

The Court Legacy

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Bay City and Its Courthouses

By Judy Christie

Located at the mouth of the Saginaw River at the tip of Saginaw Bay on Lake Huron, by the 1800s Bay City had become a thriving commercial center. The forests around Bay City were lush with white pines which lumberjacks cut down and floated in huge quantities down the river to the city where the

timber was turned into sailing ships or exported. In the spring, lumberjacks flocked to a saloon district in the town nicknamed "Hell's Half Mile" between Water and Third Streets to party after a long, hard winter in the woods. As the forests dwindled and the logging gave out, Bay City maintained its importance as a shipping port for sugar, concrete and other industrial products.1

Bay City's old federal court building

As in many of the districts, including those in Michigan, the federal courts were housed in the post office buildings for reasons of economy and convenience since both were services of the federal government. Bay City did not have a permanent federal court presence until 1893 when the government built a replacement for the post office on Washington Avenue. The property was purchased in 1890 for about \$40,000 and the project was assigned to James H. Windrim as project architect and Dillon Prosser Clark as supervising architect.

A noted architect from Philadelphia, Windrim had designed many post offices throughout the country. The project was held up because the mayor of Bay City and its congressman wanted the location changed from the corner of Fourth Street to Washington between Third and Fourth Streets, and the building material changed from brick to stone. They eventually prevailed but the costs rose to about \$200,000 before the building was finally completed in 1893.²

Windrim chose to design the building in the Romanesque Revival style with a five story tower topped by a hipped roof with finials at each corner. The courtroom, chambers and jury room were located on the second floor with the post office occupying the first floor and other agencies on the third floor. Some of the rooms were finished in oak and had marble fireplaces.3

In 1894 Congress divided the Eastern District of Michigan into the Northern and Southern Divisions. The cities of Saginaw and Bay City engaged in a political fight for the privilege of being designated as the seat for the newlyformed Northern Division. Bay City won, apparently by virtue of its location. Judge Henry Billings Brown (see *The Court Legacy*, Fall 1996), later appointed to the U.S. Supreme Court, was the first judge to take the bench in the new Northern Division.

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THE COURT LEGACY

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Although imposing from the exterior, the 1893 Post Office/Federal Building was the object of many complaints of shoddy construction and in 1931 it was demolished to make way for a new Post Office/Federal Building on the same site. Interestingly, the stone blocks were salvaged by a private citizen, Fred VanHaaren, who used them in building his Bay City home.⁵

James Wetmore was named as the architect of the new federal building. Completed during the Depression, the building is of neo-classical design featuring two entries separated by central bays designed to give natural light to the post office lobby on the ground floor.⁶ While not as grand as the building it replaced, the 1931 Post Office/Federal Building was of sound construction and still houses the Post Office, U.S. District Court and other federal offices.



Bay City's new federal court building

The dedication of the new Bay City courtroom in 1933 drew an impressive array of dignitaries, among them Sixth Circuit Judge Charles Simons and District Judges Ernest A. O'Brien, Arthur J. Tuttle and Edward Moinet. Congratulatory remarks were given on behalf of the Michigan bench by Paul V. Gadola, Circuit Judge of Genesee County and the father of current Senior District Judge Paul V. Gadola, Jr. Following the afternoon dedication ceremony the guests stayed for a testimonial dinner to honor Judge Tuttle's 25 years on the federal bench. At that dinner, Judge Simon sounded a warning which is still applicable today:

Because of the conditions of the times, because of the upheaval that always follows in the wake of a national calamity it will become necessary for a re-evaluation and re-interpretation of the Constitution within a few months . . . In order that calm follow in the wake of this chaotic state, it is necessary that the high standard of the federal judiciary remain intact. Attempts on the part of the Congress to change the status of the federal judiciary at this time or any other time would be fatal to the cause, would jeopardize the entire nation, and would undermine the very foundation upon which it stands so firmly even now in the state of national calamity.⁷

