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**Title:** Letter from Roger B. Taney to Joel Sutherland

**Date:** January 25, 1856

**Location:** I-SpahrB-1962-5

### **Contact:**

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trashington Juny 25-1056 Denju I have received your letter, I looked carefully into the out of longress. - The question you state is certainly a very nice a definer one, and I am not own that it has ever her Decided. The question unolver itself into this. To the mail within the meaning of the act of Congress, any thing more than better seek inclosed in a propuration, to be tront withis to another past office - or does the to so include maileble matter from the time it is deposition in the office, until it is delivered from the proper office to the mohn hoty: The 22? Dution of the art days "in any human shall still the mail, or shall Ital or tohn from, or out of any mail, or from or out of any boost office sade. The longue of the aution would sum to in July, that there is a distriction, between In mail and the post office, and that a letter may be in the letter When it is not in the former. The law mes

both turn - and use them as if they mout Different things .- Nom it sums to me that a letter deposited in the prostopping to be transmitted to another place, could hardly be said to humoiled, or in the moil, until it was inclosed in the profue weefterde for its troumignor to the place to which it is Sirectio. - In some frost offices in the villages in the interior they have mails only once - twice a remem - And letters are often forposition the post office days bufor the mail day . - I willing to think that such a letter wanted not be in the mail-leus in the bost defice, - remaining in the office until the time of pointed for putting it in the mail. The case before you was however a siggerent one- There is had cutarinly been mailed & had weeken the office to which it was directed. - and the question is whether when once mailes 2 in transitu, it is not begally in the mail until felicend to the fronty; When this point I with them may great doubts. I will not day I differ from you - go 2 have not made ut a definite opinion.

For I am out of health- have movered very Stowely from my late illings a on yet unable to the Dohner Court, although Lou in hashington-Low there pour hordly in a condition to look into cores that may be supposed to be analyses - or give the deligier the conful would we have the westy a difficulty of the question withthis But, as I have said, The law sums to home used these worth, not as appointmens- but as meoning Different Mings. - And of the low is so construit, I doubter relution a letter low he soid he in the mail, when it has here tohun from the multire in which it was brought to the office, and is deposited in a sitable flow to await to call of the porty - It wants I think them he certainly in the portoffice - but whe then also in the mail or not is another question you will your the loose morning in while I have stated my improprious I imput to my infirm brother, which unfit me for close thought, whom a question 2 sifficulty - every truly 2 respons gr. B. Janey

The second secon he demplosed to be seen by pool of going The state of the s and a superinted of the formation of Les as 2 hours appoint and a In who were the many of the service in some of the state of the by the sois he made, when we as he L'and the same of and complete the one office of the order in to a world of how to email to all of the proton - showed & think them has entaries on the property and in the works you will you him how morning while I have attended in frequency ding in fine last while enfit me por close thought of your continue of thing - any har a way you the Balance

Dear Sir,

I have received your letter, and looked carefully into the act of Congress. The question you state is certainly a very nice and difficult one, and I am not aware that it has ever been decided. The question resolves itself into this. Is the mail within the meaning of the act of Congress, and thin more than letters etc. etc. inclosed in a proper receptable, to be transmitted to another post office – or does the word include mailable matter from the time it is deposited in the office, until it is delivered from the post office to the proper party. The 22<sup>nd</sup> section of the act says "if any person shall steal the mail, or shall steal of take from, or out of <u>any mail</u>, or from or out of <u>any post office</u> etc. etc. The language of the section would seem to imply that there is a distinction, between the mail and the post office, and that a letter may be in the latter when it is not in the former. The law uses

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both terms – and uses them as if they meant different things. Now it seems to me that a letter deposited in the post office to be transmitted to another place, could hardly be said to be mailed, or in the mail, until it was inclosed in the proper receptacle for its transmission to the place to which it is directed. In some post office in the villages in the interior they have mail only once or twice a week. And letter are often deposited in the post office days before the mail day. I incline to thing that such a letter would not be in the mail – but in the post office, remaining in the office until the time appointed for putting it in the mail. The case before you was however a different one. There it had certainly been mailed and had reached the office to which it was directed. And the question is whether when once mailed and in transit, it is not legally in the mail until delivered to the party. Upon this point I entertain very great doubts. I will not say I differ from you – for I have not made up a definite opinion.

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For I am out of health – have recovered very slowly from my late illness and am yet unable to attend the Supreme Court, although I am in Washington. I am therefore hardly in a condition to look into cases that may be supposed to be analogous – or give the subject the careful consideration to which the nicety and difficulty of the question entitles it. But, as I have said, the law seem to have used these words, not as synonymous – but as meaning different things. And if the law is so constructed, I doubt whether a letter can be said [to] be in the mail, when it has been taken from the receptacle in which it was brought to the office, and is deposited in a suitable place to await the call of the party. It would I think then be certainly in the post office – but whether also in the mail or not is another question.

You will excuse the base manner in which I have stated my impressions and impute it to my inform health, which unfits me for close though, upon a question of difficulty.

Very truly and respectfully yrs. R. B. Taney