

US Postal Laws & Regulations

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Domestic mail matter

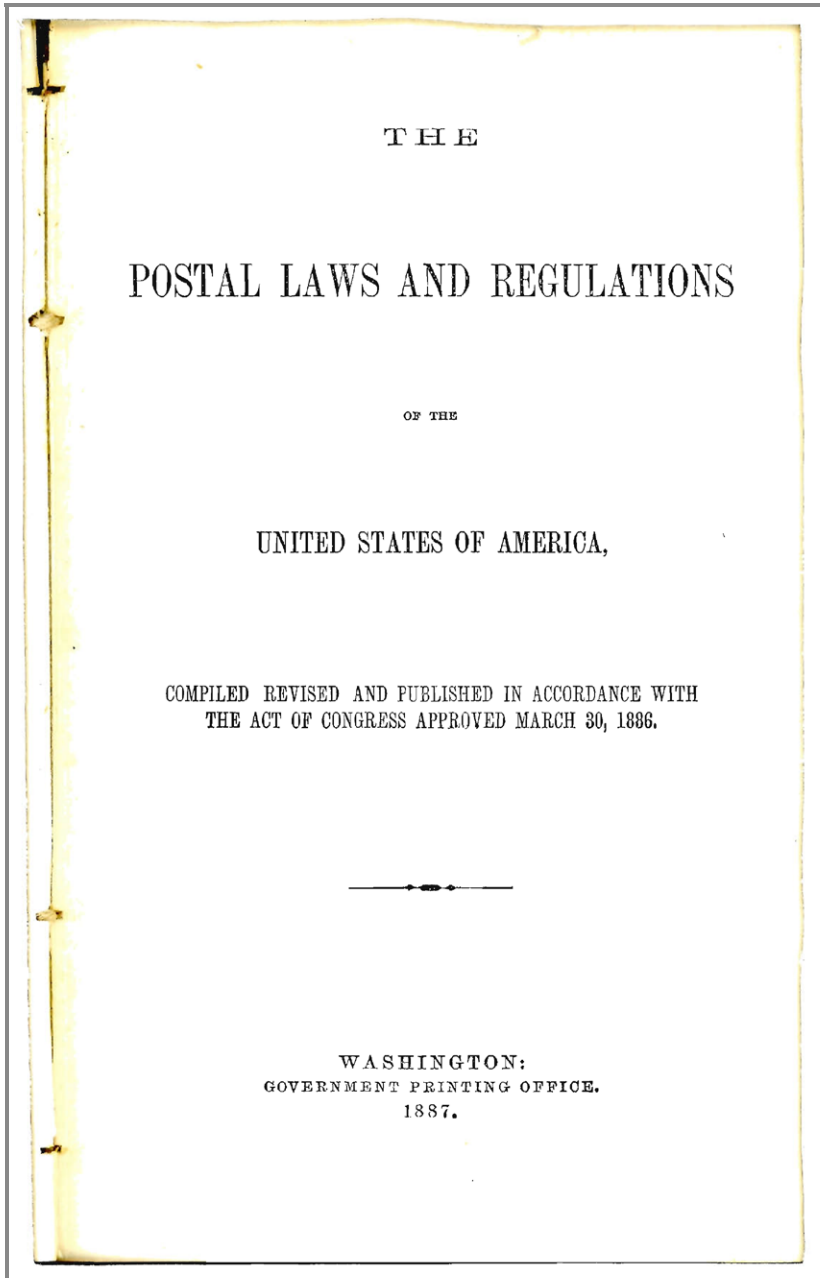


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TITLE III.
MAIL MATTER.

CHAPTER ELEVEN.

OF DOMESTIC MAIL MATTER; ITS CLASSIFICATION AND RATES
OF POSTAGE.

Sec. 319. Classification.—That mailable matter shall be divided into four classes:

First. Written matter.

Second. Periodical publications.

Third. Miscellaneous printed matter.

Fourth. Merchandise. (Act of March 3, 1879, § 7, 20 Stat., 358.)

Sec. 320. Prepayment of Postage.—Postage on all mail matter must be prepaid by stamps at the time of mailing, unless herein otherwise provided for. (R. S., § 3896.) But if any mail matter, on which by law the postage is required to be prepaid at the mailing office, shall by inadvertence reach its destination without any prepayment, double the prepaid rates shall be charged and collected on delivery. (R. S., § 3898.)

The rule of the statutes is prepayment on all mail matter not free, except soldiers', sailors', and marines' letters. (Sections 322 and 323.) But first-class matter will be dispatched if at least two cents in stamps, one full rate, be affixed or impressed, and the residue of the postage will be collected of the addressee before delivery. Drop letters may also be dispatched under section three hundred and twenty-six. No matter of any other class should be dispatched without such prepayment: but should any matter happen to be sent without prepayment, double the unpaid postage must be collected before delivery. (See section 558.)

FIRST-CLASS MATTER.

Sec. 321. Defined.—Mailable matter of the first class shall embrace letters, postal cards, and all matter wholly or partly in writing, except as hereinafter provided. (Act of March 3, 1879, § 8, 20 Stats., 358.)

The exception relates chiefly to third-class matter.

Sec. 322. First-Class Postage.—That on mailable matter of the first class, except postal cards and drop letters, postage shall be prepaid at the rate of three cents for each half ounce or fraction thereof; postal cards shall be transmitted through the mails at a postage charge of one cent each, including the cost of manufacture; and drop letters shall be mailed at the rate of two cents per half ounce or fraction thereof, including delivery at letter-carrier offices, and one cent for each half ounce or fraction thereof where free delivery by carrier is not established. The Postmaster-General may, however, provide, by regulation, for transmitting unpaid and duly certified letters of soldiers, sailors, and marines in the service of the United States to their destination, to be paid on delivery. (Act of March 3, 1879, § 9, 20 Stats., 358.)

And upon all matter of the first class, as defined by chapter one hundred and eighty of the laws of Congress approved March third, eighteen hundred and seventy-nine, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes," and by that act declared subject to postage at the rate of three cents for each half ounce or fraction thereof, postage shall be charged, on and after the first day of October, A. D. eighteen hundred and eighty-three, at the rate of two cents for each half ounce or fraction thereof; and all acts, so far as they fix a different rate of postage than herein provided upon such first-class matter, are, to that extent, hereby repealed. (Act of March 3, 1883, 22 Stats., 455.)

That upon all matter of the first class, as defined by chapter one hundred and eighty of the laws of Congress approved March third, eighteen hundred and seventy-nine, entitled, "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June thirtieth, eighteen hundred and eighty, and for other purposes," and by that act declared subject to postage at the rate of three cents for each half ounce or fraction thereof and reduced by the act of March third, eighteen hundred and eighty-three, to two cents for each half ounce or fraction thereof, postage shall be charged, on and after the first day of July, eighteen hundred and eighty-five, at the rate of two cents for each ounce or fraction thereof; and drop letters shall be mailed at the rate of two cents per ounce or fraction thereof, including delivery at letter-carrier offices, and one cent for each ounce or fraction thereof where free delivery by carrier is not established. (Act of March 3, 1885, 23 Stats., 386.)

