

ISAAC ATWATER

(May 3, 1818 – December 22, 1906)



- I. Obituary from *The Minneapolis Journal*, December 22, 1906, at 1, 2.
- II. Editorial from *The Minneapolis Journal*, December 22, 1906, at 4.
- III. Obituary from *The St. Paul Pioneer Press*, December 23, 1906. at 6.
- IV. *Proceedings in Memory of Justices Atwater and Young*, 99 Minn. xvi-xxii (1907)(excerpt).



I.

THE MINNEAPOLIS JOURNAL

Saturday Evening,

December 22, 1906.

JUDGE ATWATER CALLED BY DEATH

**Last of Minnesota's First Supreme
Justices Yields After
Brave Fight.**

**Pioneer Jurist and Editor Long a
Notable, Lately a Pathetic
Figure.**

Judge Isaac Atwater died at 11:20 a.m. today in his apartments at the West hotel. His death is a long-deferred surrender to avert which the eminent jurist and pioneer has been battling bravely for six years.

Crippled in his fight two years ago by the death of his faithful helpmate, Judge Atwater still clung to life tenaciously. In his growing helplessness year by year he was an inspiration to the younger generation, as he kept up his close touch with the affairs of the day, at his daily work at his law office in the Kasota building, in the face of infirmities that would have daunted a less brave spirit than that which inhabited the once sturdy frame of Judge Atwater.

About five years ago Judge Atwater was seized with a faintness in his office which was thought at the time to indicate an immediate end. He was removed to his apartment, and in a few days resumed his daily trips to the office a block away. Close observers could see, however, that he was losing ground physically. For several seasons he walked slowly to the office attended by a faithful servant. As time passed his trips were periodical, instead of daily, and the wavering step became less firm. In time Judge Atwater resorted to an invalid's chair for transportation to his work. Only a few days ago the familiar figure was seen in the hotel lobby on his way to his beloved office, and down Hennepin avenue. Thru all this fight Judge Atwater retained a clear mind and a hearty grip.

Pioneer Justice.

Only a few years ago Judge Lafayette Emmett, another of the first supreme bench of which Judge Atwater was a member, died in the southwest and was buried a few days ago at Faribault. Judge Charles Flandrau was the first member of the remarkable trio of supreme justices to die. His demise was followed in three years by Judge Emmett, and today by that of Judge Atwater.

A Native of New York.

Isaac Atwater was born May 3, 1818, at Homer, Cortland county, N. Y. His father was Ezra Atwater, a farmer, a native of Connecticut, whose ancestors came from England and settled in New Haven about 1748. His mother was Esther Leaming, also a native of Connecticut. He received his early

education in the day schools, and at 16 years of age he began to prepare for college at Cazenovia seminary, and later at Homer academy.

Young Atwater secured an education thru his own efforts. His father was unable to assist him financially in preparing for college. He had no money except what he earned by teaching school. He entered Yale in 1840. Following his graduation in 1844, he went to Macon, Ga., and became an instructor in a private school to earn enough to meet expenses. After a year of teaching he entered Yale law school and remained eighteen months. In 1847 he was admitted to the bar of New York city and in 1848 began the practice of his profession there.

Success was assured, but on account of ill health he sought a change of climate. He married Permelia A. Sanborn of Geddes, N. Y., in 1849, and in October of the following year they settled in St. Anthony Falls. For twelve months he was associated with John W. North in the practice of law. In 1851 Mr. Atwater continued the law business alone, in connection with the position of editor of the St. Anthony Express, which paper he continued to edit for several years. During the year 1851 he was appointed a regent of the university by the territorial legislature. He was a member of the board until 1857, when he was elected associate justice of the supreme court of the newly created state and resigned from the board. Governor Ramsey appointed Mr. Atwater reporter of the decisions of the territorial supreme court March 13, 1852. He was nominated district attorney for Hennepin county in September, 1853, and was elected that fall.

