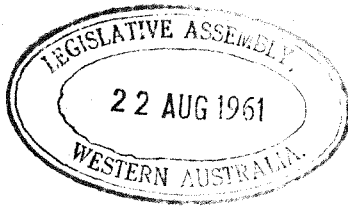


142



REPORT OF THE HONORARY ROYAL COMMISSION ON THE
BUILDERS' REGISTRATION ACT, 1939 - 1959

L Aid ON THE TABLE OF THE
LEGISLATIVE ASSEMBLY BY
THE HON. MINISTER FOR WORKS
ON THE 22ND DAY OF AUGUST,
1961.

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WESTERN AUSTRALIA

REPORT

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HONORARY ROYAL COMMISSION

ON THE

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1939 - 1959

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REGISTRATION ACT, 1939-1959

To His Excellency, Hon. Sir John Patrick Dwyer, K.C.M.G.,
Lieut.-Governor and Administrator in and over the State
of Western Australia and its Dependencies in the Common-
wealth of Australia.

May it please Your Excellency :-

We the Members of the Honorary Royal Commission appointed
to inquire into the Builders' Registration Act, 1939-1959,
have the honour to present to Your Excellency our Report as
follows :-

1. On Wednesday, 9th November, 1960, Hon. N.E. Baxter moved in the Legislative Council that the Builders' Registration Act be referred to a Select Committee and further that the Hon. E.M. Davies, Hon. G.C. MacKinnon and the mover be appointed to serve on the Committee.
2. On Tuesday, 22nd November, 1960, the Legislative Council agreed to these motions and ordered that the Committee have power to call for persons, papers and documents, and may adjourn from place to place; that the Committee may sit on days over which the Council stands adjourned; and that the Committee report when the House re-assembles.
3. Due to the possibility of the prorogation of Parliament, it was deemed advisable to apply for honorary Royal Commission status. This was done, and the members of the Committee were duly appointed as an honorary Royal Commission by Your Excellency on the 10th May, 1961.
4. The terms of appointment as published in the Government Gazette on the 12th May, 1961, were as follows:-

2.

- (a) To continue and complete the inquiries commenced by you, as a Select Committee of the Legislative Council, into the Builders' Registration Act, 1939-1959.
- (b) Having completed those inquiries to make your report to me in writing and to make such recommendations as are considered necessary.

5. It will be seen from the minutes that a number of meetings were held by the Select Committee and one as a Royal Commission, and that extensive evidence was taken from witnesses who offered to give evidence.

WITNESSES

6. Evidence was submitted by the following :-
1. V.M.M. Bonser, Mrs.
 2. J.H. Gratwick, Esq., Registrar, Builders' Registration Board.
 3. A.E. Clare, Esq., Chairman, Builders' Registration Board.
 4. G.E. Wignall, Esq., Building Surveyor.
 5. T. Clark, Esq., Mobile Crane Driver.
 6. T.W. Henley, Esq., Building Trades Association, Secretary
Carpenters' Union.
 7. A.C. Lee, Esq., Building Trades Association, Secretary
Plasterers' Union.
 8. J.G. White, Esq., President Building Trades Association,
Secretary Painters' Union.
 9. M.H. Parry, Esq., President, Royal Australian Institute of
Architects (W.A. Chapter).
 10. W.G. Hart, Esq., President "B" Class Builders' Association.
 11. V.T. Edwards, Esq., Master Builders' Association.
 12. N. Tavelli, Esq., Master Builder.
 13. K.I. Brine, Esq., Australian Institute of Builders.
 14. E.W. Woods, Esq., Hon. Secretary, "B" Class Builders'
Association.
 15. L.J. Wallis, Esq., Master Builders' Association and
Builders' Guild.
 16. W.E. Gardiner, Esq., "B" Class Builder.
 17. W.L. Brine, Esq., Master Builders' Federation.
 18. S.D. Corser, Esq., Master Builder.
 19. A.J. Otty, Esq., Building Surveyor, Cockburn Road Board.
 20. J.G. Rice, Esq., "B" Class Builders' Association.
 21. W.J. Nugent, Esq., "B" Class Builder.
 22. S.A. Costello, Esq., Representing Stan Costello & Co.
Builders.
 23. E.S. Morris, Esq., Building Surveyor, Fremantle City Council.
 24. Hon. R.F. Hutchison, M.L.C.

