examine the route of said canal.

and Ohio canal, and report to the President of the United States the facts and reasons on which they may ground their judgment thereupon; which report shall be submitted to the Congress of the United States, at their session next ensuing the date thereof for their decision thereon; and if Congress shall be of opinion that the said canal may be cut in the manner proposed, as aforesaid, without impeding or injuring the navigation of the Chesapeake and Ohio canal, the same shall be conclusive thereon.

Approved, March 3, 1825.

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Statute II.

March 3, 1825.

Chap. LVII.—*An Act making appropriation to satisfy certain balances due to the commissioners and secretaries of land claims in Florida.*

3386 dollars five cents appropriated to satisfy certain balances due to the commissioners of land claims in Florida and their secretaries, prior to Dec. 31, 1824.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That there be and hereby is, appropriated out of any money in the treasury not otherwise appropriated, the sum of three thousand three hundred and eighty-six dollars and five cents, to satisfy certain balances due to the commissioners of land claims in Florida and their several secretaries, prior to the thirty-first day of December, one thousand eight hundred and twenty-four.

Approved, March 3, 1825.

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Statute II.

March 3, 1825.

Chap. LXIV.—*An Act to reduce into one the several acts establishing and regulating the Post-office Department.* (*a*)

Act of March 2, 1827, ch. 61.
Act of July 2, 1836, ch. 270, ch. 352. sec. 12.
Resolution of March 2, 1837.
Act of Jan. 25, 1839, ch. 4.
Act of March 3, 1845, ch. 43.
A general post-office to be established at the seat of government, under the direction of a Postmaster General, who shall appoint two assistants and such clerks as he may deem necessary to complete the business of the office, &c. &c.
Duties of the postmaster.
Proviso.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That there be established, at the seat of the government of the United States, a general post-office, under the direction of a Postmaster General. The Postmaster General shall appoint two assistants, and such clerks as may be necessary for the performance of the business of his office, and as are authorized by law; and shall procure, and cause to be kept, a seal for the said office, which shall be affixed to commissions of postmasters, and used to authenticate all transcripts and copies which may be required from the department. He shall establish post-offices, and appoint postmasters, at all such places, as shall appear to him expedient, on the post-roads that are, or may be, established by law. He shall give his assistants, 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. He shall provide for the carriage of the mail on all post-roads that are, or may be, established by law, and as often as he, having regard to the productiveness thereof, and other circumstances, shall think proper. He may direct the route or road, where there are more than one, between places designated by law for a post-road, which route shall be considered the post-road. He shall obtain from the postmasters, their accounts and vouchers for their receipts and expenditures, once in three months, or oftener, with the balances thereon arising, in favour of the general post-office. He shall pay all expenses which may arise in conducting the post-office, and in the conveyance of the mail, and all other necessary expenses arising on the collection of the revenue, and management of the general post-office. He shall prosecute offences against the post-office establishment. He shall, once in three months, render to the Secretary of the Treasury, a quarterly account of all the receipts and

(*a*) See vol. i. 363, for notes of the decisions of the courts of the United States, on the duties and obligations of the Postmaster General, Postmasters, and the Post-office Department, vol. ii. 592.
Notes of the acts relative to the Post-office Department, vol. ii. 592.
Notes of the acts of Congress relative to the franking privilege, vol. ii. 599.

expenditures in the said department, to be adjusted and settled as other public accounts. He shall also, superintend the business of the department, in all the duties that are, or may be, assigned to it: *Provided*, That, in case of the death, resignation, or removal from office, of the Postmaster General, all his duties shall be performed by his senior assistant, until a successor shall be appointed, and arrive at the general post-office, to perform the business.

Proviso.

Sec. 2. *And be it further enacted*, That the Postmaster General, and all other persons employed in the general post-office, or in the care, custody, or conveyance of the mail, shall, previous to entering upon the duties assigned to them, or [in] the execution of their trusts, and before they shall be entitled to receive any emolument therefor, respectively take and subscribe the following oath, or affirmation, before some magistrate, and cause a certificate thereof to be filed in the general post-office: "I, A. B. do swear or affirm, (as the case may be,) that I will faithfully perform all the duties required of me, and abstain from every thing forbidden by the laws in relation to the establishment of the post-office and post-roads within the United States." Every person, who shall be, in any manner, employed in the care, custody, conveyance, or management of the mail, shall be subject to all pains, penalties, and forfeitures, for violating the injunctions, or neglecting the duties, required of him by the laws relating to the establishment of the post-office and post-roads, whether such person shall have taken the oath or affirmation, above prescribed, or not.

All persons employed in the post-office, and others attached to it in any way to take an oath before entering upon the duties of their office.

Oath.

Sec. 3. *And be it further enacted*, That it shall be the duty of the Postmaster General, upon the appointment of any postmaster, to require, and take, of such postmaster, bond, with good and approved security, in such penalty as he may judge sufficient, conditioned for the faithful discharge of all the duties of such postmaster, required by law, or which may be required by any instruction, or general rule, for the government of the department: *Provided, however*, That, if default shall be made by the postmaster aforesaid, at any time, and the Postmaster General shall fail to institute suit against such postmaster, and said sureties, for two years from and after such default shall be made, then, and in that case, the said sureties shall not be held liable to the United States, nor shall suit be instituted against them.

The Postmaster General, on appointing any postmaster, to receive from him bond with good security.

Proviso.

Sec. 4. *And be it further enacted*, That the Postmaster General shall cause a mail to be carried from the nearest post-office, on any established post-road, to the courthouse of any county which is now, or may hereafter be established, in any of the states or territories of the United States, and which is without a mail; and the road, on which such mail shall be transported, shall become a post-road, and so continue, until the transportation thereon shall cease. It shall also be lawful for the Postmaster General to enter into contracts, for a term not exceeding four years, for extending the line of posts, and to authorize the persons, so contracting, as a compensation for their expenses, to receive, during the continuance of such contracts, at rates not exceeding those for like distances, established by this act, all the postage which shall arise on letters, newspapers, magazines, pamphlets, and packets, conveyed by any such posts; and the roads designated in such contracts, shall, during the continuance thereof, be deemed and considered as post-roads, within the provision of this act: and a duplicate of every such contract shall, within sixty days after the execution thereof, be lodged in the office of the comptroller of the treasury of the United States.

