

# ABOLITIONISTS AND THE CONSTITUTION



Library of Congress/Theodore R. Davis

The Constitution allowed Congress to ban the importation of slaves in 1808, but slave auctions, like the one pictured here, continued in southern states in the 19th century.

**Two great abolitionists, William Lloyd Garrison and Frederick Douglass, once allies, split over the Constitution. Garrison believed it was a pro-slavery document from its inception. Douglass strongly disagreed.**

Today, many Americans disagree about how to interpret the Constitution. This is especially true with our most controversial social issues. For example, Americans disagree over what a “well-regulated militia” means in the Second Amendment, or whether the government must always have “probable cause” under the Fourth Amendment to investigate terrorism suspects. These kinds of disagreements about interpretation are not new. In fact, they have flared up since the Constitutional Convention in 1787. One major debate over the Constitution’s meaning caused a rift in the abolitionist movement to end slavery in the 19th century.

Before the 13th Amendment was added to the Constitution in 1865, formally ending slavery in the United States, many abolitionists had argued that slavery was already inherently unconstitutional. The escaped slave and renowned author Frederick Douglass was one of them. Others, like the newspaper publisher and activist William Lloyd Garrison, disagreed and argued that the Constitution had always been a pro-slavery document.

This split between abolitionists’ views of the Constitution was more than a legalistic debate. Neither Douglass nor Garrison were lawyers, though each had key allies who were. The debate had primarily political origins, grounded in Garrison’s

deep-seated moral sentiments that attracted many followers (“Garrisonians”), but also alienated many others, including Douglass.

## Garrison and Northern Secession

Motivated by strong, personal Christian convictions, Garrison was an uncompromising speaker and writer on the abolition of slavery. In 1831, Garrison launched his own newspaper, *The Liberator*, in Boston, to preach the immediate end of slavery to a national audience. In his opening editorial, he informed his readers of his then radical intent: “I will not retreat a single inch, and I will be heard!”

Garrison also co-founded the American Anti-Slavery Society (AAS) in Boston, which soon had over 200,000 members in several Northern cities. Garrison was a popular speaker at meetings of the AAS and was known for giving fiery speeches about the evils of slavery.

Garrison’s editorials and speeches angered Southern slaveowners, especially those who used slaves on large plantations, or cash-crop farms for cotton, rice, and indigo. They feared that if the Northern states united to abolish slavery, then the balance of power between the South and North in Congress would shift decidedly to the North, and slavery would be undone. For his views, Garrison was repeatedly threatened and once narrowly escaped being hanged in Boston by an angry pro-slavery mob.

Garrison’s activism also polarized his fellow abolitionists. Garrison urged his readers not to vote, not ▶

to hold public office, and not to accept the authority of the U.S. Constitution as long as slavery still existed. Garrison once wrote that he wished that the Union would “crumble into dust” rather than let slavery continue.

Garrison even supported Northern secession from the United States. He believed that *disunion* between North and South would result in massive slave revolts in Southern states, like Nat Turner’s revolt in Virginia in 1831. Without protection from the Union Army, Southerners would have no choice but to give up owning slaves. “No Union with Slaveholders!” became *The Liberator’s* motto.

Garrison’s brand of abolitionism attracted many radicals. More moderate abolitionists, however, feared that Garrison’s published criticisms of the government and even of organized religion would push abolitionism to the margins of American politics.

In 1840, two wealthy co-founders of the AAS founded a new rival organization, the American and Foreign Anti-Slavery Society, as well as a political party, the Liberty Party. Both of these new organizations supported political reform and the U.S. Constitution as the means to end slavery. Eventually, in 1854, the newly formed Republican Party would absorb the Liberty Party’s abolitionists.

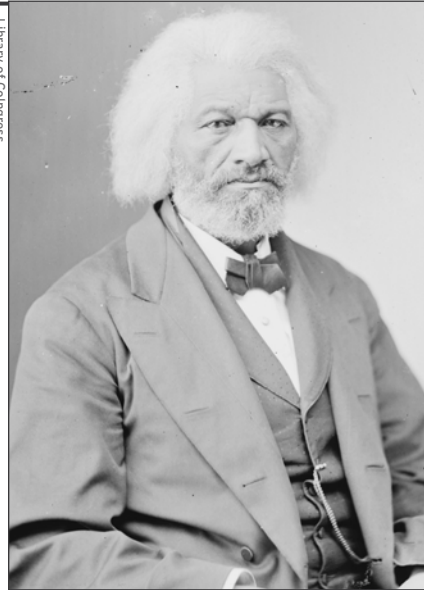
### Douglass and Spooner: Free Citizens Under the Constitution

In 1838, Frederick Douglass escaped from slavery in Maryland. He made his way to New York, got married, and settled with his wife in New Bedford, Massachusetts. He began to attend meetings of the local abolitionist society and started to speak publicly about the cruelties of slavery and his daring escape. Garrison saw him speak and recognized Douglass’ skills as a speaker.

