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Hoosier Justice: The Journal of David McDonald, 1864-1868

Edited by Donald O. Dewey*

David McDonald of Indianapolis, United States judge for the District of Indiana from 1864 to 1869, has been well described as a Hoosier Pepys. Aside from the diaries which he kept, he wrote an exhortatory autobiographical essay for his son, penned a number of autobiographical letters, and—crowning glory—even made an address "as from the coffin" to guide the lives of those at his graveside.1

Portions of McDonald’s "little black book," the small travel diary which he kept when he was separated from the ledger-type book in which he ordinarily recorded his daily activities, were printed in the Indiana Magazine of History in 1931.2 They tell, primarily, of his visits to Washington, D. C. The diary entries which follow are of more interest to Indiana historians, for they relate the day-to-day activities of an active participant and penetrating observer of the Indiana courts and bar during the last year of the Civil War and the first three years of Reconstruction.

McDonald gives incautious—sometimes explosive—descriptions of the men of importance in Indiana politics and jurisprudence in his day. Furthermore, he gives an interesting account of the life of an Indiana lawyer in the mid-nineteenth century. The practice of law brought many satisfactions; but it also involved much unrewarding drudgery, such as traveling to distant courts for trials which were postponed and lodging four-to-a-room at inns with other lawyers and clients. While he took tea with many of his legal foes, he was in danger of being forced to exchange shots

* Donald O. Dewey is associate professor of history at California State College at Los Angeles. A research grant from the Los Angeles State College Foundation aided in preparation of the manuscript.
1 The McDonald writings mentioned here may be found in the Indiana Historical Society Library, Indianapolis. The library also holds some other McDonald materials, part in manuscript and part in transcript.
with others. Finally, McDonald’s comments are of particular importance because of his role as a constitutional interpreter. Indiana was an alleged hotbed of pro-Southern influence, so the district court was deeply involved with civil liberties cases concerning the Copperheads. It was his court, for instance, which called upon the United States Supreme Court to render the great decision *Ex parte Milligan*, surely the most important constitutional opinion to come out of the Civil War.

David McDonald was born near Millersburgh, Kentucky, in 1803, the eighth of twelve children. In 1817 the family moved to a farm near Washington, in Daviess County, Indiana. In 1829, after several years as a “new light preacher” and a schoolmaster, he was urged by a Washington lawyer to study law. The next year he began his own practice, earning $250 in fees for the entire year.

In 1833 he was elected to the Indiana legislature but found “It was time very uselessly spent; and I never wanted to go back to the Legislature. Besides I ran a great risk of contracting vicious habits. Debauchery of every kind prevailed among the members.” He was prosecuting attorney for the Tenth Judicial Circuit from 1834 to 1837 and was circuit judge for the next fourteen years.

Though lacking a college education, he was professor of law at Indiana University through the 1840’s. Despite McDonald’s protest he was given an honorary doctorate when he retired. He practiced law in Indianapolis from 1853 until 1864, when he was appointed United States district judge, “the most fortunate occurrence” in his life. In 1857 he was elected president of Asbury University at Greencastle, but he declined because he was not an orthodox Methodist.

Most of the legal cases which McDonald mentions prior to his appointment to the federal bench were in the Indiana circuit courts, the principal forum for state questions. These fifteen courts had excessively wide jurisdiction, so each drew outstanding counsel from throughout the state. Under the Constitution of 1851 the state judges—at the justice of the peace, circuit, and supreme court levels—were all elective rather than appointive. This accounts in part for the contempt which McDonald expresses for some who were far

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*This quotation and the other biographical material included about McDonald may be found in his “Autobiography,” a copy of which is held by Mrs. Mary-Lois Denny, Pasadena, California. Another copy of the autobiography is located in the Indiana Historical Society Library.*
more adept at gathering votes than expounding the law. A federal judgeship was much more desirable than a state position because the federal judge was virtually assured of tenure for life, and he could instruct the juries rather than being dictated to by them as were the elective judges on the state circuits.¹

From the beginning of the federal judiciary there was a hazy line between the jurisdictions of the United States district and circuit courts. It was intended that the district courts should handle federal cases where punishment would be by fines not exceeding one hundred dollars or prison terms of not more than six months, while the circuit courts should hear more serious cases and appeals from the district courts. In Indiana, however, as in many states prior to 1869, federal cases might be initiated in either court. There was no separate panel of judges for the Seventh Circuit, so at circuit court time Judge McDonald, as district judge, sat with Justice David Davis of the United States Supreme Court, whose regular circuit-riding duties included an annual visit to Indianapolis.²

The journal from which the following extracts are taken begins with the year 1864 and continues almost daily until September 30, 1868. Many pages at the end were cut out, and occasional bits of writing at the book's spine demonstrate that Judge McDonald had continued this diary beyond that date. There may have been enough pages to take him near his death on August 25, 1869. With only two exceptions the diary accounts for every day of its four-and-a-half years. The extracts presented here give most of McDonald's comments on legal matters and on national and state political affairs, omitting many family and personal comments. Most of the items omitted, aside from trivial phrases such as “Did nothing today worth recording,” are comments on his own misery from a spinal disease, on the ill-health of his family, and on his own religious struggles. McDonald was a Methodist socially, but a Unitarian philosophically, so nearly every Sunday he seemed to devote to speculation either about leaving the Methodists or returning to them.

[Jan. 7. Thursd. This morning Judge C. B. Smith came to the United States Court house in usual health to hold Court. He took a sudden coughing followed by vomiting blood, and died at 9 o clock P.M.]

Monday, 11. I see that, before C. B. Smith is buried, there is a scramble for his place; and by the telegrams to Cincinnati, it seems that I am named among the rest. I have authorized no one to place my name before the President; and I do not even know who has done it. But it is all in vain. I can not beg hard enough to get favors from Father Abraham. Out of 10 or 12 applicants, he will appoint the man least fitted for the place, A. S. White, I think. Yet Lincoln is a good man, and a good President.

The journal from which the following extracts are taken is the property of Mrs. Mary-Lois Denny of Pasadena, California, a great-granddaughter of McDonald. In editing the manuscript every effort has been made to reproduce faithfully the spelling, capitalization, and punctuation of the handwritten document. Incorrect spellings are indicated by a [sic] the first time they appear, and missing letters are supplied in brackets whenever McDonald seemed to have omitted them unintentionally. Since the author generally either hyphenated or divided the words “today” and “tomorrow,” the editor has adhered to the latter practice in doubtful or marginal situations. Modern usage has been followed whenever it was impossible to distinguish between McDonald’s capital and lower case “s.” Superior letters have been brought down to the line. Flourishes and obviously unintentional repetitions have been omitted. Words which McDonald underlined have been reproduced in italics. In a few instances the author failed to place periods at the end of sentences. These have been added in brackets. Ellipses have been used to indicate deletions from the journal unless a break in the diary can be indicated instead by a jump in the date. If the deleted portion would have comprised approximately a paragraph or more, a line of ellipsis marks has been given. If part of a sentence is omitted, three marks are used. If one or more sentences, but less than a paragraph, are deleted, eight marks are given. Important but comparatively unknown individuals whose names appear in this journal have been identified in footnotes. In other instances full names or initials have been added in brackets whenever possible the first time the name appears. The spacing of the original journal has been somewhat modified and standardized.


2 Albert S. White (1803-1864) had been a United States representative, 1837-1839 and 1861-1863, and senator, 1839-1845. Biographical Directory of the American Congress, 1774-1961 (Washington, D.C., 1961), 1801. The phrases, “I think. Yet Lincoln is a good man, and a good President,” were added, probably years later, by McDonald with
Tuesday, 12. To-day was the funeral of C. B. Smith. I attended it. There was a large crowd—many who hated him when living. [Fernandez C.] Holliday D. D. officiated, in a pretty funeral sermon. It seems Smith was once a Methodist. It was in his purer days. Poor fellow. He is buried in pomp by the Masons.

Wednesday, 13. I am at work on briefs in my office. These Briefs are written (often printed) arguments in causes in the Supreme Court, often taking a week or two. I get more poorly paid for them than any sort of work I do. I have been nearly all this Winter at this kind of business.

Thursday, 14. . . . . . . . . . . . . . . . . . . .

Just as I expected. Albert S. White is appointed District Judge. O, tempora! O, mores! This is the work of those 3 men, Lincoln, Lane, & Usher. The first, an honest man—the second, a shallow ingrate—the third, a coward and a knave. It seems hard that we can no more have a Judge before whom legal learning and decent behavior are of any avail. White I have known a different pen and ink. It is likely that he was embarrassed by his attack on the, by then, martyred Republican. The attack doubtless stemmed from McDonald's fruitless appeal for the office in 1862, when it was granted instead to Smith. At least Lincoln's famous funny bone must have been tickled by this audacious letter from McDonald: "I desire to be appointed United States District Judge to fill the vacancy occasioned by the death of Judge Huntington. A gentleman professing to know, lately told me that no one could get an office from you without personally seeing you. I do not believe it. I cannot suppose you so weak as to favor the most boisterous beggar. I shall, therefore not annoy you with my presence. Indeed, my patriotism has not let me either to besiege the house of the President at Springfield or to lay wait for you at the White House. This omission will not I hope, operate unfavorably to my present application. None of those who, like houseflies have followed you for the last two years withersoever you went, have felt more regard for you than I have,—nor can I see that because you have already given distinguished place to one or two citizens of Indiana, you ought therefore to favor them a second time. I was a Henry Clay Whig as long as whiggery lasted. When it died I went to the Republicans as the best thing I could do. You may remember that I rode sixty miles from a court where I met you to vote for Henry Clay. I have never committed the sin of democracy giving all my efforts to my profession. I have not been much of a politician and while I concede that politicians ought to be preferred in politics, I claim for those who have followed the law only a like preference in judicial office. I am too modest to mention my attainments in the law and too proud to plead poverty. I hope you will appoint the best man. But if you fail to appoint me, I shall be sorry both on your account and on my own." Flora McDonald Ketchum, "David McDonald," Indiana Magazine of History, XXVIII (September, 1932), 183-84.

*What times! What morals!" Cicero, In Catilinam 1. 1. 2. At first McDonald used a noun other than "man" to describe Lincoln, but he carefully covered it over. The "ingrate" was Senator Henry Smith Lane and the "knave" was Secretary of Interior John Palmer Usher.
31 years. He never was much of a lawyer. He has given the law no attention for many years. He has for more than 20 years devoted himself to politics and railroads—the latter much the more honorable of the two. And now he suddenly becomes our legal oracle.

Sat. 16. Engaged as usual in my office. Sometimes I think it is too bad that a man of my age should have to toil so constantly. I think no lawyer in town is so unremitting in legal labor as I. Even now I am in the office, in mid winter soon after sunrise. I make fires at home, and then at the office every day. Yet others grow rich; I remain poor. Well, I will not repine. It may be best for me. Let me act the man bravely. I will get rest in the grave. I ought rather to thank God for a sound mind in a sound body.

Mon. 18 to Sun. 24. I have spent almost the entire week in preparing printed arguments for the Supreme Court.

Monday, 25. This morning, I started to Danville to try the case of Ebenezer Sharpe v. Joseph D. Pattison, T. T. N. Pattison, McReynolds, and Geo. Hibbin. The day was fine. We arrived about 12 M[eridian] and stopped at Darnel's tavern—4 in a room, viz. Myself, E. Sharpe, Thos. H. Sharpe, & W[illiam] P. Fishback. Fishback & I are for Sharpe. We consider the case a doubtful one. The amount in controversy $8000 to $9000.

I wrote my will before I started.

5 With a few exceptions the cases to which McDonald refers have not been identified, even those he considered "celebrated." For further information concerning cases tried before the Indiana Supreme Court see Indiana, Report of Cases Argued and Determined in the Supreme Court of Judicature of the State of Indiana . . . (244 vols., Indianapolis, 1830- ). No published description of cases tried in the lower courts has been found.

6 The career of William P. Fishback (1831-1901), a prominent Indianapolis lawyer, spans almost half a century of Indiana history. At various times in his career he served as prosecuting attorney (presumably for Marion County), clerk and master of chancery of the United States district court, and commandant of a colored regiment during the Civil War. He was also director, dean, and faculty member of the Indiana Law School, organized in 1893. Fishback at one time was law partner in a firm which included Albert G. Porter and son, Benjamin Harrison, and Cyrus C. Hines. Leander J. Monks (ed.), Courts and Lawyers of Indiana (3 vols., Indianapolis, 1918), III, 1135; Charles W. Taylor, Biographical Sketches and Review of the Bench and Bar of Indiana . . . (Indianapolis, 1895), 167, 246.
Tues. 26. Our cause was called, but a deposition was missed, and after sending to Indianapolis for it, we commenced the trial at 4 P. M.—Jo. E. McDonald, [Leander M.] Campbell, Sixton [Leonidas Sexton?] for the defendants [sic].

