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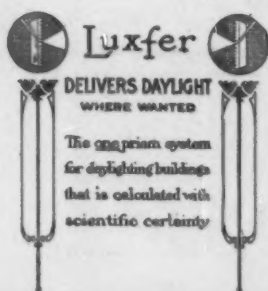
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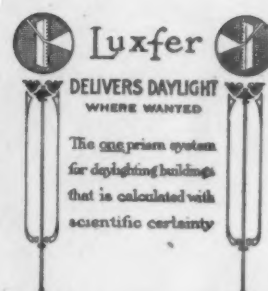
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THE AMERICAN ARCHITECT



DETAIL OF THE CATHEDRAL, ANAGNI, ITALY.

THE AMERICAN ARCHITECT

Vol. XCVII

WEDNESDAY, MAY 18, 1910

No. 1795

CERTAIN REQUIREMENTS OF ARCHITECTURAL PRACTICE

BY J. A. SCHWEINFURTH

THE first treatise on Architecture which we know is that by a certain native of Italy, to-day called Vitruvius, and was first printed in Rome about 1486. A careful reading of this work will be of great value, not only to the architect, but to the clients and the public in general, that each may regard the dignity of the calling, and appreciate to the full what it means to be a "really true architect." Written at a time when the practice of architecture was comparatively simple, it even then required, according to this learned man, no ordinary ability. How the difficulties and requirements have multiplied in these days! It cannot fail to impress one traveling abroad what simple propositions the architect of old had to meet, both in planning, constructing, engineering, and all the arts and sciences allied to his work. The problems of to-day in heating, ventilating, electricity and the thousands of other things were unknown. Although the people who lived and moved in those admired edifices, amid such glorious surroundings, lived magnificent lives, they had but a small part of the requirements which it is necessary for a modern architect to satisfy. The toilet accommodations at that magnificent Château of Azay-le-Rideau, for example, and the necessity of passing through rooms rather than corridors, and the generally primitive arrangements which would not be accepted to-day in an ordinary dwelling. With so few practical requirements it is not so wonderful that they succeeded in making such admirable façades. In

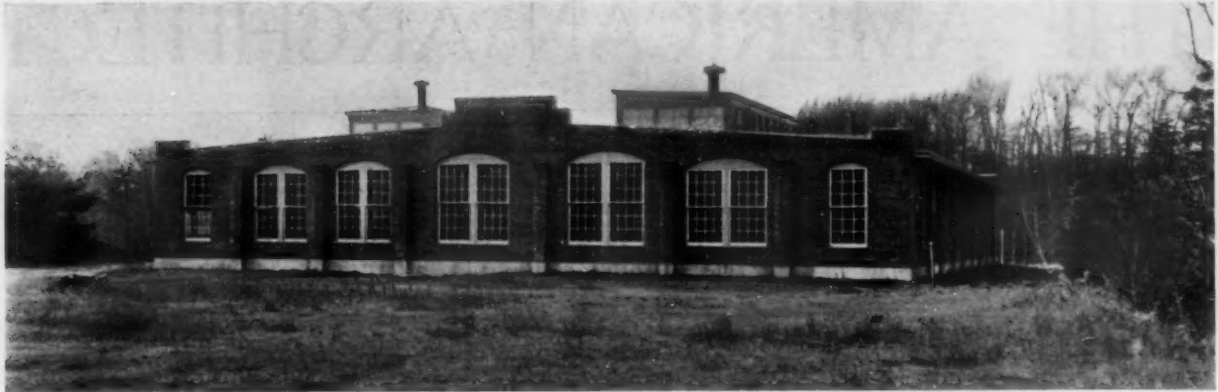
the palaces of mediæval times the men at arms or horses, etc., being often quartered in the first story, it was but proper and fitting that there should be but few openings in the walls for protection against attack, this giving the feeling of massive strength in the lower parts which we admire to-day. With us, however, there must be glass, and yet more glass, only to be more than half obscured by draperies or so-called interior decorations.

Little is known of the life of this learned Vitruvius, and that little gleaned from his writings. Pliny mentions him as having furnished himself with material for his compilations. It is presumed that he was born in the neighborhood of Mola di Gaeta, and the time at which he lived was probably between the time of the death of Julius Cæsar and the battle of Actium, the Emperor addressed being Augustus, and supposed to be about the year 25 B. C. His work takes the form of a series of books addressed to his royal patron, starting out sometimes in an apologetic manner and proceeding to inform his master of his attainments and his ability to properly serve him, but always with a courtier-like humility. He

was a military as well as a civil architect and of no ordinary talent. He met with considerable opposition from his brethren, "for the rabble of ignorant builders, artisans and draftsmen, who in the present day call themselves architects, and meet with considerable patronage, are of the same class as those that flourished subsequently to the time of our author, even in the time



DETAIL OF THE HANCOCK MEMORIAL FOR THE COMMONWEALTH OF MASSACHUSETTS
J. A. SCHWEINFURTH, ARCHITECT



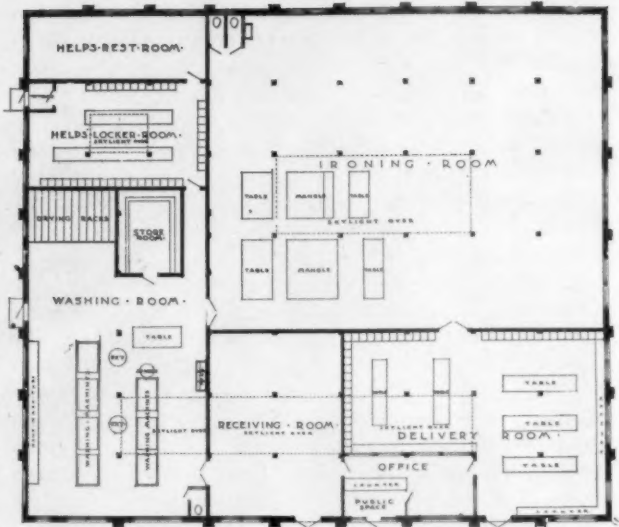
LAUNDRY BUILDING, WELLESLEY COLLEGE

J. A. SCHWEINFURTH, ARCHITECT

of Michael Angelo da Buonaroti," and even down to our own day. "The principles of honor and integrity inculcated in the architect in the subjoined work alone would sanctify its prolonged use by the profession," says the publisher's preface, and "that part of his writings in which he treats of the requisite qualities of the architect," says one writer, "should cause those to blush who pursue the profession solely for the purpose of profit, and are guided by no other feeling than interest."

Some writers have questioned the value of the treatise, and have condemned it to oblivion. But despite this there are 43 editions known, in various languages, many by men of great learning. One by Perrault, architect of the façade of the Louvre, which has been considered one of the most elegant examples in existence. Alberti, Peruzzi and Palladio considered him their worthy master, who furnished them with invaluable precepts. We live in a more utilitarian age, but the doctrines based on sound reasoning, on nature and the laws of statics, are still of great value. Written in the quaint and stilted type of the period, it furnishes besides much dry humor, and the reader will be struck with the appositeness of much of it to present conditions in the profession, and will lay much on that greatly-maligned black sheep "human nature," which seems to change but little with the ages.

The work is divided into ten books, and treats of everything an architect was connected with in his times. Often the chapters start out with praise and flattery to his patron. For instance, in Chapter I he says: "Whilst, O Cæsar, your godlike mind and genius were engaged in acquiring the dominion of the world, your enemies having all been subdued by your unconquerable valor, whilst the citizens were extolling your victories, and the conquered nations were awaiting your nod, * * * I did not presume, at so unfit a time to trouble you, thus engaged, with my writings on Architecture, lest I should have incurred your displeasure." When, however, he found Cæsar had begun to consider the state of public buildings, he thought that no time should be lost in laying his precepts before his imperial patron, and looking out for the possible commissions. He had been appointed with others to the care of the various engines of war, and had thus been able to secure a living, while waiting on his august patron, and he proceeds therefore to tell him what Architecture is, and how the architect



