

The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery?

by Frederick Douglass

March 26, 1860

[Speech made in Glasgow, Scotland, in response to earlier speech by a Garrisonian Abolitionist attacking the U.S. Constitution as a pro-slavery document (“the City Hall Speech”)]

. . . Much will be gained at the outset if we fully and clearly understand the real question under discussion. Indeed, nothing is or can be understood. This are often confounded and treated as the same, for no better reason than that they resemble each other, even while they are in their nature and character totally distinct and even directly opposed to each other. This jumbling up things is a sort of dust-throwing which is often indulged in by small men who argue for victory rather than for truth. Thus, for instance, the American Government and the American Constitution are spoken of in a manner which would naturally lead the hearer to believe that one is identical with the other; when the truth is, they are distinct in character as is a ship and a compass. The one may point right and the other steer wrong. A chart is one thing, the course of the vessel is another. The Constitution may be right, the Government is wrong. If the Government has been governed by mean, sordid, and wicked passions, it does not follow that the Constitution is mean, sordid, and wicked.

What, then, is the question? I will state it. But first let me state what is not the question. It is not whether slavery existed in the United States at the time of the adoption of the Constitution; it is not whether slaveholders took part in the framing of the Constitution; it is not whether those slaveholders, in their hearts, intended to secure certain advantages in that instrument for slavery; it is not whether the American Government has been wielded during seventy-two years in favour of the propagation and permanence of slavery; it is not whether a pro-slavery

interpretation has been put upon the Constitution by the American Courts — all these points may be true or they may be false, they may be accepted or they may be rejected, without in any wise affecting the real question in debate. The real and exact question between myself and the class of persons represented by the speech at the City Hall may be fairly stated thus: — 1st, Does the United States Constitution guarantee to any class or description of people in that country the right to enslave, or hold as property, any other class or description of people in that country? 2nd, Is the dissolution of the union between the slave and free States required by fidelity to the slaves, or by the just demands of conscience? Or, in other words, is the refusal to exercise the elective franchise, and to hold office in America, the surest, wisest, and best way to abolish slavery in America?

To these questions the Garrisonians say Yes. They hold the Constitution to be a slaveholding instrument, and will not cast a vote or hold office, and denounce all who vote or hold office, no matter how faithfully such person's labour to promote the abolition of slavery. I, on the other hand, deny that the Constitution guarantees the right to hold property in man, and believe that the way to abolish slavery in America is to vote such men into power as well use their powers for the abolition of slavery. This is the issue plainly stated, and you shall judge between us. . . .

The practice of the Government is dwelt upon [by the Garrisonian] with much fervour and eloquence as conclusive as to the slaveholding character of the Constitution. This is really the strong point and the only strong point, made in the speech in the City Hall. But good as this argument is, it is not conclusive. A wise man has said that few people have been found better than their laws, but many have been found worse. To this last rule America is no exception. Her laws are one thing, her practice is another thing. . . .

The very eloquent lecturer at the City Hall doubtless felt some embarrassment from the fact that he had literally to *give* the Constitution a pro-slavery interpretation; because upon its face it of itself conveys no such meaning, but a very opposite meaning. He thus sums up what he calls the slaveholding provisions of the Constitution. I quote his own words: — “Article 1, section 9, provides for the continuance of the African slave trade for the 20 years, after the adoption of the Constitution. Art. 4, section 9, provides for the recovery from the other States

of fugitive slaves. Art. 1, section 2, gives the slave States a representation of the three-fifths of all the slave population; and Art. 1, section 8, requires the President to use the military, naval, ordnance, and militia resources of the entire country for the suppression of slave insurrection, in the same manner as he would employ them to repel invasion.” Now any man reading this statement, or hearing it made with such a show of exactness, would unquestionably suppose that the speaker or writer had given the plain written text of the Constitution itself. I can hardly believe that he intended to make any such impression. It would be a scandalous imputation to say he did. Any yet what are we to make of it? How can we regard it? How can he be screened from the charge of having perpetrated a deliberate and point-blank misrepresentation?

That individual has seen fit to place himself before the public as my opponent, and yet I would gladly find some excuse for him. I do not wish to think as badly of him as this trick of his would naturally lead me to think. Why did he not read the Constitution? Why did he read that which was not the Constitution? He pretended to be giving chapter and verse, section and clause, paragraph and provision. The words of the Constitution were before him. Why then did he not give you the plain words of the Constitution? Oh, sir, I fear that the gentleman knows too well why he did not.

