

## Times Have Changed!

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*Of the District of Columbia Bar*

Of the accompanying illustration, a photograph of the Criminal Courtroom of the Supreme Court of the District of Columbia, made in 1913, every detail has changed excepting United States Commissioner Needham C. Turnage, who despite long years of honorable practice and the highest awards of Masonry, appears to be about the same youngster. Mr. Justice Stafford is, of course, still very much one of us, but his hair is no longer auburn and we enjoy his unusual personality only at an occasional Bar dinner. Fred McKee, a devoted Clerk of the Court, Maurice Joyce, the Bailiff, and Sidney E. Mudd, the Assistant United States Attorney, have passed through the dream. John Carmody's father was one of the jurors, and he is gone, too. Earl Ambrose, after many vicissitudes, is alive but no longer practicing here. All the fixtures and embellishments of a Criminal Court are gone. This photograph was taken when Washington was a village—now it is a Metropolis. In the legal field, and possibly in the financial field, too, it is unquestionably the outstanding city in the world. At the time the photograph was made, there were six judges composing the then so-called Supreme Court of the District of Columbia, and the Court was not unusual but was typical of hundreds of other courts throughout the land. The building in which it was housed was the exact, beautiful piece of architecture in which only part of the present United States District Court for the District of Columbia is "confined." The exterior dimensions of the building, which was designed by Hadfield during Washington's golden age of architecture when the true values in art dominated the subtle schemes of politicians and contractors, are exactly the same.

At the time the illustration was made the building was locally known as the City Hall although it was entirely used by the courts and in decrepit and overcrowded condition. Shortly thereafter, modernizing was undertaken and the courts held sessions in the Emory Building, since demolished, at the foot of Louisiana Avenue. The remodelling of the building was completed in 1919 and the courts returned. At this time, without

legislative or judicial sanction the name was changed to Court House by the simple method of having the sign boards on the trolley cars changed to read "Court House," instead of "City Hall." Since the return of the courts to this building, most readers will be well acquainted with their history. And most readers will know that due to the growth of the City, the astounding increase in activities of the Court, which has been increased from three insufficiently occupied judges in 1819 to twelve in 1940, the present tribunals are so crowded that they cannot essay even normal functions and efficiency. The Court is spread into the adjacent Police Court Building, Municipal Court Building, and parts of the Juvenile Court Building. There is scarcely sufficient space in the renowned structure to lodge one more piece of paper and this in a legal era in which quantity of paper not quality of writing thereon seems to be the most important element. Among the new rules of Court about to be promulgated, if a new building is not soon furnished, a necessary one should limit pleas by weight and bulk and wrappers should be entirely prohibited. The chaos and confusion because of overcrowding are indescribable. It is futile to attempt a description to those who frequent the building; and it is impossible to put it in words, phrases or photographs which would give a real image to those who do not. As is hereinafter shown, the Attorney General, the Administrator of United States Courts, some of the judges and others have made an attempt to describe the conditions but their earnest efforts fall far short of painting the real picture. Suffice it to say on this point that there is no individual fully aware of the situation who would dispute that the United States District Court for the District of Columbia needs a new building, is *in extremis* and will not be relieved until a modern edifice at least four times the size of the present one is provided by the Federal Government.

There are those who claim that wings might be added. Architects state that such treatment would ruin the appearance of the best architectural gem in the City, and certainly wings would not afford the needed space. More body, much more, is the only answer.

It must be conceded that a building is needed and needed quickly. It must equally be conceded that the site for the new

building is where the worst eye-sore in the City, the old Pension Office, now stands. The Pension Office was inspired by the Civil War, martial spirit. It is of what is known among architects as "Post Bellum" style. President Grant, for whose inauguration it was built, once proudly showed it to General Sherman who had marched through Georgia, as you may recall, and was admittedly an expert in his particular field. General Grant in addition to boasting the beauties and space of the building told General Sherman that it was also, fireproof, and General Sherman's response, looking at the monstrosity, is said to have been "That is too bad." I have never met an architect, an artist, or admirer of beauty, a civic minded or patriotic person who would be loath to have the building demolished and without a pang of regret. In addition, as presently used by the General Accounting Office, the immense exterior structure affords very little interior use, and proportionately slight loss of usable space would be occasioned to the Government by its demolition. The suggestion has been made that, when a new building for the United States District Court for the District of Columbia is erected on the Pension Office site, the present United States Court of Claims be established in the Old Court building, thus freeing the Court of Claims structure for use as an annex to the State Department. A strip, including the present Court of Claims Building, originally the Corcoran Art Gallery, has been acquired by the Government for an annex to the State Department, and the State Department is clamoring for and needs space. Giving the State Department space would offset much of the lost space if the Pension Office Building were eradicated.

