

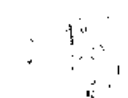
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United States
Post-Office Department
"Orders and Decisions Relative to Railroad Mail Matter
Compiled by the Second Assistant Postmaster-General"
February 6, 1898

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POST-OFFICE DEPARTMENT.



ORDERS AND DECISIONS

RELATIVE TO

RAILROAD MAIL MATTER,

COMPILED BY

U. S. Post Office Dept. General
THE SECOND ASSISTANT POSTMASTER-GENERAL,

FEBRUARY 6, 1897.

WASHINGTON:
GOVERNMENT PRINTING OFFICE,
1897.

ORDERS AND DECISIONS

Order of the Postmaster-General, No. 422

OFFICE OF THE POSTMASTER-GENERAL,
Washington, D.C. July 2, 1896

Whereas it has been made to appear, upon evidence satisfactory to the Postmaster-General, that officers and employees of the railway companies throughout the United States are in the habit of sending and carrying over their various lines letters outside the mails and not inclosed in Government stamped envelopes, and which do not pertain to the cargo being carried on the train; and

Whereas the carrying of such letters outside the mails is in direct violation of sections 3985 and 3993 of the Revised Statutes of the United States, which read as follows:

SEC. 3985. No stage-coach, railway-car, steamboat, or other vehicle or vessel which regularly performs trips at stated periods on any post-route, or from any city, town, or place to any other city, town, or place between which the mail is regularly carried, shall carry, otherwise than in the mail, any letters or packets, except such as relate to some part of the cargo of such steamboat or other vessel, or to some article carried at the same time by the same stage-coach, railway-car, or other vehicle, except as provided in section 3993; and for every such offence the owner of the stage-coach, railway-car, steamboat, or other vehicle or vessel be liable to a penalty of one hundred dollars; and the driver, conductor, master, or other person having charge thereof, and not at the time owner of the whole or any part thereof, shall for every such offence be liable to a penalty of fifty dollars.

SEC. 3993. All letters inclosed in stamped envelopes, if the postage-stamp is of a denomination sufficient to cover the postage that would be chargeable thereon if the same were sent by mail) may be sent, conveyed, and delivered otherwise than by mail, provided such envelope shall be duly directed and properly sealed, so that the letter cannot be taken therefrom without defacing the envelope, and the date of the letter or of the transmission or receipt thereof shall be written or stamped upon the envelope. But the Postmaster-General may suspend

the operation of this section upon any mail-route where the public interest may require such suspension.

I therefore hereby notify all railroad officials and employees that these sections of the Revised Statutes will be rigidly enforced and all parties detected in their violation, whether officers of the railway companies, conductors on trains, baggage masters, brakemen, or other employees, will be prosecuted for such violation.

All inspectors of the Post-Office Department are instructed to keep a careful watch and arrest any person caught carrying letters in violation of these statutes.

WILLIAM L. WILSON
Postmaster-General.

Opinion of the Attorney-General on the carriage of letters outside the mails by railways

DEPARTMENT OF JUSTICE
August 12, 1896

SIR: Your letter of the 3d instant supplies the defects in that of July 29, to which I called your attention, by submitting the specific questions on which you ask my opinion. I have the honor, therefore, now to comply with your request. The delay has been chiefly due to the desire of counsel at a distance to present their views, which I was glad to gratify for my own benefit as well as in fairness to those whose interests are involved.

You submit your order No. 422, dated July 2, 1896, relative to the sending and carrying by railways companies of "letters outside the mails and not inclosed in Government stamped envelopes, and which do not pertain to the cargo being carried on the train." The order quotes sections 3985 and 3993 of the Revised Statutes, declares that "the carrying of such letters outside the mails is in direct violation" of those sections, and threatens prosecution of all persons concerned therein. The sections cited are as follows:

SEC. 3985. No stage-coach, railway-car, steamboat, or other vehicle or vessel which regularly performs trips at stated periods on any post-route, or from any city, town, or place to any other city, town, or place between which the mail is regularly carried, shall carry, otherwise than in the mail, any letters or packets, except such as relate to some part of the cargo of such steamboat or other vessel, or to some article carried at the same time by the same stage-coach, railway-car, or other vehicle, except as provided in section 3993; and for every such offence the owner of the stage-coach, railway-car, steamboat, or other vehicle or vessel be liable to a penalty of one hundred dollars; and the driver, conductor, master, or other person having charge thereof, and not at the time owner of the whole or any part thereof, shall for every such offence be liable to a penalty of fifty dollars.

