

not in its internal character—in its mask and not in its substance.

### SECOND CLASS MAIL PRIVILEGES.

The American postal service is a favorite and favorable illustration with our socialistic friends. It is characterized by them as being, so far as it goes, a practical application of their programme. This characterization is commonly accepted by anarchists, but they dispute the socialistic contention that the system is desirable. They insist that it is upon the whole inferior to the service that would spring up if the government placed no obstructions in the way of private enterprise in postal matters.

We accept neither of these conclusions fully. On the one hand, we regard the American postal service in some respects as superior to any which private enterprise would supply. But, on the other hand, whether good or bad, it is not as a whole an example of socialism. Some postal functions are essentially monopolistic. Under no circumstances would they admit of free competition. They must, therefore, of necessity be either governmental monopolies or private monopolies; and inasmuch as governmental monopoly, however bad, is preferable to private monopoly, these functions of the postal service ought to be undertaken by the government. Such undertaking is not socialistic. It is simply an adoption of the least of two evils, in circumstances in which free competition is impossible; whereas the socialistic programme contemplates governmental undertakings in the industrial field not as an unavoidable alternative where free competition is lacking, but for the express purpose of evading or altogether abolishing the competitive principle.

Yet there is one respect in which the American postal system is undeniably socialistic. We allude to the bureaucratic character of its management. And in this respect there is nothing about it to boast of. Whoever comes in contact with the system only as the sender or receiver of a letter, which, for the mere cost of two cents is carried to the farthest hinterlands of this vast North American continent, or for a few cents more is delivered to obscure individuals at

the uttermost corners of the earth; whoever has observed the fidelity and ingenuity with which illegible or erroneous addresses are interpreted and the letters of the humblest thus sent on to their true destination; or whoever knows the postal system chiefly through good natured and obliging clerks or carriers in cities, or the neighborly postmasters of villages—to such as these the system may well appear to be almost ideal; and when they hear of the agitation for penny postage, they may be pardoned for thinking and boasting of it as a system rapidly developing to perfection. But it is different, very different, when you come in contact with the postal service in its bureaucratic aspects.

#### I.

The most notable bureaucratic features of the system are those that relate to "second class" mail privileges.

Mail matter is by law put into four classes, with reference, primarily, to rates of postage; and the regular issues of periodical publications are assigned to the second class. The act of congress defining second class mail matter is very simple. It consists of publications—

(1) Issued at regular intervals at least four times a year, and bearing dates and consecutive numbers; (2) issued from known offices of publication; (3) formed of printed sheets without bindings such as distinguish periodicals from books; (4) having for their purpose the dissemination of information of a public character or being devoted to literature, the sciences, arts or some special industry; (5) having a legitimate list of subscribers; and, (6) not designed primarily for advertising purposes or for free circulation, or for circulation at nominal rates.

Such matter is admitted to the mails from the publishing offices at the rate of one cent a pound and without stamps.

Upon the basis of this definition a body of wonderful rules has grown up in the postal department, as the result of bureaucratic interpretations promulgated from the bureau known as the "office of the third assistant postmaster general." For illustration, the phrase "legitimate list of subscribers," is mysteriously discovered by this bureau to mean approximately "50 per cent. of the number of copies issued and circulated by mail or other-

wise." Furthermore, subscribers are those and only those who voluntarily seek to subscribe and who pay with their own money; provided, however, that this ruling is not intended to interfere with genuine cases in which one person subscribes for a limited number of copies for another. Other rulings declare that publications which assert that they are furnished to subscribers at no profit are circulated at "nominal rates," and must therefore be excluded from second class privileges. These citations are but suggestive of how the whole body of rulings throws the door wide open for bureaucratic annoyances, favoritism and oppression. In fact, the right to second class privileges has come, through these bureau rulings, to be almost nothing more than a matter of unrestrained discretion on the part of the post office department.