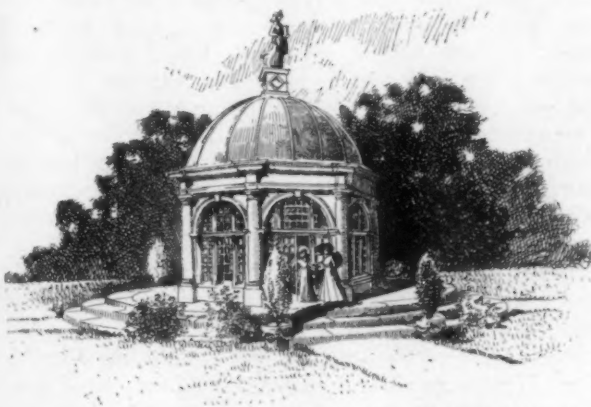
FLOOR PLAN

LAUNDRY BUILDING

should be educated. "Architecture is a science arising out of many sciences and adorned with much and varied learning. Practice and theory are its parents. Practice is the frequent and continued contemplation of the mode of executing any given work, or the mere operation of the hands, for the conversion of the material in the best and readiest way. Theory is the result of that reasoning which demonstrates and explains that the material wrought has been so converted as to answer the end proposed." Therefore, the merely practical architect cannot give reasons for what he does, and the theorist architect, grasping the shadows, fails of the substance. The architect who is both theoretical and practical is the best equipped, not only to prove his design, but to execute it. Two considerations must be kept in view, the intention and the material used to express it, and he who is not familiar with both of these branches has no right to call himself an architect. It would seem that Viollet le Duc must have read this before writing his well-known definition. An architect should be ingenious and able to acquire knowledge readily. "He should be a good writer and a skillful draftsman, versed in geometry and optics, expert at figures, acquainted with history, informed of the principles of natural and moral

philosophy, somewhat of a musician, not ignorant of the sciences, both of law and physics"—and know something of the heavenly bodies. He should know enough of history to account for the use of the many forms and ornaments he uses—and be able to furnish his clients with such interesting information as an account of those draped matronly figures crowned with a mutulus and cornice called Caryatides. And last but not least, "Moral philosophy will teach him to be above meanness in his dealings and to avoid arrogance; it will make him just, compliant, and faithful to his employer; and what is of the highest importance, it will prevent avarice gaining an ascendancy over him." For he should not be occupied with the thoughts of filling his coffers, nor with the desire of grasping everything in the shape of gain, nor of every building project or client he hears of, but "by the gravity of his manners and a good character, he should be careful to preserve his dignity," and give some other architects a chance, for there are a few others. In a like manner there follows a long disquisition on the application as to the other sciences, qualities, etc. He admits it is beyond possibility that the same person should arrive at excellence in all the several "niceties and bearings," and that one can see how few, who profess a particular art, reach perfection in it. If so few men practising any special one of the arts or sciences obtain lasting fame, how should the architect, who is required to know so much about them all, excel those who profess any one art exclusively?

Chapter II tells how Architecture depends upon fitness and arrangement, on proportion, uniformity, consistency and economy, and goes into the process of planning, designing the elevations, and enters into a close analysis of the mind's processes in making a design, and states that "Thought is an effort of the mind ever incited by pleasure attendant on success in compassing an object." He gives the reasons why the robust Doric order is used in erecting temples to Minerva, Mars and Hercules. On account of the valour of the Gods represented these temples should be free of ornament and should be of masculine proportions, while the Corinthian order is appropriate for temples of Venus, Flora and Proserpine, because of its slenderness and rich elegance. For the temples of Bacchus, a medium between these two is chosen, namely, the Ionic order. If the parts of one order are used on another order than the one on



TEA HOUSE IN DORMITORY QUADRANGLE, WELLESLEY COLLEGE, WELLESLEY, MASS. J. A. SCHWEINFURTH, ARCHITECT



DOORWAY OF A HOUSE ON COMMONWEALTH AVENUE, BOSTON, MASS. J. A. SCHWEINFURTH, ARCHITECT

which convention has placed it, the eye of the learned in such things will be offended and displeased.

Other chapters discuss with equal interest "Of the Choice of Healthy Situations," "Of the Foundations of Walls and Flowers," etc., and the situation of public buildings.

In the second book is related the story of Dinocrates, an ambitious architect with a stupendous scheme which he wished to carry out for Alexander. That he might meet his hoped-for royal client, he obtained letters to the court nobles—by whom he was kindly received. As usual, they promised fairly, but were slow in performing, for the proper opportunity had not arrived, they informed him. He, tired of these fair words, and being "a tall, comely man of pleasing presence, and withal dignified," determined to trust to his own gifts to meet this great client. He accordingly put off his apparel, anointed himself with oil, put a crown of poplar on his head, a lion's skin on his shoulders, a large club in his hand (probably a make-up of Hercules) and appeared before Alexander as he was dispensing justice. The advent of Hercules in their midst gained immediate attention from the Emperor, who, on demanding who this impressive apparition might be, was told, "Dinocrates, imperial majesty, with a 'scheme' most worthy of your royal renown." His great idea was a stupendous work of sculpture and building, nothing less than to form Mt. Athos into the statue of a man holding a large city in his left hand, and in his right a



BOYS' CLUB HOUSE
BOSTON, MASS.

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huge vase, into which should be collected all the mountain streams, to be poured thence into the sea. Alexander, after the manner of greatness in all the ages, exclaimed, "Delighted!" But looking into the project found that the country could not yield enough produce to support such a city, all having to be brought by sea, and therefore found to be impossible this noble plan; and, in honied and specious words employed then as now for such occasions, he tempered the disappointment with the request that, as he needed just such a resourceful and soulful architect, requested his attendance on him "that I may otherwise avail myself of your ingenuity." Dinocrates followed him through his campaign in Egypt, where through his "comely person and dignified deportment" he obtained the commission to build the city of Alexandria. Thus we see what personal beauty will do for the architect—even unto this day. Vitruvius laments to his emperor that not being beautiful, tall, dignified of mien, but with wrinkled face, his body impaired by sickness, yet he hoped to make up for all these deficiencies by careful attention to his scientific accomplishments and the precepts he should lay down in this treatise of his. He then writes of the origin of building, treats of brick, sand, lime, Pozzolana, stone quarries, water timber and different kinds of woods.

The introduction of Book Third is particularly interesting and contains enough for a whole volume on the life of an architect. Though written many hundred years ago, it still appeals forcibly to us of this day. Socrates was declared to be, through the priestess of the Delphi Apollo, the wisest of men. He is said to have observed that it would have been well if men's

breasts were provided with windows so any one could become familiar with their sentiments. Vitruvius remarks: "Would to God that they had been so formed, then one could not only see their virtues and vices, but also the science and skill they might possess; then those who are really talented and learned would be held in proper esteem. Nature, however, has not made men thus, and therefore the talents of many men lie concealed—making it difficult to lay down any accurate theory of any art." Now, reader, mark this wisdom, and let it be shouted aloud in every Architectural School, College, University and Atelier now deluging the country, in every architect's office where labor those countless ambitious young hearts, the meek and lonely draughtsman toiling for a miserly pittance day by day for a great and noble master devoid of all cupidity, devoted only to art, "dreaming dreams and building castles," etc. "However, an artist may promise to exert his talents, if he have not either plenty of money, or a good connection from his situation in life, or if he be not gifted with a good address or considerable eloquence his study and application will go but little way to persuade persons he is a competent artist." This is corroborated by the fact, that among the great sculptors and painters who acquire greatest fame and applause, and are still living in the minds of posterity, are Myron, Polyclethus, Phidias, Lysippus and others. This was because they were employed by great cities and kings, or wealthy patrons. "Now others, who, not less studious of their art, nor less endued with great genius and skill, did not enjoy equal fame," says our author, "because they were employed by people of lesser rank, smaller means, and not from unskilfulness, were deserted by fortune." Among these were such men as Hellas the Athenian, Chion of Corinth, Pharax the Ephesian, Bedas of Byzantium, and others, who were not wanting in industry, studiousness, talent or genius. "But poverty, waywardness of fortune, or their ill success in competition with others, prevented their success." He further says, that after all, one cannot wonder that from the ignorance of the people, in respect to art, many skilful artists remain unknown; "but it is scandalous that friendship and connection should lead men for their sake, to give partial and untrue opinions." If, as Socrates had said, men's true feelings and opinions could be seen, then information in science and art could be plainly viewed, then favor, ambition, bluff, influential fathers-in-law, and the many resources drawn upon in those days, as well as in our own times, would avail nothing, but those who by study and learning acquired the greatest knowledge would be eagerly sought after. Our author then concludes that matters are not as they ought to be, the ignorant rather than the learned being successful; and without foolishly trying to dispute with the ignorant he proceeds further with his precepts, treating of temples, foundations, columns and their ornaments, of the origin of the three sorts of columns and of the Corinthian capital. The origin of the Doric and Ionic orders is given briefly as follows: Certain states in Greece were named Ionian after their leader Ion. Here were allotted different spots for sacred temples, and they named one style of a temple they proposed to build, Doric, as it resembled those which they

had seen in Doria. Wishing to use columns and having no knowledge of their proportions to carry the weight and be beautiful at the same time, they took the measure of a man's foot, found it to be one-sixth of his height, and proportioned the column thus, making its height including the capital six times the thickness of the shaft at the base. In the same way they built the temple of Diana, using the female figure as a standard, but to produce a more lofty effect, they made it eight times as high as the thickness at the base, placing a base under it, for a shoe to the foot, and added volutes to the capitals like the female hair, with cymatia and festoons for the ornaments. The shafts had sunken channels to indicate the folds of the garments. Thus two columns, one masculine and one feminine in character, were produced. The Corinthian was produced by further refinement, taking the model from "the graceful, elegant appearance of a virgin, in whom from her tender age, the limbs are of a more delicate form and whose ornaments should be more unobtrusive." The story of the capital for this order, given with much interesting circumstance, is so well known that it needs no description here.

