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# Fighting "Civic Smallpox": The Civic Club of Allegheny County's Campaign for Billboard Regulation, 1896-1917

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by Kristin Szylvian Bailey

## Introduction

**I**N February 1911, J. Horace McFarland, President of the American Civic Association, warned a Pittsburgh audience that their city was afflicted by a "civic smallpox." McFarland's audience did not have to go far from their seats to see evidence of this disease. As they emerged from the portals of Carnegie Institute, the magnificent cultural center built a few years earlier with a gift from the industrialist-philanthropist Andrew Carnegie to the city, they faced a wall of billboards enclosing the city block across what is presently known as Forbes Avenue.<sup>1</sup> The billboards were located several feet from the sidewalk, effectively walling off the view from the street. In 1911, people could erect a billboard in any part of the city, providing they obtained a city license and the written consent of the property owner.<sup>2</sup>

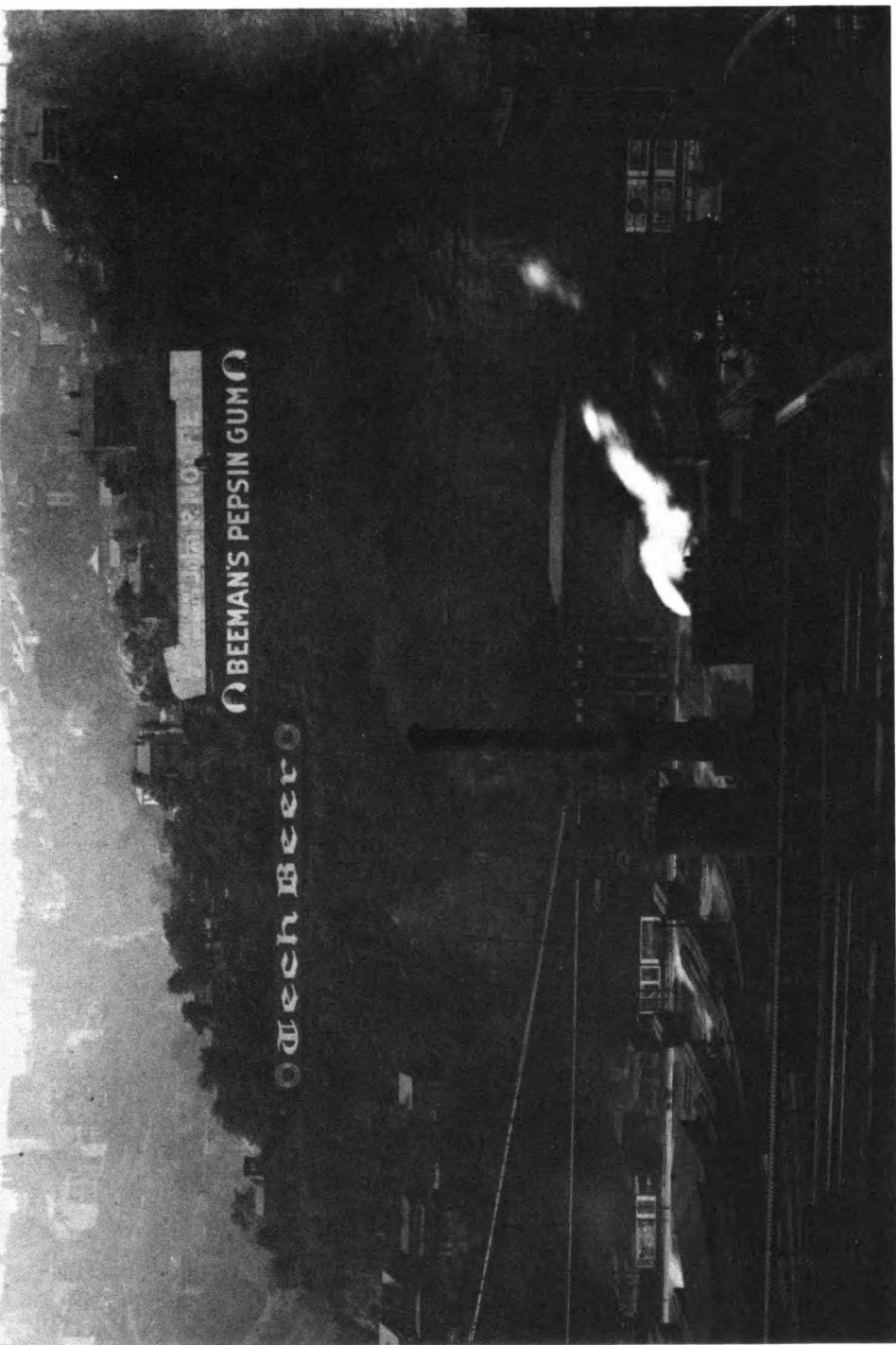
Evidence of the need for billboard regulation in the city during the early twentieth century can be found in photographs of the day. In 1915, the hillside of Mount Washington featured huge signs advertising Tech Beer and Beeman's Pepsin Gum which were intended to be viewed from downtown. Similarly, the bluff upon which Duquesne University is located was also dotted with billboards. In 1911, the corner of Hamilton and Fifth Avenues was photographed a month before Christmas. The billboards at that location featured advertisements of national products such as Kellogg's Cornflakes and local

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1 The Carnegie Institute was dedicated to the public in 1895. The present foyer to the Music Hall which faces Forbes Avenue was dedicated in 1907. See Agnes Dodds Kinard, *Celebration of Carnegie: The Man, the Institute and the City* (Pittsburgh, 1979), 10.

2 See: *Pittsburgh Gazette-Times*, Feb. 27, 1911, and related clippings in Scrapbooks of the Civic Club of Allegheny County, Record Group 70.2, series 5, Archives of Industrial Society (hereafter AIS), Hillman Library, University of Pittsburgh.



Mount Washington and its signs, ca. 1915 (photograph courtesy of The Archives of Industrial Society, University of Pittsburgh)

items. Three of the billboards of local interest advertised vaudeville theaters, one of which promised "continuous vaudeville" that "positively opens Christmas Day." This billboard was directly next to one which advertised a toy store, featuring Santa Claus.<sup>3</sup>

The billboard blight that disfigured Pittsburgh in the early twentieth century plagued most major cities. Critics of unregulated outdoor advertising objected to "all forms of outdoor advertising display not relating to business conducted on the premises," usually referred to as off-site advertising.<sup>4</sup> They called for the removal of the Pabst Beer sign that was located at the entrance of Philadelphia's Fairmont Park and for the prohibition of billboards on Fifth Avenue in New York City and the area around the Capitol grounds in Washington, D.C. While unregulated outdoor advertising marred the urban landscape, its effect on the appearance of the rural landscape was even more disconcerting. An early-twentieth-century visitor to Niagara Falls would have found "Coca-Cola advertised along the side, while Mennen's Toilet Powder hangs over the great gorge."<sup>5</sup> Billboards surrounded many of the nation's scenic vistas including the Grand Canyon, the Palisades of the Hudson River, and the Great Horseshoe Bend on the Pennsylvania Railroad line in the Allegheny Mountains.

The presence of such advertising signs reflected the inability of various civic reform groups to convince local governments to establish an effective billboard regulatory policy similar to that of many European cities. The emergence of the City Beautiful movement, whose advocates campaigned for visual improvement of the cities, signaled the beginning of a change in public sentiment away from laissez-faire government and towards greater tolerance of government regulation of land use.<sup>6</sup> Throughout American history, the rights of individuals to

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3 The forementioned photographs were taken by the city photographer of Pittsburgh. They are located at the Archives of Industrial Society.

