

**North American Calm, West Indian Storm:
The Constitutional Politics and Legacy of the Somerset Decision**

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A significant historiographical literature posits that Lord Mansfield's famous decision in the 1772 *Somerset* case deeply threatened slaveholders throughout the British Empire. This literature, and much evidence from both the ruling and its overall context, shows why colonial slaveholders *should have* felt their power over their slaves challenged by this metropolitan decision. However, while West Indian planters and their representatives did publicly express fear and outrage about Mansfield's ruling and what it represented, the bulk of North American slaveholders did not, either in public or in private. It is therefore worth analyzing why those North Americans seem to have felt secure in this instance (even as they vociferously protested other imperial policies in this era) when West Indian planters did not. It was British emancipatory policies during the American Revolutionary War that panicked North American slaveholders and ultimately taught them their need to control the state.

Mansfield's ruling, rendered 22 June 1772 in London's Court of King's Bench, addressed a whole bundle of issues surrounding slavery's legal and moral status, imperial governance, and British liberty that had woven themselves into the case. James Somerset had served as a slave of Scottish merchant Charles Stuart for two decades when Stuart compelled him to travel with him from Virginia to England.¹ Somerset had witnessed several examples of successful slave self-emancipations even during his bondage in Virginia, and Stuart's attempts to play the paternalist with him were insufficient to keep Somerset from longing for freedom. In 1771 while in England, he escaped his bonds, likely in August while serving as a courier between Stuart and a friend.² But in late November Stuart re-captured him, putting him in irons aboard a ship destined to sail for Jamaica. A keen sense of betrayal seems to have driven Stuart's draconian actions towards Somerset. By fleeing, his tailor and hairdresser Somerset had not only

challenged his domestic authority, but also abandoned him just as this colonial / provincial merchant and customs official was trying to cut a fashionable figure in London society. Stuart also reacted to this rebuke to his self-image in a political context in which American Patriots resisted the imperial hierarchy to which he had devoted himself. In particular, his work as a high-ranking customs surveyor in America at the height of the Stamp Act and Townshend Duties controversies, and the resulting turmoil was a major push for him to retreat to England in late 1769. Stuart, in short, wanted to be nothing more than a patriarch presiding over a stable and prosperous household, and a rational and effective administrator of an empire of whose authority he had no doubt. He was on a roll and rising in that world when the consequences of Somerset's absconding and his own repressive response would bring him into the headlines throughout the British Atlantic in the most mortifying of ways.³

The basic problem for Stuart was that Somerset found able advocates in London. Somerset had been baptized while in London, and three Londoners including his godparents filed a writ of habeas corpus with the Court of King's Bench against the ship's captain. In January, the temporarily freed Somerset himself approached London lawyer Granville Sharp in hopes he would take his case. Sharp was the natural choice, for he had been seeking to abolish slavery in England through the law since 1765, including in cases tried by Lord Chief Justice Mansfield in King's Bench.⁴

Sharp had to persist in his efforts across multiple cases in large part because he had waded into a legal thicket. The exact legal status of England's thousands of slaves had for decades been a study in ambiguity, with a welter of contradictory case law – and even an influential 1729 opinion offered outside of court – contributing to the confusion over issues headlined by whether the mere fact of being in England freed a slave.⁵ Accordingly, both Sharp

on the antislavery side and West Indian merchants and absentee planters on the proslavery side wanted Somerset's case to decide the issue. Mansfield, the very avatar of the existing order in Britain, explicitly expressed reluctance to decide such a weighty matter involving such fiercely competing interests and with such potential to disrupt property rights. In fact, in a 1771 case brought by Sharp he had proclaimed that "he would have all Masters believe their Negroes free; and the Negroes think themselves Slaves for the sake of good behavior on both sides." In the midst of the legal arguments, Mansfield had urged Steuart and his representatives to settle with Somerset, adding that if "he shall insist on demanding a final judgment, we shall not fail to give it faithfully, however irksome and inconvenient."⁶ Both sides in the case found themselves unable to accept this dodge. After whole days of arguments beginning in February and resuming in May 1772, on 14 May Mansfield reluctantly agreed that the case should go forward. Then on 22 June, after hearing more arguments and then deliberating over a recess he ruled on behalf of the four-judge court that Steuart had no right to compel Somerset out of England into colonial slavery, and that Somerset should go free.

Historians and legal scholars have probed the significance of this decision ever since. Many have emphasized the strict limits of Mansfield's ruling, which prohibited the forcible removal of blacks from England but not their servitude in England per se. As such they contest the idea that Mansfield should be considered an antislavery hero. Edlie L. Wong, for instance, grants that "it established a powerful antislavery precedent favoring freedom for slaves once on free soil," but emphasizes the terribly and deliberately circumscribed nature of the opinion. Pioneering historian of black Britons Folarin Shyllon dedicated an entire book to exploding "the myth that black slaves in eighteenth-century England were emancipated in 1772" by the humane Mansfield. Historian Ruth Paley has pointed out that not only Mansfield himself but also his

successors on the bench “deliberately interpreted the law as narrowly as possible” after 1772 to protect certain rights but not others for black Britons. Her verdict is that Mansfield “found the law on slavery in a state of confusion and that is precisely where he left it.”⁷ Others see the decision itself as being of much greater significance than all this would suggest. Legal scholar Stephen M. Wise has gone so far as to declare that Mansfield allowing James Somerset to “shed his legal thinghood . . . was the beginning of the end of slavery.” Even more restrained scholars than Wise, such as David Brion Davis, have concluded that it “removed any legal basis for slavery in England,” and that it made it “no longer possible to take for granted the universal legality of slave property.”⁸

On a related point, scholars have disputed over how much peril colonial slaveholders perceived in Mansfield’s ruling. Something of a default position in the literature coheres around the idea that American slaveholders saw *Somerset* as a fundamental denial of their property rights and their political control over their slaves within an increasingly hostile, antislavery empire. As such, they reacted with fervor against the ruling.⁹ So powerful was this objection and the constitutional and political questions on which it touched, others have argued, that the decision must be seen as a chief cause of the movement for American independence. George Van Cleve has been a leader in this charge. The “closely watched” case, in his judgment, “directly challenged the legitimacy of slavery as an imperial institution.” Thus, “slaveholders vigorously attacked Mansfield’s decision” because it “strengthened their preexisting view that arbitrary British government policies on slavery and taxation threatened their economic well-being and political freedom.” Patriots’ burning drive to expand their command over slavery means that it was no accident that “slavery emerged from the Revolution stronger than it had been within the framework of the empire, especially after *Somerset*.”¹⁰ David Waldstreicher has

offered an especially important version of this interpretation, positing a “Mansfieldian Moment” for American slaveholders. Mansfield gets the title role because his decision inaugurated “the modern constitutional politics of slavery” by alerting slaveholders throughout the empire that “never again could British slaveholders reassure themselves that everybody (who mattered) believed in slavery as a traditional form of property.” Waldstreicher admits that “no public meetings denounced Lord Mansfield; his effigy did not hang in Charleston or Boston. Yet the Mansfield decision in the *Somerset* case demonstrated that slaveholders had at least as much to fear from parliamentary sovereignty as did merchants.” The ultimate impact of this “moment” on the constitutional actions of the Founders was that whether in the Articles of Confederation or the Constitution, they felt the need to confirm slavery’s legitimacy at the national level.¹¹

But other scholars have contested this characterization, pointing to the relative paucity of printed protest against *Somerset* in North America. Patricia Bradley’s analysis of colonial newspapers in 1772 showed some slight differentiation between the coverage Patriot and Loyalist prints gave the case. But her overall conclusion was that “the Somerset story did not play a large role in any of the newspapers when compared to other stories of the day.” The lack of panic, she suggested, stemmed from colonials’ sense that they lived under a clearly separate legal regime from that over which Mansfield presided.¹² Likewise, Thea K. Hunter after careful analysis found only extremely subtle partisan nuance to Massachusetts newspaper coverage of the case. The extreme nuance of their approach rightly struck her as out of character with the tenor of this toxic political era.¹³ Similarly, Edward Rugemer found that *Somerset* generated “far less sustained attention or vitriol” among South Carolinians than among West Indians. “The Somerset case did not contribute to the causes of the American Revolution,” he flatly states. “If

it had, North Americans would have written a lot more than they did.” They did not because “at this moment in history, they had greater concerns.”¹⁴

I submit that it is possible, and is not a dodge, to split the difference between these starkly divergent interpretations of *Somerset*'s political and constitutional significance for the slaveholders of the British Empire. The scholars who posit a “Mansfieldian Moment” have made a strong case for why slaveholders throughout the empire should have objected vociferously to this political and constitutional threat to slavery from the very epicenter of their empire. For all the lawyerly limits of Mansfield's parsed verdict, much of the buildup to and fallout from this case gave them cause for alarm.

In this era in which the respective rights and powers of colonial legislatures and the government in London were front and center in British imperial politics, the very nature of the court in which this case was heard, and the political stance of its chief justice, seemed menacing to slaveholders who wished to preserve local control. Since 1756 when Mansfield began his term as Chief Justice of King's Bench, he had expanded especially the appellate powers of this court that sat atop England's complex legal system.¹⁵ This legal centralizer also played a major political role advocating the centralizing position on empire in the House of Lords. In a 1766 debate on repealing the Stamp Act, for instance, Mansfield insisted that Parliament represented “the whole British empire” and possessed “authority to bind every part and every subject without the least distinction” in all legislative matters.¹⁶ Therefore, anything Mansfield touched would have had the stain of imperial overreach for vigilant colonists.

Moreover, the decision even at its most narrow set England's policy towards slavery against the preferences of planters and their representatives. That represented a change in direction for the eighteenth century. A key legal opinion amidst the pre-1772 fog, rendered in 1729 by Attorney General Philip Yorke and Solicitor General Charles Talbot, decreed that baptism did not free slaves and that the master of any slave coming from the colonies into Great Britain "may legally compel him to return again to the Plantations." As historian Travis Glasson has shown, the origins and meaning of this opinion illustrate how slaveholders' "material interests intersected with other sets of cultural and political concerns within the British Empire." Not long after that decision, a Parliamentary law of 1732 allowing British merchants to recover debts throughout the Empire supported Yorke and Talbot's "conception of slavery's uniformity and legality throughout the empire."¹⁷ As scholars headed by Sue Peabody have shown, the Yorke-Talbot opinion helped usher in a period of retreat from the practice of "free soil" throughout northwestern Europe in the middle of the eighteenth century.¹⁸ Seen from this perspective, the Somerset decision was a key change of course in vital ways: it showed metropolitan and colonial interests clashing rather than complementing each other, reversed any hope of legal uniformity in favor of slaveholders, and augured the re-expansion of the idea that England constituted free soil.

