

ARTICLES

LAWYERING IN PLACE: TOPOGRAPHIES OF PRACTICE AND PLEADING IN PITTSBURGH, 1775–1895

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Even in the digital age, lawyering is always located. Lawyers live and work in physical space, and they deal with other lawyers and with clients who also have at least some measure of physicalized existence. *Where* something is done subtly—and sometimes not so subtly—affects *how* and even *what* is done; thus, as lived experience, lawyering in Pittsburgh inevitably differs from lawyering in New York or London or Albuquerque.

The human, concrete truth of lawyering's location is often masked by legal doctrine that comes to us strangely dis-placed: most importantly, texts of law that literally look and read the same whether we are perusing opinions or law review articles written in Washington, Chicago, or New Haven. The increasing standardization of national and global legal practice also helps to obscure and even delegitimize local aspects of lawyering. Materially and culturally, however, those persist. They are inevitably ingrained in us, and in fact are fundamental as they help constitute who we are as lawyers.

Recovering the locational aspects of lawyering is hard work. To some extent we who would attempt it start out like fish in the fishbowl who cannot see the water around us. We are literally surrounded by the local, the physical, the concrete

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dimensions of lawyering in place, but we often look right past them. If we do see them, we do not talk much about them in serious company. We tend to treat them as incidental, extraneous, or even decorative. We take them for granted—they are generally not things to highlight, investigate, celebrate, or critique.

In this paper I would like to take a contrary approach. As an academic lawyer, I have long been interested in the physical, sensory, and ritual aspects of law, and at various junctures have encouraged others in the academy¹ to look beyond the omnipresent textual artifacts of legality long enough to contemplate legal life on another rhetorical and experiential level. In recent years, perhaps prompted by developments in contemporary multimedia technology more than overt exhortations, more scholars have been doing just that—the past decade alone has witnessed the wonderful book *Representing Justice*² by Judith Resnick and Dennis Curtis, Leanne Bablitz’s work on actors and audience in the ancient Roman courts,³ and Martha McNamara’s suggestive monograph on courthouse architecture and ritual in early American law.⁴

In light of these and other exercises maybe it’s time to recognize the birth pangs of a new interdisciplinary field that we might call “legal topography,” literally the study of law in place. Part geography, part rhetoric, part art, part architecture, part anthropology, part psychology and part performance studies, legal topography would study lawyering in its physical environment, examining how professional and public perceptions of (and interactions with) law are constructed by conditions and dynamics of place, and how those conditions in turn shape legal behavior and even understandings of lawyering and law itself.

Today, in extending this broad invitation to my academic colleagues, I would like to probe the parameters of my proposition by exploring the circumstances of lawyering in place in a great American city over a period of 120 years, from 1775 to 1895. Pittsburgh is not only a convenient, but also a compelling candidate for

¹ See, e.g., Bernard J. Hibbitts, *Coming to Our Senses: Communication and Legal Expression in Performance Cultures*, 41 EMORY L.J. 873 (1992); Bernard J. Hibbitts, *Making Sense of Metaphors: Visuality, Aurality, and the Reconfiguration of American Legal Discourse*, 16 CARDOZO L. REV. 229, 241 (1994); Bernard J. Hibbitts, *Making Motions: The Embodiment of Law in Gesture*, 6 J. CONTEMP. LEGAL ISSUES 51 (1995).

² JUDITH RESNICK & DENNIS CURTIS, *REPRESENTING JUSTICE: INVENTION, CONTROVERSY, AND RIGHT IN CITY-STATES AND DEMOCRATIC COURTROOMS* (2011).

³ LEANNE BABLITZ, *ACTORS AND AUDIENCE IN THE ROMAN COURTROOM* (2007).

⁴ MARTHA J. MCNAMARA, *FROM TAVERN TO COURTHOUSE: ARCHITECTURE & RITUAL IN AMERICAN LAW, 1658–1860* (2004).

this treatment: its metropolitan and legal history is considerably shorter than other American legal centers such as Boston or New York, yet, as we shall see, its experience encompasses a number of key legal topographical shifts that, doubtless, also occurred elsewhere. In the larger saga of American history, moreover, Pittsburgh at various stages not only represented but defined the frontier, the ante-bellum “market revolution,” and late nineteenth-century industrialization—all circumstances that profoundly affected the physical environment of local lawyering. It is Pittsburgh’s remarkable and repeated ability to stand for America in these and other contexts that most appropriately draws our legal topographical gaze.

I. FORTS, TAVERNS AND PARADES

The English settlement built around Fort Pitt grew slowly in the years following the forced French withdrawal from Fort Duquesne in 1758. A census in 1761 counted 332 people and 104 houses.⁵ The first space of legal practice and pleading in late 18th-century Pittsburgh was Fort Pitt itself, lately renamed Fort Dunmore in honor of the Virginian royal governor who in 1774 personally claimed legal jurisdiction over the Pittsburgh region in a brewing boundary dispute with the neighboring province of Pennsylvania.⁶ The nearest Pennsylvania court sat some thirty-five miles to the west at a tavern in Hannastown, then the county seat of Westmoreland County.⁷

Dunmore established Pittsburgh as the first seat of Virginia’s West Augusta County; the first court of justice in the locale was held in a room of the town’s disintegrating fortification in February, 1775.⁸ Court records indicate that several “attorneys,” all apparently Virginians, were sworn in to practice on or about that time.⁹ At least one—John Gabriel Jones, the nephew of Gabriel Jones, the first lawyer in the Shenandoah Valley¹⁰—probably had some kind of formal legal

⁵ CENSUS OFFICE, DEPARTMENT OF THE INTERIOR, REPORT ON THE SOCIAL STATISTICS OF CITIES 852 (George E. Waring, Jr. ed., 1886).

⁶ STANDARD HISTORY OF PITTSBURG PENNSYLVANIA 51 (Erasmus Wilson ed., 1898). *See generally* 2 FRANK M. EASTMAN, COURTS AND LAWYERS OF PENNSYLVANIA: A HISTORY 1623–1923, at 367–76 (1922).

⁷ BOYD CRUMRINE, THE COUNTY COURT FOR THE DISTRICT OF WEST AUGUSTA, VIRGINIA, HELD AT AUGUSTA TOWN, NEAR WASHINGTON, PENNSYLVANIA, 1776–1777, at 16 (1905).

⁸ *See* BOYD CRUMRINE, VIRGINIA COURT RECORDS IN SOUTHWESTERN PENNSYLVANIA 518 (1974).

⁹ 2 FRANK M. EASTMAN, COURTS AND LAWYERS OF PENNSYLVANIA 372 (1922).

¹⁰ *See* KATHERINE GLASS GREENE, WINCHESTER, VIRGINIA AND ITS BEGINNINGS, 1743–1814, at 102–04 (2007).

preparation, which might make him the first lawyer actually admitted to practice in Pittsburgh,¹¹ some nine years ahead of much more-remembered Pennsylvanians like James Ross and John Woods. Jones and his colleagues represented settlers and land speculators, debtors and creditors. The presiding judges were all laymen, yet this was not necessarily primitive or frontier justice in the hackneyed sense of those terms. To the extent possible, the judges and the attorneys before them respected accepted forms, even if at some points they clashed openly with each other.¹²

Most of the Virginian attorneys appear to have been itinerant, following the judges of the county as they moved around on circuit. At least one, however—Charles Simms—lived in Pittsburgh itself.¹³ Possibly a graduate of William and Mary and from a good background, he read law with John Mercer in Fredericksburg before coming to Pittsburgh in 1775 or 1776.¹⁴ According to one of his biographers,

he at once perceived the importance of the situation of the rough little settlement and determined to locate permanently. A bright new sign was soon swinging above a door on the one street—"Chas. Simms Counselor and Atty-at-Law." Judging from the court reports of the district litigants were not long in appearing for advice. The place was overcrowded with all the motley throng ever to be found in the outposts of civilization in time of excitement—adventurers, hunters, traders, fugitives from settlements farther out, militia and camp followers. The life was rough, but Simms found congenial companions among the officers and agents from Virginia and formed friendships that endured throughout his life.¹⁵

¹¹ Jones was killed in an ambush by Mingo Indians on Christmas Day 1776 while he and George Rogers Clark (later of Lewis and Clark fame) were attempting to bring 500 pounds of gunpowder from Pittsburgh to Kentucky. JOSEPH A. WADDELL, *ANNALS OF AUGUSTA COUNTY, VIRGINIA, FROM 1726 TO 1871*, at 84 (2d ed. 1902).

