

1938.
—
WESTERN AUSTRALIA.

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REPORT

OF THE

ROYAL COMMISSION

APPOINTED TO INQUIRE INTO

The Administration of the Municipal Council of the City of Perth

~~~~~  
*Presented to both Houses of Parliament by His Excellency's Command.*  
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[THIRD SESSION OF THE SIXTEENTH PARLIAMENT.]

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ROYAL COMMISSION.

WESTERN AUSTRALIA, } By His Excellency Sir James Mitchell, K.C.M.G., Lieutenant-Governor in and over the State
TO WIT: } of Western Australia and its Dependencies in the Commonwealth of Australia.
JAMES MITCHELL,
Lieutenant-Governor.
[L.S.]

To— Howard Stirling Raphael, Esq., M.L.A. ; Mary Alice Holman, M.L.A. ; Robert Ross McDonald, Esq., K.C.,
M.L.A. ; John Trezise Tonkin, Esq., M.L.A. ; and Thomas John Hughes, Esq., M.L.A.

I, the said Lieutenant-Governor, acting with the advice and consent of the Executive Council, do hereby appoint you Howard Stirling Raphael, Mary Alice Holman, Robert Ross McDonald, John Trezise Tonkin and Thomas John Hughes to be an honorary Royal Commission without payment of remuneration to do the following things, namely:—

1. Inquire into, consider and report generally upon the administration by the Municipal Council of the City of Perth of—
 - (a) the Health Act, 1911, and the amendments thereof, and the regulations and by-laws made thereunder and in force relating to matters of health and sanitation, and in particular—
 - (i) in regard to housing and to allegations of slum conditions existing in the City of Perth ;
and
 - (ii) in regard to the handling of foodstuffs ;
 - (b) its building by-laws ; and
 - (c) its by-laws and regulations relating to houses of ill-fame, and to public nuisances.
2. To consider and make any recommendations in regard to the amendment of the laws, regulations and by-laws relating to any of the subject matters hereinbefore mentioned and in regard to any other matters which in the opinion of the Commission are justified or warranted by any of the inquiries made under paragraph 1 hereof.

And I hereby appoint you the said Howard Stirling Raphael to be the Chairman of the said Commission.

And I declare that you shall by virtue of this Commission be a Royal Commission within the Royal Commissioners' Powers Act, 1902, as reprinted in the Appendix to the Sessional Volume of the Statutes for the year 1928 and that you shall have the powers of a Royal Commission or the Chairman thereof under that Act.

And I hereby request you, as soon as reasonably may be, to report to me in writing the result of this your Commission.

Given under my hand and the Public Seal of the said State, at Perth, this 25th day of May, 1938.

By His Excellency's Command,

(Sgd.) J. WILLCOCK,
Premier.

GOD SAVE THE KING !!!

CONTENTS.

	Page
1. Commission	2
2. Introduction	5
3. General Report—	
(1) Preliminary Remarks	6
(2) Health and Sanitation	6
(3) Alleged Slum Conditions	7
(4) Handling of Foodstuffs	9
(5) Building By-laws :	
(a) General	9
(b) London Court	9
(c) Airways House and Fire Escapes Generally	12
(d) Emu Brewery Chimney	13
(e) General Observations	15
(6) Houses of Ill-fame	16
4. Recommendations	16
5. Appreciation	19

Royal Commission appointed to inquire into the Administration of the Municipal Council of the City of Perth.

REPORT OF THE COMMISSIONERS.

To His Excellency Sir James Mitchell, K.C.M.G., Lieutenant-Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

May it please Your Excellency:

We have the honour to report to Your Excellency the result of our inquiries into the matters entrusted to us by the Royal Commission dated the 25th day of May, 1938.

PRELIMINARY.

On the 30th November, 1937, as the result of a motion moved by Mr. Raphael and passed in the Legislative Assembly for the appointment of a Select Committee to investigate the administration of the Health and Building By-laws of the City of Perth, the following five members of the Legislative Assembly were elected to serve on the Committee:— Miss M. A. Holman, Messrs. H. S. Raphael, T. J. Hughes, R. R. McDonald and J. B. Sleeman, with power to call for persons and papers, to sit on days over which the House stands adjourned, and to report this day two weeks.

The Select Committee held two preliminary meetings on the 2nd and 9th days of December, 1937, respectively. At the former meeting Mr. Raphael was elected Chairman and it was resolved that Messrs. Raphael and McDonald, on behalf of the Select Committee, wait on the Premier with a view to this Committee being appointed as an honorary Royal Commission to carry on the inquiry after the close of the session.

Messrs. H. S. Raphael, R. R. McDonald, J. T. Tonkin and T. J. Hughes and Miss M. A. Holman, M's.L.A., were subsequently appointed an honorary Royal Commission by Your Excellency on the 25th day of May, 1938.

The Royal Commission directed us:—

1. To inquire into, consider and report generally upon the administration by the Municipal Council of the City of Perth of—

- (a) The Health Act, 1911, and the amendments thereof and the regulations and by-laws made thereunder and in force relating to matters of health and sanitation, and in particular—
 - (i) in regard to housing and to allegations of slum conditions existing in the City of Perth; and
 - (ii) in regard to the handling of foodstuffs;
- (b) its building by-laws; and
- (c) its by-laws and regulations relating to houses of ill fame, and to public nuisances.

2. To consider and make any recommendations in regard to the amendment of the laws, regulations and by-laws relating to any of the subject matters hereinbefore mentioned and in regard to any other matters which in the opinion of the Commission are justified or warranted by any of the inquiries made under paragraph 1 hereof.

SITTINGS OF COMMISSION.

The Commission commenced sitting at Parliament House, Perth, on the 8th day of June, 1938, and continued until the 9th day of November, 1938, during which time there were 34 sittings, at 23 of which evidence was taken.

In addition to the preceding 34 sittings, your Commissioners made four inspections in order to ascertain the general conditions existing in the City of Perth.

EVIDENCE.

Each of the 48 witnesses who appeared before your Commissioners was closely examined on matters referred to in the terms of reference, with a view to obtaining all available information and suggestions for the improvement of existing conditions.

Applications were received from several persons desiring to give evidence and in every case the applicants were invited to appear before your Commissioners and give evidence.

WITNESSES EXAMINED.

Representatives of Organisations:

- Mr. R. A. Hartley, Maylands Branch of the A.L.P.
Mrs. R. E. Pratt, W.A. Council of Women.
Mrs. M. B. Vallance, Women's Temperance Union of W.A.
Mrs. B. M. Rischbieth, Women's Service Guild of W.A.
Mrs. A. Kretchmar, Women's Service Guild of W.A.

Medical Practitioners:

- Dr. R. C. E. Atkinson, Commissioner of Public Health.
Dr. Gilbert W. Barker.
Dr. S. L. Harke, Perth Hospital.
Dr. Roberta H. M. Jull.
Dr. R. L. Muecke, Medical Superintendent Perth Hospital.

Government Officials (excluding certain Medical Practitioners):

- Mr. W. H. Berry, Chief Inspector, Department of Public Health.
 Mr. D. A. Evans, Inspector, Department of Public Health.
 Mr. D. L. Davidson, Town Planning Commissioner.
 Mr. E. R. Rattray, Chairman Traffic Advisory Committee.
 Mr. A. L. Hullett, Traffic Superintendent, W.A. Government Tramways.
 Mr. H. E. Bancroft, Secretary of the Commission.

Perth City Councillors:

- Mr. H. Baker, Master Baker.
 Mr. W. H. D. Beadle, Newsagent.
 Mr. H. Boas, Architect.
 Mr. A. Raphael, Merchant.
 Mr. J. Totterdell, Builder and Contractor.

Perth City Council Officials:

- Mr. W. E. Bold, Town Clerk.
 Mr. F. Higgs, Chief Health Inspector.
 Mr. W. A. M. Green, City Building Surveyor.
 Mr. C. L. Thorpe, Building Inspector.
 Mr. A. C. Chapman, Assistant City Treasurer.
 Mr. F. C. Edmondson, General Manager, Electricity and Gas Department.

Other Witnesses:

- Mr. F. Bergmayer, Property Owner.
 Mr. J. A. Davies-Goff, Shopkeeper.
 Mr. E. Faye, Company Director.
 Mr. A. E. N. Flower, Retired (late City Building Surveyor).
 Mr. H. A. Krantz, Architect.
 Mr. J. Nicholls, Retired Property Owner.
 Mr. J. J. Skinner, Accountant and Property Owner.
 Mrs. M. Newman.
 Mrs. P. Noble.
 Mrs. T. O'Neill.
 Mrs. O. Rocca.
 Mrs. L. Smith.
 Mrs. T. Thompson.
 Miss D. Clarke.
 Miss E. Dawson.
 Miss P. Dawson.
 Miss F. Johnson.
 Miss E. Lee.
 Miss M. McCleagan.
 Miss M. Riley.
 Miss L. West.

GENERAL REPORT.