4 J. Horace McFarland, "Why Billboard Advertising As At Present Conducted Is Doomed," speech given at the Waldorf-Astoria, New York, Feb. 11, 1908. Manuscript Group 85, Box 14, Pennsylvania State Archives (hereafter PSA).

5 Ibid.

6 The term "City Beautiful" is a difficult one to define. Mario Manieri-Elia, in "Toward an 'Imperial City': Daniel H. Burnham and the City Beautiful Movement," *The American City: From the Civil War to the New Deal*, translated by Barbara Luigia La Penta (Cambridge, Mass., 1979), 1-142, asserted that scholars should make distinctions between the architectural ideals of Daniel H. Burnham, the civic improvement movement led by Charles Mulford Robinson, the parks and boulevards movement inspired by Frederick Law Olmsted, and the movement for professional city planning. Many scholars have, however, understandably encountered difficulty in separating the above. For the purposes of this paper, the City Beautiful

control the use of their property have been carefully guarded. However, some limits on property usage have always existed when the rights of other individuals were endangered. Such laws governing the use of private property must involve the health, safety, morals, or welfare of society for the state to exercise legally its policing powers. These measures, which have often been referred to as "nuisance laws," were transplanted from British society to the American colonies. In colonial times, some of these laws included prohibitions against the use of highly flammable materials in construction, the disposal of wastes, and the projection of signs into thoroughfares.

By the nineteenth century, a number of restrictions on land use existed. Long before zoning was introduced in the United States in the 1920s, many cities required slaughterhouses and cemeteries to be located in certain districts. Other such provisions concerned the use and disruption of natural waterways and the width of thoroughfares. While many of these laws helped to protect property values, they also served the public good. However, government regulation of land use was not viewed as favorably in the nineteenth century as it was in colonial times. As the United States became more urbanized and industrialized, legislative proposals affecting the use of private property met with increasing resistance. In this climate, cities grew in a haphazard fashion. It was not until the late nineteenth century that urban-based groups began to organize to improve the quality of city life and the lay-out and appearance of its landscape.

The Civic Club of Allegheny County's campaign for the regulation of outdoor advertising formed a little-known part of this movement for urban reform. The Civic Club was a typical early-twentieth-century reform group. It was a small, private organization made up of members from the community's business and professional elite.<sup>7</sup>

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Movement, as explained by Manieri-Elia, "expressed a utopian order achieved by composing the most disquieting contradictions in a harmonious monument to the state" (*The American City*, 77). The best overviews of the movement are found in Mel Scott, *American City Planning Since 1890* (Berkeley, 1969), 47-109, and Paul S. Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Cambridge, Mass., 1978), 262-66. A case study which concentrates on the Kansas City park movement is William H. Wilson, *The City Beautiful Movement in Kansas City*, University of Missouri Studies, vol. 40 (Columbia, Mo., 1964). A contemporary view of the campaign for civic aesthetics appeared in Charles Mulford Robinson's *Modern Civic Art or The City Made Beautiful* (New York, 1903). Important articles on the movement include: Jon A. Peterson, "The City Beautiful Movement: Lost Origins and Forgotten Meanings," *Journal of Urban History* 2 (1976): 415-34, and William H. Wilson, "Harrisburg's Successful City Beautiful Movement," *Pennsylvania History* 47 (1980): 213-33.

7 According to Samuel P. Hays, the Civic Club was one of two citizens' or-

Civic clubs and municipal improvement societies were formed throughout the United States in the late nineteenth and early twentieth centuries.<sup>8</sup> The motivations of these groups were nearly as numerous as the groups themselves. This diversity was recognized by contemporaries such as Charles Mulford Robinson. In "Improvement in Civic Life," a three-part article which appeared in the *Atlantic Monthly* in 1893, Robinson divided the forces which aimed to improve urban life into three groups: philanthropic, educational, and aesthetic.<sup>9</sup> The fight for civic improvement, then in its early stages, proceeded in some other directions in addition to the three discussed by Robinson. Nevertheless, the reformers tended to agree that aesthetic improvements would enhance the quality of urban life. As Paul S. Boyer has pointed out, in this era, civic groups advocated parks, boulevards, playgrounds, settlement houses, public baths, and city beautification in part because they believed that there was a connection between the physical appearance and conditions of a city and the moral character of its inhabitants. Such reformers believed that the improvement of the city's aesthetic appearance would provide for the

. . . larger happiness of great masses of people, whose only walks are city streets, whose only statues stand in public places, whose paintings hang where all can see . . .<sup>10</sup>

The advocates of housing reform, public parks and playgrounds,

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ganizations which were successful in bringing about centralized, executive political power in Pittsburgh city government. Hays found that the club's members opposed the localized ward system of political representation in which power was in the hands of blue-collar workers and individuals who lacked a professional business and administrative education. See: Samuel P. Hays, "The Shame of the Cities Revisited: The Case of Pittsburgh," in *Muckrakers and Society*, ed. Herbert Shapiro (Boston, 1968), 75-81, and "The Politics of Reform in Municipal Government in the Progressive Era," *Pacific Northwest Quarterly* 55 (1964): 157-69. One of Hays' students, Mary Young, wrote a paper, "The Civic Club of Pittsburgh, 1895-1945." Young's paper, which incorrectly identifies the Civic Club as that of Pittsburgh rather than Allegheny County, traces the social background of some club members. See Record Group 70.2, AIS.

8 Standard works on the municipal reform movement of the late nineteenth and early twentieth centuries are Clifford W. Patton, *The Battle for Municipal Reform: Mobilization and Attack, 1895-1900*, 1940 reprint (College Park, Md., 1969); Charles N. Glaab and A. Theodore Brown, *A History of Urban America* (New York, 1967), 211-21; Blake McKelvey, *The Emergence of Metropolitan America* (New Brunswick, N.J., 1968), 11-12 and 53-55; and McKelvey, *The Urbanization of America, 1860-1915* (New Brunswick, N.J., 1963), 99-126.

9 Charles Mulford Robinson, "Improvement in City Life," *Atlantic Monthly* 83 (1893): 524-37, 645-64, and 771-85.

10 Robinson, 785.

and city beautification, whom Boyer labels "positive environmentalists," wanted to bring order to urban chaos. They believed that a morally superior society could emerge if the elements that disfigured and corrupted it were identified, and then eliminated or corrected. Unlike their earlier predecessors, these reformers rejected the idea that the moral order of the urban masses could be best ensured through personal contact with reformers. Instead, the improvements they advocated were examples of social engineering which would exert a positive influence on city dwellers by their mere presence.<sup>11</sup>

The advocates of the City Beautiful movement campaigned for the aesthetic improvement of cities. Some civic improvement groups called for the grouping of public buildings in plazas or civic centers such as those designed for the Chicago World's Fair of 1893 by architect Daniel Hudson Burnham. Others, inspired by the landscape architect Frederick Law Olmsted, favored the development of parks linked by boulevards such as those designed for Boston. Many cities began to bury electrical wires, plant trees and gardens, clear debris from vacant lots, combat litter and air pollution, and adorn public sites with statues and fountains. These diverse attempts to improve the appearance of the urban landscape were often supported by businessmen, many of whom believed that enhancing the attractiveness of a community increased property values.

In Pittsburgh, civic beautification efforts were most successful in the Oakland section of the city where Carnegie Institute was located. Included in the Oakland civic center was the entrance to Schenley Park which featured the fountain "A Song to Nature" as well as several other examples of outdoor art. Efforts to beautify the downtown area were not as successful. One exception was the construction of a trolley-free boulevard, later dedicated to Edward M. Bigelow, a city engineer who was active in the establishment of several of the city's parks. This road, which was built overlooking the Allegheny River, provided motorists with a scenic route to downtown from the city's East End.<sup>12</sup>

When speaking in favor of urban beautification, most commentators advocated control of outdoor advertising, the "chief enemy of the city beautiful."<sup>13</sup> Billboards were often found along a community's trans-

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11 Paul S. Boyer, *Urban Masses and Moral Order in America, 1820-1920* (Cambridge, Mass., 1978), 277-78.

