



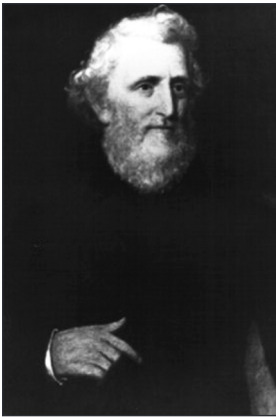
The Court Legacy

The Historical Society for the United States District Court
for the Eastern District of Michigan ©2011

Vol. XVIII, No. 2
September 2011

U.S. Supreme Court Review of Cases Originating in the District of Michigan: 1836 to 1863

By David A. Gardey¹



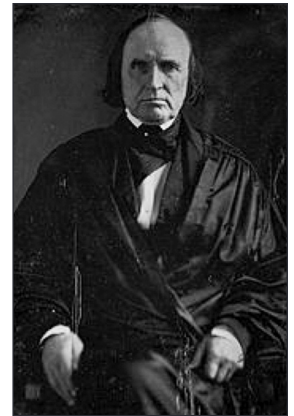
Ross Wilkins,
United States District
Judge, 1837-1870

Before Congress created the Eastern District of Michigan on February 24, 1863, all of Michigan had been in one federal district with one United States District Judge, the Honorable Ross Wilkins. Federal cases were heard either by Judge Wilkins in the District Court or by a visiting U.S. Supreme Court Justice in the Circuit Court for the District of Michigan. From the creation of the District of Michigan on July 1, 1836, until the creation of the

Eastern District twenty seven years later, there were nineteen reported decisions of the United States Supreme Court that originated in the federal Circuit or District court of Michigan. An examination of these cases provides insight into the early federal docket and the legal battles taking place in Michigan in the mid nineteenth century. They paint an historical portrait of a young sovereignty developing its first industries of mining, lumber, and railroads, while still beleaguered by property disputes stemming back to the French and Indian War. While some of the cases are interesting from a purely historical perspective, two others are significant as to the scope of the Supreme Court's power, holding that Congress can limit the jurisdiction of federal courts and that federal courts must yield to the highest state court in interpreting state statutes. The precedential value of these cases remains alive today.

Before examining some of the Michigan federal cases that reached the Supreme Court, it is helpful to

outline the court system then put in place by Congress. The District Court established in Michigan in July 1836 had jurisdiction over admiralty and maritime cases, as well as minor civil and petty criminal cases.² Judge Wilkins was responsible for these cases. Above the District Court, Congress established the Circuit Court of the United States for the District of Michigan. The Circuit Court had jurisdiction over diversity cases and major criminal



John McLean,
United States Supreme
Court Justice, 1829-1861

cases. In addition, the Circuit Court heard appeals from the District Court. The Circuit Court consisted of at least one Supreme Court Justice, literally riding circuit to Michigan, and the District Judge, Judge Wilkins. The Circuit Justice assigned to Michigan in the mid nineteenth century was Justice John McLean, who served on the Supreme Court from 1829 to 1861.³ Appeals from the Circuit Court would then go to the Supreme Court. Several of the appeals that the Supreme Court heard during this era resulted when Justice McLean and Judge Wilkins could not agree on a result in the Circuit Court. At the time, it was the practice that the Justice who was assigned to the Circuit Court would recuse himself on appeals from his Circuit Court unless there was a split vote.⁴ By Act of Congress, District Judges could not vote in the Circuit Court in reviewing an appeal of their own decisions from the District Court.⁵

The District and Circuit Courts in Michigan had several appointed officials to assist in their duties.⁶ After Michigan became a state, Commissioners for United States Courts were appointed by the Circuit Court, and their term was for life. Their work appears to be similar to the Magistrate Judges of today. The Commissioners' duties included conducting hearings and taking testimony as referred by either the Circuit or District Court.

