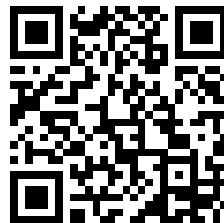


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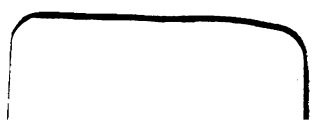


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JUDGE LYON AS CHIEF JUSTICE OF THE  
SUPREME COURT OF WISCONSIN

**WILLIAM PENN LYON**

**BY**

**CLARA LYON HAYES**



**PUBLISHED BY  
STATE HISTORICAL SOCIETY OF WISCONSIN  
1926**

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## FOREWORD

William Penn Lyon, as lawyer, soldier, judge, supreme court justice, chief justice, and president of the State Board of Control, contributed greatly to the reputation of Wisconsin for a high type of public service. Ability, integrity, and a disinterested zeal for the public welfare were the distinguishing traits of his character, and so conspicuously were these illustrated in his career, that we are fortunate in being able, through this biography, to hand down to posterity a record of his life.

Judge Lyon's daughter, Clara Lyon Hayes, prepared the biography with the thought of publishing it in book form. She consented, however, to the production of the narrative portions, in serial form, in volume nine of the *Wisconsin Magazine of History*. Mrs. Hayes also requested that this book, which is a reprint of the magazine articles with the addition of the documentary section, might be published, at her expense, under the auspices of the State Historical Society of Wisconsin.

It is a genuine satisfaction to sponsor the book, as it was to publish the narrative, and we wish on behalf of the Society to acknowledge both Mrs. Hayes's generosity and her fine sense of propriety in making the indicated arrangement.

JOSEPH SCHAFER, Superintendent  
The State Historical Society of Wisconsin

MADISON, SEPTEMBER 18, 1926



## PREFACE

Toward the close of my father's life I commenced to collect material for his biography. I felt that one who had been so intimately, interestedly, and forcefully connected with the social and political life of the great state of Wisconsin should stand in a true light in the history of his state, first for his own sake, then for the inspiring example of an honest, successful political life.

After his public life had ceased, but while Judge Lyon was still with us, I asked different intimate friends to write each a sketch of some phase of his various public activities; in almost every instance my request met with a prompt and cheerful acquiescence, and these articles are inserted in this work. Judge Lyon insisted that nothing should be published before his death, but almost all of the articles were written during his lifetime, were submitted to him, and received his approval as to the correctness of facts presented. He criticized them only as being too laudatory, a fault which if true would easily be forgiven by his friends.

It is not the circumstances and events that count in one's life, nor is the mere narration of them a biography; it is the life itself, the living of it, that makes it important. The development of strong personality, the growth of worthy character, the individual initiative, the manifestation of underlying principle in all life's circumstance, make it of value to humanity. Events may help to develop character, but they are no more a part of the man himself than is the atmosphere he breathes. In writing of William Penn Lyon, whose life is so closely interwoven with the early history of the state of Wisconsin, it is difficult to avoid mention of

stirring events that belong to the time in which he lived; but in order to emphasize the life and not the period, much of interest has been omitted.

I may be pardoned for drawing rather freely from his war letters published by Mrs. Lyon under the title of *Reminiscences of the Civil War*, as that book was published for private distribution only.

I wish here to make grateful acknowledgment of my deep obligation to Dr. Joseph Schafer, superintendent and editor of the State Historical Society of Wisconsin, and Edna Louise Jacobson, assistant editor, for valuable assistance in the preparation of this book; and to the Society for granting my request to become its sponsor.

CLARA LYON HAYES

EDEN VALE, SAN JOSE, CALIFORNIA  
SEPTEMBER 22, 1926

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## **PART I BIOGRAPHY**



## I. THE FIRST PERIOD, 1822-1860

William Penn Lyon, the first son and third child of Isaac and Eunice Coffin Lyon, was born on October 28, 1822. He was descended from "Thomas Lyon of Rye," who was born in England about 1621, and died at Bryam Neck, 1690; Thomas Lyon's first wife was Martha Winthrop, granddaughter of Governor John Winthrop, of Salem, Massachusetts. His second wife, Mary Hoyt, was the mother of Thomas Lyon, Junior, who was born at Greenwich, Connecticut, as were also his son Jonathan, and grandson David. David Lyon, born in May, 1741, married Freelove Firman. He served in the Revolution with the rank of captain under Colonel McDougall in the First New York Regiment. He was taken prisoner by the British and confined in the famous prison in New York City known as the "Old Sugar House," where he died. His oldest son, Thomas—William Penn Lyon's grandfather—was born at North Castle, New York, May 31, 1766; and while the family was living at Ridgebury, Connecticut, though still a mere boy, he enlisted in Captain Hunt's Company of Rangers, Colonel Wessenfel's regiment, and served as a private for nine months.

Thomas Lyon married Benjamina Valentine, born August 1, 1768. Eleven children were born to them, of which number Isaac (born April 4, 1795, at Stanford, Dutchess County, New York) was the fifth child, though the first son. When Isaac was five years of age, his parents moved with their family to the town of Canaan (New Lebanon) in Columbia County, New York, and a few years later to the adjoining town of Chatham. Isaac Lyon served

in the army for a short time in 1814 as a private in Lieutenant Colonel VanRensselaer's Light Infantry Battalion.

In her *Memories of Eighty Years*, Mary Coffin Brooke writes of Thomas and Benjamina Lyon:

"They were in very good circumstances for those days so that there were servants for the housework, and the five daughters spent their time in sewing and spinning fine linen, though they were married so young there was little time for anything; my grandmother was seventeen and one sister only fifteen. They all lived to be over eighty, and some of them saw great-great-grandchildren. Their mother, Benjamina Valentine, was of Holland descent, and was rather a remarkable woman. She lived in the days of John and Charles Wesley, and was a devout Methodist, wearing the plain dress of the early converts, and always using 'thee' and 'thou.' Her dress was usually dark homespun linen and over it she wore a white linen apron as long as the gown, and wore a white kerchief over the breast."

Thomas Lyon attained the ripe age of eighty-one, dying at Lyons, Wisconsin, in 1847.

On his mother's side William Penn Lyon was descended from Tristram and Dionis Coffin, emigrants from England to this country in 1642 and among the first settlers on the island of Nantucket. Tristram Coffin died in 1680 and is buried on that island. Certain distinguishing and well-marked traits of character have been transmitted from generation to generation in this family, of which William inherited his full share. It was said of Tristram Coffin that he possessed great energy and force of will and great independence of character; he was in the habit of thinking for himself and acting upon his own convictions; he had a natural dislike for undue restraint, but gave evidence of a due regard for government and for the existence and maintenance of law. He was opposed to an enforced religion, whether it was the National Church in England or the Calvinistic one in America. Having escaped from laws regulating the conscience and dictating the religious duty of man in the

mother country, he was not the man to refuse shelter to a Quaker, or to lend countenance in any way to the execution of men and women who were honestly engaged in promulgating their religious views and preaching the gospel of Christ as they understood it. There was an early recognition of the position of women; Mary Starbuck, a daughter of Tristram Coffin, was at an early period respected for her wisdom and judgment, and occupied a position of great usefulness. She became a minister of the Society of Friends. Many of the descendants of Tristram Coffin were among these early Friends; later many were foremost in the anti-slavery movement; many, with the characteristic energy of the race, have been leaders in all movements calculated to elevate and improve their fellowmen.

On the subject of the Coffin family, in whose virtues he, as one of its honored members, took a genuine satisfaction, Judge Lyon wrote: "The parents of my mother emigrated from Nantucket to the city of Hudson, New York, in the latter part of the eighteenth century, and there my mother was born. When grandfather [Uriel Coffin] left the sea he removed to Chatham and settled upon a farm which he purchased in that town, and upon which he resided until his death many years later.<sup>1</sup> My father and mother were married April 2nd, 1817, on the sixteenth anniversary of my mother's birthday. They resided in Chatham until 1841."

Isaac Lyon and Eunice Coffin, his wife, had ten children.<sup>2</sup> Mary and Clarissa, William's older sisters, gentle and obedient, had been easy children for the young mother

<sup>1</sup> The farm spoken of was the home of Eunice Coffin at the time of her marriage to Isaac Lyon. Many years later, when their daughter Mary could buy the home that her heart longed for, she chose the old homestead that Grandfather Coffin had loved.

<sup>2</sup> Mary, Clarissa, William Penn, Isaac Pennington, Catherine, Maria, Elmina, Eliza, Sarah, and Julia. Isaac Pennington and Eliza died in youth, Clarissa a few years later. In 1906 seven members of the family were still living. Mary, William, and Catherine passed the ninety-year milestone, the last named failing to reach the century mark by only two years. It is characteristic of the family to retain their intellectual vigor to the end. Like most other large families, they have been scattered over the country from east to west, though the deep affection they have always borne one another has brought them together whenever possible, and their interest in one another's welfare has never waned.



to manage; but with the advent of this boy, in whose nature were the buds of character that later were to blossom into the well-known and highly individual qualities of the lawyer, legislator, soldier, and judge we are describing, she found a new field of responsibility.

As a young child William had a strong sense of personal respect and dignity. He showed in this direction a maturity beyond his years that was troublesome when it became necessary for him to submit to authority. He was inclined to resent and resist control from without. When his active brain had planned and proceeded to carry out a course of conduct, it was hard for him to have his projects frustrated by bothersome elders, and such interference would naturally cause confusion and inharmony in the mind of the child. He was fortunate indeed in having a wise and thoughtful mother; under her placid and self-controlled exterior were suppressed forces and energies that gave her understanding and sympathy with the boy's nature, and taught her how to deal with him. Methods of child training then in use—"Spare the rod and spoil the child," "Children should be seen and not heard," "Bending the twig," with a crooked tree as the result—all these were substantially modified in practice, by the young mother, with beneficial effect. This child was not "clay in the potter's hands," but a living soul full of possibilities to be unfolded by its own inner vigor and activity. His amiable, gentle father had no desire to interfere in the training of the boy when he came to know that William was not in the least benefited by his interference, however high the authority of the method of spoiling the child by sparing the rod. William loved and revered his mother and generally yielded to her authority without a struggle, but he learned in his early boyhood that if he made a struggle necessary, the storm was soon calmed and she was the victor. He has been heard to tell how he once took castor oil after having rebelled against taking the dose; his mother held him close in her arms, sister Mary held one kicking leg, Hannah, the "hired girl," the other, while his mother ad-

ministered the medicine. It did not take long for him to learn that mother's will was law and he must obey; but as she wisely made him feel her great love with the justice of her position, he recognized her authority, and the necessary lesson of obedience was learned. In a large family the child learns self-reliance and must often make his own decisions; fortunate indeed is the boy whose parents train him to decide aright.

That he manifested early in life his positive nature and his love of fair play, we see from the following incident: On one occasion, almost as far back as he could remember, a boy had misused him, and received a blow in requital. The indignant parents brought their boy to Isaac Lyon's home and complained of William's offense. William, angry through and through, said nothing. His father told him that he must apologize to the boy and tell him that he was sorry. But William was not sorry. He looked up defiantly and said, "I won't do it; I'll die first." And it is certain that he would never have asked the boy's pardon, no matter what they might have done to him. His parents argued and insisted, but he would not yield; and the people departed without the satisfaction of seeing the boy humbled. After they had left he told his mother the facts of the case, and the injustice of it from his viewpoint. While she understood his position perfectly, she improved the occasion to teach him a lesson in non-resistance and forgiveness of injuries.

William commenced attending district school when he was about five years old, and attended quite regularly until he was twelve. During the time they lived upon the farm his father, who had previously conducted a crossroads store, established another country store near his home. William, having displayed an aptitude for mathematics and book-keeping, was taken out of school and placed behind the counter as clerk. He had made considerable progress in the study of mathematics, and was well advanced for his age in the branches ordinarily pursued in the school at that time—reading, writing, spelling, geography, and a little gram-

mar. At fifteen he resumed his study at a select school, spending there two or three months at a time upon some special work, but devoting to it less than a year altogether. This completed William's education so far as institutions of learning were concerned.

Concerning his effort to gain an education after leaving school, he says: "I did not neglect study during all that time I was deprived of school advantages. In fact I read everything that I could get that I thought would be of value to me, but there was not then a great deal of literature in my neighborhood. However, I exhausted the few books that the family possessed, the contents of a small circulating library that was established a few miles from home, and all the books I could borrow. Really, I was an insatiate reader and fortunately was possessed with a memory that enabled me to retain with considerable accuracy much that I read in this irregular way. I acquired in this way a limited knowledge of algebra, geometry, natural philosophy, and Latin. This was the mode and extent of my earlier education. Of course it would not do for this generation. Though my early education was defective in that I had not attended any college or academy, or gone to any other school after I was twelve or fourteen years of age, I did study such subjects as I had facilities for studying, using all the time I could get for that purpose all the years of my somewhat busy life. Of course this was education, but it was desultory and imperfect and wanted much of the value of regular training in schools. I have had college professors say to me that my example was quoted by students who were impatient at remaining in college until graduation, as showing that a complete college course was not essential to success in life. I wish to correct that: I regard it as essential to complete success, although a very good measure of success may be achieved without these aids. I have asked the professors to say as much for me to their students, to say to them that I had always been handicapped by defects in my education and that these were a constant source of embarrassment to

me, and no doubt, an impediment to me in my success in life; and, farther, that whatever may have been accomplished without full school advantages by my generation could not be accomplished by the same amount of education by their generation, for the demands of broader and more systematic culture were constantly increasing, and if I had succeeded very well it was no evidence that with the same labor and the same opportunities the same results could be achieved by them in the present generation or by those who are to come after them. I have always advised that the largest measure of culture that it was reasonable to obtain should be given by the schools to all citizens. It has been my practice, and I would advise others who are struggling against the consequences of a defective education, never to appear to know more than others, or to know it any better than they do. My professional and official associations have been with the scholars of high culture, and I found that the only way I could make my life endurable was to confess my ignorance when I was ignorant of something I ought to know, and to ask instruction of some one who knew better than I."

His prowess in mathematics is well illustrated by these anecdotes:

In school he would sit with elbows on his desk, chin in hand, looking off into space, apparently idly dreaming, but the class knew that he was solving some difficult problem. One of his teachers was in the habit of depending upon William to help him out in his mathematics. On a warm, drowsy day in early summer he attended First-day meeting with his family. In order to keep himself awake he decided to work out a problem in multiplication, multiplier and multiplicand each to be a number of six figures. He said that he was determined to get the correct answer and he did so, but he found the effort such a strain on his brain that he never attempted it again.

One day when he was about twelve years old he walked into his father's store, to find his father and three or four other men trying to figure out a complicated problem in in-

terest. The men laughed when he asked what the problem was, saying that he thought he could solve it. His father knew his talent for figures, but doubted his ability to solve as difficult a problem as this, so he said, "I'll give thee a sheep if thee can." William won the sheep, to the amazement of all and to the evident pride of his father. As in all country stores, there were but few customers in the evening, but after this it often seemed like a school, as so many neighbors came in for assistance in solving their problems in accounts.

In regard to his teaching school he says: "At fifteen years of age I taught a public district school, receiving fifteen dollars a month for my services. I 'boarded round' with the families of the children that attended the school, inflicting upon each family its due proportion of service in that direction. I was frightfully bashful and there were young women in some of the families. I disliked school teaching very greatly, and was a complete failure at the business, although during my earlier life I taught a few terms in other schools, but only from sheer necessity."

Isaac and Eunice Lyon were members of the Society of Friends. The community in which they lived was largely composed of members of that religious sect. About 1828 there occurred a division in the society on the question of doctrines, the contesting parties being known as "Orthodox" and "Hicksites." Such a controversy as this was not lightly to be considered, and consequently it was the engrossing thought of many an hour by these conscientious people. Such momentous results were hanging upon the right decision! Such suffering and eternal punishment would follow were the wrong path to salvation and heaven chosen, the wrong judgment pronounced!

Eunice studied conscientiously all the literature of the society that she could find; she weighed the evidence pro and con; she prayed and wept in the agony of uncertainty; finally she made her decision, and her husband agreed with her. They and a small minority remained Orthodox, while

most of their family and friends joined the newer and more liberal branch of the society, the Hicksites. The contest was bitter and was the source of great unhappiness in the family during William's boyhood, alienating his immediate family from near relatives—an unhappy episode in the lives of all concerned. William remembered it as his first trouble, his humiliation at being taunted as an "Orthodox boy" being intense; it seemed to him, and was intended to be, an epithet of dishonor. His loyalty to his mother was so constant, his confidence in her understanding and wisdom so perfect, that he accepted unreservedly her choice and doubted not the right of her decision; but he chafed at the insults of the Hicksite boys, and it was impossible for him to follow the gentle admonition "Forgive and forget," which the Quaker mother sought to impress upon him. Even in old age the thought of his early trial would bring a shadow across his face, revealing the bitterness of the youthful experience. But final satisfaction was to be his; these are his words: "Among the controversies which the separation caused was one in relation to property rights, the Society being the owner of meeting houses and other institutions. The matter was brought into the courts and was finally decided in favor of the Orthodox faction, it being declared that that was the original and true Society of Friends, the opposite faction being mere seceders. Before this question was decided I had become old enough to have some idea of the merits of the controversy, and I recollect reading with very great interest the published reports of the different trials consisting of the evidence and arguments of counsel and the judgments of the various courts which had to deal with the question. The Society had no written creed of doctrines, and it was necessary to prove what its doctrines were by oral testimony and the writings of the accredited mouthpieces of the Church or Society; hence the testimony was very voluminous, very large numbers of prominent members of the Society being examined as witnesses. I never tired reading this literature,

and I attribute to this experience the first development of my fondness for the profession which I afterward pursued."

Soon after his experience in school teaching the pecuniary circumstances of William's father became much straitened. William was allowed to go to the city of Albany to act as clerk in a retail grocery. During the time he was employed in Albany he spent most of his leisure hours in attendance upon the courts and the legislature, his tastes leading him strongly in those directions. He eagerly listened to arguments and speeches made by such men as Erastus Root, Samuel Young, Judge Peckham, Judge Harris, Ambrose L. Jordan, and numerous others whose names have since become famous. He changed his place of business once or twice. For his last employer he cherished a great affection, and both were grieved that William was called home by his mother, who informed him that he was needed there to assist in straightening out his father's business affairs. Reluctantly he turned his back upon Albany and his friends, Mr. Cook and his family, and entered upon the task his mother felt he was capable of doing. He found that his father was practically insolvent. William had become sufficiently well acquainted with business methods to know that some legal steps were necessary in order to save the little remaining property from being sacrificed to greedy creditors. So he was allowed to consult a lawyer in Kinderhook, a village a dozen miles distant, in regard to the situation. After stating fully to the lawyer the condition of affairs, William was advised that the best and only safe course to pursue was to make an assignment of the property still remaining in his hands to some discreet person to dispose of and apply to the payment of the debts. William returned home, and after a family council it was decided to take this course. They chose a very excellent neighbor and friend, a Mr. Cady, as the assignee. Upon hearing the case he consented to act. So at an early day Mr. Cady and Isaac Lyon went again to the lawyer's office, and had the papers

made and executed which transferred the property to the assignee.

The next morning the little country store did not open as usual, and it was soon reported that Isaac had failed in business. Failing in business in that day was a terrible calamity, and Isaac's failure was the sensation of the week. However, the assignee proceeded with great judgment and industry in closing out the business and in nearly paying the debts. He would have paid them entirely, but some creditors commenced legal proceedings, trying to invalidate the assignment, and thus expenses were incurred which left the estate insolvent to the extent of a few hundred dollars. A considerable part of it was owing to individuals for borrowed money, which William himself paid years later.

Isaac Lyon had two brothers living in Wisconsin, and his father had joined them there about the year 1840. Grandfather Lyon had some means, and he advanced the money necessary to take his son Isaac's family to Wisconsin. In the spring of 1841 they emigrated to that territory, settling in the town of Hudson, later known as Lyons, Walworth County.

Most of the people in the new country were poor, but there was no great hardship among them. Much of the country was prairie and the sod was tough, so a big plow, drawn by three or four yoke of oxen, was used to cut off the sod and turn it over with the roots up. The land was then allowed to lie untouched through the summer, and in the fall after the rains had softened the ground well, it could be sown with fall wheat; in a year or two the turf was rotted and made good soil. When the people first began to cultivate the soil, malaria prevailed, but in ten years hardly a trace of it remained. No Indians were in southern Wisconsin; the government had bought them out and removed them. It was a peaceable, favorable country and easy of settlement. Steamers and sailing vessels ran up and down the Great Lakes, bringing in supplies, and immigrants from the East.



Many years after this time William Penn Lyon delivered an address before the Old Settlers' Society of Walworth County, at Whitewater, Wisconsin, in which among other things he said: "I can never forget the impressions which the first sight of Wisconsin made upon my mind. Landing from a steamer at Southport (Kenosha) in 1841, a little earlier than now in the year, I marched across the country to this county. The days were beautiful, and the advanced spring had clothed prairie and openings in garbs of loveliness. At long intervals a log cabin, and sometimes a small enclosure, marked the chosen home of an early settler, but nearly the whole route was through a region untouched by the hand of man. It seemed to my young imagination that the whole land was glorified by the peace and quietude of heaven resting upon it, unbroken through all the centuries; and my heart was stirred with strange and delicious emotions. That journey, and the thoughts and aspirations inspired by the scenes about me, I have always felt exerted a powerful and lasting influence upon my future life.

"Pioneer life had its cheerful, even humorous aspects. It was not all, nor chiefly, a wretched life. On the contrary, the pioneers were rather a lively, good-feeling, happy sort of people, than otherwise. True we did not wear a great deal of silk and broadcloth, but got along very well with calico and jeans. We worked hard, paid for what we got, and were content. Sometimes we were a little short of some kinds of provisions. There is a tradition that, in the very early days, pork, butter and lard were so scarce that it was a sort of badge of aristocracy to have them; and hence, that the ladies were so proud of a grease spot on their floors, as it was evidence that they were entitled to move in good society. Since those good old days we have established various tests of the right of folks to move in high social circles, such as wealth, assurance, education, self-conceit, fine clothes, position, and others, but looking the whole ground over carefully, with the eye of a philosopher, I declare to you upon

my honor that I think the grease-spot test is about the most sensible one of the lot. I have not time to give the reasoning which has impelled my mind to this conclusion. I can only give you the result, and assure you that the reasoning is exceptionally sound.

"When I came to this county, there was only one span of horses in the township in which I lived, and not a buggy or wagon with a spring seat. So we went to church and to social gatherings in lumber wagons, propelled by ox power. I have many times yoked the oxen, hitched them to a lumber wagon, and driven about the neighborhood gathering in the young people (mostly girls) and when the load was made up, we would drive miles to some log house to a party.

"I wish to assure these young ladies and gentlemen here, who live in palatial homes, and who gather there the culture and beauty of their vicinity in pleasant social intercourse, that in all the elements which go to make true manhood and true womanhood, the coarsely dressed, hard-working young people, who came by ox teams and assembled in these lowly log cabins, were the peers of the members of any society on earth. They were your fathers and mothers. They have breasted the storms of life bravely. They have given you advantages of culture which they never enjoyed. Their brows are radiant with the glory of duty faithfully performed. Let their children rise up and call them blessed!

"In those early days the habits of the people were plain and simple. We recognized the newcomer by his new boots. After we had been here a little time, ours became worn and leaky. The truth of history forces me to admit that after we had been here six months, we felt the dignity of being old settlers, and had a huge contempt for the newly arrived emigrant."

Soon after moving to Hudson, William taught district school for two or three terms, not, as stated before, from choice but from necessity; the balance of the time he worked at farming, breaking up the prairie, cutting timber, building a house to live in, splitting rails, building fences—in short,

doing all those things necessary to establish and make a home in a new country.

While all this physical labor had been imperative, and his love for his mother and sisters had urged him on to perform the distasteful tasks that they might have a home and the necessities of life, his soul was stirred with other hopes and ambitions, which for a time he must keep smothered. This intellectual, energetic boy could not view with any measure of content all of his aspirations and plans for winning fame swallowed up in the daily grind of duties that absorbed the minds of those about him. Years before in the old courthouse of Albany his legal wings had sprouted, his soul had soared up, up, into realms of whose existence and reality his father and uncles and their sons did not seem to be aware. Perhaps, he thought, it was a wild dream for a poor, uneducated boy to cherish; but nevertheless he must do something to quiet this restlessness that had taken possession of him. He had read glowing accounts of Oregon, the land of opportunity for ambitious, hardy young men, and it seemed to him that by going there, overcoming all difficulties in the way, seizing the chance for advancement that came to him, he might rise to the position in the world that he longed to reach. Just as he used to become obsessed with the longing to go to sea when his grandfather told of his adventures and spun marvelous yarns of sea life, relating them with so much spirit and fire that William's young body was hardly big enough to hold his enthusiasm, so now the charm of adventure in new fields enticed and beckoned him to the far western country.

He confided to his mother his eagerness for something more stirring than life on the farm; he told her of his desire to go to Oregon, where the opportunities for advancement and prosperity were so great, and he begged her to consent to his departure. Eunice listened calmly and quietly to his pleading, showing little of the commotion going on in the

bosom beneath the neatly folded kerchief. "Does thee feel sure that this is the wisest course for thee, William Penn?" she asked. "I want thee to win success and I know that thee has the mind and will and courage to overcome the obstacles in thy path, but thee must be sure that thee chooses the right path. Let us think it over prayerfully and I know that the Spirit will guide thee." Most skillfully she diverted his interest from pioneering to the study of law. She had often said, so her daughter Catherine tells us, that had she herself been a boy, the law would have been her profession.

William did not enjoy the work on the farm, and during the barley harvest he found the labor particularly disagreeable. One day he threw down his bundle with the air of one who has made a final decision, went to the house, cleaned up, and walked seven miles to Geneva, where, acting upon his mother's suggestion and to her great delight, he borrowed a few law books. Later he purchased some more. Blackstone's *Commentaries*, Cowan's *Treatise*, Chitty on *Pleading*, and one or two others he read and re-read several times, devoting to them literally every moment that he could take from his other duties; and in this way he became fairly familiar with the general scope of the law.

In the spring of 1844 he entered as a student the office of Judge George Gale, then a practicing lawyer at Elkhorn. He remained there a few months, returning home to work through harvest. Soon after this he suffered an acute attack of inflammation of the eyes, and was thereby incapacitated for reading or studying for nearly a year. During that time he worked on the mill at Lyons, then in process of erection, and in the races leading to and from the mill, at twelve dollars a month, until he had earned one hundred dollars. In the fall of 1845 he entered as student the law office of Judge Charles M. Baker at Geneva, and remained there until spring.

A letter from William to his sister Mary gives us a picture of his life at that time:

Geneva Jan. 20th, 1846 . . . You perceive from the date of my letter that I am living at Geneva. I am very pleasantly situated, having plenty of books, a pleasant office, good opportunities for studying, and a first rate boarding place. I board at Esquire Holley's. Mr. Baker with whom I am studying, is at Madison attending the legislature which is now in session, he being a member of the Council. I have strong hopes of being able to get admitted at the Spring term of the Court. I am studying hard for it though I do not know as I shall be able to prepare myself for the examination to which I shall be subjected previous to admission. I feel the more anxious about it as I happen to be engaged in a little bit of an affair which makes me rather impatient to get in a situation to settle down in life as soon as possible.

During the whole winter while Mr. Baker was absent from Geneva, William was in the office and had access to the library, which, though small, was well selected; in these books he reveled day and night, finding there the deep satisfaction that his active mind craved. At the spring term of the district court in Walworth County, held in May, 1846, he applied for admission to the bar to practice law. He was examined by a committee, pronounced competent, and admitted to practice. At the same time he was chosen one of the justices of the peace at Lyons, and in a small way, with his half-dozen law books and a copy of the *Revised Statutes of the Territory of Wisconsin*, he commenced his career as attorney and jurist.

The sterling character and literary tastes of Judge Baker had exerted an influence upon the future of the young lawyer that at the time he could not measure. Mr. Baker had been elected to the Territorial Council in 1842, and re-elected in 1844, serving four years. In 1846 he was elected a member of the constitutional convention, from the counties of Walworth and Rock, and served in that body as chairman of the committee on the organization and functions of the judiciary. He took a prominent part in all proceedings. After the organization of the state, he was in 1849 appointed head of the commission for revising the statutes, and in 1856



WILLIAM PENN LYON, ABOUT 1849



was appointed circuit judge, but upon the expiration of the term declined to become a candidate for reëlection.<sup>3</sup>

Shortly before entering upon the weighty responsibility of legal practice, William had become engaged to Adelia Duncombe. She and her father, Dr. Elijah Duncombe, of St. Thomas, Ontario, Canada, were visiting her brother, Dr. Charles Duncombe, a young physician who had located in Lyons for the practice of his profession. It had not taken William long to recognize the grace and charm of this young Canadian girl; but being a modest young fellow, without a great opinion of his personal attractions, he felt that he, an awkward country lad, could not hope for success in winning this girl who was accustomed to life entirely different from his; so he discreetly, from his viewpoint, kept away from the young lady. His mother, with her usual divination, was far wiser than he, and in the course of time asked him, "Why doesn't thee call on Adelia?" That was all he needed to give him courage; if Mother thought that success in that direction was possible he would certainly try, with the result that when Adelia returned to Canada in the fall, she carried with her the honest, loyal heart of the finest young fellow that she had ever known, while he had her promise that when he

<sup>3</sup>On the occasion of the death of Judge Baker, William Penn Lyon pronounced a beautiful eulogy, from which the following extract is taken: "I knew Judge Baker well for thirty years. I was a student in his office nearly twenty-seven years ago, and from that time until his death, my relations with him were most pleasant. He was not only my preceptor but my trusted adviser and friend during that most trying period—the first years of my professional life. I was admitted to the bar of this county in the spring of 1846 on his motion and he was the chairman of the committee by whom I was examined preparatory to such admission. The encouragement, the kind assistance which he so often extended to me in my earlier attempts to practice my profession were invaluable, and for these I always have felt, and always shall feel, the most profound gratitude. I think the proudest moment of my life was when many years ago, at his request, I was retained by one of his clients as counsel with him in an important case. Of course, he did not need my poor help in the case, but he knew how valuable to me—how grateful to my feelings—that delicate proof of his interest in me would be. In life he knew that I appreciated all his kindness, and now that he is dead I love to stand here and acknowledge it to you, his old friends and neighbors who knew him and loved him in life, and who revere his memory."

In this connection see autobiography of Charles M. Baker, published in *Wisconsin Magazine of History*, viii, 445-453 (June, 1925).



was able to support a home she would return and become his wife.

The months of waiting that followed were made endurable by the love letters that they so faithfully wrote to each other—so full of hopes and longing; of plans for their future together; the narration of incidents in the life of each so dear to the other; the deepest, purest, truest expression of each loving heart. Into them he poured the riches of his inmost nature; for her whose right it was to know the depth of his inner soul, he revealed the beauties of a character that up to this time he had kept carefully hidden from the outer world. She treasured these letters all her life, and at the end she requested that they be destroyed unopened, unread; they were too sacred for other eyes, no matter how loving, to gaze upon. What precious material they must have contained! What a story of struggle, of overcoming, of sacrifice, of ambitions, of hopes! What graphic descriptions of pioneer life, what stories of vital interest not only to their children but to the legion of friends! As their daughter dropped the precious packages into the fiery heart of the furnace, as the flames leaped up furiously and eagerly to consume the long-treasured words, the gentle presence of a pure spirit filled the place, and a grateful blessing seemed to fall upon the head of her who had offered up this sacrifice. These sentences and impassioned words, still throbbing with the life and love of youthful hopes and trust and joyful anticipations, had passed out of their mortal expression into the immortal.

Finally, after time had dragged along at snail's pace for two weary years, William Penn Lyon felt assured that he was amply able to support a home, a wife, and a family should they be blessed with one; last year his income had been sixty dollars, and he could already see that this year his receipts would amount to more than double that sum! He informed Adelia of his increasing prosperity, and she returned to Lyons with Mrs. Charles Duncombe, who had been visiting her old home at St. Thomas; and a few weeks later, on

November 18, 1847, William and Adelia were joined in holy matrimony to live together in love and harmony "until death them should part."

Housekeeping was begun in a very simple way. Adelia spent twenty dollars on her personal wants the first year of her marriage, but as her wants were few the allowance was ample. They owned a few chickens and a pig, the latter becoming such a pet that she followed William to the post office whenever her pig cunning could take advantage of human good-nature. This pig, Sally by name, finally came to a tragic end at the hand of the village butcher, and no pork was eaten in the Lyon household until they were confident that Sally had been disposed of.

Joy in the advent of their first-born was soon followed by the tragedy of his death. The loss of the visible presence of this little life drew together more closely the two young souls. The new bond of parenthood, cemented by the loss of their babe, made their love for each other more tender, more unselfish, and opened their hearts with sympathy for their sorrowing brothers and sisters.

On October 3, 1848, but a few weeks after the death of their baby boy, their beloved mother, Eunice Lyon, was called to the higher life. "She was truly a friend in faith and practice, to humanity, to virtue, to God. She was a friend to the slave. Benevolent without ostentation, the call of the needy always found her ready with kind word and helping hand." Isaac Lyon went to live with his daughters, where he remained until 1855; from that time he lived in Racine with his son.

The discovery of gold in California in 1849 caused great excitement in southern Wisconsin, as it did all over the country. Several of William's relatives were among the many who left Lyons on the long, perilous journey, and some of them never came back. His only brother, Isaac Pennington, and Clarissa's husband, David Gardner, were of this number. Isaac died of fever in California, February 6, 1850. An uncle wrote, "It does seem as if the California

excitement would fill the whole land with desolation and anguish."

William had been considering for some time the advisability of moving to a larger town than Lyons, feeling that his business would be increased by so doing; but his hands were full, and he found it difficult to get away from the appreciative relatives and friends. In 1847 he was elected town clerk, and held that position in connection with the office of justice of the peace until in 1850 he removed from Walworth County to Burlington, Racine County. Up to that time his business had gradually increased until his income had reached four or five hundred dollars a year. Since he could keep records and accounts better than most young men, it was natural that he should be the choice of his neighbors and friends for the position of clerk of the town—as he says, "without my being guilty of the audacity of seeking so high a position at that early period of my life. I did not ask nomination to the office nor solicit votes at the election. The same was true of the office of justice of the peace; the duties of that office were within the line of my profession, and I was easily elected to it."

The first daughter of William and Adelia was born in Burlington, December 30, 1850; they called her Catherine Eunice, in honor of her two grandmothers. Having been invited to join C. P. Barnes, a lawyer of considerable prominence located in Burlington, Racine County, and doing a good legal business for that time, William had accepted the offer, and moved to Burlington in the spring of 1850. This partnership proved a very prosperous and satisfactory one, and continued until Mr. Barnes retired from business and William moved to Racine. The home in Burlington, though somewhat more pretentious than the little home in Lyons that William had built for his bride, was as full of love, good will, and hospitality as their first home had been. The circle of friends widened, William's popularity increased, and all agreed that his ability, energy, and determination to rise would "carry him to the top." His growing legal practice



ADELIA DUNCOMBE LYON



took him more and more to Racine, and the young Burlington lawyer was becoming well known.

In his boyhood William became a Whig in politics although his father and most of his relatives were Democrats, and they were greatly shocked at his boyish apostasy from the Democratic faith. From the time he became a voter, in 1843, until 1848 he remained a Whig. He then became a member of the Free-Soil party and remained such until the organization in 1854 of the Republican party, which was composed of a union of the Whig and Free-Soil parties. During all that time the Whigs and later the Free-Soilers were in the minority, but these minority parties always made nominations, and as there was no hope or prospect of an election, the nominations were mere compliments. Several times William was on the ticket as a candidate for county offices, and twice for member of the legislature, but the nominations meant nothing except to indicate his party affiliations. At the election of 1846 he was on the county ticket for the office of register of deeds. After his nomination the Democrats nominated his father as opposing candidate, the latter winning the election and holding the office for two years. After his son had attained to the dignity of the highest judicial position in the state, Grandfather Lyon was sometimes heard to boast of having run for office against William and of having won the race.

In 1854, after the formation of the Republican party, William received the nomination for the office of district attorney of Racine County. He did not ask for the office and had no expectation of receiving the nomination, for all of the other Republican lawyers resided in Racine, and he supposed that as a matter of course the office would go to one of them; his election naturally surprised him. In connection with his duties as district attorney William carried on a good private practice; he felt that he was fast becoming established in his profession and he resolved that no allurements of political office should tempt him away from his practice;

each year should find him a little more prosperous than the last.

Again Mr. and Mrs. Lyon were called upon to bear the loss of their only child. Little "Kitty" was two and a half years of age at her death. Their hospitable home was the center for the relatives; there were always younger brothers and sisters of school age, or those who were trying to make a start in life, whom they gladly welcomed. At their home Maria and Amos Phelps were married. Sometimes the modest house was overfull, and the small income had to be stretched tight to cover the cost of necessities for a comfortable existence; but that was not sufficient reason for turning one of the dear ones away. Each one had his share in the simple household duties; there was no maid. Mary Duncombe was fourteen years old when she came to them, and she remained two years at that time. Their love welcomed her as their own daughter. The parental obligation of care and protection for her, and for many others who came to them later, lasted to the end of their lives. The Racine home was large enough for them to extend their hospitality, and usually there were several there besides the immediate family. The extension dining table was a most appropriate and necessary article of furniture.

William Penn Lyon, Junior, the third child of William and Adelia Lyon, was born June 24, 1855, at Browns Lake near Burlington, Wisconsin, at the home of Amos and Maria Phelps. He died September 5, 1856, at Racine; Clara was born October 2, 1857.

Mr. and Mrs. Lyon had united with the Methodist Episcopal Church of Racine. Dr. Westwood Case, an old friend of those days, said that Mr. Lyon had spoken of himself as a paying Methodist, if he was not a praying one—a fact which the members of the church at that time gratefully acknowledged. The burden of debt that the church staggered under while following the fashion which prevailed at that time of building a costly edifice without funds to pay for it, was greatly lessened by his generosity.



MR. LYON AS SPEAKER OF THE WISCONSIN ASSEMBLY





He never possessed the pernicious characteristic that destroys the happiness of so many families—the love of money; he had no ambition to be rich; he was never extravagant and wasteful, but he used his money freely for the comfort and necessities of others as his sympathetic and generous heart dictated. Every worthy cause was sure to have his financial help, but he could say “No” if asked to help an unworthy one.

