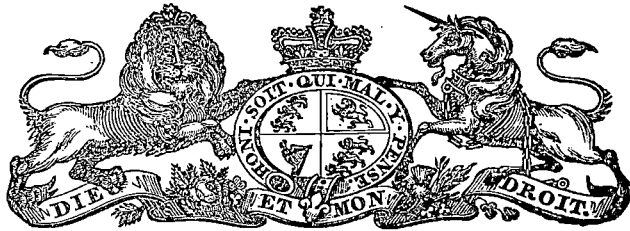


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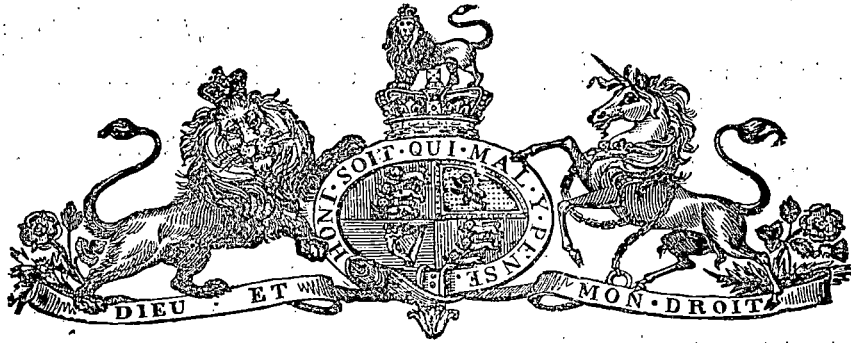
TASMANIA.

HOUSE OF ASSEMBLY.

PENGUIN BREAKWATER.

CORRESPONDENCE.

Laid upon the Table by the Minister of Lands and Works, and ordered by the House to be printed, September 22, 1876.



PENGUIN BREAKWATER.

MEMO.

THE Articles of Agreement herewith were placed before me in order to my executing same as Minister of Lands and Works. I decline to do so without a reference to the Hon. the Attorney-General as to the liability of the Government under the action taken by the Hon. Wm. Moore when Minister of Lands and Works, and who, in my opinion, contrary to the provisions of the law as to expenditure on local public works under "The Local Public Works Act," obtained the Governor's authority for an outlay of £650 to be paid out of the General Revenue of the Colony, without any liability on the part of District, or Promoters of the Penguin Creek Breakwater, for the amount so authorised.

It appears that the Penguin Creek Breakwater was constructed under the provisions of "The Local Public Works Act," at a cost of over £1700, and that the Promoters were duly authorised by the District to incur the outlay.

It further appears that the works so carried out are under the charge, jurisdiction, and control of the Promoters. That the said works, which were only completed in April, 1873, required in April last to undergo extensive repairs to prevent them "becoming a wreck." That Mr. Moore obtained the approval of the Governor in Council for a sum of £650 to be expended; the amount to be provided by a Supplementary Estimate, and to form a charge on the General Revenue and not on the District. If the General Revenue is to be so burdened without the authority of Parliament, and approvals sanctioned as in this case, then the outlay is thrown on the general taxpayers contrary to the provisions of "The Local Public Works Act," and in violation of the Audit Regulations, and without the authority of Parliament.

Submitted.

C. O'REILLY, *Minister of Lands and Works.*
31 August, 1876.

The Hon. Colonial Secretary.

FORWARDED to the Hon. the Attorney-General.

THOS. REIBEY.
1 September, '76.

THE power the Governor in Council has to approve of any public work so as to authorise the Colonial Treasurer to advance moneys to promoters of public works is confined to the construction of those works. The present contract of Mr. Andrews is not for the construction but for the maintenance of works already constructed. I see in "The Public Works Act, 1872," no provision for cases where works already constructed require repair and the promoters have exhausted their borrowing powers. The correspondence in this case does not show that the promoters have exhausted their borrowing powers, although an opinion is referred to in which this is implied. But, however this may be, I cannot advise the Hon. the Minister for Lands and Works to execute a contract for work such as this, which, in my opinion, his predecessor had no power to enter into; and if the Minister for Lands and Works had no power to enter into the contract, the contractor cannot compel its performance. At the same time care should be taken that Mr. Andrews, the contractor, does not commence the work without further instructions.