Authority given the Postmaster General.

Sec. 5. *And be it further enacted*, That the Postmaster General be authorized to have the mail carried in any steamboat, or other vessel, which shall be used as a packet, in any of the waters of the United States, on such terms and conditions as shall be considered expedient: *Provided*, That he does not pay more than three cents for each

The mail to be carried in any steamboat or other vessel used as a packet.

Proviso.

letter, and more than one half cent for each newspaper, conveyed in such mail.

Course to be pursued by the master or manager of every steamboat carrying the mail; with his duties enjoined.

Sec. 6. *And be it further enacted*, That it shall be the duty of every master or manager of any steamboat, which shall pass from one port or place to another port or place in the United States, where a post-office is established, to deliver within three hours after his arrival, if in the day time, and within two hours after the next sunrise, if the arrival be in the night, all letters and packets addressed to, or destined for such port or place, to the postmaster there, for which he shall be entitled to receive, of such postmaster, two cents for every letter or packet so delivered, unless the same shall be carried or conveyed under a contract with the Postmaster General; and, if any master or manager of a steamboat shall fail so to deliver any letter or packet, which shall have been brought by him, or shall have been in his care, or within his power, he shall incur a penalty of thirty dollars for every such failure. And every person employed on board any steamboat, shall deliver every letter, and packet of letters, intrusted to such person, to the master or manager of such steamboat, and before the said vessel shall touch at any other port or place; and for every failure or neglect so to deliver, a penalty of ten dollars shall be incurred for each letter or packet.

None but a free white person to carry the mail.

Sec. 7. *And be it further enacted*, That no other than a free white person shall be employed in conveying the mail; and any contractor who shall employ, or permit, any other than a free white person to convey the mail, shall, for every such offence, incur a penalty of twenty dollars.

The Postmaster General, when any established post-road is out of repair, &c. to report to Congress to such effect.

Sec. 8. *And be it further enacted*, That, whenever it shall be made appear, to the satisfaction of the Postmaster General, that any road established, or which may hereafter be established as a post-road, is obstructed by fences, gates, or bars, or other than those lawfully used on turnpike roads to collect their toll, and not kept in good repair, with proper bridges and ferries, where the same may be necessary, it shall be the duty of the Postmaster General to report the same to Congress, with such information as can be obtained, to enable Congress to establish some other road instead of it, in the same main direction.

Any person wilfully stopping the mail, shall, upon conviction, be fined.

Sec. 9. *And be it further enacted*, That, if any person shall, knowingly and wilfully, obstruct or retard the passage of the mail, or of any driver or carrier, or of any horse or carriage, carrying the same, he shall, upon conviction, for every such offence, pay a fine not exceeding one hundred dollars; and if any ferryman, shall, by wilful negligence, or refusal to transport the mail across any ferry, delay the same, he shall forfeit and pay, for every ten minutes that the same shall be so delayed, a sum not exceeding ten dollars. (*a*)

Before the Postmaster General shall enter into a contract for carrying the mail, twelve weeks' public notice must be given.

Sec. 10. *And be it further enacted*, That it shall be the duty of the Postmaster General to give public notice, in one newspaper published at the seat of government of the United States, and in one or more of the newspapers published in the state or states or territory, where the contract is to be performed, for at least twelve weeks before entering into any contract for carrying the mail, that such contract is intended to be made, and the day on which it is to be concluded, describing the places from and to which such mail is to be conveyed, the time at which it is to be made up, and the day and hour at which it is to be delivered. He shall

(*a*) If the ordinances of the city of Philadelphia are in collision with an act of Congress, the former must give way. The laws of Congress, made in pursuance of the Constitution of the United States, are the supreme law of the land, any thing in the constitution or laws of any state notwithstanding. United States *v.* John Hart, Peters' C. C. R. 390.

Driving a carriage through a populous and crowded street in the city, at such a rate or in such a manner as to endanger the inhabitants, is an indictable offence at common law, and amounts to a breach of the peace; a constable is authorized, without warrant, to prevent the peace being so broken. *Ibid.*

The act of Congress prohibiting the stoppage of the mail, is not to be so construed as to prevent the arrest of the driver of a carriage in which the mail is carried, when he is driving through a crowded city at such a rate as to endanger the lives of the inhabitants. *Ibid.*

moreover, within ninety days after the making of any contract, lodge a duplicate thereof, together with the proposals which he shall have received respecting it, in the office of the comptroller of the treasury of the United States: *Provided*, That no contract shall be entered into for a longer term than four years.

Proviso.

Sec. 11. *And be it further enacted*, That every postmaster shall keep an office, in which one or more persons shall attend on every day on which a mail shall arrive, by land or water, as well as on other days, at such hours as the Postmaster General shall direct, for the purpose of performing the duties thereof; and it shall be the duty of the postmaster, at all reasonable hours, on every day of the week, to deliver, on demand, any letter, paper, or packet, to the person entitled to, or authorized to receive the same; and all letters, brought to any post-office half an hour before the time of making up the mail at such office, shall be forwarded therein, except at such post-offices where, in the opinion of the Postmaster General, it requires more time for making up the mail, and which he shall accordingly prescribe; but this shall, in no case, exceed one hour.

Every postmaster to keep an office, &c.

Sec. 12. *And be it further enacted*, That no fees or perquisites shall be received by any person employed in the general post-office, on account of the duties to be performed by virtue of his appointment.

