

MEMORIAL  
OF THE  
PENNY POST COMPANY  
OF  
CALIFORNIA,

PRAYING INDEMNITY FOR LOSSES

SUSTAINED IN CONSEQUENCE OF THE

UNLAWFUL DETENTION OF LETTERS

AT THE  
POST OFFICE OF SAN FRANCISCO,

BY DIRECTION OF THE POSTMASTER-GENERAL.

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WASHINGTON:  
H. POLKINHORN'S STEAM JOB PRESS.  
1856.

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## MEMORIAL.

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*To the Senate and House of Representatives of the  
United States of America in Congress assembled:*

The memorial of Henry L. Goodwin, Francis B. Folger, and Frederick Schetter, all of the State of California, respectfully represents: That, early in July, 1855, the said memorialists organized themselves into a company, and, in conformity with the laws of the said State, became a body corporate, under the name and style of the "Penny Post Company," the object and purpose of the organization being the delivery of letters and packages sent through the mails to and within the said State.

Prior to the establishment of "The Penny Post Company," several other associations—such as the Pacific Express Company, Wells, Fargo & Co., and others, had been engaged in the business of distributing, and even of transporting letters and packages outside of the mails, ostensibly using pre-paid envelopes, in accordance with the laws of the United States. These companies, in addition to the legal postage, charged and received twenty-five cents for every letter delivered by them; and this enormous charge was cheerfully paid by the merchants and other citizens of California, although the letters and packages brought by the Express companies, usually came by the same boats which brought the mails; and the additional facilities, beyond those furnished by the Post Office Department, consisted, solely, in the delivery at the offices and houses of the citizens. This agency of the Express companies continues to the present day; and, according to the testimony of the post office clerks at San Francisco, not more than one fourth of the actual correspondence passes through the mails, three-fourths of it being carried and distributed by the Express companies, without any supervision of the post masters or agents of the Department.

It was in this state of things that the memorialists conceived the idea of affording the same facilities to the people of California, by a less exceptionable mode of operation, and at the reduced rate of seven cents, making the whole cost for postage and delivery ten cents per letter, instead of twenty-eight cents, as charged by the Express companies. The plan of the "Penny Post Company" was to purchase the stamped, or prepaid, envelopes of the Government, cause to be printed upon them a

direction, in blank, "*To the care of the Penny Post Company,*" and then to sell these envelopes to such persons as chose to adopt this agency for the delivery of their correspondence. The letters enclosed therein were sent through the mails, not outside of them, as in case of the Express companies. In most of the larger cities in California, the Penny Post Co. had established boxes of its own, for the receipt of letters and packages to be carried to the post offices; and, in these cases alone, ten cents was charged for the envelopes. In the towns where the Company has no such boxes, the envelopes were sold for eight cents, thus confining the charge strictly to the allowance of two cents for the deposite of letters, and five cents for their delivery, as authorized by the act of 3d March, 1851, to letter carriers in California.

The particulars of this scheme were submitted to J. D. Fry, Esq., agent of the Post Office Department, to the Postmaster at San Francisco, and to the postmasters of the principal cities in the State, and were pronounced to be legal and unexceptionable by all these officials, before the organization of the Company. After its organization, its contemplated operations being thus known and sanctioned, the Company purchased a large number of stamped envelopes from the Postmaster of San Francisco; invested a considerable amount of money in the establishment of agencies and offices for the receipt and delivery of letters in the different cities; and commenced the business, aforesaid, with the most flattering prospects of success and profit to themselves, and of usefulness to the community. For a short time, during which the Postmaster at San Francisco dealt fairly and honorably with the Company, its business went on prosperously, and gave promise of soon becoming firmly established, according to the original design and expectation of the Company, and in especial satisfaction of the wants and demands of the people.

But your memorialists further represent, that immediately after the complete establishment of the business, and while the Company thus enjoyed the full confidence of the community, the Postmaster at San Francisco, with the approbation of the Postmaster General of the United States, commenced a series of illegal and vexatious annoyances, not only designed, but well calculated to break up the whole business of the Company. These measures, sanctioned by the Department, were but too successful in accomplishing their intended object, and actually caused your memorialists to sustain damages to the amount of at least twenty-five thousand dollars. Your memorialists believe that the Government is justly bound to make good this heavy loss; and, therefore, with a view to obtain a fair in-

demnity, they proceed to state, circumstantially, the facts upon which their claim is founded.

The real, substantial obstruction which the Postmaster at San Francisco arbitrarily opposed to the operations of the "Penny Post Company," was a refusal to deliver the letters and packages addressed to its care. This refusal was masked under various frivolous pretexts, and subterfuges, all of which, however, tended surely to accomplish the ultimate object, which was the utter prostration of the whole enterprise. Thus the Postmaster insisted that it was his privilege at least, if not his duty, first to deposite all letters, addressed to the care of the company, in the General Delivery, where they were permitted to remain until advertised, unless called for by the owners. He positively refused to deliver to the Company the letters addressed to its care, unless they should be called for in the name of the principals to whom they were directed. When the principals were boxholders, the Postmaster placed their letters in the respective boxes, and refused to deliver to the Company, without the order of the parties addressed. And even after many of the business men of San Francisco had given written directions to the Postmaster to deliver their letters to the Company, he required these orders to be produced on the occasion of every demand, and utterly refused to recognise the same as a standing authority to be promptly and frankly acted upon. Very few of the merchants or others, even boxholders, were in the habit of going to the Post Office, except upon the arrival of the Atlantic mails, semi-monthly; at all other times, they relied upon some of the Express companies to deliver their letters at their places of business. In many instances, therefore, when the Postmaster failed to deliver letters addressed "to the care of the Penny Post Company," even when he placed them in the boxes of the owners, they remained in the office for many days to the serious injury of the parties interested. He also refused to rent a box to the company upon any terms, although a demand was made and the usual compensation tendered to him. The effect of this extraordinary refusal was peculiarly disastrous to the company, inasmuch as the boxholders always received their letters one hour, and sometimes five or six hours, earlier than those who had not rented boxes. Thus, by reason of these arbitrary proceedings and requirements, the Penny Post Company was wholly unable to get possession of the packages and letters addressed to its care until long after the arrival and distribution of the mails; and its agency, shorn of all its efficiency and usefulness by these official abuses, was reluctantly abandoned by its patrons.

In order to show the indefensible and outrageous character of the wrongs thus perpetrated against the company, it is only necessary to refer to the "regulations of the Post Office Department" which were in force at the time of these transactions. On the question now involved, they stand thus:

"SEC. 52. The persons entitled to letters received by mail, are those whose names are in the address, or to whose care they may be directed."

"SEC. 53. The delivery should be either to the person addressed, or according to his order. The order is, in some cases implied, as where a person is in the habit of receiving his letters through his son, clerk, or servant, or recognizing the delivery to him."

The letter and spirit of these regulations, as well as the dictates of reason, alike concur in condemning the action of the Postmaster as illegal and oppressive. The party sending a letter to his correspondent has the undoubted right to confide it to the care of whom he will, and so to address it through the Post Office. The postal authorities are bound, not less by the general principles of law, than by the above regulations, to respect the direction thus written upon the face of the package.

The operations of the Penny Post Company were entirely legitimate, and did not depend for their legality upon any permission or sanction of the Post Office Department, or its agents. It was not like the carriers appointed by the Postmasters, to deliver letters through the cities, because these do not derive their authority from the writers of letters, but from the Government itself, and sometimes from the parties addressed, when they request the agency of the carrier. There were no such carriers in any part of California; but if there had been, it would still have been competent for any citizen to address his letters and packages to the care of the Penny Post Company, and all postmasters would have been bound to respect the direction. The author of a letter has the absolute right, and the complete power, to control the direction of any package he may choose to place in the Post Office. It is an insolent assumption of the Government officials, to claim the power to alter that direction, or to interfere with its well known intention. In the present instance, the postmaster at San Francisco was perfectly well aware, that all the parties interested, both the writers of letters and their correspondents, authorized and desired the agency of the "Penny Post Company." It was an act of high-handed injustice, for him to undertake to thwart the intention of the parties; and the mean subterfuges under which he accomplished his purpose, cannot be considered as the slightest justification, but, on the contrary, must be regarded rather as an aggravation of the wrong.

But it is due to the postmaster at San Francisco, and also to the Department itself, to state, that the course of proceeding

adopted in this case, was attempted to be justified upon the ground that the agency of the "Penny Post Co." would tend to dispense with the use of boxes, and would thus diminish the revenues of the office. In order to show the truth of this statement, your memorialists refer to a letter written by the postmaster, on the 11th of July, 1855, in reply to one of the 4th of the same month, addressed to him by a number of the business men of San Francisco. This correspondence was published in the journals of that city, and places the whole subject in its proper light. In the letter alluded to, the postmaster said:

"Your third inquiry is, "Whether the envelopes of the 'Penny Post Co.' are a sufficient order to enable them to obtain letters covered by such envelopes, or whether a written order from each of you, would be necessary?"

As I understand the envelopes alluded to, they simply consign the letters to the care of the 'Penny Post Co.', but also contain on the face of them the address of the persons to whom the enclosures belong. Now, it is my duty, first, to make an effort to deliver all letters to the principals, but failing in that, then, secondly, in due time, to deliver to the care address, if it be sufficiently distinctive to enable me to individualize it. Practicing this rule, no written order is necessary, nor in the case where the letter goes into a private box. To vary this rule, a written order is necessary. In a case where a letter is addressed to a box-holder, and consigned to the care of another box-holder, of course the letter is first deposited in the private box of the principal. If addressed to the principal, not a box-holder, it will first go into the general delivery, and if a due effort to deliver fails, then it will go into the box of the individual to whose care it is consigned. Any other rule than this would be unjust to box-holders, partiality to particular classes of letters, and ruinous to the revenue of the office. By a compliance with the demands of the 'Penny Post Co.' to the contrary of this rule, this entire community might have lock box accommodations through one single box, for the nominal sum of six dollars per quarter, which arrangement would exceedingly enrich the 'Penny Post Co.', by impoverishing this office, and leaving me, individually, in the lurch, for thousands of dollars, in a short space of time, in the item of office expenses, not covered by receipts of the office, applicable thereto, and therefore liable to disallowance by the Post Master General."

This passage contains a full acknowledgment of the material facts already stated in this memorial. The vexatious pretexts by which the postmaster evaded the delivery of letters and packages addressed to the care of the Company, are not even veiled; and the motive arising out of the anticipated diminution of box rent, is distinctly and openly avowed.

The following letters from the First Assistant Post Master General, serve to show that the Department justified and sanctioned the course of the San Francisco office, avowing the same motive, and assuming the whole responsibility of the proceeding. "The accompanying papers" consisted of copies of the correspondence aforesaid, which gave the Department correct information of the whole ground of controversy:

[COPY.]

*P. O. Department, Appointment Office, August 16th, 1855.*

SIR:—Your letter of July 16th, with the accompanying papers, has been received, and the subject to which it relates has been fully considered,

In reply, I have to state, that the course pursued by the San Francisco Postmaster is regarded as strictly legal, and that the Department cannot consent to any arrangement with Express Companies, which would result in injury to its revenues.

The adoption of a different rule would be destructive to the usefulness of the postal system, and injurious to the diversified interests which that system is intended to subserve.

Respectfully, your obedient servant,

HORATIO KING,  
First Assist. P. M. General.

*Henry L. Goodwin, Esq., San Francisco, Cal.*

[COPY.]

*Post Office Department, Appointment Office, Aug. 16th, 1855.*

SIR:—In reply to your letter of July 15, addressed to the third Assistant Post Master General, I have to inform you, that your course in regard to the so-called “Penny Post Company,” is fully approved by the Department.

This Department has at all times declined all connection with Express Companies; and it will sanction no arrangement with such Companies, calculated to diminish its revenues.

Respectfully, your obedient servant,

HORATIO KING,  
First Assist. P. M. General.

*Charles L. Weller, Esq., Postmaster, San Francisco, Cal.*

Thus does it appear, beyond all controversy, that the Post Office Department assumes the power to force the citizens to pay box rent at the Post Offices, by denying the right of appointing their own agents to receive their mail matter for them, and in their behalf. The attempt to deny this assertion would be utterly vain; for a frank and honorable man will look with contempt upon any attempted distinction between the absolute denial of the right, and the vexatious delays and obstructions by which the right was rendered utterly unavailing and useless.

It remains then to inquire, whether the Post Office Department has the legal authority to delay and obstruct the delivery of letters, for the avowed purpose of exacting heavy contributions from the community, in addition to the lawful postage. Your memorialists insist, that these exactions have no such firm foundation in legal authority, as to be the objects of this peculiar and expensive favor. On the contrary, no law can be found, expressly authorizing the collection of box rents. The practice was originally an abuse, which crept into the service, in spite of a legal enactment making it a penal offence for a postmaster “to demand or receive any extra rate of postage or gratuity, or reward.” Both in the Senate and the House of Representatives, the exaction of box rents has been denounced as “an extortion, an indictable offence, punishable with fine and imprisonment, and removal from office.” [See Senate Debates, June 14th, 1836—House proceedings, June 22nd, 1836.]

The box system, however, thus insidiously creeping into the

city post offices, has been indirectly recognized by those provisions of law which prohibit postmasters from deriving inordinate gains from them, and direct the surplus above two thousand dollars, to be applied to the public service. But the only consideration which could originally have justified the revenue derived from boxes, must have been the additional facilities supposed to have been thereby afforded. When they cease to promote the efficiency of the system, and especially when they stand in the way of the public interest and convenience, they ought to be sacrificed without a moment's hesitation.

But no man is obliged to rent a box under any circumstances. The Department has no authority to compel him to do so; and the attempt to coerce him by the indirect means of delay and obstruction, is a gross abuse of power, and a most unwarrantable violation of private rights. In the language of the law, “it is the duty of Post Masters to deliver letters at all reasonable hours, on demand.” If fifty individuals in any city choose to have their letters addressed to the care of one individual, the Post Office Department has no right to interpose obstacles to the delivery of these letters in order to force the use of fifty boxes. Its refusal to place these fifty letters in one box, or in one pile, to facilitate the delivery of them, is a fraud and a wrong upon the whole community; because the wilful delay of these deliveries involves a corresponding delay of all others, and implies a self-imposed task of useless labor, for the express and avowed purpose of thwarting the lawful aims of the citizen. And yet it is precisely this—the systematic and continued adoption of this obstructive policy—which the Department has encouraged, approved, and justified in the Post Office at San Francisco, and that to the utter ruin of a valuable enterprise—and to the serious injury of your memorialists.

