

The Constitution and Slavery

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The assertion which we made five weeks ago, that “the Constitution, if strictly construed according to its reading,” is not a pro-slavery instrument, has excited some interest amongst our Anti-Slavery brethren. Letters have reached us from different quarters on the subject. Some of these express agreement and pleasure with our views, and others, surprise and dissatisfaction. Each class of opinion and feeling is represented in the letters which we have placed in another part of this week’s paper. The one from our friend Gerrit Smith, represents the view which the Liberty party take of this subject, and that of Mr. Robert Forten is consistent with the ground occupied by a majority of the American Anti-Slavery Society.

Whether we shall be able to set ourselves right in the minds of those on the one side of this question or the other, and at the same time vindicate the correctness of our former assertion, remains to be seen. Of one thing, however, we can assure our readers, and this is, that we bring to the consideration of this subject no partisan feelings, nor the slightest wish to make ourselves consistent with the creed of either Anti-Slavery party, and that our only aim is to know what is truth and what is duty in respect to the matter in dispute, holding ourselves perfectly free to change our opinion in any direction, and at any time which may be indicated by our immediate apprehension of truth, unbiased by the smiles or frowns of any class or party of abolitionists. The only truly consistent man is he who will, for the sake of being right today, contradict what he said wrong yesterday. “Sufficient unto the day is the evil thereof.” True stability consists not in being of the same opinion now as formerly, but in a fixed principle of honesty, even urging us to the adoption or rejection of that which may seem to us true or false at the ever-present now.

Before entering upon a discussion of the main question, it may be proper to remove a misapprehension into which Gerrit Smith and Robert Forten seem to have fallen, in respect to what we mean by the term, “strictly construed according to its reading,” as used by us in regard to the Constitution. Upon a second reading of these words, we can readily see how easily they can be made to mean more than we intended. What we mean then, and what we would be understood to mean now, is simply this — that the Constitution of the United States, standing alone, and construed only in the light of its letter, without reference to the opinions of the men who framed and adopted it, or to the uniform, universal and undeviating practice of the nation under it, from the time of its adoption until now, is not a pro-slavery instrument. Of this admission we are perfectly willing to give our esteemed friend Gerrit Smith, and all who think with him on this subject, the fullest benefit; accompanied, however, with this explanation, that it was made with no view to give the public to understand that we held this construction to be the proper one of that instrument, and that it was drawn out merely because we were unwilling to go before the public on so narrow an issue, and one about which there could be so little said on either side. How a document would appear under one construction, is one thing; but whether the construction be the right

one, is quite another and a very different thing. Confounding these two things, has led Gerrit Smith to think too favorably of us, and Robert Forten too unfavorably. We may agree with the Roman Catholic, that the language of Christ, with respect to the sacrament, if construed according to reading, teaches the doctrine of transubstantiation. But the admission is not final, neither are we understood by doing so, to sanction that irrational though literal doctrine. Neither Roman Catholic nor Protestant could attach any importance to such an admission. It would neither afford pleasure to the Catholic, nor pain to the Protestant. Hoping that we have now made ourselves understood on this point, we proceed to the general question.

THE CONSTITUTIONALITY OF SLAVERY

The Constitution of the United States. — What is it? Who made it? For whom and for what was it made? Is it from heaven or from men? How, and in what light are we to understand it? If it be divine, divine light must be our means of understanding it; if human, humanity, with all its vice and crimes, as well as its virtues, must help us to a proper understanding of it. All attempts to explain it in the light of heaven must fail. It is human, and must be explained in the light of those maxims and principles which human beings have laid down as guides to the understanding of all written instruments, covenants, contracts and agreements, emanating from human beings, and to which human beings are parties, both on the first and the second part. It is in such a light that we propose to examine the Constitution; and in this light we hold it to be a most cunningly-devised and wicked compact, demanding the most constant and earnest efforts of the friends of righteous freedom for its complete overthrow. It was “conceived in sin, and shapen in iniquity.” But this will be called mere declamation, and assertion — mere “heat without light” — sound and fury signify nothing. — Have it so. Let us then argue the question with all the coolness and clearness of which an learned fugitive slave, smarting under the wrongs inflicted by this unholy Union, is capable. We cannot talk “lawyer like” about law — about its emanating from the bosom of God! — about government, and of its seat in the great heart of the Almighty! — nor can we, in connection with such an ugly matter-of-fact looking thing as the United States Constitution, bring ourselves to split hairs about the alleged legal rule of interpretation, which declares that an “act of the Legislature may be set aside when it contravenes natural justice.” We have to do with facts, rather than theory. The Constitution is not an abstraction. It is a living breathing fact, exerting a mighty power over the nation of which it is the bond of the Union.

