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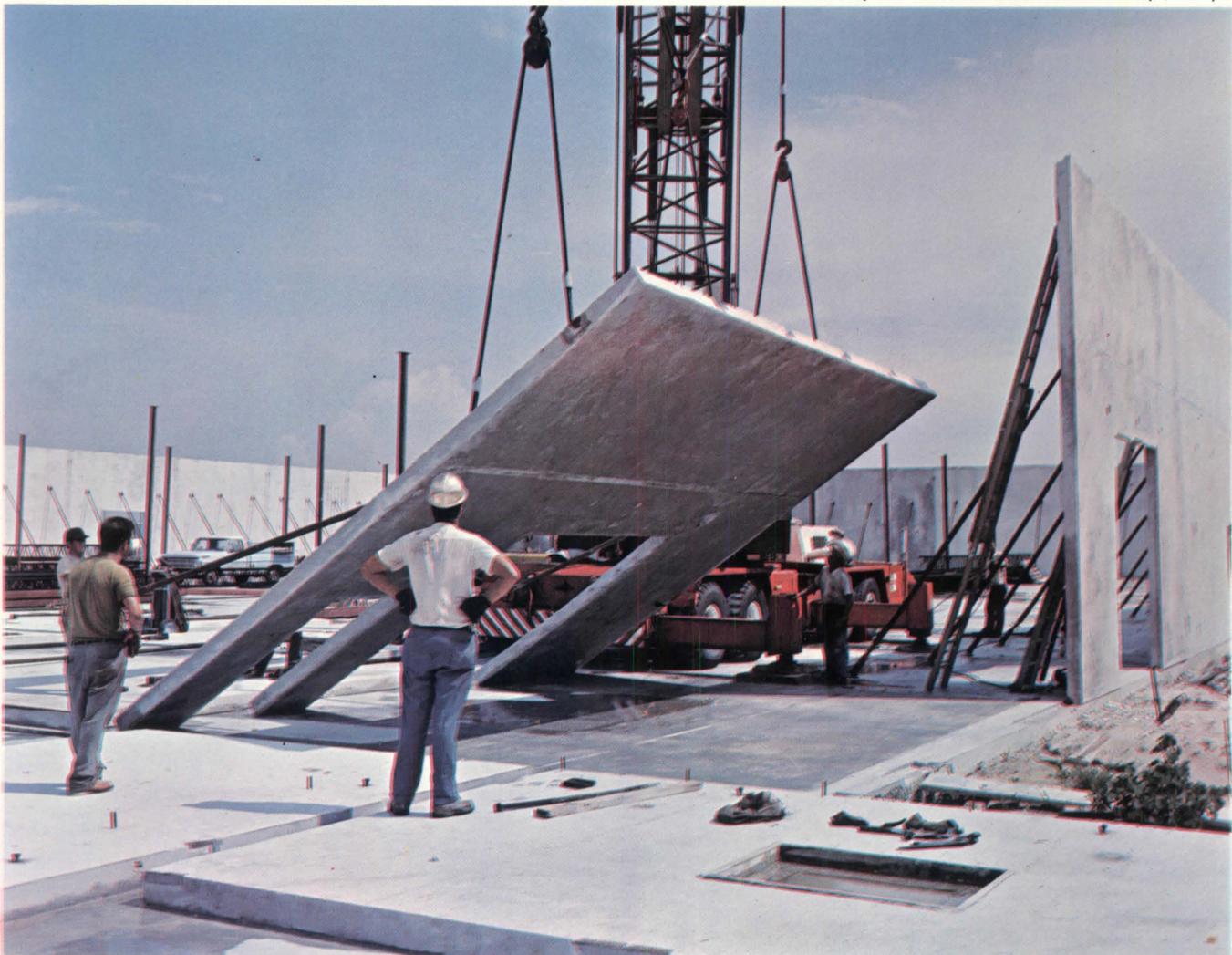
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Volume 23 Number 6 November / December 1973

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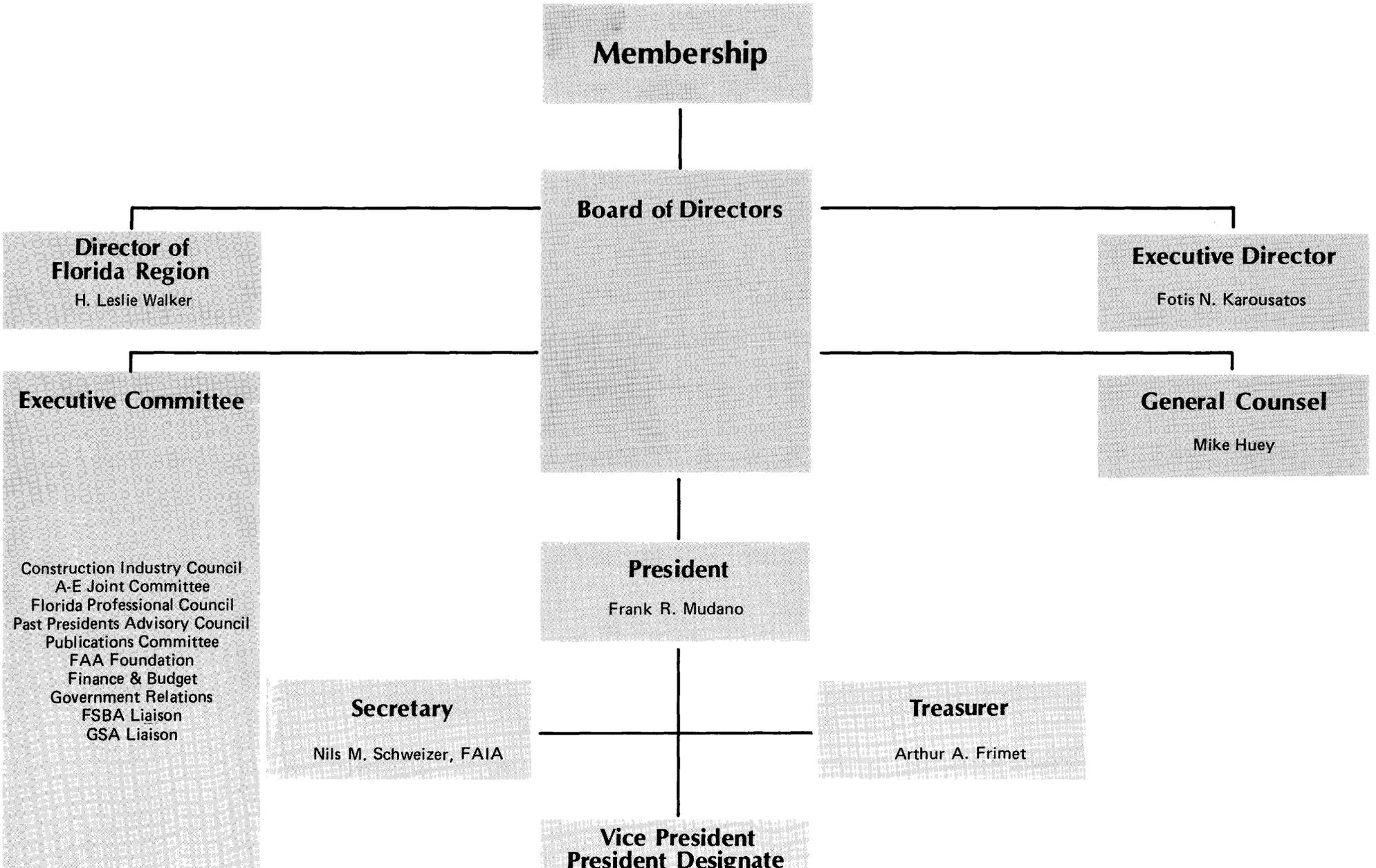
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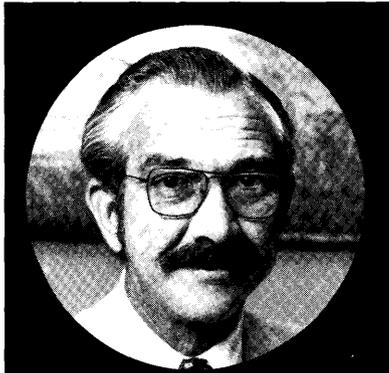
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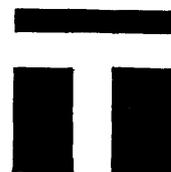
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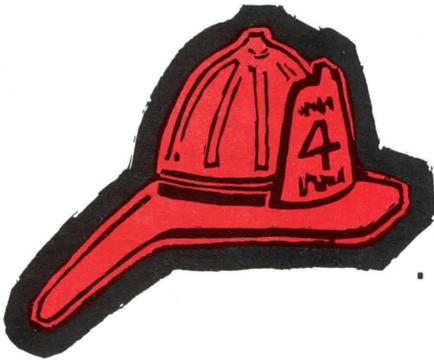


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By Frank R. Mudano, AIA
President
Florida Association of the
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Will they short-change our children
for the next five decades?

