

**Submission**

**No 2**

## **INQUIRY INTO OPERATIONS OF THE HOME BUILDING SERVICE**

**Organisation:**

**Name:** Mr Chris Fitzgerald

**Telephone:**

**Date Received:** 20/10/2006

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**Subject:**

**Summary**

This submission has been kept partially confidential by resolution of the Committee.

Mr Chris Fitzgerald

Tuesday, 17 October 2006

General Purpose Standing Committee No. 4  
Parliament House  
Macquarie Street  
Sydney NSW 2000  
FAX 9230-3416

RECEIVED

20 OCT 2006

GPSC's

**Parliamentary Inquiry into Operations of the Home Building Service**  
**Brickwork at**

Dear Sir / Madam,

I am pleased to hear there is a parliamentary enquiry into the operations of Fair Trading and the Home Building Service. However, I believe there needs to be an understanding of the serious position licenced, dodgy builders can place consumers in.

A consumers' home, future, finances, time and well-being can all be placed in jeopardy --even for a "small" contract of only \$6,424.

I will be more than pleased to provide documents supporting what I have outlined below, if required.

In 1999 I entered a contract with [redacted] to build my home as an Owner-Builder. I was forced into becoming an Owner-Builder as a result of another dodgy builder --another story.

[redacted] advertised far beyond what they were licenced for, advertising they had reliable Tradesmen available, and hence recommended the Supervisor and a Bricklayer. It was intended to finish and move into my new home within six months.

My house reached lockup during the Sydney Olympics, yet today I live in an unfinished "home" without a Council Occupation Certificate, and therefore totally uninsured! Photos are attached.

My Engineer's report says it will be cheaper to tear the brickwork down and replace it than to try to rectify it. The Quantity Surveyor agrees with this position.

A \$6,424 contract to lay the bricks has led to \$92,338 in rectification work.

I also found out that the bricklayer, a fully licenced builder, had had a \$96,224 insurance claim against him in 1997. Anyone who knew this would not have allowed him on their property --but the information was only made available under Freedom of Information after the damage was done.

Fair Trading's Home Building Service issued a "rectification order" in 2004. Even during the inspection, the bricklayer said he would just walk away from his licence and declare bankruptcy -I believe this is exactly what has happened.

There was no risk of the bricklayer losing his licence when he breached Fair Trading's Rectification Order. However, under FOI, I learned he was to be fined \$2,000 for improper conduct --of which I didn't get a cent. Only then, if he didn't pay the \$2,000 was there the threat of losing his licence.

**There are several key issues here:-**

- 1) As the brickie was licenced 22 years before he ruined my house, intent explains his behaviour more so than inexperience.
- 2) Others ( [redacted] and the Supervisor), helped the bricklayer perpetrate what is essentially fraud.
- 3) Why was the brickie left with a Supervisory licence when he had been subject of a major insurance claim less than 3 years before he damaged my home?
- 4) Why wasn't the brickie's licence cancelled when he breached the Rectification Order?

- 5) In 2000, this \$6,424 contract required Home Warranty Insurance which was not supplied  
Why isn't failure to supply this Insurance a **Criminal Act** -i.e. Fraud?
- 6) Currently Home Warranty Insurance is not required for contract under \$12,000  
-yet a \$6,424 contract has led to \$92,338 damage. This is not Consumer protection!
- 7) Fair Trading has not acted as the "Consumer Advocate" at all.  
The end of everything they do leaves the consumer having to take their own legal action.  
Meanwhile, licence holders claim legal expenses as tax deductions, the consumer cannot.  
A solicitor advised me it would cost \$43,000 to engage them, and up to \$70,000 if it was in court for 3 days. All up, that's \$92,338 plus \$113,000.  
Should I lose I would also have the licence holder's legal fees!  
Even to win the legal case does not put me back at "square one". It puts me living in a house without insurance, the house being pulled down around my ears, whilst the brick work is rectified.  
Being single, I will also need to take months off work to protect my possessions 24 hours a day.
- 8) My home loan gave my lender the right to inspect building progress and to sell my house and land if building was not progressing as expected. I have come very close to losing everything!
- 9) As I can't get an occupation certificate, I cannot get insurance cover. If a tree on my property blows over, or someone gets hurt, I am fully liable.
- 10) I can't finish my house because gyprocking the walls behind the brickwork will cover many of the flaws -the evidence.
- 11) As you can see, my penalties are extreme -Yet I did not break the law!  
- My house will not re-coup the \$150,000 poured into it if sold should I need to move into a retirement home  
- To date, I have lost 7 years of my life. Yet the licence holders just walk away.  
- It is my financial and personal future that is in serious jeopardy.  
- Licence holders must have personal liability. Not the freedom of just walking away!
- 12) There is then the cost to the tax payer who pays probably hundreds of millions of dollars to prop up Fair Trading which is not properly policing its licence holders.  
The tax payer also foots the bill for Courts and Tribunals that should be needed less frequently.
- 13) A consumer doesn't set about building a home so they can experience the legal system. They are also at the most financially vulnerable with a mortgage over their heads.

