

Mr. Webb states that he is prepared to contest his liability, and he says he is advised he can do so successfully. Mr. Marbury informs me that if the suit is contested it will require three years at least to bring it to trial.

Mr. Marbury thinks that the Government would succeed in getting a judgment against Mr. Webb, and that Mr. Webb could pay the amount for which such judgment could be got; and if there were no other elements in this case, I should have felt bound, having regard to your wishes, to instruct Mr. Marbury to take the necessary legal proceedings for the recovery of the penalties. But I found that considerable sympathy was expressed in America for Mr. Webb and his friends, under their heavy losses in connection with the late contract.

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Having regard to the length of time required to bring legal proceedings to a point; to the uncertainty of the results; to the negotiations for the renewal of the service, partly based on the hope of an American subsidy; and Mr. Webb's influence in Congress,—I deemed it my duty to suspend Mr. Marbury's action pending your decision.

Mr. Webb makes an appeal to the Government on the subject by this mail.

Mr. Webb claims that he has assigned his contract to others, by virtue of power reserved to him in your contract; and that any proceedings to be taken should be against the assignees. Mr. Stockwell, the principal assignee, and late president of the Pacific Mail Company, is now unable to meet his engagements, though it is expected that he will ultimately be able to pay.

I have, &c.,

THOMAS RUSSELL.

The Hon. the Postmaster-General, New Zealand.

### No. 3.

Mr. W. H. WEBB to the POSTMASTER-GENERAL.

SIR,—

New York, 25th June, 1873.

I have the honor to acknowledge the receipt of your letter of the date of 12th April, 1873, relating to claims of your Government against Mr. Ben Holladay and myself, arising under the contract entered into between yourself on behalf of New Zealand, and ourselves (known as contractors), and dated 7th March, 1871. E.—No. 4, 1871,  
Enclosure 1 in  
No. 90.

I also received previously a letter addressed to me by Mr. F. F. Marbury of this city, counsel on your behalf, and more recently the Hon. Thomas Russell has appeared here representing you in the same matter.

These proceedings make it necessary for me to submit for your consideration some of the circumstances which have culminated in the withdrawal of the steamers from the New Zealand Mail Service.

I write you now without any purpose to raise any question in respect to the extent of the legal liability, under all the facts, of the contractors or their successors, for penalty arising under the contract, but simply to present some considerations which ought, as I think, to influence your official action in the matter.

The real interest of all parties was to establish a permanent mail communication between San Francisco and New Zealand and Australia. Into this project I entered, as I am sure you are convinced, with the fullest determination to do all in my power to make it successful.

You are aware to a great degree of the difficulties which presented themselves at the time this undertaking was offered for our consideration, and that it required no little boldness to put at risk the large amount of capital required to test the experiment of steam mail communication between the Colonies and the United States.

It was distinctly represented to you, and well understood by us all at the outset, that unless a mail subsidy could be obtained from the United States Government, in addition to that which was offered by New Zealand, and such as might be secured from other Colonial Governments, the service could not be maintained. It was at the same time clear that no subsidy could be obtained from the Government of the United States until a line of steamers should be first started.

When the negotiations were commenced in the United States, it was shown that the temporary service then existing as far as Honolulu, was about to terminate, and therefore the contractors were expected to begin the proposed new service immediately, under the belief no doubt, on your part, that a sufficient number of the steamers offered for the service were in complete readiness, founded upon wrong information given you previously by agents of the contractors.

The steamers "Nevada," "Nebraska," and "Moses Taylor," were the only steamers then available in the Pacific Ocean. The first two, in the general acceptance of the term, were ready for sea; but it was deemed advisable to give them a general overhaul in every department, which they both received, as well as alterations in their cabin arrangements and other departments to fit them for the service, in view of the fact that they would be employed on an extended and untried route. The "Moses Taylor," as was well known, though a very good steamer, required an extensive overhaul in her machinery department.

For these reasons time was asked by the contractors sufficient to get the steamer "Dakota" into the Pacific Ocean, but you could not grant the time needed, and a compromise was agreed upon, by which the "Moses Taylor" might perform the service between San Francisco and Honolulu for a limited period; the "Nevada" and "Nebraska" connecting with her at that port, and thus afford time to bring the "Dakota" from New York.

This compromise fixed the sailing of the first steamer from San Francisco in one month from the date of the contract. The "Nevada" sailed on that date, followed by the "Nebraska;" but when the day for the sailing of the "Moses Taylor" arrived, it was found she had not been put in the good seaworthy condition by my associate, as promised by him in a written agreement between us, and in whose hands she was held nearly up to her advertised sailing day.