

## **Amos Kendall Justifies Censorship of the Mail (1835)**

*In 1835, abolitionists flooded South Carolina with mail designed to convince slaveholders of slavery's immorality. Before the mail could reach its intended recipients, South Carolinians broke into the Charleston Post Office and burned the abolitionist literature. Far from decrying such actions, Postmaster General Amos Kendall supported South Carolinians in his "Report on the delivery of Abolition Materials in the Southern States." Like most Jacksonians, Kendall strongly supported states' rights and slavery, but stopped short of supporting nullification.*

A new question has arisen in the administration of this Department. A number of individuals have established an association in the Northern and Eastern States and raised a large sum of money, for the purpose of effecting the immediate abolition of Slavery in the Southern States. One of the means reported to have been the printing of a large mass of newspapers, pamphlets, tracts, and almanacs, containing exaggerated, and in some instances, false accounts of the treatment of slaves, illustrated with cuts calculated to operate on the passions of the colored men, and produce discontent, assassination, and servile war. These they attempted to disseminate throughout the slaveholding states, by the agency of the public mails.

As soon as it was ascertained that the mails contained these productions, great excitement arose, particularly in Charleston, S.C., and to ensure the safety of the mail in its progress Southward, the postmaster at that place agreed to retain them in his office until he could obtain instructions from the Postmaster General. In reply to his appeal, he was informed, that it was a subject upon which the Postmaster General had no legal authority to instruct him. The question again came up from the Postmaster at New York, who had refused to send the papers by the steamboat mail to Charleston, S.C. He was also answered that the Postmaster General possessed no legal authority to give instructions on the subject; but as the undersigned had no doubt that the circumstances of the case justified the detention of the papers, he did not hesitate to say so. Important principles are involved in this question, and it merits the grave consideration of all departments of the Government.

It is universally conceded, that our States are united only for certain purposes. There are interests, in relation to which they are believed to be as independent of each other as they were before the constitution was formed. The interest which the people of some of the States have in slaves, is one of them. No State obtained by the union any right whatsoever over slavery in any other State, nor did any State lose any of its power over it, within its own borders. On this

subject, therefore, if this view be correct, the States are still independent, and may fence round and protect their interest in slaves, by such laws and regulations as in their sovereign will they may deem expedient.

Nor have the people of one State any more right to interfere with this subject in another State, than they have to interfere with the internal regulations, rights of property, or domestic police, of a foreign nation. If they were to combine and send papers among the laboring population of another nation, calculated to produce discontent and rebellion, their conduct would be good ground of complaint on the part of that nation; and, in case it were not repressed by the United States, might be, if perseveringly persisted in, just cause of war. The mutual obligations of our several States to suppress attacks by their citizens on each others' reserved rights and interests, would seem to be greater, because by entering into the Union, they have lost the right of redress which belongs to nations wholly independent. Whatever claim may be set up, or maintained, to a right of free discussion within their own borders of the institutions and laws of other communities, over which they have no rightful control, few will maintain that they have a right, unless it be obtained by compact or treaty, to carry on such discussions within those communities, either orally, or by the distribution of printed papers, particularly if it be in violation of their peculiar laws, and at the hazard of their peace and existence. The constitution of the United States provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," but this clause cannot confer on the citizens of one State, higher privileges and immunities in another, than the citizens of the latter themselves possess. It is not easy, therefore, to perceive how the citizens of the Northern States can possess or claim the privilege of carrying on discussions within the Southern States, by the distribution of printed papers, which the citizens of the latter are forbidden to circulate by their own laws.

Neither does it appear that the United States acquired, by the constitution, any power whatsoever over this subject except a right to prohibit the importation of slaves after a certain date. On the contrary, that instrument contains evidences, that one object of the Southern States, in adopting it, was to secure to themselves a more perfect control over this interest, and cause it to be respected by the sister States. In the exercise of their reserved rights, and for the purpose of protecting this interest, and ensuring the safety of their people, some of the States have passed laws, prohibiting under heavy penalties, the printing or circulation of papers like those in question, within their respective territories. It has never been alleged that these laws are

incompatible with the constitution and laws of the United States. Nor does it seem possible that they can be so, because they relate to a subject over which the United States cannot rightfully assume any control under that constitution, either by law or otherwise. If these principles be sound, it will follow that the State laws on this subject, are, within the scope of their jurisdiction, the supreme laws of the land, obligatory alike on all persons, whether private citizens, officers of the State, or functionaries of the General Government.

The constitution makes it the duty of the United States “to protect each of the States against invasion; and, on application of the Legislature, or of the Executive, (when the Legislature cannot be convened) against domestic violence” There is no quarter whence domestic violence is so much to be apprehended, in some of the States, as from the servile population, operated upon by mistaken or designing men. It is to obviate danger from this quarter, that many of the State laws, in relation to the circulation of incendiary papers, have been enacted. Without claiming for the General Government the power to pass laws prohibiting discussions of any sort, as a means of protecting States from domestic violence, it may safely be assumed, that the United States have no right, through their officers or departments, knowingly to be instrumental in producing within the several states, the very mischief which the constitution commands them to repress. It would be an extraordinary construction of the powers of the general Government, to maintain that they are bound to afford the agency of their mails and post offices, to counteract the laws of the States, in the circulation of papers calculated to produce domestic violence; when it would, at the same time, be one of their most important constitutional duties to protect the States against the natural, if not necessary consequences produced by that very agency.

The position assumed by this Department, is believed to have produced the effect of withholding its agency, generally, in giving circulation to the obnoxious papers in the Southern States. Whether it be necessary more effectually to prevent, by legislative enactments, the use of the mails, as a means of evading or violating the constitutional laws of the States in reference to this portion of their reserved rights, is a question which, it appears to the undersigned, may be submitted to Congress, upon a statement of the facts, and their own knowledge of the public necessities.