If existing laws were enforced and perhaps enhanced, dodgy builders would cease to exist.  
Since Fair Trading does not meet its charter of Consumer Advocate, the only way out for me is expensive legal action. Licence-holders know this and can run the perfect scam with the licence fee effectively becoming protection money. The consumer has better protection from unlicensed tradespeople.

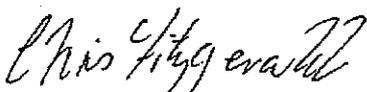
I truly hope your inquiry does some good. It is appalling that I can live in a democracy, pay my taxes, abide by the law yet be so seriously victimised by people who have been accredited by the "Consumer Advocate".

It is even more appalling -a betrayal of the people, that the Minister can sit in Parliament, hear evidence of marriage breakups, bankruptcies and hardships caused by dodgy builders AND DO NOTHING!

People simply cannot afford this behaviour, to have all their plans, work and effort be made worthless through the greed, negligence or corruption of a few.

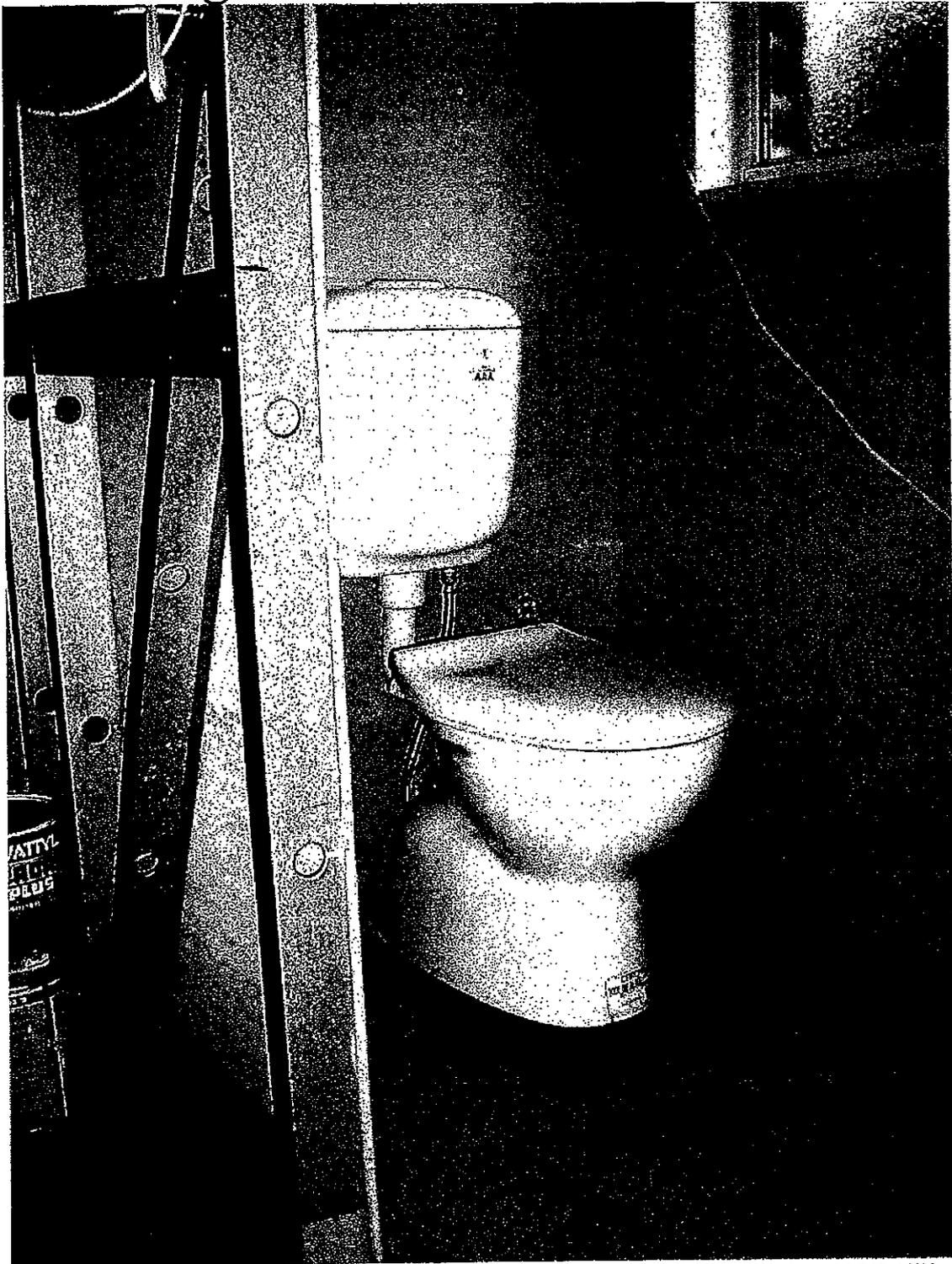
Thank you for your efforts.

