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THE JOURNAL OF  
THE HISTORICAL SOCIETY  
OF THE UNITED STATES  
DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN

# STEREOSCOPE



## The District of Michigan 1837-1863

*The Western District of Michigan was formed on February 24, 1863, and Solomon Withey, nominated by Abraham Lincoln, became the first district judge some two weeks later. Our grand 150<sup>th</sup> anniversary celebration last year reminded us of that important historical event. But before then, for 27 years, there was one District of Michigan, formed in 1837, the year that Michigan became a state. And Grand Rapids, of course, was part of that district.*

*This issue of the Stereoscope revisits that era. This article is excerpted from chapters 1-4 of the book The United States District Court for the Eastern District of Michigan, People, Law and Politics, by David Gardner Chardavoyne, © 2012 by Wayne State University Press, with permission of the publisher.*

—David J. Gass, President

*The Historical Society for the United States District Court  
for the Western District of Michigan*

**T**he 27 years of the District of Michigan's existence were dominated by a single judge, Ross Wilkins. Those years saw Michigan progressing from a lightly populated frontier territory, relying on subsistence farming and a declining market for furs to support its economy, to an established state with burgeoning agricultural and industrial sectors. Throughout this period, Judge Wilkins spent most of his judicial time and energy dealing with collection cases on the civil side and prosecutions of the violators of federal customs and postal laws on the criminal side. Michigan's position on the border with Canada also brought him

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into contact with key issues of his day, including neutrality and slavery. The Civil War brought tremendous changes to his docket as Congress enacted new federal laws in support of the war effort, including a multitude of new taxes, that he was called on to enforce. Through it all, Judge Wilkins remained the steadfast face of federal law and presence in Michigan.

## The Territory of Michigan Becomes the State of Michigan

What is now the state of Michigan became part of the United States in 1783, at the end of the Revolutionary War, although British armed forces did not relinquish control until 1796. In 1787, the Continental Congress enacted what has come to be called the Northwest Ordinance, which organized the form of government for the former British lands located northwest of the Ohio River. Among other provisions, the ordinance promised that portions of the Northwest Territory that achieved a population of 60,000 residents would be admitted into the Union as states.

Ohio became a state in 1802, followed by Indiana in 1816 and Illinois in 1818, but the population of the Michigan Territory, established in 1805, lagged behind that of its neighbors until 1825, when the Erie Canal opened and families from New York and New England began to swarm to Michigan, looking for farmland. Consequently, Michigan did not apply for statehood until December 1833 and did not become a state until January 1837 because of a boundary dispute with its politically powerful neighbor to the south, Ohio. The bone of contention was known as the Toledo Strip, a 520-square mile area containing a noisome swamp and few people, but also Maumee (then called Miami) Bay, the gateway from the eastern Great Lakes to the Mississippi River. Both Michigan and Ohio claimed the strip and, until Michigan agreed to renounce its claim, Ohio blocked Michigan's application for statehood.

Throughout 1833 and 1834, Ohio's congressional delegation kept the issue from coming to a vote, and threatened to keep doing so unless Michigan agreed to give up its claim to Maumee Bay. The political odds were against Michigan—Ohio had 19 U.S. representatives and two U.S. senators, while Michigan had no voting representation in either house. Ohio had 21 votes in the Electoral College and Michigan had none. Michigan also fell afoul of national politics, as senators and representatives from Southern states stalled until Arkansas was ready for admission, so that a slave and a non-slave state could be admitted simultaneously.

Meanwhile, the militia of both jurisdictions were marching and posturing in the fatality-less comedy that has come to be called the Toledo War. Finally, the Michigan Territory decided it could wait on Congress no longer. In the spring of May 1835, 91 elected delegates convened in Detroit to draft a constitution for the state to consist of the Lower Peninsula and the eastern quarter of the Upper Peninsula. They completed the document in 45 days. In October, the electorate overwhelmingly adopted it and elected a state governor and legislature. The legislature met in November 1835 and then adjourned to see what Congress would do. On June 15, 1836, Congress called Michigan's

bluff by ratifying the proposed constitution and declaring Michigan “to be one of the United States of America,” but effective only when and if a new convention met and voted to accept Ohio’s version of the border location, known as the Harris Line, for its surveyor.

As weeks and months passed, Michiganders could look forward with some hope to statehood, but also with considerable resentment toward Ohio and apprehension about how long they still had to wait. In September 1836, the legislature convened a ratification convention in Ann Arbor, but delegates refused to give up the Toledo Strip. The political fight and the cost of keeping the militia in arms to protect against any armed incursion from Ohio were straining Michigan’s finances, and several leading citizens organized a second convention in Ann Arbor in December 1836, without the consent of the legislature. Those delegates passed a resolution accepting the federal government’s terms, and Congress formally admitted Michigan into the Union as the 26th state on January 26, 1837. While Michigan lost the Toledo Strip, it gained the Upper Peninsula as consolation.

## **The District of Michigan and Its First U.S. District Judge**

The significance of the border conflict for the federal courts was that Congress rarely included a territory in the Article III court system. The Michigan Territory did have a supreme court with three judges, nominated by the president and confirmed by the Senate, whose jurisdiction included suits filed by (but not against) the United States, but this was not an Article III court and its judges were not Article III judges. The judges spent most of their judicial efforts on local matters and tended to think of themselves as local officials, to the detriment of their U.S. cases such that Canadian vegetables or meat seized for violating customs laws in one year might not come before the court until the next year, long after they had rotted away. Despite efforts by local attorneys beginning in 1818 to obtain a true district court for the Michigan Territory, no changes took place until statehood loomed.

