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Un organisme du gouvernement de l'Ontario

Ontario Heritage Trust heritage conservation easement property

Under Ontario Heritage Act section 10 (1) (c), the Trust may enter into agreements, covenants and easements with owners of real property or interests in real property for the conservation, protection and preservation of the heritage of Ontario. Under section 22 (1), any easement or covenant entered into by the Trust may be registered against the real property affected in the proper land registry office.

Conservation easements are voluntary legal agreements between heritage property owners and the Ontario Heritage Trust that protect significant features of a property. The terms of the easement are registered on the property title and apply to the easement donor and all future owners of the property. Easements allow the Trust to protect a heritage site without owning it. They also offer conservation-minded Ontarians an opportunity to permanently protect the heritage value of their property while continuing to enjoy it.

This document was retrieved from the Ontario Heritage Act Register, which is accessible through the website of the Ontario Heritage Trust at **www.heritagetrust.on.ca**.

Bien faisant l'objet d'une servitude de conservation du patrimoine par la Fiducie du patrimoine ontarien

En vertu de l'alinéa 10(1)c) de la *Loi sur le patrimoine de l'Ontario*, la Fiducie peut conclure des ententes et des engagements avec les propriétaires de biens immeubles ou les titulaires des droits qui s'y rattachent, et constituer des servitudes avec eux, en vue de la conservation, de la protection et de la préservation du patrimoine de l'Ontario. En vertu du paragraphe 22(1), les servitudes constituées ou les engagements conclus par la Fiducie peuvent être enregistrés sur les biens immeubles visés au bureau d'enregistrement immobilier approprié.

Les servitudes protectrices du patrimoine sont des ententes juridiques volontaires conclues entre les propriétaires de biens patrimoniaux et la Fiducie du patrimoine ontarien. Elles visent à protéger les caractéristiques importantes d'une propriété. Les conditions de la servitude sont enregistrées sur le titre de propriété et s'appliquent au donateur de même qu'à tous les propriétaires futurs. Les servitudes permettent à la Fiducie de protéger un site du patrimoine sans avoir à en devenir propriétaire. Elles offrent aussi l'occasion aux adeptes de la conservation en Ontario de protéger de façon permanente le caractère patrimonial de leurs propriétés, tout en pouvant continuer à en jouir.

Ce document est tiré du registre tenu aux fins de la *Loi sur le patrimoine de l'Ontario*, accessible à partir du site Web de la Fiducie du patrimoine ontarien au **www.heritagetrust.on.ca**.

THIS EASEMENT AGREEMENT made the 24th day
of June 1982.

BETWEEN

THE CORPORATION OF THE TOWN OF
CARLETON PLACE,

hereinafter called the "Owner"

OF THE FIRST PART;

and -

THE ONTARIO HERITAGE FOUNDATION,
a body corporate continued by
the Ontario Heritage Act,
R.S.O. 1980, c. 337,

hereinafter called the "Foundation"

OF THE SECOND PART.

WHEREAS the Owner is the owner of certain lands and
premises situated in the Town of Carleton Place in the County of Lanark and
Province of Ontario being composed of Lot 70, Section D, according to Registered
Plan No. 276 for the said Town (hereinafter called the "Property");

AND WHEREAS by section 7(c) of the Ontario Heritage Act,
R.S.O. 1980, c. 337, one of the objects of the Foundation is to support, encourage
and facilitate the conservation, protection and preservation of the heritage of
Ontario;

AND WHEREAS by section 10 (1) (b) of the Ontario Heritage
Act, the Foundation is entitled to enter into agreements, covenants and easements
with owners of real property, or interests therein, for the conservation, protection
and preservation of the heritage of Ontario;

AND WHEREAS by section 22 of the Ontario Heritage Act,
such covenants and easements entered into by the Foundation, when registered in

the proper land registry office against the real property affected by them, shall run with the real property and may, whether positive or negative in nature, be enforced by the Foundation or its assignee against the owner or any subsequent owners of the real property, even where the Foundation owns no other land which would be accommodated or benefitted by such covenants and easements;

AND WHEREAS the Owner and the Foundation desire to conserve the present historical, architectural, aesthetic and scenic character and condition of the exterior of the building on the Property together with the interior areas and fixtures described in Schedule "A" attached hereto (all of which are hereinafter called the "Heritage Elements");

AND WHEREAS to this end, the Owner and the Foundation desire to enter into this Easement Agreement (hereinafter called the "Agreement");

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the sum of TWO DOLLARS (\$2.00) of lawful money of Canada now paid by the Foundation to the Owner (the receipt of which is hereby acknowledged), and for other valuable consideration, and in further consideration of the granting of the easements herein and in further consideration of the mutual covenants and restrictions hereinafter set forth, the Owner and the Foundation agree to abide by the following covenants, easements and restrictions which shall run with the Property forever.

1.0 Duties Of Owner

1.1 Normal Repairs And Alterations

The Owner shall not, except as hereinafter set forth, without the prior written approval of the Foundation, undertake or permit any demolition, construction, alteration, remodelling, or any other thing or act which would materially affect the appearance or construction of the Heritage Elements, as depicted in the copies of the photographs, drawings and other documents

attached hereto and incorporated herein as Schedule "B", and in the originals or facsimiles thereof which are filed in, and may be examined at, the Archives of Ontario, wherever they may be from time to time located. The approval required to be obtained from the Foundation herein shall be deemed to have been given upon the failure of the Foundation to respond in writing to a written request for it within sixty (60) days of receiving such request at its address as set out in paragraph 7.1 of this Agreement. If the approval of the Foundation is given or deemed to be given under this paragraph, the Owner, in undertaking or permitting the construction, alteration, remodelling, or other thing or act so approved of or deemed to be approved of, shall use materials specified by the Foundation. The Owner shall be permitted, without the prior written approval of the Foundation, to undertake or permit the repair or refinishing of presently existing parts or elements of the Heritage Elements, damage to which has resulted from casualty, loss, deterioration, or wear and tear, provided that such repair or refinishing may not be performed in a manner which would materially affect the construction or appearance of the Heritage Elements, as depicted in the copies of photographs, drawings and other documents constituting Schedule "B" to this Agreement and in the originals or facsimiles thereof filed in the Archives of Ontario.

1.2 Insurance

The Owner shall at all times during the currency of this Agreement keep the building insured against normal perils that are coverable by fire and extended coverage insurance in an amount equal to the replacement cost of the building. The Owner shall have a form as set out in Schedule "C" attached hereto completed and certified by its insurance company and delivered to the Foundation within three (3) weeks of the execution of this Agreement, and thereafter evidence satisfactory to the Foundation of the renewal of insurance shall be delivered to the Foundation at least three (3) clear days before the termination thereof. If the Owner fails to so insure the building, or if any such insurance on the building is cancelled, the Foundation may effect such insurance as the Foundation reasonably deems necessary and any sum paid in so doing shall forthwith be paid by the Owner to the Foundation, or if not, shall be a debt due and owing forthwith to the Foundation and recoverable from the Owner by action in a

court of law. All proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies on the building shall, on the written demand and in accordance with the requirements of the Foundation, be applied to replacement, rebuilding, restoration or repair of the building to the fullest extent possible having regard to the particular nature of the building, the cost of such work and any existing or subsequent mortgages registered against the title to the Property. The Owner's financial liability to replace, rebuild, restore or repair the building if it has been damaged or destroyed shall not exceed the proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies. In the event that the building is damaged or destroyed and the proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies are insufficient to effect a partial or complete restoration of the Heritage Elements, the Foundation shall have the privilege, but not the obligation, of contributing additional monies towards the replacement, rebuilding, restoration, or repair costs in order to effect a partial or complete restoration of the Heritage Elements, provided that the Foundation shall notify the Owner of the Foundation's intention to do so within forty (40) days after receiving from the Owner (a) the written request for permission to demolish referred to in paragraph 1.5, or (b) all plans and specifications for the replacement, rebuilding, restoration or repair of the Heritage Elements, as the case may be.

1.3 Rights Of Mortgagees

The Owner's obligations to apply all proceeds receivable under any fire and extended coverage insurance policy or policies on the building to replace, rebuild, restore or repair the building shall be subject to the rights of any mortgagees of the Property.

1.4 Assignment Of Interests Of Mortgagees

In the event that any mortgagee refuses to release to the Owner any monies payable under any fire and extended coverage insurance policy or policies after the building has been damaged or destroyed, thereby preventing the Owner from fulfilling its obligation to replace, rebuild, restore or repair the building with the proceeds receivable under any fire and extended coverage

insurance policy or policies, the Owner shall use its best efforts, if so requested by the Foundation, to make whatever arrangements are necessary to allow the Foundation to take an assignment of such mortgagee's interests in the Property, thereby effectively assuring that the proceeds of insurance under any fire and extended coverage insurance policy or policies are made available to the Owner so that such proceeds may be applied by the Owner to replace, rebuild, restore or repair the building pursuant to the provisions of paragraphs 1.2, 1.6 and 1.7.

1.5 Demolition

The Owner shall notify the Foundation of any damage or destruction to the building within ten (10) clear days of such damage or destruction occurring. In the event that the building is damaged or destroyed and the replacement, rebuilding, restoration or repair of it is impractical because of the financial costs involved, or because of the particular nature of the building, or because a mortgagee has refused to release to the Owner any insurance monies payable under any fire and extended coverage insurance policy or policies and the Foundation has been unable to secure an assignment of a mortgage from a mortgagee as described in paragraph 1.4, the Owner shall, in writing within forty (40) days of the giving by the Owner of notice of such damage or destruction, request written approval of the Foundation to demolish the building, and in the event of receiving the approval in writing of the Foundation, be entitled to retain any proceeds from the insurance hereinbefore mentioned and to demolish the building. Such approval shall be deemed to have been received upon failure of the Foundation to respond in writing to a written request for it within forty (40) days of the receipt thereof.

