

[NB: After this letter, there is another, found later in the microfilm series that appears to be the final draft, and so is easier to read. Additionally, there are some changes from the draft.]

Winchendon, Mass

Monday Decr 7, 1846

Dear Bradburn,

I have just returned from Athol, whither I went on Friday. I have been stopping here a short time with a friend, who appreciates my books, wishes me to teach his son, and offers me a home for the winter. How long I may remain here is uncertain.

At Athol I found your letter, and thank you for all its contents. I gave the Dr and his wife the reading of it—they send their love to you. I saw Mrs. Sargeant at the Dr's last evening, and the evening before. Delivered your message of love to her. This time she sends her love to you, and wishes me to give it in strong terms. She said she wishes to do so before, but though it might not be proper for her to make the first advances! It makes me homesick to think what charming[?] society I might have there this winter. I am almost inclined to think with you, that there is not another spot on earth where I would so glad spend the winter.

The Dr and Gross [?] are making preparations to go into hydropathy in the spring. Gross is now at Athol—has been there some weeks—will probably be there a part of the winter.

"Dear Jane," mesmerizes[?], is married—not to the little fellow she had on hand when you were there—him she dismissed—and made a somewhat sudden match with a trader in town—who has not been there long—I know little of him—kind of a tolerable fellow, I should judge from what I hear of him. I have spoken with her but once, that was best for a moment at a fireman's supper. I told I should tell you [sic] what she had been doing—she blushed as much as the occasion required. It was ~~about two~~ a weeks or two after the wedding.

I received a Pioneer & Herald containing your letter to Hittridge. The Dr also received one. Your article was good, and just, so was Hildreth's—and indeed many others—nevertheless, you will pardon me for saying that none of them are quite what I had (perhaps unreasonably) hoped to see. I suspect no one but another Rogers could write his epitaph. The defect in all the articles, (except

perhaps French's), was that they did not sufficiently indicate Rogers's peculiarities. They use the same terms when speaking of his wit, genius, and power that are used when speaking of the same qualities in other men, whereas his were all peculiar--They cannot be described by general and common epithets of admiration or praise. And after all, next to his humanity, were not originality and freedom of thought, rather than wit, the marked trait, the great traits of his character-- So it appears to me.

Nothing perhaps will ever convey to others the true idea of him, but his own writings, for originality cannot be described, it can only be seen. I am glad he received your letter and was comforted by it.

~~or anecdotes of him. I should think his friends, you among the rest, might have numerous anecdotes of him worth related. I am very glad he received your letter, and was comforted by it.~~

~~----- I have seen Gerrit Smith's this letter to Phillip's, and was as much pleased with it as yourself. Have you seen Quincy's letter to Smith in the Liberator? Quincy tells Smith he is as inconsistent as Phillips, for holding that a slave holder is not good enough to administer a slaveholding constitution. I don't see but Smith must come out with his strongest pen in defense of the constitution. I think he will probably be glad of the opportunity, of addressing such a letter to Quincy through the Liberator. If so, much good, may come of it, perhaps also some sport for I think a letter of that sort in the Liberator might occasion some fluttering.~~

~~----- Did you see Wendell Phillip's resolutions at the Quincy meeting, in which he says "whatever may be the meaning of the constitution, and whatever may have been the wishes of the northern states, the fact has nevertheless been that it has, in practice, been rather to uphold slavery" etc.? (I don't probably give his words exactly but such is the purport of them. This looks as if he were getting shy on the constitution.~~

As to Chase, if I had him within arm's length, I would break every bone in his body, if I could not otherwise make him understand, and either yield to, or answer the arguments in my book. I have been in the habit of considering him the most important anti-slavery man in the west, and therefore I am anxious he should be on the right ground. So far as I gather his objection from your letter, the following paragraph is an answer to it. You may copy it and send it to him, (if you feel so disposed), and ask him what error there is in it? And, if there be no error, why my construction of the representative clause is not right.

I nowhere assert that we may, for no cause, go out of the instrument to find its intent. On the contrary, I admit that we may (see page 90 of the small edition). My position is this. 1. ~~Where~~

~~the meaning is contrary to natural right, it must be construed rigidly to the letter. Mr. Chase will not deny this, but this does not relate to the representation.~~ We must not go _____ beyond the necessary meaning of the letter. We can not go out of an instrument to find the intent _____, unless the language of the instrument be ambiguous. And the usage of a word is not ambiguous, legally speaking, where the alternative is only between a right and a wrong or a just and an unjust meaning. In such case, the rule that requires the sight to be performed[?] to the wing[?], is imperative, and this prevents the ambiguity which, but for the rule, might exist. Ambiguity can only exist where a word has two or more meanings that are right, or two or more meanings that are wrong. In such cases you may go out of the instrument to make the choice; but where there is one meaning consistent with right, and another that is inconsistent with right, the law makes the choice, by preferring the right. There is no exception whatever to this rule, unless where the construction favorable to the right would be inconsistent with, or inappropriate to some the part of the instrument. ~~Has settled the question (which is Such is This~~ exception does not apply here—for my construction of the word "free" in the representative clause is (_____) the only one that can save the instrument from absolute absurdities as I have abundantly shown in my book. ~~If the judiciary could~~ My construction of the word "free" ~~representative clause~~ is consistent with right, (or more nearly so than any other), and is furnished by this instrument itself. Chase's construction is inconsistent with right, and he is also obliged to go out of the instrument to find it. If the judiciary may go out of an instrument to find a bad meaning for a word, when the instrument itself has furnished a good one, then the judiciary make...any thing they please out of the best instrument in the world. They would have perfect license to pervert at will any instrument whatever to a bad purpose if its words were susceptible of both a good and bad meaning. Such a doctrine is self-evidently erroneous—there is not a particle [?] of law or reason in it. It is also in manifest conflict with the rule which I have quoted in my book, from the supreme court, vis. "Where rights are infringed, some fundamental principles are overthrown, where the general system of the law for constitution "_____ " here is "justice" and "liberty" is departed from, the legislative intent must be expressed with irresistible clearness, to induce a court of justice to suppose a design to effect such objects."