Sincerely,



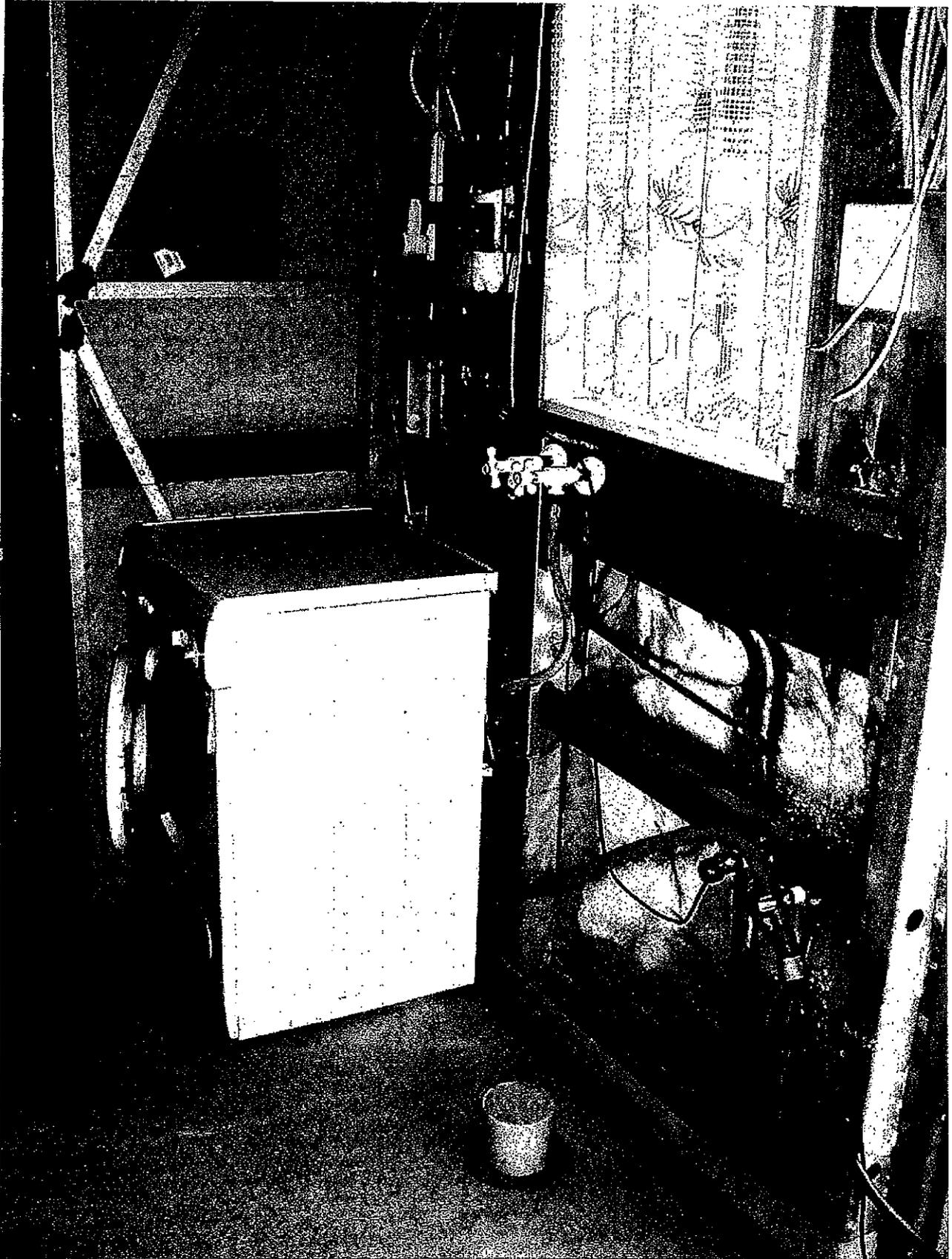
Chris Fitzgerald

# This is what \$150,000 and Fair Trading gets for the Consumer!



My first "home" reached lock-up during the Sydney Olympics –this is it TODAY!  
so, where's the Fair?