No fees &c., in the post-office.

Sec. 13. *And be it further enacted*, That the following rates of postage be charged upon all letters and packets, (excepting such as are excepted by law) conveyed in the mail of the United States, viz: For every letter composed of a single sheet of paper, conveyed not exceeding thirty miles, six cents. Over thirty, and not exceeding eighty, ten cents. Over eighty, and not exceeding one hundred and fifty, twelve and a half cents, Over one hundred and fifty, and not exceeding four hundred, eighteen and three quarters of a cent. Over four hundred, twenty-five cents.

Rates of postage. Act of March 3, 1845, ch. 43.

And for every double letter, or letter composed of two pieces of paper double those rates; and for every triple letter, or letter composed of three pieces of paper, triple those rates; and for every packet composed of four or more pieces of paper, or one or more other articles, and weighing one ounce avoirdupois, quadruple those rates; and in that proportion for all greater weights: *Provided*, That no packet of letters, conveyed by the water mails, shall be charged with more than quadruple postage, unless the same shall contain more than four distinct letters. No postmaster shall receive, to be conveyed by the mail, any packet which shall weigh more than three pounds; and the postage marked on any letter or packet, and charged in the post bill which may accompany the same, shall be conclusive evidence in favour of the postmaster who delivers the same, of the lawful postage thereon; unless such letter or packet shall be opened in the presence of the postmaster or his clerk. Every four folio pages, or eight quarto pages, or sixteen octavo, or twenty-four duodecimo pages, or pages less than that of a pamphlet size, or magazine, whatever be the size of the paper of which it is formed, shall be considered a sheet, and the surplus pages of any pamphlet or magazine, shall also be considered a sheet; and the journals of the legislatures of the several states, not being bound, shall be liable to the same postage as pamphlets.

Proviso.

Any memorandum, which shall be written on a newspaper, or other printed paper, pamphlet or magazine, and transmitted by mail, shall be charged with letter postage: *Provided*, The publisher of a newspaper may send a printed or written notice to a subscriber, stating the amount due on his subscription; which notice shall be attached to the margin of the newspaper, and the postmaster who delivers the paper shall charge for such notice the same pastage [postage] as for a newspaper.

Proviso.

Sec. 14. *And be it further enacted*, That the Postmaster General be, and he is hereby, authorized to allow to each postmaster, such commission on the postages by him collected, as shall be adequate to his services

Each postmaster to receive such commission on the

postage of letters as may be adequate to his services.

Proviso.

Rates.

and expenses: *Provided*, That his commission shall not exceed the following several rates on the amount received in one quarter, viz:

On a sum not exceeding one hundred dollars, thirty per cent.

On any sum over and above the first hundred dollars, and not exceeding four hundred dollars, twenty-five per cent.

On any sum over and above the first four hundred, and not exceeding two thousand four hundred dollars, twenty per cent.

On any sum over and above the first two thousand four hundred dollars, eight per cent.

Exceptions.

Except to the postmasters who may be employed in receiving and despatching foreign mails, whose compensation may be augmented, not exceeding twenty-five dollars in one quarter; and excepting to the postmasters at offices where the mail is regularly to arrive between the hours of nine o'clock at night, and five o'clock in the morning, whose commission on the first hundred dollars collected in one quarter may be increased to a sum not exceeding fifty per cent. The Postmaster General may allow to the postmasters, respectively, a commission of fifty per cent. on the moneys arising from the postage of newspapers, magazines, and pamphlets; and to the postmasters whose compensation shall not exceed five hundred dollars in one quarter, two cents for every free letter delivered out of the office, excepting such as are for the postmaster himself; and each postmaster, who shall be required to keep a register of the arrival and departure of the mails, shall be allowed ten cents for each monthly return which he makes thereof to the general post-office. The Postmaster General may allow to the postmaster at New Orleans, at the rate of eight hundred dollars a year, in addition to his ordinary commissions. The Postmaster General is hereby authorized to allow to the postmaster of the city of Washington, in addition to the allowance made by this act, for postage collected, and for free letters received by him for delivery, a commission of five per cent. on the amount of mails distributed at his office: *Provided, nevertheless*, That the whole annual emolument of the said postmaster, including the extra compensation of eight hundred dollars which is hereby allowed him, shall be subject to the restrictions imposed by the forty-first section of this act.

Allowances to postmasters on newspapers, &c.

Postmaster at New Orleans.

Postmaster at Washington.

Proviso.

Every letter or packet carried from one port to another, in any private vessel, charged with six cents, &c.

Sec. 15. *And be it further enacted*, That every letter or packet, brought into the United States, or carried from one port therein to another, in any private ship or vessel, shall be charged with six cents, if delivered at the post-office where the same shall arrive; and if destined to be conveyed by post to any place, with two cents added to the ordinary rates of postage.

Any person receiving, through fraud, more than the postage of a letter, &c. to be fined for every offence $100.

Sec. 16. *And be it further enacted*, That, if any postmaster, or other person, authorized by the Postmaster General to receive the postage of letters, shall fraudulently demand, or receive, any rate of postage, or gratuity, or reward, other than is provided by this act, for the postage of letters or packets, on conviction thereof, he shall forfeit, for every such offence, one hundred dollars.

No ship or vessel arriving at any port of the United States, where a post-office is established, shall be permitted to report, &c.

Duties of the collector.

Sec. 17. *And be it further enacted*, That no ship or vessel, arriving at any port within the United States where a post-office is established, shall be permitted to report, make entry, or break bulk, until the master or commander shall have delivered to the postmaster all letters directed to any person or persons within the United States, or the territories thereof, which, under his care, or within his power, shall be brought in such ship or vessel, except such as are directed to the owner or consignee of the ship or vessel. And it shall be the duty of the collector or other officer of the port empowered to receive entries of ships or vessels, to require from every master or commander of such ship or vessel, an oath or affirmation, purporting that he has delivered all such letters, except as aforesaid, and if any commander or master of any such ship or vessel shall break bulk before

he shall have complied with the requirements of this act, every such offender shall, on conviction thereof, forfeit, for every such offence, a sum not exceeding one hundred dollars.