Sec. 323. Soldiers', Sailors', and Marines' Letters.—Letters written by officers, commissioned or non-commissioned, and privates in the military, naval, or marine service of the United States, to be transmitted unpaid

must be plainly marked "Soldier's Letter," "Sailor's Letter," or Marine's Letter," as the case may be, and signed thereunder with his name and official designation by a field or staff officer, post or detachment commander to whose command the soldier belongs, or by a surgeon or chaplain at a hospital where he may be; and in the navy and marine service, by the officer in command of the vessel, or surgeon on board, or officer commanding a naval hospital or detachment on shore. Letters so certified will be forwarded charged with postage due at single rates only, to be collected on delivery.

Sec. 324. Postal Cards cannot be issued by private parties. Cards, other than those issued by the Department, containing any writing, are subject to letter postage; but if they contain only printed matter, so as to constitute a circular, but one cent is required on each.

No printing or writing other than the address is allowable upon the address side, nor may anything except an address label be pasted or attached to any postal card. The words "to be called for," or any proper description of the person or place addressed, may be written thereon as part of the address. Any other writing, mark, or seal placed on the address side, or the splitting of the card and writing on the inside, renders it unmailable, except at letter rates. A postal card once delivered cannot be remailed as such.

Postal cards are first-class matter, and may be forwarded on request, and they should be returned to the writer from the office of address when unclaimed; but no request for such return should be placed on the address side.

Postmasters must treat postal cards as sealed letters, and refrain from reading the messages written thereon, except in order to return the cards to the writer when unclaimed, and except that their contents may be read if they appear to be unmailable because they contain obscene matter or relate to lotteries. (See sections 379 and 380.)

Sec. 325. Addresses, how made.—And addresses upon postal cards and unsealed circulars may be either written, printed, or affixed thereto at the option of the sender. (Act of July 12, 1876, from § 15, 19 Stats., 82.)

Sec. 326. Drop Letters.— * * * But in large cities and adjacent districts of dense population, having two or more post-offices within a distance of three miles of each other, any letter mailed at one of such offices and addressed to a locality within the delivery of another of such offices, which shall have been inadvertently prepaid at the drop or local-letter rate of postage only, may be forwarded to its destination through the proper office, charged with the amount of the deficient postage, to be collected on delivery. (R. S., § 3937, second sentence.)

A "drop letter" is one addressed for delivery to a person within the

delivery of the office at which it is posted. Such a letter is first-class matter and should be returned to the writer, if unclaimed, the same as any other. It cannot be forwarded on request, unless one full rate, two cents, be paid thereon, except within the distance of three miles as above provided. (See, however, section 322, last part.)

SECOND-CLASS MATTER.

Sec. 327. General Definition.—Mailable matter of the second class shall embrace all newspapers and other periodical publications which are issued at stated intervals, and as frequently as four times a year, and are within the conditions named in sections twelve and fourteen. (Act of March 3, 1879, § 10, 20 Stats., 359.)

The sections referred to are 343 and 328.

Second-class matter above described is of two kinds :

1. That sent by publishers or news agents.
2. That sent by others than publishers or news agents. (Section 351.)

Sec. 328. Statutory Characteristics.—That the conditions upon which a publication shall be admitted to the second class are as follows:

First. It must regularly be issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second. It must be issued from a known office of publication.

Third. It must be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications.

Fourth. It must be originated and published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and having a legitimate list of subscribers; *Provided, however,* That nothing herein contained shall be so construed as to admit to the second-class rate regular publications designed primarily for advertising purposes, or for free circulation, or for circulation at nominal rates. (Act of March 3, 1879, § 14, 20 Stats., 359.)

Sec. 329. Regularity of Issue.—The regular periods of issue must be shown by the publication itself and be within the statute. Annuals and semi-annuals are third-class matter. And it is only matter mailed at or about the time of its regular publication which is entitled to second-class rates. Old copies of newspapers or periodicals published at prior times must pay the rate prescribed in section three hundred and fifty-one, except that back numbers may be sent to regular subscribers at the pound rate.

An admissible publication may change the periods of issue, as from monthly to weekly, weekly to daily, or *vice versa*, but on such change

should receive a new certificate of entry accordingly. Educational publications and those of colleges and schools, otherwise within the rule, do not lose their right by suspension of issue during vacation.

Sec. 330. A Known Office of Publication is a public office for the transaction of the business of the newspaper or periodical, where orders may be received for subscriptions and advertising during the usual business hours; and this office should be shown by the publication itself.

Sec. 331. Advertising Sheets Defined.—“Regular publications, designed primarily for advertising purposes,” within the intendment of section three hundred and twenty-eight, embrace at least such as the following:

First. Those owned and controlled by one or several individuals or business concerns, and conducted as an auxiliary and essentially for the advancement of the main business or calling of those who own or control them.

Second. Those which, having no genuine or paid-up subscriptions, insert advertisements free, on the condition that the advertiser will pay for any number of papers which are sent to persons whose names are given to the publisher.

Third. Those which do advertising only, and whose columns are filled with editorial puffs of firms or individuals who buy a certain number of copies for distribution.

Fourth. Pamphlets containing market quotations, and the business cards of various business houses opposite the pages containing such quotations.

The question whether a publication is primarily designed for advertising purposes is one of fact to be determined in each case from the evidence (16 Opins. Atty. Gen., 303). There are various facts from which inferences may be drawn, in aid of such decision. A publication may be largely engaged in advertising, and still not be published primarily for that purpose. It may not be self-sustaining apart from the revenue derived from advertising, and still be entitled to the pound rates. But the postmaster or the Department, in doubtful cases, will judge from the appearance and matter in the publication, the price of and amount derived from subscription, the number of subscribers in proportion to the issue, the amount of advertising space in proportion to the other, the quantity of advertising for one business house, the relation of the advertisers to the publishers, and the frequency of issue. If the advertisement is limited to the business or wares of one house, and forms the principal part of the reading matter, and the other matter appears to be put in merely to attract attention to the advertisements or secure the circulation, or if the circulation be principally gra-

tuitous and the list of subscribers so small as to appear only a nominal list, secured merely to bring the publication within the pound rates, or if the publication is by advertising agents, manufacturers, or dealers in particular lines of goods, mainly to advertise their own manufactures or wares or business, and is designed for and devoted to that work, it may reasonably be deemed to be designed primarily for advertising purposes. But where a publication advertises largely even for a particular patron or for a business conducted by its publishers, and yet furnishes a periodical which contains so large and interesting an amount of information of a public character, or is devoted to literature, the sciences, art, or some special industry to such an extent as to command a patronage from readers, and an extensive subscription list independently of its advertising attractions, the inference may be drawn that the primary or principal object of the publication is more comprehensive than that of advertising. It may in such a case be assumed that the object for which it is taken by its subscribers—the perusal of its general matter—shows the want which it is intended to supply, in other words, the object of its publication; and the purpose for which it is chiefly taken may be deemed the purpose for which it is designed.

Sec. 332. Subscription Price and List Requisite.—Postmasters must require satisfactory evidence that publications offered for mailing at pound rates have a legitimate list of subscribers, by each of whom, or for each of whom, with his consent, express or implied, payment of the subscription price has been made, or agreed to be made. Subscription price must be shown by the publication, and will be deemed *nominal*, within the meaning of section three hundred and twenty-eight, when:

1. The publication asserts or advertises that it is furnished to subscribers at no profit.

2. When it appears from the contents that subscriptions are not made because of the value of the publication as a news or literary journal, but because of its offers of merchandise, or other consideration substantially equal in value to the subscription price, as an inducement to subscription.

3. When the publication is issued for and distributed among the members of a society, association, or club, upon payment of regular dues, with no distinct and sufficient charge for the publication.