To return to the thesis that the Pension Office site is the only one on which to erect a new District Court Building, that site is within what is known as "Judiciary Square" as laid out by Major L'Enfant on the original plan of the City of Washington, and has been traditionally regarded by the residents of the City of Washington for the locus and situs of judicial and legal affairs since the year 1801. Under direction of the Justices of the Supreme Court of the United States, the Marshal of that Court, Mr. Waggaman, has gathered copious notes for a history of "The Supreme Court of the United States and Judiciary Square." From Mr. Waggaman's notes, which are accessible,

it appears that even the Supreme Court of the United States was originally designated to go on Judiciary Square. Sentiments of the civic associations, the Bar Association, patriotic societies, the Fine Arts Commission, the Park and Planning Commission and all other such organizations would be outraged if the needed building were put on any other spot. Of course, sentiment does not control but, when such intense fervor is coupled with beauty of design for the general use of Judiciary Square, the proximity to other judicial and legal institutions and unquestionable practicability and efficiency, there can be no question about the proper location of the new building. Under date of October 26, 1938, at the request of the President of the United States, a conference was held by the Park and Planning Commission, attended by the following representatives of courts and agencies concerned, namely:

Hon. D. Lawrence Groner, Chief Justice, U. S. Court of Appeals for the District of Columbia.

Hon. Finis James Garrett, Presiding Judge, U. S. Court of Customs and Patent Appeals.

Hon. Fenton Whitlock Booth, Chief Justice, U. S. Court of Claims.

Hon. Alfred A. Wheat, Chief Justice, District Court of the United States for the District of Columbia.

Hon. Justin Miller, Associate Justice, U. S. Court of Appeals for the District of Columbia.

Hon. Bolitha J. Laws, Associate Justice, District Court of the United States for the District of Columbia.

Hon. Melvin C. Hazen, Commissioner of the District of Columbia.

Hon. Elwood Seal, Corporation Counsel.

Hon. John B. Colpoys, United States Marshal.

Hon. David A. Pine, United States Attorney.

Hon. C. Rogers Arundell, Chairman, U. S. Board of Tax Appeals.

Hon. Alexander Holtzoff, Special Assistant to the Attorney General.

Mr. Clay J. Guthridge, Chief, Division of Space Control.

Mr. Godfrey L. Munter, President, District of Columbia Bar Association.

Mr. F. Regis Noel, Chairman of District Bar Association Committee.

The printed record of this session states it was unanimously agreed "That the District Court of the United States for the District of Columbia should remain in Judiciary Square and

that as early as practicable, a new building should be constructed for the District Court on the site of the old Pension Office Building, now occupied by the General Accounting Office."

Since said session there has been no change in the recommendation of the Park and Planning Commission to the President of the United States or to anyone else. Under date of December 10, 1940, the Attorney General wrote to the Administrator of United States Courts, Henry P. Chandler, Esquire, as follows:

"The Judges of the District Court of the United States for the District of Columbia have called to my attention the urgent need for a new court house. I understand that for the past century and a quarter this same building has housed the District Court and that while it was renovated in 1920, it was not enlarged; that three new court rooms have been added and space will not permit the construction of any more.

"I understand that every foot of available space has been utilized and that the crowded conditions deprive officials and their subordinates of reasonable space and comfort for healthful and efficient work. As you know, three District Court Judges have their courts and offices in the Police Court Building and recently the Grand Jury has been moved there. There is no space available for Special Grand Jurors in either the District Court or the Police Court. Many important records have had to be moved from the Clerk's Office of the District Court to the basement of the Juvenile Court Building, in order that added space be gained for the personnel and current records of the Clerk's Office. I have been informed that toilets are insufficient and that rest rooms are altogether lacking, notwithstanding the many women who are in daily attendance as employees, jurors, witnesses and litigants. A careful survey of the building discloses that conference rooms for attorneys and waiting rooms for jurors and witnesses are too small and too few to meet the various requirements of the hundreds who enter the building each day, and as a result of these conditions, the corridors and court rooms become badly crowded. The judges inform me that in going to and from the court rooms they must wend their way through the crowded corridors in their robes and must be subjected to frequent embarrassment that must unavoidably occur. Undoubtedly the efficient administration of justice is seriously affected by these deplorable conditions. The business of the District Court is steadily increasing. Eventually more Judges will be needed; and this is also true in the Police Court. When the membership of the Police Court is enlarged, the space now temporarily allotted to the District Court will be taken away.

