Solite block produced under strict laboratory supervision and inspection were made and shipped to Kodaras Acoustical Laboratories where the blocks were made into movable wall panels of various thicknesses with a wall area of 99 sq. ft. These panels were cured 28 days and then rolled between two isolated reverberation rooms, where measurements of sound transmission loss were made. The results of these tests are summarized below.

(Results data available upon request.)

Solite rates HIGH for LOW sound transmission

SOUND TRANSMISSION CLASS... the Sound Transmission Class (STC) is a single number rating system which represents the sound transmission loss performance of a wall. This rating is arrived at by comparing the measured transmission losses in a series of 16 test bands with those of a reference contour having the form illustrated in Figure A. The sum of the deficiencies below the contour shall not be greater than 32 dB; the maximum deficiency at a single test point shall not exceed 8 dB. When the contour is at the highest value that meets the above requirements, the sound transmission class for the specimen is the TL value corresponding to the intersection of the contour and the 500 cps ordinate.

SUMMARY/SOUND TRANSMISSION CLASS (STC) OF MASONRY WALL TESTS

<table>
<thead>
<tr>
<th>MASONRY WALLS</th>
<th>STC</th>
</tr>
</thead>
<tbody>
<tr>
<td>4&quot; Solite Lightweight Block</td>
<td>40</td>
</tr>
<tr>
<td>6&quot; Solite Lightweight Block</td>
<td>44</td>
</tr>
<tr>
<td>8&quot; Solite Lightweight Block</td>
<td>45</td>
</tr>
</tbody>
</table>

SOLID SOLITE CONCRETE WALLS (AVERAGE TRANSMISSION LOSS IN DECIBELS)

<table>
<thead>
<tr>
<th>SOLID CONCRETE WALLS</th>
<th>Average T. L.</th>
</tr>
</thead>
<tbody>
<tr>
<td>4&quot; Solite Concrete Wall</td>
<td>47 dB</td>
</tr>
<tr>
<td>8&quot; Solite Concrete Wall</td>
<td>52 dB</td>
</tr>
</tbody>
</table>

NOTES: (a) Add 3 to STC if the wall is plastered one side. Add 5 to STC if gypsum board on isolation channels is attached to one side of wall.

(b) Concrete Wall Tests Run at Law Engineering Testing Company.
IN THE BEGINNING...
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AND THESE Maryland Stone Split Blocks

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LOW ABSORPTION and GREAT BEAUTY

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a slice of toast or the temperature...

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SEPTEMBER-OCTOBER CONTENTS

VOLUME XXVII

NUMBER 5

COVER

A.I.A. ATTEMPTING TO PRESERVE THE PAST FROM BALL AND BULLDOZER

CONVENTION PREVIEW — MILLARD BRESIN 4

GREETINGS FROM STANLEY H. KLEIN, CONVENTION CHAIRMAN 5

CONVENTION PROGRAM 5-6

CLIFTON C. FLATHER, GUEST SPEAKER 7

A HISTORY OF QUEENS COUNTY 8-9

NOMINATING COMMITTEE REPORT FOR 1968 OFFICERS 12-13

NYSAA PRESIDENT ELECT APPOINTED ASSOCIATE DIRECTOR OF DORMITORY AUTHORITY 15

NYSAA CONVENTION EXHIBITORS 16-18

INDEX TO ADVERTISERS 18

ARCHITECTURE—QUEENS CHAPTER AIA HOST CHAPTER FOR 1967 NYSAA CONVENTION 19-28

EDITORIAL 33

URBAN RESTORATION 34-44

BY-LAWS 47-49

SYMPOSIUM 50-58

QUESTIONS AND ANSWERS 59-64

PEOPLE, FIRMS, AWARDS, etc. 67

NEXT ISSUE:

• THE RIVER — ROCHESTER SOC. ETC., ETC.
• CONVENTION REVIEW AND HIGHLIGHTS
CONVENTION PREVIEW

THE NEVELE & ENVIRONS

GREETINGS
MILLARD BRESIN, A.I.A.

One thousand acres of nature's beauty. Located in the Catskill Region, a sheer delight to behold. How else to describe the "NEVELE"? The pick of President Johnson for his overnight stay in the area. How else to expound the virtues of this magnificent hotel? I could tell you about the beautiful rooms, indoor and outdoor pools, 18 hole Championship golf course, magnificent night club, recreation and athletic facilities, etc., etc., etc. . . . need I go on?

Let's make this convention our largest ever. Don't miss it and regret it later.

The Convention will start Monday, September 25th, and close after lunch, Thursday, September 28th. The entire program is printed in this issue for your edification. Our seminar entitled "URBAN RESTORATION" promises to be a session which should interest all.

Many thanks to those individuals on the Convention Committee who have helped prepare for our convention, a special thanks to Joseph Adonizio, H.A.I.A., for his untiring help and understanding.

On the following pages are some examples of work by Queens Chapter Architects, and a History of Queens County by Mario J. Cariello.

I hope to see and meet you all at the NEVELE, so please drive carefully—(both ways).
Greetings and Welcome to the 1967 Convention.

The Queens Chapter, as the Host Chapter, in collaboration with "Mike" Evans, has endeavored to make this an outstanding convention.

Mel Bresin, the Queens Chapter President, has doubled in brass by undertaking the job as Host Chapter Chairman. Larry Vuerfel and his associate, Marc Weissman, have designed the art work and stationery. Roy Rosenbaum organized the Queen's Chapter architectural exhibits for this issue. These are the men who have put the show on the road with the able assistance and direction of our Executive Director, Joe Addonizio.

The Convention this year is being held for the first time at the Nevele Country Club. The "Nevele" is the smallest of the three "giants" of the Catskills. The buildings are arranged in a park-like setting. You will enjoy walking to your various activities, whether outdoors or indoors. There is parking adjacent to every building.

We have again changed the format of the Convention slightly. The first full day will be devoted to business and a Seminar on Urban Restoration. The second full day will be devoted to recreation for those who want to play, and Committee Meetings for those who want ("Have") to work. The third day is business, half day for most, full day for the Executives and Directors.

The Architectural and Building Products Exhibits will have better display areas than usual, so we can expect much better visual attention than we have had previously.

Greetings again. Please read your programs carefully to note the registration period and the voting time. Attend the meetings, Seminar, exhibit booths, and enjoy.

---

**1967 NYSAA ANNUAL MEETING AND CONVENTION**

**September 25 to 28, 1967**

The Nevele Country Club
Ellenville, New York

**SEPTMBER 25, 1967 — MONDAY**

3 to 5 P.M.  Registration — Upper Lobby
6 to 7 P.M.  Host Chapter Cocktail Party — Exhibit Area
7 P.M.  Opening of Exhibits — Educational and Architectural
8:30 P.M.  Host Chapter Dinner — Fun Night
8:30 to 10  Regional Council, AIA
10 P.M.  First Drawing for Prize in Exhibit Area
10:30 P.M.  Show Time — Dancing

**SEPTMBER 26, 1967 — TUESDAY**

9 A.M. to 5 P.M.  Registration
9 to 10:30  Booths Open — Visit Exhibits
10 A.M. to 12 Noon  First Business Session — Annual Meeting
12 Noon  Reports, Resolutions, Nominations
12:30 to 2 P.M.  Exhibitors’ Cocktail Party and Buffet Luncheon
2 P.M.  Archtects and Male Guests only — Exhibit Area
2:30 to 5:30 P.M.  Seminar — "Urban Restoration"

**SEPTMBER 27, 1967 — WEDNESDAY**

9 A.M.  Registration
10 A.M.  Close of Registration for Delegates
9 to 10:30 and All Day  Booths Open — Visit Exhibits
Full Day of Recreation
2nd Annual Gold Tournament — Architects versus Exhibitors
Golf, baseball, swimming, health clubs, hiking, etc.
Please indicate which activity is selected so arrangements can be made. Golfers, please give handicap if any
Committee Meetings

**SEPTMBER 28, 1967 — THURSDAY**

9 A.M.  Registration
10 A.M.  Casting of Ballots
Booths Open — Visit Exhibits
Luncheon — Formal, no speeches
10:30 A.M.  Ballot Counting
12 to 1, 2 to 4 P.M.  and All Day  Committee Meetings
Booths Open — Visit Exhibits
1 P.M.  Luncheon — Informal, no speeches
1:30 to 2:30 P.M.  Casting of Ballots
2:30 to 5:30 P.M.  Booths Open — Visit Exhibits
6 to 7 P.M.  Banquet — Black Tie Preferred
7:30 P.M.  Exhibit Awards — Arthur Schiller, FAIA, Chairman
8 P.M.  Architectural Awards
9 P.M.  Show Time — Dancing

---

**1967 N.Y.S.A.A. CONVENTION PROGRAM 1967**

**1967 - MONDAY**

**Registration**
**Host Chapter Dinner — Fun Night**
**Booths Open — Visit Exhibits**
**First Business Session — Annual Meeting**
**Reports, Resolutions, Nominations**
**Exhibitors’ Cocktail Party and Buffet Luncheon**
**Architects and Male Guests only — Exhibit Area**
**Seminar — "Urban Restoration"**
**Show Time — Dancing**

**1967 - TUESDAY**

**Registration**
**Booths Open — Visit Exhibits**
**First Business Session — Annual Meeting**
**Reports, Resolutions, Nominations**
**Exhibitors’ Cocktail Party and Buffet Luncheon**
**Architects and Male Guests only — Exhibit Area**
**Seminar — "Urban Restoration"**
**Show Time — Dancing**

**1967 - WEDNESDAY**

**Registration**
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**Booths Open — Visit Exhibits**
**Full Day of Recreation**
**2nd Annual Gold Tournament — Architects versus Exhibitors**
**Golf, baseball, swimming, health clubs, hiking, etc.**
**Please indicate which activity is selected so arrangements can be made. Golfers, please give handicap if any**
**Committee Meetings**
**Booths Open — Visit Exhibits**

**1967 - THURSDAY**

**Registration**
**Casting of Ballots**
**Booths Open — Visit Exhibits**
**Luncheon — Informal, no speeches**
**Casting of Ballots**
**Hotel Cocktail Party — Exhibit Area**
**Booths Open — Visit Exhibits**
**3rd Drawing for Prize in Exhibit Area**
**Banquet — Black Tie Preferred**
**Exhibit Awards — Arthur Schiller, FAIA, Chairman**
**Architectural Awards**
**Show Time — Dancing**

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**EMPIRE STATE ARCHITECT—SEPTEMBER-OCTOBER, 1967 / 5**
SEPTEMBER 28, 1967 — THURSDAY
9 to 12 Noon Boths Open — Visit Exhibits
10 A.M. Second and Final Business Session — Annual Meeting
1 P.M. Luncheon — Host Chapter
Installation of Officers
Awards & Prizes — Golf and other activities
Door Prizes
Ladies Prizes
3 P.M. Board of Directors Meeting

RECREATION PROGRAM — NEVELE HOTEL
TUESDAY, SEPTEMBER 26, 1967
*FOR THE LADIES
10:45 A.M. Walk to the Nevele Falls and guided tour of Nevele Grounds.
11:30 A.M. Ladies Foul Shooting Tournament.
12 Noon Handwriting Analysis ................................. Larry Hilton
1:00 P.M. Luncheon.
2:30 P.M. Ladies Cosmetic Demonstration ........................ Miss Lori of Country Girl.
3:30 P.M. Ladies Little Olympics.

WEDNESDAY, SEPTEMBER 27, 1967
FOR LADIES AND MEN
8:30 A.M. Men's Golf Tournament
10:45 A.M. "SIMON SEZ" ................................. Norman Leigh.
11:30 A.M. Mixed Volleyball Tournament also Tennis Tournament.
12 Noon Audience Participation Games ........................... Larry Hilton.
1:00 P.M. Luncheon and Cocktails.
2:30 P.M. Ladies & Men's Hole in One Golf Tournament.
           Mixed Softball Game (Special Rules for Men).
3:30 P.M. Mixed Horseshoe Pitching Tournament.
4:30 P.M. Swim Events.

THURSDAY, SEPTEMBER 28, 1967
FOR THE LADIES
10:45 A.M. Ladies Shuffleboard Tournament.
11:30 A.M. Ladies Volleyball Tournament.
12 Noon Lecture "ART OF RELAXATION" ........................... Larry Hilton.
1:00 P.M. Luncheon.

*If needed, Baby Sitters available at $1.25 per hour.

NYSAA '67
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Vice Chairman ......................... GERSO ON T. HIRSCH
Host Chapter ......................... QUEENS CHAPTER, AIA
President ....................... MILLARD BRESIN
Secretary ...................... ROY ROSENBAUM
Treasurer .................. MAX ROSENFELD
Hospitality .................... MASSIMO F. YEZZI
Sports ...................... PHILIP P. AGUSTA
Architectural Exhibits ............ ISAAC ALLEN
Ladies Activities .............. MRS. MILLARD BRESIN
Registration and Attendance ....... G UERINO SALERNI
Program & Seminar .......... SIMEON HELLER
Press & Public Relations ........ LAWRENCE WERFEL
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• Car from New York City: Super highways all the way. New York State Thruway to Harriman Exit 16, enter onto Route 17 Quickway to Exit 113. Follow Route 209 north to the NEVELE.

• From Upper New York State: Leave Thruway at Kingston Exit 19, take Route 209 through Ellenville one mile to the NEVELE.

• From Philadelphia Area: New Jersey Turnpike to Garden State Parkway to New York State Thruway, to Harriman Exit 16, then proceed as above.
Mr. Clifton Flather, Administrative Director of the Dormitory Authority of the State of New York, will be the featured after dinner speaker, Tuesday evening September 26th, at this year's New York State Association of Architects' Convention.

Mr. Flather will discuss the overall program of the Dormitory Authority and some of the problems that confront an Authority whose program has reached the magnitude of one billion, seven hundred million dollars, ($1,700,000,000.00). The great variety of work and the amount of appropriated monies, are little known facts of this authority, which Mr. Flather will discuss.

Clifton Curtis Flather, born in Bridgeport, Connecticut, lives in Elsmere, New York with wife Jessica and they have one daughter, Jane. He is a graduate of Dowd's Academy, Washington, D.C., Yale University, Cornell University Graduate School of Education, and holds an Honorary Degree, Doctor of Humane Letters, from St. Bernardine of Siena College.

To further add to an accomplished academic career, Mr. Flather is a Registered Architect (License No. 5883 for those of you who want all the facts). Mr. Flather has indeed held many offices and served on many committees, such as the Advisory Board, Community Planning for the Albany Suburban Areas; Member of the National Educational Committee on Vocational School Planning; a member of The White House Committee on Education; and member of Regents Examination Committee on Architectural Drafting.

As is usually true of those with many talents, membership in fraternal and professional organizations kept a busy man busier. He was a member of the Navy League, The Yale Club of New York City, Masonic Lodge, U.S. Naval Institute, Building Research Institute, a past president of Kiwanis, a member of Phi Kappa Epsilon (Yale), Phi Delta Kappa, and a member of the Albany Engineering Society - 1936-1967. During the war Mr. Flather served in the National Defense Curriculum Laboratories at the Universities of Cornell, Syracuse, and Rochester.