¹² For a struck entry ordering the disbarment of Jones and his colleague George Brent for having "insulted this court in a very gross manner," see EASTMAN, *supra* note 9, at 374.

¹³ See CORRA BACON-FOSTER, *Life and Letters of Colo. Charles Simms, Gentleman, of Virginia, in EARLY CHAPTERS IN THE DEVELOPMENT OF THE POTOMAC ROUTE TO THE WEST* 237, 238–39 (1912).

¹⁴ *Id.* at 237.

¹⁵ *Id.* at 238–39.

Simms bought considerable land in the area, including what would later be known as Neville Island (a disputed purchase which eventually ended up in the Supreme Court of the United States in *Irvine v. Sim's Lessee*¹⁶).

Pittsburgh's service as a seat of Virginian justice was short-lived, however. Just days after the first court sitting at Fort Pitt, musket fire at Lexington and Concord launched the colonies into revolution. In Virginia, Lord Dunmore was displaced by a revolutionary government led by lawyer Thomas Jefferson. The West Augusta territory was divided into Ohio, Yohogania and Monongalia Counties.¹⁷ Pittsburgh was located in Yohogania County, but regular sessions of the county court were moved elsewhere, and the Virginian lawyers left the area. In the spring of 1777, Charles Simms went off to join General George Washington's patriot army and, afterwards, moved to Alexandria to set up a new practice.¹⁸ Finally, under a 1780 pact encouraged by the new American Congress, Virginia and Pennsylvania settled their boundary dispute, bringing Pittsburgh permanently under Pennsylvanian sway as part of Westmoreland County, and eventually, after 1788, the new Allegheny County.¹⁹

The change in state administration did not, however, immediately alter the physical circumstances of legal practice and pleading in Pittsburgh. The town itself was still not much to speak of. In 1784, visiting Virginian lawyer Arthur Lee observed:

Pittsburg is inhabited almost entirely by Scotch and Irish who live in log houses and are as dirty as in the north of Ireland or even in Scotland. There is a great deal of small trade carried on There are in the town four attorneys, two doctors and not a priest of any persuasion, nor church or chapel, so they are likely to be damned without the benefit of clergy The place I believe will never be very considerable.²⁰

¹⁶ 3 U.S. (3 Dall.) 424 (1799). *See also* 8 DOCUMENTARY HISTORY OF THE SUPREME COURT OF THE UNITED STATES, 1789–1800, at 153–78 (Maeva Marcus et al. eds., 2007).

¹⁷ CRUMRINE, *supra* note 7, at 23.

¹⁸ BACON-FOSTER, *supra* note 13, at 240, 251.

¹⁹ *See generally* Virginia-Pennsylvania Boundary, <http://www.virginiaplaces.org/boundaries/paboundary.html> (last visited May 11, 2012).

²⁰ 1 JOHN NEWTON BOUCHER, A CENTURY AND A HALF OF PITTSBURG AND HER PEOPLE 272 (1908).

Befitting both conditions and lay dominance of the local bench and “bar” (such as it was), lawyering continued to find its home in any conveniently large and available structure. In 1788, the first court of quarter sessions for Pennsylvania’s new Allegheny County sat in a two-story log building on Front Street—now First Avenue—that had once been used as a store.²¹ Grandly called the “Court House,” it was nonetheless overtly public and physically accessible, and not sharply differentiated from regular town life by location or structure. At the height of the Whiskey Rebellion, the space was also used as a public assembly room.²² Other courts occasionally sat in houses owned by local citizens, such as that of tavern-keeper Andrew Watson, whose property was situated at the northeast corner of Market and Front.²³

Later professional members of the local bench recalled how despite—or perhaps because of—their unremarkable surroundings, the judges of the time and their attendant lawyers distinguished themselves by pomp and procession. Court-day rituals and parades were common in the early American colonies and states, as well as in older English practice.²⁴ Henry Marie Brackenridge, the son of Hugh Henry Brackenridge, remembered events in Pittsburgh from his boyhood:

When our judges of Nisi Prius and Oyer and Terminer came once a year on their circuit, they were received with no little show and parade.

As it still the custom in England, the venerable sages of the law were met by the principal gentry and lawyers, marshalled by the High Sheriff not in coaches, for we had none, but on horseback, for that was then the only mode of travelling. On the bench our Judges did not wear gowns or put on enormous wigs I have been informed, however, the Justices, McKean and Brian, at the first Court of Oyer and Terminer held in Pittsburgh [in 1789] sat in scarlet robes!

But compared to the plain manners of our present citizen judges, there was no little pride, pomp, and circumstance attending their movements. Their honors were carefully rigged out in suits of black and cocked hats; they went to and returned from Court, preceded by the High Sheriff bearing a long white wand before them; and what had a still more imposing effect on the boys and populace, something of a martial character was imparted to their procession by its being preceded by the rattling of a drum! Dennis Loughy, the blind poet,

²¹ See CHARLES W. DAHLINGER, *PITTSBURGH: A SKETCH OF ITS EARLY SOCIAL LIFE* 117 (1916).

²² *Id.* at 118–19.

²³ *Id.* at 118.

²⁴ See MCNAMARA, *supra* note 4, at 12, 58–63.

generally officiated on these occasions, at a respectable distance before the dignitaries beating his rr-ran—rr-ran-tan decked in an old uniform coat, the red lapels taken off, and barefooted, not so much for the want of means to purchase a pair of shoes, as for the convenience of feeling his way with his toes!²⁵

In effect, the polish and grandeur that was lacking in lawyers' and judges' physical environment was indirectly compensated for through the noise and spectacle in an effort to communicate to all in the community the importance and dignity of law and those who administered it.

II. LAWYERING IN THE DIAMOND

As Pittsburgh grew, its legal needs expanded, and legal business moved up from the river to better accommodation in the growing commercial district known as the Diamond (now Market Square).²⁶ In early Pennsylvania usage, a “diamond” was a large public square reserved for the overnight parking of coaches, wagons and horses.²⁷ Because of its function, it tended to attract itinerant merchants and travelers, making it a quintessential social center. The term itself appears to have been used in northern Ireland and is said to have been unusual in the United States outside of Pennsylvania, except perhaps around Cleveland.²⁸

When the courts moved out of Andrew Watson's house, they relocated to the third story of a brick building at Market and Fourth Streets owned by William Irwin, another tavern and store-keeper (perhaps not too much should be made of the bricks—they appear to have been repurposed from the crumbling Fort Pitt).²⁹ The property hosted Irwin's tavern downstairs; the courts sat upstairs in a large hall. This “attic region” was not, however,

exclusively appropriated to the administration of justice; it was also the village theatre where Punch and Judy, and the Babes in the woods were exhibited to an admiring audience—where feats on the tight rope and slack wire were

²⁵ H.M. Brackenridge, *Pittsburgh in Olden Time*, 3 LITERARY CASKET 11, 12 (1842).

²⁶ See JAMES D. VAN TRUMP, MAJESTY OF THE LAW: THE COURT HOUSES OF ALLEGHENY COUNTY 3 (1988).