Many wise men already question the policy of longer maintaining that great, costly, overshadowing and irresponsible monopoly—the postal system of the United States. It may well be questioned, whether the time has not even now arrived when, the whole business of that Department can be better conducted through the agency of private enterprise, than by the intervention of the Government. Doubts, however, may still linger over this question and postpone, for a while, its final solution. But if the Department shall be justified in the perpetration of such wrongs as your memorialists and their patrons have received at its hands, it needs no great foresight to enable one to predict, that its corruptions and oppressions, its usurpations and errors, will cause it to be speedily swept from the position which it encumbers and obstructs in the path of our national progress.

But the shortsightedness of the policy authorized and pur-

sued at San Francisco will be apparent, from the following statistical facts, showing the inordinate burdens imposed upon the people of California:

For the year ending 30th June, 1851, being the first year when postal statistics are furnished for California, the whole amount of postages paid in the United States by a population of 23,000,000 was \$6,345,747—about 27 cents per inhabitant; while California with a population of less than 200,000, paid \$302,247, equal to fully \$1.51 per inhabitant.

During the same year, California, the youngest State of the Confederacy, paid more postage than any one of twenty-one States, and was exceeded in this particular only by

New York, which paid.....	\$1,351,373
Pennsylvania.....	595,070
Massachusetts.....	540,686
Ohio.....	485,758
California paying.....	302,247

Virginia, the next highest, paying.....	244,229
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In the year 1854, California held the same relative position, as the following figures show:

	<i>Population.</i>	<i>Per Inhab't.</i>	<i>Postage.</i>
New York.....	3,097,494.....	0.43.....	\$1,342,155
Pennsylvania.....	2,311,786.....	0.24.....	554,629
Massachusetts.....	994,514.....	0.51.....	512,166
Ohio.....	1,980,329.....	0.22.....	438,286
California.....	250,000.....	1.02.....	256,188
Illinois, (next highest,).....	851,479.....	0.26.....	220,861

In 1855—

San Francisco paid.....	\$146,358 postage, 3.66 per inh't.
New York city.....	655,215 " 1.06 "
Boston .....	215,513 " 1.57 "
Philadelphia.....	199,050 " 1.67 "

In 1854, the rate of Box Rent collected from the citizens of San Francisco was twelve times that collected in any other city out of California, as the following figures show:

	<i>Box Rent for each 100 inhabitants.</i>	<i>Total Box Rent.</i>
San Francisco.....	.72.96.....	29.185
Sacramento.....	.47.71.....	9,543
New York city.....	.2.30.....	13,968
Boston.....	.6.34.....	8,692
New Orleans.....	.5.34.....	7,780
Philadelphia.....	.3.84.....	4,654
Baltimore.....	.1.80.....	3,326
Cincinnati.....	.2.03.....	3,251
Buffalo.....	.5.03.....	3,022
Chicago.....	.8.57.....	2,146

In 1855, the box rent in San Francisco was 30,670, but, notwithstanding the exaction of this enormous sum for postage and box rent, amounting in the aggregate to \$177,000, such was the utter inefficiency of the post office service throughout California, that three-quarters of the letters sent to the different parts of the State were transmitted by the Express companies, at a cost of 25 cents each. Thus the Legislature, for the session of 1855, paid 24,900 for Express-postage, and at a moderate estimate, it must have added at least \$60,000 annually to the heavy burthens already imposed upon the people of San Francisco.

But, in addition to all this, such was the delay in delivering newspapers at the San Francisco post office, that few persons were regular subscribers, the citizens preferring to purchase them of newspaper dealers, to whom they paid 25 cents for each paper; and this necessity imposed a further tax on the citizens of San Francisco of not less than \$50,000 per annum. It was a part of the plan of the Penny Post Company's operations to receive newspapers from the Atlantic cities and furnish them to subscribers at 5 cents each, instead of 25 cents each, as charged by the newspaper dealers, who were permitted to occupy stalls in the post office building, and who paid an aggregate rent of six hundred dollars per month. Whether any portion of this rent was received by the postmaster, is not known; but it is certain that facilities were extended to these dealers which were not afforded to the Penny Post Company, and obstructions were thrown in the way of circulating papers by the latter which were not opposed to the former.

From the above data it appears that the mode of operations adopted at the post office caused the people of San Francisco to pay as follows :

Postage.....	\$146,358
Box rent.....	30,670
Express postage.....	60,000
Extra cost of newspapers.....	50,000
	\$287,028

This was upwards of 7 dollars for each man, woman and child in the city. At the same rate, the city of New York would pay about \$4,300,000, while the sum actually paid, including box rent, was only \$675,000.

These excessive charges were not peculiar to San Francisco. In the interior of the State, newspapers sold for  $37\frac{1}{2}$  and 50 cents. It may be safely estimated that the citizens of California paid, directly and indirectly, at least a million of dollars for want of a competent post office administration.

The legislation of Congress had been exceedingly liberal with regard to the postal system of California. She had, in the year 1854, no less than 175 post offices and 3,683 miles of mail routes. The postage within the State was the same as in the Atlantic States; and from 1851 to April, 1855, the charge was only 6 cents for distances over 3,000 miles. By the provisions of the act of 27th July, 1854, the whole amount of postages collected might have been applied, if necessary, to pay the expenses of the respective offices. There was thus provided an ample fund out of which to compensate a post office corps of the most efficient character, and consequently, it was not necessary to sacrifice the public convenience to the accumulation of rents from boxes. The mail service throughout the State was performed with the same speed and regularity as that of the Express companies, the latter generally making use of the same conveyances employed for the former. By the act of 3d March, 1851, the Postmaster General was authorized to employ letter carriers in California at a rate not exceeding 5 cents per letter. No carriers were employed under this act because it was supposed the compensation was insufficient.—The subsequent act of 27th of July, 1854, authorized the delivery of letters in California at rates to be fixed by the respective postmasters, not to exceed 25 cents for each letter.—But still no carriers were appointed. And thus was all this liberal and beneficent legislation thwarted and rendered nugatory by the post office agents for the mere petty and contemptible object of swelling the amount of box rent. The Department does not seem to have ever opened its eyes to the disastrous effect of this narrow policy upon the revenues of the offices in California. If it had had no consideration for the accommodation of the people, a just regard for the success of the postal system itself, would have dictated a wholly different course of proceeding, as necessary to the production of a competent revenue for the service.

The memorialists have been forcibly struck with the just indignation expressed by the President of the United States in the following passage of his late message:

"The Congress of New Granada has also enacted a law during the last year which levies a tax of more than \$3 on every pound of mail matter transported across the Isthmus. The sum thus required to be paid on the mails of the United States would be nearly \$2,000,000 annually, in addition to the large sum payable by contract to the Panama Railroad Company. If the only objection to this taxation were the exorbitancy of its amount, it could not be submitted to by the United States.

"The imposition of it, however, would obviously contravene our treaty with New Granada, and infringe the contract of that Republic with the Panama Railroad Company. The law providing for this tax was, by its terms, to take effect on the first of September last, but the local authorities on the Isthmus have been induced to suspend its execution, and to await

further instructions on the subject from the Government of the Republic. I am not yet advised of the determination of that Government. If a measure so extraordinary in its character, and so clearly contrary to treaty stipulations and the contract rights of the Panama Railroad Company, composed mostly of American citizens, should be persisted in, it will be the duty of the United States to resist its execution."

If our Government would go to war to prevent New Granada from imposing a tax of three dollars a pound upon mail matter passing through her territory, what punishment would be appropriate to the officials, who, in defiance of law, have imposed a much heavier tax upon matter confided to them? It can be readily shown that the box rents in San Francisco amount to a charge of at least six dollars per pound, and as much as 12½ cents per single letter, for all the matter deposited in the boxes. The President need not go to New Granada, nor even to Denmark in her sound dues,\* to find illegal exactions, justifying the public interposition. He can find greater outrages, among his own officials, perpetrated, under color of law, and with the sanction of his own constitutional advisers.

Your memorialists beg leave to present herewith the records of certain legal proceedings, by which they attempted to obtain redress for their wrongs before the courts of California. The testimony therein contained does, most conclusively, establish the truth of all the allegations made; and if the courts of California failed to hold the Postmaster personally responsible for the wrongs inflicted, the result can be attributed to nothing but the fact, that the Postmaster was acting under the orders of his superiors, who approved and sanctioned all his proceedings. The decision of the United States Commissioner was reserved for ten days, and was not announced until after the arrival of the steamer, which brought letters from the Department, and then the Commissioner adjudged that the acts were in accordance with the instructions of the Postmaster General. It is true that, in the subsequent civil action, this evidence was excluded from the jury, but the attempt to introduce it, and the argument on the occasion, doubtless made a greater impression than if the testimony itself had been received. It was undoubtedly the sanction of the Post Office Department, tacitly operating upon the minds of the jury, which prevented a judgment against the Postmaster of San Francisco.

In consideration of these facts, and because the acts ordered or approved by the Government of the United States, have resulted in the entire prostration of the important and strictly legal enterprise of the Penny Post Company, this application is now made to the justice of Congress. Your memorialists do

\* Were the Danish Sound Dues apportioned equally among the inhabitants, the share falling to San Francisco would amount to \$400.

not ask for the allowance of all the large profits which they would undoubtedly have realized, if the business had been uninterrupted or reasonably facilitated by the Post Office incumbents. They ask only a fair estimate for the damages inflicted, considering the labor and money actually expended by them, in establishing agencies and offices throughout the State of California, the whole of which was utterly lost and destroyed by reason of the illegal and vexatious obstructions interposed by the Government officials, with the sanction of the central authority. They will be able satisfactorily to establish the amount of their loss, and they pray that an act may be passed directing the Postmaster General to pay the same.

H. L. GOODWIN,  
F. B. FOLGER,  
PREDK. SCHETTER.

WASHINGTON, December, 1856.

## MEMORIAL OF MERCHANTS AND OTHERS OF SAN FRANCISCO.

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*To the Honorable, the Senate and House of Representatives of the United States in Congress assembled:*

Your Memorialists, merchants and others, citizens of San Francisco, respectfully represent, that they deem the course pursued by Charles L. Weller, the Postmaster of this city, in withholding from the Penny Post Co. those facilities for obtaining letters which are extended to all others at the Post Office, as an unjust and arbitrary abuse of power, which has had the effect, as it evidently was intended to have, of not only materially injuring their business, but also of subjecting many others in this community to serious inconvenience, if not to actual pecuniary loss.

Your memorialists, considering that such a course of official conduct has been decided by the Postmaster General to be "strictly legal," will not presume to say that there have been any actual violations of law. Conceiving, however, that it is the duty of the Postmaster to administer the laws *impartially*, they regret that every effort to subject this line of conduct to judicial scrutiny has been defeated by the action of our Federal authorities: and therefore, they feel constrained, most respectfully, to request that Congress will take such action in the premises as may be deemed best designed to secure, *to all*, an equal and impartial enjoyment of their rights and privileges at the Post Office in this city.

And your Memorialists will ever pray.

SAN FRANCISCO, August 4th, 1856.

Flint, Peabody & Co.	De Ro, Bendixen & Eldridge,
Thos. G. Poulterer & Co.	McRuer & Merrill,
Castle & Brothers,	A L. Edwards & Co.
Moore & Folger,	Gordon, Brooks & Root,
D. W. Earl & Co.	Thomas J. Haynes & Co.
Smith, McDaniel & Co.	Whiting & Co.
Hawley & Co.	L. & E. King,
Otis V. Sawyer & Co.	Winans & Smith
Stevens, Baker & Co.	Booth & Co.
H. K. Cummings & Co.	C. L. Taylor & Co.
McKendry & Co.	Andrew W. McKee,
Wm. H. Dow,	Whiting & Co.
Jas. A. Gilbert,	Smith & Arnold,
H. Channing Beals,	Wm. B. Cook & Co.
Thos. H. Selby & Co.	

And about seventy-five others.

## APPENDIX.

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That the Post Master of San Francisco engaged to deliver to the Penny Post Co., such letters as might be addressed to its care, must be conceded after reading the testimony of Otto Schetter, page 23, and that of the Assistant Post Master, Ferguson, page 33. That he did so deliver them for some ten days is proven by his own clerk, Porter, to say nothing of the testimony of the other witnesses in the employ of the Company. About the 4th July, however, it was discovered that instead of delivering these letters to the Penny Post Co., he was detaining them in the office, to be called for by the parties to whom the writers supposed they would be promptly delivered by the carriers of the Penny Post Co.

This led to the following

### LETTER FROM THE MERCHANTS OF SAN FRANCISCO TO THE POST MASTER.

SAN FRANCISCO, July 4th, 1855.

C. L. WELLER, Esq., *Post Master*,

SIR: The undersigned, merchants and others, of San Francisco, having witnessed the operations of the "Penny Post Company" during the last ten days, and their promptness and efficiency in delivering letters, believe the company to be fully entitled to our and your confidence. In addition, some of us have been acquainted with the parties for several years, and know that they will perform all they undertake.

The "Penny Post Co." have, thus far, delivered such of our letters as they have transmitted outside the mails, from those cities where they have offices, as promptly as any express company, and we learn that they will engage to deliver all our letters arriving at the Post-Offices at San Francisco, with equal promptness, provided they can obtain them at an early hour after the arrival of the mails.

Heretofore, the bulk of our correspondence has been entrusted to expressmen, and for delivering our letters we have paid them more than eight times the legal postage. We see no reason why letters placed in the mails, which mails are brought by the same conveyance that brings express matter, cannot be transmitted with equal dispatch and greater security than those brought by the express companies; and if such is the case, and we can obtain our letters from the Post-Office, so that they can be delivered at the earliest business hours, we certainly should feel inclined to avail ourselves of a cheaper mode of receiving our correspondence.

We address you therefore, to enquire,

*First*—Whether the Postal Laws and the regulations of the Department are such as will enable us to receive our letters arriving in the mails, at an early hour.

*Second*—Whether they can be received by the Penny Post Company, and be brought to our doors.

*Third*—If they can, whether the envelopes of the "P. P. Co." are a sufficient order to enable them to obtain letters covered by such envelopes, or whether a written order from each of us would be necessary.