C. HAMILTON BROMBY.
Sept. 4, 1876.

BY ELECTRIC TELEGRAPH.

Hobart Town, 5th September, 1876, 2:53 P.M.

HAS Mr. Andrews commenced repairs of Penguin Creek Breakwater? If not, let him wait further instructions before doing so.

J. R. FRITH, *Esq., Latrobe.*

W. SMITH, *Hobart Town.*

BY ELECTRIC TELEGRAPH.

Latrobe, 5th September, 1876, 5:20 P.M.

ANDREWS not commenced yet; horses, carts, and harness ready to start to-morrow. I have stopped him. I shall be home on Thursday.

The Director of Public Works.

JOHN R. FRITH, *Latrobe.*

Launceston, 9th September, 1876.

SIR,

THE enclosed Telegram was received on my arrival at Latrobe. I made all enquiry I could, and found that all Mr. Andrews had done was to get three drays made, three sets of new harness, and was on the point of arranging with a sub-contractor for the pile-driving and with another party for the piles. This is all I can find out as to what he has done; he has not done anything to the work.

If I had not had this Telegram I should have reported for your information that he had not commenced, and requested you to officially write to him on the delay, as the state the work is in now makes it imperative that the repairs should be actively proceeded with, if the old work is to be proceeded with.*

I have, &c.

(Signed) JOHN R. FRITH, *Overseer Works.*

The Director of Public Works.

* Mr. Frith means prevented from going to ruin I think.—W.S.

Launceston, 23rd July, 1875.

PENGUIN BREAKWATER.

SIR,

As per instructions I have examined this Breakwater and have the honor to report as follows:—

At the north-east corner the sea is washing away the bank. I find there has been a serious error committed in departing from the original design, in allowing the contractor to put in a wooden apron in the shape of an inverted plough mould-board instead of filling up with large rocks to take the force of the water: the water now washes up along this apron, breaking at the top end, falling on the bank at the end of the apron with great weight, washing it away. A considerable cost has been incurred in continually filling up this place. The apron is made of 1½ inch hardwood planks fastened on to some beams under. This apron should be taken away, and the original design completed. It will take about 1200 cubic yards of rough stone filling to complete it, at a cost of £300.

At the eastern end, where exposed to an eastern and north-eastern swell, the sea beats against the piling, rising and breaking over, falling on the top of the wharf, washing away the earth filling. To remedy this requires about 20 extra piles driven close together to prevent the water beating through, and a fence above the level of the wharf to guard off the water. The cost of making this end good will be about £70.

I have, &c.

(Signed) JOHN R. FRITH.

The Director of Public Works.

Penguin, 22nd November, 1875.

SIR,

I HAVE the honor to submit to you for the consideration of the Government the great necessity of speedily effecting certain repairs to the Breakwater. To confine such repairs to the minimum, I now only point out those which are absolutely required to prevent the structure becoming a total wreck, namely, the close piling round the corner and repairing the timbered portion to the westward, both of which you are acquainted with.

The promoters would not solicit the aid of Government if they could accomplish the work, want of means preventing them from doing so; however, they feel convinced that unless something is shortly done an expensive and useful work will soon be in ruins.

*The Hon. the Minister of Lands and Works,
Hobart Town.*

I have, &c.
(Signed) THOMAS M. CLERKE.

MR. Frith is requested to report on this matter as to the total cost of necessary works.

WM. MOORE.
16. 12. '75.

SIR,

Penguin, 16th December, 1875.

ON the 22nd ultimo I had the honor of writing to the Honorable the Minister of Lands and Works, pointing out that unless our Breakwater had some repairs done to it the structure would soon become a wreck, and soliciting aid from the Government to effect the same. To this I have not had any reply.

From former communications with him I gather that the Government hold the opinion that the district has arrived at the limit of its borrowing power, though I differed with him, believing there was a considerable sum still available; this puts it out of the power of the district to execute these repairs, and at the same time continue the payment of interest on the sum already borrowed.

