

C A P . L X X I .

An Act to amend *The Post Office Act.*

[30th August, 1851.]

WHEREAS it is expedient to amend the Act passed in the Session held in the thirteenth and fourteenth years of Her Majesty's Reign, intituled, *An Act to provide for the transfer of the management of the Inland Posts to the Provincial Government, and for the regulation of the said Department*, and to make further provision in that behalf: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That so much of the said above cited Act as may be inconsistent with the provisions of this Act, or may give power to make regulations on any subject provided for by this Act, be, and the same is hereby repealed.

Preamble.

X
X
X

Certain portions of 13 & 14 Vict. c. 17, repealed.

II. And be it enacted, That it shall be the duty of the Postmaster General to give Public Notice, in one Newspaper published at the Seat of Government, and in one or more of the Newspapers published in or nearest to the County or Counties where the contract is to be performed, for at least six weeks before entering into any Contract for carrying the Mail involving an annual cost of more than Fifty Pounds per annum, that such Contract is intended to be made, and the day on which it is to be concluded, describing the places from and to which such Mail is to be conveyed, the mode and frequency of its transportation, the time at which it is to be made up, and the day and hour at which it is to be delivered; he shall, moreover, within ninety days after the making of any Contract, lodge a duplicate thereof in the Office of the Inspector General of this Province: Provided, that no Contract shall be entered into for a longer term than four years, and that the Postmaster General may make temporary Contracts for such services until a regular letting in the form prescribed can take place.

Mode of advertising for tenders for mail service.

Tenders and duplicate of contract to be lodged with the Inspector General.

III. And be it enacted, That no additional compensation shall be made to any Mail Contractor so as that the compensation for addition regular service shall exceed the exact proportion which the original compensation bears to the original services stipulated to be performed; and no extra allowance shall be made to any Contractor by the Postmaster General, for an increase of expedition in the transportation of the Mail, unless thereby the employment of additional Stock or Carriers by the Contractor shall be rendered necessary; and in such case, the additional compensation shall never bear a greater proportion to the additional Stock or Carriers rendered necessary than the sum stipulated in the original Contract bears to the Stock and Carriers necessarily employed in its execution.

Additional compensation limited.

IV. And be it enacted, That proposals for Mail Contracts shall be delivered to the Department sealed, and shall be kept sealed until the biddings are closed, and shall then be opened in the presence of the Postmaster General; and the Contracts in all cases in which there shall be more than one tender, shall be awarded to the lowest bidder tendering sufficient security for the faithful performance of the Contract, unless the Postmaster General shall be satisfied that it be for the interest of the Public not to accept the lowest tender: Provided, however, that the Postmaster General shall not be bound to consider the bid of any person who shall have wilfully or negligently failed to execute or perform a prior Contract; Provided further, that the Postmaster General, in all cases where he omits giving the Contract to the lowest bidder, shall report his reasons therefor to the Governor General, for the information of the Legislature.

Lowest tender to be accepted.

Proviso.

V. And be it enacted, That it shall be the duty of the Postmaster General to have recorded, in a well bound Book, a true and faithful abstract of offers made to him for carrying the Mail, embracing as well those which are rejected as those which are accepted;

Abstracts of tenders to be recorded.

accepted; the said abstract to contain a description of each Contract advertised for public competition, the dates of the offers made, the dates at which they were received by the Postmaster General, the names of the parties offering the terms on which they propose to carry the Mail, the Sum for which it is offered to contract, and the length of time the agreement is to continue; and it shall also be the duty of the Postmaster General to put on file and preserve the originals of the propositions of which abstracts are here directed to be made, and to report at each Session of the Provincial Parliament a true copy from the said record of all offers made for carrying the Mail as aforesaid.

Persons employed in the department not to be interested in contracts, &c.

VI. And be it enacted, That if any person employed in the Post Office Department shall become interested in any Mail Contract, or act as agent with or without compensation in any matter or thing relating to business in said Department for any Contractor or person offering to become a Contractor, he shall be forthwith dismissed from office.

Tenders to be accompanied by a written guarantee.

