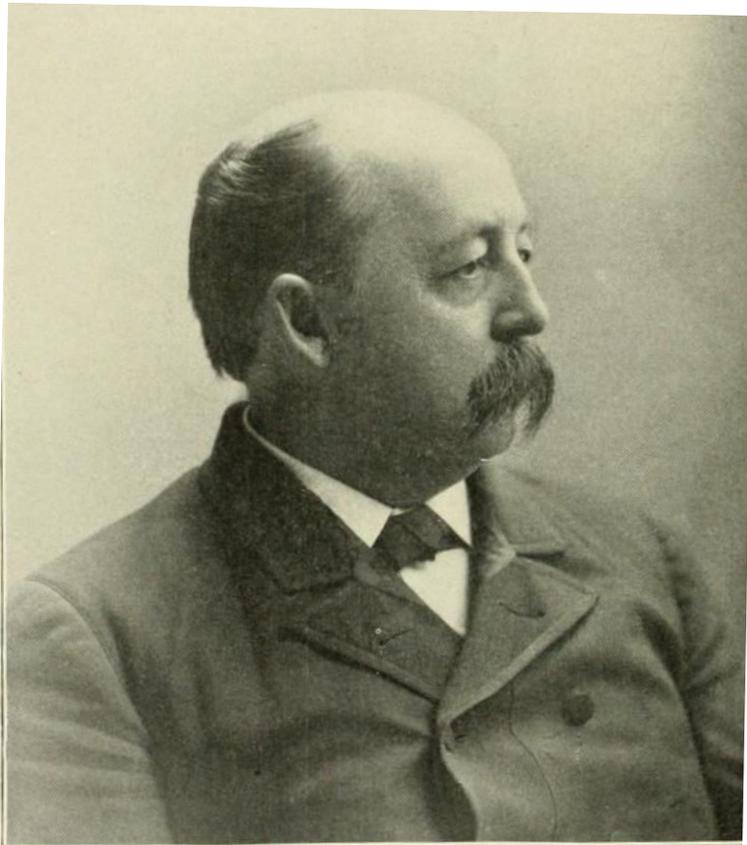


PROCEEDINGS IN MEMORY
OF
CUSHMAN KELLOGG DAVIS
IN
THE MINNESOTA SUPREME COURT
AND
THE MINNESOTA LEGISLATURE
1901



CUSHMAN K. DAVIS

Foreword

By

Douglas A. Hedin
Editor, MLHP

On November 27, 1900, Senator Cushman Kellogg Davis died in St. Paul at age sixty-two. He was governor of the state from 1875 to 1877. He was elected U. S. Senator by the state legislature in 1887 and re-elected in 1893 and 1899.

Memorial services were held at a joint session of the Minnesota House of Representatives and Senate on February 18, 1901, and before the Minnesota Supreme Court on April 2, 1901. They follow. They have been reformatted. Several long paragraphs have been divided for ease of reading.

The photograph of Davis on the first page is from *Autobiographies and Portraits of the President, Cabinet, Supreme Court and Fifty-fifth Congress* (1898), and that on page 17 is from Frank Holmes, et al., *4 Minnesota in Three Centuries* (1908).

MINNESOTA SUPREME COURT

81 Minnesota Reports xxiii - xxxv (1901)

PROCEEDINGS

IN MEMORY OF

SENATOR CUSHMAN K. DAVIS.

On the afternoon of April 2, 1901, in the supreme court room at the state capitol, Hon. Hiram F. Stevens, president of the Minnesota State Bar Association, addressed the supreme court, then in session, as follows:

"May it please the Court:

"Since the beginning of the last term of this court, in the death of Cushman K. Davis the bar of the state of Minnesota has lost one of its brightest ornaments, the State its foremost citizen and the Republic a statesman of unsullied character and great influence. The State Bar Association, whose representative I am upon this occasion, have deemed it proper that in this high tribunal suitable recognition should be paid to the character and ability and services of our departed brother, and your Honors have kindly granted our request. We have appointed a committee which has prepared a memorial which will be presented, and we respectfully ask that the memorial be entered upon the records of the court. The memorial will be presented by General Sanborn."

On behalf of that committee General Sanborn then presented the following memorial and moved that it be spread on the minutes of the court.

MEMORIAL.

Since the meeting of this court on the first day of its last term, one of the most distinguished members of this bar and one of the most illustrious of our citizens has been removed by death. The State Bar Association and the bar of the state have directed that there shall be presented to this court at this time a brief Memorial of the life and services of the Honorable Cushman K. Davis, who departed this life in St. Paul on the 27th day of November, 1900. He came to St. Paul and commenced the practice of his

profession as a partner of the Honorable Willis A. Gorman, in 1865, and continued constantly in the practice in all the courts of the state, and in the Federal courts, to the time of his death. During this period, in addition to his partnership with General Gorman, he was for several years a member of the law firm of Davis, O'Brien & Wilson, and of the law firm of Davis, Kellogg & Severance from the time when he was first elected senator to the time of his death. He also practiced without any partner during the time that passed between the termination of his gubernatorial office in 1876 and his election to the United States Senate in 1887.

He was a great lawyer in the broadest and truest sense. As an advocate before the jury he was without a peer in the state. This he demonstrated during the early days of his practice in the defense of Van Solen, tried for murder in Ramsey county, with the strongest circumstantial evidence produced by the state against him, and his life was no doubt saved by the eloquence, logic and power of our deceased friend. On the trial of the impeachment of Judge Page before the Senate of Minnesota, he added vastly to his reputation as a lawyer and logician and as a speaker of extraordinary power, and his reputation as an advocate and lawyer early became so high that his counsel and services were sought in all cases before the court and before juries brought and tried in the vicinity of Ramsey county, and he became absorbed in and wedded to his profession; and he performed more and harder labor therein than his health or strength justified, and this hastened the breaking down of a constitution of iron mould. The trial of cases requiring close analysis, great study, deep thought, and working out through the courts of last resort principles that would win his case, and at the same time be beneficial to all men, were his constant delight. The famous Ross case, that he brought and tried in the United States Circuit Court for the Eighth Circuit, and won both in that court and in the Supreme Court of the United States, whereby he secured the adoption of the principle that a conductor of a railroad train, who has the right to command the movements of the train, and to control the persons employed upon it, represent the company while performing those duties, and does not bear the relation of fellow servant to the engineer and other employees of the corporation on the train, was one of the cases on which he performed great labor and much study, and which afforded him great gratification. A great many other cases involving nearly every principle that can arise under the law of negligence were tried by him, and subtle distinctions were drawn and rules and precedents distinguished in a manner and with a precision rarely found at the bar or in the courts. To labor in these cases and evolve

and establish by judicial decision the rules that should and do govern them was to him a daily delight and constant joy.

His law practice increased continually from the time he became a resident of Minnesota; while in public life it was conducted mainly by his partners in such manner as to add to his own reputation and be of advantage to his business associates.

Notwithstanding his devotion to his profession he found time to devote to literature and the arts. He wrote "The Law in Shakespeare," "Madam Roland," "Modern Feudalism," ("The Modern Corporation"), "Lectures on International Law," besides many orations and addresses, delivered at the laying of the cornerstone of the capitol, the dedication of statues and monuments, and other occasions of public importance, all bearing the impress of his genius, his literary attainments, and his devotion to the public welfare, and showing the inspiration of a rising and growing state of future growth, development and improvement of a promising and illustrious future, and absence of anything like degeneracy or decay. He brought to every position in which he was called to act a mind stored with the required knowledge, a calm and matured judgment, and the courage to follow his convictions.

Great as was his fame at the bar and in the field of literature, it is surpassed beyond measure by the fame acquired in the public service, and the reputation he acquired as a statesman. He had a clear understanding of the law of nations, and was thoroughly familiar with all those underlying principles of government embodied in the constitution and laws of the United States, and a clear perception of the dividing line between the federal power and the powers of the respective states, nor was he at a loss at any time to know when and how those powers which had been vested in the government and its officers were to be used, whether through the judicial department by way of injunction to prevent the destruction of property, or through the executive department and the army and navy. When, in a period of great disorder, in 1894, some of his constituents, styling themselves "The Railway Employees of Duluth," requested him to support Senator Kyle's "Mail Resolution," then before congress, which in substance provided that the detaching of passenger cars from mail trains should not constitute an offense against the United States, he answered immediately, although this dispatch was received in the dead of night and he was aroused from a sound sleep to receive it, writing it while sitting up in bed, as follows:

“I have received your telegram. I will not support Senator Kyle's resolution. It is against your own real welfare. It is also a blow at the security, peace, and rights of millions of people who never harmed you nor your associates. My duty to the constitution and the laws forbids me to sustain a resolution to legalize lawlessness. The same duty rests upon yourself and your associates. The power to regulate commerce among the several states is vested by the constitution in congress. Your associates have usurped that power by force at Hammond, Ind., and other places, and have destroyed commerce between the states in these particular instances. You are rapidly approaching the overt act of levying war against the United States, and you will find the definition of that act in the constitution. I trust that wiser thoughts will regain control. You might as well ask me to vote to dissolve this government.”

