

WHY THE FUSE BLEW: THE REASONS FOR COLONIAL AMERICA'S
TRANSFORMATION FROM PROTO-NATIONALISTS
TO REVOLUTIONARY PATRIOTS: 1772 – 1775

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The most well-known events and occurrences that caused the American Revolution are well-documented. No scholar debates the importance of matters such as the colonists' frustration with taxation without representation, the Boston Massacre, the Boston Tea Party, and the Coercive Acts. However, very few scholars have paid attention to how the 1772 English court case that freed James Somerset from slavery impacted American Independence. This case occurred during a two-year stall in the conflict between the English government and her colonies that began in 1763. Between 1763 and 1770, there was ongoing conflict between the two parties, but the conflict temporarily subsided in 1770. Two years later, in 1772, the Somerset decision reignited tension and frustration between the mother country and her colonies.

This paper does not claim that the Somerset decision was the cause of colonial separation from England. Instead it argues that the Somerset decision played a significant yet rarely discussed role in the colonists' willingness to begin meeting with one another to discuss their common problem of shared grievance with British governance. It prompted the colonists to begin relating to one another and to the British in a way that they never had previously. This case's impact on intercolonial relations and relations between the colonies and her mother country are discussed within this work.

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CHAPTER 1

PREFACE

On June 22, 1772, the highest court on English soil validated James Somerset's right to freedom. Somerset, a thirty-year-old man, had escaped from slavery during the previous year and had been recaptured by his owner, Charles Steuart. In order to punish Somerset for his escape, Steuart decided to sell Somerset to West Indian planters in order for Somerset to spend the rest of his life suffering a slavery so grotesque-as West Indian slavery was known to be- that he would assuredly meet his death only a short time after his arrival.¹ It was a death sentence of sorts-certain death by being overworked, underfed, and continuously beaten. However, through the quick, decisive action of his friends and nothing short of a miracle, Somerset was able to have his plight heard before the Court of King's bench before the ship that was to take him to the West Indies set sail. After hearing from Somerset's attorneys and from Charles Steuart's attorneys, the Court of King's Bench decided to legally grant Somerset his freedom. However, when the decision was read to the court, its wording caused some confusion about what the decision actually meant.

The court had definitely freed Somerset, but seemingly, it also freed all of England's slaves. In its decision to free Somerset, the court had declared "slavery so odious that it could only be supported by positive law."² The English press incorrectly interpreted this statement to mean that the Court of King's Bench was abolishing slavery. It then vehemently reported this interpretation. *The Middlesex Journal*, *The Morning Chronicle*, the *London Advertiser*, and *Felix*

¹ Hilary M. Beckles, *Natural Rebels, A Social History of Enslaved Black Women in Barbados*, (University of Tennessee Press, 1989), 35 and James Walvin, *Black Ivory: A History of British Slavery*, (Harper Collins, 1992), 64 and 76.

² Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter Term 12 George 3 to Michelmas 14 George 3, 1776*, xvi.

Farley's *Bristol Journal* are all examples of English papers that reported slavery no longer existed in England. A popular refrain that some of England's newspapers printed regarding the decision was as follows: "Tyrants, no more the servile yoke prepare, for breath of slaves too pure is British air."³

During Somerset's trial, the question of whether or not England's air was "too pure" for slavery dominated the arguments of both sides. In essence, during the trial, the specific issue of Somerset's freedom was not the only topic of conversation; the legitimacy and validity of slavery in general on English soil was discussed. This was another reason why there was confusion about the court's intentions once the verdict was read.

The news that Somerset was free along with all of England's slaves reached American soil. In 1772 the colonies of America still belonged to England: the news that was important to the people of the English island was also important to the English colonists of America. Therefore, the colonial press printed the misinformation that it had gathered from the English press. Forty-three stories in at least twenty colonial newspapers reported that England had freed its slaves. The *New York Journal* went so far as to print "*Pauperum Taberna Requique Torres: The monarch and the beggar are equally subject to the law.*"⁴ The *Boston Gazette* printed the following words verbatim from a London paper: "As blacks are free now in this country [England], gentlemen will not be so fond of bringing them here as they used to be, it being computed there are now 14,000 blacks in this country."⁵

Some scholars argue that some of the papers of the southern colonies went a step further than just reporting the information that was present in the English press. These scholars say that

³ *The Morning Chronicle*, June 27, 1772. *London Advertiser*, June 27, 1772.

⁴ *New York Journal*, August 27, 1772.

⁵ *Boston Gazette*, September 21, 1772.

some southern slaveowners inherently believed that if slavery was abolished in England then it was certainly only a matter of time before the English government would force the abolition of slavery in the colonies.⁶ The English Parliament had already asserted its authority over the colonies in “all cases whatsoever,”⁷ in the Declaratory Act of 1766. This meant that if slavery had been abolished in England then the English Parliament definitely could force the abolition of slavery within the colonies.

The alleged concern of some southerners may have been one of the many contributing factors in the decision of the Virginia House of Burgess to invite all thirteen colonies to begin meeting through intercolonial committees of correspondence to discuss real and perceived grievances that the colonies had with the British government. The coverage of the Somerset decision in the colonial press does not show that there was a pervasive panic among slaveowners about the decision, but there is evidence that there was some concern about the decision’s implications.

1.1 The Somerset Decision and the American Revolution

The most well-known events and occurrences that caused the American Revolution are well-documented. No scholar debates the importance of matters such as the colonists’ frustration with taxation without representation, the Boston Massacre, the Boston Tea Party, and the Coercive Acts. However, very few scholars have paid attention to how the court case that decided James Somerset’s freedom possibly had a small piece in the story of American

⁶ Richard Hildreth, *History of the United States, vol.II*, (New York: Harper&Bros.,1880), 567 and *Virginia Gazette*, November 12, 1772 and George Rodgers, Jr. and David R. Chesnutt, eds., *The Papers of Henry Laurens, vol. 7*, (Columbia: University of South Carolina Press, 1979-1981), 109.

⁷ Henry Steele Commager, *Documents of American History. 9th ed.*, (New York: Appleton Century Crafts, 1971), 60.

Independence. This case occurred during a two-year stall in the conflict between the English government and her colonies that began in 1763. Between 1763-1770, there was ongoing conflict between the two parties, but the conflict ended in 1770. New scholarship on the American Revolution makes the argument that two years later, in 1772, the Somerset decision may have assisted, among other things, in reigniting this conflict.

This paper does not claim that the Somerset decision was the cause of colonial separation from England. The only assertion that this paper makes is that the Somerset decision was reported by some of the colonial press and that it occurred at a very critical time within the story of the American Revolution: the Somerset decision was one of the occurrences that happened before the colonists decided to begin meeting with one another through groups entitled the intercolonial committees of correspondence. These committees were precursors to the Continental Congress.

The evidence that supports the theory of the Somerset decision's possible role within the story of the American Revolution is not explicit: there is no primary source that specifically states that the Somerset decision was a topic of discussion during the Virginia House of Burgesses' meeting that resulted in a resolution to invite representatives of each colony to join in intercolonial committees of correspondence. However, because the case occurred near the time that the Virginia House of Burgess met and resolved to begin meeting with other colonies to discuss offensive British policy, it is plausible that the decision may have been one of the matters discussed by the Virginia House of Burgesses. Another reason the decision may have been discussed was because Virginia's laws regarding slavery were a major topic of discussion during the Somerset trial. Somerset and his owner, Charles Stuart, lived in Virginia during most of the time that they were acquainted as slave and master. The possible effect that the Somerset

decision may have had on intercolonial relations and relations between the colonies and her mother country are analyzed within this work. In addition, the possible reasons for the lack of primary sources that support this theory are discussed in the addendum.

The invitation sent by the Virginia House of Burgess and the subsequent response to the invitation by the other colonies represent the first steps that the colonists took towards operating in unity without the help or interference from the English government. Of course, the colonists *were not ready to declare independence at this time*; that would come much later. However, the step to begin “comparing notes,” so to speak, about the policies of England was an important step towards the colonists’ eventual independence that is seldom discussed by historians.⁸

The invitation that was sent to the colonists from the House of Burgesses to create intercolonial committees of correspondence and each colonies’ response to the invitation is placed within the broader context of the larger than life story of American independence. One example of the response to Virginia’s invitation which stated that regular correspondence between the colonies was “necessary,”⁹ came from Philadelphia. Philadelphia stated, “All America looks up to Virginia... You are respected. You are animated in the cause.”¹⁰

Pennsylvania’s reference “to the cause” is extraordinarily important because it was a reference to “the cause” that all of the colonists shared. The cause was an on-again/off-again (intermittent) conflict with the English government. The colonies had earlier problems with the

⁸ Henry Steele Commager and Richard B. Morris, ed., *The Spirit of Seventy-Six: The Story of the American Revolution as Told by Participants*, (New York: Da Capo Press, 1995), 31-36. Commager and Morris talk about the committees of correspondence working together to bring relief to the city of Boston during the suffering the town experience as a result of the Coercive Acts.

⁹ John Pendleton Kennedy, ed., *Journal of the House of Burgesses of Virginia, volume 1773-1776*. (Richmond, 1905-15), 28.

¹⁰ Flournoy, H.W. ed., *Calendar of Virginia State Papers, May 16, 1795 to December 31, 1798, Embracing the Letters and Proceedings of the Committee of Correspondence and Inquiry of Virginia and the Other Colonies from March 12, 1773 to April 7, 1775. Vol. viii, 1890 and 1968*.