VII. And be it enacted, That every proposal for the transportation of the Mail shall be accompanied by a written undertaking, signed by one or more responsible persons, to the effect that he or they undertake that the bidder will, if his bid be accepted, enter into an obligation, in such time as may be prescribed by the Postmaster General, with good and sufficient sureties, to perform the service proposed; no proposal shall be considered unless accompanied by such written undertaking; if, after the acceptance of a proposal and notification thereof to the bidder, he shall fail to enter into an obligation within the time prescribed by the Postmaster General, with good and sufficient sureties for the performance of the service, then the Postmaster General shall proceed to contract with some other person for the performance of the said service, and shall forthwith cause the difference between the amount contained in the proposal so undertaken, and the amount for which he may have contracted for the performance of said service, for the whole period of the proposal, to be charged up against the said bidder and his surety or sureties, and the same may be immediately recovered for the use of the Post Office Department, in an action of debt in the name of the Postmaster General against either or all of the said persons.

Contracts for less than £50 per annum, how entered into.

VIII. And be it enacted, That the Postmaster General may at his discretion submit Contracts for Mail transportation, involving an annual expense of less than Fifty Pounds, to public competition in the manner and form prescribed for Contracts of a greater annual charge, or he may direct an Agent to receive Tenders for and execute such Contracts on his behalf, or he may in special cases conclude such Contracts by private agreement when he may conceive the public interest will be promoted by such a course: Provided always, that he shall not pay, under any such Contract made by private agreement, a higher rate of annual payment for the service to be performed, than is ordinarily paid for services of a like nature under Contracts let by Public Advertisement.

Proviso.

Contracts not to be made with persons who have combined to keep back tenders.

IX. And be it enacted, That no contract for the transportation of the Mail shall knowingly be made by the Postmaster General with any person who shall have entered into any combination, or proposed to enter into any combination to prevent the making of any bid for a Mail Contract by any other person, or who shall have made any agreement, or shall have given or performed or promised to give or perform any consideration whatever, or to do or not to do any thing whatever, in order to induce any other person not to bid for a Mail Contract; And if any person so offending be a Mail Contractor, he may be forthwith dismissed from the service of the Department: Provided always, that whenever the Postmaster General shall exercise the power conferred on him by this section, he shall transmit a copy, or statement of the evidence on which he acts, to the Governor General of this Province.

Proviso.

Unclaimed letters to be advertised, &c.

X. And be it enacted, That all advertisements made under the orders of the Postmaster General, in a Newspaper or Newspapers, of Letters uncalled for in any Post Office, shall be inserted in some Newspaper or Newspapers of the town or place where the Office advertising may be situated, or of the town or place nearest to such Post Office, provided the Editor or Editors of such Newspaper or Newspapers shall agree

agree to insert the same in three separate issues or publications of such Newspaper or Newspapers, for a price not greater than Three Farthings for each Letter; and under such Regulations, and at such periods as may be directed by the Postmaster General, the Postmasters shall respectively send such of the Letters advertised by them, as remain on hand as Dead Letters to the Post Office Department, when the same shall be opened, and, whenever practicable, returned to the writers of the same on payment of the postage, should any remain charged as unpaid upon such Dead Letters, with One Penny additional on each Letter, to defray the cost of advertising, opening and returning the same; and if the writer of any such Dead Letter cannot be ascertained or found, the Postmaster General may, after retaining the same in his Office such length of time as he may deem expedient, cause the same to be destroyed: Provided always, that should any such Dead Letter, of which the writer cannot be ascertained or found, contain money, the Postmaster General may appropriate it to the use of the Department, keeping an account thereof, and the amount shall be paid by the Department to the rightful claimant as soon as he shall be found.

Proviso.

XI. And be it enacted, That it shall be lawful for the Postmaster General to contract for conveying the Mail with any Rail-road Company in this Province, either with or without advertising for such contract.

Rail-road.

XII. And be it enacted, That it shall be the duty of the Postmaster General to make to the Governor General of this Province, annually, for the purpose of being laid before the Provincial Parliament at each Session thereof, the following reports, namely:

Annual Report to Parliament.