To these rulings, already carried to the extent of departmental usurpation, one has recently been added which so far outdoes the others as to defy conservative characterization. It so interprets the law as noted in the sixth clause numbered above, which makes an exception of publications designed primarily for advertising purposes, as to enable the postal department to exclude from second class rights any periodical which the department chooses to regard as principally intended to advertise the personality or ideas of the editor or publisher apart from his position as editor or publisher. It is quite unnecessary to say that the paper regarding which this extraordinary bureau-ruling has been made was not a popular publication. It was a socialistic periodical—"The Challenge," formerly published at Los Angeles, but now domiciled in Toronto, where it describes itself as having been "suppressed by United States post office," and as being "now published under protection of King Edward VII."

#### II.

The Challenge was manifestly designed to propagate the doctrine of socialism. It was printed in a typographical style much affected by weekly periodicals just now, and was in appearance altogether a handsome weekly paper of the conventional sort. Its contents were principally editorials

and essays, with some advertising, not much, the reading matter being devoted to expositions and exploitations of socialism.

In at least one respect the paper seemed to us to be offensive to good taste. The editor, H. Gaylord Wilshire, had the habit of issuing challenges through his columns to famous persons to debate socialism with him. He challenged Mr. Bryan, for one, and made much for socialism and for the Challenge editor as a socialistic agitator, of Bryan's silence, his foolish assumption being that by ignoring the challenge Bryan confessed inability to contend in debate with a socialist. Mr. Wilshire appeared to think that by thus challenging prominent public men to debate socialism with him, and exploiting the fact when ignored by them, he was using the paper to advertise and promote the cause of socialism. In other words, he adapted the methods of the Barnum style of promoting private business to the agitation of a public question—socialism. Not that this was the only way in which the Challenge sought to promote that cause. In many respects it was an excellent and dignified representative of socialism. Nor was this Barnumism the primary design of the paper. It was simply one of the ways which Wilshire adopted to further the cause with which he was allied and for which his paper stood.

We repeat that all this was in bad taste according to our standards; and it was done in the service of a cause to which we are not devoted. But we cannot regard good taste, even by our standards, nor the legitimacy of a cause, even by our tests, as a proper criterion for determining what is and what is not second class mail matter. The only proper test is the law.

As the paper did not appear upon the surface to contravene the law of second class matter, the announcement of its exclusion from the second class privilege came as a surprise to all who knew anything about its journalistic character. It seemed that if this paper could be excluded every other radical paper might be excluded also, and in good time probably would be. The very natural conclusion prevailed among those who were interested at all, that the postal bureau

had at any rate begun a crusade against socialist papers.

This conclusion was confirmed when it appeared that at about the same time, proceedings had been taken by the bureau to embarrass the Appeal to Reason, another socialistic periodical, published at Girard, Kan.

According to this paper, the second class bureau at Washington ordered the postmaster at Girard to refuse papers in bundles to one address, as second class matter. Upon being informed of that order, the publisher of the Appeal to Reason ordered bundles of several publications to be sent from the publication offices, each bundle to one address in Girard. These papers were the Kansas City Journal, the St. Louis Globe-Democrat and the Chicago Inter Ocean—all Republican. The bundles were sent by mail second class for one cent a pound paid at the mailing office. They passed through their respective post offices without interruption, and were not detained until they arrived at Girard, where the postmaster had received the special orders already mentioned, which he innocently supposed to be applicable to all papers. He accordingly demanded of the addressee postage at eight cents a pound. Thereupon the addressee complained to the Kansas City Journal of this exaction of extra postage for its second class shipment, and soon afterwards the order to the Girard postmaster was rescinded.

This act was quickly followed, however, by an order from the second class bureau questioning the legitimacy of the Appeal to Reason's subscription list, but the issue thus raised has not yet been decided.

We are unable to vouch for the truth of this story. It is the story of the paper itself. But if true, it indicates as clearly as actions ever indicate intentions, that the real motive of the postal bureau for embarrassing the Appeal to Reason was not any supposed violation by it of the postal laws, but the objectionable public policy it stands for and seeks to propagate.

With reference, however, to the interference with Wilshire's paper, the story of which we have interrupted for the purpose of throwing upon that case the side light of the Appeal to

Reason's experience, we have some direct and positive information.