12 Barbara Judd, "Edward M. Bigelow: Creator of Pittsburgh's Arcadian Parks," *Western Pennsylvania Historical Magazine* 58 (1975): 53-67.

13 J. Horace McFarland, "Why Billboard Advertising . . . Is Doomed," PSA.

portation routes, in locations where greenery could have provided visual relief to passers-by, and were often regarded as eyesores. Others were located on the sides or tops of buildings, further contributing to the overcrowded appearance that characterized most American cities. Some civic clubs and municipal improvement societies also objected to the content of outdoor advertisements, sometimes because of the products advertised, but more often because they found the images offensive.<sup>14</sup>

Although the Civic Club began publicly to criticize commercial advertising in Pittsburgh as early as 1896, it did not actively begin to advocate the regulation and taxation of billboards until 1907. When the club's campaign for outdoor advertising regulation began, the Commonwealth of Pennsylvania required billposters to obtain the written permission of property owners for the posting of advertising signs on private property and prohibited the posting of signs (except legal notices) on public property. The law's loose construction is an indication that the state legislature was only lukewarm in its determination to prohibit illegal billposting. The 1903 law did not designate who was responsible for its enforcement. Citizens were to look for infringements and were entitled to tear down illegal signs, but the penalties for illegal signposting were not a deterrent.<sup>15</sup>

### *The Civic Club Organizes*

The by-laws of the Civic Club stated that its purpose was to "promote by education and organized effort, a higher public spirit, and a better social order"<sup>16</sup> in the city which has been picturesquely described as "hell with the lid lifted." Politically, the Civic Club sought to ensure the continuance of upper-middle-class control of city government. Socially, one of the other thrusts of the club's activities was the assimilation or "Americanization" of the city's immigrants through devices ranging from citizen education leagues to public baths. It is unlikely that the Civic Club members, who were primarily businessmen, recognized that their efforts to improve the quality of urban life

14 Mary Ritter Beard, *Women's Work in Municipalities*, 1915 (reprint New York, 1972), 303-05 and Charles Zueblin, *American Civic Progress* (New York, 1916), 348-50.

15 The Civic Club published and distributed copies of the law. See: Civic Club of Allegheny County (hereafter CCAC), *Annals*, ed. H. Marie Dermitt, 4 vols. Carnegie Library of Pittsburgh, vol. 1, insert.

16 CCAC, "1897 By-Laws and List of Members" (Pittsburgh: Civic Club of Allegheny County, 1897): 2-3, in *Annals*, vol. 1, unpagéd.

through the advocacy of city parks, the elimination of slum housing, and flood control helped raise public sentiment in favor of government regulation of land use.

When discussing its history in a publication commemorating its fiftieth anniversary, the Civic Club credited its existence to two other Pittsburgh organizations, the Women's Health Protective Association and The Twentieth Century Club. Little is known about the former organization. It was organized in 1890 by a group of educated, upper-class women who advocated municipal garbage removal, smoke abatement, and a ban on public expectoration, or spitting. The Women's Health Protective Association apparently no longer met under the same name after 1896, when several of its prominent members founded the Civic Club. The other organization with which the founders of the Civic Club were affiliated was The Twentieth Century Club. This women's philanthropic and social club, which was organized in 1894, considered annexing the Women's Health Protective Association as its Social Science Department, but this merger did not take place. It is possible that a separate club was formed because the women who were pursuing reform saw better chances of success in allying themselves with men rather than with a club whose purposes were primarily social. Perhaps the latter organization was, in the end, not hospitable to political activism.<sup>17</sup> In any case, the Civic Club succeeded in recruiting no fewer than four hundred members within one year, including "many of the most prominent men and women in the community."<sup>18</sup>

While the organizing committee was made up of women, the Civic Club looked to leading male citizens for its leadership in the early days of its existence. Professor John A. Brashear of the University of Pittsburgh, a nationally prominent astronomer, served as its first president. He was succeeded in 1896 by Henry Kirke Porter, owner of the H. K. Porter Iron Company, who was elected and re-elected president until 1899.

While the structure and functions of the organization resembled closely those of the socially-active clubs in the fast-growing women's club movement of the day, its purposes were clearly immediate, practical, and reformist.<sup>19</sup> The by-laws instructed members of the Art De-

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17 CCAC, *The Civic Club of Allegheny County, 1895-1935* (Pittsburgh: CCAC, 1935), 5, Record Group 70.2, AIS.

18 CCAC, "Annual Report for 1907" (Pittsburgh: CCAC, 1908), 7, *Annals*, vol. 1, unpag.

19 Sara Essa Gallaway, "Pioneering the Women's Club Movement: The Story of Carolina Maria Severance in Los Angeles" (DA dissertation, Carnegie-Mellon University, 1985).



partment to study and encourage interest in art with a "view to increasing the beauty of our parks and public places and to raising the standard of public taste in Art in all Departments."<sup>20</sup>

The founding members evidently viewed outdoor advertising as a matter sorely in need of reform, for within three months of the organization of the Civic Club, they appointed a special committee to examine the effect of outdoor advertising on public morals. Its first attack came not against billboards, but rather against handbills which were being distributed on the street. On January 4, 1896, a special "committee of morals," consisting of three women and two men, was appointed to confer with Pittsburgh's public safety director, J. O. Brown, to "learn from him whether this manner of advertising is not only a misdemeanor, but an act tending to corrupt the public morals."<sup>21</sup> This action was the result of the complaint of a club member who reported that a local theater owner was distributing handbills on the street to children advertising an "exhibition of a questionable character" at the admission price of five cents.<sup>22</sup> It is likely that the "exhibition" was a vaudeville show or a motion picture such as those shown in arcades.

Whether or not the Morals Committee received a satisfactory response from the public safety director was not recorded by the club's secretary, but the club complained to him again nearly three years later. In December 1898, a Civic Club member proposed that Pittsburgh's public safety director should be requested to forbid the "posting of immodest and objectional posters," perhaps by theater owners. This motion advocating control of this "public nuisance" carried, and two months later, a letter from Brown was read at a meeting of the club's board of directors.<sup>23</sup> The members received a pledge of cooperation from Brown in "suppressing objectional posters and advertising."<sup>24</sup> Brown did not mention, however, how this aim was to be carried out, and one of the club's members who had met with him reported that they had agreed that "it would be unwise to propose new legislation on the subject."<sup>25</sup> Here it is possible that they discussed the

20 CCAC, "1897 By-Laws and List of Members" (Pittsburgh: CCAC, 1897?), 2-3, *Annals*, vol. 1, unpagcd.

21 Minutes of the Meetings of the Board of Directors of the Civic Club of Allegheny County (hereafter, *Minutes*), Jan. 4, 1896, Pittsburgh, 8 vols.; vol. 1, 101-02; Record Group 70.2 (1974 add.), AIS.

22 Ibid.

23 Minutes, Dec. 2, 1898, vol. 1, 181.

24 Minutes, Feb. 17, 1898, vol. 1, 191.

25 Ibid.

recent (June 1898) city ordinance requiring the licensing of billposters. Brown could have pointed out that as long as the billposters were licensed, there was little legal basis for prohibiting them from carrying on their trade, despite the moral objections of some viewers.<sup>26</sup>

### *The Anti-Billboard Campaign Begins*

The Civic Club's early objections to outdoor advertising, directed at handbills and theater posters, were founded primarily on moral grounds. By 1907, its moral concerns became incorporated into its quest for a more aesthetically stimulating city.