Wed. 27. Our trial is in progress, and we closed the evidence about 9 P. M. The case seems to hang in an even balance.

Thurs. 28. We argued the case all day. At night the jury rendered a verdict for us for $8502.30. This was a glorious triumph; all things considered, it was one of the most gratifying victories I ever had. The Sharpe's are in extacies [sic]. They extol my speech as great and good. When I come to charge a fee of $500, I hope they will think no less of me.

Fri. [Feb.] 5. Tis raw, gloomy weather. My business is now in Court daily.

Mond. 8 to Sun. 14. I have spent this week in constant attendance at my office and in our Court of Common Pleas. Nothing in the round of business very interesting. No exciting trial—no stirring incident.

Wed. 24. In the Court House all day. A mob of Soldiers attacked the Sentinel office; but I believe no harm was done.8

Fri. 26. This morning I & Mr. Porter9 went to Danville to try the case of Hasselman & Vinton vs. Herman Kortepeter. But the trial could not be brought up to-day. So we stayed all night there.

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7 Joseph Ewing McDonald (1819-1891) attended Asbury and Wabash colleges in Indiana, was admitted to the bar in 1843, and practiced law in Crawfordsville, 1847-1859. He served in the United States House of Representatives, 1849-1851; was the Democratic candidate for governor of Indiana in 1864; and was United States senator, 1875-1881. Biographical Directory of American Congress, 1294.

8 Although the Indianapolis Daily State Sentinel and the Indianapolis Daily Journal reported several prior attacks on the Sentinel offices, a search in the newspapers for this item revealed no evidence of the incident to which McDonald refers.

9 McDonald's partner, Albert G. Porter (1834-1897) had returned to private practice in 1863 after serving in the United States House of Representatives, 1859-1863. Later he was comptroller of the treasury, 1878-1880; governor of Indiana, 1881-1885; and minister to Italy, 1889-1892. Biographical Directory of the American Congress, 1470.
Sat. 27. Finding our Kortepeter case laid over till Monday, we returned home this morning, and found all well.

Mon. 29—Porter & I returned to Danville to-day to try the case of Hasselman & Vinton vs. Kortepeter. We entered on the trial, and got only partly through the evidence.

Tues. [March] 1. Finished the evidence in the Kortepeter case. It looks dangerous. Porter opened the argument to the Jury for Kortepeter, and then went home. Campbell followed in a strong speech for the plaintiffs.

Wed. 2—This morning, Fishback argued the case on trial for the plaintiffs; and I closed the argument for the defendant. The Jury at 3 P. M. found a verdict for our client, Kortepeter. This was a glorious triumph in what I deem a just cause. I came home to night, and found all well.

Tuesday 8. At 6 this morning I went to [sic] Franklin Circuit Court to look after the suits of Mrs. Forsyth vs. the debtors of her husband's estate, and List et al. v. Herman Kortepeter. Both cases were laid over till Thursday; and I returned home on the 11 o'clock (A. M.) train.

Thurs. 10 Mr. Porter & I went to Franklin to try the case of List et al. v. Kortepeter whom we defend. We entered on the trial, which not being ended, we came home at night.

Fri. 11. Returned again to Franklin; ended the Kortepeter trial; and gained it. We gained it not so much by our own wisdom, as through the ignorance of [Robert L.] Walpole, the plaintiffs' lawyer, and the mistakes of the Judge.

Sat. 12 In my office to day. Got $367.50 cts for fees; and spent $126. of it. These war times I get a great deal of money, and spend a great deal.—"Come light, go light."

Mon. 21. Marion Circuit Court begins to day. I attended the U. S. Court and argued the case of the U. S. vs. Wm. Saltmarsh.

10 For further description and identification of Walpole see entry for March 26, 1867.
Thurs. 24. At 11.40 I started to Lebanon to try the case of Cynthia I. Adams v. The Lafayette [sic] & Indianapolis Railroad Company, for running the cars of the Co. over her so that a leg had to be amputated.


Sat. 26. To day we argued the case of Miss Adams, I making the closing speech. At 7. P. M. the verdict for plff. for $2,650. was rendered and judgment entered on it. At 7.40 P. M. we started home where we arrived after 9, P. M.

Fri. [April] 1. To day Mr. Porter, and a Lawyer Campbell of Danville, had a furious quarrel in our office, about certain motions and the filing of certain papers on the 4th of March in Danville in the case of Hasselman & Vinton v. Kortepeter. As I was not there, I do not know how it was. But the quarrel went so far as that Porter drew a club and Campbell a pistol. But it ended without a battery.

Mon. 4 to Sund. 10.— . . . . . . . . .

Thurs. Fri. & Sat. [7, 8, 9] we spent on the trial in the Circuit Court of the case of Ed. Thomas vs. Robert Roe—a suit about land. [John L.] Ketcham, Walpole, & [Horatio C.] Newcomb for the plaintiff—McDonald & Porter for deft. On Thursday, it was suspected that Thomas, the plaintiff, had the small pox. He went to a doctor who, it seems, advised him that it was not small pox. He continued in Court till Friday evening, when it became certain he had the small pox; and he went home. Who may suffer for all this remains to be seen. I was vaccinated about 34 years ago. Whether this will protect me I know not.

The case went to the Jury Saturday 11 o'ck A. M.

Mon. 11. The Jury in the case of Thomas v. Roe hang, and at 2 o clock P. M. are discharged. They were nearly equally divided.
Wed. Thurs. to Sat. 13, 14, 15, 16—.

I have been reading the Diary from Mar. 4, 1861 to November 12, 1862, of Adam Gurowski, a Pole, concerning the present War. So censorious a book I never read. He is a naturalized citizen; warmly in favor of the North, and lavish in praise of the people. But he abuses Lincoln, [William H.] Seward, [Winfield] Scott, [George] McClelland [sic], and the administration generally in every page. [Edwin] Stanton and Senator [Benjamin] Wade he praises. Almost every man besides he condemns. I fear he is too near the truth.

Mon. 25 &c. The former part of this week I spent in my usual avocations in the city—Circuit Court sitting and I in it daily. The constant trouble is that neither in our Circuit Court nor Common Pleas have we a Judge that can give us the clean law. Last term we had the celebrated boulder case before Judge [Fabius M.] Finch. He decided every thing against us, though we carried the case before a jury. He gave a new [?]. This week we managed to get Judge Perkins to try the case. He decided it in our favor so that the plaintiff got out of Court before he got to a jury. Perkins is by far the best Judge about here.

Tues. [May] 3. The U. S. Court sits today. The owl, White, is alone on the bench.

Wed. 4 In the Federal Court today. Judge Davis arrived and took his seat. White charged the grand jury. Bah!

Sat. 7. This evening Judge Davis took tea with me. He seems a man of good sense. But I see no mark of legal learning or any other kind of learning in him. Respectable general learning and literature he certainly has not. Indeed there is no polish and no literature about him.

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11Adam Gurowski, Diary . . . (3 vols., Boston, 1862-1866).
12Samuel Elliott Perkins (1811-1879), a Democrat, had become a member of the state supreme court in 1846 and served until January, 1864. Despite their party differences Perkins and McDonald later cooperated in an attempt to establish a law school in Indianapolis (see entry for August 13, 1866). For a description of Perkins as supreme court judge see Emma Lou Thornbrough, "Judge Perkins, the Indiana Supreme Court, and the Civil War," Indiana Magazine of History, LX (March, 1964), 79-96.
Sun. 8. This is my birth day. 61 years old! Near my grave. God prepare me for the change that so shortly awaits me! I desire to be thankful that I have lived so long; and that now I have a sound vigorous body, and, so far as I can judge, a mind unimpaired. I think that during the last year, I have made several abler speeches than I ever made before.

Wed. 11. The Richmond war still excites all men. Nothing new to day, except that the approach towards Richmond still goes on. Our Federal Court is sitting; but inter arma, silent leges.14

Thurs. 12. Our Federal Court is still sitting, and I daily have business in it; but the fighting in the neighborhood of Richmond so excites me that I am unfit for any busines[s].

Tues. 17. To day, before the Supreme Judges, I again argued the eternal case of Judah vs. the Vincennes University. Jo. E. McDonald opposed me. I have the case this time if the Court decide right.15

Wed. 18. I spent the day on Mrs Ann E. Underhill’s business in sett[l]ing her will. Mr. Porter is gone to Martinsville.

Fri. 20. At night, Mrs. Underhill and the Misses Wood called at my house to settle their accounts. After long efforts, Mrs. Underhill got angry, whether at me or them I cant tell, and furiously flirted out of the house and went off. It was strange and offensive behavior. I hope she will repent.

14 “Laws are inoperative in war.” Cicero, Pro Milone 4. 11.
15 “Judah vs. The Trustees of the Vincennes University had first been argued before the Indiana supreme court on May 28, 1861. It was a suit by the university to recover the value of state bonds received by the attorney of the university but put to other purposes. 16 Indiana Reports 56 (1862)."
Mon. 23. Supreme Court sits to-day, and I attend it. Here, as oft before, I have seen beggars riding on horse back, and princes, as beggars, walking barefoot.

Fri. 27. I spent nearly all this day with C. T. Cromwell of N. Y. investigating his claim against H. W. Ellsworth.  

Sat. 28. This day a case of bribery of a Judge came to my knowledge, which astonished me. $100 buys justice! The worst feature in our government is that all departments are grown corrupt; The judiciary, the last citadel, is now betrayed into the hands of sinners.

Mon. [June] 6 to Sat. 11. I spent this week partly in our Court of Common Pleas, and partly in my office. Nothing important going on.

Thurs. [July] 7. Excessively hot to day. Porter is abroad. And I am extremely busy—pressed all day. I argued, in the forenoon, a tax question before the State Board of Equalization, gained it, and got $40. for it.

Tues. 12. This morning, I went to Franklin to try Mrs. Forsyth's case. But it was laid over till to morrow. So I returned.

Wed. 13. Went again to Franklin on Mrs. Forsyths business. Compromised the case, and came home in the evening.

Mon. [Aug.] 15. Still warm and dry. We now seem in great danger of civil war in Indiana. May God avert it!

16 Henry William Ellsworth (1814-1864) came to Tippecanoe County, Indiana, in 1838. He practiced law in Lafayette and became a member of a firm of general land agents specializing in Wabash and Maumee lands. His Valley of the Upper Wabash ... (1858), based on his father's papers, helped to stimulate interest in lands of northwestern Indiana. Ellsworth participated in the political struggles of his time and from 1845 to 1849 was chargé d'affaires to Sweden and Norway. Dictionary of American Biography (10 vols., New York, 1957-1959), III, 111.

17 The duty of the State Board of Equalization, as established in 1852, was to equalize the appraisement of lands among the several Indiana congressional districts. For a detailed discussion of the board see William A. Rawles, Centralizing Tendencies in the Administration of Indiana (New York, 1903), 260-72.
Wed. 17. In my office all day too busy to go to dinner. At last, the weather is cool. The cloud of civil war that threatens the state grows darker. Arrests are talked of. If they come I think war will follow.

Thurs. 18 Another fine rain. But while this relieves of one distress another threatens more and more. Civil war in Ind. Every day brings out some startling fact. Whither are we drifting?

Friday 19. Nothing new to day except that in a counsel of traitors last night of last week Jo McDonald dissuaded them from attacking this city on the 16th. So it is said.

Sun. 21.

This day the city is highly excited. There is danger of mob violence. The occasion is this: last Night some 4000 to 5000 pistols and curbines [sic] arrived here from N.Y. and were secretly stowed in Bob Walpoles house now occupied by H. H. Dodd. These were seized this morning. The opinion is that they were intended to be put in the hands of the rebel prisoners here that they might burn our city and murder our people. Whether this was the intent or not, it was no doubt traitorous. The crisis is approaching. 90 days will develope [sic] all things.18

22 to 28—This week has passed “in the midst of alarms.” Distressing rumors of the rising of the Coperheads [sic] in this state to oppose the war, are flying every day. It seems that what is called the Democracy seriously, desperately meditate a general uprising. What shall be the end can only be conjectured.

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18 Harrison H. Dodd, an Indianapolis printer and grand commander of the Indiana Sons of Liberty, apparently planned an uprising of this organization for August 16, 1864, to free rebel prisoners at Camp Morton and seize the Indianapolis arsenal. Leading Democratic politicians dissuaded Dodd from carrying out his plot, reports of which had already been leaked to Governor Morton through a government spy. August 16 passed without incident, but on August 20 military authorities seized guns and ammunition which had been shipped to Dodd’s printing establishment. Included in the seizure were letters and additional information concerning the Sons of Liberty. Dodd was later arrested and tried by a military commission, but he escaped to Canada before he could be convicted. Kenneth M. Stampp, Indiana Politics during the Civil War (Indiana Historical Collections, Vol. XXXI; Indianapolis, 1949), 291-32, 242-49.
Sunday I spent at home. . . . At night, I called on General Hovey. He apprehends civil war in Indiana. I judge from his hints, that the policy of the government is to enforce the draft on the 5th Sept. and that if the Copperheads attempt to resist it forcibly, martial law will be declared, and they will catch all the leaders of the opposition, try them by a military court, and shoot them.¹⁰

Mon. 29. . . . . . .

