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REPORT
of
ROYAL COMMISSION
into
Allegations against Snowden and
Willson Proprietary Limited, and
Snowden and Willson (Housebuilders)
Proprietary Limited.

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*Presented to both Houses of Parliament.*  
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PERTH:

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1953.

REPORT OF ROYAL COMMISSION INTO ALLEGATIONS AGAINST SNOWDEN & WILLSON PROPRIETARY LIMITED AND SNOWDEN & WILLSON (HOUSEBUILDERS) PROPRIETARY LIMITED.

To His Excellency Lieutenant-General Sir Charles Henry Gairdner, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Most Excellent Order of the Bath, Commander of the Most Excellent Order of the British Empire, Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

May it please Your Excellency:

In accordance with my Original and Amended Commissions I have to report as follows:—

The Commission sat on the 12th, 19th, 20th, 21st, 22nd, 27th, 28th, 29th, and 30th days of January, 1953, on the 4th, 5th, 6th, 9th, 11th, 12th, 16th, 17th, 18th, 19th, 20th, 23rd, 24th, 25th, 26th and 27th days of February, 1953, and on the 4th, 5th, 9th, 10th, 16th, 17th and 20th days March, 1953.

Evidence was adduced from the following witnesses:—

Name, Occupation.	Page No.
Wood, Vernon Wilfred, Clerk	11-71
Buchanan, Robert Charles, Registrar of Titles	72-75
Morrell, Tom Claudeley, Officer in charge, Housing Loans Dept., Commonwealth Bank	76-84
Wood, Jean Johnson Forsyth, Married woman	125-173
Siteur, Hendricus, Tailor	174-277
Da Vries, Cornelis, Student Architect	278-280
Mosel, Theodore Elliott, Bank Officer	281-311
Osborn, Jack Reginald, Salesman	312-351
Osborn, Thelma Ethel, Married woman	352-366
Hawkins, Frederick Charles, Salesman	367-383
Curtis, Jack, Boilermaker	384-410
Werndly, Ellen, Married woman	411-492
	543-548
Henderson, Edgar le Blond, Architect	493-522
Werndly, Victor Charles, Tramway employee	523-542
Smith, Alexander Neil, Linesman	549-617
Smith, Lilian Jean, Married woman	618-634
Gurr, Henry Stuart Watson, Student teacher	635-660
Gurr, Adelaide Marie, Widow	661-668
Keightley, Jim Ernest, Registered builder	669-672
McIlwraith, James Reginald, Salesman	673-681
Brownlie, Ross Wallace, Chairman, State Housing Commission	682-746
Simons, Eric Armstrong, Assessor, State Housing Commission	747-771
Fortune, Wilfred, Senior Supervisor, State Housing Commission	772-793
Packer, William James, Estimating Clerk, State Housing Commission	795-798
Boas, Harold, Architect	798-816
Ross, Harold Lee, Quantity Surveyor	817-867
Snowden, Clarence Hufton, Company Director	868-1054
	1297-1313
	1339-1344

Name, Occupation.	Page No.
Snowden, Walter Ernest, Company Secretary	1055-1297
	1410-1438
Mizen, Oliver Milton, Registered Builder	1281-1290
Prosser, Cecil, Registered Builder	1291-1296
Flynn, William Patrick, Gardener	1314-1321
Stowe, Robert Henry, Chartered Accountant	1322-1332
Sinclair, Alexander William, Accountant	1333-1338
Windson, Betty Lillian, Spinster, Ledger-keeper	1355-1363
Bathgate, Nora, Spinster, Ledgerkeeper	1364-1365
Cherrie, James William, Storekeeper	1366-1382
Ellett, Kenneth Raymond, Wood Machinist	1383-1393
Riordan, Ernest William, —	1394-1397
Menner, Reginald Harry, P.M.G. Employee	1398-1409

There were 276 exhibits tendered in evidence and the evidence is represented by 1,438 pages of transcript.

The Commissioner was assisted by G. W. Gwynne, Esq., of Counsel, and Messrs Snowden and Willson were represented by J. P. Durack, Esq., Q.C., and J. H. Wheatley, Esq. of Counsel. The complainants, V. C. Werndly and Ellen Werndly were represented by J. H. O'Halloran, Esq., and D. G. Sander, Esq. of Counsel.

In 1949 the building position in Western Australia was very acute and in order to try and cope with this and speed up building production generally, the Western Australian Housing Commission decided to give to builders, group permits to build houses under a ready-made house scheme. Under the scheme, builders really engaged in what is known as speculative building and sold the houses either in the course of construction or when completed.

The scheme was originally put forward by the Western Australian Builders Guild Incorporated, of which Snowden and Willson are members. The Guild asked for permits up to 5 houses, so that builders could be fully supplied with continuity of work, could organise up to 5 jobs in advance and so that houses could be simpler in finish and detail with an overall saving in materials and with, of course, cheaper houses to the public. The scheme was later extended to as many as 10 houses in a group. It is to be remembered that at the time, building legislation which was administered by the Housing Commission, had for its objective

the direction of labour and building materials into the channels where most good would be done for the community generally.

On June 30th, 1950, as far as the public generally were concerned, immediate permits to build and releases of controlled materials were issued for houses not exceeding 12½ squares. Controls, however, remained in respect of the ready-made house scheme, at all times relevant to this inquiry.

The first group permit was issued to Snowden & Willson at the end of June, 1949, and altogether under the scheme they built 92 houses.

It is in respect of nine houses built by Snowden & Willson under the ready-made scheme, that the chief complaints have been laid before the Commission. All these houses were built under group permits. The complaints are from the following:—

- (1) Vernon Wilfred Wood, Clerk and Jean Forsyth Wood; Married woman. This complaint is in respect of premises erected at 10 Hubert Road, Maylands.
- (2) Hendricus Siteur, Tailor. This complaint is in respect of premises erected at 8 Hubert Road, Maylands.
- (3) Theodore Elliott Mosel, Bank Clerk, and Sylvia Amelia Mosel, Married woman. This complaint is in respect of premises erected at 14 Stone Street, Maylands.
- (4) Jack Reginald Osborn, Bank Clerk and Thelma Ethel Osborn, Married woman. This complaint is in respect of premises erected at 12 Stone Street, Maylands.
- (5) Frederick Charles Hawkins, Salesman. This complaint is in respect of premises erected at 14 Hubert Road, Maylands.
- (6) Jack Curtis and Lila Jean Curtis. This complaint is in respect of premises erected at 38 Leake Street, Bayswater.
- (7) Victor Charles Werndly, Tramway employee and Ellen Werndly, Married woman. This complaint is in respect of premises erected at 58 Cookham Street, Victoria Park.
- (8) Alexander Neil Smith, Linesman and Lilian Jean Smith, Married woman. This complaint is in respect of premises erected at Lot 119 Cookham Street, Victoria Park.
- (9) Enid Adelaide Marie Gurr, Widow. This complaint is in respect of premises erected at 39 Cookham Street, Victoria Park.

All the cases under review conform to pattern. The complainants in the first instance, interviewed Walter Ernest Snowden, the company secretary, and all negotiations were carried out with him and the contracts were signed in his presence. It is to be noted that none of the contracts were signed by the company, but I will deal with this later in my report. All the finance was allegedly worked out by Clarence Hufton Snowden, the managing director of the firm, and all charges and costs, including contract prices, were given to W. E. Snowden to be passed on to the various clients.

The various complainants saw Mr. W. E. Snowden, told him they were seeking a house and that they could pay so much deposit. Thereupon Mr. Snowden took them to see a prototype of the

house being built. In many cases the complainants were then actually taken to see the particular house which they were to purchase.

These houses were at various stages of completion. The procedure usually then was to return to the office of Snowden & Willson, where further business details were discussed. It was then arranged for another interview with either husband or wife or both, as the case may be, for the signing of the contract.

The contracts, with the exception of that of Hawkins, which was for the sale of a completed house and with two very slight modifications in the cases of Mosel and Osborn, were identical in terms. When the houses were complete and almost ready for occupation, final accounts called by the company "interim and pro forma statements" were forwarded or presented to the purchasers.

On payment of, or on satisfactory arrangements for the payment of moneys owing, and on signing letters that they were satisfied with everything, including the final account, the clients were allowed to enter into possession.

Before dealing with the various complaints specifically, I shall deal very shortly with the contracts.

In the case of Hawkins, the contract was for the sale of a completed house and the terms of the contract itself require no comment. This contract was dated 22/11/51 and on 8/11/51 questions had been asked in the Legislative Assembly about the form of Snowden & Willson's contracts. Whether the system of sale and the contract were altered as a result of this, I am not prepared to say.

In the cases of Wood, Siteur, Curtis, Werndly, Smith and Gurr, exactly the same form of contract was used.

In order to understand the contracts properly and their full significance, it is necessary to know the procedure adopted under the ready-made house scheme from the securing of the permit to build up to the subsequent sale.

Snowden & Willson applied to the State Housing Commission for a permit to build a group of three to five, but chiefly five, houses at a time, under the group permit system, and with their application lodged their plans and specifications.

On the approval being given by the State Housing Commission, a release was of course given for controlled materials. The following table will show the date of lodgment of the plans and specifications with the Housing Commission:—

	Lot No.	Purchaser.	Date permit applied for.	Exhibit No.
Hubert St., M'lands—	Lot 432	Siteur	15/8/50	G/6/221
	Lot 433	Wood	15/8/50	G/6/221
	(The above were all part of a group of five. The other three are not the subject of inquiry.)			
Hubert St., M'lands—	Lot 435	Hawkins	21/3/51	G/5/106
	(Single application.)			
Leake St., B'swater—	Lot 319	Curtis	19/10/50	G/5/54
	(Part of a group of three. The other two are not the subject of inquiry.)			

	Lot No.	Purchaser.	Date permit applied for.	Exhibit No.
Stone St., M'lands—	Lot 284	Osborn	28/2/50	G/6/113
	(Part of a group of five. The other four are not being inquired into.)			

	Lot No.	Purchaser.	Date permit applied for.	Exhibit No.
Stone St., M'lands—	Lot 285	Mosel	15/5/50	G/6/182
	(Part of a group of five. The other four are not being inquired into.)			

	Lot No.	Purchaser.	Date permit applied for.	Exhibit No.
Cookham St., Rivervale—	Lot 117	Werndley	15/6/50	G/6/182
	Lot 119	Smith	15/5/50	G/6/182
	Lot 178	Gurr	15/5/50	G/6/182
	(Part of a group of five. The other two are not the subject of inquiry.)			

The estimated cost of erection submitted in each application for a permit was as follows:—

Wood	....	....	....	....	£1,500
Siteur	....	....	....	....	£1,500
Hawkins	....	....	....	....	£1,850
Curtis	....	....	....	....	£1,300

(This is claimed by Snowden & Willson to be an error that it should be £1,500.)

Osborn	....	....	....	....	£2,200
Mosel	....	....	....	....	£2,200
Werndly	....	....	....	....	£1,750
Gurr	....	....	....	....	£1,750
Smith	....	....	....	....	£1,750

The price submitted with the application for a permit has been referred to throughout the evidence as the "base price." The grant of a permit did not mean that work on a contemplated group would commence forthwith and some time elapsed before the buildings were actually commenced. Accordingly, when a contract was entered into with a purchaser, alleged increases in costs of labour and materials were added to the base price. This additional cost has been added to the base price and what has been referred to in evidence as "the initial purchase price," has been arrived at.

I do not intend to deal with the contracts, which are in as exhibits, in every detail, but merely with those particular portions which have given rise to so much contention.

Clause 2 provides that—

"The initial purchase price is £x plus any further sums payable by the purchasers under the terms set out below for increases in building costs, extras, interest and any other moneys payable by the purchasers to the vendor in connection with this purchase."

Commonly called the "rise and fall" clause, clause 6 provides that—

"The purchasers clearly understand and agree that the above initial purchase price will be increased by—

- (a) The amount of any increases in costs of whatsoever nature in the construction and completion of the above premises occurring between the date the plans and specifications for the premises were lodged with the State Housing Commission for approval and the date of actual completion of the premises and which are over and above the costs prevailing at the date the said plans and specifications are lodged with the State Housing Commission for approval.

- (b) If by reason of some extraordinary circumstances the company does do any extras or additions or alterations to the premises then the initial purchase price will be increased by the company's charges for any such extras or additions or alterations which the purchasers authorise.

- (c) Any extra costs entailed by the company having to substitute for any items or materials specified and which are not obtainable when required, items or materials of greater costs, and which the company is hereby authorised to do without further authority from the purchasers.

- (d) The company's charges not exceeding twenty-five pounds (£25) for any additions or alterations which the company may in its discretion make to improve or vary the design of the premises. The company has explained to the purchasers that as houses of a similar type are being erected in the vicinity, it is desirable for it to be able to make such additions or alterations and the purchasers agree to it doing these.

Clause 11 provides that as far as the purchasers are concerned, time is the essence of the contract. Further, the company has the right to cancel the sale in the case of default, etc., and also where "the company in its discretion decides not to proceed with the sale or the delivery of possession to the purchasers hereunder."

By virtue of clause 11, it was admitted by C. H. Snowden that the company has the right to cancel the contract for any reason whatsoever and that it need not legally, at least, even sell the house to the purchaser, when completed. As I pointed out, the contract was not signed by the company and there is no doubt, despite argument by counsel to the contrary, that it was intended to bind the purchaser only. The contract was not only extremely one-sided but the purchaser depended "body and soul," as it were, on the honesty of the company.

In each case, letters were signed by the purchasers as subsidiary to the contract, acknowledging the initial purchase price to be the contract price only and that it was subject to increase by the amount of any increase in costs in the construction and completion of the house occurring after the date the plans and specifications were lodged with the State Housing Commission.

The only difference between these contracts and those of Mosel and Osborn is that, on insistence by the two latter, the rise and fall clause was made to date from the date of the contract and not the lodging of the plans and specifications with the Housing Commission. As will be seen later, this made no difference whatsoever. W. E. Snowden says that it was pointed out to each purchaser that rise and fall would be charged only from the date of contract notwithstanding the clause to the contrary.

I will deal more specifically with the contentious clauses of the contracts when dealing with the individual cases.

It might at first glance be argued that however high the contract price might be, the purchaser, having agreed to pay it, is bound by the contract. As far as the initial purchase price is concerned, legally this may be so. The contract, however, provides for increases over and above the initial purchase price. In order to determine whether these are justified and whether incurred in accordance with the contract, it is necessary to consider in actual fact how the contract price was arrived at. In each and every case, the company has tendered evidence showing how the base price was arrived at, how the initial purchase price was arrived at and how the increases in respect of rise and fall and costs of construction subsequent to the contract were arrived at. I shall deal with the various complaints in the order in which they were presented to the Commission.

