

1879.

VICTORIA.

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# POSTAL CONTRACT.

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COPY OF THE CONTRACT ENTERED INTO WITH THE PENINSULAR AND ORIENTAL STEAM NAVIGATION COMPANY FOR THE CONVEYANCE OF A FORTNIGHTLY MAIL BETWEEN MELBOURNE AND CEYLON.

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PRESENTED TO BOTH HOUSES OF PARLIAMENT BY HIS EXCELLENCY'S COMMAND.

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By Authority:

JOHN FERRES, GOVERNMENT PRINTER, MELBOURNE.



# POSTAL CONTRACT.

*Articles of Agreement* made this second day of August One thousand eight hundred and seventy-nine, between the Honorable James Brown Patterson, as Her Majesty the Queen's Postmaster-General of the Colony of Victoria, and for and on behalf of Her Majesty's Government of the said Colony of Victoria, of the one part, and the Peninsular and Oriental Steam Navigation Company, hereinafter called "the Company," of the other part.

Witness that the Company for themselves and their successors hereby covenant with the said Postmaster-General and his successors, Her Majesty's Postmasters-General for the Colony of Victoria for the time being; and the said Postmaster-General, for and on behalf of Her Majesty's Government of the said Colony, doth hereby covenant with the Company in manner following (that is to say) :—

1. That the Company will at all times during the continuance of this Agreement, or so long as the whole or any part of the services hereby agreed to be performed ought to be performed in pursuance hereof, provide, keep seaworthy, and in complete repair and readiness, for the purpose of conveying, as hereinafter provided, all Her Majesty's Mails (in which term "Mails," used throughout this Agreement, all boxes, bags, or packets of letters, newspapers, books, or printed papers, and all other articles transmissible by the post, without regard either to the place to which they may be addressed or to that in which they may have originated, and all empty bags, empty boxes, and other stores and articles used or to be used in carrying on the Post Office Service which shall be sent by or to or from the Post Office, are agreed to be comprehended) which shall at any time and from time to time by the Postmaster-General or any of his officers or agents be required to be conveyed, as hereinafter provided, between Melbourne, in Victoria, and Point de Galle, or Colombo as hereinafter provided, in Ceylon, by way of and calling at King George's Sound, in the Colony of Western Australia, and also, by way of and calling at Glenelg, in the Province of South Australia, or at the option of the Postmaster-General at the Semaphore in the same province, a sufficient number of good, substantial and efficient steam vessels of adequate power, and supplied with first-rate appropriate steam engines.

Company to provide steam vessels to convey Mails between Point de Galle or Colombo and Melbourne *via* King George's Sound and Glenelg.

2. Every vessel carrying Mails under this agreement shall, on entering or leaving Port Phillip Bay, in Victoria, weather permitting, stop to deliver or to receive alongside the vessel the Geelong Mails, and such other Mails as the Postmaster-General may direct at Queenscliff, the time occupied in such stoppage not to be reckoned in the running time of the voyage.

To stop at Queenscliff.

Vessels to be equipped and manned, and subject to approval.

3. That the vessels to be employed under this agreement 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 of extinguishing fire, lightning conductors, charts, chronometers, nautical instruments, and whatsoever else may be requisite for equipping the said vessels and rendering them constantly efficient for the service hereby agreed to be performed, and also manned and provided with competent officers with appropriate certificates, granted pursuant to the Act or Acts of the Imperial Parliament of Great Britain and Ireland in force for the time being relative to the granting of certificates to officers in the Merchant Service, with a competent surgeon, and with a sufficient number of efficient engineers and a sufficient crew of able seamen and other men, to be in all respects, as to vessels, engines, equipment, officers, engineers, and crew, subject in the first instance and from time to time and at all times afterwards to the approval of the Postmaster-General or of such person or persons as he shall at any time or times or from time to time authorize to inspect and examine the same.

As to mail and sorting rooms.