Soon, Garrison had Douglass speaking regularly at meetings of the AAS. Over the years, both of them ventured on speaking tours throughout the North, and Garrison became a mentor to Douglass.

Douglass’ fame grew. In 1845, *The Liberator*

Library of Congress



Frederick Douglass as photographed late in his life. New scholarship shows Douglass was the most photographed man of his time.

published Douglass’ first autobiography, which went on to be a best-selling book. Despite his growing notoriety, Douglass had to flee to Ireland and England to be safe from his former slave master, who could legally send agents into the North to abduct him. Fortunately, with Garrison’s help, British abolitionists bought Douglass’ freedom.

Douglass returned to the United States in 1847 and started publishing his own abolitionist newspaper *The North Star*. He thought it was important to have a black-owned and operated abolitionist newspaper “under the complete control and direction of the immediate victims of slavery and oppression.”

*The North Star’s* editorials generally supported the Garrisonian idea of disunionism and Northern secession. But Douglass had begun feeling sympathy with the Liberty Party and the pro-Constitution ideas of others, including a prominent white Massachusetts attorney and abolitionist named Lysander Spooner.

In 1845, Spooner had published a book, *The Unconstitutionality of Slavery*, in which he argued that the Constitution’s words supported liberty for all slaves. Spooner saw the absence of the words “slave” or “slavery” in the Constitution as proof of the document’s anti-slavery nature.

The Preamble, Spooner argued, “does not declare that ‘we, the white people,’ or ‘we, the free people,’ or ‘we, a part of the people’ — but that ‘we, the people’ — that is, we the whole people — of the United States, ‘do ordain and establish this Constitution.’ ”

Spooner argued that all black slaves should be as free as white women and children. “Because the whole people of the country were not allowed to vote on the ratification of the Constitution,” Spooner wrote, “it does not follow that they were not made citizens under it; for women and children did not vote on its adoption; yet they are made citizens by it . . . and the state governments cannot enslave them.” These were novel arguments and persuasive to Douglass. To Garrison’s dismay, Douglass finally announced at an AAS meeting in 1851 that *The North Star* would no longer promote the

*Douglass argued that ‘the intentions of the framers of the Constitution were good, not bad.’*

idea of Northern secession. Douglass believed that disunion would mean the abandonment of millions of suffering black slaves in the Southern states.

He also announced that he supported the U.S. Constitution, believing that it would be the means to end slavery once and for all. His unexpected announcement caused uproar at the meeting, and *The Liberator* and *The North Star* then published feuding editorials over the direction of abolitionism.



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### Garrison and Phillips: Was the Constitution Pro-Slavery?

One prominent Garrisonian was the Harvard-educated lawyer Wendell Phillips. Both Garrison and Phillips knew that the Constitution did not include the words “slave” or “slavery.” But they argued that the free states made compromises with the slave states in order to get the Constitution passed in 1787, and these compromises corrupted the Constitution.

Phillips wrote a treatise, “The Constitution: A Pro-Slavery Document,” in 1845, to refute the arguments of Spooner. He argued that the three-fifths clause, Congress’ power to put down “insurrections” (rebellions), and the extension of the slave trade until 1808 in Article I of the Constitution were evidence of the Founding Fathers’ intent to maintain the institution of slavery. (See page 8 for excerpts from the Constitution.)

Furthermore, Phillips argued that the so-called fugitive slave clause in Article IV proved the pro-slavery nature of the document. By 1846, 13 states had banned slavery but were obligated to return fugitive slaves to their slave masters under the Fugitive Slave Act of 1793. Congress passed another Fugitive Slave Act in 1850. These acts were authorized by the Constitution’s fugitive slave clause.

The 1793 Fugitive Slave Act and other laws convinced Phillips that the three branches of the U.S. government had been “unanimous, concurrent, [and] unbroken” in preserving slavery ever since 1789. “Anyone who swears to support [the Constitution],” he wrote, “swears to do pro-slavery acts. . . .”

In 1854, Garrison publicly demonstrated his anger against the U.S. government and the Constitution by burning a copy of the 1850 Fugitive Slave Act at an anti-slavery picnic in Massachusetts. Calling the Constitution “a covenant with death, an agreement with hell,” he burned a copy of that, too.

