

CHAPTER V.

THE DECLARATION OF INDEPENDENCE.

Admitting, for the sake of the argument, that prior to the revolution, slavery had a constitutional existence, (so far as it is possible that crime can have such an existence,) was it not abolished by the declaration of independence?

The Declaration was certainly the constitutional law of this country for certain purposes. For example, it absolved the people from their allegiance to the English crown. It would have been so declared by the judicial tribunals of this country, if an American, during the revolutionary war or since, had been tried for treason to the crown. If, then, the declaration were the constitutional law of the country for that purpose, was it not also constitutional law for the purpose of recognizing and establishing, as law, the natural and inalienable right of individuals to life, liberty and the pursuit of happiness? The lawfulness of the act of absolving themselves from their allegiance to the crown, was avowed by the people of the country—and that too in the same instrument that declared the absolution—to rest entirely upon, and to be only a consequence of the natural right of all men to life, liberty and the pursuit of happiness. If, then, the act of absolution was lawful, does it not necessarily follow that the principles that legalized the act, were also law? And if the country ratified the act of absolution, did they not also necessarily ratify and acknowledge the principles which they declared legalized the act?

It is sufficient for our purpose, if it be admitted that this principle was the law of the country at that particular time, (1776)—even though it had continued to be the law only for a year, or even a day. For if it were the law of the country even for a day, it freed every slave in the country—(if there were, as we say there were not, any legal slaves then in the country.) And the burden would then be upon the slaveholder to show that slavery had *since* been *constitutionally* established. And to show this, he must show an express *constitutional* designation of the particular individuals, who have since been made slaves. Without such particular designation of the individuals to be made slaves, (and not even the present constitutions of the slave States make any such designation,) all constitutional provisions, purporting to authorize slavery, are indefinite, and uncertain in their application, and for that reason void.

But again. The people of this country—in the very instrument by which they first announced their independent political existence, and first asserted their right to establish governments of their own—declared that the natural and inalienable right of all men to life, liberty and the pursuit of happiness, was a "*self-evident truth*."

Now, all "*self-evident truths*," except such as may be explicitly, or by necessary implication, denied, (and no government has a right to deny any of them,) enter into, are taken for granted by, and constitute an essential part of all constitutions, compacts and systems of government whatsoever.—Otherwise it would be impossible for any systematic government to be established; for it must obviously be impossible to make an actual enumeration of all the "*self-evident truths*," that are to be taken into account in the administration of such a government. This is more especially true of governments founded, like ours, upon contract. It is clearly impossible, in a contract of government, to enumerate all the "*self-evident truths*" which must be acted upon in the administration of law. And therefore they are *all* taken for granted, unless particular ones be plainly denied.

This principle, that all "self-evident truths," though not enumerated, make a part of all laws and contracts, unless clearly denied, is not only indispensable to the very existence of civil society, but it is even indispensable to the administration of justice in every individual case or suit, that may arise, out of contract or otherwise, between individuals. It would be impossible for individuals to make contracts at all, if it were necessary for them to enumerate all the "self-evident truths," that might have a bearing upon their construction before a judicial tribunal. All such truths are therefore taken for granted. And it is the same in all compacts of government, unless particular truths are plainly denied. And governments, no more than individuals, have a right to deny them in any case. To deny, in any case, that "self-evident truths" are a part of the law, is equivalent to asserting that "self-evident falsehood" is law.

If, then, it be a "self-evident truth," that all men have a natural and inalienable right to life, liberty and the pursuit of happiness, *that truth* constitutes a part of all our laws and all our constitutions, unless it have been unequivocally and authoritatively denied.

It will hereafter be shown that this "self-evident truth" has *never been denied* by the people of this country, in their fundamental constitution, or in any other explicit or authoritative manner. On the contrary, it has been reiterated, by them, annually, daily and hourly, for the last sixty-nine years, in almost every possible way, and in the most solemn possible manner. On the 4th of July, '76, they collectively asserted it, as their justification and authority for an act the most momentous and responsible of any in the history of the country. And this assertion has never been retracted by us, as a people. We have virtually re-asserted the same truth in nearly every state constitution since adopted. We have virtually re-asserted it in the national constitution. It is a truth that lives on the tongues and in the hearts of all. It is true we have, in our practice, been so unjust as to withhold the benefits of this truth from a certain class of our fellow men.—But, even in this respect, this truth has but shared the common fate of other truths. They are generally allowed but a partial application. Still, this truth itself, *as a truth*, has never been denied by us, *as a people*, in any authentic form, or otherwise than impliedly by our practice in particular cases. If it have, say when and where. If it have not, it is still law; and courts are bound to administer it, as law, impartially to all.

Our courts would want no other authority than this truth, thus acknowledged, for setting at liberty any individual, other than one having negro blood, whom our governments, state or national, should assume to authorize another individual to enslave. Why, then, do they not apply the same law in behalf of the African? Certainly not because it is not as much the law of his case, as of others. *But it is simply because they will not.* It is because the courts are parties to an understanding, prevailing among the white race, but expressed in no authentic constitutional form, that the negro may be deprived of his rights at the pleasure of avarice and power. And they carry out this unexpressed understanding in defiance of, and suffer it to prevail over, all our constitutional principles of government—all our authentic, avowed, open and fundamental law.