While Congress waited for Michigan to decide whether to accept Ohio’s line, it established the basis of federal judicial power in the putative state.

On July 1, 1836, Congress created the District of Michigan and, on the next day, President Jackson nominated and the Senate confirmed territorial Judge Ross Wilkins as the first U.S. district judge for the District of Michigan, although the district and the judicial appointment were not to take effect until Michigan became a state.

Ross Wilkins was an easy choice for President Jackson for more than one reason. Not only was he a fervent supporter of both Jackson and the president’s Republican-Democratic (later Democratic) Party, he was also the son of a former quartermaster general of the U.S. Army and nephew of William Wilkins, a prominent Republican-Democrat who had been a U.S. district judge as well as U.S. senator and had recently been appointed by Jackson as U.S. minister to Russia and would serve as secretary of war for President John Tyler. Strong support for Ross Wilkins as district judge also came from John Maugeridge Snowden, a Pittsburgh publisher and Jackson’s confidant who wrote to the president in November 1835 praising Judge Wilkins and reminding him of the Wilkins family’s service to the party.

Judge Wilkins did have other professional options in 1836. On July 12, 1836, ten days after the Senate confirmed his appointment to the federal bench, he declined an offer from Michigan governor Stevens T. Mason to be appointed to the new state supreme court. The state position had serious disadvantages. The annual salary of a state justice, \$1,500 per year, was no more than he was to receive as a district judge, and he would have faced re-election every seven years. Additionally, the legislature passed a law dividing the state into three judicial circuits, requiring that one justice live in each—Detroit, Monroe, and Pontiac—with the Detroit justice also required to attend court in the Upper Peninsula. It is not surprising that Wilkins chose a federal district judge’s lifetime tenure and the District of Michigan’s single venue.

## **U.S. District Judge Ross Wilkins**

Born into a wealthy frontier family, Ross Wilkins began his public service as Pittsburgh’s prosecuting attorney (1821-1823). He married 18-year-old Maria Duncan, a native of Ireland, on May 13, 1823, in Pittsburgh. They raised seven children, three of whom

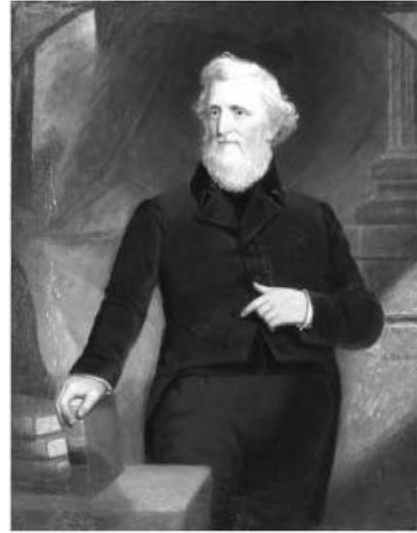
were alive at the time of the judge's death in 1872. After a term in the Pennsylvania House of Representatives (1829-1830), he accepted President Jackson's appointment to the Supreme Court of the Territory of Michigan. On June 17, 1832, he arrived with his family in Detroit, where he would serve as a judge for the next 40 years.

Ross Wilkins was a firm opponent of wealth and privilege. Writing to William Seward in 1851, he remembered that: "In early life I became a politician from a conviction that the monied corporate power of the Bank of the United States was oppressive to the masses and perilous to civil liberty." In his later years, he warned that corporations, particularly railroads, posed the same menace. In addition to his other activities, Judge Wilkins was a Methodist lay preacher and a confirmed opponent of alcohol.

In 1835, U.S. district attorney George C. Bates described the judge as "[a]bout five feet ten inches in height, he was well proportioned, lithe and graceful, with fine features, long hair [and beard] and expressive eyes, magnificent teeth and a facial resemblance to Lord Byron and was one of the handsomest men of his day. His motions and intellect were both quick, and his reasoning was clear and lucid. While reading and studying the papers and evidence in the cases before him he was always moving restlessly in his chair, and when he was finished, he would rise and, going to the back of the courtroom, fill and light his long pipe and smoked as he walked around, always paying the keenest attention to the proceedings." Bates also noted that Judge Wilkins had a "splendid, majestic head, an eye like Mars, full of brilliancy, and as restless as the eagle's." At the time of his retirement, another Detroit lawyer described Wilkins as "[f]rank and impulsive, without cautious and calculating policy," and praised "the honesty of his heart and the sincerity of his convictions." As for his approach to the law, one commentator described him as a jurist rather than a casuist, a believer in rules and laws, applied without regard to the facts or the circumstances.

