



# THE COURT *Legacy*

The Historical Society for the United States District Court  
for the Eastern District of Michigan ©1999

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## The Additional Court of Michigan Territory, 1823-1836

By Dr. Patrick J. Jung

*This is the first of a two-part article on the Additional Court. In this issue Dr. Jung discusses the development of the Court and the arrival of Judge Doty in Green Bay. In the next issue he will discuss the impact that the Court had on this new territory through a look at some of the cases decided by before the Court.*

The extension of Anglo-American law into the lands west of the Appalachian Mountains began shortly after the American Revolution, but it was often a prolonged process. The area of present-day Wisconsin and the Upper Peninsula of Michigan did not come fully under the jurisdiction of an American court until 1823, when the United States Congress created the Additional Court of Michigan Territory. The court continued until 1836, and during its existence it had a tremendous impact upon the inhabitants, the majority of whom were Indians and Métis fur traders of French Canadian and Indian descent. The court brought a new system of law that was foreign to both groups and therefore disruptive. However, the Additional Court and especially its first judge, James D. Doty, also provided a venue where the Métis could bring an end to the martial law that had been imposed upon them by callous army officers and federal Indian agents. Moreover, those Indians who appeared before the court had an advocate in Judge Doty,

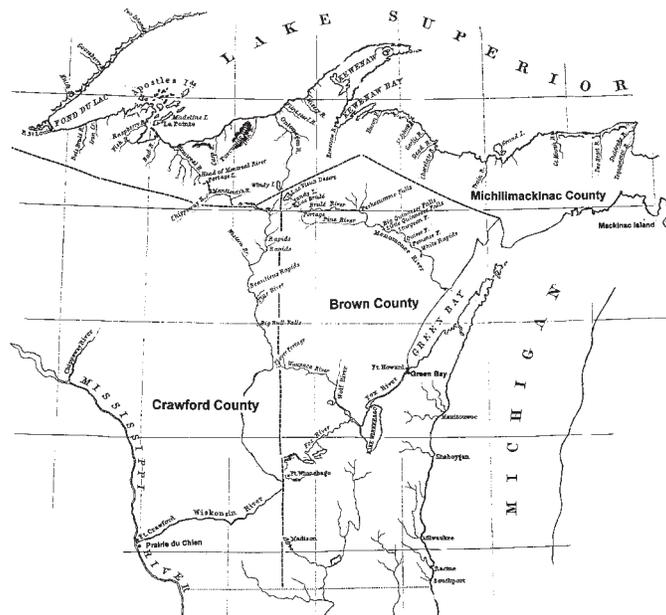
who worked tirelessly to insure they received fair and impartial justice. Thus, the extension of Anglo-American law into present-day Wisconsin proceeded peacefully and generally without incident under the Additional Court of Michigan Territory.

The 1787 Northwest Ordinance provided for the development of United States legal institutions in the Northwest, or what is known today as the Midwest. Under the provisions of the ordinance, territories

created by acts of Congress were to have a governor and three judges. Congress created Michigan Territory in 1805, which was administered by three judges who sat as the Supreme Court of Michigan Territory, and, along with the governor, also acted in a legislative capacity as the Legislative Board. To expand the reach of the law beyond the territorial capital at Detroit, each judge also sat independently in one of three district courts. These district courts were a creation of the Legislative Board, not Congress, and

when a controversy arose over their legality, they were abolished in 1810. In order to compensate for this loss, the Legislative Board expanded the powers of the local justices of the peace.

Even when the district courts were in existence, they had no impact upon the region west of Lake Michigan. The area of present-day Wisconsin and the Upper Peninsula had experienced only the dimmest influence of American jurisprudence during this time, and what legal institutions existed were limited in scope and power.



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**THE COURT LEGACY**

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While the region was under French control from roughly the 1660s to 1763, military commanders at the local forts acted as civil magistrates and administered the French civil code, the Coutume de Paris, as needed. The British gained supremacy of the region after the French and Indian War in 1763 and later made it part of the province of Quebec. British officials allowed the French inhabitants to continue using the French law code, and although they put forward a plan in 1776 to establish courts with criminal and civil jurisdiction throughout the province, the American Revolution kept this plan from being implemented. The Northwest was transferred to the United States after the revolution, but disputes between Great Britain and the new republic delayed the transfer of the region to the United States until 1796.

**Justices of the Peace**

During their tenure from 1763 to 1796, the British established a court at Detroit, but except for a few justices of the peace, the British created no courts west of Lake Michigan. The United States was equally slow in extending legal institutions, and after 1796 federal authorities simply followed what had been the British practice. The first justices of the peace acquired their appointments in 1802 when this region west of Lake Michigan was part of the Indiana Territory. After the War of 1812, justices of the peace continued to be the only constituted legal authority. In 1818, Congress transferred the region from Illinois Territory, where it had been since 1809, to the Michigan Territory. That same year, the Legislative Board of Michigan Territory established three new counties west of Lake Michigan: Michilimackinac County with the county seat at Mackinac Island; Brown County with the county seat at Green Bay; and Crawford County with the county seat at Prairie du Chien. Additionally, the Legislative Board established county courts presided over by three justices of the peace.