Sec. 333. Application for Admission to the Pound Rates.—When a new publication is offered for mailing at pound rates at any post-office, the postmaster will proceed as follows:

1. Require the publisher, or one of the publishers, to make and present to him, with two copies of the publication, sworn answers in writing to the following interrogatories:

1st. Magazine or newspaper? 2d. How often published? 3d. Where is the paper printed? 4th. Who are the proprietors of the paper or magazine? 5th. Are they in any way interested, pecuniarily, in any business or trade represented by the publication, either in the reading matter or in the advertisements; if so, what is the interest? 6th. Who are the editors of the publication, and how is their compensation determined? 7th. Have the editors any pecuniary interest in any business or trade represented by the publication, either in the reading matter or in the advertisements; if so, what is the interest? 8th. Is your publication regarded by the trade which it purports to represent as a general organ of the trade, or is it considered as representing the business interest of a special house in that trade, whose price current or advertisements appear therein? 9th. As a result of the publication of your paper or magazine, is the interest of any business house in the trade especially advanced, notwithstanding your design of making the publication a journal representing the trade? 10th. Can any house in good standing advertise in your publication at the regular published rates? 11th. Have any of the business houses which advertise in your publication any interest (either by past connection or special contract) therein respecting advertisements or subscriptions; and if so, what is that interest? 12th. What is the greatest number of copies furnished to any person or firm who advertise in your publication? 13th. On what terms are these papers furnished? 14th. What number of papers do you print of each issue? 15th. About what number of *bona fide* subscribers (that is, subscribers who pay their own money for the publication and receive it regularly) have you to the next issue of your paper? 16th. What is the subscription price of your publication per annum? 17th. How many pounds weight will cover the papers furnished to regular subscribers? 18th. What average number of sample copies with each issue do you desire to send through the mails at pound rates? 19th. How are the names of the persons to whom you wish to send sample copies obtained by you?

2. If satisfied by the affidavit, the publication itself, and further proofs offered, that the publication is admissible, he will issue a temporary permit, on a form to be furnished by the Department, admitting the publication at the pound rates pending the determination of the Department as to its admissibility.

3. If upon such evidence the admissibility appear to be doubtful, he shall require a deposit at third-class rates on the issue offered for mailing, and issue a permit admitting the publication conditionally, pending determination, the excess of the deposit over the pound rate to be re-

funded if the Department shall decide that the publisher is entitled to the pound rates.

4. If satisfied of non-admissibility, he will refuse to admit except at third-class rates, advising the publisher to appeal to the Department.

5. In all cases he will forward to the Third Assistant Postmaster-General, in the same envelope, the application, affidavit, and other proofs presented by the publisher with a copy of the publication, and a statement of any facts or reasons known to him for or against the admission sought, retaining one copy of the publication to be kept in his office for such comparison with future issues as may be necessary.

Sec. 334. Entry of Second-Class Publications.—The Third Assistant Postmaster-General finally decides upon the admissibility of publications to the pound rate in all cases. He will without delay examine all applications, and upon being satisfied that a publication is entitled to admission at such rate will authorize the postmaster at the proper office to issue a certificate of entry therefor. The postmaster will thereupon issue such certificate on form furnished by the Department, and the publisher is then privileged to print upon each copy of the publication so entered the words, "ENTERED AT THE POST-OFFICE AT ———, AS SECOND-CLASS MATTER." The printing of such words or their equivalent, without due entry having first been made, is unlawful. (See section 346.)

Postmasters should notify publishers of the requirements of this chapter, and that it is the desire of the Department that due entry be made of all second-class publications, both old and new, and that frequent examination and rigid scrutiny will be had of all publications not so formally entered.

Whenever it is made to appear by satisfactory evidence that a publication has been admitted to the pound rates upon false evidence, or that after admission it has so changed its character as to be no longer entitled thereto, the entry thereof will be revoked, and the postmaster at the proper office notified of the revocation.

Sec. 335. Department Record of Second-Class Publications.—The Third Assistant Postmaster-General will cause a record to be kept of second-class publications admitted to the pound rates, giving the date of entry, date when publication ceased or entry was revoked, and will require postmasters punctually to forward all reports and information necessary to keeping the same, and note all changes therein.

Sec. 336. Extra Editions, when genuine and not issued as mere advertising sheets, are entitled to the same rates as the regular edition.

Sec. 337. Supplements Admitted as Second-Class Matter.—That publishers of matter of the second class may, without subjecting it to extra postage, fold within their regular issues a supplement; but in all cases the added

matter must be germane to the publication which it supplements, that is to say, matter supplied in order to complete that to which it is added or supplemented, but omitted from the regular issue for want of space, time, or greater convenience, which supplement must in every case be issued with the publication. (Act of March 3, 1879, § 16, 20 Stats., 359.)

Sec. 338. Rules for Determining Character of Supplements.—In determining whether supplements, though folded for mailing with regular issues, are within the statutory definition, the following rules may be employed when applicable, namely :

1. A publication entirely distinct from and independent of the regular issue, but complete in itself, and in nowise connected with or germane to the regular issue, cannot be adopted as a supplement.

2. "Posters," "show bills," or special advertisements, designed to be posted up, cannot be adopted as supplements.

3. Advertisements, such as appear in the columns of the regular issue and are charged for at the same rate, but which in consequence of want of space or for greater convenience of arrangement are desired to be published in a separate sheet or enlarged edition, are proper supplemental matter.

4. It is not required that the supplement sheets be printed at the office of publication of the regular issue, but if printed there or elsewhere, they must be printed with the purpose of being used as supplements to such publications, and not for another distinct and separate use.

5. A supplement consisting entirely of literary matter is proper ; but matter printed elsewhere than at the office of publication, to be used as supplements to various newspapers for the purpose of securing circulation to some advertisement of private business therein, does not come within the statutory definition of a supplement, and cannot be adopted as such, even though it be printed therein that it is a supplement to the regular publication.

6. Publications of statutes, ordinances, proceedings of public or deliberative assemblies, boards, or conventions, advertisements of tax sales, or other notices or advertisements required by law to be published, whether gratuitously or for compensation, are proper supplemental matter.

7. Supplements must, as the law requires, be folded with the regular issues. If mailed separately, they must be prepaid as third-class matter.

8. Supplements must in all cases bear the name of the paper with

which they are folded, and if they contain advertisements, the number and date corresponding to the regular issue.

9. Maps, diagrams, or illustrations, which are referred to in the publication or form a necessary part thereof, are admissible without the word "supplement."

10. While bills or receipts for subscriptions to the publication, or orders for subscription, as authorized by law (section 356), may be inclosed with a regular issue, they ought not to be combined with a supplement. (See section 357.)

Sec. 339. Inclosures Containing Illegal Supplements; how Rated.—Newspapers containing sheets or additional matter not legally admissible as supplements, should be treated at the mailing office as third-class matter, and postage required accordingly. If the publisher desires to appeal to the Third Assistant Postmaster-General, he can do so by making a deposit for the issue mailed at third-class rates with the postmaster, of which the excess over second-class rates will be refunded, if the Department decides the matter to be admissible as supplements. Newspapers containing illegal supplements, arriving at any office of delivery without evidence of prepayment by stamps affixed, should be rated up, and postage collected on delivery at the third-class rate, as required by law. (See section 343.)