What is known as the Great Civic Awakening of America touched Pittsburgh very early in the dawn of its progress, arousing a number of our people to the realization . . . that any sort of a City Beautiful could be evolved from this busy, sooty workshop.<sup>27</sup>

The Civic Club tried to improve the appearance of the "busy, sooty workshop" by joining with other organizations such as the Pittsburgh Chapter of American Architects in advocating a number of civic improvement projects such as the grouping of downtown public buildings on a "commanding site."<sup>28</sup> Although this proposal was later endorsed by city planning consultant Frederick Law Olmsted, Jr., when he was hired by the City Planning Commission in 1910, no downtown civic plaza was built adjacent to the Allegheny Court House.<sup>29</sup>

Another beautification attempt endorsed by the club was a legislative proposal which would have enabled Pennsylvania cities, townships, and boroughs to regulate and tax outdoor advertising. The proposal was sponsored by the American Civic Association, a national organization with which the Civic Club was affiliated. As a result of the defeat of the bill in the Pennsylvania State Senate in 1907, the "Club's attention to the billboard as a nuisance and a disfigurement was firmly rooted."<sup>30</sup>

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26 The City of Pittsburgh required the licensing of billposters with the Department of Public Safety on June 3, 1898. See Ordinance Book 12, Section 104, Articles 1-3.

27 CCAC, "Annual Report for 1907," 7, *Annals*, vol. 1, unpag.

28 CCAC, "Annual Report for 1907," 14.

29 Frederick Law Olmsted, *Pittsburgh Main Thoroughfares and the Downtown District: Improvements Necessary to Meet the City's Present and Future Needs: A Report* (Pittsburgh: Civic Commission, 1911).

30 CCAC, "Fifteen Years of Civic Club History and Annual Report for 1910" (Pittsburgh: CCAC, 1911), 95, *Annals*, vol. 1, unpag.

This defeat helped to convince many Civic Club members of the need to increase their efforts, but there were other forces at work as well. One of these was J. Horace McFarland of Harrisburg, Pennsylvania. As president of the American Civic Association and self-appointed spokesman for the City Beautiful movement, McFarland had led the unsuccessful effort for state legislation.<sup>31</sup> By the summer of 1908, McFarland was in correspondence with the Civic Club secretary, Miss H. Marie Dermitt. Whether McFarland first contacted the club to seek its support in billboard regulation or the club offered to assist McFarland cannot be determined from what remains of their correspondence. But no doubt McFarland realized, after the defeat in 1907, that he needed strong grass-roots support. Dermitt wrote to McFarland: "this section in the Legislature [the Pittsburgh representatives] helped very materially to the defeat of your Bill."<sup>32</sup> She later reported in the Secretary's Annual Report that Pittsburgh's legislative representatives had voted against the Civic Association's billboard regulatory proposal because they thought that billboards actually improved the city's appearance by "hiding dumping spots."<sup>33</sup>

McFarland was thus full of advice on how the club should show its support of what had become a common cause. He offered suggestions on using the press to effectively denounce outdoor advertising companies, their clients, and the property owners they leased from. He also urged the club to make the public aware of the existing state law prohibiting the posting of signs on public property. In return, the club offered McFarland its limited assistance, usually in the form of political influence. For example, although he was carefully non-committal, John W. Beatty, chairman of the club's Department of Art, who was Director of Fine Arts at Carnegie Institute, indicated to McFarland that he would take up the billboard regulatory issue with the "proper city officials."<sup>34</sup>

In his efforts to rally support in Pittsburgh, McFarland apparently arranged that the joint convention of the American Civic Association and the Municipal Improvement Association in November 1908 take place there. In a letter to Dermitt, McFarland explained that even though the American Civic Association's interests "could be better

31 See William H. Wilson, "J. Horace McFarland and the City Beautiful Movement," *Journal of Urban History* 7 (1981): 315-34.

32 H. Marie Dermitt, Secretary, CCAC, to J. Horace McFarland, President, American Civic Association, Pittsburgh, July 8, 1908, PSA.

33 H. Marie Dermitt, "Annual Report of the Secretary for 1907," and Minutes, vol. 5, 42, insert.

34 John W. Beatty to McFarland, Pittsburgh, Nov. 23, 1908, PSA.

served by going elsewhere," the convention would be held in Pittsburgh because he wished to "give help" to the city's beautification efforts.<sup>35</sup>

By late 1909 the Civic Club took action to further the cause of billboard regulation. A special three-member committee, which was appointed in April of that year, submitted a brief to the club's board of directors which summarized the legal status of billboard advertising in the City of Pittsburgh and the Commonwealth of Pennsylvania.<sup>36</sup>

With this report prepared by a prominent Pittsburgh law firm as their guide, the directors felt confident they could intensify their attack on billboard advertising. A new three-member billboard committee was appointed. When they met on January 24, 1910, they decided to seek support from other local organizations who favored billboard regulation. A "letter of inquiry" was sent to forty-five "civic and social working bodies" to determine whether they were in favor of billboard regulation and if they would be interested in appointing a delegate to the club's billboard committee if it were enlarged.<sup>37</sup>

The "very satisfactory" responses received by the committee convinced them that they would be most successful by "combining and crystallizing the forces interested."<sup>38</sup> On April 29, 1910, the committee requested that the board of directors increase its size to accommodate delegates from interested organizations and add two more Civic Club members. It was proposed that once the committee was enlarged, sub-committees should conduct a campaign of education about outdoor advertising and the law, gather data about billboards, and seek the cooperation both of real estate owners who leased property to outdoor advertisers and of "local theatrical managers and all painters, lithographers, and printers of this class of work."<sup>39</sup>

Most important to the billboard committee was the establishment of a legislative sub-committee which would write legislation to be proposed at both the state and local levels. The committee admitted that their hopes for establishing outdoor advertising regulation in Pennsylvania had been raised when the Appellate Court of the State of Missouri upheld a St. Louis regulatory ordinance.<sup>40</sup>

35 McFarland to Dermitt, Harrisburg, Pa., July 10, 1908, PSA.

36 Minutes, Apr. 30, 1909, vol. 5, 104 and Sept. 24, 1909, vol. 5, 125.

37 Minutes, Jan. 28, 1910, vol. 6, 23.

38 CCAC, "Annual Report for 1910," 96.

39 Minutes, Apr. 29, 1910, vol. 6, 55, and insert.

40 For a short summary of *St. Louis Gunning Advertising Co. v. City of St. Louis*, see: Ronald G. Aronovsky, "*Metromedia, Inc. v. City of San Diego*:"

The committee's recommendations were approved along with another request that someone be hired to gather information on local billboards for the use of the billboard committee in formulating a legislative proposal. A modest appropriation of twenty-five dollars was made to cover the costs of this work.<sup>41</sup>

Two months later, on June 21, 1910, the first meeting of the expanded billboard committee took place. Two more Civic Club members joined the group, while delegates from several other organizations, including the Teachers' Art Club, the Art Students' League, the Pittsburgh Civic Commission, and the Pittsburgh Architectural League, were received.<sup>42</sup>

In the weeks that followed, the Civic Club members and delegates from no fewer than nineteen other organizations arranged themselves into sub-committees similar to those originally outlined by the committee. The statistics sub-committee gathered information on the numbers, sizes, locations, and subject matter of billboards. The sub-committee on publicity tried to focus public attention on the committee's work so as to create popular support for regulation and taxation. The sub-committee on advertisers and owners was created to "present the matter especially to advertisers and the owners of property to secure their cooperation in the work."<sup>43</sup> A fourth sub-committee was formed to continue to work on the legislative proposals drafted by the original three-member committee. Finally, a sub-committee on finance was appointed to oversee the entire committee's expenditures and receipts.<sup>44</sup> Throughout the latter half of 1910, the billboard committee concentrated on writing two legislative proposals which, if enacted, would enable local governments to regulate and tax billboards. Meanwhile, other attempts at bringing about a more beautiful and well-planned Pittsburgh were being made.