It required no time nor thought for him to decide that powers of government might as well not exist and not have been granted, as not to be properly applied and used in an emergency and on a proper occasion.

After eight years spent in the United States Senate it was conceded by all the members of that illustrious body that he was the peer of any one of them, and that the number that could sway or influence that body by speech to the extent that he could, and did, were few. This exalted position which he attained was the result of unusual natural gifts, cultivated and reinforced by assiduous study and research. He was possessed of natural eloquence, fine diction, great learning, and sound judgment. Thus he attained the responsible and important position of chairman of the Committee on Foreign Relations in the United States Senate. This position he held at the time when difficulties arose between our republic and the old Spanish monarchy, and in connection with the president and other members of the committee he was called upon to determine what provision the nation must make for war before it was actually declared. The result was that fifty millions of dollars were placed at the disposal of the President to enable him to purchase all needed ammunition, arms, ships, and all other materials which would become necessary in the event of war, and which would be contraband of war by the law of nations, before war was declared. This was accomplished, and the nation was thereby enabled to obtain an easy victory and favorable peace.

He attained the proud position of being one of three commissioners to negotiate the terms of the treaty of peace with the government of Spain, and in that position he spoke the voice of all the people of the United States as to the terms that should end the controversy, establish peace, and renew fraternal intercourse between more than one hundred and twenty millions of people, and extend the blessings of liberty and constitutional government to the population of many islands, speaking different languages, buried in the darkness of ignorance and superstition. This he did in the fullest and firmest belief that our commerce and trade would be improved and enlarged thereby, while the light and blessings of our civilization would be poured in upon those groping in disorder and confusion, and suffering from years of misgovernment and misrule. We can but glory in the great services and fame of our brother, and hold up his life for example and imitation by all, and at the same time express our thanks to God for such a life, such services, and such achievements.

John B. Sanborn,
M. J. Severance,
J. L. Washburn,
A. B. Jackson,
M. B. Webber,
Committee.

Hon. M. J. Severance then addressed the court as follows:

“May it please the Court:

“So generous are the living towards the dead that occasions like this often abound with eulogy over-tainted and with the phrase of boundless panegyric. But it is no discredit to the human heart that it never calls on mute lips for defense and always stays offensive criticism at the portals of the tomb. The office of eulogy is to present a just and truthful analysis of the life and character of the dead, and mere friendship should never give it a deceptive color. Even tombs are not silent. They speak to all the ages, and they speak in the language of immutable truth. It is not every life that furnishes an example worthy of perpetuity as an inspiration and incentive to others. But when a life does furnish such an example, it is the duty of the living to paint it in enduring colors, to the end that it may attract and fasten the public gaze. For it is not only the present but the past that furnishes models for human life.

“The memorial that will be spread upon the records of this court to-day will be but another record of the universal judgment pronounced by the living upon Cushman K. Davis.

“Beyond the phrase of this judgment what is there left for us to-day but vain and tardy repetition. The senate he so much adorned long ago pronounced his eulogy, and inscribed his name high on the tablet of its immortal names. The press has sent his name careering over every ocean and to the remotest part of the globe. Our legislature, the courts, and the pulpits of Minnesota have sounded his praises until rhetoric has exhausted itself upon the theme.

“The time allotted to me and the proprieties of this occasion will not permit me to follow upward his long and varied career until he reached the summit of his fame where the glow of an unsetting sun will linger forever. With an unsullied political conscience, he never resorted to the arts of the demagogue or mountebank to ensnare the suffrages of the people. He did not like a sleuth-hound hunt for position. He answered when the people called, and then they throned and crowned him. Free from personal pride and hauteur and free from the inflation of self-consequence, he never drew a line across the world placing all patricians above and all plebians below. He never entered into a holy alliance with any cabal that denied equal rights to all the world. He always approached the people with the highest deference as the source of power and government, and they responded with esteem and confidence, lavishing upon him the highest offices in their gift, and not even the spleen of defeated parties ever snarled at him or begrudged him the glory of his triumph. If there ever was a man who typified the basic principle that underlies ‘a government of the people, by the people, and for the people,’ it was Cushman K. Davis of St. Paul.

“In social life he attracted and wooed a responsive admiration by his simplicity and natural demeanor. So near did he stand to those in the circle of his friends around him that they could feel the beating of his pulse and the warm glow of reciprocal love.

“Always decorous and dignified in the exercise of his chosen profession, he charmed by the magic of his matchless rhetoric, and persuaded by that logic evolved from tireless research and from the sincerity of a lofty purpose. And so did he make his way to the hearts and judgment of those around him that he palsied the arm of his adversary. Never unprepared, but his quiver always filled with the shafts of learning, he

met every occasion with confidence and honored it with the highest effluences of his mind.

“Why should I say all this to those around me? Do not the echoes of his voice still linger in all your halls of justice? His manifold gifts, that many attribute to the bounteous hand of nature, had it not been for his loyalty to the trust attending them, would have wilted and perished like the unwatered rose of summer.

“Conspicuous as he was in the realm of municipal law, he was greater yet in the forum of the nation. It was not enough that Grotius and Puffendorf and Vattel were his companions; he must range back over all time to the twilight of history and study the rise, decline and fall of nations.

“History with all its spectacles, illustrated and intensified by the great masters of human thought, was the unfailing source of his mental wealth. He knew that it was the digest of the decisions of a court that no human greed could bribe. In its fixed and determinate judgment he saw the rewards of national virtue and the penalties of national vice. He saw all the nations of antiquity, in spite of their intellectual and moral giants, and in spite of the sway of the Sanhedrim and the Areopagus, the most stately court that the world ever saw, and in spite of the immortal preface of Rome's great book of law, “Justice is the unchanging, everlasting will to give each man his right,” rush with tumultuous madness to their doom, only for the want of universal law, naturally binding on the consciences of nations. Such a law was at last evolved from the consent of civilized nations and assumed its empire over the world. It is not for me to declare when were planted the germs of that law. It is enough for me to say that they did not burst into active life until the cross divided human love from human hate.

“In the senate and in the assembly of the nations Cushman K. Davis became a great expounder of this law. The Senate that had for years been unaccustomed to listen, awoke from its reverie when he addressed it. It listened for a moment in wonder and then became fascinated by the enchantment of his eloquence, scintillating with every gem of modern and ancient culture. When we saw the spectacle we dreamed again of the halcyon days of the republic, before the lofty diction of Webster, Clay and Calhoun lost their echoes in the sordid turmoil of the lobby. Ages will elapse before the impress he made upon the polity of this nation will be

worn away. And when an untimely death cast its shadow over his life it eclipsed a genius then shining brightly in the firmament of the republic.

“Intensely American and true to the traditions and self-assertion of the republic, he did not hesitate to throw down the gauntlet in the face of every nation and tell effete monarchy and degenerate illegitimacy not to invade the domain of liberty, or torture human right within the hearing of our shores. Our flag, that before had floated listlessly from its mast in the harbor but now blazing with the mission of the great republic, went out with the wind and rain-bowed the blue waters of every sea.

“Bound that this republic should be a government for the people he would not suffer either labor or capital to hawk at and tear the constitution, but he would throne them both side by side and place on their heads a dual diadem.

“When I saw the immortal telegram, copied in our memorial today, hurled by Senator Davis at the turbulent resolution of Senator Kyle, I immediately telegraphed him at Washington and I said this, and this alone: “Good morning, Cato.” And he answered at once by letter and said that of all the thousands of congratulations that he had received this one pleased him most. And well it might, for he knew that it was an honest judgment that compared him with the synonym of inflexible Roman virtue.

“I must now take leave of this theme. I leave the memory of Cush Davis to the love of his friends, and that of Senator Davis to the applause of the republic, and I do it with the deep consolation of knowing that, if ever there was an hour of darkness in his life, no frown from me ever deepened its gloom. As long as the nightingale shall sing the chorus for Minnehaha, so long will St. Paul lend its melodies of love to every zephyr that shall whisper peace at his tomb.”

