New South Water. kort from the Select Commettee Claim of John Brennan against Roads Department together with the Proceedings of the Committee and ellinutes of Evidence Frinteaunder No 18 Report from Frinking Committee 22 na Jeccember, 1898.

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16. CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT:—Mr. Pyers moved, pursuant to Notice,—
(1.) That a Select Committee be appointed to inquire into and report upon the claim of John Brennan with the Roads Department on contracts 21u and 57v, Casino district.
(2.) That such Committee consist of Mr. Young, Mr. Lyne, Mr. Hassall, Mr. Harris, Mr. Davis, Mr. F. Clarke, Mr. Watson, Mr. Kelly, and the Mover.

Debate ensued.

Question put and passed.

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1898. (Second Lession)

Essetracts from the boles and Proceedings af the Legislative assembly.

Poles No. 24. Juesday 11 October. 1898.

7. CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT: - Mr. Pyers moved, pursuant to amended Notice,-

(1.) That a Select Committee be appointed to inquire into and report upon the claim of John Brennan against the Roads Department on contracts 21v and 57v, Casino District.

(2.) That such Committee consist of Mr. Young, Mr. Lyne, Mr. Hassall, Mr. Harris, Mr. Hurley, Mr. Watson, Mr. Carroll, Mr. J. C. L. Fitzpatrick, Mr. Anderson, and the Mover.

(3.) That the Minutes of Proceedings and Evidence of the Select Committee of Session 1896 be referred to such Committee.

Debate ensued.

Question put and passed.

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CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

DRAFT REPORT.

THE SELECT COMMITTEE of the Legislative Assembly, appointed on 11th October, 1898, "to inquire into and report upon the claim of John Brennan against the Roads Department on Contracts 21u and 57u, Casino District," and to whom was referred on the same date, "the Minutes of Proceedings and Evidence of the Select Committee of Session 1896," have agreed to the following Report :-

Your Committee, having examined the witness named in the margin, and considered the evidence referred, find:-

Brennan. 1. That, with reference to Contract 21v. in 1891, the Roads Department

accepted the tender of John Brennan for the construction of a bridge over a creek on the road Casino to Lismore.

2. That shortly afterwards Brennan proceeded to construct the work, and had most of his material on the ground, the old bridge partly removed, and temporary bridge constructed. The Road Superintendent then informed Brennan that he was on the wrong site, and compelled him to reinstate the old bridge and remove all his material to a site which was subsequently pointed out, and which was about a mile and a half nearer Lismore.

3. That the specification set out that the bridge was to be erected over a creek, and the surrounding scrub to be cleared away; whereas the site pointed out by the Road Superintendent to Brennan was a black gully perfectly

free from scrub of any description.

4. That the quantities supplied in the specification were suitable for the site on which Brennan started, but inadequate in every way for the place at which the bridge was subsequently constructed; and, consequently, Brennan was compelled to provide a quantity of fresh material.

5. That with reference to Contract 570, on a subsequent date in the same year to acceptance of the tender for Contract 21v, the Roads Department accepted the tender of John Brennan for the construction of approaches to

a bridge at Beomtree Crossing, Casino-Mount Lindsay Road.

6. That although the contract was nearly completed, the Road Superintendent declined to pay Brennan, or any of his orders for payment to the men working on the contracts, until they sued and obtained a verdict against him, after which the claims were paid by the Road Superintendent. The men then declined to do any further work on Brennan's contracts.

7. That in consequence of the non-payment of wages and certain other liabilities arising out of these contracts, Brennan was sued by one of his workmen and a storekeeper, who obtained a ca. sa. against him, and had him arrested.

8. That Brennan claimed £201 17s. 9d., balance due for work performed, but the Department refused to acknowledge the claim, and offered him £46 5s. 4d., which he declined to accept.

9. That Brennan has suffered imprisonment and loss in consequence of a mistake on the part of the Road Superintendent, as, had such mistake not occurred in connection with Contract 21u, he would have been able to complete Contract 57v, and thereby averted the cancelling of the contract and his subsequent arrest and imprisonment.

Your Committee consider that Brennan has a claim, and therefore recommend his case to the favourable consideration of the Government.

Mhustyers Chairman.

No. 2 Committee Room,

Legislative Assembly,

6-December, 1898.

John

SUM SUM Trocee dungs of the Committee Session 1896 AN AND MEdnesday 28 October, 1896. Mornbero Resent:-Mr Delly - M. Lyne Mi Hero. Mr Gycrocaller to the chave. Entry from toles and Hoceedungs appointing the Commettee read by the flerk. John Brennan Galled in swoon & sommeed. bet nessurtherew. adjourned tell Wednesday next at half pust Iwo octock. MEdnesday 4 November, 1896. Mornberg Resent :-Mr Harris. In the absence of a duorum the meeting called for this day lapsed. hursday 5 November, 1890. Mombers Freent: Mr Gyers in the Chair. Mr Harris - Me Lynd Vercy Scarr (Grunnipal Assistant Engineer for Road) Called in sovern rexammed. artress withours asymmed till Queday, next at helf part cleven solock. Juesday 10 hoverber 196 Mombers Present: Mr Syerow the Chan Mr Harrio - M. Killy arthur fracie (Roar Duperintendent, Subhe

Works Department I called in Sworm & scarmined hitness withdress adjuraced hel Domorrow at half part Eleven oclock.

Members Present: Merabers Practice Meally Marrio
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Arthur fracie, recalled of on the exarmined
John Breman, recalled of further examined
No pormed Fill Donorrow at Eleven o clock.

Anneday, 12 November, 1896

Mornbers Present:

M. Pyero in the fhair

M. Lyne,

Arthur fracie, recalled & further ovarnues,

John Brinnan recalled & further ovarnues.

Ronsembling of the Committee to be

arranged by the sharman

Colymnics.

Proceedings of the Committee: Session 1898. Member & Present:- provate home.

In the orbsence of a Quorum themselving called for this day lapsed. Anwaters Thursday 20 October, 1898. Prembors Fresent: Mr. Hurley . - the Lyne, on Syers. for Pyers called to the Chair. Entry from toles and Proceedings appointing the Committee and referring the ormites of Fraceed mys and Widence of the Select Committee of Lession 1596, - read by the blest. Resolved (On motion of Mr. Hurley) That the Minutes af Groceedings and widence of the Select Committee of Session 1896, be adopted by this Committee. Ordered, That John Bronnan be summoned to five Evidence nest meeting. adjournet till Duesday neset at 11:30 volost. Juesday 25 October. 1898. mernt en Mesent. Mr Syers in the Chari In anderson - Mr. J.c.L. Inpatrich " Hassall - ", Hurley. James Hennan, called in sworn rexamined Juesday 6 December 1898.

Members Present:
Mr. Pyers in the Chair

Mr. Le 1. Deplation - Mr. Hurley.

Committee deliberated

adjourned hil Tomorrowat 2 octook

hedreaday of Desember 1898.

Menters Present:
Mr. Ryers in the Chair.

Mr. anderson - Mr. barroll,

Br. Lyne.

Commettee deliberated

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Juesday 13 December, 1898

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Friday 16 December 1898.

The Ryero in the Chair.

Mr Carvoll - Mr Hassall

Chairman submitted Draft Report.

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Chairman to report to the House.

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1896.

LEGISLATIVE ASSEMBLY. NEW SOUTH WALES.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON THE

CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

WEDNESDAY, 28 OCTOBER, 1896.

Present:

MR. LYNE. MR. KELLY, ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan sworn and examined:-

1. Chairman.] What is your occupation? I am a quarryman at the present time.

J. Brennan.

2. Are you residing in Sydney at the present time? Yes. 3. You were the contractor in the year 1891 for Contract 21 U and Contract 57 U, in the Casino district? 28 Oct., 1896. Yes.

4. You did not finish the work, I understand? Not exactly; the Government put the metal on Contract 21 U, and they cancelled Contract 57 U.

5. Will you tell the Committee, as concisely as you can, the particulars of your claim on Contract 21 U? I will This contract was advertised in the Richmond River Express, of Casino, on 3rd April, 1891. Tenders, to close on 15th April, were invited for the erection of bridge over creek on road Casino to Lismore, near Tunstall. The time for closing tenders was extended to 23rd April, 1891. When I got notice that my tender was accepted I went to the creek near Tunstall. I could find no pegs. I met William Harley, the maintenance-man there; he did not know anything about the pegs, nor did he say it was not the place. I waited on Mr. Gracie next morning, 8th June, 1891. I requested that he would meet me on the site, by appointment, as I could find no pegs, and might put the temporary crossing in the way of the bridge. He said the bridge was going on the site of the old one, and that I could not go wrong with the crossing, and he told me to get the material delivered and he would be out there in a few days. When he came the crossing was complete, the piles, girders, and headstocks delivered, and the old bridge stripped. When he came he said this is not the place. I asked him what he was going to give me for what I had done. He said he could not send in a voucher for that, but he would allow me for it in something clao, and would not keep me to time. I had to redeck the bridge and shift all material and crossing 11 miles into Lismore municipality, and the bridge was erected over a black gully, which terminated in a paddock at a distance of from 5 to 10 chains above the bridge. There were no pegs to be found on this site The tracings did not suit the place. From B.M. mark given on gum-tree only half of the bridge would cross the gully. The piles for piers and wings and sawn timber for wales and bracing were too short, also twice the quantity of sheathing necessary, while the embankment in approaches was nearly three times the quantity on the tracing. This contract was carried out contrary to plan, specification, and district. I have a letter from the departments that the approaches would be increased from 82 to 110 lineal yards (it should be from 61 to 110 lineal yards), a memo. that I would be paid for 1,660 cubic yards of earth embankment, instructions to supply 122 cubic yards of 21-inch metal and 122 cubic yards of 4-inch ballast, and 96 cubic yards of rubble; backing partly destroyed. These letters were sent in a registered letter from Broadwater on June 23rd, 1893. My plan and final voucher were left in the Works Office in Sydney by me in January. January, 1893, the Under Secretary for Works writes to me that £59 3s 9d. was the amount of the final voucher, but that sums were afterwards paid, in pursuance of orders of the Court, which reduced it to £42 6s. 7d. In addition to this amount, £3 18s. 9d. has been allowed, 497—

allowed, making it a total of £46 5s. 4d. There have not been any orders of the Court on this contract. I gave Gilbert Hilliard an order for £1 (four pounds), which Mr. Gracie refused to pay, telling him there was no money coming on the contract. He paid it afterwards. I signed a bill for Neil M'Call, amounting to £28, on this contract. In May, 1892, I signed a final voucher on Beantree Bridge contract. The amount was £35. When I signed it Mr. Gracie told me that he had paid Neil M'Call £25 of the money. That would leave £7 against the contract. By my orders, in a letter from Mr. Gracie, I find he credits M'Call with £11 to this contract. I would like the departments to explain whom this £35 on Beantree Bridge contract was paid to. I signed the voucher, but got no money. At the same time I was asked to sign a voucher on Contract 57 U—approaches to Beantree Bridge. I asked what he was going to do with the money. Mr. Gracie replied he would give it to the sureties for the work. I objected, and refused to sign it on those conditions. Two inspectors have reported on contract No. 21 U—Casino to Lismore. Mr. Hannah reported that the specifications were carelessly got up. Mr. Allman reported that, as the work was so long incomplete, he considered it desirable to keep the fines on, as the extras did

my signature, and I might take whatever course I pleased.

6. You tendered for the bridge, understanding that it was to be built at another place? Yes.

7. You have not got the Gazette showing where it was called for in the first instance—whether it was to be over a creek or over a gully? It was over a creek.

not exceed £40. Mr. Gracie sent me a final voucher on this contract in March, 1892, for the sum of

£29. £26 were to be paid to complete the work, leaving a balance of £3. I refused to sign it. He sent

for it. I sent him my bill, which he returned, saving the voucher would be paid to his credit without

8. You stripped a bridge on another creek, and made a temporary bridge? Yes.

9. Mr. Gracie, the Road Superintendent, came along, and told you that it was not the right place? Yes.

10. You had to build a bridge in another place? Yes.
11. A mile and a half away from the first place? Yes.

12. Mr. Lyne] Did you not go to examine the site before you tendered for the bridge? No; I had never been there but once before.

13. What did you tender on? On the specifications and plan.

14. How long were you over contract time? I could not exactly say. The contract time was very nearly up before I started in the right place. It was supposed to be done in three months.

15. Mr. Kelly.] Before you got on to the right place the contract time was nearly up? Pretty well two months of the contract time had expired.

16. Mr. Lyne.] How much do you consider that the department owes you on the contract now? £132 6s.

17. How much have they offered to pay you? £46 on that contract.

18. Mr. Kelly.] Does the sum of £132 Gs. refer to two contracts? No; to one.

19. Mr. Lyne.] How long is it since the bridge was finished? Close on five years. There were three contracts.

20. Does the statement you read refer to one, two, or three contracts? It refers to one contract, and to a £35 final voucher on another bridge. Excepting the £35 voucher it refers to only one contract.

21. Did you complete the whole of the bridge on Contract 21U yourself? Mr. Gracie put on a few men to spread the metal on the road; that is all he did.

22. Why did he do that? He refused to send for any money for me to do it, and he moved for the can-

cellation of the other contract.

23. How much work do you say he did on the bridge on Contract 21U? He spread the metal on the road, at a cost of £26

24. Did you refuse to do that? No.

25. Why didn't you do it? He would not send for any money to assist me to do it.

26. You had not money enough, I suppose, to do it? I had plenty of money to do it if he would let me have it.

27. He did not cancel the contract? No.

28. You said in answer to my question that you did not spread the metal because Mr. Gracie did not send for money due on the other contract? There was another contract finished with money owing on it. 29. What I want to get at is, why didn't you finish the Contract 21U? He reckoned that it was too long incomplete.

30. Had you no money to complete it? I had plenty of money to complete the job at the time.
31. Why didn't you complete it? He reckoned that it was not being done quickly enough.

32. Chairman.] Were you working on the job all the time? I was keeping it going, but I wanted to get the other job finished first. He disputed the quantities on this job before. He returned 1,236 yards for the quantities of earthwork, and I was not satisfied; I would not accept it. He remeasured it again, and returned for 1,660 yards. Even then the quantity was not in it, but I agreed to accept it if he would pay me. He wanted to get out of paying it at the finish.

33. Mr. Lyne.] I understand you to say that you did not complete this contract quickly, that you left it in abeyance, that you were not going on with it, and that Mr. Gracie took it out of your hands because you were over time, and finished it at a cost of £26 for spreading the metal? Yes.

34. You did not want to finish it, because you wished to finish the other two first? Yes.

35. Why? There was no necessity to finish this contract, because the road was clear and the traffic was going on. It was merely a matter of putting the metal on.

36. Was this bridge being used before the metal was put on? It was being used all the time; it was used for two mouths previously.

33. Mr. Kelly.] How many contracts have you carried out for the department? Three altogether.
38. Chairman.] Will you now make a statement to the Committee in respect to Contract 57 U? I will. I may state that the metal was an extra work, given by the Road Superintendent, Mr. Gracie, to me after the earthworks were finished. Contract No. 57 U, of 1891, Casino to Mount Lindsey, was let to me on 19th November, 1891. According to the conditions of this contract they agreed to pay me 80 per cent. as the work proceeded. In a permit to start work they agreed to pay 70 per cent. each month as the work proceeded. They made no payment on the contract to 23rd February, 1892, when they returned for £80 (eighty pounds). Early in December, 1891, I signed a paper for all moneys coming to me to be paid to an account in the Commercial Bank in the names of the sureties of this contract—A. Cumming and T. J. Reddecliff. They were to go security for stores, and pay it to my credit as I required it. They

did

did so for a time. On 23rd February they kept £80 on this contract and £45 on the Beantree Bridge J. Brennan. contract On the 3rd of March, 1892, I was in Mr. Gracie's office, and he told me that the sureties for this contract had requested him to take it out of my hands and give it to them; that they said they 28 Oct., 1896. would lose money through me. He asked me if I would sign it over to them. This I refused to do. I gave A. Cumming a note that evening demanding an explanation. Next morning I got no reply, and I went and saw Mr. Gracie, and asked him to send for some money for me to enable me to complete the work. This he refused to do, saying that I and the sureties were partners, and he had seen a letter that morning in which I had been threatening them. Ho said, "Anyhow, I have moved for the cancellation of your contract this morning." That was 4th March, 1892. There was £35 due on Beantree Bridge; also £39 fine that has since been remitted; also the amount of claims in these two contracts. I sent him a letter for the Secretary of Public Works that on and after that date all money coming from Government should be paid to me, and no other person or persons. I went on the work and measured up the work; gave the men an order on Mr. Gracie for their money. Some of them he refused to pay, and I had to get them orders of the Court. You will see a letter where he charges this to Contract 21 U. I was going by Cumming's place a few days after, and Cumming told me that he had a very snotty letter from Mr. Gracie. He showed me the letter; it read in reference to a request by him (Cumming) and T. J. Reddecliff. They could have this, my contract, providing they were responsible for all liabilities incurred. His bookkeeper is aware of this letter, and at present he lives in Gleumore Road, Sydney. A flood came and washed the contract away. The department offered to complete it, and then consider my claims. This I objected to, as there was plenty of money in the department belonging to me to have completed it, and have been paid for it before the flood came, on 27th of April. The department has since paid the sureties £25 on the contract, and charged the wages on it to Contract No. 21 U, which wages, I believe, they never paid.

39. Mr. Lyne.] How much do you estimate the department owes you on that contract? £69 13s. 4d.

40. Did you complete that contract? No.

41. Did the department complete it for you? Not for me.

42. They charged you with it, didn't they? They refused to acknowledge owing me anything. I got nothing on it but £80 they paid to the sureties. It seems they had paid the sureties £20 on it afterwards without my consent.

43. If during the progress of the contract a flood came and washed away the bridge you were liable? The work was not a bridge, but approaches to the bridge. Mr. Gracie refused to give me money or to send

for money for me to complete the work.

44. How much was given to you on the work done when he refused to send for money? £80.

45. That is 75 per cent. of the value of the work which was done? No. This was owing to me at the time Mr. Gracie cancelled the contract.

46. On that one bridge? The approaches to a bridge; I had completed the bridge; before this there was a second contract in the same place.

47. Chairman.] Contract 570 is not for a bridge, but for approaches to a bridge? Yes.

48. Mr. Lyne.] How much was the whole tender for it? £276 3s. 41. There is an extra £28 12s. for culverts, on Contract 57v.

49. Where is Mr. Gracie now? He is stationed in Glen Innes.

50. Mr. Kelly.] The bridge you mentioned is the first contract you did, and it is not included in this sum? Yes.

51. Chairman.] You were paid for that? I would like the department to explain what is being done with the £35. Mr. Gracie told me that he paid McCall, a sub-contractor who worked on Contract 21v, £25 out of that sum, and he charges £11 to McCall later on.

52. Did you owe McCall this money? Yes. It is alright if he has paid that money to him. He could not pay him £25 and pay him £11 afterwards, as I only owed him £28 in all.

53. Mr. Lyne. Could you not find out from McCall whether he received the money? I wrote to him, but he did not supply the information. He may have charged more to the contract than he has a right to charge.

54. I suppose what you want is to get the department to pay you the balance of the money? Yes.

THURSDAY, 5 NOVEMBER, 1896.

Present: -

MR. HARRIS,

MR. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Percy Scarr, sworn and examined:

55. Chairman.] What is your position? I am Principal Assistant Engineer for Roads. P. Scarr. 56. Do you know the particulars of Mr. Brennan's claim? I only know what I see in the papers. 1 have no personal knowledge of the matter. The papers are all here. 5 Nov., 1896. 57. Mr. Lyne. Mr. Brennan has stated that he had three contracts from the Department? I understand

that he had Contracts 57 v, 21 v, and 27. 58. Can you state the circumstances under which the local officer refused to pay the balance which was due on Contract 21 u? I have a statement which was drawn up for me in the office from the papers, at the time I was dealing with the case.

59. It is a précis of the case, I suppose? Yes.

60.

5 Nov., 1896.

P. Scarr. 60. Will you read the précis to the Committee? It is as follows :-

The amount of the final voucher, £59 3s. 9d., was paid to the local officer's credit, and out of it orders of the Court,

amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d.

Difficulty then arose as to final adjustment of contract. It appears that Brennan had signed an order to pay all money due to the credit of his sureties, who were finding nearly everything to carry on the work, Brennan being practically insolvent. This order he subsequently cancelled, and the sureties sued him for amount of a guarantee bond of £100 to the Bank, but they were non-suited on a point of law.

It was then decided to pay the balance £42 6s. 7d. (which had been held by local officer for about eight months pending decision of Court) to Brennan, but on payment being offered he refused to accept it on the grounds that it was less

than he was entitled to.

The matter was fully considered, and on the recommendation of Mr. Divisional-Engineer Hanna, Mr. Secretary Lyne approved 25/3/93, of an additional amount of £3 18s. 9d. (making a total of £46 5s. 4d.) being offered, without prejudice, as payment in full of all demands. Voucher for £3 18s. 9d. was passed for payment and forwarded to local officer.

The proposed settlement, however, Brennan persistently refused to agree to, and the amount of vouchers (£46 5s. 4d.) was refunded to Treasury.

Considerable comer-

Considerable correspondence has since passed between Brennan and the department, but his applications for increased

payment for extras, and for further remission of fines have been several times refused.

As recently as January of this year an interview was held between the local officer and Brennan, with a view to a settlement, but although Mr. Gracie offered (without prejudice) to make very considerable concessions, the offer was refused, Brennan speaking of getting a Select Committee of Parliament appointed to look into the case.

It was then stated by the local officer that one of Brennan's creditors was taking steps to compel sequestration of his

estate, but nothing further has been heard of this.

Mr. Secretary Lyne approved, 12/2/94, of the previous decision being adhered to, viz., that claims be not recognised. Similar action was taken with regard to a later communication from Brennan, dated 15/3/94, again urging his claims.

Mr. Pyers, M.P., now forwards a letter from Brennan, dated "Debtors' Prison, Casino Gaol," 23rd November,

asking that he may be paid £40 on account, pending a final settlement of his claim.

Then there are recommendations and minutes on the papers.

61. The fines amounted to £69;—is there anything in the papers to show that the bridge was not erected

on the site which was first pointed out to Mr. Brennan? I am not aware.

62. Mr. Brennan in his evidence at our last meeting stated that the site which was first pointed out to him, and for which he tendered was abandoned, and that the bridge was moved a mile or two away, and he explained that that was one cause of the delay for which the fines were charged. There is nothing about that in any of the statements. It is a long time since I went through the papers.

63. Have you a copy of the Gazette notice calling for the tenders? It is not a Gazette notice, but a

notice in a local newspaper in these terms :---

GOVERNMENT NOTICE.

TENDERS are invited up to noon on Wednesday, 23rd April, for supply and erection of bridge (2 spans) on road, Casino to Specifications may be seen at the Casada and Casino to

Specifications may be seen at the Court-houses, Casino and Lismore.

Tenders to be marked "Tender for Bridge" and to be addressed to the market.

Tenders to be marked "Tender for Bridge," and to be addressed to the undersigned.

Time of receipt of tenders has been extended to near on the conditions.

Time of receipt of tenders has been extended to noon on the 22nd instant.

Roads Office, Casino, 31st March, 1891.

ARTHUR GRACIE, Resident Engineer.

64. I notice in the advertisement, in the first paragraph, that tenders are invited up to the 23rd April, and in the last paragraph it says the time of receipt of tenders has been extended to the 22nd instant, although the notice is dated the 31st March? I take it that the explanation is that the advertisement was originally written out on the 31st March for tenders to close on the 15th April, and that this is a second notice extending the time to the 23rd April, and they have, by some means or other, retained the original date. The two things conflict with each other.

65. There are three mistakes in this notice? Yes.

66. Chairman.] You have not a copy of the Gazette notice calling for tenders? Tenders were not called for in the Gazette.

67. Mr. Lyne.] Is it possible to find out the reason why the site was altered? I could find out if there is any reference to it in the papers by going through them.

68. What I want to find out is whether the work was delayed in consequence of the site being altered? I do not know.

69. It appears from the papers that he was allowed four months over and above the contract time before they commenced to charge any fines;—will you read the next paper bearing on this contract? The next paper is a report from Mr. Allman to the Commissioner and the Engineer-in-Chief for Roads in these terms:—

J. BRENNAN APPLYING FOR REMISSION OF FINE ON CONTRACT 21u, CASINO TO LISMORE, AND FURTHER Re ALLEGED BALANCE DUE ON CONTRACT.

Mr. Brennan makes application herein for remission of £30 fine, imposed on Contract 21 U, and reopens the apparently interminable question of balance alleged to be due for extra work on same contract.

The claim for extra work has been very fully dealt with by Mr. Hanna and the local officer, and has been disallowed by ministerial direction, consequently no useful purpose can now be served by discussing this matter further.

With

With regard to remission of fines. The original contract was for £302 18s.; time for completion, three months; actual overtime, twenty-seven weeks, of which only ten weeks has been charged as a fine in final voucher. It will thus be seen that the contractor has been allowed four months over and above time specified for completion. This, when the actual 5 Nov., 1896. extra work amounted to only £101 12s. 4d., is a very liberal allowance, and I cannot see how any further concession can be granted, more particularly having in view the unsatisfactory manner in which the contractor appears to have carried on his work.

P. Scarr.

70. In one paper here it says, "The contract has been delayed for the causes stated"—what are the causes stated? I do not know what they would be.

71. I do not see anything in the papers about the site? I have no recollection of anything of the kind. It would have got into the précis had there been any alteration.

72. Chairman.] Are not tenders called for in the Gazette? Not always. At that time frequently they were only called for in local newspapers for these small bridges.

73. And there is nothing in the papers about the site? No.

74. Is there anything to show whether the bridge is to be built over a gully or over a creek? I do not ace anything.

75. Mr. Lyne.] You know of no instructions to put the bridge on one site and afterwards to alter it? I have no recollection of anything of that kind occurring.

76. Chairman.] Does it say that it is a bridge over a creek, near Tunstall? It says, "On road, Casino to Lismore, near Tunstall."

77. Is there nothing about a creek or gully in the notice? No.

78. Mr. Allman inspected the work? Yes; he is acquainted with the whole case.

79. Mr. Lyne.] With reference to Contract 57 U, will you read the précis of the case? It is as follows :-

CONTRACT No. 57 U.-ROAD, CARINO TO MOUNT LINDSAY-APPROACHES TO BRIDGE OVER BEAN-TREE CROSSING. This contract was let to John Brennan for the sum of £276 3s. 4d., the bond being signed on the 19th November, 1891.

On the 7th March, 1892, the resident engineer, (Mr. Gracie) reported by telegram that contractor was seven weeks over time, and work was not more than half completed. Contractor had just had a meeting of his creditors, and could not possibly finish as he was without means. He (Mr. Gracie) recommended cancellation of contract and transfer to sureties, who had up to date paid all charges. Supervising Engineer concurred.

Minister approved, and cancellation notice was accordingly issued, 21/3/92.

After a long report (6/4/92) had been received from Mr. Gracie, in which he recommended that contract be determined, work done paid for, and new arrangements made for the completion for reasons stated, telegrams came to hand stating that Brennan's sureties were willing to complete the work under contract, and take over all liabilities.

The papers were then sent to Mr. Norrie as to the course to be followed, and he stated that if the amount of new contract for completing the works exceeded £200 the contractors (Brennan's sureties) must enter into a bond with sureties, and as these gentlemen were willing to take over all Brennan's liabilities herein, a schedule of these liabilities should be prepared, and made part of whatever document was signed.

Acting on Mr. Statham's instructions, Mr. Gracie, 4/5/92, forwarded the following list of Brennan's liabilities under the contract.

Edward Murray J. Jalland D. O'Neill W. Ryan J. Doherty	11 8	10 14 4	2
These are all orders of Court	£30	0	7
D. McCarthy A. Murray J. Kelly M. Jamieson		8	0 0 0 0
These are all acknowledged debts	£7	0	0
	30 7	0	7 0
Total liabilities	£37	0	7

He also strongly recommended that the contract be at once wound up as the sureties did not wish to complete, and it would in every way be more convenient for the department to bring "this troublesome and confused matter" to an end.

The Minister has since approved of the work being completed by day labour. The Local Officer submitted a voucher for £37 in favour of the sureties in order to pay for useful work and material on the ground, and the Supervising Engineer recommended payment, but the Commissioner considered payment should stand over until completion of the work, as the balance for completion was £196 13s. 4d., and estimated cost of works to be done, £188. He minuted, "See also telegram," and it is on telegram that approval is given to work being done by day labour, but voucher does not appear to have been dealt with.

Brennan applied through Mr. T. T. Ewing, M.P., 10/9/92, for payment of balance due on contracts. Voucher is now submitted for payment for £37 2s. Mr. Steel returned this to Mr. Statham, 19/9/92, with a minute to the effect that Ministerial approval is required to taking the work out of sureties' hands, and payment of the voucher for £37 2s. as termination of the contract.

From the papers it would not appear that the placing of work in sureties hands ever actually took place, though

Ministerial approval was given thereto.

It now remains to decide whether or not this voucher should be paid to the sureties at the present time or whether it be held over pending completion of work under general conditions of contract.

Mr. Statham recommends that it be paid on condition of sureties signing an agreement to discharge liability for

claims submitted.

Mr. Steel states that when he wrote minute of 19/9/92 he had not seen Minister's approval to do work by day labour, and he now thinks voucher should be held over until completion of work, when Mr. Gracie should render statement showing amount of contract, amount paid under contract, and amount paid for work done by day labour, consideration might then be given to the question of paying the surplus, if any, to the sureties.

There is a later statement in John Brennan's contracts, dated 13/4 94, as follows:—

27 U.—ERECTION OF BRIDGE OVER BEAN-TREE CROSSING, ON ROAD CASINO TO MOUNT LINDSAY. 57 U.-Approaches to Bridge, Bean-tree Crossing-Road Casing to Mount Lindsay.

On 5th December, 1891, Brennan executed an order to pay all moneys to Messrs. A. Cummings and T. J. Reddaeliff sureties for Contract 59 U.

Contract 27 was completed, and fine for thirteen weeks overtime, £39, was remitted, 22/5/93, and part of this amount was, under order of Court, used to pay a creditor-Robert Cressy-£28 7s. 10d., being £23 3s. 2d. amount claimed, and £5 4s. 8d. costs of Court, and the balance £10 12s. 2d., after being offered to Brennan, and, as reported by Mr. Gracie on paper attached, refused by him, was refunded to the Treasury, 22/1/94. 57 U

P. Scarr. 5 Nov., 1896.

57 U. Part of the work was done by Brennan, and the contract was cancelled through delays in completion, and approval given for transfer to his surcties; but as circumstances had rendered necessary certain alterations in the proposed

work it was eventually decided to complete the work by day labour. It was then decided to allow payment for all work done under contract, and the Local Officer made a report and cotimate of amount to be paid with a view to the claims by workmen being settled-£37 0s. 7d. Mr. Gracie, Local Officer, in his report stated that the floods had destroyed some of the work done in approaches, and that the metal was not to specification, and estimated the value of the work to the department at £117 2s. ld.

Brennan had been paid £80 as an advance on the contract, and the balance (£37 2s. ld.) was paid to Brennan's

Brennan wrote to the department in January, 1893, claiming £70 5s. 5d. as being due to him on this contract (57 U) sureties.

after deducting amounts, £70 for advance and £23 7s. 7d. for wages, from value of work doue-£164 3s. The rates quoted by him do not agree with those in his tender with Bonda The amount of advance is given at £70

instead of £80. Brennan was informed (22/4/93) that a voucher was in course of payment to be paid to his sureties, the voucher being for £37 2s. ld. amount referred to above.

Brennan has written several times since asking that the matter may be settled, but as far as the papers show nothing

has been written in reply to his claim. Perhaps the best course would be to inform Brennan that, as the contract was cancelled, he has no claim upon the Government, and also that, as a matter of grace, the department paid for the value of work so as to meet the claims of workmen.

There is a later statement still dated 14th May, 1895, as follows:-

JOHN BRENNAN'S CLAIM FOR BALANCE ALLEGED TO BE DUE TO HIM ON CONTRACT 91/57 U. APPROACHES TO BEAN-TREE CROSSING-ROAD, CASINO TO MOUNT LINDSAY.

Full statements of this case are with the file, 94/2,990 and 92/9,224. The contract which was for £276 3s. 4d. was, owing to unsatisfactory progress, cancelled 12/3/92, and the work

completed by day labour. It was decided to allow payment at Local Officer's valuation, for all work done under the contract.

This Mr. Gracie estimated at £117 2s. ld., and an advance of £80 having been already paid, the balance, £37 2s. ld. was, on approval of Mr. Secretary Lyne, paid to Brennan's sureties to allow them to pay the workmen engaged upon the contract.

Brennan now writes through Mr. Pyers, M.P., claiming an additional amount of £77 15s. 11d., which he says is due

to him on the contract. It appears quite evident from the papers that there is nothing due on the contract in question, and that the contract having been cancelled Brennan can have no legal claim.

80. Chairman.] To whom was the sum of £80 you mentioned paid? The statement here is that it was paid to Mr. Brennan, but it does not necessarily follow from that that it was paid to Mr. Brennan himself, it may have been paid to his sureties. It is stated that Brennan executed in December, 1891, an order to pay all moneys to Mr. Reddacliff and another. If that advance of £80 was paid subsequent to that order being signed it would be paid to the credit of those persons in the usual course.

81. Referring to the Bean-tree bridge contract, to whom was the sum of £35 paid? There is no

statement here about the Bean-tree bridge.

82. Mr. Lyne.] Do I understand from the précis of Contract 21 U that a balance of £40 has been placed in the Treasury, that Mr. Brennan has been offered the money since, and that he has refused to accept it? Yes; the amount is £46 5s. 4d.

83. Chairman.] As regards the statement of the amount of wages on Contract 21 U, to whom was the sum of £16 for orders of the court paid? The statement says:-"The amount of the final voucher, £59 3s. 9d., was paid to the Local Officer's credit, and out of it orders of the court amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d."

84. Mr. Lyne. That would be orders obtained by creditors at some time—by the men? Yes.

85. Mr. Harris.] From what I can gather from these statements Mr. Brennan signed an order that his sureties were to get all money paid? Yes; the usual order. It says here:- "On 5th December, 1891, he executed an order to pay all moneys to Messrs. A. Cummings and T. J. Reddacliff, sureties for Contract 59 U." The sureties for Bridge Contract 21 U were Alfred C. Simpson and Alexander Cummings, not Reddacliff and Cummings, who were sureties for Contract 59 U.

86. Mr. Lyne.] Did Brennan give an order to pay all moneys on Contract 21 U to these sureties? It appears so.

87. Will you be good enough to make sure that he did, because he said something about that the other day? The order does not appear to be here; probably it is in the accountant's office.

88. Is the order be signed to pay over the money there? No; that probably is still with the accountant. It could be obtained from the accounts.

89. Can you say whether or not he signed away the moneys on Contract 21 U to sureties-Reddacliff and somebody else? I could not say beyond what is stated here.

90. Was the money which you referred to as being paid away-£16 and another amount-due on Contract 21 U?

91. You said it was paid by order of the Court? £16 17s. 2d. is due on Contract 21 U.

92. Where is the authority for paying that sum? I do not see the order here.

93. Chairman.] Do you mean for paying the claims? Yes. I do not see it stated here what authority there was for paying that.

94. Was there any other money on Contract 21 U paid to the sureties of the other Contract 57? That I could not say.

TUESDAY, 10 NOVEMBER, 1896.

Dresent:

Mr. KELLY. MR. HARRIS, ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie, Road Superintendent, sworn and examined:-

A. Gracie. 95. Chairman.] What is your occupation? I am Road Superintendent in the Public Works Department. 96. You are residing in Glen Innes at the present time? Yes.

10 Nov., 1896. 97. You were the engineer for the work on Contracts 21 U and 27 U in the Casino district at the time Brennan carried them out? I was.

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98. Brennan has stated in his evidence that he was directed in the first instance to go to the wrong site, A. Gracie. and that after he had done some work there he was shown the proper site? The site of the bridge for which tenders were called was about 3 miles from Lismore, over Black Gully. Brennan secured the 10 Nov., 1896. contract. As far as I know there were iron-spikes in the road-way denoting the site of the proper bridge which, of course, were not very visible as it was to be erected on a traffic road, it would have been dangerous to have had them very prominent above the metal—the spikes were driven into the metal. However, the site was well-known, for I afterwards inquired from several contractors who tendered for the work, and there was no doubt whatever in their minds as to the site of the bridge they tendered for. I heard nothing from Brennan. He did not come near the office to ask that the work be laid out. The first time I saw him was when I happened to be causually riding along the road on other business. I then saw him at work at a creek about 2 miles to the west of the proper site, that is on the Casino side. I asked him what he was doing. I informed him that he was at the wrong place, and he accordingly moved on to the proper site. At that time he had some girders across the creek, as the commencement of a temporary structure, and he had commenced to dismantle the existing bridge. The site he adopted as the proper one was in no way similar to the site as depicted on the plans and sectious. I know of nothing which could have induced him to start to erect the bridge where he did. It seemed to be just as unaccountable as if I had told him to erect a bridge over the Hawkesbury and he had put it over the Nepean River.

99. Were tenders called in the Gazette for the work? I am almost sure they were. It used to be the

practice then as it is now to do so.

100. Mr. Kelly.] Tenders were called in the local Press as well as the Gazette? Yes. The matter was initiated by Mr. Allman of the Lismore district. Mr. Allman prepared the section of the bridge. It was in his district then, but at the time of calling for tenders it was in my district.

101. Mr. Harris.] You had a maintenance-man with you at the time you saw Brennan on the road;—do

you remember his name? I believe a man named Alcock was with me at the time.

102. You do not remember a man named William Harley? Yes.

103. Could he have pointed any pegs to Brennan? Yes; he knew the site of the bridge.

104. If Brennan had gone to Harley he could have been told the site of the bridge? Certainly. He put up the bridge at a totally dissimilar place. The section was nothing like what was shown on the plan. We have since put up a bridge at the place where he proposed to put up the bridge. It is a structure consisting of three spans instead of two. As for Brennan's bridgeit is also a very much higher bridge. 105. Chairman. When you met Brennan at the place, did he ask you what you were going to give him for doing some work in a wrong place;—did you agree to allow him anything for stripping the bridge?

Certainly not, the mistake was unaccountable to me.

106. Did he make any complaint when you drew bis attention to the fact that he was at the wrong place;
—did he say anything to you? No; except that there were no pegs in; there were no pegs in at the place where he commenced to put up the bridge. He might as well have put it up 5 or 10 miles this side

of the site. There were no visible pegs at proper site, but Mr. Allman had driven spikes into the metal, which was really all that could be done.

107. ()f course the tenders must have been called for in the local papers? I see a copy of the advertisement among the departmental papers. I admit that the situation of the creek is not well defined on the plan or specification, except that it is near Tunstall. The creek had no name on the map, but it was locally

known as the Black Gully, near Tunstall.

108. Chairman.] Why was the stuff in the embankment increased from 61 yards to 110 yards;—that is nearly twice the original quantity? There was a mistake in the plans at the head office. This section is not correct. I had nothing to do with the work before the tenders were called for. I had nothing to do with the preparation of the section or of the plans. I found when I took it over that the section was wrong—that the bed of the creek had been shown at the level of the existing culvert; that involved extras on everything—extra length of piles, wales, bracing, sheathing, and rubble filling. What is shown on plan as the bed of the creek is the roadway-level of the old culvert.

109. Mr. Harris.] The tenders were advertised to close on the 15th April, and the time was extended to

the 23rd April;—do you know why the time was extended for a week? I do not recollect.

110. Was it found out during this time that there was a mistake made in the plan? No; that was found out afterwards.

111. The driving of iron pegs down into the metal is the usual manner in which you mark out where a bridge is going to be built? Yes, when traffic has to use the road.

112. Chairman. I thought it was usual to drive in wooden pegs? In macadamised roads we generally

drive in iron spikes, but in other situations we use wooden pegs.

113. Mr. Harris.] Was this contract carried out contrary to the plans, specification, and district? No; the contract was carried out according to the plans, with that exception, and that was a matter of schedule quantities, which we adjusted afterwards.

114. Mr. Kelly.] You say that Brennan has no further claim against the department? I do not know of any fair claim which he can possibly have now; I think that the department has dealt with him

liberally.

115. Chairman.] As regards the dispute about the remeasurements,—after some trouble you gave him

fresh measurements? I allowed him extra measurements on some of the items.

116. You allowed him a considerable lot more embankment than you agreed to give him at first? I am not sure whether it was not a couple of hundred yards; I cannot say exactly without looking over the papers. The measurements of the earth-work were difficult to make, and I was inclined to be liberal with him to cover any possible error; the ground was very uneven and scoured out. There was an old embankment underneath which had to be deducted. We measured the excavation as carefully as possible, and arrived, after a conference with Brennan, at what I think was a very fair calculation of the quantities.

117. But this additional lot which you agreed to give him was only offered after he had refused to accept

what you first offered him? Yes.

118. He demurred to taking the first measurements? Yes.

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119. Afterwards you agreed to give him an extended measurement? Yes; I asked him for his calculations.

A. Gracie. 120. You did not agree to give him anything for the work he did at the bridge on the other side of Tunstall? No; because I considered that was quite unaccountable and foolish on his part.

10 Nov., 1896. 121. Did you agree not to bind him to time because he had carried out some work there? I would not have said that. I might have said that possibly he would get some consideration on account of the mistake he had made.

> 122. Mr. Harris.] Do you know how long he had for completing the bridge? I could not say without looking at the specifications.

> 123. Do you know if he was over his time? I have not had a chance yet to look through all the papers. My memory does not serve me sufficiently well to say he was over his time. I know there was a lot of extra work.

124. How long is it since the bridge has been built? About four or five years.

125. Chairman.] Did Mr. Hanna report on the bridge? On the claims.

126. Have you ever heard that he said that these specifications were carelessly got up? No; I never heard that.

127. Mr. Kelly. In the matter of disputes with contractors as to measurements I suppose it often occurs, or sometimes occurs, after a conference with them, that you make some extra allowance for something which they have pointed out? Yes; we try to meet them in a fair way in matters of doubt or dispute? We would be willing to give and take a little; we would rather give more than less.

128. Especially as regards the measurement of an embankment? Yes; where it is absolutely impossible in some cases to get an exact measurement. In this case I was in a position to get very close to the measurement, by reason of having taken a good many cross-sections of the old embankment before the new one went over the top of it.

129. Was this work carried out well? Yes.

130. From your point of view, was it carried out satisfactorily? I do not recollect having anything to find fault with as regards the work.

131. Chairman.] The dispute is only as to the measurements and as to the site? That is all in connection with that contract.