4. The Company shall at their own cost provide on each of the vessels to be employed under this agreement, a separate and convenient room, for the convenient and secure deposit of the Mails, under lock and key, and shall also at the like cost (if and when they shall be required so to do by the said Postmaster-General) erect and provide on each of such vessels employed under this Agreement, a separate and convenient room for sorting and making up the said Mails, and shall provide in such room all such furniture, lamps, fittings and other conveniences, as shall be necessary or convenient for the purpose of sorting and making up the said Mails; 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, and at the cost of the Company, and the services of the crew of every such vessel shall from time to time be given in the conveyance of the Mails between the mail room and the sorting room. The Company shall also, if required by the Postmaster-General so to do, convey free of cost on such parts of the voyage as he may direct, one or two Mail Agents, to be berthed and messed as first-class passengers. The duties of such Mail Agent or Mail Agents shall be to take charge of and sort the Mails, and he or they shall have no power of control over the Commander of the vessel conveying the said Mails.

Times of starting.

5. That one of such vessels so approved, equipped and manned as aforesaid shall, once in every fourteen days and on such days and at such hours as shall be fixed by the Postmaster-General upon or after the day hereinafter appointed for the commencement of this Agreement (until and unless any other days or hours shall, under the proviso herein in that behalf contained be substituted instead thereof), and immediately after the Mails are embarked, put to sea from the ports of Melbourne and Point de Galle, or Colombo as the case may be, respectively, and the Company shall convey in such vessels to and from and cause to be delivered and received at such of the ports or places hereinbefore mentioned all such Mails as shall or may be tendered or delivered to or received by the Company or any of their agents, officers, or servants by or from or under the direction of the Postmaster-General or any of his officers or agents.

6. That if at any time or times the Postmaster-General shall desire to alter the particular days, times, or hours of departure from and arrival at any of the ports or places to or from which Mails are to be conveyed under this Agreement, he shall be at liberty so to do on giving three calendar months' previous notice in writing of such his desire to the Company, and the Company shall observe, perform, fulfil and keep such altered days, times, and hours.

Power to alter time.

7. That should it be deemed by the Postmaster-General requisite for the public service that any vessel to be employed under this Agreement should at any time or times delay her departure from any port from which the Mails are to be conveyed under this Agreement beyond the period appointed for her departure therefrom, the Postmaster-General, his officers or agents; shall have power to order such delay (not however exceeding twenty-four hours), by letter or telegram addressed by him or them to the master of any such vessel or person acting as such, and which shall be deemed a sufficient authority for such detention; and the said Postmaster-General, his officers or agents shall have power, to be exercised in writing as aforesaid, to delay the departure of any vessel employed under this Agreement, from Point de Galle or Colombo, as the case may be, until the Mails from England are placed on board.

Postmaster-General may delay starting for twenty-four hours.

8. All mails conveyed by the Company in pursuance of this Agreement from Point de Galle or Colombo, as hereinafter provided, to Melbourne shall be conveyed by way of King George's Sound and also by way of Glenelg or the Semaphore, as the Postmaster-General may direct, and the voyage from Point de Galle, or Colombo as the case may be, to Melbourne shall be completed in four hundred and fifty-six hours inclusive of the stoppages at King George's Sound and Glenelg or the Semaphore, which stoppages shall not together exceed twenty-four hours.

Duration of voyages. Point de Galle or Colombo to Melbourne.

9. All Mails conveyed by the Company in pursuance of this Agreement from Melbourne to Point de Galle or Colombo, as the case may be, shall be conveyed by way of Glenelg or the Semaphore as the Postmaster-General may direct, and also by way of King George's Sound, and the voyage from Melbourne to Point de Galle or Colombo shall be completed in four hundred and fifty-six hours inclusive of the stoppages at Glenelg or the Semaphore and King George's Sound, which stoppages shall not together exceed twenty-four hours.

Melbourne to Point de Galle or Colombo.