1783	1787
End of the American Revolution	On the 13th of July the Northwest Ordinance is passed by the Congress of the Confederation opening the West to controlled development; on the 17th of September the U.S. Constitution was passed by the Constitutional Convention

County courts were another attempt to compensate for the abolition of the district courts in 1810, but they were limited in their powers. County courts could not try capital cases, nor could they try civil cases where the sum exceeded one thousand dollars. For serious crimes and for civil cases that exceeded one thousand dollars, defendants and litigants had to make the arduous journey to Detroit to have their cases heard before the Supreme Court of Michigan Territory. In this regard, the situation had changed very little since the time of the French and British. Under all three regimes, important legal and civil cases west of Lake Michigan had to be decided in Montreal, Quebec, Detroit, and St. Louis. During the American period of hegemony after the War of 1812, the inhabitants west of Lake Michigan began to see the need for a court in their country that had full civil and criminal jurisdiction. The residents of Michilimackinac, Brown, and Crawford Counties petitioned Congress several times between 1821 and 1823, and Congress responded in 1823 by creating the Additional Court of Michigan Territory.

## Establishment of the Court

The Additional Court was a circuit court that rotated between Michilimackinac, Brown, and Crawford Counties. After 1830, Congress transferred the western circuit from Crawford County to Mineral Point, the county seat of Iowa County, which was created due to the heavy white settlement in the lead-mining region of present-day southwestern Wisconsin. The Additional Court had concurrent jurisdiction with the Supreme Court of Michigan Territory, however, it could not hear certain types of cases such as those requiring jurisdiction in admiralty and maritime issues. The court and its judge were

something of an odd affair in the history of the territorial legal system since the judge did not sit on the territorial supreme court but yet had many of the same powers. The Additional Court heard criminal and civil cases involving territorial law as well as federal law. Cases that were eligible for commencement in the county courts could also originate in the Additional Court, and cases from the county courts could be appealed to the Additional Court. Litigants could appeal suits in equity to the Supreme Court of Michigan Territory, but all other appeals from the Additional Court could only be removed to the Supreme Court by a writ of error. That the Supreme Court of Michigan Territory issued only seven writs of error between 1823 and 1836 indicates the effectiveness of the Additional Court as a legal institution. This was due in large part to the competence of the court's first and longest-serving judge.

## Judge Doty

President James Monroe appointed a young Detroit lawyer named James D. Doty as the judge of the Additional Court in February 1823. Indeed, Doty and Lewis Cass, the governor of Michigan Territory, were strong advocates for the court. They lobbied Congress for its creation and the Monroe administration for Doty's appointment. The statute establishing the Additional Court required Doty to live in one of the three counties that the court serviced. Doty established his residence in the small fur-trading community of Green Bay. Doty was a wise choice, for he had worked in Detroit since 1818 as a private lawyer and as a clerk to the supreme court. He had accompanied Cass on his famous expedition around the Upper Great Lakes in 1820 and was familiar with the territory and its inhabitants.



James Duane Doty  
1858

Photograph by John S. Muller, WHI (x3) 35112, courtesy of State Historical Society of Wisconsin.

1788	1789	1792	1796	1797
George Washington, the only President elected unanimously and inaugurated in two cities, New York and Philadelphia, is elected President; John Adams becomes his Vice-President	The Judiciary Act of 1789 is passed; John Jay is appointed Chief Justice of the United States Supreme Court	Mary Wollstonecraft writes <i>A Vindication of the Rights of Woman</i> , which presented the first sustained and comprehensive argument for sexual equality in recorded history	John Adams, the first President to live in the White House (then referred to as the Executive Mansion), is elected President; Thomas Jefferson becomes Vice-President, losing by only three votes; the British finally leave Detroit after the Revolutionary War	Solomon Sibley arrives in Detroit

Doty’s jurisdiction was populated mostly by Indians of various Algonkian and Siouan-speaking tribes, but there were also several hundred people of French Canadian and Indian extraction at the settlements of Mackinac Island, Green Bay, and Prairie du Chien. Since the time of the French regime, small numbers of French-Canadian fur traders had penetrated and settled in the region. Through their extensive intermarriage with the indigenous tribes, a new society, the Métis, became established. Métis society was a product of the North American fur trade, and the culture that arose in this new society was a mixture of French-Canadian and Indian customs. It was certainly an alien land to Doty, who was a New Yorker by birth, but his earlier residence at Detroit had acclimated him to the culture of the Great Lakes Indians and their Métis neighbors.

### Temporary Marriages

While Doty was familiar with the local cultures, he strongly believed that it was his duty to uphold the laws of the federal government and the territory despite the entrenched customs of the inhabitants. One of Doty’s first targets was the marriage customs of the Métis. The fur trade had produced an amalgam of French-Canadian and Indian marriage practices that revolved around the exigencies of the fur trade. The most important of these was known as *la façon du pays*, or “the custom of the country,” in which fur traders, and Indian and the Métis women entered into short-term contractual marriages without the benefit of clergy. These were called “country marriages,” and they could be dissolved by the mutual consent of both parties.