²⁷ *Id.*

²⁸ See *id.*

²⁹ DAHLINGER, *supra* note 21, at 154.

performed, and where, wonderful to tell, the performer spouted flames from his fiery mouth!³⁰

Another tavern at the “Sign of the Waggon” owned by one John Reed, located at the junction of the West Diamond and Diamond Alley, was also occasionally used for court sittings.³¹

By this point, however, construction of a large and separate courthouse was under way on Market Street, across from the bustling stalls of the market itself. This brick building was a square two-story structure with two wings. The wings—intended for county offices such as Sheriff, Register and Recorder—were apparently completed first, allowing them to be occupied two years before the courts moved in in 1800. The architecture was a *mélange* of elements—the central structure, topped by a belfry that made it the tallest building in town, looked vaguely like a New England town- or meeting-house, although few New Englanders had settled in Pittsburgh.³² At the entrance, however, visitors were greeted by two fluted wooden columns with Corinthian columns by local builder (and farmer) Henry Perry that looked distinctly un-Puritanical.³³

The best surviving representation of the building is an 1894 painting by John D. Tucker that now hangs in the main branch of the Carnegie Library in Oakland.³⁴ Based on drawings made closer to the time, the painting shows the courthouse in its latter days around 1830, shorn of its original wings, which, by that point—perhaps by commercial necessity—had been displaced by additional market stalls.³⁵

About a block from the courthouse stood Pittsburgh’s first jail—initially a non-descript log structure on the corner of Fourth and Market Streets.³⁶ By 1820, it was replaced by a square two-story structure on “Jail Alley” (now Delray Street), which stayed in use until just after the courts had left the Diamond.³⁷ The jail was

³⁰ Brackenridge, *supra* note 25, at 12.

³¹ DAHLINGER, *supra* note 21, at 157.

³² See VAN TRUMP, *supra* note 26, at 5.

³³ *Id.* at 4–5.

³⁴ *Id.* at 4.

³⁵ *Id.*

³⁶ *Id.* at 7.

³⁷ See SARAH H. KILLIKELLY, THE HISTORY OF PITTSBURGH: ITS RISE AND PROGRESS 107 (1906).

surrounded by a stone wall and its lot was bounded by a board fence.³⁸ It was close enough to the courthouse to be convenient for the delivery and transit of prisoners, but far enough away that it did not blight the market area itself or discourage people from coming into it.

Unfortunately, there is no depiction of the interior of the Diamond courthouse. We do know, however, that, consistent with the structure's eclectic exterior appearance, Grecian columns supported the ceiling.³⁹ The main courtroom was on the first floor, with a jury room and offices upstairs.⁴⁰ The close association of these rooms distinguished and separated their functions more clearly than had been possible in the earlier taverns or houses, while perhaps presenting fewer non-legal distractions to judge, jury and counsel alike.

The fact that Pittsburgh judges and lawyers finally had a professional home built to their requirements did not mean, however, that they did not have to share that home with others. The conjunction of the county offices with the central courthouse indicated that this was still very much a civic building designed for broader civic purposes.⁴¹ Public assemblies continued to be held here as circumstances required. The just-completed structure hosted a memorial for the late George Washington on January 8, 1800. The citizens of Pittsburgh met here on August 26, 1812, to plan for potential defense of the town against the British in what we know as the War of 1812.⁴²

Religious services—Episcopal,⁴³ Presbyterian,⁴⁴ Methodist⁴⁵ and other Protestant varieties—were also regularly held in the building in what might strike us today as an odd concatenation of church and state. In the absence of large churches for all congregations, however, there was little civic alternative and the county authorities seem to have welcomed religious use of the space, especially on

³⁸ VAN TRUMP, *supra* note 26, at 7.

³⁹ *Id.* at 22.

⁴⁰ *See id.* at 4–5.

⁴¹ *See id.* at 6.

⁴² *Id.*

⁴³ *See* CENTENNIAL VOLUME OF THE FIRST PRESBYTERIAN CHURCH OF PITTSBURGH, PA., 1784–1884, at 154 (1884).

⁴⁴ *See* ALFRED NEVIN, CENTENNIAL BIOGRAPHY: MEN OF MARK OF CUMBERLAND VALLEY, PA., 1776–1876, at 210 (1876).

⁴⁵ *See* HENRY BOEHM, REMINISCENCES, HISTORICAL AND BIOGRAPHICAL, OF SIXTY-FOUR YEARS IN THE MINISTRY 194 (1866).

Sundays when it was not used for judicial business. Like at least one of its predecessors, the building even functioned as a playhouse—a traveler visiting Pittsburgh in 1807–08 noted that “The jury room upstairs is sometimes converted into a very good temporary theater where private theatricals are practiced in the winter by the young gentlemen of the town.”⁴⁶ Some of these young gentlemen were apparently lawyers, or at least soon would be—the same traveler noted that one of the two “dramatick societies” in Pittsburgh was “composed of the students of the law.”⁴⁷ All these circumstances, plus the setting of the courthouse at the primary junction of Pittsburgh commercial life—its market—indicated how much law and lawyering were still embedded in ordinary cultural transactions of the community. They were so embedded, indeed, that the term “courthouse” strikes one in retrospect as something of a professional conceit.

Embedding the courthouse in the community also meant, to a considerable extent, embedding Pittsburgh lawyers at the literal crossroads of Pittsburgh life. The growing number of lawyers in town moved their residences into the streets around the courthouse as a matter of personal and professional convenience. Certainly they were within the sound of the courthouse bell, rung whenever court was about to meet in session. A city directory of 1815 shows attorneys clustered around Market, Smithfield, and other still-recognizable streets and avenues.⁴⁸ Most attorneys of the time had offices on the first floor of their homes, making it easy for their clients to reach them.⁴⁹ The lawyers in turn were highly visible members of their neighborhoods.

Of course some Pittsburgh lawyers were more successful, or at least better off, than others, enabling them to build retreats in the “country” at least slightly removed from the hubbub of town life. The classic instance is John Woods, the wealthy conveyancer (and probably the namesake for Wood Street downtown)⁵⁰

⁴⁶ VAN TRUMP, *supra* note 26, at 6.

⁴⁷ *Id.*

⁴⁸ JAMES M. RIDDLE, THE PITTSBURGH DIRECTORY FOR 1815, at 5–94 (Colonial Trust Co. 1905) (1815), available at <http://digital.library.pitt.edu/cgi-bin/t/text/text-idx?c=pitttextdir;cc=pitttextdir;view=to;idno=00ach3238m>.

⁴⁹ See, for instance, the discussion of Philadelphia lawyer John Todd’s office in “Todd House.” ROGER W. MOSS & TOM CRANE, HISTORIC HOUSES OF PHILADELPHIA: A TOUR OF THE REGION’S MUSEUM HOMES 33 (1998).

⁵⁰ Daniel Agnew, *Address to the Allegheny County Bar Association, December 1, 1888*, 13 PA. MAG. HIST. & BIOGRAPHY 1, 11 (1889).

who was one of the very first lawyers admitted to practice in Allegheny County.⁵¹ In 1792 he built a town house for himself on a large lot on Penn Street (now Penn Avenue) at Wayne Street. He later constructed a stone “country house” of sorts in Hazelwood which survives to this day as the oldest house in Pittsburgh.⁵² In the early 1800s one of Woods’ early colleagues, James Ross, acquired large tracts of meadowland on Grant’s Hill due east of the downtown and kept a residence and office in a converted tavern on the edge of the property, now near Fourth and Grant Streets.⁵³

The wear and tear put on the courthouse by its multiple community uses and its very accessibility to almost anyone in the town undoubtedly contributed to the ultimate demise of the structure.⁵⁴ To some extent, it may have been a victim of its own success as a community center. Familiarity may also have bred contempt, especially as architectural fashions changed and town-houses seemed increasingly quaint. As early as 1826 the building had clearly lost a measure of whatever respect it once enjoyed, being regarded by one observer as increasingly old-fashioned and provincial. Even more interesting to modern readers is the same observer’s mention of its growing obscurity by the smoke of the burgeoning town, as lots were cleared and furnaces started up:

As for lofty glittering spires and cupolas no such necessary objects to direct the way-faring man and embellish the city withal are to be seen among us. The only ambitious structure that aspires to any height within the corporation is the steeple of the county court which is suspended a most musical bell that threatens to bring down the daring fabric now tottering to its fall with every sound of its cracked and crazy voice. This solitary spire standing like a scathed pine in the center of large clearing around which the smoke from heaps of burning brush continually hovers is no more palpable to the optics of the coming traveler at a reasonable distance than the houses which enclose the little space of the Public Square, alias the Diamond.⁵⁵

⁵¹ See The Gombach Group, *John Woods House*, LIVING PLACES, http://www.livingplaces.com/PA/Allegheny_County/Pittsburgh_City/John_Woods_House.html (last visited Mar. 11, 2012).

