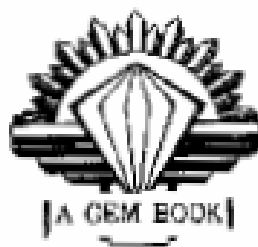


ROCKY MOUNTAIN CARPETBAGGERS:

Idaho's Territorial Governors
1863-1890

by

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CHAPTER THREE

CHAOS IN THE LYON'S DEN, 1864-1866

"Caleb Lyon of Lyonsdale" he called himself to avoid possible confusion with other Caleb Lyons. He need not have bothered, for in 1864 only one man with that name could boast of national – even international – notoriety. Avant-garde poet, art critic, diplomat, author, politician, orator, raconteur, engineer – Caleb was the Leonardo of his day, or so he seemed to think. He could spin endless yarns about himself to the delight of his audiences, but fame was not entirely his own doing. "A natural born genius," "one of the most thoroughly read men in light literature that we have," "a striking figure in modern civilization," "one of the oddest figures in Idaho's history" – these were some of the superlatives that flowed from the pens of journalists and biographers of his era. Even his worst critics had to concede that the new governor of Idaho was no ordinary politician.

Family fortune and influence accounted for most of this prominence, but Lyon's gift of gab and his showmanship added color to his reputation. The son of a landed aristocrat in upstate New York, Lyon was packed off to a Montreal boarding school for primary education, then to Norwich University in Vermont, where he graduated in 1841 with a degree in civil engineering. He was only 18, but the proper finishing demanded a tour of Europe, so off he went for several years. He returned an accomplished traveler, full of anecdotes, with an appreciation of art and letters. Lecturing and writing followed from these interests. His poetry glowed with "ornate language and florid imagery," unbearable today but appealing to contemporary taste. Occasionally it was published in eastern journals and newspapers. He also wrote a book on the romantic adventures of a British traveler captured by Tasmanian natives. Poetry and anecdotes formed the staple of his early lectures, but the main attraction was his appearance and delivery. He rebelled against contemporary fashion, "courting notoriety," in the words of a biographer, "by always appearing with a flaming necktie and curiously grotesque clothes." In the "mod" generation of the 1970s his "flashing- red cravat," "little velvet coat," "immense beard and long hair that Slowed upon his shoulders like a curly mane" would hardly earn a passing glance, but in the 1840s he was a striking anachronism, for black suits, short hair, and beardless chins were the order of the day. In later years, rebellion gave way to more urbane extrovertism. He still wore flashy clothes, but cropped his hair and turned his beard into a pointed Van Dyke with waxed twirling mustaches. As a lecturer, he was entertaining rather than profound - gesturing, bowing, rhythmically chanting prose and poetry to the delight of contemporary ears. He had a "persuasive and flattering tongue," explained one critic, "which at times served him in the absence of sincerity and ability."¹ Soothing words also overcame minor distractions, as an eyewitness to one Lyon performance described:

On one occasion he delivered a lecture ... and created a good deal of amusement... by jerking out a large quantity of dirty shirtsleeve every few moments in his excited gestures, and busily tucking it back again out of sight. But this was only for a little while. The shirtsleeve kept up its performances during the whole event, but it was soon forgotten in the eloquence of the orator.²

Smooth talk, like syrup, went down easily, but the swallower sometimes got indigestion. That was the reaction of an anonymous correspondent after reading Lyon's first flowery message to the Idaho legislature: "...The Governor is one of those irrepressible buttonholers who seize on a victim and talk him dumb,

while, for a wonder, his Excellency never seems to talk himself stupid in the opinion."³

With these gifts, such as they were, Lyon naturally turned to politics. His father was a personal friend of William L. Marcy, next to Martin Van Buren the most prominent name in New York politics in the 1840s. In the famous Democratic split of 1844, Marcy led the conservative Hunker Democrats against Van Buren's radical Barnburners, and President Polk in a gesture of conciliation awarded Marcy the Secretaryship of State. That was a boon to Caleb Lyon, for although a Whig, his politics were not that different from Marcy's, and the State Department controlled a vast segment of federal patronage. Marcy gave his friend's son the first consulship to Shanghai established by the Cushing Treaty of 1844. There is some question whether Lyon ever went to China, or whether he sent a subaltern instead. To add confusion, a biographical sketch of 1864 claimed he had served with Scott in the Mexican War, but he does not appear in official military records. Probably Lyon himself manufactured the war story to build his reputation and used the consular appointment as an excuse to travel. He retained the office until 1849, when he turned up in California and stayed long enough to serve as the secretary for the State Constitutional Convention in 1850. He also collected \$1,000 from the convention for designing California's state seal, but later it was discovered Lyon had borrowed the design from someone else who evidently was too embarrassed to take credit himself.