SEC. 3993. All letters inclosed in stamped envelopes, if the postage-stamp is of a denomination sufficient to cover the postage that would

be chargeable thereon if the same were sent by mail) may be sent, conveyed, and delivered otherwise than by mail, provided such envelope shall be duly directed and properly sealed, so that the letter cannot be taken therefrom without defacing the envelope, and the date of the letter or of the transmission or receipt thereof shall be written or stamped upon the envelope. But the Postmaster-General may suspend the operation of this section upon any mail-route where the public interest may require such suspension.

You refer me to section 3992 also, which is as follows:

Nothing herein shall be construed to prohibit the conveyance or transmission of letters or packets by private hands without compensation, or by messenger employed for the particular occasion only.

You ask: (1) "Can the railroad company carry, outside of the mails, not in Government stamped envelopes, any first-class mail matter except such as concerns the cargo carried by the road?"

(2) "Is it proper for a railroad company to carry, outside of the mails, not in Government stamped envelopes, first-class mail matter intended for a connecting line?"

(3) "Is it proper for a railroad company to carry, outside of the mails, first-class mail matter not in Government stamped envelopes, for companies, corporations, or private individuals operating car lines, transportation lines (either passenger or freight), operating hotels, restaurants, or any other class of business that may either be connected or not connected with the railroad proper?"

(4) "Can such companies as mentioned in the third question carry their own mail; and if so, under what circumstances?"

Section 1022 of the Postal Laws and Regulations of 1893, after prohibiting the carriage of letters and packets according to sections 3985 and 3993, excepts such as relate "to the business of the railroad on which they are carried." You state that this clause has been found in all the postal regulations for many years, until it has become the settled construction by your Department of the laws now embodied in these sections; and that you are therefore not disposed to insist on the strict construction of your order, which would reverse that construction, unless the law requires you to do so.

You say, however, that the railroad companies of the country have given so broad a construction to the clause just quoted that a system of railway letter service has grown up of such proportions that it carries substantially all the correspondence of railway officers and employees, and those of kindred organizations, on all subjects connected with railroad business, and that regular offices for the distribution and routing of this railway mail are established at all large terminal points.

I do not think these statutes are in derogation of common right, and therefore to be strictly construed as stated in *United States v. United States Express Co.* (5 Biss., 91). They are revenue laws (*United States v. Bromely*, 12 How., 96), and are not to be strictly construed, though

they impose penalties. (4 Opin., 159; *United States v. Hodson*, 10 Wall., 406; *United States v. Stowell*, 133 U.S., 12.) Certainly railroad companies can set up no "common right," if such they have, against the conditions which the law incorporates in their contracts with the Government. The intention of the law was to secure to the Government a monopoly of the business of carrying letters, etc., which the public interest requires it to do in some regions at a loss, which might become too great a burden if it should be deprived of any portion of the business elsewhere. (See 9 Opin., 161, and 14 Opin., 152.)

But, whatever rule of construction be applied, I think the long-settled rule of your Department, taken as meant, carries out the intention of the law. Read literally, section 3985 would forbid the carrying of any letters or packets outside the mails besides those covered by the express exceptions. But your predecessors who adopted and have maintained the rule above mentioned, looking to the object which Congress manifestly had in view, construed the law as applying only to carriage for other persons. This construction seems to be sustained by the glimpse into the minds of the framers of the law which the expressed exceptions afford, as well as by other sections of the law relating to the same general subject. (See secs. 3982-3984 and 4 Opin., 159.) Section 3992 also confirms this view, both the exceptions it makes plainly relating to carriage for third persons, as appears from the reference to compensation in one case and employment in the other.

Congress evidently had no thought of interfering with the private methods of carriers on post routes for communicating directly with their own employees or with other persons. It was dealing only with their public business of carrying for others. Therefore no exception was required in this respect, and no argument is to be drawn from its omission from the expression of exceptions.

In view of the language of the law and the plain right of Congress to require all letters carried on post routes by public carriers to go in the mails, the right of railroads to carry their own letters must rest alone on the reason above given, which also furnishes the limitation of the right by its very definition. Even if the enjoyment of the right were deduced from lack of authority in congress to interfere with it, rather than from absence of intention to do so, the same result would follow. The right is to carry letters written and sent by the officers and agents of the railroad company which carries and delivers them, about its business, and these only. They may be letters to others of its officers and agents, to those of connecting lines, or to anyone else, so long as no other carrier intervenes. The moment this occurs, such other carrier is transporting letters for a third person. It has no natural right to do this, as it is asserted to have with respect to its own letters; and as to letters other than its own, no exception is permissible beyond those expressed in the statute.