Mr. Flather's multi-faceted career began in the Files Engineering Co., Providence Rhode Island in 1921. In 1927 he left to become a Special Investigator with the U.S. Bureau of Investigation. His career turned to Architecture, and from an Architectural Draftsman with Starrett and Van Vleck, Architects, New York City, he progressed to a member of the firm of (you're right!) Flather, Jaquet and Goddard, Architects.

In 1940 Clifton Flather became Department Head of the Building Construction Department at Delhi State Technical Institute. As previously mentioned, he served in the Curriculum Laboratories during the war years and in 1946 he became Associate Supervisor of Industrial and Technical Education, in which position he served until 1948. During this period he was acting consultant for the New York State Dormitory Authority. Finally, in 1948 he became Administrative Director of the Dormitory Authority of the State of New York; a post he has ever since, served with distinction.
Queens County Goes Back to 1683

One of the ten original counties of New York, Queens County was created November 1, 1683. It then was three times its present area including all of Nassau and extending into Suffolk.

This territory — a part of New Netherlands — was originally governed by the Dutch, who permitted English as well as Dutch colonists to settle and form towns (townships). Under this plan, (1st and 2nd Wards) were organized in 1642, Flushing (3rd Ward) in 1645, Jamaica (4th Ward) in 1656, Far Rockaway (5th Ward), then part of Hempstead, in 1644.

These colonists — for the most part Englishmen — found themselves again under English rule when Peter Stuyvesant surrendered in 1664 to an English force acting for the Duke of York.

The colony turned to English ways when Long Island, Westchester and Staten Island were formed into the County of Yorkshire. But Yorkshire passed from existence in 1683 when the entire province was divided into counties. Long Island contained three of the original counties, Queens including the present Nassau, Kings and Suffolk.

Named for English Queens Catherine and Braganza, Queens and its people were divided against each other during the Revolutionary War — Whig against Tory. When the English captured Long Island in 1776, many patriots were forced to flee from the Island to avoid capture. After the war, Queens residents resumed peaceful activities.

Incorporated Into Greater City in 1898

Queens with its 118 square miles of area became one of the five boroughs incorporated into the Greater City (New York) on January 1, 1898. It has come a long way since a few dissenters from the Puritan colony of Massachusetts settled in Newtown in 1642, in the area which now comprises the communities of Ridgewood, Maspeth, Middle Village, Winfield, Woodside, Jackson Heights, Elmhurst, Corona, Rego Park and Forest Hills. The original inhabitants were three Indian tribes, the Canarsies, Rockaways and Matinecocks. These and other Long Island tribes gave their picturesque names and variations thereof to towns, coves, bays, hills, roads and streams.

The first Europeans to live in the area were trappers employed by the Dutch West India Company, which held a monopoly over Long Island and forbade settlement there from 1621 until 1638, when the monopoly was abolished. A few Dutch settlers came and received land grants along Newtown Creek and Bowery Bay. In 1642 the Rev. Francis Doughty with a group of associates from New England obtained a grant for the area which later became Newtown. With 13,332 acres on the North Shore and a charter granting extensive rights of self-government, the new colony was named Maspet (the spelling of the original records). Later it was called Newtown. It was abandoned in 1643 when Indians burned the homes and killed a number of settlers. Most of the survivors lived in New Amsterdam (Manhattan) for a few years, gradually returning to rebuild their homes and to resume farming, hunting and fishing. By 1652 about 60 families had settled in the area that is now Corona Avenue eastward to Flushing Creek.

Jamaica Established in 1656

Far Rockaway, then a part of the Town of Hempstead, was organized in 1644, Flushing in 1645 and Jamaica in 1656.

The struggle for religious freedom in the colonies began early in Queens. Peter Stuyvesant, then Governor of New Netherlands, in 1657 ordered the suppression of the Quaker's community in Flushing. He had their meeting place closed and when they attempted to convene in the open, he dispersed their gatherings.

As other denominations came to the support of the Quakers, Stuyvesant increased his harsh measures to include all settlers in the town. Charter rights of self government were revoked and local officials removed. An appeal to the Dutch Government was drawn and signed by the citizens.
of Flushing and this event became known as the Flushing Remonstrance.

John Bowne, most prominent in defending the rights of the Quakers and who had opened his home to them for meetings, was exiled to Holland. He was allowed to return in 1664 with a decree by the Dutch Government, ordering Stuyvesant to restore both civil and religious freedom. The Dutch surrendered New Netherland to the English that same year.

Historic Bowne House is Flushing
A Shrine to Religious Freedom

Today the Bowne House at 37th Avenue and Bowne Street, Flushing, is preserved as a historic shrine to religious freedom in America.

The Queens settlements grew slowly from their County beginnings in 1683. Their simple economy was based on agriculture, supplemented by plentiful fish and game. Commerce with other settlements was water-borne in boats and sailing ships. Sentiment in Queens at the time was largely Tory, because descendants of the original settlers recalled Indian massacres and preferred a strong government over potential chaos or revolution.

Realizing the strategic importance of Long Island, the British garrisoned troops in the settlements soon after the Revolution began. Many Long Islanders joined Washington's army, prepared to take their places in the new nation. The Battle of Long Island was fought in Brooklyn. George Washington was able to escape, but General Nathaniel Woodhull was captured by the British in Hollis.

In the century following the Revolution, Queens expanded at a slower pace than nearby Manhattan, but its growth was steady, centering about the communities of Long Island City, Jamaica and Flushing. Prosperous merchants from Manhattan built summer homes in Queens. The shores of the East River and Long Island Sound were dotted with resorts and picnic grounds. Steam ferries and freighters speeded travel and transportation.

Summer visitors became permanent residents. Heavy industries were established and railroads brought their products and those of Eastern Long Island fisheries, farms and ranches to Long Island City for water transfer to Manhattan.

Queensboro Bridge Spurs Growth

Ferries across the East River supplied the only transportation link with Manhattan until the Queensboro Bridge was opened to traffic on March 30, 1909. Queens' phenomenal growth started with the opening of the bridge and subsequent rapid transit facilities.

The tremendous population rise in Queens is indicated by the fact that in 1900, two years after the consolidation, there were 153,000 inhabitants, while in 1960 the census was 1,809,578, about twelve times the count at the turn of the century.

Today's population of Queens, with its large apartment house and housing developments, and the construction of many one and two-family homes, is estimated at 2,100,000.

Queens today is connected with Manhattan by the Queensboro and Triboro Bridges and the Queens-Midtown Tunnel; to the Bronx by the Triboro, Whitestone and Throgs Neck Bridges. Subway lines connect Queens and Manhattan and the City's Transit Authority has announced plans for construction of a new East River subway trunk line.

The Borough has 41.5 miles of parkways, including Grand Central, Interboro, Whitestone, and the Belt system, which includes sections of Cross Island, Laurelton, and Southern State Parkways and the Van Wyck Expressway. It has 325 public, parochial and private elementary schools, with an enrollment of 325,000 pupils; three institutions of higher learning, Queens College, St. John's University and the Queensborough Community College.

Its population of over 2,000,000 makes Queens the sixth most populous "city" in the United States, and second in population only to Brooklyn in New York City. It is largest in area of all the boroughs.

Air Capital of the World

With its two great airports, LaGuardia and New York International at Idlewild, Queens is known as the Air Capital of the World.

As of today, 20,950,000 passengers and 450,000 tons of cargo annually move in and out of both terminals, employing 38,560 persons whose yearly earnings total $324,000,000.

It is one of the leading boroughs for religious edifices, with more than 600 places of worship, including 360 Protestant, 106 Catholic, 126 synagogues and 13 Orthodox.

Queens was the home of the United Nations General Assembly from 1946-51.

The World's Fair of 1939-40 was held in Flushing Meadow Park, and played a return engagement in 1964-65.

The William A. Shea Stadium in Flushing Meadow Park is the home grounds for the National League's baseball club — Queens' own "Mets."

EMPIRE STATE ARCHITECT—SEPTEMBER-OCTOBER, 1967 / 9
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NEW YORK STATE ASSOC. OF ARCHITECTS

Petitions have been received in good order in conformance to The Association By-Laws for the following Nominees —

For First Vice-President and President Elect Mr. Seymour Goldstone

For 3rd Vice-President Mr. Albert Melniker
For 3rd Vice-President Mr. Irving Marks

The Nominating Committee takes pleasure in presenting to the Convention the slate of officers for the ensuing year —

All of the above nominees have expressed a willingness to serve and the Committee recommends them to you.

Respectfully submitted
The Nominating Committee
Allen Macomber, Chairman
Donald Walzer
Donald Weston
Millard Whiteside
John Highland
and Alternate Robert Kaplan & Irving Marks whose services were not required.

Seymour Goldstone
1st Vice-President and Pres. Elect
Long Island Chapter A.I.A.

Darrel Rippeteau
2nd Vice-President
Central New York Chapter A.I.A.

---

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Roger G. Spross has been appointed associate director of the Dormitory Authority of the State of New York in the Authority’s New York City offices.

The Dormitory Authority, a public benefit corporation, finances, builds and equips academic and residential buildings at colleges and universities throughout the state with the proceeds of tax exempt bonds issued by the Authority. The Authority had some $115 million dollars worth of buildings under construction for private colleges throughout the state in 1966 and some $346 million dollars worth of buildings in planning for those institutions. The Authority also has some $414 million dollars worth of dormitories and dining halls committed with the State University as of 1966 and has a mandate from the State Legislature to support the rapid and extensive expansion of facilities for the City University of New York.

Mr. Spross comes to the Dormitory Authority from the architectural firm of Smith Haines Lundberg & Waehler. As an associate with that office, Mr. Spross was concerned most recently with the Science Building at Wheaton College, facilities for the State University at Stony Brook, the Civic Center in Rochester, New York and the Xerox Corporation’s research facilities in Webster, New York, as well as work for the New Jersey Bell Telephone.

President-elect of the New York State Association of Architects and chairman of the New York Chapter, American Institute of Architects’ Awards Committee, Mr. Spross has also been a trustee of the National Institute of Architectural Education. He is chairman of the Architectural Board of Review of the Village of Irvington, N.Y.

A four year veteran of the Navy during World War II, Mr. Spross retired from the Naval Reserve as a Commander. He also serves as a member of the Board of Directors of Phelps Memorial Hospital Association in Tarrytown, N.Y., and as a vestryman at St. Barnabas Church in Irvington, N.Y. In addition, Mr. Spross has taken an active part as a campaign worker for the Construction Industry’s Lunch-O-Ree.

Born in Poughkeepsie, N.Y., where he attended public schools, Mr. Spross graduated in architecture from Pratt Institute in 1942 and completed post graduate studies after the war at Columbia University and the New York Structural Institute.

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<thead>
<tr>
<th>Booth No.</th>
<th>Company</th>
<th>Booth No.</th>
<th>Company</th>
</tr>
</thead>
<tbody>
<tr>
<td>313</td>
<td>A-E ARCHITECTURAL MATERIALS, INC.</td>
<td>314</td>
<td>ANTI-HYDRO WATERPROOFING CO.</td>
</tr>
<tr>
<td></td>
<td>10-16 Russell Road</td>
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<td>265-277 Badger Avenue</td>
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<td>Albany, N.Y.</td>
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<td>Newark, N.J. 07108</td>
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<td></td>
<td>Thomas G. McLaren</td>
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<td>Steve Haltman</td>
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<td></td>
<td>Jack Bortnick</td>
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<td>Nelson D. Parsons</td>
<td></td>
<td>Anti-hydro, aridsil, armorop, expandcrete</td>
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<td></td>
<td>Richard Schwarz</td>
<td></td>
<td>Alcoa, curing compound, 2R emery “emerald-um”</td>
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<td></td>
<td></td>
<td></td>
<td>Emery epoxy topping, coating, ester Metallic hardeners, poly-epoxy bonding, Poly-sealants, 3-way hardener</td>
</tr>
<tr>
<td>117</td>
<td>ALUMINUM COMPANY OF AMERICA</td>
<td>312</td>
<td>THE WILLIAM BAYLEY COMPANY</td>
</tr>
<tr>
<td></td>
<td>1501 Alcoa Building</td>
<td></td>
<td>Springfield, Ohio 45501</td>
</tr>
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<td></td>
<td>Pittsburgh, Pa. 15219</td>
<td></td>
<td>Metal windows — aluminum, steel, stainless</td>
</tr>
<tr>
<td></td>
<td>James M. Arnold</td>
<td></td>
<td>102</td>
</tr>
<tr>
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<td></td>
<td>701 East 3rd Street</td>
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<td>E. G. Pedersen</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Architectural applications of weathering steel</td>
</tr>
<tr>
<td>113</td>
<td>AMERICAN OLEAN TILE COMPANY</td>
<td>310</td>
<td>CELANESE COATINGS COMPANY</td>
</tr>
<tr>
<td></td>
<td>1000 Cannon Avenue</td>
<td></td>
<td>Devoe Paint Division</td>
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<tr>
<td></td>
<td>Lansdale, Pa. 19446</td>
<td></td>
<td>401 Boston Post Road</td>
</tr>
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<td>Lawrence Piper</td>
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<td>Harry C. Van Zandt</td>
<td></td>
<td>Coatings</td>
</tr>
<tr>
<td></td>
<td>Ceramic tile for floors and walls</td>
<td></td>
<td>315</td>
</tr>
<tr>
<td>208</td>
<td>AMERICAN SEATING COMPANY</td>
<td></td>
<td>390 Hillside Avenue</td>
</tr>
<tr>
<td></td>
<td>923 West Genesee Street</td>
<td></td>
<td>New Hyde Park, N.Y.</td>
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<td>Syracuse, N.Y. 13204</td>
<td></td>
<td>Joel Roses</td>
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<td>J. A. Ott</td>
<td></td>
<td>Vince Manno</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Style-tex contract vinyl wall coverings</td>
</tr>
<tr>
<td>116</td>
<td>ANDERSEN CORPORATION</td>
<td>201</td>
<td>CONVEYTRY MASONRY GRILLE DIVISION</td>
</tr>
<tr>
<td></td>
<td>Bayport, Minn. 55003</td>
<td></td>
<td>PENNSYLVANIA WESTERN INC.</td>
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<td>Bob Keating</td>
<td></td>
<td>Schuykill Avenue &amp; Penn Street</td>
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<td>Ron Anderson</td>
<td></td>
<td>Pottstown, Pa. 19464</td>
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<td>Irv Loock</td>
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<td>Robert F. Miller</td>
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<td></td>
<td>Jack Assay</td>
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<td>Ken Hoefert</td>
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<td>Ornamental Precast masonry grill</td>
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<td>Andersen windows and gliding doors</td>
<td></td>
<td>and face brick</td>
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<td>New addition, perma-shield windows &amp; doors</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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_INDEX TO ADVERTISERS_
ARCHITECTURE

THE QUEENS CHAPTER-A. I. A.
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1967 N. Y. S. A. A.
CONVENTION

PAGES 20-28
Queens County Federal Savings and Loan Association was originally organized in 1888. In 1936 a Main Office building was erected for them at their present location in Jamaica, New York. The organization has grown substantially since that time. The Directors felt that moving from their present location for even a short time would substantially hurt their business and therefore made arrangements to purchase an adjoining structure and a 25 ft. strip of vacant land to enlarge their present facilities. The alteration, addition and rehabilitations were completed without disruption to the operations and upon completion of the work, gave the Institution completely new quarters in which to operate.