And to day the "Democracy" assemble at Chicago to nominate a candidate for President. Their doings deeply concern the nation. Every body says they will nominate General McClelland. And I am inclined to think his nomination would be less injurious to the nation than that of any other man they could put forward. May God rule this matter for the good of the country!

Wed. 31 To day the Copperheads at Chicago nominated McClelland for President, and [George H.] Pendleton for vice president. If McClelland should be elected, I hope he may be true to the Union; and I think he will if not influenced by the traitors who will vote for him. But whether he be elected or not, and whatever he may do if elected, there can be no doubt that many—at least one third of the party who are running him—are as vile traitors as any in the South, and much more inexcusable than they. I write this down as my deliberate judgment, to be read by such of my descendants as may see this diary when I am dead. But the country is ruined any way; and it seems that it is but little difference who rules now.

Sat. [Sept.] 3. To day H. H. Dodd, the Leader of the secret, treasonable society of this state, was arrested in this city under the order of Genl. Hovey.

It is said that Judge White is at the point of death. I sincerely wish he may recover.

¹⁰ Major General Alvin Peterson Hovey (1821-1891) was judge of a circuit court of southern Indiana in 1850 and in 1852 was elected to the supreme court. He served with distinction in the western theatre of the Civil War and from 1864-1865 was commander of the District of Indiana. Following the war Hovey was appointed minister to Peru, 1866-1870, served in Congress, 1886-1888, and was governor of Indiana, 1888-1891. Dictionary of American Biography, V, 270-71.
Mon. 4[5] to Sat. 10. Learning at 9 o'clock Monday morning that Judge White was dead, I determined to try to get his place—judgeship for the U. S. District Court for this State. So at noon I started for Washington. I got there on Wednesday—saw Mr. Lincoln—laid my papers and claims before him—roamed about the city two or three days—and came home, arriving safely Sunday morning at 10 o'clock and finding all well. Of course, I can not know; but I think I shall get this Judgeship in a month or two. I do not see how Lincoln can refuse it. 20

Mon. 12 to Sat. 17. ... I found that reports against my loyalty were circulated about me by Alfred Harrison, J. P. Usher and such like men, to defeat my application for the judgeship.

Tues. 20. ... I had a talk to day with Alfred Harrison. He denies propagating that slander. But in his prevarication, he contradicts and convicts himself. O, Alfred Harrison! I know you now. 21

Wed. 21. We received this morning a telegram to come immediately to Lebanon to try the case of Williamson v. The Lafayette & Inds. R.R. Co. Mr. Porter & I hurried to the cars, and arrived at Lebanon about noon. Afternoon we entered on the trial. Late at night we compromised the case at $1500 for our client, Williamson.

Fri. 23. This is a day of interest here. To-day the draft in this township for 471 men is held.

I met Judge Perkins on the street this evening and the following colloquy ensued:

Perkins. What is the prospect of your getting that Judgeship?

I. It is pretty good. But they say I am going to vote for you for Supreme Judge, and that may beat me.

20 Extracts from the separate journal kept by McDonald on this trip to Washington, D.C., are printed in Ketcham, “David McDonald,” 184-85, and in “Diaries of Judge David McDonald,” Indiana Magazine of History, XXVIII (December, 1932), 299-301.

21 Alfred Harrison, a Republican lawyer from Indianapolis, was treasurer of the Indiana Sanitary Commission during the Civil War. Indiana, Report of the Adjutant General of the State of Indiana (8 vols., Indianapolis, 1866-1869), I, 324.
Perkins. You never told me you would vote for me. Who says you are?

I. Mr. Alfred Harrison has raised the report.

Perkins. The old rascal! Why he has told me more than ten times that he himself would vote for me.

Sat. 24. In my office all day. As to the Judgeship, the plot thickens. By a letter from Judge Davis, I learn that he and Judge [Noah H.] Swayne are determined to have me appointed if they possibly can. I dont think I shall fail, unless[s] Lincoln disregard all public sentiment.

Mon. 26 to Frid. 30 . . . . . . . . . . .

The trial of H. H. Dodd before a Military Commission is in progress here. The disclosures in this case make the "Sons of Liberty" a most treasonable association.

I spent Mon. Tues. & Wedn. in my office. On Wednesday evening I start with Judge [John] Green to Tipton to make a stump speech. Gov. [Richard] Yates of Ill. had promised to speak there on Thursday, and being likely to disappoint the people, J[ohn] W. Ray and I went to fill his place. . . . . . . . .

Thursday was a rainy day. However, there were more people to hear us than could get into the Court house. I spoke to them on secession, the war &c. better than I thought I could. J. W. Ray followed me in a very good speech. I think we satis[fied] the people. We went home the same evening. . . . . . . . .

Tues. [Oct.] 11. This is election day for all state and County officers and members of Congress. The day is clear, fine, lovely—The Sun of Austerlitz shines. The election passes peaceably. But on the Union side, it is melancholy to think how much fraudulent voting there clearly is. It is barefaced too. I abhor the doing evil that good may result. But the times are perilous; and all political parties are corrupt, rotten. Will not these men who get elected to-day by corruption and fraud, be corrupt and fraudulent in office? Cant they be bribed?22

Wed. 12. Indiana has elected her Union ticket. The Butternuts are badly defeated. Perkins is no more. Babylon is fallen.\(^2\)

To-day Judge Taney died. Long ago he disgraced himself by his mean, corrupt subserviency to General Jackson's illegal proceedings against the U. S. Bank. That subserviency made him Chief Justice of the Us. [sic] Supreme Court. There by his Dred Scott decision, he "dammed himself to everlasting fame". In the estimation of all good and wise men, shame will forever roll its burning fires over his memory; and such a consummation is justly his due.\(^3\)

Tues. 18 Went to Franklin to Court of Com. Pleas. Geo. A. Buskirk on the Bench! . . . . . . .


Thurs. 27. In Court nearly all day; but did very little.

I learn that John Carlisle, who a few days ago, in my office, charged my clients, Selden, Woodruff, & Payne with "swindling", and whom I, in reply, called a liar and ordered out of my office, threatens vengeance on me. It is bad that so old a man as I should have a quarrel of such a kind with such a fellow. But I hope to survive it. What is my duty in such a case?

Frid. 28. Yesterday and to-day, I have taken employment in two ugly cases. 4 Kentuckians who are charged with forcibly robbing a post office, a capital crime, engage me to defend them—Another rebel Kentuckian, a brother-in-law of Judge Brackenridge [sic] of St. Louis, is under arrest as a spy, employs me to defend him. This, too, is a capital crime; and both the cases are bad looking.\(^4\)

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\(^2\) The term "butternut" as used during the American Civil War referred to a soldier or partisan of the southern states—so called from the brown homespun clothes of the Confederate soldiers. McDonald uses the word in a derogatory manner to refer to all Democrats.

\(^3\) Roger B. Taney on the bench is acidly described by McDonald in his travel journal. "Diaries of Judge David McDonald," 284-86, 303.

\(^4\) Samuel Miller Breckinridge (1828-1891) had been called "judge" since serving for one term as a circuit court judge in 1859. His brother-in-law, Confederate Captain John B. Castleman, had led an expedition against United States prisons in the Northwest. Joseph A. Mudd, "The Cabell Descendants in Missouri," Missouri Historical Review, IX (January, 1915), 85, 89-90.
Sat. 29. To-day I am engaged in trying the case of Myars vs. Cones et ux. before a jury in our Common Pleas. The evidence was closed, and it is to be argued on Monday.

Sun. 30. 

This evening, Mr. Porter and I went to Camp Morton and had an interview with Castleman, the traitor, whom Judge Breckenridge, last week employed us to defend. He is a young man, and avows himself a rank rebel. He has been a Capt. in the rebel army. He is a traitor and deserves to be hung. I doubt, however, whether he is guilty of the crime with which he is charged—that of being a spy. He talks about honor. O chivalry! What I mean to get from him is money. Unless that comes freely he gets no defense from me.

Mon. 31. Argued the case of Myars v. Cone, and gained it. The rest of the day I spent in the Courts.

Tues. [Nov.] 1. To day we have three courts grinding—the Common Pleas, the State Circuit Court, and the U. S. Circuit Court. And I am nearly run to death between them. Judge Davis being sick, Judge Swayne sits in his place.

Thurs. 3 We begin to-day the trial of the important case of the Central Gravel Road Company vs. Traub—We for Traub, [Lucien] Barbor[r], [Livingston] Howland and [John S.?] Duncan for plff.

Fri. 4 Ended the evidence in the Traub case.

Sat. 5. This morning I argued the Traub case. Duncan spent the rest of the day in the most foolish of arguments. He unites eminently the blackguard and the blatherskite.

Sun. 13. On the next 30 days turns the course of life—whether I am to be District Judge or not.


Tues. 22 Judge Swayne opens our U. S. Circuit Court this morning. He held Court 2 hours, and then adjourned it over till the 20th Dec. Who will hold it then?
Wed. 23. In my office nearly all day. [Senator Thomas A.] Hendricks came there to talk about the District Judgeship. It is strange that always when I have sought office, Democrats have helped me more than my own party. I do not now know a Democrat of any consequence in the State that does not wish to see me get this office. This is not because I am inclined to their political faith, but because they believe I would treat them fairly in Court. I confess I am proud to believe that all parties agree that I would make a just, competent Judge.

Sat. 26. In my office all this day.

For 4 or 5 months past, it has been the understanding by express agreement with Judge Selden, that Mr. Porter should go to Washington next month to argue before the U. S. Supreme Court, the case of Sheets vs. Selden et al. To-day Mr. P. intimates that he will not go—it will cost him $200., he says, to clothe himself so as to go decently. I hoped he would go on my account, in regard to my application for the District Judgeship. Alf. Harrison and his myrmidons will be there, to urge Mr. Howland's wretched claims; but there is not in this world a man—not even Mr. Porter, my law-partner—who will take that trouble for me. Well, it is a consolation to think that I never knew a man less dependent on any mortal than I am for all I am or have been or hope to be. But the want of a little sympathy, a little help may loose [sic] me this judgeship. I keenly feel it.

Sun. 27. . . . . . . . . . . . . . . .

After noon I went to see T. A. Hendricks to get his opinion on the necessity of my going to Washington. He thinks I should go. I suppose I will. Yet I am much discouraged. I fear a combination of those bad men, Harrison, [Postmaster A. H.] Conner, [Governor Oliver P.] Morton, [Marshal David G.] Rose & others will defeat me.

Thurs. Dec. 1. In my office all day. Tis cloudy and gloomy—well figuring the condition of my mind.

At 8.20 P.M. I start for Washington, principally to look after the District Judgeship, and partly to argue the case of Sheets vs. Doc d. Seldon [sic] et al. in the U. S.
Sup. Court. As to the Judgeship, I will get it if political combinations do not sway Presdt. Lincoln. I am inclined to think these will sway him, and I shall fail.

God take care of my children while I am gone.

N.B. The period from Dec. 1 to Dec. 14 was passed in my journey to and from Washington and in my stay there. The incidents are recorded in my little black book which I carried with me, and are therefore not repeated here.26

Thurs. 15. This day with me begins a new era. I am never again to practice law. Warm congratulations flow in on me from all quarters. To day I took possession in the U. S[.] States Judges rooms in the P. O. building.27 Everything nice here—an Irish man to make fires—nice carpets—rich furniture—Elegant stationary [sic]—all free of expense to me—and all this for life. This is the consummation so long wished by me. It is more than I hoped. It is like some of the fond creations in the Arabian Nights’ Entertainment. So it probably was two years ago with Caleb B. Smith—So perhaps it was a year ago with Albert S. White. So it may be with me soon. Therefore I must take care not to be puffed up nor proud, nor forget that I, too, am mortal. But I must be humble and thankful, and give all the praise and the glory to the Good Being to whom I owe all things. And I must see that I perform my official duties diligently, wisely and faithfully; and that no man receive injustice at my hand. God help me thus to do!

Frid. 16. In my new office all day preparing for my work on the Bench next week.

26 In Washington before the United States Supreme Court McDonald argued William Sheets vs. The Lessee of Henry R. Selden et. al., a case involving a lease for water power. 2 Wallace 177-91 (1864). Portions of his “little black book” are published in Ketcham, “David McDonald,” 185-86, and in “Diaries of Judge David McDonald,” 303-305.