Hon. S. O. Pierce then addressed the court as follows:

“May it please the Court:

“In rising to second the adoption of this memorial, I feel that I am indeed to-day standing in the shadow of a great name. It is easy to say that Cushman Kellogg Davis was a great man, but it is not easy to portray in fit and appropriate words and phrases the full measure of his greatness. The memorial which has been read has not attempted to do this. It has set

forth in proper form so much and sufficient of the record of his achievements to show that the man who has done what is there set forth was a great man, and the last speaker has appropriately enlarged what is said in the memorial in such terms that I should hesitate, if I had otherwise intended to do so, to attempt to add anything to the picture which he has painted.

“It is not alone in the international field, to which an affectionate people sent him, that he has shown the greatness of his character; but we as a state may know that in all he did for us in the various capacities in which he served this state, he was ever the great man among us; and we may recount the deeds he has done as an officer of the state in various capacities, as a member of our state bar in various capacities, and we cannot fail to see, if we critically examine those acts, that they were acts of greatness, and that we were sending a great man when we sent him into the national field to there accomplish great things, not only in the national but in the international fields. And it is fitting and appropriate that the supreme tribunal of the state should to-day listen to this memorial from the professional friends and brothers of our departed great citizen. I come from an association of lawyers, perhaps the largest county association in the state, certainly the bar representing the most populous county in the state, and in their behalf I beg to” say that I would not presume, and they would not have me attempt, to show in any words of mine any tithe of the honors which belong to this great name; I am not here, and they would not have me here, to attempt to shed honor upon his name; rather in their behalf would I say that it is we, the Bar Association of Hennepin county, as a part of the great body of lawyers of the state who are honored upon this occasion; honored in having had the privilege of knowing and admiring this man as our fellow-citizen, our brother lawyer; honored in the acquaintance which we have with one to know whom was a liberal education; honored in the privilege of being citizens of the same state with him, and honored again to-day in the opportunity to add one spray to the chaplet of admiration which to-day is laid upon the record of his achievements.”

Hon. J. L. Washburn then addressed the court as follows:

“May it please the Court:

“I rise in behalf of the northern city of this state to second the motion made by General Sanborn. But I feel that in the presence of so many prominent members of the bar of this state who were lifelong friends and

admirers of Senator Davis that it would be improper for me to take but a moment of the sacred time allotted to the purposes of this occasion. It was my pleasure to have been received into an inner circle of Senator Davis' friendship, and it will always be a matter of grateful memory to me that I was one of a dozen to gather round the board with Senator Davis as our guest of honor a very short time before he was taken sick, upon the occasion of his last visit to our city. I shall never forget the delightful conversation; how we plied him eagerly with questions and how he, having returned from stirring scenes and great achievements and the discharge of important duties, sat as one among us and told us at first hand of the great things and the great events that were then stirring the heart of this nation.

"I have met him on many occasions, in many different courts, in different parts of the country, under diverse circumstances; I have seen him in the halls of congress as he moved about representing this great state, honored among great men, and he was always the same genial companion, the same generous friend, in the sunshine of whose greatness one could linger unabashed.

"In legal contests he was a power of strength as an associate; as an adversary, formidable but fair. To recount his virtues, to tell the story of his achievements, would require the pages of a large volume rather than the spoken words of this hour. A soldier, a lawyer, a statesman, a scholar, a student, a master of great questions, a diplomat and an ideal American citizen closed his earthly career when the spark of life within Cushman K. Davis went out.

**"His tongue is now a stringless instrument.
Write sorrow upon the bosom of the earth."**

"Whether on the morning succeeding his death he beheld a more glorious sunrise above the celestial horizon we may not know, for the mystery of life and death is as much unsolved to-day as it was when men first began to ask the questions: Whence? Why? Whither? But we do know that our distinguished friend discharged well his duty upon earth and wrought with completeness the task of human life. Let us cherish his memory, emulate his example, and finally let us meet the universal conqueror with the same calm and unfaltering spirit."

At the conclusion of these addresses the following responses were made upon behalf of the court:

ASSOCIATE JUSTICE LOVELY then said:

"The judicious and appropriate tribute to the memory of Senator Cushman K. Davis, with the just and appreciative comments of the esteemed gentlemen by whom it has been supported, cannot but be received by the entire court, as it has most assuredly been by me, with gratification, for it demonstrates that, in the life of a distinguished statesman and lawyer who was an honored member of our bar, the good he has done will survive the trammels of festering flesh 'and live after him' in the affectionate reverence of the liberal profession to which he gave the best efforts of head and heart in his successful and splendid career.

"While it is a source of sincere sorrow that our deceased brother was taken from us too soon, in the plenitude of wonderful intellectual powers, in the zenith of great achievements with capacity for future usefulness at the flood, when the time of his removal the more emphatically bids us mourn our personal as well as the general loss, yet it is also a source of supreme satisfaction that he wrought so well and did so much, for of a truth it cannot be said of his life work, as by the psalmist of the destroyed cities of the east, that his 'memorial has perished with him.'

"No man felt more strongly or more candidly expressed the desire for the approbation of his fellowmen than he, or more fairly earned that respect which bestows after death the benison of an honored and deathless reputation upon sterling character and valuable public services. His name is enduring and lives, and it will live as one of the brightest ornaments of the state he honored and the nation he served with peerless statesmanship during the best days of the glorious epoch with which it is inseparably connected. When this bright page of our history shall be finally written we know that his deeds will shine upon it with lustre and renown. This thought in a measure robs death of its gloom and lights up the grave with victory.

"It is a time for eulogy, and not for discriminating criticism upon the accomplishments of the subject of this occasion, but the general consensus of reliable judgment leaves little to fear that criticism will detract from eulogy. The daily record of his life is preserved and enshrined in the wonderful growth and progress of this great commonwealth to whose welfare he gave the benefit of his best endeavors. All its citizens without difference of political thought are pleased to bear testimony to this truth and unite in honoring his memory.

“This occasion and this presence limits the scope of our appreciation to the professional abilities, character and achievements of our friend. He was indeed a great lawyer richly endowed with that best essential of the great lawyer—an innate love of justice, for he had ‘law in his heart.’

“He may not have been upon the right side of every cause he advocated, but he developed in his advocacy of every cause transparent candor, acknowledged respect for correct principles, and enforced his views in behalf of his contentions upon the plane of exalted sentiment, with genuine love for truth and sturdy hate of wrong. He measured and understood the judicial function in connection with professional duty — the relation of court and lawyer — as well as any jurist that ever lived. He always brought the best he had to the court and never knowingly abused or betrayed its confidence and in his addresses to judges and juries made his appeals upon the highest equitable grounds.

“His celebrated defense of Judge Page, for deep learning, solidity of argument, splendor of diction, and lofty declamation, in my judgment, stands with the great orations of our language and may well be studied by the neophytes of our profession as a model of forensic eloquence, while it may also be read with pleasure and profit by the trained and experienced athletes of the forum. In this great speech he illustrated the most splendid equipments of scholarship, literary culture, knowledge of his fellowmen, with a matchless power to persuade and convince which made him a peerless advocate for years before court and jury. No judge can read in this masterful argument the elevated periods in which he describes the judicial function as ‘the embodied conscience of the state’ without regarding his own duties as sacred or being touched by a quickened feeling of the deep responsibility those duties impose and the exactions they demand.

His great ability as a jurist is evidenced by a long line of arguments briefed in the reported cases of this court, more numerous in the earlier part of his professional career than when his sphere of activity was transferred to a different field, yet he was always a lawyer and never ceased to love and adorn his professional labors with his unrivalled efforts which display clear and vivid statement, acute analysis and convincing logic. He early achieved a position in the Supreme Court of the United States which gave him that distinction which belongs to the few great lawyers of the land, for he walked with the best ‘upon the mountain ranges of jurisprudence,’ and was the truest and most steadfast of the

guardians of the constitution, which he defended with the steadfast zeal of conviction and the courage of a martyr.

“Senator Davis was not only intellectually strong and professionally great, but his subtle and exquisite charms of personality were exceptionally rare — men loved as well as admired him — his purposes were transparent and expressed without guile, for he was a very human man.

“Like other public characters, he had antagonists and was the subject on occasions of abuse and calumny, yet he had no time to waste in petty personal retaliations. He preserved no scroll of hate for reference, but he left his enemies to the Nemesis of time and the mercy of Him who said, ‘Vengeance is mine, I will repay.’ His friends (and you gentlemen who have presented this tribute have enjoyed the beneficent gift of that distinction) know that he gave for the adoration he modestly received a warmth of gratitude that held us to his fortunes ‘with hooks of steel.’