The exterior of the building is marble trimmed with gold aluminum. The plan was developed so that approximately half of the main floor is used for public spaces and the remainder for non-public banking uses. The two upper floors are used for general offices, closing rooms, etc.
The program called for a 14 story "vest-pocket" apartment building with approximately 122 dwelling units with its own Community Center, boiler plant, etc. The site faces on three streets adjoining a Public School recently completed. The apartment types were to be divided about 25% for the Aged and the remainder ranging up to four bedrooms. The total area of the site is approximately 60,000 sq. ft. The ground covered by the building amounted to approximately 8,500 sq. ft. with the remainder left for parking, recreation and seating areas.

The plans as developed, placed most of the apartments facing to the South with separate play and seating areas for the children and adults. A special seating area was developed for the Aged, separate but with vision of the other recreational areas. The main entrance to the building itself was developed away from the play and sitting areas so as to avoid a conflict. Parking was placed completely separate and apart from all other entrances.

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Photo — Gil Amiaga

OFFICE BUILDING - STATEN ISLAND, N. Y.
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CC&F Tower was created by the artist ARISTIDES DEMETRIOS. The advisory panel includes PIETRO BELLUSCHI, MARTIN MEYERSON, JACK Mcgregor, MORTIMER FLEISHHACKER, JR., and DANIEL KOSHLAND.
I. Urban Restoration — An Editorial

Too little concern for people and things past, is the "in" attitude of a vast segment of our citizenry. Those who are "hung up" on things traditional are derided for such square outlook. Those who show disrespect and little love of the past, have in fact little love for themselves and no hope for the future.

The Architect must be aware of the seven-league strides of technology and socio-economic change. He must heed the demands of a burgeoning society for more buildings and bigger cities yet must also be in the vanguard of the movement to preserve and restore the historic monuments and architectural gems of the past. These then are our problems, and their solution our contribution to the cultural future; linking it in tribute to the past. A nation, like any growing thing, cannot have all its roots disturbed, or it will surely die.

In the seeming twilight of reason, where the light of accomplishment is dimmed by the flickering fires from the ghettos, casting animated shadows of violence and futility across the land; urban restoration is our hope for survival and it must precede both urban renewal and urban restoration.

To clarify this redundancy, by definition urban, now rarely used, means one who lives in the city. Restoration, in human context implies hopefully, a theological doctrine — of final recovery of all men from sin, and alienation from their God to a state of happiness, and universal salvation. Thus, the statement, Urban Restoration must precede urban restoration, for if man cannot preserve his integrity and restore his dignity, both he and his buildings will, and should, return to dust from whence they came.

We as Architects can only hope that the events of recent summers will give direction, determination, and dedication to urban restoration; and you may choose whichever definition that most appeals, or ideally, both!
LANDMARK BUILDINGS FOR USES OF TODAY

by GIORGIO CAVAGLIERI F.A.I.A.

In late Spring, 1967, the Jefferson Market Branch Library Building was turned over to the New York Public Library thus concluding a civic and public transformation venture which started six years ago and has involved housewives, artists and residents of Greenwich Village in general as well as public officials, technicians and civic pressure groups.

At about the same time a small theater opened in the former Astor Library as the first part of the Audrey and Stephen Currier Public Theater Center, sponsored by the New York Shakespeare Festival. Being, perhaps, the first reconstructions in New York of old landmark buildings for use by the public rather than by a single occupant, these two jobs have an importance which far transcends their monetary value. It may be interesting to examine some of the events and procedures through which these ventures were brought to completion, in order to find out what can be learned from the solution to problems which are bound to arise again in the near future.

Since the first public-spirited group got together and the "Committee for a Library in the Jefferson Market Courthouse" started its campaign under the leadership of Philip Whittenberg and Margot Gayle, the population of New York has become aware of the existence of a growing movement in favor of Landmarks Preservation. Although the picketing groups did not succeed in saving Pennsylvania Station from the onrush of the Almighty Dollar, Mayor Wagner and his City Council did pass a Landmark Preservation Bill.

A dedicated Landmark Preservation Commission, appointed from respected civic leaders of the five boroughs, has been designating historic buildings and districts for preservation for quite some time. This is a great satisfaction to all the New Yorkers who be-
Landmark Buildings

lieve in variation as an emphasis for new architectural concepts and who think that character as well as sleekness can produce real estate value and profits.

Going "beyond the call of duty" the Landmark Preservation Commission has sought to find public-minded citizens and organizations willing to purchase their proposed landmark buildings and to establish themselves in them.

Thus, perhaps for the first time in our city, real estate owners forego profit from increase in land values and seek instead the prestige of an historic location and the grace of decorative forms of the past. One such public-minded citizens group has been the New York Shakespeare Festival. Its leader, Joseph Papp, accepted the idea of establishing his organization in the old Astor Library Building in the heart of the East Village between two expanding institutions, Cooper Union and New York University.

From these examples, it would seem that the dream of the preservationist as well as the ambition of the esthete are being realized. Therefore, the urban landscape we will bequeath to our children will be safely interesting and varied, with great new 100-floor office towers spaced intelligently between dignified Victorian public buildings and linked by short pedestrian streets lined with elegant rebuilt mansions. Expressways and service truckways will be properly set outside the historic districts and interspersed comfortably with garages at the periphery of a residential community which has succeeded in remaining of human scale.

Unfortunately, however, the path toward this kind of urban living is still a very long one and interrupted by all kinds of blocks, some very difficult to anticipate and some, at the present time, almost impossible to overcome.

For this reason certain common difficulties encountered in the transformation of the Jefferson Market Courthouse-Library and of the Astor Library-Theater Center are worthy of analysis.

1. Physical Characteristics and Legal Limitations

Most landmark buildings in New York City were built at the time of the great technological advances of the latter part of the 19th Century, or shortly before that time. While fre-
Landmark Buildings

quently using structural methods of technical interest, they completely mix their materials and systems of construction: masonry vaults, steel beams, wood beams, iron girders, all may be supported on masonry bearing walls or on cast iron or wood posts. Very rarely, therefore, does it become possible to classify these buildings in accordance with the New York City Building Code. While in many instances part of their structure is soundly and heavily built with incombustible materials, in general they fall under the Class III classification of mixed wood and steel bearing structures and masonry walls.

Moreover, the term 'steel' has come to signify a rather different material today than it did a century ago and therefore any calculation to ascertain the load-bearing capacity of one of these existing structures must take into consideration the inevitable inferior stress-bearing ability of the 19th Century steel members in comparison to the ones our engineers are accustomed to specifying today.

A similar observation must be made for masonry walls, which are mostly built with lime mortar, rather than with cement mortar, as is customarily and legally required today.

These observations, of course, do not even consider other possible structural difficulties, which may be due to the fact that builders have tried to reduce cost by cutting corners from the time when Agrippa built the Pantheon in the First Century, B.C. At times, heavy masonry walls have been found empty or filled with rubble, instead of properly bonded stones or bricks soundly set on carefully-laid-out foundations.

While a careful examination, testing and redesigning can overcome these structural shortcomings, the fact remains that one section of the New York City Building Code (4.2.1.) rigidly limits the size and uses of non-fireproof Class III buildings. Frequently the existing Landmark Buildings are larger than the limits of area or height permitted by the Code for the use to which the new owner wishes to put the building, or perhaps even for any conceivable practical use.

Again the careful designer can improve his client's chances by patiently subdividing the building into zones separated by fire walls, but while this will help the horizontal arrangements it is not possible by these devices to obtain legal use for buildings higher than the prescribed limits.

2. Motivations, Characteristics and Economic Limitations.

When a new owner or an organization has decided to occupy a Landmark Building for his own use, he will very likely be anxious to take full advantage of every square foot he can physically measure. Therefore, the limitations of height to which the present regulations condemn the Class III buildings become the most obvious enemy of the purposes of the building transformation.

Then, having decided to be civic-minded and feeling that all his fellow citizens will enjoy and share his new possession, the preserved landmark, the new owner expects the necessities of his building operations to be satisfied to the utmost, and probably will fight for what he considers his important requirements with the same determination with which he will protect the specifications of comfort of his favorite secretary.

It is well-known to architects that most clients and the public at large think of the visible shell of a building as the determining element of cost. It will come, therefore, as quite a shock to most owners to find out that the existing Landmark Building will consume money simply in order to be brought, as much as possible, up to legal standards and that to repair and recondition an old structure is bound to cost at least as much as to construct a new building of similar volume and comparable efficiency.

What the owner will obtain in the end will be more charm and character, higher ceilings and larger spaces, but not a financial saving.

This is due as much to the structural problems already indicated, as to the mechanical ones; the insertion of a heating and air conditioning system in a framework not originally intended for it, the selection of an illuminating
Landmark Buildings

system respectful of existing forms, the updating of sanitary installations, all require more attention, more materials, more space in an existing structure, than in one designed from scratch for the purpose of modern mechanical efficiency.

3. Problems of Construction

It is the dream of any owner who wishes to engage in a building operation to know the exact cost of his program beforehand. This is rather difficult for any building, as we are all well aware, mainly because—and more in private than public work—the program for which the building is actually built, is generally considerably modified and perfected while the contract documents are being prepared. In private work this occurs to a large extent when the entrepreneur is repeatedly spurred to larger achievements by the excitement of seeing his product take form.

This problem is compounded many times in the reconstruction of a landmark building because job conditions reveal new details previously unknown, no matter how accurate surveys and architectural studies have been.

A large number of our buildings are executed with lump sum contracts and competitively assigned to the lowest bidder. Any change from forecast conditions creates possible extra expenditure unwelcome to the owner. Since conditions are harder to predict in a landmark construction operation than in a new construction venture, it would seem advisable to assign the execution of the work on a 'time and material' basis. This procedure, however, would magnify the problem of lack of control over workers' speed and efficiency and might increase lack of care and interest on the part of the contracting organization with the consequences of skyrocketing cost.

As landmark reconstruction jobs are likely to be slow in execution, a list of sub-contractors, requested before the job is assigned, is not a guarantee of careful work on the part of a specialist. By the time the subcontractor is actually called to the job, he may be busy elsewhere and may have lost his best men. It may be better to stress the General Contractor's responsibilities and request approval of workmanship by the architect at the time the shop drawings are approved.

It is important for obtaining the best results, to insist on the assignment of a competent supervisor in the field, empowered to reject work and to select individual workers for special operations.

Of course the owner must be made to understand that the mere care put into surveying, designing and supervising the reconstruction operation, the more his chances of limiting extra costs increase. On the other hand this signifies that increased fees for professional services have to be faced: they will always prove to be a wise investment.

With specific reference to New York City public construction jobs, we may recall that it is presently customary to assign them with four separate contracts (General Construction; Plumbing and Drainage; Heating, Ventilation, and Air Conditioning; Electrical.) This has been proven almost disastrous in cases of landmark preservation because of the absolute lack of esthetic understanding and interest on the part of most mechanical contractors whose purpose is only the production of an acceptable technical solution at the minimum cost to them.

Frequently even the mechanical representative of the public agency shows a complete lack of understanding of the esthetic goals in comparison to those of speed and efficiency. He also lacks respect for the authority of his architectural colleague. As for the architect, the present system considers him only a consultant during the execution of the work and he lacks, therefore, the only authority which the contractors respect: the one of signing the payment requisition.

4. Recommendations

It has been said many times that the key to landmark preservation is the finding of new uses for the old structures, and the acceptance by the public of the idea that charm, character and urban setting are, or can become, of actual real estate value.

In order to permit this to happen, the technical and legal problems must be solved. The present building laws were written with different purposes in mind and with an eye entirely on new buildings; new regulations, waiving of old ones, and perhaps concessions, must be sought and obtained for landmark buildings. Most building regulations and restrictions have been worded with only the safety of the public as a goal and it is very difficult to obtain waiving of safety regulations from legislative or administrative bodies or even, for that matter, evaluation of substitute safety guarantees and actual safety risks.

We must come to accept the concept that the efficiency of safety provisions can be evaluated differently in different conditions and in different buildings. Distance or number of exit doors, ease and accessibility of stairs or openings should not just be related to the number of occupants, but more to the type of activity of the occupants of a building and to the system of construction of the building itself. New additions of structural members with incombustible or fireproof construction can greatly improve safety in a building even if they do not affect its legal classification.

For these reasons the evaluation of safety guarantees, as well as the waiving of existing regulations should be entirely entrusted to experienced engineers sympathetic to landmark preservation and willing to take the time to study the actual building plans and the type of construction with the designing architect rather than to administrative bodies and legal experts.

As a conclusion certain specific recommendations can be made:

1. The preservation of landmark buildings should be properly listed as one of the goals of building regulations.

2. Improvements in fire rating of structural framework or added protection such as fireproofing of structural members, increase in number of exits, sprinklers, etc., should be compensated for in a landmark building by easing the height and size restrictions fixed by the present Building Code for the various classifications of buildings.

3. It should be clearly stated that only the Chief Engineer of the Department of Buildings is to be permitted to judge the characteristics of the landmark building to be preserved in relation to the new intended use.

4. Professional fees must be adequate to permit the architect to dedicate the proper time for surveying and preliminary investigation to the job before the actual design studies are initiated. After that, the architect should be assigned full supervision powers and, naturally, get compensation for it.
Landmark Buildings

5. Jobs should be assigned to execution by competitive bidding provided unit prices for unexpected conditions are added, and provided also that the competition is limited to a select list of Contractors of proven competence and experience. The reliability and the promise of carefulness by the contractors should be carefully evaluated before the job is assigned against the prices offered and the lowest bidder should not necessarily be accepted.

6. The job should be assigned as a single construction contract. Some of these recommendations have already been listed in "A Report on the Design of the City of New York" prepared by the Mayor's Task Force, and refer there to all public work. They are doubly desirable for landmark buildings reconstruction and preservation.
HISTORIC BLOCK FOR LOWER MANHATTAN

A dozen structures reflecting the architectural heritage, history and customs of the settlement that became New York City are planned to occupy the block bounded by Coenties Slip and Broad, Pearl and Water Streets in Lower Manhattan.

