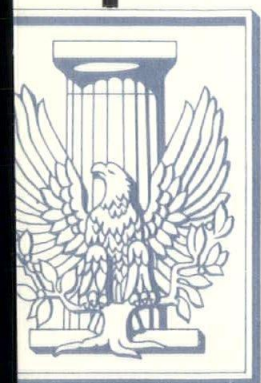


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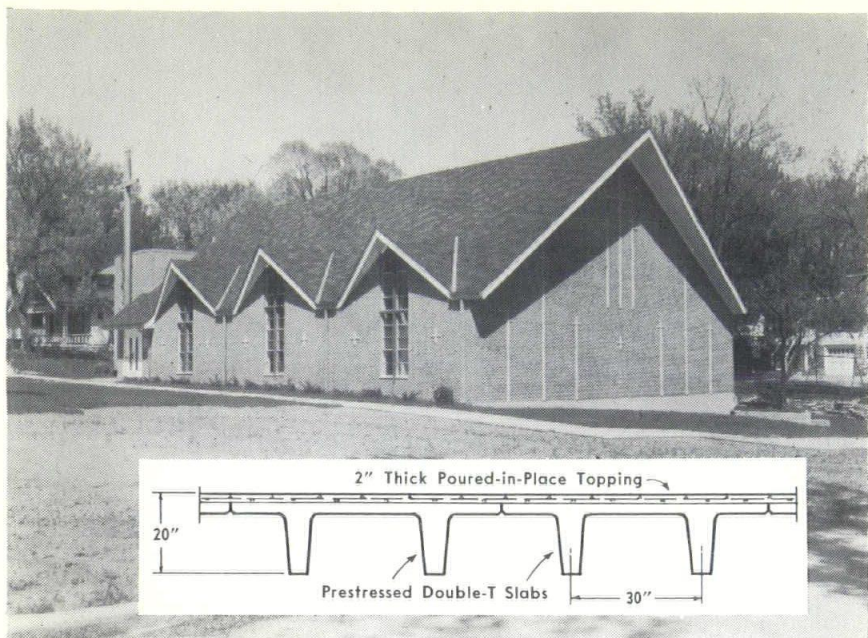
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
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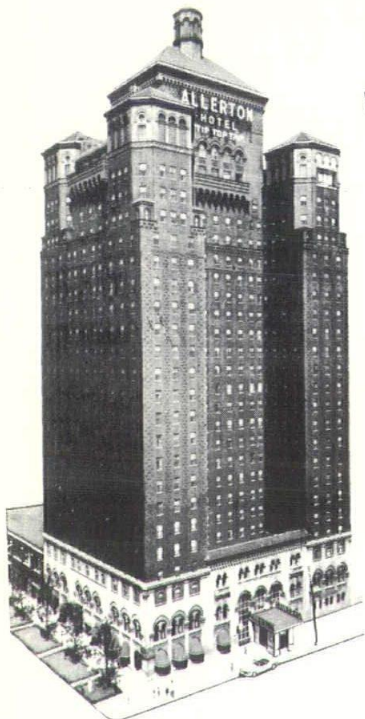
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IT'S THE LAW

By Bernard Tomson



To what extent does an architect have an exclusive right in the use of plans he has drawn, in the reproduction of these plans, or in the reproduction of a building originally constructed according to plans designed by him?

Can an architect, after preparing plans for and supervising the construction of a building and being paid for the work, prevent the owner from using these plans in the construction of other buildings?

Does he have any rights against third persons who reproduce in almost identical detail a building like one he has designed for a client?

This column will not discuss the ethics of the situation involved, but will confine itself to the legal issues raised.

Two recent examples illustrate the type of situation which may arise. In one case an architect had drawn plans and specifications and supervised the construction of a unique residence for a client. Some months later he discovered that a house, copying in every respect the one he had designed, had been built in an adjoining state. On inquiry, he learned that the probabilities were that the contractor who had been employed to erect the building for which he had prepared plans, had been requested by another person to construct a building like the original one; and the contractor, complying with this request, had constructed the second residence in exact conformity with the plans prepared for the first building.

In the second situation, a hospital architect was associated with a consultant in preparing plans for a proposed hospital building. The working drawings were completed and the consultant received a complete set of plans. The hospital project then contemplated did not proceed, but the plans were submitted by the consultant to another architect who used them for another hospital in a different locality.

We will first consider the rights to ownership and use of plans as between owner and architect. Generally, the rights to the plans prepared by an architect for his client are provided for in the contract between the parties. The standard form of contract adopted by the A.I.A. contains the following provision on this point:

"Drawings and specifications, as instruments of service, are the property of the architect whether the work for which they are made be erected or not."

Under this stipulation the plans and specifications remain the property of the architect even after the building for which they are drawn is constructed, and the architect paid for his services. The owner cannot resist the architect's demand for payment for his services on the ground that the architect has not delivered the plans to him. Even where the owner decides not to build, he must pay for the plans which the architect has prepared—and is entitled to keep.

In the absence of such an agreement between the client and architect, a somewhat different rule applies. An architect is ordinarily no longer the owner of the plans and specifications which he designs and which are furnished to and accepted and paid for by the owner. In such case, on acceptance of any payment for the plans, the owner is entitled to them. They become his property, and the architect cannot subsequently prevent the owner from using them in constructing another building. Nor does he have a right to receive additional compensation when they are used again, since he has already been paid for them under the original contract.

The fact that there may be a custom among architects that an architect is entitled to retain the plans which he prepares for a client, is not necessarily conclusive on others outside the profession. A client is not bound by this practice, if at the time he entered into a contract with an architect he did not know of this custom and the contract did not include a provision covering it. He, therefore, cannot be compelled to pay the architect for his services in preparing the plans unless the plans are delivered to him, though he may have decided not to use them.

Apart from the question of ownership of plans on completion of his services, the architect is the owner of his plans before they have been accepted and paid for. As the product of his skill and ability, they are property for which he is entitled to be remunerated. The client cannot, therefore, by fraud or deception deprive the architect of the right to complete the contract while retaining the benefits of his work.

