

# Michigan Lawyers in History

## Gilbert Moyers

By Carrie Sharlow



*The state of Michigan was built by the lumber and auto industries, agriculture, and the lawyers who lived, studied, and practiced here. The articles in this occasional series highlight some of those lawyers and judges and their continuing influence on this great state.*

If you have ever been appointed to represent an indigent defendant in a Michigan court, you should know of Gilbert Moyers.

A defendant's right to "assistance of counsel" at trial has been in the Michigan Constitution since the territory's first constitution of 1835. However, the right "to have the assistance of counsel" for one's defense does not cover the right of that counsel to have adequate compensation paid by either the state or the county.

Few professionals are expected to work for free as often as attorneys.

In 1857, Gilbert Moyers made a successful attempt to remedy the issue in Michigan.

Moyers was born on September 13, 1833, in Macomb County, in what was then the Michigan Territory.<sup>1</sup> He studied law at the newly established University of Michigan in 1849–1850.<sup>2</sup> After completing his education,

Moyers served as a prosecuting attorney in Allegan County before being elected state senator for the 13th District in 1856.

On January 14, 1857, the freshman senator introduced a bill to provide payment to an attorney when the attorney was appointed by the court.<sup>3</sup> Not only did Sen. Moyers note that court-appointed attorneys should be paid for services rendered, but he also listed specific amounts for payment: \$25 for a murder case, \$10 for other felonies, and \$5 for misdemeanor cases. While \$25 might buy a half tank of gas today, in the 1800s it was a huge amount of money for one job. In comparison, the members of the Michigan Senate received \$5 for supplies for the entire 1857 session.

Senate Bill No. 31<sup>4</sup> moved quickly through the legislative process and was signed into law a month later.<sup>5</sup> Just like that, court-appointed attorneys were required to be paid for their services to Michigan's judicial system.

After Moyers' senate term ended in 1858, he returned to his practice and never again held public office.

When the Civil War started, the former senator enlisted in the 3rd Michigan Cavalry. He reached the rank of captain, major, and, eventually, lieutenant colonel before being honorably discharged in December 1864.<sup>6</sup> In 1865, Moyers moved to Memphis, Tennessee and continued his practice, concentrating in pensioner claims.<sup>7</sup>

Presumably, Moyers met his future wife, Frances Follett (b. 1845), in Memphis. The couple had two daughters: Frances "Fannie" (b. 1870) and Ida May (b. 1875). In the 1890s, the family moved to Washington, D.C. Moyers died on June 13, 1903, and was still noted as a respected lawyer in the capital city for years after his death. He is buried in Rock Creek Cemetery in Washington, D.C., near his two daughters.

Moyers' effort to request just compensation for his work and that of other attorneys was a lifelong pursuit that in some cases appeared to be less than honorable and created some difficulty for him. In 1882, he was called before the Circuit Court of the Western District in Tennessee<sup>8</sup> under the accusation that he retained more than his fair legal fee in the case of a pensioner claim. Shortly before his death (and even after it) he was charged with stiffing former colleague George B. Edmonds for his share

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of fees. Edmonds was dead by that time as well, but the manager of his estate sued the deceased Moyers. This case was argued up to the Supreme Court by Moyers' daughter and son-in-law.<sup>9</sup>

Moyers' influence on the law did not end with his death. His youngest daughter, Ida May, graduated from the Washington College of Law on June 5, 1900,<sup>10</sup> in a class of five women, and became a general practice attorney. On April 18, 1907, she was admitted to practice before the Supreme Court, an event highlighted in several national newspapers because she was only the 28th woman to earn the distinction.<sup>11</sup> She was a driving force in the founding of the Women's Bar Association of the District of Columbia and one of its first presidents.<sup>12</sup>

Moyers' legacy in Michigan remains Senate Bill No. 31 of 1857, an act to provide for the feeing of court-appointed attorneys. ■



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#### FOOTNOTES

1. *Early History of Michigan with Biographies of State Officers, Members of Congress, Judges and Legislators* (Lansing: Thorp & Godfrey 1888), p 482.
2. Buzzelli, *Through These Doors, 1916-1972* (Washington, DC: Washington Mothers Club, 1972), p 16.
3. Wilder, ed, *Journal of the Senate of the State of Michigan, 1857* (Lansing: Hosmer & Fitch, 1857), p 49.
4. *Id.* at 83.
5. *Acts of the Legislature of the State of Michigan Passed at the Regular Session of 1857, with an Appendix* (Detroit: John A. Kerr & Co, 1857), p 239.
6. *Early History of Michigan*, n 1 *supra*, p 482.
7. See Jackson, ed, *The Washington Law Reporter: A Weekly Journal Devoted to Reports of Decisions of the Courts and Departments at the National Capital, Volume X, from January 1882 to January 1883* (Washington: John L. Ginck, 1883), p 551.
8. Lea, ed, *Reports of Cases Argued and Determined in the Supreme Court of Tennessee for the Western Division, Volume XV, April Term, 1885, Eastern Division, September Term, 1885, and Middle Division, December Term, 1885* (Nashville: Albert B. Tavel, 1886), p 59.
9. *Consaul v Cummings*, 222 US 262, 263-274; 32 S Ct 83; 56 L Ed 192 (1911).
10. *The Washington College of Law*, 28 Wash L Rep 389, 389 (1900).
11. 10-11 Fed Bar News 332 (Fed Bar Ass'n, 1963).
12. 9 Women Lawyers' J 32 (October-December, 1919).