Sec. 340. Sample Copies, which may be sent by publishers from the office of publication at the pound rate, are defined to be copies sent to persons not subscribers for the purpose of inducing them to subscribe or advertise or become agents therefor. In determining their admissibility as sample copies, the following rules should be applied, namely:

1. They must be exactly like the regular edition sent to subscribers. When made up as a special edition different from the regular edition of the same date for subscribers, or containing advertisements in addition to those in the regular edition, they are not sample copies, but third-class matter.

2. The number of sample copies is not limited when sent in good faith as such; but they should be put up in single wrappers and each package addressed, and should be plainly marked, on the wrapper or exposed face of the package, "SAMPLE COPY."

3. An extra number of the issue cannot be sent as sample copies upon the order of, or to fulfill a contract by the publisher with, an advertiser or advertising agency, and extra numbers mailed pursuant to such order or contract must be prepaid at the four-ounce rate. (See section 351.)

4. After a publication has been admitted to the second-class rate, the continuous mailing by the publisher of sample copies in numbers exceeding the issue to regular subscribers, or of such copies continuously to the

same person, will be deemed evidence that the publication is primarily designed for advertising or free circulation, and the sample copies should be detained until the facts can be ascertained. The postmaster should promptly report the case to the Third Assistant Postmaster-General.

5. Sample copies are not entitled to free county circulation, and must be mailed separately from editions that are, and prepaid at pound rates.

6. They must not be inclosed in the same package with copies intended for subscribers. If so inclosed they must be returned to the publisher for separation.

7. They cannot be mailed by news agents at the pound rate.

Sec. 341. Foreign Publications.—That foreign newspapers and other periodicals of the same general character as those admitted to the second class in the United States may, under the direction of the Postmaster-General, on application of the publishers thereof or their agents, be transmitted through the mails at the same rates as if published in the United States. Nothing in this act shall be so construed as to allow the transmission through the mails of any publication which violates any copyright granted by the United States. (Act of March 3, 1879, § 15, 20 Stats., 359.)

Sec. 342. Regulations for Admission of Foreign Publications.—Agents of foreign publications may obtain admission thereof to the mails at the pound rate, at the office at which they desire to mail them within the United States, by making application to the postmaster and submitting therewith two copies of the newspaper or periodical and satisfactory evidence of such admissibility; and he will, if satisfied that the publication is entitled thereto, grant a temporary permit, and report the case with the evidence to the Third Assistant Postmaster-General. The evidence must show that the publication violates no copyright granted by the United States. Upon approval, the Department will authorize the postmaster to give a certificate of entry, as prescribed in section three hundred and thirty-four.

Sec. 343. Examination at Mailing Office.—That matter of the second class may be examined at the office of mailing, and if found to contain matter which is subject to a higher rate of postage, such matter shall be charged with postage at the rate to which the inclosed matter is subject: *Provided*, That nothing herein contained shall be so construed as to prohibit the insertion in periodicals of advertisements attached permanently to the same. (Id., § 12, 20 Stats., 359.)

Sec. 344. Examination of Second-class Publications.—Postmasters should often examine publications offered for mailing to ascertain that they

do not violate the rules prescribed by law for their admission at the pound rate, and specially note:

1. Whether the same are issued at stated intervals as frequently as four times a year, and bear a date of issue, and are numbered consecutively.

2. Whether they are issued from a known office of publication.

3. Whether they are formed of printed paper sheets, without board, cloth, leather, or other substantial binding.

4. Whether they are designed primarily for advertising purposes, or free circulation at nominal rates.

5. Whether they are mailed at the proper office, as prescribed in section three hundred and forty-eight.

6. Whether the name of the person, firm, or corporation publishing the same appears thereon.

7. Whether any other matter than legitimate supplements, as defined in section three hundred and thirty-seven, is inclosed therewith.

8. Whether any writing, print, mark, or sign, other than authorized by section three hundred and fifty-six, appears thereon or therein.

9. Whether any advertisements not permanently attached are inclosed therewith. (See section 343.)

10. When a postmaster has reason to believe that a publication has, after admission to the pound rate, so changed its character as not to be legally entitled thereto, he may require a sworn statement as to its list of subscribers to be furnished him, which, with any other facts or evidence within his knowledge, he will forward to the Third Assistant Postmaster-General.

Sec. 345. Record of Second-class Matter.—Postmasters must keep a record of all publications of the second class mailed at their post-offices, and send a duplicate thereof to the Third Assistant Postmaster-General, and report to him on the first day of each month any change made therein.

Sec. 346. Submitting False Evidence Punishable.—That any person who shall submit, or cause to be submitted, for transportation in the mails, any false evidence to the postmaster relative to the character of his publication, shall be deemed guilty of a misdemeanor, and, upon conviction thereof in any court of competent jurisdiction, shall for every such offense be punished by a fine of not less than one hundred nor more than five hundred dollars. (Act of March 3, 1879, § 13, 20 Stats., 359.)

Sec. 347. Postmasters to Report False Evidence.—When a postmaster has reason to believe that a publisher has submitted to him, or to any postmaster, or to the Department, any false statement or evidence as to

the character of his publication, to secure its admission to pound rates at any post-office, he will report the case and all the information or evidence in his possession to the Third Assistant Postmaster-General.

Sec. 348. Postage on Second-Class Matter.—That all publications of the second class, except as provided in section twenty-five of said act [of March 3, 1879, 20 Stats., 358], when sent by the publisher thereof, and from the office of publication, including sample copies, or when sent from a news agency to actual subscribers thereto, or to other news agents, shall, on and after July first, eighteen hundred and eighty-five, be entitled to transmission through the mails at one cent a pound or fraction thereof, such postage to be prepaid as now provided by law. (Act of March 3, 1885, 23 Stats., 387.)

NOTE.—The exception mentioned in the foregoing act is of matter entitled to free county delivery. Section 25 therein referred to is given in sections 352 and 421.

Sec. 340. Mode of Payment of Postage.—That on and after the first day of January, eighteen hundred and seventy-five, upon the receipt of such newspapers and periodical publications at the office of mailing, they shall be weighed in bulk, and postage paid thereon by a special adhesive stamp, to be devised and furnished by the Postmaster-General, which shall be affixed to such matter, or to the sack containing the same, or upon a memorandum of such mailing, or otherwise, as the Postmaster-General may, from time to time, provide by regulation. (Act of June 23, 1874, § 6, 18 Stats., 233.)

The manner of using the newspaper and periodical stamps, &c., is prescribed in section 179.

Sec. 350. Rights of News Agents.—News agents are persons, including newsboys, engaged in business as news dealers or sellers of second-class publications. A mere local or traveling agent for a publication is not a news agent.

In admitting second-class publications sent from a news agency, postmasters will observe the following:

1. The news agent must file with the postmaster at his office of mailing, a statement showing the names of the periodicals which he mails, the post-offices to which they are directed, the number of subscribers to each on his list, with the dates to which their regular subscriptions extend.

2. He must furnish the postmaster satisfactory evidence that the publications offered are entitled to the pound rate, and have been duly entered at the office of publication.

3. Satisfactory evidence must also be furnished that the persons to whom bulk packages are sent from a news agency are also news agents,

and the address upon bulk packages sent to or from a news agency to a news agent should show that the addressee is such agent.

4. A news agent cannot be permitted to take packages of newspapers and periodicals out of a post-office, write an address on each copy, and return them to the office for mailing or delivery without additional prepayment of postage at the pound rate, except in the case of publications entitled to pass free under section four hundred and twenty-one, to actual subscribers thereto, obtained by him, and the bulk packages of which, mailed to him, have been prepaid at the pound rate.

