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"A History of the Anglican Church—Part LI: An Essay on the Role of Christian Lawyers and Judges within the Secular State"©

By

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"To speak of the separation of church and state is to speak of the separation of soul and body."
-- Rev. Algernon Sidney Crapsey (Anglican Priest)

The ideas expressed in this Apostolate Paper are wholly those of the author, and subject to modification as a result of on-going research into this subject matter. This paper is currently being revised and edited, but this version is submitted for the purpose of sharing Christian scholarship with clergy, the legal profession, and the general public.

PREFACE

The organized Christian church of the Twenty-First Century is in crisis and at a crossroad. Christianity as a whole is in flux. And I believe that Christian lawyers and judges are on the frontlines of the conflict and changes which are today challenging both the Christian church and the Christian religion. Christian lawyers and judges have the power to influence and shape the social, economic, political, and legal landscape in a way that will allow Christianity and other faith-based institutions to evangelize the world for the betterment of all human beings. I write this essay, and a series of future essays, in an effort to persuade the American legal profession to rethink and reconsider one of its most critical and important jurisprudential foundations: the Christian religion. To this end, I hereby present the sixty-eighth in this series: "A History of the Anglican Church—Part LI."

Introduction[1]

Lord Mansfield's landmark decision in *Somerset v. Stewart* (1772) was a product of the "Age of Reason" and the "Enlightenment"—which led to

[1] This paper is dedicated to the Faculty and Staff of the Whitefield Theological Seminary (Lakeland, Florida), to the Christ Presbyterian Church (Lakeland, Florida), and to the Calvinist wing of the Church of England.

latitudinarian Anglicanism, Scottish Common Sense Realism, and deism. The *Somerset* decision also reflected a movement within English jurisprudence that was not a new development, nor was it inconsistent with orthodox Christianity. Indeed, the latitudinarian Anglicans had held that the Christian faith and the Gospels were generally republications of "natural law" or the "law of reason."[2] Under English law, the "law of Christ"[3] was "reason" and "natural law." And Christianity was deemed to be a republication of natural law. See Table 1, below.

Table 1. Thomas Woods in *Institutes of the Laws of England* (1720)

"As Law in General is an Art directing to the Knowledge of Justice, and to the well ordering of civil Society, so the Law of England, in particular, is an Art to know what is Justice in England, and to preserve Order in that Kingdom: And this Law is raised upon … principal Foundations.

1. Upon the ***Law of Nature***, though we seldom make Use of the Terms, *The Law of Nature*. *But we say, that such a* ***Thing is reasonable****, or* ***unreasonable****, or against the….*

2. Upon the **revealed Law of God**, Hence it is that our Law punishes Blasphemies, Perjuries, & etc. and receives the Canons of the Church [of England] duly made, and supported a spiritual Jurisdiction and Authority in the Church [of England].

3. The third Ground are several general *Customs*, these Customs are properly called the *Common Law*. Wherefore when we say, it is so by **Common Law**, it is as much as to say, by common Right, or of common Justice.

Indeed it is many Times very difficult to know what Cases are grounded on the ***Law of Reason***, and what upon the *Custom* of the Kingdom, yet we must endeavor to understand this, to know the perfect Reason of the Law.

Rules concerning *Law*

The *Common Law* is the **absolute Perfection of *Reason***. For nothing that is contrary to Reason is consonant to Law

Common Law is common Right.

The Law is the Subject's best **Birth-right**.

The Law respects the **Order of Nature**…."

[2] See, e.g., Matthew Tindal, *Christianity as Old as the Creation* (1730) and Joseph Butler, *The Analogy of Religion* (1736).

[3] The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

Source: Thomas Wood, LL.D., *An Institute of the laws of England: or, the Laws of England in their Natural Order* (London, England: Strahan and Woodall, 1720), pp. 4-5.

And, under English law, all Parliamentary statutes or municipal law have violated reason were deemed "void."[4] It is thus within this historical, legal, and social context, that we must judge Lord Mansfield's landmark decision in *Somerset v. Stewart* (1772).

When Lord Mansfield held explicitly that the institution of slavery was "odious" and could not be supported by "reasons, moral or political," he essentially ruled that the institution of African slavery was both unnatural or unchristian, and, for that reason, also unconstitutional under the British law. The *Somerset* opinion thus appealed to both Christian and non-Christian abolitionists alike. Many within the Christian church reached the same conclusion about slavery as did Lord Mansfield (see, e.g., Rev. John Wesley's *Thoughts Upon Slavery* (1778)); and many non-Christians, such as American founding father Thomas Paine, also reached the same conclusion as set forth in the *Somerset* case. The general feeling was that all human beings have definite inalienable rights, and that the right to "life, liberty, and property" were fundamental rights that had been established since Magna Carta (1215) and were available to all human beings.

During the 18th century, Lord Chief Justice William Murray ("Lord Mansfield") would give these political ideals a revitalized life and hope—particularly with respect to Africans who lived within the British Empire. Lord Mansfield's landmark ruling *Somerset v. Stewart* (1772) in England set in motion a chain of events that lead to several other court opinions within the British Empire, during the late 1770s and early 1780s—in Scotland, Vermont, Massachusetts, Connecticut, and Pennsylvania—that held that the institution of African slavery was unconstitutional because it violated natural law, the natura rights of humanity,

[4] Sir Edward Coke's natural-law holding in *Dr. Bonham's Case* 8 Co. Rep. 107, 77 Eng. Rep. 638 (1610) was still very much the supreme law in England, to wit:

> And it appears in our books, that in many cases, the common law will control Acts of Parliament, and sometimes adjudge them to be utterly void; for when an act of Parliament is against common right and reason, or repugnant, or impossible to be performed, the common law will control it, and adjudge such an Act to be void….
>
> Reason is the life of the law; nay, the common law itself is nothing else but reason… The law, which is perfection of reason.

and the fundamental laws of their constitutions. During the 1800s, the *Somerset* case would greatly influence the Abolitionist Movement in the United States.

The *Somerset* decision should not be read in isolation of the time period of the late 1770s. That decision contained within it a radical tone: it said something about the nature of law, and of the relationship of "reason" to positive law. Does positive law apply where it violates the law of "reason" and "shocks the conscience"? Is there a "higher law" which is also called the sovereignty of God?[5] While the *Somerset* decision did not explicitly answer these questions, it relied upon the principles of reason and nature in reaching the result that, in the absence of a positive law, the African must be set free.

The world of Christian theology and the church were not as free-thinking about slavery as Lord Mansfield's *Somerset* decision, because they continued to believe that the *Holy Bible* had authorized the ancient Israelites to hold slaves under certain conditions, and that it was appropriate for 18th-century Christians to hold African slaves, under the same set of circumstances as countenanced by the Mosaic law.[6] The Christians who held these views, however, did not represent all Christians, such as the Rev. John Wesley, whose *Thoughts Upon Slavery* (1778) echoed the same sentiments in the *Somerset* decision—both referring to the institution of African slavery as reprehensible (i.e. "odious") and without a foundation in reason (i.e., "any reasons, moral or political"). For this reason, the *Somerset* decision represented a brand of latitudinarian Anglicanism, as well as Scottish Common Sense Realism, which extended the "golden rule" and the "law of Christ"[7] to the treatment of Africans.

Summary

The case of *Somerset v. Stewart* (1772) held that the institution of slavery was "odious" and could not be support by an appeal to any "reasons, moral or political" (i.e., the law of nature). These words implicate "fundamental law" and suggested to many persons who lived during the time when the opinion was rendered, that positive laws (i.e., municipal laws or statutory laws), such as those which established the institution of slavery, are void and unconstitutional. Although not expressly so stated, Lord Mansfield's opinion in *Somerset* implied that the institution of slavery violated fundamental and natural moral law, as well

[5] See Attachments A and B, below.
[6] See Attachments A and B, below.
[7] Matthew 7:12.

as the British constitution. Since there was no statute enacted by Parliament which expressly established the institution of slavery in England, Lord Mansfield was unable to rule or hold that statutes which authorize the institution so slavery are unconstitutional. However, in those areas of the British Empire where the institution of African slavery had been made expressly legal by positive laws, the Abolition Movement early and largely relied upon the holding in *Somerset* to attack those statutes through the courts. In colonial British North America, successful court challenges to the institution of African slavery occurred in Vermont (1777), followed by Pennsylvania (1780), Massachusetts (1783) and Connecticut (1784).

Part LI. Anglican Church: The Case of *Somerset v. Stewart* (1772) 98 ER 499, (1772) 20 State Tr 1, (1772) Lofft 1

Lord Mansfield's *Somerset* decision (1772) predated the drafting and signing of the American *Declaration of Independence* (1776) and perhaps set in motion the discussion that the institution of slavery violated natural law and the law of reason. This court decision shook the foundations of the British Empire and sounded an alarm that the institution of African slavery was barbarous, odious, and unsupportable by an appeal to either reason or the English common law. That same view was also advocated by in Rev. John Wesley's *Thoughts Upon Slavery* (1778) and by dozens of other Christian abolitionists.[8] The general consensus among many Christians, especially the Methodists who would befriend many African slaves and advocate for the abolition of slavery, was reflected in Lord Mansfield's *Somerset* decision. But stacked against these abolitionists—both Christian and non-Christian alike—was the unholy power of British mercantilism. The great legacy of Lord Mansfield is that he tried to bring ethics, reason, and fairness to Great Britain's imperial commercial laws.

I. William Murry, (Lords Mansfield) (1705 – 1793), Chief Justice of the Kings Bench.

William Murry graduated from Christ Church, Oxford in 1727 with a bachelors of arts degree and was called the bar by Lincoln's Inn in 1730. He served as Solicitor General for England and Wales from 1742 to 1754; Attorney General for England and Wales from 1754 to 1756; Chancellor of the Exchequer in 1757; Lord Speaker in 1758; and Lord Chief Justice of the King's Bench from 1756 to 1788.

[8] See Attachments A and B, below.

Lord Mansfield was personally affected by the institution of slavery. His nephew, John Lindsay, a military officer, fathered a mulatto daughter named Elizabeth with an enslaved West Indian-Jamaican woman of African descent. Mr. Lindsay asked Lord Mansfield and his wife to raise his daughter Elizabeth in London, and Lord Mansfield agreed. "[I]n 1738, he was involved in 11 of the 16 cases heard in the House of Lords, and in 1739 and 1740 he acted as legal counsel in 30 cases there."[9] In 1742, he became a Member of Parliament where he achieved noted success as an orator. But Mansfield did not covet or enjoy politics, and had his sights on moving up the ranks within his legal career—Solicitor General, Attorney General, and, lastly, Lord Chief Justice of the King's Bench.

> Anyone wishing to become a judge was required to be a Serjeant-at-law, which Murray was not; as such, he left Lincoln's Inn to join Serjeant's Inn. He qualified as a Serjeant-at-law on 8 November 1756, and was sworn in as Lord Chief Justice at the house of the Lord Chancellor that evening. Immediately afterwards he was created Baron Mansfield.[10]

As Chief Justice of the King's Bench[11], Lord Mansfield became the senior-most judge of the British Empire, at a time when British mercantilism and the law of

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[9] https://en.wikipedia.org/wiki/William_Murray,_1st_Earl_of_Mansfield#Family_life

[10] Ibid.

[11] See, e.g., "King's Bench," https://en.wikipedia.org/wiki/Court_of_King%27s_Bench_(England)#Dissolution

> "The head of the court was the Chief Justice of the King's Bench, a position established by 1268. From the 14th century onwards, the Chief Justice was appointed by a writ, in Latin until 1727 and in English from then on. The Chief Justice was the most senior judge in the superior courts, having superiority over the Chief Justice of the Common Pleas and Chief Baron of the Exchequer, and from 1612 the Master of the Rolls. Unlike other Chief Justices, who were appointed to serve "during the King's Pleasure", the appointment as Chief Justice of the King's Bench "did not usually specify any particular tenure". This practice ended in 1689, when all of the Chief Justices became appointed to serve "during good behaviour". The initial salary was £40 a year, with an additional £66 in 1372 and an increase to a total of £160 in 1389. An ordinance of 1646 set a fixed salary of £1,000, increased to £2,000 in 1714, £4,000 in 1733, and finally peaked at £10,000 a year in 1825. Pension arrangements were first made in 1799, peaking at £4,000 a year in 1825. The position remains to this day; after the dissolution of the Court of King's Bench, the Chief Justice has instead been the Lord Chief Justice of England and Wales, now the head of the Judiciary of England and Wales.
>
> "A Chief Justice of the King's Bench was assisted in his work by a number of Justices of the King's Bench. Occasionally appointed before 1272, the number fluctuated considerably between 1 and 4; from 1522, the number was fixed at 3. Provisions for a fourth were established in 1830, and a fifth in 1868. Following the dissolution of the Court of King's Bench, the remaining Justices because Justices of the Queen's Bench Division of the High Court of Justice. Justices were originally paid £26 a year, increasing to £66 in 1361,

commerce, banking, finance, merchants, and creditors was fast evolving. We have seen in Part L of this series how British mercantilism collapsed under the weight of fraud and moral decadence during the early part of the 18th century. Lord Mansfield's life's work was to bring "good faith and fair dealing" and "honesty-in-fact" back into commercial transactions. One example of this can be to found in the case of *Carter v. Boehm* (1746) 3 Burr 1905, 96 ER 342, to wit:

> In *Carter v Boehm* (1746) 3 Burr 1905, 96 ER 342, Mansfield got a chance to reform the law relating to the assumption of good faith. Carter was the Governor of Fort Marlborough (now Bengkulu),
>
> which was built by the British East India Company in Sumatra, Indonesia. He took out an insurance policy with Boehm against the fort's being taken by a foreign enemy. A witness called Captain Tryon testified that Carter knew the fort was built to resist attacks from natives but not European enemies, and the French were likely to attack. The French did attack, and Boehm refused to fulfil the insurance claim.
>
> Mansfield decided in favour of Boehm, saying that Carter had failed his duty of *uberrima fides*. In his judgment Mansfield said that:
>
> > Insurance is a contract based upon speculation. The special facts, upon which the contingent chance is to be computed, lie most commonly in the knowledge of the insured only; the underwriter trusts to his representation and proceeds upon the confidence that he does not keep back any circumstance in his knowledge, to mislead the underwriter into a belief that the circumstance does not exist, and to induce him to estimate the risque as if it did not exist. ***Good faith forbids either party by concealing what he privately knows***, to draw the other into a bargain from his ignorance of that fact, and his believing the contrary.
>
> This was an attempt by Mansfield to introduce the assumption of good faith into English law….[12]

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and £100 in 1389. An ordinance of 1645 increased this to £1,000, with the salary peaking at £5,500 in 1825. As with the Chief Justice, pension arrangements were formally organised in 1799, starting at £2,000 a year and peaking at £3,500 in 1825."

[12] "William Murray, First Earl of Mansfield" https://en.wikipedia.org/wiki/William_Murray,_1st_Earl_of_Mansfield

Prior to this decision, it was widely held that a British merchant was bound only by the express terms in a written contract which he signed, but Lord Mansfield's ruling in *Carter v. Boehm* held that an obligation of "good faith" prohibits known dishonest concealment of material facts—thus amounting to fraud.

Similarly, in the case of *Pillans & Rose v Van Mierop & Hopkins* (1765) 3 Burr 1663, Lord Mansfield ruled against an attempt by surety (i.e., co-signer on a commercial loan) to evade his obligation on a promissory note, because the lender had not advanced "consideration" on the original contract. "Consideration" is a legal promise, money, or think of value that is exchanged as a medium in contractual negotiations. Under English common law, "consideration" was required for all contracts. But applying equitable standards, Lord Mansfield held that no "consideration" was necessary in this particular case, since it was a commercial transaction between merchants.

> Lord Mansfield held that the doctrine of consideration should not be applied to preclude enforcement of promises made in mercantile transactions.
>
> > This is a matter of great consequence to trade and commerce, in every light... I take it, that the ancient notion about the want of consideration was for the sake of evidence only: for when it is reduced to writing, as in covenants, specialities, bonds, etc, there was no objection to the want of consideration. And the Statute of Frauds proceeded on the same principle. In commercial cases amongst merchants, the want of consideration is not an objection... If a man agrees that he will do the formal part, the law looks upon it (in the case of acceptance of a bill) as if actually done. This is an engagement "to accept the bill, if there was a necessity to accept it; and to pay it, when due:" and they could not afterwards retract. It would be very destructive to trade, and to trust in commercial dealing if they could.[13]

In other words, Lord Mansfield applied the "law of equity" to commercial transactions in order to make them more humane and more just. Indeed, within

[13] "Pillans v. Van Mieorp" https://en.wikipedia.org/wiki/Pillans_v_Van_Mierop

English jurisprudence, the plain heritage of its equity jurisprudence was the canon law of the Roman Catholic Church and of the Church of England's ecclesiastical laws. Thus acting within this Christian tradition, Lord Mansfield sought to improve, through equity and ethical mandates, the substantive nature of England's commercial law. It is largely because of this equitable contribution to England's commercial law, that Lord Mansfield is considered to be the "founder of English commercial law."[14]

It is within the context of commercial law that we should analyze Lord Mansfield's holding in his most famous opinion the Case of *Somerset v. Stewart* (1772) 98 ER 499. Lord Mansfield's had no legal authority, a Chief Justice, to abolish the institution of slavery—only Parliament had that authority. Rather, Lord Mansfield could only declare the state and status of England's laws, at that time. In the *Somerset* case, Lord Mansfield rendered his own view that the institution of slavery is "odious." Furthermore, Lord Mansfield held that the law of "reason" (i.e., natural law) did not support the institution of slavery. Nor was there any record of slavery in English common law. That being the case, there was no English law that would allow the slave master in the *Somerset* case to hold an African person in slavery on English soil. The only legal method to hold a person in slavery, wrote Lord Mansfield, was if there was a statutory enactment (i.e., "positive law") making such a declaration. And in England, there was no statutory or positive law which authorized holding slaves. For this reason, Lord Mansfield ruled that the African slave must be set free.

It has been correctly pointed out that the *Somerset* case did not affect the slave trade or the status of slavery in the colonies, and that there were instances of slavery in England even following this decision. However, Lord Mansfield's decision set in motion a chain of events which paved the way for abolitionism. By describing slavery as "**odious**" and unsupported by "**reasons, moral or political**," Lord Mansfield provided all of the juridical tools that were necessary to attack the entire institution of slavery on constitutional grounds. Lord Mansfield, in so many words, held in the *Somerset* case that the English common law had never recognized the institution of slavery. And so, what Lord Mansfield was essentially saying—to used in modern American constitutional terminology—was that the

[14] Ibid.

institution of slavery violated "fundamental law" and "substantive due process of law," especially the right to life, liberty, property, and the pursuit of happiness. This was clearly an 18th-century "enlightenment" view of the institution of slavery, and Lord Mansfield must be given credit for laying that foundation.

