

CHAPTER 3

THE ORIGINS OF THE MASTER BUILDERS ASSOCIATION OF NSW 1873 - 1889

Introduction

This chapter describes the origins of the Master Builders Association of New South Wales (MBA/NSW) and provides a brief outline of the economic and political context within which those events occurred. That contextual exercise includes a description of the development of the building industry in the colony of NSW from the early efforts of convict labour to those of free settlers comprising Master Tradesmen and tradesmen who carried out works within their individual occupations. It also includes a brief history of the emergence of general contracting that developed in England during the Napoleonic Wars and how that form of building proved useful to the Australian colonies after the discovery of gold in the 1850s.

More government buildings were needed to administer the larger population created by the 'gold rush', whilst the wealth generated led to demands for larger and grander homes, and for commercial and industrial buildings. General contracting emerged to meet those post gold-strike demands. Those general contractors, or Master Builders, not only coordinated the works on the large building sites; they were also required to fund the enterprise as part of a fixed priced contract.

The increased size and complexity of building works and the arbitral position held by architects led to contractual disputes which encouraged general contractors in Sydney to seek to form an association for their mutual protection. This chapter describes their early efforts to form an association and their ultimate success in 1873. It then examines the development of the association before the 1890s, which marked a turning point in Australian political and industrial history. Various objectives and achievements of the association are examined and, in particular, the significant role played by its leadership. The structure used in this chapter provides a blue-print that is emulated in all succeeding chapters of the thesis

which describe and analyse the history of the association during its first one hundred years. The chapter concludes with a brief discussion of the origins of the general contractors' association in the context of employer association formation theory.

The Context

Transportation of convicts from England to NSW effectively ended in 1840,¹ and by 1842 the population of NSW exceeded 130,000 Europeans. NSW achieved self-government on 22 May 1856 when its newly elected parliament sat for the first time. It comprised a Lower House - a Legislative Assembly of 54 Members - and an Upper House (Legislative Council) - similar to that of England. The establishment of responsible self-government in 1856 was an important basis for liberal democratic government. However, only landowners had the right to vote until 1858 when an *Electoral Reform Act* enfranchised through secret ballot almost every adult white male in NSW.

The great economic boost provided by the gold rushes of the 1850s marked a turning point in Australian history for the wealth they brought and, more importantly, for the social changes they heralded.² During the period from '1851-1861 half a generation Australians had lived under canvass or in huts' and building emerged as one of the most important industries.³ Butlin estimated that by the 1860s, about one-fifth of the population of the eastern colonies lived in tents, bark huts or other temporary dwellings.⁴ The population of the colony of NSW increased dramatically from 197,265 in 1851 to 350,860 in 1861 and by 1871 it had reached 502,981.⁵ Building demand in NSW, however, was cyclical and within the buoyant economic period of the long boom (1860-1890), Butlin identified four ephemeral troughs – in 1863, 1871, and 1879 and in 1886.⁶ A downturn in building demand interrupted the buoyant conditions of the early 1880s and, despite an upswing in the late 1880s, the general decline in building activity continued and many builders became involved in speculative building. John Young, inaugural president of the Association, was one builder

¹ Manning Clark, *A History of Australia*, vol. III, Melbourne University Press, Carlton, 1973, p. 179.

² Manning Clark, *A History of Australia*, vol. IV, Melbourne University Press, Carlton, 1978, pp. 3-4, 121, 136-137.

³ Manning Clark, *A Short History of Australia*, Mentor Books, New York, 1980, pp. 136-48.

⁴ N. G. Butlin, *Investment in Australian Economic Development 1861-1900*, Cambridge University Press, Cambridge, 1964, p. 215.

⁵ Clark, *A History of Australia*, vol. IV, p. 221.

who became involved in building speculative housing on the area known as North Annandale that he bought in 1877.⁷ Speculative building enabled many specialist contractors such as Thomas Henley - a plastering contractor - to become builders.⁸

Whilst Hume identified active working class movements in the Australian colonies prior to the gold rushes of the 1850s,⁹ Mitchell observed that those in the building industry were mainly friendly societies and were short-lived.¹⁰ Trade unionism in the colonial building and construction industry commenced in the 1850s with unions comprising Bricklayers, Stonemasons and the Progressive Society of Carpenters and Joiners. The United Labourers' Protective Society (ULPS) was founded in 1861 comprising only the most skilled labourers. In 1875 the Amalgamated Society of Carpenters and Joiners was formed as the Sydney Branch of that English society.¹¹ The sequence, and temporary nature, of work on a building site inhibited any spirit of common employment from being created among the workers and tradesmen, who shared little in class consciousness as they focused on *trade* consciousness.¹²

The Operative Stonemasons union successfully spearheaded the Eight Hour Movement in Sydney and Melbourne in 1856, and other unions formed together in each of those towns to spread the benefit to other building workers and to other trades.¹³ The unions in Melbourne quickly achieved the eight-hour day but the unions had mixed success in Sydney with only a few builders granting the lesser hours in return for a similar reduction in wages. However, by the end of 1858 the economy was in a poor state and the competition was so keen that those builders who had agreed to the eight-hour arrangements 'gradually fell back into the old order of things – ten hours, and in very many cases without the two hours

⁶ Butlin, *Investment in Australian Economic Development*, p. 227.