The Historical Society for the United States
District Court for the Eastern District of Michigan

Established in 1992

BOARD OF TRUSTEES

President

Michael J. Lavoie

Vice President

Brian D. Figot

Secretary

Paula A. Hall

Treasurer

Samuel C. Damren

Executive Director

Judith K. Christie

Catherine M. Beck

David G. Chardavoigne

Hon. Avern Cohn

Thomas W. Cranmer

M. Ellen Dennis

Hon. John Feikens

David A. Gardey

Alan C. Harnisch

Michael C. Leibson

Matthew J. Lund

John P. Mayer

Hon. Stephen J. Murphy, III

Gregory V. Murray

Ross G. Parker

Jeffrey G. Raphelson

Jeffrey A. Sadowski

Matthew Schneider

Hon. Arthur J. Tarnow

I. W. Winsten

Advisor

David J. Weaver

THE COURT LEGACY

John P. Mayer, Editor

M. Ellen Dennis, Assistant Editor

Published periodically by The Historical Society for the United States District Court for the Eastern District of Michigan, Office of the Clerk, Room 216, Theodore Levin United States Courthouse, Detroit, MI 48226 2797.

Subscriptions available through any Society membership. Membership benefits include the Newsletter, voting privileges, and the Annual Meeting. The Historical Society has extended the benefits of membership to members of the Eastern District of Michigan Chapter of the Federal Bar Association.

Papers are encouraged to be submitted to the Newsletter editor for consideration as MS Word (preferred) or WordPerfect documents to jmayer@wyan.org or m.ellen.dennis@gmail.com.

The Court Legacy reserves copyright to authors of signed articles. Permission to reprint a signed article should be obtained directly from the author and *The Court Legacy* should be acknowledged in the reprint. Unsigned material may be reprinted without permission provided *The Court Legacy* is given credit.

The testimony taken would have the same force as testimony taken in the courts, and the Commissioners were used in order to lessen the burden on the judges. The parties to any case could jointly select the Commissioner before whom testimony would be taken. After Michigan became a state, the District and Circuit Courts also appointed Masters in Chancery to assist in the chancery work.

The earliest reported decision from the District of Michigan that reached the Supreme Court was the 1845 case of *Charles Carroll v. Orrin Safford (Treasurer of Genesee County)*.⁷ After the plaintiff, Charles Carroll, bought 3,549.71 acres of federal land in 1836 for \$7,500, the Treasurer of Genesee County seized and sold the land after Carroll failed to pay taxes before he received his land patent from the United States in 1837. The Supreme Court held against Carroll, finding that he owed the state taxes on the land from the date he purchased it, even before he received his patent from the United States.

The 1849 decision in *Jonathan Nesmith v. Thomas Sheldon*,⁸ presented a more important issue of the power of the U.S. Supreme Court in relation to state courts. In *Nesmith*, the issue of law involved the establishment of banking associations by the Michigan Legislature. This issue had already been addressed and decided in a separate case that had reached the Michigan Supreme Court. Before the U.S. Supreme Court, counsel for the plaintiff argued that it would be wrong for the U.S. Supreme Court to “presume that the State courts are infallible, and their decisions an unerring exposition of the State statute, and shut their eyes entirely to the terms and provisions of the statute, and refuse to inquire whether the decision of a State court is a fair explanatory law.” In fact, counsel argued that the “national courts, which were created to protect the rights of citizens of other States,” should not “allow their suitors to be wronged and defrauded in like manner.” In other words, counsel was calling for the U.S. Supreme Court to protect citizens from another state harmed as a result of an incorrect, and possibly biased, interpretation of state law by the Michigan Supreme Court that benefitted Michigan citizens. In response, counsel for the defendant argued that were the U.S. Supreme Court to contradict the Michigan Supreme Court, it “is plain that the consequences would be most disastrous,” creating multiple versions of state law depending on the venue, and give non residents the right to collect on obligations, while state residents were barred from collecting based on the decisions of the state courts.