In addition, written statements were accepted from the following :-

- F.W. Alcock, Esq., Builder, Kellerberrin.
- H.G. Nichols, Esq., Red Hills, Marradong.
- H.E. Rankin, Esq., 57 Oceanic Drive, Floreat Park.

7. The evidence from 24 witnesses principally builders, architects and tradesmen consisted of well considered opinions and facts based on experience of, and the operation of the Act over some years.

After careful consideration of the evidence and much discussion the Commission has reached a unanimous conclusion.

THE ACT

8. Your Commission is firmly of the opinion that the Builders' Registration Act is desirable to provide a means of assuring that only properly qualified persons are conducting building operations, and the public are protected from exploitation and inferior workmanship, so far as possible, and in addition are provided with an avenue through which complaints can be channelled and adjusted to mutual satisfaction without the necessity of litigation.

9. The weight of evidence proved to your Commission that the present A Class examination did set a desirable standard of academic and technical training for any person wishing to enter the building industry.

The examination should be maintained and journeymen and apprentices with ambition to become registered builders should be encouraged to complete the necessary study, training and examination.

10. Since the proclamation of this legislation, although there have been eight amendments incorporated in the Act, the Commission is of the opinion that certain anomalies have been created, and some sections or parts thereof have become obsolete or redundant.

11. Your Commission desires to make some observations in regard to the application of the Act, and to some sections, particularly in respect to the area of the State to which this legislation applies.

12. Your Commission suggests that the Act be revised to extend its application to the rural districts wherein a reasonable amount of building is being carried out.

13. Your Commission is of the opinion that an anomalous situation is created by limiting this Act to one section of the State.

Having accepted the principle of the desirability of the Act for the reasons set out above, it becomes difficult to justify

the restriction of these advantages to metropolitan residents only.

Your Commission is fully aware of the difficulties facing a general extension of the Act. However, it is suggested that a careful watch be kept on certain of the more populous rural parts of the State with a view to the ultimate extension of the scope of the Act. Provision for such extension already exists under Section 3 of the Act.

Although it appears that the necessary supervision in rural districts may be difficult the Commission is of the opinion that possible co-operation of local authorities could overcome the problem, as officers of local authorities could in the carrying out of their normal duties attend to the lighter part of inspection necessary without extra expense or inconvenience.

14. The Commission believes that the rural dweller is entitled to receive workmanship and protection similar to the city people.

15. Your Commission gave attention to the matter of partnerships, companies and other bodies corporate employing registered builders to conform with the Act, and are of the opinion that the provisions of the Act are being evaded. It is therefore suggested that provision be made to register partnerships, companies and other bodies corporate providing for similar penalties as those applicable to a Registered Builder.

16. The Commission believes that if partnerships, companies and other bodies corporate are not registered and subject to penalties the provisions of the Act can be evaded by employment of a registered builder who can be dispensed with and replaced at any time and a practice of this nature could become prevalent.

17. There does not appear to be any reason for the present situation where a company and at times a partnership can have its registered builder de-registered and yet carry on business by the simple expedient of employing another registered builder.

In the case of a registered builder conducting his own business, de-registration for any offence means the cessation of the activities of that business.

Your Commission recommends that the penalties and require-

ments of the Act should operate with equal force on the individual, the partnership, the company, and the bodies corporate.

RECOMMENDATIONS

1. Your Commission therefore recommends that steps be taken forthwith to eliminate the "B" classification. The amendments suggested aim at establishing one class of registered builder in several steps.

- (a) By a generous acceptance of many established "B" class builders.
- (b) By a gradual acceptance of the balance of operating "B" class builders over a five year period.
- (c) The acceptance of the present "A" class examination as the only means of entry into the building industry by journeymen and apprentices who have met the other requirements.