I now earnestly submit the matter for your consideration, whether it is wise to allow a valuable public work to get into a thorough state of disrepair, when comparatively speaking a few pounds spent now would place it in an efficient and sound condition. The last gales experienced on the coast have increased the damage materially, and I would not like to speculate what the result might be of a repetition of them.

I have, &c.

(Signed) THOMAS M. CLERKE,
Chairman Promoters Penguin Breakwater.

The Hon. the Colonial Secretary, Hobart Town.

Launceston, 23rd December, 1875.

PENGUIN BREAKWATER.

Re T. M. Clerke. 'Promoters' letter, 22 November, 1875.

SIR,

IN answer to this letter, received yesterday by me, I beg to refer you to my report of the 23rd July, 1875. I have not seen the structure since, nor been consulted by the promoters on the matter.

In my report I considered the cost of repairs to the structure where departed from the original specification, £300; and the cost of close piling the eastern end of the addition to the original design, £70; and allowing £30 for supervision and incidental expenses will make a total of £400.

I shall not be able to make a specification without going down, as I shall require to cross section the work as it now stands, to make plans to enable contractors to tender for the work.

Waiting your instructions,

I have, &c.

(Signed) JOHN R. FRITH.

The Director of Public Works.

MR. Frith had better report, and prepare plans and specifications of the necessary works required for the preservation of the Breakwater.

WM. MOORE, *D. P. Works.*
29. 12. '75.

I WILL proceed per steamer *Pioneer* to Penguin, with my instruments, on Tuesday next, January 4, 1876.

JOHN R. FRITH.

SIR,

Penguin, 16th January, 1876.

I HAVE the honor to inform you that on last Thursday night there was an extraordinary high tide accompanied with a terrific gale, in consequence of which the Breakwater has suffered considerable damage since Mr. Frith's inspection, and which ought to be included in any repairs contemplated by Government.

I have, &c.

(Signed)

THOMAS M. CLERKE,
Chairman Promoters.

*The Hon. the Minister of Lands and Works,
Hobart Town.*

Launceston, 27th January, 1876.

PENGUIN BREAKWATER.

SIR,

I HAVE the honor to forward for your inspection plans and specification for the repairs required at this structure. I believe the works included in the plans will be all that is required, without something very great happened during the last storm. (See Mr. Clerke's letter.) Below is an estimate of the cost:—

	£	s.	d.
Filling in bank with large rocks—1320 cubic yards, at 3s. 6d. per yard.....	231	0	0
Filling in end of pier—96 yards, at 2s. per yard.....	9	12	0
Piles—No., 34; at £3 10s. each.....	119	0	0
Cap sill, curb, and stays.....	15	0	0
Taking down and refixing old parapet.....	6	0	0
Ironwork.....	21	0	0
Clearing away bar.....	5	0	0
Metalling road on top.....	5	0	0
Tar.....	5	0	0
	<u>£416</u>	<u>0</u>	<u>0</u>

I have, &c.

(Signed) JOHN R. FRITH, *Superintendent of Works.**The Director of Public Works.**Penguin, 13th March, 1876.*

SIR,

I HAVE the honor to bring under your notice that the plans and specifications for repairs to the Penguin Breakwater do not make any provision as to the place where the 50 cube yards of stuff which is to be removed is to be deposited, and the depth the piles are to be driven is not provided for, though the plan appears to show about 5ft.: this is not sufficient; they should at least be driven 8ft. or 10ft.

With reference to the stone sloping to the westward, it appears to me it will be a very expensive undertaking, with the possibility of unsatisfactory results,—not only the difficulty the contracting party will have to put his work out of hand according to contract, but whether it will stand when finished the test of heavy weather. In this latter idea I hope I may be mistaken: however, I have not the slightest hesitation in stating that if this portion was repaired by chock and log, and properly filled in with suitable stones, it would answer all the purposes, and be infinitely cheaper.

I have, &c.

(Signed) THOMAS M. CLERKE.

The Hon. the Minister of Lands and Works, Hobart Town.

FORWARDED to Mr. Frith for his remarks.

WILLIAM SMITH, *for D. P. Works.*
17. 3. '76.

SIR,

Launceston, 22nd March, 1876.

I DO not consider it matters where the 50 cube yards of stuff are removed to so that the quantity named is removed from the channel to the satisfaction of the superintending officer. See Clause 1, Conditions.

