

1875.

NEW ZEALAND.

NEW ZEALAND ELECTRIC TELEGRAPH CABLE,

(FURTHER PAPERS RELATING TO).

No. 1.

Sir JULIUS VOGEL to the Hon. Dr. POLLEN.

7, Westminster Chambers, Victoria Street,
Westminster, S.W., 29th June, 1875.

SIR,—

I have the honor to forward to you herewith, six copies of the Telegraph Contract entered into with the Eastern Extension, Australasia, and China Telegraph Company (Limited).

2. Up to the last moment, there was great difficulty in settling many points. I do not think that the Company intentionally created obstacles; but there seemed to be such a diversity of opinion amongst the Directors that, until its final settlement, the completion of an agreement appeared to be doubtful.

3. I have to express my high sense of the courtesy and the cordial co-operation of Sir Daniel Cooper throughout these telegraph negotiations, which, in some form, may be said to have extended over five months.

The Hon. Dr. Pollen.

I have, &c.,
JULIUS VOGEL.

Enclosure in No. 1.

ARTICLES OF AGREEMENT entered into this twenty-fourth day of June, One thousand eight hundred and seventy-five, between His Excellency the Most Honorable GEORGE AUGUSTUS CONSTANTINE, Marquis of Normanby, Earl of Mulgrave, Viscount Normanby, and Baron Mulgrave of Mulgrave, in the County of York, in the Peerage of the United Kingdom; and Baron Mulgrave of New Ross, in the County of Wexford, in the Peerage of Ireland; a Member of Her Majesty's Most Honorable Privy Council, and Knight Commander of the Most Distinguished Order of St. Michael and St. George; the Governor and Commander-in-Chief in and over Her Majesty's Colony of New Zealand and its dependencies, and Vice-Admiral of the same; for and on behalf of the said Colony, of the first part: His Excellency Sir HERCULES ROBINSON, a Knight Commander of the Most Distinguished Order of St. Michael and St. George, the Governor and Commander-in-Chief in and over Her Majesty's Colony of New South Wales and its dependencies, and Vice-Admiral of the same, for and on behalf of the said Colony, of the second part: and the EASTERN EXTENSION, AUSTRALASIA, AND CHINA TELEGRAPH COMPANY, LIMITED, of the third part: Witness that for the considerations herein appearing the said George Augustus Constantine, Marquis of Normanby, for himself separately and his successors in office, Governors and Commanders-in-Chief for the time being in and over the said Colony of New Zealand and its dependencies, and not for the said Sir Hercules Robinson and his successors in office, doth hereby for and on behalf of the same colony, so far as the agreements hereinafter contained are to be observed and performed on the part of the Governor or the Government of New Zealand; and the said Sir Hercules Robinson for himself separately and his successors in office, Governors and Commanders-in-Chief for the time being in and over the said Colony of New South Wales, and not for the said George Augustus Constantine, Marquis of Normanby, and his successors in office, doth hereby, for and on behalf of the same colony so far as the agreements hereinafter contained are to be observed and performed on the part of the Governor or the Government of New South Wales, agree with the said Company their successors and assigns; and the Company for themselves their successors and assigns, do hereby, so far as the agreements hereinafter contained are to be observed and performed on their part, agree with the Governor or the Government of New Zealand and his successors, and the Governor or the Government of New South Wales and his successors, and also as a separate agreement with each of the said Governors and his successors, for and on behalf of the said respective colonies separately, 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: "The Governor of New Zealand" means the Governor for the time being of that colony, and includes also the Government for

