



THE COURT *Legacy*

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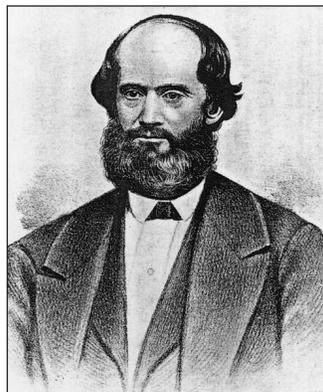
Millard Fillmore, George C. Bates, and James Jesse Strang: Why Michigan's Only King Was Tried in Federal Court

By Mary C. Graham and Marian J. Matyn

The story of James Jesse Strang and his kingdom on Beaver Island in the mid-nineteenth century has been retold several times. It is a fascinating tale that has something for everyone: intrigue, conflict, accusations of religious persecution, a coronation, a famous trial, and even an assassination. There are many curious details about Strang that still arouse interest, but one that has not commanded much attention is that he and his followers were tried in the federal district court in Detroit. It took the intervention of the President of the United States, Millard Fillmore, and the dispatch of the USS *Michigan*, the first "iron ship" of the Great Lakes, to effect Strang's arrest. This article will examine why federal charges were brought against Strang and his followers, who, if anyone, persuaded the president to intervene, and who hoped to benefit from the arrest and trial of Michigan's only king.

James Jesse Strang

James Jesse Strang (1813-1856), who was converted to Mormonism by Joseph Smith, asserted his right to lead the church in 1844 when Smith was assassinated. After Brigham Young was selected instead, Strang had a series of visions, which led him to break



James Jesse Strang

with the Church of Jesus Christ of Latter-day Saints and found his own sect, the Strangite Mormons. The Strangites first moved to Voree, Wisconsin, and then to Beaver Island, which is located in Lake Michigan about thirty-five miles northwest of Charlevoix. At the time, the island was inhabited only by a few white settlers, mainly fishermen.¹

By 1849 a large number of Strangites had moved to Beaver Island. From the beginning, there was tension between the Strangites and the original inhabitants. Because Strang was convinced that God had given him and his followers the island to do with as they pleased, regardless of any law or the desires of the other occupants,² the Strangites did not win many friends. They soon became the majority, however, and they began to amass political power by electing members of their sect to public office. As was perhaps inevitable, the Strangites were accused of various forms of election fraud. For their part, they argued that it was the gentiles (non-Mormons) who were persecuting them because of their religion. Over the years writers have provided evidence to support both sides of this issue.

One fact that is clear: Strang ruled his flock and was determined to govern everyone else on Beaver Island. He asserted his authority over the gentiles, requiring them to pay tithes and enforcing various other rules as well.³ And on July 8, 1850, the Strangites held a coronation of sorts, and Strang crowned himself King of Beaver Island.⁴

Another incident, little noted by writers on Strang, may have given pause to observers in Washington. In 1850 Strang asked the United States Senate that the Strangites "might settle upon and forever occupy all the uninhabited lands of the islands in Lake Michigan," and that the government stop selling this land to anyone else and allow the Strangites to live there in perpetuity as a separate entity.⁵

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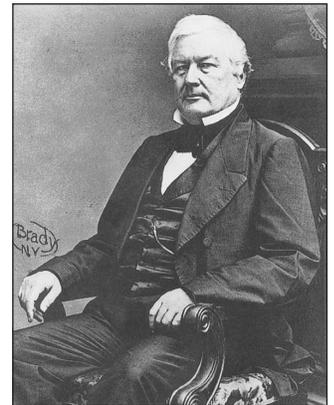
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This document also assailed the government for persecuting the Strangites. Severance points out that the office to which this petition was forwarded soon discovered that the U.S. “did not own the lands the Saints coveted.”⁶ Strang made this request about three weeks before his coronation, and it must have given many people pause when they later learned that the author of such a sweeping request had proceeded to grant himself the title of monarch after asking for lands to be granted to him and his people in perpetuity.

Although the Strangites did not advertise the fact that they now had a king, word leaked out. Beaver Island was (and is) sufficiently isolated and unimportant, however, that it is surprising that very powerful politicians began to take an interest in Strang, listen to the rumors about his possibly criminal activities, and wonder whether “something” should be done about him. To understand why one must know something about the political situation in the country in 1851.

**President Fillmore
and George C. Bates**

Millard Fillmore succeeded to the presidency (on the death of Zachary Taylor) on July 9, 1850, the day following Strang’s coronation. By 1851 Fillmore was contemplating the 1852 election, in which he hoped to be the Whig Party’s candidate. Both parties considered Michigan a swing state, and the Strangites were Democrats. They held most of the elective offices on Beaver Island and in other parts of northern lower Michigan, and the Whigs might have wondered whether these sectarians could tip the balance and deliver the state to the Democratic candidate in 1852. Milo Quaife charged that Strang “made use of the votes at his command to gain control of the agencies of local government, and so well did he succeed that within a few years he was entertaining visions of controlling not merely the Michigan state election but the choice of President of the United States itself.”⁷