5. The postmaster is not authorized to open a news agent's packages and distribute any of the papers or periodicals therein through the post-office to subscribers free.

6. A publisher, who purchases for his subscribers a portion of an edition of another second-class publication, is deemed a news agent, and may receive and remail the same at the pound rate.

SECOND-CLASS MATTER NOT ENTITLED TO THE POUND RATE.

Sec. 351. Rate on Transient Newspapers, &c.—That the rate of postage on newspapers and periodical publications of the second class, when sent by others than the publisher or news agent, shall be one cent for each four ounces or fractional part thereof, and shall be fully prepaid by postage stamps affixed to said matter. (Act of June 9, 1884, 23 Stats., 40.)

NOTE.—Prior to this act transient newspapers were embraced in third-class matter. See section 359, which is modified by the above quoted act.

Sec. 352. Rate at Free-Delivery Offices.—*Provided*, That the rate of postage on newspapers, excepting weeklies and periodicals not exceeding two ounces in weight, when the same are deposited in a letter-carrier office for delivery by its carriers, shall be uniform at one cent each; periodicals weighing more than two ounces shall be subject, when delivered by such carriers, to a postage of two cents each, and these rates shall be prepaid by stamps affixed. (Act of March 3, 1879, § 25, 20 Stats., 361.)

Weekly newspapers mailed for delivery at a free-delivery office, although within the county of publication, must pay the pound rate.

Postmasters must be watchful to prevent admission to the mails of second-class matter addressed to free-delivery offices without prepayment of postage under this or the preceding section.

Sec. 353. Second-Class Matter at Free-Delivery Offices; how Separated.—Second-class matter for city delivery, where the carrier system is estab-

lished, should be separately made up at the office of publication, that for delivery by the carriers of a post-office being put in one package or bundle, each article of mail matter therein properly stamped, and that for delivery through the boxes of the post-office by itself. If the separation is not made at the office of publication, each paper or periodical not properly stamped must be placed in the boxes or at the general delivery for delivery therefrom.

GENERAL PROVISIONS.

Sec. 354. Newspapers to be Wrapped and Dried.—No newspapers shall be received to be conveyed by mail unless they are sufficiently dried and inclosed in proper wrappers. (R. S., § 3883.)

Sec. 355. Manner of Folding and Address.—Publications of the second class should be properly folded for assorting and delivery, and legibly addressed. Should a publisher persist in sending them not properly folded, after being notified so to do, the postmaster will be justified in not distributing them with the regular mail.

Sec. 356. Permissible Marks or Writing.—That mailable matter of the second class shall contain no writing, print, mark, or sign thereon or therein in addition to the original print, except as herein provided, to wit, the name and address of the person to whom the matter shall be sent, and index figures of subscription book, either written or printed, the printed title of the publication, the printed name and address of the publisher or sender of the same, and written or printed words or figures or both, indicating the date on which the subscription to such matter will end. (Act of March 3, 1879, § 22, 20 Stats., 360.) And any article or item in any newspaper or other publication may be marked for observation, except by written or printed words, without increase of postage. (Act of March 3, 1885, 23 Stats., 387.) *Provided, however,* That nothing herein contained shall be so construed as to prevent publishers of the second class and news agents from inclosing, in their publications, bills, receipts, and orders for subscriptions thereto; but such bills, receipts, and orders shall be in such form as to convey no other information than the name, location, and subscription price of the publication or publications to which they refer. (Act of March 3, 1879, § 23 in part, 20 Stats., 361.)

NOTE.—The section to which the above proviso is attached is section 375.

Sec. 357. Form of Bills Accompanying Second-Class Matter.—Bills or receipts printed or written in substantially the following form are admissible under the preceding section :

NEW YORK, ———, 188—.

Office of ———,
 The ——— Weekly,
 37 Park Row. P. O. box 4295.

————— to the ——— Weekly, Dr.

—————, subscription, in advance.

Received payment for the ——— Weekly from ——— to ———.

See section 338, paragraph 10.

A bill may include the names of more than one publication, and their terms of subscription, provided they are all published by the same individual or company, or sent by the same news agent, and may include any period of subscription or any number of shipments to a news agent.

Sec. 358. Detention of Matter and Collection of Proper Rate.—When a postmaster at the office of mailing has good reason to believe that a publisher or news agent has deposited matter for mailing at the second-class rate which should be charged with a higher rate, he must detain the suspected matter, notify the publisher or news agent at once of the detention, and report the fact forthwith to the Third Assistant Postmaster-General.

Money collected from publishers upon third-class matter illegally mailed as second class should be converted into ordinary stamps, which should be affixed to a sheet of paper, canceled, and at once mailed to the Third Assistant Postmaster-General, with report of the facts. The stamps so used will be accounted for as sold, and at fourth-class offices also as canceled.

When a publication known by a postmaster to be third-class matter arrives at his post-office, without evidence of having been prepaid by stamps affixed, he will rate up the package at the third-class rate, to be collected, and report the facts as above. If in doubt he may withhold delivery, and forward a copy with his report.

As to second-class matter entitled to be mailed free, see section 421.

As to regulations for wrapping and examination, see sections 376, 377.

THIRD-CLASS MATTER.

Sec. 359. Third-Class Matter Defined and Rate.—That mail matter of the third class shall embrace books, transient newspapers, and periodicals, circulars, and other matter wholly in print (not included in section twelve), [section 343], proof sheets, corrected proof sheets, and manuscript copy accompanying the same, and postage shall be paid at the rate of one cent for each two ounces or fractional part thereof, and shall fully

be prepaid by postage stamps affixed to said matter. Printed matter other than books received in the mails from foreign countries under the provisions of postal treaties or conventions shall be free of customs duty, and books which are admitted to the international mails exchanged under the provisions of the Universal Postal Union Convention may, when subject to customs duty, be delivered to addresses in the United States under such regulations for the collection of duties as may be agreed upon by the Secretary of the Treasury and the Postmaster-General. (Act of March 3, 1879, § 17, 20 Stats., 359.)

NOTE.—The act of June 9, 1884, quoted as section 351, took transient newspapers and periodicals out of this class, making them second class at a special rate, one cent for each four ounces or fraction thereof.

For regulation relating to collection of customs on mail matter see section 621.

Sec. 360. Circulars.—That the term “circular” is defined to be a printed letter, which, according to internal evidence, is being sent in identical terms to several persons. A circular shall not lose its character as such, when the date and the name of the addressee and of the sender shall be written therein, nor by the correction of mere typographical errors in writing. (Act of March 3, 1879, § 18, 20 Stats., 360.)

Respecting the address of a circular, see section 325.

Sec. 361. Rules as to Circulars.—The following additional rules will be observed in determining whether matter comes within the definition of a circular:

1. The date, if written, must be the date of the circular, and not the date on which something is acknowledged therein to have been received.
2. Price lists in circulars cannot be changed by writing, except to correct what was originally written by mistake.
3. A printed receipt with the name of the sender or receptor written therein is not a circular, but first-class matter.
4. A printed letter of inquiry, with the name of the person or subject inquired about, written therein by hand, type writer, or addressing machine, is not a circular.
5. A number may be used in a circular in place of an address, as in an assessment card.

