

Post Office Department
Solicitor
Opinion of May 5, 1916
6 Ops. Sol. POD 397 (pub. 1928) .

MAY 5, 1916.

"[sic] I have your letter of the 12th ultimo requesting an opinion as follows:

"The Erie Employees' Relief Association through its 'Campaign Manager' is transmitting over the lines of the Erie Railroad Company without the payment of postage a large number of printed circulars enclosed in envelopes to members of such association.

"The Attorney General in an opinion rendered May 23, 1912 (29 A.G. Op. 418), held that the privilege of free transportation outside the mail does not extend to letters written by an officer of that association to its members.

"A copy of the circular is enclosed herewith, and you are requested to advise me, whether in your opinion, such circular falls within the definition of a letter as used, in section 1294 of the Postal Laws and Regulations."

A letter is defined by Bouvier (Rawles Rev., vol. 2, p. 185) as follows:

"An epistle; a despatch; a written message, usually on paper, folded up and sealed and sent by one person to another." [6 Ops. Sol. POD 398]

In United States v. Denicke (35 Fed. 407,409), the following definition is given: "A letter is a written or printed message." And in *United States v. Gaylord* (17 Fed. 438, 440) the following pertinent expression of views was made:

"A letter * * * we understand to be something written or printed, as a communication or an epistle, and sent by one person to another, with the address of the person to whom it is sent thereon. * * * .

"A letter is certainly a writing if addressed by one person to another, while we may call it a letter, it is also a writing, whether the characters are made by a pen, or by type, or in any other similar manner."

See also *United States v. Bromley* (53 U. S. 88, 97).

While for some purposes a distinction is observed between "letters" and "circulars," for example, the act of March 3, 1879 (20 Stat. 360, placing *written* letters in matter of the first-class and "circulars" in the third-class as "miscellaneous printed matter," yet as respects the postal monopoly the term "letters" has a broader signification and embraces "circulars." Indeed section 18 (sec. 449 P.L. and R., 1913) of the act classifying mail matter, above cited, expressly states:

"The term 'circular' is defined to be a *printed letter*, which, according to internal evidence, is being sent in identical terms to several persons."

And the act of March 2, 1899 (sec. 451, P. L. and R., 1913) is another recognition of the fact that it is not necessary to constitute a letter that it be "written" in the usual sense of the word. This act provides:

"All letters written in point print or raised characters used by the blind, when unsealed, shall be transmitted through the mails as third-class matter. * * *."

Thus, the Postal Service transports and delivers written "letters" and printed "letters" at different postage rates, but its monopoly covers both equally.

The circular of the "Campaign Manager" of the Erie Employees' Relief Association is a printed communication or letter addressed to the members of the association, and its transmission over the lines of the Erie Railroad Company outside of the mails infringes upon the post-office monopoly and constitutes a violation of sections 183. and 184 of the Penal Code. (Secs. 1293 and 1294, P. L. and R., 1913)

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