⁷ Bede Nairn (gen. ed.), 'John Young (1827-1907)', *Australian Dictionary of Biography*, vol. 6, Melbourne University Press, 1976, pp. 454-5.

⁸ Bede Nairn and Geoffrey Serle (gen. eds.), 'Sir Thomas Henley', *Australian Dictionary of Biography*, vol. 9, Melbourne University Press, 1983, pp. 260-1.

⁹ L. J. Hume, 'Working Class Movements in Sydney and Melbourne before the Gold Rushes', *Historical Studies, Australia and New Zealand*, vol. 9, no. 35, 1960, pp. 263-78.

¹⁰ Glenn Mitchell, *On Strong Foundations: The BWIU and Industrial Relations in the Australian Construction Industry 1942-1992*, Harcourt Brace Australia, Sydney, 1996, pp. 7-8.

¹¹ Peter Sheldon, 'In Division is Strength: Unionism among Sydney Labourers, 1890-1910', *Labour History*, no. 56, 1989, p. 45.

¹² Alice Coolican, 'Solidarity and Sectionalism in the Sydney Building Trades: The Role of the Building Trades Council 1886-1895', *Labour History*, no. 54, 1988, pp. 16-17.

¹³ Ian Turner, *In Union is Strength: A History of Trade Unions in Australia 1788-1978*, Thomas Nelson Australia, Sydney, 1976, p. 24.

additional pay'.¹⁴ In 1858, building tradesmen faced a market devoid of the eight-hour day and lacking any certainty, first, in the wages that would be offered and, second, whether in fact they would even be paid in light of the number of business failures occurring. This situation led journeymen to form a co-operative builders company that won some work which was carried out under the eight-hour principle. The venture ultimately failed due to the competing demands for employment by its shareholders. Many employers introduced piece-work as a means of avoiding the hours issue.¹⁵ By 1862, due to an improved economic climate, unions obtained the eight-hour day for bricklayers, carpenters and joiners, and plasterers. The labourers also obtained a similar improvement in their hours.¹⁶

The Emergence of the Master Builder

During the Napoleonic Wars in the early part of the nineteenth century, the English Government, due to the need to keep within cost estimates and for rapid construction, introduced *contract works* under which the Government committed the entire project to a *general* contractor rather than having to deal with a dozen separate individuals. The general contractor (builder) was required to tender for a firm priced contract rather than merely submitting an estimate.¹⁷ Cooney¹⁸ defined four types of building firms:

1. A Master Craftsman working only in his trade;
2. A Master Craftsman undertaking the construction of an entire building but only employing workers in his own trade and sub-contracting the rest of the works to other Master Craftsmen;
3. A Builder who is not a craftsman (for example, an Architect or Timber Merchant) who undertakes the construction of an entire building and sub-contracts all the works; and
4. A Master Builder who undertakes the construction of an entire building and employs large numbers of labourers and workmen in all the principal building crafts.

¹⁴ George Parker Jones, *The Road I Came*, Building Limited, Sydney 1915, p. 32.

¹⁵ *Ibid*, pp. 30-32.

¹⁶ Alice Coolican, 'A History of Industrial Relations in the Sydney Building Trades, 1870-1914', PhD thesis, University of New South Wales, Sydney, 1989, p. 31.

¹⁷ M. H. Port, 'The Office of Works and Building Contracts in Early Nineteenth Century England', *Economic History Review*, vol. 20, no. 1, 1967, pp. 94-110 at p. 98.

¹⁸ E. W. Cooney, 'The Origins of the Victorian Master Builders', *Economic History Review*, vol. 8, no. 2, second series, 1955, pp. 167-8.

The first type of firm is the traditional form through which the building industry operated and today they mainly work in a sub-contract relationship with a builder. The second type is the form initially pursued by those who aspire to progress to the position of Master Builder and continues today to be fairly common. Cooney suggested that the first Master Builder was Thomas Cubitt of London who developed his own new type of organisation between 1815 and 1820 under which he employed all building trades. Others in the building trade soon imitated Cubitt. Cooney also suggested that the development of contracting may have contributed to the rise of the Master Builder;¹⁹ however, Port believed that it was more likely that the rise of the master builder encouraged the use of the general contracting and formal tendering system.²⁰

