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WHERE DO WE STAND ON SCHOOL CONSTRUCTION?

Is a hexagonal room a good place in which to teach square roots? How do walls affect the ability of students to learn? Can school architecture be geared to new electronic teaching methods.

These are some of the questions facing architects and school boards these days—and now that we have to build half as many schoolrooms during the next ten years as we built in the first 184, the answers presently being uncovered will have an unprecedented affect.

Starting with the little red school house in 1776, the United States by 1958 had amassed a grand total of 1,200,000 classrooms. According to a U.S. Office of Education estimate, the nation will need 607,600 new classrooms at a cost of \$26.8 billion during the 1960's. This estimate is based on the existing backlog of needed rooms; abandonment of old rooms resulting from obsolescence, fire and other destruction; and the booming crop of babies which will be reaching school age over the next ten years. Total public school enrollment, which stood at 34 million in 1958, will be over 41 million by 1970, the Office of Education anticipates.

By 1963 about half of America's pupils will be in school buildings that were built after World War II. That's some degree of progress, if you consider that in 1948 about 70 percent of all public school students were attending schools more than 20 years old. Improvement is coming in the form of remarkable developments in school building. Being tested and on architects' planning boards are new ideas designed to keep pace with the expected leaps-and-bounds growth of school population during the next ten years.

Many parents who went to school 20 or 30 years ago cannot help but marvel at the modern educational facilities that many youngsters already enjoy.

The trend to audio-visual aids in teaching is one factor shaping the designs of buildings and classrooms. Floors and walls are built to allow for the placing of electronic cable, as closed-circuit radio and television bring Shakespeare to Junior. The University of Miami at Coral Gables, Fla., is gearing its whole new school building to the electronic era. At the touch of a button, an instructor can summon up closed-circuit TV, motion pictures, slides, and recorded sound—all piped from a central operations room and TV studio within the building. Twenty-four hundred students will be able to watch the same lecturer on TV screens.

Just this month, KCSD-TV, the Kansas City, Mo. Board of Education television station went on the air. The educational station is received locally on UHF Channel 19 and is carrying six programs (classes) initially in the morning hours.

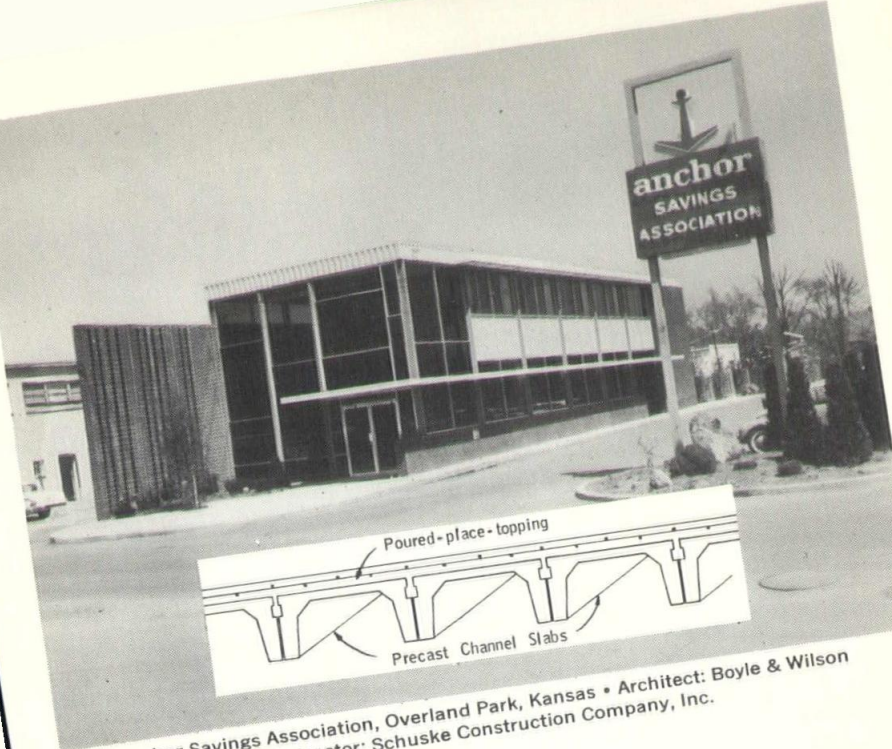
The light of learning is abetted by light-filled schools. Light, space and visual interest are more than just pleasing amenities—they are planned as part of the total educational environment. A tinted window glass in the University of Detroit's Walter O. Briggs Liberal Arts Building reduces glare by 50 percent, preventing eyestrain and encouraging study. The glass has a neutral tint that permits natural color vision as well as enhancing the exterior appearance of the building.

Windows glazed with two different varieties of glass are in two public schools in Bristol, Tenn. The upper panes of each window in Vance Junior High and Anderson Elementary School are a milky, translucent glass, while the lower panes are clear glass. The upper panes diffuse the direct rays of sunlight, providing an even, glare-free illumination, and taking the place of shades or Venetian blinds — at a substantial saving to the local school board and taxpayers; since shades and blinds can be expensive to install and keep clean.

Schools of the future being built or planned today find a wealth of various glasses available to them. One firm, American-Saint Gobain, can provide a glass that absorbs outside heat to keep classrooms comfortable in hot weather, a glass meshed with wire that retards fire, a shatter-proof safety glass for use in gymnasiums and classrooms facing playground areas, and over 20 different types of patterned glass—including checkered, fluted and even corrugated effects — for greater decorative interest and maximum privacy in classrooms and administrative offices.

These patterns have many varied uses. A door of translucent glass, "Securitized" or heat-tempered for greater strength, permits the light and color of one room to flow into the next. And although the pattern obscures vision, it allows enough to be seen so that accidents can be avoided. Patterned glass also shines at providing unusual decorative effects. Against a backing of translucent glass, library bookshelves assume a glamor that may make an avid reader out of the most reluctant student. A glass door framed by walls of patterned glass adds a feeling of hospitality to the principal's office in the Hiram Dodd School, Allentown, Pa. Privacy is fully retained, but the office is "humanized" by a wall of pleasantly diffused light.

(continued on page 6)



Anchor Savings Association, Overland Park, Kansas • Architect: Boyle & Wilson
Contractor: Schuske Construction Company, Inc.

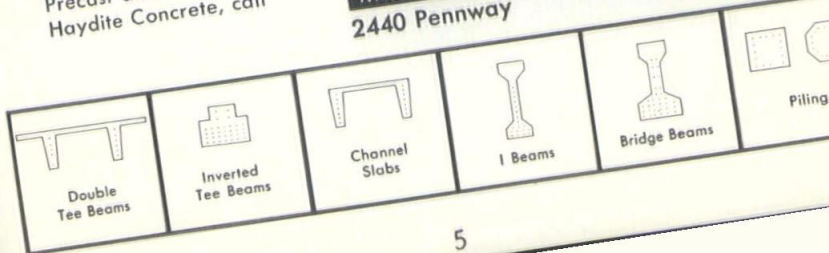
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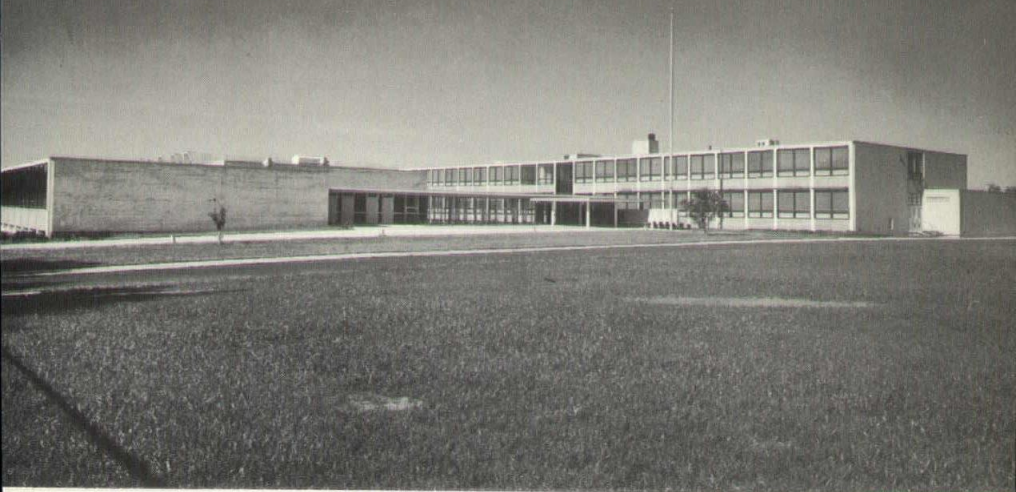


At Mountain Lakes, New Jersey High, however, the principal has chosen to sacrifice privacy to provide an open atmosphere for students seeking advice. The entire wall of his office facing the main corridor is clear wired glass, which is also used extensively in other parts of the building — in the guidance center, where counsellors and college brochures are available to interested students, and in the main entrance, where doors and surrounding wall panels of glass prove rugged, cheerful and easy to clean. Another plus feature is that wired glass is fire-retardant, since it won't shatter and fall out during a blaze.