Vernon Wilfred Wood and Jean Johnson Forsyth Wood:

These two complainants summarised their complaints as follows:—

- (1) The house was not in accordance with specifications submitted to the Commonwealth Bank and in accordance with what they saw in a prototype house in Queen Street, Maylands.
- (2) The sum of £122 6s. 6d. charged over and above the original contract price of £1,998 for "rise" was in excess of that represented by W. E. Snowden.

The Woods met W. E. Snowden in October, 1950, through mutual friends. About this time, Mr. Snowden showed Mrs. Wood a completed prototype of the house they were to purchase, in Queen Street, Maylands. The exact date cannot be fixed but some time later Wood himself saw the prototype. Wood says there was no difference between the prototype and the house being built for them, except that one was slightly lower in foundation. Wood himself did not see the prototype with Snowden but later went to see it with Mrs. Wood. Having seen it, he then went and saw Snowden who informed him that a feature of all the houses was the brick walling in the front and the wide window hoods. He also says Snowden told him there were to be cross-arms and a pathway from the laundry to the house. Later, in cross-examination, he said he was always given to understand the place would be provided with these latter items.

The contract for the purchase of the house was signed by the Woods on 27th December, 1950. The initial purchase price was £1,998. Both the Woods say that Snowden assured them that the rise in labour and materials would not amount to very much, approximately £15, and at the most £20, and this for the reason that the company had all the necessary materials on hand. Wood says his finances were strained and that he would never have entered into the contract at all if he had known the rise in accordance with clause 6 would amount to £122 6s. 6d. over and above the contract price.

According to the Woods, the framework of the house was up at the time of the contract and, judging by the company's letter of 27/12/50 to the Commonwealth Bank, the construction was undoubtedly well advanced.

The letter of 27/12/50 to the bank is most important because the company informed the bank that the sale price would be £1,998, the word "approximately" in front of the £1,998 having been struck out and initialled. The Commonwealth Bank was also asked to advance £1,200 to be secured by first mortgage. Amongst the improvements set out in the letter were: "brick foundation walling across the front of the house, 6 chains of 6ft. picket fencing, one chain of cyclone fencing, double fireplace recess in the kitchen, built-in cast iron enamel bath, basin, heater and storage cabinet in the kitchen, also a built-in shaving cabinet, clothes posts and crossarms, granolithic footpath to both laundry and W.C. and an extra power point in the dining room."

Although there were, allegedly, promises that the house would be ready earlier, the Woods took possession in March, 1951. Like all other purchasers, they claimed that before being allowed to enter into possession they had to sign letters to the Housing Commission and Snowden & Willson saying, that they were satisfied with everything, including the final account. On the 12th March, prior to taking possession, the Woods received their "interim and pro forma statement." This included £149 10s. for a refrigerator and £34 16s. 2d. for a radio. There was considerable argument about the significance of these two items and they will be dealt with later. From the pro forma statement it will be seen that the amount actually paid by the Woods for the house and land was £2,140 11s. 9d. This was made up as follows:—

	£	s.	d.
Initial purchase price	1,998	0	0
Extras	20	5	3
Rises and increases	122	6	6
	2,140	11	9

The Woods say they were stunned on receipt of the final account and various interviews took place between the parties and considerable correspondence passed between them.

W. E. Snowden says that he took Mrs. Wood to see the prototype in Queen Street and that he pointed out that the Housing Commission would not now permit the brick walling in front, that the clothes posts and crossarms, the rear path and the mesh were extras and would have to be added to the initial purchase price. Mrs. Wood, of course, denies this. Snowden denies ever having said the rises under clause 6 would not exceed £15 to £20 and that he would have been very foolish to have done so, well knowing labour and materials were increasing in price almost daily. He further says that the letter to the Commonwealth Bank was more or less a stock letter and that as the bank sent out its own inspectors to value the various premises it really served little purpose.

It was alleged by the Woods, as by a great number of the other complainants, that they were given very little time to consider the contracts and that they were not allowed to take them away. This may be true, but it is hardly necessary to make any finding about it because it really becomes a minor issue when compared with the more vital matters brought before the Commission. I do not think W. E. Snowden, however, explained the contract with all the great wealth of detail he says he did. I feel he did gloss over it and I feel certain in my mind that he deliberately misled the Woods and the others about the rise and fall clause.

Witnesses from all walks of life, a bank clerk, a tailor, a boilermaker, a linesman, a widow, a tramway employee, two salesmen and a clerk, all tell the same story about the rise and fall being negligible. Are all these good people liars and W. E. Snowden the one man of truth? I do not think they are. Are they mistaken and have they confused, as alleged, the rise in prices with clause 6(d) which limits the company's right to make alterations and additions to the extent of £25? I do not think they have.

The Woods and Siteur, their next-door neighbour, have discussed their grievances many times. I do think that in certain cases they may have confused alleged conversations with Mr. W. E. Snowden with something Siteur may have told them. However, I believe they are honest witnesses just as I believe Siteur is an honest witness. Mrs. Werndly was confused here and there and the Smiths were definitely wrong when they say there was a date for completion in their contracts.

Witnesses, however, like Curtis, Mrs. Gurr and her son Henry, Mosel, Osborn and Hawkins, tell almost the same story as all the others. These witnesses are, in my opinion, good, honest citizens and having noted their demeanor very carefully in the box, I feel compelled to believe them. Take Curtis, for instance. He is a boilermaker and a good, simple fellow. I feel sure he has not the ingenuity to make up his story, if it were untrue.

All these people had one thing in common, they were house-hungry and desperate. From my experience in housing cases in the courts, I know exactly the conditions under which many of the complainants were living and the desperate steps they would take to get a house. Is it any wonder, then, that despite their better judgment they signed the letters of appreciation as required by the company? It is to be noted that most of these letters bear the same fulsome character and were quite obviously dictated by W. E. Snowden as outlined by the various witnesses.

The Woods and Siteur were certainly desperate and at the time they signed the letters of appreciation were so thankful to get a place they would have signed anything. I think, also, that in the circumstances they were sincere at the time they wrote the letters. W. E. Snowden is a shrewd judge of men. He knew the desperate plight of many of these complainants and I feel sure he knew they would sign anything and, if within their power, pay anything to get accommodation. He undoubtedly traded on this.

The Woods have been criticised by Mr. Durack. He says that, having signed the final account, that should be the end of it. I would agree with that provided that the final account were genuine and not fictional as I consider it to be. Mr. Durack argues that at the time of signing the contract the Woods signed a second mortgage to cover advances up to £500, and must, therefore, have known that rises in accordance with clause 6 would exceed £20, and that their story about Snowden's assurances as to the rise and fall is all lies. After having analysed the evidence of both Mr. and Mrs. Wood on this matter, I have come to the conclusion that when they signed the second mortgage they believed it was to cover the cost of the wireless and refrigerator and some small amount of

rise. The fact remains that the wireless and refrigerator were retained in the contract and Mr. W. E. Snowden, with his keen business acumen, would never have allowed these items to remain in if the company did not intend to supply them. Further, as pointed out by Mr. Gwynne, the jottings on the letter of 8th February, 1951, show that even at that date Mrs. Wood believed that the refrigerator was included in the contract.

Comment was also made by Mr. Durack that the Woods did not in their subsequent correspondence with the company complain about having been misled about the rise and fall. They explained this by saying they were friendly with W. E. Snowden, they still owed the company money and they did not want to antagonise the Snowdens. Furthermore, I feel that it was only as time passed that the Woods began to realise the extent to which they had been imposed upon.

It is important to find whether W. E. Snowden made the alleged representations but it is even more important to ascertain whether the increases and extras charged for in the pro forma statement are fair and proper and whether applied in accordance with the contract.

It is claimed by the company that rise and fall up to the date of contract was included in the initial purchase price and that the only "rise" charged for in the pro forma statement was that incurred subsequent to the date of the contract.

The evidence of W. E. Snowden is clear and concise to the above effect and there cannot be any mistake about it. Furthermore, C. H. Snowden tendered his schedule (Exhibit 64) based on this method of calculation. Therefore, the sworn evidence is that the clients in the final accounts were charged rise and fall only from the date of the contract. Compare this, however, with paragraph 5 of Messrs. Wheatley & Son's letter of 4/9/52 to Mr. and Mrs. Wood, and Snowden & Willson's letters of 2/3/51 and 14/3/51 to H. Siteur.

Paragraph 5 of the letter of 4/9/52 reads:—"Dealing firstly with the increases to cover rises in labour and material, the initial purchase price quoted for these houses was based on the cost of construction ruling at the time the plans and specifications for the group were lodged with the State Housing Commission . . . It was also made quite clear to you at the time and you were fully aware that the initial purchase price was for the house bare, erected in accordance with the plans and specifications lodged with the State Housing Commission."

Written in answer to Siteur's complaint about the final charge of £69 5s. for "rise," paragraph 5 of the letter of 2/3/51 reads, "You mention that you only purchased the house on 11th December last, but again, in accordance with standard contract each client has to sign (and which you signed), it is price increases from date of issue of the permit which are passed on to the client and not merely those accruing from the date the client happens to purchase."

In his undated letter to the company, Siteur again demanded particulars of the £69 5s. and paragraph 2 of the company's letter of 14/3/51 in answer thereto reads: "So far as wages, material

increases, etc., are concerned, you must still be labouring somewhat under a misapprehension, as the contract you signed, and which every other client has to sign, very clearly states, in a special clause devoted to that purpose, that each client has to pay all such price rises, not from the date they happen to purchase a house but from the date the permit was issued to the builder by the State Housing Commission, and this is the contract you necessarily had to sign also."

The above contradictions need no comment from me; they speak for themselves.

C. H. Snowden has produced figures showing that his base price was reasonable, that he added to the base price only reasonable extras and rises to make up his initial purchase price and that all extras and rises subsequent to the signing of the contract were genuinely incurred and applied strictly in accordance with clause 6 of the contract. Later, realising in view of evidence that many of the places were built by sub-contractors and that the books of account disclosed extremely high profits to Snowden & Willson, he attempted to change his story and say that the company had always sold their houses at what they considered a fair market price and that they would not be dictated to by anyone in their selling price.

Not one single piece of evidence was voluntarily given by the Snowdens to help the commission arrive at a true financial position in any case. As a matter of fact, C. H. Snowden's figures were calculated and intended to deceive.

In examination in chief he tendered in evidence Exhibit 64. This shows his base price for Woods' house, timber-framed and asbestos, as £1,499—say £1,500. This was calculated on the basis of:—

	£	s.	d.
8½ squares at £166	1,383	0	0
Front porch, pier and granolithic	50	0	0
Back verandah 66ft. at £1 (including dado and door)	66	0	0
	1,499	0	0

On page 2 he adds a schedule of extras not allowed for in the base price calculation of £1,500, amounting to £187 16s. 9d. On page 3 he calculates rise and fall for the months of August, September, October and November at 3½ per cent. 3½ per cent of £1,500 is £52 10s. He debited only one-third of this to Wood and at page 891 of the transcript he says, "That would be my estimate at the time of what would be a reasonable amount." He gives no valid reason for arriving at this amount and I consider this is merely one of the many manipulations to make his figures tally.

One-third of £52 10s. is £17 10s. He then adds 10 per cent profit on the base price plus extras, that is 10 per cent. on £1,687 16s. 9d. equals £168 and £125 for land. That initial purchase price is made up then as follows:—

	£	s.	d.
S.H.C. base price	1,500	0	0
Extras as per schedule	187	0	0
Rise and fall	17	10	0
Profit	168	0	0
Land	125	0	0
	1,998	0	0

To the initial purchase price he adds:—

	£	s.	d.
Imported items	5	1	6
Rise and fall—			
1950, December	3.555		
1951, January	5.033		
1951, February	.250		
	8.838		
Say 9% of base price £135,			
at ¾	102	0	0
Extras to vary	15	5	0
	122	6	6

In addition, when working out his interim and pro forma statement, Snowden charged for the following items as "extras":—

	£	s.	d.
Power points	3	18	0
Clothes lines and crossarms	2	12	6
Rear granolithic path	4	12	6
Difference between English and Australian bath	3	8	3
Link mesh	5	14	0
	20	5	3

Snowden stated that these items were treated as extras in view of the fact that they were not included in the prototype and were added at the request of the client.

The final selling price to the client for house and land complete was £2,140 11s. 9d.

When asked for particulars and where his records would show how the schedule of extras was made up, he says they were recorded on pieces of paper and when he knew there was to be a Royal Commission he recorded the various items in the schedule (Exhibit 64) and destroyed the pieces of paper. Coming from an allegedly meticulous man like Snowden, this story is extraordinary. I would have thought that to be a very good reason why the slips should have been retained.

At page 992 of the transcript, Snowden says that when the accounts were rendered at the conclusion of the various jobs he was quite satisfied the figures were accurate. These accounts could not have been made up from his books of account because they do not tally with them. The pro forma account, like the particulars in the schedule, must also have come from the slips of paper.

There is no doubt that the sum of £168 profit set out in the schedule purported to be his actual profit. He has committed himself to this by language which is so clear and definite that there can be no mistake about it. In doing so he has stamped himself as a witness so unreliable that no credence can be given him at all.

On page 969 of the transcript, Mr. Gwynne puts this question to him:

That 10 per cent. which you added to the permit price, plus the additional items, was really your first and last profit on the actual building of the house?

Answer: I regarded it as such.

Mr. Gwynne: You were really acting almost on cost plus basis?

Answer: Yes.

Again at page 991 there is this illuminating evidence:

Mr. Gwynne: You arrive at what you anticipate your cost to be on your calculation and then sell it in order to make a certain amount of profit?

Answer: Yes.

Mr. Gwynne: And the percentage profit is, as you have told us, 10 per cent. of the estimated price, plus your additions?

Answer: Yes.

At page 967 Mr. Gwynne put this question:

I think you told me you were not influenced by any other outside consideration in arriving at the figure of £166 and it includes, you said, no profit at all?

Answer: That is correct.

Snowden's evidence as quoted, and the schedule, if correct, cannot possibly permit of any other profit because on the figures it would be mathematically impossible. In view of this evidence it is amazing, therefore, to find that the company made a gross profit of £632 19s. 9d. This was only discovered from the company's ledger sheet and after a very reluctant disclosure by Snowden that the house had been built by a sub-contractor. It is interesting to note that the sub-contractor built the whole place, including extras, for £1,334 18d. 9d. I have not the slightest doubt that the schedule is a fabricated document.

I would have thought that with all the figures available to the company evidence would have been readily forthcoming as to the actual financial position in each case. In his evidence-in-chief C. H. Snowden dealt, in detail, with his schedule (Exhibit 64) and his calculations based on a rate per square but did not give a single tittle of evidence about the moneys actually paid out by the company. Even when asked who built the houses for Wood and Sitour he said "Must I disclose that?" Why hesitate if he didn't have anything to hide? It was only through this reluctant disclosure and the consequent production of the sub-contractor's evidence that the commission was able to arrive at anything like a true picture of the financial position.