As to the depth the piles are to be driven, the plans show the piles broken off, indicating that the depth is uncertain; but by Clause 1 of the Conditions the work is to be done to the satisfaction of the superintending officer. The piles having no weight to carry do not require to be driven any great depth; if sufficiently deep as to be beyond any chance of the earth being washed away from under them, and enough to restrain the pressure of the filling behind, it is quite sufficient. The drawings provide for proper bracing together to withstand anything in reason.

As to the stone filling of the embankment I am perfectly satisfied as to its efficiency. I totally object to chock and log work, where the worm will eat away in a few years.

I must object to the interference of non-professional men in Government works under my care. If it is allowed failure is likely to occur again, as it already has in this same work. Had the original design been carried out in forming this bank, and professional assistance obtained for the carrying out of the extension of the wharf, this present expenditure would not have been needed.

I have, &c.

(Signed) JOHN R. FRITH, *Superintendent of Works.**The Director of Public Works.*

Lands and Works Office, Hobart Town, 10th April, 1876.

TO CONTRACTORS.

TENDERS will be received at this Office till noon on Thursday, the 27th instant, for repairs and additional works, &c. at Breakwater, Penguin Creek. Plans and Specifications can be seen on application to Mr. T. M. Clerke, Chairman of Promoters, Penguin Creek; at the Public Buildings, Launceston; and at this Office.

WM. MOORE, *Director of Public Works.*

SCHEDULE of Tenders for Repairs, &c., Penguin Breakwater.

M. Boland—£855. 9 Months. Deposit £10 cheque.

Opened in the presence of J. BARNARD.

WILLIAM SMITH, *for Director of Public Works, (absent).*

27th April, 1876.

Tender received 1. 5. '76. Henry Jowett—£644. No time stated. Deposit authorised to be retained from Black River Bridge contract.—W.S.

REFERRED to Mr. Frith for his remarks.

WILLIAM SMITH, *for Director of Public Works.*

1st May, 1876.

Table Cape, 24th April, 1876.

SIR,

I HEREBY offer to do the repairs required to be done to the Penguin Breakwater, according to the Plans and Specification defining the same, for the sum of Eight hundred and fifty-five pounds, (£855); and to complete the same in nine months.

I enclose cheque for £10 as deposit.

I have, &c.

(Signed) M. BOLAND.

To the Director of Public Works.

Black River Bridge, near Circular Head.

SIR,

I SENT you yesterday from Circular Head a telegram, amount of Tender for Penguin Breakwater; I now forward particulars. I did not receive your letter until last Friday.

I have, &c.

(Signed) HENRY JOWETT.

The Director of Public Works.

I HEREBY offer and agree to do and perform all the work required to be done in building and repairing the Penguin Breakwater, as shown on Plan, and described in the Specifications, for the sum of Six hundred and forty-four pounds, (£644); viz.—

Timber work	£ 144
Stone work	500
	<hr/>
	£644
	<hr/>

And also authorise the Director of Public Works to detain from the Black River Bridge contract the sum required for a deposit on the Penguin Breakwater.

HENRY JOWETT.

Launceston, 3rd May, 1876.

PENGUIN BREAKWATER REPAIRS.

SIR,

THE tenders for this work are very high. In my estimate, £416, I reckoned to pay men 7s. per day at the time; the short and wet winter days now and consequent loss of time might add another £100, which would be sufficient. Boland's is out of all reason.

I would advise that a sum of £580 be offered to Jowett, he being the lowest tenderer. The work will have to be done soon or the whole of the present bank will be washed away.

I have, &c.

(Signed) JOHN R. FRITH, *Superintendent of Works.*

The Director of Public Works.

APPROVED, and if Jowett accepts provision to be made by Supplementary Estimate.

WM. MOORE.
19. 5. '76.

Lands and Works Office, Hobart Town, 20th May, 1876.

SIR,

I AM instructed by the Hon. the Minister of Lands and Works to inform you that if you are willing to carry out the works at the Penguin Creek Breakwater in accordance with the Plan and Specification defining the same, at or for the sum of Five hundred and eighty pounds (£580), instead of £644, the amount of your tender, the Minister is prepared to at once accept your offer at the first-mentioned sum (£580), and authorise the performance of the repairs stated.