II. *Somerset v. Stewart*: The Facts

The facts of the Case of *Somerset v. Stewart* (1772) have been succinctly summarized below as follows:

1. James Somersett was a slave owned by Charles Stewart, an American customs officer who sailed to Britain for business, landing on 10 November 1769.[15]

2. A few days later Somersett attempted to escape. He was recaptured in November and imprisoned on the ship Ann and Mary, owned by Captain John Knowles and bound for the British colony of Jamaica. Stewart intended to sell him there.[16]

3. However, three people claiming to be Somersett's godparents, John Marlow, Thomas Walkin and Elizabeth Cade, made an application before the Court of King's Bench for a writ of habeas corpus, and Captain Knowles was ordered to produce Somersett before the Court of King's Bench, which would determine whether his imprisonment was legal.[17]

4. Mansfield ordered a hearing for 22 January 1772. Following an adjournment, the case was not heard until 7 February 1772.[18]

5. In the meantime, the case had attracted a great deal of attention in the press, and members of the public were forthcoming with donations to fund lawyers for both sides of the argument. An activist layman, Granville Sharp, who continually sought test cases

[15] These facts were taken from "William Murray, First Earl of Mansfield" https://en.wikipedia.org/wiki/William_Murray,_1st_Earl_of_Mansfield

[16] Ibid.
[17] Ibid.
[18] Ibid.

against the legal justifications for slavery, was Somersett's real backer.[19]

6. When the case was heard, no fewer than five advocates appeared for the slave, speaking at three separate hearings between February and May. These lawyers included William Davy SL, John Glynn SL, James Mansfield and Francis Hargrave, who was later to become a noted barrister based on his work in this case. Charles Stewart was represented by John Dunning and James Wallace.[20]

7. On behalf of Somersett, it was argued that while colonial laws might permit slavery, neither the common law of England, nor any law made by Parliament recognised the existence of slavery, and slavery was therefore illegal.[21]

8. Moreover, English contract law did not allow for any person to enslave himself, nor could any contract be binding without the person's consent. The arguments thus focused on legal details rather than humanitarian principles.[22]

9. A law passed in 1765 said that all lands, forts and slaves owned by the Africa Company were a property of the Crown, which could be interpreted to mean that the Crown accepted slavery.[23]

10. When the two lawyers for Charles Stewart put their case, they argued that a contract for the sale of a slave was recognised in England, and therefore the existence of slaves must be legally valid.[24]

III. *Somerset v. Stewart*: The Holding

The holding of the Case of *Somerset v. Stewart* (1772) has been succinctly summarized below as follows:

[19] Ibid.
[20] Ibid.
[21] Ibid.
[22] Ibid.
[23] Ibid.
[24] Ibid.

> But here the person of the slave himself is immediately the object of enquiry ; which makes a very material difference. The now question is, whether any dominion, authority or coercion can be exercised in this country, on a slave according to the American laws? The difficulty of adopting the relation, without adopting it in all its consequences, is indeed extreme ; and yet, many of those constituencies are absolutely contrary to the municipal law of England….
>
> The power of a master over his slave has been extremely different, in different countries. The state of slavery is of such a nature, that it is incapable of being introduced on any reasons, moral or political ; but only positive law, which preserves its force long after the reasons, occasion, and time itself from whence it was created, is erased from memory : it's so odious, that nothing can be suffered to support it, but by positive law. Whatever inconveniences, therefore, may follow from a decision, I cannot say this case is allowed or approved by the law of England ; and therefore the black must be discharged.

IV. *Somerset v. Stewart* : Future Impact upon the Institution of African Slavery

Lord Mansfield's holding shook up the British Empire, and it naturally highlighted the weaknesses within the imperial system where difference provinces (i.e., Virginia and Jamaica) far removed from London. In every respect, the foundation of colonial laws were England's common laws and constitutional laws, but there was no real reason why slavery could exist under British law in the colonies but be prohibited in England.

> Somerset was freed and his supporters, who included both Black and White Londoners, celebrated in response. Whilst argument by counsel may have been based primarily on legal technicalities, Lord Mansfield appeared to believe that a great moral question had been posed and he deliberately avoided answering that question in full, because of its profound political and economic consequences.
>
> There were numerous reaction from prominent individuals in Britain over the decision; Sharp rhetorically asked "why is it that the poor

> sooty African meets with so different a measure of justice in England and America, as to be adjudged free in the one, and in the other held in the most abject Slavery?" Meanwhile, hymnwriter William Cowper wrote in a poem that "we have no slaves at home - then why abroad?"
>
> Polymath Benjamin Franklin, who was visiting England at the time, was less impressed with the celebrations of British abolitionists over the case, criticising their celebrations:
>
> > O Pharisaical Britain! to pride thyself in setting free a single Slave that happens to land on thy coasts, while thy Merchants in all thy ports are encouraged by thy laws to continue a commerce whereby so many hundreds of thousands are dragged into a slavery that can scarce be said to end with their lives, since it is entailed on their prosperity!

However, when one asks the fundamental question as to *why slavery was not permitted* in London, while it was tolerated in Virginia and Jamaica, the only realistic answer is that, were slavery to come into London, it would certainly undermine and threaten the foundation of English economic, cultural, political, and social life—the institution of slavery, says Lord Mansfield, is "odious," and the ramifications of applying American law on English soil could have "extreme" consequences, which Lord Mansfield does not mention. I surmise, then, that it was due to British economic self-interest, that Lord Mansfield did not wish to see slavery spread into England.[25]

Significantly, the *Somerset* case did not establish new law, but rather it merely restated what was **already the general consensus** among English legal scholars, which was that slavery violated both the English common law and the fundamental laws of England. The English common law, in its authentic, purest Christian form, could not, and did not, tolerate the institution of chattel slavery. For example, that was the interpretation of General James Oglethorpe and the proprietors of the colony of Georgia, as Historian W.E.B. Du Bois tells us:

[25] These economic self interests likely had to do with the potential "Africanization" of British life and competition with white English labor that could result from bringing an untold number of African slaves into England. Lord Mansfield and his fellow brother judges on the bench likely sought not to abolish slavery but to restrict slavery to the British colonies

> In Georgia we have an example of a community whose philanthropic founders sought to impose upon it a code of morals higher than the colonists wished. The settlers of Georgia were of even worse moral fibre than their slave-holding and whiskey-using neighbors in Carolina and Virginia; yet Oglethorpe and the London proprietors prohibited from the beginning both the rum and the slave traffic, refusing to 'suffer slavery (which is against the Gospel as well as the fundamental law of England) to be authorized under our authority.'[26]

That was also the interpretation of the Rev. William Goodell who thus wrote[27]:

> Under no other legal sanction than this, the forcible and fraudulent seizure and transportation of slaves from Africa to the British American Colonies was carried on till the West India and North American Colonies were stocked with slaves, and many were introduced into England, held as slaves there, and the tenure accounted legal!
>
> **But in 1772 it was decided by Lord Mansfield, in the case of James Somerset, a slave, that the whole process and tenure were illegal; that there was not, and never had been, any legal slavery in England**. The chief agent in procuring it, to be applicable to the British Colonies, as well as to the mother-country, and undoubtedly it was so. The United States were then Colonies of Great Britain. But the slaves in the Colonies had no Granville Sharpe to bring their

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[26] W.E.B. Du Bois, "The Suppression of the African Slave Trade," *Writings* (New York, N.Y.: The Library of America, 1986), p. 15. (See, also, Michael Thurmond, "Why Georgia's Founder Fought Slavery," https://www.savannahnow.com/article/20080215/OPINION/302159906, stating:

> These original Georgians arrived in the New World, inspired by the promise of economic opportunity embodied in the Georgia plan. This bold visionary plan established Georgia as a unique economic development and social welfare experiment.
>
> The new colony was envisioned as an "Asilum of the Unfortunate," a place where England's "worthy poor" could earn a living exporting goods produced on small farms. From the outset, Oglethorpe and his colleagues found slavery inconsistent with the colony's goals, arguing that it would undermine poor, hardworking white colonists.
>
> Oglethorpe later asserted that he and his fellow trustees prohibited slavery because it was **"against the Gospel, as well as the fundamental law of England."**

[27] William Goodell, *The American Slave Code* (New York: The American and Foreign Anti-Slavery Society, 1853), p. 259.

> cause into the Courts, and the Courts were composed of slaveholders….[28]
>
> It may be proper to explain, that while these gentlemen admit that there are no express statutes of the States that are adequate to the legalization of slavery, **they nevertheless affect to believe that it is legalized by the common law! It is not strange that they are unwilling to go with that plea into the Courts!** … All [the case law in the United States] affirm **that slavery, being without foundation in nature, is the creature of municipal law, and exists only under its jurisdiction**….[29]
>
> It is undoubtedly true that **the common law, if applied to the slave, would amply protect him from outrage and murder.** It would also protect him in his right to his earnings and to the disposal of the products of his industry, to exemption from seizure and sale: in a word, the common law, if applied to the slave, would emancipate him; for every body knows, and the Louisiana and Kentucky Courts have decided, that the slave becomes free the moment he comes under the jurisdiction of common law, by being carried by consent of his master out of the jurisdiction of the municipal law which alone binds him.[30]

"This wider reading of Somerset's case appears to be supported by the judgment of Mr. Justice Best in *Forbes v Cochrane* in 1824. He said, 'There is no statute recognising slavery which operates in that part of the British empire in which we are now called upon to administer justice.'"[31] And howsoever, non-Christian legal positivists try to spin the Somerset opinion as having failed to abolish slavery in Britain, or the slave trade, the fact of the matter is that this landmark decision clearly acknowledged the fact all of England's combined constitutional and common laws, when taken and construed together, did not support the institution of slavery—and that since at least some portion of British constitutional law constituted higher fundamental law (i.e., "life, liberty, property," etc.), it would logically appear that no Parliament or legislature would have been authorized to enact a statute that conflicted with "higher fundamental law." Although Lord

[28] Ibid.
[29] Ibid.
[30] Ibid., p. 185.
[31] "Somerset v. Stewart," https://en.wikipedia.org/wiki/Somerset_v_Stewart

Mansfield did not fully set forth these logical conclusions, that natural result was eventually reached in Scotland and colonial British North America:

> The *Somerset* case became a significant part of the common law of slavery in the English-speaking world, and helped launch a new wave of abolitionism. Lord Mansfield's ruling contributed to the concept that slavery was contrary "both to natural law and the principles of the English Constitution", a position adopted by abolitionists.
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> The case of *Knight v Wedderburn* in Scotland began in 1774 and was concluded in 1778, with a ruling that slavery had no existence in Scottish common law. Some lawyers thought that similar determinations might be made in British colonies, which had clauses in their Royal charters requiring their laws not to be contrary to the laws of England; they usually contained qualifications along the lines of "so far as conveniently may be". Activists speculated that the principles behind Lord Mansfield's decision, might demand a rigorous definition of "conveniently", if a case were taken to its ultimate conclusion. Such a judicial ruling never took place as the Thirteen Colonies gained independence by 1783 and established laws related to slavery, with the northern states abolishing it, several gradually.

In colonial British North America, the *Somerset* case was used to establish the constitutional argument that the institution of African slavery violated the fundamental laws of the colonial charters as well as the English common law. This view of the unconstitutionality of slavery has been the original position of General Oglethorpe, who was the founder of the colony of Georgia in 1732; and after the Somerset case, this constitutional position began to spread throughout colonial New England.

> The *Somerset* case was reported in detail by the American colonial press. In Massachusetts, several slaves filed freedom suits in 1773–1774 based on Mansfield's ruling; these were supported by the colony's General Court (for freedom of the slaves), but vetoed by successive Royal governors. As a result, some individuals in pro-slavery and anti-slavery colonies, for opposite reasons, desired a distinct break from English law in order to achieve their goals with regard to slavery.
>
> Beginning during the Revolutionary War, northern states began to abolish or rule against maintaining slavery. Vermont was the first in 1777, followed by Pennsylvania (1780), Massachusetts (1783) and

> Connecticut (1784). In Massachusetts, rulings related to the freedom suits of *Brom and Bett v Ashley* (1781) and *Quock Walker* (1783)[32] in county and state courts, respectively, resulted in slavery being found irreconcilable with the new state constitution and ended it in the state. In this sense, the Walker case is seen as a United States counterpart to the Somerset Case. …
>
> After the American Revolution, the *Somerset* decision "took on a life of its own and entered the mainstream of American constitutional discourse" and was important in anti-slavery constitutionalism.[33]

The foundation of African and African American freedom was established with the *Somerset* case, because that decision held that the British constitution and the English common law did not support the institution of African slavery. After the American *Declaration of Independence* (1776) and the *U.S. Constitution* (1787) were enacted, African Americans and Abolitionists applied the same reasoning from the Somerset decision to these founding constitutional documents as well. And this was especially true of Frederick Douglass and Abraham Lincoln, as well as clergymen such as Rev. Willian Goodell.

CONCLUSION

During the later 1770s, British mercantilism had become corrupt on many fronts and in many departments—not just with respect to its involvement with the

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[32] "In the case of *Quock Walker*, Massachusetts' Chief Justice William Cushing gave instructions to the jury as follows, indicating the end of slavery in the state:

> As to the doctrine of slavery and the right of Christians to hold Africans in perpetual servitude, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage – a usage which took its origin from the practice of some of the European nations, and the regulations of British government respecting the then Colonies, for the benefit of trade and wealth. But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to the natural rights of mankind, and to that natural, innate desire of Liberty, with which Heaven (without regard to color, complexion, or shape of noses-features) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal – and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property – and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract ...."

"Somerset v. Stewart," https://en.wikipedia.org/wiki/Somerset_v_Stewart

[33] Ibid.

slave-trade and the institution of slavery. Adam Smith's *The Wealth of Nations* (1776) clearly points out many of British mercantilism's many deficiencies, including avarice, greed, and corruption. In a word, not only was British mercantilism saturated with corrupt monopoly power, but it was also economically inefficient. The slave-trade and the slavery system, opined Adam Smith, were economically inefficient and required tyrannical and dictatorial governments in order to the colonies to proper. The life and legacy of Chief Justice Lord Mansfield should be viewed from this perspective, because Lord Mansfield attempted to reform Great Britain's commercial law. To do this, Lord Mansfield applied many equitable remedies for merchants who had been cheated and victimized by rigid interpretations of mercantilist contracts. From this perspective, the Case of *Somerset v. Stewart* (1772) should be seen as a part of Lord Mansfield's larger efforts to reform Great Britain's commercial law.

Both slavery and the transatlantic slave trade, which had undergird that mercantilist system, could not be supportable by the British constitution—at least not in England. In the new United States, abolitionists such as American Methodist leaders Bishop Thomas Coke,[34] Bishop Francis Asbury, [35] Frederick Douglass,[36] and many others could rely upon the *Somerset* decision or similar rationale to advocate that neither the revealed law of the Christian religion or the natural law of

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[34] The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., http://consulthardesty.hardspace.info/wp-content/uploads/2016/09/Hardesty-timeline-Rev10.pdf, stating:

> 9 April 1785 Coke and Asbury personally inform General Washington (four years prior to his election as President) of their opposition to slavery. Coke is stalked by an assassin - then violently threatened in Virginia - for equating slavery with injustice. Instead of accepting a bounty for giving Coke a hundred lashes with the whip, a local magistrate – after hearing the evangelist preach in a barn – emancipates his 15 slaves. A chain reaction ensues, wherein perhaps an additional nine souls are freed from servitude.
>
> Coke organizes church members in North Carolina to petition their legislature that manumission become legal. Failing, Coke returns to Virginia to lead calls for legislative change. This effort too is unsuccessful. Two counties set out indictments against him.

[35] The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., "The Long Road: Francis Asbury and George Washington," (October 1, 2015), https://www.francisasburytriptych.com/francis-asbury-and-george-washington/

> For example, in 1785, Methodists superintendents Bishop Francis Asbury and Thomas Coke met personally with future President George Washington at his home at Mount Vernon. They both asked Gen. Washington to sign their abolition petition to be submitted to Virginia legislature. Gen. Washington stated that he shared their abolition sentiments but felt that it would not be appropriate for him to sign any petition, but that if the Virginia legislature brought the matter to the floor, then he would give his opinion on the subject.

[36] Frederick Douglass, *Autobiographies* (New York, N.Y.: The Library of America, 1995)("Reception Speech at Finsbury Chapel, Moorfields, England, May 22, 1846), pp. 399 - 409.

human reason supported the "odious" institution of African slavery. For one thing, the *Somerset* decision (1772) predated the *Declaration of Independence* (1776) by four years, and the U.S. Constitution (1787) by fifteen years.[37] At the time of the American founding fathers would have been adequately forewarned that the institution of African slavery was unchristian, immoral and both socially and economically catastrophic.[38] For this reason, in light of Lord Mansfield's *Somerset* holding, the biblical position of American Christians who held Africans in slavery after the year 1787 was inexcusable.[39]

THE END

[37] See Appendix A and B.

[38] See, generally, Adam Smith, *The Wealth of Nations* (New York, N.Y.: The Modern Library, 1937); Thomas Jefferson, *Writings* (New York, N.Y.: The Modern Library, 1984), pp. 288 – 289 ("There must doubtless be an unhappy influence on the manners of our people produced by the existence of slavery among us…. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are not to be violated but with his wrath? Indeed I tremble for my country when I reflect that God is just: that his justice cannot sleep for ever: that considering numbers, nature and natural means only, a revolution of the wheel of fortune, an exchange of situation, is among possible events: that it may become probable by supernatural interference! The Almighty has no attribute which can take side with us in such a contest.")

[39] See Attachments A and B.

Bibliography:

Smith, Adam. *The Wealth of Nations*. New York, N.Y.: The Modern Library (1937).

Smith, Goldwin. *A History of England*. New York, N.Y.: Charles Scribner's Sons (1957).

Tindal, Matthew. *Christianity as Old as the Creation: or the Gospel a Republication of the Religion of Nature*. London, England: Forgotten Books (2012).

Wikipedia On-Line: "William Murray, 1st Earl of Mansfield"; "Somerset v. Stewart."

Witherspoon, John. *Lectures on Moral Philosophy*. Princeton, N.J.: Princeton Univ. Press (1912).

References:

Aquinas, Thomas (Saint). *Summa Theologica.* New York, NY: The Catholic Primer (2005).

Augustine, Aurelius (Saint). *Confessions*. New York, N.Y.: Barnes & Nobles Classics (2007).

_____. *On Grace and Free Will*. Louisville, KY: GLH Publishing (2017).

_____. *The City of God*. New York, NY: The Modern Library (1950).

Bode, Carl. *The Portable Emerson*. New York, NY: Penguin Books (1981).

Burtt, Edwin A. *The English Philosophers From Bacon To Mill*. New York, NY: The Modern Library (1967).

Butler, Joseph. *Analogy of Religion, Natural and Revealed, to the Constitution and*

Course of Nature (1736).

Catechism of the Catholic Church (New York, NY: Doubleday, 1997).

Crapsey, Algernon Sidney. *Religion and Politics*. New York, N.Y.: Thomas Whittaker (1905).

