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# Important Case For Architects

## J. F. HENNESSY AWARDED £25,720

A most important legal case for architects was decided on May 2, 1950, when Mr. Justice Matthews, in the Supreme Court, Brisbane, entered judgment awarding J. F. Hennessy, architect, £25,720 against Archbishop Duhig for fees owing for plans allegedly prepared for the building of the Holy Name Cathedral, Brisbane. This amount consisted of 3 per cent. on £1,000,000, the estimated cost of the structure, less £4280 already paid to Hennessy.

According to evidence given, the plans in question were prepared during the years 1925-1927. Protracted negotiations having apparently failed to reach agreement between the parties Hennessy brought the case before the Court.

This case reaffirms the right of the architect to receive payment of fees for work done in preparing plans and specifications, even though the construction of the planned building may not proceed.

J. F. Hennessy had claimed £35,720—that is 4 per cent. on £1,000,000, less £4280 already paid to him. This 4 per cent. was calculated as 3 per cent. for preparing plans and specifications and 1 per cent. on the signing of the plans and specifications, for obtaining a Bill of Quantities, and providing details sufficient to proceed with the work of construction.

It was contended by Archbishop Duhig that he had only requested Hennessy to draw plans for the foundations and not the entire building, and that it was never suggested that the building would cost £1,000,000.

The jury awarded Hennessy 3 per cent. on £1,000,000, less the £4280 already paid. As the matter was decided by jury, no explanation was given of the reason for not awarding the other 1 per cent. However, it may be that certain correspondence in November, 1948, in which Hennessy had rendered an account at the rate of 3 per cent. may have had some bearing on this point.

When summing up for the jury, Mr. Justice Matthews said that if the drawings mentioned in the contract referred to the building of the whole cathedral, then it was a contract for the construction of the entire building.

Two questions had to be answered by the jury: 1. Is the plaintiff entitled to any sum? 2. If so, what sum? In order to arrive at the answers to these questions the jury had to decide on three matters: What was the work

by the importance placed by Mr. Justice Matthews on a copy of a letter from Mr. Hennessy to Archbishop Duhig, dated July 3, 1930.

The letter stated:

"Your Grace, as requested by you we are forwarding a statement of our accounts in connection with the Holy Name Cathedral, showing all details and amounts received by us."

His Honour said: "Attached to that letter is a statement of the account. That, to my mind, is the most helpful document in this case for this reason—it points out the course of conduct adopted by the parties in their dealings with one another from 1925 onwards."

Mr. M. Hanger, with him Mr. N. Stable (instructed by Messrs. Chambers McNab and Co.), appeared for Hennessy, and Mr. A. D. McGill, K.C., with him Mr. T. C. O'Hagan (instructed by Messrs. John P. Kelly and Co.), for Archbishop Duhig.

### STOP PRESS

Since the accompanying report of the J. F. Hennessy v. Archbishop Duhig case was prepared, it has been announced that an appeal against the Court's decision has been lodged on behalf of Archbishop Duhig.

done by Mr. Hennessy? Was the work done by him in relation to the whole building or in relation to the foundations? Could the foundation work have been done without Mr. Hennessy's having done plans for the superstructure?

The value of adequate records and memoranda was shown

## ★ ★ ★ EXECUTIVE MEETING

The Executive Meeting of the R.A.I.A. was held in Sydney during the month of May. Queensland was represented by the Institute's Hon. Secretary, Mr. E. J. A. Weller. A number of matters important to architects were discussed.

### National Service.

The profession is extremely conscious of the important part which