1.6 Reconstruction By Owner

If the Foundation does not give the approval referred to in paragraph 1.5, or if the Owner has not requested the approval referred to in paragraph 1.5, the Owner shall replace, rebuild, restore or repair the building to the limit of any proceeds receivable under any fire and extended coverage insurance policy or policies on the building and of any additional monies contributed by the Foundation towards the replacement, rebuilding, restoration or repair of the

Heritage Elements under the provisions of paragraph 1.2 to effect a partial or complete restoration of the building. Before the commencement of such work, the Owner shall submit all plans and specifications for the replacement, rebuilding, restoration or repair of the Heritage Elements to the Foundation for its written approval within one hundred and thirty-five (135) days of the damage or destruction occurring to the building. A refusal by the Foundation to approve any plans and specifications may be based upon choice of materials, unattractive appearance, nonconforming architectural style, or any other ground or grounds, including but not limited to purely aesthetic grounds, and the determination of the Foundation shall be final. The Owner shall not commence or cause restorative work to be commenced on the Heritage Elements before receiving the written approval of the Foundation of the plans and specifications for it, and such restorative work shall be performed upon such terms and conditions as the Foundation may stipulate. Such approval shall be deemed to have been received upon failure of the Foundation to respond in writing to a written request for it within thirty (30) days of the receipt of such request by the Foundation. The Owner shall cause all replacement, rebuilding, restoration and repair work on the Heritage Elements to be commenced within thirty (30) days of the approval by the Foundation of the plans and specifications for it and to be completed within nine (9) months of commencement, or as soon as possible thereafter if factors beyond its control prevent completion within the said nine (9) months, and the Owner shall cause all such work to conform to the plans and specifications approved of and terms and conditions stipulated by the Foundation.

1.7

Reconstruction By Foundation

In the event that the request to demolish the building is not submitted or is refused pursuant to the provisions of paragraph 1.5 and the Owner fails to submit plans and specifications for the replacement, rebuilding, restoration or repair of the Heritage Elements pursuant to paragraph 1.6 which are acceptable to the Foundation within one hundred and thirty-five (135) days of the damage or destruction occurring to the building, the Foundation may prepare its own set of acceptable plans and specifications for the Heritage Elements. The Owner shall have thirty (30) days from receiving a copy of such plans and specifications to

notify the Foundation in writing that it intends to replace, rebuild, restore or repair the Heritage Elements in accordance with those plans and specifications. If the Owner does not so notify the Foundation within the said thirty (30) days, the Foundation may prepare its own set of acceptable plans and specifications for the building and may proceed with replacing, rebuilding, restoring or repairing the building up to the value of any insurance proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies and of any additional amount that the Foundation is prepared to contribute to effect a partial or complete restoration of the Heritage Elements. The Owner shall reimburse the Foundation for any expenses incurred by the Foundation thereby to an amount not to exceed any insurance proceeds receivable by the Owner under any fire and extended coverage insurance policy or policies.

In the event that the Foundation does not submit its own acceptable plans and specifications or does not proceed with replacing, rebuilding, restoring or repairing the building within sixty (60) days after it becomes so entitled, unless it is prevented from so doing by the action or omission of the Owner or any tenant or agent of the Owner, or by any other factors beyond its control the Foundation's rights under this paragraph shall automatically terminate and the Owner shall be entitled to retain the proceeds receivable under any fire and extended coverage insurance policy or policies and to demolish the building.

1.8 Maintenance Of The Building

The Owner shall at all times maintain the building in as good and sound state of repair as a prudent owner would normally do so that no deterioration in the present condition and appearance of the Heritage Elements shall take place.

1.9 Signs, Structures, Etc.

The Owner shall not erect or permit the erection on the Property or on the building of any signs, permanent storms, screens or awnings, television aerials or other similar type objects without the prior written approval of the Foundation. Such approval may, in the sole discretion of the Foundation and for any reason which the Foundation considers necessary, be refused.

1.10 No Act Of Waste

The Owner shall not commit or permit any act of waste on the Property. In respect to the subject lands, the Owner shall not, except with the prior written approval of the Foundation,

- (a) grant any easement or right of way;
- (b) erect or remove or permit the erection or removal of any building, sign, fence, or other structure of any type whatsoever;
- (c) allow the dumping of soil, rubbish, ashes, garbage, waste or other unsightly, hazardous or offensive materials of any type or description;
- (d) except for the maintenance of existing improvements, allow any changes in the general appearance or topography of the lands, including and without limiting the generality of the foregoing, the construction of drainage ditches, transmission towers and lines, and other similar undertakings as well as the excavation, dredging or removal of loam, gravel, soil, rock, sand or other materials;
- (e) allow the removal, destruction or cutting of trees, shrubs or other vegetation except as may be necessary for (i) the prevention or treatment of disease, or (ii) other good husbandry practices;
- (f) allow the planting of trees, shrubs or other vegetation which would have the effect of (i) reducing the aesthetics of the building or the Property, or (ii) causing any damage to the building;
- (g) allow any activities, actions or uses detrimental or adverse to water conservation, erosion control and soil conservation.

1.11 Remedies Of Foundation

If the Foundation, in its sole discretion, is of the opinion that the Owner has neglected or refused to perform any of its obligations set out in

this Agreement, the Foundation may, in addition to any of its other legal or equitable remedies, serve on the Owner a notice setting out particulars of the breach and of the Foundation's estimated maximum costs of remedying the breach. The Owner shall have thirty (30) days from receipt of such notice to remedy the breach or make arrangements satisfactory to the Foundation for remedying the breach. If within those thirty (30) days the Owner has not remedied the breach or made arrangements satisfactory to the Foundation for remedying the breach, or if the Owner does not carry out the said arrangements within a reasonable period of time, of which the Foundation shall be the sole and final judge, the Foundation may enter upon the Property and may carry out the Owner's obligations and the Owner shall reimburse the Foundation for any expenses incurred thereby, up to the estimated maximum costs of remedying the breach set out in the aforesaid notice. Such expenses incurred by the Foundation shall, until paid to it by the Owner, be a debt owed by the Owner to the Foundation and recoverable by the Foundation by action in a court of law.

1.12 Waiver

The failure of the Foundation at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect its right thereafter to enforce such obligation, nor shall the waiver by the Foundation of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time.

1.13 Extension Of Time

Time shall be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of both the Owner and the Foundation, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.

2.0 Use of Property

2.1 The Owner expressly reserves for itself, its representatives, successors and assigns the right to use the Property for all purposes not inconsistent with this Agreement.

3.0 Inspection Of The Property

3.1 Inspection By Foundation At All Reasonable Times

The Foundation or its representatives shall be permitted at all reasonable times to enter upon and inspect the Property and the building upon prior written notice to the Owner of at least twenty-four (24) hours.

4.0 Notice Of Easement

4.1 Plaque

The Owner agrees to allow the Foundation to erect a plaque on the building, in a tasteful manner and at the Foundation's expense, indicating that the Foundation holds a conservation easement on the Property.

4.2 Publicity

The Owner agrees to allow the Foundation to publicize the existence of the easement.

5.0 Severability Of Covenants

5.1 Proper Covenants Not To Terminate

The Owner and the Foundation agree that all covenants, easements and restrictions contained in this Agreement shall be severable, and that should any covenant, easement or restriction in this Agreement be declared invalid or unenforceable, the remaining covenants, easements and restrictions shall not terminate thereby.

6.0 Dissolution Of Foundation

6.1 Transfer Of Foundation's Interests

In the event of the winding up or dissolution of the Foundation, all of the Foundation's interests herein shall be automatically assigned and transferred to Her Majesty the Queen in Right of Ontario or to any other entity specified by statute.

7.0 Notice

7.1 Addresses Of Parties

Any requests for approval required under this Agreement and the Foundation's replies to such requests shall be delivered to the parties at their respective addresses by prepaid ordinary mail. The respective addresses of the parties for such purposes presently are as follows:

THE OWNER

The Corporation of the Town of Carleton Place,
Town Hall,
175 Bridge Street,
Carleton Place, Ontario
K7C 2V8

Attention: Town Clerk

THE FOUNDATION

The Ontario Heritage Foundation,
Parliament Buildings,
Queen's Park,
Toronto, Ontario.
M7A 2R9

The parties agree to notify each other immediately, in writing, of any changes of address from those set out above.

7.2 Service By Mail Except Where Postal Service Interrupted.

Except in the event of an interruption in the postal service, any notices to be given under this Agreement shall be delivered in person or sent by pre-paid registered mail addressed to the parties at their respective addresses as

set out in paragraph 7.1. In the event that a notice is delivered in person, the party receiving the notice shall forthwith indicate receipt of the notice by signing a form of acknowledgement of receipt, and in that event, the notice shall be deemed to have been received on the date on which the form of acknowledgement of receipt was signed. In the event that a party refuses to sign an acknowledgement of receipt of the notice, the person delivering the notice may swear an affidavit of service, and the notice shall be presumed to have been received on the date of service as set out in such affidavit. In the event that a notice is sent by pre-paid registered mail, it shall be deemed to have been received on the second clear day following the day on which the notice was sent.

7.3 Service Where Postal Service Interrupted

In the event of any interruption in the postal service, notice may be given to either party at its respective address as set out in paragraph 7.1, either in person or by special courier. The party receiving the notice shall indicate the receipt of it by signing a form of acknowledgement of receipt, and the notice shall be deemed to have been received on the date on which the form of acknowledgement of receipt was signed. In the event that either party refuses to sign an acknowledgement of receipt of the notice, the person delivering the notice may swear an affidavit of service, and the notice shall be presumed to have been received on the date of service as set out in such affidavit.

8.0 Costs

8.1 In the event that a dispute arises between either of the parties hereto because of this Agreement, each party shall be responsible for its own legal fees, court costs and all other similar type expenses which may result from any such dispute.

9.0 Indemnification

9.1 Non-Liability of Foundation

The Owner shall hold the Foundation harmless against and from any and all liabilities, suits, actions, proceedings, claims, causes, damages,

judgments or costs whatsoever (including all costs of defending such claims) arising out of, incidental to, or in connection with any injury or damage to person or property of every nature and kind (including death resulting therefrom), occasioned by anything done pursuant to this Agreement by the Owner, save and except for any such liabilities and claims for or in respect of any act, deed, matter or thing made or done by the Foundation, its agents, servants or workmen pursuant to paragraphs 1.7 and 1.11.