*Fourth*—Having given an order to the "Penny Post Company" for our letters, whether any further action would be necessary on our part to obtain them as early as we now obtain those arriving by express.

We are yours, &c.,

Moore & Folger,	James Patrick & Co.,	J. H. Coghill & Co.,
Jas. M. Brown & Co.,	Geo. O. Whitney & Co.,	Howes & Co.,
De Ro, Bendixen & Co.,	Reddington & Co.,	Gordon, Brooks & Root,
Goodwin & Co. & Meeker,	Flint, Peabody & Co.,	Pease, Alton & Co.,
Arrington & Co.,	Wm. T. Coleman & Co.,	R. E. Brewster & Co.,
Nichols, Parker & Co.,	Wm. H. Dow & Co.,	E. Fitzgerald.
McRuer & Merrill,	DeLong, McNeil & Co.,	

The postmaster took no notice of this letter until he received, from one of the firms whose name was subscribed thereto, a second communication under date of July 10th, wherein he was informed that until he should answer their queries, "he might consider them as among those who were not box holders."

This brought forth the following

#### REPLY OF THE POSTMASTER.

POST OFFICE, SAN FRANCISCO, Cal., 11th July, 1855.

Gentlemen,—I have received your communication, of date 4th instant, in which you inquire "whether the Postal Laws and Regulations of the Department are such as will enable you to receive your letters arriving in the mails, at an early hour?" and in answer thereto, I have to say, I know of no provision of law or regulations of the Department obstructing in the least degree the delivery of letters arriving in the mails "at an early hour." On the contrary, ready despatch and early delivery are prominent features of our postal regulations, and every postmaster is required to give all reasonable attention thereto. At this office, letters are assorted immediately upon arrival, and are ready for delivery "at an early hour;" but I have not the necessary authority to employ a person to deliver letters outside the office.

You desire an assurance that your letters can be delivered at the "earliest business hours." If there be no difference of opinion between us as to what are the "earliest business hours," (and I cannot believe we will differ upon this,) then I can give the assurance you seek. May six to seven o'clock be called the "earliest business hours"? All letters for box-holders are now deposited in their boxes thus early every morning, and I hope to have the authority and the means hereafter to enable me to increase these facilities, which, however, cannot be done through self-styled Penny Post companies, not authorized by law. In this connection let me call attention to the fact that all other federal officers and clerks are required to work only from 9 A. M. to 3 P. M., whilst post office clerks are employed from 7 A. M. to 5 P. M., (and frequently much longer,) and some of them even a greater number of hours daily, and yet complaints are uttered against the shortness of this time. However, I doubt not but if they were to labor the whole twenty-four hours, some constitutional grumbler would complain of the days not being composed of more hours.

In answer to your second inquiry, "Whether your letters can be received by the 'Penny Post Co.' and brought to your doors?" I have to say, that Company have no legal existence under the United States Postage laws, and therefore can have no official connection with the Post Office. I am compell-

ed to regard them precisely as any other outsiders are regarded by the regulations of the Department, and therefore can extend to them no further facilities than are extended to the community in common. Under the regulations of the Department no one is entitled to handle or come within reach of the United States mails when being opened, except he be a sworn officer or clerk of the Post Office. However, box-holders may give to whosoever they please access to their boxes, and may make, in that way, any arrangement they desire in order to have their letters carried to their doors.

Letters deposited in boxes are considered as delivered, and I relieved the special charge of. Therefore, I can object to no one taking the letters from a private box if he have the proper key to the box, unless I know him to be wrongfully in possession of that key.

Your third inquiry is, "Whether the envelopes of the 'Penny Post Co.' are a sufficient order to enable them to obtain letters covered by such envelopes, or whether a written order from each of you, would be necessary?

As I understand the envelopes alluded to, they simply consign the letters to the care of the 'Penny Post Co.,' but also contain on the face of them the address of the persons to whom the enclosures belong. Now, it is my duty, first, to make an effort to deliver all letters to the principals, but failing in that, then, secondly, in due time, to deliver to the care address, if it be sufficiently distinctive to enable me to individualize it. Practicing this rule, no written order is necessary, nor in the case where the letter goes into a private box. To vary this rule, a written order is necessary. In a case where a letter is addressed to a box-holder, and consigned to the care of another box-holder, of course the letter is first deposited in the private box of the principal. If addressed to the principal, not a box-holder, it will first go into the general delivery, and if a due effort to deliver fails, then it will go into the box of the individual to whose care it is consigned. Any other rule than this would be unjust to box-holders, partiality to particular classes of letters, and ruinous to the revenue of the office. By a compliance with the demands of the 'Penny Post Co.' to the contrary of this rule, this entire community might have lock box-accommodations through one single box, for the nominal sum of six dollars per quarter, which arrangement would exceedingly enrich the 'Penny Post Co.,' by impoverishing this office, and leaving me, individually, in the lurch, for thousands of dollars, in a short space of time, in the item of office expenses, not covered by receipts of the office, applicable thereto, and therefore liable to disallowance by the Post Master General.

In your fourth enquiry you ask, "Whether any further action would be necessary on your part to obtain your letters as early as you now obtain those arriving by Express?"

I know of no further action of yours needed, in order to facilitate the delivery of your letters, than simply to stand disconnected from all Express Companies, and rely upon the facilities furnished by the Post Office system, which I believe equal to those of any Express Company.

Finally, I must say, the so-called "Penny Post Company" is simply an Express Company, according to my understanding; and I cannot, in the strict discharge of my duty, extend to it any facility which I will not also extend to any other Express Company, nor have any connection with them which I would not also form with any other Express Company.

Notwithstanding a confinement to my bed for several days, since receiving your communication, still I would have answered your letter sooner if I had not believed that, you felt less interest in my reply than does the prime instigator of the queries addressed to me.

Begging to assure you, that I will do every thing in my power, compatible with the postal laws, and regulations of the Department, to facilitate the delivery of your letters,

I am, very respectfully, your obedient servant,

C. L. WELLER, Postmaster.

Several thousand envelopes were, by this time, in the hands of the community, and the public had become quite in the ha-

bit of entrusting their letters to the mails. The adoption of this arbitrary rule then, without giving any intimation of his intention to do so, and the enforcement of the same for more than a week before he would avow its adoption, led to the serious inconvenience of the public, not only the citizens of San Francisco, but also the writers of letters in all parts of the State. The letter of Mr. Clark, page 25, will serve to illustrate hundreds, and doubtless thousands, of other instances which probably never came to light.

Several different styles of address were afterwards adopted: "To the Agent of the Penny Post Co.;" To the Penny Post Co.; for A. B.; and "To the Penny Post Co.; care of A. B." Both the first two styles of envelopes the Postmaster subsequently agreed to deliver, and in consequence of this assurance, the second style (each with an advertisement printed on them, that letters enclosed in them would be delivered in the different cities, including San Francisco) were sent to every Post Office in the State.

The testimony, however, goes to show that they were *not* delivered. As to the third style, the Assistant Postmaster Ferguson said "it *should* have been delivered to the 'P. P. Co.'" The testimony of Mr. Lewis, page 28, goes to show that it was not so delivered.

This state of affairs led to a correspondence with the Post Office Department.

The first communication was sent on the 16th July, 1855, enclosing the letter of the merchants, and that of the Postmaster in response thereto.

The following is the reply received from First Assistant Postmaster General:

*P. O. Department, Appointment Office, August 16th, 1855.*

SIR:—Your letter of July 16th, with the accompanying papers, has been received, and the subject to which it relates has been fully considered.

In reply, I have to state, that the course pursued by the San Francisco Postmaster is regarded as strictly legal, and that the Department cannot consent to any arrangement with Express Companies, which would result in injury to its revenues.

The adoption of a different rule would be destructive to the usefulness of the postal system, and injurious to the diversified interests which that system is intended to subserve.

Respectfully, your obedient servant,  
HORATIO KING,  
First Assist. P. M. General.

*Henry L. Goodwin, Esq., San Francisco, Cal.*

Several other letters were subsequently addressed to the Post Office Authorities. Attention was called to specific instances of detention of letters and to the inconvenience arising therefrom. The letter of Mr. Clarke, page 25, was also forwarded. Finally the following letter was received:

*Post Office Department, Appointment Office, Oct. 17, 1855.*

SIR: Your letter of the 19th ult., and inclosures, are received.

I find that during my absence on the 3d instant, a communication from you was referred to J. D. Fry, Special Agent of this Department, for investigation and report. The whole subject being at present before him, I do not consider it advisable to give it further attention until the reception of his report.

I am, respectfully, &c.,  
HORATIO KING,  
FIRST ASSIST. P. M. GEN.  
*H. L. Goodwin, Esq., San Francisco, Cal.*

Mr. Fry was then immediately called upon, and informed, "that whenever he wished to proceed with the investigation, witnesses should be in attendance." The special agent of the Department, stated in reply, that "he had already made his investigation and report."

The First Assistant Postmaster General was then informed of the manner in which the investigation had been made, and it was intimated that unless the Department should see that the laws were enforced, it might become necessary to lay the matter before an United States Grand Jury. A letter was, at the same time, addressed to the Postmaster General, making inquiries as to the duties of Deputy Postmasters.

The following was received in reply:

*Post Office Department, Appointment Office, Dec. 19, 1855.*

SIR: You letter of the 19th ult., to my address, and that of the 20th, to the Postmaster General, are received.

In reply, I am instructed by the Postmaster General to say, that, as a general rule, it is expected that Postmasters will arrange the details of their respective offices, without any direct interference from the Department—taking the laws and standing regulations for their guide.

I am to add, that the Postmaster General regards your course, with reference to the San Francisco office, as very irregular, if not absolutely illegal; and he will sustain the Postmaster in all reasonable measures adopted to disown your interference with the operations of that office.

Respectfully, your obedient servant,  
HORATIO KING,  
FIRST ASSIST. P. M. GEN.  
*Henry L. Goodwin, Esq., San Francisco, Cal.*

Unsuccessful attempts were subsequently made to subject the official conduct of the Post Office authorities to judicial investigation. The Hon. Judge McAllister, of the United States Court, dismissed two different grand juries for the term, after he had been informed of their intention to investigate the matter.

Complaint was also made before the United States Commissioner Munroe, for violation of the Post Office laws.

The examination lasted three days, and, ten days thereafter, the Commissioner decided, not that the laws had not been violated, but that "the Postmaster had acted throughout under the direction and sanction of the Postmaster General."

#### DECISION OF THE COMMISSIONER.

THE UNITED STATES VS. CHAS. L. WELLER.—Before Commissioner Monroe—This is a charge against the Postmaster of San Francisco, for violating various sections of the law, establishing and regulating the Post Office Department.

The first section of an act to reduce into one, the several acts establishing and regulating the Post Office Department, approved March 3, 1825, invests the Postmaster General with the power to "give his assistant, the Postmasters, and all other persons whom he shall employ, or who may be employed in any of the departments of the General Post Office, instructions relative to their duty," which act has not been repealed. The evidence shows that the Postmaster at San Francisco has acted throughout under the instruction and sanction of the Postmaster General.

I am unable to arrive at any other conclusion than that the remedy in this matter, if any exists, should be sought through a civil action and not a criminal prosecution.

The accused is discharged.

SAN FRANCISCO, Jan. 2, 1856.

JOHN A. MONROE, Commissioner.

Acting under the suggestion of the United States Commissioner, remedy was sought in civil action.

#### THE EVIDENCE.

In the civil action against the Postmaster, it was alleged, in the complaint, that he detained from the plaintiffs letters which it was his duty to *deliver* to them, and, unfortunately, this was the means of ruling out testimony which would have gone to show the detention of letters mailed at the San Francisco office, which it was his duty to *forward* to their respective destination.

It will be seen, however, from the testimony admitted, that letters were not delivered till several days after they should have been, in due course of mail.

The evidence also goes to show (see Reynolds' testimony, page 28,) that while Express companies were permitted to send letters outside of the mail, sending them, according to their own admission, without paying postage, the Penny Post Company were denied the right to send them at all, except in charge of messengers—that letters, on which the postage had been paid in full, were thrown from the mail boats on to the wharf, (see Coleman's testimony, page 26,) and that the Post Office authorities all *professed* that they thought the law would not permit letters to be carried outside of the mails, except in charge of messengers. From the evidence it does not appear that the attention of the Post Office authorities had ever been called to the law, but a reference to the San Francisco Chronicle for August, 1855, will show, however, that both the law and the instructions of the Department on the subject, were published therein for the especial benefit of the Post Office authorities. The regulations read as follows:

"SEC. 117. Persons desirous to send their letters by steamboats, can most readily accomplish their object, by enclosing such letters in the stamped envelopes issued by the Department, inasmuch as letters so enclosed may be conveyed out of the mails without a violation of law, and need not be delivered to the Postmaster on the arrival of the vessel."

In this case, however, the Penny Post Company wished to have the letters delivered to the Postmaster at Stockton, so there was not the shadow of an excuse.

In this connexion it will be seen that Assistant Postmaster Ferguson thought that these letters ought not to be delivered at the port of arrival, but at some "Way" Post Office, when, of course, they would have had to remain twenty-four hours, or till the regular mail was sent, on the day following.

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#### THE LEADING FEATURES OF THE EVIDENCE\* IN THE CIVIL ACTION AGAINST THE POST MASTER.

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IN THE SUPERIOR COURT  
of the  
CITY OF SAN FRANCISCO.

July 10th, 1855.

THE PENNY POST CO., vs. CHARLES L. WELLER.

Otto Schetter, sworn for plaintiffs.

I am acquainted with the formation of the Penny Post Co. Prior to the organization, I called on Mr. Weller, postmaster, in reference to the formation of a company, telling him the object of the company would be to carry letters to and from the office, and receive letters from the office directed to our care. Think I showed one of the envelopes under which we expected to receive letters. I proposed that all letters directed to our care, at any place, should be put into a separate bag, and received by us on the arrival of the River boat, and distributed immediately. He made some objections to this unless the Postmaster at Sacramento would take the trouble to see that the postage was properly paid; and said he would write to the Postmaster to that effect. In all other things he approved the arrangement, and said he would render such facilities as were consistent for him to render.

It was the same business as that of the Penny Post Co., but the name had not been given.

I thought then of taking an interest in it, but afterwards declined; and the Penny Post Co. was formed to carry out the business.

