

Fines and Costs of £76 Against Wagga Builder

Fines and costs totalling £76/14/ were imposed on a Wagga builder at the Wagga Court yesterday.

The builder is Roy James Henwood, of "Cunningdroo," Tarcutta Road.

When a charge of building a house in an unworkmanlike manner was proveyed, he was fined £3 and ordered to pay witnesses' expenses, legal costs and court costs amounting to £50/18/.

When he pleaded guilty to three other charges, he was fined a total of £15 and ordered to pay further legal and court costs amounting to £7/16/.

ANOTHER three charges against Henwood were adjourned to April 19.

The hearing of the charge of erecting a building in an unworkmanlike manner, to which Henwood pleaded not guilty, began some weeks ago.

When the hearing resumed before Mr. C. H. Blackmore, S.M., yesterday, David Roy Barton, carpenter, of 40 Thorne Street, Wagga, continued his evidence for the defence.

He said knot holes in the floor had nothing to do with bad workmanship. He had been given permission to use the materials.

At this stage, Mr. Blackmore said the defence, as he saw it, was that a lot of things not quite desirable were in the building, but they could be remedied when the building was completed.

He thought he was bound by the dates shown in the information. The fact that the faults might be remedied on completion did not constitute a defence, but might be extenuating circumstances.

Mr. J. Kennedy (Walsh and Blair), for Henwood, submitted that this had nothing to do

with workmanship and related to materials in use. The building was in an incomplete state.

He thought this good defence.

Mr. E. Fenn Lusher (Lusher, Young and Stellway), for the Wagga City Council, which launched the proceedings, said most of the witnesses for the defence had given evidence that the workmanship was good.

Mr. Blackmore said he understood all this, but the information gave the dates between which the workmanship was not sufficient.

Barton, continuing evidence, said that at no time had his work as a carpenter been questioned. His services were in such demand that he was paid above the award rates.

Alleged Damage by Vandals

Since proceedings had been taken vandals, or some persons outside those immediately concerned with the case, had interfered with the building.

An attempt had been made to dig holes in the concrete floor of the laundry. Bricks in

floor of the laundry. Bricks in a dwarf wall had been pushed out and put back again. A door leading from the passage to the lounge had received a severe jolt which had broken the face of the door.

Cross-examined by Mr. Lusher, Barton said he was doing Henwood's job on wages. He was only doing the carpentering.

He said he was a member of the Trades and Labor Council and was a prominent union man.

Barton also said he was a prominent member of the Communist Party, and was proud of it. At one time he had been secretary of the party. He said earlier witnesses, Beattie and Dacey, were also Communist.

The witness, Martin, was not a Communist, he said.

Barton said he had been told

that the cottage was being built for sale.

He would not say that it was a type of cottage that would be bought by a worker. It was a type of cottage that would be bought by anyone, said Barton.

On three occasions he had been given permission to proceed.

"I had not realised that if Henwood loses the case he will have cause to take action against me," said Barton.

It was not because of any such thought that he had asked his Communist friends to inspect the building and give evidence.

Asked if the responsibility for the shortness of the exterior weatherboards was his or Henwood's, Barton said they were nailed to the studs when they were brought in from the country.

"Job Incomplete"

Asked if it had not been his duty, as a good carpenter, to point out that the weatherboards were not cut flush, Barton said the job was incomplete, and they could be cut if necessary.

if necessary.

The method he had intended to use would not have necessitated them being cut flush.

Mr. Lusher: Wasn't it your duty, as a good carpenter, to put extra rafters on the back verandah before the tiles were put on?

Barton said the bulge in the front wall would be much less noticeable when the weatherboards were nailed down. He denied that the nailing down of the boards would place extra stress on the nails at each end of the boards.

Barton admitted that some of the weatherboards were two inches short of the corner strips.

Barton also admitted that he had stated in earlier evidence that there was only a drop of

seven inches—an inch in the foot—in the front and side verandah roofs.

He had seen Andrews measure the drop when the cottage was inspected by the magistrate on Tuesday and knew the drop was 14 inches—two inches in the foot. He had done the job himself and had been 100 per cent out in his estimates.

Barton denied that a lot of faults could be covered up with putty and paint.

Council Notice

Richard Henwood, grazier, of Beauty Point, Wagga, said Andrews, on Aug 24, 1948, had issued a notice from the City Council ordering work done on the cottage to be pulled down.

This had been done.

While Andrews was on holidays, Henwood said he had a conversation with the Wagga City Council engineer (Mr. Sheppard) and work on the cottage was proceeded with.

