

Peterboro March 17, 1848

Lysander Spooner

My Sir,

I have your letter of 13th inst. I am truly sorry, that you find so many hindrances in your way. I was hoping to see you 3rd before long. But from what you write, it is very uncertain, when it will appear. And still more uncertainty in these or other publication of your 4th & 5th Nos.

You would have got along way well but for the untold defection of the Liberty Party. It was with you, until it ___ the shameful policy of taking up an anti-Liberty party man for it. ___ Candidate - & now, it is against you. I ___ a Hale - man, who would give a copper to ___ the ___ or publication of your Books. The Liberty Party, printed in my neighborhood (in Utica) was ___ with you, until Hale's nomination. Since then, it has ___ today a word against the Constitutionality of slavery. And how deeply ___ the conduct of the emancipated ___ Liberty Party - on this subject!

As to the ___ but you - give yourself no ___ but it, if you are defeated of getting the means to pay it. I would help you still further if I ___ could. But, I cannot. My engagements & ___ in other ___ all my means. I must give to many objects & moreover I must keep paying Creditors to ___, in consequence of my unhappy liabilities ___ ten years ago, I ___ one hundred ___ and ___.

With ___, your friend, Gerrit Smith

Athol July 24 1848

Gerrit Smith, Esq.

Dear Sir,

I received your letter of the 8th inst. with your order on Mr. Sewall for the note and their papers. I have delayed to return you my thanks, in the hope of being able to inform you that I had raised money to go on with my argument. But I could not raise it. I imagine that one reason may have been that men feel the same incredulity that any thing more can be said, that they originally felt that any thin could be said. And I suspect that another reason may have been that some persons have the wisdom to imagine that these arguments cost me very little time or study, and that I might employ myself in other pursuits for a living and write arguments in the evenings for amusement, or in such other leisure hours as I could occasionally command.

I hope something may sometime happen to give me the means and the leisure to complete the work, but at present, since I cannot live by laboring for others, I must live by laboring for myself.

I feel deeply indebted to you, not merely for your liberal pecuniary assistance, but also for your generous appreciation of my argument, and for your efforts to bring it to the knowledge and commend it acceptance of the community. But I will confess to you that the confidence I formerly had in the speedy triumph of the doctrine is very much abated. Men who do not dispute the force of the argument this far, still see or think they see, so many legal and historical objections, that they dare no believe it to be true. As an illustration of this, it is but quite recently that so candid and discriminating a man as Mr. Sewall has given up his doubts. I think too that many who are inclined to believe it, are still afraid to take the ground publicly, for the reason that they do not know how to meet the many objections presented by others. Little progress will therefore be likely to be made in the public mind, until something more is written.

I originally supposed that those who accepted the argument, as far as it had gone, would act accordingly - that no efforts would be spared to bring it to the knowledge of the public, and that I should have no lack of means to write all that needs to be written to answer every reasonable objection, and bring forward all possible proof. But instead of this, we not only see professed abolitionists volunteering labored essays in behalf of slavery, but we also see large numbers of those who confess the truth of my argument, conspiring to keep it out of sight as something dangerous to their party! The consequence is, that the sale of my argument is stopped and I am thus left without means to finish it, while there is still in resource a great amount of corroboration and proof, of which the public have no conception, and which I doubt not will be sufficient to silence all objections who are worthy of an answer.

If I were sure of my life and sure end means of finishing my argument at a future time, and that the present flood tide of public feeling would not then have ebbed, I should feel less impotence at the folly of those who neglect to aid, and at the madness or bravery of those who seem to do all in their power to defeat the only means by which, as it seems to me, slavery can ever (unless at some remote period) be abolished.

But I will not weary you with these remarks- for I know that you look upon these things very much as I do.

Thanking you again for your repeated kindnesses, I remain

With Great Respect,

Your Obedient Servt

Lysander Spooner

Boston March 13, 1848

Gerrit Smith Esq.

Dear Sir,

When I borrowed the money of you in November I supposed that when my Third Part should be written, my publisher would be as willing to publish it, as he has been to publish the others. But my books have sold so little during the winter, that he feels unable to get out the next number, unless I can get the stereotype plates for it free of expense to him.