132. Mr. Harris.] He had more contracts than this one? He had two other contracts going on about the same period.

133. Mr. Kelly.] Were not the payments on previous contracts mixed up with the payments on this contract in some peculiar way? I do not think there was any confusion in connection with this contract; it went on smoothly. The final payment according to my voucher was £59 odd, and then there was a claim against that which reduced it to £42.

134. That is an outside claim which you had to meet? Yes; this balance was offered to Brennan as full

payment for the work, and he refused the offer.

135. On the ground that this claim was not met? No; on the ground that it did not include his own claims as regards the site and the extras. The money was eventually sent down to the Treasury to the suspense account.

136. He did not object to your paying the claims which you felt called upon to pay, but he objected to accept your offer on the ground that there was not enough money coming to him? On the ground that it was not large enough; that I had allowed him nothing for shifting from the site where he first commenced to work, nor for sufficient extra work.

137. His main objection, I suppose, was, that he should have been allowed something for the error as to the site? Yes; and be claimed an extra small amount in connection with various items of the work which we could not allow.

138. Chairman] There was a payment of £25 to a man named Neill M'Call? I think it was £17. 139. What was the money paid to M'Call for? For work done on the approaches to the bridge.

140. Are you sure that the amount of £17 was paid to M'Call? £16 17s. 2d. was paid out of that £59 on orders of the Court. I do not see the vouchers among these papers at the moment, but I know that he was one of the creditors for wages due.

141. Did Brennan finish the contract himself? Yes.

142. Did you do anything, or did he finish it? He finished it. He afterwards improved it, but that was another matter.

143. Was it extra work you did? It had nothing to do with his contract. It was afterwards found to be necessary to prevent a scour.

144. Mr. Harris.] You did not refuse to send for any money for Brennan? No; I was always prepared to settle up.

145. You did not put on any men to spread metal? I see now from the papers that I employed labour to finish up the contract for him.

146. Chairman.] Then he did not finish the contract himself? According to our views he finished the contract, inasmuch as we did not cancel it. He still remained the contractor, although we put on men to expedite the completion of the contract, as we sometimes do in cases where the progress is too slow. 147. There was no charge made to him for that; -you deducted nothing out of his contract? We

deducted the value of these men's labour from his final voucher.

148. Could you ascertain by a reference to the papers the cost of spreading that metal on the road? We deducted £26 6s. 9d. from his contract for labour employed by the department.

149. That is for spreading the metal and for other works? For spreading the metal and for breaking some metal too

150. Why did you put these men on to spread the metal? The work was going on altogether too slowly. Brennan's finances seemed to be running out, and probably he was unable to carry out the work.

151. Had he money coming to him from the department at this time? Only the final payment, which was not due until he finished up.

152. Mr. Kelly. You made, I suppose, the necessary allowance for the change of the plan which necessitated a change of timbers to a certain extent? We allowed him schedule rates for extras in every case. 153. Chairman.] With regard to Contract 57v,-"Approaches to Bean Tree Bridge," he built the bridge, and that work was finished and done with before he commenced to build the approaches? Yes.

154. How was Contract 57v carried out? Very unsatisfactorily.

155. He did not finish that contract? No; we cancelled it. We paid him the value of the work done as a special concession. 156.

156. Was that work carried out by the sureties, or by the department? By the department.

157. What was the reason for cancelling the contract? Its slow was the reason for cancelling the contract?

157. What was the reason for cancelling the contract? Its slow progress. To the best of my recollection he had pretty well abandoned the work.

A. Gracie. 10 Nov., 1896.

158. Were the approaches ever washed away by a flood while he was carrying out the contract? No; not to any great extent. He had not sufficient work done to make any washing away a serious matter. Of course, the river used to rise very often there. We valued the work he had completed at £117. The amount of the contract was £276 3s. 4d.

159. Was the work carried out at his expense, and was the cost of finishing the work charged to his contract? No; the contract was transferred to his sureties and then cancelled.

160. It was afterwards carried out by the department? Yes; we finished it. We determined the value of Brennan's work at £117. He had an advance of £80, the balance of £37 2s. 1d. was paid to his sureties, to whom the contract had been transferred.

161. Mr. Kelly.] Brennan states in his evidence that there was some great delay in paying him on account of this contract, that the agreement was that he should be paid 70 per cent. per month as the work proceeded, but that as a matter of fact nothing was paid till the 23rd February? We usually pay them when they have sufficient work done to make it worth while to give them an advance—about once a month is stated in the conditions.

162. You have no agreement that you will pay them about once a month? About once a month, as the work proceeds.

163. In this case, I suppose, you did pay when there was enough work done to pay on? Yes; we gave him an advance of £80.

164. Chairman.] He had money coming to him, then, when you cancelled that contract? I do not think, after the fines were deducted, he would have had anything coming to him.

165. How is it that money was paid to his sureties afterwards? The contract was transferred to them. 166. What were they paid money for—did they do any work on the contract after Brennan left? No. 167. If you paid the sureties £37 2s. Id. he must have had that money coming to him when he left? We always have to deduct the fines due at the time the advances are being made out. Then there is the percentage reduction.

168. Was he fined on this contract? There was no fine deducted. He was treated liberally. He was given the value of his work done, which was a concession. When a contract is cancelled the whole of the money, as a rule, is lost.

169. Mr. Kelly.] In your opinion, Brennan has no cause for complaint—you paid him in full on this contract? We paid him in full for the value of his work done at the time on the basis of his schedule rates where he had any completed work, and on the basis of a fair valuation for uncompleted work—that is, for work half finished, and so on.

170. Mr. Harris.] Was he allowed for the material on the ground? He was allowed for all material on the ground. What is he claiming?

171. Chairman.] He is claiming £69 13s. 4d. on this contract. You say that the work was never washed away during the time he was carrying it out? Perhaps some damage was done, because the river used often to rise. He was taking a good while over the contract, and probably on account of the delay the work was damaged to some extent. It would be damaged every fresh, even after it was finished.

172. Mr. Kelly.] What is the usual practice in such cases—do you allow the contractor to take full risk? Yes.

173. So that even if the work were ever so much damaged, you claim that you are not responsible for it? He would not get a penny more.

174. Chairman.] Did Brennan apply to you for money on this contract, and did you refuse to pay? I have no recollection of it. He used to have his dealings with his sureties, who were supposed to supply him with money, and it would probably be his sureties who would come to see me. I have no recollection of any disagreement with him on that score. I could not say how he makes up the claim of £69.

WEDNESDAY, 11 NOVEMBER, 1896.

Present:-

MR. F. CLARKE, MR. HARRIS, MR. KELLY.

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled and further examined :-

175. Chairman.] Do you remember Brennan being at your office at Casino before you saw him at the site A. Gracie. of the bridge over the creek near Tunstall? I have no recollection of Brennan having come into my office on the business of wishin? to know where the site of the bridge was, or of requesting me to go out 11 Nov., 1896. and point out the site for him: in fact, I am sure he did not come.

176. Did you go over the crossing he erected on the day you saw him or on the site near Tunstall? No; I was on horseback. I do not think it was in a state to allow one to cross over on herseback.

177. In what way did you get over? I went over the old bridge.

178. Was there any particular business on at Lismore on that day? I could not say.

179. Do you remember any law cases being on that day? No; I recollect no law case in which I was interested.

180. Was this contract for a bridge over creek on road Casino to Lismore advertised? It was.

181. What quantities of earth-work did you agree to pay for on this contract? Between 1,600 and 1,700 cubic yards.

182. What quantity of ballast did you agree to pay for? Metal, 120 88 cubic yards; ballast, 134.80 cubic yards.

183. Why did you refuse to pay for them in the final voucher? I did not refuse. Here is the final voucher, certified by me. The department never refused to pay Bronnan for these items.

184. Why did you refuse to pay for 1,660 yards of earth-work? We have got down here 830 cubic yards as an extra on his contract. There is a certain quantity to be done by him under the specification.

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A. Gracie. 185. What is the quantity according to the specification? I made the total 1,515 yards of earth-work, and we allowed him 122 yards more an revision of the matter to attempt a settlement.

11 Nov., 1896. 186. What was the total quantity in the approaches according to the tracings on the plan? 685 cubic yards. We did allow Brennan between 1,600 and 1,700 cubic yards. I put 122 yards more on to attempt a settlement with him afterwards, so that it makes a total of 1,637 cubic yards, which we offered to pay him, less the original amount of earth-work, leaving an extra of 952 cubic yards under the heading of earth-work. 187. What was the total quantity of the earth-work metal and ballast according to the tracings? 685 cubic yards.

188. Is that of earth or metal? Of earth.

189. What was the quantity of metal specified in the original specification? 921 cubic yards.

190. What was the quantity of 4-inch ballast specified? 1348 cubic yards.

191. What was the full length of the approaches according to the tracing? 182 feet. 192. Is not the quantity of metal specified 1 yards to the lineal yard of road? Yes.

193. What is the quantity of 4-inch ballast specified per lineal yard of road? 11 cubic yards. Those duantities were afterwards altered by me.

194. Would that be 60% yards in length according to the tracing? 60% lineal yords.

195. What would the total quantity of ballast be, according to that measurement? A total of 91 cubic yards.

196. How was it that no pegs could be found in the gully near Lismore municipality? Because they were not visible. No one could have found the pegs except he knew where to look for them. Brennan certainly could not find them.

197. How was it that Mr. Smallwood could not find them? He was not there when they were put in.

It is a matter of extreme difficulty to find them.

198. Were there gum-trees at each site at the time? There were gum-trees all over that locality. There were no gum-trees at the proper site except a few scattered ones. It was a rather thick brush gully where he started to put up the bridge, but at the other site there were clear banks.

199. How was it that the bridge would not be over the gully according to the tracings on B.M. mark on gum-trees;—it specifies on plan from B.M. mark on gum-trees? We put B.M.'s all over the country. That simply means bench mark. It is a standard point in levelling.

200. How was it that Mr. Smallwood found out this to be the site of the pier? I was not aware that be found anything of the sort.

201. There is his mark there? No; that is the abutment of the old bridge which extended from 289 ft. 6 in. on section to 327 feet on section.

202. You say that tyere were no gum-trees on the proper site? I could not be sure. It was a black-soil plain; the other was not. There is no country about there quite untimbered; there may have been a few scattered gum-trees on the plain.

203. Why is the plan marked "Datum peg 40 feet below B.M. mark on gum tree, south side" if this is the proper site? There may have been a gum-tree there. I am not prepared to swear that there was not one gum tree there to put the bench-mark on. In fact there must have been one close by as it so stated on the plan.

204. You have said that there was not any gum-trees there? No; it is hard to find a place about the Richmond where you could not find a tree to put a bench-mark on.

205. How was it that the plan did not in any way correspond with the present construction? It was a

mistake of the office. 206. What quantities in the embankment did you write to Neill M'Call? I have no record of them,

except in the Casino office, perhaps. I am away from that office now; I left that district.

207. Did Mr. Hilliard, who was the foreman on the job, let you know when the metal was all broken on this contract? I did not wish to know; I had men breaking it myself, and guaranteed them the payment. Mr. Brennan did not finish the metalling; I had it finished. I would not naturally want to be informed by him. I would inform him if he had been finishing the work himself.

208. Hilliard was the foreman on the work? I finished the metalling myself; it was measured as soon as it was broken.

209. Did you instruct Hilliard and the other men to put the metal on? I suppose so. We were carrying on the work ourselves pretty well, guaranteeing them the payment for everything they did. 210. Why did you refuse to pay Hilliard and M'Call when Brennan gave them an order for the money?

We never pay such orders.

211. Referring to the final voncher on Contract 27 U Bean-tree Bridge, -whom did you pay that £35 to; -did you pay the £35 which was owing on Contract 27 U on Contract 21 U? Brennan has accepted the final payment and signed a certificate. There is no further money due to him on that contract.

212. Brennan says he never got the money; did you tell him that you paid M'Call £25 out of that sum? No: I paid a lot of other men. The final payment on the bridge, Bean-tree crossing, was paid to the credit of Messrs. Cummings and Reddacliff, his sureties. Brennan gave them an order to receive all the moneys.

213. Did he give them an order to receive all the moneys on that contract? Yes.

214. When did he apply for permission to give that order? He applied for no permission; he just signed one of the usual forms at the office which were in existence at that time. They also received all the previous payments on the contract.

215. Does not No. 11 of the General Conditions say :- "The contractor shall not sub-let any portion of any work, or assign any of the moneys payable or to become payable under this contract without the written consent of the Engineer-in-Chief, and no such document without such consent shall have any effect, or be in any way recognized "? Yes; it was done with the Engineer-in-Chief's permission. We recognised it, and acted on the order.

216. When did Brennan apply for his permission? There was an order in the office signed by Brennan to pay Cummings and Reddacliff.

217. Will you be good enough to produce the application to assign that money? I am afraid it is with the Account Branch, but if necessary it can be produced.

218. What was the amount of M'Call's order on Contract 21v given by Brennan? I paid £16 17s. 2d., and M'Call's was in that amount.

219. What did you do with the balance? The balance was offered to Brennan, and refused, as the papers A. Gracie. will show. The balance was £42 6s. 7d., and we increased it a little on the final offer.

_ 11 Nov., 1896.

220. You say you paid £35, owing on the Bean Tree Bridge, to the sureties for Contract 570? Brennan cancelled that order, and the money was paid. I am not quite sure whether it was paid to his sureties or to himself. It was paid to one or the other.

221. Will you state the amount of the order which Brennan gave M'Call on Contract 21v? I do not recollect. It was paid whatever it was.

222. Was it not £28 odd? M'Call was satisfied whatever it was. I could not say what it was.

223. You cannot find from these papers the amount which was paid? No. His claim was satisfied. It was a legal claim.

224. Why did you state that this sum of £16 17s. 2d., paid to M'Call and Hilliard, was paid on orders of the Court on Contract 21v, i.e., to Hilliard £4 odd, and to M'Call £11 odd? It is stated in the papers that they were orders of the Court amounting to £16 17s. 2d.

225. Orders of what Court? It says so here. At any rate, they were claims, whether they were orders

of the Court or wages. 226. Was it to blacken Brennan with the department that you stated they were orders of the Court?

Certainly not. It would not blacken anyone.

227. Can you prove that they were orders of the Court? It was not done to blacken Brennan at all. Sometimes it is not considered sufficient for a contractor to acknowledge that he owes a man money. A man sometimes has to sue, and he can get an order of the Court. There may be collusion between the contractor and a man.

228. What was your object in stating that they were orders of the Court on the contract? It must have been because they were orders of the Court. Some workmen sued Brennan.

229. Not on that contract? The men worked on that contract.

230. What your the idea in making the statement? It was my duty. Nearly every month I am reporting that labourers have procured orders of the Court, for instance; I sent one down three or four days ago.

231. Is it your duty to report that the labourer has received an order of the Court when the contractor has given him an order without going to the Court? We report that we have received a claim from a labourer in connection with a certain contract, and send out notice to the contractor and to the labourer to prove his claim in the proper Court within a certain time.

232. Have these claims been proved in a Court, or taken to a Court of any kind? Here is the final

voucher. There have been wages claims.

233. Will you admit, to save time, that it was a contractor's order, and not an order of the Court? Yes; it was an acknowledged debt of the contractor's. Sometimes we pay it to save trouble. Sometimes we make the labourer go to the Court and prove it. In this case, to save time in looking up the papers, I will say it was an acknowledged debt.

234. Why did you state that you offered Brennan £42 in the final voucher on Contract 21 U? Because I was quite sure that we did. We offered him more than that amount; we offered him £46 eventually.

235. Will you swear that you ever offered Brennan £42? Certainly we did.

236. Was it not £30 13s. 8d.? No; here is the final voucher I sent in-£59 3s. 9d., less claims paid on account £42.

237. What was the amount you offered to deduct out of that final voucher? £16 17s. 2d., wages claimed, leaving a balance of £42 6s. 7d. offered to him and refused, and eventually forwarded to Suspense Account in the Treasury.

238. On what date? I could not eay. Brennan would call at office, or I would write to him and inform

that the money was there for him.

239. On what date did you offer him this amount of £42 6s. 7d.? I could not say; but here are his letters refusing the offer. The letter in which the offer was made would be in the Casino office. 240. Is this the final voucher on Contract 21 U:-

Memo. to Mr. John Brennan, Broadwater Post Office.

Department of Public Works, Roads and Bridges and Sewerage Branch, Casino, 14 December, 1892. THE final payment on your contract for bridge and approaches on the Lismore Road amounted to £59 3s. 9d. From this the following sums have been paid in accordance with the orders given by you-

	£	8.	d.		£	8.	d.
Neil McCall	11	9	11	Wm. Ryan	2	14	10
John Pattison					1	10	0
M. Jameson	1	2	0	John Doherty	4	4	1
G. Hilliard		0	0				
E. Murray		4	- 0		£28	10	1

The balance, £30 13s. 8d., will be paid to you on your informing me of your address, and on your returning this paper endorsed on the back that the statement is satisfactory, and is accepted by you in full of any demands you have.

ARTHUR GRACIE, Resident Engineer.

? No; the first voucher was sent in at this time.

241. That states that it is the final voucher? Yes; but it had not been finally adjusted. We wanted to know what he would take before the final voucher was prepared. Brennan objected to some of these men getting paid, and we did not pay them apparently, so that he actually got more than this amount. At any rate, when the final voucher went back it was for £59 3s. 9d., out of which claims amounted to £16 17s. 2d. 242. Did you put a man on to break metal on Contract 21u? Yes.

243. In what direction were you going when you put him on? I could not say in what direction I was going when I engaged the man. There were some other men working there. I guaranteed their wages

to them. That would otherwise have ceased work.

244. Was this man working there when you came back the same day? I could not say.

245. Why did you ask Alfred Clark Simpson, of Casino, to put Brennan through the Court in order to save the department further trouble? I did not ask him to put Brennan through the Court. I may have made the remark on Mr. Simpson's statement, that there was to be a meeting of Brennan's creditors, to the effect that trouble would be saved.

246. Why did you refuse to pay Hilliard and M'Call when they first got an order from Brennan? Perhaps we had not the money, or perhaps we may have been waiting to see what other claims would come in, so 247. that we could pay pro rata.

A. Gracie. 247. Did you tell them that there was no money on the contracts? I could not have told them that. 248. Did you send Brennan a final voucher on Contract 21v for a sum of £29? I do not recollect sending 11 Nov., 1896. him any such voucher.

249. Do you recollect sending your groom, Frank Walsh, for the voucher I spoke about? I cannot say that I recollect whether I did or not, as I have sent so many vouchers.

250. Did you give an extra on Contract 57v, Approaches to Bean-tree Bridge? The contract was cancelled. As a matter of fact, there was no extra allowed him on the contract. I did let him an extra, which was not carried out. 251. Did you state that the floods washed away the approaches, and you estimated the value of the

remaining work to the department at £117 2s. 1d.? That is correct.

252. Would the 131 chains of filling and cutting at £2 10s. per chain, which was washed away, be worth £63 15s.? It would be worth nothing if it was washed away.

253. Would it cost that amount to do the work? Brennan seems to have been getting a price varying from 37s. to 59s. a chain.

254. You would not give 57s. or 58s. a chain for forming a road 20 feet wide where there was only forming to do? We give five times as much for a heavy side-cutting.

255. What was the actual value of the cutting and filling when it was done-before it was washed away? £2 10s. a lineal yard.

256. It does not say per yard—it says per chain? I estimated it at per chain afterwards.

257. It is per chain in the specifications? Had Brennan finished it, I would have adopted the same thing. I estimated it by the chain in its unfinished condition. He tendered by the lineal yard.

258. That would be about £9 a chain? No-£3 2s, 4d. a chain.

259. That would make it about £5 less. That would be £175 for 13\frac{1}{2} chains? I think it was 21\frac{1}{2} chains. 260. The portion which was completed was 131 chains; the cutting and filling were all done, and there were 5 chains of forming to do at the time? What Brennan would call finished and what I would call finished would vary a little.

261. Did you not leave out the culvert portion of the contract in your estimation? Yes.

262. When did you make the first payment on this contract? I have only the final voucher here. 263. Was it not on the 23rd February? I could not say, as the voucher is in the Account Branch. I have been away from my papers in the Casino office for some years, and therefore I cannot say.

264. Did you make it within the contract time? Whatever date we made it, it is certainly within the contract time.

265. When did you first inspect this work? That I am unable to say. My measurement books and everything are up at the Casino office. They have not been produced at the inquiry.

266. Did you measure the distance from the centre pegs to the water-tables in cuttings and approaches, and instruct the removal of the heaps? For his own convenience, I allowed him to re nove some. They were in his way.

267. If the cutting was not wide enough I suppose you would not have removed them? Oh, yes; they are left principally to verify the depth.

I never heard about that.

268. They were supposed to be there until the cutting was measured? Supposed to be, or until I ordered their removal. 269. Were you satisfied that the width was sufficient when you ordered their removal? No; it never

came to my being satisfied. I am never satisfied until I pass the work.

270. According to the conditions, you are not supposed to instruct the removal of the heaps until you are satisfied? I can do many things. It was done for his own convenience, so that he might work his carts and horses better. The conditions state that the heaps are to be left there until their removal is instructed by me

271. Did you instruct their removal? Yes, in some cases.

272. Why did you refuse to pay his orders to the men on Contract 57 U? We never refused to pay any just claims.

273. Did you not refuse to pay Edward Murray, J. Jalland, D. O'Neill, W. Ryan, and J. Doherty? No; I reported that these men had claims against the contractor.

274. Did not these men have to sue Brennan before their claims would be recognised, making extra expense on the contract? In some cases, as I pointed out, we do force the men to sue in the Courts, so as to get them to go into the box and swear that the amount is due, otherwise there might be collusion on the part of the contractor and the men to defraud others.

275. Why did you charge the wages of these men to Contract 21 v? If they were charged to that contract

they worked on that contract, part of the time at any rate.

276. Will you produce the receipts of these workmen for the money they received? They can be produced on an application at the Casino Roads Office.

277. Are you aware that the sureties for this contract paid money to Brennan to leave his employ? No;

278. When did the sureties first ask for this contract? When its cancellation was being mooted.

279. Was this work abandoned when the cancellation of the contract was moved? It was carried on so unsatisfactorily and the delay was so great, being seven weeks over time when I made my report, and not balf finished, that the department on my report agreed to cancel the work.

280. Why did you not return for the £35 due to Brennan on the Bean-tree Bridge, and either complete this contract or let him do so when he requested that you should? I returned for everything due to him on Bean Tree Bridge. We were not disposed to allow him to delay the completion of the approaches any longer, and we decided to take the work out of his hands.

281. £35 was owing to Brennan on Bean-tree Bridge, which had then been completed over two months; -why did you not return for that money and complete this work? He was agitating for a remission of fines during that time, and probably they were being considered.

282. Will you read No. 2 of the general conditions of this contract? It is as follows:-

The contractor is on no account to commence any contract without an order in writing, signed by the Road Superintendent, and no claim for any work executed without an order will be admitted.

183. Are the conditions in this contract binding on the Government as well as the contractor? Yes.

184. Is there any contract between the parties when a permit is given? Certainly.

185. Where does it come in? The signing of the bond constitutes the contract.

186.

286. Daes it not say that the coatractor is on no account to commence any contract without an order in A. Gracie. writing, signed by the Roads Superintendent, and no claim for any work executed without an order will be admitted? That is for extra work or deviations from the contract. 11 Nov., 1896.

287. Have you a copy of the permit to start the work? No.

288. Is this the permit?---

CARINO TO MOUNT LINDBAY ROAD-CASINO DISTRICT. No. 570.

MR. A. GRACIE, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following works, which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction and in accordance with the general conditions, signed by the said Mr. J. Brennan, such payment to be made as follows: that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie.

Construction of approaches to Bean-tree Crossing Bridge, as per specification.

ARTHUR GRACIE, Dated the 19th day of November, A.D. 1891.

Resident Engineer.

No. This is not a permit to start work. It is a counterpart of an agreement to show that Brennan was a contractor.

289. I suppose it is the same as a permit? No; it is no permission for Brennan to start the work.

29.). Mr. Kelly.] It is an endorsement that he is the contractor? Yes. There is a permit on the other side, I think, to get metal.

291. Chairman.] Will you read what is on the other side of this paper? It reads as follows:---

NOTICE.

No payment will be made on account of work let by Superintendent except a task executed on the proper form is produced. Verbal agreements will not be recognised (however small the amount), but will be a private liability of the officer, for which the department will not be responsible. Contractor's Permit.

Mr. John Brennan is to forthwith proceed with the within-mentioned contract, and is hereby authorised to quarry, excavate, and remove all stone required for contract.

This permit is only granted for the purposes of this contract, and expires with the time specified for the completion

ARTHUR GRACIE, of same, viz., 21st January, 1892. Road Superintendent.

It is years since we used this form.

292. Have you made payments according to that agreement? We only made one. We might have made payments more frequently.

293. Did you make any payments within the contract time? Yes; we paid him £80.

294. Within the contract time? I do not know. He was seven weeks over the contract time, and he might have got this £80 after the contract time expired. I am not sure whether he did not get it after the contract time had expired.

295. Will you admit that you did not pay according to that agreement? No. I say that we paid in

accordance with the practice of the department.

296. Did you instruct Mr. Crouch, the assistant engineer, to ask Brennan to assign this money to the sureties for Contract 570? No; it was not a matter I would ever interfere with.

John Brennan recalled and further examined:-

297. Chairman.] Do you desire to make a statement to the Committee? Yes.

J. Brennan,

Re Contract 57 U. I was asked by Henry Ernest Crouch, Assistant Superintendent, if I was going to sign the money coming to me to be paid 11 Nov., 1896. to an account in the Commercial Bank in the names of A. Cumming and T. J. Reddicliff. I thought as the department asked me to do so that it would be all right, and I say they had a right to stop it when I asked them to do so, as I was being unfairly treated, and they were a party to the signing of such documents. No. 2 of the General Conditions, provides that on no account will a contractor commence any contract without an order signed by the Road Superintendent, and no work executed without an order will be admitted. The order agrees to pay 70 per cent. each month as the work proceeds. The department has paid no money within the contract time, nor for a month later, and then they cancel it for not making sufficient progress. Below are the names of the men who worked on this Contract 57 U. None of them worked on £ s. d. Contract 21 U.

D. M'Carthy...... 1 10 0 Edward Murray 3 4 6 J. Jalland 11 7 6 A. Murray 2 0 0 J. Kelly...... 2 8 0 W. Ryan 2 14 10 J. Jamieson 1 2 0 J. Doherty...... 4 4 1 To my order the four were paid. 8 10 2 D. O'Neil

Five orders of Court for which he refused to pay to my order.

Document No. 57 v, Casino to Mount Lindsay Road, Casino District Division. - Mr. A. Gracie, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following work which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction, and in accordance with the general conditions signed by the said John Brennan, such payment to be made as follows, that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie. Construction of approaches to Bean-tree Crossing Bridge, as per specification.

The first payment made on contract was 23rd February, 1892. ARTHUR GRACIE. Dated 19th day of November, 1891.

Department of Public Works, Roads, Bridges, and Sewerage Branch. DEBTOR to John Brennan in the sum of £69 13s. 4d., for work done on Contract No. 57 v, approaches to Bean-tree Bridge £ s. d. iu Casino district.

184 chain road, formation, cutting, and filling, £3 10s. per lineal chain 64 15 0 158 cubic yards metal supplied and broken 24-inch, cost 6s., schedule 7s..... 47 8 0 195 cubic yards metal supplied and broken 4-inch, cost 3s. 6d., schedule 4s. 6d. 43 cubic yards stone supplied, unbroken, cost 2s. 6d., schedule 3s. 6d. 5 7 6 Round timber for culvert, 18 pieces 12-in. diameter 6 ft. 3 in.; 5 pieces 13-in. diameter 16 ft. 9 12 6 6 in.; 192 ft. 6 in. lineal feet, at ls. per square foot

£161 5 6 £91 12 2

Balance due to me £69 13 0 John Brennan, No. 5, Hannam-street, Darlinghurst, Sydney, 24th June, 1895.

Arthur

Arthur Gracie recalled and further examined :-

A. Gracie. 298. Chairman.] Is that a mistake on the plan—that the datum-post is 40 feet from the gum-tree marked B.M.? No, it is not a mistake; it is simply an indication that the original levels are under the pegs 66.5 feet, and that we have reduced the whole section 40 feet in plotting.

299. There was a gum-tree within 40 feet of that site? That does not refer to the distance of any gumtree. The B.M. is on the south side of the gum-tree.

	John Brennan recalled and further examined:-
J. Brennan. 300. Contra	hairman.] Do you desire to make a statement with regard to the particulars of your claim on et 210? I do. It is as follows:—
11 Nav., 1390.	The original contract was
	municipality and erect a bridge contrary to specification, plan, advertisement and district
	Losses sustained for having to shift from creek near Tunstall to gully in Lismore municipality
	Damages through being imprisoned for debt while the department held the moneys the writ was issued against me for, and would not pay it unless I accepted £46 5s. 4d. as payment in full of all demands and give a receipt in that form. I have a receipt for documents re quantities I would be paid for, and instructed to carry out work, and when calculated exceeds the amount offered to me by the departments. For this act, on behalf of the departments, I claim £500
	To be deducted— Paid on account Paid to complete work Hilliard Order to M'Call Glynn To be deducted £ s. d. 289 0 0 26 0 0 4 0 0 11 9 11 10 0 0 £ 340 9 11
	473 9 3 340 9 11 to be deducted.
	Balance in connection with contract
	£709 19 4
	CONTRACT No. 210 of 1891, Casino District.
	Extras, original contract Pile-driving, including timber under ground—13\(\) feet, at 3s. per lineal feet Round timber in piles above ground—50 feet at 1s. 3d. per lineal foot ", wing-piles—22\(\) lineal feet, at 3s. per lineal foot Setting one wing-pile an extra depth of 8 feet, at 3s. per lineal foot ", 3 feet, at 3s. per lineal foot Sawn timber in wales and braces—7 cubic feet, at 2s. per cubic foot ", sheathing—93 cubic feet, at 2s. per cubic foot Tar and composition, three coats—93 superficial yards, at 1s. per yard Wing-piles, as per plan, unused, being too short—49 lineal feet, at 1s. per foot Embanked approaches to plan 626; agreed to pay 1,660 extra—1,034 cubic yards, at 1s. 4d. per yard Rubble backing—37 cubic yards, at 8s. per cubic yard Rubble backing—37 cubic yards, at 4s. 8d. Ballast, 4-inch—41\(\) cubic yards, at 4s. 8d. Ballast, 4-inch—29\(\) cubic yards, at 7s. 6d. Blinding length of road, increased from 61 to 110 linesl yards extra—44 cubic yards, at 2s. Extra temporary crossing Shifting material and redecking bridge at Tunstall 20 6 80 6 80 7 80 8 80 8 80 8 80 8 80 8 80 9 81 10 80 9 81 10 81 10 82 9 83 10 84 8 0 84 8 0 85 11 10 86 12 3 0 86 13 8 87 14 10 87 14 10 88 15 15 15 15 15 15 15 15 15 15 15 15 15
	1s. per yard extra for breaking metal 6 2 6 6 d. per yard extra for breaking ballast 3 7 0

Paid on account , to complete work Order to Hilliard , M'Call	26 4 11	0 0 0 0 0 0 9 11		10	3
To be deducted	£340			9	11
Ralance due for work done. For loss sustained on other work re shifting from Tunstal			77	0 0 0	4 0 0

£709 6 0

11 Nov., 1896.

J. Brennan.

CONTRACT No. 21 U, of 1891, Casino District.

Bridge and Approaches on Road, Casino to Lismore. —Quantities in approaches, according to plan; commencing at

				Casino end.			XI			
**	Feet		Feet high.	Feed	wide.	Cubic yards	tolest	Cubic yar		
No. 1	39	0	1 9	28	10	1 28	5	73	11	3
No. 2	36	0	4 0	32		4 20	0	170	18	0
No. 3	13	0	5 3	33	7	6 14	41	84	14 1	107
No. 4	29	0	6 6	35	3	8 13	11/2	246	12	75
No. 5	88	6	6 9	31	0	7 20	0	65	21	6
No. 6	8	6	6 4	30	9	7 5	9	61	8	41
No. 7	14	6	5 6	34	3	6 26	41	101	4	34
No. 8	37	0	2 3	29	4	2 12	0	90	12	0
			(T) -4 11 41	41.11						_

37 0	2 3	29 4	2 12 0	
	Total length, 61 l	lineal yards-2 par	te.	
Metal, 21-inch, 11	cubic yards to line	eal yard		92
Blinding, 4 cubic	yard to lineal yard			92 21
Rubble backing, 6	0 cubic yarda		,,,,,,,	60
Earth embankmer	its, cubic yards		,	265 626
27				d.
Paid for completing	o contract			
Paid for completing Paid to N. M'Call		149444-1-1-14-1-14	11 9	11
Paid to Hilliard		**********	4 (
Paid to Giynn		***************************************	10 0	0

To be deducted Balance due 132 6 0 Re loss, through-shifting, 77 0 0 Through being imprisoned for debt 500 0 0 709 6 0

Total

301. Do you also desire to make a statemeni with regard to Contract 210?

[Letter No. 4,010, R. and B.]

Department of Public Works, Sydney, 12 June, 1893. Sir, With reference to your letter of the 24th of April last, in regard to amount due to you on account of your contract of bridge and approaches on road Casino to Lismore, with regard to the amount of final voucher on account of this work, I am to point out that the sum originally was £59 3s. 9d., but sums were afterwards paid in pursuance of orders of the Court, which reduced it to £42 6s. 7d.; in addition to this amount the sum of £3 18s. 9d. has been allowed on account of your claim for rubble backing, making it a total of £46 5s. 4d., the amount offered to you.

J. BARLING, Under Secretary.

Memo, to Mr. John Brennan, Broadwater Post-office.

Department of Public Works, Roads, Bridges, and Sewerage Branch, Casino, 14 December, 1892. The final payment on your contract of bridge and approaches on the Lismore Road amounted to £59 3s. 9d.; from this the following sums have been paid in accordance with orders given by you :-

	30	8.	d,		£	8.	d.
Neil M'Call	11	9	11	Wm. Ryan	2	14	10
John Pattison					1	10	0
J. Jameson							
Gilbert Hilliard					_		
E. Murray					£28	10	1

The balance, £30 13s. 8d., will be paid to you on your informing me of your address, and on your returning this paper, endorsed on the back that this statement is satisfactory, and is accepted by you in full of any demand you have. ARTHUR GRACIE

To Mr. John Brennan, Broadwater,-Department of Public Works, Casino, 15 December, 1892. With further reference to my letter of yesterday, I have to inform you that, before the payment of the balance due on contract for bridge on Lismore Road, it will be necessary for you to receipt the voucher enclosed, leaving your signature witnessed in the proper column. Please return the youcher as early as possible.

ARTHUR GRACIE, Resident Engineer.

I would like to explain why this contract was so long incomplete. When I shifted from the creek where I tendered for, near Tunstall, that broke my agreement with the Casino Sawmill Company for the delivery of ironbark timber. I ordered it at Coraki, 9th July, to be delivered at Lismore in a fortnight from that date. On the 27th of July I had a letter from Mr. Yabsley stating that my timber was cut, and asking, would I let him have my cheque in payment before delivering it to me at Lismore. I did not do so, because the timber was ordered to the plan, and the wales and bracing would have been too short. On 29th July I gave an order to Mr. Bailey at Codrington. He was to deliver it at Liamore within nine days. On the 7th August I had a letter from him stating that his teamster had gone on strike for 8d. per 100 more for drawing, and that if I would consent to pay half he would have it drawn in. On the 8th of August I ordered it at the North Lismore Sawmills, Glasgow and M'Night, where I had got tallow-wood for the decking. They were to have some cut in a week. They had not. I kept going about it every second day. I got the first delivered on the 5th September, 15th, 18th, 19th, 20th, and 21st. Then the firm went bankrupt. On the 24th of September I gave an order to George Cattie, Lismore, and got the first delivered on the 12th October, and completed on the 9th November. Each time I went about this timber it cost me from £7 to £8 every day. I have been away from Bean-tree Bridge contract, which was 50 miles from this one. I have been losing from £3 10s. to £4 per day. I have been there two days in succession, pile-driving. I drove two piles each day 21 feet each. When I have been away I got one pile a day driven from 18 to 21 feet. My schedule price was 4s. 6d. per foot. The material cost 1s. per foot delivered, which was 3s. 6d. for labour in topping. My losses were equally as large. This would be twelve times—two from Lismore Road, £3 10s. each, and ten times from the Bean-tree, two days each time, £7 each-or £77 in all.

The embankments were commenced on 28th of September, and completed on the 22nd of November. The traffic was on the bridge from that date. A few days previous to this I got an extra metal and ballast. I got the stone carted. I had a couple of men breaking. I brought a quantity of rations and left it in the camp with them, so that any men who wanted work could get some rations and start breaking at 3s. 6d. per cubic yard. Good men did not care about starting on such a small job, and the stone was so hard that they could not break more than 11 cubic yard per day each. I came there every week till it was finished once at least, but could not afford to come oftener, as I had a dozen men on the other contract, and when I was away I did not get satisfaction. I had a letter sent to me by Denis O'Neill, of Casino, stating that the department had requested Alfred Clark Simpson to put me through the Court. I wish the Committee to send for this letter. I requested it to be taken care of. I sent this letter to the District Court, Casino, held on Monday, the 25th day of June, 1894, in defence of summonses for write of Capias ad satisfaciendum, No. of plaint 14 of 1892, between Denis

J. Brennan. Denis O'Neill, plaintiff, and John Brennan, defendant, and No. of plaint 14 of 1892, Thomas Glynn, plaintiff, and John Brennan, defendant. Alfred Clark Simpson, of Casino, sent me an eight-day summons. He had no claim. I defended 11 Nov., 1896. this summons according to directions on the back of it, sending a copy of the defence to the C.P.S. for Glynn and O'Neill. This led to these write being applied for and obtained for £46, which the departments offer as settlement in full of all demands on this contract, causing me to be imprisoned for debt, while the departments refused to pay me for quantities they had agreed to pay me for, and would not pay me any portion unless I accepted £46 as a final settlement, in full of all demands on this contract. For this action on behalf of the departments I claim £500 damages.

Contract 210 was for a lump sum according to plan and specification, and schedule prices were for deducting or

increasing any of the items.

No. 11 of the General Conditions of this contract provides that the contractor is not to assign any moneys payable or to become payable under the contract without the written consent of the Engineer-in-Chief, and no such document, without such consent, shall have any effect or be in any way recognised.

THURSDAY, 12 NOVEMBER, 1896.

Present:

MR. KELLY.

Mr. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled, and further examined :-

302-3. Mr. Lyne.] At what time did you find the pegs at the site where Brennan first started to put the A. Gracie. bridge over the creek near Tunstall? I do not know that I found any pegs there.

304. How do you know that any pegs were there? Mr. Allman, of the Lismore district, told me that he

12 Nov., 1896. drove spikes there. 305. You stated in your evidence that spikes were driven into the ground, and that they were covered by metal; -what was the use of spikes being driven in there if they were driven in after Brennan made his

mistake? Not after, but eighteen months before. 306. I wish you to state definitely whether the pegs were there eighteen months before, or any time before he made his mistake. If there was any doubt as to the site, and Brennan had gone to the other site, where the bridge was ultimately put up, he might have found the pegs? No, I do not think he could. 307. Why not? They got driven down into the metal and covered up with the traffic, and he would require to measure the site to find the position of the pegs.

308. Do you know that the pegs were ever there? Not of my own knowledge, but Mr. Allman, of the

Lismore district, informed me that pegs were driven in there, and it is usual to do so.

309. That they were driven in a long time before? Yes.

310. You never saw the pegs yourself? I never saw them. You might say practically that there were no visible pegs at either point. There were no visible pegs at the proper place, and no pegs at all were at the place where Brennan started to erect the bridge.

311. Mr. Kelly.] Do you expect a successful tenderer to come to you and have the place pointed out to

him? Certainly.

312. Mr. Lyne.] That Brennan did not do? No.

313. Chairman.] Brennan, in his evidence, says he did? Without even going to the spot I could have explained where we wanted the bridge put over the creek. I think his memory cannot serve him correctly. 314. Mr. Lyne.] Are you certain that he did not go to you and ask you for information as to the spot? I am certain that he did not. I reported at the time that he did not.

315. Did Brennan give you an authority to pay his sureties for one contract some money on that contract, and did you pay them the money on another contract for which he had given you no authority? I do not recollect such a case. I have given evidence to the effect that the balance was paid according to the orders

of the Court.

316. Chairman.] There were no orders of the Court on Contract 21v, and this money was paid on Contract 270? Brennan signed a final receipt as being satisfied with the disbursement of the money. 317. Mr. Lyne.] Did Brennan sign a final voucher that he was satisfied with all the payments which had been made in connection with Contract 27v; -have you got the document he signed? It is not among the papers here. I believe some of the men who worked on Contract 27v also worked on Contract 57v, and if they did we might have paid the money to them.

318. Brennan stated that you got an order of the Court to pay the money on one contract, and that you paid the money on another contract? The men used to work on the various contracts. The final voucher

for the bridge of the Bean-tree Crossing was £35 1s. 3d.

319. As you knew that this case was coming on, why did you not look through the papers before you came here? I had no opportunity to look through the papers. I am not in the Casino district now, and I did not see these papers until I came here.

320. An authority to pay on Contract 750 is no authority to pay on Contract 210? We look upon it as an authority to pay all moneys due by the Government in respect of any department. It includes all money

due by the Treasury.

321. If so, it does not matter on what contract it is paid? No.

322. Does it not say on what contract; -have you not a copy of the order? No; it was asked for

vesterday, but it has not been supplied.

323. Surely your memory will serve you well enough to be able to give us some information about this matter? It is five or six years since it took place. It has been considerably mixed up. Here is a précis of the business, but I cannot go by it because it is wrong. 324. Will you read the précis? It is as follows :-

It appears, however, that he did not actually receive this amount, although he signed for it, Mr. Gracie merely taking his receipts as a matter of form, the amount being used along with £11 12s. 11, part final payment on Contract 57u, approaches to Bean-tree Bridge (total amount, £46 14s. 2d.), to pay the undermentioned claims against the contracts:-

M. M'Coll E. Murray W. Ryan D. M'Carthy John Doherty J. Gallan O'Neill	15 3 2 1 4 11	14 10 4 7	7 0 10 0 1	Receipt at Audit Office with voucher
Total <u>1</u>		14	2	The

There is a balance due to Brennau on this contract amounting to £10 12s. 2d. (Part of remitted fine £39) which he A. Gracie. refused to accept, amount was consequently refunded to the Tressury. R. Crossy's judgment order against Brennan was mettled with the other portion of fine; amount, £28 7s. 10. £25 9s. 2d., balance of final voucher £37 2s. 1d., Contract 57U, 12 Nov., 1896. approaches to Bean-tree Bridge, was paid to Brennan's sureties, Messra. Cumming and Reddacliff, on the 17th April, 1893.