Freeland notes that a number of tradesmen in the Australian colonies prior to the 1850s 'became first a builder and then, puffed up with success and social pretensions, an architect'. Many of these 'architects' worked as builder-architects and there were engineers who operated as engineer-architects. While builder-architects were classified in directories and census returns under "Trades", the engineer-architects were classified under "Professions", for as Freeland observed: 'The builder-architect was trained pragmatically on the practicalities of a trade. The engineer-architect was educated intellectually on the theories of science'.²¹ There were, however, trained Architects who gave up their profession and concentrated solely on acting as a Master Builder - John Young, the founding President of what is now the MBA/NSW is an example, because he 'found contracting would be more profitable'.²² Master Builders, however, were generally former Master Tradesmen. For example, Thomas Cockram, a 22-year-old bricklayer, arrived in Melbourne from the English Midlands in 1853. By 1867 he was described as a builder. His firm currently is Melbourne's oldest building company. Turner Shaw claims that the classic pattern of client-architect-builder had been established since Melbourne's earliest days.²³ For example, John Jones Peers arrived in Melbourne in 1837 and established a building firm

¹⁹ Ibid, pp. 171-2.

²⁰ Port, 'The Office of Works', p. 109.

²¹ J. M. Freeland, *The Making of a Profession: A History of the Growth and Work of the Architectural Institutes in Australia*, Angus and Robertson, Sydney, 1971, pp. 6-7.

²² H. C. Kent, 'Reminiscences of Building Methods in the Seventies under John Young', *Architecture*, November 1924, p. 6.

²³ Mary Turner Shaw, *Builders of Melbourne: The Cockrams and their contemporaries 1853-1972*, Cypress Books, Melbourne, 1972, pp. 1, 5, 12.

which, the following year, built the first brick church in what was to become, officially in 1850, the colony of Victoria.²⁴ General contracting was not widely practiced in NSW until the 1860s, and by 1880 it was entrenched.²⁵ There is, however, evidence that the practice was in operation prior to the 1850s; for example, Robert Paton built the old Sydney Customs House in 1844.²⁶

The gold rush era of the 1850s brought a sudden increase in the population of the colonies of Victoria, NSW and South Australia and the need for housing created a boom in the building trades which continued over the following decades.²⁷ The gold rushes left Australians, per capita, probably the richest people in the world.²⁸ The emerging bourgeoisie created from the wealth of the gold rush demanded larger residences, larger office buildings and factories. The bourgeoisie of Sydney and Melbourne 'accumulated wealth from manufacturing and the most important industries were - iron foundries, --- carriage-building, furniture -- saw milling and brick manufacture'.²⁹ The expanding public sector and the emerging manufacturing industries placed heavy demands on the building trades and created a need for contractors who could assume general control of the building works and, more importantly, who could finance such works.

The emergence of general contracting altered the traditional relationships on building sites from between the proprietor and Master Tradesmen who worked side by side with their employees; to relationships between Master Builders and the Master Tradesmen. Those trade masters ultimately formed organisations in parallel to the union movement – for example: the Master Painters, Decorators and Signwriters Association of NSW and the Master Plumbers & Mechanical Contractors Association of NSW – in accord with the *parallelism* model. General contractors formed the Builders and Contractors Association of NSW (BCA/NSW), after two unsuccessful attempts, in 1873. One theory attributes the earlier failures to the absence of any real pressure having yet developed on the general contracting

²⁴ W. R. H. Keast, *A History of The Master Builders Association of Victoria*, The Master Builders Association of Victoria, East Melbourne, 1994, p. 5.

²⁵ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', p. 41.

²⁶ J. M. Pringle, *The Master Builders' Association of New South Wales: A Jubilee Record*, Building Limited, Sydney, 1923, p. 1.

²⁷ Clark, *A Short History of Australia*, p. 148.

²⁸ R. V. Jackson, *Australian Economic Development in the Nineteenth Century*, Australian National University Press, Canberra, 1977, p. 11.

²⁹ Clark, *A Short History of Australia*, pp. 136-48.

processes. However, whilst it is true that the transformation of building enterprises to general contracting would have still been in its relative infancy during the 1860s, the 1863 attempt to form an association had focused issues related to contracting for public works. Here, the Government had appointed a Secretariat for Public Works to regulate public works in 1850.³⁰

Early Attempts to Form a Builders' Association in NSW

The foundation of the Master Builders Association, and its early operations, were conducted within an environment of enormous change. Many master tradesmen who had operated single-trade firms prior to the emergence of general contracting became 'builders' working either as a sole trader or in a partnership and, between 1859 and 1880, the number of builders increased from 128 to 544.³¹ Coolican observed: 'Prior to 1850 the borders between builders and architects or builders and master tradesmen were indistinct and easily crossed'.³² As previously noted, John Young, the first president of MBA/NSW, worked as an architect prior to becoming a builder.³³ The transfer from master tradesman to builder meant that many association members such as George Parker Jones were former unionists.³⁴

The advent of general contracting placed greater financial responsibility on the builder and many builders commenced their operations in sub-contract relationships with larger builders. Sub-contracting the works was one business strategy initiated by builders in response to the pressures of general contracting. Builders also contained labour costs. This brought them into direct conflict with the unions whose members stipulated their working conditions, wages and hours and sought to impose them on employers.³⁵

The building industry comprised two distinct sectors: the commercial and industrial sector which principally comprised larger and more complex buildings; and the housing sector which generally comprised smaller buildings of basic design. Architects were mainly involved in the commercial and industrial sector, where the contractual relationships were more formal.