10.0 Entirety

10.1 No Extraneous Agreements Between The Parties

This written Agreement embodies the entire agreement of the parties with regard to the matters dealt with herein, and no understandings or agreements, verbal, collateral or otherwise, exist between the parties except as herein expressly set out.

11.0 Subsequent Instruments

11.1 Subsequent Instruments To Contain These Provisions

Notice of these covenants, easements and restrictions shall be inserted by the Owner in any subsequent deed, lease or other legal instrument by which it transfers either the fee simple title to or its possessory interest in the whole or part of the Property or the building.

11.2 Notice To Foundation

The Owner shall immediately notify the Foundation in the event that it transfers the fee simple title to or its possessory interest in the whole or part of the Property or the building.

12.0 Headings

12.1 The headings in the body of this Agreement form no part of the Agreement but shall be deemed to be inserted for convenience of reference only.

13.0

Enurement

13.1

Covenants To Run With The Property

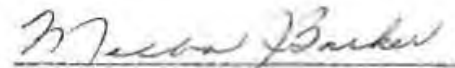
The covenants, easements and restrictions set out in this Agreement shall run with the Property and shall enure to the benefit of and be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals.

SIGNED, SEALED AND DELIVERED
in the presence of:

) THE CORPORATION OF THE
) TOWN OF CARLETON PLACE

) Per:

) 
) Mayor

) 
) Clerk

) THE ONTARIO HERITAGE
) FOUNDATION

) Per:

) 
) Chairman

) 
) Secretary

SCHEDULE "A"

For the purposes of this Agreement the interior areas and fixtures which are included in the "Heritage Elements" are as follows:

1. "L"-shaped main lobby;
2. Bridge Street vestibule;
3. Council chamber;
4. Stairways to second and balcony levels;
5. Second level stair hall;
6. Auditorium, including balcony and stage areas;
7. Light and heating fixtures of all of the above interior areas.

SCHEDULE "B"

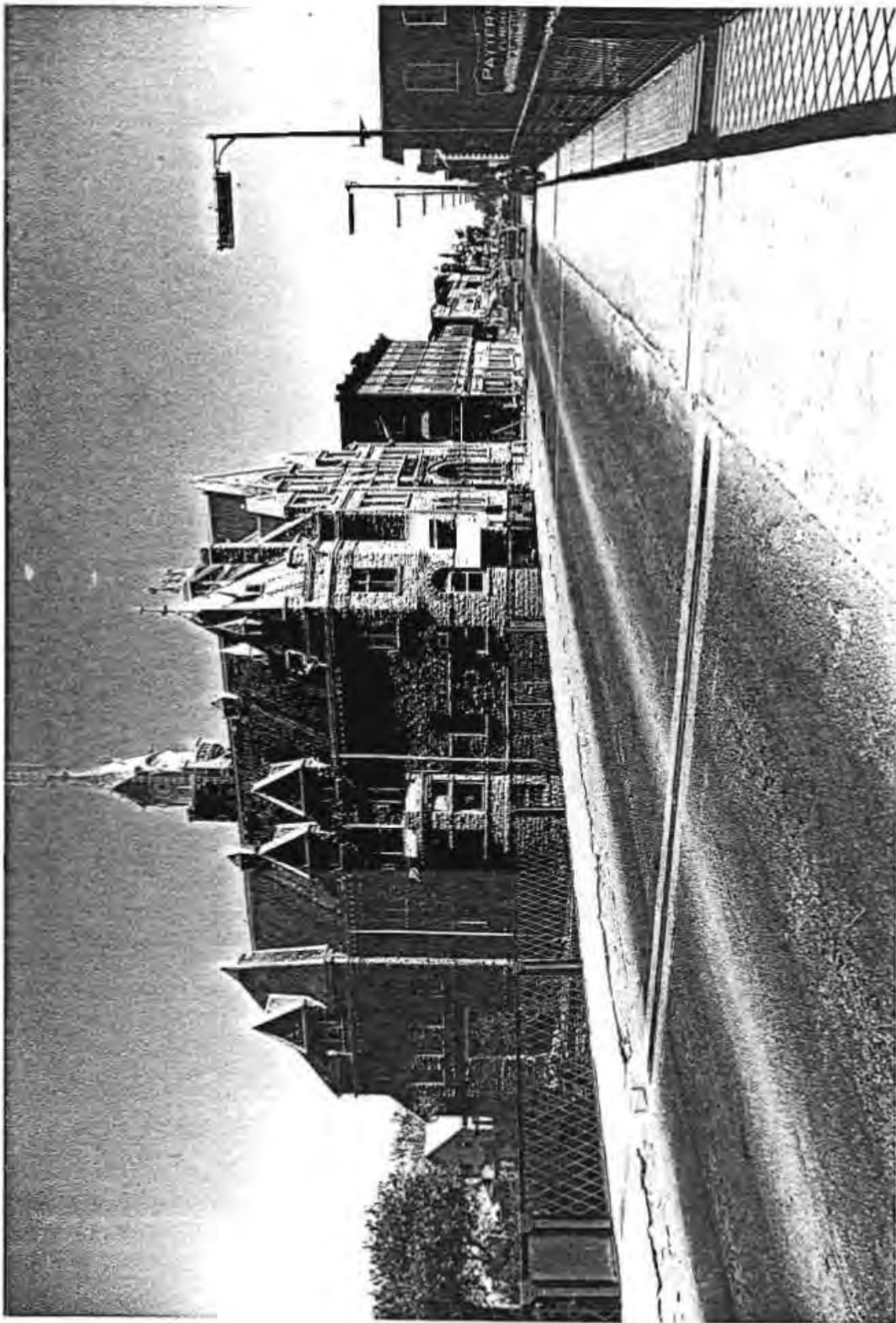
Photograph #1



Carleton Place Town Hall as seen from across
Mississippi River.

SCHEDULE "B"

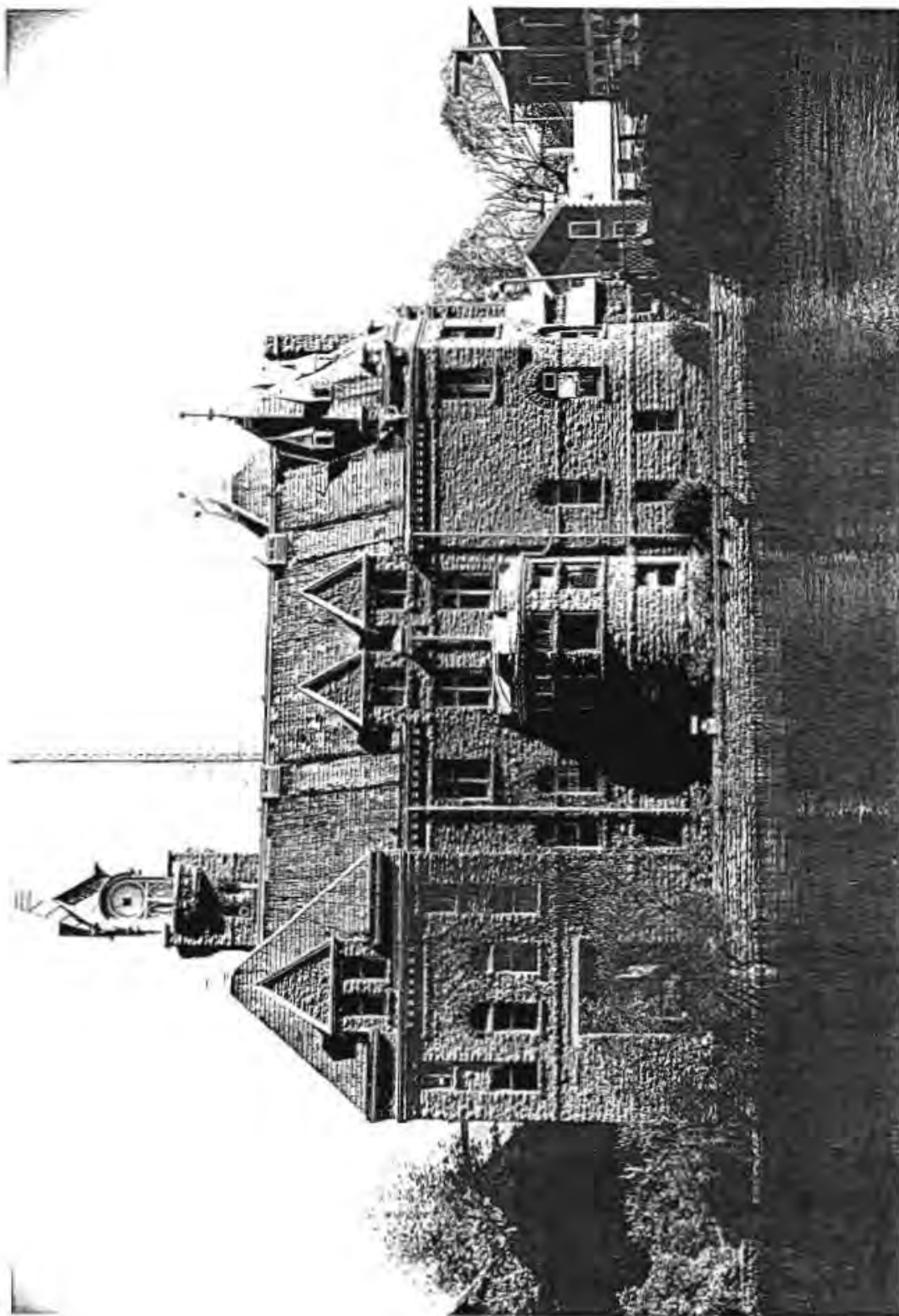
Photograph #2



Town Hall as seen from Bridge Street bridge.