1. Preliminary Remarks.

The City of Perth as administered by the Perth City Council contains an area of 14,479 acres. The City is divided into eight wards, each of which returns three Councillors.

For the year 1936-37 the revenue of the City of Perth was £405,970. For the year 1937-38 the approximate annual value of the land within the City

boundaries was £1,522,328. During the year 1937, 960 building permits were issued and buildings to the value of £780,061 were erected in the City of Perth.

The population of the Perth Municipality at the 31st October, 1937, was 85,670 persons.

The City now owns and controls 70 parks, playing grounds and reserves distributed throughout the municipal district, having a total area of 1,908 acres. This area is in addition to King's Park containing 1,000 acres, which is controlled by the King's Park Board, and 357 acres of foreshore reclaimed lands and park lands at Victoria Park which are controlled by the Government.

2. Your Commissioners were directed to inquire into the administration by the Perth Municipal Council of the Health Act, 1911, and the amendments thereof and the Regulations and By-Laws made thereunder and in force relating to matters of health and sanitation :

In this aspect of your Commissioners' inquiries attention was drawn by Mr. D. L. Davidson to a number of cases where the administration of the Health By-laws was suggested to be inadequate. Personal inspections were made by your Commissioners in the cases mentioned and the observations of your Commissioners are as follows:—

(1) The provision for collecting rubbish in receptacles appears to your Commissioners to be not entirely satisfactory and to leave room for improvement. In the course of inspections it was noticed that a number of receptacles were without lids or coverings. In some cases vegetable refuse was not being placed in the receptacles provided but deposited on the ground and in some instances was likely to become offensive.

(2) Inspections made in an area within the following boundaries, viz., Newcastle Street on the north, Pier Street on the east, the Railway line on the south, and Fitzgerald Street on the west, disclosed that there is urgent need for an exhaustive examination from a health viewpoint and prompt enforcement of health by-laws and regulations in respect to sanitary conveniences. In some instances the occupiers were failing to maintain water-closets in a clean condition and a number of the fittings were found to be defective. Section 63 of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909, provides that all drains and fittings connecting with any sewer shall from time to time be repaired and cleansed under the direction of the Minister at the expense of the owner or occupier. Your Commissioners were informed that the Metropolitan Water Supply Department has no officers available for regular maintenance inspections, but takes action under Section 63 when notified of any defect. It would be to the advantage of the City Council to take full advantage of its right to draw the attention of the Water Supply Department to any defective fittings which may be observed during the course of inspections.

(3) The attention of your Commissioners was directed to a Stock Bazaar in a closely settled area of the central blocks of the city. The conditions were found to be very un-

satisfactory and according to a report furnished to your Commissioners by Chief Inspector Barry of the Public Health Department were a menace to public health and there were breaches of Health By-laws 16, 36 (d), (e), (f), (g), (i) and (j) and 47. This particular Stock Bazaar is in the vicinity of premises where food is stored and prepared for human consumption. Power exists under Sections 146 and 147 of the Health Act to order this state of affairs to be remedied; these powers may be exercised by the City Council. Further, by Section 105 of the Health Act, the local authority may require the owner of any premises to pave and drain any yard in order to prevent the accumulation of any offensive matter in the yard.

- (4) Your Commissioners were shown cases where buildings or sheds at the rear of businesses and residences have been occupied as dwellings. Some of these structures are of an unsatisfactory description from the residential point of view and in some cases dilapidated and in need of repair. This type of dwelling is largely occupied by people such as old-age pensioners who prefer to occupy them on account of the small amount of rent which they pay for them. It is considered, however, desirable that the occupation of any of these dwellings, which are unhygienic, should be prohibited, and any new ones prevented. Power is contained in the Health Act, Sections 116, 117 and 118, to declare that any dwellings not fit for habitation should not be occupied, and Section 123 provides that no persons shall convert or adapt as a dwelling any building not originally constructed as a dwelling house, without first obtaining the consent of the local authority and complying with such conditions as the local authority has thought fit to impose.
- (5) Your Commissioners were taken to a number of premises where the above conditions were found, or the conditions regarding Health were stated to be open to objection. By way of an example, your Commissioners saw a case where an ice box containing fish was immediately adjacent to a sanitary convenience, whilst in another case in restaurant premises vegetables were stacked against a wall of a sanitary convenience. The total number of premises inspected was 58. In some cases the conditions observed were not likely to affect the health of the occupiers or the community but there were cases where the premises or the sites on which the premises stood were untidy and unsightly through accumulation of tins, miscellaneous articles of furniture and other objects which had been discarded by the occupiers. Instances of breaches of by-laws regarding health matters are sure to be found in any city of any magnitude. Except in the instances mentioned in this report, the cleanliness of the City and of the business and residential premises on the whole appears to be reasonably satisfactory. Your Commissioners feel, however, that the cases to which their attentions have

been drawn show that the Chief Inspector of Health and Inspectors are not showing the activity that could be reasonably expected of them. Admittedly they might visit premises and within a short time unsatisfactory conditions might develop after the inspector had left. At the same time your Commissioners consider that the present staff of Health Inspectors, numbering 10, should be capable of coping with the health conditions of the City and minimising some of the cases brought to the notice of your Commissioners.

- (6) The attention of your Commissioners has been drawn to the lavatory accommodation for women and it was suggested that these conveniences should be increased in number and that they should be made available for use until a later hour. At present in the City proper conveniences for women are established at three sites only—in Wellington Street, Perth Town Hall and at the Esplanade Kiosk. In Victoria Park there is no lavatory convenience for women and this is, of course, a large and populous area, with a big shopping centre. The City Council appears to have made very good progress in providing conveniences for men and women in parks and reserves and in the case of 26 parks and reserves these conveniences are provided. Your Commissioners are of the opinion that in the City area and in Victoria Park additional conveniences for women should be provided and the City Council should also give consideration to the requirements of the other areas within its district and that these conveniences should be available for public use until at least midnight.
- (7) Certain amendments to the Health Act are out of print. The Act has been amended many times and your Commissioners consider that the Act and its amendments should be consolidated and reprinted as soon as possible. This, of course, is a matter for the Government of the State.

3. Your Commissioners were directed to inquire into the administration of the Health Act and By-Laws made thereunder, regarding housing and allegations of slum conditions existing in the City of Perth :

A number of inspections were made by your Commissioners and these disclosed the existence of some unsatisfactory housing conditions, chiefly in respect of the subdivision of houses into so-called flats. In most cases these houses are licensed by the City Council as boarding or lodging houses. The premises shown consisted of the larger type of house, built originally as a residence, to which the occupiers have made alterations and additions by subdividing and partitioning rooms, verandahs and balconies into small compartments, in which gas stoves have frequently been installed. In one instance 12 gas stoves were found in one residence which had been divided into 13 apartments or so-called flats. In many instances the gas stoves were installed in positions adjacent to inflammable materials. While the premises are licensed as boarding or lodging houses, the portions occupied by each tenant are described by the keeper as a flat, with a verandah used as a kitchen or kitchenette. In most cases there is not separate sanitary or bathroom accommodation. These alterations and additions have been made in timber and asbestos

and in some instances inflammable materials have been used. In all of these cases the alterations and additions have been made with no permit by the City Council, as is required by law. Although the Electricity and Gas Department and the Building Surveyor's Department are now in communication regarding the connecting of gas stoves in these so-called flats, there appears to be need for still closer working arrangements between these two departments. The Electricity and Gas Department endeavour not to instal any gas stove or griller except after the matter has been reported by it to the City Council and the consent of the Building Surveyor obtained. There have been cases where stoves have been installed without the knowledge of the Council or the City Building Surveyor. These so-called flats which possess a gas stove or griller do not come under the existing by-laws regarding flats. In the residential flat by-laws specific provision is made for vent-hoods over gas stoves. Your Commissioners observed that under the draft building by-laws of the City Council which they hope shortly to promulgate, provision is made for vent-hoods over gas fires and gas cooking stoves and bath-heaters wherever used. It seems to your Commissioners that this by-law when promulgated should be amended to include gas grillers or other cooking appliances. The General Manager of the Electricity and Gas Department has recommended that he should be given statutory power to order the removal of any gas cooking appliances where they are connected in incorrect positions. With this recommendation your Commissioners concur.

Your Commissioners are satisfied that these so-called flats and other unsatisfactory conditions of housing through partitioned rooms and verandahs were, to a large extent, commenced during the depression period. There was a big demand for residential accommodation convenient to the place where the occupant was working, in order to save fares. The expense of reconstructing houses was such that at this period owners and tenants would have had difficulty in arranging the necessary finance. Subdivisions and partitions were put up of flimsy and in some cases inflammable materials with a view to cutting down the cost and as an inexpensive way of increasing the earning capacity of the premises. These alterations were, of course, unauthorised structures under the building by-laws of the City Council and owing to shortage of staff during the depression years and for some time afterwards the City Council did not take proceedings in respect of these unauthorised alterations and structures. It was pointed out to your Commissioners that it was estimated by Building Inspector Thorpe that there are probably 900 persons in the City area occupying premises for the reasons mentioned and time must be allowed for such people to secure other accommodation.