Daniell, Timothy Tyndale. *The Lawyers: The Inns of Court: The Home of the Common Law*. New York, N.Y.: Oceana Publications, Inc. (1976).

Doe, Norman. *Christianity and Natural Law*. Cambridge, U.K.: Cambridge Univ. Press. (2017).

Ford, Roderick. *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity*. Tampa, Fl.: Xlibris Pub. (2015).

Jefferson, Thomas. *Jefferson Writings*. New York, N.Y.: The Library of America (1984).

Paine, Thomas. Collected Writings. New York, N.Y.: The Library of America (1995).

Russell, Bertrand. *A History of Western Philosophy*. New York, NY: Touchstone, (2007).

Smith, Adam. *The Wealth of Nations*. New York, N.Y.: The Modern Library (1994).

Smith, Goldwin. *A History of England*. New York, N.Y.: Charles Scribner's Sons (1957).

The Federalist Papers. Nashville, TN: Thomas Nelson, Inc. 2014.

Warburton, William. *An Alliance of Church and State* (1736).

Witte, John, Jr. and Frank S. Alexander. *Christianity and Law: An Introduction*. Cambridge, UK: Cambridge Press, 2008.

Woods, Thomas E. *How The Catholic Church Built Western Civilization*. Washington, D.C.: Regnery Publishing, Inc., 2005.

APPENDIX A

"MERCANTILISM, POSITIVE LAW, AND SLAVERY IN THE BRITISH EMPIRE, 1770 – 1833"

By
Roderick O. Ford, Litt.D.

A High-Church Anglican and a Tory politician, William Murray, 1st Earl of Mansfield, sought to ameliorate British commercial law by subjecting it to the dictates of reason, fairness and natural justice. In other words, Lord Mansfield sought to tame British commercial law by applying principles of equity (i.e., common sense justice and fairness) to commercial transactions between merchants. Stated differently, Lord Mansfield endeavored to apply Christian principles—through the doctrine of equity—to British mercantilist law.

Church ←---→ State ←---→ Capitalism

Indeed, Lord Mansfield was the Chief Justice of England and Wales from 1756 to 1788, during a time period when the First British Empire was at its peak and when global British mercantilism dominated the high seas and three continents. Since the collapse of the South Sea Company in 1720, and the proliferation of both slavery and the transatlantic slave trade within Britain's overseas colonies, Lord Mansfield's mission as England's chief judge was to clean-up and to improve Britain's corrupt commercial transactions system and to make the court system much more efficient. "An English Chief Justice of the King's Bench for over three decades, Scottish jurist William Murray, Lord Mansfield is noted for devising the foundational rules and regulations that **established equity** in the British **system of business law**, including rules regarding bills of exchanges, promissory notes, and bank checks. Among Murray's most lasting contributions are the creation of the marine insurance system and the concept of restitution, in which an injured party is made whole through the restoration of damaged or stolen property or its equivalent."[1] "Equity" is that ancient system of justice derived from the canon

[1] https://www.encyclopedia.com/people/social-sciences-and-law/law-biographies/william-murray-1st-earl-mansfield

laws of the Roman Catholic Church and the Church of England[2] (i.e., the "law of Christ.").[3] Therefore, in order to put Lord Mansfield's most significant judicial opinion in the Case of *Somerset v. Stewart* (1772) into a proper historical context, we should remember that African slavery and the transatlantic slave trade were thus part and parcel of a corrupt British mercantilist system which Lord Mansfield sought to meliorate through incorporating **principles of equity** into **British commercial law**.

The foundation of African slavery in the British Empire was the human contrivance of British, West Indian, and American merchants, finance capitalists, and investors who were powerful and influential enough to enact "positive laws" through Parliament or colonial legislatures. But these "positive laws" were essentially mercantilist laws that violated the law of "reason" and the law of nature. Thus describing this mercantilist system in the case of *Somerset v Stewart* (1772) 98 ER 499, Lord Mansfield held:

> The state of slavery is of such a nature that it is incapable of being introduced on ***any reasons***, **moral or political**, but only by positive law, which preserves its force long after the reasons, occasions, and time itself from whence it was created, is erased from memory. It is so **odious**, that nothing can be suffered to support it, but positive law. Whatever inconveniences, therefore, may follow from the decision, I cannot say this case is allowed or approved by the law of England; and therefore the black must be discharged.

Here, Lord Mansfield's analysis was simply another way of saying that the institution of slavery violated "natural moral law" as well as the "law of Christ."[4] In modern constitutional language, this would be another way of saying that the institution of slavery violated "**substantive due process or law**" or the "**fundamental law**." Indeed, in modern constitutional discourse in the United States, American judges and justices use words such as "shock the conscience" when describing federal constitutional violations of "fundamental law" or "substantive due process of law." In 1772, Lord Mansfield used a similar terminology: "odious" and "any reasons, moral or political" to express the same

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[2] See, e.g., Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015).

[3] The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

[4] Ibid.

constitutional meaning. It is largely for this reason that Lord Mansfield's holding in *Somerset* catapulted the abolitionist movement in North America, and perhaps laid the foundation of American civil rights jurisprudence.

For the Christian church—especially Christian lawyers and judges—it is important to understand the dichotomy between "positive laws" and the laws of nature (i.e., the natural moral law or the law of Christ), and their respective relations one towards the other. And here I should state that "equity" is not "positive" law but it is the "natural moral law" or the "law of reason" or the "law of Christ.").[5] Lord Mansfield's great mission was to apply principles of equity to complex commercial transactions, throughout the British Empire, in order to make those transactions more humane, equitable, and just. The institution of slavery came within this equitable jurisdiction in the *Somerset* case. If nothing else, Christian lawyers and judges should take away from this paper the fact that "**equity is the law of Christ**,"[6] and "fundamental law" and (or) "substantive due process of law" are essentially constitutional principles in equity. They operate as equitable maxims applied as "Higher Law" within Anglo-American constitutional law. I believe that when Lord Mansfield issued his opinion in the *Somerset* case, he unleashed an avalanche of protests from Christian apologists, abolitions, theologians, and pastors, who wished to see the institution of African slavery, together with the African slave trade, subordinated to natural moral law (i.e., the "law of Christ"), and thereby totally abolished.

Modern "Higher Law" doctrine within Anglo-American jurisprudence is fundamentally Christian,. In the Christian world, it was widely held that human "positive" laws were subordinate to the "law of Christ" [7] (including, therewith, the "laws of nature" or the "laws of reason"). This was the theological foundation of St. Augustine of Hippo's philosophy of "nature" and of St. Thomas Aquinas' legal system: Eternal law ---→ Divine law ---→ Natural law ---→ Human law. Commercial laws, the laws of commerce, economics and finance, etc., had prior to the 18th century been strongly regulated by the moral theology of the Church, such as theological teachings against oppression, fraud and usury. [8] At the same time,

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[5] See, e.g., Roderick O. Ford, *Jesus Master of Law: A Juridical Science of Christianity and the Law of Equity* (Tampa, FL.: Xlibris Pub., 2015).

[6] Ibid. ("The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).")

[7] Ibid.

[8] See, e.g., Roderick O. Ford, *Jesus Master of Law* (Tampa, FL: Xlibris, 2015), pp. 11-14. (In the ***Book of Isaiah***, there is the forewarning against "unjust gains from oppression," "bribery," and "oppression of the poor, the needy,

Sir Edward Coke's natural-law holding in *Dr. Bonham's Case* 8 Co. Rep. 107, 77 Eng. Rep. 638 (1610) was still very much the supreme law in England, to wit: "

> And it appears in our books, that in many cases, the common law will control Acts of Parliament, and sometimes adjudge them to be utterly void; for when an act of Parliament is against **common right and reason**, or repugnant, or impossible to be performed, the common law will control it, and adjudge such an Act to be void….
>
> Reason is the life of the law; nay, the common law itself is nothing else but reason… The law, which is perfection of reason.

Here, using the same holding regarding "common right and reason" as in *Dr. Bonham's Case* (1610), it may be said that Lord Mansfield, in his efforts to root corruption and inefficiencies out of the British legal system, was also saying in *Somerset v Stewart* (1772) that the institution of slavery violated the law of reason and thus the common law and constitution of England.

No Parliamentary statute supported the institution of slavery in England; and, for that reason, Lord Mansfield concluded that the institution of slavery could not exist, as a matter of law, in England. The *Somerset* case held, however, that only "positive law" could support the institution of slavery, but the *Somerset* case

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and the innocent." In the ***Book of Jeremiah***, the prophet observed many Jews becoming rich through craftily exploiting the needy, the fatherless, and the innocent. "For among my people," Jeremiah observed, "are found wicked men: they lay wait, as he that setteth snares; they set a trap, they catch men. As a cage is full of birds, so are their houses full of deceipt: therefore they are become great, and waxen rich." In the ***Book of Ezekiel***, the prophet charges that many in Jerusalem committed "dishonest gain"; "[h]ath oppressed the poor and needy, hath spoiled by violence…."; have "dealt by oppression with the stranger: in thee have they vexed the fatherless and the widow'; and "have they taken gifts to shed blood; thou has taken usury and increase, and thou has greedily gained of they neighbours by extortion, and hast forgotten me, saith the Lord GOD." In the ***Book of Hosea***, the prophet described Israel as "a merchant, the balances of deceipt are in his hand: he loveth to oppress…. [saying] I am become rich…." In the ***Book of Amos***, "[b]usiness is booming and boundaries are bulging. But below the surface, greed and injustice are festering. Hypocritical religious motions have replaced true worship, creating a false sense of security and a growing callousness to God's disciplining hand." Amos does not consider Israel's material success to be honest or honorable, considering the fact that there is much affliction of the poor and needy. He charges Israel with having oppressed the poor and the needy. He forewarns the wealthy in Israel that there shall be consequences for their economic transgressions. In the ***Book of Micah***, the prophet charges his fellow Judeans as being economically oppressive and evil. "For the rich men thereof," says Micah, "are full of violence, and the inhabitants thereof have spoken lies, and their tongue is deceiptful in their mouth." The result was, as Micah noted, widespread injustice, economic oppression, religious hypocrisy, and the social disintegration within Judean society. In the ***Book of Habakkuk***, the prophet notices economic injustices in the southern kingdom of Judah. He described the poor, who were victims of all sorts of crafty economic injustices in the southern kingdom of Judea, and he proclaims "[w]oe to him that increaseth that which is not his!" And finally, in the New Testament, there is Jesus' **Parable of the Rich Man and Lazarus (Luke 6;46-49)**, the Beatitudes, and the "Law of Christ" which further set the theme that true religion means, among other things, alleviating the manacles of economic injustice.

was silent as to **whether such "positive laws" that created the institution of slavery must be "void" under the English common law (or constitutional law)**. Powerful British and American merchants certainly did not want such an interpretation that placed the "law of nature or the law of reason" above their very profitable "positive" laws of commerce, slavery, and slave trade. But following the *Somerset* decision in 1772, more and more American abolitionists pushed for the complete abolition of slavery on the expressed grounds that slavery violated natural law, natural rights, the law of reason, and, therefore, the fundamental laws of England.[9] See, e.g., Table 1, below.

Table 1. Thomas Woods in *Institutes of the Laws of England* (1720)

"As Law in General is an Art directing to the Knowledge of Justice, and to the well ordering of civil Society, so the Law of England, in particular, is an Art to know what is Justice in England, and to preserve Order in that Kingdom: And this Law is raised upon … principal Foundations.

1. Upon the ***Law of Nature***, though we seldom make Use of the Terms, *The Law of Nature*. *But we say, that such a* ***Thing is reasonable***, *or* ***unreasonable****, or against the….*

2. Upon the **revealed Law of God**, Hence it is that our Law punishes Blasphemies, Perjuries, & etc. and receives the Canons of the Church [of England] duly made, and supported a spiritual Jurisdiction and Authority in the Church [of England].

3. The third Ground are several general *Customs*, these Customs are properly called the *Common Law*. Wherefore when we say, it is so by **Common Law**, it is as much as to say, by common Right, or of common Justice.

Indeed it is many Times very difficult to know what Cases are grounded on the ***Law of Reason***, and what upon the *Custom* of the Kingdom, yet we must endeavor to understand this, to know the perfect Reason of the Law.

Rules concerning *Law*

The *Common Law* is the **absolute Perfection of *Reason***. For nothing that is contrary to Reason is consonant to Law

Common Law is common Right.

The Law is the Subject's best **Birth-right**.

9

The Law respects the **Order of Nature**…."

Source: Thomas Wood, LL.D., *An Institute of the laws of England: or, the Laws of England in their Natural Order* (London, England: Strahan and Woodall, 1720), pp. 4-5.

The question then became: Does the English common law doctrine of "life, liberty and property (i.e., the pursuit of happiness)" as expressed in the American *Declaration of Independence* (1776), apply to African slaves and freedmen, and thus rendered "void" all positive laws which upheld American slavery?

The holding in *Dred Scott v. Sanford*, 60 U.S. 393 (1857) held that this common-law doctrine did not apply to African Americans. However, American abolitionists, since the late 1770s up to the time of Abraham Lincoln and Frederick Douglass, claimed that it did.[10] In other words, the fundamental question regarding the institution of slavery—addressed in the *Somerset* case (1772)—but which was not addressed explicitly, was whether the English common law doctrine of "life, liberty, property"—which was stated and restated in its constitutional documents such as *Magna Carta* (1215), *Right of Petition* (1628), and the *English Bill of Rights* (1689); and re-stated in the American *Declaration of Independence* (1776)—applied to the "positive" laws that regulated commerce, slavery, and the slave trade.[11]

[10] See, e.g., Abraham Lincoln's statement in the Lincoln-Douglas debate, stating:

> I have never said anything to the contrary, but I hold that, notwithstanding all this, **there is no reason in the world why the negro is not entitled to all the natural rights enumerated in the Declaration of Independence, the right to life, liberty, and the pursuit of happiness**. [Loud cheers.] I hold that he is as much entitled to these as the white man. I agree with Judge Douglas he is not my equal in many respects-certainly not in color, perhaps not in moral or intellectual endowment. But in the right to eat the bread, without the leave of anybody else, which his own hand earns, he is my equal and the equal of Judge Douglas, and the equal of every living man. [Great applause.]

Abraham Lincoln, "First Lincoln-Douglas Debate," Ottawa, Illinois (August 21, 1858).

[11] The real frightening question, even today, for those who up-hold the constitutional doctrine of the "separation of church and state," is that both the Declaration of Independence's assertion of "life, liberty and the pursuit of happiness" and the U.S. Constitution's references to "due process of law" will be equated with, and interpreted to mean "natural moral law" or the "law of Christ." Such an interpretation of the United States Constitution would not only subject America's commercial system to natural religion (i.e., Christianity) but turn the doctrine of the separation of church and state upside down on its head.

Indeed, it was quite clear that the "law of Christ"[12] was deeply sewn into the foundations of English jurisprudence, to wit:

The Law of Nature in Anglo-American Constitutional Law

"Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets."

– Jesus of Nazareth (1 – 33 A.D.) [13]

"The first branch of which rule containeth the first and fundamental law of nature; which is, to seek peace and follow it. The second, the sum of the right of nature; which is, by all means we can, to defend ourselves…. This is that law of the Gospel: whatsoever you require that others should do to you, that do ye to them."

– Thomas Hobbes (1588 -1679)

"The state of nature has a law of nature to govern it, which obliges everyone; and reason, which is that law, teaches all mankind who will but consult it, that, being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."

– John Locke (1632 – 1704)

"[W]hat is Justice in England… is raised upon… principal Foundations…. Upon the Law of Nature, though we seldom make Use of the Terms, The Law of Nature. But we say, that such a Thing is reasonable, or unreasonable…."

– Thomas Wood, *Institutes of the Laws of England* (1720)

"This law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe in all countries, and at all times: no human laws are of any validity, if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately, from this original."

– William Blackstone, *Commentaries on the Laws of England* (1753)

[12] The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

[13] Ibid.

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.-- … In every stage of these Oppressions We have Petitioned for Redress in the most humble terms: Our repeated Petitions have been answered only by repeated injury. A Prince whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people…. And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor."

– Thomas Jefferson, *Declaration of Independence* (1776)

The American Revolutionary War generation, both in England and in the American colonies, certainly interpreted the *Somerset* case in a manner that applied the supremacy of natural law (i.e., general equity) to positive laws—including even written constitutional texts. As "the law of reason" was superior to the text of the Sacred Scriptures (or at least not inconsistent with it), so, too, would the "law of reason" be superior to the text of all written statutes and laws, including the written texts of constitutional laws. Indeed, American abolitionists would hold the colonial laws and charters to the standards of "higher law," or the law of reason:

> The *Somerset* case became a significant part of the common law of slavery in the English-speaking world, and helped launch a new wave of abolitionism. Lord Mansfield's ruling contributed to the concept that slavery was contrary "both to natural law and the principles of the English Constitution", a position adopted by abolitionists.
>
> The case of *Knight v Wedderburn* in Scotland began in 1774 and was concluded in 1778, with a ruling **that slavery had no existence in Scottish common law**. Some lawyers thought that similar determinations might be made in British colonies, which had clauses in their Royal charters requiring their laws not to be contrary to the laws of England; they usually contained qualifications along the lines of "so far as conveniently may be". Activists speculated that the

principles behind Lord Mansfield's decision, might demand a rigorous definition of "conveniently", if a case were taken to its ultimate conclusion. Such a judicial ruling never took place as the Thirteen Colonies gained independence by 1783 and established laws related to slavery, with the northern states abolishing it, several gradually….

Thirteen Colonies and United States

The *Somerset* case was reported in detail by the American colonial press. In Massachusetts, several slaves filed freedom suits in 1773–1774 based on Mansfield's ruling; these were supported by the colony's General Court (for freedom of the slaves), but vetoed by successive Royal governors. As a result, some individuals in pro-slavery and anti-slavery colonies, for opposite reasons, desired a distinct break from English law in order to achieve their goals with regard to slavery.

Beginning during the Revolutionary War, northern states began to abolish or rule against maintaining slavery. Vermont was the first in 1777, followed by Pennsylvania (1780), Massachusetts (1783) and Connecticut (1784). In Massachusetts, rulings related to the freedom suits of *Brom and Bett v Ashley* (1781) and Quock Walker (1783) in county and state courts, respectively, resulted in slavery being found irreconcilable with the new state constitution and ended it in the state. In this sense, the Walker case is seen as a United States counterpart to the *Somerset* Case.

In the case of Quock Walker, Massachusetts' Chief Justice William Cushing gave instructions to the jury as follows, indicating the end of slavery in the state:

> As to **the doctrine of slavery** and **the right of Christians to hold Africans in perpetual servitude**, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage – a usage which took its origin from the practice of some of the European nations, and **the regulations of British government** respecting the then Colonies, **for the benefit of trade and wealth**. But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of

> America, more favorable to the natural rights of mankind, and to that natural, innate desire of Liberty, with which Heaven (without regard to color, complexion, or shape of noses-features) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal – and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property – and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract ...