I have, &c.

(Signed) WILLIAM SMITH, *Clerk Public Works.*

MR. HENRY JOWETT, *Black River,*
Circular Head.

Please reply.

Black River, 28th May, 1876.

SIR,

IN reply to your letter concerning Penguin Breakwater, I should like to see personally the state of the present works, and measure the work shown on plan to be done myself, before agreeing to accept your offer. I cannot possibly leave here at present as there is a heavy fresh in this river, and I must be here to see the staging kept clear of logs. If you can allow the matter to stand over for about a fortnight, I would go up and look at them and send you an answer at once.

I have, &c.

(Signed) HENRY JOWETT.

The Hon. the Minister of Lands and Works.

Penguin, 30th May, 1876.

SIR,

I REGRET having been absent when you recently passed the Penguin and inspected the Breakwater. Would you oblige by informing me if any Tender has been accepted for its repair? If you would get the timbered portion of the Contract executed it would be a great boon,—otherwise I fear the Port will shortly shut up, and the work already done become a total wreck. My anxiety on this account must be my excuse for again addressing you upon the subject.

The stone sloping contemplated in the plans and specifications could stand over for some time as the danger there is not so imminent as at the outer end.

I have, &c.

(Signed) THOMAS M. CLERKE, *Chairman Promoters.*

The Hon. the Minister of Lands and Works.

6th June.

SIR,

Your Telegram respecting Penguin Breakwater did not reach me until Saturday night, or I should have replied last mail. I cannot possibly leave here just now to have another look at the place, and as the weather seems to be thoroughly broken up I do not feel justified to accept the £580, as few will be better able to judge the extra loss through bad weather in works of that description than yourself, and also the discrepancies that have always to be allowed for between the work shown and the labour to be done in all works on this side the Island. Accept my best thanks for the chance you gave me of the work, which I should have liked very much to accept as it is so conveniently placed for me.

I have, &c.

(Signed) HENRY JOWETT.

The Hon. the Minister of Lands and Works.

BY ELECTRIC TELEGRAPH.

Leven, 23rd June, 1876.

ANDREWS will be in Hobart Town on Monday, *re* Penguin. Will write next mail. Do not agree with him till receipt of letter.

JOHN R. FRITH.

The Director of Public Works.

Leven, 24th June, 1876.

PENGUIN BREAKWATER.

SIR,

AFTER receiving your telegram that Jowett had declined the offer made to him for this work, I went to the site with Mr. Andrews and showed him the place, and in absence of the specification explained the whole to him and the offer of £580 to fulfil the conditions of the specification, with the addition of a small quantity of extra works which I consider necessary, as the old work is altered a little by the late storms, which extra work you will please add to the specification as per description at end of this report.

Mr. Andrews is coming to Hobart Town in a few days and will call on you to see the plans and specification and give you a decided answer, which will, I think, be to accept the sum.

I have shown him the work and where to get the material, and particularly the mode of construction I wish to be carried out.

Additional Paragraph to the Specification.

Cut out at the foot of the embankment a trench two feet deep, either by blasting or other means (blasting preferred) in order that the stones at the foot of the bank may lay in to counteract the effects of the back draft of the water.

Trench to be cut thus—(See sketch.)

I have to report that the late storms have removed a large quantity of the original bank at the end of the timber apron further along towards the end of the bank, but has not taken any material away, and as far as the work is concerned has not made any material difference to the coast.

I have, &c.

(Signed) JOHN R. FRITH, *Supt. of Works.**The Director of Public Works.*

Harrington-street, Hobart Town, 30th June, 1876.

SIR,

MR. Frith pointed out to me the work required to be done to repair the Breakwater at Penguin Creek, North West Coast. I have also examined the drawings and specifications and am prepared to execute the same for the sum of £600. Time required—four months.

I have, &c.

(Signed) W. ANDREWS.

The Hon. the Minister of Lands and Works.

APPROVED.

WM. MOORE.