The conference rooms in the University of Oklahoma's Forum Building are all hexagonal, or six-sided. Architects have found that the hexagonal works well for face-to-face conversation, is economical to construct, and can be joined to other hexagons to comprise a building.

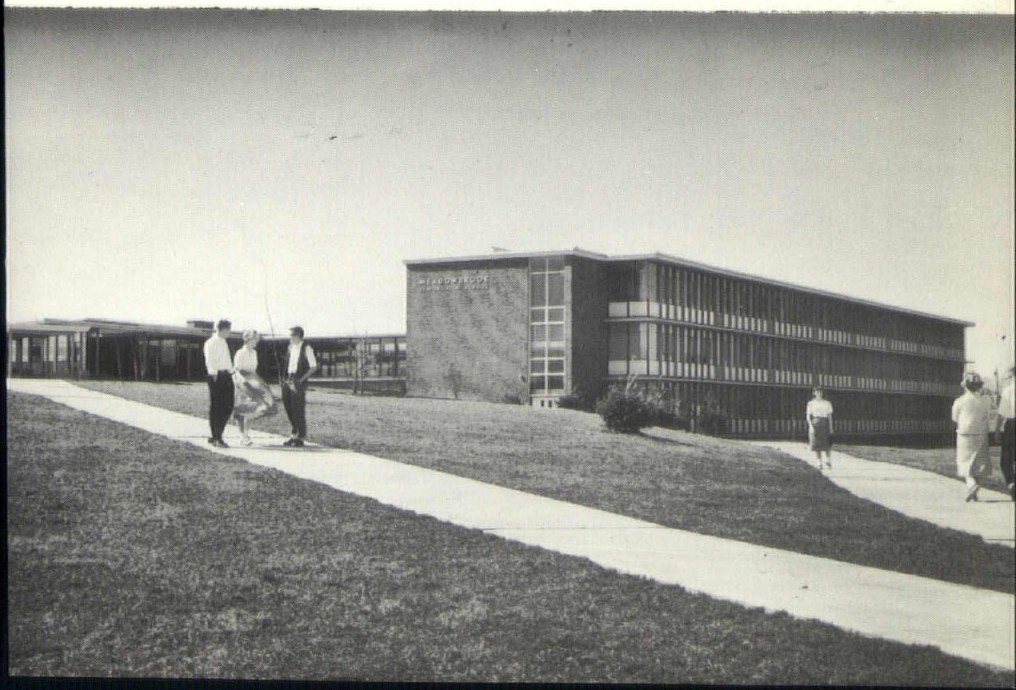
A look at modern New York City Schools by Fortune Magazine found them to be "wonderfully colorful." On the outside they sport multi-colored bricks, tinted glass and porcelain surfaces; colored vinyl or terrazzo polished marble chips embedded in cement flooring inside; and classrooms are apt to be different colors. Blackboards are no longer black, but are called chalkboards and are usually a glare-resistant (and squeak-resistant) brown or green. Furniture is no longer anchored to the floor, but is movable. Desks are sometimes adjustable to the angle the student prefers, and tops are often made of laminated plastic—hard to carve "J.C. loves R.G." on. There are no inkwells; "In the new economy, every student is presumed able to afford a ball-point pen." Fluorescent lighting, higher candle power per desk, and acoustical tiling that makes it a lot harder to hear yelling in the next room; fine cafeterias where youngsters can get a glass of milk for four cents under the federal school-lunch program; auditoriums smaller than Radio City Music Hall, but done in better taste—all add up to an educational environment that must have had some parents saying "We never had it like this."

New York is not alone in providing schools of the future today. Various parts of the country are adding their contribution to the expansion of education, and one of the major advances is in the field of radiant heating with glass panels. One of the numerous new schools with this heating system is the modern Thomas Jefferson High School in Port Arthur, Texas. Panels of Ra-Grid, a tempered glass backed with electric elements, are set in the ceiling of each classroom, where they give off an even infra-red heat that warms students and furniture while leaving the air cool. Radiant heat has been found both healthful and clean; it won't stir up dust, nor will it dehumidify the atmosphere. From the economic viewpoint, school authorities are spared the expense of a boiler room and full-time fireman while electric power in many areas is the cheapest fuel. And with no flame-producing elements in the building, fire insurance rates are down.



These recent Medal Award winners illustrate the greater use of glass and color in modern school design. Above is the George Caleb Bingham Junior High School, Kivett & Myers & McCallum, Architects. Below is the Meadowbrook Junior High School in Johnson County, Hollis & Miller, Architects, Perkins & Will, Associates.

Bingham Junior High won a 1960 Medal Award and the Meadowbrook Junior High received a 1959 Award.



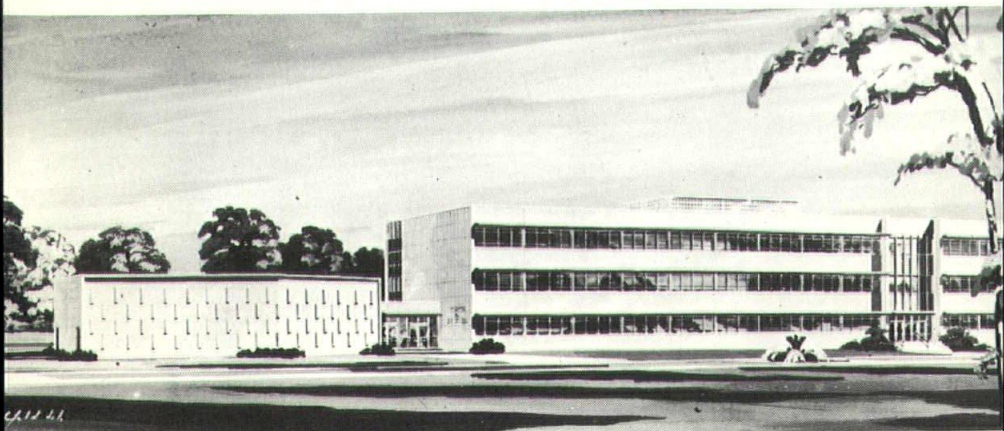
The current popularity of basketball has touched off an architectural trend to gymnasiums surrounded by enormous stands. The University of Illinois is erecting a huge concrete-domed bowl with circular stands that slope upward and outward from the arena to a height of about 66 feet. The bowl will seat 17,000 basketball fans, and can be curtained off for use of drama, concerts, or ballet.

Looking ahead to 1980 when it will open with an enrollment of 20,000 students, Orange County State College at Fullerton, Calif., has readied a master plan that "squeezes" every drop of utility out of the terrain—acres of citrus groves will give way to a gently sloping campus site.

Architects for Temple University in Philadelphia, Pa., were hired to map a plan looking forward 50 to 75 years! Located on a major city thoroughfare, Temple will have to erase city streets, as it expands from four acres to 140 by 1965. The gradual development is being worked out closely with city planners, and no wonder—land costs range up to \$350,000 per acre!

Some of our far-seeing architects are faced with the fact that hosts of our nation's college students will be shooting at drivers' licenses as well as sheepskins! Witness the University of California at Los Angeles where a building program begun in 1949 will hit the \$370 million mark by 1967. An enrollment of 27,000 students is expected by that time, and many of them will drive cars. And so it is planned to ring the 411-acre campus with ten multi-story parking garages containing a total of 15,000 parking spaces! Parkers will be required to pay \$50 per year for close-in parking, less for distant spaces. Remember the old days, Mom and Dad, when you walked to school?