In one case an owner who represented to the architect that he was through with his services and did not intend to build, while secretly planning to use photographic copies of the architect's plans, was held guilty of fraud; and his misrepresentations in this regard vitiated any settlement made with the architect to his prejudice.

The architect's recovery under such circumstances was held not to be limited to payment for the reasonable value of the services he had performed, but included the profit he could have made if permitted to carry out the terms of the contract. Under the contract employing him to prepare plans for and supervise construction of the building, his loss was ascertained by allowing him the contract price less the costs and expenses he would have incurred in completing the contract.

The architect's right to be safeguarded against appropriation of his plans by other persons is protected by the common law of copyright. This is distinct from copyright secured under the Copyright Law (which will be considered in a subsequent column) and operates independently of any statute. **The common law of copyright protects the architect's right in the design or plan which he has created only so long as he retains control of the work and until it is "published" (a term of art meaning some act which renders the work common property).** As a creator of a unique intellectual production the architect has a property right in any architectural plan he has designed and no copyright statute is required to protect him against use of the plan by anyone without his permission. As long as the plans and copies of the plans remain in his office, in his client's hands, and with others similarly situated, they are personal property, and no other person may, without his authorization, take them or use them without becoming liable to him for their use.

If the plans or copies of the plans are stolen, the architect may maintain an action to recover them. If they are lost, the court may grant him relief by barring the finder from using the plans without his consent. Should the plans fall into the hands of another architect who represents that they are his own and uses them in the construction of a building, there is little question that the architect who designed them has a legal remedy for such unauthorized use. However, where a client employs an architect to prepare plans for a building and the architect without his knowledge or consent copies the plans of another architect, the employer is not responsible for his illegal act. As to the preparation of plans, the architect is said to be acting for himself as an independent contractor and not as an agent for whose wrongful act the owner would be liable.

A problem which arises more frequently is that regarding the architect's protection against copying of his plans once the building has been built.

As pointed out above, the architect is protected by common-law copyright against appropriation of his

work so long as he retains control of his design or until he releases it for general and unrestricted "publication." Once the work has been "published" the architect no longer has an exclusive right either in the design or its reproduction. What amounts to unrestricted "publication" has from time to time been considered by the courts.

In an early case it was held that an architect had a common-law right of property in his design of a novel and artistic porch only **before** its "publication," by its application to a building which he erected. It would seem under this holding that once an architect's idea has been embodied in concrete form in a house that all the world can see, common-law copyright cannot prevent anyone from copying his idea.

It has also been held that the filing of plans with a building department amounts to a "publication" so as to terminate the architect's common-law copyright. What this means, so far as the right of other persons to copy the work is concerned, can perhaps best be illustrated by setting forth the fact situation in a case in which this principle is applied.

An architect had prepared plans and specifications for a residence and filed the plans with the building department to procure a building permit. A house was erected under his supervision according to his plans and he received compensation from his client for these services.

The defendant, a person who was not connected with either of the parties, liked the house and desired to have one built like it. He asked the architect how much it would cost for a duplicate of his plans and specifications, and on finding the figure named too high, he told the architect that he could get the same work for less money. He subsequently procured the services of another architect who prepared plans for a building which, when constructed, conformed substantially to that which the original architect had designed.

The architect then sued the owner of the second building to recover the value of the plans, claiming that they were copies of the plans and specifications filed by him with the building department. The court dismissed his complaint, stating that he had lost his common-law right of copyright by filing the plans with the building department. It emphasized that he had superintended the construction of a house under these plans and had been paid for the work. This, the court said, is as far as common-law right of copyright extends since the law protects him only in the first "publication" of his work. The court stated:

"When the architect has permitted the work to be filed in a public office as a step in furnishing the basis on which he is to receive compensation for his work, we are of opinion that . . . the plaintiff has published his work to the world and can have no exclusive right in the design or in its reproduction. This would seem to be especially true where the plans and specifications have been used in the construction of a building and the building has been exposed to the gaze of the public and has afforded to the plaintiff the full value of his services."

There was no evidence in the case that the defendant-owner or anyone acting in his behalf had copied the plans on file in the building department. It is doubtful, however, that had this been the case, the result would have been different, particularly since the court was of the opinion that all of the property rights in the plans, if they had any value as property after publication, belonged to the client for whom the architect had originally prepared the plans rather than to the architect himself.

In another case where a house was built with the consent of an architect and according to his plans and was thereafter open to the public for inspection, the unrestricted exhibition of the house amounted to a publication and the architect's right to protection was extinguished. The facts in that case were that a magazine of national circulation had offered a prize for the best modernization of an old residence. A savings and loan association entered the competition by modernizing an old house in Kansas City and for this purpose employed an architect, paying him \$250 for his plans. The house was thereafter advertised as being open for public inspection. Subsequently the plans were used by the defendant members of the association in erecting two other houses, and the architect sued them for unauthorized use of his plans.

The defendants, in their pleadings, admitted that they knew that the plans in question at all times remained the property of the plaintiff and entered into the contract with him in contemplation of this fact.

The question then arose whether in view of this understanding the defendants wrongfully appropriated and used the architect's plans. The court decided that the unrestricted exhibition to the public of the house with his consent was a "publication." It stated that if the idea itself was "published" with his consent he was not protected by a restrictive clause in the contract with the association. The court added that if there is an intention to render the work common property, then

"publication" has occurred, and the intention of the author is not determined by what he says, but what he does.

Two other interesting points raised by the defendants were not considered by the court but it might be well to mention them here since they afford possible examples of a defense to a claim of infringement. The defendants alleged that the architect's plans were included with his consent in an article written for a national real estate journal and that this amounted to a "publication." They also alleged that exhibition of the plans at a Better Homes Show sponsored by a city real estate association amounted again to a "publication" of the plans.

While that point was not decided by the court, it would appear that publication of the plans in magazines of wide circulation and/or their unrestricted showing at an exhibition are such "publication" to the world as to render the work common property.