SCHEDULE "B"

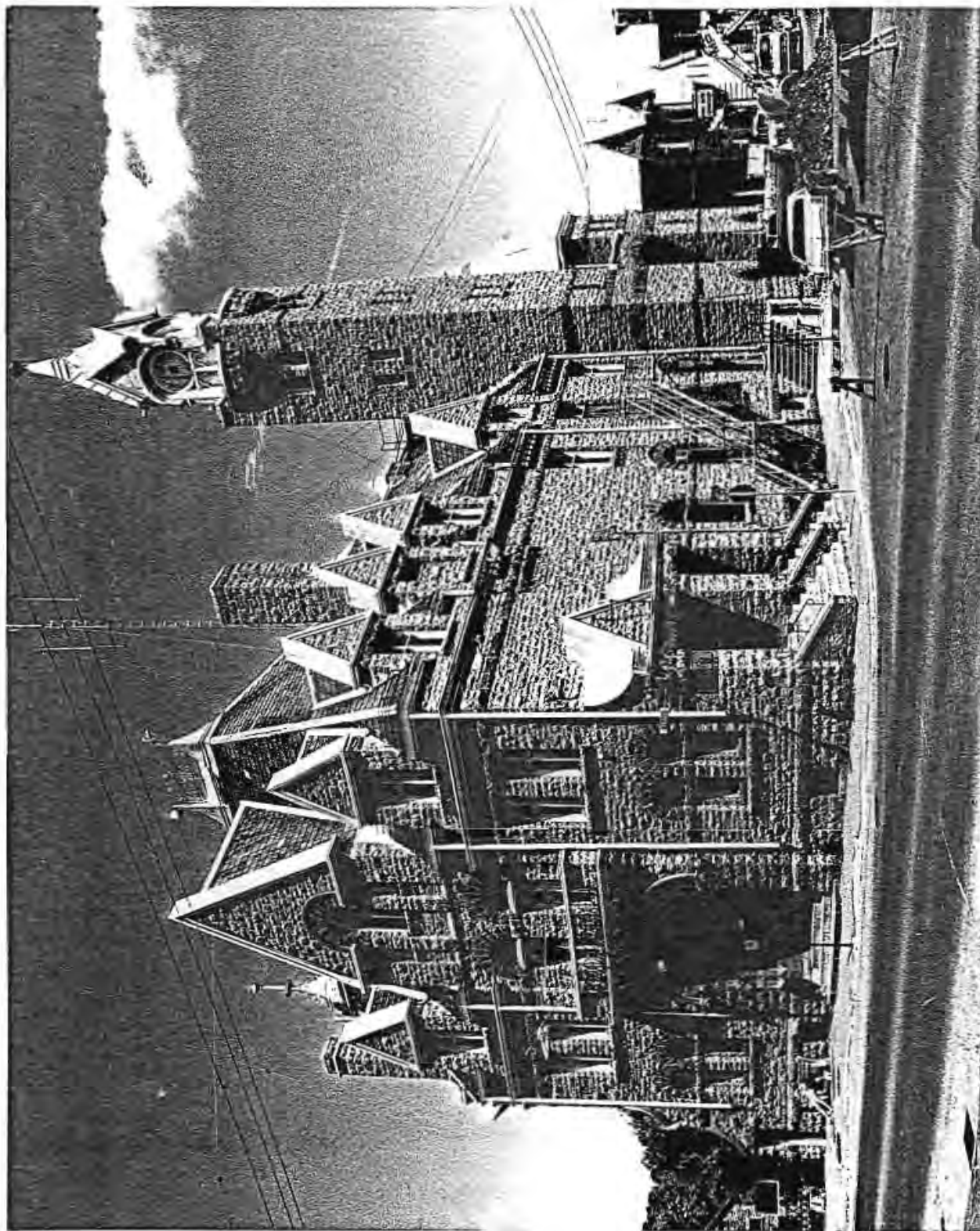
Photograph #3



River (west) facade.

SCHEDULE "B"

Photograph #4



South and east facades.

SCHEDULE "B"

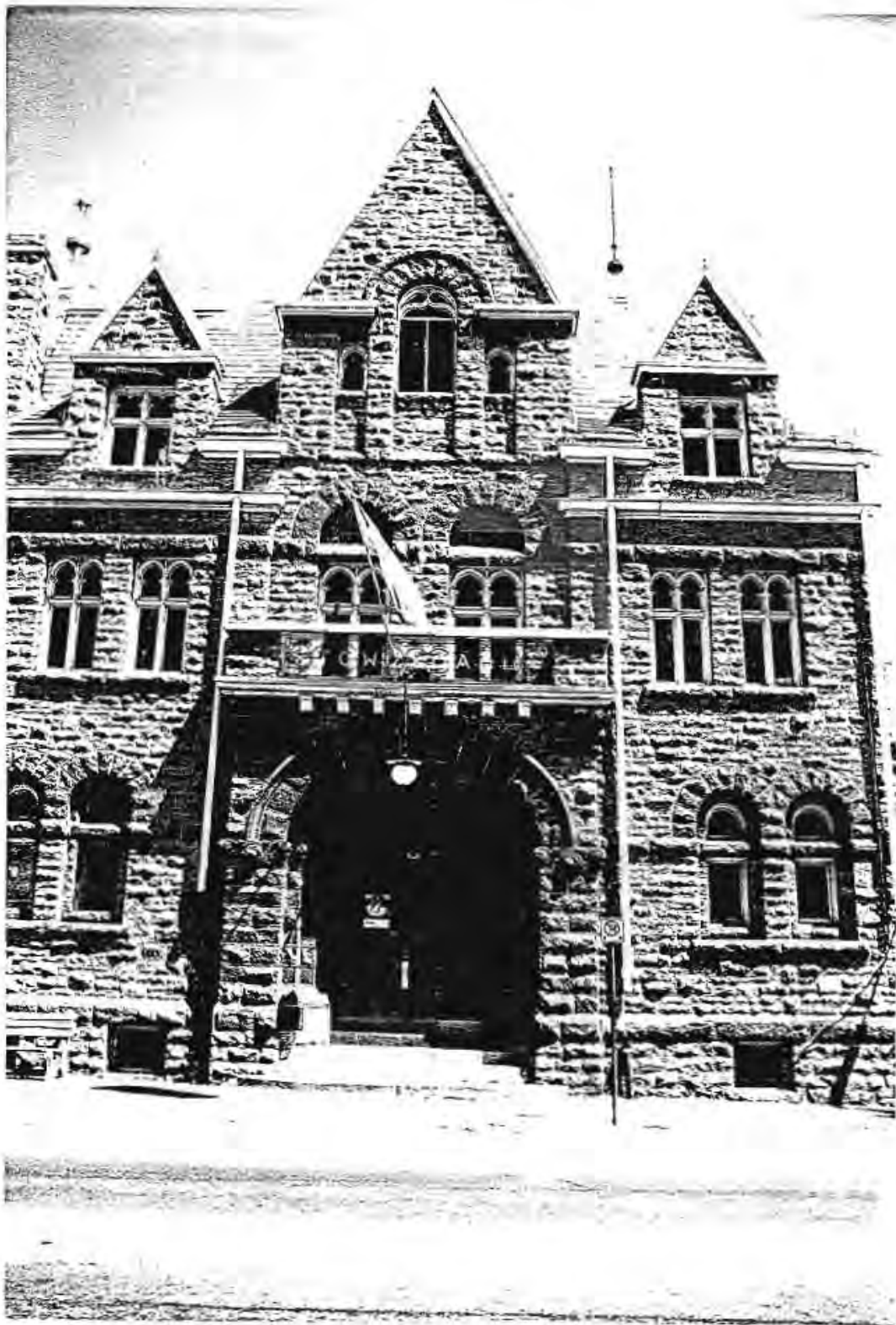
Photograph #5



Town Hall looking south along Mill Street to Bridge Street.

SCHEDULE "B"

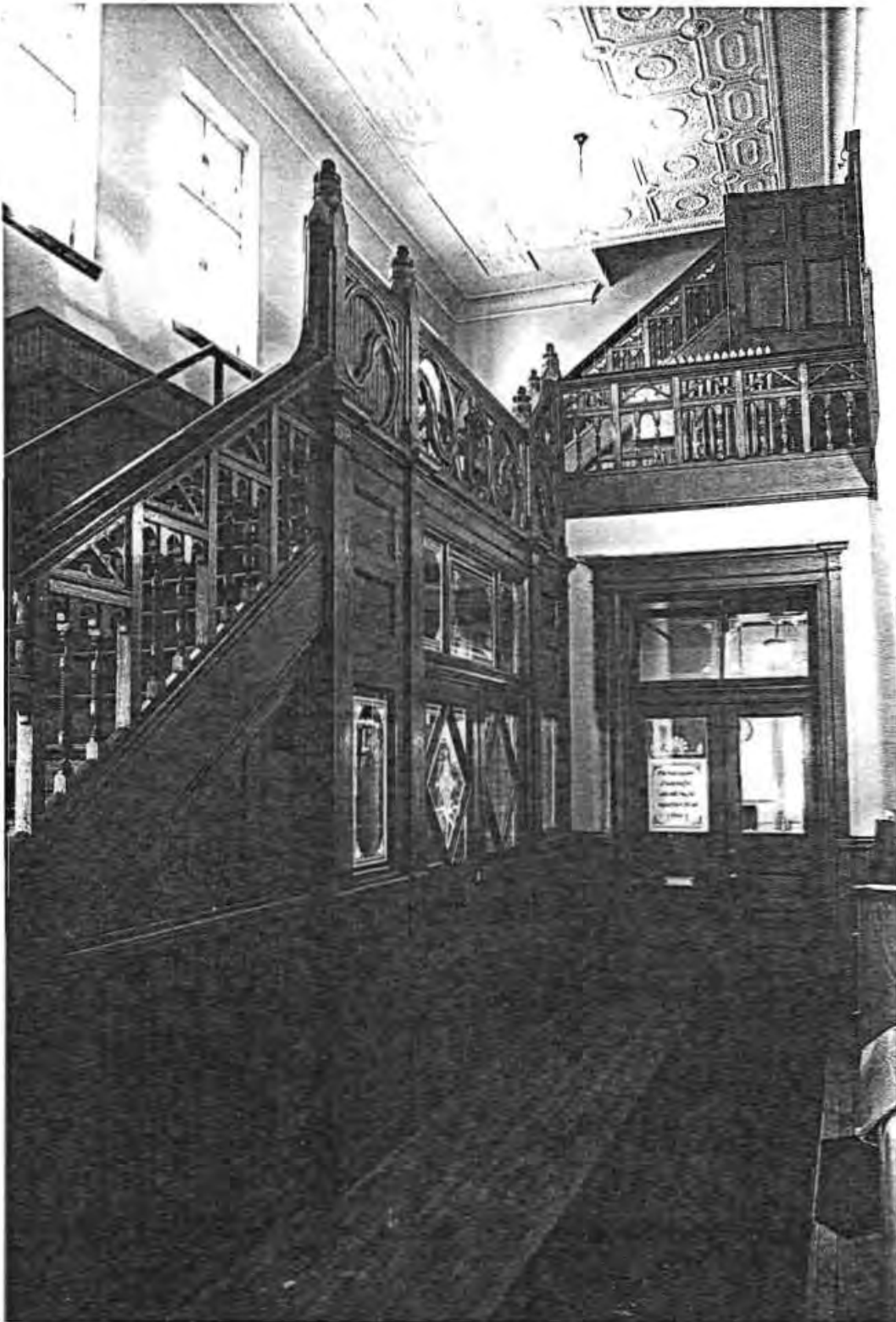
Photograph #6



Main (south) facade.