I was at the office once when Mr. Goodwin offered money to pay for a box for the Company. The clerk said, he was instructed by Mr. Weller that there was no box for the Penny Post Co.

Cross-examined.

I know there was a difficulty between the Penny Post Co. and the Postmaster, but don't know the particulars. My brother, I understood, was one of the company. I went to see the money tendered, at Mr. Goodwin's request. The Postmaster made no other objections to the project at first, than having our letters in separate bags. I recommended Mr. Goodwin to go ahead with the project; that Mr. Weller was "all right," except the sepa-

\* A copy of the evidence, *in full*, certified by Clerk of the Court, accompanies the Memorial submitted to Congress.

rate bag. I went to see the Postmaster at Sacramento on the subject of a separate bag, but he said Mr. Weller had not written to him about it. I declined going into it, because it would take more money than I had to spare.

Herman Schetter, sworn for plaintiff.

Envelope presented, marked A, (addressed, Nicholas Davobich, care of the Penny Post Co.) This was the style of envelope we used at first.

The Penny Post Co. had a lock-box at the office, and letters in these envelopes were, for a week or two, put into the plaintiff's box—afterwards they were withheld.

The plaintiffs obtained written orders from many of the business men for the Postmaster to deliver their letters to the plaintiffs, and I presented some of them.

Sometimes the letters, in the envelopes presented, went into the general delivery box instead of plaintiff's box. I never got any from general delivery box myself.

The letters, though in Penny Post covers, were put in the delivery box, including the name found on the back of the letter. And if the same box contained letters for different persons for whom I had orders, I could call for only one at a time; and must then go to the foot of the line and come up again, and so on, for as many names as I had orders to inquire for, although found in the same box.

The plaintiffs' letters were put into their box all at one time, and a half hour later than some other deliveries. Our letters were distributed last.

I unlocked it (the box) several different times to look, and never got any letters until all were distributed. I have seen other box-holders get their letters, and go away with them, a half hour before I could get the plaintiffs'.

I never got any until 7 o'clock A. M. of those that came from Sacramento city and Stockton.

Mr. Armstrong was the distributing clerk the most of the time.

Defendant objecting.

About the first of October, the time of renting the box ran out, and I applied to rent a box for the plaintiffs; and the defendant, or his agent, refused, saying "he had no box to rent." I tendered the money for the box, but was refused.

The one we had formerly used was empty, as I knew, by frequently opening it afterwards, for plaintiffs had put on the lock, and I had the key, but they would not let us have it—(have the use of the box.)

I had then to go to the general delivery box to get any and all letters addressed to the plaintiffs or their customers.

It would be about 12 o'clock A. M. before I could get up-river letters and much longer, on arrival of Eastern mails.

At one time I went to the office about 6 o'clock A. M. to get up-country letters, when the Eastern mail would soon be in, and the up-country mail had been distributed. Mr. Ferguson refused to deliver, and said I must see Mr. Weller. He was asleep, and I did not see him, and did not get the letters until late in the day.

The Postmaster would not deliver letters upon a general order, unless shown him each time, or taking them out of the box.

Memorandum book presented.—That is my hand-writing. I see by it that on the 21st day of November, 2 o'clock P. M., I received a letter, addressed to the Penny Post Co., mailed at Stockton on the 19th of November. It was directed to C. O. Gillingham, care of, or for, the Penny Post Co. It had been opened before I got it. I inquired on the 20th and 21st in the morning.

On the 1st of January last I applied to the Post Office for letters, in the morning, about 7 o'clock, and again at 10 o'clock, and then saw George O. Whitney take a letter out of his box, directed to the Penny Post Co., for George O. Whitney.

Cross-Examined.

I was employed by plaintiffs as a clerk and messenger. I think the custom of the Post Office was to only ask for one name at a time, at the gene-

ral delivery. I tendered the usual price for the rent of the box, and the clerk told me there were no boxes.

Think it was Mr. Armstrong. I was told to open the box by Mr. Goodwin—he insisting that he had a right to it, and defendant insisted that plaintiff had no right to it. I opened it because I was told. Don't know the object of plaintiff in telling me to open it. Did not open it to obtain evidence that boxes were empty.

The general delivery opened at 8 o'clock in the morning. It was not open when I asked Mr. Ferguson to get up country letters. Don't recollect whether he was inside the Post Office or not; he may have been about the door. The Gillingham letter was in a glass box. My attention was called to it by Mr. Goodwin. I got it from the general delivery. Think it was the same letter I saw in the glass box. It had money in it, and was endorsed that it had been opened by C. A. Gillingham.

Jas. S. Folger, sworn for plaintiffs.

(Two letters presented.) These letters are directed to me—one dated 28th August, 1855, from Wells, Fargo & Co., the other Aug. 23d, from the Penny Post.

I got the last first, enquiring for the first. I then went to the Penny Post Company and enquired for my letter, and Mr. Goodwin went up to the Post Office and got it for me.

*(Copy of one of the Letters.)*

SUSCAL RANCH, Aug. 28th, 1855.

Messrs. Folger & Chapman—Gentlemen:

On Friday last I wrote you per Penny Post Co., and requested you to forward me a vessel *immediately*, and pay \$3 per ton, if none would come for \$2,50, and not one word have I heard from you.

What is the cause of this delay? Are there no vessels to be found, or do you not wish to sell for us?

If the latter is the reason, write and let me know at your earliest moment, and I will relieve you.

Yours respectfully,  
(Signed,) G. E. CLARK.

C. G. Haggett sworn for plaintiffs.

I was in the employ of the Penny Post Co., delivering letters about town, and sometimes going to the post office for letters. I had to get a written order from the persons to whom the letters were addressed before the postmaster would deliver them, although addressed in Penny Post envelopes, and present the order every time. I had to apply in the name of the persons, for they would not deliver to Penny Post Co. On applying for each person and showing my order, I could get the letters; otherwise not. About August, '55, I applied for a letter for Gordon, Brooks & Root. The clerk asked me for the order. I told him the order was in the office. He said, "By G-d, you can't get the letter, then." I then applied to Mr. Ferguson, who referred me to the postmaster. I finally got the letter of Mr. Weller.

Letters presented marked E. These are the letters.—(One addressed

"To the Agent of the Penny Post Company.

Please deliver to Gordon, Brooks & Root."

Post-marked, Stockton, 18th July, and, according to Porter's and Armstrong's testimony, it must have been distributed at 7 o'clock.

We brought up country letters in a separate bag for a while, outside of the mails. We could then deliver as early as we pleased, usually by six o'clock. Letters addressed care of Penny Post Co. were put into the plaintiff's box for some ten days; but then they refused to do so, and put them into the box of the owner, or into the general delivery; and this injured our business, for we could not deliver these letters in time.

Some fifteen minutes after having this controversy about Root & Co.'s let-

ters, I found some dozen letters in our box. There were none there before. This was about 9 o'clock in the morning.

Cross-Examined.

They were not delivering the Atlantic mails. Goodwin was with me when getting the Gordon, Brooks & Root letters. I had to present an order every time to get a letter. Those envelopes to the Agent of the Penny Post Co. were put in our box as long as we had one. These to the general delivery. Those addressed "Care of the Penny Post Co," were put in our box about ten days, then to box of owners, or to general delivery. The clerks in the office told me that letters addressed to our care were placed in the owner's box or general delivery. The Company was doing a fair business until the defendant changed his course; then the business fell off very fast.

R. K. Porter sworn for plaintiffs.

I am mailing clerk in the post office since '49; I open and close the mails. In June and July of last year, I opened the up river mails about 6 o'clock, A. M. When the Penny Post Co. first commenced, I saw Mr. Goodwin inside the post office frequently. I think letters were delivered to him a few mornings inside the post office. There was some talk [with the postmaster] about opening the up river mails at night, so that plaintiff could get his letters earlier, but no final arrangement was made.

The Stockton mail of Oct. 16th was received here; arrived here about 5 o'clock the 17th October.

The Benicia mail of 2nd November reached here about 6 o'clock on the 3d. The Stockton mails of the 7th October arrived at 4 o'clock, A. M.; that of the 8th about 5 o'clock, A. M. of the 9th, and that of [the 18th] at 5 o'clock A. M. of the 19th.

Benicia mail of 18th February came about 12 o'clock same night. Marysville mail of February 26th arrived here the morning thereafter.—The Stockton mail 18th July arrived 19th, 5 A. M.

Keep no memorandum of Petaluma mail. It comes about three times a week, but is not a regular route.

On the arrival of the Eastern mails, it is the custom to let agents of express companies, periodical men, &c., be present at the opening of the mail, and take their matter, as they may find it there. Don't know of Goodwin being refused admittance.

Cross-Examined.

So far as I know, the plaintiffs had the same facilities about their papers that other companies had.

The custom of up river mails is to deliver between 5 and 6 to the office, and we go to opening immediately. Mails are sometimes delayed, and may be several days behind time.

It sometimes happens that letters for this office get into bags containing letters for distribution, and then they are not delivered so soon. Think the average of plaintiffs' letters was not more than 25 or 30 per day, and of course a losing business. Their receipts were 7 cents per letter. Don't think it would pay if they had the delivery of all the letters in the city.

Re-examined.

Don't receive any letters for plaintiffs now. Don't think they are doing business. The letters received through the mail daily are from three to five hundred. Think the Expresses receive one thousand to fifteen hundred more.

Alexander Coleman, sworn for plaintiffs.

I was in employ of the plaintiffs from the last of June to about 1st January. Envelopes presented. I have a private memorandum on these envelopes, by which I see they were received respectively Nov. 5, Nov. 6, and Oct. 23d, They are post-marked Nov. 2, Benicia; Nov. 1st, Petaluma; and the third Oct. 16, Stockton, marked F. F. 1, F. 2.

Letters were called for at the office every morning. Thinks the plaintiffs averaged from 20 to 50, *through the post office*, per day—that is, 20 to 50 were delivered to them.) The plaintiffs attempted to send letters by the Stockton boats outside the mails. Had a box on the boat and sent letters in it for

awhile. After some days, for some cause, were refused, and thrown ashore by the clerk. They were in Penny Post covers, and all prepaid.

I was present at the post office frequently on the arrival of the Eastern mails. Goodwin was not allowed to be present. Sullivan, and other agents, I have seen inside the post office.

Goodwin was in the habit of receiving two or three thousand small packages; not so many papers, but more packages, than Le Count & Strong, or Sullivan. Some 20 to 25 persons were usually present. Some of them boys, each one, in assorting, would take out the packages belonging to their house;

Cross-examined.

I went inside the office with another employee, but we were insufficient for the work, and Goodwin was prohibited. Sullivan had 5 or 6 men inside beside himself. Mr. Ferguson assisted us sometimes, and granted the employees of the plaintiff the same facilities as others.

Leonidas Haskell, sworn for plaintiffs.

I received letters from Sacramento, Marysville and Stockton through the Penny Post Co.

In October last, I instructed my correspondent in Stockton to prepare and ship certain hides in time for the next steamer. He answered that he was unable to do so, until he could obtain a certain poison from here, and enclosed his letter in plaintiff's envelopes. This letter we did not receive on the next day as we should have done, and therefore could not answer it next day, and were too late to effect our object in regard to the hides, disappointing us very much. Think most of the letters from the interior are by Express. I receive mine that way, but I ceased patronizing the plaintiffs on account of these delays.

Cross-examined.

I don't know whether the plaintiffs received the letter alluded to by due course of mail.

M. S. Whiting, sworn for plaintiffs.

I am a merchant. Had a box at the post office prior to Penny Post Co., which we gave up to patronize the plaintiffs, but not being able to get our letters regularly, we ceased to employ them, and rented a box again.

Cross-examined.

Don't know whether the fault was with the post office or Penny Post Co.

Re-examined.

Envelopes presented. The letter enclosed in this envelope was received a day after we should have received it. It contained an order for goods that should have been shipped the day before we received it. Envelope marked (G.)

Cross-examined.

I think this is the same letter, but don't know whose fault it was that it was delayed, of my own knowledge. We had given plaintiffs a written order to receive all our letters, and told the clerk at the window of delivery so, but don't know that plaintiff showed the order.

F. B. Cassus, sworn for plaintiffs.

I am in the dead letter department of the post office in this city. I have delivered letters to the plaintiffs, from the general delivery, directed to their care and otherwise. I delivered them upon the orders of the persons to whom they were addressed.

There are some 7 or 8 general delivery clerks and one box clerk.

Cross-examined.

The general delivery clerks mark the letters for the boxes.

Ferdinand Creighton, sworn for plaintiffs.

I was last year general delivery clerk at the D window. Mr. Goodwin was in the habit of calling for letters for the Penny Post Co. Those addressed to the Company were delivered to him. If to the care of the Company, they were put in the box of the owners. My alcove was from D to G. I know nothing of the other delivery boxes. [Envelope handed, "A."] I

have no recollection of seeing this before,—have no recollection of any circumstance connected with this letter.\* I do recollect of Mr. Goodwin calling for a letter for Gordon, Brooks & Root, to the plaintiff's care. I refused to deliver because they presented no order for it. [Another envelope presented.] I recollect a letter to this address was in the office a good while.—Goodwin frequently asked for it, but would not take it out.† Last envelope marked I.

A care letter would be in the box of the person to whom it was addressed until the next advertising day, *then* be put in the care box. If the care has no box, it would remain to the address of the owner until it went to the dead letter office. This was one of the rules of the office.

Cross-examined.

I know of no difference in the treatment of the Penny Post Co. and others. If I knew the party, I always delivered to the care, and *sometimes* without his calling for them, would say, "I have a letter to your care, will you take it?" I delivered the letters for the Penny Post Co. because Mr. Goodwin was the principal agent, his name belonging to my alcove.

The Gordon, Brooks & Root letter I should have delivered if he had had an order. He got the letters the same day after quarreling with the postmaster. I *think* neither of the Gordon letters were in Penny Post Co.'s envelopes. [Haggett testified that one of them was in those envelopes.]

Mark Sheldon sworn for plaintiffs.

Envelope handed, addressed a "To the Penny Post Company for Mark Sheldon." I recollect of receiving a letter in this envelope from my box in the Post Office the 6th of the month; it was due the 3d. I was in the habit of receiving all my letters by Express and Penny Post Company from the interior and did not go to my box every day.

Cross-examined—Don't know when the letter arrived. I have been examined once before in regard to it.

John R. Lewis sworn for plaintiffs.

