THE AMERICAN ARCHITECT

VOL. C. WEDNESDAY, JULY 12, 1911 No. 1855

PLATE I.—THE PARKWAY, LOOKING FROM THE MUNICIPAL ART MUSEUM TO CITY HALL

THE REPLANNING OF PHILADELPHIA

By WILLIAM E. GROBEN

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THE recent City Planning Conference and Municipal Exhibition held in Philadelphia during May and June brought forth many excellent and new ideas for the improvement of the city.

As early as 1892 the City Fathers of Philadelphia, recognizing the impracticability of the existing plan of the city as originally laid out by William Penn, determined to reconstruct it. The main object was to superimpose upon the rectangular gridiron system a series of broad diagonal avenues radiating from City Hall as a center, which would cut across the rectangular city plots at acute angles, thus giving at frequent intervals parks and open spaces to be adorned with flowers, water basins and statuary.

The first radial avenue to be undertaken was the Parkway which should directly connect City Hall with Fairmount Park.

To Penn the crooked streets of London were abominable, so he planned Philadelphia like a gridiron, making the streets not only monotonous, but also inadequate as arteries of traffic. The only feature to recommend it was the placing of a plaza as the great Civic Center with two broad

PLATE II.—THE PARKWAY, LOOKING FROM THE CITY HALL TOWER TO THE PROPOSED MUNICIPAL ART GALLERY AT FAIRMOUNT PLAZA

avenues as central axes, now known as Market and Broad streets, but he neglected to make any great radial thoroughfares such as the Parkway by which to approach the plaza.

The Delaware and Schuylkill river fronts, which offered such great opportunities for landscape and boulevard treatment, were entirely ignored. The situation, however, was far from hopeless; for with the immense advantage of already possessing a Civic Center, and a well-located Park system, the problem of reducing the plan to a scientific one was not so difficult. The fact that the real estate values in the region of this projective Parkway were fortunately low, and that the slight natural grade obviated any expensive engineering work, united to make the task comparatively simple and inexpensive.

The enterprise was seriously contemplated and plans made at various times from 1892 until 1902, when the Parkway Association was permanently organized with the endorsement of Mayor Ashbridge, Ex-Mayor Warwick, Assistant Attorney General James M. Beck, and other prominent city officials. That the matter soon became a subject of vital interest to the city was evident in the active part which the various architects, the University of Pennsylvania and the various art associations shared in the work.

The great Parkway is shown on the new plans as a monumental boulevard, approximately 250 feet in width, patterned after the Champs Elysees of Paris, extending from City Hall Plaza (Plate II) through Logan Square, to Fairmount Park, a distance of one and one-quarter miles. Here it terminates in a broad and imposing plaza, around which are grouped buildings devoted to the Fine Arts, Sciences and Letters, and to housing the various art collections belonging to the city (Plates III and IV). This forms a municipal art center, which from natural beauty of location and dignity of arrangement can be equaled by few cities in the world.

At the western side of the Plaza, facing the Parkway and commanding an uninterrupted vista to City Hall Tower, is located the Municipal Art Museum, crowning the elevation Fair-Mount which gives the Park its name. From this acropolis may also be had a view of the Schuylkill River and Fairmount Park beyond.

The architecture of this building, as of the others, is strictly classic. This is naturally best adapted to the imposing location and purpose of the structure. The Art Museum is approached directly from

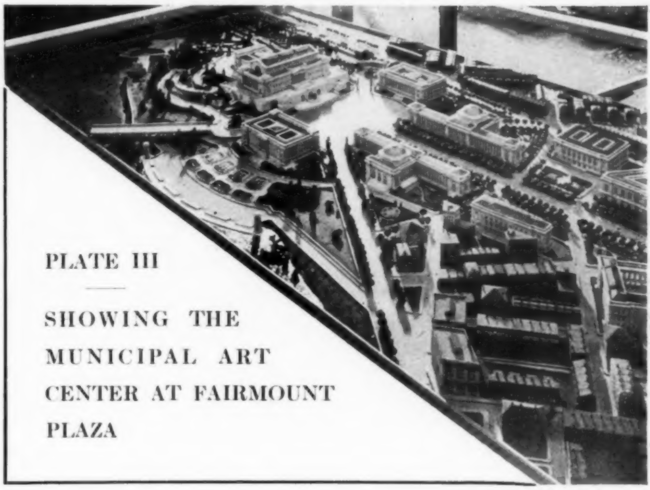


PLATE III

SHOWING THE MUNICIPAL ART CENTER AT FAIRMOUNT PLAZA

the Plaza by two broad, monumental flights of steps, which lead up to a wide terrace, from which a wide marble stairway ascends to the main portico of the Museum. (Plate I.)

On the Plaza level are entrances for elevators, which give direct access to the Museum above.

Opposite the Municipal Art Museum, on the entrance side of the Plaza, are placed on either side of the Parkway buildings for the study of Industrial Arts and Sciences. At the northern and southern sides of the Plaza, thus completing the classic group, are also placed monumental buildings for the Applied Arts and Letters. Below one of these, on the southern side, facing the Schuylkill River is a Chateaux d'Eaux, or water basin, forming a series of cascades down to the water's edge, where a boat landing completes a delightful scheme of landscape architecture.

The principal entrance to the Plaza is of course the Parkway, which forms so prominent a feature of the new city plan, giving direct communication with the center of the city. The secondary entrances to Fairmount Plaza are Spring Garden street, already existing, and Schuylkill Avenue (or River Boulevard). From the diagonally opposite corners of the Plaza radiate two other Boulevards, one of which by the Washington Monument gives access to the Park, and the other to a new bridge over the Schuylkill River to West Philadelphia.

The Plaza is architecturally embellished by two large water basins similar to those in the Piazza San Pietro in Rome.

A unique feature of the Acropolis is the carriage approach on the western side which, leading from the corner of the Plaza, winds upward behind the Art Museum until it comes out on the terraced platform on which the Museum is placed.

In working out this general scheme much care has been taken to preserve undisturbed the natural beauties and landmarks of the Old Fairmount Water Works. These interesting and beautiful old relics are to be eventually used as a City Aquarium.

Work has already begun on this plan. An approach to the Park from Logan Square, to be flanked by public and semi-public buildings, has been completed, and work is going on rapidly toward its continuation through to City Hall where hotels, theatres and clubs are to find their location.

A section of the City Exhibition which attracted the particular attention of the architectural as well as the lay public was the model of the Parkway. It gives a tangible idea of how the present plans will look when completed.

