

1875.

NEW ZEALAND.

SAN FRANCISCO MAIL SERVICE,

(FURTHER PAPERS RELATING TO).

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

Mr. T. RUSSELL to the Hon. the COLONIAL SECRETARY.

SIR,—

London, 29th June, 1875.

In continuation of my previous advices relative to the establishment of a permanent mail service between the two colonies of New South Wales and New Zealand and San Francisco, I beg now to report my proceedings since leaving New Zealand in November 1874. Shortly after my arrival in England in January last, Sir Julius Vogel, referring to his letter addressed to me from Melbourne, and dated 30th October, 1874 (copy enclosed), requested me to continue my efforts for the re-establishment of the service. This I agreed to do, and placed myself in communication with Sir Daniel Cooper, who had received a telegram from the New South Wales Government requesting him to represent them.

After several conferences with Sir Daniel Cooper, and some inquiry, we concluded that there was not much hope of procuring eligible tenders within the limited price, £90,000, for either of the services contemplated by the agreement between the two Governments, and now described in the printed conditions as Routes A and B. We determined, therefore, also to invite tenders for an additional service, described as Route C, being the route *viâ* Auckland, now traversed by the steamers of the temporary line. This course we adopted without any authority from our respective Governments. Particulars and conditions for the performance of the services were drawn up by our solicitors, and advertisements calling for tenders were inserted. All this, however, had to be set aside in consequence of instructions from New South Wales, and much time was lost. Finally, however, tenders were invited for the 1st June, afterwards extended to 10th June. I enclose copy* of the printed particulars and conditions under which the tenders were last invited, and a copy of the bond and contract referred to in those conditions.

A summary of the principal communications which have passed between Sir Daniel Cooper, the Government of New South Wales, and myself, is contained in a letter which, on the 8th instant, I addressed to Sir Daniel Cooper, a copy of which is as follows:—

“SIR,—

“London, 8th June, 1875.

“There may hereafter be some danger of misconception as to the principal facts connected with our negotiation for the San Francisco Mail Service, arising from the circumstance of many of our communications having been verbal and in private notes, and consisting of extracts from telegrams, which may not be readily accessible; I beg therefore to submit to you a narrative of the principal facts connected with our proceedings to present date, since February last, when we first met to consider the steps to be taken to establish the service. You will remember I then gave you a copy of the agreement of 23rd October, 1874, made at Sydney, between the two Governments—Mr. Samuel acting for New South Wales, while I represented New Zealand. Shortly after we first met, your instructions came to hand, and you found that in them you were directed to ask for tenders for the service provided for under the agreement, and now known as Routes A and B of our printed conditions, and your Government also asked you to call for tenders for a service from San Francisco to Sydney, touching at Fiji, with a branch boat from Fiji to New Zealand; and for a service from San Francisco direct to Sydney, touching at Fiji, omitting New Zealand altogether; and I was to join you in asking for these tenders. I objected to such a departure from the agreement as would be involved in asking for tenders for the two latter services (afterwards referred to in your telegram as Samuel’s suggested Routes 2 and 3), and you concurred with me in that objection. We had then made inquiries as to the probability of obtaining either of the services provided for by the agreement, and the result of our inquiries was that we did not think it possible to get them taken up for £90,000, or any reasonable advance upon that sum, and we agreed to ask for tenders for the Service C, also as the best possible service that could be got within the limited amount. Upon which you sent a telegram to your Government, dated 25th February, extract from which is as follows:—

1—F. 3B.

* Copies of these were laid before Parliament on the 21st July, 1875.

“Sir D. Cooper to Secretary, Sydney.—25th February, 1875.—Have agreed with Russell to call for two tenders—No. 1, course as per paragraph 5 of Samuel-Russell Agreement, 23rd October last; No. 2, course Sydney to Auckland, Honolulu, Frisco, omitting Fiji, same course back; three separate tenders for each service, at 12, 11½, and 11 knots. Samuel suggested Routes 2 and 3, and also for tenders to be received at Sydney inadmissible. New Zealand objects, and parties here refuse to tender. I require your sanction for No. 2. I and Larnach consider it most sensible and cheapest, and strongly urge you to give me full power to act. We are confident services contemplated by agreement 23rd October last will exceed limit, but service *via* Auckland will be closely competed for within limit. We hope New Zealand will agree. Hope to close contract by 25th March. Direct A.S.N. Co. to instruct agents here. My commission must legally qualify me to sign for Postmaster-General. See that my power is beyond dispute.’

“To which telegram you received the following reply:—

“Urgent. As Russell will not consent to invite tenders for Routes 2 and 3, proposed by Samuel, but not included in agreement, and will not agree to call for tenders in the Australian colonies, this Government considers there is no alternative but to abide by the agreement of 23rd October, and endeavour to obtain contract as per paragraphs 3, and 4, and 5 of agreement. This Government insists upon ample time being given for invitations to tender by colonial companies, which by paragraph 10 have a preference, and for equal facilities for tendering being given to the American companies. We shall advertise on 7th March in local papers, and fix date for receipt of tenders, Sydney, May 5th. You fix same date. Australian and American tenders to be forwarded to England.’

“Upon which, on the 8th March, I telegraphed to the Chief Secretary as follows:—

“Your proposal invite tenders in Sydney useless. The A.S.N. Directors, in my presence, told whole Cabinet New South Wales they would not do services contemplated by our agreement on any terms whatever. Moreover, agreement contemplates tendering here. New Zealand no representative in Sydney. I ascertained, by personal inquiry in America, no tenders for fast service can come from America. I came here, by agreement with you, at great inconvenience; your agreement was to send representative here with full power. I object to delay, which means continuance of present imperfect expensive service. If you still require tenders Sydney, we must telegraph conditions that tenders may be transmitted here by telegram; this will involve considerable expense. Have you any other proposal to make? Sir Daniel Cooper has received copy of this.’

“And I received the following reply from the Chief Secretary:—

“You appear to have misconceived our telegram; it was not our intention that tenders should be opened in Sydney, or that English or American tenders should be sent here. All we insisted on was that people in the colonies and America should have opportunity of tendering. We have already offer from America. Cooper our fully accredited representative under agreement.’

“At the same time you sent the following message:—

“Your telegram prevents my acting. Have withdrawn advertisements. No one here will tender if you receive tenders in Sydney. Russell will not wait until you receive terms of contract in Sydney, and then advertise, for reasons he telegraphs to you. The services in Russell-Samuel Agreement will exceed limit, and I could not accept. Colonial companies have preference, all other things being equal. Colonial companies would have to raise money and build steamers, which would take two years at least. American Pacific Company have no boats to do ten-knot service, let alone eleven. I see no chance of agreement within limit, except for service Sydney and Auckland, Honolulu, Frisco. This would give you your mails in forty-eight days, and I strongly urge it on you. I could send you draft contract by Brindisi mail of 19th, which reaches Sydney 6th May. Colonial companies could telegraph agents here what to do, and we could advertise for tenders to be sent in on 20th or 25th May; could also advertise in American papers. If you concur in these proposals, you must extend my power to conclude contracts here, say, for services in agreement, £120,000; for services *via* Auckland, my present limit will do. Telegraph early.’

“To which you received the following reply:—

“You appear to have misconceived our telegram; it was not our intention that the tenders should be opened in Sydney, or that English or American tenders should be sent here. All we insisted on was that people in colonies and America should have opportunity of tendering. We have already offer from America. You are our fully accredited representative, but before you sign and finally commit this Government, we shall expect you to obtain our concurrence in regard to principal conditions.’

“In explanation of my statement as to the improbability of getting a fast service done by American capitalists, you will remember I narrated to you the result of several interviews I had had in January, 1875, with the Directors of the Pacific Mail Steam Ship Company (the only American Company capable of doing the service) relative to the offer for the service which they had made by telegram to New South Wales in October, 1874, when I was in Sydney, and I ascertained from them that they proposed using for the service the wooden side-wheel boats they were then withdrawing from their China and Japan trade, and that those boats were not capable of maintaining a ten-knot speed for a long voyage. I pointed out to the Directors the necessity for a higher rate of speed, and endeavoured to interest them in the matter, so as to induce them to put some of their fast and new iron screw boats on the line; they, however, stated that the new boats were required for their eastern line, and that they could not then entertain any proposal for using them in our postal service. A change has since taken place in the direction of the Company; they have other views, and I hope they will now be competitors for our service.

“Upon receipt of these telegrams, it became desirable to make your Government acquainted with the ‘principal conditions,’ referred to in the Secretary’s telegram. You will remember I objected to delay for two reasons—first, the necessity which it might involve of continuing the present expensive and imperfect service; secondly, my fear that, as a change of Government had taken place in New South Wales, the new Government might not be desirous of co-operating with New Zealand on terms which that colony could accept, and I wished the matter therefore brought to an issue as speedily as possible.

“To save time, I proposed giving these ‘principal conditions’ by telegram, but you strongly

pressed me to give you sufficient time to send the printed papers out to Sydney by mail, so as to save any misconception which might arise out of a telegram. Upon this I reluctantly agreed to wait the arrival in Sydney of the printed conditions for the three Services A, B, and C, and of the form of bond and contract; those papers reached Sydney on the 6th of May, but in order forthwith to place your Government in possession of the 'principal conditions,' their desire to know these being the only limitation to your full authority, our solicitor prepared, and we agreed to, the following telegram which you despatched to the Chief Secretary at Sydney on the 23rd of March, 1875:—

"I sent you draft contract, specifications, and full information by mail of 19th by Brindisi. Principal conditions are:—Two services as per Russell-Samuel Agreement; five steamers, and third service *via* Auckland as at present; three steamers with branch from Auckland to Port Chalmers. Steamers, 2,500 tons; branch, 1,500 tons, latter to take place of large steamers in case of need; terms of contract, eight years; steamers need not be specially built for service; half accommodation reserved for each colony; captains experienced with screw steamers. Contract will be Hall-Forbes permanent altered as follows:—Clause 8, £250 and £50 per day for each or either colony affected; clause 9, for third service, if 12 knots 630 hours, if 11 knots 656 hours; clause 10, proviso like clause 8 inserted as to £4 per hour; clause 12, bonus £5 each hour saved; clause 24, no compensation if attempted determination of contract not upheld. Each schedule to drop £100 for each half-knot down to ten. If contract not ratified next session, determinable by either Postmaster-General. If you concur, please advertise in colonial papers. Contract, bond, specification, and form of tender to be seen at your office after arrival of March mail; tenders to be delivered at Agents-General in London on 1st June. We shall advertise here on 5th April, and in America, sending particulars to be seen at agents there.'