Millard Fillmore

If Quaife's assumption was correct, then Strang was probably exaggerating the depth of his influence, but it can still be argued that Fillmore most likely understood Strang's influence in Michigan and its potential impact on his own political goals. Some authors contend that Fillmore received information about Strang when he visited his brother Charles in Detroit. In his book about Strang, Legler states that "while visiting a brother in the city of Detroit, President Millard Fillmore was informed that among the remote islands of Lake Michigan a person named Strang had established what he termed a kingdom, but what actually was but a nest of freebooters engaged in robbing the mails and counterfeiting the coin."⁸ However, Roger Van Noord declared that the president never got farther west than Buffalo in 1851.⁹ Perhaps some of the confusion about this incident has resulted from the fact that Fillmore *did* visit Detroit when he was still vice president, and his wife and children visited his brother on June 3, 1851.¹⁰ Possibly Fillmore heard rumors about Strang before he became president, but it cannot be denied that the weight of Legler's argument is lessened by his apparent confusion about the date Fillmore visited Detroit.

Another key participant was George C. Bates, who in 1851 was serving his second term as the United States Attorney for Michigan. From Bates's correspondence and an article he wrote about Strang many years after the trial,¹¹ it is clear that he was committed to apprehending Strang and that he was one of the prime movers behind his arrest and trial on federal charges. Why was this matter so important to him? At the time, it was rumored that Bates wanted Fillmore to appoint him as either a judge or a solicitor in the new state of California.¹² A spectacular trial, with Bates as the prosecutor, resulting in Strang's conviction and the destruction of the sect's (and thus the Democrats') hold on upper Michigan would be a good way for him to prove his abilities to the president and increase his chances for preferment.

Whatever the reason for his obsession with Strang, Bates believed that Democratic state officials in Michigan were reluctant to arrest Strang and his followers because the Mormon vote helped to keep them in office, and that this meant that he could *only* be prosecuted successfully in a federal court:

"All processes issued by the district attorney from the Federal courts could be served with certainty, and Strang, no matter what his force, could not resist capture, arrest, and trial in the courts of Detroit, wherein all United States process must issue."¹³ It should be noted that earlier attempts had been made to try Strang in the state courts. In October of 1850, he was arrested and charged with threatening the lives of George Adams (a disaffected follower) and Adams's wife Louisa. Strang was convicted by a judge in Mackinac and sentenced to six months in jail, but the conviction was set aside by a "friendly" county judge. He was arrested twice more and actually sentenced to jail a total of four times, but he was not incarcerated for more than a few nights and returned to Beaver Island.

Because he felt that Michigan officials and courts were unwilling or unable to deal with Strang, Bates wrote to the Attorney General of the United States, J. J. Crittenden, and reported the crimes the Strangites were accused of committing; specifically that they had "without purchasing any land, taken possession of nearly the whole island; that they [were] cutting and selling all the wood and timber."¹⁴ He added that he had heard that the Mormons were making counterfeit coins. Bates asked for Crittenden's support in the quest to gain permission to use the *Michigan* to arrest Strang, and he reiterated his contention that Strang would have to be charged with federal crimes and asked for the attorney general's advice.

Although Bates left considerable evidence about his commitment to apprehend Strang, Millard Fillmore left next to nothing as to why he approved it. His papers, which were partially destroyed before being archived, contain only one letter (dated April 30, 1851) about Strang. The letter is addressed to Attorney General J. J. Crittenden and states in part: "Sir, I have this moment received from the Commissioner of the Land Office the letter of Mr. Bates District Attorney of Michigan [this letter refers to an earlier incident when the authorities were prevented by the Strangites from arresting some fugitives on the island] in relation to the Mormon settlement on Big Bear [Beaver] Island in Lake Michigan *with maps and explanations which are respectfully referred to you for your opinion as Attorney General* (emphasis added). . . ." ¹⁵

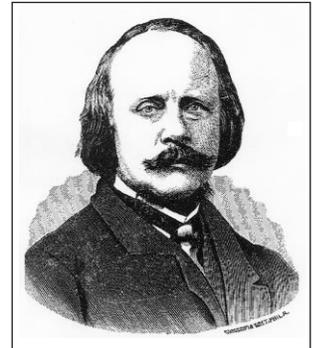
These “maps and explanations” no longer exist.¹⁶ And these are not the only documents that appear to have vanished. Frank Severance, the editor of Fillmore’s papers, remarks: “From allusions in the papers to Mr. Legler, Mr. Bates, and others, it would seem probable that President Fillmore engaged in considerable correspondence in the matter, but the letter here printed is the only one found by him bearing upon it.”¹⁷ Because some of Fillmore’s papers were destroyed, too much emphasis should probably not be placed on this, but one does wonder what light this correspondence might have shed on the reasons behind Strang’s arrest and trial. Whatever its motivation, the letter to Crittenden granted Bates the authority to use a warship, the *Michigan*, to arrest Strang: “If necessary, the Revenue Cutter or Naval vessel on the upper Lakes, will be put under the control of the Marshall to enable him to execute any process or order.”¹⁸ In 1851 the *Michigan* carried an eight-inch gun, which “fired a fifty-one and one-half pound shell or a sixty-three and three-quarters pound solid shot.”¹⁹ It was a formidable ship. Bates now had the power he needed to arrest James Jesse Strang.

