

No. 38.

The AGENT-GENERAL to the Hon. the POSTMASTER-GENERAL, Wellington.

7, Westminster Chambers, Victoria Street,

Westminster, S. W., 25th June, 1877.

SIR,—

I have the honor to acknowledge the receipt of your letter of 3rd April, enclosing further correspondence, in continuation of your letter of 6th January last, in relation to a dispute between the Government and the contractors for the Pacific Mail Service concerning the payment of certain law expenses incurred in New York.

When I received your letter of the 6th January I entered into communication with Mr. Forster, the Agent-General for New South Wales. I informed you to that effect in my letter of 9th March. He, however, had no instructions to act. After the papers were returned from Mr. Forster's office, by some mischance they were not put before me again. The matter consequently entirely escaped my memory, and was only renewed by the receipt of your letter of 3rd April. I exceedingly regret the delay, and beg you will accept my excuses for the same.

On receiving your second letter I saw Mr. Mackrell, and, after discussing the subject with him, he sent me a letter, of which I enclose copy. I subsequently saw Messrs. Lawrence, Clark, and Co., and also called on Mr. Watt, but did not find him at his office. Messrs. Lawrence, Clark, and Co. knew nothing of the matter, and did not think that Mr. Watt could do anything.

I have come to the same conclusion. It is evident nothing can be done in the matter by New Zealand alone. It is a joint concern with New South Wales. I am, however, under the impression that, though the Government of New South Wales originally agreed with the Government of New Zealand to assert the claim against the contractors, they have ceased to do so. My reason for arriving at that conclusion is, first, that the extract from the letter of the contractors sent to you by Messrs. Gilchrist, Watt, and Co., of Sydney, contains only a reference to New Zealand having stopped its proportion of the costs; secondly, Mr. Forster's having no instructions in the matter, which, it is to be presumed, he would have if the contractors were claiming against New South Wales for a similar stoppage. If it be the case that New South Wales has abandoned the claim, I advise the same course being adopted by New Zealand. In my opinion the Governments have no legal claim on the contractors, but an equitable one. It should, however, be remembered that the lawyers acting in New York for the solicitors of the Government were of opinion that the first power of attorney of the Company was sufficient, so that it may be said we share the responsibility from the second power being required. However, I look upon the claim as an equitable one, but one which it would be very undesirable to allow to become the subject of litigation. If New South Wales has not made a claim on the Company, I advise, as I have said, a similar course being adopted by our Government. If, on the other hand, New South Wales still desires to assert the claim, a joint letter representing the circumstances as described in Messrs. Mackrell and Co.'s letter, copy of which is herewith forwarded, might be sent to the Company, and they may see how unfair it is of them to refuse to pay the money.

I have, &c.,

JULIUS VOGEL,

Agent-General.

The Hon. the Postmaster-General, Wellington.

Enclosure in No. 38.

Messrs. J. MACKRELL and Co. to the AGENT-GENERAL for New Zealand.

21, Cannon Street, London, 8th June, 1877.

DEAR SIR JULIUS,—

Pacific Mail Steamship Company's Contract.

We have, as requested, read the instructions you have received from the Hon. the Postmaster-General, with the accompanying enclosures, and, having conferred with you thereon, now write as arranged to advise upon the matter.

When the tenders for the present mail service were opened by Mr. Russell, acting on behalf of the New Zealand Government, and by Sir Daniel Cooper, Bart., acting on behalf of the Government of New South Wales, the joint tender of the Pacific Mail Steamship Company and Messrs. Elder and Co. and Mr. Macgregor was found to have been signed on behalf of the Company by Mr. Clark, of the firm of Messrs. Lawrence, Clark, and Co.; but upon inquiry it appeared that Mr. Clark had no information as to the constitution or powers of the Company, nor was he authorized to act for them by any proper power of attorney. The representative of the North German Lloyd's Company had sent in his credentials, which were found to be all in order, and had the Agent of the Pacific Mail Steamship Company been furnished with similar credentials the cost in question would have been rendered unnecessary.

Mr. Russell and Sir Daniel Cooper having decided to accept the joint tender of the Company and Messrs. Elder and Co. and Mr. Macgregor, they deemed it of great importance to the colonies to have the contract signed immediately, and the following instructions were sent by cable to Messrs. Foster and Thomson, of New York:—

"Please examine constitution of 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' contract, and whether jointly with other parties."

They replied as follows:—

"Power to contract alone or jointly not limited."

Messrs. Lawrence, Clark, and Co., then telegraphed to the Company as follows:—

"Please execute immediately effective power of attorney to Charles Clark, of Windsor Chambers, Great St. Helens, London, to execute on your behalf solely, or jointly with John Elder and Co. and Donald Robert Macgregor, mail contract and bond with Postmasters-General of New South Wales and