Master or commander of vessels delivering packets to be paid.

Sec. 18. *And be it further enacted,* That the postmaster to whom such letters may be delivered, shall pay the master or commander, or other person delivering the same, except the commanders of foreign packets, two cents for each letter or packet; and shall obtain from the person delivering the same, a certificate, specifying the number of letters and packets, with the name of the ship or vessel, and the place from whence she last sailed; which certificate, together with a receipt for the money, shall be, with his quarterly accounts, transmitted to the Postmaster General, who shall credit him with the amount.

No stage or other vehicle which regularly performs trips on post-roads, &c. to convey letters, &c.

Sec. 19. *And be it further enacted,* That no stage or other vehicle, which regularly performs trips on a post-road, or on a road parallel to it, shall convey letters; nor shall any packet boat or other vessel, which regularly plies on a water declared to be a post-road, except such as relate to some part of the cargo. For the violation of this provision, the owner of the carriage, or other vehicle, or vessel, shall incur the penalty of fifty dollars. And the person who has charge of such carriage, or other vehicle or vessel, may be prosecuted under this section, and the property in his charge may be levied on and sold, in satisfaction of the penalty and costs of suit: *Provided,* That it shall be lawful for any one to send letters by special messenger.

Proviso.

Accountability of the deputy postmaster, &c.

Sec. 20. *And be it further enacted,* That the deputy postmaster, and other agents of the Postmaster General, shall duly account, and answer to him for all way letters which shall come to their hands; and for this purpose, the post-riders, and other carriers of the mail, receiving any way letter or letters, (and it shall be their duty to receive them, if presented more than one mile from a post-office,) shall deliver the same, together with the postage, if paid, at the first post-office to which they shall afterwards arrive; where the postmaster shall duly enter the same, and specify the number and rate or rates, in the post-bill, adding to the rate of each way letter, one cent; which shall be paid by the postmaster to the mail carrier from whom such way letter shall be received.

Persons employed in the post-office, when they detain, &c. letters, &c., shall on conviction be fined or imprisoned.

Sec. 21. *And be it further enacted,* That if any person employed in any of the departments of the post-office establishment, shall unlawfully detain, delay, or open, any letter, packet, bag, or mail of letters, with which he shall be intrusted, or which shall have come to his possession, and which are intended to be conveyed by post; or, if any such person shall secrete, embezzle, or destroy, any letter or packet intrusted to such person as aforesaid, and which shall not contain any security for, or assurance relating to money, as hereinafter described, every such offender, being thereof duly convicted, shall, for every such offence, be fined, not exceeding three hundred dollars, or imprisoned, not exceeding six months, or both, according to the circumstances and aggravations of the offence. And if any person, employed as aforesaid, shall secrete, embezzle, or destroy, any letter, packet, bag, or mail of letters, with which he or she shall be intrusted, or which shall have come to his or her possession, and are intended to be conveyed by post, containing any bank note, or bank post-bill, bill of exchange, warrant of the treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to, payment of moneys, or any bond, or warrant, draft, bill, or promissory note, covenant, contract or agreement whatsoever, for, or relating to, the payment of money, or the delivery of any article of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge of, or from, any debt, covenant, or

demand, or any part thereof, or any copy of any record of any judgment, or decree, in any court of law, or chancery, or any execution which may have issued thereon; or any copy of any other record, or any other article of value, or any writing representing the same; or if any such person, employed as aforesaid, shall steal, or take, any of the same out of any letter, packet, bag, or mail of letters, that shall come to his or her possession, such person shall, on conviction for any such offence, be imprisoned not less than ten years, nor exceeding twenty-one years; and if any person who shall have taken charge of the mails of the United States, shall quit or desert the same before such person delivers it into the post-office kept at the termination of the route, or some known mail-carrier, or agent of the general post-office, authorized to receive the same, every such person, so offending, shall forfeit and pay a sum not exceeding five hundred dollars, for every such offence; and if any person concerned in carrying the mail of the United States, shall collect, receive, or carry any letter, or packet, or shall cause or procure the same to be done, contrary to this act, every such offender shall forfeit and pay for every such offence a sum not exceeding fifty dollars. (*a*)

**Persons robbing the mail &c., to suffer death.**

Sec. 22. *And be it further enacted*, That if any person shall rob any carrier of the mail of the United States, or other person intrusted therewith, of such mail, or of part thereof, such offender or offenders shall, on conviction, be imprisoned not less than five years, nor exceeding ten years; and, if convicted a second time of a like offence, he or they shall suffer death; or if, in effecting such robbery of the mail the first time, the offender shall wound the person having custody thereof, or put his life in jeopardy, by the use of dangerous weapons, such offender or offenders shall suffer death.(*b*) And if any person shall attempt to rob the mail of the United States, by assaulting the person having custody thereof, shooting at him, or his horse or mule, or threatening him with

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(*a*) The 25th section of the post-office law of 1825, which prescribes a penalty for the detention of a letter, refers to a letter or packet detained before it reaches its destination. The United States *v.* Pearce, 2 M'Lean's C. C. R. 14.

(*b*) The defendant was indicted upon the 24th section of the act of Congress of March 3, 1825, entitled "An act to reduce into one, the several acts establishing and regulating the post-office department," for advising, procuring and assisting one Joseph Straughan, a mail carrier, to rob the mail; and was found guilty. Upon this finding, the judges of the circuit court of North Carolina were divided in opinion on the question, whether an indictment founded on the statute for advising, &c., a mail carrier to rob the mail, ought to set forth or aver that the said carrier did, in fact, commit the offence of robbing the mail? By the Supreme Court—The answer to this, as an abstract proposition, must be in the affirmative. But if the question intended to be put, is, whether there must be a distinct substantive averment of that fact, it is not necessary. The indictment in this case sufficiently sets out that the offence had been committed by the mail carrier. United States *v.* Mills, 7 Peters, 138.