SCHEDULE "B"

Photograph #7



Partial view of 'L'-shaped main lobby showing stairways leading to upper floors.

SCHEDULE "B"

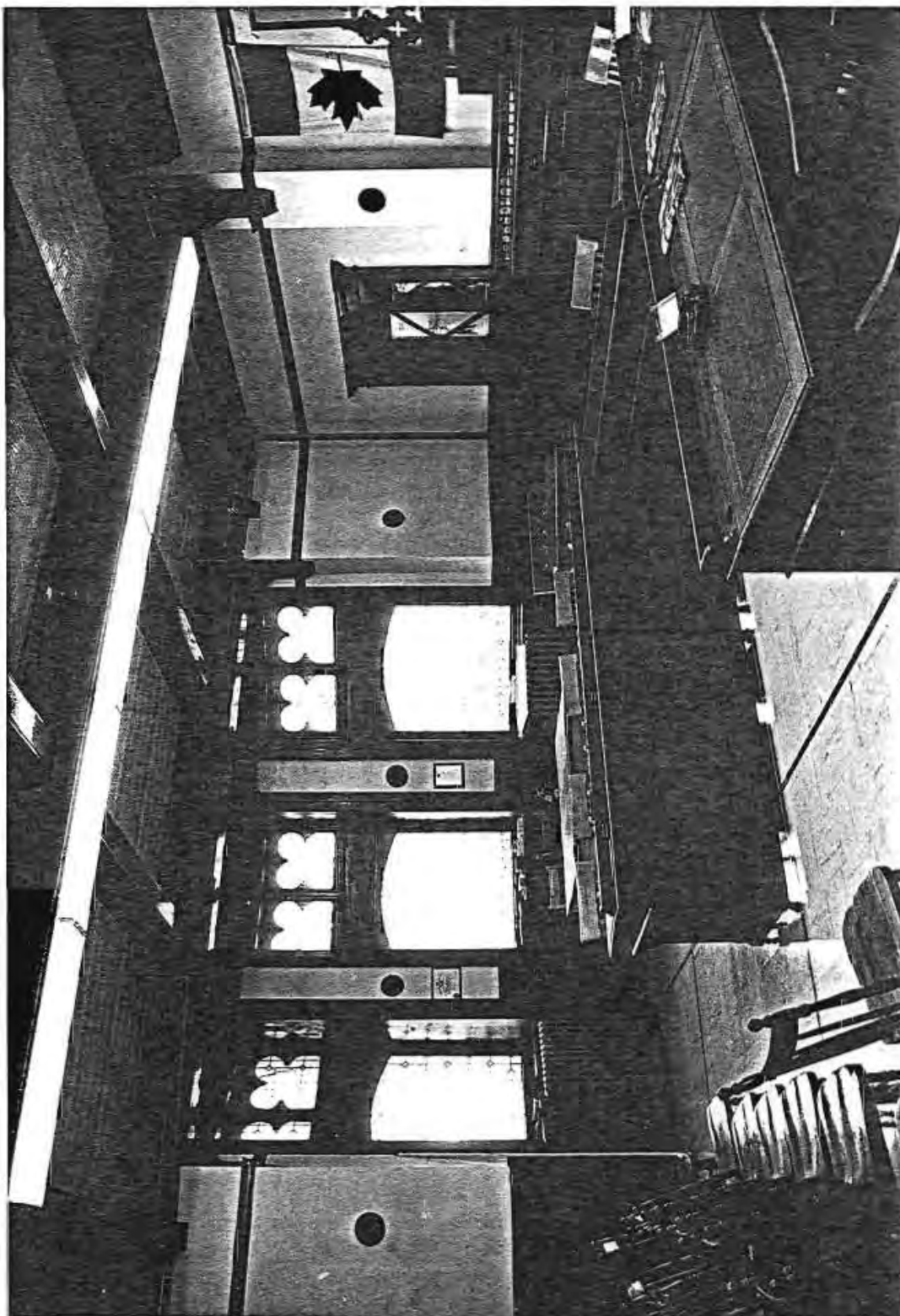
Photograph #8



Partial view of 'L'-shaped main lobby. Entrance to council chamber is through doors to the left.

SCHEDULE "B"

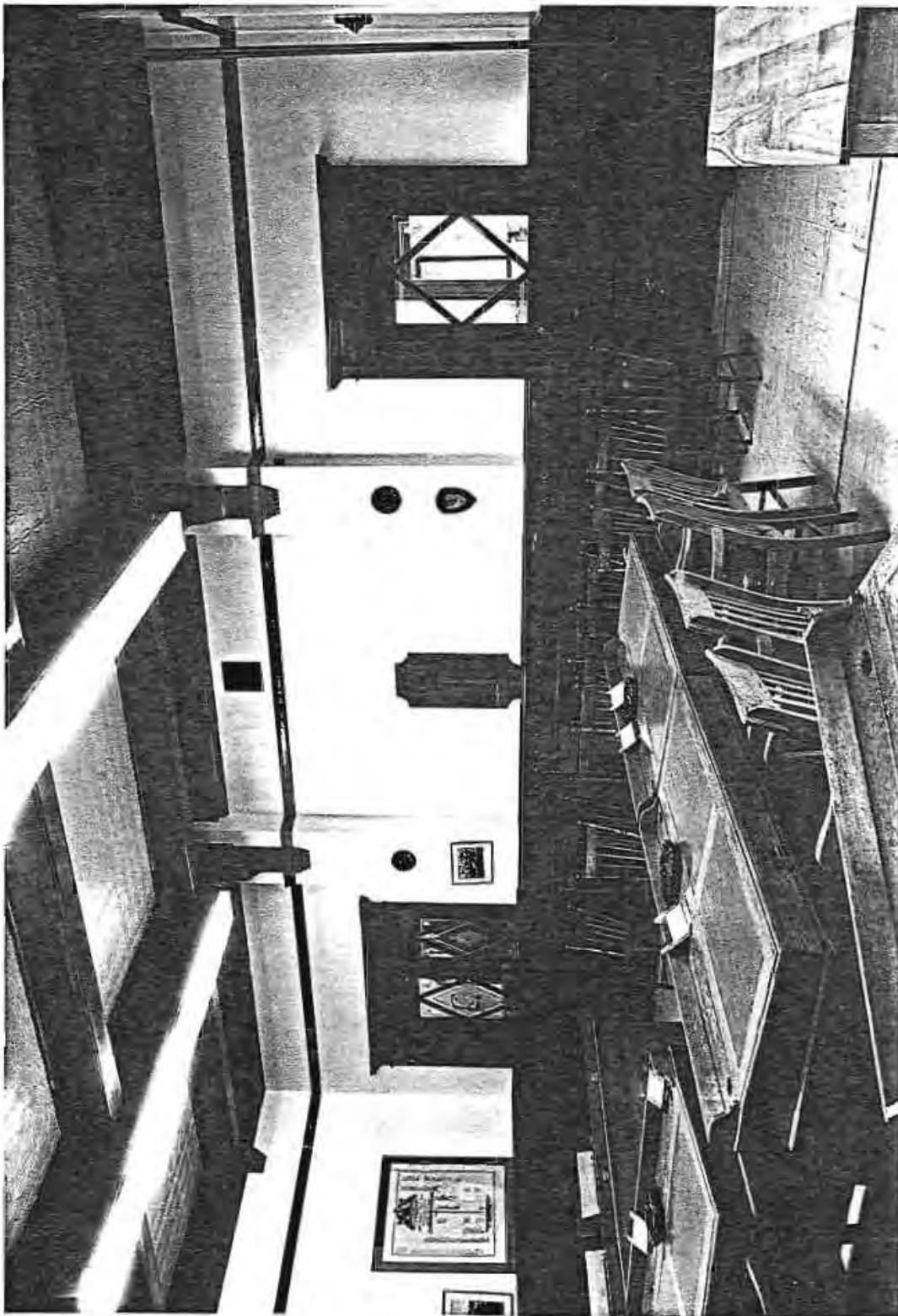
Photograph #9



Partial view of council chamber showing windows facing west.

