

MEMORANDA.

THE Bar of the Supreme Court of the United States met in the court-room, in the Capitol, Washington, on Friday morning, Jan. 10, 1879, at eleven o'clock, to pay respect to the memory of the late CALEB CUSHING.

The Hon. WILLIAM M. EVARTS was appointed Chairman, and DANIEL WESLEY MIDDLETON, Esq., Secretary. On motion, the Chairman appointed Mr. PHILIP PHILLIPS, Mr. CHARLES DEVENS, Mr. ROSCOE CONKLING, Mr. ALBERT PIKE, Mr. A. T. AKERMAN, and Mr. GEORGE H. WILLIAMS a committee to draft resolutions expressive of the respect of the members of the Bar for the memory of the deceased.

The committee reported the following resolutions:—

Resolved, That the members of the Bar of the Supreme Court of the United States have with deep regret been informed of the death of CALEB CUSHING, for many years an able practitioner before the Court.

Resolved, That while the memory of Mr. CUSHING deserves to be cherished as a citizen and a soldier, as a scholar and a historian, as a statesman and a diplomatist, the Bar desires especially to remember him to-day as a wise legislator, as an accomplished publicist, and as a profound and learned lawyer, whose services in all these capacities have been most honorable to himself and most valuable to the Republic.

Resolved, That the Attorney-General be requested to communicate these resolutions to the Court, and to move that they be entered of record.

Resolved, That they be communicated to the family of Mr. CUSHING, with the expression of the earnest condolence of the Bar.

The resolutions were unanimously adopted, and the meeting then adjourned.

On Jan. 13, the ATTORNEY-GENERAL addressed the Court as follows:—

May it please your Honors:—

I ask a few moments' delay in the regular progress of the business of the Court, that I may bring formally to its attention the decease of CALEB CUSHING, of Massachusetts.

The high positions held by him in the service of the country, his eloquence, his learning and ability, so often displayed in the debates of this court, seem to render it proper that we should pause for some notice of the void which has been occasioned by his departure.

At the age of twenty-five, Mr. CUSHING was already a distinguished figure in the politics of Massachusetts. Ten years later he came into the National Councils, and from that time was prominent, alike in sunshine and in storm, in the

long historic era over which his life extended. How full that life was of important and varied public service will be seen when it is recalled that he was repeatedly a member of the legislature of his native State and of our National Congress, that he was a Justice of the Supreme Judicial Court of Massachusetts, that he was the Counsel of the United States in the Arbitration at Geneva, that he was its Foreign Minister at the Courts of China and of Spain, that he was the Attorney-General of the United States, and that to these civil services he added military service as a General in the Army during the war with Mexico.

In private character and in social intercourse Mr. CUSHING was most attractive. His rare powers of conversation, his large and well-digested stores of learning, made him a fascinating companion to all who listened to him, while his readiness and cordial desire to serve others by the multitude of resources at his command were always conspicuous.

Of his extended public career, of the political controversies in which he engaged or into which he was thrown, the present is not the time to speak. While one who has filled so large a space in public affairs must be judged as his life shall appear when viewed by the clear light of impartial history, the hour when he departs is not the time to disturb the ashes which have gathered over the slumbering fires of old and, in many instances, forgotten controversies. Nor, were this the time, would this ever be the place for their appropriate discussion. Yet it is appropriate to remember here, that so profound was his knowledge of international law, and of politics in the larger sense of the term, that to those administrations with which he was not officially connected, nor even in direct sympathy, as counsellor in matters of a general character as distinguished from those of mere party controversy, he was able to lend an aid that was deemed to be great and valuable.

Elsewhere justice will be done to his merits as an accurate observer and a graceful writer, to his accomplishments as a scholar and a linguist, and to his labors for the country as one of its statesmen and diplomatists. Here, and to-day, we would desire to recall him as the wise and profound lawyer, whose learning and ability have contributed to the discussion of many of the most important questions of his time.

His judicial career on the Supreme Bench of his native State was brief, but it was long enough to establish his reputation as a courteous, just, and able magistrate. But his true sphere as a lawyer was that of the advocate. His intellect was of the controversial cast, which adapted him for the conflicts of the Bar rather than the calmer and graver duties of the Bench. Yet, while he was an opponent vigorous and persistent, he was always fair and candid. As a debater he was master of every resource, eloquent and adroit, always speaking from a full knowledge of the subject. He spared no labor in preparation, and his ready powers of acquisition enabled him to fortify himself with weapons of attack and defence drawn from every armory and storehouse of the law. The Reports of this Court furnish the evidence of the ability with which he discussed all matters, whether appearing as counsel for private parties or for the Government. The Opinions of the Attorneys-General attest how much skill and research he brought to those practical questions of administration which as a cabinet officer demanded from him the judgment of a learned and experienced lawyer. Nor should I fail to remember that as a legislator, alike in his native State and in the Congress of the United States, he, even when deeply engrossed in the public conflicts of his time, contributed wisely and generously

to that public legislation which is independent of party controversy. The volume of the Revised Statutes of the United States which lies within reach of the hands of your Honors demonstrates his habits of patient labor, although from its nature it could not testify to his genius as a legislator. By that exhaustive industry which would be content with no half-knowledge of any subject, but which would master each in turn, he supplemented, as successive occasions arose, his large knowledge of the science of government, of jurisprudence, of equity, of the common, the statute, and the maritime law, and of commercial and industrial affairs.

The illustrious magistrates who composed this Bench while he filled the office of Attorney-General have, with one exception, passed away. With some premonition, perhaps, that his own end was near (although he did not desist from projects of labor and study), Mr. CUSHING, since his return from Madrid, a little more than a year ago, resided principally at his old home in Newburyport. The anchor of the storm-worn ship was to fall where first its pennant had fluttered in the breeze. On the second day of this month, near the spot which had given him birth seventy-nine years before, he, too, went to his rest in the city which had honored and loved him in his youth, his manhood, and his maturer years.

The Bar of this Court have desired me, in testimony of their respect for his memory, to submit to the Court the resolutions which I now have the honor to read.

After the resolutions had been read, Mr. CHIEF JUSTICE WAITE replied as follows:—

The prominent position which Mr. CUSHING occupied in public affairs during so much of his long life, his great learning, his distinguished services as Attorney-General of the United States, and his large and varied practice at this Bar, make it proper that his brethren should be permitted to place upon the records of the Court their tribute to his memory. The Court cordially approves of the resolutions that have been adopted, and of the remarks of the Attorney-General in presenting them. What has been said is no more than is due to the occasion.

It was my fortune to be associated with Mr. CUSHING before the Tribunal of Arbitration at Geneva, and I should be false to my own feelings if I failed to record an expression of gratitude for the kindness and encouragement I received at his hands during all the time we were thus together. He was always just towards his juniors, and on that occasion he laid open his vast storehouse of knowledge for the free use of us all. While assuming that our success would be his, he was willing that his should be ours. He knew how much encouragement can lighten the burden of labor, and never failed to give it when opportunity was offered. Whatever he may have been to others, to us who were with him at Geneva he will be remembered as a wise and prudent counsellor and a faithful friend.

The resolutions and the remarks of the Attorney-General may be entered upon the records of the Court.

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