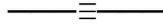


# Memorials to Judges of the Sixth Judicial District

(1907)



## Foreword

By

**Douglas A. Hedin**  
Editor, MLHP

On the afternoon of Wednesday, November 13, 1907, a special session of the District Court of Blue Earth County was held in Mankato to honor seven judges who had served since statehood: Lewis Branson, who served 1858 to 1864, Horace Austin, 1865 to 1869, M. G. Hanscome, in 1869, Franklin W. Waite, 1870 to 1874, Austin C. Woolfolk, in 1874, Daniel A. Dickinson, 1875 to 1881, and Martin J. Severance, 1881 to 1900. Each had served in the Sixth Judicial District. The counties assigned to the Sixth changed over the years; in 1907, it was composed of Blue Earth and Watonwan Counties.

Judge Lorin Cray presided. He was elected in 1898, succeeding Judge Severance. He had arrived with his family in Mankato in 1859, at age fifteen. Though not admitted to the bar until 1875, he had personal recollections of his predecessors.

The courtroom was packed with lawyers from around the district, grand jurors and the public. Memorials were read and a few members of the bar reminisced. A portrait of each jurist, except Judge Woolfolk, was unveiled and hung on a wall in the courtroom.

The longest memorial was delivered by Jean Flittie, a federal bankruptcy referee and lawyer, to Martin J. Severance, who died on July 11th at age eighty.<sup>1</sup> Severance was serious, well read, inquisitive, physically large and an impressive and memorable speaker:

He thought great thoughts and knew how to clothe them in such beautiful language as to make us marvel at the

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<sup>1</sup> For biographical sketch, see “Jean Anton Flittie (1866-1927)” (MLHP, 2014).

workmanship and admire the genius of the man. Lastly, he was a stylist who knew how to make words do his bidding. When we add to this his imposing presence, his rich sonorous voice, his expressive face, his varied learning and vivid fancy, his deep interest in all public questions, his freedom from cant, his independence and thorough honesty – we have all the qualities that go to make a great orator. And that he was. In this regard he never failed to satisfy and arouse enthusiasm. He had the power of a massive, robust man to move others.<sup>2</sup>

While it is exceedingly difficult to appraise the work of a state trial judge in the nineteenth century, it is hard not to conclude that Martin J. Severance was an exceptional jurist, possessing rare juristic skills.

Accounts of the memorial proceeding were published in the *Mankato Daily Free Press* on Thursday, November 14, 1907, and the *Mankato Weekly Free Press* on Friday, November 15, 1907. Photographs of Judges Waite, Branson, Dickinson and Cray illustrated the newspaper articles; because they were dark and grainy, they have been replaced by a page of photographs from Thomas Hughes' *History of Blue Earth County*.<sup>3</sup> The two newspaper accounts have been combined, edited, reformatted and a few misspellings corrected. The title of the article is by the MLHP.

The *Weekly Free Press* also published a memorial to Judge Severance that General James H. Baker gave a month earlier.<sup>4</sup> Though not part of the district court proceedings, it is posted below. ◇

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<sup>2</sup> He epitomized a strain in nineteenth century oratory that featured complex sentences, ornate imagery and classical allusions. An example is his memorial to his former law partner, Justice Daniel A. Dickinson, in the Minnesota Supreme Court in 1902. He began:

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 lights.

“Daniel A. Dickinson” in *Testimony: Remembering Minnesota’s Supreme Court Justices* 96 (Minn. Sup. Ct. Hist. Soc., 2008). His eulogy may be contrasted with forty-one year old Jean Flittie’s, delivered only five years later.

<sup>3</sup> The page of photographs on page 9, below, is from Thomas Hughes, *History of Blue Earth County and Biographies of Leading Citizens* 96-97 (1909).

<sup>4</sup> *Mankato Weekly Free Press*, November 15, 1907, at 4. It is posted below at 19-23 .

## Memorials to Judges of the Sixth Judicial District

Memorial exercises at the district court [on the] afternoon of [Wednesday, November 13, 1907] were not completed until nearly dark. They were in honor of former judges, and were of an impressive character. The judges who have presided in this district, previous to Judge Cray, have been: Lewis C. Branson; Horace Austin, 1865-69; M. G. Hanscome, 1869; Franklin H. Waite, 1870-74; Austin C. Woolfolk, 1874; Daniel A. Dickinson, 1875-81; Martin J. Severance, 1881-1900.

Handsome life size portraits of the above judges, except Judge Woolfolk, were hung yesterday upon the wall at the front of the court room, filling in the six blank wall spaces. The hanging of these pictures is a highly appropriate thing.

The members of the bar turned out in force, and numerous spectators occupied seats outside of the railing. Several attorneys from other points in the district were present. The grand jury filed in and took seats in the audience, just as the exercise began.

A. R. Pfau was recognized and stated that the committee of the bar association had prepared memorial exercises in connection with the hanging of the portraits of the former judges, nearly all of whom were dead.

### Portraits Were Secured.

Judge Cray said that the bar association at considerable trouble and expense has procured portraits of six of the seven judges, and it was hoped to get the other later. It was very fitting that the memorial services be held, particularly over Judge Severance. The memorial services would begin with the first judge, Lewis C. Branson.

A. C. Dunn of Winnebago read a short biographical sketch of Judge Branson, who was still living somewhere in the distant west. Judge Branson was of Quaker ancestry and self educated. He was an early arrival in Mankato, where two of his children died. The death of one was the first death of a white person in Mankato. While he was judge, most of the settlers obtained their judge's deeds. He moved to San Francisco in 1866, and when his health failed he went to Virginia City, Nev., and when the boom there collapsed went to Seattle Wash, near which place he still resides. He had accumulated considerable property, but nearly all of it was swept away in the financial panic of 1893.