The Northern Division has seen its share of notorious and interesting cases, including Michigan's last death penalty case (U.S. v Chebatoris) and the "Michigan Six" Smith Act Trial, but one notable event in the history of the



Judge Frank A. Picard

courthouse stands out. On Monday, March 12, 1956, Stanley Wloch, a former mental patient who had threatened District Judge Frank A. Picard several times in writing, entered the area outside the courtroom in which Judge Picard was conducting a trial, shoved the muzzle of the 16-gauge shotgun through the swinging doors and shot at the judge, narrowly missing his head. The blast left a pattern of pellets on the wall behind the bench, leading Judge Picard to remark, "I don't know how he missed me . . . some of those pellets went right by the side of my head." Although James Wood, an attorney who was present in the courtroom during the incident, stated in 19938 that Judge Picard chased the shooter and helped capture him, a newspaper account at the time says that the Judge, hearing the shots but thinking they were blanks, walked toward the door of the courtroom, but an FBI agent who had heard the blast had already apprehended Mr. Wloch. Judge Picard demonstrated great calm, however, and continued with the trial that had been in progress before the shot was fired.9

The courthouse has been renovated several times, most recently in 1994, when the bullet holes behind the bench were finally covered up. In recent years, Judge James P. Churchill, Judge James Harvey and Judge Robert H. Cleland have all been in residence at the courthouse. Currently Judge David Lawson serves the Northern Division, still housed in the 1931 Post Office and Federal Building.

End Notes

- 1. For a summary of the history of Bay City, see http://www.tourbaycity.org.
- 2. Dale Patrick Wolicki, *The Historic Architecture of Bay City, Michigan* (Bay City, MI: Bay County Historical Society, 1998), p. 144.
- 3. Ibid.
- 4. Leslie E. Arndt, *The Bay County Story: Memoirs of the County's 125 Years* (Detroit, MI: Harlo Printing Co., 1982), p. 430.
- 5. Wolicki, p. 144.
- 6. Wolicki, p. 164.
- 7. "Bench, Bar Pay Tribute to Judge Arthur J. Tuttle," *Bay City Daily Times*, June 7, 1933, p. 1.
- 8. Transcript "Swearing In of Jessica Wood to the Federal Bench, January 14, 1993" reproduced in Appendix D of *Bay City Federal Building: A Historical Overview*, p. 5 of the transcript.
- 9. "Shot Misses Picard, Stanley Wloch Held by FBI After Shooting," *Bay City Times*, March 12, 1956, p. 1.

Author's Note

Full credit for much of the information contained in this article must be given to Judge David M. Lawson and his chambers staff in Bay City who researched the history of the Bay City courthouse and produced an outline titled *Bay City Federal Building: A Historical Overview*, a copy of which was given to the Historical Society for its archives.

Judy Christie retired in May 2003 as Administrative Manager of the Clerk's Office of the United States District Court for the Eastern District of Michigan. She is now managing the oral history program for the Court.

U.S. District Courts in the Federal Judiciary: Michigan

This is the fifth and final article in a series of articles about the federal judicial system and the creation of the eastern and western district courts in the state of Michigan. The first four articles (September and November 2003, February 2004, and June 2004) provided an historical summary of the federal judicial system, specific information on the development of the Judiciary Act and the Bill of Rights, the Evarts Act, and the Westward Expansion and Reorganization that took place between the civil war and 1891. This article describes how the eastern and western district courts developed in Michigan from 1837 forward.

