

## Article

# Separation of Church and State, American Exceptionalism, and the Contemporary Social Moment: Viewing Church–State Separation from the Priority of Slavery

Joseph Prud'homme

The Institute for Religion, Politics, and Culture, Washington College, Chestertown, MD 21620, USA;  
jprudhomme2@washcoll.edu

**Abstract:** The contemporary social moment in the United States has affirmed the critical importance of racial justice, and especially claims to justice informed by the contributions of structural and institutional forces connected with the nation's original sin of slavery. In this paper, I examine the contributions of strict church–state separationism to the maintenance of slavery in the antebellum South in comparison to the contributions various forms of religious establishment made to the successful abolition of slavery in the United Kingdom and the British Empire. Developing a deeper historical understanding of the ways the relationship between religious and governmental institutions influenced the abolition and maintenance of slavery can assist the contemporary quest for racial justice.

**Keywords:** abolitionism; slavery; religious establishment; separation of church and state



**Citation:** Prud'homme, Joseph. 2021. Separation of Church and State, American Exceptionalism, and the Contemporary Social Moment: Viewing Church–State Separation from the Priority of Slavery. *Religions* 12: 34. <https://doi.org/10.3390/rel12010034>

Received: 7 December 2020

Accepted: 31 December 2020

Published: 6 January 2021

**Publisher's Note:** MDPI stays neutral with regard to jurisdictional claims in published maps and institutional affiliations.



**Copyright:** © 2021 by the author. Licensee MDPI, Basel, Switzerland. This article is an open access article distributed under the terms and conditions of the Creative Commons Attribution (CC BY) license (<https://creativecommons.org/licenses/by/4.0/>).

## 1. Introduction

Since the killing of George Floyd by a Minneapolis police officer in May of 2020, the United States has experienced unprecedented social protests involving demands for racial justice. Building on previous protests dating to at least the death of Michael Brown in 2014, demonstrations have emerged across the country. The protests are expressing a level of social unrest that suggests the movement is unlikely to dissipate in the near future. Indeed, we can say that the contemporary social moment in the United States is now defined in large measure by sustained protests against racial injustice—first in relation to law enforcement, but radiating more generally to include demands for racial justice in economic, governmental, and cultural institutions nationwide. As part of this moment, demands are increasingly being made to address not simply the contemporary manifestations of racial injustice but also the root causes of institutionalized, systemic racism, with special focus on the institution of slavery. The Pulitzer prize-winning 1619 Project, for example, has brought an emphasis on slavery to the American cultural forefront. In fact, our contemporary moment is distinctive in large part due to the broad embrace by millions of Americans of the concept of institutionalized racism defined by the continuing effects of African chattel slavery.

In turn, critiques of fundamental aspects of American society are increasingly being advanced in reference to their complicity with this “original sin” of the American nation (Wallis 2017). In this spirit, many writers and activists have seized the moment to boldly revisit in light of slavery key aspects of the American political and legal order, no matter how deeply embedded and traditionally highly prized these institutions may be. Calls to defund such staple institutions as police departments speak to this radical questioning, as do rising challenges to the Electoral College—an institution Wilfred Codrington, writing in *The Atlantic*, calls one of “racist origin” (Codrington 2019)—and the equal representation of states in the United States senate—what Ian Millhiser of ThinkProgress calls a “failed institution,” one that was “an early bulwark for southern slaveholders” (Millhiser 2017).

In this period of profound questioning, it is appropriate to revisit one other staple of America's political and legal order: the separation of church and state. Many have maintained that church–state separationism is at the heart of what makes America special, residing at the core of that vaunted notion, American exceptionalism. On such a basis, church–state separation is both unique and uniquely precious. As law professor Stephen Calabresi remarks, “The United States has the strictest rules separating church and state of any major Western democracy . . . Establishment Clause case law and the strict separation of church and state thus mark a respect in which the United States is exceptional” (Calabresi 2006, p. 1407). To be sure, separation has not historically been nor is it currently absolute. Yet Calabresi's conclusion helps to remind us, for example, of just how unusual it is for the United States to have adopted a strict prohibition on almost all direct state support for religious schools,<sup>1</sup> something which even *Laïcité* in largely secular France does not impose.<sup>2</sup> In turn, this comparatively greater attachment in many areas to church–state separationism is often highly prized. This high estimation is expressed by voices such as Elijah Mvundura, who argues that the crux of American exceptionalism resides in America having solved “the centuries-old theologico-political problem” by resisting “the monstrosity” of a church–state union. America, he maintains, was “at birth . . . an exception to this monstrosity” (Mvundura 2018). Or put more simply, one commentator asserts: “One of the ways in which we Americans are exceptional in a good way is our separation of church and state” (Ebersole 2014).

Further, this separation for many Americans has become more than a legal doctrine to become equally a cultural ethos—an ethos of a nation unmoored in its cultural orientation and social dynamics to any religious faith. In this respect, the Treaty with Tripoli of 1796, which in Article 11 asserted that “The United States is not in any sense founded on the Christian religion,” has been seen as a special American contribution, one only later copied (in part) in French *Laïcité* and elsewhere, a contribution that should be emulated around the world. Rob Boston, for example, notes that “Article 11 soon took on a life of its own. Years after the treaty was ratified, references to it began popping up in speeches, articles, and court rulings” (Boston 1997, p. 13). As Morton Borden observes, this came to be especially so “in political debates whenever the issue of church-state relations arose” (Borden 1984, p. 14). The treaty has, for some, become a proof text in defense of the un-confessional soul of the American nation and an ideal to which nations must aspire in pursuit of political justice (Boston 1997).

In the contemporary social moment, however, it is appropriate to revisit church–state separationism with a special focus on slavery. True to our moment, we must ask the fundamental question: to what extent has the separation of church and state as a legal institution been a vehicle either for hindering or helping the elimination of the horrors of American slavery?

It is this question that I seek to explore in this paper. One way to address the issue is by way of a comparative assessment, looking in depth at an area where the strict separation of church and state was non-existent, and another where it was especially pronounced, to see whether we can identify causal factors relating to the abolition, or the failure to abolish, slavery as an institution. On this basis we can see that in one area, the United Kingdom—a nation against which the United States in many ways has sought to define itself—there was both the absence of a separation of church and state<sup>3</sup> and success in peacefully abolishing slavery, first through the abolition by statute of the slave trade in 1807, and then by statutes abolishing slavery in all parts of the British Empire in 1833 and 1843. In contrast, in one area where separation was quite advanced—the antebellum American South—slavery was

<sup>1</sup> See *Lemon v. Kurtzman*, 403 U.S. 602 (1971), where the Supreme Court voided a modest state-provided salary supplement to poorly funded religious primary and secondary schools.

<sup>2</sup> Since 1959, faith schools are eligible for direct state financial support, and 17% of all French schoolchildren attend private schools—the vast percentage of which are religious schools—with the number in some regions rising to as high as 40% (Butrymowicz 2018).

<sup>3</sup> This claim is historical. In recent cases, the British courts have repudiated historically central elements of the Christian establishment. See *infra*, footnote 16.

widespread and unable to be eliminated except by the overwhelming force of an external military power.

In this paper, I look first at the abolition of slavery in the British Empire and document the ways that the mixture of church and state contributed to abolition. I emphasize several ways in which this mixture played a significant role in abolition by underscoring the importance of the idea of English law and later British nationhood as inherently subject to Christian moral values. I then juxtapose this experience with developments in the antebellum South, where disestablishment became the norm and where, in turn, the idea prominently circulated that the church was purely spiritual such that the state, being a worldly organ separated from a spiritualized *ecclesia*, was not inherently under the obligations of Christian moral discipline, nor was the state itself defined by the aspiration to realize Christian moral values.

In the final section, I take stock of what this history suggests for the principle of church–state separation. The conclusion we can draw from this comparative history is modest yet important. It cannot, of course, be claimed that abolitionism necessarily depends on a religious establishment—Revolutionary France shows otherwise, and even British abolitionism drew on multiple sources besides Christian moral values. Nor can it be concluded that establishment necessarily moves toward abolitionism, a conclusion the persistence of African slavery in Catholic colonies, as well as the emergence of slavery in colonies in America with at least some form of Anglican establishment, disallows. However, what can be concluded is that no sense of superiority—no constitutional airs—should attach to the concept of church–state separation when focus is placed, as befits our social moment, on the history and harms of African chattel slavery. This history in turn allows us to see that disconnecting the identification of the state with religion is no necessary friend of racial justice—and that church–state unity can be a friend of human liberty.

To be sure, establishment can carry its own serious problems. But another feature of our social moment is to give priority in public discourse to the assessments of racial injustice to allow historically marginalized voices fully to be heard as we endeavor to frame a racially just future. Indeed, the Urban Institute in 2019 calls in its white paper, “Confronting Structural Racism in Research and Policy Analysis,” for scholars “to prioritize racial equity” (Broon et al. 2019). Since slavery contributed bitterly to existing inequities, the insights of this work can inform, in ways we cannot currently predict, the national reassessment of the American legal order and the associated quest for racial justice, a quest that can only be assisted by a fuller understanding of political and social history.

## 2. The Varieties of Establishment and Disestablishment

Since the United States has been deeply influenced by Christian ideals and institutions, especially those developed in Western Christianity, our analysis of religious establishment should first explore points of unity between church and state in the Christian context, and should do so in light of the historical development of Christian civilization, especially in the West. Seen in this sense, the baseline of church–state relations can be taken to be Emperor Theodosius’s fateful decree of 380 establishing Christianity as the state *religio* of the Roman Empire. This point represented what Peter Brown calls “the dawn of a new attitude” on church–state relations along with an “ambitious governmental mood” to see the state advance the one true faith—if to be sure a “mood” subject to rather extensive contestation on the limits of temporal and spiritual power (Brown 2003, p. 75).<sup>4</sup> Nevertheless, the idea that the state and the church should forge a close cooperative and institutionalized alliance created a legacy that would last for centuries, even as theological understandings of the relationship between church and state would vary considerably (Brown 2003; Drake 2000). Despite calls in the Middle Ages and among early Anabaptists and other Protestant movements

<sup>4</sup> Eamon Duffy, for example, argues that the tensions between pope and emperor expressed by Gregory VII “changed the world” in the way they served to highlight a rather bold division between the two spheres (Duffy 2011, p. 61). And Joseph Strayer famously maintained that the Gregorian Reform constituted the origin point of the modern secular state (Strayer 1970, p. 22).

to adopt strict church–state separation or a close approximation,<sup>5</sup> what Kellen Funk calls the “Age of Disestablishment” commenced in earnest only in the 18th century (Funk 2017, p. 282). Disestablishment, therefore, was a relatively late development—one that came after centuries of historical change from the baseline of a substantial union of church and state.

This union, of course, has conceptual limits. Since in Christian theology priests are not rulers,<sup>6</sup> some separation is almost always in evidence. Nevertheless, over the history of Christianity since the Theodosian decree, the level of separation has often been very tight. Disestablishment, in contrast, has occurred when there is deviation from the degree of union between church and state that has developed as a settled arrangement in the history of a particular political regime.

Defined as the elimination or reduction of levels of church–state union in the legal or political context, disestablishment must be understood in reference to the various degrees of church–state union which emerged in particular nations. As a general schema, four levels of church–state union have emerged in Christian civilization, what we can label organizational, propositional, procedural, and national/aspirational forms of religious establishment.

Organizational establishment can be said to occur when either or any of the following takes place: the electoral process is organized to enfranchise only members of a preferred confession and or to limit public office holding only to adherents of one faith; the leaders of the preferred faith are guaranteed representation in the legislature, or a veto power over proposed legislation; or when the fiscal outlays of the state are organized to ensure reliable revenue for the maintenance of the preferred church.

Propositional establishment occurs when Christian teachings are integrated into the law of the land such that the propositions of Christianity are fundamental law.

Procedural establishment describes the way a nation has developed a process by which organizational and propositional establishment can be defined and changed. How are the propositions of the Christian faith to be determined? By what process do changes in Christian understanding come to embed themselves in public law? Can the state override church understandings, and, if so, by what process? And what process governs any alteration to organizational church–state union; for example, what process is required to enfranchise dissenters or to remove church subsidies? In general, the more extensive the church–state union, the more the state will have the power to make determinations of the meaning of Christian teachings, and the higher will be the burdens to alter any organizational privileges conferred on the faith or to remove the propositions of the faith from state law.

National/aspirational establishment can be defined as the identification of full membership in the nation, understood in a more than legal sense—that is, in the sense Benedict Anderson famously called the imaged community of the nation (Anderson 1983). This form of establishment occurs when full membership in the nation is defined in reference to membership in, and aspiration toward fully embodying, the tenets of a particular faith.

These levels of establishment and corresponding levels of disestablishment can take a variety of forms. This is so because countries have intertwined church and state over time in a range of ways, and relatedly because particular countries have or can extract themselves from these various levels of union in distinctive ways and to varying degrees. For example, disestablishment can be in a propositional form by legally denying status to principles of a religious community. In contemporary Britain, the calls of the Lawyers’ Secular Society for the creation of law “without privilege” is one such example (Small 2014). That is, the state law can refuse to incorporate the teaching of a faith unless that teaching is wholly grounded on a secular basis and the state acts without consideration to the religious community’s teaching. Disestablishment can also take a procedural form such as found in the United

<sup>5</sup> In the Middle Ages, Dante Alighieri advanced in *de Monarchia* one particularly fascinating approach that comes close to a strict separation of church and state. See Davis, “Seeds of the Secular State: Dante’s Political Philosophy as Seen in the “*De Monarchia*” (Davis 1991). For a discussion of Anabaptists and Mennonites on church–state separation, see (Joireman 2009).