"This telegram, with the papers in the possession of the New South Wales Government, contained everything necessary to a full understanding of every essential condition of the three Services A, B, and C, and our object in this telegram was to give your Government notice of the agreement we had made, and that, unless they objected before we advertised, we assumed their concurrence in our agreement.

"You had previously stated to me that if Route C were adopted, New Zealand should repay to Sydney for carrying her mails from Wellington to Dunedin and from Dunedin to Wellington a sum of £2,500 per annum, you contending that New South Wales should join us in carrying them to the seat of Government, but no farther. At the meeting I positively refused to consider such a proposal, and stated that if it were made a condition that we should pay more than New South Wales, the negotiation must come to an end. I urged that the agreement between the two Governments provided for the payment for temporary service (which included the coast service) and the permanent one in equal shares, and throughout the partnership principle was recognized between the two Governments, and it was finally agreed you should refer the matter to your Government for their decision. At this time you will remember we had no hope of obtaining a tender for the A or B Service within the limit of £90,000.

"Having waited until after the 5th April (the time mentioned in the telegram), without any sign of disapproval from your Government, we inserted the advertisements for the tenders, which are to be delivered on 10th June instant. On 28th May you sent me the following extract from a telegram received by you from Sydney:—

" 'SECRETARY, Sydney, to Sir D. COOPER, London.

" 'Shall advertise for tenders to-morrow, according to your advertisement, but must give till tenth June for Australian tenders to be sent in. You should not open tenders till then. New Zealand must repay the £2,500 for coast service, and equitable amount meet cost sorting on board steamer, if required for that colony. You, of course, consult us before finality.

" 'SECRETARY.'

"To which I replied by the following telegram:—

" 'Cooper has shown me your telegram 27th instant. Parties here have been informed their tenders will not be referred to Sydney. Unless you can therefore authorize Cooper to accept tender here, no use proceeding further in the matter. New Zealand will not pay more than one-half cost of any service adopted. The C Service is much worse for New Zealand than the Fork Service, and would only be acceptable if Fork Service cannot be obtained for the money colonies willing to pay. This service gives you whole terminal advantages of main boats at less cost. Have agreed extend time, but unless Cooper gets power to act, I will not break faith with tenderers by opening tenders.'

"And I also sent you my letter of 28th May. On the 3rd June, the New South Wales Government replied to my message by stating the matter was in your hands, and you sent me on the 3rd June a copy of your message from the Chief Secretary, which is as follows:—

" 'We disapprove of services Russell-Samuel Agreement, but approve C without interprovincial coast service, towards cost which we decline to contribute. All we ask is that particulars of tender approved by you and Russell be telegraphed to us.'

"And I intimated to you that, as I had promised several of the persons likely to tender that their tenders would be dealt with here, and without reference to Australia, it now became necessary for me to inform those gentlemen of the present requirements of your Government, leaving them to use their discretion as to tendering or not; and with regard to the demand for the extra contribution from New Zealand if the C Service were adopted, Mr. Mackrell, our solicitor, who was present, stated that one of the Services A or B specified in the agreement would be tendered for under £90,000, being the limit in the agreement between the two Governments.

"I have, &c.,

"Sir Daniel Cooper, Bart.,

"THOMAS RUSSELL.

"Representative of the Government of New South Wales."

In continuation of the narrative contained in the foregoing letter, I beg to state that on the 11th we opened the tenders sent in (none came from Australia or America), and we found the tender of Lawrence, Clark, and Co., made for themselves and others, to be the most favourable. They offered to do the service by Route B for £89,950, and the service by Route C for £74,950, the tender providing for the New Zealand Coast Service. Upon conferring with Messrs. Lawrence, Clark, and Co., we found

that they represented the Pacific Mail Company of New York, Messrs. John Elder and Co., the eminent shipbuilders of Glasgow, and Mr. D. R. Macgregor, M.P. for Leith; and that the Pacific Mail Company and the gentlemen named were ready to make the contract and sign the bonds binding themselves in both jointly and severally for the performance of the service. A difficulty then occurred relative to the route, Sir D. Cooper's opinion being in favour of Route C, and that opinion was strongly confirmed by his recent instructions from New South Wales, expressing disapproval of the services in the Russell-Samuel agreement, and approving of Route C without our coast service. He declined to recommend his Government to accept the tender for the service by Route B, and recommended them to accept the service by Route C. Up to this point, however, Route C. was offered to me by the New South Wales Government only on condition that we should pay all the cost of our mail service between Auckland and Dunedin; Sir D. Cooper's proposal being more favourable, as he proposed we should pay £2,500 to New South Wales for a part of the service, viz. between Wellington and Port Chalmers. The division proposed by Sir D. Cooper, taking the whole payment at £75,000, was for New Zealand to pay £40,000, and New South Wales £35,000. On reference to my instructions, and the Russell-Samuel Agreement of the 24th October, 1874, it will be seen that Routes A and B were in accordance with my powers, but I had no power to make a service by Route C; indeed, when the Russell-Samuel Agreement was made, the New South Wales Government refused to entertain the question of a service *via* Auckland. Tenders were invited for Route C for the reasons before stated. A tender from responsible contractors having been submitted for the service by Route B, I felt I had no power to entertain the question of a service by Route C, even though it was for a smaller subsidy, and I entertained the opinion it was a better service for the two colonies. Upon these considerations I sent the following telegram to the Chief Secretary at Sydney:—

“RUSSELL to SECRETARY, Sydney.

“American Pacific Company tender for service Route B, under printed conditions; price under ninety thousand pounds; this within Russell-Samuel Agreement sanctioned by Cabinet New South Wales. I accept tender for New Zealand, and ask you to instruct Cooper to accept this tender for your Government.”

And on the 17th June I received the following reply:—

“SYDNEY to RUSSELL, London.

“Cooper is authorized to sign agreement for B Service, which is second in printed conditions for tender, eighty-nine thousand nine hundred and fifty pounds, if you are both satisfied capability of tenderers. We intend renewing to-morrow temporary contract till November.

“SECRETARY.”

On the 18th June I sent you the following telegram:—

“RUSSELL to POLLEN, Wellington.

“Post, Sydney and Melbourne.

“SAN FRANCISCO Service—Sydney Government responsible for delay. We have satisfactory tenders under £90,000 for Service B, second in printed conditions sent you, under which all vessels to San Francisco sail from Port Chalmers, and vessels from San Francisco sail to Sydney, connecting at Fiji. We hope to make contract in a few days. Speed eleven knots. After due inquiry and personal conference with contractors, we accepted the tender referred to, and the contract and bonds have been executed. Copies are sent you in a separate despatch.”

Immediately after signing the contract we sent the following telegram:—

“COOPER and RUSSELL to SECRETARY, Sydney, POLLEN, Wellington.

“Post, Sydney, Melbourne.

“MAIL contract signed. Contractors, American Pacific Company; John Elder, of Glasgow; and Macgregor, of Leith, jointly and severally. Service B, under printed conditions, sent you. Term eight years, each colony paying half. Speed eleven knots. Subsidy, £89,950. Service begins in November next from Sydney and Port Chalmers, and continues thence every four weeks. Boats to San Francisco sail through from Port Chalmers, and boats from San Francisco sail through to Sydney, connecting at Fiji. Boat from Sydney to Fiji meets boat from San Francisco, and carries mails to New Zealand ports, this boat being next through boat from Port Chalmers to San Francisco; returning thence to Sydney, and so on. Elders supply their two new ships; American Company three new ships; all upwards of 2,800 tons, iron screw, great power. No doubt of ability of contractors. Contract forwarded outgoing mail; requires confirmation present session of Parliament. Send New Zealand Government copy printed conditions. Bond and contract sent you, and this telegram. Cable agreement signed by Vogel, Cooper. Awaits seal of Company to complete.”

I have, &c.,

THOMAS RUSSELL.

The Hon. the Colonial Secretary, Wellington.

Enclosure 1 in No. 1.

Mr. T. RUSSELL to Sir DANIEL COOPER.

SIR,—

London, 28th May, 1875.

I beg to acknowledge the receipt of the copy of telegram from the Colonial Secretary of New South Wales to yourself, dated yesterday, copy of which is as follows:—

“Shall advertise for tenders to-morrow according to your advertisement, but must give till the 10th June for Australian tenders to be sent in. You should not open tenders till then. New Zealand must pay the £2,500 for coast service, and equitable amount meet cost sorting on board steamer if required for that colony. You of course consult us before finality.”

This telegram clearly deprives you of the power of accepting a tender, if eligible, before referring it to Sydney.

Upon the foregoing, I beg to remind you that the parties who are likely to tender for the mail service have been informed by you and by myself that their tenders will be opened and decided upon here immediately after receipt of the tenders.

Had this assurance not been given, many who are now liable to compete would not have entertained the matter; and I am persuaded that no tenders at all would have been sent in if it were known that the question of the final acceptance of any offer were to be referred to Australia.

Under these circumstances, I cannot be a party to opening the tenders, unless you have full power to accept an eligible offer, and sign a contract immediately after opening the tenders. I quite understood from the telegrams that you from time to time received from your Government, that you had full power to act, but it appears now as if they desired to limit or withdraw the power previously given you.

It is too late for me now to decline to extend the time from the 1st to the 10th of June. Your Government having already without reference to us granted the extension, I have no option but to submit to it, or to withdraw altogether. I elect to wait until the 10th of June, in the hope that your Government will before then put you in a position to finally deal with this question, as otherwise, you must see, we cannot proceed any further, and joint action must cease.

This further delay increases the difficulty of the temporary service, which, as previously explained to you, I cannot agree to extend until the tenders are opened, for, if we do not see our way to a permanent service, it is useless for us to go on with the temporary service.

With regard to the other points raised in the telegram, viz. "Our paying £2,500 for coast service, and an equitable amount to meet the cost of sorting (letters) on board steamer, if required for that colony (New Zealand)"—this I understand to be a demand from the New South Wales Government of a payment of £2,500 per annum from New Zealand, in respect of the coast service under Route C, in the printed conditions.

I thought this question disposed of, and am sorry it is now revived. This Route C deprives New Zealand of, and gives to New South Wales, the whole of the terminal advantages of the route, and this at a much cheaper rate to New South Wales than that colony would have to pay for a less advantageous service. The C Service, New Zealand would accept with great unwillingness, and only in case the Services A and B could not be procured for the amount which the two colonies are willing to pay. The requirement of an extra payment from New Zealand is unreasonable, and I cannot entertain it.

I enclose copy of a telegram, which I shall this afternoon send to the Chief Secretary of New South Wales, and I hope you will strongly support my request as to giving you full power to deal with the tenders here.

I am, &c.,
THOMAS RUSSELL.

Sir Daniel Cooper, Special Commissioner for New South Wales.

Enclosure 2 in No. 1.