When Doty arrived at Green Bay in October 1824, the prosecuting attorney had indicted twenty-eight men for participating in such unions which, by territorial law, were acts of fornication and illicit cohabitation. Most of the Métis traders who appeared before Doty simply pled guilty, and Doty gave them fifty dollar fines. However, Doty was not ignorant of this custom,

and his subsequent actions demonstrated his desire to balance the enforcement of the law with leniency. He promised the men that he would lower their fines to just one dollar if they produced marriage certificates before the end of the court term. Fourteen of those indicted did so, and Doty subsequently lowered their fines. Doty got his point across, and throughout the counties under his jurisdiction the custom of country marriage quickly died out as men sought permanent unions with Indian and Métis women.

### Indian Agents and Army Officers

While Doty’s crusade against country marriages created a degree of enmity with the Métis, he more than made up for this egregious act by becoming their ally against federal officials in the region. Prior to the establishment of the Additional Court, army officers and Indian agents had been stationed in the region to enforce the trade and intercourse laws. These were federal statutes that regulated interactions between Indians and whites in frontier areas. Under these laws, all fur traders had to have licenses issued by an Indian agent, and they were forbidden from giving any liquor to the Indians. A failure to abide by these regulations meant that a trader could lose his license or even be arrested.

In their zeal to uphold the laws, Indian agents and army officers often flagrantly disregarded the civil rights of Métis fur traders. Packs of goods and cabins were searched without warrants or reasonable cause. In some cases, traders even had their cabins demolished by soldiers because local commanders had heard rumors that they supplied whiskey to the Indians. At Green Bay, traders traveling by canoe were fired upon by sentries if they did not stop at the fort to state their business. In effect, federal agents and army officers established a kind of martial law. One observer noted that many of them “consider the people . . . as possessed of no rights, either political or civil . . . there is no law but their word.”

1799	1800	1803	1804
George Washington dies on the 14th of December	Thomas Jefferson, the first President elected by the House of Representatives (because of a tie with Aaron Burr), is elected President; James Madison becomes Secretary of State; the U.S. population is five.5 million	The Louisiana Purchase is made for \$15 million doubling the size of the United States by including all land west of the Mississippi; Ohio is admitted as a state	Jefferson is re-elected; George Clinton of New York becomes Vice-President; the Twelfth Amendment to the Constitution is passed requiring separate ballots for President and Vice-President; Jefferson sends Meriwether Lewis and William Clark on a two and one-half year expedition to explore the new American lands

This changed after Judge Doty arrived. He had a strong distrust of the Army and the Indian Department, and he loathed the arbitrary justice that they dispensed. Moreover, he was good friends with John Jacob Astor, Ramsay Crooks, and Robert Stuart, the principal officers of the mighty American Fur Company, which dominated the fur trade of the Upper Great Lakes. Almost all of the Métis fur traders at Mackinac Island, Green Bay, and Prairie du Chien worked for the American Fur Company, and Astor, Crooks, and Stuart had long bristled at the indignities suffered by their traders. In Doty, the American Fur Company had an ally who ended the unopposed reign of the Army and the Indian Department.



Replica of the Additional Court of Michigan Territory at Heritage Hill State Park in Green Bay, Wisconsin.

One of the first cases brought before Doty involved an army officer named Captain William G. Belknap, who in 1825 assaulted and arrested an American trader named John R. Arndt and his hired man, Isaac Rouse. Belknap arrested the two men for landing a boat near Fort Howard, the local garrison at Green Bay. Arndt and Rouse filed charges against Belknap and his superior, Major William Whistler, for assault and false imprisonment. The charges against Whistler were later dropped, but a jury found Belknap guilty on both charges.

This should not have surprised Belknap, for the jury that heard his case was dominated by Métis traders, many of whom had had similar experiences with the local soldiers. Belknap moved for an arrest of judgement since the offense occurred on lands reserved for the military, but in his opinion Doty stated that the lands near the fort were public lands. He let the judgement against Belknap stand and fined him fifty dollars. The territorial governor later granted Belknap a remission and rescinded his fine, but Belknap and other officers at Fort Howard had learned a valuable lesson. They never again harassed civilians who landed boats near the fort. ■

### Author's Note

*Patrick J. Jung received his undergraduate degree from the University of Wisconsin-Whitewater in 1986 and his doctorate in United States History from Marquette University in Milwaukee, Wisconsin in 1997. His dissertation is titled "Forge, Destroy, and Preserve the Bonds of Empire: Euro-Americans, Native Americans, and Métis, on the Wisconsin Frontier, 1634-1856." This article on the Additional Court of Michigan Territory draws heavily from his dissertation research. He is currently a full-time administrator and an Adjunct Professor of History at Marquette University. He is married and has three children.*

## WANTED

In the interest of preserving the valuable history of our most beloved court, the Historical Society is seeking to contact relatives, descendants, associates, or any others who might be able to assist the Society's Acquisitions Committee. The Society is endeavoring to acquire artifacts, memorabilia, photographs, literature or any other materials related to the history of the Court and its members. If any of our members, or others, have anything they would care to share with us, please contact the Acquisitions Committee at **(313) 234-5049**.

