

RICHARD WEATHERSTON

APRIL 27, 1926.—Committed to the Committee of the Whole House and ordered to be printed

Mr. UNDERHILL, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 1136]

The Committee on Claims, to whom was referred the bill (H. R. 1136) for the relief of Richard Weatherston, having considered the same, report thereon with a recommendation that it do pass with the following amendments:

In line 5, after the word "appropriated," add "and in full settlement against the Government;" after the word "to," in line 5, the words "the legal guardian of."

In line 6 strike out the figures "\$5,000" and insert in lieu thereof "\$2,000."

STATEMENT OF FACTS

Richard Weatherston, the 5-year old son of Charles J. Weatherston, of 729 Amherst Avenue, Buffalo, N. Y., was injured December 18, 1923, when the auto in which he was riding was struck by a United States post-office truck. The injury resulted in loss of sight of the right eye and facial scars. Investigation by an inspector of the Post Office Department indicated that the post-office truck was at the time of the collision being driven at a speed in excess of 25 miles an hour, although the lawful speed at street intersections is 15 miles an hour. The inspector's report also showed that the post-office truck had no horn or siren for signaling its approach and was equipped with inadequate lights, namely, "dim oil lamps." It is not shown that Mr. Weatherston's automobile was being driven at excessive speed. The report of the post-office inspector, therefore, makes it clear that the accident was due to the negligence of some Government employee or agency.

POST OFFICE DEPARTMENT,
Washington, D. C., February 9, 1926.

Hon. CHARLES L. UNDERHILL,
Chairman Committee on Claims,
House of Representatives.

MY DEAR MR. UNDERHILL: In compliance with the request of your committee dated January 25, 1926, I beg to transmit for consideration with H. R. 1136 a copy of a letter of this department addressed to Hon. George W. Edmonds, former chairman Committee on Claims, under date of October 24, 1924, forwarding all papers on file in the department for consideration with a bill at that time pending before Congress for the relief of Richard Weatherston, minor son of Charles J. Weatherston, 729 Amherst Avenue, Buffalo, N. Y., for injuries sustained in an accident involving a United States mail truck.

Since the date of this report to your committee no additional information or evidence has been received in the department which would warrant any change in the view therein expressed.

Under date of January 28, 1926, I submitted to the Bureau of the Budget, in compliance with Budget Circular No. 49, with a view of determining whether or not the same is in conflict with the financial program of the President, bill H. R. 1136, for the relief of Richard Weatherston, and I inclose with the papers a copy of the reply of the director of that bureau in which he states that this report to your committee would not be in conflict with the financial program of the President.

Very truly yours,

HARRY S. NEW, Postmaster General.

BUFFALO, N. Y., August 28, 1924.

Case No. 62501-D.

Subject: Buffalo, N. Y., motor vehicle accident.

INSPECTOR IN CHARGE,

New York, N. Y.:

The above-numbered case has reference to an accident which occurred on December 18, 1923, involving United States mail truck No. 9962 and a Chevrolet sedan owned and operated by Charles J. Weatherston, 729 Amherst Avenue, Buffalo, N. Y. Personal attention was concluded here this date.

This accident occurred at the corner of Potomac and Baynes Streets at 8.40 p. m. The mail truck operated by subcarrier Owen L. Drake, was proceeding west on Potomac Street approaching Baynes, and the automobile driven by Mr. Weatherston, was traveling north on Baynes in the direction of Potomac. Reference is made to a sketch in the files showing the streets and position of both cars before, and at the time of the accident. It appears that the mail truck chauffeur attempted to stop, and avoid the accident as was evidenced by the skid marks on the pavement, however, he could not stop in time, and struck the right rear fender of the Chevrolet, swinging it around against the northwest curb, damaging the fender and wheels as well as breaking the glass in the door and windows. Riding with Mr. Weatherston at the time was his five-year-old son Richard, and due to the broken glass he was severely injured about the face resulting in his losing the sight of his right eye as well as sustaining facial scars, although attended by an eye specialist shortly after the accident occurred.

Mr. Weatherston submitted an affidavit containing the facts of the accident which is included in the files. In this he states that beyond a doubt the driver of the Government truck was entirely to blame due to the high rate of speed at which he was traveling and the truck being equipped with very inadequate lights and lack of horn or siren to sound warning of his approach. Mr. Weatherston claims that due to the fact that the Government truck was equipped with dim oil lights he did not notice its approach until too late to avoid the accident. With the papers submitted by Mr. Weatherston are four affidavits of persons living in the vicinity of the accident. One of these, obtained from Royal L. Sterling, states that he was crossing Potomac Street on Baynes when he noticed the mail truck approaching from the east at a rapid rate of speed, and was just a short distance beyond when he heard the crash but was not an eyewitness to it. He also states that the Government truck was equipped with very dim lights.

None of the persons submitting affidavits were actual eyewitnesses to the accident but all arrived immediately after it had occurred. The remaining three affidavits contain in part statements regarding the position of the cars after the accident as well as statements to the effect that they had measured the skid marks on the pavement made by the truck after the brakes had been set, and they showed the truck had skidded 42 feet before striking the other car, although the street was dry at the time.

It appears that there was no actual disinterested witnesses to the accident found either by the chauffeur of the mail truck or by Mr. Weatherston. At the point where the accident occurred the streets are poorly lighted.

At the time Mr. Weatherston submitted his claim he included some bill covering doctors' services rendered his son and repairs to his car, resulting from the accident, however, he states in a letter accompanying his claim as follows:

"First I think you will agree with me that no amount of money can repay my son for the loss of sight and sustaining of facial scars and I request that you make an award as liberal as possible so that I can properly educate my son to partly make up for the great handicap he will have to face through life. I believe this amount should be at least \$2,500."