Mr. Dunn said that he had begun the practice of law in this state in 1854, most of the time in this district. The sixth judicial was organized in 1857, including all of southwestern Minnesota. Branson was elected judge although a young lawyer. The salary was meager, \$2,500 a year. He magnified and dignified the office. He assumed his duties in 1858, after the state had been admitted to the union. The admission of the state was delayed nearly a year because of the slavery oligarchy in the United States Senate, because the people would not bow down to slavery. Most of those who took part in the first term of court held in Faribault county are dead. The term was held in a barn fitted up for the occasion. He addressed the grand jury for nearly two hours, and one or two indictments were returned. Judge Branson was judge during the period of the civil war and the Indian uprising, when the country was unsettled.

He wore the judicial urmine (sic) unsullied, and no breath of scandal was ever whispered about him. Nothing could sway him from what was just and right. He always invited the bar to a grand feast at his home at every term of court, and his wife was very hospitable. Modes of travel were primitive. He traveled the district on a mule. The mule was a crackerjack, and the judge's feet just missed the ground when he rode. Mr. Dunn was quite reminiscent in his remarks.

Judge Cray said he had seen Judge Branson once, in 1860, at Winnebago City, as he rode his donkey from Blue Earth City to Mankato. He had ridden into Winnebago for breakfast, and said he would take dinner in Mankato. He had a hardy little animal. He was an upright man, and had his ups and downs. No other member of the bar now in the district knew him.

#### A. R. Pfau Speaks of Judge Austin.

A. R. Pfau spoke of Judge Horace Austin. His acquaintance with him as a judge was not extensive, but later he knew him better as governor. Mr. Pfau presented a short memorial sketch of Judge Austin. He served as judge until elected governor. His death occurred two years ago in Minneapolis. He was one of the most respected public officials in the state. One of his public acts was the veto of the so-called public land grab bill, which saved many thousands of dollars to the state.

Mr. Pfau spoke highly of Judge Austin as an upright, impartial judge. He was a kind man really, although somewhat austere in his appearance.

#### Others Add Good Words.

Mr. Dunn also spoke of Judge Austin. He was in the convention that nominated Judge Branson, and was there as a democrat; and was in the

convention that nominated Judge Austin, as a republican, the war having changed his party views. St. Peter had another candidate. The people southwest of Mankato always stood by Mankato as against St. Peter. Judge Austin was elected over Judge Buck by a seventy [vote] majority. He brought to the bench all the qualities that go to make a sternly upright judge. Mr. Dunn wrote the first editorial that started Judge Austin on his political career, that made him governor. Judge Austin was brim full of fun and humor. He always did what was right and his example was one to be followed by all.

Judge M. G. Hanscome, who is now living at St. Peter, was on the bench for three months to fill out Judge Austin's unexpired term. Judge Cray said that it was hoped until today that he would be present.

Mr. Dunn was the only one who knew Judge Hanscome, and spoke. He had made a good judge, and at the request of his friends in the ninth judicial district was created by the legislature expressly for him. He had lost track of Judge Hanscome after he was succeeded by Judge E. Julian Cox, who had broken into the judicial arena.

#### Judge Franklyn Waite.

Thomas Hughes presented a memorial to the late Judge Franklyn H. Waite, who he said was his father in the law. He said that three things of Judge Waite were prominent. He was learned in the law, none on the bench surpassing him in this. On the bench he was strictly impartial, although as a lawyer he was prejudiced and made enemies. He was absolutely honest. Once the government sent him a \$1,000 too much through an error, and he returned it although the error would probably not have been discovered. He always refused to accept railroad passes. The title to streets and public grounds in Mankato were appropriated by private parties, and it was through Judge Waite largely that these were recovered. The court house square was one. He fought private greed that sought to take all it could, and the encroachments of railroads. He was democratic in character and belief.

Mr. Pfau endorsed what Mr. Hughes has said. He had known Judge Waite intimately. Judge Waite was a diamond in the rough. He was a lawyer and a hard worker. He was not approachable by any bribe or influence. If he ever did wrong it was an error of mind and not intentional. He was a man of strong impulses and strong prejudices. He did not like some of the lawyers and they did not like him, but he never showed any animosity toward them while on the bench. If there was any leaning it was toward them. He loved a little humor. Mr. Pfau said that he never knew a man for whom he had a more sincere regard than for Judge Waite.

### Judge A. C. Woolfolk.

Judge A. C. Woolfolk was the subject of a memorial presented by J. E. Haycraft of Madelia. Mr. Haycraft spoke kindly of his subject.

Mr. Pfau spoke of Judge Woolfolk's good qualities. He was a gentleman, a little retiring and suffered from asthma. He gave entire satisfaction during the three or four months that he served, and the lawyers were well pleased with him. He was always polite, dignified and had a friendly disposition.

Mr. Dunn spoke of his acquaintance with Judge Woolfolk, whom he first knew as a major in the United States army, when he was a quartermaster. He next met him in Mankato and a lawyer, and it was an honor to hold his acquaintance, and no bitterness ever accompanied meeting him in battle array. He was well liked by all, and it was felt as a great loss when he was transported to the realm of the departed.

Judge Cray referred to the chivalry of Judge Woolfolk, citing an instance. He was looked upon as being ripe, scholarly and one of the best lawyers here. His health was no good at any time.

### Judge Dickinson.

W. E. Young spoke upon Judge Daniel Ashley Dickinson, and read a brief memorial.

He said that he was a student in the normal school when he knew Judge Dickinson in Mankato and later practiced before him in the supreme court. He was an able judge, conscientious and fair.