When Andrews returned from holidays he told them to pull down work done while he was away. This was done, and Barton was brought on the job.

After the floors had been laid again and the walls of two rooms erected Andrews ordered

again and the walls of two rooms erected, Andrews ordered the removal of two pieces of timber and two floorboards. Andrews had given permission to pitch the roof.

Two corner pieces had been removed on Andrew's instructions.

Henwood said he had owned a number of cottages and had been actively interested in building.

The Croaker Street cottage was not finished. The workmanship was good.

Cross-examined by Mr. Lusher, Henwood said the workmanship was good for the state of construction the building was in.

Signed Son's Name

He had signed his son's name to the building application submitted to the City Council. "I am behind the building. My son has nothing to do with it, really. He was only nominal in the matter," said Henwood.

He said he wanted to erect second-hand rooms and the council had made him pull them down from time to time.

He had not stated in the specification that second-hand materials would be used. It was only after the council first saw the building that he admitted that second-hand materials were being used.

Henwood's evidence closed the case for the defence.

Mr. Kennedy submitted that the prosecution had extracted evidence from the witness Henwood that his son, the defendant Henwood, had nothing to do with the building.

Mr. Blackmore held against Mr. Kennedy.

When William Lowe, builder, of 16 Docker Street, Wagga, was called by the prosecution and began evidence in reply Mr. Kennedy submitted that Lowe could not be heard.

Mr. Kennedy claimed that evidence Lowe was giving should have been given as evidence-in-chief, and not as evidence

in-chief, and not as evidence in reply.

Mr. Blackmore said he would allow the evidence, and Mr. Kennedy asked that his objection be noted.

Inspection of Cottage

Lowe said he had inspected the Croaker Street cottage with Andrews. He said the halving on the top plate on the front verandah had been done contrary to the extreme of good workmanship.

It would not be practicable to put in extra rafters on the back verandah without removing most of the tiles and battens, said Lowe.

He said that if cover strips were placed over the uneven ends of the external weatherboards they would harbor spiders and vermin.

He would say that the bulge in the front wall was caused by the timbers used drying and forming in that way. Nailing would not remove the bulge. Lowe said the concrete which formed the laundry floor was of a poor grade.

"I could not see any good workmanship in the building," said Lowe.

Cross-examined by Mr. Kennedy, Lowe said he had read earlier evidence in the Press, but he had not necessarily made the inspection to support the prosecution.

He had been asked to give his opinion of workmanship generally.

The witnesses Beattie, Martin, Dacey and Barton had all worked under him at one time, possibly for three months. Their work had given him cause for complaint, but he had not complained to them, as he had not the authority to do so.

Lowe's evidence was read to four other witnesses.

They all said they agreed with it.

The witnesses were George Henry Flanagan, building contractor, of 9 Mitchelmore

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Henry Flanagan, building contractor, of 9 Mitchelmore Street, Wagga; Harold Cecil Buckman, master builder, of Marne Street, Wagga; Eric C. Dunkley, builder, of 66 Urana Street, Wagga; and Gerald Frederick Fitzgerald, master builder and managing director of the Fitzgerald Construction Co., Wagga.

Denial of Permission

John H. Andrews, assistant city engineer and building inspector, employed by Wagga City Council, recalled to the stand, denied that he gave Barton or Henwood permission to proceed with the work.

He said he told Henwood to remove the second-hand materials from the site, but this had not been done. There had been no mention of second-hand materials on the specifications, said Andrews.

Questioned by Mr. Kennedy, Andrews said the only notice he had issued was on August 4.

Andrews said that when he tackled Barton about the carpentry, Barton said it was for Henwood.

When he tackled Henwood, he said Barton was the carpenter.

Mr. Blackmore said he had come to the conclusion that the cottage had not been erected in a good and workmanlike manner and had accepted the evidence of the prosecution.

Evidence for the defence was that faults would be rectified on completion, but he was bound by the ordinance, said Mr. Blackmore.

Mr. Lusher said the maximum penalty was £5.

Henwood was fined £3 and ordered to pay witnesses' expenses, legal costs and court costs totalling £50/18/.

Henwood pleaded guilty to a charge of inserting flooring boards less than the minimum thickness, and was fined £2.

On a charge of using faulty materials he pleaded guilty, and was fined £3.

A plea of guilty was entered on a third charge of causing work to be done which was not in accordance with the plan ap-

in accordance with the plan approved by council and a fine of £10 was imposed.

Court and legal costs on these three charges amounted to £7/12/.

Mr. Lusher said the last three matters were all subject of notices requiring the work to be corrected.

Another three charges against Henwood were adjourned to April 12.