Supreme Court Justice.

At the first state election nominations were made for judges of the supreme court by both political parties, the candidates of the democratic party being elected. They were Isaac Atwater of Minneapolis, Charles E. Flandrau of Travers des Sioux and Lafayette Emmett of St. Paul. At the time of his election to the bench, Mr. Atwater had the largest practice in the county. Judge Atwater served on the bench six years. In March, 1864, finding his salary of the office—then only \$2,000 a year, paid in depreciated state orders—insufficient for the support of his family, he resigned. He had received a lucrative offer to resume practice in Carson City, Nev., and accepted it without removing his family or intending to make it a permanent residence. He opened a law office with Charles E. Flandrau, who also resigned from the supreme bench of Minnesota, and remained in the west

until the fall of 1866, when he resumed the practice of law in Minneapolis in partnership with Judge Flandrau.

This partnership was dissolved in 1871, after which Judge Atwater had an office by himself, and at different times with Mr. Babcock and others until 1886. Since then he had devoted his time to private and real-estate business, maintaining of late years as office in the Kasota building.

Settles in Minneapolis.

Judge Atwater was very active and prominent in local public affairs. He served the city as alderman; was a member and president of the Board of Trade for several years; was also a trustee of Seabury seminary at Faribault, and for a long time a member of the school board and president of the board of education. When Mr. Atwater first settled in St. Anthony he bought a block of land for \$800 on credit which he paid for out of his legal business in two years. At the time of his arrival there was much excitement about settling on the west side of the river on what was then the Ford Snelling reservation. In December, 1850, John H. Stevens and Franklin Steele urged him to go over and take up land. One stormy day that month he staked out a claim of about 160 acres. It included the land on which the West hotel was built. The next spring and summer he put up a shanty and spent about \$100 improving the claim. In 1852 he sold this property and bought 160 acres below where the old courthouse stands; this he pre-empted as soon as the land was in the market. He laid out Atwater's addition to the city of Minneapolis here, most of which has since been sold in city lots. He purchased other property and has been one of the largest real estate owners in the city. While attending to his professional and other business affairs Judge Atwater devoted much time to literary pursuits and was a frequent contributor to the press and magazines of the country. In 1892 he edited "The History of Minneapolis." He occupied a distinguished position among his professional brethren, and by his native ability and scholarly attainments commanded a prominent place in the community. Mr. Atwater was an active member of Gethsemane Episcopal church, and a contributor to all worthy charities, distributing his means judiciously. He was elected "warden emeritus" of Gethsemane church in 1883. He was a Mason, having joined that order in 1851.

Mr. and Mrs. Atwater were the parents of four children, only one of whom, John, is now living. He is one of the successful lawyers of Minneapolis.

As an Editor.

Judge Atwater was one of the members of that fast disappearing band who laid so wisely and well the foundations of the prosperity of Minneapolis. Isaac Atwater was one of the early settlers in St. Anthony, was intimately connected with the "first things" in the history of this city, as an editor, a lawyer and as a citizen. He was editor of the first paper, the St. Anthony Express, and later proprietor. The population of the town was 250 at that time, and his able pen and that of Sheldon Hollister made the Express second in influence to no paper west of Chicago. Mr. Atwater was then a whig and supported the Fillmore administration. On the dissolution of the whig party in 1859 he became a democrat. The question of the future head of navigation was a live issue in those days. In the discussion of the matter of the navigation of the Mississippi between the two cities, Judge Atwater, who was usually very conservative, became quite radical. The new paper declared that when it was once settled that St. Anthony Falls was the real head of navigation St. Paul would retrograde to a modest village. It was Judge Atwater who first urged that a large mill of the first class be built for grinding grain. The paper was confident that there would be sufficient grain grown that year to run the mill the year around.

Last of Original Bar.

