

WESTERN STAR LODGE, NO. 2, *v.*  
SCHMINKE, POSTMASTER.

*Circuit Court, D. Nebraska.*

January, 1883.

1. POSTMASTERS—REMOVAL OF POST-OFFICES—POSTMASTER GENERAL

A postmaster is a subordinate officer of the post-office department, and bound to obey the orders of the postmaster general.

2. SAME.

The power to remove the post-office in certain towns from one building to another is vested by law in the postmaster general, and can be exercised by him at his discretion.

3. SAME.

A claim for rent of premises occupied, or leased to be occupied, by the government as a post-office, should be sued for in the court of claims.

4. SAME.

The circuit court has no jurisdiction to grant relief against the government.

In Equity. On exceptions to answer.

MCCRARY, J. This is a bill in equity brought for the purpose of restraining the respondent, who is postmaster at Nebraska City, Nebraska, from obeying an order of the postmaster general of the United States, directing him to remove the post-office in that city from one building to another. This relief is sought upon the ground that a removal of the office, as proposed, would be in violation of a lease executed by the late postmaster general, Horace Maynard, whereby certain premises, in, which the complainants have an interest, were leased for use as a post-office for a period of four years.

The relief sought cannot be granted for several reasons: (1) The respondent is a subordinate officer of the post-office department, and bound to obey the order of the postmaster general. (2) The postmaster

general is not made a party, and cannot, therefore, be enjoined in this proceeding, even if it were within the power of the court to control his action in the matter of locating and removing post-offices. (3) The power to remove the post-office at Nebraska City from one place within the city to another, is vested by law in 411 the postmaster general, and can be exercised by him at his discretion. (4) If the lease executed by the late postmaster general to complainant is a valid contract, the complainant is entitled to the stipulated rent for the entire term, and may recover the same by suit in the court of claims; but I know of no other remedy. The law does not authorize the postmaster general to bind the United States by an agreement that a post-office shall not be removed from a particular building during a period of four years, or any other period. Besides, the lease in question does not show that the late postmaster general undertook to make such a contract, and the answer avers that the lease expresses the whole contract. (5) The contract, such as it is, is with the "United States, by Horace Maynard, postmaster general," and this court has no jurisdiction to grant any relief upon it or against the government.

The exceptions to the answer are overruled.

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