

WHEREAS by certain articles of agreement made and entered into on the twenty-third day of July, one thousand eight hundred and seventy-five, between the said John Fitzgerald Burns, as Postmaster-General of and acting for and on behalf of the Government of the said Colony of New South Wales, of the first part, the said Sir Julius Vogel, as Postmaster-General of and acting for and on behalf of the Government of the said colony of New Zealand, of the second part, and the above bounden the Pacific Mail Steamship Company, who in the said articles of agreement are designated "the Contractors," of the third part: It is witnessed that they the Contractors did for themselves, their successors, and assigns, and each of them did for themselves and their successors and himself his heirs, executors, administrators, and their and his assigns (so far as the covenants and agreements therein-after contained were to be observed and performed by the Contractors), 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 (amongst other things). Art. 2. That the Contractors should, 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 should at any time or 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 therein-after provided, and should and would 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, A 1, 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. Art. 3. That the steam vessels to be employed under the now reciting contract should be of the capacity aforesaid, and should 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 might 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 thereby 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 should jointly or severally, or at any time or times or from time to time, authorize to inspect and examine the same, and no vessel should be employed or used for the purposes of the now reciting contract until approved as aforesaid. Art. 4. That the Postmasters-General, or either of them, should have full power whenever and as often as they or he might 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 the now reciting 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 might be discovered on any such survey should be forthwith repaired or supplied by the Contractors; and for the purposes aforesaid the said vessels should (if necessary) be opened in their hulls whenever the said officers or agents might so require. And if any such vessel, or any part thereof, or any engines, machinery, furniture, tackle, apparel, boats, stores, or equipments should on any such survey be declared by any such officers or agents unseaworthy or not adapted to the service thereby agreed to be performed, or any such officers, engineers, or crew should be so declared ineligible, every vessel which should be disapproved of, or in which such deficiency or defect should appear, should be deemed insufficient for any service thereby agreed to be performed, and should not be again employed in the conveyance of mails until such defect or deficiency should have 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 should not be employed in the said service. And in the now reciting contract it was further covenanted and agreed (Art. 28) that if the Contractors should fail to commence the performance of the services thereby contracted to be by them performed according to the provisions thereof, or having commenced the same should refuse or wilfully neglect to carry on the same according to the true intent and meaning of the now reciting presents, they should 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.) That all and every the sums of money thereby stipulated to be paid by the Contractors should be considered as liquidated or ascertained damages, whether any damage or loss should have or should not have been sustained, and might be set off by the Postmasters-General, or either of them, against any moneys payable to the Contractors under or by virtue of the now reciting presents, or might 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 therein contained should 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 the now reciting contract on the part of the Contractors. (30.) That the Contractors, with two sureties to be approved by the Postmasters-General, should 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 therein contained according to a draft then already agreed upon, meaning the draft of these presents.