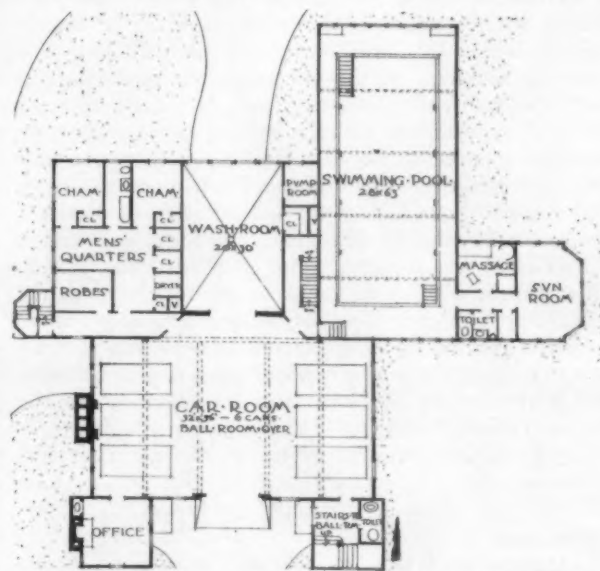
Book Six calls for a brief space, and I quote here what cannot be passed. Vitruvius says to his noble patron: "But I, Cæsar, have not sought to amass wealth by practice of my art, having been rather contented with a small fortune and a reputation, than desirous of abundance accompanied by a want of reputation. It is true, I have acquired a little; yet still I hope by this publication to become known to posterity. *Other architects canvass and go about soliciting employment, but my preceptors instilled into me a sense of the propriety of being requested, and not requesting, to be entrusted as much as the ingenious man will blush and feel shame in asking a favor; for the givers of a favor, not the receivers, are courted.*"

In Book Seven it is of interest to note that, greatly to his honor, Vitruvius gives the proper credit for ideas from other authors, and says, "I, therefore, O Cæsar, do not publish this work merely prefixing my name to a treatise which of right belongs to others, * * * I own myself under the highest obligations to all those authors * * * who have furnished us with copious materials." Further he proceeds to treat of colors, decoration, water supply, rain water, qualities of water in different places, the means of judging water, leveling and its instruments, geometrical problems, detecting silver when mixed with gold, astronomy, and the constellations. In the last book he takes up the subject of machines, etc., but introduces the book with some remarks on "Cost," which, exceedingly interesting, touch on a subject which is of the greatest importance to all who try to conduct their professional life on a sound and enduring basis. The proper regard for this matter is the rarest in the profession. If an architect can produce his work so as to come within the required cost, it will do more to favorably impress the public with his ability than any other consideration. This applies to men of affairs, men who are in charge of other people's money, and does not apply, it would seem to—"but that is another story." In magnificent Ephesus of Greece, says Vitruvius, an ancient, hard, but just law

was made by the ancestors of the people. An architect being entrusted with the execution of a public work must lodge in the hands of a magistrate a bona fide estimate of the cost, and his property was held as security until the work was finished. When completed, if the expense did not exceed the estimate, he was complimented with decrees and heaped with honors. When the excess did not amount to more than one-fourth of the original estimate, it was defrayed by the public and no punishment inflicted, likewise no honors nor acclaim were his. But when the cost exceeded this one-fourth, he must pay it out of his own pocket. Our author then proceeds to lament, and says, "Would to God that such a law existed among the Roman people, not only in respect to their public, but to their private work, for the unskilful could not commit their depredations with impunity, and those who are most skilful in the intricacies of the art would follow the profession." Proprietors would not be ruined, architects from dread of the consequences would be more careful of their dreams, and their calculations as to the cost thereof. Those who can spend a given sum on work would cheerfully (?) add one-fourth more, says Vitruvius, but when they find it is one-half, or double, or more, than contemplated, "lose their spirits, and, sacrificing what has already been laid out, they incline to desist from its completion."

With the additional chapters devoted to mechanics, machines of draught, engines, methods of lifting water, the water screw, catapults and scorpions, the balista, and other military engineering works, ends this remarkable book of this most remarkable, versatile genius of that age.

It is certain that he found requirements enough for the practice of architecture in his own times. What would he have said on viewing our modern buildings, public and private, our great engineering feats, railroads, terminals, bridges, capitol, museums, hotels, apartment houses, and the great residences of our "Captains of Industry and Finance?" While we, of



FIRST FLOOR PLAN OF A GARAGE
NEAR BOSTON

J. A. SCHWEINFURTH
ARCHITECT

these times, the heirs of all the ages, have thrust upon us most of the problems of ancient times, but with the addition of a much more complicated civilization, and its responsibilities and requirements, its problems are such that no one man to-day can hope to be a master of all kinds of work for all kinds of buildings, for all kinds of people. But the contemplation of the ideals of such a master of the past will help men to-day to see their duty as an architect more clearly, and gain a little philosophy from reading this man's inmost thoughts which he presented so effectively to his great patron Cæsar Augustus, Emperor of Rome.

ARCHITECTS AS INDEPENDENT CONTRACTORS

BY HOWARD C. LAKE

When a contract calls for the performance of an entire piece of work at a stated price, the inference is that it is an independent contract. The theory is that as an architect is engaged in a distinct occupation, when he contracts to execute a specified work for a stated amount, it is inferred that while the right is reserved by the architect's employer to reject the results produced, it is not intended that he will exercise any control while the work progresses.

The rule has been thus stated by the New York Court of Appeals in *Uppington vs. New York* (165 N. Y., 222): "When a person enters into a contract with competent contractors doing an independent business, who agree to furnish the necessary materials and labor and make the entire improvement according to specifications prepared in advance, for a lump sum, or its equivalent, they are not the servants or agents" of the person with whom they contract, but are independent contractors.

A few illustrative cases will suffice to make clear the rule.

In *School District vs. Fuess* (98 Penn., 600), the school district employed a contractor to make certain repairs under the direction of a superintendent, who was the architect of the contemplated improvements, and who was authorized only to direct the contractor as to the manner of performing the work. Contrary to express agreement with the school district, but with the permission of the architect-superintendent, work was begun by the contractor before school closed for the summer, who so negligently performed it that a school child was injured. The child sued the district. It was held that there could be no recovery, as the contractor was exercising an independent employment and that as the architect-superintendent was powerless to change the time when the work was to be done, his permission to the contractor to begin before the summer vacation did not bind the school district.

In the ordinary course of events, the architect acts as the agent and representative of the person for whom the building operations are being conducted. An interesting case to this effect is *Schwartz vs. Gilmore* (45 Ill., 455), where it appeared that the owner of a Chicago lot contracted for the erection of a building thereon. By its terms, the contractor was to perform the work

under the direction and supervision of the architect, who was stated to be the owner's superintendent. The owner reserved the right to change the plans. An accident happened, the owner was sued, and it was held that he could not be considered as having surrendered to the contractor the entire control over the work, because his architect was to superintend it, and that he was liable for negligence. Furthermore, it was said that "if the architect had control of the work, and knew the walls were unsafe from want of bracing, he could not relieve his principal from responsibility by merely directing the bracing to be done. He should have seen that it was done."

The leading case of *Burke vs. Ireland* (166 N. Y., 305) is worthy of careful attention. In that case it appeared that the owner of a plot of land in the Metropolis employed a competent architect to prepare plans for a building. The specifications were approved by the Building Department and provided that a certain number of iron columns should be placed through the center, on concrete foundations, to support the building. Such foundations were to be laid on a firm bottom and be inspected by the architect. The contractor built the foundation for the center column on the edge of an old cistern. He made the foundations for the iron columns of 12 instead of 18-inch concrete, as required by the specifications, and the building collapsed. The widow of a deceased workman sued. The foundations were not inspected by the architect as they were constructed and the owner was not aware of the existence of the cistern. It was held that the owner was not negligent, as the builder was an independent contractor and the architect was exercising an independent calling, and his failure to inspect the construction could not be attributed to the owner. The highest court in the State unanimously said: "There is no suggestion in the record that this architect was incompetent to perform the duty for which he had been employed. It cannot be said that the owner interfered with the plans or reserved or exercised any right to change them. He committed the whole matter to a competent expert. * * *. If the architect, who had general supervision, had insisted upon a careful inspection of every detail of the work, and had been present when the concrete was about to be laid upon the disturbed ground outside the old cistern wall, he might have discovered the departure from the terms of the contract in that respect, and prevented it. But the architect was not the agent or servant of the owner. He was in the exercise of an independent calling, and held the same legal relations to the defendant that the builder did, and for the omissions of either in the execution of the plans personal negligence cannot be imputed to the defendant." The architect was not sued.