Your Commissioners are satisfied that the necessity of dealing with the position as created by these unauthorised and unsatisfactory partitions and subdivisions of boarding and lodging houses had become apparent to the City Council which commenced to remedy these conditions by the appointment of the present Building Surveyor, Mr. Green, on the 7th July, 1937. Mr. Green commenced a survey of the City area, with a view to ascertaining the number of these structures and the conditions which existed and to, as soon as possible, deal with the problem. The survey of a portion of this area has now been prac-

tically completed and the City Building Surveyor has already taken steps to cause the removal of a number of unauthorised and partitioned structures.

A difficult position has arisen in connection with persons who have leased for specified periods apartment houses which have been created by the subdivision of residential houses by means of unauthorised additions or partitions contrary to the building by-laws, where such additions or partitions were existing at the commencement of the term of the current lease. There was a breach of the by-laws either by the landlord or by a previous tenant condoned by the landlord. The City Council allowed the position to go unchallenged for years.

In such circumstances of established and condoned breaches of the by-laws the present tenants entered into leases of these premises, often paying substantial sums by way of premiums or ingoings in addition to the rents reserved in the leases. The subletting capacity of these apartment houses is the basis of the assessment of the premiums paid and rentals agreed to be paid, and depends upon the continuance of the unauthorised structures. To destroy this subletting value suddenly by enforcement of the by-laws deprives the lessees of the use of the premises which in substance they contracted for but yet leaves them liable to pay the rental reserved in and otherwise to perform the other conditions of their leases involving heavy pecuniary losses and in some cases even financial ruin. It is true that if they had been alert law-abiding citizens they would not have allowed themselves to be lured into this unfortunate position by the defaults of the landlords, previous tenants and the Perth City Council. In the circumstances your Commissioners feel that the whole penalty falls on one only and the least culpable of all the transgressors. Your Commissioners are loath to recommend the continued use of habitations contrary to the health or building by-laws, but feel very strongly that by some means or other equitable treatment should be accorded to the lessees concerned, and suggest that the least objectionable form of such treatment would be to allow, subject to minimum health and safety requirements the unauthorised structures to remain throughout the balance of the term of the lease or any bona fide extension thereof already provided for but not exceeding, with the original term, five years, or alternatively that the Supreme Court exercising its equitable jurisdiction should be empowered to order a return of the whole or part of the premiums and a revision of the rentals.

Your Commissioners find that many buildings for residential purposes are situated upon sites which are too small for the buildings erected thereon, but this condition arose for the most part when buildings were erected many years ago and before attempts were made to regulate the site area in relation to the building. The draft by-laws of the City Council when promulgated will deal with this position and will endeavour to ensure a satisfactory relation between site areas and building accommodation for the future.

Your Commissioners feel that there is need for a general survey of boarding and lodging houses and for strict supervision of premises of this description. The control of boarding and lodging houses is not without some difficulty because the Chief Health Inspector (Mr. Higgs) informed your Commissioners that there are 530 boarding and lodging houses in the City area. Your Commissioners have made some

remarks applicable to this matter on the subject of building regulation. It seems to your Commissioners that the distinction between boarding and lodging houses in the Health Act might well be abolished, and these premises for the purposes of the Health Act and Health By-laws could be brought under a single comprehensive definition dealing with residential apartments. Throughout the Health Act and also throughout the City by-laws made thereunder the provisions regulating the conduct of these premises apply equally to boarding houses and lodging houses. The distinction in the Health Act between boarding and lodging houses relates chiefly to the period for which the lodger or boarder takes his room. If the room is let for a period not exceeding six days the premises are a lodging house, but if the lodger takes his room for eight days or for more than a week the premises are a boarding house.

The attention of your Commissioners was drawn to a lodging house in St. George's Terrace known as Arbordale. In this case, notice was served on the owner in respect of unauthorised structural additions in the way of verandah partitions. It happened that the occupier, who was the lessee of these premises, was also tenant of other premises in St. George's Terrace in respect of which a similar notice was served for the removal of such structures. It would appear a coincidence that these premises happened to be occupied by the same tenant and that the two notices were served at the same time.

Your Commissioners consider that in view of the number of unauthorised structures in apartment houses throughout the City, the City Council should have determined upon some general and systematic policy for dealing with structures of this description in order to avoid, as far as possible, hardship and loss to the tenants. Your Commissioners feel that if such a policy had been followed the very substantial loss which was occasioned to the tenant of Arbordale by the condemnation of the premises would have been avoided and she would not have been in the position of having the by-laws enforced against her whilst numbers of others are still in the occupation of premises containing unauthorised structures of a similar nature. The haste to enforce the by-laws against this tenant is in sharp contrast to the reluctance shown by the Perth City Council in respect to the kiosk in Barrack Street, dealt with elsewhere in this report.

4. Your Commissioners were required to inquire into the administration of the Health Act and the Regulations and By-Laws made thereunder regarding the handling of food stuffs :

In the course of a somewhat limited inspection undertaken by your Commissioners instances were seen of very undesirable conditions in regard to the storing and handling of foodstuffs. Your Commissioners feel that it is essential that there should be the strictest control to safeguard foodstuffs from contamination. In drawing attention to the above, however, your Commissioners do not wish it to be understood that they are making a general reflection on the administration of the health by-laws by the Perth City Council.

5. Your Commissioners were directed to inquire into the administration of the Building By-Laws of the City of Perth :

The present City of Perth building by-laws are admittedly not up to date and not adequate for the

purposes of a modern city. This was recognised a considerable time ago by the City of Perth who retained Professor Blakey and Mr. Summerhayes to compile a modern set of building by-laws. These by-laws were accordingly drafted and given consideration by the City Council; they are ready for promulgation but have not been put into force owing to the fact that the City of Perth has not power under the Municipal Corporations Act to make some of the by-laws which are included in the draft and are thought to be highly desirable. In the opinion of your Commissioners the promulgation of part only of the by-laws is undesirable and it would be preferable to await the necessary statutory authority to enable a complete and comprehensive set of by-laws to be framed.

The evidence placed before your Commissioners with reference to alleged breaches of the building by-laws was almost wholly confined in each case to buildings in respect of which Mr. Davidson made charges that there was some impropriety or irregularity on the part of two architects, namely, Messrs. H. Boas and H. A. Krantz.

LONDON COURT.

This building was constructed by a company controlled by Mr. C. de Bernales whose chief local representative was Mr. E. Faye. The designer was Mr. Bernard Evans, of Melbourne. A large volume of evidence has been placed before the Commissioner, but the salient facts are as follows:—

1935.

Feb. 6—Prior to this date Mr. de Bernales, or a company controlled by him, had purchased the land on which London Court now stands.

Feb. 6—Mr. Boas wrote to Mr. Urquhart (also representing Mr. de Bernales) stating that as an architect he had a building scheme already prepared on behalf of another client in connection with the land on which London Court was subsequently built and that this scheme showed the accommodation that could be given by the building that could be erected, its cost and returns, and he suggested that his client and Mr. de Bernales might consider an amalgamation for the purpose of a building scheme on the land.

Feb. 8—Mr. Faye wrote Mr. Boas saying that he was already in touch with an architect.

1936.

Feb. 26—Mr. Boas wrote to Mr. Faye stating that following conversation with him Mr. Boas understood that plans for building on the land had been prepared for Mr. de Bernales by an architect who was out of the State and Mr. Boas offered to amend the plans to meet local conditions, to arrange the letting of the Contract and supervise the erecting of the building, etc., for £2,500.

May 25—Mr. Evans wrote to Mr. Flower sending in preliminary plans for London Court and saying that he would come over and officially submit plans and fuller details after he had received from Mr. Flower any comments and queries which Mr. Evans invited Mr. Flower to make and forward to him.

Pursuant to a standing instruction from the Council that all flat buildings had to be submitted to the Council before being passed Mr. Flower proceeded to submit the plans to the Council.

The plans were submitted by Mr. Flower to the Town Clerk with a memorandum that they were submitted for "preliminary approval."

June 16—The Works Committee of the Council having these plans before them resolved that the plans be left in the hands of the Chairman (Cr. A. Raphael), Cr. Boas, the Town Clerk and the Building Surveyor for report to the Council. Present at this meeting—Crs. A. Raphael, Caddy, Jenkinson and

Lee. Mr. Boas was not present at this meeting and states he was not previously asked to act on the sub-committee.

Subsequent to the Works Committee meeting Mr. Flower told Mr. Black, representing Mr. de Bernales, to telegraph Mr. Evans that the plans were not in proper state for submission to the Council and that proper plans and working drawings would be wanted. (Ev. 873.)

Mr. Evans telegraphed Mr. Flower in reply that the plans he had sent were only preliminary plans and should not have been submitted to the Council at all.

June 19—The special Sub-Committee appointed by the Works Committee met and decided that consideration of the plans be deferred until the Sub-Committee could discuss them with Mr. Evans when he arrived in Perth from Melbourne. Mr. Boas was present.