I also feel that you will almost think it a misfortune that, as the work has progressed, I have found so much which it seemed important to say in the way of argument, that I shall have no room left in this number for the history which I had intended to include in it -except some little which I have brought in incidentally. I shall have to write a Fourth Part to give the political and judicial history bearing on the matter. And if that should occupy a whole number as I now fear it may, it will probably be necessary for me to write still a fifth part in reply to some things in Phillips and Baileys' arguments. Perhaps, however, I may be able to get this reply into the fourth part as an appendix.

This, so far as I can now see, will be all that I shall have occasion to write, to complete the work as I wish. How much I may find, however, that will need to be brought out, it is impossible to anticipate, for I am continually finding new matters so valuable to be passed over. I thought I had found everything that was necessary a long time ago, but new arguments, authorities, and facts so frequently present themselves that I know not where the thing will stop.

The money you sent me in November is three-fourths gone. And the question arises whether any man, or number of men, appreciate the work enough to enable me to go on. To go on I must not only have the means of living, but also (since my publisher dare not take the risk) the means of getting the remainder of the work stereotyped to correspond with the preceding parts. Probably the whole cost of

stereotyping will be \$400 or \$500. This together with my support while completing the work will amount to some \$700, \$800, or \$900.

For this I can give no security, except the stereotype plates to be bought with the money, and the copyright for the whole book. The copyright for the whole will be from sixteen to twenty cents a copy. That is from \$100 to \$200 a thousand. I think this money would sometime be repaid. But whether it should or not I am confident the work will abolish slavery. I shall not leave an inch of ground legal or historical, for an adverse argument to stand on. The history on which the advocates of slavery rely is (for the purpose for which it is quoted) as much of a slave and a fraud as their law.

You will ask me perhaps whether I expect so large a book will be read by the majority of the people? I answer no. I have no such expectation, however much I may wish for their own- sakes that they would read it. But lawyers will read it, if abolitionists will but give it to them to read. And I know that judges, especially the northern judges dare not think of standing up against both the truth and the bar, on this matter. And if but the northern judges were with us, it would be all that we need. This being my view of the matter in which slavery is to be abolished I would give more for this money, which some of our large conventions have cost than for the whole party, as a party as a means of abolishing slavery. I cannot but believe there are antislavery sentiment and common honesty enough in any and all parties to sustain the judiciary, if the judiciary can have the truth presented to them, and can have the support of the bar. I am therefore persuaded that it is light, and not heat that is needed for the abolition of slavery.

I do not ask you to lend me the money to finish the work, nor to use your influence to raise it for me, for I know that if your judgment approve, and your ability allow, there will be no need of asking. I have felt unwilling even to mention the matter to you, lest you should think I imagined there was no end to your means. But I knew you were expecting another book from me, as the result of your loan in November and that it therefore would not do for me to drop the work without letting you know the causes that prevent my publisher from getting it out. I have therefore laid the whole matter before you, not for the purpose of solicitation, but merely for information.

If the money could be raised I should want it only in installments as the work progresses.

I could probably have my present number ready for the printers in two or three months. If you have been satisfied with the preceding numbers, I think you will be satisfied with this. You can however have Bradburn's judgment on it if you desire it before it goes to the press.

Respectfully, Your obedient servant, Lysander Spooner

Worcester July 17-1849

Gerrit Smith Esq.

Dear Sir,

Yours of the 9th is received and both its tone and its matter demand an answer from me.

In the first place, you say that "In these circumstances (that is, by reason of my suggestion as to the pay), I can make no use whatever, public or private, of your views of the Amendments of the Constitution." In answer to this I have only to say that I gave you the argument unreservedly - expecting and desiring that you should use it as you saw fit, without any reference to the pay. I expressly told you I did not wish you to pay for it, unless you thought it "perfectly right" (that you should do so), nor "unless you were satisfied the opinion was correct."