From L to R: Wendell Phillips, William Lloyd Garrison, and George Thompson (1851). Thompson was a British member of Parliament and abolitionist.

### Douglass: ‘The Constitution Encourages Freedom’

The U.S. Supreme Court’s 1857 decision in *Dred Scott v. Sandford* held that black slaves were not citizens in any sense and could not sue for their freedom under the Constitution. For Garrison, this merely confirmed the corruption of the constitutional system. But Douglass believed the decision misinterpreted the Constitution, and he held firm in his constitutional support.

In 1860, Douglass outlined his pro-constitutional message in a speech to abolitionists in Scotland. In “The Constitution: Is It Pro-Slavery or Anti-Slavery?,” Douglass argued, like Lysander Spooner, that the language of the Constitution itself was anti-slavery. “The Garrisonians . . . hold the Constitution to be a slaveholding instrument,” he said. “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 will use their powers for the abolition of slavery.”

He argued that “other persons” in the three-fifths clause could equally refer to non-citizen aliens, or immigrants, as much as to black slaves. Moreover, he argued that “instead of encouraging slavery, the Constitution encourages freedom by giving an increase of ‘two-fifths’ of political power to free over slave States.”

Douglass also argued that the clause in Article I ending the slave trade in 1808 “showed that the intentions of the framers of the Constitution were good, not bad.” The clause itself “looked to the abolition of slavery rather than to its perpetuity.”

Douglass argued that the so-called fugitive slave clause did not pertain to slaves. Pierce Butler and

Charles Pinckney, both delegates from South Carolina, originally had introduced the clause to refer to slaves. James Madison, a delegate from Virginia, however, “declared that the word [‘slave’] was struck out because the convention would not consent that the idea of property in men should be admitted into the Constitution.”

Instead, Douglass argued, the Constitutional Convention intended the clause to refer to redemptioners, or foreign-born workers, and others who had contracts for “service and labor.” White indentured servants, for example, could be redemptioners, who were forced to work but only for a limited period by contract. Slaves, by definition, did not work under contracts.

Douglass offered other arguments based on the text of the Constitution. For example, the Constitution prohibits bills of attainder, which are laws that declare a person or group of people guilty of a crime without any trial. Arguing that a “slave is made a slave because his mother is a slave,” Frederick Douglass argued that the prohibition on bills of attainder alone should have ended slavery immediately.

As for slave revolts, Douglass argued that the plain language of the Constitution did not include anything about slave insurrections. He also noted that the president has the authority to put down insurrections of any kind. If the U.S. had an anti-slavery president, that president could put down a “slave insurrection” by simply issuing an order ending slavery.

Later in 1860, an anti-slavery president was indeed elected. Abraham Lincoln believed that slavery should not extend beyond the states where it already existed.

This view was anti-slavery but not necessarily abolitionist. Still, it proved too much for Southern states. A month after the election, South Carolina seceded from the Union. The Civil War soon followed.

## Reconstruction and Reconciliation

After the Civil War ended in 1865, slavery was finally abolished. The 13th Amendment was added to the Constitution, making clear that “involuntary servitude” would no longer be legal in any state, except for prison inmates. Reconstruction of the nation began.

Garrison resigned as president of the AAS and called for the organization to dissolve. Wendell Phillips rejected this idea, arguing that ending slavery was only the beginning of what freed blacks needed. He and Garrison fell out of friendship over the issue. The 14th Amendment in 1868, protecting due process and equal protection under the law, and the 15th Amendment in 1870, establishing voting rights, later fulfilled Phillips’ hopes.

In 1873, Garrison and Douglass ended their estrangement. Throughout their careers, they actively supported women’s suffrage, or voting rights. At a rally organized by a women’s rights group in Boston, Garrison, Douglass, and Phillips, too, publicly reunited in the women’s suffrage cause.

The debate over how the Constitution’s language can be interpreted to address present social needs is ongoing. To this day, the U.S. Supreme Court continues to hear cases in which it must interpret the scope and meaning of the U.S. Constitution, as well as the history of the Constitution’s drafting. Those in this

### Excerpts From the Constitution of the United States of America (1789)

The Garrisonians argued that the following clauses in the Constitution were pro-slavery. The key debated terms and phrases are shown in italics:

#### Article I

Section 1 – 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*.

Section 8 – The Congress shall have the power to...provide for calling forth the militia to execute the laws of the Union, *suppress insurrections* and repel invasions. . . .