> After the American Revolution, the *Somerset* decision 'took on a life of its own and entered the mainstream of American constitutional discourse' and was important in anti-slavery constitutionalism.[14]

But what blocked this natural application of constitutional law and constitutional principle of "life, liberty, and pursuit of happiness"—deeply rooted, as we have seen, in the Christ's "Sermon on the Mount"[15] —to the American colonies, the British West Indies, and, later, to the new United States? It was British mercantilism and, later, American capitalism, that perpetuated the legal fiction that "positive" laws could supplant the laws of nature, reason, and conscience:

> The **slave merchants** who funded Stewart's defence were not anxious about James Somerset or the relatively limited number of slaves in Great Britain but about how abolition might affect their overseas interests. In the end, merchants could continue trading slaves for 61 years after Lord Mansfield's decision. Commentators have argued that the decision's importance lay in the way it was portrayed at the time and later by the newspapers, with the assistance of a well-organised abolitionist movement.[16]

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[14] https://en.wikipedia.org/wiki/Somerset_v_Stewart#Influence_in_Great_Britain_and_colonies
[15] Matthew 7:12 ("Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.").
[16] https://en.wikipedia.org/wiki/Somerset_v_Stewart#Influence_in_Great_Britain_and_colonies

The institution of African slavery in the United States, then, was a "positive" law, crafted by merchants and their "Whig"[17] politicians, and administered by their lawyers and judges, and justices and attorneys generals of the several states—it was a "positive" law designed to promote the financial interests of merchants and commerce in the United States.

In American legal history, "positive law," and the doctrine of *legal positivism* have had the tendency to supplant the American *Declaration of Independence* as well as the Due Process clause of the U.S. Constitution—i.e., "higher law" of the constitution. The tendency of legal positivism is to remove the sovereignty of the "laws of nature and of Nature's God" from constitutional discourse. However, what Christians lawyers and judges really mean, when they say the "laws of nature and of Nature's God," is that certain laws or public policies will have evil consequences—very evil consequences—if they are not abrogated, or made subordinate to the laws of nature, reason, and conscience (i.e, the "law of Christ").

Hence, the "laws of nature and of Nature's God" imposes upon human beings a "necessity," without which human beings and civilization could well-nigh cease to exist. An extreme example would be law that requires a local school district to serve gasoline to school children during lunch time—the "laws of nature" would render such policy both irrational and unreasonable, because it would certainly lead to the death of the school children. And so, in general terms, this idea of God's sovereignty and providence is deeply-rooted in classical ideals of natural law within the western theological and legal tradition. See, e.g., W.E.B. Du Bois, who writes: "For it is certain that all human striving must recognize **the hard limits of natural law**, and that **any striving, no matter how intense and earnest, which is against the constitution of the world, is vain**."[18] And so, in my law school thesis, titled *The American Jurist: A Natural Law Interpretation of the U.S. Constitution, 1787 – 1910* (submitted at the University of Illinois College of Law), my inquiry was to look at whether the decisions of the U.S. Supreme Court, or any lower state or federal court, that violates "natural moral law," lead to disastrous consequences within the social order. During the historical period in

[17] Here, the term "Whig" is used loosely to refer to an ideology among British and American politicians who sought to weaking the established Church of England and to promote global commercial expansion, including the expansion of slavery and the slave trade.
[18] W.E.B. Du Bois, *Writings* (New York, N.Y.: The Library of America, 1986).

question, I looked primarily at cases that regulated (a) African slavery; (b) monopoly capitalism; and (c) relations between management and labor.

But here, we shall briefly explore "natural law" as it related to the economics of African slavery, and what these economic laws displayed, over and again, what that the institution of slavery is economically unsound and cannot exist without the civil government resorting to dictatorial and despotic measures. In summary, American slavery failed because if fundamentally violated the "natural laws" of economics.

For example, Adam Smith's *The Wealth of Nations* (1776) contained within it a prophetic prediction that the nature, essence, and inner workings of African slavery in the Americas was destined to drive out and destroy the rights of European or white labor. Hence, the conflict between free white labor and slave labor becomes axiomatic; and, the slave-based economic system must supplant that based upon free labor, or vice versa. In order for slave labor to flourish, the government must protect the natural rights of slaves, or else the master class naturally would exploit the slave class, making it less fruitful or productive that a system based upon free labor.

Here we find Adam Smith's natural law of laisse-faire (i.e., the law of Christ) plainly demonstrated. If slave labor is to be economically efficient, it must be adequately protected by a strong and arbitrary government. Such a strong and arbitrary government, says Smith, must be strong enough to depose slave masters or the master class, by regulating their property and property rights. Such a strong and arbitrary government must be somewhat dictatorial, such as a strong king or emperor. Smith gives an example:

> That the condition of a slave is better under an arbitrary than under a free government, is, I believe, supported by the history of all ages and nations. In the Roman history, the first time we read the magistrate interposing to protect the slave from the violence of his master, is under the emperors. When Vedius Pollio, in the presence of Augustus, ordered one of his slaves, who had committed a slight fault, to be cut into pieces and thrown into his fish-pond in order to feed his fishes, the emperor commanded him, with indignation, to emancipate immediately, not only the slave, but all the others that belonged to

> him. Under the republic no magistrate could have had authority enough to protect the slave, much less to punish the master.[19]

Here it should be emphasized that, according to Adam Smith, a republic, such as the one then proposed by the colonists of British North America, does a very poor job of protecting the rights of slaves; and, thereby, preserving the productivity of the system of slavery above the economic advantages of a system based upon free labor. The reason for this says Smith, is that under a republican form of government, the master class controls all of the reigns of power—legislative, judicial, and executive. Under such a governmental system, i.e., a republican form of government controlled by a master class, the rights of slaves become more or less disregarded:

> In every country where the unfortunate law of slavery is established, the magistrate, when he protects the slave, intermeddles in some measure in the management of the private property of the master; and, in a free country, where the master is perhaps either a member of the colony assembly, or an elector of such a member, he dare not do this but with the greatest caution and circumspection. The respect which he is obliged to pay to the master, renders it more difficult for him to protect the slave.[20]

But where, as in the Southern United States, the master class took complete control over the republican forms of government, the rights of African American slaves were wholly in jeopardy and subject to the arbitrary power of the master class. Under such a system, argued Smith, the inefficiencies that must grow from such depressed or distressed slave labor must render a colony or state far less productive that an economic system based upon free labor. Therefore, concludes Smith, "the good management of their slaves," and "the good conduct of the colonists" were essential to "the prosperity of the sugar colonies."[21] The French sugar colonies were superior to the English sugar colonies, says Smith, because the former maintained "the good management of their slaves"[22] and "a better management of their negro slaves."[23] Now it is clear that Smith does not mean that the slave master must employ devious and evil contrivances to extract the most blood, sweat

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[19] Ibid., p. 554.
[20] Ibid., p. 553.
[21] Ibid., p. 555.
[22] Ibid.
[23] Ibid., p. 553.

and tears from the slaves, but rather that the conditions of the slaves must be raised to standards that approach those of free laborers, to wit:

> **Gentle usage** renders the slave not only **more faithful**, but **more intelligent**, and therefore, upon a double account, **more useful**. He approaches more to **the condition of a free servant**, and may possess **some degree of integrity and attachment to his master's interest**, **virtues frequently belong to free servants**, but which never can belong to a slave, who is treated as slaves commonly are in countries where the master is perfectly free and secure.[24]

Here we find in Adam Smith's economic theory the "law of Christ" made manifest in the economic relations between human beings, and his conclusions were that the *just* and *humane treatment* of servants renders them much more productive than the *unjust* and *inhumane treatment* of those servants. In other words, Adam Smith concluded that the system of slave labor is both "unfortunate"[25] and demands an "arbitrary government"[26] in order to work properly. Hence, Smith also concluded that a "republican" form of government is not conducive to a properly-functioning slave system, because republics do a very poor job[27] in protecting the fundamental human rights of slaves.[28] And where the fundamental rights of slaves are not adequately protected, the laws of economic inefficiencies will eventually kill the economy of slavery, thus rendering institution of slavery far less productive than similarly-situated economies based upon free labor, or where slaves are guaranteed human rights. Hence, all of this demonstrated, according to the Calvinist-Presbyterian Adam Smith, the providential hand of God in economic relations: human slavery was both unnatural and far less productive that free labor.

In the United States of America, from the period 1787 to 1865, which covers the ratification of the United States Constitution up through the end of the U.S. Civil War, the economic laws which Adam Smith explained in his classic work *The Wealth of Nations* (1776) were plainly demonstrated.[29] The debased, cheap

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[24] Ibid., p. 554.
[25] Ibid., p. 553. (Smith describes this slave system as "the unfortunate law of slavery.")
[26] Ibid. (Smith says that rights of slaves can only be adequately protected "where the government is in a great measure arbitrary").
[27] Ibid., p. 554 ("Under the republic no magistrate could have had authority enough to protect the slave, much less to punish the master.")
[28] Ibid.
[29] Frederick Douglass has correctly observed that "a phase of slavery destined to become an important element in the overthrow of the slave system, and I may, therefore state them with some minuteness. That phase is this: the conflict of slavery with the interests of the white mechanics and laborers of the south." *Frederick Douglass*

labor of African American slaves posed as a direct threat to free white laborers at the South.[30] To make the system of African slavery productive, in order that the slave master class could earn a higher prophet, it was necessary to elevate the social conditions of the slaves and to treat the slaves more humanely (i.e., to raise their standards of living).[31] But when the American slave masters raised their slaves' standard of living (e.g., teaching them the skilled trades, and allowed some of them to hire themselves out to other employers, etc.), such acts of improvement posed a direct threat to the economic interests of free white laborers. Thus, in order to protect the economic interests of free labor (i.e., white workers), either African slaves must remained reduced to a status of chattel, in which case they would remain most unproductive, or freed and given the status of freedmen.

As the mid-19th century southern economy became more and more industrialized, the problem of skilled slavery became more and more acute.[32] The alternative method of suppressing African American slaves by reducing them to brutes proved economically unproductive, and required a very despotic and oppressive form of government (i.e., a police state) that also obliterated the civil rights of the poor or non-slaveholding whites. Antebellum state governments in the American South was not free governments, but were despotisms where the interests of free white laborers were crushed by the Slave Power who controlled highly-productive, skilled African slaves, with whom free white laborers could not compete. The end result was civil war, and the unfortunate system of African slavery in North America came to an end in 1865.

The fundamental point, then, which Adam Smith's *The Wealth of Nations* (1776) and very many others have made, is that liberty and freedom—including economic laws, commerce, barter, and trade—***contain within them the laws of nature*** (i.e., natural moral law; natural religion; or the "law of Christ"); and ***violating those laws***—even economic laws—whether ***sooner or later, will yield***

Autobiographies (New York, N.Y.: The Library of America, 1995), pp. 329-330. Similarly, W.E.B. Du Bois has stated that "a growing conviction on the part of the newly enfranchised white workingmen that one great obstacle in America was slave labor, together with the necessarily low status of the Freedmen. These economic reasons overthrew slavery." *The Gift of Black Folk* (Garden City Park, N.Y.: Square One Pub., 2009), p. 19.

[30] Ibid.

[31] Ibid.

[32] See, e.g., Lorenzo J. Greene and Carter G. Woodson, *The Negro Wage Earner* (Washington, D.C.: Wildside Press, 1930), pp. 15-17 ("This dissatisfaction and the migration resulting from the hiring out of slave mechanics deserve further comment. While this practice netted the owner a profitable return, and made the slave all but free in name, it worked a special hardship upon white mechanics by 'degrading them with such competition' and by throwing them out of employment.").

nothing but evil consequences.[33] Natural moral law, which is the law of Christ,[34] is the law of reason, and it governs all other human laws—whether secular or sacred; and this same natural moral law is still the *fundamental law* of the United States.[35]

THE END

[33] This idea of God's sovereignty and providence is deeply-rooted in classical ideals of natural law within the western theological and legal tradition. See, e.g., W.E.B. Du Bois, *Writings* (New York, N.Y.: The Library of America, 1986), p. 815 ("For it is certain that all human striving must recognize **the hard limits of natural law**, and that **any striving, no matter how intense and earnest, which is against the constitution of the world, is vain**.")

[34] The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgment (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).

[35] *Calder v. Ball*, 3 Dall 386 (1798)26 ; *Flether v. Peck*, 6 Cranch 87, 10 U.S. 87 (1810) ; *Terrett v. Taylor*, 13 U.S. 43 (1815) ; *Darcy v. Ketchum*, 52 U.S. 65 (1850); and *Butchers' Union, etc. Co. v Crescent Co*., 111 U.S. 746, 756 (1883); *Holy Trinity v. United States*, 143 U.S. 457 (1892); *United States v. Macintosh*, 283 U.S. 605 (1931)31 ; *Zorach v. Clauson*, 343 U.S. 306 (1952).

APPENDIX B

"PURITAN 'NEW METHODISM' AND SLAVERY IN COLONIAL BRITISH NORTH AMERICA, 1700 – 1785"

By

Roderick O. Ford, Litt.D.

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During the early 1700s, the *Holy Bible* was used in colonial Puritan New England to justify domestic slavery, but as the First Great Awakening (1730s-40s) brought ideas of natural theology, natural rights, and natural law into the region, many New Englanders—especially the "New Methodist" or Arminian-leaning Puritans[36]-- began to consider slavery and participation in the slave-trade as

[36] See, e.g. Richard P. Heitzenrater, *Wesley and The People Called Methodists* (Nashville, TN: Abingdon Press, 2013), p. 19 ("The primacy of grace was central to their position, though the implication of divine/human cooperation (synergism) led many to criticize the Arminians for stressing human activity in salvation…. As early s the 1670s, both the Low Countries and in England, a few orthodox Calvinists began to write vigorously against the Arminians and their 'new method' of doing theology, especially relative to their views of justification and sanctification. Those designated as **'New Methodists,'** persons using this new (that is, wrong) method included… Richard Baxter…. The Calvinist critics… saw the Arminian view of free will as laying too much emphasis upon the necessity of obedience to God's law even under the New Covenant, leading to 'neonomianism' (new legalism) and

unchristian. For this reason, many Puritans began to challenge the hermeneutical interpretations of several of the leading Puritans, Calvinists, or Presbyterians of colonial New England who owned slaves and participated in the transatlantic slave.

In other parts of colonial British North America and the West Indies, similar challenges were presented to other Christian denominations and sects outside of New England. For example, many Anglican clergymen who relied upon that same *Holy Bible*, were also implicated in participating in the same practices of slave-holding and slave trading.[37] The sin of colonial Puritan New England was that its Calvinism winked at usury, lending, profits, and investments is both slavery and the transatlantic slave trade.[38]

However, during the middle and later 1700s, just as ingenious ideals of natural religion and natural law were being developed, new data about the horrors of men-stealing off of the coast of Africa, the inhumane conditions of the Middle Passage, the savage beatings and mutilations of the African slaves on the West Indian plantations, and other similar horrors began to percolate up through the 18th-century news media, lecterns, pulpits, and legislative assemblies. The *Holy Bible* (i.e., the old Mosaic law), which the 17th-century Christian world might have looked to for a "Christian" justification for slavery, did not seem to parallel, correlate, or correspond with this newer version of human chattel-hood which 18th-century British mercantilism trade then presented.

Hence, in the minds of many Christians, especially the descendants of the Arminian Puritans known as the "New Methodists," both slavery and the transatlantic slave trade were unchristian, inhumane, unjust, and, for those very reasons, unconstitutional. This sect within the Church of England were originally

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reliance upon works-righteousness for salvation. The Arminians, however, saw the Calvinist view of predestination and election as dispensing with the demands of obedience, leading to 'antinomianism' (antilegalism) and consequent moral laxity.")

[37] The Calvinist Rev. Jonathan Edwards was placed in an awkward position of defending the Arminian Minister Rev. Benjamin Doolittle against charges brought against him by his Congregationalist Church because of Doolittle's slave-holding. See, e.g., Kenneth P. Minkena, "Jonathan Edward's Defense of Slavery," *Massachusetts Historical Review*, Vol. 4, Race & Slavery (2002), pp. 23 – 59. ("Whatever the combination of causes that motivated the venerable Captain Wright and his fellow Calvinists, **the awakenings created an atmosphere of heightened moral, even apocalyptic, urgency that provided the catalyst for their indictment of slave owning**. In this case, the pro-revival faction's objections against slave owning? objections they might otherwise have kept to themselves? became a weapon in their fight against their pastor and his opposition to the revivals. The debate over slavery could now be counted among the many issues that divided New Lights and Old Lights.)

[38] Whether the colonial Puritan New England's economic "sins" caused the Puritan church-state to collapse is a subject that is appropriate for further investigation on the part of a scholar who is also true orthodox Calvinists willing to give the subject an unbiased and detailed review.

16th-century Puritans who embraced the Arminian theological view. [39] Included within this "New Methodist" sect was the great Protestant schoolman Richard Baxter (1615 – 1691).[40] And Baxter's greatest Arminian-New Methodist heir and disciple, during the eighteenth century, was the Rev. John Wesley (1703- 1791), would formally organized the Methodist Movement into the greatest religious movement, in the Western world, of the 18th century.[41] Both Baxter and Wesley advanced a progressive "Puritan" or "New Methodist" critique of slavery which best reflected the scriptural (i.e., revealed religion) and the natural law (i.e., natural religion) interpretation of human slavery. In both methods of interpretation, the "law of Christ" (revealed religion) or the "golden rule" (natural religion) had to be applied to the treatment of the slaves. As such, Rev. Wesley, in his *Thoughts Upon Slavery* (1778) construed the West Indian and North American slavery and concluded that both systems were brutal violation of the laws of humanity and, therefore, should be abolished.

As we have previously discussed in Part L of this series, the evil effects of British mercantilism—consumerism, materialism, secularism, and the collapse of moral values—contributed significantly to the First Great Awakening in colonial British North American during the 1730s – 40s. Among other things, this Great Awakening helped to forge a new method of conceptualizing the Christian faith through the prism of natural religion, natural law, and reason. And this new conceptualization was particularly true when assessing whether the most vexing issue of the day—i.e., slavery and the transatlantic slave trade—met Christian standards. No longer were Christians satisfied that the Old Testament contained references condoning slavery under some circumstances. But instead, in addition to the *Holy Bible*, the Christian conscience could not be satisfied unless they could honestly concluded, with a clear conscience, that the practice of African slavery

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[39] See, e.g. Richard P. Heitzenrater, *Wesley and The People Called Methodists* (Nashville, TN: Abingdon Press, 2013), p. 19 ("The primacy of grace was central to their position, though the implication of divine/human cooperation (synergism) led many to criticize the Arminians for stressing human activity in salvation…. As early s the 1670s, both the Low Countries and in England, a few orthodox Calvinists began to write vigorously against the Arminians and their 'new method' of doing theology, especially relative to their views of justification and sanctification. Those designated as **'New Methodists,'** persons using this new (that is, wrong) method included… Richard Baxter…. The Calvinist critics… saw the Arminian view of free will as laying too much emphasis upon the necessity of obedience to God's law even under the New Covenant, leading to 'neonomianism' (new legalism) and reliance upon works-righteousness for salvation. The Arminians, however, saw the Calvinist view of predestination and election as dispensing with the demands of obedience, leading to 'antinomianism' (antilegalism) and consequent moral laxity.")