The architect is even more to be considered an independent contractor when he undertakes not only to prepare the needed plans and specifications, but also to execute the entire work.

In conclusion it remains to say that, in determining whether the architect is an independent contractor, the most important consideration is control. Did his employer divest himself of control and give it, for example, to the architect? If he did the latter is almost invariably held to be an independent contractor.

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ILLUSTRATIONS:

Recent and unpublished work of J. A. Schweinfurth,
 Architect (16 pages).

Frontispiece: Detail of the Cathedral, Anagni, Italy.

"THE Architecture of Adventure" is the title of a paper by Professor W. R. Lethaby, F.R.I.B.A., read recently before the body of which he is a Fellow. In this paper the author expresses the opinion that the greatest need of the present generation of architects is a thoroughly scientific frame of mind. It is only by the repeated application of scientific knowledge, he contends, in experimenting with their current problems that real architecture can be created and form and structure reunited as of old. Progress in architecture, he further maintains, is the result of experiment, as in the experimental sciences—an interesting way of regarding the art of building, though one with which architects, we surmise, would fail generally to agree unless the qualification were made that the experiments be always made with the ultimate end in view, namely, to create a work of art. There is, of course, always this essential difference between experimenting as a scientist understands the term, that is seeking for truth, and the meaning which the artist would gather therefrom, a seeking for expression, unity, beauty. In science there is but one solution for a given set of conditions, the correct solution, while in art there are many, and it is in the choice of that one which offers the most advantages and presents the fewest drawbacks that we recognize the great artist.

NO doubt Professor Lethaby assumes the habit of experimenting which he advises architects to cultivate in their work to be from the standpoint of the artist and not from that of the seeker after exact knowledge. That being so we can see a peculiar significance in his attitude for much current architectural endeavor. Writers in the English press have of late remarked the effect on their architecture of the wave of French influence from the Paris École des Beaux Arts. This influence has unquestionably produced in England a number of architects whose supposedly logical view of architecture has a very insecure foundation in fact. The work of these men may be logical draughtsmanship, but it is not architecture. Such a conclusion, of course, in no way affects the world-renowned French school of art, to which even America owes much. Imitation is the sincerest form of flattery, but imitation is often blind, mistaking the shadow for the substance, the external aspect for the essence. As a counterbalancing influence to such an extreme view of the art of building usefully and beautifully, Professor Lethaby's views should be of the greatest value to the profession.

THE celebrated French authority on matters architectural, Auguste Choisy, who recently died, gives us a clue in the conclusion of his history of architecture. He presents therein an idea very closely related to the suggestions of the English professor referred to above. M. Choisy, in concluding his text, which he carries to the beginning of the nineteenth century, mentions very prominently the introduction of cast and wrought iron into the art of building, and goes on to remark that he conceives his work as a historian to end at that point where the introduction of new materials has called into use æsthetic elements of the art hitherto unknown. Here we have an example of experimenting in architecture, and doubtless M. Choisy took the stand that the work of adventure in the new materials was yet so unformed that he had no just basis on which to base an estimate of its accomplishments.

Current architectural practice is teeming with new problems for experimentation of the right sort, but it is so much easier to take inspiration from some work on which time has placed the seal of approval that these experiments are unfortunately too seldom made. In adopting such an attitude towards their problems designers are neglecting the opportunity to achieve that artistic success for which the prototype is admired. Architecture cannot be made so; if our architecture is to be vital and enduring we must learn from the past all we can, but the problems of the present must be approached in a free, and, if one chooses so to call it, an experimental frame of mind.

It is only by a well-considered compromise between structure and form, with the fullest understanding of the conditions of their problems and a thorough knowledge of the characteristics and constitution of the materials used as a vehicle of artistic expression, that modern architects will achieve meritorious results. It is of little use to argue whether form should follow structure or structure form; the effect is the paramount issue in every art.

RECENT LEGAL DECISIONS

(CONTRACTS)

CONSTRUCTION OF CONTRACT FOR BUILDING MATERIALS

In an action to recover the balance alleged to be due on a contract by which the plaintiff agreed to furnish and deliver to the defendants certain building materials, in part specially manufactured and framed, to be used in the construction of four three-story frame houses, it appeared that the plaintiff was not required to put any part of the material in place in the building. He was to receive for the material \$3,000, of which \$1,000 was to be paid "when standing trim is up," \$1,000 "when buildings are complete," and \$1,300, the balance, "30 days thereafter." All the material was delivered and accepted. The first installment only was paid, and the action was to recover the amount of the other two installments. The buildings were never completed. After the last of the material was delivered work was suspended on the buildings, defendants filed a mechanic's lien and a mortgage on the premises was foreclosed, and the premises sold. The court held that the plaintiff was entitled to recover, notwithstanding the express provision of his contract, postponing the payment of these two installments until the completion of the buildings. The defendants had failed to complete the buildings within a reasonable time, and if such failure was owing to a foreclosure of a mortgage that was a matter for which the plaintiff was not responsible.—*De Long vs. Zeto* (New York Appellate Division), 119 New York Supplement, 765.

EXCUSE FOR DELAY ON BUILDING CONTRACT

Where the work to be performed by a building contractor cannot be performed until the other work provided to be performed by the owner or his employees is finished, the failure by the latter to complete their work within the time limited by the contract is a sufficient excuse for his delay beyond the agreed period.

Murphy v. No. 1 Wall Street Corporation, 119 New York Supplement, 693.

WAIVER OF TIME CONDITION IN BUILDING CONTRACT

Where a sub-contractor was required to finish his work within 50 working days by the terms of his contract, but is prevented from doing so by the acts of the contractor and by changes made at the request of the owner and contractor, and the contractor, after expiration of the 50 working days, gives written and oral orders to the sub-contractor and makes payments to him on his contract, the contractor cannot recover damages by reason of the non-completion of the work within the time specified in the contract.

Murphy v. No. 1 Wall Street Corporation, 119 New York Supplement, 693.

Where under a contract between a building contractor and a sub-contractor it is provided that upon the failure of the sub-contractor to supply a sufficiency of properly skilled workmen, or of materials, or a failure to perform the agreements contained in the contract, the general contractor may, upon three days' written notice, provide such labor and deduct the cost from any

money that may become due to the sub-contractor, and no such notice is given, the contractor cannot claim reimbursement from the sub-contractor for his failure to do certain things.

Murphy v. No. 1 Wall Street Corporation, 119 New York Supplement, 693.

WAIVER OF LIEN BINDING SUBCONTRACTOR

In Pennsylvania, where a subcontractor agreed to furnish labor and material to a building under construction after a conveyance by the original owner to a purchaser, he is bound by the contract between the original owner and the contractor, containing a waiver of liens, where it was filed of record.—*Pennock vs. Locust Realty Co.* (Supreme Court of Pennsylvania).

CONSTRUCTION OF BUILDING CONTRACT

Where a house was contracted to be a duplicate of a certain other house in the town, with certain specified exceptions, a provision that a drawing and specification of the house were to be attached and become a part of the contract was not a condition of the contract, and a failure to so attach them, through no fault of the contractor, was immaterial.—*Womble vs. Hickson & Findley* (Supreme Court of Arkansas), 121 Southwestern, 401.

RECOVERY FOR BREACH OF CONTRACT

Where contractors who have agreed to perform the carpenter work on a house for \$155, are not permitted by the owner to do so, they are entitled to recover the difference between the contract price and what they are able to earn otherwise during the time required to build the house.—*Womble vs. Hickson & Findley* (Supreme Court of Arkansas), 121 Southwestern, 401.