<sup>6</sup> See, for example, Pope Gelarius’s declaration of two swords, the state and the church, in his letter *Famuli vestrae pietatis* to Byzantine Emperor Anastasius I Dicorus in 494.

States Constitution, which allows for legal re-establishment—unlike the denial of equal representation in the senate, which the Constitution explicitly prohibits from occurring by law save by the consent of the state itself; the procedure for changing church–state relations is, ultimately, governed by the laborious, supermajoritarian process of constitutional amendment. It can take an organizational form by the disenfranchisement of clergy to run for public office, as found in the South Carolina constitution of 1778, which stated that “the ministers of the gospel are by their profession dedicated to the service of God and the cure of souls, and ought not to be diverted from the great duties of their function,” as well as in the North Carolina constitution of 1776, Georgia’s constitution of 1777, and, by 1821, in the constitutions of Mississippi, Tennessee, Texas, and Virginia (Rausch n.d.). Organizational disestablishment can also take the form of what Toft, Philpott, and Shah call a “hostile takeover” by the state of institutions traditionally run by religious organizations, such as schools (Toft et al. 2011, p. 71). For example, the Mexican Constitution of 1917 in Article 3 banned all religious schooling. Organizational disestablishment can also be effected by imposing onerous regulatory supervision on religious bodies, something also seen in the 1917 Mexican Constitution, in Article 130. Lastly, it can take a national/aspirational form, found for example in the patriotism expressed in periods of the French Revolution, as well as in the more recent calls to have “the defining French values” be *Laicite* and secularity (Zaretsky 2018; emphasis in the original); or in the calls in the United States to resist the cultural “hegemony of Christianity” (*Challenging Christian Hegemony: Practical Tools for Recognizing and Resisting Christian Dominance*, <https://christianhegemony.org/contact/page/2>); and the efforts in the United Kingdom to forge a British identity through the “positive articulation of the values . . . to which we should all aspire” that must include “multiculturalism and the British Liberal tradition,” but which excludes a religious constituent to the “conscious and explicit process of mythmaking” that sustains national identity (Asari et al. 2008, p. 24).<sup>7</sup> National/aspirational disestablishment can also be seen in various nationalists movements in which “concepts of national identity” have been advanced with the goal “to deliberately subordinate” religious identities (Toft et al. 2011, p. 72).

How do these categories of establishment and disestablishment apply to the remarkable achievement of British abolitionism?

### 3. A False Start: Declining Profits as Explanans of British Abolition

To study the impact of religious establishment on British abolition, it is important first to set aside an interpretation that would provide little room for religious or cultural factors. Eric Williams’s work on British abolitionism, *Capitalism and Slavery* (Williams 1944), is often seen as a ground-breaking study. Williams argued that the slave system was ceasing to be profitable and that it was for this reason that slavery died in the British Empire.

However, as Srividhya Swaminathan in an important book points out, “a number of historians have since meticulously disproved most of Williams’s thesis regarding abolition” (Swaminathan 2009, p. 46). In particular, Seymour Drescher and David Eltis have shown that “slavery was becoming increasingly profitable during the era of abolitionism” (Hudson 2001, p. 570). Both Drescher and Eltis persuasively demonstrate that the slave trade and slavery were abolished even though they were still highly profitable (Drescher 1977; Eltis 1987), with antislavery advocates, therefore, facing “the lucrative reality of a booming Atlantic slave-trade” (Hudson 2001, p. 568).<sup>8</sup> Other factors beyond profitability are thus required to explain the abolitionists’ success.

<sup>7</sup> See also Khyati J. Joshi, *White Christian Privilege—the Illusion of Religious Equality in America*, for an additional discussion of separating national identity and Christian thought and its legacy (Joshi 2020).

<sup>8</sup> See also Seymour Drescher, *Capitalism and Antislavery: British Mobilization in Comparative Perspective* (Drescher 1987).

#### 4. "This Free, Christian Country!": Abolition and Establishment in Great Britain

One considerable factor involves the various forms of establishment that had developed over English and British history. To see this, I shall review the first wave of English antislavery thought and emphasize its nexus to establishmentarian thought in several of the forms specified above. I shall then move to assess the transformational work of Granville Sharp, and the importance of the arguments he mobilized surrounding the Somerset case and their connection with establishment ideas. I shall then conclude by surveying the broadening of the antislavery movement to become a call for a British Christian conscience.

##### 4.1. *Early Critiques of English Slavery: Anglican Traditionalists against "Slaves to Gold" in the Rising Merchant Class*

Early abolitionism was a largely Tory sentiment expressing condemnation of what was described as the mercantile greed of the rising commercial class. In his important piece, "Britons Will Never Be Slaves': National Myth, Conservatism, and the Beginnings of Antislavery," Nicholas Hudson shows that the first resistance to African slave trading and the extraction of wealth by colonial planters through African slave labor came from those who were marginalized by the settlement following the 1688 Revolution. Tory leaders felt nostalgia for the older order and condemned the Whig ascendancy that followed the Bloodless Revolution, a revolution which banished them from political power for decades. These conservatives became especially sensitive to the injustices of the trading and merchant interests, who were concentrated mostly in urban areas and formed a key constituent of the Whig ascendancy. As Hudson remarks, due in part to their own sense of exile, the Tories of this time became "far more disposed ideologically and economically to find sentimental common-cause with the victims of British mercantile adventurism," including African slaves (Hudson 2001, p. 564). To be sure, the identification of their political plight with the sufferings of African slaves was partly a political trope to condemn the policy of Tory exclusion; but, as Hudson shows, many of the Tories sincerely developed a sympathy, born of their own travails as well as their own deep religious convictions, with the Africans enslaved by the rising commercial and planter elites.

To see this, it is important first to reconstruct the mindset regarding slavery of the colonial planter ruling class, especially in the West Indies, and their allies in Great Britain, individuals who by the late 1600s came to dominate the governments of, or the trade with, the overseas colonies. As Swaminathan recounts, "from the introduction of the first African into the colonial plantation system, traders and planters claimed that slave labor was a necessary component of New World colonialism. Their rationale drew upon the failed attempts to use indentured servants and Native Americans for the more labor-intensive crops" in the first decades of colonization (Swaminathan 2009, p. 34). As profits grew from the utilization of imported African slaves, the institution of slavery came to be accepted by the commercial and ruling classes as simply a "part of the status quo," one "integral to the continued economic prosperity of Great Britain" (Swaminathan 2009, p. 127). In this environment, slavery was undertheorized: as Swaminathan notes, there was "no clearly defined proslavery argument" (Swaminathan 2009, p. 127) in the 1600s, with the "merchant argument for the necessity of slave labour providing the strongest justification" (Swaminathan 2009, p. 35). Those profiting from the slave trade in turn felt "no need to organize a systemic defense of slavery" (Swaminathan 2009, p. 127). In their minds, slavery was "supposedly unchangeable" in a commercial world of profit and economic growth (Swaminathan 2009, p. 34).

Tory traditionalists resisted this perception. As noted, Tories were consigned to the political margins by the rise of the Whigs, which started in earnest in 1715 with what William Willcox and Walter Arnstein call "the Whig Oligarchy", a period that lasted until the reign of George III (Willcox and Arnstein 2001, p. 47). During this period, Tories were unable to hold office. These traditionalists were mostly smaller landowners without substantial capital invested in overseas expeditions. The politically preeminent Whig coalition, on the contrary, represented "the aristocratic landowning families," many with

colonial investments, and the “wealthy middle class” deeply immersed in colonial trade. Whiggism sought in substantial measure to protect “the financial interests” of its coalition partners ([Encyclopaedia n.d.](#)).

This planter and planter-connected class was judged by many Tories to be intolerant rivals flush with slave blood money. The conservatives thus identified the ascendant Whigs as champions of slavery, a stance that was born of the Whig disposition toward “tyrannical corruption and lust for gold” ([Hudson 2001](#), p. 567). Being consumed by the pursuit of profit, they knew no moral conscience. The oft-called “first prime minister,” the arch-Whig Robert Walpole, many Tories felt, was the paragon of profit over traditional moral and political principles. Assuming in 1721 leadership in the House of Commons, and the position of Chancellor of the Exchequer and Lord of the Treasury, Walpole set as one of his primary objectives the increase in the amount of colonial products entering England so to enlarge British tax revenue. To this end, he was thought to have “diligently cultivated support of the West Indian lobby with the Molasses Act of 1733 and the Sugar Act of 1739” ([Hudson 2001](#), p. 566).<sup>9</sup> Further, he sought to reduce the regulations on the affairs of colonial economies in North America, thus permitting the colonial planter elite to shape colonial affairs ([Brooks 2016](#)), in search, again, of rising tax revenue through greater colonial trade. To this end, Walpole became an architect of a more or less deliberate plan<sup>10</sup> of not enforcing statutes pertaining to the North American colonies (what came to be known as the policy of “salutary neglect”). This under-enforcement of duly enacted law supplied to Tory critics further evidence of a Whig drive to maximize profits above such traditional values as the rule of law.

Moreover, the conservatives further emphasized Walpole’s conspicuous absence of conventional public piety and the rumors of his personal irreligion (rumors which his later biographer Alexander Charles Ewald confirmed by documenting Walpole as “a man whose life reflected a genial paganism, who regarded all creeds with the impartiality of indifference, and who looked upon religion as a local accident and as the result of hereditary influences”) ([Ewald 1878](#), p. 40). The Whig’s ruthless disposition to seek profit at all costs, therefore, was abetted by their absence of religious conviction, so many Tories maintained.

Indeed, the Tories of this day were stalwart Anglicans of the older order who saw Christian traditions under siege by a “distinctly Walpolean” despotism defined by the denial of rights, profit over principle, and a scarcely hidden secularism threatening the traditional faith ([Hudson 2001](#), p. 567). “These conservatives,” Hudson summarizes, “identified ‘true Britons’ [as those] who uphold . . . Christianity against oppression” ([Hudson 2001](#), p. 567).

Based on these principles, many Tories of the early and mid-1700s became stern denouncers of chattel slavery. Members of the Whig ascendancy, being willing to deny the rights of fellow Englishmen to stand for office and to thwart the rule of law in the Empire by allowing statutes to go unenforced, were seen as all too easily prone to deny justice to far-away Africans. Being propelled by the search for gold and devoid of religious conscience, the Whigs were depicted as easily corrupted by profit seeking, no matter the cost in African lives. Hence, in 1737, the “ardent Tory” Richard Savage attacked slavery in his poem “Public Spirit in Regards to Public Works,” which contained the lines: “why must Afric’s sable children see, vended for slaves, though found by nature free” ([Savage 1737](#) quoted in [Hudson 2001](#), p. 565). Further the novel *Memories of an Unfortunate Young Noble Man, Return’d from Thirteen Years Slavery in America*, written in 1743 by an anonymous Tory, described a White aristocrat captured and sold as a slave in America who, toiling for years beside African slaves, came to exclaim that the bitter slavery he experienced was “infinitely more terrible than that of Turkish” bondage ([Anonymous 1743](#), pp. 53–54; [Hudson 2001](#), p. 565). In the 1750s, “the High Church Tory” Thomas Southerne put to stage Aphra Behn’s 1688 novel *Oroonoko*, a story of an enslaved African prince cruelly abused by his British profit-lusting taskmasters; the play had a long run in the theatres of London

<sup>9</sup> These acts aimed at assisting the competitiveness of the planters in the British colonies against non-British production.

<sup>10</sup> For salutary neglect as a deliberate strategy, see ([Rothbard 1990](#), p. 17).

(Hudson 2001, p. 564). This tradition of conservative criticism of slavery continued through the days of Samuel Johnson, that arch-Anglican defender of Establishment, who would call Walpolians “slaves to Gold” (Hudson 2001, p. 567). Indeed, Dr. Johnson saw himself as “fighting a battle for the legal, religious and national values of Britain against the inherently avaricious motives of a commercial elite” (Hudson 2001, p. 570). On this patriotic basis, Johnson reportedly expressed, in a toast to like-minded men in the conservative bastion of Oxford: “Here’s to the next insurrection of the negroes in the West Indies” (Boswell 1934, p. 570).

In this mindset, religious establishment played a critical role, both in the sense that national/aspirational identity was seen as Christian (and specifically Anglican), but also implicitly in the idea that the commerce-based immorality and anti-Christian lust for lucre of the Whig party and its commercial acolytes somehow violated English law itself—although the argument for illegality was not at this time fully developed. Not surprisingly, the expression of these antislavery principles was especially loudly voiced by the Anglican ministers whom these gentlemen supported. As Swaminathan relates, “the . . . consistent opposition to slavery in the early eighteenth century came from the pulpit” (Swaminathan 2009, p. 127).<sup>11</sup>

As high Anglicans committed to the traditional faith, the historical record unsurprisingly “do[es] not indicate that these clergymen . . . collaborated with leaders of other Christian sects to persuade their constituencies of the ills of slavery” (Swaminathan 2009, p. 47). Further, antislavery work by these Anglican clergymen “was neither widely known nor very successful” (Swaminathan 2009, p. 48). This was so, first, because it seemed to many who heard their message that the divines were trading in “esoteric arguments about theology” (Swaminathan 2009, p. 84). Secondly, their “sermons and prose essays had a restricted circulation” (Swaminathan 2009, p. 84). The sermons, particularly, usually occurred only in areas where “enslavement might be witnessed, specifically metropolitan areas like London” (Swaminathan 2009, p. 79). As a result, the early conservative repudiations of slavery “were not proving to be an effective tool for motivating large segments of society for ‘positive’ social change” (Swaminathan 2009, p. 84).

