

Michigan Lawyers in History

Walter Morrow Nelson

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.

In August 1962, Walter Morrow Nelson of Detroit was awarded his 50-year certificate in celebration of practicing law for a half-century.¹ Technically, this wasn't true: Walter had been suspended for a year beginning June 29, 1933, after which he was reinstated; he had practiced for 21 years before his suspension and 28 years afterward.² However, the interruption was overlooked for a number of reasons.

Walter was born into a remarkable family whose history was filled with stories of people who went against the grain. His father, Dr. Charles Q. Nelson, was well-known in his community as a nonconformist, insisting "on freedom of thought as well as of speech and action."³ With his wife, Sallie Morrow, he had 11 children. Walter, born on August 26, 1887, was the oldest boy.

Family may have influenced Walter Nelson's foray into the law—at least one relative was a judge⁴—or perhaps he wanted to take his father's strict adherence to justice to another level.⁵ Nelson graduated from high school in 1905 and immediately went to work to earn money for college, first as a teacher, and then as a "mine check wayman in the Hiteman and Buxton areas."⁶ By 1910, he was at the University of Michigan Law School.⁷

In 1912, Nelson graduated, got married, and was admitted to the Michigan bar. He first joined Beaumont, Smith & Harris at the Ford Building in Detroit before settling in the Moffat Building with colleague Harry L. Diehl, who ran in the same social and legal circles.⁸

It wasn't long before Nelson began to make waves in the legal community. It probably started before the Israel House of David cases, but for decades afterwards, Nelson was known as the "lawyer in the House of David case."⁹ A later resolution proclaimed him as "the only individual responsible for the uncovering of intolerable conditions"¹⁰ of the infamous Benton Harbor cult. He served as counsel in several of the cases: first, when John W. Hansel sued cult leader Benjamin Purnell for \$80,000;¹¹ second, when the Bamford sisters filed suits against Purnell for sexual assault; and finally, when the state instigated a one-man grand jury investigation.¹² Nelson was even sued by the House of David for trespass and defamation.¹³

As the state began its investigation, Nelson was still defending the Bamford sisters, and he declined to reveal the location of his clients when asked.¹⁴ If the "state was seeking to dissolve the colony and have its property distributed among the members," his clients "could not collect damages if they won their

forthcoming suit."¹⁵ Judge Harry Dingeman disagreed and found Nelson in contempt of court, sentencing him to 30 days in jail.¹⁶

Nelson appealed the charge to the Michigan Supreme Court.¹⁷ He also challenged the one-man grand jury system as unconstitutional because it conferred "non-judicial duties on circuit judges."¹⁸ He lost both arguments (although the court was evenly divided regarding the contempt charge), but it would not be the first time he went up against the established norm.

More than a year after completing his jail sentence, Nelson got involved in another groundbreaking case. A mob sought to forcibly remove Dr. Ossian Sweet from his newly purchased home in Detroit. Having worked in an integrated mining community during his years in Buxton, Nelson likely saw no logical reason why Sweet, an African American, could not buy a house in what was a predominately white neighborhood. In the mining town, many African Americans held leadership roles—teachers, justices of the peace, deputy sheriffs, a school superintendent,¹⁹ and a doctor²⁰—and everyone lived in the same community.

The NAACP hired famed trial lawyer Clarence Darrow and Arthur Garfield Hays to defend the Sweets. Darrow requested that Nelson serve as co-counsel. The case



Photo courtesy of Terry Church

Rilla and Walter Nelson, April 6, 1912

was tried before Judge Frank Murphy; the first trial ended in a hung jury that could not decide whether “black men had a right to defend their homes from enraged mobs of whites.”²¹

In addition to high-profile cases, Nelson maintained his practice. He was becoming a legend in his own time. Then suddenly, at the height of his career, he was fighting for it.

In 1927, Nelson accepted the case of Lewis M. Dickens. As their business relationship progressed, Dickens had a desk in Nelson’s offices at the Dime Bank Building and used his office services.²² This was a mistake.

When the stock market crashed in 1929, an issue arose regarding bondholders against the banks and their corporations.²³ Nelson filed a criminal complaint against Detroit-based trust company Milton Strauss²⁴—a negotiator of the bonds—and requested that circuit court judges in Saginaw and Bay counties investigate the corporation via a grand jury.²⁵ The request was denied for an abundance of reasons. After the denial, Nelson accused the judges of prejudice against a different case of his, filed an affidavit, and got the newspapers involved. Not surprisingly, the judges were not amused, and fiercely denied the charges.²⁶

Dickens, on the other hand, began writing letters to corporation bondholders²⁷ and copying government officials,²⁸ accusing judges and public officials of fraud and a lack of integrity.²⁹ Dickens directed the bondholders to contact “your attorney and counselor, Mr. Walter M. Nelson.”³⁰ Dickens’s letters insulted the courts and the government. Moreover, he was doing this in Nelson’s office, using the attorney’s resources, and presumably with Nelson’s assistance in drafting the letters (investigators contemplated Dickens’s lack of education and the legalese used in the letters).³¹ Few believed that Nelson wasn’t helping Dickens.³²

Nelson was charged with actions unbecoming of a member of the bar.