CONSTRUCTION OF CONTRACT AMBIGUOUS AS TO PRICE

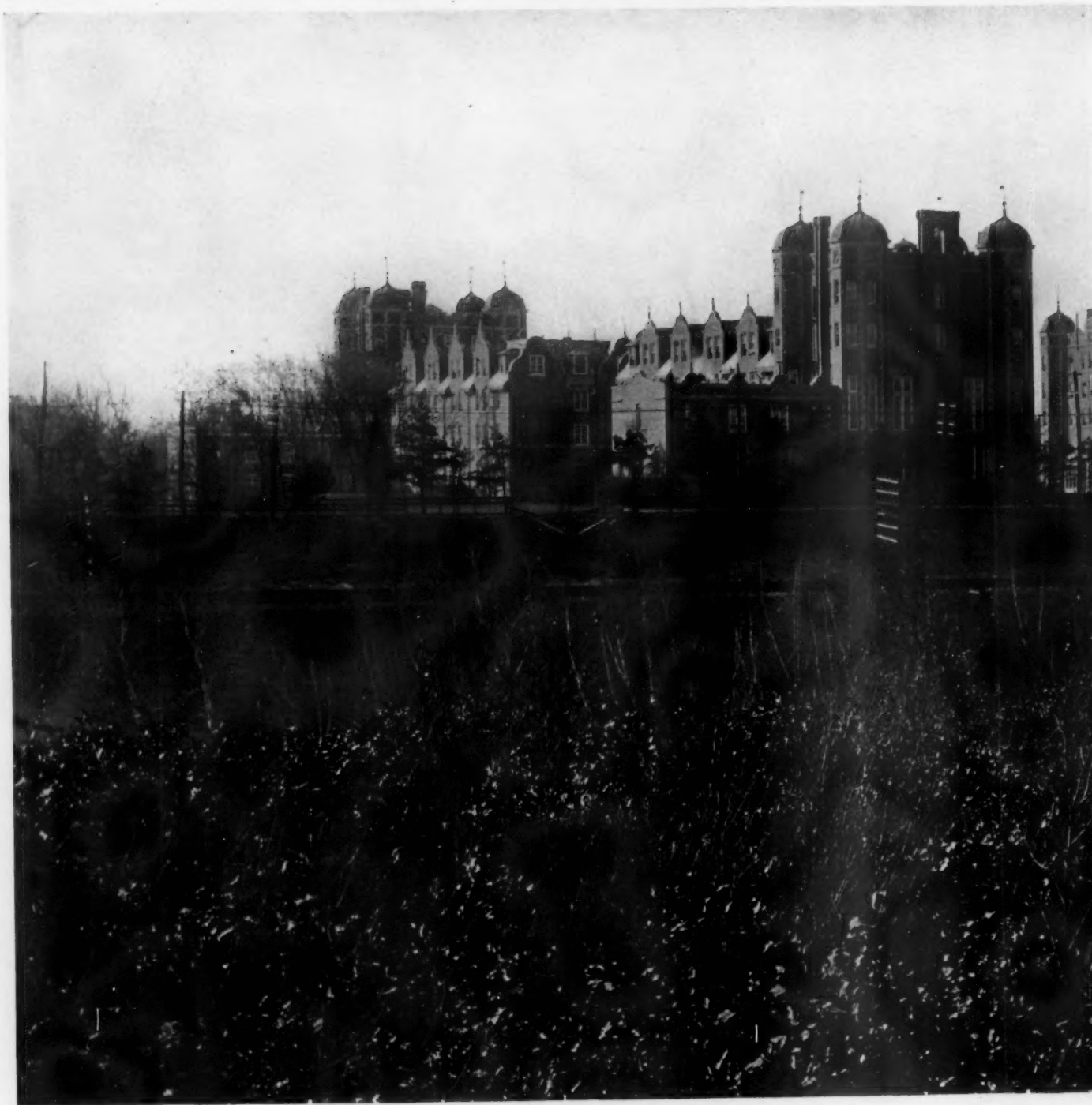
A contract for the construction of a building fixed two prices, reciting that the consideration was to be \$4,600 and elsewhere providing for three payments aggregating \$5,600. The court held that the question which of these prices was controlling was one of fact for the jury. On the evidence, consisting chiefly of the testimony of the person who wrote out the contract that the recital of \$4,600 was made in error, the jury found for the larger sum. The parties evidently used a blank for the contract, which contained an uncompleted provision for an architect's certificate, and no architect was employed. The contractor was not required to obtain an architect's certificate to entitle him to payment.

Grady v. Fazzolari, New York Appellate Division, 119 New York Supplement, 300.

WHERE ARCHITECT'S DECISION BINDING

Where a building contract makes the architect arbitrator between the parties to determine practical questions of construction that arise under the plans and specifications in the execution of the work, his decision upon these matters is binding.

Handy v. Bliss (Massachusetts Supreme Court).



GENERAL VIEW, LOOKING ACROSS CAMPUS, WEST

J. A. SCHWEINFURTH,

AN ARCHITECT

MAY 18, 1910



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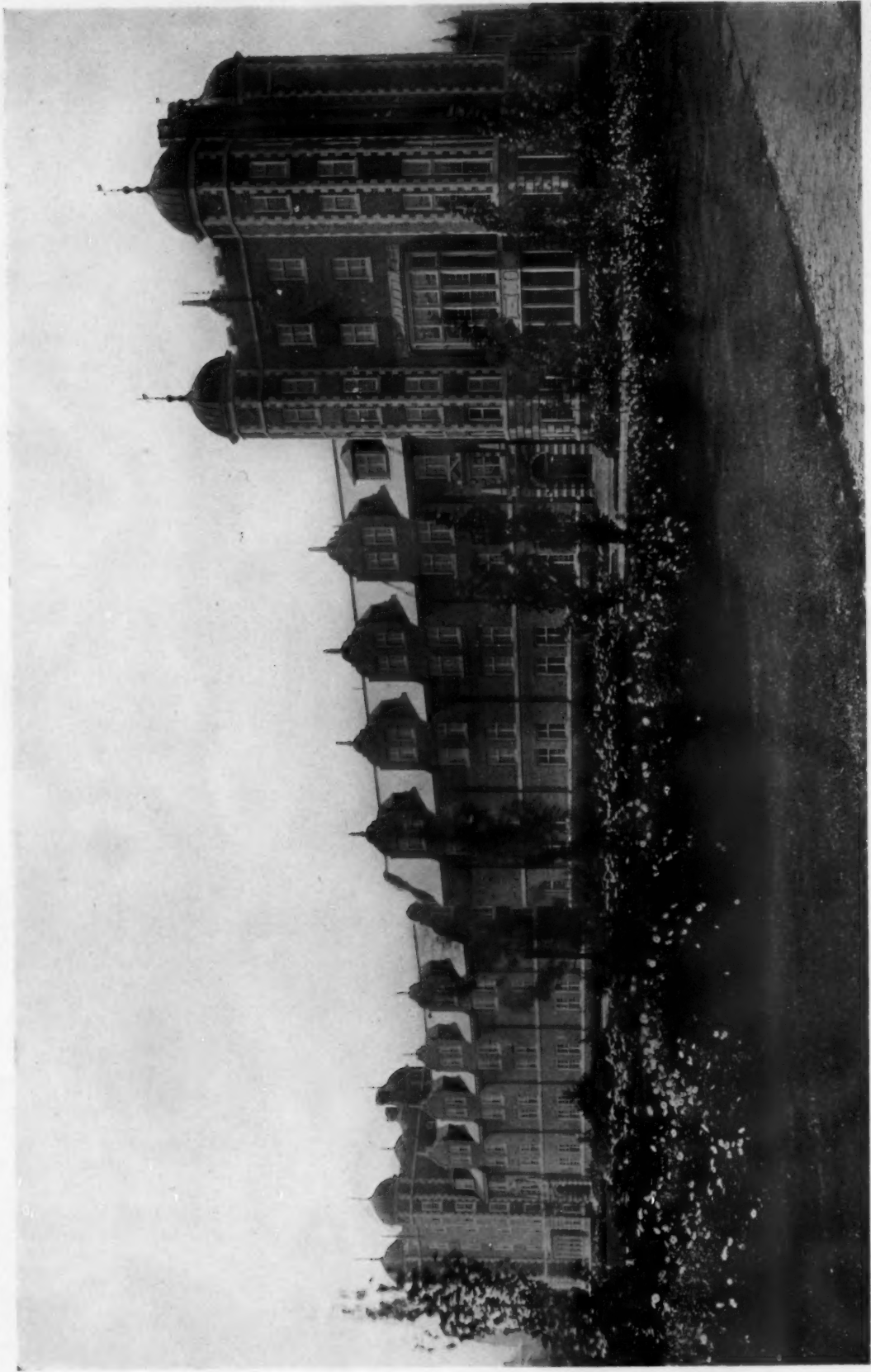
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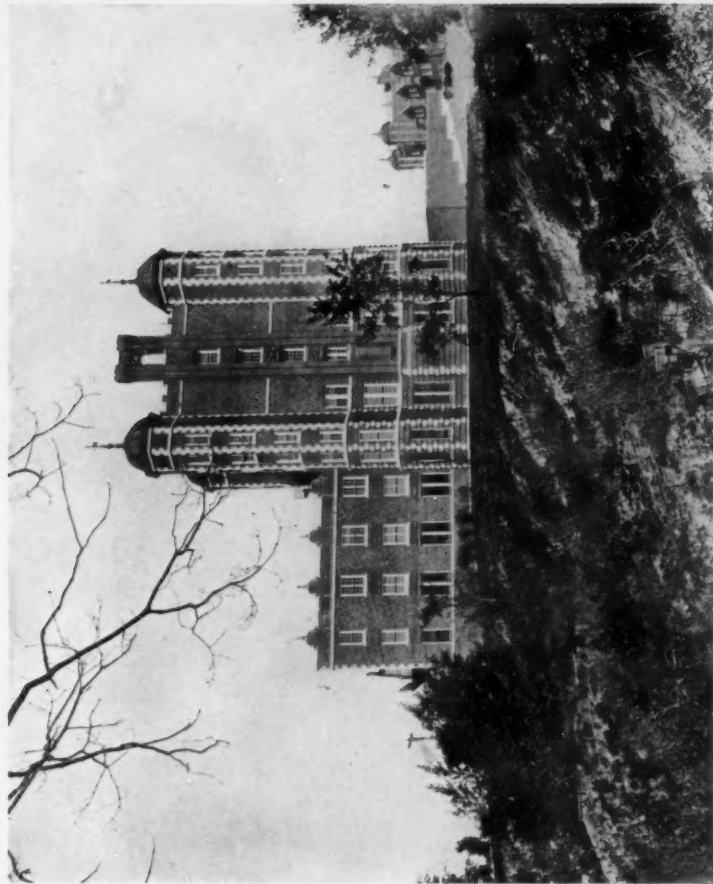
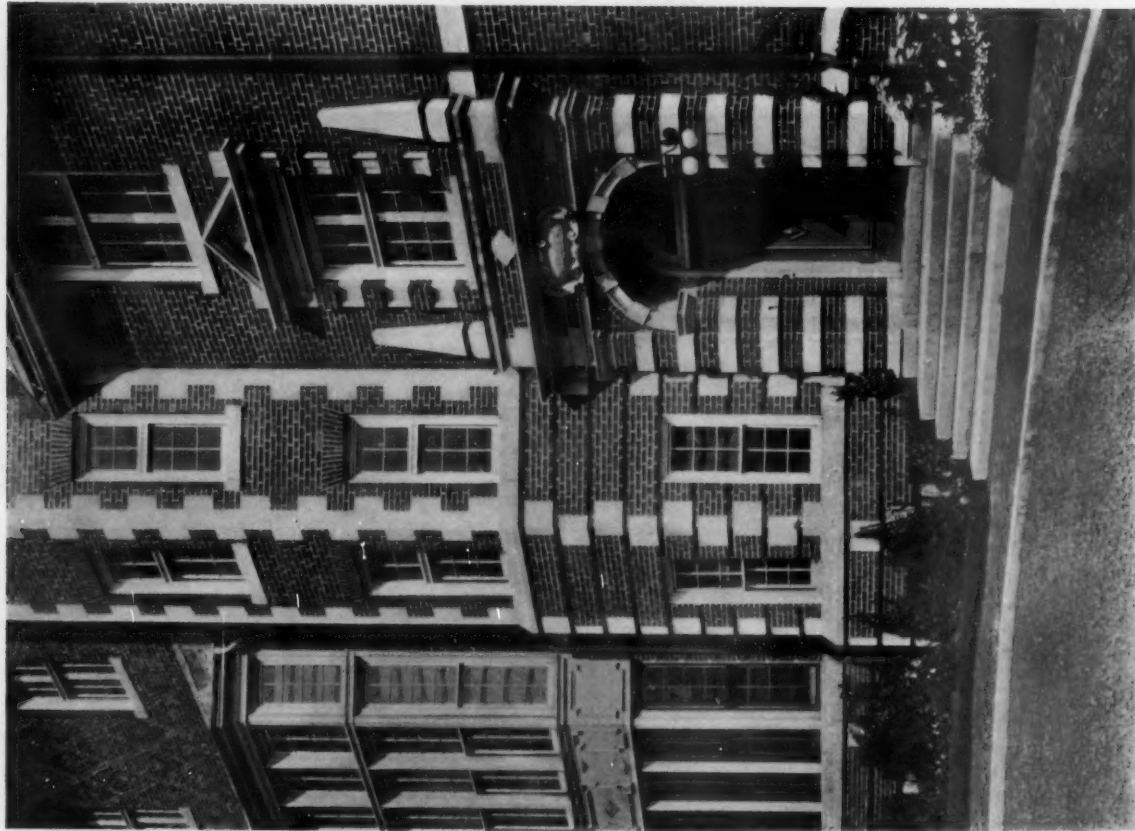