[40] Ibid.

[41] See, generally, Richard P. Heitzenrater, *Wesley and The People Called Methodists* (Nashville, TN: Abingdon Press, 2013).

and the transatlantic slave trade, as practiced during the 1700s, were compliant with standards of the "law of reason"-- natural moral law, natural religion, equity, justice, and the like. For instance, the Calvinist divine and president of Princeton College, Rev. Dr. Samuel Stanhope Smith, had reached the conclusion that "[t]rue religion, and true philosophy must ultimately arrive at the same principle"[42] and this idea was fairy well settled position of most Christian sections within the Anglo-American world. Revealed and natural religion more and more came to mean the same thing, and to achieve the same purpose. Natural law also represented the "golden rule,"[43] the "law of Christ,"[44] or the "law of equity."[45] In other words, the belief that "Christianity is a republication of natural religion"[46] and that the "law of reason" is the "law of nature" were the settled views of most Anglo-American theologians and political philosophers (including Calvinists Rev.

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[42] "Samuel Stanhope Smith," https://en.wikipedia.org/wiki/Samuel_Stanhope_Smith

> Smith was the first systematic expositor of Scottish Common Sense Realism in America. An empiricist in his anthropology and a Lamarckian before Lamarck, he sought to mediate between science and religious orthodoxy.
>
> In his work, **Stanhope Smith expressed progressive views on marriage and egalitarian ideas about race and slavery**. The second edition of his *Essay on the Causes of Variety of Complexion and Figure in the Human Species* (1810) became important as **a powerful argument against the increasing racism of 19th-century ethnology**. **He opposed the racial classifications of naturalists such as Johann Friedrich Blumenbach, Georges-Louis Leclerc, Comte de Buffon, and Carl Linnaeus.** In this text, his attempt to explain the variety of physical appearances among humans involved a strongly environmental outlook. **An example he provides involves "the blacks in the southern states." Smith noted that field slaves had darker skin pigmentation and other "African" features than did domestic slaves, and hypothesized that exposure to white, European culture through their "civilized" masters had changed their anatomy as well**.
>
> In Smith's essay titled *Essay on the Causes of Variety of Complexion and Figure in the Human Species*, Smith claimed that **Negro pigmentation was nothing more than a huge freckle that covered the whole body as a result of an oversupply of bile**, which was caused by tropical climates. In this essay Smith described the basic concept of sexual selection, this was before Charles Darwin later popularized the theory. Smith is also known for his attempt to refute Thomas Jefferson's claim in *Notes on the State of Virginia*, that there were no great black writers or artists. In it, he attacked Jefferson's disregard of poetic abilities of Phillis Wheatley, African slave prodigy. Noah Webster cited Stanhope Smith in Webster's 1828 *Dictionary in the definition of philosophy*. The citation was from Stanhope Smith's second edition of his *Essay on the Causes of Variety of Complexion and Figure in the Human Species* (1810). The quote as given, **"True religion, and true philosophy must ultimately arrive at the same principle."**

[43] Matthew 7:12 ("Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.")
[44] The fundamental "Law of Christ," to wit, is to "love ye one another" (John 15:12); to do justice and judgement (Genesis 18:18-19; Proverbs 21: 1-3); to judge not according to appearance but to judge righteous judgments (John 7:24); and to do justice, judgment, and equity (Proverbs 1:2-3).
[45] Ibid.
[46] See, e.g., Matthew Tindal, *Christianity as Old as the Creation* (1730); William Warburton, *The Alliance of Church and State* (1736); and Joseph Butler, *The Analogy of Religion* (1736).

Jonathan Edwards (1703 – 1758); Rev. Dr. John Witherspoon (1723 - 1794); and Rev. Dr. Samuel Stanhope Smith (1751 - 1819)) during the late 18th century, as well as Puritan "New Methodists" such as Rev. John Wesley (1703 - 1791).

A. Rev. Richard Baxter (1615 – 1691)

To best understand the "Methodist" theological underpinnings of Rev. Wesley's view of slavery, as he articulated it in *Thoughts Upon Slavery*, we should first review the Arminian Puritan and "New Methodist" theologian and pastor, Rev. Richard Baxter's (1615 – 1691). Indeed, Rev. John Wesley and the Oxford Methodists of the early 18th century, were actually the Arminian disciples of the 17th century Puritan "New Methodism" of Rev. Richard Baxter and others. Rev. Baxter has been described as the "Chief of the Puritan Schoolmen," and as "the most prominent English churchman of the 1600s."[47] And Rev. Baxter's writings on the theological foundations and parameters of British slavery during the 17th century were influential and authoritative.

First off, it is important to note that Rev. Baxter adopted the "orthodox" Christian view that under certain limited and narrow circumstances, some forms of slavery were lawful; and that, at all events, masters must treat their slaves humanely and with a sense of stewardship—slaves were still their brothers in Christ, as explained by St. Paul in *The Epistle to Philemon*, where a slave named Onesimus was described as "above a servant, a brother beloved." According to Catholic tradition, Onesimus was later freed and became a bishop.[48] For it is with this theological background that we are to ascertain the Christian understanding of slavery since the time of Christ and particularly as understood in the Church of England.

The orthodox theological positions on slavery held by St. Augustine and John Calvin were embraced by Rev. Baxter. As an Arminian Puritan, Rev. Baxter was a "New Methodist,"[49] and his writings on slavery certainly reflected the official theological viewpoint of Puritans and New Englanders regarding slavery

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[47] https://www.christianitytoday.com/history/people/pastorsandpreachers/richard-baxter.html

[48] "Onesimus (Greek: Ὀνήσιμος, translit. Onēsimos, meaning "useful"; died c. 68 AD, according to Catholic tradition), also called Onesimus of Byzantium and The Holy Apostle Onesimus in the Orthodox Church, was probably a slave to Philemon of Colossae, a man of Christian faith. He may also be the same Onesimus named by Ignatius of Antioch (died c. 107) as bishop in Ephesus which would put Onesimus's death closer to 95. If so, Onesimus went from slave to brother to bishop." https://en.wikipedia.org/wiki/Onesimus

[49] See, e.g. Richard P. Heitzenrater, *Wesley and The People Called Methodists, supra,* p. 19 ("Those designated as '**New Methodists**,' persons using this new (that is, wrong) method included… **Richard Baxter**…..")

during the 17th century. According to Rev. Baxter, there were three basic types of slaves: (1) slaves for life ***by voluntary consent*** due to poverty; (2) slaves for a limited period of time ***by voluntary contract***; and (3) slaves ***as a result of punishment for crime***.[50] The slavery due to poverty carries with it expressed "limitations of God and nature", as follows:

> The limitations of a necessitated slavery by contract or consent through poverty are these: (1). Such a one's soul must be cared for and preserved, though he should consent to the contrary. He must have time to learn the word of God, and time to pray, and he must rest on the Lord's day, and employ it in God's service; he must be instructed, and exhorted, and kept from sin. (2) He may not be forced to commit any sin against God. (3.) He may not (though he forcedly consent) be denied such comforts of this life, as are needful to his cheerful serving of God in love and thankfulness, according to the peace of the gospel state; and which are called by the name of our daily bread. No man may deny a slave any of this, that it is not a criminal, punished slave.[51]

Therefore, Rev. Baxter held that lawful slavery constituted a Christian stewardship and trusteeship. He reminded Christian slave-owners to treat their slaves with humanity and decency, while keeping in mind that only God is their true owner. "Remember that you are Christ's trustees, or the guardians of their souls," Rev. Baxter wrote "and that the greater your power is over them, the greater your charge is of them, and your duty for them. … As Abraham was to circumcise all his servants that were bought with money, and the fourth commandment requireth masters to see that all within their gates observe the Sabbath day; so must you exercise both your power and love to bring them to the knowledge and faith of Christ, and to the just obedience of God's commands…. Those therefore that keep their negroes and slaves from hearing God's word, and from becoming Christians, because by the law they shall then be either made free, or they shall lose part of their service, do openly profess rebellion against God, and contempt of Christ the Redeemer of souls, and a contempt of the souls of men; and indeed they declare, that their worldly profit is their treasure and their god."[52]

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[50] Ibid.
[51] Ibid., p. 92.
[52] Richard Baxter, A Christian Directory: Part 2 (Christian Economics),[publisher/ publication date omitted] p. 90.

Rev. Baxter believed that the chief objective of slave-ownership among Christians was stewardship, charity, education, aid, assistance, and conversion to Christ. Rev. Baxter insisted that "even **a slave may be one of these neighbors that you are bound to love as yourselves**, and **to do to as you would be done** by, if your case were his. Which if you do, you will need no more direction for his relief."[53] Masters should "prefer God's interest" in the care of slaves; they must work towards the slaves' "spiritual and everlasting happiness. Teach them the way to heaven, and do all for their souls which I have before directed you to do for all your other servants."[54] Furthermore, Rev. Baxter held that slaves are "as good a kind" as the master[55]; slaves are "born to as much natural liberty" as the master[56]; and "nature made them… equals" of the master.[57] Therefore, the master classes have "no power to do anything which shall hinder [the slaves'] salvation."[58] All slaves have an inherent right to free worship and religion.

Rev. Baxter applauded Christians who purchased slaves in order to save their souls and win them to Christ or purchase their liberty. "Make it your chief end in buying and using slaves, to win them to Christ," Rev. Baxter wrote, "and save their souls."[59] "[L]et their salvation be far more valued by you than their service: and carry yourselves to them, as those that are sensible that they are redeemed with them by Christ from the slavery of Satan, and may live with them in the liberty of the saints in glory."[60]

According to Rev. Baxter, innocent slaves, such as persons born into slavery, should be treated no differently than free laborers. "Remember that you may require no more of an innocent slave, than you would or might do of an ordinary servant,"[61] wrote Rev. Baxter. "There is a slavery to which some men may be lawfully put," he insisted, "and there is a slavery to which none may be put; and there is a slavery to which only the criminal may be put, by way of penalty."[62] Rev. Baxter thus admonished slave-holders to: "[u]nderstand well how far your power over your slaves extendeth, and what limits God hath set thereto."[63]

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[53] Ibid. p. 93.
[54] Ibid., p. 92.
[55] Ibid.
[56] Ibid., p. 90.
[57] Ibid.
[58] Ibid.
[59] Ibid., p. 93.
[60] Ibid.
[61] Ibid.
[62] Ibid., p. 91.
[63] Ibid., p. 90.

God alone is the "absolute owner" of the slaves; slave masters "have none but a derived and limited propriety in [the slaves]. [The slaves] can be no further yours, than [the slave master] have God's consent, who is the Lord of [the slaves] and the [slave masters]."[64]

Further, Rev. Baxter held that slaves are "the redeemed ones of Christ, and that he hath not sold [the slaves] to [the slave masters] his title to them." Slave owners may "use" the slaves, but only "as to preserve Christ's right and interest in them."[65] Rev. Baxter expressly prohibited slavery based upon men-stealing. "To go as pirates and catch up poor negroes or people of another land, that never forfeited life or liberty, and to make them slaves, and sell them, is one of the worst kinds of thievery in the world; and such persons are to be taken for the common enemies of mankind; and they that buy them and use them as beasts, for their mere commodity, and betray, or destroy, or neglect their souls, are fitter to be called incarnate devils than Christians, though they be so Christians whom they so abuse."[66]

Rev. Baxter also disdained the idea of "chattel slavery" as unchristian, and as being against the laws of nature, because even slaves have immortal, rational souls. Therefore, Rev. Baxter concluded that slavery which is not permitted, under any circumstances, is "such as shall injure God's interest and service, or the man's salvation,"[67]because there is "[s]ufficiently difference between men and brutes."[68] Rev. Baxter was aware of the nature of inhumane treatment of African slaves throughout North America and the West Indies. And he inveighed against this inhumane treatment. To the slave owners of the British West Indies, Rev. Baxter asked:

> How cursed a crime is it to equal men and beasts! Is not this your practice? Do you not buy them and use them merely to the same end, as you do your horses? To labour for your commodity, as if they were baser than you, and made to serve you? Do you not see show you reproach and condemn yourselves, while you vilify them as savages and barbarous wretches? Did they ever do any thing more savage, than to use not only men's bodies as beasts, but their souls as if they

[64] Ibid.
[65] Ibid.
[66] Ibid., p. 92.
[67] Ibid., p. 91.
[68] Ibid., p. 90.

> were made for nothing but to actuate their bodies in your worldly drudgery? Did the veriest cannibals ever do any thing more cruel or odious, than to sell so many souls to the devil for a little worldly gain? Did ever the cursedest miscreants on earth, do any thing more rebellious, and contrary to the will of the most merciful God, than to keep those souls from Christ, and holiness, and heaven, for a little money, who were made and redeemed for the same ends, and at the same precious price as yours? Did your poor slaves ever commit such villanies as these? Is not the basest wretch and the most barbarous savage, who committeth the greatest and most inhuman wickedness? And are theirs comparable to these of yours? Do not the very example of such cruelty, besides your keeping them from Christianity, directly tend to teach them and all others, to hate Christianity, as if it taught men to be so much worse than dogs and tigers?[69]

According to Rev. Baxter, under the Mosaic Law (i.e., the law of nature), slaves are equally "under the government and laws of God" as are the master classes.[70] Therefore, "all God's laws must be first obeyed by [the slaves], and [the master classes] have no power to command them to omit any duty which God commandeth them, nor to commit any sin which God forbiddeth them; nor can [the master class], without rebellion or impiety, expect that your work or command should be preferred before God's."[71] In other words, Puritan or Christian slave owners are to function as "Christ's trustees" and as "the guardians of" the souls of the slaves.[72]

B. Colonial New England, the *Holy Bible*, and Lawful Slavery

Rev. Baxter's Puritan idea of Christian slave-holding was embraced in colonial Puritan New England and accepted as the biblical foundation and justification for African slavery. This idea of slave-holding was never extinguished during the 18th-century. One might say that because the actual slave holding in North America and the West Indies was far more brutal and inhuman than the sort of Christian stewardship which Rev. Baxter advocated, the abolition movement grew stronger during the 18th century.

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[69] Ibid., pp. 90-91.
[70] Ibid.
[71] Ibid.
[72] Ibid.

In other words, the ideas of John Calvin and Richard Baxter, that lawful, biblical slavery was restricted to a form of Christian stewardship and that "chattel slavery" was expressly prohibited as "unchristian," took root in New England. An example of this can be observed in Lorenzo Greene's work, *The Negro in Colonial New England*, where he writes:

> Because of complaints that both real and personal property had been assessed unfairly throughout the province, the Assembly on June 1, 1728, passed a new tax bill by which assessments on horses, oxen and cows were reduced, and an average valuation of £ 20 per head was placed on every male Negro, Indian and mulatto slave. The revised valuation of domestic animals, Indian and Negro slaves read:
>
> Each ox…….. £ 3
>
> Each cow …… £ 2
>
> Each horse …….. £ 3
>
> Each hog ……. £ --: 10
>
> Each Negro, Mulatto and Indian Slave being male…… £ 20. **Negro and Indian males were thus given an assessed valuation of more than six times that of an ox or a horse, and ten times that of a cow**. **It was this inclusion of Negroes and Indian in the tax lists along with domestic animals that moved humanitarians like Judge Samuel Sewall and the Reverend John Eliot to protest against slavery, and led Sewall at the time when Massachusetts was contemplating a revision of its tax list in 1706, to attempt, albeit vainly, 'to prevent Indians and Negroes being rated with horses and hogs.' Negroes continued to be included in this category until slavery was abolished….** The more intimate association of masters and slaves in New England, necessitated by the diversity of New England's economic life, also made for kinder treatment of the slaves. Religion, as already pointed out, played an important role. The fact that the New Englanders regarded the slaves as persons divinely committed to their stewardship developed a patriarchal conception of slavery, which along with other factors, went far to mitigate the unhappy condition of their bondmen. Congregational ministers and magistrates like John Eliot, Cotton Mather, Exra Stiles, Edward

> Holyoke, and Samuel Sewall, who wielded a powerful influence in shaping the thought of colonial New England, helped through precept and example to foster this benign paternalism. No better spokesman for this viewpoint could be cited than the erudite Cotton Mather who wrote:
>
> I would always remember, that my servants are in some sence my children, and by taking care that they want nothing which may be good for them, I would make them as my children; and so far as the methods of instituting piety in the mind which I use with my children, may be properly and prudently used with my servants, they shall be partakers in them—Nor will I leave them ignorant of anything, wherein I may instruct them to be useful to their generation.
>
> Mather not only treated his own slaves kindly but also expressed concern about slaves in general. He formed a Negro Society, which met in his home, and wrote pamphlets advocating the Christianization and humane treatment of the slaves. In November, 1716 he wrote to Thomas Prince, asking whether the African slaves were 'treated according to the rules of humanity.' Mather also was anxious to know whether the Negroes were regarded as 'those that are of one blood with us'… who 'have immortal souls in them and are not mere beasts of burden.'[73]

Thus, in colonial New England, the problem lay fundamentally in enforcement and in the murky problem of how to draw the line between abusive treatment and law Christian stewardship by slave masters. By the early 1700s, the horrific transatlantic African slave trade was more and more being labeled as "unchristian," while domestic slavery was still held my many to be both "Christian" and lawful. But more and more, the abuses which came to be associated with domestic slavery—forced breeding, separation of family relations—could hardly be distinguished from the actual slave trade itself. And the institution of domestic slave came under the same attacks as did the transatlantic slave trade, for the same moral and Christian principles.

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[73] Greene, *The Negro in Colonial New England*, pp. 177, 219-220.

C. Rev. Jonathan Edwards (1703 – 1758)

During the 18th-Century, many leading Puritan theologians held slaves, and participated in the African slave trade, under the orthodox Christian doctrine espoused by 17th-century Puritan theologian Richard Baxter (1615 – 1691), discussed above. As previously explained, this type of slavery was conceptually designed to follow the parameters set forth in the Mosaic law. It was a milder type of slavery (not to be confused with the 19th-century slavery of the Old Confederacy); required humane treatment of slaves; religious teaching; and even manumission.[74]

For example, Rev. Jonathan Edwards (1703 – 1758)[75], the foremost New England intellectual of his time, the "New Light" Calvinist theologian, and third President of the College of New Jersey ("Princeton") both owned slaves and defended the practice of slave-holding, even though he criticized the horrors of the African slave trade.[76] Edwards' explanation of slavery and defense of its lawfulness and compatibility with Christianity was rooted in the Mosaic law of slavery as well as the Puritan conception of Christian stewardship.[77]

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[74] Lorenzo Greene, *The Negro in Colonial New England*, supra, pp. 177, 219-220.