Neither the State Bar of Michigan (established in 1935) nor the Attorney Grievance Commission (which didn’t come into existence until the 1960s) existed at the time. The state’s voluntary bar association had a Grievance Committee that accepted complaints³³ and forwarded those deemed worthy of formal charges to the state attorney general for disbarment, but its membership never included the vast majority of the state’s lawyers.³⁴ The court had the power to remove an attorney if it determined that the individual was “no longer a fit person to practice the honorable profession of the law,”³⁵ but the definition of fitness could be vague.³⁶

Michigan Attorney General Paul W. Voorhies began disbarment proceedings in the Wayne County Circuit Court. As luck would have it, there were several clients who were dissatisfied with Nelson’s services as an attorney.³⁷ Hearings began October 5, 1931, and

lasted a week. After Nelson finished his defense, the judges said they needed further proof. Finally, on April 19, 1932, the judges ruled (interestingly enough, no additional proof had been provided in the interim): Nelson had “violated the requirements of reasonable practice and should be disciplined therefor.”³⁸ His license to practice law was suspended for one year.

Once again, Nelson appealed a lower court’s decision.³⁹ The opposing sides in the argument before the Michigan Supreme Court exemplified a legal division prevalent in Detroit, one that would last for years: the establishment vs. the unionists. The plaintiffs were a collection of attorneys general and assistant attorneys general,⁴⁰ a group of public officials insulted in Dickens’s letters. The defendants’ side included Detroit attorneys who were involved with the American Civil Liberties Union, which, at the time, was viewed as a communist organization—something frequently mentioned during the initial trial.⁴¹

Recently elected Attorney General Patrick H. O’Brien was an anomaly, however: he supported Nelson, knew him well, and testified on behalf of his stellar reputation at the trial. In a supplemental brief filed on January 28, 1933, O’Brien sought to “call the attention of the court to matters of fact and law”⁴² and set aside whatever personal views people might hold about Walter Nelson. He was not being suspended on charges of fraud, corruption, dishonesty, unprofessional conduct, or “moral turpitude,” all valid reasons for suspension; instead, Nelson was being disbarred “for his violation of the requirements of reasonable practice.”⁴³ O’Brien

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also noted he had “not been able to find one case in any court in the United States where an attorney was suspended or disbarred” for this reason.⁴⁴ Granted, Nelson may have been overzealous and showed a “lack of judgment,” but no one had been suspended or disbarred for that either.⁴⁵

O'Brien ended with a respectful request that the test of “the requirements of reasonable practice” not be adopted as a standard for disbarment because it would interfere with “the free and courageous functioning of the lawyer defending or advancing the interests of his client.”⁴⁶ It was too vague and too difficult to define.

When the opinion was released on June 29, 1933, Nelson's one-year suspension was upheld. The Court determined he “was chargeable with the acts of Dickens... They were acting together for the bondholders.”⁴⁷ In addition, Nelson was told that he

[s]hould be at all times imbued with the respect which he owes to the court before whom he is practicing. It is of the utmost importance to the preservation of our system of government that our people have confidence in the integrity of our courts.⁴⁸

The Benton Harbor *News Palladium*, remembering Nelson from the House of David cases years earlier, included notice of Nelson's suspension along with what was probably a stock photo. Two things are immediately obvious from the photo: First, Walter radiates confidence. Second, he offers a hint of a smile, as if he understands a joke that the rest of the world does not. It's easy to imagine Nelson departing court after the reading of that opinion with his head held high. He surely must have believed he was right and that history would vindicate him.⁴⁹

It did, of course, and long before the celebration of his 50 (or 49) years of practice. By that time, Nelson was a legend in Detroit and beyond, with a stellar reputation. He had spent his career fighting for others' rights—a black doctor desiring to live in a better neighborhood, union demonstrators protesting unlawful arrest, members of the National Lawyers Guild, supposed communists before the United States Committee on Un-American Activities—long before it was in fashion. His efforts helped

form the American Civil Liberties Union of Michigan. He was “dedicated to his client's interests, innovative and intelligent and a credit to the profession.”⁵⁰ Righting a wrong that occurred years before its existence, the State Bar of Michigan “approved awarding a 50-year certificate to Walter M. Nelson, whose ‘continuous practice’ was interrupted for one year some time ago.”⁵¹ ■