27 McDonald’s office was in the Post Office or Government Building located on the southeast corner of Pennsylvania and Market streets. The building was erected 1857-1860 and housed the post office, federal courts, and the offices of the United States collector, assessor, district attorney, marshal, and judges and clerk of the United States courts. According to a contemporary historian its cost was $165,000; its features conformed to the Grecian style of architecture; its principal materials were stone and iron; and it was fireproof. R. Holloway, Indianapolis: A Historical and Statistical Sketch of the Railroad City . . . (Indianapolis, 1870), 291.
Sat. 17. Working away in my new position all day. This evening I received my commission as U. S. Judge, and was sworn into office. So ends my old condition; so begins my new.

Tuesday 20. The U. S. Circuit Court begins here to-day. I alone presiding. Little done. At 3 o clock P.M. I charged the grand Jury.

Frid. 23. In Court to day. Two jury trials, but no verdict[.]

Tues. 27 to Sat. 31. I held Court all this time. Tried a few criminal cases—Sentenced John Tucker to the penitentiary for ten years for robbing mails, and another five years for passing counterfeit “greenbacks.”

Thus, I come to the close of the year 1864. A varied, checkered year to me. During it, I have had the extremes of distress and of joy. At first sickness, sorrow, and almost death to some of my children—then trembling anxiety about being appointed U. S. Judge—then seeing all my children in health and with a little better prospect of worldly prosperity than before—then in the last month of the year, the crowning joy of my appointment as U. S. District Judge. Thus, sorrow may continue for a night, but joy cometh in the morning. To God be all the praise!

Jan. 1865

Sun. 1. I am very happy and thankful this day. I praise God that I have lived to see it. The prospect before me is brighter than ever before. I have an honorable office for life, with a fair salary, and little to do. And I am in a condition to do better by my children than ever before. To God be all the praise!

Mon. 2. To-day the mob keep as New-years day. I was in my office in the forenoon. After noon we held Court, and put a man named Fisher on trial for counterfeiting.

28 See entries for April 22 and 28, 1865.
The old Judges of the Supreme Court went out of office on last Saturday. The new Judges asked them to adjourn the Court over till some day this week, in order that the new Court might organize and plan their business. But Perkins, Hanna & Co., true to their instincts, adjourned till Court in course—4th Monday of May—the last piece of meanness that those men, as Judges, will ever commit. Thank God the State is clear of that swarm of green flies.29

Tues. 3. I spent the whole day on the trial of Fisher and did not end it. It will take most of tomorrow.

I am daily beset with applications for the clerkships which are supposed soon to become vacant. As yet I promise nobody any thing.

Mon. 9 to Sat. 14. This has been a pleasant week.

I spent all this week in Court trying criminal causes; and I got through all pleasantly and to my own satisfaction. I am happy.

Mon. 23 to Thurs. 26. I spent these days in holding Court. Fine Winter weather still.

This week I have been alarmed to learn that a bill is pending in Congress to abolish U. S. District Courts. The effect of this, it seems, would be to put me out of an office which I was sure I held for life! I do not think the bill can pass. But it possibly may.30 It is enough to remind me, at all events, that I do not hold an absolute life estate in this office, as I had fondly supposed.

How vain are all things here below!
How false, and yet how fair!31

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29 Samuel E. Perkins, Andrew Davison, James M. Hanna, and James L. Worden were replaced by Charles A. Ray, Jehu T. Elliott, James S. Frazer, and Robert S. Gregory due to an overwhelming Republican victory throughout Indiana in October, 1864. The four Republicans all served until 1871. Perkins had been on the Indiana supreme court since 1846. Davison was elected in 1853, and Worden and Elliott were elected in 1858. Taylor, Bench and Bar, 46-49.

30 The subject of McDonald's concern is not mentioned in the Congressional Globe. A bill was introduced in February to revise the judicial system, which McDonald may have learned of in advance. Congressional Globe, 38 Cong., 2 Sess., 915; see also 815, 838.

31 From Methodist Hymn entitled “Vanity of Early Enjoyments” by Isaac Watts. The editor is grateful to his colleague, Dr. Paul Zall, for locating the source of these lines.
Fri. 27. This day our U. S. Circuit and District Courts adjourned.

Sat. 28. I am now free—nothing to do officially till May. This is a condition in which I have not found myself for many years. I thank God.

Mon. 30-Tues. 31. I have no fear now of Congress abolishing the District Courts; and I am therefore again at ease.

Wed. Feb. 1. To day I have been reading the introductory chapters to Bishop’s great work on crimes. I deem it one of the finest chapter[s] in any law book ever read by me. I like such philosophy as is found in this chapter. Law is a science, and this writer treats it in the happiest style of scientific disquisition. It is strange to find such an introduction to criminal law. How the body of the book may read, I am yet to learn.

Mon. 6 to Sat. 11. This week our Legislature has been debating the proposed amendment of the U. S. Constitution abolishing slavery. I suppose it will pass next week.

Thurs. 23. I am beset by Mr. [James?] Blake who seeks the Post Office, and by Genl. G[orge] K. Steele who wishes to be U. S. Marshal. Very bad men now hold these offices. Yet it is dangerous for me to interfere. Well I do just what I think is right, and trust in Providence to protect me.

Tues. [March] 14. It appears that when on the 4th of March Andrew Johnson was sworn in as Vice President, he was so drunk as not to know what he was about. He disgraced himself and the nation in the eyes of the world. He now swears to tetotalism [sic]. I hope he will stick to it. But ought he not to resign as the only proper atonement for so great a crime?"
Wed. 22. Windy and rainy. It appears that in [William T.] Sherman's march through South Carolina, no respect was paid to private property. Houses were burnt everywhere. Personal property was destroyed. Even the capital, Columbia, was fired by our men, and was laid in ashes. So says a Special correspondent of the Cincinnati Gazette of this day. How can we answer to the civilized world for these outrageous infractions of the laws of war? I fear it will be hereafter a great national stain.

Mon. 27. to Fri. 31. . . . . . . . .
The progress of the war is favorable in all things.
. . . . . . . . But how we can in the future be justified in destroying so much private property as Sherman's army has destroyed in Ga. & S. C. I do not understand.

Fri. [April] 7. To-day I received my first instalment [sic] of salary—$724.

Sun. 9. . . .
O how I need genial company—some sensible person to talk with—one who thinks, and thinks like me.

Mon. 10. At midnight, last night, the bells of the city were rung, canons [sic] fired, bonfires blazed, and the city was in an uproar. The rumor, undoubtedly true, is that Lee and his army have surrendered to Grant. . . .

To-day at 12.40, I start for Chicago to meet Judge Davis in consultation about the appointment of a Clerk of our Court, and about other things. My ticket to Chicago cost $7.85. . . .

Tues. 11. . . . . . . . . . . . . . . . .
I stopped at the Tremont house, and after breakfast went to the U. S. Court room where I found Judge Davis and [District] Judge [Thomas] Drummond holding Court. At their request, I took a Seat with them.

Sat. 15. This morning we are astounded with thunder. Last night about 10 o'clock the wise, the good, the just, the merciful, the generous, the patriotic Abraham Lincoln was assassinated. He died this morning at about 7 o'clock—Prodigious [sic], enormous, unutterable, unheard of crime!
Hung be the heavens in black! Yeild [sic] day to night!
Comets, importing change of times and states,
Brandish your crystal tresses in the sky;
And with them scourge the bad revolting stars,
That have consented unto Lincoln's death!

Damned—eternally damned—be the assassin! Doubly damned be the instigators to the crime. May the infernal gods sweep them all to hell in hurricanes of fire!

At the same time another assassin attempted the life of Secretary Seward, who, thank God! is not yet dead, and may survive.

At noon to-day a vast crowd assembled at the State house square. Such passion, such sorrow, such indignation, I never saw before. Hand bills were posted expressing "Death to all traitors." Every man seemed full of fury. Speeches to the crowd were made by Governor Morton and others. All over the city public and private houses were draped in mourning. Stores and shops were closed. All business was suspended. And a dreadful gloom and portentous fury marked every face. A thousand rumours were flying. Men seemed stupified with mingled surprise, sorrow, and rage. What wonder? Since Christ was crucified so diabolical an act has not been committed on earth. Since the world began, so many people simultaneously, earnestly, and deeply, never mourned over the death of one man.

If Washington was good and great, Lincoln was equally so. If Washington was inspired by a pure and lofty patriotism, he was not superior to Lincoln in noble love of country. If Washington was the father of his country, Lincoln was its savior.

My brother! my friend! my benefactor! joy follow thee to the abodes of the blessed! Heaven place thee among the benefactors of mankind—among the heroes who have preceded thee to the realms of bliss—a fit companion of Socrates and Cicero, of Romulous [sic] and Aurelius, of Alfred, and Sidney, and Raleigh, of Washington, and Hamilton, and Franklin, of Adams, and

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56 William Shakespeare, King Henry VI, Part 1, Act I, Scene 1.
Webster, and Clay!—Long as the golden harvest shall
wave on the broad plains of thy own Illinois, long as
the father of rivers shall roll his weight of waters to the
sea, long as virtue and patriotism shall dwell among men,
thy name will wake the sigh of the lovers of liberty, and
thy virtues will still keep thy memory green in their souls.

Sun. 16. . . . . . . .
At 3.30 P. M. a vast congregation assembled at
Wesley Chapel to hear addresses on the occasion of
the death of the late President Lincoln. Myself, Governor
[Joseph Albert] Wright, and John W. Ray addressed
the assembly. I satisfied myself—and I hope the crowd—
tolerably. The thing went off well.

Mon. 17. I spent this forenoon at my rooms in the U. S. Court
house; the afternoon in my garden. I set out tomato
and cabbage plants. The excitement concerning the awful
tragedy at Washington does not subside. Secretary
Seward, it seems, may survive. His son Fred, still lies
insensible with little hope of recovery. It is now certain
that [John] Wilkes Booth killed Mr. Lincoln. And it
seems probable that both the assassins have escaped into
Virginia. Many others are implicated in the diabolical
plot. There is reason to believe that the rebel leaders at
Richmond planned, or at least encouraged, the damnable
act.

Mr. Lincoln’s murder will not go unavenged. The
rebel leaders and others will suffer for it. They ought
to suffer for it. Rebels, who lay aside honorable warfare,
and take to assassination and murder, ought all to be
hanged.

Tues. 18 Mourning over the murder of Mr. Lincoln is un-
abated.

To-day I very reluctantly turned Watt J. Smith out
of the office of Clerk of U. S. District Court, and ap-
pointed John D. Howland in his place. Smith, though a

Joseph Albert Wright (1810-1867) moved to Indiana in 1820 and
as a young man became active in state politics. After serving in the
state legislature he was elected to the United States House of Repre-
sentatives in 1843, served as governor of Indiana, 1849-1857, and was
appointed United States senator in 1862 and served until 1863. Twice
Wright was appointed envoy extraordinary and minister plenipotentiary
to Prussia and was serving in this capacity at the time of his death.
Biographical Directory of the American Congress, 1852.
harmless fellow, and one that so far as I know did as well as he could, knows very little of the duties of a clerk. But I had private reasons for making the change; and so I assume the responsibility. Whatever illwill towards me which this act may produce, I must and will bear as best I can.

Wed. 19. This is the funeral of the lamented President Lincoln. It is observed in most of the States under Governors' proclamations. Here the obsequies were very solemn and imposing. At 12 o'clock there was divine service in all the churches. These were festooned in crape and arrayed in other funereal insignia. At 1.30 P. M. a procession was formed. It passed along various streets, and rested at the Governor's Circle. There it appeared to me [was] the largest assemblage I ever saw. The circle was full of people; and many, not able to get within the enclosure, occupied the adjacent streets and houses. The churches around were filled, and speakers addressed the people in the churches, and the vast multitude in and around the circle. And this is the last of Mr Lincoln! Farewell, honest, good, great man! Future generations will regard thee as not inferior to Washington. Farewell! farewell!!

Fri. 21. All day in my office. This morning I received from the Atty. Generals office a commission to Benj. F. [J.] Spooner as Marshall [sic] of the U. S. for Indiana District. This, I hope, ends the trouble with A. [Marshal David] G. Rose. It is a great relief to me and all decent men in any way connected with the U. S. Building in this city. Spooner, it is understood, will qualify and give bond tomorrow.


And to-day John D. Howland agreed with James Venable to pay him, at least, $1200. a year as his Deputy Clerk.38

37 See entry for April 22, 1865.
38 James Venable was the husband of McDonald's eldest child, Mary (b. 1830).
Mon. 24. Spent this fine day in my office. The new clerk and new Marshal entered on their duties to-day.