Because of the jurisdictionally expansive 1875 Judiciary Act1 and the Court of Appeals Act of 1891² the work load of the district court in Michigan grew. The Sixth Circuit remained intact from its 1866 configuration, including Michigan, Ohio, Kentucky and Tennessee.3 Michigan had been admitted as a state on January 26, 1837, and was designated as a single judicial court which was to be held at Detroit.4 Prior to that time Michigan had been a territory extending west to the Missouri and White Earth Rivers, and south to the northern border of the state of Missouri.5

The District of Michigan was originally created on July 1, 1836, in anticipation of Michigan statehood.⁶ The creating act provided that the judge of the Michigan District "shall, in all things, have and exercise the same jurisdiction and powers which were by law given to the judge of the Kentucky district under an act entitled 'An Act to Establish the Judicial Courts of the United States.'" The Michigan district court was directed to build upon a "unique jurisprudence" that had developed in the Kentucky federal court under District Judge Harry Innes during his twenty-seven years on the bench.⁷ Since the act did not assign the Michigan district court to a judicial circuit, it was granted the same jurisdiction as U.S. circuit courts, except in appeals and writs of error,

which were under the jurisdiction of the Supreme Court.

Ross Wilkins, who had served as territorial judge since 1832, was appointed by President Jackson as the first district judge. Only a few months later, in March 1837, the Michigan district court lost its circuit court jurisdiction and was assigned to the Seventh Circuit.8 In July 1862, congress reorganized the circuits and assigned Michigan to the Eighth Circuit.9 However, in January 1863, Congress again reorganized the circuits, namely the Seventh and Eighth Circuits, and assigned Michigan back to the Seventh Circuit, where it remained until 1866.10



Michigan Territory 1834

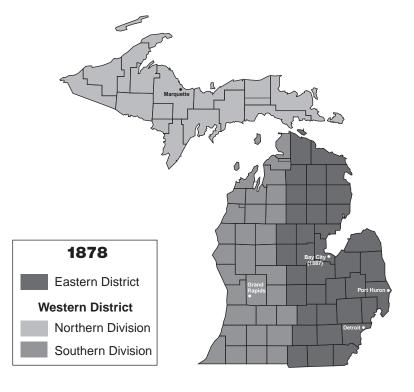


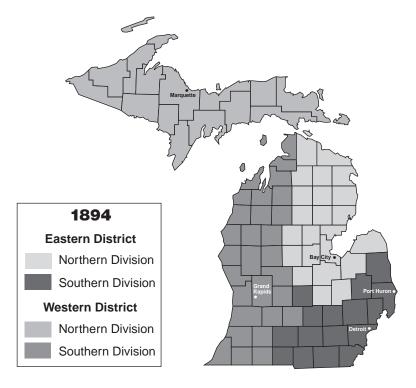
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The Erie Canal was completed in 1825 and by the middle of the century along with the railroad, beginning in 1831, was delivering thousands of settlers to Michigan. The canal, although it terminated at the eastern end of Lake Erie, influenced the rapid westward growth moving to Ohio and on to the Great Lakes. The population of

the west grew from 2.5 million when the canal was completed to 7.5 million in 1850, or from 21 percent to 33 percent of the country's total population.¹¹ The western areas of the state were settled and developed, and in 1863 the Western District, with Grand Rapids as the location of the court, and the Eastern District, with Detroit as the location of the court. were created. One judgeship was authorized for each new district, and the district judge serving the district of Michigan, Ross Wilkins, was reassigned to the Eastern District of Michigan.¹² To form the two new districts the lower peninsula was essentially divided in half, but the Eastern District retained most of the upper peninsula except for the lower portions of

Dickinson, Delta and Menominee Counties. Ross Wilkins served as the Eastern District judge until February 8, 1870, when John W. Longyear was appointed by President Grant. John Longyear served until his death on March 12, 1875. The next judge of the Eastern District, Henry B. Brown, was not appointed until



