

Boston July 25 – 1854

Rev. T. W. Higginson

Dear Sir,

I have been told that you intend to argue your own cause in the case of the indictment against you, and I have thought you might perhaps do it with more confidence, and possibly with more effect, if you could know what judges and lawyers of the present day will be among the last to tell you, that you have, not merely a moral, but also a legal and constitutional right to demand of the jury that they judge your conduct by its intrinsic merits setting aside all legislation which they, in their consciences, may deem unjust, and also, that if they find you guilty, it is for themselves, and not for the judge, to fix the sentence – that, in short, the government has no constitutional power to have a hair of your head, beyond what twelve men, taken promiscuously from the people, and acting as a mere court of conscience, independently of legislative authority, shall all agree to be just.

I have, therefore, taken the liberty to mail to your address a copy of my essay on the Trial by Jury, in the hope that you may not think it unworthy of your attention at this time. If it should be of any service to you, you may thank Mr Marsh, the publisher, for it, who was kind enough to give me the copy to be sent to you.

I send also a tract containing the opinions of some persons who have read the essay, which may serve to give you some confidence in its truth.

I hope you will excuse me also for sending you a copy of my “Defence for Fugitive Slaves” the second chapter of which attempts to prove that the constitution of the United States itself recognizes the right of the people to resist by force, the execution of any unconstitutional enactments.

With the highest respect,

Your obedient Servant,

Lysander Spooner

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