The arguments used in and touched off by *Somerset* also posed a direct ideological threat to colonial slavery. Sharp had marked himself as the foremost opponent of slavery in Britain, including by arguing in a 1771 case that treating men as property worked "to the disgrace of human Nature." Likewise, in a 1769 pamphlet Sharp had inveighed against "the arbitrary, cruel and inhuman spirit of plantation legislators" of North America as well as the West Indies. "It is a shame to this nation, and may in time prove very dangerous to it, that the *British* constitution

and liberties should be excluded from any part of the *British dominions*” by allowing the slaveholders’ draconian codes to stand in flagrant violation of “the *natural right of all mankind*.”¹⁹ So Sharp’s mere involvement as part of Somerset’s legal team lent an abolitionist flavor to the whole endeavor. While Sharp stayed in the background during the trial, his legal team gave slaveholders plenty to worry about. Francis Hargrave insisted that the “species of slavery adopted in our American colonies” not only oppressed the slaves, but also proved “dangerous to the state” because it “corrupts the morals of the master.” He characterized slavery as “harsh and terrible to human nature,” “incompatible with the natural rights of mankind, and the principles of good government,” and “incompatible with the mild and humane precepts of Christianity.” Slavery belonged to “the early and barbarous state of society,” he continued, so if Steuart were successful in forcing Somerset into Jamaican slavery, this “high act of dominion” would set English civilization back centuries.²⁰ Prosecution counsel John Alleyne followed Hargrave with his own blistering antislavery rhetoric. No one, he submitted, could legitimately consent to part with “all the rights vested by nature and society in him and his descendants” “without ceasing to be a man; for they immediately flow from, and are essential to, his condition as such.” Alleyne’s rather limited legal conclusion – that “slavery is not a natural, ‘tis a municipal relation” – could not fully obscure the fundamental threat to all slavery that such ruminations proposed.²¹

Both Mansfield’s final judgment and its popular reception likewise framed the decision as an ideological rebuke to slavery everywhere. Mansfield parroted Hargrave’s depiction of Steuart’s actions as “so high an act of dominion.” He proclaimed that slavery was so “odious” “that it is incapable of being introduced on any reason, moral or political” except by means of “positive law.” Given that he found no positive law sustaining the right to coerce a slave out of

England, “I cannot say this case is allowed or approved by the law of *England*; and therefore the black must be discharged.”²² Try as he did to limit the legal application of such pronouncements, as William Wiecek noted, “Mansfield’s utterance had a plangent quality, suggesting that slavery was of dubious legitimacy everywhere.” Given this as well as the high, broad hopes both sides had pinned to the case while it was being argued, quite naturally “the decision took on a life of its own” in the making of an Anglo-American antislavery jurisprudence in both the short and long terms.²³ People in bondage expanding in practice the liberating implications of narrow actions by those in power had been a European phenomenon since the Middle Ages, and would continue to be so in the decades to come.²⁴ Slaveholders thus had reason to be horrified as they observed metropolitans, slaves, and even fellow colonists taking the decision and running in starkly antislavery directions.

Some sweeping metropolitan antislavery arguments occasioned by the case occurred while the case was still being adjudicated. William Bolla, in a remarkable pamphlet published in London in early 1772, wrote specifically to cheer on the abolition of slavery in Britain, but in the process directly attacked slavery and other forms of racial oppression throughout the British empire. Given that “the welfare of the people” was the purpose of all government, peoples from America to India exploited by Britons abroad had “for some time loudly called upon the wisdom, justice, and humanity of the nation for protection.” Indeed, “whatever is by its nature evil cannot be made good; what is unjust by its nature cannot be justified; no sanction can be given to tyranny, oppression or cruelty by any prince or nation.”²⁵ Maurice Morgann had formulated a plan scheme for the liberation of the slaves throughout the British Empire and their settlement in Florida as early as 1763, but then set it aside until *Somerset* had “revived the memory of this paper” and given him hopes for a listening audience. The West Indies principally drew his gaze

because he saw “the most perfect slavery” operating there. The planters’ proslavery “sentiments are rooted in prejudice” and thus they are “least capable of conceiving or embracing a better order of things” that would be in Britain’s “true interest.” And given that the British government upheld slavery and the slave trade, it was undoubtedly in its province to strike them down.²⁶ The editor of London’s supremely influential Gentleman’s Magazine thought Morgann’s scheme imprudent, but added that “if the project is a chimera, it is, at least, the chimera of a benevolent and liberal mind.”²⁷ Additionally, a writer to a London newspaper observed that if he were one of Somerset’s lawyers he would set out to prove “that he neither *now is*, nor *ever was*, the Property of his Master; that the original Vender had no right to sell, nor the original Purchase to buy him; that all Mankind, as they are born, ought to live, equally free.” Furthermore, he would argue that the slave trade “is an infamous Bartering of Human Flesh and Blood; an accursed Violation of the most sacred Rights of Human Nature.”²⁸

In the midst of the case’s argumentation, London’s public sphere also reverberated with sorties against white supremacy. In May 1772, a letter to a London paper lampooned the lunacy of racism. By the laws of God, he or she insisted, “a Negro cannot be less free than a Man of any other Complexion. If Negroes are to be Slaves on Account of Colour, the next Step will be to enslave every Mulatto in the Kingdom, then all the Portuguese, next the French, then the brown complexioned English, and so on till there be only one free Man left, which will be the Man of the palest Complexion in the three Kingdoms!”²⁹ In late May, “Vindex” writing in the London Gazetteer sought to shame England’s legal system for even entertaining a doubt as to James Somerset’s status. A recent French case, by contrast, had vindicated the correct principle that no one should be excluded from human rights “whose crime is to have been born with a darker skin (but perhaps with not a blacker heart) than their fair complexioned tyrants.” That

anyone should argue against the likes of Somerset was thus “the disgrace of our age” and country.³⁰ Ten days later, the same London print published a letter from a white Englishman who had fallen in love with a black woman who was “said to be” a slave. They planned to be married in the Anglican Church, and he wrote “to be informed, whether the Negro and children (if any) will become mine, or continue that of her lady’s.” Less than two weeks later, a correspondent claiming to be a lawyer answered that no matter what questions *Somerset* had raised, there had never been a doubt that slave women marrying white men in Britain would become free. And that would always be the case, he added, “till some friend to tyranny succeeds in his scheme of an interposition by Parliament.”³¹ Words like tyranny were of course especially loaded amidst the imperial crisis, so branding racial hierarchy in this way was a pointed challenge. And then in early June, a correspondent with the fascinating pseudonym of “NEGRO” created a weeks-long dustup in the columns of the London Gazetteer by wishing Mansfield would have just decided straightforwardly in favor of Somerset rather than seeking to dodge his responsibility. Addressing Mansfield, he remonstrated that “the difference, Sir, between you or any other Englishman, and a negro, is only in colour; and why that distinction should unfortunately exempt him from the blessings of liberty, I own I am at a loss to determine.” In the ensuing controversy, the majority of writers echoed this assessment that Mansfield’s performance had been disappointingly tepid.³² Scholar Hannah Weiss Muller has shown that especially after the acquisitions of the Seven Years War, competing claims to the rights “of subjecthood were omnipresent in the eighteenth century” in the British Empire. Those conquests had brought to the empire a much more diverse assortment of subjects – ranging from North America to India – who were neither British nor Protestant. Her analysis shows “that subjecthood in the British Empire would be chosen, negotiated, and defined” or even redefined

by British policies towards these new people claiming subjecthood. In this context, as historian Trevor Burnard has pointed out, for Mansfield's court to even hear the case of someone slaveholders considered beyond the pale of British belonging – let alone to have him win, and then let alone to have these anti-racist effusions ensue in the public sphere – was far more than irritating.³³ For even white supremacy to be up for questioning in the midst of this flux would have been menacing and disorienting to the chief beneficiaries of that principle, colonial slaveholders.

Then the ruling opened yet wider the floodgates of antislavery throughout the British Atlantic. Just weeks after Mansfield's decision, an anonymous writer offered "An Argument against Property in Slaves" in the Gentleman's Magazine. He argued that treating men as mere chattels worked "*to the disgrace of human nature*," and that the rights Negroes had were "*inestimable, far above all pecuniary consideration*." Quite typically, his rather narrow conclusion was that for Mansfield to have ruled for Steuart thus have been a dangerous and unwarranted innovation; but also quite typically, he had staked out very broad antislavery ground.³⁴ In August, a letter from London published in an Edinburgh paper defended Mansfield from his partisan critics by asserting that his Somerset decision "does more honour to the law of England than any that has been made since the [Glorious] Revolution." It showed Mansfield's "disposition, not only to regard and protect the rights of Englishmen, but to befriend and support the general rights of mankind." This was a universalist reading of Mansfield's opinion that he himself would have resisted, and it made the defense of liberty the ultimate criterion of character.³⁵ New Jersey abolitionist Samuel Allinson argued in 1773 that Mansfield's ruling proved "that Slavery is not consistent with the English constitution, nor admissible in Great-Britain." Therefore, it was far from clear to him "why it should be revived and continued in the

colonies, peopled by the descendants of Britain, and blessed with sentiments as truly noble and free as any of their fellow subjects in the mother country.”³⁶ The contagion of *Somerset* was such that even seamen used its prohibition of the forcible deportation of blacks to challenge the legality of impressment.³⁷

