

Athol March 5, 1846

Dear Bradburn,

I received your letter the 28th and was much obliged to you for copying so long an extract from Haughton's[?] letter to you. I wish we had O'Connell's opinion. I suppose he is a good lawyer, and he would not be afraid to express his opinion—but he might not be willing to read the book.

I concur with you, in part, as to the cause of Phillip's attack on my book. But an additional reason for it was that he is no lawyer. I saw some ridiculous evidences of it on one other occasion. He lacks one indispensable requisite of a lawyer—to wit, a knowledge of the purpose of law. It is an old saying that a man cannot know the law, until he knows the reason of the law. There are any number of such pettifoggers as Phillips—they are called case lawyers—that is, they remember how particular questions were decided in such and such instances, and that is about all they know—they cannot tell you whether the decisions were right or wrong—they take their law at second hand[?], and take it for granted that decisions are correct. For the worst of any ruling ideas, they are continually misled by words. Hence Phillips seems to think that it is allowable to give a word as many meanings in the law, as it has in the dictionary in the poets, or in the Bible: (you know he quoted the Bible) without any regard to the effect upon justice and right; that the meaning to be given to a word, in any particular instance, is entirely arbitrary, that the court may give it such meaning as they please, and that thenceforth that is its true meaning. By the way, after you were gone I was looking at an argument, which I had partly written some months ago, in the authority, or rather the non-authority of judicial decisions. Although not completed, it was in a better condition for you to read than I had supposed, and I was sorry that you did not have an opportunity to read it.

Your brother is mistaken about free banking in general. I do not know about the Ohio system in particular—it may be a bad one—but I believe the majority in that state think otherwise—for the last election turned principally upon it, as I understand,—after the system had been in operation for a short time only, it is true, but yet long enough to enable the people to form some judgment of it. That state is very nearly equally divided between Whigs and Democrats, and if this system had been unpopular, it would no doubt have turned the scale. The Democrats of that state are of course opposed to it, for they are opposed to all banking. Still, I suppose the system is by no means the best system of banking. I believe a

part of the capital is required to be in state stocks—and I think there is also a good deal of machinery about it. So that it probably is no criterion, by which to judge of real free banking. They have had in Michigan and New York what they called free banking, but it was free in hardly anything but in name. The New York system was a hotch potch of state stocks and mortgages and a little specie[?]; the Michigan was mortgages along, I think—perhaps a little specie[?] to start with. But in Scotland, for a hundred, or hundred and fifty years, they have had the nearest approach to free banking of (I suppose) any system in Europe, and my information in regard to it is, that it is the safest and altogether the best system in Europe. In Rhode Island they have, or had a few years ago, more than one bank to every two thousand inhabitants—which is more than they have in any other state in the union—the stockholders are liable in their private capacity—in fact the system comes very near to free banking—and during the revulsion [?] which commenced in 1826, and overthrew so large a number of banks throughout the country generally, not a single bank in R.I. failed. They stopped paying specie, like other solvent banks—but (as I am informed) not a single one proved insolvent.

The Dr's folks were pretty well last night—Jane[?] left last Saturday. We are all lonely since you went away, and very much regretted that you could not have staid [?] longer.

You need not give my love, but my respects only to Mrs. Sargeant, if it will suit you just as well.

Yours truly,

L. Spooner

N.B. "Legal justice" is not "unnatural"—I should think you took that idea from Phillips.

[Margin]: If you wish to finish reading my theological book you must go to the Investigator office 35 Washington St. (I believe there is a little sign on the side of the door), and buy[?] our [?] price 25 cents.

If ever you called on Judy Williams, or written to Judge Allen—I would not have you do wither unless you choose.