

Historic Preservation

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Law and Culture

Cases and Materials

Nicholas A. Robinson

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We dedicate this casebook with gratitude in honor of Dorothy M. Miner.

Nicholas A. Robinson and Shelby D. Green



New York Preservation Archive Project

Dedication

Dorothy Marie Miner

1936–2008

Dorothy Miner taught Historic Preservation Law at the Columbia University’s School of Architecture and at Pace University’s School of Law, for each of the fourteen years before her death. She curated many of the materials included in this casebook. For nineteen years before her academic life, she served as the first General Counsel to the New York City Landmarks Preservation Commission. What she accomplished with and for the Landmarks Preservation Commission was extraordinary. Within weeks of her death, New York City Corporation Counsel’s office honored her by rededicating its highest service award, which recognizes legal counsel serving across all the City’s agencies, in her name. The State of New York coincidentally honored her the very same day. One lawyer can make all the difference.

Perpetually understaffed, the Landmarks Preservation Commission hired Dorothy to become its only staff attorney in 1975. This was a time of great uncertainty about the constitutionality of the City’s Landmarks Preservation Law. State courts had divided over the legality of the landmark status conferred upon Grand Central Terminal and the case was on appeal. The New York City Real Estate Board had told Mayor Robert Wagner that the law was unconstitutional before he signed it into law in 1965. Dorothy became a key player on the City’s small legal team that won the 1978 United States Supreme Court’s ruling in *Penn Central Transp. Co. v. New York City*, upholding the constitutionality of New York’s landmarks law. Dorothy loved the enduring quality of Justice William J. Brennan’s decision. When opponents of landmarks laws railed on, she never tired of quoting Justice Sandra Day O’Connor’s later ruling in 2002 that “Our polestar remains the principles set forth in *Penn Central* . . .” Today, municipalities across the United States pattern their landmark procedures on those that Dorothy Miner designed in New York City. She loved to recall how Justice Brennan exclaimed, every time he walked out of Grand Central Terminal, how great it was to see the sky above the landmark terminal.

Throughout her life, Dorothy’s integrity and commitment to core values was invincible, leaving no room for expedient compromising. She loved accuracy and truth, for its own sake, and had an appetite for meticulous and tireless craftsmanship in drafting legal documents replete with all their minutia and detail. She served the Landmarks Preservation Commission and a succession of Commission chairs with

dedication. Self-effacing to a fault, Dorothy sought no limelight, serving both her principals and her principles ably. On April 27, 1965, after the City's Landmarks Preservation Law was adopted, the *New York Times* warned that "The past is yet to be secured for the future." Its editorial page opined that "It will take imagination, dedication, concern, citizen action, private financing and public cooperation to effect preservation under the new law." When Dorothy died on October 23, 2008, the *New York Times* hailed her as "a legal innovator." Historic preservation law thrives today, imbued with Dorothy's intellect.

Contents

List of Images	xix
Acknowledgments	xxi
Chapter 1 · Why Protect the Historic	3
A. Should “Law” Protect the “Historic”?	3
1. Probing the Questions: Why “Preserve” Historic Cultural Patrimony?	3
2. Awakening Awareness of Places Historic	3
B. Scoping Out the Study of Preservation Law	8
C. Legal Systems to Conserve the Built Environment	11
D. Does “Memory” Inform Cultural or Legal Awareness of an Historic Site?	12
E. “New” Reverence for History	16
F. Discussion Problems for Our Age	19
1. Edward Hopper’s Landscapes	19
2. Manhattan’s Colonial Dutch Street Pattern	21
3. My Father’s Ax & Re-Imagined Structures	24
4. Native Hawaiians and the 30 Meter Telescope Atop Mauna Kea	25
5. Places Acclaimed in Literature	26
6. The Locusts—Birthplace of John Jay	28
Notes and Questions	32
G. The Book’s Design	32
Chapter 2 · Constitutional Foundations for Preservation Law: The Landmark Case of <i>Penn Central Transportation Company v. New York City</i>	33
A. Grand Central Terminal Landmark Designation Report	33
Grand Central Terminal Landmark Designation Report	33
Notes and Questions	35
1. Denial of Certificate of Appropriateness	40
Denial of Permit for Certificate of Appropriateness	40
Notes and Questions	52
B. Penn Central New York Trial Term Decision: Judge Saypol’s Decision on the Request for a Certificate of Appropriateness	52
<i>Penn Central Transportation Company v. City of New York</i>	52
Notes and Questions	57
1. Penn Central’s Interest in Grand Central Terminal: Judge Saypol’s Decision on the Validity of the Designation	58