It so happens that no such words as “African slave trade,” no such words as “slave insurrections,” are anywhere used in that instrument. These are the words of that orator, and not the words of the Constitution of the United States. Now you shall see a slight difference between my manner of treating this subject and what which my opponent has seen fit, for reasons satisfactory to himself, to pursue. What he withheld, that I will spread before you: what he suppressed, I will bring to light: and what he passed over in silence, I will proclaim: that you may have the whole case before you, and not be left to depend upon either his, or upon my inferences or testimony. Here then are several provisions of the Constitution to which reference has been made.

I read them word for word just as they stand in the paper, called the United States Constitution, Art. I, sec. 2. “Representatives and direct taxes shall be apportioned among the several States which may be included in 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 excluding Indians not taxed, three-fifths of all other persons; Art. I, sec. 9. The migration or importation of such persons as any of the States now existing shall think fit to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person; Art. 4, sec. 2. No person held to service or labour in one State, under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from service or labour; but shall be delivered up on claim of the party to whom such service or labour may be due; Art. I, sec. 8. To provide for calling for the militia to execute the laws of the Union, suppress insurrections, and repel invasions.”

Here then, are those provisions of the Constitution, which the most extravagant defenders of slavery can claim to guarantee a right of property in man. These are the provisions which have been pressed into the service of the human fleshmongers of America. Let us look at them just as they stand, one by one. Let us grant, for the sake of the argument, that the first of these provisions, referring to the basis of representation and taxation, does refer to slaves. We are not compelled to make that admission, for it might fairly apply to aliens — persons living in the country, but not naturalized. But giving the provisions the very worse construction, what does it amount to? I answer — It is a downright disability laid upon the slaveholding States; one which deprives those States of two-fifths of their natural basis of representation. A black man in a free State is worth just two-fifths more than a black man in a slave State, as a basis of political power under the Constitution. Therefore, instead of encouraging slavery, the Constitution encourages freedom by giving an increase of “two-fifths” of political power to free over slave States. So much for the three-fifths clause; taking it at its worst, it still leans to freedom, not slavery; for, be it remembered that the Constitution nowhere forbids a coloured man to vote.

I come to the next, that which it is said guaranteed the continuance of the African slave trade for twenty years. I will also take that for just what my opponent alleges it to have been, although the Constitution does not warrant any such conclusion. But, to be liberal, let us suppose it did, and what follows? Why, this — that this part of the Constitution, so far as the

slave trade is concerned, became a dead letter more than 50 years ago, and now binds no man's conscience for the continuance of any slave trade whatsoever. Mr. Thompson is just 52 years too late in dissolving the Union on account of this clause. He might as well dissolve the British Government, because Queen Elizabeth granted to Sir John Hawkins to import Africans into the West Indies 300 years ago! But there is still more to be said about this abolition of the slave trade. Men, at that time, both in England and in America, looked upon the slave trade as the life of slavery. The abolition of the slave trade was supposed to be the certain death of slavery. Cut off the stream, and the pond will dry up, was the common notion at the time.

Wilberforce and Clarkson, clear-sighted as they were, took this view; and the American statesmen, in providing for the abolition of the slave trade, thought they were providing for the abolition of the slavery. This view is quite consistent with the history of the times. All regarded slavery as an expiring and doomed system, destined to speedily disappear from the country. But, again, it should be remembered that this very provision, if made to refer to the African slave trade at all, makes the Constitution anti-slavery rather than for slavery; for it says to the slave States, the price you will have to pay for coming into the American Union is, that the slave trade, which you would carry on indefinitely out of the Union, shall be put an end to in twenty years if you come into the Union. Secondly, if it does apply, it expired by its own limitation more than fifty years ago. Thirdly, it is anti-slavery, because it looked to the abolition of slavery rather than to its perpetuity. Fourthly, it showed that the intentions of the framers of the Constitution were good, not bad. I think this is quite enough for this point.

I go to the "slave insurrection" clause, though, in truth, there is no such clause. The one which is called so has nothing whatever to do with slaves or slaveholders any more than your laws for suppression of popular outbreaks has to do with making slaves of you and your children. It is only a law for suppression of riots or insurrections. But I will be generous here, as well as elsewhere, and grant that it applies to slave insurrections. Let us suppose that an anti-slavery man is President of the United States (and the day that shall see this the case is not distant) and this very power of suppressing slave insurrections would put an end to slavery. The right to put down an insurrection carries with it the right to determine the means by which it shall be put down. If it should turn out that slavery is a source of insurrection, that there is no security from

insurrection while slavery lasts, why, the Constitution would be best obeyed by putting an end to slavery, and an anti-slavery Congress would do the very same thing. Thus, you see, the so-called slave-holding provisions of the American Constitution, which a little while ago looked so formidable, are, after all, no defence or guarantee for slavery whatever.