SCHEDULE "B"

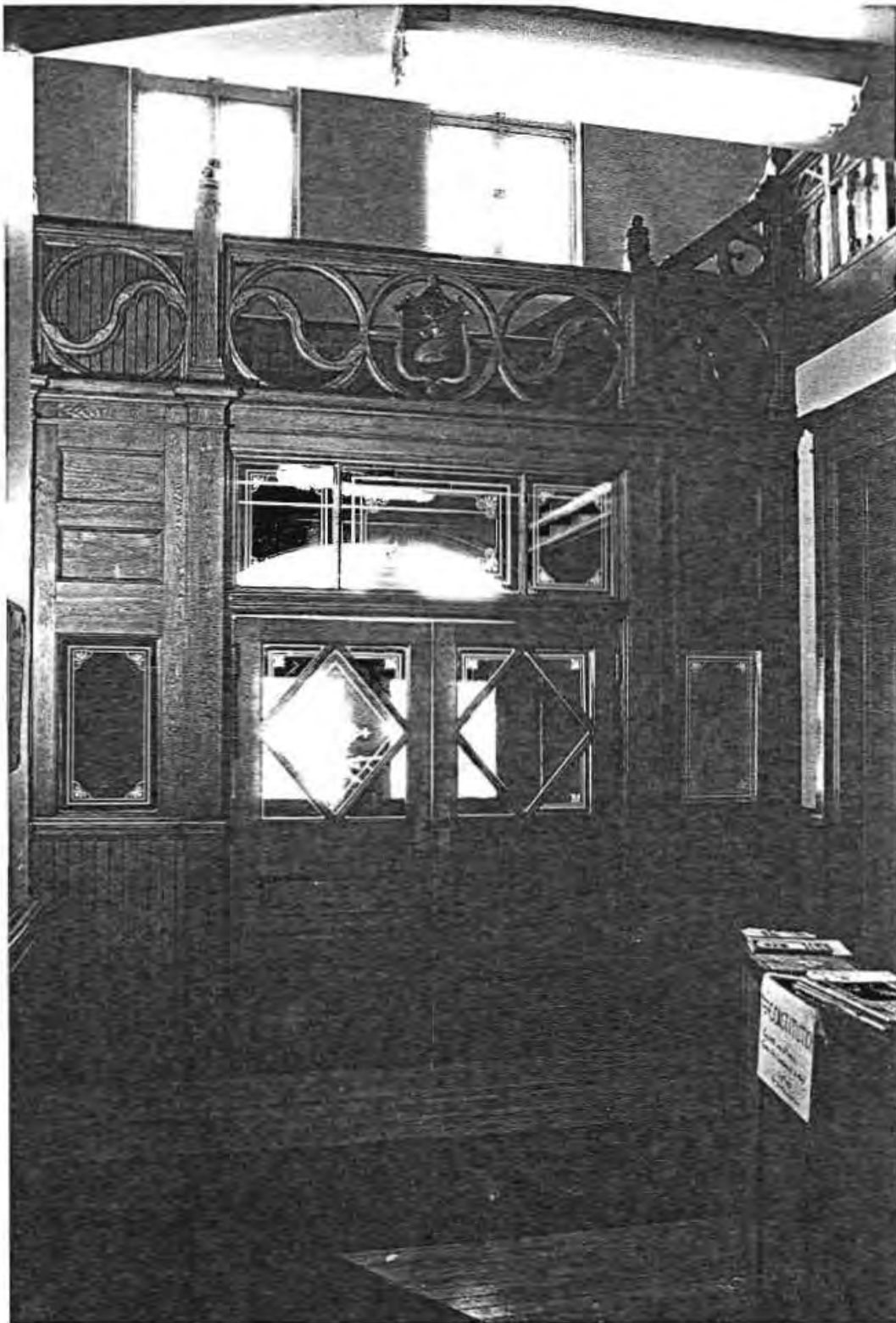
Photograph #10



Partial view of council chamber showing doorways
in south wall of chamber.

SCHEDULE "B"

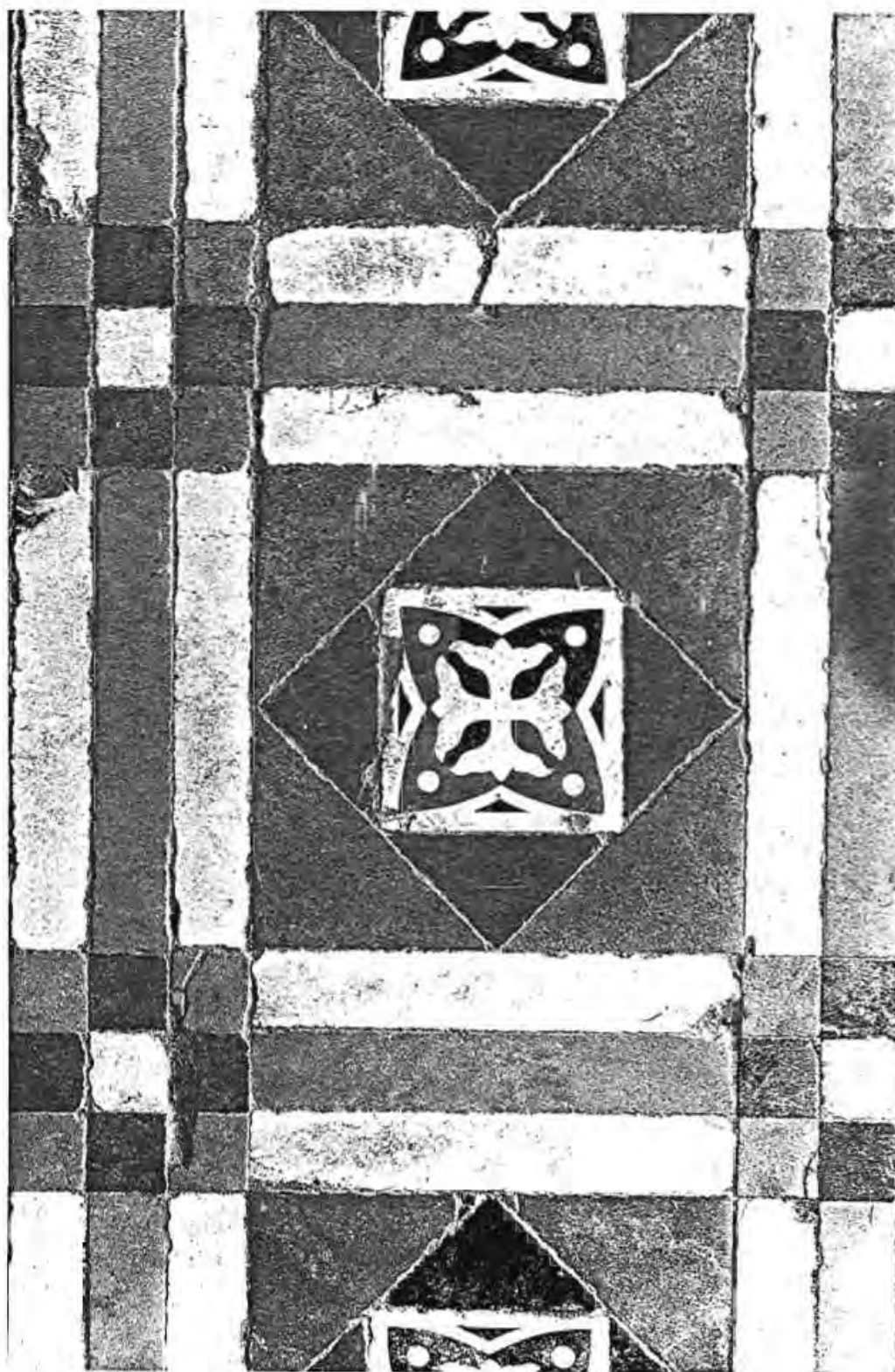
Photograph #11



View of Bridge Street entrance and vestibule from
main lobby.

SCHEDULE "B"

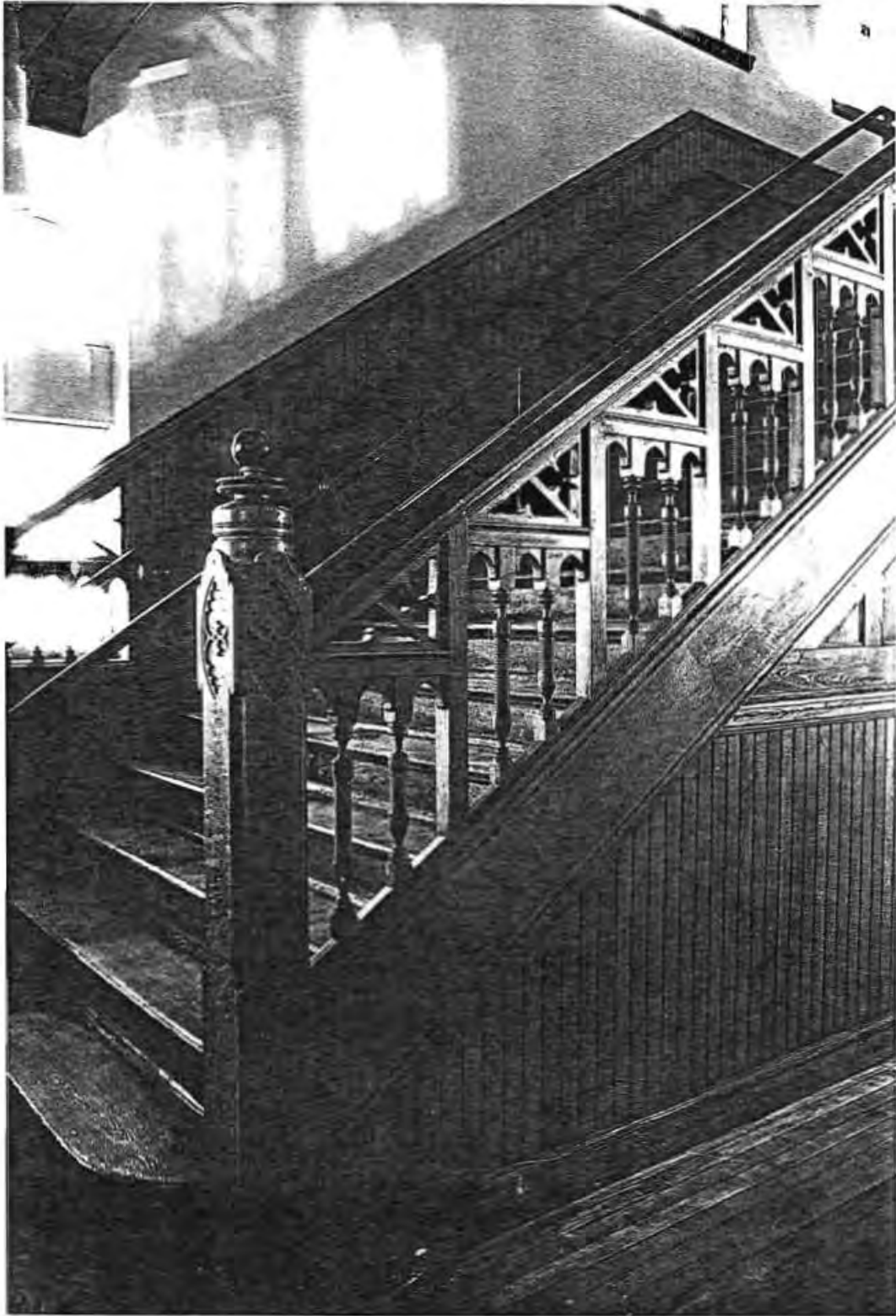
Photograph #12



Detail of tile floor of Bridge Street vestibule.