³⁰ Public Works Department, *Register of Bonds and Agreements*, State Records NSW, Ref. X11, Sydney. *Sands New South Wales Directory*, 1858-59, pp. 228-9, 1880, pp. 728-31.

³¹ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', p. 51.

³² Peter Proudfoot, 'Management and Materials: The Genius of John Young', in Peter Proudfoot, Roslyn Maguire and Robert Freestone (eds.), *Colonial City, Global City: Sydney's International Exhibition 1879*, Crossing Press, Sydney 2000, pp. 62-3.

³³ Jones, *The Road I Came*, p. 57.

³⁴ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', p. 101.

The builders and contractors who established the association of employers that was to become the MBA/NSW were those who worked principally in the commercial and industrial sector for private owners and for the government. Until the introduction of the *City of Sydney Improvement Act 1879*, which provided the City Council with the power to approve or refuse the construction of a new building and to condemn buildings in a dangerous state, there was little regulation save in the areas of fire control and public safety. The suburbs, however, continued to be unregulated.

The first attempt to form what became the MBA/NSW commenced on 9 May 1863 when four Sydney builders and contractors ‘considered the advisability of inaugurating an association with a view of protecting their interests’,³⁶ and resolved to publish the following advertisement on 13 and 14 May 1863:

FIGURE 3:1

To Contractors under the Public Works Department New South Wales.

A Meeting of the above named Contractors will be held at the Metropolitan Hotel, Pitt Street, Sydney on Thursday 14 inst., at 7.30 PM for the purpose of inaugurating a Contractors association in order to have their interests properly represented.

The Attendance of all parties interested is urgently requested.

Source: Attachment to Minutes of Meeting, 9 May, 1863 (MBA/NSW).

Eight builders attended the inaugural meeting that was chaired by John White, and those in attendance included Aaron Loveridge who, with his brother Samuel, in the 1850s built the Great Hall of the University of Sydney.³⁷ A small committee was appointed to draft rules and regulations for the new association which was named “The NSW Builders and Contractors Association”.³⁸ Later, a final draft of proposed rules was adopted, and plans were made to call a general meeting.³⁹ Twenty-three builders and contractors attended that meeting, and Thomas Alston was elected *pro tempore* Chairman.⁴⁰

³⁶ BCA/NSW, *Minutes of Meeting*, 9.5.1863.

³⁷ Pringle, *The Master Builders’ Association*, p. 1.

³⁸ BCA/NSW, *Minutes of Inaugural Meeting*, 14.5.1863.

³⁹ BCA/NSW, *Minutes of Rules Committee*, 21.5.1863.

⁴⁰ BCA/NSW, *Minutes of General Meeting*, 28.5.1863.

Fourteen rules were presented and ultimately adopted by the meeting. Some of those rules provide insight into the difficulties that the founding builders were seeking to overcome by their collective representation. For example, due to the powerful arbitrary role of the Architect, the many arguments over quality and the progress payment of monies were resolved to the dissatisfaction of the builder. Rule 7 required an arbitration or mediation clause to be inserted in every specification or general conditions of works, in case of dispute between Engineers or Architects and Contractors.⁴¹ Despite these early efforts, there is no further record of any activity after August 1863.

A second attempt to form an association occurred on 21 April 1869, when fourteen Builders and Contractors agreed that it was ‘desirous that a protective Builders Society be formed’.⁴² There is institutional-continuity to the earlier association as they used the same minute book. The new association adopted the rules of the 1863 association and formed a sub-committee to ‘draw up conditions and form of contract between Proprietors and Builders’.⁴³ The newly named ‘The Builders & Contractors Association’ elected Benjamin Dyer as President, Thomas Alston as Vice President and a nine member ‘permanent’ committee.⁴⁴ The rules issue was further addressed and amended to provide that:

Membership would be open to any contractor from any branch of House or other Building erection subject to them succeeding a ballot, and that members who failed to fulfil their obligations to the trade would be subject to expulsion; and,

Proprietors in their contracts with members of the Association would be required to be responsible for the acts and omissions of any Architect or Engineer employed to superintend the works contracted for.⁴⁵

The new association resolved to pursue a membership drive.⁴⁶ Unfortunately, there were divisions over the eight-hour day issue.⁴⁷ The members dissolved the association and paid the balance of any (monies) to the Sydney Infirmary.⁴⁸ The failure of the two attempts to form an association requires some consideration.

⁴¹ Ibid, 28.5.1863.

⁴² BCA/NSW, *Minutes of Formation Meeting*, 21.4.1869.

⁴³ BCA/NSW, *Minutes of Committee Meeting*, 10.5.1869.

⁴⁴ BCA/NSW, *Minutes of General Meeting*, 31.5.1869.