The living museum of the City's past in the heart of the financial district will consist of a series of related outdoor and indoor exhibits portraying the character of New York as it developed from 1640 to the age of Jackson. Specifically, five buildings dating from the early 1800's are to be interconnected as a museum of the financial, maritime and commercial history of the City. If possible, a reconstructed dwelling will also be included, furnished in period style, to illustrate the life and manners of the merchants who lived and worked in the area at the turn of the 19th Century.

The easterly portion of the block (at Coenties Slip and Water Street) will be occupied by a reconstruction of the 1642 New Amsterdam Stadthuys which served as the colony's City Hall from 1653 to 1699 and was originally located half a block away. The building will be reconstructed from 17th century documents in the Netherlands archives. It will be surrounded by a walled formal Dutch garden, with pathways and benches, accessible from three sides of the block.

Diagonally opposite at Broad and Pearl Streets is the existing Fraunces Tavern, itself a reconstruction of the stately Delancey Mansion - which became Fraunces Tavern where Washington bade farewell to his officers after the Revolutionary War. The Sons of the Revolution, who own Fraunces Tavern and four adjoining houses dating back from the early 1800's, will coordinate restoration of these structures with the rest of the project. A large portion of space in these buildings will be used to display the organization's extensive collection of historical materials on George Washington and the Revolutionary war.

Government, Private Sources To Share Costs

The museum slice of history has been estimated to cost $3.9 million including land acquisition, demolition, all restorations and reconstructions, furnishings, exhibits and landscaping. Application is currently being made to the New York State Historic Trust for one half of this amount under the recently approved State bond issue. It is proposed that private contributions will supply $1,300,000 or two-thirds of the balance and New York City the remaining $640,000. Funds for initiating the project - for land acquisition and planning - have been included in the Mayor's Executive Budget of February 1, 1967 based on the recommendation of the City Planning Commission and the Department of Parks. The museum is slated for completion in 1970.

The project is to be the joint undertaking of City, State and private interests. The Museum of the City of New York has formed an independent affiliate, the Downtown Museum of the City of New York, to serve as the operating agency under the jurisdiction of the Department of Parks and the proposed new Administration of Culture and Recreation. The project has been developed over the past few years with the cooperation of these agencies and the Borough President of Manhattan, the City Planning Commission, Community Planning Board No. 1, the Downtown-Lower Manhattan Association, as well as of a number of public spirited citizens.
"It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled." Supreme Court of the United States, Berman v. Parker.

Various legal techniques may be used to further preservation of historic sites and buildings. Several salient factors determine which of these techniques may be appropriate for a specific project.

Ownership is one such factor. Is the property privately owned or does title rest with a branch of the government or other public body dedicated in some way to promoting the public interest?

Need is a second factor. Is the specific problem one of acquisition, of research, or of maintenance? Or is the protection of a property from unwarranted encroachment or destructive modification of primary importance?

In general, legislation which affects the preservation of historic sites and buildings may be classified in two general categories, i.e., 1) that which protects historic properties by ensuring their maintenance of their structural and aesthetic integrity, and 2) that which provide actual financial assistance for preservation planning, capital improvements or maintenance.

Designation of a special historic district in which both new construction and the modification of existing structures, if permitted, must conform to certain aesthetic criteria, is an example of the first category of legislation. New Orleans Vieux Carre, is zoned as a historic district in which building must conform to such criteria.

Tax abatement is an example of the second category of legislation. The Society for the Preservation of New England Antiquities has, since 1910, been chartered to hold properties for preservation in Massachusetts free of local real estate taxes.

The following is a list of various laws and legal techniques of significance for the preservation of historic sites and buildings. Comments concerning their applicability are necessarily brief.

1) TAX ABATEMENT. In some cases, this may be granted to private as well as public owners. Certain maintenance requirements must be stipulated and often the property may not be used for profit.

2) COVENANTS. This usually requires a transfer of ownership. A preservation oriented organization may establish a corporation with a revolving fund to acquire, restore and convey historic properties. The purchaser covenants for maintenance. Such organizations have been active in New Orleans and Charleston, S.C. among other cities.

3) EMINENT DOMAIN. Where preservation of property of historical interest is considered to be of general public benefit, the state may exercise its power of eminent domain to acquire such property, or to arrange for others to acquire the same. The reverse of this is true in Massachusetts, in which both the highway department and the renewal authority are prohibited from exercising their general power of eminent domain when a property of historic interest is "owned, preserved and maintained by any historical organization of society", unless the state legislature grants special authority for the taking of such property.

4) ACTIVITIES OF THE NATIONAL PARK SERVICE. Beginning in 1933 the service conducts the Historic American Building Inventory Survey which designates some 6400 buildings throughout the country as historically significant. Photographs and plans of these buildings, available through the Library of Congress, are a valuable source of information for the architect and preservationist.

In addition, many of the areas administered by the service contain buildings of outstanding historic interest. Many other sites and buildings have since been recommended for addition to the system.

Established in 1960, the Registry of National Historic Landmarks is concerned with sites of exceptional value in either private or semi-private ownership. More than 400 have so far been selected. The owners of these sites receive a certificate from the Secretary of the Interior and a bronze plaque upon agreeing as a condition to display the plaque, to preserve so far as is practicable the historical integrity of the property and to use it only for purposes compatible with its historical character.

5) THE HISTORIC DISTRICT. Within a certain boundary, controls are established to regulate new construction and the modification of existing structures. The controls aim at preserving appearance without change in ownership and use "where the setting is important as well as the buildings." Frequently "controls deal only with features open to public view from a street, and cover paving, fences and signs as well as buildings."

The legal basis of such controls vary from state to state as do the extent and details of the controls themselves. Usually a commission is established to review plans and issue a certificate of appropriateness.

In 1959, the Missouri Legislature amended certain zoning statutes so as to give municipal legislative bodies power to make certain zoning regulations to preserve features of historical significance. (V.A.M.S. Sec. 89.020, Sec. 89.040)

These laws have been held specifically to give a city of the third class the power to enact zoning ordinances providing for an historical area. (Op. Atty. Gen. No. 212, Dames, 9-14-65).

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PROTECTING OUR HISTORIC BUILDINGS AGAINST FIRES

Gabrielle M. Hearst*

Pride and interest in our past has made us designate and preserve certain buildings; houses, churches, missions, forts, etc., as historical monuments. We look upon these monuments and the objects they shelter with reverence, and sometimes with awe. They are the expression, handed down to us, of our historical struggles, our hopes, our drives, our way of life. Tens of thousands of people visit them every year; often they are primary sources of research for our historians. Their loss or that of their contents, through whatever cause, is irreparable.

The biggest dangers to these historical collections and buildings arise from fires. A record compiled by the National Fire Protection Association for the years between 1925 and 1946 shows that at least one fire, and sometimes two a year, have destroyed or seriously damaged some historic buildings or their contents; libraries, works of art, artifacts, etc.

The first requirement of fire prevention is thorough custodial care; not allowing flammable materials to collect; making sure that visitors observe posted regulations regarding smoking, etc.

A second step is a system of fire warning and the training of the staff in its duties in case of fire.

The installation of sprinklers is another method of controlling the spread of fire. However, the problem with sprinklers is that water can be almost as destructive to some collections as can fires.

There is still another way of reducing fire damages to the buildings and to their contents: This lies in the use of fire-retardant coatings and chemicals which effectively stop the spread of fires, generally slows them down, and makes them easier to control. These chemicals and coatings are coming into increasing use, and in many states the application of approved products is required for certain types of occupancy.

These chemicals and coatings are manufactured in many types and grades, applicable to various kinds of materials; such as lumber, plywood, fronds, fabrics, and decorative materials. None of them is injurious to the material thus treated.

Some of our historical monuments, like Colonial Williamsburg, Virginia (fire retardant treatment of cypress shingles); Nauvoo Restoration, Illinois; Bodie Historical State Park, California, have availed themselves of these fire-retardant chemicals for protection.

Curators, custodians, chiefs of maintenance should certainly investigate the properties of these chemicals and the uses to which they can be put in the buildings under their care.

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The Restoration Manual

BY ORIN M. BULLOCK, JR., A. I. A.

The Restoration Manual is a what-to-do handbook for all those concerned with restoration of buildings of all kinds. It explains how Restoration, Preservation, and Reconstruction differ and then explains step-by-step:

1) The Development of Programs for Restoration
2) How to Select the Period to be restored
3) Sources of Techniques of Historical Research
4) Proper Archaeological Procedures
5) The Architectural Research Program
6) The Execution of a Restoration
7) Specifications
8) What happens after the Restoration is completed

The Restoration Manual covers such things as the methods of measuring a building, what actually constitutes dating evidence, the kinds of artifacts which help identify periods, the importance of such evidence as nail holes, saw marks, lath, glass, and many other more or less obvious features. The book is beautifully illustrated with original sketches by the author as well as with drawings and photographs from the Historic American Buildings Survey and the National Park Service. The entire process of preparing drawings for a restoration project is covered beginning with the most preliminary drawings to final working drawings. There are also photographs of notable restoration projects that have been completed recently. But there are no “dress-up” illustrations – this is a manual and, except for a few small decorative sketches by the author, all illustrations are included for good practical purposes.

In addition to the text and illustrations in the manual, is an excellent topical Bibliography and a Glossary of terms which the author has gleaned from “The Illustrated Glossary of Practical Architecture,” and “Civil Engineering” written by S. C. Brees, Architect, Civil Engineer, and Surveyor and published in London in 1853.

The Appendix includes five papers that were delivered at a conference staged by the Building Research Institute and later published in the Institute magazine, Building Research. Each paper is by an expert in his field and they cover Photogrammetry, Photographic Records, Measured Drawings, Climate Control, and Restoration of Masonry.

Morris Ketchum, Jr., F.A.I.A. President of the American Institute of Architects says in his Foreword to The Restoration Manual: “Heaven knows we have little enough of antiquity and visible tradition; we must protect what remains of this heritage against the bulldozer and its master, the land speculator. In saving this heritage, architects must avoid both the lifelessness of the museum and the preciousness of make-believe. They must weave past and present together to create the living fabric of our cities. In the firm conviction that support of this objective is a vital function of our professional society, The American Institute of Architects has sponsored the production and publication of this manual. It is our hope that it may prove to be an effective weapon in creating cities which inspire man’s knowing and deliberate participation in the history of his day and age and thus enrich both his mind and his heart.”
Historic preservation, as defined by the National Trust for Historic Preservation, is a well-rounded program of scientific research and study, protection, restoration, maintenance and the interpretation of sites, buildings and objects significant in American history and culture.

To be of historical and cultural significance, a structure or area should have outstanding historical and cultural significance in the nation or in the state, region, or community in which it exists. Such significance is found in:

1) Historic structures or sites in which the broad cultural, political, economic, or social history of the nation, state or community is best exemplified, and from which the visitor may grasp in three-dimensional form one of the larger patterns of the American heritage.

2) Structures or areas that are identified with the lives of historic personages or with important events in the main currents of national, state or local history.

3) Structures or areas that embody the distinguishing characteristics of an architectural type-specimen, inherently valuable for a study of a period-style or method of construction; or a notable work of a master builder, designer or architect whose individual genius influenced his age. Mere antiquity is not sufficient basis for selection of a structure for permanent preservation, but can be a factor if other more significant examples have disappeared or if the building forms part of an especially characteristic section of a given community. Smaller structures, such as the first squared-log cabins or the sod houses of the pioneers, may be as important relatively as the mansions of the past.

4) Structures or sites of archaeological interest that contribute to the understanding of aboriginal man in America.

**Suitability**

Preference should be given to those structures or sites where there is a preponderance of original material or other physical remains which have retained their integrity. (Integrity is a composite quality derived from original workmanship, original location, and intangible elements of feeling and association.) Repair or restoration of original elements or reconstruction of a building long destroyed demand high professional standards of historical and scientific techniques. Generally speaking, it is better to preserve than repair, better to repair than restore, better to restore than reconstruct.

Property boundaries adequate to protect the essential historical or cultural values of the project should be obtained at the outset if possible.

Other important practical considerations are accessibility to the public; encroachments by business, industry, housing, and traffic; availability of fire and police protection and of essential utilities.

The cost of restoration or reconstruction and of subsequent adequate maintenance and interpretation should not be beyond the means of the sponsors. A well-considered plan should contemplate that the project be fully endowed or potentially self-sustaining.

Since all historic structures significant enough to warrant preservation cannot support themselves as historic museums regularly open to the public, adaptation to other possible uses should be considered. It is essential, however, no matter what the proposed use, that every effort should be made to preserve those elements which account for the significance of a particular structure.

The primary purpose in preserving a structure as a historic museum is public use and enjoyment. Each project should have a place in the national, state or local programs for the preservation of historic sites or buildings and should be coordinated with all similar projects in its area to increase its usefulness as an educational force.
WASHINGTON, D.C. — The West Front of the U.S. Capitol building should be skillfully restored as it now stands, The American Institute of Architects urged recently.

The AIA also asked that Congress act to prohibit "any further major alteration to the Capitol, other than that absolutely necessary for structural and safety reasons."

The AIA report was the result of five months of study by an Institute "task force." Its five members went over the Capitol building "from attic to basement," with special attention to the condition of the historic west front, the last remaining original exterior of the building.

The task force operated completely independent of previous AIA reports on the Capitol, and was instructed to be completely open-minded in its recommendations.

Complete replacement of the west front is not a structural necessity, the architects believe. This is contrary to plans of the Architect of the Capitol to raze the west front and extend the building by a 4.5 acre "annex" at an estimated cost of $34,000,000.

The west front, portions of which were completed as early as 1800, ranks with the walls of the White House as one of the earliest surviving pieces of national architecture in Washington.

Its 168-year-old sandstone walls are in need of repair, the AIA report notes; however, "none of the defects appear to indicate that danger of collapse is imminent, or that correction is impracticable."

The Capitol, while it is experiencing some vertical settlement, "is not slipping down the hill," the task force said.

While AIA could give no estimate of the cost of a faithful restoration of the west front as it now stands, it is convinced that restoration is feasible and that modern technology is up to the task.

Two suggested ways of accomplishing safe restoration are indicated by work done on historic European structures. One is the drilling of diagonal holes through masonry, which are then filled with reinforcing rods and grout.

Another successful technique is "needling," which involves the use of temporary steel beams to take the load off parts of the wall while other areas of the wall are being repaired. "Similar, or even more innovative methods could be applied to the west front," said AIA.

In a preface to the AIA task force report, the former Institute president Charles M. Nes, Jr., FAIA, called for a long-range master plan to guide development of the Capitol grounds and contiguous areas.

He said that Congress has an obligation to create such an orderly plan of development, supervised by a "permanent body of experts whose function would be to study and advise on all major Capitol Hill construction projects."

"Certainly," said Nes, "the Capitol and nearby areas are of sufficient importance to justify a permanent body of architects, engineers and planners whose only function is long-range planning of all construction on Capitol Hill, including new buildings that will probably be needed.