Having been born a Friend and reared under the influence of that sect, he always espoused the cause of equal suffrage and laws for women, and the equally just cause of the abolition of slavery. In a speech made during the progress of the Civil War he said: “There is one element in our government, anti-republican, which has resulted in the attempt to destroy it. That element is Slavery. The Emancipation Proclamation only proclaimed freedom to slaves, but it did not abolish slavery or the code by which slaves are held. To demand the abolishing of slavery is the duty of Congress before re-admitting any state in the Union. I regret that no political party as far as I have learned has firmly adopted this principle as a part of its creed. This course alone will prevent the fostering of the evil until another rebellion shall drench our soil with our own blood or that of our children.” He trusted that none would be so sensitive as to shrink timidly from the right position, lest they should be “Abolitionists.” He himself in the past had shrunk from the name, not the principle, but now he frankly and boldly acknowledged himself an Abolitionist.

I have called attention to Mr. Lyon’s policy of keeping out of politics and holding steadfastly to his growing law practice. However, he was not permitted to carry out that laudable purpose to his own complete satisfaction; for in 1858 the Republicans elected him to a seat in the legislative assembly, and he spent the winters of 1859 and 1860 at Madison. In the legislature he was honored with the speakership of the house, and his service in that capacity was highly appreciated. As presiding officer his judicial temper and

punctilious fairness won golden opinions from colleagues in both parties. It is related that, on one occasion, he made a ruling on a parliamentary question on which a member took an appeal. The assembly sustained the speaker, but afterwards, having heard the dissatisfied member's reasons, he convinced himself that the ruling was erroneous. When, therefore, the same question came up again, he ruled contrary to his previous decision and, being challenged, remarked: "The chair was wrong then, but it is right now."

Mr. Lyon was everything a legislator should be—intelligent, earnest, patriotic, able, and industrious. Though serving only two terms, he was permitted to write his name and achievements indelibly upon the legislative history of the state. Yet, he was not fond of the life, being much more partial to those activities which were connected directly with the profession of the law. "I am so disgusted with public life," he wrote to his wife shortly before the close of his legislative career,<sup>4</sup> "that I don't think that I shall desire to go to Congress. The public is a terrible master to serve."

<sup>4</sup> March 25, 1860.

## II. SOLDIER AND CIRCUIT JUDGE

When the news of the battle and disaster at Bull Run came, a war meeting of the citizens of Racine, Wisconsin, was held and was largely attended. Racine's company of three-months' men was in the battle and had been seriously crippled by the loss of many of its members. At this meeting a fund was subscribed to aid in the fitting out of additional troops, and a resolution was adopted proclaiming it the duty of the city to furnish another company of volunteers. A partial company being formed also in Walworth County, those who had enlisted there came to Racine and joined the local organization, so the quota was speedily filled. Mr. Lyon was elected captain of the company, which thus recruited and organized tendered its services to the governor and was accepted; its officers, elected by the recruits, were commissioned, and the company was ordered to proceed to Camp Randall at Madison to join the Eighth Regiment of Wisconsin Volunteer Infantry, widely known as the Eagle Regiment, then in process of formation at that place.

The company proceeded to Madison without delay, and in August, 1861, was mustered into the service of the United States as Company K, Eighth Wisconsin Volunteers. After remaining a few weeks at Camp Randall under instruction, the regiment was ordered to St. Louis. They campaigned during the next year in Missouri, Kentucky, Tennessee, and Mississippi. They were in the battle of Farmington, Missouri, in October, 1861, and all through

the campaign which resulted in the capture of Corinth, Mississippi, during the following winter and spring. Early in August, 1862, Captain Lyon was commissioned colonel of the Thirteenth Wisconsin Volunteers, but owing to a serious illness was unable to assume command of the regiment until two months later at Fort Henry on the Tennessee River. He remained in that regiment until the close of the war, returning home in September, 1865. They campaigned mostly in Kentucky, Tennessee, Alabama, and Texas.

Selections from Mr. Lyon's letters to Mrs. Lyon during the period of the Civil War have been published by Mrs. Lyon in a volume entitled *Reminiscences of the Civil War*. The following extracts are taken from that work: "I assure you that I have an abiding faith that I shall return to you well and sound, our lives made all the happier by the consciousness that I have discharged my duty to my country in the hour of her peril." And: "I have never regretted that I entered the service; and had I not done so, with my present views of duty, I should volunteer tomorrow. The idea of personal danger which haunts you so much does not disturb me at all. You must be brave. You must be a brave true woman for, remember, you are a soldier's wife. Let us be willing to peril all if necessary in the discharge of our duty."

Strange indeed would it have been had Mrs. Lyon not shown her distress at her husband's peril. Her son William Penn Lyon Junior (II), born August 23, 1861, was but three weeks old when Captain Lyon left home. How well she afterward followed her husband's advice was shown during the slow-moving period of the war, when for several months in each year she was with her husband in the South and lived the soldier's life with all its privations. Her sympathy and kindness to the "boys" won from them their eternal gratitude and affection, and she was looked upon by them as a real "mother of the regiment." After the war was over the home in Racine, and later the one in

Madison, was a Mecca for both officers and men of the regiment, and no place was so attractive to the "boys" when brides were to be taken on the honeymoon as the residence of their dear old commander and his gracious wife.

Like all spirited soldiers, Captain Lyon for a time chafed at the delay in getting into a regular battle. In letter after letter occurs the same note of impatience. "There has been a battle and a victory at Fort Henry, on the Tennessee River," he writes from Cairo, February 9, 1862. "We were only left because we had not our blue uniforms. . . . The boys were much disappointed." Again, a week later: "We are in a post of honor which, except as it keeps us out of battle would be deemed very desirable, but we want a hand in. . . . I tell you when I see our wounded and maimed soldiers it makes me feel as though I wanted one chance at the authors of all this misery and suffering. I don't believe that I have any apprehension of being hurt."

Company K finally had its wish gratified and the boys had their first taste of real war. Captain Lyon wrote to Mrs. Lyon on May 10, 1862, from their camp near Farmington: "At last we have been under fire and have come out unscathed. I succeeded in 'keeping cool' throughout, thus satisfying my superior officers and the expectations of my men. I can not say that I lost the sense of personal danger, and I know that I did not lose the apprehension of danger to my men during the battle; yet I had nerve and self-command and that is all I expected."

It is a sore temptation, most difficult to resist, to copy page after page of these fascinating letters. Here is one that gives us a cheerier side of army life:

"July 28, 1862. So you fear my good spirits are assumed. *Nary a bit of it.* With an appetite that enables me to eat two rations, with physical vigor that keeps me free from an ache or a pain and lets me sleep on the hard earth as soundly and sweetly as I ever did on the softest bed, with a tolerably good looking, middle aged wife and two cute children 'up north,' with a consciousness of doing

my duty and an increasing habitual reliance upon the protection of Divine Providence, why shouldn't I be in good spirits? . . . History doesn't tell of so successful a campaign as ours has been since the first of February. Some reverses were to be expected, but no Government ever conducted a war on so large a scale with so few reverses as has ours. . . . Where the army of the Union goes, *there slavery ceases forever*. It is astonishing how soon the blacks have learned this, and they are flocking in considerable numbers already into our lines."

To illustrate the kindly feeling between Captain Lyon and the men of Company K, the following extract from a speech of Captain Lyon's, delivered at Geneva, Wisconsin, at the reunion of Company K, Eighth Wisconsin Volunteer Infantry, is inserted. This speech was delivered several years after the close of the war:

"I must now be pardoned if I make a few remarks personal to myself. When in September, 1861, we organized Company K at Racine, you selected me as your commanding officer. I occupied that position one year, when I was assigned to another field of duty, after which I saw you no more as a company. The first year of his service is certainly the most trying in many respects in a soldier's experience. But during the time I was associated with you I received invariably from every member of the company the most kind and considerate treatment and every reasonable evidence of your respect and affection. I regard that year of service as the most memorable year of my life, crowded as it was with events never to be forgotten. I parted from you with emotions of profound sorrow, and I watched your future career with intense interest, rejoicing with you in spirit in your successes and sorrowing with you in your afflictions. I never again expect to be associated with a body of men on earth that I love more deeply, and I shall carry with me to my grave a grateful remembrance of all

your kindness. From the depths of my heart I thank you and honor you."

On the ninth day of August, 1862, Captain Lyon was field officer of the day and, on account of the sickness of so many of the officers, was obliged to do double duty. The heat was fearful and he became very much exhausted. This was the beginning of a severe illness. He was discharged from the hospital the first week in September and soon left for Racine, where he remained three weeks. He had received on the very day he was taken sick a commission as colonel of the Thirteenth Regiment, but he did not join the organization until after the first of October. Then he quickly became immersed in the new duties and promptly gained the confidence of both officers and men. Nearly the entire regiment had been recruited from Rock County and neighboring areas. Colonel Lyon was proud of the men. "A large number," he writes, "are either graduates from or students in Milton College. Company K, commanded by Captain Norcross, a graduate of the State University, is composed largely of members of this class. I feel honored to be assigned to the command of such men."<sup>1</sup> Colonel Lyon, in addition to his duties as colonel of the regiment, was made commandant of the post at Fort Henry, which made his "round of duties ceaseless." Yet so happy was he in his relations with the men and officers, that no amount of labor seemed burdensome.

Early in February, 1863, the regiment took part in a fight at Fort Donelson, which proved a victory. The colonel wrote: "The regiment was never in battle before, but every man fought like a veteran." Mrs. Lyon had joined the colonel about the middle of December. She was to experience many new sensations during the winter, some of which were recorded in her diary. She found her husband living in a tent, and she wrote in her diary:

"I can't say that I like sleeping out of doors. My first

<sup>1</sup> Letter dated Fort Henry, Oct. 8, 1862.



experience was rather unpleasant. The tent post was one of the bed posts. The wind blew quite hard that night and we rocked about as we would in a boat in a gale, but we have remedied that. It seems so noisy living in a tent, and so exposed—only a thin cloth between you and the outside world. I think I should prefer a log cabin; but William enjoys this so much, he wonders that I should not. We have a little stove and are quite comfortable.”

The Thirteenth Regiment was moved to Fort Donelson the first week of March. Mrs. Lyon was left at Fort Henry with two or three other officers' wives, with the expectation that they would go home, but after waiting two days for a boat, fearing guerrillas and the strange men who appeared in the camp, they followed the regiment to Fort Donelson, traveling in the wagons that had been sent back for baggage. Colonel Lyon was given charge of the post at Fort Donelson and had a large force under his direct command. It was a position of great responsibility, involving intense labor; but such are the exigencies of war, that hardly had he put matters in a posture of security at Donelson, when he was ordered to Stevenson, Alabama, to relieve the regiment doing provost guard duty there. Colonel Lyon was in command of that post till the latter part of October, and then was ordered to Nashville, where the regiment spent the winter of 1863-64 in comparative quiet, permitting both officers and men a period of much needed rest. In April he once more took command at Stevenson, occupying quarters recently vacated by General Hooker. Colonel Lyon explained to the home folks that General Granger, his brigade commander, was not accounted a “fighting general,” though a very fine executive. In consequence, the units under his command were not sent to the battle line, but were employed in protecting communication lines, by keeping the enemy from crossing the Tennessee River. The Thirteenth held the post of honor in that service, being more exposed to attack than any other unit of the brigade.

The summer of 1864 was more wearing on the colonel



COLONEL WILLIAM P. LYON



of the Thirteenth Wisconsin than any portion of his previous service had been. For Colonel Lyon combined with military duties of a very laborious kind, a variety of activities which were administrative in character, due to the complete breakdown of government in the occupied area. "As there is no civil law or courts," he writes, "I am judge, jury, arbitrator and guardian for the whole country."<sup>2</sup> He was obliged to make difficult and dangerous journeys through the mountains escorted by a few Union guards, to move troops by forced marches from one position to another on a long line; at one time he had charge of the section of railroad from Huntsville to Stevenson with all troops on it. Sometimes, what with incessant, grilling labor, anxiety, and loss of sleep he was on the point of nervous exhaustion, yet his constitution had about it so much resiliency that he came through the ordeal with practically unimpaired health. The circumstances attending the removal from Huntsville are described in his letter of November 25, 1864:

"This is the last letter I expect to write from Huntsville for some time. We are evacuating this line; I have been very hard at work since we got the order. We march to Stevenson. The citizens here, loyal and disloyal, express much regret that we are to leave. Many of the loyal people, including hundreds of colored folks, are leaving or will leave with us. This evacuating is a terrible job. Our brigade is ordered to garrison Stevenson, and whether the tide of battle is to surge that way time will determine."

But the Colonel was mistaken about his future relations with Huntsville, for General Granger sent him back to that place at the end of December, and there he was to spend the last winter of the war. It was at Huntsville he received by telegram on March 18, 1865, the announcement from Janesville, Wisconsin, of his nomination for the office of circuit judge. The whole matter was a surprise to the Colonel. His opponent being Judge David Noggle, who

<sup>2</sup> Letter dated Claysville, Alabama, July 11, 1864.

was sitting judge and a very popular political character, there seemed hardly a possibility of Colonel Lyon's election. Yet, on canvassing the matter, he concluded a defeat would not hurt him seriously and he therefore accepted the nomination. It was characteristic of the man that he did not permit the Thirteenth to vote on the judicial office. "They would all have voted for me," he wrote, "but I did not care to swell my vote with that of my own regiment." No one was more surprised than the Colonel himself when the news of his election reached him on the seventeenth of April at his post of duty. Mrs. Lyon had joined her husband in Tennessee, and her diary supplements the Colonel's letter of the same date. She says: "I never saw William so nonplussed. I am so happy that I can hardly contain myself, for now William can leave the service honorably and come home."

He, however, remained in the army, joining his regiment (after a short furlough spent in Racine) at Green Lake, Texas. His time of service expired September 25, 1865, but he was mustered out on September 11, happy in the thought of soon rejoining his wife and family at home, happy also in the contemplation of the new field of service which so unexpectedly had opened out to him.

There are many testimonials to Colonel Lyon's distinguished service in the War for the Union. Perhaps the words of Brother Joseph Dutton would be representative. He says: "In the serious affairs of military life Colonel Lyon was dignified, cool and undisturbed, giving a good example of courage. For us who were the younger members of the regiment he was a tower of strength, inspiring great confidence." Others speak of his extraordinary devotion to the men under his charge, which endeared him to all and made him, through life, the "beloved Colonel." While ready for any service to which his superiors might assign him, Colonel Lyon was too solicitous for the welfare of his soldiers to hazard their lives by insisting on a fighting opportunity which did not clearly fall

within the lines of his duty. This conservative military disposition—one which comports admirably with his Quaker antecedents—coupled with extraordinary gifts as administrator, made him one of the favorite post commanders of the war. That type of service brought him less renown than might have been gained on the fighting fronts, but who shall say if its real importance was less? The government recognized Colonel Lyon's worth when, on October 26, 1865, he was brevetted brigadier general of volunteers "for gallant and meritorious service."

We must now salute the military officer as he retires to the pursuits of peace, and make our obeisance to the judge. In *The Story of a Great Court* the late Chief Justice Winslow relates the history of the election of Colonel Lyon to the office of circuit judge of the First Circuit of Wisconsin:

"David Noggle, a man of strong natural abilities but limited education, had been circuit judge of the first circuit (then composed of Racine, Kenosha, Walworth, Rock, and Green Counties) since his appointment by Governor Randall in July, 1858. He had made some very determined and bitter enemies both among the bar and the people. There were charges of dishonesty and unworthy methods openly made against him when the spring of 1865 approached, at which time the election of a successor was due. No attempt will be made here to determine the question of the truth or the falsity of these charges. Judge Noggle was a forceful and ambitious man; he was fully determined to succeed himself; he caused his nomination papers to be circulated among the bar in the winter of 1865 as he held court in the various counties of his circuit. The bar generally do not wish to actively antagonize a judge before whom their cases are about to be tried; whether from this cause or not Judge Noggle's 'petitions' were generally signed by the bar of his circuit. Only a few refused to sign. The late Chief Justice Cassoday told the writer that he himself refused to sign. It seemed for a time that there was to be no oppo-

sition to Judge Noggle; his machine seemed to be perfect and he had the prestige of being 'in.' But there were men who had deep sense of personal wrong (whether justifiably or not is not material here) against Judge Noggle, and they were willing to go through the

Patient search and vigil long  
Of him who treasures up a wrong

if thereby they might defeat him. Among these was William H. Tripp of Rock County, who had been a member of the Assembly in 1857. To him more than to any one else is due the credit of launching Judge Lyon upon a judicial career. He first suggested the name of Lyon as a candidate and he was mainly responsible for the calling by a self-constituted committee of an independent judicial convention, which met at Elkhorn, Walworth County, March 17, 1865.

"In numbers the convention was ludicrously small; there were eleven gentlemen present from Rock County (John R. Bennett and John Winans of the Janesville bar being among them), seven from Walworth County, one from Racine (Colonel Lyon's home county), one from Green County, and none at all from Kenosha. Lack of numbers, however, did not dismay the gentlemen who made up the convention. What they lacked in numbers they made up in determination. They promptly nominated Colonel Lyon, appointed a committee of notification, and a committee to prepare and distribute a campaign address, and adjourned. . . . The audacity of the move at first provoked mirth and ridicule on the part of Judge Noggle's adherents. Practically all of the newspapers of the circuit, even including those in Colonel Lyon's home county were committed to the support of Judge Noggle; the bar had generally signed his call; supervisors, jurors and other prominent men had almost universally signed it, and it seemed little less than madness to undertake such a campaign.

"But there was no dismay in the camp of the insurgents. Colonel Lyon accepted the nomination in a modest and graceful letter; the committee prepared and gave forth an address to the people libelous in every line if not true, which was sent all over the circuit and published in the local papers.

"It will thus be seen that the campaign was bitter, but still the advantage seemed to be with Judge Noggle, who had his earnest friends as well as his earnest enemies. When the votes were counted, however, it was found that Colonel Lyon had received a decisive majority even without the soldier vote. The newly elected Judge returned to Wisconsin after the acceptance of his resignation from the army about the first of October, 1865. Judge Noggle having resigned before the expiration of his term of office, Judge Lyon was appointed to fill the vacancy, and he commenced his judicial duties December 1, 1865. From this time until his appointment to the supreme bench, his duties upon the circuit bench kept him fully occupied. The circuit was then large and he had little time between terms. It is only justice to say that he made almost an ideal trial judge. Calm, fair, gentle in manner but firm and strong of determination when occasion required, his court ran easily and without apparent effort, but always with the consciousness that there was a master hand at the helm. Every lawyer had and felt that he had fair treatment, that he had been allowed to present his case, and that it had received the best attention which judge and jury were able to give it. He became endeared to the hearts of the people of the circuit as few men have been either before or since, and there was universal regret to part with him when he was translated to the supreme bench."

In after years on looking back upon this eventful period of his life, Judge Lyon spoke of his surprise upon receiving the telegram announcing his nomination, and of his decision to decline it. He showed his officers the telegram, however, and was again greatly surprised to find that they



thought he should accept the nomination. While they admitted that he would be defeated, they urged that it would do him no harm and that it was better at such elections to have a contest. It would lead to a closer scanning of the qualities and fitness of the candidates. One of his captains, John T. Fish, afterwards an eminent attorney of Racine and Milwaukee, was to go north the next day on leave of absence. As Colonel Lyon had great confidence in his discretion, he placed the whole matter in his hands, with instructions to investigate the state of things and use his best judgment in accepting or declining the nomination. He favored acceptance, and the result reflected credit upon his political judgment.

The First Judicial Circuit in 1865 was one of the largest and busiest circuits in the state. It consisted then of Racine, Kenosha, Walworth, Rock, and Green counties; later the circuit was made smaller, but not during the term of office of Judge Lyon. Through all the six years following there were few holidays or vacations, but this made them appreciated all the more for they were occasions of rejoicing to his family. Moving from one county to another to hold the sessions of court furnished some variety, and lightened the burden somewhat; but notwithstanding this the nervous strain was great. There was no lower court with which he could divide his labors; the whole load rested on one pair of shoulders. After four years of active, out-of-door life, having daily vigorous bodily exercise, the quiet, sedentary indoor routine was very trying at times, even though he loved his work and felt it was well worth all of himself that he so faithfully and devotedly put into it. What greater service could he offer his fellowmen than this?

The effect of his Quaker training was evidenced by his fairness on the bench; he was very conscientious in all his decisions, doing his utmost to get at the facts in the case. While by nature he was sympathetic with the oppressed and tender toward the weak ones, his sense of justice kept

him well balanced. When he discovered deceit and subterfuge and treachery, no tongue could be more outspoken and scathing in its denunciation than his. He had the moral strength to set aside his personal opinion in order to weigh fairly the evidence of both sides of a case, but when his opinion had become conviction he stood by it. His self-control was unusual, and no feature betrayed his inner feeling if he wished to conceal it.

While, therefore, he fulfilled our ideal of the judicial officer, he was more to the community than merely "the Judge." The influence upon him of the faith of his mother remained with him through all the changes of his life; yet, had there not been in his nature settled principles and fixed purposes which caused him to take advantage of every help toward a successful career, the seed which his mother had sown would never have come to fruition. Necessity and ambition combined to supply an effective spur to action. He was not wanting in enthusiasm or in vision, and he kept to the course which, away back in his boyhood, he had mapped out for himself. He was loyal to his friends and loved them devotedly; he was easily wounded through his affections. Love for his friends and his family, his country and his party, were strong characteristics in his nature; their interest was his interest, and no sacrifice on his part was too great to shield or support those that he loved. Democratic in principle and inclination, he never forgot that he had been poor and in humble station, or that all men were his brothers. He loved a good story and told it well; his sense of humor was keen; he was always quick with the apt and ready word; he was an easy and entertaining after-dinner speaker, unafraid of that popular bugbear the impromptu speech. His political talks were logical and convincing, full of fire and life. His speeches for memorial and other occasions were often gems in thought and style.

It is related of him that during the trial before him in Kenosha of a certain bitterly contested case, the lawyers became greatly heated over some point. In fact, they were

mad enough to fight, and rushed at each other to settle the question in primitive fashion. The Judge rapped on his desk for order and quietly observed, "The Court objects emphatically to the members of the bar indulging in any amusement in which the Court cannot join."

As in the case of his military activities, Judge Lyon's home letters written from the county seats of the First Circuit constitute so many apertures through which we are permitted to look in upon court, jury, and attorneys; to inspect the calendars of cases and estimate the duration of the terms of court in the several counties. At Janesville, four months after assuming his judicial functions, Judge Lyon found a calendar of nearly two hundred cases. There was an unexpectedly long calendar at Monroe in September, 1866. But for this he enjoyed some compensation in the fact that the Elkhorn calendar was very short. While the attorneys argued a case he wrote a cheerful letter from that place to Mrs. Lyon.

Janesville was the hard place on the circuit. Judge Lyon wrote February 24, 1867: "We are getting along very well with the business, but I shall be entirely unable to clear the calendar. There is work enough on it to last a month and perhaps longer. Today I am very weary and did not go to church. I feel as though I must have a day of perfect rest. I am not even looking over any cases, only writing to you and thinking of home and the dear ones and wishing I were there. I fear that I shall be compelled to work here during my whole summer vacation if I ever get to the bottom of this calendar." Somewhat more than a month later he writes from Janesville again: "Am at work like *blazes*. Run court till ten or eleven every night. . . . I have worked very late every night and am very tired, but I am well." Again, December 4, 1867, he writes from Janesville: "Found a large calendar, 160 cases, but it melts away quite rapidly, unusually so for this county. . . . Cannot tell yet whether I will come home Christmas or New Years; it depends upon the state of the calendar. Piles of work



MR. AND MRS. LYON IN THEIR EARLY MARRIED LIFE



and seldom get to bed before eleven or twelve o'clock. I hear arguments evenings. I write this while the attorneys are arguing a case to the jury." He did not as a matter of fact get home. January seemed he wrote: "I worked all day in the 'gentleman' case. I have just mailed an opinion in the case hearing both parties."

In the spring of 1868 two justices were to be elected to the Supreme Court. The legislature had increased the salary of the justices from \$2,500 to \$3,500, and Chief Justice Dixon had resigned his office and had been reappointed by the Governor the same day in order to receive the increased salary. He was severely criticized for his action and was in great danger the politicians thought of being defeated on this account at the election. At the Republican convention he was renominated but the names of Judge Lyon and Judge Joseph T. Mills were also placed in nomination for the chief-justiceship. Judge Dixon, however, received a majority of the votes cast and was reelected.

It was hard for Judge Lyon to keep clear of politics, much as he desired to do so. At the earnest solicitation of his friends, he was induced in 1870 to accept the Republican nomination for Congressman from the First Congressional District. He hesitated because there was little hope of success, but his friends insisted that his reputation was so established that defeat would not injure him in any way, so he finally consented to allow his name to be used. Alexander Mitchell of Milwaukee was the nominee of the Democratic party and was elected. The campaign brought Judge Lyon into close relations with the national Republican organization. His files contain letters from both James G. Blaine and James A. Garfield. The latter made two speeches in Judge Lyon's district in the interest of his candidacy.



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### III. JUSTICE AND CHIEF JUSTICE OF THE WISCONSIN SUPREME COURT

In January, 1871, Governor Fairchild appointed Judge Lyon to the Supreme bench to fill the vacancy caused by the death of Judge Paine. Judge Lyon did not move his family to Madison until after his election to the Supreme bench in April, 1871. He then rented a house on Clymer Street for a short time, moving in the fall to State Street within half a mile of the University, where he continued to live until 1877, when he purchased from J. O. Culver his residence on Lake Mendota at the head of Carroll Street.

Grandfather Lyon was still a loved member of the family. After he was seventy years old he developed a hobby that solved for him the problem of an occupied and contented old age; he began to collect shells, geological specimens, butterflies, and moths—natural curiosities of all kinds; he learned to stuff birds and mount them. In Racine he had a large room where he kept his cabinet, and the children of the neighborhood were in the habit of visiting “Grandpa Lyon’s” room at any hour of the day. Often he would lead a procession of youngsters up the front stairs to his sanctum to view his treasures, but at no time did Mrs. Lyon cause him the slightest disquiet, though the practice might at times cause her some trouble. One of the children who had the good fortune to be a favorite of Grandfather Lyon became a teacher of natural science and a collector herself. She said that her taste for the study began in the days when the old gentleman used to tell the children about the wonders of

Nature as she showed them the collection of "curiosities." When Judge Lyon moved to Madison the collection was taken to the rooms of the State Historical Society in the Capitol building, and Grandfather Lyon was appointed curator of the cabinet. His death occurred in December, 1884, after which his natural history specimens were given to the University.

At my request,<sup>1</sup> Chief Justice John B. Winslow, who was an old and peculiarly close friend of Judge Lyon, consented to prepare a short sketch of the career of Judge Lyon as a justice and as chief justice of the Wisconsin Supreme Court. This statement, much of which was later published in Winslow's *Story of a Great Court*, is herewith presented as an authoritative treatment of this most significant phase of Judge Lyon's life work.

"The death of Byron Paine, associate justice of the Supreme Court, on the thirteenth day of January, 1871, came with a profound shock to the people of the state. Barely forty-three years of age and apparently in vigorous health there seemed no reason to doubt that he would render many more years of valuable service to the state. He was dear to the hearts of the great mass of people. Since that day in May, 1854, when at the age of twenty-six he had appeared in the Supreme Court as the champion of human freedom and successfully challenged the constitutionality of the fugitive slave law in the *Booth* case,<sup>2</sup> the people had loved him and had delighted to honor him; and right well had he deserved that love and honor, for his abilities were as great as his character was pure. But he had laid down his burdens in the very prime of life and the duty devolved upon Governor Lucius Fairchild to appoint a suc-

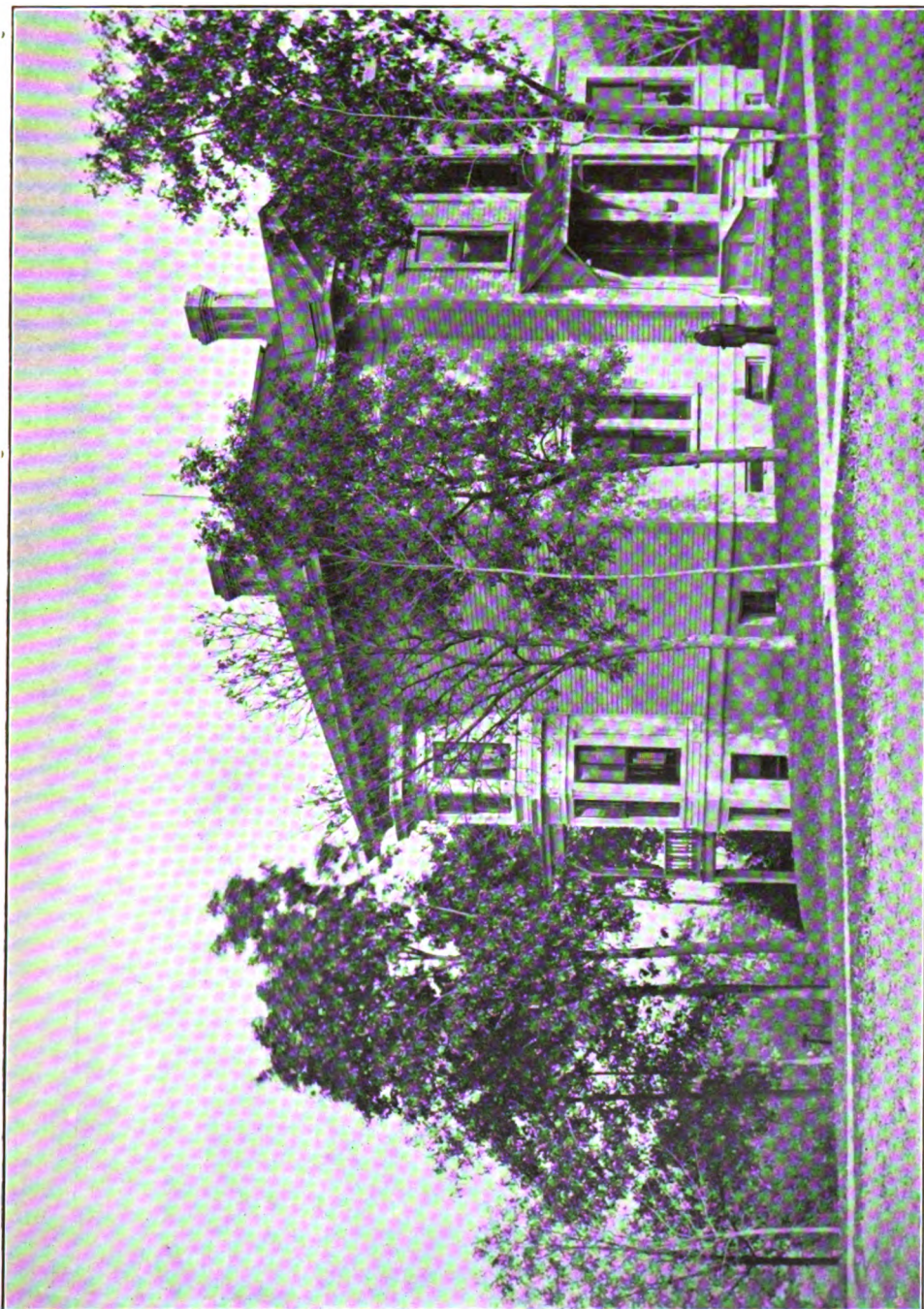
<sup>1</sup> Judge Winslow to Mrs. Hayes, Sept. 13, 1910: "Herewith I enclose you the article upon your father's services in the Supreme Court of the State of Wisconsin, prepared pursuant to your request made last winter. . . . I hope it will prove satisfactory both to yourself and to your father. . . . Please remember me to your father with the kindest regards. Tell him that we go to work this morning upon the new year's calendar. He will remember how that feels."

<sup>2</sup> 3 Wis. \*1.

cessor without delay, for the labors of the bench were heavy and there were then but three justices to carry the load even when the bench was complete. In this matter I am confident that Governor Fairchild did not feel any necessity for spending time in deliberation. I think he had no doubt as to whom he should appoint from the very first moment. Judge Lyon at that time had been presiding judge of the old first circuit for a little more than five years; he had signally demonstrated his fitness for the judicial office; he had made a *nisi prius* judge remarkable for his judicial equipoise, clearness of mind, and firm but just and reasonable enforcement of the law. Governor Fairchild knew his record and his qualifications well, and felt no necessity for endorsements though many endorsements came unbidden from the whole southern portion of the state, where Judge Lyon's qualities were known and where the desire of the people that he be advanced was only tempered by their sorrow in losing so near a friend.

"On the twentieth day of January Judge Lyon was appointed to fill the vacancy and on the twenty-sixth of the same month he took his seat. Governor Fairchild himself told the writer of this chapter more than twenty years later that he regarded the appointment of Judge Lyon to the Supreme bench with greater satisfaction than any other single act of his long administration.

"Judge Lyon found no lack of work ahead of him when he took his seat, and his assistance was heartily welcomed by Chief Justice Dixon and Justice Cole, who were to be his co-laborers for several years. Judge Paine's term was about to expire, and hence the election for the next full term was due in April, 1871. Had Judge Paine lived he would doubtless have been elected his own successor without opposition, but his death, and the appointment of his successor by the Governor at a time so close to the election, changed the situation radically in the opinion of some of the Democratic lawyers and politicians, especially those in the northern and north central portions of the state. Since the ex-



THE LYON HOME IN MADISON



piration of the term of Judge A. D. Smith in 1859 the Democrats had been in a hopeless minority in the state and had had no representation on the bench, although they had doubtless turned the scale in favor of Judge Dixon in 1860, when he ran as an independent candidate against Judge A. Scott Sloan, the Republican nominee. While the last-named election was the first great victory for the non-partisan idea in judicial elections, it had by no means established that idea as a rule. Party conventions for judicial nominations had fallen into disuse, but they had been succeeded by legislative party caucuses, which, after consultation, put candidates in the field. In pursuance of this custom legislative caucuses were held by both parties on the evening of February 9. At the Democratic caucus Harlow S. Orton, who was then a member of the Assembly, was nominated, but he immediately declined to run; at the Republican caucus a resolution was unanimously adopted which ran as follows:

*Whereas*, in the opinion of the Republican state central committee it is not deemed advisable or necessary to nominate a candidate in view of the course which has generally been pursued by the Republicans of this state in selecting candidates for Judges of the Supreme Court without the interposition of a nominating convention, but through the recommendation of the Republican members of the legislature in session at the capitol, and

*Whereas*, his Excellency, the Governor, has appointed Hon. William Penn Lyon of Racine to serve out the unexpired term of the late Judge Byron Paine, therefore,

*Resolved*, that we recognize the appointment of Judge Lyon as one eminently fit to be made; that in his election to the bench of the Supreme Court for the full term the people of this state will secure the services of an honest man, an able lawyer, an experienced jurist, and an incorruptible judge, whose integrity is above reproach, a fit successor to the lamented Paine, a worthy associate of the two judges who have so long, so ably, and so well constituted a majority of the Court and contributed to make it fully equal to any Court of last resort in the several states of the Union; to the intelligent voters of Wisconsin for Associate Justice of the Supreme Court we recommend the election of William Penn Lyon.

“The declination of the Democratic caucus nomination by Mr. Orton made it seem for a time as if Judge Lyon

would have no opponent, but there was a feeling on the part of some Democrats that they ought to have a representative upon the bench, and that this was the only way to make the bench really non-partisan. On March 7 the *Madison State Journal* stated that some Democratic papers in the state had placed Judge David J. Pulling's name at the head of their columns, but the *Journal* also stated that it did not believe he would allow his name to be used. In this, however, the *Journal* was mistaken. Judge Pulling was then and had been for some years presiding judge of the third judicial circuit, which included the county of Winnebago and city of Oshkosh. He was recognized as a very able lawyer and a *nisi prius* judge who dispatched business not only with rapidity but with a masterly grasp of the case and the principles of law involved. Judge Pulling was unquestionably ambitious, but he was also an able politician, and he did not propose to lead any forlorn hope or enter a fight lost before it was begun. It is said in Berryman's *Bench and Bar of Wisconsin* (vol. 2, p. 79) that 'when first called to be a candidate he peremptorily declined.' However this may be, it seems certain that he was not averse to making the contest if he could be convinced that he stood a good chance of election, and his friends accordingly took steps to make the call more emphatic. Petitions were largely circulated among the bar requesting him to run, which received many signatures, and many of the Democratic editors of the state also joined in the request. Members of the Democratic State Central Committee met and tendered their support, and on the eighth of March the Democratic members of the legislature met in caucus and formally nominated him.

"On March 11 Judge Pulling published an acceptance addressed as follows: 'To Hon. John W. Cary *et al.* members of the bar; Hon. Sam Ryan, Jr. *et al.* members of the press; Hon. Andrew Proudfit *et al.* members of the State Central Committee; Hon. P. V. Deuster *et al.* State:

Senators, and Hon. D. W. Maxon *et al.* members of the Assembly.'

"In this acceptance he said in substance that when, a few weeks earlier, it was proposed that he be nominated for the position by the Democratic State Central Committee and the Democratic members of the legislature, he declined because he believed the office ought not to be treated as a purely political office, and because his personal preferences were opposed to running; but that, many newspapers having put up his name, and having read the proceedings of the Democratic members of the legislature, as well as the requests from the Democratic State Central Committee, and from a large number of attorneys of both parties, he did not feel at liberty to refuse.

"While the campaign was quiet, there is no doubt that it was pressed with considerable energy by Judge Pulling and his partisans. It was a time when the Republican dissatisfaction with President Grant, which resulted in the Liberal Republican movement in 1872, was becoming acute, and thus Democrats were feeling somewhat encouraged. The attempt was made also to give Judge Pulling's canvass the character of a non-partisan movement, but without much success. The *Milwaukee News* of March 18 said that it was informed that on the death of Judge Paine the two surviving judges on the Supreme bench, Dixon and Cole, requested the Governor to appoint a Democrat as Paine's successor. The *State Journal* of March 20 denied this statement on the authority of the Governor himself. The *Winnebago County Press* published an article claiming that at some time in the past Judge Pulling in his real estate operations at Menasha had given to purchasers of land deeds which he represented to be full warranty deeds, which in fact contained warranties against his own acts only, and that he had been burnt in effigy by his victims.

