

LEGISLATURE OF NEW-BRUNSWICK.

EXTRACTS FROM THE JOURNALS OF THE HOUSE OF ASSEMBLY.

The Honorable Mr. Secretary Odell, by command of His Excellency, delivered the following Messages:—

"New Brunswick."

"Message to the House of Assembly, 26th January, 1835."

"ARCHIBALD CAMPBELL."

"THE Lieutenant Governor communicates to the House of Assembly, a Copy of a Dispatch from the Secretary of State, in answer to the Petitions of the Legislative Council and House of Assembly, on the subject of Timber Duties."

"A. C."

"Downing-street, 2nd May, 1834."

"Sir,"

"I HAVE the honor to acknowledge the receipt of your Dispatch, No. 15, of the 18th of March last, transmitting Petitions from the Legislative Council and House of Assembly of New Brunswick to the King and both Houses of Parliament, praying that no alteration may take place in the Timber Duties; but that the Timber Trade of the Province may continue to receive that protection which is believed to be essential to its existence. I have to acquaint you, in reply, that it is not the intention of His Majesty's Government to propose to Parliament any alteration in those duties affecting the Trade of the present year, and that no step will be taken without the fullest consideration of the Colonial interests involved."

"I have the honor, &c."

"E. G. STANLEY."

"Major General Sir Archibald Campbell, G. C. B."

"&c."

"New Brunswick."

"Message to the House of Assembly, 26th January, 1835."

"ARCHIBALD CAMPBELL."

"THE Lieutenant Governor, in obedience to the commands of His Majesty's Government, communicates to the House of Assembly the Copy of a Dispatch from the Secretary of State, with its Inclosures, assigning the reasons why His Majesty has not been pleased to confirm the Act passed by the Legislature of this Province in the year 1832, 'to provide for the Custom House Establishment,' and expressing the confident expectation of His Majesty's Government that the House will, in lieu thereof, substitute a Bill making an effectually permanent provision for that service."

"A. C."

"Treasury Chambers, 15th March, 1834."

"Sir,"

"I AM commanded by the Lords Commissioners of the Treasury to return herewith the Act of the Legislature of New Brunswick, submitted to this Board in your letter of 3rd of November last; and also, to transmit a copy of a Report of the Commissioners of Customs, of the 7th instant, thereon, and I am to request that in laying the same before Mr. Secretary Stanley you will call his attention to the terms of the Address to His Majesty from the House of Assembly, dated 31st March, 1831, to which this Act is stated to have reference, and to the Communication from this Department to Lord Howick, of the 4th January, 1832, and will observe to him that my Lords cannot, by any means, consider that the provisions of the present Act fulfil the pledge given by the House of Assembly in that Address, 'to make a permanent grant to His Majesty of £4,250 sterling, per annum, for the payment of the Officers of Customs, either in gross or in such other way as His Majesty might direct, payable annually, out of the duties received by virtue of the Acts of the Imperial Parliament, in the event of all such duties being paid over to the Treasurer of the Province.' My Lords, consequently, cannot recommend that the Act should be approved of, or should be permitted to pass into a Law, more especially as it has been a paramount object, in the arrangement made with the Legislatures of other Colonies, to secure a permanent provision for the payment of the sum to be contributed from the Colonial Funds towards the expenses of the Custom's Establishments."

"The desire of my Lords to bring the question of the provision for the payment of the Custom's Establishment in New Brunswick to a distinct and amicable settlement was sufficiently evinced in the readiness with which they acceded to the proposal in the Address of 31st March, 1831, and to the immediate directions they gave for carrying that proposal into effect, so far as related to the relief of the Colony, from all charge for the Custom's Department exceeding the amount of the proffered contribution, without awaiting the passing of an Act by the Legislature."

"My Lords would suggest that the Lieutenant Governor should be instructed to call the attention of the House of Assembly to this circumstance, and to the unequivocal terms in which the offer of the permanent provision of £4,250, per annum, specifically charged upon duties, accruing under Acts of the Imperial Parliament was made, and to express to the House the confident expectation of His Majesty's Government, that the Legislature of New Brunswick will not hesitate to redeem the pledge thus distinctly given and unreservedly accepted."

"I am, &c."

"J. STEWART."

"R. W. Hay, Esquire."

"May it please Your Lordships,"

"Your Lordships having referred to us the annexed letter, from Mr. Hay, transmitting by desire of Mr. Secretary Stanley, an Act which had been framed by the Legislature of the Province of New Brunswick, in the month of March, 1832, intitled 'An Act to provide for the Custom's Establishment of New Brunswick.'"