## The First Sessions of the District Court

For most of the 19th century, American federal and state courts were not in session continuously throughout the year. Instead, courts sat in "terms," which



*Hon. Ross Wilkins*

began on a certain date, usually set by the appropriate legislature, and ran until the judges adjourned court. Depending on the business of the court, a term might last for days or months. Congress directed the District Court for the District of Michigan to hold two regular terms each year, beginning on the first Mondays of May and October, but Judge Wilkins was not about to wait three months after he received his commission to open his new court. Federal judges had the power to hold "special terms" at any time as circumstances required, so he scheduled a special term of the district court to begin on Thursday, February 23, 1837. Before that could take place, though, he had to find an appropriate space in which to hold court because, despite citizen petitions to congress in 1836 praying for a federal "court-house and penitentiary in Detroit," there had been no response. As District Judge Alfred Conkling of the Northern District of New York pointed out in 1831, the federal courts relied "upon the liberality of the local governments for the accommodation of the federal courts. . . . The circuit and district courts are generally held in public buildings belonging to the state, county or city where they sit, with the consent, either express or implied of the proprietors," although the judge thought that, in the absence of an offer of free space, "it would doubtless be competent for the marshal, under the direction of the court, to provide a suitable room at the expense of the United States."

For his first session, Judge Wilkins was allowed to use Detroit's handsome new city hall, located in the



*Detroit's City Hall in 1835*

middle of what is now Cadillac Square. This two-story brick, Greek Revival-style structure was 50 feet wide by 100 feet long, topped by an octagonal belfry that lacked a bell. The spacious lower floor was 16 feet high, while the total height from base to cornice was 36 feet. This stately building, designed by Alpheus White, a local architect who had trained in New Orleans, stood out in a town full of modest, single-story wooden construction. The project began in December 1833 as a new municipal market on the northern outskirts of town. By February 1835, it had evolved into “the new market and Council House,” with space on the upper floor for Detroit’s Common Council. By the time of the building’s official inauguration, on November 18, 1835, it was officially known as the city hall, although the lower floor was given over to the town’s butchers. In October 1835, the Common Council allowed the territorial courts, which had been evicted from the territorial capitol by the new legislature, to use the city hall’s upper floor. The territorial courts remained at city hall until their last sessions in June 1836, and their state successors continued on there for a time.

## **The First Sessions of the Circuit Court**

The law creating the District of Michigan gave its district judge “the same jurisdiction and powers which were by law given to the judge of the Kentucky dis-

trict” by the 1789 judiciary act. That meant that Judge Wilkins was allowed to hold circuit courts alone, and during the special term and the first few sessions of the regular term he handled both district court and circuit court cases. However, a week after the first special session in Detroit, Congress deleted that provision and assigned the District of Michigan to a new seventh judicial circuit. When he learned of the new law during the district court’s May term, Judge Wilkins had no choice but to open a second docket for circuit court cases and to wait for the arrival of the circuit justice, John McLean, to hold the circuit court’s inaugural term.

Justice McLean joined Judge Wilkins on the bench for the circuit court’s first term on Monday, June 27, 1837. The relative unimportance of the federal courts at that time can be seen from the fact that Detroiters other than litigants and attorneys barely noticed the opening sessions of either court. In a town that organized lucullan feasts for every public event of note, there is no evidence of any for either court’s first term. Although McLean missed the June term in 1838, he did attend the November term that year, and he returned for at least one term each year for the next two decades until July 1860, after which age and failing health precluded him from traveling.

With the District of Michigan and its courts in place, the business of federal jurisprudence in Michigan was ready to begin in earnest. From small beginnings, only 73 cases filed in 1837, the district would grow to almost 300 cases filed in 1863, the year that it split into Eastern and Western Districts.

## **The Civil War**

In 1863, at the midpoint of the Civil War, the District was divided into Eastern and Western Districts. The Civil War brought new kinds of cases involving taxes, confiscation of enemy property, conscription, and piracy, as well as old favorites such as counterfeiting, smuggling, and cutting government timber. The number of diversity cases for debt decreased markedly and, for the first time, more cases were filed in the district court than the circuit court. In 1869, Congress made the first substantial structural change in the history of the federal judiciary, creating the position of circuit judge to relieve Supreme Court justices of the

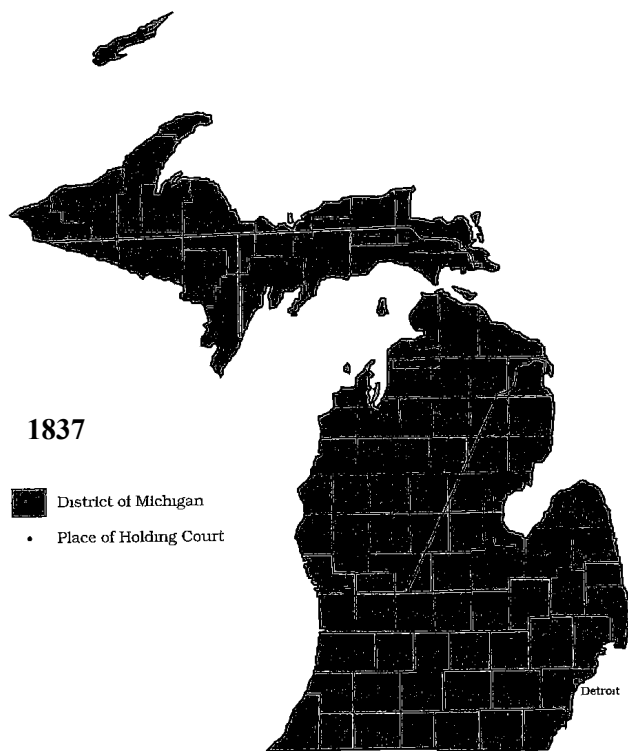


Fig. 1. The District of Michigan, 1837 (Ellen White)

duty to ride circuit to attend circuit courts. Finally, in 1870, Judge Ross Wilkins retired after 38 years on the district court.

