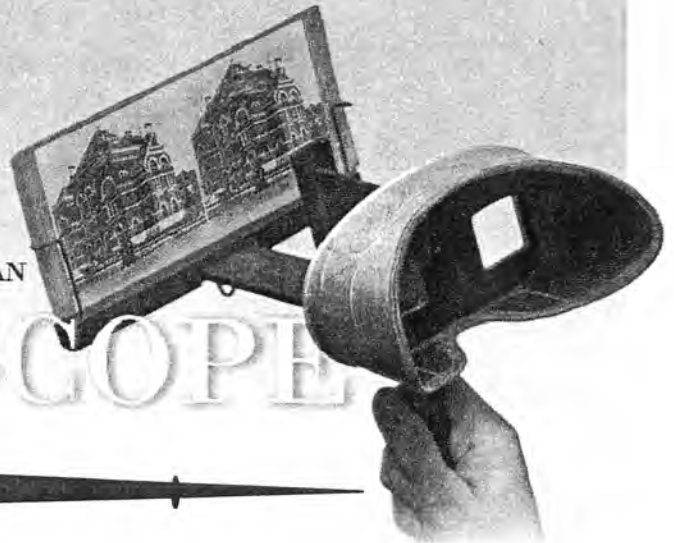


Volume 8 Issue 2

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

# STEREOSCOPE



## Letters to the Editor Issue

From time to time, readers of *The Stereoscope* will send to the Journal Editor letters or email messages commenting on articles published in the Journal. Within the last few months, we have received a number of such letters and publish them herein. We hope that you enjoy them as much as we did.

Patrick E. Mears  
Journal Editor

**Letter from Federal District Judge Wendell A. Miles**  
**Re: Article on Judge W. Wallace Kent**

U.S. Court Library  
JUL 27 2010  
Grand Rapids

### Addressed to the Author

The *Stereoscope*, earlier this year, published an article about United States District Court Judge W. Wallace Kent, who served as a federal judge from 1954 to 1973. At about the same time that Judge Kent was nominated to the federal bench, President Dwight Eisenhower nominated Wendell A. Miles to become the United States Attorney for the Western District of Michigan. The two men continued to serve the Western District of Michigan for many years.

The publication of the article about Judge Kent, prompted Senior District Court Judge Wendell A. Miles to share his reminiscence about practicing law with W. Wallace Kent. Presented on the following pages are Senior Judge Miles' comments.

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February 1, 2010

Dear Mr. MacDonald,

I have just read your dissertation on the life of W. Wallace Kent and I think you produced a superlative history.

Perhaps you would enjoy reading the "rest of the story."

W. Wallace Kent was born on May 1, 1916, just a couple weeks after I was (April 17). He graduated from the University of Michigan law School in 1940. I was also a law student there from 1939 to 1942, but never met him at that time. After I received by A.B. at Hope College in 1938, I went on to get my M.A. at the University of Wyoming (1939-1940). Upon my graduation from the U of M Law School in 1942, I became a draftee in the United States Army which kept me busy for five years.

Many years later, I became a prosecuting attorney in Ottawa County and while in that position I was appointed interim prosecutor for a big trial in Kalamazoo County due to the Kalamazoo prosecutor having a conflict of interest. At the time, I never knew or heard of W. Wallace Kent.

Until 1954, the position of United States District Judge consisted of one United States District Judge. Congress answered the overburdened docket of that court and created a second United States judgeship for Western Michigan. At that time, I was the prosecuting attorney of Ottawa County.

W. Wallace Kent was very much interested in that new position. At the same time, I was very interested in becoming the United States District Attorney for the Western District of Michigan.

Upon the election of President Eisenhower in 1952, the office of United States Attorney in Western Michigan would be open for appointment by the new president.

During the spring months of 1953, the State Republican Convention was held in Detroit. I felt that it would offer me an opportunity to present myself to the Republican delegates of Western Michigan for the office of U.S. Attorney. Things were going along quite nicely until I appeared before the delegates of Kalamazoo County. I was informed that they had a candidate for the position from Kalamazoo, a well trained lawyer named W. Wallace Kent. I then met for the first time W. Wallace Kent, who helped me clear the apparent conflict that did not exist. We became friends.

There was one potential conflict. Our new Congressman from Kent and Ottawa Counties, Jerry Ford, was being mentioned as a possibility for the new United States District Judge, but it was recognized that as a Congressman, he had voted for the creation of a new (second) judgeship and it was determined that he would be ineligible for that position as he had voted for its existence.

I took office as the new United States Attorney in 1953 and became well acquainted with a wonderful judge, Raymond W. Starr. He had a formidable record, but he dreaded the part of his job that required his service four hundred miles north in the Upper Peninsula at Marquette.

It was almost two years later that Kalamazoo attorney W. Wallace Kent took the oath as United States District Judge for the Western District of Michigan. By doing so, he solved Judge Starr's one problem. Judge Kent's wife was born and raised in the Upper Peninsula at or adjacent to Marquette, Michigan and he was more than delighted to accept all the upper peninsula cases.