Toilet on blocks of wood  
Not able to finish gyprocking, doorways can't be finished  
Tiles purchased in 2000 can't be laid



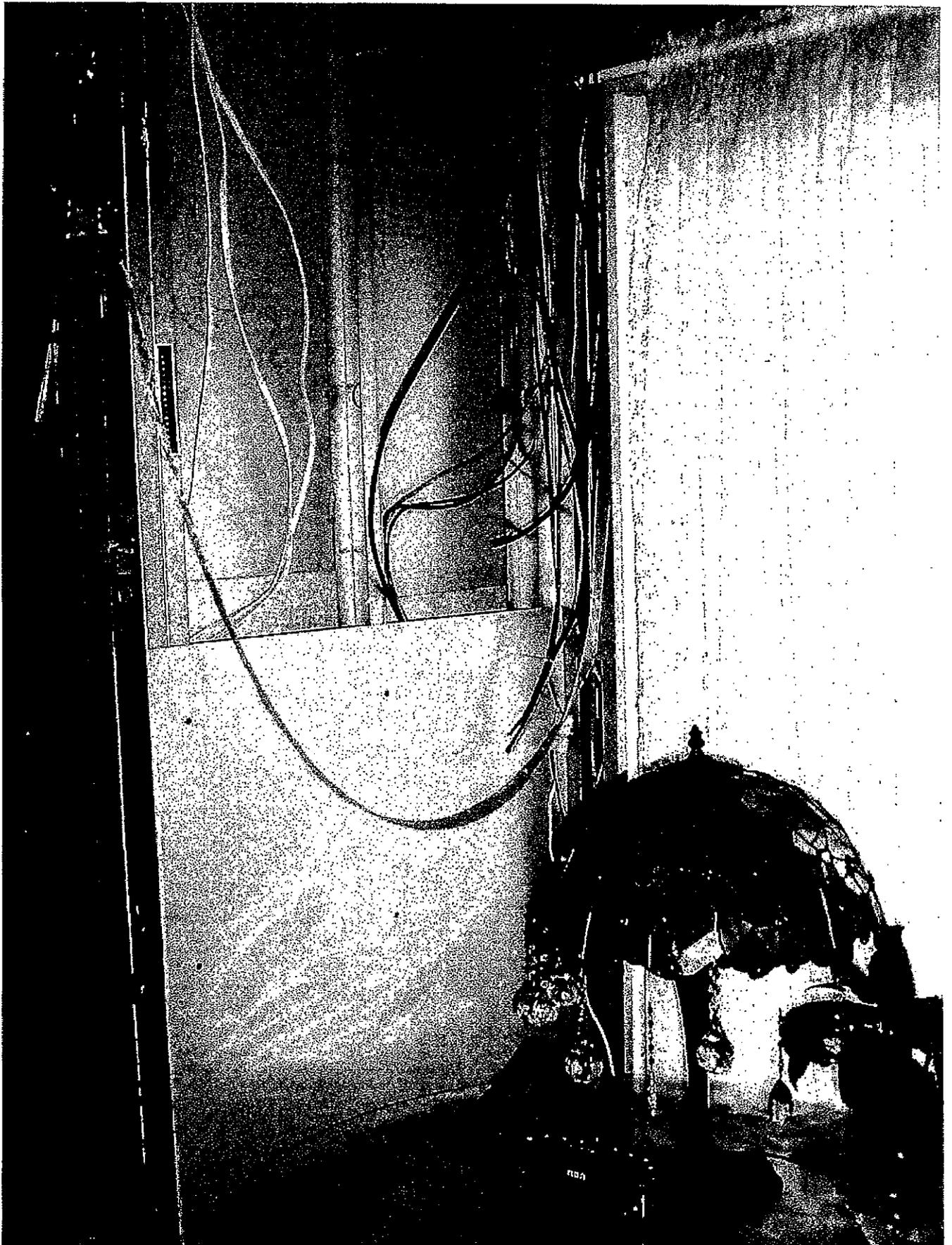
**TheLaundry.**

The internal wall behind the brickwork cannot be lined (gyprocked) as it would cover the faults  
ie. 1) Cavity filled with mortar 2) lack of brick ties 3) brick ties not fixed to frame.