June 19—In the course of a conversation with Mr. Faye, Cr. A. Raphael, according to Mr. Faye, told him that the Councillors on the Works Committee, namely, himself, Mr. Boas, and others, were against the preliminary plans in their then shape and that there was a question whether the plans involved the creation of a street.

Mr. Faye further stated that he thought "that Cr. A. Raphael mentioned Cr. Boas as suitable for a consulting architect, and that it was important that he—Mr. Faye—should have local advice." Cr. A. Raphael says that at this conversation he suggested Mr. Boas as a consulting architect and that local advice would be of value in connection with the building.

Mr. Faye says he thinks Mr. Boas also saw him and informed him that he admired the scheme but that the blue prints did not give sufficient information and that he—Mr. Boas—recommended the appointment of a local architect with a knowledge of the by-laws and that he—Mr. Boas—said the preliminary plans could not be adopted in their then shape. Mr. Faye says he asked Mr. Boas if his firm could act as architects in an advisory capacity and Mr. Boas replied that it was quite usual and he would notify the Council of his appointment as Consulting Architect and would not sit on the Sub-Committee appointed to deal with the plans. A fee of £750 to Mr. Boas was discussed and tentatively agreed.

Mr. Boas says that when he saw Mr. Faye the latter knew the points which had been raised regarding the plans and that Mr. Faye said he would call Mr. de Bernales and that he—Mr. Boas—told Mr. Faye that if appointed he would withdraw from the special sub-committee.

It seems clear that Cr. Boas was not present at the interview mentioned between Cr. A. Raphael and Mr. Faye, and that the discussion between Cr. Boas and Mr. Faye took place at a subsequent time.

June 20—Mr. Faye cabled Mr. de Bernales as follows:—

"Evans preliminary plans London Arcade were submitted Perth Council yesterday number of Councillors headed by Boas objected to issue Building Permit Stop Have diplomatically interviewed Boas who is prepared to act for £750 as advisory Architect work close collaboration Evans check up plans obtain favourable decision from Perth Council and see Arcade erected and completed best your interests Stop Recommend your agreement."

June 22—Cr. A. Raphael moved in Council that the report of the special sub-committee be considered. This was the recommendation that the consideration of the plans should await an opportunity of discussion between the sub-committee and the designer—Mr. Evans. The Council adopted this report.

Mr. de Bernales cabled Mr. Faye in reply as follows:—

"Agreement employment Boas £750 collaborate Evans as advisory architect London Arcade."

June 24—About this date Mr. Faye says he informed Mr. Boas of the confirmation of his appointment.

Mr. Boas is not certain of the date on which he was advised of the confirmation of his appointment, but that in any case he knew of it on or before the 1st July, 1936.

June 30—Mr. Evans, the designer, arrived in Perth.

July 1—Mr. Boas wrote Mr. Faye confirming the fact of his appointment and his fee and the nature of his duties.

July 1—Mr. Boas says that prior to writing this letter of 1st July, 1936, he had orally notified the Town Clerk of his appointment as Consulting Architect and that he—Mr. Boas—could no longer sit on the special Sub-Committee appointed to go into the plans.

Mr. Bold confirms that Mr. Boas notified him of the appointment, but he does not remember the exact date.

Cr. A. Raphael also confirms the notification of the appointment by Mr. Boas.

July 1—Mr. Evans wrote to the Building Surveyor with reference to the plans saying that the "tentative sketch plans" he had sent were not meant to be submitted to the Council but were only sent for the purpose of inviting suggestions from the Building Surveyor as to any matters that required to be amended to comply with the City By-laws.

July 1—Mr. Evans goes into the matter of plans with the Building Surveyor on this and following days.

July 2—Special Sub-Committee met, Mr. Boas not being present, but it appears that Mr. Evans probably was present.

July 6—Building Surveyor wrote a memorandum to Town Clerk that there appeared to be no objection to the plans.

A special meeting of the Works Committee was held and it was resolved that "the plans be tentatively approved subject to working drawings and specifications being submitted in accordance with the by-laws and approved in due course and also if considered necessary by the Building Surveyor that additional lavatory accommodation be provided." Cr. A. Raphael and Cr. Boas present.

The Council met and on the motion of Cr. A. Raphael adopted the report of the Works Committee. Cr. Boas was present.

Cr. Boas says that after his appointment as consulting Architect he took no part whatever in any discussions in the Council or its Committees or with the Building Surveyor in connection with London Court plans. Mr. Flower—Building Surveyor—confirms this.

July 14—The Works Committee of the Council recommended that London Court buildings should be set back 15 feet from the Hay Street frontage.

Aug. 24—The Building Surveyor—Mr. Flower—issued a building permit for the construction of London Court.

Dec. 23—A complaint was made that certain parts of the building, including the clock feature, projected some 2ft. 6in. over the building line into the street and the Council took up this matter.

Mr. Boas wrote to Mr. Faye that the building must conform to the by-laws even although the features now objected to were in the plans which had been passed by the Council and the Building Surveyor, but Mr. Boas contended that the clock feature was in fact not a breach of the by-laws.

Dec. 31—The Town Clerk suggested to the contractors for London Court that the plans should be amended to remove the features objected to.

1937.

Jan. 5—The contractors wrote to Mr. Boas pointing out that the plans which had been passed had shown the projections now objected to.

Jan. 12—The Works Committee met to consider matter.

Jan. 12—The Chairmen of the Council Committees met and it was reported to them that Mr. Boas, Mr. Evans and Mr. Goff—in charge of the contracting com-

pany—had previously waited on the Lord Mayor. The meeting of Chairmen adopted the Lord Mayor's report which recommended that in all the circumstances the projection of the clock feature should be allowed.

Jan. 18—The Building Surveyor dealing with the projection of the clock feature wrote to the Town Clerk contending that the projection was not contrary to the by-laws and that other buildings in St. George's Terrace existed with greater projections.

From these facts and the evidence, your Commissioners find as follows:—

- (1) The allegations made by Mr. D. L. Davidson, the Town Planning Commissioner, in respect to the association of Councillor Boas with London Court appear to have been made on insufficient grounds.
- (2) Mr. Davidson has testified that certain persons occupying responsible positions in connection with the construction of London Court had called upon him and made statements reflecting on Councillor Boas.
- (3) Mr. Davidson was unable to produce evidence to substantiate the charges he had made. He appears from motives of ill-will towards Councillor Boas to have accepted and acted upon this information without verifying its accuracy or the willingness of the persons concerned to substantiate it.
- (4) At a meeting of the special Sub-Committee of the City Council held on the 19th June, 1936, it was decided to defer consideration of the preliminary plans of London Court until the arrival of the Melbourne designer, Mr. Bernard Evans. Councillors A. Raphael and H. Boas were both present at this special sub-committee meeting.
- (5) The following day Councillor A. Raphael had a discussion with Mr. Faye concerning the plans of London Court and suggested the advisability of a local architect being appointed to consult or co-operate with the architect from the Eastern States, and recommended the services of Councillor Boas to Mr. Faye. Had Councillor Raphael limited his discussion with Mr. Faye to the suggestion that a local architect should be appointed, it may not have been open to very grave objection, apart from being an undesirable disclosure of the business transacted at a committee meeting of the Council, but your Commissioners feel that in notifying Mr. Faye that the members of the special sub-committee appointed to deal with the plans could not pass them in their then shape and in definitely suggesting as consulting architect Councillor Boas, a fellow member of the special sub-committee appointed to deal with the plans, he acted in a very indiscreet manner. If any misunderstandings have arisen from his conduct he has no one to blame but himself.
- (6) Mr. Faye accepted the suggestion that the appointment of Councillor Boas as consulting architect would facilitate the passage of the plans of London Court through the City Council; he, therefore, recommended to his principal in London that Mr. Boas should be appointed, and this recommendation was adopted.

- (7) This recommendation was submitted to his principal in London in the following cablegram:—

"Evans preliminary plans London Arcade were submitted Perth Council yesterday number of councillors headed by Boas objected to issue building permit Stop Have diplomatically interviewed Boas who is prepared to act for £750 as advisory architect work close collaboration Evans check up plans obtain favourable decision from Perth Council and see Arcade erected and completed best your interests Stop Recommend you agreement."

Whatever may have been the motives of Mr. Faye, the cablegram as received by Mr. de Bernales is, in the opinion of your Commissioners, only capable of the construction that it was an improper proposal to buy off opposition to the passing of the plans. Mr. de Bernales concurred in this proposal without demur and replied as follows:—

"Agreement employment Boas £750 collaborate Evans as advisory architect London Arcade."

- (8) Whatever may have been the inferences drawn by Mr. Faye from his conversation with Cr. A. Raphael and by Mr. de Bernales from the cablegram concerning, or their expectations from, the appointment of Councillor Boas as consulting architect for London Court buildings, there was no occasion for Councillor Boas to exert any influence to secure the approval of the plans, since there was not at any time any substantial objection raised to these plans by the Perth City Council and your Commissioners consider there is no evidence that in accepting his appointment as consulting architect, Councillor Boas was actuated by any improper motive.

