

“New York Feby 26 – 1850

Lysander Spooner Esquire,

Sir,

I have just received your letter of yesterday, and hasten to reply to it.

I regret to learn that you have experienced any serious injury from the delay in the transmission of my opinion and do not deny that you have reason to complain. It is however due to myself to say that while Mr. Howe has several times informed me that you were desirous to obtain my views on the subject with as little delay as practicable, he has never suggested to me that “great disadvantages” would result from such a fulfillment as has occurred. Had I known that it was important to your interests that the matter should be examined before any given day, I should probably have declined when first applied to by Mr. Howe, and connexion with it; because the compensation which he was authorized to offer me, was not such as to justify my laying aside other and pressing engagements.

Within the week named in my not to which you have alluded, I did carefully read, and to some extent at least, investigate and reflect upon your argument; and on the monday or tuesday following, informed Mr. Howe of the general impressions made upon my mind by the survey I had then taken of the subject. My occupations since have prevented me from completing my researches; but I will immediately proceed to say, all that I am at present willing to say, on the question proposed to me.

I regard the provisions of the existing acts of Congress creating a government monopoly in the transmission of “mailable matter,” as inexpedient and offensive; and so far as those provisions impose penalties on individuals, for carrying for hire, on their persons, or in their vehicles or vessels by law, letters newspapers or packages, your argument goes very far to show, that no power to pass any such laws has been delegated to the Congress of the United States. If the question were a new one, I should expect the Courts to repudiate the claim of the Federal Government to any such authority. But I find in the 14th Section of the Act of Feb. 20th 1792 (United States, Statutes at large Vol 1 p 236) the commencement of this system of prohibitions and penalties, as well as the ground on which it was then placed by Congress with – that by such private mails “the revenue of the General Post Office” might be inferred. This law was passed by a Congress in which Madison and other members of the Convention of 1787; and was approved by Washington, also a member of that body. The like provision is to be found in the acts of May 8th 1794, March 2nd 1799, March 3rd – 1925 and March 2nd 1827. I am not prepared to say that the several Congresses that passed and the several Presidents that approved these laws transcended their powers and violated the Constitution; especially as the prior history of the country and the world show that the transmission of letters to by post had always been regarded as a species of prerogative appertaining to the Government, and with which individuals were not permitted to interfere. The inability of private persons under ordinary circumstances to perform the service, naturally enough devolved the duty upon the sovereign and the sovereign, with instincts of his order, therefore claimed it as his regalia. (See the article Posts in the Encyclopedia Americana). I fear that the great and good men, who framed the Federal Constitution, had not outlined these ideas; and that they therefore understood the simple grant “to establish post offices and post roads,” as really including the comprehensive, inquisitional, and monopolizing faculties since asserted by Congress. They may well be excused under the circumstances of the condition for entertaining such opinions, but it is not so easy to vindicate in the year 1850, the attempt to enforce them. I do not see, that a remedy can be expected from the Courts; but the intelligence and energy of the people will ultimately secure it by the reduction of the tax to post so low as to silence complaint. That your efforts have largely contributed to awaken attention to this great interest no one can deny. And whatever I may have thought of them before my recent perusal of your pamphlet (published by you in 1844) I am now satisfied that you were induced to engage in these efforts under a deep conviction of the unconstitutionality of the laws with which they conflicted; and that having rendered in this matter a good service to the country.

Very Respectfully,

Your Obt. Servant

B.F. Butler

P.S I have no time to retain a copy of what I have written. I will return to Mr. Howe the pamphlet and sheets he left with me and you may do as you please about directing him to pay me the \$25.00”

[previous](#)