JAMES GILLESPIE BIRNEY

(Courtesy of the American Historical Association)
James G. Birney came to Cincinnati in the autumn of 1835 a full-fledged abolitionist. He had served as an agent of the Colonization Society in Alabama; and had advocated gradual emancipation in Kentucky. He was now convinced (1) that slavery was a sin, of which men must repent, and which they must renounce; and (2) that slavery was the antithesis of republican government and incompatible with the principles of the Declaration of Independence. We were "living down the foundation-principle" of our institutions. Slavery for the negroes was destroying the liberties of all men in the slave states. It would, unless checked, stifle liberty in the free states also.
Having been threatened with physical violence should he establish an anti-slavery paper in his home town of Danville, Kentucky,\(^2\) having had his mail censored and anti-slavery publications withheld by the postmaster,\(^3\) and having been refused a professorship at Centre College because of his abolitionist opinions,\(^4\) Birney wrote to Gerrit Smith, “It is as much as all the patriotism in our country can do, to keep alive the spirit of liberty in the free states. The contest is becoming—has become,—one, not alone of freedom for the black, but of freedom for the white. It has now become absolutely necessary, that slavery should cease in order that freedom may be preserved to any portion of our land. The antagonist principles of liberty and slavery have been roused into action and one or the other must be victorious. There will be no cessation of the strife until slavery shall be exterminated, or liberty destroyed.”\(^5\)

Although Birney was not yet ready to advocate direct political action, he fully realized the need for a militant spirit of liberty as long as slavery continued to be aggressive.\(^6\) In Cincinnati, therefore, he was not only actively engaged in the defense of civil rights, and in the effort to enlist the churches against slavery; he was, also, studiously and consistently developing his ideas on the constitutional powers and legislative duties of the government in regard to slavery. The first product of Birney’s pen, in Ohio, was his *Address to the Ladies of Ohio*, written in October, 1835. In appealing to the women to do what they could in the cause, he stressed

\(^2\)C. H. Talbot and others to Birney, July 12, 1835, Birney Papers.


\(^5\)Birney to Gerrit Smith, September 13, 1835, Birney Papers.

the fact that the movement was religious, not political. In one of his first editorials in *The Philanthropist* he warned against the dangers of "assuming a party-posture" which might lead to compromise of principle in the interest of expediency. He advocated a refined form of pressure politics: moral suasion. With the old parties nearly balanced, he argued, anti-slavery sentiment would be respected by both. When we consider his fundamental theses, however, that slavery was antagonistic to the structure of republican government, and that no society based on slavery could be permanent and prosperous, we see the inevitability of his swing toward political action when the failure of persuasion to change the old parties should become evident. His experience with mob violence in the summer of 1836 convinced him that abolitionists, as the trustees of civil rights, must throw their political weight against lawless opponents, particularly at the ballot box.

The development of Birney's constitutional theories can be traced in his editorials in *The Philanthropist*. They discuss (1) the power of Congress to abolish slavery in the District of Columbia; (2) the argument that the Constitutional Convention guaranteed slavery by leaving its determination to the states; and (3) the harmony of anti-slavery principles with international law and the federal Constitution. His inquiries were directed, also, to the constitutionality of state "Black Laws," and especially to the federal fugitive slave law of 1793. Birney's interpretation of the latter, in an article of February 24, 1837, developed the thesis expounded five years later by Justice Story in *Prigg vs. Pennsylvania*. The states, he said, are forbidden by the Constitution to pass laws which would prevent the return of fugitives escaping from labor; but neither states nor individuals are required by it to use physical force to aid the slave-holder in regaining his slave. His major conclusion on the unconstitutionality of the law of

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7*The Philanthropist*, January 8, 1836.
8Birney to Lewis Tappan, December 10, 1835, Tappan Collection, Library of Congress.
9*The Philanthropist*, December 30, 1836.
10*The Philanthropist*, February 12, 1836, February 19, 1836, April 29, 1836, October 28, 1836, November 25, 1836, December 9, 1836, and February 24, 1837.
1793 was, of course, different. Congress, according to his view, had been given no power to legislate on this matter. It could not create a slave, and therefore, in a state such as Ohio where neither the state constitution nor the Northwest Ordinance recognized the existence of slavery, all persons were free unless they had escaped from a slave state. Slaves brought by their masters to free soil became free. He went even further than this in interpreting the Ordinance of 1787 as a compact between the original states and the Northwest Territory. Fugitives escaping from those states only were bound to be returned. These interpretations formed the basis of the arguments used by Salmon P. Chase and Birney, when, in March of 1837, Birney was himself indicted for harboring and concealing the fugitive woman, Matilda; and they were used by Chase in many later arguments before the courts.11