“For twenty-five years I enjoyed the luxury of that friendship, the memory of which is one of the choicest possessions of my life and will live while memory lasts. He was as intimate, as dear, and as valuable a friend as I ever had. I enjoyed his timely unselfish suggestions and advice with his valued assistance in my own struggles, his well-timed solace in defeat, as well as the first of congratulations in success. He was to me and to all his friends whom he trusted, as you gentlemen well know, the truest-hearted of men. No bitterness of criticism upon moral or intellectual frailties of others fell from his lips, and now that he has passed from earth and we recall the many occasions when his pleasant and genial manifestations of regard cast their rays of pleasure upon our intercourse, how fervently we do regret ‘the touch of a vanished hand and the sound of a voice that is still.

“Among the best of hopes that inspired our friend’s belief was the unfaltering faith in that immortality for which all of us so sincerely yearn, and to which his departure from among us has added the charm of expectation. His faith in a life beyond the grave was large and generous and I, who have often heard him declare it, know of a truth that it was deep and sincere; he implicitly trusted to the beneficence of the good All-Father, and though

“He knew not where His islands
Lift their fronded palms in air,
He surely knew he could not drift
Beyond His love and care.”

“The righteous man on earth, the man who has loved and served his fellowmen, we are told shall not be forgotten nor lose his reward. Our friend was a righteous man; he used the talents God gave him to the bet advantage for the benefits of his fellowmen. Admonished by his example, let us also be active and earnest in the work we have to do, and we shall, as among the best of rewards in the life beyond, receive a welcome from

**“That bright spirit in his Father’s mansion
Clothed with celestial grace,
And beautiful with all the soul’s expansion
When we again behold his face.”**

“I concur with you, gentlemen, in the reasonable request that your tribute be entered upon the records of this court as a testimonial to the memory of a great lawyer, who, ‘though dead, yet shall live again in his works,’ which will be his best memorial, and shall long survive the ravages of the tooth of time.”

CHIEF JUSTICE START then said:

“Gentlemen of the Bar:

“The court receives with grateful satisfaction your eloquent and merited tribute to the memory of Cushman K. Davis, Minnesota’s pre-eminent son. The people of his state were proud of his great abilities, proud of his distinguished success and of his world-wide fame. They loved, honored, and trusted him, and the trust was never betrayed. He was a wise statesman of the foremost rank, an able, fearless, honorable lawyer, and a good man. It is therefore fitting, as a tribute to his memory, that your memorial be spread upon the records of the court for the day and that the court now adjourn. It is so ordered.”



CUSHMAN K. DAVIS.

JOINT CONVENTION OF THE MINNESOTA LEGISLATURE

JOURNAL OF THE HOUSE

MONDAY, FEBRUARY 18, 1901
[30th Day]

AFTERNOON SESSION

2 o'clock the House reassembled, and the hour of the Special Order being at hand, awaited the appearance of Senate that the Joint Convention might take up the sitting. At 10 minutes after 2 o'clock Lieut.-Gov. Smith attended by members of the Senate entered the Hall of Representatives and took the seats reserved for their occupancy. As President, the Speaker of the House, called the Joint Convention to order, after which the roll was called by the Secretary. Those who answered were:

Senators Barker, Benedict, Brower, Buckman, Coller, Daly, Dart, Dickey, Everett, Fitzpatrick, Gausewitz, Grindeland, Grue, Halvorson, Hospes, Jepson, Johnson, Jones J. D., Larson, McArthur, McCarthy, McGill, McGovern, Meilicke, Nixon, Shell, Sivright, Snyder, Somerville, Stockton, Sweningsen, Thompson, Underleak, Viesselman, Wilson.

Messrs. Aanenson, Allen, Alley, Anderson, Armstrong G. W., Armstrong J. A., Babcock, Barteau, Bean, Benson, Berg, Bosworth, Brubaker, Bury, Bush, Butler, Cooke, Cumming, Deming, Dorsey, Dunn, Feeney, Fust, Gainey, Gandrud, Grass, Harden, Haugen, Haugland, Hendricks, Herbert, Hickey, Hillary, Hillmond, Hinton, Hogan, Holm, Hunt, Hurd, Hymes, Jacobson, Jackson, Johnson, Johnsrud, Kelly, Lane, Larson, Laybourn, Lee, Lemke, Lommen, Mahood, Mallory, Mark, Martin, Miller, Morley, Morris, Nelson, W., Neubauer, Nichols, Nolan, Norman, Noyes, Nyquist, O'Neil, Ocobock, Ofsthun, Oppegaard, Pennington, Peterson G., Peterson S. D., Phillips, Plowman, Pope, Potter, Pugh, Rapp, Rich, Rider, Riley, Roberts, Ryan, Sageng, Sander, Scherf, Schurman, Schutz, Schwarg, Sikorski, Smith, Stark, Stevenson, Swanson, Sweet, Torson, Torry, Umland, Von Wald, Wallace, Washburn, Whitford, Wilcox, Wilder, Mr. Speaker.

DAVIS MEMORIAL EXERCISES.

Mr. Dunn offered the following motion, to which the joint Convention agreed: that the representatives of the two Houses who are to participate in the exercises of the afternoon speak in an order which allows a member of the Senate to be first heard, then a member of the House, and so on alternately until the eulogy upon the late Cushman K. Davis, Senator from Minnesota in the Senate of the United States, shall have been pronounced.

Mr. President: "In accordance with the motion just agreed to, the Chair will recognize Lieutenant Governor Smith, president of the Senate."

Mr. Smith: "We are assembled to honor the memory of a great man, who gave the best of his life to our State. By literary excellence, by brilliant professional career, and by faithful public [237] service he bestowed upon this commonwealth gifts deserving of gratitude. These gifts have been realized and appreciated by the masses of our people. He could not have referred to himself when he said shortly before his last illness: 'Too often the world does not know that it has received largess from a hand of more than imperial bounty until it came time to lay garlands over a face upturned in the blindness of eternal sleep.' Minnesota thanks to-day for his beneficent and patriotic life, but our best eulogies are not more genuine expressions of gratitude than was the spontaneous re-election of Mr. Davis two years ago to the position which he had desired so earnestly and filled so honorably.

"The chief services of the late Senator Davis were oratorical, professional and political. His addresses were eloquent, not so much because of voice and gesture, as because of the wonderful language in which his facts were stated and his thoughts expressed. Whether he uttered the sad notes of mourning, or the sharp cry of warning; whether his voice sounded the clear call to duty or the trumpet blast inciting to heroism — he ever used the language of the scholar, and the imagery of the poet. The people listened to him with delight and admiration. Was the centennial of the nation to be celebrated, he was the chosen orator; were the deeds of our armies to be recited, he told them from a full heart and a living experience; and when the corner stone of our new capitol was to be laid, it was unanimously agreed that he best knew and could best express its significance. If, as the years passed his vigor of speech diminished, his language became more beautiful and expressive, just as the brilliant light of moon is transformed at length into the beauties and glories of the sunset.

“The professional work of Mr. Davis was thorough and untiring. He mastered the fundamental principles of jurisprudence. He applied them unerringly to the facts of each case laid before him for advice or trial. He counselled strict adherence to the right. To him the end of the law was righteousness, and he so applied his legal training as to advance not only his clients immediate interests, but also the ultimate public welfare. He made the court room a true temple of justice, — but yet a justice tempered with mercy. He say could after every trial, as he said at the close of his greatest forensic arguments: ‘I have endeavored fairly, honestly and conscientiously, with no leger-de-main or jugglery of intellect to state the law as I honestly believed it to be.’

“The crowning achievements of Senator Davis were in statesmanship. From childhood he cherished a dual ambition—to occupy high official position, and in that position to render faithful and indispensable service to those whom he owed his elevation. While he sought the franchises of the people, he was studying how best to minister to their political needs. As a young man he saw [238] the people of this state determined to resist the further encroachment of corporate power. He fitted himself to be their leader against what he termed ‘Modern Feudalism.’ The people made him Governor and his acts fulfilled his promises.

“The next office to which he aspired was long in coming. During the years of waiting he intuitively searched for the field of greatest national usefulness. His prophetic instinct found it in the important and increasingly complex relations of the United States with other countries. He studied international law with a zeal inspired by a hope that through it he would eventually render distinguished service to the nation and bring honor to his state. Without consular experience and without contact with international commerce, he rose to be the master of diplomats and the adviser of presidents. When our foreign relations became so numerous and intricate as to attract the interest of every citizen and effect every industry and every home, our honored Senator was recognized as the man of the hour and nothing was too important to be entrusted to his wise counsels. Trade and commerce, peace and war, waited on his words. His fame was bounded at last only by the limits of civilization. And death took him before a single leaf had fallen from the laurel that had crowned his brow.”