Arrest and Trial

The *Michigan* sailed to Beaver Island, arriving on May 24th with Bates on board.²⁰ Using various subterfuges, he got Strang to board the ship and convinced him and some of his followers to agree to go to Detroit. On May 28th, a grand jury was convened to examine the charges against Strang and the others, which included counterfeiting, trespassing on federal land, and cutting timber illegally. On June 3, Strang and several others were also charged

with obstructing the U.S. mail and assaulting a mail carrier.²¹ In the midst of the preparations for the trial, word arrived from Beaver Island of the brutal “murder” of Thomas Bennett by several Strangites. Bennett was a fisherman who lived on the island and had had several run-ins with the Strangites. Naturally, this news inflamed an already volatile situation. Although it had little if anything to do with the charges against Strang, it seemed to prove that matters were out of control on Beaver Island and that the Strangites were quite willing to take matters into their own hands.²²

The trial of James Jesse Strang finally began in late June, presided over by Judge Ross Wilkins (a Democrat), who was highly respected for his sound rulings and intellect as well as his “overriding sense of fair play.”²³ Bates



Andrew T. McReynolds

acted as the prosecutor, and although Strang hired an attorney (Andrew T. McReynolds, another Democrat), he also helped to plan his own defense. According to Strang’s newspaper, the jury was composed of ten Whigs and two Democrats.²⁴

From accounts of the trial it is clear that the government did not have much evidence. At this time, each indictment was treated as a separate case, and the particular indictment that came to trial dealt with charges that the defendants interfered with the U.S. mail and threatened a mail carrier. The incident that formed the centerpiece of the government’s case involved a complicated encounter over a sled delivering mail and charges and countercharges from the Strangites and gentiles who testified about the incident. Much of Strang’s defense was not based on details of this confrontation, but on the claim that he and his followers were the victims of a relentless religious persecution that had finally resulted in prosecution in a federal court on what he argued were essentially trumped-up charges. Because so many of the witnesses either were ex-Strangites with a grudge against Strang or contradicted one another in their accounts of the incident with the mail, this accusation seems to have had some effect. In his charge to the jury,



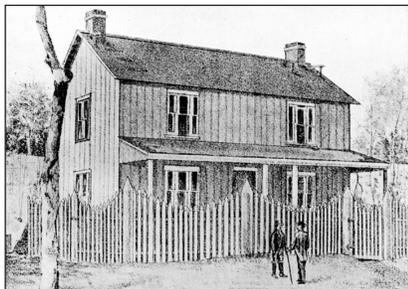
Painting of the U.S.S. Michigan
By Charles Robert Patterson

Courtesy of Burton Historical Collection

Judge Wilkins made it clear that he thought Strang and his followers *had* been the victim of religious persecution: Wilkins “made it clear that the law opposed prosecution of anyone for religious beliefs, no matter how absurd one might think they are.”²⁵ The jury may have believed this charge too, because Strang and the others were found not guilty on July 9, 1851. The government had not been able to prove its case.

The Aftermath

If President Fillmore hoped to destroy Strang’s influence in Michigan politics, he failed to do so, at least in the short term. After his acquittal, Strang was twice elected to the Michigan legislature. Fillmore, however, did not receive his party’s presidential nomination in 1852, and the Whigs lost the election as well as their identity, being supplanted by the Republican Party soon thereafter. It is perhaps unsurprising that Bates did not receive a presidential appointment in California. He did go on to have a colorful career, however, one that included serving as the District Attorney in Utah for two years. After that, Bates also worked as an attorney for the Mormon Church.²⁶ It is unclear why he agreed to work for what he called the “Utah” Mormons. Bates’s writings indicate that he did not hold them in very high regard although he appears to have saved his real loathing for James Jesse Strang and his followers. Bates did not have many kind words to say about President Fillmore either. Many years after the trial Bates charged that although Fillmore knew Strang might cause him political harm, he only reluctantly agreed to help Bates apprehend Strang: “Fillmore . . . fully appreciating the fact that the Mormons at Beaver might give the casting vote at the next presidential election against him, and in favor of the Democratic candidate, and being a very cautious, cold and calculating man, hesitated and halted for a long time before he could be induced to lend the power and process of the United States to the arrest and conquest of King James the First.”²⁷



King Strang’s Palace

As for James Jesse Strang, after two terms in the state legislature, he was shot by two of his disgruntled followers, Thomas Bedford and Alexander Wentworth. He survived the attack for twenty-three days, long enough to be taken to the Strangites’ former settlement in Voree, Wisconsin, where he died. The Strangites left Beaver Island after their leader’s death. Once deprived of its prophet, the sect crumbled, following the Whigs in general and Millard Fillmore in particular into obscurity.