Birney's defense of freedom of the press, however, was the outstanding service of his two years in Cincinnati. Convinced of the impossibility of establishing an anti-slavery paper in Kentucky, the decision was made to "cannonade" slavery from across the river.12 Cincinnati, the metropolis of the West, was a logical choice of place; but it was far from certain that an abolitionist press would be welcome there, for Cincinnati had strong social and commercial ties with the South. Birney was not long left in doubt. A few weeks after his arrival, in the autumn of 1835, he was visited by the mayor, the city marshal and Charles Hammond, editor of the Cincinnati Gazette. They warned Birney against any anti-slavery publication, and impressed him with the fact that violence was imminent. Birney refused to surrender his civil rights "whatever might be the madness and folly of those who might choose to assail them."13 But he was not a radical. He hoped to avoid any occasion for a breach of the peace, and so decided to establish the paper at New Richmond, about

11The Philanthropist, March 17, 1837; March 24, 1837; and March 31, 1837; See also Albert B. Hart, Salmon Portland Chase (Boston, 1899), 52; and Salmon P. Chase, Speech of Salmon P. Chase, in the Case of the Colored Woman, Matilda, Who Was Brought before the Court of Common Pleas of Hamilton County, Ohio, by Writ of Habeas Corpus; March 11, 1837 (Cincinnati, 1837).

12Louisville Journal, quoted in The Philanthropist, January 8, 1836.

13Birney to Gerrit Smith, November 11, 1835, Birney Collection.
twenty miles up the river, even though it cost him no little inconvenience and expense. 14

Hoping, of course, to reach an audience in the slave states, especially in his native Kentucky, he sought to make his paper the "medium of calm and gentlemanly and generous discussion." 15 His first issue of January 1, 1836, invited presentation of the pro-slavery viewpoint; carried on the front page the recent message of Governor McDuffie of South Carolina defending slavery; and asked the questions, Why will not the South discuss and argue the matter? Does it not concern them? Are they afraid of a truthful decision? On them, above all, said Birney, should fall the duty of investigating the truth, because they have an inexhaustible store of facts, and they profess to be alone able to understand and interpret them. He urged them, therefore, to use the columns of *The Philanthropist* without cost, and it would carry their arguments throughout the land. 16

The *Cincinnati Whig* of December 21st, however had already called *The Philanthropist* an insult to Cincinnati's slaveholding neighbors, and an attempt to browbeat public opinion. Even the move to New Richmond left Birney so close as to make "the pestiferous breath of his paper spread contagion among our citizens." 17 The hope was, of course, to arouse a wave of opposition that would force Birney to abandon publication. It was also, and inevitably so, a refined invitation to mob violence. The *Cincinnati Republican* of January 15th spoke of a malignant spirit abroad which was cloaking itself under the guise of philanthropy and benevolence. It compared the abolitionists to the fallen angels of Milton's *Paradise Lost* who could not appreciate order and peace, but wanted strife, turmoil, and anarchy. 18 From across the river the *Louisville Journal* voiced expectations of

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14The *Philanthropist*, January 1, 1836.
15Birney to Charles Hammond, November 14, 1835, Birney Papers.
17*Cincinnati Whig*, December 21, 1835, quoted in *The Philanthropist*, January 1, 1836.
18*Cincinnati Republican*, January 15, 1836, quoted in *The Philanthropist*, January 22, 1836.
violence, but hoped no personal harm would come to Birney. Finally a mass meeting was called on January 22nd, by Cincinnati's most prominent citizens. Mayor Samuel W. Davies was elected chairman. Vice-presidents were William Burke, Postmaster and Methodist minister; Jacob Burnet, wealthy lawyer, former Senator, and Judge of the state Supreme Court; and Morgan Neville, Receiver in the Land Office. One of the secretaries was Robert Buchanan, President of the Bank of Cincinnati. After denouncing abolitionism because it was affecting social relations and jeopardizing internal commerce, a resolution was passed to "exert every lawful effort to suppress the publication of any abolition paper in this city or neighborhood." It also advised, with remarkable frankness, that the attempt be abandoned. The emotional appeals of some of the speeches which followed could well have led to violence, had not admiration for Birney's cool courage in appearing at the meeting himself, resulted in his gaining permission to speak. Immediate violence was averted, but the fact that respectable men of high standing in the community would even participate in such a procedure was to Birney a realization filled with "mournful solicitude" for the cause of liberty. The Cincinnati Whig of January 25th declared that should the editor of The Philanthropist and his coadjutors "be so mad as still to persist in their present course, they assume an awful responsibility and the consequence must be upon their own ill-fated heads." It was clearly an attempt to confuse the public mind by placing the responsibility on the assailed rather than on the assailants, should violence occur.