The Hon. J. VOGEL to Mr. THOMAS RUSSELL.

SIR,—

Melbourne, 30th October, 1874.

I have the honor to acknowledge the receipt of your letter of the 24th instant, respecting mail service negotiations in Sydney.

2. As you have kept me informed of all that has been passing in Sydney, I can bear testimony to the extreme difficulties you have had in conducting the negotiations; and I have much pleasure in adding that I am convinced you have arranged with the New South Wales Government in the best manner possible, all the circumstances considered.

* * * * *

4. I hope you will arrive in England in sufficient time to continue the negotiations. I should prefer your doing so, to the conduct of the negotiations being left to me, for my stay in England will necessarily be so short as probably to render me unable properly to attend to the matter; and, besides, your thorough acquaintance with all that has taken place during the last eighteen months particularly qualifies you for continuing the negotiations.

Thomas Russell, Esq., &c., &c.

I have, &c.,
JULIUS VOGEL.

No. 2.

Mr. T. RUSSELL to the Hon. the COLONIAL SECRETARY.

SIR,—

London, 29th June, 1875.

1. In a separate letter of this date I forwarded to you a copy of the contract* I have arranged for your Government for the San Francisco Mail Service, and by the same mail you will receive from me an account of the various communications which have taken place between Sir Daniel Cooper, the New South Wales Government, and myself, during the negotiations relative to the service. Previously to my leaving New Zealand, I informed you very fully of the position of matters in Sydney.

* Since withdrawn, and amended contract substituted.

2. You will see from all that has passed that in making the present contract I have done the only practicable thing under the circumstances consistent with my instructions. The late Government of New South Wales would not consent to a service *viâ* Auckland, the present Government of that colony are in favour of a service *viâ* Auckland, but on the condition of extra payment by New Zealand for her coast services. Both Governments objected to the New Zealand Coast Service. My instructions did not permit of my entertaining a service *viâ* Auckland. If we had not succeeded in getting tenders for the service by Route B within the limit of the Russell-Samuel Agreement, it is quite evident we should have lost the assistance of New South Wales towards the service, or been compelled to pay more than one-half of the subsidy.

I have made the present contract, therefore, because it is in accordance with the instructions of your Government, and under it we secure the assistance of New South Wales to the maintenance of the service. The contractors are prepared to make modifications in it which are manifestly to the advantage of the colonies and the contractors; those modifications are—(1), if the service by Route B is maintained, then to alter the port of junction from Kandavau to the Bay of Islands, reasons in favour of which I will submit presently, and if the course is adopted they will make a deduction from the subsidy; or (2), they will abandon the Route B for Route C, described in the printed conditions, and will do the service by Route C, including the New Zealand Coast Service, for £75,000 per annum.

3. Since April 1873, my attention has been closely given to the questions connected with this San Francisco Service, and having been several times over the route, and knowing all the ports of call, I can speak with a good knowledge of the subject. I submit my views as to the alterations required to make the service effective.

4. Calling at Fiji is a mistake. I always opposed it, but it was forced on us originally by Mr. Hall's contract with the New South Wales Government, which we were obliged to adopt, and afterwards by the same Government in the Russell-Samuel agreement: they would not, as the agreement states, co-operate on any other terms. Assuming that New Zealand will insist on having her share of the main boats on the coast, and making Port Chalmers the terminus as at present arranged, then some point of junction other than Kandavau should be chosen. The objections to Kandavau are—

(a.) That the entrance to it is bad; the covered rock on which the "Macgregor" struck, being in the centre of the channel, renders it at all times a place of danger to enter and leave.

(b.) The necessity for going to or near the Fiji group makes the course of the voyage from thence to Honolulu necessarily through a more dangerous part of the Pacific Ocean, and more directly against the prevailing trade winds, than if the ships shaped a course for Honolulu more to the eastward of Fiji. The Webb boats always took a more easterly direction, and a vessel bound to Honolulu from Sydney or New Zealand would make her course much to the eastward of Fiji. The passage *viâ* Fiji can never be otherwise than dangerous, because of the numerous islands and reefs studding the ocean to the northward and north-eastward of the group through which the course lies, and because of the tendency of strong currents, setting alternatively eastward and westward, to run the vessel out of the proper direction and into danger: witness the accidents to the "Tartar" on both voyages."

The short approach to Kandavau from the north, and exit from it, is through the Nanuku Passage; the land at the entrance of the passage is low, a few feet only above sea level, and it can only be made and passed with safety in daylight; while the whole distance from the passage to Kandavau, through the Goro Sea, also requires more than ordinary care in navigation, because of the numerous rocks and reefs around. Again, the distance from the Nanuku Passage to Kandavau is too short to run in in the daylight left, after entering the passage from the north, and as Kandavau cannot be entered with safety at night, mail steamers approaching Kandavau after dark must remain off the port until daylight the next morning, and thus time is lost.

The same difficulty occurs in leaving Kandavau by the Nanuku Passage; it must be cleared also in daylight with the same loss of time. This difficulty, however, may be avoided by making Kandavau from the eastward or westward of the group, and leaving it in the same way, but this means a detour and increased steaming distance.

This objection to the danger of the route *viâ* Fiji is really a great one. A number of accidents have already happened to the ships employed in the former service; some of them, no doubt, incidental to the opening of any new route, but some are undoubtedly due to the dangerous sea through which the vessel is required to go. It is important that the idea of extra danger should not attach to this service, as such an idea would be fatal to a large passenger trade.

(c.) Shortly after the accidents to the "Macgregor" and "Tartar" became known in England, the insurance companies increased the rate of premiums payable upon the mail steamers employed, because of the special danger of the route; and this was one of the reasons urged by Mr. Forbes why the two Governments should increase the subsidy.

(d.) The distance between Kandavau and the two colonies is a drawback to it as a port of junction: it makes the difficulty of connecting greater and more uncertain; the risk of delay is thereby very much increased. The want of telegraph communication is a serious evil; by the aid of the telegraph to the port of junction many contingencies might be provided for.

(e.) The use of Kandavau is urged because of the benefit the two colonies may derive from commercial relations with the Fiji group, but this service *viâ* Kandavau does not afford the colonies that communication which is essential to the benefit sought to be obtained. Kandavau is isolated, ninety miles from the centre of business and activity in Fiji, and it is not likely to be anything more than a mere point for junction; it is not a place for trade, and does not seem likely to be so. To benefit by connection with Fiji something more is required than a monthly line of such large steamers to Kandavau, or indeed to any part of Fiji. The connection should be maintained by much smaller vessels to Levuka, and by more frequent communication than that afforded by the monthly mail boat to Kandavau.

These appear to be fair considerations against the use of Kandavau as a port of junction, and against a passage *viâ* Fiji, and they point to the choice of a port more to the eastward, if such a place is available. New Caledonia and other western ports are open to great objection for many of the reasons before urged against any port in Fiji. The Samoan group offers an excellent harbour (Pango Pango),

free from all the difficulties attending Kandavau, except that urged in paragraph (d); and this objection is stronger to Pango Pango than even to Kandavau, as the distance from Sydney and Auckland is greater than from Kandavau; but if the Bay of Islands were selected as the point of junction, many advantages would be secured.

It is one of the finest harbours in the world. Entered immediately from the ocean by magnificent approaches, it may be made by day or night, and left or entered in all weathers. It has coal of good quality, and steamers can be supplied as cheaply as at Sydney.

The route or track for ships leaving the Bay of Islands for San Francisco *via* Honolulu would take them clear of all the danger attending the route *via* Fiji. The vessels would make the north through an open sea, conducing much to the safety of the passengers and ships. By adopting the Bay of Islands as a point of junction, a saving of about 12,000 miles of steaming per annum can be effected, or nearly equal to one-thirteenth of the whole distance—one voyage in thirteen. The annual charge to the company for insurance would be much lessened, because the port is one of the best, and the course through the Pacific from the Bay of Islands to San Francisco *via* Honolulu is the safest and most favourable that can be found. This route would also enable the company to obtain a large passenger trade between New Zealand and Sydney, a very important item in a company's earnings, and so conduce to the success of the service.

It is no small advantage in favour of the Bay of Islands that New Zealand will shortly be connected by cable with New South Wales, and thus early and full telegraphic communication from the port of arrival and departure can be made with Australia, and the contractors, in case of accidents or non-arrival of a vessel will have the earliest intimation by cable, and thus be enable the more speedily to provide for contingencies.

The drawback to this proposal is that it apparently lengthens the time for the performance of the service between San Francisco and Sydney, the increased distance by measurement being about 470 miles, which in ordinary circumstances would mean a loss of two days, but it is contended that the actual loss of time in the performance of the voyage would not be so much, as it is believed that, having regard to prevailing winds and the safe and favourable route to be traversed, the voyage would be made more rapidly than by Fiji, so that the actual delay would be reduced, if indeed any was found to exist on the trial of the route. On the downward voyage from New Zealand to Sydney the voyage would ordinarily be made against westerley weather, but this possible loss of time, even admitting it, is more than counterbalanced by the advantages set forth.

5. But my opinion is that the best service for both colonies is that by Route C, by which the main boat from San Francisco proceeds to Auckland (calling at Honolulu) and thence to Sydney, returning by the same route to San Francisco: the New Zealand Coast Service to be done by a very fast boat of about 1,500 tons, between Auckland and Dunedin.

The steamships about to be employed under the present contract are upwards of 370 feet in length, and about 3,000 tons burthen. I do not think such vessels can go up and down the New Zealand coast with the requisite speed and safety.

The service *via* Auckland would give all New Zealand her mails several days earlier than any other route, and would be done more cheaply to New Zealand than the present service. To Sydney it would give the whole of the terminal advantages, but I would be willing to concede this for the advantage we should gain by getting our mails so much sooner and cheaper; and though the distance to be traversed by the steamers bound to Sydney is apparently greater, I believe it would be done in quite as short a time as by calling and connecting at Fiji, and I am persuaded with much greater certainty and regularity.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,

THOMAS RUSSELL.

No. 3.

Mr. T. RUSSELL to the Hon. the COLONIAL SECRETARY.

SIR,—

London, 26th July, 1875.

I have the honor to enclose a printed copy of the contract for the establishment of a permanent mail service between New South Wales, New Zealand, and San Francisco. The original contract will be sent you by the next mail.

The present contract, in all its principal provisions, follows the form of the Hall-Forbes Contract of the 27th November, 1873, which was described by the Solicitor to the General Post Office as "admirably well drawn." The main difference between the two contracts are that, in the present one,—

1. The speed is reduced to 11 knots.
2. The subsidy is increased to £89,950 per annum.
3. The outward boat always sails through from Port Chalmers to San Francisco, while the inward boat sails through from San Francisco to Sydney, connecting at Fiji to tranship passengers and mails.