In response to a request made by Pittsburgh Mayor William A. Magee, the Greater Pittsburgh Association was formed in 1910 to coordinate the municipal improvement efforts of various private reform groups. Six Civic Club members were asked to serve on the association's Beautification Committee.<sup>45</sup> Three of those members either

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Aesthetics, the First Amendment, and the Realities of Billboard Control," *Ecology Law Quarterly* 9 (1981): 295-339.

<sup>41</sup> Minutes, Apr. 29, 1910, vol. 6, 55, and insert.

<sup>42</sup> Minutes, June 24, 1910, vol. 6, 76-77.

<sup>43</sup> CCAC, "Annual Report for 1910," 97.

<sup>44</sup> CCAC, "Annual Report for 1910," 98.

<sup>45</sup> Minutes, Dec. 12, 1910, vol. 6, 119, and Jan. 27, 1911, vol. 6, 130-31; CCAC, "Annual Report for 1911," 33 in *Annals*, vol. 1, unpag.

were or had been members of the billboard committee, and it is likely that they were instrumental in getting the Beautification Committee to devote their attention to the issue. In early February 1911, the Greater Pittsburgh Association announced that it endorsed, without amendment, the legislative proposals drafted by the billboard committee.<sup>46</sup>

In order to build local support for the two billboard proposals introduced in the state legislature by Senator David Wilbert of Allegheny County on February 27, 1911, the billboard and the Beautification Committees co-sponsored a Pittsburgh appearance by J. Horace McFarland, who delivered a speech entitled "How About Billboards?" to a large audience at the lecture hall of Carnegie Institute.<sup>47</sup> The billboard committee also tried to influence the legislature directly in favor of Senate Bill 143 (a bill that would permit local governments to regulate outdoor advertising) and Senate Bill 144 (a measure that would permit the taxation of billboards). It distributed leaflets and flyers which urged voters to write in support of the bills to the members of the Senate's Municipal Affairs Committee.

In early March, while the bills were still in committee, Dermitt wrote to McFarland in Harrisburg requesting that the American Civic Association president commend the bills to his friends in the senate. McFarland promised to do so, but mentioned to Dermitt that there were "three other [billboard regulatory] bills in the House and Senate now."<sup>48</sup>

Dermitt replied that the Civic Club's members were doing all they could to ensure passage of the bills by encouraging their friends and fellow members to write to their senators urging them to vote in favor of the bills, which had now been favorably reported on by the Municipal Affairs Committee and had survived a second reading in the Senate. She expressed no concern that the crusade for billboard regulation was not unified. The secretary reported to McFarland that there were six, rather than three, billboard regulatory measures before the state legislature and expressed the hope that the number of such bills would influence members to approve those proposed by the Civic Club.<sup>49</sup>

On April 11, 1911, three Civic Club members attended a Municipal Affairs Committee hearing concerning the bills in Harrisburg. The

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46 CCAC, "Annual Report for 1911," 139 and insert.

47 CCAC, "Annual Report for 1911," 145.

48 McFarland to Dermitt, Harrisburg, Pa., Mar. 11, 1911, PSA.

49 Dermitt to McFarland, Pittsburgh, Mar. 15, 1911, PSA; Dermitt to McFarland, Pittsburgh, Apr. 6, 1911, PSA.

bills had been returned to the committee because of the dispute they caused in the Senate after their second reading. Before the hearing, McFarland made it clear to Dermitt that their attempts would not be successful unless "strong outside pressure" were brought to bear on the committee members.<sup>50</sup>

Two days after the hearing, Dermitt wrote to McFarland to thank him for attending it on the Civic Club's behalf. She ended the letter with "It certainly does look promising," a statement the secretary must have written before she received any reports of how the opposition had dominated the hearing.<sup>51</sup> Another explanation for the remark could be that the club members who had attended did not realize that the protests over the bill voiced at the hearing were a sign of things to come, or they deliberately misrepresented the outcome of the hearing to Dermitt, the former of which seems most likely in light of McFarland's reply to her letter.

On April 14, 1911, McFarland wrote to Dermitt to clarify what had occurred at the hearing. He indicated that the situation was far from "promising," although the "billboard people were worried." The American Civic Association president warned that lobbyists from the billboard industry were "buttonholing" the senators and arguing effectively that passage of the law would mean higher unemployment. He implied that even if the committee reported favorably on the bills once again, many senators would be reluctant to vote for restraints on freedom of speech which might prove unconstitutional.<sup>52</sup>

McFarland had sensed the situation accurately. The billboard committee soon had to report to the Board of Directors the overwhelming defeat of the bills. Despite the Municipal Affairs Committee's second favorable report, Senate Bill 143 had been defeated 40 to 4 and Senate Bill 144, 41 to 4.<sup>53</sup>

The defeat of the billboard regulatory bill should not have surprised the Civic Club. Other reform measures such as those drafted by Pittsburgh Mayor William A. Magee and introduced by his allies in the House had also been defeated.<sup>54</sup> According to State Representative M. Clyde Kelly of Allegheny County, "In 1911, some of the most important Progressive measures died and were buried in the Senatorial

50 McFarland to Dermitt, Harrisburg, Pa., Apr. 7, 1911, PSA.

51 Dermitt to McFarland, Pittsburgh, Apr. 13, 1911, PSA.

52 McFarland to Dermitt, Harrisburg, Pa., Apr. 14, 1911, PSA.

53 Minutes, Apr. 28, 1911, vol. 6, 156.

54 See Malverne Ray Wolfe, "The Progressive Movement in Pennsylvania in 1912" (MA thesis, University of Pittsburgh, 1935), at Carnegie Library of Pittsburgh.

graveyard." This Republican-dominated "Senate death chamber" had killed bills seeking workingmen's compensation, employer liability, child labor regulation, and other progressive measures favored by the more liberal Republicans who later joined the Progressive Party.<sup>55</sup>

Dermitt later agreed with McFarland that the billboard committee's legislative proposals had been "too drastic and attempted too much."<sup>56</sup> She also indicated that he was correct in urging the club to begin by trying to get the principle of billboard regulation established in Pennsylvania, perhaps by proposing enabling legislation which would apply to only a single class of cities, such as those of the second class, which included Pittsburgh.

### *Renewing the Fight*

Enthusiasm faded after the club's 1911 legislative efforts failed, even though the billboard committee vowed to continue to fight for billboard regulation. The number of meetings of the committee and reports to the board of directors declined. Clearly, the billboard interests had more financial backing and more friends in Harrisburg than the Civic Club did. In addition, the club's efforts were hampered by doubts concerning the power of the city government to enforce a regulatory ordinance. Despite these problems, the new chairman of the billboard committee, John D. Hailman, renewed the fight the following year. On June 28, 1912, the board of directors approved his request to reorganize the billboard committee by discontinuing the practice of including delegates from other organizations. It appeared that the visitors seldom attended the meetings and did little work.<sup>57</sup>

The billboard committee, now made up of seventeen Civic Club members, began work on a new bill to be introduced in the state legislature in 1913. The sub-committee on publicity prepared and distributed literature designed to enlist public support for billboard regulation. These pamphlets and placards contained data on the amount and kind of billboard advertising in the city. They featured photographs which graphically depicted the effects of unregulated outdoor advertising. One such leaflet featured a photograph of the bill-

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55 The Pennsylvania branch of the Progressive Party, whose Presidential candidate in 1912 was Theodore Roosevelt, was led by William Flinn of Pittsburgh. See also: M. Clyde Kelly, *Machine Made Legislation* (Braddock?, 1913), 67.