Stock School Plans: Recurring Nemesis

A committee substitute for House Bill 734, which became effective July 1, 1973, could end forever any possibility for improvement in school program and design in Florida, and many school children may be short-changed in the educational process for as long as 50 years.

Paragraph 1 in Section 8 of the law provides that the State Board of Education shall provide "prototype plans for school plants for the purpose of making optimum use of permanently constructed facilities separate from or in conjunction with relocatable classrooms . . . These shall be utilized unless the local district shall affirmatively show that it can obtain or construct comparable facilities at less expense."

Prototype plans are, very simply, stock school plans under another guise, and stock school plans under any other name would sell as rancid.

It will be contented that opposition to stock school plans by architects is just so much sour grapes over the loss of fees. If that contention were true, the situation would be much simpler, but the fact is that there are not that many architects involved in school design.

And good architects are good citizens first and architects second.

The case has been building against stock school plans for many decades. These so-called prototypes have a track record that would make even the most dedicated longshot player shy away from the \$2 window.

Perhaps the main argument advanced in favor of stock plans is that they will save money, but experience over many years has been that there are no savings in most cases.

In the few instances where there have been savings, they have been accompanied by serious ill effects on the educational process and on design progress.

Stock plans, in fact, are stock only once. They represent an attempt to solve a hypothetical problem which does not exist.

They do not make optimum use of site. It is impossible to reuse them without adapting them to topography and other physical conditions, and the cost of adaptation to a specific site often more than offsets the fee for designing a specific building for a specific site.

School design must take into account a number of variables such as curricula, enrollment, terrain, climate including amounts of wind and rain, utilities, availability of materials and codes and ordinances.

It is highly unlikely that all can be covered by one stock design.

Schools must be designed to fit the communities and neighborhoods in which they are located. A basic premise underlying advocacy of stock school plans is that the needs of all schools and all communities are the same, but we all know that needs can vary even from neighborhood to neighborhood.

Schools oriented toward college entrance, business-commercial or vocational programs have widely varying needs, and must be designed accordingly.

A sound educational program is in constant flux. Education cannot remain static nor can educational tools and facilities.

Unlike automobiles and airplanes, which are designed for one purpose and have a limited life before trade-in or disposal, schools must have a life of 30 to 50 years.

Designers of cars and planes, however, are constantly at work on new designs, and each new model can be described as stock-produced rather than stock-planned.

Schools are designed to meet the needs of the moment and the anticipated needs of the future, but needs do change, and lessons should be learned from the planning and construction of each school.

Each new building should be an improvement over the one before. New materials should be utilized as they gain wide and economical use, and stock plans prohibit such utilization.

Experience has placed repeated emphasis on the fact that stock school plans are not complete enough to get good comparative bidding on successive projects.

In addition, contractors determine that the originating architect will not be the supervisor on subsequent projects, and they build much as they please. Consequently, buildings have been often unrecognizable.

Contractors have also been known to pad their bids in anticipation of costly changes they know will come with use of stock plans.

Specific designs for specific sites make possible the purchase of difficult but cheaper sites, sites that will not fit stock plans.

Design costs represent such a small part of total cost that it is more than made up in the functionality and

efficiency of buildings designed for specific situations.

Time and place are crucial.

Stock plans are acceptable for relocatable school buildings which may be necessary in areas where school buildings which may be necessary in areas where school enrollment varies considerably or can be expected to vary in the foreseeable future.

In relation to permanent buildings, stock plans are a far better solution than stock plans. There are possibilities in the development of standardized interchangeable building units which can be put together in a great variety of arrangements so that a non-standardized building will result.

There is no valid argument with prototype plans that truly meet the definition of the word "prototype." Architects can design and have designed prototype buildings for all sorts of purposes, and a school design program of this type has been eminently successful in Pinellas County.

This program has enabled the local school district to protect its right of self-determination. Local officials have retained control of what will and will not happen, something that would not be possible with stock plans coming from a state board.

Moving government farther away from the people can only move officials farther away from the pulse of their constituents.

Stock plans are completely ineffective in saving construction time, and they only serve to save planning time when completeness of plans and specifications for competitive bidding is not stated very highly.

Stock plans make no allowances for variances in size, topography or use of land. They freeze design, limit function and thwart progress. They become obsolete with each new development in education and technology,

Because they halt design progress and use of modern technology, stock plans result in minimum buildings, and minimum buildings do not stimulate the most effective education programs.

Stock plans do not eliminate the need for construction supervision which an architect provides, but they do succeed in clouding the liability when an architect other than the originator is retained to modify such plans.

A 1965 survey by the Seattle Chapter of the American Institute of Architects resulted in the conclusion that stock plans are unsound and ill-advised for schools, that anticipated benefits are seldom if ever realized and that their use inhibits the educational progress.

The record of stock plans is a long but undistinguished one. An AIA survey as long ago as 1951 showed that 10 states had stock plans available for structures of up to four rooms and a cost of \$15,000.

At that time 23 states did not use and never had used stock plans. Fifteen states had used stock plans but had examined the situation and abandoned them.

Florida, which had made limited use of stock school plans previously, had abandoned them by 1951. Reason given was "because of different site conditions, enrollment and curricula and because stock plans impede development of changing techniques of instruction."

California at one time had three plans for one-room schools which were used in 76 districts but revised 42 times. In 1930 that state had eight plans for various schools, but only one was

reused three times because they were usually uneconomical and undesirable.

Rome, N.Y., saved \$1.03 million by NOT using stock plans in 1961.

Now Florida has come full circle and is once again on the verge of requiring stock plans. In that position the state is not unlike the teenager who turns a deaf ear to repeated advice from concerned parents and insists on learning the same things through his own experience.

Florida is growing too much and too fast to be subjected to a similar teenage learning process when all the facts are already on the record for instant assimilation.

The thinking that an ugly school can be built cheaply or that an attractive school is an extravagant liability is stark thinking that can only result in stark surroundings, stark minds and stark education.

Required use of stock plans prepared at the state level can only result in increased control of education by state officials at the expense of local decision and control.

It will take school administration and the educational process farther away from the people who are most affected and most concerned.

Fortunately, the 1974 session of the State Legislature next spring will present an opportunity for concerned citizens of all callings to change the situation before the program is funded.

Otherwise, Florida school children in the year 2023 will be attending classes in buildings designed for 1973 and constructed with the materials and technology of 1973. ■

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An address by architect Robert C. Broward
Before the Mid-Florida Chapter of the
A.I.A. on October 12, 1972

Quality in a Plastic Culture

It would indeed be a myopic vision of present-day culture in the United States if one were to say, "this is indeed the best of all possible worlds." According to each person's position in society today, a long list of negative observations could be compiled on one hand and very likely, a rather long list of positive ones could be stated on behalf of the other. The proposition here tonight, however, is to discover whether quality resides in an overview of this immensely complicated and interrelated technological society which is suddenly beset by a growing multitude of deficiencies relating not only to its corpus but to the very depths of its soul. It is all but demoralizing to attempt this without being a credentialed scholar in a myriad of esoteric specialties which are exerting a rushing effect upon us all; upon the lone individual who, in the final analysis, must cope with a society which has developed a run-away engine and seems to have no means of slowing down to a manageable pace.

In order to make certain that my observations and feelings as an Architect and citizen are better understood, I must define the intended meaning of the words **QUALITY, PLASTIC, and CULTURE**, which appear in the title of this address.

QUALITY: Is intended to be a general term applicable to any trait or characteristic whether individual or generic, but specifically to mean **A DEGREE OF EXCELLENCE**.

PLASTIC: Is intended here to mean two conditions:

FIRST: A culture be-ridden with substitutes for humanistic reality, from plastic flowers to the power-ridden national and corporate politics of possible human disaster, festering now to the full blossom of their once-hidden true character. A character which diminishes my hope for the survival, much less the growth, of human morality, ethics, and basic goodness.