LONDON COURT VENTILATION.

It has been alleged by Mr. Davidson that London Court infringes the by-laws regarding ventilation.

The City Building Surveyor—Mr. Flower—by whom the plans were passed and in whose time the building was erected, stated that the ventilation complied with the by-laws. This, however, is not correct, as was pointed out by Inspector Evans of the Public Health Department when he made a subsequent inspection of the building.

Your Commissioners find that in certain respects the ventilation of London Court is not in accordance with the by-laws and is inadequate.

The report of Inspector Evans discloses the following:—

In a general summary of the inspection of the flats it was found that the cubic space and natural lighting was satisfactory, but the ventilation was defective, inasmuch as natural vents of 48 sq. inches of inlet, and 48 sq. inches of outlet for each 100 sq. ft. of floor area had not been provided, as per Council's by-law No. 50. No vents were provided in some of the rooms.

The majority of the vents in living rooms were into the cavity of the walls; the cavity owing to parapet walls did not have exit to space under

roof, neither were out-let vent shafts provided on ridging of roof, and the eaves on the walls facing arcade were enclosed with timber.

Whilst making the inspection, it was noted that in every flat the glazed area (which was mostly hinged) was open, and no stuffiness was noticeable owing to the windows being used as ventilators.

The occupiers were interrogated re the ventilation and they were emphatic in their replies that the air in the rooms does not at any time of day or night become oppressive or stuffy.

He counted the air bricks on the eastern and western exterior walls, and found that there were 42 on the former and 34 on the latter wall, with an effective open area of 15 sq. inches each. This did not include the louvred air brick in each flat connecting to the electric fan in the mock fireplace.

The shops were all of the lock-up type, and were not habited between closing time at night and opening time next day. The cubic space provided complied with the requirements of the Shops and Factories Act, i.e., 350 cubic feet for each person employed therein. The ventilation was defective, but owing to the entrance door of the shops being open the whole of the time they are occupied by tenants or employees, this allowed a circulation of air from the Arcade into and out of shops. The majority of the tenants informed him that the air in the shops was oppressive when entering at opening time each day. He suggested to the caretaker at time of inspection of the first shop that the ventilation could be improved by removing a few of the squares in the head lights of walls facing arcade at the highest point near ceilings. This suggestion was put into effect, for during the day a man was employed removing the squares of glass, each 5in. x 4in., from the top corners of the head lead lights, from four to eight squares being removed from the shops, according to floor area. This work was nearing completion at the time the inspection of the building was finalised, so it may be anticipated that ventilation will be improved somewhat on the reported statements. No vents were provided in some of the shops.

Mr. Green, the present building surveyor, informed your Commissioners that the defects in ventilation were, in his opinion, not due to any attempt to save money and that the ventilation arrangements as constructed, in fact, cost more, in his opinion, than would have been the case if ventilation had been made by other methods which would have been satisfactory.

AIRWAYS HOUSE.

This building was erected on behalf of Mrs. Brearley and Mr. H. Boas' firm were the architects. The plans were approved by the building surveyor of the Perth City Council on the 3rd October, 1932. The building did not have a fire escape as prescribed by Section 54 of the City Council Building By-law No. 39, but the building surveyor—Mr. Flower—approved of a substituted fire escape by means of a communicating stairway from the flat roof of Airways House to the roof of the adjoining building, Alliance Building.

Mr. Boas had explained to the building surveyor that the limited ground space for the building made it in his opinion impracticable to have an outside staircase as prescribed by the by-law and the building surveyor accepted his contention as well founded. It appeared that stairways for fire escape from one building to an adjoining building had previously been approved in the case of certain other city buildings.

Mr. Flower, the then building surveyor, informed your Commissioners that after a discussion between himself, the late General Sir Talbot Hobbs and the Chief Officer of the Fire Brigade, the late Mr. Lambourne, it had been agreed that a communicating fire escape such as was used in the Airways House building could be properly adopted where the external type of fire escape was not practicable or not suitable.

At the beginning of 1934 Mr. Davidson in his private capacity charged Mrs. Brearley (the owner) in the Police Court with a breach of the by-law relating to fire escapes. In those proceedings it was contended on behalf of Mrs. Brearley that Section 54 of By-law 39 relating to fire escapes was ultra vires. It was admitted that the communicating fire escape provided did not comply with the by-law. The magistrate held that the by-law was intra vires and Mrs. Brearley appealed to the Full Court and on 17th August, 1934, the Full Court held that the by-law was not validly made and quashed the conviction. The Full Court did not hold that the by-law was beyond the powers of the City Council, but based its decision on the fact that the formalities required by law for the making of by-laws had not been observed in the case of this by-law. In evidence before your Commissioners Mr. Boas stated that the owner of Airways House incorporated a number of fire precautions which in fact cost more than the amount that would have been involved in providing fire escapes in accordance with the by-law. He contended that the provision of the fire escape in accordance with the by-law was impracticable in a number of cases and in any case that the type of fire escape prescribed by the by-law was unsatisfactory and unreasonable.

Information supplied by the present building surveyor, Mr. Green, disclosed that between the 14th June, 1929, when the by-law was promulgated, and the 28th June, 1934, when the building permit was issued in connection with the Trades Hall Building, 36 new buildings of more than one storey were erected. The following summary discloses the manner in which the by-law in respect of fire escapes was administered during that period:—

Summary.

Buildings with fire escapes in accordance with by-law	15
Buildings with fire escape but not in accordance with by-law	8
Buildings (Flats) part of which has fire escape and part not	5
Buildings with no fire escapes	7
Dwelling with no fire escape—Two storey dwelling erected after Council's resolution of 18th August, 1933, that provisions of by-law in respect of fire escapes shall not apply to dwellings ..	1
Total	36

Prior to 1929 the City Council had no building by-law regarding fire escapes. In that year it adopted the by-law in question—No. 39—but it appears to

have been found that the specifications for a fire escape contained in that by-law were not satisfactory and were difficult of application. This is indicated by a letter of 3rd May, 1934, by Messrs. Hobbs, Smith & Forbes, Architects, in connection with the Trades Hall building, who said:—

It is generally agreed that the provisions in the City of Perth by-laws are in many respects confusing and difficult to interpret and as regards fire escapes impossible to carry into effect.

The passing of plans was in the hands of the then building surveyor, and between the promulgation of the fire escape By-law No. 39 in 1929 and the 17th August, 1934, when the Full Court declared this by-law to be invalid the plans of a number of buildings were approved by Mr. Flower, although they did not comply with the specifications of By-law 39 regarding fire escapes, but such plans were not referred to the Council or its Works Committee or to the Town Clerk. Mr. Flower adopted the view held by a number of architects that the by-law was difficult or impracticable of application in the case of a number of buildings and he apparently considered that he had discretion to suspend its application when he thought it could not be reasonably enforced. In this view Mr. Flower was, of course, mistaken, but it was apparently accepted by a number of architects that the extent to which the by-law should be enforced or applied might properly be arranged between themselves and Mr. Flower. It is clear that the proper course would have been to enforce the by-law in all its terms or else to amend it to such a form as would be reasonable and applicable to local conditions. The position, however, was not altogether an easy one. The Town Clerk informed your Commissioners that the City Council has no statutory power to make a by-law with reference to fire escapes. It was believed, however, by him that up to the time of the Full Court decision in 1934 the by-law was within the statutory powers of the City Council. It is clear to your Commissioners that during the life of this by-law between 1929 and 1934 the combined facts that the by-law was not satisfactory in its terms and that the Building Surveyor—Mr. Flower—thought he had discretion to modify its application led to a confused and to some extent a lax position with reference to fire escapes. It is probable that during this period no building erected complied absolutely with the terms of by-law No. 39 regarding fire escapes.

Cr. Boas is only one of a number of architects whose buildings failed wholly or to a greater or less degree to observe the terms of the fire escape by-laws. There is no evidence that Cr. Boas in respect of Airways House fire escape or any other fire escape connived at the breaking of by-laws for personal gain in the sense charged by Mr. Davidson. It is the duty of all architects as a matter of professional ethics to endeavour to ensure compliance with the by-laws of local authorities. It is to be borne in mind that it is the owner who is erecting the building and who finally dictates its features. An architect should provide in his plans and specifications for compliance with the by-laws of local authorities. The circumstances that have been mentioned show that the practice grew up under this by-law by which both architects and building surveyor considered it was proper that variations in the requirements of the fire escape by-laws should be allowed and that this could not be regarded as any

infringement of the by-law to which there was any moral, or indeed any legal, blame to be attached. As an architect, Mr. Boas apparently shared this view in common with a number of other architects and although his attitude was not correct it was in the circumstances not without some excuse. As a councillor of the City Council, Councillor Boas, however, occupied a position different from architects who were not councillors. Your Commissioners consider he should have been more active in clarifying the position with regard to fire escapes by ensuring that the by-laws should be observed in all its details or that it should be repealed if it was impracticable or unreasonable or that it should be modified where necessary to make possible a reasonable observance. Your Commissioners, however, feel that they should state that the evidence before them has shown that Councillor Boas has been active in working to improve the building by-laws of the Council in other directions.