I was the United States Attorney who presented the first five cases that Judge Kent heard. Our relationship became very close – probably too close. We dined together, golfed together and later fished together.

Judge Kent had composed a fishermen's group (largely sheriff officers from Kalamazoo County) who would move to different fishing holes in upper Michigan (not the U.P.) about two or three times a year, summer and winter. When he insisted that I accompany him, I did so, and at our destination, he proposed to the group that I become a "permanent member". There was no opposing vote.

Wally Kent was an excellent cook (although we all had a right to criticize), and also ran an excellent card game (bridge and poker). He insisted that I explain my life to him – my experiences in the war in Europe and my family. From those days on, he was trying to get me appointed to a judgeship.

Judge Kent had a brilliant mind and was a most competent judge, but was not popular among members of the Kent County Bar Association. He often said I was one of his three friends in Kent County and I would often say after some rough sessions, "Maybe two friends, Wally."

***Editorial Note:** Judge Miles is about to recount how he was recruited to join the Masons, a private and charitable organization that was active throughout Michigan in the 1950s. Judge Miles was initially reluctant to join the Masons because he did not know much about what was an intentionally secretive group. According to Judge Miles, once the Masons decided to recruit you for membership, your failure to join the organization was often met with a form of social ostracizing, which was intended to encourage the recruit to speed up the membership process. Judge Kent was a prominent member of the Masons, and a well known associate and friend to then United States Attorney Miles. The Holland chapter of the Masons apparently used the social ostracizing approach to encourage Wendell Miles to become a Mason.*

As time passed, the Masonic Lodge of Holland, Michigan was about to celebrate its 100<sup>th</sup> anniversary. At that time, W. Wallace Kent was the high Deputy Master of all Masons (thousands) in the State of Michigan and would be the top 33d degree Master of the State.

The Masons of Holland were by no means the largest group in the state, but did number over a hundred. When they contacted the Deputy Grand Master who was soon to become the Grand Master, Judge Kent said he was terribly busy in court, but he gave them some hope.

About that time, I was having a cool social life. I was often criticized by people who I thought were my friends. My barber told me to seek another barber. My golf partner suggested I look for another partner. As the date of the great 100<sup>th</sup> anniversary of the Holland Masonic Order was to be celebrated came nearer, I received some sound advice; viz., that I pick up the quiz book and study it hard and fast.

On the day of the Grand Celebration, I appeared at the Lodge and was blindfolded, but recognized the voice of the next Grand master. I had passed the Third Degree. On the night of the 100<sup>th</sup> anniversary, I had a seat at the head table and Wally had won his biggest case and Mariette, a lovely little Catholic girl, became a consort of the Holland Masonic Order.

And I found my barber really liked me after all and my golf partner insisted I was his best friend.

Sincerely,

Wendell A. Miles

## Letter from Federal District Judge Avern Cohn Re: Article on Ruthenberg/Foster "Red Scare" Trials

Addressed to the Editor

March 31, 2010

Dear Sir:

The account of the Bridgman Raid and what followed in the Michigan Courts is a fascinating contribution to Michigan's legal history (*Stereoscope* I Vol 8, Issue 1). The story ends a bit short. Justice Brandeis' unpublished dissenting opinion I the *Ruthenberg* case (p. 13) did see the light of day in the form of Brandeis' concurring opinion in *Whitney v. California*, 274 U.S. 3567 (1927). Melvin I. Urofsky, in his biography, *Louis D. Brandeis, A Life*, describes it thusly:

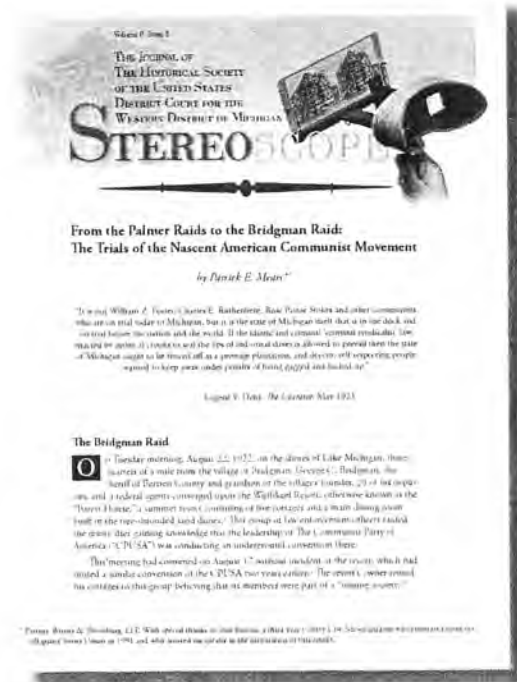
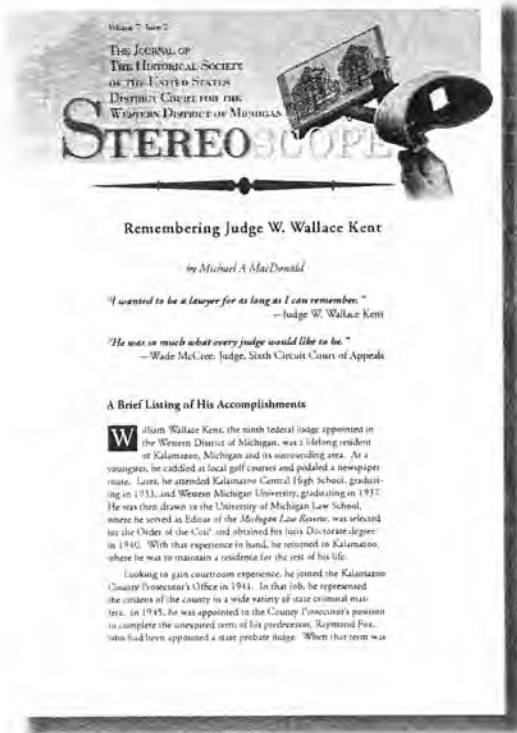
The justice and his law clerk, James Landis, worked for weeks on the dissent, and then on 3 March 1927 they opened the morning newspaper to discover that Ruthenberg had died the day before in a Chicago hospital of acute peritonitis. Within days the writ of error had been dismissed, and Brandeis consigned his draft to the files. Soon after he pulled it out, as the case of Charlotte Anita Whitney returned to the high court.