2. That to readjust the present situation, a provision be inserted in the Act providing for a three month period during which all city and rural builders not registered may apply for and obtain registration subject to the provisions that the person applying had been trading as a builder or has been a supervisor of buildings for not less than five consecutive years and has during that period supervised the construction of buildings of an average annual aggregate value of £12,500 and is considered by the Builders' Registration Board to be a competent builder.

3. To provide for builders who do not comply with the five years' provision suggested, it is recommended that any person actively engaged as a builder or supervisor at 31st December, 1961, should be permitted to apply for registration on completion of his five years, subject to conforming with the other provisions and has not passed the prescribed examination in the interim.

4. The reasons of the Commission in making these recommendations are --

- (a) Most, if not all, builders whether "B" class or rural builders exempted under the Act, have

proved themselves as having the confidence of many of the public and organisations etc. concerned with building even though operating under a handicap of being designated "B" class or unregistered, and would no doubt be as capable and knowledgeable in practical building as would a large proportion of registered "A" class builders, but unfortunately for a number of reasons these builders have not been able to devote themselves to the lengthy training and study necessary to enable them to pass an examination to prove that they are academically capable of carrying out work, of which they have proved they are capable of doing in the practical application.

- (b) The registration of one class of builder at this stage would, we feel, clear up anomalies and discontent and provide that in the future the younger generation of apprentices and journeymen should be encouraged to commence the course of training and study prescribed by the Board.
5. (a) In accordance with the opinion expressed on partnerships, companies and other bodies corporate, that section 4, subsection (2)(b) and (d) of the Act be repealed. The reason being that these parts of the section exempt the abovementioned businesses from registration.
- (b) That in section 2 the interpretation of "Person trading as a builder" be amended to include partnerships, companies and bodies corporate.
 - (c) In regard to section 5(c), consideration be given to reconstituting the Board by replacing the architect appointed by the Governor with a person representative of premises owners and persons entering into contract

for the construction of homes or buildings, as a purchaser and, as the Western Australian Builders' Guild (Inc.) is now affiliated with the Master Builders' Association of W.A. that opportunity be given to other builders' associations to elect a representative.

The reason for this recommendation is to provide more equitable representation to all parties concerned with building operations.

6. In reference to section 9, provisions of subsections (3), (4) and (5) have not been carried out and should be repealed and replaced by a provision that the Builders Registration Board shall by July 1st in each year publish a list of registered builders.

This is in line with what the Board has done in the past and has proved entirely satisfactory and still provides prima facie evidence of registration subject to the production of a certificate from the Board.

7. In accordance with the recommendations to have one class of registration it is suggested that section 10 be amended by -

- (a) deleting Class "A";
- (b) amending subsection (2) to provide for the registration of partnerships, companies and other bodies corporate and deleting amendment 44 of 1953 and 63 of 1956 of subsection (4) which refer to registration of "A" and "B" class builders.

8. That section 10(b) be amended to provide that buildings constructed by partnerships, companies and other bodies corporate shall be under direct supervision of a registered builder.

The reason for this suggestion being that it was apparent from the evidence and inquiries made that in a number of cases the supervision was being carried out by persons not registered, though generally quite competent.

The Commission considers section 10(c) would not be required if the recommendation to amend section 10(b) is acted upon.

9. Further consequential amendments throughout the Act would be required, which it is not considered necessary to include in this report and it follows automatically that a number of the present regulations would be either redundant or in need of amendment.

10. Finally, it would appear advantageous that the Act should be repealed and re-enacted as at December 31st, 1961, with much of the existing provisions and the inclusion of amendments suggested.

CONCLUSION.

The Commission desires to record its appreciation of the manner in which the "Hansard" staff and the Secretary carried out their duties in connection with this inquiry.

CHAIRMAN	N.E. BAXTER
MEMBER	EVAN M. DAVIES
MEMBER	G.C. MacKINNON.

Parliament House,
Perth.

1st June, 1961.