It was also alleged by Mr. Davidson and proved that the Building Surveyor—Mr. Flower—had endorsed on the plans of Airways House when granting the permit to build, a stipulation that no windows should be opened on the east wall. It was admitted this stipulation had not been complied with in the erection of Airways House. Cr. Boas explained to your Commissioners that there was a considerable space between the east wall of Airways House and the adjoining building occupied by the Union Bank and that he had ascertained from the bank that it would have no objection to the windows on the east wall of Airways House. Cr. Boas also explained that in the event of the land on the east of Airways House being built on to its boundary the design of Airways House would enable light to be obtained by the rooms whose windows at present opened on the east wall of Airways House. Cr. Boas further explained that the building owner of Airways House did not comply with the stipulation of building surveyor because that stipulation was beyond the building surveyor's powers and the building owner was within her legal rights in having the windows opening on the east wall. This is a correct statement of the legal position, and the building surveyor—Mr. Flower—informed your Commissioners that he was aware that his stipulation on the plan regarding these windows was not authorised by the by-laws of the Council. There is nothing legally or morally wrong in a building owner declining to conform to stipulations or directions given to him by a local authority which that authority has no legal power or right to require.

EMU BREWERY CHIMNEY.

Mr. Boas was the architect for the Emu Brewery building but was not the architect for the furnace, plant, flues and stack or chimney of that building. The chimney and its accessories were not in the contract for the building for which Mr. Boas was architect. The position is that the design of a stack or chimney of this description is a matter for an engineer. The chimney was designed by the Emu Brewery's engineer in Melbourne. A separate contract for the erection of the chimney was let by the Emu Brewery to Messrs. Hoskins & Co. Ltd. who sublet the contract for this work to Messrs. A. T. Brine & Sons Ltd. Mr. Boas was not concerned or connected with the design or erection of this chimney.

It appears, however, that when the building was about half erected it was discovered that no permit to build it had been obtained from the Perth City Council. It was explained that this was due to inadvertence. It was stated that the designer of the stack resided in Melbourne and the contractors and sub-contractors each left it to the other to secure the necessary permit. It was at this stage that Cr. Boas was asked by the Einn Brewery to explain the oversight to the building surveyor of the Perth City Council, which he did. The stack was inspected by the then building surveyor—Mr. Green—who found that although it complied with the by-laws of the Melbourne City Council it was not strictly in accordance with the by-laws of the Perth City Council. The differences, however, were very slight and after the Works Committee and the City Council had heard the report of Mr. Green it was resolved by the committee to authorise the issue of a permit for the completion of the chimney.

Your Commissioners are satisfied that there is nothing in connection with the erection of the brewery chimney which reflects in any way on Cr. Boas or the discharge of his duties as a councillor.

Your Commissioners feel, however, that power should be taken by the Perth City Council or the Town Planning Commission to prevent the erection of building features of this description in the residential or commercial areas of Perth. Your Commissioners have been informed that the brewery company desired to burn Collie coal in order to support a local industry and that a chimney stack had to be erected to enable this to be done. Your Commissioners think that if an industry is carried on in this area provision should be made in some other way than by means of a chimney stack, and that power should be given to a proper authority to require that this stack and any other feature which impairs the appearance of the city be removed after reasonable notice.

Mr. Davidson drew your Commissioners' attention to the building known as Chelsea, owned and designed by Mr. J. J. Skinner, the plans of which were drawn by Mr. H. A. Krantz. This building contains shops on the ground floor and on the two upper floors it contains what are called "bachelor flats." Each flat consists of a bed-sitting room in which the furniture is built in and provided by the owner. On the east side of the room there is a door opening into a passage running the length of the building and above the door is a fan-light. On the west side each room faces on to a right-of-way and is ventilated on that wall by a window opening in which at present there is a glass window. On the west side of the bed-sitting room there is a partition of wood and glass and the space between the partition and the west wall is utilised for a shower compartment and a separate compartment with a shelf and sink for washing purposes. In the partition are sliding windows so as to allow the access of air and light from the window into the main part of the room. When the plans for the building (which was constructed from a warehouse building) were presented to the City Council for approval the window aperture in the west wall was open and contained no glass window and the portion of the room between the partition and the west wall was described as a balcony. The building by-laws of the City Council provide that every habitable room

shall have at least one window opening directly into the external air and that such window shall face directly and without any obstruction on to a public street, or way, or shall be facing on to an air space which shall be without any overhead obstruction and which shall be enclosed on not more than three of its sides. It seems to have been accepted by the then Building Surveyor that the partition window was a sufficient compliance of this by-law. It is contended by Mr. Krantz that as the plans were presented to the Building Surveyor the feature between the partition and the west wall could reasonably be described as a balcony. Your Commissioners have considered the word "balcony" as used in architectural practice and are of the opinion that if the term could be properly used as applied to this building (which they doubt) no exception could now be reasonably taken to the use of the word by the architect in this case, as it was accepted as a suitable description by the Building Surveyor of that period. Mr. Krantz was employed to draw the plans and was not retained to supervise the erection of the building. It appears that its erection was under the direct supervision of Mr. Skinner himself. The window space on the west wall which was left open on the plans as a feature of the balcony was during the course of construction closed by a glass window and a frame. This was a departure from the plans and your Commissioners believe that it was not made with the knowledge of Mr. Krantz. The consent of the Building Surveyor was not obtained to this alteration by inserting the window and frame. This feature which may in the plans have been a balcony was most certainly removed from the category of a balcony by the glass window. Your Commissioners are satisfied that Mr. Skinner made this alteration without considering that it required any consent from the Building Surveyor and regarded it as one of those minor alterations which are required in the course of most buildings. It was suggested to your Commissioners that as now constructed the so-called flats are not well ventilated. Your Commissioners consider that they do not conform to the best practice as regards ventilation and that great caution should be exercised in the granting of permits for the conversion of old buildings and structures into flats or residential buildings. The building is, however, not open to serious objection and if the occupants care to open their windows they can ensure a sufficient supply of fresh air.

The attention of your Commissioners was also drawn to the fact that a number of gas stoves and grilers installed in the so-called flats have no vents to carry off cooking or gas fumes. These installations were made without the consent of the City Council and are, in the opinion of your Commissioners, undesirable in the absence of some means of ventilating the room from the fumes and gases of cooking. This class of tenement is dealt with in the subject of flats. It was suggested by Mr. Davidson that the plans as passed by the City Building Surveyor were manifestly contrary to the by-laws and that Mr. Krantz was a nephew of Mr. H. Boas and that possibly the latter's influence as a councillor may have had some part in the passing of the plans. Your Commissioners are satisfied that the plans could not be said to be manifestly infringing the City of Perth by-laws and that Councillor Boas was concerned in no way with the preparation of the plans and not associated in any way with the passing of the plans for the erection of the building.

During the course of an inspection, your Commissioners ascertained that the alterations and additions recently carried out at Forrest House were not strictly in accordance with the plans and specifications approved of by the Council inasmuch as the dormitory of the domestic staff had walls 10 feet in height whereas the building by-law requires 10 feet 6 inches.

Your Commissioners consider that the Department of Public Health should take into consideration the matter of recommending an increase in the cubic air space to be provided for each inmate in rooms such as dormitories and should make available its opinion for the guidance of local health authorities with a view to any desirable amendment of their by-laws in this respect.

The attention of your Commissioners was drawn to the erection of a kiosk in Albany Chambers, Barrack Street. The license in respect of this structure had been refused but subsequently the kiosk was erected contrary to the decision of the council. The continued existence of this kiosk after a permit had been refused appears to your Commissioners to be a defiance of the by-laws and no adequate reason has been given for the failure to prosecute. This and certain other cases indicate the desirability of some increased supervision or policing of buildings and strict enforcement of by-laws in order to ensure that structures are not erected without licenses and those which are erected conform to the plans in respect of which approval was given by the building surveyor. It has been recognised by the Council that the staff of the Building Surveyor's Department should be increased in order that more adequate supervision may be exercised over the erection of buildings and further appointments have already been made by the Council to meet this need.

Reference was made to the invidious distinction the Council appears to make in regard to some ratepayers and their plans for buildings, an example being quoted namely the granting in one case of a permit to erect a shop in a proposed residential area and the refusal in another case where application was made to erect a shop on a lot upon which two shops and a dwelling had already been erected. Your Commissioners are satisfied that no invidious distinction was made in respect to these two applications. The Town Clerk offered a reasonable explanation in connection with the former application; he stated that the Council proposed to set aside this area as a residential area under the new zoning by-laws and was very sympathetic towards the protests raised by the residents of this area when they heard that application had been made to the Council for approval to erect this shop—the Council wished to refuse the application but in view of the fact that the by-laws had not been passed it felt that there was no justification for refusing the application, as the by-laws had not the force of law. The City Building Surveyor's report to the Town Clerk on the 9th October, 1937—Ev. 553.4—convince your Commissioners that the Council adopted a reasonable attitude in the latter case.