"We Report, That Your Lordships were pleased, by Mr. James Stewart's letter, dated 4th January, 1832, to acquaint us that with the view of relieving the Province of New Brunswick from some portion of the annual charge of £7,144 for maintaining the Custom's Establishment in that Province, you had acceded to a proposition which had been made by the House of Assembly in an Address to His Majesty, wherein they proposed to make a permanent grant of £4,250 per annum, towards defraying the expenses of the Custom's Establishments at the Ports of Saint John, Saint Andrews, Miramichi, and their dependencies, such grant to be made either in gross or in such other way as His Majesty might direct, and payable out of the Duties secured by virtue of the Acts of the Imperial Parliament. Your Lordships, at the same time, desired that we would instruct our Officers at New Brunswick to retain, in each year, out of the Revenue which might be collected by them, the sum of £4,250, for the payment of the Salaries and expenses of the Custom's Department, and to draw Bills on the Receiver General of this Revenue for such further sums as might be necessary for that purpose, and the necessary directions were accordingly issued by us to the Collectors and Controllers of this Revenue in New Brunswick."

"That by the Act of the House of Assembly of New Brunswick, which your Lordships have been pleased to refer for our consideration and report, and which proposes to have been passed for the purpose of carrying the foregoing proposition into effect, it is provided that there should be annually included in the estimate for the ordinary services, towards the support of the Custom House Establishments in the Province the sum of £4,250 sterling, out of the monies arising from the Duties which might be collected in that Province within the year for which such annual appropriation should be made, the same to be applied by the Lieutenant Governor or Commander in Chief for the time being, and paid quarterly by Warrants of His Excellency, by and with the advice and consent of His Majesty's Council in the Province, in twenty days after the payment over and account exhibited of such Duties, by the principal Officers of Customs, upon which we have to observe that the proposed enactments appear to be entirely opposed to the principles which governed your Lordships in acceding to the proposition which had been made by the House of Assembly at New Brunswick, in as much as your Lordships in acceding thereto intended that the grant of £4,250 should be the first charge upon the Duties collected by the Officers of this Revenue in the Province, and be retained therefrom, in quarterly proportions of £1,062 10 0, for the purpose of being applied towards defraying the expenses of the Custom's Department of the Province, whereas by the Act above referred to, the total amount of Duties collected is required to be paid over in the first instance to the Receiver General of the Colony, and no part of the grant of £4,250, can be issued from the Colonial Treasury until twenty days after the Collector and Controller shall in each Quarter have paid over and accounted for the total amount of Duties received by them within that period, and then only under the Warrant of the Governor with the advice of His Majesty's Council in the Province."

"We beg leave, further to state, that in the event of the annexed Bill being passed into a Law, the greatest inconvenience would arise to the public service, in as much as the Collector of St. John would be under the necessity of sending his Accounts to the Colonial Secretary, who resides at Fredericton, which place is ninety miles distant from St. John, before he could obtain the Governor's Warrant of Payment upon the Colonial Treasurer, resident at St. John; and the Collector of St. Andrews in like manner, and for the same purpose be required to send his Accounts to Fredericton, from which place to St. Andrews, is one hundred and fifty miles distant, and having obtained the Governor's Warrant for payment, it would be necessary for him to proceed to St. John, a distance of sixty miles, before he could obtain payment of the amount from the Colonial Treasurer; who as before stated, resides at that place. Under the foregoing circumstances, we beg leave to offer our entire concurrence in the opinion expressed by Mr. Secretary Stanley, that should the Act be confirmed, the Officers of the Customs in the Province of New Brunswick would still be dependent upon the annual votes of the House of Assembly, no specific funds under the direct control of His Majesty's Government, having been appropriated to the payment of the Officers' Salaries, and as the Annual Grant of £4,250, cannot in our opinion be considered as a permanent provision within the meaning of Your Lordships' minute, transmitted to us in Mr. Stewart's letter of 4th January, 1832, for defraying the expense of Custom Establishment of New Brunswick, we cannot recommend that His Majesty's assent should be given to the Bill in question."

"(Signed)"

"R. B. DEAN, LUSHINGTON,"

"E. STEWART, BIRMINGHAM."

"Custom House, 7th February, 1834."

"Sir,"

"I HAVE the honor to acquaint you that His Majesty has not been advised to confirm an Act passed by the Legislature of New Brunswick in 1832, entituled 'An Act to provide for the Custom House Establishment in New Brunswick.'"

