

LOUISIANA ARCHITECT

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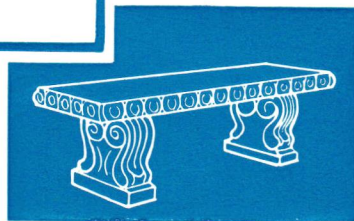
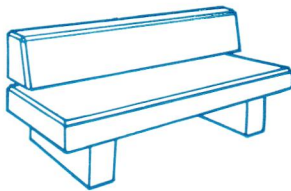
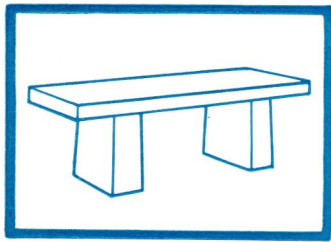
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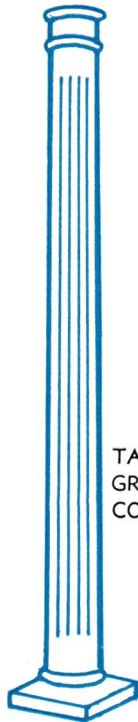
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TOTAL DESIGN...the Master Touch

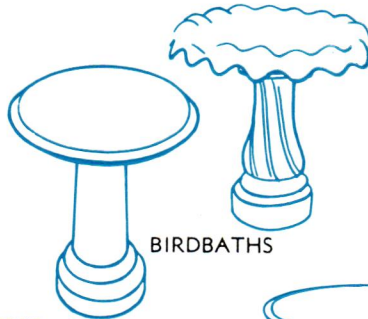


When the architect blends the shapes, the forms, the comforts, the beauty, the silhouettes, the landscape and the setting into a new building, he provides the master touch which means the complete satisfaction of the client's wishes.

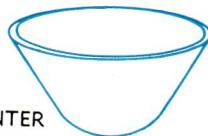
Quite often, Louisiana Concrete specialty items help provide the proper accent . . . to add finesse—tastefully, economically.



TAPERED
GREEK
COLUMN



BIRDBATHS



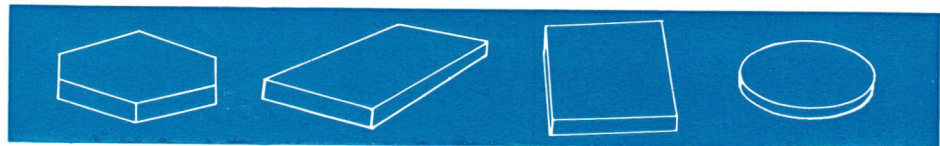
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Preliminary Program

1964 CONVENTION, Louisiana Architects Assn.

November 5, 6, 7; Municipal Auditorium, Lafayette, La.

THEME: THE LAW AND ARCHITECTURE

THURSDAY, NOVEMBER 5

12:00 Noon LAA Board Meeting, Town House
1:00 - 6:30 Registration, Auditorium
1:00 - 7:45 Erection of Exhibits, Auditorium
7:45- ? Cocktails and Buffet, Oakbourne

FRIDAY, NOVEMBER 6

10:00 - Noon Seminars, Auditorium
11:30 - 1:00 Luncheon for Ladies, Oakbourne (Speaker on Int. Decoration)
Noon Hunt Lunch or Men's Luncheon
1:30 - 5:00 Product Exhibit, Auditorium
5:00 - 6:30 Cocktail Party w/Hors D'Oeuvres and combo (St. Pierre), Auditorium
8:30 - ? Beaux Arts Ball (Costume) National Guard Armory

SATURDAY, NOVEMBER 7

9:00-11:00 Irish Coffee (U.S. Plywood, et al)
10:00 - Noon LAA Annual Meeting & Election of Officers, Town House
10:00-Noon LAA Annual Meeting and Election of Officers, Town House
1:30 - 2:30 Seminar, Auditorium
2:30 - 3:15 Beer, Oyster, Shrimp and Maybe Crayfish Break
3:00 - 4:00 Seminar, Auditorium
4:00 - 4:20 Summation
7:00 - 8:00 Cocktail Party, Auditorium
8:00 - 9:30 Banquet and Entertainment
9:30 - 1:30 Dance (Louis Major)

SUNDAY, NOVEMBER 8 (TENTATIVE)

9:30 - 10:30 Milk Punch Grabber (Misceramic Tile)
10:30 - 11:30 Brunch (Acme Brick Co.)

COVER: When Artist John H. Schaeffer learned that the August issue would serve as the traditional roster issue, he appropriately designed the antique inkwell and plume.