On April 2, 1924, it appears that a bill was introduced in the House of Representatives under the heading H. R. 8396, by Congressman MacGregor, which provides that \$5,000 be paid to Richard Weatherston, for the loss of sight and facial scars caused by being struck by the Government-owned automobile. A copy of this bill was forwarded to the department by the Committee on Claims with a request that all papers relating to this accident be forwarded for the use of the committee. This bill and correspondence has been forwarded to this point and is included in the files.

Mr. Weatherston was interviewed by me and advised of the fact that the maximum the Post Office Department is authorized to pay in any one motor-vehicle accident is \$500. He stated that in view of the bill introduced by Congressman MacGregor, he would be unwilling to accept this amount. A signed statement to this effect was obtained from him and is included in the files.

The Government truck involved in this accident was a 1-ton Commerce and was being driven by Substitute Carrier Owen L. Drake, accompanied by Substitute Carrier Robert G. Baumet, and they were making collections of parcel-post mailings from numbered stations, and at that time the truck was loaded to about one-fourth capacity with mail sacks containing Christmas parcels. The truck was equipped with a governor, set at a speed of 25 miles per hour. It was ascertained that the truck was equipped with oil lamps.

Subcarrier Baumet was interviewed by me and he states that the Government truck was traveling approximately 20 miles per hour at the time of the accident, and upon approaching Baynes Street the other car was noted traveling north on that street at about 20 miles per hour. He further states that Chauffeur Drake applied the brakes at once but the driver of the Sedan did not attempt to lessen his speed or stop, apparently under the impression that he could cross the street ahead of them, although the mail truck had the right of way. His sworn statement to this effect is in the files.

The chauffeur of the mail truck, Owen L. Drake, was interviewed at this office and a statement was secured from him containing the facts of the accident and is included in the files. In this he states that although he had the right of way the driver of the other car did not attempt to stop but speeded up in attempting to cross first. He also states that he was traveling at the rate of approximately 20 miles per hour, that his brakes were in good condition at the time, also that the truck was equipped with oil lights, but no horn. It appears that the chauffeur was not familiar with the traffic regulations of this city regarding the speed limit at street intersections, which is 15 miles per hour. He was advised of this fact and was instructed to comply with them in the future. He claims that he attempted to secure names of eye witnesses to the accident. However, the only ones he could obtain were those of persons arriving after it had occurred. This substitute carrier has been in the service since July, 1923, and has not been involved in any other accident. The Government truck sustained no damage as a result of this accident.

According to the traffic regulations they give the car approaching from the right the right of way, and in this case it would have been the Government truck. However there may be a question in that respect based upon the proximity of either car to the intersection of the street, and in the absence of disinterested witnesses this fact can not be established. In the statement submitted by Mr. Weatherston he states that, due to the fact that the mail truck was equipped

with very dim lights, which facts have been established, he did not notice it approaching until too late to avoid a collision. As the accident occurred on a poorly lighted street, it is believed that this statement should be given some consideration.

From the statements of both the chauffeur of the mail truck and the helper it is apparent that they were exceeding the speed limit. From statistics compiled by a well-known brake company a car equipped with two-wheel brakes in good condition will travel a distance of 37 feet before coming to a dead stop with the brakes set while traveling at the rate of 25 miles per hour. Taking into consideration the three affidavits of disinterested witnesses to the effect that marks on the pavement showed that the truck skidded approximately 42 feet, it is apparent that the truck was traveling at a rate of speed in excess of 20 miles per hour. From questioning the chauffeur of the mail truck it appears that he was aware that the measurements of the distance he skidded were being made. However, he did not verify them, nor could he give good reasons for not doing so.

It was ascertained from the superintendent of the motor vehicle service at this point that the Commerce trucks in use are equipped with oil lamps and is the standard equipment, however at the present time he has been authorized to equip all trucks having lights of this nature with electric lights. This change is being made at the present time. The superintendent's attention was also called to the statement of the mail truck chauffeur relative to the absence of a horn or siren on the truck. He advised that all the large trucks were supplied with sirens, but he was unable to account for the fact that this truck was not so equipped. It is now supplied with such a signal.

Mr. Weatherston states that at the time of the accident he was traveling at the rate of 10 to 12 miles per hour, while the chauffeur and helper state he was traveling at least 20 miles per hour, however this fact can not be established due to the absence of disinterested witnesses, nor could it be established that the mail truck was traveling on the wrong side of the street.

Due to the absence of disinterested witnesses to this accident it is not believed that individual responsibility can be fixed, however the facts as found are submitted for the attention of the department, and it is therefore recommended that this case be referred to the First Assistant's office, division of motor vehicle service for review and for such other attention as is deemed necessary.

J. M. MURPHY, *Inspector.*

STATE OF NEW YORK,

County of Erie, ss.:

Personally appeared before me Owen L. Drake, who first being duly sworn, deposes and states:

I am a substitute carrier at the Buffalo post office, and have been so employed since July 2, 1923, on December 18, 1923, at 8.40 p. m. I was involved in an accident at the corner of Potomac and Baynes Streets. At the time I was chauffeur on mail truck No. 9962, and was proceeding west on Potomac Street at approximately 20 miles per hour. Upon approaching the corner of Baynes I noticed a Chevrolet sedan approaching Potomac traveling north. Although I had the right of way he did not attempt to stop, but speeded up in attempting to cross ahead of me. Approximately 20 feet east of the east curb of Baynes, I put on the brakes when I saw that the other car did not attempt to stop. At that time my brakes were in good condition. The Government truck was equipped with oil lamps, but no horn of any kind. There were no eye witnesses to the accident, although I attempted to obtain names of some. At the time of the accident I was not familiar with the traffic regulations regarding speed limits for street intersections. Since being in the service this is the first accident in which I have been involved.

OWEN L. DRAKE.