"The inclosed Letter from the Secretary to the Treasury, with the report, by which it is accompanied, from the Commissioners of Customs, will explain to you the grounds on which His Majesty's confirmation of this Act is withheld. I have no doubt that the deviation of the House of Assembly, from the course which was expected, in consequence of its Address of the 1st of March, 1831, has been unintentional; and that the House will readily supply the defects that are pointed out in the annexed papers. You will therefore, transmit to the Assembly, by Message, the present dispatch, with its enclosures, and will state to them the confident expectation of His Majesty's Government, that they will substitute for their recent measure, a Bill, making an effectually permanent provision for the Custom House Establishment."

"I have the honor, &c."

"E. G. STANLEY."

"Major General Sir Archibald Campbell, G. C. B."

"&c."

"New Brunswick."

"Message to the House of Assembly, 26th January, 1835."

"ARCHIBALD CAMPBELL."

"THE Lieutenant Governor submits to the House of Assembly a Draft of a Bill which has been prepared in England, and transmitted here by order of His Majesty's Government, for the management and regulation of the Post Office in New Brunswick, together with an Extract of a Dispatch from the Secretary of State explanatory of the Provisions of the Bill, and of the views of His Majesty's Government respecting the proposed arrangements, from which, the reasons for this mode of presenting the Bill to the consideration of the Legislature will be apparent."

"A. C."

Extracts from a Dispatch from the Right Honorable the Secretary of State for the Colonial Department, dated Downing-street, 5th October, 1834.

"THE Representations which have from time to time been received from the Legislature and inhabitants of several of the Colonies in North America, respecting the internal Postage in that part of the British Dominions have not failed to attract the serious attention of His Majesty's Government, and I have now the gratification to send you an Act passed in the late Session of Parliament, which I hope will prove the means of settling this important question to the satisfaction of all parties. The Act provides that so much of the Statute 5 Geo. 3 cap. 25, as authorizes the taking of certain rates of inland Postage within His Majesty's Dominions in North America, shall be repealed from the time when His Majesty's consent shall be signified to Acts of the Provincial Legislatures, imposing the same or other rates of Postage, and making such regulations for the management of the Post Office by the Post Master General or his Deputies, as to the Legislatures may seem expedient."

"You will observe, that in order to give effect to this Act, certain Bills must be passed by the Provincial Legislatures and receive the Royal Assent; and I need scarcely add, that to establish a practicable system, it is essential that a uniformity of view should pervade their Bills. His Majesty's Government therefore, in order to secure those important conditions, has thought it best to direct the preparation of one common Bill to be submitted to the Legislative Council and Assembly of each Colony affected by the present measure."

"I have the honor to enclose the Draft thus prepared, which you will cause to be brought before the Assembly. You will at the same time assure the Assembly, that the Bill has been framed with the most anxious deliberation on the part of the Post Master General and my Predecessor, and with the most minute attention to every detail which it embraces."

"It was found impossible to devise any practicable plan for keeping separate the accounts of the Post Office Revenue and expenditure in each possession in North America; and when the accounts were blended, no mode of distributing the surplus Revenue appeared to be free from serious objection, except to apportion it according to the gross amount of Postage collected within each Colony. A provision therefore, to this effect, has been made in the Imperial Act of Parliament. In order however, to admit of any other plan which might be preferred by the Provincial Legislatures, a power has been left to them to alter this clause by local enactments. I should scarcely anticipate that at the present time any more eligible expedient is likely to be suggested than the one adopted by the Imperial Act; and as any alteration of it could not be carried into effect until agreed to by each separate Legislature, it is perhaps to be wished, that at any rate, for a period sufficient to try the remainder of the proposed measure, the provision made by Parliament on this point should remain untouched."

"I shall now proceed to offer a few explanatory remarks on the Bill proposed to the acceptance of the Legislative Council and Assembly of New Brunswick."

"The projected Tariff of Postage effects a considerable reduction upon the existing Rates, more especially in the longer distances. The tendency of this arrangement to encourage intercourse between the more widely separated portions of His Majesty's extensive Territory in North America, will not fail, I feel assured, to meet the approbation of the Legislative Council and Assembly. In settling the scale of postage, His Majesty's Government has been guided in a great measure by the Report of a Committee of the House of Assembly in Upper Canada, which sat about three years ago, and which is understood to have founded its recommendation chiefly on the rates of charge in the United States."

"In the important matter of the charges on the conveyance of Newspapers, and printed periodical works, His Majesty's Government has not been unmindful of the representations which it has from time to time received of the wishes of the people in British North America; a rate of Postage is proposed in the present Bill, which is little more than one half of the rate charged in the United States, and which is as low as it could be, unless the papers were conveyed for nothing; a course which might render the amount of business in the Post Office perfectly unmanageable."