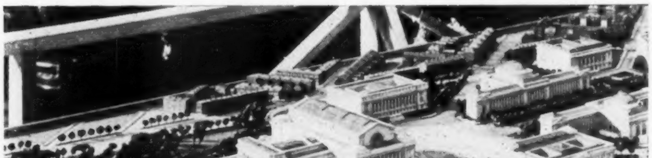


PLATE IV.—MUNICIPAL ART CENTER AT FAIRMOUNT PLAZA AT WESTERN END OF PARKWAY

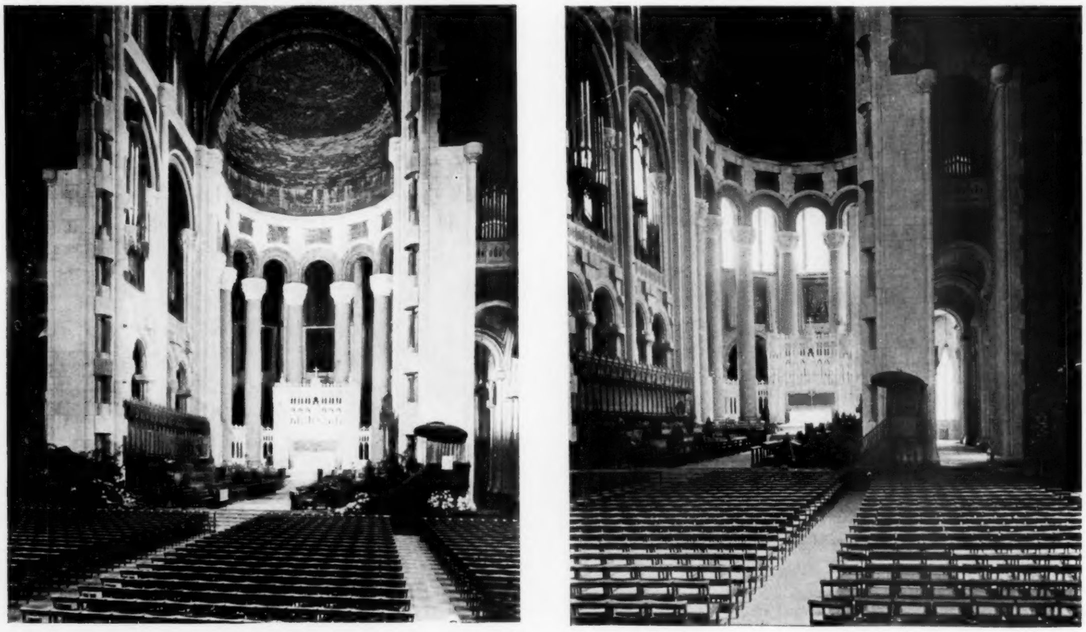
AS SEEN LOOKING FROM REAR OF MUNICIPAL ART MUSEUM

THE ILLUMINATION OF THE CATHEDRAL OF ST. JOHN THE DIVINE

By JAMES ROBERT MOORE

APPRECIATING as they did from the beginning that the Cathedral of St. John the Divine would have to be thoroughly modern in all of its appointments and as suitable for services by night as by day, its architects realized almost as soon as they began upon the working drawings that, unlike the great cathedrals of the Old World, it would have to be completely equipped for artificial illumination; and in consequence of this foresight provided for capacious raceways and ducts to be incorporated in the masonry at various points where it seemed probable that gas pipes and electrical conduits might be required: although for nearly ten years, while the foundations of the crossing and the choir were being laid and structural problems were being worked out, no further consideration was given to the subject: but soon after the completion of the solitary arch whose gigantic granite bulk so long dominated the landscape of the upper part of Manhattan Island, the late George L. Heins one day abruptly turned from the plans which he was discussing with the writer and, pointing to a drawing of the Cathedral, asked in his characteristic way, "How are you going to light *that?*"; and while that question has not yet been answered in complete detail, the immediate result of it was the formulation during the next few days of a comprehensive scheme for the completed structure, which provided for all lights not beyond the normal range of vision being masked from the view of the congregation.

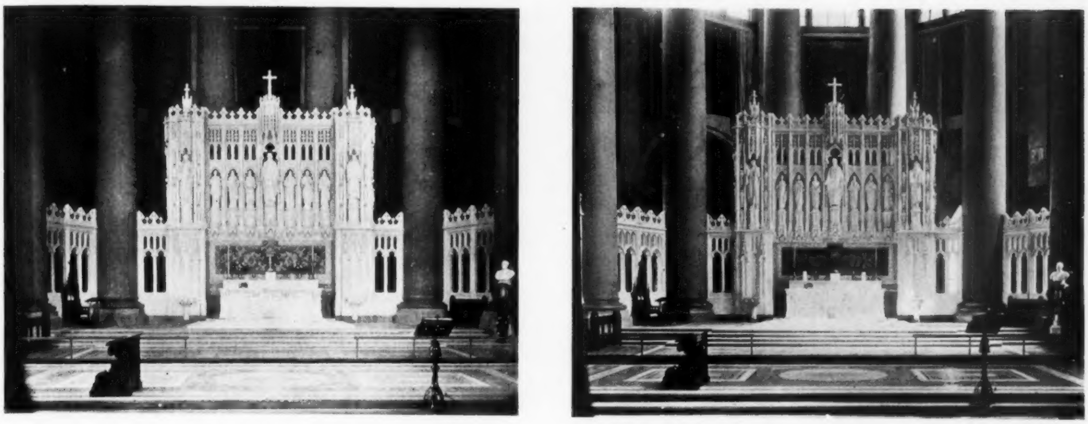
The adoption of this scheme obviously



BY NIGHT ILLUMINATION

BY DAYLIGHT

THE CROSSING AND CHANCEL



BY NIGHT ILLUMINATION

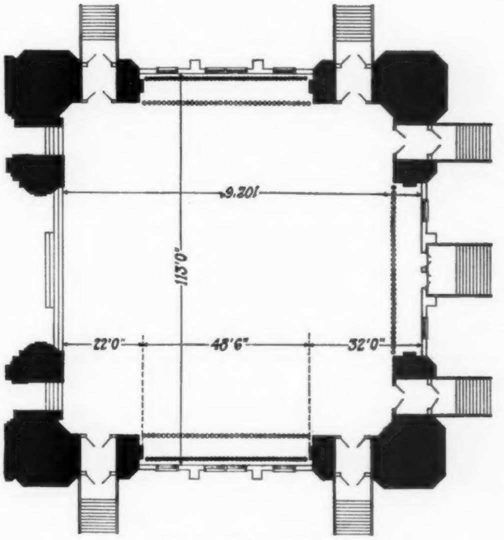
BY DAYLIGHT

THE SANCTUARY

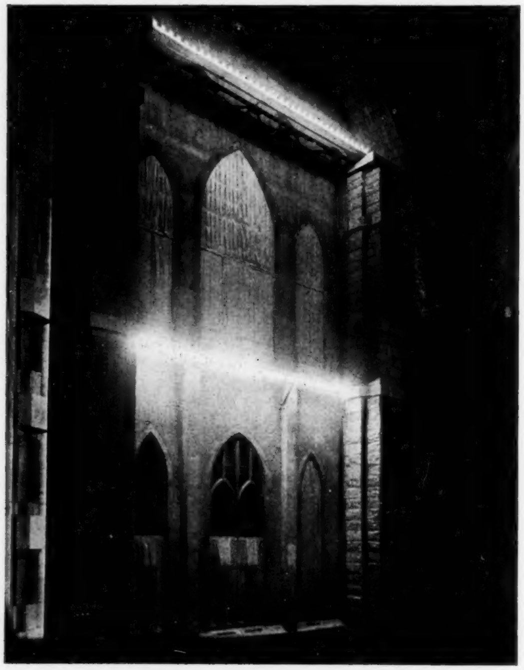
rendered it necessary to determine both the quantity and the quality of light required at each point, as well as to devise practical methods of placing the appliances in the desired locations and of readily maintaining them in an efficient condition: all of which undertakings were then wholly without precedent; but Mr. Heins brushed aside that difficulty with, "Well, why don't we make a few precedents ourselves?": and it is certainly undeniable that during subsequent years the illumination of various church edifices, banking rooms, assembly halls and club houses was so designed as to afford some carefully studied precedent as to dimensions, fabrics, colorings or contrasts: and so much data was thus accumulated that when the time finally arrived for awarding a contract the plans and specifications were prepared and estimates obtained in the interval between two monthly meetings of the Trustees.

Electricity is the only illuminant utilized; for although in the beginning gas was expected to be indispensable, later it was relegated to a purely emergency function, and finally Mr. LaFarge and the Building Committee concluded that it would be altogether superfluous; and the building now contains no provision for it other than an occasional waste space in one or another of the built-in ducts.