B. G. Reynolds of Winnebago spoke eulogistically of Judge Dickinson. The latter liked equal justice. He shrunk from being severe on the bench and hated to pronounce sentence on prisoners. Mr. Reynolds cited an instance of this. When he died a great judge passed away, one of the great judges of the state passed over. It is meet that in this occasion we should crown his memory with the olive leaves of kind remembrances and keep his memory as bright and fresh as his character was beautiful.

Judge Cray said that through the kindness of Judge Dickinson he was enabled to read law in his office. He was always able to hold his dignity and his deportment in the presence of all classes was always the same. His feelings were always repressed [and] an amusing instance of this was given. He had an analytical mind, who went to the bottom of things and when he made up his mind, he did so after fully consider[ing] all the side issues, and was loved by all, and it would be hard to find a man whom it would be preferable to be associated with.

J. A. Flittie read the memorial to the late Judge Severance which was published in full [on November 15th].

Congressman W. S. Hammond of St. James spoke highly of Judge Severance. No one had expressed a greater influence upon his fellow men. He was large hearted and noble minded. He was a most approachable man, and is doubly endeared to the younger men of the profession; when hesitating whether to go on with the law or to return to school work, the speaker had consulted Judge severance and the latter had advised him to go on with his law studies. He advised that the geography of the law be mustered (sic). He had that broad radiation of human sympathy that led people to say, “there stand a man— every inch a man — one of God’s noblemen.”

Mr. Dunn spoke on Judge Severance — he was as nearly a perfect man as he had ever met in his life. His death was a personal loss, a loss to the bar, and one that it will be at least very difficult to fill. He was a man of such strong instincts to do right that it is a pleasure to mention it. He was one of the kindest men to the bar that the world ever knew.

Mr. Haycraft said that an infallible test of greatness is to do or say something that will be remembered after it is done or said. This is true of Caesar, Washington and Lincoln and other great men, and Judge Severance passes the test. He did and said things that are remembered. The acts of a noble life like his are the heritage of history. He was one of the great men of Minnesota, and should be held up as an example to youth. In a local sense, he is immortal the same as Washington and Lincoln in a national sense.

W. A. Funk added his tribute to the memory of Judge Severance. Justice could scarcely be done to his memory, even with the assembled ability present.

Judge Cray said that he read law in Judge Severance’s office, but it took a long time to get acquainted with him. He was impressed with his learning. While apparently a stoic, he was not at all that way. If anything he was a little timid, even after satisfying himself as to the law. He seemed to always want to do exact justice. He deplored any criticism of what he did, which may have accounted for his timidity. He was almost always right in the law because of his great learning and quick perception and comprehension. Personally he was courageous as a lion and would face bullets and shells without fear or trembling. He was helpful in the study of the law. None will forget him as his example as a jurist.

Judge Cray ordered that the memorials be spread upon the records.

## ***THE MEMORIALS***

**LEWIS C. BRANSON** – The first district judge of the sixth judicial district, was born March 16, 1825, near Flushing, Belmont county, Ohio. He was of Quaker ancestry. At the age of eleven, the family removed to Henry county, Indiana, where he was self-educated, and studying law, was admitted to the bar. He opened his first law office in Wabash, Ind. But weary of the swamps and miasmatic conditions there, he took his wife and two children, April, 1855, and came direct to Mankato, arriving here with but two dollars and fifty cents in his pocket. Here he buried two children; the first dying soon after the judge's arrival was the first death among the white people at Mankato.

Oct. 13, 1857, he was elected judge of the sixth judicial district and served until December 31st, 1864, the term of seven years, being the first judge of this district under the state constitution. It was during his incumbency that nearly all of the judge's deeds were obtained by the settlers, of the lots in the original town site of this city, at the conclusion of the long litigation touching titles between the settlers and the town site proprietors.

In October, 1866, he gathered up his belongings and taking his family, removed to the far west, settling in San Francisco, early in 1867, where he remained until 1875, practicing his profession. Health failing, he removed to Virginia city, Nevada, but the "boom" ceasing, in 1880, he again removed, finding home and practice in Leadville, Colorado. In 1885 he made a final removal to Seattle, in Washington, near where he yet lives. He had accumulated quite an independence, but the crash of 1893, swept it nearly away.

This district in the days of Judge Branson, included all of southwestern Minnesota, and with no railroads, and with stage coaches few and far between, the discharge of the duties of his office required nerve and muscle, and such endurance; but Judge Branson discharged the duties of the office in those early and restless pioneer days with diligence and earnestness, fidelity and integrity, and retired from his office with the esteem and respect of all who knew him.



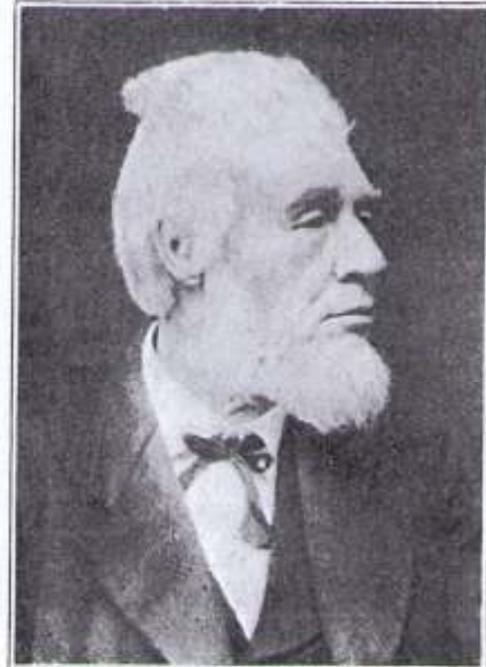
DANIEL A. DICKINSON.