Had the Constitution dropped down from the blue overhanging sky, upon a land uncursed by slavery, and without an interpreter, although some difficulty might have occurred in applying its manifold provisions, yet so cunningly is it framed, that no one would have imagined that it recognized or sanctioned slavery. But having a terrestrial, and not a celestial origin, we find no difficulty in ascertaining its meaning in all the parts which we allege to relate to slavery. Slavery existed before the Constitution, in the very States by whom it was made and adopted. — Slaveholders took a large share in making it. It was made in view of the existence of slavery, and in a manner well calculated to aid and strengthen that heaven-daring crime.

Take, for instance, article 1st, section 2d, to wit: “Representatives and direct taxes shall be apportioned among several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and including Indians not taxed, three-fifths of all other persons.”

A diversity of persons are here described — persons bound to service for a term of years, Indians not taxed, and three-fifths of all other persons. Now, we ask, in the name of common sense, can there be an honest doubt that, in States where there are slaves, that they are included in this basis of representation? To us, it is as plain as the sun in the heavens that this clause does, and was intended to mean, that the slave States should enjoy a representation of their human chattels under this Constitution. Beside, the term free, which is generally, though not always, used as the correlative of slave, “all other persons,” settles the question forever that slaves are here included.

It is contended on this point by Lysander Spooner and others, that the words, “all other persons,” used in this article of the Constitution, relates only to aliens. We deny that the words bear any such construction. Are we to presume that the Constitution, which so carefully points out a class of persons for exclusion, such as “Indians not taxed,” would be silent with respect to another class which it was meant equally to exclude? We have never studied logic, but it does seem to us that such a presumption would be very much like an absurdity. And the absurdity is all the more glaring, when it is remembered and the language used immediately after the words “excluding Indians are not taxed,” (having done with exclusions) it includes “all other persons.” It is as easy to suppose that the Constitution contemplates including Indians, (against its express declaration to the contrary,) as it is to suppose that it should be construed to mean the exclusion of slaves from the basis of representation, against the express language, “including all other persons.” Where all are included, none remain to be excluded. The reasonings of those who are likely to take the opposite view of the clause, appears very much like quibbling, to use no harsher word. One thing is certain about this clause of the Constitution. It is this — that under it, the slave system has enjoyed a large and domineering representation in Congress, which has given laws to the whole Union in regard to slavery, ever since the formation of the government.

Satisfied that the view we have given of this clause of the Constitution is the only sound interpretation of it, we throw at once all those parts and particulars of the instrument which refer to slavery, and constitute what we conceive to be the slaveholding compromises of the Constitution, before the reader, and beg that he will look with candor upon the comments which we propose to make upon them.

“Art. 5th, Sect. 8th. — Congress shall have power to suppress insurrections.”

“Art. 1st, Sect. 9th. — The migration or importation of any such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed, not exceeding ten dollars each person.”

“Art. 4th, Sec. 2nd. — No person held to service or labor in one State, escaping into another, shall in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.”

“Art. 4th, Sec. 4th — The United States shall guarantee to every State in this Union a Republican form of Government; and shall protect each of them against invasion; and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against Domestic violence.”