With reference to the payment of this final voucher, Brennan was informed that as the contract was cancelled, he has no claim upon the Government, and also that as a matter of grace the department paid for the value of work, so as to meet the claims of workmen.

The final voucher, £59 3s. @d., Contract 21v. bridge over creek, road Lismore to Casino, was disposed of as follows:— Claim against Contract paid.

N. M'Call M. R. Jameson Jno. Patterson G. Hilliard	1 0	9 2 5	11	Receipts at Audit Office, attached to voucher.
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Total £16 17 2 And balance, £42 6s. 7d., refused by Brennan, refunded to the Treasury.

325. You say that précis is no guide for you, because it is not correct? I doubt whether it is correct, because towards the end they did not understand very much about it in the head office, as the three contracts were getting mixed up. Then there is the remission of fines, which came afterwards, with separate papers on each contract, and they got mixed up.

326. Brennan asked for these receipts to be produced? I asked for the receipts to be sent down from the Casino office. I got some papers, but not what I wanted-not any which would be of any use to me. 327. Chairman. You cannot get all the papers you want, and some of them are at the Casino office? The receipts of M'Call attached to the voucher are at the Audit Office. The receipted vouchers eventually find their way to the Audit Office, and are filed there. I would have liked more time to look into the matter. I did not reach Sydney until midnight on Monday, and the Committee sat on Tuesday morning. 328. You cannot say that Brennan's assertion that a certain sum was paid on one contract for work done on another contract is true or not unless you have all the papers, which are not available? Not unless I have some papers to see who got the money.

329. You cannot say whether orders of the Court given for work done on one contract were paid out of

another contract? No; it would be very unusual. I never do it.

330. It would be unusual, but you cannot say that it is not so, because you cannot see the papers? No. It is an old case, and my memory will not allow me to say that it is not so. I daresay if I had more time to look through the papers I might find something which would clear that up.

Mr. John Brennan recalled and further examined:-

331. Chairman.] Do you wish to make a statement? I do. In his evidence yesterday, Mr. Gracie said J. Brennan. that when he went there there was no crossing over the creek at Tunstall. I wish to say that a crossing was there, and that it was erected for one day only. It was finished on the night previous to his coming 12Nov., 1896. along, and I removed it on the following night. Mr. A. Gracie, Mr. Denis Alcock, Mr. Robert Walters, Mr. A. C. Simpson, Mr. Robert Pyers, crossed over the temporary crossing on that day.

332. Mr. Lyne. It did not cost you much? It was the decking.

333. Do you mean to say that Mr. Gracie might not have known that it was there? He could not have gone across if it was not there.

334. Chairman.] You mean that Mr. Gracie crossed this crossing? Yes; but he says that he did not; that there was none there.

335. Mr. Lyne.] Are you claiming for a temporary bridge? Yes.

336. How much do you claim? £14. There is a schedule in the contract for a temporary bridge. It had to be erected before the traffic could be put off the other.

337. How do you come to the conclusion that you ought to be allowed £14? For the girders and labour. 338. Was it ever passed as valued at £14? I tendered for it at that price.

339. When were you in prison for a debt? Two years ago.

340. That was two or three years after the contracts were completed;—how do you connect the department with causing you to go to prison? They asked a man to put me through the Court.

341. Whom did they ask? I have a letter from Denis O'Neill-it is not here, but it is in the Courtstating that the department asked Charles Clark Simpson to put me through the Court, in order to save them further trouble.

342. What branch of the department? The Roads and Bridges.

343. It seems a very unusual thing to do? Yes.

344. Who is Mr. O'Neil? He had a case against me. He is one of the parties who imprisoned me.

345. What does he know about it? He seems to know about it. He wrote a letter to me to that effect. 346. Have you any other evidence to show that the department did put you through the Court? There is a statement in evidence here that Mr. Gracie requested me to come to a settlement, and that he made several concessions, but that I would not accept them, and later on a statement came to the office that one of my creditors was taking steps to secure my insolvency.

347. Suppose O'Neill has stated that it is not true? I suppose he has to prove it. It is between him and the department, not between him and me.

1898. (SECOND SESSION.)

LEGISLATIVE ASSEMBLY.

NEW SOUTH WALES.

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON THE

CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

TUESDAY, 25 OCTOBER, 1898.

Present:-

Mr. J. C. L. FITZPATRICK, Mr. HURLEY,

after I began.

Mr. HASSALL, Mr. ANDERSON.

ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan sworn and examined:-

- 1. Chairman.] Do you wish to submit fresh evidence to the Committee? Yes.

 2. Mr. Hurley.] Are the plans now before us the plans of the bridge in question? Yes.

 3. Did you work out the quantities before you tendered? Yes. I have given in a bill showing the 25 Oct., 1898. quantities worked out.
- 4. Did you start at the Casino end? Yes; I meant Casino to work out tracings.

 5. Was there any datum peg there? There was supposed to be a datum peg a certain distance from a bench mark upon a gum-tree. The tree was there but the datum peg could not be found
- 6, Is the tree alongside the present bridge? No; the datum peg should be 40 feet below the bench mark on the gum tree.
- 7. I understand the difference is that you tendered to build a bridge at a certain place on a creek and the Government authorities put you in another place? Yes.
- 8. In the specification, is there anything about a tree as a landmark? No, only the way in which the bridge is to be carried out. The datum peg could not be found when the inspector went there to measure the site; it could not be found according to the plan.
- 9. Did an officer go with you to the site where the bridge was to be built? I went to the site and looked at it but could find no pegs.
- 10. How did you know that was the site. It was the creek where I tendered to build a bridge. I went on the road and could not find any pegs. I went to the office to find out where was the place.

 11. Mr. Anderson.] Did any of the officers point out where you were to commence the bridge? Not until
- 12. Were any marks laid down for you to make a start? Yes; a peg was driven for the first pile.

 13. Mr. Fitzpatrick.] In your evidence in chief you stated, "I waited on Mr. Gracie next morning, 8th June, 1891. I requested that he would meet me on the site by appointment as I could find no pegs, and might put the temporary crossing in the way of the bridge. He said the bridge was going on the site of the old one, and that I could not go wrong with the crossing, and he told me to get the material delivered
- the old one, and that I could not go wrong with the crossing, and he told me to get the material delivered and he would be out there in a few days. When he came the crossing was complete, the piles, girders, and head-stocks delivered, and the old bridge stripped. When he came he said 'this is not the place.'"

 Between the time you asked him to come and the period when you had constructed a portion of the works, had he been there? No.
- 14. Mr. Anderson.] Did he give instructions to do this work? He told me to get it ready when I saw him in the office and that he would be there in a few days, and that I could not go wrong with the crossing.

 109—
 15.

J. Brennan. 15. In the meantime you undertook to strip the bridge? Yes, according to his instructions.

16. Then you had his instructions? Yes, but not pegged out. He was not supposed to have pegged out.
25 Oct., 1898. the crossings, he was supposed to peg the bridge.

17. Mr. Hurley.] Did Mr. Gracie tell you that the bridge was to go on the site of the old one? Yes.

18. When Mr. Gracie came there did he indicate on the plan that a different locality was intended? No. 19. Mr. Anderson.] When you commenced to construct the bridge who gave you instructions? Mr. Smallwood, one of the officials.

20. Mr. Hurley.] Is there any other old bridge on the creek? There was an old bridge where I began work.

21. Did you know of any other old bridge? No.

22. Mr. Hassall.] How long did it take to strip the crossing, and replace it? Three or four days.

23. I see in your original evidence that you were twenty-seven weeks over the time allowed for the com-

pletion of the work? Yes.

24. They fined you for being over time; one reason you gave for being over time was the fact that you commenced work on the wrong site; that you had done a certain amount of work and then had to shift. In the documents it is stated that the Department remitted a portion of the fine on account of your beginning at a wrong place;—what was the whole time occupied by you in doing the work over which the mistake arose? My loss was not sustained only through the time lost; I had made agreements for timber to be delivered there, and I had to go elsewhere.

25. Mr. Hurley.] When the mistake was found out, you asked him what he was going to give you for what you had done; and he said that he could not send in a voucher for that, but that he would allow

you for it in something else? Yes.

26. I suppose that meant that he would not fine you on account of the overtime? Yes.

27. I see that according to the evidence, you had to move the bridge a considerable distance from where you began;—was there any other old bridge where you moved to? No, it was only a culvert crossing.

28. That shows he must have misled you when he said the old bridge was the identical crossing, and when he then shifted you to where there was no bridge at all? Yes; there was a culvert one and a half miles

away, but there was no creek there.

29. Was it at that culvert that the bridge was afterwards erected? Yes.

30. Was the bridge carried out in accordance with the plan? No, not by a long way; that is shown in the extras.

31. Mr. J. C. L. Fitzpatrick] How far from Lismore did you construct the bridge? Within three miles of Lismore, within the Municipality.

32. Where you originally stripped the bridge was it four and a half miles away? Yes.

33. Mr. Hassall.] Were these plans obtained from the Head Office? I got them from Mr. Gracie.

34. When was the mistake found out? When they came to peg the site they could not get any pegs, and they had to send one of my men to the office for a tracing; then they found the plans would not suit the place.

35. Was an allowance made in your contract price afterwards? He agreed to pay for certain quantities,

then he refused to certify for the quantities in the voucher.

36. Was that after you had done the work? Yes. I sent Mr. Gracie a bill, and he refused to accept it, This is the reply of Mr. Gracie on the bill I sent him, which was much less than it should be:—"These extras will not be allowed, and as I have determined that you shall cause no further trouble to the Departments, the voucher will be passed and paid to my credit in due course without your signature, leaving it to you to take any course you may think fit. I can understand that your motive is now to delay the payment of money properly due to your sureties and to men whom you employed and neglected to pay. You may rest assured, however, that steps will be successfully taken to frustrate this design. You may not again communicate with this office unless specially requested. Arthur Gracie; Resident Engineer, Casino, 29/3/92." Mr. Gracie sent me a document that he would pay me for certain quantities of metal and ballast, earthwork and rubble packing. When he sent me a final voucher he did not include those quantities correctly. He charged wages for workmen who were working on other contracts.

37. Chairman.] Did the timber, according to the plans and specifications, suit the bridge which you eventually put up? No, they were too short; the piles for the piers were too short by 5 or 6 feet.

38. Was the length of driving the same? No; there was an extra length of driving piles to the depth of 13} feet.

39. Mr. Harley.] Did you ever ask the officers to show you the site? Yes.

40. Mr. Gracie positively swears you did not? I did. It would be hardly likely that I would go and get material on to the place without asking him.

41. Mr. Anderson.] When you started the work you had not the officer's authority by his presence for beginning there—you were only told verbally, and there was a mistake? He should have come with me when I requested him.

42. Mr. Hurley.] Did you ever build a bridge for the Government before? That was the first bridge I built for the Government, but I built another for them later on.

43. How did you manage about that? The officer who was with me on the first bridge went with me and pegged out the site. The wooden pegs were to be found there.

44. You did not see any change in the system? No.

45. Chairman.] You say there was no change in the system; but do you not say in the one case there were pegs to be found, while in the other case there were not? Yes; in the second case there were pegs to be jound, but in the case of the first bridge there were no pegs.

46. Mr. J. C. L. Fitzpatrick.] In Question No. 282 there is a reference to No. 2 of the General Conditions of this contract, in which it is stated "the contractor is on no account to commence any contract without an order in writing signed by the Road Superintendent, and no claim for any work executed without an order will be admitted"; did you receive any such order? Yes.

47. Mr. Hurley.] Can you produce that order? No; but it is included in the documents already handed in.

48. Chairman.] Have you any new evidence that you can give us? Yes.

49. What is it? I received from Mr. Gracie documents that he would pay me for certain quantities.

50. Is that in connection with that contract on the Lismore Road? Yes. I brought a final voucher to J. Brennan. Sydney, and left it in the head office. Mr. Stathan insisted on my leaving it. He said there would not be a voucher to settle the matter if I did not leave the one I had with him. The Department has kept 25 Oct., 1898. that voucher, and did not return it. I sent those documents to the Under Secretary for Works to prove that the quantities I was claiming were due to me. These have been sent to Mr. Gracie, at Casino. He was instructed to communicate with me re a final settlement. He sent me a tracing, and I worked out the quantities; they are shown on a bill before the Committee. This is Mr. Gracie's reply to me:-"Memo. to Mr. J. Brennan, Broadwater. Contract No. 21 v. Without prejudice. I do not understand the methods of your measurement. What do you mean, for instance, by Sections 6, 7, &c.? What do these numbers refer to? I may mention that my revised calculations made the total earthworks 1,515 cubic yards, and I believe this is as near as it is possible to get to the correct quantity. As a kind of a check, Mr. Smallwood measured the excavations—anything but rough measurement being impossible. He made the quantity somewhat greater, the end being that you were allowed what I now think was the too liberal quantity of 1,660 cubic yards. However, I have been over the papers and measurement again, and if it will end the matter as far as this item is concerned, I am prepared to recommend 122 cubic yards more, or a total extra under this head of 952 cubic yards. I have re-calculated quantities as per plan of rubble, and find the total of 764 cubic yards. This shows an extra of 24 yards (174 and 194) in your favour, and although there may have been circumstances now forgotten which made 171 the correct quantity, I will recommend this 21 cubic yards. Regarding the ballast and metal, unless there were at the time affecting the measurement and now forgotten, it appears the contract should be credited with an extra 5 cubic yards of ballast, and 5 cubic yards metal:-

Ballast—quantity supplied ... 134·80 Metal—quantity supplied ... 120·88 92·50 ... 92 50 ... specified ... 92·50 ... 92·50 ... 28·38 On voucher ... 37·25 On voucher ... 5 cubic yards. 5 cubic yards.

The other items of your claim I cannot discuss. They have been refused by the Department, and will I think always be. In making you the offer herein I am satisfied that the position of the Department is perfectly secure in any action you make take. It only remains for you to let me know straightforwardly if you will except this arrangement if the Department approves of it. Note:—Do not write any more long letters; a line will do in this case. Arthur Gracie, Resident Engineer, 15/1/94." What I want to point out is that Mr. Gracie admits that this quantity was owing to me. Why did he not return in the final voucher for this 1,660 cubic yards. He also led the Department to believe that I was offered a final voucher, the amount coming to me being £42; that was incorrect.

51. Mr. Hurley.] How do you know that he led them to believe that? I have papers here to that effect There is a claim for £500. The Department retained this money, they would not give it to me unless I accepted it as a final settlement. There was a ca. so. got against me for the amount, and I was

imprisoned.

52. Mr. Hassall.] How long after the completion of the contract were you imprisoned? Going on for three years. A judgment was got against me and they applied for a ca. sa. Mr. Gracie gave evidence that this amount was offered to me and I refused to accept it. I was forced either to forfeit my claim or to accept what they offered.

53. But the Government did not take steps against you? No, other people did. They would not give

me money to pay these people unless I accepted it as a final settlement.

54. The Government, then, had offered you what they thought was the amount of your claim, on condition that you accepted it as a final settlement in connection with the contract? Yes.

55. On your refusing to accept that amount three years afterwards, somebody took proceedings against

you for debt, and had you imprisoned? Yes.

56. Was the debt which you were imprisoned for incurred in connection with this contract? Yes; for materials, and money lent, and stores.

57. Mr. Anderson.] Was the money standing in the hands of the Government handed over to the creditors by order of the Court? No; I agreed to give these men a certain amount of money. I agreed to give an order for £10.

58. What was the amount of the debt? £40 was divided among two, according to the order of the Judge. 59. Who got the money lying in the hands of the Government? The money is still in the hands of the Government.

60. Mr. Hassall.] It seems that a long time elapsed between the completion of the contract and those

proceedings? They had a judgment against me. It appears they got some information from the Government that they should take proceedings.

61. Had you earned no money after the completion of the contract until proceedings were taken against you? Yes, I was working for wages; but I was not in a position to pay the claims. There was some evidence revised by Mr. Gracie which I would like to call attention to. I think it should have been revised before the Committee. It was a question I asked him. He revised it apparently, or it is not given as he a sewered. I refer to question 245. It is as follows:—"Why did you ask Alfred Clark Simpson, of Casino, to put Brennan through the Court, in order to save the Department further trouble? I did not ask him to put Brennan through the Court. I may have made the remark on Mr. Simpson's statement, that there was to be a meeting of Breunan's creditors, to the effect that trouble would be saved." The answer of Mr. Gracie was, "I might have insinuated it, but I have not made use of those words." Those words are not in the answer as printed.

62. Chairman.] But there is very little difference? At the time I had a meeting of creditors I was doing

work for the Government, and these contracts were not completed.

63. That question was put by me to Mr. Gracie, through the Chairman? It may have been put through the Chairman. I took a note as to how they were answered.

64. How did you come to the conclusion that this evidence had been altered? Because I had taken a note of it.

20

Present :-

ME. HASSALL,

MR. HURLEY.

ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan recalled and further examined :--

J. Brennan. 65. Chairman.] On page 14 of the Minutes of Evidence taken before the Select Committee in 1896, you have "balance due for work done £133 Os. 4d.," and on page 15 you have "balance due (on the same 13 Dec., 1898. contract), £132 6s. "? I have done the bill over again. I find there is a slight mistake. I have put down "setting one wing-pile an extra depth of 3 feet, at 3s. per lineal foot, 6s." Instead of 6s., of course it ought to be 9s.

66. Is there any other mistake? Yes; "wing-piles, as per plan, unused, being too short-19 lineal feet, at 1s. per foot-£2 8s.," should be £2 9s.; and "metal, 21 inch-291 cubic yards, at 7s. 6d.-£12 3s.," should be £11 3s. 1d. That makes up the difference. That does not bring the account out exactly the same as on the next page. There is still a difference of 2s. But what I have just stated are the correct amounts.

67. Mr. Hurley.] How much are you asking interest on? £132 4s. 5d., and I claim £45 14s. 6d., interest at 5 per cent. for six years. The time was over six years, but I have claimed interest for only six years. That is on Contract 21 U.

68. What is the amount due on the second contract, 57 u? £69 13s. 4d.

69. For the same years? Yes.

70. What interest are you charging for that? Interest at the rate of 5 per cent.

71. How much does that amount to? £23 1s.

72. What is your total claim for interest? £68 15s. 6d. 73. How long were you in gaol? About a fortnight, I think.

74. And you claim £500 damages for that? Yes. I ought not to have been there at all.

75. The Government had money of yours in hand when you were put in gaol? Yes; they refused to pay it unless I would accept £16 as a final settlement. There were two ca. sa.'s got against the amountone by Thomas Glynn, and the other by Dennis O'Neill-and the Government refused to pay me anything unless I would accept £46 as a final settlement.

76. Do you know the full amount for which you are asking, -interest on the money due, and the back money, and the damages for being imprisoned? £847 13s. 3d. That includes £77 "for loss sustained

on other work re shifting from Tunstall."

77. Chairman.] Do you wish to make out that you lost that money through the fault of the Government? Yes. When I was carrying out that contract, when I could be there I was getting two piles a day driven by the same number of men as I used to get one pile a day driven by when I was absent. My schedule price for pile driving was 4s. 6d. a foot—the timber cost 1s. and the labour 3s. 6d.

78. How do you account for being so far behind the contract time? I got messed up over the matter of shifting from Tunstall. I had let a contract for the supply of timber to the Casino Saw-mill Company.

When I shifted to the other place they would not supply the timber.

79. Was it any fault of the Department that that was not done? Yes; because I tendered for work at a Creek near Tunstall, and I had to erect the bridge over a "black gulley" in the Lismore municipality. I had to order the timber at Coraki, according to the plan, but when we came to put the bridge up a great quantity of the timber was found to be too short.

80. Mr. Hassall.] You say you were put in gaol because you owed certain money which you could not pay? Yes.

81. How was that debt contracted? Part of it was for plant and material, and some was money borrowed to pay wages.

82. All in connection with this work? Yes.

83. The debt did not arise at all in connection with any other transaction? No -only these contracts. I did not keep the money paid on each of them separately, but paid money when it was required. 84. Then the judgment was obtained against you for what? For stores supplied in connection with

Contract 57 v and for plant.

85. How much was the judgment for? £49. 86. And the Government held money in hand to what amount? £132 4s. 5d. They offered me £46 and refused to give me any portion of it unless I would accept that as a final settlement.

87. What distance did you have to shift from your camp at Tunstall? About a mile and a half.

88. You say it cost you £77 for "loss sustained on other work, re-shifting from Tunstall?" Yes; because when I had to shift from Tunstall, my agreement for timber was broken; and every time I tried to get timber it took me two days, and I was at a loss of so much per day. I got about 42 feet of piles driven when I was there, but when I was away only from 17 feet to 20 feet were driven.

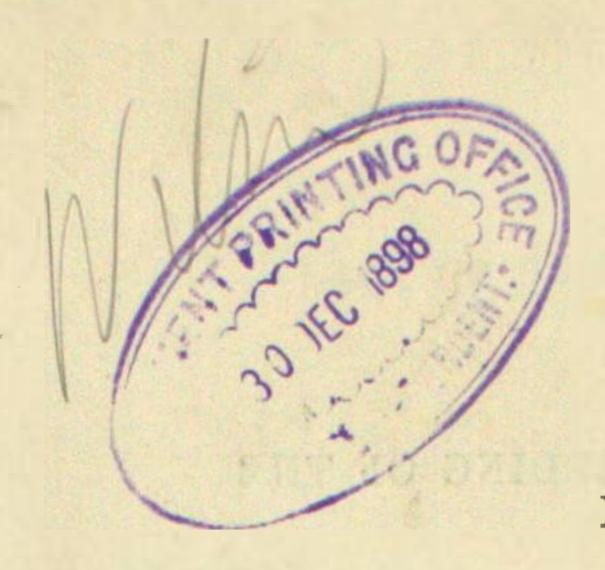
89. So, practically, you had to stand alongside the men to see that they did a fair day's work for you? Yes.

90. That is the sort of men you had? Yes; it was not easy to get men then.

91. Mr. Hurley.] How is it that you have not charged interest on the £77? I did not think it would

be of any use charging it.

92. Then what is the use of your charging interest on the other amount? I did not think you could charge interest on a claim. If the Committee recommend that I should be paid interest on it I should be pleased to take it. I have not asked for interest on the £500 damages, either.



9/166

1898.

(SECOND SESSION.)

LEGISLATIVE ASSEMBLY.

NEW SOUTH WALES.

20-12-9

REPORT FROM THE SELECT COMMITTEE

ON

CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE

AND

MINUTES OF EVIDENCE.

Printed under No. 18 Report from Printing Committee, 22 December, 1898.

SYDNEY: WILLIAM APPLEGATE GULLICK, GOVERNMENT PRINTER.

1898.

109-A

1896.

EXTRACTS FROM THE VOTES AND PROCEEDING OF THE LEGISLATIVE ASSEMBLY.

VOTES NO. 58. TUESDAY, 22 SEPTEMBER, 1896.

16. CLAIM OF JOHN BRENKAN AGAINST ROADS DEPARTMENT:—Mr. Pyers moved, pursuant to Notice,—
(1.) That a Select Committee be appointed to inquire into and report upon the claim of John Brennan with the Roads Department on contracts 21u and 57u, Casino district.
(2.) That such Committee consist of Mr. Young, Mr. Lyne, Mr. Hassall, Mr. Harris, Mr. Davis,

Mr. F. Clark, Mr. Watson, Mr. Kelly, and the Mover.

Debate ensued.

Question put and passed.

1898.

(SECOND SESSION.)

EXTRACTS FROM THE VOTES AND PROCEEDINGS OF THE LEGISLATIVE ASSEMBLY.

VOTES No. 24. TUESDAY, 11 OCTOBER, 1898.

7. CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT:—Mr. Pyers moved, pursuant to amended Notice,—

(1.) That a Select Committee be appointed to inquire into and report upon the claim of John Brennan against the Roads Department on contracts 21v and 57v, Casino District.

(2.) That such Committee consist of Mr. Young, Mr. Lyne, Mr. Hassall, Mr. Harris, Mr. Hurley, Mr. Watson, Mr. Carroll, Mr. J. C. L. Fitzpatrick, Mr. Anderson, and the Mover.

(3.) That the Minutes of Proceedings and Evidence of the Select Committee of Session 1896 be referred to such Committee.

Debate ensued.

Question put and passed.

VOTES No. 52. FRIDAY, 16 DECEMBER, 1898.

4. CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT:—Mr. Pyers, as Chairman, brought up the Report from, and laid upon the Table the Minutes of Proceedings of, and Evidence taken before, the Select Committee for whose consideration and report this subject was referred on 11th October, 1898.

Referred by Sessional Order to the Printing Committee.

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List of Witnesses	
Minutes of Evidence	

1898. (SECOND SESSION.)

CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

REPORT.

The Select Committee of the Legislative Assembly, appointed on 11th October, 1898, "to inquire into and report upon the claim of John Brennan against the Roads Department on Contracts 21u and 57u, Casino District," and to whom was referred on the same date, "the Minutes of Proceedings and Evidence of the Select Committee of Session 1896," have agreed to the following Report:—

Your Committee, having examined the witness named in the margin,

and considered the evidence referred, find-

1. That, with reference to Contract 21v. in 1891, the Roads Department accepted the tender of John Brennan for the construction of a bridge over a creek on the road Casino to Lismore.

2. That shortly afterwards Brennan proceeded to construct the work, and had most of his material on the ground, the old bridge partly removed, and temporary bridge constructed. The Road Superintendent then informed Brennan that he was on the wrong site, and compelled him to reinstate the old bridge and remove all his material to a site which was subsequently pointed out, and which was about a mile and a half nearer Lismore.

3. That the specification set out that the bridge was to be erected over a creek, and the surrounding scrub to be cleared away; whereas the site pointed out by the Road Superintendent to Brennan was a black gully, perfectly

free from scrub of any description.

4. That the quantities supplied in the specification were suitable for the site on which Brennan started, but inadequate in every way for the place at which the bridge was subsequently constructed; and, consequently, he was compelled to provide a quantity of fresh material.

5. That with reference to Contract 57v, on a subsequent date in the same year to the acceptance of the tender for Contract 21v, the Roads Department accepted the tender of John Brennan for the construction of approaches to

a bridge at Beantree Crossing, Casino-Mount Lindsay Road.

6. That although the contract was nearly completed, the Road Superintendent declined to pay Brennan, or any of his orders for payment to the men working on the contracts, until they sued and obtained a verdict against him, after which the claims were paid by the Road Superintendent. The men then declined to do any further work on Brennan's contracts.

7. That in consequence of the non-payment of wages and certain other liabilities arising out of these contracts, Brennan was sued by one of his workmen and a storekeeper, who obtained a ca. sa. against him, and had him arrested.

8. That Brennan claimed £201 17s. 9d., balance due for work performed, but the Department refused to acknowledge the claim, and offered him

£46 5s. 4d., which he declined to accept.

9. That Brennan has suffered imprisonment and loss in consequence of a mistake on the part of the Road Superintendent, as, had such mistake not occurred in connection with Contract 21v, he would have been able to complete Contract 57v, and thereby averted the cancelling of the contract and his subsequent arrest and imprisonment.

Your Committee consider that Brennan has a claim, and therefore recommend his case to the favourable consideration of the Government.

ROBERT PYERS,

No. 2 Committee Room,

Legislative Assembly,

16th December, 1898.

Chairman.

2

John

Brennan.

PROCEEDINGS OF THE COMMITTEE.

WEDNESDAY, 28 OCTOBER, 1896.

MEMBERS PRESENT :-

Mr. Kelly,

Mr. Lyne,

Mr. Pyers.

Mr. Pyers called to the Chair. Entry from Votes and Proceedings appointing the Committee read by the Clerk. John Brennan called in, sworn, and examined. Witness withdrew.

[Adjourned till Wednesday next, at half-past Two o'clock.]

WEDNESDAY, 4 NOVEMBER, 1896.

MEMBER PRESENT :-Mr. Harris.

In the absence of a Quorum, the meeting called for this day lapsed.

THURSDAY, 5 NOVEMBER, 1896.

MEMBERS PRESENT:

Mr. Pyers in the Chair.

Mr. Harris,

Mr. Lyne.

Percy Scarr (Principal Assistant Engineer for Roads) called in, sworn, and examined. Witness withdrew.

[Adjourned till Tuesday next, at half-past Eleven o'clock.]

TUESDAY, 10 NOVEMBER, 1896.

MEMBERS PRESENT:-

Mr. Pyers in the Chair.

Mr. Kelly. Mr. Harris,

Arthur Gracie (Roads Superintendent, Public Works Department) called in, sworn, and examined. Witness withdrew.

[Adjourned till To-morrow, at half-past Eleven o'clock.]

WEDNESDAY, 11 NOVEMBER, 1896.

MEMBERS PRESENT:-

Mr. Pyers in the Chair.

Mr. F. Clarke,

Mr. Harris,

Mr. Lyne,

Mr. Kelly.

Arthur Gracie recalled, and further examined. John Brennan recalled, and further examined. Arthur Gracie recalled, and further examined. John Brennan recalled, and further examined.

[Adjourned till To-morrow, at Eleven o'clock.]

THURSDAY, 12 NOVEMBER, 1896.

MEMBERS PRESENT :--

Mr. Pyers in the Chair.

Mr. Kelly, Arthur Gracie recalled, and further examined.

John Brennan recalled, and further examined. Re-assembling of the Committee to be arranged by the Chairman.

[Adjourned.]

1898. (SECOND SESSION.)

PROCEEDINGS OF THE COMMITTEE.

THURSDAY, 13 OCTOBER, 1898. .

MEMBER PRESENT :-

In the absence of a quorum the meeting called for this day lapsed.

THURSDAY, 20 OCTOBER, 1898.

MEMBERS PRESENT :-

Mr. Lyne,

Mr. Hurley,

Mr. Pyers.

Mr. Pyers called to the Chair.

Entry from Votes and Proceedings, appointing the Committee and referring the Minutes of Proceedings and Evidence of the Select Committee of Session 1896,—read by the Clerk.

Resolved (on motion of Mr. Hurley), That the Minutes of Proceedings and Evidence of the Select

Committee of Session 1896 be adopted by this Committee.

Ordered,—That John Brennan be summoned to give evidence next meeting. [Adjourned till Tuesday next at half-past Eleven o'clock.]

TUESDAY, 25 GCTOBER, 1898.

MEMBERS PRESENT: Mr. Pyers in the Chair.

Mr. Anderson,

Mr. J. C. L. Fitzpatrick,

Mr. Hassall,

Mr. Hurley.

Lemes Bronnan called in, sworn, and examined.

TUESDAY, 6 DECEMBER, 1898.

MEMBERS PRESENT:-

Mr. Pyers in the Chair.

Mr. J. C. L. Fitzpatrick,

Mr. Hurley.

Committee deliberated.

[Adjourned till To-morrow, at Two o'clock.]

WEDNESDAY, 7 DECEMBER, 1898.

MEMBERS PRESENT:-Mr. Pyers in the Chair.

Mr. Carroll,

Mr. Hurley.

Mr. Anderson,

Mr. Lyne.

Committee deliberated.

[Adjourned till Tuesday next, at Two o'clock]

TUESDAY, 13 DECEMBER, 1898.

MEMBERS PRESENT:-

Mr. Pyers in the Chair.

Mr. Hassall, John Brennan recalled and further examined.

Witness withdrew. Re-assembling of Committee to be arranged by the Chairman.

[Adjourned.]

FRIDAY, 16 DECEMBER, 1898.

MEMBERS PRESENT: Mr. Pyers in the Chair.

Mr. Carroll,

Mr. Hassall.

Chairman submitted Draft Report.

Same read and agreed to. Chairman to report to the House.

LIST OF WITNESSES.

PAGE.

Brennan, J. Gracie, A..... Scarr, P.

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3/146 The Select Commenter on this out of eat 1896. LEGISLATIVE ASSEMBLY. TAKEN BEFORE THE SELECT COMMITTEE

ON THE

CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

WEDNESDAY, 28 OCTOBER, 1896.

Bresent:-

MR. KELLY, MR. LYNE. ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan sworn and examined :-

1. Chairman.] What is your occupation? I am a quarryman at the present time.

2. Are you residing in Sydney at the present time? Yes.

J. Brennan. the year 1891 for Contract 21 U and Contract 57 U, in the Casino district? 28 Oct., 1896.

4. You did not finish the work, I understand? Not cractly; the Government put the works on Contract 21 U, and they cancelled Contract 57 U.

5. Will you tell the Committee, as concisely as you can, the particulars of your claim on Contract 21 U? I will. This contract was advertised in the Richmond River Express, of Casino, on 3rd April, 1891. Tenders, to close on 15th April, were invited for the erection of bridge over creek on road Casino to Lismore, near Tunstall. The time for closing tenders was extended to 23rd April, 1891. When I got notice that my tender was accepted I went to the creek near Tunstall. I could find no pegs. I met William Harley, the maintenance-man there; he did not know anything about the pegs, nor did he say it was not the place. I waited on Mr. Gracie next morning, 8th June, 1891. I requested that he would meet me on the site, by appointment, as I could find no pegs, and might put the temporary crossing in the way of the bridge. He said the bridge was going on the site of the old one, and that I could not go wrong with the crossing, and he told me to get the material delivered and he would be out there in a few days. When he came the crossing was complete, the piles, girders, and headstocks delivered, and the old bridge stripped. When he came he said this is not the place. I asked him what he was going to give me for what I had done. He said he could not send in a voucher for that, but he would allow me for it in something else, and would not keep me to time. I had to redeck the bridge and shift all material and crossing 11 miles into Lismore municipality, and the bridge was erected over a black gully, which terminated in a paddock at a distance of from 5 to 10 chains above the bridge. There were no pegs to be found on this site The tracings did not suit the place. From B.M. mark given on gum-tree only half of the bridge would cross the gully. The piles for piers and wings and sawn timber for wales and bracing were too short, also twice the quantity of sheathing necessary, while the embankment in approaches was nearly three times the quantity on the tracing. This contract was carried out contrary to plan, specification, and district. I have a letter from the departments that the approaches would be increased from 82 to 110 lineal yards (it should be from 61 to 110 lineal yards), a memo. that I would be paid for 1,660 cubic yards of earth embankment, instructions to supply 122 cubic yards of 21-inch metal and 122 cubic yards of 4-inch ballast, and 96 cubic yards of rubble; backing partly destroyed. These letters were sent in a registered letter from Broadwater on June 23rd, 1893. My plan and final voucher were left in the Works Office in Sydney by me in January. January, 1893, the Under Secretary for Works writes to me that £59 3s. 9d. was the amount of the final voucher, but that sums were afterwards paid, in pursuance of orders of the Court, which reduced it to £42 6s. 7d. In addition to this amount, £3 18s. 9d. has been 497 allowed,

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re- set 4 send me

21.10.98.

J. Brennan allowed, making it a total of £46 5s. 4d. There have not been any orders of the Court on this contract. 1 gave Gilbert Hilliard an order for £1 (four pounds), which Mr. Gracie refused to pay telling him 28 Oct., 1896. there was no money coming on the contract. He paid it afterwards. I signed a bill for theil M'Call, amounting to £28, on this contract. In May, 1892, I signed a final voucher on Beantree Bridge contract. The amount was £35. When I signed it Mr. Gracie told me that he had paid Neil M'Cail £25 of the money. That would leave £7 against the contract. By my orders, in a letter from Mr. Gracie, I find he credits M'Call with £11 to this contract. I would like the departments to explain whom this £35 on Beantree Bridge contract was paid to. I signed the voucher, but got no money. At the same time I was asked to sign a voucher on Contract 57 U-approaches to Beantree Bridge. I asked what he was going to do with the money. Mr. Gracie replied he would give it to the sureties for the work. I objected, and refused to sign it on those conditions. Two inspectors have reported on contract No. 21 U-Casino to Lismore. Mr. Hannah reported that the specifications were carelessly got up. Mr. Allman reported that, as the work was so long incomplete, he considered it desirable to keep the fines on, as the extras did not exceed £10. Mr. Gracie sent me a final voucher on this contract in March, 1892, for the sum of £29. £26 were to be paid to complete the work, leaving a balance of £3. I refused to sign it He sent for it. I sent him my bill, which he returned, saying the voucher would be paid to his credit without my signature, and I might take whatever course I pleased.

6. You tendered for the bridge, understanding that it was to be built at another place? Yes.

7. You have not got the Gazette showing where it was called for in the first instance—whether it was to be over a creek or over a gully? It was over a creek.

8. You stripped a bridge on another creek, and made a temporary bridge? Yes.

9. Mr. Gracie, the Road Superintendent, came along, and told you that it was not the right place? Yes.

10. You had to build a bridge in another place? Yes. 11. A mile and a half away from the first place? Yes.

12. Mr. Lyne Did you not go to examine the site before you tendered for the bridge? No; I had never been there but once before.

13. What did you tender on? On the specifications and plan.

14. How long were you over contract time? I could not exactly say. The contract time was very nearly up before I started in the right place. It was supposed to be done in three months.

15. Mr. Kelly.] Before you got on to the right place the contract time was nearly up? Pretty well two months of the contract time had expired.

16. Mr. Lyne.] How much do you consider that the department owes you on the contract now? £132 6s. 17. How much have they offered to pay you? £46 on that contract.

18. Mr. Kelly. Does the sum of £132 6s. refer to two contracts? No; to one.

19. Mr. Lyne. How long is it since the bridge was finished? Close on five years. There were three contracts.

20. Does the statement you read refer to one, two, or three contracts? It refers to one contract, and to a £35 final voucher on another bridge. Excepting the £35 voucher it refers to only one contract.

21. Did you complete the whole of the bridge on Contract 21U yourself? Mr. Gracie put on a few men to spread the metal on the road; that is all he did.

22. Why did he do that? He refused to send for any money for me to do it, and he moved for the cancellation of the other contract.

23. How much work do you say he did on the bridge on Contract 21U? He spread the metal on the road, at a cost of £26

24. Did you refuse to do that? No.

25. Why didn't you do it? He would not send for any money to assist me to do it.

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27. He did not cancel the contract? No.

28. You said in answer to my question that you did not spread the metal because Mr. Gracie did not send for money due on the other contract? There was another contract finished with money owing on it. 29. What I want to get at is, why didn't you finish the Contract 21U? He reckoned that it was too long incomplete.

30. Had you no money to complete it? I had plenty of money to complete the job at the time. 31. Why didn't you complete it? He reckoned that it was not being done quickly enough.

32. Chairman.] Were you working on the job all the time? I was keeping it going, but I wanted to get the other job finished first. He disputed the quantities on this job before. He returned 1,236 yards for the quantities of earthwork, and I was not satisfied; I would not accept it. He remeasured it again, and returned for 1,660 yards. Even then the quantity was not in it, but I agreed to accept it if he would pay me. He wanted to get out of paying it at the finish.

33. Mr. Lyne. I understand you to say that you did not complete this contract quickly, that you left it in abeyance, that you were not going on with it, and that Mr. Gracie took it out of your hands because you were over time, and finished it at a cost of £26 for spreading the metal? Yes.

34. You did not want to finish it, because you wished to finish the other two first? Yes.

35. Why? There was no necessity to finish this contract, because the road was clear and the traffic was going on. It was merely a matter of putting the metal on.

36. Was this bridge being used before the metal was put on? It was being used all the time; it was used for two months previously.

33. Mr. Kelly.] How many contracts have you carried out for the department? Three altogether. 38. Chairman Will you now make a statement to the Committee in respect to Contract 57 U? I will. I may state that the metal was an extra work, given by the Road Superintendent, Mr. Gracie, to me after the earthworks were finished. Contract No. 57 U, of 1891, Casino to Mount Lindsey, was let to me on 19th November, 1891. According to the conditions of this contract they agreed to pay me 80 per cent. as the work proceeded. In a permit to start work they agreed to pay 70 per cent. each month as the work proceeded. They made no payment on the contract to 23rd February, 1892, when they returned for £80 (eighty pounds). Early in December, 1891, I signed a paper for all moneys coming to me to be paid to an account in the Commercial Bank in the names of the sureties of this contract - A. Cumming and T. J. Reddecliff. They were to go security for stores, and pay it to my credit as I required it. They

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1896.

LEGISLATIVE ASSEMBLY.

NEW SOUTH WALES.

Under Mal

MINUTES OF EVIDENCE

TAKEN BEFORE

THE SELECT COMMITTEE

ON THE

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32. Chairman Were you working on the job all the time? I was keeping it going, but I wanted to get the other job finished first. He disputed the quantities on this job before. He returned 1,236 yards for the quantities of earthwork, and I was not satisfied; I would not accept it. He remeasured it again, and returned for 1,660 yards. Even then the quantity was not in it, but I agreed to accept it if he would pay me. He wanted to get out of paying it at the finish.

33. Mr. Lyne.] I understand you to say that you did not complete this contract quickly, that you left it in abeyance, that you were not going on with it, and that Mr. Gracie took it out of your bands because

you were over time, and finished it at a cost of £26 for spreading the metal? Yes.

34. You did not want to finish it, because you wished to finish the other two first? Yes.

35. Why? There was no necessity to finish this contract, because the road was clear and the traffic was going on. It was merely a matter of putting the metal on.

36. Was this bridge being used before the metal was put on? It was being used all the time; it was

used for two months previously.

33. Mr. Kelly.] How many contracts have you carried out for the department? Three altogether. 38. Chairman.] Will you now make a statement to the Committee in respect to Contract 57 U? I will. I may state that the metal was an extra work, given by the Road Superintendent, Mr. Gracie, to me after the earthworks were finished. Contract No. 57 U, of 1891, Casino to Mount Lindsey, was let to me on 19th November, 1891. According to the conditions of this contract they agreed to pay me 80 per cent. as the work proceeded. In a permit to start work they agreed to pay 70 per cent. each month as the work proceeded. They made no payment on the contract to 23rd February, 1892, when they returned for £80 (eighty pounds). Early in December, 1891, I signed a paper for all moneys coming to me to be paid to an account in the Commercial Bank in the names of the sureties of this contract - A. Cumming and T. J. Reddecliff. They were to go security for stores, and pay it to my credit as I required it. They did

Brevent:-

MR. KELLY, MR. LYNE. ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan sworn and examined :-

1. Chairman.] What is your occupation? I am a quarryman at the present time.

J. Brennan.

2. Are you residing in Sydney at the present time? Yes.

3. You were the contractor in the year 1891 for Contract 21 U and Contract 57 U, in the Casino district? 28 Oct., 1896. Yes.