The new Arts & Science classroom building under construction at the University of Missouri in Columbia is another example of incorporating window placement into the overall design solution. Architects, Marshall & Brown.



SURVEY OF THE LAW OF BUILDING CODES

This is the second installment from the new booklet, "Survey of the Law of Building Codes." The material is reprinted here by special permission of the AIA and the NAHB, copyright owners. Complete copies are available from the Octagon at \$2.00 per copy, or less in bulk quantities.

Charles S. Rhyne, past-President of the American Bar Association, is the author. Mr. Rhyne's qualifications include a long-standing practice in municipal law and a course he teaches on the subject at George Washington University Law School in Washington, D.C.

Next month's material will include a section on the Rights, Duties and Liabilities of Building Owners and Lessees, Architects and Building Contractors.

4. Procedure for Building Code Enforcement

In the enforcement of building codes and regulations, the proper first step should be a warning by a building inspector that the regulations are being violated. Generally, a follow-up inspection should be made to determine whether the warning has been heeded and compliance effected. Such action is usually all that is necessary to obtain conformance. Some building codes adopt a more formal plan of requiring the giving of a written notice to the responsible parties in the first instance upon discovery of a violation, and then serving a second notice, if correction does not result within a reasonable time, designating a specified number of days within which compliance must be had. If proper action is not then taken, a warrant for the arrest of the offending builder is secured. In addition to warning of a violation, some cities follow the practice of placing a notice on the job to the effect that part of the work is not being done in conformance with building regulations and for that reason has been condemned by the building inspector. If necessary, stop orders may be followed by warrants and arrests.

⁴⁰ Compare *Seale v. McKennon*, 68 Ore. Adv. Sheets 325 (1958) with *Hillman v. Northern W.C.P.U.D.*, 213 Ore. 264, 323 P.2d 664 (1958).

⁴¹ *State v. Cozzens*, 8 So. 268 (La., 1890).

However, where a city ordinance requires that a property owner, upon due notice by the city building inspector, must repair or demolish a building found to be unsafe by the inspector, and further provides for the imposition of a fine by a magistrate for failure to obey such notice, a property owner will not be required to pay such fine if he fails to comply with a notice which orders demolition of the building but does not give him the alternative of making necessary repairs.⁴²

The real problems existing in the field of inspection in connection with the enforcement of building regulations appear to relate to purely administrative rather than legal matters. Adequate inspection powers are generally made available to building inspectors but must be confined to the object intended to be accomplished and cannot be exercised in a discriminatory or arbitrary manner.⁴³ But inspectors, as any other administrative official, may be clothed with such legal powers as are deemed necessary to carry out their functions properly.

The sanctions which may be employed to enforce building regulations are of the following types: (1) summary action by a city department; (2) mixed departmental and court actions; (3) criminal actions; (4) civil actions; and (5) injunctions.

Where the emergency warrants, summary abatement may be utilized and it is legally sustainable.⁴⁴ Summary abatement involves the issuance of orders to repair, vacate or demolish structures and the demolition or repair of any such structure by public officers when the owner fails to do so. Summary action also may be taken if the building or improvement is not built according to plans approved by the city departments, and the department may deny a certificate of occupancy or order the building vacated.⁴⁵ A judicial proceeding against a building owner is not necessary in order to permit a city council to order the removal of buildings erected in violation of an ordinance. If a building is wrongfully removed thereby the owner may recover damages.⁴⁶ Furthermore, an ordinance need not provide for notice or a hearing before summary abatement of a nuisance.⁴⁷ According to some authorities, the power of abatement by summary destruction does not extend to property which is harmless in itself and is susceptible of use for lawful purposes, and a statute subjecting property of that kind to summary forfeiture to the state because of its use for an unlawful purpose, without affording the owner thereof an opportunity for a hearing to determine whether it is a nuisance in fact, deprives him of his property without due process of law.⁴⁸ It appears that a nuisance, where its existence is undisputed, may be summarily abated where such

⁴² *City of Harrisburg v. Ensminger*, 88 Pa. D.&C. 307, 66 Dauph. 101 (1953).

⁴³ *Miller v. Foster*, 244 Wis. 99, 11 N.W.2d 674 (1943).

⁴⁴ *McKibbin v. Fort Smith*, 35 Ark. 352 (1880).

⁴⁵ *Bregman v. Reville*, 131 Misc. 486, 226 N.Y.S. 285 (1927); *New York v. Keller Lumber Co.*, 141 App. Div. 928, 126 N.Y.S. 1124 (1910).

⁴⁶ *McKibbin v. Fort Smith*, *supra* note 44.

⁴⁷ *Porter v. Lewiston*, 41 Idaho 324, 238 Pac. 1014 (1925); *Security Ins. Co. v. Rosenberg*, 227 Ky. 314, 12 S.W.2d 68 (1928); *Petrushansky v. State*, 182 Md. 164, 32 A.2d 696 (1943); *Eureka v. Wilson*, 15 Utah 67, 48 Pac. 150 (1897).

⁴⁸ *Clay County Court v. Adams*, 109 W.Va. 421, 155 S.E. 174 (1930); *State ex rel. Herigstad v. McCray*, 48 N.D. 625, 186 N.W. 280 (1921).

abatement may be accomplished by terminating the improper use which makes the nuisance one in fact, as for example, requiring a building to be vacated of its occupants. A nuisance, although not one per se, but existing by reason of the fact that a building, as used, indisputably violated a building construction code providing that multiple dwellings should have enclosing walls of fireproof material, the reasonableness of which provision was not seriously questioned, might after the notice of the violation was served on the owner, be abated by notice to the occupants to vacate, without infringing any of the owner's constitutional rights to due process.⁴⁹

Mixed departmental and court actions usually involve administrative determinations as to which the city may seek an injunction restraining violations or an order to vacate for violations. This combination of actions is used particularly where an unsafe building is involved.⁵⁰ In certain cases the finding of fact is required to be made by a court instead of an administrative officer or board.

Enforcement of building regulations by criminal procedure lies solely upon action by the enforcement agency which alleges that an owner or other interested party has violated an ordinance or statute. The building code may contain one of three types of misdemeanor provisions. The most common code provision makes any violation of the code a misdemeanor.⁵¹ The provision makes the court the body which determines whether, in fact, there has been a violation of the code. The second type of misdemeanor holds that each party cooperatively engaged in the violation of the code is liable in his individual capacity.⁵² The third type makes it a crime to violate any order or mandate of the official which is issued as a procedural measure to enforce an administrative provision.⁵³ Regardless of whether there has been a violation of a substantive provision, this provision makes the violation of a procedural order of the official a misdemeanor.

Fines, imprisonment or other legal sanctions made applicable to violators of building regulations are governed by the same legal principles that are applicable in general to other municipal regulations or statutes. Thus, there appears to be no special legal problem with regard to that phase of enforcement relating to fines, imprisonment and other sanctions. With regard to punishment for the violation of municipal regulations in general, these three rules have been recognized and adopted: (1) the legislature has complete power, within constitutional limitations, and may impose penalties upon violators of municipal ordinances; (2) penalties may be imposed by municipalities only where, and to the extent, they are expressly authorized by charter or statute; and (3) a sentence in the form of a penalty cannot legally be greater or less than expressly authorized by statute or municipal ordinance. A penalty may consist of a fine, imprison-

⁴⁹ *Miller v. Foster*, *supra* note 43.

⁵⁰ *In re Unsafe Building*, 130 App. Div. 396, 114 N.Y.S. 1018 (1909).

⁵¹ *E.g.*, *Revised Code, City of St. Louis* vol. 2, § 1-56 (1948).

⁵² *E.g.*, *Building Code of the City of White Plains, New York*, § 112.