English government's interference in their lives and in their finances, and the Somerset decision may have been another instance of this interference. Of course, the issue of slavery was a more emotionally charged issue for the southern colonies than it was for the northern colonies who were actively involved in the slave trade because there were more slaves in the South than in the North. However, by creating an opportunity for all of the colonies to come together to discuss all of their issues with British governance, any issue of British interference could have been discussed, including the possible ramifications of the Somerset decision.

1.2 Another Way that the Somerset Decision May Have Impacted the American Revolution

Besides possibly being a possible factor in the decision of the colonists to implement the committees of correspondence, the Somerset decision may have possibly affected British military strategy during the American Revolution. In 1775, the British were able to use slave men who were willing to run away from their colonial masters in order to fight for the British side. As previously stated, the Somerset decision caused some people to believe that all of England's slaves had been freed. However, English citizens and the colonists of America were not the only ones who believed this. Some of the colonists' slaves also believed that the English slaves had been freed. This caused some of them to not only head for the British military lines but to head to England in order to gain their freedom. In 1774, the *Virginia Gazette* reported that a nineteen-year-old man named Bacchus ran away from his master to board a ship headed for England. The *Gazette* claimed that Bacchus was headed to England because of "knowledge that he had determined of Somerset's case."¹¹ After Dunmore's proclamation, as many as one

¹¹ Williamsburg, *Virginia Gazette*, June 30, 1774)

thousand slaves joined the British army.¹² Not included in this number are those slaves who left their masters without joining the British armed forces.¹³ Additionally, it is important to note that although the proclamation was written to engage the interest of slave men, slave women and children left their masters, as well.

Lord Dunmore, the English appointed military governor of Virginia, possibly knew that some of the slaves believed that England had freed its slaves. He also may have known that some of the slaves believed that the increased English military presence in the colony was for the purpose of abolishing slavery. William Drayton reported that the slaves in Charleston, “entertained ideas that the present contest was for obliging us to give them liberty.”¹⁴ These factors may have contributed to Lord Dunmore’s proclamation that offered freedom to slaves who were willing to fight for the British cause. On November 5, 1775, Dunmore issued his proclamation that stated in part: “...I hereby further declare all indented servants, negroes, or others (appertaining to rebels) free that are able and willing to bear arms, they joining his majesty’s troops as soon as may be, for the more speedily reducing this colony to a proper sense of their duty to his majesty’s crown and dignity.”¹⁵ He went so far as to give uniforms with the emblazoned phrase “liberty to slaves” to those slaves who joined British forces. Although Dunmore’s plan ingratiated him to the slaves, it intensified the anger that the colonists had toward the British. To the colonists, it seemed that the British strategy of arming the slaves

¹² David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World*, (Oxford University Press, 2006), 150.

¹³ Ibid.

¹⁴ Silvia R. Frey, *Water from the Rock: Black Resistance in a Revolutionary Age*, (Princeton, 1991), 56.

¹⁵ Public Record Office, London

against them was a grotesque, perverse way to conduct war. George Washington characterized Dunmore as an “arch traitor to the rights of humanity.”¹⁶

Historian Simon Schama argues that Lord Dunmore’s proclamation caused some slaveowners to focus on the issue of slavery that year as their primary reason for revolt against the British. He states, “Instead of being cowed by the threat of a British armed liberation of the blacks, the slaveholding populations mobilized to resist...”¹⁷ Historian David Brion Davis reiterates this point by stating that Dunmore’s proclamation had the effect of “infuriating even Loyalist whites, intensifying white solidarity, and thus contributing to British defeats and to the ultimate collapse of the British cause in America.”¹⁸ Lord Dunmore’s proclamation was not the only issue that caused some colonists to intensify their revolt against British authority, but it and its possible relation to the Somerset decision and the colonial response to it are often overlooked in the traditional analysis of the American Revolution.

1.3 The Traditional Point of View v. A Possible Theory

It is important to compare this new way of looking at the American Revolution to the traditional view of the steps leading to colonial independence. This paper does not argue that traditional views and analysis of the American Revolution are incorrect; instead it argues that there may be additional information to add to the story.

One way in which this is true is when one evaluates the typical historian’s evaluation of the years 1772 and 1773. As previously stated, 1772 was the year that the Somerset decision was

¹⁶ Ira Berlin, *Generations of Captivity*, (Harvard University Press, 2004), 129-157.

¹⁷ Simon Schama, *Rough Crossings: Britain, the Slaves and the American Revolution*, (New York: Harper Collins, 2006), 67.

¹⁸ Davis, *Inhuman Bondage*, 150.

implemented. However, some historians believe that this year is significant primarily because of an incident that came to be known as the Gaspee Affair. The Gaspee Affair was an incident that involved an alleged crime committed by one of the colonists. The English government wanted to try this case on English soil, instead of colonial soil. This meant that the alleged criminal would not have a jury of his peers to hear his case, which was the common practice at this time.

Distinguished historians such as Robert Middlekauff, argue that the Gaspee Affair reignited the conflict between England the colonies that was at a temporary stall.¹⁹ Although there is evidence that the Gaspee Affair was a definite source of tension between the two groups, there is no evidence to support that the Gaspee Affair was the singular event that caused the colonists to begin correspondence with one another without English permission. Indeed, it occurred around the time of the Somerset decision, and it was definitely one of the examples of British interference that was a continued annoyance to the colonists, but this incident *alone* was not what prompted Virginia's House of Burgess to make its request to the colonists to meet without the presence of a British representative. There is no evidence of a single unified response by the colonists prompted by the Gaspee Affair.

Historians Henry Steele Commager and Richard B. Morris do not credit the Gaspee Affair as the event responsible for reestablishing open conflict between England and her colonies. Instead, they credit the 1773 Tea Act with reigniting tensions. Commager and Morris state, "Earlier issues and conflicts had agitated and even exacerbated relations between the colonies and the mother country-the Stamp Act, the Townshend acts, the seizure of the sloop Liberty, the Boston Massacre, the burning of the Gaspee- but none of these precipitated an open

¹⁹ Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763-1789*, (Oxford: Oxford University Press, 1982 and 2005), 266.

break. That came over what happened to be a less serious issue, and one lacking in those constitutional overtones so dear to the American patriots- the Act of Parliament of May 10, 1773, permitting the East India Company to export tea to the colonies with remission of ordinary British duties and with the assurance of a virtual monopoly on the retail sale.”²⁰ Commager and Morris base this analysis on the fact that the implementation of the Tea Act caused the colonists to boycott English tea and because the Tea Act led to the Boston Tea Party. The Boston Tea Party resulted in Parliament’s harsh punishment of Boston with the implementation of the Coercive Acts. The suffering that Boston endured caused great empathy and outrage among the colonies, which in turn led them to meeting at the Continental Congress. Based on the many significant events that occurred as a result of the Tea Act, it makes sense that Commager and Morris credit it as the event that reignited open tension between the colonies. However, in their analysis, they exclude the importance of the intercolonial committees of correspondence as precursors to the Continental Congress. At the time that Boston was suffering under the Coercive Acts, the other colonies joined in support of Boston and kept abreast of Boston’s affairs through the committees of correspondence. Commager and Morris attest to the committees of correspondence fervent effectiveness at the time, but they do not give them the same importance that they give the Tea Act and Boston Tea Party.

²⁰ Henry Steele Commager and Richard B. Morris, ed., *The Spirit of ‘Seventy-Six: The Story of the American Revolution as Told by Participants*, (New York: Da Capo Press, 1958), 1.

CHAPTER 2

INTRODUCTION

The American Revolution may have been inevitable. However, this paper intends to show that political events taking place between 1772 and 1774 represented a tripwire, which ignited what had been a smoldering movement of proto-nationalists into an accelerating, unstoppable explosion. One of the many events in this transformation may have been one that did not take place on American soil. This was the legal case fought in Britain during 1772, which won the freedom of a thirty- year old man named James Somerset, who escaped from slavery. This event could have possibly been one of the many contributing factors in the colonists decision to become more insular in their relations with one another and less trusting of British governance.

2.1 Proto-Nationalists

By the beginning of 1772, tensions between the American colonists and Britain had ratcheted down from previous years. The American colonists during this period would in modern-day terminology be identified as “proto-nationalists.” They had grievances against the Crown but had learned how to protest and essentially get their way on those matters that counted most to them without demanding separation. That is, they were loyalists, who wanted more freedom within the confines of the British system and saw no need to push for anything more radical than that. As a consequence, during this period, most American colonists swiveled between their loyalty to the English government and a deep disillusionment with some of its

policies, all the while “hoping for a [complete] resolution within the old [English] constitutional order.”¹ Only after subsequent events that began in 1772 would they push for separation.

2.2 Background: Discontent Before 1772

The colonists did not always desire independence from their mother country. When they first found themselves at odds with England, their initial desire was not to separate from it. In fact, they were completely comfortable identifying themselves as British subjects and citizens, and they took pride in the laws and government of England, which they believed guaranteed their personal and communal liberty. Historian Pauline Maier depicts the colonists’ initial feelings toward England by saying, “[the colonists] took pride in being governed under Britain’s unwritten constitution, which they considered the most perfect form of government ever invented ‘by the wit of man.’”² Ironically, this identification of themselves as Englishmen became the initial source of the colonists’ tension with the English government. The British policies that they came to resent seemed out of touch with what they had previously considered to be appropriate governance. Their opposition to policy was in the spirit of any patriot who has felt that his/her country was making decisions that were not in keeping with its professed laws and its values and culture. In fact, in opposing policies that they believed were policies that threatened their liberties, the colonists believed they were acting as other Englishmen had throughout British history when defending their rights. Pauline Maier states, “Even in opposing British policies, colonists saw themselves as following in the footsteps of their English ancestors who had

¹ Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763-1789*. (Oxford: Oxford University Press, 2005), 212.

