

REFUSAL TO DELIVER “INCENDIARY” ABOLITIONIST MAIL LEADS TO KILLING

Patricia A. Kaufmann

The Act of July 2, 1836

For decades preceding the American Civil War, there were animated discussions in the United States Congress concerning the delivery of “incendiary” pamphlets, handbills, printed paper or pictorial representations touching on the subject of slavery. In early 1836, a bill was introduced under autocratic U.S. President Andrew Jackson that prohibited the circulation of such publications and removed any postmaster who delivered them from office.

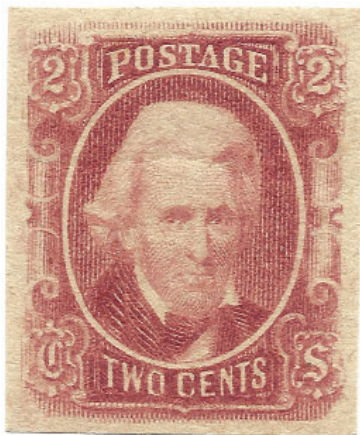


Figure 2. CSA 8, 2¢ brown-red engraved general-issue stamp of Andrew Jackson

Jackson (1767-1845) served as the seventh U.S. president from 1829-37. He was featured on two Confederate general-issue stamps, as shown in Figures 1 and 2, because he was regarded as a Southern hero. Figure 3 shows a seated portrait of a frail Jackson, circa 1845, during his final days.

There were debates over freedom of the press regarding this Jackson-backed bill, put forth by

notable figures such as Henry Clay and Daniel Webster, who argued that it was unconstitutional, dangerous and alarming.

Clay and Webster were leading opponents of Jackson's domestic policies. Figure 4 shows a chromolithograph of Webster (1782-1852), circa 1865, while Figure 5 shows Clay (1777-1852) in 1848 at the end of his long congressional career.

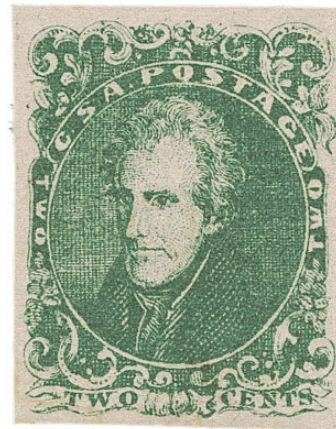


Figure 1. CSA 3, 2¢ green lithograph general-issue stamp of Andrew Jackson



Figure 3. Seated half-length portrait of Andrew Jackson, circa 1845.



Figure 4. Chromolithograph of Daniel Webster, circa 1865.

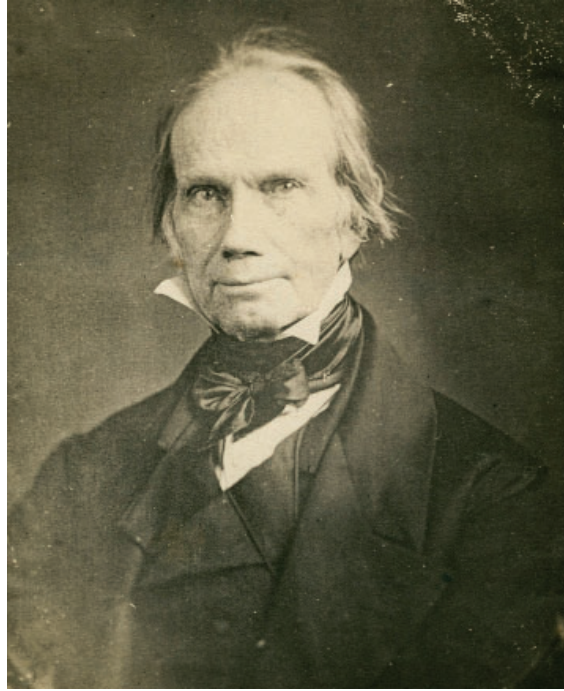


Figure 5. Henry Clay in 1848. Photo by Julian Vanneson or Montgomery P. Simons.

As first introduced, the bill was defeated on April 12, 1836. The ultimate *Act of July 2, 1836*, Section 32, stated:

That if any postmaster shall unlawfully detain in his office any letter, package, pamphlet, or newspaper ... or if any postmaster shall, with intent as aforesaid, give a preference to any letter, package, pamphlet, or newspaper, over another ... he shall, on conviction thereof, be fined in a sum not exceeding five hundred dollars...

Southern postmasters ignored this federal law!

The 1836 Act was a reaction to the 1835 crisis, when northern abolitionists began a massive mailing campaign, sending thousands of anti-slavery pamphlets to the American South. Southern states were furious, and a mob of 3,000 people in Charleston, S.C., broke into a post office to burn such literature. Members from both political parties participated. What is more, the postmaster was present and helped.