the time being of that colony; "The Governor of New South Wales" means the Governor for the time being of that colony, and includes also the Government for the time being of that colony; "The Governors" mean the Governor of New Zealand and the Governor of New South Wales; "the Company" means the said Company of the third part, their successors and assigns; "the said cable" means the cable hereinafter contracted to be laid and any cable or cables which may be laid in substitution thereof or in addition thereto; and whenever it is hereinafter agreed that the Governors shall do any act, the meaning is hereby declared to be that the Governor of New Zealand shall be required to do such act so far as such act ought to be done in or in respect of or in relation to New Zealand, and the Governor of New South Wales shall be required to do such act so far as such act ought to be done in or in respect of or in relation to New South Wales: and that the Governor of New Zealand shall not be liable for the not doing of any act which ought to be done in or in respect of or in relation to New South Wales or by the Governor of New South Wales; and that the Governor of New South Wales shall not be liable for the not doing of any act which ought to be done in or in respect of or in relation to New Zealand or by the Governor of New Zealand, but that each Governor shall be liable only for his own default and not for the default of the other.

2. The Governors shall permit the Company to lay a submarine telegraph cable between New Zealand and Sydney in the said Colony of New South Wales, the terminal point in New Zealand to be on the coast of Blind Bay or Golden Bay, and the terminal point at Sydney to be the Telegraph Station there.

3. The Company shall, within fourteen days after the day of the date of these presents, or within such further time as shall be approved by the Governors, obtain a *bonâ fide* contract to be entered into with them by some competent and responsible person or persons or company or companies to make and construct a suitable submarine cable to be laid between the said terminal points, according to such a specification, pattern, or design as shall have been or shall be approved in writing on behalf of the Governors or one of them, and shall, as soon as shall be practicable, produce the said contract to the solicitors in England of the Governors for inspection.

4. On or before the thirtieth day of April, one thousand eight hundred and seventy-six, the Company shall properly lay the said cable between the said terminal points, and erect and provide the stations, operators, clerks, apparatus, instruments, appliances, and materials necessary for the proper and continuous use and effective working of the said cable, and shall open and use the said cable for the transmission of messages through the same; but if the laying the said cable shall be delayed by causes over which the Company shall have no control, the time within which the same is to be laid as aforesaid shall be extended to such further time as the Governors shall in their absolute discretion determine to be just and reasonable.

5. From time to time, and at all times after the said cable shall have been opened for the transmission of messages, and while any subsidies or subsidy shall be payable by the said Governments or either of them, the Company shall keep open and use the same for such purpose, and keep and maintain the same in good working order and condition, and properly supplied with all such operators, clerks, apparatus, instruments, appliances, and materials as shall be requisite or necessary for the proper and regular use and working of the said cable, and shall for the purposes in this clause mentioned provide and keep properly equipped and ready for use a suitable steam vessel, which when not in use for the same purposes, shall be kept stationed at some port in New Zealand or at some port in Australia not situated nearer to the equator than the Port of Brisbane; but if such vessel shall not be in use or required for such purposes, the Company shall be at liberty to send the same to repair their Tasmanian cable, if necessary.

6. The Governors respectively shall afford to the Company all proper and reasonable facilities to enable the Company to lay the said cable, and to keep the same in repair, and to acquire any land necessary for their terminal stations in the respective colonies; and in the event of the Governors having at their respective disposal and in possession of lands, not being land in a town, suitable for such purpose, the Governors respectively shall and will make a free grant thereof to the Company.

7. Before the time hereinbefore appointed for opening the said cable, the Governor of New Zealand shall cause to be constructed such land line or lines of telegraph wires as it shall be necessary to construct to enable messages to be transmitted from the said terminal station of the said cable in New Zealand to and over the existing system of telegraph wires in that colony; and the Governor of New South Wales shall afford to the Company the necessary facilities for enabling the Company to carry their wires into the telegraph station at Sydney, and the Governors respectively shall provide such operators, clerks, apparatus, instruments, appliances, and materials as shall be requisite or necessary for enabling messages which are to be or have been transmitted through the said cable to be transmitted over the telegraph systems of New Zealand and New South Wales respectively.