10. The Company further agree that, so long as Her Majesty's Mails are conveyed from Brindisi to Point de Galle or Colombo, under the provisions of the Contract of the seventh day of February, One thousand eight hundred and seventy-nine, the Company will convey the Mails from Brindisi to Melbourne in eight hundred and ninety-five hours, inclusive of stoppages, and from Melbourne to Brindisi in nine hundred and ten hours, inclusive of stoppages, except during the prevalence of the South-West Monsoon, when forty-eight hours additional shall be allowed for the conveyance of the Mails from Melbourne to Brindisi. And if the Company shall fail to convey the said Mails from Brindisi to Melbourne, and from Melbourne to Brindisi, in the periods respectively above stipulated, then in every such case, and so often as the same shall happen, the Company shall forfeit and pay to Her Majesty, Her heirs

Penalties.

and successors, the sum of One hundred pounds for every complete period of twenty-four hours consumed on the respective voyages, beyond the periods hereinbefore respectively specified: Provided always that the full amount of such sums payable on any one voyage shall never exceed the portion of the sum of the subsidy hereinafter agreed to be paid by the Postmaster-General as applicable to such voyage; and provided further that the payment of any such sum shall not be enforced against the Company if it be shown by them to the satisfaction of the Postmaster-General that the delay has arisen from causes over which they had not and could not have had any control.

Premium for time saved.

11. The Postmaster-General doth hereby agree to pay to the Company a premium of Fifty pounds for every complete period of twenty-four hours by which the time occupied in the conveyance of the Mails from Brindisi to Melbourne and from Melbourne to Brindisi shall be less than the times stipulated in Clause 10.

Alternative provisions as to penalties.

12. Should the Postmaster-General desire so to do he may, by notice in writing under his hand to be given at any time before the first day of February, One thousand eight hundred and eighty, substitute for the stipulation in Clause 10 as to penalties the following stipulation, that is to say—That if the Company shall fail to convey the said Mails from Point de Galle or Colombo as the case may be to Melbourne in four hundred and fifty-six hours, or from Melbourne to Point de Galle or Colombo as the case may be in four hundred and fifty-six hours under the conditions specified in Clauses 8 and 9, then in any of such cases, and so often as the same shall happen, the Company shall forfeit and pay to Her Majesty, Her heirs and successors, the sum of One hundred pounds for every complete period of twenty-four hours consumed on the respective voyages, beyond the periods hereinbefore respectively specified: Provided always that the full amount of such sums payable on any one voyage shall never exceed the portion of the sum of the subsidy hereinafter agreed to be paid by the Postmaster-General as applicable to such voyage; and provided further that the payment of any such sum shall not be enforced against the Company if it be shown by them to the satisfaction of the Postmaster-General that the delay has arisen from causes over which they had not and could not have had any control.

And in case the Postmaster-General shall decide to adopt the system of penalties specified in this clause, then and in that case there shall be substituted for the stipulation in Clause 11 as to premiums, the following stipulation, that is to say, that the Postmaster-General shall pay to the Company a premium of Fifty pounds for every complete period of twenty-four hours by which the time occupied in the conveyance of the Mails from Point de Galle or Colombo to Melbourne, and from Melbourne to Point de Galle or Colombo, shall be less than the time stipulated in Clauses 8 and 9 respectively.

In computing the time occupied from Point de Galle or Colombo to Melbourne or *vice versa* five hours shall be allowed for difference of longitude on the voyage from Point de Galle or Colombo to Melbourne and the same shall be deducted on the voyage from Melbourne to Point de Galle or Colombo.

Penalties for failing to provide vessels.