"The United States Attorney for the District of Columbia also advises me that his office is too crowded and that when one Assistant interviews witnesses in preparation for trial, the other Assistant must vacate the room and go elsewhere. The United States Attorney also advises me that due to the crowded conditions of his office, he has inadequate space for clerks and stenographers and no place, except the room in which the stenographers and clerks are employed, to house his dockets, records and files.

"Considering the time it will necessarily take to provide a new building and the growing inadequacy of the present structure, it is imperative that positive steps be taken without delay to insure a new court house in the near future. The recent Act creating the Administrative Office of the United States Courts provides that the Director shall have charge of providing accommodations for use of the Courts. I, therefore, urge you to do all that is possible to put the machinery in action that will provide a new court house for the Judges of this jurisdiction. I assure you that I shall give all the support which I consistently may. If the occasion arises that you feel you need my help, please do not hesitate to call on me."

To which Mr. Chandler replied under date of December 12th, as follows:

"I am glad to have your letter of the 10th instant, expressing your support for the project for a new court house for the District Court of the United States for the District of Columbia and kindly offering your assistance in furthering it.

"You have stated strongly the inadequacies of the present accommodations of the court but not too strongly, because I doubt whether it is possible to do so. I am using by best endeavors to bring about as soon as possible the adoption of measures necessary to secure a new building. I shall be more than glad to have your cooperation and shall not hesitate to call for your assistance as the situation develops."

The Committee of the Bar Association of the District of Columbia at its meeting on December 14, 1940, adopted the following resolution:

"WHEREAS, the building housing the United States District Court for the District of Columbia was designed in the year 1819 to accommodate the functions of a Court consisting of three judges and was remodelled one hundred years later, without, however, enlarging its exterior dimensions to accommodate the activities of a Court consisting of six judges, and at the present time there are twelve judges and other officials and attaches comprising the United State District Court for the District of Columbia, in exactly the original exterior dimensions of the building, but the litigation,

activities and consequent use of said building have multiplied to an incomprehensible degree; and,

"WHEREAS, the said building is completely outmoded, cramped, the courts rendered highly inefficient because of the aforesaid condition and obliged to expand to adjoining public buildings with many of its activities and urgently needs new quarters in which all of its functions may be properly integrated; and,

"WHEREAS, in the original plans for the City of Washington prepared by Major L'Enfant the site for the local courts and appendages was set aside as Judiciary Square and during all the years since this community has favored said location as being the one best serving the public for the administration of justice locally; and,

"WHEREAS, during approximately the past ten years the site of the present General Accounting Office, also located in Judiciary Square has been tentatively designated as the location of a new building for said Court on the plans of the National Park and Planning Commission; and,

"WHEREAS, at a conference held in the Offices of the National Park and Planning Commission on October 26, 1938, at the request of the President of the United States, at which all courts and agencies concerned were represented, it was unanimously agreed "That the District Court of the United States for the District of Columbia should remain in Judiciary Square and that as early as practicable, a new building should be constructed for the District Court on the site of the old Pension Office Building, now occupied by the General Accounting Office"; now, therefore, be it

"RESOLVED by the members of the above designated committee attending this meeting pursuant to a call by its chairman that this resolution be presented to the general meeting of the Bar Association of the District of Columbia on December 17, 1940, with the recommendation that said Bar Association of the District of Columbia endorse this report and the exertion of every effort by this committee and any other committees, persons or organizations which may be of assistance to obtain immediately an appropriation from The Congress to construct a new building for the United States District Court for the District of Columbia on the site of the present General Accounting Office in Judiciary Square; and be it further

"RESOLVED that copies of this resolution be sent to (1) the President of the United States, (2) the Administrator of Federal Courts, (3) the Attorney General of the United States, (4) the National Capitol Park and Planning Commission, (5) the Bureau of the Budget, to the chairman of the Judiciary and Appropriation Committees of the Senate and House of Representatives and to such other authorities as may be deemed expedient."

There have been editorials in the local press and extensive news items all pressing for alleviation of the condition in the United States District Court Building, several of the civic and patriotic organizations have passed resolutions, and, early in the next session of the Congress there is no doubt but that an intense drive will be made to obtain this needed building.