When Wilshire's Challenge, after being accorded second class privileges for over six months, properly as it seemed upon the surface, was subjected by the postal bureau to a withdrawal of those privileges, Wilshire issued an extra number, October 12, 1901, distributing it outside of second class rates, in which he explained his difficulty. Having shifted his place of publication from Los Angeles to New York he applied for a corresponding transfer of second class privileges. The application was denied in a letter of September 27, 1901, from Edwin C. Madden, third assistant postmaster general at New York. This letter placed the exclusion on the general ground that Wilshire's publication did not come within the law requiring second class publications to—

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.

No specific reason for the exclusion was given. It was impossible to tell from the letter of the third assistant postmaster general whether the publication had been held to be one not for the dissemination of information of a public character, and not devoted to literature, the sciences, arts, or some special industry; or whether its list of subscribers had been held to be not legitimate; or whether it had been held to be designed primarily for advertising purposes; or whether it had been designed for free circulation; or whether it had been designed for circulation at nominal rates; or whether it had offended in two or more or all of these particulars. To destroy a property right in that off-hand and indifferent way should be enough in itself to condemn the guilty official.

Four days after that letter, according to Mr. Wilshire's own personal story, he had an interview with the third assistant postmaster general who had dealt so cavalierly

with his property rights. We quote Wilshire's story in his own words:

The New York office did not know why Challenge was refused entry, as it had been entered regularly at Los Angeles, and it was in reality simply a transfer. They thought, however, as did I, that the decision was based upon a disbelief in the legitimacy of a 30,000 circulation. I had such volumes of proof on this point, such as the original letters inclosing cash for subscriptions, etc., that I knew any such objection could be easily met. However, much to my surprise, Mr. Madden did not raise the question of circulation. That was tacitly admitted bona fide. In fact, it was only a very few months ago, many will remember, that he sent out blanks of inquiry to my subscribers, asking if they paid for Challenge or if they got it free. The replies soon convinced him that I had few dead-heads. Free circulation is not allowed by the post office. No, the circulation was not questioned. Challenge was excluded because it was alleged to be "designed primarily for advertising purposes." Now, up to today I had thought, and so had nearly everyone else, that a paper "designed primarily for advertising" meant advertising some concrete, material thing, like, say Armour's Hams or Carter's Pills; but Mr. Madden has enlarged the scope of postal law so that "ideas" are included. In other words, he said that apparently Challenge was simply a publication issued to advertise and sell Wilshire's ideas and boom his lecturing tour, and, as such, he thought it should be excluded. "Challenge is manifestly designed primarily for advertising," said Mr. Madden, "and the mere fact that what you sell happens to be your own ideas instead of your own soap does not let you escape."

This explanation was absolutely incomprehensible to us upon any other theory than that it reported Mr. Wilshire's interview with Mr. Madden incorrectly. We accordingly addressed the post office department upon the subject, in what was intended for a courteous inquiry about a matter of public importance. The unsatisfactory character of the reply which came after long delay makes it important, perhaps, to quote our letter to the postmaster general in full. It was dated November 9, and following the formal address it read:

We are in receipt of an issue of "Challenge," a weekly paper dated at New York, October 12, 1901, and published by H. Gaylord Wilshire, in which it is stated editorially that your department has denied second-class postal privileges to the "Challenge" for

the reason that it is designed primarily for advertising purposes, being "simply a publication issued to advertise and sell Wilshire's ideas and boom his lecturing tour." Will you kindly advise us whether this explanation of what you mean in that case by advertising purposes is true; and, if not, what is the department's specific reason for the exclusion? We are in no wise connected with Mr. Wilshire nor interested in his paper; neither are we in sympathy either with his ideas or his characteristic mode of propagating them. But for purposes of comment in our columns upon a matter of such vital interest to journalism and the public we wish to be authoritatively advised of the exact point which your department has decided in this case. Trusting that you will not regard this inquiry as improper, and will oblige us with the information requested, I am, very respectfully, yours.

Our inquiry was either intentionally ignored or accidentally overlooked for three weeks. The answer bears date December 2d, and evidently came in response, not to the original letter, but to a reminder dated November 27, in which we advised the postmaster general that no reply to the letter to him of November 9th had been received. In that reminder, after describing our first letter, we wrote:

No reply has yet been received. I am not willing to infer that a courteous inquiry of your department would be intentionally ignored, and therefore suppose that my letter may have been accidentally overlooked. Unless there are reasons for refusing the information asked, will you kindly oblige me with it.