⁵² *Id.*

⁵³ Louis Mulkearn, *Pittsburgh in 1806*, PITT: A QUARTERLY OF FACT AND THOUGHT AT THE U. OF PITTSBURGH (1948), available at <http://digital.library.pitt.edu/pittsburgh/beck/>.

⁵⁴ VAN TRUMP, *supra* note 26, at 8.

⁵⁵ *Id.*

In 1830, the local *Advocate* newspaper scathingly mocked “the old rookery of a Court House which is a disgrace to the city.”⁵⁶ The apparent dilapidation was doubtless worse by 1842, by which time pollution had become even more problematic. From his vantage point on Grant’s Hill, where a new courthouse had just been completed (see *infra*), judge Henry Marie Brackenridge—the son of pioneering Pittsburgh lawyer and *literatus* Hugh Henry Brackenridge—waxed nostalgic, recalling the building and its legal denizens in better days:

Look down at that large square brick building with its tall spire piercing the thick smoke of furnaces and factories, where Justice and her ministers and sub-ministers still linger impatiently to be gone, and you will see that which forty years ago was the wonder and admiration of the age. Nor is it unworthy of respect, even at this day, albeit it is soon to be torn down and its bricks and timbers to be sold to those who venerate antiquity. That portal with fluted wooden columns and Corinthian capitals is now to be despised, although it has suffered from Vandal penknives—nor the tall doric pillars which support the lofty roof of the hall of justice, the works of Henry Parry who is still living in the country, but preferring the comforts of a good farm to the celebrity of the architect. Yes, this building once the pride of Pittsburgh, is soon to be demolished—the familiar and unaccustomed sound of its bell will cease—and worse than all, that convenient lounging space, on its wellworn steps, of so many happy idlers, thirsting for news and warm with politics, will soon be no more In another half-century it will almost cease to be remembered and its scite will be trodden upon by the busy throng of the new generations repairing to the market to provide for the daily sustenance of life. If all the deeds done, or brought to light, within its walls could be faithfully chronicled, all the learned and eloquent speeches pronounced there could be faithfully transmitted to posterity they would afford a feast for the antiquary, the moralist and the philosopher. But a small part of these will be preserved The old Court House, then has had its day.⁵⁷

As if to underline this point, lawyers in the downtown area began to erect structures of their own that pointedly adopted a new architectural vernacular. The oldest surviving office building in Pittsburgh, the Burke Building (sometimes also referred to as Burke’s Building) on Fourth Avenue, was commissioned by Irish lawyer brothers Andrew and Robert Burke and completed in Greek revival style (of

⁵⁶ *Id.*

⁵⁷ Brackenridge, *supra* note 25, at 11–12.

which more later) in 1836.⁵⁸ The judiciary and the practicing bar might have to tolerate deteriorating conditions on the Diamond, but the Burkes, setting their own standards, were going to have no part of that.

Of course, by 1840, the Pittsburgh bar had itself changed. It was more numerous, it was more self-consciously professional, and as Martha McNamara has suggested in the context of her study of the transition from “tavern to courthouse” in 18th- and 19th-century Massachusetts,⁵⁹ it was arguably starting to seek a more separate, perhaps more socially elevated situation for itself that literally removed it from the commerce that it still so obviously served.

In 1841, the old courthouse was sold at auction to one William Eichbaum for \$575; afterwards it was used mostly as a market building before being torn down in 1852 to make way for a new purpose-built Market House.⁶⁰ Its fate was in many ways symbolic; born of the market and the business of Pittsburgh’s public square, it had ultimately returned to that.

III. ARCHITECTING PROFESSIONALISM

Even before the courts moved away from the Diamond, lawyers had begun to drift from the old legal center. The same congestion and crowded conditions that had plagued the brick courthouse in its last decades affected residential and working conditions; even if not all lawyers could afford to move their offices away from the central downtown, a number, taking their cues from John Woods and the richer members of his legal generation, chose to shift their residences. Some did both. A young and financially ambitious Thomas Mellon was one of the first lawyers to set up shop on Fifth Avenue in 1839.⁶¹ Like others, he moved further up Fifth in 1842 after the courthouse had been relocated to Grant’s Hill. For a time he and his family lived in town, but by 1848 he had moved the family residence to more spacious accommodation in the growing suburb of East Liberty.⁶²

The location of the new courthouse was not an accident. On Grant’s Hill, on a tract of land that the County Commissioners purchased from the aging James Ross in 1834,⁶³ it literally occupied the high ground of the city, reflecting a cultural

⁵⁸ FRANKLIN TOKER, *PITTSBURGH: AN URBAN PORTRAIT* 36 (1986).

⁵⁹ *See generally* MCNAMARA, *supra* note 4.

⁶⁰ VAN TRUMP, *supra* note 26, at 8.

⁶¹ *See* JAMES MELLON, *THE JUDGE: A LIFE OF THOMAS MELLON, FOUNDER OF A FORTUNE* 67 (2011).

⁶² *See id.* at 104.

⁶³ *See* VAN TRUMP, *supra* note 26, at 14.

dominance of the landscape that was not lost on members of the local legal community. Henry Marie Brackenridge wrote of the new legal edifice: “With what a lofty pre-eminence it seems to overlook the busy city below, rolling its clouds of smoke to its base.”⁶⁴

The courthouse and indeed the entire legal complex of the city (jail included) were now to be quartered separately from the rest of the community, conspicuously insulated from the ebb and flow of daily life in what had formerly been an idyllic semi-rural space where the well-to-do of Pittsburgh had found rest and distraction. Henry Marie Brackenridge remembered:

The hill was the favorite promenade in the fine weather, and on Sunday afternoon. It was pleasing to see the line of well-dressed ladies and gentlemen, and children, nearly the whole population repairing to this beautiful green eminence. It was considered so essential to the comfort and recreation of the inhabitants, that they could scarcely imagine a town could exist without its Grant’s Hill.⁶⁵

On this spot English-trained architect John Chislett⁶⁶—the designer of the pathbreaking Burke Building—was engaged to raise a structure that had no peer in the contemporary courthouses of the region. His creation was in some sense a bargain between the emerging architectural profession and the bar, advancing the interests and social status of both in Pittsburgh as similar partnerships had earlier done further east. If that were not enough, the new building was a radical architectural departure from the old—a stone building in Greco-Roman revival style, hailed by Brackenridge as a “Temple of Justice” dwarfing all around in both grandeur and prospect. With only thinly-veiled self-satisfaction, Brackenridge observed:

In truth, there are few buildings in the United States which may compare with it, as well on account of its magnitude, the splendor of its site as for its plan and execution. The beautiful compact free-stone which form the walls, and of which the hills of the Allegheny and Monongahela furnish the finest quarries, have

⁶⁴ Brackenridge, *supra* note 25, at 11.

⁶⁵ H.M. Brackenridge, *Pittsburg Thirty Years Ago*, HAZARD’S REG. OF PA., July 12, 1834, at 25 (1834).