The offence charged in this indictment is a misdemeanor, where all are principals; and the doctrine applicable to the principal and accessary in cases of felony does not apply. The offence, however charged against the defendant, is secondary in its character; and there can be no doubt that it must sufficiently appear upon the indictment, that the offence alleged against the chief actor had been committed. *Ibid.*

Upon an indictment for robbing the mail, and putting the life of the person having the custody of it in jeopardy, under the 19th section of the act of April 30th, 1810, ch. 262, a sword, &c. in the hand of the robber, by terror of which the robbery is effected, is a dangerous weapon within the act, putting the life in jeopardy; though it be not drawn or pointed at the carrier. So a pistol in his hands, by means of which the robbery is effected, is a dangerous weapon; and it is not necessary to prove that it was charged; it is presumed to be so until the contrary is proved. The United States *v.* Wood, 3 Wash. C. C. R. 440.

It is not necessary to a conviction, under the 22d section, that the carrier of the mail should have taken the oath prescribed by the 2d section of the act of 1825, or that the whole mail be taken. The United States *v.* Wilson et al. 1 Baldwin's C. C. R. 102.

All persons present at the commission of a crime, consenting thereto, aiding, or assisting and abetting therein, or in doing any act which is a constituent of the offence, are principals. *Ibid.*

The word "rob," in the act of Congress of 1825, sec. 22, is used in the common law sense. *Ibid.* 93.

"Jeopardy," as used in the section, means a well-grounded apprehension of danger to life, in case of refusal to yield to threats, or resistance. *Ibid.*

A mail carrier is within the 18th section of the "Act regulating the post-office establishment," subjecting to a penalty in certain cases, "persons employed in any of the departments of the general post-office." United States *v.* Belew, 2 Brock. 280.

dangerous weapons, and the robbery is not effected, every such offender, on conviction thereof, shall be punished by imprisonment, not less than two years, nor exceeding ten years. And, if any person shall steal the mail, or shall steal or take from, or out of, any mail, or from, or out of, any post-office, any letter or packet: or, if any person shall take the mail, or any letter or packet therefrom, or from any post-office, whether with or without the consent of the person having custody thereof, and shall open, embezzle or destroy any such mail, letter, or packet, the same containing any article of value, or evidence of any debt, due, demand, right, or claim, or any release, receipt, acquittance or discharge, or any other article, paper, or thing, mentioned and described, in the twenty-first section of this act; or, if any person shall by fraud or deception, obtain from any person having custody thereof, any mail, letter, or packet, containing any article of value, or evidence thereof, or either of the writings referred to, or next above mentioned, such offender or offenders, on conviction thereof, shall be imprisoned not less than two, nor exceeding ten, years.(a) And if any person shall take any letter, or packet, not containing any article of value, or evidence thereof, out of a post-office, or shall open any letter, or packet which shall have been in a post-office, or in custody of a mail-carrier, before it shall have been delivered to the person to whom it is directed, with a design to obstruct the correspondence, to pry into another's business or secrets; or shall secrete, embezzle, or destroy, any such mail, letter, or packet, such offender, upon conviction, shall pay for every such offence, a sum not exceeding five hundred dollars, and be imprisoned not exceeding twelve months.

Sec. 23. *And be it further enacted,* That if any person shall rip, cut, tear, burn, or otherwise injure, any valise, portmanteau, or other bag, used, or designed to be used, by any person acting under the authority of the Postmaster General, or any person in whom his powers are vested, in a conveyance of any mail, letter, packet, or newspaper, or pamphlet, or shall draw or break any staple, or loosen any part of any lock, chain, or strap, attached to, or belonging to any such valise, portmanteau or bag, with an intent to rob, or steal any mail, letter, packet, newspaper or pamphlet, or to render either of the same insecure, every such offender, upon conviction, shall, for every such offence, pay a sum, not less than one hundred dollars, nor exceeding five hundred dollars, or be imprisoned not less than one year, nor exceeding three years, at the discretion of the court before whom such conviction is had.

Punishment ordained where any person shall injure, in any way, the portmanteau, &c., in which the mail is carried.

Sec. 24. *And be it further enacted,* That every person who, from and after the passage of this act, shall procure, and advise, or assist, in the doing or perpetration of any of the acts or crimes by this act forbidden, shall be subject to the same penalties and punishments as the persons are subject to, who shall actually do or perpetrate any of the said acts or crimes, according to the provision of this act.

Persons, who shall in any way be accessary, or engage in any of the crimes forbidden by this act, &c.

Sec. 25. *And be it further enacted,* That every person who shall be imprisoned by a judgment of court, under and by virtue of the twenty-first, twenty-second, twenty-third, or twenty-fourth sections of this act, shall be kept at hard labour during the period of such imprisonment.

Persons imprisoned by a judgment of court under this act, &c.

Sec. 26. *And be it further enacted,* That the postmasters shall, respectively, publish, at the expiration of every three months, or oftener, when the Postmaster General shall so direct, in one of the newspapers published at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in their respective offices, or, instead thereof, shall make out a number of such lists, and cause them

Postmasters to publish for three successive weeks, in one of the newspapers nearest to the place of

(a) The defendant was indicted for receiving treasury notes, stolen from the mail of the United States. A treasury note was offered in evidence. The Supreme Court, on a division of opinion from the circuit court of Virginia, held, that the treasury notes issued by authority of the act of Congress of October 12, 1838, are promissory notes, within the meaning of the act of Congress of March 3, 1825, regulating the Post-office Department. The United States *v.* Hardyman, 13 Peters, 176.