Judge Atwater was the last member of the Minneapolis bar who was in practice in 1851. He made the first motion to admit any one to the bar in St. Anthony. E. S. Jones was the first applicant. His firm were the attorneys in the first mortgage sale in the city.

Mr. Atwater was selected as the whig candidate in the fall of 1851 to run against the opposition candidate for district representative in the territorial council, William L. Larned. Mr. Larned was elected by a small majority.

The university was incorporated Feb. 15, 1851. Isaac Atwater was elected member of the first board of regents by the legislature in joint convention. On the day that the Express made its appearance the board of regents was organized as follows: Franklin Steele, president; J. W. North, treasurer; Isaac Atwater, secretary; W. K. Marshall, librarian. As secretary of the board He was the orator of the first local beautiful site which the institution now

occupies in this city. He was the first apprentice initiated in Catatract lodge, No. 2, of St. Anthony, A. F. & A. M. He was the orator of at the first local celebration of national independence, the seventy-fifth. He was a lecturer in the early course of the Library association. He was one of the incorporators of the first Mississippi Bridge company, and subscriptions were opened for the stock in his office in July, 1853.

He was a member of the first board of directors of the Minneapolis & St. Louis road and was its solicitor and secretary. He was one of the early aldermen.

Judge Atwater was also a member of the board of directors of schools, west division, in 1868. H. G. Harrison, W. D. Washburn and Allen Harmon were the other members. He served at different times as a member of the board, of which body he was president and director until April 1, 1878, when it ceased by act of legislature. Thus he was very prominent inlaying the early foundations of our present school system.

Colonel Stevens' Eulogy.

One of the best comments on the life of Isaac Atwater was written in 1890 by the pioneer, Colonel J. H. Stevens, who preceded Judge Atwater into the beyond. He wrote in his personal recollections of Minnesota, and its people:

“Isaac Atwater is one of the most prominent men in the state. For many years he occupied a seat on the supreme bench of Minnesota. A graduate of old Yale, he is a classic writer and ready speaker. As a lawyer he ranks among the foremost. As a member and secretary of the old board of regents of the University of Minnesota, he labored long and earnestly in the interest of that great seat of learning. Judge Atwater has occupied many high positions with credit to himself. At the birth of the city he fortunately consented to serve as one of its alderman. His wise course in the council tended to shape the course of those alderman who followed him in the adoption of wholesome ordinances for the city government. He was one of the founders of our fine system of grade schools. His good works are all around us, and he is still vigorous and useful.”

II.

From the editorial page of *The Minneapolis Journal*,
Saturday, December 22, 1906, at 4:

Issac Atwater.

The death of Judge Isaac Atwater terminates a life of great activity and usefulness in this community.

For more than fifty-six years the name of Isaac Atwater has been held in honor in a community which has benefited by the residence and the service of many men of force and capacity and character. Minneapolis was fortunate in her earlier years as few communities have been fortunate in having among her citizens men whose aims and ambitions were not centered wholly or chiefly in their personal affairs, but whose best efforts and best thought were given to the furtherance of the interests of the community in which they lived. It was a splendid citizenship which laid the foundations of our social, educational, religious and business life here at the Falls of St. Anthony.

Some day, it is to be hoped, the people of this community will remember the men who laid the foundations upon which we build and visible evidences of appreciation and respect will be set up where they will testify of the importance and value of good citizenship exemplified in real persons and actual lives, And among those who will deserve most honorable mention in this connection will be the name of Isaac Atwater. When he cast his fortunes with the people of 1d St. Anthony there were probably not more than 250 people settled here, but in those early days his ability and character were recognized and he came to be almost immediately after his location here a man of influence and value in this community. Having enjoyed superior educational advantages by means of his own efforts, he was equipped for leadership and was early accorded that distinction by his fellow citizens.