⁵³ *E.g.*, *Basic Building Code* §§ 124.1-124.2 (Building Officials Conference of America, Inc., 1955 ed.).

ment, or a fine and imprisonment, but must not be discriminatory or arbitrarily imposed. Therefore, it is necessary that notice be given and an opportunity to be heard be afforded in order to assure due process of law. In conformity with these principles, a penalty must be definitely fixed within certain specified limits, otherwise it may be held void for uncertainty.⁵⁴

Statutes in thirty-five states authorize municipal corporations to enforce their ordinances by the imposition of initial imprisonment upon offenders as a part of the basic punishment, as well as to enforce the payment of a fine.⁵⁵ However, in some jurisdictions courts have held that the action to recover a penalty imposed for the violation of a municipal ordinance is a civil action.⁵⁶

The penalty or punishment imposed by an ordinance must be certain and definite, and an ordinance will be declared invalid when the penalty it prescribes is not certain. Nevertheless, according to the weight of authority, it is proper for penal ordinances to leave a margin for the discretion of the court within certain specified limits, so that the fine or imprisonment imposed may be graded in some proportion to the aggravation of the circumstances. However, an ordinance which prescribes a minimum penalty but does not fix a maximum, and thus leaves to the court the power in its discretion to impose any penalty in excess of the minimum, is void for uncertainty.⁵⁷

In addition to the criminal action there is the less common civil action. The theory of this action is that the city has been damaged by the acts of a private party for which the city demands relief. There is also the civil action where the enforcement agency seeks an injunction to prevent an offender from continuing the use of his property in violation of law and orders him to comply with the statute or ordinance or to demolish the property. The civil remedy is not usually found in the building code itself. Such a remedy is generally provided for by statute or by an ordinance which provides that all departments of the city administration may employ such a remedy.

The most common judicial remedy the enforcement official has at his disposal is the injunction which is sought in a court of equity. This equitable device has certain advantages over the legal remedies. One advantage is that the injunction can be granted immediately in cases of emergency. Another advantage of the injunction is that it is a continuing mandate of the court and if its terms are violated the enforcement official can obtain an order to show cause why the violator should not be punished for contempt.

Where a building code is specifically repealed by a statute enabling cities to govern and regulate by ordinance the construction, alteration and maintenance of all buildings, and there is no saving clause in the

⁵⁴ *Re Ah You*, 88 Cal. 99, 25 Pac. 974 (1891); *Arnett v. Cardwell*, 135 Ky. 14, 121 S.W. 964 (1909).

⁵⁵ 31 *Ind. L.J.* (1953).

⁵⁶ See for example, *City of Chicago v. Atkins*, 19 Ill. App.2d 177, 153 N.E.2d 302 (1958); *Biedinger v. City of East Chicago*, 154 N.E.2d 58 (Ind. App., 1958).

⁵⁷ *Sconyers v. Coffee Springs*, 230 Ala. 12, 160 So. 552 (1934); *Arnett v. Cardwell*, *supra* note 54.

repealing statute allowing proceedings for violation of code provisions theretofore existing, no proceedings could thereafter be begun for prior violations and the city could not base its right to institute proceedings for violations of the building code prior to its repeal on the fact that subsequent thereto it had passed an ordinance adopting merely by title and general language the entire building code as the ordinance which it was authorized by the repealing statute to enact.⁵⁸

5. Limitation on Discretion of Administering Officials

It is a well settled principle that a legislative body cannot constitutionally delegate to administrative officers discretionary power that is arbitrary. Consequently, a municipal ordinance which vests an arbitrary discretion in public administrative officials with reference to the rights, property or business of individual, without prescribing a uniform rule of action and without furnishing any definite standard for the control of the officers, is unconstitutional, void, and beyond the powers of a municipality.⁵⁹

The courts have stated that if an ordinance upon its face restricts the right of dominion over property which the owner might otherwise exercise without question, not according to any uniform rules but so as to make the absolute enjoyment of his own property depend upon the arbitrary will of the municipal authorities, it is invalid. It fails to furnish a uniform rule of action and leaves the right of property subject to the will of such authorities, who may exercise it so as to give exclusive profits or privileges to particular persons.⁶⁰

The nature of the right or property sought to be controlled by the ordinance granting the discretion is largely determinative as to whether the discretion granted is so broad as to be arbitrary and invalidate the ordinance. The modern tendency exhibited in the more recent cases is to be rather liberal in upholding ordinances permitting grants of discretion to municipal administrative officers in order to facilitate administration under the existing complex conditions.⁶¹

There is an exception to the general rule which has sustained ordinances granting discretionary power to administrative officers. This exception is that ordinances need not always prescribe a specific rule of action and that some situations require the placing of some discretion in municipal officials such as where it is difficult or impractical to lay down a definite or comprehensive rule for guidance, or where the discretion relates to the administration of a police regulation and is essential to the protection of the public morals, health, safety, welfare, etc.⁶² Mere matters involving

⁵⁸ *City of Philadelphia v. Bartell*, 139 Pa. Super. 319, 11 A.2d 563 (1940).

⁵⁹ *State v. Tenant*, 110 N.C. 609, 14 S.E. 387 (1892); *Yick Wo v. Hopkins*, 118 U.S. 356 (1886); *Hague v. CIO*, 307 U.S. 496 (1939); *Heardt v. City of Portland*, 8 F.2d 871 (1925); see also many state cases cited in Annots. 12 A.L.R. 1436 (1921); 54 A.L.R. 1104 (1928); and 92 A.L.R. 40 (1934).

⁶⁰ *Hays v. Poplar Bluff*, 263 Mo. 615, 173 S.W. 676 (1915); *Rowland v. State ex rel Martin*, 129 Fla. 662, 176 So. 545 (1937).

⁶¹ See A.L.R. annotations cited *supra* note 59.

⁶² *Gorieb v. Fox*, 274 U.S. 603 (1927); *Tighe v. Osborne*, 150 Md. 452, 133 Atl. 464 (1926); *State v. Hundley*, 195 N.C. 377, 142 S.E. 330 (1928).

(Continued on Page 29)

REPORT OF K.C. DELEGATES ON THE FIFTY-SIXTH A.I.A. CONVENTION

WASHINGTON, D. C. — 1923

BY ALBERT S. OWEN AND COURTLANDT VAN BRUNT

Last month we promised a preview of the 1961 A.I.A. Convention Reports by carrying the very excellent report on the A.I.A. Convention of 38 years ago. To the best of our knowledge, this report was received, filed and forgotten; where it remained until a few weeks ago.

We doubt that more thought and time has ever gone into such a report — nor that there have been many conventions to equal the one in 1923 for color, pageantry and an impressive guest list.

Reading the report should recall to many the spirit of "the good old days" of the Twenties — before modern technology had settled down to provide architects with such materials and techniques as hyperbolic paraboloids, electric heating, lightweight curtain walls and epoxy coatings. Both of the authors are now deceased.

(Necrology on Courtlandt Van Brunt page 23.)

Your delegates beg to submit herewith the following report of the 56th Convention of the American Institute of Architects, the subject matter of which will deal more especially with a general description of the gathering, rather than a detailed schedule of the proceedings for which the membership is referred to the printed manuscript to be issued shortly by the Octagon and to the various reports which will appear in the architectural magazines.

Following a magnificent daylight ride through the Alleghenies over the Pennsylvania, we arrived in Washington at 10:20 P.M. on Monday, May 14th and found comfortable quarters assigned to us at the Lee House, a new hotel at 15th and L Streets within a fifteen minutes walk of the Corcoran Art Gallery where the sessions of the Convention were held.

Since the formal proceedings of the Convention were not scheduled to begin until Wednesday the 16th, we found that we had a full day at our disposal in which to familiarize ourselves with strange surroundings and register hasty first impressions of the Capitol City.

Tuesday dawned with leaden skies and a fine drizzle of rain which threatened to continue indefinitely and necessitated an adjustment in our plans for a sight-seeing trip.

We therefore made our way, with frequent street-corner conferences and consulting of maps, to the Powhatan Hotel at 18th Street and Pennsylvania Avenue, the official headquarters of the delegates within a few squares of the Octagon, where we found other architects gathering and were greeted by Mr. Boyd of Philadelphia, a member of the Entertainment Committee.

Afterwards a visit to the Octagon House which we found alive with hurrying clerks and eleventh hour preparations, a most quaint and venerable corner eminently suitable for the home of an honored and famous institution.

Having complied with these formalities we spent the balance of a moist forenoon in a self-conducted tour of the neighborhood which eventually brought us to Potomac Park and our first distant view of the Lincoln Memorial.