² Pauline Maier, *American Scripture: Making the Declaration of Independence*, (New York: Alfred A. Knopf, 1997), 29.

resisted the tyranny of Charles I and James II,"³ nearly one hundred years earlier during what became known as England's Glorious Revolution. Opposition to seemingly unjust policies-even if the opposition was fierce and/or violent-was a vital and majestic part of English history.

The initial source of the colonists' frustration began in 1763. That year, the English had just finished their involvement in the French and Indian War, also known as the Seven Years War. Although they were victorious during the conflict, they found themselves in a large amount of debt that would more than likely continue to grow. Because most of the war was fought on the North American continent and involved the interest of both England and its colonies, the English government decided that the colonists should help pay for the war. The victory of this war resulted in more land holdings for the English on the North American continent. The English gained Canada as well as the territory north of New Orleans, Louisiana, and the land between the Eastern Great Divide and the Mississippi River. However, the English government forbade the colonies from settling west of a geographical line they drew at the peak of the Appalachian Mountains. This rule, known as the Proclamation Line of 1763, caused anger and frustration in many colonists who fought in the French and Indian War and who believed that they would be able to enjoy in the fruits of the victory they helped to achieve.

In order for the English government to secure the land they gained from future invasion by their adversaries, they needed to employ soldiers to guard the territory. Of course, this required money. The cost of the French and Indian War had already placed the British government in debt, and the maintenance of the newly required territory would create more debt. The British solution for the problem was to increase taxes on its citizens who lived on the

³ Ibid, 29.

English island and within their American colonies. “In the English view, the Americans should surely pay their fair share of the costs of the war and its aftermath...”⁴

However, the colonists saw things differently. They felt that they had made a significant contribution during the war, and they were ready to live peaceful, uninterrupted, and fairly independent lives. At the time that the British government planned for the colonists to extend and expand their contribution, the colonists were ready to reduce it. Therefore, a seed of aggravation was planted due to each side’s different expectation of what the responsibilities were of a people who considered themselves Englishmen while living an ocean away from the English continent.

2.3 Taxation without Representation: Taxes After the French and Indian War

Parliament made the decision to tax the colonists in 1763, but the implementation of the taxes occurred one year later. “Beginning in 1764 and 1765, the British Parliament began levying new taxes on the colonies aimed not merely at the regulation of trade [as before the French and Indian War] but at raising revenue to pay for the increased costs of managing their expanding empire.”⁵ In 1764, George Grenville, a royal official, presented the idea to Parliament. Ironically, the bill he suggested lowered the tax on foreign molasses that were imported into the colonies from six pence per gallon to three pence. Without further investigation, it seemed as though the decision to lower taxes on molasses would cause the colonists to pay less taxes instead of more. However, the issue was a bit more nuanced. George Grenville’s idea originated from his knowledge that Americans had been smuggling molasses and therefore paying no duty on the commodity. Because of this, Grenville believed that if the British government became

⁴ Richard R. Beeman, *Our Lives, Our Fortunes & Our Sacred Honor*, (New York: Basic Books, 2013), 13.

⁵ *Ibid*, 14.

more exacting in their enforcement of existing customs regulations, then they would collect the tax and subsequently add to their treasury. Revenue would be increased, and the law would be somewhat psychologically palatable to the colonists since the enforced costs would be less than what the colonists were supposed to pay originally. This legislation was entitled the Sugar Act. It became the first piece of legislation intended to collect war cost and to pay for the ten thousand British troops that would be placed within the colonies to protect the newly acquired lands.⁶ Although this law did not produce extreme discontent within the colonies, it planted a seed.

To be sure, the colonists were not completely opposed to paying taxes. They had consistently done so in the past and were still doing so. However, at this point, “none of the taxes that had been imposed [were] designed solely to raise revenues. There were indirect taxes, such as custom duties and other charges relating to trade. When it came to taxing citizens to raise money to meet government expenses, it was a well-established principle that the colonials would tax themselves through their own legislatures. They had raised the money themselves to support the British during the Seven Years’ War, and they continued to raise money themselves to pay the salaries of royal governors, royal judges, and other government officials appointed by the Crown.”⁷ In essence, the colonists were used to being taxed by their own local governing bodies in which they held direct representation. However, the Sugar Act was implemented by the English Parliament, a governing body an ocean away, a group in which the colonists had no direct representation. Therefore, the colonists had no say in a law that was implemented to tax them.

⁶ Don Cook, *The Long Fuse: How England Lost the American Colonies, 1760-1785*, (New York: The Atlantic Monthly Press, 1995), 35.

⁷ Ibid, 53.

Additionally, there was the issue of how the law would potentially affect trade. The colonists were worried that the enforcement of the Sugar Act would have a negative effect on the inner workings of their unique, nuanced trade. “What Parliament had failed to recognize was that the New England and middle colonies did not pay for imports from Britain simply by exporting locally produced commodities. Rather, they imported molasses from the French West Indies and turned it into rum, which was exchanged for slaves from Africa, who were commodities in a complex trade with the southern colonies and, again, the West Indies.”⁸ The taxes required of the colonists from the Sugar Act could minimize their profits while enhancing their costs within their complex trade system. Although there was disapproval of the Sugar Act, there was not pervasive protest against it. Instead, most of the expression of discontent came from merchants and representatives in colonial legislatures.⁹ This law produced the first of many instances of discontent among the colonists, but the subsequent tax law they faced caused a more profound and escalated response. The disapproval of the colonists regarding the Sugar Act was somewhat contained compared to their reaction to the later acts of Parliament.

In 1765, the British Parliament implemented the Stamp Act. George Grenville, the English government official who initiated the Sugar Act, convinced Parliament to tax its colonies on nearly all of its paper documents. This legislation was far-reaching and affected nearly every aspect of the colonists’ lives. The Stamp Act was “a tax collector’s dream act. It was largely self-enforcing since it made it impossible [to] conduct [the] business of life- registering a birth, graduate certification, marriage, death, or will- without first purchasing a stamp.”¹⁰ If a colonist wanted to attend university, he had to pay two pounds for a stamp on his diploma. In order to be

⁸ Middlekauff, *The Glorious Cause*, 70.

⁹ *Ibid*, 73

¹⁰ Cook, *How England Lost the American Colonies*, 62.

admitted to the bar, a colonists would have to pay ten pounds. Stamps had to be purchased on liquor licenses, deeds, leases, mortgages, insurance policies, bonds, ship charters, bills , customs clearances, newspapers, pamphlets, books, almanacs, advertisements, playing cards, and dice. “Heavy penalties were imposed on lawyers who attempted to proceed without the proper stamps and on vendors who sold untaxed newspapers. Moreover, such cases were to be tried in Admiralty Courts, which were British military courts, instead of civil courts.”¹¹ This meant that colonists who were unfortunate enough to be tried in these courts would probably face harsher judgment and sentencing than they would in regular criminal courts with other colonists serving as judge and jury. The Stamp Act reached into every aspect of the colonists lives.

Virginia and Massachusetts took the lead in protesting the Stamp Act. Virginia’s House of Burgess “approved a set of resolves on May 31 which declared that the [British] constitution limited the right of taxation of the people to their representatives and that this right belonged to Virginians by virtue of the fact that they were British subjects who lived under the British constitution. The implication was inescapable: Parliament a body to which they sent no representatives, had no authority to tax them.”¹² Within Massachusetts, several acts of violence occurred that were copied by other colonies. Additionally, by the end of 1765, the lower houses of eight other colonies had approved resolutions that denounced the Stamp Act and that denied Parliament’s right to tax the colonies. Additionally, in October, a Stamp Act Congress, which consisted of representatives from nine colonies, passed similar resolutions.

Another example of protests came from South Carolina. Members of this colony instructed colonial authorities to oppose the Stamp Act because it was “inconsistent with the

¹¹ Ibid.

¹² Middlekauff, *The Glorious Cause*, 81.

inherent rights of every British subject not to be taxed but by his own consent or that of his representatives.”¹³ Additionally, New York passed a resolution against the Stamp Act which stated that the colonists should be exempt from taxes in which they had not previously consented to pay. Massachusetts and Connecticut passed resolutions affirming the right of Parliament to levy external taxes, such as custom duties, but disallowing internal taxes, such as the Stamp Act. Pennsylvania asked Parliament to repeal the Stamp Act and not create taxes that would harm their trade with England. This was probably a veiled threat not to trade with England unless the act was rescinded. North Carolina, New Jersey, and Rhode Island also protested against both the Sugar and the Stamp Acts. Virginia vehemently protested through resolutions that stated that they would only be taxed by their own general assembly. The consensus among all of the colonists was that Parliament should not tax them directly, as long as the colonists were without direct representation within parliament. Because of the firm, unrelenting protest of the colonists, Parliament repealed the Sugar Act and the Stamp Act in 1766. The colonists believed that the presence of taxation without representation violated their rights as Englishmen and continued to argue this with subsequent legislation from Parliament.