I recognise this as a letter I received from Benicia. It is directed to the Penny Post Company for me. I took it out of my box some three days after its date. I gave up my box at the Post Office to patronise the Penny Post, and took it again because I could not get my letters from the Penny Post Company. Envelope filed exhibit K. (Postmarked Benicia, Nov. 2. Addressed to the Penny Post Company, care of Neville & Co.)

Herman Schetter recalled for the plaintiffs.

Two envelopes handed. The one from Napa city to Whiting & Co., 21st October, I received the 23d October, a little before 10 in the morning. The other was mailed at Steinberger's the 19th October, and received by me on the 20th, half-past 8 in the morning. First exhibit L, last G. The Steinberger letter should have been received about 4 o'clock the day it was mailed.

W. H. Rhodes sworn for plaintiffs.

I had a conversation with Mr. Weller at the request of Mr. Goodwin in reference to the Penny Post Company. Mr. Goodwin wished to send a bag (letter bag) up the river outside of the mails. Mr. Weller objected, saying, "no one on the boat, from the Captain down, had a right to carry a bag but a special messenger." Two persons were with me—Wadsworth was one of them.

\* This letter was postmarked "Stockton, August 17," and was delivered by this witness on September 3d to one of the parties plaintiffs in this suit.

† Addressed "To the Agent of the Penny Post Co. The writer of the enclosed requests the Penny Post Co. to deliver the same to Garrett & Co., care of Whiting & Co." A blank letter mailed by the Penny Post Co. Postmarked San Francisco, July 11. Goodwin insisted it should be put in the Penny Post Co.'s box, and after complaint had been laid before the United States District Attorney, fifty days after it was posted, it was placed in the box, Aug. 31, along with many other *bona fide* letters.

Cross-examined—It was eight months to a year ago. Mr. Weller thought the law would not allow it.

T. H. Reynolds sworn for plaintiffs.

I was in employ of Leeland Express Company last year. They had a separate bag which they sent outside the mails, with their mail and Express matter. The office was in the Post Office building. The bag was sent without a messenger, unless there was a large amount of money to send. Never heard of the Postmaster objecting to it. Think he must have known it, as it was done right before him day by day. Goodwin was not allowed to go inside of the Post Office on the arrival of the Eastern Mails. He was allowed to have one man there but not to come in himself. The room was too full for more to work to advantage.

Cross-examined.

Mr. Ferguson, Assistant Postmaster, was there to regulate the room in Weller's absence. The manner of managing the newspaper bags was for the Post Office Clerk to open the bags, and the various newspaper men to assist in assorting it, and each carry their own away.\* The mail matter that was sent by Leeland outside of the mails was *usually* pre-paid—sometimes in Post Office envelopes and sometimes in money, and *sometimes* payment was not made. Don't think that Weller knew that letters thus sent were not pre-paid.

C. L. Taylor sworn for plaintiffs.

Sometime last February we received a letter from Marysville. Envelope produced. (M.) (*To the Penny Post Company for C. F. Taylor & Co.*) We should have had it a day or two sooner than we did. It was put in our box. Lay there until some friend informed us we had a letter there. I endorsed on the back the time of the receipt. Was not in the habit of visiting the box, because I had arranged with the Penny Post Company to bring our letters, and they were addressed to their care. This was a letter of importance, and its delay caused us to discontinue our patronage to the Penny Post Co.

Cross-examined.

My partner took it out of the office. I published the facts in the newspaper Had not been at the lock-box for two days.

C. P. Lolor sworn for plaintiffs.

I am a merchant of this city, and in the habit of sending and receiving letters from the interior every day. Patronized Expresses until the Penny Post Company started then, and that, until I found there were difficulties between them and the Postmaster. I knew that the Stockton boats refused to carry letters for the Penny Post Company in the way they were carrying for others. The clerk took one from me, as a special favor, that was in the Penny Post envelopes.

Henry Loomis, sworn for plaintiffs.

I was in the employ of the Penny Post Company, since November last. Envelopes presented. I recognize these. I received these from the Post Office December. The one marked O, from Petaluma, was post marked December 14, and received the 15th about 12 o'clock; the one dated December 31st, was received the 1st January, about 5 o'clock, P. M. I don't know whether the office was visited in the morning or not. (The Petaluma mail arrived about 5 P. M., December 14th and 31st.)

The Eastern Mail arrived that morning.

John Lawless, sworn for plaintiffs.

Envelope handed. I recognize this. I got this from the Post Office some time in February last, sometime after its date. Some eight days after it was written. I called at the office every day or two and got it at the general de-

\* These newsmen, it should be borne in mind, were *not* the Postmaster's duly sworn assistants, and they were admitted in direct violation of Section 47 of the Regulations of 1852, by which the Postmaster professed to be governed. Witness says each took *their own* packages away. It cannot but be seen that great liability of packages getting into the wrong hands, especially as the owners of some of them were not permitted to be present.

livery. I was expecting a letter from the up country. I visited the office every day or two.

Cross-examined.

The memorandum on the back, I did not put there. It was some four or five days after the post mark before I received it, and I think seven or eight days. Marked Q, filed. (Letter addressed "Care of the Penny Post Company, for John Lawless, please deliver immediately.")

Plaintiffs rest.

Chas. A. Gillingham, sworn for defendant.

About November last Mr. Goodwin came to my store and asked me if I had been to the Post Office that morning. I said I had not. He said he supposed there was a letter there for me in my box, which he supposed, was sent to test a question, and would be glad. If I had no objections, the letter might remain there awhile. It was addressed C. O. Gillingham, and upon the Clerk of the General Delivery presenting it to me, I opened it, found it contained a note to Goodwin and some small silver coin, I immediately sealed it again, and endorsed on it, that I had opened it through mistake, believing it was intended for me, I know of no C. O. Gillingham in this city.

Cross-examined.

When the Penny Post Company first started I encouraged them, sent and received letters by them, and gave them a written order to receive all letters for us, at the Post Office. After this, my letters were frequently put in my box, letters that were in plaintiffs envelopes. Mine was a glass box.

W. W. Armstrong sworn for defendant.

I am a Box Clerk in the Post Office, sworn as such. Our business is to be at the office between 6 and 7, A. M., and distribute the mails by the up country boats. In distributing, I make a division according to the names. After all are divided according to the lock boxes, I then go right around and put them in their respective boxes.

My stand was in front of the glass boxes, and in dividing, if I found letters for glass boxes within my reach, I put the letters into it. After the division, I began to the lowest number of lock boxes, and went on according to numbers. The plaintiffs box was in the last section of that side, between 150 and 200, and therefore, would generally be the last distributed on that side of me.

Sometimes I began on that side and then the plaintiffs box would not be in the last section. A person standing outside could see me through the glass boxes. It was our rule if a letter came directed to a man having a box, to put it into his box, if not, into the general delivery.

Its being directed to the care of another made no difference, we paid no attention to the care until the time of advertising, then if not taken out, we put it into the care box.

The Sacramento and Stockton mails are due 4 to 5 o'clock, P. M., (A. M.)

Petaluma is not a regular mail route, mails arrive about 3 o'clock, P. M. San Jose about same time.

The plaintiffs' letters, and those to their care, were treated precisely like all others, so far as I was concerned. I have been one of the box Clerks all the time since the plaintiffs commenced their enterprise.

Mr. Goodwin once tendered me money for box rent, in October. I told him he could have a box for himself but not for the Penny Post Company.

The rule is, that a box is \$4.00 per quarter for two names, or a firm. For each additional name, two dollars more. It has been reduced one third.\*

Goodwin and the Postmaster had had some differences, and I was instructed not to let the Penny Post Company have a box after their first quarter had expired. Goodwin wanted the box for the Penny Post Company and offered me the money for it, I refused, and he called on persons to witness it. I remember the letter addressed to Mr. Gillingham. I took it down to him myself. It was in the Penny Post envelope. Had been in the office some time : was mailed at Stockton : had some small coin in it. I took it to him, he

\*Prior to January 1st, '56, box rent was \$6.00 per quarter.

opened it, said it was for Mr. Goodwin, sealed it up again, and I returned it to the office.

Defendant.—I think, instructed the employees to treat Goodwin as they did all other men. Goodwin has presented orders for letters and I have delivered them. I required this order whether directed to the care of the Penny Post Company or not.

Cross-Examined.

The up country mail is usually in the box about 7 o'clock, from 5 minutes before, to 10 minutes after. It was not more than 10 minutes from the first deposit to the last.

Letters are not put into the care box, because, frequently box-holders object to care letters being put into their box. Think the owner will get his letters quicker through the general delivery, than if put into the care box.

There were vacant boxes at the time Goodwin applied for a box. Wells, Fargo & Co., and other Express Companies, have a box. Should not give the Penny Post Co letters to their care without a written order.

G. H. Leeland, sworn for defendant.

I am in the newspaper business, and formerly the Express business connected with it, (Office in the Post Office building.) Don't know that the Post Master knew the manner of sending my Express matter. I sent a messenger when I was sending treasure. Some letters would go without Post Office stamps. Weller did not get any of that money. Think defendant treated Goodwin as he treated other newspaper men. Mr. Weller never examined to see if I had stamps. Mr. Fry told me I must have stamps.

H. C. Smith, sworn for defendant.

I am delivery clerk for the alcove I. J. K. L. & M., in the Post Office. Letters addressed to the care of the Penny Post Co., which I found in my department, I sent to the D. alcove, to be delivered. I never advertised any letters thus directed. If I did not know the owner of a letter, or he did not have a box, I generally gave them to the care, if I knew him.

Cross-Examined.

I always deliver the Penny Post Co. letters directed to their care, without an order. Don't know how the others did, but I never required an order when directed to their care.

Envelope presented.—(To John Lawless, care Penny Post Co.—Exhibit Q,) I would have delivered to the Penny Post Co. without an order. He would have had to enquire for Lawless' letter. (It will be remembered that this letter was delivered to Lawless.)

Wm. Wadhams, sworn for defendant.

I am general delivery clerk in letters N. O. P. Q. R. S. I try to deliver a letter to the party to whom it is addressed. When I advertise, I hand it to the care box. If directed to the Penny Post Co., it is given direct. When it is to the care of the Penny Post Co., I give it to them at advertising day. Treat Penny Post Co. as we do all other persons—are instructed to do so.

J. D. Fry, sworn for defendant.

I am special agent of the Post office Department, throughout the State, to look to out-door affairs. I have had special instructions from Washington, to examine this office, in reference to this Penny Post Co. (Defendant offered to show by this witness, that he had examined into the charges of the plaintiffs, under instructions from the Post Office Department at Washington—that he had reported thereon, and his report had been confirmed, and to give in evidence that confirmation, as a justification of the motives of defendant.—Objected to and ruled out—defendant excepts—witness continued:)

I continued investigating this matter last Fall, some time. Think defendant has acted very impartially. Think the Sacramento mail is due at 12 o'clock at night—Generally received about 4 A. M.

Henry Owner, sworn for defendant.

I instructed the Post Master to put our letters in Penny Post Co.'s envelopes in my box. I got one letter through them seven days after.

Cross-Examined.

Don't know whose fault it was.

Mr. Armstrong recalled.

All Express Companies have a box, but if letters were sent to their care, they would go first to the owner's box, or to the general delivery, if he had no box.

Mr. Fry recalled.

I have examined the contracts in up country mails. By the river boats they are due 5 A. M.

I directed the attention of Express Companies to the law as to carrying mail matter outside the mails, which requires a Post Office envelope.

The Express matter does not exceed 500 letters each way per day on *Sacramento* boats.

(Cross-Examined.)

The Petaluma Mail arrives regularly, three times a week, but is not a regular mail route—regularly established by law.)

Any boat, or other carrier, can take letters, by delivering them at the Post Offices.

[Book presented.] I think I recognize this as a correct abridgment of the Post Office regulations, not published by authority, but generally considered correct. There is a book published in 1852, which contains all the Postal Regulations in force at that time. Some Acts of Congress, and of the Department, since that time, are not embraced. In any discrepancy between the books, the last would govern, being the authorised version.

John Ferguson, sworn for defendant.

I am assistant postmaster in this city for the past three years. Have been engaged in the Post Office Department, in some way, for nearly sixteen years, mostly corresponding clerk. My duties here are to take a secondary supervision of all branches of the business here, and am acquainted with the various details.

The regulation of the office in regard to lock-boxes, are—that any one may have a box, paying the rent and depositing money for postage. The privileges are, that the owner of the box will have all his own letters put into this box. There is a difficulty in regard to "care letters," *hard to explain*. Should letter come to John Adams, care of Wm. Young, it would be deposited in the A. B. C. alcove at first, because in first distributing mails, there is not time\* to arrange and deliver them to the boxes.

There is frequently an indisposition to receive care letters by owners of boxes, and we *therefor* first put it into the box of the owner, or into the general delivery.

When the pressure is over, if the owner does not call for the letter, it is then put in the care box. But the defendant has instructed the clerks to deliver care letters of plaintiffs to Mr. Goodwin when he calls for them. If a letter was addressed to "Mr. Young for John Adams," John Adams is decided the principal, and William Young the care. Letters addressed to the agent of the Penny Post Co. went into the plaintiffs' box. The other various envelopes are considered as "care." Exhibit G. *should have been* delivered to the plaintiffs. So also exhibit E. So also exhibit B. And I think those thus addressed were generally so delivered. The office endeavored to treat plaintiffs, as it did all other persons.

When the first quarter's box-rent of plaintiffs run out, there was money tendered for further rent, but we could not receive it, because he wanted so many letters put in his box.

There is an arrangement with the employees of the mint, by which one box serves for all, at a dollar a piece. In all other cases two dollars per quarter for each name additional, of letters placed in the box.

I have been present at various interviews between plaintiffs and defendant, in reference to their business. At one or more of them, exhibit A and D were presented—especially A. Mr. Weller objected to the form, "care of

\* Notime! Cassus, page 27, testified there were seven clerks. Porter, page 26, testified there were only 300 to 500 letters daily.

the Penny Post Co."—said it might argue an *official* relation to the post office, and not to have any more of them printed. As to the second "Agent of the Penny Post Co." the defendant said there was no objection; and letters enclosed in that envelope would go into the box of the Penny Post Co.

On the arrival of the mails, Mr. Goodwin was in the habit of coming into the room for his mail matter, but some difficulty arising, I was requested to call his attention to the rule. His men were permitted to come in, but Goodwin was excluded.