⁴⁵ BCA/NSW, *Minutes of Committee Meeting*, 22.6.1869.

⁴⁶ BCA/NSW, *Minutes of General Meeting*, 26.10.1869.

⁴⁷ BCA/NSW, *Minutes of General Meeting*, 23.11.1869; *Notes on Special Meeting*, 3.12.1869.

⁴⁸ BCA/NSW, *Minutes of General Meeting*, 22.2.1870.

Coolican attributed the earlier failures to a lack of pressing problems associated with general contracting until the 1870s. She also claimed that the 1863 attempt was jointly made by builders and suppliers without any interest by contractors.⁴⁹ Her conclusions are not supported. First, it is clear from the rules proposed by the two fledgling and ephemeral associations in 1863 and 1869/70 that the removal of the unilateral power of the architect was of prime importance. The architect occupied the role of independent arbitrator in building disputes between owner and builder,⁵⁰ a role compromised by the architect/client relationship between the architect and the owner. Second, the Minutes of the 1863 association reveal that it sought to represent public works contractors. It was not until after its successful establishment by influential builders in 1873, that association opened its membership to such suppliers as lime burners, timber merchants, iron founders, plumbers, slaters and quarry masters.⁵¹

There also developed a close and symbiotic relationship between the early BCA/NSW and the Builders Exchange, an organization established by builders and suppliers in 1864 as a forum for conducting business and for socializing.⁵² In 1876, some three years after its foundation, the BCA/NSW moved into the Builders Exchange rooms in King Street, Sydney,⁵³ and the Exchange became its branch,⁵⁴ and until 1956 each of the BCA/NSW office premises was named 'The Builders Exchange'.

The division over the eight-hour issue may have contributed to the failure of the 1869 attempt. John Young, a leading builder and noted advocate of the eight-hour day, successfully called a special meeting 'to consider the working hours for unskilled labors.'⁵⁵ However the special meeting was so poorly attended that it was adjourned indefinitely.⁵⁶ Young's views clashed with those of the president of the 1869 association, Benjamin Dyer, who had publicly declared his opposition to the eight-hour day in 1856 when the claim was first raised in Sydney.⁵⁷

⁴⁹ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', p. 75.

⁵⁰ Freeland, *The Making of a Profession*, pp. 9-10.

⁵¹ BCA/NSW, *Membership Book 1873-1877*, Sydney.

⁵² Builders Exchange of NSW, *The First Hundred Years, 1864-1964*, The Exchange, Sydney, 1964, pp. 6-9.

⁵³ Enos Dyer, 'The Early Days of the Master Builders Association', *Building*, no. 1, vol. 1, 1907, p. 18.

⁵⁴ Pringle, *The Master Builders' Association*, p. 4.

⁵⁵ BCA/NSW, *Minutes of General Meeting*, 23.11.1869.

⁵⁶ BCA/NSW, *Notes on Special Meeting*, 3.12.1869.

⁵⁷ Jones, *The Road I Came*, p. 28.

Both the 1863 and 1869 attempts by Sydney builders to form combinations had focused on the need to obtain more favourable conditions of contract and, in particular, more effective and just methods of resolving disputes between the builder and the proprietor or architect. This issue remained the basis for the successful establishment of an association in 1873.

The Formation and Early Operations of a Permanent Association

It was not until a meeting between 25 major builders and contractors - some having been participants in the previous unsuccessful attempts at forming an association - at the Temperance Hall, Pitt Street, Sydney on 21 October 1873, that the Builders and Contractors Association of New South Wales (BCA/NSW) was successfully established. The meeting then elected John Young, who was the chair of the meeting, as president and William Hart as secretary.⁵⁸ The new association was formed under rules based on those obtained by John Young from the Builders and Contractors' Association of Victoria.⁵⁹

Unlike the earlier attempts to form associations, the 1873 BCA/NSW had a clear leader in John Young, who remained president for over four years. Young was a pragmatic and practical individual, who had great administrative and managerial acumen. He was polite under duress, but blunt when he thought it necessary for discipline.⁶⁰ A successful and charismatic builder, he was born in England in 1827, and had been articled to a firm of architects and surveyors and attended King's College. In 1851 he was superintendent of draftsmen for the Crystal Palace under Sir John Paxton. John Young migrated with his wife to Victoria in 1855 from where his building operations extended to Tasmania, New Zealand and Sydney. During the eleven years he lived there, his building contracts in Victoria included St Patrick's Cathedral and many metropolitan churches, as well as the Ballarat Gaol and Powder Magazine. He moved to Sydney in 1866 after his Clerk of Works had created serious errors and losses on St Mary's Cathedral in Hobart and on the Hospital for the Insane at Kew in Victoria. His contracts in Sydney included St John's College within the University of Sydney, the Department of Lands building, substantial sections of St Mary's Cathedral,

⁵⁸ BCA/NSW, *Minutes*, 21.10.1873.

⁵⁹ BCA/NSW, *Minutes of Rules subcommittee*, 7.11.1873.