Inasmuch as the only permanent structural portions of the existent crossing are the four rough granite arches which are to sustain the central tower and the plain terra cotta pendentives; all of which will of course be entirely concealed by moulded and carved stone work, polished marble and intricate mosaics when the edifice is completed; its lighting equipment is necessarily temporary both in design and construction, and is intended to be as obviously so as are the concrete and ironwork to which it is attached; but it is somewhat interesting, nevertheless. Each of the three curtain walls closing the archways which will eventually open into the nave and transepts is braced against wind pressure by a latticed girder placed on its side at a height



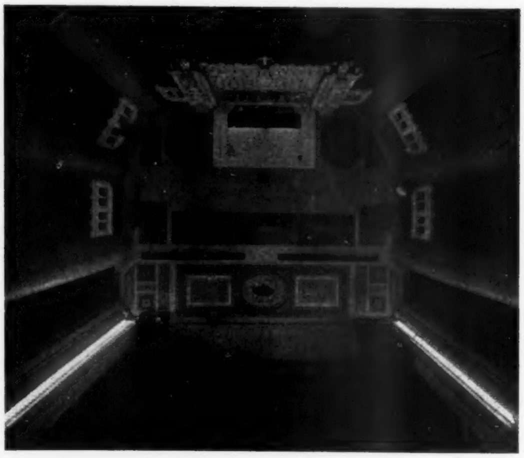
PLAN OF THE CROSSING



CURTAIN WALL IN SOUTH TRANSEPT WITH LIGHTS TURNED ON

of 54 feet above the floor; and still 40 feet higher there is a set of tension rods spanning each arch. On the under side of each of the girders in the transept arches a row of conical reflectors has been so placed that all point toward the center aisle while alternately facing right and left; and although the length of each of these rows is a trifle less than one-half the axis of the crossing, and the rows themselves are 110 feet apart, the resultant intermingling of the light rays produces a practically uniform intensity over the entire floor area; as can be seen from the picture of the crossing and chancel by night illumination, which is reproduced from a photograph taken at 11 P.M. without the aid of a flashlight. Along the face of each set of tension rods there are simple receptacles holding lamps in a horizontal row; and these alone suffice to seat the congregation, and also serve to dispel the effect of top-heaviness which would otherwise prevail when the reflector lights are turned on.

The entire chancel within the confines of the ambulatory is now finished except for the carving and mosaic work; and here the equipment is permanent. On each side of the choir, in one of the angles between the clustered columns which constitute the pier of the chancel arch, there is a single vertical reflector 42 feet long and extending from the top of the stalls to the cap of the column from which springs the arch above the organ gallery; within the canopy over each of the upper choir stalls there is a small circular pane of amber glass concealing a box-like reflector: high up on the masonry behind each of the four clerestory windows there is a triple row of conical reflectors; and the entire "arch ecclesia" is framed with a seemingly continuous reflector consisting of two 76-foot vertical portions (in angles of its piers corresponding to those similarly utilized on the choir piers) together with an 88-foot curved portion on the rear face of the arch proper and extending from pier-cap to pier-cap. The lights in the angles of the choir piers are entirely adequate for the stalls, but they produce a shadow along the backs of the upper row on each side which would be disagreeable and would probably cause the occupants of those particular stalls to imagine the illumination insufficient were it not for the lights within the canopies, which, in consequence of combined reflection and refraction, shed a warm, mellow effulgence that extends clear across all the stalls and the aisle between; yet one must mount to the highest tier and stand directly beneath the amber panes in order to perceive

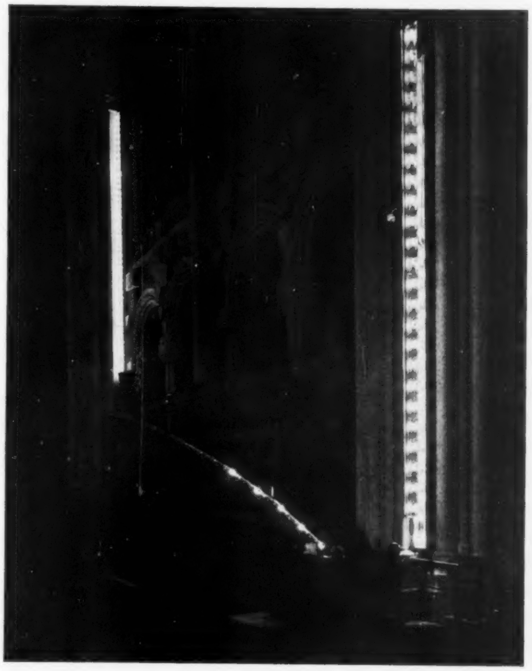


SANCTUARY FROM CENTER OF SEMI-DOME WITH PIER REFLECTORS LIT the lamps. The lights behind the clerestory windows complement the illumination of the stalls by diffusing a radiance throughout the entire choir above the balustrades of the organ galleries.

The purpose of the lights behind the piers of the "arch ecclesia" is obviously to illumine the whole sanctuary and render the altar the focal point visually as well as spiritually; and any of the night pictures of the chancel show how well they fulfill this function: while those in the arched portion above the pier-caps are designed to illumine the contemplated mosaic lining of the semi-dome, and will be little needed until that is installed.

The ambulatory has been equipped with permanent outlets for pendants, brackets and standards; but as no appropriation has yet been available for suitable fixtures, the ceiling and wall outlets have been fitted with the simplest forms of "staples," and no standards whatever have been provided: but it is hoped that in the near future funds will be forthcoming to defray the cost of permanent fixtures for all of these locations, which will in every way comport with the adjacent embellishments.

In so vast an edifice as this any sudden switching on or off of lights would inevitably produce a sensation of startled surprise wholly incompatible with mental repose; but the necessity for any such jarring procedure has been obviated by having all of the general illumination controlled by specially constructed Flucker & Keedwell switches and Cutler-Hammer dimmers located on a 20-foot switchboard in the crypt beneath the crossing and operated by plainly labelled push buttons grouped at convenient though inconspicuous points in the choir. Thus all changes necessary to adjust the illumination to any requisite combination or intensity can, if necessary, be made by an usher or a choir boy as easily as he would turn lights on or off in an ordinary dwelling: and the control is so divided that the sanctuary arch proper, the sanctuary piers, the eastern clerestory windows, the western clerestory windows, the choir piers, the stall canopies, the crossing reflectors and the crossing receptacles can be operated entirely independently of each other; while the reflectors on the arch and the piers can, in addition, have either all of their lamps, or every alternate one, turned on or off at will; and all changes are as evenly graduated and as unobtrusively accomplished as the flaming and fading of a sunset. In fact, the illumination of the choir was purposely considerably modified in the middle of an anthem during the first evening rehearsal in the building without either the organist or any of the choristers noticing the change until their attention was called to it.



REFLECTOR SECTIONS LOWERED FOR RELAMPING

Closets behind the stalls open out of the ambulatory on each side of the choir, and in the two adjoining the chancel arch the push buttons for the crossing have been placed; in the two at the opposite ends buttons for the entire equipment of the chancel have been located, and in the parapet above the southern stalls additional buttons for the lights on the choir piers and within the canopies are so situated as to be within easy reach of the organist's hand and give him command of the illumination of the stalls.

Probably the most perplexing phase of the total problem was to provide for the cleaning and renewing of lamps; for while it might be quite feasible to employ acrobats to achieve the initial installation of the equipment, it was hardly to be expected that they could either be permanently retained upon the custodial staff or temporarily re-employed at short notice: while the expense and inconvenience of having scaffolding erected every time a lamp had to be changed could not be considered for a moment.

The specifications required that each reflector on a pier be composed of a series of sections flexibly connected and arranged to run upon a fixed pair of rails: and, when necessary, each track was to be extended across the floor by the use of portable sections not unlike those of small industrial tramways, and upon which its reflector was to be lowered until its upper end came within reach of a manipulator; but such an arrangement had such manifest disadvantages that when measurements at the building disclosed the fact that deviations from the plans had altered the juxtaposition of the stalls, piers and caps to such an extent as to necessitate radical revision of this scheme, it was abandoned bodily and the problem was restudied from the very beginning, in order to evolve a better solution: and in this undertaking invaluable assistance was rendered by I. P. Frink, whose entire establishment was unreservedly placed at the disposal of the experimental work; and after new detailed drawings had been perfected, full-sized working models were constructed and "tried out" in the shop, and a system was finally devised which involves no portable device other than a single winch mounted in a skeleton carriage having rubber-tired wheels.