8. With a view to the more speedy transfer and transmission of messages, the Governors respectively shall, until the said subsidy shall cease to be payable and for a period of ten years afterwards, and for so long thereafter as the tariff shall not be in excess of the charges mentioned in clause No. 11 of these presents, give to the Company accommodation in their telegraph stations respectively at the terminal points of the said cable which the Company shall use for the transmission of messages through the said cable.

9. The Governors respectively shall, until the said subsidy shall cease to be payable and for a period of ten years afterwards, cause the said cable and the telegraph instruments of the Company, and all new screw shafts, boilers, piston rods, or tanks which the Company may send out to the said colonies respectively for use in the said steam vessel to be relieved from Custom duties, and the said vessel to be exempt from all port dues in the colonies respectively when engaged solely in carrying out the purposes mentioned in clause No. 5 of these presents; and such vessel shall always be on a not less favourable footing than other vessels.

10. The Company shall at all times hereafter give priority in transmission through the said cable to all messages sent by Her Majesty the Queen or the Governors or the Governor of any Australian colony respectively, or any department or official (as such) of the Government of Her Majesty, or of the Colony of New Zealand, or of any Australian colony respectively.

11. The Company shall not during the continuance of the subsidies hereinafter firstly mentioned respectively make any charge for the transmission of messages through the said cable exceeding seven shillings and sixpence for a message not exceeding ten words, and ninepence for every additional word (the names and addresses of the sender and addressee being counted as part of the message), and shall reduce the said charge to a charge not exceeding five shillings for every message not exceeding ten words, and sixpence for every additional word in either of the following cases, that is to say,—In case during any period of six calendar months the average number of messages delivered or forwarded for transmission through the said cable shall have amounted to two hundred per day excluding Sundays, in which case the said reduction shall commence from and after the expiration of such six calendar months; but if the average number of messages, after having amounted to such an average of two hundred per day as aforesaid, shall again fall for a period of six calendar months below such average, then the said reduction shall cease until the said average shall be again reached, when the said reduction shall again take place, and so on from time to time. Or in case the Governors or either of them shall at any time or from time to time deliver any notices or notice whereby they or he shall agree to make payment for the period mentioned in such notices or notice to the Company for the number by which the messages actually delivered or forwarded for transmission through the said cable during such period shall fall short of an average number of two hundred messages per day, excluding Sundays, during the period mentioned in such notices or notice, the Company being nevertheless entitled to the full benefit of the moneys received for transmission of messages through the said cable, if the average number of messages per day, excluding Sundays, shall during such period exceed two hundred.

12. The Governors respectively shall during the continuance of the said subsidies respectively cause all messages for transmission between New South Wales and New Zealand and *vice versa* to be sent through the said cable, unless otherwise directed, and all messages for transmission beyond the said colonies, not otherwise directed to be sent by the sender, to be transmitted over the telegraph system of the Company so far as the same can be used, and if the same be in good working order, and shall at all times hereafter afford to the Company similar advantages to those (if any) afforded to any other Company of allowing the route of a message to be indicated therein by the words "*via* Darwin," or like words, without any charge for the same.

13. The Governors respectively shall not make any terminal charge, or make any charge for any message transmitted over the lines of telegraph belonging to the said colonies respectively to or from the said cable, in excess of the lowest ordinary rates according to the character of the message, so long as the said subsidies respectively shall continue to be payable, nor after the said subsidies respectively shall have ceased to be payable, so long as the Company shall not increase their rates beyond the rates chargeable as hereinbefore mentioned. And so long as the said subsidies respectively shall continue to be payable, the Governor of New South Wales shall cause New Zealand messages to or from Darwin to be transmitted from or to Sydney, at rates not exceeding the rates charged for messages between Melbourne and Darwin.