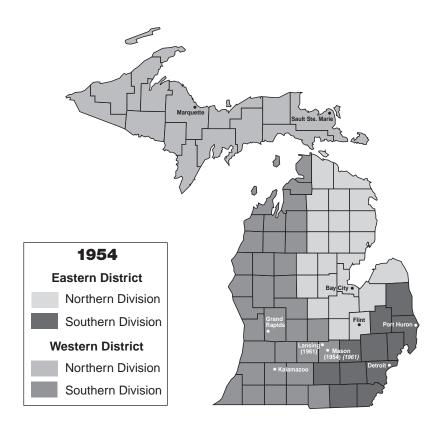


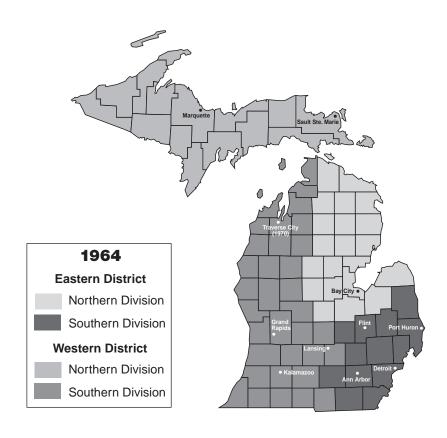
March 19, 1875, and served until he was elevated to the Supreme Court on January 5, 1891. He had also been appointed by President Grant to the Eastern District.

In 1878, the entire upper peninsula was detached from the Eastern District and transferred to the newly created Northern Division of the Western District. Marquette was designated as the place for holding court in the Northern Division. The same year the judge of the Eastern District was authorized to hold court in Port Huron at his discretion. In 1887, Congress directed that two or more terms of court for the Eastern District were to be held annually at Bay City, the third location for holding court in the Eastern District.

Henry H. Swan was the next Eastern District judge after Judge Brown, but was not appointed until January 21, 1891, 16 days after Judge Brown left. Judge Swan, appointed by President Harrison, remained the only judge of the Eastern District until the appointment of Alexis C. Angell by President Taft on March 2, 1911. Judge Swan retired shortly thereafter, on July 1, 1911, and Judge Angel resigned eleven months later, on June 1, 1912. Judge Arthur J. Tuttle was not appointed until about two months later, on August 12, 1912, and served through his death on December 2, 1944. He was also appointed by President Taft. During that time congress authorized a temporary judgeship for the Eastern District¹³ which was filled by Charles C. Simons. He was appointed by President Harding on February 6, 1923. In March 1927, a third judgeship was authorized for the Eastern District and was filled by Edward J. Moinet, appointed by President Coolidge, on June 13, 1927.14 In February 1931, a fourth judgeship was authorized for the Eastern District and Ernest A. O'Brien was appointed by President Hoover on March 4, 1931, to fill the position. 15 Judge Simons was elevated to the Sixth Circuit on February 2, 1932, and his position was left vacant until 1936 when Arthur J. Lederle was appointed.

In 1894, the Eastern District was divided into northern and southern divisions. The times and terms of court at Detroit and Port Huron in the Southern Division remained the same. In 1911, the same year that the circuit courts were abolished, ¹⁶ Port Huron was designated as a discretionary place of holding court for the Northern Division





of the Eastern District. The designation existed until 1954. Sioux Sault Marie was added as a place of holding court for the Western District in 1912, although presently there is no court facility located there.

In August 1935, the temporary judgeship created in 1922 was made permanent.¹⁷ In May 1938, a fifth judgeship was created,¹⁸ and from 1936 through 1946 four new judges were appointed to serve on the court. Arthur F. Lederle was appointed by President Roosevelt to take the position vacated by Judge Simons March 6, 1936; Frank A. Pickard was appointed by President Roosevelt on February 28, 1939 to fill the new fifth judgship; Arthur A. Kocinski was appointed July 18, 1945 to the position vacated by Judge Tutle; and Theodore Levin was appointed July 27, 1946 to the position vacated by Judge Moinet who took senior status on March 1, 1946. Judges Kocinski and Levin were both appointed by President Truman.