Nevertheless, it remains true that “the ideology that produced this moralism” against African slavery was tied to be a national “myth” advanced by members “of some of the nation’s most ardently . . . conservative sectors” (Hudson 2001, p. 563). These individuals defined the nature of Britishness—though their definition would not yet be widely adhered to—as “fundamentally opposed to slavery” (Hudson 2001, p. 563). Hence, “long before Granville Sharp’s historic legal challenge to slavery in 1772,” Hudson concludes, “British authors were condemning the slave trade as an evil supported by mercantile greed and the betrayal of Christianity” (Hudson 2001, p. 567). It is to this remarkable man, Mr. Granville Sharp, we now must turn.

#### 4.2. Granville Sharp, English Civil Law, and the Beginning of National Antislavery

As we saw, before 1770, as Swaminathan relates, “Christianity provided both the initial foundation and language for sustained critiques of slavery” based on the premise that “slavery was antithetical” to the Christian faith (Swaminathan 2009, p. 60). It was one person in particular, Granville Sharp, who would do the most to build upon this foundation and move England, and eventually Britain in general, toward a national protest of slavery.

Sharp was born in Durham in 1735. He came “from a long line of theologians” (Swaminathan 2009, p. 64). True to his parentage, Sharp held a fascination with understanding the principles inherent in Christian thought. He combined high Anglicanism with evangelical sentiments, in what Christopher Brown describes as “an odd mixture”—odd for the mid-1750s (Swaminathan 2009, p. 82; Brown 2006). (A fusion of Anglicanism and Evangelicalism would become more common in the later 18th and early 19th centuries

<sup>11</sup> To be sure, there remained a “traditional Anglican justification for slavery,” found in the Old Testament and in Paul” (Swaminathan 2009, p. 34). The point is that this view came to be either rejected or deemphasized by the Anglican priests most associated with the Tories.

as evidenced by the Clapham Sect and individuals such as William Wilberforce.) Employed as a civil servant, in 1765, Sharp befriended an abused slave held in Britain named Jonathan Strong. Strong had been severely beaten by his master, who had left him for dead. Granville's brother was a doctor, and the Sharps restored Jonathan to health. When Strong's master saw him in London once again in health, he sought to take Strong to the West Indies to be sold as a slave. Sharp succeeded in protecting Strong from being trafficked to the West Indies. However, Sharp was then sued by both the owner of Strong and a hired slave catcher who had detained him. Both alleged that Sharp had stolen their personal property. During the impending trial for property infringement, Sharp developed his research for the case in consultation with leading attorneys. This research led them to the conclusion that the law of England might favor the property right claims of Strong's master and slave catcher. Although Sharp succeeded in having the property infringement suit dismissed, he was deeply troubled by the prospect that English law could indeed be read to favor property rights over the claims to freedom of a human held in bondage.

Inspired by his Christian faith, Sharp then began to develop detailed writings critical of slavery, which he hoped would shape legal and political opinion. To do so, he first drew on the older antislavery view that blamed slavery on "mercenary and selfish men" (Hudson 2001, p. 570). However, he also broadened his argument by working to refute "the idea that English civil law supported African slavery" (Swaminathan 2009, p. 67). Importantly, the argument by Sharp to this effect, which would become so influential, depended on a commitment to religious establishment in three senses: first, Sharp emphasized that the propositions of the Christian faith are inherent in English law; second, he argued that the civil court has jurisdiction to incorporate changes made by the church to the understanding of Christian propositions along with the authority to make them binding law; third, in the process of developing this argument, Sharp moved the debate toward a national/aspirational sense of true British identity, by framing the nature of a true Briton as a free citizen restrained by Protestant moral discipline.

The civil or common law of England had long been based on a propositional form of establishment. The common law was long thought to include "the Christian religion" and Christian morals as "law of the land" (*De Costa v. De Paz*, 2 Swans. 532, 36 Eng. Rep. 715 [1754]).<sup>12</sup> The sanction of the common law, therefore, was also the sanction of religion and morality because it was widely believed that both were subsumed within the common law of the realm (Van Cleve 2006, p. 644). True to this view, in *Harrison v. Evans*, decided in 1767, Lord Mansfield of the Court of King's Bench reiterated that "the eternal principles of natural religion are part of the common law; the essential principles of revealed religion are also part of the common law" (*Harrison v. Evans*, 3 Bro. P. C. 465. H. L. [1767], quoted in Aldrich 1889, p. 29).

In the fateful 1772 case of *Somerset v. Stewart*, which we shall discuss in greater detail below, Sharp and his legal team used this long-held view to ask the same Court of King's Bench to interpret religious values as expressing skepticism toward the morality of slavery and, therefore, to see the common law as carrying within it that same skepticism to the institution as binding law. This indicated a belief in the power of an English judge to certify as binding in civil law religious developments and thus constituted a claim based on two senses of establishment: the procedural establishment of a government body having authority to say what religion means and making it part of the organic law; and a resulting propositional establishment based on a religious idea being fundamental law. In addition, as we shall see, based on the *Somerset* decision and the structure of the English legal system, the decision implied a third form of establishment, namely the procedural protection that the Christian element in the basic law could only be overridden by an especially robust process, specifically by an unambiguous declaration in statutory law. This in turn imposed a substantial hurdle to removing the Christian element inherent in the common law (Van Cleve 2006, pp. 638–42).

<sup>12</sup> See also *R. v. Lilburne*, 4 St. Tr. 1269 (1649) per Lord Keble: "the law of God is the law of England".

Sharp, as is well known, wins this important case. In turn, the case came to be seized on as a major antislavery victory, with antislavery activists claiming it “as a decisive victory for their cause” (Swaminathan 2009, p. 85). The idea that the law of the realm was opposed to slavery became a “popular argument” (Swaminathan 2009, p. 67). Hence, by the mid to late 1770s, the antislavery forces “began to address wider audiences” (Swaminathan 2009, p. 79)—and they did so in substantial degree precisely by working within the “framework” of a “shared perception of cultural identity” (Swaminathan 2009, p. 85) arising from Sharp’s arguments, and the related idea that the identity of an English citizen and even of a British citizen was defined by adherence to a Christian conception of personal liberty. In this way Sharp helped to define an “emerging sense of British identity” (Swaminathan 2009, p. 80). This view of British identity being in part that of a defender of Christian freedom “created a basic framework for antislavery critique” that “provided the foundation for arguments that would become tropes in antislave trade literature produced in subsequent decades” (Swaminathan 2009, p. 76).

To examine this development more specifically and to appreciate the exact role establishment in various forms played in Sharp’s legal victory, we need to look more closely at Sharp’s arguments leading up to, in, and parallel with, the *Somerset* case, and then to look in detail at the decision by Lord Mansfield that slavery is in some way incompatible with English civil law. We can then take stock of the impact of the *Somerset* decision, the relation between religious establishment and antislavery activism, and that activism’s eventual success.

In effect, Sharp’s argument in *Somerset* recapitulated those of a consummate conservative Anglican, the Vinerian Professor of Law at Oxford—that then-arch-conservative institution—Sir. Robert Chambers. In his Oxford lectures in the 1760s, Chambers held that “both the church and the courts had determined that slavery was contrary to British law and custom, saying that one Christian should be held in bondage by another, was considered by the clergy as contrary to that mercy which religion dictates, and by lawyers as inconsistent with that justice which is the end of legal institutions” (Hudson 2001, p. 569).

Sharp developed, in effect, this same line of argument in *Somerset*. The case involved an individual, James Somerset, who was held in slavery in the American colonies and brought by his master, Charles Stewart, to England where he was held as a slave. Somerset, however, escapes from Stewart, but is captured and detained on a slave ship with orders by Stewart to be taken to Jamaica and sold. Somerset had been baptized and his godparents brought suit for a writ of habeas corpus to the Court of King’s Bench in 1771 with the goal of having the court determine that the detention of Somerset was unlawful. Sharp joined the suit as a principal legal advisor and its principal financial backer. The case was argued before William Murray, the First Earl of Mansfield, who on 21 January of 1772 ordered Somerset to be released pending the trial, with oral arguments held on 7 February.

In this case, “highly visible public arguments” were advanced by “England’s pre-eminent lawyers” (Van Cleve 2006, p. 644). Ultimately, the case turned on the question of whether English civil law acknowledged the legality of the condition of slavery (Swaminathan 2009, p. 70). As Swaminathan recounts, “A highly significant contention in Somerset’s defense in the litigation stated that the law abhorred slavery and could not support the corrupt institution on British soil,” or at least, absent a clear and unequivocal authorization by statute (Swaminathan 2009, p. 86).

The case reduced to two contesting claims: the “key component” of Stewart’s lawyers’ argument that Somerset’s condition of slavery was permitted under the English laws of property (Swaminathan 2009, p. 138); and the contention of Somerset’s counsel that English law did not recognize the legality of the slave condition.

As Swaminathan notes, Stewart’s lawyers relied on “the ancient practice” of villeinage to justify the legality of slavery in England (Swaminathan 2009, p. 70). They conceded, therefore, the technical distinctions between villeinage—a denial of personal liberty in the form of an inherited obligation to work a specified amount of land and to relinquish the fruits of one’s labor to the feudal landlord—and chattel slavery; the two were admitted

to be not perfectly identical. Nevertheless, villeinage bound individuals to a condition of unfreedom, from which they could be released only by authorization of a feudal landowner, and so the condition was advanced as an adequate justification for African enslavement.

With the assistance of Sharp, Somerset's lawyers attacked villeinage as a tyrannical "usurpation upon . . . natural rights" which "had become extinct for compelling secular and religious reasons" (Van Cleve 2006, p. 627). This argument recapitulated in court the claim Sharp had made in his earlier antislavery tract, written and disseminated among lawyers and parliamentarians, entitled *Representation of the Injustice and Dangerous Tendency of Tolerating Slavery*, published in its first edition in 1769. In *Representation*, Sharp denounces villeinage based on a "systematic consideration of the practice" (Swaminathan 2009, p. 67), calling it "the violent and unChristian usurpation of the uncivilized barons in an age of darkness" (Sharp [1769] 1772, p. 126).

The legal position advanced at trial draws from this same logic. Somerset's lawyers argued that "slavery is by no means tolerated in this island, either by the law or the custom of England" because "no one could claim the right to private property in the body of a man because all humans possess a natural right to liberty" (Swaminathan 2009, p. 67), and thus no one could be "divested of his human nature" (Sharp [1769] 1772, p. 16). Sharp's argument was therefore that, in Swaminathan's words, "the most sacred premise of English civil law rested on the security and respect for human liberty" (Swaminathan 2009, p. 69). However, this is no libertarian claim based on notions of atomized individual freedom devoid of moral context.<sup>13</sup> For Sharp defines liberty as a trait, recognized by English civil law, that is inherently connected with other valuable moral traits. Hence, Sharp's claim is that "this English law breathes the pure spirit of liberty, equity and social love . . . howsoever unequal in rank" (Sharp [1769] 1772, p. 104). Freedom, understood as a morally infused, Christian-based principle, it was argued, now inheres in the civil law due to a progressive understanding, in part owing to "compelling" changes in "religious" conviction, that the institution of villeinage does in fact constitute "a tyrannical usurpation". And it does so now despite an earlier legal principle that had during the Middle Ages legally authorized such a condition of personal unfreedom. The argument that a morally valorized freedom, which now trumps an earlier legally recognized practice, is inherent in the English civil law was based on the claim—which Lord Mansfield himself had earlier affirmed in *Harrison v. Evans*—that Christian principles inhere in the common law, and also that changes in the understanding of Christian principles become incorporated into the civil law, and therefore the state can and must act to effect in law the change in understanding resulting in substantial part from "compelling religious reasons". Essentially, Sharp's claim asked the court to act in furtherance of its role as an entity empowered to rule on and to incorporate religious concepts that have emerged over time within the realm, such as the change from seeing villeinage as permitted to its becoming unChristian—a possibility that was only conceptually possible in the context of a procedural establishment which permits the state's courts to draw from religious change, and to judge the force and effect of religious change, and, should they judge the religious change to be sufficiently compelling, to incorporate the newly understood propositions of the faith into the body of state law, creating in turn a new aspect to the state's propositional establishment.

This is just what Lord Mansfield does in his final ruling, even if the precise legal implications of the case were somewhat unclear.<sup>14</sup> Mansfield did not issue a circulated written opinion setting out the rationale for his holding. Instead, he ordered Somerset free and gave a short oral statement of the legal basis for doing so. However, within months of his decision, individuals such as Francis Hargrave published works summarizing Mansfield's oral holding. Hargrave's widely circulated piece, *An Argument in the Case of James Somersett* (Hargrave 1772), detailed "the primary argument against slaveholding in

<sup>13</sup> Rothbard describes aspects of Whig ideology as informed by a "radical libertarian" ethos (Rothbard 1990, p. 17).