SECOND: That which is capable of being deformed continuously and permanently in any direction without rupture. It is within this second meaning that lies the hope of what I feel may be the resurgence of realistic human idealism in all areas of intelligent life on this endangered planet, and especially so in a once-beautiful nation dedicated to both individual and collective freedom above all else.

CULTURE: Herein meant to signify a particular stage of advancement in civilization; and the characteristic features of such a stage or state.

It is not my premise to dwell upon the historic background of consequences now becoming apparent concerning a plastic culture, but some limited concern with it is necessary. Scientific investigators burst upon the western scene in the fifth decade of the sixteenth century with the publishing of the Copernican theory which placed the sun at the center of our particular solar system, with the tiny earth orbiting it, Cardan's "algebra" (the great art) in 1545, and dissertations such as Francastoro's germ theory of disease in 1546, literally replacing the more leisurely pace of what was actually a humanistic medieval culture.

According to Lewis Mumford in his great book, *The Myth of the Machine, The Pentagon of Power* these investigations and later those of Kepler and Galileo led to a form of absolutism which required that everything be measurable by the new scientific standards. This approach could not measure a human soul, by whatever name you choose to call it, or the idea of God, by whatever reasoning you choose to believe or disbelieve in such a master deity. It could not measure music, dance, sculpture, poetry, painting, architecture, or the various crafts that for centuries had fulfilled a basic but unexplained hunger in human beings, and to this day it cannot really measure these events, and, because it cannot, they are relegated to lesser roles in life today.

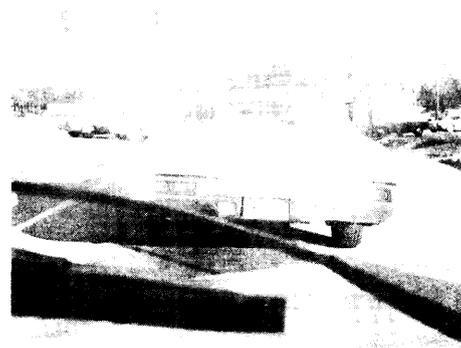
The United States of America emerged as a possible haven for those oppressed by Church, State, and the results of unleashed power on the Continent. Our nation was founded in a virgin land with limitless, or so it seemed, physical treasures and a fortification of nature in two great oceans. Our forefathers found here a native people who knew nothing of technology, who saw the earth as a great common supporter of life for everyone. Nature was respected. Somehow the idealism of our founders did not encompass the so called Red Man for we eradicated him for all intent and purpose as did Pizarro the Inca and Cortez the Maya and the Aztec. All of this 200 years before, with the power of technology which refused to acknowledge the great cultural attributes of these highly-developed societies. Events of great importance now lost forever.

It must have weighed heavily upon the minds of Emerson and Thoreau, this strange malady that has affected Americans, to do everything that technology allows as a result of scientific investigation, including the supplanting of that which is natural with a substitute which is at best, banal — respecting no decent limits. That brings us to the present dilemma — there are no decent limits to the falsification of that which is natural in our plastic culture. It has plagued American architecture especially.

The development of electricity, the wireless, radio, telephone and television; the development of ever more compact packages of power such as the transistor have led us to finally leap from the earth for which we have exhibited no stewardship to bleak, uninhabited planets. These activities further applaud the scientific method while on earth we are still frustrated by the activities of the human mind and the creations of the poet and artist, both of which transcend scientific determinism.



The Real Scene, Less Original Oaks



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he utter fascination with the scientific approach unlocked many doors in medicine, chemistry, physics, mathematics, astronomy, and other disciplines which never before could have been possible. The unfortunate redundancy of this concept, however, led to an elite within the scientific community. An elite that was all too often wooed by the siring of Monarchies nearly all of whom aimed the "Divine Right of Kings", or absolute power. Leonardo da Vinci often used his creative genius to design machines of war for his political patrons which leads to a statement from Mumford (quote) "That unfortunate exhibition of intellectual hubris laid the foundation at an early date for the dubious alliance between scientific determinism and authoritarian control that now menaces human existence." "Hubris" being: *wanton arrogance resulting from excessive pride*. Former President Eisenhower gave warning of this by saying "beware of coalition between the military-industrial complex and government."

Very quickly, an extremely complicated series of developments occurred, the advent of the so-called industrial revolution in the late 1700's found humanity worshipping at the altar of science with no regard for the possible consequences of ever-increasing power unleashed upon hundreds of millions of peoples woefully unprepared to cope with it. Wordsworth wrote in 1801 a prophetic statement: "The world is too much with us". There was simply no stewardship of the newly-found power. British towns were blackened overnight by factories fed with child and female labor. Is it no surprise that *Das Kapital* was written by Marx in London?

Great masses of people could be marshalled together to fight for an abstract "national cause", often the result of miscalculations or emotional instabilities of several potentates of power and it is still with us. Fewer and fewer human beings had any say concerning where and how they lived or where they would worship if indeed they even chose to.

In America as in no other civilization in recorded history, a vast tool-box of technological expertise is at hand. We have the means to eradicate dreaded disease, hunger, and to make a reasonably comfortable and meaningful life for all people — limits on development being oddly that which resides within each of us to whatever degree. We could at this moment, have great, beautiful, humane cities where the air and the water would be crystal clear and a delight to use. We could travel between communities large and small on excellent highways or in silently-moving magnetic mass transport through great orchards, fields, meadows, without a single note of man-made discord

in the landscape. There could be hanging gardens and acres of beautiful flower-filled parks in our cities. Architecture could be of the people, by the people, and for the people on an elevated poetic plane with everyone knowledgeable concerning it. We have the tool-box but we cannot even identify the tools because science has become an elite affair as has the act of governing great masses of people. Those who qualify to use the tool-box seem to be those least capable of bettering the human state.

The majority of our national economy is spent on useless military junk whose purchase is decided upon by a handful of men in positions of state, military, and corporate power who don't believe deeply enough in our constitution and Declaration of Independence to practice its ideals. We must (or this elite must) be so fearful of other ways of life that our nation can be torn asunder over an undeclared war against a very small nation in Southeast Asia. It seems that our plastic culture has created a monster which, in order to survive, must have a predetermined series of constant crises.

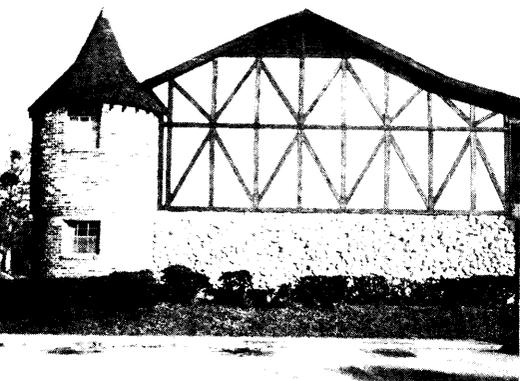
What can we as architects do, to help stem this polluted tide? An Architect is a person who by selection, training, education, or accident has access to the vast technological toolbox. (Unfortunately, the latter reason for access seems to be a majority in our plastic culture). An Architect is also a person who has access to the world's history of cultural development. It is a most unusual situation, that of the Architect in twentieth century America. An Architect is possibly the only individual in our nation of so-called individuals who studies the humanities and the arts as well as all of the sciences upon which I am placing so much blame tonight. One would think that knowledge in the humanities would prepare one for proper use of technics. Would it not then, be reasonable to suppose that the Architect in our plastic culture should be a strong force in promoting quality in most things concerning the daily life and certainly, of all things concerning the construction and evolution of the physical environment? Would it be begging the question to ask whether the Architect did not see all of life as a qualitative as well as quantitative force to poetically express the very act of life? Why must we stagger about daily, flailing to and fro with misguided acts of visual and physical aggression rather than celebrate the act of life? What else is there? Who gives a good damn what the inside temperature of a room is or whether a garage door has electronic controls, if the warmth and beauty have gone from the act of living? Why design and build a beautiful community if it is later to be destroyed by billboards if not by bombs?

The Architect can be no better than the real person that he or she is. The Architect cannot be a corporation, company or association, unless you are willing to divide up and find the lowest common denominator and elect a computer President. Architecture is first of all a personal commitment to the living of life as fully and as poetically as possible. The buildings that appear are but manifestations of this. Anything less is not enough! Now if we can assume that this is true, how and where do we uncover quality in this culture ruled now by machines and their technological handmaidens?