"Judge Lyon remained quietly at work at his desk, although the writer feels little doubt, from his own recollec-



tion of the campaign made against himself under somewhat similar circumstances twenty-four years later, that the experience was not altogether a pleasant one.

"The election was held on April 4, and Judge Lyon received a majority of 11,668 for the unexpired term of about nine months, and 11,647 for the full term of six years. These majorities were somewhat greater than the Republican majority at either of the three immediately preceding gubernatorial elections, so that it is evident that the attempt by Judge Pulling's friends to give his candidacy the aspect of non-partisanship was unsuccessful.

"It was by no means an easy task to follow Judge Paine upon the bench. The remorseless accuracy of his thought, the clearness of his reasoning, and the simple eloquence of his verbal expression combined to make his opinions legal classics. Judge Charles E. Dyer of Racine truly said of him on the presentation of bar memorials to the Supreme Court, January 25, 1871: 'He stood not always upon precedent, but at times struck out new paths in the far-reaching field of the law, seldom failing, however, to plant his judgments upon the basis of sound logic. His analytical mind always first sought safe premises from which it progressed to unanswerable conclusions.'

"While I am certain that Judge Lyon's natural modesty would forbid him to claim an equal rank with Judge Paine as a jurist, it is perfectly proper for me to say that in my judgment there is no great room for choice between the two; indeed, in their essential traits they seem surprisingly alike. Both had a strong sense of justice, both had the rare faculty of stripping the non-essentials from a case and going at once to the vital question, both were content to part with precedent if precedent spelt injustice, and both possessed terse simplicity of style and clarity of thought which make their opinions a delight to the lawyer.

"Judge Lyon was a trifle more than forty-eight years of age when he took his seat upon the Supreme bench, and was in vigorous health physically and mentally. His life

had been singularly varied and active. He had been a lawyer, a legislator, a soldier, and a trial judge, and in each capacity he had met the responsibilities thrown upon him with the calm grasp which comes from conscious but in no sense egotistical strength. He came to this crowning work of his life possessed of a wealth of experience both with men and things, which rarely falls to the lot of a man less than fifty years of age. His services began at a time which may be properly called the beginning of a new period. The Court had been in existence some eighteen years; during that time the state had grown from a frontier community composed of straggling rural settlements far distant from each other, to a great state of more than a million souls, with prosperous cities, great railroads, and manifold industries. The time during which the jurisprudence of the state was being fundamentally molded and the general policies determined had largely passed, but a period fully as important was beginning—namely, the period when with the great growth of wealth and population and the development of great industrial and transportation corporations new legal and economic questions were pressing to the front and demanding wise solution.

“The volume of the business of the Court had largely increased with the close of the Civil War, and was still increasing. While formerly the decisions of a year filled only a single volume of reports, more than two volumes were now required, and the end was not yet. So Judge Lyon’s new position was not one of elegant leisure, but rather a position in which he was to spend twenty-three years in hard, unremitting, and tedious labor; but he entered on it cheerfully, with the determination to do his entire duty. He had the confidence and respect of his veteran colleagues, Dixon and Cole, and together these three men carried the great and increasing burden of the litigation of the state until the resignation of Chief Justice Dixon in June, 1874.

“An innovation which he at once made in the manner of the preparation of opinions, while not vastly important in

itself, may well be noticed because it is essentially characteristic of the man. The judges had been accustomed in their opinions to take up and treat the questions presented without making any preliminary statements of the facts of the case or of the result in the trial court, leaving those matters to be supplied by the official reporter. This method, while generally satisfactory, left much to be desired at times, for in a complicated case with a large record it could not always be certain that the reporter would accurately distinguish between the facts which were material and those which were immaterial to the Court's treatment of the case. Of course, the judge writing the opinion should, of all persons, be able to extract and present the vital and necessary facts, and so Judge Lyon from the first prefaced every opinion with a brief statement of the salient and necessary facts and the result in the trial court. These statements were at first made a part of the opinion, but soon were printed separately with a statement that they were prepared by Justice Lyon, and in volumes twenty-nine and thirty of the reports the reporter printed a notice stating that in all cases where the opinion was written by Justice Lyon, the statement of facts was also from his pen, whether it appeared as part of the opinion or not. For some years Judge Lyon remained alone in this practice, but as new judges came on the bench his example was followed, and before he left the bench every judge prepared his own statement of facts, and it is now one of the unwritten rules of the Court.

"While the work of the Court during the first three years of Judge Lyon's service was arduous and steadily increasing in volume, these years were doubtless pleasant years to him. The justices were all comparatively young men and all vigorous in body and mind; Judge Cole, who was the eldest, was but fifty-one years of age at the time of Judge Lyon's accession, while Judge Lyon himself was forty-eight, and Chief Justice Dixon only forty-five. They were all capable of hard work, all intellectually honest, and

were of congenial tastes and dispositions, and we may be sure there was little friction. The Chief Justice, however, had long been restless and dissatisfied. He was not a provident man; he had labored for years at a beggarly salary, and while he was now receiving \$4,000 per year, still he found himself poorer at the end of each year than when it began. He was doubtless conscious of his abilities, but he saw his youth and manhood slipping away with ever accelerating speed, and each year he found himself in deeper financial difficulties with no hope for the future. He therefore determined to resign, and in June, 1874, heard his last case and left the bench to engage in practice in Milwaukee.

"Governor William R. Taylor first offered the vacant seat to Colonel William F. Vilas, then not quite thirty-four years of age, but doubtless the most brilliant of the younger generation of lawyers in the state. It must have seemed a glittering prize for the future statesman, but he declined, as it is said, on the advice of his father, who thought there were greater rewards in store for his gifted son if he remained in the practice. Thereupon the Governor on June 17, 1874, appointed Edward George Ryan of Milwaukee to the vacant place, and the appointment was at once accepted. The appointment was received with considerable surprise by the public. Not because Mr. Ryan was an obscure or mediocre man, for he was very far from that. He had practiced law in the state for more than thirty years; on numerous occasions he had taken a commanding part in matters of the highest importance in the political and judicial history of the state, and had demonstrated beyond cavil or doubt his great abilities as an advocate, an orator, and a scholar. He had been a prominent, if not in fact the most prominent, figure in the first constitutional convention; he had fully proven his greatness as a lawyer and an advocate in the three greatest legal controversies which the state had seen—namely, the Hubbell impeachment, the *Booth* case, and the *Barstow and Bashford* case of the disputed governorship. But while there was no doubt as to

his ability, there was serious doubt whether he was good judicial timber. He was at that time sixty-four years of age, his temper was known to be uncertain and at times violent, he had had no judicial experience, his entire professional life had been spent at the bar, the great cases in which he had appeared were cases of the kind which aroused the deepest passions and party feelings, and it was justly feared that the qualities which had given him prominence as an orator and advocate were not of the kind which would tend to make him a great judge. Thus the appointment was in many quarters looked upon as an experiment, and at best a doubtful one. However, the experiment was made and the new Chief Justice took his seat with the good will and the good wishes of all, not excepting his colleagues, who for six years were to labor with him in that close companionship of the bench than which few human relations can be closer. There are, however, some unpleasant and disagreeable things that must be said about Chief Justice Ryan if one would write history. The reliable historian cannot always write pleasant things any more than the inspired prophet can always prophesy smooth things. From his very boyhood Mr. Ryan had been afflicted with a violent temper which he never learned to control. It was unreasoning and unreasonable; the most trivial incidents aroused his anger, the most innocent occurrences set on fire suspicions which were as baseless as they were incapable of being appeased. By his ebullitions of temper he drove clients from his door, wrecked his career as a lawyer, and desolated his own hearthstone. He made bitter enemies without necessity or reason, and alienated those who would fain have been his friends. This failing was the curse of his whole life, the great and appalling weakness in a character which possessed many of the qualities of true greatness. It may well be supposed, therefore, that Justices Cole and Lyon viewed with some uneasiness the coming of such a character into the consultation room, but they were both philosophers and

both men of remarkably equable dispositions, and under the circumstances this seemed to be peculiarly fortunate.

"The first case which came before the newly organized bench was not only a great one, but one which may well be said to mark the beginning (in Wisconsin) of the great struggle between corporate power and privilege on the one hand, and the people on the other.

"The day of the little railroad of a hundred miles or more in length, operating one or two daily trains and doing a small business local in its character, had gone; the great railroad corporation, operating hundreds of miles of road, doing interstate business amounting to many millions annually, and attempting perhaps to pay dividends on fabulous amounts of watered stock, had come and the people had begun to realize the changed conditions.

"Two really great railway corporations were then operating in Wisconsin, namely, the Chicago and Northwestern, and the Chicago, Milwaukee and St. Paul companies. Between them they covered practically the whole state, but their real termini were in adjoining states and their interests were largely foreign. They had generous charters which clothed them with full powers to regulate rates and fares as they chose. By means of this power they could either make or break a given community or locality by the single stroke of a pen as interest might dictate. The long-tilled fields of Wisconsin had now begun to come into competition with the virgin acres of Minnesota and Dakota, which were almost boundless in their fertility; and it required but slight discrimination on the part of the railroads to put the Wisconsin shipper at a great disadvantage in the race with his more favored western brother.

"The cry that railroad rates were exorbitant, arbitrary, and discriminative became a loud one; it was taken up by the Patrons of Husbandry, a national organization of farmers commonly called the Grangers, which now had become a great power in the West; and in the fall of 1873 the long rule of the Republican party was broken by the elec-

tion of William R. Taylor, the Democratic or "reform" candidate, as governor, and a legislature which may perhaps be properly called the first distinctly anti-railroad legislature in Wisconsin.

"In the Senate there were seventeen Republicans and an opposition of sixteen made up of Democrats, Liberal (anti-Grant) Republicans, and so-called reformers; in the Assembly there were forty-one Republicans and fifty-nine opposition members of various brands; but there was a clear majority in both houses for railroad rate regulation.

"An act fixing maximum passenger and freight rates to be charged by the railroads of the state and providing penalties for disobedience (popularly known as the Potter law, because introduced by Robert L. D. Potter, a Republican senator from Waushara County) was passed and approved by the Governor. It was one of the first laws fixing railroad rates, and was brief and comprehensive. It divided the railroads of the state into three classes, fixed maximum passenger rates per mile for each class, and then divided freight into special classes and fixed minimum rates to be charged for transportation of each class. It also provided for a railroad commission of three members and gave the commission power to investigate into the actual cost of the roads, their gross and net receipts and indebtedness, and to reduce the freight rates fixed by the law when it could be done without injury to the road. The law went into effect in April, 1874, but was absolutely disregarded by the great railroad companies, who took the ground that their charters formed inviolable contracts with the state and gave them power to fix rates, with which power the legislature could not interfere.

"Early in July, 1874, A. Scott Sloan, then attorney general of the state, filed informations in the Supreme Court and moved for writs of injunction against both of the great railway companies already named to restrain them from charging greater passenger and freight rates than were permitted by the act. With the attorney general were

I. C. Sloan, his brother, Harlow S. Orton, and ex-Chief Justice Dixon, all great lawyers; for the Northwestern Company, C. B. Lawrence and B. C. Cook of Chicago and George B. Smith of Madison appeared, and for the St. Paul Company, John W. Cary of Milwaukee and Philip L. Spooner of Madison.

"The motions were argued together in August, the arguments occupying nearly or quite a week. Before the question of the power of the legislature to regulate rates could be taken up, two preliminary questions had to be considered: namely, the question of the extent of the original jurisdiction of the Supreme Court; and the further question whether the constitution makers, when they named the writ of injunction in connection with the strictly prerogative writs in the last clause of section 3 of Article VII of the constitution, intended to raise it to the character of a prerogative writ or intended to leave it simply a judicial writ issued in aid of a judgment either interlocutory or final.

"The case was worthy of the court which heard it and of the eminent counsel who argued it. It was decided September 15, 1874, and the state was victorious on all points.<sup>1</sup> Not only was the original jurisdiction of the court sustained on the ground that the question was one affecting the sovereignty of the state, its franchises and prerogatives, but the power of the legislature, by virtue of that clause of the constitution reserving the right to alter or repeal corporate charters (Art. XI, sec. 1), to control its corporate creations by reasonable regulations not confiscatory in their effect was fully vindicated.

"The opinion was written by Chief Justice Ryan, as was fitting, and it is probably his greatest; it left no substantial question undecided, and terminated the controversy. The companies at once perceived the futility of further litigation and proceeded to obey the law. The case has passed into the books as a leading case; it was the first case

<sup>1</sup> Attorney General vs. Railroad Companies. 35 Wis. 425.



to mark out with precision the previously ill-defined field of the original jurisdiction of the Supreme Court, and it also was a pioneer case in vindication of the legislative power of control over corporations. The opinion is phrased by the Chief Justice, but the decision is by the whole court, and each member is entitled to his just share of the credit. It has been cited with approval in fifteen states as well as in the federal courts.

"Two years later the railroads returned to their own, the Granger excitement had subsided, and the legislature repealed the act and put in its place an act providing for the appointment of an entirely innocuous railroad commissioner, whose functions consisted chiefly in collecting statistics, making maps, and drawing his salary.<sup>4</sup> Thus the situation remained for more than a quarter of a century. The times were not yet ripe for efficient railway regulation; the Potter law was ahead of its time; but it, and the decision made under it, remained as landmarks by the aid of which a later generation reached effective results.

"Another species of litigation was at hand, however, resulting directly from the wonderful development of machinery, which was destined to attain great proportions and occupy a large percentage of the time of the Court for years, namely, personal injury actions based upon negligence. Prior to 1870 the cases of this kind had been quite rare, but with the rise of the great factory and the great railroad, injuries and deaths resulting from accident became far more numerous and personal injury actions multiplied. In the small shop of the early day, where the workman was associated on familiar terms with his employer at the bench, he felt little inclination to sue even if he suffered injury; but as the small shop developed into the great factory, as the hand machine gave way to the massive combinations of cogwheels and rollers, and the proprietor and his workman became comparative strangers, injuries multiplied vastly and there was no feeling of sentiment to hold the employee

<sup>4</sup> Chap. 57, Laws of 1876.

back in case he was injured, but rather a feeling that his employer ought to pay roundly for any injury which the employee might suffer.

"A class of lawyers developed also who made a specialty of such litigation and encouraged it, taking it upon contingent fees generally amounting to one-half of the recovery.

"So far as the personal injury action between employee and employer is concerned, we are now beginning to see that it is a great economic waste as well as an ineffective remedy, and that it ought to be and doubtless soon will be supplanted by some system which will charge the business with the responsibility for injuries to employees which are not recklessly incurred and so arranged that the relief will be immediate and will go to the injured party and not to the lawyer.

"But for many years the business was to flourish and it was vastly important to all interests that wise and certain rules be laid down which should govern the rights of the parties.

"It is unquestionably true that the Supreme Court of Wisconsin early succeeded in establishing clear, logical, and definite rules governing this litigation, which reduced the law of personal injuries to a system and that this system has been ever since adhered to and administered with fidelity; and it equally true that to Judge Lyon is due the credit for this achievement fully as much as to any other man. Few of the states can claim so consistent a record in this branch of the law as Wisconsin; in many of the states there has been lamentable uncertainty, inconsistency, and indecision in the administration of the law of negligence; in some states the difficulty has been with the question of proximate cause, in others with the question of contributory negligency and assumption of risk, and in still others with the question of who are fellow servants, while in some states the decisions have befogged the law upon all of these subjects.

"In Wisconsin, however, logical principles were laid down in the beginning and have since been consistently followed. The doctrine of proximate cause was first extensively discussed by Chief Justice Dixon in the *Kellogg* case,<sup>5</sup> which was an action against a railway company charging the negligent setting on fire of dry grass and weeds on its right of way, which fire spread to the adjoining field of the plaintiff and destroyed his stacks of grain and his stables. The argument of the railroad company in that case was that the damage was too remote and could not be considered as proximately caused by the original negligent act; the principle was, however, laid down that though the damage be not the immediate or direct result of the negligent act, still if it be a result likely to follow the act and which might reasonably have been anticipated as the natural and probable result of the act under ordinary circumstances, it is not a remote but a proximate result. This case was tried by Judge Lyon while at the circuit and came before the Supreme Court on appeal in the fall of 1870, and was decided before the death of Judge Paine. A motion of rehearing, however, was not filed until September 21, 1871. The doctrine was again somewhat discussed in the *Brown* case<sup>6</sup> in 1882, but was more elaborately considered and molded into the definite shape in which it has ever since been administered in the *Atkinson* case<sup>7</sup> in 1884.

"After some uncertainty in the earlier decisions the doctrine that an employee cannot recover of his employer for injuries resulting from the negligence of his co-employee was squarely laid down in the *Moseley* case<sup>8</sup> in 1861, and the further doctrine that the question whether two employees are fellow servants is to be determined not by their mere rank but by the fact that they are employed in the same common pursuit, was settled by the *Brabbits*<sup>9</sup> and

<sup>5</sup> *Kellogg vs. Chicago and Northwestern Railway Co.* 26 Wis. 223.

<sup>6</sup> *Brown vs. Chicago, Milwaukee and St. Paul Railway Co.* 54 Wis. 342.

<sup>7</sup> *Atkinson vs. Goodrich Transportation Co.* 60 Wis. 141.

<sup>8</sup> *Moseley vs. Chamberlain.* 18 Wis. \*700.

<sup>9</sup> *Brabbits vs. Chicago and Northwestern Railway Co.* 38 Wis. 289.

*Peschel*<sup>10</sup> cases in 1875 and 1885 respectively, the opinion in the first-named case being by Judge Lyon. In the *Brabbits* case also the doctrine that an employer is in duty bound to furnish to his employees reasonably safe tools and implements, and that this duty cannot be delegated to an employee, so that the failure to perform it will become the negligence of a co-employee, was first clearly laid down. The same principle was applied to the place in which the employee is to work in the *Dorsey* case<sup>11</sup> in 1877.

"The doctrine of comparative negligence had never been adopted in this state; the doctrine that slight want of ordinary care contributing proximately to cause an injury would defeat a recovery was definitely formulated in the *Dreher* case<sup>12</sup> in 1868, so there was no occasion for the laying down of any new doctrine in this field; but the cognate doctrine that an employee assumes the ordinary and obvious risks of an employment, though not of concealed and unknown hazards, seems first to have been formulated in the *Strahlendorf* case<sup>13</sup> in a brief opinion by Judge Lyon.

"Thus the fundamental principles governing negligence actions were practically given their complete shape during Judge Lyon's first few years upon the bench. They have been somewhat elaborated since that time but have not been substantially departed from, with the result, as the writer believes, that few courts are able to show so clear and logical a code governing this very important branch of jurisprudence.

"The business of the Court, which had been rapidly increasing before Judge Dixon's resignation, continued to increase after Judge Ryan's appointment with accelerated speed. There were no stenographers, typewriters, or even copyists. Each judge wrote out his opinions in longhand. The purely clerical work was necessarily very tedious in addition to the heavy judicial labor. Judge Ryan's health

<sup>10</sup> *Peschel vs. Chicago, Milwaukee and St. Paul Railway Co.* 62 Wis. 388.

<sup>11</sup> *Dorsey vs. Phillips and Colby Construction Co.* 42 Wis. 583.

<sup>12</sup> *Dreher vs. Town of Fitchburg.* 22 Wis. 643.

<sup>13</sup> *Strahlendorf vs. Rosenthal.* 30 Wis. 674.

was bad and his temper worse. While on the bench or in the consultation room he was the courteous, dignified, and able judge (this we know from the testimony of Chief Justice Cole given in response to the addresses of the bar after Judge Ryan's death<sup>14</sup>), but here his courtesy to his colleagues practically ceased. For weeks at a time he would not speak to them when he met them outside of the court room or consultation room. When they deemed it necessary to increase the number of cases upon an assignment from fifteen or twenty to twenty-five in order to keep up with the business and clear the annual calendars, he strenuously objected, and charged them with deliberately desiring to kill him with labor. When twenty cases had been argued, he would leave the bench and take no part in the balance. He even went so far as to urge his friends to try and secure the passage of a law making the opinion of the Chief Justice preponderating and decisive on all questions.

"These harassing circumstances, combined with the unremitting and strenuous intellectual toil of the bench, were enough to wear upon the nerves of the strongest man. Judge Lyon, however, was happily endowed with an even temper, and he and Judge Cole calmly performed their multiplying duties without complaint.

"An instance of the kind of difficulties which these two men had to meet during these years was related to the writer by Judge Lyon many years after, and may with no breach of propriety be repeated here. Judge Ryan had at one time a great grievance against John Bascom, the great president of the University of Wisconsin. Both men were great intellectually, but their viewpoints were radically different. If any one attacked the bench or bar, Judge Ryan was ready to take up arms in defense of the profession immediately. In a baccalaureate sermon preached at the University (I think in 1876 or 1877) President Bascom made some strong comments upon the corruption of the bench, as shown by the then recent disclosures concerning Judges

<sup>14</sup> 50 Wis. 23-52.

Barnard and Cardozo in New York. Judge Ryan took the remarks as a denunciation of the bench in general, and his indignation took fire at once and he determined to make a scathing reply at the time of the admission to the bar of the graduates of the Law School a few days later. This reply he prepared and in it used his great powers of sarcasm and invective remorselessly and with telling effect. On reading it to Judges Cole and Lyon and informing them of his intention, they insisted that it should not be read in Court. Judge Ryan stormed and insisted that he would read it despite their protests. They told him that if he commenced to read it they would direct the crier to adjourn court and would quit the bench, thus leaving him without a quorum. Judge Lyon was a man who would go far to avoid an unpleasant clash, but if he was convinced that duty required him to take a given course, bluster and threats had no effect upon him. Judge Ryan had undoubtedly become aware of this fact; he was very angry and none knew what he would do, but when the day came he had evidently realized the futility of his intended course and did not attempt to read the paper. It was preserved, as I understand, and is still in existence, and is said to be a literary masterpiece.

“It was becoming more apparent every year that the bench must be enlarged or it would be overwhelmed with labor, and in November, 1877, a constitutional amendment was ratified by the people increasing the number of judges upon the Supreme bench from three to five, and fixing the length of their terms at ten years instead of six.

“In the winter of 1878 legislative caucuses were held by both parties, and finally it was arranged that David Taylor of Fond du Lac, a Republican, and Harlow S. Orton of Madison, a Democrat, should stand together as non-partisan candidates for the two new places on the bench. The arrangement was unanimously ratified by the people, and the two men were elected without opposition early in

April, 1878, and commenced their duties on the eighteenth of the same month.

"They were each sixty years of age, but both were men of strong physique and both had been lawyers of the highest standing in the state for many years. It may well be imagined that their coming was hailed with unfeigned relief by the two judges who had been carrying so heavy a load for years. This increase in the number of judges greatly minimized the embarrassment resulting from Judge Ryan's uncertainties of health and temper, as the work could be carried on and the business dispatched without serious difficulty by the four vigorous men who now made up the balance of the bench whatever might be the course of the Chief Justice. As a matter of fact the situation did not long continue. On the thirteenth day of October, 1880, Judge Ryan left the bench when a case was called in which one of the parties had been his client. The next day he sent word to his colleagues that he was ill, and on the nineteenth day of October he died.

"It was most fitting that Judge Cole, who had now rendered twenty-five years of conspicuously able and faithful service upon the bench, should succeed to the Chief Justice's chair. Such was the consensus of public opinion, and Governor Smith gave effect to it by appointing him to that position on the eleventh of November, 1880, and on the same day he appointed John B. Cassoday of Janesville to the place upon the bench made vacant by the elevation of Judge Cole. Mr. Cassoday had for years been one of the most distinguished lawyers of the state; he was fifty years of age, a man of remarkably even temper and gracious manner, and withal an indefatigable worker. Probably no choice could have been happier, although there was a feeling among Democrats that the governor should have placed a Democrat upon the bench and thus maintained its political equilibrium. If, however, a Republican was to be appointed, no appointment could have been more satisfactory to the most ardent Democrat.

"The bench remained as thus constituted for more than ten years, until the sudden death of Judge Taylor, April 3, 1891. During this time the business was still increasing, especially the personal injury litigation, but the justices were all steady and consistent workers and there was practically no friction in the labor. With the exception of Judge Orton all were possessed of equable temperaments. Judge Orton was of susceptible temper and easily moved, but the writer knows from his own experience of later years that his gusts of temper were soon over. His heart was kindly and he retained no malice. It may well be imagined, therefore, that these eleven years during which there was no break in the judicial family were pleasant years notwithstanding the increasing toil. During all this time also there were no contests, political or otherwise, for seats upon the bench. As the term of each judge expired he was re-elected upon a non-partisan call without opposition. The last bitter contest had been in 1879, when Judge M. M. Cothren of Mineral Point was nominated by a Democratic legislative caucus and ran against Judge Cole, who had been called out as an independent candidate by a non-partisan call. Judge Cothren was defeated by the phenomenal majority of thirty-three thousand votes, and thus was demonstrated the firm hold which the non-partisan idea in judicial elections had obtained upon the people of Wisconsin. Judge Lyon had himself been re-elected without opposition in 1877 and 1883, the last time for a ten-year term.

"As the end of Chief Justice Cole's term approached in the spring of 1891, it was generally conceded that his successor ought to be a Democrat, inasmuch as the state had swung into the Democratic column in the fall of 1890, and there was but one Democratic representative upon the bench. It was understood that Judge Cole was not desirous of reëlection, as he was well past seventy years of age and somewhat infirm. Two candidates were called out by non-partisan calls, both Democrats—Silas U. Pinney of Madison and E. H. Ellis of Green Bay. Mr. Pinney had



been one of the most eminent lawyers of the state for years and was elected in April, 1891.

"By this change Judge Lyon became chief justice by virtue of seniority of service in January, 1892, and remained in that office until the expiration of his own term in January, 1894. Another and totally unexpected change in the personnel of the bench took place in the spring of 1891. Judge Taylor died suddenly at the close of a long day of labor at the desk on the third day of April, 1891, universally mourned, and on the fourth day of May following Governor Peck appointed the writer of these lines to fill the vacancy, and he took his seat three days later.

"I can never forget the warmth of the welcome which was given me by all the sitting judges when I came to Madison on the seventh day of May and commenced my duties, but especially was Judge Lyon's greeting cordial; among other things he said: 'John, I had picked you out for my successor, but you have stolen a march on me and got here before I expected you.'

"I had known and respected Judge Lyon from boyhood, but at a distance; he was a man taking a leading part in great events while I was a mere boy at school, and when I came to manhood and entered the bar he had removed from Racine to Madison and commenced his duties on the Supreme bench. Thus my personal contact with him up to this time had been slight, but for nearly three years I was now to be closely associated with him in my daily work, and thus I can speak from personal knowledge of his work upon the bench.

"When five men are compelled to work together day after day during the year as equals, and required to debate upon and decide three hundred and fifty or four hundred lawsuits, there are bound to be many and serious differences of opinion. They cannot sacrifice convictions merely for the sake of harmony, and there will infallibly be sharp clashes. Each man while maintaining his self-respect and his independence of thought must treat the opinions of his

colleagues with consideration and respect, if unpleasant scenes are to be avoided. As a presiding officer upon the bench Judge Lyon's manner was well nigh perfect; never tyrannical or petulant, he yet controlled counsel and shortened tedious and unenlightening arguments with tactful suggestions which left no sting.

"In the consultation room he was unquestionably the leader. At that time there was no system by which the discussion of each case was opened by any particular member of the court, but, as a new case was reached, any member who felt disposed expressed his opinion on it and the discussion proceeded in an entirely informal way. I feel entirely safe in saying that in the majority of instances Judge Lyon opened the discussion with an illuminating remark or two concerning the controlling question in the case, which generally hit the bull's-eye. Without the least offensive assumption of superiority or authority he demonstrated that he was chief justice in fact as well as in name, in the consultation room no less than upon the bench. In both places friction was reduced to a minimum under his wise and gentle rule.

"The most striking characteristic of his opinions is their simplicity. In plain words and without circumlocution or flourish he always proceeded at once to the vital questions of the case and decided these questions in language as free as possible from technical terms. He never strove for rhetorical effect; he aimed to convince the understanding rather than to charm the literary taste; he rarely indulged in trope, simile, or metaphor, or attempted to be humorous. He cited few authorities, and those he did cite were always to the point; he rarely deemed it necessary to back up a well-established proposition of law with a long array of citations. He has said of his opinions that he has no masterpieces, and in one sense the statement is true, for his opinions are remarkably uniform in their excellence and hence it cannot well be said that any of them rise to great heights compared with the others. Nevertheless there are

some opinions written by him in great or delicate cases which deserve some special mention.

"There are no questions of fact more puzzling to courts and juries than the questions which arise as to the competency of a testator to make a will. At what particular point does a mental peculiarity cease to be a peculiarity only and become a delusion or hallucination, so as to render its possessor incapable of making a valid will? This is often a very difficult question. It was met by the Court in the *Chafin* will case,<sup>15</sup> and the subject was very luminously discussed in an opinion by Judge Lyon, in which opinion general principles were laid down briefly but logically and with such clearness that the opinion has been a guide to trial courts upon the question of mental competency or incompetency ever since.

"In 1890 the question of the reading of the Protestant version of the Bible came before the Court. The constitution of Wisconsin provides that no man shall be compelled to support any place of worship (Art. I, sec. 18), and prohibits any sectarian instruction in the public schools (Art. X, sec. 3). Prior to 1890 selections from the Protestant version of the Bible had been very frequently read by teachers in the public schools as a part of the opening exercises. As it is well known, there are many differences in verbiage and some differences in meaning between the Protestant version and the Roman Catholic or Douay version of the Scriptures—differences which are regarded by earnest partisans on either side as very important and fundamental.

"There had always been more or less objection on the part of Roman Catholics to the practice, but its legality was not seriously challenged until the action of *State ex. rel. Weiss vs. the District Board*,<sup>16</sup> brought in 1889 by certain taxpayers of the city of Edgerton, Rock County, to obtain a writ of mandamus compelling the board of educa-

<sup>15</sup> 32 Wis. 557.

<sup>16</sup> 76 Wis. 177.

tion to discontinue the practice of reading the Bible in the schools of the city.

"The case attracted much attention and stirred up much controversy between ardent adherents of the contending religious bodies. Religious controversies are always apt to be bitter, whether waged in the newspapers or in the courts, and this was no exception to the rule. In the circuit court of Rock County it was held by Judge John R. Bennett that no constitutional provision had been violated by the reading of the Protestant Bible in the schools, and the case was promptly appealed to the Supreme Court. Briefs upon both sides were elaborate, and the questions whether our government is fundamentally a Christian government or whether the Christian religion is any part of the common law of England were discussed with much learning.

"The court unanimously held that the petitioners were entitled to have the reading of the Bible in the public schools stopped on two grounds: first, because it constituted the giving of sectarian instruction in public schools; and, second, because such reading in effect converts a public school into a place of worship, and thus the taxpayer is compelled against his will to support a place of worship. Three opinions were filed, all concurring in sustaining the plaintiff's contention; but the opinion of the Court was written by Judge Lyon, and one or two extracts from it will serve well to illustrate his judicial style.

"In discussing the circumstances which doubtless caused the insertion of the clause forbidding sectarian instruction in the public schools, he says: 'The early settlers of Wisconsin came chiefly from New England and the Middle States. They represented the best religious, intellectual, and moral culture, and the business enterprise and sagacity, of the people of the states from whence they came. They found here a territory possessing all the elements essential to the development of a great state. They were intensely desirous that the future state should be settled and de-

veloped as rapidly as possible. They chose from their number wise, sagacious, Christian men, imbued with the sentiments common to all, to frame their constitution. The convention assembled at a time when immigration had become very large and was constantly increasing. The immigrants came from nearly all the countries of Europe, but most largely from Germany and Ireland. As a class, they were industrious, intelligent, honest and thrifty—just the material for the development of a new state. Besides, they brought with them, collectively, much wealth. They were also religious and sectarian. Among them were Catholics, Jews, and adherents of many Protestant sects. These immigrants were cordially welcomed. And it is manifest the convention framed the constitution with reference to attracting them to Wisconsin. Many, perhaps most, of these immigrants came from countries in which a state religion was maintained and enforced, while some of them were non-conformists and had suffered under the disabilities resulting from their rejection of the established religion. What more tempting inducement to cast their lot with us could have been held out to them than the assurance that, in addition to the guaranties of the right of conscience and of worship in their own way, the free district schools in which their children were to be, or might be educated, were absolute common ground, where the pupils were equal, and where sectarian instruction, and with it sectarian intolerance, under which they had smarted in the old country could never enter? Such were the circumstances surrounding the convention which framed the constitution. In the light of them, and with a lively appreciation by its members of the horrors of sectarian intolerance and the priceless value of perfect religious and sectarian freedom and equality, is it unreasonable to say that sectarian instruction was thus excluded, to the end that the child of a Jew, or Catholic, or Unitarian, or Universalist, or Quaker should not be compelled to listen to the stated reading of passages of Scrip-

ture which are accepted by others as giving the lie to the religious faith and belief of their parents and themselves?’

“Again, in discussing the argument that the exclusion of the Bible from the schools would tend to weaken the hold of the Christian faith on the people, he says: ‘The drift of some remarks in the argument of counsel for the respondent, and perhaps also in the opinion of Judge Bennett, is that the exclusion of Bible reading from the district schools is derogatory to the value of the Holy Scriptures, a blow to their influence upon the conduct and consciences of men, and disastrous to the cause of religion. We most emphatically reject these views. The priceless truths of the Bible are best taught to our youth in the church, the Sabbath and parochial schools, the social religious meetings, and, above all, by parents in the home circle. There, those truths may be explained and enforced, the spiritual welfare of the child guarded and protected, and his spiritual nature directed and cultivated, in accordance with the dictates of the parental conscience. The constitution does not interfere with such teaching and culture. It only banishes theological polemics from the district schools. It does this, not because of any hostility to religion, but because the people who adopted it believed that the public good would thereby be promoted, and they so declared in the preamble. Religion teaches obedience to law, and flourishes best where good government prevails. The constitutional prohibition was adopted in the interests of good government; and it argues but little faith in the vitality and power of religion to predict disaster to its progress because a constitutional provision enacted for such a purpose, is faithfully executed.’

“The case was the first case in the country in which the question was squarely presented and squarely decided in accordance (as the writer believes) with sound reason and the manifest intent of the constitutional guaranties against sectarian instruction in schools. Cases of the kind had indeed arisen in Maine, Massachusetts, and Iowa, and had

been decided the other way, but under different constitutional provisions and with doubtful reason.

"In an able and learned note to the case published in *29 American Law Register* (N.S.) beginning on page 321, it is said of it: 'The Supreme Court of Wisconsin deserves well of the American people for its dignified and careful discussions embodied in the three opinions printed above, and it is to be expected that its views will aid the Courts of the Union very materially in reaching correct conclusions in the premises.'

"The case has been followed in Nebraska<sup>17</sup> under similar constitutional opinions, the main opinion citing and relying upon the Wisconsin case, which is said to include 'a thorough review of both the legal principles involved and the historical aspects of the controversy.'

"Two cases which excited much public interest and stirred party passions came before the Court in the spring of 1893—namely, the actions brought by the state to recover of former state treasurers large amounts of interest which banks had paid to the treasurers on the state funds on deposit.

"The treasurers did not deny the receipt of these sums from the banks as interest on the deposits of state money, but claimed to be entitled to retain them because they had given bond to the state covering all moneys which came into their hands, thus becoming debtors to the state as soon as they received any state money, and if debtors to the state, then owners of the money and entitled to its accretions in the bank. This practice had prevailed from early days in the history of the state; at first the sums were small and few knew of the practice, while those who did know did not begrudge the treasurers this modest perquisite; but, as the revenues of the state increased, the interest on balances mounted rapidly until it largely exceeded the salary and made the office sought after as a means of acquiring modest wealth.

<sup>17</sup> *State vs. Scheve*. 65 Neb. 871.

"In the campaign of 1890 the Democratic party made the question a campaign issue, and pledged its candidates not only to cease the practice, but to prosecute actions to recover the interest moneys paid to past state treasurers in whose favor the statute of limitations had not run.

"Both of these promises were redeemed. Actions were promptly commenced by Attorney General J. L. O'Connor against ex-Treasurers McFetridge and Harshaw and their respective bondsmen, and judgments were obtained holding them liable for all such interest moneys in the Circuit Court of Dane County before Honorable A. W. Newman of Trempealeau, circuit judge of the sixth circuit. The cases were appealed to the Supreme Court and came on for hearing in September, 1892. They were decided in favor of the state in April, 1893, upon the general ground that the moneys received by the treasurer remained the moneys of the state notwithstanding he had given bond to account for them, and that any increment of the moneys of the state belonged to the state, not to the treasurer. The opinions in the cases were delivered by Judge Lyon, who was then chief justice, and are phrased with his usual directness and clarity of thought. Thus ended a practice the morality of which was much discussed at the time, which should have ended long before.

"Another action which aroused much public interest as well as party passion was the action brought in the early part of 1892 to test the constitutionality of the legislative apportionment act of 1891. The act was unquestionably an unblushing gerrymander, and it was natural that it should be so. It was the first apportionment act which the Democrats had had an opportunity to pass since the early days of the state. Republican legislators had gerrymandered the state after every census for partisan purposes, and when the Democrats came into power in 1891 they seized the opportunity to give the Republicans a taste of their own medicine. County lines were ignored, shoe-string districts created, and fantastic shapes were spread upon the political map in order



if possible to perpetuate Democratic rule. It is only justice to say that the law was little if any worse than the immediately preceding Republican apportionments, which the Democrats had borne without serious complaint, but the idea had begun to get abroad that the command of the constitution requiring legislative districts to be bounded by county lines and 'to consist of contiguous territory, and be in as compact form as practicable'<sup>18</sup> was something more than a mere glittering generality which the legislature could obey or not as it chose.

"In February, 1892, therefore, the Democratic attorney general, Honorable J. L. O'Connor, filed an information on behalf of the state asking for a perpetual injunction against the secretary of state, restraining him from carrying out the provisions of the new apportionment law, and the cause was heard February 10, John C. Spooner, George W. Bird, and Charles E. Estabrook appearing for the state, and General Edward S. Bragg for the defendant.

"The case was, in fact, a pioneer case. I know of no case in which an apportionment law had been attacked and overthrown in the courts before this case.