During the lunch hour the skies cleared, and with three days of convention routine ahead of us, we seized the opportunity for a memorable motor trip to Mount Vernon, Alexandria and Arlington.

In the space permitted for a committee report it is impossible — not to say out of place — to attempt to chronicle in appropriate language the profound impressions created by this, our first visit, to the Mecca of our country's history.

Verbose descriptions and poorly colored photographs cannot convey the simple, stately dignity of Mount Vernon. The setting amid wide well-kept lawns and magnificent trees, is one which stirs the emotions beyond description and makes a lasting appeal to the sympathetic imagination of the architect.

We found ourselves instinctively resenting the presence of noisy groups of tourists and wishing that we might be privileged to

spend an entire day in quiet contemplation of our surroundings. Erudite criticism is out of place here — there is an intense appeal to one's reverence and patriotism — an atmosphere of sacredness in which loud voices shock and laughter seems a sacrilege indeed.

The visitor leaves Mount Vernon in a reflective mood well suited to an examination of Christ Church at Alexandria, our next objective, which we reached in the cool quiet of late afternoon, a place of enduring charm mellowed by the passing years, cleansed and sweetened by Time's benediction.

One's mood is intensified at Arlington, where we found ourselves at the day's close, and wandered through the noble collonades of the amphitheatre to stand beside the Unknown Soldier's tomb with a feeling of awe beyond expression. There were others there too cold-blooded, or ignorant, or what you will, even to remove their hats, and yet there must be others besides architects who are susceptible to lofty impressions.

We dined that evening at the Powhatan, which we found crowded at that hour with in-coming delegates. There were many familiar faces and we eagerly renewed associations of former years.

On Wednesday morning, after considerable delay, the Convention opened in the Hemicycle of the Corcoran Art Gallery. President Faville addressed the delegates, reporting on the various Institute activities of the past year with particular reference to the splendid work of the retiring secretary, Mr. Parker, who received prolonged applause. Further tributes were paid to the work of Dr. C. Howard Walker in the interests of the Committee on Education, and to the Executive Secretary, Mr. Kemper. The President closed, urging better attendance at the conventions and expressing the hope that attendance at the yearly meetings might become a source of inspiration to the membership from which they might receive ever more and more encouragement and enthusiasm for aesthetics of the profession.

Mr. Waid, the Treasurer, reported a ten percent increase of membership during the year 1922 but a corresponding increase of twenty percent in expenses. The total receipts, however, for the past year were reported as \$16,700.00, exceeding the expenditures by \$10,400.00, due primarily to the sale of Institute

documents and books published by the Press of the A.I.A. Mr. Waid reported the sum of \$25,000.00 still due from the membership in arrears.

Mr. Parker presented the report of the Board of Directors, which emphasized the value to the Institute of frequent meetings of the Board with the various Chapters as at Kansas City and Denver and which reported a total membership as of May, 1923 of 2714, with new Chapter charters conferred upon West Virginia and Chicago.

The report of the Committee on Credentials was postponed until the afternoon meeting.

An informal luncheon for the delegates at the Hotel Washington Followed the morning session.

Mr. R. Glipston Sturgis of Boston, past president, presided at the afternoon session which was confined to addresses by Prof. Edgell, dean of the School of Architecture at Harvard University, and Prof. Baldwin of Columbia University, on the work of their respective schools. The outstanding address of the session was made by Mr. Jeffries of the Atlantic Monthly, an able talker, who spoke on the relations of the architect and the man on the street, an intensely interesting viewpoint excellently presented, which your delegates especially recommend to your attention in the printed report of the proceedings.

In the report of the Octagon Building Committee it was announced that the Institute had finally obtained full title to the Octagon property and that the Southern California Chapter has subscribed \$5000.00 for remodelling and furnishing the Octagon drawing room.

The session adjourned in time for the delegates and their guests to visit an exhibition of the work of Henry Bacon, F.W. Goudy, A.F. Matthews, Henry Mercer and Samuel Yellin, recipients of the gold medal of the Institute for distinctive work in architecture, typography, painting, tile work and ironwork respectively.

In the evening Dr. Walker gave an illustrated lecture on "Tendencies in American Architecture," which was fully attended and enthusiastically received.

The second day of the Convention, Thursday, May 17th, opened with the delayed report of the Committee on Credentials, followed by nominations for officers for the ensuing year and presentation by Mr. Mauran of the names of members proposed for advancement to Fellowship. The polls were open during the afternoon and evening, closing at 12:30 the following afternoon. The delegates from all Chapters comprising the Sixth District met on Thursday for lunch with Mr. Steele at the Cosmos Club and discussed matters of interest affecting the Chapters in the District; more especially, ways and means of encouraging and recruiting more interest in Institute and Chapter proceedings from the membership at large.

The afternoon of Thursday was given to routine business in an effort to clear the convention slate for the final day's program. In the evening delegates and their guests enjoyed an informal address on the "Architect's Responsibility In The Development Of Industrial Art" by J. Monroe Hewlitt, which was followed by an impromptu but extremely eloquent memorial address on the Bicentenary of the death of Sir Christopher Wren, by Dr. Walker.

Friday, the last day of the convention, dawned with grey skies and a promise of more rain. The business of the morning session began with a report of the Committee on Industrial Relations by Mr. Parker, who described in detail the success of the committees co-operative movement in Boston. Mr. Boyd spoke on the same subject with particular reference to the efforts of the Committee to encourage pride in craft among the various trade unions.

At half past six that evening some four hundred delegates and guests took places assigned them at tables arranged in a large tent which was erected on the strip of ground separating the fountain pool and the reflecting pool before the Lincoln Memorial. The diners were provided with official robes of lavender, yellow and orange which they found at their seats. The colors and standards of the organizations were massed at the ends of the tables.

At the speakers' table were the officers and past presidents of the Institute, the guest of honor, Mr. Bacon, Jules Guerin, Royal Cortissoz and others honored in the arts. Music was provided during the banquet by the United States Marine Band.

At the conclusion of the dinner, when Mr. Faville rose to speak and there was silence, it was noticeable for the first time that a steady rain was falling outside, but preparations had gone so far that Howard Greenley's program proceeded without change in spite of the weather.

Before commencing the ceremonies, Mr. Faville announced the election of the following officers of the Institute for the ensuing year. For president, William B. Faville of San Francisco; for first vice president, N. Max Dunning of Chicago; for second vice president, Wm. Stanley Parker of Boston; for secretary, Edwin H. Brown of Minneapolis; for treasurer, D. Everett Waid of New York; for director, third district, C. C. Zantzinger; for director, fifth district, G. Herrick Hammond; for director, eighth district, Wm. E. Fisher; for honorary corresponding member, Gorham Phillips Stevens.

The mystic beauty of the final episode of the convention will surely remain for all time in the memory of those of us who were privileged to witness it. Under the canopy of fine rain the concentrated effect of brilliant color was diffused and softened and the effect was beautiful beyond description. It must have been especially so from the viewpoint of the spectators, who were massed under dripping umbrellas flanking the wide approaches to the monument. The procession advanced in almost complete darkness, the robed standard-bearers rather suggested than revealed in the reflected radiance of a spot light which was directed upon the burnished sail of the barge of honor in the center of the lagoon.

As the officers and Mr. Bacon stepped ashore at the base of the monument and approached the rostrum at the top of the steps, the colors and standards were suddenly massed behind them in the full blaze of varicolored light, and followed up the steps to form a hollow square of glittering splendor against the severe classic beauty of the facade.

The formalities of the introduction of Chief-Justice Taft by Mr. Faville, of the introduction of President Harding by the Chief Justice, of the speech of presentation by the President, and of Henry Bacon's response are incidents which left impressions befitting their extraordinary significance, but the splendor of the final tableau will remain always a memorable conclusion to a most delightful and inspiring experience.

JOHNSON COUNTY SEWER DISTRICT REGULATIONS

According to Mr. William S. Boggess, assistant engineer of the Johnson County, Kansas, Main Sewer Districts, some problems have occurred recently because of a lack of information, or misinformation, about the rules and regulations in force on building sewer connections in his area.

The following material is excerpted from "Rules and Regulations for Johnson County Sewer Districts," and is for the guidance of members with current and future jobs in Johnson County. Questions about any of the regulations should be directed to Mr. Boggess, HEdrick 2-4027, Mission, Kansas.