LEWIS C. BRANSON.



MARTIN J. SEVERANCE.



FRANKLIN H. WAITE.

**HORACE AUSTIN** – Was born in Connecticut in 1831, he learned the blacksmith trade from his father who was a blacksmith.

He studied law in the state of Maine, and in the year 1856 removed to Minnesota, coming to St. Peter in Nicollet county in 1857.

He was captain of a cavalry company in the Sioux Indian war, and was present at the hanging of the thirty-eight Sioux Indians at Mankato in December, 1862.

Mr. Austin served as judge of this district from January 1st, 1865, to September 30th, 1869, when he became a candidate for governor on the republican ticket, to which office he was that fall elected, being re-elected in the fall of 1871, serving as governor with marked distinction and ability for four years.

After the expiration of his second term Judge Austin retired to private life, living in the city of Minneapolis and vicinity.

He died November 7th, 1905, at the city of Minneapolis, as a result of a critical surgical operation.

Judge Austin was one of the most respected public officers of this state. Judge Austin was an able lawyer and a conscientious and just judge.

While to those but little acquainted with him he at times seemed somewhat cold and austere, yet in fact he was warm hearted, congenial and affectionate, very socially inclined, but being educated, evidently, to think that a judge, so frequently called upon to pass upon contentions between man and man, should not court nor encourage too intimate familiarity by anyone, at times he seemed to repel friendly advances.

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Judge Austin showed the material of which he was made, and his broad sense of common honesty, when during his term as governor, and in spite of the entreaties, threats and animadversions of a crowd of hungry politicians, he vetoed the so-called land grab bill, and saved to the state many thousands of dollars worth of land about to be stolen.

The memory of Judge Austin will always be with us.

**FRANKLYN H. WAITE** — Was born February 28th, 1813, in Windham county, Vermont, and when he was three years of age his parents moved to Jamestown, New York, where his father, Joseph Waite, was a prominent attorney for many years. At the age of twenty years, Franklin H. began the study of law in his father's office, and three years later was admitted to practice in the supreme court of the state. Subsequently he held the office of postmaster at Jamestown. He was democratic candidate for congress in a district hopelessly against him and was only beaten by a few votes. In June, 1844, he married Adeline Holman. In 1846, he was appointed judge of the common pleas and held the position until abolished by the legislature. In 1852 he moved to Fon du Lac, Wisconsin, and thence in the spring of 1860, to Mankato, where he first formed a co-partnership with Creamer Burt and was afterwards associated at different times with General Tourtellotte, Morton S. Wilkinson, E. P. Freeman and J. E. Porter. After the Sioux war he was attorney for a large number of claimants for damages from Indian depredations. In 1864 he was village attorney under the first corporate organization of Mankato, and exercised an important influence in shaping and directing our local government. He rendered an invaluable service to our city in the able and fearless manner in which he prosecuted a number of suits to recover parks, streets, levees and other public grounds from private greed.

In 1867 and again in 1877, he was elected state senator and served with distinction. In 1869 at the solicitation of hundreds of voters irrespective of party, he became a candidate for judge of the sixth judicial district, and was elected by a big majority. He served as judge of this district with distinction and ability from January 1st, 1870 to October 1st, 1874.

Resigning his positioning 1874, he ran against Mark H. Dunnell, the republican nominee, and was only beaten by a small majority though the district was overwhelmingly republican. He died March 4th, 1884, leaving his surviving his wife and two children, Mrs. Josephine Frisbie and Augustus F. Waite, all of whom have since died.

**A. C. WOOLFOLK** — The fifth judge of the sixth judicial district, was born in Missouri, and removed to the city of Mankato in 1867, where he practiced law until October 1st, 1874, when he was appointed judge of this district to fill the vacancy caused by the resignation of Judge Franklin H. Waite to become a candidate for congress.

Judge Woolfolk served as judge of this district only until January 1st, 1875, holding but one term of court during his term of office.

Judge Woolfolk was a gentleman of the old school, highly educated, an able and efficient lawyer, and advocate, having a high sense of legal etiquette and decorum, and being a just and impartial judge.

After his retirement from the bench he removed to Denver, Colorado, hoping to improve his health which had long been poor; gaining no permanent relief he died in Colorado, the exact date of his death not being obtainable at this time.<sup>5</sup>

**DANIEL ASHLEY DICKINSON** – Was judge of the sixth judicial district from January 1st, 1875 to June 27th, 1881, when he was appointed associate justice of the supreme court to fill the vacancy caused by the death of Associate Justice F. R. E. Cornell.

Judge Dickinson was born at Hartford, Vermont, October 28th, 1839. Having early lost his parents he was reared and educated by his grandfather.

He graduated at Dartmouth College in 1860 and afterward studied law in the office of Smith M. Weed at Plattsburg, N. Y. He served in the naval services of the United States as assistant paymaster in the year 1863, resigning he returned to Plattsburg, where he practiced law with Mr. Weed until 1868, when he removed to Mankato.

Here he practiced law in partnership first with Judge Davies, and later with the late Judge Severance, until January, 1875, when he entered upon his duties as judge of this district, to which position he had been elected the previous fall.

He served as associate justice of the supreme court from the time of his appointment until October, 1893, then retiring he resumed the practice of law at Duluth in the firm of Congdon, Billson and Dickinson, continuing until his death on the 12th day of February, 1902.

He was married to Mary E. Weed on May 11, 1867, four children being born to them.