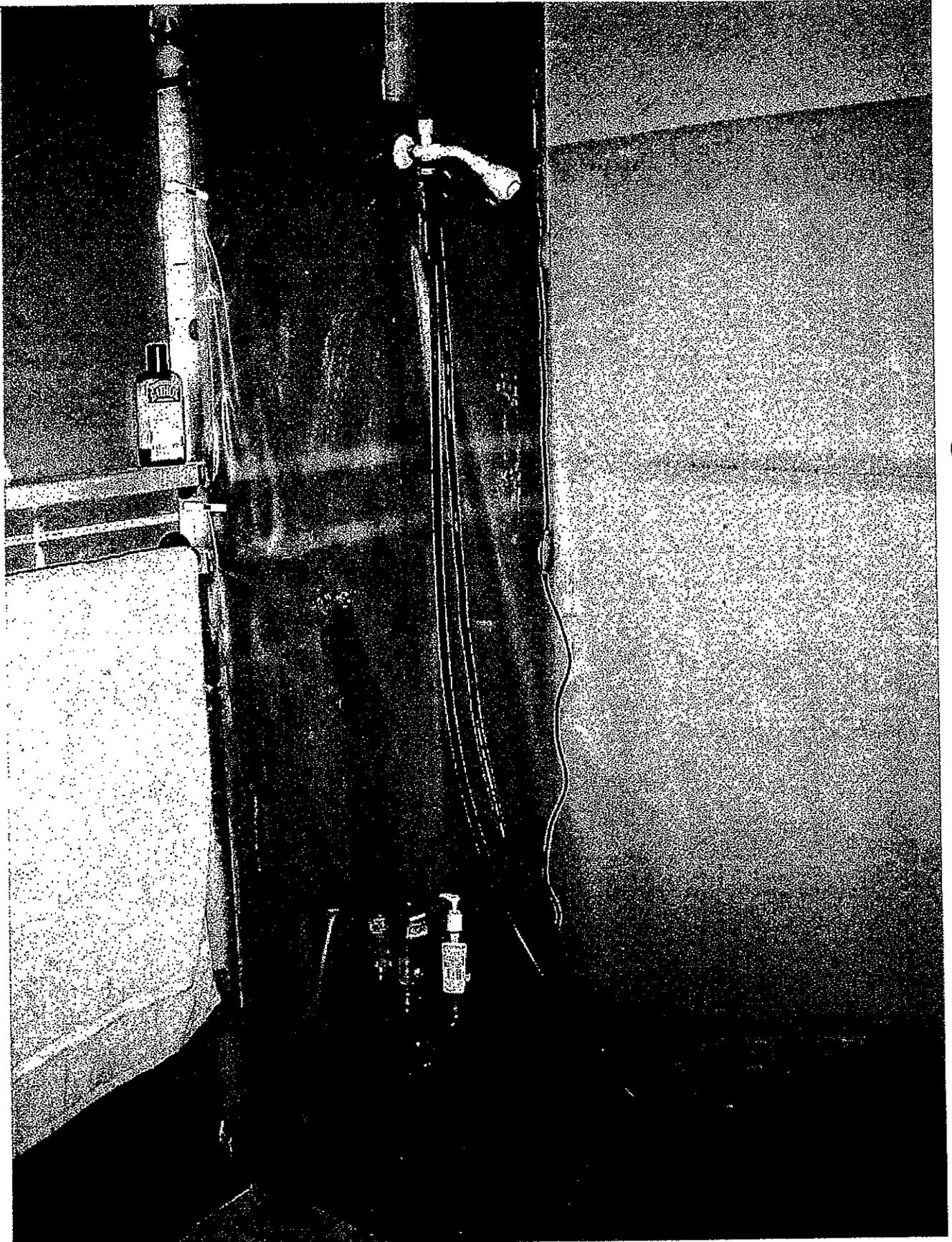
Note: The silver is sarking fixed to the frame before the brickwork was done.



