

48 Beekman St.

New York Dec 1 1855

Lysander Spooner, Esq.

Dear Sir,

I have rec<sup>d</sup> yours of yesterday. I do not mean to be tenacious of the view I suggested to you, and shall not strenuously object to your draft as it now stands. There is, I admit, some weight in your reasons for not approving the Amendment I proposed.

And yet there is another view of the question. The ideas that slavery and all other crimes ("great" or small) can not be legalized, is taking strong hold on the public mind, and constitutes, perhaps, our strongest hold upon the people, in reference to this whole subject.

There are some who would be unwilling to sign a petition which they thought contained an implication to the possibility of legalizing slavery.

Then, again, the Southern doctrine now is, (in opposition to its former one) that slavery does exist by natural law. On this claim, solely, they are now carrying it into Kansas; and claiming protection for Slave Property in all the States. That very claim will doubtless be made on the appearance of these petitions \_ and on that ground, mainly I think, the final battle will have to be fought. - Senator Mason, you know, conceded, long since, and the slaveholders now generally concede, that there are no positive laws establishing slavery - This throws them back upon natural law, of course.

Suppose, instead of my former proposed amendment, then, we begin thus -

"1. That Slavery, if it can be legalized at all, cannot be legalized unless it be ~~sanctioned~~ authorized by the fundamental or Constitutional law."

This will affirm nothing, pro or con on the question whether slavery can be legalized. I will only relieve us from the liability of conceding, by implication, that it may be. - This, I think, would not be open to the objection you raised upon my former proposal.

It seems to me that the question whether slavery can be legalized is not a mere question concerning the meaning of words. It is the question whether, by the fundamental principles of jurisprudence, it is possible that any legislation can legalize slavery, so that the Judiciary shall be bound, by any sound

principles of jurisprudence, to recognize its legality? This is a practical question of great importance. If I rightly understand your writing on Slavery & on the trial by jury, you agree with me on taking the negative of the question.

Yours truly    W<sup>m</sup> Goodell