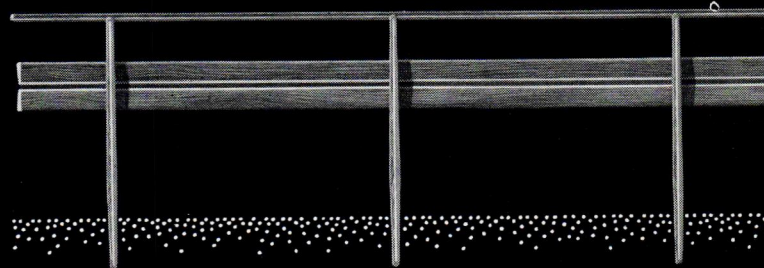
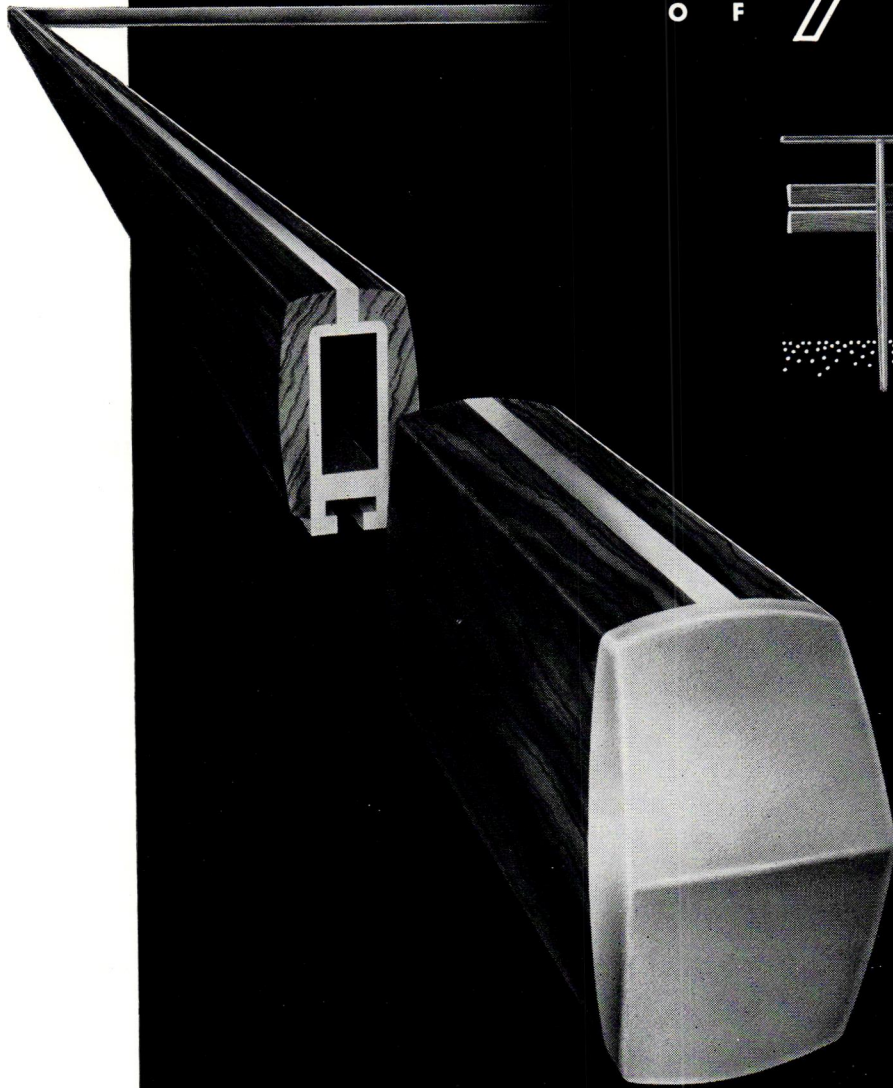
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WITHDRAWAL OF BIDS ON CONTRACTS

By Alvin Rubin
LAA Legal Counsel

A recent federal case calls attention to attempts by contractors to withdraw bids on public contracts after an error in the preparation of the bid has been discovered.¹ In *Lexington Housing Authority vs. Continental Casualty Company*,² the Housing Authority advertised for bids on a low rent housing development. In the advertisement, the Housing Authority had reserved the right to reject all bids and had stated that no bid submitted could be withdrawn within 30 days after the opening of the bids. Contractor A submitted a bid which provided that the acceptance of the bid must be in writing. The bids were opened on July 21, 1959, and Contractor A's bid was the lowest. The bid was accepted by the Housing Authority by oral motion subject to approval by the Public Housing Administration. However, no written acceptance was given to Contractor A.

