

Trial of the Last Man Executed in Michigan To Be Topic of Luncheon Vignette

On September 24, 1830, Stephen G. Simmons was executed by hanging in the middle of Gratiot Avenue in Detroit, becoming the last person to be executed under Michigan law.

The events that lead up to the hanging, the players involved in the trial, and the political changes that lead to the abolition of the death penalty in Michigan make up the historical tale *A Hanging in Detroit* written by David G. Chardavoyne.

The Plot

The book opens with an account of the very public execution written by George B. Catlin in 1923. The Catlin account, which Mr. Chardavoyne later found to contain many historical inaccuracies, has long been the basis for other written accounts of the event.

In the introduction to *A Hanging in Detroit*, Mr. Chardavoyne explains:

My initial plan was to retell Mr. Catlin's wonderfully dramatic story in my own words. ... as I discovered that various libraries and museums contained a large number of contemporary records and documents relating to the case and to Simmons' life, I had to recognize that, except for

its bare outline, Mr. Catlin's account is largely a myth...

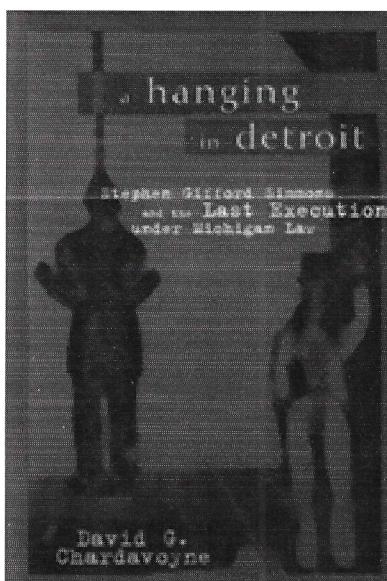
In writing what started out to be a short magazine article but ended up as a book, I have tried to answer basic questions that appealed to me as a lawyer: How did Stephen G. Simmons come to be placed on trial for murder and what happened at and after the trial. Why was Stephen G. Simmons hanged when other contemporary killers were barely punished at all?

The story of the life, trial and execution of Stephen Simmons opens with a historical and genealogical introduction to the Simmons family, following them from New York to Michigan and detailing the life and occasional misadventures of Stephen himself.

Readers soon find themselves in the Detroit of the 1820s – the wild, swampy home of less than 2000 brave

soles who had immigrated to Michigan in search of their fortune. Stephen and his family set up shop on the outskirts of Detroit, opening an inn and tavern and farming an 80 acre parcel of land.

On Sunday, June 13, 1830, in a drunken and jealous



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rage, Stephen beat his wife Levana to death; an act that lead to his conviction of murder and to his execution just three months later.

From the unusual jury selection process, to the quick trial and speedy verdict, A Hanging in Detroit goes on to relay the facts of the case and the events that took place in the courtroom inside what was then the Capitol building in Detroit.

The novel ends with a description of the process that lead to the 1846 abolition of the death penalty – making Michigan “not only the first state, but also the first government in the English-speaking world to abolish capital punishment” – and finally to the inclusion of Article 4, Section 46 of Michigan’s 1963 Constitution.

The Players

Although the trial took place in Wayne County Circuit Court and did not directly involve the Territorial Supreme Court, the case relates directly to Michigan Supreme Court history as each of the presiding circuit judges – William D. Woodbridge, Solomon Sibley, and Henry C. Chipman – were simultaneously serving the Territory as Supreme Court Justices. In addition, the prosecuting attorney, B.F.H. Witherell, eventually became a justice of the Michigan Supreme Court.

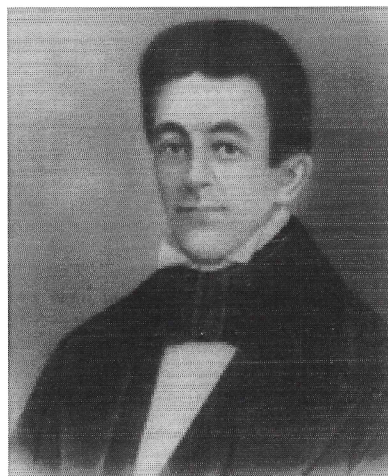
The Defendant: Stephen G. Simmons

A farmer and tavern keeper, and a known abuser of alcohol who was “consistently and aggressively violent” when he drank.

The Defense: George A. O’Keeffe

A “spell-binding orator...an incomparably dramatic and witty trail lawyer,” O’Keeffe was retained by Stephen the day before the trial.

He had already represented Stephen in civil matters and agreed to defend Stephen without a cash-up-front deposit.



The Prosecution: Benjamin F.H. Witherell

A “handsome, even-tempered, kind and popular” man, Witherell was the District Attorney at the time of the trial. A temperate man, “Witherell had already served as judge of the Wayne County Court and as prosecutor for both St. Clair and Wayne Counties.” He eventually became the 18th Justice of the Michigan Supreme Court in 1857.

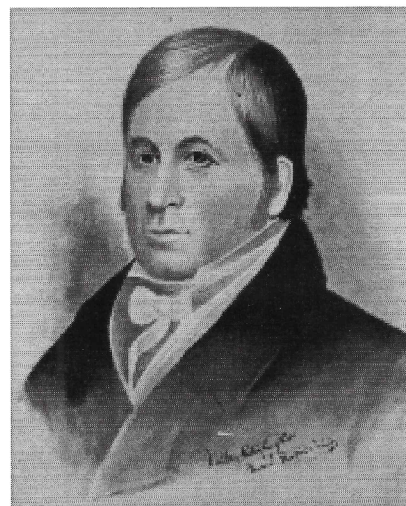


The Judges:

Acting as judges of the territorial circuit court and, in particular, as judges of Wayne County Circuit Court, three justices of the Territorial Supreme Court presided over the trial. “Having Supreme Court judges do double duty may have been efficient, but it created a disadvantage for Stephen and other defendants. Because the law required that at least two of the judges be present at each session of a circuit court, Stephen could be sure that the judges who would decide any appeal that he might make to the Supreme Court would be the same judges who had made the ruling...that was the basis of his appeal.”