The next set of acts that produced confrontation between Parliament and the colonists was the Townshend Acts. This group of laws expanded the list of external taxes, which were placed on the colonists. This list included glass, lead, paint, and paper. The laws also were intended to raise revenue. Additionally, Parliament sent a Board of Commissioners of Customs to America to improve the effectiveness of the administration and revenue collection within the colonies. This group held its headquarters in Boston. Parliament also expanded its Admiralty Court and placed new branches in Boston, Philadelphia, and Charleston. To the colonists, the

¹³ Cook, *How England Lost the American Colonies*, 62.

courts were simply an expansion of encroaching English authority that existed without their consent.

The colonists' response to the Townshend Acts was to send a petition to England, led by the colony of Massachusetts, that appealed for "their rights as Englishmen."¹⁴ There were those who were ready to separate themselves from England at this time, but the consensus of the group was that the primary goal was to protest taxation by Parliament without representation, a fact that they believed deprived them of their liberties as Englishmen. In his series of essays entitled, *Farmer's Letters*, Philadelphia lawyer, John Dickinson, embodied the sentiment of the majority by arguing that the current legislation from Parliament was unacceptable, but separation from England was not the solution. In fact, he compared separation from England as being separated from a part of one's own body. One newspaper essayist at this time expanded Dickinson's argument by stating "separation from England would dissolve 'the bands of religion, of oaths, of laws, of language, of blood, of interest, of commerce'" in short, "of all those habitudes...which hold us united among ourselves, under the influence of the common parent.' Such a 'rending to pieces' would necessarily 'reach the entrails, the heart, [and] the very life of the colonies.'"¹⁵

The colonists' response was not only to protest and petition their mother country. They refused to buy English goods. Their response proved effective. By 1770 the Townshend Acts were repealed as the previous Sugar Act and the Stamp Act had been repealed previously. Although it seemed tensions were decreasing, an incident later that year caused them to be aroused again. The infamous Boston Massacre, which originated with a verbal dispute between some colonists and British soldiers, resulted in the death of 5 colonists. The situation was

¹⁴ Ibid,131.

¹⁵ Maier, *American Scripture*, 29.

somewhat assuaged by the fact that the soldiers responsible for killing the Americans were taken to trial. Although three of the soldiers were not found guilty, two soldiers were found guilty of manslaughter. They “were branded and released.”¹⁶ The end of the trial brought about a temporary end to the intense disagreement between the colonists and the English government. However, two years later, a culmination of other decisions made by the British government caused the conflict between the colonists and the British to resurface.

¹⁶ Middlekauff, *The Glorious Cause*, 212.

CHAPTER 3

SLAVERY AND SOMERSET

In 1772, the colonists were no longer in constant disagreement with the English government over tax laws. They were also no longer holding heavy resentments regarding the Boston Massacre. There was a break in the hostility with England, but this did not mean all was forgotten or well.¹ Simply, the tensions were below the surface. However, this calm was threatened and eventually jettisoned that year by a variety of incidents. One of these incidents may have been an English court case that dealt with the legality of slavery within England. This trial became known as the Somerset case. It freed a man named James Somerset from slavery and declared the practice of slavery “too odious to be upheld by positive law”.² At the time of the case, it was not clear whether the results would affect the legality of slavery within the colonies. Given this uncertainty, some of the colonists became concerned with the implications of the court’s decision.

3.1 Slavery within the Colonies

It is important to understand the importance of slavery within the colonies in order to appreciate why the colonists cared so deeply about the results of the Somerset case. In 1772, slavery was legal in all of the colonies, but it predominately existed within the South. The southern colonies had an economy based on agriculture that was heavily maintained by slave labor. The majority of southerners were not major plantation owners or even slave owners, but

¹ Henry Steele Commager and Richard B. Morris, ed., *The Spirit of 'Seventy-Six: The Story of the American Revolution as Told by Participants*, (New York: Da Capo Press, 1995), 1.

² Jerome Nadelhaft, “The Somerset Case and Slavery: Myth, Reality, and Repercussions,” *The Journal of Negro History* 51, no.3 (July 1966): 193.

many slave owners were in the seats of power within southern society, which meant that southern society was structured to protect the interest of slaveowners. Slave labor played an integral part in creating profits for slave owners' agricultural and industrial pursuits, and it played an integral part in the function of many slave owners' households.

Although the northern colonies did not have an economy that was primarily agricultural, they benefited from extensive involvement in the slave trade, and the trade supported their region's shipbuilding and commercial activities. In his work, *The Negro in Colonial New England*, Lorenzo Johnston Greene reiterates that slave ownership brought opportunity for economic and social opportunity. He states that before the American Revolution "slave merchants belonged to what was then known as the gentry."³ He explains, "the names of many [slave merchants] are famous in the annals of New England, and others are intimately associated with the history of the United States. Many were honored with private and public offices of great trust, power, and responsibility."⁴

Another important dynamic that was a part of the colonial issue of slavery was race. Slavery within the colonies and in England was based solely on race. This fact provides further insight into why whites, particularly in the South, cared so deeply about preserving the institution, even if they owned very few slaves or no slaves at all. The differentiation of treatment based on race meant that the poorest white could have some security in his social standing since he would never have to worry about being at the bottom of the social stratus: indeed, this was reserved for the black race. In his work, *The Peculiar Institution: Slavery in the Antebellum South*, historian Kenneth Stampp explains that African slavery gave all whites a

³ Lorenzo Johnston Greene, *The Negro in Colonial New England*, (New York: Atheneum, 1942), 57.

⁴ Ibid.

certain protected social status within the confines of society. In describing this period, he states, "...The humblest white man feels, and the feeling gives him a certain dignity of character, that where there are slaves he is not [at] the foot of the social ladder, and his own status is not the lowest in the community."⁵ If the results of the Somerset case made slavery illegal within England and within the English colonies, then there was a possibility in the minds of some whites within the colonies that blacks who were not enslaved would challenge the place of whites within society.

3.2 Other Reasons for Somerset's Significance

Besides questioning the legal and moral legitimacy of slavery and threatening a social structure based on white supremacy, the Somerset case had additional significance. Because it called into question the legal and moral legitimacy of slavery, the arguments of the case encompass all of the leading arguments of the day that were both pro slavery and anti-slavery. These arguments are important to note since slavery was such an integral part of colonial society. Surprisingly, there is little evidence that attests to any of the colonists exhibiting anxiety about the case until after its results. It is reasonable to believe that this was so because there had been previous cases in England that were similar to the Somerset trial that did not bring real or potential harm to colonial involvement in slavery. It is important to note that the Somerset case was one of several trials that were a result of the abolitionist work of the Englishman, Granville Sharp. During previous cases, Sharp had unsuccessfully attempted to get England's most esteemed court, the Court of King's Bench, to decide on the legality of slavery. This lack of

⁵ Kenneth Stamp, *The Peculiar Institution :Slavery in the Antebellum South*, (New York, Vintage Books, 1956), 426.

success may have caused the colonists to believe that their involvement in the institution of slavery was absolutely secure- that is, until the results of the Somerset trial determined slavery a terrible practice that should not be protected by law.

The Somerset case began like so many of the others in which Granville Sharp had dealt. Thirty- year -old Somerset fled from his master, Charles Steuart. Somerset was caught by slave catchers and detained by the will of his master aboard a ship to be sold in the West Indies. Sharp was able to obtain a writ of habeus corpus from Chief Justice Lord Mansfield, which required Charles Steuart to explain to the court his reasons for detaining Somerset. However, this case took a different turn than the others in which Sharp had been involved. In Charles Steuart's return to the court, he did something unorthodox. He claimed ownership of the personhood of Somerset, instead of claiming that he owned the services of Somerset.⁶ The claim was unusual because most master's just claimed the services of their slaves as their property in their responses to writs of habeus corpus. Somerset's unusual response caused Lord Mansfield to make the decision to bring the case to trial and to face the larger question of did the law make a specific allowance for one human being to own the personhood of another in England. In essence, that question would either make Mansfield call slavery in England legitimate or illegitimate. As previously stated, the decision of the court would not only have bearing on English soil, but there was a very probable chance that it could affect slavery in the American colonies. The question at the beginning of the trial was whether or not slavery would/could continue in England and possibly its colonies if Lord Mansfield and the court of King's bench found that slavery had no legitimate legality within the English law.

⁶ Steven M. Wise, *Though the Heavens May Fall: The Landmark Trial that Led to the End of Human Slavery*, (Da Capo Press, 2005), 133-144

Also, it is important to note that colonial slavery is mentioned specifically during the trial. It is mentioned primarily for two reasons: the first reason is that Somerset and his master lived in the colonies before moving to England. Because of this, Somerset's attorneys made the argument that Charles Steuart, Somerset's owner, had no right to claim Somerset as his slave in England just because he was his slave when they lived within the colonies. In essence, Somerset's attorneys argued that a colonist's property rights that were upheld within the colonies should not be upheld if/when he brought that property to England, if that property consisted of human beings. Not surprisingly, this argument was fiercely contested by the attorneys for Somerset's owner. It also became an issue of concern for the colonists after the verdict of the case.

The second reason that colonial slavery was mentioned in the trial was because it was thought to be a brand of slavery that was much harsher than English slavery. As historian David Brion Davis explains, it was often thought that "Negro slavery in the British colonies and Southern United States was of a nearly uniform severity, the slave being legally deprived of all rights of person, property, and family, and subjected to the will of his owner and the police power of the state, which barred his way to education, free movement, or emancipation."⁷ Somerset's attorneys argued that if the court allowed someone's status as a slave within the colonies to be upheld once he/she landed on England's soil, then eventually the same cruelties that existed within the Americas would become common within England. This claim was particularly offensive to the colonists once they became aware of the trial's results and subsequently reviewed the arguments that led to the court's decision.