The stealing or taking a letter, within the 22d section of the act of 1825, means a clandestine taking. The United States *v.* Pearce, 2 M'Lean's C. C. R. 14.

their residence, a list of all the letters remaining in their respective offices.

Unreclaimed letters to be sent to the General Post-office and there opened.

to be posted at such public places in their vicinity, as shall appear to them best adapted for the information of the parties concerned; and at the expiration of the next three months, shall send such of the said letters as then remain on hand, as dead letters, to the general post-office, where the same shall be opened and inspected; and if any valuable papers or matters of consequence, shall be found therein, it shall be the duty of the Postmaster General to return such letter to the writer thereof, or cause a descriptive list thereof to be inserted in one of the newspapers published at the place most convenient to the supposed residence of the owner, if within the United States; and such letter, and the contents, shall be preserved, to be delivered to the person to whom the same shall be addressed, upon payment of the postage, and the expense of publication. And if such letter contain money, the Postmaster General may appropriate it to the use of the department, keeping an account thereof, and the amount shall be paid by the department to the rightful claimant so soon as he shall be found.

Public officers by whom letters, &c. are to be received free of postage.

Sec. 27. *And be it further enacted,* That letters and packets to and from the following officers of the United States, shall be received and conveyed by post, free of postage. Each postmaster, provided each of his letters or packets shall not exceed half an ounce in weight; each member of the Senate, and each member and delegate of the House of Representatives of the Congress of the United States, the secretary of the Senate, and clerk of the House of Representatives, provided each letter or packet, (except documents printed by the order of either House of Congress,) shall not exceed two ounces in weight, and during their actual attendance in any session of Congress, and sixty days before and after such session; and in case of excess of weight, that excess alone shall be paid for; the President of the United States, Vice President, the Secretaries of State, of the Treasury, of War, of the Navy, Attorney General, Postmaster General, and the assistants postmaster general, the comptrollers of the treasury, auditors, register, treasurer, and commissioner of the general land office, and such individual who shall have been, or may hereafter be, President of the United States, and each may receive newspapers by post, free of postage: *Provided,* That postmasters shall not receive, free of postage, more than one daily newspaper, each, or what is equivalent thereto; nor shall members of the Senate, or of the House of Representatives, the clerk of the House, or secretary of the Senate, receive newspapers, free of postage, after their privilege of franking shall cease.(*a*)

Proviso.

Liability of persons franking letters not written by themselves.

Sec. 28. *And be it further enacted,* That, if any person shall frank any letter or letters, other than those written by himself, or by his order, on the business of his office, he shall, on conviction thereof, pay a fine of ten dollars, and it shall be the especial duty of postmasters to prosecute for said offence: *Provided,* That the Secretary of the Treasury, Secretary of State, Secretary of War, Secretary of the Navy, and Postmaster General, may frank letters or packets on official business, prepared in any other public office, in the absence of the principal thereof. And if any person, having the right to receive his letters free of postage, shall receive, enclosed to him, any letter or packet addressed to a person not having that right, it shall be his duty to return the same to the post-office, marking thereon the place from whence it came, that it may be charged with postage. And if any person shall counterfeit the hand-writing or frank of any person, or cause the same to be done, in order to avoid the payment of postage, each person, so offending, shall pay for every such offence, five hundred dollars.

Proviso.

Printers to send one newspaper to each

Sec. 29. *And be it further enacted,* That every printer of newspapers may send one paper to each and every other printer of newspapers within

(*a*) This section is repealed by the 5th section of the act of March 3, 1845, ch. 43.

the United States, free of postage, under such regulations as the Postmaster General shall provide.(a)

other free of postage.

Sec. 30. *And be it further enacted,* That all newspapers conveyed in the mail shall be under cover, open at one end, and charged with a postage of one cent each, for any distance not more than one hundred miles, and one and a half cents for any greater distance: *Provided,* That the postage of a single newspaper, from any one place to another, in the same state, shall not exceed one cent, and the Postmaster General shall require those who receive newspapers by post, to pay always the amount of one quarter's postage in advance; and should the publisher of any newspaper, after being three months previously notified that his paper is not taken out of the office, to which it is sent for delivery, continue to forward such paper in the mail, the postmaster to whose office such paper is sent, may dispose of the same for the postage, unless the publisher shall pay it. If any person employed in any department of the post-office, shall improperly detain, delay, embezzle, or destroy any newspaper, or shall permit any other person to do the like, or shall open, or permit any other to open any mail, or packet of newspapers, not directed to the office where he is employed, such offender shall, on conviction thereof, forfeit a sum, not exceeding fifty dollars, for every such offence. And if any other person shall open any mail or packet of newspapers, or shall embezzle or destroy the same, not being directed to such person, or not being authorized to receive or open the same, such offender shall, on the conviction thereof, pay a sum not exceeding twenty dollars for every such offence. And if any person shall take, or steal, any packet, bag, or mail of newspapers from, or out of any post-office, or from any person having custody thereof, such person shall, on conviction, be imprisoned, not exceeding three months, for every such offence, to be kept at hard labour during the period of such imprisonment. If any person shall enclose or conceal a letter, or other thing, or any memorandum in writing, in a newspaper, pamphlet, or magazine, or in any package of newspapers, pamphlets, or magazine, or make any writing or memorandum thereon which he shall have delivered into any post-office, or to any person for that purpose, in order that the same may be carried by post, free of letter postage, he shall forfeit the sum of five dollars for every such offence; and the letter, newspaper, package, memorandum, or other thing, shall not be delivered to the person to whom it is directed, until the amount of single letter postage is paid for each article of which the package is composed. No newspapers shall be received by the postmasters, to be conveyed by post, unless they are sufficiently dried and enclosed in proper wrappers, on which, besides the direction, shall be noted the number of papers which are enclosed for subscribers, and the number for printers: *Provided,* That the number need not be endorsed, if the publisher shall agree to furnish the postmaster, at the close of each quarter, a certified statement of the number of papers sent in the mail, chargeable with postage. (b)

All newspapers conveyed in the mail to be under cover, &c.