The interesting and inspiring facts of the life of this modest man are set out in more detail elsewhere, but it is a grateful task to make recognition under his name here of the distinguished service which he rendered as a lawyer, as

a judge of the supreme court, as a regent of the university, as an editor promoting with zeal and enthusiasm the interests of the community, as an officer of the city government, as a promoter of enterprises and industry adding to our commercial growth and importance, as an exemplar of Christian living and a contributor to all worthy charities, as a citizen and as a neighbor.

By the infirmities of age, Judge Atwater has been incapacitated for active participation in affairs for a number of years. The part which he has played in this community may not be well understood and fully appreciated by the present generation, but even a superficial knowledge of the history of Minneapolis will lead to a recognition of him as one of the largest factors in shaping for the best the character and fortunes of the community to which he gave so liberally of his time, his abilities and his means.

III.

THE SAINT PAUL PIONEER PRESS

SUNDAY, DECEMBER 23, 1906.

**JUDGE ATWATER,
PIONEER, DIES**

**MEMBER OF FIRST SUPREME
BENCH OF THE STATE.**

More Than Half a Century a Resident of Minneapolis, Venerable Jurist and Lawyer Passes Away in West Hotel at Age 88 Years— Prominent in Letters and Law.

Judge Isaac Atwater, a pioneer of Minnesota pioneers, a member of the first supreme bench of the state, and of the first board of regents of Minnesota university, died yesterday morning at Minneapolis. Judge Atwater was past eighty-eight years of age, and for several years had been gradually failing in strength, although he refused to regard himself as an invalid and continued to go to his law office in the Kasota block even after it had become necessary for him to make the trip in a wheel chair.

Judge Atwater was taken ill about three weeks ago, but although he was unable to leave his apartment at the West hotel his condition was not believed to be so serious as to indicate the approach of death. Yesterday morning he showed a marked change for the worse and at 11:20 he died.

Judge Atwater had lived in Minneapolis for more than a half century, and his name stands out prominently in all of the early history of his city and state. Although he was educated to be lawyer and did follow that profession all of his life, he also found opportunity to achieve distinction in other lines of activity. He was editor and afterward owner of the St. Anthony Express,

The First Newspaper

established in the settlement that is now Minneapolis, and through his connection with that paper he became known as an able and forceful writer. Late he wrote several books of Minnesota and Minneapolis history.

Isaac Atwater was born May 3, 1818, at Homer, Cortland county, N. Y. Through his own efforts he secured an education and in 1844 he was graduated from Yale college, and in 1847 from the Yale law school. He was admitted to the bar of New York city and practiced there for a year or two before coming West.

In 1849 Mr. Atwater married Parmelia A. Sanborn of Geddes, N. Y., and in the following year they located at St. Anthony. Mr. Atwater entered upon the practice of law, but he also found time to fill the position of editor of the St. Anthony Express. He was appointed by the territorial legislature in 1851 as a member of the first board of regents of Minnesota university, and he remained on the board until his election as a justice of the supreme court, when he resigned.

At the first state election, Charles E. Flandrau, then of Traverse des Sioux; Lafayette Emmett of St. Paul, and Isaac Atwater were elected as justices of the supreme court, and it was not until a few years ago that the first of these three men was called by death. Charles E. Flandrau died several years ago at St. Paul; then followed Judge Emmett, who passed away only a short time ago in the Southwest, and was buried recently at Faribault.

At different times, Judge Atwater served as alderman of Minneapolis, president of the board of trade, member of the school board, and for some years he was a trustee of Seabury divinity college at Faribault. He was

One of the Incorporators

of the first Mississippi Bridge company, and a member of the first board of directors of the Minneapolis & St. Louis road.

While he was living in St. Anthony, Judge Atwater staked out a claim of 160 acres on the west side of the river which was then a wilderness and that claim included the present site of the West hotel. He sold that property in 1852, and bought another tract of 160 acres below the old Hennepin county court house and that he platted as Atwater's Addition. Ever since that time he has dealt extensively in Minneapolis real estate.