More travels to Europe and the Holy Land followed his California adventures, but by late 1850 he was in the thick of New York politics. His name and fame helped him win an Assembly seat, but early in 1851 he resigned, declared himself a candidate for a vacant State Senate seat and won that, too. For his political ingenuity and literary skill, his alma mater in Vermont honored him with an LL.D decree that summer.

With the decline of the Whigs, Lyon turned Independent and in 1852 was elected to the 33rd Congress. He served two terms but lost the 1856 campaign and never held another elective office. Like other former business Whigs, he eventually moved into the Republican camp, but evidently he did not actively campaign in New York under that banner. After the family mansion at Lyonsdale burned, he moved to Staten Island. Another trip abroad soon followed, but the 1860 election turned his attention again to politics. He was in Washington D.C. looking for Republican spoils when the Civil War erupted.⁴

It took almost three years to land a job. Lincoln promised him a diplomatic post – or at least agreed to consider him – but higher patronage priorities had to be served first, and the Foreign Service was the cream of the spoils. Lyon was still waiting in December, 1863 when W.H. Wallace resigned as Governor of Idaho in order to take office as Idaho delegate to Congress. By that time Lyon had become a close friend of John P. Usher, Lincoln's second Secretary of the interior. Usher asked Lincoln to give Lyon the Idaho position, and since Wallace had his coveted delegateship, Lincoln saw no reason to refuse. However, Wallace wanted Dolphus Payne instead, and when the Idaho delegate arrived in Washington he appealed to his old friend in the White House on Payne's behalf. But Lincoln told Wallace his promise to Lyon was "absolute" and that he would keep his word unless Wallace could talk Lyon out of the job. The new appointee wouldn't budge – the title itself was almost worth another trip west. Some grumbling came from Roscoe Conkling, already a growing power in New York politics, who expressed reservations about Lyon's "moral character." Perhaps Conkling had heard the rumor, which circulated later in Idaho, that in 1861 Lyon had led the military unit which had confiscated Robert E. Lee's Arlington estate. Among the booty was a number of objects d'art which Lyon supposedly

added to his private collection. Like other war stories about Lyon, this one was false. So were the more noble yarns, probably invented by Lyon himself, that he had been with McDowell at Bull Run and with Kearney in McClellan's Peninsular Campaign. Actually Lyon never was a soldier. Conkling's criticism, whatever the source, did not seriously hurt Lyon's candidacy for Idaho governor, however. The president made the appointment as promised, and the Senate confirmed him February 26, 1864.⁵

Lyon's trip west took longer than Wallace's a year earlier. Delayed by personal business and politics back home, he left New York in June, accompanied by Secretary Usher's seventeen year old son Arthur, who had stayed with the Lyons in New York that spring. Officially Arthur went along as private secretary but he probably did more sight-seeing than anything else. The two travelers sailed around the Horn and finally reached Lewiston in August, six months after Lyon's appointment. Waiting for Lyon were eleven cases of books and documents which he had shipped by expenses at a cost of \$2,204. The moving expenses he innocently charged to the Interior Department, but Wells Fargo never collected although the company tried for over a year. It seemed the government had made no provision for such contingencies.⁶

The new governor was almost wholly ignorant of Idaho affairs when he arrived, and his first day in office was a sobering eye-opener. Silas Cochran supplied most of the news. The government debt stood at \$44,000 with still no money available from Congress. Creditors discounted territorial vouchers by half and cut legal tender notes by the same amount. Copperheads still flocked in from the border states and threatened to carry every election in the Pacific Northwest. No one could get copies of the Organic Act or the territorial laws. Absenteeism and corruption headed the growing catalog of complaints against federal officers. Lyon passed on these un-pleasantries in a letter to federal officials in Washington and added heroically: "With but one judge in the Territory and no Marshal, I commence the administration of this Department under difficulties of the gravest description."⁷

The governor might have added Indian troubles to the list, for as ex-officio Superintendent of Indian Affairs he was ultimately responsible for federal-Indian relations throughout the territory. Both the treaty Nez Perce and the non-treaty Shoshoni were restless. The Nez Perce complained of unpaid annuities, incompetent officials, inadequate buildings on their reservation at Lapwai, and inedible or non-existent supplies. Lyon spent a day looking into Lapwai conditions and made a speech which showed his complete ignorance of Nez Perce reservation life. His rhythmic peroration on the Calvinist work ethic might have come from the forked tongue of the Great White Father himself:

Labor is the straight trail that leads to pleasant places full of wheat and corn and potatoes instead of Kowsi, Kammas and bitter root; where the cow, the sheep and the hen take the place of the buffalo, the deer and the curlew; and melons and fruit that of weeds and thorns. Idleness and a roving predatory life is the crooked trail that leads over the barren Sage plains of want to the rocks of starvation, the ends in the fearful precipices of diseases and death.⁸

The real trouble was not idleness but Congressional procrastination. Federal agents had completed a new treaty the year before, but Congress had not yet acted on it and did not appropriate money due the Indians under previous agreements. Lyon was full of flatulence and deceit, for ten days after his pompous talk he wrote a confidential letter to his friend, John P. Usher, urging him to amend the new treaty to exclude a valuable tract of mining land which

Lyon and the Interior Secretary's son Arthur could then purchase from a third party who would acquire it from its Nez Perce owner.⁹

In the south, hostilities between Shoshoni bands and white intruders had been brewing for years. Jeff Standifer's volunteer army had killed a couple dozen Indians in 1863 but the raids continued, and federal troops at Fort Boise were too few during the Civil War to offer an effective military solution. It seemed an opportune moment for diplomacy, and in September Governor Lyon headed south to meet the head chiefs of the "Snakes," as the Shoshonis were also called. He reached Fort Boise October 7, and three days later rounded up what local Indians could be found. A treaty was signed by which the Indians gave up Boise Valley in turn for the usual promises of a reservation and annuities. Still the raids continued, for most of the raiders knew nothing of the treaty. It was never ratified by Congress anyway – so the effort was almost a total loss.¹⁰

The governor's preoccupation with Indian affairs kept him out of local politics during most of the 1864 campaign. Territorial residents of course could not vote in the national election, but many local offices had to be filled. Annual elections to the Legislative Assembly were required by the Organic Act; reapportionment and new laws created other vacancies at the territorial and county levels. Finally, once again the territory had to elect a delegate to Congress, for Wallace's short term expired with the close of the 38th session. The former governor still had Republican friends in Idaho, but his image had slipped badly as a result of the Laramie fraud. Neither was he popular with the growing Radical element in Republican ranks, led by Boise County Sheriff Sumner Pinkham. In August the Radicals controlled the Union party convention and nominated Associate Justice C. Parks for delegate. They also passed a resolution condemning Dolphus Payne "and those connected with him in his iniquitous schemes" Wallace, to fulfill a promise made earlier to the Union League, returned to Idaho to campaign for the ticket (and to look after his Boise property), but Union ranks were shaken by the Radical insurgence and began to crumble long before the election. The 1864 contest would not be a repetition of 1863."

In contrast to the Unionists, the Democrats were supremely confident. Their strength in Idaho was inversely proportional to the Confederate weakness in the lower Mississippi Valley after 1863 for as the Union armies gained the upper hand in Missouri, Tennessee and Arkansas, Confederate supporters and ex-soldiers from those areas came west by the hundreds. The result was to radicalize the Democracy in Idaho as well as to increase its strength in the populous southern portion of the territory. Unlike 1863, newly immigrant Democrats could vote, for no residency laws had been established by the first session. Census returns compiled in September showed that over 12,000 of the 15,000 eligible voters in the territory resided in Boise County alone, and on election day, October 10, 56% of the Boise County vote went to the Democrats. E.D. Holbrook, the Democrats nominee for delegate, won by 600 votes over Parks, Democrats also won the lower house, but holdover Unionists kept the Council out of Democratic hands.¹²

The Democratic victories in the 1864 election began a long period of Democratic rule in Idaho. For the next two decades Idaho diverged from national political patterns by electing Democrats locally while Republicans won nationally. The results were frustrating at the local level for both sides. The Democrats had little voice in federal patronage and their delegates by and large were politically impotent in Congress. Only E.D. Holbrook had any significant patronage power between 1865 and 1867, but his exceptional status was due to the tragedy which cost the life of President Lincoln and placed a Tennessee Democrat in the White House. On the other hand, Idaho office usually turned out to be

more of a curse than a blessing to Republican appointees who faced an uncooperative legislature and an unsympathetic populace.

But as we have already seen, party differences alone don't explain the roots of political conflict in Idaho. The sectional battles which had disrupted party lines while Idaho was part of Washington Territory continued after 1863 on two levels. On the local level was the controversy over capital location and territorial boundaries. Broader in scope was the sectional agitation against non-resident federal appointees, or "carpetbaggers" as they were beginning to be called. The latter issue derived from regional pride in Idaho's phenomenal growth since 1863. Talk of statehood could already be heard by 1865, but home rule was a first step. Even that was denied by the system which placed territorial patronage in the hands of nonresidents who had more influence on the president and his advisors than local office-seekers. Both these sectional forces cut across party lines and provided the one remaining channel of success and popularity to Republican officeholders in Democratic Idaho. By espousing popular local causes, federal officers won friends regardless of party affiliations.