If you feel at all to copy the _____ send it to Chase, I should like it.

I feel sure that what provoked at Chase and Dewall for their hesitation in regard to the word "free". There is not a particle of law or reason in their doctrine _____ not _____.

Their ideas are the result merely of a habit of thinking in regard to the word "free" _____ use it now. They overlook the use of the word at the time the constitution was adopted---its use in all

the colonial charters, state constitutions, acts of incorporation—
The idea, a note on the 80th page of the small edition of my book*.
~~I think Mr. Sewall will come round right after a while, for he told
me in short time before I left Boston, that the more he read my
book, the nearer he came to my ground.~~

*If you feel at liberty and are disposed to copy the two preceding
paragraphs (_____) and send them to Chase, I should like
it for I consider of my[?] great importance -cause he should be on
the right ground. I think Mr. Sweall will come _____ right after a
while, for he told _____ short time before I left Boston that the
more he read my book, the nearer he came to my opinions—

Gerritt Smith's letter to Phillips was capital—I think he is
bound to come out with another to Quincy in answer to Quincy's
letter in the Liberator, which I suppose you saw.

[end??]

[This same letter was found later in the series, but in a draft w/o
cross-outs. There are some other minor changes so I've included it
below, even though so much of it is the same.]

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that requires the right to be preferred to the wrong, is imperative, and this prevents the ambiguity, which, but for the rule, might exist. Ambiguity can only exist where a word has two or more meanings that are right, or two or more meanings that are wrong. In such cases you may go out of the instrument to make the choice, but where there is one meaning, consistent with right and another that is inconsistent with right, the law makes the choice by preferring the right. There is no exception whatever to this rule, rule is where the construction favorable to the right would be inconsistent with, or inappropriate to some other parts of the instrument. This exception does not apply here—for my construction of the word "free" in the representative clause, (or a construction of a similar character), is the only one that an save the instrument from absolute absurdities—as I have abundantly shown in my book. My construction of the word "free" is consistent with right, (or more nearly so than any other), and is furnished by the instrument itself. Chase's construction is inconsistent with right, and he is also obliged to go out of the instrument to find it. If the judiciary may go out of an instrument to find a bad meaning from a word, when the instrument itself has furnished a good one, then the judiciary may make almost any thing they please out of the best instrument in the world. They would have perfect license to pervert at will any instrument whatever from a good to a bad purpose, if its words were susceptible of both a good and a bad meaning. Such a doctrine is self-evidently erroneous. There is not a particle of law or reason in it. It is also in manifest conflict with the rule, which I have quoted in my book, from the Supreme Court, vis, "These rights are infringed, where fundamental principles are overthrown, where the general system of the law (or constitution, whose "general system" is "justice" and "liberty") is departed from, the legislative intention must be expressed with irresistible clearness to induce a court of justice to suppose a design to effect such objects."

I feel somewhat provoked at Chase and Sewall for their hesitation in regard to this word "free". Their ideas are the result, not at all of legal rules, but merely of a habit of thinking in regard to the word "free," as we use it now. They overlook the use of the word at the time the constitution was adopted, its use in all the colonial charters, state constitutions, acts of incorporation, etc. (See notes on the 80th page of the small edition of my book).

If you feel at liberty and are disposed to copy the two preceding paragraphs (or only the first of them if you prefer to do so), and send them to Chase, I should like it--for I consider of very great importance to the cause that he should be on the right grounds. I think Mr. Sewall will come around right after a while, for he told me short time before I left Boston that the more he read

my book, the nearer he came to my opinions—

Gerritt Smith's letter to Phillips was capital—I think he is bound to come out with another to Quincy in answer to Quincy's letter in the Liberator which I suppose you saw.

I think I have bored you pretty well this time—so I will stop. Please give my best respects to Gordon—and ask him if he received copies of my books, Slavery and Poverty? I mailed a copy of each for him.

I hope you are not going to be miserable at Cleveland this winter. I wish you "had a place in New England to stand and work." As often as you are homesick you must comfort yourself by writing us a letter. I urged the Dr and wife to write you, and I think they will, although I suppose it is difficult for them to find time. But you may depend on my answering you promptly. Direct my letters to Athol as usual—

Yours truly,

Lysander Spooner