

APPENDIX *continued.*

No. 120. Letter from Lord Bathurst to the Earl of Dalhousie, dated Downing Street, 11th September, 1820, relative to the private conveyance of Letters by Steam Boats, with one inclosure.

No. 121. Letter from D. Sutherland, Deputy Post Master General, to James Stuart, Esquire, Attorney General, dated Quebec, 3rd December, 1826, requesting his opinion as to the legality of Letters being carried by Steam Boats, free of Postage; with the Opinion of the Attorney General on the subject.

No. 120.

Letter from Lord Bathurst to the Earl of Dalhousie.

(Copy.)

Downing Street, 11th September, 1820.

MY LORD,

I have the honour to transmit to your Lordship, a copy of a Letter from Mr. Freeling with its inclosures from Mr. Sutherland, Deputy Post Master General in North America, relative to the private conveyance of letters by the Steam Boats, more particularly between Quebec and Montreal. These papers having been referred to His Majesty's Law Officers, it appears that the regular course of enforcing the provisions of the Act of Parliament under which the parties so conveying letters in private vessels are liable to penalties, would be by directing a prosecution against the offenders in the Colonial Courts, and under ordinary circumstances I should have no difficulty in so advising the Post Master General.—But as the attention of the House of Assembly has recently been particularly directed to the Post Office Revenue, and doubts have been suggested as to the right of Great Britain to receive it, it has appeared to me that an enforcement of these rights at the present moment might embarrass your Lordship, by giving to the Assembly an additional ground of contention with the Government of this Country, and I have therefore considered it more advisable to recommend that the Deputy Post Master General at Quebec, should be instructed to communicate with your Lordship on this subject, and not to institute any proceedings for the recovery of penalties without your full concurrence.

Your Lordship will be best able to judge of the effect such proceeding might produce, and will accordingly be best qualified to decide as to the propriety of their being either immediately adopted or temporarily postponed.

I have the honor to be,

My Lord,

Your most obedient humble servant,

(Signed,) BATHURST.

Lieutenant General

The Earl of Dalhousie,

G. C. B.

&c. &c. &c.

[Enclosure in No. 120.]

(Copy.)

GENERAL POST OFFICE,

29th December, 1819.

SIR,

I am commanded by my Lords the Post Master General, to transmit to you for the information of Earl Bathurst, extract of a letter from their Lordships' Deputy in British North America, dated 12th October, and copy of one of 1st November, on the subject of private Steam Vessels carrying Letters without the intervention of the Post Office, more especially between Quebec and Montreal, between which places there is a regular Post communication twice a week, and requesting instructions for his guidance.

Although no reasonable doubt could be entertained of the illegality of the practice, their Lordships thought it right to refer the papers to their Solicitor, for his opinion thereon. He states that by the Statute 9th Queen Anne, Cap. 10, Sec. 17, "It is enacted that no person or persons whatever in Her Majesty's Plantations in America, (other than the Deputies of the Post Master General,) shall presume to receive, take up, order, despatch, convey, carry, recarry, or deliver any letter, (other than such letters as are excepted by the 2d Sec. of this Act,) or make any collection of letters, or set up, or employ any post, packet boat, or any other vessel or boat, person or persons, conveyance or conveyances whatever for the receiving, carrying or delivering any letter or packet, by sea or by land, or on any river within Her Majesty's Dominions, on pain of forfeiting £5 Sterling for every offence against the tenor of this Act, and also the sum of £100 for every week that such offences shall continue." And under that section he is of opinion that "the practice of the conveyance of letters by Steam Boats as alluded in the letter from the Deputy Post Master General of Canada is illegal," and he adds that by Section 19 of the same Act "the Penalties are made recoverable in any of Her Majesty's Courts of Record," but he cannot give an opinion as to the recovery of the Penalties in Canada. The Deputy Post Master General states that he had agreed to allow the Captains of the Steam Boats 2d. per letter, and they charged the legal postage for their conveyance, but that he had received information from Upper Canada, that many persons there refused to pay postage on letters conveyed by Steam Boats as being an illegal charge, and that the subject is to be brought before the Legislature at the ensuing Session.

It is presumed that the rights of the Post Office is clear, and their Lordships natural course would be to direct their Deputy in Canada, to enforce the Law against the offenders, thereby protecting His Majesty's Revenue, so that it might continue to be brought to the Exchequer of this country; but as the Legislature of these Provinces has in several instances manifested an inclination to interfere with the internal Posts and their Revenues, and as the Solicitor cannot give an opinion as to the recovery in Canada of any Penalties to which the parties might be liable under the Acts before quoted, their Lordships consider the subject as one of great delicacy, and have thought it right to state the circumstances for Earl Bathurst's consideration, and to request his Lordship's opinion before any instructions are sent out to their Deputy in Canada on the subject.

I have, &c. &c.

(Signed,) F. FREELING.

H. Goulbourne, Esquire,
&c. &c.

Certified to be a copy from the copy handed over to me by my immediate predecessor in office.

T. A. STAYNER,