Let us use several examples. Assume that you are commissioned to design a school and you are told that it must be air-conditioned and that it must be windowless in order to save on mechanical costs and peripherally, to lengthen the student's attention span. Now who is kidding whom? Do we cram 1500 young full-of-life human beings into a building designed to accommodate a machine? A monster that cools the air only as long as arctic tundras are endangered by a hot pipe line or gulf beaches are threatened by oil spills? This is short-term expediency and long-term idiocy. Did you attend school in a windowless room? I remember birds flying through the room in my school. It was delightful. I could tell when it was raining and I knew when it was spring. My wife and I recently had our son removed from a new windowless school and sent to one built in 1930. He was happier. Now, the Architect can design a beautiful windowless school or windowless anything for that matter. He is then playing with sculpture rather than struggling with the possibilities of true human environment. I would say that true quality would exist if the Architect by persuasive passion could show the school board that they are in the position of first educating human beings in an environment conducive to total human development and not in the business of bowing to wants of a technological tool. Now, if the board agrees, the Architect must exhibit great knowledge of the travel of the earth about the sun — he may evolve a beautiful building with delightfully articulated sun-control. Otherwise he need only build a bad box with a nice big happy machine on top.

Another Example: Suppose you were asked to design a very large group of condominiums on the oceanfront and part of the agreement is that said condominiums be designed as French Chateaus, including garbage compactors with six color choices for front panel inserts.

First of all, if you are really in touch with the earth scene, you would make sure that no sand dune is destroyed or even encroached
CONTINUED



Fantasy Design



Plastic Flowers & Tombstone



Products of the Plastic Culture

Quality

upon. Second, you would have to ask yourself, am I taking part in the ever-growing "block-the-beach-view" game? Or in the old Florida pastime: "eliminate sunburn; cast a long shadow". Third, but not least, if you agreed to do some bad theatre design and call it architecture, I feel that you shouldn't be called an Architect because you and interrelated technological society items are debatable because of varying public law but there is no law concerning the stylistic design. That is a thing of individual morality. If you agree to do it, then you are helping build the plastic culture defined as a "culture be-ridden with substitutes for human reality", you would be adding to the tragedy of a national culture unable to discover the goodness in its soul — a culture with pestiferous and cancerous anti-architecture all about it.

If you could persuade the developer to re-think the use of the oceanfront, you would be seeking quality, for the best possible architecture on the oceanfront is the Architecture of the earth, itself and that of the sea. If this were not possible, then you would be seeking quality if you could convince the developer that he should leave the design of the project to you. That it is your bounden duty to preserve nature and to create buildings in harmony with it. Also, that you must use the technological toolbox creatively and that French Chateaux were great for the French in the 16th century but not necessarily in Florida in 1973. The sun, the sea, the breeze, the need of harmonious scale and rhythm of human relationship within and without — all in concert with the total site itself must be considered as well as his hard-earned corporate dollar. This accomplished by the good architectural deed itself would be quality. If none of the above were possible, then true quality and belief in the life process would be shown by your ushering the developer to the door and giving him a copy book of Garlinghouse plans and the address of the nearest architect known to be a professional prostitute. A bad thing is bad regardless of its source of perpetration.

Everyday, we all must make choices about quality. Materials, methods, people, places, it goes on and on. Look through any Sweet's Catalog of several years ago and at those of 1973. As the corporate take-over of the construction of dwellings has increased, so has the fakery in manufactured materials. A few: plastic fake beams that are marvelously like the real thing; Fake wood siding of aluminium; fake wood trim made of plastic,

plastic laminates that purport to be black walnut, mahogany, oak . . . plastic floors that appear to be brick, tile, slate, or even pegged wood. Manufacturers must believe that Architects are basically liars, or that the entire nation is on a phantasy trip.

It is in the American dwelling that we see the most and the least quality. Those that are good are really good. The Robie House and Falling Water, to name two of the greatest. Those that are bad are really bad. Houses such as the Robie and Falling Water are great statements of poetry. The great mass of housing in America is akin to cursing and banalities, though using the same language of technology. That which is lacking is a care about the quality of life. For too many, quantity long ago replaced quality and styling has replaced design as it has in cars, refrigerators and clothes.

How do we insure that a building we design becomes a work of quality? First of all we must be on speaking terms with quality. Second, we must know how to determine that illusive DNA molecule of design that gives good and proper expression throughout a project so that no one is in doubt as to what is the reality of it. This is not easily done. For some, it is utterly impossible. For others, it is possible, but their concept of the soul of a building is confused with Architectural pyrotechnics from the latest issue of the illustrious taste-maker journals of the profession. The core of the matter is continuity of concept . . . knowing what it is you are about to do. It is difficult to be a creative Architect, in a rational sense, without grasping this technological array of ways and means and putting it to work as the servant of mankind through architecture. If the mechanical and structural techniques become stumbling blocks then you are under-educated in those service areas. If you cannot advise an engineer as to your intent then rest assured that he will advise you as to his. These things cannot be divorced from architectural design.

Almost any architect can make a plan that works. But how do you make a plan that becomes the genesis of a beautifully flowering structural and architectural space or series of spaces? Though complicated, what could be simpler than Rome's Coliseum or the Guggenheim Museum?, at least in plan. It is what the plan triggered in both cases that is of such intrinsic quality and overwhelming aesthetic revelation. The Architects knew this.

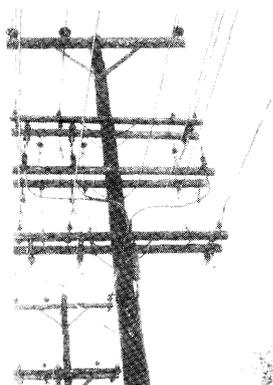
Once a space called Architecture is conceived and it is on speaking terms with the plumbing, heating, ventilating, and structural systems, it may be of great potential

quality and still fail because of lack of continuity in detailing, lighting, interior design, and landscaping. In other words, for an architect to produce a work of quality, the job never ends until the building has been put to its intended use — and sometimes, even then, changes must be made. Above all, the buildings must acknowledge its reason for being, where people are concerned.

I feel that all of the ingredients of quality must be felt strongly before their value can be incorporated into a building or a group of buildings. This returns us to individual beliefs and backgrounds, parents, homes, teachers, religion, and other emotional events of great power and passion in our lives. I feel also that a client's needs being felt is not enough. I feel that a vision of the best possible events that can be imagined for that client lead to a depth of quality in design. All of which requires a certain degree of idealism concerning life albeit tempered by today's realities. Perhaps a real Architect is a person who is a realistic idealist, in spite of the pressures of a plastic culture.

So much could be said now that is basic knowledge to us all. We know that our great democracy has reached the stage of technology where fewer and fewer persons hold positions of more and more power so that even with civil rights a reality, we are now less a democracy than ever before. The great American Machine is running down — is almost broken down. The inflationary spiral makes today's construction budgets ridiculous on the morrow. National tendencies are revealed, that at best, border on the criminal. Here, in Orlando, the mad rush of speculation has resulted in over-building to the extent that major foreclosures have begun. Talk about an energy crisis, real or unreal, is frightening, for we have allowed ourselves to become almost completely dependent upon technology at the expense of now being unable to perform the small tasks of life in order to survive. Everything is specialization For God's Sake, don't let Architecture become a series of specializations. That is playing right into the monster's mouth. It can all still be simplified down to the great statement attributed to Vitruvius: "To qualify as Architecture a building must house firmness, commodity, and delight." It must be strong, it must work in its appointed task well, and it must awaken delight in the human mind and heart — it must be beautiful! This can be done by all of us if we care enough about quality. No matter how many people are involved in the technological and planning process . . . a coordinating mind, tuned in to a humane end product, must be in control.

Now, for some hope concerning the idea of quality in a plastic culture. We are at a point now some 400 years into mankind's scientific adventure where computers tell us we are wrong when we know that we are right and when we are crass enough to announce loudly that we are about to create a living cell at the cost of billions of dollars when all we have to do is scoop up some mud and we can get 10 billion living things free of charge. Maybe better that we feed a few of these human beings inhabiting the earth. The hope arises in the fact that at long last, we are questioning the ram-rod of mis-used technology. We have witnessed the results of napalm, saturation bombing, defoliation, the Watergate bugging, FBI master files on citizens, smog, crowded



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xpressways, glass high-rises menageries, cradle to grave air-conditioning, mechanized police, polluted air and water, strip developments, to name only a few spin-offs since Copernicus and Galileo helped start this mess.