"It will be observed that the Bill confers on the Deputy Post Master General the power of determining with the concurrence of the Government and the Executive Council what shall be deemed a Newspaper, printed Vote, &c. within the meaning of the Act."

"This power is designed to spare the necessity of tedious actions in law, to ascertain doubtful points, and is conformable with a power which has been given to the Post Master General in this Country, in concurrence with the Lords Commissioners of the Treasury, by the late Act 4 and 5 W. 4, cap. 44."

"I have now to draw your attention to a very important part of the Bill:—should the Post Office Revenue prove unequal to the expenditure, it is obvious that there must be some immediate means of supplying the want; a temporary deficiency in the Post Office Revenue, however short, must be attended with the most serious inconvenience, as affecting a service which could not stop for a day without injuring the Commerce, and confounding the general transactions of the whole Country. Impressed by this view, His Majesty's Government has determined with a full sense of the magnitude of the discretionary authority which the measure will place in the Governor, to propose a clause authorizing him to grant a Warrant for any sum within certain specified limits, which may be shewn to his satisfaction to be necessary for the conduct of the Post Office Department."

"In considering the limits to be assigned to this authority in each Colony, the Government has been guided by the following portions of a Report from the Deputy Post Master General at Quebec."

"The Deputy Post Master General of British North America supposes upon a rough estimate, that the deficiency in receipts, to meet the current expenditure in the management of the Post Office Department, may amount to even as much as £6,000 per annum, and he states that without some certain means of obtaining that, or any less deficiency, the business of the Department would come to a stand still; and the Framers of the Law would be upbraided for not having provided against such a contingency. Calculating the supposed deficiency at the maximum of £6,000, he proceeds to state that the following sums correspond pretty nearly with the proportionate amount of postage business transacted within the Province."

Lower Canada,	£2,000.
Upper Canada,	2,000.
Nova Scotia,	1,200.
New Brunswick,	600.
Prince Edward's Island,	200.
Total,	£6,000.

"Conformably with the foregoing report £600 is proposed as the extent to which the Officer administering the Government may issue Warrants on account of the Post Office in New Brunswick."

"It is contemplated to attach the privilege of Franking to seats in the Council and Assembly, in imitation of the right enjoyed by the Members of the two Houses of Parliament in this Country; I hope that this provision will be deemed just in principle and conducive to that distinction which it must be desirable to confer on individuals who form part of the Legislature of the Country."

"In carrying into effect the amendments in the old Law of 5 Geo. 3, c. 25, His Majesty's Government would have preferred, after having passed the necessary Imperial Statute, to have left the subsidiary Provincial Enactments to the discretion of the different Legislatures. But it was felt that the efficiency of the measure depended almost entirely on a uniformity of Legislation in the several Provinces, and this could only be accomplished by preparing in this Country a Draft of the Bill which the Imperial Act would render necessary. The only objection to this course has been that it might be construed into an interference with the deliberations of the Provincial Legislatures, which it is desirable to leave on all occasions free and unshackled. I should hope however that in a question of this nature, there is no reason to fear such an objection."

"I think it will be desirable that you should endeavour to impress on the Assembly the necessity of their abstaining as much as possible from amendments destructive of the uniformity of the Bill. There are some clauses nevertheless which are left wholly for the decision of the Colonial Legislatures. I allude to the punishments to be inflicted under the Act. His Majesty's Government have felt great delicacy in offering any suggestion on these points; and it is perhaps the most satisfactory course to leave them to the consideration of the Assemblies themselves, who will, I doubt not, devote to the subject that mature deliberation which its importance demands."

"It is of course necessary that all the Acts passed by the several Legislatures on the present subject should take effect from the same day. The 1st of January, 1836, is named in the accompanying Draft in order to secure ample time for the due consideration of the Acts."

"I have the honor, &c."

"T. SPRING RICE."

"Major General Sir Archibald Campbell, Bart. G. C. B."

"&c."

"Mr. L. A. Wilmut, in pursuance to notice given on Wednesday the 21st instant, brought under notice of the House the subject of the Boundary Line between the State of Maine and this Province—Whereupon, On motion of Mr. L. A. Wilmut,

Resolved, Unanimously, That an humble Address be presented to His Excellency the Lieutenant Governor, praying that His Excellency will be pleased to afford such information to the House, relative to the negotiations now pending between His Majesty's Government and that of the United States, on the subject, as His Excellency may deem expedient and proper, in order that the House may be better enabled to prepare an humble and dutiful Address to His Majesty thereon.

Ordered, That Mr. L. A. Wilmut, Mr. End, and Mr. Street, be a Committee to wait upon His Excellency with the Address.

The following is a list of the names of the members of the House of Assembly of New Brunswick, in the year 1835.

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