"The Court was unanimous in the opinion that the law violated the constitutional commands, especially the requirements relating to county lines and compactness of territory. The case naturally fell to Judge Lyon as chief justice to write. It was a case which would inevitably be a leading case in the books, and there was an opportunity to write an opinion which would challenge public attention as no opinion had done for many years. With characteristic modesty, however, and with that unselfish regard for useful results rather than his own glorification which marked his official actions generally, Judge Lyon said to Judge Orton: 'Judge, you are known to be a Democrat and I think the decision would have much better effect upon the public mind if the opinion of the Court were written by a Demo-

<sup>18</sup> Const. Wis. Art. IV, sec. 4.

erat than if written by a Republican, so I wish you would write it.'

"Judge Orton accepted the offer gladly, and thus the reports show that the opinion of the Court was written by him. Judge Orton said afterwards to the writer that to turn over to a colleague such an important case where the opinion was sure to mark an era in legislative and judicial history, was the most generous act of the kind he had ever known a judge to do. While Judge Orton thus wrote the opinion of the Court, Judge Lyon and Judge Pinney each wrote concurring opinions, it being deemed that the case should be made as impressive as possible. Judge Lyon's opinion was principally devoted to the proposition that the true meaning of the constitutional provision that assembly districts must be bounded by county, town, or ward lines was that a county could not be dismembered any more than a town or ward. This case passed into the books as absolutely the leading case in a great field. Other courts in other states having similar constitutions followed it, and it is not too much to say that the case has resulted in a general curbing of the practice of gerrymandering in a large number of the states.

"Judge Lyon's talents were not confined to the decision of great constitutional questions: his logical mind grappled with questions involving commercial or miscellaneous legal propositions with equal facility, and these he stated and decided with the same directness and lucidity of treatment which marked his opinions in constitutional cases. Instances of this are the opinions in the case of *Wells vs. McGeoch*,<sup>19</sup> where the question of the rights of the parties arising out of an attempt to corner the wheat of the country was involved, and *State ex. rel. vs. State Canvassers*,<sup>20</sup> where the question of the duty of the State Board of Election Canvassers in canvassing the returns of a congressional election as well as

<sup>19</sup> 71 Wis. 238.

<sup>20</sup> 36 Wis. 498.

the question of the right of the court to coerce the canvassers was involved.

"Judge Lyon had reverence for precedent but he had greater reverence for justice. Where it seemed to him that some mouldy, medieval precedent would work absolute wrong in the case before him he was very apt to say with a twinkle of the eye, 'Well, I think this is a case where we will have to use a little *main strength*,' and the precedent was very apt to go by the board. The expression has survived in the consultation room, and it is heard there at times today.

"While never inclined to be severe or caustic in his treatment of counsel in his opinions, he could upon proper occasions administer a rebuke as effective in its results as it was dignified in its terms. The following opening paragraph from his opinion upon the motion for rehearing in the case of *Haley vs. Jump River Lumber Company* (a case in which the writer hereof wrote the opinion of the Court)" will illustrate this: 'We do not suppose the learned and courteous counsel who prepared the argument in support of the motion for a rehearing intended to be especially severe upon this court when they therein expressed the opinion that the decision herein evinces an entire disregard of many material facts in the case, that it is a manifest violation of the plainest principles of law and justice, and that it is a wide departure from well-settled legal principles; yet they will pardon us for suggesting that these are not well-chosen terms in which to characterize a judgment of any court. This court is liable to err, and sometimes does err, in its judgments, but always, with cheerful alacrity, corrects such errors when discovered. No caustic applications are necessary to goad it to its duty in that behalf, and hence, as a general rule, their use is not to be encouraged.'

"For something more than a year he lectured gratis before the Law School of the University of Wisconsin, and

\* 81 Wis. 412-423.

upon one commencement at least he delivered the annual address to the graduating class.

“As the end of his last term approached it was frequently suggested to him that he ought to accept another term, and it is very certain that he would have received the hearty and unanimous support of both people and bar had he consented to allow his name to be used. In the spring of 1893, when the election for his successor took place, he was but a few months over seventy years of age and was possessed of physical and mental vigor far surpassing that of many men a score of years younger. To all these suggestions, however, he turned a deaf ear. His uniform reply was in substance this: ‘I believe I am in good mental condition and I want to stop while I am still in that condition; ten years is a long time, and if I were to accept a reelection and during that time my intellectual powers should begin to fail *I* probably might not be aware of the fact, but the *profession* certainly would and I have no desire to be occupying a seat here with the lawyers saying to each other, “Well, the old judge’s mind is rapidly failing.”’

“And so he retired voluntarily at the end of his term in January, 1894, after a judicial career of twenty-eight years upon the circuit and Supreme Court benches combined, bearing with him in his retirement the love and respect of the entire state.”

#### IV. ACTIVITIES IN RETIREMENT

Judge Lyon loved the spiritual side of life, loved the discussion of spiritual subjects and the working out of spiritual philosophy. Admiration and reverence for all that is beautiful, true, and divine led him naturally to turn to the source of all truth and wisdom for light. With him religion could not be a mere sentiment or emotion; it must be vital and sound. If there were no life and power in religion to uplift one's soul and make one more fit to meet the emergencies of physical existence, it did not appeal to him. The faith of his mother, the teaching of the founders of the Friends' Society, was the only theology that had taken root in his mind, and her example of unselfish service, of ready response to the suffering and need of others, was the one that he followed. Belief in the inner light of the soul, in the divine touch on the human heart; consciousness of the nearness of God, of the tender guidance into the truth of a loving Father; trust in the protecting care of the Love divine, all these were his religion. He felt with the Quaker poet:

That very near about us lies  
The realm of spiritual mysteries,  
The breath of a diviner air  
Blows down the answer of a prayer;  
That all our sorrow, pain and doubt  
A great compassion clasps about . . .  
To feel, as flowers the sun and dew,  
The one true Life its own renew.

"There is a realm of faith," he would say, "as there is a realm of logic, and one must trust and not decide everything

by the reason." The great essential principles of truth and righteousness and honor were sacred in his sight. He fully believed that one must live his principles or they amounted to nothing to him.

In Racine he was a member of the Methodist church, and he attended that church in Madison for a while after moving there. Later he became greatly interested in the spiritual work and teaching of Mrs. Mary Hayes. To him her teaching was more like the "Quaker doctrine" than any other he had known. It attracted him at first for this reason, and afterwards her pure life, her Christian acts, her spiritual power, appealed to him as evidence of her nearness to the divine life. Her spiritual ministration was "without money and without price," another similarity between Mrs. Hayes's and the Friends' practices. She healed the sick by the laying on of hands, and bore their infirmities in her own body. He knew all the circumstances of her locating the vein in the Ashland iron mine, in northern Michigan, through the same power that preached the gospel and healed the sick; he had such perfect confidence in her integrity and in the spiritual vision which he knew would not fail, that he became one of the stockholders of that mine.

The year 1895 and part of 1896 were spent by Judge and Mrs. Lyon in California with their son and daughter, whose homes were near each other. Mrs. Mary Hayes (now Mrs. Chynoweth) and her two sons, E. A. and J. O. Hayes, with their families formed one large household. To these homes Judge and Mrs. Lyon were lovingly welcomed. This season in California was rich in spiritual experience. The family meetings were held daily, and the Judge and his wife were invariably present to listen to the principles of true living expounded by Mrs. Hayes Chynoweth. They witnessed the wonderful work that she was doing for the sick and suffering in body and in mind; they saw the weak made strong, the disheartened given new hope, the tears wiped from weeping eyes; in fact, they were realizing that the spirit

of Christ may be manifested in an unselfish, purified human heart.

She had invented no new doctrine or theory of religion; she simply lived and expounded the principles of truth that have been from everlasting. Unselfish service to others prompted by true love for humanity was as simple and natural to her as her breath. Her tender sympathy for all who were suffering in mind and body made her forget herself and caused her to lay down her life, if need be, that they might be relieved. She depended upon the divine spirit for her power in all her work, and undertook no labor without prayer for His guidance and assistance. She manifested in her deeds the truth of the abiding presence of God in the uplifted human heart. She did not point to the past for the Christ, but by the example of her own life gave visible evidence of the indwelling Spirit of Christ. She urged her hearers to take Jesus Christ as their model and to build up their lives in goodness and purity as he had built his, to live earnestly, simply, prayerfully, humbly, happily. To all those whom she taught she gave a vital, breathing, energizing knowledge of truth that they could never lose. People went out of her presence better and truer for the touch of the Christlike spirit which reached them through her personality, a personality as warm and kindly and curative as love must ever be.

Judge Lyon entered into the new study, into a new field of activity, with all the zest that he had ever shown. The new field was in his own nature, the soil was his to cultivate; good seed must be sown if he were to expect the harvest. He had leisure for introspection, he made the effort to train and bring under control natural traits that in the past he had been too busily occupied with his intellectual work to think about, and he sought now to unfold the rich possibilities that he had learned are within the heart of man. Though his heart had already borne much beautiful fruit, he entered into this new life of spiritual endeavor humbly and simply, realizing that here he must be led instead of being the leader.

At the family meetings members of the family expressed their thoughts upon these principles, Judge Lyon joining with the others. A few extracts from papers, or from the stenographic report of his remarks at these spiritual meetings, follow:

"The thought of eternity used to appall me. I could not conceive of a state of mind in which I could really feel reconciled to live forever and ever, and know that there was to be no end to my existence, that I was to be a sentient being capable of thought, feeling and motion forever. I am beginning to understand how a person who lives a religious life, who becomes fully developed, into the principles of spirituality, a man who has the kingdom of heaven within him, can exult in the thought that he is never to die, that he is to go on and on through eternity, a sentient being, because he can realize that every moment with him is a moment of growth and advancement in spiritual power, in spiritual glory and in happiness."

"It requires only persistence and constant watchfulness to raise our minds out of this slough of corruption and sensuality into a higher and purer atmosphere of the divine spirit. The question is, will we do it? I hope we may all succeed. Then we shall be above any fear of the world or any desire for the approval of man, and we shall look to God alone to judge our hearts and to give the increase of our action."

It is plainly to be seen why Judge Lyon could not settle down to a life of ease and inactivity with his children and grandchildren in sunny California. In spite of the successful years behind him he felt that he had not yet done for his fellowmen what he might now do, perhaps better than he ever before had been able to do. He had not yet performed the service for which his wide, practical experience with men, added to the new spiritual incentive that Mrs. Hayes Chynoweth had stirred into being in his big heart, would so well qualify him; so he returned to Wisconsin, and in September, 1896, accepted a position on the State Board of



Control,<sup>1</sup> where for the next seven years he rendered the efficient service that only a trained mind and a loving heart could render there. After 1897 he was president of the board. He was appointed for four years by Governor Upham, and in 1900 was reappointed for another term ending April 5, 1905, by Governor La Follette. He resigned his position on the board in July, 1903.

During these years his charity, consideration, fairness, protection of the dependents and defectives of the state, earned for him the gratitude of the people, and his service to these unfortunates satisfied him in his desire to help his brothers in their necessity. No wonder that with such high motives Judge Lyon's work on the State Board of Control was so heartily approved and commended. It was indeed the crowning labor of his busy life.

Many of the best laws regulating the state charitable and penal institutions of Wisconsin were framed by Judge Lyon and passed through the state legislature by reason of the confidence his labors had engendered; a noble, living monument to the memory of one man's heart work. And this at the age when most men would have given up their interest in life's activities and duties.

Some of the general results of Judge Lyon's work on the Board of Control are summed up by Governor La Follette in a letter he wrote on receipt of the Judge's resignation in July, 1903. The Governor mentions: "Your reform of the county asylums, compelling those institutions to conform to the rules and regulations of the state in the care of the insane; your firm stand in favor of the policy of buying supplies for our state institutions under competitive bids, which has saved tens of thousands of dollars to the state; the labor which you performed in working out amendments to the laws governing our state charitable and penal institutions and bringing these laws from the chaotic

<sup>1</sup> The State Board of Control in Wisconsin consists of three members appointed by the governor, subject to confirmation by the senate. It is charged with the government of all the state penal, reformatory, and charitable institutions and with supervision of all such institutions in the several counties of the state.



JUDGE LYON AS PRESIDENT OF THE  
STATE BOARD OF CONTROL



state in which you found them to their present perfected condition; the kindly sympathy with which you uniformly met all complaints from the unfortunates under the care of the board, the attention which you gave them; the scrupulous fidelity of service to the public, which you have at all times endeavored to exact from all officials of the state institutions, and the close attention which you gave to every detail of the management of these great institutions," these, says the Governor, "will cause you to be long remembered as a wise and faithful servant of the public."

Some of Judge Lyon's associates on the Board of Control have written extended comments on his activities, entering more into detail than the Governor was able to do in a short letter. From these sources one is able to point out certain of the more specific problems for which Judge Lyon sought solutions. A view of these is important not only toward assessing the value of his work, but also, in some cases, because they reveal the character of the man as he was in his ripe old age.

One of his first acts, on receiving the appointment from Governor Upham in 1896, was to investigate the case of Rose Zoldosky. This Polish girl, convicted of murdering Ella Maley, was sentenced to the penitentiary for life. Judge Lyon, on examining the evidence, convinced himself that it was too weak to justify such extreme punishment; but, since there was no legal method of court review open, the only remaining opportunity to do justice to the convicted woman, who had already spent some five years at Waupun, was for the Governor to grant her a pardon. That, on the basis of Judge Lyon's personal review of the entire case, the Governor was moved to do.

This, and other cases of life sentences which he examined, convinced Judge Lyon that life imprisonment was not always or frequently a proper punishment for crime. Many persons, he believed, were dragging out a useless existence in prison because, under stress of circumstances, they had committed some crime which there was no ground for believ-

ing would ever have been repeated had they been allowed within a reasonable time to return to society. One practical result of these reflections was his fathering the "reformatory" for young persons who had committed a single crime and were deemed fit subjects for special treatment, rather than to be discarded as so much hopeless human wreckage.

Another grade of offenses was that represented by the school for wayward boys, located at Waukesha. The management of the "State Reform School" had been the object of criticism for years. Judge Lyon conducted a thorough examination of its affairs and secured such changes as have resulted enormously to the benefit of the boys whose fate it is to spend a period of time there. He also was chiefly instrumental in securing the establishment of a school for the feeble-minded, something which had been under discussion in the state for many years, but whose establishment had been too long deferred.

Perhaps the most significant incidental result of Judge Lyon's connection with the Board of Control was his steadfast insistence on the merit principle in the appointment of officials of the various staffs and also in determining the question of the continuance in office of those once appointed. It has been said that the state institutions prior to his time were filled with political appointees. Indeed, the charge was made that even the charwomen were given jobs and relieved of them on the political basis alone. Judge Lyon was determinedly set against that system, and such was the weight of his influence with the board, the governor, and the legislature, that he was practically able before his retirement to establish the merit system. He was also able to place the business affairs of the board on a definite budgetary basis, and to secure from the legislature such appropriations as, after careful examination of needs, he was convinced ought to be voted.

The work on the State Board of Control was a source of keenest interest to him. Though it took him from home and its comforts much of the time, though the frequent journeys

about the state, especially during the winter, were physically trying for one of his age, he was happy in the work and made no complaint, and endured the strain remarkably well. These activities touching so vitally the welfare of the state, brought to Judge Lyon and his wife that full tide of popular affection and respect which is the fitting tribute to years crowned with virtues. Their "golden wedding" anniversary, November 18, 1897, was made memorable to the family by the affectionate interest which the community and even the entire state manifested in it.

Said the *Madison Democrat*, November 19, 1897: "Judge and Mrs. William Penn Lyon yesterday observed their golden wedding in a way that was really meant to be quiet; but all afternoon and evening there was such a flood of callers that the Lyon home had in fact all the appearance of being the scene of a genuine reception. Flowers, too, were showered upon the place in profusion—great yellow roses and chrysanthemums suggestive of the golden occasion, fragrant carnations and exquisite roses of other colors. Judge and Mrs. Lyon were warmly greeted and congratulated by the scores of callers, and altogether passed an exceedingly agreeable day that will no doubt long remain a pleasant memory to them. Gifts more enduring were also received, and the venerable Dr. James D. Butler, coming in person, accompanied his congratulations with these original verses:

Union of States! For that you fought  
Undauntedly and long,  
Till you by peace were homeward brought  
With her triumphal song.

Union of men! For you they sought,  
Chief justice, just and mild,  
Through your decrees with wisdom fraught  
Foes oft were reconciled.

Union at home! 'Tis still bright gold  
As 'neath the marriage sun,  
Though fifty happy years have rolled  
Since you were joined in one.

Union above! No more a tear,  
No pain when there you meet,  
Union which life of life was here  
Heaven's bliss shall make more sweet!

Arbor Day in 1899 was a red-letter day for the little town of Lyons. Judge Lyon had been invited to write a letter that might be read to the school children of the district on that day, but instead of doing so he had expressed a desire to greet in person the children at his old home. As the Lyons, father and uncles of the Judge, had settled the place which had been named for them, the proposed visit of Judge Lyon aroused an affectionate interest in all the country round. When the train bearing him and his wife pulled into the little rural station, three hundred school children and as many adults carrying flags, with band, banners, and floral offerings, were there to accord Judge and Mrs. Lyon an impressive welcome. The concourse was gathered from far and near, all bent on extending greetings to Lyons' most distinguished son. They were escorted by the joyous throng to a beautiful grove, where a gaily decked platform had been erected, on which was a "ladder of fame" trimmed with evergreens and flowers. The first rung was labeled Lyons Boy; second, Justice of the Peace; third, District Attorney; fourth, Speaker of the Assembly; fifth, Colonel of the Thirteenth Wisconsin Volunteer Infantry; sixth, Circuit Judge; seventh, Associate Justice; eighth, Chief Justice of the Supreme Court.

Of the very numerous Lyons once near the old homestead, not one was now left in all that region round, and hence there had been no kindred ties to draw Judge Lyon back to the place. Not in thirty years or more had he and his wife been there, and, though delightful, the occasion was not without a pathetic interest to them.

Judge Lyon talked to the children and his old neighbors in a heartfelt way, alluding to his early life among them. He said that his eye had just caught the "ladder of fame," and that there was nothing in it; that there was the most



JUDGE AND MRS. LYON IN 1907, AT THE TIME OF THEIR  
SIXTIETH WEDDING ANNIVERSARY





pleasure in the thought of the office of the justice of the peace, for he believed he had done some good in that office, and he cited the marriages of George Wylie and Ezra Clark. He had married many others, as ministers were scarce in those days. He said it was a question in his mind not fully decided, which was the best, lawyer or Walworth County farmer. He earned a hundred dollars digging that old race at the mill; with that money he had bought law books and afterwards used some of those books in his practice as justice of the peace. He concluded by saying: "It is the good that you can do in this life that means something. It does not make any difference what positions you occupy in life, if you are not doing some good to your fellowmen, giving the young an inspiration to do good." The Lyons daily paper said of it:

"The whole speech touched everyone by its pathos, his familiarity with old scenes and names and the deep interest shown in the community. No one who listened but was moved to better and nobler deeds. The memories of that day and the words of cheer spoken will be felt and remembered years after he who spoke them has passed away."

At the earnest and persistent entreaties of their children, who felt that their parents had arrived at the age where the cares of keeping up a large house were too heavy, Judge and Mrs. Lyon sold their beautiful Madison home on Lake Mendota and moved in July, 1903, to Eden Vale near San Jose, California. They had planned to return in 1904 to Madison to visit their old friends, but Judge Lyon was taken very ill, and but for the loving care and spiritual power of Mrs. Hayes Chynoweth he would have died. In the early summer of 1905 the journey was undertaken. They traveled as far east as Canada and New York, returning to California in the fall.

During their absence in the East, in July, 1905, Mrs. Hayes Chynoweth passed to the life immortal. Their love for her had been deep and true, their gratitude for what she had done for them beyond expression, and they returned to

the home of which she had been the center of life, sorely missing her beloved personality.

Life in their California home flowed on serenely as the seasons came and went. Occasionally a day was marked with special interest when one of the old friends would make a pilgrimage to Eden Vale to visit the dear couple. As time went on Judge Lyon complained of a fog before his eyes, which increased gradually until he was unable to distinguish much more than the outline of objects. To walk several miles a day about the Eden Vale grounds furnished him exercise and diversion; on his ninetieth birthday he walked five miles. He seemed quite weary in the evening, and when asked why he had gone so far he replied, "So my children could brag about it." The following record was among Judge Lyon's papers:

WALKING EXERCISE RECORD IN MILES FOR 1909  
DAILY AND MONTHLY

	Jan.	Feb.	March
1	5	10	7
2	3	7	10
3	3	7	5
4	5	7	7
5	3	9	8
6	5	4	7
7	5	2	8
8	4	5	9
9	7	8	11
10	5	4	9
11	3	0	12
12	5	5	11
13	4	7	12
14	1	4	10
15	5	8	10
16	10	8	8
17	5	8	9
18	8	5	8
19	8	6	10
20	8	2	11
21	4	10	2
22	8	0	13
23	9	4	10

	Jan.	Feb.	March
24	8	7	4
25	0	8	18
26	9	7	10
27	6	11	12
28	7	5	7
29	8	0	11
30	2	0	11
31	7	0	8
	<hr/>	<hr/>	<hr/>
	155	168	283
Average	5	6	9

And this in his eighty-seventh year, at a season when some of the days were stormy!

As the time for their sixtieth wedding anniversary drew near they conceived the plan of sending for their sisters to come to California to celebrate the day with them. Two sisters of Mrs. Lyon, four sisters of Judge Lyon, and a crowd of young nieces and nephews assembled from the east and west, Canada and the middle West, to rejoice with the pair on such a memorable occasion.

Their love light still is shining  
A tranquil afterglow,  
They scan the dim, sweet vista  
Of joyous long ago;  
Where outlined griefs and gladness,  
Past many a year and long,  
Seem shadows of a shadow  
And echoes of a song.

Though Judge Lyon and his cherished wife were already crowned with love, happiness, children, grandchildren, friends, honor, riches, being widely known and held in highest esteem wherever known, yet this golden day emblazoned one of the most glorious pages in their annals of a life well spent.

We live and love, well knowing that there is  
No backward step for those who feel the bliss  
Of Faith, as their most lofty yearnings holy;  
Love hath so purified my being's core

Methinks I should be scarcely startled even  
To find some morn that thou hadst gone before;  
Since with thy love this knowledge true was given,  
Which each calm day doth strengthen more and more  
That they who love are but one step from heaven.

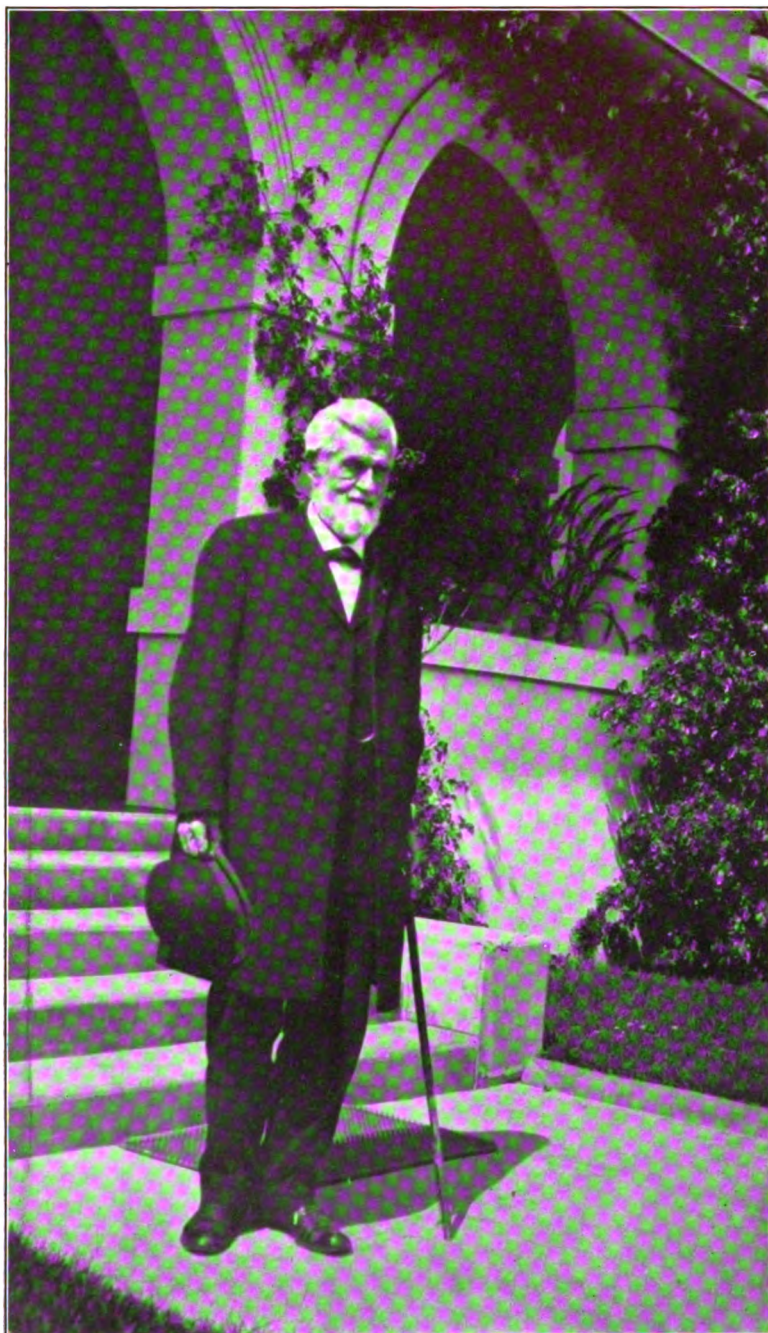
Expression of the music in his soul was denied the Judge, but he loved to listen to simple compositions, and he would intone favorite poems with the same pleasure apparently that the musician feels in rendering a favorite selection. Genuine poetry deeply appealed to him, and he often recited the verses that he loved.

And now Judge Lyon had to face the hardest experience of his long life, an affliction that he had never anticipated for himself. His care had constantly been for Mrs. Lyon's welfare should he be taken first, and he had never realized that he might be left alone. On March 13, 1910, his beloved companion passed on to the higher life. Bereft of the best that life had held for him, but with the courage of a good soldier and with a faith that they would soon be reunited, Judge Lyon looked forward with confident anticipation to the greater activities of the new life, where he and his dearest one should walk hand in hand in the beautiful fields of usefulness, ready to give aid to the weak, cheer to the sad, hope to the hopeless, radiating an atmosphere of love and comfort, as they had done here.

He's in the old accustomed place,  
Near by him stands her chair;  
In fancy still he sees her face,  
The sunshine on her hair.

How richly memory gilds the past,  
Those happy, happy years!  
What wealth is his! Wet eyes at last  
Are smiling through the tears.

The earthly vision almost gone,  
But fairer grow and bright  
The heavenly pictures as they dawn  
Upon his clearer sight.



JUDGE LYON IN HIS NINETIETH YEAR



He was a brave soldier and he did not lose his courage now, though days of loneliness and longing for her loved companionship followed in their course. He could not help feeling that she whose first thought had ever been for him was still near him, but the loss of her visible presence weakened his attraction to earthly things and he was ready to go. Three years of anticipation, then realization. On the anniversary of his father's birth, April 4, the call came. His eyes opened upon the glory of the new dawn. Smiling into her waiting face, with confidence he placed his hand in hers and stepped out into the new life.





## **PART II    ILLUSTRATIVE DOCUMENTS**



## DOCUMENTS ILLUSTRATING CHAPTER I

COFFIN FAMILY REUNION, AUGUST 20, 1881<sup>1</sup>

Five minute speeches were next announced as in order, and Judge Lyon of Wisconsin was introduced. He apologized for speaking without preparation, as he had no idea of being called upon. His grandfather, Uriel Coffin, removed from Nantucket to Hudson about the time of the Revolution, and settled at Chatham, Columbia Co. He died in 1834. During his lifetime Judge Lyon was frequently with him, being quite a favorite, and the grandsire had filled the grandson's head with stories of the sea. He had always wanted to visit Nantucket, and hearing of this reunion he had tried to learn on what day it occurred. Having ascertained, he had packed his valise and started. He said he always required thirty days' notice for an impromptu speech, for he needed time to think the matter over. He was by descent a Friend, as his name, William Penn, indicated. As he grew older he became more and more a Quaker. He had listened with much attention to the orations, particularly to that of Mr. Carleton Coffin. He revered the Puritans. He could not forget that they hung Quakers, hung a woman and banished Roger Williams; but there was much in them of good, and perhaps much of their intolerance was the result

<sup>1</sup> In the year 1881 a very large assemblage of the descendants of Tristram Coffin and Dionis, his wife, met on Nantucket, when interesting ceremonies commemorative of their ancestry were held. Judge Lyon attended the gathering and made a short impromptu speech which met with an appreciative response. The above account is from the Nantucket, Massachusetts, paper of the date.

of circumstances. Their descendants were not intolerant; there had been no religious persecution upon Nantucket. The Coffins were religious. Friends had served in the army of the Union during the War of the Rebellion, and considered it no violation of their faith. The New Testament said, if thine enemy smite thee on the right cheek turn to him the other also. But having turned both cheeks and taken the two blows, there was no law to prevent "going for" the smiter, and they went. While serving in the army, there came under his command the Anderson troop afterwards recruited to a regiment of cavalry from Pennsylvania. The commander and many of the line officers were members of the Society of Friends, but the 7th Penn. cavalry was one of the best organized, best disciplined regiments in the service. But he had made a contract with a friend before leaving, that neither of them should be allowed to permit any logical thoughts, and he must be excused. He felt glad to be here. The Coffins retained their physiognomy as did the Israelites in their wanderings in the olden times. They had not degenerated, but, if anything, grown better.

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SKETCH OF EUNICE LYON'S FATHER, URIEL COFFIN, BY MARY C. BROOKE, IN *Memories of Eighty Years*

The old people were "Uncle Uriel" and "Aunt Mary" to all the children of the neighborhood. They were both born on the island of Nantucket, and of course grandfather was a sailor, making his first voyage as captain's boy at the age of nine. In course of time he became a captain of a merchant vessel, which he took on trading voyages to Jamaica, London, Calcutta, Canton, and Honolulu. His last voyage was to the island of Mocha, on the west coast of South America, where his ship was loaded with seal skins (even then a valuable cargo). The skins were sold in New York and grandfather's share of the profits enabled him to think of having a settled home, so he turned his back on his

beloved ocean and went up to Hudson, N. Y., where several families from Nantucket had already settled, and finally in 1800, he bought a farm twenty-five miles from Hudson, in the then township of New Britton. . . . Grandfather knew absolutely nothing about farming, and until his sons were old enough to direct affairs, he had twice as many laborers as was necessary. He sold his whole crop of wheat by the peck or bushel to his employees or to the poor people of the neighborhood. He thought one dollar a fair price for a bushel, so he would take neither more nor less. . . . Grandfather was a very temperate man, using no tobacco or spirits, but he loved his cup of strong, clear coffee, even before he was dressed in the morning. When it was taken to him, in pursuance of a life-long habit, he always inquired the direction of the wind. If it was "nor'-nor'-west" he counted on a pleasant day. If no air was stirring, he taught the children to wet a finger and holding it up, note which side felt a chill.

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EXTRACT FROM JUDGE LYON'S SPEECH ON OLD SETTLERS' DAY

And thus, at that early day, I came to Walworth county. For many years thereafter it was my home. After my residence drifted beyond its borders, my cordial relations with its people continued, and have continued to the present time. To me this is a great joy. From the first this county and its people commanded the best affections of my heart, and this love has been intensified by many memorable events in my life. Here I studied for my calling; was admitted to the bar while this was yet a Territory, and commenced practice. Largely through the kindness of this people, I was assigned to judicial duty, and here commenced (or nearly so) those judicial labors which have engrossed my time and thoughts for the last fifteen years. Here I met and won her who, for a third of a century, has journeyed so sweetly and lovingly by my side, bearing more

than her share of the weary burdens of our pilgrimage. God bless the wives and mothers, the daughters and sisters in Walworth county, and in all the land! Their faithful, tender love; their patient, hopeful spirits; their heroic devotion to duty, have made our civilization what it is—have indeed beautified the waste places of the earth, and caused the deserts to rejoice and blossom as the rose!

To this county many of you came in the years of its first settlement. You broke the prairie, fenced fields, erected houses and barns, and by persevering industry and rigid economy, many of you laid the foundations of a competency in later years. Nor was this all. As soon as the more pressing necessities of your families were provided for (often before) you erected churches and school houses, and thus provided for the spiritual and mental culture of your children. You constructed highways and bridges, which served as channels of business and commerce commensurate with the early wants of the country.

In all this, perhaps, you builded wiser than you knew. Primarily, the object of your labors and sacrifices was the welfare of your own families; incidentally the welfare of your immediate neighbors and friends. Beyond that you may have thought but little of their effect or influence. But all this time, almost or quite unconsciously, you were laying the foundations of an empire, and laying them, too, upon the solid rock of truth and virtue and intelligence. It is a glorious thing to feel and know that long after our bodies shall have crumbled to dust, and after our names are forgotten among men, the influence for good which we have helped to impress upon the institutions of our country shall survive to bless those who are to come after us.

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WILLIAM P. LYON TO MARY C. LYON

Lyons, Aug. 28, 1846. . . . You wish to know if Father has the nomination for Register. He has, and who do you

think is his opponent on the Whig ticket? Why, it is no less a personage than Wm. P. Lyon, Esq., so you see that one of us will be very apt to get the office. Father will probably be elected, although owing to disaffection in Democratic ranks we shall probably elect a part of our ticket, if not the whole. But I think there is little doubt of Father's election as nearly all the Whigs about here will vote for him. I need not tell you that he feels first rate about it. Election is on the seventh of September. . . . They have had an excellent school in Spoor's district this summer and the children have learned finely. Sarah Ann can write as well as you can, and Julia writes a very good hand. Maria has made fine improvement. The teacher is Thomas P—n, a birthright Friend from Canada, a first rate school teacher, a perfect *soft* at everything else,—fell in love with Emma, Ruth, and Maria, during the summer,—and was mittened by all within the month, is now teaching in this district and will probably through the winter. His way of commencing operations is by telling the girls that he would like an "opportunity," so the next time you write, just ask them if they have had any new applications for "opportunities." . . . My business (although it is nothing to boast of) is more than double what I expected it would be this summer. It amounts to about \$15 per month. I have a very pleasant room for an office and devote the most of my time to study, and as you may suppose pass my time very pleasantly. I live at Uncle Thomas'. I am pleased with the idea of your going to school; if you *will* be an old maid you had better be a teacher than anything else. You will do well to study algebra thoroughly, together with the elements of geometry, and I would advise you to pay particular attention to composition. All well in Canada! Good bye.

Nov. 17, 1846. Father is making every preparation for going to Elkhorn. He has hired a house there for \$50 a year and will probably remove there next month. He will build



a temporary house there, 13 x 18. Isaac and Maria will move down there. . . .

Lyons, Feb. 9, 1847. Being somewhat at leisure today, I have concluded to inflict a letter upon you in answer to one which I received a few days ago; although with all your Gyrations, your Gymnastics, and your "Jumping Jim Crow" I fear you will hardly find time to read it. . . . Our folks are very comfortably situated. They rent a small new house on one side of the village about 60 rods from the office, at the rate of \$50 per year. They have with them at present Eliza, Elmina, Sarah Ann, and Julia. Sarah Ann and Julia attend a select school, and Elmina does nearly all of the housework. She is very faithful and does remarkably well. Mother has had quite a severe attack of inflammatory fever since she has been there, and, I think, since she wrote to you. She is now smart and is gradually regaining her strength. Father entered upon the duties of his office on the fifth of January, and the business of the office for the first month amounted to about \$135, about half cash. It will not continue so however, as considerable of this business had been kept back for him. I think that the receipts of the year will be very near \$1000. You may judge from this that Father is in excellent spirits. For a month or two before he went to Elkhorn, his health was very poor, and he was nervous and fidgety; but from the time he went there his health has rapidly improved and he is now as fat and hearty as a bear. He has been obliged to hire a man to assist him in the office. What he hires done costs him about one third of the fees he gets for it. For instance, an instrument on which he gets one dollar fees, he hires recorded for thirty one cents, leaving him a handsome profit. Should Father continue unable to do all his office writing, I think you had better come on in the spring and officiate as Deputy Register. You could earn more in that capacity than you could in teaching. At any rate, you would do well to pay considerable attention to writing. The main points to be

observed are uniformity and legibility. You are deficient in the former. It would be necessary for you in such case to write a coarser hand than you do at present. We have all pretty much recovered from our sickness, though the effect of it is to unfit us for anything like hard work this winter. This is the reason our folks have done nothing toward building a house yet. It is all Isaac has been, or will be able to do this winter, to attend to his stock, get wood, and do his ordinary chores. They will make arrangements for building next spring. Isaac, Maria and I live in a part of Uncle David's house, the west room, and we enjoy life first rate. Grandmother has the ague and is quite feeble. . . . As for myself, I was able to resume my business early in December, and since that time my business has been very good, better than it has ever before been, though nothing to boast of. I think that I shall be able to make a live of it. I receive a letter every six or eight weeks from the British Dominions, and we have about concluded as soon as practicable to have Canada "annexed." They have a good joke here at my expense. Adelia sent a pair of small mittens to her namesake, Catherine's youngest, and enclosed them in a newspaper addressed to me. . . . The paper was opened at the office when several of the neighbors were present, and it was soon currently reported that I had got the "mitten" from Canada. . . . We have a debating club that meets twice a week and we make some flaming speeches. If there is anything obscure about this letter you can apply to it your knowledge of "Hermeneutics" and that will doubtless make it all plain.