1805

On the 11th of June, Detroit burns down; on the first of July, Augustus Woodward arrives; the Michigan Territory is created pursuant to an Act passed in January

1807

The Embargo Act, in effect for two years and designed to coerce English and French recognition of American rights, fails but precipitates the Industrial Revolution; British warship, Leopard, fires on Chesapeake and impresses four sailors claimed to be British citizens; President presents Congress with report showing 6,057 instances in which British had impressed American citizens in three years

1808

James Madison, who wrote or contributed to twenty-nine of the eighty-five Federalist Papers (Alexander Hamilton and John Jay writing the others), is elected President; George Clinton again is Vice-President, but dies in office; the importation of slaves is outlawed; the U.S. population is seven million

# *PUTTING IT IN PERSPECTIVE*

With this issue we start a new feature designed to add "perspective" to the subjects covered. As you know the principal articles in each issue normally deal with historically important cases, judges, or architectural aspects of the Eastern District. In this column we will tell you what was taking place elsewhere during the same period of time. To put the activities of this court in context, you need to know what was happening in the state, throughout the country and around the world. We will try to show what impact people and events outside our world had on the happenings here.

The period of time from the late 1700s through the 1830s has been referred to as the "era of good feelings." It was generally a time of social harmony and empire-building. New territories were mapped and settled. Canals, steamboats and turnpikes pushed back the wilderness. The needless and blundering War of 1812 ended in unifying the nation. Civil disorder was rare as was spiritual curiosity. The children produced were known as the "transcendental generation." They came of age as evangelists, reformers and campus rioters. Entering mid-life as abolitionists and southrons who spurned compromise, they led the nation in the Civil War. In elderhood, their feminists and poets became unyielding revealers of truth and justice. Born during this period were Abraham Lincoln, Jefferson Davis, Ralph Waldo Emerson, Susan B. Anthony, Nate Turner and William Lloyd Garrison.

The beginning of the era was brought on, in part, by the passing of the Northwest Ordinance. By 1787 it was evident that parts of the Northwest would soon be invaded by settlers from the east and a plan of government was needed. The Congress in New York adopted an "Ordinance for the Government of the Territory of the United States, North-West of the River Ohio." The boundaries were based on lines originally laid out in 1784 by President Jefferson in his Report of Government for Western Lands and included the land north of the Ohio River and east of the Mississippi. The ordinance provided for creation of not less than three nor more than five states. In addition, it contained provisions for the advancement of education; the maintenance of civil liberties, such as trial by jury, the writ of habeas corpus, and the prohibition of cruel or unusual punishment; the freedom of religion; and the exclusion of slavery. By 1800, the population was large enough to divide the territory. The western half was carved out creating the Indiana Territory. Ohio and eastern Michigan continued to be known as the Northwest Territory until 1802. Then, as Ohio prepared for statehood, a new alignment was made with all of Michigan and the remainder of the Northwest being assigned to Indiana.

This was very hard for the citizens of Michigan as access to the government in Indiana was extremely difficult. As a result, Robert Abbott of Detroit, along with his fellow townsmen, petitioned Congress in 1804 for the establishment of a government in Detroit so they would not have to "wander seven hundred miles thro' inhospitable deserts, for the redress of wrongs." On January 11, 1805, Congress passed a bill which created the Territory of Michigan.

President Jefferson had just been re-elected in 1804, in a landslide. He received all but fourteen of the one hundred seventy-six electoral votes. Although he served as Jefferson's Vice-President during the first term, Aaron Burr had been driven from the party, and had run for election as governor in New York on the Federalist ticket. He was crushed in a humiliating defeat due largely to the work of Alexander Hamilton. This is what caused their duel on an early July morning on the New Jersey shore of the Hudson, ending in Hamilton's death. Burr's career in the east was destroyed and he turned his attention to the new territory, obtained through the Louisiana Purchase in 1803 by Jefferson, for new adventures. Many historians believe that he intended to build an army in the West to send to Mississippi and seize control of New Orleans. Others believed that Burr's real goal was to recruit his army and lead it against the Spanish authority in Vera Cruz and Mexico City, gaining control of Texas and Mexico. Whatever his real purpose, those loyal to Jefferson in the southwest learned of his conspiracy and in 1806 brought charges against him. He was arrested and sent to Richmond, Virginia, for trial on an indictment of treason. John Marshall presided over the case. Burr was acquitted as the evidence was unavoidably vague.

