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March, 1936

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JOHN W. LACEY
1848-1936

A MEMORIAL BY
JOHN D. CLARK

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Funeral services were held at the family home at Cheyenne, at 2:30 P. M., Thursday, February 13, with Reverend Charles A. Bennett of St. Mark's Episcopal Church officiating. The remains of Judge Lacey were borne to the grave by prominent members of the Wyoming Bar, and with him passed one of the most brilliant and constructive legal minds that ever graced the western legal profession.

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JOHN W. LACEY
1848-1936

This memorial article written by John D. Clark when the distinguished career of Judge Lacey closed in February, 1936, is republished by the American National Bank of Cheyenne for distribution to the lawyers of Wyoming. Judge Lacey was an interested and helpful stockholder of the bank almost from its beginning, and Dr. Clark was one of the organizers and is an active director.



MEMORY is not long enough to reach beyond the time when Judge John W. Lacey was a familiar figure to me. In those early years of his Wyoming career he had already attained distinction. The half century which has now passed has enlarged, not diminished, that eminence.

In more than one respect his qualities were unique. Many great lawyers have been leaders of their communities and so it is not surprising that he long held that position in Cheyenne and in Wyoming. But whereas this leadership is ordinarily the outcome of active participation in public affairs in which legal ability and prominence add to the man's influence, Judge Lacey's participation in such affairs was always non-assertive and reticent. His influence in these matters was the reflection of his high repute as a lawyer.

Nor is there any parallel which comes to mind of one with similar breadth and intensity of fame as the leader of the bar of any state. His reputation passed beyond the profession and permeated the business world, reaching even into those ranks of

the population which have no interest in lawyers. It was of such a quality that he attained an authority the like of which I have never observed anywhere in the United States. "Getting an opinion from Judge Lacey" was more than a proposal to secure the best possible legal advice; in the opinion of business men and laymen it was even more than the equivalent of securing a judgment from the supreme court of Wyoming. The supreme court might be wrong.

His ability was of the first rank in nearly every branch of the lawyer's work. His arguments upon points of law, where his supreme power of rigid analysis had its fullest play, were always works of art and were seldom unsuccessful. I believe my last contact with him as an advocate was in connection with litigation with the federal government over the title to oil land which the state claimed and had leased to my company. The only question was the correct construction of an act of congress under which the state claimed the title. While the controversy was pending in the supreme court of the United States I made a compromise offer to the Secretary of the Interior of a million dollars and a

substantial royalty on future oil production. The secretary rejected the offer upon the advice of his solicitor that there was no basis for settlement because the government was sure to win. But the legal argument made by Judge Lacey, whom I selected in preference to any of the lawyers of national repute who were suggested by my associates, persuaded a unanimous supreme court to construe the statute in favor of the title claimed by the state.

Of all of his exceptional qualities the one I most admired was his mastery of the technique of understatement. Because I am forever suffering for lack of even the slightest capacity in that respect I always envy one who exhibits it, and never have I found a lawyer or lecturer who even approached Judge Lacey in its skillful use. His method was his own and would have been amusing had it not been so successful. In a conference or discussion he seldom made a dogmatic statement, but would offer a succession of tentative judgments, each so reasonable that assent could hardly be refused and so phrased that assent led one into the appearance

of having made the statement himself so that he could not hesitate when the premises so readily accepted forced a conclusion which would otherwise have been contested. He not only compelled your agreement upon a principle, judgment or plan which you knew was incorrect; he did it in such a way that you believed you had argued yourself into the agreement. And some of us try to win arguments by the loudest shouting!

I regret for the younger members of the bar the passing of their opportunity to profit by observation of Judge Lacey in action and by occasional contact with him as opponent. It was my good fortune to begin the practice when he actively exercised his fullest powers in a field where we were often brought into association and into conflict and no part of my legal training was as important as that experience. The lessons gained from him as an opponent were, of course, the most lasting and therefore the most valuable. They usually involved the sting of defeat but never were they humiliating on account of any word or attitude of Judge Lacey. His court manner was as impeccable as his technique was skillful.