In 1948, in the new judicial code, Detroit was again confirmed as the place for holding court for the Southern Division, and Bay City and Port Huron for the Northern Division. In 1954, Congress corrected the 1948 error placing Port Huron in the Northern Division, returning it to the Southern Division. Flint was also added as a place for holding court in the Northern Division. The same year Mason was designated as a place for holding court in the Western Division, along with Kalamazoo. However, Mason was replaced by Lansing in 1961. In 1964, Genesee and Shiawassee Counties were transferred to the Southern Division for the Eastern District. Ann Arbor was added as a place for holding court in the Southern Division, and Flint was moved to the Southern Division. The last change made occurred in 1970 when Traverse City was designated as a place for holding court in the Western District.

End Notes

- 1. 18 Stat. 470.
- 2. 26 Stat. 826. See Court Legacy, June 2004, pp. 5-7.
- 3. 14 Stat. 209 (July 23, 1866.)
- 4. 5 Stat. 144.
- 5. 4 Stat. 701 (June 28, 1834). See "Border Changes in the Northwest Territory 1787-1837," by David Chardavoyne, *Chronicle of the Historical Society of Michigan*, Vol. 27, No. 2, Summer 2004, p.10.
- 6. 5 Stat. 61 (July 1, 1836).
- 7. For an account of this unique jurisprudence and its impact see M. K. Bonsteel Tachau, *Federal Courts in the Early Republic, Kentucky* 1789-1816 (1978).
- 8. 5 Stat. 176 (March 3, 1837).
- 9. 12 Stat. 576 (July 15, 1862).
- 10. 12 Stat. 637 (January 28, 1863).
- 11. Bernstein, Peter L., *Wedding of the Waters*, W.W. Norton & Company (2005), p. 350.
- 12. 12 Stat. 660 (February 24, 1863).
- 13. 42 Stat. 837 (September 14, 1922).
- 14. 44 Stat. 1380 (March 3, 1927).
- 15. 46 Stat. 1197 (February 20, 1931).
- 16. 36 Stat. 1087, 1169.
- 17. 49 Stat. 659 (August 19, 1935).
- 18. 52 Stat. 585 (May 31, 1938).

Authors' Note

Full credit for the information contained in this article must be given to Judge Avern Cohn for a memorandum he prepared in February 1986 chronicling the changes in the Eastern and Western District Courts and referencing the enabling statutes. Further, the illustrations and a great deal of information was obtained from an article in the Michigan Bar Journal published in May 1988. The maps of Michigan were originally the work of Mrs. Ellen White, Manager of the Michigan State University Department of Geography.

News From The Board

At a meeting on March 24, Historical Society board members heard the good news from Bill Winsten that grants of \$15,000 from both the Michigan State Bar Foundation and the Levin Fund were received for funding of a documentary on the Little Smith Act case (a.k.a. "The Communist Six case" a.k.a. "Saul Wellman" case). The film, directed by Ron Aronson of Wayne State University, will be presented publicly for the first time at the annual joint FBA-Historical Society luncheon in November.

In other actions by the board:

- Dores McCree was granted trustee emeritus status in honor of her past service as a trustee since the Society originated in 1993.
- Paula Osborne, chair of the membership committee, announced a drive for membership renewal has brought in over \$1,000 thus far.
- The board voted to request funding from the court for restoration of the portraits of Judges Ross Wilkins and John W. Longyear.
- Court Administrator David Weaver reported on the progress of an exhibit of court artifacts that is being gathered.
 A display case has been purchased, a committee of court staff is working on the labeling of the contents, and the exhibit will be introduced on May 2.

George E. Hand: United States Attorney, 1853 – 1857

By Ross Parker

This is the fifth in a series of articles on the history of the United States Attorney's Office. The other articles appeared in December 1999 (Sibley), September 2000 (Goodwin), June 2003 (Bates) and February 2004 (U.S. Attorneys, 1863-1970).



George E. Hand

George E. Hand was appointed United States Attorney in 1853 by President Franklin Pierce, and served until 1857.

He was born in Connecticut in 1809, attended Yale College, graduating in 1829. He settled in Detroit shortly thereafter and studied law, first with William Fletcher and, later, in 1836.

with Daniel Goodwin. In 1835 he was appointed judge of Wayne County Probate Court, the last such appointment prior to statehood.