On July 22, 1959, Contractor A discovered an error in the preparation of its bid and wired the Housing Authority that it was withdrawing its bid. Upon refusal by Contractor A to enter a contract, the Housing Authority let the contract to the second lowest bidder, and sued Contractor A for the difference.

The court held that, since there was no consideration given by the Housing Authority for Contractor A to leave its bid open 30 days, Contractor A was free to withdraw its bid or offer at any time prior to an effective acceptance by the Housing Authority. Since the oral acceptance of Contractor A's bid had been conditioned on approval by the Public Housing Administration, the acceptance was not unconditional. Consequently, since Contractor A's bid was withdrawn before approval by the Public Housing Administration, the court held that Contractor A had the right to withdraw its bid when it did so.

It would appear that in Louisiana, a different result would be reached in this situation. Although Louisiana's Public Contract Law³ makes no express provision permitting governmental authorities

to prohibit withdrawal of bids for a period of 30 days subsequent to the opening of the bids, the Louisiana Supreme Court, in the case of *Housing Authority of the Town of Lake Arthur, Louisiana vs. T. Miller & Sons*,⁴ refused to grant relief to the contractor under a set of circumstances similar to the one above. In this case, the local Housing Authority had advertised for bids. The advertisement stated that "no bid shall be withdrawn for a period of thirty (30) days subsequent to the opening of bids without the consent of the Housing Authority of the Town of Lake Arthur." After the bids were open, the Housing Authority accepted T. Miller & Sons' bid on April 22, 1952, "subject to the approval of the Public Housing Administration." On May 12, 1952, the Director of the Public Housing Administration notified the local director that the contractor's bid had been approved. This acceptance, however, was not communicated immediately to the contractor. On May 22, 1952, shortly after 2:00 o'clock P.M., the contractor wired the Housing Authority that it was withdrawing its bid. The local director of the Housing Authority wired the contractor notifying it of the acceptance of the bid. This telegram was received at the contractor's office at 3:35 o'clock P.M., on May 22, 1952.

Upon the refusal of the contractor to execute the contract, the Housing Authority accepted the next lowest bid and sued the contractor for the difference. The trial court held that, since the original acceptance by the Housing Authority had been conditioned upon approval by the Public Housing Administration, the contractor's bid was not binding. The Louisiana Supreme Court, however, reversed the trial court and held that, even if the acceptance by the Housing Authority had been conditional, when the Public Housing Authority approved the contract on May 12, 1952, the condition became fulfilled and, consequently, the local Housing Authority had the right to accept the bid within the 30 day period. Consequently, since the Housing Authority had accepted within the 30 day period, the court rendered judgment against the contractor.

No Louisiana cases have been found dealing with an attempt to withdraw a bid in a private contract as a result of the contractor's mistake in bidding. However, in *Harrelson v. Raphael*,⁵ the

contractor sued the owner to recover an amount allegedly due for work done on a building owned by the defendant. The contractor contended that he was due this amount, because he had made an error in totaling up three items of work to be done. The court held that the contractor was entitled to recover for the reasonable value of the work done because the owner had noticed the error and was aware of it when the contractor started work.⁶ The court stated that the minds of the parties did not meet, and consequently no contract resulted. Of course, this was not a case merely of error by the contractor, since the court found that the defendant had noted the error. However, it does seem to suggest that where the unilateral mistake is very great, this may lead to the situation in which the minds of the parties do not meet.

*Harris v. Lillis*⁷ involved a related point. In this case, a subcontractor sought to get out of a bid that he had submitted to a contractor. The court held that, in accordance with the custom prevailing in the building trade in New Orleans, an offer by a subcontractor to a general contractor to do work is irrevocable after the contractor has used the estimate of the subcontractor as a basis for his offer to the owner, and the owner had accepted the general contractor's bid. The court stated: "After all, it appears to us that this case is one where the subcontractor seeks to recant from his engagement because he made a mistake in offering to do the work for an unprofitable price. It is clear that such a defense cannot be countenanced."

In Louisiana, therefore, a contractor could withdraw a bid, once accepted, only if he could show a mutual error, or an error by one party known to the other. It is possible that relief would be afforded if an error of such magnitude were made that the owner must have been aware that the bidder had made a mistake, but there are, as yet, no cases so holding.