⁶⁶ See generally James Wudarczyk, *John Chislett: Architect of the American Pantheon*, LAWRENCEVILLE HIST. SOC’Y, http://www.lhs15201.org/articles_b.asp?ID=30 (last viewed Mar. 11, 2012).

been cut into blocks and exactly fitted, exhibiting a finish and durability destined to command the admiration of posterity. On the same eminence, but a little below, and composed of less durable material, stands the splendid Cathedral [old St. Paul's], dedicated to "the most ancient form of Christian worship."⁶⁷

The new courthouse would, Brackenridge hoped, call forth the best in the lawyers of the time, and would finally give them a suitable stage for greatness and leadership:

Ah! If the great and eloquent advocates who in ancient times drew forth the applause of their fellow citizens had had such a Forum for the display of their mighty powers! And how happy must be the leading stars of the present day, the Fosters and Forwards, and others, who have lived to see the time when their voices shall resound through halls worthy of their talents! To the young and aspiring orator, what new and powerful incentives are now presented to awaken his Demosthenean efforts!⁶⁸

The Greek revival architecture of the new courthouse was not an exclusively legal conceit, however; it was, if you like, the currency of contemporary American architecture, in vogue across the Midwest and elsewhere between 1830 and 1850, following an earlier ascendancy in eastern centers like Philadelphia.⁶⁹ In some respects it was an overt homage to the classical culture on whose intellectual foundations the new American republic had been built,⁷⁰ an homage which conveniently repudiated the primitive frontier and colonial aspects of the still-recent American past. In other respects it was in keeping with the predominant academic posture of the time, which privileged the study of the Greek and Roman classics—in art, architecture, history, literature and philosophy—as the foundation of higher education.⁷¹

For a while, it seemed that every sort of public—and even private—building in the United States was Greek revival, so much so that it has been termed “the

⁶⁷ Brackenridge, *supra* note 25, at 11.

⁶⁸ *Id.*

⁶⁹ See VAN TRUMP, *supra* note 26, at 18.

⁷⁰ See, e.g., M.N.S. SELLERS, AMERICAN REPUBLICANISM: ROMAN IDEOLOGY IN THE UNITED STATES CONSTITUTION (1994).

⁷¹ See generally CAROLINE WINTERER, THE CULTURE OF CLASSICISM: ANCIENT GREECE AND ROME IN AMERICAN INTELLECTUAL LIFE, 1780–1910 (2002).

great unifying American style of its time.”⁷² In the view of some, it was too much of a good thing. Looking back, the mid-nineteenth-century New York architect Leopold Eidlitz observed, “[w]e had Greek temples for churches, school-houses, libraries, courts of justice, custom-houses, exchanges, post-offices, colleges, theaters, and beer-shops, all Greek temples alike.”⁷³

Pittsburgh was no exception to the general rule. Classicism infected banks, office buildings (like the Burke Building), stately homes (like Judge William Wilkins’ “Homewood,” constructed in the eastern suburbs in 1835) and even Christian churches, so much so that local architectural historian James D. Van Trump declared in retrospect that “[i]n the 1830s and ’40s, Pittsburgh was almost completely a Greek Revival city.”⁷⁴

Perhaps as a partial antidote to the leveling tendencies of Jacksonian democracy, the leaders of the American bar, in Pittsburgh as elsewhere, sought to physically identify themselves with classical refinement. Planning for the new courthouse was begun in the mid-1830s, by which time the physical and situational inadequacies of its predecessor were already long apparent.⁷⁵ Construction took almost six years: the new building on its hilltop perch was not occupied until June 1841.⁷⁶ The result was calculatingly grand, and strikingly reminiscent of some elements Chislett had included in the Burke Building years before.⁷⁷ A heavy two-story structure of polished gray sandstone was set on top of an above-ground basement, with the whole building sitting on a stone terrace surrounded by a stone wall.⁷⁸ The front presented a central classical portico supported by six enormous Doric columns; above the whole structure rose a massive cupola that could be seen from great distance.⁷⁹

Ultimately, however, the second courthouse was no more a purist architectural product than the first had been. For all its supposed Grecian-ism, its

⁷² ROBERT M. FOGELSON, *AMERICA’S ARMORIES: ARCHITECTURE, SOCIETY, AND PUBLIC ORDER* 153 (1989).

⁷³ *Id.*

⁷⁴ VAN TRUMP, *supra* note 26, at 18.

⁷⁵ *See id.* at 19.

⁷⁶ *Id.*

⁷⁷ *See id.* at 24.

⁷⁸ *Id.* at 19.

⁷⁹ *Id.*

central block was something of a mini Roman Pantheon with a dome in the middle.⁸⁰ The front façade and portico had recognizably Renaissance styling with Greek elements projecting outward.⁸¹ Chislett, like many of his American contemporaries, juggled, combined and recombined familiar—albeit all elevated—architectural stylings to give this building an eclectic energy which many observers, including Brackenridge, nonetheless reflected on with pride.⁸²

In its new Grant's Hill location, the courthouse was more closely associated with the jail, which actually appears to have been completed before the new courthouse, in 1837.⁸³ Given that the new jail and the new courthouse were both built of stone on contiguous lots, the effect of the combination was more visually dramatic than any had been in the Diamond, and it was doubtless also more professionally convenient. Trial and punishment were more strongly linked in a single judicial space, giving perhaps a greater edge of power and threat to the legal system and its attendant professionals than they had enjoyed in the earlier location. The closer conjunction of the law-related buildings in Pittsburgh was not unusual; as Martha McNamara has shown, they drew closer together in Massachusetts even earlier, arguably for similar professional and practical purposes.⁸⁴

As with the old courthouse in the Diamond, we have no surviving paintings or images of the interior of the second courthouse. Surviving floor plans,⁸⁵ however, indicate the broad dimensions of the interior rotunda and separate courtrooms downstairs for four courts—the United States District Court, the local Supreme Court, the Court of Oyez and Terminer (Commons Pleas and Quarter Sessions) and the District Court—with judge's chambers, clerks' chambers and jury rooms upstairs. Notably, there was no dedicated law library, despite the fact that by this point law libraries were starting to appear in court buildings in contemporary Massachusetts and elsewhere.⁸⁶

From Grant's Hill, the new courthouse literally and metaphorically presided over the city for over 40 years. Its somewhat isolated situation on what was once

⁸⁰ *Id.* at 20.

⁸¹ *See id.*

⁸² *See, e.g., supra* note 67.

⁸³ *Id.* at 23.

⁸⁴ *See, e.g., McNAMARA, supra* note 4, at 57.

⁸⁵ VAN TRUMP, *supra* note 26, at 22.

⁸⁶ McNAMARA, *supra* note 4, at 89–94.

the eastern edge of built-up Pittsburgh helped to preserve it, at least for a time. In 1845, it provided a unique vantage point for Thomas Mellon, looking down on the city as it burned in the Great Fire that wiped out much of the then-central core. In the mid-1880s Mellon, by then one of America's richest financiers, remembered:

I was busy between watching my cases on the trial list in court and superintending the building of a dwelling at the corner of Wylie and Fifth avenues close by the Courthouse. Soon after twelve o'clock the fire bells commenced ringing, but I paid no attention to them for an hour or two until people in an excited condition began hurrying up and down the street declaring the town was on fire. I then went to a position in the Courthouse from which I could see the lower part of the city, and found that the fire was becoming really serious. . . .⁸⁷

Ultimately the conflagration destroyed some 1200 buildings. Rather than being permanently calamitous to the city, however, it seemed to have the opposite effect, clearing older and less durable structures away to make room for newer and better buildings.⁸⁸ As regards the legal community, it only seemed to accelerate the already-incipient move of offices uptown; it was perhaps symbolic in this context that one of the very few human victims of the 1845 blaze was Samuel Kingston, described by Mellon as an "old and active lawyer," who rushed back to his Smithfield Street office to secure his papers only to be overcome by smoke.⁸⁹ Some lawyers would return to the Diamond area, but never in the same density as before—the court, and necessarily their clients, had shifted elsewhere.