Astonishingly, Jacksonian Postmaster General Amos Kendall (1789-1869) agreed, writing to the Charleston postmaster on Aug. 4, 1836:

I am satisfied that the Postmaster General has no legal authority to exclude newspapers from the mails nor prohibit their carriage or delivery on account of their character or tendency, real or supposed. But I am not prepared to direct you to forward or deliver the papers ... we owe an obligation to the laws, but a higher one to the communities in which we live; and if the former be perverted to destroy the latter, it is patriotism to disregard them. Entertaining these views I cannot sanction and will not condemn the step you have taken.

Southern postmasters followed their own state laws against distributing anti-slavery literature, in direct conflict with federal law. Emphasis is mine.

The laws of Virginia and other Southern states ordered postmasters to exclude inflammatory publications. They empowered any justice of the peace to burn such condemned matter publicly and to commit to jail anyone knowingly subscribing to and receiving it. Such laws were pronounced constitutional not only by the attorney general of Virginia, but also by Caleb Cushing, attorney general of the United States under President Franklin Pierce. I find that incomprehensible.

Right up until the Civil War, the Act of July 2, 1836, was void in Southern states. State laws in the South nullified freedom of the press under the First Amendment to the United States Constitution. Again, emphasis is mine.

Lynchburg, Va., Postmaster Robert Henry Glass, Sr. was one of many who were outspoken in this debate, as evidenced by his letter to abolitionist Horace Greeley, editor, publisher, and founder of the *New-York Tribune*. An 1872 chromolithograph of Greeley is shown in Figure 6.



Figure 6. Chromolithograph of Horace Greeley, 1872, by T. Lee & Co

Post Office, Lynchburg, Va.

December 2, 1859

Mr. Horace Greeley:

Sir:--I inform you that I shall not, in future, deliver from this office the copies of the "Tribune" which come here, because I believe them to be of that incendiary character which are forbidden circulation by the laws of the land, and a proper regard for the safety of society. You will, therefore, discontinue them.

*Respectfully,
R.H. Glass, Postmaster*

Horace Greeley's reply to Glass sums up the issue:

Sir:--I take leave to assure you I shall do nothing of the sort. The subscribers of the "Tribune" in Lynchburg have paid for their papers; We have taken their money, and shall fairly and fully earn it. ... If they direct us to send their papers to some other post office, we shall obey the request; otherwise, we shall send them as originally ordered. If you or your masters choose to steal and destroy them, that is your affair – at all events, not ours; And if there is no law in Virginia to punish larceny, so much the worse for her and our plundered subscribers. If the Federal Administration whereof you are the tool after monopolizing the business of mail carrying, sees fit to become the accomplice and patron of mail robbery, I suppose the outrage must be borne until more honest and less servile rulers can be put into high places at Washington, or till the people recover their natural rights to carry each other's printed matter and letters, asking no odds of the government. Go ahead in your own base way. I shall stand steadfast for human liberty and the protection of all natural rights.

*Yours stiffly,
Horace Greeley*

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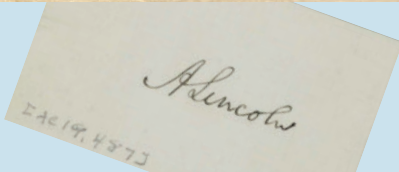
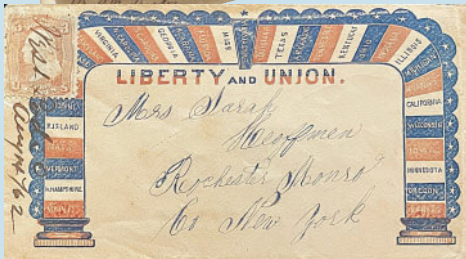
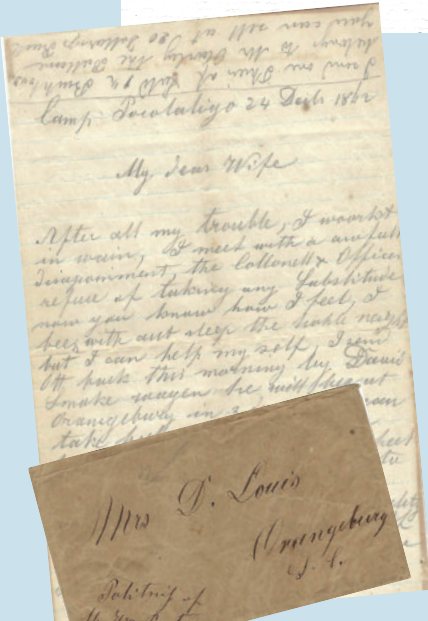
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R.H. Glass was first appointed postmaster by U.S. President Franklin Pierce in 1853, upon the recommendation of Methodist Episcopal Bishop John Early and numerous prominent citizens.