<sup>14</sup> The decision did not technically outlaw all slaveholding in England. James Oldham has argued that the ruling only had the legal effect of denying the use of force to compel a slave to leave Britain and did not establish an elimination of all legal slaveholding in England (Oldham 1988, p. 48).

England" (Swaminathan 2009, p. 133) developed in the case (although some uncertainty remains as to the precise decision announced by Mansfield).

In any event, general agreement holds that Mansfield stated that "in a case so odious as the condition of slavery . . . [and with] the state of slavery [being] of such a nature, it [slavery] is incapable of now being introduced by Courts of Justice upon mere reasoning or inferences from any principles, natural or political."<sup>15</sup> Instead, slavery can only rest on an unambiguous declaration by the sovereign law-making process of king-in-parliament-assembled.

The decision "necessarily rejected the argument that villeinage could provide a legal basis for English chattel slavery," and did so due to villeinage's inconsistency with a natural rights argument that had emerged over time (Van Cleve 2006, p. 638). In his decision, Mansfield asserted that "immemorial usage preserves the memory of positive law, long after all traces of the occasion, reason, authority and time of its introduction are lost." But civil law does not have this preservation of "memory," but instead changes with the culture, and, in this case, cultural changes driven in part by religious leaders and the religious character of the English people.

Such a ruling actually required Mansfield to overturn not only the legal status of villeinage, but also two previous holdings by English attorneys general, the Yorke-Talbot opinion of 1729 and the Harwicke opinion of 1749. Both had permitted slavery to continue among those baptized and by implication had held slavery as a lawful estate in the British Empire. Since as Swaminathan relates these were not "legal cases" as such, but only executive opinions, Mansfield held them not to be controlling on a common law court. Hence, they could be overridden by the changes in the religious customs of the English people (Swaminathan 2009, p. 63). "The immediate significance," therefore, of the *Somerset* case "was the destruction of precedent . . . essentially revers[ing] two prior opinions regarding the legality of slavery" (Swaminathan 2009, p. 129). It also rejected as uncontrolling on English domestic civil law the passage of statutes by colonial assemblies authorizing slavery, as well as parliamentary statutes that made permissive references to slavery. Indeed, proslavery argumentation at the time, such as the arguments advanced by Samuel Eswick, noted that the charter governing the Royal Africa Company, which was enacted by parliament, gave the company the right, in the words of the charter, "to trade in land, forts, castles, slaves, military stores, and other effects." Eswick and others held that the charter represented a statute that "thereby defined African slaves as property by an act of Parliament" (Eswick 1772; Swaminathan 2009, p. 139). Such, however, was not to Mansfield's mind a sufficiently declaratory statement permitting slavery such that it could outweigh the development of an understanding, partly religiously based, that slavery was inconsistent with the civil law (Swaminathan 2009, p. 136).

As Swaminathan notes, "the resolution of the case in favor of *Somerset* represented a real betrayal of the colonial plantocracy that had come to rely on security of their property" (Swaminathan 2009, p. 136). This is so for two reasons. First, it is so because "Lord Mansfield's conclusion on the origin of slavery, even if qualified, was inevitably, as he well knew, profoundly destructive of the moral and legal legitimacy of slavery, since it made slave property an artificial creature of statute and deprived slavery of the sanction of the common law" (Swaminathan 2009, p. 203). The sanction of the common law, as emphasized, was at the time also the sanction of religion and morality. Hence, "the sweeping nature of Mansfield's statement on positive law intentionally undermined" slavery (Van Cleve 2006, p. 644).

Second, Mansfield himself knew that no unambiguous statute authorizing slavery was likely to be forthcoming. As Van Cleve notes, Mansfield knew that such was very unlikely due to political divisions, as any slave-authorizing statute would have "heaped fuel on the fire" of on-going political tensions (Van Cleve 2006, p. 641). Indeed, Drescher maintains that Mansfield knew that "whatever the weight of the West Indies interest in

<sup>15</sup> Such became memorialized in English law in *Somerset against Stewart* in Loff 1, 98 ER 499, where Hargrave's accounting of the case is cited (*Somerset against Stewart* 1772).

British politics, it did not extend to institutionalizing slavery in the metropole” to the extent that slave interests could pull off an unambiguous statute endorsing slavery in Britain (Drescher 2009, p. 105).

In all, the *Somerset* case must be seen as an exercise in procedural establishment, since a state judge asserted the authority to pronounce on changes in religious values and to incorporate them into law; and it entails also an exercise of propositional establishment, by defining the law of the realm as containing the emergent Christian principle that villeinage and any similar condition of unfreedom is unlawful under common law. Further, it constitutes a second exercise of procedural establishment by decreeing that any change in this embodiment of values partly derived from Christian faith can only be overturned by a process that involves substantial hurdles, namely, the passing—which Mansfield knew was unlikely—of a clear endorsement of slavery through the sovereign legislative authority.<sup>16</sup>

The consequences of this decision were truly staggering. The case first had the effect of “focusing previously scattered attention” by “demonstrat[ing] the potential for public interest” on a broad scale in antislavery advocacy (Swaminathan 2009, p. 86). Indeed, as Swaminathan notes, Sharp and others “shrewdly” saw this potential for popular appeal (Swaminathan 2009, p. 86). By promoting the decision as a “decisive victory for their cause”, antislavery forces were able to make the claim that slavery was a violation of English law and thus somehow unEnglish “a foundation for antislavery critique” nationwide (Swaminathan 2009, p. 67). In this way, the *Somerset* ruling produced a “line of argument that began to capture” public interest (Swaminathan 2009, p. 87). In consequence, “Mansfield’s argument inaugurated an era of change that involved a legal and ideological transfer of support from slave interests” (Swaminathan 2009, p. 88).

This occurred in large part because “antislavery writers effectively transformed this one legal decision (*Somerset*) into a question of national character” (Swaminathan 2009, p. 140)—one based on what Swaminathan calls the abolitionists’ “version of English liberty” (Swaminathan 2009, p. 88). This version, over the course of the 1780s and beyond, would be touted as “the foremost characteristic of a Briton”—a version grounded on the belief in a “humane, moral and Christian” freedom (Swaminathan 2009, p. 99). Indeed, in a piece published in 1776 called *The Law of Liberty: or Royal law*, Sharp very clearly identified liberty with Christian principles. English Liberty, he underscored once again, is a distinctive version of freedom, not definable by sheer libertarianism, a point he made clear by “defining liberty through two fundamental precepts: ‘the love of God, and the love of our neighbor’” (Sharp 1776b, pp. 46–47; Swaminathan 2009, p. 76). On this basis, Sharp argued that “slavery was wholly incompatible with Christ’s doctrine and therefore wholly incompatible with ‘English ideals’” (Swaminathan 2009, p. 7, emphasis added; Sharp 1776a, 1776b, 1776c)—implying that anyone who fails to advance antislavery fails truly to be English.

Ultimately, through this advocacy, a great many came to hold that “national identity revolved around a belief in benevolent Christianity that the corrupt practices encouraged by slavery threatened” (Swaminathan 2009, p. 87). The *Somerset* ruling, therefore, “transcended the facts of the case” and came, for a great many, to “define the true characteristics” of national identity (Swaminathan 2009, p. 87). This development thus represented a new national/aspirational establishment. It is to a greater examination of this form of establishment we now can turn.

#### 4.3. After *Somerset*: British National Identity and Protestant Liberty

As Swaminathan relates, the idea that civil law did not condone slavery became the “precipitating event for organizing the antislave trade movement” as a popular social

<sup>16</sup> The English Constitution has been construed by courts over the past one hundred years in ways that have disestablished this connection between Christian propositions and the common law. In *Johns, and Anor, R. (on the Application of) v Derby City Council and Anor*, EWHC 375 (Admin), 28 February (2011), the court held that “the aphorism that ‘Christianity is part of the common law of England’ is mere rhetoric; at least since the decision of the House of Lords in *Bowman v. Secular Society Limited* it has been impossible to contend that it is law.” In *Bowman v Secular Society Limited*, AC 406 (1917), the court declined to reject a legacy to support an organization promoting secularism and the rejection of religion.

movement (Swaminathan 2009, p. 87). In the *Somerset* decision, the antislavery activists found a strategy “for mass public appeal” (Swaminathan 2009, p. 87). As such, “the far-reaching effects of the *Somerset* trial can hardly be overstated” (McFarland 2019, p. 55).<sup>17</sup>

This strategy for popular mobilization centered on developing a “rhetoric” that claimed that the “enormous victory for righteousness” declared in the decision grew out of the “compassion and respect for liberty inherent in all Britons” (Swaminathan 2009, p. 78).

Indeed, activists came to assert at once that the case was applicable to all in Great Britain, and not simply the English, and that there was a particular nature to true Britishness. Activists later came to broaden this notion even further by adding to the “circumference” of its application<sup>18</sup> all Britons subject to imperial jurisdiction, hence including all Britons residing or owning property in the British colonies.

Sharp himself did much to create acceptance of a nature to true Britishness that involved adherence to a Christian conception of individual liberty that repudiated slavery. In the year following the *Somerset* decision, Sharp published a short work entitled *An Essay on Slavery*. In this piece he held that although the Old Testament contained elements opposed to natural law, Christianity had restored the natural law (Swaminathan 2009, p. 73), and that the English must abide by the restored natural law. In turn, the natural law as the law of God demands freedom for slaves—lest the nation suffer for what he calls “the national sin of slavery”—a national sin that would occasion a national punishment (Swaminathan 2009, p. 74). England will be “punished by heaven,” Sharp argued (Sharp 1773, p. 30), should it contradict its fundamental Christian values: God will punish the nation because of its perfidy to national principles. This reiterated a point Sharp had made earlier in his shorter version of *Representation*, a version written in 1772 during one of the delays in the *Somerset* case. In this piece he invoked the twin concepts of England as a Christian nation and the providence of God that would condemn betrayal of national principles. He there asserted that if “an unnatural right” to slavery were “to be introduced into this free Christian country,” then “the Publick would be materially injured, as well as in Honour, as in Morals, and National safety” (Sharp [1769] 1772, p. 11). Since patriots desire the good of their nation, Sharp argued that “the true and proper ground of patriotism” came from creating a nation whose “rulers and magistrates” demonstrated a “true Christian sentiment” that condemns slavery (while also, he writes, acting with forgiveness for slave holders) (Sharp 1776c, p. 77). By asserting that the English as a nation were subject to a collective punishment for a collective sin, he reinforced the sense of nationhood as definable in reference to the common acceptance of Christian liberty. At the same time, by defining slavery as a national sin subject to collective divine retribution, the common nationhood of the British was also highlighted. Sharp and later writers began to broaden the scope of collective retribution by God to all who shared in English rule, including the Scots and the Welsh. By 1787, Sharp, along with fellow Anglican Thomas Clarkson and others, founded The Society for Effecting the Abolition of the Slave Trade, which helped to circulate pamphlets aiding their cause, pamphlets that sought “to restore the true meaning of liberty to *Great Britain*” (Swaminathan 2009, p. 100; emphasis added). Indeed, from the perspective of divine retribution, historical differences among the English, the Scots, and the Welsh were immaterial, as the sin of slaving reached to the shippers of Liverpool and the merchants of Glasgow, just as to the grand business leaders of metropolitan London: all who were connected to the British Empire’s trade in men were the objects of God’s righteous vengeance, a sentiment expressed in his aptly titled work *The Law of Retribution* (Sharp 1776d).<sup>19</sup> As a result in large part of Sharp’s advocacy along with that

<sup>17</sup> In fact, Steven Wise called it, in the subtitle of his book on the trial, “the landmark trial that led to the end of human slavery” (Wise 2006).

<sup>18</sup> A term frequently used by Swaminathan in *Debating the Slave Trade*, *passim*.

<sup>19</sup> Note the work’s full title, *The Law of Retribution; or, A serious warning to Great Britain and her colonies founded on unquestionable examples of God’s temporal vengeance against tyrants, slave holders, and oppressors; and that of another of his work published during this period: The Law of Liberty: Or, Royal law, by which all mankind will certainly be judged!* (Sharp 1776d).

of a growing number of allies, there came to be a “rising belief in a national conscience” (Swaminathan 2009, p. 95) that knitted Great Britain together, with slavery being an affront to a broader sense of “British national character” (Swaminathan 2009, p. 81).

What is more, the antislavery movement broadened also in mode of expression, with new voices articulating in their own idioms the conviction that British identity was tied in part to a Christian moral condemnation of slaveholding. Poetry and creative writing, for example, soon became central parts of the messaging. Fictional accounts of slavery, such as *The Dying Negro* by Thomas Day and John Bicknell, contained dedications underscoring the idea that a “true Briton” was “Christian and freedom loving” (Swaminathan 2009, p. 103; Day and Bicknell [1773] 1774). These ideas were found in a growing number of works of poetry and creative prose. Indeed, by the late 1700s “in many texts, Christian and Briton were used interchangeably to elicit an emotional response and to reinforce the link between religion and nation” (Swaminathan 2009, p. 106).