Sec. 362. Bulk Packages for Separate Distribution.—When circulars, handbills, advertising sheets, or any other printed matter of the third class are sent by mail in bulk from one post-office to another, to be distributed through the boxes or general delivery of the post-office of address, or by letter carriers, the bulk package must not exceed four pounds in weight, and must be fully prepaid at the rate of one cent for each two ounces or fraction thereof, and the proper drop rate at the post-office of destination must be affixed in stamps by the sender to each

separate circular or package (see section 359) in addition to the rate already paid upon the bulk package. Third class matter must be prepaid by stamps affixed to each package to one address.

Sec. 363. Printed Matter.—That “printed matter” within the intentment of this act is defined to be the reproduction upon paper, by any process except that of handwriting, of any words, letters, characters, figures, or images, or of any combination thereof, not having the character of an actual and personal correspondence. (Act of March 3, 1879, § 19, 20 Stats. 360.)

Sec. 364. Further Points of Definition, Rules, &c.—1. Reproductions from originals, not in the nature of personal correspondence, made by the electric pen, papyrograph, metallograph, chirograph, copygraph, or similar mechanical processes, easy of recognition, “blue prints” reproduced only as copies of the original, photographs containing no writing other than the name of the sender (see section 367), canvassing or prospectus-books containing sample chapters of, or other printed matter relating to, the publication for which such books are used, copy books for use in schools, with printed copy lines and instructions in the art of writing, are within the definition of printed matter.

2. Matter prepared by the type writer and other like methods is inadmissible as third-class matter, and must be regarded as personal correspondence, unless so reproduced as to be circulars within the law.

3. Blank or printed cards and envelopes with printed address thereon may be inclosed as third-class matter; not so when the addresses are written.

4. Printed matter sent in the mails as a sample of the printing thereon is third-class matter; but samples of paper with printing thereon merely to invite attention to the quality or price of the paper is fourth-class matter.

Sec. 365. Corrections of Proof Sheets.—The corrections in proof sheets may embrace the alteration of the text or insertion of new matter, as well as the correction of typographical and other errors, and also any marginal instructions to the printer necessary to the correction of the matter, or its proper appearance in print. Part of an article may even be entirely rewritten by way of correction, but not the entire article; and such corrections must be upon the margin of or attached to the proof sheets. Manuscript of one article cannot be inclosed with proof or corrected proof sheets of another.

Sec. 366. A Package of Third-Class Matter may Contain any number of articles of that class, including binding, mounting, or covering, or portions thereof, loose or attached, of the book inclosed; the rollers on which maps are mounted; the markers for books; pens or pencils con-

nected with printed pocket or memorandum books; and any covering necessary for safe transmission; but the binding, rollers, pens, pencils, &c., cannot be sent separately from the printed matter to which they pertain at third-class rates.

Sec. 367. Permissible Additions.—Upon matter of the third class, or upon the wrapper inclosing the same, the sender may write his own name or address thereon, with the word “from” above and preceding the same, and in either case may make simple marks intended to designate a word or passage of the text to which it is desired to call attention. There may be placed upon the cover or blank leaves of any book or of any printed matter of the third class a simple manuscript dedication or inscription that does not partake of the nature of a personal correspondence. (Act of March 3, 1879, part of § 22, 20 Stats., 360. See sections 356 and 371.)

The words “please send out,” or “post up,” or other similar directions or requests not part of the address nor necessary to delivery, cannot be written or printed upon the wrapper of a package of third-class matter without subjecting it to first-class rates, as prescribed in section three hundred and seventy-five. The words “personal,” or “to be called for,” and return requests and other directions as to delivery, forwarding, or return, are deemed part of the address, and permissible.

FOURTH-CLASS MATTER.

Sec. 368. Defined.—That mailable matter of the fourth class shall embrace all matter not embraced in the first, second, or third class, which is not in its form or nature liable to destroy, deface, or otherwise damage the contents of the mail bag, or harm the person of any one engaged in the postal service, and is not above the weight provided by law, which is hereby declared to be not exceeding four pounds for each package thereof, except in case of single books weighing in excess of that amount, and except for books and documents published or circulated by order of Congress, or official matter emanating from any of the Departments of the Government or from the Smithsonian Institution, or which is not declared non-mailable under the provision of section thirty-eight hundred and ninety-three of the Revised Statutes as amended by the act of July twelfth, eighteen hundred and seventy-six, or matter appertaining to lotteries, gift concerts, or fraudulent schemes or devices. (Act of March 3, 1879, § 20, 20 Stats., 360.)

Section 3393 R. S. is section 380. As to lottery matter, &c., see section 379.

Sec. 369. Liquids, &c.; when Admissible.—Liquids, except as hereinafter provided, poisons, explosive or inflammable articles, live or dead

(and not stuffed) animals, insects, or reptiles (except as prescribed in the next section), fruits or vegetable matter liable to decomposition, comb honey, guano, or any article exhaling a bad odor, must not under any circumstances be admitted to the mails; but liquids, not ardent, vinous, spirituous, or malt, and not liable to explosion or spontaneous combustion or ignition by shock or jar, and not inflammable (such as kerosene oil, naphtha, benzine, turpentine, and of like character), soft soap, pastes, or confections, ointments, salves, and articles of similar consistency, may be admitted to the mail for transmission within the United States and Territories, when inclosed in packages in conformity with the conditions prescribed in the next section. The provisions of these regulations do not apply to packages or parcels addressed to foreign countries, now prohibited from transmission by the acts of the Universal Postal Union, or any postal convention or arrangement with any foreign postal administration.

Sec. 370. Preparation for Mailing.—Articles of the fourth class not absolutely excluded from the mails, but which, from their form or nature, might, unless properly secured, destroy, deface, or otherwise damage the contents of the mail bag, or harm the person of any one engaged in the postal service, may be transmitted in the mails when they conform to the following conditions:

1. When not liquid or liquefiable, they must be placed in a bag, box, or removable envelope or wrapping, made of paper, cloth, or parchment.

2. Such bag, box, envelope, or wrapping must again be placed in a box or tube made of metal or some hard wood, with sliding clasp or screw-lid.

3. In cases of articles liable to break, the inside box, bag, envelope, or wrapping must be surrounded by sawdust, cotton, or other elastic substance.

4. Admissible liquids and oils (not exceeding 4 ounces liquid measure), pastes, salves, or articles easily liquefiable, must conform to the following conditions: When in glass bottles or vials, such bottles or vials must be strong enough to stand the shock of handling in the mails, and must be inclosed in a wooden or papier-maché block or tube not less than three-sixteenths of an inch thick in the thinnest part, strong enough to support the weight of mails piled in bags and resist rough handling; and there must be provided, between the bottle and its wooden case, a cushion of cork-crums, cotton, felt, asbestos, or some other absorbent, sufficient to protect the glass from shock in handling; the block or tube to be closed by a tightly fitting screw-lid of wood or metal, with a rubber or other pad so adjusted as to make the block or tube water-tight and to prevent the leakage of the contents in case of

breaking of the glass. When inclosed in a tin cylinder, metal case or tube, such cylinder, case, or tube should have a screw-lid with a rubber or cork cushion inside in order to make the same water-tight, and should be securely fastened in a wooden or papier-maché block (open only at one end) and not less in thickness and strength than above described. Manufacturers or dealers, intending to transmit articles or samples in considerable quantities, should submit a sample package, showing their mode of packing, to the postmaster at the mailing office, who will see that the conditions of this section are carefully observed.

5. In case of sharp-pointed instruments, the points must be capped or encased so that they may not by any means be liable to cut through their inclosure, and where they have blades, such blades must be bound with wire so that they shall remain firmly attached to each other, and within their handles or sockets. Needles must be inclosed in metal or wooden cases so that they cannot by any means prick through or pass out of their inclosures.