The President: “Mr. Roberts, a member of the House, is recognized by the Chair.”

Mr. Roberts: “We have done well to assemble here today. It is right, that Minnesota, through her chosen representatives, should honor, with appropriate public ceremonies, the memory of her dead, who have distinguished and honored her in public life. It is fitting, that we should today so recognize the universal sense of loss, felt by our people in the death of Cushman K. Davis — true soldier, ripe lawyer, faithful public servant and eminent statesman.

“Senator Davis was, first of all, a patriot. He loved his nation every moment of his life, with every breath he drew. He proved this love in the first flush of young manhood, by baring his breast to the leaden hail and glistening steel of his country’s enemies in the bloody war in history. The Union he helped to save continued closest to his heart through life. Through all the crowded, busy, fleeting years since that war he never lost faith in the nation.

“He remained steadfast as a rock to the principles for which he fought—that our great experiment of a government of the people, for the people and by the people, was a full-fledged nation in its highest, best and completest sense, and not a weakly pretense or rope of sand. In the recent, most eventful years, our great Senator was privileged to render his country a further and more distinguished and lasting service, whose ripe and righteous results have given it first place in the world’s just recognition. [239]

“This latest service was no less a sacrifice than his first, soldier service, to his country. For he died prematurely, before his allotted time, worn out, by untiring work, unremitting study and unceasing vigils for his country’s honor and lasting credit, as a member of the Paris Peace Commission and close confidential adviser of the President.

“Senator Davis was an earnest, honest man — whether serving client, state or nation — in all he undertook to do. He earned every honor, fee or emolument he ever got.

“He was not, in a popular sense, an orator, but the force and beauty of his efforts, read and studied in cold type, are a very marvel of lucid, intellectual inspiration. He seldom spoke without most careful preparation, and he left little of his work behind which will not bear closest analysis.

“He was a ripe lawyer, whose mental grasp and application of legal principles in the trial and conduct of causes amounted, often to genius.

“By the test of service and accomplishment, he was Minnesota’s greatest offering to our common country and the world. It was furthest from a chance passing opportunity, that his was found the mind ready equipped for the greatest work of his life — as member of the Paris Peace Commission. His was the acknowledged, guiding mind, through all that great international legal diplomatic battle. He was buttressed at every point with the history, facts and law, and with that firm courageous grasp of the situation and patriotic optimism, which brought the right solution for the unexpected problems cast upon our nation by issues of an unsought war.

“He could not have found a better time to die, than when the great world-work, in which he had had a part, was so triumphantly completed. Though he died before the allotted time of man, he had crowded into his shortened life, a wonderfully eminent and successful career.

“His work and worth are so indelibly impressed upon these recent times, that we may rest assured the impartial historian of the future, will enscroll the name of Cushman K. Davis among the immortalized few, ever thus remembered by history. He rests in his great and useful labors, and ‘sleepeth well.’”

The President: “Mr. Snyder from the Senate has the floor for purpose of delivering an eulogy upon the late Senator Davis.”

Mr. Snyder: “A few weeks ago the mortal remains of Cushman Kellogg Davis lay in state in this Capitol, draped in the somber trappings of death. Citizens came in great numbers to take a last look at the silent, upturned face and to pay a tribute of respect to Minnesota’s favorite son. Since then, both branches of Congress, federal and state courts, and civic bodies, have met [240] to proclaim in eulogy and panegyric, how great and good man he was. Now, the representatives of his own people, friends, neighbors and constituents are here assembled in joint session to pay homage to his memory.

“That he was a lawyer of high rank no one will gainsay. He was trained to the profession in the merciless, uncompromising competition of lawyers struggling for a name and an existence on the frontier of a strenuous civilization.

“He was not a case lawyer. He studied the principles of jurisprudence and chose to be guided by those principles as they have existed from time

immemorial, regardless of the application which this or that court may have placed upon them. His briefs were studiously prepared. His wonderful command of language, the purity of his diction, the power of analysis, and his fullness of mind upon the theme in hand commanded attention from every court, jury and public gathering before which he appeared. In later years he took up the study of International law and delivered a course of lectures upon the subject before law students of the University of Minnesota. They were delivered off-hand, from notes usually on the back of an envelope evidently prepared on his way from St. Paul. These lectures were afterwards published. Senator Daniels says of them: 'I know of no other series which contain so much of learning for the American student so compactly stated.'

It was a saying of Senator Davis' that, 'There is no such thing as making an opportunity — circumstances make the opportunity. The great thing is to be ready when the opportunity arises.' This teaching is well exemplified by the Senator himself. He was always reaching out for something in advance of where he found himself. So it was, as if by predestination, he studied international law long before he had reason to believe that an opportunity to display his acquirement would arise. But the opportunity came. He was equipped and ready. John Sherman died and Senator Davis became head of the Committee on Foreign Relations. Then came the war with Spain, attended with all the intricate international questions which spring up in times of war. It was his hand that shaped the resolution demanding the withdrawal of Spain from Cuba — virtually a declaration of war. It was his hand that framed that phillippic against Spain — the preamble upon which the committee justified its belligerent demands upon Spain. It was his hand that smoothed the way for the annexation of the Hawaiian islands, and it was largely due to him, as a member of the Peace Commission in Paris, that Spain was suddenly brought to the realization that America was a land of statesmen and diplomats, as well as a land of shopkeepers.

"He was pre-eminently a man of letters. His greatest pleasure was among his books. He took unto himself he style, imagery [241] and thought of the best writers of every age. So it is that one finds in his conversation, in his public addresses and in his writings sparkling jewels of thought.

"Cushman K. Davis was a man of strong convictions. He had the courage to proclaim them. When capital and labor in one of our great centers of population had grappled in an awful struggle, and anarchy terrified a law-abiding people, when state aid been denied, when laboring classes,

upon whom he depended for votes, were siding with those opposed to law and order, and others situated as he, held back and wavered in their duty to the nation, then it was that he, in reply to a request of his own constituents to support the Kyle resolution, sent the famous telegram: 'I will not support Senator Kyle's resolution. It is a blow at the security, peace and rights of millions of people who never harmed you — you are rapidly approaching the one act of levying war against the United States, and you will find the definition of that act in the Constitution. You might as well me to vote to dissolve the government.' It came as a flash lightning to clear the turbid atmosphere. When the Kyle resolution came up in the Senate, he rose in his place and hurled thunderbolts of eloquence, denunciation and argument against it and though until that time opposed to His Excellency the President, Grover Cleveland, and his policy, applauded and supported him in calling out the national arms to put down the disturbance in Illinois.

"Senator Davis was his own worst enemy. He came from good, puritan stock, was endowed with a rugged constitution, and in early life nurtured it in wholesome farm life. In latter years his close attention to study, to his profession and to affairs of state, no attention to his physical needs by way of exercise and relaxation, made it possible for an insignificant injury to take him away, while he was still in the meridian of his life, and while his parents yet lived to mourn.

"To most people Senator Davis did not seem 'hale fellow well met.' He often seemed more head than heart, and yet to those knew him intimately, there was none more tender, loyal, past, or more companionable than he.

"Nothing that is said will add to, or detract from his fame. He established that by his own acts. A little while, and his place in history will be fixed. He was not wholly appreciated during his life. He did not escape from the unfortunate habit Americans have of belittling our public men, and pulling them down, while they live. As he himself said, less than ninety days before he died: 'Too often the world does not know that it has received largess from a hand of more than imperial bounty until it comes belated to hang garlands on a face upturned in the blindness of eternal sleep, and to speak vain words at the closed [242] door of the chamber in which no other sound is heard.'

"He has gone from us. His place will know him no more. Surely his fame will increase and the memory of his life grow sweeter the years roll by.

**“Like the vase in which roses have once been distilled,
“You may break, you may shatter the vase, if you will,
“But the scent of the roses will hang round it still.”**

The President: “Mr. Riley will address the Convention.”