For four years, from April 1861 to May 1865, the United States fought a war of unprecedented carnage and brutality. Although in retrospect the Civil War seems to have been inevitable, few people in Michigan felt that way until the federal elections of 1860. The question of slavery had arisen in many shapes during previous decades, and Northern states had always, in the end, acceded to Southern demands or entered into unstable compromises, whether the immediate dispute was over fugitive slaves, the legality of slavery in the District of Columbia, or expansion of slavery into the western territories. Most Americans expected 1860 to be no different, but Southern paranoia and Northern resentment resulted in the shattering of the Democratic Party into Northern and Southern factions, which opened the door for the election by a plurality of the Republican Party's presidential candidate, Abraham Lincoln, and a firm Republican majority in the House of Representatives. Even though Lincoln was careful not to say anything that could be interpreted as a

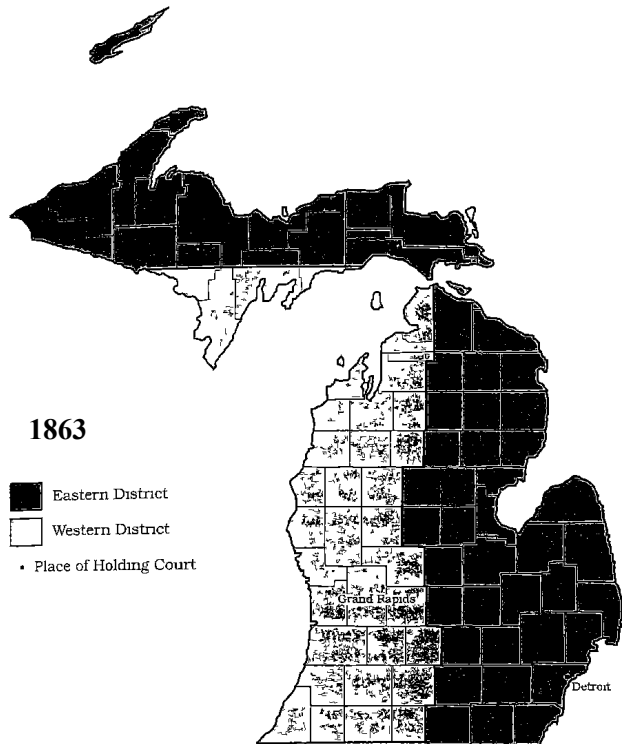


Fig. 15. The Eastern District of Michigan, 1863 (Ellen White)

threat to the existence of slavery, and even though he lacked the political means to carry out such a threat when he was inaugurated in March 1861, Southern politicians talked themselves into armed secession. If Lincoln was careful, many other Republicans were not, urging abolition and almost daring the South to secede. Northern Democrats found themselves in between, trying to preserve the Union by avoiding war at any cost.

During the 1850s, Michigan shifted from solidly Democratic to just as solidly Republican. When the 37th Congress convened on March 4, 1861, both of Michigan's senators and all four of its representatives were Republicans. Only Wayne County retained a Democratic majority hopeful that secession and war could be avoided by acceding to Southern demands. On January 29, 1861, the same day that they opened the new courtroom, Judge Wilkins and John Winder attended a meeting of Detroit's leading Democratic lawyers, such as George Romeyn, George Van Ness Lothrop, and D. Bethune Duffield, to draft a resolution urging the president to defuse the crisis by affirmatively promising not to interfere with slavery.

When news arrived in Detroit on April 13 that South Carolina militia had forced the surrender of Fort Sumter, Judge Wilkins and the other Democrats joined Republican attorneys, such as Halmer Hull Emmons, in organizing mass demonstrations in support of the federal government. The Republican *Detroit Advertiser* did not hesitate to call for armed action, asserting that: "The Stars and Stripes must be sustained at all hazards and at every sacrifice." The Democrat *Detroit Free Press* blamed Republicans' "wretched fanaticism and folly and wickedness" for the crisis, but the newspaper did agree that "it is nevertheless our duty to support the government in a contest for its own preservation." By May, the *Free Press* admitted that it "had become reconciled to the fact that there was no alternative but to fight" and declared that "two confederacies will never live in peace between the Great Lakes and the Mexican Gulf." Nevertheless, throughout the war the *Free Press* was consistent in its fervent opposition to Lincoln's presidency and in its virulent hatred of African Americans.

Faced with the national crisis, the people of Detroit adopted Judge Wilkins and the Custom House as their symbols of the Union. The judge was a featured speaker at most of the public events held to rally the public morale, many held on Griswold Street outside of the Custom House. On April 18, for example, a large crowd gathered there, despite heavy rain, to see the Stars and Stripes hoisted to the top of a pole on the building's roof, a highly symbolic event itself in an era when federal buildings did not typically display the national flag. After some preliminary comments by the postmaster, Judge Wilkins addressed the crowd. He warned that: "Providence has added to the number of the original States, but the devil, working through human ambition and passion, is striving to take away from them. In all our wars this flag has floated over our victorious armies." Two days later, Judge Wilkins presided over another ceremony outside of the Custom House, in which civilian, military, and naval officers in the city reaffirmed their oath to support the federal government. Thousands of spectators "blockaded the street, crowded the steps, windows and roofs of the buildings in the neighborhood." Judge Wilkins also played a prominent role in rallies held in early May when the First Michi-

gan Infantry Regiment received its colors and left for Washington.