Africans both in England and the colonies leveraged the broad popular reading of *Somerset*’s significance in multiple ways. That began with James Somerset himself and his immediate black acquaintances. The very act of seeking his freedom in court had been enough to provoke Steuart and his friends to brand Somerset an “ungratfull Villain” who thought himself a “Man of consequence,” but they hadn’t seen anything yet. Just three weeks after the decision freeing Somerset, Steuart’s friend John Riddell of Bristol Wells, England, found that Somerset had helped provoke his enslaved servant called “Mr. Dublin” to run away. Dublin, Riddell apprised Steuart, had told his fellow servants “that he had rec’d. a letter from his Unkle Sommerset acquainting him that Lord Mansfield had given them their freedoms.” But while he was sure of his own irritation, Riddell evinced how uncertain mastery over slaves had become in England in 1772 when he noted that Dublin had “carried of all his own Cloths which I don’t know whether he had any right so to do.”³⁸

As dramatic as this episode was for all concerned, the decision also resonated well beyond Somerset’s immediate circle of influence, and much longer than the few weeks surrounding the decision. In 1773, a Glasgow paper reported that “a Negro here,” “following the example of Somerset,” had sued for his freedom. He had the support of “some of the clergy in the neighbourhood,” and “it is generally believed he will succeed.” It is unclear whether this enslaved man was Joseph Knight, but in 1773 Knight began the legal proceedings that would lead to his freedom and the judicial abolition of slavery in Scotland in 1778. There is some

evidence to suggest that Knight was inspired in part by reading the broad popular interpretations of Mansfield's Somerset decision in Scottish newspapers.³⁹ Samuel Martin, an absentee West Indian planter living in Surrey, England, complained to a friend that "you cannot conceive, what pitch of insolence" his slaves had "arrived at" after Mansfield's judgment. "I fear," he added, that "the many foolish Writers who become their Advocates, will put into the heads of our Colony-negroes, to rebel: and occasion at least much bloodshed."⁴⁰ At least two slaveholders in Virginia thought they saw Martin's forecast coming true. In September 1773, John Finnie advertised for the return of the 27-year-old Amy and the 19-year-old Bacchus. Finnie believed that "they will endeavour to get out of the Colony, particularly to Britain, where they imagine they will be free (a Notion now too prevalent among the Negroes, greatly to the Vexation and Prejudice of their Masters)." In June 1774, Gabriel Jones, another Virginian slaveholder, expressed even more certainty of that case's ongoing charms for North American slaves. In his advertisement for the return of Bacchus, Jones expected that after his intermediate destinations, "he will probably endeavour to pass for a Freeman by the name of John Christian, and attempt to get on Board some Vessel bound for Great Britain, from the Knowledge he has of the late Determination of Somerset's Case."⁴¹

Some African slaves in Massachusetts preferred to pursue politics and the law as their currents to freedom in the wake of Somerset. As Thea Hunter demonstrated, the enslaved filers of freedom suits in Massachusetts in the 1780s likewise leveraged the "preference for liberty" that had carried the day for Somerset. The ambiguities left by a narrow reading of Mansfield's ruling energized rather than paralyzed their efforts.⁴² But well before they sued, the first organized group of abolitionists in Massachusetts history petitioned based on the prevailing political culture of the Anglo-American world in the early 1770s. In 1773, one of their appeals

argued that based on the logic of “a late memorable Case determined at the highest Court of Common Law at Home” decreeing that slavery could only be established by positive law, it was illegal in Massachusetts given that its original charter guaranteed inhabitants “the same *Liberties* and *Privileges* as if in *England*.”⁴³

Given all these reasons to panic, West Indian planters and their allies and representatives in the metropolis duly panicked. The ideological threat they perceived being offered to slavery was not especially subtle, and neither were their responses. The number of 1772 publication dates suggests the urgency they felt. Even the hard-hitting little 12-page tract by the absentee Barbadian planter Samuel Martin, while published in Barbados in 1775, had been penned in 1772.⁴⁴ Likewise, the fact that most of them were written by absentees in England and published in London suggests the metropolitan nature of the threat they felt.

The nature of their arguments in response also demonstrate that they perceived the case to pose a thorough rather than a limited challenge to slave property. While King’s Bench was still hearing the case, a correspondent of a London newspaper fretted that “this Cause seems pregnant with consequences extremely detrimental to those Gentlemen, whose estates chiefly consist in Slaves.” He feared that “it would be a means of ruining our African Trade if it should be determined in favour of the Negroes,” because it imperiled the validity of the sale of slaves in the colonies.⁴⁵ Thomas Thompson insisted that only on the surface did the African slave trade appear to be “a national sin” or a great assault on human rights, for “it is really as vindicable as any species of trade whatever.” Antislavery writers too often relied on abstractions wrongly applied, and ignored the biblical basis of human bondage.⁴⁶ Other polemicists echoed Thompson’s point that slavery was misunderstood among Britons at home. Samuel Estwick

reflected that from its very start *Somerset* was “full of concern to America.” He found both Mansfield’s ruling and the surrounding rhetoric to be thoroughly threatening to property rights. He wished debaters would “drop the term slavery” because it was “odious” and prejudicial, blinding Britons to the true nature of the case. If they could but drop that term they would see the parallels between the “discipline” of colonial slaves and that of Britons in the army and navy. Warming to his theme, he ventured that “the state of Negroes” in Britain’s colonies “is preferable, nay infinitely more desirable, than the condition of the poorer sort of people residing even in this boasted happy isle.” So much for “the imputation . . . thrown on the owners and possessors of Negroes in America” by *Somerset*’s lawyers, he triumphed.⁴⁷ An anonymous letter to a London newspaper from what seems to have been an absentee planter likewise protested that “the very name of slavery sounds harshly in the ears of a Briton, who, by a sort of instinct, conceives an abhorrence of it, without giving himself leisure to form an idea in what it truly consists.” “Despicable and horrid as the situation of a Negro may be conceived,” in fact “the condition of the slave in the West Indies is less miserable than that of THOUSANDS in Great Britain and Ireland.”⁴⁸

Also in 1772, prominent Jamaican planter Edward Long put his considerable weight on the proslavery side of the debate. The burden of his argument was that in no way would the implications of Mansfield’s decision be confined to England. Mansfield had wrought a dangerous and “stupendous transfiguration,” because while the laws of Britain and her empire had long proclaimed blacks to be “*merchandize*,” Mansfield instead proclaimed them to be “entitled to all the rights, liberties, and privileges of natural, or free-born subjects.” That amounted to depriving slaveholders of their property, based only on “the pretended magical touch of the *English air*.” He found “ridiculous” those who tried to console themselves that this

decision led only to “a local emancipation,” for Mansfield’s doctrine “that Negroe slave-holding is inconsistent with the laws of *England*” led to the “plain conclusion” that all colonial laws protecting slavery “are entirely void in null.” As word of this doctrine spread, which was only natural given that “the judicial authorities of the courts at *Westminster Hall* have ever given the rule of judgement to the courts in our colonies,” that news would “operate as a direct invitation to *three hundred thousand blacks*, now scattered over our different colonies, to mutiny, and transport themselves by every means into this land of *Canaan*.” Long’s effort was a searing indictment of a ruling that seemed to him to offer an existential threat to him and his class. It was the insulted colonial and defensive white man in him that cried that the courts should ensure “that, in being liberal to the Negroe, no wrong nor damage should be done to an useful subject, who has, at least, an equal pretension to be favoured by the laws of his country.”⁴⁹

Long is thus an especially good illustration of Srividhya Swaminathan’s point that in the outpouring of defensive literature after the *Somerset* ruling, West Indians’ writings defended not only slavery, but also “their place as subjects within the British empire” relative to Africans as well as to metropolitans.⁵⁰ But Long had much company in that. The pseudonymous “African Merchant” wailed that *Somerset* privileged black slaves over freeborn Britons who were indentured servants or subject to press gangs. “Forbid it, heaven! forbid it, national justice! Cast out the bondwoman and her sons, and let them not have a superiority or even a portion among us.” Surely “Britons can never lavish away their own birthright, never throw such contempt on the ancient institutions of the realm.”⁵¹ In these men’s fevered nightmares, *Somerset* posed the specter of newfangled universal philanthropy displacing traditional bounds of race and nation.

In all these writings, Swaminathan has argued, West Indians had created the first “cohesive and articulate defence of slavery” that spanned the Atlantic. There had been sporadic

defenses before, of course, but Mansfield's decision and especially the broad claims for its implications by antislavery activists "shook proslavery complacency in a manner that resounded throughout the 'British empire.'" She makes another important point, however, when she notes that "West Indian writers . . . far outdistanced their American counterparts in argumentation and strategy."⁵²

One indicator that West Indians charged well ahead of North Americans is the outright silence that reigns in some places one would expect to find alarmed North Americans joining West Indians in defense of their property rights and racial privilege. Leading white Virginians were particularly mum. A vast array of diaries, correspondence, resolutions, petitions, and protests illustrates how many Patriot Virginian slaveholders failed to raise – or even feel – *Somerset* as a grievance in the imperial crisis.⁵³ The same is true for absentee Virginians Arthur and William Lee in London. Neither they nor their correspondents in the colonies mentioned *Somerset* among the many issues of the day that exercised them.⁵⁴

For their part, leading newspaper editors in the Chesapeake neither ignored nor freaked out about *Somerset*. In Williamsburg's Virginia Gazette, editors Alexander Purdie and John Dixon devoted significant column inches to the arguments and verdict in the case. But they offered no editorial comments of their own at any phase of this coverage. And they passed along verbatim multiple London commentators' antislavery glosses on the case, including high praise for *Somerset*'s attorneys and some of the most advanced antislavery and anti-racist statements to be had in the London prints.⁵⁵ After weeks of silence in the London reports for the relevant dates, the Maryland Gazette printed accounts of the judgment. While offering no comment of his own, this editor did run two editorials from other papers: one celebrated it as a victory for blind British justice, and the other sounded a note of alarm specifically for West Indians'

property in slaves.⁵⁶ Readers of such sheets thus got an entirely ambivalent message about the case and its significance.