4. You did not finish the work, I understand? Not exactly; the Government put the metal on Contract

21 U, and they cancelled Contract 57 U.

5. Will you tell the Committee, as concisely as you can, the particulars of your claim on Contract 21 Why I will This contract was advertised in the Richmond River Express, of Casino, on 3rd April, 1891. Tenders, to close on 15th April, were invited for the erection of bridge over creek on road Casino to Lismore, near Tunstall. The time for closing tenders was extended to 23rd April, 1891. When I got notice that my tender was accepted I went to the creek near Tunstall. I could find no pegs. I met William Harley, the maintenance-man there; he did not know anything about the pegs, nor did he say it was not the place. I waited on Mr. Gracie next morning, 8th June, 1891. I requested that he would meet me on the site, by appointment, as I could find no pegs, and might put the temporary crossing in the way of the bridge. He said the bridge was going on the site of the old one, and that I could not go wrong with the crossing, and he told me to get the material delivered and he would be out there in a few days. When he came the crossing was complete, the piles, girders, and headstocks delivered, and the old bridge stripped. When he came he said this is not the place. I asked him what he was going to give me for what I had done. He said he could not send in a voucher for that, but he would allow me for it in something else, and would not keep me to time. I had to redeck the bridge and shift all material and crossing 14 miles into Lismore municipality, and the bridge was erected over a black gully, which terminated in a paddock at a distance of from 5 to 10 chains above the bridge. There were no pegs to be found on this site The tracings did not suit the place. From B.M. mark given on gum-tree only half of the bridge would cross the gully. The piles for piers and wings and sawn timber for wales and bracing were too short, also twice the quantity of sheathing necessary, while the embankment in approaches was nearly three times the quantity on the tracing. This contract was carried out contrary to plan, specification, and district. I have a letter from the departments that the approaches would be increased from 82 to 110 lineal yards (it should be from 61 to 110 lineal yards), a memo. that I would be paid for 1,660 cubic yards of earth embankment, instructions to supply 122 cubic yards of 24-inch metal and 122 cubic yards of 4-inch ballast, and 96 cubic yards of rubble; backing partly destroyed. These letters were seut in a registered letter from Broadwater on June 23rd, 1893. My plan and final voucher were left in the Works Office in Sydney by me in January. January, 1893, the Under Secretary for Works writes to me that £59 3s. 9d. was the amount of the final voucher, but that sums were afterwards paid, in pursuance of orders of the Court, which reduced it to £42 6s. 7d. In addition to this amount, £3 18s. 9d. has been 497 allowed,

49-00 01-2

did so for a time. On 23rd February they kept £80 on this contract and £45 on the Beantree Bridge J. Brennan. contract On the 3rd of March, 1892, I was in Mr. Gracie's office, and he told me that the sureties for this contract had requested him to take it out of my hands and give it to them; that they said they 28 Oct., 1896. would have money through me. He asked me if I would sign it over to them. This I refused to do. I gave A. Cumming a note that evening demanding an explanation. Next morning I got no reply, and I went and saw Mr. Gracie, and asked him to send for some money for me to enable me to complete the work. This he refused to do, saying that I and the sureties were partners, and he had seen a letter that morning in which I had been threatening them. He said, "Anyhow, I have moved for the cancellation of your contract this morning." That was 4th March, 1892. There was £35 due on Beantree Bridge; also £39 fine that has since been remitted; also the amount of claims in these two contracts. I sent him a letter for the Secretary of Public Works that on and after that date all money coming from Government should be paid to me, and no other person or persons. I went on the work and measured up the work; gave the men an order on Mr. Gracie for their money. Some of them he refused to pay, and I had to get them orders of the Court. You will see a letter where he charges this to Contract 21 U. I was going by Cumming's place a few days after, and Cumming told me that he had a very snotty letter from Mr. Gracie. He showed me the letter; it read in reference to a request by him (Cumming) and T. J. Reddecliff. They could have this, my contract, providing they were responsible for all liabilities incurred. His bookkeeper is aware of this letter, and at present he lives in Glenmore Road, Sydney. A flood came and washed the contract away. The department offered to complete it, and then consider my claims. This I objected to, as there was plenty of money in the department belonging to me to have completed it, and have been paid for it before the flood came, on 27th of April. The department has since paid the sureties £25 on the contract, and charged the wages on it to Contract No. 21 U, which wages, I believe, they never paid.

39. Mr. Lyne.] How much do you estimate the department owes you on that contract? £69 136. 4d.

40. Did you complete that contract? No.

41. Did the department complete it for you? Not for me.

42. They charged you with it, didn't they? They refused to acknowledge owing me anything. I got nothing on it but £80 they paid to the sureties. It seems they had paid the sureties £20 on it afterwards without my consent.

43. If during the progress of the contract a flood came and washed away the bridge you were liable? The work was not a bridge, but approaches to the bridge. Mr. Gracie refused to give me money or to send

for money for me to complete the work.

44. How much was given to you on the work done when he refused to send for money? £80.

45. That is 75 per cent. of the value of the work which was done? No. This was owing to me at the time Mr. Gracie cancelled the contract.

46. On that one bridge? The approaches to a bridge; I had completed the bridge; before this there was a second contract in the same place.

5 Nov., 1896.

P. Scarr. 60. Will you read the précis to the Committee? It is as follows :--

The amount of the final voucher, £59 3s. 9d., was paid to the local officer's credit, and out of it orders of the Court,

Balance due £46 5 4

amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d.

Difficulty then arose as to final adjustment of contract. It appears that Brennan had signed an order to pay all money due to the credit of his sureties, who were finding nearly everything to carry on the work, Brennan being practically insolvent. This order he subsequently cancelled, and the sureties sued him for amount of a guarantee bond of £100 to the Bank, but they were non-suited on a point of law.

It was then decided to pay the balance £42 6s. 7d. (which had been held by local officer for about eight months pending decision of Court) to Brennan, but on payment being offered he refused to accept it on the grounds that it was less

than he was entitled to.

The matter was fully considered, and on the recommendation of Mr. Divisional-Engineer Hanna, Mr. Secretary Lyne approved 25/3/93, of an additional amount of £3 18s. 9d. (making a total of £46 5s. 4d.) being offered, without prejudice, as payment in full of all demands. Voucher for £3 18s. 9d. was passed for payment and forwarded to local officer.

The proposed settlement, however, Brennan persistently refused to agree to, and the amount of vouchers (£46 5s. 4d.)

was refunded to Treasury.

Considerable correspondence has since passed between Brennan and the department, but his applications for increased

payment for extras, and for further remission of fines have been several times refused.

As recently as January of this year an interview was held between the local officer and Brennan, with a view to a settlement, but although Mr. Gracie offered (without prejudice) to make very considerable concessions, the offer was refused, Brennan speaking of getting a Select Committee of Parliament appointed to look into the case.

It was then stated by the local officer that one of Brennan's creditors was taking steps to compel sequestration of his

estate, but nothing further has been heard of this.

Laine adhered to vis that claims be not recognised,

41. Chairman. Contract 570 is not for a bridge, but for approaches to a bridge? Yes.

48. Mr. Lyne.] How much was the whole tender for it? £276 3s. 41. There is an extra £28 12s. for culverts, on Contract 57v.

49. Where is Mr. Gracie now? He is stationed in Glen Innes.

50. Mr. Kelly.] The bridge you mentioned is the first contract you did, and it is not included in this sum? Yes.

51. Chairman.] You were paid for that? I would like the department to explain what is being done with the £35. Mr. Gracie told me that he paid McCall, a sub-contractor who worked on Contract 21u, £25 out of that sum, and he charges £11 to McCall later on.

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not pay him £25 and pay him £11 afterwards, as I only owed him £28 in all.

53. Mr. Lync.] Could you not find out from McCall whether he received the money? I wrote to him, but he did not supply the information. He may have charged more to the contract than he has a right to charge.

54. I suppose what you want is to get the department to pay you the balance of the money? Yes.

THURSDAY, 5 NOVEMBER, 1896.

Present:-

Mr. HARRIS,

MR. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Percy Scarr, sworn and examined :-

55. Chairman.] What is your position? I am Principal Assistant Engineer for Reads.
56. Do you know the particulars of Mr. Brennan's claim? I only know what I see in the papers. I have no personal knowledge of the matter. The papers are all here.

5 Nov., 1896.

57. Mr. Lyne. Mr. Brennan has stated that he had three contracts from the Department? I understand

that he had Contracts 57 v, 21 v, and 27.

58. Can you state the circumstances under which the local officer refused to pay the balance which was due on Contract 21 t? I have a statement which was drawn up for me in the office from the papers, at the time I was dealing with the case.

59. It is a précis of the case, I suppose? Yes.

Mr. Secretary Lyne approved, 12/2/94, of the previous decision owing admired to, 112, 122, 122, 123, 124, Similar action was taken with regard to a later communication from Brennan, dated 15/3/94, again urging his claims.

Mr. Pyers, M.P., now forwards a letter from Brennan, dated "Debtors' Prison, Casino Gaol," 23rd November, asking that he may be paid £40 on account, pending a final settlement of his claim.

Then there are recommendations and minutes on the papers.

61. The fines amounted to £69;—is there anything in the papers to show that the bridge was not erected

on the site which was first pointed out to Mr. Brennan? I am not aware.

62. Mr. Brennan in his evidence at our last meeting stated that the site which was first pointed out to him, and for which he tendered was abandoned, and that the bridge was moved a mile or two away, and he explained that that was one cause of the delay for which the fines were charged. There is nothing about that in any of the statements. It is a long time since I went through the papers.

63. Have you a copy of the Gazette notice calling for the tenders? It is not a Gazette notice, but a

notice in a local newspaper in these terms:

GOVERNMENT NOTICE.

TENDERS are invited up to noon on Wednesday, 23rd April, for supply and erection of bridge (2 spans) on road, Casino to Lismore, near Tunstall.

Specifications may be seen at the Court-houses, Casino and Lismore.

Tenders to be marked "Tender for Bridge," and to be addressed to the undersigned.

Time of receipt of tenders has been extended to noon on the 22nd instant.

Roads Office, Casino, 31st March, 1891.

ARTHUR GRACIE,
Resident Engineer.

64. I notice in the advertisement, in the first paragraph, that tenders are invited up to the 23rd April, and in the last paragraph it says the time of receipt of tenders has been extended to the 22nd instant, although the notice is dated the 31st March? I take it that the explanation is that the advertisement was originally written out on the 31st March for tenders to close on the 15th April, and that this is a second notice extending the time to the 23rd April, and they have, by some means or other, retained the original date. The two things conflict with each other.

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66. Chairman.] You have not a copy of the Gazette notice calling for tenders? Tenders were not called for in the Gazette.

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I do not know.

69. It appears from the papers that he was allowed four months over and above the contract time before they commenced to charge any fines;—will you read the next paper bearing on this contract? The next paper is a report from Mr. Allman to the Commissioner and the Engineer-in-Chief for Roads in these terms:—

J. Brennan Applying for Remission of Fine on Contract 21u, Casino to Lismore, and Further Re Alleged Balance Due on Contract.

Mr. Brennan makes application herein for remission of £30 fine, imposed on Contract 21 U, and reopens the apparently interminable question of balance alleged to be due for extra work on same contract.

The claim for extra work has been very fully dealt with by Mr. Hanna and the local officer, and has been disallowed

by ministerial direction, consequently no useful purpose can now be served by discussing this matter further.

With

MINUTES OF EVIDENCE TAKEN BEFORE THE SELECT COMMITTEE

P. Searr. 60. Will you read the précis to the Committee? It is as follows:-

JOHN BRENNAN'S CLAIM ON CONTRACT 91-21 U-BRIDGE OVER CREEK ON ROAD CASING TO LISMORE.

Ĭ	Amount of Contract.	£ 302 75		
	Less advances on a/c	£378 289		
	Overtime fines—23 weeks @ £3	£89		9
	Wages claims paid	£59 16		9 2
	Additional extras approved since final voucher	£42 3	6 18	
	Balance due	£46	5	4

The amount of the final voucher, £59 3s. 9d., was paid to the local officer's credit, and out of it orders of the Court,

amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d.

Difficulty then arose as to final adjustment of contract. It appears that Brennan had signed an order to pay all money due to the credit of his sureties, who were finding nearly everything to carry on the work. Brennan being practically insolvent. This order he subsequently cancelled, and the sureties sued him for amount of a guarantee bond of £100 to the Bank, but they were non-suited on a point of law.

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The matter was fully considered, and on the recommendation of Mr. Divisional-Engineer Hanna, Mr. Secretary Lyne approved 25/3/93, of an additional amount of £3 18s. 9d. (making a total of £46 5s. 4d.) being offered, without prejudice, as payment in full of all demands. Voucher for £3 18s. 9d. was passed for payment and forwarded to local officer.

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Roads Office, Casino, 31st March, 1891.

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J. BRENNAN APPLYING FOR REMISSION OF FINE ON CONTRACT 21U, CASINO TO LISMORE, AND FURTHER Re ALLEGED BALANCE DUE ON CONTRACT.

Mr. Brennan makes application herein for remission of £30 fine, imposed on Contract 21 U, and reopens the apparently interminable question of balance alleged to be due for extra work on same contract.

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51. Chairman.] You were paid for that? I would like the department to explain what is being done with the £35. Mr. Gracie told me that he paid McCall, a sub-contractor who worked on Contract 21v, £25 out of that sum, and he charges £11 to McCall later on.

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THURSDAY, 5 NOVEMBER, 1896.

Present:

MR. HARRIS,

MR. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Percy Scarr, sworn and examined :-

55. Chairman.] What is your position? I am Principal Assistant Engineer for Roads.

56. Do you know the particulars of Mr. Brennan's claim? I only know what I see in the papers. I have no personal knowledge of the matter. The papers are all here.

57. Mr. Lyne.] Mr. Brennan has stated that he had three contracts from the Department? I understand that he had Contracts 57 v, 21 v, and 27.

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59. It is a précis of the case, I suppose? Yes.

P. Scarr.

5 Nov., 1896.

ON THE CLAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT.

With regard to remission of fines. The original contract was for £302 18s.; time for completion, three months; actual overtime, twenty-seven weeks, of which only ten weeks has been charged as a fine in final voucher. It will thus be seen that the contractor has been allowed four months over and above time specified for completion. This, when the actual 5 Nov., 1896. extra work amounted to only £101 12s. 4d., is a very liberal allowance, and I cannot see how any further concession can be granted, more particularly having in view the unsatisfactory manner in which the contractor appears to have carried on his work.

P. SCATT.

70. In one paper here it says, "The contract has been delayed for the causes stated"—what are the causes stated? I do not know what they would be.

71. I do not see anything in the papers about the site? I have no recollection of anything of the kind.

It would have got into the précis had there been any alteration.

72. Chairman.] Are not tenders called for in the Gazette? Not always. At that time frequently they were only called for in local newspapers for these small bridges.

73. And there is nothing in the papers about the site? No.

74. Is there anything to show whether the bridge is to be built over a gully or over a creek? I do not see anything.

75. Mr. Lyne.] You know of no instructions to put the bridge on one site and afterwards to alter it? I have no recollection of anything of that kind occurring.

76. Chairman.] Does it say that it is a bridge over a creek, near Tunstall? It says, "On road, Casino to Lismore, near Tunstall."

77. Is there nothing about a creek or gully in the notice? No.

78. Mr. Allman inspected the work? Yes; he is acquainted with the whole case.

79. Mr. Lyne.] With reference to Contract 57 U, will you read the précis of the case? It is as follows :-

CONTRACT NO. 57 U. -ROAD, CASINO TO MOUNT LINDSAY-APPROACHES TO BRIDGE OVER BEAN-TREE CROSSING. This contract was let to John Brennan for the sum of £276 3s. 4d., the bond being signed on the 19th November, 1891.

On the 7th March, 1892, the resident engineer, (Mr. Gracie) reported by telegram that contractor was seven weeks over time, and work was not more than half completed. Contractor had just had a meeting of his creditors, and could not possibly finish as he was without means. He (Mr. Gracie) recommended cancellation of contract and transfer to sureties, who had up to date paid all charges. Supervising Engineer concurred.

Minister approved, and cancellation notice was accordingly issued, 21/3/92.

After a long report (6/4/92) had been received from Mr. Gracie, in which he recommended that contract be determined, work done paid for, and new arrangements made for the completion for reasons stated, telegrams came to hand stating that Brennan's sureties were willing to complete the work under contract, and take over all liabilities.

The papers were then sent to Mr. Norrie as to the course to be followed, and he stated that if the amount of new contract for completing the works exceeded £200 the contractors (Brennan's sureties) must enter into a bond with sureties, and as these gentlemen were willing to take over all Brennan's liabilities herein, a schedule of these liabilities should be prepared, and made part of whatever document was signed.

Acting on Mr. Statham's instructions, Mr. Gracie, 4/5/92, forwarded the following list of Brennan's liabilities under

the contract.

P. Scarr.

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57 U. Part of the work was done by Brennan, and the contract was cancelled through delays in completion, and approval given for transfer to his sureties; but as circumstances bad rendered necessary certain alterations in the proposed

6 Nov., 1896. work it was eventually decided to complete the work by day labour.

It was then decided to allow payment for all work done under contract, and the Local Officer made a report and estimate of amount to be paid with a view to the claims by workmen being settled—£37 0s. 7d. Mr. Gracie, Local Officer, in his report stated that the floods had destroyed some of the work done in approaches, and that the metal was not to specification, and estimated the value of the work to the department at £117 2s. 1d.

Brennan had been paid £80 as an advance on the contract, and the balance (£37 2s. ld.) was paid to Brennan's

sureties.

Brennan wrote to the department in January, 1893, claiming £70 5s. 5d. as being due to him on this contract (57 U) after deducting amounts, £70 for advance and £23 7s. 7d. for wages, from value of work done—£164 3s.

The rates quoted by him do not agree with those in his tender with Bond. The amount of advance is given at £70

instead of £80.

Brennan was informed (22/4/93) that a voucher was in course of payment to be paid to his sureties, the voucher being for £37 2a. ld. amount referred to above.

Brennan has written several times since asking that the matter may be settled, but as far as the papers show nothing

has been written in reply to his claim.

Perhaps the best course would be to inform Brennan that, as the contract was cancelled, he has no claim upon the Government, and also that, as a matter of grace, the department paid for the value of work so as to meet the claims of workmen.

There is a later statement still dated 14th May, 1895, as follows:-

John Brennan's Claim for Balance alleged to be due to him on Contract 91/57 U. Approaches to Bean-tree Ceossing—Road, Casino to Mount Lindsay.

Full statements of this case are with the file, 94/2,990 and 92/9,224.

The contract which was for £276 3s. 4d. was, owing to unsatisfactory progress, cancelled 12/3/92, and the work completed by day labour.

It was decided to allow payment at Local Officer's valuation, for all work done under the contract.

This Mr. Gracie estimated at £117 2s. 1d., and an advance of £80 having been already paid, the balance, £37 2s. 1d. was, on approval of Mr. Secretary Lyne, paid to Brennan's sureties to allow them to pay the workmen engaged upon the contract.

Brennan now writes through Mr. Pyers, M.P., claiming an additional amount of £77 15s. 11d., which he says is due

to him on the contract.

It appears quite evident from the papers that there is nothing due on the contract in question, and that the contract having been cancelled Brennan can have no legal claim.

80. Chairman.] To whom was the sum of £80 you mentioned paid? The statement here is that it was paid to Mr. Brennan, but it does not necessarily follow from that that it was paid to Mr. Brennan himself, it may have been paid to his sureties. It is stated that Brennan executed in December, 1891, an order to pay all moneys to Mr. Reddacliff and another. If that advance of £80 was paid subsequent to that order being signed it would be paid to the credit of those persons in the usual course.

81. Beferring to the Bean-tree bridge contract, to whom was the sum of £35 paid? There is no

statement here about the Bean-tree bridge.

1 1-200 of £40 has been placed

Edward Murray J. Jalland D. O'Neill W. Ryan J. Doherty	_	8. 4 7 10 14 4	0 6 2	
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These are all acknowledged debts	£7 30 7		7 0	
Total liabilities	£37	0	7	

He also strongly recommended that the contract be at once wound up as the sureties did not wish to complete, and it would in every way be more convenient for the department to bring "this troublesome and confused matter" to an end.

The Minister has since approved of the work being completed by day labour.

The Local Officer submitted a voucher for £37 in favour of the sureties in order to pay for useful work and material on the ground, and the Supervising Engineer recommended payment, but the Commissioner considered payment should stand over until completion of the work, as the balance for completion was £196 13s. 4d., and estimated cost of works to be done, £188. He minuted, "See also telegram," and it is on telegram that approval is given to work being done by day labour, but voucher does not appear to have been dealt with.

Brennan applied through Mr. T. T. Ewing, M.P., 10/9/92, for payment of balance due on contracts.

Voucher is now submitted for payment for £37 2s. Mr. Steel returned this to Mr. Statham, 19/9/92, with a minute to the effect that Ministerial approval is required to taking the work out of sureties' hands, and payment of the voucher for £37 2s. as termination of the contract.

From the papers it would not appear that the placing of work in sureties hands ever actually took place, though

Ministerial approval was given thereto.

It now remains to decide whether or not this voucher should be paid to the sureties at the present time or whether it be held over pending completion of work under general conditions of contract.

Mr. Statham recommends that it be paid on condition of sureties signing an agreement to discharge liability for

claims submitted.

Mr. Steel states that when he wrote minute of 19/9/92 he had not seen Minister's approval to do work by day labour, and he now thinks voucher should be held over until completion of work, when Mr. Gracie should render statement showing amount of contract, amount paid under contract, and amount paid for work done by day labour, consideration might then be given to the question of paying the surplus, if any, to the sureties.

There is a later statement in John Brennan's contracts, dated 13/4 94, as follows:-

27 U.—ERECTION OF BRIDGE OVER BEAN-TREE CROSSING, ON ROAD CASING TO MOUNT LINDSAY.

57 U.—Approaches to Bridge, Bean-tree Crossing—Road Casino to Mount Lindsay.

On 5th December, 1891, Brennan executed an order to pay all moneys to Messrs. A. Cummings and T. J. Reddacliff sureties for Contract 59 U.

Contract 27 was completed, and fine for thirteen weeks overtime, £39, was remitted, 22/5/93, and part of this amount was, under order of Court, used to pay a creditor—Robert Cressy—£28 7s. 10d., being £23 3s. 2d. amount claimed, and £5 4s. 8d. costs of Court, and the balance £10 12s. 2d., after being offered to Brennan, and, as reported by Mr. Gracie on paper attached, refused by him, was refunded to the Treasury, 22/1/94.

82. Mr. Lyne.] Do I understand from the precis of Contract 21 U that a bannice of the has refused to accept in the Treasury, that Mr. Brennan has been offered the money since, and that he has refused to accept

it? Yes; the amount is £46 5s. 4d.

83. Chairman.] As regards the statement of the amount of wages on Contract 21 U, to whom was the sum of £16 for orders of the court paid? The statement says:—"The amount of the final voucher, £59 3s. 9d., was paid to the Local Officer's credit, and out of it orders of the court amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d."

84. Mr. Lyne.] That would be orders obtained by creditors at some time—by the men? Yes.

85. Mr. Harris.] From what I can gather from these statements Mr. Brennan signed an order that his sureties were to get all money paid? Yes; the usual order. It says here:—"On 5th December, 1891, he executed an order to pay all moneys to Messrs. A. Cummings and T. J. Reddacliff, sureties for Contract 59 U." The sureties for Bridge Contract 21 U were Alfred C. Simpson and Alexander Cummings, not Reddacliff and Cummings, who were sureties for Contract 59 U.

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It could be obtained from the accounts.

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93. Chairman.] Do you mean for paying the claims? Yes. I do not see it stated here what authority. there was for paying that.

94. Was there any other money on Contract 21 U paid to the sureties of the other Contract 57? That

I could not say.

TUESDAY, 10 NOVEMBER, 1896.

Present:-

MR. HARRIS, | MR. KELLY.
ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie, Road Superintendent, sworn and examined:-

A. Gracie. 95. Chairman.] What is your occupation? I am Road Superintendent in the Public Works Department. 96. You are residing in Glen Innes at the present time? Yes.

10 Nov., 1896. 97. You were the engineer for the work on Contracts 21 U and 27 U in the Casino district at the time Brennan carried them out? I was.

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work it was eventually decided to complete the work by day labour.

It was then decided to allow payment for all work done under contract, and the Local Officer made a report and estimate of amount to be paid with a view to the claims by workmen being settled-£37 0s. 7d. Mr. Gracie, Local Officer, in his report stated that the floods had destroyed some of the work done in approaches, and that the metal was not to specification, and estimated the value of the work to the department at £117 2s. 1d.

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Perhaps the best course would be to inform Brennan that, as the contract was cancelled, he bas no claim upon the Government, and also that, as a matter of grace, the department paid for the value of work so as to meet the claims of workmen.

There is a later statement still dated 14th May, 1895, as follows:-

JOHN BRENNAN'S CLAIM FOR BALANCE ALLEGED TO BE DUE TO HIM ON CONTRACT 91/57 U. APPROACHES TO BEAN-TREE CROSSING-ROAD, CASING TO MOUNT LINDSAY.

Full statements of this case are with the file, 94/2,990 and 92/9,224.

The contract which was for £276 3s. 4d. was, owing to unsatisfactory progress, cancelled 12/3/92, and the work completed by day labour.

It was decided to allow payment at Local Officer's valuation, for all work done under the contract.

This Mr. Gracie estimated at £117 2s. 1d., and an advance of £80 having been already paid, the balance, £37 2s. 1d. was, on approval of Mr. Secretary Lyne, paid to Brennan's sureties to allow them to pay the workmen engaged upon the contract.

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statement here about the Bean-tree bridge.

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With regard to remission of fines. The original contract was for £302 18s.; time for completion, three months; - Scarr. actual overtime, twenty-seven weeks, of which only ten weeks has been charged as a fine in final voucher. It will thus be seen that the contractor has been allowed four months over and above time specified for completion. This, when the actual 5 Nov., 1896. extra work amounted to only £101 12s. 4d., is a very liberal allowance, and I cannot see how any further concession can be granted, more particularly having in view the unsatisfactory manner in which the contractor appears to have carried on bis work.

70. In one paper here it says, "The contract has been delayed for the causes stated"-what are the causes stated? I do not know what they would be.

71. I do not see anything in the papers about the site? I have no recollection of anything of the kind.

It would have got into the precis had there been any alteration.

72. Chairman.] Are not tenders called for in the Gazette? Not always. At that time frequently they were only called for in local newspapers for these small bridges.

73. And there is nothing in the papers about the site? No.

74. Is there anything to show whether the bridge is to be built over a gully or over a creek? I do not see anything.

75. Mr. Lyne.] You know of no instructions to put the bridge on one site and afterwards to alter it? I

have no recollection of anything of that kind occurring.

76. Chairman.] Does it say that it is a bridge over a creek, near Tunstall? It says, "On road, Casino to Lismore, near funstall."

77. Is there nothing about a creek or gully in the notice? No.

78. Mr. Allman inspected the work? Yes; he is acquainted with the whole case.

79. Mr. Lyne.] With reference to Contract 57 U, will you read the précis of the case? It is as follows :-

CONTRACT NO. 57 U. -ROAD, CABINO TO MOUNT LINDRAY-APPROACRES TO BRIDGE OVER BEAN-TREE CROSSING. This contract was let to John Brennan for the sum of £276 3s. 4d., the bond being signed on the 19th November, 1891.

On the 7th March, 1892, the resident engineer, (Mr. Gracie) reported by telegram that contractor was seven weeks over time, and work was not more than half completed. Contractor had just had a meeting of his creditors, and could not possibly finish as he was without means. He (Mr. Gracie) recommended cancellation of contract and transfer to sureties, who had up to date paid all charges. Supervising Engineer concurred.

Minister approved, and cancellation notice was accordingly issued, 21/3/92.

After a long report (6/4/92) had been received from Mr. Gracie, in which he recommended that contract be determined, work done paid for, and new arrangements made for the completion for reasons stated, telegrams came to hand stating that Brennan's sureties were willing to complete the work under contract, and take over all liabilities.

The papers were then sent to Mr. Norrie as to the course to be followed, and he stated that if the amount of new contract for completing the works exceeded £200 the contractors (Brennan's sureties) must enter into a bond with sureties, and as these gentlemen were willing to take over all Brennan's liabilities herein, a schedule of these liabilities should be prepared, and made part of whatever document was signed.

Acting on Mr. Statham's instructions, Mr. Gracie, 4/5/92, forwarded the following list of Brennan's liabilities under

the contract.

£ s. d. Edward Murray J. Jalland 11 7 6 83. Chairman.] As regards the statement of the amount of wages on Contract 21 U, to whom was the sum of £16 for orders of the court paid? The statement says:—"The amount of the final voucher, £59 3s. 9d., was paid to the Local Officer's credit, and out of it orders of the court amounting to £16 17s. 2d., as shown above, were paid, leaving a balance of £42 6s. 7d."

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Present:

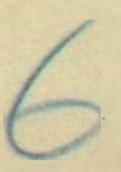
MR. HARRIS, | MR. KELLY.
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10 Nov., 1898. 97. You were the engineer for the work on Contracts 21 U and 27 U in the Casino district at the time Brennan carried them out? I was.

98.



D. O'Neill W. Ryan J. Doherty	8 2 4	10 14 4	2 10 1	
These are all orders of Court	£30	0	7	
D. McCarthy A. Murray J. Kelly M. Jamieson	1 2 2 1	10 0 8 2	0 0 0	
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	30 7	0	7 0	
Total liabilities	£37	0	7	

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The Minister has since approved of the work being completed by day labour.

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38. Brennan has stated in his evidence that he was directed in the first instance to go to the wrong site, A. Gracie. and that after he had done some work there he was shown the proper site? The site of the bridge for which tenders were called was about 3 miles from Lismore, over Black Gully. Brennan secured the 10 Nov., 1896. contract. As far as I know there were iron-spikes in the road-way denoting the site of the proper bridge which, of course, were not very visible as it was to be erected on a traffic road, it would have been dangerous to have had them very prominent above the metal-the spikes were driven into the metal. However, the site was well-known, for I afterwards inquired from several contractors who tendered for the work, and there was no doubt whatever in their minds as to the site of the bridge they tendered for. I heard nothing from Brennan. He did not come near the office to ask that the work be laid out. The first time I saw him was when I happened to be causually riding along the road on other business. I then saw him at work at a creek about 2 miles to the west of the proper site, that is on the Casino side. I asked him what he was doing. I informed him that he was at the wrong place, and he accordingly moved on to the proper site. At that time he had some girders across the creek, as the commencement of a temporary structure, and he had commenced to dismantle the existing bridge. The site he adopted as the proper one was in no way similar to the site as depicted on the plans and sections. I know of nothing which could have induced him to start to erect the bridge where he did. It seemed to be just as unaccountable as if I had told him to erect a bridge over the Hawkesbury and he had put it over the Nepean River.

99. Were tenders called in the Gazette for the work? I am almost sure they were. It used to be the

practice then as it is now to do so.

100. Mr. Kelly.] Tenders were called in the local Press as well as the Gazette? Yes. The matter was initiated by Mr. Allman of the Lismore district. Mr. Allman prepared the section of the bridge. It was in his district then, but at the time of calling for tenders it was in my district.

101. Mr. Harris.] You had a maintenance-man with you at the time you saw Brennan on the road;—do

you remember his name? I believe a man named Alcock was with me at the time.

102. You do not remember a man named William Harley? Yes.

103. Could be have pointed any pegs to Brennan? Yes; he knew the site of the bridge.

104. If Brennan had gone to Harley he could have been told the site of the bridge? Certainly. He put up the bridge at a totally dissimilar place. The section was nothing like what was shown on the plan. We have since put up a bridge at the place where he proposed to put up the bridge. It is a structure consisting of three spans instead of two. As for Brennan's bridgeit is also a very much higher bridge. 105. Chairman.] When you met Brennan at the place, did he ask you what you were going to give him for doing some work in a wrong place; -did you agree to allow him anything for stripping the bridge? Certainly not, the mistake was unaccountable to me.

106. Did he make any complaint when you drew his attention to the fact that he was at the wrong place; -did he say anything to you? No; except that there were no pegs in; there were no pegs in at the place where he commenced to put up the bridge. He might as well have put it up 5 or 10 miles this side of the site. There were no visible pegs at proper site, but Mr. Allman had driven spikes into the metal,

which was really all that could be done.

A. Gracie. 120. You did not agree to give him anything for the work he did at the bridge on the other side of Tunstall? No; because I considered that was quite unaccountable and foolish on his part.

10 Nov., 1896. 121. Did you agree not to bind him to time because he had carried out some work there? I would not have said that. I might have said that possibly he would get some consideration on account of the mistake he had made.

122. Mr. Harris.] Do you know how long he had for completing the bridge? I could not say without

looking at the specifications.

123. Do you know if he was over his time? I have not had a chance yet to look through all the papers. My memory does not serve me sufficiently well to say he was over his time. I know there was a lot of extra work.

124. How long is it since the bridge has been built? About four or five years.

125. Chairman.] Did Mr. Hanna report on the bridge? On the claims.

126. Have you ever heard that he said that these specifications were carelessly got up? No; I never heard that.

127. Mr. Kelly. In the matter of disputes with contractors as to measurements I suppose it often occurs, or sometimes occurs, after a conference with them, that you make some extra allowance for something which they have pointed out? Yes; we try to meet them in a fair way in matters of doubt or dispute? We would be willing to give and take a little; we would rather give more than less.

128. Especially as regards the measurement of an embankment? Yes; where it is absolutely impossible in some cases to get an exact measurement. In this case I was in a position to get very close to the measurement, by reason of having taken a good many cross-sections of the old embankment before the new one went over the top of it.

129. Was this work carried out well? Yes.

130. From your point of view, was it carried out satisfactorily? I do not recollect having anything to find fault with as regards the work.

131. Chairman.] The dispute is only as to the measurements and as to the site? That is all in connection

with that contract.

132. Mr. Harris.] He had more contracts than this one? He had two other contracts going on about

the same period.

133. Mr. Kelly.] Were not the payments on previous contracts mixed up with the payments on this contract in some peculiar way? I do not think there was any confusion in connection with this contract; it went on smoothly. The final payment according to my voucher was £59 odd, and then there was a claim against that which reduced it to £42.

134. That is an outside claim which you had to meet? Yes; this balance was offered to Brennan as full

payment for the work, and he refused the offer.

135. On the ground that this claim was not met? No; on the ground that it did not include his own claims as regards the site and the extras. The money was eventually sent down to the Treasury to the suspense account.

the claims which von felt called upon to pay, but he objected to

107. Of course the tenders must have been called for in the local papers? I see a copy of the advertisement among the departmental papers. I admit that the situation of the creek is not well defined on the plan or specification, except that it is near Tunstall. The creek had no name on the map, but it was locally become northed Plank Cully ages Tunstall.

known as the Black Gully, near Tunstall.

108. Chairman.] Why was the stuff in the embankment increased from 61 yards to 110 yards;—that is nearly twice the original quantity? There was a mistake in the plans at the head office. This section is not correct. I had nothing to do with the work before the tenders were called for. I had nothing to do with the preparation of the section or of the plans. I found when I took it over that the section was wrong—that the bed of the creek had been shown at the level of the existing culvert; that involved extras on everything—extra length of piles, wales, bracing, sheathing, and rubble filling. What is shown on plan as the bed of the creek is the roadway-level of the old culvert.

109. Mr. Harris.] The tenders were advertised to close on the 15th April, and the time was extended to

the 23rd April;—do you know why the time was extended for a week? I do not recollect.

110. Was it found out during this time that there was a mistake made in the plan? No; that was found out afterwards.

111. The driving of iron pegs down into the metal is the usual manner in which you mark out where a bridge is going to be built? Yes, when traffic has to use the road.

112. Chairman.] I thought it was usual to drive in wooden pegs? In macadamised roads we generally

drive in iron spikes, but in other situations we use wooden pegs.

113. Mr. Harris.] Was this contract carried out contrary to the plans, specification, and district? No; the contract was carried out according to the plans, with that exception, and that was a matter of schedule quantities, which we adjusted afterwards.

114. Mr. Kelly.] You say that Brennan has no further claim against the department? I do not know of any fair claim which he can possibly have now; I think that the department has dealt with him

liberally.

115. Chairman.] As regards the dispute about the remeasurements,—after some trouble you gave him

fresh measurements? I allowed him extra measurements on some of the items.

116. You allowed him a considerable lot more embankment than you agreed to give him at first? I am not sure whether it was not a couple of hundred yards; I cannot say exactly without looking over the papers. The measurements of the earth-work were difficult to make, and I was inclined to be liberal with him to cover any possible error; the ground was very uneven and scoured out. There was an old embankment underneath which had to be deducted. We measured the excavation as carefully as possible, and arrived, after a conference with Brenuau, at what I think was a very fair calculation of the quantities.

117. But this additional lot which you agreed to give him was only offered after he had refused to accept

what you first offered him? Yes.

118. He demurred to taking the first measurements? Yes.

119. Afterwards you agreed to give him an extended measurement? Yes; I asked him for his calculations.

accept your offer on the ground that there was not enough money coming to him? On the ground that it was not large enough; that I had allowed him nothing for shifting from the site where he first commenced to work, nor for sufficient extra work.

137. His main objection, I suppose, was, that he should have been allowed something for the error as to the site? Yes; and he claimed an extra small amount in connection with various items of the work

which we could not allow.

138. Chairman.] There was a payment of £25 to a man named Neill M'Call? I think it was £17.
139. What was the money paid to M'Call for? For work done on the approaches to the bridge.

140. Are you sure that the amount of £17 was paid to M'Call? £16 17s. 2d. was paid out of that £59 on orders of the Court. I do not see the vouchers among these papers at the moment, but I know that he was one of the creditors for wages due.

141. Did Brennan finish the contract himself? Yes.

142. Did you do anything, or did he finish it? He finished it. He afterwards improved it, but that was another matter.

143. Was it extra work you did? It had nothing to do with his contract. It was afterwards found

to be necessary to prevent a scour.

144. Mr. Harris.] You did not refuse to send for any money for Brennan? No; I was always prepared to settle up.

145. You did not put on any men to spread metal? I see now from the papers that I employed labour

to finish up the contract for him.

146. Chairman Then he did not finish the contract himself? According to our views he finished the contract, inasmuch as we did not cancel it. He still remained the contractor, although we put on men to expedite the completion of the contract, as we sometimes do in cases where the progress is too slow.

147. There was no charge made to him for that; you deducted nothing out of his contract? We

deducted the value of these men's labour from his final voucher.

148. Could you ascertain by a reference to the papers the cost of spreading that metal on the road? We deducted £26 6s. 9d. from his contract for labour employed by the department.

149. That is for spreading the metal and for other works? For spreading the metal and for breaking

some metal too

150. Why did you put these men on to spread the metal? The work was going on altogether too slowly. Brennan's finances seemed to be running out, and probably he was unable to carry out the work.

151. Had he money coming to him from the department at this time? Only the final payment, which was

not due until he finished up.

152. Mr. Kelly.] You made, I suppose, the necessary allowance for the change of the plan which necessitated a change of timbers to a certain extent? We allowed him schedule rates for extras in every case. 153. Chairman.] With regard to Contract 57v,—"Approaches to Bean Tree Bridge," he built the bridge, and that work was finished and done with before he commenced to build the approaches? Yes.

154. How was Contract 570 carried out? Very unsatisfactorily.

155. He did not finish that contract? No; we cancelled it. We paid him the value of the work done as a special concession.

A. Gracie. 120. You did not agree to give him anything for the work he did at the bridge on the other side of Tunstall? No; because I considered that was quite unaccountable and foolish on his part.

10 Nov., 1896. 121. Did you agree not to bind him to time because he had carried out some work there? I would not have said that. I might have said that possibly he would get some consideration on account of the mistake he had made.

122. Mr. Harris.] Do you know how long he had for completing the bridge? I could not say without

looking at the specifications.

123. Do you know if he was over his time? I have not had a chance yet to look through all the papers. My memory does not serve me sufficiently well to say he was over his time. I know there was a lot of extra work.

124. How long is it since the bridge has been built? About four or five years.

125. Chairman.] Did Mr. Hanna report on the bridge? On the claims.

126. Have you ever heard that he said that these specifications were carelessly got up? No; I never heard that.

127. Mr. Kelly. In the matter of disputes with contractors as to measurements I suppose it often/ occurs, or sometimes occurs, after a conference with them, that you make some extra allowance for something which they have pointed out? Yes; we try to meet them in a fair way in matters of doubt or dispute? We would be willing to give and take a little; we would rather give more than less.

128. Especially as regards the measurement of an embankment? Yes; where it is absolutely impossible in some cases to get an exact measurement. In this case I was in a position to get very close to the measurement, by reason of having taken a good many cross-sections of the old embankment before the

new one went over the top of it.

129. Was this work carried out well? Yes.

130. From your point of view, was it carried out satisfactorily? I do not recollect having anything to find fault with as regards the work.

131. Chairman.] The dispute is only as to the measurements and as to the site? That is all in connection

with that contract.

132. Mr. Harris.] He had more contracts than this one? He had two other contracts going on about

the same period.

133. Mr. Kelly.] Were not the payments on previous contracts mixed up with the payments on this contract in some peculiar way? I do not think there was any confusion in connection with this contract; it went on smoothly. The final payment according to my voucher was £59 odd, and then there was a claim against that which reduced it to £42.

134. That is an outside claim which you had to meet? Yes; this balance was offered to Brennan as full

payment for the work, and he refused the offer.

135. On the ground that this claim was not met? No; on the ground that it did not include his own claims as regards the site and the extras. The money was eventually sent down to the Treasury to the suspense account.

98. Brennan has stated in his evidence that he was directed in the first instance to go to the wrong site, A. Gracie. and that after he had done some work there he was shown the proper site? The site of the bridge for which tenders were called was about 3 miles from Lismore, over Black Gully. Brennan secured the 10 Nov., 1896. contract. As far as I know there were iron-spikes in the road-way denoting the site of the proper bridge which, of course, were not very visible as it was to be erected on a traffic road, it would have been dangerous to have had them very prominent above the metal—the spikes were driven into the metal. However, the site was well-known, for I afterwards inquired from several contractors who tendered for the work, and there was no doubt whatever in their minds as to the site of the bridge they tendered for. I heard nothing from Brennan. He did not come near the office to ask that the work be laid out. The first time I saw him was when I happened to be causually riding along the road on other business. I then saw him at work at a creek about 2 miles to the west of the proper site, that is on the Casino side. I asked him what he was doing. I informed him that he was at the wrong place, and he accordingly moved on to the proper site. At that time he had some girders across the creek, as the commencement of a temporary structure, and he had commenced to dismantle the existing bridge. The site he adopted as the proper one was in no way similar to the site as depicted on the plans and sections. I know of nothing which could have induced him to start to erect the bridge where he did. It seemed to be just as unaccountable as if I had told him to erect a bridge over the Hawkesbury and he had put it over the Nepean River.

99. Were tenders called in the Gazette for the work? I am almost sure they were. It used to be the

practice then as it is now to do so.