A true gentleman of high attainments, and pure thoughts, Judge Dickinson was honored and loved by all who knew him. Always courteous and considerate, never losing temper at trying moments, always attentive to the most prosaic arguments, it was a pleasure, especially to the younger members of the bar, to practice before him.

In the death of Judge Dickinson, Minnesota lost one of its purest citizens, and most learned and able jurist. We can ill afford to spare such as he. ◇



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<sup>5</sup> He died October 15, 1880, in Colorado, age forty-four.

*In the November 15th issue of the Weekly Free Press, the following memorials to Judge Martin J. Severance were published. The first was delivered by Jean Flittie on behalf the county bar association on November 13th, the second by General James H. Baker a month earlier.*

## **Memorial to Late Judge Martin J. Severance**

**Ceremonies Were Held in the District Court this  
Afternoon; Members of the Bar participated;  
Homage to Dead Jurist.**

The following is the memorial presented to the Blue Earth County Bar Association by Attorney Jean A. Flittie, representing the committee appointed to draft it.

May it Please the Court: The committee of members of this bar, beg leave to present the following memorial upon the life and services of the late Hon. Martin J. Severance, a pioneer lawyer of this state, a soldier and officer of the union army during the war of Rebellion, and for nineteen years [a] learned and just Judge of the Sixth Judicial district of the state, and we ask that the same be accepted by the court and incorporated into its minutes.

**Carrier of New England Stock.**

Martin Juan Severance was born at Shelburne Falls, Franklin county, Massachusetts, on Christmas eve, 1826, and died in this city on July 10, 1907, having rounded out his full four score of years. He came of good New England stock and was the son of Asa and Calista (Boyden) Severance. His first paternal ancestor came from England to the colony of Massachusetts in 1636. His great grandfather, Martin Severance, served through the French and Indian Wars — 1756 to 1763 — and was also a soldier of the revolutionary war, receiving his discharge from the Patriot army at the age of seventy-three years.

Judge Severance was one of a family of ten children, five sons and five daughters. Three of his brothers served with him in the union army during the Civil War. One was killed in battle at Fair Oaks, Virginia, in 1862, and another, at Port Hudson, Louisiana, in 1863. A third brother was severely wounded at the battle of Arkansas Post, but recovered and is still living.

His education was acquired in the Franklin Academy at Shelburne Falls and in the Williston Seminary — at East Hampton, Mass. He was admitted to the

bar in 1854, having previously studied law in the office of Hon. John Wells, later a justice of the supreme court of his state; and in the offices of Bench & Bond of Springfield, Mass. He practiced at Chicopee for two years before coming west.

#### His Coming to Minnesota.

He came to St. Paul on May 21, 1856, and soon thereafter located at the little frontier town of Henderson in Sibley county. He was elected county attorney there and served as such for two years. In 1858 he was elected to serve in the legislature which, however, for certain reasons did not convene. He was again elected in 1861 and served one term. On August



14, 1862, he enlisted in Company I, Tenth Minnesota Infantry. Four days later came the great Sioux outbreak and, together with General Sibley, Mr. Severance went to the relief of Fort Ridgley. While still serving as a private soldier, he attended an extra session of the legislature. In 1863 he was sent south with his regiment and was for a time stationed at St. Louis. He rose to the rank of captain and was mustered out of military service at Fort Snelling on August 19, 1865, having made an excellent record for hard and faithful service and good conduct as a soldier generally. During his long and active military career, he spent only twenty days in the hospital. He took part in the battles of Tupelo in 1864 and was a

participant in the Oxfords raid from Memphis south. He was with General A. J. Smith in the long chase after General Price through the south and west. At the battle of Nashville he was slightly wounded, but not so as to unfit him for duty. Here he took part in the grand and victorious assault on the Confederate line and the subsequent pursuit of Hood's shattered army. He helped capture Mobile — the last important battle of the war — which was fought on the same day that Lee surrendered his entire command to Grant at Appomattox Court House.

#### His Fame as a Lawyer.

After the close of the war, Judge Severance located at Le Sueur and resumed the practice of the law. He associated himself here with Francis Cadwall, late judge of the Eighth judicial district. He soon gained state-wide fame as an able and skillful trial lawyer and forensic orator, and the

state was then especially rich in great and brilliant men. In 1870 he came to Mankato and was for one year associated with the late O. O. Pitcher, esq., and later with D. A. Dickinson, esq. He moved to St. Paul in 1881 and there entered into a law partnership with W. P. Warner, esq. This partnership did not continue for long, for a vacancy having occurred in the district judgeship of the Sixth Judicial district, caused by the elevation of Judge Dickinson to the supreme bench of the state, on June 23, 1881, Mr. Severance, a democrat, was appointed by Governor Pillsbury, a republican, to fill out the unexpired term of Judge Dickinson. So well did the bar and people of the district like him that, although the district was overwhelmingly republican, he was elected to the same office three successive terms. After his retirement from the bench he formed a brief co-partnership with C. N. Andrews, esq., then of this city; but about six years ago he retired from active practice.

Mr. Severance was married on June 16, 1858, to Elizabeth P. Van Horn of Chicopee, Mass. They have had three children, namely: Winthrop G., who died at the age of thirty-nine; Frank Q. at present engaged in railroad business in the state of Nebraska; and Nettie J. now the wife of Wm. C. Henline, cashier of the German American State Bank of this city, and who reside at the old family home.