The contractors are the Pacific Mail Company of New York, and there is no doubt of their ability to carry out the contract.

There are no special features in the contract requiring comment from me, but there are a number of circumstances connected with this service which it is essential should be borne in mind by those who hereafter may have to direct it.

The line from the colonies to England may be considered in three parts:—

1. That to be done by the steamers under the present contract, viz.: from the colonies to San Francisco. This part may, I think, be relied upon with tolerable certainty; irregularity on the passage from San Francisco to the colonies will not be attended with serious delay, but the loss of a few hours on the upward passage to San Francisco, as you will see, may entail the loss of several days at New York, and greatly delay the delivery of the mails in London.

2. The second part of the line (about 3,400 miles) is done by rail, between San Francisco and New York. There is a daily express leaving at 6 a.m. from each end, which requires seven days for the whole journey. Under ordinary circumstances the time will be kept by the railway, and as the Directors of the Pacific Mail Company have great influence with the railway companies, it is probable that special facilities will be given for the transit of passengers and mails over the lines; the time required for the passage over the Continent is more likely to be shortened than increased; and seven days will be a safe calculation.

3. The third part of the line is between New York and Liverpool (about 3,200 miles). The colonial mails are sent in steamships with the ordinary mails for England from America, and from England with the ordinary English mails outward to America.

From New York to England there are numerous lines of steamers. The quickest services are done by the White Star and Cunard lines; their steamers leave New York on the Wednesday and Saturday, and if the homeward colonial mail arrives in New York from San Francisco too late for the Saturday boat, it remains there for several days waiting for a vessel, and is then despatched on the Tuesday in a slow ship, as no fast steamers leave New York early in the week.

From England to America the departures of the fast steam ships are as follow:—The Cunard boats leave Liverpool on Saturday, calling at Queenstown on the Sunday, for the mails made up in London on the Saturday evening; the Inman boats, also powerful vessels, sail from Liverpool on the Thursday, calling at Queenstown on the Friday, for the mails made up in London on the previous evening.

The White Star boats also sail from Liverpool on the Thursday, calling at Queenstown on the Friday; and, although the fastest ships in the Atlantic, they have not as yet carried the English mails outward.

Up to the present time our mails have been closed in London on the Tuesday, leaving Queenstown on the Wednesday in a slow boat, despatched by the Cunard Company, for Boston.

The steam lines on the Atlantic that have attained the greatest speed are—

1. The White Star.
2. The Cunard.
3. The Inman.

From the foregoing it follows:—

1. That the mail from London should be closed on the Saturday or Thursday evening, instead of the Tuesday as heretofore, so as to catch the fast Cunard boat at Queenstown on Saturday, or the White Star boat on Friday. By doing so at least two days will be saved in the passage across the Atlantic.

2. That the Homeward mail should be placed in New York not later than Tuesday evening, or Friday evening, so as to leave for England in the fast Wednesday or Saturday boat.

3. The Homeward mail from the colonies should therefore reach San Francisco on the Tuesday or the Friday, so as to leave by the following morning express to reach New York on Tuesday evening, or Friday evening, as the case may be.

The Hon. the Colonial Secretary, Wellington, N.Z.

I have, &c.,
THOMAS RUSSELL.

Enclosure in No. 3.

CONTRACT.

ARTICLES OF AGREEMENT made and entered into this twenty-third day of July, one thousand eight hundred and seventy-five, between the Honorable JOHN FITZGERALD BURNS, the Postmaster-General of the Colony of New South Wales, as such Postmaster General, and acting for and on behalf of the Government of the said Colony, of the first part; the Honorable Sir JULIUS VOGEL, a Knight Commander of the Most Distinguished Order of St. Michael and St. George, the Postmaster-General of the Colony of New Zealand, as such Postmaster-General, and acting for and on behalf of the Government of the same colony, of the second part; and the PACIFIC MAIL STEAMSHIP COMPANY, of New York, in the United States of America, hereinafter designated "the Contractors," of the third part: Witness that they the Contractors do, for themselves, their successors and assigns (so far as the covenants and agreements hereinafter contained are to be observed and performed by the Contractors), hereby covenant with the Postmaster-General of the Colony of New South Wales and his successors, and with the Postmaster-General of the Colony of New Zealand and his successors, and also as a separate covenant with each of the Postmasters-General and his successors; and the Postmaster-General of the Colony of New South Wales and the Postmaster-General of the Colony of New Zealand do, and each of them doth, for and on behalf of himself respectively as such Postmaster-General and his successors respectively, and the Government of the colony for which he is now respectively the Postmaster-General (but so far only as the covenants and agreements hereinafter contained are to be observed or performed by or are applicable to the Government of the said colonies respectively), hereby covenant with the Contractors and their successors in manner following, that is to say,—

1. In the construction of these presents, the following words and expressions shall mean and include (unless such meaning shall be inconsistent with the context) as follows:—"Postmaster-General of the Colony of New South Wales" means the Postmaster-General for the time being of that colony; "Postmaster-General of the Colony of New Zealand" means the Postmaster-General for the time being of that colony; "Postmasters-General" means the Postmaster-General for the time being of the Colony of New South Wales; and the Postmaster-General for the time being of the Colony of New Zealand; "Contractors" includes the successors and assigns of the Contractors; "Mails" includes all boxes, bags, or packets of letters, newspapers, books, or printed papers, patterns, and all other articles transmissible by post, without regard either to the place to which they may be addressed or to

that in which they may have originated. Also all empty bags, empty boxes, and other stores and articles used, or to be used, in carrying on the Post Office service; "Mail" means the aggregate of mails transmitted at any one time by any of the vessels for the time being employed in the mail service under this contract; and "Hours" means hours calculated according to Greenwich time.

2. The Contractors shall from time to time and at all times during the period of eight years, to be computed from the fifteenth day of November, one thousand eight hundred and seventy-five, convey all Her Majesty's mails which, and all other mails of whatever country or place which, the Postmasters-General or either of them shall at any time and from time to time require the Contractors to convey between Sydney and San Francisco and between San Francisco and Sydney, and between New Zealand and San Francisco and between San Francisco and New Zealand, and from and to all and every or any of those ports to and from the ports of Honolulu in the Sandwich Islands, and Kandavau in the Fiji Islands, and according to the routes within the respective times and in manner hereinafter provided; and so long as the whole or any part of the services hereby agreed to be performed ought to be performed in pursuance of this contract, shall and will provide and keep seaworthy, and in complete repair and readiness for such purpose, a sufficient number of and not less than five good, substantial, and efficient screw steam vessels of the first class, and fully equal to Class 100 A1, Lloyd's Register, and of not less gross registered tonnage than two thousand five hundred tons each, constructed of iron and propelled by first-rate engines of adequate power for a minimum continuous speed of eleven nautical miles per hour, and having spar decks, and large capacity for passengers and cargo, and ample ventilation for passing through tropical latitudes. One moiety of the passenger accommodation afforded by each vessel is to be reserved for and appropriated to passengers to and from each of the said colonies respectively.

3. The steam vessels to be employed under this contract shall be of the capacity aforesaid, and shall be always furnished with all necessary and proper machinery, engines, apparel, furniture, stores, tackle, boats, fuel, lamps, oil, tallow, provisions, anchors, cables, fire pumps and other proper means for extinguishing fire, lightning conductors, charts, chronometers, nautical instruments, and whatsoever else may be necessary for equipping the said vessels and rendering them constantly efficient for travelling at a minimum continuous speed of eleven nautical miles per hour, and for the service hereby agreed to be performed; and also manned and provided with competent and legally qualified officers, the master or commander having ample experience in command of screw steam vessels, and with a sufficient number of efficient engineers, and a sufficient crew of able seamen and other men, and with a competent surgeon; to be in all respects, as to vessels, engines, equipments, and capacity, subject in the first instance, and from time to time and at all times afterwards, to the approval of the Postmasters-General, or of such other person or persons as they shall jointly or severally, at any time or times or from time to time, authorize to inspect and examine the same, and no vessel shall be employed or used for the purposes of this contract until approved as aforesaid.

4. The Postmasters-General or either of them shall have full power, whenever and as often as they or he may deem it requisite, by any of their or his qualified officers or agents, to inspect the officers, engineers, and crew of all or any of the vessels employed or to be employed in the performance of this contract, and to survey all or any of such vessels, and the hulls thereof, and the engines, machinery, furniture, tackle, apparel, stores, and equipments of every such vessel; and any defect or deficiency that may be discovered on any such survey shall be forthwith repaired or supplied by the Contractors; and for the purposes aforesaid the said vessels shall (if necessary) be opened in their hulls whenever the said officers or agents may so require. And if any such vessel, or any part thereof, or any engines, machinery, furniture, tackle, apparel, boats, stores, or equipments shall, on any such survey, be declared by any such officers or agents unseaworthy or not adapted to the service hereby agreed to be performed, or any such officers, engineers, or crew shall be so declared ineligible, every vessel which shall be disapproved of, or in which such deficiency or defect shall appear, shall be deemed insufficient for any service hereby agreed to be performed, and shall not be again employed in the conveyance of mails until such defect or deficiency has been repaired or supplied, to the satisfaction of the Postmaster-General or officer requiring the same; and any of such officers, engineers, or crew declared ineligible shall not be employed in the said service.

5. The route by which the mails shall be conveyed as aforesaid shall be by way of Honolulu and Kandavau aforesaid, and *vice versa*, at each of which ports the said vessels shall call on each journey for the receipt and delivery of mails, allowing a sufficient time at each place for the purpose; but the said vessels shall not call at any other intermediate place without the consent in writing of the Postmasters-General. The mails shall be conveyed thirteen times in each year between San Francisco and the said colonies, and at the same rate between the said colonies and San Francisco, and the vessel respectively employed to convey the mail shall leave the respective ports of departure on the days and at the times to be from time to time appointed for the purpose by the Postmasters-General. The vessels conveying the mails from San Francisco shall proceed to New South Wales, and the mails for New Zealand shall be transhipped at the said port of Kandavau into and be conveyed by another of the said vessels to the colony, and the vessels conveying the mails to San Francisco shall proceed thither from New Zealand, and the mails from New South Wales shall be conveyed in another of the said vessels to the said port of Kandavau, and be there transhipped into and conveyed by the vessel going to San Francisco. The New South Wales mails shall be delivered at and despatched from the port of Sydney, and the New Zealand mails shall be delivered at and despatched from the ports of Port Chalmers, Lyttelton, Wellington, and Auckland respectively; and in passing Hawke's Bay the mail vessel shall (weather permitting) call off Napier to deliver and receive mails to and from that place, the said last-mentioned mails to be delivered to and received from a steam launch to be provided by the Postmaster-General of New Zealand; and the Contractors shall convey with the mails from or to San Francisco any local mails between the said ports of New Zealand respectively, as may be required by the Postmaster-General of New Zealand to be so conveyed.