He was always gracious as well as courteous and he seldom failed to find an opportunity to lift up the spirits of a defeated young opponent by saying a word of commendation for some feature of his effort.

At no time has the bar of Wyoming contained a group of lawyers to challenge the prestige of those who were the leaders of the profession when the territory became a state. Among them Judge Lacey found worthy competitors. As they passed he emerged more distinctly as the leader of the profession until he became a lonely figure. There remain a tiny group of our colleagues who began the practice during territorial days and later became distinguished. But when Judge Lacey retired the last of the great pioneers was gone. The greatest of them was the last.

» » » Ye Old Timers « « «

Death of Honorable John W. Lacey

JUDGE JOHN W. LACEY, known as the Nestor of the Wyoming legal profession, passed away at his home in Cheyenne at 5 A. M., Tuesday, February 11, in his eighty-seventh year.

Judge Lacey was born in Randolph County, Indiana, on October 13, 1848, the son of the Reverend Henry J. Lacey and Elizabeth (Thompson) Lacey. His father was a Methodist minister, who reared a family of four sons and three daughters.

While the boy's early education was secured in the public schools of the various towns in which the family resided, pursuant to the custom of itinerant ministry in the Methodist Church, as was then conducted, he, after completing his elementary education, entered DePauw University of Indiana, and was graduated therefrom with the class of 1871. Thereafter he took up the profession of teaching, his initial step toward the profession which he later adopted and adorned.

The young Mr. Lacey began reading law under the direction of Isaac Van Devanter, of Marion, Indiana, Mr. Van Devanter retaining the young man in his office until his admission to the bar in 1875. During the four-year study period, he also read law for a short interval in the office of William O'Brien of Noblesville, Indiana.

Between Judge Lacey's grade school days and the beginning of his college career, he enlisted as a private soldier in Company F of the 137th Indiana Infantry, when but 15 years of age, serving until the close of the War. In this connection, it is proper to say that the United States Army, in which Judge Lacey served at a very tender age, rendered him full military honors in the form of minute gun firing during the funeral hour.

Judge Lacey began the practice of law in Marion, Indiana, where he remained until 1884, when he was appointed by President Arthur to the position of Chief Justice of the Territory of Wyoming, serving in this, the highest judicial office in the Territory, until 1886, when in November of that year he resigned his position upon the bench to enter into the partnership of W. W. Corlett and Judge John A. Riner, under the firm name of Corlett, Lacey & Riner. Following the death of Mr. Corlett, the partnership continued under the firm name of Lacey & Riner, until Mr. Riner was appointed United States District Judge in 1890. Somewhat later, Judge Lacey entered into partnership with his brother-in-law, Willis Van Devanter, who for the past several years, has occupied the exalted position of Associate Justice of the United States Supreme Court, Judge

Lacey's partnership with Justice Van Devanter terminating in 1897.

Judge Lacey was appointed General Counsel for the Union Pacific Railroad in Wyoming in 1889, at a time when the fortunes of the Railroad Company were at a rather low ebb, his service continuing through the receivership period, the purchase of same by Mr. W. H. Harriman, and thereafter through the reconstruction period, continuing until his resignation a few years ago.

Judge Lacey was possessed of a keen, rapid, logical mind, with a continued capacity for hard work. Though of small physique, one had to address Judge Lacey but briefly before recognizing his earnest, dignified, courteous manner.

Judge Lacey was united in marriage to Miss Elizabeth Van Devanter, daughter of Mr. Isaac Van Devanter, before referred to, and who still survives, and to them were born six children. A son, Herbert V., perfected himself in the profession of law, and was his father's partner until his untimely death a few years ago. Dr. Walter M., another son, who survives, was a captain in the United States Army at Fort Riley, Kansas, now engaged in the practice of medicine at Cheyenne. A daughter, Ruth, became the wife of W. H. Barber, now residing at Greeley, Colorado. Another daughter, Mrs. James Speer, resides at Knoxville, Tennessee, also Mrs. John McGee at Casper, Wyoming, and Mrs. William Hankins, Uniontown, Pennsylvania.