[75] See, e.g., R. Isabela Morales, "Slavery at the President's House," Princeton & Slavery | Slavery at the President's House ("At least five Princeton presidents who served between 1756 and 1822 owned enslaved people who lived, worked—and on one occasion were auctioned off—at the President's House on campus. During this period, the President's House was the center of slavery at Princeton.")

[76] See, e.g., "Jonathan Edwards" https://en.wikipedia.org/wiki/Jonathan_Edwards_(theologian) ("Edwards owned as slaves several black children and adults during his lifetime, including a young teenager named Venus who was kidnapped in Africa and whom he purchased in 1731, a boy named Titus, and a woman named Leah. In a 1741 pamphlet, Edwards defended enslaving people who were debtors, war captives, or were born enslaved in North America, but rejected the trans-Atlantic slave trade.") And see, e.g., R. Isabela Morales, "Slavery at the President's House," Princeton & Slavery | Slavery at the President's House ("Jonathan Edwards (president in 1758) and his wife Sarah owned several slaves throughout their lives, though it is unknown how many of them made the move to Princeton with the Edwards family in 1758. A married couple, Joseph and Sue, would have been the most likely to occupy the President's House during Edwards's brief two months in office. Joseph and Sue were recorded among Sarah's property when she died in October 1758, six months after her husband. Because she inherited them from Jonathan Edwards upon his death (and he, like Burr Sr., died in Princeton) we can be fairly certain that Joseph and Sue were a part of the household while Edwards was president. The two would have performed similar work to Caesar and Harry—cooking in the Kitchen House, heating and hauling water to the main residence, cleaning, and maintaining the grounds. Sue may have had additional duties conventionally performed by women in the 18th century. In 1746, Jonathan Edwards wrote a colleague that 'my wife desires that the person you procure … to be her maid, be one that is a good hand at spinning fine linen.' Perhaps Sue was the answer to Sarah's inquiry, serving as a personal maid to the president's wife and assisting her with sewing and spinning.")

[77] Kenneth P. Minkena, "Jonathan Edward's Defense of Slavery," Massachusetts Historical Review, Vol. 4, Race & Slavery (2002), pp. 23 – 59. ("Whatever the combination of causes that motivated the venerable Captain

> Edwards's vision shows the extent to which the revivals, his heart's desire during his most productive years, were a crucial formative framework for his position on the African slave trade. The transatlantic evangelical network contributed to this position insofar as it fed his hunger for news about revivals, compelling him to think about how best to promote them. Through this network, Edwards came to know international Protestant pro-revival figures, ranging from Massachusetts judge Paul Dudley to Gov. Jonathan Belcher to the Grand Itinerant George Whitefield; he also learned of John Wesley, Count Zinzendorf, and August Francke. Some of these men ex pressed ambivalence about slavery. For example, when considering the ques tion of the legalization of slavery in Georgia in 1741, Belcher, a slave owner himself, wrote that "the Prohibition of Negroes and of Rum, will finally di vert 100 ill Consequences." Whitefield was similarly torn about slavery in Georgia, and perhaps not surprisingly for a revivalist with an international perspective in some respects his views on slavery and the slave trade paralleled Edwards's. He admitted that slavery was a "trade not to be approved of" and preached the doctrine of Christian freedom, for which he came under attack after the New York "revolt." Nonetheless, he condoned slavery and justified his position by emphasizing the religious benefits that slaves could enjoy, assuming they had conscientious and charitable masters. For Belcher as for Whitefield, there was a proper and an improper sort of slave owning; enlightened masters and apologists such as themselves approached individual slaves, as well as slavery as a whole, as opportunities for Christian benevolence, while others merely wreaked brutality in order to maximize gain. Edwards apparently shared Belcher's and Whitefield's attitudes about proper slave owning and what it meant to be a Christian master.[78]

During the 1700s, then, and prior to the American Revolutionary War period, Rev. Edwards and other Puritans of colonial New England wrestled with applying the

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Wright and his fellow Calvinists, the awakenings created an atmosphere of heightened moral, even apocalyptic, urgency that provided the catalyst for their indictment of slave owning. In this case, the pro-revival faction's objections against slave owning objections they might otherwise have kept to themselves became a weapon in their fight against their pastor and his opposition to the revivals. The debate over slavery could now be counted among the many issues that divided New Lights and Old Lights.)

[78] Kenneth P. Minkena, "Jonathan Edward's Defense of Slavery," *Massachusetts Historical Review*, Vol. 4, Race & Slavery (2002), pp. 23 – 59.

"law of Christ" to the actual practice of slavery. There were practical problems that they had to address; and, in fairness, Rev. Edwards tried to reconcile, in an ethical manner, and to the utmost of his intellectual faculties, the glaring inconsistencies with holding human beings in slavery and the natural equality of those human beings with their masters. For it was obvious, from the pages of the *Holy Bible*, that Africans were spiritually equal to whites and had just as much rights to receive the Gospels, the sacraments of Christ, and, thereby, church membership. At the point, most orthodox Puritans—including Rev. George Whitefield, Rev. John Witherspoon, and many others—were in full agreement.

> Africans first gained admittance into many churches across the province during the awakenings of the 1730s and 1740s, a trend that reflected their increasing numbers in New England as well as growing concerns among colonists for the spiritual well-being of slaves and free blacks. In *Some Thoughts Concerning the Revival*, published in 1743, Edwards remarked the variety of persons who had experienced dramatic religious conversions, including 'many of the poor Negroes' who had been 'wrought upon and changed.' Surprisingly, Edwards was the first minister at Northampton to baptize blacks and admit them into full membership.
>
> In addition, revivalist ministers and itinerants found slaves and free blacks responsive to their messages. Controversial revivalists such as James Davenport, Gilbert Tennent, and George Whitefield reported many black converts in 1741, while anti-revivalists such as Charles Chauncy complained about black exhorters. Though members of the laity, including the Northfield dissenters, supported the revivals, the growing presence of enslaved and free blacks within some churches may have aggravated nativist attitudes. Scholars have commented, in passing, on the implicit leveling impact of African Americans on full church membership during these awakenings. **Theoretically, full membership accorded equal status to blacks and whites as fellow Christians**.
>
> In his published treatises on revivals, Edwards time and again pointed to black converts who, he declared, had been "vindicated into the glorious liberty of the children of God." The 'liberty' he assumed for blacks was not a social and political liberty on a par with whites, but a

> solely spiritual one. Even ontologically, Edwards harbored a typically paternalistic outlook that saw black and Indian adults, before conversion, as little more than children in the extent of their innate capacities. To be sure, **both blacks and whites were equally in need of the means of grace and of salvation, but that was as far as equality went**. Edwards and his fellow colonists lived in a hierarchical world, including racially, and that hierarchy was to be strictly observed; even in heaven, as Edwards conceived it, there would be 'degrees of glory.'[79]

But the "degrees of glory" and the racial "hierarchy" seemed to have not basis in either Calvinistic doctrine or the plain texts of the *Holy Bible*, either. More and more, the biblical hermeneutical methods of applying the law of Moses to the institution of American slavery were being challenged by natural rights and natural law doctrine—i.e., natural religion (the "law of reasons") was slowly taking precedents over revealed religion, even in colonial Puritan New England.

This "law of reason" was, without question, considered to be just as much of a God-given hermeneutical tool, to be utilized when interpreting both the Holy Bible and the laws of nature alike. Latitudinarian Anglicanism—i.e., the Golden Rule as a republication of "law of reason"-- certainly began predominant amongst all orthodox Christian sects during the 1700s—both orthodox Puritan and Anglican alike, and it certainly influenced the leaders of the First Great Awakening, particularly Rev. Edwards' view of the transatlantic slave trade:

> So, during the awakenings of the early 1740s, as Edwards pondered how people of other cultures and lands would accept the evangelical Christian message, his views on the African slave trade shifted. Wittingly or not, he moved toward Samuel Sewall's earlier claim for the slave trade as a whole, that there could 'be no great progress in Gospellizing till' it ended. Contrary to the argument that the African slave trade introduced so-called heathens to the gospel, Edwards, again like Sewall (and the Quaker George Keith and the Anglican Thomas Bray), came to feel that it thwarted foreign missions…. [80]

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[79] Ibid.

[80] Kenneth P. Minkena, "Jonathan Edward's Defense of Slavery," *Massachusetts Historical Review*, Vol. 4, Race & Slavery (2002), pp. 40-41.

> As with previous and later defenders and opponents of slavery, Edwards gathered Scripture texts from both the Old and New Testaments to support his view. Certain texts undercut the Northfield brethren's perspective and justified his own critique of the African slave trade. For example, **he took exception to a narrow definition of 'neighbor'** as in **'Thou shalt love thy neighbor as thyself'** as limited only to those of the same religion and in close proximity, or to those identified typologically (and racially) as the new 'children of Israel.' The provincial exceptionalism of his opponents, to Edwards's way of thinking, gave license to God's people to behave any way they wanted towards people of other nations and abrogated the moral law that believers, especially with the coming of Christ, were universally obliged to obey. For Edwards, this was a 'blasphemous way of talking.' **God may have given permission to the ancient Israelites to 'borrow' from the Egyptians as a punishment for Egypt's sins, but this could not be made into 'an established rule in all cases.' 'A special precept for a particular act,'** Edwards asserted, **'is not a rule.'** Citing the Apostle Paul, Edwards stated that God 'winked at' the ignorance of believers in 'those times of darkness,' but, under the gospel, God 'don't wink at such things now'….[81]
>
> Edwards's draft notes and the incidents surrounding them help us to see that discussions of and accusations against slave owning and the slave trade were inextricably bound up in the most complicated of social circumstances, in which the antagonists' motives were mixed and their positions evolving. **Edwards's reconsideration of the slave trade was prompted in large part by revivalism and his millennialist hopes of global conversion**; however, this same millennialist fervor energized the Northfield dissenters to promote the revivals locally **by taking the radical step of opposing slave owning**.[82]

Even Rev. Edwards supplemented his biblical hermeneutics with the "law of reason" in order to argue against the view that, because God commanded the ancient Hebrews to take and enslave their captives, did not establish a general rule that all Christians are authorized to enslave Africans for no reason whatsoever—

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[81] Ibid., p. 38.
[82] Ibid., p. 44.

the men-stealing which fueled the transatlantic slave trade was reprehensible and unjustifiable. And, even though Rev. Edwards did not condemn the practice of slave ownership, it is clear that, as he became more and more familiar with how the practice of slavery was being carried out—i.e., the cruel treatment from slave masters and the neglect of the slaves' religious instruction— Rev. Edwards began to preach against these more cruel slave owners, whom he analogized to Satan and the Devil himself.[83]

Moreover, Rev. Edwards died an untimely death in 1758, aged only 55, but if he had lived, it is more likely than not, that he would have developed a philosophy of complete emancipation of slaves owned by cruel slave masters, if not altogether a philosophy of complete abolition of the slavery. (It is safe to say that Edwards' son, Rev. Jonathan Edwards, Jr. (1746 – 1801), who became a staunch, outspoken abolitionist, carried on and exemplified the natural progression of his father's thinking on moral dimensions of slavery.) Indeed, much of what Rev. Edwards believed about the transatlantic slave trade and the inhumane treatment of African slaves was echoed in Rev. John Wesley's *Thoughts Upon Slavery*.

D. Rev. George Whitefield (1714 – 1770)

Another influential Calvinist who addressed the institution of slavery in America, as previously mentioned, was the Rev. George Whitefield (1714 -1770). Rev. Whitefield was an Oxford graduate, a Calvinistic Methodist, and a great evangelist preacher of the First Great Awakening. It is clear that Rev. Whitefield adopted the orthodox Puritan view of slavery as a form of Christian stewardship. Whitefield upheld the institution of slavery on biblical grounds, adopting in theory and apparently in practice, the view that lawful slavery must be governed by Christian stewardship and human treatment of slaves. During the 1740s, Rev. Whitefield published a scathing article criticizing the brutal treatment of slaves, although he never condoned slavery as an institution:

> [D]uring his second visit to America, Whitefield published 'An open Letter to the Planters of South Carolina, Virginia, and Maryland' chastising them for their cruelty to their slaves. He wrote, 'I think God

[83] Ibid., p. 40 ("Though **Edwards strove to be what he defined as a just and Christian master**, he did not widely criticize the moral and physical abuses that some slaves suffered at the hands of cruel masters. But neither could he keep totally silent about them. In the actions and motives of such slaveholders, he found sermonic material for describing **the Devil himself**, the ultimate **"cruel master."** In addition, **he portrayed benighted and oppressed slaves as types of those in thrall to Satan**.")

> has a Quarrel with you for your Abuse of and Cruelty to the poor Negroes.' Furthermore, Whitefield wrote: 'Your dogs are caressed and fondled at your tables; but your slaves who are frequently styled dogs or beasts, have not an equal privilege.' However, Whitefield 'stopped short of rendering a moral judgment on slavery itself as an institution.'[84]

It seems that Rev. Whitefield also embraced the Rev. Richard Baxter's view that slavery could be tolerated only as a moral institution designed to uplift the humanity of the slaves and the Christian slave masters must not treat their slaves inhumanely or cruelly. Thus, it is perhaps within the context of orthodox Puritanism that we should judge Rev. Whitefield's pro-slavery position. Rev. Whitefield advocated for lifting the antislavery law in the colony of Georgia. He also owned a large slave plantation, and held dozens of Africans in slavery on that plantation:

> Whitefield was a plantation owner and slaveholder, and viewed the work of slaves as essential for funding his orphanage's operations…. Whitefield was at first conflicted about slaves. He believed that they were human, and was angered that they were treated as 'subordinate Creatures.' Nevertheless, George Whitefield… played an important role in the reintroduction of slavery to Georgia.
>
> Slavery had been outlawed in the young colony of Georgia in 1735. In 1747, Whitefield attributed the financial woes of his Bethesda Orphanage to Georgia's prohibition of black people in the colony. He argued that 'the constitution of that colony [Georgia] is very bad, and it is impossible for the inhabitants to subsist' while blacks were banned.
>
> Between 1748 and 1750, Whitefield campaigned for the legalisation of African-American emigration into the colony because the trustees of Georgia had banned slavery. **Whitefield argued that the colony would never be prosperous unless slaves were allowed to farm the land**. Whitefield wanted slavery legalized not only for the prosperity of the colony, but also for the financial viability of the Bethesda Orphanage. 'Had Negroes been allowe'" to live in Georgia, he said, 'I

[84] https://en.wikipedia.org/wiki/George_Whitefield

> should now have had a sufficiency to support a great many orphans without expending above half the sum that has been laid out.' Whitefield's push for the legalization of slave emigration in to Georgia 'cannot be explained solely on the basics of economics.' It was also his hope for their adoption and for their eternal salvation.
>
> Black slaves were permitted to live in Georgia in 1751. Whitefield saw the 'legalization of (black residency) as **part personal victory** and **part divine will**.' **Whitefield now argued a scriptural justification for black residency as slaves**. He increased the number of the black children at his orphanage, using his preaching to raise money to house them. Whitefield became '**perhaps the most energetic, and conspicuous, evangelical defender and practitioner of the rights of black people**. By propagating such 'a theological defense for' black residency Whitefield helped slaveholders prosper. Upon his death, Whitefield left everything in the orphanage to the Countess of Huntingdon. This included 4,000 acres of land and 50 black slaves.[85]

Rev. Whitefield's investments in the slave system was so extensive, however, that it might have undermined his credibility as Christian minister and evangelical pastor, in many circles. Nevertheless, Whitefield's orphanage and plantation have been described as one of the best examples of the humane treatment of slaves.[86]

E. Rev. Dr. John Witherspoon (1723 - 1794)

Another influential Calvinist who held a progressive anti-slavery view, deeply-rooted in natural law, was the Scottish Presbyterian Rev. Dr. John Witherspoon (1723–1794, president of the College of New Jersey (Princeton), 1768–94). In his *Lectures on Moral Philosophy*, Dr. Witherspoon advocated for the humane treatment of laborers and against the institution of slavery, stating:

> Relation of Master and Servant

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[85] "George Whitefield" https://en.wikipedia.org/wiki/George_Whitefield#Whitefield_versus_laity

[86] "George Whitefield," https://en.wikipedia.org/wiki/George_Whitefield ("Some have claimed that the Bethesda Orphanage "set an example of humane treatment" of black people").

> This relation is first generated by the difference which God hath permitted to take place between man and man.
>
> Some are superior to others in mental powers and intellectual improvement—some by the great increase of their property through their own, or their predecessors industry, and some make it their choice, finding they cannot live otherwise better, to let out their labor to others for hire.
>
> Let us shortly consider (1.) How far this subjection extends. (2.) The duties on each side.
>
> As to the first it seems to be only that the master has a right to the labors and ingenuity of the servant for a limited time, or at most for life. **He can have no right either to take away life, or to make it insupportable by excessive labor**. The **servant therefore retains all his other natural rights**.
>
> The practice of ancient nations, of making their prisoners of war slaves, was altogether unjust and barbarous; for though we could suppose that those who were the causes of an unjust war deserved to be made slaves; yet this could not be the case of all who fought on their side; besides the doing so in one instance would authorize the doing it in any other; and those who fought in defense of their country, when unjustly invaded, might be taken as well as others. **The practice was also impolitic, as slaves never are so good or faithful servants, as those who become so for a limited time by consent**.[87]

It may thus be correctly stated that Dr. Witherspoon did not support "chattel" slavery of the type which dominated the southern "cotton kingdom" during the 19th century. Moreover, Dr. Witherspoon's own actions towards African Americans tend to lead us naturally to the conclusion that he held the same views as did Rev. Richard Baxter on slave-holding as a form of Christian stewardship. But on the whole, there is not a scintilla of evidence to support any assertion that Dr. Witherspoon was "pro-slavery" advocate who vindicated the transatlantic slave trade or the institution of African slavery.[88] In fact, the plain weight of evidence

[87] John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), pp. 85-86.
[88] This is a very important point. There are "revisionists" historians who wish to paint the picture of all of the American founding fathers to be slave-holding white supremacists and racists.

support the finding that Dr. Witherspoon had concluded that slaveholding was unnatural and unjust[89]; that slave-catching or men-stealing should never be used to subdue so-called barbarous nations in order to "civilize" them[90]; that slavery should be rarely used and, if so, only as a punishment of crime[91]; and, the African slaves then dwelling in colonial British North America should be manumitted on a "gradual" basis, so as not "to make them free to their own ruin."[92]

Rev. Witherspoon was a member of the Continental Congress, and he was the only college president to sign the *Declaration of Independence* (1776). Rev. Witherspoon transformed the College of New Jersey "into a school that would equip the leaders of a new country. Students who later played prominent roles in the new nation's development included James Madison, Aaron Burr, Philip Freneau, William Bradford, and Hugh Henry Brackenridge. From among his students came 37 judges (three of whom became justices of the U.S. Supreme Court); 10 Cabinet officers; 12 members of the Continental Congress, 28 U.S. senators, and 49 United States congressmen."[93] Thus, Rev. Witherspoon's influence was great; his thoughts and opinions on African slavery and the slave trade mattered.