100). Mr. Kelly.] Tenders were called in the local Press as well as the Gazette? Yes. The matter was initiated by Mr. Allman of the Lismore district. Mr. Allman prepared the section of the bridge. It was in his district then, but at the time of calling for tenders it was in my district.

101. Mr. Harris. You had a maintenance-man with you at the time you saw Brennan on the road ;---do

you remember his name? I believe a man named Alcock was with me at the time.

102. You do not remember a man named William Harley? Yes.

103. Could be have pointed any pegs to Brennan? Yes; he knew the site of the bridge.

104. If Brennan had gone to Harley he could have been told the site of the bridge? Certainly. He put up the bridge at a totally dissimilar place. The section was nothing like what was shown on the plan. We have since put up a bridge at the place where he proposed to put up the bridge. It is a structure consisting of three spans instead of two. As for Brennan's bridgeit is also a very much higher bridge. 105. Chairman.] When you met Brennan at the place, did he ask you what you were going to give him for doing some work in a wrong place;—did you agree to allow him anything for stripping the bridge? Certainly not, the mistake was unaccountable to me.

106. Did he make any complaint when you drew his attention to the fact that he was at the wrong place; —did he say anything to you? No; except that there were no pegs in; there were no pegs in at the place where he commenced to put up the bridge. He might as well have put it up 5 or 10 miles this side of the site. There were ——initial pegs at proper site, but Mr. Allman had driven spikes into the metal,

accept your offer on the ground that there was not enough money coming to him? On the ground that it was not large enough; that I had allowed him nothing for shifting from the site where he first commenced to work, nor for sufficient extra work.

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154. How was Contract 570 carried out? Very unsatisfactorily.

155. He did not finish that contract? No; we cancelled it. We paid him the value of the work done as a special concession.

which was really all that could be done.

107. ()f course the tenders must have been called for in the local papers? I see a copy of the advertisement among the departmental papers. I admit that the situation of the creek is not well defined on the plan or specification, except that it is near Tunstall. The creek had no name on the map, but it was locally known as the Black Gully, near Tunstall.

108. Chairman.] Why was the stuff in the embankment increased from 61 yards to 110 yards;—that is nearly twice the original quantity? There was a mistake in the plans at the head office. This section is not correct. I had nothing to do with the work before the tenders were called for. I had nothing to do with the preparation of the section or of the plans. I found when I took it over that the section was wrong—that the bed of the creek had been shown at the level of the existing culvert; that involved extras on everything—extra length of piles, wakes, bracing, sheathing, and rubble filling. What is shown on plan as the bed of the creek is the roadway-level of the old culvert.

109. Mr. Harris.] The tenders were advertised to close on the 15th April, and the time was extended to

the 23rd April;—do you know why the time was extended for a week? I do not recollect.

110. Was it found out during this time that there was a mistake made in the plan? No; that was found out afterwards.

111. The driving of iron pegs down into the metal is the usual manner in which you mark out where a bridge is going to be built? Yes, when traffic has to use the road.

112. Chairman. I thought it was usual to drive in wooden pegs? In macadamised roads we generally

drive in iron spikes, but in other situations we use wooden pegs.

113. Mr. Harris.] Was this contract carried out contrary to the plans, specification, and district? No; the contract was carried out according to the plans, with that exception, and that was a matter of schedule quantities, which we adjusted afterwards.

114. Mr. Kelly.] You say that Brennan has no further claim against the department? I do not know of any fair claim which he can possibly have now; I think that the department has dealt with him

liberally.

115. Chairman.] As regards the dispute about the remeasurements,—after some trouble you gave him

fresh measurements? I allowed him extra measurements on some of the items.

116. You allowed him a considerable lot more embankment than you agreed to give him at first? I am not sure whether it was not a couple of hundred yards; I cannot say exactly without looking over the papers. The measurements of the earth-work were difficult to make, and I was inclined to be liberal with him to cover any possible error; the ground was very uneven and scoured out. There was an old embankment underneath which had to be deducted. We measured the excavation as carefully as possible, and arrived, after a conference with Brennan, at what I think was a very fair calculation of the quantities.

1.7. But this additional lot which you agreed to give him was only offered after he had refused to accept

what you first offered him? Yes.

118. He demurred to taking the first measurements? Yes.

119. Afterwards you agreed to give him an extended measurement? Yes; I asked him for his calculations.

156. Was that work carried out by the sureties, or by the department? By the department.

157. What was the reason for cancelling the contract? Its slow progress. To the best of my recollec
10 Nov., 1896.

tion he had pretty well abandoned the work.

158. Were the approaches ever washed away by a flood while he was carrying out the contract? No; not to any great extent. He had not sufficient work done to make any washing away a serious matter. Of course, the river used to rise very often there. We valued the work he had completed at £117. The amount of the contract was £276 3s. 4d.

159. Was the work carried out at his expense, and was the cost of finishing the work charged to his

contract? No; the contract was transferred to his sureties and then cancelled.

160. It was afterwards carried out by the department? Yes; we finished it. We determined the value of Brennan's work at £117. He had an advance of £80, the balance of £37 2s. 1d. was paid to his

sureties, to whom the contract had been transferred.

161. Mr. Kelly.] Brennan states in his evidence that there was some great delay in paying him on account of this contract, that the agreement was that he should be paid 70 per cent. per month as the work proceeded, but that as a matter of fact nothing was paid till the 23rd February? We usually pay them when they have sufficient work done to make it worth while to give them an advance—about once a month is stated in the conditions.

162. You have no agreement that you will pay them about once a month? About once a month, as the

work proceeds.

163. In this case, I suppose, you did pay when there was enough work done to pay on? Yes; we gave him an advance of £80.

164. Chairman.] He had money coming to him, then, when you cancelled that contract? I do not think,

after the fines were deducted, he would have had anything coming to him.

165. How is it that money was paid to his sureties afterwards? The contract was transferred to them. 166. What were they paid money for—did they do any work on the contract after Brennan left? No.

167. If you paid the sureties £37 2s. 1d. he must have had that money coming to him when he left? We always have to deduct the fines due at the time the advances are being made out. Then there is the percentage reduction.

168. Was he fined on this contract? There was no fine deducted. He was treated liberally. He was given the value of his work done, which was a concession. When a contract is cancelled the whole of

the money, as a rule, is lost.

169. Mr. Kelly.] In your opinion, Brennan has no cause for complaint—you paid him in full on this contract? We paid him in full for the value of his work done at the time on the basis of his schedule rates where he had any completed work, and on the basis of a fair valuation for uncompleted work—that is, for work half finished, and so on.

170. Mr. Harris.] Was he allowed for the material on the ground? He was allowed for all material on

the ground. What is he claiming?

A. Gracie. 185. What is the quantity according to the specification? I made the total 1,515 yards of earth-work,

and we allowed him 122 vards more an revision of the matter to attempt a settlement.

11 Nov., 1896. 186. What was the total quantity in the approaches according to the tracings on the plan? 685 cubic yards. We did allow Brennan between 1,600 and 1,700 cubic yards. I put 122 yards more on to attempt a settlement with him afterwards, so that it makes a total of 1,637 chbic vards, which we offered to pay him, less the original amount of earth-work, leaving an extra of 952 cubic yards under the heading of earth-work. 187. What was the total quantity of the earth-work metal and ballast according to the tracings? 685 cubic yards.

188. Is that of earth or metal? Of earth.

189. What was the quantity of metal specified in the original specification? 921 cubic yards.

190. What was the quantity of 4-inch ballast specified? 134.8 cubic yards.

191. What was the full length of the approaches according to the tracing? 182 feet. 192. Is not the quantity of metal specified 1 yards to the lineal yard of road? Yes.

193. What is the quantity of 4-inch ballast specified per lineal yard of road? 11 cubic yards. Those duantities were afterwards altered by me.

194. Would that be 60% yards in length according to the tracing? 60% lineal yords.

195. What would the total quantity of ballast be, according to that measurement? A total of 91 cubic yards.

196. How was it that no pegs could be found in the gully near Liamore municipality? Because they were not visible, No one could have found the pegs except he knew where to look for them. Brennau certainly could not find them.

197. How was it that Mr. Smallwood could not find them? He was not there when they were put in.

It is a matter of extreme difficulty to find them.

198. Were there gum-trees at each site at the time? There were gum-trees all over that locality. There were no gum-trees at the proper site except a few scattered ones. It was a rather thick brush gully where he started to put up the bridge, but at the other site there were clear banks.

199. How was it that the bridge would not be over the gully according to the tracings on B.M. mark on gum-trees; -it specifies on plan from B.M. mark on gum-trees? We put B.M.'s all over the country.

That simply means bench mark. It is a standard point in levelling.

200. How was it that Mr. Smallwood found out this to be the site of the pier? I was not aware that he found anything of the sort.

201. There is his mark there? No; that is the abutment of the old bridge which extended from

289 ft. 6 in. on section to 327 feet on section.

202. You say that there were no gum-trees on the proper site? I could not be sure. It was a black-soil plain; the other was not. There is no country about there quito untimbered; there may have been a few scattered gum-trees on the plain.

and Title :- Alexander marked "Datum neg 40 feet helow B M mark on gum tree, south side" if this is

171. Chairman.] He is claiming £69 13s. 4d. on this contract. You say that the work was never washed away during the time he was carrying it out? Perhaps some damage was done, because the river used often to rise. He was taking a good while over the contract, and probably on account of the delay the work was damaged to some extent. It would be damaged every fresh, even after it was finished.

172. Mr. Kelly.] What is the usual practice in such cases—do you allow the contractor to take full

risk? Yes.

173. So that even if the work were ever so much damaged, you claim that you are not responsible for it?

He would not get a penny more.

174. Chairman.] Did Brennan apply to you for money on this contract, and did you refuse to pay? I have no recollection of it. He used to have his dealings with his sureties, who were supposed to supply him with money, and it would probably be his sureties who would come to see me. I have no recollection of any disagreement with him on that score. I could not say how he makes up the claim of £69.

WEDNESDAY, 11 NOVEMBER, 1896.

Present:-

Mr. F. CLARKE,

Mr. HARRIS,

MR. KELLY.

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled and further examined :-

of the bridge over the creek near Tunstall? I have no recollection of Brennan having come into my office on the business of wishing to know where the site of the bridge was, or of requesting me to go out in Nov., 1896. and point out the site for him: in fact, I am sure he did not come.

176. Did you go over the crossing he erected on the day you saw him or on the site near Tunstall? No;

I was on horseback. I do not think it was in a state to allow one to cross over on horseback.

177. In what way did you get over? I went over the old bridge.

178. Was there any particular business on at Lismore on that day? I could not say.

179. Do you remember any law cases being on that day? No; I recollect no law case in which I was interested.

180. Was this contract for a bridge over creek on road Casino to Lismore advertised? It was.

181. What quantities of earth-work did you agree to pay for ou this contract? Between 1,600 and 1,700 cubic yards.

182. What quantity of ballast did you agree to pay for? Metal, 120.88 cubic yards; ballast, 134.80

cubic yards.

183. Why did you refuse to pay for them in the final voucher? I did not refuse. Here is the final voucher, certified by me. The department never refused to pay Brennan for these items.

184. Why did you refuse to pay for 1,660 yards of earth-work? We have got down here 830 cubic yards as an extra on his contract. There is a certain quantity to be done by him under the specification.

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the proper site? There may have been a gum-tree there. I am not prepared to swear that there was not one gum tree there to put the bench-mark on. In fact there must have been one close by as it so stated on the plan.

204. You have said that there was not any gum-trees there? No; it is hard to find a place about the

Richmond where you could not find a tree to put a bench-mark on.

205. How was it that the plan did not in any way correspond with the present construction? It was a mistake of the office.

206. What quantities in the embankment did you write to Neill M'Call? I have no record of them,

except in the Casino office, perhaps. I am away from that office now; I left that district.

207. Did Mr. Hilliard, who was the foreman on the job, let you know when the metal was all broken on this contract? I did not wish to know; I had men breaking it myself, and guaranteed them the payment. Mr. Brennan did not finish the metalling; I had it finished. I would not naturally want to be informed by him. I would inform him if he had been finishing the work himself.

208. Hilliard was the foreman on the work? I finished the metalling myself; it was measured as soon

as it was broken.

209. Did you instruct Hilliard and the other men to put the metal on? I suppose so. We were carrying on the work ourselves pretty well, guaranteeing them the payment for everything they did.

210. Why did you refuse to pay Hilliard and M'Call when Brennan gave them an order for the money?

We never pay such orders.

211. Referring to the final voucher on Contract 27 U Bean-tree Bridge,—whom did you pay that £35 to;—did you pay the £35 which was owing on Contract 27 U on Contract 21 U? Brennan has accepted the final payment and signed a certificate. There is no further money due to him on that contract.

212. Brennan says he never got the money; did you tell him that you paid M'Call £25 out of that sum? No; I paid a lot of other men. The final payment on the bridge, Bean-tree crossing, was paid to the credit of Messrs. Cummings and Reddacliff, his sureties. Brennan gave them an order to receive all the moneys.

213. Did be give them an order to receive all the moneys on that contract? Yes.

214. When did he apply for permission to give that order? He applied for no permission; he just signed one of the usual forms at the office which were in existence at that time. They also received all the

previous payments on the contract.

215. Does not No. 11 of the General Conditions say:—"The contractor shall not sub-let any portion of any work, or assign any of the moneys payable or to become payable under this contract without the written consent of the Engineer-in-Chief, and no such document without such consent shall have any effect, or be in any way recognized"? Yes; it was done with the Engineer-in-Chief's permission. We recognised it, and acted on the order.

216. When did Brennan apply for his permission? There was an order in the office signed by Brennan

to pay Cummings and Reddacliff.

217. Will you be good enough to produce the application to assign that money? I am afraid it is with the Account Branch, but if necessary it can be produced.

218. What was the amount of M'Call's order on Contract 210 given by Brennan? I paid £16 17s. 2d.,

and M'Call's was in that amount.

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203. Why is the plan marked "Datum peg 40 feet below B.M. mark on gum tree, south side" if this is the proper site? There may have been a gum-tree there. I am not prepared to swear that there was not one gum tree there to put the bench-mark on. In fact there must have been one close by as it so stated on the plan.

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158. Were the approaches ever washed away by a flood while he was carrying out the contract? No; not to any great extent. He had not sufficient work done to make any washing away a serious matter. Of course, the river used to rise very often there. We valued the work he had completed at £117. The amount of the contract was £276 3s. 4d.

159. Was the work carried out at his expense, and was the cost of finishing the work charged to his

contract? No; the contract was transferred to his sureties and then cancelled.

160. It was afterwards carried out by the department? Yes; we finished it. We determined the value of Brennan's work at £117. He had an advance of £80, the balance of £37 2s. 1d. was paid to his

sureties, to whom the contract had been transferred.

161. Mr. Kelly.] Brennan states in his evidence that there was some great delay in paying him on account of this contract, that the agreement was that he should be paid 70 per cent. per month as the work proceeded, but that as a matter of fact nothing was paid till the 23rd February? We usually pay them when they have sufficient work done to make it worth while to give them an advance—about once a month is stated in the conditions.

162. You have no agreement that you will pay them about once a month? About once a month, as the

work proceeds.

163. In this case, I suppose, you did pay when there was enough work done to pay on? Yes; we gave him an advance of £80.

164. Chairman.] He had money coming to him, then, when you cancelled that contract? I do not think, after the fines were deducted, be would have had anything coming to him.

165. How is it that money was paid to his sureties afterwards? The contract was transferred to them.

166. What were they paid money for-did they do any work on the contract after Brennan left? No. 167. If you paid the sureties £37 2s. 1d. he must have had that money coming to him when he left? We always have to deduct the fines due at the time the advances are being made out. Then there is the percentage reduction.

168. Was he fined on this contract? There was no fine deducted. He was treated liberally. He was given the value of his work done, which was a concession. When a contract is cancelled the whole of

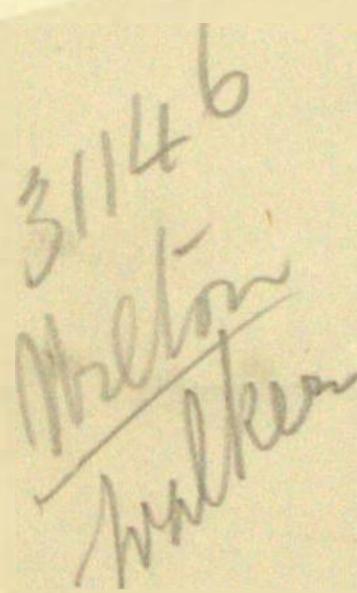
the money, as a rule, is lost.

169. Mr. Kelly.] In your opinion, Brennan has no cause for complaint-you paid him in full on this contract? We paid him in full for the value of his work done at the time on the basis of his schedule rates where he had any completed work, and on the basis of a fair valuation for uncompleted work—that is, for work half finished, and so on.

170. Mr. Harris.] Was he allowed for the material on the ground? He was allowed for all material on

the ground. What is be claiming?

171. Chairman.] He is claiming £69 13s. 4d. on this contract. You say that the work was never washed away during the time he was carrying it out? Perhaps some damage was done, because the river used



204. You have said that there was not any gum-trees there? No; it is hard to find a place about the Richmond where you could not find a tree to put a bench-mark on.

205. How was it that the plan did not in any way correspond with the present construction? It was a

mistake of the office.

206. What quantities in the embankment did you write to Neill M'Call? I have no record of them,

except in the Casino office, perhaps. I am away from that office now; I left that district.

207. Did Mr. Hilliard, who was the foreman on the job, let you know when the metal was all broken on this contract? I did not wish to know; I had men breaking it myself, and guaranteed them the payment. Mr. Brennan did not finish the metalling; I had it finished. I would not naturally want to be informed by him. I would inform him if he had been finishing the work himself.

208. Hilliard was the foreman on the work? I finished the metalling myself; it was measured as soon

as it was broken.

209. Did you instruct Hilliard and the other men to put the metal on? I suppose so. We were carrying on the work ourselves pretty well, guaranteeing them the payment for everything they did.

210. Why did you refuse to pay Hilliard and M'Call when tennan gave them an order for the money?

We never pay such orders.

211. Referring to the final voucher on Contract 27 U Bean-tree Bridge,—whom did you pay that £35 to;—did you pay the £35 which was owing on Contract 27 U on Contract 21 U? Brennan has accepted the final payment and signed a certificate. There is no further money due to him on that contract.

212. Brennan says he never got the money; did you tell him that you paid M'Call £25 out of that sum? No; I paid a lot of other men. The final payment on the bridge, Bean-tree crossing, was paid to the credit of Messrs. Cummings and Reddacliff, his sureties. Brennau gave them an order to receive all the moneys.

213. Did he give them an order to receive all the moneys on that contract? Yes.

214. When did he apply for permission to give that order? He applied for no permission; he just signed one of the usual forms at the office which were in existence at that time. They also received all the

previous payments on the contract.

215. Does not No. 11 of the General Conditions say:—"The contractor shall not sub-let any portion of any work, or assign any of the moneys payable or to become payable under this contract without the written consent of the Engineer-in-Chief, and no such document without such consent shall have any effect, or be in any way recognized"? Yes; it was done with the Engineer-in-Chief's permission. We recognised it, and acted on the order.

216. When did Brennan apply for his permission? There was an order in the office signed by Brennan

to pay Cummings and Reddacliff.

217. Will you be good enough to produce the application to assign that money? I am afraid it is with the Account Branch, but if necessary it can be produced.

218. What was the amount of M'Call's order on Contract 21v given by Brennan? I paid £16 17s. 2d.,

and M'Call's was in that amount.

219.

work was damaged to some extent. It would be damaged every fresh, even after it was finished.

172. Mr. Kelly.] What is the usual practice in such cases—do you allow the contractor to take full risk? Yes.

173. So that even if the work were ever so much damaged, you claim that you are not responsible for it? He would not get a penny more.

174. Chairman.] Did Brennan apply to you for money on this contract, and did you refuse to pay? I have no recollection of it. He used to have his dealings with his sureties, who were supposed to supply him with money, and it would probably be his sureties who would come to see me. I have no recollection of any disagreement with him on that score. I could not say how he makes up the claim of £69.

WEDNESDAY, 11 NOVEMBER, 1896.

Present:-

ME. F. CLARKE, MR. HARRIS, MR. HARRIS,

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled and further examined :-

of the bridge over the creek near Tunstall? I have no recollection of Brennan having come into my office on the business of wishing to know where the site of the bridge was, or of requesting me to go out 11 Nov., 1896. and point out the site for him: in fact, I am sure he did not come.

176. Did you go over the crossing he erected on the day you saw him or on the site near Tunstall? No;

I was on horseback. I do not think it was in a state to allow one to cross over on horseback.

177. In what way did you get over? I went over the old bridge.

178. Was there any particular business on at Lismore on that day? I could not say.

179. Do you remember any law cases being on that day? No; I recollect no law case in which I was interested.

180. Was this contract for a bridge over creek on road Casino to Lismore advertised? It was.

181. What quantities of earth-work did you agree to pay for on this contract? Between 1,600 and 1,700 cubic yards.

182. What quantity of ballast did you agree to pay for? Metal, 120.88 cubic yards; ballast, 134.80

cubic yards.

183. Why did you refuse to pay for them in the final voucher? I did not refuse. Here is the final voucher, certified by me. The department never refused to pay Brennan for these items.

184. Why did you refuse to pay for 1,660 yards of earth-work? We have got down here 830 cubic yards as an extra on his contract. There is a certain quantity to be done by him under the specification.

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ON THE CHAIM OF JOHN BRENNAN AGAINST ROADS DEPARTMENT. A. Gracie. 219. What did you do with the balance? The balance was offered to Brennan, and refused, as the papers will show. The balance was £42 6s. 7d., and we increased it a little on the final offer. 11 Nov., 1896. 220. You say you paid £35, owing on the Bean Tree Bridge, to the sureties for Contract 570? Brennan cancelled that order, and the money was paid. I am not quite sure whether it was paid to his sureties or to himself. It was paid to one or the other. 221. Will you state the amount of the order which Brennan gave M'Call on Contract 21v? I do not recollect. It was paid whatever it was. 222. Was it not £28 odd? M'Call was satisfied whatever it was. I could not say what it was. 223. You cannot find from these papers the amount which was paid? No. His claim was satisfied. It was a legal claim. 224. Why did you state that this sum of £16 17s. 2d., paid to M'Call and Hilliard, was paid on orders of the Court on Contract 21v, i.e., to Hilliard £4 odd, and to M'Call £11 odd? It is stated in the papers that they were orders of the Court amounting to £16 17s. 2d. 225. Orders of what Court? It says so here. At any rate, they were claims, whether they were orders of the Court or wages. 226. Was it to blacken Brennan with the department that you stated they were orders of the Court? Certainly not. It would not blacken anyone. 227. Can you prove that they were orders of the Court? It was not done to blacken Brennan at all. Sometimes it is not considered sufficient for a contractor to acknowledge that he owes a man money. A

contractor and a man. 228. What was your object in stating that they were orders of the Court on the contract? It must have been because they were orders of the Court. Some workmen sued Brennan.

man sometimes has to sue, and he can get an order of the Court. There may be collusion between the

229. Not on that contract? The men worked on that contract.

230. What your the idea in making the statement? It was my duty. Nearly every month I am reporting that labourers have procured orders of the Court, for instance; I sent one down three or four days ago.

231. Is it your duty to report that the labourer has received an order of the Court when the contractor has given him an order without going to the Court? We report that we have received a claim from a labourer in connection with a certain contract, and send out notice to the contractor and to the labourer to prove his claim in the proper Court within a certain time.

232. Have these claims been proved in a Court, or taken to a Court of any kind? Here is the final

voucher. There have been wages claims.

233. Will you admit, to save time, that it was a contractor's order, and not an order of the Court? Yes; it was an acknowledged debt of the contractor's. Sometimes we pay it to save trouble. Sometimes we make the labourer go to the Court and prove it. In this case, to save time in looking up the papers, I will say it was an acknowledged debt.

234. Why did you state that you offered Brennan £12 in the final voucher on Contract 21 U? Because I was quite sure that we did. We offered him more than that amount; we offered him £46 eventually.

235. Will you swear that you ever offered Brennan £42? Certainly we did.

230. Was it not £30 13s. 8d.? No; here is the final voucher I sent in-£59 3s. 9d., less claims paid on account £42.

A. Gracie. 247. Did you tell them that there was no money on the contracts? I could not have told them that.

248. Did you send Brennan a final voucher on Contract 21v for a sum of £29? I do not recollect sending 11 Nov., 1896. him any such voucher.

249. Do you recollect sending your groom, Frank Walsh, for the voucher I spoke about? I cannot say

that I recollect whether I did or not, as I have sent so many vouchers.

250. Did you give an extra on Contract 57v, Approaches to Bean-tree Bridge? The contract was cancelled. As a matter of fact, there was no extra allowed him on the contract. I did let him an extra, which was not carried out.

251. Did you state that the floods washed away the approaches, and you estimated the value of the

remaining work to the department at £117 2s. 1d.? That is correct.

252. Would the 131 chains of filling and cutting at £2 10s. per chain, which was washed away, be worth £63 15s.? It would be worth nothing if it was washed away.

253. Would it cost that amount to do the work? Brennan seems to have been getting a price varying from 37s. to 58s. a chain.

254. You would not give 57s. or 58s. a chain for forming a road 20 feet wide where there was only forming to do? We give five times as much for a heavy side-cutting.

255. What was the actual value of the cutting and filling when it was done-before it was washed away?

£2 10s. a lineal yard.

256. It does not say per yard—it says per chain? I estimated it at per chain afterwards.

257. It is per chain in the specifications? Had Brennan finished it, I would have adopted the same thing. I estimated it by the chain in its unfinished condition. He tendered by the lineal yard.

258. That would be about £9 a chain? No-£3 2s. 4d. a chain.

259. That would make it about £5 less. That would be £175 for 13\frac{1}{2} chains? I think it was 21\frac{1}{2} chains. 260. The portion which was completed was 131 chains; the cutting and filling were all done, and there were 5 chains of forming to do at the time? What Brennan would call finished and what I would call finished would vary a little.

261. Did you not leave out the culvert portion of the contract in your estimation? Yes.

262. When did you make the first payment on this contract? I have only the final voucher here.

263. Was it not on the 23rd February? I could not say, as the voucher is in the Account Branch. I have been away from my papers in the Casino office for some years, and therefore I cannot say.

264. Did you make it within the contract time? Whatever date we made it, it is certainly within the

265. When did you first inspect this work? That I am unable to say. My measurement books and everything are up at the Casino office. They have not been produced at the inquiry.

266. Did you measure the distance from the centre pegs to the water-tables in cuttings and approaches, and instruct the removal of the heaps? For his own convenience, I allowed him to remove some. They

267. If the cutting was not wide enough I suppose you would not have removed them? Oh, yes; they are left principally to verify the depth.

268. They were supposed to be there until the cutting was measured? Supposed to be, or until I ordered

237. What was the amount you offered to deduct out of that final voucher? £16 17s. 2d., wages claimed, leaving a balance of £42 6s. 7d. offered to him and refused, and eventually forwarded to Suspense Account the Treasury.

238 On what date? I could not eay. Brennan would call at office, or I would write to him and inform

that the money was there for him.

239. On what date did you offer him this amount of £42 6s. 7d.? I could not say; but here are his letters refusing the offer. The letter in which the offer was made would be in the Casino office.

240. Is this the final voucher on Contract 21 U:-

Memo. to Mr. John Brennan, Broadwater Post Office.

Department of Public Works, Roads and Bridges and Sewerage Branch, Casino, 14 December, 1892.

The final payment on your contract for bridge and approaches on the Lismore Road amounted to £59 3s. 9d. From this the following sums have been paid in accordance with the orders given by you—

Neil McCall John Pattison M. Jameson G. Hilliard	0 5 3 1 2 0	Wm. Ryan Denis McCarthy John Doherty	1 10 0
E. Murray			£28 10 1

The balance, £30 l3s. 8d., will be paid to you on your informing me of your address, and on your returning this paper endorsed on the back that the statement is satisfactory, and is accepted by you in full of any demands you have.

ARTHUR GRACIE,

Resident Engineer.

? No; the first voucher was sent in at this time.

241. That states that it is the final voucher? Yes; but it had not been finally adjusted. We wanted to know what he would take before the final voucher was prepared. Brennan objected to some of these men getting paid, and we did not pay them apparently, so that he actually got more than this amount. At any rate, when the final voucher went back it was for £59 3s. 9d., out of which claims amounted to £16 17s. 2d. 242. Did you put a man on to break metal on Contract 21v? Yes.

243. In what direction were you going when you put him on? I could not say in what direction I was going when I engaged the man. There were some other men working there. I guaranteed their wages

to them. That would otherwise have ceased work.

214. Was this man working there when you came back the same day? I could not say.

245. Why did you ask Alfred Clark Simpson, of Casino, to put Brennan through the Court in order to save the department further trouble? I did not ask him to put Brennan through the Court. I may have made the remark on Mr. Simpson's statement, that there was to be a meeting of Brennan's creditors, to the effect that trouble would be saved.

246. Why did you refuse to pay Hilliard and M'Call when they first got an order from Breman? Perhaps we had not the money, or perhaps we may have been waiting to see what other claims would come in, so that we could pay pro rata.



their removal.

269. Were you satisfied that the width was sufficient when you ordered their removal? No; it never

came to my being satisfied. I am never satisfied until I pass the work.

270. According to the conditions, you are not supposed to instruct the removal of the heaps until you are satisfied? I can do many things. It was done for his own convenience, so that he might work his carts and horses better. The conditions state that the heaps are to be left there until their removal is instructed by me.

271. Did you instruct their removal? Yes, in some cases.

272. Why did you refuse to pay his orders to the men on Contract 57 v? We never refused to pay any just claims.

273. Did you not refuse to pay Edward Murray, J. Jalland, D. O'Neill, W. Ryan, and J. Doherty? No;

I reported that these men had claims against the contractor.

274. Did not these men have to sue Brennan before their claims would be recognised, making extra expense on the contract? In some cases, as I pointed out, we do force the men to sue in the Courts, so as to get them to go into the box and swear that the amount is due, otherwise there might be collusion on the part of the contractor and the men to defraud others.

275. Why did you charge the wages of these men to Contract 21 v? If they were charged to that contract

they worked on that contract, part of the time at any rate.

276. Will you produce the receipts of these workmen for the money they received? They can be produced on an application at the Casino Roads Office.

277. Are you aware that the sureties for this contract paid money to Brennan to leave his employ? No;

I never heard about that.

278. When did the sureties first ask for this contract? When its cancellation was being mooted.

279. Was this work abandoned when the cancellation of the contract was moved? It was carried on so unsatisfactorily and the delay was so great, being seven weeks over time when I made my report, and not

half finished, that the department on my report agreed to cancel the work.

280. Why did you not return for the £35 due to Brennan on the Bean-tree Bridge, and either complete this contract or let him do so when he requested that you should? I returned for everything due to him on Bean Tree Bridge. We were not disposed to allow him to delay the completion of the approaches any longer, and we decided to take the work out of his hands.

281. £35 was owing to Brennan on Bean-tree Bridge, which had then been completed over two months;—why did you not return for that money and complete this work? He was agitating for a

remission of fines during that time, and probably they were being considered.

282. Will you read No. 2 of the general conditions of this contract? It is as follows:-

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183. Are the conditions in this contract binding on the Government as well as the contractor? Yes.

184. Is there any contract between the parties when a permit is given? Certainly.

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MINUTES OF EVIDENCE TAKEN BEFORE THE SELECT COMMITTEE

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3 College

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12

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	£	8.	d.		£	8.	d.
Neil McCall	-11	9	11	Wm. Ryan	2	14	10
John Pattison	0	-5	3	Denis McCarthy			
M. Jameson	- 1	2	0	John Doherty	4	4	1
G. Hilliard	4	-0	0				_
E. Murray					£28	10	1

The balance, £30 13s. 8d., will be paid to you on your informing me of your address, and on your returning this paper endorsed on the back that the statement is satisfactory, and is accepted by you in full of any demands you have.

ARTHUR GRACIE, Resident Engineer.

? No; the first voucher was sent in at this time.

241. That states that it is the final voucher? Yes; but it had not been finally adjusted. We wanted to know what he would take before the final voucher was prepared. Brennan objected to some of these men getting paid, and we did not pay them apparently, so that he actually got more than this amount. At any rate, when the final voucher went back it was for £503s. 9d., out of which claims amounted to £1617s. 2d. 242. Did you put a man on to break metal on Contract 21u? Yes.

243. In what direction were you going when you put him on? I could not say in what direction I was going when I engaged the man. There were some other men working there. I guaranteed their wages

to them. That would otherwise have ceased work.

244. Was this man working there when you came back the same day? I could not say.

245. Why did you ask Alfred Clark Simpson, of Casino, to put Brennan through the Court in order to save the department further trouble? I did not ask him to put Brennan through the Court. I may have made the remark on Mr. Simpson's statement, that there was to be a meeting of Brennan's creditors, to the effect that trouble would be saved.

246. Why did you refuse to pay Hilliard and M'Call when they first got an order from Brennan? Perhaps we had not the money, or perhaps we may have been waiting to see what other claims would come in, so that we could pay pro rata.

286. Daes it not say that the contractor is on no account to commence any contract without an order in writing, signed by the Roads Superintendent, and no claim for any work executed without an order will be admitted? That is for extra work or deviations from the contract.

287. Have you a copy of the permit to start the work? No.

288. Is this the permit?---

No. 570. CASINO TO MOUNT LINDSAY ROAD-CASINO DISTRICT.

MR. A. GRACIE, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following works, which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction and in accordance with the general conditions, signed by the said Mr. J. Brennan, such payment to be made as follows: that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie.

Construction of approaches to Bean-tree Crossing Bridge, as per specification.

ARTHUR GRACIE,

Dated the 19th day of November, A.D. 1891.

Resident Engineer.

No. This is not a permit to start work. It is a counterpart of an agreement to show that Brennan was a contractor.

289. I suppose it is the same as a permit? No; it is no permission for Brennan to start the work.

290. Mr. Kelly.] It is an endorsement that he is the contractor? Yes. There is a permit on the other

side, I think, to get metal.

291. Chairman.] Will you read what is on the other side of this paper? It reads as follows:-

NOTICE.

No payment will be made on account of work let by Superintendent except a task executed on the proper form is produced.

Verbal agreements will not be recognised (however small the amount), but will be a private liability of the officer, for which the department will not be responsible.

Contractor's Permit.

Mr. John Brennan is to forthwith proceed with the within-mentioned contract, and is hereby authorised to quarry,

excavate, and remove all stone required for contract.

This permit is only granted for the purposes of this contract, and expires with the time specified for the completion

ARTHUR GRACIE,

Road Superintendent.

It is years since we used this form.

of same, viz., 21st January, 1892.

292. Have you made payments according to that agreement? We only made one. We might have made payments more frequently.

293. Did you make any payments within the contract time? Yes; we paid him £80.

294. Within the contract time? I do not know. He was seven weeks over the contract time, and he might have got this £80 after the contract time expired. I am not sure whether he did not get it after the contract time had expired.

295. Will you admit that you did not pay according to that agreement? No. I say that we paid in

accordance with the practice of the department.

296. Did you instruct Mr. Crouch, the assistant engineer, to ask Brennan to assign this money to the sureties for Contract 570? No; it was not a matter I would ever interfere with.

Arthur Gracie recalled and further examined :-

A. Gracie. 298. Chairman.] Is that a mistake on the plan—that the datum-post is 40 feet from the gum-tree marked B.M.? No, it is not a mistake; it is simply an indication that the original levels are under the pegs 66.5 feet, and that we have reduced the whole section 40 feet in plotting.

That does not refer to the distance of any gum-

tree. The B.M. is on the south side of the gum-tree.

John Brennan recalled and further examined :-

J. Brennan. 300. Chairman.] Do you desire to make a statement with regard to the particulars of your claim on Contract 210? I do. It is as follows:—

£ s. d.

7	lu? I do. It is as follows:—				
	The original contract was Extras for materials and labour in contract Extra for having to shift from creek near Tunstall to gully in Lismore		5. 18 1	2	
	municipality and erect a bridge contrary to specification, plan, advertisement and district	35	9	6	
		£473	9	3	
	Losses sustained for having to shift from creek near Tunstall to gully in Lismore municipality	77	0	0	
		£550	9	3	
	Damages through being imprisoned for debt while the department held the moneys the writ was issued against me for, and would not pay it unless I accepted £46 5s. 4d. as payment in full of all demands and give a receipt in that form. I have a receipt for documents requantities I would be paid for, and instructed to carry out work, and when calculated exceeds the amount offered to me by the departments. For this act, on behalf of the departments, I claim £500		0	0	
	To be deducted— Paid on account Paid to complete work Hilliard Order to M'Call Glynn Glynn £ s. d. 289 0 0 26 0 0 11 9 11 10 0 0				
	To be deducted£340 9 11	473		3	to be deducted
	The language in company tion with continues	_	_	_	
	Balance in connection with contract	77	7 0	0	

297. Chairman.] Do you desire to make a statement to the Committee? Yes.

J. Brennan.

~

Re Contract 57 v. I was asked by Henry Ernest Crouch, Assistant Superintendent, if I was going to sign the money coming to me to be paid 11 Nov., 1896. to an account in the Commercial Bank in the names of A. Cumming and T. J. Reddicliff. I thought as the department asked me to do so that it would be all right, and I say they had a right to stop it when I asked them to do so, as I was being unfairly treated, and they were a party to the signing of such documents. No. 2 of the General Conditions, provides that on no account will a contractor commence any contract without an order signed by the Road Superintendent, and no work executed without an order will be admitted. The order agrees to pay 70 per cent, each month as the work proceeds. The department has paid no money within the contract time, nor for a month later, and then they cancel it for not making sufficient progress. Below are the names of the men who worked on this Contract 57 U. None of them worked on Contract 21 v

				£	0	a
3	4	6	D. M'Carthy	ī.	10	0
- 11	7	6	A. Murray	ò	10	0
			I Kally	2	U	U
			T Tani	2	8	0
12	10	1	J. Jamieson	1	2	0
			To my order the four were paid.			
	3 11 2 4 8	3 4 11 7 2 14 4 4 8 10	3 4 6 11 7 6 2 14 10 4 4 1 8 10 2	3 4 6 D. M'Carthy. 11 7 6 A. Murray 2 14 10 J. Kelly. 4 4 1 J. Jamieson	3 4 6 D. M'Carthy	3 4 6 D. M'Carthy. 1 10 11 7 6 A. Murray 2 0 2 14 10 J. Kelly. 2 8 4 4 1 J. Jamieson 1 2

Five orders of Court for which he refused to pay to my order.

Document No. 57 U, Casino to Mount Lindsay Road, Casino District Division. -Mr. A. Gracie, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following work which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction, and in accordance with the general conditions signed by the said John Brennan, such payment to be made as follows, that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie. Construction of approaches to Bean-tree Crossing Bridge, as per specification.

The first payment made on contract was 23rd February, 1892.

Dated 19th day of November, 1891.

ARTHUR GRACIE.

Department of Public Works, Roads, Bridges, and Sewerage Branch. DEBTOR to John Brennan in the sum of £69 13s. 4d., for work done on Contract No. 57 v, approaches to Bean-tree Bridge in Casino district. £ s. d.

43 cubic yards stone supplied, unbroken, cost 2s. 6d., schedule 3s. 6d. Round timber for culvert, 18 pieces 12-in. diameter 6 ft. 3 in.; 5 pieces 13-in. diameter 16 ft. 6 in.; 192 ft. 6 in. lineal feet, at ls. per square foot

£161 5 6 To be deducted-Voucher signed by me......£80 0 0 Orders to pay wages £91 12 2

Balance due to me £69 13 0 John Brennan, No. 5, Hannam-street, Darlinghurst, Sydney, 24th June, 1895.

Arthur

CONTRACT No. 210 of 1891, CASINO DISTRICT.	£		d
Extras, original contract. Pile-driving, including timber under ground—131 feet, at 3s. per lineal feet. Round timber in piles above ground—50 feet at ls. 3d. per lineal foot ,, wing-piles—221 lineal feet, at ls. 3d. per lineal foot. Setting one wing-pile an extra depth of 8 feet, at 3s. per lineal foot.	302 2 3 1 1	18 0 2 8 4	2 6 6 1 0
Sawn timber in wales and braces—7 cubic feet, at 2s. per cubic foot ,, sheathing—93 cubic feet, at 2s, per cubic foot Tar and composition, three coats—93 superficial yards, at 1s. per yard	9 4	6 14 6 13	0
Wing-piles, as per plan, unused, being too short—49 lineal feet, at 1s. per foot Embanked approaches to plan 626; agreed to pay 1,660 extra—1,034 cubic yards, at 1s. 4d. per yard Rubble backing—37 cubic yards, at 8s. per cubic yard	68 14	8 18 16	8 0
Ballast, 4-inch—412 cubic yards, at 4s. 8d. Metal, 21-inch—292 cubic yards, at 7s. 6d. Blinding length of road, increased from 61 to 110 lineal yards extra—44 cubic yards, at 2s. Extra temporary crossing	12	14 3 8	0
Extra temporary crossing Shifting material and redecking bridge at Tunstall 1s. per yard extra for breaking metal 6d. per yard extra for breaking ballast	6	0 0 2 7	0
Paid on account		10	3
To be deducted		9	11
Ralance due for work done	77	0	0
	£709	6	0

EVIDENCE TAKEN BEFORE THE SELECT COMMITTEE

Arthur Gracie recalled and further examined :-

298. Chairman.] Is that a mistake on the plan—that the datum-post is 40 feet from the gum-tree marked B.M.? No, it is not a mistake; it is simply an indication that the original levels are under the pegs 66.5 11 Nov., 1896. feet, and that we have reduced the whole section 40 feet in plotting.

299. There was a gum-tree within 40 feet of that site? That does not refer to the distance of any gum-

tree. The B.M. is on the south side of the gum-tree.

John Brennan recalled and further examined :-

J. Brennan. 300. Chairman. Do you desire to make a statement with regard to the particulars of your claim on 11 Nov., 1896. Contract 2

rman. Do you desire to make a statement with regard to	the	Pan	Mediata or Jour	CIMILIA
21u? I do. It is as follows:— The original contract was Extras for materials and labour in contract Extra for having to shift from creek near Tunstall to gully in Liamore	302 135	a. 18 1	2	
municipality and erect a bridge contrary to specification, plan, advertisement and district		9	6	1
	£473	9	3	A STATE OF THE PARTY OF THE PAR
Losses sustained for having to shift from creek near Tunstall to gully in Lismore municipality	77	0	0	
	£550	9	3	
Damages through being imprisoned for debt while the department held the moneys the writ was issued against me for, and would not pay it unless I accepted £46 5s. 4d. as payment in full of all demands and give a receipt in that form. I have a receipt for documents requantities I would be paid for, and instructed to carry out work, and when calculated exceeds the amount offered to me by the departments. For this act, on behalf of the departments, I claim £500		0	0	
Paid on account				1
Paid to complete work				
Order to M'Call ,, Glynn 11 9 11 10 0 0				
To be deducted	450			
	4/3	9	11 to be deducted.	
Balance in connection with contract	4.6	Ü	0	
Amount of damages	500	0		

£709 19 4

286. Daes it not say that the coatractor is on no account to commence any contract without an order in A. Gracie. writing, signed by the Roads Superintendent, and no claim for any work executed without an order will be admitted? That is for extra work or deviations from the contract.