Not knowing exactly what Burr's intentions were in 1805, Jefferson wanted officials whom he could trust on the frontier. To Detroit he sent Augustus Brevoort Woodward who was 31 years old, and a close friend since 1795, to sit as one of the three judges on the Supreme Court of the territory. Woodward arrived on June 30, 1805, having left Washington a month earlier. In 1802 he was one of eleven lawyers practicing in Washington, earning a substantial amount of money from his practice and from real estate speculation. He left his position of prominence to find that eighteen days before arriving in Detroit, the fort and all the homes, businesses and buildings inside had burned to the ground. On July 1, the day after his arrival, the act of Congress creating the Territory of Michigan became effective. President Jefferson also appointed William Hull as the territorial governor, Stanley Griswold to serve as secretary, and Frederick Bates to serve with

Woodward as a judge on the Supreme Court of the territory. Bates came to Detroit with Anthony Wayne's army in 1796. Prior to being appointed judge, he had been a merchant, served as postmaster and as a member of the Land Board. He had little legal experience, and his first act, after being notified of his judicial appointment, was to send to Albany for a copy of Blackstone. Because the Northwest Ordinance required the appointment of three judges, President Jefferson later added John Griffin to the post, at the request of his father, who was a neighbor of Jefferson, a signer of the Declaration of Independence and president of the last Continental Congress. At the time of his appointment, Griffin had been serving as a judge of the Indiana Territory, but neither the climate nor his associations there suited him.

The period of time from 1806 through the War of 1812 was fairly chaotic. There were many disagreements between Governor Hull and Judge Woodward, each frequently writing to President Jefferson complaining about the other. Citizens petitioned Congress complaining about both Woodward and Hull. The Detroit Bank was established in September, 1806 at the instigation of Hull in conjunction with a company of merchants in Boston, but closed in 1809 because of \$1.5 million of worthless script that had been flooded into the eastern market by the Boston incorporators. This fiasco, along with some of the other problems attendant to Michigan, was responsible to a great degree for the veto by Congress of Michigan's early attempt at statehood and the slow economic and social development of the territory.

By 1808 the intention of the British for war was apparent as British agents were secretly encouraging Indian unrest. The Shawnee leader, Tenskwatawa, also known as the Prophet, and his brother, Tecumseh, were organizing a confederacy of western tribes. At the outpost of Detroit conflict was a certainty, the only question was when. A committee of safety was organized in Michigan late in 1811 including Woodward and Solomon Sibley. They prepared a report that pointed out that the only armed force within the territory consisted of only one hundred seventy-three regulars, about evenly divided between the posts at Detroit and Mackinac. They concluded that the civilians were practically defenseless. On November 7, 1811, the Battle of Tippecanoe was fought and the Prophet's village destroyed by William Henry Harrison. Governor Hull, now Brigadier General Hull, after being away for the winter months, returned to Detroit in July, 1812, as the commander of an army of two thousand men

consisting of three regiments of Ohio troops. One of the regiments was commanded by Lewis Cass. The local militia, commanded by Elijah Brush and Judge Witherell, was fully mobilized and guarding the town. In early July the odds all seemed to favor a quick and easy American victory over the British and the Indians. However, Hull hesitated long enough for the British to bring in reinforcements. On July 17, Mackinac was taken by surprise. On August 16, the British and Tecumseh's braves marched towards Detroit. That was enough for Hull. To the surprise of his troops, he ran up the white flag, surrendering unconditionally without firing a shot in defense. The British, once again, had control of Detroit and all of Michigan Territory. The Ohio troops were sent home under parole and before long Hull was exchanged for British prisoners. He was immediately tried by court marshal, convicted of cowardice and sentenced to death. However, at the last minute he was reprieved by President Madison.

The war ended on Christmas Eve 1814 with the signing of the Treaty of Ghent which was negotiated by a delegation headed by John Quincy Adams. However, on January 8, 1815, before the signing of the treaty was known in America, Andrew Jackson won a major victory in the battle of New Orleans making him a national hero. To many the date of January 8 is just as important as the 4th of July to the success of this country. If the British had been able to move up the Mississippi, they would have split the country. Such a move might have reinvigorated the British to continue with the war in spite of the treaty.

The war did a great deal to knit together the republic and strengthen its character. Albert Gallatin, Jefferson's Secretary of the Treasury, asserted that before the conflict, Americans were becoming too selfish, too materialistic and too prone to think in local terms. He said, "The war has renewed and reinstated the national feeling and character which the Revolution had given," and which had been declining. The decisions of the Supreme Court also contributed by strengthening the national government. Chief Justice John Marshall, a federalist, who was appointed just before Jefferson became president, held that office until his death in 1835. He transformed a little-regarded and weak court into a powerful tribunal, occupying a position as important as that of Congress or President. The Marbury v. Madison decision in 1803 decisively established the right of the Supreme Court to review any law of Congress or of a state legislature. As Michigan moved into statehood in 1837, national unity was on the rise. ■

# Solomon Sibley: Michigan's First United States Attorney, 1815-1824

By Ross Parker

*This is the first of a series of articles that will be appearing on the history of the United States Attorney's Office. As reported in our last newsletter, U.S. Attorney Saul Green has embarked on a project to record the history of his office from 1815 until the present.*

Soon after the election of George Washington, Congress enacted the Judiciary Act of 1789 which authorized the President to appoint in each federal district "a meet person learned in the law to act as attorney for the United States." The United States Attorney was "to prosecute in such district all delinquents for crimes and offenses, cognizable under the authority of the United States, and all civil actions in which the United States shall be concerned. ..."