April 22, 1847. It is a very rainy day, and I have laid aside my books and business and set it apart for the purpose of writing letters. . . . The first in order was one to that "black eyed Canada Girl" on the subject of "annexation." The parties are agreed and the only thing lacking to close up the concern is a little more of the "root of all evil." The doctor's wife is going east this summer and she

intends bringing Adelia back with her. If she does I am afraid you will miss the Wedding, unless you come sooner than you intend to. The next letter in order is the one I am now writing. . . . I am glad that you are going into the school as assistant. I know it increases your responsibilities, but what of that! It is a poor policy to shun responsibility. This taking responsibility upon us is just what we need to make thinking men and women of us,—to give force and stamina to our character,—and to impress us with a just sense of the duties of life. No mistake about it. The person who shuns responsibility of all kinds fails to fulfill one of the highest ends of his being, and becomes a perfect drone in society. Now having finished my sermon I will proceed with my letter. . . . I think that the proceeds of the office this year will just about build Father a small house, furnish it, clothe the family, and give him necessary teams, farming utensils, etc. If it does this there will be no difficulty about his supporting his family comfortably after that. Isaac has got the timber framed for a house, 16 x 20 ft., he will finish it after planting. . . . Father does all his office writing now himself, but it keeps him very busy. He keeps beautiful books. . . . I think in conclusion that I will give you a short discourse in Politics. Last fall we elected members to a convention to form a State Constitution. Well, we poor Whigs got terribly licked. We had scarcely a Corporal's guard in the Convention. That Convention formed a constitution, a regular hard money, anti-bank, anti-credit constitution. Its friends called it a progressive Democratic instrument. At the last Town meeting it was submitted to the people for adoption or rejection. The whole Whig party went against its adoption, and with the aid of that portion of the Democratic party who did not happen to be quite as progressive as they might be, they succeeded in progressing the thing up Salt River to the tune of six or seven thousand majority. So we shall probably remain a territory another year. I think Father will get a renomination next fall from his party. I do not know

whether I shall come up against him or not. I shall not unless there is danger of his being defeated.

Lyons, Jan. 2, 1848. . . . Mother's health is gradually improving. Father brought her down from Elkhorn two weeks ago. Yesterday father commenced his second official year. He boards this winter with Mrs. Davis. Isaac goes to school here and Maria intends living with us, going to school also. . . . I think you wished to know something of the wedding, so I will tell you. On the eighteenth day of last November we were married. The ceremony took place at Dr. Duncombe's, of course. We were married by a Methodist preacher, but according to the service of the Episcopal Church. The party consisted of my relatives here, or such of them as chose to attend. The next day about a dozen of us went to Elkhorn for a ride, devoured a turkey, and came home. This closed the public exercises of the occasion. Adelia and I are now keeping house, we are getting quite comfortable here, I went to Milwaukee and purchased what little furniture we have. I commenced building last fall, bought my lumber and dug a cellar, but the cold weather came on so early I found it to my interest to postpone the matter until spring. I pay at the rate of \$30 per year for this house, and I keep my office in it too. If you would not laugh at me I would tell you all about what an excellent wife I have, and how very happy we are here, living all by ourselves, etc. etc.; but for fear that you are too much of an old maid to appreciate this kind of enjoyment I wont say a word about it. We shall expect you in the spring, and when you once get here scarcely anything will induce us to part with you again. It makes too sad an inroad in our family circle to have one so far away, it severs too many ties to lose one of the flock.

We in our mother's arms were locked,  
Long by her love repaid;  
In the same cradle we were rocked,  
By the same hearth we played.

The remainder of the sheet I leave for Adelia who has consented to write a few lines.

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## MRS. LYON TO MARY C. LYON

My dear sister, At a request from William I take the liberty as a sister, though our acquaintance is quite limited, of addressing a few lines to you. As a member of your family, though far from my own relatives, I have received a warmer welcome from your connexions than I feel I deserve. You may blame William for not deferring the ceremony until your return to Wisconsin for I wanted him to wait until spring, but he would not hear to it, and as a woman I had to *submit*, but I do not regret being married for your brother makes one of the kindest of husbands. We are enjoying ourselves *first rate*, we have not had our first quarrel yet. If you have any desire to know what I was married in, I will send you a piece of my wedding dress. Your father and mother liked it very well. Believe me your affectionate sister.

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## WILLIAM P. LYON TO MARY C. LYON

Lyons, Mar. 9, 1848. . . . After the receipt of your letter yesterday, I went down to show it to the folks. Now if you don't know where our folks live, I will tell you that it is about one-half mile west of the Widow Huson's, in a new house, pleasantly situated, size 16 x 20 feet, finished from top to bottom, a good cellar, the lower part divided into kitchen, bedroom and pantry, the chamber divided into two rooms, one being about twice as large as the other and the parlor being situated in "terra incognita." Well, I found Isaac drawing rails, Beaver was helping him; Beaver is a very promising fellow, grows finely; Isaac is learning him to watch, for you see Beaver has the misfortune to be nothing but a—a—Bull Puppy. Maria had the ague the day

before—was as well as usual yesterday, and I suppose by this time is shaking again like fun. Mother's general health is gradually improving; Elmina is at David's, Eliza was knitting edging, both her elbows were poking through holes in her dress, but the edging *must be knit!* Sarah Ann and Julia were there, fat and happy. . . . Now I will quit this nonsense and tell you something that I know will do your heart good. It is that Mother thinks seriously of going east in the spring, attending Yearly meeting, and returning with you. Doctor Duncombe has made up his mind to return to Canada in the spring. He has done well here but there is an excellent opening in Canada where his father resides, where he is sure that he can do much better than he can here. We have had a meeting here for three or four weeks that has just closed. During its progress Dr. Duncombe and his wife and Adelia made a confession of religion and united with the Methodist Church.

Lyons, April 21, 1848. . . . Our town meeting is past and I am re-elected a magistrate. The Whigs swept everything before them. On the eighth of May we have an election for state officers, members of the State Legislature and members of Congress. We are fixing for a hard fight. We have some hopes of carrying the state and thus ensuring two Whig U. S. Senators. Adelia sends love. No quarrel yet.

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WILLIAM P. LYON TO HIS MOTHER

Lyons, June 14, 1848. . . . Father was down last first day and they had a roast turkey. Father comes down nearly every week; he is very healthy, has lots of business, and talks about you nearly all of the time. He acts just like a young husband. There is to be an Abolition lecture at the school house this afternoon and it is now time to go. We have just heard of the nomination of General Taylor

for president by the Whig National Convention. We who were opposed to him have waived our objections and go for him good and strong as a choice of two evils. We prefer him to General Cass if he is a slave holder. I am Deputy post-master and keep the office here temporarily.

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WILLIAM P. LYON TO DR. AND MRS. E. E. DUNCOMBE

Lyons, Feb. 10, 1850. My dear Father and Mother: Believing that you would like to hear from us we improve this Sabbath afternoon in writing to you. . . . Adelia and myself are favored with excellent health, and have been with some slight exceptions for the last year and a half. We attribute this to our having pursued a system of cold bathing during that period. I commenced the practice in consequence of a severe and somewhat alarming difficulty in the region of the lungs. It soon cured me entirely and the benefits resulting from the practice were so apparent that I can not think of abandoning it. You may perhaps feel an interest in knowing something about our business and our future prospects. In relation to this, I suppose I never have done as much business as you think I have. Yet we, Adelia and I, are satisfied with it and think we have done and are doing *well*. I commenced business here May 1st, 1846, and have kept from that time an accurate account of all that I have actually received from that source, which is as follows:

For the year ending May 1st, 1847	\$58.63
" " " " " " 1848	\$180.21
" " " " " " 1849	\$222.85
" " " " next " " 1850 about	\$300.00

These amounts I have actually received. I shall do about a \$400 business this year, although I shall not receive more than the \$300 as above estimated probably. Now I presume that this will appear to you to be a rather small business.

But to me it seems quite a *large* one, and in view of the fact that it is increasing, we are well satisfied with it. By practicing a reasonable economy we keep our expenses within our income, and this according to our philosophy makes us absolutely rich. I know that you will excuse me for entering into this detail of our affairs. I make the statement from a sense of duty, feeling that you have a right to know all about our situation, prospects, etc. At least, if a girl of ours were to marry an utter stranger and live a thousand miles away from us, I should think it his duty to make just such statements to us as the above. I devote myself almost entirely to my business and books, and I feel considerably encouraged in regard to the future. My business not only increases in value, but in importance. I have considerable business in the higher courts now and much more in prospect. We have thought seriously of changing our residence and removing to Geneva or some other place where there would be a chance to build up a larger business than I can here. But we have given up the idea for a year at least, not feeling that it would be justifiable for us to run the risk of not doing as well as we are doing here. Besides this, Adelia and I have about concluded that after Canada is annexed to the States, we will remove there. I hope from the foregoing statements that you will approve of the course we have taken, and that you will believe that we are prospering in our worldly affairs. And when we tell you in addition that nothing has yet occurred to disturb our domestic happiness, and that we are still in the full enjoyment of the *honey-moon*, we hope that you will think as we do, that we are a little better off and a great deal more happy than almost anybody else.

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WILLIAM P. LYON TO MRS. LYON

Madison, Wis., Feb. 18, 1852. . . . The proceedings of the Legislature are of little interest. My time has been oc-



cupied in drawing the charter for our proposed railroad, but it is finished and has been offered in the Senate. . . . Writing to you makes me homesick and I must stop. Talk to Sis about me so she will remember me if I am away two weeks. From your affectionate worser  $\frac{1}{2}$ .

Racine, April 14, 1852. . . . I will tell you what I am about. I spend most of my time in my room getting ready for court, and doing writing which I should have done at home had I been well. I am remarkably healthy, weigh by estimation 165 lbs., stand five feet ten in my stockings, and eat my allowance like a man. I have got entirely above eating pills, having concluded that they don't contain sufficient nourishment for a working man like me. Beef steak, I think, is better. I begin to feel that I would like to bring my visit here to a close, and get back with you and Kitty, but I am most provokingly well and must stick it out, so there's no use of whining.

Racine, Sunday, April 25th, 1852. How do you enjoy yourself today? If you feel as miserable as I do, shut up in the house by the inclemency of the weather and compelled to spend a long, weary day alone,—alone though surrounded by a crowd and pining to be with those whose absence always casts a shadow upon my heart, I am sorry for you. . . . You are better off than I am, however, for I am alone, absolutely alone, while you are surrounded by our kind relatives and friends, and what is best of all, have "our Kitty" always with you. And now, how is Kitty? At one time I can see her playing about full of fun and frolic, and at another I see her as she was when I returned from Madison, pale, emaciated, apparently dying. Your image and hers are blended inseparably in my mind, and are scarcely absent from my thoughts day or night. And I know that you think just as much and just as fondly of me. . . . The most of our business comes on this week, and I expect a busy week of it. I tried one case last Wednesday and the jury disagreed, so we have to try it over again next fall. I

have received some very handsome compliments for the manner in which I tried the case and argued it to the jury. These have given me some satisfaction for two reasons, one is that it is my first effort at the bar of the Circuit Court of this county, the other and principal reason is that I know my success will gratify *you*. I have three criminal and three civil cases to try this week, besides considerable chancery business. . . . It is a cold, sour and rainy day, the wind whistles and Lake Michigan and everything else look dreary and desolate enough. It is unfit to be out of doors, and so I lock myself up in my room and spend my time in reading Harpers Magazine, in writing to you, and in thinking (and you know how fondly) of wife, baby and home. . . . When Kitty gets big enough to send up to "Grandpa's" for a fortnight I am resolved that you shall go to court with me, for I can not endure these long separations. . . . Don't let Kitty forget me.

November 17, 1852. . . . It is fortunate that we postponed our wedding anniversary as I shall not be there tomorrow. I should not write this evening (I have business on hand that will keep me at work several hours) were it not that I am homesick, absolutely *homesick*. I have been looking at the moon and thinking about home until my feelings have got to such a pitch that it becomes necessary for me to have vent some way, and so I try *this* way, that is, writing to you. I have been engaged constantly in court since yesterday noon, but am now through. . . . I forgot to say I have been well, no asthma or toothache. Good luck in court. I got your letter written last week and played that it was just written, and it does much better than none, I assure you. You can go to the office at 11 o'clock tomorrow morning and get this, or I will tell Mr. Stevens to take it to you, just as you please! Kiss Kitty for me; pull Mary's [Mrs. Lyon's young sister, who was then living with them] nose, and believe me most affectionately your worser half.

Madison, Feb. 11, 1853. We arrived here safe about two o'clock this afternoon. We stayed at Delavan on Monday night, and at a little place sixteen miles from here called Stoughton last night. We have had a hard day of it today and not a very pleasant one yesterday. Our road project meets with strong opposition, and we shall have a hard fight, but the better opinion seems to be that we shall succeed. Kiss the baby lots.

[Capitol House] Madison, Sunday, March 4, 1853. Here I am as comfortable as can be expected under the circumstances. We got to Eagle about three o'clock P.M., arrived at Stoughton, sixteen miles from here, the end of the railroad, at seven o'clock in the evening; left in the stage the next day at one o'clock, and arrived here at eight P.M., 16 miles in 7 hours. The roads were awful beyond description, but we had a pleasant company inside—*no ladies*—and so we got along very well. Carey of Racine was aboard; you know he is the senator from our county. The ride on the railroad was pleasant, very. . . . This forenoon Mr. Norton (who boards here) and I have been strolling about Madison; we have been out to College Hill, a beautiful spot, and have been down where the railroad crosses the lake to get into Madison; it is built over the water on piles for more than a mile. I think I shall accomplish the purpose I came for, though the thing required, and still requires, attention. The Assembly was not in session yesterday, and the Senate but half a day. I was not in and have therefore seen no legislation done yet. I spent yesterday afternoon in the Supreme Court which is in session here. . . . I presume as I write that you are on your way to church, and a regretful feeling steals over me that I am not one of the group; but private inclination must yield to public duty, and I do not expect to get an opportunity to do as much good again very soon as I feel that I do in aiding the building of our railroad. . . . This is a very large hotel, and the best kept of any that I know of in Wisconsin. . . .

The Governor and the most influential members of both houses are here, and by staying here I have much better opportunity to see the men I wish to than I should have were my headquarters elsewhere. I should judge that this house is a stopping place for the leaders of fashion here. I wouldn't give much to be a member of the Legislature unless I could go home Saturday nights.

Oconomowoc, July 15, 1853. Here I am 38 miles from home. I got here about sundown, tired as a dog and slept first rate. I feel like a fox this morning. This place is about half as large as Burlington and is very pretty. It is on the Milwaukee and Watertown plank road. The country looks most splendid, and it is a constant pleasure riding through it,—only a little lonesome. I have almost wished that I had brought you along. I will next time. Kiss Kitty.

Burlington, June 5, 1854. I sat down to write to you last night, but a feeling of such utter loneliness came over me that I gave it up, and I almost regretted that I consented for you to leave us. But I strive to banish all such selfish thoughts from my mind, because I know that it was proper and best that you visit home this summer. But I was and am glad that you did not make up your mind to stay any particular length of time for I have a distant hope that I shall see you all the sooner. I feel very anxious to hear of your safe arrival there, and I hope that you had no trouble on the road . . . and tell Mother for me that my wife is the very cream of the whole family, only you need not say anything to the other girls about it as they might not believe it and that would lead to an argument. I don't want to begin to tease you about coming home so soon, but when your visit is made, oh, how glad I shall be to see you home again. . . .

June 12, 1854. I spent two anxious days and nights last week after getting the paper containing the account of the accident which you witnessed. And, oh, how light

hearted and thankful I felt when your letter reached us on Saturday night telling us that you had escaped harm! True the report in the paper stated that the killed were emigrants, and everybody but *me* was satisfied that you had escaped. This cheered me some, but could not shut out from my mind the fearful apprehension that my best beloved and dearest was involved in the fatal catastrophe. And tongue can not tell or pen record how deeply I felt the utter desolation of spirit that would be mine were my fears realized. . . . The time of your absence drags wearily along, although Mary makes an excellent housekeeper, and the neighbors often call upon us and are very kind. Yet the kind face and loving heart of her whose presence gives light and joy and beauty to the whole is far away. May a kind Father return her safely to the home. . . . I did not get your Telegraphic Dispatch from London, as there is no line from here to Racine.

June 13, 1854. . . . The R. R. gets along finely. We now have mortgages for stock in our hands to the amount of \$42,500 and are getting more every day. I expect to go to Madison the first week in July to the U. S. District Court, and shall have to go again to the Supreme Court, but can not tell the precise time.

June 21, 1854. . . . As usual I am engaged all the time. Monday I went about 14 miles and tried a suit, getting home at ten o'clock at night. Tuesday was out with Mr. Forbes taking R. R. stock; in the afternoon worked in the office; today I have been with Mr. Forbes on the same business all day, and tonight alone in the front parlor I am holding sweet communion in spirit, as I write, with her "whom my soul loveth." Tomorrow I go to Waterford, Rochester, and Elkhorn on business. We get along fine in getting our R. R. stock taken, and we are almost sure of building the road this summer and fall; my connection with it engrosses every leisure hour almost.

July 1, 1854. . . . Now for my plans. I intend to go to Racine Sunday, July 9, take the evening boat, get to Chicago Monday morning, take the cars that morning for Elgin, return to Chicago the same afternoon, Monday evening take the cars for London, and arrive there Tuesday afternoon, July 11, A. D. 1854. Now don't look too anxiously for me on Tuesday because there may be no boat Sunday, or if there is I may miss the evening train at Chicago on Monday, or various other contingencies may happen to make me a day or two later, so don't be uneasy if I do not get there until Wednesday or Thursday. But of this thing be assured, that I will be there just as soon as circumstances, *Love*, and Steam will let me. . . .

Racine House, Sunday, October 15, 1854. I did not expect to write before Tuesday evening, but I am lonely, and writing to you is a great comfort to me. . . . We got to Ives' Grove completely chilled through. Soon after we got there the convention organized, and I was chosen secretary as usual. . . . Cole is nominated for Register, and I for District Attorney. The district attorney was nominated last, and inasmuch as more old Free Soilers than Whigs had been nominated, some of the Racine folks came to me and told me that they thought it the best policy to nominate Chapman who was a Whig, instead of me. I told them to go to it and they went to work expecting that Chapman would be nominated of course. I stood by and laughed in my sleeves, for I knew that no consideration could induce a majority of that convention to vote for him. When the votes were counted I had nearly two to his one. So I got the nomination and the credit of being very magnanimous and self-sacrificing besides! . . .

Racine, Feb. 4, 1855. I got here comfortably on Thursday evening and found the special term postponed two weeks, so I will have to come again. You may ask why I don't come home then, inasmuch as none of the business that I came here to transact can be done. I will tell you,

my dear. Yesterday I prosecuted a case of assault and battery, and sent the man to jail for non-payment of fine. Then a complaint was made to me against a fellow for stealing a span of horses, I procured a warrant and started the officers after him and succeeded in catching him just at night. His examination is postponed until Monday morning and he is lodged in jail. Getting two men in jail in one day troubled me a little after I blew out the lamp last night and got to bed, and it interfered with sleep to some extent. But I suppose that I will get hardened to it after a while. . . . I felt homesick that night, dearest, and felt sorry that I had not told you to write me by yesterday's mail. I bear our separation this time with the more fortitude, because I think that these long separations are about over for the present, and it is pleasant, very pleasant indeed, in these lonely hours to think of the time when we are settled down here—together—at home, for you know, my loved one, that "Home without thee, can not be."

Racine, June 17, 1855. Yesterday I "up and done it," that is to say, bought a house and lot, on that horrible lake shore and on the east side of a street too. Now hold on and don't get excited while I tell you about it. I agree to pay for the property \$1600. . . . I made this purchase because this property is dog cheap, and I would not today, or tomorrow morning, rather, take a cent less than \$500 for the bargain, and I doubt whether I would do that. It would cost now at the present prices for lumber more than the \$1600 to put up the same improvements on the lot and the lots are worth \$600 to \$800 without anything on them. The house is very pleasant, rooms large and light and airy, and twice as many of them as we need. Then fronting on the park makes it pleasant, and no chance to build barns or anything to annoy us. When you see it, if it does not suit you, we can sell it at a handsome advance. I think you will like it for a permanent residence. I regretted much that

you were not here, as then I would not have been compelled to shoulder the whole responsibility.

Racine, June 19, 1855. . . . Keep up good courage, my dear, I will be there, if nothing happens, on Saturday. I like the house better than ever, I hope you will like it.

Racine, July 12, 1855. . . . You know R— well, he was a clerk in Cotton's store, and it has just been discovered that he has purloined lots of goods from the store. The carpet in their parlor, the coat on his back, and even the silk dress of his wife are among the articles. . . . the office is now going to arrest him. His poor wife is said to be a most excellent woman, and she is expecting to be confined every hour. Oh, what a deluge of misery and woe will so soon crush her! I don't know whether she has any knowledge of the dark clouds that are gathering over her head, but God pity her when the storm bursts upon her! There is but little satisfaction in being District Attorney after all. The place, our house and lot I mean, look better than ever. I walk up that way almost every day. Wish you were here to go with me.

Racine, July 15, 1855. I was rejoiced to learn that you and the baby are getting along so nicely. The house is not quite ready. No prospect of having our own, as I see, this summer. I want to see it ready for us before I leave for Burlington. How glad I shall be when we can sit down together at home and spend all day Sunday together. I hope to do so in two weeks from today. How much did Willie weigh this morning? I have nothing more to write only the old story that I love you most dearly and think of you and our baby almost constantly.

Racine, July 30, 1855. The house is painted and white-washed ready for us. They are putting up the kitchen stove this afternoon and I have bought a load of wood. Christine will get a woman to help her and they will clean the house tomorrow. I hope that Dutch John will come to-



day with that load so that I can unpack the crockery to-night, and the women will wash and put that up too. I think that it will take more than one day to do the cleaning. I am making every effort to come out for you on Thursday afternoon, but I may not be able to, hardly think I can before Friday or Saturday. I am anxious to hear from you and how you get along nights with the baby. Take good care of yourself, dearest. We can buy cane bottomed chairs for \$7 per set, good double straw mattresses for \$2.50. I will wait for the chairs till you come; think I will buy a mattress and try it. Kiss the boy for me. Good bye says your affectionate husband.

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WILLIAM P. LYON'S ACCOUNT OF HIS ELECTION TO THE  
ASSEMBLY

In 1858 there was trouble in the ranks of the Republicans in my county and the men who managed those matters found it difficult to get an acceptable candidate for the Legislative assembly who was not mixed up with some faction of the party. They finally decided that I was as clear of it as any one that would be considered and proposed that I be nominated for the position. In the meantime I had thought a great deal upon this subject of holding public office and had, I thought, fully made up my mind that until I became more thoroughly established as a lawyer I would not accept any public office except such as pertained to my profession. So when this matter of a nomination to the Assembly was submitted to me I at once peremptorily declined to have anything to do with it. The matter ran along until a mass convention of the Republicans of the city had been called to make a nomination, and it was suggested to Mrs. Lyon (who, by the way, was opposed to my accepting the nomination as she thought the legislature was

the wicked place) that they intended at that meeting to nominate me without regard to my declination. So my wife suggested to me that I had better go to the meeting to decline the nomination if they attempted to confer it upon me. I went. It was held in the court house, which when I arrived was crowded with citizens. Some question had been raised and was being discussed when I entered, in regard to the legality of the call of the meeting, when an old gentleman pioneer of Racine, Captain Knapp, rose and said that it was all nonsense to waste time over the question, that he had a proposition to make which he thought would quiet all the trouble in regard to it, and closed his remarks by nominating me as a candidate for the Assembly. The announcement was received with cheers and I saw that I had trouble before me. I arose, addressed the chairman and was recognized and commenced speaking, starting off with the usual formula of thanking them for the honor, etc., when there burst forth cat calls and yells of "Throw him out of the window," "Throw him down stairs," "Sit down," in short, making a perfect bedlam of the meeting. I stood quietly until the noise subsided and started speaking again and had a repetition of it. Then I saw my attempts were futile and I took a long breath and said, "I surrender," and sat down. My nomination was put to the meeting, carried without any opposition. They then called upon me for a speech. I made a little speech and said that I went there full of fight, but confessed my defeat and I should humbly go home and admit that for once in my life I had been badly beaten. The election was held and I was elected by a large majority.

Soon after the election I read in a Democratic newspaper printed in Kenosha a three line paragraph saying in substance that while the Republicans had carried the Assembly they had elected but one man that was decently fit for the office of Speaker, and named me as that man, and

for days afterwards, to my utter astonishment, I found the Republican newspapers especially copying the paragraph and endorsing me, and I commenced getting letters from my colleagues asking me if I was a candidate and tendering support. I wrote back to them that I had no legislative experience and knew very little about the duties of the office, was no candidate at all and the idea of proposing me as a candidate for the office was absurd. I invariably answered in that way.

Matters stood in that condition until the meeting of the Legislature. When the caucus was held to nominate a candidate the informal ballot gave me half the votes of the caucus, and the rest were divided between four or five different candidates. I was at once nominated for the Speaker of the Assembly by acclamation. I was perfectly appalled at the idea of attempting to preside over that body for the reason that I have stated. I had no legislative experience and no confidence in my ability to properly discharge the duties of that position. However I was elected and with the aid of a very competent and experienced chief clerk, a most excellent man, I got through the session without disgrace. This clerk was L. H. D. Crane. He became a very dear friend of mine and was afterwards killed at the battle of Cedar Mountain during the Civil War. He, in fact, furnished all of the necessary qualities for a successful Speaker during the early part of the session when I should have been helpless without some such aid. I used to show him newspaper notices commendatory of my success in presiding considering that I had no legislative experience, and pointed out to him how easy it was for a man to grow famous on borrowed brains. In 1859 I was re-nominated and re-elected to the Assembly of 1860 and was again made Speaker without opposition. I was entirely willing to receive that election, but I had no occasion to use any personal influence either directly or indirectly to secure the election.

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REMINISCENCES OF THE SESSION OF THE LEGISLATURE OF  
1859 WHEN WILLIAM P. LYON WAS SPEAKER OF THE  
ASSEMBLY, FROM MRS. LYON'S SCRAP BOOK<sup>2</sup>

I have read with pleasure in the *Sunday Sentinel* the brief sketch of the life and public services of Hon. William Penn Lyon, late chief justice of the Supreme court of Wisconsin, and I beg to add some personal recollections of that excellent man, upright judge, faithful soldier and honest public servant. I first became acquainted with Judge Lyon during the session of the legislature in the winter of 1859, when he was sent to Madison to represent the city of Racine in the assembly. That was a very remarkable session in many respects, and among the noticeable features of the assembly was the absence of members who had had some legislative experience which would have fitted them for the trying position of presiding officer. When the legislature met, it was found that while the Republicans had a large majority in the assembly, there was no one among them who seemed to be well qualified to take the speaker's chair, and after much consultation the choice fell upon Judge Lyon, who was not only not a judge at that time, but simply an obscure lawyer who had never been inside of a legislative chamber in his life, who knew next to nothing about parliamentary law, and whose natural modesty made him shrink from any prominence. When it was first suggested to him that he consent to be a candidate for speaker, he stoutly refused to accept the proffered honor, pleaded his inexperience in legislation, and it took a good deal of coaxing before he finally allowed the use of his name. He had, however, some rare qualifications for the responsible position for which he had been selected by the partiality of his colleagues. He had a clear head, quick perception, prompt action, and was always self-controlled, under all circumstances. He assumed the duties of the

<sup>2</sup> The author of these reminiscences is not known. It is thought they were written by a man who for many years contributed political articles to the *Milwaukee Sentinel*.

chair, resolved to deal impartially by all parties, and to stand for the dignity and honor of the collected assembly rather than to represent one faction, although his party associates on the floor were heavily in the majority and would be likely to sustain his rulings even when he was obviously wrong.

What added to his embarrassment at first was the presence of several skilful and experienced parliamentarians on the Democratic side who might take advantage of his ignorance and make him trouble. Two of these old stagers were Gen. Harrison C. Hobart, now of this city but then a representative from Calumet County, and the late Frederick W. Horn of Ozaukee County. Both of these gentlemen had been speaker of the house and both were recognized as authority on the rules and usages governing legislative assemblies. Both were adroit and wary politicians, and when the house was engaged in a filibustering rough-and-tumble they were known to be experts in all the arts usually resorted to to carry their point and embarrass the presiding officer. Then there were the late Densmore W. Maxon of Washington County, and Andrew E. Elmore, "the sage of Mukwonago," a conspicuous member of the "Oriental Evanic Order of One Thousand and One" and also of the "Sons of Malta," two bogus secret societies that flourished in Madison thirty odd years ago. Elmore was the wag of the house, and not the grave and reverend old gentleman of eighty well spent years that he is now carrying about on his shoulders. Judge Lyon was greatly aided in the discharge of his new duties by the chief clerk, L. H. D. Crane, one of the brightest men who ever stood in the clerk's desk in a legislative assembly. But the speaker took to his new duties as readily as a duck does to water, and his perfect candor and firmness soon won the respect of all his associates on both sides of the chamber. He soon disarmed all opposition on the part of Hobart and Horn (who at first intended to have some fun at Lyon's expense) by candidly appealing to them occasionally, getting their

opinion on intricate and disputed points in parliamentary practice. Mr. Horn would sometimes try to mislead the speaker in order to carry his point, but when he was appealed to for his opinion in a given case he would honestly give it, even if it was fatal to some of his maneuverings.

I remember at one time Horn had made some motion wholly at variance with the rules governing such cases, and after he had stated his point Lyon quietly asked: "Does the gentleman from Ozaukee contend that his position is sustained by good parliamentary law?" Mr. Horn hesitated a moment and then sat down without saying a word, being too honorable when appealed to upon his honor to mislead the speaker.

On another occasion Mr. Elmore had introduced a local bill for the preservation of fish in one of the lakes in Waukesha County, and as he had been absent at his home for several days, the bill came up in its regular order and was passed. The next morning after his return the rules were suspended to pass a number of local bills, and Mr. Elmore moved that his little bill be included in the list and while he was on his feet he went on to make quite a little speech setting forth the merits of the bill and the reasons for its immediate passage. Speaker Lyon quietly listened to his remarks and when Elmore had concluded he said with a smile, "The Chair will inform the gentleman from Waukesha that his bill was passed during his absence!" "In that case," said Elmore, pushing back his spectacles on his nose with his forefinger, "in that case I beg leave to withdraw my speech." "Leave is granted," said the speaker.

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MARY LYON PALMER TO WILLIAM P. LYON

Stanfordville, 2nd mo. 20, 1859. . . . My dear brother Speaker, It is gratifying to find that amid all the claims upon thy time and all the dissipating scenes which are the usual accompaniments of life in such public places, that

thee still remembers thy obscure sister in Stanfordville, and still more pleasing that you purpose visiting us next summer. We shall each find that seven years have wrought many changes in the other's appearance, yet I trust that we are William Penn and Mary C. at heart after all. . . . I don't know whether to congratulate thee or not upon thy great success. I shall have to ask Adelia first what effect it has upon thy private character. Do not laugh at me when I say with sisterly affection, "Beware, Beware," for I know full well that thy path is, and will be, surrounded with temptations and thy popularity will not make them less.

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## SAMUEL D. HASTINGS TO WILLIAM P. LYON

Office of State Treasurer, Madison, Nov. 25, 1858. My dear Friend, I need not tell you how well pleased I am that you are to be in the Assembly this winter; you know how anxious I have long been to see you in the Legislature. I am particularly pleased that you are to be *this* winter, for you will find plenty to do and you will have an opportunity, if I am not greatly mistaken, to bring into exercise your full powers and to show your friends just how much you can do. You can not have failed to notice from the Press that the Republicans of the state are looking to you for great things. The Democrats, I think, have never had at one time so many of their old and experienced heads in the Assembly. Hobart, Horn, P. H. Smith, G. B. Smith, Orton and Elmore, every one of them aspirants for Congress, are among the most prominent men of the party, and who have we got to match them? We know of no man on our side in the Assembly who we regard as a match for these men except yourself, and you have not the legislative experience that they have had. They have all been members of the Legislature or Constitutional Convention. Horn has twice been Speaker and has been in the Senate. P. H. Smith has been in both houses, and the others have all been in one body or

the other. And, independent of their experience they are all men of ability. I don't know of a man who has ever been in the Legislature of whom has been expected more than is now expected of you and upon whom rested a greater responsibility than now rests upon you.

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WILLIAM P. LYON TO MRS. LYON

Madison, March 25, 1860. . . . My heart longs to be with you, but I must stand to my post. John Dickson, Mead and Lathrop are here, and we are at work day and night overhauling the charter and getting it in shape; we shall pass it. They treat me well. They laughed when I told them that you had written to me to pass the charter, and Dickson said he had no fears now about my getting it through. Some of my friends will be offended, I suppose, but I must obey the will of the people. We can not adjourn as we voted to do on Tuesday, but I think we shall do so on Monday, April 2nd. I am so disgusted with public life that I don't think that I shall desire to go to Congress. The public is a terrible master to serve.



## DOCUMENTS ILLUSTRATING CHAPTER II

WILLIAM P. LYON TO MRS. LYON

Cairo, Feb. 9, 1862. There has been a battle and victory at Fort Henry, on the Tennessee River. We were only left because we had not our blue uniforms. . . . The boys were much disappointed. . . . I have for the last two days been acting as president of a regimental court martial for the trial of minor offenses. It takes a good deal of evidence in my court to convict.

Feb. 16, 1862. We are in a post of honor, which except as it keeps us out of battle would be deemed very desirable, but we want a hand in.

I tell you when I see our wounded and maimed soldiers, it makes me feel as though I wanted one chance at the authors of all this misery and suffering. I don't believe that I have any apprehension of being hurt.

When Chase and I were making speeches at flag raisings last spring, we told the ladies they must give up fathers and sons, husbands, lovers and brothers to their country, although it might wring the heartstrings to breaking. You have made this sacrifice with thousands of others. Let it be a cheerful sacrifice on your part. Believe, as I do, that I shall in due time return safely to you and our beloved children, and console yourself for my absence with the thought that never were men called from kindred, home and friends to hardships, privations, dangers and death in a more

sacred cause. I am cheerful all the time, and it is the result of an ever-present, undoubting conviction that I am precisely where I ought to be. My greatest happiness consists in doing my duty and in indulging in fond anticipations of the time when, the war being over, the Government restored, and our work well and faithfully done, I shall return to you and our sweet babes, and I will feel I am in Eden. God bless you and help you to bear your part of the weary burden that this war throws upon you with the un-failing courage of a Spartan matron, dreading more than his death the failure of her loved one to do his duty.

Near Pittsburg Landing, Miss. April 22, 1862. One of Governor Harvey's last acts was to appoint Captain Gabe Bouck colonel, and me major of the 18th. I do not know that I shall accept. I think I will stay with Company K a while.

May 10, 1862. . . . I still feel that I shall come home to you safely. I felt so when the storm of death beat around me on the battlefield. I knew that from the lips and hearts I love so dearly in my far-off home earnest prayers went up for my safety, and it nerved me to do my duty fearlessly in the hour of peril and death; and the greater the peril that surrounds me, the more clear are my convictions that I am where I ought to be. Let us both with fervent faith and undoubting trust commit our future destiny to His hands "Who doeth all things well."

Camp near Booneville, Miss., June 8, 1862. . . . I have now been in two fierce battles and have faced death for long, weary hours, and amid the wild terrors of the contest have been enabled by our kind Heavenly Father to preserve my self-command and do my duty. Oh, how sublime a scene is a battle! I can not describe it but it seemed like the thunder on Sinai or the Day of Judgment, as our imaginations picture those wonderful events. Aside from its fearful perils, a battle fills the soul with the most sublime emotions. Then life is regarded at its true value,

and the obligations of honor, patriotism, duty and humble trust in God fire the soul to meet manfully the terrible responsibilities of the hour. I thank God most devoutly that I have been enabled to render some service to my country, and that thus far our sweet babes will never have occasion to blush at the thought that their father failed to do his duty. . . . I am well satisfied that I did not accept the promotion to the 18th, for I feel justifiable pride in the renown which our regiment has achieved. The devotion of my men to me, evidenced in a thousand ways, often brings tears to my eyes.

July 13, 1862. . . . This is the only way I can celebrate your birthday, to write a long letter. Well, my dear, you are thirty-six years old, are you? Old enough to be a grandmother! I think it is about time for you to give up thinking you are good looking, and begin to learn how to grow old gracefully. Confidentially, however, to me you are . . . . I wonder what you will have for dinner today, and speaking of dinner reminds me that you some time ago asked me to tell you how I live, which I believe I have neglected to do thus far. I do not mean that I have neglected to live, but I have failed to give you the *modus operandi*—to tell you how the thing is done. Reveille beats at daylight. We get up, clean our tents and quarters, shake blankets, wash, and at 5:30 A.M. turn out and drill for an hour. Then we have breakfast—ham, warm biscuit and very good butter, black tea, pickles, blackberries or currant sauce, is the usual bill of fare for breakfast; ditto for dinner, ditto for supper. I consume very large quantities. We get ham, flour and tea from the commissary; pickles, butter, cheese, etc., of the sutler. Once in a great while I smoke. We have battalion drill at 5:30 P.M., and dress parade until sundown; tattoo at 8:30, and then to our downy beds. Mine is luxurious. I smoothed it off the other day with a spade. As usual I shirk a good deal. For instance, I make the sergeants and corporals take charge of the company at

morning drill, under pretense of their learning how to give commands! Then I divide the company into squads and put a sergeant over each squad, charged with the duty of seeing to the men—their cleanliness, their arms, in short, everything. This I do under pretense that the “Regulations require it.” “Regulations” is a great institution in the army. It teaches us “How not to do it,” which is the true philosophy of thinking. Blessed be the man who invented the “Regulations.” So when I say “we” do anything, you will understand that I speak in a sort of Pickwickian sense. I mean that the boys do it and I help them if I can’t dodge. This last remark applies with peculiar force to the one item of getting up in the morning before daylight.

Camp Clear Creek, Miss., July 21, 1862. Yesterday I was Field Officer of the day (the officer who has charge of the pickets and outside posts), and I was in the saddle nearly all day and tramping a good deal of the night, so I feel stupid today. I keep your picture hanging in my tent, where I can lie on my bed, that is, on the ground, and gaze at it and get sentimental and fight flies. Speaking of flies, the Egyptian plagues, though they had locusts and lice and frogs, I believe were a failure because they did not have flies. Such swarms of them as infest our camps, drawn here by the debris of a great army, you can not conceive of. They are the common house fly and, like everything else here, are dull and stupid—don’t know enough to go when you tell them to. So much for flies.

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MRS. LYON TO A FRIEND

Fort Donelson, March 17, 1863. . . . The dangers that surround us have made us appreciate every hour together. Our train went over to Fort Henry day before yesterday, and on coming back yesterday they saw a number of rebels

who probably meant to attack the train, but who saw it so strongly guarded that they let it alone.

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COLONEL LYON TO MRS. LYON

November 26, 1862. I showed my black folks your pictures today. Jerry<sup>1</sup> was much taken with Willie, saying, "He will make a bully man if nothing happens." They are faithful, excellent people, but they put on some airs because they wait on the *Colonel*. I am going to build a log house in the rear of my tent for them to live and cook in. . . . I find on going to my room that Jerry has packed and boxed all my traps, and had them ready to load on the wagon in case we were worsted. I gave him no directions about them—did not even think of them. During the fight the Adjutant tells me, Jerry volunteered to go one and a half miles alone to call in an outpost, and went. He was as cool and brave as any of the soldiers.<sup>2</sup>

Fort Donelson, April 9, 1863. We held an election on Tuesday for Chief Justice. Our nine companies have cast 385 votes, of which Dixon received 357 and Cothren 28; majority for Dixon 329.