Your Commissioners have given consideration to the building by-law referring to flats.

The present by-law dealing with residential flat buildings requires that in each flat there shall be a bathroom and (if a suitable sewerage system is available) a water closet, and a kitchen or alcove where food may be prepared. In a number of cases, par-

ticularly where rooms and verandahs have been partitioned, the tenement is called a flat by the occupier of the house; actually it is not a flat within the requirements of the building by-laws. The present building by-law states what a flat shall contain in the way of accommodation and then proceeds to describe a variety of matters, cubic air space, hoods, ventilation, etc. Where a tenement is called a flat but does not conform to the building by-law regarding flats, the City of Perth is unable to enforce the provision of various features which should be contained in any tenement used as a flat, because the tenement does not fall within the present description of a flat.

The building by-law contains detailed and reasonably satisfactory stipulations as to dimensions, ventilation, etc., of most of the adjuncts of a flat as defined in the by-law. If a tenement does not come within the description of a flat as contained in the building by-law, the tenement is under no precise obligations as to such conveniences as kitchenettes or alcoves, ventilation from stoves and bathrooms; no control can, therefore, be exercised. Where the building is not a flat within the meaning of the by-law but in fact gives the tenant some convenience beyond a bedroom for his exclusive use, such as kitchenette or cooking alcove, bathroom or shower or sleep-out, the keeper and occupier then call the tenement a flat. Your Commissioners consider that a building by-law will suitably meet this state of affairs if it is extended to prescribe the essential requirements in the cases of all such adjuncts to a bedroom. A bedroom may have attached to it for the exclusive use of an occupant any one or more of the following features, namely:—Bathroom or shower, sanitary convenience, kitchenette, cooking alcove, sleep-out, sitting-room. The by-law in your Commissioners' opinion should be amended so that in the case of every one of these features which may be attached to a bedroom prescribed requirements in the way of ventilation, cubic air space, method and materials of construction should be laid down. If this is done, it would be immaterial what the tenement is called or to what extent the occupant has the exclusive use of conveniences or accommodation, in addition to a bedroom, because each of these additional items of convenience or accommodation will be covered by by-law prescribing what is necessary for health, privacy and construction. Your Commissioners do not see any valid arguments against what are called "bachelor flats," provided that the conditions mentioned are applicable. A bed-sitting room to which is attached a bathroom or a kitchenette or cooking alcove for the exclusive use of the occupant is a kind of tenement which may meet a considerable demand by people who desire something more than a bedroom only and who have not the means to rent a self-contained and fully equipped flat.

GENERAL OBSERVATIONS.

Your Commissioners have found that the building by-laws, with reference to the provision of fire escapes, have not been satisfactory or reasonable as regards the provision of fire escapes and this, of course, has led to a certain laxity in this respect from the point of view of the administration of the by-law on that subject. This is not to say that the buildings which have not strictly complied with the by-law are dangerous, as the owners and architects have generally made provision for safety in case of fire but have done so in other means than that provided in the by-

law. The means adopted, although not in accordance with the by-law, have in some cases been as satisfactory or perhaps more satisfactory than if the by-law had been precisely observed. The City Council has in its draft by-laws made provisions to meet the question of fire escapes, in accordance with modern building practice and these when promulgated should meet the situation for the future. Although there have been complaints brought before your Commissioners, it seems that apart from the question of fire escapes and partitioning of apartment houses the building by-laws of the City have been reasonably administered and the City buildings, in appearance and construction, are creditable to the City.

The growth of unauthorised constructions in lodging houses and boarding houses which has been accentuated since 1930 was, as pointed out, largely a product of the depression years and the years immediately following. This condition was recognised by the City Council and your Commissioners were informed that steps had already been taken by the City Council in order to remove and prevent undesirable features in construction of accommodation of this class.

Your Commissioners think that the Council might be well advised to pass some additional by-laws in its health jurisdiction to do away with untidy and unsightly structures. There is a considerable laxity on the part of people not only in the streets, parks and reserves, but also in the case of backyards and allotments, in throwing out all kinds of unsightly refuse, such as tins, old furniture, discarded vehicles, papers, cartons, wrappers, boxes, etc. These are not prejudicial to health but certainly detract from the appearance of the City's streets, public gardens and vacant allotments in particular.

Your Commissioners consider also that some power might be taken by the City Council in its by-laws to require reasonable renovation and repair of building structures. The obligation in this respect whether resting on the owner or the occupier should be observed as a matter of civic duty in preserving and maintaining the appearance of the City.

On the whole, your Commissioners feel that the City of Perth and its administration will compare favourably with other Australian cities and while some difficulties in administration have been brought to the notice of your Commissioners these difficulties affect a comparatively small field in the large area over which the City of Perth administrative activities extend.

It would be impossible to inquire into the affairs of any Government or Local Government body, however well controlled, without finding some aspects in which improvements may be desired or suggested.

Your Commissioners are of the opinion that in Mr. W. E. Bold, the Town Clerk, the City of Perth has a very efficient and conscientious officer, who is in no way responsible for any transgressions of by-laws or other shortcomings in the municipal administration that have come under the notice of the Commission.

6. Your Commissioners were directed to inquire into the administration of the By-Laws and Regulations relating to houses of ill-fame and to public nuisances :

The evidence submitted to your Commissioners discloses that although the City of Perth has by-laws directed against houses of ill-fame, no effort has been made to enforce them.

Your Commissioners recognise that at present there is a body of statutory law directed against the evils associated with the conduct of houses of ill-fame, the duty of enforcing which is a function of the Police Department.

Your Commissioners feel that this is a matter that should be removed from the jurisdiction of the Perth City Council and other municipalities and brought exclusively within the scope of law enforcement by the appropriate statutory authorities.

The municipality has not any machinery for enforcing its by-laws in this respect and your Commissioners feel that no good purpose would be served by the creation of such a force to function either jointly with or independently of the existing statutory administration.

Your Commissioners have noted that the terms of reference on this subject have limited their inquiries to the operation of the by-laws of the City of Perth in connection with this subject.

Evidence was submitted on behalf of certain organisations interested in social welfare and by public-spirited citizens which dealt with the evils of prostitution in all its aspects and ramifications. Your Commissioners appreciate the efforts made by those parties to assist them in their deliberations, but feel that their limited authority precluded them from considering and reporting on the fundamentals of this subject.

Your Commissioners also feel that this subject is one of such an important and extensive nature that, unless the finalisation of this report is to be unduly delayed, a great deal more research would be necessary before an authoritative statement followed by comprehensive recommendations could be made.

The subject is, however, one of deep social significance and of the utmost importance to the community from a health point of view. There should be continuous and comprehensive investigations for the purpose of having the matter dealt with in accordance with the latest and improved methods as has been done in other countries throughout the world.

Quite apart from dealing with the subject of professional prostitution, your Commissioners are of the opinion that there is grave danger of the spread of venereal disease from promiscuous sex gratification and that in the interest of public health a complete and up-to-date clinic for dealing with this aspect of the subject should be provided in the proposed new Perth Public Hospital.

RECOMMENDATIONS.

The recommendations of your Commissioners are as follows :—

1. Closer supervision as to the collection and removal of refuse and the provision and maintenance of proper receptacles should be given by the Inspectors under the Chief Health Inspector. The number of Inspectors is sufficient to enable better attention to be given to these matters.

2. Closer working arrangements should be made between the Health Department of the City Council and the Metropolitan Water Supply, Sewerage and Drainage Department with a view to enforcing the maintenance of sanitary fittings in a proper state of cleanliness and repair and the utilisation of the

statutory remedies available for that purpose under Section 63 of the Metropolitan Water Supply, Sewerage and Drainage Act, 1909.

3. In the case of Stock Bazaars and Stables the City as the local Health Authority should, through its Chief Inspector, enforce rigorously the existing provisions of the Health By-Laws in relation to such premises and where necessary the powers conferred by Section 105 of the Health Act, 1911-1937.

4. Action should be taken as early as possible by the Perth City Council in conjunction with the Commission of Public Health in promulgating and enforcing By-Laws under the Health Act Amendment Act, 1937, relating to the provision of bath-rooms and laundry facilities.

5. As to sheds and buildings which are occupied as dwellings but have not been built or properly adapted for that purpose, action should be taken to prevent any increase in the number of such structures and gradually to eliminate such of them as now exist. There are probably not many of these structures and power exists to remove them and prohibit them under the Health Act, 1911-1937, Sections 116, 117, 118 and 123.

6. The City Council should take into consideration the provision of additional sanitary conveniences for women in the area of the City proper and in Victoria Park, and give consideration to the requirements of other areas.

7. More stringent By-Laws should be enacted and if necessary additional power asked to enable the Council to prohibit and prosecute in respect of untidy and unsightly conditions, particularly in vacant allotments and rights-of-way.