1 July, 1876.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Lands and Works Office, Hobart Town, 3rd July, 1876.

SUBMITTED—

THAT the Tender of Mr. William Andrews, at Six hundred Pounds (£600), for Repairs to Penguin Creek Breakwater, be accepted, and that this amount with Fifty Pounds (£50) for contingencies and supervision be provided upon a Supplementary Estimate,—the works now proposed being necessary in order to prevent the structure, erected under the provisions of "The Local Public Works Act," at a cost of over £1700, becoming a wreck.

WM. MOORE, *Minister of Lands and Works.*

The Governor in Council approves.

E. C. NOWELL.

The Hon. the Minister of Lands and Works.

3. 7. 76.

DEAR SIR,

CAN you send up Andrews' Contract to sign, as I go down to the Black River for Penguin Breakwater?

J. R. FRITH.

WM. SMITH, *Esquire.*

Articles of Agreement made and entered into this twenty-fourth day of August 1876 between WILLIAM ANDREWS of Hobart Town in Tasmania Contractor of the one part and the Honorable CHARLES MEREDITH being and as hereinafter called the Director of Public Works of the other part WHEREAS Tenders were called for by the Director of Public Works for the execution of certain Works (to wit) for Repairs and Additional Works at Breakwater Penguin Creek in accordance with the plans and specification hereunto annexed marked A. B. and C. respectively and signed by the said William Andrews: AND WHEREAS the said William Andrews put in a Tender for the execution by him within Four Months from the date hereof of the said Works at or for the price or sum of Six hundred Pounds: AND WHEREAS the Tender of the said William Andrews has been accepted and the said William Andrews has in pursuance of his said Tender agreed to enter into the Covenants hereinafter contained and hath deposited with the Government of Tasmania the sum of Ten Pounds by way of security for the due performance of this Agreement NOW THESE PRESENTS WITNESS that in pursuance of the said Agreement and in consideration of the Covenants hereinafter contained HE the said William Andrews hath hereby for himself his executors administrators and assigns covenant and agree with and to the said Director of Public Works his executors administrators and assigns THAT he the said William Andrews his executors administrators and assigns shall and will within the space of Four months from the date hereof execute all the Works specified in the said Specification in accordance in every respect with the same and shall in all things observe and perform all the Conditions and Stipulations in the said Specification contained (save so far as the said Conditions and Stipulations may have been already fulfilled) AND ALSO that the said sum of Ten Pounds so deposited shall be held by the said Government during the performance of the said Works by the said William Andrews his executors administrators and assigns AND that in case the said Works shall from any cause (save and except in pursuance of the order in writing of the said Director of Public Works or some other person having authority in that behalf) not be executed in accordance with the terms of these Presents the said William Andrews shall absolutely forfeit the said sum of Ten Pounds as and by way of liquidated damages for the breach on the part of the said William Andrews his executors administrators and assigns of this Agreement AND the said sum of Ten Pounds shall thereupon become the property of Her Majesty the Queen for the use of the said Government but without prejudice to any right of action for breach of this Agreement AND the said Director of Public Works hereby expressly agrees that if the said William Andrews his executors administrators and assigns do and shall in all things perform and keep the Covenants hereinbefore contained and on the part of the said William Andrews his executors administrators and assigns to be observed and performed THEN that the said Government will pay or cause to be paid to the said William Andrews his executors administrators or assigns in full for the performance and execution of the said Works the sum of Six hundred Pounds such sum to be paid at the times and in the manner and subject to the Stipulations and Conditions in the said Specification hereunto annexed contained AND ALSO that in case the said Works shall in all things be completed in accordance with the Stipulations hereinbefore contained or in case their completion shall be prevented by such order in writing as aforesaid THEN that the said sum of Ten Pounds so deposited as aforesaid shall be returned to the said William Andrews his executors administrators or assigns.

IN WITNESS whereof the said parties to these Presents have hereunto set their hands and seals the day and year first hereinbefore written.

W. ANDREWS. (Seal.)

Signed sealed and delivered by the above-named }
William Andrews in presence of

JOHN R. FRITH.

Signed sealed and delivered by the above-named }
in presence of

(Seal.)

Will send the Stamps, I have the money but cannot get the Stamps.—J. R. F.

Table Cape,
26. 8. 76.