## The Eastern and Western Districts of Michigan

The most enduring change experienced by Michigan's federal courts during the war was the decision to split the District of Michigan into two judicial districts, denominated the Eastern and Western Districts of Michigan. Since the state's birth, its population had more than tripled, from fewer than 200,000 residents in 1837 to 749,113 in 1860. Moreover, much of that growth was spread across the southern portions of the Lower Peninsula. Although Wayne County, with its growing large manufacturing base, remained the most populous county in Michigan, increasing from 42,756 residents in 1840 to 75,547 in 1860, the U.S. Census of 1860 recorded a significant population in Michigan's western agricultural counties such as Kent (30,716), Kalamazoo (24,646), St. Joseph (21,262), and Van Buren (15,224). At the same time, Chicago and Milwaukee became industrial centers, so that shipping on Lake Michigan soared, as did the number of collisions, mariners' wage disputes, and contract claims which ended up in Detroit's district court, far from the parties and the evidence. Those factors led to a movement for a second district judge or, better yet, a separate district, to hold court in Grand Rapids for the convenience of western Michigan, an idea that had surprising support in Michigan's eastern counties as well as its western.

In February 1862, Michigan's entire delegation to the 37th Congress supported HR 267, introduced in the U.S. House of Representatives by Representative Francis William Kellogg of Grand Rapids, to split the District of Michigan. The bill passed in the House easily in July, but ran into resistance in the Senate, despite being sponsored by Michigan's formidable senator Jacob Howard, a close friend and confidant of President Lincoln. The Senate Committee on the Judiciary opposed the division of Michigan's judicial district on principle. For over a decade, the Senate had been bombarded with bills from practically every state seeking to divide federal judicial districts, but the committee had rejected them all. The senators expressed concerns over the cost of funding another judge, set of court officers, and



courthouse, but they also feared that an indirect result of adding districts would be to further burden an over-worked U.S. Supreme Court that was already two years behind in deciding appeals.

The Senate reasoned that adding a district would increase the number of private civil cases filed in the district and circuit courts as attorneys in the new district, now closer to the federal courthouse, would find that it was just as convenient to file cases in the federal courts as in a state court. Because the parties in every civil case filed in a federal court were entitled to appeal an adverse decision to the Supreme Court, an increase in cases also meant an increase in appeals. When Howard brought a new bill to the floor for a vote on February 17, 1863, Senator Lyman Trumbull of Illinois, chair of the judiciary committee, remarked dismissively that: "I suppose it will be very convenient to have a court at Grand Rapids, which is a very flourishing town or city, on the western side of the State of Michigan. There is a railroad running right through there to Detroit. You may pass at any time from Grand Rapids to Detroit in ten hours. But still they urge that there is a great deal of maritime business and a great necessity for a court there. They always urge these considerations in every State."

Although Howard and Judge Wilkins had locked horns before, the senator urged passage of the bill for the judge's sake: "I know quite well . . . that the excellent and learned district judge of that district is literally occupied the whole year, early and late, in hearing and determining cases, and in other matters concerned with the discharge of his duties, in which he is as faithful a man as ever I have met with in my life. He spends his whole time in the discharge of his duties; and the business is perpetually accumulating on his hands; and he does all this service learnedly, faithfully, and well, for the small pittance of \$2,500 a year. I ought not to say that he does all the business of both of the courts, for the circuit judge comes and assists in holding a circuit court there ordinarily twice a year, but frequently only once a year, and remains there not to exceed a week or ten to twelve days. The great mass of business is thrown on the district judge. He ought to be relieved in some degree from the multitude of

cases he is called upon to decide, admiralty cases as well as civil cases." Senator Morton S. Wilkinson of Minnesota voiced his support, but at the end of the day the Senate delayed consideration of the bill.

When Howard brought the bill forward again a week later, other Senators joined the debate. Lafayette S. Foster, of Connecticut, declared that although the people of Michigan were the "bone of [New England's] bone and flesh of our flesh," he had to oppose the bill. William Pitt Fessenden, of Maine, offered his opinion that dividing districts was "rather a matter to make offices than to subserve any other purpose." Senator Fessenden also doubted the need for a second court: "I cannot conceive how it is possible that the maritime business and the business peculiar to the United States courts in the State of Michigan should require anything like another court in that State." New York City, he pointed out, had four times the business of all of Michigan, yet it got by with one court. Iowa Senator James Wilson Grimes joked that if the new court was meant to serve citizens unable to get to Detroit easily, then it ought to be located at Copper Harbor on Lake Superior.

Other senators, such as Lazarus Whitehead Powell of Kentucky, who might have been anticipating their own states' needs for multiple federal courts, supported the bill, and, after the speeches, the bill passed 25 to 11 and became law on February 24, 1863. Congress divided the District of Michigan into the Eastern and Western Districts of Michigan, and assigned Judge Wilkins and his court officers to the Eastern District. The act bisected the Lower Peninsula by a line running roughly north and south from Mackinac.