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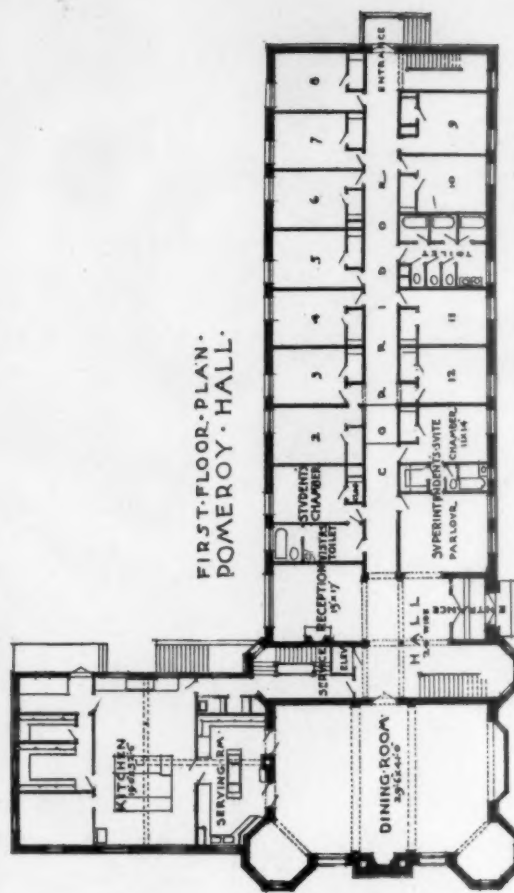
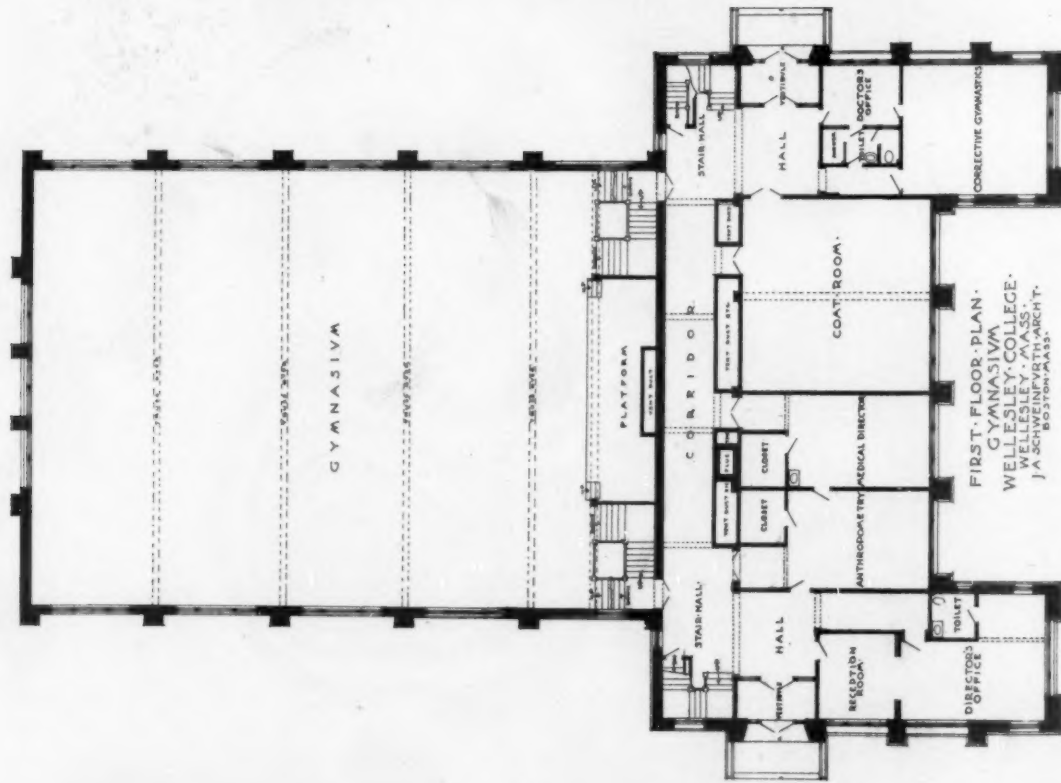