We find more and more people of all ages concerned about the cycles of life on planet earth — about ecology. Is progress worth the amount of retrogression it causes? Is the convenience of a new road worth the destruction of more trees or of an established neighborhood? I have realized that if human beings did not inhabit the earth, it would be a far more beautiful and much cleaner . . . but then there would be no perceptive mind gifted with memory to see and savor it. So we must bend the plastic culture in another direction. Teach our young people to become the masters of technology and make it the slave of humanity not vice-versa. We have already experienced the powerful surge of the young people of this land experimenting with self-appointed freedom in group living, sex, revolutionary politics, and a resurgence of back-to-the-earth philosophy. Not all of this is sincere or without solvent parents to fall back on but basically I feel it to be a growing wave that will enter politics strongly, enter the professions, all levels of life to fight the mad rush to oblivion that the past several generations of Americans have helped to create through illusory beliefs that El Dorado, is possible in a materialistic society.

Televized hearings of the worst mess to mar American politics in history proves

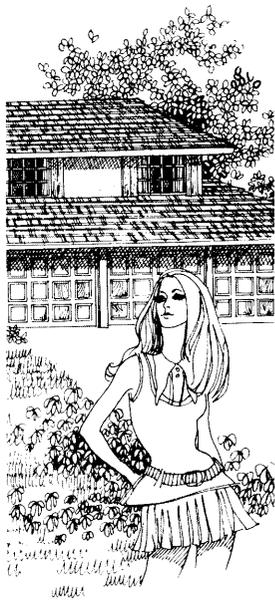
that we are willing to be witness to our own wrong-doings for in a sense, we are all guilty. We are willing to admit that something is drastically wrong with the soul of our nation — we cannot go on forever pretending, whether it is a plastic flower on a graveyard or the assumption that mankind will never improve upon the American way. As Architects we must bear the brunt of the blame for what has happened to our landscape. We need to advocate classes in controlling the environment for the good of humanity from the kindergarten on. The plastic culture can return to basic human dignity without giving up any of the *true* benefits of technology. And the day that you see every flower in a graveyard to be a real flower, you will know that quality has returned to America.

This awards program has a place in the scheme of things concerning quality. When we realize the number of buildings built and the paltry few that receive design awards, it must then be a foregone conclusion that only a few of the buildings that are built qualify as architecture. Then, the question arises: who says that these buildings are so good? Who are the jurors, what are they like and what do they like? Is it possible that many good buildings go un-announced in awards programs because no one entered them? Perhaps. Or that a juror did not like something about them? Perhaps.

I believe that quality could better be judged by analysing it from several viewpoints. Certainly the professional criticism or accolades of professional peers

is in order. But I believe that the users of the building should also be consulted. This being the case, I doubt that many schools or jails would ever be premiated. Certainly, it is less than a sure method to judge buildings through photographs. The only way to really judge a design is to experience it. I have visited buildings published with great hurrahs in the magazines, and have wondered what good purpose was ever served but to bolster an ego, perhaps. On the other hand, I have seen dozens of beautifully conceived non-published buildings, usually smaller, private ones, that would delight any sensitive eye and that are strong and work well. None of the above is meant to demean the receipt of an award. It is a distinction for having created a work of quality in a plastic culture. May there be many more and may all of them still contain quality after years of use, *for that is the real test.*

If we seek true quality, in all that we undertake as Architects *and as citizens* the downward spiral of values in America will be stopped and sane judgement, based on real human needs, will begin the long overdue control of runaway technological responsibility. It simply *must* be done! ■



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By Ken Krienke
Journalism Student
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Walter Gropius Symposium

New York architect Charles Forberg was present at the symposium and spoke on the features of "The Total Theatre." His firm, Forberg and Associates, built the model of the theatre that was on display.

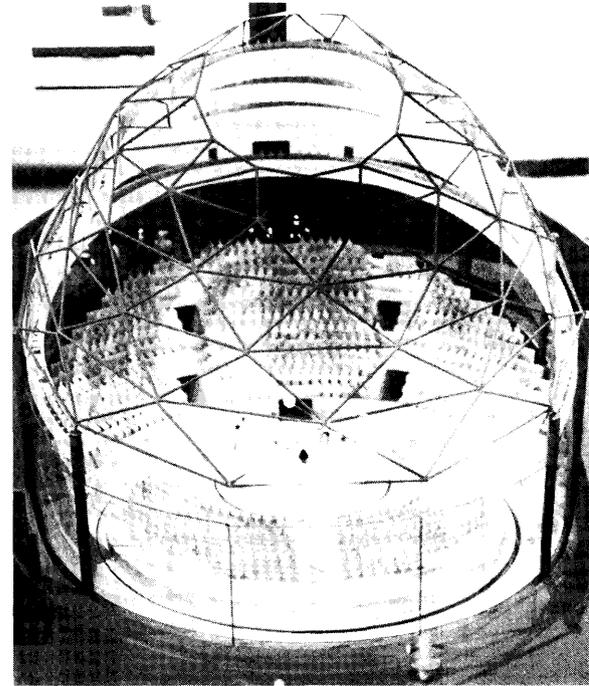
"The design of "The Total Theatre" typifies what Gropius's contribution to architecture has been. His great gift was his ability to identify emerging problems and give them definition, particularly human problems," said Forberg. "It is unimportant that the theatre was never built because it created a new relationship between theatre and architecture. It introduced a concept of spatial dimension that has yet to be fully explored."

Photos: David Clavier



Mrs. Ise Gropius and Charles Forberg

The ideas and achievements of the late Walter Gropius were the topics of a symposium held at the University of Florida November 3. As a joint undertaking of the Architecture and Speech Departments of the University and the North Florida Architecture Section of the United States Institute of Theatre Technology, the symposium featured a number of speakers, a working model of Gropius's 1927 design for "The Total Theatre" and nearly 200 photographs and diagrams illustrating areas of his past work.



The Total Theatre

One of the key presentations of the symposium was an address by the architect's wife, Mrs. Ise Gropius. Since she did not feel qualified to discuss the technical aspects of his work, Mrs. Gropius directed her comments to personal topics relating to her husband's projects. At one point she recalled her first encounter with Walter Gropius back in 1923 when she spoke with him after listening to a speech he had given.

"One of the things that attracted me to him was his statement that he was never affected by disappointment in other people. He said he did not look at what a person was, but rather at what he could become."

Mrs. Gropius referred to her husband's belief that architecture should be a balance between human needs and the natural environment.

"For you young people an important consideration in your future work will be the saving of energy. It is now required that buildings not waste it," she said, speaking with a quiet intensity that revealed concern for the future.

"This will be a hard thing for many people to learn. My husband felt it was easier to go to the moon than arouse the citizen to the immediacy of his plight. In past generations there has always been enough money and gadgetry to overcome particular we are at a point where the design of the structure itself must overcome them."

"My husband kept a diary in those years and he would often write that someone was quitting because he could no longer continue working with another teacher. Yet days later there would be mention of that same individual and what he was presently working on. The great quality of my husband was his ability to re-inspire such a group of prima donnas with the necessity of working together."

Merritt felt Gropius's lasting impression on architecture was do to his style of teaching.

"The factor behind Gropius's greatness was his ability to pass on to his students the way of thinking about a problem," he explained. "He didn't teach how to do things, but rather how to think about them. That is why he sill lives on today." ■



Mrs. Gropius and Prof. Harry Merritt

Mrs. Gropius also spoke of her husband's work at the Bauhaus and cited the internal friction among some of the instructors at the school that developed periodically as a result of their conflicting personalities.

"Many of the teachers found the Bauhaus intolerable from time to time. They did not seem to be able to contend with each other," she said.

Professor Harry Merritt, director of the graduate architectural design program at the U of F, was a student of Gropius at Harvard and spoke with Mrs. Gropius after her address. Though he did not speak at the symposium, his comments referring to his association with Walter Gropius bore out much of what the scheduled lecturers had to say.

"His great strength was in being a catalyst," said Merritt. "Gropius was able to instill in people the desire to work together and to make the quality of the finished product more important than obtaining recognition for individual contributions."