President Washington provided his vision as to the type of distinguished person to be selected for this position in his letter asking Richard Harrison of New York to accept the position to be United States Attorney:

The high importance of the judicial system in our national government makes it an indispensable duty to select such characters to fill the several offices in it as would discharge their respective duties in honor to themselves and advantage to their country.

This tradition of selecting United States Attorneys who would discharge their duties with distinction has continued throughout Michigan's history. Since the appointment of the first United States Attorney for the Territory of Michigan, seventy-two men have served as United States Attorney in Michigan. Since the judicial district was divided by Congress in 1863 into the Eastern and Western Districts, there have been thirty-seven United States Attorneys in the Eastern District.

President James Madison chose in 1815, as the first United States Attorney for the Michigan Territory,

a man who had been a pioneer of frontier justice, Solomon Sibley. It is difficult for us, today, to fully appreciate the uncertainties and conflicts of two hundred years ago as the Founding Fathers were creating a nation whose government was unlike any which had preceded it. One of those areas of conflict involved the type of judicial system to construct and, just as importantly, how to implement the due process of law in this wild, infant nation. This conflict was particularly pronounced in Michigan because of its history of occupation by Indian tribes, the French, the British, and then American settlers. People of such diverse cultural backgrounds naturally had widely divergent ideas about how the laws should be applied in particular situations which directly affected their lives. On the Michigan frontier, no person contributed more to this evolutionary process than Solomon Sibley.

Sibley was born on October 7, 1769 in Sutton, Massachusetts. His Puritan ancestors had settled in Massachusetts nine years after the Pilgrims. He attended Brown University and studied law under William Hastings in Boston. In 1795, Sibley moved to the new settlement of Marietta, Ohio, and two years later, at age twenty-seven, to the village of Detroit.



Solomon Sibley  
1769-1846

When Solomon Sibley arrived in Detroit, he saw a rustic village whose only significant commerce was fur trading. Although the American Revolution had ended in 1783 and the Northwest Ordinance of 1787 had organized the area which included all of present day Michigan, it was not until July 11, 1796 that the British finally evacuated the territory and United States soldiers assumed control of the fort which they renamed Fort Detroit.

1811	1812	1814	1815	1816
On the 7th of November the Battle of Tippecanoe is fought	On the first of June war is declared against the British; on the 16th of August Governor Hull surrenders Detroit; "Hartford Convention" held by New England Federalists to consider succession from the United States signals end of Federalist Party	On the 24th of December, the Treaty of Ghent is signed ending the war with the British	Solomon Sibley becomes U.S. Attorney; on the 8th of January, Andrew Jackson secures a victory for the United States in the Battle of New Orleans	James Monroe is elected President; John Quincy Adams becomes Secretary of State; the U.S. population is nine million

Sibley was one of the first American settlers to come to Detroit after the British evacuation. Although the French had lost the territory in the 1760 settlement of the French and Indian War, French influence remained strong throughout the nineteenth century, especially in the primary settlements around Fort Detroit and Fort Michilimackinac, later named Fort Mackinac.

In 1797 when he arrived, Sibley was one of only two lawyers in Detroit. About 500 people lived in and around Fort Detroit at that time. Most of them were French and Indian fur traders, along with a few British and American merchants. The community, located downriver from the fort, consisted of about one hundred residences, primarily log houses, along with a few shops and taverns. Sibley appeared before seven justices of the peace, who together constituted the Court of General Sessions, and before the three territorial judges. His law practice involved a wide range of subjects, including land and commercial disputes, along with probate and a few criminal matters. He kept extensive notes on his cases, and his papers reveal a methodical attorney who vigorously represented his clients' interests.

The criminal laws of the Northwest Territory prohibited swearing, drunkenness and acts in violation of the observance of Sunday as a day of rest. Punishments ranged from standing in the stocks and flogging (the whipping post being located near the intersection of Jefferson and Woodward) to hanging, for murder and treason. One of the primary complaints of the grand jury that year concerned the offensive smell around the slaughterhouse and the quantity of dead carcasses found in every corner of the town.

Being a pioneer lawyer in the Michigan territory could be a physically challenging and dangerous profession. Appearing in court frequently required horseback trips to the territorial courts in Cincinnati, Marietta or Chillicothe, Ohio. Since there were no roads and few lodging places, Mr. Sibley had to brave the weather on the Indian trails through the wilderness, with his legal

papers in his saddlebags and his long cloak protecting him from the snow and rain.