It therefore appears, and perhaps has been suggested, that Dr. Witherspoon was in a position to advocate the high-moral position of abolitionism at the Constitutional Conventions, but missed this opportunity of doing so. But there is not hard evidence that Rev. Witherspoon did not support the more liberal positions taken, for example, in Rev. John Wesley's *Thoughts Upon Slavery* (1778) (discussed below), and in leading court opinions such as *Somerset v Stewart* (1772) 98 ER 499. The settled view among the most fair-minded Christians of the late 18th century was that (a) slavery was immoral and wrong; (b) emancipation was most consistent with the revolutionary ideals for which the late revolutionary war was fought to establish; and (c) gradual emancipation was the most practical policy, rather than freeing the slaves to "their own ruin."[94] Renowned historian W.E.B. Du Bois, in his *Suppression of the African Slave Trade*, confirmed that this was the general sentiment amongst many of the American revolutionary patriots in colonial

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[89] John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), pp. 73-74.
[90] Ibid.
[91] Ibid.
[92] Ibid., p. 74.
[93] "John Witherspoon" https://en.wikipedia.org/wiki/John_Witherspoon

[94] John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), p. 74.

New England, including Pennsylvania, New York, and New Jersey.[95] On this very point, Du Bois writes:

> Meantime there was slowly arising a significant divergence of opinion on the subject. Probably the whole country still regarded both slavery and the slave-trade as temporary; but the Middle States expected to see the abolition of both within a generation, while the South scarcely thought it probable to prohibit even the slave-trade in that short time. Such a difference might, in all probability, have been satisfactorily adjusted, if both parties had recognized the real gravity of the matter. As it was, both regarded it as a problem of secondary importance, to be solved after many other more pressing ones had been disposed of. The anti-slavery men had seen slavery die in their own communities, and expected it to die the same way in others, with as little active effort on their own part. The Southern planters, born and reared in a slave system, thought that some day the system might change, and possibly disappear; but active effort to this end on their part was ever farthest from their thoughts. Here, then, began that fatal policy toward slavery and the slave-trade that characterized the nation for three-quarters of a century, the policy of *laissez-faire*, *laissez-passer*.[96]

And it was documented that Dr. Witherspoon had fallen into that "*laissez-faire*, *laissez-passer*" crowd of Americans who acknowledged the immoral nature of slavery but who also considered that the "institution of slavery" would die naturally. Indeed, Dr. Witherspoon believed that American slavery should be phased out, or die out naturally, within a generation:

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[95] See, e.g., W.E.B. DuBois, *The Suppression of the African Slave Trade*, (New York, N.Y.: The Library of America, 1986), pp. 34-44.

> **Massachusetts**: "Committees on the slavery question were appointed in 1776 and 1777, and although a letter to Congress on the matter, and a bill for the abolition of slavery were reported, no decisive action was taken…. Slavery was eventually declared by judicial decision to have been abolished." [Washburn, *Extinction of Slavery in Massachusetts*; Haynes, *Struggle for the Constitution in Massachusetts*; La Rochefoucauld, *Travels through the United States*, II. 166.]
>
> **Rhode Island**: "In 1779 an act to prevent the sale of slaves out of the State was passed, and in 1784, an act gradually to abolish slavery." Ibid., p. 43.
>
> **Connecticut**: "This [Acts and Laws of Connecticut] was re-enacted in 1784, and provisions were made for the abolition of slavery." Ibid., p. 44.

[96] Ibid., pp. 55-56.

> In this connection it may be noted that in 1790 President Witherspoon, while a member of the New Jersey Legislature, was chairman of a committee on the abolition of slavery in the state, and brought in a report advising no action, on the ground that the law already forbade the importation of slaves and encouraged voluntary manumission. He suggested, however, that the state might enact a law that all slaves born after its passage should be free at a certain age—e.g., 28 years, as in Pennsylvania, although in his optimistic opinion the state of society in America and the progress of the idea of universal liberty gave little reason to believe that there would be any slaves at all in America in 28 years' time, and precipitation therefore might do more harm than good.[97]

Indeed, after the *Somerset* case (1772), the revolutionary fervor in favor of emancipation of all American slaves spread throughout colonial New England.

> The *Somerset* case was reported in detail by the American colonial press…. Beginning during the Revolutionary War, northern states began to abolish or rule against maintaining slavery. Vermont was the first in 1777, followed by Pennsylvania (1780), Massachusetts (1783) and Connecticut (1784). In Massachusetts, rulings related to the freedom suits of *Brom and Bett v Ashley* (1781) and *Quock Walker* (1783)[98] in county and state courts, respectively, resulted in

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[97] John Witherspoon, *Lectures on Moral Philosophy* (Princeton, N.J.: Princeton University Press, 1912), p. 74.

[98] "In the case of *Quock Walker*, Massachusetts' Chief Justice William Cushing gave instructions to the jury as follows, indicating the end of slavery in the state:

> As to the doctrine of slavery and the right of Christians to hold Africans in perpetual servitude, and sell and treat them as we do our horses and cattle, that (it is true) has been heretofore countenanced by the Province Laws formerly, but nowhere is it expressly enacted or established. It has been a usage – a usage which took its origin from the practice of some of the European nations, and the regulations of British government respecting the then Colonies, for the benefit of trade and wealth. But whatever sentiments have formerly prevailed in this particular or slid in upon us by the example of others, a different idea has taken place with the people of America, more favorable to the natural rights of mankind, and to that natural, innate desire of Liberty, with which Heaven (without regard to color, complexion, or shape of noses-features) has inspired all the human race. And upon this ground our Constitution of Government, by which the people of this Commonwealth have solemnly bound themselves, sets out with declaring that all men are born free and equal – and that every subject is entitled to liberty, and to have it guarded by the laws, as well as life and property – and in short is totally repugnant to the idea of being born slaves. This being the case, I think the idea of slavery is inconsistent with our own conduct and Constitution; and there can be no such thing as perpetual servitude of a rational creature, unless his liberty is forfeited by some criminal conduct or given up by personal consent or contract ...."

> slavery being found irreconcilable with the new state constitution and ended it in the state. In this sense, the Walker case is seen as a United States counterpart to the Somerset Case. …
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> After the American Revolution, the *Somerset* decision "took on a life of its own and entered the mainstream of American constitutional discourse" and was important in anti-slavery constitutionalism.[99]

It is in light of these revolutionary times that we should fairly assess the character, views, and actions of Rev. Dr. John Witherspoon. On balance, he was a very honorable American founding father and an exemplary representative of the Scottish-Presbyterian heritage. (As I have stated in previous essays within this series, the genre of slavery present at the time of the American constitutional conventions was not the same genre of plantation slavery which the American Civil War abolished in 1865). In Witherspoon's day, the institution of slavery was considered to be social evil that was being phased out, or that would die out naturally. During the meanwhile, Rev. Witherspoon, who was one of "the Revolutionists of 1776,"[100] who argued that the slaves needed to be prepared for eventual emancipation and life as freedmen.

F. Rev. Dr. Samuel Stanhope Smith (1751 – 1819)

Another influential Presbyterian clergymen was Rev. Samuel Stanhope Smith, who was a student of Rev. Witherspoon's and the first Princeton alumnus to hold the position of president of that college. Smith held the B.A. (Princeton); the D.D. (Yale); and the LL.D. (Harvard). In 1795, he succeeded Witherspoon to the presidency of Princeton. Rev. Smith's ideas are important in this sense: he utilized scientific knowledge in an effort to supplement the truths of the Sacred Scriptures in order plainly demonstrate the fundamental equality and human brotherhood between the white and darker races. Based upon his own scientific investigation, Rev. Smith argued that Africans were just as capable of learning and human development as were white Americans.[101] And Stanhope Smith's new and radical

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"Somerset v. Stewart," https://en.wikipedia.org/wiki/Somerset_v_Stewart

[99] Ibid.

[100] W.E.B. Du Bois, "The Suppression of the African Slave Trade," *Writings*, supra, p. 198.

[101] (Rev. Smith's scientific ideas could be described as the precursor to the sociological work of Dr. W.E.B Du Bois (1868 – 1963) during the early 20th century.)

ideas about human equality stood against the test of growing prejudices. [102] Unlike the revolutionary period, when the general sentiment was that the institution of slavery would die naturally, Dr. Smith's work occurred during a period of time when pro-slavery attitudes and white supremacy stiffened. During early 19th century, it became more and more difficult to convince pro-slavery proponents and slave holders to manumit their slaves. Hence, the ideas of both Dr. Witherspoon and Dr. Stanhope Smith, regarding the gradual emancipation of slaves, were swept aside.

Although Smith owned at least two slaves while he was president at Princeton, and tried to sell them via newspaper advertisement, his enlightenment views on science and human equality led him to the position that there were *no fundamental differences* between Africans and Europeans. Moreover, Rev. Smith also concluded that Christianity, or the true religion, was a republication of natural religion, and that "[t]rue religion, and true philosophy must ultimately arrive at the same principle."[103] In other words, according to Stanhope Smith's reasoning, the

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[102] See, e.g., "Princeton and Slavery: Who was Who" https://paw.princeton.edu/article/princeton-and-slavery-who-was-who ("Samuel Stanhope Smith 1769 (1751–1819, president 1795–1812) owned at least two slaves whom he tried to sell during his tenure; records are not clear on whether he succeeded. He gained international recognition for his scientific arguments that racial differences did not affect a person's intelligence and resulted from living in different environments. He came to speak out against slavery, advocating the colonization of African Americans in western territories and encouraging white people to settle alongside them.")

[103] "Samuel Stanhope Smith," https://en.wikipedia.org/wiki/Samuel_Stanhope_Smith

> Smith was the first systematic expositor of Scottish Common Sense Realism in America. An empiricist in his anthropology and a Lamarckian before Lamarck, he sought to mediate between science and religious orthodoxy.
>
> In his work, **Stanhope Smith expressed progressive views on marriage and egalitarian ideas about race and slavery**. The second edition of his *Essay on the Causes of Variety of Complexion and Figure in the Human Species* (1810) became important as **a powerful argument against the increasing racism of 19th-century ethnology**. **He opposed the racial classifications of naturalists such as Johann Friedrich Blumenbach, Georges-Louis Leclerc, Comte de Buffon, and Carl Linnaeus.** In this text, his attempt to explain the variety of physical appearances among humans involved a strongly environmental outlook. **An example he provides involves "the blacks in the southern states." Smith noted that field slaves had darker skin pigmentation and other "African" features than did domestic slaves, and hypothesized that exposure to white, European culture through their "civilized" masters had changed their anatomy as well**.
>
> In Smith's essay titled *Essay on the Causes of Variety of Complexion and Figure in the Human Species*, Smith claimed that **Negro pigmentation was nothing more than a huge freckle that covered the whole body as a result of an oversupply of bile**, which was caused by tropical climates. In this essay Smith described the basic concept of sexual selection, this was before Charles Darwin later popularized the theory. Smith is also known for his attempt to refute Thomas Jefferson's claim in *Notes on the State of Virginia*, that there were no great black writers or artists. In it, he attacked Jefferson's disregard of poetic abilities of Phillis Wheatley, African slave prodigy. Noah Webster cited Stanhope Smith in Webster's 1828 *Dictionary in the definition of philosophy*. The citation was from Stanhope Smith's second edition of his

"slavery" that was spoken of in the Old Testament (i.e., "revealed religion") should not be used to contradict reason or science (i.e., "natural law" or natural religion) regarding the equality and nature of all human beings, despite skin color and racial differences.

For these reasons, Stanhope Smith not only advocated in favor of the human treatment of slaves, but that, upon their emancipation, they should be emigrated to new territory in the Western part of the United States or back to Africa or elsewhere in the Americas. This colonization proposal was considered radical at that time. And, due to Stanhope Smith's progressive thinking, he was dismissed from his position as president of Princeton.[104] "His stormy career ended in his enforced resignation. His words – **'If reason and charity cannot promote the cause of truth and piety, I cannot see how it should ever flourish under the withering fires of wrath and strife'** - epitomize his career."[105]

The leading Calvinists in the American Presbyterian Church who forced Rev. Smith to resign for the presidency of Princeton, because Rev. Smith's forward-thinking ideals about racial equality and abolitionism appeared to be "Arminian," while at the same time up remaining silent on those critical problems, seems hypocritical and contradictory at best. In any event, at least within the world of orthodox Puritanism, the Arminian, Wesleyan, and Methodist wings of that sect became the most progressive on the question of abolishing the institution of domestic slavery.

G. Rev. John Wesley (1703- 1791)

The downfall of Rev. Dr. Samuel Stanhope Smith from the presidency at Princeton in 1812 signaled the weaknesses in Calvinistic Puritanism's conceptualization of biblical text as God's unshakable word, such that any crevice that allowed for seemingly contradictions from science would open the door to "Arminianism," and therefore heresy. The "New Methodists," or the Arminian Puritans did not have the same pitfalls. The great heir of Richard Baxter's

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Essay on the Causes of Variety of Complexion and Figure in the Human Species (1810). The quote as given, **"True religion, and true philosophy must ultimately arrive at the same principle."**

[104] Ibid ("Smith was an urbane and cultivated man who sought, in the tradition of Witherspoon, to maintain orthodoxy while opposing tendencies toward rigidity and obscurantism. His efforts were unsuccessful, and he was forced to resign from his office [as president of Princeton] in 1812 as a result of criticism from within the church. In his efforts to reconcile reason and revelation Smith left himself vulnerable to charges of rationalism and Arminianism.")

[105] Ibid.

Arminian "New Methodism" was the Rev. John Wesley, who adopted a four-fold view of Christian theology that allowed for the following four sources of theology: (a) the Sacred Scriptures; (b) the Sacred Traditions of the Church; (c) Reason (i.e., the laws of nature); and (d) Experience (i.e., common sense, human conscience of self-evident truths). The method of theological analysis allowed Rev. Wesley to apply the tools of reasoning advanced by philosopher Francis Bacon, Edward Coke, John Locke, Isaac Newton, and many others to the truths of the *Holy Bible*. For Rev. Wesley, the principles of justice and equity were restatements of the golden rule or the "law of Christ," and he was fully capable of speaking about human affairs in both the language of revealed religion (i.e., the *Holy Bible*) and natural religion (i.e., natural law). In *Thoughts Upon Slavery* (1778), Rev. Wesley attacked the institution of domestic slavery in the academic language of an Oxford scholar while utilizing a discourse that was rooted in science, reason, and natural law.

Indeed, in *Thoughts Upon Slavery* (1778), Rev. Wesley documents in clear and persuasive language the evil effects of global British mercantilism upon the African continent. In part I of this work, Rev. Wesley correctly points out that the Christian religion—its spirit and letter—led naturally to the gradual fall and decline of slavery throughout the Roman empire.[106] "[A]fter Christianity prevailed," wrote Wesley, "[slavery] gradually fell into decline in almost all parts of Europe. This great change began in Spain, about the end of the eighth century."[107] Rev. Wesley's opinion is supported by the writings of the great French philosopher Alexis de Tocqueville.[108] Hence, Rev. Wesley asks the important question, How and why was slavery revived. In a word, 16th-century European mercantilism revived slavery. "[S]lavery was nearly extinct," writes Rev. Wesley, "till the commencement of the fifteenth century, when the discovery of America, and of the western and eastern coasts of Africa, gave occasion to the revival of it."[109] When slavery was first introduced into Spain, the nature Christian response was to denounce this practice as evil, as Rev. Wesley states:

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[106] John Wesley, *Thoughts Upon Slavery* (London, England: John Crukshank Publisher, 1778), p. 4.
[107] Ibid.
[108] Thus commenting on this subject, the great French social theorist Alex De Tocqueville opined that "[a]ntiquity could only have a very imperfect understanding of this effect of slavery on the production of wealth. Then slavery existed throughout the whole civilized world, only some barbarian peoples being without it. **Christianity destroyed slavery by insisting on the slave's rights; nowadays it can be attacked from the master's point of view; in this respect interest and morality are in harmony**." Alexis de Tocqueville, *Democracy in America* (New York, N.Y.: Harper Perennial, 1988), p. 348.
[109]

> In 1540 Charles the fifth, then king of Spain, determined to put n end to the negro-slavery: giving positive orders, That all the negro slaves in the Spanish dominions should be set free. And this was accordingly done by Lagasea, whom he sent and impowered to free them all, on condition of continuing to labour for their masters. But soon after Lagasea returned to Spain, slavery returned and flourished as before. Afterwards other nations, as they acquired possessions in America, followed the examples of the Spaniards; and slavery has now taken deep root in our American colonies.[110]

For England, the first involvement in the slave trade began in about 1566 with the voyages of Sir. John Hawkins off of the coast of western Africa to the West Indies.[111] But British mercantilism, which was built upon the slave trade, did not begin in earnest until the reign of King Charles II after about the year 1660, and for Englishmen the slave trade became of significant national concern after the Assiento contract of 1713, which granted to England a monopoly over the Spanish-American slave trade for thirty years.

In Part II of *Thoughts Upon Slavery*, Rev. Wesley turns to first-hand accounts for support of his discussion on effects which British mercantilism and slave-trading had upon the coasts of western Africa. The area up for discussion is described as follows:

> That part of Africa when the negroes are brought, commonly known by the name of Guinea, extends along the coast, in the whole, between three and four thousand miles. From the river Senegal, (seventeen degrees north of the line) to Cape Sierra Leona, it contains seven hundred miles. Thence it runs eastward about fifteen hundren miles, including the Grain-Coast, the Ivory-Coast, the Gold-Coast, and the Slave-Coast, with the large kingdom of Benin. From hence it runs southward, about twelve hundred miles, and contains the kingdoms of Congo and Angola.[112]

Rev. Wesley next relies upon several first-hand accounts which verifies that the African peoples who populated these regions were civilized, orderly, and law-abiding civilizations. Some of them had professed the Muslim faith. Africans of

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[110] Ibid., p. 5.
[111] Ibid., p. 15.
[112] Ibid., pp. 6-7.

Congo and Angola were described as "generally a quiet people."[113] What corrupted these African civilizations and led to the transatlantic slave trade? Rev. Wesley asked. It was European merchants "by prevailing upon them to make war upon each other, and to sell their prisoners—till then they seldom had any wars."[114] The wars between the Africans were thus instigated by greedy European merchants—supplemented by the sale of rum to the Africans.[115] Hence, men-stealing, in violation of the Sacred Scriptures, became the order of the day.