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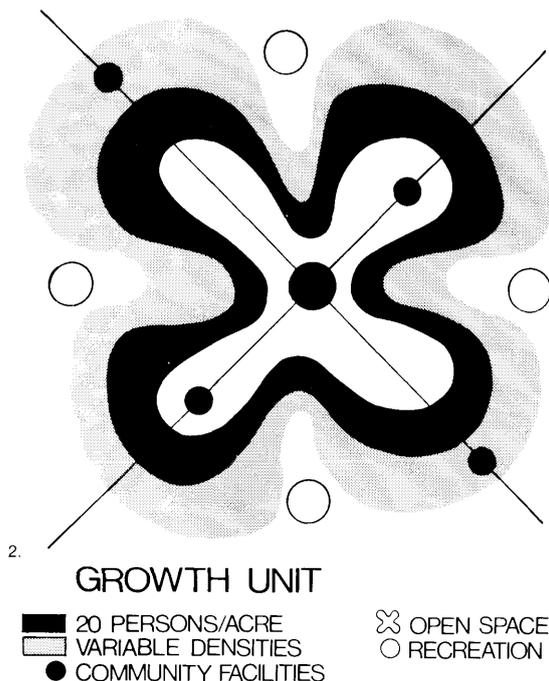
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This diagram illustrates the Growth Unit concept developed by The American Institute of Architects as an alternative to urban sprawl. Each Growth Unit would be a carefully planned and designed neighborhood containing 500 to 3,000 residential units plus "a full range of physical facilities and human services that ensure an urban life of quality." In contrast to current patterns of urban development, the Growth Unit would guarantee that such essential community needs as schools, day-care centers, convenience shopping, open space and recreational facilities would be available to residents from the outset. The Institute recommends that the Growth Unit be adopted as the basic building block of future U.S. urban development.

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**HOW TO
FIND
EVALUATE
SELECT
NEGOTIATE WITH
AN ARCHITECT**



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When you embark on a major construction program,

you are in fact committing your organization to what may be a multi-million dollar investment in an unknown quantity. While it is possible to define the proposed facility in terms of size, function, and certain other requirements, which together make up the “functional program” for the project, there are many imponderables.

How well and how long will the facility serve its intended purpose? Will it be responsive to the needs of its users and the community? What will it say about your image?

The architect you select to design the facility will be a major determinant in answering these questions. Investing in a construction project is unlike purchasing a commodity. Only a known need and a few ideas exist at the outset to define the scope of the project. These ideas and requirements become the basis for the architectural program, the conceptual design, and ultimately, the working drawings and specifications from which the facility will be constructed.

The individual primarily responsible for this process is the architect. The architect will determine the functional, esthetic, and financial success of the project. During the process of design and construction, he or she serves as adviser, coordinator, and synthesizer, as well as creative artist. For a period of months or years, your architect effectively becomes a partner in your organization.

Obviously, selecting the right architect is not and cannot be a casual or offhand process.

What selection process works best?

Federal, state, and local governments throughout the country, and many independent commissions, school boards, developers, and others in private industry currently rely upon architect-selection procedures that have been formulated and systematized in the crucible of actual practice. This general procedure has been formally adopted and enacted into law by the federal government and a number of state governments for selection of professionals for the design of public projects.¹ While the details may vary, the process includes these basic steps:

Invitations to a number of firms to submit information concerning their experience, qualifications, specialized abilities, personnel, and similar data. This invitation includes such pertinent data as the scope of the work, budget, and time limitations, together with some indication of the professional services to be rendered. It does not include a request for sketches, cost estimates, or the suggested compensation which the architect would receive.

Evaluation of these submissions to determine which firms appear best able to handle the proposed project. Evaluation criteria should include performance on previous projects, professional standing of the firm's principals, etc., as well as such performance factors as management, coordination, accuracy, completeness, and cooperation.

Discussions with representatives of the firms you have ranked highest, to narrow the field to those most qualified for the project at hand.

Ranking of the top firms (usually three to five) in order of competence, understanding of the project, and ability to meet your budgetary and schedule requirements. This last consideration will to a great extent be based on the firm's personnel and its current and projected workload.

Discussions with the top-ranked firm to determine its ability to perform the required services within a stated time-frame and in accordance with budget requirements.

Negotiation of the architect's compensation. If a fair and equitable agreement on the cost of architect's services cannot be reached with the first-ranked firm, negotiations are officially terminated, and the second-ranked firm is invited to enter into negotiations concerning schedule, project budget, and compensation.

What should you know about the architectural firms which are under consideration?

In addition to such information as name, address, and telephone number, each firm should be asked to state the year in which it was established, the names of principals and the states in which they are registered to practice, the names of other key personnel with a resume of their experience, and the types of facilities for which the firm is particularly well qualified.

Besides this basic information, the prospective client should attempt to determine the firm's current and projected workload, number and type of support personnel, and some index of past professional accomplishments (for example, a list of previous clients during the preceding several years).

Visits to current and recent projects and discussions with their owners are also useful, as is information on the standing of the architect within the profession.

The federal government has developed a questionnaire (General Services Administration Standard Form 251) which its agencies use to solicit information from architectural and engineering firms about their experience, personnel, and general professional accomplishments. Many firms maintain completed copies of this form in their files. Such a document can serve as a valuable tool in screening a number of firms to help you determine which ones should be investigated further.

The actual selection is normally made by a committee or by an individual familiar with the procedures involved. It may be helpful to obtain the advice of a registered architect familiar with the type of project envisioned. Sometimes, for large complex facilities, an open pre-interview meeting is held, with all interested architects invited, to discuss the general scope of the project.

How do you determine the architect's compensation?

Once a firm has been selected on the basis of its qualifications and its ability to perform the work required, fee negotiations begin.

Compensation for architectural services is established in several ways, including the following:

1. Lump sum—commonly used when the scope of services required is known or can be realistically determined in discussions with the selected architect.
2. Direct cost times a multiplier to compensate for overhead and profit—used by many clients for commercial facilities.
3. Percentage of construction cost—often used by state and local governments (although other methods are being used with more frequency in recent years). Under the percentage method, compensation is generally determined on a declining basis; i.e., the larger the construction cost, the lower the percentage. However, the relative complexity of the facility must also be considered in determining an appropriate percentage.
4. Cost plus fixed fee—The architect is paid a fixed fee for his personal professional contributions to the project and other office and consultant expenses are paid on a basis similar to that in (2) above. This type of arrangement is sometimes used when the client desires the substantial personal attention of a particular architect, because of unusual project requirements and because of that individual's special expertise in dealing with such requirements.
5. Per diem rates—sometimes used for unusual consultant services.

Architects and clients may also agree on a basis for compensation for other professional services which are not included in their contract, but which may conceivably be required at a later time. In addition, certain items such as long-distance travel and the reproduction of documents are paid for as direct reimbursables.

At the negotiating session, your preference as to method of compensation and the method the architectural firm considers appropriate should be discussed and a conclusion reached.

The General Services Administration (GSA) has had a

wealth of experience in negotiating contracts for architectural and engineering services. One top-ranking GSA official has stressed the importance of positive attitudes during the negotiating process, saying, "A willingness to bargain and a flexibility to adjust during the negotiating process will lead to a successful conclusion. Rigidity and failure to recognize that negotiation is a two-way street will result in an impasse and termination of negotiation. In a truly successful negotiation, both parties at the conclusion should feel that they have obtained their essential objectives, and unreservedly stand ready to carry out their contractual obligations."

Most architects have a copy of the AIA publication, "Architect's Handbook of Professional Practice," which includes further details on architect selection and methods of determining compensation. AIA also publishes many useful contract forms which reflect years of experience in the construction industry and which can be used in drawing up contracts for professional design services and for construction.

Why not contract for architectural services on a competitive-bid basis?

Many prospective building clients who are experienced in the procurement of commodities are accustomed to obtaining competitive bids. They may sometimes wonder why the same procedure is seldom used to procure professional design services. The reasons are many, and they lead to the same conclusion: When one seeks the creative skills of the architect, competitive bidding for professional services is not in the best interest of the client.²

For a vendor of any type of goods or services to bid competitively, there must be a detailed specification of what the purchaser requires. At the outset of an architectural project, a detailed prospectus cannot be prepared to define the exact nature and scope of the services to be performed since professional services involve many intangibles such as technical knowledge, judgment, skill, and decision-making. The client and the selected architect define and delimit the scope of those services as a part of their negotiations. The client may not know exactly what professional services he needs at the beginning; the architect may in fact advise him that he does not need certain services, depending on the architect's organization, the type of project, the client's own capabilities, and how much groundwork has already been done. Even if it were possible to do so, establishing a common base for competitive bidding would prevent the architect from providing a valuable professional service—that of helping the client determine precisely what services he really requires.

While the maxim that "you get what you pay for" is too simplistic to be a universal truth, architects base their compensation on the amount of work to be performed—in other words, the amount of professional and technical

time which will be spent in the design development and construction of the project. A conscientious architect may spend many hours developing, weighing, and discarding possible design solutions in order to come up with the most workable and economical final designs.