Although Congress included the state capital, Lansing, in the Eastern District, the legislators once more selected Detroit as the only location where the district's courts could hold sessions. The Upper Peninsula was allocated to the Eastern District except for Delta County on the north shore of Lake Michigan. The logic of this division was to assign Lake Michigan and its Michigan coastline on both peninsulas to the Western District so that its large number of admiralty cases could be heard in Grand Rapids instead of Detroit. Lake Superior and its Michigan coastline stayed with the Eastern District



because Lake Superior was closer by ship to Detroit than to Grand Rapids. The original division allocated Calhoun and Branch Counties to the Western District, but, after complaints from those counties, Congress returned them to the Eastern District in June 1864.

## Two Districts, Two District Judges

Once the District of Michigan was divided in two, Judge Solomon Withey was appointed, on March 12, 1863, by Abraham Lincoln as the first District Judge for the Western District of Michigan and served 23 years until his death at age 66 in 1886.

Wilkins continued to serve as District Judge for the Eastern District of Michigan until his retirement on February 18, 1870, after serving 33 years as U.S. District Court judge. He died two years later, at age 73.

## The Judiciary Act of 1869

On April 4, 1869, Congress made the first major change in the federal judiciary since 1802. The justices of the U.S. Supreme Court had complained since the Judiciary Act of 1789 about the burden placed on them to “ride circuit” over terrible roads and through miserable weather in order to attend circuit courts in each district in their assigned circuits. Congress’ reduction of their attendance obligation to one term per district per year in 1844 did little to reduce the Justices’ complaints, particularly when an increased appellate caseload during the Civil War caused the Supreme Court’s docket to fall behind by two to three years. The Judiciary Act of 1869 provided a new type of Article III federal judge, a Circuit Judge, to take over circuit riding from the justices. The act allocated one circuit judge to each of the nine judicial circuits and provided that henceforth circuit courts could be held by the circuit justice, the circuit judge, or the district judge, or by any two of them. Although section 4 of the act also stated that each justice was to “attend at least one term of the circuit court in each district of his circuit during every period of two years,” in practice they rarely did. In fact, even the circuit judges found they could not cover all of the circuit courts, and the district judges ended up doing most of the work in both courts.

## Changing the Judicial Guard

Although the creation of circuit judges did not always improve the lot of district judges, the Judiciary Act of 1869 also contained a measure much anticipated by Judge Wilkins, the first retirement plan for federal judges. Section 5 of the act provided that any U.S. judge aged 70 or older who had ten years or more of service on the federal bench could retire and continue, “during the residue of his natural life, [to] receive the same salary which was by law payable to him at the time of his resignation.” This was a relief for Wilkins, who had just reached the retirement age on February 19, 1869. He was very tired and unwell, but he could not have supported his large household without his salary, which had been increased in 1867 to \$3,500 per year. Shortly before the act became effective on December 6, 1869, Judge Wilkins announced that he would retire on Friday, February 18, 1870, after 38 years as a judge in Michigan and 33 years on the bench of the U.S. District Court.

Unfortunately, Judge Wilkins was able to collect his pension and enjoy his leisure for only two years. On May 11, 1872, he suffered a massive stroke, and died at his home on Jefferson Avenue in Detroit at 1:30 a.m. on May 17.

## About the Book’s Author

David G. Chardavoyne is a veteran Michigan lawyer and a legal educator who teaches at Wayne State University Law School and the University of Detroit-Mercy School of Law. He is the author of *A Hanging in Detroit: Stephen Gifford Simmons and The Last Execution Under Michigan Law* (Wayne State University Press, 2003), and he contributed a chapter to *The History of Michigan Law*, both of which were named Michigan Notable Books by the Library of Michigan. He is also a frequent contributor to *The Court Legacy*, the journal of the Historical Society for the United States District for the Eastern District of Michigan.

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*The Grand Rapids Enquirer*  
June 27, 1845

Andrew Jackson, who was in his final year of his eight years in office, was President when the district of Michigan was created and when Michigan became the 26<sup>th</sup> state on January 26, 1837. After leaving the White House on March 7, 1837, he returned to his home at the Hermitage, just outside Nashville, where he resided until his death on June 8, 1845.

This article, from *The Grand Rapids Enquirer*, describes the proceedings in the U.S. District Court in Detroit concerning President Jackson's passing.

Adjournment of U.S. Court.—The United States Court and District Court for the District of Michigan, the Hon. John McLean and Ross Wilkins, presiding, commenced its sittings yesterday morning. After the usual preliminaries of the opening session, the Hon. John Norvell, U.S. District Attorney, addressed the Court as follows:

“It has become my painful duty to announce to this honorable Court the intelligence of the death of General ANDREW JACKSON, of Tennessee, late President of the United States! He died at the Hermitage, on Sunday the eighth day of this month, full of faith in the saving merits of his Redeemer, and of his transition to a better and happier existence.

The hero and patriot is no more! A life filled with incidents and events of unsurpassed magnitude has terminated at a moment when his country is in the enjoyment of a degree of liberty, prosperity and happiness, challenging the grateful feelings of her people, and the admiration of mankind.

The career of General Jackson has been run amidst scenes and revolutions in the history of nations, including his own, of vaster magnitude than any previously recorded in the annals of the world. He was born before the American revolution; fleshed his maiden sword in the war which gave birth to American freedom and independence; lived to be a spectator, as

it were, on the mighty conflicts which agitated Europe in one unbroken series of convulsions, from 1788 to 1815; achieved victory after victory in the war of 1812 with Great Britain and her aboriginal allies, and survived that war to witness the separation of the South and North American colonies from the kingdom of Spain, and the organization of seven or eight independent nations on the ruins of Spanish American despotism.

