

Act of 31 January 1865

An Act to Authorize Newspapers to be Mailed to Soldiers Free of Postage

Sources:

Journal of the Confederate States of America, 1861-1865, Vol 4 (Washington, DC: Government Printing Office, 1904), 321, 332, 469-470, 497, 502, 508.

Journal of the Confederate States of America, 1861-1865, Vol 7 (Washington, DC: Government Printing Office, 1905), 359, 360, 453-454, 516-517, 523.

On 7 December 1864 Senate Bill 310 was introduced to authorize newspapers to be mailed to soldiers free of postage. The full text of the bill is given below (page 1).

The bill was passed by both houses of Congress and sent to President Davis for signature on 19 January 1865. The President vetoed the bill (page 2). Subsequently Congress overrode the veto and on 31 January 1861 the Act was sent to the Attorney General for filing (page 3).

This Act was passed so late in the war it is not known if it was implemented by the Post Office Department or if the administration appealed the law.

An act to authorize newspapers to be mailed to soldiers free of postage.

The Congress of the Confederate States of America do enact, That all newspapers directed to any officer, musician, or private engaged in the actual service of the Confederate States may be transmitted through the mails free of postage: Provided, That in all such cases the address shall contain a description of the party to whom such newspapers shall be sent, stating his military title, if an officer, or the company and regiment to which he belongs, if a musician or private: And provided also, That this act shall not be construed to extend to newspapers transmitted by carriers or express companies, or received through them.

TH. S. BOCOCK,
Speaker of the House of Representatives.

R. M. T. HUNTER,
President of the Senate pro tempore.

I certify that this act originated in the Senate.

JAMES H. NASH,
Secretary.

Journal of the Confederate States of America, 1861-1865, Vol 4, page 497.

Jefferson Davis' veto message

To the Senate of the Confederate States of America:

I return to your honorable body, without my approval, an act which originated in the Senate, entitled "An act to authorize newspapers to be mailed to soldiers free of postage."

The act provides "that all newspapers directed to any officer, musician, or private engaged in the actual service of the Confederate States may be transmitted through the mails free of postage."

The Constitution, Article I, section 8, clause 7, gives power to Congress "To establish post-offices and post-routes; but the expenses of the Post-Office Department, after the first day of March, in the year of our Lord eighteen hundred and sixty-three, shall be paid out of its own revenues."

This provision that the Post-Office Department shall be self-sustaining was not contained in the Constitution of our former Government. It is important that its spirit and object should be correctly determined now, because many members of the present Congress were also members of the Provisional Congress which adopted this new clause, and legislation by them will be deemed hereafter to possess peculiar value as a precedent, and as a contemporaneous interpretation of the Constitution by those best acquainted with its meaning.

It was generally understood that the clause under consideration was intended by its framers to correct what were deemed to be two great vices that had been developed in the postal system of the United States. The first was the injustice of taxing the whole people for the expense of the mail facilities afforded to individuals, and the remedy devised was to limit the Government to the furnishing of the machinery for carrying the mails, and compelling those who might use the facilities thus furnished to pay the expense thereof.

The second evil against which this clause was intended as a safeguard was the wasteful extravagance which grew out of the franking privilege with its attendant abuses of large contracts for stationery, printing, binding, etc., and increased Government patronage with its train of corrupting influences.

With this knowledge of the purpose of the framers of the Constitution, and of the evils against which they intended to provide by the clause under consideration, I can not escape the conclusion that to authorize the transmission of any mail matter free of postage is to violate the true intent and meaning of the Constitution.

If the act now before me should become a law the Postmaster-General would be bound to pay railroads and other carriers for conveying newspapers to the armies without reimbursement from any source whatever. He could not be repaid out of the general Treasury without a violation of the letter of the Constitution; nor out of the other revenues of his Department without in effect imposing on those who pay for carrying their own correspondence an additional charge to defray the cost of conveying newspapers for others.

If it be competent for Congress under this clause to order newspapers to be carried free of postage, the power exists to order free transmission of any other mail matter. But we must ever remember that Congress can exercise no implied powers, certainly none not necessary to carry into effect the powers expressly granted; and where shall we find in the Constitution any power in the Confederate Government, express or implied, for dividing either the people or the public servants into classes unequally burthened with postal charges?

In that part of the Constitution which specially treats of the burthen of taxation, every precaution has been taken to secure uniformity and to guard against bounties or preferences of any kind, and although not directly applicable to the subject of postage, the spirit of the whole provision is so opposed to inequality in legislation that the passage may well serve for illustration. The first clause of Article I, section 8, gives to Congress power "To lay and collect taxes, duties, imposts, and excises, for revenue necessary to pay the debts, provide for the common defense, and carry on the Government of the Confederate States; but no bounties shall be granted from

the Treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry; and all duties, imposts, and excises shall be uniform throughout the Confederate States."

It is true that the payment of postage is not properly a tax, but compensation for service rendered; yet it would scarcely be ingenuous to deny that so to regulate the rates of postage as to produce an excess of receipts over the expenses of carrying mail matter for one class, and to use this excess in order to carry free of cost the mail matter of another class, would strongly conflict with the just equality of privileges and burthens which the above-cited clauses were designed to secure.

I regret to be compelled to object to a measure devised by Congress for the benefit or relief of the Army; but, with my convictions on the subject, it is not possible to approve the act now before me.

JEFFERSON DAVIS.

RICHMOND, VA., *January 25, 1865.*

Mr. Semmes submitted the following resolution; which was considered and agreed to:

Resolved, That the Secretary of the Senate be directed to present to the Attorney-General, to be filed in the Department of Justice, the act entitled "An act to authorize newspapers to be mailed to soldiers free of postage," together with the certificates of the Secretary of the Senate and the Clerk of the House of Representatives, showing that the said act was passed by a vote of two-thirds of both Houses of Congress, after the objections of the President of the Confederate States thereto had been received, and after the reconsideration of the said act by both Houses of Congress, in accordance with the Constitution.

31 January 1865

Journal of the Confederate States of America, 1861-1865, Vol 4, page 508.

Thomas Jenkins Semmes was a Senator from Louisiana