Mr. Riley: “The occasion of our meeting this afternoon is one that should inspire our patriotic devotion to our country. It is an occasion that should tend to stimulate and inspire every young man to greater efforts for such mental and moral equipment as will qualify them for any position within the gift of a free people. However humble his place in society may be, he may be inspired with a reasonable hope that in the end he may reach the exalted place occupied by him in whose memory we meet this afternoon. It should call for the best there is in us as men, solicitous of being governed in our lives by the purest motives and most exalted patriotic devotion to country, with a lofty ambition to do the right, while we stand fearlessly against the wrong, because we meet to commemorate the memory of one of our fellow citizens who was ever found, at whatever personal cost or self-sacrifice the occasion might call forth, on the side of justice and of right, and against oppression or wrong. Personal ambition or preferment could not come between him and duty, nor turn him aside from his convictions of right. Always faithful to friends, he preferred to rise in the esteem of his fellow men on the merits of a thoroughly equipped mind, schooled to superior mental poise, never for a moment forgetting truth, honor and honesty of purpose. Modest, yet conscious of his own mental grasp, he would not rise at the expense or downfall of any man who might have an equal right with himself to place within the gift of the people.

“Senator Davis was not a mere politician, figuring for personal advantage or truckling to the baser passions or prejudices of men, even should they be of his own constituency. One of the acts which stamp him as a statesman, and not a politician, was his famous telegram to his turbulent and riotous constituency at Duluth, in 1894 — knowing that it would bring upon him the hate and fierce condemnation of lawless men who hoped for his potent and weighty influence in their unworthy cause. He was fearless in condemnation of their wrong as clearly shown by their lawless acts. His fearless advocacy of the right and denunciation of the wrong, had its influence, and in time these disturbers of the law learned to love and respect him because of his honest of purpose and devotion to the interests of the people. [243]

“The great and crowning act of a great and well-spent life was perhaps the part taken by him in the Spanish-American war, and his connection with the Treaty of Paris. Equipped as was no other American, by long years of tireless, patient study, he was well prepared for the emergency now upon us. Senator Davis did not make the occasion, in fact, used his influence to avert the trouble he plainly saw approaching, and was the better equipped for that knowledge, when it fell upon us like a thunder-clap, to make a name world-wide as a statesman and diplomat, who will be known in history as long as American history shall be read.

“Senator Davis loved books and literature too well to be much of a devotee of society. Books were his constant companions and closest friends. In them he found substantial pleasure, yet he was always mindful of those with whom he came in contact, and had a warm feeling for his friends. Possessing an analytical, judicial turn of mind, he was able, readily, to discriminate between the true and the false, as few men could, and he was able to make use of that knowledge as but few men could. As Grant and Lincoln stood forth in their day as general and statesman, so stood, in the closing days of the Nineteenth Century, without a rival, head and shoulders above all competitors as statesman, diplomat and patriot, Cushman K. Davis.

“I note with some degree of pleasure that Senators Davis and Nelson went into the Civil War from the same sister state as myself. Perhaps this, in a measure at least, may account for the call upon me to take some part in this afternoon’s expressions of respect to his memory. He enlisted in 1862, in the 28th Wisconsin Infantry, serving about two years, returning in 1864, to resume his interrupted studies as soon as his broken and shattered health would permit. My own service began about a year earlier, and continued something more than a year later. Much of the time we served in the same army, and some of the time under the same general officers. The Vicksburg campaign was one that would try to the utmost the most robust in health, and it was too much of a strain for his none too strong constitution. His health failed him, much to his sorrow and regret.

“He was a warm friend of the soldier, always anxious and solicitous of and for them. While at the head of the Pension Committee of the Senate, his greatest work for them culminated in the enactment of what is known as the ‘Dependent Pension Bill,’ under which more than six hundred millions of dollars have distributed throughout the land, relieving want and distress where most needed. This act will, no doubt, cause his name

to be gratefully remembered by thousands of old veterans, their widows and orphans. His ever thoughtful mind and loving sympathy went out for their benefit, engaging his first thought and ready service. His love of country and her defenders should inspire [244] our patriotic devotion to country to renewed efforts for that mental and moral equipment which will qualify old and young for the loving devotion for our country's good. At Mount McGregor, ebbed slowly away the life of the greatest general of modern times, made more heroic by his efforts to leave some means the support of loved ones left behind, and to pay, in a measure, debts not legally of his own contracting; so slowly went out the life of a less conspicuous soldier, but eminent as a statesman, patriot and lover of his country. All hail comrade and companion, and farewell, until we meet on that eternal camping ground."

The President: "Mr. McGovern, also one of those selected by the joint committee to eulogize Senator Davis, is now recognized."

Mr. McGovern: "This impressive occasion recalls another though of a very different nature, which took place here about two years ago, when the Legislature of this state, in obedience to a very general popular demand, with marked enthusiasm, elected the late Cushman K. Davis to succeed himself United States Senator from the State of Minnesota. He was then full of life and vigor, and had achieved a reputation and a place in the counsels of the nation of which the people of the state were justly proud, and they looked forward in the expectation and hope that his brilliant career would be long continued; that greater and still higher honors were in store for him, and his distinguished services to the nation would continue to reflect credit upon the people of the state he represented. Death summoned him too soon, but he died full of honors and lamented by a sorrowing state and nation.

"We now pay tribute to the memory of this distinguished man and here in the presence of death, which in the solemnity of this hour seems still present, forgetting the rivalries begotten in the busy arena of life, and the wide divulgence of opinion on many questions of public interest which existed between the deceased and some of us, let all pay a just homage to his character as a citizen and a statesman. As his voice is stilled in death and his brilliant faculties are at rest forever, it is fitting that we forget the controversies which divided us in the past, and remember now the higher qualities of his mind and heart which in life we respected and admired.

“Mr. Davis was a man of rare mental power. The movement of his mind was rapid and accurate. He studied and understood the philosophy of events, and in his devotion to his country, he sought to mould and shape them, so as to promote the welfare, growth and progress of the state and nation. Mr. Davis a ripe scholar, an industrious student and well equipped to discuss and determine public questions. He respected the opinion [245] of others, but never played the demagogue or encouraged popular error, and steadfastly adhered to what he conceived to be right, regardless of popular clamor.

“His public career was of steady growth and was remarkably successful,—he did not rise suddenly to eminence, as many have done as the creature of circumstances, but step by step he ascended the ladder of fame, borne along by the force of his own genius, and his well-merited success was largely due to the brilliance of his mind and untiring industry.

“Added to his superior intellect, Mr. Davis was blessed with a generous, open, frank nature and a genial disposition. He was unselfish, kind and constant in his friendships, and his high sense honor begot the respect of those who enjoyed his acquaintance, and while it is not becoming to cover the dead with unmerited eulogy, I speak but what I know to be the truth. But in my judgment the grandest and most enduring eulogy that can pronounced upon Cushman K. Davis is that in all his public career, patriotic devotion to the welfare of both state and nation directed and controlled his conduct, and that his fidelity and honesty were never questioned.

“The name and fame of Senator Davis are in the keeping of the people of his adopted state. His memory will be preserved and fondly cherished by a just and generous public, and in the history our country his name will be illustrious among the eminent statesmen of his time.”

The President: “Mr. Pennington is recognized.”

Mr. Pennington: “The only reason why I undertake to express a sentiment on this memorial occasion is this: That I am one of the farm people, and I speak as illustrating the fact that people of all classes are honored by the splendid achievements and distinguished public service of Cushman K. Davis. Fitting words of eulogy have already been spoken at various times, concerning the life work and character of Senator Davis by his brethren at the bar, by the judges before whom he practiced his chosen

profession so long and so successfully; by his associates in public life, with all of whom he was a leader and a favorite. So that it would seem to be trespassing upon the time and perhaps the propriety of this occasion for me to attempt to add anything to what has ready been said in this direction.

“But, as a representative of the farm people of this state whose opportunities to speak in memory of Senator Davis have, perhaps not been so abundant, I feel justified in briefly bearing testimony to the universal respect and high regard in which Senator Davis was always held by the people of my calling.

“I think it is entirely true that Senator Davis had a stronger hold upon the affections of the people of the rural communities [246] and enjoyed their confidence to a greater extent than any other man who has ever lived in this state. I make this statement without qualification and except no one.

“His sympathies were so broad that people of all conditions, poor as well as rich, were included within the scope of his comprehensive humanity. In his highest aspirations and noblest conceptions Senator Davis was indeed a man of the people, and as such his life work will be honored and his memory cherished by the people of coming generations.

“But we must bear in mind that law and principles have regard for the majority, and not the exception, and that in estimating the value of men’s lives and character, it is the aggregate of action and influence that must be considered. Applying this rule, the life work and triumphs of Senator Davis may well stand as a guiding example and a fruitful inspiration to all men.

“He was possessed in large degree of those noble qualities of mind and heart which all men love and admire in a public leader, sympathy, humanity and toleration. And this, in my judgment, is the preëminent feature in Senator Davis’ character.

