Washington Jany 25. 1856

Dear Sir

I have received your letter, & looked carefully into the act of Congress. – The question you state is certainly a very nice & 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, any thing more ~~than~~ than letters &c &c inclosed in a proper receptacle, 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 proper office to the proper party: The 22d section of the act says "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 &c &c. 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 use 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 offices in the villages in the interior they have mails only once in twice a week. - And letters are often deposited in the post office days before the mail day. - I incline to think 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 & had reached the office to which it was directed. - and the question is whether when once mailed & in transitu, 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.

For I am out of health - have recovered very slowly from my late illness & 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 & difficulty of the question entitles it. But, as I have said, the law seems to have used these words, not as synonimous - but as meaning different things. - And if the law is so construed, I doubt whether a letter can be said 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 to 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 loose manner in which I have stated my impressions & imperfectly to my infirm health, which unfits me for close thought, upon a question of difficulty -

Very truly & respy yrs R. B. Taney

Mr Taney

[Letter to Joel Barlow Sutherland]

Washington January 25, 1856

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 22nd section of the act says "if any person shall steal the mail, or shall steal of take from, or out of any mail, or from or out of any post office 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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Very truly and respectfully yrs.
R. B. Taney