14. If the Company shall perform their undertaking contained in the 3rd clause of these presents, and if the said cable shall be laid and completed and opened for use before the 30th day of April, 1876, or within such extended time as aforesaid, the Governor of New Zealand shall pay to the Company a subsidy of £5,000, and the Governor of New South Wales shall pay to the Company a subsidy of £2,500 respectively during a period of ten years, to be computed from the day when the said cable shall be completed and shall be actually opened and used for the transmission of messages, such subsidies to be respectively payable by equal quarterly payments at the Treasuries of the said colonies respectively, the first quarterly payment whereof respectively shall be made at the expiration of three calendar months after the day from which the said subsidies respectively shall have commenced to be payable, the said subsidies respectively nevertheless to be subject to reduction or determination as hereinafter mentioned.

15. The Governors respectively shall, from time to time, pay to the Company in addition to the said subsidies, so long as the same shall be payable respectively, such sums as will be sufficient to recoup to the Company any taxes, parliamentary or otherwise, which they shall pay in the said colonies respectively.

16. Provided always that if at any time or from time to time, the said cable shall not be in good working order and condition, and open for use any day or number of days in excess of an aggregate period of ninety days in any one year, computed from the day on which the said subsidies respectively shall commence to be payable as aforesaid, the Governors respectively shall and may from time to time deduct from any moneys payable by the Governors respectively to the Company a proportionate part of the said subsidies respectively for and in respect of each and every day so in excess of the said aggregate period of ninety days during which the said cable shall not be in good working order and condition and open for use, until the said cable shall be in good working order and condition and open for use, or until the said subsidies respectively shall be determined under the next clause of these presents, it being nevertheless agreed that if the Company shall be able at any time or from time to time to satisfy the Governors that the repair of the said cable could not have been reasonably effected and completed within the said period of ninety days, on account of causes over which the Company shall have had no control, the said aggregate of ninety days shall on the occasion in question be extended to such an aggregate period as the Governors shall determine to be just and reasonable: Provided nevertheless that any such extension of time shall not entitle the Company to payment of any subsidy in excess of the said period of ninety days, if, in consequence of the said cable continuing to be not in good working order and condition and open for use, the said subsidies shall cease to be payable as in the next clause of these presents mentioned.

17. Provided also that if at any time or times the said cable shall not be in good working order and condition, and open for use for and during any continuous period of 183 days or any such extended period as hereinafter mentioned, as the case may be; it shall be lawful for each or either of the Governors at any time thereafter, by notice in writing to be delivered to the Company in London, to determine and put an end to the contract hereby made; so far as regards the colony by whose Governor the notice is given, and the subsidy payable by that colony, and the provisions herein contained,

which are conditional on the subsistence of the Company's right to the same subsidy, in which case the said subsidy shall cease to be payable. It being hereby agreed and declared, that if the Company can satisfy the Chief Justice of either of the said colonies, if both Governors shall so give notice, or of the colony whose Governor shall so give notice that the Company have been and are making all reasonable efforts to repair or replace the said cable without delay, and he shall determine that the said period of 183 days ought under the circumstances to be extended, then the said period of 183 days shall be extended to such a period as the said Chief Justice shall determine; and if the Company can satisfy the said Chief Justice that any new cable which the Company may have obtained to replace the said cable has been lost or damaged in transit, and the said Chief Justice shall determine that the said period of 183 days ought in consequence to be further extended, then the same period shall be further extended to such a period as the said Chief Justice shall determine. It being nevertheless expressly agreed and declared, that the Company shall not be entitled to or allowed, under any circumstances, any extension of the said period of 183 days so as to make up in the whole a period in excess of eighteen calendar months. And it being further agreed, that in the event of the contracts hereby made, and the said subsidies or either of them being so determined and put an end to as aforesaid, the Company shall have and retain their property in New Zealand and New South Wales respectively, with all such similar rights of working and using the said cable and repairing the same as they would have had and been entitled to if the Company had laid the said cable with the approval of the Governors without any provision having been made for payment of any subsidy by the Governors or either of them to the Company; and that while the Company shall duly observe and perform all the provisions and agreements herein contained, on their part to be observed and performed, which are not conditional on the subsistence of their right to a subsidy, they shall retain all other rights hereby granted to them, which are not conditional on the subsistence of their right to a subsidy.