The clause above quoted from the postal regulations was manifestly

not intended to do more than carry out the law. Otherwise it would, of course, be invalid. But taken not to refer to letters of others than the carrying company, it is consistent and proper. Such, I am confident, was the meaning intended.

Of course, letters of a company addressed to officers or agents of a connecting line on company business and delivered to an agent of the latter at the point of connection may be carried by the latter to any point on its line, because such letters become its own on receipt by any one of its agents, and transfer to another agent, without the intervention of another carrier, comes within the principle already expressed. But any company, or any officer or employee thereof, carrying letters which are neither written by that company nor addressed to it, is liable to the penalties imposed by the law. The officer or agent of the person or company sending letters to be carried contrary to the law is, it seems, also liable. (See *United States v. Hall*, 9 Am. Law Reg., 232, and R.S., sec. 5440.)

I am unable to reconcile with this view of the law the claim that a company may carry letters from one of its connecting lines to another when they relate to through business over the lines of all. This claim proceeds on the theory that the carrying company's interest, actual or possible, in the subject of the correspondence makes the letter "relate to its business," in the language of the postal regulations. But, as I have said, this language was used with reference to letters sent by or addressed to the carrying company, or on its behalf, and the form of expression adopted was doubtless merely intended to exclude private correspondence between persons in the employ of carriers. Otherwise the regulation, like the claim based on it, would be contrary to the law. In *United States v. Bromley* (*supra*) an order for goods to be brought by a steamboat on its return trip was held to have been wrongfully carried, although the carrier had a direct interest therein.

Congress certainly expected that the postal authorities would inspect letters, etc., transported by carriers not in the mails nor in stamped envelopes, in order to prevent and punish violations of law. (See secs. 3990 and 4026, and *Blackham v. Gresham*, 16 Fed. Rep., 609.) It is difficult to attribute to Congress an intention to make the conduct of these officers depend on so difficult an inquiry as that involved in determining whether the carrier has an interest in the subject of correspondence to which it is not a party. While a somewhat similar inquiry may be required for the detection of private correspondence between railway employees, it can readily be conducted by mere inspection of the letters, unlike investigation as to the carrier's interest in subjects of correspondence between other companies. Besides, such inquiry as to private correspondence is unavoidable; while mere inspection of the envelopes will generally enable inspectors to decide whether letters are by or to the carrier itself or its agents acting for it. It would be equally impossible for a carrier to determine, as it must

do in order to avoid violations of the law, whether letters sent by one of its connecting lines to another relate wholly to business in which it has a specific interest. The view contended for seems to require the assumption that each connecting carrier has such interest in all correspondence between other companies about through business done or expected. This assumption is unwarrantable in view of *United States v. Bromley (supra)*.

I do not think section 3992 has any bearing on this point. "The conveyance or transmission of letters or packets by private hands without compensation" must, of course, be held to refer to something different from conveyance or transmission "by special messenger employed for the particular occasion;" but "private hands" was evidently intended to cover all except common carriers on post routes. Neither the latter nor their employees, while engaged in their business, can be considered as "private hands" under this section, and if they could be, my opinion is that the express or implied obligation of railroads to carry letters for each other to remotely connecting lines would amount to "compensation" within the meaning of the statute. I do not understand it to be contended that the clause relating to special messengers is relevant here.

The suggestion you make, that the right of railroad companies to carry their own letters to connecting lines is liable to abuses which are difficult to detect, can not be considered. It is not to be assumed that anyone will violate the law, when it is clearly understood, and communications from one connecting line to another and communications from it to the next, though on the same subject, come clearly within the right of carriage outside of the mails and without stamps.

Nor can I give weight to the inconvenience which, it is alleged by some of the counsel who have been heard, will result to the railway and their patrons from the abolition of what may be termed "through railway mail," which this opinion requires. Assuming the superior promptness and efficiency of this service, which is asserted, it may be that its abolition will result in the improvement of the public mail service. At any rate, such considerations can not affect what I consider the evident meaning of the law.

It is manifest that what I have said in denying the right of railroad companies to carry letters between other companies with whose lines their own connect applies also to the carriage of letters by railroad companies for the class of persons, associations, and companies mentioned in your third question, and that the right of such persons, associations, and companies to carry their own mail is defined and limited like that of railroad companies.

Having answered all your questions generally, I deem it unnecessary to answer them in detail.

Respectfully submitted.

JUDSON HARMON

THE POSTMASTER-GENERAL.

