSON.⁶

The address to which you have listened, Judge Dillon, portrays only in subdued colors, I am sure, the sentiment, not too strongly expressed by the word sorrow, with which the bar of Minnesota have contemplated your withdrawal from the judicial office. So long, so rich, and so varied has been your experience as a minister of justice, so unremitting has been your industry; so ardent and exclusive your devotion to the law, so high have been your professional ideals, and so conspicuously conscientious and disinterested your pursuit of them, that in our minds the blind goddess and her

⁶ William W. Billson was U. S. Attorney, 1873-1881; he served two terms in the state legislature; he moved to Duluth in the 1880s, where he was joined by Chester Adgate Congdon. He died on September 2, 1923, aged seventy-six.

scales are scarcely more intimately associated with the judicial function, or more emblematic of its unerring discharge.

I think I shall only give voice to the common experience of our bar when I say the opportunities we have enjoyed of observing your ample learning and your skillful methods in the dispatch of business have been among the most stimulating and highly prized of our professional privileges.

The patience and circumspection with which you have been cheerful to listen and inquire the rapidity with which you have grasped, and the tenacity with which you have remembered, the most intricate statement of fact your quickness to apprehend an argument of counsel and to further illustrate its correctness or to expose its fallacy; your happy combination of capacities for the widest generalization and for the most detailed and discriminating analysis; above all, the benevolent solicitude, the consummate skill, the sound discretion, and frequently the splendid success with which you have ever striven to avert that sometimes inevitable but always deplorable catastrophe — an incompatibility between fixed principles of law and the equities of a particular case; all these are salient features of your official character as we have learned it and loved it during ten years of professional contact, and as we shall bear it with us in perpetual remembrance.

It has been your good though arduous fortune to preside over a circuit imperial in extent, resources and variety of industrial pursuits, skirting as it does, the Mississippi from its source almost to the Gulf, with its western confines resting on the mountains.⁷ Vast and various as the ordinary litigation of such a circuit must have been, its dignity and difficulty during the last decade have been enhanced by three convulsions which have successively afflicted the several portions of your circuit.

You have been called upon to administer upon the wreck of the confederacy in the South; upon the bankrupted railroad corporations in the North; and in the central part of your circuit upon the most formidable conspiracy against the public revenues which has been known to the new world. I refer to the late unlamented whiskey ring.⁸

⁷ In 1879, The Eighth Circuit covered the states of Minnesota, Iowa, Missouri, Kansas, Arkansas, Nebraska, and Colorado. In 1889, the Dakotas were added; in 1890, Wyoming; in 1896, Utah; and the Territories of New Mexico and Oklahoma followed in 1900.

⁸ The “Whiskey Ring” was a notorious episode of corruption during the Grant administration. It was a conspiracy of whiskey distillers and public officials to defraud the federal government of millions of dollars in taxes on whiskey by using forged revenue stamps. It was exposed in 1875, and led to dozens of indictments. One of the men charged was General Orville Babcock, Grant’s private secretary. The President planned to testify in support of Babcock at his trial in St. Louis, but was persuaded to give a deposition, which Judge Dillon admitted at trial in February 1876. Babcock was acquitted. Timothy Rives, “Grant, Babcock, and the Whiskey Ring: Part 2,” 32 *Prologue Magazine* (Fall 2000)(available online).

Your decisions upon the grave and often novel questions thus precipitated on your court have been perused with admiration by the profession throughout the country, and, with a gratifying degree of confidence, are everywhere cited as authority, by bench and bar alike.

In a word, you have made solid and fame-worthy contributions to the noble science of law, upon which have labored the closest thinkers of many ages, and which, with all its imperfections, is one of the finest creations of human reason.

As representing a department of the public service co-ordinate and intimately associated with that from which you are about to retire, I wish before closing to give brief expression to the sense of loss which I know will be keenly felt throughout all branches of the federal service upon the retirement to another field of labor of one who has been confessedly among its brightest ornaments and who has added new lustre to the already illustrious name of the federal judiciary.

HON. GORDON E. COLE, OF FARIBAULT.⁹

May it please your honor: In rising to express my cordial concurrence in the sentiments of the address of the committee, I know that I but give utterance to the universal opinions of the bar of the district.

The announcement of your determination to withdraw from the very arduous duties —none, more so, I believe, in the world— of the judge of the eighth circuit, has elicited a more unanimous expression of regret, than ever before greeted retirement from judicial office.