I remember a difficulty in regard to the letters of Gordon, Brooks & Root. They, I think, were not in plaintiff's envelopes.—[Exhibit E. 2,]—may be one of them. I think they were from the Eastern States.\* Goodwin wanted them, and the clerk would not deliver without an order. Goodwin said Weller had the order. I told him I did not know of it, and he must wait for Weller. Mr. Weller afterwards came, and Goodwin got his letters.

On one occasion, the clerks were assembled, and Weller instructed them, on account of the difficulties he had had with Goodwin, that they should be particularly careful in regard to him, and facilitate his getting his letters, as much as the rules of the Office would allow. I once had a conversation with Goodwin in regard to carrying mail matter outside the mails, without a messenger. I told him I thought by law it could not be done—that they would be "way letters," and would have to be mailed at the next office—that a messenger with Post Office envelopes could carry them through, but without a messenger, the mail carrier would be obliged to mail them.

The newspapers for the plaintiffs I delivered myself, without delay. Goodwin's complaint was,† that he could not be present to select his papers, when the mail was being opened.

On the 5th November, the office opened 25 minutes past 8, A. M. On the 3d November, the Stockton mail did not reach the office until 8 o'clock. Plaintiff had five letters delivered during the day, but not on first call, for the mail had not then arrived.

If the parties are known, a written order is not required for one to get letters for another; and Express-men frequently get letters to carry to the interior. They generally, once in each case, present a written order.

If a letter was addressed to the care of another, it would be delivered to the care as a matter of course, without an order. Another course would be absurd.‡ (Compare this with Armstrong's testimony, page 31, also with the Postmaster's letter, page 19.)

Cross-examined.

The allowing the Penny Post Company to receive letters for others would render it unnecessary for others to rent boxes, and therefore the Postmaster would be injured.

*The plaintiffs purchased a large amount of Government envelopes of us before they commenced operations, and they were given to understand their envelopes would be respected, and letters found in them handed to plaintiff.*

I know of no law that would compel the Postmaster to rent a box to any man, but it is to his interest to rent as many boxes as he can.

By the Court.—I don't think Mr. Armstrong was ever instructed to require an order to deliver Care Letters. (Compare this with the Postmaster's letter where he says "a written order is necessary.") The italics being the Postmaster's.)

\*The Eastern mail arrived July 13th, six days previous to the 19th. Is it probable that the letters would have been permitted to lie in the office six days uncalled for? It will be remembered that Haggard identified letter E, and that it was in plaintiffs' envelopes.

†Goodwin's complaint was that they had lost 600 papers by one mail, and 200 by another. And he claimed that if others had a right to handle his papers, he certainly had a right to handle them himself.

‡ It would be delivered without an order, but how is the care party to know that there is a letter in the office to his care? Which is the most absurd, to refuse to deliver a care letter without an order, as Armstrong, page 31, testifies he did, or to withhold from a care party all knowledge of a letter being in the Post Office addressed to his care?

DETENTION AT THE POST OFFICE IN SAN FRANCISCO,  
OF LETTERS MAILED IN THAT CITY.

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The public, sending their letters by Express, were not in the habit of paying particular attention to see that the postage was prepaid in full: the exact weight of a letter was not scrutinized by the Express Companies, and therefore it was not unusual for letters to weigh more than half an ounce. In fact, the high rates charged by the Express Companies, (25 cents,) naturally tended to induce the people to enclose two or more sheets in the same envelope, whenever occasion to do so offered. Besides, in July, 1855, the law requiring the pre-payment of letters deposited in the Post Office, have been in force only about two months in California. In this state of things, it was very natural for letters exceeding half an ounce in weight, to be mailed at San Francisco, with only single postage paid thereon.

The Regulations of the Post Office Department, section 75, require "Letters post paid to be forwarded with the additional postage charged thereon, unless it is known that the omission to pre-pay the full postage is intentional."

Occasionally, letters enclosed in the Penny Post Co.'s envelopes, would be mailed at the San Francisco Post Office, with their postage not prepaid in full. These would be detained, and not forwarded to their destination—and this, too, while it was the practice to forward other letters not wholly pre-paid, provided they were not in the Penny Post Co.'s envelopes.

After this discovery, more than usual pains were taken to prevent a recurrence of such things.

Thus, when the Penny Post Co. sent some 175 packages of envelopes to the different Post Offices, particular attention was paid to see them all weighed—and then, to see that the scales corresponded with those of the Post Office, some dozen or more of the packages were sent to the Post Office to be weighed. Notwithstanding this special pains, some half dozen packages weighed a mere trifle more than was pre-paid. These packages were detained, and this seemed to be the universal practice of that office, with letters enclosed in the Penny Post Co.'s envelopes.

One of the packages thus detained, together with one in a plain envelope, which had been forwarded from the San Francisco Office, notwithstanding only one-half the postage had been prepaid, was sent

to the Post Office Department: no notice however was taken thereof, except to refer the subject to the Special Agent of the Department, who makes ex parte investigations.

Another serious obstruction to the Penny Post Co.'s operations, was the subjecting of its newspapers to letter postage, while papers for other newspaper dealers, equally subject to constructive letter postage, were delivered at the ordinary newspaper rates.

EXTRACT FROM U. S. COMMISSIONER MONROE'S  
NOTES OF EVIDENCE.

THE UNITED STATES VS. CHAS. L. WELLER—December 15, 1855.

Herman Schetter sworn.

About 20th August, letters were mailed by the Penny Post Company to all the postmasters in the State—one hundred and fifty letters. I weighed quite a number of them; they were apparently the same in weight. They were prepaid—12 cents. About 27th August they were advertised, and I applied to Mr. Weller, and he gave them to me—four of them. Some of them had only three stamps on. One had only one stamp. \* \* Mr. Goodwin wanted to pay postage on a circular and newspaper. Twelve cents was charged. The circular was posted on a newspaper (not on the wrapper, but inside the wrapper, and plainly visible—that is, there was no attempt to conceal it in order to evade postage).

This was Nov. 21st. I paid the letter postage. Mr. Armstrong demanded the postage.

Mr. Goodwin asked him to show it to Mr. Weller, and he walked back and returned and demanded the postage.

I had directions (a written order) for some one's letters either Mr. Reynolds or some one else, and the reply of the postmaster was, if I wanted his letters, I must look in his box.

F. B. Folger sworn.

I looked through the box and saw letters for the Penny Post Company (lying on the table, this was about 9 A. M.,) and asked to have the letters put in the box—they refused. I then went inside and asked Mr. Ferguson to put the letters in the box. Ferguson said "he did not wish to be dictated to." I then left. This occurred while the Penny Post Company had a box.

Other merchants get their letters (from the Atlantic States) four or five hours earlier than I do, since I gave up my box. When I had a box, I got my letters four or five hours earlier.

H. L. Goodwin sworn, December 21st, 1855.

In August last, some 180 or 200 letters were mailed in Post Office—contents similar. Contained Government envelopes—printed circulars. Took thirty to the office—Mr. Ferguson weighed eight or ten of them, and said the postage was 12 cents.. Ferguson is the Assistant Postmaster. I paid all he required.

They were not mailed as an experiment, but to see if our scales were correct. In three or four days I mailed the rest, putting on four three-cent stamps. Shortly afterwards, we saw some of them advertised; and, a few days after, Mr. Porter gave me some of them, which were over weight—two or three of them.

Seeing the weight, I was particular with the rest. There were 25 or 28 of the rest. On the letters Schetter brought back, a stamp was on—"Detained for want of postage." The letters were not fully paid; some had two and some had three stamps.

Another letter was detained for want of (full) postage. On the same morning I took out a letter which had lain there eight or ten hours, (over one mail.) I put another stamp on, and posted on the envelope, the Post-

master General's instructions (requiring letters partially paid to be forwarded.) Don't know who wrote the letter.

The next day, I mailed a letter weighing over half an ounce, and paid it, (with a stamp,) three cents. It was forwarded.\* It was in a plain envelope \* \* \* \*

The day following, I think, a letter was detained for want of full postage. It was in one of our envelopes. Three cents more would have paid (full postage.) It was (subsequently) received in Marysville, and I sent to Marysville and obtained the envelope, (and sent it to the Postmaster General.) Have frequently seen the Penny Post Co.'s envelopes advertised. Every letter we mailed (our selves) was with the intention of having it forwarded.

Cross-examined.

I first knew of the Gillingham letter being detained 20th November. I saw it in C. O. Gillingham's box. Did not demand that letter (specifically) when I first knew of its being in the office, but had previously demanded *all* the letters (to which we were entitled.) I sent the letter to Stockton myself to test the (practice of the) Post Office.

J. D. Fry—Special Agent of the Post Office Department—sworn for defendants.

\* \* \* Mr. Goodwin's policy, if carried out, would, in my opinion, have undermined the box system. One box would have answered for the whole community.

Cross-examined.

The amount of box rents are some \$6,000 to \$7,000 per quarter.

(Question—What part of the post office is rented by Government? Defendant objects.) The Government rents that portion occupied by the post office. The rent is \$1,500 per month—\$18,000 per annum. My impression is, the book stands are rented by the owners of the building.

When a letter is partially prepaid, the practice is to forward it.

All that part of the testimony referring to the detention of letters arriving at the San Francisco Post office, is omitted in the above, as it would be merely a repetition of what has already been given.

The main feature in this case was the detention of these letters, (which arrived at the P. O.) and the decision of the Commissioner, "that the acts of the Postmaster were in accordance with the instruction and sanction of the Postmaster General," particularly referred to such detentions.

#### COMMENTARY ON THE TESTIMONY OF J. D. FRY, THE SPECIAL AGENT OF THE POST OFFICE DEPARTMENT.

It will be remembered that Armstrong, and several other of the post office clerks, all testified that the rule of the office was, *not* to deliver letters to the care address until the advertising day arrived. It will also be remembered that Creighton, page 27, testified that if a letter was addressed to a party not a box-holder, it would remain in the pigeon-hole of the principal office, unless called for in the name of the party addressed.—That "that was the rule of the office."

\* This letter was subsequently sent to the Postmaster General along with one that had been detained.

There was no inconsistency, then, in Mr. Fry's saying that "he thought the postmaster had acted very impartially towards the Penny Post Company."

We have only this commentary to offer—

First—Porter's testimony—that while the Express Companies brought 1,000 to 1,500 letters to San Francisco daily, at 28 cents each, the public could not be induced to entrust more than 300 to 500 to the mails, even at the low price of three cents.

Second—The fact that, in 1854, there were 93,120 letters advertised at the San Francisco post office.

Third—That, for the quarter ending 30th June, 1856, there were 5,919 dead letters at that post office—equal to more than 23,500 per annum, and that of the 5,919 there were 502 containing valuable enclosures.

#### OPINIONS OF THE PRESS.

[From the Chronicle, April, 1855.]

##### BOX RENTS IN SAN FRANCISCO.

People complain, and we think justly, that the charge for box rent is several times as high as in the Eastern cities; and it is said that San Francisco pays for rent of post office boxes a greater sum than New York city.—We have some 40,000 inhabitants,—New York fourteen times as many. It should satisfy the government to charge us twice as much for postage as it charges any other State. But it does not, it seems. We must pay four times as much for box rent. \* \* \* Twenty-four dollars a year is as much as a decent cottage costs in some of our country towns. \* \* \* The people of this city cannot pay such bills as they have hitherto done.

(From the San Francisco Chronicle, June 30, 1855.)

##### THE POST OFFICE SERVICE IN CALIFORNIA.

Ever since the Americans had possession of California, there has been one almost constant drawback upon the business of the community—one constant cause of complaint by our citizens. Entitled, as we are, to equal rights with the citizens of the other States; denying, as we do, the authority of Congress to discriminate in its laws against us, yet we have never been treated in our postal laws with equality or justice. In the beginning of our existence we were obliged to pay twenty-five if not forty or fifty cents for each letter in this city received from the Eastern States, while the postage between our fellow-citizens there was less than one half what we were obliged to pay for our correspondence with them.

When the postage was reduced, still the discrimination on letters against us was retained. While three cents was all that the law of Congress required for transmitting letters between all other portions of the United

States, an exception was made against the State of California, and Oregon and Washington Territories, whose citizens were required to pay twice for Californians, and the citizens of Oregon and Washington being carried up to ten cents on each letter, while the old price of three cents is retained for all distances except to and from California. This is one of the ways taken by Congress to cherish the settlement and progress of the Pacific Slope.

This is not all. Our box rents have equalled in revenue, or nearly, in this city, that raised by such systems of postage. And yet, for most of the time, our facilities have been far inferior to those of any other city in the United States. We charge this almost entirely to the niggardly meanness of the Department at Washington, which, while the Government did not forget to consider prices exorbitant so far as its levying of imposts was concerned, in its appropriations for clerk-hire and most other expenses, had a convenient memory, and, with a liberality worthy of Arthur Gride, doled out the least possible pittance for paying the attachees of the Post Office. Thus our people had to pay double or quadruple postage, and received the poorest attention to their wants.

Quite possibly our Postmasters here have been unable to modify the prices of box rents, owing to the restrictions which the narrow policy of the General Post Office has placed upon their action. But they can at least facilitate the efforts made by our enterprising citizens for supplying to our citizens what the slow, lumbering mail arrangements fail in. The Express Companies had life and activity in them, and their transmission of letters leave the Post Office as far behind as the *Flying Cloud* would the old *Java*, on a trip to China. But Express service, to the public, is a costly one; and money is getting to be a cash article—rather—in California. We need the celerity of the Express, with a cheaper tariff.

An effort has recently been made by the "Penny Post Co." to do for the public what the Post Office and Express Companies have been doing. We are assured that it works well where it has been fairly tested. Our own Postmaster, we understand, has treated the projectors courteously, without compromising his own duty as Postmaster. But it is said that an up-river Postmaster has pursued a different course, refusing peremptorily to deliver the letters enclosed in the envelopes of the "Penny Post Co." to the agent of that Company, even when they have presented a written order to that effect. Indeed, the order upon the envelope appears to be sufficient of itself. We think the law, which we shall quote at a convenient time, authorizes and requires the Postmaster to deliver those letters to an authorized agent. And even if the law did not require it, the pressing necessities of the community would seem to urge it as an act of courtesy and accommodation on his part. By the Penny Post system proposed, merchants and others are to receive their letters immediately upon arrival of the mails at the Post Offices, and at a much reduced cost. Whether this plan can be carried out remains to be proved. So far as we are concerned the Express Offices are all we could desire; they are prompt and obliging. Merchants for their own correspondence may desire something different. Of this they are best able to judge.