The course of William Rind, editor of yet another influential Williamsburg editor newspaper named the Virginia Gazette, was in only one respect different from that of these other Upper South editors. He likewise included reports of the arguments in the case, without comment by himself or anyone else.⁵⁷ Rind, however, did publish an anonymous letter that seems to constitute the strongest denunciation of the Somerset decision, and the clearest link between it and the imperial crisis, to come from the pen of any Virginian. The writer protested the trial of Rhode Islanders accused of attacking the British customs ship the *Gaspee* being moved to Britain. Distance was not the only reason this violated these colonists' right to a fair trial. It also meant being tried in the metropolis, where the white American – “who has now repeatedly experienced an intention to divest him of every constitutional British right” – was “already *prejudged*.” “In the case of a SOMERSET,” he grouched, “or any other slave-born black,” British judges had, “in the support of freedom,” overlooked or forgotten white Americans' rights to “PROPERTY.” Thus, “in the case of an American free born white subject it seems rather to be dreaded” that “every idea of this scheme centers in a halter, and every strand of that halter is *resentment*, and that against all America, provoked by the struggles made against” British taxation since 1765.⁵⁸ This scribbler had obviously nurtured a grudge against the Somerset decision for almost a year, although the immediate cause for sending the letter was other ministerial grievances from the mainstream of the imperial crisis. He joined the West Indian writers in resenting the racial topsy-turviness he thought he saw in the case, but not in then launching into a defense of slavery on grounds beyond simple property rights.

South Carolinians averaged more public and private discussion of the case and its implications. A Charleston newspaper offered readers very close coverage of the arguments and verdict. Its editor offered no comment of his own, but added a London sheet's comment that the West Indian lobby was "determined to bring this matter to a decision, as letting a matter of this importance stand in a state of suspense, would be productive of almost all the consequences Lord Mansfield seems to dread from judgment in favour of the Negro." Also from a London print came some grouching about the preferential treatment for "the *sooty-coloured* Gentlemen" which the case signaled.⁵⁹ South Carolinian John Laurens had brought enslaved people with him during his extended sojourn in Great Britain from 1771-1774. He did seem to resent the antislavery chill he experienced in London, and definitely took extra "precautions" against a slave named Cato's "elopement" when he shipped him to Savannah, Georgia, in September 1772. But this hardly added up to panic over *Somerset*. He only mentioned the case twice in his correspondence. In a letter in late May 1772 while the case was still pending, Laurens claimed to find the case "comical," in part because his enslaved servant Robert Scipio Laurens had assured him that "the Negroes that want to be free here, are Fools." Laurens claimed in this letter to have successfully used the threat, rather than the promise, of freedom in Britain as a tool of discipline when Robert "behav'd a little amiss one day." He played less the deluded paternalist than the bemused if disappointed fan of Stuart's cause in a letter to a fellow Charlestonian abroad, written months after the verdict had been rendered. He griped that Mansfield's judgment "was suitable to" their degenerate "times." He giped that one of Stuart's counsel claimed "that he was no advocate for Slavery, & in my humble opinion he was not an Advocate for his Client" either. In fact there was not "a word said to the purpose on either side."⁶⁰ In short, although South Carolinians would seem the most likely source of alarm among

North Americans given how deeply they were invested in slavery, they were different from Virginians in their response to *Somerset* in slight degree rather than in kind.

Curiously, Northern colonists produced a more vigorous and wide-ranging public discussion of *Somerset* and its significance than did Southerners.⁶¹ Boston newspapers led the way. The Loyalist Boston sheet the Massachusetts Gazette reported the arguments and verdict in the case in some detail across weeks. While the editor refrained from offering his own commentary, some of the editorializing he included from London newspapers carried subtle political weight in the context of his beleaguered position as a Loyalist in Boston. He reprinted, for instance, one Londoner's prediction that the decision "will occasion a greater ferment in America (particularly in the islands) than the Stamp Act itself," for it would make every slaveholder vulnerable to litigious persecution by any random "pettifogger" at "the King's Bench at Westminster."⁶² By introducing this prognostication of panic into Massachusetts politics this editor seems to have been begging local Patriots to mark themselves as more solicitous for slavery's than for liberty's preservation. He piled on in the same issue of his paper by reprinting a metropolitan vaunting the large nationalist meaning of Mansfield's righteous decision. "Who can help admiring the genius of that Government," this little aside jabbed, "which thus dispences freedom to all around it? No station or character is above the law nor any beneath its protection."⁶³

The Boston press became the forum for an unusually extensive and intense debate of *Somerset* by North American standards. At first Patriot editor Isaiah Thomas' coverage of the case in the Boston Spy provided boilerplate cheerleading for a broad antislavery reading of its significance.⁶⁴ But then he ran an open letter to Lord Mansfield from the pseudonymous "'BEN SCOTUS'" that began by lauding "your *righteous* determination in the Negro cause," but then

pivoted to questioning the validity of “the emancipation of the Negro Somerset, whom our sage politician, Mr. John Marsham, has proved was created on purpose for slavery.” “With what colour of right,” he demanded of Mansfield, “can you emancipate a man” legally enslaved, “and yet hold millions in chains for whom you never paid a farthing?” While he had freed Somerset from being governed by “the will of his master,” his support of the ministry meant he supported subjecting Americans’ persons and property to the will of their imperial overlords. Mansfield thus advocated “robbing a master in the Islands and Plantations both” of the money he paid for the slave, and the money that slave earned for him via taxation without his consent.⁶⁵ While in no way ambivalent about the perceived challenge to white colonists’ privileges, “BEN SCOTUS” had proven entirely confused as to the legitimacy of slavery. But his invocation of John Marsham was significant. Marsham had, just ten days previous, in a long letter to the Boston Evening-Post, complained that “we have been carried into Extremes” by British culture’s exaltation of “Freedom, Liberty, and the Rights of Mankind.” “We have it perpetually thundered in our Ears, and a Court of Common Law at home seems to have added their Sanction to it,” that it was disgraceful for freedom-loving Britons to hold slaves. But Marsham flatly denied that slavery was “contrary to Nature and the natural Rights of Mankind. . . . On the contrary I affirm that Slavery for wise Reasons is of *divine* Institution,” especially for Africans who were under the perpetual curse of Ham. African slavery in North America thus constituted compliance with God’s law and design, so he advised abolitionists “to be more cautious and modest, lest in Effect they be found, as the Scripture Phrase is, ‘fighting against God.’”⁶⁶ It was thus left to an obscure Boston letter writer to be the North American occupying the most advanced proslavery ground in response to Somerset. He is what much of the literature on North Americans’ response to

Somerset would lead us to expect, except that he was a private Bostonian singing solo rather than a planter in power leading a chorus.

Indeed, Marsham's dish savoring of the West Indies did not go down smoothly in Boston. Thomas published two essays by "MANETHO" refuting Marsham's illogic and misuse of the Bible. The Boston Evening-Post ran no fewer than seven essays from five different authors assailing Marsham's heresy. "M. Cato," for one, indicted Marsham's essay as one "at which an idiot would blush." Affirming "*that Slavery is of divine institution . . . is a thought human nature cringes at.*" Indeed, it made as much sense as to "aver, that the Almighty Being was the causer & inciter of the horrid bloodshed" of the Boston Massacre. Marsham alone defended his essays against these critics, which encouraged his persecution complex. "To combat received Prejudices," he sighed, "is generally unsafe, & seldom successful."⁶⁷ It was certainly not successful in Boston or anywhere else in North America.

For his part, Benjamin Franklin contributed a piquant little essay to London's vigorous debate about the case. The official representative in London for several colonies, Franklin had also acted as North America's self-appointed defender in the metropolitan press for long stretches of the imperial crisis. In that context, two days before Mansfield even rendered his judgment, Franklin did advance spin in an essay published in the London Chronicle. Praising the "generous humane persons" who had aided Somerset's bid to obtain "liberty by law," he expressed his wish "that that the same Humanity may extend itself among Numbers; if not to the procuring Liberty for those that remain in our Colonies, at least to obtain a Law for abolishing the African Commerce in Slaves, and declaring the Children of present Slaves free after they become of Age." Drawing on Benezet's estimates, he reminded British readers that their empire held 850,000 slaves and trafficked in 100,000 Africans annually. "*Pharisaical Britain!*"

Franklin exclaimed in his punch line. “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 prosecute “such a constant butchery of the human species” on this far greater scale.⁶⁸ To be sure, as David Waldstreicher has demonstrated, Franklin’s relationship with slavery was exceedingly complex especially in the Revolutionary era.⁶⁹ But relative to the historiography claiming that North Americans rallied to defend slavery in the aftermath of Somerset, it is still noteworthy that this squib took a strongly antislavery tack. Even more to the point, as a provincial in the metropole in this politically venomous time, he had clearly grated at every British boast and correctly anticipated the political uses to which those loyal to the British administration would put Mansfield’s decision. Thus, the piece emanated from Franklin’s desire to defend not North American slavery, but rather North American Patriots’ good political name.

Rhode Island’s Attorney General, Henry Marchant, also showed himself a keener and seemingly more interested observer of the trial than did many a Southerner. Being in London “upon Colony Business” in 1772, he went to King’s Bench in both February and May to observe the arguments. He gave high marks in his diary to Somerset’s barristers’ performance, but leaned more towards Steuart in his own recital of the facts of the case. This was easily his longest entry, giving a very detailed rundown of the nature of the case and the arguments made before the bench. Like Franklin’s in the press, Marchant’s commentary on the case in his diary centered on its implications for the politics of the imperial crisis. While he wished “Americans had never fallen into so disagreeable and baneful a Trade as that of buying and Selling a Part of the Human Race, as much entitled to the Enjoyment of Freedom as themselves,” ultimately like Franklin he offered a proto-nationalist overall take. Americans “never could have supported themselves in the Trade,” he scribbled, had not Britain supported it with her naval might as well

as Parliament's sanction. Britons would be more consistent if they were either to "discourage Slavery entirely or take their Part of the Shame" rather than trumpeting their "Pretence to more noble Ideas of Liberty than their Neighbours, and that British Soil and British air differs essentially from the Soil and air of America, cheat an honest American of his Slave." "It is very observable," moreover, "how well Englishmen can talk upon the Subject of Liberty while they retain themselves but the Shadow of it."⁷⁰ Marchant's complaint about Mansfield essentially stealing James Somerset from Steuart injected a severe tension with his antislavery sentiments into this diary entry. But the more telling point is that he treated the Scots merchant and imperial tax-gatherer (three categories normally anathema to North American Patriots) Steuart as "an honest American." Even in this North American's diary entry it was much more about the politics of the imperial crisis than about slavery per se like it was for West Indians.