DEAR SIR: Responding to your recent letter, I have the honor to communicate the following ruling made several years ago by the Post-Office Department:

The Post-Office Department has never insisted that it is unlawful to carry by express, or by private carriage, such manuscript as is intended for publication, when not accompanied by any matter in the nature of personal correspondence. Mere news matter prepared by the correspondents of the press for the columns of their papers can, under this ruling, be carried by express, or otherwise than in the mails, but if any matter in the nature of a personal correspondence is inclosed with such manuscript it can only be carried (lawfully) in the cover of a Government stamped envelope.

It was not the purpose of the recent order issued by me to change this ruling.

Very respectfully,

WILLIAM L. WILSON
Postmaster-General

Order of the Postmaster-General, No. 488.

POST-OFFICE DEPARTMENT,
OFFICE OF THE POSTMASTER-GENERAL,
Washington, D.C., August 20, 1896.

At the request of many of the railroad companies of the United States, the subject-matter of Order No. 422 was, after its promulgation, submitted to the honorable Attorney-General from his opinion thereon, which he rendered August 12, 1896. In view of this opinion, it becomes necessary to modify and explain said order, so as to make it conform to the conclusions reached by the Attorney-General, which conclusions are substantially as follows:

1. The provision of section 1022, Postal Laws and Regulations, 1893, excepting from the prohibition of sections 2985 and 3993, Revised Statutes, all letters and packets that relate "to the business of the railroad on which they are carried" is a correct exposition of said sections; and hence a railroad company has the right to carry letters without the payment of postage that are "written and sent by the officers and agents of the railroad company which carries and delivers them about its business, and these only. They may be letters to others of its officers and agents, to those of connecting lines, or to anyone else, so long as no *other carrier* intervenes. The moment this occurs such *other carrier* is transporting letters for a third person. * * * Letters of a company addressed to *officers or agents of a connecting line* on company business and *delivered to an agent of the latter at the point of connection* may be carried by the latter to any point on its line, because such letters become its own on receipt by any one of its agents, and transfer to *another agent* without the *intervention of another carrier* comes within the principle already expressed. But any company or any officer or employee thereof carrying letters which are neither *written by that company nor addressed to it* is liable to the penalties imposed by the law." This is the rule, though the *intervening carrier* may have an ultimate interest in the subject-matter of the correspondence. To illustrate: A letter in

regard to freight carried from New York to San Francisco written by the agent of the terminal line in San Francisco to an agent of the line East with which it has immediate connection may be carried and delivered to the addressee, and then the agent of the connecting line, if interested in same subject-matter, may write and deliver a letter to its next connecting line, and so on through to New York, but if the letter be addressed in the first instance by the San Francisco agent to the agent of the initial line at New York it must be sent by mail or inclosed in a stamped envelope, as required by section 3993 (*supra*).

2. It is not lawful for a railroad company to carry, outside of the mails, letters not in Government stamped envelopes, addressed to and relating to the business of other companies, corporations, or individuals operating car lines (either passenger or freight), hotels, restaurants, or any other class of business connected or not connected with the railroad proper; but these other companies, corporations, or individuals may carry their own letters under the limitations above noted in reference to railroad companies.

In order to answer numerous questions, collateral to the main questions answered by the Attorney-General, which have been submitted to this Department by interested parties, railroad and express companies and others will be guided by the following definitions and rules:

1. the prohibitions of section 3985 (*supra*) extend to "letters and packets" only. In other words, the monopoly of carrying the mails by the Government is limited by law to these two items. Hence not only railroads, but others, may carry outside of the mails anything else, if unaccompanied by matter having the character of a personal correspondence. In an opinion given the Postmaster-General, June 29, 1881, Attorney-General MacVeagh, speaking of the meaning of the words "letters" and "packets" as used in sections 3982 and 3985, revised Statutes, said: "What is a 'letter,' I can make no plainer than it is made by the idea which common usage attaches to it. From the connection in which it is used I have no doubt that 'packets' means a package of letters," and these definitions have been adhered to by this Department ever since.

2. Railroad and express companies, and other parties carrying matter under seal, will be held to know at their own peril the nature of such matter and whether it can be lawfully carried outside of the mails or not.

C. Neilson,
Acting Postmaster-General.

Letters, junction reports, and car tracers.

The following specific questions in relation to the construction of Orders no. 122 and no. 488 have been propounded to and answered by the Department:

First. Whether "junction reports" and "car tracers" may be so altered from their present shape as to remove them from the category of letters?

Second. Whether "claim papers," when not accompanied by letter of transmittal, may be returned to a road (another road or roads intervening without postage?