True, I had little doubt that I ought to be paid for it, or that you would yourself think so, if you should stop to consider all

the circumstances. But I was perfectly aware that, on first blush, you might think differently - and I therefore left it entirely to your own judgment - having no doubt then, as I have none now, of your desire to do precisely what is right.

But you say further, :Aside, however, from any other objection to making use of them, the fact that you will embody them in your 3d volume, is of itself, good and sufficient reason why they should not be used now."

Now I had really said nothing of embodying this argument, or any other one, in regard to the amendments in general, in my 3d volume. I told you "I had written an argument for my third part, to prove that the 2d Amendment applies to both governments - admitting that the others do not." But I said nothing of any argument to prove that the Amendments in general do not apply to the State governments, on that the 5th Amendment does not touch slavery. I had written no argument on either of these points, and did not suppose it would be necessary to write one on the first - although I had thought that, if doubts should continue to prevail to any extent in regard to the last, it might perhaps be expedient to suggest, in a note, substantially the ideas embraced in my letter to you. But I considered that a trivial matter - and had no thought of restraining you from using the opinion I had given you, for any purpose for which you might see fit to use it. It was somewhat hastily written, and I can now see how I might perhaps have made it a little more clear. Probably I could make it much more so to you, if I knew precisely what your objections to it are. But no matter. I think, notwithstanding your first impressions to the contrary, you will, on reflection, be satisfied of its truth. Indeed I considered the leading ideas to be so nearly self evident truths, as hardly to need or admit of, argument. And I regard the opposite doctrine as only a relic of the vague and confused impressions, which all of us have heretofore had as the whole subject of the law of slavery.

But what I wish principally to reply to, in your letter, is this - you say,

"In our private correspondence, you told me that a position, I had taken, is untenable. I asked you to tell me why: you do tell me, and for so doing, ask me to pay a fee for a lawyer's opinion. I cannot think that your request is a proper one - nor that it would be proper for me to yield to it. At the same time, it is easy to frame an apology for such a request on the part of one, who says, "But want has made me desperate."

Plainly, if that were a full statement of the matter, my request would be an improper one, and I do not see, so clearly as you appear to do, how it would be easy to frame an apology for it, even from one who was pressed by want.

If I had volunteered an attack upon your opinion as untenable, (as your statement supposes), and simply because it was untenable, I should of course have been under obligation to sustain that allegation, free of charge to you. But I had alluded to your opinion only in defence of my own rights, and to show you the injustice you had, (unintentionally I had no doubt), done to me. I complained that after I had convinced men of the unconstitutionality of slavery, you should induce them publicly to ignore all the arguments by which I had convinced them, and transfer their sanction to a new argument, and a new ground, of your own, of the soundness of which they had had no reasonable opportunity to judge.

In your reply, you do not deny that it was my argument, and mine only, that had convinced their minds - nor that you induced them to make the transfer of their sanction, from my argument to yours, in the manner I mentioned - that is, ignorantly of the merits of yours. You only say, in substance, that you intended no disparagement of my argument, and that it seemed perfectly plain to you that your new argument was a sound one. But supposing your argument were a sound one - that does not seem to be to be any justification, although it would be some palliation of the act. I think you should have first published your argument, as other men do theirs, on your own responsibility. After it had been before the public until they had had time to examine it, you could then properly ask them to indorse it as sound. But you ask and obtain an impromptu indorsement of your argument - and induce the convention to say virtually to the world, that they believe slavery to be unconstitutional, on the strength of your argument, but that they know nothing of mine - when in fact their convictions rest altogether on my argument, and not on yours - they having had no opportunity to examine yours.

I complained of this as one of the acts, by which the date of my argument had been destroyed, and my resources for the completion of my argument cut off - and I mentioned, as an aggravation of the injustice, that the argument, which you had this procured to be

indorsed at my expense, was, (in my judgment of course), certainly untenable. You replied, admitting, (by not denying), the wrong, so far as regards the procuring the substitution of your argument for mine, in the manner I complained of - yet you virtually say now that I could not complain of the unsoundness of the argument thus substituted for mine, without laying myself under obligation to go gratuitously into a labored argument to explain, to your satisfaction, wherein its unsoundness consists.