Rule 9

BUILDING SEWER CONNECTIONS:

A. Permits. No building sewer shall be constructed which is to be connected, either immediately or in the future, with any lateral, joint, or main sewer of the District until and unless the owner, or his agent, has first applied for and secured a **Building Sewer and Connection Permit**. Such construction, and such connection shall at all times be subject to inspection by the District Engineer and shall conform to all plans and specifications, and comply with all rules and regulations of the District as hereinafter provided. Upon final approval by the District Engineer, and not otherwise, any owner, except as herein provided, shall be entitled to connect to a lateral sewer, but connection direct to any joint or main trunk sewer shall be prohibited except where specifically authorized by order of the District Engineer. Such permits may be issued by the District upon application therefor and payment of a fee of \$30.00. Printed forms will be furnished by the District.

Connections for apartments, motels, hotels and commercial and industrial buildings, but not including two-family duplexes, will be permitted only where the capacity of the sanitary sewers involved is adequate.

When a connection of a building sewer has been made with a septic tank under a permit subject to inspection, approval, and fee of \$30.00 paid therefor by the owner, no fee shall be charged subsequently for

the required permit to connect said building sewer to a lateral joint, or main sewer of the District.

In any case, when application is made for a permit to connect a building sewer line not previously inspected and approved by the District Engineer, the owner shall expose at his own expense, all of any part of such sewer line as the District Engineer may require for inspection.

B. Inspection—Violations. No building sewer or connection shall be covered until it has been inspected and approved by the Engineer. A record of each inspection shall be made upon printed forms supplied by the District. When the work is ready for inspection, the plumber shall request an inspection of the sewer and connection to the lateral, joint, or main sewer by notifying the Office of the District and the Engineer, or his representative, will make an inspection as soon as possible thereafter.

The District Engineer shall have authority at any reasonable time to enter any premise where connections have been made with District sewer, for the purpose of inspecting building sewers, drain sumps and connections with the sanitary sewer, without expense, however, to the owner. If, in the judgment of the Engineer, conditions are found that permit excessive ground or surface water drainage into the sanitary sewer system of the District, he shall notify the owner in writing, or the person having charge of the premise of such condition, and, if same is not corrected within thirty (30) days from the

service of such notice, the District Engineer shall report such failure to correct same to the Governing Board of the Sewer District, which may take such appropriate legal action as it shall determine to enforce compliance with its orders in respect thereto.

Any building sewer which is connected to any sanitary sewer line of the District in violation of any rules or regulations of the District may be disconnected by the District at the expense of the owner.

Pipe. Building sewers shall be constructed of salt glazed vitrified clay pipe of the bell and spigot pattern, conforming in all respects to the ASTM "Tentative Specifications for Standard Strength Clay Sewer Pipe", Designation C13, or of cast iron soil pipe as specified below for building drains. Vitrified clay sewer pipe shall be furnished in laying lengths of not less than three (3) feet. Building drains between the connection to the building sewer and the inside face of the building footing shall be constructed of cast iron soil pipe conforming to Federal Specification WW-P-401 extra weight for pit cast or service weight for centrifugally cast. The inside diameter of building sewers shall be not less than 4 inches. Building sewers serving multiple family residences, commercial and industrial buildings, and other large structures shall have inside diameters not less than six (6) inches.

Alignment and Grade. All building sewers shall be laid to a straight line and at a grade of not less than $\frac{1}{8}$ -inch per foot. Any deviation in alignment or grade totalling 30 degrees or more shall require special fittings.

Trench Excavation and Backfill. All trench excavation and backfill for building sewers shall be governed by the requirements hereinbefore stated in Regulation 3 and 6 under Rule 7. Pipe embedment material shall be placed immediately and trenches shall be backfilled within a period of five days after approval of the installation by the District Engineer.

Sewer Pipe Installation. Vitrified clay pipe installation and joining for building sewers shall conform to the requirements hereinbefore stated in Regulation 4 under Rule 7.

Joints in cast iron soil pipe shall be made in accordance with the best standard practice, using jute packing and lead. The lead in each joint shall be run at one pouring, and the joint shall be

completely filled. No second pouring or driving in of cold lead will be permitted. Joints shall be thoroughly caulked to make them tight and free from leaks, care being taken, however, to avoid overstraining the bell.

G. Connections of Building Sewers to Public Mains. Building sewer connections to the District sewer mains made prior to backfilling of the building sewer trench shall not be installed in the pipe trench as vertical risers but shall be laid on a slope of not to exceed 2 feet vertical to 1 foot horizontal cut back into the trench bank in such a manner that the service connection pipe will have a solid bearing on undisturbed earth. The service pipe shall make such a horizontal angle with the sewer line that a proper connection with the wye branch or slant is obtained without trimming the pipe and with no danger of jute or jointing material being forced into the sewer. The first length of pipe shall not make a total angle with the branch or slant greater than four inches in two feet, and the wye-branch or slant, shall be installed in such a manner as to fit the alignment of the branch service line as closely as possible.

When a building sewer is installed prior to the time that the building to which it connects is roofed and the building backfill completed, it shall be terminated with at least five feet of the building drain, which drain shall be fitted with a cast iron plug leaded-in or approved test plug. The District Engineer will, upon inspection of the building sewer, provide a seal around this plug which seal shall not be removed until the building is roofed, the building backfill made, and all openings enclosed to prevent entrance of surface drainage, and only then by the District Engineer.

That part of the building drain extending beyond the outside face of the building wall (not less than 3 feet) shall be embedded in tight cohesive material tamped to a height not less than the elevation of the top of the building wall footing.

H. Water Course Crossings. No building sewer shall be laid so that it is exposed when crossing any drainage ditch or water course. Where an old water course of necessity must be crossed and where there is any danger of undermining or settlement, cast iron soil pipe shall be used or vitrified clay sewer pipe completely encased in concrete may be used.

Rule 10

A. Unauthorized Connections to Building Sewer. No down spout, gutter, leader, roof, areaway (excepting basement stairway areaways not exceeding 30 sq. ft. in horizontal projection), driveway, garage, patio, or foundation drain shall be connected with or flow into any lateral, joint or main sewer of the District either directly or indirectly; nor shall any such connection be made with the sanitary sewer system of any residence, business, or other structure which discharges into the District sewers. No connection shall be made for any building with a sanitary sewer of the District until and unless the foundation has been completed and such building has been permanently covered to such an extent that it is watertight. No building shall have more than one connection with the sanitary sewers of the District, except by special approval in writing by the District Engineer where in his judgment unusual conditions warrant. Final connection approval as provided in Sec. A of Rule 9 by the District Engineer shall be subject at all times to full compliance herewith.

B. Basement Floor Drains, Sub-Drains, and Crawl Space Drains. Basement floor drains, sub-drains, and crawl space drains may be connected to sanitary sewers provided all of the following requirements (where applicable) are met and maintained:

- (1) Material used for backfilling around the basement foundations shall be classified as "cohesive" or "tight" and shall be free from construction wastes, debris, trash, rock, gravel, sand, waste concrete, and all other materials which will decay, or which cannot be satisfactorily compacted. Backfill around foundations shall be completed and substantially maintained to an elevation at the wall line not less than six inches above the finished grade elevation of the yard or lot at a line five feet out from the wall line.
- (2) The final yard grading shall be completed and maintained to provide drainage from the line five (5) feet out from the building wall line with slopes not less than 2 per cent and with waterway sections having areas below the specified finished grade elevation at the building wall lines sufficient to carry run-off from the tributary area in each case of not less than 1.5 inches per hour.
- (3) Outside openings in foundation

walls shall have their sills at least four inches above the finished grade elevations specified in (1) above or shall be provided with enclosures. Enclosures for all outside openings in foundation walls shall be permanently attached to the foundation wall in such a manner that the vertical joint between the enclosure and the face of the wall is watertight, and such that the top of the enclosure is not less than four (4) inches above the finish grade of the foundation backfill at the wall line, and the bottom of the enclosure is at least 8 inches below the opening sill. Metal enclosures shall be attached to the wall by means of steel bolts or studs not less than three-eighths (3/8) inch diameter.