18. The Company shall reduce their charges for messages over their lines and cables as hereinafter mentioned. If the Governors and the respective Governors for the time being of the other Australian colonies, or any of them, shall enter, or be ready and willing and offer to enter, into an agreement or agreements with the Company for the payment to the Company, in addition to any other subsidy payable under these presents, of an aggregate of subsidies amounting to £20,000 per annum payable quarterly, during a period of ten years, at the respective Treasuries of the colonies, free of income or property tax (if any payable) in the colonies respectively, such subsidies nevertheless being subject to be reduced (*pro rata* if necessary) by £100 per annum, for or in respect of every 100 messages beyond 30,000 messages which shall be transmitted in any year, to be computed from the day from which the said subsidies shall commence to be payable, and the said subsidies being also nevertheless subject to suspension or determination as hereinafter mentioned.

19. During the continuance of the subsidies in the last preceding clause mentioned, the Company shall not, in the event last aforesaid, make any charge for the transmission of such messages as hereinafter mentioned in excess of the charges hereinafter mentioned, that is to say:—For a message not exceeding ten words to or from Port Darwin from or to London, sixty shillings, and six shillings for each additional word, the names and addresses of the sender and addressee thereof being counted as part of the message. For a like message to or from Port Darwin from or to Java, twenty shillings, and two shillings for each additional word, in addition to any terminal or transit charges of the Governments of the respective countries at which the message shall have to be delivered, or through which it shall have to be transmitted. For a like message to or from Port Darwin from or to Singapore, India, or Penang, thirty shillings, and three shillings for each additional word, in addition to any such terminal or transit charges as aforesaid. And for a like message to or from Port Darwin from or to Hong Kong sixty shillings, and six shillings for each additional word, in addition to any such terminal or transit charges as aforesaid. And in case the rates the Company may have to pay for transmission of a message between Madras and London shall at any time or from time to time be reduced more than one shilling below the rate of one pound seven shillings, including the charges made by the Indian Government, then during the continuance of such reduction the rate above mentioned for a message to or from Port Darwin from or to London shall be reduced to the extent of such reduction beyond the one shilling; and if at any time the rate the Company may have to pay for transmission of a message between Madras and London shall be increased beyond the present rate, the Company shall be at liberty to determine and put an end to the arrangement as to reduced rates in this clause mentioned, in which case the said subsidies amounting to £20,000 shall cease to be payable.

20. The Company shall, in the event mentioned in clause No. 18 of these presents, from time to time and at all times after the said last-mentioned subsidy shall commence to be, and so long as the same shall be payable, keep open and use for the transmission of messages all the lines of cable or telegraph wire belonging to or worked by them between any of the places in the last preceding clause mentioned, except between Singapore and Hong Kong, and shall keep and maintain the same in good working order and condition, and properly supplied with all such operators, clerks, apparatus, instruments, appliances and materials as shall be requisite or necessary for the proper and regular use and working of the same.

21. Provided always that if at any time or from time to time any of the lines of cable or telegraph wire between the places in clause No. 19 of these presents mentioned, except between Singapore and Hong Kong, shall not be in good working order and condition, and open for use so as to enable any of such messages as in the same clause mentioned to be transmitted for any day or number of days in excess of an aggregate period of thirty days in any one year, computed from the day on which the said last-mentioned subsidies shall commence to be payable, the Governors of the colonies liable to pay the same, or any or either of them, shall and may from time to time deduct from any moneys payable by such Governors respectively to the Company, a proportionate part of the subsidy payable by such Governors respectively for and in respect of each day or days so in excess of the said aggregate period of thirty days, during which any of the same lines of cable or telegraph wire shall not be in good working order and condition and open for use until the said cable shall be in good working order and condition and open for use, or until the said subsidy shall be determined under the next clause of these presents.