Of Judge Atwater's family the only surviving member is John B. Atwater of Minneapolis.

IV.

99 MINNESOTA REPORTS

PROCEEDINGS

IN MEMORY OF

ASSOCIATE JUSTICES ATWATER AND YOUNG

On the afternoon of April 3, 1907, in the court room at the State Capitol, HON. DANIEL FISH, in behalf of the Minnesota State Bar Association, addressed the Supreme Court, then in session, and said:

May it please the Court:

The thirteenth day of October next will be the fiftieth anniversary of the election whereby the people of Minnesota Territory adopted a constitution preparatory to admission into the Union. On the same day they chose from their number three eminent citizens to constitute the first supreme court of the new commonwealth. Today, near the close of a half century of statehood, the bar of that court presents, for incorporation in its records, a brief commemorative notice of one of those pioneer justices, the last to pass from earth of a distinguished triumvirate. But three and a half years have elapsed since a like service was performed for the first of them, Judge Flandrau, when an eloquent tribute to his memory was read at this bar from the pen of the last survivor, whose death we now deplore. In the meantime Lafayette Emmett, the first chief justice, departed this life and he, with Justices Clark and Buck, of later times, and Judge Nelson, the first occupant of our federal bench, have all been commemorated here. And now George B. Young, once a member of this court and but yesterday the peerless leader of our bar, has passed away. One of the six former chief justices but one survives, Thomas Wilson, still in full practice. Of fourteen associate justices (not counting Judge Wilson who served [xvii] in both capacities) but four

remain and they of the more recent. All the territorial justices are gone and nearly all of the earlier practitioners.

Fifty years are but few in the life of a state, yet already the age of tradition is upon us; the story of our bench and bar begins to take on the soft haze of antiquity.

I am asked to read the following inadequate sketch of Judge Atwater's career and to move that it be entered in the minutes of the court:

ISSAC ATWATER

May 3, 1818 — December 22, 1906

Born at Homer, Cortland County, New York, Isaac Atwater, son of Ezra and Esther (Leaming) Atwater, grew up amid the wholesome conditions of a farmer's life. Both parents were natives of Connecticut, the father certainly, and probably the mother also, being of English extraction. The rural schools of the neighborhood until the age of sixteen, afterward a seminary at Cazenovia and the academy at Homer, prepared their son for college. Entering Yale at twenty-two, and supporting himself there mainly by his own efforts, he was graduated in 1844. After a year of teaching and eighteen months of study in the Law School at Yale, he went to New York. There, pursuing a further course of preparation, he was admitted to the bar, beginning his practice in that city in 1848. The following year he was married to Permelia Sanborn, of Geddes, New York, and with her removed to St. Anthony, now a part of Minneapolis, settling there in October, 1850. His wife and three of the four children born of the marriage preceded him to the grave. John B. Atwater, Esq., of the Hennepin bar, is the surviving son.

Judge Atwater was very prominent from the beginning, not only in professional life, but in all that concerned the interests of his adopted home. He edited, and for a time owned, the "St. Anthony Express," the first newspaper of his town and the first to be issued in the territory outside of St. Paul. As member and secretary of its first board of regents, he helped to establish the University of Minnesota. He delivered the first Independence Day oration, lectured in the early courses given by the Library Association, and was the first initiate member of the local Masonic lodge. In 1852 he was an incorporator of the company which erected the first bridge that ever spanned the Mississippi, and later joined in the formation and management of the

Minneapolis & St. Louis Railroad Company. He was among the first to acquire land west of the river, where the main city of Minneapolis now stands, and was one the first alderman of [xviii] that city and a member of its first board of education. He reported the decisions of the territorial supreme court rendered in 1852, and in 1853 was elected prosecuting attorney of his county. For many years he was president of the local board of trade and always was a leader in the affairs of the Episcopal church, in whose faith he lived and died. Thus in all the activities of those formative days, Isaac Atwater discharged to the full every duty of citizenship.