<i>Penn Central Transportation Company v. The City of New York</i>	58
C. Appellate Division Review of <i>Penn Central</i>	62
<i>Penn Central Transportation Co. v. City of New York</i>	62
Notes and Questions	68
D. Court of Appeals of New York <i>Penn Central</i> Decision	70
<i>Penn Central Transportation Co. v. City of New York</i>	70
Notes and Questions	78
E. <i>Penn Central</i> Oral Argument in Front of the Supreme Court of the United States	80
<i>Penn Central Transportation Co. v. New York City</i>	80
Notes and Questions	111
1. Decision of the Supreme Court of the United States on the <i>Penn Central</i> Case	111
<i>Penn Central Transportation Co. v. New York City</i>	111
Notes and Questions	139
F. Subsequent Takings Jurisprudence of the U.S. Supreme Court	144
1. The <i>Tahoe-Sierra</i> Decision	144
<i>Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency</i>	144
Notes and Questions	165
The Campaign to Preserve the Jay Heritage Estate: An Epic Battle on Many Fronts	171
Notes and Questions	176
Chapter 3 · Characteristic Variations Among Historic Preservation Ordinances	179
A. Other Historic Preservation Ordinances for the Designation of Historic Landmarks and Districts	179
1. Charleston, South Carolina, Historic Preservation Ordinance	179
<i>Burke v. City of Charleston</i>	180
Notes and Questions	186
2. New Orleans, Louisiana, Historic Preservation Ordinance	188
<i>Maher v. City of New Orleans</i>	188
Notes and Questions	199
<i>City of New Orleans v. Pergament</i>	200
<i>City of New Orleans v. Impastato</i>	202
Notes and Questions	204
3. Santa Fe, New Mexico, Historic Preservation Ordinance	206
<i>City of Santa Fe v. Gamble-Skogmo, Inc.</i>	206
Notes and Questions	211
4. Early Role of Federal Government in Historic Preservation	213
<i>United States v. Gettysburg Electric Ry. Co. (Two Cases)</i>	213
Notes	217
5. Pennsylvania Historic Preservation Ordinance	220

<i>United Artists' Theater Circuit, Inc. v. City of Philadelphia</i>	220
Notes and Questions	231
<i>District Intown Properties Limited Partnership v. District of Columbia</i>	233
Notes and Questions	242
Jay Heritage Estate Under Local and National Preservation Laws	
National Historic Landmarks (“NHLs”)	243
Notes and Questions	245
B. Not-for-Profit Owners Cases	246
<i>In the Matter of the Trustees of the Sailors' Snug Harbor in the City of New York v. Platt</i>	246
Notes and Questions	247
<i>Society for Ethical Culture in the City of New York v. Spatt</i>	248
Notes and Questions	255
1. The Marymount School Certificate of Appropriateness	255
<i>1025 Fifth Avenue, Inc. v. Marymount School of New York</i>	262
Notes and Questions	267
2. Mathew Brady Studio at 359 Broadway Designation Report	267
<i>Russo v. Beckelman</i>	274
<i>Russo v. Beckelman</i>	279
Notes and Questions	280
3. Four Seasons Interior Designation	281
4. Four Seasons Designation Report	281
<i>Matter of Teachers Insurance and Annuity Association of America v. City of New York</i>	289
<i>Matter of Teachers Insurance and Annuity Association of America v. City of New York</i>	296
<i>Matter of Teachers Insurance and Annuity Association of America v. City of New York</i>	297
Notes and Questions	302
C. Regulation of Designated Historic Districts	304
<i>Fairfield Historic District Commission v. Hall</i>	305
Notes	308
1. Denial of Certificate of Appropriateness	309
<i>Figarsky v. Historic District Commission of the City of Norwich</i>	309
<i>Kalorama Heights Limited Partnership v. District of Columbia Department of Consumer and Regulatory Affairs</i>	315
Notes and Questions	323
Booker T. Washington House	325
Notes and Questions	326
2. Hardship Applications	327
a. Economic Valuation	327
<i>Weinberg v. City of Pittsburgh, Historic Review Commission</i>	327
<i>City of Pittsburgh, Historic Review Commission v. Weinberg</i>	332