At night, I attended a meeting at the Court-house to consider the best mode of receiving Mr. Lincoln's remains here next Sunday. It ended in nothing sensible.

Frid. 28. Rainy. Curran to-day was appointed a deputy to the U. S. Marshal.39 Thus by God's mercy, I have lately got, not only myself a good office, but both Mr. Venable and Curran—hitherto helpless men—places where they can make livings. I do rejoice and thank God! O may the[y] succeed! . . . . . . . . .

Sat. 29. Spent the day at home. At 8 P. M. went on a special train to meet, at the State line, the funeral cortège of President Lincoln. Got to Richmond at midnight.

Sun. 30. Lay in the special train at Richmond till 4 A. M. when the train carrying the President's remains passed us going to Indianapolis. Our train followed, arriving there about 8 A. M. The crowd was immense; but the day was so rainy as to derange all plans for processions &c. I went home, and, being weary and sleepy, stirred out very little all day. Great preparation had been made here for honoring the memory of President Lincoln. Costly arches, funereal drapery, and all sorts of emblems of woe filled all the city. Almost every house was festooned in black. Such a mourning never was known here. But the incessant rains kept the people within doors mostly. The train is to leave to night at midnight for Chicago. Thence it will go direct to Springfield, Ill.; and there, on next Thursday, as is said, will be interred the mortal remains of our good and great President Lincoln. Requiescat in pace.

. . . . . . . . . . . . . . . .

Tues. [May] 2. This day Our U. S. Courts began here. Judge Davis not with us. I impannelled [sic] and charged the Grand Jury, and then adjourned over till to-morrow.

. . . . . . . . . . . . . . .

Thurs. 4 This is the day on which the mortal remains of the good, the gentle, the great Mr. Lincoln are deposited in the grave. This afternoon funeral services were

39 Curran E. McDonald (b. 1833) was a son of the judge.
celebrated to his memory in the State house. An oration by Holliday, D. D. was delivered. Prayer by Mr. [O. A.] Burgess. A poem written by Mr. Jamison was read. And most noble and appropriate vocal and instrumental music was made. And this was the last of the great and good man. Once more, farewell!

Mon. 8. This is my birth day. I am 62 years old. Thanks to God that I have lived so long! I am yet a vigorous man; though some defect in my urinary organs rather seem to indicate that my life may soon end. I held Court to-day.

Tues. 9. This morning, Judge David Davis arrived and joined me in holding Court. To day it is said that the authorities have fixed on Friday the 19th instant for hanging Bow[les], Milligan, and Horsey, the "Sons of Liberty", tried last Fall. I am sorry to hear it, not that they are not traitors, but that there is too much doubt of their having been convicted by a Court of competent jurisdiction. Judge Davis has the same fears I have on this topic. We will try to induce the President to delay the execution till the Supreme Court shall pass on the question. But our attempt will probably be unavailing, and perhaps be much blamed. 40

Wed. 10 We held Court all day. 'Tis rainy and cold to-day.

Thurs. 11. We held court all day to-day. The application of Dr. Bowles was made for a writ of habeas corpus to be delivered from military custody under sentence of death. On a certificate of division of opinion [it] was sent to the Supreme Court of the United States. And Judge Davis and I united in a strong letter to the President

40 Dr. William A. Bowles, Lambdin P. Milligan, and Stephen Horsey, prominent leaders in the Indiana Sons of Liberty, were tried for treason by a military court in October, 1864, and were sentenced to be hanged. Davis and McDonald recognized that it would be fruitless to issue a writ of habeas corpus, for the military authorities would ignore it. Thus they agreed to differ in their view of the case so the questions troubling them could be sent immediately to the Supreme Court. They asked if a writ should be issued, if those convicted should be discharged, and if military commissions have jurisdiction when civil courts are sitting. Meanwhile they requested a reprieve from President Johnson until the higher court could respond to these questions. When Johnson refused, they urged Governor Morton, who had originally favored bypassing the civil courts, to persuade the President. Bowles and Horsey were pardoned by Johnson in 1866, the same year that Justice Davis wrote the majority opinion in Ex parte Milligan. King, Lincoln's Manager, 250-51; Stampp, Indiana Politics, 249-64.
praying him to delay the execution till the Supreme Court should decide the case. I hope he may do it. We are aware that this course may bring on us much popular abuse. But so well persuaded are we that the execution of Bowles, Milligan, and Horsey would be impolitic if not illegal, that we cheerfully take the risk of the popular clamor.

Frid. 12. Busy all day in Court. It seems that the Government has determined to try all the conspirators, who murdered Mr. Lincoln and attempted to assassinate Mr. Seward, by a court martial, and secretly. What folly and madness! What unpardonable disregard of the Constitution! These men all deserve death; but why not put them to death according to law?

Sat. 13. Spent the day in Court. The rage for blood, now that the war is over, increases.

Sun. 14. It is appointed that next Friday Bowles, Milligan, and Horsey are to be hanged. The mob about town are greatly exercised lest, Judge Davis and I release them. They seem to be ignorant that they are not in our power—that we neither can release them, nor would do so if we could. And yet there is danger of a mob disturbing us on this stupid notion that has seized the public mind. The truth, I learn, is that Gov. Morton has become alarmed, justly fears the consequence of the execution of these bad men, and last night telegraphed President Johnson earnestly begging a delay of the execution. The President I suppose, will grant the request. Then the mob will be furious, and will probably blame me and Davis for what Morton will have effected. Such is the blindness of infuriated men.

Tues. 16. Still holding Court. Trouble seems to be brewing in regard to the military trials going on at Washington against the conspirators to murder Mr. Lincoln and his cabinet. The newspapers are getting strong in opposition. All the political papers of N. Y., except the Times, are outspoken against it. So are the Gazette and Commercial of Cincinnati. Where this will end, who knows? These are perilous times for politicians. Even Judges should be careful how [they] think, and how they speak.
Wed. 17. In Court. A very warm day. A thunder storm at night.

President Johnson has commuted the punishment of Horsey from death to imprisonment for life. He reprieves Bowles & Milligan till June 2.

Judge Davis, to-day, told me a curious judicial story. It was thus: One of the Supreme Judges on the Bench at the time, told Judge Davis that when the Dred Scott case was tried in the U. S. Supreme Court, those Judges who favored the political doctrine of that case, proposed to discuss only the question of jurisdiction, and let the case go off on that point alone. But Judge [John] Mclean [sic], who was a vain, pompous man, insisted on entering on the whole question of slavery. Then said Taney, “if you will do that, I will do so too.” The consequence was the most ingenious piece of legal sophistry by Taney ever written, a most weak answer to it by McLean, and one of the most damnable and injurious decisions ever made by a Court.41

Thurs. 18. This day I spent in Court. At night, Judge Davis, A. G. Porter, J. E. McDonald, and his wife took tea with us.

Frid. 19. In Court this morning, Judge [James] Morrison, chairman of a committee appointed some days ago, reported resolutions concerning the death of Mr. Lincoln. These were supported in addresses by T. Hendricks, Judge [Jeremiah] Sullivan, J. E. McDonald, J[ohn] S. Ketcham, A. G. Porter, W. P. Fishback. Judge Davis responded in a very appropriate address; and the Court adjourned.

Tues. 23. To-day we empanelled [sic] a jury to try Scott, charged with being one of the conspirators, who, in opposing the draft last year, murdered Capt. McCarty in Daviess County.42

41 See entry for May 25, 1865.
42 Captain Eli McCarty was murdered by Sons of Liberty while serving conscription notices in October, 1864. Report of the Adjutant General, I, 288.
Wed. 24. This morning, Scott made an affidavit to continue his cause for absent witnesses. We laid the case over till Friday and sent attachments for his witnesses. In the mean time, Mcavoy, another of the conspirators charged with the murder of McCarty, appeared in open Court, and pleaded guilty!

Thurs. 25. ..............

The anecdote about the Dred Scott decision written ante, p. 87, seems to be contradicted by [George] Bancroft in [an] article in the June (1865) No of the Atlantic Monthly, p. 761.43

Fri. 26. Spent this day in Court. Nothing important doing.

Sat. 27. This morning we entered on the trial of George Y. Scott for the murder in Daviess County of Capt McCarty on the 3rd of last October. We passed through only a part of the evidence for the U. S. to-day. But what we heard makes a case of awful murder, and proves Scott guilty beyond question. The trial was adjourned till Monday.

Sun. 28. ..............

At 3 P. M. Judge Davis and I went to Judge [Jeremiah] Morrison's where we took tea, and staid [sic] till after sunset. We had a big and long talk. After it was over, I was struck with the fact that it consisted wholly of the historic—anecdotes of the Past—each of us "shouldered his crutch, and showed how fields were won." Sad proof that we are all growing ancient—within the realm of "narrative old age." 44

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43 Though Davis doubtless erred in the implication of a verbal encounter (see entry for May 17), he is correct in his assertion that northerners McLean and Benjamin Curtis forced the hands of Taney and his southern colleagues. Carl Brent Swisher, Roger B. Taney (New York, 1955), 497-99. In "The Place of Abraham Lincoln in History," Atlantic Monthly, XV (June, 1865), 761-62, George Bancroft does not refute Davis' account, but merely emphasizes the importance of simultaneous political pressures in persuading the justices to speak out upon an issue which the political branches of government seemed incompetent to solve. McDonald referred to page 87 in his original journal. The entry will be found on page 205 in this reproduction.

44 These favorite phrases of McDonald, which he used frequently together, were borrowed from Oliver Goldsmith's Deserted Village and Homer's Illiad.
Mon. 29. Spent the whole day on the trial of Scott. The U. S. evidence was closed this evening. A case was made than which a stronger could hardly be imagined. It is doubtful whether any evidence or argument will be offered in defense.

At night Judges Davis & Morrison took tea with me.

Tues. 30. To-day the Jury found Scott guilty of murder.

Wed. 31. We entered on the trial of Geo. W. Hedrick. The case does not look so strong as that against Scott.

The President has commuted the punishment of Bowles & Milligan to the penitentiary for life.

Sat. [June] 3. This day, the jury found Hedrick guilty of murder. This is three persons already found guilty of the murder of Captain Eli McCarty. Several others are yet to be tried.

Mon. 5 to Sat. 11 This solid week I spent in Court. On Monday, Whitesides & Scales were put on trial for the murder of McCarty. The jury found them guilty on Tuesday. Five of these murderers now stand convicted in our Court. If it were left to me, I would, at once, pronounce sentence of death on them all. There is, however, one legal point on which possibly some doubt may exist. And Judge Davis is not willing to pronounce the sentence till he can get the opinion of all the Supreme Judges on that point. On this account alone, sentence will be delayed till November.45

Judge Davis left us on Tuesday evening; and during the residue of the week, I held court alone.

Mon. 12. A warm day. I was in Court. But nothing done, except that an abandoned young man, who it seems has been cohabiting with a negress, pleaded guilty to an indictment for passing a forged $50. "greenback." I deferred his sentence till tomorrow.

45 Davis asked the Supreme Court if notifying drafted men to appear was a service relating to enrollment, for interfering with the draft could bring the death penalty. The Supreme Court ordered the release of the prisoners. Davis was a lifelong foe of capital punishment. King, Lincoln's Manager, 251n; U.S. vs. Scott, 3 Wallace 642 (1866).
Sat. 17. Closed Court to-day. Now I am foot loose till November—the longest time of leisure I have had since 1830. Should I live through it may I spend it well. Should I die before it ends, may I go to a better country!

Mon. [July] 3. Spent this day in my law chambers marking and numbering my law books.

Fri. 7. I had contemplated starting to morrow to the Judicial Convocation at Niagara Falls. But quarter's salary has not yet arrived; and cant go without it. So I am in—abeyance.

Sat. 8. . . . . . . . . . . . . . . . . . .

Lincoln's murder[e]rs were hanged yesterday under the sentence of the Military commission. That they deserved death, I do not question. But that they were put to death legally, I much doubt. The precedent I consider most dangerous; the effect on future politics, I fear will be most disastrous.

Tues. 11. On my way to Niagara Falls, I found myself in the morning at Crestline [Ohio]. Here I took breakfast, and then pursued my way to Cleaveland where I arrived about 10 A. M. Here I waited till 4 P. M. for a boat. At that hour I went on board of the fine Propeller Arctics bound for Buffalo N. Y., a distance of about 190 miles. On this boat, I found Judges Wilson McCandless & son & daughter, and Judge H. H. Leavitt & Lady—all bound for The Falls. The evening was fine, and we had a delightful sail, Nor did our voyage end till the next day. In a fine state room, I might have slept well; but the occasion was new and exciting, and sleep fled away on the waters of lake Erie.