Subscribed and sworn to before me this 21st day of August, 1924, at Buffalo, N. Y.

J. M. MURPHY,
Post Office Inspector.

AUGUST 11, 1924.

I, Mr. Charles J. Weatherston, state that on December 18, 1923, I was involved in an accident with United States mail truck No. 9962 and an automobile owned and operated by me, and which occurred at the corner of Potomac and Baynes Streets. In this accident my son who was riding with me lost the sight of one eye due to flying glass.

In view of the expense that I have been put to as a result of this accident and in view of the fact that a bill has been introduced in the House of Representatives, by Congressman MacGregor to compensate me for injuries to my boy, I would be unwilling to accept the maximum amount the Post Office Department is authorized to pay in any motor vehicle accident, namely, \$500.

CHAS. J. WEATHERSTON,
Buffalo, N. Y.

BUFFALO, N. Y., August 7, 1924.

Case No. 62501-D.

Mr. CHARLES J. WEATHERSTON,
729 Amherst Street, Buffalo, N. Y.

MY DEAR SIR: The above-numbered case has reference to an accident involving a United States mail truck and an automobile belonging to you, and which occurred on December 18, 1923.

In connection with the above it is requested that you call at room 204, Post Office Building at your earliest convenience. However, before doing so, please phone me at Seneca 1317, extension 17, or write me using inclosed self-addressed envelope that does not require postage, advising the time I may expect you, so that I will be sure to be at the office when you arrive.

Respectfully yours,

_____, Post Office Inspector.

POST OFFICE DEPARTMENT,
Washington, March 7, 1924.

SOLICITOR: The inclosed papers relating to an accident in the motor vehicle service at the office named below, from which it appears that a privately owned vehicle was damaged in collision with a Government-owned mail truck, are referred to you for consideration.

JOHN H. BARTLETT,
First Assistant.

Post office: Buffalo, N. Y. Truck No. 9962. Date of accident, December 18, 1923. Owner of private vehicle, Charles J. Weatherston, 729 Amherst Street, Buffalo, N. Y.

P. S.—Personal injury to Mr. Weatherston's son, aged 5 years.

HOUSE OF REPRESENTATIVES,
Washington, D. C., May 28, 1924.

POSTMASTER GENERAL.

SIR: Inclosed herewith I hand you copy of bill (H. R. 8396) for the relief of Richard Weatherston now pending before this committee.

Kindly cause to be forwarded, for the use of the committee, all papers, or copies of same, on file in your department relating to this claim, with your opinion as to its merits, and oblige,

Yours, very truly,

G. W. EDMONDS,
Chairman Committee on Claims.

[H. R. 8396, Sixty-eighth Congress, first session]

A BILL For the relief of Richard Weatherston

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Richard Weatherston, the sum of \$5,000 for damages for the loss of sight in the right eye and facial scars caused by being struck by a Government-owned automobile which was driven by a Government employee.

FEBRUARY 12, 1924.

R. G. BAUMET,
Subcarrier:

Please call at this office promptly upon receipt of this communication.

Superintendent of Mails.

FEBRUARY 20, 1924.

R. G. BAUMET,
Subcarrier:

Please call at this office promptly upon receipt of this communication.

E. A. GRAVES,
Superintendent of Mails.

BUFFALO, N. Y., February 29, 1924.

FIRST ASSISTANT,
Division Post Office Service, Motor Vehicle Section,
Washington, D. C.

MY DEAR SIR: I am submitting herewith accident report No. 60, together with the papers covered in the investigation.

On December 18, 1923, about 8.40 p. m., while Government truck No. 9962 was being driven west on Potomac Avenue by Substitute Carrier Owen L. Drake, accompanied by Substitute Carrier Robert G. Baumet, in making collections of parcel post mailings from numbered stations, came in contact with Chevrolet Sedan operated by Charles J. Weatherston, at the intersection of Baynes Street. Mr. Weatherston was driving north on Baynes Street, Mr. Drake driving west on Potomac Avenue.

It is claimed that the Government truck was about two feet south of the center of Potomac Avenue and that Mr. Weatherston's car was being driven in about the center of Baynes Street. The Government truck was a one-ton commerce, and was loaded to about one-quarter capacity with sacks containing Christmas parcels. Mr. Weatherston claims the Government truck was driving at a speed of about 40 miles per hour. The truck was equipped with a McCanna governor, set at a speed of 25 miles per hour, and the driver claims he was driving about 20 miles an hour. The Commerce truck was equipped with oil lamps.

Apparently, Mr. Drake applied the brakes immediately upon seeing the condition, and it is claimed and admitted that he skidded 42 feet and that the front wheels of the truck he was operating were in the center of the single street car track, where the contact was made and the truck stopped, while Mr. Weatherston claims the Government truck was over the tracks. This latter apparently is in error, as Mr. Baumet claims that the car stood where it was stopped until the street car came along, at which time they backed the car out of the track, the left end of the bumper being bent around against the tire, making it necessary that a mechanic be called to remove it from the truck before the car could be driven.

The two substitutes claim that the left end of the bumper of the car they were operating struck the right fender of Mr. Weatherston's car with each car being at a slight angle, Mr. Weatherston's having turned slightly to the left, and the Government truck slightly to the right. The collision resulted in Mr. Weatherston's car being swung entirely around, facing the Government truck. As it swung around it struck the north curb of Potomac Avenue at the walk crossing, which resulted in breaking the glass in the left side of the sedan and the left rear wheel, as well as the glass in the right rear door.

The glass showered upon Mr. Weatherston's little son, age 5 years, who was in the sedan, cutting him about the face and causing the loss of the sight of his right eye, which is a very serious matter to the little fellow, and entails a lifelong drawback, and also necessitated a large expenditure for medical treatment, all of which is covered in Mr. Weatherston's letter of February 6, 1924, addressed Government Claim Department, Washington, D. C., and submitted with these papers.