Third. Whether "claim papers" may be forwarded by "railroad service" to an officer or agent of a road, not a connection, if such papers are accompanied by a letter of transmittal, properly stamped, the papers composing the "packet" having, when new subject-matter, paid postage.

Replying to these questions, the Assistant Attorney-General for the Post-Office Department says:

1. "Junction reports" and "car tracers," having the characteristics of a letter, can not be carried by railroads free of postage, except as provided in Order No. 488. Hence the question is simply whether the change of the form of these "reports" and "tracers" so changes their substance and character as to take them out of the category of letters. It is difficult and I shall not undertake to define in the abstract what a "letter" is, within the meaning of section 3985, preferring to leave the subject to evolution growing out of the decision of concrete cases as they arise in practice. In disposing of the question now before me, I will say that to constitute an instrument a "letter" within the meaning of the law, it must be wholly or partly in writing, and there must be a sender and an addressee, though the name of neither appears on its face. The name of the addressee will ordinarily appear either on the face of the instrument or on the outside of the envelope; but here again there is difficulty in determining what is the "name" of an addressee. In the case before me the name of the addressee appears on the face of the envelope as "car Accountant," with the addition of his place of business and the railroad he represents. This, in my opinion, is sufficiently explicit to make the inclosure a matter for personal attention of the person holding the position of car accountant of the road at the point designated, and so far as he is concerned such inclosure has the characteristics of a personal correspondence and is therefore a letter.

In this case I can not find the name of the sender of the reports and tracers anywhere disclosed, but some *person* made out the reports and tracers, and that person, whether known or unknown, must be held to be the sender; and so far as he is concerned the reports and tracers have the characteristics of a personal correspondence, though they be made by an official of the road in his official capacity. Hence I am clearly of the opinion that the omission of the names of the senders and addressees in the reports and tracers does not change their substance and character, but that they retain, in their present form, the essential elements of "letters."

Answering the second and third questions, I have to say that a letter which has reached the party for whom it was intended and has served its purpose ceases to be a letter thereafter within the meaning of the law, and may be carried by the railroads free of postage. Hence "claim papers" when not under seal and when not accompanied by a letter can be returned to the proper party without the payment of postage; and this will be the rule, also, if such papers are accompanied by a letter where the letter is in a separate envelope, though the envelope be connected in some way except by seal with the package containing such papers. The railroads can therefore carry the papers in the form and on the conditions designated by Exhibits B and C, as follows:

"Exhibit B. — A sample of envelope to carry 'packets' of 'claim papers,' upon request by wire or mail, from 'foreign' roads (a road or roads intervening), no new subject-matter, i.e., no letter of transmittal

accompanying the return, each of the papers composing the 'packet' having, when new subject-matter, paid postage.

"Exhibit C. — A sample envelope to carry 'packets' of 'claim papers' sent to 'foreign' roads (a road or roads intervening) by railroad service, with a letter of transmittal in a sealed and stamped mail envelope attached to each 'packet,' the papers of the packet having, when new subject-matter, paid postage, the sealed and stamped letter of transmittal sufficing to warrant the transmittal by 'railroad service.'"

Statements accompanying shipments of milk.

Post-Office Department,
Office Second Assistant Postmaster-General,
Railway Adjustment Division,
Washington, D.C., September 11, 1896.

SIR: your letters of September 9 and 10, addressed to Post-Office Inspector T. J. Boynton, Boston, Mass., relative to forwarding mail by the employees of the "milk train" from the milk shippers to your post-office have been received.

The Department understands from your letter that the mails in question are placed in a bag by the milk shippers and forwarded by them in care of the trainmen to your office, there to be mailed in the regular way.

This being the case, there will be no objection to the continuance of this practice, provided the letters are inclosed in envelopes properly stamped and sealed and the stamps are properly canceled in your office.

Railroad employees can not legally handle letters not pertaining strictly to the business of the company which employs them, unless such letters are inclosed in stamped envelopes bearing the required amount of postage stamps.

In case these letters, inclosed in stamped envelopes, are not delivered to a postmaster or regularly mailed in a post-office, the stamps must be canceled by the railroad employee handling them before they are delivered to the addressee.

Very respectfully, G. F. Stone,
Acting Second Assistant Postmaster-General.

Mr. Charles Hart,
Postmaster, Westmoreland Depot, Cheshire County, Mass.

Express company mail.

Post-Office Department,
Office Second Assistant Postmaster-General
Washington, D.C., October 3, 1896.