SCHEDULE "B"

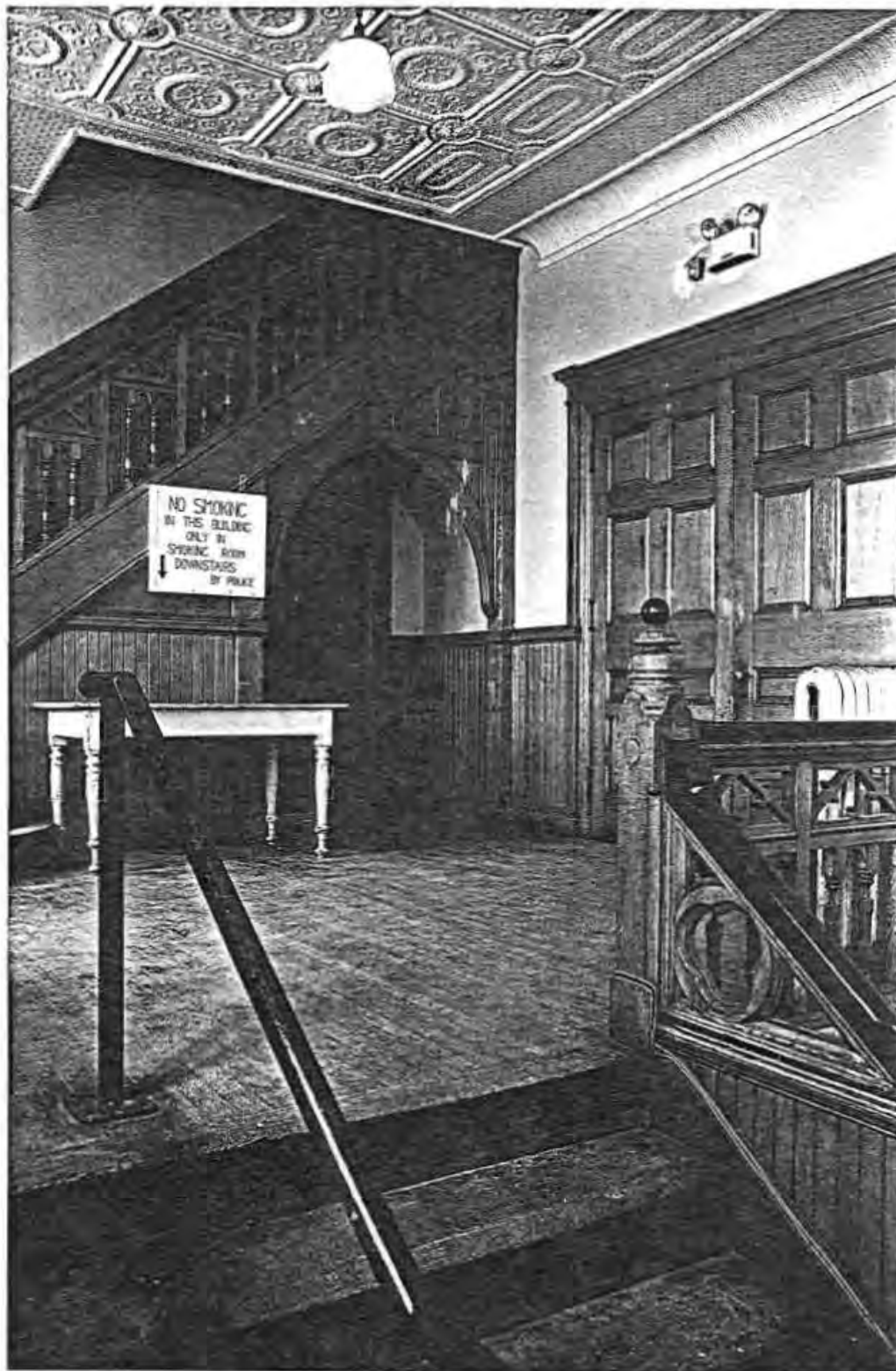
Photograph #13



Bottom of main stairway.

SCHEDULE "B"

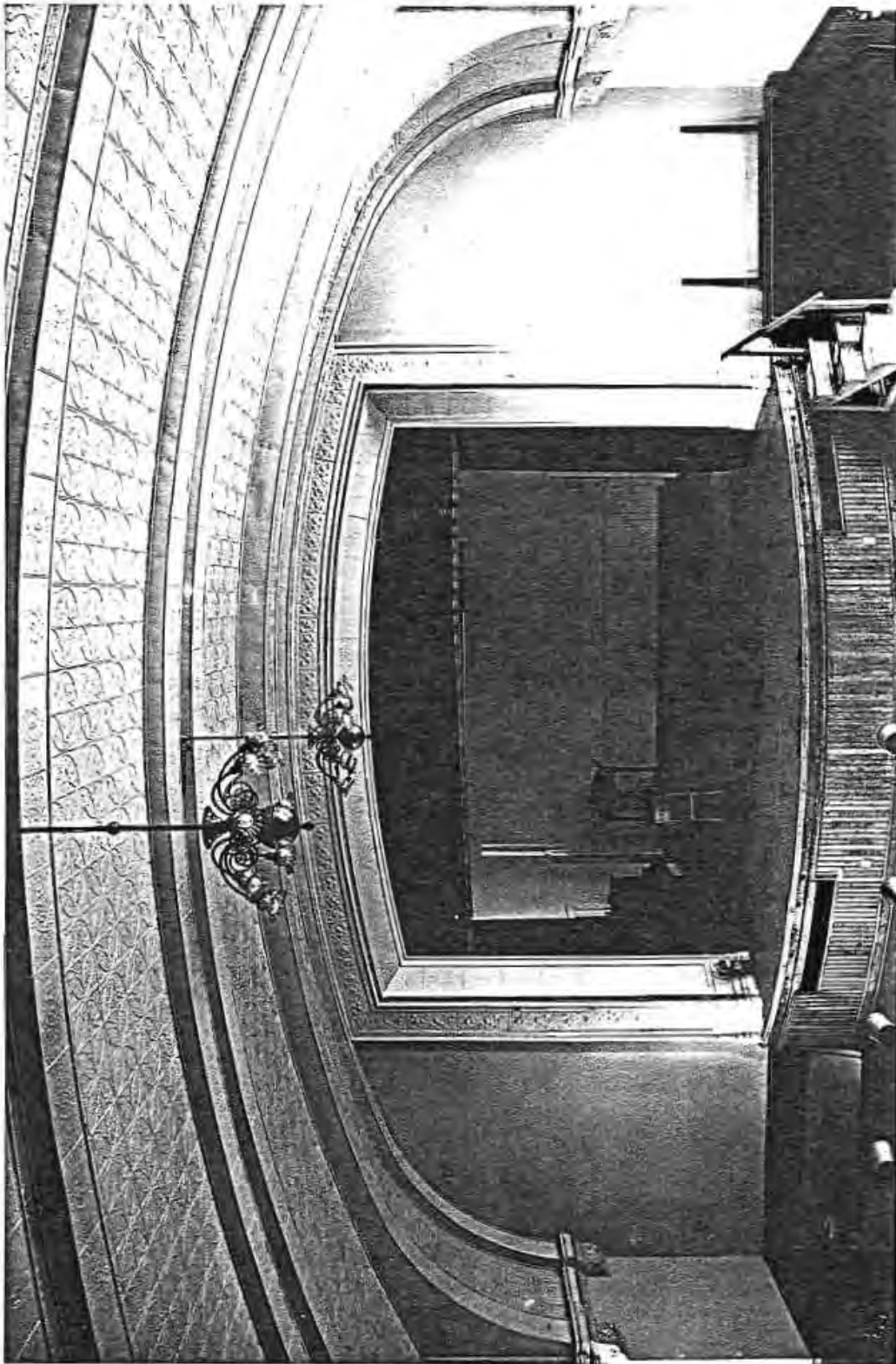
Photograph #14



Top of main stairway showing second floor stair lobby and stairway to auditorium balcony. Doors to auditorium are to the right.

SCHEDULE "B"