In 1798, the first election was held for the Wayne County representative to the Northwest Territorial Legislature. Voting in Michigan occurred at a Detroit tavern and Solomon Sibley was elected, although his opponent claimed that Sibley had won because he had provided liquor for the voters. Sibley traveled to Cincinnati to represent the interests of the Michigan area. In 1802, Sibley was responsible for the incorporation of Detroit as a town and, in 1806, he became the town's first mayor. The affairs of his clients required that he become involved in a great variety of matters pertinent to the growth of the Michigan Territory. He sorted out French land grants, administered "sadly confused" estates, and helped buy land for the Ohio Land Company. His cases involved Army supply contracts, building new churches, and disputes concerning the holding of slaves in defiance of the Northwest Ordinance of 1787.

The first courtroom in the territory was located in the First Council House, which was near the Detroit River. After the fire of 1805 had burned nearly the whole town down, the court was relocated to the house of James May, the man whom Sibley had defeated in the election of 1798. Solomon Sibley successfully represented the United States in the first case called in the new courtroom, a forfeiture action against goods which had been smuggled into port in an attempt to avoid the payment of duty.

In 1807 the court was moved to the newly constructed Second Council House, at the southwest corner of Jefferson and Randolph, and remained in that location until it was moved to the Old Capitol Building in 1828. During the War of 1812, Solomon Sibley commanded a company of rifles in the local militia during the British attack on Detroit. On August 16, 1812, the attack succeeded and the Americans surrendered the fort to the British. After the war, from 1814 until 1817, Mr. Sibley served as Auditor of Public Accounts for the Michigan Territory.

1817	1819	1820	1823
Detroit's first newspaper, the Gazette, begins publishing; the first survey in Michigan is completed and land sales begin; soon after his inauguration, President Monroe visits Detroit and the first county, Monroe, is set off from the original Wayne County	A year-long panic occurs as recession sets in as the result of bad banking practices and the War of 1812; Florida is ceded by Spain to the U.S. through treaty	The Missouri Compromise is passed admitting Missouri as a slave state and Maine as a free state	Additional Court of Michigan Territory is created; Monroe Doctrine is asserted as part of the President's annual message to Congress prohibiting further colonization or interference in the western hemisphere

By 1815 when Sibley became United States Attorney, things in Michigan had not changed a great deal. Detroit, which was incorporated as a city that year, continued to be the most populous area of the territory, although it still contained fewer than 900 residents. Even in Detroit, livestock roamed the streets, although in 1817 hogs were required to have rings in their noses to prevent them from destroying lawns and gardens. A lumber mill was constructed, and the houses built were primarily frame dwellings, rather than log homes. Roman Catholicism was the primary religion, and St. Anne's Church was a community center, especially for the French speaking inhabitants who dominated the population with their small farms along the Detroit River. Indians from the eight tribes which were scattered across the territory outnumbered the pioneers by three to one. Fur trading continued to dominate the economy, although other merchants gradually developed businesses. There was no newspaper or library. The postal service was slow and erratic with mail from Washington, D.C., taking about two months to reach Detroit. Since no land survey was initiated until 1815, there were few pioneer farmers except for a few squatters hoping to obtain preemption rights when land was officially made available. Settlement was further discouraged by the fact that only two treaties had been agreed upon with Indian tribes under which the tribes had ceded part of their property to the United States government. There were virtually no roads, the first one being built in 1818 from Detroit to Toledo, and regular steam navigation in the Great Lakes was still several years away.

Precisely what Solomon Sibley did as United States Attorney was not recorded in great detail. Sibley had represented the United States in previous lawsuits, both criminal and civil cases. We can assume that the position occupied considerably less of his time than his private, legal practice and that his compensation was minimal. In the states and several of the more populous territories, Congress had established United States District Courts which, along with the Circuit

Courts, maintained the federal jurisdiction for the district. In Michigan, however, despite requests of Congress by Sibley and others, the district court was not established until Michigan became a state in 1837. Therefore, during Solomon Sibley's 1815-1823 term, he practiced as United States Attorney before the Michigan territorial courts, whose docket would have included both federal and territorial jurisdictional matters.

Some of the litigation in which the United States had an interest involved incidents which had occurred in the War of 1812. For example, the Indians and British had destroyed the documentation needed for John Anderson of River Raisin to be paid by the Army Quartermaster for the military volunteers he had raised for the conflict. There were also economic consequences to the seizure of schooners laden with goods during the battles to control the Great Lakes, and in damages to farms in the area by United States troops.

It was during Sibley's term that the sale of public lands began. This subject undoubtedly occupied part of his duties as United States Attorney. A survey was finally completed in 1817 and, the following year, the first auction was held in Detroit. The lack of transportation, along with negative press in the East about Michigan's land quality and climate, kept interest limited until 1825. It was not until the 1830s that the pioneers, especially from New York and New England, flooded across the Michigan borders. Sibley spent considerable time and energy promoting the economic development of the territory by helping to establish a bank and by encouraging settlers from the East. He and his partner, Andrew Whitney, were particularly interested in settlement in the Pontiac area and had an interest in the Pontiac Company which erected the first saw and flouring mills in that community in 1819.