Proviso.

Proviso.

The Postmaster General, in any contract he may enter into for the conveyance of the mail, may authorize the person with whom such contract is to be made, to carry newspapers, magazines, and pamphlets, other than those conveyed in the mail: *Provided,* That no preference shall be given to the publisher of one newspaper over that of another, in the same place. When the mode of conveyance, and size of the mail, will admit of it, such magazines and pamphlets as are published periodically, may be transported in the mail to subscribers, at one and a half cents a sheet, for any distance not exceeding one hundred miles, and two and a half cents for any greater distance. And such magazines and pamphlets as

Proviso.

Act of March 3, 1845, ch. 43, sec. 2.

(a) Act of March 3, 1845, ch. 43.
(b) See act of March 3, 1845, ch. 43.

are not published periodically, if sent in the mail, shall be charged with a postage of four cents on each sheet, for any distance not exceeding one hundred miles, and six cents for any greater distance.

Where any postmaster shall neglect or refuse to render his accounts and pay over to the Postmaster General the balance by him due quarter yearly, suit shall be commenced against him.

Sec. 31. *And be it further enacted,* That, if any postmaster, or other person authorized to receive the postage of letters and packets, shall neglect or refuse to render his accounts, and pay over to the Postmaster General the balance by him due, at the end of every three months, it shall be the duty of the Postmaster General to cause a suit to be commenced against the person or persons so neglecting or refusing. That all suits, which shall be hereafter commenced, for the recovery of debts or balances due to the general post-office, whether they appear by bond or obligations, made in the name of the existing, or any preceding Postmaster General, or otherwise, shall be instituted in the name of the "Postmaster General of the United States." That certified statements, under the seal of the general post-office, of the accounts of the several postmasters and contractors, after the same shall have been examined and adjusted at that office, shall be admitted as evidence in all suits brought by the Postmaster General for the recovery of balances or debts due from postmasters or contractors; and, also, certified copies of the quarterly accounts of postmasters; or, if lodged in the treasury, copies, certified by the register, under the seal of his office, shall be admitted as evidence.

Forfeiture by a postmaster neglecting to render his accounts for one month after the time, and in the form, &c., prescribed by this law.

Sec. 32. *And be it further enacted,* That, if any postmaster shall neglect to render his accounts for one month after the time, and in the form and manner prescribed by law, and by the Postmaster General's instructions, conformable therewith, he shall forfeit double the value of the postages which shall have arisen at the same office in any equal portion of time previous or subsequent thereto; or in case no account shall have been rendered at the time of trial of such case, then such sum as the court and jury shall estimate, equivalent thereto, to be recovered by the Postmaster General, in an action of debt, on the bond against the postmaster and his securities, and for which the securities shall be liable.

All pecuniary penalties, &c., be one half for the informer and the other half for the United States.

Sec. 33. *And be it further enacted,* That all pecuniary penalties and forfeitures, incurred under this act, shall be one half for the use of the person or persons informing and prosecuting for the same, and the other half to the use of the United States, and shall be paid over to the Postmaster General, and accounted for by him as other moneys of the department.

Provision to be made for the reception of all letters, &c. to be conveyed from any port of the United States beyond the sea, &c.

Sec. 34. *And be it further enacted,* That it shall be lawful for the Postmaster General to make provision, where it may be necessary, for the receipt of all letters and packets intended to be conveyed by any ship or vessel beyond sea, or from any port in the United States to another port therein; and the letters so received shall be formed into a mail, sealed up, and directed to the postmaster of the port to which such ship or vessel shall be bound; and for every letter or packet so received, there shall be paid, at the time of its reception, a postage of one cent, which shall be for the use of the postmasters respectively receiving the same. And the Postmaster General may make arrangements with the postmasters in any foreign country, for the reciprocal receipt and delivery of letters and packets through the post-office.

Postmasters, &c., exempted from militia duties.

Sec. 35. *And be it further enacted,* That the postmasters, post-riders, and drivers of the mail stages, shall be exempt from militia duties, and serving on juries, or any fine or penalty for neglect thereof.

Letter-carrier to be employed at such post-offices as the Postmaster General shall direct.

Proviso.

Sec. 36. *And be it further enacted,* That letter-carriers shall be employed at such post-offices as the Postmaster General shall direct, for the delivery of letters in the places, respectively, where such post-offices are established; and, for the delivery of each such letter, the letter-carrier may receive of the person to whom the delivery is made, two cents: *Provided,* That no letter shall be delivered to such letter-carrier for delivery, addressed to any person who shall have lodged at the post-office a written request that the letters shall be detained in the office. And,

for every letter lodged at any post-office, not to be carried by post, but to be delivered at the place where it is so lodged, the postmaster shall receive one cent of the person to whom it shall be delivered.

Sec. 37. *And be it further enacted*, That all causes of action arising under this act, may be sued, and all offenders against this act, may be prosecuted, before the justices of the peace, magistrates, or other judicial courts of the several states, and of the several territories of the United States, they having competent jurisdiction, by the laws of such states or territories, to the trial of claims and demands of as great value and of the prosecutions, where the punishments are of as great extent; and such justices, magistrates, or judiciary, shall take cognisance thereof, and proceed to judgment and execution, as in other cases.

All causes of action arising under this act, may be sued, and offenders prosecuted before competent tribunals.