⁷ David Brion Davis, *The Problem of Slavery in Western Culture*, (Ithaca and London: Cornell University Press, 1966), 3.

3.3 The Specifics of the Somerset Case

Somerset's tenure as a slave began when he was captured on March 10, 1749 as an eight-year-old from the West Coast of Africa. After being captured, he was sold to Charles Stuart, a twenty-four year old Scottish man who lived in Virginia. Stuart made his living trading rum, sugar, tobacco, molasses, corn, pork, wine, and slaves. He also collected local debts for English creditors. There [in Virginia] "Somerset was absorbed into the sea of African slaves, four of every ten humans he saw, that swirled through mid-century Virginia."⁸ In 1765, Charles Stuart was promoted to the highest-ranking British customs post in North America, which was the receiver general of customs. This promotion caused Stuart to move from Virginia to Boston and travel throughout Williamsburg, Philadelphia, and New York. When he traveled, Somerset accompanied him. In his work, *Though the Heavens May Fall: The Landmark Trial that Led to the End of Slavery*, author Steven Wise states that the travel to New England exposed Somerset to "arguments about natural law, natural rights, and entitlement to liberty and equality that were engulfing the colonies."⁹ Naturally, this rhetoric was different than any Somerset had been previously exposed to in his world as a slave among other slaves. Wise argues that exposure to these arguments either ignited or increased Somerset's desire for freedom.

During the summer of 1768, Charles Stuart asked his superiors from London for permission to take a break from his work in the colonies because of the physical demands of the job. After his request was granted, Stuart sailed from Boston for London on the *Earl of Halifax*, with Somerset, his slave, on October 1, 1769.

⁸ Linda Sturtz, *Within Her Power: Propertied Women in Colonial Virginia*, (Routledge, 2002), 160.

⁹ Wise *Though the Heavens May Fall*, 5.

3.4 Somerset's Escape

In September of 1771, James Somerset ran away from Charles Steuart. Steuart responded by sending slave catchers after Somerset. Fifty-six days after Somerset ran away, he was captured. His capture occurred on November 26, 1771. Steuart was so angry about Steuart's departure that he instructed the slave catchers to place Somerset on a ship that was to set sail for the British West Indian island of Jamaica. Steuart knew the British West Indies' reputation for treating slaves so severely that "one third of them died within three years of their arrival."¹⁰ Although Somerset was shackled and placed on a ship entitled the *Ann and Mary*, he was delivered from the terrible fate of a disastrous life as a West Indies' slave by Thomas Walkin, Elizabeth Cade, and John Marlow. Walkin, Cade, and Marlow referred to themselves as Somerset's godparents, a common term at the time for white people who befriended slaves and who were sympathetic to their plight. They were able to persuade Lord Mansfield, Chief Justice of the Court of King's bench, to issue a writ of habeas corpus before the *Ann and Mary* set sail. Mansfield sent the writ of habeas corpus to the *Ann and Mary*'s captain, Captain Knowles. The writ placed Somerset temporarily in the custody of the Court of King's Bench until Captain Knowles could answer the writ and until a final hearing occurred regarding Somerset's fate. Mansfield scheduled the hearing for January 24, 1772. In preparation for the hearing, Somerset contacted the abolitionist, Granville Sharp, and asked for his legal assistance.

Although the case was initially one that seemed to deal solely with habeas corpus, it became one with more depth and meaning. As previously stated, Charles Steuart made claim to

¹⁰ Hilary M. Beckles, *Natural Rebels, A Social History of Enslaved Black Women in Barbados*, (University of Tennessee Press, 1989), 35 and James Walvin, *Black Ivory: A History of British Slavery*, (Harper Collins, 1992), 64 and 76.

the personhood of James Steuart, instead of simply arguing that he was owed Somerset's services. Steuart's response broadened and deepened the issue facing the court. The question was not solely whether James Somerset was lawfully detained by order of his master. The question, as explained at that time by London's *General Evening Post* was, "how far a black servant was the property of the purchasers by the laws of England."¹¹ The question carried particular importance because there was not a positive law, i.e. written law, in England that specifically made slavery legal. This was the case, although there were between 14,000 and 15,000 slaves in England at the time.¹²

After the question for the court had been established, the first issue discussed in the trial was where Steuart and Somerset lived before coming to England. In his return to the writ of habeas corpus, Steuart said that he and Somerset had lived in Virginia before coming to England and that if Somerset had not run away, he had planned for both of them to return there after he [Steuart] finished his sabbatical from work. This was an outright lie. Steuart omitted that he and Somerset lived in Massachusetts after living in Virginia and before they moved to England. Steuart lied to the court because, "if the return had mentioned that he and Somerset had lived in Massachusetts during the four years before they sailed for England, Somerset's status, slave or free, may have been determined by the law of Massachusetts, [which was becoming increasingly less tolerant of slavery] instead of Virginia's law [which still definitely maintained slavery]."¹³ In response to Steuart's return, Serjeant William Davy, an attorney on Somerset's side argued the following, "With regards to the laws of Virginia, do they bind here [in England]? Have the laws

¹¹ *The General Evening Post*, Saturday, 25 January 1772.

¹² Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter Term 12 George 3 to Michaelmas 14 George 3, 1776*, xvi.

¹³ Wise, 130.

of Virginia any more influence, power, or authority in this country than the laws of Japan?”¹⁴
Davy was arguing that the property laws of the colonies should not be upheld within England.

3.5 The Issue of Villeinage

Serjeant Davy’s first offensive argument on James Somerset’s behalf was to discuss the previous practice of villeinage in England and to compare it to slavery. Villeinage was a type of forced imprisonment or servitude that was upheld by common law but had not been established by any positive law. Davy primarily had two points regarding villeinage: the first was that the practice of villeinage was never as blatantly corrupt as black chattel slavery. In fact, those who were masters during the days of villeinage would never have claimed that they owned the personhood of their prisoners or servants. Instead, they would have claimed only to own their services. Davy stated: “No lord [master] of a villein could dare to say what this honest gentleman [Charles Steuart] says here by this return [response to writ of habeus corpus]. It would not have been endured [by a court making a decision regarding villeinage] that he was his property-his slave-[and] that he was going to transport him and sell him abroad.”¹⁵ In essence, Davy argued that there was no precedent in England for the type of slavery that Charles Steuart was asking the court to uphold. The totality of power and sovereignty he claimed to have over James Somerset were unrecognized by English positive law and theoretically by English common law. Davy’s argument rested on a slippery slope, since there were slaves in England at that time, and most of their masters’ would have claimed the same type of power over them that Charles Steuart claimed over James Somerset, if they felt it was absolutely necessary to do so. The law did not

¹⁴ F.O.Shyllon, *Black Slaves in Britain*, (London: Oxford University Press, 1974), 91.

¹⁵ New York Historical Society: First Day’s Proceedings in the Somerset Case.

specifically support this type of power, but in practice- or every day life- this type of power was exerted regularly.

The second point Serjeant Davy made regarding villeinage was that the practice no longer existed because it was recognized by the English people as antithetical to their beliefs about the rights of their fellow man. Davy explained, “I consider the extinction of it [villeinage] to be nothing more than a general assertion of the natural rights of mankind, according to the temper, disposition, and spirit of the people of this country...”¹⁶ Davy then used legal precedent to strengthen his assertion. He noted that all court records involving villeinage cases resulted in the freedom of the “villein” or person who was forced into servitude. “When a man’s villein status was disputed, up to the time of the eleventh year of the reign of Queen Elizabeth I, when the last case involving a villein was reported, ‘the judges by some device or other freed the man. In every one of these accounts, I don’t find [that] a man ever came into court and went out a villein in any case for these two or three hundred years past.”¹⁷ In other words, people brought servants to England with the intention of having them serve as villeins, but when they sought the opinion of the court, the court did not grant them what they wished. All of the court records showed that the title or status of “villein” was never legally granted to a servant. Additionally, during the eleventh year of Queen Elizabeth I reign, the practice of villeinage within England ceased.

The reign of Queen Elizabeth was during the sixteenth century, and during this time the last case regarding villeinage was decided. This case was the Cartright Case, and it involved a Russian slave who was brought to England. The expectation of his owner was that his status as a

¹⁶ Ibid.

¹⁷ Theodore F.T. Plucknett, *A Concise History of the Common Law*, (Little, Brown and Co.1956), 267.

slave in Russia would resume while in England. According to Davy, the outcome of the trial was the following: “...It was resolved that England was too pure an air for slaves to breathe in.”¹⁸ This statement denounced slavery and subsequently caused the practice of villeinage-slavery’s cousin- to end.

Davy further expressed the importance of the sentiment of English air being too pure for slavery since it came at a time when the English people did not have the same rights that they had during the era in which they currently lived. Davy argued that if in a more politically oppressive time it was recognized that slavery was out of bounds with English society, should it not be considered more so during a time when Englishmen’s rights were more secure? He stated, “It was resolved that England was too pure an air for slaves to breathe in, not during the enlightened eighteenth century, but in the gloomier day of Queen Elizabeth, when the English people were treated by the House of Commons ‘in a very different manner to what the Crown would presume or dare to treat them now.’”¹⁹ After making this argument, Sarjeant Davy then pleaded with the judges to keep England’s air pure: “I hope, my Lord, the air does not blow worse since. I hope it does not, but unless there is a change of air I hope they [slaves] will never breathe here. For that is my assertion. The moment they [slaves] put their feet upon English ground, that moment they become free.”²⁰ Davy was arguing that Somerset or any slave from the colonies who made his or her way to England should do so with the expectation that his or her status would change from slave to freedmen.