Notes and Questions	338
D. Self-Imposed Hardships	340
<i>Zaruba v. Village of Oak Park</i>	340
Notes and Questions	347
E. Enforcement of Designation Standards	348
Notes	349
F. State Building and Fire Codes	353
Chapter 4 · Federal Historic Heritage Law: Archaeology on Public Lands and in Historic Buildings	355
A. Antiquities Act of 1906	355
<i>Utah Association of Counties v. Bush</i>	355
Notes and Questions	370
B. Historic Sites Act of 1935	372
<i>Barnidge v. United States</i>	373
Notes and Questions	377
C. With Heritage So Rich	379
Excerpt from “With Heritage So Rich”	379
Notes and Questions	386
1. National Register of Historic Places	387
a. Criteria for Evaluation and National Park Service Guidance Documents	387
<i>Moody Hill Farms Limited Partnership v. United States Department of the Interior, National Park Service</i>	387
Notes and Questions	393
2. Historic Flora and Fauna	394
<i>Hatmaker v. Georgia Department of Transportation</i>	394
<i>Dugong v. Rumsfeld</i>	406
Notes and Questions	414
3. When Does NHPA Apply?	415
<i>WATCH v. Harris</i>	415
Notes and Questions	425
<i>Committee to Save Cleveland’s Hulets v. U.S. Army Corps of Engineers</i>	427
<i>Pueblo of Sandia v. United States</i>	437
Notes and Questions	443
5. Historic Preservation Aided by Environmental Review	447
<i>Muckleshoot Indian Tribe v. U.S. Forest Service</i>	447
Notes and Questions	457
<i>Hoonah Indian Association v. Morrison</i>	459
Notes and Questions	463
6. Who Has Standing to Assert Section 106? What Injuries Are Cognizable?	464
<i>Pye v. United States</i>	464

Notes and Questions	471
D. Department of Transportation Act of 1966, Section 4(f)	474
<i>Citizens to Preserve Overton Park, Inc. v. Volpe</i>	474
Notes	483
<i>Druid Hills Civic Association, Inc. v. Federal Highway Administration</i>	487
Notes and Questions	494
<i>Merritt Parkway Conservancy v. Mineta</i>	495
Notes and Questions	503
<i>River Fields, Inc. v. Mary Peters</i>	504
Notes and Questions	507
E. Native American Graves Protection and Repatriation Act	510
<i>Bonnichsen v. United States (The Kennewick Man Case)</i>	510
Notes and Questions	520
F. National Environmental Policy Act	522
<i>Robertson v. Methow Valley Citizens Council</i>	522
Notes and Questions	532
G. Intersection of Environmental and Historic Issues	533
<i>Greene County Planning Board v. Federal Power Commission</i>	533
Notes and Questions	538
H. Protections for National Historic Landmarks	540
<i>Presidio Historical Ass'n v. Presidio</i>	540
Notes and Questions	553
I. Historic Structures within Parks	554
1. Cultural Heritage in the Wilds: Conference Report	554
Camp Topridge, New York	554
2. A Proposal for a Comprehensive Policy for Historic Preservation in the Adirondack and Catskill Parks	558
Honorable Maurice Hinchey	558
Notes and Questions	561
<i>Olympic Park Associates v. Mainella</i>	563
Notes and Questions	570
Chapter 5 · Emergent Parallel State and Federal Procedures	571
A. State Historic Preservation Acts	571
1. Consultation Requirements	571
<i>Sierra Club v. Board of Education of City of Buffalo</i>	571
Notes and Questions	573
<i>Ebert v. New York State Office of Parks, Recreation & Historic Preservation</i>	574
Notes and Questions	576
2. State Registers	577
3. Agency Stewardship Obligations	577
4. Expanded Enabling Authority for Local Governments	578