“He knew all kinds of men and he knew them well, and sympathized to the fullest extent with their ambitions, their longings and their failings. And these characteristics I believe to be true of nearly all the great public leaders who have ever lived in this country. It is true of Jackson; it is true of Lincoln; it is true of Grant. And, further, this element in Senator Davis’ character emphasizes the fact that when public men advocate and respect the rights of the people, there is little danger but the people will respect

the man and honor his memory. He was broad and liberal in his treatment of men and measures always willing to acknowledge merit wherever found equally willing to establish and promote strong and enduring friendships, even with political opponents. Illustrations of this fact will readily occur to the mind.

“A characteristic feature of these exercises and all others held in memory of Senator Davis is their sincerity, of Senator Davis no man need speak without the distinguishing mark of absolute earnestness. His life was earnest, and devoted at all times to the promotion and accomplishment of noble purposes; and so the State of Minnesota does well on this occasion to commemorate in fitting terms the worth and achievement of one of her noblest sons, Cushman K. Davis.

“And we all join, and the people of the State of Minnesota join with us in expressing that noble sentiment of love and reverence, — well done, good and faithful servant.”

The President: “Mr. McCarthy will have the attention of the joint body while eulogizing the late Senator Davis.”

Mr. McCarthy: “Cushman K. Davis has gone from our midst, [247] and we, his friends and neighbors, have gathered here to-day, in the city of his home, at the Capitol of his state, within these walls that have echoed his wisdom and his eloquence, to pay our respects to his memory, to express our appreciation of his life and character and to speak our gratitude for what he has done for us, for our state, for the nation, for mankind. There are two ways of studying and discussing the life and character and public services of a great man. One is to begin with his ancestors—the stock from which he has sprung. To trace the career of such ancestors down to the birth of him who is the subject of discussion To follow the man from boyhood to old age. To describe his early surroundings, the place and community in which he was and raised, his early home, his playmates, the schools he attended, his teachers, his early characteristics; to speak of his youth, his college days, the dawns of genius, never seen or suspected until after years. To speak of and describe his manhood, his ability, capacity and power. His work as a farmer, a merchant, a mechanic, a preacher, a soldier, a teacher, a scholar, citizen. To describe his death.

“The other is to take a thousand years of the world’s history, better still, the history of the world itself, the evolution and development of

government, of society, of civilization, of happiness, of well-being, to study all these historically — the events — the visible facts, to study them philosophically — the forces that produced them and what they produced until the life and character reached we wish to study and discuss. We can then know the forces and conditions that made or contributed to make, his and character what it was, and we can consider and study and discuss what he stood for, what he accomplished, what he was. What he did for his country and the world. All governments, all human institutions, society, civilization, progress, are result, the manifestation of forces acting by and through men. And all men are largely, if not entirely, the product of conditions, circumstances and surroundings. Every man is the flower and fruitage of a multitude of conditions and circumstances that preceded him, that surrounded his birth, his youth, his manhood. To discuss Cushman K. Davis is to discuss the country in which he lived, the society in which he acted. It is to discuss the place that country and its government occupies in world, among the nations of the earth. It is to discuss the forces that produced this country, this government, American institutions, and what they are all doing for mankind. Then we can follow and study the career of Cushman K. Davis. We can see what he stood for, what he accomplished, what he was. Great men are really never understood or thoroughly appreciated by their contemporaries. This is not, at least in our day, because their contemporaries do not want to under- [248]-stand and appreciate them. It is because great men are always men of action, men of deeds. The great are always solving the problems of life, removing the obstructions from the highway of the race. Great men are forever marking out the road and clearing the way for the millions after them to walk. The faces of the great are always turned toward the untrod realms of the future. Great men are always pioneers, out on the frontier of human action, the great are always found. Their contemporaries are always so interested in the immediate present, in the work of the day, in that being done, they have not the time to contemplate, to study the deeds and accomplishments of yesterday while the doer of such deeds is still alive and in action. And then this is also true, no life can be thoroughly understood and fully appreciated until it is seen as a whole. But few can stand in the immediate presence of a great event and fully grasp that event. One must be far away; it takes time, distance. One cannot stand at the foot of a mountain and grasp that mountain. He must be far away. He must be where he can see the great plain at its base with its rivers and forests, its towns and cities. He must be where he can see the snow-crowned summit, and the ocean far away. But few men can stand in the immediate presence of a great man, a splendid character, and fully grasp the greatness of the man the sublimity of the character. It takes time,

distance. We must be far enough away to see the form outlined against the sky. We must be where we can see it with its surroundings; compare it with things, events, actions and men contemporaneous with it. We must be far enough away to see and know what the effect of the life was upon the country, the world. We are yet too close to the life and deeds of Cushman K. Davis to accurately measure the man.

The greatest work of his life was that in which he was engaged at the time of his death. The great work is not yet completed. It was the good fortune of Mr. Davis to be born at an opportune time in the life of his country. To be born at a time that brought him in the full strength of his manhood and power of his intellect into the held of action when great events were taking place and when his country was the chief factor in these events. There have been three great epochs in the life of this nation. One was the revolution, the war for independence, the adoption of the constitution. The second was the great civil war, the war of the rebellion. The third was the Spanish-American war and the results of that war. The revolutionary war and adoption of the constitution determined the form of government and institutions of this country. The civil war determined whether such form of government and such institutions could and should endure. The Spanish-American war and its results [249] will determine whether such government so founded by the revolution and preserved by the war of the rebellion shall exert its influence, force and power among the nations of the earth for betterment of mankind. When the great civil war came Mr. Davis was in the full strength of his young manhood. His country needed men, he responded to its call. He gladly, willingly, went where death and danger were, to help preserve this Republic. He fought to keep the flag on high, to make this country great and free. He fought for all that the fathers wrought, for all they did, for all they hoped. He fought to preserve this republic and that contains and means all that this republic stands for to all the world. It is impossible to over state or over estimate the debt we owe to the soldiers for the Union. Beneath all progress from their day forth, beneath the republic, beneath liberty, that which makes them all possible are the deeds and graves of the soldiers for the Union.

“Between the close of the great civil war and the commencement of the Spanish American was a period of great national and individual activity and advancement. During all of that time Mr. Davis was one of the foremost men in Minnesota and the country. As a citizen, a lawyer, a member of the state Legislature, governor and United States Senator he stood for that which was the highest and best, left the impress of himself

upon his state and its people. He was a student, a thinker, a scholar. He made himself acquainted the history of the world. He studied the rise and fall of nations, the growth and decay of governments. He made himself acquainted with the master of international law, the Law of Nations, the rights, powers and duties of sovereign states. He was an earnest, intense, patriotic American, proud of his country and ambitious for its future. When the war with Spain broke out it found Mr. Davis fully prepared to take a high and commanding place in the counsels of the nation. He was prepared education, by scholarship, by experience in public affairs, by character and by disposition. At the head of the Foreign Relations Committee of the Senate he performed conspicuous work. In the public eye he was second only to the president, if even to him. In the conduct of war, and in determining the course of this government immediately after Mr. Davis was one of the powerful men at Washington and it was his influence that shaped and determined largely the policy of the administration and the government. Believing in this Republic, with faith in its glorious future he hesitated not a moment to take such steps as would make this country a great world power in commerce, in industry, in civil government, in liberty, in civilization, in happiness.

“Beyond the clash of arms, the roar of guns; beyond the crumb-walls of dungeons hoary with age; beyond the contentions [250] of the hour, outlined against the sky ‘of a visible future,’ he saw the manifest destiny of this Republic. With all the power he possessed, with a faith that never faltered, toward that destiny he ever worked. Political parties are still divided upon the wisdom of the course this government has taken in the direction that manifest destiny. Time alone will tell whether Davis and his conferees were prophets or mistaken men. One thing we now can see and know, and that is that so far as the ideas, the policy of Mr. Davis have been worked out they take this nation along the very road he saw so well, they lift the United States into the position of commercial supremacy among the Nations of the earth. For more than sixty years the transcendent importance of a great interoceanic canal across the Isthmus of Panama or at Nicaragua has been understood by all the nations of the earth.

“Second to the construction of the canal was the question who should control the same or at least have it within their power to control it in time of war. While other men were wrangling over the wording of treaties, Davis, with the genius of a Napoleon, saw that to be in possession of Hawaii on the West, and Porto Rico and Cuba on the East, would put this nation in a of power over and above all treaties, and to the obtaining o such positions he ever worked.