Like Wallace and Daniels before him, Governor Lyon was caught up in the sectional controversies almost from the moment he arrived. Lewiston was determined not to lose the territorial capital even though the Organic Act empowered the legislature to name the permanent location. Residents of southern Idaho were just as determined to take it away from the north, and reapportionment and the October election gave them the legislative power to do it. Lyon sided with the south, and said so publicly during a tour of the southern mining camps following his Shoshoni negotiations in October. Logic as well as politics dictated the governor's line of thought, for the south held 85% of the population and the key to his own political future if Idaho became a state. To develop his political assets, he cultivated popular opinion by skillful oratory and public appearances with delegate-elect Holbrook. He also made friends with Henry C. Riggs, Boise Democrat and land baron, who had just been elected to the second session. Riggs and Lyon rode to Lewiston together, and their camaraderie sparked suspicion in the north that Lyon had been bribed with Boise lots just as Daniels and Wallace allegedly had been earlier. Bribery was hardly necessary, for Lyon had seen the political handwriting on the wall. When the second session pushed through a removal bill, the governor signed it without hesitation. Boise City was to be the new capital when the legislature adjourned December 24, 1864.¹³

The controversy did not end there, for North Idaho sectionalists were not willing to concede a southern victory. During the second session they had tried to avoid a capital fight altogether by urging Congress to return North Idaho to Washington Territory, but a resolution to that effect died because of southern opposition. Failing division, Lewistonians sought a remedy in the courts. They were aided by contradictory first session legislation which called for convening the second session before the terms of the members commenced. The northerners also argued that since Organic Act provisions prohibited more than one legislative session per year, the second session legally could not convene until February 4, 1864, the date the first session adjourned. On grounds that all acts of the second session were illegal, northern attorneys filed an injunction to prevent capital removal. They also filed a writ of ne exeat, usually used in civil suits to prevent litigants from leaving the court's jurisdiction pending trial, but in this case ordering Lyon and his acting secretary Silas Cochran not to leave Idaho. Since there was only one way out of Lewiston in winter — down the river to Walla Walla — the Lewistonians figured the government would stay where it was at least until the lower courts pulled on the legality of the

second session. Final action might take months, for District Court Judge Alex C. Smith was certain to rule in Lewiston's favor, and the Territorial Supreme Court was not scheduled to meet until August, 1865. Since there had been no quorum on two previous meetings, the possibility of an even longer high court delay was quite likely.¹⁴

As the crisis developed, Lyon turned to jelly. Rather than risk an adverse court opinion, or even worse a hostile Lewiston mob, the governor decided to sneak out of town. Faking a duck-hunting trip on Snake River, he crossed to the Washington shore and caught up with a buggy he had sent on ahead. Before he was missed he reached Walla Walla, but he had left Cochran and the territorial records behind. When Lewistonians found out, they literally dumped the records in jail for safe-keeping and warned Cochran not to leave town. To make sure he didn't they assigned a guard to watch him. Cochran promised to stay – he had little choice – and restored himself in local favor by refusing to cooperate with Major Sewall Traux, whom Lyon timidly sent from Walla Walla to take custody of the government records. Completely befuddled by the impasse, Lyon headed for Washington D.C. to consult with officials. In his absence, Cochran proclaimed himself acting governor but had no authority and no seat of government. The capital crisis had brought the territory to a standstill.¹⁵

Clinton DeWitt Smith, the new territorial secretary, finally broke the deadlock. He arrived in Lewiston March 2, 1865, eight months after his appointment, breaking Lyon's previous record for absenteeism between commission and commencement of duty. Smith blamed Indian trouble on the Plains and bad weather for most of the delay, but he began to hurry after the State Department warned him to be on the job by January 1, 1865, and refused to consider an extension of a two-week leave which Smith managed to stretch into several months anyway. Once in Idaho he acted decisively to resolve the capital crisis and get the territory moving – despite Silas Cochran's charge that he was drunk most of the time. Ignoring the blandishments of the Lewiston vigilantes, Smith obtained a military escort from Fort Lapwai, rescued some of the incarcerated archives, and headed for Boise. Lewiston fumed, but Smith eased some of the pain by paying the mileage and salaries of the first session members who were still in town. It was the first time any of the outstanding territorial debts had been paid.¹⁶