Importantly, African British writers at the time came to express this same theme. For example, James Albert Ukawsaw Gronniosaw spoke of his slavery in his 1770 work, *A Narrative of the Most Remarkable Particulars in the Life of James Albert Ukawsaw Gronniosaw, An African Prince, as Related by Himself*. In this piece he expressed with great pathos how he was led on a path to spiritual enlightenment through Christ, “a belief he shared with every Briton” (Swaminathan 2009, p. 114; Gronniosaw 1770, p. 39). This same sentiment was expressed also by Equiano (1789), a former slave in the West Indies and in Virginia who was able to buy his freedom and came to live in London. He began in the 1780s to write of his experiences as a slave in the New World. His most substantial piece is his *Narrative of the Life of Olaudah Equiano, or Gustavus Vassa, the African* published in 1789.<sup>20</sup> In this and other publications, he argued, in Swaminathan’s words, that “the Christian religion was a key component of British identity and had been bastardized by the institution of slavery” (Swaminathan 2009, p. 123).

This identification of Britishness with a religiously valorized understanding of freedom was also readily taken up by a wide array of ministers in the late 18th century. These ministers—Anglican<sup>21</sup> as well as Dissenting—began to emphasize more prominently how “the concept of liberty” is “a particularly Christian virtue” (Swaminathan 2009, p. 98). “Sermons against slavery and the slave trade began to characterize both as practices more heinous when engaged in by Christians” (Swaminathan 2009, p. 98). In 1788, for example, Rev. Thomas Bradshaw preached that “the Christian religion was designed to communicate liberty, peace and happiness, throughout all ranks, orders and degrees of men” (Bradshaw 1788, p. 6). Others echoed this belief, preaching that “the predominant nature of the Christian was, specifically a belief in personal liberty;” and, as such, “the Christian Briton could take comfort in having a clearer understanding of liberty than other religions” (Swaminathan 2009, p. 98).

By tying an ecumenical Protestant Christianity to the concept of liberty, this movement “tied Christian (as opposed to Anglican) identity firmly to national characteristics” (Swaminathan 2009, p. 99). These ministers “sought to create a national conscience, strongly dependent upon their definition of Christian morality, to which the state was accountable” (Swaminathan 2009, p. 99). Indeed, the state was accountable because it was a Christian nation: “true Christians could not countenance slavery, and as Great Britain

<sup>20</sup> The book became so popular that it went through nine editions between 1789 and 1794 and was published in cities across Great Britain.

<sup>21</sup> To be sure, elements of the Anglican establishment could be lumbering in their support of full freedom. Note, for example, that when the Society for the Propagation of the Gospel in Foreign Parts gained control of the Codrington plantation in Barbados in the early 1800s, it “viewed it as an opportunity to showcase kind and benevolent governance of slaves” (Swaminathan 2009, p. 210), rather than as an opportunity to model a case study in freedom through manumission. This reflected a relatively large degree of support, after the elimination of the Slave Trade, for amelioration and not immediate abolition, a program which was imposed as binding law on all Crown Colonies (that is, those without a locally elected assembly) in 1824, along with strong encouragement for colonial assemblies to do the same. At one low point in Anglican history, the Church of England even endorsed redacted Bibles purged of Exodus and other elements emphasizing liberation (Zehavi 2019). Worthy of note, however, is the influence the newly created bishops in the West Indies exerted in the early 1830s: these bishops, historian Robert Moore writes, “reported confidentially to the Archbishop of Canterbury that slavery was cruel, unproductive and unable to be used in service of God. Their opinions were pivotal in strengthening the resolve of the British Government to abolish the institution” (Moore 2010, p. 4).

was a Christian nation, Britons could not countenance slavery either” (Swaminathan 2009, p. 99).

True to this vision, Reverend James Dore, for example, held that national identity included spiritual identity; hence, he exclaimed: “the very idea of trading the persons of men should kindle detestations in the breasts of MEN—especially of BRITONS—and above all of CHRISTIANS” (Dore 1789, p. 12; emphasis in original). Echoing Sharp, another minister, Reverend Thomas Burgess, “expressed outrage” at the support given to the trade by writers in a “free Christian country!” that was proud of “possessing more genuine liberty than any other country ever enjoyed” (Burgess 1789, pp. 81–82). By “associating a particular religious conviction with the character of the Briton, Anglican and dissenting ministers . . . contributed to the growing belief in British superiority . . . with regard to national morality” (Swaminathan 2009, p. 99)—a sense of heightened morality that served to galvanize a collective British identity.

Over time, fueled in considerable part by such a religiously informed nationalism,<sup>22</sup> “Britons came in droves—1.5 million by the end of the slaving era—to sign declarations that slavery was Unchristian and unBritish” (Hudson 2001, p. 570). Eventually, the battle was won, first in the abolition of the slave trade in 1807 and, second, in the elimination of slavery itself in the Abolition Acts of 1833 and 1843<sup>23</sup>—a victory in substantial degree won on the terms first advanced by Granville Sharp: that the state could and must recognize changes in Christian conscience and embed them in binding civil law, coupled with an national/aspirational establishment that said that the nation’s very identity is based on the liberating discipline of Christian moral values. Forms of religious establishment, therefore, played a critical role in the success of British abolition.<sup>24</sup>

### 5. The Role of Church–State Union in Comparison to Antebellum Southern Disestablishment

We can underscore the importance of establishment in its various forms to British abolitionism by comparing the British experience to that in the antebellum American South. In the South, statutes legislated by colonial assemblies authorized slavery ab initio, creating in the South a condition similar to when villeinage was authorized and practiced under English civil law. Yet, unlike in Britain, the South could not come to renounce its attachment to the slave institution. How does this relate to questions of religious establishment?

In the Southern colonies, Christian moral discipline was largely absent among the founding planter classes. This allowed for the acceptance by these early colonial leaders of an element in local law suspected to be unChristian, but which was countenanced as the price of doing (eventually a quite lucrative) business. In terms of the categories of establishment, the South was conceived to a considerable extent in propositional disestablishment, and it had also a concept of judicial and executive power that disallowed private doubts by state agents to overturn slavery by reference to religious sentiment, enshrining a form of procedural disestablishment.

This conjunction over time created deep challenges for newly arriving religious reformers, especially early Methodists, who by the late 1700s and early 1800s sought to abolish slavery yet who failed to have behind their efforts the same endorsement of organic law as did reformers in Britain. Antislavery religious reform thus always to a real extent operated as an external force, an exogeneity which contributed to the failure of the effort.

In turn, resulting both from a recognition of the constituent unChristian element of slavery in the heart of the law as well as the eventual failure of the antislavery mission to convince the planter class to manumit their slaves, tremendous energy was given to “the spirituality of the church” movement and its corollary, strict church–state separation,

<sup>22</sup> For additional work on the role of religion in English antislavery mobilization, see (Turley 1991).

<sup>23</sup> The 1833 Slavery Abolition Act required phased-in, compensated manumission across the British Empire with the exception of territories then administered by the East India Company, St. Helena and Ceylon, to which the Act would be extended in 1843.

<sup>24</sup> Of course, not the only role. As Caroline Quarrier Spence relates, “Abolition passed Parliament in 1833 for a variety of reasons” including “economic hardships for sugar production in the 1820s, the Great Reform Act’s expansion of the electorate,” the incorporation of Irish representatives following the Union with Ireland, and the burdens of slave revolts in the West Indies (Spence 2014, p. 197).

both of which eventually became deeply embedded in the American South. Both allowed ministers to see slavery as a purely political question unfit for ministerial supervision (except in terms of slave treatment and access to minimal religious instruction).

Only after this dynamic had taken deep hold do we see the emergence, in the mid to late 1830s, of the positive good theory of slavery—the view that slavery was a blessing and thus consistent with divine providence. Eventually, establishment-based arguments to the effect that the South, as a Christian civilization, protected the gift of slavery did emerge in the South, but they did so only after forms of disestablishment had abetted the slaveholding institution.

To describe this trajectory in greater depth, I shall first underline (a) the status of Christianity as an exogenous moral force in society in the early antebellum period; (b) the initial acceptance of slavery as an evil condition in the mind of the early planters and governing class; (c) the failure of Christian moral suasion in its antislavery expression to effect abolition or significant manumission; and (d) the point that only much later in Southern history did the idea of slavery as a positive good emerge as a prominent argument advanced by the planter elite and Southern ministers. I shall end (e) by highlighting the striking dissimilarity between British establishmentarianism and the history of slavery in the antebellum South by referencing the insights expressed by famed abolitionist, and former slave, Frederick Douglass.

### 5.1. *The Irreligious Early South*

First, the large slave owners who emerged as the political and cultural leaders in the early South initially were mostly irreligious. They fit somewhat closely the depictions of the grand speculators and flush imperial merchants prone to unChristian service to mammon propagated by the Tories against the Whigs in the mid-1700s. To be sure, not all planters fit this mold, but a strikingly high number did.

As to these early planters' relation to Anglicanism, Denzil Clifton remarks how:

Unhappiness with Anglicanism antedated colonial settlement, and the minds and hearts of many Englishmen who immigrated to the colonies had turned or were turning away from it as a source of spiritual guidance and ecclesiastical authority. The trend that had already started in England was only increased and made more dramatic by the impact of the local colonial environment. The pioneer found a vacant new land within which he began to build; and in his zeal for change and expectations of a new destiny, hereditary authority was suspect. Material and institutional developments were products of his own handiwork. Having escaped from the framework of English society, the immigrant would not build it again in its entirety. The pull of the colonial climate of opinion made complete identification with the religious establishment as it existed in England with its taxes, tithes fees, and compliance with the dictates of its leading ecclesiastical statesmen impossible in the colonial communities unless rigorously backed by the power of the state (Clifton 1970, p. 49).

But no such effective state support was reliably forthcoming. For the colonial states were manned by those who also reflected this powerful New World trend against the traditional faith, trends in fact which were so powerful that:

Amidst the more free-wheeling environment of the colonial parishes the church's traditions, system of government, and institutional demands seemed archaic, out of place, and frequently irrelevant. Indeed religion in seventeenth and eighteenth-century America underwent changes which broke with traditions on a scale reminiscent of the great Protestant schism of the sixteenth century (Clifton 1970, p. 48).

This schism, however, is not best described, in the early stages of the Southern colonies, as a movement from one faith to another, but as a schism in large measure away from Christian religious discipline. Elizabeth Fox-Genovese and Eugene Genovese in their

classic work *The Mind of the Master Class: History and Faith in the Southern Slaveholder's Worldview* have underscored this point, showing just how unchurched the early Southern slavocracy truly was, especially in South Carolina, Georgia, and Virginia (Fox-Genovese and Genovese 2005, p. 444). In the late 1760s, for example, James Iredell of North Carolina, who would later serve on the United States Supreme Court, remarked on the “supercilious wealthy coastal planters who considered religion ‘morose,’ ‘unreflecting,’ and ‘unsocial’ or ‘unsound’” (Fox-Genovese and Genovese 2005, p. 409). One British aristocrat travelling throughout the South in the mid-1700s found “wealthy residents of Charleston, Columbia, and Savannah . . . indifferent to religion” (Fox-Genovese and Genovese 2005, p. 409). Indeed, in the early days, “wealthy southern towns were not famous for piety,” and many in fact had no dedicated church buildings (Fox-Genovese and Genovese 2005, p. 412). Indeed, the Genoveses relate that as late as the 1830s it was commented on by ministers just how much “French infidelity” permeated the slaveholding gentry (Fox-Genovese and Genovese 2005, p. 409). In fact, one noted Charleston artist who was reared in Southern elite culture remarked in the 1850s that, during his boyhood, the Southern gentry “spent the Sabbath at home, riding and hunting in ‘noisy relaxation,’” as they maintained, in the Genoveses’ words, that “church was for women” (Fox-Genovese and Genovese 2005, p. 410). As to themselves, the planters did not allow religion to “condemn immorality” (Fox-Genovese and Genovese 2005, p. 410).

This vein of religious skepticism continued even in the lives of such later luminaries of the South as James Hammond, the famously proslavery governor of South Carolina who coined the phrase “Cotton Is King.” He “wanted to believe,” but just could not (Fox-Genovese and Genovese 2005, p. 445). Similarly, North Carolina’s firmly proslavery governor in the late 1700s, William Tryon, has been described as being “as free from all religious intolerance, as he was destitute of any religious principles” (Fox-Genovese and Genovese 2005, p. 444; Wheeler 1851). Indeed, until as late as the 1830s, “deism and skepticism remained influential” across the region (Fox-Genovese and Genovese 2005, p. 410). Especially in South Carolina and Georgia, “any number of prominent men admitted to agnosticism or were strongly suspected of being free thinkers without suffering ostracism” (Fox-Genovese and Genovese 2005, p. 444).

In fact, we should remember that the antislavery forces in the North often seized upon the fact that the South was initially (and remained through the Civil War) relatively unchurched to argue that slavery “dulled religious . . . sensibilities” (Fox-Genovese and Genovese 2005, p. 411). We should not think that this accounting of irreligion in the South was overdrawn for polemical purposes by Northerner antislavery advocates. Proslavery chronicles confirmed it as well. For example, “slavery apologist” Solon Robinson as late as the mid-19th century “found religiously skeptical planters” with scarcely any religious entanglements across the South (Fox-Genovese and Genovese 2005, p. 444; Kellar 1936, pp. 279–80).