- (4) Each down spout or roof drain shall be provided with an elbow fitting permanently attached to its lower end, which shall discharge onto a precast reinforced concrete splash block, or through a leader pipe, of the same diameter as the down spout, extending not less than four (4) feet into the yard, except where the discharge can be made onto a paved surface. Each splash block shall be not less than four (4) feet in length, shall conform in dimensions to the attached drawing and shall be permanently attached at its wall end to the building or foundation. Construction details relating to any alternative method of disposing of roof drainage shall be submitted to the District Engineer for approval before construction is started.
- (5) All building perimeter wall footings shall be poured against tight soil or rock with no openings, granular (non-cohesive) soils or materials, pipes, etc. permitted under such footing which will permit direct travel or percolation of water beneath the footings.
- (6) Sub-drains permitted hereunder shall discharge into an open concrete sump not less than 18 inches in diameter and 12 inches deep below the lowest point of the basement floor and thence shall discharge to the building drain through a suitable trap. Sub-drains which discharge a total flow of more than one gallon per minute per building shall not be connected directly or indirectly to a sanitary sewer.

itary sewer. Any sub-drains which are found to discharge in excess of this amount shall be disconnected from the sanitary sewer.

- (7) As a guarantee that the requirements of paragraphs (1) through (6) will be met and maintained for one year (12 months) following completion of final grading, the party or parties (referred to herein as the guarantor) requesting a connection permit shall have deposited in cash with the Board of County Commissioners an amount as given in the schedule below; however, this deposit will not be required for new connections to houses completed prior to adoption of these rules and regulations, but waiver of the deposit does not waive any of the requirements of paragraph (1) through (6):

Number of Building Connections Under Guarantee	Required Deposit
1	\$250
2	\$350
3	\$425
4	\$500
5	\$550
Over 5	\$550 plus \$50 for each connection over 5

Maximum deposit any one guarantor \$5,000.00
Refunds will be made to the

guarantor as guarantee periods expire such that the above schedule of deposits for the number of building connections under guarantee is maintained at all times. Any deficiency in surface drainage shall be repaired by the guarantor within 30 days of notice of such deficiency from the District Engineer. If not repaired within this period, the guarantor shall forfeit \$250.00 of his cash deposit for each violation and the Sewer District shall have the right of access to go onto the property and make such fills, and to perform such grading operations as necessary to bring the surface drainage up to the minimum standards.

- C. Use of Public Sewers. No building sewer receiving sewage from a garage, filling station, cleaning establishment, hotel or restaurant, or from an institution serving 100 or more meals per day, shall be connected to a lateral, joint, or main sewer, unless and until such building sewer has been provided with a suitable oil, grease and sand separator, or trap.

BOARD OF COUNTY COMMISSIONER
HERMAN F. HIGGINS
HARRY KING, JR.
CARL M. STANDIFORD

Governing Body of Mission and Shawnee Township Main Sewer Districts.



- NECROLOGY – Courtlandt Van Brunt, F.A.I.A. (1886-1961). Mr. Van Brunt was a former President of the Kansas City Chapter, and the son of Henry Van Brunt. The elder Mr. Van Brunt was the seventh president of the American Institute of Architects, and the only Kansas City architect ever to be so honored.

Courtlandt Van Brunt was graduated from Harvard in 1909 and from the Harvard post-graduate School of Architecture in 1911. He began his K.C. work in the office of the late Henry Hoyt.

In 1912, Mr. Van Brunt formed a partnership with the late Arthur H. Buckley. Most of his work was residential and for a period he designed many homes in the Country Club district for the late J. C. Nichols, including his own French Colonial home at 1400 Drury Lane, and all the homes in Greenway Terrace. He also designed the Memphis home of the late Burr Chapman and the home of W. C. Coleman in Wichita.

Made a Fellow in 1931 for service to the Institute, Mr. Van Brunt later became a Fellow Emeritus member of the Chapter. A brother, Henry Van Brunt, is a member of the Kansas City STAR's staff.

- Honors have come in good measure recently to the St. Louis firm of Murphy & Mackie. We are happy to comment on this for several reasons, not the least of which is that Joseph Murphy is a brother of our own John Murphy, of Keene & Simpson & Murphy. The ties extend further than blood, however, since Joe formerly practiced in Kansas City and was a member of the Kansas City Chapter.

Some weeks ago Murphy & Mackie won an Honorable Mention for their entry in the F.D.R. Memorial competition. Early in April it was announced that their Climatron in St. Louis had won the \$25,000 Reynolds Award — the first time the award has gone to a U.S. architect! By the time this item appears, M & M will have proudly accepted their award at the AIA Convention in Philadelphia.

- An alert public relations man for the banking associations quickly picked up our error in the March SKYLINES. On page 12 of that issue, a headline referred to sand castings in a "bank" lobby. To straighten out the record, it was a savings and loan association, not a bank — the legal implications of mis-naming one for the other are formidable.

We are glad to make this correction, particularly so because the several new bank buildings and additions going up in Kansas City are architect designed and supervised—and, for the most part, by Kansas City architects.

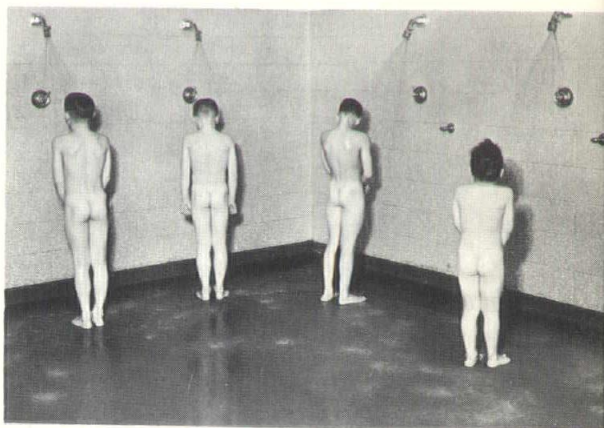
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HAROLD DUBY

- Lest you get the idea that SKYLINES correspondence is all critical, however, we hasten to immodestly mention that three very complimentary letters have come to the Chapter office in the past few weeks from other AIA Chapters. In two cases, Chapters were planning to start their own publication and the third one wanted to improve theirs. Other architects:(in these letters) said such nice things as "it looks like a highly effective venture", "(SKYLINES) is a most impressive production and you are to be complimented", and "We have been impressed by the fine caliber of your SKYLINES."

To conclude this commercial, two telephone calls were received last month from persons outside the architectural profession, a major supplier and a printer (not ours), complimenting the Chapter on the March issue.

- A scholarly article on "The Architect's Role in Milieu Therapy" by Robert W. Jackson appeared in HOSPITAL PROGRESS for March, 1961.

Bob defines milieu therapy as "a psychiatric treatment program that emphasizes environmental factors." It is pointed out in the article that careful attention should be given to seemingly minor details in the interior design and furnishing of the unit in the complete architectural expression of milieu therapy. The material in full will be carried in a future issue of SKYLINES.



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an exercise of discretion as to details in enforcing otherwise valid ordinances may be left to designated officials.⁶³ However, the duty should be a ministerial one rather than one involving legislative discretion.⁶⁴

The prevailing view is that there is no valid objection to ordinances which vest in municipal administrative officials or boards, or even a single officer, authority and arbitrary discretion relating to matters which are in the nature of privileges, *i.e.*, the using of property which might well be forbidden altogether, but which under certain conditions may be harmless or well managed. In such cases, it is usually held that ordinances need not prescribe specific rules of action or guidance for the administrative officers who are to put the ordinances into operation.⁶⁵ However, in some instances exceptions have been made to the rule.⁶⁶

A municipal ordinance prohibiting building without a permit but authorizing the building inspector to grant such a permit if satisfied that the proposed building complied with the requirements of the ordinance was held unconstitutional as conferring an absolute and uncontrolled discretion on the building inspector, since it made no provision as to what should be deemed necessary to constitute a safe construction.⁶⁷ An ordinance is unconstitutional as violative of the Fourteenth Amendment and as delegating legislative authority when it authorizes the building inspector to deny any application for a building permit for the erection of designated business structures if it should appear to him that due to the nearness or proximity of existing dwelling houses the fire hazard would be increased, health of adjacent inhabitants would be greatly menaced, or the residents of the district would be hurt or their property injured.⁶⁸ The test in respect to whether or not the conferring of discretion to refuse an application for a permit is valid is whether the applicant can determine beforehand from the contents of the statute or ordinance all the necessary requirements therefor.⁶⁹

Many courts have also recognized the rule that statutes and ordinances relating to the granting and revocation of building permits should prescribe a standard, but have held that the rule was sufficiently complied with under the particular facts and circumstances involved. Thus, an ordinance which provides that no person should erect or repair any building without first submitting a written application and receiving a permit to do so from the mayor and council, and that the application should state the proposed location and size of the building, the materials to be used and the purpose for which the building was to be constructed, was upheld, the court stating that "it was exactly this [a standard] which

⁶³ *Zucht v. King*, 260 U.S. 174 (1922); *Evanston v. Wazau*, 364 Ill. 198, 4 N.E.2d 78 (1936); *Korth v. Gland*, 123 Ore. 180, 261 Pac. 895 (1927).