Eventually, however, the city did catch up with the courthouse, and the Greek revival dream of a lawyers' Acropolis died a smoky—and finally fiery—death. The pollution that had helped compromise the location, if not necessarily the structure, of the first courthouse was certainly taking its toll on the second by the 1870s. Fueled in part by the production needs of the Civil War, Pittsburgh had become America's leading steel manufacturing center—blast furnaces along the rivers worked day and night, burning coal and pumping acrid smoke into the air, obscuring the city's developing skyline. The smoke literally ate the building away, metaphorically exposing the price of the bargain the bar had struck with the powers

⁸⁷ THOMAS MELLON, THOMAS MELLON AND HIS TIMES 146–47 (Mary Louise Briscoe ed., Univ. of Pittsburgh Press 1994) (1885).

⁸⁸ *See id.* at 148.

⁸⁹ *Id.*

of local commerce for its own civic ascendancy.⁹⁰ One chronicler noted: “So rapid was the corrosion in the air laden with coal smoke that the dressed surface of the front wall had dropped off, some of the cornices near the roof had begun to fall and the building had a generally scaly look”⁹¹ A photograph of the building *circa* 1880⁹² bears out this description—the aging structure has lost some of its originally sharp images and is visibly blackened, especially on its front, where it faced the city.

The end came on May 7, 1882, when, as reported by the *Commercial Gazette*, “smoke was noticed issuing from the dome of the immense pile which for so many years had stood on Grant’s Hill.”⁹³ The paper chronicled the symbolic demise of the great cupola:

By ten minutes past two the dome was swaying so violently that it was evident that its collapse could not be long delayed and a silence that was almost breathless fell upon the crowd. Every person got as far away as possible Finally the dome came down with a tremendous crash, the heavy weight at the base causing the greater portion of the blazing mass to fall to the floor of the rotunda. With the dome’s fall, the building assumed the appearance of a volcano, from the center of which sprang a solid mass of smoke, flame, and ashes at least fifty feet in diameter All that remained of the dome that a few hours before was visible from almost every quarter of the city was a large pile of charred timbers on the second floor of the rotunda.⁹⁴

It was, however, already past time for a new courthouse. As the same paper editorialized, “[t]he destruction of fire may indeed be, as some have suggested, a blessing in disguise as there is no telling how long it otherwise have been suffered to remain.”⁹⁵

⁹⁰ See VAN TRUMP, *supra* note 26, at 25–26.

⁹¹ *Id.* at 26.

⁹² *Id.* at 25.

⁹³ *Id.* at 29.

⁹⁴ *Id.* at 29–30.

⁹⁵ *Id.* at 30.

IV. HOMES FOR THE STEEL BAR

Replacing the burned out Grant Street courthouse was technically the responsibility of the Allegheny County Commissioners, but it was also a matter of concern for the city bench and bar, some members of which served on the county board.⁹⁶ Facing an architectural, civic and professional challenge, the Commissioners took broad advice on available models and went to the extent of taking a 10-day tour of public buildings in Indianapolis, Chicago, Detroit, Buffalo, Albany, Philadelphia, Washington, and other cities.⁹⁷ They came back most impressed by the overall structure of the City and County Hall at Buffalo, a Romanesque structure with flanking pavilions surrounding a central core from which sprung a high vertical clock tower.⁹⁸ The design was leading-edge, in the sense that Romanesque architecture was only then beginning to catch on in the United States. But externalities were not the only factors important to the Commissioners—given grim experience with the last courthouse, they also mandated that the new building be fireproof.⁹⁹

Calls for architectural plans were sent out to various architects in Pittsburgh and around the country, but the plan that ultimately won out was one submitted late by the famed H.H. Richardson of Brookline, Massachusetts.¹⁰⁰ Encouraged to apply by Pittsburgh lawyer and former Harvard classmate John H. Ricketson,¹⁰¹ Richardson had already constructed a phenomenal range of pathbreaking buildings around the United States, some somewhat modernist (like the Marshall Field store in Chicago), but most Romanesque (like Emmanuel Episcopal Church in Allegheny, and Austin Hall at Harvard Law School, completed in 1884).¹⁰² In the latter respect, Richardson was part and parcel of an incipient medievalist revival in American arts and culture, which was in the late nineteenth century surging up and over the breakwaters of earlier classicism.

⁹⁶ See generally *id.* at 31–36.

⁹⁷ *Id.* at 33.

⁹⁸ See *id.* at 33–34.

⁹⁹ *Id.* at 37.

¹⁰⁰ *Id.* at 40.

¹⁰¹ *Id.* at 42.

¹⁰² See *id.* at 42.

The roots of American medievalism—in architecture, art, literature, history and other fields—are complex.¹⁰³ Like the classical revival of the early nineteenth century, it was an aspirational outreach to European tradition, but it was an outreach with a difference. Most overtly, it was an appeal to a Christian past over a pagan one, reflecting perhaps a fundamental American moral and spiritual crisis. Despite its glorification of certain aspects of chivalry it was in a way also grim and less confident—more solicitous of power in the face of challenge and chaos than classicism’s overt appeal to rational order and the glorification of intellect.

In architecture, the Romanesque turn in the last quarter of the late nineteenth century was particularly fascinating, as the original Romanesque style was coincident with the darkest period of the Middle Ages—between roughly the sixth and twelfth centuries—when European civilization was under siege by Viking raiders and other transient “barbarians,” and when Christendom itself was torn apart by schism and massive political tugs of war between an ambitious church and a struggling state.¹⁰⁴ In the words of one historian, in these years

when war and religious unrest threatened fledging western civilization and society strove against feudal uprisings, disease, and plague, Romanesque architecture offered a reassuring message: the world is not falling apart. With simple, static design utilizing circles, triangles and squares, Romanesque buildings communicated stability and strength, simplicity and peace. Romanesque churches embodied and recapitulated geometric shapes to evoke unchanging principles and eternal verities. Their rounded arches and thick walls of stone appeared imposing and immovable, a welcome sight to a society in flux.¹⁰⁵

In the United States, the Romanesque experienced a resurgence, just as Americans after the Civil War were plunged into a maelstrom of intense urbanization and immigration and unprecedented struggles for power between industrialized capital and labor. Fearing socialism, communism and anarchism, American capitalists and professionals feverishly engaged in what Robert Weibe

¹⁰³ See generally KIM MORELAND, *THE MEDIEVALIST IMPULSE IN AMERICAN LITERATURE: TWAIN, ADAMS, FITZGERALD AND HEMINGWAY* (1996); Robin Fleming, *Picturesque History and the Medieval in Nineteenth-Century America*, 100 *AM. HIST. REV.* 1061 (1995).

¹⁰⁴ *Id.*

¹⁰⁵ Thomas H. Yorty, *H.H. Richardson’s Prescription for a Troubled Time*, *TRAFFIC E. MAG.*, <http://www.trafficcast.com/archives/issue-eight/201ch-h-richardson2019s-prescription-for-a-troubled-time201d-by-thomas-h-yorty-photos-by-dellas> (last visited Mar. 11, 2012).

has famously called a “search for order”¹⁰⁶ that would rationalize, legitimize and ultimately protect their social status, their careers and perhaps their very lives. In the cultural memory of the Middle Ages they found a golden age, a captivating and compelling model of hope overcoming fear, order prevailing against chaos and elegance triumphing over barbarism.¹⁰⁷ Implicitly and sometimes explicitly, they called upon their countrymen to turn back the clock, to return to the values and behaviors of a better era.