There were no witnesses to the accident other than the principals.

Mr. Weatherston has in mind the Government truck was being driven at an unwarranted rate of speed, which he states to have been around 40 miles an hour, while the substitutes feel they were driving at a normal rate of speed, with the right of way in their favor. However, there may be a question in that respect, based upon the proximity of either automobile to the intersection of the streets.

I believe that all the statements have been made with honest intent, but viewing the scene from different angles may vary impressions.

I am submitting all the papers in the case with these few comments, without making conclusive recommendation, as I am personally acquainted with Mr. Weatherston and would prefer the department make a further investigation through the assignment of one of its representatives.

The matter has been delayed to some extent awaiting the outcome of the little boy's physical condition.

If there is anything further in the matter that I can do, I will appreciate your advising me.

Respectfully yours,

R. W. GALLAGHER, *Postmaster.*

ACCIDENT REPORT

BUFFALO, N. Y., December 20, 1923.

1. Number of Government-owned truck, 9962.
2. Time and date of accident, December 18, 1923, 8.40 p. m.
3. Exact place at which accident occurred: Corner Potomac Avenue and Baynes Street.
4. Cause: Collision of my truck with Chevrolet sedan of C. J. Weatherston.
5. From what point to what point were you bound? From substation, Potomac and Elmwood Avenues, to Jersey and Niagara, collecting parcels.
6. Direction in which your truck was traveling? West on Potomac; rate of speed, 20 miles per hour.
7. On what side of the street, alley, or driveway were you? Right side of Potomac.
8. In what direction was other vehicle or person going? North on Baynes.
9. Rate of speed, — miles per hour.
10. On what side of the street, alley, or driveway was other party? Center of Baynes.
11. Nature of accident: Collision with auto.
12. Extent of damage: Bent front bumper.
13. If accident to other person, give information as to name and address, etc.:
 - (a) Name, Richard Weatherston; (b) address, 729 Amherst Street, Buffalo, N. Y.;
 - (c), age, 5 years.
- (d) Nature of injury: Cut on right eye and on back of head.
- (e) Was medical aid given? Yes; by some woman doctor, and then to Homeopathic Hospital.
- (f) If so, give name and address of physician. Don't know name or address of doctor.
- (g) Where was the injured person taken? Home from hospital.
14. Name and address of owner of other auto, team, or property: C. J. Weatherston, 729 Amherst Street, Buffalo, N. Y.
15. Extent of damage to other party's property: Bent right hind fender; broke left hind wheel and glass in right hind door.
16. Other vehicle's number: 273160.
17. Estimated cost of repairs: Don't know.
18. Names and addresses of witnesses: Robert G. Baumet, 325 Mills, auxiliary carrier, United States mail service; Mr. Powers (Findlay Realty Co.), 902 White Building; Lieut. William Nugent, No. 5 police station.
19. Condition of street or pavement at point of accident: Dry.
20. Weather and light: Good weather and light at corner.
21. Time lost at point of accident (approximately): About one hour.
22. Tell, in your own way, how the accident happened: I was driving west on Potomac; as I approached Baynes Street I saw car coming north in street-car track. I put brakes on about 20 feet east of east curb of Baynes Street. The other car did not slow down, but turned to west out of car track and tried to pass in front of me. I had right of way and nothing to obstruct view. I think he was traveling about 20 miles an hour, and he never tried to stop.
23. Who, in your opinion, was responsible for accident? I think Weatherston was to blame.

OWEN L. DRAKE, *Chauffeur.*

Damage to Government-owned truck checked and found to be as stated.

Estimated cost of repairs: No damage.

J. PETERS, *Chief Mechanic.*

GOVERNMENT CLAIM DEPARTMENT,
Washington, D. C.729 AMHERST STREET,
Buffalo, N. Y., February 6, 1924.

GENTLEMEN: From attached papers you will note that Government truck No. 9962 ran into my Chevrolet sedan bearing license No. 273160 on the night of December 18, 1923. This accident resulted in my son Richard being severely injured, losing sight of right eye and sustaining facial scars. I believe the sworn statements will prove to you beyond a doubt that driver of this Government truck was entirely to blame due to high rate of speed which he was traveling, very inadequate lights, and lack of horn or siren to sound warning of his approach and the fact that he was driving on the wrong side of the street. For these reasons I request that you give this claim your earnest consideration.

First, I think you will agree with me that no amount of money can repay my son for the loss of sight and sustaining of facial scars and I request that you make an award as liberal as possible so that I can properly educate my son to partly make up for the great handicap he will have to face through life. I believe this amount should be at least \$2,500. Secondly, I have been put to a heavy expense on account of this accident and think I should be reimbursed this amount. Regarding bill from Doctor Park-Lewis, you will note same is not a received statement. This is due to the fact that he billed me to date and I am paying him as I am able. Another statement from this doctor will follow, as my boy will be under his care for at least three months more. Claim is as follows:

Loss of sight of right eye and facial scars to my son Richard (this amount

I am leaving blank for your consideration)

Statement from Doctor Park-Lewis from time to accident of Feb. 4, 1924	\$180
Statement from Dr. Elmer H. Stumpf	15
Statement from Buffalo Homeopathic Hospital	5
Services to be rendered by Doctor Park-Lewis (estimated 3 months' service)	100
Cost of towing my car to garage and repairing same	80

Yours truly,

CHARLES J. WEATHERSTON.

STATE OF NEW YORK,
County of Erie, City of Buffalo, ss:

Charles J. Weatherston, being duly sworn deposes and says: I am 33 years old, married, and reside at 729 Amherst Street, Buffalo, Erie County, N. Y., with my wife and two boys, Richard, aged 5 years, and Roger, aged 3.