6. The Contractors at their own expense shall deliver and take the mails to and from the shore at convenient places, to be from time to time appointed by the Postmasters-General respectively in the respective ports (except Napier), where the mails are to be delivered or received; also shall convey the same and the officers having charge of them to and from the shore, as may be necessary, in suitable boats, furnished with suitable coverings for the mails, and properly equipped and manned; and shall from time to time convey the officers or agents of the Postmasters-General respectively to and from the shore at any of the said ports as often as may be necessary in the execution of their duties respectively, in the event of a suitable boat not being conveniently obtainable from the shore for the purpose.

7. If either of the said Postmasters-General or their respective officers or agents shall at any time deem it requisite for the public service that any vessel should be detained beyond the appointed time of departure, it shall be lawful for either of the Postmasters-General or such officers or agents to order such delay, not exceeding forty-eight hours at San Francisco and not exceeding twenty-four hours at Sydney or twenty-four hours at any other port, by letter addressed to and delivered to the commander of the vessel, or the person acting as such, or left for him at the office of the Contractors, in the port or on board the vessel, three hours at least before the hour appointed for departure. If, when the through mail vessel going to San Francisco shall be ready to leave the port of Kandavau, the branch mail vessel shall not have arrived from Sydney, the through-going mail vessel shall wait at Kandavau for the arrival of the other vessel, but not exceeding seventy-two hours from the time of arrival there of the through-going vessel. And in order to insure the due carrying of the mails from San Francisco, the Contractors, without any such notice, shall delay any vessel (if necessary) seven days, to await the arrival of the English mails from New York for Australia or New Zealand. The Postmaster-General of New Zealand shall be at liberty from time to time to vary the times of departure of the mails at and from the ports in New Zealand, but not so as to vary the times of departure from the port of Auckland more than twenty-four hours, without the consent of the Postmaster-General of New South Wales.

8. If from any cause whatsoever, at any time or times hereafter, one of the vessels aforesaid shall not be at the ports of departure of San Francisco, Sydney, and Port Chalmers respectively, ready to put to sea in due time to perform the services hereby contracted to be performed, the Contractors shall pay, as and by way of liquidated damages, to each or either of the Postmasters-General affected by such default, as the case may be (for the use of the Governments of the said colonies respectively, or for the Government of whichever of the said colonies may be affected by such default, as the case may be), in respect of every mail that shall be delayed by reason of any such default as aforesaid, the sum of two hundred and fifty pounds, and the further sum of fifty pounds for every successive twenty-four hours which shall elapse between the time at which the mail shall be appointed to leave the port of departure, and the time at which the vessel conveying the same shall leave the port, whether such vessel shall be one of those aforesaid, or any other vessel which the Postmasters-General, or either of them, shall think fit to employ or to sanction being employed for the purpose: Provided always that each or either of the Postmasters-General shall have power to remit or reduce any of the sums payable as in this clause mentioned, if he shall be satisfied that any such default as aforesaid was attributable to causes over which the Contractors had no control.

9. The mails, whether carried in through-going vessels or transhipped as aforesaid, shall be safely conveyed from San Francisco to Sydney and from Sydney to San Francisco within six hundred and forty-eight hours, and from San Francisco to Auckland and from Auckland to San Francisco within five hundred and ninety-one hours, and from San Francisco to Port Chalmers and from Port Chalmers to San Francisco within seven hundred and twenty-two hours; the times aforesaid to be calculated from the times appointed for the departure of the mail respectively, unless any vessel shall be delayed in consequence of the mail not being ready for embarkation in due time either at San Francisco or at Sydney or in New Zealand, in which case the time shall be calculated from the time of the mail being ready for delivery at the port where the delay shall take place. The Contractors admit and agree that in the times above named sufficient times have been allowed for coaling and stoppages at Honolulu and Kandavau and the ports of New Zealand respectively. The Contractors shall not be relieved or discharged of their liability or responsibility under this contract by reason of any branch mail vessel not reaching Kandavau in time to forward its mail by or to receive its mail from the through-going vessel; and in case of the loss of any of the mails by wreck of any mail vessel or otherwise, the Contractors shall with all possible despatch, at their own cost, do all such acts and take all such measures as may be reasonably done and taken to recover the mails so lost. And the Contractors shall be liable for all damage or injury to any of the mails, from whatever cause the same may arise or happen, except fire, the act of God, or the Queen's enemies.

10. For the conveyance of each mail from San Francisco to Sydney, and *vice versa*, the Postmaster-General of New South Wales will pay to the Contractors at Sydney as follows, *videlicet*:—If the mail shall be conveyed within six hundred and forty-eight hours as aforesaid, the sum of one thousand seven hundred and twenty-nine pounds sixteen shillings and twopence; but if the mail shall not be so conveyed, then in lieu thereof one of the lesser sums of money as mentioned in Schedule A hereunder written, according to the time within which the mail shall be conveyed. And if the time occupied in conveying the mail shall exceed the number of hours lastly mentioned in the said schedule, then the sum lastly also mentioned in the said schedule to be paid shall be reduced in the proportion of four pounds for every hour in excess of seven hundred and eight hours occupied in conveying the mail. The times aforesaid to be computed as mentioned in clause No. 9 of these presents: Provided always that the Postmaster-General of New South Wales shall have power to remit all or any part of the said reduction of four pounds per hour if he shall be satisfied that the delay in conveying the mail was attributable to causes over which the Contractors had no control.

11. For the conveyance of each mail from San Francisco to New Zealand, and *vice versa*, the Postmaster-General of New Zealand will pay to the Contractors at Wellington as follows, *videlicet*:—If the mail from San Francisco to New Zealand shall be conveyed from San Francisco to Auckland within five hundred and ninety-one hours, and shall also be conveyed from San Francisco to Port Chalmers within

seven hundred and twenty-two hours, or from New Zealand to San Francisco shall be conveyed from Port Chalmers to San Francisco within seven hundred and twenty-two hours as aforesaid, as the case may be, then the sum of one thousand seven hundred and twenty-nine pounds sixteen shillings and twopence; but if the mail shall not be so conveyed, then in lieu thereof one of the lesser sums of money as mentioned in Schedule B hereunder written, according to the time within which the mail shall be so conveyed. And if the time occupied in so conveying the mail shall exceed either the number of hours respectively mentioned in the last paragraph in the said Schedule B, then the sum lastly also mentioned in the same schedule to be paid shall be reduced in the proportion of four pounds for every hour in excess of the number of hours so respectively mentioned as last aforesaid occupied in so conveying the mail. The times aforesaid to be computed as mentioned in clause No. 9 of these presents: Provided always that the Postmaster-General of New Zealand shall have power to remit all or any part of the said reduction of four pounds per hour if he shall be satisfied that the delay in conveying the mail was attributable to causes over which the Contractors had no control.

12. For each and every mail which the Contractors shall deliver at Sydney or shall deliver at San Francisco from Sydney before the expiration of the time appointed in clause No. 9, they shall be paid by the Postmaster-General of New South Wales the sum of five pounds for every complete hour saved, and for each and every mail which the Contractors shall deliver at Auckland or shall deliver at San Francisco from New Zealand before the expiration of the time appointed in Clause No. 9, they shall be paid by the Postmaster-General of New Zealand the sum of five pounds for every complete hour saved.

13. The sums payable to the Contractors under the three last preceding clauses shall be in full satisfaction for all services rendered under this contract, including the receipt, conveyance, and delivery, by the Contractors, of the mails to and from Honolulu and Kandavu respectively, and shall be payable, at the respective Treasuries in the places appointed for payment, to an agent to be appointed by the Contractors at each of those places to receive the same respectively, immediately after the due delivery of each mail in the colony, or the advice by the return mail from San Francisco of the true delivery of the mail, shall be received, as the case may be: Provided always that the provisions hereinbefore contained for payment for the conveyance of mails otherwise than within the times stipulated for in clause No. 9 of these presents shall not be deemed or construed to relieve the Contractors from liability for default in the due performance of the stipulations contained in the same clause, or to disentitle the Postmasters-General to determine this contract, under clause No. 24 of these presents, on account of any such default, it being hereby expressly agreed that the performance of the service hereby contracted to be performed within the times mentioned in clause No. 9 of these presents shall be deemed and held to be the essence of this contract.

14. The Colonies of New South Wales and New Zealand, or either of them, shall be entitled to retain to their or its own use respectively, any subsidy allowed to them or either of them by the Government of the United Kingdom of Great Britain and Ireland, and to retain and divide between them equally any subsidy or payment which may be agreed to be paid by any other Australasian colony or dependency, or any of the Polynesian Islands, for the conveyance of mails over the aforesaid routes, after deducting any payments made or expenses (if any) incurred by the Postmasters-General, or either of them, for the conveying mails to or from any or either of the ports or places hereinbefore appointed for the receipt or delivery of mails; but the Contractors shall be entitled to the benefit of and to receive any subsidies or payments which the Contractors may be able to induce any Government other than as aforesaid to agree to pay for the conveyance of mails over the aforesaid routes, after deducting any payments made or expenses (if any) incurred by the Postmaster's-General, or either of them, for the conveying mails to and from any and either of the ports or places aforesaid: Provided the arrangements for the services in respect of any such subsidy shall be approved by the Postmasters-General.

15. The Contractors shall provide, to the satisfaction of the Postmasters-General, on board all steam vessels employed under this contract, proper, safe, and convenient places of deposit for the mails, with locks, keys, and secure fastenings.

16. The Contractors shall also provide, to the satisfaction of the Postmasters-General, all necessary and suitable accommodation, including lights, for the purpose of sorting and making up the mails on board the several vessels employed under this contract; and on being required to do so by the Postmasters-General, or either of them, shall at their own cost erect or set apart in each of the said vessels a separate and convenient room for such purposes; and all such furniture, lamps, fittings, and other conveniences shall be from time to time cleansed and kept in repair, and the oil for the lamps supplied by the servants of and at the cost of the Contractors. The master or commander of each of the said vessels shall also, if required, provide assistance for conveying the mails between the mail room and the sorting room without charge.

17. If the Postmasters-General, or either of them, shall think fit to intrust the charge and custody of the mail, or his respective mail, to the master or commander of any vessel to be employed under this contract, and in all cases where the officer or other person appointed to have charge of the mail shall be absent to the knowledge of the master or commander of such vessel, such master or commander shall, without any charge, take due care of, and the Contractors shall be responsible for, the receipt, safe custody, and delivery of the said mail at the several appointed places on the shore, in the respective ports, as part of the services hereby contracted to be rendered. The master or commander shall also make the usual Post Office declaration, and furnish such journal, returns, and other information, and perform such other services, as the Postmasters-General or either of them, or their or either of their officers, shall from time to time reasonably require.