The "seemingly continuous" reflector framing the "arch ecclesia" is in reality 13 distinct sections—seven above the pier-caps and three on each side below: and the three in the center of the arch can each be lowered to the floor of the sanctuary 112 feet below; those immediately above the caps can each be drawn up into the space above the semi-dome, through apertures provided for the purpose: the sections adjoining these latter can then be slid down past said apertures: the sections immediately below each cap can each be swung out of vertical plane with its fellows below and then be slid down upon a rail secured to their outer edges; and the central sections on each pier can be lowered in the same manner, while the sections immediately above the bases are stationary. Thus every lamp on these piers, as well as nearly one-half of those high up in the arch, can be brought within reach of a manipulator in the hands of an attendant standing upon the main floor; while the remainder can all be brought within hand-reach of anyone standing in perfect security in the spaces back of the above-mentioned apertures—nor do the electrical connections have to be disturbed when shifting any of the sections except the three central ones; and even when those have been lowered they can be "plugged in" to outlets in the floor directly beneath them, in order to be sure that all lamps are seated perfectly and burning properly before they are hoisted back into place.

The reflector on each choir pier really is in a single section, and can be lowered into one of the closets back of the stalls until its top-most lamp is within reach of a manipulator operated from the musicians' gallery behind the canopies.

The portable winch is used for lowering and raising all of the pier reflectors, and twin winches permanently installed above the semi-dome shift each one of the seven arch sections in its own individual way when its respective cables are coupled up.

Everyone who has visited the Cathedral by day has doubtless experienced, consciously or otherwise, an impression of coldness—"hardness" it has been characterized by some—and the great majority have attributed it to the small proportion of brightly colored embellishments and furnishings so far installed, without giving a moment's thought to the unavoidably abnormal natural lighting which must prevail in the present incomplete state of the edifice: yet it does not require a very vivid imagination to appreciate that when the great dome opens up into the "lantern" and the nave and transepts supersede the curtain walls, the daylight which penetrates to the crossing will be greatly softened and enriched by having filtered through distant multi-colored mullioned windows and caromed from the facets of ornate piers and columns, and will result in a vastly different

(Continued on page 18)

THE AMERICAN ARCHITECT
PUBLISHED EVERY WEDNESDAY BY
THE AMERICAN ARCHITECT (INC.)
239 West Thirty-ninth Street, New York
G. E. SLY, President
E. J. ROSENCRANS, Secretary and Treasurer

Address all communications to "The American Architect"

SUBSCRIPTION RATES:
In the United States and Possessions (Porto Rico, Hawaii, Philippine Islands and Canal Zone), Mexico and Cuba
TEN DOLLARS PER YEAR, POSTAGE PAID
ALL OTHER COUNTRIES . . . $12.00 PER YEAR
SINGLE COPIES (Regular Issues), 25 CENTS

Entered at the Post-office, New York, as Second-class Matter

VOL. C JULY 12, 1911 No. 1855

CONTENTS

The Coronation Stands

THE British Architectural press, with complete unanimity, has condemned most vigorously the type of temporary stands that sprung up along the Royal route, to afford a place from which to view the many pageants incident to Coronation week.

Dealing with the subject first as to the possibility of collapse through poor construction or the serious one of fire, it has been pointed out that the location of some of the more important "stands" resulted in placing a fire hazard in juxtaposition to some of the most noted buildings in London.

On an occasion such as the Coronation of King George, when countless people flock to London, many for the first time, who desire to combine in a view of the festivities also some acquaintance with the public monuments and historical buildings that make London famous, they found everything screened with unsightly stands, and their only view of some of the more important monuments was that part that projected above the bulwarks of poorly designed and unfortunately placed stands.

The Builder, in an editorial commenting on the influence on the architecture of London in the designing and placing of the Coronation stands, states:—

> Our concern is for architecture, secular as well as religious, and we are as much concerned for the safety of Westminster Hall as for that of the Abbey. But apart from the question of their safety it concerns us that great works of architecture be treated with proper respect and used in accordance with their nature and character, otherwise their full artistic influence is destroyed, and the interests of architecture suffer. No one, we think, would venture to contend that the present appearance of the Abbey, St. Margaret's Church, and Westminster Hall could be defended from an architectural standpoint, and we are interested to know that it appears equally indefensible from another, and not less important, point of view. That a large and influential section of the community is apparently indifferent to both aspects of the matter is all the more reason for emphasizing them.

THE danger from conflagration is the greatest of all menaces in the erection of these stands. This fear is not based on the loss of the stands but because their burning would imperil the adjoining buildings. Those in authority are sharply criticized for their lack of prudence in consenting to the erection of stands in close proximity to such buildings as St. Paul's and Westminster Abbey. Referring to an application for the erection of a stand at a corner of St. Paul's Churchyard, the *Architect & Buildings Journal* states:—

> The application, it was stated, had been approved by the Corporation, who had planted, laid out and kept in repair St. Paul's Churchyard under the provisions of the Open Spaces Act, a reference of which the full significance is realized when the stand is demolished and the destruction to turf, trees, shrubs, hedgerows, and paths is seen. Such havoc, however, admits of easy remedy, and the barren site soon smiles again with verdure. A more important point that was mentioned was that the Dean and Chapter of St. Paul's, in giving their consent, had stipulated that there should be a space of at least 12 ft. between the stand and the walls of the cathedral, and that the stand should be built of non-inflammable wood. These are very proper precautions that should have been observed in every similar instance; but, at Westminster, the rather lame excuse for neglecting to use non-inflammable wood was the extra

expense that the use of the safer material would have entailed. Their frugality would cost us dear, however, if the stands caught fire. So tremendous a risk to venerable and priceless buildings ought not to be incurred on so flimsy a pretext. It may be difficult to avoid putting up those huge stacks of timber on such an occasion; but the risk could be minimized by the use of available materials; and, by failing to adopt such materials, a bad example has been set in high quarters.

WHILE in this country we seldom if ever have any celebrations the theatre of whose scenes is in so restricted an area as the route of the "Royal Progress," we do have occasions when it becomes necessary to erect temporary structures to seat large numbers of people. The most important of these is the reviewing stand erected many times during the year on the west side of Fifth Avenue, opposite Madison Square. At a time when many visitors are with us, and just at a time when the city should put on its most dignified appearance, the stranger within our gates is confronted with this unsightly stand. There has never been any protest as to its unsightliness, nor any demand that it should receive some measure of architectural treatment.

That such treatment is possible even in a temporary structure can be easily noted by a short walk up Fifth Avenue, where certain firms, with commendable public spirit, have converted the usual unsightly arcades, built on the sidewalk to protect pedestrians from falling material, into pergolas and arches that are in marked contrast to other and less thoughtful instances that line that thoroughfare.

Let us hope that the experience that has come to London in the erection of its Coronation stands may be of some value to us in America when next the city is *en fête* and we are thronged with visitors.

The cost of architectural treatment is but little, but the æsthetic satisfaction far outweighs it.

THE ILLUMINATION OF THE CATHEDRAL OF ST. JOHN THE DIVINE

(Continued from page 16)

effect from that produced by the deluge of daylight at present precipitated through the enormous expanse of highly translucent monochrome glass in the windows of the temporary walls. And the situation is even more deplorable in the chancel; for although the major portion of its present daylight traverses permanent pathways, all which ultimately will be borrowed from the future chapels now comes at first hand directly through the windows in the walls closing their archways, and both the permanent and the temporary windows are glazed throughout with the same garish glass as those of the crossing; and in consequence the dark-hued choir stalls are at the bottom of a canyon, while the peristyle is encompassed by a veritable cataract of daylight, which not only throws the inner sides of the mammoth columns into shadow but silhouettes their capitals and the imposed arches against a trying glare and effectually deprives the entire apse of any feeling of sunlit warmth.