[From the *Wide West*, July 15, 1855.]

#### THE POSTMASTER AND PENNY POST COMPANY.

Messrs. Moore and Folger have addressed a letter to the Postmaster of this city, making certain inquiries of him as to the relation the Penny Post Company will be allowed to hold to the Post Office—whether they will be at once furnished with letters enclosed in their envelopes as soon as they arrive by mail. The Postmaster's reply is a document worthy of the Middle Ages, and would no doubt have been looked upon at that time as a highly conservative and proper paper. That it is not equally well received now is simply owing to its having been indited some centuries too late.

The Postmaster starts out by imparting the information (heretofore confined to the Department,) that "ready dispatch and early delivery are prominent features of our postal regulations," and adds that he has not authority to employ a person to deliver letters outside. It is possible that the Postmaster may be correct, but we are quite confident that at the same time the

outrageous tax was imposed upon California letters by Congress, a provision was passed by that body with a special view to the establishment of penny post deliveries. If it was not passed, it was at least announced in the newspapers as the law of the land, and many congratulations were exchanged among those interested. But admitting that we are mistaken on this point, we would ask, why cannot letters in San Francisco be delivered at the doors of persons to whom they are addressed, as is the case in New York and other Eastern cities? Either the power to establish such a system lies with the Postmaster of this city or the Postmaster General. If it lies with the former, then he has been remiss in duty not to have done it long ago; if with the latter, means certainly might have been used to gain his consent, to extending a privilege common to Eastern post offices, to the Pacific. It is not necessary to "employ" any persons. The persons delivering letters in New York charge a certain amount extra on each letter, which is paid by the parties to whom it is delivered. The extra postage is divided between the Department and the postmen, and the delivery, instead of being an expense, is a source of profit. Surely, no "authority" is needed to justify the Postmaster in increasing the postal revenue.

[From the *Wide West*.]

#### DELIVERY OF "CARE LETTERS."

A care address is always put on a letter for the purpose of guiding its delivery. It is the design of the writer to have it delivered according to the address. The Postmaster, except in rare and special cases, has no discretion in the matter. He must deliver the letter as designed by the writer, not as is judged best by himself. Whether the adoption of this rule would impoverish the Postmaster or not is a matter of no consequence to the public. But we doubt whether all letters will be sent to the care of a "single box," even, were persons to become fully aware of the duties of the Postmaster in this matter. If it would, we know of no law that compels the retention of office at such a sacrifice.

[From the *Alta Californian*, July 13, 1855.]  
THE POST OFFICE—ITS ABOLISHMENT URGED.

A correspondence was published in a morning paper of yesterday, between several merchants and Mr. Weller, the Postmaster of this city. The merchants ask if certain facilities may not be granted to the "Penny Post," so that letters received for it may be immediately taken by the agents of the P. P. Co. and delivered on their arrival. The Postmaster states his reasons at length for denying their request, and intimates that the Post Office now affords facilities to correspondents equal to those of any Express Company. The opinion of the Postmaster is sadly at variance with that of most men of the community, for it is generally believed that the Expresses are much more expeditious than the mails, as is evidenced by the fact that so many letters are sent by the Expresses, notwithstanding that, besides paying postage, the Express charge must be paid. The letter of Mr. Weller goes to show the restrictions he is under, and proves conclusively that the present Post Office system is the most outrageous tyranny ever imposed upon a free people. It forbids us from sending letters by such means of conveyance as we may prefer, without paying an odious and an onerous tax to the Government. A private individual cannot carry letters, because it would interfere with the Government monopoly, and so the Post Office charge must be paid, whether the service is rendered by it or not.

This is a matter to which we have alluded to several times of late, and have before shown that the whole system, as now conducted, is utterly useless. It is clearly and undeniably a nuisance, that we had hoped the press generally would have taken up the subject, for then it would in time be abolished.

Since this subject was first mooted, we have conversed with a great many men on the subject—men of intelligence from all parts of the State, and we

find but one opinion about it and that is, that the Post Office system, so far as California is concerned, is a humbug and a nuisance. It does not facilitate intercourse between different parts of the State, but it impedes it. It subjects correspondents to an onerous tax, if they select a more speedy and sure conveyance for their letters than the mail, and it benefits no one save office holders and contractors.

Indeed, we have to hear the first argument in favor of it. It is not a subject that admits of argument, for there is but one side to it. In no branch or department of business would the public be worse served than they are now, were the whole postal system for California discontinued.

[From the *Alta Californian*, July 13, 1855.]

#### THE EXPRESS BUSINESS COMPARED WITH THE POST OFFICE SYSTEM.

The Expresses willingly carry letters for a bit each to the Atlantic States, and we believe they would for less, if they could have the entire business. Even now they charge but a bit, if they are enclosed in Government envelopes, so that correspondents, after paying individuals for service, are obliged to pay nearly the same amount to the Government as a tax. And yet our business men generally prefer to pay the double postage, and send their letters by express, to waiting for the slow coach of Uncle Sam. In all cases they do it, when dispatch is important, and immediate returns desirable. The Express runs into nearly every town in the State where there is a Post Office, and in many towns where there is no such nuisance deposited, the signs of the Pacific Express, and Wells, Fargo & Co., may be seen.

In regard to newspapers, the Post Office is little better. Not one-tenth of the papers which are sent from this city into the interior towns, go through the Post Office. On the contrary, the express take large packages, which are carried directly to all parts of the State, and he who depends on the mail for his paper, finds his neighbor, who relies on the Express, will have it read through, and can lend it to him, while he is waiting for the Post Office to open.

The fact is, the Post office is too slow for the times. It does not answer now for every man to have his paper separately folded, and sent with thousands of others in a bag, to be distributed at the various offices. It takes too long; and the Express that takes a large bundle, and sells them out the instant of arrival, gets so much the start, that when the mail is opened, the papers distributed are as unprofitable as a last year's almanac. Very few Eastern papers that come through the mail are read in the State. Our people rely mainly for their newspaper reading on the steamer editions of the *Tribune*, *Times*, *Herald*, *Delta*, and other leading papers, which are brought in large numbers by the Expresses, for their news from the East. Some slight inconvenience might arise, were the Post Office discontinued, in sending papers of local interest, but this would be trifling, when compared with the advantages resulting from it. The Expresses would take papers for a trifle, and if they were worth having, they would be worth the trifling charge for them.

A monopoly of the Express business we have before shown to be impossible. The instant the price was too high, competition would reduce it. If the old established Expresses were to put the price for carrying letters to New York too high, any well known citizen going to New York, and having the confidence of the community, can advertise that he will take letters, and deliver them for a less price, and he will get one-half the letters sent.

Unreasonable charges, when the field is left open, are not to be feared, as the public will be in every way better served by the discontinuance of the Postal system—there is not a loop left to hang an argument upon in its favor.

People have got an idea that the Post Office is a great blessing, and so it was, once. But the people have got ahead of it. Private enterprize is ahead of it, and let it go the way of all superannuated things. It now affords an opportunity to quarter politicians on the people, and to give out fat contracts to political stock-jobbers.

(*From the Chronicle*, July 19, 1855.)

**POSTAL FACILITIES IN SAN FRANCISCO.**  
Formerly the Post-Office and mail arrangements of our Government were a benefit to the citizens. They were intended as such. The Post-Office system was not established as a source of revenue to the Government, and it is a niggardly spirit, and a mistaken policy which endeavors to make it so. Its advantages should be general, and as cheap as possible, and thus operating, it is a cheap disseminator of information and news, an encourager of education and intelligence, a school for the million, the ubiquitous *avant courrier* of the people. This is what it should be rather than what it is. It has fallen behind the enterprise of the day. From the van of progress it has gradually slunk back to the rear guard, and limps along in the trail like a weary re-ruit.

Its benefits to us here in California are very doubtful. The Expresses have so essentially taken the wind out of its sails that they flap against the mast like a wet blanket on the pole of a bumboat. The people need something faster. Business has outrun Uncle Sam's slow coaches. And, in this city particularly, some other means of obtaining one's correspondence other than paying an enormous box-rent for the especial benefit of office-holders at Washington; some other method than waiting until eight o'clock in the morning, for the general delivery, and then move up at a snail's pace in a line of one hundred and fifty expectants—is needed and demanded by our merchants and business men generally. Paying double postage, we deserve at least equal facilities with the rest of the Union.

It was thought that a remedy had been found, The Penny Post Company proposed to take charge of and deliver, for a small remuneration, all the letters of our citizens, passing through the mails and the Post-Office, and to put them in the hands of those who claimed them as speedily as do the Express Companies. This suited our merchants exactly. But the Post Master refuses to put such letters into the Penny Post Company's box, although directed to their care—although, also, a written request be made. To do so would not diminish the postage a copper, but might lessen the box rents. Is this paying a suitable deference to the wishes and necessities of our people? Is not the \$37,000 clear profit of this Post-Office enough to induce a little respect for the wishes of our people? If the Federal Government is determined upon a system of grinding, it is time that we find some means of preventing any grist being taken to its mill.

[From the *Wide West*, July 22.]

**OUR POSTAL FACILITIES.**  
We suggested in our last that it would be no great stretch of power in our Postmaster if he would establish a system of city deliveries for letters similar to that which exists in our eastern cities. Subsequent reflection has strengthened the opinion on which that suggestion was based.

\* \* \* The fact is, that the Postmaster of this city takes entirely too narrow a view of the duties and responsibilities of his office. Legally, it is true, he is only responsible to the Department at Washington, but he is morally bound to see that the Post Office in this city is so managed as to be a public convenience—not a nuisance. If he would look a little beyond the immediate revenue accruing, and try a few experiments in the way of reform, he might witness results that would astonish him, even in a pecuniary sense.—One thing is certain. Until some measures are taken to render the delivery of letters by the Post Office as prompt as that of the express companies, the community will not be very likely to "stand disconnected" from the latter, and will greet the recommendation to "rely on the facilities of the Post Office Department" with a smile of derision. Do make an effort to catch up with the age, Mr. Postmaster!

[From the *San Francisco Union*, Nov. 8, 1855.]

#### THE COST OF TRANSMITTING NEWSPAPERS—THE EXPRESSES.

Until recently the California Stage Company have been carrying newspa-

pers over their several routes of travel free of charge to the publisher or subscriber. This action may appear to have been liberal on their part, but it will be recollect that on most of their routes they are paid largely for transporting the United States mails, and if these same papers were deposited therein, the company would be compelled to convey them under their contract with the Government.

The mails, however, being so uncertain and irregular, every publisher and newsman have been heretofore induced to send papers through the Expresses, which carried them at nominal rates of freight. For a period, matters progressed smoothly and satisfactorily enough, but after a time, it transpired that the newspaper bags were partially filled with merchandize, papers being packed in at the mouth of the sack, for the purpose of deception, and enabling the bags to be transported free of charge.

No suspicion at first attaching to this course of procedure, freights were daily conveyed by the stage lines as newspapers, but which were in reality goods and merchandize, as justly chargeable as any other matter carried by this mode of conveyance. Afterwards, however, suspicion being aroused, the stage proprietors adopted a tariff of freights on all their stuff, which course, they assert, was forced upon them by the fact that they could not tell what was newspaper matter and what was not.

In order that our readers may be informed fully as to the matters in issue, we subjoin herewith the tariff aforesaid :

To Shasta.....	.20 cts.	To Marysville.....	.5 cts.
" Nevada.....	.8 "	" Auburn.....	.5 "
" Grass Valley.....	.7 "	" Rough and Ready.....	.7 "
" Illinois.....	.7 "	" Georgetown.....	.7 "
" Mok. Hill.....	.7 "	" Sonora.....	.13 "
" Jackson.....	.6 "	" Coloma.....	.5 "
" Placerville.....	.5 "	" Diamond Springs.....	.5 "
" Mud Springs.....	.5 "	" Drytown.....	.5 "
" Fiddletown.....	.5 "		

\* \* \* \* \*

This is a matter of deep interest not only to publishers and newsmen, but to the entire communities of the interior, and we have been induced to refer to the subject particularly at the present time owing to our having received letters complaining of the exorbitant rates of freight on newspapers, from nearly all the newsmen of Northern California. If this onerous system of taxation, as now imposed, is not remedied, the inevitable effect will be to drive newspapers almost entirely out of the mining and sparsely settled sections of this State.

It is not the desire of this paper to have either express companies, or other associations or individuals, to confer gratuitous favors upon it. In all cases where services are rendered an equivalent is given, but in the present instance there is evidently a desire on the part of the Express Company either to enrich themselves at the expense of the public, or to force all newspapers into the more tardy mails.

[From the San Francisco Bulletin, Nov. 1855.]

#### ABOLITION OF THE POST OFFICE SYSTEM.

We are in favor of the total abolition of the Post Office Department as it at present exists, and we believe the wants of the public can be supplied by the Express. Were the Post Office Department abolished to-morrow, it is our belief that in six months the people would be served far better, and as cheap as they now are. And the experience of California, we think, will fully bear us out in saying that the Express Companies would penetrate even "the rural and sparsely settled districts of the farming States of the Union," to which "Versus" alludes. Nor does the formidable array of the millions of expense incurred by the Federal Government in carrying on its great cumbersome arrangement as it now exists, startle us in the least. \*

\* \* \* \* \* Now if it be the policy on the part of the Government (and we are far from thinking it is not) to encourage the ocean steamers, let

it be done, and have it charged to some other account than to the Post Office Department. But if they continue to charge it to the Post Office Department, it must be admitted, that, to the extent of that charge, the Expresses would be the gainers and could reduce their charges. As regards the cost of Express in case the Government should abolish the Post Office system, we submit carrying letters, &c., being then open to competition, there would always be Expresses enough, to reduce the charges to a reasonable rate. The Express Companies now carry letters from California to the Atlantic States at the same price as the Post Office Department. Now if their carrying business was increased to the extent as is now taken by the mails, it would enable them to reduce the rate if anything, because it would require but little additional help comparatively to carry on the business, whilst their receipts would be greatly increased.