Birney was not one to let the challenge go by, and immediately began to consider the best means of converting the occasion into a victory. In a letter to Lewis Tappan he expressed the feeling that the cause had gained, particularly with the tradesmen and mechanics. In The Philanthropist he began a series of articles considering the resolutions of the

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19 The Philanthropist, January 8, 1836.
21 The Philanthropist, January 29, 1836.
22 Birney to Lewis Tappan, February 4, 1836, Tappan Collection.
mass meeting.²³ The nature of the articles varied from constitutional interpretation, to satire, to an eloquent plea for freedom of the press; but the objective of all was to point up the danger of meetings which advocated action contrary to the principles upon which a republican structure is founded. But even this was not enough. If victory was to be complete, the public should be made aware by some external evidence. Now, it seemed to Birney, was the propitious time to move the press from New Richmond to Cincinnati. There were, it is true, other factors involved in the decision. The mails out of New Richmond were more irregular and uncertain. During all sorts of weather Birney had been going the twenty miles, often on horseback, through mud, snow, rain, ice, and storm, often carrying papers for subscribers in his saddle bags. And only too often during these weeks, he returned home exhausted to sit all night with Mrs. Birney, who was bed-ridden with tuberculosis. The constant pressure of writing, lecturing in neighboring towns, and attending to the calls of abolitionist friends was beginning to tell on Birney’s own health. Above all these was the principle involved. Just as Quakers insisted on wearing their hats in the presence of the King, declared Birney, so liberty of the press must be asserted where it is most disputed. His determination was to have it demonstrated that the people of Ohio were stronger than the group whose commercial interests lay in catering to the South.²⁴ In a letter to The Emancipator he wrote, “... we fight, not with the courage of despair, but with the calmness of certain victory, with the strength of those who feel that their power is from the Almighty; with the weapon of truth prepared by Him who is the friend of truth, for the destruction, the final and utter destruction of its adversary, error.”²⁵ The Philanthropist was moved to Cincinnati in April,²⁶ and in May it became the organ of the Ohio Anti-Slavery Society.²⁷

Absence of any immediate opposition, and a more than doubled subscription list, made Birney too sanguine, for by

²³These articles run from February 19, 1836 to April 22, 1836.
²⁴The Philanthropist, March 4, 1836.
²⁵The Emancipator (New York), May 12, 1836.
²⁶Beginning with the issue of February 5, 1836 the paper carries Cincinnati as the place of publication; but it was not actually printed there until April.
²⁷The Philanthropist, May 13, 1836.
ABOLITIONISTS
BEWARE.

THE Citizens of Cincinnati, embracing every class, interested in the prosperity of the City, satisfied that the business of the place is receiving a stab from the wicked and misguided operations of the abolitionists, are resolved to arrest their course. The destruction of their Press on the night of the 12th Instant, may be taken as a warning. As there are some worthy citizens engaged in the unholy cause of annoying our southern neighbors, they are appealed to, to pause before they bring things to a crisis. If an attempt is made to re-establish their press, it will be viewed as an act of defiance to an already outraged community, and on their heads be the result which will follow.

Every kind of expostulation and remonstrance has been resorted to in vain—longer patience would be criminal. The plan is matured to eradicate an evil which every citizen feels is undermining his business and property.

Signed with the corner of the street, just before the 6th of July, 1836.