Sarjeant Davy argued further against villeinage by stating that although English air was considered too pure for slavery during the reign of Elizabeth I, no positive [written] law was ever

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

created to get rid of villeinage. Instead, Davy argued, the practice was so out of line with English morality that no positive law needed to be written in order to prevent it from reoccurring. By the court ruling that English air was too pure for slavery, villeinage met its end. Davy stated before the court, “ But yet there is no law against it [villeinage]. Why? Why not? Why should not a man be a villein? Where is the law? Where is the statute? Where is the distinction? Where is the common law? Show the book if you can that forbids it! No such book can be found, but there is the law written in the hearts of men of this country. That [the law written in the hearts of men in the country] is the law. It is the constitution. For the constitution of this country requires it when [it] is not found in particular books it is growing out of the hearts of men.”²¹ In other words, Davy was arguing that since villeinage ceased in the sixteenth century and that no laws were ever subsequently created that addressed it, this gave both explicit and implicit proof that the practice was unacceptable to the English conscience and sense of justice. By ruling against masters who tried to label their servants “villeins” and by reasoning that English air was too pure for slavery to exist, the English government and its people were making a definitive protest/censure against forced servitude.

After undermining villeinage, Serjeant Davy then painted a picture for the court of how English society would digress if slavery were completely accepted by law and society. He explained that an England that took the side of men like Charles Stuart would make the practice of slavery in England the rule instead of the exception. Davy explained that in this type of society, a slave owner would have the option of filling a farm “with Negroes...instead of the farmers who now drive his plough, [and] he would say, ‘Call out a hundred of my fellows [slaves] and set them to the plough [to fill the duty of mules], and go to the iron-mongers for half

²¹ New York Historical Society

a score of tortures [a type of device used to forcibly seal an animal's mouth shut] to make them do it the better.”²² Davy added to this dark picture by suggesting another horrendous scenario. He stated that in a pro-slavery England, “ a master could inflict the ‘moderate punishment’ [for Virginia] of slicing off half a man’s foot with an axe had he the temerity to attempt escape, or even kill him during correction.”²³ Davy also challenged the judges’ possible belief that a pro-slavery England would be a place where slavery would exist among a few elitists. He described a scenario where a man could arrive in England with “half a million [pounds] in his pocket, build a fine house,[and have it] served entirely by Negroes : here is one upon his coach box, and half a dozen behind, some at the plough, some at the carts, some a serving, others reaping and so on.”²⁴ In Davy’s mind, as time progressed, each one of these slaves could possibly become “ the grandfather of ten [other] slaves”²⁵ who would serve other Englishmen in the same way their predecessors had. Davy argued that at that time it may seem that England had only a few slave owners, but as time progressed, the increasing availability of slaves would increase the English appetite for them.

After Davy finished making his two and a half hour plea for the freedom and life of James Somerset, he relinquished the floor to another member of his team named Serjeant John Glynn. Glynn spoke for nearly an hour to essentially reinforce the argument that there was no positive law that supported slavery in England. He said that it was only logical to conclude that if the judges of the sixteenth century were unwilling to uphold villeinage within English society then most certainly they would not have upheld slavery at the current time. Glynn argued,

²² Plucknett, *A Concise History of the Common Law*, 267.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

“the judges who were (of) the most enlightened part of those ancient times” thought villeinage violated English law and engaged in “all sorts of subterfuges... in favor of emancipation.” When the law tolerated villeinage [in practice], it was only with “great reluctance,” for the judges had “checked it in its progress and opened every door for escape...and shut every door from coming into it.” At least with a villein, everyone clearly understood “how he came into it and how he came out of it[by either appealing to a court or serving for an agreed upon amount of time] and we have the comfort to know he can never enter it again.” This was not true for slavery. He asked rhetorically, “Is it [slavery] confined to complexion? Is it confined to a particular quarter of the world?”²⁶

After placing his argument against slavery in the context of the earlier cases of villeinage, Sergeant Glynn said that the case at hand came down to one simple question: “Upon what principle is it that a man can become a dog for another man?”²⁷ After Glynn finished, Lord Mansfield placed the court in recess and said it would not reconvene until May 9.²⁸

In May, once court reconvened, another lawyer on James Somerset’s legal team made arguments on his behalf. This lawyer’s name was James Mansfield. Although he shared the same last name as Lord Mansfield, the two were not related. James Mansfield reiterated the argument that slavery could only be affirmed by positive law, and such a law did not exist. He stated, “I hope that such a kind of slavery will never find its way into England; and I apprehend that, by your Lordship’s decision, this man will receive his liberty.”²⁹ He ended by specifically explaining that since England had no positive law affirming slavery, honoring Stuart’s request to re-apprehend Somerset, would be nothing short of the court upholding a law that did not exist. In other words, placing Somerset back in the custody of Stuart would uphold colonial laws regarding property rights instead of English laws. James Mansfield was arguing that colonial laws had no bearing within England.

²⁶ James C. Oldham, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*, (University of North Carolina Press, 1992), 790.

²⁷ Ibid.

²⁸ Shyllon, *Black Slaves in Britain*, 94.

²⁹ Ibid, 95.

After James Mansfield took his seat, an inexperienced lawyer named Francis Hargrave took the floor on behalf of Somerset. He gained a reputation during the trial by emphasizing the point that the case was only partially about property, but instead its true meaning lay in the issue of personhood. He reminded the Justices of the case that Charles Steuart's attorneys made a claim to the personhood of James Somerset, instead of claiming to own his services, in their response to the writ of habeas corpus. Hargrave then warned the Justices that Steuart's counsel would try to reconstruct their argument to a simple one of property. They would argue that the case simply came down to whether someone's property rights were protected across national borders. They would ask that in the case of someone owning property while in the colonies, did he not have the right to the same property if he brought that property with him on English soil?

Francis Hargrave earned public acclaim by arguing,

It would have been more artful [for Steuart's attorneys] to have asserted Mr. Steuart's claim in terms less explicit [rather than saying he owned the personhood of Somerset] and to have stated the slavery of the negro before his coming into England merely as a ground for claiming him here, in the relation of a servant bound to follow wherever his master should require his service. The case represented in this disguised way, though in substance the same, would have been less alarming in its first appearance, and might have afforded a better chance of evading the true question between the parties. But, this artifice however convenient Mr. Steuart's counsel may find it in argument, has not been adopted in the return; the case being there stated as it *really is*, without any suppression of facts to conceal the great extent of Mr. Steuart's claim, or any colouring of language to hide the odious features of slavery in the feigned relation of an ordinary servant.³⁰

The next day, the *Morning Chronicle* called the entire speech, "one of the most learned and elaborate"³¹presented. Hargrave's words had such a persuasive effect that a London man involved in the West Indies slave trade recorded that Hargrave's words placed the trial on "a

³⁰ Howells State Trials (1772), 20:1, 24-25.

³¹ The *Morning Chronicle*, June 1772.

course of reasoning upon the general question of the state and condition [of] negroes.”³² In other words, Hargrave frankly dealt with the contradiction between English positive law and English practice. Slavery was not upheld by positive law, but there was no doubt that it was being practiced within England. In order for the case to be handled properly, the contradiction had to be understood, acknowledged, and resolved.

By addressing this issue of whether a slaveowner who owned slaves in the colonies deserved to have his rights as master of those slaves upheld while in England, Hargrave made a preemptive attack on any possible direct or indirect argument that the property rights of slaveowners in the colonies should be upheld on English soil. Hargrave said that laws regarding property in one country were not upheld in another “if great inconveniences would ensue from giving effect to it.”³³ Hargrave was saying that a property law was not absolutely binding across borders: especially, when the property law of one country transgressed the laws of liberty and justice of another. Hargrave explained,

Now I apprehend, that no instance can be mentioned, in which an application of [the property rights rule] would be more inconvenient, than in the case of slavery...[for] [our] law prohibits the commencement of slavery in England; because it disapproves of slavery, and considers its operation dangerous and destructive to the whole community. How opposite to natural justice Mr. Steuart’s claim is, in firm persuasion of its inconsistency with the laws of England; [I hope] as much honour to your Lordships from the exclusion of this new slavery, as our ancestors obtained by the abolition of the old [i.e.villeinage].³⁴

When Hargrave finished, the crowd in the gallery responded by granting him a standing ovation.³⁵

³² Samuel A.M, Estwick, *Considerations of the Negroe Cause Commonly So Called*, Addressed to the Right Honourable Lord Mansfield, Lord Chief Justice of the Court of King’s Bench, 2nd ed. (J. Dodsley, 1773), 22n.

³³ *Howells State Trials* (1772), 20:1, 24-25.

³⁴ Prince Hoare, *Memoirs of Granville Sharp, Esq.*, 1:125-126.

³⁵ *Ibid*, 153.