We hardly expect to see the day when this monopoly on the part of the Government shall be abolished, but there are those now living who will see it. In principle it is opposed to all notions of republicanism. Government has no more right to monopolize the business of transmitting news over post routes, than along the wires of the telegraph companies, or of making brick or selling flour. *The free and untrammeled pursuit of any honest avocation by all its citizens* should be one of the chiefest articles in the Bill of Rights of every Republic. The people have not yet been awakened to the importance of this subject. The State of California having been more imposed on than any other State in the Union will probably take the lead in this reform.

#### THE POSTMASTER AND THE PENNY POST CO.

[From the Wide West, Dec. 1855.]

The war in the courts between Mr. Weller and Mr. Goodwin, appears to have resulted thus far in the victory of the former; and despite the confidence and hope expressed by the latter, we can see no reason to expect the final result of the proceedings will be different. California experience, however, has frequently furnished parallels to the case in question, where law has been made the excuse for injustice; and few will be prepared to consider Mr. Goodwin wrong because the courts declare him so. The influences which have probably induced the result alluded to, are well understood—government officials naturally support each other. Of equally little account in the formation of public opinion, are the opinions of the Postmaster General in the matter. The present postal system is better adapted to a despotism than a republic; and its principal officers have seldom failed to consider themselves the rulers, rather than the servants of the people. As a consequence, private enterprise is forced to supply the deficiencies of the system, and absolutely succeeds in making the enterprise profitable, despite the tax imposed upon it by law. No better evidence of the insufficiency of the postal system could be given, than the popularity of the Expresses; and it may well be doubted by reflecting men, whether the public interests would not be subserved by doing away with the Post Office Department altogether.

The case between the Postmaster and the Penny Post Company, is a very simple one. The latter proposes to do for the public what he has neglected to do—deliver their letters at their doors. No special pleading on the part of the Postmaster, can convince the public that such a system would not have existed long ago, had he made the proper efforts for its establishment. But this would diminish the box-rents and perquisites of the Postmaster. So the public must be incommoded, that the Postmaster may be well paid.

Emulating the example of the canine animal in the manger, the Postmaster not only refuses to do his own duty, but throws every obstacle in the way of others who are willing to do it for him. Objections the most absurd have been urged against the action of the Penny Post Company. Their letters have been refused them on grounds the most frivolous, and an attempt was recently made to extort from them a large sum of extra postage on newspapers, for a reason which would never have been urged, had the same packages been addressed to any of the principal newspaper agents in this city. On second thoughts, this attempt was abandoned, the Postmaster not caring, probably, to resume the ridiculous position in which he appeared some

months since, on the occasion of his deciding that the "care" address was not the one to which a letter should be delivered. Unsuccessful as the attempts of Mr. Goodwin may have been to obtain legal redress, in his appeals to the public he has always had the best of the argument.

(From the Evening Journal.)

#### THE PENNY POST—ITS ADVANTAGE AND USEFULNESS TO OUR CITIZENS.

That the General Post Office has been so conducted for years as to be utterly inadequate to meet the wants of a great and enterprising people, is evident from the great popularity of expressmen throughout the country. The mail is not only slow, but it is unsafe, comparatively. If a man loses a hundred or even a thousand dollars, by trusting it in the mails, he has no remedy that can avail him at all, for it will cost him the full amount, in most cases, to recover—and the probability is, that he will never get a cent. But an Express Company of any standing will sooner pay for a lost check, if it is not excessively large, than to allow its credit to be affected by contending at law against the payment. The promptness which Express Companies exhibit in paying for lost packages, or money entrusted to their care, is the best guaranty that people can have that they will not lose anything they may entrust to them. But the Post Office stands in no fear of its reputation, and it need not, for it has very little to lose. Though it enjoys a tyrannical monopoly, it is almost always behind time, and no man who values dispatch will trust to it. The Penny Post was intended to remedy the evils of the Post Office system—by allowing individual enterprise to do what could not be expected from Government stupidity, or from those official imbeciles who are appointed to office only for partisan services. The delays that occur in the mails are not in the modes of conveyance. They enjoy the same facilities for dispatch as do the Expresses, and it only is because the business is not properly attended to in regard to forwarding and delivering the mail matter, that the people are bothered about getting it promptly. Were there a Penny Post agency at all the large towns, to gather up and forward the most of the letters, and deliver them at their respective points of destination, there would be no occasion for this delay, for the most of the labor being done by outsiders, the Postmaster and his clerks could doze over their beer or books to their hearts content.

Imagine that we have a Penny Post properly organized in San Francisco. Suppose that Mr. Goodwin had not been impeded in every possible way, by our worthy Postmaster, in his efforts to give us that convenience. He had his boxes established all over the city at the corners of the streets; and he had his clerks to go round to them just before the mails closed, and collect in all the letters that had been dropped in during the day, and they would be promptly forwarded, and the answers brought to their own doors. People living in the extreme parts of the city would not be under the necessity of travelling a mile or two to get to the Post Office if they wished to send a letter to Sacramento, and then be liable to the necessity of going a half dozen times more to get the answer. But the whole business would be done by the Penny Post, and they need have no trouble or anxiety about it.

The truth is, the Penny Post, according to the plan of Mr. Goodwin, would be one of the greatest conveniences ever offered to the people of San Francisco. It was calculated to answer a necessity that was sorely felt, and we regard it as a great misfortune to the public that the Postmaster has been able so to interrupt and break into it as materially to impair its usefulness. We have been astonished that people have not more unanimously and strongly expressed their indignation at the gross tyranny of the Postmaster. The case is simply this—an individual proposes to take letters from the Post Office to the parties to whom they are addressed for a trifling advance over the regular postage must of course be paid. It is so great a convenience to the people that they liberally patronize him, and he is enabled to realize a fair return for his labor, and to be of great service to the public. But the Postmaster gets the idea into his head, and he has room for only one idea in it, that it will affect his income if he allows the Penny Postman the same facil-

ties that he gives to others, and so refuses him a box, and delays his mail matter.

So great an outrage would naturally call down the indignation of the people and the press. But the Postmaster has spiked the latter gun by sending long advertisements to the papers that are easily tickled by savory pap, and they can see nothing in the conduct of Mr. Weller not altogether proper. They never will, we fear, so long as he keeps his matter standing, and promptly pays for it. But cannot the public see it, and the reason of their silence?

#### WHAT IT COSTS CALIFORNIA FOR ATLANTIC NEWSPAPERS.

The Golden Era, of June, 1856, after showing what is paid for papers published in the State, (\$1,100,000,) goes on to say:

California is now one of the greatest marts for Eastern periodical literature in the world. Not less than 40,000 weekly and semi-weekly papers are received by every mail steamer, and readily disposed of, at 25 and 50 cents per copy. Add to this the magazines, pictorials, and other monthlies, and it will be found a low estimate to place the aggregate sum paid annually by our people for Eastern papers and magazines, at \$400,000. It will be seen that over one and a-half millions of dollars are annually paid by a white population of two hundred thousand souls, for the support of the press! We give no figures that may not be relied upon, except, perhaps, in relation to the exact number and cost of the papers within the State; but we have not erred far enough materially to affect the sums total. When any of our neighbors across the mountains can foot up and exhibit one-half—yes, one-half as favorable as shown above, they can have our permission to abuse us to their heart's content forever thereafter. There's our gauntlet.

#### MAIL FACILITIES IN THE CALIFORNIA LEGISLATURE.

For the session of 1855, the Legislature paid, for United States postage, \$9,067—for Express postage \$24,901.

In reply to a proposition to dispense with the services of the Express Companies for the session of 1856, the following views were expressed:

Mr. Root said, the question should be not so much dollars and cents as the question whether we should have a medium by which we could transmit to our constituents the public documents and an account of our proceedings, so that they would be received by those to whom they were addressed. He believed the people wanted this information, and would be willing to pay for it, even if it did cost \$20,000 or \$30,000. They were anxious to know what was going on within the walls of the Capitol—many questions of vital importance to their interests were at stake, and respecting which, they desired the earliest information; and, again, it would aid the legislator, for through the same medium he could ascertain the wants and wishes of his people, and receive their counsel and advice as to the course he should pursue.—He was satisfied that no documents could be sent through the Post Office to his county with the same certainty as by Express. He had seen within forty-eight hours, in Sacramento, persons, to each of whom he had sent eight or ten documents during this session, and they had solemnly declared they had not received one. He made no charge upon any one. He believed the Postmaster of this city to be a worthy man, but it was in the Department somewhere, or in some place, and it would be for the Senate to say whether we should choose a better medium of sending to the people the information they so much desire. He hoped the Senate would adopt the resolution.

Mr. Dosh said that no one who had lived in the State for the last few years, but would agree with him, that when he said that in many parts of the State if a person depended solely upon the Post Office, he would grow gray before he would learn anything about the affairs of the State. He would admit that the charge by a Post Office was less, but that was not so much an object as to find some safe medium by which to transmit matter that was sent; and

it would be much better to pay ten cents upon a document, with a certainty of its being delivered, than three cents, with almost a certainty that it would not be received.

#### BOX RENTS IN CONGRESS.

In reply to a proposition to legalize the collection of box rents, Mr. Wise, in the House of Representatives, read the law of extortion, and said, the practice came under the definition, and was clearly an indictable offence, punishable with fine and imprisonment and removal from office. It was extorting money from the people; and when it was known to have existed to so monstrous an extent, he wanted to know why the Government had not instituted proceedings to punish and suppress it. He said these were bad times when extortions were not merely tolerated, but when it came up with a bold front and demanded to be sanctioned by law. He referred to the example as well as the effect, and said that while the salaries of the customs were less than these exorbitant receipts of postmasters, it would not be long before they would devise some mode equally efficacious and equally liable to be sanctioned by the Government. He hoped the sections would not be stricken out.

Mr. Underwood said, "there was no office in the country requiring so small a modicum of knowledge as that of postmaster, and he thought \$2,000 ample compensation—that the salaries were sufficiently large, but if they were not, they could be raised. He was opposed to having \$5,000 to \$10,000 extorted from the people, more than is allowed by law." [See Congressional Globe, June 2, 1836.]

#### BOX RENTS IN THE U. S. SENATE.

Mr. Davis said this had been called a small matter. In principle it was quite otherwise, as he could prove; for it was no less than an attempt to maintain extravagant emoluments to deputy postmasters, under the guise of perquisites, without any authority, while the law really intended that the maximum of income should be only \$2,000. It was a levy without authority of law, and without limits upon those who could not well do without the accommodation. \* \* \*

That it is raising a large revenue out of the public for the postmaster's benefit, when it is the business and duty of Congress to make access to the mails easy, to furnish every facility in the reception and delivery of it, without constraining the people to pay exorbitant prices for them.

The honorable Senator from Pennsylvania (Mr. Buchanan) says, the system is a good one, acceptable to the merchants, and therefore ought not to be disturbed.

He would tell the honorable gentleman that he was mistaken, when he declared so emphatically that no complaint is made. Proof can be adduced, if necessary, to show that in some of the city offices there was so much delay and uncertainty in procuring letters for those who had no boxes, that even transient persons, though residents in other places, were obliged to hire boxes to secure the delivery of letters with promptness when their business led them to such places. No doubt many merchants are contented to pay a large rent for boxes, for the less number, the more prompt the attention. It is the

monopoly of the privilege that secures the good will. Four hundred and fifty persons are let into the privilege in Philadelphia at \$4 each, while in Boston 1,200 enjoy it at \$2. Is that right? Was not the post office instituted for general accommodation? Ought not its privileges to be laid open as wide as possible to the public? Have not the great public, the people, an interest in this public institution? Sir, the reason why the number of boxes in Philadelphia is so small is plain enough. The public are taxed beyond what they are willing to bear, and thus the privilege is wrested from them, and limited to few. In my judgment, the state of things demands correction. The privilege may be enlarged, the public have a right to demand it; and for one, he would acknowledge that right, and extend that convenience. Men, sir, are selfish, and those who wish to continue the present state of things must be anxious to perpetuate the monopoly in their own hands; but he would not encourage the idea that the post office is for the benefit of the few, or that its important accommodations were to be placed out of the reach of most people by high charges. His object in offering the amendment was to bring what was now in the discretion of men who were anxious to benefit themselves under the control of laws,—to fix it to where the real public may have the benefit of the privilege.

If there is, as has been supposed by some, such a demand for boxes as to multiply them to an extravagant number, it only proves that the people are now restrained by the burdens imposed upon them. Indeed, every argument that has been put forth against the measure seems only to show the propriety of adopting it. We have heard much of the inconvenience of the postmasters, and what have we to do with their convenience? Who ought to be inconvenienced, the public or the postmaster? And what right has a public officer to complain that his office is disfigured with boxes, or that he is obliged to distribute his letters into 500 instead of 200 places?

The Government pays his clerks and other expenses. One would really think that the public were to stand back in the matter and beg accommodations as a favor, as if the establishment belonged to, the postmasters. [See Congressional Globe, June 14, 1836.]

## THE RESULTS OF THE PENNY POST ENTERPRISE.

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Notwithstanding the Post Office authorities have succeeded in entailing a heavy pecuniary loss upon those interested in the Penny Post enterprise, notwithstanding their legal rights have been withheld from them, and notwithstanding the officers of Government have themselves violated the laws, in order to break down their business,—its projectors have at least these gratifying results to show.

A reduction of postage from 28 to 10 cents within fifty days of their organization, and a consequent saving to the citizens of San Francisco, on the 1,000 letters per day brought by the Express Companies, of at least \$55,000 in the first year of its existence. Also, a reduction of upwards of \$9,000 in Box Rent at the Post Office during the same period, as will be seen from the following figures :

Box Rent for year ending 30th June, 1855.....	\$30,670
" " " " " 1856.....	21,476

This makes a saving of \$64,000 to the citizens of San Francisco alone. To the citizens of the State it must have resulted in a saving of at least \$150,000 to \$200,000. And this is the enterprise that the Post Office authorities seek to "crush out"—an enterprise against the legality of whose operations not the first complaint is made, and which, more than anything else, would have tended to increase the business and enhance the legitimate revenue of the Post Office service. How far they have advanced the interests of the Department, may be inferred from the following :

Of 111 letters received by a mercantile firm in San Francisco, in June, 1856, only 18 came by mail, the remaining 93 by Express; and of those received by Express, only 15 were brought in conformity to law,—78 of the stamps might have been used a second time. And as to the vigilance of the Post Office authorities, the whole 93 might have been re-used at least a half dozen times, or until worn out, before being detected by the officers of the Department.