DEAR SIR: In your letter of the 28th ultimo you note that the Pacific Express company employs the United States Express Company

to carry all its business from Chicago, Ill., to Council Bluffs, Iowa, and "deliver it back to the Pacific Express Company to complete the transportation and deliver to consignee;" and you inquire whether, "in such case, the United States Express Company be an intervening carrier as described in section 1 of Order No. 488, August 28, 1896, and prohibited from carrying an unstamped letter written by the Pacific Express Company's agent in Chicago to some agent of the Pacific Express Company in Nebraska about the Pacific Express Company's business."

In reply, I have to say that your questions must be answered in the affirmative. One company can not make another company its agent in any sense so as to authorize the latter to carry letters not written by or addressed to it. To relax the general rule laid down in section 1 of the said Order No. 488 so as to authorize the carrying of letters under the conditions you name would, in my opinion, result, practically, in the final abrogation of the rule itself. The Department has gone to the extreme limits of the law in allowing express and other companies to carry mailable matter without the payment of postage, and no strained construction should now be permitted to extend the operation of said order beyond its own specific terms.

Yours truly,

G. Neilson,
Second Assistant Postmaster-General.

Mr. E. M. Morsman,
President Pacific Express Company, Omaha, Nebr.

Mail carried by special messenger of a railroad.

Post-Office Department,
Office of the Assistant Attorney-General,
Washington, D.C., October 7, 1896.

SIR: yesterday you verbally stated to me the following case:

The L. Railway Company, by an agreement with the R. Railway Company, runs certain cars and trains over the latter road between S. and P. Mail matter sent by and addressed to the agents of the L. Railway Company and pertaining to its business is carried by its agents in charge of said cars or trains. This is conceded to be lawful and within the limitations of Order No. 488. But the company also sends one pouch of mail matter daily each way by a special hired messenger of its own over the R. Railroad between said points on trains or cars operated by the agents of the latter, and you inquire whether that can lawfully be done or not under the above order.

I answer that, in my opinion, it can not. Section 3982, Revised Statutes (section 675, P. L. and R., 1893), provides that "no person shall establish any private express for the conveyance of letters or packets or in any manner cause or provide for the conveyance of the same by regular trips or at stated periods over any post route." The inhibition in this section extends to the conveyance of letters over

a post route by regular trips or at stated periods by anyone, whether he be employed as agent of one person only or many. this principle is, I think, fairly deducible from the following adjudged cases:

United States v. Hall (9 Am. Law Reg., 232); *United States v. Kockersperger* (9 Am. Law Reg., 145); *United States v. Thompson* (9 Chandler's Law Rept., 454); *United States v. Pomeroy* (3 N. Y. Leg. Op., 143); *United States v. Kimball* (7 Law Rep., 32); see also article in 4 Law Rep., N. S., 385; *United States v. Bromley*, (12 How., 96).

You will observe that I confine this opinion to a case where a person or corporation hires a special messenger to convey letters over a post route "by regular trips or at stated periods;" and the principle here laid down does not conflict with section 3992, Revised Statutes (684, P. L. & R., 1993), which provides that "nothing herein contained shall be construed to prohibit the conveyance or transmission of letters or packets by private hands without compensation, or by special messenger employed for the particular occasion only." Nor does it conflict with the practice of allowing the regular agents of the * * * sleeping car and other companies to carry letters for their companies under the limitations of said order. In the one case the letters are carried by the agents of the companies in connection with their general duties as such, while in the other case they are carried by special agents hired for that specific purpose apart from any other business of their employers.

You can readily see that the principle the L. Railway Company proposes to apply in the case stated would end, at no distant day, in the practical nullification of section 3982 (*supra*), and the final abrogation of the Government's monopoly of carrying letters and packets given by law.

Very respectfully,

John L. Thomas,
Assistant Attorney-General, Post-Office Department,

Hon. C. Neilson,
Second Assistant Postmaster-General.

Cooperative freight line mail

Railroad Company,
New York, October 20, 1896.

DEAR SIR: Referring to your recent order No. 488, relating to matter which may be carried by railroad companies in their train mails:

This company is a party to certain cooperative freight lines, so called, such as the * * *, etc. these lines are not separate organizations, and are not incorporated, but are simply agencies of the railroads forming them, each road contributing its proportion of cars to such lines, each line being operated under the direction of the railroad companies by a manager and his subordinates, who are employed and paid by the railroad companies interested.