First. A report of the Finances, Receipts and Expenditure of the Post Office Department for the year ending on the fifth day of April previous, in the form of a General Account Current, shewing on the one side the whole amount of balances due to the Department from Postmasters or others at the beginning of the year, the whole amount of Postage that accrued within the year, and any and every other item of Revenue or Receipt; and on the other side of the Account, the charges and expenditure incurred by the Department within the said year, of every kind and nature, shewing in separate amounts the charges for Mail transportation, for Salaries and Commission and allowances to Postmasters, for Printing and Advertising, and for incidental and miscellaneous items of Expenditure, shewing also the balance remaining due from Postmasters and others at the close of the year; and shewing in the shape of a Balance what the result of the operations of the Department has been for the said year, whether to produce a surplus of Revenue in excess of Expenditure, or to cause the Expenditure to exceed the Revenue, and in either case, to what amount.

Second. A report shewing in detail all payments made and charges incurred for Mail transportation during the said year, stating in each case the name of the Contractor or party receiving payment, the Mail Route, the mode and frequency of transportation, and the sums paid.

Third. A report in detail of all charges for Salaries, Commissions and Allowances, shewing in each case the name of the person, the service or duty performed, and the amount paid.

Fourth. A report in detail of the Expenditure of the Department within the said year for Printing and Advertising, and for all incidental and miscellaneous items of disbursement, shewing the sum paid under each head of expenditure, and the names of the persons to whom paid.

Fifth. A report of all contracts made for the transportation of the Mail within the year ending on the fifth day of April next preceding such report, stating in each case of contract its date and intended duration, the name of the Contractor, the routes embraced in the Contract, with the length of each, with the times of arrival and departure at the ends of each route, the mode of transportation contracted for, and the price stipulated to be paid by the Department.

Sixth. A report of all allowances made to Contractors within the year preceding, beyond the sums originally stipulated in their respective Contracts, and the reasons for the same, and of all orders made by the Department whereby additional expense

is

is or will be incurred beyond the original Contract price on any land or water route, specifying in each case the route to which the order relates, the name of the Contractor, the original service provided by the Contract, the original price, the date of the order for additional service, the additional service required, and the additional allowance therefor, also a report of all curtailments of expenses effected by the Department within the preceding year, specifying in each case the same particulars, as required in cases of additional allowances.

Seventh. A report of all fines imposed and deductions from the pay of Contractors made during the preceding year, for failures to deliver the Mail or for any other cause, stating the names of the delinquent Contractors, the nature of the delinquency, the route on which it occurred, the time when the fine was imposed, and whether the fine has been remitted, or order for deduction rescinded, and for what reason.

Eighth. A report of the new Offices and Post Routes established, and of the Offices and Post Routes discontinued or closed within the preceding year, shewing in the case of each Office and Post Route discontinued or closed, the reason for the proceeding.

Ninth. A report of all cases occurring within the said year of the abstraction or loss of letters containing money sent through the Post, shewing the particulars of each case, and stating the result of the proceedings instituted therein by the Department.

XIII. And be it enacted, That every Post Route which, hereafter within the term of three successive years, shall fail to yield one-fourth of the expense incident to its establishment, shall be discontinued by the Postmaster General, unless in cases where it may be necessary as a connection or continuance of a route or routes: Provided always, that this section shall not be so construed as to deprive the Seat of Justice in any Circuit or County of one Mail going to and from the same.

XIV. And be it enacted, That the Postmaster General be authorized and directed, when in his judgment the public interest or convenience may require it, to establish one or more Branch Post Offices to facilitate the operation of the Post Office in any city or place which in his opinion may require such additional accommodation for the convenience of the inhabitants: And it shall be the duty of the Postmaster General to prescribe the rules and regulations for the Branch Post Offices which may be established by virtue of this Act; and no additional Postage shall be charged for the receipt or delivery of any letter or packet at such Branch Post Office.