The daylight picture of the crossing and chancel shows the uneven diffusion in the former and the irrational lights and shadows which the apse windows produce in the latter: while in the afternoon view of the sanctuary is clearly shown behind the left-hand end of the reredos the finished archway to St. Columba's Chapel with its subdued light, and behind the right-hand end the glaring window in the temporary wall.

These distorting conditions will of course be eliminated as rapidly as the completion of the building progresses; but until that ultimate consummation is attained it should ever be borne in mind that no one has properly seen the Cathedral who has seen it by daylight only.

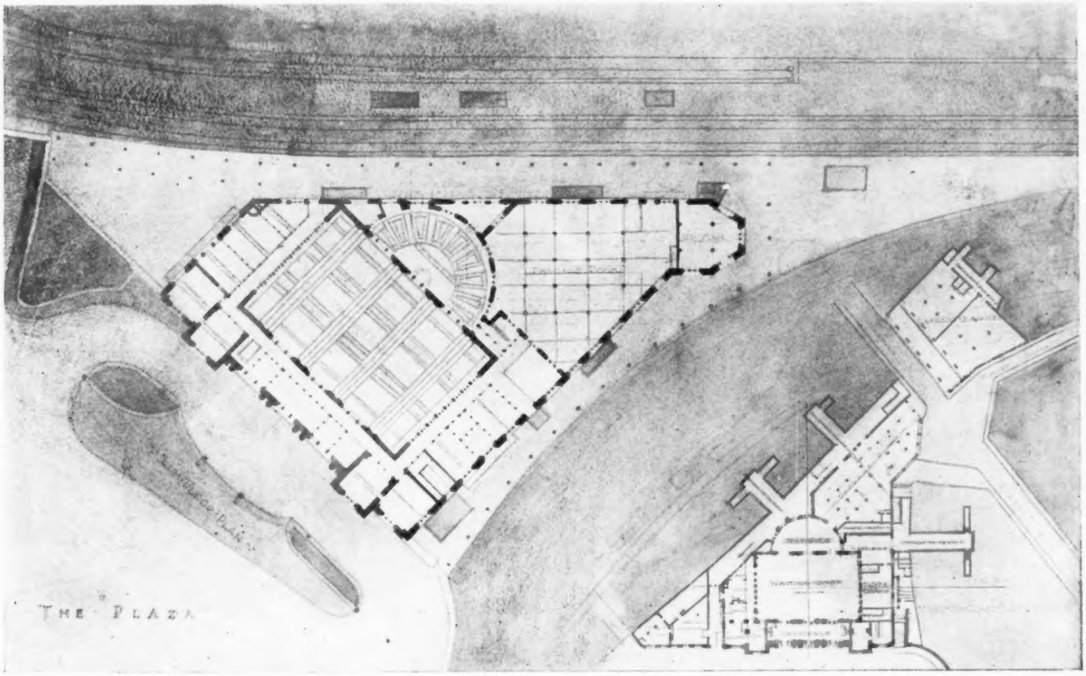
THE UNION STATION, WORCESTER, MASS.

MESSRS. WATSON & HUCKEL, ARCHITECTS

THIS station, which has been under construction for the past two years, is now in operation. Aside from its successful architectural treatment certain traffic problems of more than ordinary difficulty were presented to the architects for solution, and the result has been so satisfactory as to win commendation from practical men engaged in railroad operation and superintendence.

The accompanying ground plan shows the trackage of the two railways using this station and the general lay-out of the station building. To understand clearly the method of entrance and exit for passengers it should be borne in mind that these lines of track are located one story above the ground floor of the station and not on the ground level.

This arrangement necessitated the subways shown and controlled the general plan of the main floor. In its design the architecture of the French Renaissance has been generally followed. The materials employed are brick and granite with marble and terra-cotta introduced as indicated in the illustrations. The foundation walls are of concrete and granite, the latter rising above grade to the first floor line.



The interior is practically fireproof throughout. The floors are of reinforced concrete with hollow tile partition walls.

The floors of the vestibules, main waiting room and entrances are finished with Terrazzo with red brick borders.

The second floor of this station is devoted entirely to railroad offices. No public rooms are found above the street level.

The basement, aside from the kitchen, is given up to storage purposes.

RECENT LEGAL DECISIONS

SUBSTANTIAL ADHERENCE TO ESTIMATED COST IN PREPARING PLANS

An architect brought suit for certain plans and specifications which he alleged that he prepared at the request of the owner of a house for alterations thereon. The plaintiff claimed that nothing was said about what the contemplated alterations should cost until after the plans and specifications were completed. He did not claim that any definite sum had been agreed on as compensation for the plans and specifications, but insisted that he was entitled to recover a fair and reasonable sum as compensation for the work and labor performed and materials furnished in their preparation.

The defense was that it was understood between the parties that the defendant would not be expected to pay for the plans and specifications unless they were accepted. In explanation of this agreement the defendant contended that he informed the plaintiff, before he began his work, that the alterations covered by the plans should not exceed a certain sum. The plans were not used in any way.

The court charged the jury that although the plans were rejected the plaintiff could recover, if the plans substantially conformed to the defendant's directions; but if the plaintiff was employed to furnish plans for alterations not to exceed a certain cost he could not recover for preparing plans for alterations which would have substantially exceeded that sum, or for any such work done after receiving notice to limit the cost of the alterations. The jury gave a verdict for the plaintiff.

Brinckle *v.* England, Delaware Superior Court, 78 Atl. 638. (J. S.)

PROVISION THAT ARCHITECTS' CERTIFICATES SHALL NOT BE CONCLUSIVE EVIDENCE OF PERFORMANCE

When a building contract provides that the architects' certificate shall be conclusive, such a provision must prevail, unless the certificate be attacked on the ground of fraud, misconduct, or palpable mistake, and in an action for payment these grounds of attack cannot be heard unless such defense has been affirmatively pleaded in the answer. The reason is, that under such circumstances, the contract makes the architect an arbitrator, and his determination can be attacked only in the same manner as that of any other arbitrator. Even where the contract does not expressly provide that the final certificate should be conclusive between the parties it has been held that it would be conclusive where such intention could be spelled out of the contract.

Wyckoff *v.* Meyers, 44 N. Y. 143.

It would probably require, however, plain language in the contract showing such intention to make the certificate final.

Mercantile Trust Co. *v.* Hensey, 205 U. S. 298.

On the other hand, where a contract expressly provided that no certificate given thereunder except the final certificate should be conclusive evidence of performance, it was held that no such affirmative defense of fraud is necessary to such attack as to certificates other than the final one. In such a case evidence of the contractor's non-performance was held admissible, notwithstanding the issuance of the certificate. Such issuance furnished only prima facie evidence of performance in support of an allegation in the complaint that the work was performed.

Farrell *v.* Levy, N. Y. Supreme Court, Appellate Division, 124 N. Y. Supp. 439. (J.S.)

ACTION FOR ARCHITECT'S SERVICES—MODE OF PROOF OF ALLEGED PAYMENT

An architect sued for services by an action where his case would be made on proving employment, the services rendered and their value. The defendant pleaded payment and accord and satisfaction. The plaintiff sought an examination of the defendant before trial regarding these, as affirmative defenses. It was held that he was not entitled to this, as what he evidently desired was, not evidence to sustain his cause of action, but merely to know in advance how the defendant intended to prove payment.

Tuthill *v.* Schinasi, New York Appellate Division, 126 N. Y. Supp. 409. (J. S.)