On December 18, 1923, at about 7.15 p. m. I left my home accompanied by my wife and two children in my Chevrolet sedan, license No. 273-160 New York. I had stopped and let my wife out of the car at 86 Putnam Street and left there intending to stop at my mother's at 412 Hoyt Street, Buffalo, N. Y. I was traveling north on Baynes Street which runs parallel to Hoyt Street and had arrived at the intersection of Potomac Avenue at just about 8 p. m. I had the headlights turned on and know they were showing brightly as required by law through tested legal lenses. My car is a left-hand drive.

As I approached Potomac Avenue I looked both to the east and to the west. I was traveling at a rate of speed of about 10 to 12 miles an hour. I saw no vehicle approaching and continued ahead. Just as I arrived at a point about 5 feet out from the south curb of Potomac Avenue I saw bearing down onto me a large auto truck. This truck was traveling on the south side of Potomac Avenue going west and appeared to be coming at high speed. It was about thirty-five or forty-odd feet east of Potomac Avenue. When I first saw it.

In order to avoid a collision with it I swung my car sharply to the left at the same time applying my brakes. The truck struck my car at the right rear fender, forcing it over the street car tracks of Baynes Street and into the curb on the north side of Potomac Avenue after turning it completely around so that when it stopped it faced east against the north curb just west of Potomac Avenue.

The car was thrown against the curb with violence so that my son Richard was thrown from the rear seat against the window opposite the seat on the left-hand side of the car, causing this glass to be broken and a piece to cut him over and on the right eye. He was cut and bruised otherwise also but of no seriousness. The cut on the right eye however was so deep that the sight of this eye was

completely destroyed although he was cared for by an eye specialist as soon as possible immediately thereafter.

This truck that hit my car and drove me against the curb as above stated came to a standstill with its front end jammed right against the right rear wheel of my car. Upon getting out of my car I examined this car finding it to be a United States mail truck bearing the number 9962. The driver gave his name as Owen Drake of 184 East Street, Buffalo, N. Y. He was dressed in the uniform which is usually worn by such drivers.

Upon examining the truck further I found that it was equipped with two oil lights, one on the front right and one on the front left side. These lights I further noticed were covered with dust and were almost of no value whatever in so far as throwing a ray of light was concerned. I then understood why I had not seen this autotruck before it was almost upon me.

From the statements made by disinterested witnesses to this accident, and from my own knowledge thereof, I know that this accident and resulting serious injury to my son Richard was in no way due to any carelessness on my part, and was due solely and entirely to the excessive speed at which this United States mail truck was being driven, also to the fact that it was traveling on the south side of Potomac Avenue going west and particularly because of there being insufficient and inadequate lights showing thereon, and lastly that there was no horn or gong sounded to indicate its approach.

CHARLES J. WEATHERSTON.

Subscribed and sworn to before me this 18th day of January, 1924.

[SEAL.]

WALTER S. WANNAMAKER,
Notary Public.

STATE OF NEW YORK,
County of Erie, ss.

I, A. R. Atkinson, clerk of the county of Erie, and also clerk of the supreme and county courts for said county, said courts being courts of record, having a seal, do hereby certify that Walter S. Wannamaker whose name is subscribed to the certificate of the acknowledgment, proof or affidavit of the annexed instrument, and thereupon written, was, at the time of taking such acknowledgment, proof or affidavit, a notary public, in and for the county of Erie, and resident in said county, commissioned and sworn and duly authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments lying and being in the State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe the signature to the said certificate of acknowledgment or proof is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county and courts, at Buffalo, this 6th day of February, 1924.

[SEAL.]

A. R. ATKINSON, Clerk.

No. 14117.

STATE OF NEW YORK,
County of Erie, city of Buffalo, ss.

Royal L. Sterling, being duly sworn, deposes and says: I reside at 111 Dorchester Road, Buffalo, N. Y.

On December 18, 1923, I was walking on the east side of Baynes Street going north toward Hertel Avenue. I was accompanied by my wife at the time and we had started to cross Potomac Avenue on the easterly crosswalk of Baynes Street, when I noticed a United States mail truck coming west on Potomac Avenue at a rapid rate of speed. We were forced to step lively to get out of the way of it. We had just taken a step or two beyond Potomac Avenue when I heard a crash to the left and rear of me and upon looking saw that this mail truck had collided with a Chevrolet sedan. Both cars were jammed together at the northwest corner of Potomac Avenue and Baynes Street. I obtained the number of the United States mail truck. It was 9962. The Chevrolet car I found was owned and driven by Charles J. Weatherston. His son of about 5 years sustained a badly cut eye in this accident, which I understand caused the loss of sight of this eye.

I noticed that the only lights on this mail truck were two very dim lights which could hardly be seen from any distance.

From the roar of the motor of this truck and its apparent speed as it bore down upon us as my wife and I were crossing Potomac Avenue, I would say that it was traveling at a high rate of speed, and I know it did not slow up much if at all for this corner. I do not know just where the Chevrolet car came from. I saw that the headlights of the Chevrolet were lit.

No horn or gong was sounded by the mail truck as it approached.

I took Mr. Weatherston's son from his car, finding him in the rear part thereof with his face bleeding, his eye cut badly from being thrown apparently against the window at the rear left side of the sedan, which was broken.

ROYAL L. STERLING.

Subscribed and sworn to before me this 18th day of January, 1924.

[SEAL.]

WALTER B. WANNAKER,
Notary Public.

I, Mollie L. Sterling, have read the foregoing affidavit of my husband, Royal L. Sterling, and know the facts as stated above to be true.

MOLLIE L. STERLING.