13. That if the Company fail to provide an efficient vessel at Point de Galle or Colombo, as the case may be, or

Melbourne in accordance with the terms of this Agreement, ready to put to sea on and at the appointed day and hour, then and so often as the same shall happen the Company shall forfeit and pay unto Her Majesty, Her Heirs and Successors, the sum of Five hundred pounds, and also the further sum of One hundred pounds for every successive twenty-four hours which shall elapse until such vessel actually proceeds to sea on her voyage in the performance of this Agreement : Provided always that the aggregate amount of the penalties to be recoverable under this clause in respect of any one voyage or contemplated voyage shall not exceed by more than the sum of Two thousand pounds the proportion of the subsidy hereinafter agreed to be paid by the Postmaster-General as applicable to such voyage.

14. That during the continuance of this Agreement the commanders of the vessels to be employed for the time being in carrying the Mails under this Agreement shall take due care of, and the Company shall be responsible for, the receipt, safe custody and delivery of the said Mails, and each of such masters or commanders shall make such oath or declaration or declarations now lawfully required or which may hereafter be lawfully required by the Postmaster-General in such and similar cases, and furnish such journals, returns, and information to and perform such services as the Postmaster-General may require : And every such master or commander or officer duly authorized by him having the charge of Mails shall himself immediately on the arrival at any of the said ports or places of any such vessel, deliver all Mails for such port or place into the hands of the Postmaster or other person at such port or place as the Postmaster-General shall authorize to receive the same, receiving in like manner all the return or other Mails to be forwarded in due course.

Masters of vessels to take charge of Mails.

15. That the Company shall not, nor shall any of the masters of any of the vessels employed or to be employed under this Agreement, receive or permit to be received on board any of the vessels carrying the Mails under this Agreement any letters for conveyance other than those carried under this Agreement in charge of the said commander or other person authorized to have charge of the said Mails, or which are or may be privileged by law, nor shall any Mails be conveyed by the Company between Point de Galle or Colombo, as the case may be, and any of the Australasian Colonies or New Zealand, for or on behalf of any colony, province, or foreign country, save those carried under this Agreement, without the consent in writing of the Postmaster-General, and the whole postage of every mail conveyed between the places herein mentioned shall, under all circumstances, be at the disposal of the Postmaster-General.

No letters to be received on board but Her Majesty's Mails.

16. So long as Point de Galle continues to be the Port in the island of Ceylon, to and from which the Mails are conveyed under the Contract between the Imperial Government and the Company, the Company's steamers employed under this present Agreement shall run to and from Point de Galle, but as soon as Colombo shall have been substituted for Point de Galle as the Port of Call under the Imperial Contract, the Company's steamers employed under this Agreement shall run to and from Colombo, instead of Point de Galle.

Substitution of Colombo for Point de Galle.

Postmaster-General  
may survey vessels.

17. That the Postmaster-General shall have full power whenever and as often as he may deem it requisite, to survey by any of his officers or agents all or any of the vessels employed and to be employed in the performance of this Agreement and hulls thereof; and the engines, machinery, furniture, tackle, apparel, stores, equipments, and the officers, engineers, and crew 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 Company; and if any of such vessels or any part thereof, or any engines, machinery, furniture, tackle, apparel, boats, stores, or equipments shall on any such survey be declared by any of such officers or agents unseaworthy or not adapted to the service hereby agreed to be performed, 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.

Orders as to the  
landing, &c., of  
Mails to be attended  
to.

18. That the Company and all commanding and other officers of the vessels employed in the performance of this Agreement, and all agents, seamen, and servants of the Company shall at all times punctually attend to the orders and directions of the Postmaster-General his officers or agents, as to the mode, time, and place of landing, delivering, and receiving Mails.

Penalties to be con-  
sidered as ascer-  
tained damages, and  
may be retained by  
the Postmaster-  
General.

19. That all and every the sums of money hereby stipulated to be forfeited or paid by the Company unto Her Majesty, Her heirs and successors, shall be considered as stipulated or ascertained damages, whether any damage or loss have or have not been sustained, and shall and may be retained and deducted by the Postmaster-General out of any moneys payable or which may thereafter become payable to the Company.

Subsidy.