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VOL. C, NO. 1855 JULY 12, 1911

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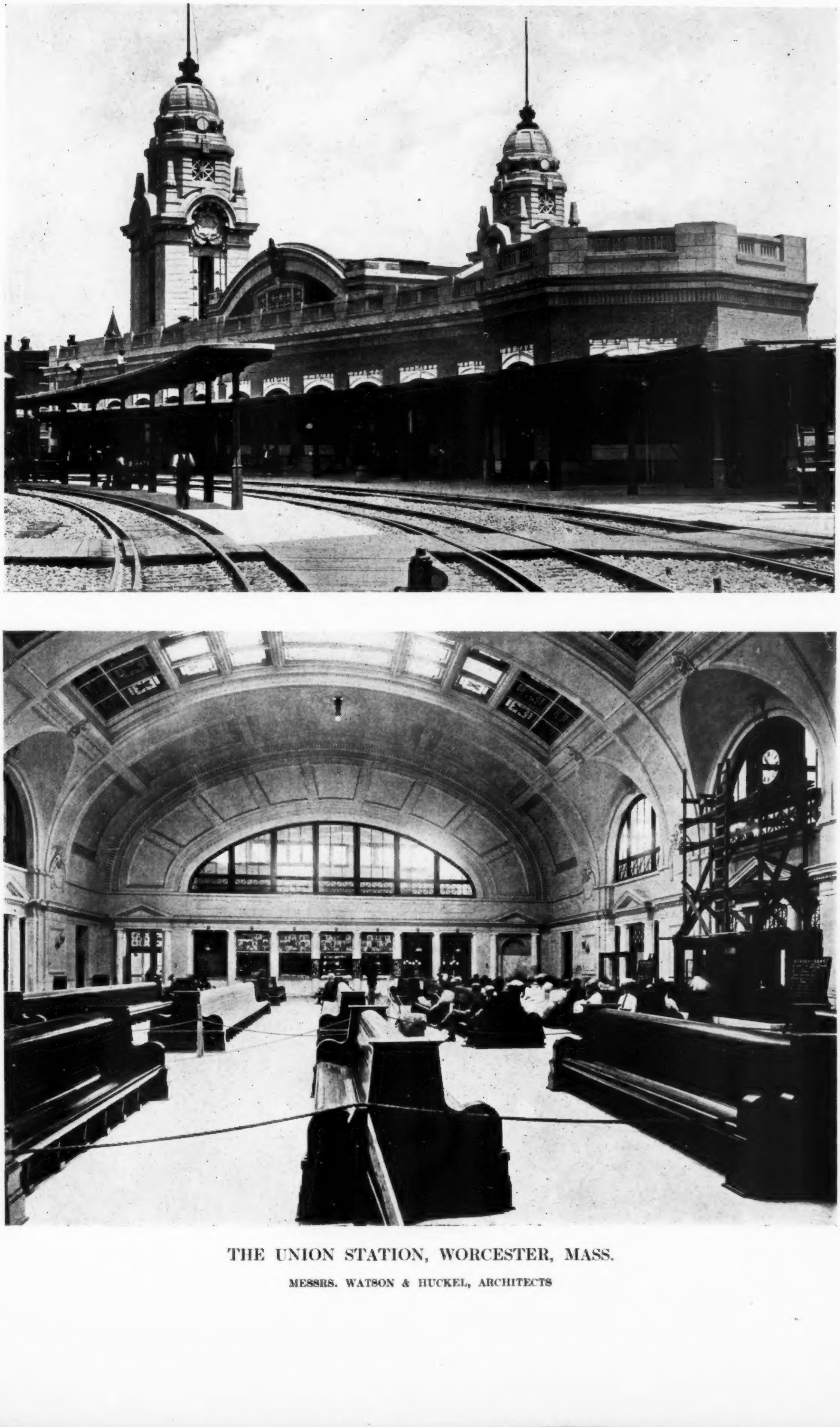

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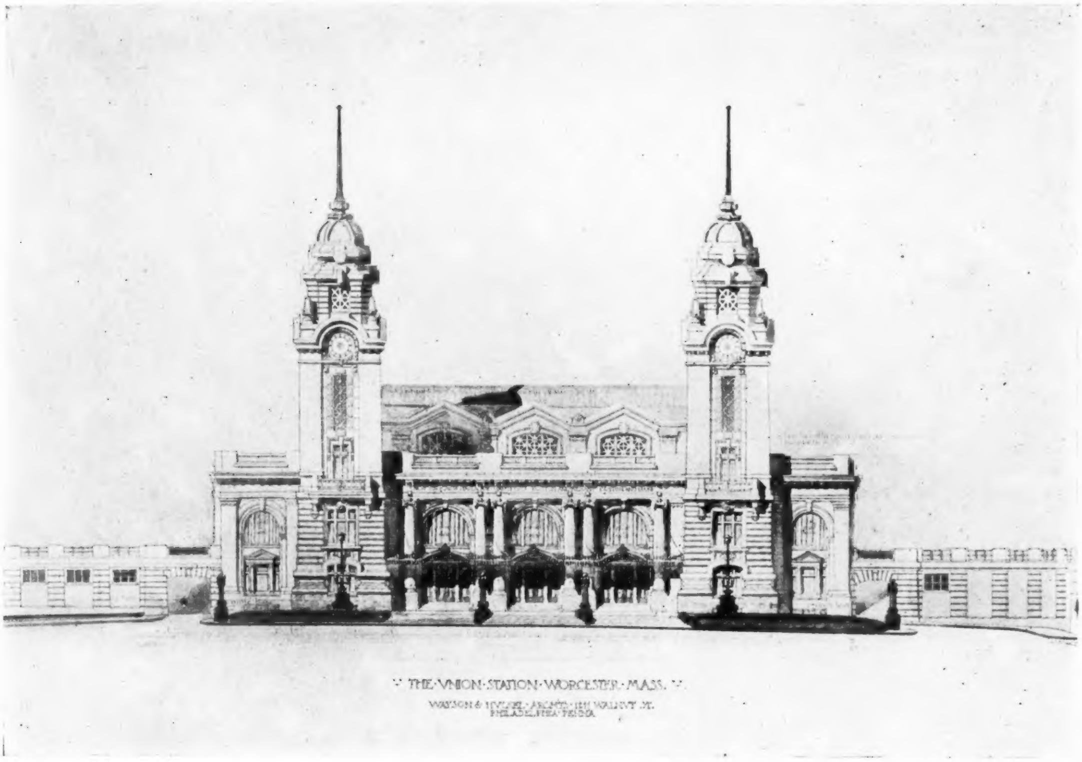

