

CHAPTER II.

WRITTEN CONSTITUTIONS.

Taking it for granted that it has now been shown that no rule of civil conduct, that is inconsistent with the natural rights of men, can be rightfully established by government, or consequently be made obligatory as law, either upon the people, or upon judicial tribunals—let us now proceed to test the legality of slavery by those written constitutions of government, which judicial tribunals actually recognize as authoritative.

In making this examination, however, I shall not insist upon the principle of the preceding chapter, that there can be no law contrary to natural right; but shall admit, for the sake of the argument, that there may be such laws. I shall only claim that in the interpretation of all statutes and constitutions, the ordinary legal rules of interpretation be observed. The most important of these rules, and the one to which it will be necessary constantly to refer, is the one that all language must be construed strictly in favor of natural right.—The rule is laid down by the Supreme Court of the United States in these words, to wit:

"Where rights are infringed, where fundamental principles are overthrown, where the general system of the law is departed from, the legislative intention must be expressed with *irresistible clearness*, to induce a court of justice to suppose a design to effect such objects."[*1]

It will probably appear from this examination of the written constitutions, that slavery neither has, *nor ever had* any constitutional existence in this country; that it has always been a mere abuse, sustained, in the first instance, merely by the common consent of the strongest party, without any law on the subject, and, in the second place, by a few unconstitutional enactments, made in defiance of the plainest provisions of their fundamental law.

For the more convenient consideration of this point, we will divide the constitutional history of the country into three periods; the first embracing the time from the first settlement of the country up to the Declaration of Independence; the second embracing the time from the Declaration of Independence to the adoption of the Constitution of the United States in 1789; and the third embracing all the time since the adoption of the Constitution of the United States.

Let us now consider the first period; that is, from the settlement of the country, to the Declaration of Independence.

[*1]United States vs. Fisher, 2 Cranch, 390.