A hero's welcome awaited Smith when he reached the new capital April 14. Captain Robinson at Fort Boise ordered a cannon salute and a jubilant crowd passed commendatory resolutions. A year later the Territorial Supreme Court finally got organized and heard Lie capital case after Alex Smith had issued a permanent injunction against removal in district court. The higher bench overturned Smith and ruled in Boise's favor, but by that time the case was irrelevant – if not forgotten.¹⁷

The capital dispute illustrated the sectional disparities evident in a territory divided by geographic barriers not entirely overcome until, the advent of paved highways and commercial airline traffic in the mid-twentieth century. A legacy of sectional hate lasted throughout the territorial period and provided the major impetus behind the almost desperate efforts of the north to either join Washington or organize a new territory along more logical geographic lines. Even after sectional reconciliation just prior to statehood, Lewistonians still harbored the tradition that a ring of Boise thieves "stole" the capital.

In Governor Lyon's absence Secretary Smith took over the government. To replace Silas Cochran – who stayed with his friends in the north and who never got along with Smith anyway – the acting governor hired Horace C. Gilson, whom Smith had

met in a San Francisco saloon while on his way to Idaho. Later critics would attack Gilson's "dubious moral antecedents," but for the moment no one seemed to question Smith's judgment in turning over the secretarial chores to "a small gambling bartender."¹⁸ Neither Smith nor Gilson provided real leadership, however, and in the absence of a governor, the territory drifted towards complete chaos.

Two sensational events in Boise County indicated the extent of the drift. The first was a killing with Civil War overtones and repercussions. On July 3, Ferdinand Patterson shot Sumner Pinkham just outside Idaho City. Pinkham, the first sheriff of Boise County, was an avowed abolitionist under whose leadership the Radicals had captured control of the Union party in Idaho. His killer was an Alabama native

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drawn. In his first year in office, Johnson left the patronage to his cabinet and Congress, even though Radicals dominated the bureaucracy and opposed presidential reconstruction. He did not personally try to manipulate the spoils system until the fall of 1866, but by then it was too late to overcome the power and popularity of the Radicals. Wallace lost his bid not because of Johnson but because of strong opposition from the New York Congressional delegation. It wanted the appointment to go to still another New Yorker, and under pressure from his native state, Secretary Seward neglected to issue Wallace's commission. Caleb Lyon, who was still in Washington, may have helped his own cause as well by pleading with Seward not to process Wallace's nomination. Wallace complained to the president that the New Yorkers were trying to "secure the place for some Gentleman whom they wished to import to Idaho," and Johnson, insisting "this can't and shan't be done," refused to submit another name for consideration. The result was an impasse, and by default Lyon was still governor.²⁷

Lyon returned in November to an Idaho more solidly Democratic than when he left. Off-year elections had given the Democrat all but two legislative seats, and the Republicans were divided and powerless. In Boise, the new capital, a Radical contingent had developed, complete with its own newspaper, the Idaho Tri-Weekly Statesman, but it had no representation in the third session and it was virtually surrounded by hostile Democrats in Boise Basin and the Owyhees. As a conservative Republican, Lyon ideologically had more in common with the Democrats than the Radicals, and he had nothing to gain by waving the bloody shirt. It seemed to make better sense to cooperate, for statehood appeared to be just around the corner with two U.S. Senate seats to be counted among the spoils. His Idaho political future at stake, Lyon set about to build a popular Democratic following.

The magic of his oratory was an invaluable asset, and the governor used it as if he were already campaigning. On a tour of the south he spun a web of political platitudes, predictions of industrial growth, and patriotic appeals that mesmerized even former critics. In Boise he praised the Johnson Administration and endorsed the generous terms of presidential reconstruction. In Owyhee County he touched off a wild but abortive mine rush by revealing a pea-sized quartz crystal which he said was a diamond found 20 miles south of Snake River. In Idaho City he stood alongside Democratic leaders and made a rousing speech which was rewarded with "three cheers...given with much ECLAT" from a partisan audience. As they hurried and waited in line for a "friendly shake of the

Gubernatorial hand," southern Idaho Democrats seemed to forget earlier complaints against all sent federal officials.²⁸ With Lyon's encouragement, they also overlooked his Republican antecedents. Thus far the nonpartisan strategy was a resounding success.