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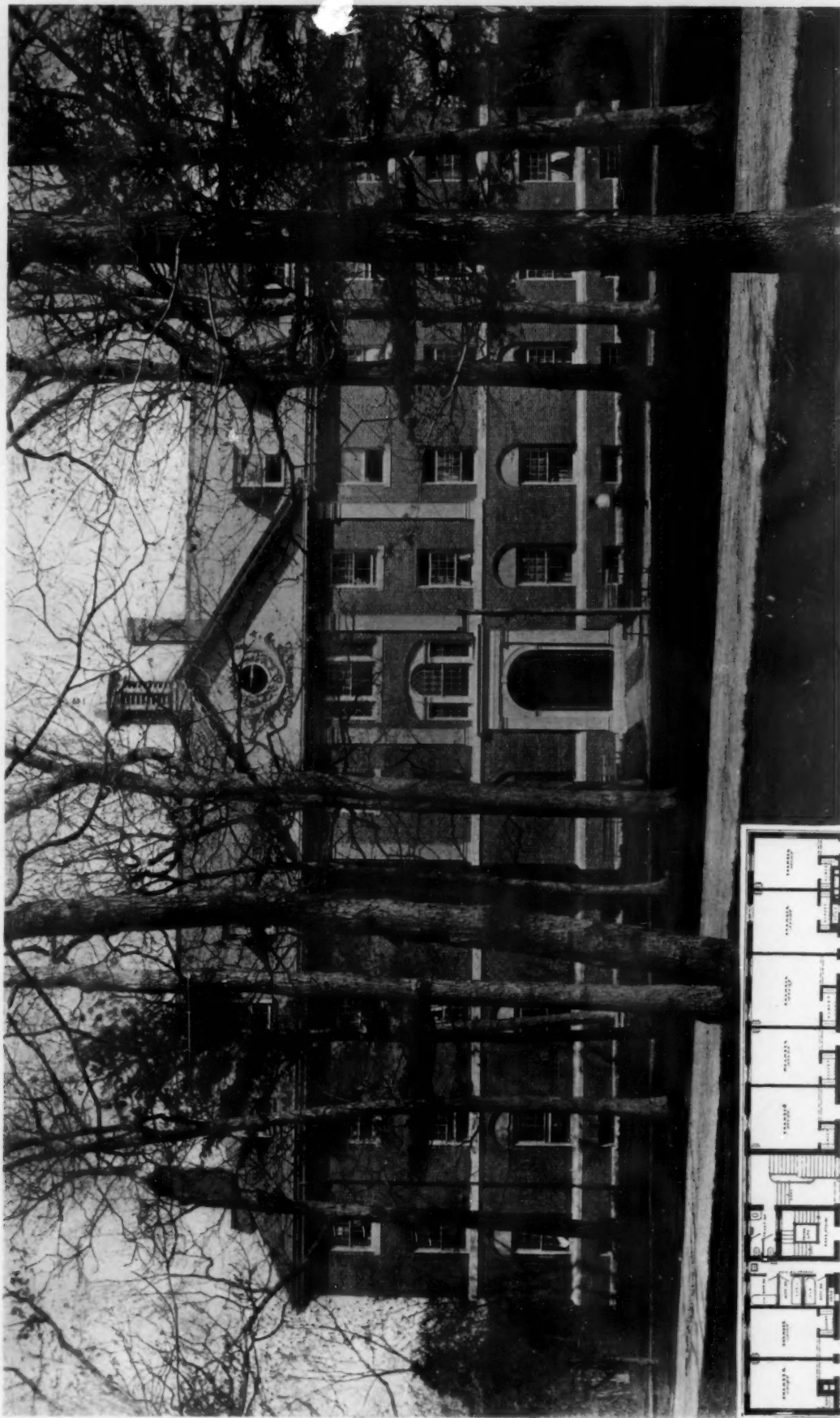
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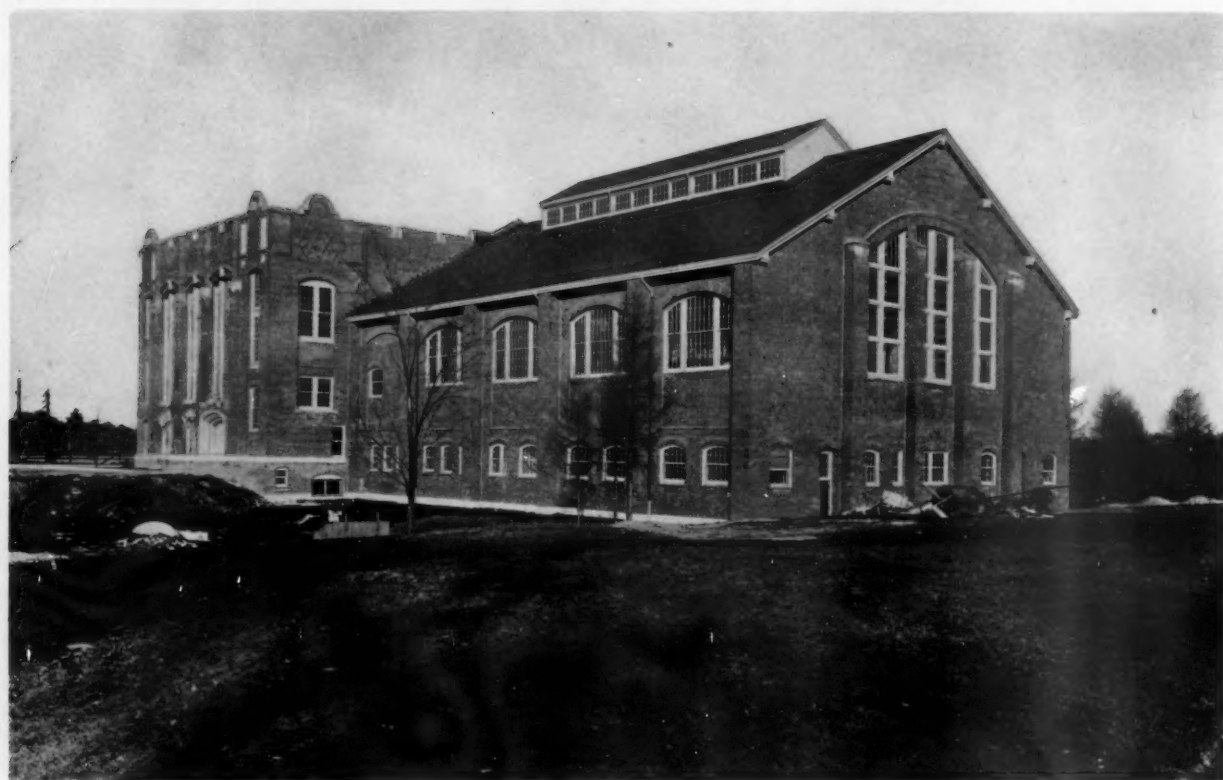