“The work of Mr. Davis in the matter of acquiring Hawaii alone is sufficient to lift him into the realm of statesmanship. In the years to come, when the people of this country come to fully appreciate what the possession of those islands means, the full significance of that position, they will, without regard to party, place a wreath of glory on the brow of Cushman K. Davis. It may be true, it perhaps is true, that the world will never know the real greatness, the full stature, of Mr. Davis. If we could look into the heart of men and see the half formed plans, the designs, the sketches, the hopes, the aspirations, the ideals, even the day-dreams that fade away into the unattainable, we could more accurately measure the greatness of men. As the shadows of the night were falling over Davis he cried ‘O that I might I might live five years longer for my country.’ That expression is a window through which we can look into the heart of Davis and know that he had great hopes, great designs, great aspirations, great ideals for his country, greater even than he had yet accomplished. In his heart was that manifest destiny he saw and understood so well. He wished to live that he might be instrumental in leading the nation up to those ideals. In the midst of his work, while yet his heart beat high, with great opportunity before him, with a future limited only by his own limitations, he died. He died but he still lives. His life is transmuted into the life of the Republic and his memory is enshrined in the hearts of a grateful people.” [251]

Mr. President: “Mr. Hurd, who will deliver the last of these tributes, comes from the home city of Senator Davis, and the district which that great man lived. Mr. Hurd.”

Mr. Hurd: “Few men use the great gift of looking far, searching wide and delving deep. The average man forms hasty opinions and jumps at conclusions. The average man is swayed back and forth by every conflicting change of public opinion to which he himself contributes, and then wonders why. Fears without and doubts within.

“An absorbing, income-producing, nervous, excitable, high-pressure age, producing nervous, excitable people of a great nation, wherein great deeds are done as in the twinkling of an eye; wherein great projects, great problems come and force themselves for solution, come rolling in and crowding and overcrowding other as unto the great billows of the ocean revealing in their strength and might and crying for room to roll and live through all is swept away in their pathway. And as the foolish would say to the wind or to the mighty deep ‘ye cannot harm me,’ and they would toss him aside as if he were a very small thing, so the foolish

or nervous, or excitable or fearful who would say to the great deeds, great projects, great problems forcing themselves so rapidly upon us that history, geography, science of latest edition as of to-day are almost obsolete before they can read, who would say 'wait, I compel you to wait till I have mastered you,' or 'you cannot go on, I am opposed to you,' they laugh him to scorn and say, 'time and tide wait for no man.' For there is indeed a 'tide which taken at its flood leads on to fortune and to fame,' and there is a tide and there is a flood, which no man and no combination of men can stop, in the affairs this great nation and in the management and navigation of great ship of state. On that tide leading to fortune and fame she must sail, for only the fearful and foolish would have her anchored, to die of rot and be paralyzed and useless from inactivity.

"Ah! but the ship of state is a fearful and wonderful institution, it is very intricate and complicated, so intricate, so complicated that only the time-tried, experienced and tested dare be trusted with its management. Well who are planning the great deeds? Who are solving the problems? Who are scanning afar, searching wide and delving deep? For there is some one on the bridge; there is some one at the charts and there is some one at the throttle. Ah! yes, a Washington with his great staff of Jefferson, Knox, Hamilton, Jay, the Adams; a Monroe who made a Minnesota possible. Then a Madison, the gifted Clay and Calhoun, Andrew Jackson, Webster, Sumner. The beginning of dark and gloomy days—but the Star of the North, Minnesota, ever and anon shone through the gloom, a beacon of things hoped for and [252] things to come, for did not 'Father Abraham,' Lincoln of blessed, memory, when the storm broke in all its fury, find hope and comfort first of all in the State of the Star of Promise, Minnesota? Lincoln's staff of great men like Stanton, Grant, Sherman, Thomas, Seward, Chase; then the brilliant Blaine, John Sherman, Everts, Ramsey, Windom, Cleveland, aye, Cleveland, for a Republican can afford to be generous and just, McKinley, the Patriot— Oh! what a roll call and Oh! so many great names omitted for lack of time, for great statesmen have risen for every great issue in our history.

"But one great name must not be omitted, for we glory in it, is ours, our very own Minnesota's great son, Cushman K. Davis. And we here to-day do that name and that man reverence. Yes, he was one of the great Master-minds the great Commander, the Nation and this State absolutely relied upon *to think, to think* — to look far, far ahead, to search very wide and to delve very deep. And the Lord gave him clearness of vision and simplicity of expression and when he spoke the people hearkened and

understood. And because he could see so plainly, so far ahead into the future and because he knew that *all* would be well, he *feared not*, and so he taught the people. You say 'there were giants in those days.' We do not have to look to *those* days; for behold a giant, a giant mind, left us but three short, months ago. And though he be dead yet shall he live again, for his name is ours, and his fame is ours and name and fame are imperishably inscribed upon National and State history.

"As he contributed to Minnesota's greatness and was a part of her greatness, Minnesota cannot and will not forget Cushman K. Davis. A master mind I have said—Mind, memory, the most precious inheritance of man, and the most marvelous of the great gifts the Creator has endowed man with.

"It cannot be analyzed or defined, and before its great mystery the otherwise skilled surgeon stands in awe and dismay, for well he knows how almost hopeless it is to repair or adjust a diseased mirror of the soul, the mind.

"The mind, the memory, a precious and marvelous gift! Yes — Into it are stored and subject to limitless drafts the things we see and have seen, our loves of to-day and the days gone by, the knowledge, learning, experience, all, all the myriad of things great and small that go to make up life. And when the mind is gone then life is gone — 'second childhood and mere oblivion.' Eagerly, anxiously and lovingly does it respond to demands upon it to absorb and store away in its capacious and mysterious recesses, study, facts, figures, information, knowledge. And still it cries for 'More,' for well it knows that 'knowledge is power' and that with all the getting one must get understanding. It responds to the most rigid training and discipline so that [253] the earth, the air, the skies, the seas, all reveal themselves to its mastery. And so this great Master Mind of our great Senator responded to his discipline and demands upon it to absorb the wonderful mass of study, research and information he stored it with and then he compelled it to calmly, quietly and dispassion - separate the wheat from the chaff, the true from the false, wise from the foolish, casting aside, but forgetting it not, chaff, the false and the foolish, and with the rest weighing separating and giving each part its true value. And so with acquired knowledge of the wisdom of the past ages and the needs and paramount issues of the present, he could logically and intelligently forecast and foretell what to us may have been looking 'as through a glass darkly,' but what was to him clear, clean and distinct, a great nation and a great people meeting and over-coming what might

seem to them as they came great obstacles, almost unsurmountable, but meeting and overcoming the great problems and handling the great projects that make a nation greater.

“And this was the statesmanship of the great Statesman Cushman K. Davis. And this was the mind, which has been and will be the inspiration of our students, of our men and women and of our legislators, who would be tried and true, intelligent, patriotic citizens, and who realize that they can be such only through careful, intelligent thought and study.

“So when we falter, when we fear, when we doubt, let us remember our counsellor, guide and friend, Cushman K. Davis, and us but think—how would he handle this question. how would he dispose of that issue, or that problem?

“Would he be nervous or excitable? Would he form a hasty judgment, would he jump at a hasty conclusion? Oh, no! In your mind you could hear the great statesman say—‘think— think—use the mind your Creator has given you to think with your sober second thought and mature judgment will give you the light and the answer you seek.’ And so I pay my tribute to the master mind of Minnesota, aye and one of the nation’s master minds, Cushman Kellogg Davis.”

MOTION.

Mr. Umland moved that the joint Convention rise, but at the request of the Chair withdrew the motion temporarily. It was then announced by the President that a motion to have the addresses just delivered printed as part of the proceedings of the Joint Convention would be entertained. Senator Wilson claimed the privilege of the floor but the motion was made directed to extending a vote of thanks to those gentlemen who dwelt with so much eloquence and impressiveness upon the virtues, the [254] character, the abilities, the national prominence of the late Cushman K. Davis. This motion as made was stated by the Chair and agreed to by the Joint Convention.

Mr. Umland then moved that the journal clerk be instructed to incorporate in his record of the afternoon’s session, all the addresses which had been made, which motion obtained. The motion as originally made by Mr. Umland that the Joint Convention rise was then renewed and agreed to.

ADJOURNMENT.

The House, after Lt. Gov. Smith and the Senate had withdrawn from the hall, resumed its sitting and a motion to adjourn was made by Mr. Pennington and agreed to.

Accordingly the House (at 3 o'clock and 45 minutes P.M.) adjourned.

**JULIUS A. SCHMAHL,
Chief Clerk House of Representatives.**

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Posted MLHP: January 24, 2016.