STATE OF NEW YORK,
County of Erie, ss:

I, A. R. Atkinson, clerk of the county of Erie, and also clerk of the supreme and county courts for said county, said courts being courts of record, having a seal, do hereby certify that Walter S. Wannamaker, whose name is subscribed to the certificate of the acknowledgment, proof, or affidavit of the annexed instrument, and thereupon written, was, at the time of taking such acknowledgment, proof, or affidavit, a notary public in and for the county of Erie, and resident in said county, commissioned and sworn and duly authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for lands, tenements, or hereditaments lying and being in the State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe the signature to the said certificate of acknowledgment or proof is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county and courts, at Buffalo, this 6th day of February, 1924.

[SEAL.]

No. 14121.

A. R. ATKINSON, *Clerk.*

STATE OF NEW YORK,
County of Erie, City of Buffalo, ss:

George Joseph Simmons, being duly sworn, deposes and says: I reside at 379 Wohlers Avenue, Buffalo, N. Y., and am engaged in the automobile repairing business at 279 Guilford Street, Buffalo, N. Y.

On December 18, 1923, I was at No. 304 Baynes Street at about 8 p. m. when I heard a crash at the corner of Baynes Street and Potomac Avenue, which is but two doors away. This sounded like an auto accident and upon going out to the corner immediately, I found a United States mail truck jammed into a Chevrolet car at the northwest corner of Baynes and Potomac. The Chevrolet—a sedan—was standing against the north curb of Potomac Avenue just west of Baynes Street. The front end of the truck was against the rear fender of the Chevrolet car.

I noted the number of the Government truck, which was 9962. The Chevrolet bore the New York State license No. 273-160 and I later learned it was owned by Charles Weatherstone and I found in it his son of about 5 years who was crying, and upon opening the door I found he had sustained a cut over the eye. I thereafter measured the skid marks showing on the pavement from the rear wheels of where the Government truck stood to where such skid marks commenced and found they measured exactly 42 feet. They commenced at a distance east of Baynes Street. I also noticed that these skid marks left by the truck showed that this truck had been traveling about 2 feet over the center and to the south side of Potomac Avenue, running in a westerly direction prior to the accident. The pavement was dry. The Government truck was equipped with dim oil lights, which were spattered up with mud and could hardly be seen from any distance at all. The headlights on the Chevrolet car were turned on and were bright.

There were two Government employees on this truck. I noticed they both had on Government uniforms and caps of the regulation Post Office Service.

GEO. JOS. SIMMONS.

Subscribed and sworn to before me this 25th day of January, 1924.

[SEAL.] WALTER S. WANMAKER,
Notary Public.

STATE OF NEW YORK,

County of Erie, ss:

I, A. R. Atkinson, clerk of the county of Erie, and also clerk of the supreme and county courts for said county, said courts being courts of record, having a seal, do hereby certify that Walter S. Wannamaker, whose name is subscribed to the certificate of the acknowledgment, proof, or affidavit of the annexed instrument, and thereupon written, was, at the time of taking such acknowledgment, proof, or affidavit, a notary public, in and for the county of Erie, and resident in said county, commissioned and sworn and duly authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for lands, tenements, or hereditaments lying and being in the State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe the signature to the said certificate acknowledgment or proof is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of said county and courts, at Buffalo, this 6th day of February, 1924.

[SEAL.] A. R. ATKINSON, *Clerk.*
No. 14119.

STATE OF NEW YORK,

County of Erie, City of Buffalo, ss:

Rev. L. D. Woodmaney, being duly sworn, deposes and says: I reside at 334 Baynes Street, Buffalo, Erie County, N. Y., at a distance of approximately one hundred and odd feet north of Potomac Avenue.

I was in my home on December 18, 1923, when a man came to my front door and remarked that an accident had occurred at the corner of Potomac Avenue and Baynes Street. It was then about 8 to 8.15 p. m. Upon going out to the scene of the accident I saw a Chevrolet sedan car and a United States mail truck.

The Chevrolet was standing facing east against the north curb of Potomac Avenue just west of Baynes Street and this car was damaged in the right side.

The United States mail truck had damaged the front fenders and this truck had been shoved away. The number of this truck was 9962. Two men who had been on it were there and the conversation at the time tacitly admitted that they had run into this Chevrolet car.

I thereafter found that a child about five years old and son of Charles J. Weatherston, owner of the Chevrolet sedan, had sustained a badly cut right eye by being thrown against the window of the car. I also was present when measurements were taken of the marks left on the pavement of Potomac Avenue by the mail truck that had run into the Chevrolet. These marks showed clearly where the wheels had slid after the brakes were applied, for a distance of 42 feet. They further showed that this mail truck had been coming west on Potomac Avenue, and the wheel marks showed that the truck was traveling a little to the south of the center of Potomac Avenue.

I further noticed that the only lights on the United States mail truck were two very dim lights which could hardly be seen unless one looked very sharply for them. It was dark when this accident occurred.

L. D. WOODMANCY.

Subscribed and sworn to before me this 18th day of January, 1924.

[SEAL.] WALTER B. WANMAKER,
Notary Public.

STATE OF NEW YORK,

County of Erie, ss:

I, A. R. Atkinson, clerk of the county of Erie, and also clerk of the supreme and county courts for said county, said courts being courts of record, having a seal, do hereby certify that Walter S. Wannamaker, whose name is subscribed to the certificate of the acknowledgment, proof, or affidavit of the annexed instru-

ment, and thereupon written, was, at the time of taking such acknowledgment, proof, or affidavit, a notary public in and for the county of Erie, and resident in said county, commissioned and sworn and duly authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for lands, tenements, or hereditaments lying and being in the State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe the signature to the said certificate of acknowledgment or proof is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county and courts at Buffalo this 6th day of February, 1924.

[SEAL.]

No. 14118.

