

Boston Oct. 12 1860

Gerrit Smith Esq.

Dear Sir,

I wrote you a brief note from Hartford - I will now give you a more detailed report.

When I went to New York, I had no clue to guide me, in getting testimony directly from the Committee, except Barlow's declaration to you, that "a considerable portion of the Committee were entirely innocent." I thought if I could find who the innocent ones were - or who supposed themselves innocent - I might properly appear to their honor and justice to furnish all evidence in their power against the guilty. I accordingly presented ~~my~~ your letter of introduction to Mr Cochrane, and told him I wished to ascertain who the innocent ones were. He said Mr. Livingston was entirely innocent. That some others were innocent, so far as they could be without having repudiated the libel, but he either did not know who they (all) were, or was not personally acquainted with them. He thought Mr Barlow would have no hesitation in giving me information on that point, and that I might properly call on him, requesting him to give me all the information he consistently could. This was Tuesday morning.

I then went first to Mr Livingston. He seemed a very honest and excellent man. He said he was entirely innocent - that he had never attended a single meeting of the committee - that, at the time the libel was published, he was sick of paralysis, and knew nothing of the matter for (I think he said) a long time afterwards - that to this day he did not know what the libel was - that when ~~it~~ he was finally told of it, he wrote you a letter expressing his regrets - and that he had felt more mortification on account of it than I could conceive. All this was said with such striking evidences of sincerity and distress, that I really _____ him. I told him I have understood that he was innocent - that it was because he was innocent that I had called upon him, that you of course, could have no motive to harm an innocent man - and that my object in calling upon him was to ask him to give his own testimony and his aid in getting testimony, against the guilty. He at once expressed his readiness to do any thing of that kind in his power. But asked if the thing could not be settled without litigation? and expressed the opinion that several members of the committee whom he knew, would wish to make reasonable satisfaction without a suit. He then asked me if I would not call upon him the next morning? Saying that he would in the mean time see Mr Phelps, and perhaps others. ~~I came~~ I told him I was not authorized to negotiate for you - but only to collect testimony - but that I would call upon him the next morning, as he desired, ~~I then left his~~.

I then went to Mr Barlow, ~~now~~ gave him Mr Cochrane's ~~letter~~ note of introduction - told him frankly that I was in search of testimony to be used against the Committee - and that I did not wish him to communicate anything except what he was willing to have thus used. He appeared to have nothing to conceal - said there was "not the slightest dis_____" on the part of the Committee, "to _____ the legal responsibility of the publication." and that if there should be any such dis_____ hereafter, there would be no difficulty in getting abundance of testimony. He said, in substance, that, although there was probably a mistake about "the Central association," yet he expected to show that you had committed[?] or participated in actes, which camer nearly or quite up to those charged in the manifesto. He spoke of your public confessions of participation in "slave-stealing"; of your publically declared opinions that there was no law, constitutional or otherwise, for holding men as slaves &c &c. The only thing I recollect, which seemed to me of any importance, was that he expected to show that you had either encouraged, or engaged in, a plan of John Brown's "to fortify himself in the mountains of Virginia, for the purpose of carrying on the business of slave stealing." I think he said his evident ono this point was what you said or did at a public meeting at Peterborough, at which John Brown was present and spoke - It is possible he mentioned other evidence.

He read to me a part of his affidavit for a change of venue - indicating the points of his defence. This you have probably seen.

He gave me the names of several members of the Committee who he said, were innocent, so far as not to have signed the manifesto.

He said that he (or they, the Committee) had a high respect for you - and in making the publication, had no personal malice - no disposition to annoy your - or charge you with anything contraty to your principles, or any thing which he (or they_ did not suppose you would be proud of.