Fort Donelson, June 7, 1863. I have a hard, anxious summer before me. At home, some, I suppose, will think that it is a nice thing to have the command of a post like this, garrisoned with a large force, with a fort and lots of artillery, and no commander over you but General Rosecrans. It is a very honorable command, one that a higher

<sup>1</sup> Jerry and Minerva Rumley were negroes that had joined the Thirteenth Regiment and were the Colonel's servants. After the war was over, both went north and for a time continued to live in Colonel Lyon's family. Minerva had the reputation as a slave of being hard to manage; when she came to the regiment her back was bruised and sore from the cruel treatment of her master; however, she made a faithful servant when treated kindly.

<sup>2</sup> Colonel Lyon's sense of justice made him anxious that Jerry should receive the credit he deserved, and it was most characteristic of him to pay this tribute.

and more experienced officer might well be proud of; but when you remember that it is a place much coveted by the rebels, one where bloody battles have already been fought, and where we have always been victorious; a place that no commander would surrender as long as he had a man left to fire a gun; a place where above all others death would be preferable to defeat, and where we are almost entirely out of the reach of reinforcements for several months in the year if attacked, you can imagine that the responsibility more than equals the honor of the position. The most pressing work now is to finish the fort, build the magazine, build a guard house inside the works, procure forage to last all summer, get a light draught steamer to carry our mails as long as possible, mount, equip and organize about 200 men for scouting purposes; besides several minor matters which require attention. When these things are accomplished I shall ask for a leave of absence. Do not let any one out of the family see this letter. It is egotistical, and I have no right to be that with outsiders.

Stevenson, Ala., Sept. 21, 1863. . . . I received an order to take command of this post, and with the 13th relieve the regiment that was doing provost guard duty here. So I found myself up to my eyes in business immediately.

Stevenson, Oct. 11, 1863. We have an additional brigade of General Hooker's command here, but I am still left in command of the post.

Stevenson, Oct. 18, 1863. The whole army of the Cumberland is being reorganized, and we do not know anything about where we shall be assigned. Oct. 23. . . . My successor in the command of the post will be Colonel Cobham of the 111th Pennsylvania. He will assume command in the morning. Come to think, you will want to know where we are going. We are ordered to Nashville. Aren't you sorry? We go by railroad.

Nashville, Tenn., Oct. 29, 1863. We are encamped in

a dry, beautiful location in Edgefield, directly across the river from Nashville. Edgefield is a clean, quiet village, and we have decidedly the softest thing we have had since I have been with the regiment. We shall probably remain here some time, perhaps all winter, unless some unexpected emergency arises at the front. Now make all your arrangements to come to me, and I will make my arrangements for you as fast as I can. . . . At the election last Tuesday the 13th gave 400 majority for the Union ticket, only 18 or 20 votes cast for Palmer.

Edgefield, Tenn., April 14, 1864. We now picket the whole city, on both sides of the river, and guard all the trains running on the Louisville R. R. . . . April 25. Yesterday I got an order that we start tomorrow morning for Stevenson to take care of the railroad from Anderson to Bridgeport on the Tennessee River. We will be nine or ten days on the road. . . . I am glad to get away from Nashville, my regiment was so scattered.

Stevenson, Ala., April 28, 1864. I took command of this post on Sunday morning. I have my old quarters and more. I occupy for my own private residence the room that General Hooker had when here.

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COLONEL LYON TO JOHN TAPLEY OF RACINE, IN REPLY TO A  
LETTER SUGGESTING THAT COLONEL LYON PERMIT HIS  
FRIENDS TO SECURE HIS NOMINATION FOR CONGRESS

Whether my nomination is feasible or not I do not know. I am inclined to the opinion that Walworth County would be favorable. Of course that county will not expect to nominate one of its citizens. It has had every candidate since the organization of the Republican party in 1854. I think of no one in Waukesha who would be apt to try for it, or in Kenosha except Lieut. Col. L—; years ago

he desired very much to go to Congress. You know best about his chances if a candidate for the nomination. Milwaukee ought not to have it until by at least one good, straight, honest vote she has atoned for slaughtering Potter two years ago. Gen. P— is an honest, impulsive man; W— is said to be a first rate, true man, I have but little acquaintance with him. I should have no personal objection to either of them if the candidate comes from there. As for C—he has rendered good service to the Union cause, but if I am not mistaken he figured in some war Democratic Convention or Committee at Chicago last fall, which declared it the duty of the President to disband the negro troops as soon as the war is over. If this is his position it raises an insuperable objection to him. If a negro is good enough to be a soldier in time of war, he is entitled to be one in time of peace. Why not? I hope to see our regular army, when the war is over, composed mainly of negroes, leaving the white men to pursue the more congenial pursuits of civil life. Then let the Government establish a liberal school system for those colored soldiers (which is entirely practicable in time of peace), and a great step is taken towards elevating that race. People talk flippantly about the natural inferiority of the negroes to the whites. Perhaps, or I should rather say probably, they are naturally inferior to us, but, Tapley, if we could see the condition of this race after one hundred years of encouragement and kindness and equal rights, I doubt not that we would be astonished at their progress. By equal rights I mean the right to an education, the right to vote, and eligibility to office. There is abolitionism for you. But it is logic and truth, and it is folly to shut our eyes against the light any longer. We have lived a lie, and many of us have believed it, as regards this colored race, until as a nation we are nearly damned. Through the agency of this terrible conflict God Almighty has served notice upon us, that to deny to any the rights which He has bestowed is to imperil our



liberties and all that we hold dear on earth. So C— must back out of that position or I can not support him cordially. Excuse this little stump speech; I preach this same doctrine right here in Alabama to ex-slaveholders, and they begin to believe it.

But to return, should the candidate be conceded to our county, I have heard of no one who aspires to it. Probably in that case I could be nominated. If you interest yourself in the matter farther you will encounter some objections which may prove insurmountable. First; I have been absent from the state now nearly three years, to me three long, anxious, weary years, and have passed pretty much from public notice. My nomination could have been more easily accomplished four or six years ago when I was there in public life. Second; my absence, if an attempt be made to nominate me, will give my competitors who are on the ground taking care of their own interests a great advantage over me. Third; I can not be there to work during the canvass and I have but little money to spend on it. I am growing poorer, pecuniarily, every year I remain in the service. Fourth; I have never distinguished myself in the field, but have plodded along doing my duty but doing no brilliant thing. You will find this a serious objection. Yet I am entirely content with my condition in this respect. The true heroes in this war are the nameless thousands of which history takes but little note, and I am entirely willing to be numbered with them. I do not claim to be a hero however. The idea is that if a man does his duty it makes but little difference whether it is known and appreciated or otherwise. And last, but by no means the least objection; "It is only Penn Lyon and I knew him when he was a penniless ditch digger, and I would like to know what he has ever done to make him think he ought to go to Congress."

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COLONEL LYON TO MRS. LYON, FROM *Reminiscences of the Civil War*

Stevenson, Alabama, May 9, 1864. I am going to Tullahoma today to report in person to General Paine, who has command from there to Bridgeport; will be back tomorrow. I was sent here because I had been here before and had a reliable, well disciplined regiment, and because, further, as General Rousseau told me, he knew my boys would fight if attacked. The service is honorable, and it was a high compliment sending me here and so intended by General Rousseau. General Granger was not consulted and had nothing to do with it.

Claysville, Ala., July 11, 1864. I have a good deal of business here with the citizens. As there is no civil law or courts, I am judge, jury, arbitrator and guardian for the whole country.

Clarksville, Ala., July 13, 1864. Here I am, tired as a dog. I left Claysville yesterday morning, and have just got here, having traveled over mountains, through swamps and cane-brakes, escorted by about thirty Union guerrillas or home guards. I have passed through some wild, magnificent scenery on this trip, which I have no time to describe. I can write but little this time, but I was not willing to let this anniversary of your birthday pass without letting you know that I remembered it.

Huntsville, Ala., Sept. 3, 1864. I found dispatches from General Granger ordering me to come here and take command of the railroad and all the troops on it from here to Stevenson, together with all the troops at this place. The General in his order gives me power to move troops wherever I think they are needed, and orders me to meet the enemy wherever they make their appearance and "Strike to scatter and destroy."

Huntsville, Sept. 29, 1864. I have been much broken

of my rest for three or four nights and am very busy all the time. I am a good deal worn and fatigued with labor, anxiety and loss of sleep, but am well. If any one is ambitious for an important military command in times of peril, or thinks it a soft thing to be an officer, I am perfectly willing that he should have a chance to try it on. Oh, it will be paradise indeed if I am permitted to sit down at home once more with wife and children, family and friends, and know that the war is over, the flag triumphant, and my duty as a soldier done. Will not that be a happy day for us all?

Huntsville, Oct. 16, 1864. Everything is mixed and in confusion with us. . . . The reason is that the rebels are making desperate efforts to break up our communications, and troops are being constantly moved to threatened points. Today I am sending off parts of two cavalry regiments in my command to Nashville to be mounted. And tomorrow morning, in addition to my other duties, I assume command of the post. This will give me about all the work I can do. The campaign now opening will be fought out between Louisville and Atlanta, and we are as much exposed as any other part of the line north of the Tennessee River, or more so. The tide of battle as it surges from point to point along the line may strike us any time, and it is hardly possible that we should escape it entirely, and I do not know that I care to escape it. I am weighed down with care and responsibility, and that responsibility is terrific, for it has to do with human life. Then I am torn away and kept year after year from home and family and they seem dearer to me every day; and further, I lead a life of constant peril and uncertainty. All these things, added to the fact that the best of my life is passing away and we are getting poorer every year financially, do sometimes press on my feelings pretty snug. . . . I have a fine command; my reputation as an officer is first rate, and my mili-

tary standing, position and character are all that I could desire.

Stevenson, Ala., Dec. 11, 1864. I am still in command of the brigade, but as soon as the road is open Colonel Doolittle will return and take command, when I shall go to the regiment once more I hope. We are hard at work building fortifications and getting ready for any rebel force that may stray off in this direction. . . .

March 19, 1865. I was awakened about ten o'clock last night by one of the boys who told me that I had a telegram from home but there was no bad news in it. It was from Janesville, announcing my nomination as Circuit Judge. I am entirely in the dark about the position of affairs there, but if matters are as I suppose I see no earthly chance of my election. I concluded, however, that a defeat would not hurt me much and so accepted the nomination. It is tantalizing to be a candidate to so important a place and know nothing of your position or prospects. The time is so short between the nomination and the date of election that I shall probably lose most of the army vote. I must not be unhappy about it if I am defeated, and you must not be.

Greenville. The 13th did not vote. I know that I am beaten and I did not care to swell my vote with that of my own regiment. They would all have voted for me. I have never expected for a moment to be elected. I suppose I am defeated by at least five thousand. I know that some of my best friends were committed to Judge Noggle long before I was nominated, and could not do otherwise than support him.

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MRS. LYON'S DIARY

Jonesboro, Tenn., April 17 [1865]. We have just heard the joyful tidings that William is elected judge. The first that we knew of it was a shout from the regiment that made

the welkin ring. We thought that they had got a mail and that they had news of some great victory; so William and I started out to see what the noise was about. As soon as they saw us they shouted, "Hurrah for Judge Lyon!" The mail had come in and brought papers announcing the fact of his election. We could hardly believe it, it was so unexpected. We had a curiosity to see how many hundred votes he would be beaten by, but had no thought of election. It is two weeks today since the election and we have only just heard of it. I never saw William so nonplussed. I am so happy that I can hardly contain myself, for now William can leave the service honorably and come home.

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COLONEL LYON TO ISAAC LYON

April 17, 1865. I suppose there is little or no doubt of my election. I was never so surprised in my life, for I never had the least expectation of being elected. I shall come home as early as I can honorably and properly do so, certainly by September and probably before, to make the necessary arrangements and preparations for my new duties. You must not feel too hard towards those of my best friends who opposed me. They had an undoubted right to do so.

Camp Harker, May 29, 1865. I expect to get a leave of absence which I have applied for, and in that case we shall go home about the middle of June. I do not like to resign, because I think we shall be mustered out during the summer and I wish very much to stay in the service to the end of the war. My leave will be for twenty days if I get one. The surrender of Kirby Smith practically ends the war, and saves us probably from being sent to Texas.

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COLONEL LYON TO MRS. LYON

Green Lake, Texas, August 10, 1865. I need not tell you that I am impatient for the time to come when I shall

be home again for good. I think when I walk into our shanty, hang up my hat, and take you and our little ones (one at a time, of course) in my arms, I shall be about as happy a fellow as you can find around there. I find it necessary to use some restraint or I should be counting the days that intervene before my muster out, but I do not do it, at least aloud. I will say to *you*, however, privately that it is just forty-five days, or one and one-half months. If I could take the regiment home with me I should be just about perfectly happy, but I see but little prospect of being permitted to do that.

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CLIPPING FROM RACINE PAPER, 1865

On Friday last, Colonel Lyon, now home on furlough, invited all the members of his old company (Company K of the 8th regiment) to take dinner with him at his house. The affair was a happy reunion of men who have spent many a weary day and night in the field together. It is his social qualities, "off duty," that endear Colonel Lyon to his men . . . for the Colonel says, "If I felt like taking off my hat to a man, it would be to him who shoulders his musket and goes to the service of his country with hope of no other reward than his country's gratitude."

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TRIBUTE FROM PRESIDENT ALBERT SALISBURY OF THE WHITE-WATER STATE NORMAL SCHOOL TO COLONEL LYON

The writer hereof was a private soldier in Company "H" of the 13th Wisconsin Volunteer Infantry in the War for the Union, but was not one of its original members. When the regiment was enlisted, in 1861, I was a spindling boy of eighteen, whose parents were unwilling that he should expose himself to the vicissitudes of war; but I well remember a visit to the regiment at Camp Tredway, near Janesville,

in the cold winter weather of 1861-2. The first colonel, Maurice Maloney, then in command, was a most unique and stalwart character, who represented all the traditions of the regular army, though not himself a "West-Pointer." He was a brave soldier, every inch a man, though a good deal of a martinet. His discipline was severe, which was good for the regiment, but did not endear him to the line officers, fresh from the freedom of western civil life. It was not till December of 1863 that I was permitted to enlist and enter the Thirteenth as a recruit. I may, perhaps, be indulged in saying that the life of a "recrutie" was not in all respects a happy one, in the midst of old veterans; yet it had this great advantage that he entered into the benefits of all their experience in the ways and means of camp life. They had learned how to look out for themselves and what things not to do; and the recruit fell at once, of necessity, into a safe routine; whereas newly formed regiments had everything to learn from the beginning, and often suffered severely from that fact when first brought into the field.

My first contact with Colonel Lyon occurred at the end of March, 1863, when the regiment returned from "veteran furlough" and encamped in Edgefield, Tenn., a beautiful suburb of Nashville. At that time I was temporarily detailed as a clerk in the office of Adjutant W. M. Scott, and was thus attached to regimental headquarters, so to speak. Later in the war, after the retirement of Lanson P. Norcross, regimental postmaster, I succeeded to that position, and thus again was brought into daily contact with headquarters. One of the pleasant pictures that I have in memory is that of Colonel and Mrs. Lyon playing cribbage in the open front of the Colonel's tent, in the cool of day. As I gathered from the talk of my mess-mates, Colonel Lyon when he came to the regiment presented a marked contrast to the brusque, martial presence of his predecessor, Colonel Maloney. But his calm, equable dignity, his manliness and his genuine, watchful interest in his men quickly commanded a respect which deepened into enduring affection.

His judicial temperament and his confidence-inspiring mien eminently fitted Colonel Lyon for the position of post commandant, which he held at different times and places during a considerable part of his service. The good discipline and high character of the regiment also made it a desirable one for garrison duty; and on this we were largely kept. Perhaps the Colonel's Quaker antecedents had also, unconsciously, something to do with it, but he was never anxious to push his regiment to "the front," where no doubt greater distinction might have been won. No one believes, however, that he ever shrank from active service in the great campaigns; but he preferred to leave the responsibility with those higher up for the disposition of the regiment and its services. It was not through any art or policy that he won the loyalty and affection of both officers and men, but through his own inherent quality. It was not the result of condescension or familiarity, but the natural and inevitable consequence of his type of manhood, simple, serene, unaffected, self-contained and unwavering. This attachment was not effervescent or demonstrative, but its genuineness is shown by its durability. The chief delight of the annual regimental reunions, for many years, was that of meeting "the Colonel." At these reunions he was never the orator or speech-maker. He spoke to "the boys" with difficulty rather than ease; but they knew the reason why. His removal to the Pacific Coast and the advancing years which preclude long journeys have brought that yearly pleasure to an end, but the devotion of the surviving remnant is still unabated. The publication and distribution of his volume of "Reminiscences of the Civil War" was a source of great satisfaction to all its recipients, as doubtless many of them testified by letter, though letter-writing is becoming increasingly difficult to the survivors. They are not *in practice* as they were in the sixties. That the beloved "old Colonel" is passing down the farther slope of life in peace,



honor and comfort is matter of especial gratification to all who yet remain of "the old Thirteenth."

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SKETCH OF COLONEL LYON, BY PLINY NORCROSS

Col. Wm. P. Lyon assumed command of the 13th Wisconsin Infantry at Fort Henry, Tennessee. Prior to that date he was a captain in the 8th Wisconsin infantry. The 13th Regiment went into actual service in January, 1862, under command of Col. Maurice Maloney who had been a soldier in the regular army and had been promoted to the rank of captain for brave and gallant conduct in the Mexican war. The 13th Wisconsin was largely made up of men from Rock, Walworth and Green counties. Many were students from Milton academy or the high schools of these counties and never intended to adopt the profession of arms. They knew nothing of soldiers' life. They enlisted to save the Union and for no other purpose. The pay or the rank did not interest them. The line or company officers were chosen by vote, not on account of superior ability in the art of war, but because there must be officers. The men who were not chosen were just as good as those who were. The formality, technical discipline and deference which is a part of the regular army soldier's requirements was not acceptable to them, so that within a few months our regular army colonel was assigned to another command. Then we wondered who our next colonel would be.

We were doing guard duty at Fort Henry and Fort Donelson, holding what had been gained on the Tennessee and Cumberland rivers, looking out for guerrillas and sudden attacks. Then too we made raids into the surrounding country. All this required close care, attention and excellent picket service so that we could not be surprised by a superior force. This arduous duty was efficiently performed by our new colonel. He had good common sense, a

cool head and sober judgment as well as the nerve and courage to carry out the aggressive plans for maintaining our precarious position. Constant watch out at all times, day and night, was most important. Colonel Lyon never failed in these requirements. He knew what was going on at all times in his military district. He knew the men in his regiment, every one of them. He took a sincere interest in them. They soon learned that he would not only serve as their safe commander, but they could freely go to him for advice and sympathy. His example was a continual uplift. He never swore, was never angry, never used intoxicating liquor, never gambled, was never excited or fidgety. The unexpected assault or change of orders did not disturb him. His regiment came to have unbounded confidence in him.

Then, too, Mrs. Lyon was with him for many months. Their headquarters was always open to any officer or soldier. It seemed homelike in their tent when they were in the field. The sick and wounded in the hospital were always objects of their special attention. The sick soldier gets his medicine and such food as can be had. He is entitled to these, but in our regiment he had the sympathy and personal interest of the colonel and his wife when she was with us. I feel quite sure that while Colonel Lyon was in command he never asked that our regiment should be pushed to the front so that he might share in the glory of a great battle or receive promotion thereby. He had hard experience enough in the 8th Wisconsin to justify his belief that he should hold his regiment ready at all times for any service however dangerous, but that he would not insist upon taking part in a battle if he could perform safer and just as important service elsewhere. The sudden dash, the desperate charge, the glory of an impetuous assault did not appeal to him as it did to Sheridan or Custer or other generals of that fibre. Such leaders scorned death. Their sublime indifference to the horrible realities of a desperate battle made them heroes if they lived and martyrs in a great cause if they died. But as it takes all kinds of men to make a world, so

too it takes all kinds of men to make up an army and its leaders.

Our regiment had the most unbounded confidence in the good sense, sound judgment and bravery of Colonel Lyon. He was a leader among men, not from impulse or passion, but from his firm, clear, well poised character. He did not cease to be interested in the men of his command when the war closed. Even now after the lapse of more than forty-seven years he has the same kindly interest in them. They can never forget him. He illustrates the statement that a man may have absolute power and yet wield it so fairly and firmly as to gain the respect of all his subjects, and withal so kindly that he will win all hearts. The noise and display which perhaps must be a part of the military life were not in harmony with his character. He enjoyed the society and friendship of quiet, modest, cultured men and women and he loved little children. The witty repartee, the pleasant story, the happy daily life, the chivalrous demeanor, were his to enjoy and to appreciate in his comrades and friends in camp and elsewhere. Not one of the more than 1300 men who belonged to his regiment will ever forget him or cease to admire his genial, urbane and modest character.

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SKETCH OF COLONEL LYON, BY BROTHER JOSEPH DUTTON

I shall write of Judge Lyon as colonel in Civil War days; also to some extent of Mrs. Lyon in the same period, with a sense of gratitude for the opportunity of knowing them so well in those days of our gentlemanly war. His record in public life, before and after the war, as judge, justice, chief justice and president of the state board of control, is open to the world and is held in great honor by the people of Wisconsin. It is clean and above reproach.

The military part in the Civil War was begun as captain in the 8th regiment of Wisconsin Infantry. The later

record, in books of reference, reads as follows: "Lyon, Wm. Penn, N. Y. Wis., colonel 13th Wisconsin Infantry 26 Sept. 1862. Honorable muster out 11 Sept. 1865. Brevet brigadier general volunteers 26 Oct. 1865, for gallant and meritorious service." In the serious affairs of military life Colonel Lyon was dignified, cool and undisturbed, giving a good example of courage. For us who were the younger members of the regiment he was a tower of strength, inspiring great confidence. I served in this 13th regiment from muster in to muster out; four years and about four months always enrolled with the regiment, but from June 1864 to muster out was on staff duty. It is with pleasure of more than ordinary degree that I put down these simple notes about Judge Lyon—and this, I fancy, is the title that will last in history rather than the military title, for he was a judge a large part of his life.

Of his public life in Wisconsin so many years I knew by general repute, and knew personally of his private life, of his strict integrity, of the affection in which he was held by his neighbors and by the people in general. A life so blameless, so pure and true, was ever recognized and had great influence for good. His utterances bubbled with patriotism. In questions under discussion his judgment was always held in high esteem. He was so devoid of prejudice his decisions were always acknowledged to be sound and wholesome. I speak of ordinary affairs. Those associated with him in the courts, those very able jurists, will I am sure give strong evidence upon this point. He had a way so very convincing and his arguments were so clearly just that any cause he supported gained many friends. In defending the right he was firm and unyielding. As a correspondent his letters were valuable and such as have been preserved are still so; of those that came to me a goodly number, without private matter, have been saved for the State Historical Society of Wisconsin.

Personally I wish to pay a tribute of great respect to the memory of Mrs. Lyon, the wife of Judge Lyon. I have

known her at their home in Racine, Wisconsin, and later at Madison, the capital, but it's chiefly of her camp life with the 13th regiment I am thinking, for she remained with the regiment for months when military movements did not interfere, and I truly believe she would have staid by the regiment even on the march if the Colonel would have permitted. Of course she recognized the fact that her presence was expedient only at certain peaceful times.

She was a noble woman, greatly liked by the regiment, sympathetic, kind and generous. For us, the younger members, she was quite a mother, as the colonel was a father. They were a good pair apparently just suited for each other. In their later years I enjoyed greatly my correspondence with them and knew them as good friends to the last.

In the book made up from their own correspondence—that came out after I came here to the leper settlement in 1886 and was distributed to the members of the regiment then living—I was greatly pleased to note that whereas the officers mentioned were usually designated by their rank I was called Ira simply.

From the Badger state and elsewhere tongues eloquent and hearts affectionate will pour out offerings both eager and true to the memory of these delightful characters, Judge Wm. P. Lyon and Mrs. Lyon.

In thanksgiving to God for the benefits derived from knowing them, very gratefully,

JOSEPH DUTTON.

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SKETCH OF COLONEL LYON, BY U. S. HOLLISTER

It was a blustering April<sup>3</sup> day in 1862—the new Colonel was coming to us.

The bluff old Irishman, Col. Maurice Maloney, was too

<sup>3</sup>But see pp. 85 and 145.

much of a disciplinarian, too much of a soldier, to suit a raw regiment of volunteers; and so he was asked for his resignation.

A Colonel was coming to us from another regiment; and a Captain at that.

We were equipped with a Lieutenant Colonel, a Major, and ten Captains, three at least of this number had lost chance for promotion. From this trio a feeling of injustice had grown to near insubordination.

A captain from another regiment, a regiment no better than our own, was coming to be our Colonel; we had some pretty good men among our captains. The feeling of injustice ran through the field and line officers, down to the private soldier, who hoped the regular line of promotion would make him eighth Corporal.

Under this unpleasant condition Col. Wm. P. Lyon came to us. A meeting was called and in a few words our new Colonel satisfied us that no mistake had been made in sending him to command the 13th Wisconsin Infantry.

Quietly but firmly he took up his new work. Kindliness was his natural disposition, Justice his creed, these combined with sound judgment soon won for him the love of officers and men. This love once established never grew cold. It lasted as long as the men who served under him were spared, and all who have answered the last roll call took that love and respect with them. And we who are living think of that love as a tribute to a good soldier and a good citizen, a just judge, and a true American.

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SKETCH OF COLONEL LYON, BY W. M. SCOTT, "THE ADJUTANT"

Forty-seven years have elapsed since the morning when our regiment, the 13th Wisconsin Volunteers, lay in camp a disorganized body of men. The enlisted men were all at outs with those in power. Our Colonel had been recalled to the regular army. Any moment we might be ordered in-

to battle: who would command? Those next in command, the rank and file had no confidence in; gloom prevailed. That morning I was called to the front of my tent by a stranger, medium height, dark complexion, raven black hair, a kindly dark eye, dressed in fatigue uniform. He asked me if I was the sergeant major. I replied, then he said, "I am William Penn Lyon, late captain in the 8th Wisconsin. I have been commissioned by the Governor of Wisconsin as colonel of this regiment. Will you have officers' call beat and introduce me?" One look into that calm, honest, genial face and I was satisfied that we had a commander. Then in that quiet but not to be misunderstood manner, he assured the officers that he had been commissioned without any solicitation on his part, that he hoped soon to become acquainted with each personally, that headquarters would be opened to each and all. One thing he assured them; he had informed himself that no finer body of men had ever left the state, that we had been better equipped and were better drilled; that he had the highest regard for the ability of our late colonel and that he would deem it an impropriety if any officer spoke disparagingly of him.

This settled all our troubles; every one felt relieved and happy. We recognized in him that which we at once respected, later learned to love; the quiet, unostentatious manner of expressing himself that carried conviction to those he was brought in contact with. In four days he had met all his officers and most of his men. The men felt free to go to him. He gave them the same time and attention that he gave the officer, even more. He soon knew most of them by name, learned where the companies were organized and in many instances knew of their friends at home. That loving, gentle, yet firm spirit made friends of the people where we encamped or commanded. At Huntsville, Alabama, we were directed to occupy the home of a widow lady as headquarters. Her sympathies were entirely with the southern cause; she could not but feel antagonistic. Soon

the Colonel found a way to have her larder replenished, as well as the coal and wood bins. We did not see her, but it soon got noised about that he was a kind-hearted gentleman.

We remained there for some months in command of that post and vicinity, including the Tennessee River and defenses. The people were loath to have us leave. Later at the close of the Hood campaign we returned there. Many of the sons and brothers of the citizens were brought in prisoners, who had foolishly joined the Confederate forces after we, for military reasons, had fallen back. The mothers and sisters besought the Colonel, believing that he could and would help them to have their sons and brothers released. The people around Fort Donelson and Fort Henry, Gunter'sville, and indeed all through western Kentucky and Tennessee, looked to him as their friend, a just soldier, true to his cause, ready to forget and forgive the erring brother. Nothing incensed him more than to find that aged people, women and children were imposed upon by the soldiers. His strictest orders were "No pillaging." On the contrary, they were commanded to protect the people and show them that the soldiers were there not to fight them but to help to put down the rebellion.

General Thomas had such confidence in Colonel Lyon's ability that he put him in charge of the river defenses and had him organize a corps of spies, who reported almost daily and the reports were transmitted to General Thomas. They covered the enemy's territory as far south as Atlanta. When the Chattanooga campaign opened he was ordered to take charge and command of the post at Stevenson, Alabama, from which point all stores for the army, as well as munitions of war, had to be forwarded, both by wagon trains and railroad; it was the key to all the military movements of that campaign. At the close of the Hood campaign, after Lee and Johnston's surrender, he and his command were ordered to Texas—a great wrong done to gratify the ambition of a major general. The command was kept there until September 1865. Here again he dis-



played that noble-heartedness. He remained to care for his men who had to undergo all kinds of privations and heart-aches. Men who had enlisted and re-enlisted to be with him till the war ended were suffering and dying. Feeling that they were unjustly held many of them left for their homes and families overland, without leave. His friends were calling on him to resign and come home, but he felt that his only duty was to be with his men. There he remained until he could personally interview the Governor. This resulted in the regiment being ordered home. He made me his adjutant, he treated me as his younger brother. Could I do other than love him and be gratified over his success in life?

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C. P. BARNES TO WILLIAM P. LYON

Aug. 2, 1866. Dear Lyon: You can hardly imagine how much real pleasure your visit gave me. Indeed the reflection of it and the kindness on your part that prompted it has brought me as much happiness as the visit itself. Would you be willing to tell me how you stand pecuniarily now? Have you property other than your homestead? Is that incumbered, and how much, and when must it be paid, and what interest do you pay? What is the amount of your salary now? How much of it can you apply to your family support? I have forgotten how many children you now have. Your political career was, of course, a losing game, and I suppose you did not save much from your military services.

Aug. —, 1866. Dear Lyon: I am in receipt of your good, confiding letter of the 3rd instant. Your condition is much better than I dared to hope for. It is not in your nature to value money any further than it furnishes immediate relief, and your line of life for the last eight years has been such as to preclude the probability that you had given much attention to your own affairs. Indeed I had no

idea that you were as well prepared for the "rainy day" as you are, and my only object in knowing was this: that I would like to assist you in so providing that you could not be suddenly "cleaned out" in case of your disability to do business or of times of great financial pressure. My own property is divided as nearly right as I can foresee between real estate, mortgages and U. S. bonds. In all human probability the net income will be sufficient for the support of my children, so that no part of the principal will need to be called in until my little Charley comes of age, which will be seventeen years. Two years ago in finishing up my affairs with reference to leaving them, I noted that you and I had had no final settlement, that everything between us should be considered even, unless you thought that I ought to pay you something, and that you should have all books which are in your possession without reference to ownership. If therefore you shall think that the balance is in your favor you will not hesitate to say so, as it will give me great satisfaction to make it right; but don't ask me to look into any details. If on the other hand it is in my favor, please never mention it again as I want nothing and should only regret that it was not hundreds of dollars more, and further than that I would not care to know whether it was a half dollar or half a thousand. I shall anticipate your coming with the tenderness of a child.

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JUDGE JOHN B. ADAMS TO WILLIAM P. LYON

My success thus far and the measure of it for the future if it should continue, I shall ever connect with the influence, favor, kindness and encouragement I have received from you. I only regret that I could not have made a better return and that I have not been more deserving of your good will. I shall ever feel interested in your welfare and most confidently believe that the pride I now feel in the relation I have sustained to you will yet be increased many fold by

the honor and prominence to which you will attain. Development with you has not been of that quick, flashing, sensational character that we often see, but on the contrary it has been slower but more solid, and with the health and strength you possess and a prospect of long life, you will keep growing and rising long after many of your own age are past all usefulness and forced aside by younger and more competent men.

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COLONEL LYON'S ACCEPTANCE OF THE NOMINATION FOR  
CIRCUIT JUDGE

HEADQUARTERS 13TH REG'T WIS. P. P. I.,  
HUNTSVILLE, ALA., March 20th, 1865.

*Hiram Bowen and John R. Bennett, Esqs.,  
Janesville, Wis.*

GENTLEMEN:

Late on Saturday evening, the 18th instant, I received your telegram of that date informing me that I had been nominated by a convention of delegates as a candidate for judge of the First Judicial Circuit, and expressing a desire that I accept the nomination. This morning I telegraphed you my acceptance of it. Your dispatch took me entirely by surprise. I had received no intimation from any source that my nomination was thought of in the circuit, and I had not the most remote idea of being a candidate for the position. Indeed, among the multiplicity of labors and responsibilities which engrossed my time and attention I had scarcely given the subject a thought. This was not because I underrated the dignity and importance of the office, but because I felt assured that the people of the circuit would see that a proper person be selected to fill it.

There were some difficulties in the way of my acceptance, the principal of which was that I felt a strong obligation resting upon me to remain with my regiment as long as I could be of any service to it; and this more especially

now, as we are under marching orders and will leave during the week for the front to participate actively with the Army of the Cumberland in its coming campaigns. But in view of the probable early close of the war, and in consideration that I can remain with my regiment (which I intend to do) through the spring and summer campaigns, those of my officers and men with whom I have conversed, and I believe my whole command, will cheerfully acquiesce, should their friends and neighbors at home decide to transfer me to another field of duty. Without their consent no consideration, not even the honor of being called to occupy the bench which has been filled by the lamented Whiton and Keep and by other distinguished jurists of our state, could induce me to leave the brave men with whom I have been so long and so pleasantly associated. Feeling a sincere distrust of my ability, I can only promise my most earnest endeavors (if elected), faithfully and impartially to discharge the solemn and responsible duties of the position.

Thanking you, gentlemen, and through you the convention, for the high honor conferred upon me by this nomination, I am, very respectfully your obd't serv't

WM. P. LYON.

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JUDGE JOHN B. ADAMS TO WILLIAM P. LYON

Racine, Wis., March 19, 1865. . . . You may have heard before this reaches you of your nomination as circuit judge at the convention held at Elkhorn day before yesterday. If not this will apprise you of the fact. The feeling against Noggle is deep and widespread. It is especially strong among the lawyers of the circuit, but for fear of judicial wrath the great majority of the lawyers have signed calls upon Noggle to run again. These calls were circulated some two months since, and are signed by lawyers, jurymen, and county officers of every county in the circuit. These calls were published by every paper in

the circuit except the Elkhorn *Independent*, and every paper except that one and the Janesville *Gazette* are supporting Dave. I have not yet learned how fully the circuit was represented in the convention. I think that this county sent no delegates. . . . We have all supposed that Dave had so managed the matter as to leave no chance for any contest. . . . I am sure that the lawyers feel that they are degrading themselves by signing the calls and quietly submitting to the rule of a demagogue. They would gladly throw off this yoke if they dared to make the effort.

Racine, Wis., April 5, 1865. I am happy, thrice happy, to inform you that you are certainly elected circuit judge. Enclosed I send returns published, but this P.M. I received a dispatch from Janesville as follows: "Rock County about two hundred majority for Lyon. Four towns in Green County give Lyon sixty-seven majority. Noggle concedes Lyon elected. John A. Bennett." Dispatches from Walworth County say you will get one thousand majority there. Kenosha will probably give Noggle four hundred majority. We had but little time to spend in that county. I went there twice but did not succeed in waking them up as I desired. Oh, ye editors, lawyers, and ye pretending friends, where are ye now! Never have I known such a victory. Never were men confounded as many here are at the result. From the beginning I have hardly been able to make even your best friends believe that there was the least chance of success, and not until last Saturday could they be persuaded to do anything. It has been a common remark in the street that you were being sacrificed. Many have called me crazy for telling the people that you would be elected. Some have been perfectly disgusted with me for what I have said and the effort I have made. S— said to me Sunday that he would pay for the oysters if you got more than one vote in five. I accepted the offer and replied that I would pay for the oysters if you were not elected. Now almost everyone thought just as S— did, and even

the vote which they gave you here was only to show their good will without the least thought of its electing you. Your majority in the circuit will not be far from fifteen hundred upon a very light vote. The success is perfectly wonderful and I feel like laughing at these Noggle men who said so much about victimizing you.

Racine, Wis., April 24, 1865. I think your majority will be about nine hundred and twenty-nine. This may be a little too large. S— sent Noggle's tickets to two batteries and of course did not inform them that you were a candidate. As the vote of your regiment would have made no difference in the result I am not inclined to find fault with your neglect to take it, but this is certainly true, that had you been defeated for want of that vote you would have been blamed very much; many of those who have done most to secure your election and who have risked considerable for you could hardly have forgiven you. I sent tickets for your regiment by one of your soldiers and thought they would certainly reach you in time to be used. There are various reasons given for Noggle's defeat, among them the unanimity of the lawyers for him. Most of the papers being still unable to discover the reason make no attempt to solve the mystery. The *Milwaukee Sentinel* attributed it to your popularity and to Noggle's unpopularity. . . . I have given you details sufficient, I think, to make it plainly seen that it was *work* that has done the business that turned an almost helpless defeat into glorious victory. If Judge Noggle had been reelected his principal opposers among the lawyers would have had to leave the circuit, I believe; to say nothing about the wrath that he would have visited upon his opposers, he had become absolutely unendurable to many of our attorneys. His favor and disfavor were most marked. He has practiced a system of partial courtesy to a few of every bar and humiliating obsequiousness has been the return. He has fairly worried all manhood and independence out of the larger number of our

lawyers. Fear and favor have degraded and humiliated us all. The uncertainty of obtaining a fair trial of cases or of having them decided according to the law as given us in the books, making the courtroom a place for disposing of clients' interests by raffle, have done away with all inducement to study and preparation for trial of cases, and rendered it wholly unsafe to advise clients of success or defeat in court. We can well afford to suffer uncomplainingly a little longer with the prospect of release before us. I have written more than I intended to, but I naturally warm up upon these matters and find it hard to stop.