Now the Middle Passage—the trip from West Africa to the Americas—was horrific. Rev. Wesley also lucidly the describes in Thoughts Upon Slavery the whippings, brandings, burnings, and suicides which occurred right off the coasts of West Africa, where the captives were loaded as cargo onto the slave ships. Rev. Wesley recounts:

> You know the people were not stupid, not wanting in sense, considering the few means of improvement they enjoyed. Neither did you find them savage, fierce, cruel, treacherous, or unkind to strangers. On the contrary, they were in most parts a sensible and ingenious people. They were kind and friendly, courteous and obliging, and remarkably fair and just in their dealings. Such are the men whom you hire their own countrymen, to tear away from this lovely country; part by stealth, part by force, part made captives in those wars, which you raise or foment on purpose. You have seen them torn away, children from their parents, parents from their children: Husbands from their wives, wives from their beloved husbands, brethren and sisters from each other. You have dragged them who had never done you any wrong, perhaps in chains, from their native shore. You have forced them into your ships like an herd of swine, them who had souls immortal as your own: (Only some of them have leaped into the sea, and resolutely stayed under water, till they could suffer no more from you.) You have stowed them together as close as ever they could lie, without any regard either to decency or convenience.—And when many of them had been poisoned by foul air, or had sunk under various hardships, you have seen their remains delivered to the sheep, till the sea should give up his dead. You have

[113] Ibid., p. 14.
[114] Ibid., p. 17.
[115] Ibid.

> carried the survivors into the vilest slavery, never to end but with life: such slavery as is not found among the Turks at Algiers, no, nor among the heathens in America.[116]

Next, Rev. Wesley clearly lays the blame for this evil in the trade in human beings upon the British merchants and the mercantilist system. "It is you that induce the African villain," wrote Rev. Wesley, "to sell his countrymen; and in order thereto, to steal, rob, murder men, women and children without number: by enabling the English villain to pay him for so doing…. It is your money, that is the spring of all…."[117] True indeed, for as St. Paul has written, "[f]or the love of money is the root of all evil: which while some coveted after, they have erred from the faith, and pierced themselves through with many sorrows."[118]

Now the influence of natural rights philosophy and the 18th-century Enlightenment upon Rev. Wesley's moral theology is quite clear in *Thoughts Upon Slavery*, which advances a higher law argument that subordinates secular human law to the "law of nature and reason." Rev. Wesley's *Thoughts Upon Slavery* is the plainest expression of the absolute sovereignty of God's providence, will, and law over human affairs. Rev. Wesley writes:

> But waving, for the present, all other considerations, I strike at the root of this complicated villainy. I absolutely deny all slave-holding to be consistent with any degree of even natural justice.
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> I cannot place this in a clearer light, than that great ornament of his profession, judge Blackstone has already done. Part of his words are as follows:
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> > 'The three origins of the right of slavery assigned by Justinian, are all built upon false foundations. 1. Slavery is said to arise from captivity in war. The conqueror having a right to the life of his captive, if he spares that, has then a right to deal with him as he pleases. But this is untrue, if taken generally, That by the law of nations, a man has a right to kill his enemy. He has only a right to kill him in particular cases in cases of absolute necessity for self-defense. And it is plain, this absolute necessity did not subsist, since he did not kill him, but made

[116] Ibid., pp. 50-51.
[117] Ibid., pp. 52-53.
[118] I Timothy 6:10.

him prisoner. War itself is justifiable only on principles of self-preservation. Therefore it gives us no right over prisoners, but to hinder their hurting us by confining them. Much less can it give a right to torture, or kill, or even to enslave an enemy when the war is over. Since therefore the right of making our prisoners slaves, depends on a supposed right of slaughter, that foundation failing, the consequence which is drawn from it must fail likewise.

It is said, Secondly, slavery may begin, by one man's selling himself to another. And it is true, a man may sell himself to work for another: But he cannot sell himself to be a slave, as above defined…. His property likewise, with the very price which he seems to receive, devolves ipso facto to his master, the instant he becomes his slave: In this case therefore the buyer gives nothing, and the seller receives nothing….

We are told, Thirdly, that men may be born slaves, by being the children of slaves. But this being built on the two former rights, must fall together with them. If neither captivity , nor contract can by the plain law of nature and reason, reduce the parent to a state of slavery, much less can they reduce the offspring.' It clearly follows, that all slavery is as irrconcileable to justice as to mercy.

That slave-holding is utterly inconsistent with merchy, is almost too plain to need a proof. Indeed it is said, 'That these negroes being prisoners of war, our captains and factors buy them merely to save them from being put to death. And is not this mercy?' I answer, 1. Did Sir John Hawkins, and many others, seize upon men, women, and children, who were at peace in their own fields and houses, merely to save them from death? 2. Was it to save them from death, that they knock'd out the brains of those they could not bring away? 3. Who occasioned and fomented those wars, wherein these poor creatures were take prisoners? Who excited them by money, by drink, by every possible means, to fall upon one another? Was it not themselves? They know in their own conscience it was, if they

> have any conscience left. But 4. To bring the matter to a short issue. Can they say before GOD, That they ever took a single voyage, or bought a single negro from this motive? They cannot. They well know, to get money, not to save lives, was the whole and sole spring of their motions.[119]

This "law of nature" or natural-rights philosophy was also the foundation of the American *Declaration of Independence* (1776), whose original draft dealt specifically with the immoral nature of the transatlantic slave trade, and held King George III of having violated the natural rights of the enslaved Africans. Hence, if Christianity is a republication of natural religion and natural law, [120] the Old Testament's prohibition against men-stealing[121] is likewise a republication of the natural rights of every human being to "life, liberty, and the pursuit of happiness." On this very subject, historian W.E.B. Du Bois says:

> The *Declaration of Independence* showed a significant drift of public opinion from the firm stand taken in 'Association' resolutions. The clique of political philosophers to which Jefferson belonged never imagined the continued existence of the country with slavery. It is well known that the first draft of the Declaration contained a severe arraignment of Great Britain as the real promoter of slavery and the slave trade in America. In it the king was charged with waging a 'cruel war against human nature itself, violating its most sacred rights of life and liberty in the persons of a distant people in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian king of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce. And that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which he has deprived them, by murdering the

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[119] John Wesley, *Thoughts Upon Slavery* (London, England: Joseph Crukshank Publisher, 1778).

[120] See, e.g., Matthew Tindal, *Christianity as Old as the Creation* (1730); William Warburton, *The Alliance of Church and State* (1736); and Joseph Butler, (1736).

[121] Exodus 21:16 ("And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death.")

> people on whom he also obtruded them: thus paying off former crimes committed against the liberties of one people with crimes which he urges them to commit against the lives of another.' …
>
> Jefferson himself says that this clause 'was struck out in complaisance to South Carolina and Georgia, who had never attempted to restrain the importation of slaves, and who, on the contrary, still wished to continue it. Our northern brethren also, I believe,' said he, 'felt a little tender under those censures; for though their people had very few slaves themselves, yet they had been pretty considerable carriers of them to others.'[122]

Here we find an interesting reference to the unification of economic interests in slavery and the transatlantic slave trade, between merchants on both sides of the Atlantic. Following the war, economic motives for maintaining slavery, and reopening the slave trade, suddenly confronted American merchants in both the South and the North. "The economic forces of the country," writes W.E.B. Du Bois, "which had suffered most, sought to recover and rearrange themselves; and all the selfish motives that impelled a bankrupt nation to seek to gain its daily bread did not long hesitate to demand a reopening of the profitable African slave-trade."[123] Following the end of the American Revolutionary War, the American economic interests were allowed to do whatever it wished with both slavery and the slave-trade—and this it did, unregulated, for the next "three-quarters of a century," under a policy of "*laissez-faire, laissez-passer*."[124]

The results of all this, perhaps, is best expressed by Founding Father Alexander Hamilton in Federalist Paper # 54, which clearly set forth the fixed attitude of the American founding fathers toward the natural rights of African slaves. In *The Federalist*, Pager # 54, Alexander Hamilton writes:

> THE next view which I shall take of the House of Representatives relates to the appointment of its members to the several States which is to be determined by the same rule with that of direct taxes. It is not contended that the number of people in each State ought not to be the

[122] W.E.B. Du Bois, "The Suppression of the African Slave Trade," *Writings* (New York, N.Y.: The Library of America, 1986), p. 54.
[123] Ibid., p. 55.
[124] Ibid., p. 56.

standard for regulating the proportion of those who are to represent the people of each State. …

Slaves are considered as property, not as persons. They ought therefore to be comprehended in estimates of taxation which are founded on property, and to be excluded from representation which is regulated by a census of persons. …

The true state of the case is, that they partake of both these qualities: being considered by our laws, in some respects, as persons, and in other respects as property. In being compelled to labor, not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty and chastised in his body, by the capricious will of another, the slave may appear to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property. In being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labor and his liberty; and in being punishable himself for all violence committed against others, the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; as a moral person, not as a mere article of property. The federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property. …

This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied, that these are the proper criterion; because it is only under the pretext that the laws have transformed the negroes into subjects of property, that a place is disputed them in the computation of numbers; and it is admitted, that if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants….

Let the case of the slaves be considered, as it is in truth, a peculiar one. Let the compromising expedient of the Constitution be mutually adopted, which regards them as inhabitants, but as debased by

> servitude below the equal level of free inhabitants, which regards the SLAVE as divested of two fifths of the MAN.[125]

That American economic interests—i.e., American merchants—were given *a free hand* to economically exploit the situation in British North America, following the end of the American Revolutionary War, and to preserve the *institution of slavery*, and to *avail itself of the transatlantic slave trade*, was cause for great concern to both Americans and Englishmen who questioned the motives of the American patriots. In his *A Calm Address to Our American Colonies* (1775), Rev. Wesley concluded that the real motive power behind the American Revolutionary disturbance was the interests of a few "republicans," on both sides of the Atlantic, who wished to undermine King George III. "We have a few men in England who are determined enemies to monarchy…. They love neither England nor America, but play one against the other, in subserviency to their grand design of overturning the English Government."[126] Furthermore, in *A Calm Address to Our American Colonies* (1775), Rev. Wesley seriously doubts the authenticity of the colonists' claims that "no taxation without representation" was the same as "slavery." Rev. Wesley states:

> 'Who then is a slave?' Look into America, and you may easily see. See that Negro, fainting under the load, bleeding under the lash! He is a slave. And is there 'no difference' between him and his master? Yes; the one is screaming, 'Murder! Slavery!' the other silently bleeds and dies!
>
> 'But wherein then consists the difference between liberty and slavery?' Herein: You and I and the English in general, go where we will, and enjoy the fruit of our labors: This is liberty. The Negro does not: This is slavery.
>
> Is not then all this outcry about liberty and slavery mere rant, and playing upon words?[127]

Similarly, his *Some Observations on Liberty* (1776), Rev. Wesley stated:

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[125] *The Federalist Papers*, Paper #54. https://guides.loc.gov/federalist-papers/text-51-60#s-lg-box-wrapper-25493430

[126] John Wesley, "A Calm Address to Our American Colonies" (1775).
[127] Ibid.

> Slavery is a state wherein neither a man's goods, nor liberty, nor life, are at his own disposal. Such is the state of a thousand, of ten thousand, Negroes in the American colonies. And are their masters in the same state with them? In just the same slavery with the Negroes? Have they no more disposal of their own goods, or liberty, or lives? Does anyone beat or imprison them at pleasure; or take away their wives, or children, or lives; or sell the like cows or horses? This is slavery; and will you face us down that the Americans are in such slavery as this?[128]

Since the American patriots clearly maintained a double standard with respect to the fundamental rights of African slaves to "life, liberty and the pursuit of happiness," and there was no other evidence that the American colonists enjoyed fewer rights than similarly-situated British commoners, Rev. Wesley seriously questioned the authenticity of the American Revolution's motives. Chief among his concerns was that the American republic's mottos "We the People" and "Liberty" had the tendency to place the will of the American people above God's will and sovereignty. Rev. Wesley felt that true liberty comes from submission to God's will, not through a plurality of opinions held by "the people." On this point, Rev. Wesley wrote:

> To inflame them still more, you go on: 'Liberty is more or less complete, according as the people have more or less share in the Government.' This is altogether contrary to matter of fact: The greater share the people have in the Government, the less liberty, either civil or religious, does the nation in general enjoy. Accordingly, there is most liberty f all, civil and religious, under a limited monarchy; there is usually less under an aristocracy, and least of all under a democracy. What sentences then are these: 'To be guided by one's own will, is freedom; to be guided by the will of another, is slavery?' This is the very quintessence of republicanism; but it is a little too bare-faced; for, if this is true, how free are all the devils in hell, seeing they are all guided by their own will! And what slaves are all the angels in heaven, since they are all guided by the will of another! See another stroke: 'The people have power to model Government as they please.' What an admirable lesson, to confirm

[128] John Wesley, "Some Observations on Liberty" (1776).

> the people in their loyalty to the Government! Yet again: 'Government is a trust, and all its powers a delegation.' It is a trust, but not from the people: 'There is no power but of God.' It is a delegation, namely, from God; for 'rulers are God's ministers,' or delegates. How irreconcilable with this are your principles! [129]

Rev. Wesley's observations of the American principle of liberty was that, fundamentally, it failed, at least explicitly, to acknowledge the sovereignty of God and that civil magistrates are God's vicegerents. The American Revolution appeared to Rev. Wesley to be nothing more than a power-grab by a few elite British-American Whig politicians and merchants who wished to overthrow of both King George III and Church of England, and all the sacred principles and traditions that these two institutions represented. It did not appear to Rev. Wesley, who was himself a Tory-Anglican, that an American republic, governed by the sovereignty of "We the People,"[130] – which meant scarcely one-tenth of the total American population[131] -- could maintain sufficient fidelity to the natural-law principle of "[t]here is no power but of God."[132]

Following the establishment of the new United States government in 1787, circumstances proved Rev. Wesley's moral concerns to be justified,[133] not just with respect to African American slaves, but also with respect to many other disenfranchised groups, including Army veterans, the working classes, small farmers, and various other minority groups—everywhere the concern was that the American Revolution had betrayed the trust of the average American who labored under the same repressive restrictions as before the revolution. The Methodist Church in America perpetuated Rev. Wesley's zealous anti-slavery advocacy,[134]

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[129] Ibid.

[130] In "Some Observations on Liberty" (1776), Rev. Wesley says, "See now to what your argument comes. You affirm, all power is derived from the people; and presently exclude one-half of the people from having any part or lot in the matter…. Hitherto we have endeavored to view this point in the mere light of reason; and, even by this, it appears, that this supposition, which has been palmed upon us as undeniable, is not only false, not only contrary to reason, but contradictory to itself; the very men who are most positive that the people are the source of power, being brought into an inexplicable difficulty, by that single question, '**Who are the people**?' reduced to a necessity of either giving up the point, or owning that by the people, **they mean scarce a tenth part of them**."

[131] Ibid.

[132] Romans 13:1-2.

[133] John Wesley, "Some Observations on Liberty" (1776).

[134] The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., "The Long Road: Francis Asbury and George Washington," (October 1, 2015), https://www.francisasburytriptych.com/francis-asbury-and-george-washington/

> For example, in 1785, Methodists superintendents Bishop Francis Asbury and Thomas Coke met personally with future President George Washington at his home at Mount Vernon. They both

petitioning Gen. George Washington,[135] and even sacrificing liberty, life and limb for the cause of the enslaved Africans. [136] And the horrible treatment that many of these Methodist received at the hands of pro-slavery ruffians proved Rev. Wesley's concerns regarding the general substance and scope of "American liberty" and the plight of the African-American slaves to be prophetic.

CONCLUSION

At the time of the American Revolutionary War (1775 – 1783), there was a very strong Calvinist influence among the American Patriots. The leading Calvinist leaders were partly Puritan-Congregationalists (i.e., English) and part Scottish-Presbyterian. Both groups of Calvinists converged and the Presbyterian College at Princeton became their centre of intellectual leadership. Although Calvinism held to the strict orthodox Catholic view that slavery would only be lawful under certain strict parameters and could be executed only under definite guidelines amounting to Christian stewardship, it did not strongly advocate for the abolition of slavery or the slave trade—at least not in colonial British North America. In this paper, we have reviewed and documented the expressed views of a few leading Calvinists of the late 18th century, including Rev. Jonathan Edwards, Rev. George Whitefield, Rev. John Witherspoon, and Rev. Samuel Stanhope Smith. These Calvinists all seemed to agree that slavery must be executed as a Christian stewardship; and that Africans were spiritually equal to whites in the eyes of God; and that unjust forms

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> asked Gen. Washington to sign their abolition petition to be submitted to Virginia legislature. Gen. Washington stated that he shared their abolition sentiments but felt that it would not be appropriate for him to sign any petition, but that if the Virginia legislature brought the matter to the floor, then he would give his opinion on the subject.

[135] Ibid.

[136] The Methodist Church engaged in a valiant anti-slavery protest movement during the late 1780s. See, e.g., http://consulthardesty.hardspace.info/wp-content/uploads/2016/09/Hardesty-timeline-Rev10.pdf, stating:

> 9 April 1785 Coke and Asbury personally inform General Washington (four years prior to his election as President) of their opposition to slavery. Coke is stalked by an assassin - then violently threatened in Virginia - for equating slavery with injustice. Instead of accepting a bounty for giving Coke a hundred lashes with the whip, a local magistrate – after hearing the evangelist preach in a barn – emancipates his 15 slaves. A chain reaction ensues, wherein perhaps an additional nine souls are freed from servitude.
>
> Coke organizes church members in North Carolina to petition their legislature that manumission become legal. Failing, Coke returns to Virginia to lead calls for legislative change. This effort too is unsuccessful. Two counties set out indictments against him.

of brutal enslavement—such as chattel slavery—should be abrogated and curtailed. These Calvinists could cite St. Paul's letter to Philemon as one source of the *Holy Bible*'s authorization of slavery on humane and just terms. But these Calvinists also seemed to be intellectually dishonest about the actual practice of slavery in the West Indies and in the southern part of the United States. Indeed, more and more, as the First Great Awakening of the 1730s commenced, new knowledge about the actual treatment of Africans on the Middle Passage of the transatlantic slave trade and of African American slaves in the West Indies and the southern colonies in colonial British North America became manifest and widely known. Had these Puritans and Calvinists applied St. Paul's letter to Philemon to the situation in the West Indies and in the southern colonies, they would have had to reach the very same conclusions as in the Rev. John Wesley's *Thoughts Upon Slavery* (1778). Indeed, Rev. Wesley's views on abolition and slavery represent the orthodox Christian view of slavery—that men-stealing and chattel slavery were unchristian.[137] The natural Christian tendency in the ancient world, Rev. Wesley argued, was to abolish, not promote or stir up, slavery; and to meanwhile promote Christian brotherhood among slave masters and slaves, with the view towards ultimate manumission of slaves. In the end, Rev. Wesley concluded, in *Thoughts Upon Slavery*, that the only reason why the English and the Americans both tolerated slavery is because they both wished to make money—i.e., British mercantilism and American capitalism. And, as we have seen in the case of *Somerset v Stewart* (1772) 98 ER 499, English common law, the laws of nature, and the British constitution clearly contained no internal juridical foundations to support the institution or condition of human slavery.

THE END

[137] Consider, for example, Spain's Emperor Charles V and England's Queen Elizabeth I who rejected the institution of slavery.