To do this, however, required considerable imagination and not a little license with history. The medievalist-Romanesque movement incongruously found culturally-dominant American Protestants appealing for the moral restoration of a profoundly Catholic age, capitalists evoking feudalism, democrats praising absolutism and nativists implicitly celebrating the culture of the very continent that exported the millions of foreign-speaking immigrants they reviled.¹⁰⁸

It was in the midst of this America of change and contradiction that H.H. Richardson made his architectural mark. He was perfectly suited to his medieval part and actively gloried in it, to the extent of famously posing for a set of portrait photographs dressed as a hooded medieval monk.¹⁰⁹ The courthouse plan he advanced for Pittsburgh was an incredibly ambitious Romanesque fusion of cathedral and castle, a monumental pile that did not just sit atop Grant Street, but literally towered over it from a tremendous height.¹¹⁰ Its constituent blocks of sandstone and granite were oversize, almost like Incan building stones, and the dark rough-hewn mass of the edifice was trimmed with snarling lions and miniature towers that spoke eloquently of the power and grandeur of the great industrial city and its law.¹¹¹

Mass seems very much to have been on Richardson’s mind as he planned the structure, as he realized that the city’s smoke would probably compromise appreciation of complex artistic detail. In 1884 he wrote, somewhat obliquely, “with the atmospheric difficulties of the locality in view, the design has been to provide a building the character of which should depend on its outlines, on the

¹⁰⁶ See generally ROBERT WIEBE, *THE SEARCH FOR ORDER 1877–1920* (1967).

¹⁰⁷ See generally *id.*

¹⁰⁸ See MORELAND, *supra* note 103, at 12.

¹⁰⁹ VAN TRUMP, *supra* note 26, at 44–45.

¹¹⁰ See ALBERT M. TANNLER, *ALLEGHENY COUNTY COURTHOUSE AND JAIL WALKING TOUR 17* (2007).

¹¹¹ See *id.* at 9.

massing and accentuation of the main features representing its leading purposes.”¹¹² In its muscular projection of authority, it was almost fascist, thundering dominance over the landscape below it while surely striking a measure of terror—or at least studied respect—into the hearts of those who dared approach its majesty. A contemporary observer, American author Mariana Griswold Van Rensselaer, appropriately concluded in her biography of Richardson that it was “the most magnificent and imposing of his works . . . the most somber and severe.”¹¹³

But the courthouse design was also overtly functional. Richardson worked with materials deemed more fireproof than those that had gone into the previous structure.¹¹⁴ He consciously chose stone that would endure and which, when darkened, would not look too damaged by Pittsburgh’s ever-growing pollution. Following the County Commissioners’ suggestions, he pointedly avoided “elaborate or intricately carved work for the exterior” as that would “soon be obscured or defaced by soot accumulations.”¹¹⁵ By including a central courtyard in his building he sought to maximize natural light, which already struggled to reach the street through Pittsburgh’s ever-present smoky haze.¹¹⁶ He intended to reserve the empty spaces of the great tower for the county archives, although they were never used for that.¹¹⁷ In a marvel of contemporary engineering, he even developed an HVAC system of sorts in the tower.¹¹⁸ Modeled on something Richardson had seen used in the Houses of Parliament in London, another notoriously smoky metropolis,¹¹⁹ the system drew air down from a somewhat cleaner height through stone “nostrils” and circulated it to offices and rooms below.¹²⁰ This was very much a Pittsburgh courthouse intended to operate in the city’s unique industrial environment.

¹¹² *Id.* at 17.

¹¹³ *Id.* at 11.

¹¹⁴ See Richardson’s original plan submitted to the County Commissioners, quoted in VAN TRUMP, *supra* note 26, at 55–56.

¹¹⁵ The County Commissioners’ instructions, quoted in TANNLER, *supra* note 110. See also Richardson’s plan quoted in VAN TRUMP, *supra* note 26, at 57.

¹¹⁶ See TANNLER, *supra* note 110, at 19.

¹¹⁷ *Id.* at 21.

¹¹⁸ *Id.*

¹¹⁹ *Id.* at 21.

¹²⁰ Described in Richardson’s proposal to the County Commissioners. See VAN TRUMP, *supra* note 26, at 56.

Inside the courthouse, cascading Romanesque arches and grand stone staircases overwhelmed the visitor. On the second floor, however, at the head of all the courtrooms, stood an entirely new feature intended for the judges and lawyers who worked in the building: a law library.¹²¹ This was to be the new home of the Allegheny County Law Library, which had begun in 1867 in two small rooms in the squat Tilghman Building across from the second courthouse.¹²² By 1886, the collection held some 16,000 books,¹²³ but was, unbelievably, uncatalogued, and would remain so beyond the turn of the century. Perhaps recognizing a sinecure when he saw one, the presiding librarian, Percival G. Digby, kept the guiding scheme of the collection in his head, even rejecting proffered grants for the development of a card catalogue.¹²⁴ When Digby committed suicide in 1907, however, all that was in the mind of the “Human Catalogue” was lost, much to the chagrin of Pittsburgh lawyers in general, and Digby’s bewildered successor in particular.¹²⁵

Linked to the new courthouse by a “Bridge of Sighs” was Richardson’s medieval masterpiece, a stone jail with high towers, deep windows and a precipitous stone wall.¹²⁶ Now, after almost one hundred years the place of punishment was literally hard up against the Pittsburgh courthouse itself, making no apologies for its proximity. Its presence and its structure increased the rhetorical weight and severity of the overall courthouse design, and its eventual absorption of the city’s pollution only made it more grim and foreboding.¹²⁷ In an ultimate testament to functionalism (for which Richardson, ironically, only had limited enthusiasm), it looked completely like what it was. Present-day historian and native Pittsburgher David McCullough made the point nicely at a conference several years ago: “The old Jail—you should have seen it when it was black from soot. It was

¹²¹ See Josiah Cohen, *Half a Century of the Allegheny County Bar Association*, 4 W. PA. HIST. MAG. 127, 134 (1921).

¹²² See *id.*

¹²³ See TANNLER, *supra* note 110, at 26.

¹²⁴ See The Library Association, 32 LIBRARY J. 537 (1907).

¹²⁵ See *A Human Catalogue*, MARLBOROUGH EXPRESS, Jan. 25, 1908, at 3, available at <http://paperspast.natlib.govt.nz/cgi-bin/paperspast?a=d&d=MEX19080125.2.19> (last viewed Mar. 23, 2012).

¹²⁶ See TANNLER, *supra* note 110, at 41.

¹²⁷ See *id.* at 51.

like something out of *Oliver Twist*. Really. I thought—that’s what a jail ought to look like. Scary. Be good!”¹²⁸

Pittsburgh’s lawyers did not build Richardson’s courthouse, but they seemed more than content with it. By design and by coincidence, it was a remarkable departure from the previous Grant’s Hill structure that reflected the circumstances of a different time and a different bar. Gone was the visual projection of the legal profession as especially learned or refined or elevated; instead, the legal community that was implicitly depicted here was powerful, authoritative and grand beyond the dreams of anyone like Henry Marie Brackenridge.

But to some extent, it was also watchful and even scared—the great battlement-like walls of the courthouse and connected jail behind not inaccurately reflected the bar’s concern about what was literally and metaphorically happening in the streets below. This concern was perhaps not entirely misplaced—this was, after all, a courthouse constructed less than a decade after the widespread Railway Strike of 1877, during which rioters had battled militiamen in Pittsburgh itself, leading to massive destruction of property and the deaths of twenty people.¹²⁹ Continued tensions between local labor and capital would explode again in the Homestead Strike in 1892.

Given how many members of the American upper and upper-middle classes felt besieged in these years, it is not surprising that many contemporary buildings associated with the law—from courts to police stations to national guard armories to upscale lawyers’ residences—began to take on the overt look of fortifications, and in some instances even contained functional elements of those that might help their nervous denizens resist violent crowds surging in the surrounding streets. It is, for instance, instructive to compare the style of Richardson’s courthouse with the New York Seventh Regiment Armory of 1879, the Eugene Merrill House (Minneapolis) of 1884, the Ohio National Guard Armory (Cincinnati) of 1886, the New York Twelfth Regiment Armory of 1889, the Patrick C. Haley Mansion (Joliet, Illinois) of 1891, the Oakland (Pittsburgh) police station of 1892, the Dallas courthouse of 1892, the Wayne County Courthouse (Indiana) of 1893, the Bell-Klaehn House (Fort Wayne, Indiana) of 1893, the Cleveland Grays Armory of 1893, and the McCook Mansion (Pittsburgh) of 1906. The connection between architectural form and fundamental civic function was not lost on contemporaries. The role of architecture in this context was as much proactive as reactive. As one

¹²⁸ *Id.*

¹²⁹ THE OXFORD COMPANION TO UNITED STATES HISTORY 650 (Paul S. Boyer ed., 2001).

