

Copy of letter from B.F. Butler to Josiah Howe –

“New York Sept 5 – 1850

Dear Sir,

I read carefully and with much interest soon after receiving it Mr Spooner’s acure and ingenious commentary on my letter of February last, but was not induced by any think contained in it to modify any essential particular the view expressed in that letter.

The question discussed my Mr Spooner, were it capable of being presented and determined out of Court, might perhaps be disposed of irrespective of precedent. But it is necessarily a question for the Court. And after all that has been done by the government in all its branches in support of the Post Office monopoly, I cannot believe that the courts will now venture to pronounce the monopoly unconstitutional. In sustaining the act creating the Bank of the United States, they places great reliance on the action of Congress and acquiescence of the nation. The argument in favor of the Post Office monopoly is to say at least equally strong. Being called upon to examine the subject as a lawyer, I am of court obliged to look at these considerations, and to give a weight to precedents which under other circumstances might not legitimately belong to them.

I can therefore make no material alteration in the letter; but if Mr Spooner publishes it, I wish to substitute the word “apprehend” for the word “fear” in the sentence chiefly commented on by him, for I believe this the more proper term. And that after the word “comprehensive,” in the same sentence, the words “and it now seems to us” should be inserted. This last amendment is necessary to free the sentence from a possible misconception.

Very Truly Yours,

B.F. Butler”-

Josiah Howe Esq.
New York ”-

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