XV. And be it enacted, That the Postmaster General shall be authorized, whenever the same may be proper for the accommodation of the public in any city, to employ Letter Carriers for the delivery of letters received at the Post Office in said city, except such as the persons to whom they are addressed may have requested, in writing, addressed to the Postmaster, to be retained in the Post Office, and for the receipt of letters at such places in the said city as the Postmaster General may direct, and for the deposit of the same in the Post Office; and for the delivery by a Carrier of each letter received from the Post Office, the person to whom the same may be delivered shall pay not exceeding One Penny, and for the delivery of each newspaper and pamphlet One Half-penny, and for every letter received by a Carrier to be deposited in the Post Office, there shall be paid to him, at the time of the receipt, not exceeding One Half-penny; all of which receipts, by the Carriers in any city, shall, if the Postmaster General so direct, be accounted for to the Postmaster of said city, to constitute a Fund for the compensation of said Carriers, and to be paid to them in such proportions and manner as the Postmaster General may direct. Each of such Carriers shall give Bond, with sureties to be approved by the Postmaster General, for the safe custody and delivery of all letters, and for the due account and payment of all moneys received by him.

XVI. And be it enacted, That it shall be lawful for the Postmaster General, from time to time, by Commissions under his Hand and Seal of Office, to nominate three fit and proper persons as his Deputies, to be and to be called Inspectors of Post Offices, and to be stationed at such places and exercise their powers and perform their duties

Post routes may be discontinued in certain cases.

Proviso.

Branch Post Offices in Cities.

Penny Post Office for City delivery.

Appointment of Inspectors of Post Offices.

duties and functions within such limits respectively as he may from time to time think fit to appoint ; and that it shall be the duty of such Inspectors of Post Offices, under such instructions as may from time to time be given to them by the Postmaster General, to superintend the performance of the Mail service, taking care that, as far as the state of the roads and other circumstances will permit, the stipulations of all Contracts for the conveyance of the Mail are strictly complied with by the Contractors,—to make monthly reports to the Postmaster General of the manner in which the Mail has been carried on each route, stating what fines they recommend should be imposed,—to instruct new Postmasters in their duties,—to keep the Postmasters to their duty in rendering their accounts and paying over their balances,—to examine at every Post Office from time to time the Books of Mails received at and sent from the same, and see that they are properly kept, and that the Received Bills are properly numbered and filed, and that the Postmasters and their Assistants perfectly understand their instructions, and perform their duty well in every particular,—to inquire into complaints of losses of money letters,—and generally to do all and whatsoever they may from time to time be lawfully instructed or required to do for the service of the Post Office Department by the Postmaster General.

XVII. And be it enacted, That in all cases where letters are posted for places without this Province on which stamps for pre-payment are affixed of less value than the true rate of Postage to which such letters may be liable, or when stamps for pre-payment are affixed to letters addressed to any place as aforesaid for which pre-payment cannot be taken in this Province, it shall be lawful for the Postmaster General to forward such letters, charged with postage, as if no stamp had been thereon affixed.

Insufficient stamps to be disregarded.

XVIII. And be it enacted, That no allowance or compensation shall be made to any Clerk or other Officer in the General Post Office, by reason of the discharge of duties which belong to any other Clerk or Officer in the same Department ; and no allowance or compensation shall be made for any extra service whatever which any such Clerk or Officer may be required to perform.

No allowances to Clerks for extra services.

XIX. And be it enacted, That it shall be the duty of the Postmaster General, upon the appointment of any Postmaster, to require and take of such Postmaster a Bond, with good and approved security, in such penalty as he may judge sufficient, conditioned for the faithful discharge of all the duties of such Postmaster required by law, or which may be required by any instruction or general rule for the government of the Department : And when any Surety of a Postmaster shall notify to the Postmaster General his desire to be released from his Suretyship, or when the Postmaster General shall deem it necessary, he shall be entitled to require such Postmaster to execute a new Bond, with Sureties, which Bond, when accepted by the Postmaster General, shall be as valid as the Bond given upon the original appointment of the Postmaster, and the Sureties in the prior Bond shall be released from responsibility for all acts or defaults of the Postmaster which may be done or committed subsequent to the acceptance of the new Bond, the date of which acceptance shall be duly endorsed on such prior Bond : Provided that payments made subsequent to the execution of the new Bond by such Postmaster shall be applied first to the discharge of any balance which may be due on the old Bond, unless he shall, at the time of payment, expressly direct them to be applied to the credit of his new account : And provided also, that no Suit shall be instituted against any Surety of a Postmaster after the lapse of two years from the death, resignation or removal from office of such Postmaster, or from the date of the acceptance of a new Bond from such Postmaster, as the case may be.

