CHAPTER TWELVE

The Sixth Judge

N. S. GILSON.

Norman S. Gilson, who was so sweepingly elected to succeed Campbell McLeean, can certainly be called "100 per cent. American." He was descended from pre-revolutionary stock on both his father's and mother's side. His paternal ancestor, Joseph Gilson, came to America from England in 1650. His descendants fought in the earliest French and Indian wars, the Revolutionary War and the War of 1812. His grandfather, Daniel Gilson, was a Revolutionary soldier, and was one of those who moved to the Western Reserve of Ohio, receiving land grants for military service. He founded the family home at Middlefield, in that state, in 1817.

In that old farm homestead, Judge Gilson was born in 1839. His early life was that of a farmer's son. He assisted his parents in the farm work, attending school in winters. But as he neared manhood his choice of a vocation turned to the profession of the law and he attended Farmington Seminary, where he acquired an academic education and later taught school in that vicinity, in the year 1859 and 1860. In the latter part of that year he came to Wisconsin and began the study of the law in the office of Leander F. Frisby of West Bend, Dodge County, a very able lawyer who later was attorney-general of Wisconsin.

Mr. Frisby was his uncle, being brother of Judge Gilson's mother, and of course was interested in his young kinsman. In Dodge County, while reading law, Judge Gilson like most of the young men in like circumstances, sustained himself by teaching school for a couple of terms. He also acted as a postoffice clerk.

By this time the Civil War was on and the fighting blood inherited from his revolutionary ancestry could not long resist the call to battle.

In September, 1861, he enlisted as a private in the Twelfth Wisconsin Infantry, one of the fighting regiments. After a few months of service he was promoted sergeant-major of the regiment. His first service was in Missouri and
Kansas, but later the regiment was transferred to the Army of the Tennessee and he was on detached service on the staff of Brigade General Robert B. Mitchell. He served with that army until after the taking of Vicksburg and Jackson, Mississippi, in July, 1863. In August following he was commissioned first lieutenant of Company H, Fifty-eighth Regiment United States Colored Infantry. He was at once appointed adjutant. His promotions thereafter were rapid and he finally became lieutenant-colonel in command of the regiment.

His great ability and industry was noted by his superior officers and he was detached from his regimental command and placed on the staff of Major-General Davidson, where his knowledge of law led to his assignment as judge advocate of the Natchez, Mississippi district. Later on he was promoted to the position of assistant judge-advocate general of the department of the Mississippi on the staff of Major-General Osterhaus, and later on to the same position on the staff of Major-General Thomas J. Wood.

In the summer of 1865 his regiment was mustered out of service which ordinarily would have led to his discharge, but by special order of the secretary of war he was retained in service as judge advocate of the court-martial for the trial of Captain Speed, commander of the Steamer Sultana, sunk in the Mississippi as the result of an explosion of her boiler, with the loss of 1100 lives, mostly paroled prisoners. The captain was charged with criminal negligence in overloading his vessel. The trial was one of the most important military trials growing out of the war. As judge-advocate of courts-martial, Judge Gilson tried many other important cases, and for him it was a very valuable experience in legal training.

Judge Gilson was mustered out of the military service on June 19, 1866, having served nearly five years. In a special order the secretary of war appointed him to the rank of Colonel by Brevet for “efficient and highly meritorious service.”

He at once returned to Wisconsin to resume his law studies but decided to attend the Law School at Albany, New York, where he entered at the fall term as an advanced student and graduated with the Class of 1867, taking the examinations in the full course. He was also there admitted to practice in the courts of New York State. He returned to Wisconsin, and early in 1868 opened an office for practice in Fond du Lac and soon built up a large business. He was for a time in partnership with Colonel Gerrit Thorne, who was a very able lawyer; the firm being Thorne & Gilson. In 1874 he was elected city attorney of Fond du Lac, and later was elected and served as district attorney of Fond du Lac County.
NORMAN S. GILSON, Circuit Judge
during the years 1877–78.

As hereinbefore stated, he received the Democratic nomination for circuit judge in March, 1880, and was elected to succeed Judge Campbell McLean by over 8000 majority. He was re-elected in 1886 and again in 1892 without opposition. At the close of his third term he declined to be again a candidate.

More than any other man it has been my fortune to meet he respected the judicial office. That was noteworthy of him when he was upon the floor as a barrister and still more so when in the fullness of time he sat upon the judicial bench. He was a large man, more than six feet in height and his military life of over four years, most of the time as a commanding officer, had given him an erect and soldierly bearing which lent dignity to the environment of his court.

It was stated that during the eighteen years Judge Gilson presided over the courts of the Fourth Judicial Circuit there were on the calendars of the four counties 6500 cases; more than one case for each working day of the year. These cases were all tried or otherwise disposed of by him personally, except one term in Kewanee County held by Judge Parrish, while Judge Gilson held a term for him in Taylor County, and part of a term in Sheboygan County held by Judge Pulling, when he was called away by the death of a relative.

Many of these cases were of great importance, both intrinsically and as precedents for the future. These thousands of cases led into almost every field of statutory and common law, and called for every variety of legal and equitable relief. Some were tried under circumstances of great popular interest and excitement.

To appreciate Judge Gilson, one needed to know him well enough to meet him in private life. Those who saw him only when engaged in his public duties in court, absorbed in the discharge of the task in hand, austere, authoritative and dignified, could make no just estimate of the man.

Very soon after he had taken his seat as Judge, it became necessary for me to visit him at Chambers in Fond du Lac on some ex parte business. I was received at his office with some formality, stated my business and submitted my papers for his perusal.