Following is the body of the reply, dated December 2, and signed by Edwin C. Madden, third assistant postmaster general:

The postmaster general has referred to this office your letter of the 9th ult., requesting to be informed whether the reasons given in "The Challenge," dated October 12, 1901, for the exclusion of that paper from the second-class of mail matter, are true reasons for the action referred to. In reply, I have to invite attention to the enclosed copy of a letter addressed to Mr. Wilshire on October 29th last.

It will be observed that the questions propounded in our letter to the postmaster general are evaded, unless an answer to them may be spelled out from the letter of October 29 to Mr. Wilshire, of which a copy was inclosed. As this inclosure does not

deny Wilshire's assertion, quoted above and quoted also in our letter to the postmaster general, namely, that the reason given by Mr. Madden for excluding the Challenge was that it was designed primarily for advertising purposes because it was "simply a publication issued to advertise and sell Wilshire's ideas and boom his lecture tour," and as it contains no reference at all to Wilshire's version of the interview with Mr. Madden, we deem it only fair to accept Wilshire's version in full as correct. But criticism of the department rests not on that version alone. The reason stated in the inclosure itself is hardly less absurd, and no less oppressive in its evident purpose, than the one quoted by Wilshire.

The bureau letter to Mr. Wilshire of October 29th, of which that inclosure is a copy, is as follows:

Your several letters written to this office with relation to the classification of "Challenge" since your visit to the department have been considered carefully, as have also the renewed application for entry of the publication to the second-class of mail matter, under the act of March 3, 1879, and the copies of the paper submitted therewith. The resultant conclusion is affirmative of the ruling of September 27th, last, and denial of the application referred to, on the ground that the publication is designed primarily for advertising purposes, and within the prohibition of law, which reads as follows:

"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 at nominal rates."—Act of March 3, 1879, Sec. 14, 20 Stat. 369.

The question whether a publication is "primarily designed for advertising purposes" is one of fact to be determined in each case from the evidence. The word "primarily" is intended to indicate the chief or principal object of the publication, and not its first object in any sense of time. The use of the phrase, as applied to a publication, means one primarily intended for advertising purposes, and, for fair inference, not one the design or intention of which is that it should be used incidentally for advertising purposes. A cursory reading of the various issues of "The Challenge" issued since its publication at New York is convincing that its main purpose is to advertise yourself outside of your position as its editor and publisher. Under the caption, "Free Ads. for Wilshire," appearing in the issue for October 12, 1901, such a purpose is clearly apparent. The character of a publication is de-

terminated as well from its reading matter as from its display advertisements.

It is hardly necessary for me to state here that the post office department has no concern with the political views advanced in a publication seeking or enjoying second-class rates, and that it does not discriminate between them for any reasons other than those fixed by the laws relating to second-class matter.

The deposit of postage at the third-class rate over the pound rate, received from you by the postmaster at New York, will be returned. The ground for this unusual action is that the "Challenge" in its present character has been accepted as second-class matter for some period of time at Los Angeles, Cal., and this was justification for your assuming that with like character it would be accepted at New York for entry to the second-class. The failure to bring its advertising character to the attention of the department by the postmaster at Los Angeles is considered as contributory to your loss if the postage at the third-class rate were retained. The decision, therefore, is regarded as due you in equity. The postmaster at New York will be advised.

The official reason, then, for regarding the Challenge as designed primarily for advertising purposes and so for denying it the mailing rights that are common to all legitimate periodicals, is because the postal department believes that the main purpose of the paper was to advertise the editor and publisher, this intention being inferred from a "cursory reading" of its various issues, and one editorial entitled "Free Ads. for Wilshire."

What this "free ad." article may have been we do not know. Nor is it important. Whatever it was, a single editorial could not fairly stamp the paper as a mere advertising medium. It was probably one of those Barnumistic editorials of Wilshire's, in which he frequently gloated over attacks upon his mountebank ways as operating to promote the circulation of his paper and to advance the cause of socialism.