A. R. ATKINSON, Clerk.

STATE OF NEW YORK,

County of Erie, City of Buffalo, ss:

Stephen Le Viness, jr., being duly sworn, deposes and says: I am 40 years old and reside at 296 Baynes Street, Buffalo, Erie County, N. Y.

I remember the accident that occurred on December 18, 1923, at about 8 p. m., between a United States mail truck and a Chevrolet sedan owned and driven by Charles Weatherstone of 729 Amherst Street, Buffalo, N. Y.

At the time of the accident I was at my home, which is about four doors south of Potomac Avenue, and upon going to the corner of Potomac Avenue and Baynes Street I saw the Government auto truck standing on the street and also the Chevrolet sedan standing up against the curb of Potomac Avenue at the northwest corner, facing east.

I did not see the accident happen but was there when measurements were taken showing the distance the United States mail truck had skidded after the brakes had been applied. These skid marks showed clearly on the asphalt pavement of Potomac Avenue for a distance of practically 45 feet; that is, from the beginning of the skid marks to the end thereof was a distance of about 45 feet. They showed that the car, where they started, was a little to the north of the center of Potomac Avenue and as they neared Baynes Street bore off toward the south side of Potomac, so that at the intersection with Baynes Street the auto was traveling a little to the south of the center of Potomac Avenue.

I saw broken glass from the Chevrolet sedan. I also saw two Government employees about the mail truck. They wore the regular uniforms and caps commonly seen on these employees.

I did not take any particular notice of the lights on either car. The Government mail truck was traveling west.

STEPHEN LE VINESS, Jr.

Subscribed and sworn to before me this 29th day of January, 1924.

[SEAL.]

WALTER S. WANNAKER,

Notary Public.

STATE OF NEW YORK,

County of Erie, ss:

I, A. R. Atkinson, clerk of the county of Erie, and also clerk of the supreme and county courts for said county, said courts being courts of record, having a seal, do hereby certify that Walter S. Wannamaker whose name is subscribed to the certificate of the acknowledgment, proof or affidavit of the annexed instrument, and thereupon written, was, at the time of taking such acknowledgment, proof or affidavit, a notary public, in and for the county of Erie, and resident in said county, commissioned and sworn and duly authorized by the laws of the State of New York to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments lying and being in the State of New York. And further, that I am well acquainted with the handwriting of such notary public, and verily believe the signature to the said certificate of acknowledgment or proof is genuine.

In testimony whereof, I have hereunto set my hand and affixed the seal of said county and courts, at Buffalo, this 6th day of February, 1924.

[SEAL.]

No. 14120.

A. R. ATKINSON, Clerk.

BUFFALO, N. Y., February 4, 1924.

Mr. Charles Weatherston, for Richard. Professional services, operation and treatments to date, \$180.

BUFFALO, N. Y., December 22, 1923.

Mr. Charles Weatherston, 729 Amherst Street, in account with Elmer H. Stumpf, M. D., 1530 Hertel Avenue. Professional services, gas-oxygen-ether anesthesia to son, December 18, 1923, \$15.

Received payment.

E. H. STUMPF.

BUFFALO HOMEOPATHIC HOSPITAL,
Buffalo, N. Y., December 26, 1923.

Charles Weatherston, 729 Amherst Street, for services rendered Richard Weatherston (surgery), December 18, \$5.

DECEMBER 29, 1923.

OWEN L. DRAKE, *Subcarrier, G. P. O.:*

Please call at this office promptly upon receipt of this communication.

_____, *Superintendent of Mails.*

UNITED STATES POST OFFICE,
Buffalo, N. Y., January 2, 1924.

Memorandum, accident report case No. 60:

The papers in the case indicate Government truck being driven west on Potomac Avenue at 20 miles an hour, vouched for by Lieut. William Nugent, police station No. 5. Apparently Mr. Weatherston did not observe traffic regulations. The diagram indicates he was driving north in the center of Baynes Street and when struck by the Government car had turned slightly to the left, leaving his auto directly over the west rail of the car track.

If the evidence is correct, it is apparent that Mr. Weatherston was at fault for the accident.

E. A. GRAVES, *Superintendent of Mails.*

JANUARY 10, 1924.

J. J. LYNCH, *Superintendent M. V. S.:*

In the operation of truck No. 9962 by Owen L. Drake, in the parcel-post collection service December 18, at 8.40 p. m., it has been stated that in coming in contact with the car of Mr. C. J. Weatherston, the Government truck skidded 40 feet. In answer to question 6 of the accident report Mr. Drake gives the speed at which he was driving as 20 miles per hour. Please advise if the car was controlled by governor at the time, and the rate of speed allowed.

_____, *Superintendent of Mails.*

UNITED STATES POST OFFICE,
Buffalo, N. Y., January 21, 1924.

SUPERINTENDENT OF MAILS,
Buffalo, N. Y.:

In reply to your communication of January 10, relative to the speed at which collector Owen L. Drake was operating truck No. 9962 at the time it came in contact with Mr. C. J. Weatherston's car at 8.40 p. m. on December 18, 1923, Acting Chief Mechanic Peters advises that this truck had a maximum speed of 25 miles per hour, controlled by a governor.

J. J. LYNCH,
Superintendent Motor Vehicle Service.

DECEMBER 27, 1923.

Accident No. 60:

Called on Mrs. Weatherston and saw son, Richard, whose head was completely bandaged, was informed that boy had lost sight of right eye.

Mrs. Dr. Louise Benus, corner of Bird and Baynes Streets, administered first aid, after which boy was taken to Homeopathic Hospital for the night, then taken home. Dr. Park Lewis is at present treating the boy.

Mrs. Weatherston stated that her husband after the accident measured the marks in the street which showed that the United States mail truck slid 42 feet with wheels locked.

CHARLES W. SHEAR.

UNITED STATES POST OFFICE,
Buffalo, N. Y., December 20, 1923.