Whether a contractor who was originally employed to construct a building according to the architect's plans, may later construct an identical building, presents a somewhat different problem since the contractor bears a fiduciary relationship to the architect. This relationship arises out of the previous contract employing him to construct the building, at which time he had full access to the plans. This question is, therefore, outside the scope of this column.

The contractor does, of course, have a right to the possession of the architect's plans while he is engaged under a contract with the owner to construct a building according to such plans. He is entitled to use the plans as long as they are necessary to the execution of the work. While he is engaged on the project, any unwarranted taking of the plans by the architect so as to deprive the contractor of their use, constitutes a trespass for which the architect will be held liable even though he remains the owner of the plans.

Following completion of the work, however, the contractor has no further interest either to the possession or the use of the plans and, depending upon the contract between owner and architect, they become the property of the owner or remain that of the architect.

Last month, this column discussed the extent to which the architect is protected against use or copying of his plans, or reproduction of buildings designed by him where he has not secured statutory protection by registering his work in accordance with the **Copyright Act**. It was pointed out that his protection ends, once he has made copies of his design available to the public

in such a way as to render it common property. Such action, termed "publication," ends the architect's common law right of copyright.

This protection may be extended, however, if he registers his work under the **Copyright Act**. The **Act** then supersedes the common law and extends his protection. In effect, it permits the owner to release copies of his design provided he has stamped them with his brand.

The correct definition of a copyright is: the sole right of multiplying copies. Securing a statutory copyright means, therefore, that the copyrighted matter cannot be copied without the author's consent. The law permits the owner of copyrighted matter to print, reprint, publish, copy and sell the copyrighted matter. The owner has also the corollary right to execute and complete the copyrighted work, if it is a model or a design for a work of art.

Architectural plans may fall within either of two categories of work classified as copyrightable. One category (Sec. 5 [g]) includes "works of art, models or designs for works of art." This section is limited to inchoate works of art and would include models or designs of architects. Another category (Sec. 5 [i]) includes "drawings or plastic works of a scientific or technical character." Under **Copyright Office Rules**, architectural plans and designs for engineering works are included in this classification.

There is no section of the statute which specifically mentions completed architectural works. It is doubtful whether a building or other work of architecture may be copyrighted after it has been completed, as the law in England permits it to be. Authorities on the subject have expressed the opinion, however, that architects may obtain adequate protection against copying of a finished work if they copyright their models or designs.

What are the characteristics which a plan or design must have in order to be protected by copyright? A requirement insisted on by the courts, and considered implicit in the statute, is that works to be protected must be "original." The degree of originality may be very slight, nor must it necessarily be novel. It should not be confused with artistic merit, which is not required. What is required is independent thought and not a mere repetition or copying of the work of others.

All the essential elements of the design may be in common use. It is the arrangement or combination of the elements which makes for originality. In one case, where a design for a memorial had been copy-

righted, it was contended by the person alleged to have infringed it, that all of the essential elements were in common use prior to the copyright. The court regarded this as immaterial and stated that the combination of elements in the design and their plan or arrangement made the work original. Since the defendants had not shown any work similar to the design or proved that anyone had produced a similar combination of elements, the argument that the work was not copyrightable failed.

With respect to the problem of originality, the court made the following general remarks:

"In truth, in literature, in science and in art, there are, and can be, few, if any, things, which, in an abstract sense, are strictly new and original throughout. It is a great mistake to suppose, because all the materials of a work or some parts of its plans and arrangements and modes of illustration may be found separately, or in a different form, or in a different arrangement, in other distinct works, that therefore, if the plan or arrangement or combination of these materials in another work is new, or for the first time made, the author or compiler is not entitled to a copyright."

By the same token, the copyright law protects also **reproductions** of existing works in different adaptations, arrangements, or mediums of expression. The protection extends to the old and new matter in combination on the theory that the original work plus new matter constitutes new work. In one instance, a design of a miniature shrine was copyrighted, the principal elements of the design being taken from a shrine established by the Roman Catholic Church. While the various elements embodied in the design were symbols of worship and therefore deemed common property, the arrangement of these elements in an original fashion satisfied the criteria of originality and independent labor so as to permit copyright of the design.

It is important to remember that the copyright law does not protect ideas, but only the media or forms in which they are expressed. It is possible for an idea to be expressed in totally different manners, and it is these different manners of expressing it that are protected. This principle has received consistent expression by the courts but has been misunderstood by authors who have sought protection for ideas and systems rather than for their method of expression.

In the leading case on this subject an author secured a copyright of a book explaining a system of book-keeping with illustrations depicting the way the system

should be used. The U. S. Supreme Court held that the copyright was not infringed by a book using the same plan as far as the result was concerned but with a different arrangement. The decision indicates that the author of the first book does not have a copyright in the idea of the book, but only in the description of his idea. The rule has since been reiterated that no copyright exists in a plan or method of art, although it may in their description.

A recent case on this point may serve to point up the difference between the right to be protected in an idea and the manner of expressing it. In that case, an engineer had procured a copyright of a drawing showing a novel bridge approach designed to unsnarl traffic congestion. He had presented his drawings before a Municipal Bridge Authority, which subsequently constructed a bridge approach similar to the engineer's design. The engineer then sued the Authority for infringement of his copyrighted drawing.

The court decided that the design had been conceived and executed from other sources of information, namely, a bridge already constructed in another locality. The court went on to say that even if the Authority had copied his idea, he could not recover for an infringement. His drawing showing a bridge approach would not prevent anyone from using and applying the system of traffic separation set forth in his design. Here again, the engineer's system of traffic separation embodied an idea and this idea anyone could utilize. Before an exclusive right can be obtained in an invention or discovery, the court stated it must be subject to the examination of the patent office. The court compared the design with a book containing a system of shorthand. There is no copyrightable material in the system itself but the explanation of how to do it is copyrightable.