### 5.2. *Slavery Acknowledged as Wretched in the Early South*

Tied to this religious indifferentism in the South before the late antebellum period was a clear recognition that slavery was a baneful estate for almost all enslaved. Historian Douglas R. Egerton documents that “the planter class in the Age of Revolution never believed for a moment the blacks were happy in their condition and wouldn’t try for freedom.” For these planters, we all lived in “a violent world.” They acknowledged and saw as a brutal fact “that slaves were held in place only by white military power” (Egerton 1998 quoted in Jones 1998). One of the late expressions of this hard-nosed moral indifferentism can be seen in the 1829 speech to the South Carolina legislature of Governor Stephen D. Miller:

Slavery is not a national evil; on the contrary, it is a national benefit. The agricultural wealth of the country is found in those states owning slaves, and a great portion of the revenue of the government is derived from the products

of slave labor—Slavery exists in some form everywhere, and it is not of much consequence in a philosophical point of view (quoted in Tise 1987, p. 97).

In fact, this view of the hard-nosed men of worldly affairs was even recognized formally in state constitutional law in the South, and was even intimated in federal case law as well. In *State v. Mann*, for example, the North Carolina Supreme Court acknowledged slavery as a curse: “the power of the master must be absolute, to render the submission of the slave perfect . . . It constitutes the curse of slavery to both the bond and free portions of our population. But it is inherent in the relation of master and slave” (*State v. Mann*, 13 N.C. 263 [1829]). The Mississippi Supreme Court in *Harvey v. Decker and Hopkins* also ruled that “slavery is condemned by reason and the laws of nature. It exists and can only exist, through municipal regulations” (*Harvey v. Decker and Hopkins*, 1 Miss. Walker 36 [1818]). Lastly, we can also see an example of this sentiment in federal case law in the infamous *Dred Scott v. Sandford* decision:

[African Americans] had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic, whenever a profit could be made by it (*Dred Scott v. Sandford*, 60 U.S. 393 [1857]).

In most of these cases, the individual judges protest that the standards they are forced by state or federal law to propound are cruel and arguably not to be prized as a normative measure for an ideal society. Hence, Judge Ruffin in *State v. Mann* also states that “I most freely confess my sense of the harshness of this proposition [of unbounded power of the master over his slave]. I feel it as deeply as any man can. And as a principle of moral right, every person in his retirement must repudiate” the principle which state law binds him to adopt; “greatly to be desired,” he continues, are statutory changes “much more rationally” based on the humanity of slaves. But that will have to come later, as the world of the here and now is hard, and hard to change. Justice Taney similarly states that “It is difficult at this day to realize the state of public opinion in relation to that unfortunate race, which prevailed in the civilized and enlightened portions of the world at the time when the Constitution of the United States was framed and adopted”—a difficult task presumably because moral sentiment had grown more favorable to the rights of blacks. Yet for both Ruffin and Taney, moral progress was not to be incorporated into the law of the state absent the clear decree of statutory or constitutional law; until then the cold logic of morally indifferent positive law had to prevail. For many in Southern elite society in the period before the 1830s (when sentiment would begin to change), an unchristian principle beset the very heart of the slave owning states.

### 5.3. The Failure of Christian Abolition

As Donald Mathews demonstrates in his classic works *Religion and the Old South* and *Methodism: A Chapter in American Morality, 1780–1845*, newly emerging American Evangelical missionaries—mostly Methodists—who were strongly opposed to slavery labored in the vineyard of the American South in the late 1700s through the first decades of the 19th century—and sought to remove the scourge of slaveholding from the heart of Southern society (Mathews 1965, 1977).

This antislavery advocacy by Evangelical missionaries was a natural outgrowth of the theology of the founders of evangelical revival in England from which these movements developed (Mathews 1977, p. 182). John Wesley, for example, “abhorred slavery” (Takaki 1971, p. 142). Indeed, in 1743 he wrote the rule against the buying and selling of human beings into the Methodist General Rules (Takaki 1971, p. 142). Swaminathan in fact calls John Wesley an “avid antislavery activist” (Swaminathan 2009, p. 72). He condemned the institution in his work *Thoughts Upon Slavery* in 1774, and in 1778 he published a postscript to *A Serious Address to the People of England with Regard to the State of the Nation*

in which he expressed his desire that the West Indies (as islands), along with the slave trade, be destroyed for the good of the country (Wesley 1778, p. 28). Also, in his *Thoughts upon Slavery*, he echoed Sharp's view of the incompatibility of slavery and English law (Wesley 1774, p. 44; Swaminathan 2009, p. 81).<sup>25</sup>

This denunciation of slavery was also expressed with unmistakable clarity by a great many early bishops of Methodism throughout America. Bishop Thomas Coke and Francis Asbury, for example, sternly rejected slavery, as did the major Methodist conferences in America in the 18th century. The general conference of 1784 declared slavery "contrary to the laws of God, man, and nature, and harmful to society; contrary to the dictates of conscience and true religion" (Takaki 1971, p. 143). Before the 1820s and 1830s, therefore, in the United States, the Methodist church, along with many Baptist and Presbyterians churches, held to their faith's well-established opposition to slavery.

By the early 1800s, many Methodists and like-minded preachers got "caught up in [an] exhilarating if naïve assault on slaveholding" in the South, which many of their number embraced with "more zeal than understanding at the turn of the [nineteenth] century" (Mathews 1977, p. 138). Buoyed by their contributions to such revivals as that in Cane Ridge Kentucky, Methodists, Mathews notes, became consumed with "a naïve idealism" that led them to believe that they could change the Southern attachment to slavery. Their vision, however, was unsupported by "an appreciation of social reality." As Mathews relates, they simply failed to recognize how deeply committed large slave owners were to maintaining their human property. This produced among antislavery Southern missionaries in the early 1800s "unrealistic expectations" (Mathews 1977, p. 77). Ultimately, by the 1820s, antislavery Evangelical missionaries in the South were "routed in their battles with slavery" (Mathews 1977, p. 136).

One aspect that contributed to this failure was the way antislavery was unanchored to organic Southern law. Because the state was defined by an unChristian element to begin with, the rhetoric of bringing the state to its own true principles was unavailable in the antebellum South. Liberating slaves was a form of extraordinary munificence that might come in full in a distant future through divine providence, but it could not be demanded to rectify an internal tension residing in the heart of the Southern state, as would occur in Britannia. Already facing steep odds, the absence of a platform in civil law made antislavery efforts all the harder.

#### 5.4. *The Resulting Dominance of the "Spirituality of the Church" and Church–State Separationism*

The propositional disestablishment and the failure of the antislavery mission to slave owners had this important consequence to the development of the antebellum South: it gave enhanced credibility to the "spirituality of the church" theology and its corollary, strict church–state separation. The "spirituality of the church" movement was (and remains) a form of evangelicalism that "stressed the helplessness of the moral individual to alter social arrangements" (Snay 1993, p. 39). In a classic work on the South, John Boles describes the many antebellum Evangelicals who subscribed to this view, and how they would come to be predominant across the South. "In a hopelessly evil world," such souls were interested almost exclusively in gaining personal salvation. The search for personal salvation through expressions of emotional conversion became, therefore, much more important than tasks destined to distract and disappoint, such government-backed programs of "improving society" (Boles 1972, pp. 165–74). Such efforts had, after all, been tried and failed. The "spirituality of the church" and its concomitant, strict separation, came to be a major element in the South due in large measure to the combined effect of the embedded character of fallen practices in the government, and the failure of the missionary activity to make the world pure in the earlier generation.

In turn, the theology advanced by a rising generation of Southern theologians, such as James Henley Thornwell, began to take deep roots in Southern soil. Thornwell by the

<sup>25</sup> See also, Daniel J. Pratt Morris-Chapman, "John Wesley and Methodist Responses to Slavery in America" (Morris-Chapman 2019).

1850s would become “the South’s leading theologian” (Noll 2002, p. 393). For him, “the church has no commission to change the form of political constitutions; she was not to solve the problems of our fallen state; and she was not to involve herself in dealing with specific policies contemplated by the state” (Lucas 2016). Thornwell’s fellow Presbyterian minister, the influential Virginian Robert Lewis Dabney, maintained in the 1850s that “my conviction has all along been that we ministers, when acting ministerially, publicly, or any way representatively of God’s people as such, should seem to have no politics” (Johnson 1977, p. 221). Not limited to Presbyterians like Thornwell and Dabney, “the Baptist majority throughout the South,” for example, disapproved of church involvement in politics, with Baptist assemblies across Virginia holding that the issue of slavery was political and so an “improper subject for examination by a religious body” (Spencer 1886; Eighmy 1968, p. 667). This view also came ultimately to predominate among Methodists whose fathers had been at the forefront of antislavery missionary activity. “We regard the question of the abolition of slavery,” the South Carolina Methodist conference in 1836 stated, “as a civil one, belonging to the State, and not at all a religious one or appropriate to the church” (Snay 1993, p. 38).<sup>26</sup>

As Sean Michael Lucas of the Reformed Theological Seminary in Jackson Mississippi has emphasized, “for Thornwell and other proponents of this doctrine, the root of the spirituality of the church doctrine was the separation of church and state” (Lucas 2016). Separationism, therefore, left slavery alone to grow and fester.

##### *5.5. Avoiding Misunderstanding: Levels of Early Southern Disestablishment; The Late Arrival of Slavery as a Positive Good; and Secessionist Calls for a Church–State Union*

Two final points must be kept in mind in relation to the trajectory of Southern slave history sketched above—that of an initial irreligion, the failure of a missionary antislavery advocacy, and the resulting solidification of a “spirituality of the church” theology and church–state separation. The first is that the antebellum South was not defined by a complete separation of church and state; separationism was rarely absolute. The point, rather, is that with respect to the existence of the institution of slavery, the early forms of disestablishment covered the critically important issue of slavery—exempting it from any form of state-based religious objection. The second point relates to the presence of a positive good political philosophy of slavery, the emergence of a theology of slavery as a divine blessing, and the de-spiritualization of the church as it related to slavery. By the late 1850s, some Southern ministers did come to see slavery as a Biblically-based principle that a Christian Southern state *must* uphold, creating the South’s own form of propositional establishment. These developments did emerge in the antebellum period. However, it is critical to appreciate the timing of their emergence. They came only quite late in antebellum history.

First, it is important to note the limits of disestablishment in the South. In terms of organizational establishment, many Southern colonies had state tax support for Anglican parishes. However as the Genoveses remark, such support for organizational establishment among the initially largely irreligious planter class that controlled colonial assemblies was the product mostly of the simple Voltairean idea that it is best to have simple folk believe in God since a fear of divine punishment best maintains property rights and social stability. The religious skeptic James Hammond, for example, “considered religion a requisite for social order and especially for keeping the lower classes content with their lot” (Fox-Genovese and Genovese 2005, p. 445). Unsurprisingly, the slaver class, although allowing the colonies to provide tax support to parishes, worked mightily *to reduce* the traditional English aspects of organizational establishment. As Clifton records, the planters fought energetically against a resident bishop for the American colonies. In Virginia, especially, they ensured that no priest was inducted, a status which conferred a surety of salary such that no political or vestry body could deny the prelate “his living.” The planters did this

<sup>26</sup> See (Painter 2001).

despite the fact that induction and its employment surety for priests was a fixture in the Church in England (Clifton 1970, p. 44).<sup>27</sup> As a result, parish clergy “were dependent upon the passing moods of the laity to an extent quite inconsistent with the approved Anglican theory” (Greene 1914, p. 64). In all, “in sharp contrast to the situation at home” stood “the humiliating weakness of the church beyond the sea,” where in the early 1700s Anglicanism “had largely lost its force” (Greene 1914, p. 64).

Nevertheless, as we have seen, along with the organizational establishment that did exist was a propositional disestablishment in the form of slavery, as such, being a topic uncovered by any conjunction of Christian moral values and state law. Yet even here it is important to note that the antebellum South did not have complete propositional disestablishment. In *People v. Ruggles* (8 Johns. 290, 293. N.Y. [1811]), the New York Appellate Court famously held that Christianity was, to some degree, imbedded in the developing common law of the state of New York. This principle came to be adopted in the Southern states of South Carolina, Arkansas, Tennessee, North Carolina, and Alabama (*City Council of Charleston v. Benjamin*, 33 S.C.L. (2 Strob) 508 [1846]; *Shover v. State*, 10 Ark 259 [1850]; *Bell v. State*, 31 Tenn. 41 [1851]; *Melvin v. Easley*, 52 N.C. 378 [1860]; *Goree v. State*, 71 Ala. 7. 13 [1881]).<sup>28</sup> The propositional separationism was not total. It is simply that, despite such measures, Christian doubts on slavery were not and could not be made part of the law absent statutory or constitutional change.

Second, it cannot be denied that a political and religious ideology of slavery as a positive good for the slaves emerged in the history of the antebellum South, and eventually a propositional establishment that embedded the religiously positive institution into the state’s protective charge. However, these developments only took deep root late in antebellum thought. As Swaminathan summarizes the evidence, the ‘positive good theory’ of slavery, which asserted that slaves were better off in the lands of whites, and so were not meaningfully injured by their enslavement, emerged in detail only in the late 1820s (Swaminathan 2009, p. 170). Its assertion that planters must “reject the idea that [slavery] was a necessary evil” constituted a “new intellectual defense of the institution” (Bill of Rights Institute n.d.).<sup>29</sup> Perhaps the fullest expression of this thought was advanced by John C. Calhoun in a speech entitled “Slavery, a Positive Good” delivered on 6 February 1837, on the floor of the United States senate.