6. Seeds, or other articles not prohibited, which are liable, from their form or nature, to loss or damage, unless specially protected, may be put up in sealed envelopes, if such envelopes are made of material sufficiently transparent to show the contents clearly without opening.

7. Ink powders, pepper, snuff, or other powders not explosive, or any pulverized dry substances not poisonous, may be sent in the mails when inclosed in the manner prescribed herein for liquids, or when inclosed in metal, wooden, or papier-maché cases in such secure manner as to render the escape of any particles of dust from the package by ordinary handling impossible, and of such strength as to bear the weight and handling of the mails without breaking; the method of packing to be subject to the approval of the General Superintendent of the Railway Mail Service.

8. Queen bees and their attendant bees, and dried insects or reptiles, may be sent in the mails when properly put up so as not to injure the persons of those handling the mails, nor soil the mail bags or their contents.

9. Hard candies or confectionery, yeast cakes, soap in hard cakes when wrapped in strong paper boxes or heavy paper wrappers adequate to prevent all injury to other mail matter in the same mail bag, are admissible in the domestic mails.

10. Pistols or revolvers, in detached parts, may be sent in the mails; but the mailing postmaster will carefully examine such packages, and will receive them only when sure they are harmless.

11. No specific mode of packing is prescribed for samples of flour;

but they should be put up in such manner as to certainly avoid risk of the package breaking or cracking, or the flour being scattered in the mails, and if this be not done the sample should be excluded.

12. Articles of fourth-class matter must be so wrapped that their contents may be easily and thoroughly examined by postmasters, both with reference to the safety of the mails and postal employes, and to the exclusion of matter chargeable as of the first class.

Sec. 371. Permissible Additions.—Upon any package of matter of the fourth class the sender may write or print his own name and address, preceded by the word “from,” and there may also be written or printed the number and names of the articles inclosed; and the sender thereof may write or print upon or attach to any such articles by tag or label a mark, number, name, or letter, for purpose of identification. (Act of March 3, 1879, § 22, 20 Stats., 360.)

Sec. 372. Regulations for Examination, &c.—Postmasters will carefully examine packages before mailing, to ascertain that no matter chargeable as of the first class is included, and that the requirements of the foregoing statute are complied with. It is permissible to send articles of merchandise in the mails, which contain printed matter giving descriptions, directions for use, or other information respecting the articles, as part of the original packages or labels done up for sale; but upon the face or surface of the package for mailing no other writing, printing, or marks than those authorized by the statute can be placed without subjecting the matter to first-class rates, as provided in section three hundred and seventy-five.

Postmasters at the offices of address are required to examine such packages and collect first-class rates whenever the statute has been violated, and will report to the Sixth Auditor all cases in which the penalty has been incurred, under section three hundred and seventy-five, giving the name of the sender, if known, addressee, office, and date of mailing, and a description of the package and of the matter inclosed or concealed therein, and a statement of the disposition made thereof. When not delivered to addressee on payment of first-class rates the package will be retained by the postmaster to be used as evidence, and he should be able to establish its identity. If the penalty is voluntarily paid, it will be disposed of as prescribed by section three hundred and six.

Sec. 373. Fourth-Class Postage.—That all matter of the fourth class shall be subject to examination and to a postage charge at the rate of one cent an ounce or fraction thereof, to be prepaid by stamps affixed. (Act of March 3, 1879, § 21, 20 Stats., 360.)

PROVISIONS APPLICABLE TO DIFFERENT CLASSES.

Sec. 374. Limit of Weight.—No package weighing more than four pounds shall be received for conveyance by mail, except books published or circulated by order of Congress. (R. S., § 3879.)

NOTE.—The limit of weight does not apply to matter in foreign mails regulated by postal conventions. (Opins. Att'y-Gen., June 30, 1887.) Section 368 is amendatory of this section by adding further exceptions.

Sec. 375. Penalty for Evasion of Payment of Postage, &c.—That matter of the second, third, or fourth class containing any writing or printing other than indicated in the preceding section [sections 356, 367 and 371] or made in the manner other than therein indicated, shall not be delivered except upon the payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed to such matter; and any person who shall conceal or inclose any matter of a higher class in that of a lower class, and deposit, or cause the same to be deposited, for conveyance by mail, at a less rate than would be charged for both such higher and lower class matter, shall, for every such offense, be liable to a penalty of ten dollars. (Act of March 3, 1879, § 23, 20 Stats., 361.)

Sec. 376. Packages must Admit of Examination.—That the Postmaster-General may prescribe, by regulation, the manner of wrapping and securing for the mails all packages of matter not charged with first-class postage, so that the contents of such packages may be easily examined; and no package, the contents of which cannot be easily examined, shall pass in the mails or be delivered at a less rate than for matter of the first class. (Act of March 3, 1879, § 24, 20 Stats., 361.)

Sec. 377. Regulations as to Wrapping.—1. Newspapers and periodicals must be wrapped in such manner that the wrappers can be removed and replaced without destroying them or injuring their inclosures.

2. Third-class matter must be either placed under band, upon a roller, between boards, in a case open at one side or end, or in an uninclosed envelope, or closed so as not to conceal the nature of the packet or its contents, or it may be so tied with a string as to easily unfasten. Address cards and all printed matter in the form of an unfolded card may be mailed without band, envelope, fastening, or fold.

3. Fourth-class matter must be wrapped or inclosed, according to its nature, as prescribed in section three hundred and seventy, in such manner as to be easily examined.

4. Whenever any packet of matter other than first-class, offered for mailing to any address within the United States, is sealed or otherwise closed against inspection, or contains or bears writing not permissible

by section three hundred and seventy-one, it is subject to postage at letter, or first-class, rates, and will be treated as a letter; that is, if one full rate, two cents, has been paid, it will be rated up with the deficient postage at letter rates; if less than one full rate has been paid, it will be treated as prescribed in section five hundred and twenty-five.

UNMAILABLE MATTER.

Sec. 378. Definition and Classification.—Unmailable matter includes all matter which is by law, regulation, or treaty stipulation prohibited from being transmitted in the mails; or which, by reason of illegible, incorrect, or insufficient address, it is found impossible to forward to destination. For convenience it is divided into the following classes:

1. *Held for postage*: That matter which is insufficiently prepaid to entitle it to be forwarded in the mail. This includes all domestic matter of the first class which is not prepaid at least one full rate of postage, and all other domestic matter not fully prepaid; and all insufficiently prepaid matter addressed to foreign countries on which prepayment is necessary.

2. *Misdirected*: That matter which is without address or so incorrectly, insufficiently, or illegibly addressed that it cannot be forwarded to its destination.

3. *Destructive matter*: That which, from its harmful nature, is forbidden to be in the mails. (See section 368.)

4. *Coin and jewelry*: That matter, to wit, coins, jewelry, or precious articles, which is by treaty stipulation prohibited from being sent in the mails to certain foreign countries. (See section 401.)

5. *Obscene matter*: That matter which is by sections three hundred and eighty declared unmailable and prohibited from being sent in the mails.

6. *Lottery*: That matter which is by section three hundred and seventy-nine prohibited from being sent in the mails.

7. *Mutilated*: That matter which is recovered from wrecked or burned mail cars or vessels, or which has been so damaged by any other means that it cannot be forwarded to its destination. This includes all matter of value found loose in the mails, separated from the wrapper, label, or envelope containing the address, so that the destination cannot be known; and all matter recovered from depredations on the mails, which the Postmaster-General is required to restore to the owners when ownership is proved. (Section 151.)

