

Remarks made by Bill Hart before the Minnesota Supreme Court on May 16, 2008:

Chief Justice John Marshall – in the historic case of *Marbury v. Madison* – famously declared that “it is emphatically the province and duty of the judicial department to say what the law is. . . . This is the very essence of judicial duty.” Barely five decades later, the first of 86 justices of the Minnesota Supreme Court began performing that judicial duty. [Since that time] the combined service of those 86 justices [has extended over] 150 years of Minnesota law.

One of this court’s first traditions was the regular holding of special sessions of the court to pay tribute to deceased justices. Beginning in the fall of 1875, with the help of the state bar association, the court heard the first of 74 memorials in special session. These tributes often were lengthy and included the remarks of many friends and colleagues. All were recorded and entered in the repository of Minnesota law – the Minnesota Reports. That first memorial from 1875 can be found in volume 21 of the Minnesota Reports.

This tradition continued uninterrupted for nearly 100 years. Among the distinguished Americans whose tributes honoring past justices were delivered to this court from the very podium at which I now stand, include: U.S. Supreme Court Chief Justice, Warren Burger; U.S. Atty. General, William D. Mitchell; legendary legal scholar, John H. Wigmore; U.S. Supreme Court Justice, Pierce Butler; and U.S. Senator and Nobel Peace Prize winner, Frank B. Kellogg. Others who delivered tributes from this podium were founders and pillars of the Minnesota legal community. Names like Gislason, Blethen, Doherty, Oppenheimer, Leonard, and Briggs.

For reasons that are unclear, the tradition lapsed in the 1960s. The court’s last special session was held on May 31, 1966, and the memorials given that day were entered in volume 273 of the Minnesota Reports. So it was with a great sense of history and tradition that the newly formed Minnesota Supreme Court Historical Society, under the leadership and vision of former Justice Sam Hanson and Justice Paul Anderson, undertook as its first project the completion of memorials for all deceased justices

not previously so honored, and the rekindling of the tradition of having memorials presented in a special session of the Minnesota Supreme Court.

With the tireless help of our state law librarian, Barbara Golden, the Society gathered the existing memorials from the archives; we identified 27 justices in need of tribute – seven of the 10 Territorial Supreme Court Justices (those who served on the court under appointment of the President of the United States prior to official statehood); one state supreme court justice whose passing around the turn of the last century somehow evaded the court’s tradition; and 19 state supreme court justices who have passed away since the tradition lapsed in 1966; we established a rough standard for length and format for the new era of memorials; we identified and recruited writers that include a sitting supreme court justice, a former supreme court justice, prominent members of the Minnesota Bar, and many of this court’s recent law clerks; we hired a professional editor – the wonderful Ellen Green of EB Green Editorial – and a printer – the equally wonderful Sexton Printing; finally, in only about five months the Society produced the book – *Testimony: Remembering Minnesota’s Supreme Court Justices* – in time for the Minnesota Sesquicentennial celebration.

So it is with great appreciation for the court’s renewal of tradition that we now present the first fruits of the Minnesota Supreme Court Historical Society.