22. Provided also that if at any time or times any of the said lines of cable or telegraph wire between the places in clause No. 19 of these presents mentioned, except between Singapore and Hong Kong, shall not be in good working order and condition, and open for use so as to enable any of such messages as in the same clause mentioned to be transmitted for and during any continuous period of one hundred and eighty-three days, or any such extended period as hereinafter mentioned, as the case may be, it shall and may be lawful for the Governors or either of them, or the Governors of the other Australian colonies or any of them, or any of such Governors, at any time thereafter, or from time to time by notice in writing delivered to the Company in London, to determine and put an end to the agreement for the payment of the said last-mentioned subsidies, in which case the same shall cease to be payable, it being hereby agreed and declared that if the Company can satisfy the Governors or Governor giving the said last-mentioned notice that all reasonable efforts to repair or replace without delay the line of cable or telegraph wire which shall then be out of repair have been and are being made, then the said period of one hundred and eighty-three days shall be extended to such a period as the Governors or Governor respectively giving the said last-mentioned notice shall determine, it being nevertheless expressly agreed and declared that the Company shall not be entitled to or be allowed under any circumstances any extension of the said last-mentioned period, so as to make up in the whole a period in excess of eighteen calendar months.

23. Any appointment, approval, inspection, notice, or act which may have to be given, made, or done by the Governors or either of them, or by or on behalf of the Governor of any of the Australian colonies, for any of the purposes of these presents, may be given, made, or done by any person or persons from time to time authorized by writing under hand to act on behalf of the Governor or Government, or by the Colonial Treasurer or Postmaster-General for the time being of the colony in question, or by any person or persons authorized for the purpose under the hand of such Colonial Treasurer or Postmaster-General, or by the Minister for the time being of the colony in question having charge of telegraphs in that colony, or by any person or persons authorized for the purpose by the same Minister of New Zealand and New South Wales respectively.

24. The Company shall appoint a person in the said Colonies of New Zealand and New South Wales respectively, and also a person in each of the other Australian colonies the Governor or Governors of which shall agree to pay any subsidy to the Company upon whom any notice which may have to be given to the Company, and which is not hereby expressly provided to be given to the Company in London may be served; and in default of such appointment and of notice thereof being given to the Government of the colony, any such notice may be served on any operator, clerk, or officer of the Company in the colony on behalf of the Governor of which the notice may have to be served, and any such service as aforesaid shall be deemed to be a good service upon the Company, and take effect accordingly, except in cases where service on the Company in London is provided for.

25. No individual personal responsibility shall be incurred by the Governors or by the Hon. Sir Julius Vogel, a Knight Commander of the said Most Distinguished Order of Saint Michael and Saint George, or by Sir Daniel Cooper, Baronet, by whom, on behalf of the Governor of New Zealand and the Governor of New South Wales respectively, it is intended that these presents shall be signed, or by any Governor of New Zealand or of any of the Australian colonies, in respect of any of the matters aforesaid.

In testimony whereof the said Sir Julius Vogel has signed the same in the name and on behalf of the said George Augustus Constantine, Marquis of Normanby; and the said Sir Daniel Cooper has signed these presents in the name and on behalf of the said Sir Hercules Robinson; and the Company have hereunto affixed their common seal.

NORMANBY,

by JULIUS VOGEL,
Postmaster-General of New Zealand.

HERCULES ROBINSON,

by DANIEL COOPER.



Signed by the above-named George Augustus Constantine Marquis of Normanby by the above-named Sir Julius Vogel, and by the above-named Sir Hercules Robinson by Sir Daniel Cooper, in the presence of

JNO. MACKRELL,
Solicitor, 21, Cannon Street.

The Common Seal of the Eastern Extension, Australasia, and China Telegraph Company was affixed in the presence of

JOHN PENDER, Director (Chairman).
GEORGE LYONS, Secretary.