8. *Excess of weight and size*: Those packages of domestic third and fourth class matter weighing more than four pounds each, except single books exceeding that weight, and of foreign matter which are in ex-

cess of the weight or size fixed by treaty stipulation as the maximum for such matter.

9. Such matter as is addressed to foreign countries contrary to regulations for transmission thereto.

10. Any publication which violates any copyright granted by the United States. (See section 341.)

Sec. 379. Letters and Circulars Concerning Lotteries, &c.—No letter or circular concerning [illegal] lotteries, so-called gift-concerts, or other similar enterprises, offering prizes, or concerning schemes devised and intended to deceive and defraud the public for the purpose of obtaining money under false pretenses, shall be carried in the mail. Any person who shall knowingly deposit or send anything to be conveyed by mail in violation of this section, shall be punishable by a fine of not more than five hundred dollars nor less than one hundred dollars, with costs of prosecution. (R. S., § 3894.)

That section thirty-eight hundred and ninety-four of the Revised Statutes be, and is hereby, amended by striking out the word "illegal" in the first line of said section. (Act of July 12, 1876, § 2, 19 Stats., 90.)

NOTE.—Letters and circulars known, and not merely suspected or supposed, to be concerning lotteries are non-mailable. Unsealed circulars may by inspection be known to concern lotteries or not, and when so known may properly be withheld from the mails as prohibited matter, and so may letters, if *known* to concern lotteries. When letters are addressed to lotteries, lottery associations, or persons described in the address as the agents of lotteries or similar schemes, postmasters cannot lawfully withdraw them from the mails as concerning lotteries, as it does not follow and cannot be assumed that such letters concern lotteries. Nor can postmasters refuse to forward registered letters or parcels addressed to such lotteries or agents, or sell money-orders payable to them or their order.

Newspapers containing advertisements of lottery schemes or drawings are not thereby rendered unmailable, as they are not circulars. (Opinion of Attorney-General, December 16, 1885.)

It was only lottery dealers who were in the mind of Congress as sending out letters concerning lotteries, and not the occasional and individual buyer of lottery tickets; and the person who mails a letter to a dealer ordering tickets does not thereby violate the statute. (*United States v. Mason*, 22 Fed. Rep., 707.) A lottery ticket is not a letter within the meaning of the statute, but a schedule printed on the back of all lottery tickets sent out for a particular drawing is a circular. (*United States v. Clark*, 22 Fed. Rep., 708.)

Sec. 380. Obscene Matter.—Every obscene, lewd, or lascivious book, pamphlet, picture, paper, writing, print, or other publication of an indecent character, and every article or thing designed or intended for the prevention of conception or procuring of abortion, and every article or thing intended or adapted for any indecent or immoral use, and every written or printed card, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where or

how, or of whom, or by what means, any of the hereinbefore-mentioned matters, articles or things may be obtained or made, and every letter upon the envelope of which, or postal card upon which, indecent, lewd, obscene, or lascivious delineations, epithets, terms, or language may be written or printed, are hereby declared to be non-mailable matter, and shall not be conveyed in the mails nor delivered from any post-office nor by any letter carrier; and any person who shall knowingly deposit, or cause to be deposited, for mailing or delivery, anything declared by this section to be non-mailable matter, and any person who shall knowingly take the same, or cause the same to be taken, from the mails, for the purpose of circulating or disposing of, or of aiding in the circulation or disposition of the same, shall be deemed guilty of a misdemeanor, and shall for each and every offense be fined not less than one hundred dollars nor more than five thousand dollars, or imprisoned at hard labor not less than one year nor more than ten years, or both, at the discretion of the court. (R. S., § 3893, as amended by act of July 12, 1876, 19 Stats., 90.)

NOTE.—The test whether matter is obscene within the statute, as determined by the courts, is that its tendency is to deprave and corrupt the morals of those whose minds are open to such influences, and into whose hands a publication of this kind may fall. The word "lewd," as used, means "having a tendency to excite lustful thoughts." "Passages are indecent, within the meaning of the act, when they tend to obscenity; that is to say, matter having the form of indecency, which is calculated to promote the general corruption of morals." That is within the law obscene which "would suggest impure and libidinous thoughts in the minds of the young and inexperienced."

Obscene and indecent matter contained in a sealed letter is within the purview of this statute. Such letter is unmailable, and the person mailing it is guilty of an offense indictable and punishable under this act. (*U. S. v. Morris*, 18 Fed. Rep., 900; *U. S. v. Gaylord*, 17 Fed. Rep., 438; *Id. v. Hanover*, *Id.*, 444; *Id. v. Britton*, *Id.*, 731.) An illustrated pamphlet on impotency, containing extracts from medical works, but indecent and obscene and intended for general circulation, is within this statute and is non-mailable. (*U. S. v. Chesman*, 14 Fed. Rep., 497.) The fact that it is mailed to a person under a fictitious name renders the offense none the less complete. (*Bates v. U. S.*, 11 Biss. C. Ct., 70.)

When a sealed letter has passed in the mails and been delivered to the party addressed, he should, if he deem its contents obscene, consult the United States district attorney for the district in which he resides.

Where the article sent is pills advertised to prevent conception it is no defense to show that they are worthless for the purpose, nor that the defendant deposited them in the post-office by the hand of another. (*Bates v. U. S.*, 11 Biss. C. Ct., 70.) Whether photographs or other pictures are obscene is upon the trial in court a question of fact for the jury to determine, upon exhibition of the pictures. (*People v. Muller*, 32 Hun. N.Y., 209.) But for the purpose of determining as to its mailability the postmaster must decide, or, if it appears doubtful, must submit the case to the Department for decision.

As to the punishment of a Government officer, agent, or employé, for aiding in sending obscene matter in the mail, &c., see section 382.

Sec. 381. Postmasters are Responsible for the Admission of Improper Matter, and will exercise great care to exclude whatever is manifestly unmailable. When articles of the fourth class are offered for mailing under the provisions of section three hundred and seventy they must be examined and excluded if the conditions of admission have not been complied with. In cases of doubt the matter should be referred to the General Superintendent of the Railway Mail Service. (See section 896.)

As to the treatment of unmailable matter generally and its disposition, see sections 528, 529, 530, 546, 608, and 609.

Sec. 382. Punishment of Officer or Employé for Mailing, &c.—Whoever, being an officer, agent, or employé of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail, obscene or indecent publications, or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not less than one hundred dollars and not more than five thousand, or by imprisonment at hard labor for not less than one year nor more than ten, or both. (R. S., § 1785.)

CHAPTER TWELVE.

FOREIGN MAIL MATTER; ITS CLASSIFICATION AND RATES OF POSTAGE.

POSTAL CONVENTIONS.

Sec. 383. Postal Conventions with Foreign Countries.—For the purpose of making better postal arrangements with foreign countries, or to counteract their adverse measures affecting our postal intercourse with them, the Postmaster-General, by and with the advice and consent of the President, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage on mail matter conveyed between the United States and foreign countries. (R. S., § 398.)

NOTE.—In execution of the authority given by this section, the Postmaster-General is not limited by the statute fixing a limit of weight to matter in the domestic mails. (See Opinion of Attorney-General, June 30, 1887.)

Sec. 384. Publication of Postal Conventions.—The Postmaster-General shall transmit a copy of each postal convention concluded with foreign