Francis Hargrave was not the only young lawyer who gained a positive reputation for his poignant arguments on behalf of James Somerset. J. Alleyne was the fifth attorney to make arguments on the Somerset team, and he had only been practicing law for a week. He gave even more clarity and poignancy to Hargrave's arguments by openly stating that the immorality of the colonies did not and should not be upheld in England. He stated,

Slavery is not a natural, it is a municipal relation and institution therefore confined to certain places, and necessarily dropped by passage into a country where such municipal regulations do not subsist....[If slavery is upheld], the horrid cruelties, scarce credible in recital, perpetrated *in America*, might by the allowance of slaves amongst us, be introduced here. Could your Lordship, could any liberal and ingenuous temper endure, in the fields bordering on this city, to see a wretch bound for some trivial offence to a tree, torn and agonizing beneath the scourge?³⁶

Allyne's oration was so touching that even James Somerset's owner, Charles Steuart, was compelled to write to a friend the following message: "Some young Council flourished away on the side of liberty and acquired great honor."³⁷ This ended the words expressed on behalf of the life and liberty of James Somerset.

The conclusion of arguments on Somerset's behalf meant that an opportunity was then present for Charles Steuart's team to make arguments on his behalf. James Wallace was the first attorney on this side to present arguments. He began by asserting that slavery was a normal, natural part of life in the ancient and modern world. He told the court that slavery "is found in three quarters of the globe, and part of the fourth. In Asia the whole people; in Africa and America for the greater part; in Europe great numbers of the Russians and Polanders."³⁸ England had never been any different than the rest of the world, and there was no reason to believe that it

³⁶ Morning Chronicle, May 15, 1772..

³⁷ Letter from Charles Steuart to James Murray, June 15, 1772. Proceedings of the Massachusetts Historical Society. (October 1909-June 1910)

³⁸ Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter Term 12 George 3 to Michaelmas 14 George 3, 1776*, xvi.

should be. Wallace then asserted that although no positive law existed that explicitly legalized slavery, there was enough support of it implicitly from Parliament. Wallace claimed that Parliament supported slavery by “divesting the African Company of its slaves and vesting them in the West India Company and by making slaves subjects to the payments of debts.”³⁹ Wallace said that Parliament may not have created a law that upheld slavery but it had rendered decisions that were favorable toward “the trade in slaves and the transferring of slavery.”⁴⁰ Because of this, it would be “absurd and unjust”⁴¹ for the court not to uphold Steuart’s claim to Somerset as his property.

Wallace then claimed that Steuart had a right to Somerset due to the current practices of mercantilism. He claimed, “[it was] a known and allowed practice in mercantile transactions if a cause arises abroad, to lay it within the kingdom.”⁴² This meant that the current practice was for the courts of England to handle cases dealing with contracts and mercantilism that originated in English colonies. The implicit argument was that since it was the practice of the English colonies to have some of their matters handled within England, then it had to be true that the laws and practices of the colonies reflected and were upheld by English law. Subsequently, how could Somerset’s barristers claim that the Virginia laws that allowed Charles Steuart to hold James Somerset as property be dismissed upon the grounds that English law does not explicitly legalize slavery?

Wallace saved what he considered his best argument for the end. He brought up a well-known statement then referred to as the 1729 Joint Opinion. This was the opinion of the former

³⁹ Wise, *Though the Heavens May Fall*, 156.

Capel Lofft, *Reporter of Cases Adjudged in the Court of King’s Bench from Easter Term 12 George 3 to Michaelmas 14 George 3, 1776*, xvi

⁴¹ Shyllon, *Black Slaves in Britain*, 101.

⁴² *Ibid.*

Attorney General, Philip Yorke, and the former Solicitor General, Charles Talbot. While having dinner one evening, the two were asked about the status of slaves once they arrived in England.

They answered that a slave did not become free by arriving in England. Although this statement was the product of dinner discussion instead of a formal court decision, it became “accepted as law by London’s most prominent lawyers and judges.”⁴³ Wallace believed that quoting the Joint Opinion would most assuredly sway the judges to his side. His reason for believing this was not just because the Joint Opinion was widely accepted. He thought that the mention of the Joint Opinion would bring victory his way because the chief justice, Lord Mansfield, was a protégée of one of the Joint Opinion’s authors, Philip Yorke, who was also referred to as Lord Hardwicke.⁴⁴

Unfortunately for Wallace, he miscalculated Lord Mansfield. After Wallace made his reference to the Joint Opinion, Lord Mansfield made a response that could have done nothing but deflate Wallace’s confidence. Lord Mansfield, “a veteran of many long, wine-soaked evenings in the Inns of Court”, [the place where the Joint Opinion was issued], claimed, “the case alluded to [by the Joint Opinion] was upon a petition in Lincoln’s Inn Hall, after dinner; probably, therefore, might not...be taken with much accuracy.”⁴⁵ In essence, Lord Mansfield told Wallace that the opinion of men speaking informally during dinner would not be counted as legal precedent, and it would not dictate the decision of the court. Mansfield then added that although the judges of the Joint Opinion maintained the condition of the slaves of Englishmen, “[slavery] in its full extent [was not] tolerated here.”⁴⁶

⁴³Wise, *Though the Heavens May Fall*, 157.

⁴⁴ Philip C. Yorke, *The Life and Correspondence of Philip Yorke, Earl of Hardwicke, Lord High Chancellor of Great Britain*, (Harvard University Press, 1913), 2:530.

⁴⁵ Ibid.

⁴⁶ Ibid.

Mansfield's response to Wallace's argument regarding the Joint Opinion made it clear that Wallace had to move on to another line of argument on behalf of his client. Wallace transitioned his focus to the financial cost involved with the abolition of slavery. "The Court must consider the great detriment to proprietors; there being so great a number in the ports of this kingdom, that many thousands of pounds would be lost to the owners by setting them [the slaves] free."⁴⁷ Then Wallace claimed that the arguments made by the opposing side were impractical regarding English air being too pure for slavery. He stated, "If Somerset, a slave in Virginia, could be made free by breathing English air, wouldn't any slave become equally free merely 'by going out of Virginia to the adjacent country, where there are no slaves, if change to a place of contrary custom was sufficient'?"⁴⁸ Once Wallace finished this last argument, Chief Justice Lord Mansfield "ordered the case to stand in recess for another week."⁴⁹ He then mentioned that the court had something to consider regarding both sides' arguments about "whether the law of a foreign country is or is not to be adopted."⁵⁰ He also explained that the court could not create laws; it could only enforce those that already existed. He addressed James Wallace's arguments regarding the possible loss of income for the slave trade by saying, "if the merchants think the question [of whether slavery should be upheld in England] of great consequence to trade and commerce, . . . they had better think of an application to those that will make a law (i.e. Parliament). We must find the law: we cannot make it."⁵¹ Lord Mansfield was saying that England was not bound to the laws of slavery that were created by the colonies. If

⁴⁷ Letter from Alleyne to Sharp, May 18, 1772, New York Historical Society.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Prince Hoare, *Memories of Granville Sharp, Esq. Composed from His Own Manuscripts* (Henry Colbourn, 1828), 1:132.

slavery was to be legal in England, it had to be so because English Parliament made it so. With this line of reasoning, he gave each side a window into his thoughts and also a week long opportunity to refine their arguments that related to this issue.

Historian Steven M. Wise explains that the issue the court had to resolve was whether one country's laws should be upheld by another country. This issue is called "choice of law."⁵² Although the English colonies were still considered a part of the English empire, they still had laws and customs that they created specifically for themselves and that were not necessarily a part of English law. Wise claims, "each state generally governs itself under whatever law it sees fit. But chaos would ensue if one's legal status changed at every border."⁵³ For example, according to Wise, "Mansfield was known for saying that a marriage that was properly solemnized in the place where it occurred was valid wherever the couple went. Yet no one believed he would have recognized exception for marriages that were polygamous or incestuous, or [that] otherwise severely contravened public policy."⁵⁴ In *The Problem of Slavery in the Age of Revolution, 1770-1823*, Historian David Brion Davis has a similar analysis of the case. He explains, "Mansfield had been faced with the question of whether human slavery should be analogous to polygamy, which was assumed to be illegal except where sanctioned by municipal law," or was the possession of slaves like the possession of cats or horses, which was presumed to be legal except where explicitly outlawed?"⁵⁵

After the court reconvened after its week long recess, John Dunning spoke on behalf of Charles Steuart. He prepared a myriad of arguments for why the Justices should uphold

⁵² Wise, *Though the Heavens May Fall*, 160.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823*, (Ithaca and London: Cornell University Press, 1975), 471.

Steuart's claim to Somerset. He began by continuing Wallace's argument about the negative effects that a ruling for James Steuart would have on the slave trade and the economy. He claimed that the court's decision could affect as many as "14,000 slaves [in England) and 166,914 in Jamaica, as well as a number of wild negroes in the woods."⁵⁶ He then put a price on the English slaves of "50 pounds a head."⁵⁷ His next argument was that a ruling in favor of James Somerset would cause the country to be overrun with slaves who would pay sailors to bring them to England so that they could proclaim themselves free. He asserted, "Most negros (sp) who have money, and that description I believe will include nearly all, make interest with the common sailors to be carried hither."⁵⁸ His third argument was that slavery was not as terrible as some made it to be and that society could not exist without it. He compared slavery to the relationship that all servants have with their masters and argued that the nature of the relationship between a master and his servant did not change based on location. Dunning claimed,

It would be a great surprise, and some inconvenience, if a foreigner bringing over a servant, as soon as he got hither, must take care of his carriage, his horse, and himself, in whatever method he might have the luck to invent. He must find his way to London on foot. He tells his servant, "Do this"; the servant replies, "Before I do it, I think fit to inform, you, sir, the first step on this happy land sets all men on a perfect level; you are just as much obliged to obey my commands."⁵⁹

He then reiterated one of his team's earlier points that slavery was very much alive in England. English air was not and had never been too pure for a slave to breathe in.