Glass served as a postmaster for the United States and then the Confederate States for a total of 13 years.

Glass is best remembered in philatelic circles for producing the Lynchburg postmaster provisionals during the Civil War. But he was best known in Lynchburg as a newspaperman, the founder of the Glass media empire that endured for generations.

A strong supporter of Southern secession, Glass resigned his postmaster position on March 4, 1861, rather than serve under the Lincoln administration. According to the (Richmond) *Daily Dispatch* of Sept. 25, 1861, it was Glass who hoisted the "flag of separation" when Virginia seceded from the Union. Glass' postmaster appointment was recommended to the Confederate States Senate on July 20, 1861, and the CS Senate confirmed his appointment on Sept. 6, 1861. But it is clear from the issuance of the provisional stamps bearing his name that he was serving as postmaster well before it was official.

Examples of the Lynchburg provisionals are shown in Figures 7 and 8. Figure 7 is a used example of the 5¢ blue Lynchburg adhesive (CSA Catalog LYN-VA-A01, Scott 52X1). The stamp is printed on wove paper with "R.H. Glass PM" printed within the design. It was patterned after the Memphis provisional, which Scotch-plaid border he admired and copied. The earliest Memphis provisional recorded is in June 1861, while the similarly designed Lynchburg adhesive did not appear until nearly two months later, in August.



Figure 7. Lynchburg, Va., 5¢ blue provisional (LYN-VA-A01) bearing the name of R.H. Glass PM



Figure 8. Lynchburg, Va., 5¢ black press-printed entire (LYN-VA-E01) postmarked "JUN 5 1861," one of the earliest Lynchburg provisionals.

Figure 8 shows a 5¢ Lynchburg black entire printed on amber paper (CSA Catalog LYN-VA-E01, Scott 52XU2). Known in different paper colors, the Scott catalog assigns them separate numbers 52XU1-52XU4 to reflect the paper colors, while the CSA catalog gives them the sole number LYN-VA-E01.

The postal stationery example in Figure 8 is one of the earliest uses of a Lynchburg provisional, postmarked June 5, 1861, just days after the Confederate postal system began on June 1. This cover sports a stellar provenance of Emerson, Caspary, Lilly and the D.K. Collection.

Disrupted Postal Delivery Results in Deadly Shooting

In 1858, Glass became the owner of the *Lynchburg Daily Republican*, in partnership with George W. Hardwicke. Glass had worked at the *Republican* since 1846, that paper being the leading Democratic organ in that section of the state.

Lynchburg's other newspaper was the *Lynchburg Daily Virginian*, then published by Charles Button. On June 23, 1860, while Glass was out of town, Charles' brother Joseph died in a gun battle with Glass' editor and partner over accusations that Glass used his postal office to disadvantage the rival paper by intentionally sabotaging and delaying delivery of their rival newspapers. Consultation of multiple sources revealed some differences in how the fatal incident occurred – whether it was a formal duel after Hardwicke challenged Button, or a chance confrontation on the street between editorial groups from rival newspapers.

During a violent street encounter at two o'clock in the afternoon, 15-20 shots were exchanged between the four brothers of the Button family and George and William Hardwicke. All four of the Button brothers worked at the *Virginian*. The Hardwicks were arrested and charged with killing Joseph Button. Robert Button was also severely wounded. The Hardwicks were initially held on a

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\$10,000 bond. By December 1860, court proceedings had stalled because the jury failed to reach a verdict; the proceedings were therefore dismissed. Both newspapers gave their versions of the affair, displaying a great deal of bitterness.

Supreme Law of the Land

While slavery was the major cause for the War Between the States, the topic of states' rights was heavily entwined with slavery and abolitionists. The scope of states' rights is primarily rooted in the Tenth Amendment of the U.S. *Constitution*, which establishes that any powers not explicitly delegated to the federal government by the *Constitution*, nor prohibited by the states, belong entirely to the states or the people.

When conflicts arise, the Supremacy Clause of the U.S. *Constitution* dictates that valid federal laws override state laws. The supremacy of the people, through their elected representatives, is recognized in Article I, which establishes Congress, consisting of a Senate and a House of Representatives. The positioning of Congress at the beginning of the *Constitution* affirms its status as the "First Branch" of the federal government. The Southern people rejected the federal dictates that they opposed, thereby directly rejecting the U.S. *Constitution* by which they were bound as citizens of the United States.

Legal Legacy: The *Act of July 2, 1836*, laid the groundwork for legal protections that still exist. It is the direct ancestor of modern federal law under 18 U.S. Code § 1703, which makes the unlawful delay, detention or destruction of mail or newspapers by a postal employee a federal crime punishable by fines and imprisonment. This Act is widely known as the *Post Office Department Act of 1836*.

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