Postmasters to give bonds.

Sureties may be changed.

Proviso.

Proviso.

XX. And be it enacted, That if any Postmaster or other person authorized to receive the postage of letters and packets shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due at the end of every three months, it shall be the duty of the Postmaster General to cause a Suit to be commenced against the person or persons so neglecting or refusing ; that all Suits which shall be hereafter commenced for the recovery of debts or balances due to the

Postmasters to render accounts, and pay over balances quarterly.

Post Office, whether they appear by Bond or Obligation made in the name of the existing or any preceding Postmaster General, or otherwise, shall be instituted in the name of "The Postmaster General."

Penalty for neglect.

XXI. And be it enacted, That if any Postmaster shall neglect to render his accounts for one month after the time and in the form and manner prescribed by the Postmaster General's instructions, he shall forfeit double the value of the postages which shall have arisen at the same office in any equal portion of time previous or subsequent thereto; or, in case no account shall have been rendered at the time of trial of such case, then such sum as the Court and Jury, if in Upper Canada, or the Court alone, if in Lower Canada, shall estimate equivalent thereto, to be recovered by the Postmaster General in an action of debt on the Bond against the Postmaster and his securities, and for which the securities shall be liable.

Postmasters to render, also, quarterly accounts of emoluments.

XXII. And be it enacted, That it shall be the duty of the Postmaster of each of the Cities of Quebec, Montreal, Kingston, Toronto and Hamilton in this Province, each and every year hereafter, to render Quarter-yearly Accounts to the Postmaster General, under oath, in such form as the latter shall prescribe, for the purpose of giving full effect to this section, of all emoluments or sums by them respectively received for boxes or pigeon-holes, or other receptacles for letters or papers, and by them charged for to individuals, or for the delivery of letters or papers at or from any places in such Cities respectively other than the actual Post Offices of such Cities respectively, and of all emoluments, receipts and profits that have come to their hands by reason of keeping Branch Post Offices in such Cities respectively; and if from such accounting it shall appear that the net amount received by the Postmaster at any City for such boxes and pigeon-holes, and other receptacles for letters and papers, and for delivering letters or papers at or from any place in such City other than said Post Office, and by reason of keeping a Branch Post Office or Branch Post Offices in such City, shall, in the aggregate, with the salary of such Postmaster, exceed the sum of Four Hundred Pounds in any one year, such excess shall be paid to the Postmaster General for the use of the Post Office Department; and no Postmaster shall hereafter, under any pretence whatsoever, have or receive or retain for himself, in the aggregate, more than Four Hundred Pounds per year, including salary, commissions, boxes and all other fees, perquisites and emoluments, of any name or character whatsoever, and for any service whatsoever.

Embezzlement, what, and a felony.

XXIII. And be it enacted, That if any Officer of or connected with the Post Office Department shall convert to his own use, in any way whatever, or shall use, by way of investment in any kind of property or merchandize, or shall loan, with or without interest, any portion of the public moneys entrusted to him for safe keeping, transfer, disbursement, or for any other purpose, every such act shall be deemed and adjudged to be an embezzlement of so much of the said moneys as shall be thus taken, converted, invested, used or loaned, which is hereby declared to be a felony; and the neglect or refusal to pay over any public moneys in his hands, or to transfer or disburse any such moneys promptly, on the requirement of the Postmaster General, shall be *prima facie* evidence of such conversion to his own use of so much of the public moneys as may be in his hands; and all persons advising or knowingly and willingly participating in such embezzlement, upon being convicted thereof before any Court of competent jurisdiction, shall for every such offence forfeit and pay to Her Majesty, Her Heirs or Successors, a fine equal to the amount of the money embezzled, and shall suffer imprisonment for a term not less than three months, and not more than seven years.