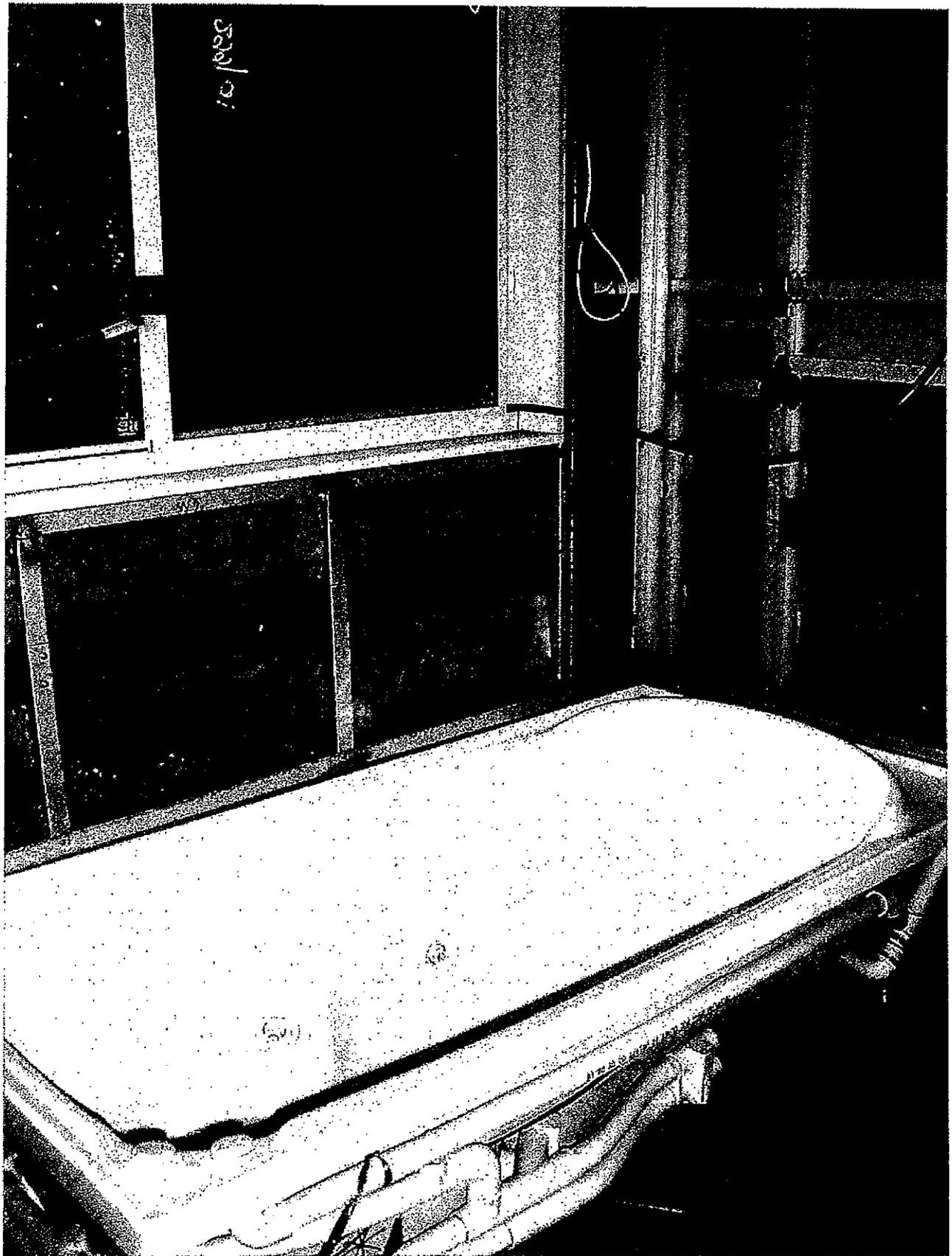
The Main Bedroom can't be gyprocked as it has brick walls on 3 sides.



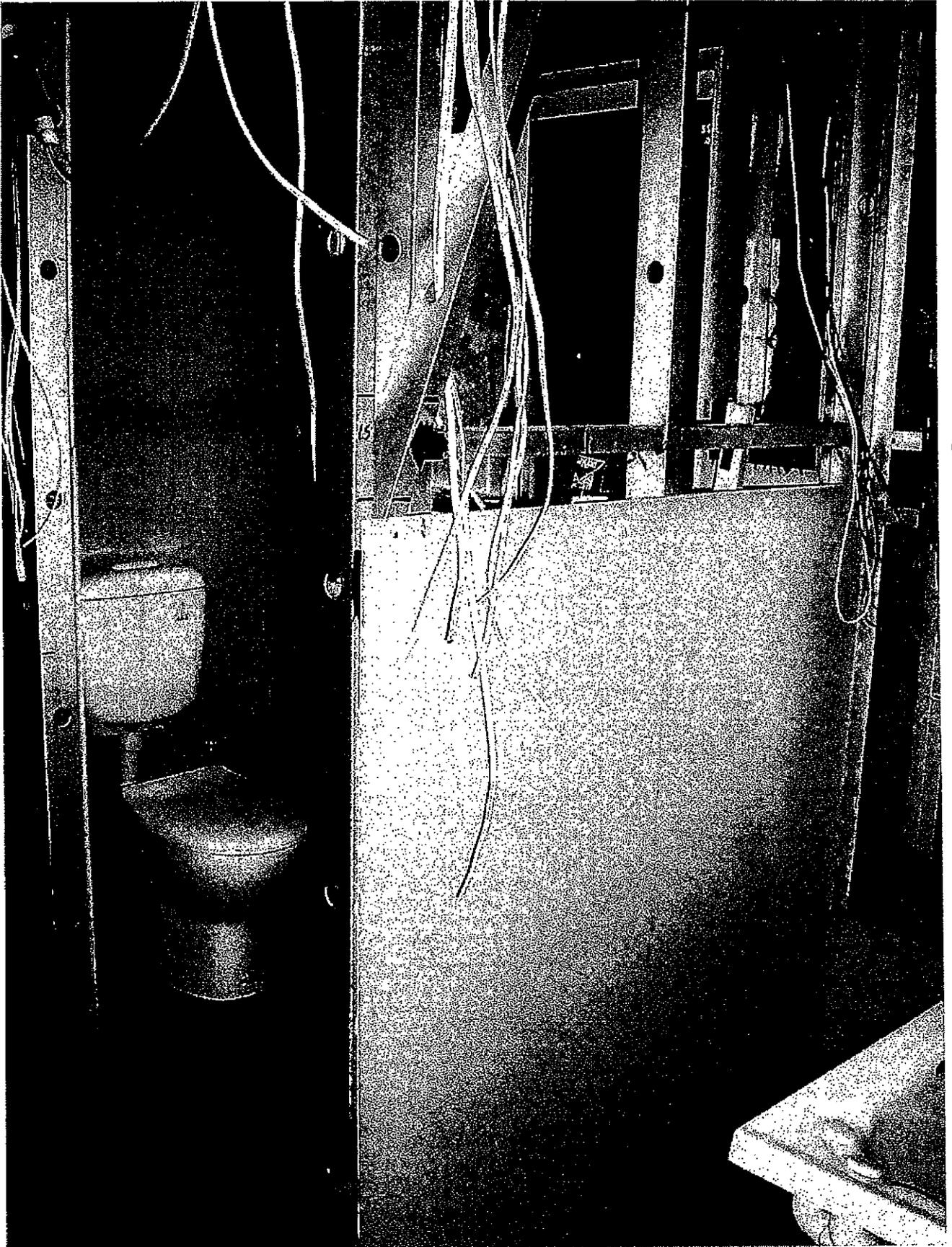
**Rumpus Room** Doorways can't be finished until gyprocking is completed  
Data and TV cabling is shown - similar cable sets are in every corner of every room.