56 McFarland to Dermitt, Harrisburg, Pa., May 29, 1911.

57 Minutes, May 31, 1912, vol. 7, 67 and June 28, 1912, vol. 7, 74.



board across Forbes Avenue from the Carnegie Institute with the caption, "What do YOU think of the surroundings of the finest Art building in America?"<sup>58</sup> Expenditures for this literature often put the billboard committee in debt, and frequently Hailman made personal contributions to pay off the deficit.<sup>59</sup>

The course of the Civic Club's 1913 legislative efforts concerning billboards can be followed in an article written by Secretary H. Marie Dermitt for the *National Municipal Review* later that year. Although the tone of the article expressed the secretary's indignation with the way the state legislature operated, it does show that the Civic Club members were gaining valuable political experience.

In her article, Dermitt reported that two bills had been introduced in the Pennsylvania House of Representatives on February 27, 1913, by Joseph G. Steedle of McKees Rocks.<sup>60</sup> These followed a path similar to those taken by the 1911 Senate proposals. A regulatory bill called for the extension of policing power of municipalities to include regulation of outdoor advertising. A second bill called for the inclusion of signs in the taxable value of real estate.

On April 17, 1913, the two bills passed a second reading. Five days later, on April 22, 1913, Steedle, who "had been found to be somewhat lukewarm in his interest," allowed a vote to be taken on the regulatory bill when "many who had pledged to vote for them [the bills] left the house."<sup>61</sup>

The defeat of the bill indicated that Representative Steedle was not alone in his "lukewarm" interest. Other representatives may have voted against the bill or declined to vote because they did not want to offend outdoor advertisers, many of whom allegedly provided politicians with free advertising space. In her article, Dermitt summarized the causes of the bill's failure:

The pressure of correspondence from constituents could not compare with the influence brought to bear by the representatives of billboard owners in half a dozen cities of the state. The situation the Civic Club faced was one of a strongly entrenched and well-organized state-wide interest being attacked on the ground of the public good with the only real activity in the attack localized in Pittsburgh.<sup>62</sup>

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<sup>58</sup> Leaflet and illustrated material located in Record Group 70.2, box 2, AIS.

<sup>59</sup> Minutes, Feb. 28, 1913, vol. 8, 24.

<sup>60</sup> H. Marie Dermitt, "A Pittsburgh Anti-Billboard Campaign," *National Municipal Review* (advance printing, Oct. 1913), Record Group 70.2, box 2, AIS.

<sup>61</sup> Ibid.

<sup>62</sup> Ibid.

The legislative campaign of 1913, which was somewhat more successful than that of 1911, showed that the Civic Club was growing more aware of the bargaining and compromises that were necessary to get legislative approval of a bill. The club tried hard to find new advocates of billboard regulation in Harrisburg, but they were generally unsuccessful. This may have occurred because members of the legislature were either unconcerned with the political influence of the Civic Club in Pittsburgh or simply reflected the interests of their constituents, few of whom were concerned with billboard regulation, or both.<sup>63</sup>

Despite the repeated legislative failures of the billboard committee, it now asserted that "The fight will be continued till . . . our city . . . shakes herself free from the defilement from which she now suffers."<sup>64</sup> Ironically this pledge came at the same time as an acknowledgment that the number of billboards in Pittsburgh had actually increased during the years of the club's anti-billboard campaign. Photographs of the period show that billboards sprang up alongside of the city's major new roads and thoroughfares shortly after they were built.<sup>65</sup>

In spite of the club's ambitious pledges, 1914 was marked by a decline in billboard committee meetings and activities. Some committee members were discouraged and others recognized the need for state-wide support of billboard regulatory proposals. The details of the plan they outlined are unknown. However, on May 29, 1914, Hailman reported to the board of directors that the billboard committee had decided to recruit support from other civic-minded organizations in the state.<sup>66</sup>

This plan of attack, however, never got far. In September 1914, Hailman told the board of directors that he intended to speak on the need for the regulation of outdoor advertising at a meeting of the State Federation of Pennsylvania Women which was to take place in Pittsburgh the following month, to "present the matter to representatives throughout the state and secure their cooperation in another legislative campaign against billboards."<sup>67</sup>

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63 See Earl Clifford Kaylor, Jr., "The Prohibition Movement in Pennsylvania, 1865-1920" (Ph.D. dissertation, Pennsylvania State University, 1963), 325-60.

64 CCAC, "Annual Report for 1913" (Pittsburgh: CCAC, 1914), 28, *Annals*, vol. 1, unpagcd.

65 Joel A. Tarr, "Transportation Innovation and Changing Spatial Patterns in Pittsburgh, 1850-1934," *Essays in Public Works History*, 6 (1978).

66 Minutes, May 29, 1914, vol. 8, 120.

67 Minutes, Sept. 25, 1914, vol. 8, 128.

What kind of reception Hailman's pleas met at the federation meeting is not known. He resigned as chairman of the billboard committee one month later, undoubtedly discouraged that his efforts had not proved fruitful. The departure of the anti-billboard campaign's most dedicated leader marked a turning point in the campaign for billboard regulation. From then on, no chairman served the committee for more than one year. In addition, the expenditures made by the committee declined considerably. Before he resigned, Hailman paid off the committee's deficit, and one month after his successor was appointed, the account the billboard committee had with the club's treasurer was closed.<sup>68</sup>

Convinced that previous attempts to regulate outdoor advertising had failed because of the opposition from interests in Philadelphia, the state's only first-class city, the new billboard committee chairman rewrote the enabling acts to apply only to cities, townships, and boroughs of the second and third class.<sup>69</sup> The new regulatory bill was introduced in the Pennsylvania House of Representatives by John W. Vickerman of Allegheny County on February 8, 1915. The taxation bill was not introduced, apparently because "the Governor's Legislative Council opposed allowing municipalities to share that power."<sup>70</sup>

The regulatory bill which was known as HR 281 was approved by the Law and Order Committee by a slim margin. When the results of the committee's vote were published in the Civic Club's newsletter, *The Monthly Bulletin*, it was noted that "all of the 'drys' voted for it and all of the 'wets' voted against it, a rather significant fact."<sup>71</sup> The committee members probably suspected that a deal had been made between the signposters and their clients, liquor dealers — the "wets." The liquor interests were undoubtedly happy to assist the outdoor advertising industry as they looked to the future and foresaw the need for assistance in preventing the passage of a bill which called for the local option in prohibition.

The opposition raised by the "wets" and their allies, the Billposters' Association, resulted in the bill's return to the Law and Order Committee where it died. The Civic Club's annual report of that year explained the bill's defeat on essentially the same grounds as those in previous years. The "well-organized lobby" formed by the Billposters' Association, other outdoor advertising interests, and their

<sup>68</sup> Minutes, Oct. 30, 1914, vol. 8, 132 and Dec. 29, 1914, vol. 9, 3.

<sup>69</sup> Minutes, Jan. 29, 1915, vol. 9, 14.

<sup>70</sup> Minutes, Feb. 26, 1915, vol. 9, 16.