The first article and ninth section is a full, complete and broad sanction of the slavetrade for twenty years. In this compromise of the Constitution, the parties to it pledged the national arm to protect that infernal trade for twenty years. While all other subjects of commerce were left under the control of Congress, this species of commerce alone was Constitutionally exempted. And why was this the case? Simply because South Carolina and Georgia declared, through their delegates that framed the Constitution, that they would not come into the Union if this traffic in human flesh should be prohibited. Mr. Rutledge, of South Carolina, (a distinguished member of the Convention that framed the Constitution,) said, “if the Convention thinks that North Carolina, South Carolina, and Georgia, will ever agree to the plan, unless their right to import slaves be untouched, the expectation is vain.” Mr. Pinckney said, South Carolina could never receive the plan, “if it prohibits the slavetrade.” In consequence of the determination of these States to sand out of the Union in case of the traffic in human flesh should prohibited, and from one was adopted, as a compromise; and shameful as it is, it is by no means more shameful than others which preceded and succeeded it. The slaveholding South, by that unyielding tenacity and consistency which they usually contend for their measures, triumphed, and the doughface North was brought to the disgraceful terms in question, just s they have been ever since on all questions touching the subject of slavery.

As a compensation for their base treachery to human freedom and justice, the North were permitted to impose a tax of ten dollars for each person imported, with which to swell the coffers of the national treasury, thus baptizing the infant Republic with the blood-stained gold.

Art. 4, Sec. 2. — This article was adopted with a view to restoring fugitive slaves to their masters — ambiguous, to be sure, but sufficiently explicit to answer the end sought to be attained. Under it, and in accordance with it, the Congress enacted the atrocious “law of ’93,” making it penal in a high degree to harbor or shelter the flying fugitive. The whole nation that adopted it, consented to become kidnapers, and the whole land converted into slave-hunting ground.

Art. 4, Sec. 4. — Pledges the national arm to protect the slaveholder from domestic violence, and is the safeguard of the Southern tyrant against the vengeance of the outraged and plundered slave. Under it, the nation is bound to do the bidding of the slaveholder, to bring out the whole naval and military power of the country, to crush the refractory slaves into obedience to their cruel masters. Thus has the North, under the Constitution, not only consented to form bulwarks around the system of slavery, with all its bloody enormities, to prevent the slave from escape, but has planted its uncounted feet and tremendous weight on

the heaving hearts of American bondmen, to prevent them from rising to gain their freedom. Could Pandemonium devise a Union more inhuman, unjust, and affronting to God and man, than this? Yet such is the Union consummated under the Constitution of the United States. It is truly a compact demanding immediate disannulment, and one which, with our view of its wicked requirements, we can never enter.

We might just here drop the pen and the subject, and assume the Constitution to be what we have briefly attempted to prove it to be, radically and essentially pro-slavery, in fact as well as in its tendency; and regard our position to be correct beyond the possibility of an honest doubt, and treat those who differ from us as mere cavilers, bent upon making the worse appear the better reason; or we might anticipate the objections which are supposed to be valid against that position. We are, however, disposed to do neither. — We have too much respect for the men opposed to us to do the former, and have too strong a desire to have those objections put in their most favorable light, to do the latter. — We are prepared to hear all sides, and to give the arguments of our opponents a candid consideration. Where an honest expression of views is allowed, Truth has nothing to fear.

And now if our friend Gerrit Smith desires to be heard on the other side, the columns of the North Star are at his service. We can assure him that he cannot have a stronger wish to turn every rightful instrumentality against slavery, than we have; and if the Constitution can be so turned, and he can satisfy us of the fact, we shall readily, gladly and zealously, turn our feeble energies in that direction. The case which our friend Gerrit Smith put to us in his letter is a good one, but fails in a most important particular, and that is, analogy. The only likeness which we can see in the supposed case of a bargain with Brown, to that of the bargain entered into by the North and the South, is that there is gross dishonesty in both. So far, there is a striking similarity, but no further. The parties that made the Constitution, aimed to cheat and defraud the slave, who was no himself a party to the compact or agreement. It was entered into understandingly on both sides. They both designed to purchase their freedom and safety at the expense of the imbruted slave. The North are willing to become the body guards of slavery — suppressing insurrection — returning fugitive slaves to bondage — importing slaves for twenty years, and as much longer as the Congress should see fit to leave it unprohibited, and virtually to give slaveholders three votes for ever five slaves they could plunder from Africa, and all this to form a Union by which to repel invasion, and otherwise promoted their interest. No, friend Smith, we are not asked to act the honorable part of “Judge Douglass” with respect to this “contract,” but to become a guilty party to it, and in reply we say — No!

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