One wonders who benefitted in the end from the government’s costly prosecution of King Strang. He and his followers were exonerated, and Bates seems to have gained no immediate advantage from his vendetta. Although Strang’s notoriety lives on, his church disappeared for the most part, and no one was ever prosecuted for his murder. Bedford and Wentworth were taken to Mackinaw (on the *Michigan*, which was again near Beaver Island), where they held at the jail by Sheriff Julius Granger. Eventually they went before a justice of the peace, who fined them \$1.25 apiece, but the fines were never paid.²⁸ On Beaver Island one is tempted to conclude that residents could commit murder, but needed to be wary of interfering with the mail. ■

Sources

- 1 Roger Van Noord, *Assassination of a Michigan King: The Life of James Jesse Strang* (Ann Arbor: University of Michigan Press, 2000), 68.
- 2 Ibid., 109.
- 3 Ibid., 146.
- 4 Henry E. Legler, “A Moses of the Mormons,” *Michigan Pioneer and Historical Collections* (Lansing: The Society, 1903), 32: 196.
- 5 Frank H. Severance, ed., *Millard Fillmore Papers* (Buffalo, N.Y.: Buffalo Historical Society, 1907), I: 343.
- 6 Ibid.
- 7 Milo M. Quaife, *The Kingdom of Saint James: A Narrative of the Mormons* (New Haven: Yale University Press, 1930), 137.
- 8 Legler “Moses of the Mormons,” 198.

- 9 Van Noord, *Assassination of a Michigan King*, 300, n. 1.
- 10 George Catlin, *The Story of Detroit* (Detroit: *Detroit News*, 1923), 465; *Detroit Free Press*, June 4, 1851, 2.
- 11 George C. Bates, "The Beaver Island Prophet," *Michigan Pioneer and Historical Collections* (Lansing: The Society, 1903), 32: 225-35.
- 12 Van Noord, *Assassination of a Michigan King*, 139.
- 13 Bates, "Beaver Island Prophet," 228.
- 14 Van Noord, *Assassination of a Michigan King*, 128.
- 15 Severance, ed., *Fillmore Papers*, I: 342. Fillmore refers explicitly to a letter he received from Bates regarding the Mormon "problems" on Beaver Island, and Severance quotes what he believes to be the letter Fillmore is referring to, but David G. Chardavoigne, in an early review of this article, states that he thinks that Severance erred. His arguments for this include the fact that the Bates letter cited by Severance is addressed to Daniel Webster, who was the Secretary of State and not the Commissioner of the Land Office, and that it refers to an attempt to capture a fugitive slave and not to problems with the Strangites' actions on Beaver Island. This does not negate the presumption that there was in all likelihood considerable correspondence among the main actors in this drama and that Fillmore probably received information from Bates about Strang and his purported criminal activities.
- 16 Barbara Bair, a historian in the manuscript division at the Library of Congress, searched for these maps and explanations and reported that they are neither part of the Crittenden Papers, nor were they transferred to that institution's geography and map division.
- 17 Severance, ed., *Fillmore Papers*, I: 344.
- 18 *Ibid.*, I: 343.
- 19 J. A. Dahlgren, *Shells and Shell Guns* (Philadelphia: King and Baird, 1857), 26. Cited in Bradley Alan Rogers, "Guardian of the Great Lakes: The U.S. Paddle Frigate *Michigan*, an Iron Archetype on the Inland Seas" (Ph. D. diss., Union Institute, 1994), 57.
- 20 Van Noord, *Assassination of a Michigan King*, 135. Van Noord does not give the exact date that the *Michigan* got to Beaver Island, but he does state that it was "at 2:20 a.m. on Saturday, the Mormon Sabbath," which was May 24, 1851. The *Michigan's* log confirms that she arrived at Beaver Island on that day. Rough Log of the USS *Michigan*, Vol. 7, May 21-24, 1851, Record Group 24, National Archives, Washington, D.C.
- 21 *Ibid.*, 137.
- 22 Accounts of this incident vary, and the Strangites' version of events differs substantially from that of the gentiles. Van Noord gives a comprehensive account of Bennett's death in his book.
- 23 Van Noord, *Assassination of a Michigan King*, 140, n. 35.
- 24 Although Van Noord mentions the political affiliations of the jury members, he does not indicate how Strang's newspaper, *The Northern Islander*, could know the politics of the jurors. Readers seeking a description of the trial should consult Roger Van Noord's book, *Assassination of a Michigan King: The Life of James Jesse Strang*, which gives a full account.
- 25 Van Noord, *Assassination of a Michigan King*, 161.
- 26 Bates, "Beaver Island Prophet," 225.
- 27 *Ibid.*, 227.
- 28 Van Noord, *Assassination of a Michigan King*, 251-52, notes 23, 28.

Authors' Note

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Marian J. Matyn has been the archivist for the Clarke Historical Library and an assistant professor at Central Michigan University, Mount Pleasant, Michigan, since 1996. She earned a B.A. and an M.I.L.S. from the University of Michigan – Ann Arbor. Prior to the Clarke, she worked at Chester County Archives (West Chester, Pennsylvania) as a project archivist, at Hagley Museum and Library (Wilmington, Delaware) as a reference librarian, and at the State Archives of Pennsylvania (Harrisburg, Pennsylvania) as a state and local government associate archivist. In September 1998 she edited *A Guide to Michigan Archival Resources*, the first statewide directory of archival collections in Michigan. She has also published several papers related to history and archives in addition to her other work.