Section 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* [1808], but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

#### Article IV

Section 2 [often referred to as the “fugitive slave clause”] – 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*.

Section 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* [mass violence, such as a rebellion or revolt].

Why do you think Wendell Phillips argued that Article IV, Section 4, was pro-slavery?

country who argue over gun rights, LGBT rights, women's rights, or issues of national security continually seek to clarify whether the language and principles of the Constitution and its existing amendments remain broad enough to guide our present day experiences, challenges, and ideals.

## DISCUSSION AND WRITING

1. What was disunionism? Why did Garrison support it? Why did Douglass oppose it? What made it such a polarizing idea?

2. Explain Lysander Spooner's argument about the Preamble. Do you find it convincing? Why or why not?
3. When Frederick Douglass was a child, he was sent to be a house slave in urban Maryland. There, he secretly learned to read, a forbidden act for a slave. Why do you think slave masters wanted to prevent slaves from reading? What examples in the article support your answer?

## ACTIVITY: Which Side Had the Stronger Argument?

Abolitionists were split about how to interpret the Constitution. Now you will have a chance to decide for yourselves which side had the stronger arguments.

1. Form groups of four. Each group is a panel, with each member of your group assigned to review the arguments of *one* of the four abolitionists discussed in the article: Frederick Douglass, William Lloyd Garrison, Wendell Phillips, or Lysander Spooner.
2. Recall how your assigned abolitionist would respond to this statement: *The Constitution was a pro-slavery document.*
3. Re-read the sections in the article that pertain to your assigned abolitionist. Underline the main arguments he would make in response to the statement above. Write notes, questions, or comments about the text in the margins.
4. Take turns in your panel group sharing the main arguments of each abolitionist. Take notes and ask clarifying questions when needed. Once each person has spoken, discuss in your group:
  - (a) The strengths and weaknesses you see in each abolitionist's arguments.
  - (b) The side your group thinks had the stronger arguments in interpreting the Constitution: Garrison/Phillips or Douglass/Spooner. Try to reach consensus within your group.
5. Each group should appoint a spokesperson to share back with the class which abolitionists they thought had the stronger arguments and why.

## Sources

Buccola, Nicholas. *The Political Thought of Frederick Douglass: In Pursuit of American Liberty*. NY: New York UP, 2012. • Douglass, Frederick. "The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery? Teaching American History." *Teaching American History*. URL: [teachingamericanhistory.org](http://teachingamericanhistory.org) • Foner, Eric. *Give Me Liberty!: An American History*. NY: W.W. Norton, 2014. • Gorman, Ron. "William Lloyd Garrison and Frederick Douglass Debate in Oberlin." *Oberlin Heritage Center Blog*. URL: [www.oberlinheritagecenter.org/blog](http://www.oberlinheritagecenter.org/blog) "In Pursuit of Freedom." National History Education Clearinghouse. URL: [teachinghistory.org](http://teachinghistory.org) • Lowance, Mason, ed. *Against Slavery: An Abolitionist Reader*. NY: Penguin, 2000. • Mayer, Henry. *All on Fire: William Lloyd Garrison and the Abolition of Slavery*. NY: St. Martin's, 1998. • Urofsky, Melvin I. et al. *A March of Liberty: A Constitutional History of the United States*. Vol. 1. NY: Oxford UP, 2002.

## Standards Addressed

National High School Civics Standard 15: Understands how the U.S. Constitution grants and distributes power and responsibilities to national and state government and how it seeks to prevent the abuse of power. (3) Understands ways in which federalism is designed to protect individual rights to life, liberty, and property and how it has at times made it possible for states to deny the rights of certain groups, (e.g. states' rights and slavery, denial of suffrage to women and minority groups)

National High School U.S. History Standard 12: Understands the sources and character of cultural, religious, and social reform movements in the antebellum period. (1) Understands elements of slavery in both the North and South during the antebellum period (e.g., similarities and differences between African American and white abolitionists . . .).

California History-Social Science Standard 8.9: Students analyze the early and steady attempts to abolish slavery and to realize the ideals of the Declaration of In-

dependence. (1) Describe the leaders of the movement (e.g., . . . William Lloyd Garrison, Frederick Douglass).

Common Core Standard RH.11-12.1: Cite specific textual evidence to support analysis of primary and secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

Common Core Standard RH.11-12.2: Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.

Common Core Standard SL.11-12.1: Initiate and participate effectively in a range of collaborative discussions . . . with diverse partners on grades 11-12 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

Common Core Standard SL.11-12.3: Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

Common Core Standard SL.11-12.4: Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

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