18. The Contractors and all commanding and other officers in charge of the vessels employed under this contract shall at all times punctually attend to the orders and directions of the Postmasters-General or either of them, their or either of their officers or agents, as to the mode, time, and place of landing, delivering, and receiving the mails, subject to the special provisions herein contained, and so far as such orders and directions are reasonable and consistent with the safety of the vessels.

19. The Contractors shall have no claim to any postage, nor to any sum on account thereof, for mails carried in any vessel employed in the service under this contract, or on account of any services rendered, except as herein specially provided to be paid.

20. The Contractors shall provide suitable first-class accommodation for a mail officer or agent and one assistant for each of the Postmasters-General on board each of the vessels employed under this contract, who shall be at liberty to use such accommodation as may be required for the performance of their duties, and such officers or agents and assistants shall be victualled by the Contractors as chief cabin passengers without charge either for their passages or victualling; and whilst the vessel stays at any port, excepting the ports of Sydney and San Francisco, to or from which the mails are conveyed, such officers, agents, and assistants shall be allowed to remain on board, and shall be victualled as aforesaid.

21. Every such mail officer or agent and assistant shall be recognized and treated by the Contractors, their officers and agents, as the agent of the Postmasters-General respectively, or Postmaster-General, by whom he may have been appointed as the case may be, and as having full authority in all cases to require a due and strict performance of this contract: Provided that no such agent, officer, or assistant shall have power to control or interfere with any master, commander, or officer in the performance of his duty; and every such agent, officer, and assistant shall be subject to all general orders issued by the master or commander for the good order, health, and comfort of the passengers and crew, and the safety of the vessels.

22. During the continuance of this contract, and so long as the same shall be faithfully carried out by the Contractors, no charge for pilotage, tonnage, lighthouse, or harbour dues shall be made in New South Wales for any of the steam vessels employed in carrying out this contract; and the Contractors shall be at liberty to use once in every four weeks, for five days at a time, the Fitzroy Dry Dock at Sydney, if not leased or otherwise occupied, and also the workshops there, on payment only of the expenses of and attending such use; and no charge for pilotage, tonnage, lighthouse, or harbour dues shall be made at any port in New Zealand in respect of any of the steam vessels employed in carrying out this contract.

23. This contract, or any part thereof, shall not be assigned or underlet or disposed of by the Contractors without the joint consent in writing of the Postmasters-General first obtained for such purpose.

24. In case this contract, or any part thereof, shall be assigned, underlet, or otherwise disposed of by the Contractors otherwise than with such consent as last aforesaid, or in case of any great or habitual non-performance or non-observance of this contract, or of any of the covenants, matters, or things herein contained, and, on the part of the Contractors, their officers, agents, or servants, or any of them, to be observed and performed, and whether there be or be not any penalty or sum of money payable by the Contractors for any such non-observance or non-performance, it shall be lawful for the Postmasters-General, or either of them, if they or he shall be of opinion that the Contractors are not *bona fide* carrying out the provisions herein contained, and they shall jointly so think fit (and notwithstanding there may or may not have been any former non-observance or non-performance of this contract), by writing under their or his hands or hand, to determine this contract without any previous notice to the Contractors or their agents. And the Contractors shall not be entitled to any compensation in respect of such determination. And such determination shall not deprive the Postmasters-General, or either of them, of any rights or remedies to which they or he would otherwise be entitled by reason of any non-observance or non-performance of any of the provisions herein contained: Provided always that if within but not after twenty-eight days after any notice of the determination of this contract shall have been given to either of the Contractors, or left for them as hereinafter mentioned, the Contractors shall give notice in writing to the Postmasters-General that they require that the question, whether there was such a great or habitual non-observance or non-performance of this contract on the part of the Contractors as to justify the Postmasters-General, or one of them, in determining the same, shall be referred to arbitration, then such question shall be determined by arbitration in the manner hereinafter provided with regard to differences arising between the Postmasters-General and the Contractors. In case the arbitrator or arbitrators or the umpire shall at any time or times decide that the Postmasters-General were not justified in determining the contract, the Postmasters-General shall have and be entitled from time to time to exercise the power hereinbefore given to them to determine the contract as fully and effectually as if they had not on any previous occasion or occasions attempted to exercise such power. And the Contractors shall not be entitled to any compensation in respect of the attempted determination of the contract, or any loss, damages, or expenses which may be incurred by the Contractors by reason thereof.

25. The Postmasters-General, or either of them, may, if they, or he think fit, except from any such determination any voyage or voyages; and if any vessel or vessels should have started before the determination of this contract, or before the masters or commanders thereof could have received the news of such determination, or should after the determination start with a mail on any voyage or voyages so excepted as aforesaid, the voyage or voyages shall be continued and performed, and the mails be delivered and received, as if this contract had remained in force with regard to any such vessels; and with respect to such vessels this contract shall be considered as having terminated only when such vessels shall have reached their port or place of destination, and the mails carried by them shall have been delivered.

26. All notices or directions which are hereby authorized to be given to the Contractors, their officers, servants, or agents, may be delivered to the master or commander of any of the said vessels, or other officer or agent of the Contractors in the charge or management of any vessel employed in the performance of this contract on board such vessel, or left for the Contractors on board such vessel, or at either of the offices or houses of business at Sydney or Auckland of the Contractors or their agents, and any notices or directions so given or left shall be binding on the Contractors: Provided always that any notice of the determination of this contract shall be given to one of the Contractors, or left for them at their last-known office or place of business in San Francisco, Sydney, or Auckland, if any, as the Postmasters-General may think fit.

27. It shall be lawful for the Postmasters-General, or either of them, by writing under their respective hands, at any time and from time to time to delegate all or any of the powers, whether joint or several, vested in them or him respectively by virtue of this contract, to such person or persons as they or he may think fit.

28. If the Contractors shall fail to commence the performance of the services hereby contracted to be by them performed according to the provisions hereof, or having commenced the same shall refuse or wilfully neglect to carry on the same according to the true intent and meaning of these presents, they shall forfeit and pay to the said Postmasters-General the sum of twenty-five thousand pounds, to be equally divided between the Postmasters-General, as and by way of liquidated damages and not by way of penalty.

29. All and every the sums of money hereby stipulated to be paid by the Contractors shall be considered as liquidated or ascertained damages, whether any damage or loss shall have or shall not have been sustained, and may be set off by the Postmasters-General, or either of them, against any moneys payable to the Contractors under or by virtue of these presents, or may be enforced by both or either of the Postmasters-General as a debt due, with full costs of suit, at their or his discretion: Provided always that the payment by the Contractors of any sums of money for any neglect or default in the observance or performance of the covenants or agreements herein contained shall not in any manner prejudice the rights of the Postmasters-General, or either of them, to treat such defaults as a non-observance or non-performance of this contract on the part of the Contractors.

30. The Contractors shall if so required, upon the acceptance of their tender, with two sureties to be approved by the Postmasters-General, jointly and severally enter into a bond in the penal sum of twenty-five thousand pounds conditioned for the due and faithful performance of the covenants and agreements on the part of the Contractors herein contained, according to a draft or form already agreed upon.

31. If any dispute, question, difference or controversy, shall arise between the Postmasters-General or their respective Governments and the Contractors touching these presents, or any clause or thing herein contained, or the construction thereof, or any matter in any way connected with these presents, or the operation hereof, or the rights, duties, or liabilities of the said Governments respectively, or of the Contractors, in connection with the premises, then and in every or any such case the matter in difference shall be referred to arbitration in manner hereinafter mentioned, and the award of the arbitrator or the arbitrators or the umpire appointed as hereinafter mentioned, as the case may be, shall be binding and conclusive in every respect.

32. Unless the Postmasters-General and the Contractors shall concur in the appointment of a single arbitrator, each party, on the request of the other party, shall nominate and appoint an arbitrator to whom such dispute, question, difference, or controversy shall be referred; and every appointment of an arbitrator shall be made on the part of the Postmasters-General under their hands, and on the part of the Contractors under their corporate seal and hands, or under the corporate seal or the hand of either of them, or under the hand of the accredited agent of the Contractors, if any, at Sydney or Auckland; and such appointment shall be made in duplicate; and be delivered one part to the other party and the other part to the arbitrator on the part of the party by whom the same shall be made; and after any such appointment shall have been made, neither party shall have power to revoke the same without the consent of the other, nor shall the death of either party operate as a revocation; and if for the space of fourteen days after any such dispute shall have arisen, and after a request in writing, in which shall be stated the matters required to be referred to arbitration, shall have been served upon the Postmasters-General respectively, or given to either of the Contractors, or left for them at their last known office or place of business in San Francisco, Sydney, or Auckland (if any), as the case may be, by the one party on the other party, to appoint an arbitrator, such last-mentioned party fail to appoint an arbitrator, then upon such failure the party making the request, and having appointed an arbitrator, may appoint such arbitrator to act on behalf of both parties, and such arbitrator may proceed to hear and determine the matters which shall be in dispute, and in such case the award or determination of such single arbitrator shall be final.

33. If before the matters so referred shall be determined, any arbitrator appointed by either party die or become incapable, the party by whom such arbitrator was appointed, his successors in office, or successors or assigns, may nominate and appoint in writing some other person to act in his place; and if for the space of fourteen days after notice in writing from the other party for that purpose he fail to do so, the remaining or other arbitrator may proceed *ex parte*, and every arbitrator so to be substituted as aforesaid shall have the same powers and authorities as were vested in the former arbitrator at the time of such his death or disability as aforesaid.

34. Where more than one arbitrator shall have been appointed, such arbitrators shall, before they enter upon the matters referred to them, nominate and appoint, by writing under their hands, an umpire, to decide on any such matters on which they shall differ, or which shall be referred to him; and if such umpire shall die or become incapable to act, they shall forthwith after such death or incapacity appoint another umpire in his place, and the decision of every such umpire, on the matters so referred to him, shall be final.

35. If, in either of the cases aforesaid, the said arbitrators shall refuse, or shall for fourteen days after the request of either party to such arbitration neglect, to appoint an umpire, the Governor for the time being of the Colony of New South Wales shall, on the application of either party to such arbitration, appoint an umpire, and the decision of such umpire on the matters on which the arbitrators shall differ or which shall be referred to him shall be final.

36. If when a single arbitrator shall have been appointed, or shall be proceeding *ex parte* under any of the provisions herein contained, such arbitrator shall die or become incapable to act before he shall have made his award, the matters referred to him shall be determined by arbitration in the same manner as if no such arbitrator had been appointed.