B. “Little NEPAs”	579
1. California’s CEQA	579
<i>League for Protection of Oakland’s Architectural and Historic Resources v. City of Oakland</i>	579
Notes and Questions	585
From a “Brownfield” to a New Preservation Model at Jay Heritage	586
Notes and Questions	588
<i>Architectural Heritage Association v. County of Monterey</i>	589
Notes and Questions	598
2. New York’s Historic Preservation Act	600
a. Applicant’s Guide to the State Historic Preservation Act	600
<i>Dunk v. City of Watertown</i>	600
Notes and Questions	602
Chapter 6 · Regulation of Archaeological Resources	605
A. State Archaeological Statutes	605
<i>Whitacre v. Indiana</i>	605
Notes	608
B. Archaeological Resources Protection Act of 1979	608
<i>United States v. Gerber</i>	608
Notes and Questions	612
<i>United States v. Shivers</i>	613
Notes and Questions	616
C. Indian Tucker Act	622
<i>United States v. White Mountain Apache Tribe</i>	622
Notes and Questions	631
D. 36 C.F.R. Part 79: Curation of Federally-Owned and -Administered Archaeological Collections	631
1. A Decade of Study into Repository Fees for Archaeological Curation	632
S. Terry Childs & Seth Kagan, National Park Service, Archaeology Program	632
Notes and Questions	634
Chapter 7 · Landscapes under Several Points of Use	637
A. Urban Parks	637
1. Olmstead Parks	637
Notes and Questions	638
B. Viewsheds	639
1. The Olana Viewshed: Objection to Consistency Certification	
Letter to Mr. David Loomes, Director of the Greenport Project, St. Lawrence Cement Company, LLC	639
Notes and Questions	639

<i>Columbia River Gorge United-Protecting People and Property</i>	
<i>v. Yeutter</i>	643
Notes and Questions	647
Jay Heritage Landscape Stewardship	653
Notes and Questions	654
Chapter 8 · Accommodating Cultural Heritage Legal Obligations	
with Competing Public Policies	655
A. Landmark Designation and the Regulation of Religious Buildings and Sites	655
1. St. Bartholomew’s Church in New York City	656
a. Letter to Reverend Thomas H. Bowers Concerning the Certificate of Appropriateness for St. Bartholomew’s Church	656
<i>Rectors, Wardens, and Members of the Vestry of St. Bartholomew’s Church v. City of New York</i>	660
<i>Rectors, Wardens, and Members of the Vestry of St. Bartholomew’s Church v. City of New York</i>	670
Notes and Questions	677
2. First Covenant Church in Seattle, Washington	679
<i>First Covenant Church of Seattle v. City of Seattle</i>	679
<i>First Covenant Church of Seattle v. City of Seattle</i>	688
Notes and Questions	700
<i>Keeler v. Mayor & City of Cumberland</i>	701
Notes and Questions	709
B. The First Amendment’s Freedom of Speech Clause	714
<i>Globe Newspaper Company v. Beacon Hill Architectural Commission</i>	714
<i>One World One Family Now v. Miami Beach</i>	725
Notes and Questions	729
C. Access to Landmarks and the Americans with Disabilities Act	730
<i>Neighborhood Association of the Back Bay, Inc. v. Federal Transit Administration</i>	731
<i>Gartright-Dietrich v. Atlanta Landmarks, Inc.</i>	742
Notes and Questions	746
1. Americans with Disabilities Act Historic Sites Compliance	747
<i>Molski v. Foley Estates Vineyard and Winery, LLC</i>	747
Notes and Questions	755
Chapter 9 · Adaptive Reuse and Economic Development of Historic Structures	757
A. Adaptive Reuse	757
1. New Uses for the Historic	757
2. Regulatory Guidance and Support	758