Sec. 38. *And be it further enacted*, That, in all suits or causes arising under this act, the court shall proceed to trial, and render judgment the first term after such suit shall be commenced: *Provided, always*, That, whenever service of the process shall not have been made twenty days at least previous to the return day of such term, the defendant shall be entitled to one continuance, if the court on the statement of such defendant shall judge it expedient: *Provided, also*, That, if the defendant in such suits shall make affidavit that he has a claim against the general post-office, not allowed by the Postmaster General, although submitted to him conformably to the regulations of the post-office, and shall specify such claim in the affidavit, and that he could not be prepared for the trial at such term, for want of evidence, the court, in such case, being satisfied in those respects, may grant a continuance until the next succeeding term; and the Postmaster General shall be authorized to discharge from imprisonment any person confined in jail, on any judgment in a civil case, obtained in behalf of the department: *Provided*, It be made to appear that the defendant has no property of any description: *And provided*, That such release shall not bar a subsequent execution against the property of the defendant.

All suits, &c. arising under this act, shall proceed to trial, &c.

Proviso.

Proviso.

Proviso.

Proviso.

Sec. 39. *And be it further enacted*, That it shall be the duty of the Postmaster General to report, annually, to Congress, every post-road which shall not, after the second year from its establishment, have produced one third of the expense of carrying the mail on the same.

The Postmaster General to report annually to Congress, every post-road, &c.

Sec. 40. *And be it further enacted*, That the adjutant general of the militia of each state and territory shall have right to receive, by mail, free of postage, from any major general or brigadier general thereof, and to transmit to said generals, any letter or packet, relating solely to the militia of such state or territory: *Provided, always*, That every such officer, before he delivers any such letter or package for transmission, shall in his own proper hand-writing, on the outside thereof, endorse the nature of the papers enclosed, and thereto subscribe his name and office, and shall previously furnish the postmaster of the office where he shall deposit the same, with a specimen of his signature. And, if any such officer shall frank any letter or package, in which shall be contained any thing relative to any subject, other than of the militia of such state or territory, every offender shall, on conviction of every such offence, forfeit and pay a fine of fifty dollars.

The adjutant general of the militia of each state, &c. to receive from any major or brigadier general of the same, letters, &c. relating thereto, free of postage.

Proviso.

Act of March 3, 1845, ch. 43.

Sec. 41. *And be it further enacted*, That whenever the annual emoluments of any postmaster, after deducting therefrom the necessary expenditures incident to his office, shall amount to more than two thousand dollars, the surplus shall be accounted for, and paid to the Postmaster General, and by him to be accounted for in the same manner as other moneys accruing from the post-office establishment.

Whenever the annual emoluments of a postmaster, after certain deductions, are more than 2000 dollars, the surplus to be returned.

Sec. 42. *And be it further enacted*, That no postmaster, assistant postmaster, or clerk employed in any post-office shall be a contractor, or concerned in a contract for carrying the mail: *Provided*, That this section shall not interfere with contracts heretofore made.

No postmaster or assistant postmaster to be a contractor.

No additional allowance shall be made by the Postmaster General to the contractor or carrier of any mail.

Exceptions.

Sec. 43. *And be it further enacted,* That no additional allowance shall be made by the Postmaster General, to the contractor or carrier of any mail, on any route, over or beyond the amount stipulated in the contract entered into for the transportation of the mail on such route, unless additional service shall be required; and then no additional compensation shall be allowed to exceed the exact proportion of the original amount to the additional duties required; and the Postmaster General shall, in all such cases, within thirty days thereafter, transmit to the first comptroller of the treasury an account of such additional services, and the compensation to be allowed therefor.

Penalties for not executing contracts.

Sec. 44. *And be it further enacted,* That any person or persons, who shall hereafter make any proposal, in writing, to carry or transport the mail upon any route or routes, which may be advertised to be let, and such person or persons shall be determined by the Postmaster General to be entitled to the contract, by virtue of such proposition, and [if] such person or persons shall fail or refuse to enter into an obligation, with good and sufficient security, to perform such contract within the time required by the Postmaster General in such advertisement, such person or persons shall forfeit and pay so much money as shall be the difference between the amount contained in such proposal, and the amount the Postmaster General shall have to pay for the same transportation of the mail on such route or routes; which sum may be recovered by the Postmaster General in an action on the case.

Any person buying, &c. any article mentioned in the 21st sec. of this act, knowing the same to be stolen, &c. shall be fined and imprisoned.

Sec. 45. *And be it further enacted,* That, if any person shall buy, receive, or conceal, or aid in buying, receiving, or concealing any article mentioned in the twenty-first section of this act, knowing the same to have been stolen or embezzled from the mail of the United States, or out of any post-office, or from any person having the custody of the said mail, or the letters sent or to be sent therein; or if any person shall be accessary after the fact to any robbery of the carrier of the mail of the United States, or other person intrusted therewith, of such mail, or of part thereof, every person, so offending, shall, on conviction thereof, pay a fine not exceeding two thousand dollars, and be imprisoned and confined to hard labour for any time not exceeding ten years. And such person or persons so offending, may be tried and convicted without the principal offender being first tried, provided such principal offender has fled from justice, or cannot be found to be put on his trial.

All acts, &c. passed for the establishment of the post-office, repealed.

Act of April 21, 1808, ch. 48.

Proviso.

Sec. 46. *And be it further enacted,* That all acts and parts of acts which have been passed for the establishment and regulation of the General Post-office, shall be, and the same are hereby, repealed: *Provided,* That the act, entitled "An act concerning public contracts," approved on the twenty-first of April, one thousand eight hundred and eight, shall not be affected hereby, but shall remain in full force and virtue: *And provided, also,* That nothing herein contained shall be construed to affect or extend to, any offence committed against the laws, now in force, intended by this act to be repealed; but the same shall be prosecuted, and determined, and punished, according to the said laws, nor to affect any existing contract, or debt, or demand, due to or from the department; but all such offences, crimes, debts, duties, demands, and contracts, shall be held in force, and adjudged, determined, and executed, according to the present laws in force, as though this act had not passed; nor shall it affect any appointments to office made under the laws hereby repealed.

Approved, March 3, 1825.