The Federal Trial of James Jesse Strang

By David G. Chardavoyne

From June 26 to July 9, 1851, Judge Ross Wilkins of the United States District Court for the District of Michigan conducted the trial of James Jesse Strang and twenty-three of his followers on an indictment charging obstruction of the U.S. mail.¹ This indictment was based on an incident in February 1851 in which a party of Strangites tried to capture Ari (or Eri) James Moore, a former official in Strang's church whom Strang had expelled. According to Moore, the men intended to murder him for opposing the church. On the other hand, his pursuers insisted that they were a duly appointed posse trying to arrest Moore on a warrant charging that he sold whiskey to local American Indians.² This posse discovered Moore crossing the ice near Garden Island, in the Beaver Island chain. Moore and his wife were traveling with two men who were taking a bag containing the U.S. mail from Beaver Island to Mackinac by dog sled. As the men approached, Moore ran away to the protection of an Indian village on Garden Island. According to the mail carriers, the posse chased them as well to the Indian village from where they returned the mail to Beaver Island.

In 1851 the district court was held in Detroit in the former headquarters of the Bank of Michigan, at the southwest corner of Jefferson Avenue and Griswold Street. It was almost directly opposite the site where the old church of St. Anne stood from 1701 to 1805. Surrounding the church was an old cemetery from which the accumulated remains of Detroiters who died between 1701 and 1805 were buried. A good many of the broken tombstones were used in laying the foundation of the building.³

Built in 1836, this was the first structure in Detroit made of dressed stone. Its shell limestone contained many "petrifications" (fossils), and the stone was oiled regularly to preserve their beauty.⁴ When new, its walls attracted the attention of many people because of the glistening fossils which were visible on the surface of the stone. The United States purchased the building from the bank's liquidator in 1842 as its first public building in Michigan. In addition to the United States Court, it housed the U.S. Marshal and other federal officials. For some of the time the Land Office occupied the basement and later the post office was located there.⁵ The court's sole district judge was Ross Wilkins who arrived in Michigan from Pittsburgh in 1832 when he was



U.S. District Court Building in 1851, subsequently First National Bank Building.

appointed to the territorial supreme court by Andrew Jackson.⁶ When Congress created a district court for the new State of Michigan four years later, Wilkins was appointed district judge. As nepotism was not yet frowned upon in the federal judiciary, Judge Wilkins subsequently appointed his son, William D. Wilkins, clerk of the court.

James Strang and the other defendants were represented by Andrew Thomas McReynolds, a popular

figure in local Democratic politics. McReynolds was a tall, energetic native of Ireland who gained fame during the war with Mexico in which he commanded a cavalry troop made up of Michigan militia. Wounded in a wild cavalry charge outside of Mexico City, Captain McReynolds was promoted to Major for his bravery.⁷ He was not considered a particularly skilled trial lawyer, however, and the short, pockmarked and charismatic Strang, who had practiced law in his early days, directed the defense. District Attorney George C. Bates, who conducted the prosecution, lacked McReynolds' war record. Although Bates was also a militia officer, he was a Whig, many of whom opposed the war as immoral. As his pugnacious pursuit of Strang demonstrated, however, Bates did not lack energy or ambition.

The court's first order of business was seating a jury.⁸ From the court's regular jury pool, Bates and McReynolds selected twelve jurors who were residents of eight counties across lower Michigan (Livingston, Branch, Ottawa, Lenawee, Kalamazoo, Berrien, Wayne, and Kent). The defense was likely pleased with this panel. Two days earlier, several of them had served as jurors in a counterfeiting trial prosecuted by Bates in which they acquitted the defendant, one Miles Butler, in short order.

The most striking legal feature of this trial was the taking and use of deposition testimony in a criminal case in lieu of live testimony. On June 19 and 20, court clerk William Wilkins supervised Bates, McReynolds and Strang on Beaver Island as they took the depositions of fifty witnesses to be used at trial, even though there was no legal basis for using depositions in a criminal trial. At that time, each federal court followed the procedures of the state in which it was held, and since 1848 depositions could be used in Michigan only in civil trials.⁹ On the other hand, taking depositions to preserve the trial testimony of distant

witnesses was a long-established practice, and the parties apparently stipulated to this familiar solution to the problems of logistics and expense involved in summoning so many witnesses from Beaver Island to Detroit. The wisdom of that procedure was demonstrated by the fact that, in the end, only five of the depositions were used at trial.

After the jurors were sworn on June 26, Bates read them the depositions of Peter McKinley (the postmaster at Beaver Island), John Dorry and Augustus Gould (the mail carriers), Peaine

(leader of the Indians who sheltered Moore), and Richard O'Donnell (another well-known opponent of the Mormons). On June 27, the prosecution presented live testimony, including that of George J. Adams who had once been Strang's chief lieutenant but who, like Moore, had fallen out with King James. Adams testified that Strang often spoke of his plans to take total control of the community and to drive out all non-Mormons. Adams also said that he had often heard Strang and other Mormons declare that they intended to stop the mail to prevent outsiders learning what was going on at Beaver Island.

