

than ever before. And the least infraction is presumptively a serious offence.

It would seem, therefore, that this rigid idea excludes what regulation does not provide for, especially if the thing attempted to be done may seem to be covered by a particular regulation. Is not the carrying of baggage provided for by a particular regulation? And is it not carefully differentiated from freight?

This being true, is it any answer to say, that the carrier has no heavier burden on him when he does not really carry a passenger to whom the baggage belongs, than when he only carries his baggage? A customer is allowed to enter into a certain contract with a public agency. If he enters into one not prescribed, then he knows that he and the carrier are violating law. Does not the carrier, therefore, become, at most, but a gratuitous bailee?

We look at this under the view of what is public policy as to carriers, and this policy says, in effect, that baggage must be hauled as baggage and freight must be hauled as freight. When one tries to pay a passenger rate for something pretending to be baggage when it is not baggage, he pays and the carrier unlawfully receives a rate he is not allowed to charge. In other words it violates the statute, and the payee is conscious of the violation. It is easily to be seen, that allowing one to send articles in this way opens up a means of sending things not to be classed as baggage at all, and certainly it has been decided, that a railroad is not liable for what is not baggage, when properly it cannot be so classed, even where the passenger accompanies it. This may greatly proceed on the idea that thus he is avoiding paying freight, but under rate laws it is as bad to pay too much or too little freight as it is to pay no freight at all.

—*Central Law Journal*.