Wed. 12. [Niagara Falls, N. Y.] A little after sunrise, we began to descry the shore at Buffalo where we landed about 7 A. M. Here Judge Willson and Lady of Cleveland, and Judge Hall & Lady of Buffalo joined our party; and about 9 A. M. we all took the cars for the Falls, distant about 16 miles. It was a pleasant half hours' run nearly all the way down the shore of Niagara. We all stopped at the Cataract House—a magnificent hotel on the river above the great Falls.

This day and the following, I went round and saw all the rare sights—goat Island, the suspension bridge,
the sublime Falls, every thing. But why attempt a
description of what thousands have attempted, and what
after all is indescribable. To have an adequate notion of
these wonders, one must see them.

To-day our Judicial Convocation assembled in the
ball room of the Cataract house. Only 11 Judges were
present. The consulta[t]ion chiefly concerned salaries,
and the creation of an intermediate Court of errors, so
as to relieve the Supreme Judges of some of their labors.
We agreed on a plan to be placed in the hands of our
friends in Congress. Our Session lasted only two days.
On Thursday night it ended.

Now let us take a look at 10 of these Judges:

1. H. H. Leavitt of Cincinnati. He must be over
70 years of age. He looks feeble; and he is evidently
on his last legs. I think he never was a great lawyer.
As he now is I see nothing in him but a good man
with a fair share of common sense, common honesty,
and common law—all mingled together. His excellent
lady looks nearly as old as the judge. They seem an
affectionate old couple, who having “climb the hill
theither”, are now going quietly down on the other
side of it, to repose in the valley.

2. Judge Willson, of Cleveland. He is a large, tall
man, reasonably corpulent, has a red face, and somewhat
commanding appearance. He must, I think, be largely
over sixty. He looks like an upright judge; and I esteem
him a good, pleasant man; but I fail to discover in him
any thing remarkable either in intellect, law, or literature.
He evidently feels his consequence, and seems fond of
letting folks know that he is rich. His wife is a nice

46 Humphrey Howe Leavitt (1796-1873) served as United States
district judge for Ohio from 1837 to 1871. He had resigned from the
United States House of Representatives during his third term to accept
the judicial appointment. He had earlier been in both houses of the
state legislature. Biographical Directory of the American Congress,
1203.

47 Hiram V. Willson (1808-1866) had come to Ohio from New York
in 1833. In 1854 he was selected by the Cleveland bar to go to Wash-
ington, D.C., to appeal to have the state split into two judicial districts.
The next year he was appointed by President Pierce as the first judge
of the United States Court for the Northern District of Ohio, a
position which he held until his death. The Biographical Encyclopaedia
of Ohio of the Nineteenth Century (Cincinnati and Philadelphia, 1876),
364-65.
little lady of good sense; and his daughter, Mrs. McDowell, a lady of some 25 years, is a pleasing, intel[ligent]
woman, but not brilliant.

3 Judge Wilson McCandless of Pittsburgh. He is rather a burley [sic] looking old gentleman, about 5 ft. 10
inches high, heavy set, fat, white whiskers, prominent nose, a face not intellectual, nor yet sensual. I would
guess that he is a kind, clever old Pennsylvania farmer with few vices, few distinguishing virtues, little learning,
no literature. Plainly he is neither a scholar nor a lawyer, though I deem him a gentleman.48 His daughter is a
pleasant girl of some 20 years; his son an ugly boy of 22.

4. Judge Smally of Vermont. He is about 60 years of age, and is about fat enough—say 5 ft. 8 inches high,
has a sort of pug nose. I take him for a shallow, weak, wordy, blathering, hectoring man. I am certain there is
nothing in him “worth recording.”49

5. Judge Hall of Buffalo, N. Y. About 50 yrs. old—some 5 ft. 10 inches high—just fat enough—gray head—very fine looking—a face that shows determi-
nation and resolution. He is polite, affable, courteous, well mannered. I should say a man of much force of
character. I would like him, were he not a democrat. I think Buchanan appointed him.50
His wife I like much. She is an elegant lady—alto-
gether the first woman of our company.

6. Judge Trigg of Tenn. He is about 47 years old—
tall and slender—dark complexion—heavy, long black
beard—a man of few words—and seems a modest, sensible

48 Wilson McCandless (1810-1882) was district judge for western Pennsylvania from 1859 to 1876. He was active in Democratic party
affairs but was never a candidate for office. J. W. F. White, “The Judiciary of Allegheny County,” Pennsylvania Magazine of History and
Biography, VII (1880), 187-88.

49 David Allen Smalley of Burlington was district judge for
Vermont from 1857 to 1877. Abby Maria Hemenway (ed.), The
Vermont Historical Gazetteer (Burlington, Montpelier, Claremont, 1867-
1891), I, 472; III, 476, 1112, 1117-18; IV, 1200.

50 Nathan Kelsey Hall (1810-1874) was in the United States
House of Representatives and was postmaster general under Fillmore
prior to his service as district judge, 1852-1874. He was appointed by
the Whig Fillmore. Biographical Directory of the American Congress,
991-92.
gentleman. I had no opportunity to form a judgment either as to his law or literature. On the whole, I like the man.51

7. Judge Field of New Jersey. He is probably about 50 years old. He has a very singular appearance—is tall, slim—rawboned—has a long bony face and prominent features—he wears mustaches—looks wild and impudent—has, perhaps, genius—don't look like a student—seems eccentric. I can hardly form a notion of his talents and learning.52

8. Judge Bland Ballard of Ky. He is 45 years old—is tall, slender—of delicate frame—has a small well formed head—is somewhat bald—what hair he has is black. He is evidently a student and I should think, a learned lawyer, and an able judge. He is rather taciturn—and clearly he is not a brilliant man.53

9. Judge S. S. Withey of Michigan. He is probably about 40 years old. He is tall and well looking, though a cripple—defective in his left leg. I take him for a good, sensible man.54

10. Judge Bendict [sic] of the Eastern District of N. Y. He is the youngest man among us, about 37 years old I would suppose. He is a stout, well formed man—has a large good shaped head and face, and rather a severe countenance, indicative of study. His complexion is sandy; and he wears the execrable mustache. He is

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52 Richard Stockton Field (1803-1870) had been attorney general of New Jersey, 1838-1841, professor of the Princeton Law School from 1847, and United States senator for the two months prior to his appointment to the district court in January, 1863. He served until his death. *Biographical Directory of the American Congress*, 886.

53 Bland Ballard (1819-1879) was appointed in 1861 by Lincoln and served until his death. He was a Unionist and opposed to slavery. He heard a number of important treason trials resulting from Kentucky's peculiar position between the two warring sections. H. Levin (ed.), *The Lawyers and Lawmakers of Kentucky* (Chicago, 1897), 145, 158-69.

54 Solomon L. Withey (1820-1886) had served in the state senate prior to his appointment as United States Judge for the Western District of Michigan in 1863. He remained on the bench until his death. *Early History of Michigan with Biographies . . .* (Lansing, 1888), 709-10.
evidently a man of ability and legal learning—especially in admiralty law. I suspect he is not a very amiable gentleman.55

Thurs. 13. Our Judicial confabulation continues to-day, and ended at night. The subjects of discussion were the raising of salaries—in which we all agreed—and the creation of a court of errors intermediate between the Circuit and Supreme Court. We agreed, too, on a plan for this, and unanimously voted ourselves judges of the aforesaid courts of errors.

Tuesday 25. [Indianapolis] A heavy rain. To night, the Military gave Genl. Sherman a great reception in “Military Hall”. Some 200 to 300 people present. A great supper, and good wine. I had to respond to the first toast. Sherman made a magnificent speech. His political doctrine had the true ring. The other speeches were generally good.

Tues. [Aug.] 1. I hold Court to-day to hear an important chancery case. [Timothy D.] Lincoln of Cincinnati and Siddell of Richmond, appeared for the complainant, and J. E. McDonald and Walker of Chicago for the defendant. The case was discussed all day, and will be discussed to morrow.

Weed. [sic] 2. The lawyers, in the chancery argument commenced yesterday, followed it up all this day. The case involves over $500,000 [sic]; and it was very well argued.

Thurs. 3. I spent this day in my chambers investigating the case argued before me on Tuesday & Wednesday.

Tues. 8. I spent this day in my study. It passed pleasantly.

How sweet it is to be furnished with a good room, with no one to molest me, plenty of books, exuberent [sic] health, and a quiet conscience! I thank God for such a blessing.

Wed. 9. To-day, I held Court for the settlement of a large chancery case.

Mon. 21. ..............

I hear a rumor to-day that President Johnson gets drunk—drunk twice he is said lately to have been in cabinet meetings. I pray it may turn out untrue. If true, what is to become of the country in these perilous times? The Deity pity us!

Tues. 22. ..............

Court was adjourned to-day, and I decided the application for a temporary injunction and receiver in the case of Pullen v. Chicago & Cin. Air-line R. R. Co. et al.

Fri. [Sept.] 15. .............. I am reading the argument of [John A.] Bingham against Lincolns murderers. I think Jeff. Davis was in that hellish plot.

Tues. 19. ..............

We—i. e., I, A. G. Porter, and Chas. A. Ray—have agreed to hold a Law School in the N. W. Christian U. [now Butler University] next Winter. So I must go to work preparing. No more leisure [sic] now till the first of April. I take this labor, not because I love it; but to do all I can to pay my debts, and to do the best I can for my children. Emphatically I attempt it in the name of God.

Wed. 20 Revising lectures for the Law School till after 3 P. M.

Tues. 26. ..............

General [U. S.] Grant was here to-day. I dined with him at the Bates House. He is a stout built well looking man—rather below medium height—a good, but not very expressive face, nothing very remarkable about it—a very well shaped forehead not very high—complexion slightly sandy—wears his beard evenly trimmed about an inch long—modest and coy as a maid—very taciturn so far as I could judge. I do not know how he talks, as I had no chance to hear him talk. Gov. Morton, in a speech, introduced him to the vast crowd at the State house. He bowed, thanked the people, and said he never made speeches.
Thursday [Oct.] 5. A sad case to-day of a soldier boy in jail for stealing out of the P. O. It appears to me that I ought to save this poor boy, if I can consistently with official duty.

Tues. [Nov.] 7. Our Federal Courts begin to-day. Judge Davis is with us. I charged the grand Jury. We heard motions, and adjourned.

Fri. 10. I fasted to-day. In Court. At night at a party at Roaches. The four Supreme Judges, Judge Davis, Judge [Jeremiah] Smith, and a few lawyers composed the company.

Sat. 11. In Court. Judge Davis trying my clients, Williams, Jackson, et al. guerrillas, for robbing a post Office. I do not sit in the case.

Sun. 12. When preaching was over I went with Judge Davis to Judge Morrison's where we dined and spent the evening. Col. [Clement B.] Simonson was of our party—all four old men. The conversation was almost entirely of past incidents—historic—it reminded me of Goldsmith's old soldier, who "shouldered his crutch, and showed how fields were won."—It brought strongly to my thoughts, the phrase of another poet—"Narrative old age."

Tues. 14. At work in Court to-day. At night at a dinner at Senator Hendricks'. This affair was after the fashion of Washington City—divers courses, &c. &c.

Wed. 15. Working in Court again to-day. But nothing on hand of great consequence.

I trust that these times I am living free from wilful sin. Though my official duties have induced me to omit attending the daily prayer meeting, which, I believe are still in progress.

Frid. 17. In Court all day. I fasted till sundown; and felt well.

Judge Davis leaves us to-night. I have a long docket to close up, which I must do by myself.
Sat. 18. I held court in the forenoon.

This morning Gov. Morton is on his way to Europe via Washington & N. Y. His failing health makes it highly probable that we shall see him no more. He is a strange mixture of great qualities and vicious habits.

Mon. 27. In Court to-day. Afternoon began the trial of Arnold for counterfeiting. Finished the evidence, and deferred the argument till tomorrow.

Tues. 28. Hard at work in Court all day, and till 10 P. M.

Sat. [Dec.] 2. In Court to-day till noon. With the last few days I have sentenced numerous malefactors to the penitentiary [sic]. It is a sad thing. O the folly of sinners! O the deceitfulness of sin!

Mon. 4. This is the day on which our Law School was to begin. Only three students appeared! The thing is a failure.

I had no Court to-day.

Frid. 8. I have organized a private law class, and am now teaching it daily.

I held Court this afternoon, and tried and decided an action of ejectment.

Sun. 10.

At night, I called on Gov. Dunning & his new wife. She seems much his junior, I hope neither of them will find out that they have done a foolish thing.

Mon. 11. I am now fairly embarked in a private Law School. The number of students attending were too few to make it a department in the N. W. Christian University, we

56 Governor Morton lived until 1877, outliving McDonald by eight years. In fact, Morton, a United States senator in 1869, chaired the meeting of the Indianapolis bar which was called to commemorate McDonald's death.

