

Post Office Department
Assistant Attorney General
Opinion No. 1141 (April 29, 1898)
3 Ops. Sol. POD 211 (pub. 1909).

[3 Ops. Sol. POD 212]

SIR: I have before me your letter of the 7th instant, with which you inclose a letter from the General Electric Company, of Schenectady, N.Y., dated the 19th ultimo. It is stated therein that the first vice-president of the General Electric Company has his office at 44 Broad Street, New York; that periodically all the mail which he has received and answered and thrown into a file drawer is gathered up and sent to the general office of the company at Schenectady for permanent filing, and that such mail receives no further attention after being sent to Schenectady except to be put into files for reference like any other answered mail can be forwarded by express or otherwise by the company, or whether such matter is still regarded as "letters" under the postal laws.

The section of the Revised Statutes which relates to this subject is as follows:

"Sec. 3984. No person shall transmit by private express or other unlawful means or deliver to any agent of such unlawful express, or deposit or cause to be deposited at any appointed place for the purpose of being transmitted, any letter of packet, and for every such offense the party offending shall be liable to a penalty of fifty dollars."

Applying this section of the Revised Statutes, the question is resolved into a comparison of the word "letter," as used in the act, with "answered mail" or "old letters," which is the subject of the query.

In the General Regulations and Suggestions respecting Foreign Mails, "old letters" are classed with "commercial papers," as follows:

"Manuscript sermons and packages of old letters may be sent by mail to foreign countries at the rate and under the conditions applicable to 'commercial papers' in Postal Union mails." (Postal Guide, 1898, p. 1005.)

The definition of "commercial papers" is as follows:

"Commercial papers include all instruments or documents, written or drawn wholly or partly by hand, which **[3 Ops. Sol. POD 213]** have not the character of an actual personal correspondence, such as papers of legal procedure, deeds of all kinds drawn up by public functionaries, etc." (P.L. & R. 1893, sec. 349.)

The conclusion I desire to draw from these quotations is that if "old letters" are classed as commercial papers in ascertaining rates of postage in foreign mails, they should be allowed equal privileges with commercial papers in our domestic mails unless there are provisions of law to the contrary, which does not appear to be the fact. Manuscripts for publication, deeds, transcripts of record, insurance policies, etc., which are above denominated "commercial papers," although designated first class matter if presented for mailing, are not considered as matter in the transmission of which the Government claims a monopoly.

It is my opinion, therefore, that after letters have lost the character of communications and are merely files, or matters of record, they can not be regarded as "letter" under the prohibitions of section 3982 R.S.

Very respectfully,

HARRISON J. BARRETT

THE FIRST ASSISTANT POSTMASTER-GENERAL.