A SCARCE HANDBILL ACTUALLY ISSUED IN CINCINNATI
See Opposite Page

(Courtesy of the American Historical Society)
July he wrote to Lewis Tappan that the cause had undergone a great change in gaining complete tolerance. Then, without warning, the storm broke. On the night of July 12, the office of Achilles Pugh, Birney's printer, was broken open, the press taken to pieces, and its smaller parts carried away. The following night a handbill was stuck up on the street corners with the warning "Abolitionists Beware." It is interesting to note that the language and sentiments therein expressed are not those of a rabble mob, but represent the opinions of the merchant class. "The citizens of Cincinnati," it began, "embracing every class, interested in the prosperity of the city, satisfied that the business of the place is receiving a vital stab from the wicked and misguided operations of the abolitionists, are resolved to arrest their course." Then follows the warning to those engaged in "the unholy cause of annoying our Southern neighbors," the appeal for them to pause before provoking a crisis, and lastly, the threat: "If an attempt is made to reestablish their press, it will be viewed as an act of defiance to an already outraged community, and on their heads be the results which will follow. . . longer patience would be criminal, the plan is matured to eradicate an evil which every citizen feels is undermining his business and property." An anonymous letter from Covington, Kentucky, warned Birney that a band of men was organized to seize him should he set foot on the soil of his native state.

One hundred dollars was deposited by the Anti-Slavery Society with Mayor Davies as a reward for the detection of the rioters; but his proclamation, which appeared the next morning, was as much an admonition to the abolitionists not to "inflame the public mind" as it was to the rioters to maintain peace. Although Birney had no thought of backing down, it was not so easy to persuade Pugh to continue printing. On Friday afternoon, the 15th, he refused to go on, and before

28Birney to Lewis Tappan, July 4, 1836, Tappan Collection.
29Original handbill.
30"Alpha" to Birney, no date, Birney Papers.
31Ohio Anti-Slavery Society, Executive Committee, Narrative of the Late Riotous Proceedings against the Liberty of the Press in Cincinnati. With Remarks and Historical Notices, Relating to Emancipation (Cincinnati, 1836). This was written by Birney, who was a member of the Executive Committee.
the next issue, that of July 22nd, was completed, the Executive Committee of the Anti-Slavery Society had to guarantee his property to the amount of $2000.\(^{32}\) On the 17th another handbill appeared, offering one hundred dollars reward for "the delivery of one James G. Birney, a fugitive from justice. . . . Said Birney, in all his associations and feelings is black, although his external appearance is white. The above reward will be paid and no questions asked, by Old Kentucky."\(^{33}\)

During this time, the Executive Committee was preparing an address to the citizens of Cincinnati, in which they stated their full determination to maintain the principle of liberty of the press unimpaired, and not to surrender to the "spirit of misrule and oppression."\(^{34}\) The Whig and Republican continued the assault, with the Whig playing up the angle that the abolitionists were led by "an English emissary", were "fanatical refugees", "hirelings of the despot of Europe", and "fugitive amalgamationists". Under such conditions, said both papers editorially, action by the citizens is necessary for preservation of themselves and the interests of the city.\(^{35}\) The Republican of July 21st, advised some of the prominent anti-slavery men of the city to "eschew the society of James G. Birney" and "avoid him as you would a viper."\(^{36}\) Birney boldly reprinted the handbills, as well as the articles against him, adding comments of his own. "Must we trample on the liberty of white men here," he asked, "because they have trampled on the liberty of black men at the South? Must we forge chains for the mind here, because they have forged them for the body there? Must we extinguish the right to speak, the right to print in the North, that we may be in unison with the South? No, never."\(^{37}\)

Deciding to take the law into their own hands, the citizenry called a meeting on the 23rd to decide whether they would

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\(^{32}\)Birney to Lewis Tappan, July 15 and July 22, 1836, Tappan Collection.

\(^{33}\)The Philanthropist, July 22, 1836.


\(^{35}\)The Philanthropist, July 22, 1836.

\(^{36}\)Ibid.