<sup>71</sup> CCAC, "The Monthly Bulletin," vol. 1, 6, *Annals*, vol. 2.

allies proved that their influence in Harrisburg was much greater than that of the Civic Club.<sup>72</sup>

After the defeat of the regulatory bill, the activities of the billboard committee did not cease altogether, but as in the past, the level of activity declined. As the November elections of 1915 neared, the committee began to contact political candidates to request that they obey the 1903 state law forbidding the placing of signs on trees or telephone poles which were on public property. They wrote letters to seventy-two of the state's largest newspapers calling for enforcement of the law and informing citizens that the law contained a provision which said that any citizen could remove an illegal sign. In addition, the committee members wrote letters to state and local law enforcement bodies requesting their cooperation in enforcing the law.<sup>73</sup>

The billboard committee continued their efforts of the previous year concerning the enforcement of existing laws regarding outdoor advertising throughout 1916. The committee members also spent their time preparing another legislative proposal calling for outdoor advertising control, but it was not introduced because "the lobby of the Billposters' Association was in complete control [of the state legislature] and public apathy upon this subject did not permit any hope of success under the circumstances."<sup>74</sup>

The "public apathy" that the club saw as one of the causes of the failure of their legislative efforts concerning billboards had never before been acknowledged. The Civic Club worked for the passage of the regulation of outdoor advertising even though no effort had ever been made to determine how the public felt about billboards. They fought against off-site advertising because they were convinced that a cluttered urban landscape, dotted with commercial images and messages, had a demoralizing effect on society. Apparently, it never occurred to the members that some people might have actually liked billboards, especially if they were the brightest visual objects in what were otherwise drab industrial or working-class districts. In addition, it appears that they never perceived the complex role of advertising in society, especially one in which a considerable portion of the population was foreign-born. They disregarded the role which visual images could play in the Americanization of immigrants and their transforma-

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72 CCAC, "Annual Report for 1915" (Pittsburgh: CCAC, 1916), 21, *Annals*, vol. 2, unpagged.

73 Minutes, Oct. 1, 1915, vol. 9, 51; "Annual Report for 1915," 21-22 and "The Monthly Bulletin," vol. 2, 1, *Annals*, vol. 2, unpagged.

74 CCAC, "Annual Report for 1916" (Pittsburgh: CCAC, 1917), 20, *Annals*, vol. 1, unpagged.

tion from economic producers to consumers. Confident that upper-middle-class, educated professionals knew what was best for the city, they imposed their values on a form of communication which they thought adversely affected the urban masses.

The 1916 billboard committee did, however, show some originality in approach, attempting unsuccessfully to have a provision concerning billboard regulation inserted into a Borough Code approved by the state legislature. They urged a Taxation Study Committee, formed by the Pittsburgh City Council, to investigate the possibility of taxing billboards, as European and South American municipalities did. They pointed out to the taxation committee that their survey showed more than fifteen acres of billboards in the city, an increase of 28.5 percent since 1910.<sup>75</sup>

The billboard committee enjoyed its greatest success, however, when industrialist Henry Clay Frick agreed to order the removal of the billboards on his recently-purchased property facing Carnegie Music Hall. The removal of these billboards (which advertised tires, tea, furniture, and featured, ironically, the well-known slogan of the Gold Medal Flour Company, "Eventually, Why Not Now?") received a great deal of publicity from Pittsburgh newspapers. A Civic Club member even recorded the happy occasion on film.<sup>76</sup> This triumph had taken five years to accomplish. Unfortunately, however, it cured only little of the "civic smallpox" complained of by J. Horace McFarland in 1911.<sup>77</sup>

Before the entrance of the United States into World War I, the Civic Club apparently made one more weak attempt to get enabling legislation passed.<sup>78</sup> When mobilization began, so did a campaign to muster popular support for the war. In a day before radio and television, posters were one of the most powerful agencies of communication used by the government to sell war bonds and entice enlistees. As a result, the billboard committee of the Civic Club of Allegheny County unofficially decided to postpone their regulatory efforts. According to the club, during this period when "The bars were let down," the city's streets "blossomed with billboards."<sup>79</sup>

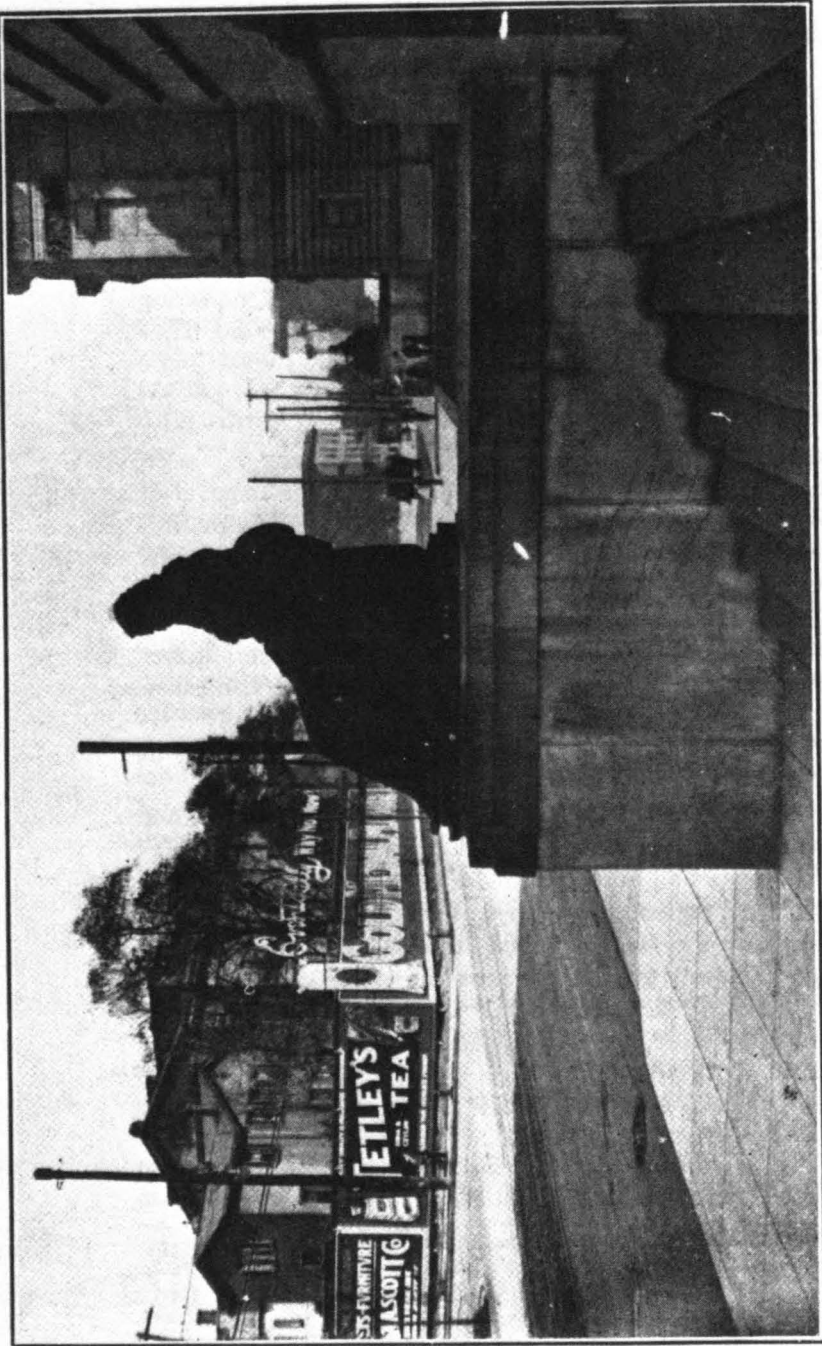
<sup>75</sup> Minutes, Mar. 31, 1916, vol. 9, 73; May 26, 1916, vol. 9, 78; June 30, 1916, vol. 9, 82 and CCAC, "Annual Report for 1916," 20-21, *Annals*, vol. 1, unpag.