If an architect were to submit a competitive bid and, in his desire to be retained for the project, did not provide adequate compensation for careful study and design, the time simply could not be spent. The resultant design solution would obviously not be as good or efficient as it should be to properly meet the client's requirements. Similarly, the architect might not be able to spend all the time needed to research the most economical materials and systems for the project, which would probably cost more as a result. Thus a dollar saved on professional services could result in many additional dollars spent on construction—and this effect could be multiplied several times in increased maintenance costs over the useful life of the facility.

The success of a project is largely dependent on the architect's experience, creativity, and skill—all attributes which are intangible and difficult to quantify on a competitive basis.

All this is not to say that architects are opposed to competition. On the contrary, they subscribe to it as a basic principle of American life. But they realize that to meet the needs of their clients, they must compete on the basis of ability to perform the required services. Once a firm has been selected on the basis of demonstrated qualifications to perform the work, it is a relatively simple task for the client to negotiate a fair fee.

One final word on competitive bidding. Public clients—those representing governments at various levels—are occasionally concerned that *statutory requirements* in their jurisdictions will require competitive bids to be taken for professional services, just as they are required for other types of procurement. In practice this is rarely a cause for concern. On nearly all occasions when courts have decided the question they have held that competitive bidding requirements are not appropriate and do not apply to procurement of professional services.³

Your best interest, as the client, should be paramount. In selecting an architect, you will look for skill, experience, ability to perform on a schedule and

within a construction budget consistent with your needs—and above all, the same dedication to excellence the architect would apply if he himself were the owner of the project. In effect the architect becomes a partner in your organization, responsible for designing the facility that best meets your needs and objectives.

Following sound selection procedures can help make that process easier, and will produce a facility which will properly serve your best interests both initially and throughout many years of use.

¹Appendix A contains the text of Public Law 92-582, the Architect-Engineer Selection Act passed by the U.S. Congress in 1972. A representative state law, that in effect in Florida, is set out in Appendix B.

²The submission of price quotations for architectural services is not a violation of the Standards of Ethical Practice of The American Institute of Architects. While an architect is free to state a fee, he must be careful not to violate any law, ordinance, rule, or regulation of any government or agency, official or instrumentality thereof. An architect must never subordinate the quality and adequacy of his services to any consideration which would tend to impugn the integrity of his professional practice or to jeopardize the professional standards which should at all times guide the practice of his profession.

³Representative court decisions and opinions are given in Appendix C.

Bibliography

The American Institute of Architects has published documents which may be of further interest. These are available at the Institute, 1735 New York Avenue, N.W., Washington, D.C. 20006, or from offices of the local AIA chapters in each state and major city:

- Owner-Contractor Agreement Form—
Stipulated Sum (A101)
- Short Form for Small Construction Contracts—
Stipulated Sum (A107)
- Owner-Contractor Agreement Form—
Cost plus Fee (A111)
- General Conditions of the Contract for
Construction (A201)
- Contractor's Qualification Statement (A305)
- Recommended Guide for Bidding Procedures and
Contract Awards (A501)
- Guide for Supplementary Conditions (A511)
- Instructions to Bidders (A701)
- Owner-Architect Agreement—Percentage of Construction
Cost (B131)
- Owner-Architect Agreement—Multiple of Direct Personnel
Expense (B231)
- Owner-Architect Agreement—Fee plus Expenses (B331)
- Duties, Responsibilities, and Limitations of Authority of
Full-Time Project Representative (B352)
- Standard Form of Questionnaire for the Selection of
Architects for Education Facilities (B431)
- Statement of the Architect's Services (B551)
- Code for Architectural Competitions (J331)

Appendix A

**PUBLIC LAW 92-582; 92ND CONGRESS, H. R. 12807;
OCTOBER 27, 1972**

AN ACT

To amend the Federal Property and Administrative Services Act of 1949 in order to establish Federal policy concerning the selection of firms and individuals to perform architectural, engineering, and related services for the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) is amended by adding at the end thereof the following new title:¹

"TITLE IX—SELECTION OF ARCHITECTS AND ENGINEERS

"Definitions

"Sec. 901. As used in this title—

"(1) The term 'firm' means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture or engineering.

"(2) The term 'agency head' means the Secretary, Administrator, or head of a department, agency, or bureau of the Federal Government.

"(3) The term 'architectural and engineering services' includes those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.²

"Policy

"Sec. 902. The Congress hereby declares it to be the policy of the Federal Government to publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

"Requests for data on architectural and engineering services

"Sec. 903. In the procurement of architectural and engineering services, the agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him, no less than three of the firms deemed to be the most highly qualified to provide the services required.

"Negotiation of contracts for architectural and engineering services

"Sec 904. (a) The agency head shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Government. In making such determination, the agency head shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof.

"(b) Should the agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price he determines to be fair and reasonable to the Government, negotiations with that firm should be formally terminated. The agency head

should then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency head should terminate negotiations. The agency head should then undertake negotiations with the third most qualified firm.

"(c) Should the agency head be unable to negotiate a satisfactory contract with any of the selected firms, he shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached."³

Approved October 27, 1972.

¹ Architects and engineers. Federal selection policy, establishment. 63 Stat. 377; 82 Stat. 1104.

² 86 Stat. 1278

³ 86 Stat. 1279

LEGISLATIVE HISTORY:

HOUSE REPORT, No. 92-1188 (Comm. on Government Operations).

SENATE REPORT, No. 92-1219 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 118 (1972): July 26, considered and passed House. Oct. 14, considered and passed Senate.

Appendix B

STATE PROFESSIONAL SELECTION LAW (EXAMPLE) Consultant's Competitive Negotiations Act

The following is a complete text of the Consultant's Competitive Negotiations Act, as signed by the Governor of Florida on May 2.

A bill to be entitled

An act relating to and establishing policies and procedures for contracting professional services by the state, its agencies, municipalities or political subdivisions, school boards and school districts; defining professional services; establishing competitive selection procedures and competitive negotiations for firms or individuals providing professional services; establishing truth in negotiation requirements for professional service contracts; prohibiting the payment of contingent fees for professional service contracts and setting penalties therefor; providing for state professional assistance to municipalities and political subdivisions in selection and negotiation of professional service contracts; and providing for severability, a repealing clause and an effective date.

WHEREAS, the legislature of Florida declares it to be in the best interest of the public health, safety and welfare and of good fiscal management to seek the most qualified and competent individuals and firms at fair, competitive and reasonable compensation to provide professional services to the state, its agencies, municipalities or political subdivisions, school boards and school districts; and

WHEREAS, the legislature of Florida desires to promote competition among firms interested in providing professional services to the state, its agencies, municipalities or political subdivisions, school boards and school districts; and

WHEREAS, the legislature of Florida declares it is in the public interest to prohibit the payment of contingent fees or other considerations for obtaining state, municipal or other professional service contracts financed from public funds; NOW THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act shall be known as the "consultants' competitive negotiation act."

Section 2. Definitions.—

(1) For purpose of this act the term "professional services" shall mean those services within the scope of practice of architecture, professional engineering or registered land surveying as defined by the laws of the state of Florida or those performed by any architect, professional engineer or registered land surveyor, in connection with this professional employment or practice.

(2) The term "agency" means the state, its agencies, municipalities or political subdivisions, school districts and school boards.

(3) The term "firm" means any individual, firms, partnership, corporation, association or other legal entity permitted by law to practice architecture, engineering, or land surveying in the state of Florida.

(4) The term "compensation" means the total amount paid by the agency for professional services.

(5) The term "agency official" is any elected or appointed officeholder, employee, consultant, person in the category of other personal service or any other person receiving compensation from the state, its agencies, municipalities, or political subdivisions, school districts and school boards.

Section 3. Public announcement and qualification procedures.—

(1) Each agency shall publicly announce in a uniform and consistent manner on each occasion when professional services are

required to be purchased, except in cases of valid public emergencies so certified by the agency head. In addition, announcements shall be mailed on each occasion to each certified firm who has requested such notification. Such announcement shall include a general description of the project and shall indicate how interested consultants can apply for consideration.

(2) Each agency shall encourage firms engaged in the lawful practice of their profession, who desire to provide professional services to the agency, to submit annually a statement of qualifications and performance data.

(3) Any firm or individual desiring to provide professional services to the agency must first be certified by the agency as qualified pursuant to law and the regulations of the agency. The agency shall make a finding that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record and experience of the firm or individual.