When Snowden's calculations in Exhibit 64 are taken in conjunction with his ledger card for the particular job (Exhibit 82), the pro forma statement (Exhibit "B"), the specification (Exhibit G/6/220), the sub-contract (part of Exhibit 82) and the sub-contractor's evidence, it will be seen how unreliable these calculations are.

The sub-contract between the company and Cecil Prosser, of 84 Alexander Street, Wembley, is dated 4th September, 1950. The contract price is £1,175 plus extras, all plant, materials and labour to be supplied by the sub-contractors. The erection of the building had to be commenced before 15th September, 1950. It is important to remember that Snowden calculated his base price in August, 1950, and his initial purchase price in December, 1950.

Under the sub-contract Snowden & Willson paid to Prosser the sum of £1,334 18s. 9d. which included all extras put in by him.

From the £187 16s. 9d. added to the base price for extras and included in the initial purchase price, it will be seen that many deductions must be fairly made.

The following are amongst the items claimed as extras:

	£	s.	d.
Clearing	15	8	0
Road cost	25	0	0
Special water service	4	5	0
	<u>44</u>	<u>13</u>	<u>0</u>

These were claimed over and above the base price. As Snowden claims that the ledger gives an accurate description of all expenditure for the job and as these items do not appear in the ledger, they must be regarded as fictitious. Furthermore, Prosser swore that the road cost was included in his original contract price of £1,175.

A further deduction which must be made is £10 for wastage and theft. Prosser swears this was included in the £1,175 and when Snowden made up his initial purchase price, he must have known this was provided for in the sub-contract price and it would certainly be allowed for in the base price. To my mind this is just a typical loading of the purchase price. Add this £10 to the sum of £44 13s. and the total sum of £54 13s. should be deducted.

Prosser's evidence (and it is not disputed) is that the following extras:—Double stove recess, shaving cabinet, granolithic path (front), dove-cote chimney and 4 x 2 trimmers were all included in the original sub-contract price, and Snowden of course knew this. It is also safe to assume they were contained in the base price. The following deductions therefore must be made because they cannot be considered extras at all:—

	£	s.	d.
Double stove recess	10	0	0
Shaving cabinet	2	10	0
Granolithic path	10	0	0
Dovecote chimney	2	10	0
4 x 2 trimmers	10	0	0
	<u>35</u>	<u>0</u>	<u>0</u>

From the sum of £187 16s. 9d. a total deduction therefore of £89 13s. should be made leaving a balance of £98 3s. 9d. made up as follows:—

	£	s.	d.
Fancy ceilings	3	0	0
Cyclone front fence	14	5	0
Picket fence	41	10	0
Extra power point	2	0	0
Gates	4	10	0
Difference between Australian and tin bath	10	1	9
3in. water service	1	0	0
Kitchen storage cabinet	4	0	0
Survey fee	2	12	0
Plumbing plan	1	5	0
Window hoods	14	0	0
	<u>98</u>	<u>3</u>	<u>9</u>

Some of the items comprised in the sum of £98 3s. 9d. were evidently not included in Prosser's sub-contract price, but were definitely included in the sum of £1,334 18s. 9d. paid to him. The sum of £159 18s. 9d. representing the difference be-

tween the sub-contract price of £1,175 and the sum of £1,334 18s. 9d. actually paid to Prosser must represent—

- (1) Extras.
- (2) Extras to vary.
- (3) Imported Items.
- (4) Rise.

The sum of £15 5s. claimed in the pro forma account in accordance with clause (6) (c) of the contract as an extra to vary, must be rejected. Prosser says this was included in his original contract price and that it merely represented the extension of the front passage way to the front porch. This was done because on the original plans it left "a bit of a squeeze" to get into the bedroom with the front door open. I don't consider it was ever an addition or alteration within the meaning of clause 6 and to claim it as such is dishonest.

The sum of £5 1s. 6d. for imported items must also be rejected because there is nothing to show how it was made up, it does not appear in the accounts nor did it evidently appear on the pieces of paper. In fact Snowden says he never kept a record of imported items (993).

Subtracting £98 3s. 9d. from £159 18s. 9d. we get £61 15s. and this sum should represent "rise". Accept Snowden's figures of £15 5s. as an item to vary and £5 1s. 6d. for imported items and it only makes the position worse for him because "rise" would then only amount to £41 8s. 6d. These figures show how unreliable Snowden's own calculations are.

I really believe that Snowden all along intended the sum of £122 6s. 6d. in the pro forma statement to represent to the Woods straight out rise and fall. In all the correspondence it was referred to as such and it was only after he received the monthly percentage rises from the quantity assessor, Ross, and realised that he could not make his figures balance, that he introduced the sums of £15 5s. and £5 1s. 6d. above referred to.

Unfortunately Prosser kept no books and it is therefore impossible to arrive at the actual sum paid to him for "rise". Bearing in mind that the total paid to Prosser for extras and rise extending over a period of more than six months was £159 18s. 9d. it is absurd to charge the Woods £102 for rise alone from 27/12/50 to the date of possession. Prosser's rise was actual so that Snowden & Willson paid him for genuine increases in labour and materials. The company's charges to the Woods purport to be a percentage rise and in my opinion are fictional.

C. H. Snowden (page 1053) says he did not have a record of the rise paid to Prosser in his books, but when he extracted the information for the commission, he destroyed it. If he did extract it where is it? Prosser was paid an actual rise and although the suggestion was first made that an actual rise was passed on to Wood, we now know that is not the position.

Pages 1043-1044.

Mr. Gwynne: Did you pay Prosser rise and fall?

Answer: Yes.

Mr. Gwynne: What was that rise based on?

Answer: It would have been the same as I have put in?

(i.e., in Exhibit 64.)

This is, of course, a deliberate lie because Prosser's rise was made up from his invoices and not on a percentage basis. Further question by Mr. Gwynne: "The percentage would correspond to the figure you have put in?"

Answer: It should correspond closely with the exception of a small amount in that case.

Whereas under clause 6(a) the increases are limited to the construction and completion of the building Snowden tries to claim a rise for the increase of his administrative expenses and to use Ross's words, had to charge a large rise and fall. Paraphrased, this simply means he added on more profit.

Snowden & Willson's gross profit as shown on the ledger sheet is £632 19s. 9d. and this is admitted by C. H. Snowden to be correct. This is shown on the sheet as follows:—"Transferred to Contract Profit Account, £350." "Transferred to Commission Account, £282 19s. 9d." The records for the land account were unavailable, it being claimed by C. H. Snowden that this account with many others, had been accidentally burned. However, the sum of £125 is shown on the ledger sheet as having been transferred to the land account. The sum of £350 and £282 19s. 9d. were in fact transferred to the one account. When first pressed he could not remember why the profit had been split into two sums, later said he misunderstood the questions about these items, but finally had a clear recollection that the £350 represented overhead and administrative expenses.

Snowden says that 20 per cent. would not represent a fair percentage of gross profit in his case. Prosser, despite the fact that Snowden says he worked at a cut rate, was very satisfied with the 10 per cent. he says he made out of the job. Mizen says 10 per cent. plus 10 per cent. for administrative expenses is fair, Mr. Boas says 10 per cent. net profit, plus five per cent. for overheads is fair, whilst Mr. Henderson says recognised builder's profit is 10 per cent. How, therefore, can a gross profit of £632 19s. 9d. on a total outlay to the company of £1,380 13s. be justified? To my mind it is nothing more nor less than profiteering of the worst type.

The sum of £1,380 13s. represents £1,334 18s. 9d. paid to Prosser plus £45 14s. 3d. paid by the company for incidental expenses. The whole house therefore when built cost less than the base price submitted to the Housing Commission.

The company originally prepared or had prepared plans and specifications of the simplest form. They submitted these to the Housing Commission, obtained the necessary permits and releases, obtained a builder, supervised the erection of the building and very little else. A qualified architect would charge six per cent. on the cost of the building. C. H. Snowden sought to justify the high percentage of gross profit by saying that the company built on terms and in many cases had to cover, as in Woods, portion of the purchase price by second or even third mortgage. A high rate had therefore to be charged to cover the risk, time

and extra work involved. This argument carries no weight with me whatsoever, because, in reality, all he did was to let out at seven per cent., some of the grossly excessive profit. After all it is not only a good risk, but extremely good business for the company to make more than an adequate profit in cash and let out the balance at seven per cent. Moreover, when the other cases are analysed, it will be found that only a few of the nine complainants required mortgages at all and the total amount secured by mortgages was £1,734 9s. 2d. Those who did pay cash were even more harshly treated than the Woods and the percentage rate of gross profit was even higher.

The net profit has not been disclosed. Snowden would make no attempt to estimate it and the books which might have enabled the commission to arrive at it, have been destroyed. Snowden and Willson did not actually build the house and were little more than supervisors. When it is remembered that a qualified architect who draws up the plans and specifications and supervises the erection of the whole building, gets a total of six per cent. of the cost of the house, some idea can be obtained as to the net profit the company must have made.

Interesting evidence as to the value of the house when completed is given by Mr. Morrell, Manager, Housing Loans Department, Commonwealth Bank, who says that the bank will advance up to 85 per cent. of the bank's valuation and the maximum advance in this case would have been £1,270. The bank's valuation therefore was approximately £1,376.

In the case of Mr. and Mrs. Wood therefore I find—

- (1) That W. E. Snowden falsely represented to the Woods that the rise in costs of labour and materials in accordance with clause 6 of the contract would not exceed £20.
- (2) That the false representation so made, induced the Woods to enter into the contract. They were uneasy about the inclusion of clause 6 in the contract and I feel sure that but for the false representation, they would not at that stage have signed the contract. Apart from considerations mentioned below, maximum "rise" should be limited to £20.
- (3) That even apart from the false representation, the company has failed to substantiate the sum of £102 rise in costs of labour and materials charged in the pro-forma statement. This finding is inevitable in view of the highly conflicting letters written by the company and the evidence given by both Snowdens before the Commission. Furthermore, in accordance with clause 6 of the contract, the company was only entitled to charge actual rises brought about by the increases in costs in the construction of the premises. These actual rises were ascertainable from Prosser's invoices, but the company purported to charge something entirely fictional.

- (4) That the sums claimed for imported items £5 1s. 6d. and extras to vary £15 5s. in the pro forma statement are fictitious and only given in evidence to try and balance the "rise" with the monthly percentage rate of "rise" allegedly given to the company by the witness Ross.
- (5) That the clothes lines, cross arms and granolithic path charged for as extras in the pro forma account amounting in all to £7 5s. were included in the initial purchase price and are therefore improper charges.
- (6) That the company was harsh and unconscionable in charging for extras at all. When it is remembered that the premises were built for a total expenditure to the firm of £1,380 13s. which was £119 less than the base price of £1,500.
- (7) That the gross profit of £632 19s. 9d. was excessive, representing 46 per cent. on an expenditure of £1,380 13s. The company was well aware of the financial position of the Woods, and again I consider its conduct harsh and unconscionable.
- (8) That the contract as drawn was open to grave abuses and was in fact abused.

Hendricus Siteur—Lot 432 Hubert Road, Maylands.

The facts in this case conform in pattern very closely to that of Woods.

The base price was £1,500.

The initial purchase price was £2,043, made up as follows:—

	£	s.	d.
Base price	1,500	0	0
Extras as per Schedule	186	16	9
Rise	17	10	0
10% profit on £1,686 16s. 9d.—	168	0	0
Land	170	0	0
	2,042	16	9

In addition, when making out his interim and pro forma statement, Snowden charged for the following items as "extras":—

	£	s.	d.
Four extra power points	7	14	0
Clothes lines and crossarms	2	12	6
Rear granolithic path	4	12	6
Difference between English and Australian bath	3	8	3
	18	7	3

Snowden stated that these items were treated as extras in view of the fact that they were not included in the prototype and were added at the request of the client.

The final selling price to the client for house and land complete, was £2,130 7s. 8d.

The contract of sale was dated 11/12/50 which was 16 days before Wood's contract. The difference in the initial purchase price was due to Siteur's block being larger and he was charged an extra £45.

All the terms of the contract were similar to Woods'.

There was a sub-contract between the company and Prosser for the erection of the house for £1,175 plus extras. This sub-contract was dated 4/9/50.

The date of completion of the house was approximately 12/2/51.

Siteur received a pro forma statement charging him £69 5s. to cover rises in labour and materials and £18 7s. 3d. for extras, making a total of £87 7s. 8d. over and above the initial purchase price.

Siteur first saw W. E. Snowden about the end of November, 1950. Like Mrs. Wood, he was shown a prototype of the house he was to purchase. He was not shown the actual house he was to get, as Snowden allegedly told him it was better to see a completed house. Between his first interview with Snowden and the date of the signing of the contract, Siteur and a friend named De Vries saw his actual house. There is no doubt it was well advanced, the walls and roof being up and the windows in.

When it came to the question of rise and fall, W. E. Snowden is alleged to have said that in view of the fact that the house was nearly complete, there would be only a few pounds.

Siteur: What do you mean by a few pounds?

W. E. Snowden: There is an increase in the basic wage coming up any day and it will affect the price of the house by a small amount, but all the material is there. (Page 180.)

Siteur says Snowden told him a figure but he won't swear to it but "I think it was between £15 and £20."

To go into detail again on the credibility of the witnesses would be redundant but I feel quite sure Snowden made the above representations.

Siteur does not say representations were made to him about the rear granolithic path, the clothes lines and cross arms but that he realised from the company's letter of 11/12/50 (Exhibit "P") to the Commonwealth Bank, which he had read, that these items were to be included in his house as part of the initial purchase price.

Siteur's chief complaint is that the sum charged for "rise" is excessive. He has in my opinion at all times taken a reasonable view and says, even now, if given particulars of how the amount is made up, he will pay. All his efforts to get particulars have failed. On 7th May, 1952, the company wrote to him saying at that late stage it would not under any circumstances give the particulars have failed. On 7th May, 1952, the company for 12 months or more Siteur had been endeavouring to get satisfaction. From the correspondence and the evidence before me, I can only come to the conclusion the company was unable to give particulars. When Siteur's demands became insistent, the company retaliated by a veiled threat to call up his second mortgage.

As in the case of the Woods, C. H. Snowden, tendered his schedule of prices (Exhibit 65) to support his calculations. If the company's letters of 2/3/51 and 14/3/51 (already commented on) to Siteur are true, then Exhibit 65 is fabricated and a completely false document. If the exhibit is correct, the two letters contain deliberate lies. I believe the former to be the case.

Analysing Exhibit 65, it is found that it contains many glaring inconsistencies.

The schedule shows how the base price of £1,500 is made up for an asbestos and timber-framed house. To the base price are added extras of £186 16s. 9d., rise of £17 10s. profit at 10 per cent. £168 and land £170, giving the initial purchase price of £2,042 6s. 9d.