If the same idea can be expressed in different ways, similarity in composition between a copyrighted and un-copyrighted work does not necessarily lead to the conclusion that the one is a copy of the other. Furthermore, there are many figures and symbols which are not copyrightable since they are in the public domain, that is available to everyone—as political or religious symbols.

Whether a copyright has been infringed by the reproduction of another work, without the copyright owner's consent, is a question of fact. To begin with, there must be similarities in the two works. The problem is to determine whether the similarities are mere coincidence or are the result of plagiarism, for it often happens that

(Concluded on page 22)

MODULAR MASONRY UNIT CHART

The guide chart to the right, showing vertical and horizontal dimensions in modular masonry units, was developed by the office of Kivett & Myers & McCallum for the use of their personnel.

With the thought that it might prove useful to other offices, we reproduce it full-size so that you may clip and file it for future reference, if you so desire.

VERTICAL DIA
MODULAR MASON

BRICK		
TILE	1	0 - 2 ³
BLOCK	1	2 0 - 5 ¹ ₃
1	3	0 - 8
	2	4 0 - 10 ² ₃
	5	1 - 1 ¹ ₃
2	3	6 1 - 4
	7	1 - 6 ² ₃
	4	8 1 - 9 ¹ ₃
3	9	2 - 0
	5	10 2 - 2 ³
	11	2 - 5 ¹ ₃
4	6	12 2 - 8
	13	2 - 10 ² ₃
	7	14 3 - 1 ¹ ₃
5	15	3 - 4
	8	16 3 - 6 ² ₃
	17	3 - 9 ¹ ₃
6	9	18 4 - 0
	19	4 - 2 ³
	10	20 4 - 5 ¹ ₃
7	21	4 - 8
	11	22 4 - 10 ² ₃
	23	5 - 1 ¹ ₃
8	12	24 5 - 4
	25	5 - 6 ² ₃
	13	26 5 - 9 ¹ ₃
9	27	6 - 0
	14	28 6 - 2 ³
	29	6 - 5 ¹ ₃
10	15	30 6 - 8
	31	6 - 10 ² ₃
	16	32 7 - 1 ¹ ₃
11	33	7 - 4

BRICK COURSE - 2⁵/₁₆ AHT + 3³/₈ IT • TILE COURSE = 5¹/₁₆ AHT + 1¹/₄ IT • BLOCK COURSE = 7⁵/₈ + 3³/₈ IT
 1³/₃ = 5¹/₁₆ AHT - 2³/₃ = 5¹/₈ AHT • USE BLOCK COLUMN FOR NOMINAL 16 x 8 TILE UNITS

IONS NITS

HORIZONTAL DIMENSIONS MODULAR MASONRY UNITS

ADJUST FROM 4" MODULE IN NARROW
PIERS AND OPENINGS TO AVOID EXCESSIVE
VARIATION OF HEAD JOINTS - THUS:

7-6 ² / ₃
7-9 ¹ / ₃
8-0
8-2 ² / ₃
8-5 ¹ / ₃
8-8
8-10 ² / ₃
9-1 ¹ / ₃
9-4
9-6 ² / ₃
9-9 ¹ / ₃
10-0
10-2 ² / ₃
10-5 ¹ / ₃
10-8
10-10 ² / ₃
11-1 ¹ / ₃
11-4
11-6 ² / ₃
11-9 ¹ / ₃
12-0
12-2 ² / ₃
12-5 ¹ / ₃
12-8
12-10 ² / ₃
13-1 ¹ / ₃
13-4
13-6 ² / ₃
13-9 ¹ / ₃
14-0
14-2 ² / ₃
14-5 ¹ / ₃
14-8

BRICK =
7⁵/₈ + ³/₈ JT.
HEADER =
3⁵/₈ + ³/₈ JT.

TILE =
11³/₄ + ¹/₄ JT.
CUT FRACT-
IONAL UNITS

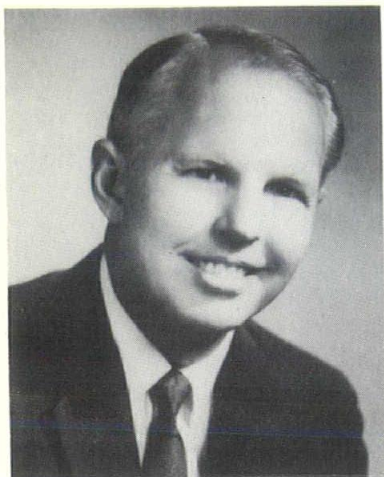
BLOCK =
15⁵/₈ + ³/₈ JT.
HALF UNIT
AVAILABLE

DIMENSION
PIERS OR
OPENINGS
GREATER
THAN 3-4
IN EVEN 4"
UNITS-AD-
JUST HEAD
JOINTS TO
CONFORM

		PIER		OPNG	
BLOX	TILE	BRICK	0-7 ⁵ / ₈		
			0-11 ³ / ₄	0-8 ¹ / ₂	
			1-3 ³ / ₄	0-12 ¹ / ₂	
			1-7 ³ / ₄	1-4 ¹ / ₂	
			1-11 ³ / ₄	1-8 ¹ / ₂	
			2-4	2-0 ¹ / ₂	
			2-8	2-4 ¹ / ₂	
			3-0	2-8 ¹ / ₂	
			3-4	3-0 ¹ / ₂	
			3-8	3-4	
			4-0	3-8	
			4-4	4-0	
			4-8	4-4	
			5-0	4-8	
			5-4	5-0	
				5-4	

HEAD JOINTS IN TILE AND BLOCK UNITS ABOVE
ARE ADJUSTED TO BOND WITH BRICK - REDUCE
IF LAID SEPARATELY IN NARROW PIERS AND OPNGS.

NEW MEMBERS



FRANK H. FISHER has been approved for Corporate membership by the Chapter and the Octagon. He has been a member of the Kansas City Chapter since 1957, and is a partner in the firm of Marshall & Brown. A native Kansas Citian, Frank attended Paseo High School. He's been with M & B since late 1944, except for a two-year recall to active duty during the Korean action. Service in the Engineers, both on active and inactive duty, has taken him to many foreign countries. He is registered in Kansas and Missouri.