But there is one other provision. This is called the “Fugitive Slave Provision.” It is called so by those who wish to make it subserve the interest of slavery in America, and the same by those who wish to uphold the views of a party in this country. It is put thus in the speech at the City Hall: — “Let us go back to 1787, and enter Liberty Hall, Philadelphia, where sat in convention the illustrious men who framed the Constitution — with George Washington in the chair. On the 27th of September, Mr. Butler and Mr. Pinckney, two delegates from the State of South Carolina, moved that the Constitution should require that fugitive slaves and servants should be delivered up like criminals, and after a discussion on the subject, the clause, as it stands in the Constitution, was adopted. After this, in the conventions held in the several States to ratify the Constitution, the same meaning was attached to the words. For example, Mr. Madison (afterwards President), when recommending the Constitution to his constituents, told them that the clause would secure them their property in slaves.” I must ask you to look well to this statement. Upon its face, it would seem a full and fair statement of the history of the transaction it professes to describe and yet I declare unto you, knowing as I do the facts in the case, my utter amazement at the downright untruth conveyed under the fair seeming words now quoted. The man who could make such a statement may have all the craftiness of a lawyer, but who can accord to him the candour of an honest debater? What could more completely destroy all confidence in his statements? Mark you, the orator had not allowed his audience to hear read the provision of the Constitution to which he referred. He merely characterized it as one to “deliver up fugitive slaves and servants like criminals,” and tells you that this was done “after discussion.” But he took good care not to tell you what was the nature of that discussion. He would have spoiled the whole effect of his statement had he told you the whole truth.

Now, what are the facts connected with this provision of the Constitution? You shall have them. It seems to take two men to tell the truth. It is quite true that Mr. Butler and Mr.

Pinckney introduced a provision expressly with a view to the recapture of fugitive slaves: it is quite true also that there was some discussion on the subject — and just here the truth shall come out. These illustrious kidnappers were told promptly in that discussion that no such idea as property in man should be admitted into the Constitution. The speaker in question might have told you, and he would have told you but the simple truth, if he had told you that the proposition of Mr. Butler and Mr. Pinckney — which he leads you to infer was adopted by the convention that from the Constitution — was, in fact, promptly and indignantly rejected by that convention. He might have told you, had it suited his purpose to do so, that the words employed in the first draft of the fugitive slave clause were such as applied to the condition of slaves, and expressly declared that persons held to “servitude” should be given up; but that the word “servitude” was struck from the provision, for the very reason that it applied to slaves. He might have told you that the same Mr. Madison declared that the word was struck out because the convention would not consent that the idea of property in men should be admitted into the Constitution. The fact that Mr. Madison can be cited on both sides of this question is another evidence of the folly and absurdity of making the secret intentions of the framers the criterion by which the Constitution is to be construed. . . .

If there are two ideas more distinct in their character and essence than another, those ideas are “persons” and “property,” “men” and “things.” Now, when it is proposed to transform persons into “property” and men into beasts of burden, I demand that the law that completes such a purpose shall be expressed with irresistible clearness. The thing must not be left to inference, but must be done in plain English. I know how this view of the subject is treated by the class represented at the City Hall. They are in the habit of treating the Negro as an exception to general rules. When their own liberty is in question they will avail themselves of all rules of law which protect and defend their freedom; but when the black man’s rights are in question they concede everything, admit everything for slavery, and put liberty to the proof. They reserve the common law usage, and presume the Negro a slave unless he can prove himself free. I, on the other hand, presume him free unless he is proved to be otherwise.

Let us look at the objects for which the Constitution was framed and adopted, and see if slavery is one of them. Here are its own objects as set forth by itself: — “We, the people of

these United States, in order to form a more perfect union, establish justice, ensure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution of the United States of America.” The objects here set forth are six in number: union, defence, welfare, tranquility, justice, and liberty. These are all good objects, and slavery, so far from being among them, is a foe of them all. But it has been said that Negroes are not included within the benefits sought under this declaration. This is said by the slaveholders in America — it is said by the City Hall orator — but it is not said by the Constitution itself. Its language is “we the people;” not we the white people, not even we the citizens, not we the privileged class, not we the high, not we the low, but we the people; not we the horses, sheep, and swine, and wheel-barrows, but we the people, we the human inhabitants; and, if Negroes are people, they are included in the benefits for which the Constitution of America was ordained and established. But how dare any man who pretends to be a friend to the Negro thus gratuitously concede away what the Negro has a right to claim under the Constitution? Why should such friends invent new arguments to increase the hopelessness of his bondage?