To the initial purchase price are added:

	£	s.	d.
Imported items	8	15	5
Extras to vary	15	5	0
Rise	45	0	0
	69	0	5

Many of the items comprising the sum of £186 16s. 9d. extras must, on the evidence, be deducted. It will, therefore, be necessary to consider Exhibit 65 in conjunction with ledger card (Exhibit 81), pro forma statement (Exhibit "V") and specifications (Exhibit G/6/220).

The following items must be deducted:—

	£	s.	d.
Clearing	15	8	0
Special water service	4	5	0
Road cost	25	0	0
	44	13	0

These items are claimed as having been incurred by Snowden & Willson but do not appear on the ledger sheet. As the ledger sheet is alleged to set out accurately the expenditure for the job, these items must, therefore, be rejected.

A further item of £10 for wastage and theft must be rejected, as this item was included in the original sub-contract price and as it is the custom of the trade to include such an item in all building estimates, it would be most certainly included in the base price. A total of £54 13s. must so far be deducted.

The following items were all included in Prosser's sub-contract price of £1,175 and it is safe to assume were in the base price:—

	£	s.	d.
Double stove recess	10	0	0
Shaving cabinet	2	10	0
Grano. path	10	0	0
Dovecote chimney	2	10	0
4 x 2 trimmers	10	0	0
	35	0	0

This makes a grand total of deductions of £89 13s. leaving £97 3s. 9d. representing extras.

All the items making up the sum of £97 3s. 9d. were included in the total sum of £1,329 8s. 5d. paid to Prosser. The sum of £154 8s. 3d., representing the difference between the sub-contract price of £1,175 and the total of £1,329 8s. 5d. paid to Prosser, must represent:—

- (1) Extras.
- (2) Extras to vary.
- (3) Imported items.
- (4) Rise.

The sums of £8 15s. 5d. and £15 5s. for extras and items to vary, respectively, are for the reasons given in Wood's case rejected. To arrive at the amount paid to Prosser for "rise" alone, deduct £97 3s. 9d. from £154 8s. 3d. and this gives £57 4s. 8d., or, if the sums of £8 15s. 5d. and £15 5s. are included, the sum of £33 4s. 3d.

I am satisfied beyond doubt that the company intended in all its correspondence to Siteur, to represent that the sum of £69 0s. 5d. in the pro forma statement was for rise purely and simply. The sums of £8 15s. and £15 5s. were thought up afterwards in an endeavour to balance the company's rise on a percentage basis.

Siteur has been very adversely criticised. He certainly signed the usual letter of appreciation and that he was satisfied with the final account, but I think there was some considerable substance in his maxim that "you catch more flies with honey than vinegar." He was in a desperate plight, his family were on their way from Indonesia, and every penny he had was sunk in the house, and I think W. E. Snowden's remarks at page 1102 of the transcript very appropriate in this case. "With all reverence and due respect 'for God's sake give us a house,' that was their attitude." I consider Siteur to be a keen man but not dishonest. Like Wood, the more he thought things over, the more he realised that Snowden & Willson had made a good thing out of him. Consequently he stood up for his rights, and he is not to be blamed for this.

Snowden & Willson in this case made a gross profit of £624 6s. 2d. on a total outlay to the firm of £1,356 1s. 6d. The sum of £1,356 1s. 6d. represents £1,329 8s. 5d., paid to Prosser, plus £26 13s. 1d. extras as appearing in the company's ledger sheet. The gross profit represents 46 per centum on the company's outlay.

As shown in the ledger sheet the sum of £150 was transferred to the land account.

As in Wood's case, it has been impossible to arrive at the company's net profit, but it must have been very considerable.

In the case of Hendricus Siteur, therefore, I find that:—

- (1) W. E. Snowden represented to Siteur that the rise brought about by increases in costs in the construction of the premises would only be a few pounds.
- (2) Clause 6 of the contract contemplated only actual rises in the costs of construction and not something fictional and the sum of £45 claimed as "rise" is fictional.
- (3) The company abused the terms of clause 6 of the contract and in view of C. H. Snowden's evidence which contradicts the company's letters to Siteur, it would be extremely dangerous to accept any figure produced to the Commission for "rise". I am firmly convinced that the company merely used clause 6 to "squeeze" extra profit out of Siteur, to which it was not entitled.
- (4) That the sum of £7 5s. charged in the pro forma account for clothes lines, cross arms and granolithic path is an improper charge, as all these items, if not included in the base price, were certainly included in the initial purchase price.
- (5) That the company made a gross profit of £624 6s. 2d. on an outlay of £1,356 1s. 6d. This represents 46 per cent. and to my mind is grossly excessive.

- (6) That as the premises were built for a total outlay of £1,356 1s. 6d., which is £143 18s. 6d. less than the base price of £1,500, the company acted harshly and unconscionably in charging extras at all.

*Theodore Elliott Mosel and Sylvia Amelia Mosel,
No. 14 Stone Street, Maylands—Brick and Tile.*

In April or May, 1951, Mosel contacted W. E. Snowden and he was shown No. 12 and No. 14 Stone Street, Maylands. No. 14 was the place he subsequently purchased. The main part of the building was completed and the plastering done but the flooring and electrical work and so on had still to be done.

According to Mosel, at the time of inspection Snowden told him that the price would be £3,400 and that there would probably be a small amount of rise and fall but it would not be over £20 in view of the fact that all the materials were on hand and any increase would be on account of the increase in wages. Mosel further says he was promised the house within six weeks.

The contract was dated 21st May, 1951, and the initial purchase price was £3,400. Mosel insisted that rise and fall should date from the date of the contract and clause 6 was altered accordingly. Mosel says that when the contract was being read over, Snowden again assured him rise and fall would not exceed £20. He says he was satisfied with that explanation and did not query it further.

On 7th August, 1951, Mosel received his pro forma statement giving the sum of £97 13s. for extras, price rises and increases, and after showing it to a fellow bank officer he went and saw W. E. Snowden and told him he was dissatisfied with the rise. According to Mosel, Snowden explained that the "amount had been calculated by a qualified man to do the job and that was all he could do about it." (287). As in all the other cases, Snowden denies ever having given any assurance about rise and fall not exceeding £20 and his story is merely a repetition of what he says he told all clients, namely, that it was impossible to forecast rise and fall. I have no doubt he did make the representations. I believe Mr. Mosel to be an honest witness and I accept his version in preference to Snowden's.

As in all the other cases, before entering into possession in August, 1951, Mosel had to sign the necessary letters of satisfaction to the State Housing Commission and Snowden & Willson. Mosel says his main consideration was to get a house and that he intended to let the matter of rise and fall stand in abeyance for the moment and to take some further action about it later on, if possible.

C. H. Snowden submitted his plans and specifications to the Housing Commission by letter of 15/6/50. The letter very clearly says the cost of the building will be £2,200. Why therefore has he calculated his base price, as he says he did, from February, 1950?

As in the other cases, Snowden has tendered his schedule of prices (Exhibit 72) to show how his initial purchase price and his subsequent charges for rise and extras were arrived at.

In order to arrive at the initial purchase price, he added extras as per schedule to the amount of £224 10s. 5d. He calculated "rise" from February, 1950, to April, 1951, inclusive to be 20.165 per cent. of the base price, i.e. £440. He charged Mosel, for some reason not explained, seven tenths of this amount, i.e. £308. In addition, he added 10 per cent. profit on £2,200 plus extras of £224 10s. 5d., giving the sum of £242. He also added £425 for the land.

The initial purchase price thus comprised:

	£	s.	d.
Base price	2,200	0	0
Extras	224	10	5
Rise	308	0	0
Profit	242	0	0
Land	425	0	0
	3,399	10	5
Say	3,400	0	0

To the initial purchase price, Snowden says he added "rise" to cover the months of May, June and July, 1951, giving a total percentage of 13.570. 13½ per cent. of the base price of £2,200 equals £297. Again for some unexplained reason, he charged Mosel one quarter of this sum, i.e. £74 plus a further sum of £23 13s. for imported items, giving the total of £97 13s. as appearing in the pro forma statement. As before, no records were kept and no particulars could be given of the imported items.

In addition, when making out the interim and pro forma statement, Snowden charged £20 for electrical work (3-phase wiring) and a further £5 10s. for provision of extra power and light points.

The final price for house and land complete was therefore £3,523 3s.

On 26th October, 1950, Snowden & Willson entered into a sub-contract for the erection of Mosel's house with Mizen & Sons for the sum of £1,795 plus extras. The sub-contract and Snowden & Willson's ledger card were produced in evidence.

Oliver Milton Mizen was called as a witness and he produced figures giving particulars as to his actual rises and extras, imported items and the financial position generally between his firm and Snowden & Willson.

The following comments are based on:—

- (1) Snowden's schedule of prices (Exhibit 72);
- (2) Ledger card (Exhibit 84);
- (3) Mizen's statement re rises and extras, imported items and moneys paid under sub-contract (Exhibits 98, 99, 100);
- (4) Pro forma statement (Exhibit B4);
- (5) Specifications (Exhibit G/6/170).

From the sum of £224 10s. 5d. representing extras, a number of items must fairly be deducted with a result that once again Snowden's calculations are shown to be entirely unreliable.

The following items, namely:—

	£	s.	d.
Survey fees	5	5	0
Special water service	4	0	0
Clearing stumps	14	4	8
Stone to stump holes	7	0	0
	30	9	8

are claimed as incidental expenses but no debits can be found on the ledger card. They must, therefore, be deducted.

A sum of £5 is claimed for a linen press but as this is clearly set out in the specifications, it is a highly improper charge.

The sum of £20 is claimed for wastage and theft, but this was obviously provided for in the sub-contract, as is the custom in the trade, and Snowden obviously knew this when estimating his initial purchase price. This item therefore must be disallowed as it was certainly part of the base price.

The following items must also be deducted:—

	£	s.	d.
Dovecotes	2	10	0
Stove recess	10	0	0
Shaving cabinet	3	10	0
Canister recess	2	15	0
	18	15	0

All these items were not charged for by Mizen nor shown in the ledger card and were quite definitely covered by the sub-contract price and the base price.

In addition, a further sum of £19 should be deducted. Mizen charged only £4 extra for the granolithic path and only £32 7s. 6d. for the cyclone fence. Snowden, however, charged the granolithic path at £18 and the cyclone fence at £37 7s. 6d. making a difference of £19. The total deductions therefore, are:

£	s.	d.
30	9	8
5	0	0
20	0	0
18	15	0
19	0	0
93	4	8

This leaves the sum of £131 5s. 9d. for extras, as against Snowden's £224 10s. 5d.

In addition, in the pro forma account, Mosel was charged £5 10s. for an extra power and an extra light point. In calculating his initial purchase price, Snowden charged an "extra" of £2 14s. In his final statement, Mizen charged extra for only one power point, and a comparison of points provided and points specified in the pro forma clearly shows that only one extra point was provided. Snowden, therefore, was not entitled to include an extra charge in the initial purchase price and again charge for the same thing in the pro formas. The sum of £2 14s. (Mizen's figures) must be deducted. In the pro forma an amount of £2 16s. is claimed for an extra light point. Mizen did not charge for this as an extra and there is no entry of it in the ledger sheet. This must be deducted. The sum of £5 10s. is therefore an overcharge and Mosel is entitled to a refund.

It is more than remarkable that in calculating his initial purchase price, Snowden was able to estimate the price of many items to the very penny, and this months before Mizen submitted his price list for extras. Very many of Mizen's items correspond to the very penny with Snowden's estimates. It is peculiar, in view of both the Snowden's evidence that prices varied from day to day, almost hour to hour, that such great accuracy could be arrived at. In my opinion, this

is only further proof that the schedule of prices was made up after Snowden knew a Royal Commission was pending and in an effort to bolster up his prices.

In all, Snowden charged Mosel £382 for "rise." This included the amount of £308 for the period between the lodging of the plans and the calculation of the initial purchase price and the amount of £74 from the initial purchase price to the date of completion. Mizen, on the other hand, charged Snowden & Willson the sum of £172 15s. 8d. for "rise." This was an actual rise based on the invoices and covered the period from 26/10/50 to August, 1951, the date of completion. Mosel paid £74 in "rise" from 21/5/51 to the date of completion, a period of three months. On his own admissions, Snowden charged Mosel £209 4s. 4d. more for rise than Mizen charged him. In other words, he "squeezed" an extra £209 4s. 4d. profit out of Mosel.

The total sum paid to Mizen was £2,131 6s. 1d. Snowden & Willson incurred the following additional expenditure:—

	£	s.	d.
Water fees (ledger)	3	14	0
P.R.B. fees (ledger)	1	19	0
S. duty (building agreement) (ledger)		2	6
Scaffold fee (ledger)	2	17	7
Fencing (ledger)	4	12	8
	13	5	9

The total expenditure by Snowden & Willson on this job was therefore £2,144 11s. 10d., and the whole house, with all extras, was built for £55 8s 2d. less than the base price of £2,200.

The gross profit as per ledger sheet for Mosel's job was £953 11s. 2d. and this represented 44 per cent. profit on an outlay of £2,144 11s. 10d.

The sum of £425 0s. 0d. was transferred to the land account.

In the case of the Mosels, I accordingly find that—

- (1) W. E. Snowden falsely represented to Mosel that "rise" in accordance with clause 6 of the contract would not exceed £20. I feel sure this representation induced the contract. I consider, therefore, that apart from considerations mentioned below, Snowden & Willson are limited to this amount of rise.
- (2) The rise of £172 15s. 8d. paid by Snowden and Willson to Mizen & Sons was based on actual increases as shown from the invoices and records kept by Mizen & Sons.
- (3) On Snowden & Willson's own figures, the company charged Mosel the total sum of £209 4s. 4d. for rise, or £41 18s. 8d. above that paid to Mizen & Sons.
- (4) The sum of £74 charged to Mosel for "rise" subsequent to the date of the contract was fictional, not actual, and was never arrived at in accordance with clause 6 of the contract. It is dangerous to accept any figure for "rise" supplied by C. H. Snowden.

- (5) The sum of £5 10s. for extra power and light points charged in the pro forma statement is an overcharge.
- (6) Snowden & Willson made a gross profit of £953 11s. 2d., which represents 44 per cent. profit on outlay. In the circumstances I consider this exorbitant.
- (7) In view of the fact that the total expenditure by Snowden & Willson in the construction of this house was £2,144 11s. 10d., or £55 8s. 2d., less than the base price of £2,200, the company was harsh and unconscionable in charging any extras at all in the pro forma statement.

*Jack Reginald Osborn and Thelma Ethel Osborn,
12 Stone Street, Maylands, Brick and Tile.*

At the end of October or early November, 1950, Mrs. Osborn inspected the house in question with Mr. W. E. Snowden. At the time the bricks were five or six feet high. Snowden then told her that the cost of the house, when completed, would be £2,900.