The patience and pains taking with which you have ever sought to solve the most difficult problems of both law and fact, the wisdom with which under your administration the harshest, and most technical rules of law have been attempted by equity, the safety and learning and felicitous language which has ensured and allowed your judicial decisions, have endeared you to the bar of this district on a vastly more than common degree.

Every country and State has or has had its golden age of the law, to which the profession loves to recur. The age of Marshall in the nation, of Kent in New York, of Shaw in Massachusetts, of Gibson in Pennsylvania, of Mansfield in England, and your Honor's administration in the eighth circuit. Wise are such periods, and will all alike be remembered with pride as the luminous epochs of judicial history.

⁹ Gordon Earl Cole resided and practiced law in Faribault; he served three terms as attorney general, 1860-1866; he died in 1890, aged fifty-seven. For a profile, see Charles E. Flandrau, "The Bench and Bar of Ramsey County, Minnesota: Parts I & II" 36-43 (MLHP, 2008-2009) (published first, 1888).

You go from us to enter upon a more remunerative and less laborious field of labor, clothed as with a mantle with our heartiest wishes for your abundant success, and our profoundest regrets for the step which robs us of a judge whom we can love, honor and respect, and the bench of the country of one of its brightest ornaments.

JUDGE THOMAS WILSON, OF WINONA.¹⁰

I wish to add but a word. What one of us says on this occasion is but the echo of what every other feels. Though it is but recently you first came among us, we feel your loss as almost irreparable.

Never before have I known a judge to secure—or, as I believe, deserve — more unreservedly and unqualifiedly the admiration, confidence and affectionate regard of the bar. You have come up to — yes, elevated our most exalted ideal of a good and great judge, and at the same time you have bound to you by a friendship that will be as lasting as our lives.

Wherever you go our friendly eyes and hearty benedictions will follow you. I hope our loss may be your gain. May your afternoon of life be cloudless, and may your friends in your new home be as plenty and true as those who feel so much regret to be compelled to say good-bye.

JUDGE DILLON'S RESPONSE.¹¹

Gentlemen of the Bar: The address of the bar of Minnesota, and the remarks which have accompanied its presentation, fill me with sentiments of gratitude which any poor words of mine can but inadequately acknowledge and express. Nearly ten years ago I came to this city bringing with me my commission as the judge of this circuit. I was personally unknown to the entire bar of the State.

You received me with characteristic cordiality and warmth. Since then I have attended nearly every term of the circuit for this district, and the relationship thus created has been to me one of uninterrupted satisfaction. You will therefore readily credit me that your public assurance that this relation has been satisfactory to you, and that you view its termination with regret, cannot be otherwise than extremely gratifying to me. We met as strangers, and I beg

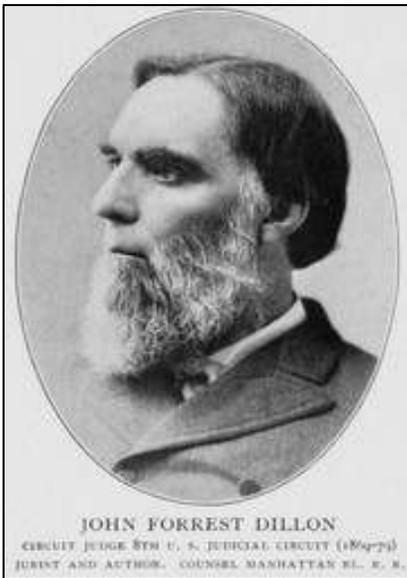
¹⁰ Thomas Wilson served on the Third Judicial District bench from 1858 to 1864, when he was appointed associate justice of the state supreme court. He was elected chief justice in 1864, and served until 1869, when he resigned. He was elected to Congress from the First District in 1886 and served one term. He died in 1910, aged eighty-two.

¹¹ The photograph of Dillon on page 14 was taken after he left the bench, and is from librarything.com.

to say that no part of your address gave me such real pleasure as the assurance that we part as friends.

It has fallen in the line of my duty to decide in connection with my learned associates many causes involving large interests, some of which have excited warm feeling, and have been conducted with zeal, and in which the result must at times have disappointed counsel as well as suitors, yet such has been the uniform respect and confidence of the bar that so far as I know or believe, judgments have left no wounds which did not readily heal without a scar.