Mr. POWERS,
902 White Building, Buffalo, N. Y.

MY DEAR MR. POWERS: You are respectfully informed that this office is in receipt of information to the effect that you witnessed an accident which, according to reports, happened at 8.40 p. m. on December 18, 1923, at the corner of Potomac Avenue and Baynes Street, when Government-owned mail truck No. 9962 came in contact with a Chevrolet sedan bearing license No. 273-160.

As every effort is being made to prevent the occurrence of accidents in the operation of the Government-owned motor vehicle service, this office should be in possession of all the facts in cases of this kind, in order that it may be enabled to locate responsibility.

Will you therefore kindly cooperate with this office by answering as fully as possible the questions presented on the other side of this communication? Whatever information you may furnish will be treated confidentially, and you may rest assured that your courtesy in this matter will be appreciated.

Kindly mail your reply in the inclosed addressed official penalty envelope, which requires no postage.

Respectfully,

R. W. GALLAGHER, *Postmaster.*

INQUIRY OF WITNESSES

1. Did you see the accident? No.
2. When did it happen? Don't know.
3. Where did it happen? Potomac and Baynes.
4. Where were you when the accident occurred? Not there.
5. How fast was Government-owned auto moving? Don't know.
6. How fast was other vehicle moving? Don't know.
7. What was the apparent extent of the injury or damage? Don't know.
8. Tell, in your own way, how the accident happened. Arrived a few minutes after accident happened.
9. In your opinion who was to blame for the accident? Both.
10. In your opinion was the accident avoidable? Yes.

C. J. POWERS.

UNITED STATES POST OFFICE,
Buffalo, N. Y., December 20, 1923.

Lieut. WILLIAM NUGENT,
Buffalo, N. Y.

MY DEAR MR. NUGENT: You are respectfully informed that this office is in receipt of information to the effect that you witnessed an accident which, according to reports, happened at 8.40 p. m. on December 18, 1923, at the corner of Potomac Avenue and Baynes Street, when Government-owned mail truck No. 9962 came in contact with a Chevrolet sedan bearing license No. 273-160.

As every effort is being made to prevent the occurrence of accidents in the operation of the Government-owned motor vehicle service, this office should be in possession of all the facts in cases of this kind in order that it may be enabled to locate responsibility.

Will you therefore kindly cooperate with this office by answering as fully as possible the questions presented on the other side of this communication? Whatever information you may furnish will be treated confidentially, and you may rest assured that your courtesy in this matter will be appreciated.

Kindly mail your reply in the inclosed addressed official penalty envelope, which requires no postage.

Respectfully,

R. W. GALLAGHER,
Postmaster.

INQUIRY OF WITNESSES

1. Did you see the accident? I did not see accident.
2. When did it happen? December 18, 1923.
3. Where did it happen? Potomac and Baynes.
5. Where were you when the accident occurred? At police station No. 5.
8. What was the apparent extent of the injury or damage? United States mail truck bent fender; auto 273-160, a broken wheel.
11. In your opinion who was to blame for the accident? Don't know.
12. In your opinion was the accident avoidable? Don't know.

WILLIAM H. NUGENT.

DECEMBER 21, 1923.

UNITED STATES POST OFFICE,
Buffalo, N Y., December 20, 1923.

Mr. ROBERT G. BAUMET,
325 Mills Street, Buffalo, N. Y.

MY DEAR MR. BAUMET: You are respectfully informed that this office is in receipt of information to the effect that you witnessed an accident which, according to reports, happened at 8.40 p. m. on December 18, 1923, at the corner of Potomac Avenue and Baynes Street, when Government-owned mail truck No. 9962 came in contact with a Chevrolet sedan bearing license No. 273-160.

As every effort is being made to prevent the occurrence of accidents in the operation of the Government-owned motor vehicle service, this office should be in possession of all the facts in cases of this kind, in order that it may be enabled to locate responsibility.

Will you therefore kindly cooperate with this office by answering as fully as possible the questions presented on the other side of this communication? Whatever information you may furnish will be treated confidentially, and you may rest assured that your courtesy in this matter will be appreciated.

Kindly mail your reply in the inclosed addressed official penalty envelope, which requires no postage.

Respectfully,

R. W. GALLAGHER, Postmaster.

INQUIRY OF WITNESSES

1. Did you see the accident? Yes.
2. When did it happen? 8.40 p. m. December 18, 1923.
3. Where did it happen? Potomac and Baynes.
5. Where were you when the accident occurred? On Government truck.
6. How fast was Government-owned auto moving? About 20 miles per hour.
7. How fast was other vehicle moving? About 20 miles per hour.
8. What was the apparent extent of the injury or damage? Car No. 273-160 had right rear fender damaged and in striking curb broke left rear wheel and glass in windows; Government truck had left end of bumper bent. Child also injured by glass.

9. Tell, in your own way, how the accident happened. We were traveling west on Potomac and when we approached Baynes saw the sedan going north on Baynes Street in the center of the street. Mr. Drake applied the brakes as soon as possible but the sedan did not slow up at all and apparently thought he could get across the street ahead of us. As Mr. Drake applied the brakes the car skidded slightly to the left and in that way we hit the right rear fender of Mr.

Weatherston's car and bent the left end of Government bumper, the rear wheel on the sedan was broken when it hit the curb.

11. In your opinion who was to blame for the accident? Mr. Weatherston, as Mr. Drake had right of way.

12. In your opinion was the accident avoidable? Not under the conditions in which it happened.

13. Please give the names and addresses of any other witnesses to the accident. There were no witnesses to the accident itself.

ROBERT G. BAUMET.

DECEMBER 22, 1923.

Sworn and subscribed before me this 19th day of August, 1924, at Buffalo, N. Y.

J. M. MURPHY,
Post Office Inspector.