287. Have you a copy of the permit to start the work? No.

288. Is this the permit? ---

No. 570. CASINO TO MOUNT LINDSAY ROAD-CASINO DISTRICT.

Mr. A. Gracie, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following works, which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction and in accordance with the general conditions, signed by the said Mr. J. Brennan, such payment to be made as follows: that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie.

Construction of approaches to Bean-tree Crossing Bridge, as per specification.

ARTHUR GRACIE,

Dated the 19th day of November, A.D. 1891.

Resident Engineer.

Road Superintendent.

No. This is not a permit to start work. It is a counterpart of an agreement to show that Brennan was a contractor.

289. I suppose it is the same as a permit? No; it is no permission for Brennan to start the work.

290). Mr. Kelly.] It is an endorsement that he is the contractor? Yes. There is a permit on the other side, I think, to get metal.

291. Chairman.] Will you read what is on the other side of this paper? It reads as follows :-

NOTICE.

No payment will be made on account of work let by Superintendent except a task executed on the proper form is produced.

Verbal agreements will not be recognised (however small the amount), but will be a private liability of the officer, for which the department will not be responsible.

Contractor's Permit.

Mr. John Brennan is to forthwith proceed with the within-mentioned contract, and is hereby authorised to quarry, excavate, and remove all stone required for contract.

This permit is only granted for the purposes of this contract, and expires with the time specified for the completion of same, viz., 21st January, 1892.

ARTHUR GRACIE,

It is years since we used this form.

292. Have you made payments according to that agreement? We only made one. We might have made payments more frequently.

293. Did you make any payments within the contract time? Yes; we paid him £80.

294. Within the contract time? I do not know. He was seven weeks over the contract time, and he might have got this £80 after the contract time expired. I am not sure whether he did not get it after the contract time had expired.

295. Will you admit that you did not pay according to that agreement? No. I say that we paid in

accordance with the practice of the department.

296. Did you instruct Mr. Crouch, the assistant engineer, to ask Brennan to assign this money to the sureties for Contract 57v? No; it was not a matter I would ever interfere with.

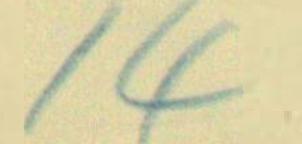
John Brennan recalled and further examined :-

Do you desire to make a statement to the Committee 2

CONTRACT	No.	210	OF	1891,	CASINO	DISTRICT.
----------	-----	-----	----	-------	--------	-----------

CONTRACT NO. 210 OF 1891, CASING DISTRICT.			
	£	8.	d.
Extras, original contract			
Pile driving, including timber under ground-131 feet, at 3s. per lineal feet		0	
Round timber in piles above ground—50 feet at la. 3d. per lineal foot		2	
,, wing-piles—221 lineal feet, at 1s. 3d. per lineal foot		8	
Setting one wing-pile an extra depth of 8 feet, at 3s. per lineal foot	. 1	- 4	0
3 feet, at 3s, per lineal foot	. 0	6	0
Sawn timber in wales and braces—7 cubic feet, at 2s. per cubic foot	. 0	14	0
,, ,, sheathing-93 cubic feet, at 2s, per cubic foot		6	
Tar and composition, three coats-93 superficial yards, at 1s. per yard		13	
Wing-piles, as per plan, unused, being too short—49 lineal feet, at 1s. per foot		8	U
Embanked approaches to plan 626; agreed to pay 1,660 extra-1,034 cubic yards]		
at 1s. 4d. per yard	. 68	18	
Rubble backing-37 cubic yards, at 8s. per cubic yard	. 14	16	0
Ballast, 4-inch—412 cubic yards, at 4s. 8d.	. 9	14	10
Metal, 21-inch-293 cubic yards, at 7s. 6d.		3	0
Blinding length of road, increased from 61 to 110 lineal yards extra-44 cubic yards			ı.
at 2a.		8	0
Extra temporary crossing	. 19	0	
Shifting material and redecking bridge at Tunstall	. 125	0	
1s. per yard extra for breaking metal	. 6	2	6
6d. per yard extra for breaking ballast	. 3	7	-0
	£473	10	3
Paid on account £289 0			
,, to complete work			
Onder to Utilized			
Order to Hilliard 4 0			
,, M'Call			
,, Glynn 10 0 ()		
£340 9 11			
To be deducted	340	9	11
Balance due for work done	£133	0	4
For loss sustained on other work re shifting from Tunstal			
Claim re causing me to be imprisoned for debt	500	U	U
	£709	6	0

CONTRACT



Re Contract 57 U.

I was asked by Henry Ernest Crouch, Assistant Superintendent, if I was going to sign the money coming to me to be paid 11 Nov., 1896. to an account in the Commercial Bank in the names of A. Cumming and T. J. Reddicliff. I thought as the department asked me to do so that it would be all right, and I say they had a right to stop it when I asked them to do so, as I was being unfairly treated, and they were a party to the signing of such documents. No. 2 of the General Conditions, provides that on no account will a contractor commence any contract without an order signed by the Road Superintendent, and no work executed without an order will be admitted. The order agrees to pay 70 per cent. each month as the work proceeds. The department has paid no money within the contract time, nor for a month later, and then they cancel it for not making sufficient progress. Below are the names of the men who worked on this Contract 57 U. None of them worked on Contract 21 C

OF II C.		В.			£		a
Edward Murray	3	4	6	D. M'Carthy	7 .	a.	u.
J. Jalland				A. Murray	0	0	0
W. Ryan	2	14	10	J. Kelly	0	0	· march
J. Doherty	4	4	1	J. Jamieson	1	0	0
D. O'Neil					1	Z	U
adam of Court for which he will all to a				order one tour were hald.			

Five orders of Court for which he refused to pay to my order.

Document No. 57 v, Casino to Mount Lindsay Road, Casino District Division. -Mr. A. Gracie, Road Superintendent, hereby undertakes to return for payment to the Roads Department the sum of £276 3s. 4d. for the following work which Mr. John Brennan has contracted to execute for the Government of New South Wales, when and as the same are completed to his satisfaction, and in accordance with the general conditions signed by the said John Brennan, such payment to be made as follows, that is to say, 70 per cent. of the value of the work done under this agreement to be returned for payment as nearly as possible each month, and the remainder when the whole is finished to the satisfaction of Mr. A. Gracie. Construction of approaches to Bean-tree Crossing Bridge, as per specification.

The first payment made on contract was 23rd February, 1892.

Dated 19th day of November, 1891.

ARTHID OD LOTE

£69 13 0

£91 12 2

ARII	UK	GKAC.	E,
Department of Public Works, Roads, Bridges, and Se Dastron to John Brennan in the sum of £69 13s. 4d., for work done on Contract No. 57 U, approaches to in Casino district.	verag Bean-	e Brand tree B	ch. ridge
18½-chain road, formation, cutting, and filling, £3 10s. per lineal chain	£ 8, 64 15 17 8	d. 0	
The choic rains includes annument will limited 4-inch coar as Rd canadals 4- Cl	34 2 5 7	6	
6 in.; 192 ft. 6 in. lineal feet, at la. per square foot	9 12	6	
To be deducted—Voucher signed by me	31 5	6	

Balance due to me John Brennan, No. 5, Hannam-street, Darlinghurst, Sydney, 24th June, 1895.

Arthur

CONTRACT No. 21 U, of 1891, Casino District.

Bridge and Approaches on Road, Casino to Lismore.—Quantities in approaches, according to plan; commencing at Casino end.

		Cas	ino enti-		
No. 1	Feet long. 39 0 36 0 13 0 29 0 88 6 8 6 14 6 37 0	Feet high. 1 9 4 0 5 3 6 6 6 9 6 4 5 6 2 3	Feed wide. 28 10 32 0 33 7 35 3 31 0 30 9 34 3 29 4	Cubic yards to left. 1 28 5 4 20 0 6 14 4½ 8 13 1½ 7 20 0 7 5 9 6 26 4½ 2 12 0	Cubic yards in section. 73 11 3 170 18 0 84 14 101 246 12 71 65 21 6 61 8 41 101 4 31 90 12 0
		Total laneth 61	lineal wards_9 ps	reta	891 4 0

Total length, 61 lineal yards—2 parts.	
Metal, 2½-inch, 1½ cubic yards to lineal yard Ballaet, 4-inch, 1½ cubic yards to lineal yard Blinding, ½ cubic yard to lineal yard Rubble backing, 60 cubic yards	02
Earth embankments, cubic yards	265 626

Money received Paid for completing contract Paid to N. M'Call Paid to Hilliard Paid to Glynn	289 26 11 4	0	0 0 11 0
To be deducted	£340	9	11

To be deducted	£340	8	11
Balance due	77	0	0
Total	709	6	0

301. Do you also desire to make a statemeni with regard to Contract 210?

[Letter No. 4,010, R. and B.]

Department of Public Works, Sydney, 12 June, 1893.

With reference to your letter of the 24th of April last, in regard to amount due to you on account of your contract of bridge and approaches on road Casino to Lismore, with regard to the amount of final voucher on account of this work, I am to point out that the sum originally was £59 3s. 9d., but sums were afterwards paid in pursuance of orders of the Court, which reduced it to £42 6s. 7d.; in addition to this amount the sum of £3 18s. 9d. has been allowed on account of your claim for rubble backing, making it a total of £46 5s. 4d., the amount offered to you.

J. BARLING,

Under Secretary.

11 Nov., 1896.

J. Brennan.

J. Brennan. Denis O'Neill, plaintiff, and John Brennan, defendant, and No. of plaint 14 of 1892, Thomas Glynn, plaintiff, and John Brennan, defendant. Alfred Clark Simpson, of Casino, sent me an eight-day summons. He had no clare. I defended 11 Nov., 1896, this summons according to directions on the back of it, sending a copy of the defence to the C.P.S. for Glynn and O'Neill. This led to these write being applied for and obtained for £46, which the departments offer as settlement in full of all demands on this contract, causing me to be imprisoned for debt, while the departments refused to pay me for quantities they had agreed to pay me for, and would not pay me any portion unless I accepted £46 as a final settlement, in full of all demands on this contract. For this action on behalf of the departments I claim £500 damages.

Contract 210 was for a lump sum according to plan and specification, and schedule prices were for deducting or

increasing any of the items.

No. 11 of the General Conditions of this contract provides that the contractor is not to assign any moneys payable or to become payable under the contract without the written consent of the Engineer-in-Chief, and no such document, without such consent, shall have any effect or be in any way recognised.

THURSDAY, 12 NOVEMBER, 1896.

Present:

MR. KELLY.

Mr. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled, and further examined :-

A. Gracie.

302-3. Mr. Lyne.] At what time did you find the pegs at the site where Brennan first started to put the bridge over the creek near Tunstall? I do not know that I found any pegs there.

304. How do you know that any pegs were there? Mr. Allman, of the Lismore district, told me that he

12 Nov., 1896. drove spikes there.

305. You stated in your evidence that spikes were driven into the ground, and that they were covered by metal; -what was the use of spikes being driven in there if they were driven in after Brennan made his

mistake? Not after, but eighteen months before. 306. I wish you to state definitely whether the pegs were there eighteen months before, or any time before he made his mistake. If there was any doubt as to the site, and Brennan had gone to the other site, where the bridge was ultimately put up, he might have found the pegs? No, I do not think he could. 307. Why not? They got driven down into the metal and covered up with the traffic, and he would

require to measure the site to find the position of the pegs. 308. Do you know that the pegs were ever there? Not of my own knowledge, but Mr. Allman, of the

Lismore district, informed me that pegs were driven in there, and it is usual to do so.

309. That they were driven in a long time before? Yes.

310. You never saw the pegs yourself? I never saw them. You might say practically that there were no visible pegs at either point. There were no visible pegs at the proper place, and no pegs at all were at the place where Brennan started to erect the bridge.

311. Mr. Kelly.] Do you expect a successful tenderer to come to you and have the place pointed out to him? Certainly.

312. Mr. Lyne.] That Brennan did not do? No.

313. Chairman. Brennan, in his and

Memo. to Mr. John Brennan, Broadwater Post-office.

Department of Public Works, Roads, Bridges, and Sewerage Branch, Casino, 14 December, 1892.

The final payment on your contract of bridge and approaches on the Lismore Road amounted to £59 3s. 9d.; from this the following sums have been paid in accordance with orders given by you:—

	£	3,	\mathbf{d}_{τ}		£	В,	d,
Neil M'Call	11	9	11	Wm. Ryan			
John Pattison	0	5	3	Denis M'Carthy	-1	10	0
J. Jameson	- 1	2	0				
Gilbert Hilliard	4	0	0				
E. Murray	3	4	0	±	E28	10	1

The balance, £30 13s. 8d., will be paid to you on your informing me of your address, and on your returning this paper, endorsed of the back that this statement is satisfactory, and is accepted by you in full of any demand you have.

ARTHUR GRACIE.

To Mr. John Brennan, Broadwater,— Department of Public Works, Casino, 15 December, 1892.

With further reference to my letter of yesterday, I have to inform you that, before the payment of the balance due on contract for bridge on Lismore Road, it will be necessary for you to receipt the voucher enclosed, leaving your signature witnessed in the proper column. Please return the voucher as early as possible.

ARTHUR GRACIE,
Resident Engineer.

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explained where we wanted the bridge put over the creek. I think his memory cannot serve him correctly. 314. Mr. Lyne.] Are you certain that he did not go to you and ask you for information as to the spot? I am certain that he did not. I reported at the time that he did not.

315. Did Brennan give you an authority to pay his sureties for one contract some money on that contract, and did you pay them the money on another contract for which he had given you no authority? I do not recollect such a case. I have given evidence to the effect that the balance was paid according to the orders

of the Court.

316. Chairman.] There were no orders of the Court on Contract 21v, and this money was paid on Contract 27v? Brennan signed a final receipt as being satisfied with the disbursement of the money.

317. Mr. Lyne.] Did Brennan sign a final voucher that he was satisfied with all the payment which had been made in connection with Contract 27v;—have you got the document he signed? It is not among the papers here. I believe some of the men who worked on Contract 27v also worked on Contract 57v, and if they did we might have paid the money to them.

318. Brennan stated that you got an order of the Court to pay the money on one contract, and that you paid the money on another contract? The men used to work on the various contracts. The final voucher

for the bridge of the Bean-tree Crossing was £35 1s. 3d.

319. As you knew that this case was coming on, why did you not look through the papers before you came here? I had no opportunity to look through the papers. I am not in the Casino district now, and I did not see these papers until I came here.

320. An authority to pay on Contract 750 is no authority to pay on Contract 210? We look upon it as an authority to pay all moneys due by the Government in respect of any department. It includes all money

due by the Treasury.

321. If so, it does not matter on what contract it is paid? No.

322. Does it not say on what contract; -have you not a copy of the order? No; it was asked for

yesterday, but it has not been supplied.

323. Surely your memory will serve you well enough to be able to give us some information about this matter? It is five or six years since it took place. It has been considerably mixed up. Here is a précis of the business, but I cannot go by it because it is wrong.

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It appears, however, that he did not actually receive this amount, although he signed for it, Mr. Gracie merely taking his receipts as a matter of form, the amount being used along with £11 12s. 11, part final payment on Contract 57v, approaches to Bean-tree Bridge (total amount, £46 14s. 2d.), to pay the undermentioned claims against the contracts:—

M. M'Coll E. Murray W. Ryan D. M'Carthy John Doherty J. Gallan O'Neill	3 2 1 4 11	3 4 14 10 4	7 0 10 0 1 6	Receipt at Audit Office with voucher
Total		14	2	The

MINUTES OF EVIDENCE TAKEN BEFORE THE SELECT COMMITT

J. Brennan. | Denis O'Neill, plaintiff, and John Brennan, defendant, and No. of plaint 14 of 1892, Thomas Glynn, plaintiff, and John Brennen, defendant. Alfred Clark Simpson, of Casino, sent me an eight-day summons. He had no claim. I defended 11 Nov., 1896. this summons according to directions on the back of it, sending a copy of the defence to the C.P.S. for Glynn and O'Neill This led to the writs being applied for and obtained for £46, which the departments offer as settlement in full of all demands on this contract, causing me to be imprisoned for debt, while the departments refused to pay me for quantities they had agreed to pay me for, and would not pay me any portion unless I accepted £46 as a final settlement, in full of all demands on this contract. For this action on behalf of the departments I claim £500 damages.

Contract 210 was for a lump sum according to plan and specification, and schedule prices were for deducting or

increasing any of the items.

No. 11 of the General Conditions of this contract provides that the contractor is not to assign any moneys payable or to become payable under the contract without the written consent of the Engineer-in-Chief, and no such document, without such consent, shall have any effect or be in any way recognised.

THURSDAY, 12 NOVEMBER, 1896.

Present:

ME. KELLY.

MR. LYNE.

ROBERT PYERS, Esq., IN THE CHAIR.

Arthur Gracie recalled, and further examined :-

14

302-3. Mr. Lyne.] At what time did you find the pegs at the site where Brennan first started to put the A. Gracie. bridge over the creek near Tunstall? I do not know that I found any pegs there.

304. How do you know that any pegs were there? Mr. Allman, of the Lismore district, told me that he

12 Nov., 1896. drove spikes there.

305. You stated in your evidence that spikes were driven into the ground, and that they were covered by metal;—what was the use of spikes being driven in there if they were driven in after Brennan made his mistake? Not after, but eighteen months before.

306. I wish you to state definitely whether the pegs were there eighteen months before, or any time before he made his mistake. If there was any doubt as to the site, and Brennan had gone to the other site, where the bridge was ultimately put up, he might have found the pegs? No, I do not think he could. 307. Why not? They got driven down into the metal and covered up with the traffic, and he would require to measure the site to find the position of the pegs.

308. Do you know that the pegs were ever there? Not of my own knowledge, but Mr. Allman, of the

Lismore district, informed me that pegs were driven in there, and it is usual to do so.

309. That they were driven in a long time before? Yes.

310. You never saw the pegs yourself? I never saw them. You might say practically that there were no visible pegs at either point. There were no visible pegs at the proper place, and no pegs at all were at the place where Brennan started to erect the bridge.

311. Mr. Kelly.] Do you expect a successful tenderer to come to you and have the place pointed out to him? Certainly.

312. Mr. Lyne. That Brennan did not do? No.

CONTRACT No. 21 U, of 1891, Casino District.

Bridge and Approaches on Road, Casino to Lismore. —Quantities in approaches, according to plan; commencing at

J. Brennan.

11 Nov., 1896.

	Casi	ino end.	acros, according	o plan	, countries as
No. 1 39 0 No. 2 36 0 No. 3 13 0 No. 4 29 0 No. 5 88 6 No. 6 8 6 No. 7 14 6 No. 8 37 0	Feet high. 1 9 4 0 5 3 6 6 6 9 6 4 5 6 2 3	Feed wide. 28 10 32 0 33 7 35 3 31 0 30 9 34 3 29 4	Cubic yards to left. 1 28 5 4 20 0 6 14 4½ 8 13 1½ 7 20 0 7 5 9 6 26 4½ 2 12 0	Co	73 11 3 170 18 0 84 14 10½ 246 12 7½ 65 21 6 61 8 4½ 101 4 3½ 90 12 0
Ballast, 4-inch, I	Total length, 61 li cubic yards to line cubic yards to line yard to lineal yard.	al yard		. 92	891 4 0
Kubble backing,	60 cubic yards			265	
Money received. Paid for complet Paid to N. M'Cal Paid to Hilliard.	ing contract		£ 289 26 11 4	s. d. 0 0 0 0 9 11	
	To be deduct	ted	£340	9 11	
Me loss, through	shifting		77	0 0	
Do you also desire to make		regard to Contra		6 0	71

301. I [Letter No. 4,010, R. and B.]

Sir,

Department of Public Works, Sydney, 12 June, 1893. With reference to your letter of the 24th of April last, in regard to amount due to you on account of your contract of bridge and approaches on road Casino to Lismore, with regard to the amount of final voucher on account of this work, I am to point out that the sum originally was £59 3s. 9d., but sums were afterwards paid in pursuance of orders of the Court, which reduced it to £42 6s. 7d.; in addition to this amount the sum of £3 18s. 9d. has been allowed on account of your claim for rubble backing, making it a total of £46 5s. 4d., the amount offered to you.

J. RARLING.

W C

313. Chairman. Brennan, in his evidence, says he did? Without even going to the spot I could have explained where we wanted the bridge put over the creek. I think his memory cannot serve him correctly. 314. Mr. Lyne. Are you certain that he did not go to you and ask you for information as to the spot? I am certain that he did not. I reported at the time that he did not.

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	£	8.	d.	
M. M 'Coll	15	3	7	Receipt at Audit Office with voucher
E. Murray				
W. Ryan				
D. M'Carthy				
John Doherty				
J. Gallan	11	7	6	
O'Neill	- 8	10	2	
Total	£46	14	2	The

16

Under Secretary.

Memo. to Mr. John Brennan, Broadwater Post-office.

Department of Public Works, Roads, Bridges, and Sewerage Branch, Casino, 14 December, 1892. The final payment on your contract of bridge and approaches on the Lismore Road amounted to £59 3s. 9d.; from this the following sums have been paid in accordance with orders given by you:—

Neil M'Call John Pattison J. Jameson Gilbert Hilliard 11 9 11 Wm. Ryan Denis M'Carthy John Doherty	10	0	
F Manager	10	1	

The balance, £30 13s. 8d., will be paid to you on your informing me of your address, and on your returning this paper, endorsed on the back that this statement is satisfactory, and is accepted by you in full of any demand you have.

To Mr. John Brennan, Broadwater,—

Department of Public Works, Casino, 15 Dec. Per, 1892.

With further reference to my letter of yesterday, I have to inform you that, before the payment of the balance due on contract for bridge on Lismore Road, it will be necessary for you to receipt the voucher enclosed, leaving your signature witnessed in the proper column. Please return the voucher as early as possible.

ARTHUR GRACIE, Resident Engineer.

I would like to explain why this contract was so long incomplete. When I shifted from the creek where I tendered for, near Tunstall, that broke my agreement with the Casino Sawmill Company for the delivery of ironbark timber. I ordered it at Coraki, 9th July, to be delivered at Lismore in a fortnight from that date. On the 27th of July I had a letter from Mr. Yabaley stating that my timber was cut, and asking, would I let him have my cheque in payment before delivering it to me at Lismore. I did not do so, because the timber was ordered to the plan, and the wales and bracing would have been too short. On 29th July I gave an order to Mr. Bailey at Codrington. He was to deliver it at Lismore within nine days. On the 7th August I had a letter from him stating that his teamster had gone on strike for 8d. per 100 more for drawing, and that if I would consent to pay half he would have it drawn in. On the 8th of August I ordered it at the North Lismore Sawmills, Glazgow and M'Night, where I had got tallow-wood for the decking. They were to have some cut in a week. They had not. I kept going about it every second day. I got the first delivered on the 5th September, 15th, 18th, 19th, 20th, and 21st. Then the firm went bankrupt. On the 24th of September I gave an order to George Cattie, Liamore, and got the first delivered on the 12th October, and completed on the 9th November. Each time I went about this timber it cost me from £7 to £8 every day. I have been away from Bean-tree Bridge contract, which was 50 miles from this one. I have been losing from £3 10s. to £4 per day. I have been there two days in succession, pile-driving. I drove two piles each day 21 feet each. When I have been away I got one pile a day driven from 18 to 21 feet. My schedule price was 4s. 6d. per foot. The material cost 1s. per foot delivered, which was 3s. 6d. for labour in topping. My losses were equally as large. This would be twelve times—two from Lismore Road, £3 10s. each, and ten times from the Bean-tree, two days each time, £7 each-or £77 in all.

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There is a balance due to Brennan on this contract amounting to £10 12s. 2d. (Part of remitted fine £39) which he A. Gracie. refused to accept, amount was consequently refunded to the Treasury. R. Cressy's judgment order against Brennan was settled with the other portion of fine; amount, £28 7s. 10. £25 9s. 2d., balance of final voucher £37 2s. 1d., Contract 57v, 12 Nov., 1886. approaches to Bean-tree Bridge, was paid to Brennan's sureties, Messrs. Cumming and Reddacliff, on the 17th April, 1893. With reference to the payment of this final voucher, Brennan was informed that as the contract was cancelled, he

has no claim upon the Government, and also that as a matter of grace the department paid for the value of work, so as to

meet the claims of workmen.

The final voucher, £59 3s. 9d., Contract 21v, bridge over creek, road Lismore to Casino, was disposed of as follows :-

Claim against Contract paid. N. M'Call 11 9 11 2 0 Receipts at Audit Office, M. R. Jameson attached to voucher. Jno. Patterson 0 5 3 G. Hilliard

Total £16 17 2 And balance, £42 6s. 7d., refused by Brennan, refunded to the Treasury.

325. You say that précis is no guide for you, because it is not correct? I doubt whether it is correct, because towards the end they did not understand very much about it in the head office, as the three contracts were getting mixed up. Then there is the remission of fines, which came afterwards, with

separate papers on each contract, and they got mixed up. 326. Brennan asked for these receipts to be produced? I asked for the receipts to be sent down from the Casino office. I got some papers, but not what I wanted-not any which would be of any use to me. 327. Chairman.] You cannot get all the papers you want, and some of them are at the Casino office? The receipts of M'Call attached to the voucher are at the Audit Office. The receipted vouchers eventually find their way to the Audit Office, and are filed there. I would have liked more time to look into the matter. I did not reach Sydney until midnight on Monday, and the Committee sat on Tuesday morning. 328. You cannot say that Brennan's assertion that a certain sum was paid on one contract for work done on another contract is true or not unless you have all the papers, which are not available? Not unless I

have some papers to see who got the money. 329. You cannot say whether orders of the Court given for work done on one contract were paid out of

another contract? No; it would be very unusual. I never do it.

330. It would be unusual, but you cannot say that it is not so, because you cannot see the papers? No. It is an old case, and my memory will not allow me to say that it is not so. I daresay if I had more time to look through the papers I might find something which would clear that up.



Mr. 331. Chairman.] Do you wish to make a statement? I do. In his evidence yesterday, Mr. Gracie said J. Brennan. that when he went there was no crossing over the creek at Tunstall. I wish to say that a crossing was there, and that it was erected for one day only. It was finished on the night previous to his coming 12Nov., 1896. along, and I removed it on the following night. Mr. A. Gracie, Mr. Denis Alcock, Mr. Robert Walters, Mr. A. C. Simpson, Mr. Robert Pyers, crossed over the temporary crossing on that day.

332. Mr. Lyne.] It did not cost you much? It was the decking.

333. Do you mean to say that Mr. Gracie might not have known that it was there? He could not have

gone acress if it was not there.

334. Chaire You mean that Mr. Gracie crossed this crossing? Yes; but he says that the did not; that there was none there.

335. Mr. Lyne.] Are you claiming for a temporary bridge? Yes.

336. How much do you claim? £14. There is a schedule in the contract for a temporary bridge. It had to be erected before the traffic could be put off the other.

337. How do you come to the conclusion that you ought to be allowed £14? For the girders and labour.

338. Was it ever passed as valued at £14? I tendered for it at that price.

339. When were you in prison for a debt? Two years ago.

340. That was two or three years after the contracts were completed; -how do you connect the depart-

ment with causing you to go to prison? They asked a man to put me through the Court.

341. Whom did they ask? I have a letter from Denis O'Neill-it is not here, but it is in the Courtstating that the department asked Charles Clark Simpson to put me through the Court, in order to save them further trouble.

342. What branch of the department? The Roads and Bridges.

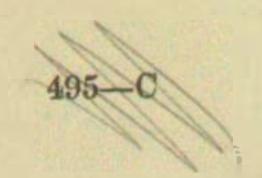
343. It seems a very unusual thing to do? Yes.

344. Who is Mr. O'Neil? He had a case against me. He is one of the parties who imprisoned me.

345. What does he know about it? He seems to know about it. He wrote a letter to me to that effect. 346. Have you any other evidence to show that the department did put you through the Court? There is a statement in evidence here that Mr. Gracie requested me to come to a settlement, and that he made several concessions, but that I would not accept them, and later on a statement came to the office that

one of my creditors was taking steps to secure my insolvency. 347. Suppose O'Neill has stated that it is not true? I suppose he has to prove it. It is between him and

the department, not between him and me.



anake connection MB. HURLEY,



MINUTES OF EVIDENCE TAKEN BEFORE THE SELECT COMMITTEE

TUESDAY, 13 DECEMBER, 1898.

Bresent:-

Mr. HASSALL,

ROBERT PYERS, Esq., IN THE CHAIR.

John Brennan recalled and further examined :-

J. Brennan. 65. Chairman.] On page 14 of the Minutes of Evidence taken before the Select Committee in 1896, you have "balance due for work done £133 Os. 4d.," and on page 15 you have "balance due (on the same 13 Dec., 1898. contract), £132 6s. "? I have done the bill over again. I find there is a slight mistake. I have put down "setting one wing-pile an extra depth of 3 feet, at 3s. per lineal foot, 6s." Instead of 6s., of course it ought to be 9s.

> 66. Is there any other mistake? Yes; "wing-piles, as per plan, unused, being too short-49 lineal feet, at 1s. per foot-£2 8s.," should be £2 9s.; and "metal, 2} inch-29} cubic yards, at 7s. 61-£12 3s.," should be £11 3s. 1d. That makes up the difference. That does not bring the assount out exactly the same as on the next page. There is still a difference of 2s. But what I have just stated are the correct amounts.

> 67. Mr. Hurley.] How much are you asking interest on? £132 4s. 5d., and I claim £15 14s. 6d., interest at 5 per cent. for six years. The time was over six years, but I have claimed interest for only six years. That is on Contract 21 U.

68. What is the amount due on the second contract, 57 v? £69 13s. 4d.

69. For the same years? Yes.

70. What interest are you charging for that? Interest at the rate of 5 per cent.

71. How much does that amount to? £23 1s.

72. What is your total claim for interest? £68 15s. 6d. 73. How long were you in gaol? About a fortnight, I think.

74. And you claim £500 damages for that? Yes. I ought not to have been there at all.

75. The Government had money of yours in hand when you were put in gaol? Yes; they refused to pay it unless I would accept £46 as a final settlement. There were two ca. sa.'s got against the amount one by Thomas Glynn, and the other by Dennis O'Neill-and the Government refused to pay me anything unless I would accept £46 as a final settlement.

76. Do you know the full amount for which you are asking,-interest on the money due, and the back money, and the damages for being imprisoned? £817 13s. 3d. That includes £77 "for loss sustained

on other work re shifting from Tunstall."

77. Chairman.] Do you wish to make out that you lost that money through the fault of the Government? Yes. When I was carrying out that contract, when I could be there I was getting two piles a day driven by the same number of men as I used to get one pile a day driven by when I was absent. My schedule price for pile driving was 4s. 6d. a foot-the timber cost 1s. and the labour 3s. 6d.

78. How do you account for being so far behind the contract time? I got messed up over the matter of shifting from Tunstall. I had let a contract for the supply of timber to the Casino Saw-mill Company.

When I shifted to the other place they would not supply the timber.

79. Was it any fault of the Department that that was not done? Yes; because I tendered for work at a Creek near Tunstall, and I had to erect the bridge over a "black gulley" in the Lismore municipality. I had to order the timber at Coraki, according to the plan, but when we came to put the bridge up a great quantity of the timber was found to be too short.

80. Mr. Hassall.] You say you were put in gaol because you owed certain money which you could not

pay? Yes.

Bl. How was that debt contracted? Part of it was for plant and material, and some was money borrowed to pay wages.

82. All in connection with this work? Yes.

83. The debt did not arise at all in connection with any other transaction? No -only these contracts. I did not keep the money paid on each of them separately, but paid money when it was required. 84. Then the judgment was obtained against you for what? For stores supplied in connection with

Contract 57 v and for plant.

85. How much was the judgment for? £19.

86. And the Government held money in hand to what amount? £132 4s. 5d. They offered me £46 and refused to give me any portion of it unless I would accept that as a final settlement.

87. What distance did you have to shift from your camp at l'unstall? About a mile and a half.

88. You say it cost you £77 for "loss sustained on other work, re-shifting from Tunstall?" Yes; because when I had to shift from Tunstall, my agreement for timber was broken; and every time I tried to get timber it took me two days, and I was at a loss of so much per day. I got about 42 feet of piles driven when I was there, but when I was away only from 17 feet to 20 feet were driven.

89. 80, practically, you had to stand alongside the men to see that they did a fair day's work for you? Yea.

90. That is the sort of men you had? Yes; it was not easy to get mon then.

91. Mr. Hurley.] How is it that you have not charged interest on the £77? I did not think it would be of any use charging it.

92. Then what is the use of your charging interest on the other amount? I did not think The could charge interest on a claim. If the Committee recommend that I should be paid interest on it I should be pleased to take it. I have not asked for interest on the £500 damages, either.

anthis outjest.

From

30.12.98

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Claim of John Bronnan against Road Department
Wednesday October 28th 1896.

96 Mr Kelly

PRESENT:

Mr Lyne

Robert- Pyers, in the Chair.

JOHN BRENNAN sworn and examined:-

Chairman: - What is your occupation? I am a quarryman at the present time.

Are you residing in Sydney at the present time? Yes.

Now were the contractor for contract 21 U and contract 57 U
in the Casino district? Yes.

You did not finishe the work I understand? Not exactly; the Government put the metal on contract 21 U and they cancelled contract 57U.

Will you tell the Committee as concigely as you can the parin contract 2/11.

ticulars of your claim! I will.

way!

John Brennan & Hannam Street moore First Systney 2 Disputed Claims with the Jublic Works Denartments Hoads Bridges and Dewerage Branch Casino District North Of 1891 This Contract was Advertised in the Richmond River Express of asino on offil 3rd 1891 denders to close on April 15 were invited for the exection of Bridge over Creek on Road Casino to Lumence was I Tunstal the time for Closing Linders was extended to April 29 1891 When j got Notice that my Lender was accepted I went to the Creek dear Junstall i Could find no hear I met I'm Harber the Trantoun ance man there The did not know mything about the peas nor did he day it was not the place I writed on ver Tracel post morning June other I requested that he would meet me on the Site by appointment as I could find no fregs and might but the Temporary Crossing in the way of the Bridge the told me the Bridge was joined in the site of the old one is could not go wrong with the crossing he told we to get the material delivered and he would be out their in a few days when he came the Crossing was Complete the files & girders and Headstocks delivered the old Drigge stupped When he came he said This is not the place I isked him what he was going to give me for what I had donn the said he Could not dend in a Vincher for that but he would alow me for it in Some thing else + would not keep me to time of had to re dech the Budge and shift all material & Crossing one and Half Incles into Teamore Municipality and the Budge was Erected over, a Black Gully which Terminated in a fraddock et a distance of from Fire to Jin Chains above the Bridge These was no peas to be found on this site the drawings did not suit the place from BM Markgiven on gum True only half of the Bridge would Cross the Gully the piles for Years or wings and Sown tumber for water + Brazing was too short allectwice the gullet of Sheathing necessary while the Embantement in Approaches was nearly three times the quantity on the Tracing This Contract was Carried out Contrary to plan Specification and District of have a letter from the Departments that the approaches would be increased from 82 to 110 Lenval yards it should be from 61 to 110 Tensal yards a memo that juvould be paid for 1660 cube gards of Earth Embanje ment instructions to dupply 122 ch yds of 2's inch mettle und 122 ch you of a Baleston 96 Ch job of Bubble Backing partly destroyed These letters wer dent in a registered from Broad water on June 28. 1843 my plan and final (Trucker was left in the works office in Sydney by me in january January 1888 The Under Secretary for Horks writes to one that 259-3-9 was the amount of the final boucher but that sums were afterwords paid in

pursuance of orders of the Court which reduced it to 42-6-4 in addition to this amount 13-18-9 has been allowed making it a total of 146-5 4 their has not been any orders of the Court on this Contract of gove Gilbert Helliard an order for 16 four Pounds which mer Gracie refused to pay telling him their was no money comming on the Contract he paid it afterwards I signed a bill por Mil wood break incounting to Jes hounds on this contract. In may 1892 j dig ned a final broucher on Beantree Bridge Contract They amount was 135 pounds when I digned it her Gracie told me that he had paid d'ail mitale Jes Sounds of the money. That would leave deven Jounds against the sontract By my orders in a letter from me Tracie sfind he credits me all with Its-oftends to this Contract of would like the departments to to explain who, this 135 on Beautis Bridge Contract was paid to I signed the Voucher but got no money at the drine time juras asked to dign a woucher on on contract by il of phroaches to Bean tree Bridge j'asked what he was going to do with the money Mer Tracie replied he would give it to the Sureties for the work jobjected and refused to sign it on them conditions Too inspecters havereported on Sontract Norw Casing to Lismore, Mr Hannah reported that the specifications was carelesty got up mirable man reported that as the work was as long incomplete he considered it desireable to heek the fines on as the extras did not Excued Stepponnes for Gracie Lent me a fund Voucher on this contract in plaining a for the sum 129 pounds Twenty Six was to be paid to Complete the work leaving a balance of Is pounds of refused to sign it he sent for it i sent him my bill which he returned saying the would be faid to his credit without my signature and junglit take what over course j' pleased

> John Brennan 5 Hannan Abreit Moore Lark

You tended for the Bridge understanding that it was to be built at another place? Yes.

You have not got the gazette showing where it was called for in the first instance - whether it was over a creek or thether it was over a gully? It was over a creek.

You stripped a bridge on a nother creek and made a temporary bridge? Yes.

Mr Gracie the Road Superintendent came along and told you hal.
Ot was not the right place? Yes

You had to build a bridge in another place? Yes.

A mile and a half away from the first place? Yes.

Mr Lyne:- Did you not go to examine the site before you no had tended for the bridge? LI never been there but once before.

What did you tender on? On the specifications and plan?

How long were you over contract time? I could not exactly a say. The contract time was very nearly up before I started in the eright place. It was supposed to be done in three months.

Mr Kelly:- Before you got on to the right place the contract time was nearly up? Pretty well two months of the contract time had expired

Mr Lyne:- How much do you consider that that department owes you on the contract now? £132.6.

How much have they offered to pay you? \$46. In that contract.

Mr Kelly:- Does the sum of £132.6 - refer to two contracts
No., to one.

Mr Lyne: - How long is it since the bridge was finished? Close on five years. There were three contracts.

Does the statement you read refers to one, two or three contracts? It refers to one contract, and to a £30 final voucher

4

on a another bridge. Excepting the £35 voucher it refers to only one pontract.

Did you complete the whole of the contract 210 yourself.?

Mr Gracie put on a few men to Epread the metal on the road; that is all he did.

Why did he do that. ? He refused to send for any money for me do it, and he moved the cancellation of the other contract.

How much work do you say he did on the bridge on contract 210? He spread the metal on the road at a cost of £26.

+ Did you refuse to do that? No.

Why didn't you do it? He would not send for any money to assist me to do it.

You had not money enough I suppose to do it? I had plenty of money to do itif you would let me have it?

He did not cancel the contract? No.

You said in answer to my question that you did not spread the metal because Mr Gracie did not send for money due on the other contract? There was another contract finished with money owing on it.

tract 2117 He reckoned that it was too long in-complete.

3 Had you no money to complete it? I had plenty of money to complete the job at the time.? Why

Why didn't you complete it.? He reckoned that it was not being done quickly enough.

was keeping it going but I wanted to get the other job finished first. He disputed the quantities on this job before. He returned for the quantities of earth work and I was not satisfied. He comeasured the earth work and he returned for the grant least of earth work. I would not accept it, he re-measured it again

it, but I agreed to accept if he would pay me. He wanted to get out of paying it at the finish.

Lyne: - I understand you to say that you did not complete this contract quickly that you left it in abayance and that you were not going on with it and that Mr Gracietook it out of your hands because you were over time and he finished it at a cost of £26 for spreading the metal? Yes.

You did not want to finish it because you wished to finish the other two first? Yes.

Why? There was no necessity to finish this contract, the road was clear and the rafficing was going on It was merely a matter of putting the metal on.

Was this bridge being used before the metal was put on?

It was being used all the time; it was used for two months previous ly.

Mr Kelly:- How many contracts have you carried out for the Department? Three altogether.

Chairman: - Will you now make a statement to the committee in respect to contract 57 U? 2 will,

I may state the metal was an eight work, given by the Road dupen: In Gracie time, after the earth works were finished

More Park May 191896 7 Le Departments of Public Horles Brado & Britiges branch Casino District Contract No 5 7 Maf 1891 Canino to mount Lindsey this Contract was let to me in November 19th 1891 Decording to the Conditions of this Contract the agreed to work they agree to pay 40 per cent Each Month as the work proces They made no payment on the Contract to February 23 ng when the returned for IEO Eights Tounds. Party in December 91 j Signed a paper for all moneys Coming to me to be paid to an account in the Commercial Bank in the swames of the Swreties of this Contract of Cumming & If Reddediff ; they were to go security for stores & payit to my credit as I required it the did so for a time on Jeluary 23 they kept 180 on this Contract + 145 on Beantree Bridge Contract on the 8 of havele 92 & was in the Tracies office the told me that the Sweeties for this Contract had requested him to take it out of my hands & give it to them that the daid they would loose monney toongh, me The asked me if I would sign it over to them this I refused to do I gave of Cumming a note that Evening demanding an Explenation Hext morning of got no reply and i went and Sein me fracie & asked him to send for Some money for me to Enable me to Confrly the work Thus he refused to do Saying that I and the Sureties were partners + he seen a letter that morning where i had been thretening them the said any how I have moved for the Cancelation of your Contract this morning that was march 4th 92 their was 235 due on Buntre Bridge allso I39 fine, that has ding been remitted allso the amount of Claims, in these two Contracts of sent him a letter for the Lacretary of Tublic Works that on and after that date all money, Comming from goverment Should be paid to me & no other person or persons I went on the work + measured up the work gove the men order

on In Grace for their money Some of these he refused to pay

4 y had to get them orders of the loars you will see a letter where he

Charges this to Contract 21 Hof was gring by Cummings place
a few days after + Cumming told me that he had a very Snotty
letter from Mr Grace the shows me the letter it red in sperence
to a request by he Cumming of I Reducchiff they Could have this

my Contract providing they were responsible for all his bilities
in Glenmore Mond Sydney a flood came + washed this Contract away

The Departments of bread to Complete it + then Consider my claims

This y Objected to as their was plenty of money in the Departments
helonging to me to have Completed it + have been paid for it
before the flood came on 27 of April The Departments has kinel

paid the Sweeties Les on the Contract + Charged the wages on

it to Contract No 21 W which wages j believe the never paid

you on that contract? £69.13.4.