20. And in consideration of the due and faithful performance by the said Company of all the services hereby agreed to be by them performed, the said Postmaster-General doth hereby agree that there shall be paid at Melbourne to the said Company by Her Majesty's Government of Victoria, so long as the Company perform the voyages and services herein contracted to be performed, a sum of money after the rate of Eighty-five thousand pounds per annum (£85,000), in equal quarterly payments on the first day of April, the first day of July, the first day of October, and the first day of January in each year, and shall accrue due from day to day; and the said payments shall be received by the said Company as full compensation for all costs and expenses which they may incur or be put unto by reason or on account of all and singular the services hereby contracted to be performed, subject however to the abatement or deduction of any sums of money in respect of forfeitures which the said Company may have incurred, or to the addition of any sums in respect of premiums as the case may be, as herein provided.

Contractors to have  
no claim to postage  
except as herein  
provided.

21. The Contractors shall have no claim to any postage nor to any payment on account thereof for Mails carried under this contract except as herein provided.

Commencement and  
duration of con-  
tract.

22. That this agreement shall commence on and from the first day of February, One thousand eight hundred and

eighty, and shall continue until the thirty-first day of January, One thousand eight hundred and eighty-eight, and shall then determine if the Postmaster-General shall by writing under his hand have given to the Company, or if the Company shall have given to the Postmaster-General, twenty-four calendar months' notice, that this Agreement shall so determine ; but if neither the Postmaster-General nor the Company shall give any such notice, this agreement shall continue in force after the said thirty-first day of January, One thousand eight hundred and eighty-eight, until the expiration of a twenty-four calendar months' notice in writing as aforesaid, which may be given by either of the said parties hereto to the other of them, and which last-mentioned notice may be given on or at any time after the 31st day of January 1886. This Agreement shall then determine accordingly, without prejudice nevertheless to any right of action or other proceeding which shall then have accrued to either party for any breach thereof.

23. And it is hereby further agreed that in case the Company shall fail to commence the performance of the services herein agreed to be by them performed on the first day of February, One thousand eight hundred and eighty, or the first day thereafter which the Postmaster-General may fix as the day of sailing, then and in such case the Company shall forfeit and pay unto Her Majesty, Her heirs and successors, the sum of Five hundred pounds, and also the further sum of One hundred pounds for every successive period of twenty-four hours which shall elapse until the actual and *bonâ fide* commencement of the performance by the Company of the services herein agreed to be by them performed : Provided always that the total amount of the penalties to be incurred by the said Company by reason of such failures as aforesaid respectively shall not exceed the sum of Fifteen thousand pounds.

Penalties for failing to commence service on 1st February 1880.

24. That if on the determination of this Agreement any vessel or vessels should have started or should start with the Mails, in conformity with this Agreement, such voyage or voyages shall be continued and performed and the Mails be delivered and received during the same as if this Agreement had remained in force with regard to any such vessels and services ; and with respect to such vessels and services as last aforesaid, this Agreement shall be considered as having terminated when such vessels and services shall have reached their port or place of destination and been performed.

On determination, voyages begun to be completed.

25. It shall be lawful for the Postmaster-General, by writing under his hand, at any time and from time to time to delegate any of the powers vested in him by virtue of this Agreement to such person or persons as he may think fit.

Postmaster-General may delegate powers.

26. The Company shall not convey in any vessel employed by them in pursuance of this Agreement any nitro-glycerine or any other article which shall have been legally declared specially dangerous either in England or Victoria.

Company not to convey dangerous articles.

27. The Company shall undertake for themselves all arrangements relative to quarantine.

Quarantine.

28. That all notices or directions which the Postmaster-General, his officers, agents, or others, are hereby authorized to give to the Company, their officers, servants, or agents,

As to notices.

other than any notice of termination of this contract, may, at the option of the Postmaster-General, either be delivered to the master of any of the said vessels or other officer or agent of the Company in the charge or management of any vessel employed in the performance of this Agreement, or left for the Company at their office or house of business in Melbourne, or at their or any of their last known places of business, or abode in Melbourne; and any notices or directions so given or left shall be binding on the Company: Provided, always that any notice of termination of this contract shall be served on the Company, their officers, servants, or agents, at their office or last known office in Melbourne.