To avoid unpopularity during the third session, Lyon a lamb. He pursued what he called a "policy of conciliation" which meant trying to shape legislation by "tact" rather than vigorous leadership. As a sampler he gave a sumptuous the lawmakers and worked his rhetorical charm. It was a without lasting results. "Conciliation" usually turned "capitulation," for the Democrats did what they pleased almost nothing in opposition. Later he defended his grounds that territorial governors had "no power directly to control local legislation. If tact didn't work, he implied, the helpless."³⁹

These obsequious third session tactics had economic as well as political roots. As an ex-Whig with a nose for business, the Governor needed legislative support for a railroad project he had cooked up with both local and outside speculators. His vision of a greater Idaho included a railroad connection with the transcontinental trunk line still under construction between Omaha and San Francisco. Idaho also lay across the path to the Pacific Northwest, and already there was talk of a Snake River branch railroad from Utah to Portland. Officials of Oregon Steam Navigation Company, which held a monopoly on Columbia River transportation, were interested, and so was Ben Holaday, the steamboat and stage coach king, who was in the process of selling out to Wells Fargo in order to invest in rails. Lyons eastern connections produced still another potential investor in Idaho railroads, William Marcy Tweed, whose Tammany Hall ring was busily plundering the rich spoils of New York City. Together with 18 Idaho promoters, most of them leading Democrats, representatives of these outside interests came together to draw up articles of Incorporation for what was ambitiously called the Idaho, Salt Lake and Columbia River Branch Pacific Railroad Company. Special legislation was required in the days before the adoption of standardized incorporation laws, but the third session was most happy to cooperate. Governor Lyon, also one of the incorporators, signed the bill early in January, 1866. Nothing came of the venture, however. It was almost twenty years ahead of its time. A dozen other schemes were proposed, all to suffer the same fate, before the Union Pacific finally built the Oregon Short Line across southern Idaho, 1881-84,³⁰

The public heard little about the railroad company and other special franchises distributed widely with the governor's consent, for most attention was focused on the partisan schemes of the third session which turned out to be both vindictive and rapacious. The Democrats undid the work of Republican predecessors, punished enemies, and rewarded friends. One of the first acts of the session was to banish Milton Kelly from southern Idaho by means of a bill ostensibly designed to reorganize the territory's judicial districts. Kelly was an outspoken Midwest Radical who had operated an express line between Auburn, Oregon and Placerville, Idaho before setting up a legal practice in Boise Basin. Radicals sent him to the first session in 1863, but after losing his seat in the 1864 election he enlisted W.H. Wallace's help in securing an appointment from President Lincoln an associate justice to fill the vacancy left by the resignation of Samuel Parks. Kelly was highly unpopular among basin Democrats who were still smarting from the judge's partisan attack on Alfred Slocum. The reorganization bill sent Kelly to Lewiston in exchange for Alex Smith, who took over Kelly's capital district. John R. McBride, Sidney Edgerton's replacement as chief justice, remained where he was in the second district.

Council Democrats explained the bill's real intentions in an incredible judiciary committee report to the floor:

"believing that the removal of Milton Kelly to the most thinly settled portions of our Territory, where matters of litigation are, comparatively speaking, of an unimportant nature, and of sufficient importance to require a stretch of what little legal ability he possesses, would meet with the unqualified approval of a majority of citizens of Idaho Territory, and be an act of justice to ourselves, we would respectively recommend the early passage of the bill."

S.S. Fenn of Idaho County, later a territorial delegate, objected on grounds he did not want north Idaho to become "a penal colony, to which to banish all weak and incompetent Federal officials." Even Alex Smith, "with all his faults, has an intuitive sense of legal right and wrong, which serves in the place of profound legal knowledge," and which was more than Fenn could say for Kelly. That argument hardly moved southern Idaho sectionalists, who passed the bill without further debate. Radicals called it "spite" legislation, but Lyon signed it the day after Christmas, 1865.³²

All three Radical judges suffered from a Democratic "economy" measure which Lyon also approved. Initially it was designed to end extra pay for all territorial officers except the legislators themselves, but Lyon's coddling paid dividends as the session advanced. By the time the bill reached his desk, the territorial salaries of the governor and secretary had been restored.

Since the territorial treasury was still empty as a result of Boise County's continuing holdout, the lawmakers tried to finance their revenue measures with the money still believed to be in the hands of Alfred Slocum, whose fraud had not yet been exposed. To take care of the prison debt and at the same time to relieve their fellow Democrats in Boise County, the legislature passed two special Bills. Both earmarked portions of the "Slocum fund" to pay the \$9 000 county bill for housing territorial convicts and the \$11,000 statement from Boise County Sheriff James I. Crutcher for chasing escapees and feeding inmates. While these debts were under consideration, the legislators also looked to their personal needs. They debated a bill to pay their own salaries with the Slocum cornucopia, but public reaction was so hostile that the Council dropped the scheme. Even partisan Democrats were outraged by the proposed salary grab, for if passed, it would rob creditors who had been waiting many months for the territory to pay its bills.