As a result both of this political endorsement of slavery as a positive good and, as Snay documents in detail, the pressure placed on Southern ministers from the rising abolitionism of the Northern clergy (Snay 1993, p. 15),<sup>30</sup> a religious view of slavery as ordained by God began to gain greater purchase in the antebellum South.<sup>31</sup> This view replaced the earlier idea that slavery was a political matter not fit for the spiritual church to question with the idea that slavery was divinely sanctioned and thus merited *for that reason* protection by state power. A clear manifestation of this collapse of state and religious functions was evidenced by ministers who called for secession precisely so that the Southern states could be true to what they saw as their states’ indwelling Christian principles, which they saw

<sup>27</sup> See (Cross 1902).

<sup>28</sup> See (Banner 1988).

<sup>29</sup> See (Genovese 1969; Finkelman 1989; Ericson 2000).

<sup>30</sup> Snay discusses how a major stimulus to this development on the part of Southern divines was the emergence of strident condemnations of slavery by Northern leaders of national denominations, which Snay dates to the mid-1830s (Snay 1993, p. 15 and *passim*). “The close association” between a growing number of Northern ministers from this time on and “religion and abolitionism heightened” among Southern planters their “preexisting suspicion of Southern clergymen” (Snay 1993, p. 35). In turn, many Southern ministers of these same denominations felt that this increasingly forceful abolitionism by their Northern clerical brethren “had jeopardized their standing in society and the cause of religion in the South,” given the culture created by the slave owning classes. Hence, “the religious critique of abolitionism in part reflected the attempt of [Southern] ministers to differentiate Southern religion from that of Northern reformers” (Snay 1993, p. 35).

<sup>31</sup> To be sure, Larry Tise has documented that the proslavery religious argument was present in Southern circles much earlier (Tise 1987). But the point is one of relative weight, with religion playing “a major role in the proslavery crusade” in the South only from the 1830s (Snay 1993, p. 53). As Eugene Genovese remarks in review of Tise’s work, in the late 1810s “the proslavery vanguard in the South was only beginning to gain momentum” among clerics (Genovese 1988, p. 672). This vanguard would also come to seize on scriptural exegesis such as the so-called curse of Ham derived from Genesis 9: 18–27.

as endorsing a certain kind of slavery. That is, by the late 1850s and early 1860s, some ministers called for secession not to avoid the despotic powers of an overweening national government or any other such secular reason, but instead to see Southern states be true to their own Christian identity, an identity that at one and the same time protected the divinely ordained institution of slavery but required it to be regulated to ensure against unChristian abuse (Fox-Genovese and Genovese 2005, p. 520). In their minds, through secession could be born a confessional state that would both recognize slavery and, true to the states' own religious principles, "protect slave families, repeal the laws against slave literacy, and punish cruel masters" (Fox-Genovese and Genovese 2005, p. 520). Secession, therefore, could permit the South's own kind of union of church and state. Note, however, the late development of establishmentarian proslavery thought—a movement that grew on the back of earlier decades of separation of church and state.

#### 5.6. *A Study in Contrasts: The Insights of Frederick Douglass*

We should now note that this trajectory was in many ways the opposite of the path blazed by Evangelicals, Anglicans, and others in Great Britain. There abolition grew in part through its association with various forms of religious establishment. But in the antebellum South, disestablishment aided slavery's entrenchment, and religion over time came to further support the institution.

This point was not lost on African Americans in the antebellum period. Indeed, Frederick Douglass referenced this fact in his famed 1852 address, "What to the Slave Is the Fourth of July?"<sup>32</sup> In his address, Douglass remarked how

One is struck with the difference between the attitude of the American church towards the anti-slavery movement, and that which occurred in England, where the church, true to its mission of ameliorating, elevating, and improving the condition of mankind, came forward promptly, bound up the wounds of the West Indian slave, and restored him to his liberty. There the question of emancipation was a high religious question. It was demanded in the name of humanity, and according to the law of the living God . . . The anti-slavery movement there was not an anti-Church movement, for the reason that the church took its full share in prosecuting the movement (Douglass 1852 quoted in Bridges 2008, p. 251).

The church, Douglass asserted, took an active role in shaping public values. It did its full share in antislavery work by incorporating religious principles into the heart of state law. The "demands of humanity" made progress, therefore, in and through a union of church and state.<sup>33</sup> In the South, on the contrary, the separation of law from religious principle served to give aid and comfort to slavery in its critical early years—until, that is, a new ideology of slavery as a divine blessing consumed the minds of slave owners throughout the region.

## 6. Conclusions

In a social moment defined by the demands for racial justice, it is wholly fitting to reevaluate long-standing institutions and social and legal practices. Our moment is an auspicious one for questioning institutions by investigating their complicity with the crimes of slavery. One deeply rooted assumption in American culture is the superiority of church–state separation to alternative church–state arrangements. However, by looking at a comparative history of the United Kingdom and the antebellum South, we can see that a church–state union defined by the authority of the state to incorporate changes in

<sup>32</sup> Also of note is how Frederick Douglass lived out the value of forgiveness for slave owners as individuals, a point also advocated by Sharp. In 1877, Douglass met his former slave owner Thomas Auld. The two "parted as friends . . . personally reconciled" (Blakemore 2018).

<sup>33</sup> It is arguable too that the organizational establishment of England, which ensures the presence of senior bishops in the House of Lords, weakens the pull of the "spirituality of the church" theology and its flight from political affairs. This form of establishment arguably expresses the subtle message that political judgments can benefit from the voice of the church, and that the church has a responsibility to have its voice heard in the affairs of state. Note by way of contrast the *prohibition* on ministers serving in most Southern legislatures in the antebellum period.

religious understanding, the incorporation of religious principles into the nation's civil law, and the identification of normative nationality with adherence to a specific religious moral discipline can exercise a powerfully liberating effect. In contrast, an ethos of church–state separation can allow moral harms to fester free from an internal critique born of the indictment that the practices contradict core aspects of a nation's law and identity.

The force of this point is limited but important. Church–state union, of course, can have serious problems, including injuries to the equal status of those outside the religion whose moral discipline is legally obligatory or nationally normative, the danger of fueling imperialistic exploitation of a religious “other,” the danger of a political capture of a church and its message—and not least the danger that established religions could advance principles far less noble than antislavery, such as the late emergence in the South of the idea of a confessional slaveholding state. Emphasizing that disestablishment was complicit in the crimes of slavery does not of itself argue for a return to a form of religious establishment. Nevertheless, the history sketched here means that self-critique and the absence of constitutional airs should attend the reconsideration of our basic institutions in light of racial justice that the current moment makes so pressing. Precisely what the fruits of this reconsideration when directed toward our church–state arrangement might be is beyond the scope of the present paper. However, given the recognition of the complicity of church–state separation with slavery expressed by African American thinkers such as Frederick Douglass, and given also the general tenor of the American social moment, it is perhaps not unlikely that we should come to place a greater emphasis on 20th-century African American thinkers who advocated for a robust presence of religious views in public life, views that express at once the relevance of faith for the public good and the importance of moderation and mutual toleration. Such a view, in fact, was advanced by leaders such as Benjamin Elijah Mays.<sup>34</sup> But a prescription, once again, is beyond the present scope. Suffice it here only to say, there is much work left to be done.

In any case, demanding that we rethink in light of slavery engrained American practices—including church–state separation—can only make our country better. And doing so with a self-discipline that resists automatic self-congratulation in the form of American exceptionalism can only assist the noble cause.

**Funding:** This research received no external funding.

**Institutional Review Board Statement:** Not applicable.

**Informed Consent Statement:** Not applicable.

**Data Availability Statement:** Not applicable.

**Conflicts of Interest:** The author declares no conflict of interest.

## References

### Legal Cases

- Bell v. State*. 1851. 31 Tenn. 41.  
*Bowman v Secular Society Limited*. 1917. AC 406.  
*City Council of Charleston v. Benjamin*. 1946. (2 Strob) 33 S.C.L.  
*De Costa v. De Paz*. 1754. 2 Swans. 532, 36 Eng. Rep. 715. Chpt. 1754.  
*Dred Scott v. Sandford*. 1857. 60 U.S. 393.  
*Goree v. State*. 1881. 71 Ala. 7. 13.  
*Harrison v. Evans*. 1767. 3 Bro. P. C. 465. H. L

<sup>34</sup> Concerning Mays's emphasis on mutual toleration and respect, Barbara Dianne Savage recounts that

Mays . . . connected the issue of racial injustice in the United States with political persecution around the world and called on Christian churches to combat both. ‘This being true,’ he wrote, ‘the persecution of the Jews in Germany and Poland, the complete subjugation and exploitation of the Bantu in South Africa, the disfranchisement and economic prescriptions of Negroes in the United States, the treatment of Aborigines in Australia, the Anglo-Indian problem in India, and the struggle of suppressed peoples—all must be the immediate concern of God's Church (Savage 2007, p. 789; Mays 1940, p. 102).

- Harvey v. Decker and Hopkins*. 1818. 1 Miss. Walker 36.
- Johns, and Anor, R. (on the Application of) v Derby City Council and Anor*. 2011. EWHC 375 (Admin). 28 February 2011.
- Lemon v. Kurtzman*. 1971. 403 U.S. 602.
- Melvin v. Easley*. 1860. 52 N.C. 378.
- People v. Ruggles*. 1811. 8 Johns. 290, 293. N.Y.
- R. v. Lilburne*. 1649. 4 St. Tr. 1269.
- Shover v. State*. 1850. 10 Ark 259.
- State v. Mann*. 1829. 13 N.C. 263.

### Other Sources

- Aldrich, P. Emory. 1889. The Christian religion and the common law. *American Antiquarian Society* 6: 18–37.
- Anderson, Benedict. 1983. *Imagined Communities: Reflections on the Origins and Spread of Nationalism*. London: Verso.
- Anonymous. 1743. *Memoirs of an Unfortunate Young Nobleman, Return'd from a Thirteen Years Slavery in America*. London: J. Freeman.
- Asari, Eva-Maria, Daphne Halikiopoulou, and Steven Mock. 2008. British national identity and the dilemmas of multiculturalism. *Nationalism and Ethnic Politics* 14: 1–28. [CrossRef]
- Banner, Stuart. 1988. When Christianity was part of the common law. *Law and History Review* 16: 27–62. [CrossRef]
- Bill of Rights Institute. n.d. *Life, Liberty, and the Pursuit of Happiness*. 6.25 John C. Calhoun, 'Slavery as a Positive Good', 1837. Available online: [https://cnx.org/contents/NgBFhmUc@13.2:iQkwpR\\_@8/6-25-%E2%9C%92%EF%B8%8F-John-C-Calhoun-Slavery-as-a-Positive-Good-1837](https://cnx.org/contents/NgBFhmUc@13.2:iQkwpR_@8/6-25-%E2%9C%92%EF%B8%8F-John-C-Calhoun-Slavery-as-a-Positive-Good-1837) (accessed on 3 December 2020).
- Blakemore, Erin. 2018. Frederick Douglass's Emotional Meeting with the Man who Enslaved Him. *History.com*. December 4. Available online: <https://www.history.com/news/frederick-douglass-meeting-former-master> (accessed on 5 December 2020).
- Boles, John B. 1972. *The Great Revival 1787–1803: The Origins of the Southern Evangelical Mind*. Lexington: University Press of Kentucky.
- Borden, Morton. 1984. *Jews, Turks, and Infidels*. Chapel Hill: University of North Carolina Press.
- Boston, Rob. 1997. Joel Barlow, and the treaty with Tripoli: A tangled tale of pirates, a poet and the true meaning of the First Amendment. *Church and State* 50: 11–14.
- Boswell, James. 1934. *Life of Johnson*; Edited by George Birbeck Hill. Oxford: Oxford University Press. Available online: [www.fullbooks.com/Life-Of-Johnson-Vol31.html](http://www.fullbooks.com/Life-Of-Johnson-Vol31.html) (accessed on 6 December 2020).
- Bradshaw, Thomas. 1788. *The Slave Trade Inconsistent with Reason and Religion: A Sermon Preached in the Parish-Church of Tottenham*. London: W. Richardson.
- Bridges, Kenneth, ed. 2008. *Freedom in America*. Saddle River: Pearson.
- Brooks, Rebecca Beatrice. 2016. What Was the British Policy of Salutary Neglect? *History of Massachusetts Blog*. March 30. Available online: <https://historyofmassachusetts.org/what-was-the-british-policy-of-salutary-neglect/> (accessed on 21 November 2020).
- Broon, Steven K., Kilolo Kijakazi, Charmaine Runes, and Margery Austin Turner. 2019. Confronting Structural Racism in Research and Policy Analysis: Charting a Course for Policy Research Institutions. *Research & Scholarship Blog*. February 28. Available online: <https://sites.une.edu/research/urban-institute-confronting-structural-racism-in-research-and-policy-analysis-charting-a-course-for-policy-research-institutions/> (accessed on 10 December 2020).
- Brown, Peter. 2003. *The Rise of Western Christendom*, 2nd ed. Oxford: Blackwell.
- Brown, Christopher. 2006. *Moral Capital: Foundations of British Abolitionism*. Chapel Hill: University of North Carolina Press.
- Burgess, Thomas. 1789. *Considerations on the Abolition of Slavery and the Slave Trade upon Grounds of Natural, Religious, and Political Duty*. London: D. Prince and J. Cooke; J. and J. Fletcher: and by Elmsly, White, Payne, Cadell.
- Butrymowicz, Sarah. 2018. Public Money for Private Schools Has Not Led to Equity in France. *PBS NewsHour*. March 13. Available online: <https://www.pbs.org/newshour/education/public-money-for-private-schools-has-not-led-to-equity-in-france> (accessed on 22 November 2020).
- Calabrei, Stephen. 2006. 'A shining city on a hill': American exceptionalism and the supreme court's practice of relying on foreign law. *Boston University Law School* 86: 1335–416.
- Clifton, Denzil T. 1970. Anglicanism and negro slavery in colonial America. *Historical Magazine of the Protestant Episcopal Church* 39: 29–70.
- Codrington, Wilfred. 2019. The Electoral College's Racist Origins. *The Atlantic*. November 17. Available online: <https://www.theatlantic.com/ideas/archive/2019/11/electoral-college-racist-origins/601918/> (accessed on 4 November 2020).
- Cross, Arthur Lyon. 1902. *The Anglican Episcopate and the American Colonies*. New York: Longmans, Green, and Co.
- Davis, Derek. 1991. Seeds of the secular state: Dante's political philosophy as seen in the "de monarchia". *Journal of Church and State* 33: 327–46. [CrossRef]
- Day, Thomas, and John Bicknell. 1774. *The Dying Negro: A Poem*, 2nd ed. Dedication by Thomas Day. London: W. Flexney. First published 1773.
- Dore, James. 1789. *A Sermon on the African Slave Trade, Preached at Maze-Pond*. London: R. Wayland.
- Drake, Harold A. 2000. *Constantine and the Bishops: The Politics of Intolerance*. Baltimore: Johns Hopkins University Press.
- Drescher, Seymour. 1977. *Econocide: British Slavery in the Era of Abolition*. Pittsburgh: University of Pittsburgh Press.
- Drescher, Seymour. 1987. *Capitalism and Antislavery: British Mobilization in Comparative Perspective*. New York: Oxford University Press.
- Drescher, Seymour. 2009. *Abolition: A History of Slavery and Antislavery*. New York: Cambridge University Press.