It is only fair to state that a site east of the United States Supreme Court Building, on Capitol Hill, for combined use of United States District Court for the District of Columbia and several other courts has been advocated. To put our trial Court on Capitol Hill, when the Pension Office site is owned by the Federal Government, thus evading the delay of condemnation proceedings, would be an intolerable mistake. The Judges of the Court of Appeals admitted before the Park and Planning Commission that they did not need a new building at the present time, and any member of the Bar knows that, for the present, they are comfortably and adequately housed. It has been said that the Court of Appeals is attempting to ride the coat tails of the really needful District Courts into the tourist lanes of Capitol Hill. It is demonstrable that there is not sufficient ground space for such a building on the squares immediately east of the Supreme Court of the United States. There is not a single law office, legal institution or agency east of the Supreme Court Building. If the trial courts are located on Capitol Hill, it would require the community's litigation to be handled there and litigants, witnesses, jurors, officers, attaches and attorneys would be obliged daily to thread the traffic bottlenecks either in front of Union Station or at the foot of the hill. Bear in mind that the District Court is our local, community Court while to some it appears that the Court of Appeals is striving to aggrandize itself as the second most important Federal Court and catering to Federal litigation. In the Court of Appeals there is no occasion for individuals other than the contending attorneys with their records, briefs and arguments to be present. As far as community interests are concerned the Court of Appeals could just as well be located on the Mall. It has little history, enjoys no community sentiment and is occupied too much with Federal matters, shirking local duties which properly should come before it in the form of appeals by right from the Police Court, Munici-

pal Court and Juvenile Court. For one individual who knows the Court of Appeals and five who know the District Court, there are two thousand who know the minor courts. Something in the neighborhood of 84,000 cases are docketed annually in the Municipal Court of the District of Columbia. Between July 1, 1938, and June 30, 1939, there were 16 Writs of Error *granted* on petition by the Court of Appeals to the Municipal Court. During the same period in the Police Court there were 139,096 cases handled, 57,385 of which were disposed of by the Court, the balance being forfeitures. Four Writs of Error to the Police Court were *granted* by the Court of Appeals. 2659 were presented to the Juvenile Court, 1535 heard by the Judge and 1424 disposed of without Court hearing. The Court of Appeals *granted* one Writ of Error to the Juvenile Court. *Humanum est errare*. Is it believable that out of 139,096 cases heard by the Police Court judges there were only four errors, out of 1535 in the Juvenile Court only one mistake, and of 84,000 odd in the Municipal Court only 16 mistakes! Practically every member of the Bar feels that it is assinine to petition the Court of Appeals for Writs of Error from these minor courts. Its docket could be kept up to date, with proper leisure for extracurricular activities, if the community were afforded what many believe would be simple justice in this regard. Any court can keep up with its docket by the very simple method of refusing to accept litigation. May I suggest that the lower courts rely on this attitude of the Court of Appeals? I have heard lower Court Judges state that if attorneys don't like their decisions they can go to the Court of Appeals and reverse them, and, on one occasion, a lower Court Judge was so expressive of his feelings as to offer to pay the costs if an appeal were granted. Thus, the larger portion of local litigation is ground, nay pulverized, and atomized, between the upper and nether millstones. A general overhauling of practice should be made allowing appeals as a matter of right in cases in the Municipal Court involving more than a certain amount, in Police Court from sentences exceeding certain fixed periods of detention or certain amounts of fine and similar relief from Juvenile Court judgments. Indeed, the process was initiated by the Bar Association Committee on Relations with the

Municipal Court reporting on December 17th its recommendation that appeals as a matter of right be allowed in causes exceeding the sum of \$350.00. Some reform of this nature should be made as regards practice in all the minor courts and the Court of Appeals. Then the Court of Appeals would find itself more of a local court swinging in the community orbit and readily earning something it has not heretofore acquired, local esteem.

This article is admittedly sketchy and laconic. Will it be presumptuous to say that the attitude of the Bar of the District of Columbia towards the courts has always been more generous than the reciprocity of the Bench, and so remains today? The Bar realizes that the District Court, in the accomplishment of justice for the District of Columbia, needs a new building and extends, in every direction, its sincere and wholehearted effort to obtain this objective because it is for the benefit of the citizens of the District of Columbia. In return, the Bar reasonably expects, on some occasions, the cooperation of all the Bench in its work on behalf of the citizens of the District of Columbia and feels that sometimes this has been withheld. Too often the position is taken by a Judge that he is the *whole* Court. As a matter of fact a Court consists of a Judge, the presiding element, the interest of the public, another element, the interest of the litigants, another element, in most cases the jury, another element, and in all cases the attorneys, another element. When all work together, harmoniously, justice results in the particular case and likewise in movements for the betterment of the community.

To return to the theme, as Shakespeare wrote, "The times are out of joint," and heroic efforts are needed in order to accomplish even the usual. The Bar Association of the District of Columbia is definitely committed to the program of obtaining a new structure for the United States District Court for the District of Columbia, on the Pension Office site, and every member is exhorted to exert his utmost effort. The judges with dignity can do little—the Bar can do much. Each member of the Bar is urged to write to Senators and Representatives of the new Congress expressing in no uncertain terms the condition at the Court House and urging an early appropriation. "Every lawyer knows a Congressman." Please send a copy of your letter to the President of the Bar Association in order that your appeal may be followed up.