In 1819, Congress authorized the Michigan Territory to have a non-voting delegate in Congress. The first representative, William Woodbridge, who would later be elected as the State of Michigan's second governor in 1839, served only one year, and he was succeeded by Solomon Sibley, who served until 1823.

1824

John Quincy Adams, the only President to hold office in the House of Representatives (17 years) after his presidential term, is elected President; his Vice-President is John C. Calhoun, one of the "war-hawks" during the War of 1812, and who hoped to conquer Florida from Spain; Solomon Sibley is appointed to the Michigan Territorial Court; Judge Doty arrives in Green Bay in October to begin his term

1826

On the 4th of July, the 50th anniversary of the Declaration of Independence, both Jefferson and Adams die; Adams' last words were, "Thomas Jefferson still survives;" Jefferson's last words were, "Is it the fourth?"; in actuality, Jefferson died first, having been unconscious since before midnight, but Adams arose early in the morning beginning his normal routine, however lapsing into unconsciousness at almost the exact moments that Jefferson died, speaking his last words just before passing on

Thus for several years, Sibley maintained overlapping executive and legislative positions, as well as being active in territorial and local government, and running a busy law practice.

Sibley, along with Governor Lewis Cass, negotiated the Chicago Treaty of 1821, in which the Ottawa Indians agreed to cede most of southwest Michigan in exchange for an annuity of \$1,000 along with an annual payment of \$1,500 to finance a blacksmith, teacher and an agricultural instructor. The treaty was subject to considerable litigation before the Indian Claims Commission and Court of Claims in the 1960s and 1970s.

In 1824 Solomon Sibley was appointed by President Monroe as a territorial judge and he served until 1837. From 1827 until statehood in 1837, he was the Chief Justice of the Michigan Territorial Court. As a judge, he was highly esteemed for his fairness, integrity and patience. With his long gray hair, protruding eyebrows and prominent jaw, he was said to have the perfect appearance of a judge.

Solomon Sibley married Sarah Whipple Sproat in 1802, and they had nine children, four sons and five daughters. Mrs. Sibley had been born to a prominent family in Providence, Rhode Island in 1782 and the family had moved to Marietta, Ohio in 1788. Mrs. Sibley made her own contribution to Detroit society by arranging for the transport by horseback of the territory's first piano. She was active in other philanthropic and cultural affairs in the city.

After his retirement from the court at age 68, Solomon Sibley devoted himself to the cultivation of a fruit farm. The esteem with which he was held was demonstrated by the fact that, after his death in 1846, the members of the bar wore badges of mourning for thirty days.

Solomon Sibley left one tangible item for present day Michiganians to admire – the Sibley House,

located at 976 East Jefferson in Detroit. Although he died prior to its completion in 1848, Sibley had planned the residence for his family. An example of Greek Revival architecture which was popular at the time, the house is the oldest remaining wooden residential structure in Detroit.

Despite this positive reputation, public office can be a difficult mantle to wear, even on the territorial bench in the early years of the Michigan frontier. There was one incident involving a serious lack of confidence in Judge Sibley's abilities. On January 10, 1828 the Circuit grand jury for Wayne County sent a letter to President John Quincy Adams and the United States Senate requesting that Solomon Sibley not be re-appointed to the Territorial Supreme Court on account of his general incompetence. The letter complained that he had been promoted because of the interests of the party and that he regularly "seeks out quibbles of the Law to overthrow substantial Justice." Although the matter was referred to the Judiciary Committee and the Vice President, President Adams apparently was not disturbed by the allegations since he re-appointed Judge Sibley a few days later.

As Michigan's first United States Attorney, and in his other roles, Solomon Sibley made an important contribution to the incremental development of our nation's legal system. In the two-century journey, which continues today, toward the rule of law, Solomon Sibley took the first few steps on the Michigan frontier. ■

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### *Author's Note*

*Mr. Parker has been an Assistant United States Attorney assigned to the Detroit office since 1978. He is currently working with Cathy Beck on a book about the history of their office. Mr. Parker thanks Ms. Beck and Judge Avern Cohn for their assistance in researching this article.*

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1828	1830	1831	1834	1836
Andrew Jackson, the first President to ride in a railroad train, to be born in a log cabin, to be nominated by a political party and to survive the first attempt at assassination, is elected President; John C. Calhoun again is Vice President	Robert Haynes debates Daniel Webster in Senate over slavery, a strong union and nullification doctrine	<i>Liberator</i> published by abolitionist William Lloyd Garrison; former slave, Nate Turner, who had led a violent insurrection, is executed in Virginia	George Bancroft publishes the first volume of his massive <i>History of the United States</i> inaugurating the golden age of American historical writing	James Madison dies leaving a note to be opened after his death which stated, "The advice nearest to my heart and deepest in my convictions is that the union of the states be cherished and perpetuated"

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