It seems to us that letters and reports addressed to the officers and agents of such lines by the officers and agents of the several railroad companies, owners thereof, should be treated the same as correspondence between the officers and agents of the respective railroads; in other words, that the officials of such lines are in fact agents of the railroad companies, the line having no separate existence, but being only a trade-mark.

Of course there are car lines which are neither owned nor operated by the railroad companies, but by other corporations or private individuals. The foregoing inquiry is not intended to apply to lines of that character, as we understand that correspondence upon the business of such lines should be sent by United States mail.

May I ask you to favor us with a ruling upon this point?

Yours respectfully,

General Traffic Manager.

C. Neilson, Esq.,
Second Assistant Postmaster-General.

Post-Office Department,
Office Second Assistant Postmaster-General,
Washington, D. C., October 31, 1896.

DEAR SIR: Replying to your letter of the 26th instant, I have to say that the "cooperative freight lines" you mention must be treated as separate organizations in their relations to the mail service, and mail matter sent by agents can be carried by the different railroads forming and owning them under the limitations prescribed by Order No. 488. Under that order * * * Railroad Company has a right to receive, carry, and deliver letters written by the agents of cooperative lines addressed to the agents of the former, and vice versa, but your road has no right to receive and carry letters written by and addressed to the agents of the latter.

Case in point: An agent of the * * * (M. Line), whether he be joint or otherwise, so he is an agent of that line, located at S., can write and deliver to the * * * Railroad Company letters intended for * * * Railroad Company, because there would be the intervention of the * * * Railroad Company as a carrier.

Yours truly,

C. Neilson,
Second Assistant Postmaster-General.

Railroad, New York, N. Y.

Mail of eating houses, dining cars, and coal companies.

* * * RAILWAY COMPANY
OFFICE OF THE * * *

* * * November 2, 1896.

DEAR SIR: Referring to our conversation of some time since, in my office, and to your letter of October 24, with reference to the carrying of R. R. B. mail:

I have carefully discussed the points raised by you with our general solicitor, with the result that the conclusion is reached that we have a perfect right to carry as R. R. B. mail any letters which may pertain to the business of Mr. H., who is operating our eating houses and dining cars, or the coal companies with which we are doing business, or anyone else, so long as the same also pertains to the business of the railway company.

As to the carrying of mail addressed to and from J. S., and A., Mr. S. has the contract for the manufacture of our castings, and our mail to and from him refers strictly to our business. As I explained to you, we are not carrying any mail for Mr. H. or others which pertains strictly to their business and which the railway company is not interested in, nor do we claim the right to do this.

As to the coal companies, inasmuch as these properties have recently been leased, we have notified the lessees that we would not handle their mail, except such as is addressed to the coal companies by officers of this company, or addressed by the coal companies to the officers of this company, pertaining to our business.

However, we are not inclined to force our conclusions against the opinion of the Postmaster-General, and in order that we may come to an amicable understanding at once, I desire to take the matter up direct with the Department and dispose of the points at issue, and in the meantime we will let our present circular of instructions stand, except so far as relates to the coal companies, having given proper orders in this respect.

If this arrangement is satisfactory to you, will you please advise, and notify the Department that we will take the matter up with them direct?

Yours truly,

* * *
General Manager,

Paul E. Williams,
Post-Office Inspector, St. Louis, Mo.

POST-OFFICE DEPARTMENT,
OFFICE SECOND ASSISTANT POSTMASTER-GENERAL,
Washington, D. C., December 7, 1896.

DEAR SIR: Your letter of November 2, addressed to Paul E. Williams, post-office inspector, St. Louis, Mo., has just been referred

to this office. In that letter you state:

As to the coal companies, inasmuch as these properties have been recently leased, we have notified the lessees that we would not handle their mail, except such as is addressed to the coal companies by officers of this company, or addressed by the coal companies to the officers of this company, pertaining to our business.

You correctly state the rule of law in this extract, and you should apply the same ruling to the business conducted by Mr. H and Mr. S.

Please advise me as to what instructions you wish.

Yours respectfully,

G. F. Stone,
Acting Second Assistant Postmaster-General.

Mr. * * *
* * * *Railway System.*

Statements accompanying shipments of milk.

The * * * Railway System, under date of December 24, 1896, submitted the following:

A milk shipper on our road complains that our trainmen on dummy refuse to permit instructions to or from his consignees bearing upon milk supply to be written upon a piece of paper and tied to milk can, as has been the custom since the business began. These notes are not in envelopes nor sealed up in any way.