JAY M. TOTTA, recently elected to Associate membership in the Chapter, is a project architect for Kivett & Myers & McCallum. He has been with K & M & McC since early 1948. Jay is also a native of our town, with Manual High his alma matter. He is registered in Missouri.



DOUGLAS C. SMITH, new Junior Associate of the Chapter, is an associate planner with the Urban Renewal Agency in Kansas City. He holds a B.S. in Architecture from the University of Kansas and is a native of Hastings, Nebraska. While at K.U. he worked on several projects in the University building program.

POLITICAL AND ECONOMIC HORIZONS

Address by Dr. C. Northcote Parkinson
Raffles Professor of History, University of Malaya
Before the American Institute of Architects

San Francisco
Thursday, April 21, 1960

It is a great honor to be invited to address so distinguished a gathering on the political and economic horizons which confront and challenge the architect of today. The Committee which planned this Convention began, I learn, with five members and ended, as I might have predicted, with forty. It may have been this circumstance which brought my name to mind. That the officers of your Institute have since regretted their action in asking me here is certain. For they had hardly shown me a diagram of their organization before I began to criticize its unwieldy structure. Do you mean to tell me, I asked, that you have a Board of Directors with **eighteen** members? Don't you realize, I said, that the Co-efficient of Inefficiency lies just beyond a membership of nineteen—so that you are on the very brink of disaster? They were very apologetic about it and assured me that the needed reforms were being planned. Whether they had really been planned I very much doubt, but they have been planned now and on very sensible lines. My own feeling (which your officers do not share) is that the Institute owes me something pretty generous—at the very least a penthouse near the summit of the reconstructed City of San Francisco. I shall hope to hear from them on this subject in the very near future.

In the meanwhile, those present seem fated to hear me talk about the horizons of the future; not, strictly speaking, an historian's field of study. I shall try, nevertheless, to hint at the future when I can, remembering that our civilization is only one among the many that have risen, flourished, declined and fallen. Civilization is the art of living in cities. My opening remarks will outline the tale of two cities, and first of the City of York, in which I spent my boyhood and to which I was and am extremely loyal. York commands the admiration of the viewer, visitor or tourists for a number of reasons but is satisfactory chiefly for these: it has a focus around which it is grouped; it has clearly defined limits, being in fact still fortified, with country outside which once was wilderness; it has the essentials of civilized life—cathedral, theatre, concert-hall, assembly-rooms, art-gallery, guildhall and library—all grouped within easy walking distance; it is a regional Capital with its markets, law-courts and racecourse, its annual festival and its country club; it has remained a place in which to live; and it retains its own tradition, character and balance. You will often hear it said that an old city, like York, owes its beauty to its age. This is nonsense. Cities owe little more to age than alas, do human beings. They owe their beauty to the men who planned and built them, and who were sometimes more intelligent than their descendants—who sometimes lacked the money to replace

what they could not appreciate. Some earlier residents of York would seem to have been very intelligent indeed.

Later in life I came to live for a time in Liverpool. Studying its history, I came to realize that its decline, as a place to live in, began in 1775 or thereabouts but was hastened by the rise of democratic local government in the 1830's. Here, as in so many other places, the architectural collapse comes in 1845. I have never heard a complete explanation of why all sense of style should have been lost so completely and abruptly in about that year; a change observable not only in Europe but also in a city like Detroit. Be that as it may, the flight of Liverpool's more important inhabitants left it a prey to the municipal corruption for which it has since been so famous. The result is Liverpool as we know it, lacking any single focus, poorly defined, the capital of no distinct region, not quite without character but quite unfit to live in. With the contrast before me of York and Liverpool, and comparing both with London, Edinburgh, Paris and Rome—and later with Singapore, Tokyo, New Delhi and Bangkok—I have formed some idea of what a city should and should not be. More recently, I have applied these standards to Quebec, Boston, New York and Chicago. I feel that in the United States the cities are, many of them, all but dead; and that civilization must suffer in consequence.

Here in the United States over fifty million people have come to live in what is neither country nor city. Having now had some experience of that life, I have come to the conclusion that the American suburbanite, trying to combine the amenities of city and country, enjoys the advantages of neither. The car and the television set are no real compensation for all that he has lost. In the one direction the urban sprawl has put the countryside (in so far as there is any) out of effective reach. In the other direction, the city's magnetism has been lost. It can no longer sell itself. It has little to offer that would balance the real inconvenience of returning there in the evening. This is not true of New York, nor of San Francisco, both of which owe much to the limiting effect of their shoreline. But how many other cities would justify a tourist's pilgrimage from Europe? There are few cities worth visiting; and many, after dark, are cities of the dead, and a few relapse into disorder and chaos. The lives of millions have come to center on their suburbs, and very dull their lives are apt to be. I should add that the present one-floor style of domestic architecture may well have results that no architect foresaw. A new generation grows up without ambition; the children who had no stairs to climb at the age of two. A new generation grows up without courage; the children who had no bannisters to slide down at the age six. Apart from that, the urban and suburban landscape now consists not merely of sprawling ranch-houses, for which there is no room, but of pylons, masts and poles festooned with connecting cables. The Japanese are in the same plight and their towns, like those in U.S.A., stretch on for ever—stretch on, in fact, until some other town is reached. The urban sprawl which abolishes the city can abolish the countryside as well. Many American centers of population are difficult to recognize as cities at all.