A little later both Mr. and Mrs. Osborn inspected the place with Snowden and on this occasion he said the price would be £3,100. Osborn then said "You said it would be £2,900", whereupon Snowden allegedly pointed out "that they worked off figures all the time and the £2,900 was just a rough estimate he gave at the time (352)".

Finally on 16/12/50 both Osborns went into the office of Snowden & Willson to sign the contract. The question of price was brought up and Snowden allegedly said that the price would be £3,200 and this was to allow for the pound basic wage rise that was imminent.

According to the Osborns they were told that the contract was only a formality. Pressed, however, by one or other of the Osborns about the possibility of a rise, he said "We have allowed for that and there may even be a refund" (P.315). "We have all the materials and our own joinery works". (P.315). Osborn again says at page 316 that Snowden, after pencilling a few items down, said "I promise you it could be no more than £25." As a result of that statement, the Osborns say they were satisfied, were prepared to pay the £25 and accordingly signed the contract. On insistence by Osborn, "rise" in clause 6 was made to date from the date of contract and not from the date of lodging the plans and specifications.

The Osborns received a letter dated 2nd May, 1951, from Snowden & Willson, enclosing the usual pro forma statement charging the amount of £157 11s. for rise and fall. The letter of 2/5/51 clearly calls this sum "rise and fall" but in his schedule of prices, C. H. Snowden says it includes £14 11s. for imported items. As in the other cases, no particulars of these items can be given. Immediately on receipt of this, Osborn tackled Snowden about the "rise" and reminded him of his promise that it would not exceed £25, whereupon Snowden denied ever having made such a promise. Having gone so far with the matter at this stage, Osborn refused offers of his money back and decided to go ahead. This was especially so in view of the fact that it was pointed out to him rather picturesquely that having signed the contract with

the rise clause included therein, he would find himself in rather an awkward position with a judge. (See pages 312-324.)

Before being allowed into possession, the Osborns had to sign the usual letters of satisfaction.

Snowden says he might have given the Osborns some approximate idea of what the house would cost by giving them the price of the last house sold which was £2,980. He says Osborn probably remembers this as £2,900. He did not know the proper sale price to be charged until he got back to the office. He denies ever having made any promise about "rise" not exceeding £25 as he could not possibly give him any idea as to the final price. He says he did point out that all rises to the date of the contract were included therein and that he would only have to pay rise from the date of contract.

As in the other cases, I have no doubt that Snowden promised "rise" would not exceed £25 and I disbelieve his story to the contrary.

C. H. Snowden again submitted his schedule (Exhibit 71) showing how the various figures were arrived at. His base price was £2,195, say £2,200. This price, according to him, did not include dovecotes, double stove recess, hoods, shaving cabinet, clothes posts, canister recess, granolithic path and mesh amounting in all to £60 12s. 6d.

The initial purchase price of £3,200 was made up as follows:—

	£	s.	d.
Base price	2,200	0	0
Extras as per schedule	221	10	0
Rise—7% of base price			
£154— $\frac{1}{4}$	114	0	0
Profit 10% on £2,200 plus			
£221	240	0	0
Land	425	0	0
	3,200	10	0
Say	3,200	0	0

The sum of £157 11s. purporting in the correspondence to be "rise and fall" was allegedly made up as follows:—

	£	s.	d.
Imported items	14	11	0
Rise 12.802%, i.e. 13% of			
£2,200—£286— $\frac{1}{2}$	143	0	0
	157	11	0

In addition, when making out the interim and pro forma statement, Snowden charged extra for the following items:—

	£	s.	d.
Marbletex to kitchen and			
bathroom	16	0	0
Kitchen cupboard	9	10	0
Colouring walls	10	0	0

The final selling price for house and land complete was therefore £3,393 1s.

These figures, like all the others, are in my opinion, spurious and full of inconsistencies and falsities.

In dealing with these figures, regard should be had to the following:—

Snowden's schedule—(Exhibit 71).
 Ledger card—(Exhibit 85).
 Mizen: Rises and extras; imported materials; statement—(Exhibits 96, 97, 98).
 Pro forma statement—(Exhibit B7).
 Specifications—(Exhibit G/6/112).

As in Mosel's case, the house was built under sub-contract by Mizen & Sons, the sub-contract being dated 13/3/50 and the sub-contract price £1,663.

Numerous deductions must be made from Snowden's figures. For example, dovecotes, stove recess, shaving cabinet and canister recess amounting to £18 5s., were included in Mizen's sub-contract price. Furthermore, Mizen charged only £4 extra for the granolithic path, whereas Snowden charged £18 for it, a difference of £14. Mizen charged only £9 12s. 6d. for "6 feet of extra concrete hood," whereas Snowden charged £21 12s. 6d. for window hoods in assessing his initial purchase price. The difference, therefore is £12. The total deductions, therefore, from the schedule of extras at this stage, amount to £44 5s.

An amount of £5 for a linen press must, for the same reason as in Mosel's case, be deducted. This is a definite overcharge.

The following items are claimed as incidental expenses, but must be deducted, as no record of them appears in the ledger sheet.

	£	s.	d.
Survey fee	5	5	0
Special water service	4	0	0
Stove-stump holes	8	0	0
	17	5	0

An amount of £18 17s. has been claimed for clearing, whereas the ledger debit is only £4. This makes a difference therefore, of £14 17s.

The allowance claimed for wastage and theft, £20, for reasons given before, is not a proper charge. A further sum, therefore, of £57 2s. must be deducted.

Snowden's figures are unreliable and I do not consider they were ever compiled before making up his initial purchase price, and it is amazing, comparing his calculations with Mizen's figures, how they correspond, in many cases, to the very penny.

This, to my thinking, shows that Snowden actually based his figures, in many cases, on particulars given him by Mizen.

These particulars, of course, would not have been available to Snowden when calculating his initial purchase price.

In all, Snowden charged Osborn £257 for rise. This included the amount of £114 for the period between the lodging of the plans and specifications to the date of contract, and the amount of £143 from the date of contract to the date of completion. Mizen charged £238 1s. 5d., which was an actual rise based on his invoices and records. Osborn was therefore, charged £18 18s. 7d. more than Snowden was himself charged.

In the final pro forma account, an amount of £9 10s. is claimed for a kitchen cupboard. This is not mentioned in Mizen's list of extras, nor is it shown on the ledger card. The item, therefore must be considered as extremely dubious.

Snowden & Willson paid Mizen & Sons £2,036 15s. 8d. and the company's total outlay on the job was £2,051 3s. 4d. which was £148 16s. 8d. less than the base price of £2,200.

The amount of gross profit, as shown on the ledger card, is £898 17s. 8d., which represents 44 per centum profit on outlay.

The sum of £425 is shown on the ledger sheet as transferred to land account.

In the case of Mr. and Mrs. Osborn, therefore, I find that:—

1. W. E. Snowden falsely represented to both Osborn and Mrs. Osborn that rise in accordance with clause 6 of the contract would not exceed £25.
2. The false representation induced the Osborns to enter into the contract. Apart from considerations mentioned below, "rise" must be limited to £25.
3. In charging £143 "rise" the company departed from the terms of clause 6 of the contract. The rise contemplated by this clause was an actual rise. The actual rise was ascertainable and available to the company, but notwithstanding this, it charged something fictional.
4. I feel sure in my own mind that at all times C. H. Snowden well knew that he would have the house built for many hundreds of pounds less than the initial purchase price and in charging rise and extras over and above the initial purchase price, acted harshly and unconscionably.
5. The company made a gross profit of £898 17s. 8d.; showing a percentage rate of 44 per cent. I consider this grossly excessive.

Frederick Charles Hawkins, 14 Hubert Road, Maylands, Timber-frame, Asbestos;

In October, 1951, Hawkins was introduced to Snowden & Willson, and he interviewed W. E. Snowden.

Snowden, according to Hawkins, first told him that the price would be £2,400 for the house fully erected and, unlike all the other cases under review, the house was sold as a completed house.

On 24th October, 1951, Hawkins paid £400 deposit and was given a form of receipt signed by W. E. Snowden on behalf of the company (Exhibit B8).

On 14th November, 1950, which was prior to the signing of the contract, Hawkins received an account for £2,654 9s. 10d., which included the purchase price of £2,588 and the sum of £66 9s. 10d., representing fees and disbursements.

On receipt of the account, Hawkins interviewed Snowden and told him he was embarrassed by the extra price. Snowden then explained that the final price included all fees and that the company was prepared to offer a second mortgage at 7 per cent. to secure the sum of £300. However, Hawkins arranged to sell his car and took a second mortgage for £200 only. Finally, he signed a contract of sale, dated 22/11/51, the purchase price being £2,588, plus fees and disbursements.

Hawkins summarises his complaints by saying that the actual price was much more than he anticipated and that he therefore had not sufficient money to furnish the house.

(2)—65978.

Snowden says that when he first gave the purchase price at £2,400 he told Hawkins, "The price would be added to by whatever was found at the finish of the job to be owing for rise and fall, extras, additions or whatever my brother found was in the job, at which stage the final price would be made." (P.1159.) He says that when he gave Hawkins the final price, he was quite satisfied. To put it in Snowden's own words, "Mr. Hawkins was like most of the others. He was only too anxious to get the keys and secure possession of the house." (P.1160.)

Unfortunately, no ledger cards were available in this case, but we know from the company's cheque butts that the sum of £1,606 16s. 10d. was paid to Prosser, who built the house under sub-contract. Prosser did not keep any records of payments to him and there is no method of checking what "rise" was in fact paid to Prosser. It is also impossible to ascertain if the company incurred any incidental expenses on this job. There is an amount of £10 being held by Snowden & Willson on account of maintenance, which leaves a certain balance of £971 3s. 2d. Judging from the figures in the other cases, very little other expenditure would have been incurred by the company. When it is remembered that the cost submitted to the State Housing Commission in March, 1951, for the erection of this house was £1,850, it is obvious that, like almost all others, it was built for something less than the base price. In March, 1951, Snowden & Willson must have known that a place such as Hawkins' would be built for something less than the price submitted to the Commission. Woods' and Siteur's places were just about finished and, notwithstanding price rises, the company should have been able to make an estimate within a few pounds.

It is not disputed that prices rose very considerably during 1950 and 1951. Figures show, however, that as prices increased, so did the profits of Snowden & Willson. I feel quite sure they, like many others in the community, merely used price rises to bump up their profits.

The sum of £971 3s. 2d. represents 61 per cent. profit on outlay. Add, say, £60 for incidental expenses incurred by the company, which is in excess of that in any other timber-framed job where the place is built by a sub-contractor, and a percentage rate of profit of 55 per cent. is still shown.

In the case of Frederick Charles Hawkins, therefore, I find that:

- (1) The purchase price of £2,588 charged to Hawkins was grossly excessive and savours of profiteering in the worst form.
- (2) The house was completed in November, 1951, at a cost well below the estimated cost of £1,850 submitted to the Housing Commission in March, 1951.
- (3) The explanation by W. E. Snowden to Hawkins that the sum of £188 over and above the first quote of £2,400 was due to price increases was false.

Jack Curtis and Lilla Jean Curtis, 38 Leake Street, Bayswater—Timber-frame and asbestos;

Mr. Curtis is a boilermaker and in early 1951 was living on a front verandah in Palmyra with his wife and child. About this time, he contacted Mr. W. E. Snowden. Snowden told him the com-

pany was building a group of houses and that he could probably get one. Curtis says Snowden then told him the approximate price for a timber-frame, asbestos house would be £2,000. Curtis told Snowden he could pay £800 deposit.

After having been taken to see a prototype, Curtis was shown his present house which at the time had the floor joists down, the side of one room completed and the framework of one room up. Curtis says he told Snowden he would take the house for the approximate sum of £2,000.

A contract was entered into for the sale of the house and the purchase price was £2,400. The contract is dated 4th May, 1951. Curtis says he only found out the price was to be £2,400 when he saw it in the contract. Curtis says about a week elapsed between the time of the first quote of £2,000 to the date of the contract when the price had risen to £2,400. Curtis agreed to the price with the possibility of getting a second mortgage from Snowden & Willson. Finally, however, he was able to arrange private finance.

When the contract was read to Curtis, the latter says he questioned Snowden about the possibility of a rise, and Snowden allegedly said this would be negligible because the house would be completed so quickly. Snowden further told him that he had all the material on hand to complete the job.

On 26th October, 1951, when the house was nearing completion, Curtis received a letter from the company, together with the pro forma statement. The statement gave, "Extras, price rises and increases as per purchase agreement" £188 9s. 8d. On receiving this statement, Curtis says he went and saw Snowden and questioned him about it as he did not think it was a fair figure. Snowden then allegedly told him it was prepared by an ex-official of the Housing Commission, who was one of the highest authorities in Western Australia (393). Curtis spent considerable effort in endeavouring to get particulars of the price increases, and finally received a letter from Snowden & Willson, dated 15/11/51. This letter, insofar as it purports to give particulars, is useless, in that it merely gives a total percentage of rise for the months April to September, 1951, as 13.835. How could this letter possibly assist Curtis to know whether the sum of £188 9s. 8d. was justified or not?

Snowden denies emphatically he ever told Curtis the rise and fall would be negligible. As a matter of fact, he said he could give no idea and that Curtis made no protest at the conclusion of the job. Like all the others, Curtis signed the letters of appreciation and in the letter to the company said he had thoroughly examined the statement of account.

I consider Curtis to be a truthful witness, and even without the corroboration from other complainants, I am prepared to believe him. I do not accept Snowden's version and I am quite sure he made the representations as alleged.

C. H. Snowden commenced in the usual fashion by estimating his base price of £1,500. He again tendered in evidence his schedule of prices (Exhibit 66) showing how he arrived at his initial purchase price and his pro forma statement.

To the base price of £1,500 he adds extras amounting to £319 19s. 10d. It is difficult to assess the legitimacy or otherwise of many of these items, as the house was built by Snowden & Willson themselves and no comparisons can be made with sub-contractor's figures.

Some comment is necessary concerning the amount charged for picket fencing, namely, £103 4s. C. H. Snowden said in evidence that the normal charge for picket fencing is 5s. per foot. At this rate, a minimum of 413 feet of fencing must have been provided for the block, whereas in actual fact the distance around the two sides and the back of the block amounts to only 338 feet. An inspection of the ledger card shows that 320 pickets were purchased and a further 100 were transferred from stock. This is a total of 420. It would seem that, at the very maximum, one side fence and possibly the rear were provided. Why then the charge of £103 4s. in the schedule?

The ledger sheet also shows an entry "Pair gates £3 2s. 1d." and a further entry, "4 brackets 8/11", making a total of £3 11s. Why is a charge of £6 10s. made in the schedule?

I feel very considerable doubt attaches to many of the extras in the schedule. For example, there are no records of "extra stump height, etc. £30 11s." and "sand-front path £6 10s." Again, I feel quite sure "Waste and theft £10" were included in the base price.