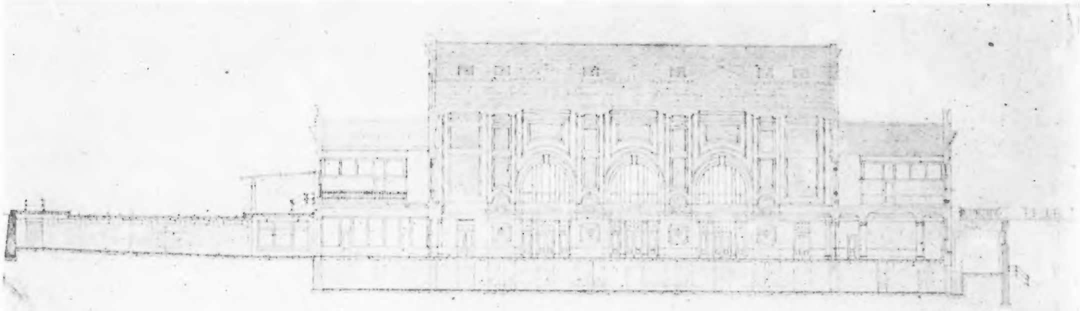

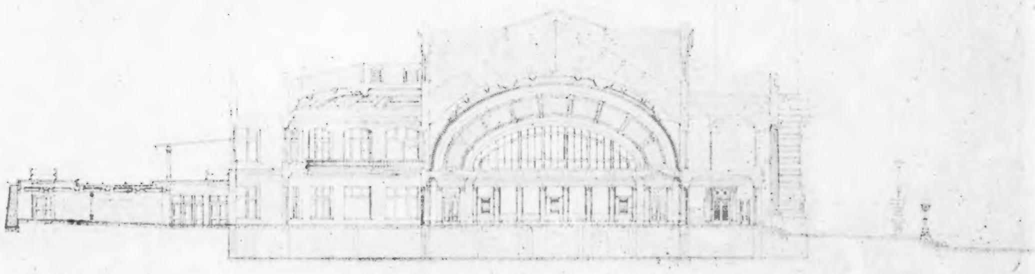

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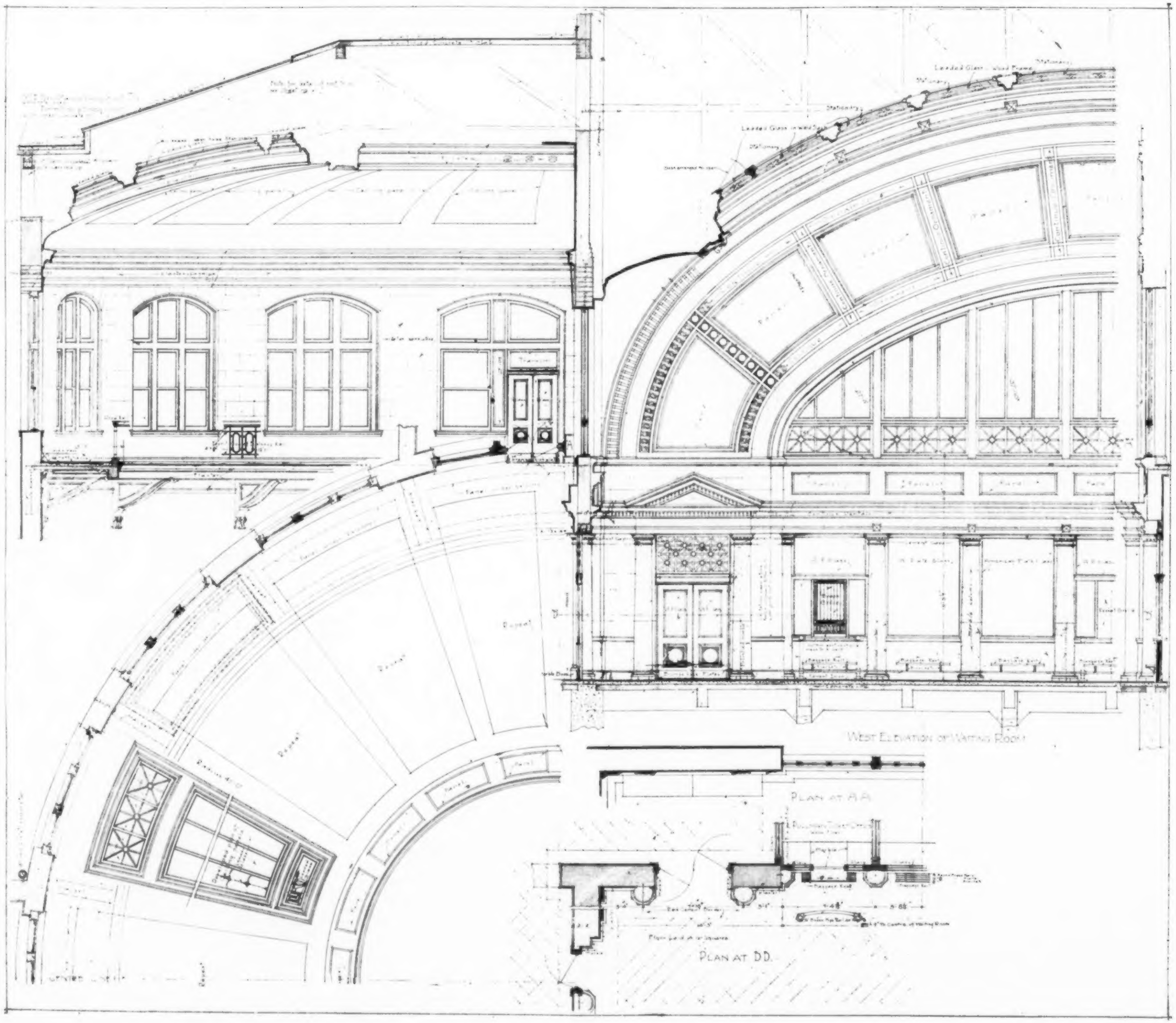

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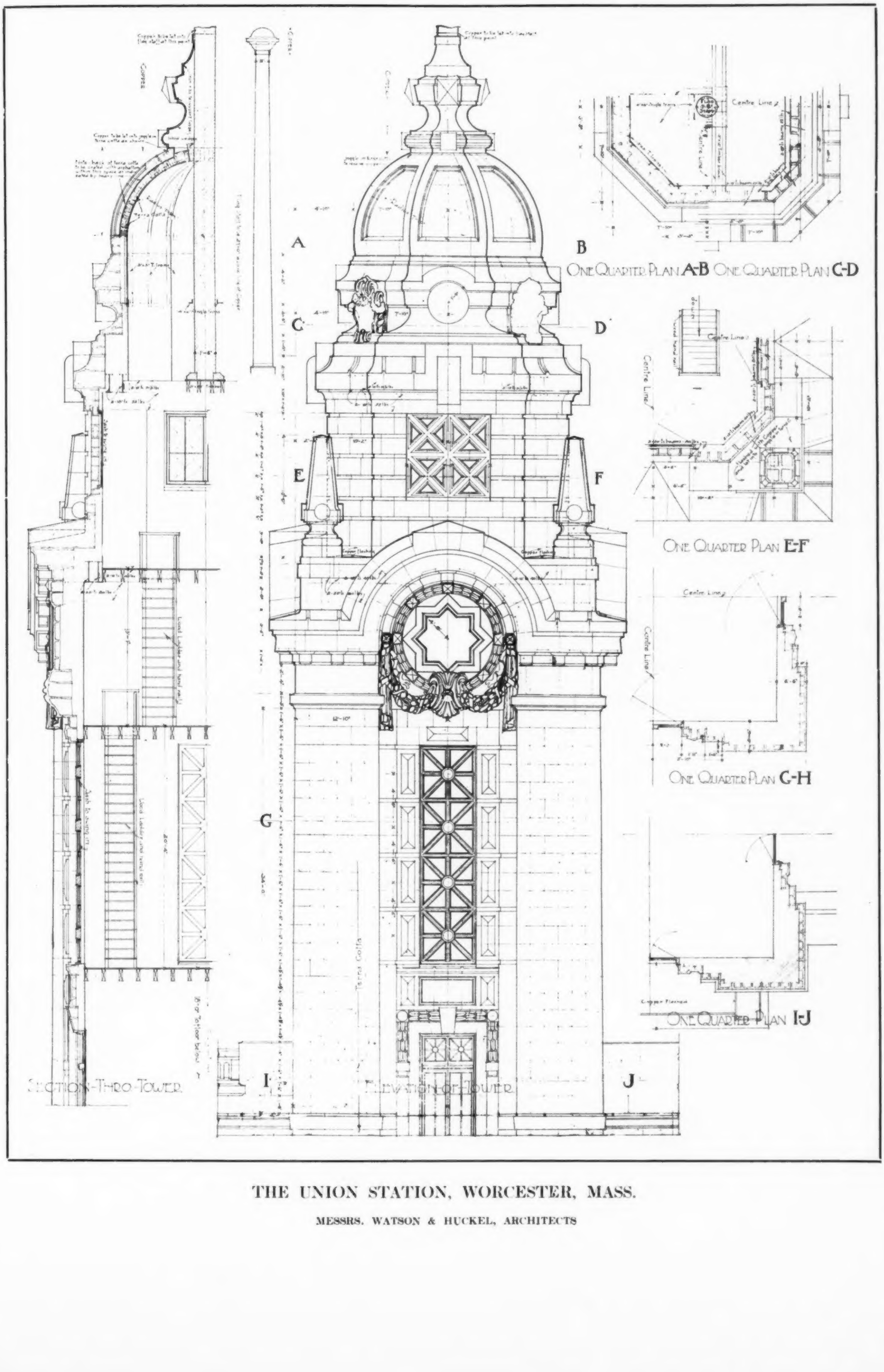