37. If, where more than one arbitrator shall have been appointed, either of the arbitrators refuse or for fourteen days neglect to act, the other arbitrator may proceed *ex parte*, and the decision of such other arbitrator shall be as effectual as if he had been the single arbitrator appointed by both parties.

38. If, where more than one arbitrator shall have been appointed, and where neither of them shall refuse or neglect to act as aforesaid, such arbitrators shall fail to make their award within three calendar months after the day on which the last of such arbitrators shall have been appointed, or within such extended time (if any) as shall have been appointed for that purpose by both such arbitrators

under their hands, the matters referred to them shall be determined by the umpire to be appointed as aforesaid; and the umpire shall make his award within three calendar months after the time when his duties shall commence, or within such extended time (if any) as shall have been appointed for that purpose by the umpire under his hand.

39. The said arbitrator or arbitrators or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

40. The costs of every such arbitration and of the award shall be in the discretion of the arbitrator, arbitrators, or umpire, who may direct to and by whom and in what manner the same or any part thereof shall be paid.

41. The arbitration shall take place and be conducted at Sydney aforesaid, and the arbitrator or arbitrators, or the umpire, as the case may be, shall deliver his or their award in writing to the Postmasters-General, and the Postmasters-General shall retain the same, and shall forthwith, on demand, at their own expense, furnish a copy thereof to the Contractors, and shall at all times, on demand, produce the said award, and allow the same to be inspected or examined by the Contractors or any person appointed by them for that purpose.

42. This submission to arbitration may be made a rule of any of the superior Courts of the United Kingdom of Great Britain and Ireland, or of the said colonies, on the application of either the Postmasters-General or the Contractors.

43. If the respective General Assemblies of the said colonies, or either of them, do not in their next respective Sessions approve or ratify this contract, it shall be lawful for the Postmasters-General, or either of them, to determine the same in the manner and upon the terms mentioned or provided in clause No. 24 of this contract, so far as the same are applicable; but the provision relating to arbitration in such clause contained shall not be applicable.

In witness whereof the said parties to these presents of the first and second parts have hereunto set their hands and seals, and the Contractors have hereunto caused their common seal to be affixed, the day and year first above written.

The seal of the Pacific Mail Steamship Company is affixed by Charles Clark,
their Attorney, thereunto duly authorized by power of attorney under (L.S.)
the common seal of the said Company.

Schedule A above referred to.

Scale of payment to be made by the Postmaster-General of New South Wales for each mail conveyed from San Francisco to Sydney, and *vice versa* :—

If conveyed within six hundred and forty-eight hours, one thousand seven hundred and twenty-nine pounds sixteen shillings and twopence.

If not so conveyed, but conveyed within six hundred and seventy-eight hours, one thousand six hundred and twenty-nine pounds sixteen shillings and twopence.

If not so conveyed, but conveyed within seven hundred and eight hours, one thousand five hundred and twenty-nine pounds sixteen shillings and twopence.

Schedule B above referred to.

Scale of payment to be made by the Postmaster-General of New Zealand for each mail conveyed from San Francisco to New Zealand, and *vice versa*.

If conveyed from San Francisco to Auckland within five hundred and ninety-one hours, and from San Francisco to Port Chalmers within seven hundred and twenty-two hours, or from Port Chalmers to San Francisco within seven hundred and twenty-two hours, as the case may be, one thousand seven hundred and twenty-nine pounds sixteen shillings and twopence.

If not so conveyed, but conveyed from San Francisco to Auckland within six hundred and seventeen hours, and from San Francisco to Port Chalmers within seven hundred and fifty-two hours, or from Port Chalmers to San Francisco within seven hundred and fifty-two hours, as the case may be, one thousand six hundred and twenty-nine pounds sixteen shillings and twopence.

If not so conveyed, but conveyed from San Francisco to Auckland within six hundred and forty-five hours, and from San Francisco to Port Chalmers within seven hundred and eighty-five hours, or from Port Chalmers to San Francisco within seven hundred and eighty-five hours, as the case may be, one thousand five hundred and twenty-nine pounds sixteen shillings and twopence.

(L.S.) J. F. BURNS, as
Postmaster-General of New South Wales,
(by his Attorney, Daniel Cooper).

(L.S.) JULIUS VOGEL, as
Postmaster-General of New Zealand,
(by Thomas Russell, his Attorney).

(L.S.) The Seal of the Pacific Mail Steamship Company, affixed
by Charles Clark, their Attorney.

Signed, sealed, and delivered by the above-named John Fitzgerald Burns, by his Attorney, Sir Daniel Cooper, Baronet, and by the above-named Sir Julius Vogel, by his Attorney, Thomas Russell, and sealed and delivered by the above-named Pacific Mail Steamship Company, by Charles Clark, their Attorney, in the presence of

JNO. MACKRELL,
Solicitor, 21, Cannon Street, London.

No. 4.

Mr. T. RUSSELL to the Hon. the COLONIAL SECRETARY.

SIR,—

London, 26th July, 1875.

Referring to my letter of the 29th June last, I have the honor to enclose a letter addressed No. 2. of this series. to me by Mr. John Mackrell, the solicitor in London for your Government. Mr. Mackrell's letter fully explains the circumstances under which the contract made in June last was set aside, and the new contract of 23rd July substituted.

The Pacific Mail Company throughout have been willing to undertake the whole service, and to supply the five ships required for it. They reluctantly agreed to take three-fifths of the contract, leaving the other two-fifths to Messrs. Elder and their friends, so that, should Messrs. Elder and Co. not succeed in completing their arrangement with the Company, under which Messrs. Elder's two new ships are to be employed in the service, the Pacific Mail Company assure us that they will be only too glad to supply all the vessels.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,
THOMAS RUSSELL.

Enclosure in No. 4.

Messrs. JOHN MACKRELL and Co. to Mr. T. RUSSELL.

DEAR SIR,—

21, Cannon Street, London, 26th July, 1875.

We send herewith, as instructed, prints of the postal contract, which has now been executed by the Pacific Mail Steamship Company alone with the Postmasters-General of New South Wales and New Zealand, in substitution of the contract entered into with the Postmasters-General by the Company jointly with Messrs. John Elder and Co. and Mr. Macgregor. In doing so, we beg leave to explain, for the information of the Government of New Zealand, the circumstances which have rendered necessary the execution of this substituted contract.

When it was decided to accept the joint tender of the Pacific Mail Steamship Company and Messrs. John Elder and Co. and Mr. Macgregor, you and Sir Daniel Cooper thought it right to be satisfied that the Company were empowered by the charter of incorporation to enter into the contract proposed, and accordingly we sent a cablegram to Messrs. Foster and Thomson, attorneys and councilors-at-law, of New York, as follows:—"Please examine constitution Pacific Mail Steamship Company. Advise, by cable, whether empowered to enter into mail contract with New South Wales and New Zealand Governments, similar to Hall and Forbes's contract, and whether jointly with other parties."

We received, in reply, from Messrs. Foster and Thomson, the following cablegram:—"Power to contract alone or jointly not limited."

Careful instructions were sent to the Company as to a power of attorney authorizing Mr. Clark, of the firm of Lawrence, Clark, and Co., to sign the contract on behalf of the Company, and Messrs. Foster and Thomson were instructed to see that the power was properly executed, and to advise when the same had been lodged with them. Upon a cablegram from them, stating that the power had been executed and forwarded to us, the contract of the 23rd June, 1875, and a bond of the same date, were executed by Mr. Clark, on behalf of the Company, and by Messrs. John Elder and Co. and Mr. Macgregor, prints of which you forwarded to the colony immediately afterwards.

In due course of post we received from Messrs. Foster and Thomson the power of attorney and a print of the Company's Acts of incorporation and bye-laws, and as it appeared to us and to Mr. Walton, who was advising Sir Daniel Cooper, that it was doubtful whether the Company could enter into a joint contract, and thereby make themselves responsible for the acts of other parties, you and Sir Daniel Cooper instructed us to advise with counsel upon the point.

Counsel were of opinion that it was not competent for the Company to enter into a joint contract, and pledge themselves for the acts of others, and upon your instructions we communicated with Messrs. Foster and Thomson, informing them of our counsels' opinion, and to know on what grounds they had advised as they had done. In reply, they sent a cablegram, stating the cases which had been decided in New York, upon which their opinion was founded. We thereupon, as instructed by you and Sir Daniel Cooper, had a further consultation with counsel, who, notwithstanding the cases referred to, and which were found in our English libraries, were still of opinion that the Company could not contract jointly, and we send enclosed copies of the opinions of Mr. Fry, Q.C., Mr. Benjamin, Q.C., and Mr. Dennistoun Wood. Mr. Benjamin practised for many years in New York before coming to the English bar, so that we have the advantage of his knowledge of the American law, as well as of the English decisions. On receipt of these opinions, Messrs. Elder and Co. and Mr. Macgregor were communicated with, and after some communications had passed between themselves and the Company, they were willing to allow the contract to be executed by the Company alone, they joining with the Company in a bond for £25,000.

It was feared that, as a contract had been executed by Mr. Clark, on behalf of the Company, under the power of attorney which had been sent over, it might be considered that his power was exhausted, and the Company were therefore requested, by cable, to execute another power of attorney to enable a substituted contract and bond to be executed on their behalf.

We received on the 22nd inst. a cablegram from Messrs. Foster and Thomson, stating that the new power had been executed, and had been mailed to us, and the following day the substituted contract was executed by Mr. Clark on behalf of the Company, and the bond was also executed by him on behalf of the Company and by Mr. Ure, one of the partners of Messrs. Elder and Co., and Mr. Macgregor, and has now gone to Glasgow for execution by the two other partners of the firm of Elder and Co., and we hope to receive it back completed to-morrow.

Mr. Ure, the managing partner of Messrs. John Elder and Co., proceeds to-morrow to New York to complete his sub-arrangements with the Company for the use of Messrs. Elders' two new ships

in the service (those arrangements having been already agreed to by cablegram). Should that sub-contract fall through (an event which it seems is not likely to happen), then it is understood that the bond of Messrs. John Elder and Co. and Mr. Macgregor is to be cancelled, and the Pacific Mail Company are to carry out the service.

Thomas Russell, Esq.

We have, &c.,
JOHN MACKRELL AND CO.

Sub-Enclosure to Enclosure in No. 4.

THE POSTMASTERS-GENERAL OF NEW SOUTH WALES AND NEW ZEALAND.

Copy of Counsels' Opinion.