To which the Assistant Attorney-General for the Post-Office Department, under date of December 29, 1896 replied:

I have to advise that a written statement may accompany a shipment of milk without the payment of postage, where the statement pertains to the shipment which it accompanies and to nothing else. If that statement calls for the return of anything or makes any inquiry whatever in regard to anything else besides the accompanying shipment it is subject to letter-rate postage. Any written order to or inquiry from the consignee of milk to the consignor is also subject to the letter-rate postage. The fact that the statement is not under seal does not affect the question at all. Any statement, order, or inquiry having the characteristics of a personal correspondence when it does not pertain to a part of the cargo is subject to postage. Nor does it make any difference that it is not possible for dairymen "to gauge each day's supply of milk through the mails." Dairymen are not restricted to the mails, but may have the railways carry their correspondence under the provisions of section 3993, Revised Statutes. (Sec. 685, P. L. & R., 1893.)

Eating houses.

Under date of December 28, 1896, * * * attorneys, submitted the following for the consideration of the Department:

In the case of Mr. H. both the * * * and the * * * companies have a direct interest in his business, because by contract entered into between them it is agreed that the same should, in a certain measure, be under the supervision and control of the companies; that said eating houses and dining cars should be run for the convenience of people traveling over these lines or roads, and that

after deducting the necessary expenses and a certain percentage of the profit, the balance should be divided equally between Mr. H. and the companies. Under this arrangement it necessarily follows that the company is directly and primarily interested in the conduct of this business, and even under existing regulations has the right to carry free all mails addressed to Mr. H., or received from him, with reference to his business, and to otherwise treat the same as all other classes of railroad business.

Under date of January 5, 1897, the Department replied:

I have to inform you that the * * * Railway Company and the * * * Railway Company have no right to carry letters written by or addressed to Mr. H. without the payment of postage, unless the letters are written by or addressed to such companies on business connected with eating houses operated by them. Letters written by them and addressed to a third party, or written by a third party and addressed to them, are subject to letter rate postage, even though said companies have the interest you mention in the eating houses. In such case the said companies become intervening carriers within the meaning of Order No. 488.

A great many of the railroad companies, as well as yourselves, have fallen into one serious error, or I should rather say oversight, and that is, that letters which ought to be delivered more promptly than can be done by mail should be carried by the railroads free of postage. You say, "It will be recognized by the Department that upon roads which traverse great sections of country * * * it is highly necessary that the managers of the eating houses should be promptly advised as to the number of passengers to be expected upon certain trains, and to promptly ask for and receive the necessary supplies to provide for their comfort." Under the rulings of the Department railroad companies can carry letters written by them to the managers of their eating houses; and if the managers of their eating houses desire to correspond with third parties, all they have to do is to inclose their letters in stamped envelopes and the companies can then carry them by virtue of the provisions of section 3993. (Sec. 685, P. L. & R., 1893.)

The stamps on the envelopes will not in the least interfere with the quick transmission and delivery of the letters, and the said managers may in that way "promptly ask for and receive the necessary supplies to provide for the comfort" of their expected guests, though this method might in some slight degree reduce their profit on the meals furnished their guests.

Mail of sleeping-car and telegraph companies

Some questions relating to letters of sleeping-car and telegraph companies have been submitted verbally, which are answered as follows:

1. The agents of sleeping-car companies may carry the letters of their respective companies under the limitations of said orders, but railroad companies can not carry the letters of sleeping-car companies, and vice versa, except as prescribed by said orders.

2. And the same rule will, in general, apply to telegraph companies. But it often happens that the agents of these companies are also the agents of the railroad companies, and the latter have a joint interest

with the former in the business done. In such cases correspondence by agents of railroad companies, as such, relating to the telegraph business of the latter, may be carried by them as other matter is carried under the limitations of the above order; but correspondence sent by and addressed to the agents of telegraph companies, as such, can not be carried by the railroad companies, though the latter may have an interest in its subject matter.

Railroad and express companies and other common carriers are informed that the fact that they accept and carry packages unsealed, and hence do not know their contents, does not exempt them from liability under the statute, provided such packages contain letters they are forbidden to carry. They must know, at their own peril, the contents of the packages they carry. And in order to prevent a violation of the law as far as is practicable, such companies are requested to leave the packages they carry unsealed, so that not only they, but the agents of the Post-Office Department, may easily ascertain whether forbidden matter is contained in them or not. It is confidently believed that envelopes and wrappers can be provided so that their contents will be secure from loss, though they be not under seal. The companies will readily see the reasonableness of this request when it is remembered that the law may be easily evaded and violated in spite not only of this Department, but in spite of those in control of the companies.

C. NEILSON,
Second Assistant Postmaster-General.