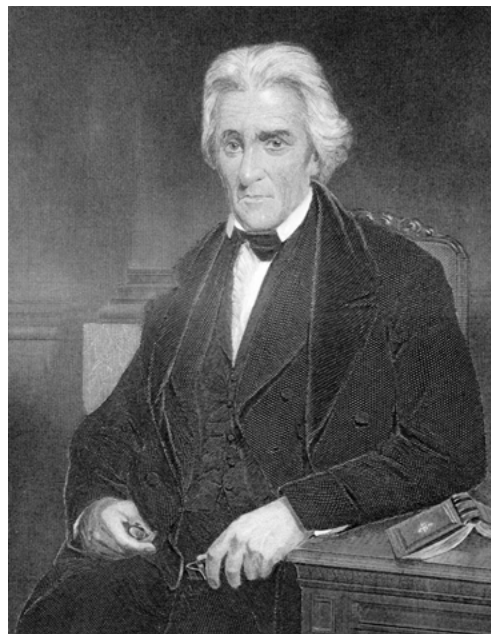
Chosen by the people of the United States, at two successive elections, to be their President and commander-in-chief, his administration, whatever differences of opinion may be entertained of its merits, was signalized by all the peculiar characteristics which distinguished that remarkable man. We may properly leave to the future historian, surviving the party passions of the day, whether favorable or unfavorable to the memory of this renowned warrior and statesman, the task of delineating his character, principles and measures.—But all, I believe, now concur in ascribing to him honesty of purpose, ardor and purity of patriotism, sternness of integrity, as well as of will, and military genius, skill and courage.

Amidst all the collisions, public and private, which developed the more rigid qualities of his mind, General Jackson was a kind neighbor, a confiding and devoted friend, with a soul full of melting charity to his fellow men.

His public services cannot be questioned. His reputation must always to a great extent be identified with that of his country, and his name remain stamped upon her history in character more durable than monumental marble.

Having long been the head of a Government, of which the honorable Court is a co-ordinate branch, and for many years a member of the bar as well as of the bench, I respectfully submit a motion, that from respect to the memory of the illustrious deceased, the Court do adjourn, and stand adjourned 'till to-morrow morning.'"

The motion of the U. S. District Attorney was movingly and eloquently responded to by his Honor Judge McLean, whereupon the Court adjourned.



*Andrew Jackson*

\*\*\*\*

## The Michigan Cabinet Counties

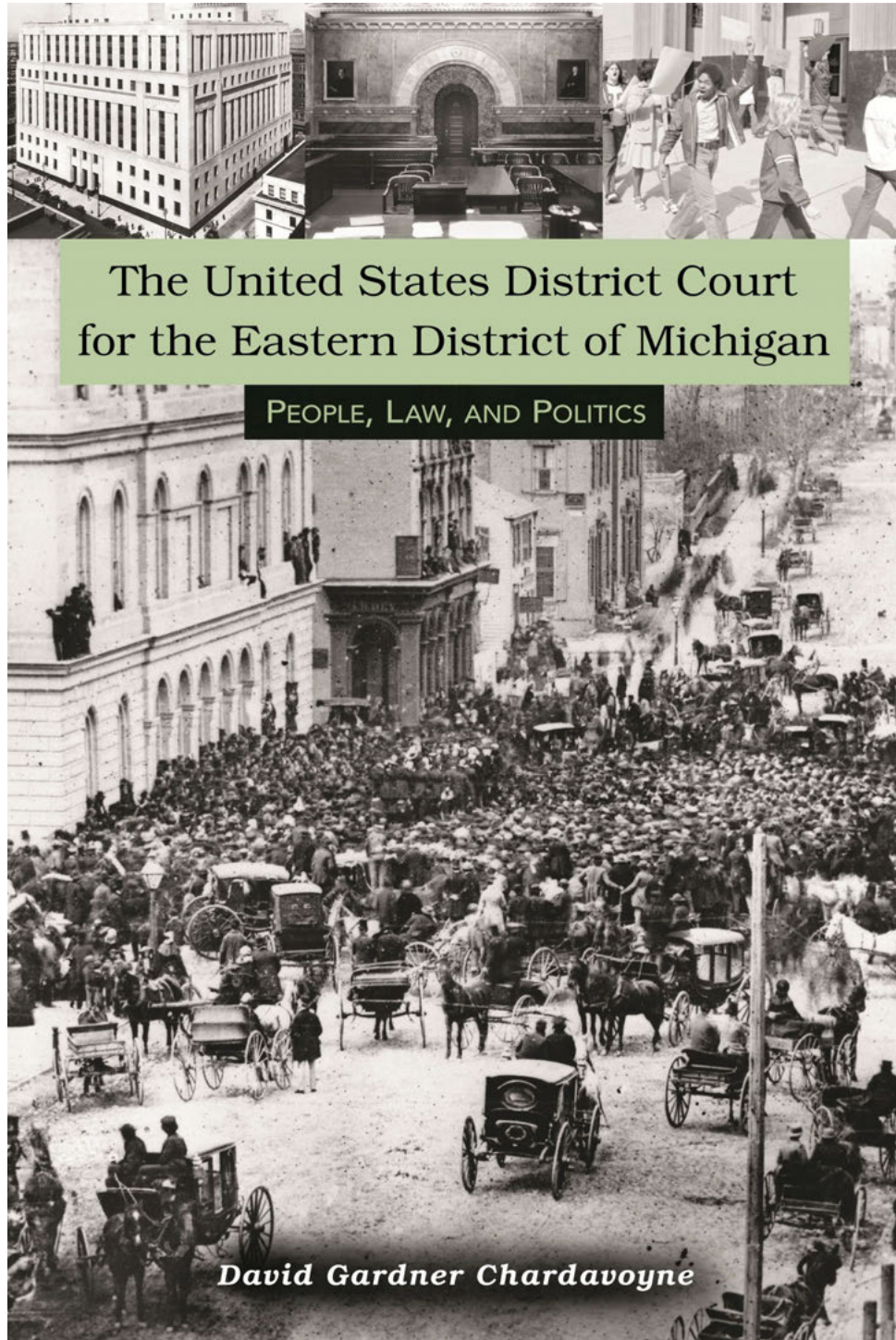
The **Cabinet counties** are ten counties in the southern part of the state of Michigan named after President Andrew Jackson and people who served in his Cabinet. The Michigan Territorial legislature created twelve counties in 1829, naming eight of them after members of the cabinet of the recently elected President Jackson. Cass County was also created in 1829 and named for Lewis Cass, the Territorial Governor at the time. Cass later served in Jackson's Cabinet, making a case for it to be included as a cabinet county. Livingston County was created in 1833 and named for Edward Livingston, Jackson's Secretary of State at the time. The generally accepted reason that Michigan was attempting to curry favor with the Jackson Administration (by naming counties for them) is that this was during the Toledo War period and Michigan was hoping that the federal government would side with Michigan in its border war with Ohio over the Toledo Strip.