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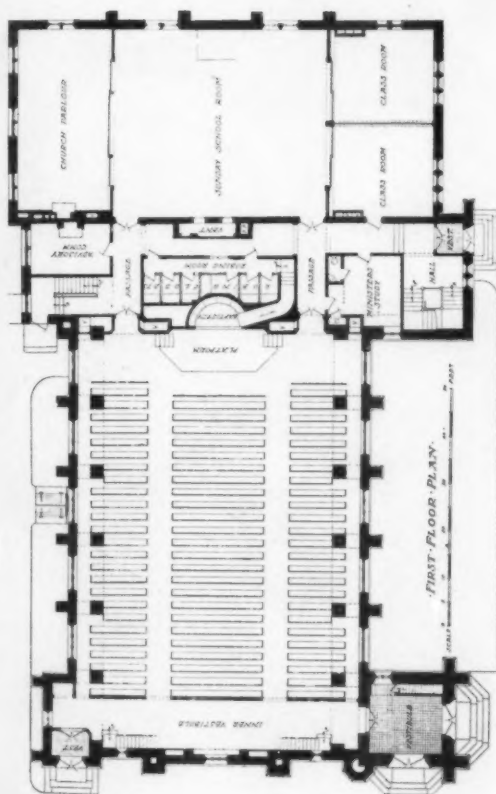
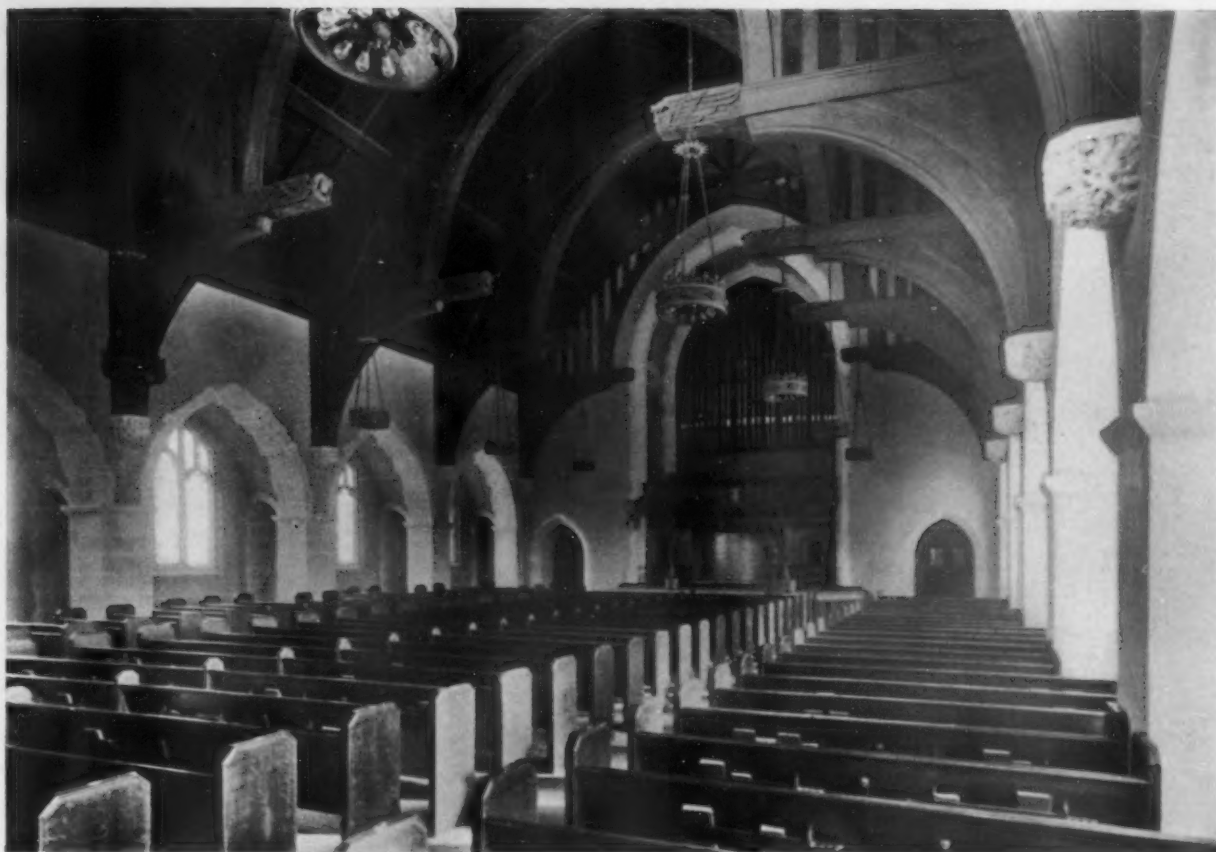
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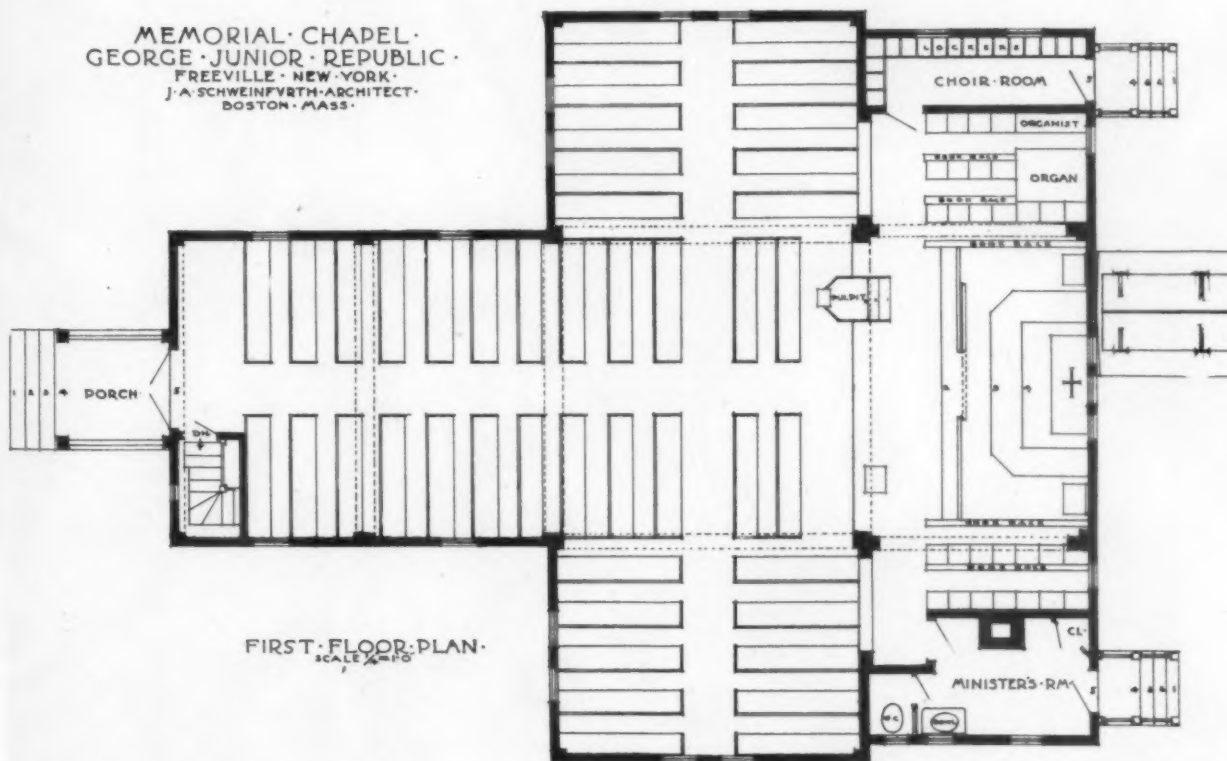


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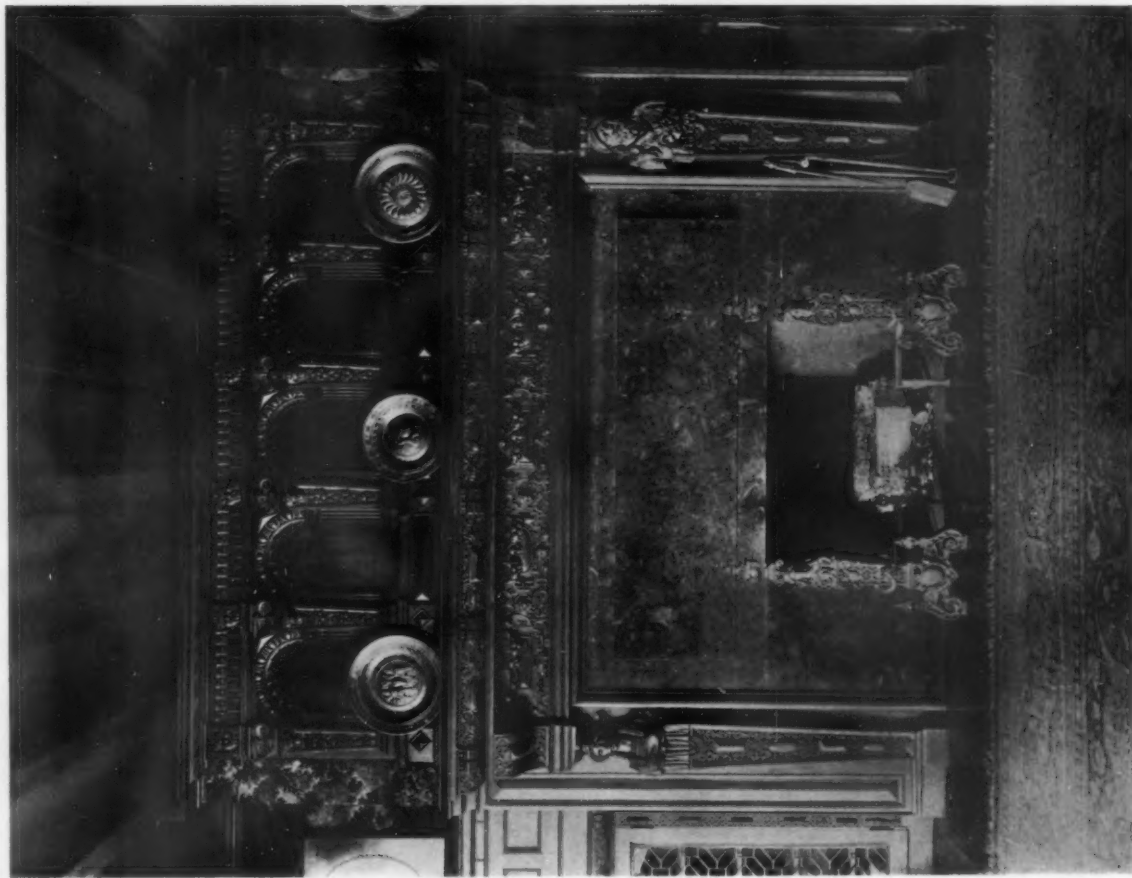
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ABOVE, STONE CHIMNEY IN BALL ROOM IN A GARAGE NEAR BOSTON; AT LEFT, MANTEL IN
LIBRARY OF A HOUSE ON COMMONWEALTH AVENUE, BOSTON

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GARAGE NEAR BOSTON, MASS.

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