In 1874, Judge Lacey received the degree of A. M. from his alma mater, DePauw, and in 1914, he was accorded the degree of LL.D. from the University of Denver. Judge Lacey's political affiliations were with the Republican party. He also received various Masonic degrees through both the York and Scottish Rite. In recent years, Judge Lacey, with Mrs. Lacey, made numerous and extended trips abroad.

Funeral services were held at the family home at Cheyenne, at 2:30 P. M., Thursday, February 13, with Reverend Charles A. Bennett of St. Mark's Episcopal Church officiating. The remains of Judge Lacey were borne to the grave by prominent members of the Wyoming Bar, and with him passed one of the most brilliant and constructive legal minds that ever graced the western legal profession.

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There died suddenly on Sunday evening, February 9, while performing an errand of mercy, William McIntosh of Superior. "Billy", as he was familiarly known, first began to work for the Com-

of course, one reason for this in the circumstances of Mark Twain's famous household. In the first flush of his success he had married Olivia Langdon, of Elmira, New York, who was to be the adored mistress of his heart until the end and the merciless censor of all his manuscripts. She edited everything, and, as he was ruefully given to acknowledge, she edited him; the man he became was in great part the man of Olivia's making—no longer the reckless and magnificent Westerner but, as Mr. Van Wyck Brooks, his most searching critic, maintains, the candidate for gentility and, in his splendid Connecticut homes, a pillar of New England society.

But this conspicuous position did not change the essentials of his spirit. Mark Twain was a Liberal to the marrow. He accepted, with the fervour of religion, the old American doctrine. His democratic republicanism made him an impassioned champion of racial and social justice, an outspoken opponent of civic and political corruption. He took his stand with the defenders of clean government in New York City; he was one of the band which in the American crisis of 1884 broke the rock-ribbed Grand Old Party and so helped to carry Grover Cleveland into the Presidency. His pen was ever at the service of the oppressed, and, as we may recall with especial appropriateness today, the fanatics of anti-Semitism had no more smashing antagonist than Mark Twain.

Throughout his later years the contrast between his world-wide triumphs and the pessimism which, in ferocious speech and violent bursts of temper, he announced as his deepest conviction made a problem that his friends refused to take seriously. Mark Twain, the dispenser of laughter among millions, exhausted the resources of the American language in denunciation of "the damned human race." Yet that race insisted upon treating him as a favourite public character. Mark Twain was reckless and confiding in matters of business. With an abandon that seems the merest folly he went into publishing and financed an unworkable type-setting machine at a time when he was commanding the highest payment for his writing. He crashed, and then proudly started on a world lecturing tour for the payment of his debts. At sixty he was once more a free man and in the enjoyment of an almost unequalled renown. He was America's representative man—picturesque in his white suit and his wonderful white mane; courted, flattered, indulged; interviewed on every pretext or on none; the acknowledged and beloved master of American wisdom, wilfulness, kindly malice, humour. In 1907, three years before his death, Oxford tendered him the honour which he held in higher esteem than any other. "Although," he wrote,

"I wouldn't cross an ocean again for the price of the ship that carried me, I am glad to do it for an Oxford degree"; and he would have liked to wear the gown of the Oxford honorary doctor over the celebrated white suit. Mark Twain of Missouri!

School Notes

THE Winter enrollment at the Wyoming University on January 7 reached 1,352. It was expected that additional pupils would bring the total up to 1,400.

Dr. Aven Nelson and Dean J. F. Soule expect this year to celebrate their 50th anniversary of active service with the faculty of Wyoming State University, the former as Botanist, etc., being looked upon as the outstanding authority on the flora of the Rocky Mountain region, Dr. Soule being Professor of Greek and Latin, equally as important in his line as Dr. Nelson.