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POLITICAL AND ECONOMIC HORIZONS

Address by Dr. C. Northcote Parkinson
Raffles Professor of History, University of Malaya
Before the American Institute of Architects

San Francisco
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like; they should not be driven there by the lack of any reasonable alternative. For the vital life of the city must go on if civilization is to survive. This is more often repeated than explained, but the explanation is in fact fairly simple. When the explosion occurs in the afternoon, projecting the city's daytime population into the suburban areas, each working inhabitant is taken from his professional world and deposited in a neighborhood unit. From Madison Avenue and Wall Street (each representing not merely an area but a professional atmosphere, as in London from Harley Street or Saville Row) each commuter is whirled into a different suburban world. He becomes, for a greater and greater part of the week—Friday to Monday inclusive plus each evening—one of the folks in the block North-East of Prospect and Vine. His neighbors are drawn from all trades and vocations and among them he may be the only journalist, the only banker, the only engineer. Up to a point it may be good for the banker to mingle with people who are not bankers. It may even be good for the professor to mingle sometimes with people who are not professors. But can the same be said with confidence of authors, artists, musicians and actors? The dangers are two. First, it is easy for me to be the best historian in a society which includes no other historian. Second, it is probably bad for me to confine my ordinary social conversation to such topics as grade-schools, gardens, gossip and golf. In such a life we are all dragged down to the intellectual level of the P.T.A. meeting. The greatest intellectual and artistic achievements do not spring from suburban lawns. There are poets who commune with nature in the lonely hills but the masterpieces of prose and canvas, the symphonies and ballets, are more likely to come from a harsher world of criticism and rivalry, from Shaftesbury Avenue or Fleet Street, from the Latin Quarter or from Pontparnasse. One man can be supreme only among many who are good. And what is obviously true of art and architecture is true, to some extent, of all intellectual life; journalism, medicine, science, history and law.

There are people in this democratic country who would ask at this point whether our whole national pattern of living is to be re-planned for the benefit of a few eggheads. There are people in this democratic country who would point out that suburban life offers peculiar scope for participation in local government and communal life. I should like to comment upon these attitudes of mind which have a special bearing on our economic and political horizons.

Take the economic horizon first. The assumption current among many of my business friends is that the realities of life are to be found among the bankers, real estate agents, car salesmen and storekeepers. These admirable people do the world's work and support by their efforts a picturesque fringe of people who are not really essential—novelists, motion picture actors, television stars and absent-minded professors. There may have been a time when this belief was more or less justified. Today the position is reversed without either group fully realizing either the fact or its corollaries. We have moved into a new phase of our history in which a handful of experts matter enormously and the mass of car salesmen do not matter at all. In cold economic fact, one absent-minded professor (call him Einstein, just for example) can matter more than all the real estate agents put together. In Britain a few experts in the

commercial application of nuclear power are about to put the whole coal industry out of business—miners, geologists, engineers, managers and distributors. In representing the United States to the rest of the world, Miss Esther Williams had a greater effect than the whole of the State Department. For skill in international affairs we must turn inevitably to Miss Marilyn Monroe, whose public utterances on Khrushchev's visit—briefly summarized as the Monroe Doctrine—were a model of diplomatic correctness. For reasons such as these I would maintain that the revival of city life, as an effective background for intellectual discussion and constructive thought, is a thing of vital importance. I want to see the open air cafes fronting on the piazza (as they do in Venice), one known to be the haunt of poets, another devoted to the playing of chess, a third where photographers display their art. But the great piazza at Venice has no traffic! If I dared speak for the intellectuals and artists of the world, I should say to you architects: "Ours is an age when the many rely more and more upon the abilities of the few. Give us a city in which we can live and work and argue and compete!"

Come now to these political merits of the community. Most immigrants to the United States come from villages rather than towns or cities, bringing with them a village mentality. They find already established here a tradition of grass-roots democracy, with school boards, town meetings and a whole network of confused and overlapping local authorities. Considered as a method of giving people the sensation of self-government, considered as a method of solving the urgent problems which arise in the modern community, it is obviously bound to fail. Politically, the chief obstacle to progress is the American idea of democracy. The region which needs replanning and rebuilding is usually a crazy patchwork of petty local authorities, strangling all development amidst the jungle growth of their regulations, loyalties and jealousies. New York City is bad in this way but the Bay Area is not better and Chicago is worse. To complete the picture, the more distinguished and able inhabitants have gone to live thirty miles away, outside the bounds of the City and often outside the boundary of the State. They have lost any interest they ever had. Economically, the money for reconstruction is there but it is being squandered on a dozen futilities, ranging from civil defense to education. The difficulties are immense.

But if the difficulties are immense, so are the opportunities. For the city of the future, were one constructed, would soon find imitators; for imitation is something for which many architects have something of a gift. The movement of "Back to the City" would spread were it once begun. In leading such a movement, what must we seek to provide? We must provide, first of all, a central focus, at once dominating and beautiful. We must provide, centrally, the most attractive accommodation for millionaires; luring them back to the city. We must group the essential amenities within walking distance of each other, with all vehicles banished to a level below that upon which people live. We must so define the city area that we know where our city begins and ends. We must abolish traffic confusion, dirt, smog, corruption, disorder and crime; in all of which effort the architect must play a vital part. Without his initial success in drawing admiration, affection and pride to the city, nothing will succeed. That first success achieved, much else will follow of itself.

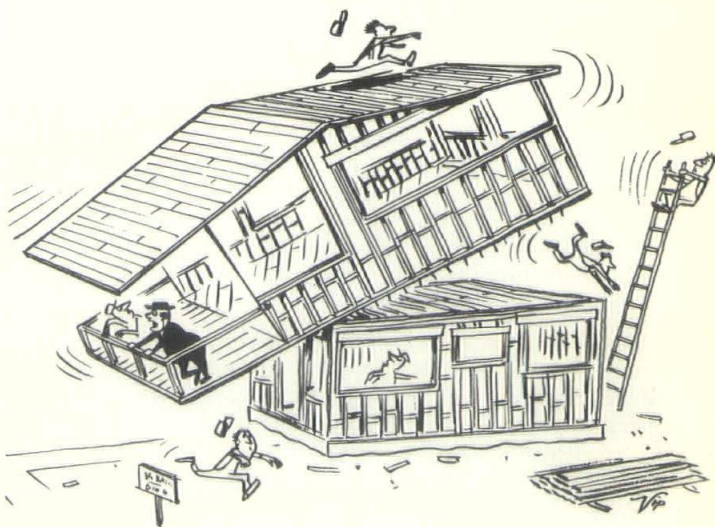
ARCHITECTURE—A WONDERFUL PROFESSION

Architecture is a wonderful profession; one of the factors that makes it so is the fact that it is concerned with so many facets. A good building is only really good if the final structure is functional, can be built within the financial limitations of the budget, fulfills all the requirements of the codes, is well detailed and last but not least, is beautiful. It is only the latter that is really arbitrary, but unfortunately it is only this part that is usually associated with the profession by many young architects entering the field. Too many of our young architects are amateurs and dilettante when starting out, and this hurts not only them but the entire profession.