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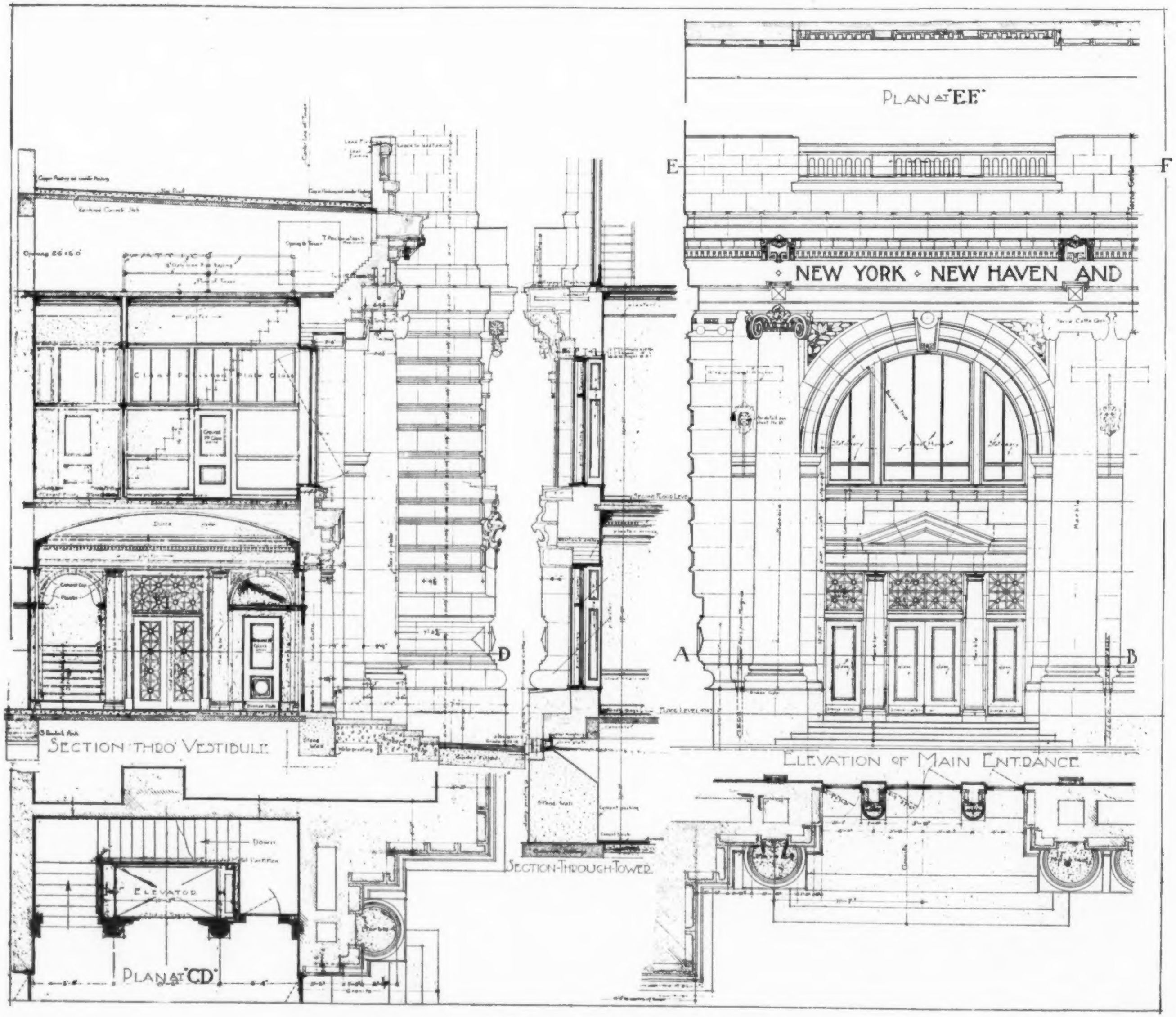

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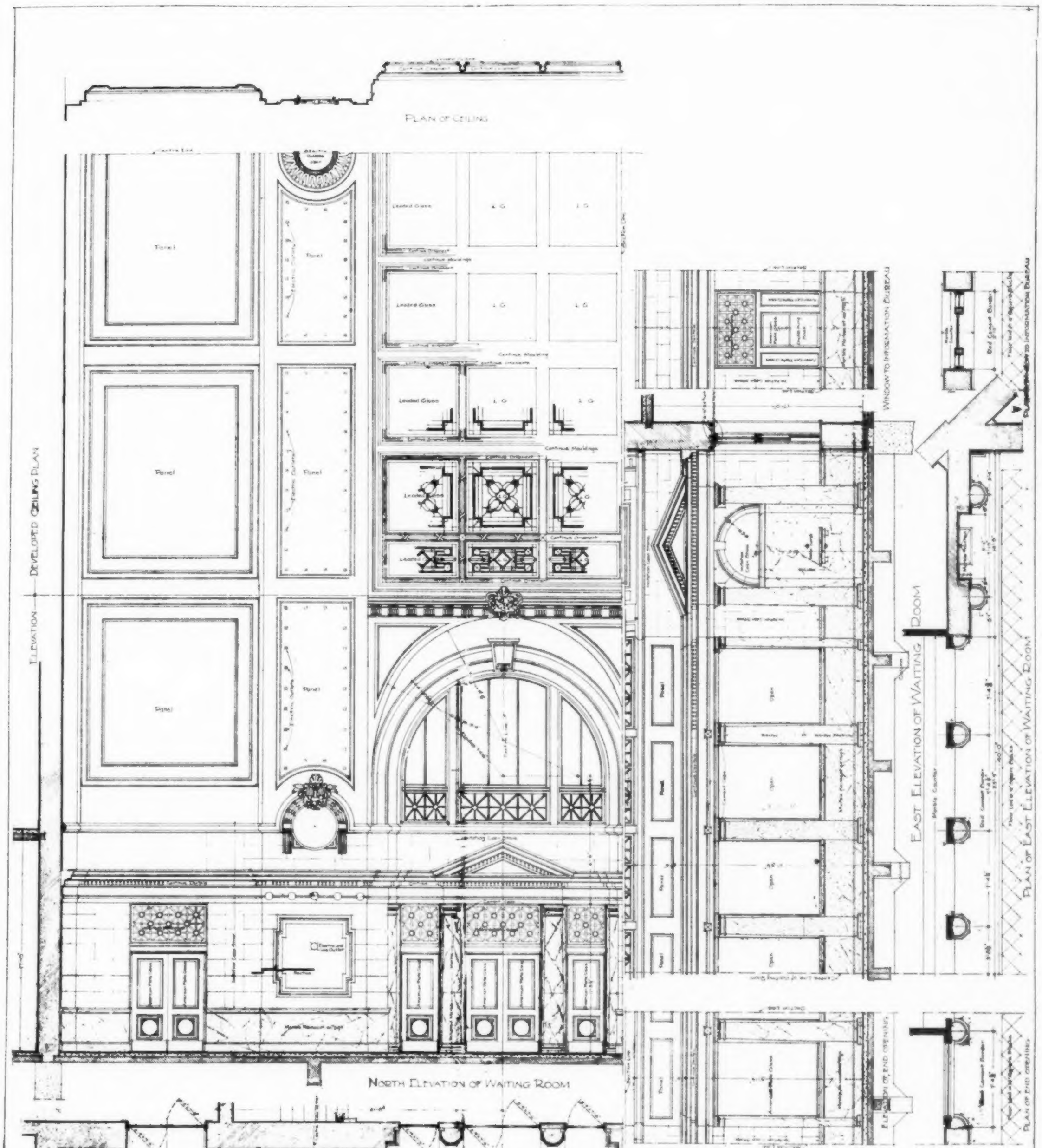

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