<sup>76</sup> Minutes, Oct. 27, 1916, vol. 9, 91 and Nov. 24, 1916, vol. 10, 3.

<sup>77</sup> See related clippings in the Civic Club's scrapbooks, Record Group 70.2, box 2, AIS.

<sup>78</sup> CCAC, "The Monthly Bulletin," vol. 3, 8, May 1917, *Annals*, vol. 2, unpag.

<sup>79</sup> CCAC, *The Civic Club of Allegheny County, 1895-1935*, 29, AIS.



## BEAUTY AND-BILLBOARDS

What do YOU think of the surroundings of the finest Art Building in America?

CIVIC CLUB OF ALLEGHENY COUNTY, 238 FOURTH AVE., PITTSBURGH

*From the Civic Club's brochure, 1911 (reproduction courtesy of The Archives of Industrial Society, University of Pittsburgh)*

The anti-billboard campaign was resumed after the war was over, but lacked the zeal which characterized the earlier efforts. Once zoning was introduced in Pennsylvania in 1923, however, regulation of signs became more possible and more complex.

### Conclusion

The advocates of outdoor advertising regulation would have preferred that their campaign be as successful as that of some other Progressive crusades such as those for legislation on unadulterated food and drugs, workmen's compensation, and child labor. However, it was not. The proponents of billboard control have had to follow a long road of legal battles, staged mainly at district and state courts, and occasionally in the United States Supreme Court.

Attempts to control billboards have always met with strong opposition from the outdoor advertising industry. Billposters, painters, and printers who were engaged in the production and display of outdoor advertising have formally worked together to protect their interests since the late nineteenth century. Today, the Outdoor Advertising Association of America lobbies on behalf of advertising firms that engage in billboard advertising, and outdoor advertising companies themselves have not been reluctant to become involved in legal battles. They have objected to regulatory measures and the application of zoning ordinances to sign control for several reasons. It has been argued that such measures are unlawful prohibitions of a legitimate business; that they deny equal protection of the law; that they interfere with the use of private property; and that they abridge the First Amendment right of free speech.

Of all the arguments used by the outdoor advertising industry to prevent the regulation or ban of off-site billboards, the most effective has been that based on the right to free speech or expression. While the United States Supreme Court did not recognize the entitlement of some forms of commercial speech to First Amendment protection until 1976 (in *Virginia State Board of Pharmacy v. Virginia Citizens' Consumers Council*), questions remained about the legality of billboard ordinances which sought to ban all off-site outdoor advertising, including those that feature non-commercial messages such as "Vote for Mary Smith" or "Buckle Up Your Safety Belt."

Despite the effective use of arguments such as that for free speech, billboard regulation has been established with varying degrees of success. State and local governments have approached sign control in

two different ways. Billboards can be controlled through the use of zoning and/or special ordinances concerning them. Most communities control signs through zoning. In general, fewer legal disputes have developed around this means of sign control.<sup>80</sup> Some state and local governments have, however, passed special laws specifically relating to off-site outdoor advertising.

One of the first municipal billboard regulatory ordinances that was unsuccessfully challenged by an outdoor advertising company closely linked the effect of the billboard itself on its immediate surroundings. In the St. Louis Gunning Advertising Company case referred to above, the Missouri Supreme Court upheld the city of St. Louis' use of the policing power to regulate billboards. In this case, the court ruled that billboards could endanger public safety, and it produced a lengthy list of the social ills associated with them. The court declared that the city could regulate billboards because they could harm people through flimsy construction; they could be a fire hazard; and they could provide a hiding place for persons committing immoral acts, for criminals, and for unsanitary disposal. Today, with legal restrictions and the billboard code of ethics that the outdoor advertising industry has imposed upon itself, such charges seem extreme. However, in 1912, such charges could often be substantiated.

As American society became more automobile-oriented and the number of billboards aimed at motorists increased, the courts began to evaluate billboard regulatory measures by considering the effect they had on society as a whole. Some billboard regulatory measures were upheld because courts were convinced that the placement of some billboards affected traffic safety. In the 1968 case, *Markham Advertising v. State*, the Supreme Court of Washington found that traffic accidents could be caused by billboards that obstructed the view or attracted the attention of a motorist. The opponents of billboard regulation claimed that there was little concrete evidence linking traffic, health, and moral violations to billboards. They claimed that the courts were accepting "legal fiction" instead of recognizing that governments attempted to regulate or ban billboards primarily on aesthetic grounds.

The use of the policing power of the state for aesthetic considerations had been prohibited by the United States Supreme Court in *Varney and Green v. Williams* in 1909, just as the City Beautiful movement was coming to a close. However, within a decade of this

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<sup>80</sup> More than half a century ago, the Supreme Court recognized the legality of using the policing power of the state to zone in *Village of Euclid v. Ambler Realty Company* (1926).



decision, courts began a trend towards the acceptance of the use of legislative power for aesthetic reasons. In most cases, economic considerations were combined with aesthetic ones to uphold billboard regulation. For example, courts generally tolerated the regulation or prohibition of billboards where tourism was important to the local economy. Thus, billboard control has been successfully established in historic and scenic districts such as Colonial Williamsburg and Palm Beach.<sup>81</sup>

Recently, however, the use of the policing powers of the state for aesthetic considerations has been given legal recognition. In a 1983 landmark case, *Metromedia, Inc. v. City of San Diego*, the United States Supreme Court declared that aesthetic considerations alone could warrant the use of the policing power of the state. The court's decision was a confusing one, however, because it struck down the San Diego ordinance that Metromedia, Inc. was challenging. The court declared the ordinance unconstitutional because it made distinctions between signs bearing commercial and non-commercial messages, both of which were entitled to varying degrees of protection under the First Amendment. Although the court did not make any real effort to delineate the boundaries of constitutional protection that would be given to commercial speech, it did hint that billboard regulations that did not make such distinctions may be within constitutional bounds. While Metromedia, Inc. won the battle against the San Diego ordinance, it lost the war.<sup>82</sup>

The battle for the regulation of outdoor advertising waged by the Civic Club of Allegheny County and other civic organizations of the early twentieth century can be seen in two different ways. The Civic Club itself was formed by upper-middle-class individuals who wished to reassert their ability to influence the direction which the city's growth was taking. Its members tried to improve the social conditions that they believed needed their attention, and they never doubted their ability to recognize or remedy them. Their pre-World War I campaign for the regulation of outdoor advertising was a reaction to commercialization and the sense that small-town values were becoming out-

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81 An argument against the use of government power for aesthetic reasons is found in Richard F. Babcock, *Billboards, Glass Houses, and the Law; and other Land Use Fables* (Colorado Springs, 1977), 1-11.

82 The best summary of the Metromedia case is that of Aronovsky, cited above. Another excellent source of information on the legal battles concerning billboards is Alletta Berlin, Mercedes R. Bilotto, and Thaddeus Carhart, *A Legal Handbook for Billboard Control* (Stanford, 1976). This work is written for community leaders who want to ban or regulate billboards.

moded. Affluent Pittsburghers had traditionally fled the soot and congestion of the heavily-industrialized areas of the city. Now they found that badges of commercialization — billboards — were appearing at the side of every major thoroughfare.

Secondly, the advocates of billboard regulation can be viewed as members of a growing segment of Americans who were in favor of the extension of government control into the layout and appearance of the community. Perhaps men of property saw the expansion of the policing power of the state into areas such as zoning as the only way to protect economic value. In any case, zoning eventually made the biggest change in the location and predominance of outdoor advertising. ■