WE are of opinion that the provisions in the New York Revised Statutes, that, "in addition to the powers enumerated in the 1st section of this title, and to those expressly given in its charter, or in the Act under which it is or shall be incorporated, no Corporation shall possess or exercise any corporate powers, except such as shall be necessary to the exercise of the powers so enumerated and given," prevents the Pacific Mail Steamship Company from entering into the contract and bond in question, and that the same are not binding on and could not be enforced against the Company.

2. We are of opinion that the Company are empowered to enter into a similar contract and bond alone, and that the same could be enforced against them.

3. We are of opinion that the contract and bond cannot be enforced against Messrs. Elder and Co. and Mr. Macgregor.

4. We are of opinion that, as the contract and bond cannot be enforced against the Company and Messrs. Elder and Co. and Mr. Macgregor, the Postmasters-General are under no liabilities or obligations to the Company, or Messrs. Elder and Co. and Mr. Macgregor, by reason merely of their having executed the contract and bond.

EDWARD FRY.
J. P. BENJAMIN.

1. I am of opinion that the power of entering into joint contracts is included in "the necessary and incidental power" granted to the Company by its charter, and that the provision in the New York Revised Statutes is merely intended to prevent a corporation from undertaking matters unconnected with the purpose for which it is incorporated. It has, however, been stated orally that the Company and Messrs. Elder and Co. and Mr. Macgregor are not merely joint contractors, but are in partnership as regards the contract in question, and that this fact was known to the Postmasters-General when the latter entered into it; and as there are dicta of the Judges in the Courts of the State of New York—(see *Catskill Bank v. Gray*, 14 Barbour at 479, and the *New York and Sharon Canal Company*; the *Fullon Bank*, 7 Wendell at 415, that a corporation cannot enter into a partnership; and an express decision in *Massachusetts, Whittenton Mills v. Upton*, 10 Gray, 582, to the same effect, based upon grounds which would apply to the case of the Pacific Mail Steamship Company)—I think it probable that if the question should arise in New York, the Courts there would decide contrary to the opinion expressed by Lord Cairns in *Barned's Banking Company*, Law Report, 3 Ch. App. at 113 (see, also, *Royal Bank of India's Case*, Law Report, 4 Ch. App. at 257). I am therefore, on the whole, of opinion that the contract and bond are not binding on and could not be enforced against the Company.

2. I am of opinion that a similar contract and bond entered into by the Company alone could be enforced against the Company.

3. I am disposed to think that the contract and bond can be enforced against Messrs. Elder and Co. and Mr. Macgregor, as the case seems to me to differ from those (as in *Evans v. Bembridge*, 2 Kay and Johnson, 174, and *8 De Gex and Macnaughten and Gordon*, 100) where one person has executed a contract on the understanding and faith that others will join with him in executing it, and where he is not liable if they do not execute it. Here all that Messrs. Elder and Co. and Mr. Macgregor stipulated for has been carried out; the Company have executed the contract, and it is more than probable that they will carry it out.

4. If the contract and bond are not binding on the Company, the Company cannot enforce them against the Postmasters-General. If the contract and bond can be enforced against Messrs. Elder and Company and Mr. Macgregor, the latter can enforce them against the Postmasters-General.

J. DENNISTOUN WOOD.

16th July, 1875.

No. 5.

MR. RUSSELL to the Hon. Dr. POLLEN.

(Telegram.)

London, 14th August, 1875.

ELDER has agreed with Pacific Mail Company. Bonds already executed. Remain security to Governments for contractors. Elders' two ships be used in service.

No. 6.

THE Hon. J. T. BURNS to the Hon. the POSTMASTER-GENERAL, Wellington.

SIR,—

Sydney, 12th August, 1875.

I have the honor to acknowledge the receipt of your letter dated the 16th ultimo, in reference to the contract for the mail service *via* San Francisco entered into by the Governments of New

South Wales and New Zealand with the Pacific Mail Steamship Company; and I have now to transmit, for your information, copies of the Proceedings of both Houses of Parliament of this colony, ratifying the execution of the contract in question.

The Hon. the Postmaster-General, Wellington.

I have, &c.,
J. T. BURNS.

Enclosure in No. 6.

EXTRACT from the MINUTES of the PROCEEDINGS of the LEGISLATIVE COUNCIL of New South Wales.

WEDNESDAY, 4th August, 1875.

PACIFIC Mail Service.—Mr. Docker moved, pursuant to notice,—

(1.) That this House approves of the joint contract made by Sir Daniel Cooper, Baronet, and Thomas Russell, Esq., on behalf of the Governments of New South Wales and New Zealand, with the Pacific Mail Company, for whom Mr. John Elder, of Glasgow, and Mr. Macgregor, of Leith, are sureties, for a mail service between this colony and San Francisco, and between New Zealand and the same port, for a term of eight years, and for a speed at the rate of 11 knots, according to the route described as "Route B" in the paper laid on the table on the 8th of July, 1875.

(2.) That the foregoing resolution be transmitted by address to His Excellency the Governor.
Question put and passed.

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE ASSEMBLY of New South Wales.

THURSDAY, 29th July, 1875.

PACIFIC Mail Service.—The Order of the day having been read, Mr. Speaker left the chair, and the House resolved itself into a Committee of the whole for the consideration of the following resolutions:—

(1.) That this House approves of the joint contract made by Sir Daniel Cooper, Baronet, and Thomas Russell, Esq., on behalf of the Governments of New South Wales and New Zealand, with the Pacific Mail Company, for whom Mr. John Elder, of Glasgow, and Mr. Macgregor, of Leith, are sureties, for a mail service between this colony and San Francisco, and between New Zealand and the same port, for a term of eight years, and for a speed at the rate of 11 knots, according to the route described as route B in the paper laid on the table on the 7th of July, 1875, for an annual subsidy of £89,950.

(2.) That the foregoing resolution be transmitted by address to His Excellency the Governor.

Mr. Speaker resumed the chair, and the Chairman reported that the Committee had come to a resolution.

Ordered, on motion of the Chairman, with the concurrence of the House, That the report be now received.

The resolution was then read a first time.

On the motion of Mr. Burns, the resolution was read a second time, and agreed to.

No. 7.

The Hon. J. T. BURNS to the Hon. the POSTMASTER-GENERAL, Wellington.

SIR,—

Sydney, 27th August, 1875.

I have the honor to enclose herewith, for your information, copy of a telegram from Sir Daniel Cooper, dated the 17th instant, in reference to the mail service *via* San Francisco, and to state that I think it is very probable this Government will succeed in making arrangements by which the apprehended clashing between the temporary and permanent services will be prevented.

I have, &c.,
J. T. BURNS.

The Hon. the Postmaster-General, Wellington.

Enclosure in No. 7.

Sir DANIEL COOPER, London, to SECRETARY, Sydney.

(Telegram.)

17th August, 1875.

PACIFIC COMPANY have arranged with Elder and Company and Macgregor. First mail leaves Sydney 19th November; Chalmers, 17th November; London, 21st October; Frisco, 10th November.

No. 8.

Mr. LAMBTON to the SECRETARY, General Post Office, Wellington.

SIR,—

Sydney, 25th August, 1875.

I am directed to acknowledge the receipt of your letter, dated the 17th ultimo, approving of the arrangements proposed in my communication of the 17th June last, as regards the transit of closed mails between France and New Caledonia by the San Francisco Service.

In reply, I am to state that communications have now been addressed to the postal authorities in
3—F. 3B.

London and Noumea, respectively, with reference to the mode of accounting for the charges which will become due to this colony and New Zealand under the arrangement in question.

I am, &c.,

S. H. LAMBTON,
Secretary.

The Secretary, General Post Office, Wellington.

Enclosure 1 in No. 8.

Mr. LAMBTON to the SECRETARY, General Post Office, London.

SIR,—

General Post Office, Sydney, 25th August, 1875.

With reference to previous correspondence respecting the transit of closed mails to and from New Caledonia by the San Francisco route, I am directed to inform you that, pending a decision as to whether a subsidy should be sought from the French Government for the conveyance of such mails, the Postmasters-General of this colony and New Zealand have agreed that the mails for and from New Caledonia should be forwarded between Sydney and San Francisco on the same terms as those of the neighbouring colonies, viz. :—

Letters	...	...	...	...	...	...	1s. 7d. per oz.
Packets	...	...	...	...	...	...	1s. 6d. „ lb.
Newspapers	...	...	...	...	...	...	0s. 6d. „ lb.

In order to simplify the matter, it is proposed that the postal authorities of New Caledonia shall account for and pay direct to this office the above charges on the gross weight of all Noumea correspondence conveyed in either direction between Sydney and San Francisco, leaving any charges made in America, England, France, or elsewhere to be a matter of arrangement between the French Post Office and the other post offices concerned.

I have, &c.

S. H. LAMBTON,
Secretary.

The Secretary, General Post Office, London.

Enclosure 2 in No. 8.

Mr. LAMBTON to the POSTMASTER-GENERAL, Noumea.

SIR,—

General Post Office, Sydney, 25th August, 1875.

Adverting to previous correspondence on the subject of the transit of closed mails to and from New Caledonia by the San Francisco route, I am directed to inform you that, pending a decision as to whether a subsidy should be sought from the French Government for the conveyance of such mails, the Postmasters-General of this colony and New Zealand, as jointly interested in the San Francisco Service, have agreed that all mails for and from New Caledonia may be forwarded by such service on the same terms as those of the neighbouring colonies, viz. :—

Letters	...	...	...	...	...	...	1s. 7d. per oz.
Packets	...	...	...	...	...	...	1s. 6d. „ lb.
Newspapers	...	...	...	...	...	...	0s. 6d. „ lb.

In order to simplify the matter, it is requested that your office will account for and pay direct to this department the above charges on the gross weight of all Noumea correspondence conveyed in either direction between Sydney and San Francisco, leaving any charges made in America, England, France, or elsewhere to be a matter of arrangement between the French Post Office and the other post offices concerned.

I am to add that statements of the weight of all mails transmitted from and to you by the San Francisco route should be forwarded here as formerly provided.

I have, &c.,

S. H. LAMBTON,
Secretary.

The Hon. the Postmaster-General, Noumea.

No. 9.

Mr. GRAY to the SECRETARY, General Post Office, Sydney.

SIR,—

General Post Office, Wellington, 16th September, 1875.

I have the honor to acknowledge the receipt of your letter of the 25th ultimo, forwarding copies of further correspondence addressed by your department to the Imperial Post Office authorities and the Postmaster-General of New Caledonia, with reference to the mode of accounting for the charges which will become due to the colonies of New South Wales and New Zealand under the arrangement for the transit of closed mails between France and New Caledonia by the San Francisco Mail Service.

I have, &c.,

W. GRAY,
Secretary.

The Secretary, General Post Office, Sydney.