57 Paris Chipman Dunning (1806-1884), doctor, teacher, and lawyer, served six consecutive terms in the Indiana general assembly, beginning in 1833. He was elected lieutenant governor in 1848 and became governor when James A. Whitcomb was elected to the United States Senate. Again in the state senate in 1865, Dunning was chosen president pro tempore of that body when Lieutenant Governor Morton succeeded Henry S. Lane. Dunning's first wife died in 1863, and in 1866 he married Mrs. Allen D. Ashford. National Cyclopedia of American Biography, XIII, 269.
abandoned that Idea [sic], and I have turned them into a private class, and teach them two hours a day in my law Chambers at $40 per session of 4 months.

Sat. 16. I am now daily for 2 hours engaged in instructing a law class of 7 very promising young men.

Mon. 18. I am again reading Cicero De Officiis. The more I read that wonderful man, the more I admire him.

Tues. 19. Engaged to-day as usual. I read to-night a sermon in the Independent by H. W. Beecher on the text “When he came to himself.”

Mon. 25. Christmas Day. I spent it thus: After Breakfast, I went to my rooms and got the depositions in the case of the collision of the steam boats Morning Star & Crescent City near Evansville—read and annotated 182 pages of them, which kept me till about 8 P. M., except that I spent about 2 hours discussing a very good dinner at Doctor Clippingers.

Sun. 31. The year ends to night. The flight of Time! Solemn thought! Heavenly Father! I thank thee for the mercies of A. D. 1865, bestowed on me and mine. I believe I have, by thy grace, spent it better than any year in the last 50.

January, 1866

Mon. 8. Tues. 9. Wed. 10. I spent these 3 days in the usual round of daily business without any thing occurring of unusual importance. On the 10th I received my quarter’s salary—or the 9th—$601.25.

Thurs. 11 This day passed without any thing to record. I am now daily engaged with my law school of ten young men.

Tues. [Feb.] 20. It is turning warm. I employ myself these
days with my 13 law-students. It keeps me just about
enough employed to render it pleasant.

Th. 22. All hail to Washington’s birth day. The Union party
had a State con-vention [sic] here to-day. I did not
attend it.

Sat. 24. A windy disagreeable day. To-day I paid my taxes,
State, County, & city—$235. Besides this I pay national
tax about $100.—Say in all 334 per annum. A pretty
heavy tax for so poor a man as I am.

Sat. [March] 10 There is much sameness in my days this
season. In the morning I am with my law students.
Afternoon, I prepare for the next days duties with them;
and so I go from day to day and from week to week.

Sat. 31. To-day my Law-School ends. It is a grateful relief
to me. For 4 months, I have attended to it every day
except Sundays. I have not missed a minute from it that
I remember. Every morning I have been in the room
before the hour. Every student has behaved well. Not
the slightest irritation has occurred between them or
between me and them that I am aware of.

Fri. [April] 6. I attended morning prayer meeting, and
spent the rest of the day in my study. This day I
received my Q[u]arter’s salary $601.25. They now keep
back $23.75 every quarter as tax on my
income.69

Tues. [May] 1. To-day I begin U. S. Courts. I empannelled
and charged the grand jury, and did little else.

Wed. 2. In Court. Judge Davis joined us after noon. Little
was done.

69 Chief Justice Taney had protested the taxes as an unconstitutional
lowering of judges’ salaries, but he was ignored by Treasury Secretary
Salmon P. Chase. Finally, in 1872, the secretary of treasury concluded
that the tax was illegal for the federal judges; and they were re-
imbursed.
Tues. 8. Judge Davis is trying the case of the U. S. vs Traub, in which I was counsel, and therefore I do not sit. So, I am unemployed to-day.

To-day I am 63 years old. God be praised that I have lived so long. O that the residue of my life may be spent in his fear and favor. O that, for the sake of my children, my health and life may be preserved a little longer.

Wed. 9. Th. 10. The trial of the Traub case still goes on and so I am unemployed these days.

Fri. 11. In Court most of the day. At night Judge Davis supped with us.

Frid. [18.] Judge Davis left us to night for home. A fine Summer like day. But this awful aching in my flesh & bones is still on me, and I grow more and more alarmed about it.

Th. 24 All day in Court trying Thos. Ira Johnson for forging "Green backs". He was found guilty.

Frid 25 Sat. 26 I spent these days trying the curious case of Roberts v. Fulsom—the former a Tennessee rebel; the latter a Yankee rogue. I gave judgt. for the rebel for over $7000.

Friday. [June] 1. Sat. 2. I spent these days in Court. Trying criminal cases—mostly about passing Counterfeit money—sending wretches to penitentiary nearly every day.

Mon. 4 Tues. 5 Wed. 6 Th. 7. I spent these days in Court, trying important caseses [sic]. The 6th & 7th were spent in hearing Jo. E. McDonald, Col. [Henry L.] Burnett, & Judge Bartlet for the plff. and Geo. E. Pugh, and Col. [John A.] Hendricks for the defts. in an injunction case against the Ind. & Cin. R. R. Co.

Mon. 11 to Sat. 16. This has been to me a solid week of work in the U. S. Circuit Court. I have tried numbers of cases, and sentenced several men to the penitentiary.

Wed. 20. My court is about over; and I am about done over.
Wed. [July] 4. "The glorious fourth." There was a great soldier's gathering here to-day, and the usual processions and display. I was too unwell to take any part in it.

Th. 5. I finally adjourned my courts to-day. It is very warm, and I am very poorly. So I lurked about my house nearly all day.

Mon. 9. I am now positively doing nothing. No official business to do, and too unwell to enter upon unofficial business. Am I any better off than when I practised law, and was run to death all the time?

"Man never is, but always to be blessed." 60

Through this life he pursues it in vain—Hope it will not be so in the next.

Th. 19. Spent the day in my study revising my law lectures. I have concluded to teach law school again next Winter. I fear my health will hardly support the labor. But "famine drives the wolf from the wood." So I must prowl.

Sat. 21. Things politically look bad. [James] Speed the atty general, and Harlin [James Harlan] the Secretary of the Interior have resigned on account of the policy of President Johnson. The President, it is now clear, turns traitor to those who elected him, and goes over to the Democrats. I suppose he is still a Union man. But he retains his ancient demagoguery. But he designs, I think to resuscitate the old, rotten Democratic Party, and turn his back on all others.

Wed. [Aug.] 1. Congress adjourned last Saturday. They raised their salaries to $5000 per annum, but did nothing for the Judges. 61

60 Alexander Pope, Essay on Man, Ep. I, 1, 95. The entire quotation reads:

Hope springs eternal in the human breast;
Man never is, but always to be blest.

61 Congressional Globe, 39 Cong., 1 Sess., 412.
Human depravity has ever been an enigma. Perhaps God gives bodies to us like rough unwrought material to an artist. Perhaps He intends that we shall work on them, as the sculptor on the marble, till we bring them to form and comeliness. Perhaps it is our own fault, if we never bring them to the perfection of which the rude material is capable.

In the afternoon, a Mr. a Russian attaché of the Russian Embassy, called on me. He is travelling to acquaint himself with the legal institutions of this country. He took tea with me; and I found him an intelligent [sic] man. I like him well. He has studied law, and speaks English very intelligibly.82

It is reported to-day that President Johnson has removed from the Collectorship of Internal Revenue here, that faithful and competent officer, Dr. Wright, and put in his place Austin Brown! So the guillotine begins to work.63

A fine cool day. In my study nearly all day. A feeling of dread of our national commotions is spreading. What next?

In my study nearly all day. Judge Perkins and I have resolved on establishing here an independent Law School. I do solely [so] pecuniarily to keep my head above the waves. . . . . . . . . .

McDonald does not give the name of the Russian attaché, perhaps because he could not spell his name. No mention of such a visit has been found in the newspapers of the day or in early histories of Marion County and Indianapolis.

Mon. 13 Tues. 14 Wed. 15 Th. 16. . . . . . .

On Tuesday President Johnson's convention met at Philadelphia, composed almost wholly of Copperheads and traitors. God save the country.

. . . . . . . . . . . . . . . . . . . . . . . . .

During these days, Judge Perkins and I got up a Corporation for a Law College in Indianapolis. The concern was organized, and he & I are the professors.

. . . . . . . . . . . . . . . . . . . . . . . . .

Fr. 17 Sat. 18 These days I spent in my study revising my law lectures. It is a tedious work; and unless my health get[s] better, I fear that with all my work, I shall never again deliver them.

Mon. 20. . . . . . . . . . . . . . . . . . . .

It seems now plain that President Johnson means to displace the men who voted for him and who brought the rebellion to grief, and to put his tools in their offices. Our revenue officers and P. M. are sure to go; and perhaps our U. S. Marshal & District Atty. There is no instance of such perfidy since Judas hung himself. Shame and infamy will eternally roll their burning fires over the memory of Andrew Johnson. So mote it be!

Mon. 27.

While at Hume's I read a volume pourtraying [sic] army life and prison life during the great rebellion, by one of the Tribune's army correspondents, whose name I forget. He was long a prisoner with the rebels. The horrors he relates are heart rending. I think we have no instance in modern times of such barbarity on so large a scale towards prisoners. O the hell hounds, the demons! And these are the men whom that prince of demagogues, Andrew Johnson wishes to take under his special protection, and to make rulers of the U. S.!!! This is as much worse than ordinary treason, as South Carolina and Arkansas are worse than hell. And to do this, the false devil is endangering the very existence of our national government. Under such circumstances, what is before us, who can tell?

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64 David Hume McDonald (b. 1832) was the judge's son.
Wed. [Sept.] 5. . . . . . . . . . . .
Andrew Johnson is making his tour of the States. He avoids New England, and is now in Ill. He makes a fool of himself wherever he goes—quarrels with rowdies—egotizes—exhibits his malice and ignorance.

Mon. 10. In my study to-day. At night President Johnson arrived here. Grant, [David G.] Farragut, Seward, [Gen. Lovell H.] Rousseau & others were with him. A mob disgraced the city, broke up the gathering, destroyed the life of one man and wounded several others.

Sat. [Oct.] 6. I spent this day doing little. I received my quarter's salary, $601.25.

Mon. 8. . . . . . . . .
Governor Brownlow is in the city sick. And General Butler spoke at Masonic Hall at night. 65

Tues. 9. This is election day. Pa. O. & Ind. elect members of Cong. to day. Great excitement. Will the wretched policy of our drunken President be sustained? That's the question.

Wed. 10. Well the political dust has cleared away a little, and we begin to see the result of yesterday's election. Pa. O. & Ind. have declared emphatically against the President and the Democracy. I hope that this result saves the Union.

Mon. 15. To-day our Law-school begins with a fair prospect of a good attendance. But alas! I am sick. Can I live through 4½ months of hard work?

Wed. 17. Th. 18. I spent these two fine autumnal days. [sic] in my horse mill round in our Law School. This school promises well. We have now about 30 students, with the expectation of more. If only my health will hold out how glad I will be.

65 Tennessee Governor William G. Brownlow (1806-1877) and Major General Benjamin P. Butler (1818-1893) were part of the large contingent of Republican leaders trailing President Johnson on his electioneering circuit.
Mon. 22 to Sat. 27. Spent this solid week in my Law School, nothing happening worth recording.

Thurs. [Nov.] 1 to Sat. 3. My law school is now engrossing my attention. I am not [well]; but I am not worked hard.

Tues. 6. . . . . . . .

The Fall term of my Court begins to day. I went into Court at 2 P. M. and impannelled the Grand Jury. But was so sick, I had to go home. It was an awful day of sickness.

Wed. 7. Suffered all day from nausea and dizziness. Could not hold court, nor hear my law class. Lay on my back nearly all day.

Th. 8. I hope I am getting well. I sat in court a few hours, and lectured the Law Students, of whom we have now 28[.]

Fr. 9 to Sat. 10. Spent these days in Court and in Law-School doing as well as I could, but very unfit for either.

Sun. 11. . . . . . . . . . . . . . . . . . . .

To day Judge Willson of the U. S. Circuit & District Courts at Cleveland, died. I saw him last year. He was then a fine looking healthful man of about 60 years.

Mon. 12 to Sat. 17 This has been a hard week to me. I have held Court and taught Law School every day, and been every day too sick to do either. The time passes h[evily, gloomily.

Sun. 18. Sick. Kept my couch all day. Pains in my ankles and legs. Dizzy head. Nausea. How is this to end? The prospect is very sad. If I must adjourn my Court and give up my Law School, what shall I do? It would seem like “the last of earth.”

Mon. 19 to Sat. 24. A severe week to me. Sick, sick.

I attempted on Monday & Tuesday to hold court and attend to my Law School, but could do neither. I lay on my back nearly all the week. . . . . . . . . . Things seem very uncertain with me now. I commit soul and body to the author of my being.
Mon. [Dec.] 3. . . . . . . . . . . . . . . . .
In the afternoon, I attended our Law School, and lectured the students, and went home through the rain feeling almost well.