⁶⁴ See A.L.R. annotations cited *supra* note 59.

⁶⁵ *Fischer v. St. Louis*, 194 U.S. 361 (1904); *Gundling v. Chicago*, 177 U.S. 183 (1900); *Wilson v. Eka City*, 173 U.S. 32 (1899); *Crowley v. Christensen*, 137 U.S. 86 (1890); *Yick Wo v. Hopkins*, 118 U.S. (1886).

⁶⁶ See A.L.R. annotations cited *supra* note 59.

⁶⁷ *Sioux Falls v. Kirby*, 6 S.D. 62, 60 N.W. 156 (1894).

⁶⁸ *Gulf Rep. Co. v. Dallas*, 10 S.W.2d 151 (1928).

⁶⁹ *City of San Antonio v. Zogheib*, 30 Tex. Civ. App. 230, 70 S.W.2d 333 (1924); *City of Tezarkana v. ry*, 94 S.W.2d 871 (Tex. Civ. App., 1936).

the ordinance in question gives, specifying the various matters to be taken into consideration in the exercise of that discretion." ⁷⁰ And an ordinance is not open to attack upon the ground of indefiniteness when it declares it unlawful to repair or alter any frame building within the fire limits if, in the opinion of the building inspector, the building had been damaged or had deteriorated to the extent of more than fifty percent of a similar new building.

An ordinance which makes it unlawful for one to do any particular job of plastering or stucco work without first obtaining a permit therefor from the building inspector does not vest the building inspector with an unlawful discretionary power. By provisions of the building code the inspector was required to issue a permit to anyone who filed an application in a certain form therefor and who was licensed by the city council to do such work generally. ⁷¹ Where an ordinance provides that no permit should be granted for the erection of a wooden building within fire limits nearer than 110 feet to the outer edge of the street pavement, it is not invalid as conferring arbitrary power or affording the opportunity to discriminate between those similarly situated since there was a standard by which the discretion of the town council was to be controlled. ⁷²

While a building regulation may be valid on its face, a permit may be denied by the building official because as he understands and interprets the regulation a permit should not be granted. ⁷³

In regard to special privileges relating to buildings, apparently it is not legally necessary that a rule of action shall be prescribed in order to save an ordinance from successful attack. For example, with regard to the moving of buildings on public streets it has been held that such an activity is a special privilege which can be arbitrarily controlled so that a municipality can by ordinance make the granting of permits rest upon the discretion of a public official without prescribing a rule of action. ⁷⁴ But there are cases indicating that a reasonable discretion must be exercised in granting or refusing such permits, depending upon the facts in each case.

A municipality cannot vest in a building inspector the right to determine the period of survival of a building permit. ⁷⁶

An official cannot refuse to issue a building permit for the erection of a gasoline station on the grounds that property owners complained of danger, noise, and depressing values of property. ⁷⁷

A city council cannot deny the application of a permit to move a building into the city without any apparent ground for doing so and without giving any reasons. Such action has been held arbitrary and the owner was held entitled to the permit as a matter of right. ⁷⁸

⁷⁰ *Farmers' & Planters' Co. v. Salisbury*, 136 Md. 617, 111 Atl. 112 (1920).

⁷¹ *State v. Lindquist*, 171 Minn. 334, 214 N.W. 260 (1927).

⁷² *Lowell v. Mt. Vernon*, 284 S.W. 1025 (1926).

⁷³ *E.g.*, see *Kenny v. Building Commissioner of Melrose*, 215 Mass. 291, 52 N.E.2d 683 (1943).

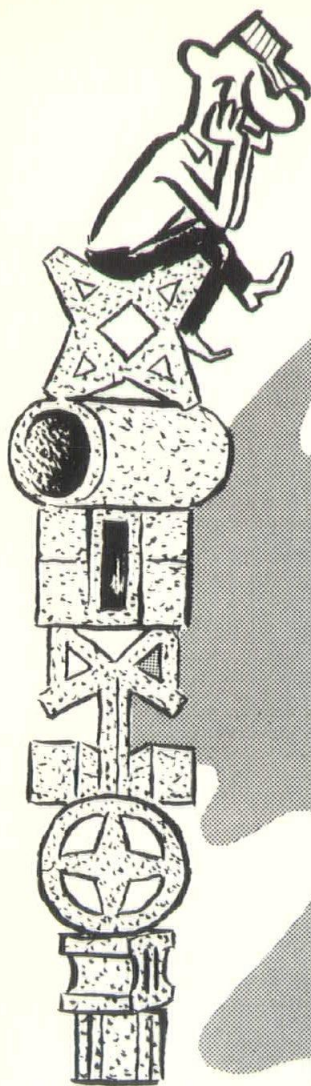
⁷⁴ *Eureka City v. Wilson*, 16 Utah 53, 48 Pac. 41 (1897), *aff'd*, 173 U.S. 32 (1899).

⁷⁵ See annot. 111 A.L.R. 1435 (1937).

⁷⁶ See *Island City v. Vinci*, 34 N.J. Super. 273, 112 A.2d 18 (1955).

⁷⁷ *Hadden v. Pierce*, 212 Ga. 45, 90 S.E.2d 405 (1955).

⁷⁸ *Groesbeck v. Mayor and City Council of City of Ely*, 328 P.2d 566 (Nev., 1958).



VERSATILE



Prepared by BUILDDEX, INC.
Phone CHerry 2-2177, OTTAWA, KANSAS

Where a section of a building code provides that all questions relating to buildings or building operations not covered or provided for in the building code shall be left to the discretion of the Superintendent of Buildings and that his decision shall be final, it is not unconstitutional as a delegation of primary legislative power where the building code specified by what means the Superintendent was to obtain safety.⁷⁹

Where a municipal ordinance provided that issuance of a building permit was required before any building could be constructed within the city and further provided that a building permit could not be refused if the application conformed to ordinance requirements, and an application was made in compliance with such requirements, the mayor lacked authority to refuse to issue a permit as he was under a ministerial duty to issue the permit.⁸⁰

"By the weight of judicial authority in this country, it has been widely held that an ordinance which lays down no requirements to be followed and no general and uniform rule is invalid because it leaves the granting of such a thing as a building permit to the sometimes arbitrary discretion of municipal authorities."⁸¹

SPRINGFIELD ARCHITECTS' WEEK

By Hal Hawkins

Springfield, Mo., Chapter members, as the Southwest Missouri Association of Architects, observed Architects' Week April 2-8, with a variety of good educational and public relations activities. Two of the events scheduled were a photographic exhibit of Ludwig Mies van der Rohe's work and a display of the actual work done by an architect preliminary to construction of a major Springfield building (Gospel Publishing Company). The film, "Architecture, U.S.A." was shown at the Art Museum, architects served as speakers at civic clubs, and the week was climaxed with a tour of 11 outstanding buildings, selected by an SMAA committee.

Mayor David Scott of Springfield proclaimed Architects' Week and called attention to the dual purpose of architecture — the provision of shelter and comfort in the most practical and efficient manner, and the expression of the spirit, sense of beauty and aspirations of the people who live, work and worship in the buildings it provides.

Members of the committee in charge of the week's observance were Richard Stahl, Robert Marshall, Harold Hass, Edwin Waters and Wayne Johnson.

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