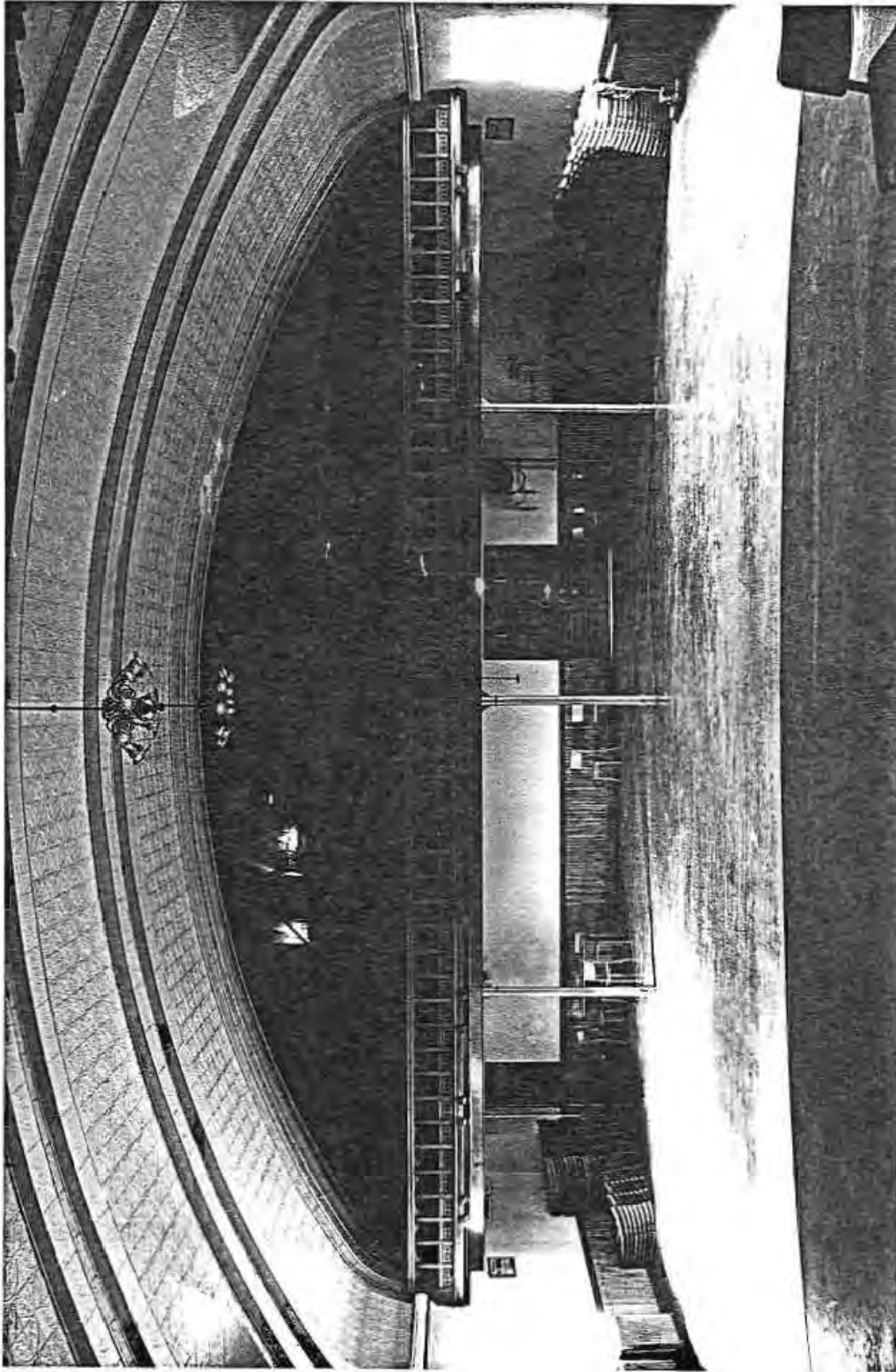
Photograph #15



Auditorium stage as seen from the balcony.

SCHEDULE "B"

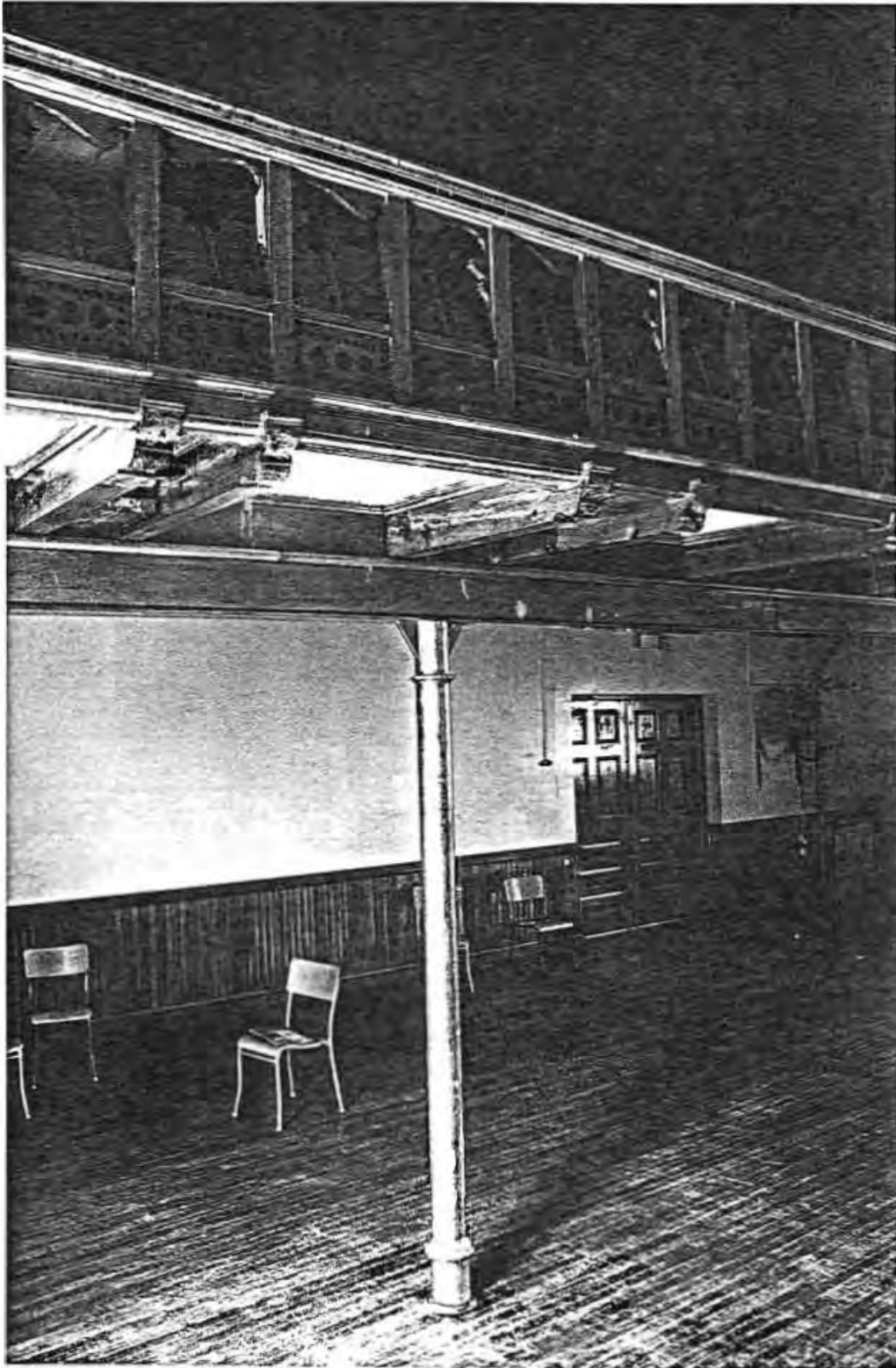
Photograph #16



Auditorium balcony as seen from the stage.

SCHEDULE "B"

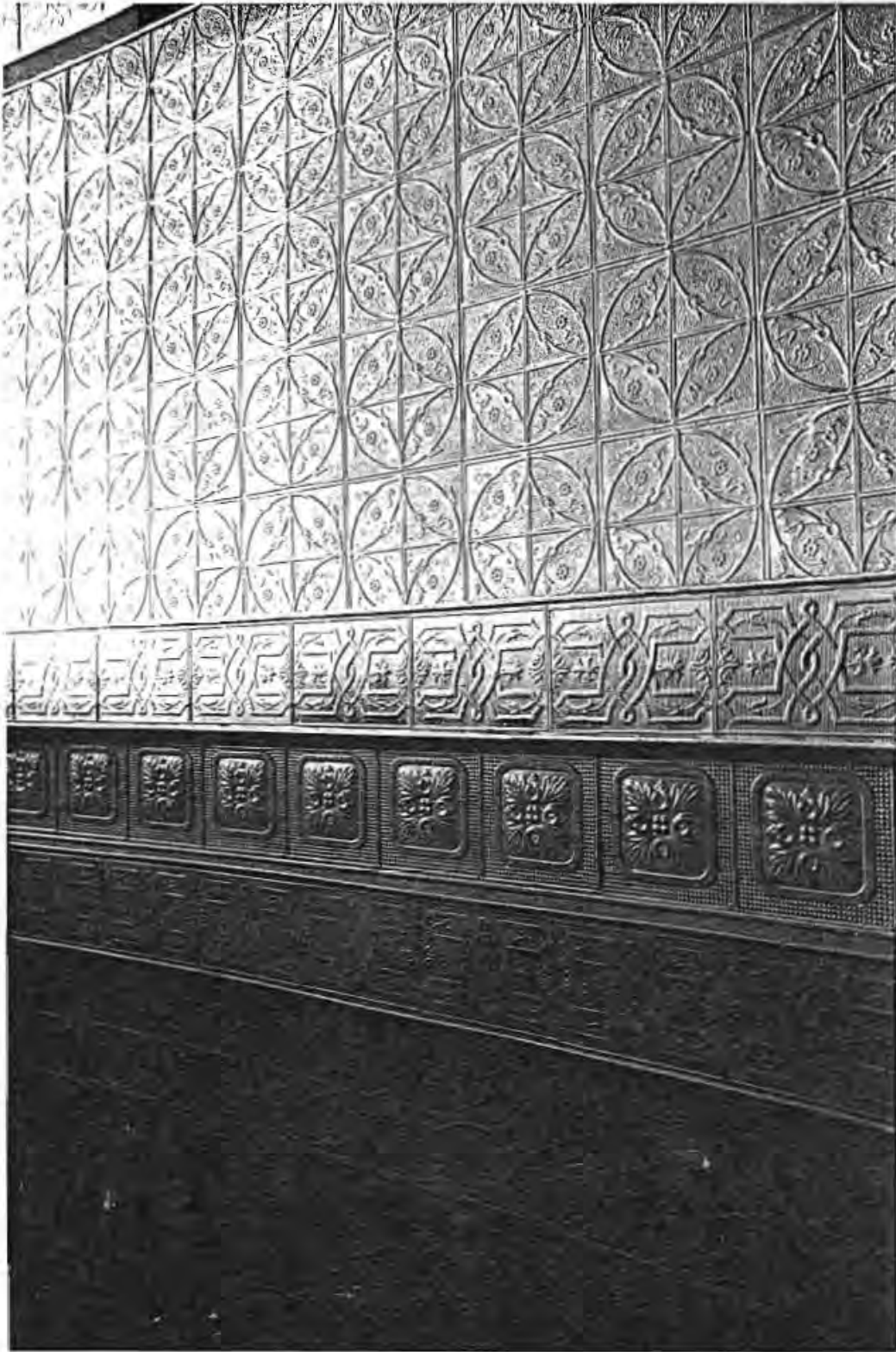
Photograph #17



Detail of balcony balustrade and support column.

SCHEDULE "B"

Photograph #18



Detail of pressed metal auditorium ceiling.