⁶⁰ Proudfoot, 'Management and Materials', pp. 60, 65.

the General Post Office and many commercial buildings. He invested in quarries in Melbourne and Sydney and used the latest overseas technology such as overhead travelling cranes, arc lights for night work and reinforced concrete. He invented an improved form of scaffolding and as noted previously was an early advocate of the eight-hour day. He represented the Bourke Ward on the Sydney Municipal Council from 1876-1887 and was Mayor in 1886. He was an alderman of Leichhardt Borough Council from 1879 and Mayor in 1884-1885. He led a secession movement against this council that resulted in incorporation of Annandale Borough Council, in 1896, of which he was founding Mayor.⁶¹ He was succeeded as BCA/NSW President by John McLeod, who served in that capacity for two years. John McLeod had been Young's Deputy President and had assisted him in achieving the Arbitration clause for building contracts.⁶² He was a "fine old generous Scotsman" who "did many large public and private contracts".⁶³ Included in those "large public contracts" was the building of Sydney Town Hall from foundation to ground floor level,⁶⁴ and the iron girders and columns for the building.⁶⁵ John Young and John McLeod were succeeded as President by other builders of influence and long experience. Their names are included in Appendix 4.

Young and the founders of the Association began a tradition that continues to this day. They organised their first 'Annual Dinner' at the Odd Fellows Hall in Elizabeth Street, Sydney. It was attended by 'over one hundred gentlemen' including members of parliament and municipal councils in the Sydney metropolitan area.⁶⁶

The BCA/NSW also created an important precedent when it created its first autonomous branch in 1874. It recognised the interests of builders outside Sydney, when following an expression of interest from 'the Builders of Newcastle', it passed a resolution 'to have branch associations and (that) the present committee be empowered to draw up rules for the proper working of the same'. The Newcastle branch was to be called the No 1 Branch of the BCA/NSW and was subject to its rules.⁶⁷ Newcastle branch members were accepted as members of the BCA/NSW, and the branch was authorised to retain its 'own

⁶¹ Kent, 'Reminiscences of Building Methods', pp. 5-13; Nairn (gen. ed.) 'John Young', pp. 454-5.

⁶² Enos Dyer, 'The Early Days of the Master Builders Association', *Building*, No.1, Vol.1, 1907 p.17

⁶³ George Parker Jones, *The Road I came*, Building Limited, Sydney May 1915 p.57

⁶⁴ Shirley Fitzgerald, *Sydney: 1842-1992*, Hale & Ironmonger, Sydney 1992, p.98

⁶⁵ *Ibid*, p.87

⁶⁶ BCA/NSW, *Minutes of the first Annual Dinner*, 4.12.1873.

subscriptions for working expenses but to pay any levy made by the Parent Society for their proportion of any necessary expences (*sic*) required by the General Association'.⁶⁸ Liaison was maintained between the BCA/NSW and its No 1 Branch through exchange of their respective minutes of meetings. Whilst BCA/NSW members had the right to attend and vote at the No 1 Branch meetings,⁶⁹ there is no record of this right being pursued, and the No 1 Branch acted with a certain degree of autonomy.

Despite the creation of the Newcastle branch, the rules of the BCA/NSW provided for a simple management structure with specific honorary office-bearers and a committee. Its 25 foundation members were all influential builders despite some having described themselves as bricklayer, mason or contractor,⁷⁰ and within three years there were over 200 members.⁷¹

Trade and Tendering Problems

The BCA/NSW's first objective was to secure improvements to the contractual relationships within which its membership operated with their clients and the architects. The transfer to general contracting and to formal tendering in England, and the accompanying need for conflict resolution, had led to the enactment of such statutes relating to commercial arbitration as the *Common Law Procedure Act*, 1854. The BCA/NSW regarded the best way to achieve commercial arbitration was to have an arbitration clause included in the conditions of contract. The legally binding character of arbitration in commerce had been established by the House of Lords,⁷² a legal precedent that continues to be the basis of commercial arbitration in the NSW building industry but from which domestic construction is now excluded.⁷³ Whilst at least two individual architects responded positively to the arbitration clause proposal, architects organized a conference on 1 April 1874 'to consider the demand by the Builders for an Arbitration clause'. They, however, regarded the proposal as 'prejudicial to the interests of their clients'.⁷⁴ The Association resolved to send a letter of apology to the Secretary of the Architects Conference advising that the BCA/NSW Secretary

⁶⁷ BCA/NSW, *Minutes*, 19.8.1874.

⁶⁸ BCA/NSW, *Minutes of Committee Meeting*, 25.8.1874.

⁶⁹ BCA/NSW, *Minutes*, 16.9.1874.

⁷⁰ BCA/NSW, *Membership Book 1873-1877*, Sydney.

⁷¹ Dyer, 'The Early Days', p. 17.

⁷² *Scott v Avery*, (1856) HL Case 811.

⁷³ Section 7c of the *Home Building Act*, 1989 formerly the *Building Services Corporation Act* 1989.