Sir, that is a mode of doing a man an injustice, and then stopping his mouth against remonstrance, which I am confident you will not, on reflection, approve or continue to practice. It is also a mode which I am sure you do not habitually resort to, for obtaining, without pay, the legal information you have occasion to procure - I had a strong claim upon you, that you should prove, to my satisfaction, if that were possible, that your argument was sound, (although that would be only a palliation of your act in substituting it for mine): you had none that I should prove to your satisfaction.

When you asked me to write that opinion for you, you did not claim it as you now do, as a right Jad you done so, I should of course have demurred. But you said, "I wish you to do me a great favor. It is to explain to me," so. And I can have no doubt that you then considered it would be a "great favor" to you:- for this was a question of great personal interest to you. You had publicly committed yourself, and almost by your own act alone, the party also, of which you are the head, to a particular view of this question, which you knew had not been generally accepted as true. And you had long desired my opinion on this subject. - although, for some reason or another, you had never seen fit to offer to pay me for it.

Now, however much pleasure it would ordinarily give me to do you a "great favor" of any kind, it so happened that I was not in such pecuniary circumstances as to justify me in doing "great favors," of a professional nature, without pay, for a man of your wealth - and especially for a man, who had just declined, without offering any very weighty reason, as it seemed to me, to do for me a favor, which I had asked of him, and to which I thought I had some claim, on the ground of my having saved to him in postage, (supposing him to have had the same correspondence under the old rates and the new), several times the amount that I asked him to

loan me.

I had just asked of you a favor, upon the obtaining of which, not merely my comfortable subsistence, but much of my usefulness for life, seemed to depend. I told you that in attempting to accomplish the object I had exhausted all the little resources my acquaintances could furnish - that I had applied to strangers without obtaining even a hearing - that unless I could raise \$200, I was likely to lose altogether the chance of obtaining what was of so much importance to me, and what seemed so nearly within my reach -and that I came to you as the only person to whom I could apply with propriety, and any probability of success.

Even in this emergency you declined to do any thing, as a favor to me personally: and acknowledged only your "share of the (general) indebtedness," and paid it - a sure liberal enough, in the principle on which it was given, but of no avail to me (unless I had more to put with it, as you knew I had not), for the purpose for which I applied to you. It will pay my board for a short time, but is insufficient alone to advance at all the object I had in view.

My application, then, for a favor, is denied - you only pay your "indebtedness" to me, as, (I am bound to presume), you would have done to an indifferent person. I was thankful to you for this act, as I should this honorably acknowledge a moral claim, (as I hope many others will do in regard to my postage services), where no legal one could be made. But certainly you did not claim, on this ground, that I should furnish you with legal advice gratis. If so, ever body, who may hereafter contribute to pay me for reducing the postage, will have a right to claim legal opinions of me gratuitously.

Having this peremptorily declined to do me a favor, you at once turn round and ask me to do you "a great favor" - and of a professional kind too, such as every body, who is able, usually expects to pay for.

Sir, it does seem to me a little nebual that a man, who professes to have received from my labors so much personal gratification and instruction, and so much aid and light in regard to the objects to which he is devoting so much time and money, who has expressed so often his ardent desire that I should furnish him

with this aid and light, and who, considering his means, had certain made me no extravagant compensation for them, (\$150, in all, exclusive of the \$30, on account of postage), should now insist upon considering me a perfect stranger, when I ask a favor of him, and at the same moment a very particular friend if he ask a favor of me.

You will permit me to say, that when you declined, (and this was the second time you had done so - having once declined to furnish me with means to go on to my argument) - where you declines to keep up a running account of mutual kindnesses with me, my necessities, (for more, even then, than my inclinations), compelled me to commence keeping my side also of the account in dollars and cents.

If, in this running account of mutual kindnesses, which continued for some years, that balance stands against me, I take back with all proper regrets, this intimation. But I have your word, in strong terms, that such is not the case. And, (since you make it necessary), I will say, that my own judgment tells me that your opinion on that point is correct.