Overall, then, the North Americans' response cannot be dismissed as the sound of silence, but neither did it add up to sound and fury signifying an urgent defense of slavery against metropolitan overreach as did the West Indians' response. Two pamphlets published in Philadelphia in 1773 did add to the budding proslavery argument, but significantly, they did so in response to transatlantic abolitionism in general, not to Mansfield or any other manifestation of metropolitan power against slavery. Richard Nisbet's Slavery Not Forbidden by Scripture was a response specifically to Benjamin Rush's antislavery publication of the same year, and generally a defense of the honor and humanity of slaveholders against the "abuse" they took in the British Atlantic's public sphere.⁷¹ The anonymous author of Personal Slavery Established announced his or her aim to build on Nisbet's arguments, as well as to refute the writings of the likes of Benezet and Sharp.⁷² For these authors, the most immediate threat to slavery emanated from agitators in Philadelphia and London, not from any antislavery agenda of the British Empire.

How can we explain North Americans' response to *Somerset* sounding like Haydn when West Indians' sounded like Wagner? One reason may be that the North Americans – both Patriot and Loyalist – seem to have believed they had bigger fish to fry. In the short term, the event sucking up the attention of newspaper-reading Americans was a financial crisis kicked off by the June 1772 failure of London banker Alexander Fordyce. That disaster dominated the attention of Londoners (including Americans in London) throughout that month – much to the relief of Charles Steuart, who was sick of his case taking up so much attention – and the height of the panic was June 22, the very day Mansfield delivered his ruling on *Somerset*.⁷³ The American newspapers' reprints of London reports followed. Even issues that did report on *Somerset* devoted far more column inches to the financial calamity.⁷⁴ Editors could only reprint what was originally printed in London, but they had choices. That suggests that they judged that their commercially-oriented readers would find the financial emergency a more pressing matter than *Somerset*.

In the broader context, the main events of the imperial crisis seem to have overshadowed *Somerset* in North American hearts and minds, and most did not connect the two. The Stamp and Townshend and Intolerable Acts quite simply worked up the kind of political passion and frothy rhetoric in North American Patriots, slaveholding and non-slaveholding, that *Somerset* did not. A full study of the rhetorical fireworks of the imperial crisis reveals the tranquility of the *Somerset* reaction by comparison, but a few specific examples may help. William Lee, for one, made no mention of the case in his correspondence with his brother Francis Lightfoot Lee in June and July 1772, reserving his attention and rhetorical flights for matters of business (including the Fordyce affair). But a letter in the aftermath of Parliamentary bills in 1774

punishing Boston for its Tea Party revealed William to be anything but a cold, apolitical businessman. “For Heaven’s & the sake of Freedom,” he urged Francis Lightfoot, “be unanimous in the support of Boston, or else you are all inevitably Slaves.”⁷⁵ Also in 1774, Purdie and Dixon’s decision to run an excerpt from a pro-Patriot pamphlet by Granville Sharp was revelatory of their priorities. They did not see the author of this politically useful pamphlet as radioactive just because he had been the prime mover behind *Somerset*.⁷⁶ It was also telling that Mansfield showed up most often in Patriot papers in connection with his political stances. In such pieces he received more personal abuse in North America than in coverage of the Somerset ruling. A typical piece decried “the great plan of despotism” pursued in Ireland as typical of Britain and the Empire; “the system of the Earl of Bute and Lord Mansfield, is, that ALL POWER shall center in the King.” Another branded him “the very worst, and most dangerous, man in the kingdom” on account of his overall politics and jurisprudence.⁷⁷ For such Patriots, Mansfield was part of a much larger moment, and not primarily because of his relationship to American slavery.

While the distractions of the imperial crisis help explain North Americans’ relative quiet on *Somerset*, the limited nature of not only the ruling but also the arguments of Somerset’s legal team may also have been a strong determinant. Some scholars – and certainly many popular commentators at the time – have read the central issue of the case as being whether English law would apply in the colonies.⁷⁸ But Somerset’s counsel carefully limited their stated objective to ridding England of the invasive species of slavery. Even Sharp’s 1769 treatise that looked ahead to this case, for all its universalist condemnation of slavery in principle, delimited his practical point by disclaiming that “it is not my business at present to examine, how far a toleration of Slavery may be necessary or justifiable in the West-Indies. ‘Tis sufficient for my purpose, that it

is not so here” in England.⁷⁹ At the trial, Hargrave pled that if Steuart won, “domestick slavery, with it’s horrid train of evils, may be lawfully imported into this country, at the discretion of every individual foreign and native.” In that event, “this country, so famous for publick liberty, will become the chief seat of private tyranny.” “By an unhappy concurrence of circumstances,” Hargrave stipulated, “the slavery of negroes is thought to have become necessary in *America*.” But the crux of this case, he submitted, was that “the slavery of negroes is unnecessary in *England*” and should therefore be kept at arm’s – or ocean’s – length. According to press accounts, Somerset’s lawyer William Davy put this question even more starkly. “With regard to the laws of Virginia,” he probed, “do they bind here? Have the laws of Virginia any more influence, power, or authority in this country, than the laws of Japan?” “Either all the laws of Virginia are to attach upon” black people “here, or none, - for where will they draw the line?” In his verdict, Mansfield agreed that the present “question is, whether any dominion, authority or coercion can be exercised in this country, on a slave according to the *American* laws?” He decreed that the consequences of doing so would be “absolutely contrary to the municipal law of *England*.”⁸⁰

This evidence supports the interpretation of scholars who have concluded with Daniel Hulsebosch that the case centered on solving the conflict of laws in such a way as to “keep slavery in the empire while keeping it out of England.” Eliga Gould’s thorough survey of eighteenth-century British imperial constitutional practice has shown that the “image of Britain’s Atlantic periphery as a region ‘beyond the line’” had become not only a cultural norm but also a “legal geography.” And, Gould continues, “if *Somerset* ‘delivered a deadly blow to slavery in Britain,’ its effects were anything but lethal in the colonies where most slaves lived” because it did nothing to challenge that dual-zone legal and cultural system. Because

Mansfield's "main objective" in his ruling "was to insulate the municipal law of England from a contagion believed to be endemic in the colonies," "it would be a mistake to exaggerate the extent of the changes underway at the time of *Somerset*."⁸¹ West Indians (for understandable reasons) made that mistake, while North Americans by and large did not.

It may seem unlikely that slaveholders anywhere in the British Empire were inclined to think about the small-print legal confines within which *Somerset* was argued and decided; West Indians certainly were not. But that sort of legalistic care is one plausible way to read North American newspaper coverage of the trial and decision. Purdie and Dixon and the editor of Charleston's South-Carolina and American General Gazette, in particular, provided very careful, detailed reporting, from multiple London sources, of the arguments made and Mansfield's reactions. Those columns carried strong and recurring evidence of the metropolitan disdain for slavery in the abstract. But they also featured repeated, closely reasoned discussions about the precise degree of authority the metropolitan court claimed as well as precisely what *Somerset*'s counsel aimed to achieve. That reportage also included a report of Mansfield's verdict which had him saying that "the Power of a Master over his Servant is different in all Countries, more or less limited or extensive. The Exercise of it, therefore, must always be regulated by the Laws of the Place where exercised."⁸² This clear picture of the measured nature of the arguments and ruling may well have convinced many North American slaveholders that other perils to both their liberty and their slaveholding were clearer and more present.

It seems likely that North American Patriots embraced this careful, measured course not only because the imperial crisis was the bigger fish, but also because protesting against Mansfield's ruling would have risked overcooking that fish. Throwing a fit about Mansfield's liberating decision would have proven politically awkward in the extreme for Patriots in the all-

important context of the imperial crisis. They had repeatedly depicted proponents of imperial tax measures, starting with the hated Stamp Act, as “the Friends of slavery and arbitrary Power.”⁸³ To have mounted widespread or vigorous protests against Mansfield’s ruling would have been to cast themselves as the friends not of liberty but of slavery. Of course many North American Patriots found multiple ways to square those two imperatives, but in the broad British Atlantic public sphere, Patriots yelping for liberty while assaulting Mansfield for freeing Somerset would not have been a good look. West Indians cared deeply about their reputation within that British Atlantic world, of course, but were on the whole far less committed to extended resistance to Parliamentary taxation than were most North American slaveholders.⁸⁴ In other words, West Indians and their allies had far less reason to worry about the imputation of hypocrisy as a retort to their cries against *Somerset*. No wonder the London Loyalist quoted previously dared North American Patriots to raise “a greater ferment over the Somerset decision than over “the Stamp Act itself,” and no wonder most of them refused the dare.⁸⁵

Some key North American participants in the imperial crisis thus determined it would be most useful to be seen as cheering on the broadest possible application of the ruling. In his 1773 abolitionist pamphlet, for instance, Philadelphia Patriot Benjamin Rush urged America’s colonial assemblies to “unite in petitioning the king and parliament to dissolve” the Royal African Company in the interests of striking down the slave trade. “We have the more reason to expect relief from an application at this juncture,” he noted significantly, because, “by a late decision in favor of a Virginia slave, at Westminster-Hall, the Clamors of the whole nation are raised against” slavers.⁸⁶ A Boston Patriot expressed his earnest wish that “this glorious precedent will extend, in time, its agreeable and salutary influence to America and the West-Indies.”⁸⁷ For entirely different political purposes and in a very different context relative to slavery, a South

Carolina Loyalist in 1774 used a broad reading of Somerset's consequences to upbraid his colony's Patriots. This anonymous warning centered on how Patriots' pleas for their legislatures' constitutional parity with Parliament undermined the proper authority and sovereignty of Parliament over the whole empire. Moreover, he added, were their "Principles adopted, and every genuine Right of Liberty which is established in *England* made attainable in *America*, it would complete the Ruin of many *American* Provinces, as well as the *West India* Islands." By this, he spelled out, he meant that "a general Manumission of Negroes is a Doctrine badly calculated for the Meridian of either *America* or the Islands; yet it is one of those *original* Rights, the Exercise of which all human Forms immediately enjoy, by setting a Foot on that happy Territory where Slavery is forbidden to perch."⁸⁸ This one page of this pamphlet made for a fascinating mix of ideas. On one hand it would seem to be a Carolinian warning against the licentious principles of the Patriots in a way peculiarly calculated to appeal to a white Carolinian audience. Yet with the parting shot it lauded England, as it stood post-*Somerset*, in order to depict Southern Patriots as both hypocritical and inferior to the metropole. The very few connections North Americans made between *Somerset* and the headline events of the imperial crisis, then, themselves suggest the most significant reason for North American Patriot slaveholders to abstain from assaulting Mansfield.