Did you complete that contract? No.

Did the Department complete it for you? Not for me.

They charged you with it didn't they? They refused to acknowledge owing me anything, I got nothing on it but £80 they paid to the surjeties. It seems they had paid the surjeties £20 on it afterwards without my consent.

comes and washed away the bridge you are liable? He refused to

to send for money? 2161. 5.6.

That is 75 % of the value of the work which was done? Yes. Interest This was owing to you at the time he cancelled the contract?

On that one bridge? The appraoches to a bridge, I had completed the bridge before this there was a second contract in the same place.

Chairman: - Contract 57 U is not for a bridge but for approaches to a bridge? Yes

Mr Lyne:- How much was the whole tender for it? £276.3.4
There is an extra £28.12 for culverts, on contract 57 U.

9 Where is Mr Gracie now? He is stationed in Glen Innes.

Mr Kelly:- The bridge you mentioned is the first contract you did and it is not included in this sum? Yes.

Chairman: - You were paid for that? I would like to be

permitted to explain what is being done with the£35. Mr Gracie

told me that he paid McCall a sub-contractor who worked on conout

tract 21U £25 that of that sum: And he charges £11 to McCall
later on,

Did you owe McCall this money? Yes. It is alright if he has paid that money to him. He could not pay him £25 and pay

him £11 afterwards on four pour dim 22 in all

Lyne:- Could you not find out from McCall whether he received the money, kxtx? I wrote to him but he did not supply the information. He may have charged more to the contract than he has a right to charge.

I suppose what you want is to get the department to pay you the talance of the money? Yes.

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CEATHURN ON BRE

BRENNAN AGAINST THE ROADS DEPARTMENT

Thursday November 5th, 1896.

Present;

Mr. Harris

Mr. Lyns

Robert Pyers, Faq. in the Chair.

Percy Scarr sworn and examined.

Engineer for Roads.

lars you brought the papers, and Do you know the particular dain

lars of this case of Mr. Brennan's ! only know what ! see

in the papers. ! have no personal knowledge of the matter. The

papers are all here.

Mr. Lyns. Mr. Brennan has stated that he had three contracts from the Department? I understand that he had contracts

Officer refused to pay the balance which was due on contract

21 U? I have a statement which was drawn up for me in the

office from the papers at the time? was dealing with the case.

It is a precise of the case ! suppose? 7es.

60 Will you read the precist to the Committee? It is as fol-

JOHN BRENNAN'S CLAIM ON CONTRACT 91/21 U. BRIDGE OVER CREEK ON ROAD CASINO TO LISMORE.

Printal

JOHN BRENNAN'S CLAIM ON CONTRACT 91/21 U. BRIDGE OVER CREEK ON ROAD CASINO TO LISMORE.

Amount of Contract		£302.18. 2.		
Extras		75. 5. 7.		
		378. 3. 9.		
Less advances on a/c		239. 0. 0.		
		89. 3. 9.		
Overtime fines 23 weeks - £3 £69.0.0.				
Leas remitted 13 weeks @ £3 39.0.0.	30. 0. 0.			
		59. 3. 9.		
Wages claims paid		16.17. 2.		
		42.6.7		
Additional extras approved since final voucher		3.18. 9.		
	BALANCE DUE	£46. 5. 4.		

The amount of the final voucher £59. 3. 9 was paid to the Local Officer's credit, and out of it orders of the Court amounting to £16.17.2, as shewn above, were paid, leaving a balance of £42. 6. 7.

tract. It appears that Brennan had signed an order to pay all money due, to the credit of his sureties, who were finding nearly everything to carry on the work, Brennan being practically insolvent. This order he subsequent

ly cancelled, and the sureties sued him for the amount of

a guarantee Bond of £100 to the Bank, but they were nonsuited on a point of Law.

(which had been held by Local Officer for about 8 months pending decision of court) to Brennan, but on payment being offered he refused to accept it on the grounds that it was less than he was entitled to.

The matter was fully considered, and on the recommendation of Mr. Divisional Engineer Hannak, Mr. Secretary

Lyme approved 25.3.93 of an additional amount of £3.18.9

(making a total of £46.5.4) being offered, without prejudice, as payment in full of all demands, Voucher for
£3.18.9 was passed for payment and forwarded to Local

Officer.

The proposed settlement, however, Brennam persistently of refused to agree to, and the amount of vouchers (£46.5.4)

Was refunded to Treasury.

Brennan and the Department, but his applications for in - creased payment for extras, and for further remission of fines have been several times refused.

As recently as January of this year an interview was held between the Local Officer and Brennan with a view to a

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prejudice) to make very considerable concessions, the offer was refused, Brennan speaking of getting a Select Committee of Farliament as pointed to look into the case.

It was then stated by the Local Officer that one of Brennan's Creditors was taking steps to compel sequestration of his Estate, but nothing further has been heard of this.

Mr. Secretary Lyne approved, 12.2.94 of the previous decision being adhered to, viz, that claims be not recognized. Similar action was taken with regard to a later communication from Brennan, dated 15.3.94, again urging his claims.

Mr. Pyers M.P. now forwards a letter from Brennan dated "Debtors' Frison Casino Gaol " 23rd November, asking that he may be paid £40 on a/c pending final settlement of his claim.

Then t ere are recommendations and minutes on the papers.

The fines amounted to £69; Is there anything in the papers to shew that the bridge was not erected on the site which was first pointed out to Mr. Brennan? I am not aware.

that the site which was first pointed out to him, and for which he tendered was abandoned, and the bridge was moved a mile or two away, and he explained that that we one cause of the delay

for which the former mere charged Here is nothing about that in ming I the statements. It is a long time suice I nead through the paper. 2 16 000 4 المون

for which the fines well charged? There is nothing about that in any of the statements--It is a long time since I went through the papers.

d 3 Have you a copy of the Gazette notice calling for the tenders? It is not a Gazette notice, but a notice in a local newspaper in these terms:

GOVERNMENT NOTICE.

Tenders are invited up to noon on Wednesday April 23rd, for supply and erection of bridge (2 spans) on Road Casino to Lismore, near Tunstall.

Specifications may be seen at the Courthouses Casino and Lismore.

Tenders to be marked "Tender for Bridge", and to be addressed to the undersigned.

Time of receipt of tenders has been extended to noon on the 22nd instant.

AR THUR GRACIE,

RESIDENT ENGINEER.

Roads Office, Casino,

March 31st, 1391.

4 I notice in the advertisement, that tenders are invited up to the 23rd April in the first paragraph, and in the accord (401-

paragraph it says the time of receipt of tenders had been extended to the 22nd instant, although the notice is dated the 31st March? I take it that the explanation is that the advertisement was originally written out on the 31st March for tenders to close on the 15th April, and that this is a second notice extending the time to the 23rd April, and they have by some means or other retained the original date. The two things conflict which with each other.

- 65 Thera ara three mistakes in this notice? 7es.
- ing for tenders? Tenders were not called for in the Gazette.
- As it possible to find out the reason why the site was altered? I could find out if there is any reference to it in the papers by going through them.
- What I want to find out is whether the work was delayed in consequence of the site being altered? I do not know.

 ""

 It appears from the papers that he was allowed/over and above the contract time before they commenced to charge any fines; will you read the next paper bearing on this contract?

 The next paper is a report from Mr. Aliman to the Commissioner and the Engineer in Chief for Roads in these terms:

 J. BRENNAN APPLYING FOR REMISSION OF FINE ON CONTRACT 21 U

 CASINO TO LISMORE, AND FURTHER RE ALLEGED BALANCE DUE ON

CONTRACT.

for extra work on same contract.

With by Mr. Hanna and the Local Officer, and has been disallowed by Ministerial direction, consequently no useful purpose can now be served by discussing this metter further

With remard to remission of fines; -

The original contract was for £302.18.0, time for completion 3 months, actual overtime 27 weeks, of which only 10 weeks has been charged as a fine in final voucher. It will thus be seen that the Contractor has been allowed four months over and above time specified for completion. This when the actual extra work amounted to only £101.12.4 is a very liberal allowance, and I cannot see how any further concession can be granted, more particularly having in view the unsatisfactory manner in which the Contractor appears to have carrie on his work.

In one paper here it says)

The contract has been delayed for the causes stated;

What are the causes stated? ? do not know what they would be

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6,

no recollection of anything of the kind. It would have got into the precist had there been any alteration.

Chairman. Are not contracts called for in the Gazette?

Not always. At that time frequently they were only called for in local newspapers for these small bridges.

3 And there is nothing in the papers about the site? No.

Is there anything to show whether the bridge is to be built over a gully or over a creek? I do not see anything.

Mr. Lyne. You know of no instructions to put the bridge on one site and afterwards to alter it? There no recollection of anything of that kind occurring.

6 Chairman. Does it say that it is a bridge over a creek near Tuns tall? It says "On road Casino to Lismore near Tuns tall".

Is there nothing about a creek or fully in the notice? No.

Sir. Allman inspected the work? Tes, he is equainted with the whole case.

9 Mr. Lyne. With reference to Contract 57 U, Will you read the precise of the case? It is as follows;-

CONTRACT NO 57 U ROAD CASINO TO MOUNT LIMISAY

This contract was let to John Trannan for the sum of £276. 3. 4., the bond being signed on the 19th November

1891.

On the "th March, 1892, the Resident Engineer (Mr. Gracie) reported by telegram that Contractor was 7 weeks over time, and work was not more than half completed.

Contractor had just had a meeting of his Creditors, and could not possibly finish as he was without means. He (Mr. Gracie) recommended cancellation of Contract and transfer to Sureties, who had up to date paid all charges. Supervising Engineer concurred.

Winister approved, and cancellation notice was accordingly issued 21.3.92.

After a long report (6.4.92 (22/5424)) had been received from Mr. Gracie in which he recommended that Contract be determined, work done paid for, and new arrangements made for the completion for reasons stated, telegrams came to hand stating that Brennan's Sureties were willing to complete the work under Contract, and take over all liabilities.

The papers were then sent to Mr. Norrie as to the course to be followed, and he stated that if the amount of new Contract for completing the works exceeded £200 the Contractors (Brennen's Sureties) must enter into a Bond with Sureties and as these gentlemen were willing to take over all Brennan's liabilities berein a schedule of these liabilities should be prepared, and made part of

Whatever document was signed.

Acting on Mr. Statham's instructions Mr. Gracie 4.5.92 forwarded the following list of Brennan's liabilities under the Contract.

Fdward Hurray	£3.	4. 0.
J. Jalland D. O Weill W. Ryan J. Doherty	8. 2.	7. 6. 10. 2. 14. 10. 4. 1.
These are all orders of court		0.7.
D. McCarthy	1.	10. 0.
A. Murray	2.	0. 0.
J. Felly	2.	8. 0.
M. Jami 98 on	1.	2. 0.
	£7.	(). ().

These are all acknowledged debts

£30. 0. 7.

7. 0. 0.

Total Liabilities £37. 0. 7.

at once wound up as the Sureties did not wish to complete, and it would in every way be more convenient, the Dept. to bring "this troublesome and somfused matter" to an end-

The Minister has since approved of the work being completed by day labor.

The Local Officer submitted a voucher for £37 in fa or of the Sureties in order to pay for useful work and

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material on the ground, and the Supervising Phaineer recommended payment, but the Commissioner considered payment should stand over until completion of the work, as the balance for completion was £196.13.4, and estimated cost of works to be done £188. He minuted "See also telegram", and it is on telegram that approval is given to work being done by day labor, but voucher does not appear to have been dealt with.

Brannan applied through Mr. T. T. Fwing M. P. 10.9.92 for payment of balance due on contracts.

Mr. Steel returned this to wr. Statham 19.9.92 with a minute to the effect that Ministerial approval is required to taking the work out of Sureties hands and payment of the voucher for £37.2.0 as termination of the contract.

of work in Sureties hands ever actually took place, though Ministerial approval was given thereto.

It now remains to decide whether or not this voucher should be paid to the Sureties at the present time or whether it be held over pending completion of work under general condit one of contract.

Mr. Statham recommends that it be paid on condit on of Stratias signing an agreement to discharge liability

for claims submitted.

Mr. Steel states that when he wrote minute 19.9.92 he had not seen Minister's approval to do work by day labor, and he now thinks voucher should be held over until completion of work, when wr. Wracie should render statement shewing amount of contract, amount paid under contract, and amount paid for work done by day labor, consider ation might then be given to the question of paying the surplus if any to the Sureties.

There is a later statement on John Brennan's contracts, dated

27 U-- FRECTION OF BRIDGE OVER REAU TREE CROSSING ON ROAD CASINO TO MOUNT LINDSAY. £419.16.9.

57 U. Approaches to Bridge Bean Tree Cresing, Road Casino to Mount Lindsay.

On 5th December, 1891. Rennen executed an order to pay all moneys to Messre. A. Cummings and T. J. Redda-cliff, Sureties for Contract 59 U.

time, £39, was remitted, 22.5.93, and part of this amount was under order of Court used to pay a creditor-Robert Cressy--£28.7.10, being £23.3.2 a ount claimed and £5.4.8 costs of Court, and the balance £10.12.2, after being offered to Prennan and as reported by Mr. Cracie on paper

attached, refused by him, was refunded to the T ressury.
22.1.94.

57 U. Fart of the work was done by Brennan, and the contract was cancelled through delay in completion, and approval given for transfer to his Sureties, but as circumstance had rendered necessary certain alterations in the proposed work it was eventually decided to complete the work by day labor.

done under Contracts, and the Local Officer made a report and estimate amount to be paid with a view to the claims by workmen being settled, £37.0.7. Mr. tracie, Local Officer, in his report stated that the floods had destinated was not to specification and estimated the value of the work to the Department at £117.2.1.

Brannan had been paid 680 as an advance on the contract, and the balance, £37.2.1 was paid to Brennan's

Brennan wrote to the Department in January 1893, claiming £70.5.5 as being due to him on this contract (57 U) after deducting amounts £70 for advance and £23.7.7 for wages value of work done £164.3.0.

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The rates quoted by him do not agree with those in his tender with Bond; the amount of advance is given at £70 instead of £80.

Brennan was informed 22.4.93 that a voucher was in course of payment to be paid to his sureties,, the voucher being for £37. 2. 1 amount referred to above.

Brennan has written several times since, asking that the matter may be settled, but as far as the papers when nothing has been written in reply to his claim.

Perhaps the best course would be to inform Brennan that as the contract was cancelled he has no claim upon the Government, and also that as a matter of grace the Department paid for the value of work so as to meet the clims of workmen.

There is a leter statement still deted 14th May, 1895 as follows:

HIM ON CONTRACT 91/57 U. AFFROACHES TO BEAN TREE Bridge CROSSING ROAD CASINO TO MOUNT LINDSAY.

Full statements of this case are with the file-94/2990 and 92/9224.

The contract which was for 276.3.4 was owing to unsatisfactory progress, cancelled 12.3.92, and the work completed by day labor.

't was decided to allow payment at local Officer's valuation, for all work done under the contract.

of £30 having been already paid, the balance £37.2.1 was, on approval of Er. Secretary Lyne, paid to Brennan's Sureties to allow them to pay the workmen engaged upon the contract.

Brennan now writes through Mr. Tyers M.T. cl aiming an addition amount of £77.15.11, which he says is due to him on the contract.

It appears qui te avident from the pepers that there is nothing due on the contract in question, and that the contract having been cancelled Brennan can have no legal claim.

Chairman. To whom was the sum of £80 you mention paid?

The statement here is that it was paid to Mr. Brennan, but it was not necessarily follow from that that it was paid to/himself, it may have been paid to his Sareties. It is stated that trennan executed in December, 1891 an order to pay all moneys and answer to Mr. Reddacliff/ If that advance of £80 was paid subsequent to that order being signed it would be paid to the credit of those persons in the usual course.

Referring to the Rean Tree Pridge Contract, to whom was the sum of £35 paid? There is no statement here about the Pean Tree Bridge.

tract 21 U that a balance of £40 has been placed in the Treasury that Mr. Brennan has been offered the money since, that ke and has refused to accept it.? Yes the amount is £46.5.4.

On Contract 21 U, to whom was the sum of file for orders of the Court paid? The statement is care

The amount of the final voucher £59.3.9 was paid to the Local Officer's credit, and out of it orders of the Court amounting to £16.17.2, as shewn above, were paid, leaving a balance of £42.6.7.

4 Mr. Lyne. That would be orders obtained by creditors at some time--by the men? 7es.

Mr. Brennan signed an order that his sureties were to get all money paid? Yes the usual order. It says here

On 5th December 1891 he executed an order to pa all moners
to Messrs. A Cummings and T. J. Reddacliff--sureties for
Contract 59 U.

The suret as for Bridge Contract 21 U were Alfred C Simpson,
and Cumumi, who
and Alexander Cummings-not Reddacliff, they were Sureties for

soms other contract, 59 U.

on contract 21 U to these sureties? It appears so.

Will you be good enough to make sure that he did because he said someting about that the other day? The order does not appear to be here, probably it is in the Accountant's office.

% Is the order he signed to pay over the money there? No, that probably is still with the Accountant. It could be obtained

from the accounts. Have you any means to ascertain whether

(Can you pan whether work

he signed away the moneys on Contract 21 U to Suraties

Reddacliff and somebody else? I could not say bey ond what is

stated here.

-- ClG and another amount -- due on Contract 21 U. FLFASF SITELY
ANSWER.

/ You said it was paid by order of the court ? Cl6.17.2 is due on Contract 21 U.

Where is the authority for paying that sum? I do not see the order here.

3 Chairman. To you mean for paying the claims? 7es. I do not see it stated here what authority there was for paying that.

H Was there any other money on Contract 21 U paid to the

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sursties of the other Contract 57? That I could not say.

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CLAIM Of JOHN BRENNAN

26 NOV. 96 JUNE 1

Tuesday 110hhNNovember 1896:-

PRESENT:-

Mr Harris

Mr Kelly

John Pyers Esq in the chair:-

ARTHUR GRACIE, road Superintendent, sown and examined:-

Chairman :- What is your occupation? I am road superintendent in the Mublic Works department.

You are residing in Glen Innes at the Present time? Yes.

You were the engineer for the work on contracts 21 U. and in the Casimo district

57 U. at the time Brennan carried them out? Iwas.

Brennan has stated in his evidence that he was directed in the first instance to go to the wrong site and that after he had There done some work/he was shown the proper site.? The site of the bridge for which tenders were called was about 3 miles from Lismore over Black Gully Point. Brennan secured the contract. As far as I know there were iron spikes in the road way denoting the site of the proper bridge which of course were not very visible as it was to be erected on a traffic road, it would be, dangerous to have them very prominent above the metal: they were spikes driven into the metal. How ever the site was well known as I afterwards inquired from everal contract; who tendered for the work and there was no doubt whatever in their minds as to the site of the bridge they tended for. I heard nothing from Brennan. He did not come near the office to ask that the work be laid. out. The first time that I saw him was when I happened to be causually diding along the road on other business. I then saw him at work at a creek about 2 miles to the west of the proper site that is on the Casino side. I asked him what he was doing

I informed him at that he was at the right place and he accordingly moved on the proper site. At that time he had some girders across the creek to across as the commencement of a temporary structure and had commenced to disamantle the existing bridge. The site he adopted was the proper one was in no way similar to the site as depitiment on the plans and sections. I know of nothing which could have induced him to start to precte the bridge where he did. It seemed to he to be just as unaccountable as when I told him to erect a bridge over had have induced him to be just as unaccountable as when I told him to erect a bridge over the Hawkesbury and he put it over to the Neapean River.

Where tenders called in the Gazette for the work? I almost sure they were - it at all events it used to be practice as it is now.

Helly:- Tenders were called in the local press as well as the gazette? I whink were, but the matter was eniceiated by Mr Allman of the Lismore District. Mr Allman prepared the section of the bridge : it was in his district then but at the time of calling for tenders it was in my district.

With fore can the fore sand Bruman 100 Mr Harris:- You had a maintenance man on this time do you on the Road remember his name? I believe a man named Alcock was with me at the time.

- You don't remember remember a man named William Harley? Yes.
- 2 Could he have pointed out any pegs to Brennan? Yes, he wax knew the site of the bridge.

of the bridge? Certainly. He put up the bridge at a totally dis
head similar bridge. The sections were nothing like what were shown on
the plan. We have since put up a bridge at the place he proposed
to put up the bridge and it is a structure consisting of three spans
also
instead of two is for himmans since pridge to

Chairman: - When youmet Brennan at the place did he ask you what you were going to give him for doing some work in a wrong place

- 3 -

did you agree to allow him anything for stripping the bridge? Certain -

ly, the thing was unaccountable to me.

Did he make any complaint when you drew his attention to the fact that he was at the wrong place? \(\tau -- \) Bidxhex

There were no pegs in at the place he commenced to put up the bridge.

The might as well have put up 5 or 10 miles this side of the site
At proposite

There were no visible pegs but Mr Allman had driven in hand spikes

down in the metal which was really all that could be done at the proper site.

Of course the tenders must have been called in the mocal papers

I see a copy of the advertisement among the departmental papers.

I admit that the creek is not well defined on the plan except that it near is Tunstall. The creek I suppose had no name on the map although it was locally known as the Black Gully near Tunstall.

Chairman: - Why was the stuff in the embankment increased in 61 g yards to 110 yards - that is nearly twice the original quantity?

There was a mistake in the plans. This section is not correct it is a mistake in the head office. I had nothing to do with the work before except from the commencement calling for the tenders. I had nothing to do with the preparation of the section or of the plans. I found when I took it over that the section was wrong that the bed of the creek had been shown at the level of they culvert it involved extras on everything - extra length of files whales and bracing of sheeting sheathing, while bank. What is shown here as the bed of the creek is the roadway. Livel of the creek is shown here as the bed of the creek is the roadway. Livel of the class.

Mr Harris:- The tenders were advertised to close on the 15th

April and the time was extended to the 23rd April - do you know

why the time was extended for a week? I do not recollect.

109 That it found out during this time that there was a mistake made in the plan? No. That was found out afterwards.

The liron pegs you thrawx dreve down into the metal is the usual manner in which you mark out were a bridge is going to be built? Where traffic has to use the world. Noad.

Chairman:- I thought it was usual to drive in wooden pegs?

In mecaditismed roads they generally drive in iron spikes; but in other situations we use wooden pegs

Mr Harris:- Was this contract carried out contrary to the plans specification and district? No; the contract was carried out according to the plans with that exception and that was a matter of schedule quantities which we adjusted afterwards.

Kelly:- You say that Brennan has no further claim against the fain

Depart ent? I don't know of any claim which he can possible have now,

I think that the department has dealt with him liberally.

Chairman:- As regards the dispute about the remeasurements, after some trouble you gave him fresh measurements? I allow him extra measurements. on June of the house to

You allowed him a considerable lot more than you agreed to give him at first? I am not sure whether it was not a couple of hundred yards; I cannot say exactly without looking over the papers. The measurements of the earth work were difficult to make and I was inclined tobe liberal with him to cover any possible error, that is to say that the ground was considerable uneven and scoured out. There was an old enbankment which had to be deducted. We measured the excavation as well as it was possible and arrived after a conference with Brrennan, at what I think was a very estimate of the quantities.

But this additional lot which you agreed to give him was axer-x had only offered after he refused to accept what you first offered him?

Ves

He demured to taking the first measurements? Yes.

Afterwards you agreed to give him an extended measurement? Yes I asked him for his calculations.

You did not agree to give himanything for the work he did at the bridge on the other side of Tunstall? No, because I considered that was quite unaccountable and foolish on his part.

Did you agree not to bind him to time because he had carried out

that

some work there? I would not have said that I med have said possibly

that he may get some consideration on account of the mistake he made.

2 Harris:- Do you know how long he had for completing the bridge?

Do you know if he was over his time? I have not had a chance yet to look through all the papers, my memory does not serve he sufficiently well to say he was over his time, I know there was a lot of extra work.

I cougd not say without looking at the specifications.

How long is it since the bridge has been built? About 4 or 5 years.

Chairman: - Did Mr Hanna report on the bridge? On the claims.

Have you ever heard that he said that these specifications were carelessly got up? No. I never heard that.

Melly:- In the matter of disputes with contracts as to measurements I suppose it often occur s or sometimes occurs, after conference with them that you make some extra allowance for something which they have pointed out? Yes, we try to met them in a friendly way on dispute with matters of doubt. We would be willing to give and take a little; we would rather give more than less.

Specially as regards the measurement of an enbankment? Yes, were it is absolutely impossible in some cases to get an exact measurements.

In this case I was in a position to get very close to the measurement by reason of having taken a good many cross sections of the old enbank ment before the new one went over the top of it.

Was this work carried out well? From your point of view was it carried out satisfactorily? I don't recollect having anything to find fault with as regards the work.

Chairman: - The dispute is only as to the measurements and as to the site? That is all in connection with that contract.

Harris:- He more contracts than this one? He had two other contracts going on about the same period.

Kelly:- Where not the payments on previous contracts mixed up with the payments on this contracts inscome peculiar way? I don't think where was any confusion in connection with this contract; they deem on smotherly, into the final payment according to my voucher was 259. odd. Then there was a claim against that which reduced it to

That is an outside claim which you had to met.? Yes, this balance was offered to Brennan as full payment for the work and he refused the offer.

On the ground that this claim was not met? No, on the ground that it was not sufficient to met his other claims as regards the site and the extras the money was exentually sent down to the Treasury to the suspense account.

He did not object to your paying the claims which you felt called upon to pay, but he objected to accept your offer on the ground that there was not a enough money coming to him? On the ground that it was not large enought, had allowed him nothing for shifting for the site were he first commenced to work hor for dufficient would have been.

His main objection was I suppose was that he should have been

allowed something for error as to the site? Yes and he claimed an extra small amount in connection with various items of the tang work which we could not allow.

Chairman :- There was a payment of £25 to a man named Neill McCall? I think it was £17

What was the money paid to McCall for? For work done on the appraoches to the bridge

Are sure that the amount of £17 was paid to McCall? £15 17.2.

was paid out of that £59. on orders of the Court.

I do not see the vouchers among these papers at the monagnt of the but I know that he was one/creditors for wages due.

Did Brennan finish the contract himself? Yes. We afterwards

(And you do any thing or did be fruish it? the finished it. he afterwards

improved it but that was another matter.

Was that extra work you did? It had nothing to do with his contract. It work afterwards found to be necessary to prevent a scource.

Mr Harris:- You did not refuse to send for any money for Brennan? No, I was always prepared to settle up.

You did not put on any men to spread metal? I see from the papers now that I employed labour to finish up the contract for him

Chairman:— Then he did not finish the contract himself! According to our views he finished the contract in asmuch we did not cancel of the work. He still remained the contractor although as we sometimes tapadite for implalment the Contract as we see that as we see that the product of the springers is two slows slowly.

There was no charge made to him for that? - you deducted nothing out of his contract? We deducted the value of these men's labour from his work.

Chairman: - Could you ascertain by a reference to the papers the cost of spreading that metal on the road? We deducted £26 6.9 from his contract for labour employed by the department - that is for

spreading the metal and other work? For spreading the metal and 1 think for breaking some metal too.

Why did you put these men on to spread the metal? The work was going on altogether to slowly. Brennan's financiets seemed to be running out and probably he was unable to carry out the work.

Had he money coming to him from the department at this time? Anly the final payment which was not due until he finished up.

Mr Kelly: - You made I suppose the necessary allowance for the change of a plan which necessitated a change of timbers to a certain extent? We allowed him schedule rates for extras in every case.

Chairman: - With regard to contract 57 U - approaches to Nean Trees Bridge He built the bridge itself and that work was finished and done with before he commenced/the approaches? Yes.

How was contract 57 U carried out? Very unsatisfactorily.

He did not finish that contract? No, we cancelled it. We paid him the value of the work done as a special concession .

Was that work carried out by the surelties or by the department.? By the department "

What was the reason for cancelling the contract? It, slow progress To the best of recollection he had pretty well abandoned the work.

Were the approaches ever washed away by a flood while he was carrying out the contract? No, not to any great extent. He had not sufficient done to make any washing away a serious matter. Of course the river used to rise very often there. We valued the work he had completed at £117. The amount of the contract was £276.3.4.

Was the work carried out at his expense and the cost of finishing the work charged to his contract? No; not contract was transferred to his surities and then cancelled.

It was afterwards carried out by the department? We finished it, we determined the contract at £117. He had an advance of £80. and the balance of £37.2.1. was paid to his surities to whom the contract had been transferred.

great delay in paying him on account of this contract; that the agreement was that he should be paid 70 % per month as the work proceeded but that as a matter of fact nothing was paid till the 23rd of February? We usually pay them when they have sufficient done to make it worth while to give them an advance - about once a month think it says in the conditions.

You have no agreement that you will pay them what about once a month? About once a month as the work proceeds.

In this case I suppose you did pay when there was enough work done to pay on? Yes; we gave him an advance of £80.

Chairman: - He had money coming to him then, when you calcelled that contract? I do not think gfter the fines were deducted he would have had anything coming to him.

How is it that money was pay to his surities afterwards? The contracts was transferred to them.

What were they paid money for?. Did they do any work on the contract after Brennan left? No,

If you paid the surities £37.2.1. he must have had that money coming to him when he left? We always have to deduct the fines due at the time the advances are being made out. Then there is the pur antage was he fined on this contract? There was no fine deducted. He

was he fined on this contract? There was no fine deducted. He was treated liberally. He was given the value of his work done which was a concession. When a contract is cancelled the whole of the money as a rule is lost.

Mr Kelly:- Lyour opinion Brennan has no cause for complain! You paid him in full on this contract? We paid him in full for the

value of his work done at the time on the basis of his schedule rates were he had any completed work and on the basis of a fair valuation for uncompleted work that is for work half finished and so on.

Harris:- Was he allowed for the material on the ground? He was allowed for all material on the ground.

What is he claiming ?— He is claiming £69.13.4 on this contract! You say that the work was never washed away during the time he was carrying it out?Perhaps some damage was done because (he river used often to rise . He was taking a good while over the contract and probably on account of the delay the work was damaged to some extent it would be damaged every fresh even after it was finished.

allow the contract to full risk? Yes. Mr Kelly:- What is the usual practice in such cases. Do you

So that even if the work were ever so much flamaged you claim that you are not responsible for it? He would not get a penny more.

2 Chairman: - Did Brennan apply to you for money on this contract and did you refuse to pay? I have no recollection of it. He used to have his dealings with his surities who were supposed to supply him with money and it would probable be his surities who would come to see me, I have no recollection of any disagreement with him on that score, I have no recollection of any disagreement with him on that score I could not say how he makes up the claim of £69.

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CLAYM OF JOHN BRENNAN

Wednesday 11th November, 1396.

Tresent;

m. 7. Clarke

Hr. Han ris

Mr. Melly

Rokut Fyang, Enq, in t Chair

Arthur Gracis recalled and further examined.

Shairman. Do you remainber . Brennan being at warr office at Casino before you saw him at the site of the bridge over the Creek near Tunstall? I have no recollection of . Brennan having come into my office on the business of wishing to know where the site of the bridge was, or of requesting me to go out and pointing out the site for him; in fact I am sure he did not come.

Did you go over the crossing he arected on the day you saw him on the site near Tunstall? No I was on howeebeck. I down not think it was in a state to allow one to cross over on howeeback.

Was there any particular business on at Lismore on the

Do you remember and law case being on that day? No. I recoll lect no law case in which I was interested.

to Lismore advertised? It was.

What quantities of earth work did you agree to pay for on

Theo and this contract? Betveen 16000 and 17000 cubic 72 cis.

What quantity of Pllast did you saree to pay for? Matol 120.88 cubic veris, + Sellast 134.30 cubic veris.

> Why did you reques to pay for them & the final voucher? I did not refus. Her e is the Minel voucher certified by me. The Department never refused to pay . Brennan fort

Thy did you cafuse to pay for 1660 yards of earth work? We have got down here 830 cubic yer la as an extra on his contract. The ais a certain quantity to be done by him under the Bp Aci If cation.

What is the quantity according to the specification? mada the total 1515 cubic varia of earth work, and we allowed him 122 yer's more on revintion of the matter to attempt a settl emeilt.

What was the total quantity in the approaches according to the tracings on the plan? 385 cubic varies. We did allow lin Brennan between 1600 and 1700 cubic Tacile. has aus : put 120 yards more on to attempt a settlement with him efterwards, so that it makes a total of 1637 cubic yards, which we offered to pay him, less the original amount of earth work, leaving an extra of 352 cubic vards under the heading of earthwork.

What was the total quantity of he earthwork metal and ballast and all, according to the tracinge? 635 cubic yerds.

Ta that of earth or metal? Of aarth.

L /8 The Lynn was t quantity of metal specified in the original speci-

What was the quantity of four inch ballast ap ec; ff ad? 134.8

What was the full length of the approaches according to

is not the quantity of metal apecified lo yards to the lineal yard of road? Tec.

What is the four inch ballast specified per lineal yerd of road? 15 cubic yards. Those quantities were afterwards altered by me.

Would that be 16 2/3 rds years in Langth according to the tracing ? 60 2/3 rds lineal years.

What would the total quantity of ballast be according to that measurement? (A little over 90 cubic yards.)

How was it that no page could be found in the gull mear liamore Municipalt? Because they were not visible. No one could have found the page except he knew where to look for them.

Brennan certainly could not find them.

How was it that Mr. Smallwood could not find them? He was not there when they were put in. It is a matter of extreme difficulty to find them.

Were there gun trees at each site at the time? The ere

attal of que 1th

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the proper sit a except a few scattered ones. It was a rather thick, brush, gully, where started to put up the bridge, but at the other site there were clear banks.

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How was it the bridge would not be over the gully according to the tracings on B.M. mark on gus tree. It specifies on plan from B.M. mark on guntree? We put B.M.'s all over the country. That simply means Bench Mark. It is a stand and point in levelling.

Of the pier? I was not aware that he found enviling of the

There is his mark there? No, that is the abutment of the old bridge Which extended from 239 ft 6 inches on Section 20

You say that there we also quatrees on the proper gite?

I could not be sure. There may have been one or two

seathered one on the plain. It was black soil plain, the

other was not. There is no country about there quite untubered;

there may have been a faw numbered on the plain.

Why jo the plan marked "Detum Fer 40 feet below B M mark

on gum tree South side is this is the proper site? There may have been a gum tree there I am not present to sweet that

there was not one must have how one close by as if so

You have said that there was not any quatres there? No.1t is hard to Mini a place about the Rich and where you could not find a tree to put a bench mark on.

How was it that the plan did not in any way comenpond with the present construction? It was a mintake of the office. What quantities in the embankment if i you watte to Meill MaCaull ? : have no record of them, except in the Corino office pechaps. I am away from that office now, I left that

Did i'r. Hilliand who was the forenan on the job let you know when the metal was all broken on this contract? I did not wish to know. I had men breaking it mys elf, and guaranteed them the payment. Mr. Brennan did not finish the metalling. I had it finished. 7 would not neturally want to information. 7 would

had bun the inform him if he was the contractor.

finishing the work the foreign on the work? I finished the metalling myself. It was measured as soon as it was broken. Did you instruct "illiard and the other men to put the metal on? I suppose so. We were derrying on the work ourselves pretty well, quaranteeing them the payment for everything they did.

> Why did you refuse to pay Hilliard and McCall when Brennan gave them an order for the oney? We never pay such

be at many and the first and the state of th

. 89 V Stontract? Ves.

The sontractor and the or to a Laved se thom and it was not seed as the month of the notice of the short the sold that thought the short of the shor

Shows all the apply of no sections of the that one of the menal femans of the new man and the forms at the office which were in existence at that the office which were in existence at the contract.

The section of the office which were in the contract.

The few mothers and the office the conditions and the contract.

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that you paid weed and to the new are near No. 1 paid also be that to that and to the fine payment on the bridge Bean "rest of other men. The fine fine payment on the ened; to the credit of the are then an order to the eddacliff, his sureties. The monte to the ment ave them and the monte.

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Engineer in Chief's permission. We recognized it and acted on

When did Brennan apply for his parmission? There was an order in the office signed by Brennan to pay Cummings and Redda-cliff.

Will you be good enough to produce the application to assign that money? I am afraid it is with the Account Branch, but if necessary it can be produced.

What was the amount of McCall's order on Contract 21 U given by Brennan ? I paid £16.17.2 and McCall's wer in that amount.

What did you do with the balance,? The balance was offered to Brannan and refused as the papers will show. The balance # £42.6.7, and we increased it a little of on the final offer.

You say you paid £35 owing on the Bean Tree Bridge to the sureties of Contract 57 U. ? Brennan cancelled that order, and the money was paid to him all am not quite sure whether it was paid to his sureties or to himself. It was paid to one or the other.

Will you state the amount of the order which Brennan gave McCall on Contract 21 U ? 7 do not know recollect; it was paid whatever it was.

Was it not fill old? Forall was satisfied whatever it was.

I could not say what it was.

paid? No. His claim was satisfied; it was a legal claim.

Why did you state that this sum of £16.17.2 paid to McCall and Williard was paid on orders of the Court on Contract 21 U-i.e. to Williard £4 odd and to We all £11 odd ? It is stated in the parers that they were orders of the court amounting to £16.17.2.

Orders of what Court? It says so here--at any rate they were claims whether they were orders of the Court or wages.

Was it to blacken Brennan with the Department that you stated they were orders of the Court? Certainly not. It would not blacken anyone.

not done to blacken Brennan at all. Sometimes it is not consider ed sufficient for a Contractor to seknowledge that he ower a man money-raman sometimes has to sue, and he can get an order of the Court. There may be collusion. believe the couldness and a series.

What was your object in stating that they were orders of the Court on the Contract ? It must have be en because they were orders of the Court. Some workings such Broman.

Not on that contract? It was not done to blacken his

Contract

in a in meking the statement? It was my duty.

am reporting that Laborers have procured Orders of the Court, for instance : sent one down 3 or 4 days 230.

In it your juty to report that the laborer has received an order of the Court Than the Contractor/given him an order Without going to the Court? We report that We have received? claim from 2 Laborer in connection With a certain contract, and send out notice to the contractor and to the leborer to prove his claim in the proper Court Within a certain time.

Have these claims been proved in a Court or taken to a Court of any kind? Here is the final voucher, there have been Weggs claims.

Will you admit to seve time that it was a cont actor's order, and not an order of the Court? Ten; it was an acknowledged debt of the contractor's. # sometimes per it to save trouble. Sometimes we take the laborer go to the court and

Santime on looking up the papers of word and land the that you offered Brennan \$42 in the

interest the contractor and a service

final voucher on Contract 21 U? Because ; was quite sure that we did. We offered him more that that amount, we offered him £46 eventually.

19111 you awear that you ever offered 3 remnan CA2? Certain-

ly we did.

Was it not £30.13.3 ? No. here is the final voucher? aent in £59.3.9, less claims paid on account £42.

> What was the amount you offered to leduct out of that final voucher? filf.17.2, waren claimed, fesving a balance of f42.6.7 offered to him and refused, and eventuelly forwarded to Suspense A/C in the Treasury.

On what date? ? could not say, Brennan would go into the office, or I would write to him and inform him that the money Was therefor min.

On what date did you offer him this amount of £42.6.7 ? : could not say, but here of a his letters refusing the offer. The letter in Which the offer was made would be in the Casino Office .

is this the final voucher on contract 21 U?

Department of Fublic Works,

Roads and Bridges and Sewerage Branch.

Casino 14th December, 1392.

Memo.

Broadvater Fost Office

The final payment on your contract for bridge and Apps. on the Lismore Road amounted to £59.3.9. From tings the following sums have been paid in accordance wi th orders given by you; -

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Meil McColl

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- 12 Eij What p. Jo of p EE & W.Z.S done--befo 77 eut or enter 00 Tashed SASA 5 5/10 3 |--3 |--'0
- per chat -4 ch 10 en not aftermords. BET 40 4 भूजान ने, it save nor chain .0 -1 at timete?
- chat : p.in. 4 1 to - 4 p.1. Would bave To are प्रतास केट हैं के व adopted the sule and COD tile e it tion. But the the for the e weethy ng. Ten tondome to the line the -4 settimetel it by the PER C Breillian B. Ett. A.T.

yer d.

25/8

That would be about £9 a chain? No £3.2.4 a chain.

That would make it about £5 less. That would be £175 for 13g chains.? I think it was 21g chains.

The portion which was completed was 13% thejas; the cutting and filling were all done, and there were 5 chains of force
ing to do at the time? What Brennan would all finished and
what I would call Sinished would vary a little.

Did you not leave out the culvert portion of the contract in your extination? Yes.

When did you make out the woush. So, the first mention of this contract? I have only the final voucher here.

Year it not on the 23 mi Pebruary? I could not say, as the voucher is in the Account Branch. I have been away from my papers in the Casino Office for so a veers an the fore I can ot say.

Did you make it within the contract time? Whatever date we made it is certainly whin the contract time.

When if I you first inspect the work? That I am unable to Casimo

say. My measurement books and everything are up at the office.

They have not been produced at the enquiry.

Did you messure the distance from the centre pents to the vater

tables are cutting approaches, and instruct the removal of the heaps? For his and convenience? allowed him to remove some.

They were in his way.

not have canoved these? Oh 728. They are left primapally to Virify

They ware supposed to be on until I or med their removal.

Were you stissied that the width was sufficient when you ordered their removal? No it haver came to being satisfied.

Then never satisfied with I pass the work.

According to the conditions via a plant supposed to inextract the removal of the heaps until you are patisfied? I can
do many things. It was done for his own convenience, so that he
might work his marts and horses better. The conditions state
that the heaps are to be left thee until their removal is
instructed by me.

Did you instruct their removal? Tes, in some cases.

on contract 57 U? We never refused to pay any just claims.

Did you not refuse to pay Fdward Hudray, J. Jelland,
D Oveill, W Ryen and J Doherty? No. 7 resorted that these en

nid not these med have to sue Prennan hafore their claims

Server !

Yould be recognised, making extre expense on the contract?

In some cases, as I pointed out, we do force the men to sue in the Courts, so as to get them to go into the box and swear that the amount is due, otherwise there implies be collusion on the part of the soutractor and the men to defraud others.

275 Why did you charge the varies of there men to contract 21 U
? If they were charged to that contract they worked on that
contract (art of the time at any rate.

Will you produce the receipts of these works and for the money they received? They can be produced on an application at the Casino Roads Office.

Are you aware that the sureties for this contract paid money to Brennan to leave his employ? No. : never heard about that.