It was but natural that a trained and successful lawyer, who had evinced also great capacity and zeal in public affairs, should be chosen by the people at their first opportunity, to high judicial office. A self-governing community is best studied in its laws and in the character of the men selected to construe and apply them. Minnesota was most fortunate in that the foundations of her jurisprudence were laid by such men as Emmett, Flandrau and Atwater—men of the people, familiar with their struggles, in sympathy with their aspirations, yet instructed in the mistakes of the past and in the principles whereby like errors may be shunned. For more than six years, viz: from May 24, 1858, to July 6, 1864, Judge Atwater sat in this honored tribunal, meagerly compensated, moneywise, excluded from the activities so alluring to one of his ardent nature, often misunderstood, of course, yet patiently, justly, and wisely fulfilling the exalted duties of an appellate judge in a new commonwealth destined to have a large part in the nation's history.

The opinions written by him, 158 in number, appear in volumes 2 to 9 inclusive, of the Minnesota Reports, the last in *Martin v. Hurlbut*, 9 Minn. 132 (142). Most of these were cases of first impression and nearly all have been cited many times. They exhibit easy command of legal principles, remarkable facility and dignity of expression, sound judicial reasoning, and a keen sense of justice. The bar of today can with difficulty appreciate the careful labor which settled the practice and procedure now so familiar, the thoroughness of that pioneer work which enables the present court to dispatch its vastly increased business; nor, indeed, do we often realize how completely in this jurisdiction the reproach of "the law's delay" is obviated.

Impelled by the need of ampler incomes, the two associate justices resigned their seats in July, 1864, to resume the practice. For a short while they were partners at Carson City, Nevada, but Judge Atwater did not remove his family thither nor give up his residence here. Both returned in the fall of

1866 and continued their partnership in Minneapolis. Upon the removal of Judge Flandrau to St. Paul in 1871, the senior remained and, with associates and alone, conducted for many years a lucrative practice. Gradually his private concerns and his unceasing interest in the public welfare came to afford him sufficient employment. Fortunately he was able to retire, seasonably, from exacting professional labors. But he was never idle. Hours which to other men would have been hours of leisure were devoted by him to the preparation of a full history of his town and county; volumes which no one else could have written, source-books for later annalists [xix]

Advancing age brought on the inevitable infirmities His last years were years of bodily weakness, but his mind was alert to the end. Bereaved of wife and children, he yet remained genial, interested, hopeful, bent by the weight of nearly ninety years, he peacefully laid down a life filled with good works.

This scant memorial but faintly suggests the value of such a life, or our sense of loss in its passing. We can only hope that in future times some appreciative eye scanning the page on which it is inscribed may discern therein more than is formally set down.

DANIEL FISH.
HENRY G. HICKS.
HARVEY OFFICER.

HON. HARVEY OFFICER then said:

May it please the Court:

I am glad of the privilege of seconding the motion to spread the Memorial on the minutes of the court, and I am glad to join in the memorial on behalf of Judge Atwater, not only as a representative of State Bar Association and one of its committee, but also as a member of the bar of Ramsey county. For in the time between 1855 and 1858, and before, Judge Atwater was elevated to this bench, his was a familiar figure as well in the territorial supreme court as in the district court of Ramsey county. In fact his circuit might be said to extend from St. Cloud on the north to Winona on the south, throughout the then central part of the territory.

While he was on the bench it was the duty of the reporter of this court to prepare the syllabi of its decisions, but those syllabi, before they went to print, were always submitted to the judge who wrote the opinion for his correction and revision, to the end that they might reflect in as few words as possible the gist of the decision. This duty was always performed by Judge Atwater with the greatest care, and that work established between the members of the court and its officer, that personal relation which necessarily must exist between the court and its reporter.