\(^{37}\)Ibid.
permit the publication or distribution of abolition papers in the city.\textsuperscript{38} Its leaders were the same men as those of the January meeting. Nicholas Longworth and Morgan Neville declared the paper would be put down, "peaceably if it could, forcibly if it must." These same two men prepared a set of resolutions, and planned the meeting at a time and place best suited to get the laborers from the foundries and shipyards just as they came from work. William Burke, the Postmaster, acted as chairman. Their resolutions again expressed the commercial motives. The effect of the abolitionists' work, they declared, was to injure their business and prosperity. The spirit of abolition, they protested, was at variance with the feelings of the majority of the population. Only the absolute discontinuance of \textit{The Philanthropist} could prevent violence. A committee of twelve\textsuperscript{39} was appointed to wait upon Birney and his associates to request them to desist "... and to warn them that if they persist, we cannot hold ourselves responsible for the consequences." Birney replied that as his paper was the organ of the Ohio Anti-Slavery Society, he could not act singly. Accordingly, the Executive Committee was approached, and they expressed their willingness to discuss the matter. Again the argument centered on the business of the city. Robert Buchanan said his Southern correspondents had told him that the South was withdrawing her trade from Cincinnati because of the abolitionists. They had no criticism of the manner and spirit of \textit{The Philanthropist}, but only of the subject discussed. Before parting, the anti-slavery group promised to deliver its answer by the next day. It was unequivocal. The right to discussion could not be surrendered to "high handed dictation"; \textit{The Philanthropist}, as the mouthpiece of 12,000 Ohio citizens, had been conducted with fairness and moderation. The attempt to silence it was an attack on the fundamental freedoms of speech and press, which, the Committee felt, the people of Cincinnati did not really

\textsuperscript{38}\textit{Cincinnati Gazette} quoted in the \textit{Frankfort (Ky.) Commonwealth}, August 10, 1836. This gives a complete account of the whole proceedings of July, 1836.

\textsuperscript{39}They were Jacob Burnet, Josiah Lawrence, Robert Buchanan, Nicholas Longworth, John C. Wright, Oliver M. Spencer, David Loring, David T. Disney, Thomas W. Bakewell, Stephen Burrows, John P. Foote, and William Green. Wright, however, left the city, and Burrows declined to serve.
want to see prostrated. Birney’s editorial in that day’s issue was as firm. “As to ourselves,” he wrote, “we have but one course to pursue. We are not more the advocate of freedom for the slave, than we are of liberty for those who are yet free. Whatever others may do, we have but one duty. Believing the government under which we live, to be the best on earth—the only one which is founded in reason—the only one which can secure to us and our offspring, the proper blessings of government—our last cry to its friends will be ‘To the Rescue.’”

The Committee saw nothing left to do but to report failure, which it did—to the newspapers. Regard for peace, said the Gazette later, would have postponed publication, and Hammond did refuse to print the news until Monday. Not so the Whig and Republican. The result was the mob of July 30th, which this time did its work more completely. The printing office was devastated, and the press dragged to the river. Not a policeman was visible along the whole line of march, and the presence of Mayor Davies as a silent spectator perhaps discouraged interference by any citizens who might have been so inclined. An unsuccessful raid was made on Pugh’s house, to search for more printing materials, and then, tarring and feathering being next on the agenda, a rush was made for the houses of Birney and William Donaldson, one of the Executive Committee. Birney, fortunately, had gone to Lebanon, Ohio to deliver the third of a series of Saturday evening lectures, and at the Donaldsons only the ladies were at home. Frustrated at losing their prey, the mob turned instead to the Negro part of the city, known as Church Alley, where several homes were entered and their interiors torn up. Only then, about midnight, did the Mayor speak to the mob, advising them, “We have done enough for one night . . . the abolitionists themselves must be convinced by this time what

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40 Besides the account from the Cincinnati Gazette reprinted in the Frankfort Commonwealth of August 10, 1836, see accounts from the Cincinnati Republican and Public Advertiser reprinted in the Huntsville (Ala.) Democrat, August 16, 1836. Also, Narrative of the Late Riotous Proceedings.

41 The Philanthropist, July 29, 1836.

42 Cincinnati Gazette, quoted in Frankfort Commonwealth, August 10, 1836.
SOUTHERN DISTRICT OF OHIO,
CITY OF CINCINNATI,

The President of the United States to the Marshal of the United States, within
and for the Southern District of Ohio, or any of his lawful Deputies, GREETING:

WHEREAS, complaint has this day been made before me, EDWARD B. NEWHALL, a United States Commissioner, appointed by the Circuit Court of the United States, of the Seventh Judicial Circuit, and Southern District of Ohio, upon the oath of

John L. B. Newhall, Attorney in fact of John Martin

on or about the

fourteenth
day of

October

A. D. 1858.

in the District aforesaid.