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HIRAM BOWEN TO WILLIAM P. LYON

Janesville, April 27, 1865. I presume you have ere this been informed of your election as judge of this circuit. I write now for the purpose of suggesting that it is considered by your friends here proper that you resign your military command in view of the result alluded to. They regard the chances of casualties to life in your case, under present circumstances, in the military service as involving consequences of considerable magnitude to the people of this circuit, and as the rebellion is at an end, not at all necessary. Will you take this matter into serious consideration? Judge Noggle has commenced a suit for libel against twenty-five of our citizens, claiming \$75,000 damages. We are now under arrest and parole, the Sheriff hesitating to proceed without indemnification from Noggle. We feel certain that the Judge has captured rather an extensive elephant and that its maintenance will be more costly than he, in his blind wrath at his defeat, at first imagined.

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FRANK LELAND TO WILLIAM P. LYON

Elkhorn, April 27, 1865. I suppose that you have heard that a judicial election was held in the First Judicial

District and that one Colonel Lyon was elected in spite of six years pipe laying and six months active work on the part of Judge Noggle to secure his own election, although said Lyon was only in the contest two weeks, and although said Judge Noggle had by his indefatigable efforts secured the active support of ten of the eleven papers in the district and of nine-tenths of the active political workers of the district, and had got nearly all of the lawyers and jurors pledged to him by their signing his call. Under these circumstances it was a remarkable instance of the people vs. the wire-pullers, and the wire-pullers were signally put to rout, horse, foot and dragoon. Noggle came to me as early as last September and tried to get me committed, but I have long been convinced that he was a very one-sided and partial judge and I would not commit myself. I was also greatly disgusted at a little circumstance which occurred during the session of the court. Three years before during a session of the court here we held a war meeting and Judge Noggle was present and made a very ultra speech in the course of which he said, "Don't fraternize with the Copperheads—don't patronize them—don't have anything to do with them." At the last September term of the court we held a meeting during court to ratify Lincoln's renomination and Noggle was present, and on being called out declined to speak as he "did not think it would be becoming in him as a judge to do so." Many present came to the conclusion that the issue was no different from what it was three years before when the Judge made such an ultra speech, and the only way in which we could account for his course was that he was looking ahead six months when he should need the votes of the Copperheads to help reelect him. I think you have reason under all the circumstances to feel very much gratified at the result, as I presume you do.

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## N. A. HAMILTON TO WILLIAM P. LYON

Placerville, Cal., May 9, 1865. My old-time and kind Friend. . . . On receiving yesterday a copy of the *Whitewater Register* I noticed that you are elected judge of the First Judicial District. It is unnecessary for me to add that I heartily congratulate you and regret that I could not have been in Whitewater to have swelled your very flattering majority there by one vote. This same *Register* was opposed to you, or rather was in favor of the reelection of Noggle, and according to it (*Register*) not a single paper in the district supported you. It takes a *strong* man, Mr. Lyon, to win against such odds and to succeed as you did is really a triumph of which I feel proud for you. I hope that your health may remain good and surroundings pleasant, and I know that with these you will gain much credit for yourself in the position and reflect honor upon it. . . .

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## CHARLES E. DYER TO WILLIAM P. LYON

Racine, Wis., April 9, 1865. Enough is known of the late election to show that you are elected judge of the First Judicial Circuit by a large majority; and I think it may be fairly claimed that you have beaten nearly all the lawyers, newspapers, county officers, etc., in the circuit. I, with others, supported Judge Noggle, and considerations of long established friendship and regard make it proper and right that I should frankly tell you the circumstances under which I became committed on the judicial question. Our relations have been too intimate and your kindness to me too marked to justify me in permitting any possible misapprehension upon this subject. Long before a convention was suggested I signed Judge Noggle's call and joined others in securing signatures to it. It was not then supposed that there would be any other candidate. Similar

calls were in circulation throughout the circuit and it seemed to be the general belief that he was to have no opposition and was to be continued on the bench. . . . I was reluctant to have a stranger come upon the bench. This, too, was the feeling of nearly all of us, and we took some active measures to discourage the holding of a convention, and moreover assured Judge Noggle of our continued support though a convention should be held and a nomination made. . . . Upon receiving your acceptance, many who were uncommitted and unpledged declared themselves for you, as under other circumstances we should have all been delighted to do. As I had actively aided in bringing Judge Noggle out as an independent candidate, I had promised him my support, it was my duty to adhere to him and vote for him; my course in this seemed clear. I know you will say I did right. Under any other circumstances it would have afforded me the highest pleasure to have done all in my power for your promotion to the position to which you have been elected. Your election must afford you substantial evidence of your popularity at home, and I need not assure you that we shall all most heartily welcome you back, and that we know you will preside upon the bench with honor to yourself and to the satisfaction of all. By that time the war will be at an end and the good old times of peace will have come. . . .

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EDITORIAL IN MILWAUKEE *Sentinel*, APRIL 8, 1865\*

Taking it for granted that Judge Noggle would be reelected to the bench in the First Circuit, we had very naturally concluded since election that he was chosen, and hence troubled ourselves very little about the returns. But the *Madison Journal*, which had less faith or more curiosity

\* Even as prominent a journal as the *Milwaukee Sentinel* took it for granted that Colonel Lyon had been defeated and published a news article of the election of Judge David Noggle to the circuit bench. The *Sentinel* found it rather difficult to correct its error.

and industry, has been looking at the returns and has made the astounding announcement that Colonel Lyon has beaten Judge Noggle by a couple of thousand in that district. If it be so, it is one of the most remarkable cases of the people vs. lawyers, politicians, newspapers and managers, and management generally that we ever noticed. . . . Never we apprehend were all the signs more favorable than in the case of Judge Noggle on this occasion, yet they seem to have been all deceptive. It is the most astonishing exhibition of unpopularity on one hand and popularity on the other, or both combined, that we ever knew. Colonel Lyon will unquestionably make a good judge.

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NEWSPAPER CLIPPING, JANUARY, 1894

Friday evening there was an enjoyable reunion at the home of Judge William P. Lyon. Gathered there upon that occasion were the very men who started Judge Lyon on his judicial career—early friends in the old First Circuit thirty years ago, men whose friendship for their creation has grown with the years and who look back with pardonable pride upon the important events in which they took such a conspicuous part and which shaped the destiny of a young soldier-lawyer and gave to the bench and to the public service such a pure and admirable character as Judge Lyon. William H. Tripp of Janesville, S. C. Carr and Ezra Goodrich of Milton, Daniel Johnson and Dr. J. M. Evans of Evansville, and Judge C. R. Gibbs of White-water—these were the worthies who came to Madison to honor anew their distinguished friend. Here they were joined by Justice J. B. Cassoday who was “one of them” in inaugurating the movement to elect Mr. Lyon to the circuit court bench. Mr. Tripp and he were foremost in the enterprise, but they were ably seconded by Dr. Evans, the old regimental surgeon of Colonel Lyon, and by all the others.

It was February 15, 1865, here in Madison that the plan had its start. The legislature was in session and Mr. Carr, Mr. Johnson and Mr. Cassoday were members of it. They didn't like Judge David Noggle, whose six-year term as judge of the First Circuit was then nearing its close, and the circuit was full of men like them; but the defeat of Judge Noggle seemed next to impossible. Who would run against him? This was a problem hard to solve, but the Rock County legislators determined to attempt the solution, so they arranged a quiet little meeting in Madison. Messrs. Tripp, Goodrich, Evans and Gibbs are among the few survivors who came to the capital to discuss the matter with the three solons. It was determined at that meeting to hold a convention at Elkhorn in March (1865) and to nominate Colonel W. P. Lyon. The latter was down in Alabama with his regiment and was not aware of the movement. It was at Huntsville in March that the telegraph apprised him of his nomination. Should he accept? His brother officers advised him to do so, as there could be no harm in it, and they all agreed with him that there was no danger of his being elected; and so he telegraphed his acquiescence and by that act opened up a judicial career which has now just ended after more than a quarter of a century—and ended with the highest honor the people of the commonwealth can confer, the chief justiceship of the Supreme Court.

The gathering at his home Friday night was made up of the heroes who led in the movement in Colonel Lyon's behalf away back in war times; and along with them were Justice J. B. Winslow, Justice A. W. Newman, Judge Romanzo Bunn, Judge J. H. Carpenter and ex-Governor Fairchild—he who honored Judge Lyon by elevating him to the supreme bench. Chief Justice Harlow S. Orton and Justice S. U. Pinney were unable to be present. Early in the evening Justice Cassoday made a brief speech complimentary to Judge Lyon, and closed by introducing Mr. Tripp who addressed Judge Lyon in most friendly and

cordial terms and ended by presenting him with a cane—a heavy mahogany stick with the massive gold head. Upon it is engraved these words:

Feb. 15, 1865.

JUDGE WM. P. LYON

Jan. 1, 1894.

The first date is significant of that meeting held in the capital city nearly thirty years ago which was so pregnant with important results, while the second indicates the close of a judicial career which had its inception at that time. To say that the reunion was pleasant is but tamely stating the truth. The evening was one of reminiscences, of the renewal of tender friendships, of expressions of genuine good fellowship. It was far after midnight when these old friends had finally told the last tale, taken a farewell handshake and broken away.

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WILLIAM P. LYON TO MRS. LYON

Janesville, Feb. 23, 1868. I can tell you but little about the prospects at Madison. This county goes solid for me. The county convention was held here yesterday and unanimously instructed the delegates to support me. This, although I advised some leading members not to do so. The friends of Dixon are straining every nerve to save him, and his opponents seem to be very active. The Democrats have nominated for chief justice a western man, Judge Dunn, who was chief justice of the old Territorial Supreme Court. He is quite old and very peppery, and since that nomination Dixon's friends have more hope of success. In the meantime you and I will await the result patiently and try not to be very unhappy if we lose.

Janesville, Feb. 27, 1868. Late last evening it was reported here that I was defeated yesterday at Madison. I think the report authentic and have no expectation that I

was nominated. I am surprised at the little effect the news has on me. I am not disquieted at all and am quite proud of my fortitude. I hope it hit you as lightly.

Janesville, March 1, 1868. I received your kind, good letter and am glad to find that you take our defeat with so much fortitude. You think that I am sorely disappointed, but I assure you that I am not. I am surprised that I am not more disquieted than I am by the result. That I was the choice of a large majority of the Republican party of the state is apparent to everybody, and the canvass has put me in the line of promotion. It is only a question of time, and we can afford to wait patiently. There are many other sources of consolation which we will talk over.

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SENATOR MATT H. CARPENTER TO JUDGE LYON

United States Senate Chamber, Washington, D. C., April 4, 1870. I have heard some talk of late about your being a candidate for Congress next fall. I would like to know whether you are, or can be induced to be a candidate. Our district is close; possibly the chances are against us. They certainly are unless we run our strongest men, but I think you could be elected. Supposing that your ambition was to the bench and that you would not go into politics, I had some talk with Finch when I was at home about his being a candidate. I should be delighted with either one of you. I wish you would see Finch and have a talk with him, and I have today written him to see you and have a talk on the subject. There are some appointments which I do not desire to make until I know who is to be the candidate, and then to make them in his interest. Hence my anxiety to know who is to be the candidate.

April 16, '70. Dear Lyon: Your favor received. The only two men that I think of as at all likely to succeed if nominated are yourself and Asahel Finch. I think either

of you might be elected, and I would bless God greatly over the election of either. I hope you and Finch and your mutual friends will talk the matter over freely and settle down as soon as possible upon the course to be taken.

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JUDGE ROMANZO BUNN TO JUDGE LYON

Sparta, Sept. 26, 1870. My dear Judge: The jury in the Leonard case came in just in time for me to take the five o'clock train on Saturday night, and I adjourned court to the 22nd. Hubbel and Harkness prosecuted and Menzie and Merrill defended. I think they should have acquitted him on the "reasonable doubt" theory, though he is probably the man. I sent him back to Janesville, but I think they ought not to try him again on the same testimony, and scarcely on the same indictment which is probably insufficient for anything but that abominable misnomer and contradiction "Assault with intent to kill without any design to effect death"—a very sly way of assaulting another. I suppose you have fully made up your mind to attend to your own duties on the bench and let the fall campaign take care of itself. But I am strongly inclined to think this is wrong and that you ought to resign and enter personally into the canvass. It seems to me it would make a great difference in the vote. If the people are not soundly rallied I am afraid enough will stay at home to defeat you. While if you go into the work yourself and make ample arrangements to get out the vote in the strong Republican counties, they can't beat you. I dislike to see you resign (though you could be appointed or reëlected in case you desired it), but it looks to me as if nothing else can compensate for the lack of your personal presence in the canvass. I don't want to see you beaten and this is the motive I have for volunteering these notions of my own. Mitchell I am

satisfied wants the nomination and will make an extraordinary effort to secure the election.

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HONORABLE JAMES G. BLAINE TO JUDGE LYON

Augusta, Me., Oct. 17, 1870. My dear Sir: It is not in my power to come west this fall, or I would gladly visit Racine. My recollections of your place are all pleasant. I remember your Court very well, and the case of assault that was tried when I happened to be present. Your charge to the jury arrested my attention as being exceedingly clear, condensed and logical; the very qualities that lead to success and influence in the House of Representatives. I trust I shall have the pleasure of welcoming you to the service in March next. I have already written to General Garfield urging him to visit your district. Be assured that I would not decline your invitation if it were at all in my power to leave home for so long a journey. Pray give my respects to the gentlemen who were so kind to me during my visit to Racine, not forgetting my lively (?) English friend and Mr. Dyer.

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HONORABLE JAMES A. GARFIELD TO JUDGE LYON

Hiram, O., Oct. 21, 1870. My dear Colonel: Yours of the 13th came duly to hand. I should be very glad to aid you, and it is possible I might find time to speak once or twice. If you think two speeches will be worth the while, telegraph me, and I will try to go. I am greatly crowded with work that has been delayed by our campaign and by calls from states that have not held elections. My telegraph address is Garrettsville, Ohio.<sup>5</sup>

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<sup>5</sup> Mr. Garfield made two speeches for Judge Lyon in his campaign for Congress.



## SKETCH OF JUDGE LYON, BY CARL C. POPE

Judge Lyon had a peculiar faculty of deciding matters which came before him so as not to injure the feelings of the defeated party. No attorney or party ever complained of his treatment. He was always considerate of the feelings of a defeated litigant. About forty years ago Judge Lyon came to the county of Jackson, Wisconsin, where I then resided and now reside, to hold a term of court for the late Judge Romanzo Bunn, who was then our circuit judge. I had several cases to try at that term of court, among which was the criminal case of the State vs. Seville, where a mother was to be tried for the murder of her deformed child. Nearly everybody believed the poor woman guilty. The courthouse was filled with people, among which were many women. The testimony in the case had all been submitted just before adjournment for supper, and it was determined that the case should be argued and submitted to the jury in the evening. The Judge and his good wife took supper with me that evening. On our way to supper the Judge asked me what I thought of the case. I answered him that I would play the part of the "Yankee" and answer his question by asking him what he thought of it. He answered, "I think it is about as clear a case of murder as I ever heard proven." I replied, "I will have to make an extra effort then." He rejoined, "You can not clear her."

In the evening the court convened, the arguments were made, and the case submitted to the jury under the instructions of the court. The jury, after an hour of deliberation, returned into court with a verdict of "Not guilty." The instructions of the court to the jury were the ablest I ever heard. They were clear, logical and comprehensive, stating the law clearly and fully; leaving the question of the guilt of the accused with the jury. The Judge in his charge to the jury, like all great jurists, made no intimations of his opinion as to the guilt of the accused. Judge Lyon in a

letter to me, January 10th, 1909, speaking of the above case said: "While in a technical sense the murder case was probably wrongly decided, yet in a broader and more humane and ethical sense, the decision was right. Who objects now if the jury was controlled by your intense sympathy and earnest eloquence, the spell of which the bungling charge of the court failed to break?" I have already said that the "bungling charge of the court" was a model of excellence!

Judge Lyon did much in his long and distinguished judicial career in Wisconsin to elevate the character and influence of the bench of our state; and his name will be revered and honored so long as justice has an abiding place in the hearts and judgment of our people. Chief Justice W. P. Lyon is not only a good, but a great man, in the full acceptation of these terms; and it is one of the greatest pleasures of my life that we have been warm personal friends for almost half a century. He is honest, able and just in all of his relations of life, and the Supreme Court of the state of Wisconsin never had a more able or impartial justice than he. I remember very well that when he became, under the laws of Wisconsin, chief justice of the Supreme Court of our state, I wrote to him a letter of congratulation in which I said to him that I did not congratulate him but the State. I assured him that God had made him able, just and honest, and that he could not be otherwise if he tried to!

## DOCUMENTS ILLUSTRATING CHAPTER III

### WILLIAM P. LYON, CONCERNING HIS WORK ON THE WISCONSIN SUPREME BENCH

I was twice reëlected to the office of justice of the Supreme Court without opposition; in 1877 for a term of six years, and in 1883 for a term of ten years, the term having been extended during the time by constitutional enactment. My nominations for these two elections were made by the bar of the state, without distinction of party and without effort on my part, and were ratified by practical unanimity by the electors. This closes my record of elections to elective offices. I retired from the bench at the close of my term voluntarily and solely on account of my age, when my reëlection for another term was practically assured. I think that these facts will show that I was not an inveterate "office seeker." At the commencement of the University of Wisconsin in June, 1894, I delivered the address to the graduates in the law department. In that address I presented my ideas on the duties and obligations of an attorney and my conclusions were drawn almost entirely from my own experience in the profession.

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EXTRACT FROM ADDRESS OF WILLIAM P. LYON, JUNE, 1894

Two indispensable conditions of substantial, permanent success in the practice of the law will be briefly considered.

One of these is continued, persistent study and legal investigation. The law must be learned by mastering its fundamental principles, one by one. A high degree of intellectual culture and discrimination is required to enable the lawyer to make a correct application of legal principles to the facts of each particular case. . . . There is no science or art of which a general knowledge, at least, is not sometimes necessary to the lawyer in the course of legal procedure. The other indispensable condition of success is strict honesty. The highest honors of the profession are won by the honest practitioners alone.

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NEWSPAPER CLIPPINGS (MRS. LYON'S SCRAP BOOK),  
DECEMBER, 1893

Judge Lyon has served twenty-seven years almost continuously on the circuit and supreme court benches, and at the age of seventy-one years retires to private life to enjoy a well-earned rest. Two years ago he formally announced that he would not be a candidate for reelection, and universal regret was felt at his prospective retirement. The importunity of friends could not dissuade him from his purpose. He was weary of the responsibilities of his position; he longed for rest; he was in circumstances which would enable him to live comfortably—and he was not to be diverted from a purpose he had so long anticipated with deep pleasure. It is beyond question that had he but expressed a willingness to serve longer, he would have been chosen his own successor without opposition.

It is an open secret around places of public resort that the Republicans are preparing for the campaign of 1894 in Wisconsin and will make another desperate effort to carry the state. A select clique of the party, led by John C. Spooner and Henry C. Payne, are casting about for candidates for the various state offices. While Colonel Spooner was recently in Milwaukee so much, he was not there ex-

clusively on legal business, as can be seen from the fact that after his return from one of his trips he and several other gentlemen called on Chief Justice William Penn Lyon and asked him if he would accept the Republican nomination for governor if it were tendered to him unanimously by a state convention, amid oratory and all that goes to make up Republican enthusiasm. It was impressed on the judge that as he had declined to run again for a seat on the bench, and would retire January 1, 1894, the governorship would round off his career in a handsome manner, and allow him to go into private life full of years and of honors. But Judge Lyon was not to be caught in that manner, and report has it that he informed his visitors first that he had no desire to engage in political strife, and second that he considered it more honorable to retire with the title of chief justice of the supreme court of Wisconsin than to be merely an ex-governor, even if he should be elected. It is understood that the chief justice went even further than this, and said that many of his intimate personal friends were Democrats; that they had uniformly supported him for a seat upon the supreme bench and that he did not choose to repay their friendship by voluntarily entering into strife with them in his old age, merely to accommodate people who wished to use him to tide over a political emergency. This plain declaration on the part of Judge Lyon put a damper on the plans of the managers, and they are now casting about for another man.

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ELRICK C. COLE TO WILLIAM P. LYON

Great Bend, Kansas, Dec. 30, 1893. The press notices of the day remind me of the fact that on Monday next you retire from the bench which you have so long and ably occupied. Looking back over the years since as a boy I first saw your face, with its kindly smile for a boy, and then to the time when through the words of my loving father I

learned to respect you as a just and upright judge, and still later in life when, realizing how much of earnest effort and careful thought would be needed, you sent me to my western home with the suggestion that whenever I needed help I might feel at liberty to ask your counsel—I say in view of all these things I could not resist the impulse to send my greeting to you in the rounding out of your useful career for the people of my native state. Experience has proven to me that not many men surrounded by the cares of positions such as you occupy would find time for the seeming difficult points presented to the mind of a young attorney, especially one in a far distant state.

Your career has been a bright example for all and has been an inspiration for me many times amidst the trying times that in the beginning of my practice seemed to hedge me in. In the case of *Wight vs. Rindskopf*, decided in the 43d Wisconsin, I think, your late lamented associate, Chief Justice Ryan, in referring to his predecessor, made use of the following language in closing a brilliant eulogy: "His office in this court is filled, not his place." And while the words came with peculiar force spoken by him, yet they seem to me to be as applicable to you. The people of the state of Wisconsin have in my opinion had more reason to be proud of their Supreme Bench than most any other state in the Union. They have for years lifted that branch of the state government practically out of the political mire, and the results are shown in the manly utterances from a united court upon the many political questions which have of late years been presented to the court for solution.

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JUDGE R. D. MARSHALL TO JUDGE WILLIAM P. LYON

Madison, Wis., Feb. 17, 1910. . . . You are the only one left of all the eminent men who have preceded those now in service [on the Supreme Bench]. I can not close this letter without expressing the high personal regard I

have had for you since I was a very young man. It has grown with years, and particularly since I have been called upon to administer the law from the bench you occupied so long and so ably. During the time I have spent in helping write the opinions included in 41 volumes of the *Reports*, the result of your labor has been one of the safest guides for my footsteps. I have a letter written by you to Reverend W. J. McKay, suggesting that I would come to the place I now occupy, which was written soon after I became a circuit judge. It is one of the most valued of my treasures. I doubted then as I do now, whether I was worthy of the high mark you set for me.

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EX-CHIEF JUSTICE COLE TO WILLIAM P. LYON

Milwaukee, Wis., Feby. 17, 1893. . . . I read with much interest your opinion in the treasury interest cases, and could see that it must have cost you and the judges, and you more especially, much study and labor. I think the opinion is sound and will stand the test of legal criticism. True, the cases are still pending before you on one question, but I will add that the decision already announced on the main point is right in my judgment. I hope there is no impropriety in my saying that much on the subject.

Milwaukee, Wis., Jan. 4, 1894. I congratulate you most heartily on your becoming a member of the great and glorious army of EXes in this land. They generally have nothing to do and are equal to doing it, and doing it with all their soul and strength. And so may it be. . . .

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MILWAUKEE *Sentinel*

Few men have won more renown by their own unaided efforts than Judge Lyon, and none of those who have risen

to distinction among us deserves higher praise for a career so honorable and so noble that it must forever remain an illustrious example and an inspiration to all poor young men who wish to earn fame and fortune for themselves. A. M. T.

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RESOLUTIONS OF DOUGLAS COUNTY BAR<sup>1</sup>

Whereas, Ex-Chief Justice W. P. Lyon has just retired from the high and important office of chief justice of the supreme court of this state, after having been a leading and distinguished member of that tribunal for a large number of years, and having by his great learning and purity of character added largely to the high standing of the supreme court, therefore, Resolved, That the bar of Douglas County, while testifying its appreciation of the character of ex-Chief Justice Lyon as a man and as a jurist, hereby extends to him the best wishes of all of its members, on his retiring from office, and hopes the remainder of his life will be as peaceful and happy as his official labors have been important and useful.

<sup>1</sup>Colonel Carl C. Pope addressed the court and bar on the retirement of Judge Lyon from the position of chief justice of the supreme court of the state, and moved that a committee of seven be appointed to draft resolutions. The following committee was named: Colonel Carl C. Pope, Judge S. N. Dickinson, Judge Solon H. Clough, Judge Myron Reed, Judge F. Winsor, H. C. Sloan, and Colonel Hiram Hayes. The committee presented the above resolutions, which were ordered spread on the minutes.



## DOCUMENTS ILLUSTRATING CHAPTER IV

### EXTRACTS FROM JUDGE LYON'S TALKS ON SPIRITUAL SUBJECTS

The principles taught by Mrs. Chynoweth meet the approval of our judgment, they meet the longings of soul that we have experienced, they are answers to the disappointments that we have suffered all our lives when we have thought of our future destiny. I believe the more we know of this truth the stronger our faith is in it and in its capacity to save us, and the more we will struggle to overcome everything that opposes our spiritual growth and do whatever is necessary to advance our spiritual interests.

We go through life looking ahead, and after we have attained the objects of our ambition, we ask ourselves what is to become of us when the grave closes over us, and that question rules our lives. But we know now that we have that principle within us, and, if we cultivate it as we are taught here, if we develop our spiritual natures as we may, we will have that faith which is the substance of things hoped for, that faith which will leave no doubt in our minds as to what our future destiny is to be, if we do our duty.

Then it seems to me we ought to struggle for the development of that spiritual nature within us, whether we are old or young. The old should struggle for it because their career is nearly closed. The young should struggle for it because there is nothing more beautiful, more charming in life than to see a young person comprehending his duty and destiny, consecrating himself to the will of God, strug-

gling to develop the spiritual nature and rising above every besetting sin, as the Scriptures term it, above every tendency which stands in the way of spiritual growth, and reaching that serene atmosphere in which is the peace of God which surpasseth all earthly joys. We may stretch our minds as far as we can, we may fancy the highest happiness and the highest state of harmony that is possible for our imagination to conceive, and yet beyond it all we know there is a peace of God which passeth understanding. We know now that through growth we can live in that atmosphere of eternal life where peace and harmony reign continually.

\* \* \* \* \*

The teaching that we have here leads us to inquire into the very fundamental principles of the great faith of the spiritual life. We do not in our physical condition know anything of what faith means. It is faith in God that makes us walk up to an obstacle in our path that seems insurmountable and know that we can and will surmount it, because God is with us. The teachings that we have here inspire in us that faith so that we can meet successfully the obstacles in our pathway and fulfill all the obligations that are imposed upon us. They point out the way by which we can meet them. The teachings here make clear how we are to comply with the commands of the Bible. They begin down at the foundation. They tell us first to cleanse our bodies and make them fit for the indwelling of the divine Spirit. They tell us that the divine spirit is in us ready if we do our duty, to be developed into an intensity that will control and govern our whole lives. They tell us that by ceasing to do evil, by cleansing our bodies and by lifting our minds, as we can do by our own action aided by the divine Spirit, we can elevate our souls into a purer atmosphere and keep them there. When we are told these things and when we comprehend them sufficiently to do them, we have just begun our growth into the divine life. We can cleanse our bodies by correct living so as to make them what God

designed them to be. We can cease to do evil, we have power to do that, and we can learn to do well. We can lift our thoughts above the groveling things of earth, if we choose to do so, and keep them in a higher, serener and purer atmosphere, where God dwells. But to do these things, to obtain that divine strength for doing them, we must exercise faith, we are told. But we can not do this to any satisfactory extent to ourselves when we first set out in this life. But faith comes as the result of a growth, and it comes from correct living, correct thoughts and correct actions. We must rely upon faith and purity to lead us aright in the divine life.

\* \* \* \* \*

Our souls are constantly swelling in gratitude to God that we have such an opportunity as we have here, to learn the road to the higher, spiritual life of usefulness and to the fulfilment of our true destiny. Only as we unfold our spiritual nature can we obtain that happiness that is the boon that all mankind are seeking. We all desire happiness; the struggle of life through the centuries has been to obtain happiness. The savage seeks it by gratifying his lowest animal desires, and the civilized man seeks it in a more refined way, by gratifying the same desires in a more refined form. That is, he seeks the gratification of his present physical desires, and he calls that happiness. He can not realize that there is no happiness in such a life, that it is a mere gratification that perishes with the using. Man can not realize this, and he does not learn the lesson of the philosophy of life, that is to deny himself of the present gratifications for the purpose of obtaining future good. His reason should teach him that in his faithful exercise of his spiritual functions he should seek his highest and his only happiness. It would be better for us to go through life hermits, to go through life in poverty and misery, with no light or sunshine beaming upon our pathway, if that were necessary to teach us to work out our salvation and obtain the happiness that we know will come to us in a future

state of existence if we do properly our spiritual duties. But that is not a condition of spiritual growth. With spiritual growth comes happiness. As soon as we make any honest struggle for advancement we are receiving our reward right here; and if we continue on in the right direction our happiness is infinitely increased, and we are prepared for a higher and purer and more glorious happiness and the peace and harmony that shall come to us hereafter.

\* \* \* \* \*

As we are about to leave you, I desire to express my obligations to our leader and to all of the good people of Eden Vale for the teachings that we have listened to here and for the profit and happiness that we have derived from them. I have led a very busy life, a very active life; my career has kept me in contact with the world and with worldly things in a great measure, but it has had a tendency to shut out those exercises and those processes that are so requisite to spiritual growth and advancement. The world might call it a successful career, but to me after the influence of the teachings that I have listened to and profited by here, it is as nothing. There would be nothing in it that I could look back upon with pleasure unless I could satisfy myself that in the course of it I have been able to do some good in the world. This is the only satisfaction that I can derive from it.

The teachings here have had a powerful influence upon my mind, my heart and my feelings. In all the successes that have come to me in life with the natural feeling of joy and elation, there has always been the solemn thought that all this life was to end soon. I could not shut out from my mind the thought of God and my obligations to Him and the thought of the eternity through which I must live. There was a fear and dread of death. The teachings here have in a great measure taken that fear from me. I do not think I dread it; I know I do not as I used to, and I feel that dread becoming less and less, the more I know of the true life. I know also that the teachings here have softened

my nature. Men as they grow old, after they have engaged entirely and intently in secular pursuits, become hardened, they grow censorious and fault-finding. It is a sad thought, a sad sight, for the true order of God is, no doubt, that as we grow older we should grow purer, better and sweeter all through our life. And the process will not stop then, but it will go on through the countless ages of eternity.

I have known Mrs. Hayes Chynoweth now quite intimately for seventeen or eighteen years. I have heard very much of her teaching. I have seen her wonderful deeds, seen the exhibition of her healing power, have listened to prophecy after prophecy that has come true; in short, have had every evidence that any reasonable man can ask to prove that her teachings are true. And they are plain, simple and easily followed. They are amplifications of the command of the Scripture, "Pray without ceasing and in everything give thanks." We have a power within ourselves to do that if we will, and if we do it then we are raised into the higher atmosphere where the little, petty oppositions and persecutions of this life are of no consequence to us. We have seen Mrs. Chynoweth persecuted, we have seen her reviled and evil spoken against her falsely, and we have seen her pass over these things as matters not to be noticed enough to disturb her; she was only anxious that her family and those who have listened to these teachings and who have tried to follow them should not feel the natural indignation that such conduct would inspire. Her constant language day after day has been, "Father, forgive them for they know not what they do"; and she has constantly impressed upon us all the duty of praying for those who despitefully use us and persecute us.

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JUDGE LYON TO HONORABLE JOHN D. MILLIKEN

Madison, Jany. 18, 1897. I have the pleasure to acknowledge the receipt of your esteemed favor of the 13th

inst. I also received your address or report delivered at the Milwaukee meeting of the National Prison Association. . . . It was my good fortune to be present when you delivered that address and I cordially concurred in the sentiments therein expressed, all the more cordially because on the same day I had listened to attacks on the rule of evidence requiring proof of guilt beyond a reasonable doubt before conviction for crime can be justified, and on the right to a writ of error in criminal cases. In fact, I had heard most of the legal rights ordained by the wisdom of centuries for the protection of persons on trial for crime assailed and belittled, evidently to the gratification of the thoughtless crowd. So, to me your address, which repudiated all such heresies and demonstrated that the criminal law in this country requires no radical changes, was peculiarly refreshing. . . . I think our aim should be to keep from unskilled hands our criminal codes and preserve them from the vandals who would destroy so much that is valuable in them.

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LYNN S. PEASE TO JUDGE LYON

Milwaukee, Wis., Sept. 14th, 1897. . . . It is only a few months since I had the privilege of expressing my delight at your acceptance of the governor's invitation to become a member of the State Board of Control. At that time I expressed the belief that you had great opportunities before you and that there was some great work mapped out for you to do. Although not foreseeing all the resulting work before you, I based my belief upon the well-known conclusion that "great and good men in great places accomplish great results." A great result has been accomplished in less time than I anticipated. No one can estimate, at present, the total good resulting from the action of the board and the governor in the Waukesha matter—an action which I am free to believe was accomplished very

largely by reason of your presence on the board and the very great respect which your associates and the governor have had for you and your conclusions in this matter. I hope that this means the early elimination from politics of all that concerns the state institutions. If so, the people of the state will be under greater obligations to you than they are even for your extensive and beneficial labors of the past. Allow me also to say that your careful management of the investigation, your patient and painstaking attention to its wearisome details, your broad and comprehensive view of the necessities of the school, and your righteousness in eliminating all considerations but your duty, are but some of the phases of this transaction which give men a new grasp of the belief that we still have citizens who can respond to the call of duty, unswerved from their devotion to the dictates of their conscience. Personally, I am under such very great obligations to you for your patience, kindness and courtesy towards me, that I could not but make a sad failure if I should attempt to express my appreciation of your helpfulness. I trust you will understand that my appreciation is very great indeed. . . .

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REMARKS OF JUDGE LYON AT A CONFERENCE OF CHARITIES  
AND CORRECTIONS

I have no defence to make of the Wisconsin system. If it does not speak for itself now it will later, and time will demonstrate whether it has the radical defects in it which are sometimes thought or whether it is a successful way of caring for the insane. There is not so much difference between systems as some of those who theorize may think. The key-note to success in the care of the insane under any system rests in a great measure on the personnel of the officers and those who administer the law. I am deeply impressed with this fact. If you can get a board of competent men, conscientious, true, good men, who will do their

work well as boards of trustees to each institution, that is a good system. If you can get a board of control or a tribunal, call it by any other name if you will, who are capable, thoughtful, honest, who will faithfully administer those institutions, that is a good system. The great trouble is that the appointing power does not discriminate sufficiently in the character and capacity of men appointed to administer these institutions. I only want to say this one thing of our Wisconsin system. Wisconsin contains over two million inhabitants; it has over five thousand insane in the state and county institutions today. There is no difficulty in caring for those thousands of patients in the institutions already provided. There is not today, and there need not be for fifty years, in the state of Wisconsin, a single insane person kept in a family, placed in a jail, or confined in a poor house. There is no trouble at all about institution room enough in which to care for the insane. Formerly it was the custom of the superintendents of the two state hospitals to discharge their patients and report them discharged as cured. We all know that a patient sent to one of these hospitals is sent pursuant to a judicial determination that he or she is insane. The law vested no power—nothing that could be so considered—with the superintendent to perform the functions of a commission in lunacy. They have no authority to declare a person insane. They assumed to do it, however, and the result was, when we first came to look at this subject, that there were probably hundreds and perhaps thousands of people who had been adjudged insane and sent to the institution and afterward liberated upon recovery, who had been under adjudication of insanity. They were liable to great inconvenience from this; they were liable to have their wills disputed on account of insanity, or to be prevented from disposing of property, or devising a bequest. . . . It was evident that great trouble might come from this defect in the administration of our insane laws. A draft was accordingly made of a code for the committal and care of the insane and we pro-



cured their consent to insert in the law a provision in regard to this matter. Of course, one way to take off the ban of insanity from a person who had been adjudged insane was by judicial process, going through the same process of examination before the proper court, the judge having a trial reëxamination of the question of insanity and in case a person was found sane it was so adjudged and his sanity was restored. But this cumbersome and troublesome method was seldom resorted to and the law now covers the case and it is now the only method of discharge in our state.

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JUDGE LYON ON THE STATE BOARD OF CONTROL, BY E. R.  
PETHERICK

When, in 1896, former Governor Upham appointed Judge William P. Lyon a member of the State Board of Control, unconsciously he did more to break down the influence of politics in the state institutions than any one had ever before attempted or even thought of. At that time the institutions were completely in the grasp of the politicians. . . . But the Judge had no sooner taken his seat than he began to work quietly and persistently toward the high plane he finally reached, when he could tell all whom it might concern that there was "no politics in the service of the state institutions" and that only merit warranted a man in feeling secure of his place. Among the first acts of the Judge that attracted public attention was the fact that he was mainly instrumental in procuring Governor Upham to issue an unconditional pardon to Rose Zoldosky, a poor Polish girl who had been convicted and sentenced to state's prison for life on a charge of poisoning Ella Maley. The evidence on which she was convicted was not sufficiently strong to convince Judge Lyon that she was guilty, and as the laches of her lawyers prevented the supreme court taking up her case because of technicalities, the Judge advised the governor that the only way in which justice could be

done to the girl was to grant her a pardon, which the governor did on finding that public sentiment would give her support. The Judge afterwards moved in other pardon cases as personal knowledge of the convicts convinced him of the necessity. He became a strong advocate of the idea that life imprisonment is unnecessary hardship to impose except in cases where the desire to kill is so implanted in a convict that the proper place to keep him is not a prison but an asylum for the criminal insane. With this idea controlling him he procured the pardon of several men who had spent over twenty-five years in prison and had really suffered enough for the only criminal act of their lives, committed in the heat of passion.

While working earnestly for the divorce of the state institutions from politics, the Judge was not unmindful of other matters, and aided in reforming the business methods of the board of control. He was an active participant in the work of Messrs. Treat and Bishop to lodge the purchasing power with the board, instead of letting it remain with the stewards of the several institutions as had been the custom. Under this system there was waste, with each man buying where he pleased and at prices that were often controlled by personal feeling or prejudice. In the beginning the plan met with vigorous opposition from the several stewards, but the work went on steadily. Various kinds of supplies were classified, and one class after another was added to the list which were open to competition by bids, until finally everything that the state institutions need is bought in the open market at wholesale prices on bids submitted in response to public advertisement. This plan was not only opposed by the stewards, but also by a number of prominent wholesale firms who were moved by ideas of personal thrift and who did not hesitate to throw their influence to legislators and others who would fight the idea. But it triumphed not only because it was right, but also because it was advocated by Judge Lyon whose influence reached to every hamlet in Wisconsin, where he was so widely

known and so universally trusted. By the adoption of this plan of buying its supplies, the state has been saved thousands of dollars annually. He was an advocate of the scheme of Governor Scofield to build a reformatory prison for first offenders at Green Bay; he drew up a bill and submitted it to the legislature, the result being the law under which the present state reformatory exists.