On Saturday June 28, before trial resumed, Strang

moved for a separate trial. At that time, the district court still adhered to the rule that a criminal defendant was incompetent to testify at his trial, and Strang apparently wanted to use the testimony of some of his co-defendants to prove his innocence. Judge Wilkins denied the motion, and the trial continued without the defendants' testimony although one of them, William Townsend, did testify for the defense after he was acquitted at the close of the prosecution's case.

Parties.		Action.	U. S. Att'y.	Def't. Att'y.
The United States.				
James J. Strang, Elias Rice, George Hill, Warren Post, William Hill, George Miller, John B. Fields, John Brown, David Brown, Jonathan Pierce, Isaac Pierce, William Chambers, Jackson Foster, Archibald Porter, Puley Page, James Sinclair, P. P. Adams, David Dwyer, Peter William Townsend, John Miller, Joseph Melchum, Ferguson Page & Puley Page				
Obstructing Passage Sec. C. Bates. of U. S. Mail.				
Costs.	Dates.	Proceedings.		
Book # 52, 28	June 1851.	Subpoena returned to Clerk, James J. Strang, William Townsend, Joseph Melchum & Puley Page, being assigned to attend to the Subpoena.		
Exid.	"	James J. Strang & Puley Page assigned in \$100 each for Strang's appearance on 14th Monday of June next. See J. Adams & Michigan Bank, witnesses, recy. paid on \$50 each to appear on the same day.		
"	"	Copy Subpoena furnished J. J. Strang.		
"	"	See J. Adams recy. paid on \$50 as witness to appear on 14th Monday of June.		
"	"	Copies issued, returnable June 23rd.		
"	"	Order made transferring See Melchum & Puley Page to Melchum Co. Del.		
"	"	Copy Order furnished U. S. Marshal, S. J. S. to be sent to Seal.		
"	"	11th Copy of P. P. Adams recy. paid. Offt. Certificate issued, James Hill, U. S. Att'y.		
"	"	11th Copy of Subpoena issued to J. Adams, P. C. Melchum, James, mother John D. Melchum, Puley Page, H. Sinclair, and - Charles.		
"	"	14th Order that 15 Subpoenas issue in reference to their depositions to take at BI the 14th.		
"	"	Copy of Order furnished U. S. Marshal S. J. S. to be sent to Seal. James Hill to witness.		
"	"	Continued to June Term, 1851. Affs of J. J. S. to be filed. (Note: 1st for 1-10th)		
"	"	24th Deposition taken before W. S. Melchum, U. S. Marshal at Beaver Island filed by him in 1851 Det.		
"	"	25th Affs of Strang filed by J. J. Strang in a separate Sub. Motion Defused. J. Adams.		
"	"	27th Jury trial continued. 28th Jury trial continued. 29th Jury trial continued. 30th Jury trial continued. 31st Jury trial continued. 1st of July.		
July 1st	"	14th 8 Subpoenas returned and filed. 21 Subpoenas returned to Seal.		
"	"	Copies returned, James J. Adams, Puley Page, James Hill, U. S. Att'y.		
"	"	21st Subpoenas returned, James J. Adams, Puley Page, James Hill, U. S. Att'y.		
"	"	Jury trial continued. 22nd Jury trial continued. 23rd Jury trial continued. 24th Jury trial continued. 25th Jury trial continued. 26th Jury trial continued. 27th Jury trial continued. 28th Jury trial continued. 29th Jury trial continued. 30th Jury trial continued. 31st Jury trial continued. 1st of July.		
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Docket Entries for Trial

The cross-examination of Adams continued for most of Saturday. Although Adams stuck to his story, McReynolds was able to bring out Adams's extreme hatred of Strang and his own involvement in Strang's plots to take over the island. On Monday June 30, the prosecution closed its case with the testimony of Ari Moore. After Moore finished telling his version of the incident, the prosecution rested, and jury promptly found two of the twenty-four defendants, William Townsend and William Chambers, not guilty.

Strang then rose and made an impressive opening statement in which he warned the jurors against religious bias, denied that his church claimed to be above the law, and asserted that Adams and Moore were not worthy of belief. As the defense began presenting its case, it became apparent that they chose not to use the depositions. Instead, from Monday June 30 to Thursday July 3, McReynolds called to the stand fifteen witnesses, all followers of Strang. The gist of their testimony was that the posse had no designs on the mail and was only interested in arresting Moore, that the Mormons were not obliged to lie for Strang, and that it was Moore and Adams who were the liars in the case.

On Monday, July 7, after the prosecution and defense presented rebuttal and sur-rebuttal witnesses, Bates gave his closing argument. The next day, after McReynolds closed for the defense, Judge Wilkins instructed the jury on the law. He also admonished the jurors that the defendants' religion was irrelevant to the case. Later that evening, after a short deliberation, eleven jurors returned a sealed verdict.¹⁰ When court reconvened the next day, Wednesday, July 9, the verdict was opened and found to be an acquittal of all of the remaining defendants.