In the first months of the Revolutionary War, however, Lord Dunmore gave them reason to howl by making the empire's threat to North American slavery far clearer and more present than Mansfield ever had. This royal governor of Patriot-dominated Virginia, in his desperate exile from his capitol, offered freedom to all slaves and indentured servants who fled their masters and joined the British cause. The response would make the two ads from 1773 complaining about the Somerset decision luring slaves to abscond look miniscule in comparison.

As Waldstreicher has put it, the “rhetorical escalation” of the imperial crisis “became quite real” for both planters and slaves with Dunmore’s Proclamation. Charles Foy’s research has shown that throughout the eighteenth century, “the exigencies of warfare . . . provided the greatest opportunities for fugitive slaves” in North America. The British armed forces, who in the midst of the war expanded Dunmore’s policy to all the rebellious colonies, opened that door wider than ever. Scholar Cassandra Pybus’ careful estimate is that roughly 20,000 North American slaves set out for freedom with the British during the course of the war. All up and down the continent, their inability to retrieve runaways from the evacuating British forces highlighted the dire consequences for slaveholders when they lost mastery over the state.⁸⁹ Again, this made the hypothetical threat to slaveholders’ power over their slaves potentially posed by Mansfield’s decision pale into insignificance.

As historians have demonstrated in great detail, the slaveholding American Revolutionaries’ rhetorical outpourings in response to Dunmore also make their responses to *Somerset* look like child’s play. Very few Patriots showed any level of restraint in fulminating against the British fugitive slave policy, because especially the charge that Britain meant to stir up slave insurrections was endlessly useful to them politically. The political calculus for protesting Dunmore’s Proclamation and ensuring British war policy was also much more favorable than for protesting *Somerset*. Arguing that the likes of Dunmore meant to stir up slave rebellions allowed Patriots to redirect the opprobrious term “rebel” from themselves to the insurrectionary tools of British tyranny. Even better, framing the likes of Dunmore as faux liberators whose real purpose was to commit war crimes allowed Patriots to preserve and even burnish their credentials as defenders of the best values of Western civilization, including liberty. For these and other reasons, Robert Parkinson has demonstrated, many Patriot leaders believed

that repeated rhetorical sorties against Dunmore and others who followed his policy would solidify rather than endangering the political unity of the Patriot cause.⁹⁰

Waldstreicher's concept of a "moment" for American slaveholders – the stark realization that they must control the state if they were to preserve control over slavery – is a terribly useful one. It carries tremendous explanatory power for the political course slaveholders would take not only in the Founding era but also across the entire remaining history of their embattled institution in the United States. And the West Indian slaveholders definitely had their Mansfieldian Moment, in advance of the even bigger Wilberforcian Moment. For them it is worth adding that they seem to have understood the need to direct, or at least contest, not only the state, but also the public discourse surrounding slavery, earlier than did North American slaveholders. Largely for political reasons ulterior to (but never separate from) the direct politics of slavery, North American slaveholders skipped right to their Dunmorean Moment.

¹ Steuart seems to have purchased Somerset direct from Africa in 1749; see Francis Hargrave, An Argument in the Case of James Sommersett, a Negro, Lately Determined by the Court of King's Bench: Wherein it is Attempted to Demonstrate the Present Unlawfulness of Domestic Slavery in England (London: F. Hargrave, 1772), 4-8. James Somerset seems to have been his name once in freedom, for Steuart himself and his acquaintances seem to have referred to him only by the name "Somerset," which was par for the dehumanizing course of slaveholders. In one interesting letter bespeaking Steuart's paternalism, his friend referred to him as "Sommerset Steuart"; see Nathaniel Coffin to Steuart, 7 Aug. 1769, Charles Steuart Papers, National Library of Scotland, Edinburgh.

² This is my surmise based on Richard Murray to Steuart, 4, 10 Aug. 1771, Charles Steuart Papers.

³ This summary draws especially on M.S. Weiner, "New Biographical Evidence on Somerset's Case," Slavery and Abolition 23 (Apr. 2002): 122-31; and a wide array of documents (especially receipts in MS 5025-5027; customs-related documents in MS 5025; and General Alex Mackey to Steuart, 20 July 1769) in the Charles Steuart Papers. For more on Steuart, his background, and his Loyalism, see A. Francis Steuart, ed., "Letters from Virginia, 1774-1781," The Magazine of History 3 (March 1906): 151-61; and 3 (Apr. 1906): 211-18. Charles Steuart's name was rendered in multiple spellings – including "Stewart" and "Stuart" – in contemporary sources, par for the course for that name and that era but then replicated by modern scholars. Likewise Somerset's name at times got, and gets, an extra "m" and/or an extra "t."

⁴ Folarin Shyllon, Black Slaves in Britain (Oxford: Oxford University Press, 1974), 125; E. C. P. Lascelles, Granville Sharp and the Freedom of Slaves in England (1928; repr., New York: Negro Universities Press, 1969), 12-30, 81-82; Steven M. Wise, Though the Heavens May Fall: The

Landmark Trial That Led to the End of Human Slavery (Cambridge, Mass.: DaCapo Press, 2005), 1-11.

⁵ William M. Wiecek, “*Somerset*: Lord Mansfield and the Legitimacy of Slavery in the Anglo-American World,” University of Chicago Law Review 42 (1974): 87-95; Shyllon, Black Slaves, 1-76. For the extreme nature of English confusion in this regard in comparative perspective, see Seymour Drescher, Abolition: A History of Slavery and Antislavery (Cambridge: Cambridge University Press, 2009), 76-78.

⁶ James Oldham, “New Light on Mansfield and Slavery,” Journal of British Studies 27 (Jan. 1988): 45-68, esp. 46, 53-54; Notes on the King agt. Stapleton, 1771, in Granville Sharp Collection, New-York Historical Society, New York City (first quotation); Shyllon, Black Slaves, 117. For more on Mansfield’s background and how he became the essence of the British Establishment, see C.H.S. Fifoot, Lord Mansfield (Oxford: The Clarendon Press, 1936), esp. 1-51.

⁷ Edlie L. Wong, Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel (New York: New York University Press, 2009), 11-76, quotation on 11; Shyllon, Black Slaves, quotation on ix; Ruth Paley, “After *Somerset*: Mansfield, Slavery and the Law in England, 1772-1830,” in Norma Landau, ed., Law, Crime and English Society, 1660-1830 (Cambridge: Cambridge University Press, 2002), 165-84, quotations on 179, 184. For more in this vein, see Peter Fryer, Staying Power: The History of Black People in Britain (London: Pluto Press, 1984), esp. 203-207; James Walvin, Black and White: The Negro in English Society, 1555-1945 (London: Allen Lane, the Penguin Press, 1973), 117-41, esp. 128-29; Edward Fiddes, “Lord Mansfield and the Sommersett Case,” The Law Quarterly Review CC

(Oct. 1934): 499-511; Daniel J. Hulsebosch, “Nothing but Liberty: ‘Somerset’s Case’ and the British Empire,” Law and History Review 24 (Fall 2006): 647-57.

⁸ Wise, Though the Heavens, quotation on ix; David Brion Davis, The Problem of Slavery in the Age of Revolution, 1770-1823 (Ithaca, N.Y.: Cornell University Press, 1975), 231, 469-89, quotations on 231, 470. For other works playing up its antislavery impact, see Emory Washburn, Extinction of Villenage [sic] and Slavery in England; with Somerset’s Case. A Paper Read before the Massachusetts Historical Society (Boston: John Wilson and Son, 1864); William R. Cotter, “The Somerset Case and the Abolition of Slavery in England,” History 79, no. 255 (1994): 31-56; George William Van Cleve, “‘Somerset’s Case’ and Its Antecedents in Imperial Perspective,” Law and History Review 24 (Fall 2006): 601-645; Van Cleve, “Mansfield’s Decision: Toward Human Freedom,” Law and History Review 24 (Fall 2006): 665-71.

⁹ For examples of how influential this interpretation has been on other scholars citing only secondary literature, see Drescher, Abolition, 103-105; Alan Taylor, The Internal Enemy: Slavery and War in Virginia, 1772-1832 (New York: W.W. Norton, 2013), 21-22; Kristofer Ray, “‘The Indians of every denomination were free, and independent of us’: Anglo-American Explorations of Indigenous Slavery, Freedom, and Society, 1772-1830,” American Nineteenth Century History 17:2 (2016): 139, 144; Michael Meranze, “Hargrave’s Nightmare and Taney’s Dream,” UC Irvine Law Review 4 (March 2014): 219-38, esp. 224.

¹⁰ George William Van Cleve, A Slaveholders’ Union: Slavery, Politics, and the Constitution in the Early American Republic (Chicago and London: University of Chicago Press, 2010), 17-57, quotations on 17-18, 31, 41. For similar assertions of slavery’s and race’s causal significance in the Revolution, see Robert G. Parkinson, The Common Cause: Creating Race and Nation in the American Revolution (Chapel Hill: University of North Carolina Press for the Omohundro

Institute for Early American History and Culture, 2016); David J. Silverman, "Racial Walls: Race and the Emergence of American White Nationalism," in Ignacio Gallup-Diaz, Andrew Shankman, and David J. Silverman, eds., Anglicizing America: Empire, Revolution, Republic (Philadelphia: University of Pennsylvania Press, 2015), 181-204.

¹¹ David Waldstreicher, Slavery's Constitution: From Revolution to Ratification (New York: Hill and Wang, 2009), 21-56, quotations on 38, 39, 40.

¹² Patricia Bradley, Slavery, Propaganda, and the American Revolution (Jackson: University Press of Mississippi, 1998), 66-80; Bradley, "Slavery in Colonial Newspapers: The Somerset Case." Journalism History 12 (Spring 1985): 2-7 (quotation on 4).