Fr. 7 Sat. 8. These days I spent in my usual way. Too sick to run about much, I lie on my back at home till after 12 o'clock. Then I walk to my rooms at the P. O. Building, hear my law students an hour or so, then walk home and lie on my back till bed time.

Mon. 10 Tues. 11 Wed. 12 Th. 13 Fr. 14 Sat. 15 It was cold all this week. And during it, I was engaged as usual in my law school, and lying at home on my couch somewhat sick, but seeming to grow a little better.

Tues. 18 to Sat. 22. These days were characterized by nothing remarkable as to me. I spent the most part of each home on my couch, but every afternoon, and twice after night, either lecturing my law students or hearing them recite.

Wed. 26 to Sat. 29. I have been holding Court these days; but not trying any important cases. It is a very cold spell of Weather.

Mon. 31. Held Court all this day.
And here the year closes! I record the fact that, for the mercies of the Deity to me and mine in things both temporal and spiritual, I have great occasion for thankfulness. To him be all the glory! Amen!

January, 1867.

Tues. 1. . . . . . . . . . . . . . . . .
And now as I begin another year, which may last longer than my mortal life, I humbly would pray the Great Author of my being to help me to spend so much of this year as I may live to see under his gracious guidance and protection and above all things that I be preserved from the slavery of sin. Amen! Amen!
Wed. 2. At my Law School at 8 Am. [sic] And held Court from 10 A. M. to 4 P. M. 

Fr. 4 Sat. 5. Engaged daily in Court and in my Law School. Every thing seems to be going right again, thanks to God!

Tues. 8 Wed. 9 Th. 10. I passed these days in my law school and holding court—employed every day from 8.30 A. M. to about 4 P. M., and dining between 4 and 5. And every day I am regaining health.

Fr. 11 Sat. 12 These days I spent in my Law School and in the U. S. Court, trying a patent right case, which we did not finish.

Mon. 14 To Sat. 19. This week I spent in my usual round of business. I closed the business of my Court for the present, adjourning over to the 31st for the accommodation of counsel; and daily with my law students.

Fr. [Feb.] 8. As usual, in my dull rounds. I have news to-day that Congress is likely to raise my salary to $4,000. I think it will be done. So mote it be!

Tu. [Mon.] 11 to Th. 14. I had my usual round in my law school these days, with nothing special occurring.

Fr. 15 Sat. 16. The time passes heavily. I am tired of my Law School, and wish it ended.

Mon. [25] to Th. 28. These days closed our law session. We ended on Monday night, at which time I delivered diplomas and an address to the graduating, 14 in number.

Mon. [March] 4 Tues. 5 Wed. 6 Th. 7 Fr. 8 Sat. 9 This was, in various ways, a bad week to me. The weather was bad. My health was bad. I had nothing special to do; and so I loitered away the time. One good piece of luck indeed I suppose [sic] I have: I suppose it is certain that Congress has raised my salary to $4000. But what is even this with the disease I suffer, if fatal?

66 McDonald’s optimism was not justified.
Mon. 11 A rainy, snowy day. It makes me sick, sick, sick.

To day the adjourned session of my court begins. Nothing, however, was done.

Tues. 12 Another awful day of rain & snow. I held the Court in the afternoon.

Wed. 13 . . . . . . . .

Held Court all day. Entered on the investigation of the everlasting case of Fay vs. Cobb.

Mon. 18 Tues. 19 I spent these days in court hearing a squabble over divers depositions in the case of Fay et al. vs. Cobb et al.

Wed. 20 To day the Fay & Cobb case was continued, and the Court ended.

Tues. 26. . . . . . . . . . . . .

To-day Robert L. Walpole, a lawyer of Indianapolis, died—cause drunkenness. He was utterly illiterate—unlearned in the law—coarse and rude in manners—full of fraud and cunning—oppressive to his clients—a knave, a liar, a fool, and for 12 years past opposed to all that is good.\footnote{Walpole is given a similar description by William W. Woollen in \textit{Reminiscences of the Early Marion County Bar} (Indiana Historical Society Publications, Vol. VII; Indianapolis, 1923), 201-203.}

Sat. [Aug.] 17. From the 16th of April last to this date, I have suffered so much from my spinal disease, and was during nearly all the time so much afflicted in my nerves, as to make it very difficult for me to write. So, during that period, I have made no daily notes of occurrences.

About the first of April, it became evident that I could not hold my Spring Courts. Accordingly, I procured Judge [Samuel H.] Treat of Ill. to commence my Courts on the first Tuesday of May. He staid with us about two weeks. Then Judge Davis came and held the Court about two weeks. At the end of this time, I had so far recovered my health, as to be able to hold the Courts myself. And
I stuck to it through May, June, and July, as occasion required, till the business was accomplished.

.......

Tues. 20. .......

In the afternoon, I held bankrupt Court—commenced trying a case of involuntary bankruptcy; and after hearing part of it, adjourned it over till tomorrow.

A sort of God-send has happened [to] me lately. The old case of Fellowes vs. Evansville in which Porter & I were to get 5 percent on the amount recovered, and on which I never expected to get any thing, is settled at $96,000. I sold out my share to Porter for $800, of which he paid me $500. to day, and is to pay the rest Oct. 1. So I am in funds again.

Wed. 21 to Sat. 24. I passed these days pretty well. Spent most of the time at my rooms in the P. O. Building, engaged in official business.

Johnson has removed [Military Governor Philip H.] Sheridan from his post at N. Orleans, and is likely to remove others. These doings render it probable that Cong. will impeach him next Winter.

Sept. 1867. Ill health prevented daily accounts of things during the last of August and this month. .........

Sat. [Oct.] 5. I spent this fine day in my chambers preparing an opinion in a bankrupt case.

Now that I have so much leisure, how happy would I be if I had good health and a good conscience!

Tues. 8. This is the day of the general election. I cast my vote for the Republican candidates. I feel pretty well.

Wed. 9. .......

It seems that the elections yesterday in Ohio & Pa. have been favorable to the Democrats. In Pa. they have probably carried their ticket; and in Ohio they have run the Unionists very close. All this is due to the foolish attempt by the Republicans to give the negroes [sic] the right to vote.
Th. 10. I spent this fine day in my study, enjoying fair health. Rec'd. my salary $843.75.

Mon. 21 to Sat. 26. I spent the week mostly in my study investigating legal questions, and enjoy pretty fair health. O! how sweet it is after so much as I have suffered the past 18 months, to find myself clear of it; and how thankful I ought to be to the Universal Father for it.

Tues. [Nov.] 5. To day the Fall term of our U. S. Courts begins. I empanel[ed] the grand Jury called the docket for motions, and adjourned till to morrow. We have a large docket—enough to take me till January. O for good health the next two months! But I begin bad; for I suffered with severe neuralgia in my right foot.

Wed. 6. Not well to day. Bad symptoms.

We commenced the trial of Parker et. al. vs. Aylesworth this afternoon.

Th. 7. Spent the whole day on the trial we began yesterday. It will probably hold us all this week, if not longer.

Bad political news to day. N. Y. has in her late election gone democratic very largely. It is probable that now the U. S. are democratic.

Fr. 8 Sat. 9. Engaged as yesterday; and the prospect is that the case on trial will take a week.

Mon. 10 to Sat. 16. Spent the solid week on the trial of Parker et al. v. Aylesworth. On Saturday night, the Jury found a verdict for plffs. for $3,000.

Mon 18 to Sat. 23. I spent this week in Court trying causes. Nothing has occurred during the time worth recording.

Mon. 25 to Sat. 30. I spent the entire week in Court. My health is daily improving. I trust now that my spinal disease and the consequent neuralgia are gradually fading out, and that I will finally get well.

Mon. [Dec.] 2 to Sat. 7. I spent this solid week in trying causes in Court.
Mon. 9 to Sat. 14. Spent this week, as last, every day in Court.

Mon. 16 to Sat. 21. I spent this entire week (except Saturday) holding court.

Mon. 23 to Sat. 28. I held court some this week. But most of the time I was unemployed in that way.

Mon. 30 & Tues. 31. I spent these two days in Court, nothing occurring of importance.

January, 1868.

Wed. 1. Tis Newyears [sic] day. When last year began, I hardly deemed my life worth a year. But now, thanks to God! my health seems nearly restored. I am trying to resolve and pray that I may be better this year than last. O may it be so!

Th. 2. In court to day, hearing the argument in the chancery case of Davis & wife vs. Campbell et al. It is a case about a transaction between the Shakers and James Price—Mrs. Davis' father[—]between 1803 & 1817. In this case the deposition of Mrs. Delilah Whipple, 79 years old was read. She testifies how James Price came to join the Shakers at their town near Vincennes, thus:

"James got sick, and became very much alarmed, thought he was going to die, told me and his wife he would die, said he felt a misery down in his side which was coming up toward his heart, and requested to have the Shakers sent for. They came. His brother Benjamin being one of them. But what they or he said or did, I know not; for I was not permitted to hear any thing they said. But I know that a part of what was done on that occasion was a Shaker Dance, and James got up and joined in their dance for some time; and then professed to be well, went home with his brother Ben., and after that never cohabited with his wife. Very shortly after
this, his wife being in great pain and agony on account of his abandonment of her, was brought to bed and delivered of a girl child, Malinda, one of the complainants, about a month before her time."

Mon. 6 to Sat. 11. I spent these days in my usual round, holding Court, preparing judicial opinions &c. &c.

The Democrats, on the "glorious eighth", held their State convention, laid down their platform, and nominated their candidates for this year's campaign. I fear they will beat us this year. Their political success would, in my opinion, be an unspeakable national calamity.

Mon. 13 to Sat. 18 . . . . . . . . . . . .
I have spent the week partly in my study, and partly in my house—very little in Court, though my Courts have not yet adjourned.

Mon. 20 to Sat. 25. Another cold week. I spent it mostly in my chambers preparing judicial decisions.

Th. [April] 2 to Sat. 4. I spent these days at my chambers, preparing decisions for next term of my Court.

Mon. 6 to Sat. 11. . . . . . . . . . . . .
I spent the week in my chambers preparing decisions for next Court. And there occurred nothing during the time of any great consequence.

The main matter of public interest is the presidential impeachment now in progress. The probability seems strong that President Johnson will soon be removed from office.

Mon. 13. . . . I spent the day at my chambers making up a decision to be pronounced at next term of the Court.

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68 Andrew Jackson defeated the British at the Battle of New Orleans on January 8, 1815. Democrats frequently honored their great leader on this date, and the "glorious eighth" was a favored day for holding Democratic state conventions and other political meetings.
Tues. [May] 5. My Spring Courts open to day. I am alone[.]
I empannelled and charged the grand Jury, rendered some judgments, and adjourned.

Wed. 6 to Sat. 9. These days I spent in Court. Judge Davis arrived on Wednesday and we sat together all the week.

Mon. 11 Sat. 16. Spent this entire week holding Court. Judge Davis was with us till Saturday morning when he started home.

On Saturday, we had news that President Johnson was acquitted on the impeachment trial.

Mon. 25 to Sat 30. I spent this week doing little in Court—suffering a good deal from my old complaint.

Mon. [June] 1 to Sat 6. Another rainy week. U. S. Court all the week. The bad weather makes my health bad.

Wed. [July] 1 to Sat. 4.

The “Glorious Fourth” was celebrated as usual by a general uproar—picnics—cannons firing—crackers—rockets—“trumpet, drum, and fiddle.” In this country every holiday is desecrated by the most execrable rites. It is good luck we have few holidays—only Christmas and Fourth of July.

Mon. 20 to Sat 25. I spent this week solidly in my chamber at work at law matters.

Mon. 27 to Fri. 31. These days were not so hot. I spent them in my chambers preparing my manuscript judicial decisions for the press. It is a good deal of work, but I have now little else to do. So I have concluded that as soon as I get ready enough of my decisions to make a volume, I will publish them. But I fear that such steady sitting

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69 McDonald's only publication was *A Treatise on the Law Relating to the Powers and Duties of Justice of the Peace and Constable, in the State of Indiana* . . . (Cincinnati, 1856).
and writing is unfavorable to my spinal disease—of late
my back has been dreadfully sore, and has troubled me
very much. It affects my breast and heart—a bad
symptom.

Mon. [Aug.] 3. A delightful cool day. I spent it in court.
Began the trial of a case about the steamboat “Stone Wall
Jackson”.

To-day, after a provoking delay of 34 days, I received
my quarter’s salary, due July 1, $843.75.

Tues. 4 to Sat. 8  I spent these days at my chambers at work.

Mon. 31.  A fine rain. I feel fine. I spent the day invest[igat]-
ing legal questions.