James J. Strang and his followers returned triumphantly to Beaver Island, and, in September, Bates quietly dismissed the other indictments against them. Why Bates chose to try the questionable charge of mail obstruction first is a mystery. The indictments for trespassing on federal land to steal timber were well documented by U.S. marshals, and timber theft was a serious problem for the federal government at that time. Perhaps Bates believed that the testimony of George Adams and Ari Moore that the Mormons engaged in religious persecution and violence against islanders not members of his church, marginally relevant to motive in the mail case but probably inadmissible in a trespass trial, would outweigh his lack of evidence of intent to delay the mail. Evidently, he was wrong. ■

Sources

- 1 This was one of fourteen indictments (out of twenty-two total for that term), that a grand jury returned against Strang and his followers three weeks earlier. The other thirteen indictments against the Strangites included one for counterfeiting and twelve for trespassing on federal lands to steal timber. The grand jury refused to indict Strang and the others for treason. Among the other two indictments returned that term, one for counterfeiting and one for obstructing the mail, both were against residents of Jackson County who were being tried that summer in Wayne County Circuit Court on charges of conspiracy to destroy the property of the Michigan Central Railroad, including the destruction by fire of the railroad's Detroit terminal in November 1850. This case seems to have been of even more interest to the public than the Strang indictments. See Charles Hirschfeld, *The Great Railroad Conspiracy* (Michigan State College Press, 1953). Another matter of intense public interest that summer was an assertion in print by John Chester, a slave owner from Tennessee, that officers of the District Court had violated the Fugitive Slave Act by sending a telegram warning an escaped slave to flee to Canada. The grand jury refused to indict, finding that no court officer was involved and that, in any case, the fugitive had reached Canada before the telegram was sent. *Detroit Free Press*, June 5, 1851. The remaining indictments charged various defendants with perjury, counterfeiting, trespass, and larceny from a post office.
- 2 Moore's claim was given some credence when word arrived in Detroit, as the trial was about to begin, that another Mormon posse serving an arrest warrant on Beaver Island had killed Thomas Bennett, a prominent opponent of Strang.
- 3 George B. Catlin, *The Story of Detroit* (The Detroit News 1923). p 456.
- 4 See Philip Mason, "Ross Wilkins, Michigan's First U.S. District Judge," *Court Legacy* No. 1 (April 1993) :2.
- 5 Catlin, *supra*, p 456.
- 6 Silas Farmer, *History of Detroit and Wayne County and Early Michigan* (Detroit, 1889), p. 859. The U.S. sold this building in 1855, and it eventually was purchased by the First National Bank.
- 7 Le Roy Barnett & Roger Rosentreter, *Michigan's Early Military Forces* (Detroit: Wayne State University Press, 2003), pp. 336, 444-45. During the Civil War McReynolds rose to brigadier general.
- 8 For the day-to-day details of the trial, I have relied on Roger Van Noord, *Assassination of a Michigan King* (Ann Arbor: University of Michigan Press, 1997), and the district court's own records.

- 9 “An Act relating to depositions taken within this state,” *Mich. Pub. Acts* (1848), No. 143.
- 10 Juror Samuel Chipman was excused on June 30 when he received a telegram from his home at Kalamazoo that one of his children was dangerously ill. The parties stipulated to accept a verdict by the remaining eleven jurors. *Detroit Free Press*, June 30, 1851.

Author’s Note

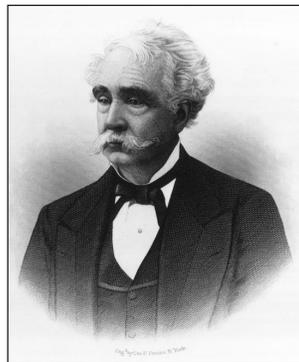
Mr. Chardavoyne is an attorney in private practice in Farmington Hills, Michigan, and a member of the Board of Trustees of the Historical Society for the United States District Court for the Eastern District of Michigan. Mr. Chardavoyne’s book, *A Hanging in Detroit: Stephen Gifford Simmons and the Last Execution Under Michigan Law*, will be published in the summer of 2003 by Wayne State University Press.

George C. Bates: United States Attorney, 1841-45 and 1850-53

By Ross Parker

This is the third in a series of articles that will be appearing on the history of the United States Attorney’s Office. As reported previously, the U.S. Attorney has embarked on a project to record the history of his office from 1815 until the present.

George C. Bates was one of only two men to serve as United States Attorney for Michigan in two non-consecutive terms. In 1841 President William Henry Harrison appointed him and he served until 1845. In 1850 he was again appointed, this time by President Franklin Pierce, and he served until 1853.



George C. Bates

Mr. Bates was born in New York in 1813. He attended Hobart College and was graduated in 1831. He studied law with John C. Spencer in New York for three years and moved to Detroit in 1833 at the age of 21. In Detroit he studied law under Cole and Porter and, later, John L. Talbot until 1836. In 1835 he was elected President of the Young Men’s Society,

a group which met every week at their building on Jefferson between Randolph and Bates to listen to lectures and participate in debates on the issues of the day.

Mr. Bates was an Alderman on the Common Council for the 1st Ward in Detroit in 1839. He was one of the primary proponents of the establishment of a free public school system for the children of Detroit. This movement succeeded in 1841 with the first public Detroit School District. Between his two terms as United States Attorney, Mr. Bates was the unsuccessful Whig candidate for United States House of Representatives in 1848.