¹³ Thea K. Hunter, "Publishing Freedom, Winning Arguments: *Somerset*, Natural Rights and Massachusetts Freedom Cases, 1772-1836" (Ph.D. diss., Columbia University, 2005), 108-28.

¹⁴ Edward B. Rugemer, Slave Law and the Politics of Resistance in the Early Atlantic World (Cambridge, Mass.: Harvard University Press, 2018), 181-83, 210, 340n24. For others who downplay the North American response, see Winthrop D. Jordan, White Over Black: American Attitudes Toward the Negro, 1550-1812 (Baltimore: Penguin Books, 1969), 304; Srividhya Swaminathan, "Developing the West Indian Proslavery Position after the Somerset Decision." Slavery and Abolition 24 (Dec. 2003): 46, 50; Swaminathan, Debating the Slave Trade: Rhetoric of British National Identity, 1759-1815 (London: Ashgate, 2009), 133-34.

¹⁵ Douglas Hay, "Dread of the Crown Office: The English Magistracy and King's Bench, 1740-1800," in Landau, ed., Law, Crime and English Society, 19-45.

¹⁶ Quoted in Jack P. Greene, Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and United States, 1607-1788 (Athens: University of Georgia Press, 1986), 101. For examples of Lord Mansfield as a bete noir among English

radicals, see [John Wilkes,] The North Briton . . . Corrected and Revised by A Friend to Civil and Religious Liberty (London, 1763; repr., New York: A.M.S. Press, 1976), 4, 86.

¹⁷ Travis Glasson, “‘Baptism Doth Not Bestow Freedom’: Missionary Anglicanism, Slavery, and the Yorke-Talbot Opinion, 1701-30,” William and Mary Quarterly, 3rd ser., vol. LXVII (April 2010): 279-318, quotations on 279, 280, 284.

¹⁸ Sue Peabody and Keila Grinberg, “Free Soil: The Generation and Circulation of an Atlantic Legal Principle,” Slavery and Abolition 32 (Sept. 2011): 332; Cristina Nogueira Da Silva and Keila Grinberg, “Soil Free from Slaves: Slave Law in Late Eighteenth- and Early Nineteenth-Century Portugal,” Slavery and Abolition 32 (Sept. 2011): 431-46; Sue Peabody and Keila Grinberg, eds., Slavery, Freedom, and the Law in the Atlantic World: A Brief History with Documents (Boston and New York: Bedford / St. Martin’s, 2007), 49-50. Peabody offers a rather more half-full reading of the legal state of affairs for black people in France throughout the eighteenth century in “There Are No Slaves in France”: The Political Culture of Race and Slavery in the Ancien Regime (Oxford: Oxford University Press, 1996).

¹⁹ Granville Sharp, A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery; or of Admitting the Least Claim to Private Property in the Persons of Men, in England (London: Benjamin White and Robert Horsfield, 1769), 51n, 63, 71n.

²⁰ Hargrave, Argument in the Case, 15-16, 22-34, 60, 65-67, 79; Capel Lofft, Reports of Cases Adjudged in the Court of King’s Bench, from Easter Term 12 Geo. 3 to Michaelmas 14 Geo. 3 (Both Inclusive), 1772-1774 (London, 1776; repr., General Books, 2010), 30-31.

²¹ Lofft, Reports of Cases, 34.

²² Lofft, Reports of Cases, 45.

²³ William W. Wiecek, The Sources of Antislavery Constitutionalism in America, 1760-1848 (Ithaca, N.Y.: Cornell University Press, 1977), 7-8, 20-51, quotations on 21. For other discussions of this phenomenon, see Wiecek, “*Somerset*,” 86-88, 107-128, 141-46; Jerome Nedelhaft, “The Somersett Case and Slavery: Myth, Reality and Repercussions,” Journal of Negro History 51 (July 1966): 193-208; Adam Hochschild, Bury the Chains: Prophets and Rebels in the Fight to Free an Empire’s Slaves (New York: Houghton Mifflin, 2005), 50-51.

²⁴ Stephen Alford, “Urban Safe Havens for the Unfree in Medieval England: A Reconsideration,” Slavery and Abolition 32 (Sept. 2011): 363-73; Richard S. Newman, “‘Lucky to be born in Pennsylvania’: Free Soil, Fugitive Slaves and the Making of Pennsylvania’s Anti-Slavery Borderland,” Slavery and Abolition 32 (Sept. 2011): 413-30; Cristina Nogueira Da Silva and Keila Grinberg, “Soil Free from Slaves: Slave Law in Late Eighteenth- and Early Nineteenth-Century Portugal,” Slavery and Abolition 32 (Sept. 2011): 431-46; Peabody and Grinberg, eds., Slavery, Freedom, and the Law, 49-50.

²⁵ [William Bolland,] Britannia Libera, or a Defence of the Free State of Man in England, Against the Claim of Any Man there as a Slave. Inscribed and Submitted to the Jurisconsulti, and the Free People of England (London: J. Almon, 1772), quotations on 38-39, 44.

²⁶ [Maurice Morgann,] A Plan for the Abolition of Slavery in the West Indies (London: William Griffin, 1772), quotations on i, 8, 10.

²⁷ Gentleman’s Magazine (July 1772): 325-26.

²⁸ “London, May 16,” Column, Massachusetts Gazette, 30 July 1772.

²⁹ (Williamsburg) Virginia Gazette (Purdie and Dixon), 20 August 1772; (Philadelphia) Pennsylvania Packet, 3 Aug. 1772.

³⁰ London Gazetteer and New Daily Advertiser, 20 May 1772.

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- ³¹ London Gazetteer and New Daily Advertiser, 30 May, 11 June 1772.
- ³² London Gazetteer and New Daily Advertiser, 4 (quotation), 15, 20, 26 June, 4 July 1772.
- ³³ Hannah Weiss Muller, “Bonds of Belonging: Subjecthood and the British Empire.” Journal of British Studies 53 (Jan. 2014): 29-58, quotations on 29, 31; Trevor Burnard, “Powerless Masters: The Curious Decline of Jamaican Sugar Planters in the Foundational Period of British Abolitionism,” Slavery and Abolition 32 (June 2011): 185-98, esp. 193.
- ³⁴ Gentleman’s Magazine (July 1772): 309-10.
- ³⁵ Caledonian Mercury (Edinburgh), 24 Aug. 1772.
- ³⁶ Allinson’s “Preface” to Granville Sharp, An Essay on Slavery . . . (Burlington, N.J.: Isaac Collins, 1773), vi-, quotations on vi. I am grateful to Jonathan Sassi for bringing to my attention this source as an example of abolitionist usages of *Somerset*.
- ³⁷ Nicholas Rogers, “Impressment and the Law in Eighteenth-Century Britain,” in Landau, ed., Law, Crime and English Society, 71-94, esp. 74.
- ³⁸ John Riddell to Steuart, March 1772, 10 July 1772; James Parker to Steuart, 12 June 1772, Charles Steuart Papers.
- ³⁹ (Williamsburg) Virginia Gazette (Rind), 14 Oct. 1773; Iain Whyte, Scotland and the Abolition of Black Slavery, 1756-1838 (Edinburgh: Edinburgh University Press, 2006), 16-18.
- ⁴⁰ Nini Rodgers, Ireland, Slavery, and Antislavery: 1612-1865 (Basingstroke, Eng.: Palgrave Macmillan, 2007), 78.
- ⁴¹ Lathan A. Windley, ed., Runaway Slave Advertisements: A Documentary History from the 1730s to 1790 (Westport, Conn.: Greenwood Press, 1983), 1:139-40, 149-50. Charles R. Foy has argued that the Somerset ruling had an electric effect on slaves in the English Atlantic, encouraging a more than three-fold expansion of runaways by water 1773-1775, to almost 150

such runaways. His numbers seem unassailable, but this article fails to make the causal link to *Somerset*. See “‘Unkle Sommerset’s’ Freedom: Liberty in England for Black Sailors.” Journal for Maritime Research 13 (May 2011): 21-36, esp. 21-22.

⁴² Hunter, “Publishing Freedom,” 7. For a similar analysis see Wong, Neither Fugitive Nor Free, 1-18.

⁴³ “A Lover of Constitutional Liberty,” The Appendix: Or, Some Observations on the Expediency of the Petition of the Africans, Living in Boston, &c. Lately Presented to the General Assembly of this Province. . . . Likewise, Thoughts on Slavery . . . (Boston: E. Russell, 1773), 14.

⁴⁴ Samuel Martin, Sr., A Short Treatise on the Slavery of Negroes in the British Colonies (Antigua: Robert Mearns, 1775).

⁴⁵ Printed amidst the London news rundowns in Boston Evening-Post, 27 July 1772; Massachusetts Gazette (Boston), 23 July 1772; Newport [Rhode Island] Mercury, 3 Aug. 1772.

For yet another proslavery piece published while the case was still being argued, see “Some Observations upon the SLAVERY of NEGROES,” London Gazetteer and New Daily Advertiser, 3 June 1772.

⁴⁶ Thomas Thompson, The African Trade for Negro Slaves, Shewn to Be Consistent with the Principles of Humanity, and with the Laws of Revealed Religion. Canterbury, U.K.: Simmons & Kirkby, [1772], quotations on 11-12. For Thompson and his interesting transatlantic career as an Anglican missionary that led to his defense of the Atlantic slave trade, see Travis Glasson, Mastering Christianity: Missionary Anglicanism and Slavery in the Atlantic World (Oxford: Oxford University Press, 2012), 7, 128, 183, 185, 204-19.

⁴⁷ Samuel Estwick, Considerations on the Negroe Cause Commonly So Called, Addressed to the Right Honourable Lord Mansfield (London: J. Dodsley, 1773), quotations on 10, 27, 28, 30; see also Gentleman's Magazine (July 1772): 307-09; Caledonian Mercury, 13 July 1772.

⁴⁸ London Gazetteer and New Daily Advertiser, 15 July 1772.

⁴⁹ [Edward Long,] Candid Reflections upon the Judgement Lately Awarded by the Court of King's Bench, in Westminster-Hall, on What is Commonly Called the Negro-Cause, by a Planter (London: T. Lowndes, 1772), quotations on 4, 41, 43 44, 58-59.