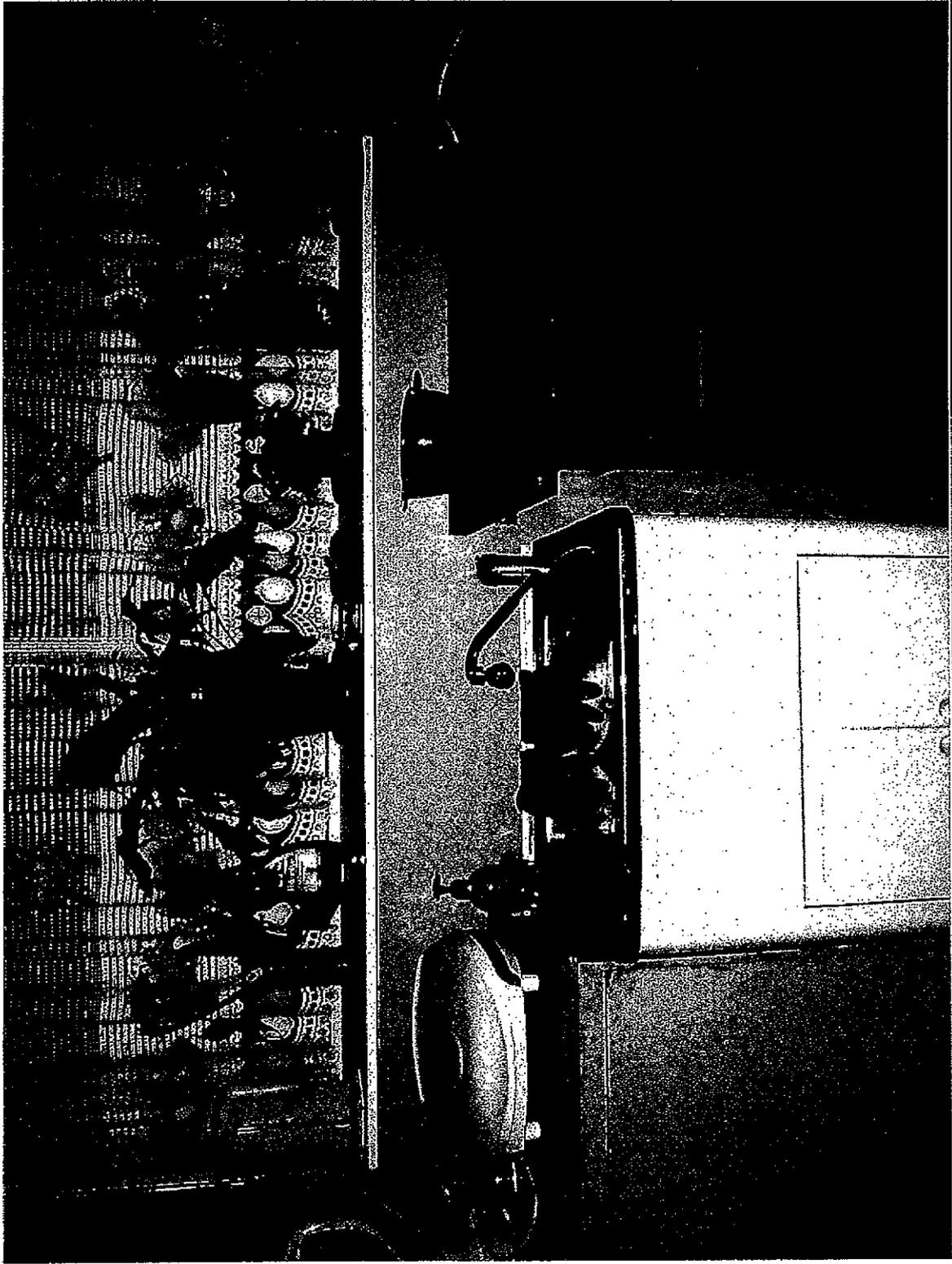
**Shower** I can't get gyrockers in as no rooms can be completed behind the brickwork. All wall lining has had to be done by myself. I could not line larger walls as the sheets are too heavy. The tiles have sat in boxes for six years.