After Judge Atwater returned from Nevada and resumed practice in this state he was well known in this court and in the lower courts of the state. There are two cases in particular, to which I might call attention, that reflect his ability as a lawyer. I refer to the two cases of *Atwater v. Russell*, reported in the Forty-ninth, the one involving [xx] the construction of the will of Mr. Martin, the old-time friend and client of Judge Atwater, and the other involving the construction of a trust deed executed by Mr. Martin, both of which documents, as I understand, were the professional work of Judge Atwater. Both involved the construction of devises and legacies for charitable purposes, and a grant under the deed of trust for similar purposes, and in that connection the construction of the then somewhat crude law of the state on the subject of uses and trusts. If the court will notice those two cases of *Atwater v. Russell* it will find that there were very few notations of cases in the supreme court of this state. There are only five or six cases noted, among them the case of *Simpson v. Cook*, but the inspiration of the attorneys involved in the discussion of it and of the court was necessarily derived from the decisions of the English Court of Chancery and from the decisions of the courts of New York and Massachusetts and the older states. Therefore those two cases may be called the initial cases involving the construction of charitable gifts under deed or will for charitable purposes in this state, and in cases of that class which have arisen since they have generally been quoted and referred to with approval, notably in the recent case of *Watkins v. Bigelow*, reported in the Ninety-third.

Judge Atwater as a lawyer, as well on this bench as in the district in which he practised, and in Ramsey largely, always commanded the confidence and the respect of the court, and his genial manner endeared him to his associates at the bar.

For ten or twelve years prior to his death I was closely associated with him in certain classes of church work. For several years past that work was

necessarily done at his office, where he had to be carried in a push-cart. We met him at his office when he was able to be there, or if he possibly could not be there by reason of his physical infirmity, we met him at the bedside in his hotel. He was always present at an appointment of that kind, always alert, active, and intelligent in the discharge of his duties.

While acting with him I became aware of the generous gifts that he made in a most unostentatious way, not only to the church of his choice but to other benevolent associations and corporations, and to individuals in the city where he lived. Very few knew of the nature and the extent or the generosity of his benefactions in that direction. [xxi]

His was an inestimable character worthy of emulation as a lawyer by all the bar, and as a high-minded, noble gentleman.

I second the motion.

CHIEF JUSTICE START then said:

Associate Justice Elliott will reply in behalf of the court

ASSOCIATE JUSTICE ELLIOTT then said:

The Memorial which has been presented by your committee expresses in appropriate form the virtues, abilities and traits of character of Judge Atwater which entitle him to the respect of the bench, bar and people of this state, and they will be spread upon the records of the court in which he served with honor to himself and to the state.

Although but recently deceased, Judge Atwater belonged to a generation, which has about passed into history, a generation that founded the commonwealth of Minnesota. It is fitting and proper that we should honor in all appropriate ways these pioneers in jurisprudence and state building. Their work was well done and will endure while the records of history are preserved. I think it is generally conceded that Minnesota was fortunate in the character of its early judges. They were, without exception, men of character, ability and adequate learning in the law. May we always, and on every proper occasion, acknowledge the debt we owe to the men who laid the safe foundations upon which their successors have erected the great state of the present time.

Judge Atwater was the last survivor of the original supreme court of the state. He left the bench of that court in 1864 and retired from active life nearly a generation ago. I doubt whether he was personally known to any of the present members of the court, but his judicial record is well known and appreciated. It is found in Volumes 2 to 9 the Reports, and compares creditably with that of his associates and successors. In the building of the Temple of Law Judge Atwater had an honorable part. His work bears the stamp of industry and care, and is marked by an evident desire to do justice between the litigants. He took his high duties seriously and sought to fulfill them in the spirit of the just judge of whom it was said: "When he goeth [xxii] up to the judgment seat, he putteth on righteousness as a glorious and beautiful robe to render his tribunal a fit emblem of that eternal throne of which justice and mercy are the habitation."

The memorial will be spread upon the minutes of the court.



Posted MLHP: August 2008.