8. Action should be taken and if necessary additional power asked to enable the Council to compel owners to execute reasonable renovations and improvements where structures are falling into disrepair or are otherwise unsightly.

9. The distinction in the Health Act, 1911-1937, between the definition of "Boarding-Houses" and "Lodging-Houses" should be eliminated, as conditions regarding health should in general apply equally in each of these cases.

10. There should be closer working arrangements between the Perth Electricity and Gas Department and the City Council with reference to the installation of gas stoves, and to prevent the installation of gas stoves or grillers under conditions where the health of the occupiers may be affected.

11. Power should be given to require the removal of any gas cooking appliances when they have been connected in an incorrect position. This power could probably be incorporated in the City Health By-Laws and be exercised by the City Council on a request from the Electricity and Gas Department.

12. The Building By-Laws in the City have not been adequate for the requirements of the City and modern building and architectural practice, but this fact has been recognised by the City Council and modern By-Laws have been drafted in readiness for promulgation. These By-Laws as drafted and amended by the Council appear to your Commissioners suitable subject to the incorporation of additions and amendments to give effect to the findings of your Commissioners as set out in this Report, and it is desirable that they should be brought into operation as soon as possible.

The proposed Building By-Laws provide for the establishment of a tribunal to determine whether or not in certain cases the By-Laws shall be departed from.

This means that although the By-Laws provide for certain things to be done a Building Owner may be able to obtain a dispensation from compliance therewith.

Your Commissioners are of the opinion that by-laws should be so drawn as to meet the requirements of safeguarding public health and safety and should be drawn in such a manner as to make compliance therewith as easy and reasonable as possible.

If a situation arises where compliance with the By-Laws in the circumstances presents some particular difficulty to some individual Building Owner then it seems clear that the By-Laws are either unworkable or the building proposed to be constructed is not one that can be allowed.

By enforcing the By-Laws uniformly against all Building Owners there may be, as in the case of all Statutory Enactments, border line cases that would appear to create some hardship, but your Commissioners feel that the creation of these hardships is a much lesser evil than the dispensation from compliance with the law in individual cases.

Furthermore, the right to obtain dispensation from compliance with the By-Laws will place some Building Owners, by virtue of superior financial position, in a much superior position than those not so well placed.

Your Commissioners feel, therefore, that this is an undesirable innovation notwithstanding that it has been established in another State and would suggest that sound methods upon which to work is to make the By-Laws as reasonable and practicable as possible, having regard to the purposes for which they are established, and therewith to place all Building Owners on the same footing. Since, if one Arbitrator allows a slight deviation this may be well used as a precedent for the next Arbitrator to allow a slightly further deviation and ultimately introduce a very difficult and chaotic state of affairs in the compliance and administration of the By-Laws.

Your Commissioners strongly recommend that no dispensation or possible dispensation from compliance with the law be permitted.

13. Action should be taken to ensure that the City Building Surveyor's Department shall have the means of policing new buildings and alterations to buildings to ensure that departures have not been made from the plans as approved by the Council.

14. Your Commissioners consider that the Building and Health By-Laws of the Council should be amended to prescribe the Council's requirements, not only in respect to bedrooms, but in respect of each of the other features of accommodation or convenience that may be occupied in conjunction with a bedroom. By this means it would not be material whether one or more of the features of accommodation and convenience were tenanted by the occupier or not, because the requirements of the Council in respect to each feature would be such as to safeguard health and proper living conditions. Under such an arrangement, if the occupier of a bedroom also had a gas stove or griller the prescribed requirements relating to gas stoves or grillers and where they should be

placed and how they should be ventilated would be set out in the By-Laws ; similar provision would be made in the case of each feature such as bathroom, sanitary conveniences, sleep-out, etc. It would be possible then for occupiers who are able to pay only a low rental to secure a bedroom with, perhaps, only a cooking feature attached, but the By-Laws would ensure that the existence of this feature would not be contrary to the health of the occupier. Your Commissioners think that if the matter was met this way it would overcome distinctions between flats and what are not flats and other difficulties of administration and enforcement of Health and Building By-Laws.

15. Your Commissioners recommend that Building Owners should be required on the completion of the building to obtain a certificate from an Architect that the structure has been erected in accordance with the approved plans ; this would be a check upon unauthorised and possibly undesirable departures from the plans as approved.

16. By section 308 of the Municipal Corporations Act, 1906, no wooden building can be erected within the City area, but the Council may, in its discretion, permit by written licence the erection of such a building under such restrictions or for such time as the licence shall specify. Your Commissioners consider that this section should be amended to give the City Council a wider power to permit the erection of buildings other than brick.

17. The chimney of the Emu Brewery represents an unsightly feature in the area in which it is erected, and particularly as it is a prominent feature of the City when approached from south, east or west. Your Commissioners consider that power should be taken by local authorities to prevent the erection of building features which would impair the appearance of the city or town in the situation in which they are proposed, and also to require the removal of such structures or features after the owner and occupier have received notice to do so, which should be a long term notice when expense and re-organisation may be involved.

18. Your Commissioners recommend that the following additional powers be given to the Council as early as possible in order that it may promulgate the comprehensive set of draft Building By-Laws which it has had prepared :—

(1) The Municipal Corporations Act, 1906, to be amended as follows :—

Section 335 of the principal Act is amended as follows :—

(a) By deleting paragraph (e) of subsection (1) and inserting in lieu thereof a paragraph, as follows :—

(c) (i) The thickness and height and the description and quality of the substance of walls and party walls and the type of construction to be adopted and used in the construction of walls and party walls.

(ii) The thickness and span and the description and quality of the substance of floors, roofs and ceilings and the type of construction to be adopted and used in the construction of floors, roofs and ceilings.

(b) By deleting paragraph (e) of subsection (1) and inserting in lieu thereof a paragraph, as follows :—

(e) Regulating in respect of buildings erected after the commencement of this paragraph :—

(i) The height of buildings.

(ii) The means of escape from buildings in case of fire.

(iii) The prevention of fire in buildings.

(iv) The ventilation and lighting of buildings.

(v) The exits from and stairways in buildings, other than private dwelling houses.

(vi) The minimum size of rooms in a dwelling house.

(vii) Requiring any work or thing in connection with the construction of buildings to be executed or done with such materials, in such manner and within such period of time as may be directed or required, in the case of any particular building by the Council or any officer or person authorised in that behalf by the Council.

(c) By deleting paragraph (f) of subsection (1) and inserting in lieu thereof a paragraph, as follows :—

(f) The removal of any wall, party wall, floor, roof, ceiling, parapet, flue, or fireplace erected or constructed contrary to any by-law.

(d) By inserting in subsection (1) after paragraph (j) new paragraphs, as follows :—

(j1) Prescribing the minimum area and the minimum depth and the width and frontage of land upon which buildings of any specified class may be erected.

(j2) Requiring that every building of any specified class erected after the commencement of this paragraph shall have attached thereto for the exclusive use of the occupiers thereof a prescribed area of open land.

(e) By adding at the end of subsection (2) the words " or any specified area or specified areas of such district or to any specified class or specified classes of buildings in such district."

(2) That the Municipal Corporations Act, 1906, be amended in order to empower Councils to increase the maximum penalty for breaches of the Building By-Laws.

(3) The above amendments and any other amendments under consideration should be made to the Municipal Corporations Act as expeditiously as possible and the Act consolidated and re-printed.

19. Your Commissioners recommend :—

(1) That the right to deal with houses of ill-fame should be withdrawn from Municipalities and left to Police administration and other statutory authorities dealing with public health.

- (2) That there should be a comprehensive and continuous research made by competent authorities with a view to dealing with this subject in accordance with the most up-to-date and improved methods.
- (3) That there should be a complete and modern clinic established in the new Perth Public Hospital for dealing with venereal and associated diseases.

APPRECIATION.

Your Commissioners wish to express their appreciation of the assistance extended to them by witnesses who appeared before the Commission and by Officers of the Perth City Council in supplying information and data.

Your Commissioners desire to place on record their thanks to the Secretary, Mr. H. E. Bancroft, whose able assistance and courtesy have at all times materially helped us and we are more particularly indebted to him on account of the number of sittings which we were obliged to hold subsequent to the close of ordinary office hours and during evenings.

We also tender our thanks to the members of the "Hansard" staff for their close attention and accuracy in reporting the proceedings of the Commission, and to Miss P. W. Harley and Miss E. M. Edgecombe, of the State Public Service, for their capable services in connection with the typing of this report.

We have the honour to be,

Your Excellency's most obedient
servants,

(Sgd.) H. S. RAPHAEL, J.P.,
(Chairman).

(Sgd.) M. A. HOLMAN.

(Sgd.) ROSS McDONALD.

(Sgd.) JOHN T. TONKIN.

(Sgd.) T. J. HUGHES.

H. E. BANCROFT,
Secretary.

Dated at Perth this 9th day of November, 1938.