#### Gentleman of the Old School.

Judge Severance was a cultured gentleman of the old school. Physically he was a large and handsome man. Intellectually he was a great man. His fine presence and natural dignity would attract attention in any assemblage of men. He was a careful and laborious student of the law, possessed a keen reasoning mind and had a deep sense of justice. In the discharge of his judicial duties, he was courteous, but firm and impartial and exceedingly considerate toward the younger members of the bar who appeared before him. In giving instructions to juries he was a master. No one who ever heard him will forget him in this respect. His impressive manner and lucid way of stating the law in a full voice, well-modulated and under perfect control, was the very perfection of this kind of judicial utterances both in form and substance.

Some one remarked on the occasion of his funeral that if the random sayings of Judge Severance had thrown out to the world could be collected together they would make a volume of delightful reading. That remark is true. For he was a mature scholar and deep thinker and gifted with a piquant and original fancy. He thought great thoughts and knew how to clothe them in such beautiful language as to make us marvel at the workmanship and admire the genius of the man. Lastly, he was a stylist who knew how to make words do his bidding. When we add to this his imposing presence, his rich sonorous, voice, his expressive face, his varied

learning and vivid fancy, his deep interest in all public questions, his freedom from cant, his independence and thorough honesty — we have all the qualities that go to make a great orator. And that he was. In this regard he never failed to satisfy and arouse enthusiasm. He had the power of a massive, robust man to move others. At times his eloquence rose to a very high pitch. He was the occasional orator par excellence.

#### Public Addresses Carefully Prepared.

It was generally thought that as a speaker he largely spoke offhand; but that was seldom so. As a rule his public addresses were carefully prepared in advance of their delivery. His method of doing so was peculiar. Paragraph by paragraph they were thought out and put together and that, chiefly, after he had retired for the night. In the morning or next day would be written down what had been composed during the preceding night. Hence, when the work was done, the speech was also committed to memory. This accounts for the ornate and finished workmanship of his public addresses and for the ease, confidence and persuasiveness with which they were delivered.

Though he traveled but little, few men had as extensive an acquaintance throughout the state as he. The name of Severance sounded big wherever heard. Its very ring was genuinely sterling and bespoke a human worth of the finest quality.

Notwithstanding that he had a fine record as a soldier and a legislature, he hated war and despised the narrowness of partisan politics. So it was but natural that he should be an ardent advocate of peace among nations and of individual independence among men. Being kindly disposed toward all, his genial personality radiated an influence akin to love. He was a guileless man of undeviating ways.

#### Believed In Country.

No church-goer was this man; and with creed-made dogmas he had no patience. But he believed in country and defence of country, in home and the fireside virtues and in living a pure and upright life, and in doing right by his fellow men. And these were no mere professions with him; he translated them into deeds. At him of whom this can be said no creed need sneer, no church criticize. Acts, after all, are what count in human life. The substance of the tree is known by the quality of its fruit, and not by the appearance of its foliage. This man's heart was right and his intentions always good.

As a conversationalist Judge Severance was especially charming. None who knew [him] at all intimate will ever forget what a delightful talker he was. His accurate knowledge of many things would appear to view at once. How by some apt illustration or grotesque sally of wit he would illumine the

subject in hand to the keenest enjoyment of his hearers. Then his eyes would laugh and his winning smile, which neither age could wither nor custom stale, would spread over his whole countenance. His look, his lucidity of expression of pointed phrase, could incite the mind, could provoke laughter or draw the tear, at will.

Judge Severance was an omnivorous reader and was endowed with a retentive, yea, a marvelous, memory. His tastes were for the classics and



for the best in literature and art. Froude, Gibbon and Plutarch were his favorites. Being a shrewd observer of men and events, his fund of information and anecdote seemed inexhaustible. In his hunting stories there was a tang of Per Gynt, for they were the extravagant creations of a lively fancy and a broad but kindly humor. Such a man as this man was is rare and stories of him will linger long in the public mind.

Hated All Sham.

Hating shams and despising flattery he never indulged in either himself. His advice and counsel were feely sought, and as cheerfully given, and valuable, first, because he was a man of sound judgment; and second, because he was

absolutely honest in giving expression to his opinions. His outlook on life was broad and kindly. He was indeed the friend of man. He would wrong no one and freely gave of his mind and substance. He thought more of dowering his mind with the riches of philosophy and knowledge than to amass material means. There was no more helpful and better neighbor and friend. Such he tried to be, and in the spirit of him whom we mourn and honor to-day we would fain conceive this brief appreciation.

In moving the adoption of the memorial Mr. Flittie said he desired to say a few words about his last recollections of him who is the subject of it.

The last thing of a public nature that Judge Severance wrote was based upon an incident that took place at the battle of Nashville, and is in the form [of] a tribute to American womanhood. It was written for and incorporated (with acknowledgement to the author) into a memorial day address given by myself in this city on May 30 last. And this is what he wrote:

“During the Civil war, the women of the north with true motherly instinct organized Relief societies in every hamlet and did what humanity and patriotism could suggest for the soldiers of the Union army,— but there was another class of women, one of the finest products of Christianity, no respecter of person, who went far into the battlefield to assuage the pain and lighten the miseries of the wounded and the dying — I mean the Sisters of Charity and Mercy Whoever fought in the battle of Nashville will always remember how these devoted women, heedless of the thunder and smoke of battle, flitted along the winnows of the wounded and dying, quenching their agony of thirst with water and wine and breathing on them the consolation of infinite love. It mattered not to them whether the prostrate form wore the blue or the gray; wherever they heard a moan, there they went, and the last fading glance of the dying rested on the these angels of the battlefield.”