1886 commentator put it: “In our more elaborate public buildings—the school, church, library, court-house—if the building is architecturally adapted to its intended use, it will awake ambition, reverence, love of knowledge, respect ‘for the powers that be,’ as the case may be.”¹³⁰ America’s architects, it appears, were more than willing collaborators in the larger authoritarian cause.¹³¹

Overt concerns over establishing or restoring public order by building design were not, however, on the lips of those who celebrated the raising of the new Pittsburgh courthouse in 1886. Their public message, perhaps unsurprisingly, was more about pride. Take, for instance, the words of J.W.F. White, a prominent local judge and self-styled antiquary who spoke at the dedication of the new courthouse’s central tower.¹³² He almost literally sang a hymn to the growth of industry that, since the raising of the last courthouse in the early 1840s, had catapulted Pittsburgh into the front ranks of American cities and its lawyers into the front ranks of American legal professionals:

Wonderful indeed have been our growth and prosperity. Well may the people of Allegheny County rejoice this day. And our rejoicing is not confined to our rapid strides in population and wealth. In education, refinement and good taste, we have kept pace with the march in commercial and manufacturing prosperity. For proof of this assertion I need only point to this edifice. Substantial as the basis of our wealth, elegant and faultless in its proportions, its symmetry and details, there it stands, the crowning achievement of the century!¹³³

White continued, warming to his theme and turning to the majesty of law itself, reviving rhetoric associated with the previous courthouse but elaborating it for the new building:

Standing on this eminence, like the temple in Jerusalem, it is the most conspicuous object in the city, and the first to arrest the eye of a stranger. Like that temple, also it is the pride of all the people; and hither, like God’s chosen people, they will come at stated times, to hear the law and learn their duty as good citizens. Plain, chaste, unique in architecture, with no vain or superfluous ornaments, the eye never wearies tracing its lines of beauty and harmony.

¹³⁰ FOGELSON, *supra* note 72, at 156.

¹³¹ *See id.* at 165–66.

¹³² *See* VAN TRUMP, *supra* note 26, at 93.

¹³³ *Id.*

Founded on the living rock, solid and massive in structure, fire proof so far as granite, brick and iron can make a building fire proof, it will stand for ages to come.¹³⁴

H.H. Richardson clearly agreed—in April 1886, lying deathly ill in Brookline, he had summoned enough strength and remaining ambition to tell his doctor: “If they honor me for the pygmy things I have already done, what will they say when they see the Pittsburgh Court House!”¹³⁵

Lawyers, of course, continued to work outside the new Pittsburgh courthouse, as well as within its walls. Grant Street was an increasingly common business address; by this point, moreover, most local attorneys had moved their residences away from the downtown business district into the suburbs, which now included East Liberty, Oakland and Shadyside. The lawyer who worked out of the lower story of his home had become a rarity. Stimulated by the growth of corporate practice, Pittsburgh lawyers were also beginning to come together in “large” firms, which in the context of the time meant firms of four lawyers or more.¹³⁶ Aping similar developments in New York, Chicago and Philadelphia, these firms, mostly serving large corporate clients, sought and required larger work spaces that could accommodate extensive paper records, large working libraries which the multitudinous law reports of the time and growing numbers of clerical staff, often women.

Local real estate developers (or, perhaps more accurately, speculators) sought to meet the needs of local lawyers with increasingly tall buildings that could group multiple firms, corporate managers, accountants and other business professionals in increasingly-crowded central business districts.¹³⁷ In the last decades of the nineteenth century these “skyscrapers,” as they came to be called, began to rise in major American cities,¹³⁸ and lawyers and the new law firms enthusiastically trooped into them. In this context, lawyers looked architecturally more forward

¹³⁴ *Id.* at 94.

¹³⁵ *Id.* at 80.

¹³⁶ See generally JEROLD S. AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGE IN MODERN AMERICA* 18–39 (1976).

¹³⁷ See generally LARRY R. FORD, *CITIES AND BUILDINGS: SKYSCRAPERS, SKID ROWS, AND SUBURBS* (1994).

¹³⁸ See, e.g., GAIL FENSKE & DERYCK HOLDSWORTH, *CORPORATE IDENTITY AND THE NEW YORK OFFICE BUILDING: 1895–1915*, in DAVID WARD & OLIVIER ZUNZ, *THE LANDSCAPE OF MODERNITY, ESSAYS ON NEW YORK CITY, 1900–1940* (1992).

than back—although the early skyscrapers were towers in the best medieval tradition, the demands and opportunities of the new structural form helped insulate it from excessive or too literal historical imitation¹³⁹ and ultimately helped stem the tide of the Romanesque Revival. The first of the tall buildings to house a significant number of law offices was the Equitable Life building in New York, which notably included two elevators when it opened in 1870.¹⁴⁰ Lawyers turned out to favor the upper stories of this building and others like it, preferring the light and quiet available there to the traditional dirt and noise of the streets.¹⁴¹

In Pittsburgh, the first steel-frame skyscraper to pierce the skyline was the 13-story Carnegie Steel building, located on Grant Street across from the courthouse. Serving as the headquarters of Carnegie Steel from its completion in 1895, it also hosted a range of high-end legal offices, including—symbolically—Knox & Reed, the Carnegie law firm that would later become today's Reed Smith.¹⁴²

Skyscrapers like the Carnegie Building undoubtedly changed the social and psychological dynamics of corporate lawyering in Pittsburgh and elsewhere, although little attention has been paid to this phenomenon. Even more than the early low-level office buildings of the 1830s and 1840s, the skyscraper literally took attorneys off the streets, up, up, and away into professional corporate communities where they could not see people outside and where they had little company apart from fellow professionals and managers who were similar to themselves. They were literally removed, holding the general public and their ordinary human clients if not at bay, at least at a distance, and dealing with them only through mechanical intermediaries that at the time must have seemed like miraculous contraptions taking their puny passengers high into the sky. The professional and cultural separation—if not sense of superiority—that this must have helped to induce in many lawyers was of an order of magnitude beyond what was reflected in the earlier removal of the Greek revival courthouse to Grant's Hill, away from the hustle and bustle of the Diamond, with its seething mass of ordinary folk.

¹³⁹ There were, of course, exceptions—note, for instance, the University of Pittsburgh's own 42-story "Cathedral of Learning," dedicated in 1937.

¹⁴⁰ See FENSKE & HOLDSWORTH, *supra* note 138.

¹⁴¹ ERIC SUNDSTROM, WORK PLACES: THE PSYCHOLOGY OF THE PHYSICAL ENVIRONMENT IN OFFICES AND FACTORIES 28 (Daniel Stokols & Irwin Altman eds., 1986).

¹⁴² See generally RALPH H. DEMMLER, THE FIRST CENTURY OF AN INSTITUTION: REED SMITH SHAW & MCCLAY (1977).

Yet in separating themselves from the huddled masses below, the lawyers who clubbed together in the Carnegie Steel building and its immediate successors—in particular, the neighboring and even-taller Frick Building, completed in 1902¹⁴³—unwittingly revealed the terms of the Faustian bargain they had made. They were not merely taken up in the air, but they were literally encased in steel—Pittsburgh steel, Carnegie steel. Their position in the heights was literally made possible by their professional championing of the city’s greatest corporation, which had pioneered the processes that had built the buildings they now worked in. In Pittsburgh, there could be no greater physical-topographical demonstration of the symbiotic relationship between lawyers and capitalists.

The “steel bar” had been born.

¹⁴³ VAN TRUMP, *supra* note 26, at 128.