Considered with reference to the unmistakable character of the Challenge the ruling of the postal department in Wilshire's case amounts to a decision that a paper which incidentally endeavors to promote a public policy by exploiting its editor as an exponent or advocate of that policy, is designed primarily for advertising purposes and is not entitled therefore to second class mail privileges.

It even goes the length of putting a bar upon the publication of ideas. For the department, while asserting that the purpose of the Challenge was to advertise Wilshire outside of his position as editor, does not assert that this advertising related to his occupation as a national banker, as a bill poster, as a soap maker, as a general lecturer or entertainer, or in any other mercantile or business relationship. The most favorable construction of the ruling is that it holds Wilshire to have used the paper to advertise himself as a lecturer on socialism, in the non-mercantile sense of being a promoter or agitator of that policy. But who can fairly say that this is advertising within the meaning of the postal law? To give that law a reasonable interpretation, advertising must be held to mean commercial advertising; advertising, that is, for the promotion of the sale of services or merchandise.

To hold that the editor of a reform paper is an advertiser, and that his paper exists primarily for advertising purposes, because he editorially exploits his personal work as a promoter of the reform for which his paper stands, is to get close to the verge of the ridiculous. Apply the rule to a religious paper, which exploits the sermons of its reverend editor, and the absurdity becomes apparent.

### III.

Whether this action of the postal department indicates a postal bureaucratic crusade against socialistic publications we do not, of course, pretend to say with any positiveness. We have gone thus minutely and at length into the most prominent instance of such exclusion in order that our readers may be equipped to draw their own inferences, so far as that case throws light upon the subject. Our own suspicion is that this exclusion is not part of a bureaucratic conspiracy against socialistic papers; but that it is a phase of a bureaucratic conspiracy in favor of the great railroad ring, and that socialistic papers, along with all other reform papers, which are not exceedingly circumspect, excessively cautious to keep far within the limits of second class postal requirements, are incidentally preferred to all other publications for bureaucratic discipline.

The second class privilege is the postal black beast of the railroad ring. By producing a deficit of postal revenues, second class matter being carried at a loss, it menaces this ring with public exposure and a termination of the enormously excessive rates the postal department pays for railroad transportation. This is the reason congress is constantly importuned to cut down second class privileges, in such manner as to embarrass small and young papers while not bothering the old and powerful ones. It may possibly explain, also, why a railroad fireman is at the head of the second class bureau, which has recently excluded from the mails, without congressional action, publications that the department has vainly asked congress to exclude upon the theory that it was beyond the authority of the department under existing law.

The second class controversy is an old one, which President Roosevelt has revived in his recent message. In that state paper he said:

The full measure of postal progress which might be realized has long been hampered and obstructed by the heavy burden imposed on the government through the entrenched and well understood abuses which have grown up in connection with second-class mail matter. The extent of this burden appears when it is stated that, while the second class matter makes nearly three-fifths of the weight of all the mail, it paid for the last fiscal year only \$4,224,445 of the aggregate postal revenue of \$111,631,193. If the pound rate of postage, which produces the large loss thus entailed and which was fixed by the congress with the purpose of encouraging the dissemination of public information, were limited to the legitimate newspapers and periodicals actually contemplated by the law, no just exception could be taken. That expense would be the recognized and accepted cost of a liberal public policy deliberately adopted for a justifiable end. But much of the matter which enjoys the privileged rate is wholly outside of the intent of the law and has secured admission only through an evasion of its requirements or through lax construction. The proportion of such wrongly included matter is estimated by postal experts to be one-half of the whole volume of second class mail. If it be only one-third or one-quarter, the magnitude of the burden is apparent. The post office department has now undertaken to remove the abuses so far

as is possible by a stricter application of the law, and it should be sustained in its effort.

But not a word in the message about excessive railroad rates. While commending such construction of the second class law as threatens every paper without a political "pull" with the virtually discretionary judgment and possible bias of the third assistant postmaster general, on economic grounds at that, the president has nothing to say against the greater abuse of railroad transportation rates. Yet this abuse is quite as manifest as the other, the only difference being that it is fostered by the department while that is curtailed.