But notwithstanding all these things, that I have now raised, I should probably have furnished you the opinion without any intimation as to the pay, had this been the first call, originating with you, that had been made upon me for legal opinions, without any offer of payment being made.

Last summer, when you knew that I had been obliged to leave Boston for want of funds, I had a letter from Chaplin, evidently written at your instance, saying that you wished to have a suit brought in the case of the two girls at Baltimore - stating the question involved -inquiring of me the best mode to proceed, and desiring me to go to Boston to meet him in relation to the subject. Nothing was sent to pay for my expenses: I was unable to pay them and did not go.

Again a few months ago, Bradburn sent me a letter from you, in which you said, "Perhaps we can draw out Spooner on the Amendments." And he desired me to write you on the subject. I

answered him, in substance, that I had furnished the Abolitionists with nearly all the ideas, of any value, that they had had for some years - that I was willing to furnish more, if they would give me bread I exchange- but this they had refused - yourself as well as others. That you declined to furnish me means to go on with my argument, and take my copyright as security; (I did you the justice to mention them sum you formerly had furnished): that you neglected to promote the sale of my argument; that you made public concessions to slavery in the face of it; and that yet, when you found yourself in streets, you could seek to "draw out" opinions from me, without any offer of pay, notwithstanding my poverty; but that probably neither yourself, nor any others, would "draw out" any more opinions from me, until it should recur to you that my brain required some material support.

Nevertheless, you finally made a direct request yourself, under such circumstances that I could not refuse it, and had no wish to refuse it. And I sent you the opinion. But, although various circumstances made it very unpleasant, I saw none, which, in my opinion, made it improper, (and if it were not improper, you will admit that my necessities required me) to make the suggestion, that you pay for it. And even then I did it with deference to your judgment on the point, and in such terms as I thought could give no offence. And if you had given me a courteous answer I should have been satisfied.

I expected at this time, that instead of your graciously finding an "apology" for my suggestions, as you have seen fit to do, you would promptly thank me for it, and would regret that it had not before occurred to you, that a man in my circumstances could not afford to give legal opinions gratuitously for the gratification of his friends. It is true that I have sometimes given such opinions to others, and shall doubtless do it again, if I should ever feel able - and I never before asked any one a cent for an opinion n the subject of slavery. But I saw fit to commence the opposite course with yourself, because my necessities at this time required it, because calls originating with you were getting frequent; because you were able to pay, because I was satisfied the opinion would be worth to you many times more than what I expected to receive for it; because you declined aiding me to go on with my argument, (taking my copyright as security); and because you declined to render me the assistance necessary to secure compensation for my services in reducing the postage.

I beg you distinctly to understand that I make no complaint, at this time, that you do not render me assistance for these two last mentioned objects. You are rightfully your own judge as to what are the best uses for your money. I only say, that a man, who declines to render me such assistance, when he has money so abundant as to be able to make donations of from \$10,000 to \$20,000 for purposes no more urgent or merciful than that of inducing poor people to remove from civilization into the wilderness, has no claim upon me, poor as I am, for gratuitous legal opinions.

And now, to prevent any misunderstanding of my feelings, I wish to assure you that I have never supposed, for a moment, and do not supposed now, that you have ever intentionally done the first thing, that was either unjust, unkind, or dishonorable, towards me: but I have believed, and still believe, that it is a strong principle with you to be scrupulously careful to do every thing that is honorable, liberal, and right. That, in the multiplicity of subjects, that press upon your attention, and in the haste with which you must necessarily dispose of them, some matters of propriety and even justice, towards me should have been overlooked, has been to me a subject of no very great surprise - although it has often been one of deep disappointment and sorrow - not because it wounded my vanity, but because it deprived me of the means of completing my argument.

I am thankful that you have at length proposed to give my argument to the bar. Had it been given to them three years ago, the whole country would at this time have been anticipating, if indeed it would not have already obtained, a judicial decision declaring slavery unconstitutional. What will be the mind of the country on this point three years hence? As this may be the last of our correspondence, I wish to say, that I think you have more responsibility as to what answer shall be given to that question, than any man living.

Very respectfully yours

Lysander Spooner