The governor acquiesced in this "local legislation," but radicals howled with rage. Most troublesome were the Radical incumbents in the offices of territorial auditor and treasurer who threatened to take court action against the "Slocum fund giveaways." The Democrats met this challenge by introducing legislation to abolish both offices and to replace them with the "new" departments of controller and receiver. Dr. Ephriam Smith, the treasurer, an old Radical crony of W.H. Wallace and Sumner Pinkham, conveniently resigned before his office could be eliminated, and Governor Lyon replaced him with Edward C. Sterling, a conservative Republican. The incumbent auditor refused to concede, however, and the legislature passed the controller bill which Lyon signed early in January. The new appointee was Horace B. Lane, a Democrat who in an unrelated incident two years later was murdered by a drunken bartender in a Boise saloon.

Acquiescence stopped when the Democrats adopted a revised oath of office repudiating both the federal "iron clad oath" of 1862 and a similar oath passed

by Idaho Unionists in 1864. To approve the bill was political suicide, while to veto it would undermine the local support Lyon had worked hard to cultivate. Both options were objectionable, so the governor did nothing. He laid the bill aside, and eventually it disappeared altogether. Since it passed too early in the session to be pocket vetoed, by default it became law. But no official copies had been made and its legal status remained in doubt until the next session. Idaho Radicals, of course, condemned the governor's spineless chicanery, but by "losing" the document he avoided having to make a politically embarrassing decision. Old New Yorkers might have recalled a similar lack of backbone in 1856, when Lyon was defeated in a congressional contest. During the campaign he experimented with a question and answer session following a speech, but the questions proved so unsettling he never tried it again.³³

Despite his test oath equivocation, Lyon remained popular at least with third session Democrats. The success of his efforts to build legislative support was underscored by a congratulatory resolution passed just prior to adjournment. The document also indicated the extent to which Idaho – in contrast with the rest of the north – favored the president's mild reconstruction programs:

Resolved...that we commend the motives and patriotism of Andrew Johnson...as made manifest in his efforts to restore the 'Union of our Fathers',...as it came from the hands of Washington and the patriots who made the Constitution of 1787... Resolved, that we are well satisfied with the Administration of His Excellency, Governor Lyon, and have full reliance in his integrity, ability, and energy, believing him to have the welfare development and prosperity of our Territory at heart, and the regard and confidence of our people."

Whatever consolation this may have been to the president, at the territorial level third session praise was a dubious honor. Lyon's popular following was deceptive, for it did not extend much beyond the citadels of Democratic strength in Boise Basin. The north hated him, and in the southwest legislative avarice hurt both Lyon and the Democrats. The governor put up a bold front, claiming broad-based support and dismissing criticism as the work of a "paid faction," but third session backlash told a different story. Idaho Statesman editor James S. Reynolds summed up the Radical viewpoint:

We have slowly and regretfully begun to expose the shallow trickery of this old demagogue sent out here for a Governor, because we were at first disposed to give him credit for some honesty of purpose and attribute his short-comings more to imbecility, if not actual craziness, then downright villainy. But we have given him up entirely. The proof is overwhelming that his duplicity and meanness are only limited by his ability.... Where Republican Governors join with democratic legislatures to cover up public robbery they will all hear from us while we publish the Statesman,"

Democrats outside Boise Basin generally held their tongues, but one admitted he was ashamed to tell friends back East that he had been a third session member. He concluded that "forty days legislating in Idaho would disgust any honest man." Others would probably have agreed with one disgruntled Radical who repudiated the third session and exclaimed: "Caleb of Lyonsdale is still governor, but without a party."³⁶

Even without criticism of his third session complicity, Lyon's image had slipped since the fall of 1865 as a result of continued Idaho Indian unrest. Despite the governor's extended stay in Washington D.C. which he claimed had been spent working almost entirely on Indian affairs, the Nez Perce still had no annuities. Oregon Senator James Nesmith, a Douglas Democrat who had fought in the Indian wars of 1855-56 and who later was Superintendent of Indian Affairs for Oregon and Washington, investigated these complaints in the fall of 1865 and concluded that Lyon had "shamefully neglected" his duties. No records were kept on Indian disbursements, and the money spent thus far had been "...squandered [by the governors orders] on objects which were neither authorized by the treaty [n] or desired by the Indians." The local Indian agent at Lapwai confirmed these charges, but the intensity of the criticism may have been inspired by the senator's efforts to replace Lyon with a fellow Oregonian, David W. Ballard.³⁷

Shoshoni raids in the south were a bigger problem, for they continued almost unabated despite Lyon's 1864 peacemaking efforts and his promises to secure federal aid. Conflicting white attitudes aggravated the situation, for Lyon shared Eastern reforms sentiment and sympathized with the Indians. He distinguished between peaceful Boise Valley natives, which were destitute and practically extinct, and hostile raiding parties originating in other parts of the Snake River country. On the other hand, Idaho residents, like most frontiersmen, demanded immediate and total Indian removal or extinction. They resented the governor's efforts to set up a reservation for Boise Valley Indians, and they insisted on better troop protection for travelers and ranchers.

