

(No. 127.)

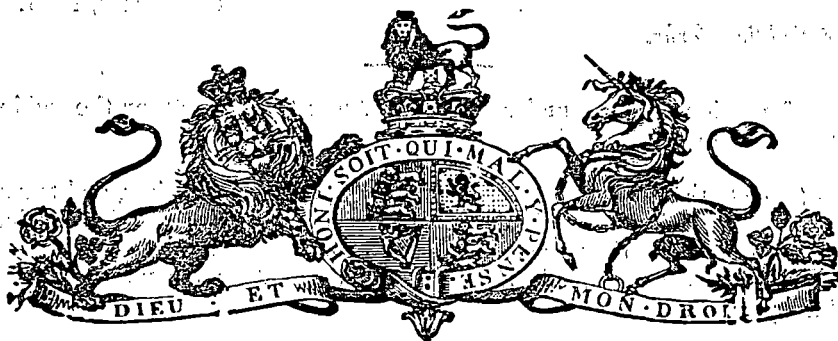


1870.

T A S M A N I A.

P E A R T ' S C A S E .

Laid upon the Table by Mr. Butler, and ordered by the House to be printed,
October 12, 1870.



To His Excellency CHARLES DU CANE, Esquire.

The humble Petition of W. M. Peart & Son, of Table Cape, in Tasmania.

RESPECTFULLY SHOWETH :

1. THAT in reply to an advertisement published by the Director of Public Works on 24th July, 1868, inviting tenders for the erection of two Bridges, one over the River Inglis and the other over the Big Creek, your Petitioners forwarded a tender offering to construct the two Bridges for the sum of £1055.

2. That in obedience to instructions published, your Petitioners forwarded their tender, and a cheque for £100 in proof of the *bona fides* of their tender.

That your Petitioners had but a brief opportunity to examine the specifications for the Bridges prior to forwarding their tender, as the use of the specifications was monopolised by others.

3. That in more closely examining the specifications, and finding that sawn timber and not hewn timber was to be used in the construction of the Bridges, your Petitioners immediately wrote to the Director of Public Works and explained the cause and nature of the error they had made, and asking permission to withdraw their tender or to complete the work in accordance with the specifications for £200 more than the total sum named in their tender.

4. That the Director of Public Works forwarded a contract for the signatures of Petitioners which included extra work to the amount of £100 more than was stated in the specifications of the two Bridges; and in consequence of this alone, and without reference to the error they had made in their estimate, your Petitioners declined to attach their signatures to the contract.

5. That your Petitioners have completed for the Public Works Department in satisfactory manner two bridges over the Detention and Crayfish Rivers, and are prepared to tender for the construction of the Bridges over the River Inglis and Big Creek, on having access to the new and modified plans and specifications since prepared.

6. That these facts have been stated to the present Director of Public Works, who, in reply, informs your Petitioners that, in consequence of their refusal to carry out the works under the circumstances herein detailed, the Government have decided to forfeit their deposit of £100.

Your Petitioners respectfully pray that Your Excellency will be graciously pleased not to sanction the infliction of so ruinous a penalty upon your Petitioners for no offence, but that Your Excellency will be pleased to take the whole of the facts into your favourable consideration and direct that the amount of the deposit be returned to your Petitioners.

And your Petitioners, as in duty bound, will ever pray.

W. M. PEART.
WM. PEART.

REFERRED to the Director of Public Works for his perusal and Report.

THOS. D. CHAPMAN, *Colonial Treasurer.*
October 22, 1869.

The Director of Public Works.

I APPEND a copy of previous Report under date 27th August, (T. 5586), on the subject of Messrs. Pearts' Deposit directed to be forfeited.

I have now to state that the contract prepared by the Crown Solicitor, and transmitted at the time for the Messrs. Pearts' signature, did not include or embrace any work *beyond* that described in the specification and shown on the plans. The Messrs. Peart refused to sign the contract on the ground that they themselves had made a mistake in calculating for "hewn timber" instead of "sawn timber," as specified.

FRANCIS BUTLER, *Director of Public Works.*
25th October, 1869.

The Hon. the Treasurer.

Table Cape, 27th July, 1869.

SIR,

I BEG to inform you that we have lost about £100 at the erection of the Crayfish Bridge, and we have been informed by the Director of Public Works that we shall have to forfeit the £100 deposit on the Inglis and Big Creek Bridges.

We wrote to the late Director of Public Works in September last, after our tender was accepted, and informed him that we had made a mistake in our tender. There was also a cutting at one of the Bridges worth about £100 not mentioned in the specification. We were informed after our tender was sent in that the cutting was included in our contract. There was also a mistake in the plan of Big Creek Bridge. There is now to be different plans of the Bridges at a much lower cost, which will be a saving to the Government; and I hope you will take the matter into your consideration for I am in great difficulties. I feel the losses very much, and I think it very hard indeed after working about nine months' at the Bridges and to lose about £100, and now to forfeit the £100 deposit on the Inglis and Big Creek Bridges. I was only a partner with my father in the erection of the Bridges, and we have carried out our contract satisfactorily in accordance with the plans and specifications. I trust you will do something in my favour and relieve me from difficulties, if it is in your power, for I have a family to keep, and beg to be excused for taking the liberty of writing to you.