⁷⁴ BCA/NSW, *Minutes of Special Meeting*, 7.4.1874.

had written his letter without its knowledge. It also censored Mr. Hart who resigned.⁷⁵ The issue was finally resolved by a deputation of three from the BCA/NSW meeting with some architects. After making some minor alterations to the builders' document, the architects agreed to 'place the matter before the General Body of Architects for ratification' and requested the Builders' delegates to do the same with their membership.⁷⁶ The BCA/NSW introduced a rule requiring all members to use the arbitration clause in their building contracts.⁷⁷ Following the successful negotiation of the arbitration clause and confirmation of its rules, the BCA/NSW elected auditors and concluded other administrative arrangements.⁷⁸

Whilst the issues of conditions of contract and the arbitration clause were resolved in 1874, the BCA/NSW continued to monitor the tendering and contractual environment created by the policies and demands of the Colonial Architect and the Institute of Architects of NSW. In 1888, the BCA/NSW established a committee to 'consider the advisability of waiting on the Minister [for Works] with a view to putting an end to the system of calling for tenders for the same work three or four times over.' Its report considered a number of issues including the limited time made available to builders to peruse plans, and the refusal of the Colonial Architect to the builders' requests to take the plans related to a tender from his offices so that they may conveniently prepare their tenders. Also discussed was the need for public tenders where practicable and a recommendation for the Colonial Architect to take punitive action against any builder who refused to take up work for which he had tendered.⁷⁹ The agitation by the BCA/NSW led to some concessions being granted in the tendering process by the Colonial Architect.⁸⁰

Industrial Relations in the NSW Building Industry

Five months after the formation of the BCA/NSW, the Operative Bricklayers' Society demanded a 46-hour week for its members which involved a 7 hour day Saturday (1 hour of which was a rest break) between 6.00 am and 1.00 pm.⁸¹ The association responded that it

⁷⁵ BCA/NSW, *Minutes*, 23 April 1874.

⁷⁶ BCA/NSW, *Minutes*, 6.6.1874.

⁷⁷ *Ibid*, 15.7.1874.

⁷⁸ BCA/NSW, *Minutes*, 15 July 1874.

⁷⁹ *Ibid*, 20.3.1888, 18.4.1888.

⁸⁰ *Ibid*, 19.3.1888.

⁸¹ BCA/NSW, *Minutes of General Meeting*, 18.3.1874.

recognised 47 hours as a week's work from 1 April to 1 October [the winter months] and 48 hours for the remainder of the year. The Operative Bricklayers insisted that 46 hours was the rule⁸² and, while they had resistance from the builders at first, it became established practice on large sites.⁸³ Objections were later made 'to the impropriety' of the association's involvement in industrial matters – 'it being contended by several members that [the BCA/NSW] should not meddle with such a subject'.⁸⁴ As Coolican notes, the BCA/NSW remained somewhat aloof from industrial issues during its early years despite union approaches in 1874.⁸⁵ For the next few years, the BCA/NSW confined itself, and its rule-making, to the commercial interests of its membership in the area of their tendering operations and the terms and conditions of contracts.

The division among building workers reinforced the reluctance of the BCA/NSW to become involved in industrial relations. While building workers actively supported the formation of the NSW Trades and Labor Council (TLC) in 1871, the sequence and temporary nature of the work on a building site inhibited any spirit of common employment from being created among workers and tradesmen. The tradesmen did not regard builders' labourers as their equals, focussing on a *trade* rather than a class consciousness.⁸⁶

In early 1886, attempts were made by the Society of Stonemasons to force a builder named Jennings, who was constructing St Patrick's College at Manly Beach, to employ only society members. Masons on the project went on strike in support of a demand that a long-term employee and non-unionist be dismissed, but the builder successfully completed the project with non-union labour, despite the financial assistance offered the strikers by other building unions.⁸⁷ The failure of the TLC to effectively support that campaign was viewed with concern by building tradesmen's unions and compounded their need for a sense of identity apart from the general labour movement. The two carpenter Unions and those representing Stonemasons, Bricklayers, Plasterers, Painters and Plumbers resigned from the TLC and established the *Building Trades Council* (BTC) later that year. Membership of the

⁸² BCA/NSW, *Minutes of Special Meeting*, 7.4.1874.

⁸³ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', pp. 102-103.

⁸⁴ BCA/NSW, *Minutes of Special Meeting*, 7.4.1874.

⁸⁵ Coolican, 'A History of Industrial Relations in the Sydney Building Trades', pp. 74-5.

⁸⁶ Coolican, 'Solidarity and Sectionalism', pp. 16-17.

⁸⁷ BCA/NSW, *Minutes of General Meeting*, 16.2.1886.

