CHAPTER VIII.

THE CONSTITUTION OF THE UNITED STATES.

We come now to the period commencing with the adoption of the constitution of the United States.

We have already seen that slavery had not been authorized or established by any of the fundamental constitutions or charters that had existed previous to this time; that it had always been a mere abuse sustained by the common consent of the strongest party, in defiance of the avowed constitutional principles of their

governments. And the question now is, whether it was constitutionally established, authorized or sanctioned by the constitution of the United States?

It is perfectly clear, in the first place, that the constitution of the United States did not, *of itself, create or establish* slavery as a *new* institution; or even give any authority to the state governments to establish it as a new institution.—The greatest sticklers for slavery do not claim this. The most they claim is, that it recognized it as an institution already legally existing, under the authority of the State governments; and that it virtually guarantied to the States the right of continuing it in existence during their pleasure. And this is really the only question arising out of the constitution of the United States on this subject, viz., whether it *did* thus recognize and sanction slavery as an *existing* institution?

This question is, in reality, answered in the negative by what has already been shown; for if slavery had no constitutional existence, under the State constitutions, prior to the adoption of the constitution of the United States, then it is absolutely certain that the constitution of the United States did *not* recognize it as a constitutional institution; for it cannot, of course, be pretended that the United States constitution recognized, as constitutional, any State institution that did not constitutionally exist.

Even if the constitution of the United States had *intended* to recognize slavery, as a constitutional *State* institution, such intended recognition would have failed of effect, and been legally void, because slavery then had no constitutional existence to be recognized.

Suppose, for an illustration of this principle, that the constitution of the United States had, by implication, plainly taken it for granted that the State legislatures had power—derived from the *State* constitutions—to order arbitrarily that infant children, or that men without the charge of crime, should be maimed—deprived, for instance, of a hand, a foot, or an eye. This intended recognition, on the part of the constitution of the United States, of the legality of such a practice, would obviously have failed of all legal effect—would have been mere surplusage—if it should appear, from an examination of the State constitutions themselves, that they had really conferred no such power upon the legislatures. And this principle applies with the same force to laws that would arbitrarily make men or children slaves, as to laws that should arbitrarily order them to be maimed or murdered.

We might here safely rest the whole question—for no one, as has already been said, pretends that the constitution of the United States, by its own authority, created or authorized slavery as a new institution; but only that it intended to recognize it as one already established by authority of the State constitutions. This intended recognition—if there were any such—being founded on an error as to what the State constitutions really did authorize, necessarily falls to the ground, a defunct intention.

We make a stand, then, at this point, and insist that the main question—the only material question—is already decided against slavery; and that it is of no consequence what recognition or sanction the constitution of the United States may have intended to extend to it.

The constitution of the United States, at its adoption, certainly took effect upon, and made citizens of *all* "the people of the United States," who were *not slaves* under the State constitutions. No one can deny a proposition so self-evident as that. If, then, the *State* constitutions, then existing, authorized no slavery at all, the constitution of the United States took effect upon, and made citizens of *all* "the people of the United States," without discrimination. And if *all* "the people of the United States" were made citizens of the United States, by the United States constitution, at its adoption, it was then forever too late for the *State* governments to reduce any of them to slavery. They were thenceforth citizens of a higher government, under a constitution that was "the supreme law of the land," "anything in the constitution or laws of the States to the contrary notwithstanding." If the State governments could enslave citizens of the United States, the State constitutions, and not the constitution of the United States, would be the "supreme law of the land"—for no higher act of supremacy could be exercised by one government over another, than that of taking the citizens of the latter out of the protection of their government, and reducing them to slavery.