

**THE CONSTITUTION A  
PRO-SLAVERY COMPACT:  
OR, EXTRACTS FROM THE  
MADISON PAPERS**

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The Constitution a pro-slavery compact: or, Extracts from the Madison papers by Wendell Phillips

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**WENDELL PHILLIPS**

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THE  
CONSTITUTION  
A PRO-SLAVERY COMPACT:  
OR,  
EXTRACTS  
FROM  
THE MADISON PAPERS, ETC.

SELECTED BY  
WENDELL PHILLIPS.

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## INTRODUCTION.

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EVERY one knows that the "Madison Papers" contain a Report, from the pen of James Madison, of the Debates in the Old Congress of the Confederation, and in the Convention which formed the Constitution of the United States. We have extracted from them, in these pages, all the Debates on those clauses of the Constitution which relate to slavery. To these we have added all that is found, on the same topic, in the Debates of the several State Conventions which ratified the Constitution: together with so much of the speech of Luther Martin before the Legislature of Maryland, and of the Federalist, as relate to our subject; with some extracts, also, from the Debates of the first Federal Congress on slavery. These are all printed without alteration, except that, in some instances, we have inserted in brackets, after the name of a speaker, the name of the State from which he came. The notes and italics are those of the original, but the editor has added a note on page 11, and two notes on page 52, which are marked as his, and we have taken the liberty of printing in capitals one sentiment of Rufus King's, and two of James Madison's — a distinction which the importance of the statements seemed to demand — otherwise we have reprinted exactly from the originals.

These extracts develop most clearly all the details of that "compromise," which was made between freedom and slavery, in 1787; granting to the slaveholder distinct privileges and protection for his slave property, in return for certain commercial concessions on his part toward the North. They prove also that the nation at large were fully aware of this bargain at the time, and entered into it willingly and with open eyes.

We have added the late "Address of the American Anti-Slavery

Society," and the letter of FRANCIS JACKSON to Governor BRIGGS, resigning his commission of Justice of the Peace — as bold and honorable protests against the guilt and infamy of this national bargain, and as proving most clearly the duty of each individual to trample it under his feet.

The clauses of the Constitution to which we refer as of a pro-slavery character are the following: —

ART. 1, SECT. 2. — Representatives and direct taxes shall be apportioned among the 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 excluding Indians not taxed, *three fifths of all other persons.*

ART. 1, SECT. 8. — Congress shall have power . . . to suppress insurrections.

ART. 1, SECT. 9. — The migration or importation of such persons as any of the States now existing shall think proper 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, SECT. 2. — No person, held to service or labor in one State, under the laws thereof, 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. 4, SECT. 4. — 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 of these clauses, relating to representation, confers on a slaveholding community additional political power for every slave held among them, and thus tempts them to continue to uphold the system: the second and the last, relating to insurrection and domestic violence, perfectly innocent in themselves, yet being made with the fact directly in view that slavery exists among us, do deliberately pledge the whole national force against the unhappy slave if he imitate our fathers and resist oppression — thus making us partners in the guilt of sus-



taining slavery: the third, relating to the slave trade, disgraces the nation by a pledge not to abolish that traffic till after twenty years, *without obliging Congress to do so even then*, and thus the slave trade may be legalized to-morrow if Congress choose: the fourth is a promise on the part of the whole nation to return fugitive slaves to their masters, a deed which God's law expressly condemns, and which every noble feeling of our nature repudiates with loathing and contempt.

These are the articles of the "Compromise," so much talked of between the North and South.

We do not produce the extracts which make up these pages to show what is the meaning of the clauses above cited. For no man or party, of any authority in such matters, has ever pretended to doubt to what subject they all relate. If indeed they were ambiguous in their terms, a resort to the history of those times would set the matter at rest forever. A few persons, to be sure, of late years, to serve the purposes of a party, have tried to prove that the Constitution makes no compromise with slavery. Notwithstanding the clear light of history; — the unanimous decision of all the courts in the land, both State and Federal; — the action of Congress and the State Legislature; — the constant practice of the Executive in all its branches; — and the deliberate acquiescence of the whole people for half a century, still they contend that the nation does not know its own meaning, and that the Constitution does not tolerate slavery! Every candid mind, however, must acknowledge that the language of the Constitution is clear and explicit.