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ENDNOTES

1. SBM Bd of Comm'r(s) Meeting Minutes (August 24, 1962), p 10.
2. *Supreme Court Bars Atty Walter Nelson for Year*, The News Palladium (June 29, 1933), p 15.
3. *Former Physician Victim of Accident Buried Last Week*, The Albia Union-Republican (January 3, 1929), pp 1, 5.
4. *Obituary: Sallie Frances Morrow*, The Albia Union (July 23, 1909), p 2. The obituary lists her father as Judge William Morrow of Highland County, Ohio.
5. *Former Physician Victim of Accident Buried Last Week*.
6. *Walter M. Nelson Dies in Detroit*, The Monroe County News (July 15, 1968), p 6.
7. *Elected to Honor Societies*, Detroit Free Press (October 22, 1910), p 2.
8. *Walter M. Nelson Dies in Detroit and Detroit, Michigan*, City Directory (1921), pp 2686 and 2688.
9. *Lawyer in the House of David Case is Jailed*, Quad-City Times (May 25, 1923), p 1. See also *Walter M. Nelson Disbarred for Period of Year*, The News Palladium (April 20, 1932), p 12 and *Foe of Cult to Lead New Inquiry Against Investment Company: Dissatisfied Stockholders of Michigan State Hire Walter M. Nelson*, The Herald Press (February 20, 1926), p 1.
10. *Nelson Awaits Jail Term's End*, Detroit Free Press (February 14, 1924), p 11.
11. *Israelite House of David v Hansel et al*, 227 Mich 351; 198 NW 907 (1924).
12. *Glancing Backward: Ten Years Ago*, The Herald-Press (June 5, 1934), p 4.
13. *Israelite House of David v Hansel et al*.
14. *Attorney Walter M. Nelson*, The News-Palladium (January 1, 1925), p 15.
15. *Attorney to Aid Probe of Colony*, Indianapolis Star (May 29, 1923), p 24.
16. *People v Doe, in re Nelson*, 226 Mich 5; 196 NW 757 (1924).
17. *Id. and Nelson Arrest to Be Delayed*, Detroit Free Press (January 11, 1924), p 2.
18. Winters, *The Michigan One-Man Grand Jury*, 24 Mich St B J 293 (1945).
19. Wikipedia, *Buxton Historic Townsite* (September 20, 2017) <https://en.wikipedia.org/wiki/Buxton_Historic_Townsite> [<https://perma.cc/6FAP-3TLL>] (accessed February 6, 2019).
20. *Buxton a Proud Example of Racial Harmony*, The Des Moines Register (February 27, 2009), p 4.
21. Finkelman et al, *The Promise of Equality and the Limits of Law*, The History of Michigan Law (Athens: Ohio University Press, 2006), p 209.
22. *Attorney General v Nelson*, 263 Mich 686; 249 NW 439 (1933).
23. *Id.* at 689.
24. *Id.*
25. *Id.* at 690.
26. *Petition of William H. Martin to Honorable Paul W. Voorhies, Attorney-General*, State of Michigan (1933), pp 17–20 (petition to institute proceedings to remove Mr. Nelson “as an attorney and counselor at law in the state of Michigan and to take such other and further action as shall be just and proper”).
27. *Nelson Aided in Bar Trial: Dickens Takes Blame for Bond Letters*, Detroit Free Press (October 9, 1931), p 4.
28. *Attorney General*, 263 Mich at 692.
29. *Id.* at 686.
30. *Id.* at 692.
31. *Id.* at 688–689.
32. *Id.* at 693.
33. *Report of Grievance Committee*, 10 Mich St B J 63 (1930).
34. Walter was a member but Frank Murphy was not, nor was Walter's law partner, Harry Diehl. See *Alphabetical List of Members of the Michigan State Bar Ass'n*, 9 Mich St B J 267 (1930).
35. *In re Mains*, 121 Mich 603; 80 NW 714 (1899).
36. Bradway, *Moral Turpitude as the Criterion of Offenses that Justify Disbarment*, 24 Calif L Rev 9 (1935).
37. *Walter M. Nelson, Colony Foe, On Trial at Detroit*, The News-Palladium (October 8, 1931), p 17.
38. *Attorney General*, 263 Mich at 687.
39. *Walter M. Nelson Disbarred for Period of Year and Atty Walter Nelson Barred from Practice by Supreme Tribunal*, The Herald-Press (June 29, 1933), p 11.
40. Paul W. Voorhies was the attorney general from 1931 to 1933. Paul G. Eger was an assistant attorney general and later served as a circuit court judge. John H. McPherson was also an assistant attorney general.
41. Dale Souter, Frank W. Atkinson, and James I. Ellmann were of counsel. James I. Ellmann had recently served as Walter's vice chairman on the Detroit Branch of the ACLU.
42. Supplemental Brief for the Attorney General at 2, *Attorney General*, 263 Mich at 688.
43. *Id.* at 3.
44. *Id.*
45. *Id.*
46. *Id.* at 4.
47. *Attorney General*, 263 Mich at 700.
48. *Attorney General*, 263 Mich at 701.
49. *Supreme Court Bars Atty Walter Nelson for Year*.
50. Goldstein, *A Lawyer's Right to Sue*, 56 Mich St B J 376 (1977).
51. SBM Bd of Comm'r(s) Meeting Minutes.