¹ Other cases on this question include *Peerless Casualty Co. vs. Housing Authority*, 228 F. 2d 376 (5th Cir., 1955) and *St. Nicholas Church vs. Kropp*, 160 N. W. 500 (Minn., 1916).

² 210 F. Supp. 732 (D.C.W.D. Tenn. E.D., 1962).

³ La. Revised Statutes 38:2211-2217.

⁴ 239 La. 966, 120 So. 2d 494 (1960).

⁵ 116 So. 2d 301 (Orl. App., 1959).

⁶ This is technically called recovery on a quantum merit.

⁷ 24 So. 2d 689 (Orl. App. 1946).

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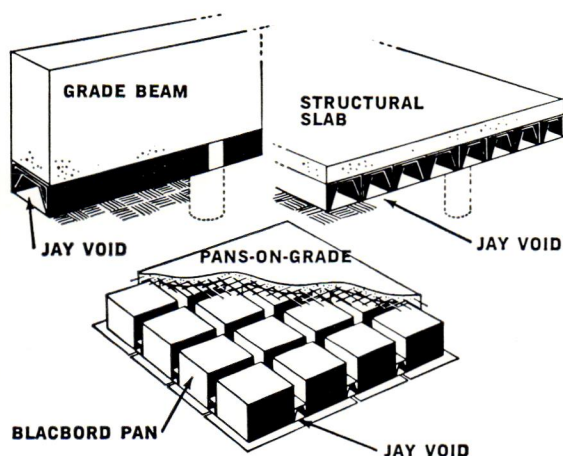
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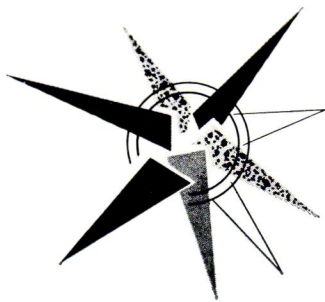
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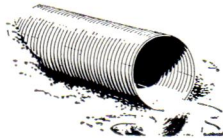
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NEWS, NOTES, QUOTES . . .

Producers Council Convention to Be Held in New Orleans

"New Products—From Concept to Sales" will be the theme of the Producers' Council's 43rd Annual Meeting and Chapter Presidents' Conference, scheduled for New Orleans, September 22-25, 1964, according to Gene Macon, president of the New Orleans Producers' Council Chapter.

Among the prominent speakers on the program will be Arthur Gould Odell, Jr., FAIA, president of The American Institute of Architects, and Leslie B. Worthington, president of the United States Steel Corporation.

A. M. Young, president of the Council, commented that the timeliness of the subject and the need for new products to meet the demands of a rapidly expanding construction market in the coming decade will make this one of the most important meetings in the Council's history.

Dear Mike:

May I take this means of thanking you and your co-workers and the LAA for making available to us the generous allotment of space which you did for the July issue of LOUISIANA ARCHITECT. We were delighted with this opportunity and deeply appreciate it. From our point of view the whole thing from start to

finish was as much as we could hope for—complete editorial freedom from you and excellent cooperation from Franklin Press.

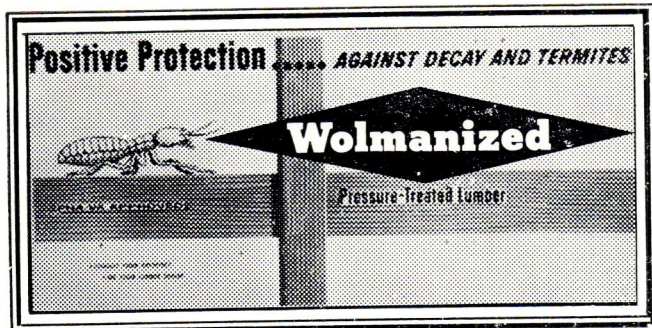
I hope we can do it again some time.

Sincerely,
JOHN W. LAWRENCE, FAIA
Dean
Tulane School of Architecture



The first comprehensive collection of reference materials on concrete in Southwest Louisiana has been donated to McNeese State College library by the Portland Cement Assn. James E. Taylor, Jr. of New Orleans (right), Portland field engineer, made the presentation of more than 400 handbooks, brochures and other literature to the college's Frazer Memorial Library. Dr. Samuel J. Marino, McNeese Librarian, accepted the reference works.

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This sketch by Richard S. Caldwell, architect, is the sixth in a 12-part series to be featured in LOUISIANA ARCHITECT. The drawings are part of a large collection to be presented in a forthcoming book illustrating the basic form of Louisiana architecture.

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