"The more aged, eroded condition of the stone of the west front should be considered honorable evidence of its survival as one of the earliest of our major public buildings . . . Our greatest monument, the Capitol, despite its scarred and craggy exterior and architectural imperfections, is the most vivid symbol of our democracy. To cherish the building as a reminder of our past is not a maudlin sentiment. To cover up the last remaining exterior portion of the original Capitol would be a great mistake," Nes concluded.

The Capitol Hill "task force" under which the AIA study was completed included Samuel E. Homsey, FAIA, of Wilmington, Del., chairman; and members Francis D. Lethbridge, FAIA, and John W. Stenhouse, both of Washington, Louis Rossetti, FAIA, of Detroit, Mich., and Norman C. Fletcher, FAIA, of Lexington, Mass.
Tastes and styles change from generation to generation — in art, in fashion, in ways of living — and sometimes Americans who have rejected as "old-fashioned" and laughable the tastes of their parents find that their children rediscover new beauty and enjoy­ment in the things their grandparents admired. Some­thing of this kind has happened to our attitudes toward nineteenth-century houses. Once laughed at as grotesque, "Charles Addams monstrosities," or just pretentious piles, these houses are now being rediscovered as nostalgic expressions of a vanished way of life and as often charming and imaginative architectural design in their own right. And this rediscovery has come none too soon, since each year diminishes the number of these old homes which have not succumbed to the wrecking ball, the decay of time, or the remodeler's conversion into apartment units.

One area rich in nineteenth-century houses still being used in much their original condition is in Chautauqua County and surrounding areas of western New York State. In their variety of styles and periods, they are typical of much American home building of the area. A great admirer and scholar of this architecture is Jewel Helen Conover, Chairman of the Art Department at State University College in Fredonia. For years she has photographed and searched out the histories of old houses in the region, and now the State University of New York is publishing a book of outstanding examples from her collection, NINETEENTH CENTURY HOUSES IN WESTERN NEW YORK (by Jewel Helen Conover, State University of New York, July 11, 1966). The book includes a foreword by Louis C. Jones of the New York State Historical Association, an Introduction, chapters on The Coun­tryside, The People and the Villages, The Architecture and 125 annotated photographs together with notes and a bibliography.

In this area of rich farms and prosperous merchants, a proportionately large number of the citizenry could participate directly in building. Prospective builders read popular treatises on architecture as anyone today would read home and gardening magazines or interior decorating guides. Since professional architects were seldom employed (chiefly because they were scarce), the designer-builder-owner was bounded only by what these books put forth as good taste and his own imagination. Local carpenters, bricklayers and stonemasons, too, found these houses important outlets for native craftsmanship and plastic creativity.

The book's discussion of the architecture follow chronologically the introduction of the various styles into this country. In the early nineteenth century the Classical Revival, and particularly the Greek idiom, was the pre­valent architectural mode. It was simple, clean-lined and generally symmetrical, giving the building of the period a well-ordered homogeneity. But by the 1840's there was some breakaway from what many considered a dull, hackneyed vocabulary. The Romantic budding, pro­pagandized for by Sir Walter Scott and John Ruskin, took over in the form of Italian, Gothic, Tudor, Swiss and bracketed styles. These styles liberated floor plans, emphasized the out-of-doors and in their convolutions, secret niches and charming gazebos offered haven to the tired Victorian businessman.

The heart of the book is in the scores of pictures of houses themselves. Their captions not only point up the distinguishing architectural features of each, and identify them in style and date, but often add the revealing historical detail that contributes to their personalities. Here for instance, is where Mark Twain worked for several years; this is the house built by Governor William H. Se­ward, Lincoln's wartime Secretary of State.

Both Professor Conover and Louis C. Jones are anx­ious to see these houses preserved for the sake of our esthetic and historical education as well as our enjoy­ment. To aid our enjoyment, in fact, the author has ar­ranged the houses conveniently by location so that when traveling, one can easily follow the path of adventure she has mapped out.

NINETEENTH-CENTURY HOUSES IN WESTERN NEW YORK is a fascinating book for the architect, the historian, the tourist who likes to poke into the bypaths of yester­day, and the general reader who wants to share Professor Conover's loving reconstruction of an America that has passed.
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PROPOSED BY-LAW AMENDMENTS.

In accordance with the provisions of Article X, Section 1 of the By-Laws, (requiring a minimum of 45 days’ notice to the secretaries of the constituent organizations prior to the annual convention), following are the By-Law amendments which have been recommended for submission to the deleges at the annual meeting and convention:

(Proposed By-Law changes and Present By-Law are herewith shown)

At the request of the Board of Directors the following amendments are submitted:

1) PROPOSED BY-LAW: Amendment to Article IV, Section 1—Officers

The officers of the Association shall be the President, a President-Elect, three Vice Presidents, a Secretary and a Treasurer. There shall be a Director from each of the constituent organizations of the Association. The Officers, President-Elect, the directors and the ex-officio members, as defined in Article III, Section 12 (b) shall constitute the Board of Directors.

PRESENT BY-LAW: (Replaced by above)

(The officers of the Association shall be a President, a First, a Second, and a Third Vice President, a Secretary, and a Treasurer. There shall be one Director from each of the constituent organizations of the Association. The officers, the directors, and the ex-officio members as defined in Article III Section 12 (b) shall constitute the Board of Directors.)

2) PROPOSED BY-LAW: Amendment to Article IV, Section 2

With the exception of the President-Elect who shall automatically succeed to the presidency, the officers shall be elected at the Annual Meeting as herein provided, except that in the event the President-Elect is unable or unwilling to assume the office of President and has notified the Nominating Committee not less than sixty days prior to the opening of the Annual Meeting, then the Committee shall designate one nominee for the office of President and shall recognize and place in nomination the names of any additional candidates for this office whose petitions have been received as provided in Article V, Section 2 of these By-Laws.

PRESENT BY-LAW: (Replaced by above)

(The officers shall be elected by the Association at the annual convention as hereinafter provided.)

3) PROPOSED BY-LAW: Amendment to Article IV, Section 4

The President and President-Elect shall serve for not more than one term. The Vice Presidents shall serve for not more than two successive terms. The Secretary and the Treasurer shall each serve for not more than three successive terms. The President and President-Elect cannot be elected to the same office until the lapse of one year.

PRESENT BY-LAW: (Replaced by above)

(The term of office for the President, and Vice Presidents shall be limited to one year, but each officer may be eligible to serve in the same office after a lapse of at least one term. The first Vice President shall be automatically designated as president-elect for the next succeeding term of office. The Secretary and the Treasurer shall be ineligible to hold offices for more than three successive terms to the same office until the lapse of at least one term).

4) PROPOSED BY-LAW: Amendment to Article IV, Section 5

A vacancy in the office of President shall be filled by the President-Elect.

PRESENT BY-LAW: (Replaced by above)

(A vacancy in the office of President shall be filled by the Vice Presidents in the order of their rank.)

Explanation: The foregoing amendments are proposed to suggest that the present and almost automatic succession of officers to the presidency may not be in the best interests of the Association. On the one hand there is an apparent obligation on the part of the Association to promote the officers in a ladder-like succession to the presidency, despite their individual qualifications. On the other hand, officers find themselves precipitated into situations from which they cannot gracefully escape. The creation of multiple vice presidents would establish at this level a field of competition from which the Association could elect a candidate best qualified for the office of President. It will also provide a basis for a committee structure which was recommended by the Evaluations Committee. Therefore each vice president will generally supervise a group of committees assigned to him and be responsible for their activities. This proposal will also give administrative training to prepare the VPs for the presidency. The Board will also have a better chance to observe the VPs under "fire."

5) PROPOSED BY-LAW: Amendment to Article IV, Section 9

The President shall perform the usual duties of the office. He shall preside at the Annual Meeting and at the sessions of the Board of Directors, and the Executive Committee, and shall be an ex-officio member of all committees.

The President-Elect shall discharge the duties of the President in his absence. In the absence of the President and the President-Elect, a President Pro-Tem appointed by the Board shall discharge the duties. The President elected for the ensuing year shall appoint committee members pursuant to Article VI.

PRESENT BY-LAW: (Replaced by above)

(The President shall perform the usual duties of the office. He shall preside at the annual convention and at the sessions of the Board of Directors, and shall be an ex-officio member of all committees. The Vice Presidents, in the order of their rank, shall discharge the duties of the President in his absence. In the absence of the President and Vice-Presidents, a President Pro-Tem appointed by the Board, shall discharge the duties. The President elected for the ensuing year shall appoint committee members and shall fill vacancies in Committees.)

Corollary amendments to the By-Laws are required to implement the foregoing provisions.

6) PROPOSED BY-LAW: Amendment to Article III, Section 12 (a)

A majority of the total membership of the Board of Directors, excluding ex-officio members, shall constitute a quorum of the Board at all sessions held for the transaction of the business of the Association.
PRESENT BY-LAW: (Replaced by above)

Seven members, except ex-officio members of the Board, shall constitute a quorum of the Board at all sessions held for the transaction of the business of the Association.

Explanation: Committee felt that the increase from 7 to 11 members (majority required) to establish a quorum would be more equitable for the transaction of business, otherwise it is conceivable that 7 officers could by themselves constitute a quorum.

7) PROPOSED BY-LAW: Amendment to Article III, by adding a new Section 12 (c)

The New York Regional Director of the American Institute of Architects shall become an ex-officio member of the Board of Directors, with all the rights and privileges due this office. His term as ex-officio member of the Board expires at the conclusion of his term of office as Regional Director of the Institute. His place on the Board shall be filled by his successor upon assuming the duties of Regional Director.

Explanation: Highly desirable to have Regional Director present at meetings as a director by virtue of his ex-officio membership rather than by invitation. Would improve liaison between Institute and NYSAA.

8) PROPOSED BY-LAW: Amendments to Article VI—Committees. Note: Entire existing Article VI is being deleted and the following is substituted:

Section 1. There shall be a standing committee of the Association to be known as the Executive Committee. The members shall consist of the President, the President Elect, all Vice Presidents, the immediate Past President and two members elected by the Board of Directors. The President shall serve as Chairman. Any vacancy in the Committee will be filled by appointment of the Board of Directors at its first meeting following the occurrence of the vacancy. The Secretary of the Committee shall be responsible for the minutes of all meetings of the Committee. Copies of these minutes shall be distributed to all members of the Board of Directors within ten days of the meetings.

(A) The functions of the Executive Committee shall include the following:
1. To carry out the directives of the Board.
2. To coordinate the activities of the several committees, and to assist them when necessary or advisable.
3. To oversee the operation of the executive office.
4. To assist the President in the routine administration of the Association.
5. To provide advice and counsel to the President in decisions which are not inconsistent with, or contrary to, policies of the Association.
6. To assist the President in formulating suggested programs and procedures for the Board's consideration.

(B) Unless specifically authorized or directed by the Board, the Executive Committee shall not:
1. Adopt a general budget.
2. Take disciplinary action.
3. Change the Rules of the Board or the By-Laws.
4. Give a proxy in any corporation.
5. Make an award of honor.
6. Purchase, sell, lease or hypothecate any real property.
7. Form an affiliation.
8. Fix admission fees or annual dues or fix any tax on the membership.

(C) Any action initiated by the Executive Committee shall be subject to review by the Board of Directors at the next regular or special meeting of the Board.

(D) The Executive Committee shall meet when requested by the President or at the written request of three or more members of the Committee, provided, however, there shall be a minimum of one meeting between each regularly scheduled meeting of the Board of Directors.

(E) A quorum of the Executive Committee shall consist of four members of the Committee.

Explanation: The Board of Directors on several occasions has approved and recommended the creation of an Executive Committee to implement the activities of the Board. The Committee could serve as an "advisory cabinet" as well as a group that would also oversee the general functions of the Association more efficiently than the present method. It is also a method in which successive presidents, officers and directors would not affect the continuity of effort and programs of the Association. By creating this group the President's work and responsibility could better be distributed, thereby resulting in a more efficient Association.

This proposed Committee is what the name implies, that is, an Executive Committee implementing the work of the Board and meeting more frequently than does the Board. All rights, privileges and responsibilities of the Board will be fully retained and not diminished. The Executive Committee must function under Board Rules, as well as abide by the By-Laws of the Association.

The Executive Committee must report to the Board through its minutes—and this is mandatory. The Board can overrule any decision initiated by the Committee. The make-up of the Committee would give maximum representation throughout the State since it has been the policy of the Association to choose members to serve as officers from all over the State.

This proposal has received the favorable recommendation of the Board and the President of NYSAA.

Section 2. Other Committees, Organization.

(A) All Committees, except as otherwise provided in these By-Laws, shall be organized under the commission system. The composition of the commissions shall be as follows:
1. The Commission on Structure and Organization, with the following committees:
   (a) By-Laws (e) Convention Operations
   (b) Insurance and Publications
   (c) Resolutions
   (d) Sites
   (f) Finances
2. The Commission on Professional Practice, with the following committees:
   (a) Fees & Contracts (d) Governmental Relations
   (b) Contractor Relations
   (c) Interprofessional Relations
   (f) Architectural Relations

48 / EMPIRE STATE ARCHITECT—SEPTEMBER-OCTOBER, 1967
3. The Commission on Professional Affairs, with the following committees:
   (a) Legislation (e) Community Health Bldgs.
   (b) Education Planning Interprofessional Relations
   (c) Hospital & Awards Relations
   (d) School Bldgs. *Publications
   *The Publications Committee shall have in addition to its regular six members the current editor of Empire State Architect.

(B) Each of the commissions shall be administered by a Vice-President of the Association, who shall be designated by the President.

(C) During his tenure, the President shall appoint the Chairman of each committee and shall fill all vacancies that may occur.

(D) The number of members of each committee shall be as provided herein, or as determined by the President and Chairman, except that no committee shall have less than three members.

(E) The President shall be empowered to create additional committees, and shall assign them to an appropriate Commission, provided that, a committee whose life is expected to extend beyond his term of office, shall be approved by the Board of Directors.

(F) The Chairman of each committee shall be empowered to invite other members to sit in with his committee for their advice on subjects within the committee's jurisdiction. Should the chairman determine the need for additional expenditures not covered by the committees authorized budget, prior approval shall be obtained from the Board of Directors.

Section 3 — Tenure.

(A) Standing committees, as herein provided, shall continue through succeeding administrations. Chairmen and members shall continue to serve until their successors are appointed.

(B) Committees appointed by the President, to perform special functions during his administration, shall cease to exist at the last day of the following Annual Meeting, unless they are re-activated by the succeeding administration.

Section 4 — Composition and Duties.

(A) The following standing committees shall consist of six members, two members shall be appointed each year for three years terms and the balance of the committee on staggered terms. During his administration, the President shall fill the vacancies and shall appoint one of the members as chairman. Six-member committees shall be:

   By-Laws   Hospital & Health Contractor Buildings
   Fees & Contracts Relations Interprofessional Relations
   Governmental Relations *Publications
   Education Law Ethics School Buildings

   *The Finance Committee shall have in addition to its regular three members the current Treasurer.