Mrs. Evelyn Plummer has been named as Trustee of the University of Wyoming to fill the unexpired term of Frank S. Burrage, deceased publisher of Laramie. Mrs. Plummer is a graduate of the University, 1916, and her selection was announced by Governor Leslie A. Miller.

Five students of Rock Springs high school placed on the "A" honor roll during the first semester, it was stated by Principal Karl F. Winchell. They are: Helen Hudman, Dena Shiamanna, Elizabeth Winchell, Dolly Yoshida and Emma Anselmi.

To place on the "A" honor roll a student must have earned a grade of "A" in all their subjects.

Eleven students placed on the "B" honor roll, having all grades of "A" except one, and that one a "B". They include:

Dorothy Price, Mary Murphy, Rosalyn Jensen, Boyd Marshall, Barbara Keller, Cecilia Kershisnik, Phyllis Watson, Ayako Yoshida, Nora Sinn, Paul Yedinak and Helen Sheffer.

Wednesday evening, February 5th, the faculty members of Superior High School, under direction of Superintendent Keeney, presented the play, "The Gay Deceiver," in the local gymnasium before a large audience.

On the afternoon of January 24th, the English Literature Classes of Superior High School rendered a short, pleasing program honoring the natal day of the great Scottish poet, Robert Burns, January 25th.

Master of the House (roaring with rage): "Who told you to put that paper on the wall?"

Decorator: "Your wife, sir."

Head of the house (subsiding): "Pretty, isn't it?"

Rock Springs Miner
2-14-36

**McAuliffe, Taliaferro
Attend Lacey Services
In Cheyenne Thursday**

Eugene McAuliffe, president of The Union Pacific Coal company, and T. S. Taliaferro, Jr., attended the funeral of Judge John W. Lacey in Cheyenne yesterday. Mr. Taliaferro, who was associated with Judge Lacey for many years in the legal department of the Union Pacific railroad, was one of the honorary pallbearers.

Mr. McAuliffe, who was in Rock Springs when advised of Judge Lacey's death Tuesday, made plans at once to go to Cheyenne from this city before returning to his office in Omaha.

**City, in Common With
Entire State, Regrets
Loss of Judge Lacey**

Rock Springs, in common with all Wyoming, received the report of the death of Judge John W. Lacey, which occurred in Cheyenne Tuesday, with a sense of loss. His death was not unexpected because it was generally known that he was suffering with pneumonia at the advanced age of 87 years.

John W. Lacey came to Wyoming in 1884 as territorial judge by appointment of President Chester A. Arthur. After serving in that capacity for two years he resigned to assume private practice. He became general counsel for the Union Pacific railroad in 1889 and as such became widely known through southern Wyoming through his long service in that appointment.

Judge Lacey was born in Randolph county, Indiana, in 1884, and was educated at De Pauw university there. He was a brother-in-law of Associate Justice Willis Van Deventer of the U. S. supreme court. He is survived by his wife and five children.

Funeral services were held yesterday afternoon at St. Mark's Episcopal cathedral, with Rev. Charles A. Bennett in charge.

HON. JOHN W. LACEY

(Copied from "History of Wyoming," Vol. II.)

Hon. John W. Lacey, senior partner in the law firm of Lacey & Lacey, of Cheyenne, and at one time chief justice of Wyoming, was born in Randolph county, Indiana, October 13, 1848, a son of the Rev. Henry J. and Elizabeth (Thompson) Lacey. The father was a Methodist minister and reared a family of four sons and three daughters. Well descended and well bred, Judge Lacey had the advantages offered in a home of culture and refinement.