C. H. Snowden swears the schedule of extras was prepared with a view to assessing his initial purchase price. It is amazing to me, therefore, that he was able to assess in advance to the very penny the cost of painting a bathroom dado. He assessed this at £6 7s. 6d., but that dado was not painted till almost at the completion of the job. Curtis was charged a total "rise" of £370, £210 of which was included in the initial purchase price and £160 of which was charged in the pro forma statement.

Curtis paid the total sum of £2,592 3s. 8d. for the house and land and the amount of gross profit shown on the ledger card was £807 7s. 2d. and the sum of £185 was transferred to the company's land account.

In the case of Jack and Lila Jean Curtis, therefore, I find that —

1. W. E. Snowden falsely represented to Curtis that "rise" in accordance with clause 6 of the contract would be negligible in view of the fact that the house would be completed so quickly and as he had all the material on hand to complete the job. Snowden & Willson, therefore, must be limited to a negligible amount for rise and fall. I consider Curtis should not have to pay any rise at all.
2. I feel sure that the false representation induced Curtis and his wife to enter into the contract. Had they known that "rise" would amount to £160, they would never have signed the contract.
3. W. E. Snowden picked his mark in Curtis and knew how far he could safely "push" him. This is evidenced by the fact that within a week he raised the purchase price from "approximately £2,000 to £2,400.

When it is considered that the house was built for a total of £1,634 4s. 2d., £2,000 would have been much nearer a fair price.

4. The gross profit of approximately £807 7s. 2d. representing as it does 49 per cent. on outlay, is exorbitant.

Victor Charles Werndly and Ellen Werndly—58 Cookham-road, Rivervale, Timber frame and Asbestos:

In August, 1950, Werndly, who at the time was a garage foreman, was living at Moora with his wife and family. As two of the three children were in Perth, it was decided, for economical reasons, to seek a house in Perth. After some correspondence with Snowden & Willson, Mrs. Werndly came to Perth and interviewed W. E. Snowden, approximately on 1st November, 1950. At the interview, Snowden offered Mrs. Werndly a place either at Victoria Park or Maylands. She preferred Victoria Park but, as there was a completed home at Maylands, she was taken there to see a prototype. She was then taken to 58 Cookham-street, the house she subsequently purchased. Mrs. Werndly says, at this stage, the timber-frame was up and the workmen were putting asbestos on the walls.

Mrs. Werndly knew something about rise and fall and, on asking how much the house would cost and being informed £1,979, she says she immediately questioned Snowden whether this would be the full cost of the house. She says she further told Snowden if there were a large rise and fall her husband would find it cheaper to stay in Moora and send the children to school in Perth. Snowden then allegedly said the rise and fall would be so small that she need not worry about it, and she could assure her husband on that point (415).

Mrs. Werndly was given the original contract, which she took up to Moora to be signed by her husband. The contract is dated 1st November, 1950.

When Mrs. Werndly visited Snowden & Willson's office on a subsequent occasion, she was taken to see the progress of the house and she again pressed Snowden about the rise and fall. She says she pointed out her husband could not meet a large rise and fall. Snowden once more said not to worry about it. At this stage the question of an overpayment of £25 to the company was raised, and Snowden allegedly said this would cut out the rise and fall. Mrs. Werndly further says that Snowden accompanied her to the Commonwealth Bank about the question of the mortgage and said, "Do not ask for £1,175; ask for £1,200, and that will cover your rise and fall." (420.)

W. E. Snowden says Mrs. Werndly at no stage mentioned the question of rise and fall till clause 6 of the agreement was read to her. He says she did not even know what rise and fall meant (1222). He denies emphatically that he gave any promise about rise and fall at all, and says Mrs. Werndly's story about this is a complete fabrication. As in all the other cases, I have no hesitation in finding that Snowden made the representations as alleged.

The Werndlys received their pro forma account, dated 15th May, 1951, just as their house was about completed. This account included the sum

of £347 17s. 6d., which purported to cover rises and increases in accordance with clause 6 of the contract, plus extras. Out of this sum, £329 16s. 9d. is charged for rise and fall.

Also included in the pro forma was the sum of £5 8s. 3d., which purported to be for "extra re difference in English and Australian C.I.P.E. bath." This is nothing short of imposition, as in the company's letter of 3/10/50 the approximate price of the house was given as £1,979, and in its letter of 18/10/50 it was pointed out that the house included an "English porcelain bath."

The Werndlys were, like all the others, required to sign the necessary letters of satisfaction before being allowed to enter into possession. At this stage, the Werndlys had received legal advice, and I believe them when they say they signed these letters on legal advice.

There is no doubt that on receipt of the pro forma account, they were very dissatisfied. They had not only obtained legal advice but also took the matter to the Housing Commission, who advised them that further inquiry was warranted. Werndly's and Mrs. Gurr's cases are most important because, as a result of their complaints, the State Housing Commission went into the question of costs very thoroughly and came to the conclusion that Snowden & Willson, like a number of other firms, were charging excessive prices and making excessive profits. As a result of its investigations, the Commission held up the release of controlled materials to the company.

Both Mrs. Werndly and Mrs. Gurr obtained the services of an architect, Mr. E. Le B. Henderson, who went into the prices charged to both clients and, after thorough investigation, he came to the conclusion, as the Housing Commission had done, that Snowden & Willson had grossly overcharged. In dealing with the prices charged for the various houses, it is to be remembered that C. H. Snowden purported to build on a cost-plus basis, and it is from that viewpoint that this inquiry has been conducted. The test is not the market value at the date of completion. As I pointed out previously, C. H. Snowden, on seeing his own figures and calculations crumbling to the ground, changed, or I should say attempted to change, his story and sought to say, "I charged what I considered to be the market value."

Mr. Henderson is a Fellow of the Royal Institute of British Architects, a Fellow of the Royal Australian Institute of Architects, Chairman of the Architects Registration Board, and a member of the Town Planning Institute. I have had considerable experience of Mr. Henderson as a witness, and he is a man in whom great reliance can be placed. I do not propose to go into his evidence in any great detail in Mrs. Werndly's case other than to deal with a few salient facts. Mr. Henderson took out his figures and based his calculations of £175 per square as at 30/6/51. At this date, the house was completed and Mrs. Werndly was actually in occupation. His values are therefore based on a date some six months after the signing of the contract.

Mr. Henderson gave his total price as £1,760, including paths and all extras and the cost of the land. He deducted the sum of £150 for land, which would leave his figure at £1,610. It will be shown

later that Snowden & Willson built Mrs. Werndly's place for somewhere in the vicinity of £1,403 13s. Allowing ten per cent. profit on this sum, plus 5 per cent. for overhead, which is said to be fair, it will be seen that Mr. Henderson was only £3 out in his estimate.

Wilfred Fortune, a senior supervisor of the State Housing Commission, gave his valuation of Mrs. Werndly's property as £1,621, plus £125 for the land. This was, of course, given quite independent of Mr. Henderson, yet their figures differ only by £10 in their estimates of the actual cost of the house.

Mr. Harold Boas, Architect, was called by Mr. Durack. Mr. Boas is a fellow of the Royal Australian Institute of Architects and a Past-President of the Australian Institute of Architects. He is also a Sworn Valuator. His evidence, however, does not, I consider, help the matter very much. First of all, he said that since the war he had built a great number of houses, including timber-framed, but later said that he had not done any of these. Mr. Boas valued all the houses, including Mrs. Werndly's but he says he knows nothing about the cost of construction of them but based his value on what a willing buyer would pay for the house in the open market for a house of a similar type at that time. All his valuations are based as at December, 1951. Note, this is twelve months after the date of Mrs. Werndly's contract, when prices had risen very considerably.

Mr. Boas estimated the value of Mrs. Werndly's building as at December, 1951, at £2,250, and its present-day value at £2,500. In arriving at his estimate of £225 per square, he said he relied on "guesswork." (808.)

Mr. Boas says that the type of house built by himself was better than those built by Snowden & Willson and under review by this Commission. This is natural, as he says, if you employ an architect you are going in for a better type of house. It is interesting, therefore, to note that at least one house built by himself in Leederville, brick and tile, cost only £2,180, plus £290 rise and fall. This house was built between September, 1950, and March, 1952. Snowden & Willson's prices compare very unfavourably with this.

Mr. Boas gave particulars of large rise and fall paid by clients for houses which took approximately 18 months to two years to build. When it is considered the places under review took about a third of the time to build and when you compare the rise and fall with those given by Mr. Boas, it will be found that Snowden & Willson charged a sum quite out of proportion. Furthermore, the rise charged in the cases cited by Mr. Boas covered the period from foundation to completion, whereas in many of the cases under review, the houses were roof high at the date of the contract.

Mr. Boas's valuation in Werndly's case was based on the open market value, had nothing to do with the cost of construction, yet it is on the cost of construction that C. H. Snowden says he based his profit and ultimately his selling price. Furthermore, Boas says that the purchasers were lucky to get their houses at the prices at which he valued them. Seeing the large gross profit that must have been averaged over this Cookham Street group, at the prices for which they were actually sold, very little reliance can be placed on evidence of this

sort. Moreover, Mr. Boas's valuation is far removed from Mr. Henderson's and Mr. Fortune's, and far removed from the actual position as shown by the Company's own books. On the other hand, it is interesting to note that if you take Snowden's own figures and add normal builder's profit, you get within £10 to £20 of Henderson's and Fortune's valuations.

For the first time in these cases, C. H. Snowden introduces a different method of calculation. He arrives at his Base Price of £1,500 and then estimates his "Additional Items" at £136. For some reason or other, not satisfactorily explained, he added portion of these items, amounting to £90, to his Base Price. He then added his "profit" of £160, giving him a total of £1,750. To the £1,750 he added 10 per cent. rise, i.e., £8, the balance of £46 for extras and £175 for the land, thus getting the figure of £1,979.

The sum of £329 16s. 9d., representing increases and rises is made up as follows:—

	£	s.	d.
Rise from October, 1950, to May, 1951, inclusive, 19.319%— $\frac{1}{5}$ of this	264	0	0
Imported items	40	16	9
Items to vary	25	0	0
	329	16	9

The Cookham Street jobs were originally accounted as individual units, but this system was abandoned and all records were thereafter kept by the company on a "Group Building Account". It is, therefore, impossible to arrive at the actual financial position for any individual lot and an average over the whole group will have to be struck.

C. H. Snowden has argued that although he operated under a Group Permit in all the cases under review, he actually built the various places as individual units. He says the places were not built in groups as contemplated by the Housing Commission and individual rates and not group rates should be charged. I consider Snowden & Willson built the Cookham Street places as groups. All the houses are close together, and the cost in cartage alone must have been considerably reduced, as must the cost of many other items. It is impossible from the company's records to isolate a particular item and allocate it to a particular lot. I feel sure that most of the advantages of a "group" attached to this particular set of houses and the records certainly prove that the company treated the venture as a group.

Mr. Henderson said rise and fall should not in this case have exceeded £89, but in view of the representations made by W. E. Snowden, I consider that no rise was legitimately incurred in Werndly's case at all, and even at the very worst, the company should be bound by what it represented rise to be, "negligible".

I shall postpone my finding in this case until the cases of Gurr and Smith are considered, because to a large extent, the figures are interwoven and it will be necessary to dissect the one ledger which covers the whole group of six houses.

Alexander Neil Smith and Lilian Jean Smith, Lot 119 Cookham Street, Victoria Park—Timber-frame and Asbestos:

On 12/12/50 the Smiths contacted W. E. Snowden. Smith said he had £800 he could pay by way of deposit and Snowden quoted them a price of £1,972 for the completed house. No mention of any increased price was made at the time. Snowden then took them to see a prototype at Maylands. On the way out he allegedly said all the materials were on hand and had been bought and there would be no rise (550). Later he said if there was an increase, it would be a matter of only a few pounds because the materials were all on hand (552 and 555).

The Contract of Sale was dated 13/12/1950 and the initial purchase price was £1,998. Smith says he believed he would get the completed house for £1,998, everything completed and ready to walk into. (556).

Snowden's story is a complete denial of any representation as to rise and fall, but for the same reasons as in the other cases, I have no doubt that he made the representations.

The Smiths received their interim and pro forma account giving the final price, including fees and a radio at £2,395 13s. 8d. Included in this figure was the sum of £330 14s. 8d., purporting to be for extras, fencing, price rises and increases, etc.

The Smiths were very dissatisfied with the pro forma and voluminous correspondence passed between them and the company and their respective solicitors. Finally, after all negotiations and offers of settlement had fallen through, the contract was cancelled and all moneys paid thereunder refunded. This being so, the matter would become purely academic, were it not for the evidence of various witnesses as to the cost of construction and the value of the place when completed. This is important because Smith's place is practically identical with Gurr's and Werndly's and the value of one assists in assessing the value of the others.

After the contract was cancelled, Snowden & Willson sold the place for £2,575 on 10th December, 1951. (See Transfer 4050/1952).

Mr. Keightley, a registered builder with 40 years' experience, inspected Smith's place in November, 1951, and assessed its replacement value as at that date, at £1,500 exclusive of fencing and land which he valued at £250.

Mr. Harold Boas valued the place at £2,250 as at 1st December, 1951. This was based on market value at the time.

Mr. Charles Day of the War Service Homes Commission valued the place at £2,126 as at 18/1/52 and the Commission subsequently advanced the sum of £1,900 on a first mortgage.

All these valuations were for a fully erected house and based on a date very many months after the completion of the house.

As Mr. Henderson valued Werndly's place at £1,610 which is pretty close to Mr. Keightley's valuation for Smith's, excluding fencing, I find the value of Smith's and Werndly's to be approximately the same.

The figures supplied by C. H. Snowden in this matter are highly unsatisfactory and to my mind are a complete fabrication. As usual, he tendered his schedule of prices (Exhibit 70), showing how the various sums were arrived at.

His base price was £1,500. To the base price he added profit of £160, and estimated extras of £90, giving the total of £1,750. As in Werndly's case, he then adds the balance of estimated extras amounting to £65, plus rise of 1 per cent. of which he takes a half, i.e. £8, plus £175 for the land, giving a grand total of £1,998 for the initial purchase price.

To the initial purchase price he added the sum of £330 14s. 8d., made up as follows:—

	£	s.	d.
Rise	280	0	0
Imported items	25	14	8
Extras to vary	25	0	0
	330	14	8

During the course of the correspondence, Snowden and Willson in their letter of 18/7/51 to Smith's solicitors, gave particulars of this sum of £330 14s. 8d., but C. H. Snowden subsequently had to admit the particulars were incorrect, having been read from another job altogether. He said it was a bad error and he was prepared to admit it. It is more than a coincidence that in each case the total was the same. (See page 1015).

Enid Adelaide Marie Gurr, 39 Cookham Street, Victoria Park—Timber-frame and Asbestos:

Mrs. Gurr arrived in Australia in September, 1950, and on 3rd October, 1950, W. E. Snowden showed her a completed house in Maylands. The house was fenced, had clothes lines and contained shaving cabinet and other extras, all of which Snowden said he would supply in her house. She was then taken to Cookham Street, where she selected No. 39 because it was the only one on which work had commenced and the foundation was already there.