   (B) The following standing committees shall consist of a chairman and not less than two additional members who shall serve at the pleasure of the President. Three-member committees shall be:

   Architectural Honors & Design Awards
   Community Insurance Professional
   Planning Education Law Ethics
   *Finances Public Relations

   *The Finance Committee shall have in addition to its regular three members the current Treasurer.

   (C) The convention operations and sites committee shall consist of a chairman, a co-chairman and four other members; two members shall be appointed each year for a three year term and the balance of the committee on staggered terms. One of the appointed members shall be the Host Chapter or Society chairman of the next convention. The Executive Director shall serve on this committee as an ex-officio member.

   (D) The committee on legislation shall consist of a chairman, a co-chairman, four (4) vice chairmen and one (1) member from each constituent organization.

   There shall be sub-divisions of the committee on legislation, designated as sub-committees, which shall consist of the following:

   Labor Law and Rules School Buildings
   Multiple Dwelling Law Interprofessional Relations
   Multiple Residence Law Resolutions
   State Building Code School Buildings

   One of the vice chairmen shall be assigned to each of the above noted sub-committees and shall act as its chairman. Each of the above-named sub-committees shall have three or more members in addition to the chairman.

Section 5 — Duties.

The duties of all committees shall be as hereinafter defined by the Board of Directors.

Explanation: The foregoing changes in committee structure have been strongly advocated by the Evaluation Committee and many of our constituent organizations, a number of which have adopted a similar system patented after the Institute's. As indicated on page 2 of these revisions, each vice president will supervise and be responsible for a group of committees, as well as provide for continuity now feasible under our present system of changing all committee personnel with each succeeding administration.

In the initial setup of rotating committees, two for two years and two for one year. Thereafter, two each for a three-year term, appointed by the President who will also appoint the chairmen. The President suggests that first year appointments be made in consultation with the Executive Committee. This will allow the President-Elect (one of VPs will probably be the President-Elect in the year following) to have some voice in the committee personnel they will inherit.

The By-Laws will include only the composition structure of the committees. As prescribed by the directors, the duties of each committee can be contained in a loose-leaf manual that can be varied as necessary, without changing the By-Laws.

The re-vamping of all of Article VI is a progressive step forward that has been long overdue and should result in improved operation efficiency that will benefit the membership.

The Committee on By-Laws heartily recommends complete acceptance of all proposed revisions.

Respectfully submitted,

COMMITTEE ON BY-LAWS

Philip P. Agusta, Chairman
Albert Brevetti
Karl F. W. Kaelber
Kenneth Milnes
Max Simon
Maurice G. Usian

August 11, 1967
On Wednesday, April 26, 1967, at 8:00 P.M. in the New York Design Center at 415 East 53rd Street, New York City, New York Chapter, The American Institute of Architects presented a Symposium on Corporate Practice of Architecture. Discussion was based upon Senator Anthony B. Gioffre's bill S.I. No. 64 which was prefiled on January 4, 1967 and which proposes to amend the business corporation law, the penal law and the tax law in relation to authorizing members of professions to form PROFESSIONAL SERVICE CORPORATIONS. The Symposium panel included the following members:

- Nathan Walker, N.Y.C., A.I.A., Counsel
- Quentin Squires, C.P.A.
- Ned C. Litwack, Pension Planner.
- Thomas J. Kupper, N.Y.C., AIA, Chairman, Legislative Committee Moderator

In brief individual talks, the panelists discussed the following major aspects of such legislation:

a. Professional structure of the corporate entity.
b. Limitations of personal liability.
c. Possible tax benefits.
d. Pension planning potential.
e. Continuity of the corporation and stock transfer.

Following these talks, a question and answer period ensued, during which every effort was made to explore the factors both for and against Corporate Practice of Architecture. It is hoped that evaluation of these factors will enable recommendation of action on such legislation in the best interest of the general public and the profession. The New York Chapter, A.I.A. will sponsor a series of workshops starting in October, 1967, to explore the factors in depth and detail.

NOTE: Photographs by SAM KURTZ, AIA.
SENATOR ANTHONY B. GIOFFRE

I deem it a privilege to appear before the New York Chapter of the American Institute of Architects to talk to you about the present discriminatory tax legislation which exists against professional people and in favor of corporate and other employees.

For many years I have been interested in legislation which would permit professional people to have the same tax advantages as corporate employees. During the 1963 legislative session, with the cooperation of the State Association for the Professions, Inc., I introduced a resolution providing for the creation of a committee known as the Joint Legislative Committee on Professional Men, Tax Status and Tax Benefits.

As a result of the adoption of this resolution, a committee was designated and I was appointed its Chairman. Various hearings were held throughout the State of New York in order to obtain facts and recommendations of individual practitioners, associations, and groups of professional people licensed to practice in New York State.

It is an undisputed fact that our present laws clearly discriminate against private practitioners of law, medicine and other professional people. The corporate employee enjoys tax advantages which are not available to a professional person. HR 10, or what is commonly referred to as the Keogh Bill, does not extend to self-employed professional people tax benefits which are comparable to those granted corporate employees.

Although for the taxable years commencing January 1, 1968, there has been a change in this law which provides that both capital and personal services of the self-employed persons are material income producing factors, then all net profits from the business are considered earned income. The maximum amount that can be deducted for retirement income purposes, however, is $2,500.00.

The so-called Kintner regulations, which were adopted when a group of Montana doctors formed a professional association, took pension and retirement deductions which the Internal Revenue Service declined to recognize but which the Federal Courts agreed had sufficient characteristics of a corporation to be accorded treatment under the Internal Revenue Code §7701. As a result of these regulations, 35 states have taken steps to permit professional people to organize professional corporations or associations that could be accorded corporate tax treatment and would permit the adoption of pension or profit sharing plans to provide for retirement benefits similar to those accorded corporate employees. Also, legislation has been introduced, although not adopted, in 14 additional states including the State of New York for this purpose.

As a result of the Court decision, regulations were adopted by the Internal Revenue Service listing the characteristics that would lead to association status as follows:

1. Centralized management.
2. Continuity of interest.
3. Transferable interests.
4. Limited liability.

On January 28 1965 the Internal Revenue Service adopted the amended Kintner Regulations and recognized for the first time deductions taken by a professional corporation or association for retirement or pension plans, provided that timely tax returns were filed for all years prior to December 31, 1965.

No deductions for such plans have been recognized subsequent to January 1, 1965.

PROFESSIONAL STRUCTURE OF CORPORATE ENTITY

My bill provides that

"No professional service corporation shall engage in any profession or business other than the profession or business for which it was incorporated nor own stocks or bonds of another professional service corporation, except that a single professional service corporation may practice the professions of professional engineering and architecture provided its stockholders or other employees are licensed to practice such professions" (Page 4—Section 3, Subd. (b).

"In the case of a professional service corporation practicing professional engineering or architecture or both professions all final plans and reports made or issued by a professional service corporation authorized to engage in the practice of professional engineering and/or architecture shall have the names and seals of the professional engineers or architects who prepared them." (Page 5 and 6—Section 4, Subd. 9.)
“That all stockholders of a professional service corporation shall be persons who themselves are duly licensed or otherwise legally authorized to render the same professional service as the professional service corporation, except that one or more duly licensed professional engineers and one or more duly licensed architects may be stockholders in the same professional service corporation.” (Page 7—Section 5, Subd. 2.)

And finally—No person shall be an officer of a professional service corporation unless he is the owner of at least one share of fully paid stock of such corporation. (Page 11—Section 8, Subd. b).

CONTINUITY OF THE CORPORATION AND STOCK TRANSFER

The corporate characteristics of continuity of life are defined by the regulations as freedom from dissolution upon the death, insanity, bankruptcy, retirement, resignation or expulsion of a member. This requirement has been provided in my bill as follows:

Upon the death, withdrawal, or professional disqualification of a stockholder of a professional service corporation or to a professional individual eligible to hold such stock, the corporation shall be made within sixty days of the appointment of a personal representative in the event of a stockholder's death such transfer shall be made within thirty days thereafter. Such stock shall not be voted subsequent to the stockholder's death, withdrawal, or disqualification. Dividends shall not be paid thereon in respect of earnings which accrue for any period subsequent to the stockholder's death, withdrawal, or disqualification. Upon the transfer of such stock to the professional service corporation, it shall pay to such stockholder the price fixed in or to be determined in accordance with its certificate of incorporation or by laws; provided, however, if its certificate of incorporation or by-laws fail to fix the price or provide a method for determining the price, it shall pay the book value of such stock, exclusive of good will, at the end of the month immediately preceding the death, withdrawal or disqualification of the stockholder. (Page 10, Section 6, Subd. (8).)

NED C. LITWACK, Executive Director of the firm of Ned C. Litwack, Consultants and Actuaries, Newark, N.J.; specialist in pension and profit-sharing planning.

NED C. LITWACK

Irritating high taxes, inflationary living costs, the murderous competition for skilled technicians in the professions as well as in industry have all conspired to increase the occupational disease of economic instability. Employees and employers alike are acutely sensitive to the importance of fringe benefits, and particularly those relating to old age security. Since man is, and must be regarded as a wasting asset, like plant and equipment, good business judgment and foresight require an orderly planned approach to his disposal and replacement at some point, at least prior to his absolute obsolescence.

A retirement program, effectuated through the medium of a pension plan, is certainly a sound answer to this problem, otherwise the alternatives to be faced by management would be either discharging superannuated employees when they are unable to perform adequately after long years of service, or else retention of such ineffective employees on the payroll indefinitely. The latter alternative is not only an economic waste but could prove extremely discouraging to younger personnel who may otherwise be hopeful of ultimate advancement to more responsible and lucrative positions.

The financial insecurity of executives and key men also becomes obvious when you realize that a person who earned $20,000 per year 20 years ago must today, because of confiscatory taxes and the ever-spiralling high cost of living, make $65,000 to equal the purchasing power of his $20,000 earnings in 1947. Heaven forbid that he then made as much as $40,000 because he would now need to earn over $200,000 just to stay even on a net basis. Consider further that an executive age 50 making $25,000 per year in a company with no qualified pension plan must save $8,700 annually from his net income after taxes to insure his future with a retirement income at 65 of half his take-home pay (which would be about $8,800). How do you suppose he is able to do this? You are right—he just can't, not if he wants to eat too in order to survive to age 65 and be able to retire.

The answer again is obvious—a qualified pension plan, especially when you realize that it makes taxes work for you and that funds
deposited in such a plan will, therefore, provide two-thirds more retirement income than if the same amount were paid in salary and invested individually in a personal annuity contract. The present bill in Albany now under consideration, if passed and implemented will give you the opportunity to move in the proper direction.

A corporate pension plan offers many impelling economic opportunities in addition to the moral aspects inherent in its adoption, plus its impact on increased efficiency, attraction and retention of qualified, more proficient personnel, and so on.

Among these economic advantages are (1) employer contributions are deductible as an expense by the corporation. (2) income taxable to the employee is deferred for years until the time of receipt, when his earnings will generally be in lower brackets and when he may receive special added income tax exemptions and retirement credits. (3) severance payments made upon termination of employment can ordinarily be taken on a low capital gains tax basis. (4) death benefits are usually excludable from federal estate taxation. (5) the first $5,000. paid as a widow's benefit is exempt from all income taxation. (6) you have the advantages of a tax exempt trust, the approved earnings and accumulations and transactions of which are not taxable. What a monetary break this is.

As an aside at this point, it is interesting to note that over 25 million employees are presently covered under private retirement plans. These plans pay almost 3 billion dollars a year in benefits to about 2½ million beneficiaries out of accumulated tax exempt reserves of over 75 billion dollars. As of 1962 which was the last year for which national statistics are presently available, deductions for employer contributions alone amounted to $4,720,610,000. Sixteen years earlier, in 1946, these deductions were $334,624,000. So far as last year is concerned in 1966 the Internal Revenue Service approved as qualified 18,183 corporate retirement plans (both pension and profit-sharing). These plans covered 1,118,148 employees. This was an average of 61 employees per company. The approved plans in 1966 were 24.3% higher than those approved in the preceding year. In addition, the Internal Revenue Service approved 7,366 Keogh Act plans for self-employed individuals and their employees. However, this type of plan was 13% lower in number than in 1965. While the Kehoe type retirement plan is better than no plan, it still has serious limitations as has already been pointed out particularly for the owner and higher paid employees. This is due to the fact that in spite of its recent liberalization, it limits the contributions favoring any individual to 10% of compensation, or a maximum of $2,500., whichever is less.

Thus, assuming an individual age 50 with $250,000. of salary, the limit of $2,500. accrued taxfree and compounded at 5% to age 65 would total $25,449., which in turn would provide a life annuity of only $170. per month. This is less than 10% of his earnings. If the executive were age 55 the total contributions to age 65 at 5% interest would be $19,304. which would generate a pension of $129. per month. If he were 60, as a maximum, he could accrue only $10,824., and therefore a pension of only $76. per month. These figures are all based on the maximum $2,500. annual payment to the plan.

In addition to the limitation on maximum contributions permitted, the Kehoe Plan requires immediate and full vesting of all employer contributions so that no recoupment can be obtained to reduce pension plan costs in the event of early termination of employment by any participant. This can be expensive. The law, however, does not require vesting for qualified corporate pension plans but the Internal Revenue Service agent in examination of such plans for initial approval will press for vesting to avoid discrimination favoring owners. This vesting, however, can begin after 3 or 5 years of participation at a 5% or 10% annual rate so full vesting in employer contributions could be deferred from 10 to 20 years after initial entrance by an employer into the plan.

Also, employer contributions to a qualified corporate established pension plan are prescribed only by those amounts that are actuarially required to meet the commitment of the benefit formula established by the employer and is not discriminatory in favor of the higher compensated or supervisory personnel. Thus, if a formula of 35% of pay were determined and applied across the board for all eligible personnel, a $25,000. age 55 employee could have about $8,220. annually accumulated for his account to provide him with a pension at 65 of $8,700. per year, or $730. per month, as contrasted with $129. Kehoe pension hereinbefore cited.

While law is substantially based on logic, there appears to be no logic in tax law. Why professional partners who assume not only the responsibility of obtaining the jobs, implementing and supervising their effective conclusion, plus assumption of the financial burden of supplying the funds to support its life, should not be able to participate proportionately and taxwise in fringe benefit areas as may their employees, is difficult to justify.

It is also paradoxical that with all the pressures and laws applied by our government to avoid discrimination in labor practice, as to age, sex, color, physical fitness, etc., in employment and otherwise, that it continues to practice serious discrimination itself as Senator Gioffre indicated in allowance of tax incentive and benefits to various groups of taxpayers. Why, for example, can an owner of a small corporation employing only himself and his wife, establish a qualified pension or profit-sharing plan and accrue substantial tax deductible funds for themselves, which he wouldn't be permitted to do to the same degree if he were a partnership is difficult to understand. We have formulated and have had several such small corporate plans approved even for professional service corporation.