Its terms are so broad, it is said, that they include many others besides slaves, and hence it is wisely (!) inferred that they cannot include the slaves themselves! Many persons besides slaves in this country doubtless are "held to service and labor under the laws of the States," but that does not at all show that slaves are not "held to service;" many persons beside the slaves may take part "in insurrections," but that does not prove that when the slaves rise, the National Government is not bound to put them down by force. Such a thing has been heard of before as one description including a great variety of persons, — and this is the case in the present instance.

But granting that the terms of the Constitution are ambiguous —

that they are susceptible of two meanings — if the unanimous, concurrent, unbroken practice of every department of the Government, judicial, legislative, and executive, and the acquiescence of the whole people for fifty years, do not prove which is the true construction, then how and where can such a question ever be settled? If the people and the courts of the land do not know what they themselves mean, who has authority to settle their meaning for them?

If, then, the people and the courts of a country are to be allowed to determine what their own laws mean, it follows that at this time, and for the last half century, the Constitution of the United States has been, and still is, a pro-slavery instrument, and that any one who swears to support it, swears to do pro-slavery acts, and violates his duty both as a man and an abolitionist. What the Constitution may become a century hence, we know not; we speak of it *as it is*, and repudiate it *as it is*.

But the purpose, for which we have thrown these pages before the community, is this. Some men, finding the nation unanimously deciding that the Constitution tolerates slavery, have tried to prove that this false construction, as they think it, has been foisted into the instrument by the corrupting influence of slavery itself, tainting all it touches. They assert that the known anti-slavery spirit of revolutionary times never could have consented to so infamous a bargain as the Constitution is represented to be, and has in its present hands become. Now these pages prove the melancholy fact, that willingly, with deliberate purpose, our fathers bartered honesty for gain, and became partners with tyrants, that they might share in the profits of their tyranny.

And in view of this fact, will it not require a very strong argument to make any candid man believe, that the bargain which the fathers tell us they meant to incorporate into the Constitution, and which the sons have always thought they found there incorporated, does not exist there, after all? Forty of the shrewdest men and lawyers in the land assemble to make a bargain, among other things, about slaves. After months of anxious deliberation, they put it into writing, and sign their names to the instrument. Fifty years roll away, — twenty millions, at least, of their children pass over the stage of life, — courts

sit and pass judgment, — parties arise and struggle fiercely ; still, all concur in finding in the instrument just that meaning which the fathers tell us they intended to express : — must not he be a desperate man, who, after all this, sets out to prove that the fathers were bunglers and the sons fools, and that slavery is not referred to at all ?

Besides, the advocates of this new theory of the Anti-slavery character of the Constitution quote some portions of the Madison Papers in support of their views, — and this makes it proper that the community should hear *all* that these Debates have to say on the subject. The further we explore them, the clearer becomes the fact, that the Constitution was meant to be, what it has always been esteemed, a compromise between slavery and freedom.

If, then, the Constitution be, what these Debates show that our fathers intended to make it, and what, too, their descendants, this nation, say they did make it and agree to uphold, — then we affirm that it is “a covenant with death and an agreement with hell,” and ought to be immediately annulled. No abolitionist can consistently take office under it, or swear to support it.

But if, on the contrary, our fathers failed in their purpose, and the Constitution is all pure and untouched by slavery, — then, Union itself is impossible, without guilt. For it is undeniable that the fifty years passed under this (anti-slavery) Constitution show us the slaves trebling in numbers ; — slaveholders monopolizing the offices and dictating the policy of the Government ; — prostituting the strength and influence of the nation to the support of slavery here and elsewhere ; — trampling on the rights of the free States, and making the courts of the country their tools. To continue this disastrous alliance longer is madness. The trial of fifty years with the best of men and the best of Constitutions, on this supposition, only proves that it is impossible for free and slave States to unite on any terms, without all becoming partners in the guilt, and responsible for the sin of slavery. We dare not prolong the experiment, and with double earnestness we repeat our demand upon every honest man to join in the outcry of the American Anti-Slavery Society, —

NO UNION WITH SLAVEHOLDERS!