You have been pleased to refer to my official conduct and decisions in very complimentary terms. I cannot but feel that this is largely due to the partiality



of friendship. It is fitting that I should acknowledge that for whatever praise I may justly merit in this respect, am largely indebted to the wise counsel of my associates, and to your ability and learning.

Fortunate is the judge who has the enlightened aid and the steady support of such a bar as I have been accustomed to meet at every term in the State of Minnesota.

He who holds the office of judge of this circuit holds a place of great responsibility and great difficulty, who discharges all of its varied and exacting duties must shun delights, and live laborious days. No man's unassisted judgment is equal to the work, and I feel that my

obligations to the bar are far greater than theirs to me. I am your debtor, you are not mine.

You refer to the new field of labor which I am about to enter. I forbear any extended allusion to it, and will only say that the action of the venerable university in coming to this remote circuit in the West to fill a chair in the institution which with pardonable pride points to the lectures of Chancellor Kent, delivered therein fifty years ago, could not have been more of a surprise to you than it was to myself. The increased leisure it gives, the nature of the duties it requires, the compensation it affords, and the great opportunities, direct and collateral, it presents, combined to convince me that I ought to go. I do not seek it for a life of inglorious ease, but that I may the better be enabled to discharge that debt which Lord Bacon says every lawyer owes to the profession.

Our official relations are practically dissolved. This is my last regular term. In this parting hour I love to contemplate you not simply or chiefly as the trusted counsellors of the court, but as an assemblage of my friends. The bar has always been my constituency. I claim no merit but a strenuous and well-meant endeavor to discharge all my public duties. The regard and respect of the bar is the only reward I have coveted, or now prize. I bear with me nothing but the most pleasant memories. I carry away nothing so priceless as the public and impressive expression of the esteem in which I am held.

I part from my faithful and generous associate, part from you all with tender regret. The reflection saddens me that as a judge I shall never again visit your beautiful city, and prosperous State. But I shall never cease to think of you with affectionate kindness, and shall always regard my relations with you as among the most fortunate circumstances of life. I hesitate to speak the sad word which makes me linger, but which must needs be broken. Farewell! and may the good father of us all have you in his holy keeping.

JUDGE NELSON ADDS HIS COMMENDATION. ¹²

I cannot permit the occasion to pass without expressing my hearty concurrence in the sentiments of the bar, uttered in such fit and appropriate language. This judicial circuit sustains a great loss by the retirement of Judge Dillon from the bench of which he has been so bright and conspicuous an ornament.

It is a great lost to all. A friend and associate for the past ten years engaged in the common pursuit of administering justice in this district, I shall mourn his absence from the stated sessions of the court, and lament the loss of his counsels. His open, frank and genial manners, his judgment, so well ripened, his learning, so varied, so extensive, and above all his love of truth and justice, so keen and instinctive, secured my respect at the outset and I soon found I could rely upon his opinion with a confidence in its correctness which is rarely experienced.

I will not speak of our social relations, which have been so pleasant and agreeable, but cannot forbear thus publicly acknowledging my esteem for him as a man, and my high appreciation of his services as a pure, just and impartial judge.

I have known him better than you have; my opportunities have been greater, my associations more intimate. Where you have seen the mature and well

¹² Rensselaer R. Nelson was an associate justice of the Territorial Supreme Court from 1857 to 1858, when he was appointed to the U. S. District Court by President Buchanan. He served in this post until 1896, when he retired. He died in 1904, aged seventy-eight.. For the background of his appointment to the Supreme Court, see Douglas A. Hedin, "'Rotation in Office' and the Territorial Supreme Court" 56-64 (MLHP, 2010-2011).

considered judgment, I have witnessed the extensive research, the untiring labor, and the zeal for truth brought to the investigation of difficult questions of law and fact. I entertain towards him the warm affection of a brother, and part with him as we all must, with deep sorrow.

It is very gratifying, however, to know that he enters a new field of usefulness, which he is well adapted to adorn, and where he will have my best wishes go with him. May he be spared to continue his useful life, and may the bond of friendship cemented during his official connection with court in this district, remain unbroken in the future.

The request of the bar is eminently proper, and these proceedings will spread upon the minutes of the court. It is so ordered.

So soon as Judge Nelson finished he, with evidence of great feeling, turned to the crier and abruptly said:

"Adjourn court until to-morrow at 10 o'clock, Mr. Crier."

After this Judge Dillon held an informal levee, when the members of the bar personally expressed those feelings of regret at his departure which had been so eloquently conveyed in all the addresses. ■

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