On returning to the office Snowden told Mrs. Gurr that the price would be £1,979, and the contract was signed on the same day, 3rd October, 1950. Prior to the contract being signed, Snowden allegedly told Mrs. Gurr that rise would not exceed £25. Mrs. Gurr says she asked for an extra power point to be added, for which Snowden said she would have to pay extra. Nothing further about extras was said. On 3/10/50 Mrs. Gurr paid Snowden & Willson £20, and on 6/10/50 a further £1,959.

After the contract had been signed Mrs. Gurr's son Henry, who at the time was not quite 21, interviewed Snowden. The latter gave him the contract to read, allegedly saying it was a mere formality. Henry Gurr says he asked him about the "rise" clause and Snowden says he was building according to plans and specifications lodged with the Housing Commission and he could not add to them or alter them in any way as he was not permitted to do this. He then allegedly told him not to worry about the rise as it would be very slight.

On 15th May, 1951, Mrs. Gurr received her pro forma account for £2,375 5s. 5d., which included fees and extras and the sum of £329 16s. 9d., purporting to be for rise and fall, imported items and extras to vary.

On receipt of the pro forma, Henry Gurr says he went to see Snowden, who told him "everybody had to pay this," referring to "rise." Snowden offered the money back but as there were 15 people living in the house they were occupying and as a period of nearly eight months had elapsed since the signing of the contract, the Gurrs decided to go on with the deal. Mrs. Gurr was very hard pressed for money and had to accept Snowden's offer of a second mortgage to cover the balance of the moneys due. At the same time they made the mental reservation that should Snowden's figures prove incorrect, they would be at a later stage refuse to pay the balance of the moneys.

On the signing of the mortgages and the usual letters of appreciation dictated by W. E. Snowden, Mrs. Gurr was given possession of the house.

Being dissatisfied with the pro forma, Henry Gurr wrote to the Chairman of the Housing Commission, complaining of the price charged and the Commission replied, stating that further inquiries might be warranted. Having met Mr. Henderson through Mrs. Werndly, Mrs. Gurr instructed him to investigate the cost of the house on her behalf.

Mr. Henderson came to the conclusion that the final charges to Mrs. Gurr were grossly excessive, as did the State Housing Commission officers. Mr. Henderson's valuation was £1,760, including the building and land and his valuation was based as at 30th June, 1951. This is the same value as in Werndly's case.

Mr. Fortune's assessment is £1,746, including land, valued by him at £125. Included in his assessment is 10 per cent. builder's profit. Actually, Snowden & Willson charged Mrs. Gurr 13.3 per cent. over the initial purchase price of £1,979.

A check assessment was done by Mr. William James Packer, estimating clerk of the State Housing Commission, and he assessed the value at £1,631 6s. 6d. without the land.

I think that as Mr. Boas valued Werndly's place at £2,250 as at December, 1950, the same valuation can be taken for Gurr's.

Mr. Harold Lee Ross, a quantity surveyor, and an ex-employee of the Housing Commission, was called by Mr. Durack as a witness. He arrived at a rate per square for plan 5 but added 3 per cent. on Housing Commission valuations because Snowden & Willson used 4 x 2 studs at 2 feet centres whereas the Housing Commission used 3 x 2 studs at 18 inch centres. In other words, he said the Housing Commission constructed under-standard houses and Snowden & Willson built strictly to standard and were therefore entitled to the extra 3 per cent. From inquiries I have made I feel sure that 4 x 2 at 2 feet centres and 3 x 2 at 18 inch centres in the end amount to the same thing. Furthermore, he adds 3 per cent. because he says the Housing Commission laid their bricks flat whereas Snowden & Willson's were laid in the natural way. This was being done by builders throughout Australia and there is nothing in this argument,

Ross also allows 5 per cent. for single unit work. However, I consider this too much because I feel quite certain the Cookham-street places were built as a group. Ross himself admits the percentage would have to be broken down a little.

From the evidence of C. H. Snowden and Ross, it is extremely difficult to say on what plans and for what particular houses Ross took out his quantities.

Snowden & Willson's letter of 23/6/51 to the Housing Commission had annexed to it a document purporting to be a "statement showing how the final price arrived at based on Mr. H. R. Ross's assessment of May, 1951." Ross's assessment (Exhibit 57) is actually dated 22/6/51—not May. According to C. H. Snowden, W. E. Snowden, in preparing the annexure to the above letter, found this assessment, disregarded the schedule of extras and added what he thought would be the appropriate items applying in Gurr's case. Why this was done was never explained. As it turns out, W. E. Snowden obtained these particulars from some other job. It is amazing, therefore, how, with the particulars making up the total being incorrect, the correct selling price to Mrs. Gurr was arrived at.

The Housing Commission pointed out that a mistake had been made in the area and C. H. Snowden accordingly asked Ross to give him an amended assessment. This was done and the amended assessment is Exhibit 56. Snowden says he supplied Ross with additional items that were in Gurr's job but in doing so he omitted to give him the amount of imported items and items of higher cost locally, totalling £55 16s. 9d., because he did not consider that was a matter for assessment. In making his amended assessment Ross allowed £91 10s. for the mistake in area but counterbalanced it by a sum of £116 5s. representing additional items. Snowden points out that Ross had concluded the ceilings were 10 feet high whereas in fact they were only 9 feet 6 inches. A sum, therefore of £25 4s. should be deducted from £116 5s. and this would leave a difference of only nine shillings in the two assessments. This is indeed a coincidence. A further assessment (Exhibit 58) was made by Ross at Mr. Durack's request and this allegedly contained all the extras applying to Gurr's house and it is different again. C. H. Snowden was most unconvincing about the various assessments, each of which was different.

In the company's letters to the Housing Commission dated 15th May, 1951, and to Messrs. Henderson & Thompson dated 5th November, 1951, it was definitely stated that the various items in Gurr's case had been authoritatively assessed by H. R. Ross. In his evidence, however, C. H. Snowden said these letters were intended to convey that Ross had merely checked the percentage rises. In my opinion the letters speak for themselves and no further comments are required.

Ross had driven past the various houses but had never inspected them or measured them up. He relied entirely on the plans, specifications and quantities given him by C. H. Snowden. In view of the highly conflicting particulars given to him and the variations in his own assessments, his evidence does not in my opinion carry the matter any further. I accept the valuation as somewhere near those of Mr. Henderson and Mr. Fortune.

These valuations were made quite independently and are only about £14 different. I do not accept Mr. Boas's valuation, and the company's own records, on analysis, won't bear out Mr. Ross's assessment.

In the case of Mrs. Gurr, C. H. Snowden submitted his schedule of prices (Exhibit 68) giving his base price at £1,500 and finally arriving at his sale price by the same methods as in the other cases.

The Cookham Street group, comprising five houses, was built by Snowden & Willson but the various phases of construction were actually carried out by sub-contractors.

The total debits shown on the ledger cards for the group amount to £10,145 7s. 1d., but included in this amount are items which cannot be fairly appropriated to the cost of construction.

For example:

	£	s.	d.
P.16 of Ledger Sheet—			
W.A. Newspapers—Reply to criticism	35	5	0
P.17 of Ledger Sheet—			
Wheatley & Sons—Fees and costs	58	10	0
P.17 of Ledger Sheet—			
Wheatley & Sons—Fees and costs	26	5	0
	120	0	0

A further item seems unjustified.

	£	s.	d.
Oldham, Boas & Ednie Brown—Report and valuation	5	5	0

Mr. Ross received three payments for assessments:—

	£	s.	d.
16th May, 1951	10	10	0
21st June, 1951	5	5	0
26th October, 1951	10	10	0
	26	5	0

These assessments are certainly not part of the cost of construction and can hardly be called a fair overhead because they were merely obtained to try and justify the final prices after the various clients had complained to the company.

Interesting comments can be made in respect of clearing charges to the various clients in comparison with the debits on the ledger sheets. Debits appear on the cards for "Clearing" as follows:—

	£	s.	d.
Page 2—4th October, 1950—			
E. Perrin—Clear 5 blocks	10	0	0
Page 4—3rd January, 1951—			
Clear Midgley Street	11	0	0
	21	0	0

Further debits appear which are evidently special charges.

	£	s.	d.
Page 12—27th July, 1951—			
Removing 3 large stumps (lot 127)	2	0	0
Page 15—8th November, 1951—			
Remove stumps Midgley Street	1	10	0
	3	10	0

Obviously the amount of £21 represents the normal prebuilding clearing and the amount of £3 10s. special charges for removing stumps from the building site.

Perusal of the exhibits below indicates the various conflicting amounts charged for clearing in relation to the Cookham Street group and how much reliance can be placed on the evidence of so-called experts.

Ex. G/3/12—Ross's assessment as basis for final price, Gurr—Stumps, clearing and felling	27	7	9
Ex. 57—Ross's assessment for Plan 5—Gurr—stumps	11	0	0
Ex. 58—Ross's assessment Plan 5—Gurr—Stumps and clearing	7	14	0
Ex. 68—Snowden's statement—Gurr—Stumps and clearing	7	14	0
Ex. 70—Snowden's statement—Smith—Stumps and clearing	4	19	8

According to the ledger cards, the total amount charged for clearing and stump removal for the entire group of six houses was £24 10s. It would be fair to distribute this charge over the six houses. The average cost would therefore be £4 1s. 8d.

Wages.

It appears from the ledger sheets that J. Thomas provided the bulk of the labour for the Cookham Street group. Between 29th September, 1950, and 2nd November, 1951, he received £1,059 10s. for "Wages." The last entry re Thomas was on 2nd November, 1951, and shows "J. Thomas, Balance". This indicates that labouring must have been completed by this date.

As regards the Midgely Street house, a man named Osborn received £90 for wages.

The total outlay for wages, therefore, was £1,149 10s. Wages were paid fortnightly and the payments for wages should, therefore, represent the actual pay-roll expenditure each fortnight and must have included the quarterly basic wage adjustments.

Identification and Surveys:

	£	s.	d.
On page 1 appears this item—			
Ident. Surveys lot 117/120			
Cookham Street	5	3	0
On page 8 appears these items—			
T. ex Gurr Ident. Survey	5	5	0
T. ex Werndly Ident. Survey	5	5	0

Snowden & Willson, therefore, according to their ledger cards, incurred the total sum of £5 3s. for the Cookham Street group, yet from Mrs. Gurr and Mrs. Werndly alone he recovered a total of £10 10s.

	Income.	£	s.	d.
Sale of Houses—				
Lot 118	2,495	0	0	
Lot 117	2,326	17	6	
Lot 178	2,331	17	6	
Lot 127	2,495	0	0	
Lot 119	2,495	0	0	
Lot 120	2,495	0	0	
	14,638	15	0	
Contra accounts	23	10	0	
Transfers	51	0	4	
	14,713	5	4	

Expenditure.			
Total debits as per ledger card	10,145	7	1
Less amount transferred to commission and contracts profit account	698	8	0
Less amount transferred to land account	1,025	0	0
Total construction and general expenditure	8,421	18	5
Profit.			
Total income including sale of houses and land	14,713	5	4
Less total debits on ledger cards	10,145	7	1
Gross profit as per ledger card	4,567	18	3
Add amount previously transferred to commission and construction profit account	698	8	8
Total gross profit excluding land	5,266	6	11
Gross profit per unit on an average basis	877	14	5
Percentage profit for each house on outlay	62%		
Amount transferred to land account	1,025	0	0
Constructions costs and general expenditure per unit	1,403	13	0

All the above figures are taken from Snowden & Willson's own ledger cards. As the ledger sheets have been sworn to cover all expenditure and as the gross profit, as disclosed by the ledger sheets, is admitted, the figures are incontestable.

Having signed contracts, Mrs. Gurr and the Werndlys have bound themselves to pay the initial purchase price but, for reasons given below, I consider that all charges for extras, extras to vary, imported items and rise subsequent to the contract are unjust and inequitable.

C. H. Snowden, despite unpredictable price rises, has in all these cases, estimated months ahead the costs of various items to the very penny. In doing this he says he has relied on his 25 years' experience in the trade. From the evidence and the cases already reviewed, I feel certain he must have known that he would build each of the Cookham Street group for less than his base price of £1,500. He has sworn that his base price included:—

- (1) Cost of materials and labour at the date of submission of his plans and specifications to the Housing Commission.
- (2) Overhead.

The debits on the ledger cards show all expenditure from the time the group was commenced until its completion. It is, therefore, logical to assume that the increases in labour and materials, during the period mentioned, would be included in the amounts shown as debits. If this is so, the average cost of £1,403, which is below the base price, includes all rises in labour and materials.

In calculating the average unit cost, the very doubtful items:—W.A. Newspapers—Reply to criticism; Wheatley & Sons—Fees and costs; Wheatley & Sons—Fees and costs; valuation by Harold Boas; assessment charges—Ross; amounting in all to £151 10s. have all been included.

For the same reasons given in the previous cases and apart from the other considerations, I consider the following extras charged for in the pro forma accounts, to be improper:—

	£	s.	d.
Mrs. Werndly—			
Shaving cabinet	2	7	6
Clothes posts and cross-arms	3	2	6
Rear grano. path	4	12	6
Identification survey (this is in base price)	5	5	0
Bath	5	8	3
	20	15	9
Mrs. Gurr—			
Shaving cabinet	2	7	6
Rear grano. path	4	12	6
Identification survey (in base price)	5	5	0
Clothes posts and cross-arms	3	2	6
	15	7	6

In the case of Ellen and Victor Charles Werndly, therefore, I find that—

- (1) W. E. Snowden falsely represented to Mrs. Werndly that the rise and fall in accordance with clause 6 of the contract would be so small that she need not worry about it.
- (2) The representation so made, induced the Werndlys to enter into the contract.
- (3) In view of the above representation, the sum of £264 charged to the Werndlys for "rise" subsequent to the contract was totally unjustified.
- (4) Subsequent to the contract, W. E. Snowden represented that £25 would cover all rise and fall.
- (5) All "rise" charged in this case is fictional.
- (6) Extras to vary amounting to £25 and charged for the pro forma account are for reasons given before, improper charges.
- (7) The sum of £20 15s. 9d. charges in the pro forma for shaving cabinet, clothes posts and crossarms, rear granolithic path, identification survey and English bath is an overcharge.
- (8) There is no evidence to support the sum of £40 16s. 9d. charged for imported items in the pro forma account.
- (9) The approximate gross profit of £877 14s. 5d. represents 62 per cent. on outlay and is grossly excessive.

In the case of the Smiths I find that—

- (1) W. E. Snowden falsely represented to the Smiths that rise in accordance with clause 6 of the contract would only amount to a few pounds.
- (2) The false representation induced the Smiths to enter into the contract.
- (3) The contract having been cancelled, there is no need for any further specific findings other than to say the Smiths were grossly overcharged and were extremely lucky to get out of the contract.