In a very careful examination made in 1897 by Finley Acker, a well-known resident of Philadelphia, for the National Board of Trade, of which he was president, Mr. Acker exposed this railroad abuse. His facts have never been disproved nor his conclusions refuted, and similar conditions still exist. His investigation was not made with reference to second class matter, but with reference to the possibilities of one-cent instead of two-cent postage. Mr. Acker found that in 1890 the railroad charges to express companies were less than six-tenths of a cent a pound as against 6 and 58-100 cents paid in 1897 for mail matter. This comparison is inconclusive, for the average length of haul, which is 328 miles for mail matter, had to be assumed for express companies to be the same distance. It was admitted also that in some respects express carriage is not so expensive to the railroad companies as mail carriage, though in other respects it is less so. In a comparison, however, of mail transportation with passenger transportation (which is more expensive to the railroads than mail transportation) Mr. Acker found that the passenger fare in 1896 for an average haul of 328 miles, being the average haul of mail matter, was \$6.67; or, allowing 150 pounds for passenger and 50 for baggage, at the rate of  $3\frac{1}{4}$  cents a pound for a haul of 328 miles, whereas the rate paid by the government for mail matter was  $6\frac{1}{2}$  cents — nearly twice as much. Apart from these evidently excessive rates for hauling, Mr. Acker furthermore reported that the government pays the

railroads annual rentals for mail cars which are from  $1\frac{1}{2}$  to twice the actual cost of the cars. That is, although these mail cars cost only from \$2,500 to \$4,000 to build, the railroads get in rentals from the post office department \$6,250 for each car each year.

As it is not our purpose to go fully into the details of the excessive railroad charges for transporting mail matter, these general results of Mr. Acker's investigation will serve for the present. They indicate sufficiently that the postal deficit is not wholly due to abuses of the second class privileges, but that department favors to railroads are chargeable with it to no inconsiderable degree. They serve also to suggest a motive for the expenditure of so much official energy upon second class abuse, and for the manifest disposition through department rulings to make second class privileges difficult of acquirement, especially by persons who use them for the dissemination of ideas which are not popular within the precincts of the second class postal bureau and in the directors' rooms of railways.

#### IV.

Regarding second class privileges considered by themselves, the whole system is wrong. They are in practice privileges to be passed upon by a department bureau; they should be rights to be had promptly upon application at any post office. The controlling question should be one of pounds and ounces and not one of bureaucratic red tape.

We do not mean by this that publishers should be allowed to use the mails at a loss to the government. Publishers should have no greater rights than other business concerns. That they now have is wrong. What we mean is that the second class right should not raise a question of exceedingly low postal rate, certainly not of unremunerative rates. It should be a question principally of convenience in mailing.

If second class matter does fairly cost some eight cents a pound for transmission, as the department asserts, then let the government charge that much for it. Let publishers, all publishers, pay eight cents a pound.

If this were done the government would be at no loss on account of sec-

ond class matter, and need draw no fine bureaucratic distinctions, capable in application of favoritism on one hand and of oppression on the other. The only needed distinction would be that second class matter should consist of any kind of periodical publications which are mailed in bulk at regular intervals.

So long as the present second class system prevails, the department can favor particular publications while suppressing others. Those which escape discipline will be disposed to disregard excessive cost of mail transportation, provided they bear none of it, and to be indifferent to the fate and rights of publications which are denied second-class privileges. Those that come under the shadow of the bureau's displeasure must go down. They cannot pay higher postal rates than favored competitors and survive; and they cannot assume the burden of sticking a stamp on every copy. All that would be changed by putting every periodical publication, regardless of its character in other respects, into the second class, and fixing second class postage at a remunerative rate. Invidious discriminations would then be impossible; and if the second class rates were kept high by exorbitant railroad charges, the whole press of the country would get upon the trail of the railroad ring. The true reform, therefore, of the second class system, is not to restrict its benefits to publications selected by a bureau clerk, or even by a cabinet officer; it is to charge a remunerative rate of postage and open the conveniences of second class matter to all periodicals, regardless of the fine distinctions which make the second class privilege now so much a matter of bureaucratic favoritism.

## NEWS

So far as official action can end it, the Schley controversy has been ended by the approval by the secretary of the navy, sanctioned by the president, of the majority report of the court of inquiry, of which Admiral Dewey was president.

The substance of this majority report, of Dewey's minority report, and