BTC was restricted to *trade* unions and, on that basis, the United Labourers' Protective Society (ULPS) was not invited to join.⁸⁸

Against this background, the BCA/NSW commenced its direct involvement in industrial relations and in the employment affairs of its membership in the late 1880s. By 1887 the number of builders in Sydney had increased dramatically.⁸⁹ Greater competition and an economic downturn in 1884 and 1886 resulted in the daily rate of ten shillings (10/- or \$1.00) for carpenters being drastically reduced by employers. In October 1888, members of both the Progressive Society of Carpenters and Joiners and the Amalgamated Society of Carpenters & Joiners (ASC&J) went on strike in support of their demand for the restoration of the daily rate. Thomas Bavister, the secretary of the BTC, wrote to Enos Dyer in his capacity of BCA/NSW secretary offering to meet with six per side to seek a resolution to the Carpenters' strike.⁹⁰ The initiative succeeded on 13 November 1888, when an agreement was signed by BTC representatives on behalf of the 'working carpenters' and BCA/NSW signing on behalf of the 'employers' committee'.⁹¹ The success of that initiative led to the establishment of a Board of Conciliation to deal with disputes between their members modelled on a similar board in Brisbane.⁹²

Conclusion

In 1873 general contractors formed the BCA/NSW, after two unsuccessful attempts; the first in 1863 and the second in 1869. Both of the previous attempts to form an association had focused on the need to obtain fairer conditions of contract and just methods of resolving disputes between the builder and the proprietor or architect. Those objectives were also the driving force behind the formation of the 1873 association that achieved the introduction of better conditions of contract and a compulsory arbitration clause. It is concluded that the two earlier attempts were unsuccessful due to eroding interest from a lack of achievement. The failure to identify a leader is identified as the cause for that lack of achievement.

⁸⁸ Coolican, 'Solidarity and Sectionalism', pp. 16-29.

⁸⁹ *Australasian Builders and Contractors News*, 28.5.1887, p. 42.

⁹⁰ *Builders News*, 27.10.1888, p. 365.

⁹¹ *Ibid*, 17.11.1888, p. 455.

⁹² *Ibid*, 16.2.1889, pp. 154-5, 23.7.1887, p. 337.

The presence of an elected leader, John Young, who had the respect of his peers, a charismatic personality, and a high profile within the industry and the general community, was a major factor in the success of the 1873 venture. He was successful in forming a durable association and in achieving recognition from the architects which was a precursor to achieving a fairer method of dispute resolution. Further, that success and the durability of the BCA/NSW were also assisted by the influence and importance of others, such as John McLeod, who followed him as President. The fledgling association created a precedent when it approved the formation of a branch at Newcastle but, despite being accepted as members and subject to BCA/NSW rules, the branch operated autonomously.

The BCA/NSW for most of its initial seventeen years was a trade association. It rejected attempts by the union movement to negotiate and promoted the right of its members to address labour demands individually. Competition between general contractors from the mid-1880s led to an emphasis on labour costs and challenges to union rules governing wages and conditions. These challenges resulted in industrial disputation and the BCA/NSW began to take an interest in industrial relations. It experimented with a scheme of institutionalized conciliation. By adopting both trade and industrial relations by the end of the 1880s, the BCA/NSW became an employer association as defined by Plowman and Windmuller.

The formation of the BCA/NSW was an initiative against the power of the Architects and could be regarded as an example of the *defensive* model, however, there are also some aspects of the *procedural-political* model,⁹³ in that the builders sought to establish a unit capable of bargaining with the Architects. The formation and operations of the BCA/NSW provide examples of *proactivity* in contrast to the *reactivity* view of Plowman. The success of association demands for an arbitration clause to be inserted in building contracts was underpinned by a policy requiring its members to enter only contracts containing such a clause. This policy appears to have succeeded with the association maintaining internal discipline throughout the period covered by this chapter.

The success of the charismatic John Young in leading the BCA/NSW founders to the formation of the association is an example of Hersey-Blanchards' situational leadership

⁹³ P. Jackson and K. Sisson, 'Management and Collective Bargaining - A Framework for an International Comparison of Employer Organisation', *Working Paper*, Industrial Relations Research Unit, University of Warwick, 1975.- Cited in E. G. A. Armstrong, 'Employer Associations in Great Britain', in

theory,⁹⁴ in that members of the new organization were willing to follow his leadership to enable the BCA/NSW to succeed when early attempts to form an association had failed. Further his election as President and that of his successor, the popular and respected John McLeod, under the rules of the Association, legitimized the authority of the President in terms of Weber's rational-legal authority,⁹⁵ and helped succeeding elected presidents to build on that success and contribute to the permanent establishment of the BCA/NSW.

Windmuller and Gladstone (eds.), *Employers Associations and Industrial Relations: A Comparative Study*, p. 45.

⁹⁴ Stephen P. Robbins, Rolf Bergman, Ian Stagg and Mary Coulter, *Management*, 3rd ed., Prentice Hall, Sydney, 2002, p. 489.

⁹⁵ Max Weber, *The Theory of Social and Economic Organization*, A.M. Henderson and Talcott Parsons (trans.), The Free Press of Glencoe, New York, 1964. p.328.