I am, Sir,
Your obedient Servant,

WM. PEART, JUN.

To the Honorable T. D. CHAPMAN, Esq.

REFERRED to the Director of Public Works for his perusal and observations.

THOS. D. CHAPMAN.

Treasury, 25th August, 1869.

OBSERVATIONS herewith.

FRANCIS BUTLER, *Director of Public Works.*
30th August, 1869.

Office of Public Works, Hobart Town,
30th August, 1869.

OBSERVATIONS ON LETTER OF WM. PEART, JUNR.

(Treasury, No. T. 5586), herewith returned.

THE Messrs. Pearts' loss or gain on the Crayfish and Detention River Bridges has no bearing on the question of the forfeiture of their Deposit on account of the Inglis and Big Creek Bridges which they failed to construct.

Messrs. Peart did inform the Director of Public Works in the month of September, 1868, that they made a mistake as to the class of timber to be used in the bridges, having calculated for hewn timber and not for sawn as specified—that it was an oversight on their parts, and that they were at a heavy expense before they discovered their error.

The cutting or approach referred to in Mr. Peart's letter is clearly shown on the plan, and no exception was taken to this portion of the work till after the Messrs. Peart had declined to sign the contract prepared by the Crown Solicitor, nor until they attempted to enter upon a negotiation with the Department to get £1400 for the erection the of two bridges instead of £1055.

Had the Messrs. Peart acted on their tender the bridges would now have been erected.

The intention of the Government to invite fresh tenders, on plans to be submitted by myself, is a matter which cannot be considered in connection with Mr. Peart's present application.

When they are so invited the Messrs. Peart will have an opportunity of tendering.

They may deem it hard upon them to lose their £100 deposit, but there is no security against persons who fail to carry out their contracts except by enforcing the conditions under which tenders are invited.

The forfeiture of Messrs. Pearts' deposit is caused by their own acts and defaults.

If they had carried out their tender, the Overseer who was at the Detention and Crayfish, and also supervising Wm. Coucher's contract for the road between the Big Creek and River Inglis, could have at the same time looked after the erection of the two bridges. The Government will now be put to an expense for special supervision on these works.

FRANCIS BUTLER, *Director of Public Works.*

The Hon. the Treasurer.

RE PEART'S FORFEITED DEPOSIT.

ON 24th July, 1868, tenders were invited, to be received to 28th August, for erecting Bridges over the River Inglis and Big Creek, Table Cape, in accordance with the plans and specifications relating to the works; also for Bridges over the Detention and Crayfish Rivers. (Amount of tender for Inglis and Big Creek £1055, not carried out by Messrs. Peart.)

On 29th August the Director of Public Works wrote to Messrs. Peart & Son,—“I have to acquaint you that on your forwarding by return post to me to this office the deposits required by the conditions to be made under your tenders for the erection of Bridges over the Detention and Crayfish Rivers and over the Inglis and Big Creek, I will submit your tenders to the Government for decision.” And, having made such deposits, they were notified of the acceptance of their tenders for the several works. (Amount of tender for Detention and Crayfish £950.)

On the 22nd September, 1868, Messrs. Peart & Son wrote—“We have had a misunderstanding with the timber in the Bridges at Table Cape. We find that all the beams, &c. are to be all sawn timber, free from heart. We made our calculations for hewn timber. It has been an oversight on our part, and will make a difference of about £200 more than we calculated.”

On the 24th September, the Director of Public Works replied that he had no power to alter or vary the terms and conditions under which their tenders had been accepted.

The Contract for the Detention and Crayfish Bridges was duly executed; but the Messrs. Peart not having signed the contract for the Inglis and Big Creek Bridges, the Director of Public Works addressed Mr. Helmer, the Overseer in charge, thus:—

“The Messrs. Peart have not signed their contract for the Inglis and Big Creek Bridges. The Crown Solicitor has written to them on the subject, and unless they forthwith execute, the Government will take immediate steps to compel them. Be good enough so to inform them and report to this office the result.”

Who replied:—

“The Messrs. Peart have been informed of the contents of this note, and they said they could not sign the contract for the Inglis and Big Creek Bridges as they had made some mistakes in their calculations. They would make a proposition to the Government, and write on the subject; and if not accepted they would rather lose their deposit.”

On the 23rd December, 1868, the Messrs. Peart wrote:—

“We shall not be able to do the Bridges over Big Creek and River Inglis at the price we tendered for. We made a great mistake in our calculation, and we also state that there is a cutting on the east side of Big Creek worth about £100 which we have been informed is included in the tenders. This cutting was not mentioned in the specification. If the Government will accept our offer for the sum of fourteen hundred pounds (£1400) to erect the two Bridges at Big Creek and River Inglis we are willing to do them. *If the Government will not accept our offer we must forfeit the deposit.* (Amount of first tender £1055.)

Messrs. Peart & Son completed the Bridges over the Detention and Crayfish Rivers, but failed to carry out the work at Inglis and Big Creek, and the deposit of £100 on their contract was forfeited.

*Office of Public Works, Hobart Town,
13th October, 1870.*

The Hon. the Minister of Lands and Works.