Company not to assign, &c.

29. The Company shall not assign, underlet, or dispose of this Agreement, or any part thereof, without the consent of the Postmaster-General, signified by writing under his hand. And in case of the same or any part thereof being assigned, underlet, or otherwise disposed of, or of any breach of clause fifteen of this Agreement, or of any great or habitual breach of this Agreement, or of any covenant, matter, or thing herein contained on the part of the Company, their officers, agents, or servants, and whether there be or be not any penalty or sum of money payable by the Company for any breach, it shall be lawful for the Postmaster-General, by writing under his hand, to determine this Agreement without any previous notice to the Company or their agents, and without any claim on the part of the Company to compensation.

Arbitration.

30. If at any time during the continuance of this Agreement, or after the determination thereof, any dispute shall arise between the parties to these presents, or their successors respectively, concerning any breach or alleged breach by or on the part of the Company of this Agreement, or the sufficiency of any such breach to justify the Postmaster-General in putting an end to the same, or concerning any matters and things in anywise relating thereto, such dispute shall be referred to two arbitrators, one to be chosen from time to time by the Postmaster-General and the other by the Company; and if such arbitrators should at any time or times not agree on the matter or question referred to them, then such question in difference shall be referred by them to an umpire to be chosen by such arbitrators, before they proceed with the reference to them, and the joint and concurrent award of the said arbitrators, or the separate award of the said umpire when the said arbitrators cannot agree, shall be binding and conclusive on both parties. Provided, that in case of either party failing to choose an arbitrator within two months after receipt of notice to arbitrate, or in case of the chosen arbitrators failing to choose an umpire within two months of their failure to agree, then the Chief Justice of the Colony of Victoria for the time being shall nominate an umpire, by writing under his hand, whose award shall be final and conclusive on all parties. And every such arbitration shall be held in Melbourne aforesaid.

Any reference to be made a Rule of Court.

31. Any submission to arbitration in pursuance of this Agreement shall be made a Rule of the Supreme Court of the Colony of Victoria, pursuant to the Statute in that case made and provided, on the application of either party.

Bond clause.

32. And for the due and faithful performance of all and singular the covenants, conditions, provisoes, clauses, articles, and agreements hereinbefore contained, and which on the part

and behalf of the said Company, their officers, agents or servants are or ought to be observed, performed, fulfilled and kept, the said Company do hereby bind themselves and their successors unto Her Majesty in the sum of Fifteen thousand pounds sterling, to be paid to Her Majesty, Her heirs and successors, by way of stipulated or ascertained damages, hereby agreed upon between the Postmaster-General and the said Company, in case of the failure on the part of the Company in the execution of this Contract or any part thereof.

33. The words "Postmaster-General" herein shall mean Interpretation. the Postmaster-General of the Colony of Victoria for the time being, or the Responsible Minister of the Crown for the time being administering the Post Office Department.

IN WITNESS whereof the said James Brown Patterson, Her Majesty's Postmaster-General of Victoria, has hereunto set his Hand and Seal, and the Company its Common Seal, the day and year first above written.

Signed, sealed, and delivered  
by the above-named James  
Brown Patterson, in the  
presence of—  
R. A. SUTHERLAND,  
Solr.,  
Melbourne.

J. B. PATTERSON.

(L.S.)

Signed, sealed, and delivered  
by the Peninsular and  
Oriental Steam Navigation  
Company, by its duly con-  
stituted Agent and Attor-  
ney in that behalf, Frank-  
lin Richardson Kendall, in  
the presence of—  
R. A. SUTHERLAND.

The Peninsular and Oriental Steam Navigation  
Company, by its Attorney—

(L.S.)

FRANKLIN RICHARDSON KENDALL.