Upon its reading the passage brought forth a round of applause. Its finely expressed sentiments, in themselves fine, struck home to the heart of the audience. The supreme test of effective speaking is the ability on the part of the speaker to give expression to the ideas and feelings that lie smoldering in the minds and hearts of the hearers. And in this respect Judge Severance never failed, for he understood human nature well. When he had done writing and tried to read aloud to me the brief paragraph in question, his voice failed him. He trembled with emotion, for he well knew what his weakness and infirmity meant. He was already mortally ill.

#### Last Days of His Life.

I knew Judge Severance well, especially so during the late years of his life. He was a good neighbor and a true friend. Our last meeting was particularly touching. He called one afternoon only a few days before his death. His eyes were sunken and lacking their usual luster, his splendid voice almost gone, and his body was but a wreck of his former self. He remarked as he came that he was making me his last visit. His stay was brief, he spoke but little, for physical exhaustion forbade the exertion. As he was about to go, a bouquet of pansy blossoms was picked and handed to him. He looked at the flowers and then said: “Those are the smiles of Mother Earth sent to greet and delight the eyes of man; but they are not for my enjoyment much longer. I have not long to live.”

A few days more and this remarkable man was no more. The news of his death wrung many a heart with genuine grief who had known the judge in his life-time. His mortal malady was of long standing and, toward the last, he suffered greatly. Through it all, however, his mental powers remained unimpaired. He realized his condition fully and made every preparation for

the tragedy of death. He was buried as he had lived, without ostentation, according to simple ceremonies prescribed by himself. And his body was borne to its final resting place by the hands of neighbors and friends who had long been near and dear to him. So he would have it, and so it was done.

### Did Not Crown Human Infirmity.

If I should say that Judge Severance had no faults it would simply mean, to use his own words, to “exalt and crown human infirmity.” But what faults he had were obscured by his many virtues and manly worth. Because he erred on the side of mercy, if err he did, he was loved and respected by his fellow men.

He gave the full measure of his devotion to his country’s flag; he left his impress upon our laws and interpretative jurisprudence, and ever wrought mightily with tongue and pen for the common uplift and the common weal. He is therefore deserving of the ample eulogy and grateful thanks of all the people of this state and nation. ♦



## In Memoriam of Judge M. J. Severance of this City <sup>6</sup>

General Baker  
Delivered Before the Loyal Legion  
October 8th, 1907.

Captain Martin Juan Severance of Company I, tenth Minnesota Infantry, died at Mankato July 10, 1907. Insignia 5929.

Hon Martin Juan Severance, a pioneer lawyer of the Territory of Minnesota, a gallant officer in the Union Army during the war of the rebellion, and for nineteen years the learned and just judge of the district court of the sixth judicial district of Minnesota was born in Shelburne Falls, Franklin county, Massachusetts, on Christmas eve, 1826.

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<sup>6</sup> *Mankato (Weekly) Free Press*, November 15, 1907, at 4.  
Two misspellings have been corrected: Chicopee (not Chickopee) and Shelburne Falls (not Sherburn Falls).

He was of English stock, but the family had been long in New England. His great-grandfather served through the French and Indian war, and also through the war of the Revolution. He was the son of Asa and Caltista (Boyden) Severance, both of whom were born in the "Old Bay State." To these parents there came five sons and five daughters, all of whom lived to maturity.

He had two brothers who were killed in battle, one at Fair Oaks, Virginia, in 1862, and the other at Port Hudson, Louisiana, in 1863. Still another son was wounded at Arkansas, Port, but recovered.

The Severance family were distinguished for courage and patriotism. Asa Severance was thrifty and looked well after the education of his children. Martin's early life was passed like that of other New England farmer's sons, helping on the farm during the summer, and attending the common schools in winter, until he was eighteen years of age. He was then sent to the Franklin academy, and subsequently to Williston college, at East Hampton, Mass., where he completed his course as a student.

In 1849 he went to Chicopee, Mass., and for two years was a diligent law student in the office of Hon. John Wells, who was subsequently a Supreme Judge of the state. In 1854, he was admitted to the bar and for two years practiced his profession at Chicopee.

Having decided to come west, he came to St. Paul, May 21, 1856. His final choice of location was Henderson, Sibley county. There he opened a law office, and soon became prominent in that frontier village. Twice he was elected county attorney of the county. He was elected to the legislature in 1858, but owing to legal difficulties that body never convened. In 1861, he was again elected and served one term. He was nominated for the state senate by the republican party, but declined the nomination, and the Hon. Henry A. Swift was substituted in his place, and the latter, having been elected president of the senate, became governor by reason of Ignatius Donnelly's election to congress and Alexander Ramsey's election to the senate of the United States.

After the southern rebellion broke out, he enlisted, August 14, 1862, as a private in Company I, tenth Minnesota Infantry. It had been agreed that he was to be captain of the company, when it was filled to the maximum. But in four days after his enlistment, the Sioux Indian outbreak occurred, and with his incomplete company, he was ordered to the relief of Fort Ridgely, and joining General H. H. Sibley's forces, he went to the defense of the Minnesota valley as a private. Later in the year, he attended the extra session of the legislature as a member, although yet a private soldier, the only instance of the kind of which I have knowledge.

After the Sioux war in 1863, he went south with his regiment, and while stationed at St. Louis, his company was filled to the maximum. The writer, immediately sent to the acting governor, Henry A. Swift, for his commission as captain, which bore the date April 4, 1864, and in this rank he served till he was mustered out, August 19, 1865.