Early in 1866, with still no help in sight and with a new travel season approaching, local whites armed for war as they had done in 1863. Senator Nesmith, on a stopover at Boise, contributed to war fever with an inflammatory speech attacking both the Indians and Lyon. Two mass meetings in Boise raised \$1,800 and (2 volunteers, and Owyhee residents adopted a resolution to pay bounties for Indian scalps on a sliding scale: \$100 for "every buck scalp," \$50 for women and \$25 for "everything in the shape of an Indian under ten years of age."³⁸ Lyon attended the Boise rallies and promised full support, but at the same time he wrote to the Secretary of the Interior accusing Nesmith of stirring up trouble with his "...Bar room advise...given to the roughs who only want at any time a pretext to murder, scalp and rob Indians...." Early in March the volunteers rode to More's Creek and killed 16 Boise Valley Indians. Lyon was shocked by the news. In a letter to the Commissioner of Indian Affairs he claimed that 14 of the 16 were women and children. The entire affair, said the governor, exemplified the "depraved moral sentiment evinced towards the poor savages..." by Idaho citizens.⁴⁰ It was another case of the pot calling the kettle black, for the Nez Perce could verify that Lyon also exploited Indians. He drew the line at murder, but he was not above taking their money or property.

Volunteer activity declined after the More's Creek incident. General Crook and a federal troop contingent arrived later that spring and took over the burden of fighting. The "Snake War," as it later became known, lasted until Crook's men corralled the last of the raiders in 1868. Before Crook reached Idaho, however, Governor Lyon had one more contribution to make. He met with some 300 Indians across the Bruneau River in April, 1866 and concluded a treaty similar to the one signed at Fort Boise in 1864. The governor was so pleased with himself he later hired an artist to commemorate the event with an elaborately idealized oil painting which is now in the possession of the Thomas Gilcrease Institute of American History and Art. The treaty itself had a less noble fate, for Congress preferred General Crook's peacemaking to Lyon's. Like the earlier Boise document, the Bruneau treaty was never ratified.⁴¹

The Bruneau conference was Lyon's last official act as Idaho governor. As soon as it was over he left for San Francisco. Rumors had been floating for over a month that he was about to be removed. Senator Nesmith was after his hide in Washington, and it was obvious from the growing intensity of the Idaho criticism that Lyon had to go. William H. Wallace still counted on the president's earlier promises, but continued Fort Laramie criticism and hostile Democratic petitions to the White House spoiled his chances. Johnson instead appointed Nesmith's man, David W. Ballard.

Lyon's removal ended his political career, but he still had one outstanding account to settle. Nesmith and Ballard continued to probe Nez Perce records, and their agitation stirred the Indian office out of its lethargy. In the summer of 1866, it discovered a slight discrepancy of \$50,000 between Lyon's receipts and his disbursements as Superintendent of Indian Affairs. The commissioner demanded an immediate accounting, but the ex-governor was still in San Francisco and never got the news until his son opened his father's mail at Staten Island and discovered the threat of a lawsuit. Lyon finally turned up in the East early in 1867, but without the missing money. He said he had been trying to return it all along, but on a sleeping car en route to Washington, thieves stole it from under his pillow. It was an incredible story that contradicted earlier statements that he never had the money. The government eventually recovered from his bondsmen but never prosecuted Lyon, who retired in seclusion under a lingering cloud of suspicion and contempt. Even his death in 1875 did not erase the bitter memories, for when the news reached Boise, the Statesman editor said he should have died in jail.⁴²

Caleb Lyon left a sorry legacy for his Idaho successor. The counties were either disorganized, deeply in debt, or delinquent in collecting and distributing tax revenues. The territorial treasury was empty, and it would soon become apparent that the federal appropriations for both territorial government and Indians had been stolen. Absenteeism was as high as ever, and the Supreme Court still had not met. Second and third session laws had never been printed, and back files of local newspapers were poor substitutes. Between Lyons departure and the arrival of Ballard two months later, Idaho once again had neither a governor nor a secretary, for Gilson had left in February and never returned. After three years of existence Idaho Territorial government was more chaotic than ever.