While the basic specifications of most plans may follow a common pattern, there really is no such thing as a standard pension plan. Each corporation has its individual requirements, economic and otherwise; thus, each must be tailored to the conditions most favorable to and peculiar to each employer and his personnel. Factors to be evaluated and covered include:

1. The elements of eligibility.
2. The formula for pension benefits.
3. The formula for death benefits.
4. Past service credits, if any.
6. Pension ceiling.
7. Impact of future compensation increments on pension costs.
8. Employee turnover.
11. Vesting in case of termination of employment.
12. Contributory or non-contributory considerations.
13. Funding methods.
15. Whether it be a self-administered, trustee or insured plan, etc.

A good pension plan must meet certain basic requirements if employer-employee relationship is to be maintained on a high level.

1. It must qualify as being actuarially sound by the Internal Revenue Service, the benefits must be reasonable, definitely determinable, and the plan enthusiastically received by your employees.

2. It must be practical and flexible to allow early as well as deferred retirement for those who by reason of ill health need to retire prior to age 65, or if well and proficient be allowed to continue in active employment beyond said age.

3. Its current and future financial commitments should be comfortably within the employer's ability to support without great financial strain, for as long as the plan is continued it must be fed by continued contributions or it will die of starvation.

Having gone through all of that, may I suggest that I believe your attorneys, accountants, tax-people and legislators will need to get federal Internal Revenue Service to modify its current reluctant position to qualify professional corporations as corporations for income tax purposes. Much of its reluctance is due to the variation in typical characteristics of the professional corporation as opposed to the usual commercial or industrial type, particularly as it relates to perpetuity. As before stated the Treasury Department is not necessarily recognizing local law for federal income tax purposes presently.

QUENTIN A. SQUIRES; Partner in the New York office of Main Laflrentz & Co., auditor of the New York Chapter, AIA.
American Institute of CPA's has in the past favored legislation such as the Keogh Bill (HR-10) which permits qualified self-employed persons to defer taxes on limited amounts of income set aside for retirement purposes.

It might be suggested that it is inconsistent to oppose incorporation while urging enactment of the Keogh Bill. However, there is a fundamental difference. The Keogh Bill was an attempt to eliminate a tax inequity for which Congress was responsible, whereas the incorporation approach is, in effect, an end-run around Congress to achieve a tax advantage through the adoption of another legal form which brings more problems with it, as I will discuss later.

I have been asked to concentrate my remarks to you tonight on the tax advantages and disadvantages of incorporation. Let me say at the outset that in my judgment, your decision should not be based solely on tax benefits. Incorporation is no tax haven. The great disadvantage of this form is the "double tax on earnings" resulting first from the corporate tax on the net profit of a business — which rates are currently 22% on the first $25,000 and 48% on amounts in excess thereof and second, from the personal income tax levied on dividends paid to stockholders out of such corporate net income after corporate taxes. This double tax was temporarily ameliorated under the 1954 tax relief provisions, which provided for a new, 4% dividend credit against taxes, although the $50.00 dividend exclusion has been raised to $100.00 in lieu of the credit.

There is also the hazard of incurring penalty taxes if the net profit is retained in the corporation instead of being paid out as dividends. To the extent that retained earnings exceed $100,000 without valid business reasons, penalties from 27% to 38 1/2% of accumulated earnings are imposed in addition to other taxes on that part of retained earnings unreasonably accumulated.

Even though individual income tax rates can become brutally high, especially for the unmarried architect, only one Federal income tax is payable by sole proprietors and partners. For members of a professional service corporation there may be at least two taxes on a portion of professional income. If each member's share of the profits can be justified as reasonable compensation for his services, it will be deductible by the corporation as salary expense. Since all profits are distributed as salaries, none are being retained to be taxed at corporate rates. But a revenue agent may decide that compensation of certain members is excessive where there is no return on owners equity — i.e., where there is a breakeven situation after "salary" distribution. The agent might very well disallow a portion of the salaries as expense deductions and call them dividends instead. The tax to the individuals would not change but the professional service corporation would be taxed on the residue earmarked as dividends. This tax problem does not confront partnerships.

Double taxation can be avoided by electing under Subchapter S to be taxed as a partnership. However, the larger firms cannot benefit from this election because to be eligible a firm must have ten or fewer stockholders. There are many other technical problems in electing under Subchapter S which may make one decide against its election.

Personal Holding Company problems are sometimes mentioned in connection with professional incorporation. It is unlikely that architectural firms would be taxed as personal holding companies. Their jobs are performed through the efforts of many draftsmen and designers. Such work would not constitute "personal contracts." Doctors and lawyers may have to be concerned in this area where the tax is 75% of the first $2,000 and 85% of the excess above $2,000 imposed upon undistributed personal holding company income.

On the plus side, corporate entities enjoy certain fringe benefits which the self-employed are denied. The Keogh bill, known as the Self-Employed Individuals Retirement Act of 1962 has unfortunately been inadequate in this area. This is partly because only 50% to a maximum of $1,250 of the contributions made by owners for their own retirements is deductible, whereas 100% of qualified corporate retirement plan payments including officers' retirement are deductible. Moreover, total owner contributions are limited to $2,500 or 10% of earned income during a taxable year, whichever is less. Beginning in 1968, contributions or this purpose will be liberalized. The self-employed are also denied the right to capital gains treatment on lump-sum pension distributions at retirement.

Not many have employed the provisions of the Keogh bill. The plain fact is that corporations offer tax sheltered advantages that are superior. These include:

1. Participation in qualified pension, retirement and profit sharing plans which provide a tax-free build-up of cream skimmed off top bracket income.
2. Employee deferred compensation contracts.
3. Employee stock options — of doubtful merit in a professional organization.
4. Tax-free employer death benefits up to $5,000.
5. Tax-free accident, health or wage continuation plans.
6. Tax savings through deductibility of group term life, hospitalization and health and accident insurance premiums.
7. Right to receive sick pay during illness, under a corporation financed plan.
8. Less social security taxes paid by the individual.

The point is often made that in order to recruit and retain all the high caliber people that will be needed in the future to properly serve your clients, you simply must be in a position to offer them rewards commensurate with their capabilities and competitive with their prospects in corporate or government employment elsewhere. The corporate form may facilitate this. I would like to emphasize another advantage of the corporate form which is of immense practical value. It is difficult to accumulate working capital in the partnership structure. To accumulate capital, some firms withhold a portion of partners' distributions although the partners must pay taxes on their portions even if not distributed. Where such devices are only voluntary, they often do not work. High personal income tax rates and the limited deductibility of contributions to partners' pension plans make it extremely difficult to retain sufficient working capital. Some way must be found to properly fund pension obligations. Although funding is expensive, especially if most of the partners are older, the corporation enjoys a more favorable position in this area.
The other advantages of the corporate entity include (1) greater ease in transfer of ownership at death or retirement, (2) a better vehicle for continuity and (3) limited liability, which areas are being covered in detail by other speakers here tonight. I must confess that partnerships are awkward vehicles for merger or other changes which result in a continual juggling of partnership interests requiring revised agreements and legal expense. Relative values are more neatly reconciled through issuance of corporate securities.

It is my understanding of the bill under consideration that transfer of stock in the event of death, withdrawal, or disqualification of a partner to the corporation or to another qualified member of the firm may be made at book value, exclusive of good will, as set forth in the certificate of incorporation, at the end of the month immediately preceding the death or withdrawal of the stockholder. The increase in value over original cost due to an accumulation of retained earnings would be subject to capital gains treatment. If corporate net income can be kept low, the corporate tax on it may be lower than if distributed to the owners who may be in higher tax brackets. This assumes too that dividends need not be paid out. The built-up value can then be taken out upon withdrawal of a member at capital gains rates.

If we concede that professional organizations should be allowed the right to incorporate, whether or not the right is used, would it not then be wise to approve this bill under consideration? Unfortunately, the answer is not simple. Please bear with me as I recap the reasons for this type of legislation.

In 1954 Dr. Kintner of Montana convinced the NINTH Circuit Court of Appeals that the articles of association for a medical clinic of which he was part owner were endowed with more of the attributes of a corporation than of a partnership. Consequently, contributions to a pension plan on behalf of Dr. Kintner and others who had previously been members of a partnership were held deductible, in the same manner as for employees of a corporation. The clinic was held to be taxable as a corporation. A result of this case and some others, the so called "Kintner" regulations were published by I.R.S. in November 1960. What happened next? Since that time more than 30 states have enacted professional corporation legislation. It was thought that this would enable members of professions to meet the requirements of the "Kintner" regulations, thereby obtaining tax-deferred retirement and other fringe benefits. The status of these so-called "professional corporations" was not specifically dealt with in the "Kintner" regulations. So the Treasury Department proposed amended regulations in 1963 which were adopted on 2/2/65 by T.D. 6797 despite valiant attempts by Senator Giorfie and others to have the amendments withdrawn. The amendments state that nomenclature used in the various state laws indicative of corporate form would not be regarded as controlling and that each case would be judged on its merits. The determination of Federal taxation in each case would be made on the basis of the Kintner regulations. Furthermore, state law will determine whether the attributes are such as to give it corporate tax status.

Ordinarily, if a corporation is organized under state corporation laws pertaining to the forming of ordinary business corporations, no problems would be presented. But where state laws deprive the professional service corporation of ordinary business corporation attributes, as might be the case in the legal, accounting, medical and architectural professions, the organization may be held not to be a corporation for tax purposes. Therefore, until such time as the courts have clarified these cases as they are litigated, professional service corporations are in a strange position.

A professional service corporation law is merely a preliminary step. Rev. Procedure 61-11 provides that before a determination letter will be issued to an association which wants to qualify a pension plan of some type, it must establish that it complies with the Kintner regulations. It is significant that very few requests have been granted. However, since the government took so long to decide its position, professional service corporations which went ahead and filed corporate tax returns for taxable years beginning after 1960 and ending before 1965 were treated as such for that period. Rev. Ruling 66-92 explains what they had to do after the amnesty period. Frankly, it has not been smooth sailing in this area.

The "Kintner" regulations provide six major characteristics that as a group distinguish a corporation from other business organizations, including partnerships, with which we are primarily concerned.

These characteristics are (1) associates (2) on object to carry on business and divide the gains (3) continuity of life (4) centralization of management (5) liability limited to corporate property and (6) free transferability of interest. I.R.S. decided that the presence or absence of these characteristics would be determined by the particular facts in each case.

The first two characteristics don't carry any weight in determining tax status since they are common to both partnerships and corporations. The purpose for specifying them was to distinguish a business corporation from a trust. Therefore, the determination is based on the remaining four characteristics. If three of these are present in a professional service organization, I.R.S. will recognize it as an association taxable as a corporation. Let me explain these briefly and apply them when possible to the bill under consideration.

FIRST, Continuity of Life — This factor will be present if the death, insanity, bankruptcy, retirement, resignation, or expulsion of any member will not cause a dissolution of the organization. The Uniform Partnership Act on the other hand, states that a partnership terminates upon the death of withdrawal of a partner. In the case of a small architectural firm, its life expectancy must necessarily be short. If a partner with a major interest dies, the survivor might be hard put to buy out his interest. Such a firm really has no continuity. If a member has the right to bring about dissolution at will, the organization would cease to have continuity. If a member is expelled from practice by state regulatory bodies, can the organization continue? It would certainly have to expel such a member from its organization or be dissolved. It would appear that larger firms could comply with this requirement of the bill. However, firms that operate in more than one state may have difficulty complying with the various local requirements since no
According to the N.Y.S. Joint Legislative Committee on Professional Men and their Tax Status, the Kintner regulations permit a modified form of free transferability of interest. This would allow a retiring member to transfer his interest to an outside professional only after having first offered it to other members of the firm. Whether Bill 64 meets the Fourth standard under these circumstances remains to be seen.

In conclusion, it is questionable whether or not this bill would bring about the right to elect the corporation form for tax purposes. I have tried to show you that the road is slippery. Possibly a majority of the four Kintner corporate attributes can be satisfied by this bill. The ethical standards of the professions prohibit a simple adaptation to ordinary business corporate characteristics. Even if the right to incorporate is obtained, each firm must apply its own circumstances to the tax advantages and disadvantages outlined. What's good for one firm is not necessarily good for another.

Thank you for this opportunity to meet with you on this important subject. You have been very gracious hosts.
draws no distinction, as to the nature of the corporation's business activities. Whether it is engaged in a hazardous or non-hazardous business, such personal immunity is conferred.

The sole stockholder of a corporate contractor which must comply with safety standards ordinarily is not individually liable for the negligent acts of its employees. But the unincorporated Architect who also must safeguard life and property may be held responsible, under certain circumstances, for failure to discover defects created by such employees.

The sole stockholder of a corporate consulting engineering firm, organized prior to 1929, may be immune from liability for the negligent acts of the corporation's employees. But the unincorporated Architect who engages such corporation, as his consultant, is indirectly liable for the negligent acts of the corporation's employees.

These and other anomalies have long existed and will continue to be perpetuated unless Architects are given the privilege to incorporate under conditions which will confer upon them the same immunities as those which are accorded to others, such as steel fabricators, steel erectors, general contractors and corporate engineering consultants, whose business activities also involve the safeguarding of life, health or property — which your business involves according to Article 147 of the Education Law.

I favor a corporate law for Architects — a law which would give them any fringe or other benefits, mentioned by the preceding speakers. A law which would guarantee to Architects protection against personal liability, except to a limited extent, which I later on shall point out.

A law which would fairly protect the public interests, while at the same time confer upon Architects immunities which are presently denied to them, but granted to others. Yes, I favor a corporate law for Architects, but only provided it prevents unlicensed individuals from preying upon the public in the sphere of architectural practice, under the guise of corporate form.

The need for protecting the Architect to the maximum extent possible, is both real and critical. His liability is not only unlimited in amount, but also perpetual in point of time. Neither his retirement, nor death, tolls the Statute of Limitations. The Architect's estate continues to be burdened with his potential liability — which is ever-present.

Professional liability insurance is at best a partial answer to the problem. The amount of coverage, though substantial, may be insufficient. The insurance company may deny coverage — not all mistakes are covered by the fine print. There is no certainty that insurance companies will continue to write such insurance in the years to come. If your insurance is cancelled, it may be impossible for you to secure coverage from another company. If it is possible, you may find that the second company's policy does not cover you for errors committed prior to its inception. Neither Company A, nor B, may be responsible. Your responsibility may arise because of some error on the part of your consultant. He may not be insured or adequately insured. If he is insured, his policy may lapse or be cancelled.

I am in accord with most of the fundamental concepts expressed in the distinguished Senator's Bill, but understandably, I am not in complete accord.

(1) To prevent the corporation being used as a facade for illegal practice, each stockholder, director and officer must be a registered professional, as the Senator suggests.

(2) I suggest that the corporate name should not be followed, as the Senator's Bill proposes, merely by the words; "professional service corporation", or such other descriptive term as may be approved by the Department of Education. I recommend it be made mandatory that a descriptive term of reference to architecture be included in, or follow the corporate name.