(4) Each agency shall adopt administrative procedures for the evaluation of professional services to include, but not limited to, capabilities, adequacy of personnel, past record and experience and such other factors as may be determined by the agency to be applicable to its particular requirements.

(5) The public shall not be excluded from the proceedings under this act.

Section 4. Competitive selection.—

(1) The agency, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by no less than three firms regarding their qualifications, approach to the project and ability to furnish the required service.

(2) The agency shall select no less than three firms in order of preference, deemed to be most highly qualified to perform the required services, after considering such factors as the ability of professional personnel, past performance, willingness to meet time and budget requirements, location, recent, current and projected work loads of the firms and the volume of work previously awarded to the firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, providing however that such distribution does not violate the principal of selection of the most highly qualified firms.

Section 5. Competitive negotiation.—

(1) The agency shall negotiate a contract with the most qualified firm for professional services at compensation which the agency determines is fair, competitive and reasonable. In making such determination the agency shall conduct a detailed analysis of the cost of the professional services required, in addition to considering their scope and complexity. For all lump-sum or cost-plus-a-fixed-fee professional service contracts over \$50,000, the agency shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any professional service contract under which such a certificate is required shall contain a provision that the original contract price and any additions thereto shall be adjusted to exclude any significant sums where the agency determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one year following the end of the contract.

(2) Should the agency be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency determines to be fair, competitive and reasonable, negotiations with that firm shall be formally terminated. The agency shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the agency shall terminate negotiations. The agency shall then undertake negotiations with the third most qualified firm.

(3) Should the agency be unable to negotiate a satisfactory contract with any of the selected firms, the agency shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached.

Section 6. Prohibition against contingent fees.—

(1) Each contract entered into by the agency for professional services shall contain a prohibition against contingent fees as follows: "The architect, registered land surveyor or professional engineer (as applicable) warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the architect, registered land surveyor or professional engineer, to solicit or secure this agreement, and that he has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the architect, registered land surveyor or professional engineer any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the agency shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

(2) Any individual, corporation, partnership, firm, or company, other than a bona fide employee working solely for an architect, professional engineer or registered land surveyor who offers, agrees, or contracts to solicit or secure agency contracts for professional services for any other individual, company, corporation, partnership or firm, and to be paid, or is paid, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from, the award or the making of a contract for professional services, shall, upon conviction in a competent court of this state, be found guilty of a first degree misdemeanor punishable as provided in section 775.082 or section 775.083, Florida statutes.

(3) Any architect, professional engineer or registered land surveyor, or any group, association, company, corporation, firm, partnership thereof, who shall offer to pay, or pay, any fee, commission, percentage, gift or any other consideration contingent upon, or resulting from, the award or making of any agency contract for professional services, shall upon conviction in a state court of competent authority be found guilty of a first degree misdemeanor punishable as provided in section 775.082 or section 775.083, Florida statutes.

(4) Any agency official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, any fee, commission, percentage, gift, or any other consideration, contingent upon the award or making of such a contract for professional services between the agency and any individual person, company, firm, partnership, or corporation shall, upon conviction by a court of competent authority, be found guilty of a first degree misdemeanor punishable as provided in section 775.082 or section 775.083, Florida statutes.

*Section 7. State assistance to local agencies.—*On professional

service contracts where the fee is over \$25,000, the department of transportation or the department of general services shall provide upon request by a municipality, political subdivision, school board and school district, and upon reimbursement of the costs involved assistance in selecting consultants and negotiating consultant contracts.

Section 8. Administrative provisions.—

(1) Nothing in this act shall affect the validity or effect of any contracts in existence at the effective date hereof.

(2) Subsections (1) and (2) of section 4 of this act shall not apply to professional service contracts of \$5,000 or less.

(3) If any section, subsection, paragraph, phrase, clause or word of this act is held to be invalid, the remainder of the act shall not be affected.

(4) Any laws, or parts of law in conflict with the provisions of this act are hereby repealed.

Section 9. This act shall take effect July 1, 1973.

Appendix C

In *American Jurisprudence*, personal service contracts with reference to public works are recognized as being exceptions to legal requirements for competitive bidding.

"§43. Personal service contracts.

Constitutional and statutory provisions requiring public contracts to be let upon competitive bidding do not apply to certain contracts for personal services, particularly those of a technical or professional nature, such as the services of attorneys or physicians, or to contracts requiring special training and skill, such as contracts calling for the services of architects, engineers, surveyors, . . . construction superintendents or supervisors, . . . or other specialists or skilled people, and such contracts may be let without bids. . . .

It has been said, however, that when the service contracted for does not involve the exercise of special skills, training, taste, or discretion, it would seem that the general policy of the statutes requiring competitive bidding for 'public works' should control." 64 Am.Jur.2d 896 (1972)

McQuillin on Municipal Corporations (Revised, 1966, Vol. 10, 29.35) states the general rule as follows:

" . . . provisions requiring competitive bidding as a basis for entering into contractual relations with a governmental body usually are held not to apply to contracts for personal services involving peculiar skill or ability. Provisions as to competitive bidding have been held not to apply to contracts for the services of a court stenographer, attorney at law, auditor, car advertising specialist, consulting and supervising engineer, or a superintendent or architect to supervise and make suggestions relative to work let under competitive bidding. And generally the requirement does not apply to the employment of a professional man, in which case the authorities have a discretion as to his qualifications."

Among a long list of decisions from 14 different jurisdictions, only two isolated cases are cited where competitive bidding was approved.

An exhaustive recent annotation at 15 A.L.R. 3d 735 (1967, supp. 972) contains a list of at least 19 different jurisdictions which have published judicial decisions exempting architects, engineers, or similar professionals from competitive bidding requirements. Sections 4 and 9 of this Annotation list 17 jurisdictions which have made decisions applying the general rule with respect to either architects or engineers, or both.

As stated by a California Appellate Court, quoting an early Ohio decision:

"An architect is an artist. His work requires taste, skill, and technical learning ability of a high and rare kind. Advertising might bring many bids, but it is beyond peradventure that the lowest bidder might be least capable and most inexperienced, and absolutely unacceptable. As well advertise for a lawyer, or civil engineer for the city, and entrust its vast affairs and important interest to the one who would work for the least money."

Miller v. Boyle, 43 Cal.App. 39, 184 P. 421 (1919), reh. denied by California Supreme Court; reaffirmed *Cobb v. Pasadena City Board of Education*, 134 Cal. App. 2d 93, 285 P. 2d 41 (1955).

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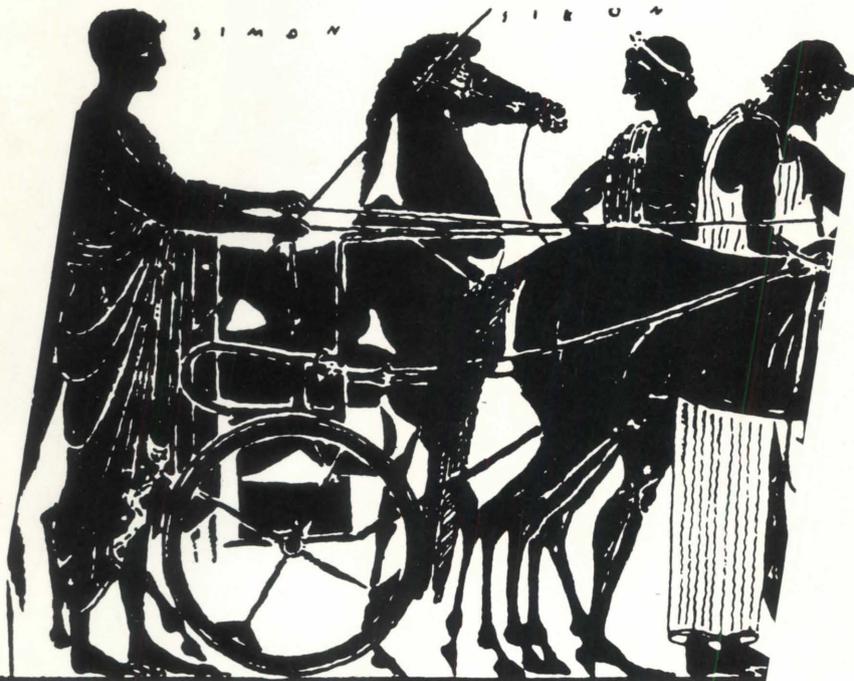
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