He pursued his education in the public schools of various towns in which the family lived owing to the custom of itinerant ministry in the Methodist church at that period. Later he entered DePauw University of Indiana and was graduated therefrom with the class of 1871. He took up the profession of teaching, which he followed for a short time, but regarded this merely as an initial step to other professional activity and began reading law under the direction of Isaac Van Devanter, of Marion, Indiana, who remained his preceptor until he was admitted to the bar in 1875. Prior to 1875 he had read law at intervals in the office of William O'Brien of Noblesville, Indiana. It has been said that a lawyer's experience should be as broad as the universe, for he has to do with every phase of life. Judge Lacey brought to the starting point of his career certain rare gifts -- eloquence of language and a strong personality. He, moreover, had back of him experience as a soldier of the Civil war. He was only fifteen years of age when he enlisted for active service at the front, becoming

a member of Company F of the One Hundred and Thirty-seventh Indiana Infantry, with which he served until the close of the war. His training, too, at home had been of that kind which develops character and self-reliance. He entered upon the practice of his profession in Marion, Indiana, where he remained until 1884, when he was appointed by President Arthur to the position of chief justice of Wyoming and served in the highest judicial office of the territory until 1886. In November of that year, having resigned his position upon the bench, he entered into partnership with W. W. Corlett and Judge John A. Riner under the firm style of Corlett, Lacey & Riner. Following the death of Mr. Corlett the partnership was continued under the firm name of Lacey & Riner and so existed until the junior partner was appointed United States district judge in 1890. Later Mr. Lacey entered into partnership relations with his brother-in-law, Willis Van Devanter, who is now a justice of the United States Supreme Court, and was thus associated until 1897, but is now senior partner in the firm of Lacey & Lacey, a firm that ranks with the foremost practicing at the bar of Cheyenne. Nature endowed him with some of those qualities indispensable to the lawyer -- a keen, rapid, logical mind plus the business sense and a ready capacity for hard work. An excellent presence, an earnest, dignified manner, marked strength of character, a thorough grasp of the law and the ability to accurately apply its principles are factors in his effectiveness as an advocate.

In 1878 Judge Lacey was united in marriage to Miss

died few years ago

Elizabeth Van Devanter, daughter of Isaac Van Devanter, and to them have been born six children; Herbert V., an attorney of Cheyenne; Walter M., M. D., ^{formerly} ~~and~~ a captain in the United States service at Fort Riley, Kansas, ^{now in private practice at Cheyenne} Ruth, the wife of W. H. Barber, of Eaton, Colorado; Elizabeth, instructor in economics in the University of Nebraska; Louise, teaching home economics in the Colorado Agricultural College at Fort Collins; and Margaret.

In 1874 the degree of A. M. was conferred upon Judge Lacey by his alma mater, De Pauw University, and in 1914 he received the degree of LL. D. from the University of Denver. In his political views he is a republican and upon all the vital questions of the day keeps abreast with the best thinking men of the age. Fraternally he is a Mason and has taken the degrees of the commandery and of the consistory. A resident of Cheyenne since 1884, he has done much to uphold public stability and to advance the standards of citizenship in relation to municipal and commonwealth affairs.

July 10, 1933

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Hon. John W. Lacey
Cheyenne, Wyoming

My dear Judge Lacey:

It was with very deep regret that I read the other day of your retirement from the service of the Union Pacific Railroad Company. I can hardly imagine the Union Pacific Railroad and The Union Pacific Coal Company without you as an employee, we all have known you for so many years and have learned to trust your judgment so much. I am sure that is the feeling of all those who have been associated with you in the work of the Union Pacific Railroad and The Union Pacific Coal Company.

I have not forgotten the years I spent in Cheyenne, where I was so closely associated with you and your son, Herbert.

I regret very deeply that the time has come when you feel you must retire from the service. May I wish for you in the future many years of usefulness? I shall always think very kindly of you, as I know many thousands of your friends will throughout the Union Pacific organization, and will always carry with me many pleasant recollections of our association.

Very sincerely yours,

Original Signed:
GEORGE B. PRYDE

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