⁵⁰ Srividhya Swaminathan, "Developing the West Indian Proslavery Position after the Somerset Decision." Slavery and Abolition 24 (Dec. 2003): 40-60, quotation on 41.

⁵¹ "An African Merchant," A Treatise upon the Trade from Great-Britain to Africa; Humbly Recommended to the Attention of the Government (London: R. Baldwin, 1772), Appendix pp. 8, 17.

⁵² Swaminathan, "Developing the West Indian," quotations on 40, 44, 46, 50.

⁵³ William J. Van Schreeven and Robert L. Scribner, eds., Revolutionary Virginia: The Road to Independence (Charlottesville: The University Press of Virginia, 1973-1983), vol. 1 passim; W.W. Abbott and Dorothy Twohig, et al, eds., The Papers of George Washington: Colonial Series (Charlottesville and London: University Press of Virginia, 1983-1995), vol. 9 passim; Julian P. Boyd, et al, eds., The Papers of Thomas Jefferson (Princeton, N.J.: Princeton University Press, 1950 -), vol. 1 passim; Jack P. Greene, ed., The Diary of Colonel Landon Carter of Sabine Hall, 1752-1778 (Charlottesville: University Press of Virginia for the Virginia Historical Society, 1965), vol. 2 passim; James Curtis Ballagh, ed., The Letters of Richard Henry Lee (New York: Macmillan Co., 1911-1914), vol. 1 passim.

⁵⁴ William Lee to Francis Lightfoot Lee, 24 Apr., 23 June, 20 July 1772, Arthur Lee Papers, Houghton Library, Harvard University, Cambridge, Massachusetts; Richard Henry Lee, Life of Arthur Lee, LL.D., Joint Commissioner of the United States to the Court of France, . . . with His Political and Literary Correspondence and His Papers . . . (Boston: Wells and Lilly, 1829), vol. 1 passim, 2:110-341.

⁵⁵ Virginia Gazette (Purdie and Dixon), 23, 30 July, 20, 27 Aug., 3 Sept. 1772.

⁵⁶ Maryland Gazette (Annapolis), 30 July – 24 Sept. 1772.

⁵⁷ Virginia Gazette (Rind), 12 Nov. 1772.

⁵⁸ Virginia Gazette (Rind), 11 Mar. 1773.

⁵⁹ South-Carolina and American General Gazette (Charleston), 10 Aug. 1772.

⁶⁰ George C. Rogers, et al, eds., The Papers of Henry Laurens (Columbia: University of South Carolina Press, 1980-2003), 8:xiv, xxii, 142-43, 353, 435-36, 468, quotations on 353, 435-36.

⁶¹ Boston Gazette, 13 July – 21 Sept. 1772, Pennsylvania Chronicle (Philadelphia), 25 July – 19 Sept. 1772, and Pennsylvania Packet (Philadelphia), 24 Aug. – 14 Sept. 1774, show that it was certainly possible for Northern papers to entirely or essentially ignore the Somerset case. But they are exceptions to the general rule of greater Northern than Southern engagement.

⁶² Massachusetts Gazette, 10 Sept. 1772. For this same commentary in other colonial newspapers, see Newport Mercury, 14 Sept. 1772; Ipswich Journal (Ipswich, England), 4 July 1772.

⁶³ Massachusetts Gazette, 10 Sept. 1772. For the full extent of this paper's coverage of the case, see also 23, 30 July 1772.

⁶⁴ Boston Spy, 30 July, 6, 27 Aug. 1772.

⁶⁵ Boston Spy, 17 Sept. 1772.

⁶⁶ Boston Evening-Post, 7 Sept. 1772.

⁶⁷ Boston Spy, 1, 22 Oct. 1772; Boston Evening-Post, 21 Sept. – 26 Oct. 1772, quotations from 28 Sept.

⁶⁸ Verner W. Crane, ed., Benjamin Franklin's Letters to the Press, 1758-1775 (Chapel Hill: University of North Carolina Press for the Institute of Early American History and Culture, 1950), 221-23. This piece seems to have been widely reprinted; see e.g. The Derby (England) Mercury, 26 June 1772.

⁶⁹ David Waldstreicher, Runaway America: Benjamin Franklin, Slavery, and the American Revolution (New York: Hill and Wang, 2004).

⁷⁰ Henry Marchant, "Journell of Voyage from Newport in the Colony of Rhode Island to London, Travels thro' many Parts of England & Scotland – began July 8th 1771," Rhode Island Historical Society, microfilm edition, entries for 7 Feb., 12, 21 May 1772. For more on Marchant, his eleven months in Britain, and its political context, see David S. Lovejoy, "Henry Marchant and the Mistress of the World," William and Mary Quarterly 12 (July 1955): 375-98.

⁷¹ [Richard Nisbet,] Slavery Not Forbidden by Scripture. Or a Defence of the West-India Planters, from the Aspersion Thrown out against Them, by the Author of a Pamphlet, Entitled, "An Address to the Inhabitants of the British Settlements in America, upon Slave-Keeping." By a West-Indian (Philadelphia: n.p., 1773), quotation on iii.

⁷² Personal Slavery Established, by the Suffrages of Custom and Right Reason. Being a Full Answer to the Gloomy and Visionary Reveries, of all the Fanatical and Enthusiastical Writers on that Subject (Philadelphia: John Dunlap, 1773). Lester B. Scherer argued that this pamphlet "was actually an anti-slavery satire on" Nisbet's work; see "A New Look at *Personal Slavery*

Established,” William and Mary Quarterly, 30 (Oct. 1973): 645-52, quotation on 646. I personally found insufficient internal evidence to convince me of that reading.

⁷³ Charles Steuart to James Murray, 15, 22 June 1772, in “Stuart-Murray Letters,” Proceedings of the Massachusetts Historical Society 63 (Oct. 1909 – June 1910): 451-54; Entries for 22-23 June 1772, in Marchant, “Journell of a Voyage.”

⁷⁴ See e.g. Virginia Gazette (Purdie and Dixon), 27 Aug., 3 Sept. 1772; Pennsylvania Gazette, 19 Aug. vs. 9, 16 Sept. 1772; Newport Mercury, 31 Aug. 1772.

⁷⁵ William Lee to Francis Lightfoot Lee, 24 Apr., 23 June, 20 July 1772, Arthur Lee Papers, Houghton Library.

⁷⁶ Virginia Gazette (Purdie and Dixon), 20 Oct. 1774.

⁷⁷ Pennsylvania Packet, 17 Aug. 1772; Virginia Gazette (Rind), 23 Apr. 1772.

⁷⁸ Notably Van Cleve, “Somerset’s Case,” esp. 603-606.

⁷⁹ Sharp, Representation of the Injustice, 80-81.

⁸⁰ Hargrave, Argument in the Case, 11, 67; Lofft, Reports of the Cases, 30-45, quotation on 43; Shyllon, Black Slaves in Britain, 91-92.

⁸¹ Hulsebosch, “Nothing But Liberty,” 648; Eliga H. Gould, “Zones of Law, Zones of Violence: The Legal Geography of the British Atlantic, Circa 1772.” William and Mary Quarterly, 3rd ser., no. 60 (July 2003): 471-510, quotations on 472, 474, 508. See also Gould, “Liberty and Modernity: The American Revolution and the Making of Parliament’s Imperial History,” in Jack P. Greene, ed., Exclusionary Empire: English Liberty Overseas, 1600-1900 (Cambridge, U.K.: Cambridge University Press, 2010), 112-31, esp. 116; Andrew Shankman, “Toward a Social History of Federalism: The State and Capitalism To and From the American Revolution,” Journal of the Early Republic 37 (Winter 2017): 615-28. Helen T. Catterall’s documentary

history shows that for all the confusion over various issues, the recognition of slavery's legality on the periphery of the British Empire was a consistent trait of British jurisprudence throughout the eighteenth century and well into the nineteenth; see Judicial Cases Concerning American Slavery and the Negro (Washington, D.C.: Carnegie Institution of Washington, 1926-1937), 1:1-37.

⁸² Virginia Gazette (Purdie and Dixon), esp. 23, 30 July, 27 Aug. (quotation) 1772; South-Carolina and American General Gazette, esp. 10 Aug. 1772.

⁸³ Massachusetts Gazette, 6 Nov. 1766 (supplement).

⁸⁴ Andrew Jackson O'Shaughnessy, An Empire Divided: The American Revolution and the British Caribbean (Philadelphia: University of Pennsylvania Press, 2000).

⁸⁵ Massachusetts Gazette, 10 Sept. 1772.

⁸⁶ Roger Bruns, ed., Am I Not a Man and a Brother: The Antislavery Crusade of Revolutionary America, 1688-1788 (New York and London: Chelsea House Publishers, 1977), 229.

⁸⁷ "M. Cato," in Boston Evening-Post, 28 Sept. 1772.

⁸⁸ Some Fugitive Thoughts on a Letter Signed Freeman, Addressed to the Deputies, Assembled at the High Court of Congress in Philadelphia. By a Back Settler (South Carolina, 1774), 25.

My reading of this passage could not be more different than that of Charles R. Foy, who interprets this passage as an invitation to Carolina's slaves to flee to England; see "Seeking Freedom in the Atlantic World, 1713-1783," Early American Studies 4 (Spring 2006): 71.

⁸⁹ Waldstreicher, Slavery's Constitution, 44; Foy, "Seeking Freedom," quotation on 47; Foy, "'Unkle Sommersett's' Freedom"; Cassandra Pybus, "Jefferson's Faulty Math: The Question of Slave Defections in the American Revolution," William and Mary Quarterly, 3rd ser., 62 (Apr.

2005): 243-64; Pybus, Epic Journeys of Freedom: Runaway Slaves of the American Revolution and Their Global Quest for Liberty (Boston: Beacon Press, 2006), 28, 44, 63, 69.

⁹⁰ Woody Holton, Forced Founders: Indians, Debtors, Slaves, and the Making of the American Revolution in Virginia (Chapel Hill: University of North Carolina Press for the Omohundro Institute of Early American History and Culture, 1999), 133-63; Robert G. Parkinson, The Common Cause: Creating Race and Nation in the American Revolution (Chapel Hill: University of North Carolina Press for the Omohundro Institute for Early American History and Culture, 2016).