In the case of Mrs. Gurr I find that—

- (1) W. E. Snowden, on the 3rd October, 1950, falsely represented to Mrs. Gurr that rise in accordance with clause 6 of the contract would not exceed £25.
- (2) The representation so made, induced Mrs. Gurr to enter into the contract.
- (3) In view of the above representation and apart from all other considerations, the sum of £280 charged to Mrs. Gurr for rise subsequent to the date of contract is entirely unjustified.
- (4) Extras to vary amounting to £25 and charged for in the pro forma account are, for reasons previously given, improper charges.
- (5) The sum of £15 7s. 6d. charged for shaving cabinet, rear granolithic path, identification survey, clothes posts and crossarms is an overcharge.
- (6) There is no evidence to support the charge of £55 16s. 9d. for imported items.
- (7) That the sum of approximately £877 14s. 5d. represents 62 per cent. on outlay and is grossly excessive.

There is no doubt that the intention of the ready made housing scheme was to give the cheapest possible houses to the public. As far as Snowden & Willson were concerned, the scheme failed.

In each case Snowden & Willson submitted their plans and specifications to the Housing Commission, together with the estimated cost of construction and on completion of each transaction informed the Commission of the selling price. I do not think any limit was placed on the sale price by the Commission, but undoubtedly it expected the builders to play the game and not make extortionate profits. I am of the opinion that the Commission did not, until complaints of excessive prices began to reach them, adequately police the ready made scheme. The builders, who were permitted to avail themselves of the ready made scheme, were really given a privilege which was not to be abused.

On complaints being received from Mrs. Gurr, the Smiths and the Werndlys, the Housing Commission thoroughly investigated the charges and the Chairman came to the conclusion that Snowden and Willson were making excessive charges. Accordingly, Mr. Brownlee gave instructions to his staff that no more controlled materials were to be issued to the firm and this action was approved by the Minister. Subsequently, releases were permitted to be made, providing the Commission was in each case supplied with the name of the purchaser together with the price at which the house was sold. It appears, however, all along, Snowden and Willson were sending in their selling prices.

Mr. Brownlee says there was no policing of the conditions until May, 1951, when there was something of a public outcry against the prices being charged by spec. builders (720). The one criticism I level against the Commission is that it did not take earlier action to ensure the scheme was working satisfactorily. This could have been done as the Commission had been provided with the base cost and the selling price and there appears to be some justification for C. H. Snowden saying, "We could charge what we liked," and this his firm certainly did.

Once the Commission became aware of irregularities, it made exhaustive inquiries, as is evidenced in the cases of Gurr, Werndly and Smith.

The State Housing Commission Confidential File on Speculative Building, discloses that there were quite a number of other firms, some of whom were in a big way, who were charging what the Commission considered to be excessive prices. According to one minute on the file, one builder on being informed that his permits were being cancelled, "took it very nicely and stated that he realised that as all Builders were coming into line, he would appreciate the opportunity for the Commission to accept a readjustment of his costs."

When it is considered that Snowden and Willson made such a large profit in Mosel's case, yet Mosel was unable to get better terms from other builders in the City, it is quite obvious that there were a great number in the trade, charging excessive prices.

Considerable stress was laid by Mr. Durack on the fact that in the Legislative Assembly, it was stated by the Premier that the release of permits to Snowden & Willson had been held up because of non-compliance with conditions imposed by the Commission respecting release of materials for ready made houses. The maximum cost of labour and materials was set out in the various permits and the cost of construction was not to exceed that set out in the permits, reasonable rises and increases being permitted. No mention of a selling price was set out in the permit, but Brownlie says every speculative builder, including Snowden & Willson, knew that they were to sell at a reasonable figure. At page 733a he says that is what was meant by non-compliance with the conditions laid down by the Commission. The matter is certainly ambiguous, but I am confident C. H. Snowden was well aware that he was expected to sell at a reasonable figure. The very method by which he attempted to substantiate his various prices, admitting that he sought to obtain 10 per cent. showed this.

The balance of the cases are covered by the amended Terms of Reference.

James William Cherrie—114 Walter Road, Bedford Park.

Early in 1949, Cherrie owned a home at 89 Grosvenor Road, Mt. Lawley, but possessed no other assets. Desiring to purchase a store with dwelling house attached at 80 Hensman Road, Subiaco, he contacted Snowden & Willson, seeking finance. He saw W. E. Snowden in March, 1949, who advised him finance would be available. As part of the consideration for the purchase it was necessary for Cherrie to transfer his house.

I do not think it is necessary to dwell at any length on the facts. Cherrie's chief complaint is that having read an advertisement by Snowden & Willson that the Company never charged more than 7 per cent. in any of their transactions, he wished to inform the Commission that he had, in fact, been charged 12 per cent. on a second mortgage of £1,700 to the City Mortgage Co. Pty. Ltd. of which C. H. Snowden is a director. He had also given a first mortgage to Vera Phoebe Snowden, C. H. Snowden's wife, to secure £300 at 7 per cent.

Cherrie says he should have obtained a larger advance by way of first mortgage because some time later he obtained £1,175 on a first mortgage to the Perth Building Society.

W. E. Snowden said transactions such as Cherrie's were not desired by the Company, that there was considerable risk attached and that he explained to Cherrie the exact remuneration that would be required. The whole of the terms are contained in a letter of 15/3/49 (Exhibit 107) written by Cherrie and his wife to the company. This letter was prepared by W. E. Snowden certainly but was signed by the Cherries, with their eyes open, and they are bound by it.

The only adverse finding I am prepared to make against Snowden & Willson in this case is in respect of what W. E. Snowden calls a "Financing Commission as per fixed schedule." This was charged at the rate of 5 per cent. on the first £500 and 2½ per cent. on the balance of the freehold, plus 5 per cent. on the remainder, furniture, plant, goodwill etc. Snowden had already charged a procuration fee and despite efforts on his part to prove the existence of the Schedule, it turned out to be a scale of charges relevant to the purchase of land, issued by the Real Estate Institute. This charge was, in my opinion, an imposition and entirely misleading.

A procuration fee was all the company was entitled to charge and I feel quite sure the way the Financing Commission was set out in the letter of 15/3/49, Cherrie thought it had some legal basis.

Kenneth Raymond Ellett, 39 Grosvenor Road, Bayswater—Wood Machinist.

In September, 1949, Ellett wanted to purchase a home for £700 and sought finance from Snowden & Willson. Ellett had £100 and W. E. Snowden arranged to finance him for the other £600.

To secure costs and charges in connection with the transaction, Ellett had to secure the sum of £79 by second mortgage. Included in the sum of £79 was £7 10s. for procuration fees and £30 for "Financing Commission in accordance with Prices Branch Schedule and as agreed in your contract dated 10/8/49 and being 5 per cent. on the first £500 and 2½ per cent. on the balance."

Ellett had certainly agreed to pay this but, like Cherrie, I feel quite sure he believed it had some legal basis. Snowden sought to justify the charge to Ellett and Cherrie by the large amount of work involved in obtaining the finance. Under cross-examination it was shown that other than to make a few 'phone inquiries he had nothing else to do.

Ernest William Riordan, 37 Leake Street, Bayswater.

Riordan bought his house from Snowden & Willson and understood he had paid for the whole of the fencing. Subsequently a Mr. Moyle, who purchased the block next door, received an account from Snowden & Willson for £21 7s. 6d. representing half the cost of the dividing fence. Moyle refused to pay the amount. In Riordan's contract of sale he covenanted not to claim for dividing fences from adjoining owners.

W. E. Snowden says the company charged Riordan for only half the fence and there the matter stands. There is insufficient evidence to find one way or the other. The only comment I make is to suggest that it is hardly likely that a firm with the business acumen of Snowden & Willson would risk the possibility of waiting up to a number of years to recover the cost of half a fence from whoever might build next door to Riordan.

Reginald Harry Menner, 9 Watts Road, Safety Bay.

In April, 1949, Menner was anxious to purchase a property at 33 Whatley Crescent, Bayswater. The sale price was £1,100. Menner saw W. E. Snowden who promised to arrange the necessary finance. Menner was charged £32 10s. "Financing Commission," £10 10s. procuration fee on first mortgage, £4 10s. procuration fee on second mortgage and £9 9s. inspection fees. Menner put the matter in the hands of his solicitors and finally, without prejudice, Snowden & Willson refunded the sum of £50. Menner, therefore has no grievance to be redressed.

COMMENTS, OBSERVATIONS, AND RECOMMENDATIONS ARISING OUT OF THE EVIDENCE.

(1) I am of the opinion that under ordinary circumstances a seller is entitled to charge any price for goods and services that he can command. This will always be the case where a seller's market prevails. It is quite a different matter, however, where a seller, in order to obtain this price, descends to subterfuges and is guilty of doubtful and questionable business practices. If, in their contracts, Snowden & Willson had charged a specific and definite figure and had taken up the attitude "That is our price, take it or leave it," no purchaser could have had a valid complaint. The form of contract, however, the untrue representations made by W. E. Snowden, the improper application of clause 6 of the contracts and the misleading pro forma accounts, were, in my opinion, all designed to deceive clients and extract more profit out of the transactions.

(2) The ready-made housing scheme was inaugurated by the State Housing Commission in response to requests by the Builders' Guild, the object being to get more houses built and to provide cheaper houses to the public. The object of the scheme was certainly not to enable speculative builders to enrich themselves with gross profits ranging between 44 per cent. and 62 per cent. on outlay.

(3) The gross profits as disclosed in the various jobs have been obtained from Snowden & Willson's own books and are admitted by C. H. Snowden to be accurate. All the receipts and expenditure for each job are set out in the ledger sheets and the percentages of profit on outlay are therefore correct.

(4) C. H. Snowden's sworn evidence that the company's percentage profit was 10 per cent. of the estimated price, plus additions, is entirely untrue and his documents submitted to the Commission based thereon are fabrications.

(5) The State Housing Commission was justified in concluding that Snowden & Willson were charging excessive prices for houses built under the ready-made scheme and its action in holding up the release of materials to the company was justified.

(6) The "rise and fall" clause in the various contracts was nothing more nor less than a pernicious imposition on the purchasers. In all cases but one, the houses were built for less than the base price and Snowden & Willson, from their experience, knew this would be the case. To saddle Mrs. Gurr, for example, with the sum of £280 "rise" subsequent to the date of contract is little short of scandalous, bearing in mind that the house, including all extras, was built for approximately £1,403.

(7) The method of calculating a monthly percentage of "rise" seems to have arisen in the building trade. This is an entirely unsatisfactory method, especially where actual rises can be quite easily recorded. In all but very honest hands, this percentage method can be and is undoubtedly abused. Mizen and Sons and Prosser were able to record rise in the cost of materials and labour quite easily from their records. If they can do it, why cannot all builders? Mr. Henderson says the percentage method should be used only in respect of rises caused by wage increases and that it should not be applied, for example, to increases brought about by having to purchase materials at fancy prices in order to get them. Furthermore, under this percentage system, it makes a very great difference as to the sum on which the percentage is calculated. This was never explained to a single purchaser by the company, nor were proper particulars, despite frequent requests, ever given.

(8) It is apparent, from the evidence, that the percentage in this and many other cases, is charged over the whole period covered by the contract, notwithstanding that for long periods no work is being done on a house. This is unjust. I am of the opinion that builders with a considerable number of contracts in hand have abused the system by adjusting their building schedules in order to gain the maximum percentage increases for each individual job. This perhaps could be the subject of curative legislation.

(9) Allowing for the fact that the houses were built for less than the base price, but assuming that Snowden & Willson were entitled to charge "rise," without any doubt whatsoever and even on C. H. Snowden's own admissions, the company charged the clients more rise than it had to pay itself. The argument that this was to cover "over-heads" is absurd and contrary to the terms of the "rise and fall" clause.

(10) It is quite obvious that the man in the street cannot purchase a reasonably priced house in circumstances where a sub-contractor completely erects a house, making 10 per cent. to 20

per cent. profit and in addition the head contractor makes a profit of at least 44 per cent., sometimes in the vicinity of 62 per cent. Why should Snowden & Willson or other builders, be put in a far better position for doing little more than supervisory work, than a qualified architect who is only permitted by his Institute to charge 6 per cent. on the cost of the house? In such cases as these, the legislature may perhaps be prepared to give some consideration to the matter.

(11) I am firmly of the opinion that it should be made an offence for builders not to keep complete books and records. I understand that there are many people today in Perth who have been given large accounts for "rise and fall" and as in this case, given no particulars of same nor any opportunity of checking same. These people should be able, if necessary, to obtain exact details of what they are being charged and if charged percentages, enabled to check these and check on what sum they are charged. I consider all those who have not yet paid these accounts should not do so until they get legal advice.

(12) If prices are made competitive, time is made the essence of the contract and a penalty clause for non-completion inserted in all contracts, the houses will be completed in very much less time. This will also prevent builders from taking on more jobs than they can reasonably cope with in a reasonable time.

(13) I respectfully recommend, if it has not already been done, that by agreement of the building trade or, if necessary, by legislation, the rise and fall clause be abolished from contracts altogether.

(14) It is apparent that high profits, far more than costs of labour and material, have in this case, made the houses extremely expensive. If reasonable profits had been charged, the purchasers would in all the circumstances have obtained reasonably priced houses.

(15) It appears from perusal of the Housing Commission files, that allegations of excessive charges have been made against other builders who were engaged in the "Ready Made" house scheme. I am confined to the terms of reference in this case and therefore hardly entitled to generalise, but it would appear that some control of speculative building is necessary. The greater the facilities for competition that are provided plus stabilisation of prices, the cheaper will be the houses. Without hearing evidence of building experts on the matter, I would not be rash enough to make any widespread recommendations.

In conclusion, I desire to record my appreciation of Mr. Hastings Carew-Reid, O.B.E., J.P., and the "Hansard" staff generally for their efficiency, co-operation and unfailing courtesy at all times.

I wish to thank the Chairman and Officers of the State Housing Commission for their co-operation throughout the hearing of this Commission.

I also wish to thank all Counsel for their courtesy and consideration throughout the long hearing, and especially Mr. G. W. Gwynne for the long hours of preparation necessary for the accurate presentation of the facts.

I am very grateful to the President of the Legislative Council and the Speaker for the use of accommodation enabling the Commission to sit at Parliament House and for all the facilities very gracefully given to the Commission and its officers.

Lastly, I desire to thank the Secretary of the Commission, Mr. F. G. Logue, who has devoted so much time and energy to the affairs of the Commission before, during and after its sittings, and

whose assistance to myself has been invaluable in every way. His handling of the 276 exhibits and his delving into figures have been masterly.

I have, Your Excellency, the honour to be,

Your obedient servant,

A. G. SMITH, S.M.
Commissioner.

27th April, 1953.