Another matter to which Judge Lyon gave great attention was the building of the home for the feeble-minded, an institution for which the state had long felt the need, and which has been constantly filled with unfortunates since its completion. This and the state school for wayward boys were the institutions which the Judge especially watched, and much of their success is due to the broad foundation in the way of legislation which he laid for them.

While kindly almost to a fault in his manner of issuing orders, it only required fractious opposition to cause the velvet glove to be cast aside long enough to make the delinquent extremely sorry the iron hand had been laid upon him. One occurrence of this kind will dwell forever in the minds of those who witnessed it. On a certain occasion when the board was holding its monthly meeting at Wau-pun it developed that the chaplain had seen fit to help a bank embezzler in smuggling letters in and out of the prison. As soon as this was learned, Judge Lyon promptly discharged the parson in a peremptory manner. But the poor, foolish man took it upon himself to come back and attempt to argue the question of the justice of his discharge, prefacing his remarks with these words: "Don't you think, Judge Lyon, that you were too hasty in discharging me?" The Judge sat back in his chair and said, "Perhaps I was: I ought to have had you arrested and locked up on a criminal charge, but I was moved to mercy by your apparent age and foolishness." He then proceeded to deliver a lecture to the reverend culprit, the like of which few men would listen to for a thousand dollars if they knew that they deserved it. For a text he used betrayal of public

trust, violation of an official oath, and personal disloyalty to the warden whose employee he was, ending with the remark that if possible the fact that he called himself a follower of Christ added to the enormity of his offense. It was certainly an arraignment scathing enough to burn the hairs of his hearers, and what added to its pungency was the fact that it should be given by so kindly and genial a gentleman as Judge Lyon had always been. It was very, very seldom that the Judge let out his opinions in a pungent manner, but when he did those who were listening for the first time always concluded there was nothing more to say.

In the old days it was customary to ask for a great deal more for the state institutions than they really needed, and take chances on getting what you could from the legislature after a long fight and wrangle. Judge Lyon objected to this plan and submitted figures calling only for what was absolutely needed. At first the legislature was incredulous, and called him before the committee on claims to ask him what items could be cut, so that the legislature could make a reputation for economy. He replied: "Not a cent, gentlemen. I had those figures gone over carefully, and if you cut them down, the institutions will be in debt two years from now. While I am at the head of the board none of the state's dependents will suffer, even if you do not give us anything. But in that contingency I shall feel it necessary to submit a message to the next legislature and tell them that the deficits are the result of the ridiculous parsimony of the present legislature." Then he walked out, leaving the committee to think. The result was that the appropriations were made as asked, for the first time in the history of the board.

When he had served eight years on the board, Judge Lyon resigned; he had done everything possible to divorce the state institutions from politics and otherwise improve the public service, besides seeing to it that the state should do business on business principles and that the money spent

for the maintenance of the unfortunates and dependent classes should be spent wisely to produce the best results.

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MESSAGE FROM GOVERNOR LAFOLLETTE ON JUDGE LYON'S RETIREMENT FROM THE BOARD OF CONTROL

Dear Sir: Permit me, in reply to your favor of July 11, tendering your resignation as a member of the board of control, to express my regret at your action. It is with reluctance and only because of your determination to leave the public service, that I accept your resignation. In your retirement from the state board of control, I feel that the charitable and penal institutions of the state suffer a loss, the extent of which only those intimately associated with the institutions can fully appreciate. During the seven years of your service on the board, four of which you served as president, your wise counsel, and the close and unceasing attention which you have given to the work has resulted in great improvement in the condition of these institutions, and in their management. Your work has been accomplished without ostentation and but few realize its importance. Your reformation of the conduct of the county asylums, compelling these institutions to conform to the rules and regulations of the state, in the treatment of the insane; your firm stand in favor of the policy of buying supplies for our state institutions under competitive bids, which has saved tens of thousands of dollars to the state; the labor which you performed in working out amendments to the laws governing our state charitable and penal institutions, and bringing these laws from the chaotic state in which you found them to their present perfected condition; the kindly sympathy with which you uniformly met all complaints from the unfortunates under the care of the board, the attention which you gave them; the scrupulous fidelity of service to the public, which you have at all times endeavored to exact from all officials of the state institutions,

and the close attention which you gave to every detail of the management of these great institutions, are all matters which are deserving of special commendation, and which will cause you to be long remembered by the good people of Wisconsin as a wise and faithful servant of the public. I am of a mind with your colleagues on the board. I do not agree with you that advanced age has disqualified you, but believe that should you remain, you could still give to Wisconsin a number of years of service from which the state would greatly profit. The pleasant personal and official relations with this office add to my regret at your insistence upon the acceptance of your resignation.

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MILWAUKEE *Sentinel*, JULY, 1903

"Do you know, boys," Colonel Calkins said at Madison Tuesday, "that with the departure of Judge William P. Lyon Wisconsin will lose a citizen who had a novel experience that seldom falls to the lot of any man. When he was speaker of the assembly in 1860 he had in his possession the resignation of the governor of Wisconsin for a whole week before he could persuade the executive to take it back and let Watson, his private secretary, destroy the document. Alexander W. Randall was the governor, and he wrote out and handed his resignation to Speaker Lyon because he was furious over the fact that the state senate, for personal reasons, refused to confirm one of his appointments. We Democrats were wild to see that resignation and besieged the speaker day and night, besides bombarding him through the newspapers; but we might as well have put in our time whistling at the moon. He was polite and gentlemanly, but as silent as the sphinx concerning what we wanted to know. It was not until long after the war was over that I learned the real facts of the case. But I know now that if it had not been for the common sense and firmness of Mr. Speaker Lyon, Wisconsin would have had somebody

besides A. W. Randall for her first war governor. Somebody ought to write a history of the old judge now that he is about to leave Wisconsin, where he has been an honored citizen for sixty years. Just think of it! Over half a century of public life, and with a record as clear as the sound of a bell! I see that he has recently resigned, advancing the plea that he is too old for further service; but he did that same thing in 1894, and I notice he has done lots of yeoman service for the state since, and I guess could do more if an emergency should arise. You will notice one thing about the judge, and that is that every important position he ever held he voluntarily resigned except as colonel of his regiment. There he stayed until there was no more war and the government sent him home."

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MADISON *Democrat*, JULY 8, 1903

Judge William Penn Lyon, a foremost figure in Wisconsin affairs for full half a century, patriot in the war to forbid disunion, legislator, chief justice and good citizen, is, with the wife who has been his companion from young manhood, soon to join a son and daughter who have long awaited their coming to the hospitable California home. Judge Lyon voluntarily, and in accordance with a resolution formed years before he acted, retired from the supreme bench in 1894, and within a day or two he will hand to the governor his resignation as a member of the state board of control, of which body he is president. This action again is of his own volition. In a beautiful valley an hour's ride from San Francisco children and grandchildren form a community ideal in its happy relationship, and Judge and Mrs. Lyon can no longer resist the importunities, coupled with their own increasing inclination, to go and join it. Son or daughter, perhaps both, will be on in a few days to oversee the packing of household effects, and ere August arrives the lovable and honored couple may be reunited for

the rest of their days with the cherished ones so far away. Judge and Mrs. Lyon are in good health, and now that they are about ready to go, are fairly in exuberant spirits over the prospect of so soon being at home again with children, who, finishing their education at the university, ultimately drifted away from the old moorings. It is now fifteen years or more that the parents have been left to themselves, and Judge and Mrs. Lyon now conclude that it is time this separation came to an end. Their going, while full of prospective contentment for them, will be sorely regretted by the many old friends in Madison and the thousands elsewhere throughout the commonwealth.

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MADISON *Democrat*, JULY 12, 1903

A vacancy developed on the state board of control yesterday when Judge William P. Lyon presented in person his resignation to the governor. The meeting took place in the executive office. Governor LaFollette has been aware for months of the determination of Judge Lyon to retire from active work and therefore the resignation did not come as a surprise. The governor was deeply moved when the actual resignation was received, however, and he assured Judge Lyon that, while there were a number of men willing to act as members of the board of control, and not a few capable men, it would be impossible nevertheless to fill the place with one who could approach in usefulness the service performed by Judge Lyon.

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EXTRACT FROM "PEASE PORRIGE HOT"

Ex Chief Justice Lyon has resigned from the board of control, and gone to California to live. No citizen of Wisconsin has more clearly earned the right to peace and comfort in the advanced years of life than Judge Lyon.



Always so quiet, modest, and unassuming in his work, the world at large often did not hear of it. Nevertheless the influence of his life has been very great in advancing the welfare of the entire state. In later years his work with the state institutions has been particularly fortunate in demanding character and ability on the part of those who are engaged in the institution, and the real strength and merit of his influence in restraining the always present desire to pay political debts with public positions, will never be fully appreciated except by the few who had particular knowledge of current events. Although Judge Lyon will be very greatly missed in Wisconsin, it is a great pleasure to know that he is resting from his many years of public labor, surrounded by his family, in the land of sunshine and good cheer.

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FROM THE STATE BOARD OF CONTROL

The decision of our colleague, William P. Lyon, to resign as member of the state board of control and to sever his official connection with us, is greatly regretted by the undersigned. No one has been better able to study the man, his methods and his many noble traits, and no one can more appreciate the valuable services rendered by him to the state, than those who have worked with him, enjoyed his friendship and were guided and benefited by his experience and advice. His kind heart, his pure character, his gentle ways, his keen sense of justice, his impartiality, his diligence and conscientiousness, coupled with the knowledge and experience gathered in his professional, legislative, military and judicial career, made him a most efficient, useful and valuable member of our board.

*Faithful to his duties, faithful to his friends, faithful to his family, his state and his country*, will be the verdict accorded to him in the history of Wisconsin. That our friend, Judge Lyon, and his good wife, may fully enjoy the rest

they so richly deserve, and that many years of health and happiness may yet be in store for them, is the sincere wish of the remaining members and secretary of the state board of control.

Dated Madison, Wis. July 15th, 1903. A. G. NELSON,  
GUSTAV KUESTERMANN, H. GROTOPHORST,  
HARVEY CLARK, M. J. TAPPINS.

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FROM THE MEMBERS OF THE OFFICE FORCE OF THE BOARD  
OF CONTROL

We can not permit your retirement from the board to pass without some expression of our appreciation of your most valuable services in the work of the board, your valuable advice to each of us and the character and dignity which you have given to the department during the time you have been connected with it. It would be idle for us to here attempt to enumerate the many grand things that you have accomplished while a member of the board. It is sufficient to say that every branch of the service under the board has been improved under your guidance, and that such improvement is almost wholly due to your untiring efforts.

Your purity of character, your keen sense of justice, your fidelity to duty, your tact and diplomacy in handling matters of great importance, are traits that we can not help but admire and respect. In our opinion, no man in the history of Wisconsin who has given his life work to the public service has accomplished as much for the people, or done as much good as yourself. You have left marks in the work of the board and established policies which will be maintained long after we have all ceased to be a factor in the work. Your life-work is a beautiful example of what may be accomplished by industry, honesty of purpose, integrity and purity of character. You have certainly all the traits of character that could be hoped for, to say nothing of your great ability.

Dear Judge, while we deeply regret that it becomes necessary for you to leave us and know that we shall greatly miss you and your valuable advice, you may rest assured that we all wish you and Mrs. Lyon many years of happiness, pleasure and comfort in your new surroundings, among your children and grandchildren, among the flowers in the beautiful climate of San Jose, California. We assure you that we all feel honored in realizing that we have been employed in a department with which you were connected, and it will always be a pleasure to think of you.

We trust that in future you will visit Wisconsin often, and that we may have the pleasure of seeing you and visiting with you.

M. J. TAPPINS, M. E. McCAFFREY, T. J. PALMER,  
L. MAUDE JONES, ESTELLE G. SPANG.

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RESOLUTION OF ASSOCIATION OF TRUSTEES AND SUPERINTENDENTS OF COUNTY INSANE ASYLUMS OF WISCONSIN<sup>1</sup>

The flight of time has resulted in the retirement of our friend, Judge William P. Lyon, from the state board of control and the retirement from active public life in Wisconsin. Therefore, Be it resolved by this association in convention assembled, that we extend to him in his new California home a kindly greeting; may his remaining years be crowned with health and happiness. His long years of public service in the state have been crowned by sincerity of purpose and honest action. May his time for thoughts refer back to his Wisconsin home and associates and the reflections on his former career in our midst be of the most

<sup>1</sup>The following letter, written by J. E. Coffland, accompanied the copy of the resolution sent to Judge Lyon: "I take great pleasure in forwarding to you a copy of a resolution that was introduced and unanimously passed by a rising vote at our last annual convention held at Madison, Wisconsin, December 4th. The resolution expresses in only a feeble way what high regard the citizens of this state have for you and the high appreciation they have for the services rendered the state in your many official capacities. The association was glad to have this opportunity to express their appreciation for the many services rendered the unfortunate insane while acting officially as a member of the state board of control."

pleasant character. Be it further resolved, That a draft of this resolution be forwarded by the association to Judge Lyon with an appropriate letter accompanying the same.

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GEORGE W. BISHOP TO JUDGE LYON

Rhineland, Wisconsin. While I realize the truth of all the press is saying, of how your life and labors are a lesson and a picture for the coming generation, I can not help but feel that some way they are more to me and my debt heavier to you than most of the ones who are writing the notices of you and your age. Seriously, Judge, I shall never forget the kindnesses you have shown me, and I recall every day of my life the benefits which have accrued to me from the four years of association with you. God bless you and keep you for a score of years to come.

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LYNN S. PEASE TO JUDGE LYON

Milwaukee, Wis., Aug. 21, 1903. Your resignation from the state board of control and your departure to California recalls the time when you told me that you contemplated leaving the bench; and when I urged that the bar would greatly regret your decision, and that it was hoped you would still continue on the bench, you responded with the unanswerable argument that you thought you had done sufficient work to justify some leisure. Since that time the state has been greatly benefited by your helpfulness in a position where the influence which you set in motion must continue to work for good for many years to come. And now upon your second decision to enjoy some leisure time, it is a pleasure to me to recall to you that there is the occasion for you for happy reflections, not only for the work done while on the bench, but also for the work done while on the board of control. Mrs. Pease and I wish you many happy years

of comfort and delight in your new home. Although we shall miss you in the state of Wisconsin, yet not one of us ought to utter a word of the regret which we feel at your going. It has been our pleasure to have had the privilege of knowing you, and now it becomes your privilege, and one to which you are fully entitled, to select your home elsewhere. May nothing ever interrupt your complete pleasure from now on.

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CHARLES H. LEE TO JUDGE LYON

Racine, Wis., July 14, 1903. . . . You have probably been called to a greater variety of responsible public duties than usually falls to the lot of even the longest well-spent life, all of which (it goes without saying) you have performed with ability and distinction. I wish especially to thank you for the kindly interest manifested toward me when I was a student, managing-clerk and young practitioner here in Racine, an interest shown in so many ways both officially and privately, as to put me under an obligation which (like the note of an insolvent debtor) I can not discharge, but may at least keep alive by a renewed expression of the debt.

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M. T. PARK TO JUDGE LYON

State Public School for Dependent and Neglected Children, Sparta, Wis., July, 1903. On account of the many unfortunates in the state and county institutions, and the officers and employees of the same, I was sorry to see the notice of your decision to withdraw from the board of control. In your service, longest of any man in the state (I think), you have been the friend and wise advisor of all, and we shall miss you. On your own account and that of your family as well, I am glad that you have decided to rest. You have earned it by long years of most faithful service,

and my wish and prayer are that you may live many years to enjoy it.

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A. W. WILMARTH TO JUDGE LYON

Chippewa Falls, Wis., July 14, 1903. I wish to try to tell you how heartily I appreciate your kindness in the past. It has been good to have known you and to have had the benefit of your counsel. I fear I am expressing myself very poorly, but I know I shall be a stronger and better man for having known you.

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A. J. HUTTON TO JUDGE LYON

Wisconsin Industrial School for Boys, Waukesha, Wis., July 16, 1903. I have not lived so long as you, but I have lived long enough to know the value of the things your life exemplifies so grandly. To be *able* to serve one's fellow men, and to be *willing* to serve them, together, make a pretty good answer to the first question of the shorter catechism, "What is the chief end of man?" To enjoy a long life of such able and willing service, is the greatest happiness one can have on earth. I am sure there is no man in the state, who has the love and respect of the whole people as you have, and whom the people delight to honor as they do you. I assure you that to those of us who are still in the harness and doing the work that must be done to keep this old world going right, your life and example are full of inspiration and blessing.

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A. J. HUTTON TO MR. TAPPINS

Waukesha, Wis., July 16, 1903. I am very sorry to learn that the Judge is about to resign. He is the grandest old man in the state of Wisconsin, and one of the grandest I

ever knew. If we can succeed in producing such men as he, American institutions will never perish.

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CARL C. POPE TO JUDGE LYON

Black River Falls, Wis., July 16, 1903. You have done so much especially in your judicial labors, to give character to our state, that it seems that you ought to remain here. However, wherever you may go, Wisconsin will always claim you as one of her most upright and gifted sons. My acquaintance with you has extended over many years and has been an exceedingly happy one. I shall always remember you with the greatest pleasure. I trust that the remaining years of your life will be many and joyous. When the end comes you will have earned a crown of joy.

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MOSES J. WHITE TO JUDGE LYON

Milwaukee Hospital for Insane, Wauwatosa, Wis., July 17, 1903. I recall with a great deal of pleasure the unfailing courtesy and kindness on your part shown the hospital and myself and beg to assure you of my appreciation of the same.

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ELIZABETH J. CURTIS TO JUDGE LYON

St. Paul, Minn., July 20, 1903. . . . I want to take this method of expressing to you my deep appreciation of the honor that has been mine in your steadfast personal friendship ever since I have known you. I do not know how I won it, and I am sure it has cost you some little conflict at times with your confrères, but I thank you sincerely for it all. I suppose you must have some idea of what a tower of strength you are to your friends, and so I trust you realize

with what deep regret they see you turn your back upon dear Wisconsin, who needs so much the steadying power of just such foremost citizens as Judge William P. Lyon. "Young blood," with its energy and enthusiasm and progressive spirit, is a fine thing for the counsels of the state, but it needs the ballast, the steadying power of the wisdom of age and experience. Yet, you have served Wisconsin long and well and faithfully with distinguished ability, and if now at the sunset of life you elect to rest, none should complain of it or be other than glad for you that there are scenes of pleasure open to you in other fields. I am sure that you and your good wife will carry with you wherever you go blessings from many Wisconsin hearts, as you do from mine. . . . I am glad that what is probably my last appointment to service for the state came to me with your signature.

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C. W. BOWRON TO JUDGE LYON

Wisconsin State Reformatory. It is with the sincerest regret that I learn of your resignation from the service of the state as a member of the state board of control and the honored president of that body. You will pardon my assumption when I crave the privilege of feebly expressing, in my humble way, the deep sense of bereavement I feel, and which I know every one connected with our state institutions feels, at the loss of your kindly guidance and encouragement in labors that are often vexatious and perplexing. We cannot help feeling that we have lost the father of our official household, to whose wise counsels and ripened judgment we have ever looked with reverence and filial confidence. Permit me to express to you my heartfelt appreciation of the many courtesies and official considerations I have received at your hands, and to thank you for the personal friendliness that has ever met my appeals to you for counsel and advice. I know that you and your estimable wife will carry with you



to your new home the blessings of a host of friends; but believe me, sir, that no well wishes will be more sincere than mine. You have honored a lineage I am proud to acknowledge was also bequeathed to me by my Quaker mother who now lies in the little Quaker church-yard in the far east. May the sunset of your declining years be the golden reflection of a life well lived, and may you approach the inevitable shadows "like one who wraps the drapery of his couch about him and lies down to pleasant dreams."<sup>2</sup>

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BROTHER JOSEPH DUTTON TO JUDGE LYON

Kalawao, Molokai, T. H., May 10, 1904. You go eastward again next month, your new home is a happy one, and you will return. Yet I had a whimsical thought that you were needed in Wisconsin to keep matters safe. You are hardly more than gone when the Capitol, for so many years your official home, is burned out. Then, about the same time, the Racine county insane asylum is destroyed by fire. It came as a coincidence. In your official duties at the capitol, and of late years this asylum was in your control, and also at your old home. At once I said that you would have to go back. Seriously it was a real shock to me even, the capitol burning. I did not learn whether the Historical Society rooms were still in the building. I was a corresponding member beginning about fifty years ago.

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WILLIAM A. KNILANS TO JUDGE LYON

Beloit, Wis., April 16, 1907. It is always a great pleasure to get your letters, but I was sorry to learn that you still "stand pat." I am fully convinced of one thing and that is, if you believed it wasn't the just and proper thing to do

<sup>2</sup> Judge Lyon had written on the back of the envelope that contained this letter, "Important, if true!"

you would not do it! Your position politically has been about the only thing that has ever shaken my faith in my politics. The fact is I don't know now exactly where I "am at."

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JUDGE JOHN B. CASSODAY TO MRS. HAYES

Madison, Nov. 4, 1907. Your kind invitation to be present at the sixtieth anniversary of the marriage of your father and mother on the eighteenth of the present month is received. You may be sure that I will be there in spirit though unable to be there in the flesh. I first saw your father while he was speaker of the assembly forty-nine years ago the coming winter. I was present when he first assumed the duties of circuit judge, which was followed by a public reception in honor of your father and mother at my house, forty-two years ago the present month. The many intervening years of intimate friendship are full of reminiscences never to be forgotten. For fifteen years I appeared before him as a lawyer at the bar, and for thirteen years I was a co-worker with him upon the supreme bench. His patient labor and calm deliberation, his good sense and practical judgment, and his devotion to duty, and integrity of purpose, will never be forgotten by the bar or people of Wisconsin. Time and distance may separate, but sacred memories can never be effaced.

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JUDGE GEORGE H. NOYES TO JUDGE AND MRS. LYON

Milwaukee, Wis., Nov. 12, 1907. We have always had a warm place in our hearts for both of you, and have always treasured your friendship and appreciate now your kind remembrance of us. You will more fully realize at the date of your anniversary, how many true and sincere friends you have in Wisconsin. While it has been a source of re-

gret that you could not continue your residence among your friends and acquaintances in this state for the last few years, it has been a pleasure to realize that you have had your home among relatives and friends in one of the most beautiful spots in this country. May you both continue to enjoy the delights of such a home.

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PROFESSOR AND MRS. W. W. DANIELLS TO JUDGE AND MRS. LYON

Madison, Wis., Oct. 28, 1907. We wish to express to you our most hearty congratulations on this unusual anniversary. It has not been simply sixty years of life. It has rather been three score years of high and useful citizenship in the service of the nation and the state. As legislator, as soldier, as judge, and as agent of the state in wisely dispensing its charities, you have had a most useful and honorable career. All the honor of this long and varied service and the gratitude and love of those who have been your neighbors belong to you both by right. It is a great pleasure to us who for thirty years have known your friendship to express to you our appreciation of your worth as citizens and as friends. May time deal gently with you both shall be our prayer.

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BURR W. JONES TO JUDGE LYON

Madison, Wis., Nov. 15, 1907. For years I have frequently mentioned you in conversations with my friends as persons who seemed to me to have enjoyed as much of the happiness of life as any husband and wife I have ever known. Of course you have been wonderfully fortunate, but that is not all. You seem to have practiced the philosophy of life about which it is so easy to theorize and speculate and which it is so difficult to exemplify.

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JUDGE J. V. QUARLES TO JUDGE LYON

Judges Chambers U. S. Courts, Eastern District of Wisconsin, Nov. 21, 1907. I have always cherished your memory because of the kind consideration extended to me from the bench when as a novice I approached the duties of professional life full of fear and misgivings. Your encouragement and reassurance at that critical time in my life were of inestimable value and my gratitude therefor shall never fade.

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JUDGE ROBERT G. SIEBECKER TO JUDGE AND MRS. LYON

Madison, Wis., Nov. 13, 1907. . . . I cannot forbear from alluding to the fact that I am writing these words at the desk at which Judge Lyon did his valuable work in the service of our state for so many years. It has brought to mind the pleasant visit I had with him soon after undertaking the tasks he had voluntarily relinquished theretofore. His expressions of friendly interest in and kindly suggestions concerning the performance of the work encouraged and helped me much. I shall always cherish and remember the visit with pleasure and a feeling of kindly obligation.

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JUDGE JOHN B. WINSLOW TO JUDGE LYON

Madison, Wis., Nov. 3, 1907. . . . I shall never forget your uniform kindness to me from the very first days of my entrance into the profession and especially after my coming to the supreme bench. Such kindness makes life worth living.

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D. S. WEGG TO JUDGE AND MRS. LYON

Chicago, Nov. 13, 1907. A little more than the span of *my* life marks the period of *your* wedded life. More than

thirty-five years have elapsed since you took me under your wings, and stood *in loco parentis* to me. All these years have been filled with acts of kindness and affection showered by you upon me and mine, and my heart has always been and is now full and overflowing with love for you both. A few years more will find you rounding the century mark. May you both attain this and your lives be free from any shadow and contain only sunshine and happiness, is the heartfelt greeting from myself, my wife and all my family.

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PROFESSOR JOSIAH L. PICKARD TO JUDGE AND MRS. LYON

Cupertino, Cal., Nov. 18, 1907. The announcement of your sixtieth wedding anniversary has awakened in me special interest from incidents of a personal character. Judge Lyon's mother and my mother each bore the maiden name of Coffin. Many of that name I have met in the east, the middle west and on the Pacific slope, who have without exception traced their line to Tristram Coffin, a staunch Puritan, who settled at Nantucket, Mass., early in the seventeenth century. Not a stain, to my knowledge, appears upon the name. In age you are but seventeen months my senior. My marriage antedates yours less than three months. The year of the beginning of your professional life was the year of the beginning of my educational work in Wisconsin. The popular election which placed you in legislative halls in Madison gave me rank as a state official. The good people have frequently borne witness to their approval of service rendered. This year finds us in California spending our latest years with children and grandchildren, you with a beloved companion recalling the joys of sixty years. Fifty-three years are my portion with seven years of blessed memory added.

Three score years, dear friends, have come and gone since you were wed;  
Three score years have found you ever in paths where duty led.  
The nation's call for help brought to the field for four long years  
The man of heart—to the home patience and prayers and tears.  
Light and shade have flecked the way, oft weary feet have trod;  
But, dear friends, at eventide there's light—such is the gift of God.

Life sustained by labor—labor sweetened by love. Love has thrown a bright halo over life for sixty years. The circle is complete. Old as the human race the ring is ever new. May I quote for you what another wrote:

Your wedding ring wears thin, dear wife, oh, summers not a few  
Since I put it on your finger first, have passed o'er me and you;  
And, love, what changes we have seen—what cares and pleasures too,  
Since you became my own dear wife when this old ring was new.  
Oh, blessings on that happy day, the happiest of my life,  
When, thanks to God, your low, sweet "Yes" made you my loving wife.  
Your heart, I know, will say the same; that day's as dear to you—  
That day that made me yours, dear wife, when this old ring was new.

How well do I remember now your young, sweet face that day!  
How fair you were, how dear you were, my tongue could hardly say;  
Nor how I doted on you; ah, how proud I was of you!  
But did I love you more than now, when this old ring was new?  
No, no, no fairer were you then than at this hour to me,  
And dear as life to me this day, how could you dearer be?  
As sweet your face might be that day, as now it is, 'tis true,  
But did I know your heart as well when this old ring was new?

Life draws toward its blissful change. Labor enters into rest. Love knows no change but enlargement and is immortal.

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SKETCH OF JUDGE LYON, BY JUDGE CHARLES SMITH

Let us indulge in a few reflections upon the source and various environments that gave us WILLIAM PENN LYON; whence came he and by what road?

His name is suggestive as it is appropriate. Born of Friend (Quaker) parentage and reared in such a home, we may be certain that the steps of infancy were directed along

the path of industry, charity (love), simplicity and peace. "Peace on earth, good will toward men," "A meek and quiet spirit."

He was a farmer boy, as were a large majority of the jurists, the list a galaxy, by the way, that have composed the Wisconsin supreme court. Toilsome and tedious as the days doubtless often were, freedom from confinement, freedom from the friction of excessive association with others, physical activities, fresh air, simple fare, communion with nature, all conduced to the best foundations; physical, as is well evidenced by the fact that he promises to stay with us until well up in the nineties; mental, as evidenced by complete independence of thought and unusual powers of reflection. Were a single mental characteristic to be mentioned as quite as prominent in the man as any, it would be reflectiveness.

Time and place saved Judge Lyon from the graded school, that great leveler and maker-by-pattern, blessing to the common mass, bane to the exceptional. What would have been the effect upon Webster or Lincoln if "cabined, cribbed, confined" in a graded school? It should not, however, be inferred that environment and opportunity approached the ideal by any means; immeasurably more might have come to meet the budding ambition and aspiration of the promising boy, pregnant of superb possibilities, in the way of enlightenment, inspiration and open-door. Let us thank God conditions were as good as they were, and that there was so little of untoward circumstance, and rejoice in faith that in the not too remote future the young will fall upon better fare.

But if in youth life seemed somewhat circumscribed, in due time and in natural and healthful order the best things came his way, and, so far as can be seen, none escaped. Providence seemed to purpose completely to "round out" the man. Humble beginnings prepared for appreciation of a good thing when it came; native sound sense kept him in

poise when Fortune smiled and said, "Come up higher." The blessings of family came at proper time; legislative experience came opportunely and was a happy factor in development; and at the hour when early prime was at zenith, the avenue to usefulness, happiness and honor possessed, the sky radiant of promise, and self-abnegation involving so much, the supreme test in human experience, the crucial hour when choice is made between selfishness and selflessness confronted him, and the young man, so far removed by nature and training from being a "man of blood," counting not his life dear, joined the ranks of the heroes and martyrs of the Great Rebellion. Calvary confronts in some form every soul that is on the way to the supremest excellence. If responsive to the call of conscience and ready to be obedient unto death, if need be, the man is made, character complete.

At home and happy at the bar would Judge Lyon have been had conditions been as we like to think they will be, a few centuries hence, but as they have been in his day and generation, there have been too much aggressiveness and tendency to stimulate litigation completely to accord to his pacific nature; hence his call to the bench was as fortunate for him as for the public. There his superb poise, his appreciation and patient reception of help from the bar, his happy balance in that he neither gave too little nor too much attention to the books, thus leaving reflection a fair field for its work, his surpassing sense of justice, his power of clear and concise literary expression, all combined, conspired in unusual measure to the crowning work of Judge Lyon's life. As memorial of his merit in discharge of the grave duties of this office, the *Wisconsin Reports* will stand from generation to generation, his monument.

Justice of the peace, district attorney, legislator and speaker of the assembly, soldier, circuit judge, justice of the supreme court, and member of the board of control, the Judge covered, if I am correct, something like fifty-four years in public service, all in his loved state of Wisconsin.



After all, it is as citizen mingling with men in the common walks of life, as loyal and loving or not in the realm of home and family, that we stand or fall when brought to judgment. And what is the verdict here? "*Without spot or wrinkle.*" Religious? Of course. What creed? Don't know and don't care; likely as not has none. A clergyman, a friend of mine and acquaintance of Judge Lyon, once wrote me of him: "He is very quiet, genial and always charitable; never has a word of bitterness or censure for any human being. I think him remarkable in that respect; and as the years pass he certainly grows in kindness and sweetness of spirit. I think it can be said of him that he literally never offends in word. He speaks seldom of his inner life, but to his friends he shows a deep religious nature; he seems to live in the atmosphere of communion with the Unseen."

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MESSAGE OF THE SUPREME COURT OF WISCONSIN

Mrs. Jay O. Hayes, San Jose, California. We have received the news of your father's death with the deepest sorrow. So long as civil government shall last in Wisconsin his services to the nation and to the state will insure his name a high place upon the honor roll of Wisconsin's greatest sons. Accept our sympathy in your bereavement.

J. B. WINSLOW, R. D. MARSHALL, R. G. SIEBECKER, J. C. KERWIN, W. H. TIMLIN, JOHN BARNES, A. J. VINJE.

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CHIEF JUSTICE WINSLOW'S TRIBUTE TO JUDGE LYON

I knew Judge Lyon from my own boyhood when I was going to school in Racine, and he was circuit judge of the First Circuit and living at Racine. He was appointed to the supreme bench and moved to Madison just before I began my study of the law, but he never forgot his friends,

and I well remember his cordial welcome when I argued my first case before the supreme court. I think he was the kindest, most even tempered and considerate man I ever knew. I sat on this bench with him for nearly four years, and I never received from him an unkind word, nor did any of the other judges during that time. . . . In the consultation room he was always courteous, never arbitrary or overbearing, but still always the chief justice in fact as well as in name. He used to say that he had written no great opinions, and I think he was right in this sense, namely that his work was very uniform. He put his best effort into every case, whether small or great; I think he never attempted to put into an opinion a rhetorical flourish of any kind. He went straight to the core of the matter and discussed it with simple words, short sentences and clear logic. The result is that his opinions have a very uniform quality of excellence. . . . His opinions were all lucid, direct, plain and terse discussions of legal principles, and one always knew from them just what was decided and how it was decided. . . . Judge Lyon's death removes the last survivor of the old supreme bench of Wisconsin. He knew every man who had been on that bench from the beginning of the history of the court, and sat with all of them who were on the bench prior to 1894 except Whiton, Smith and Crawford. He honored his state and the nation, and will be long remembered as one of Wisconsin's greatest men.

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#### RESOLUTIONS OF WISCONSIN LEGISLATURE

Whereas, on the 4th day of April, 1913, the Great Master, in His infinite wisdom, saw fit to summon to eternal rest Judge William Penn Lyon, who died at the home of his daughter at Eden Vale, California, on that day, it is but fitting that the legislature of Wisconsin pause to express its profound sorrow and regret and to express its appreciation of his distinguished and honorable service to his state and

nation. [Here follows sketch of his life.] Be it therefore resolved, by the assembly, the senate concurring, That this memorial be entered in the proceedings of the senate and assembly in recognition of his important service to the state, and as public acknowledgment of the great benefits accruing to the people through his efforts both as judge and legislator. Be it further resolved, That a copy of these resolutions, signed by the presiding officers and chief clerks of the senate and assembly, be transmitted to the family. MERLIN HULL, Speaker of the Assembly. H. C. MARTIN, President of the Senate. C. E. SHAFFER, Chief Clerk of the Assembly. F. M. WYLIE, Chief Clerk of the Senate.

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MADISON *Democrat*, APRIL 5, 1913

All Wisconsin must sorrow sincerely over the death of Judge William Penn Lyon which occurred yesterday in California. Few men of this commonwealth leave a better record than his. Nearly his whole life was devoted to the public service and strongly marked at every stage with the stamp of integrity and popular approval. He served his country in its greatest crisis patriotically at the front, enduring all the dangers and trials which are an inseparable part of military duty; yet by far greater service than that on the field was that upon the bench where he labored faithfully, intelligently, conscientiously for nearly thirty years. Never during all the long periods during war or peace did scandal touch his name. His distinguishing quality both on the bench and off was supreme sound sense—after all the best birthright with which man may be endowed. To him work never was light: it always was hard, plodding, persevering, earnest endeavor. Nothing came to him easily; he fairly won and earned all he obtained, all he was. He was the very type of man that one might profoundly rejoice to see freely on the bench of all courts in this land today—a

splendid, safe, sturdy, upright, God-fearing, patriotic character.

Of course Judge Lyon had no enemies. Such a man could not, so fair, so just, so calm, so square. He loved his old comrades in arms with a loyalty that never wavered and they in turn honored him in all ways possible. Many and often were the addresses that he was called upon to make for them and to them here and elsewhere. With the citizenship universally of this state he was held almost in reverent regard. Never was unkind observation made at the expense of Judge Lyon. Regard for him was deep, sincere and true. At home his relationship was of the most beautiful nature. His cherished wife and he grew old delightfully together—lovers to the very end of life. He lived to the fullness of years and passed away sweetly, respectfully regarded by all.

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SAN JOSE *Mercury*, APRIL 5, 1913

The passing of Judge William Penn Lyon, not an old but a very distinguished resident of this county, at the superb age of ninety, will be interesting to every citizen of the Badger State now resident in Santa Clara County. For during a half-century, from Wisconsin's Territorial days down to the proud present, Judge Lyon was a figure of more or less prominence. It is something for a man to be born in a crude, half-hewn village, with little or no educational advantages, and to rise steadily by sheer strength of character to the exalted station of Chief Justice of the supreme court of a great state. Like Lincoln, Judge Lyon had a complete drilling in the plain fundamentals of education, such as reading, writing, spelling, English grammar and the "Rule of Three," but beyond these he was obliged to make his own way. . . . It is not so difficult for one furnished by nature with a great intellect and a parentage of high character to ascend the slopes of life and finally stand

resplendent at the top. This boy had learned the lessons of honesty and industry at the crude fireside of a pioneer Quaker's home, and these lessons he incorporated in his life and career. They formed the foundation upon which he built so well. It was these same lessons and their conscientious application that made it possible for a distinguished man to say of him: "For fifty-four years Judge Lyon has served his state, and no shadow of dishonor ever touched his good name." We may well say that "the hand that rocks the cradle rules the world." Men of great mothers have an infallible advantage in the competitions of life, and they usually get the prizes. True, there are exceptions, but the boy who leaves his home equipped with a mother's admonitions is not likely to yield to the baser things, no matter how great the temptation. So it was that this self-reliant, rugged character became a leader among men, stepping out of life's activities in the eighties, with physique and intellect comparatively unimpaired and capable of enjoying the repose of life's evening until the age of ninety. Such lives, useful to their generation, happily do not end with the interment of the body. The grave closes over the tenement of flesh, but the triumphs of a blameless life go on forever. What a pity so many of us are cripples in character, so weak and vacillating in the face of temptation. How pitiful is the plight of the reed shaken in the wind compared with the stolidity of the granite's shaft. It is the difference between gold and alloy, between strength and impotence, between success and failure. It is the power of the divine spirit compared with the weakness of unregenerate human nature. Let every schoolboy read the story of this great man's life. It is full of inspiration, it tells the secret of true success, and pictures the ease with which the most insuperable difficulties are overcome when matched with character.











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