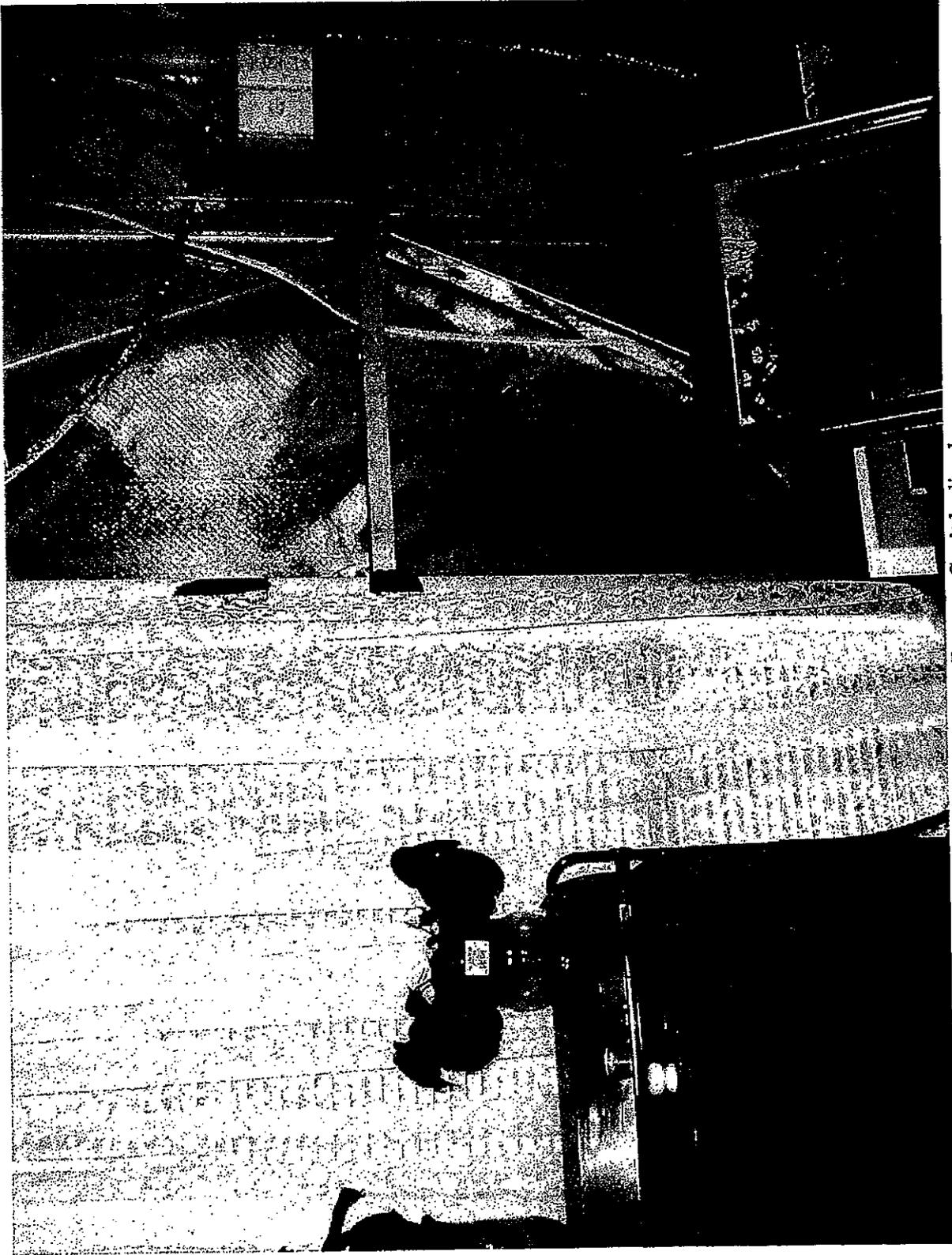
**The Bathroom** The spa installed in 2000 is out of warranty and never been used. Here can be seen how the walls behind the brickwork are to be packed with insulation. Risk of rising damp and excess mortar in the cavity is very likely to wet this insulation and the gyprock that would cover it.



Toilet and Spa



**The Kitchen** The gyprock on this wall may need to be removed to expose the rear of the brickwork  
This is not the kitchen I planned on -it cannot be finished (started?)



The Rumpus Room Can't be lined  
Pink dots indicate incorrect brick ties not fixed to frame.