All of us can help the situation considerably (without changing the educational system) by inviting students to our offices on their vacations, to come see and study the procedures. We can direct them to actual jobs going up, or let them spend a day in the "spec" department.

Every office can send a 4c postcard to his favorite school and offer an open invitation, which without doubt will be appreciated and honored. It will be the smallest long term investment with the longest reaching results.

FROM THE OCULUS, FEBRUARY, 1960



"I don't know whether I go for all this cantilevering or not."

For Your Enjoyment Courtesy Pomona Tile Manufacturing, Co.

a person has by independent thought and creative ability and labor produced a work of art that bears substantial resemblances to a work which has been registered as a copyright. The test of infringement, then, is whether an original independent production has been made or whether the work is merely a copy of the original registered work. A "copy" has been described as that which comes so near the original as to give every person seeing it the idea created by the original.

How much copying must there be to result in infringement? The general rule is that copying of some substantial or material portion of the copyrighted work will constitute infringement. Or, stated in another way, it means that it is not necessary that the whole work be copied but it is sufficient if so much is taken that the value of the original work is noticeably diminished or labors of the author are substantially appropriated by another.

In one case where the design of a miniature shrine had been copyrighted, the court determined that it had not been infringed by the production of another shrine containing the same elements. In this case the elements in the two productions were deemed common property, and the designs, though using the same elements, differed in all details of decoration. The court found little if any similarity between the two designs in the method of arrangement and composition. It stated the following criterion for determining infringement:

"Whether one work is an infringement on copyright covering another work is dependent on whether an ordinary reasonable person would fail to differentiate between the two works or would consider them dissimilar by reasonable observation."

Whether an architect is protected against copying of uncopyrighted plans when they are published in a magazine, or other periodical which is itself copyrighted, has not been decided by the courts. However, the inference may be drawn from cases involving similar problems that the architect is not protected unless his individual contribution is copyrighted and is so labeled in the magazine.

A copyright notice in a periodical covers everything that is copyrightable in the work, provided that copyright in **all of the contents** belongs to the one whose name appears on the notice of copyright. If the publication does not have exclusive right to the article or design as owner, then separate notice is required in the part belonging to the contributor.

If the architect submits a plan to a magazine and the

plan is accepted and paid for, the plan may become the property of the magazine, and reproduction of it by third persons would constitute infringement for which the magazine, not the author of the design, would have a remedy. If the architect remains the owner, then it would appear that to be protected against copying of his work he should procure a copyright of the work and place a notice of copyright on the design appearing in the periodical. The purpose of the notice is to warn the public against infringement and if it does not appear on each copy of the work reaching the public, the protection afforded by the copyright is lost.

It is clear, then, that an architect is not protected against copying of his work if he has not procured a copyright. The only way he can secure protection is to register his plan or design in accordance with the provisions of the Copyright Act. The degree of protection afforded by a copyright will necessarily depend on the individual situation.

This article is reprinted through the courtesy and with the permission of Thomas Creighton, editor of **Progressive Architecture**. It has also previously appeared as an article in the February, 1960, **Kansas City Bar Journal**, so that comment, if any, from local attorneys could be carried with Judge Tomson's material. We have been assured by the Bar Association that the material is accurate and that it applies equally well in this area.

HESITANT TRIAL OF DOWNTOWN MALL

This is the story by George McCue, art critic of the St. Louis POST-DISPATCH, that won for him first prize in the AIA seventh annual journalism awards competition. This was McCue's second successive first prize in the competition, which carries a stipend of \$500.00.

With the caution for which St. Louis is noted, we have taken a wary, sidelong look at the idea of closing a downtown street to automobiles and turning the regained space over to people on foot.

Following a long period of considering how to give such an innovation a trial, but without any risks or hazards, Downtown in St. Louis, Inc., ended up with quite a lot of compromises. The event finally took place on a quiet side street for one day, in the mid-August doldrums, with a fashion show and some entertainment borrowed from the Municipal Opera's "Babes in Toyland."

Before we attempt to judge the possibilities of a downtown mall, we'd better keep in mind what our recent experiment was, and what it wasn't.

It can be said at once that the fashion show was lively, well-staged and particularly interesting because it displayed a good many fashions designed and made in St. Louis. The entertainment was fun, and the crowd obviously enjoyed this more intimate view of the performers than it gets in Forest Park. The 45-minute program was given three times to crowds that pretty well filled the block of standing space in the street, and which, on the basis of programs handed out, numbered nearly 20,000.

The question now is: what did we learn as a result?

Well, we learned that people like a little excitement downtown, that our fashion houses can put on a first-rate show, and that men apparently are as much interested in a fashion show as women. A lot of people learned where St. Charles street is.

And what did we learn about the uses of a pedestrian mall? Unfortunately, nothing. The tryout was a step in the right direction, and a success, as far as it went. But it didn't go very far. Neither shoppers nor merchants could gain from it any experience at all with the pedestrian freeway, because no such thing was offered.

What was offered was a street entertainment, plus eight potted sweet gum trees. Nothing was done for this occasion that hasn't already been done a million times. Any suggestion that "the pedestrian was king" faces the fact that he was not any such thing—he was simply invited to crowd in as close as possible to a platform, midway between Police Department sawhorse barricades at Seventh and Eighth streets, to watch a program.