Captain Severance's war record is that of a brave and gallant soldier, whether as private or officer. He left St. Louis with his command May, 1864, going first to Columbus, Ky., and then to Memphis, Tennessee. His regiment there became a part of the sixteenth army corps under that fierce fighter General A. J. Smith. He participated in the battles about Tupelo, Mississippi, July 13, 14, and 15, 1864. The same year he was in the "Oxford Raid." In August, he went to Duval's Bluff, Arkansas, and from this unhealthy post his regiment marched in that long, tedious and exhaustive advance through Arkansas and Mississippi, to the Missouri river, and back along the Kansas line to Arkansas, in pursuit of General Price, whom they finally defeated at the Big Blue. After this severe campaign, with the greater part of Smith's corps, his regiment was sent to Tennessee, arriving in Nashville, December 15 and 16, and was in the front line in that final victorious assault on General Hood's Confederate forces. After the battle, his lieutenant colonel, major and ranking captains, were found to be either dead, or wounded, and rallying the fragmentary regiment from the pursuit of the enemy, he, though the junior captain, was found to be in command of the regiment. He, himself, was slightly wounded in the battle. In the spring of 1865, his regiment was sent to the Gulf of Mexico, where he participated in the capture of Mobile, April 9, 1865. This completes his brilliant military career. He was mustered out August 19, 1865, at Fort Snelling. After his discharge from the army Companion Severance located at Le Sueur, where he resumed the practice of law, in which profession he became at once prominent, in the Minnesota valley. He subsequently removed to Mankato, where he became a partner of the Hon. Daniel D. A. Dickinson, who was soon elected judge of the sixth judicial district, and later became one of the judges of the supreme court of the state.

Companion Severance removed to St. Paul in 1881, and was for a short time, engaged in law practice with W. P. Warner, Esq., of that city. But he soon returned to Mankato, and on the elevation of Judge Dickinson to the supreme bench, June 23, 1881, he was appointed by Governor Pillsbury, to fill the unexpired vacancy. Though now affiliating with the democratic party, yet such was his recognized ability, that he was nominated by a republican convention, and for three successive terms, of six years each, without opposition, was elected to the district bench.

As a judge, Companion Severance had few, if any equals, and certainly no superior in our state. We do not disparage the supreme court by saying,

that his superior never sat on that bench. It is a fact, given on the highest authority, that fewer of his decisions were reversed by the supreme court, than that of any other district judge in the state.

He never allowed his personal feelings to interfere with the stern demands of justice. He was possessed of a Roman inflexibility of character. His long years of service and constant fairness, endeared him to all the members of the bar. To young lawyers, he was one of the most helpful of judges. His mind and his habits were eminently judicial. In those qualities which go to form a great judge, we can not fairly name his equal, in the state. His memory will long survive with courts and bar, for the extraordinary merit of his judicial character. There was no a tingle of the demagogue in his composition; but he was ever open, manly and brave.

For many years he had been sorely afflicted with a double goiter. This enlargement of the glands of the neck, increased in later years, till it sapped his vitality. While he had serious misgivings as to the outcome, he resolutely insisted on an operation. A few hours after he was removed from the operating table, on the 10th of July, 1907, the destroying angel dismissed an arrow to his heart, and all that was mortal of Martin Juan Severance ceased to exist.

Companion Severance was married June 16, 1858, to Elizabeth R. Van Horn, a most estimable lady of Chicopee, Massachusetts, and a daughter of Lester Van Horn, of old Knickerbocker ancestry, who were among the first Dutch settlers of New York. The widow still survives and resides at the old homestead in Mankato. To this union, three children were born: Winthrop G., who died at the age of thirty-nine; Frank Q., engaged in railroading n Nebraska; and Nettie J., now the wife of William C. Henline, cashier of the German American Bank of Mankato.

But no notice of this singularly able man, would be, in any sense, complete which did not include observations upon his intellectual power, his culture, and his personality. His capacity was of the highest order. His memory was quick and retentive. His imagination was vivid and creative. His reading was vast and varied. His knowledge of history, both ancient and modern, was indeed most remarkable. His written compositions are models of concise and classic finish. Next to Cushman K. Davis, he was the most finished and polished writer the state has yet produced. Between these two eminent men, a singular friendship existed. It is to be profoundly regretted that Judge Severance's admirable compositions were chiefly devoted to elegies and eulogies upon the distinguished dead of his profession, and are lost in the dusty tomes of court reports, where they are cruelly consigned to oblivion. They are sealed to all save the legal profession. His conversation was rich in fancy and learning. His sarcasm was fearful, but sparingly used. Those who ventured to attack him, have

reason to remember his repartee, as a man who has touched an electric eel, is conscious of the response. Of diction, he was master, and the structure of his sentences were as finished as those of Burke himself.

In religion, like Franklin, he believed in his God and his immortality, but had little mercy on sects, against which he sometimes hurled violent anathemas. His vast and varied knowledge, endowed with history of all times, and especially well provided with the personal portion of historical lore, made him a very interesting talker on proper occasions. He was fond of curious and recondite knowledge, a prodigious reader of books and ferreted out all manner of odd literature, which he was wont to use for the entertainment of his friends.

Take him all in all, few men are to be found who could rival him in intellectual resources, power of understanding, a happy compound of language, pungent conversation, embellished with ample knowledge upon all subjects, a terrible foe to corruption in public men, sometimes pronouncing opinions which were startling, but qualifying his utterances in his own admirable way — all these things made him an eminent and remarkable personage. That he was not more widely known, is probably due to his secluded habits, his innate modesty and his lack of political ambition.

In politics, he was nominally a democrat, but constantly exercising decided independence in his ballot. He was a man of large mould, physically as well as mentally. His head was of the Websterian type; his brow massive and prominent, his jaw strong and firm. If he had his faults, as who among us have not, like the dark shades necessary as a background in a great picture, these but serve to make more prominent the strong elements of his mind and character. ■



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