Coincidentally, it was Jackson who, as one of his last acts in office, signed the 1837 bill making Michigan the 26<sup>th</sup> state.

- Barry County, named for Postmaster General William T. Barry

- Berrien County, named for Attorney General John M. Berrien
- Branch County, named for Secretary of the Navy John Branch
- Calhoun County, named for Vice President John C. Calhoun
- Cass County, named for Jackson's second Secretary of War, Lewis Cass
- Eaton County, named for Secretary of War John Eaton
- Ingham County, named for Secretary of the Treasury Samuel D. Ingham
- Jackson County, named for Andrew Jackson himself
- Livingston County, named for Jackson's second Secretary of State, Edward Livingston
- Van Buren County, named for Secretary of State (later Vice President and then President) Martin Van Buren

Wikipedia contributors. "Cabinet counties." *Wikipedia, The Free Encyclopedia*. Wikipedia, The Free Encyclopedia, 3 Jan. 2014. Web. 11 Sep. 2014.



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## Thank You

The Historical Society wishes to thank Pat Mears for his outstanding work as editor of *Stereoscope* over the last decade. This summer, Pat retired from Barnes & Thornburg and moved to Germany. He can be reached at [Patrick\\_Mears@t-online.de](mailto:Patrick_Mears@t-online.de). We thank him for his service and wish him all the best. Before his departure, we presented Pat with a plaque that read:

**In Sincere Appreciation To**  
***Patrick E. Mears***

**for your extraordinary service as  
the founding editor of the StereoScope  
from its inception, in 2003, to the present.**

**The Historical Society for the  
United States District Court  
for the**

**Western District of Michigan  
thanks you for your passion for history and  
scholarship, and your skill, commitment,  
and success in making the StereoScope  
the distinguished publication  
that it has become.**

**For the Society,  
David J. Gass, President**



**June 17, 2014**



# The Historical Society for the United States District Court for the Western District of Michigan Membership Application

## 2014 Annual Dues

Student (\$15) .....\$15 x \_\_\_\_ = \$ \_\_\_\_  
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*Contact person if different from Contributing or Founding Member*

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Telephone: \_\_\_\_\_ Fax Number: \_\_\_\_\_ Amount Enclosed: \_\_\_\_\_

Please make checks payable to: *The Historical Society for the USDC, WD of MI*

Mail the application, check and completed questionnaire (next page) to:

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110 Michigan Street, NW, Room 399, Grand Rapids, MI 49503-2313

Contributions are tax deductible within the limits of the law.

Please indicate if this is a gift membership or if it is a special contribution.

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## MEMBERSHIP QUESTIONNAIRE

(submit with check and application form)

Dear New Member:

Please let us know of your interests and skills and whether you would be willing to share those with the Historical Society. Help us by completing this short questionnaire.

Name: \_\_\_\_\_

Firm name, Employer name, or Organization represented: \_\_\_\_\_

Special interests or experience in the field of history, local history or legal history: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Suggestions for programs, projects, or activities for the Historical Society: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please check all the following that interest you:

- ☐ Writing articles for the Historical Society newsletter
- ☐ Layout and/or production of a newsletter
- ☐ Annual Meeting (planning and production)
- ☐ Oral History Project
- ☐ Research in specific legal history areas
- ☐ Fund development
- ☐ Membership Drive
- ☐ Archival Collection and Preservation
- ☐ Legal Issues relating to archival and oral history collections (copyright, ownership, etc.)
- ☐ Exhibit Preparation
- ☐ Small Group Presentations to Adults
- ☐ Small Group Presentations in Schools
- ☐ Other (Please describe) \_\_\_\_\_

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