Notes and Questions	762
3. Economic Successes of Adaptive Reuse	762
4. Market Dynamics	763
B. Federal Tax Incentives for Rehabilitation	765
Federal Tax Incentives for Rehabilitating Historic Buildings	765
1. Economic Effects of Historic Tax Credits	766
2. Repeal or Revision of the Historic Tax Credit, the 115th Congress, 1st Session	767
3. Historic Preservation Easements	768
4. Tax Incentives at Work	769
a. Annex — The Mills at High Falls Project: Federal and State Programs	769
Notes and Questions	772
4. Grants	775
Chapter 10 · International Stewardship of Cultural Heritage	777
A. United Nations Educational, Scientific, and Cultural Organization (“UNESCO”)	777
1. The International Council of Monuments and Sites (“ICOMOS”)	778
2. The Convention Concerning the Protection of World Cultural and Natural Heritage	778
Notes and Questions	780
B. Inscription on the List of World Heritage in Danger	784
C. Helping Nations to Protect Monuments	785
D. Protections for Cultural Resources during Times of Armed Conflict	788
1. Conventions, Pacts, and Protocols	788
Notes	790
2. The Blue Shield	791
3. Protections for Cultural Property during the Civil War: The Lieber Code	793
E. Return of Stolen Cultural Property	794
Notes	795
F. Protecting Landscapes as Historic Architecture and Monuments	795
1. International Landscape Protection Programs	795
2. European Landscape Convention	797
3. Urban Landscapes	798
Notes	799
G. Social and Economic Benefits of International Protections for Cultural Heritage	800
Chapter 11 · Historic Preservation and Impacts of Climate Change	803
A. Anticipating Impacts	803
1. United States Historic Properties and Preparedness	805

2. Sea Level Rise and Coastal Historic Sites: Venice, New Orleans, & New York	806
Notes and Questions	815
3. Moving Monuments from Harm's Way	815
Notes and Questions	816
Table of Cases	819
Index	823

List of Images

Dorothy M. Miner	x
Edward Hopper's <i>Light at Two Lights</i> and <i>Road in Maine</i>	21
Street Plan of New Amsterdam and Colonial New York	22
Penn Station c. 1910	40
Two views of Grand Central Terminal	142
Houses near Lake Tahoe and Lake Tahoe	167
The Peter Jay Mansion	172
Cemetery Ridge, Gettysburg National Park	218
The Cyclorama Building	220
The Ceiling in the Grand Central Terminal	232
The Boyd Theater	233
Music Hall at Sailors' Snug Harbor	248
The Marymount School	268
Four Seasons Restaurant, Brilliant Pool Room	285
Grand Staircase Escalante National Monument	371
African Burial Grounds	446
Camp Sagamore	562
The Willamette Meteorite	619
Olana	640
St. Bartholomew's Episcopal Church	677
Chabad Lubavitch Community Center	713
U.S. Supreme Court Building	747
Abu Simbel, Egypt	787
The High Line, New York City	799
Plaque Celebrating John Jay	802
Fort Point Lighthouse, San Francisco, California	818

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