This, I undertake to say, as the conclusion of the whole matter, that the constitutionality of slavery can be made out only by disregarding the plain and common-sense reading of the Constitution itself; by discrediting and casting away as worthless the most beneficent rules of legal interpretation; by ruling the Negro outside of these beneficent rules; by claiming that the Constitution does not mean what it says, and that it says what it does not mean; by disregarding the written Constitution, and interpreting it in the light of a secret understanding. It is in this mean, contemptible, and underhand method that the American Constitution is pressed into the service of slavery. They go everywhere else for proof that the Constitution declares that no person shall be deprived of life, liberty, or property without due process of law; it secures to every man the right of trial by jury, the privilege of the writ of habeas corpus — the great writ that put an end to slavery and slave-hunting in England — and it secures to every State a republican form of government. Anyone of these provisions in the hands of abolition statesmen, and backed up by a right moral sentiment, would put an end to slavery in America. The Constitution forbids the passing of a bill of attainder: that is, a law entailing

upon the child the disabilities and hardships imposed upon the parent. Every slave law in America might be repealed on this very ground. The slave is made a slave because his mother is a slave.

But to all this it is said that the practice of the American people is against my view. I admit it. They have given the Constitution a slaveholding interpretation. I admit it. They have committed innumerable wrongs against the Negro in the name of the Constitution. Yes, I admit it all; and I go with him who goes farthest in denouncing these wrongs. But it does not follow that the Constitution is in favour of these wrongs because the slaveholders have given it that interpretation. To be consistent in his logic, the City Hall speaker must follow the example of some of his brothers in America — he must not only fling away the Constitution, but the Bible. The Bible must follow the Constitution, for that, too, has been interpreted for slavery by American divines. . . .

My argument against the dissolution of the American Union is this: It would place the slave system more exclusively under the control of the slaveholding States, and withdraw it from the power in the Northern States which is opposed to slavery. Slavery is essentially barbarous in its character. It, above all things else, dreads the presence of an advanced civilization. It flourishes best where it meets no reproving frowns, and hears no condemning voices. While in the Union it will meet with both. Its hope of life, in the last resort, is to get out of the Union. I am, therefore, for drawing the bond of the Union more completely under the power of the Free States. What they most dread, that I most desire. I have much confidence in the instincts of the slaveholders. They see that the Constitution will afford slavery no protection when it shall cease to be administered by slaveholders.

They see, moreover, that if there is once a will in the people of America to abolish slavery, this is no word, no syllable in the Constitution to forbid that result. They see that the Constitution has not saved slavery in Rhode Island, in Connecticut, in New York, or Pennsylvania; that the Free States have only added three to their original number. There were twelve Slave States at the beginning of the Government: there are fifteen now. The dissolution of the Union would not give the North a single advantage over slavery, but would take from it many. Within the

Union we have a firm basis of opposition to slavery. It is opposed to all the great objects of the Constitution.

The dissolution of the Union is not only an unwise but a cowardly measure — 15 millions running away from three hundred and fifty thousand slaveholders. Mr. Garrison and his friends tell us that while in the Union we are responsible for slavery. He and they sing out “No Union with slaveholders,” and refuse to vote. I admit our responsibility for slavery while in the Union but I deny that going out of the Union would free us from that responsibility. There now clearly is no freedom from responsibility for slavery to any American citizen short to the abolition of slavery. The American people have gone quite too far in this slaveholding business now to sum up their whole business of slavery by singing out the cant phrase, “No union with slaveholders.” To desert the family hearth may place the recreant husband out of the presence of his starving children, but this does not free him from responsibility. If a man were on board of a pirate ship, and in company with others had robbed and plundered, his whole duty would not be preformed simply by taking the longboat and singing out, “No union with pirates.” His duty would be to restore the stolen property. The American people in the Northern States have helped to enslave the black people. Their duty will not have been done till they give them back their plundered rights. . . .

My position now is one of reform, not of revolution. I would act for the abolition of slavery through the Government — not over its ruins. If slaveholders have ruled the American Government for the last fifty years, let the anti-slavery men rule the nation for the next fifty years. If the South has made the Constitution bend to the purposes of slavery, let the North now make that instrument bend to the cause of freedom and justice. If 350,000 slaveholders have, by devoting their energies to that single end, been able to make slavery the vital and animating spirit of the American Confederacy for the last 72 years, now let the freemen of the North, who have the power in their own hands, and who can make the American Government just what they think fit, resolve to blot out for ever the foul and haggard crime, which is the blight and mildew, the curse and the disgrace of the whole United States.