- Duffy, Eamon. 2011. *Ten Popes Who Shook the World*. New Haven: Yale University Press.
- Ebersole, Phil. 2014. American Exceptionalism: Church and State. Thoughts on Politics and the Passing Scene. *Phil Ebersole's Blog*. January 1. Available online: <https://philebersole.wordpress.com/2014/01/15/american-exceptionalism-church-and-state/> (accessed on 1 November 2020).
- Egerton, Douglas R. 1998. *Brotherly Love (1776–1834): Africans in America's Journey through Slavery*. Directed by Jacque Jones. Episode 3. Boston: WGBH Educational Foundation.
- Eighmy, John Lee. 1968. The Baptists and slavery: An examination of the origins and benefits of segregation. *Social Science Quarterly* 49: 666–73.
- Eltis, David. 1987. *Economic Growth and the Ending of the Transatlantic Slave Trade*. Oxford: Oxford University Press.
- Encyclopaedia, Britannica. n.d. Whig and Tory. *Britannica.com*. Available online: <https://www.britannica.com/topic/Whig-Party-England> (accessed on 3 November 2020).
- Equiano, Olaudah. 1789. *Narrative of the Life of Olaudah Equiano, or Gustavus Vassa, the African*. London: T. Wilkins.
- Ericson, David. 2000. *The Debate over Slavery*. New York: New York University Press.
- Estwick, Samuel. 1772. *Considerations on the Negroe Case Commonly So Called, Addressed to the Right Hounorable Lord Mansfield, Lord Chief Justice of the Court of Kings Bench, etc., by a West Indian*. London: J. Dodsley.
- Ewald, Alexander Charles. 1878. *Sir Robert Walpole: A Political Biography, 1676–1745*. London: Chapman and Hall.
- Finkelman, Paul. 1989. *Proslavery Thought, Ideology and Politics*. New York: Garland Press.
- Fox-Genovese, Elizabeth, and Eugene Genovese. 2005. *The Mind of the Master Class: History and Faith in the Southern Slaveholder's Worldview*. Cambridge: Cambridge University Press.
- Funk, Kellen. 2017. Church corporations and the conflict of laws in antebellum America. *Journal of Law and Religion* 32: 263–84. [CrossRef]
- Genovese, Eugene D. 1969. *The World the Slaveholders Made: Two Essays in Interpretation*. New York: Pantheon Books.
- Genovese, Eugene D. 1988. Larry Tise's Proslavery: A critique and an appreciation. *The Georgia Historical Quarterly* 72: 670–83.
- Greene, Everts B. 1914. The Anglican outlook on the American colonies in the early eighteenth century. *The American Historical Review* 20: 64–85. [CrossRef]
- Gronniosaw, James Albert Ukawsaw. 1770. *A Narrative of the Most Remarkable Particulars in the Life of James Albert Ukawsaw Gronniosaw, an African Prince, as Related by Himself*. Bath: W. Gye.
- Hargrave, Francis. 1772. *An Argument in the Case of James Somersett a Negro, Lately Determined by the Court of King's Bench*. London: W. Otridge.
- Hudson, Nicolas. 2001. 'Britons never will be slaves': National myth, conservatism, and the beginnings of British antislavery. *Eighteenth-Century Studies* 34: 559–76. [CrossRef]
- Johnson, Thomas C. 1977. *The Life and Letters of Robert Lewis Dabney*. Edinburgh and Carlisle: The Banner Truth Trust.
- Joireman, Sandra F. 2009. Anabaptism and the state: An uneasy coexistence. In *Church, State, and Citizen: Christian Approaches to Political Engagement*. Edited by Sandra Fullerton Joireman. Oxford: Oxford University Press, pp. 73–91.
- Joshi, Khyati J. 2020. *White Christian Privilege—The Illusion of Religious Equality in America*. New York: New York University Press.
- Kellar, Herbert Anthony, ed. 1936. *Solon Robinson: Pioneer and Agriculturalist: Selected Writings*. Indianapolis: Indiana Historical Bureau, vol. 2.
- Lucas, Sean Michael. 2016. Owning Our Past: The Spirituality of the Church in History, Failure and Hope. *Reformed Faith and Practice* 1: 104. Available online: <https://journal.rts.edu/article/owning-our-past-the-spirituality-of-the-church-in-history-failure-and-hope/> (accessed on 27 October 2020).
- Mathews, Donald G. 1965. *Methodism: A Chapter in American Morality, 1780–1845*. Princeton: Princeton University Press.
- Mathews, Donald G. 1977. *Religion in the Old South*. Chicago: University of Chicago Press.
- Mays, Benjamin. 1940. Amsterdam on the church and race relations. *Religion in Life: A Christian Quarterly* 9: 95–104.
- McFarland, Sam. 2019. Abolition! Granville Sharp's campaign to end slavery. *International Journal of Leadership and Change* 7: 51–57.
- Millhiser, Ian. 2017. The United States Senate is a Failed Institution. *ThinkProgress*. April 6. Available online: <https://archive.thinkprogress.org/antidemocratic-history-of-senate-d05688f441b8/> (accessed on 1 November 2020).
- Moore, Robert. 2010. Anglicanism and the Abolition of Slavery. Available online: <https://www.anglican.ca/wp-content/uploads/2010/11/15-moore.pdf> (accessed on 15 October 2020).
- Morris-Chapman, Daniel J. Pratt. 2019. John Wesley and Methodist responses to slavery in America. *Holiness: The Journal of Wesley House Cambridge* 5: 37–58. [CrossRef]
- Mvundura, Elijah. 2018. American Exceptionalism Examined. *Liberty*. July/August. Available online: <http://libertymagazine.org/article/american-exceptionalism-examined> (accessed on 1 November 2020).
- Noll, Mark A. 2002. *America's God: From Jonathan Edwards to Abraham Lincoln*. Oxford: Oxford University Press.
- Oldham, James C. 1988. New light on Mansfield and slavery. *Journal of British Studies* 27: 45–68. [CrossRef]
- Painter, Kyle. 2001. The pro-slavery argument in the development of the American Methodist Church. *Constructing the Past* 2: 29–46.
- Rausch, John David, Jr. n.d. The First Amendment Encyclopedia. Clergy, Bans on Holding Office by. Available online: <https://mtsu.edu/first-amendment/article/911/clergy-bans-on-holding-office-by> (accessed on 3 November 2020).
- Rothbard, Murray N. 1990. *Conceived in Liberty: Advance to Revolution, 1760–1775*. Auburn: Mises Institute, vol. 3.

- Savage, Richard. 1737. Of Public Spirit in Regard to Public Works. In *The Poetic Works of Richard Savage*. Edited by Clarence Tracy. Cambridge: Cambridge University Press, vol. 2, pp. 301–10.
- Savage, Barbara Dianne. 2007. Benjamin Mays, global ecumenism, and local religious segregation. *American Quarterly* 59: 785–806. [CrossRef]
- Sharp, Granville. 1772. *A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery; or of Admitting the Least Claim of Private Property in the Persons of Men in England*. London: Benjamin White, and Robert Horsefield. First published 1769.
- Sharp, Granville. 1773. *Essay on Slavery: Proving from Scripture Its Inconsistency with Humanity and Religion*. Burlington: Isaac Collins.
- Sharp, Granville. 1776a. *The Just Limitation of Slavery: In the Laws of God, Compared with the Unbounded Claims of the African Traders and British American Slaveholders*. London: B. White & E. & C. Dilly.
- Sharp, Granville. 1776b. *The Law of Liberty: Or Royal Law, by Which All Mankind will Certainly be Judged! Earnestly Recommended to the Serious Consideration of All Slave Holders and Slave Dealers*. London: B. White & E. & C. Dilly.
- Sharp, Granville. 1776c. *The Law of Passive Obedience: Or the Christian Submission to Personal Injuries*. London: Granville Sharp.
- Sharp, Granville. 1776d. *The Law of Retribution: Or, A Serious Warning to Great Britain and Her Colonies Founded on Unquestionable Examples of God's Temporal Vengeance against Tyrants, Slave Holders, and Oppressors*. London: W. Richardson.
- Small, Harry. 2014. This Is Not a Christian Country. *Lawyers' Secular Society*. April 21. Available online: <https://lawyerssecularsociety.wordpress.com/2014/04/21/this-is-not-a-christian-country> (accessed on 20 October 2020).
- Snay, Mitchell. 1993. *Gospel of Disunion: Religion and Separatism in the Antebellum South*. New York: Cambridge University Press.
- Somersett against Stewart. 1772. Easter Term, 12 Geo 3. K.B. In Loff 1, 98 ER 499. Available online: <http://www.commonlii.org/int/cases/EngR/1772/57.pdf> (accessed on 1 November 2020).
- Spence, Caroline Quarrier. 2014. *Ameliorating Empire: Slavery and Protection in the British Colonies, 1783–1865*. Ph.D. dissertation, Harvard University, Cambridge, MA, USA. Available online: <https://dash.harvard.edu/handle/1/13070043> (accessed on 20 October 2020).
- Spencer, John H. 1886. *A History of Kentucky Baptists from 1769 to 1885*. Cincinnati: J. H. Spencer, vol. 1.
- Strayer, Joseph. 1970. *On the Medieval Origins of the Modern State*. Princeton: Princeton University Press.
- Swaminathan, Srividhya. 2009. *Debating the Slave Trade: Rhetoric of British National Identity, 1759–1815*. Burlington: Ashgate.
- Takaki, Ronald T. 1971. *A Pro-Slavery Crusade: The Agitation to Re-Open the African Slave Trade*. New York: The Free Press.
- Tise, Larry. 1987. *Proslavery: A History of the Defense of Slavery in America*. Athens: University of Georgia Press.
- Toft, Monica Duffy, Daniel Philpott, and Timothy Samuel Shah. 2011. *God's Century: Resurgent Religion and Global Politics*. New York: W. W. Norton.
- Turley, David. 1991. *The Culture of English Antislavery, 1780–1860*. London: Routledge.
- Van Cleve, George. 2006. Somersett's case and its antecedents in imperial perspective. *Law and History Review* 24: 601–45. [CrossRef]
- Wallis, Jim. 2017. *America's Original Sin: Racism, White Privilege, and the Bridge to a New America*. Grand Rapids: Brazos Press.
- Wesley, John. 1774. *Thoughts on Slavery*. London: R. Hawes.
- Wesley, John. 1778. *A Serious Address to the People of England with Regard to the State of the Nation*. London: R Hawes.
- Wheeler, John Hill. 1851. *Historical Sketches of North Carolina from 1584–1851*. Baltimore: Genealogical Publishing Company.
- Willcox, William, and Walter Arnstein. 2001. *The Age of Aristocracy, 1688–1830*, 5th ed. Boston: Houghton Mifflin.
- Williams, Eric. 1944. *Capitalism and Slavery*. Chapel Hill: University of North Carolina Press.
- Wise, Steven. 2006. *'Though the Heavens Fall': The Landmark Trial that Led to the End of Human Slavery*. Boston: DaCapo.
- Zaretsky, Robert. 2018. How French Secularism Became Fundamentalist. *Foreign Policy*. April 7. Available online: <https://foreignpolicy.com/2016/04/07/the-battle-for-the-french-secular-soul-laicite-charlie-hebdo/> (accessed on 7 November 2020).
- Zehavi, Ben. 2019. 19th Century Slave Bible that Removed Exodus to Repress Hope Goes on Display. *Times of Israel*. March 29. Available online: <https://www.timesofisrael.com/19th-cent-slave-bible-that-removed-exodus-story-to-repress-hope-goes-on-display> (accessed on 29 October 2020).