George, a free negro, arrives and labor to the said John Martin, a citizen of Clark County in the State of Kentucky, and held to arrive and labor by the said John Martin in the State of Kentucky under the laws thereof, escaped from the service of the said John Martin, and from and out of the State of Kentucky, and into the State of Ohio, and without the knowledge or consent of the said John Martin.

These are, therefore, to command you, in the name and by the authority aforesaid, to take the said George, if he be found within your District, or, if he shall have fled, that you pursue after him into any other District, and take and safely keep him, so that you have his body forthwith before me, to answer the said complaint and be further dealt with according to law.

Given under my hand, in the City of Cincinnati, this

twenty-seventh
day of

October

A. D. 1858.

E. B. Newhall

UNITED STATES COMMISSIONER

A WARRANT ISSUED IN CINCINNATI, typical of others Over the Years, For the Arrest of a Pugitive Slave Wherever Found. (From a Private Collection)
public sentiment is..." Some of the public sentiment, fortunately, was on the other side. Hammond, of the Gazette, who saw the issue as one of fundamental civil rights, took the lead by issuing in his paper of Tuesday, August 2nd, a call for a meeting to oppose mob action. Volunteer safety committees were organized to act with the local authorities, and although there were a few more attempts at violence, they were put down.

As so often happened in such instances, the Cincinnati mob perhaps did more to help than hinder the cause. Anti-slavery books and other publications which had been pitched out of the windows were carried away and read. Birney's Address to the Ladies of Ohio found its way into a family of four and converted them all to abolitionism. Another man got Jay's Inquiry, and declared if that was abolition, he was an abolitionist. A mechanic carried off a whole pile of books, read them, and later returned them to Birney. Birney wrote that it had won people to the cause by thousands where only tens were added before. Recruits were not gained in the ranks alone. It was this incident which brought Salmon P. Chase to stand openly with the anti-slavery group, and elicited a powerful public expression of praise for the abolitionists from William Ellery Channing. Publication was, of course, resumed, and eventually damages were won through the courts. The growing success of the paper enabled Birney to bring in Gamaliel Bailey as his assistant and to train him for the editorship. As Birney's successor, Bailey played an important role in the anti-slavery movement in Ohio; and he exerted an even greater influence after he was chosen to as-

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43 Ibid.; also, The Aurora (New Lisbon, Ohio), August 13, 1836; The Independent (Cincinnati), undated clipping; Narrative of the Late Riotous Proceedings; and William Birney, James G. Birney and His Times, 241-248.
44 The Philanthropist, September 23, 1836; Fourth Annual Report of the American Anti-Slavery Society, with the Speeches Delivered at the Anniversary Meeting Held in the City of New York, on the 9th May, 1837. And the Minutes of the Meeting of the Society for Business (New York, 1837), 82-87.
45 Hart, Salmon P. Chase, 48-52. Chase became the attorney in the suit for damages.
46 Channing to Birney, November 1, 1836 in The Philanthropist, December 9, 1836. Also in pamphlet form, Letter of William E. Channing to James G. Birney (Boston, 1837).
47 Birney to Lewis Tappan, July 17, 1839, Tappan Collection.
sume the editorship of the *National Era* when it was deemed wise to establish an anti-slavery paper in Washington, D. C. Birney's own son, William, who as a boy of 16 faced the mob when it came to their house on the night of July 30th, became a stanch worker in the cause, champion of the rights of the free colored people in Cincinnati, and commander of negro troops in the Civil War.

Although threats against Birney kept him in constant apprehension of danger for several months, he could still say with unwavering faith, "... we have lost no confidence in the rectitude of our principles, nor in the judgment which you, and those which may succeed us, will pass on our conduct. . . We shall still continue to maintain, and publicly to inculcate, the great principles of liberty incorporated in the constitutions of our state and general governments—believing, that if ever there was a time, it is now come, when our republic, and with her the cause of Universal freedom, is in a strait, where every thing that ought to be periled by the patriot should be freely hazarded for her relief."48 Men must "themselves die freemen [rather] than slaves, or our Country, glorious as has been her hope, is gone forever."49

48Narrative of the Late Riotous Proceedings.
49The Philanthropist, September 23, 1836.