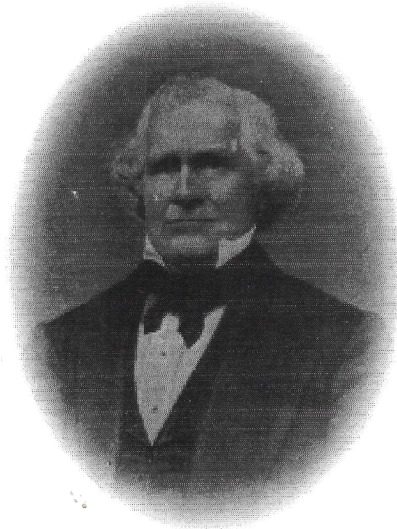
Solomon Sibley

Arriving in Detroit in 1798, Sibley’s “intelligence, charm, and romantic good looks soon made him one of the most prominent and influential men of early Detroit.” He was appointed to the Territorial Supreme Court in 1824 by President James Monroe, becoming the 6th Territorial Justice and serving the Court from 1824 until 1837.



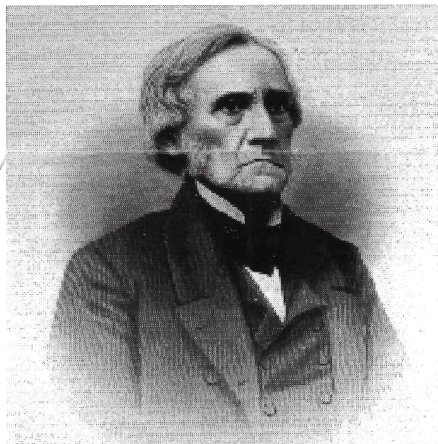
Henry C. Chipman

A "newcomer" to Michigan, Chipman arrived in Detroit in 1824 and began publishing the *Michigan Herald*. Chipman was appointed Chief Justice of the Wayne County Circuit Court in 1825 and, after being appointed by President John Quincy Adams, became that 7th Territorial Justice. He served the Court from 1827 until 1832.



William D. Woodbridge

Described as "dour, irascible, an inveterate officeholder, a staunch lieutenant" and as "honest, conservative, and unimaginative," Woodbridge had served as the Territorial Secretary, delegate to Congress, and became the 8th Territorial Justice, serving the Court from 1828 until 1832.



The Trial

The first step of the trial, jury selection, got off to a rocky start. Three days and 128 candidates later, a jury of twelve was seated and the prosecutor opened arguments late on the third day. The case for the prosecution featured testimony of several eye witness, including three of Stephen's children who testified for the prosecution. One traveling journalist reported that "in telling the story of their mother's dreadful end, they brought their father to the gallows."

On the following day, defense attorney O'Keeffe attempted to convince the jury that Stephen was guilty of manslaughter and not murder, that he "had been under the control of strong drink at the time of the crime, that he did not intend, and could not have intended, to kill Levana."

The jury was sequestered for the remainder of that day

and returned the following day with a verdict. They announced their verdict: "being polled each and every of them say they find the Prisoner Stephen G. Simmons Guilty of the felony for which he stands charged."

At his sentencing twelve days later, Simmons was sentenced to be "hanged by the neck until he be dead."

The Hanging

As the time for Stephen's execution drew near, Sheriff Woodworth prepared for the public spectacle. He planned for the "comfort and entertainment of the expected crowd of spectators at the execution... Woodworth ordered wooden grandstands erected on three sides of the scaffolding, uniformed militia to be deployed around the scaffolding as a guard of honor, a military band to serenade the crowd while it waited for the main event, and vendors to patrol the grounds hawking food, whiskey, and rum." "The *North-Western Journal* estimated that the crowd gathered around the scaffold on [the morning of the execution] exceeded two thousand."

Though the execution itself went off without a hitch, some of the spectators found the whole event disturbing and it was the last execution to take place in the state of Michigan.

The Rest of the Story...

Though the event itself, and the eventual changes to Michigan law eliminating the death penalty, are familiar, the details and the facts of the story are not. To hear the rest of the story, join us on Thursday, April 22, at the Detroit Athletic Club for our 13th Annual Membership Luncheon.

ANNUAL LUNCHEON TICKETS

STILL AVAILABLE:

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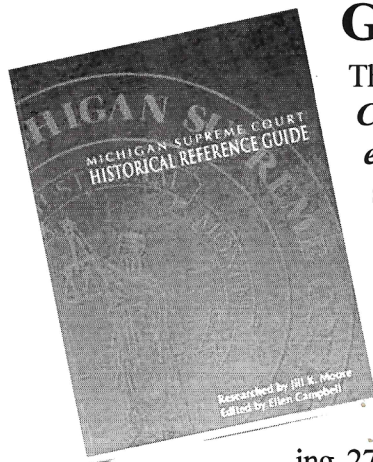
\$35.00 PER PERSON

APRIL 22, 2004

DETROIT ATHLETIC CLUB

12:00 NOON

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Phone: 517-373-7589 Fax: 517-373-7592
E-mail ABERGMAN@MICOURTHISTORY.ORG; Website: WWW.MICOURTHISTORY.ORG



1st Floor, Hall of Justice
925 W. Ottawa Street
Lansing, MI 48915