Within 10 minutes after the program was over, the crowd had gone away. Just about the only people left were the Downtown in St. Louis, Inc., staff and a few women whose spike heels had got stuck in patches of soft asphalt between the cobblestones. There was nothing on the scene to invite a pedestrian to linger and enjoy himself. The sweet gums, four spaced across the street at each end of the block, with flowers blooming at their feet, attracted favorable attention, but there was nothing of the sort within the block.

A pedestrian mall is two things. It is a pleasant state of mind, made up of about equal parts of feeling agreeably relaxed and lightly stimulated; and it is a city environment in which this state of mind can be induced and made to flourish.

The environment takes planning. Planning it takes some experimenting. A city that faces up to all the implications of a pedestrian mall finds that a large part of its downtown must be drastically redesigned, not only in the mall section itself but in the perimeter, where new parking space has to be provided and public transportation made to circle the mall instead of cutting through it.

The magnitude of such a project is such as to cause even a community that recognizes it will have to do this eventually to want to delay it as long as possible; meantime suburban developers are throwing up shopping centers that compete with downtown in accessibility, if not in wide choices of merchandise.

The advantage to be seized by downtown is the very concentration of large facilities that now work to its disadvantage because of the noise, smell, congestion and peril of the glut of automobiles in small street space. Another advantage that will accrue, as soon as the pedestrian is given a chance to catch his breath and enjoy it, is the exciting variety of the downtown scene—the imposing architecture, the arrays of goods in shop windows, the choices open to him for strolling in any of several directions, the restaurants, the places of entertainment, the general cosmopolitan experience.

The hitching-post complex is the biggest obstacle to the pedestrian mall. This is an obsessive belief by merchants that they face certain ruin unless there is a parking space right outside their doors.

Outstate and suburban towns are finally being persuaded that routing major highways down their main streets brings traffic, but makes the stores harder of access to customers. Downtown merchants, still torturing themselves with the thought that customers are unwilling to walk a block or two, tend to cling desperately to their parking meters instead of addressing themselves to creating a downtown atmosphere that makes walking a pleasure.

There is not yet a suburban shopping center in the St. Louis area that gets away from the hitching post kind of organization. The stores are built as islands in seas of automobiles. The shopper walks through just as much traffic, from parking space to sidewalk, as he does downtown, and the automobiles are constantly in view.

Once the automobile downtown is confined to a fringe area, it is out of sight and out of mind, and the existing grid of streets then becomes immediately a pattern of easy, and reasonably quick, access to the entire area. The worst obstacle now to walking downtown is the constant interruption of it by traffic and traffic lights.

While St. Louis is dipping its toes in the water and shivering, other cities are going ahead with far-reaching plans. Kalamazoo, Mich., is cutting off its busiest downtown street right now in a permanent conversion, and others, notably Toledo, are giving the mall a trial of several weeks to try out various possibilities.

A master plan for St. Louis is to be made public sometime this fall, and we shall, presumably, come finally to a real tryout of a real pedestrian mall. If, because of our complicated downtown layout, we need to advance to the mall by a preliminary stage of superblocks, with some side streets closed off, let's get at it. We shall soon have an influx of downtown residents, thanks to the new plaza and riverfront apartment developments. We have an abundance of city planners, architects, landscape architects and economic resources. There is no excuse for St. Louis to drag its feet when it is on the threshold of such great promise.

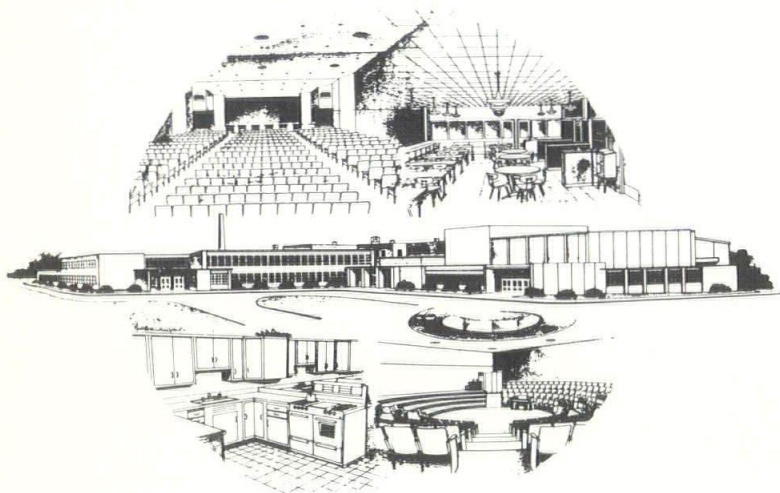
NEW LOOK IN TELEPHONE DIRECTORIES

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'YELLOW PAGES'



ITS YELLOW PAGES TELL
YOU "WHERE TO BUY IT"

SOUTHWESTERN BELL TELEPHONE COMPANY

This cover of the new Southwestern Bell Telephone directory for Independence, Missouri, features several sketches of the new William Chrisman High School at 24 Highway and Noland Road. The sketches were provided by the architects, Marshall & Brown, and show views of the 1200-seat auditorium, cafeteria, exterior, domestic science classroom and the novel theater in the round.

Perhaps this "new look" in covers may work its way westward—some KC/80 sketches might make an interesting cover for a future Kansas City directory.

"PLANS ARE PAPER"

"Now, let me say at once that the sight of these pretty colored plans would not in themselves have impressed me, or anybody. Plans are paper. There have been City Plans on paper in St. Louis since 1907. Plans can get foiled by politicians, or by big business, or by inept or corrupt officials—and have been in every country in the world. . ."

Sean O'Faolain, commenting on the new redevelopment plans for downtown St. Louis in his article, "The New Spirit of St. Louis" in the May, 1960 HOLIDAY MAGAZINE.

NEXT MONTH, IN SKYLINE . . .

Reports on the San Francisco Convention, the latest news on G.S.A. policies regarding architectural and engineering services, "New Sights of London" and several other interesting features.

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