Mr. Hand was elected to the Michigan Legislature and was chairman of the committee for the sale of public works. He was considered an athlete in his day and exercised regularly.

One of the reforms which had important early developments in Michigan was the anti-slavery movement. Religious groups, especially the Society of Friends, or Quakers, formed the first abolition societies in the 1830s. A meeting in the Presbyterian Church in Ann Arbor in 1836 resulted in the formation of the Michigan Antislavery Society. The political activities of the society contributed to the development of the third party movements of the 1840s, such as the Liberty and Free Soil parties. These movements, in turn, evolved into the Republican Party in 1854, which was organized in Jackson, Michigan.

During this same time period other people took a more activist approach to the anti-slavery issue. The Michigan portion of the "underground railroad," through which fugitive slaves escaped from the South to freedom in Canada and the northern states, was important to the success of the movement.¹

In the pre-war years, the role of federal officials in Washington in supervising and controlling United States Attorneys began to change. A series of departmental solicitors, especially the Solicitor of the Treasury and the Solicitor of the Interior Department reviewed the United States Attorney's accounts. However, the United States Attorney did not handle all litigation for the federal government. Various departments and bureaus employed their own special attorneys to conduct suits for the United States. The Attorney General, by this time a full-time position, had an Assistant, a clerk, and a library and asserted some limited authority over the United States Attorneys in particular cases.

During the years preceding the Civil War, timber was increasingly recognized as one of the most important resources of the state. As United States Attorney, Mr. Hand attempted to protect the public lands from illegal logging. He prosecuted a defendant named William Thompson for cutting 5,000 pine trees on public land in October 1853.2 The defendant was convicted, and United States District Judge Ross Wilkins denied the motion in arrest of judgment. Judge Wilkins held that an error in the caption of the indictment had no effect on the charge, and the failure to allege that the criminal acts were done unlawfully was unnecessary.3 Mr. Hand, however, was not as successful in another prosecution that same year for removal of timber from the mouth of the Muskegon River.4 Judge Wilkins ruled in that case that the failure to identify the particular section where the trees had been felled made the indictment fatally vague. See also United States v. Potter,⁵ in which Judge Wilkins upheld a conviction for removing timber notwithstanding the defendant's subsequent objection to the method used to poll the jurors.

Postal theft cases have long been a steady source of prosecutions for the United States Attorney's Office. In United States v. Patterson, the defendant, a postal employee, was convicted of embezzling a \$50 bank note from a letter in the post office. Judge Wilkins denied the motion to arrest judgment and rejected the formalistic pleading requirements of the English courts which had been adopted by some state courts.

The time has gone by when the technical objections so ably urged in the argument, and for which there is so much authority in England and in our state tribunals, can be of any force in the courts of the United States.⁷

Mr. Hand, like other United States Attorneys during the nineteenth century spent much of his time attempting to collect debts owed to the United States. The procedures were often elaborate and confusing.⁸

Mr. Hand was a founder of the Detroit Bar Society and served as its president. He was a financial benefactor of the University of Michigan and was selected as Visitor of the University 1847-1848. During his law practice, he was said to have been quite successful financially until in advanced years he became mentally incompetent and was sent back to a home in Connecticut.

George Hand died in 1889. ■

End Notes

- 1. For an in depth look at the Crosswhite case and others brought in the Michigan District Court, see *The Court Legacy*, November 2004.
- 2. United States v. Thompson, 28 F.Cas. 98 (C.C.D. Mich. 1853).
- 3. *Id.*, pp. 99-100.
- 4. United States v. Schuler, 27 F.Cas. 978 (C.C.D. Mich. 1853).
- United States v. Potter, 27 F.Cas. 604 (C.C.D. Mich. 1854).
- 6. United States v. Patterson, 27 F.Cas. 466 (C.C.D. Mich. 1855).
- 7. *Id.*, pp. 466.
- 8. United States v. Backus, 24 F.Cas. 932 (C.C.D. Mich. 1855).