After a few questions the orders I desired were signed and I rose to take my leave. He remarked my train would not leave for some time, and asked if I had any other engagement. I answered No. He then invited me into his rooms adjoining. We sat down, lighted our cigars and had, for me at least, a very pleasant and interesting visit of nearly two hours. All the aloofness and restraint of the judicial character
was laid aside and we chatted on equal terms as congenial acquaintances.

That line of conduct was not singular nor confined to me. His attitude towards others was the same. In court, dignified, dominating, somewhat austere and with an impressive air of reserved authority; off duty the genial and companionable but always gentlemanly and polite fellow-lawyer.

His conversation was always improving. He kept abreast of the times in other matters than the law, and his views upon public affairs were broad and sweeping, not hampered or narrowed by his political party preferences. His opinions and judgments on such matters were worth hearing, even though the listener felt obliged to dissent.

He was not without a sense of humor. He enjoyed a joke or a good story and his laugh was hearty. He could tell a good story and tell it well, but his mind and talk was clean and healthy and a certain type of what are called “smoking-room stories” was met with a repressive silence.

I have, in common with others, thought that some of the judges I have been privileged to know denied themselves the pleasures of social intercourse far too much. All men are by nature social and enjoy companionship. It is true that people generally expect and appreciate a certain aloofness and austerity as inherent in the judicial office and character. But that can be carried to excess. A man is the better for mingling with his fellows and can better judge of the feelings and motives which sway them, if he comes in frequent contact under various conditions and circumstances. Nevertheless, there is much truth in the old adage, “familiarity breeds contempt.” But there is a golden mean between too little and too much; and that each must find for himself.

I do not think that outside of his profession Judge Gilson could be called a learned or even a widely read man. His life had been too much occupied with actual practical work to indulge much in the poetry or philosophy of the scholastic life. His life was work, his study to learn how to work. The hard physical labor of the farm, some terms of school teaching, and clerking, with a year’s study of the law in the intervals, then five years as soldier in active campaigning, absent from all books except tactics and military law. He was hard at work making history in that period of life when young men are usually studying it. Then a short course of law lectures, thirteen years of practice at the bar, followed by eighteen years on the bench, when he heard and decided thousands of cases.

Those who, like the writer, knew his style of writing only by his written decisions or findings in law cases, will agree that it was terse and compact to an extraordinary degree, not
a superfluous word, no digression of any kind, yet no essential word lacking. Such a life, such methods of work, afforded little scope for a study or appreciation of literature, art or poetry. In this respect he much resembled his predecessor, Justice Taylor, but he was less absorbed and preoccupied and much more observant of what was going on around him.

I have told elsewhere that I did not support Judge Gilson when a candidate for his first term. He had been nominated and elected as a Democratic candidate. In January, 1886, he had entered upon the last year of the term. The January term of court was in session in Manitowoc. It was nearly the end of the month, and not a word had been said either among the bar or by any newspaper in regard to his election. In the meantime I had become the owner and editor of the Lake Shore Times, a newspaper which was, if nothing else, a stalwart supporter of the Republican party. The judicial election for a successor to Judge Gilson was only a few days over two months away. While sitting in the court room I happened to think of the situation and taking counsel of no one went to my newspaper office, and wrote as strong an editorial as I could in favor of non-partisan elections of the judiciary and urged that steps be at once taken to place Judge Gilson before the people as a non-partisan candidate upon his merits, in accordance with that principle.

The paper came out next day and as the matter was wholly unexpected created considerable stir both among the bar and the newspapers of the circuit. Nor was it any the less effective because I was at that time the chairman of the Republican county committee. The suggestion was immediately acted upon and Judge Gilson was re-elected without opposition. At the end of his second term he was elected in the same manner for a third term.

He was still comparatively a young man, only 59 years, when he retired from the bench at the end of his third term. He was fortunate within a year thereafter in receiving the appointment to the new office of state tax commissioner. Although considered as an administrative office it called for much construction and application of new statutes and in that phase was really judicial labor. The work was congenial to him and made him a useful man for the position, increasing rather than diminishing his high reputation as lawyer and judge. He served as chairman of the commission from December, 1899 to May 1, 1911, when he resigned. He was then over 72 years of age. The long and continuous periods of labor spent in the public service as teacher, soldier, lawyer, judge and state commissioner had made heavy drafts on his naturally robust constitution and symptoms of approaching
weakness warned him that it was time to be less strenuous. After his resignation he returned to Fond du Lac, which indeed had been his legal residence ever since the day he settled there as a lawyer in 1868.

He had married on October 17, 1905, Miss Laura B. Conklin, a lady he had known and esteemed for many years, who, I believe, still survives him.

Of all his various phases of life experience I think Judge Gilson was the most deeply impressed by his military experience. His success in that was phenomenal. Beginning as a private in a fighting regiment, he became a regimental commander, and later the valued assistant upon the staff of the commanding general of an army. His talk on military experiences was free, unconstrained and enthusiastic, and a chance meeting with an old army comrade a positive delight. Of the great multitude of civil associations he became a member of but one, but he was from the beginning a member of the Grand Army of the Republic, the Loyal Legion and the Society of the Army of the Tennessee. But interesting and instructive as his military life is to those who knew it and shared in it, he will be best known to the bar and the people of the Fourth Judicial circuit, and remembered longest for his services as an able, conscientious, discriminating and just judge.

He died at his home in Fond du Lac, after a short illness on September 21, 1914.