In 1840, there were 212,267 people in the state, and an economic collapse in the previous decade had slowed both immigration into the state and commercial development. By 1850 however, the population had almost doubled, to 397,654. Most of this increase took place in the lower half of the lower peninsula, where forests were cleared and farms established. The early railroads and the invention of the telegraph greatly improved communication with the East. This in turn, stimulated farmers and tradesmen from New York and New England to use the Great Lakes to move to Michigan where land was cheap and available. Others came from the British Isles, Germany, and Canada.

The improvements in communication during this time period must have seemed miraculous to people of the time. In a few short years they went from waiting weeks for a letter to reading in newspaper reports of events from around the world which had occurred the day before. The first telegraph service was in 1847 between Detroit and Ypsilanti, and by 1860 virtually all sizeable Michigan cities had service. Mail service also improved significantly with an extensive network of post roads and the use of stagecoaches, steamships and railroads to carry the mail. The price of postage was reduced to 3¢ per letter by 1860.

During this time period, the federal judiciary was suffering from the growing pains of the nation and its increasing litigation needs. From the time of the Jeffersonians, one Supreme Court justice had been assigned initially to each of the six federal circuits to hold at least one circuit court session each year in each district, including charging the grand jury.

Although circuit riding provided the benefit of a more uniform administration of law in a developing nation, the justices themselves disliked being “traveling post boys.” In the period of time preceding the Civil War, the number of states had increased to thirty-one, in addition to several territories. Congress responded by increasing the number of new circuits and Supreme Court justices, until by 1855 there were ten circuits. Despite the recommendations of statesmen from President John Adams to President Lincoln, Congress had repeatedly refused to authorize judges to fill the circuit courts, leaving the extra responsibilities for district judges and Supreme Court justices. When the justices were unable to convene the circuit court, the district judges had to exercise both district and circuit court jurisdiction. The geography and distances involved and the swelling federal caseload created an unsatisfactory situation for which partisan politics and states’ rights concerns would preclude a solution until the judiciary was reorganized in 1891.

The jurisdiction of federal courts during this period was limited to cases of admiralty, diversity of citizenship (for cases involving \$500 minimum), a few statutory crimes and cases in which the United States was a plaintiff. There was also a very limited federal question jurisdiction, as well as jurisdiction over writs of habeas corpus brought by federal prisoners. In an example of this latter category, Circuit Justice John McLean overruled a habeas corpus petition in *Johnson v. United States*.¹ The petitioner argued that the indictment was dated more than two years after the crime, two years being the applicable statute of limitations at the time. The court, however, accepted Mr. Bates’ argument that the defendant had waived the issue by his failure to plead it at or before trial and that the proofs may have shown the criminal acts to have occurred during the period of limitations. But see, *United States v. Ballard*,² in which the circuit justice dismissed an action where a similar issue was raised prior to conviction.

As the chief representative of the federal executive branch, the United States Attorney’s duties sometimes extended beyond the courtroom. In 1843 the Secretary of War ordered an expedition to the Upper Peninsula to find and retrieve a one hundred pound piece of pure copper from land belonging to the Chippewa tribe. The rock, originally considered

by the Indians to have had religious significance, had been first discovered by Europeans in 1667 and had been sold and re-sold during the next two centuries. Finally, the Army succeeded in transporting it to Detroit where Mr. Bates secured the cutter Erie to carry it through the canal to Washington, D.C. Eventually, the rock was exhibited in the Smithsonian.

During Bates’ second term as United States Attorney, United States District Judge Ross Wilkins³ upheld the seizure of a schooner containing timber allegedly cut and removed from public lands contrary to an 1831 federal statute forbidding the carrying away of live oak or red cedar timber knowingly taken from public lands. The judge ruled that it was unnecessary to identify in the indictment the type of timber cut. On appeal, however, Circuit Judge McLean reversed, holding that the libel must allege that the cutting was done with knowledge that the timber was taken from public lands and, also, that the timber was live oak and red cedar. Although the forfeiture of the timber was upheld, the schooner had to be released. Mr. Bates’ most notable case as United States Attorney was the prosecution of the Mormon leader, “King” Strang of Beaver Island which is discussed in depth in this issue.

Mr. Bates was a member of the 1850 state constitutional convention at which he supported an amendment to give the vote to African Americans.

After he concluded his second term as United States District Attorney, Mr. Bates moved to California where he practiced law until 1856. From 1861 until 1871, he practiced in Chicago until moving to Utah, where he was the district attorney for two years and then the attorney for the Mormon Church. In 1877, Mr. Bates returned to Detroit to practice law. Eventually he moved to Denver, where he died. ■

Sources

- 1 *Johnson v. United States*, 13 F.Cas. 867 (C.C.D. Mich. 1842).
- 2 *United States v. Ballard*, 24 F.Cas. 972 (C.C.D. Mich. 1842).
- 3 *United States v. The Helena*, 26 F.Cas. 255 (D. Mich. 1850).

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 for her assistance in researching this article.

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