Author's Note

Mr. Parker has been an Assistant United States Attorney assigned to the Detroit office since 1978. He is currently working with Cathy Beck on a book about the history of their office. Mr. Parker thanks Ms. Beck for her assistance in researching this article.

Port Huron Federal Building

By Matthew Heron and Matt Dawson

This is the second part of a two-part article on the architecture of the federal court in Port Huron. Part one discussed the building of the structure and the judges who have occupied its chambers and courtroom. This part discusses the architectural changes that have been made since the original completion of the building.

Since its completion in 1875, the Federal Building has undergone many changes, the first of which was the erection of a war memorial in 1916, with a plaque commemorating Civil War soldiers being added in 1925. The war memorial replaced a classical fountain which had originally stood outside



Excavating begins on the one-story addition in 1932

of the front of the building. The fountain, made of reddish colored stone, had been decorated with the sculptures of two Grecian ladies named Mag and Mayme. The names came from characters in a local newspaper column who were famous for sharing the town's local gossip. After the war memorial was built the fountain was moved to Lighthouse Park, but it was plowed under in 1932 to make "fill" for the landscape when the Coast Guard Station was built.

In 1932 a one story-high addition was made on the rear of the building designed to match the basement of the main building. Then, in a patriotic move during World War II, the copper on the dome of the roof was replaced by a series of galvanized copper treatments. These treatments, however, tended not to last long and wore out very quickly.



Construction of the foundation



Construction continues on the one-story addition

Finally, in 1986 the U.S. General Services Administration commenced an historical restoration and modernization of the Federal Building. Outside, stone steps at the north and east entrances were added along with new sidewalk and curbing. The war memorial area around the flag pole was landscaped and the six chimneys on the roof were removed. In addition, the dome was once again adorned in copper as it had been over 100 years before.

The interior of the building underwent many changes as well. New acoustical ceilings were installed, a new lobby was constructed, and eight Greek-style column pillars which had been covered by the construction of numerous offices over the years were restored. On the first and third floors much of the area was redesigned to house different



Completion of the one-story addition



Post-1932, after completion of the one-story addition

government offices. The second floor, housing the District Court, also underwent major remodeling to accommodate the courthouse and judge's chambers as well as offices for the Court reporter, law clerk, and other court personnel.

Finally, as many visitors to courthouses know, pigeons often flock near the building's entrances, and make annoying messes. To counteract this inconvenience, a unique feature of the modernization project included the installation of devices designed to drive away pigeons. These anti-pigeon devices emit high-frequency sounds which irritate the pigeons and keep them away from the building's entrances.

Over the years the Federal Building has been the home to many government offices besides the original post office, customs office, and District Court. The Building's many tenants have included the Navy and Air Force Recruiting Offices, the Agriculture Stabilization and Conservation Office, the Farmers Home Administration and the Soil Conservation Service of the United States Department of Agriculture, the Department of Labor Wage-Hour Division, the Social Security Office, the Local Draft Board, and the Internal Revenue Service. In addition to these federal offices, the Federal Building also housed several St. Clair County offices.

For well over 130 years, the Federal Building has stood as a monument in the City of Port Huron. Since the Port Huron Federal Building was built in 1875, the citizens of Port Huron have seen it undergo many changes. However, while it has changed over time, the Port Huron Federal Building has retained the original classical character and beauty that has made it perhaps the most unique site of a Federal District Court in the State of Michigan.

Authors' Notes

The history of the Port Huron Federal Building was compiled and completed by Matt Dawson, intern with the Honorable Lawrence P. Zatkoff, Spring 2004, and Matt Heron, law clerk for Judge Zatkoff, 2002-2004, using information provided by the Historical Society of the Eastern District of Michigan and pictures provided by both the Historical Society and the United States National Archives in Washington D.C. Matt Heron now works at Clark Hill, PLC and Matt Dawson will be graduating from Ava Maria School of Law this spring.

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