When did the sureties stret asked for this contract? Mean its cancellation was being moted.

Was this work abandoned when the cancellation of the contract was moved? It was carried on so unsatisfactorily and the delay was so gre to being 7 weeks over time at the time when I made my report, and not half finished, that the Department on my report agreed to cancel the work.

Why did you not return for the £35 due to Brennan on the san Tree Bridge and eiter complete this contract or let him do so when he requested that you should? I returned for everything due to him on the Bean Tree Bridge.

4

We were not disposed to allow him to delay the completion of the approaches any longer, and we decided to take the work out of his hands.

had then been completed over 2 months, why did you not return for that money and complete this work? He was agitating for a remission of fines during that time, and probably they were being considered.

Will you read No 2 of the General Conditions of this Contract? It is as follows:

The Contractor is on no account to commence any contract without an order in writing, signed by the Road Superintendent; and no claim for any work expected without an order will be admitted.

Are the conditions in this contract binding on the government as Well as the contractor? Yes.

Ta there any contract between the parties when A a permit is given? Certainly.

Where obesit come in? The signing of the bond con-

Does it not say that the contractor is on no account to commence any contract without an order in weiting signed by

the Roads Superintendent, and no claim for any work executed without an order will be admitted? That is for extra work or deviations from the contract.

288

100

Have you a copy of the permit to start the work? No..

Is this the permit ? -

Casino to Mt. Lindsey Road

Casino District

Mr. A. Gracie Road Superintendent hereby undertakes to sturn for payment to The Roads Department the Sum of £276.3.4 for the following works, which Wr. John Brensen has contracted to execute for the Government of New South Wales, when and as the same are completed to his satis - faction, and in accordance with the General Conditions signed by the said Mr. J. Prennan, such payment to be made as follows, that is to say 70% of the value of the work done under this agreement to be returned for prevnent as nearly as possible each month, and theremainder when the whole is finished to the satisfaction of Mr. A. Gracie

Bridge as per specification.

Arthur Gracie.

Res Eng.

Dated the 19th day of November 2.d. 1391.

No. No.

No. This is not a permit to start work. It is many counter part of an agree ment to shew that Brennan was a contractor.

I suppose it is the same as a permit? No, it is no permit.

mission for Brennan to atert the Work.

Mr. Kally. It is an endors ament that he is the contractor?

We Then it a permit on the other side? think to get metal.

Chairman. Will you read what is on the other side of this paper? It reads as follows

NOTICE

No pagment will be made on account of work let by Superintendent except a task executed on the proper form is produced.

Verbal agreements Will not be recognized (however small the amount) but Will be a private liability of the officer, for which the Department Will not be responsible.

Contractor's Fernitt.

Within mentioned contract, and is hereby authorised to quarry, excavate and rmove all stone required for contract.

This permit is only granted for the purpose of this contract, and expires with the time specified for the completion of same, viz

Arthur Gracia
Rood Superint andent.

It is years since we used this form.

Only made one. We might have made payments more frequently.

Did you make any payments within the contract time? Tre,

Within the contract time? I do not know. He was seven weeks over the contract time, and he might have got this £30 after the contract time expired. I am not sure whether he did not get it after the contract time! had expired.

Will you admit that you did not pay according to that say agreement? No. I what that we paid in accordance with the practice of the Department.

we paid him £80.

Did you instrict i'm Crouch the Assistant Engineer to ask Brennan to assign this money to the suretime for contract by U? No it was not a mat or I' would ever interfere with.

Prennail mecalled and further examined.

Do you desire to make a statement to the commit-

Dated 19th Long Romenker. 13 11

11-4-6 additiont Interintendant if I was going to 9 Talland 2-14-210 Il Physica digne The money Coming to me to be paid to un 9. Doherty account in the Commercial Bouck in the names 4-4-1 of of Cumming + If Heddecliff I thought us the 8 10-2 2) (meil Theresof Coast of which he refusets

mearthy noter 1 - 10 Lograntines to ped me to be so that it would be all mostit and I day hey had a right to step it when A mouray I asked them to its do as I was being unfairly treated 2 - 6 and they were a party to the digning of such 4. Relly 2 - 8 Porcument selle Lof The General Conditions provides I famualon order 4 were the paid that on no acount well a contractor commence any contract without in order surrich by the Road Superntendent and no work executed without an order will be admitted The order agrees to pay 40 percent each month as the work proceeds. The departments has paid no money within the contract time nor for a month ruter and thenje uncel it for not making sufficient Jorgan The above are the names of mon who worked on this Contract If Menne of them worked on Contract -21 Id. Document No. 54 M Cassino to lat Links, losd Cosine Listent division for A Gracie road eleperatendent hereby undertake To return for payment to The Roads Departments the Lune of 12.46. B. 4 for the policing work which was john Brenson has intended to Execute for the Government of "How Souls water when end as the same are completed to his Litispastion and in accordance with the I everal Constins suned by the divid I har strender duck prejunent to be made as follows that is to don yo per cout of the balos of the work doub under the agreement to be returned for payment as nearly as weithe Each thoulk and the remainder when The whole is fromther to the Natisfaction of per of Gracie Construction of of personales to Beautist Crossing Frilge as per specification

the first rayment made on contrad was 23 differen (\$92

Synce Arthu Granic

Detter to John Brennan in the Sum of Sixty Sine founds Thirteen Shillings for Work down on Contract No 5 4M Cand four Jana 1 69-13-4 18 2 Chains Road Formation Cutting & filling 2 3-10 0 per Tenul cham 64-15-0 158. cb yds mettle Supplied and Broken 2's inch cost 6/0 Shedwel y 44-8-0 195 cb yds mettle Supplied and Broken winch lost 3/6 shedwel 46
43 cb yds Stone Supplied unbroken cost a/6 shedwel 3/6
Round Timber for Culvert to folion 12 in dia 6 ft 3 in) 5- 4-6 9-12-6 5 pueces 19 in dia 16 st 6 in 1925 Jeniel flat of parts 161= 5-6 169-13 Balance due to me John Parennan No 5 Hannam st Darlinghurst Sydney 24/6/95 3/

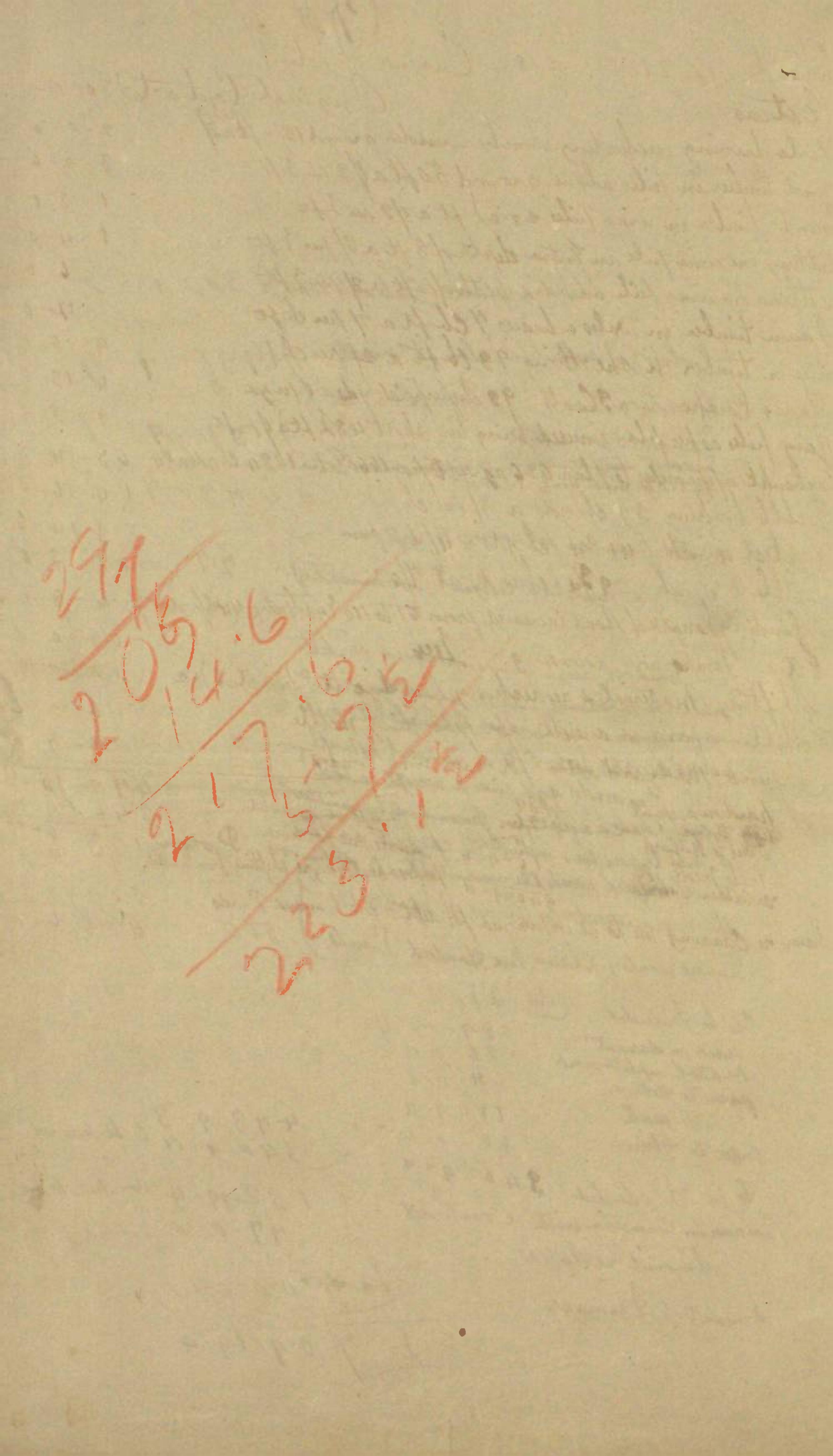
Arthur Gracie recalled and further examined.

298 Chairman. Is that a mistake on the plan-that the datum post is 40 feet from the gumtree marked 8 M? No it is not a mistake; it is simply an indication that the original levels are under the pegs 66.5 feet and We have reduced the whole

Sulver wing 10 soonplotting

does not refer to the distance of any gum tree. The

Buennan recalled and further examined Chairman. Do you desire to make a statement with regard to the particulars of your caim on Contract 21 U? I do, it is as POILDWB the Comprael Contract was \$ 302-18-2 Extres on heterelia Labour in Contract) 135 Estra for having to Shift from Creek wer Junatal. To Gully in Limere / junespubly)]
and west "Bridge Contemp to specification plan)] 7 4 M 3 = 9 3 Kosses Justaned for harring to stuff from Creek near Turetalle to Gally in Jismore humefality Lamages traigh being impresented par delt while the Department held the money the with was usual against me for and would not pay it unling accepted 146-5-4 as payment in jull of al! demands and give a recept in that form i have a receipt for Docomments ne quontities I would be part for + instructed to cary out work and when Catholated exceeds the amount offered to me by The Lycartments in this act on behalf of the -6-6 Depart ments; Claur Five Hundred Towns 1 500 主排力 To be Dodudet 1289-00 raid on Account 26-0-0 And to Complete work 4-0-6 pran to Williard 1473=9=3 to be declarated 11.9-11 Croser to mooth 16-0-0 Order To Glenn To be Deducted \$460 9 = " £ 132-19-4 100 due to me Contract Balana in Connection with Amount re losses 2500-0-0 Amount of Damaged £ 7 0 921924



Contract No 21 M of 1891 Carino District

Centras

Jule during including Timber under ground 13/2 ft a 3/2 2-0-6 Dound limber in fules above ground 50 ft a 1/3 / w Ift 3-2-6 Round Limber in wing files 22 22 ft a 1/8 per I ft 1-81 Letting one wines full an Entra depth of 8 ft a 3/ per I ft 1-4-0 Setting one wing file an extra depth of 2 ft a 3/ per 2 ft 6-0 Hown timber in wales a braces of Ch ft a of per cloft 14-0 Nawn tumber in Sheathing 93 lb ft a 2/ perch ft 9-6-6 Lar + Composition 3 Coats 93 Luperficial y de a 1/2 pa 4-13-0 Hing files as per plan unused being two short 482 staffer st Embankt approaches to plan 626 agreed to pay 1660 Extra 1034 chyssaffer Rubble backing 34 ch yors a 8/ per ching 2-8-0 14-96-0 Bûlest 4 meh 41 9/4 ch yds a 4/8 9-14-10 Muettle 2'2 mich 29 du ch nds at 1/6 12-3-8 Plinding Longth of Road increased from 6/ to 110 3 yds tatro 44 Ch 30 a 2/ 4-8-0 Extra Temporary Crossing Les 14-0-0 Shifting material & redestring Budge at Lungtal 1/2 12-0-0 I Shilling per yar a esetra for Breaking mettle 6-2-6 Lisepunce pur yard entra for breaking Palest 3-7-0 hard on account
light to complete work

26

Order to Hilbard

11-9= " Palance due for work- Donn - 1 3 3 - 0 - 9

Order to most in more

10-0-0 for loss sustained re Shifting from market 7 - 0-0 Claim ne Couring me to be improved for defet their founded Prinds 500-0-0 40-9-6-0

Combact No 21 Md 1891 Cosmo District augantities in approaches according to plan Commencing at Casino End in It Long It high pt Wide abyob to left abyds in section 73+11+3 39-0+1-9+28-10, 1-28-5. No 2. 170+18+0 4-20-0. 36-0+4-0+32-6. 6-14-42 do 3. 13-0+5-3+33-9. 84+24+102 246+12+72 8-13-12 29-0+6-6+ 35-3. No U 65+21+6 105 8-6+6-9+31-0, 7-20-6 61+8+42 0106 7-5-9 8-6+6-4+30-4. 101 + 4+3 % 10 7 14-6+5-6+34-3 6-26-42 010 8 34-0+2-3-429-4 90 + 12+0 2-12-0 891 + 4-0 Lotal Jength 6/ I yous 2 parts mettle 2'z mich 1 % Ch not to Lemal yard 12 Balest 4 wich 12 Oh yets to Lenial yard 92 Blinding The chird to Lemal yard 21
Bubble backing 60 Ch yards 60 Earth Embankment Cb yards 625 paul por Complebruy Cost 26 11-9-11 paid to of med fraid to hellard 4-0-0 pourt to Hymn 10-0-0 3 402 9211 to be Deducted

132260 Balonce due 77-0 se toss bong & objeting 500 bough being infinsined pordetit 4096 Latal

namo to her John Bremen Beaglaster Jost office the final hayment your from the the tollowing Sums have been paid in accordence with orders yourney from heit most \$\frac{1}{2}.9-11 John pattier 5-3 9 Juneson =1-2 Gilbert Hilliard 4 16-17-2 I hurest 3-4 1/m Ryan \$ 2-14-10 Lani mastly \$1-10 John Doberts \$4.4.1 14-12.4 7 28 - 0=1

will be haid to you on you informing me of your advers and my nor retaining this proper Endorsed on the hout that this stolement is outsifeeting and is a replied by you in full of any lemands you have against the Contract digner of other Gracie

Departments of Julie Wanks Casino 15-412/99 To her John Summen Broadwater with further reference to my letter of Yesterday o have to inform you that before payment of the balance due on Contract for Bridge on Lismore Road at will be nesserary for you to receipt the woncher Enclosed leaving your Lignature Hetwestell in the proper Column please return the brucher as early so presuite. Sequent afritter grace Henchit Engineer

se Contract dout I would wike to Explain why this Contract was so long incomplete whom shifted from the crock where i tentered for near Junstall that broke my rombark Timber j ordered it at Cornhisto be Delivered at Jiamore In a fost night from that date on the 24 th July j had a letter from Chestil in Jungment before delivering it to me at Linnore of didnot do so. recover the the timber was ordered to the plane and the Thales + Bracing would have been Too Short . on 29 july juice an order to her Bayley at Codeny ton he was to deliver it at Lesmore within nine days on the y the fuguet j had a letter from him Stating that his Lamster had gone on Strike for 8 per Hundred more for drawing if juvoued Consent to pay half he would have it drawn in On the 8 of August jorward it at the North Liamore Sawmin Glasgon-4 Micolight where j had got callowwood for the deching. Theywere to have some cut ina week they had not of hipt going about it every decondday & got the first delivered on Leptember the 5. 15.18.19.20.21. then the him went Bankrupt on the 24 of Deptember j give anorder to George Cotte Liamore & gat the first delivered on l'étaber the 12 mand Compléted on November the que lach time i went about this timberation to me from It to 18 pounds. They day , have been away from from Beantree Bridge Contract which was 50 miles from This one; have been loosing from 23-10. to 14 free day I have been their too days in Succession fulle driving of drive too files each day as feet each when j have been away got one pile a day driver from 18 to 21 feet my sheduck fruce was up per ft the material cost one shilling per ft relivered which was 3/6" for Fabour in topping my losses was iqually as large this would be 12 times 2 from Linnow Road 3-10 each & Len times from the Been tree 2 days each time 14- Lach The Embankment were commenced on 28 of Systember and completed on the 22 of November the Traffich was on the Bridge from that tale & few days previous to this j got an extra mettle and Balest J'got the stone carted I had a coupled men Breaking of Brought a quantity of Parions and left it in the Camp with them so that any men who wanted work could get some and start Breaking at \$6 per cb yard good mon didnet care about starting on such a small for and the stone was so hard they could not break more rowins than landa's it just per day each of came their every week tother finished

once at least but could not afford to Come oftner us I had a dozen men in the other Composition Contract and when I was away I did not get satisfaction I had a letter dent to me by Denis Oneill of Casino stating that the Departments had requested Alfred Clark Limpson to put me trough the Coart. I wish the committee to sind for this letter I regulated it to be taken care of sent this letter to the District Coart Cas ino held on monday the 25 day of June 1894 in Depence of Summonses for Write of Capias ad Datisfaciendum Noch Plaint 14 of 1892 between Denis Oncile plaintiff und John Brenner Dylandant and No of plainte Thomas Ilynn Plaintiff and John Bremon Defendant Alfred Clark Simpson of Casino Sent me an Eight day Summons he had no Claim of defended this dummons according to derections on the back of it Lending a Copy of the defence to the C. S. S. for Ilynn and Cneill this led to these writes when the Departments for a systemanty in a systematic in the Departments being essued coursing Me to be impresoned for debt while the Departments refused to pay me for quantities the had agreed to pay me for and would not pay Ine any Jortion unless jex cepted whatever they lease to give me as a final Settlements for this action on behalf of the Departments i Claim Line Hundred Tounds Damages L500-0

Line Contract cops for a lump sum recording to pland specification, and shedred prices was for deducting or increasing any of the items

No it of the General condition of this Contract provides that the Contractor is not be usign in moneys parable in a become payable under the Contract without the writer consent of the Engineer in Chief and no such Locument without such consent shall be are any affect or be in any way becornings.

(8)

CLAIM JOHN BRENNAN

Thursday 12th Movember, 1896.

I cas ent:

I'r. Lyns

Robert Pyers Fra in the Chair.

Arthur Gracis recalled and further examined.

Mr. Lyne. At that time did you find the pegs at the site.

Where Brennan first started to put = the bridge over the creek

near Tunstall? I do not know that I found any pegs there.

of the bismore district, to 1d me that he drove spikes there.

Tou stated in your evidence that spikes were driven into the ground and that they were covered by metal; what was the use of spikes being driven in there if they were driven in after

Brennan made his mistake? Not after but 13 months efore.

Is months before or any time before he made his mistake. If there was any doubt as to the site, and Brennan had gone to the other site where the bridge was ultimately put up he might have found the pegs? No I do not think he could.

why not ? They got driven down into the metal and covered up with the traffic, and he would require to measure the site to find the position of the pegs.

Mo you know that the pege we's ever there? Not of my own knowledge, but "r. Allman of the Liemore District informed ma that pegs were driven in there, and it were said to do so.

That they ware and ven in a long time before? 788.

Tou never saw the pegs yourself? I never saw them. You might say practically that there were no visible pegs at either point. There were no visible pegs at the proper place and no pegs at all were at the place where Brennan started to erect the Bridge.

10 Mr. Mekly. Do you expect the successful tenderer to come to you and have the place pointed out to him? Certainly.

1/ Mr. Lyne. That Brennan did not do? No

/ 2 Chairman. Brennan in his evidence says he did? Without white even going to the spot? could have explained the creek where we wanted the bridge put over. think his memory cannot serve him correctly.

you for information as to the spot? I am certain that he did not reported at the time that he did not.

One contract some money on that contract, and you pays them the money on another contract for which he had given you no authority?

? 7 do not recollect the account for which he had given you no authority case. I have given exidence to the effect that the balance

was paid aco eding to the orders of the Court.

the were and on the Court on areford on area

Brennan Eigned toenthoo no kind sew veno

.Varion

BEW ad tailt as darrow Lentl a final har hat he was

and he themendait and hit he daise to be this dais

-bearings in it in all the payments which had been made in commec-

thannath and transch and tog wow avail--U 72 tasatines ditiv noit

offw ment and los avelled ", arad as raged and prions for at t:

worked on contract 27 U also worked on contract 57 U, and if the

and are interior baid the money to the

Visit of forco and To retain one top mon tant rates animera

the money on one contract, and the paid a the money on another.

aill attachtnos and har walt no wow of hash nom aill ? dachtnos

um sh. . J. . J. . 353 asm intason Desair ness lent nol manbucy lentl hay one the

knew that this was coming on why did you not look through

Mood of Whinuthopped on Led ! Same Men earlied and class and gad and

I the , won to htak onless and not in the sens qualt day on his

.a med sames ? Litim was rayed a sand >sa ton bib

of with the the all Und teast from no year of with office nA

to an authority"

bay on contract 21 U ? W. Thoqu Acol Man W ? U 12 toanthoo no yeq

- at it is the did with a dest dest intentine vot ent vd sub

. Voussand soft you sub yanom Lie as it is qa

Shing ai ti toestroo tenw no yestiam for each fi call?

Does it not say by what contract; have you not a copy of the order? No. It was asked for yesterday, but has not been supplied.

to be able to give us some intronation about this matter? It is 5 or 3 years since it took place, it has been considerably by it because it is wrong.

Vill you resi the precise? It is as fellows; -

The state of the s

1

this amount although he signed for it, Mr. Gracie merely taking his receipt as a matter of form, the amount being used along with £11.12.11 part Final payment on contract

57 U Approaches to Bean Tree Bridge (total amount £46.14.2) to pay the undermentioned claims against the contracts:

N. McColl £15. 3. 7. Receipt at Audit Ce

E. Murray 3. 4. 0.

W. Ryan 2.14.10.

D. McCerthy 1.10. 0.

John Doherty 4. 4. 1.

J. Galland 11. 7. 6.

0'Neill 8.10. 2.

Total C46.14. 2.

There is a balance due to Brennan on this contract amount-

Part of remitted fine £39) which he refused to accept, amount was consequently refunded to the Treasury. R. Cressy's judgment order against Brennan was settled with the other portion of fine, amount £28.7.10.

f.25.9.2 balance of fi al voucher f.37.2.1 contract

57 U, approaches to Bean Tree Bridge, was paid to 44

ans surettes Messra. Cumming and Reddecliff on the 17th April, 1893.

With callerance to the papeant of this final voucher Brennan was informed that so the contract was cancelled he has no claim upon the government, and also that as a matter of grace the department paid for the value of work so as to meet the claims of workman.

The final voucher £59.3.9 contract 21 U, 7 dage over Greek, rosi Liamorr to casino, was disposed of as follows; -

Claims against Contracts Paid

N. W. McCall C.11. 19.11

M. R Jameson 1. 2.0.

Jno. Fatterson 5. 3.

G. Willerd 4. 0. 0.

T otel

f 16. 17. 2

Pereinte et

Audt t Office

etteched to

ימש ליסעופיי

and belence £42.6.7 mefue ed by Brennen mefunded to the Tragguey.

323 You saw that precise is no guide for you, because it is not correct? I doubt Whether it is correct because towards the end ther did not understand very much about it in the Head offic ca as the three contracts were getting mixed up. Then there is the remissin of fines which came afterwards with separate

papers on each contract, and they got mixed up.

Srennan asked for these receipts to be produced? Tanked

for the receipts to be sent down from the Casino Office. I got

some papers but not what I wanted-- not any which would be of

any use to s.

Chairman. You cannot get all the papers you want, and some of them are at the Casino Office? The receipts of McColl attached to the voucher are at the Audit Office. The receipted youchers exentually find their way to the Audit Office, and are filed there. I would have liked more time to have looked into the matter. I hid not reach Sydney until Midnight on Monday and the Committee sat on Tuesday morning.

You cannot say that Brennan's assection that a certain sum vas paid on one contract for Work done on another contract is true or not unless you have all the papers which are not obtainable? Not unless: have some papers to see who got the money.

You cannot say whether orders of the court given for work done on one contract vere paid out of another contract? No. It would be very u nusual. I never do it.

It would be unusual, but you cannot say that it is not so, because you cannot see the papers? No. It is an old case and my memory Will not allow me to say that it is not so. I dar a say if I had note time to look through the papers I might find something Which would clear that up.

-

· Hawking for 19.1

John Brennan recalled and further examined.

Boya unh bowake a statement? 9 do

Chairman. In his evidence vesterdar Mr. Gracie said that when he went there there was no crossing over the creek at Tunstall? I wish to say that the crossing was there, and that it was erected for one day only. It was Cinished on the night previous to his coming along, and I removed it on the fullowing mighture A. Gracie, Mr. Denis Allgock, Mr. Robert Walters, Mr. A. C. Simpson, Mr. Robert Pyers, crossed over the temporary crossing on that day.

30 Mr. Lyne. It did not cost you much Area? It were the deck-

Do you meen to say that Mr. Gracie might not have know not that it was there? He sould not have gone across if it was not there.

Chairman. You mean that Mr. Gradie crossed this crossing?

7es, but he save he did not. There was none there.

Me. Tyne. Are vor claiming for a tamporary bridge? Yes.

How much do you obsim? file. The we is a schedule in the contract for a temporary beddee. It had to be erected before the traffic could be put off the other.

How to you come to the conclusion that you ought to be allowed \$114 ? For the girders and labor.

336

Was it ever passed as walver of fill ? 7 tendered for the

78

When your the wason for a debt? Two years ago.

pleted-how lo you connect the department with causing you to go to prison? They asked a man to put me through the court.

Whom did they ask? I have a letter from Denie O'Weilleit is not here but it is in the court-stating that the department asked Charles Clark Simpson to put me through the court
in order to cave them further trouble.

240 What Branch of the Dep artment? The Roads and Bridges.

/ It seems a very unusual thing to do. ? 7 es.

Who is Mr. O'Weill? We had a case against me. He is one of the parties who imprisoned me.

What, loss he know about it? He assus to know about it.

He wrote a letter to me to that effect.

Have you any other evidence to shew that the department did put you through the court? There is a statement in evidence here that Mr. Gracie requested me to come to a settlement, and that he made several concessions, but that I would not accept them, and later on the was a statement come to the off ce that one of my creditors was taking steps to secure my insolvency.

10.

Suppose O'Neil has state that it is not true? I suppose he has to prove it It is between him and the Department, not between him a mi me.

MINUTES EVIDENCE OF

Taken before

HE SELECT COMMITTEE.

on the

JOHN BRENNAN AGAINST ROADS DEPARTMENT Tuesday 25th October 1898.

MR J. C. L. FITZPATRICK MR HASSALL

MR HURLEY

MR ANDERSON.

ROBERT PYERS, ESQ., IN THE CHAIR.

JOHN BRENNAN Sworn and examined

Do you wish to submit fresh evidence to the Committee? Yes.

- MR HURLEY: Are the plans now before us the plans of the bridge in question? Wes.
- Did you work out the quantities before you tendered? Yes. I have given in a bill showing the quantities worked out.
- 4 Did you start at the Casino end? Yes. g heart Cusine en la work out I want Was there any datum parti there? There was supposed to be a datum parti certain distance from a bench mark upon a gum tree. The tree was there but the datum peg could not be found. the Istem 149 dhould be 40 at below ine 6 Is the tree alongside the present bridge? No, it is 40 feet below that
- I understand the difference is that you tendered to build a bridge at a certain place on a creek and the Government authorities put you in another place? Yes.
 - In the specifications is there anything about a tree as a land mark? No, only the way in which the bridge is to be carried out, the datum peg could not be found when the Inspector went there to measure the site; it could not be found according to the plan.
- Did an officer go with you to the site where the bridge was to be built? I went to the site and looked at it but could find no pegs. How did you know that was the site? It was the creek where I tendered to build a bridge. I went on the road and could not find any pegs.

bench mark on the gum tree.

I went to the office to find out where was the place.

- MR ANDERSON: Did any of the officers point out where you were to commence the bridge? Not until after I began.
- Were any marks laid down for you to make a start? Yes, a peg was driven for the first pile.
- MR FITZPATRICK: In your evidence in chief you stated "I waited on Mr Gracie next morning 8th June 1891. I requested that he would meet me on the site by appointment as I could find no pegs and might put the tempo rary crossing in the way of the bridge. He said the bridge was going on the site of the old one and that I could not go wrong with the crossing and he told me to get the material delivered and he out would be there in a few days. When he came the crossing was complete the piles, privates and head stocks delivered, and the old bridge stripped. When he came the crossing he said 'this is not the place'." Between the time you asked him to and the period when you had constructed a portion of the works had he been there? No.
 - me to get it ready when I saw at in the office that he would be there in a few days, and that I could not go wrong with the crossing.
 - In the meantime you undertook to strip the bridge? Yes, according to his instructions.
 - Then you had his instructions? Yes, but not pegged out. He was not supposed to have pegged out the crossing, he was supposed to beg the bridge.
 - MR HURLEY: Did Mr Gracie tell you that the bridge was to go on the site of the old one? Yes.
 - When Mr Gracie came there did he indicate on the plan that a different locality was intended? No.
 - MR ANDERSON: When you commenced to construct the bridge who gave you instructions? Mr Smallwood, one of the officials.
- MR HURLEY: Is there any other old bridge on the creek? There was an old bridge where I began work.
- Did you know of any other old bridge? No.

all market or

- Mr HASSALL How long did it take to strip the crossingand replace it?

 Three or four days.
- I see in your original evidence that you were 27 weeks over the time allowed for the completion of the work? Yes.
- They find you for being over time, one reason you gave for being over time was the fact that you commenced work on the wrong site, that you had done a certain amout of work there and had to shift. In the documents it is stated that the Department remitted a portion of the fine on account of your beginning at a wrong place. What was the whole time occupied by you in doing the work over which the mistake arose?

 My loss was not sustained only through the time lost. I had made agreements for timber to be delivered there, and I had to go elsewhere
- MR HURLEY: When the mistake was found out you asked him what he was going to give you for what you had done, and he said he could not send in a voucher for that but that he would allow you for it in something else? Yes.
- I suppose that meant that he would not fine you on account of the overtime? Yes.
 - a considerable distance of whereyou began. Was there any other old bridge where you moved to? No, it was only a level crossing.

 That shows he must have misled you when he said the old bridge was the identical crossing, and when he then shifted you to where there
 - the identical crossing, and when he then shifted you to where there was no bridge at all? Yes. There was a culvert one and a half miles away, but there was no creek there.
 - (Was it at that curvert that the bridge was afterwards erected? Yes.
 - Was the bridge carried out in accordance with the plan? No, not by a long way; that is shown in the extras.
 - 30 MR J.C.L. PITZPATRICK: How far from Lismore did you construct the bridge? Within three miles of Lismore, within the Municipality.
 - / Where you originally atripped the bridge was it four and a half

miles away? Yes.

- MR HASSALL: Were these plans obtained from the Head Office? I got them from Mr Gracie.
 - 3 When was the mistake found out? When they came to peg the site they could not get any pegs, and they had to send one of my men to the office for a tracing; then they found the plans would not suit the place.
 - 4 Was an allowance made in your contract price afterwards? He agreed to pay for certain quantities, then he refused to certify for the quantities in the voucher.
- Was that after you had done the work? Yes. I sent Mr Gracie a bill and he refused to accept it. This is the reply of Mr Gracie on the bill I sent him which was much less than it should be "These extras will not be allowed, and as I have determined that you shall cause no further trouble to the Departments the voucher will be passed and paid to my credit in due course without your signature, leaving it to you to take any course you may think fit. I can understand that your motive is now to delay the payment of money properly due to your sureties and to men whom you employed and neglected topay. You may rest assurged however, that steps will be successfully taken to frustrate this design. You may not again communicate with this office unless specially requested. Arthur Gracie, Resident Engineer, Casino, 29/3/92. "Mr. sent me Gracie Atguad a document that he would pay me for certain quantities of metal and ballast, earthwork and rubble packing. When he sent me a final voucher he did not include those quantities correctly. He charged wages for workmen who were working on other contracts. 6 CHAIRMAN: Did the timber, according to the plans and specifications suit the bridge which you eventually put up? No, theywere too short, the piles for the piers were too short by 5 or 6 feet.
- Was the length of driving the same? No, there was an extra length of driving piles to the depth of 13½ feet.

MR HURLEY: Did you ever ask the officers to show you the site? Yes

Mr Gracie positively swears you did not? I did. It would be hardly
likely that I dould go and get material on to the place without asking
him.

Ho MR ANDERSON: When you started the work you had not the officers authority by his presence for beginning there - you were only told verbally and there was a mistake? He should have come with me when I requested him.

- MR HURLEY: Did you ever build a bridge for the Government before?

 That was the first bridge I built for the Government_ but I built another for them later on.
- How did you manage about that? The officer who was with me on the first bridge went with me and pegged out the site. The wooden pegs were to be found there.
- 3 You did not see any change in the system? No.
- CHAIRMAN: You say there was no change in the system, but do you not say in the one case there were pegs to be found while in the other case there were not? Xes, in the second XXXXX case there were pegs to be found, but in the case of the first bridge there were no pegs.
- MR J.C.L.FITZPATRICK: In question No. 282 there is a reference to No. 2 of the General Conditions of this contract in which it is stated "the contractor is on no account to commence any contract without an order in writing signed by the Road Superintendent and no claim for any work executed without an order will be admitted" Did you receive any such order? Yes.
- 6 MR HURLEY: Can you produce that order? No, but it is included in the documents already handed in.
- CHAIRMAN: Have you any new evidence that you can give us? Yes.

 What is it? I received from Mr Gracie documents that he would pay
 me for certain quantities.

49 Is that in connection with that contract on the Lismore road? Yes. I brought a final voucher to Sydney and left it in the Head office Mr (Stathan) insisted on my leaving it. He said there would not be a voucher to settle the matter if I did not leave the one I had with him The Department has kept that voucher, and did not return it. I sent those documents to the Under Secretary for Works to prove that the quantities I was claiming were due to me. These have been sent to Mr Gracie at Casino. He was instructed to communicate with me re a final settlement, he sent me a tracing and I worked out the quantities they are shown on a Bill before the Committee. This is Mr Gracie's reply to me - Memo to Mr J. Brennan, Broadwater. Contract No. 21 U Without prejudice. I do not understand the methods of your measurement. What do you mean for instance by Sections 6, 7 etc. What do these Numbers refer to. I may mention that my revised calculations made the total earthworks 1515 cubic yards, and I believe this is as near as it is possible to get to the correct quantity. As a kind of a check Mr Smallwood measured the excavations (anything but rough measurement 1m. being possible). He made the quantity somewhat greater, the end being litieral that you were allowed what I now think was the too limite quantity of 1660 wax cubic yards. However I have been over the papers and measurement again, and if it will end the matter as far as this item is concerned I am prepared to recommend 122 cubic yards more, or a total extra under this head of 952 cubic yards. I have re-calculated quantities as per plan of rubble and find the total of 764 cubic yds. This shows an extra of 24 yards (174 and 194) in your favor, and although there may have been circumstances now forgotten which made 17% the correct quantity I will recommend this 2% cubic yards. Regarding the ballast and metal unless there were at the time affecting the measurement and now forgotten, it appears the contract should be credited with an extra 5 cubic yards of ballast, and 5 cubic yards metal?

Ballast - quant:	ty supplied specified	134.80
	Extra	42.30
	On voucher	37.25
		5 cubic yards.
Metal - quanti	ty supplied	120.88
7	specified	92.50
		28.38
	On voucher	23.33
		5 cubic yards.

The other items of your claim I cannot discuss. They have been refused by the Department, and will I think always be. In making you that the offer herein I am satisfied with the position of the Department is perfectly secure in any action you may take. It only remains for you to let me know straightforwardly if you will accept this arrangement if the Department approves of it. NOTE: Do not write any more long letters, a line will do in this case. Arthur Gracie, Resident Engineer, 15/1/94. What I want to point out is that Mr Gracie admits that this quantity was owing to me, Why did he not return for in the final voucher for this 1660 cubic yards. He also led the Department to believe that I was offered a final voucher, the amount coming to me being £42; that was incorrect.

have papers here to that effect. There is a claim for £500. The Department retained this money, they would not give it to me unless I accepted it as a final settlement. There was a ca.sa. got against me for the amount, and I was imprisoned.

MR HASSALL: How long after the completion of the contract were you imprisoned? Going on for three years, a judgment was got against me and they applied for a ca.sa. Mr Gracie gave evidence that this amount was offered to me and I refused to accept it. I was forced

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either to forfeit my claim or to accept what they offered.

- But the Government did not take steps against you? No, other people did. They would not give me money to pay these people unless I accepted it as a final settlement.
- 3 The Government then had offered you what they thought was the amount of your claim on condition that you accepted it as a final settlement in connection with the contract? Yes.
- 4 On your refusing to accept that amount three years afterwards somebody took proceedings against you for debt and had you imprisoned? Yes.
- Was the debt which you were imprisoned for incurred in connection with this contract? Yes for materials, and money lent and stores.

 6 MR ANDERSON: Was the money standing in the hands of the Government handed over to the creditors by order of the Court? No, I agreed to give these men a certain amount of money. I agreed to give an order for £10.
- What was the amount of the debt? £40 was divided among two according to the order of the judge.
- Who got the money lying in the hands of the Government? The money is still in the hands of the Government.
- MR HASSALL: It seems that a long time elapsed between the completion of the contract and those proceedings? They had a judgment against me. It appears they got some information from the Government that they should take proceedings.
- Had you earned no money after the completion of the contract until proceedings were taken against you? Yes, I was working for wages but I was not in a position to pay the claims. There was some evidence revised by Mr Gracie which I would like to call attention to I think it should have been revised before the Committee. It is a question I asked him. He revised it apparently, or it is not given as he answered. I refer to question 245. It is as follows: "Why did you ask Alfred Clark Simpson of Casino to put Breman through the Court in order to save the Department further trouble? I did not ask

him to put Brennan through the Court. I may have made the remark on Mr Simpson's statement, that there was to be a meeting of Brennan's creditors, to the effect that trouble would be saved. The answer of Mr Gracie was "I might have insinuated it but I have not made use of those words." Those words are not in the answer as printed.

- G: CHAIRMAN But there is very little difference? At the time I had a meeting of creditors I was doing work for the Government and these contracts were not completed.
 - That question was put by me to Mr Gracie, and not by you? It may have been put through the Chairman. I took care as to how they were answered.
- How did you come to the conclusion that this evidence had been altered? Because I had taken an account of it.

14 DEC 898

Minutes of Evidence

taken before the

Select Committee

on the

Claim of John Brennan against Roads Department.

Tuesday 13th Decr., 1898.

Present:-

Mr. Hasaall

Mr Furley

Robert Pyers Esq., in the chair.

John Brennan recalled and further examined.

taken before the Select Committee in 1896 you have balance

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due for work done 2155 0s 46, and on page 15 you have

balance due on the same contract £132 6s 0d.? I have done

the bill over agin. I find there is a slight mistake

I have put down "setting one wing-pile an extra depth of 3

feet at 3s per lineal foot 6s 0d Instead of 6s 0d of course

it ought to be 9s 0d.

Mr. Hurley - How much are you asking interest on?

£132 4s 5d & I claim £45 14s 6d, interest at 5 per cent for 6

years The time was over 6 years, but I have claimed interest for only 6 years. That is on contract 21 u.

What is the amount due on the second contract 57 U?

For the same years? Yes.

The rate of 5 per cent.

How much does that amount to? £23 1s Cd.

What is your total claim for interest? £68 15s 6d.

think.

not to have been there at all.

The Government had money fof yours in hand when you were put in gaol? Yes they refused to pay it unless I would accept £46 as a final settlement. There were two cast Ca.Sa.'s got against the amount - one by Thomas Glynn and the

other by Dennis O'Neill, and the government refused to pay me anything unless I would accept £46 as a final settlement.

Do you know the full amount for which you are asking winterest on the money due and the back money and the damages for being imprisoned? £847 13s 3d. That includes £77 for loss sustained on other work æshifting from Tunstall!

that money through the fault of the government? Yes. When I was carrying out that contract, when I could be there was getting two piles a day driven by the same numbroof men as I used to get one pile a day driven by, when I was absent.

My schedule price for pile driving was 4s 6d a foot - the timber coste 1s 0d and the labor 3s 6d.

How do you account for being so far behind the contract time?. I got messed up over the matter of shifting from Tungstall. I had let a contract for the supply of timber to the Casino Saw Mill company. When I shifted to the other place they would not supply the timber.

Was it any fault of the department that was not done? Yes. Because I tendered for work at a Creek near "Tunstall & I had to erect the bridge over a black gulley" in the Lismore municipality.

I had to order the timber at Coraki according to the plan, but when we came to put the bridge up a great quanityt of the timber was found to be too short.

you owed certain money which you could not pay? Yes.

How was that debt contracted? Part of it was for plant and material and some was money borrowed to pay wages

All in connetion with this work? Yes.

The debt did not arise at all in connection with transaction No. Only these contracts. I did not keep the money paid on each of them separately, but paid mostly when it was required.

Then the judgment was obtained against you for what?

For stores supplied in connection with contract 57 U and

for plant.

How much was the judgment for ?349.

And the Government held money in hard to what amount? £132 4s 5. They offered £246 and refused to give me any portion of it unless I would accept that as a final settlement.

What distance did you have to shift from your camp at Tunstal about a mile and a half.

You say it cost you 277 for "loss sustained on other work chifting from Tunstall? Yes because I had to shift from Tunstall my agreement for timber was broken and every time I tried to get timber it took me two days and I was at a loss of somuch per day. I got about 42 feet of piles driven when I was there, but when I was away only from 17 to 20 were riven.

So practically you had to stand alongside the men see they did a fair day's work for you? Yes.

easy to get men then.

Mr. Hurley - How is that you have not charged interest on the £77? I did not think it would be of any use charging it.

Then what is the use of your charging interest on the other amount? I did not think you could charge interest on a claim. If the committee charge recommend that I should be paid interest on it, I should be pleased to take it. I have not asked for interest on the £500 damages either.