It may not be feasible or possible to enact an omnibus bill which will achieve essential uniformity and I am fearful, that although the Senator will exert every effort to be fair to all, the result may not be entirely satisfactory to the architects. I am also fearful that if an omnibus bill is accepted by the architectural profession, serious problems may arise in the future. Other professions may suggest amendments advantageous to them, but disadvantageous to architects. The architectural profession will have to be a watchdog for its own security. I would hope that the Senator would find it possible to sponsor a Bill to amend Article 147 of the Education Law — if the Architects decide to move in that direction. Such an amendment could embrace whatever may be determined by your Legislative Committee and Executive Committee, to be fair and appropriate, in the light of our meeting this evening, and after giving further consideration to this crucial problem.

In conclusion, may I say that until quite recent times, the idea that Architects should incorporate was unthinkable. But human society keeps changing. Needs emerge, first vaguely felt and unexpressed, imperceptibly gathering strength, steadily becoming more and more persistent and exigent, until they may no longer be left unheeded, and denied response. Changes in the law are responses to these needs.

You ladies and gentlemen, and your officers, as members of the free society of architecture are the vehicles for giving response to any felt needs in your profession, by recommending accommodations or modifications that may relate to the practice of architecture. I can only advise, but it is for you and your officers to decide.
CORPORATE PRACTICE SYMPOSIUM
Questions and Answers

Q. If architects are permitted to practice in corporate form under Article 147 of the Education Law, would not this deprive the practitioner of tax benefits under tax corporation laws as proposed by the Gioffre Bill?

A. (Senator Gioffre) I would say there would be a prohibition unless the various provisions of the Kintner regulations would be involved. You have to have 3 out of 4 of the characteristics in order to qualify. I would say that the problem with that is, that while it is a good idea, it is almost impossible to try to prepare Bills for each separate profession. What I tried to do in my Bill is try to embody all of these professions rather than deal individually with separate professions. While it may be alright for the Association of Architects, then you would have to prepare separate Bills for Attorneys, CPA’s, Podiatrists, etc.

(Mr. Walker) I would like to interpolate — I know of no lawyer or doctor who is incorporated but there are engineering firms and architectural firms that are incorporated. I think it was in 1819, in the celebrated Dartmouth College case the U. S. Supreme Court held that you could not divest a corporation of its rights to continue, and that the Legislature had no right to repeal the Charter unless the State reserved that right. The Constitution of the State of New York presently provides that the Legislature may alter or repeal a Charter. And when the Architects’ licensing law was enacted that provision in the Constitution was in existence so that the Legislature as a matter of public policy could have denied to corporations then in existence the right to continue in the practice of Architecture. Nevertheless, the Legislature in this State chose not to do so; and having failed to do so, it cannot, in good conscience, presently deny to Architects the right to amend their law to permit them to incorporate. I don’t think you are in the same league with lawyers or dentists, etc. because they have never been incorporated; and you have precedents which, I think, will carry weight in the Legislature. At least, I hope so.

(Mr. Addonizio) I would like to draw one distinction which I think is necessary to implement the remarks of Mr. Walker. And that is, while it is true that there are some corporations that are practicing architecture they are very, very few in comparison to those that are incorporated under the engineering law, that came in under the Grandfather clause. The difference is somewhere between 4 and 5 or possibly 6 architectural corporations as compared to, I think the last number I heard is 119 that came in under the engineering law. And I foresee that there may be some difficulty in view of the fact that the practice of engineering and the practice of architecture are more or less reciprocal and that one can practice the other’s profession except that the prohibition is that you cannot call yourself a Professional Engineer or a Registered Architect unless you’re licensed in both professions. I bring that up because I don’t think that the problem of incorporation insofar as the architects are concerned, and the fact that there are some who are practicing in corporate form actually is very minimal as compared with the engineering profession. May I also make one additional comment. Whatever the New York Chapter may do, and I’m speaking now on behalf of the New York State Association of Architects, in view of the fact that we do represent in Al-

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bany the wishes of our constituent organizations I would certainly suggest and recommend that whatever plans, or ideas or recommendations you may have that they will be submitted to our State Legislative Committee as well.

(To Senator Gioffre)
Q. Does your Bill hold personally liable the professional officers of the corporation?
A. My Bill will hold personally liable those who are in responsible charge and those other stockholders who are members of the corporation would be required to have liability insurance of $10,000 per person in addition to the $100,000 provision which is included for the corporation itself. I think that was alluded to, insofar as the limitation of liability is concerned. And that's one of the characteristics of the Kintner regulations. You've got to have 3 out of 4. We thought we would limit the liability. Of course, there's nothing to prohibit me from changing the Bill to $200,000. That could very easily be done. It's not a question here of details, it's a question here of the contents. As far as the details are concerned, those can be changed and altered; particularly with respect to professional demands. But what I am saying at the present time is the concept of incorporating a profession. That is what I am interested in obtaining — trying to obtain all of the various details which may go into the Bill.

(Mr. Walker) Senator, I am not sure I understand one phase of this Bill. Is the corporation's liability unlimited, did you say?
A. (Senator Gioffre) No. The corporation's liability is limited to $100,000, plus $10,000 for each stockholder.
Q. Is the stockholder's liability limited? Or unlimited? For his own acts.
A. For his own acts. Where he is personally in responsible charge, the liability is unlimited.
Q. And also for those who are under his supervision, I understand.
A. No sir. The way the Bill will read is that "every professional person who is a stockholder or an employee of a professional service corporation shall be individually liable [it's on page 2] for his professional acts and shall be jointly and severally liable therefore with the person in responsible charge thereof, who shall be also individually liable for his professional acts, performed under his supervision." I think that that's a little bit different than where the corporation itself commits some negligence. But the individual himself who is in responsible charge would be liable on an unlimited basis.
Q. I assume that this liability all relates to a financial liability. Is there any way of incorporating in that type of Bill the professional liability for the architect's acts?
A. I think that there would be. You wouldn't be liable, under this Bill, for something you may be doing personally, unless — It says here: "for his professional acts".
Q. His liability seems to be limited to a financial sum of money whereas at the present time the Architect also is liable professionally in the sense that he is threatened with the loss of his license.
A. At the present time you have unlimited liability. Am I correct? If you commit some acts which are improper in the architectural profession you would be liable for the loss of your license. Otherwise you would not be liable for the loss of your license. It's got to be a malpractice.
Q. How would that apply under your Bill?
A. There's nothing in here about malpractice. The only thing that my Bill says is that "a person in responsible charge or anyone under his direct supervision would be responsible for any act which he may commit", such as negligence. Assuming that a person is an architect and he prepares a plan which would tumble the building, as an example, and many people would be injured or killed, that particular individual who prepared that plan would be liable for an unlimited amount. But the corporation itself would be liable only to the extent of $100,000 plus $10,000 for each individual stockholder. You can engage any employee you want. The employee's liability - I think that's covered under the insurance. The person in responsible charge would be liable in an unlimited amount.

Q. Maybe Mr. Walker can answer that. Under that same provision, would our professional standing be endangered?
A. Your professional standing would never be endangered merely because you were negligent - only if your act was of a willful character. The Education Law still would apply. You'd be subject to possible disciplinary action. I think that's something here that perhaps has not been made clear. I want to make sure the members of the profession understand it. According to this Bill, and I trust you will correct me if I'm wrong, if an architect prepares a drawing or a specification and causes the building to collapse he's personally responsible for that. There is no limit as to the amount. He's doing it on behalf of the corporation but the corporation is only liable up to $100,000. I don't see the logic of that distinction. But that isn't too important. What troubles me is this - there is a vital distinction in the architectural profession between negligence in the preparation of documents and negligence in the field. I think that no architect sitting here will abdicate his responsibility for the plans. I think every architect recognizes that it's up to him to prepare a good set of plans so that the building won't collapse. What troubles us, Senator, is - and I'm speaking as though I am a member of the profession - all of these lawsuits in which we become innocently involved because of the negligence of Contractors. When you go back to Albany I hope that you will be able to convey this message; that these Contractors, these corporate Contractors, are presidents of these corporations. The Manager's agent. They are not responsible if the bricklayer doesn't do the work properly and the bricks fall on somebody's head, unless they're out in the field telling them how to install the bricks. But the architect may be responsible because he doesn't discover a defective condition. We perhaps would assume responsibility when the architect gives instructions that are of a negligent nature, causing injury. But to say that an architect should be held responsible for the negligence of the Contractor, or because the architect omitted to discover something seems to me to be perfectly illogical. This is not necessary for the public interest. If this is necessary for the public interest then every member of the Legislature should make certain that every officer and every stockholder of the corporate Contractor is equally personally liable. Nobody has said that they are. That is the distinction, the vital distinction that I draw here.

(Sen. Giofré) This Bill was prepared not solely for the architects. It was prepared for the lawyers, for the doctors, for the engineers. It's an omnibus Bill
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(Mr. Walker) I know that you're on our side — at least this evening and I hope for a long time to come. And, perhaps with the distinction that we're able to draw and perhaps with further discussions with you — if you'll become our guardian you will sponsor a Bill which will make history in the architectural profession. A Bill which will reasonably and fairly protect the architect at least as much as corporate officers of Contractors.

Q. Couldn't a corporation of this type issue a bond if it needed funds?

A. (Sen. Gioffre) What kind of a bond? You mean borrow money? Well, it could borrow money. This Bill does not prohibit the borrowing of funds. This Bill merely provides that stockholders, the people who are the stockholders of the corporation, would all be professional people.

Q. Would there be anything in this Bill to prevent such a corporation from issuing a bond and selling it? And at a later date buying it back?

A. No. Absolutely not. As long as that bond would not affect the professional status of some individual. Are you talking about a debenture bond? There's nothing to prohibit that in the Bill.

(Mr. Walker) Senator, again would you please comment on Section 2B which, as pointed out, seems to require all employees except clerical to be licensed.

A. (Sen. Gioffre) Once again, let me say this — As an example take a law firm. A law firm would not be prohibited from going out and hiring people in the firm — employees or clerks, whenever they wanted to. But they certainly couldn't go out and hire a non-professional person and expect that person to do the same type of work as a professional person. The same thing would hold true with respect to a doctor's. They couldn't go out and hire a man who is not duly licensed to practice the art of medicine. So that the purpose of the Bill is to prevent the non-professional people from getting a foothold in this corporation. There's nothing to prevent anyone from going out and hiring people to work in the office, do whatever work had to be done. But they certainly couldn't go out and get a non-professional person and have that person do the type of work that a professional person would do.

Q. How could they be stopped from doing it?

A. It's to protect the professional person that that provision was put in.

Q. They must be licensed?

A. No — not the employees. The stockholders.

Q. According to your Bill, Senator — I don't think you intended it but it reads on Page 2 line 25 that "Every person in responsible charge of activities of professional corporation and every employee or other person who performs professional services for or in behalf of the corporation shall be duly licensed, registered, or otherwise duly authorized to practice" You see?

A. Let me ask you this — do you hire architects who are not licensed?

Q. Yes.

A. Aren't they performing services in the nature of employees?

Q. They are not engaged in practice. Article 147 says that they must be authorized to act, not to practice, under the supervision of a licensed architect. The only one who could practice under Article 147 is a licensed or registered architect. It's just a correction that could be made here.
A. Those are minor things. Those could be taken care of. The purpose is to try to prevent a non-professional person from coming in and performing the work of a professional person.

Q. Except under the supervision of a licensed person. You can change that.

A. Yes, that can be changed. Those are technical matters. We prepared this Bill mainly for study purposes. It needs quite a bit of refining. And I'm willing to refine it if we had some general agreement. And I'm willing to accept recommendations from anyone with the purpose of refining it and bring about a Bill which would give us, what was specifically pointed out by Mr. Litwack, that was the crux of the whole thing—that we professionals are not having the same tax advantages as the other people are having.

Q. That's the purpose of the meeting here tonight.

A. I can tell you this. Most of our young men at the present time are not going into professional practice. They would rather go to work for a corporation because there they're getting all kinds of fringe benefits in addition to getting a good salary. So why should they go out and try to compete with another professional when they're unable to get these benefits. And I think that as more and more time goes on you will find that the young professionals will go out and work for somebody else. Even a doctor. I know some doctors in Westchester County that are working for some of the pharmaceutical companies. They can get $25,000 per year and get all these fringe benefits, retirement benefits, pension benefits. At the end of 25 or 30 years they retire with a big pension and they'd rather do that than be subjected to 5 or 10 years of building up a practice and trying to save money in order to be able to retire at a suitable age.

Q. Senator, in a like manner, a Job Captain in an office having full responsibility is, I would say, parallel to a technician in a doctor's office, a laboratory technician who now assumes full responsibility with the doctor away on a vacation, doing blood serology work. There's the same risk involved. But as far as the man not taking in the profession, I disagree with you firmly there. This doctor who becomes a $25,000 a year corporate detail man is one out of a hundred. The architectural schools are full and overcrowded with men trying to become architects.

A. I can show you — we don't have time now. But I can show you, in my records, documented information which would confirm my contention that the young men who are able and outstanding are going into the corporate practice rather than individual practice because of the responsibilities which are less than an individual would have to undergo and because, primarily, of the tax benefits which they do not get as an individual. And I can show you documented evidence which was submitted at our hearings which would bear that out.

Q. I have one question for Mr. Squires with reference to tax on income. Can't all or most of corporate income be distributed as salaries to employees (officers) so that little or none would be left to be corporate profit that would be taxable?

A. Yes. As long as its deemed reasonable compensation. I've heard stories that if it is excessive, as I've pointed out, the excessive part may be considered dividends which would be taxed at corporate rates. But, generally speaking, I would think that the distribution could be called salary, reasonable salary, and could be sustained. As a matter of fact, a portion of
that salary, of course, can be part in fringe benefits, in retirement too. I think it can be one. (Mr. Walker) Just don't pay the office boy $25,000 a year.

Q. We have two questions in the area of a protective device whereby the architect practices as an individual but spins off the remainder of his office as a drafting corporation of which he will also be the head, thus maintaining 1. some protection from liability, and 2. the benefits of a corporation. Who could speak of this spin-off device?

A. (Mr. Walker) I don't think a drafting corporation is legal.

Q. Some exist, we hear.

A. (Mr. Walker) I know, and I have given advice many times. In my judgment it's illegal. The Statutes is very specific on it. I don't see that you gain any personal immunity because you are liable for your individual acts in any event. And you're certainly liable for any acts committed by those who are under your supervision, particularly if they're not licensed, which is a fact in most instances.

Q. (Mr. Litwack) May I say, the intent of course, is not to evade responsibility. The intent here is to get the tax benefits. On this point — assuming that the interest in setting up the separate corporation was in generating fringe benefits or those who are involved in it you have a very serious and practical problem because, undoubtedly, some employees would be engaged in the corporate operation of the architectural practice, clerical and otherwise, and other would be engaged solely in the partnership; and some would work for both entities. The allocation of salaries, and the elimination of fringe benefits from those who are

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