Had Ruthenberg lived, his name would have been memorialized as the subject of one of Brandeis' finest opinions instead of Charlotte Anita Whitney, who scored.

Very truly yours,

Avern Cohn

*Editorial Note: Judge Cohn is a Senior Federal District Judge who sits on the United States District Court for the Eastern District of Michigan and is also a Member of our Historical Society and the Historical Society for the United States District Court for the Eastern District of Michigan. Judge Cohn frequently acts as a visiting judge in our court; he has adjudicated in this federal judicial district eleven civil actions since 2000.*



\* Palmer Raids & Bridgman, I.I. With special thanks to our friends, a staff from Liberty, Inc. for their generous contribution to the project, and also to our friends at the Michigan Historical Society.

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**Email Message from Professor Chandler Davis**  
**Re: Ruthenberg/Foster Article**

February 15, 2010

Dear Pat,

Congratulations on another well researched, informative article. Most of this was new to me.

By the way, you would have had another Michigan angle if you had used the excellent biography of Debs "The Bending Cross" by Ray Ginger, for Ray lived in Michigan for a while, and his first wife was Ann Fagan Ginger, whom I have extolled to you in other connections – a native Michigander.

You did well to show the position of Brandeis in the Ruthenberg case even though it never made it into the Court's record. Are his formulations in the moot dissent used in subsequent decisions that are in the record?

Regards, Chandler

*Editorial Note: Chandler Davis, who is now an Emeritus Professor of Mathematics at the University of Toronto, was the subject of the article entitled "Of Congressional Witch Hunts in Academia: The Case of United States of America v. Chandler Davis" published in 2006 in Volume 4, Issue 2 of The Stereoscope.*



**Note from Bridgman, Michigan**  
**Public Library Re: Ruthenberg/Foster Article**

Dear Pat,

Thank you so much for sending copies of Stereoscope, with the article of the Bridgman Raid. Our Historical group was delighted to have this. And I am learning a lot of history about this event.

Thank you!!

Sincerely,  
Carol Richardson, Director

*Editorial Note: Bridgman, Michigan was the location of the raid by federal and state law enforcement officers in 1922 that led to the arrests of Charles Ruthenberg and William Z. Foster and their subsequent prosecution under Michigan's former "Criminal Syndicalism" law.*

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**Letter from Hank Meijer**  
**Re: Ruthenberg/Foster Article**

April 21, 2010

Dear Pat,

Thanks so much for sharing that great story on the Bridgman raid and trial. It's a terrific slice of history. I hope this finds you anticipating a good summer.

Great to hear from you.

All best,  
Hank

**Editorial Note:** *Hank Meijer is a resident of Grand Rapids, Michigan and CEO of Meijer, Inc., a large Midwestern hypermarket chain that was founded in 1934 by Hank's grandfather, Hendrik Meijer. Hank is the author of his grandfather's biography, Thrifty Years: The Life of Hendrik Meijer, published in 1984 by Wm. B. Eerdmans Publishing Company of Grand Rapids.*



**E-Mail Message from Ian D. Wright**  
**Re: Ruthenberg/Foster Article**

Mr. Mears,

I happened across your article, *From the Palmer Raids to the Bridgman Raid: The Trials of the Nascent American Communist Movement*, in *The Stereoscope* and found it fascinating. Thanks to you and Mr. Rubins for this interesting piece of history. I find the article particularly resonant in light of the parallels between the Criminal Syndicalism Law of 1919 and the language of the current USA PATRIOT Act that prohibits "material support" to designated terrorist organizations.

Ian D. Wright

**Editorial Note:** *Ian D. Wright is an Assistant City Attorney for Battle Creek, Michigan.*

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