

the postal authorities.' A letter is a written or printed message. Now there can be no message to that which is not in existence. Besides, if the letter is intended to be conveyed by mail it must have a destination to which it can be conveyed. This letter had no such destination. In the cases cited by the district attorney the decoy letters were addressed to a real and genuine address, and were regularly mailed. No case was produced where a decoy letter to a fictitious, unreal address was considered as within the class that were intended to be conveyed by mail. In the English case of *Queen v. Gardner*, 1 Car. & K. 628, cited by Judge Neuman, the embezzlement of a decoy letter was held not stealing a post-letter within the statute; taking of the contents was held larceny. There is no charge in the indictment that the defendant took the contents of the letter. In the case of *Queen v. Rathbone*, 2 Moody Cr. Cas. 242, an inspector secretly put a letter prepared for the purpose, containing a sovereign, among some letters which a letter-carrier suspected of dishonesty was about to sort. The letter-carrier stole the sovereign. Mr. Baron Gurney held that he could not be convicted of stealing a post-letter, such letter not having been put in the post in the ordinary way, but was rightly convicted of larceny of the sovereign laid as the property of the Postmaster-General. This case was considered at a meeting of the judges at Michaelmas term, 1841, and they were unanimously of the opinion that there could be no conviction for stealing the post-letter, the statute only applying to letters sent in the ordinary way. It is observable that this letter had apparently a genuine address, and also that it was placed with the letters, all of which were in the custody of the post-office department, and which it was the duty of the carrier to sort. There can be no difference in principle between this case and Rapp's case. In both cases the letters were 'nixes,' that is, they were without mailable direction; in both cases they must have gone to the dead-letter office. This statute was not made in contemplation of letters of this character. It was made to protect the genuine mail intended to be conveyed from one person to another. It was made to protect the mail in which the people have an interest; not fictitious papers or packages fixed up like the 'nixes' in the case before Judge Neuman, or the 'nixes' in this case. A letter to be conveyed by mail must have a sender and a receiver; a place from which it starts and a destination to which it can be conveyed. We can fully see, if this practice was permitted to stand as a part of the legalized methods of trials of this character, how very great injustice might be done. It would be possible for unscrupulous officers to prepare a trap which would convict any man, however innocent. The accused should at least have the privilege of showing, if he could, that the letter which he is charged to have embezzled reached its destination. If it has no destination, this method of defence is denied him."—*Albany Law Journal*.