The next morning (wednesday) I called again on Mr Livingston - He had seen Mr Phelps who wished to see me and, by appointmentm we afterwards met at Mr Phelps' office. Mr Phelps seemed to feel that he had done you a great wrong, and to be very uneasy on account of it. ~~He said that, at the time, although he had occasionally send your name in the papers, yet he had no particular knowledge of you that he "now understood Mr Smith", and~~ He expressed a high respect for you. ~~He~~ said that what he did, he was pushed into doing by others. that the copy of the manifesto , which he consented to have published, was different from some of the copies published. that the Herald copy was the one he consented to - that it contained a qualification of this king - "If these things are so," &c.

He expresseded his desire to make all reparation that could be honorable demanded of him - thought you ought not to exact degrading

terms - said he did not wish to be dragged into courts, or accused of any thing base - that "much as he loved his money, \$50,000 was nothing compared to his dignity."

He wished to know what you required, or desired. I told him I was not authorized to give your terms, and did not know what they would be - that my sole mission there was to collect testimony. He then requested me to communicate his wishes to you which I told him I would do.

Both he and Mr Livingston proposed that the matter should be referred to Mr Cochrane - but I told them that as Mr Cochrane was a relative of yours he doubtless would decline to act ~~either~~ as referee. They then suggested that you should select one of the Judges of the supreme[?] court Mr Phelps another, and those two a third, and the matter be referred to them. And seemed very desirous to do any thing that was reasonable, and that would be satisfactory to you.

As I left him, he said that if he testimony should be wanted (against the others) ~~you~~ it could be had.

I have this given you the substance of ~~what took~~ my interviews with Mr Livingston, Mr Phelps, and Mr Barlow - the only members of the committee whom I saw. As Mr Livingston was not only innocent himself, but anxious to and in bringing about a settlement with the others, and ready to give you his testimony if needed, and is Mr Phelps was anxious to make honorable amends - and as Mr Barlow claimed to have a substantial deference - and as there seemed to be no probability of any controversy about the responsibility of the committee for the ~~fact of~~ publication - I though it unnecessary, and that it would therefore be improper for me to annoy the other members of the committee by asking them whether they would give testimony, which it was not likely we should ever hereafter call upon them to give. For the same reason, I did not call upon any of the publishers.

I suppose you will now ~~be glad of~~ wish me to offer any suggestions that may have occurred to me as important in the present state of things. They are these:

1. That, before bringing any more suits, or making any overtures of settlement to Mr Phelps. We ought carefully to examine Sherman's answer and Barlow's affidavit, and see whether they allege and can prove any thing that will avail them in mitigation of damages. Although the charge about the "Central association" is false, yet, if you have been and accomplice in any insurrectionary proceedings

of a similar character, that fact could be used in mitigation of damages - and the damages might be so far reduced as to make, not only the present suits, but any future ones substantial failings.

2. If such facts can be shown in mitigation of damages in the suits, they would be equally fatal to success in any reference you might enter into with Mr Phelps or any other members of the Committee - for although Mr Phelps evidently is not informed of any such facts at present, yet, if the matter should be referred as he proposes, Barlow will of course put him in possession of any facts, that may avail for his defence.

3. If we conclude that nothing whatever can be shown in mitigation of damages, I think that, before bringin any new suits, it will be best to have further communication with Mr Phelps in regard to an amicable settlement. And I think it likely a considerable portion of the committee would prefer to unite with Mr Phelps, in sich a settlement rather than have a suite & these are the only suggestions I think of as important at this time.

I would be glad if you would send me a copy of Sherman's answer, and Barlow's affidavit.

If there has been any thing at all in your history[?] which either the law or a jury could construe into complicity in insurrectionary proceedings, I should of course wish to know it fully.

Yours truly

L. Spooner

P.S. In regard to Barlow's affidavit for a change of venue - He said he was in correspondence with ministers[?] lawyers doctors and others in your _____, who tell him that from what they knew of your opinions publicly expressed, they would have inferred that you would approve of Harper's Ferry, or of such acts as the manifesto charges. From this it appears that he intends to use, in his own

defence numerous witnesses from your county than may county in which the suit is already brought. What reason then, can there be for a change of venue?

To Gerrit Smith

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