⁵⁶ Letter from Charles Stewart to James Murray, June 15, 1772.

⁵⁷ Ibid.

⁵⁸ Ibid,

⁵⁹ Howard Jones, *Mutiny on the Amistad*, rev. ed. (Oxford University Press, 1987), 24.

His last argument was that James Somerset had justly become a slave due to the practice among some African communities of enslaving some people because of unpaid debts. He claimed that enslavement for debt was a lawful practice and that Somerset was not a slave because of any deed done by an Englishman but because of the judgment of his own people on the African continent. Dunning explained,

The gentlemen [all of the previous attorneys on Somerset's side] who have spoken with so much zeal have supposed different ways by which slavery commences; but have omitted one, and rightly, for it would have given a more favourable idea of the nature of the power against which they combat... There are slaves in Africa by captivity in war, but the number far from great, the country is divided into many small, some great territories, who do, in their wars with one another, use this custom. There are of these people, men who have a sense of the right and value of freedom, but who imagine that offences against society are punishable justly by the severe law of servitude. For crimes against property, a considerable addition is made to the number of slaves.⁶⁰

Dunning essentially told the court that Somerset and all other African slaves did not deserve more esteem in a foreign land than they were given in the land of their birth. Since Somerset was a slave in his native land, what obligated England to free him?

The last word between the two sides went to the barristers of James Somerset. Serjeant Davy spoke before the court and insisted that England was not in the practice of punishing criminals for offenses committed in foreign lands. He could have argued that there was no proof that James Somerset had become a slave in Africa because of an offense that he, being only eight-years-old at the time of his capture, had committed or that his family committed. Instead, Serjeant Davy took Dunning's premise that Somerset was a slave because of wrong doing; he knew that more often than not, a more effective counter argument can be made by entertaining a premise and exposing its fallacies, rather than outright dismissing it. He spoke specifically to the English practice of not punishing those who committed crimes in other countries:

⁶⁰ Ibid.

To punish not even a criminal for offences against the laws of another country; to set free a galley-slave, who is a slave by his crime; and make a slave of a negro, who is one, by his complexion; is a cruelty and absurdity that I trust will never take place here... For the air of England; I think, however, it has been asserted, and is now repeated by me, this air is too pure for a slave to breathe in: I trust, I shall not quit this court without certain conviction of the truth of that assertion.⁶¹

After Serjeant Davy's final words, Chief Justice Lord Mansfield explained that the court needed time to deliberate on their decision. As before, he was transparent with both sides.

Mansfield told them that the justices had to face the reality that there were between 14,000 and 15,000⁶² slaves in England. However, Mansfield promised, the court would make their decision according to the law. He proclaimed, "Compassion will not, on the one hand, nor inconvenience on the other, be to decide; but the law: in which the difficulty will be principally from the inconvenience on both sides... [I]f the parties will have judgment, [then] '*fiat justitia, ruat coleum*' [Let justice be done though the heavens may fall]."⁶³

Before adjourning court, Mansfield complimented the barristers on the strength of their arguments. "Memory does not furnish me with an instance in which a matter of such difficulty has been more clearly and satisfactorily explained... and it gives me great pleasure to see youth, talents, and great industry unite in the present occasion."⁶⁴ The next time James Somerset, Charles Steuart, and their barristers would see Lord Mansfield, he would have a decision that would either crush or elate their spirits.

On Monday, June 22, 1772, Lord Mansfield expressed the court's decision. After explaining the purpose that the case came to court and then re-explaining the Joint Opinion, he

⁶¹ James C. Oldham, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century* (University of North Carolina Press, 1992), 1:80.

⁶² Wise, *Though the Heavens May Fall*, 171.

⁶³ Lofft

⁶⁴ *The Gazette*, 22 May 1772.

put an end to the suspense. According to the shorthand of court reporter, Capel Lofft, Mansfield gave the court's decision with the following 144 words:

The power of a master over his slave has been different in different countries. The state of slavery is of such a nature that it is incapable of being introduced on any reasons, moral or political, but only positive law, which preserves its force long after the reasons, occasion, and time itself from which it was created, is erased from memory. It [slavery] is so odious that nothing can be suffered to support it but positive law. Whatever inconveniences, therefore, may follow from a decision, I cannot say this case is allowed or approved by the law of England, and therefore the black must be discharged.⁶⁵

This decision unequivocally freed James Somerset, and it *seemed* to free all of his fellow brothers and sisters within England who were also bound by slavery. However, the ruling was much more complex than it sounded when read. A decision that seemed very clear was in fact, truly nuanced. At the time of Mansfield's decision, the English press believed that all of England's slaves were free, and thus they reported Mansfield's decision accordingly. The report that Lord Mansfield freed all of the slaves within England- though not completely accurate- caused electrifying reactions, both good and bad, within English society. Due to the prevalence of the court's decision and the press' interpretation of it within English papers, the English colonists were quickly alerted to the results of the Somerset case. They learned that Lord Mansfield freed James Somerset, which meant that he denied Charles Steuart, a citizen of the colony of Virginia, the right to property that Virginia law recognized. They also learned of the perception that Mansfield's court had freed all of England's slaves. This information caused some of the colonists to express some concern about a case for which they had previously shown little concern.

⁶⁵ Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter Term 12 George 3 to Michaelmas 14 George 3, 1776*, xvi.

CHAPTER 4

THE REAL AND THEORETICAL EFFECTS OF THE SOMERSET DECISION

On June 23, 1772, *The Middlesex Journal* reported that all of England's slaves had been freed because of the Somerset decision. The journal stated, "Yesterday morning came on, at ten o'clock, in the Court of King's Bench, the judgment of the Negro cause, when Lord Mansfield spoke for the rest of the judges: he said that every slave brought into this country ought to be free, and no master had a right to sell them here."¹ Four days later, a weekly newspaper entitled the *Felix Farley's Bristol Journal* reported the same thing. On the same day that *Felix Farley's Bristol Journal* published its perception of the court's decision, *The Morning Chronicle* and *London Advertiser* printed, "Tyrants, no more the servile yoke prepare, for breath of slaves too pure is British air."² The English press believed and reported that the Somerset decision not only freed Somerset- but all of England's slaves.

Though incorrect, the press' understanding of the court's decision was not unreasonable. In its decision, the court had stated that slavery was "so odious, that nothing can be suffered to support it, but positive law."³ Since no positive law existed, the court's characterization of slavery in this manner gave many the impression that its decision dealt with slavery in general, instead of solely James Somerset's status as a slave or freemen. In addition to this, the chief justice of the court, Lord Mansfield, stated during the trial that the court's decision would affect the lives of the 14,000 to 15,000 slaves that were currently in England. Also, the question that was continuously discussed during the trial was whether slavery should be legally

¹ *The Middlesex Journal*, Tuesday, June 23, 1772

² *The Morning Chronicle*, June 27, 1772. *London Advertiser*, June 27, 1772 found in Wise, *Though the Heavens May Fall*, 191.

³ Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter 12 George 3 to Michaelmas 14 George 3* (1776)

upheld in England. Historian Jerome Nadelhaft attributes these reasons and others for the confusion about the court's verdict. Nadelhaft states, "The Somerset decision was misunderstood in 1772 because newspaper printers, readers, and almost everyone involved in the case had for five months been conditioned to think in a narrow and rigid pattern. The Somerset case had been hailed as 'the great Negro cause,' the case which would end only when the Chief Justice had ruled on slavery's legality. The case had been built up as one involving a central issue-slavery or freedom for all England's slaves, not simply for one-which could not be dodged by legal subtleties. Somerset's lawyers and Lord Mansfield created this thought pattern, and because of it, when Somerset was discharged from custody, it was assumed that all had been freed."⁴ The pervasive belief that the decision of the Somerset case freed all of England's slaves became known as the Somerset effect.

Inevitably, the reports from the British papers that stated that England freed her slaves reached the English colonies of North America. Subsequently, there were at least forty-three stories published in at least twenty colonial newspapers that reported the slaves of England were free.⁵ These figures do not prove that the concern about the Somerset decision was overwhelming; however, it shows that the decision of the court was noted by the American colonies and that some of the colonists may have understood the possible implications of the decision. On August 27, 1772, the *New York Journal* reported,

The great Negro cause was determined a few days ago, and the consequence was that the Negro obtained his freedom. The poor fellow was present in the court at the decision, as were likewise a great many blacks, all of them, as soon as Lord Mansfield had delivered

⁴ Jerome Nadelhaft, "The Somersett Case and Slavery: Myth, Reality, and Repercussions," *The Journal of Negro History* 51, no.3 (July 1966): 196.

⁵ Patricia Bradley, *Slavery, Propoganda, and the American Revolution*, (Jackson: University Press of Mississippi, 1998), 68-80 and Patricia Bradley, "Colonial Newspaper Reaction to the Somerset Decision" This paper was presented to the History Division, Association for Education in Journalism annual convention, University of Florida, Gainesville, FL, August 1984. The paper was obtained from the U.S. Department of Education National Institute of Education Educational Resources Information Center.

the opinion of the court, came forward, and bowed first to the judges, then to the bar with the symptoms of the most extravagant joy. Who can help admiring the genius of that government which thus dispenses freedom all around it? No station or character is above the law, nor is any beneath its protection. The monarch and the beggar are alike subject to it: 'Pauperum Taberna Requisite Torres' are equally guarded by it.⁶

The *Boston Gazette* reported information that it said it gained from a British correspondent.

Their report stated, "A [British] correspondent observes, 'That as blacks are free now in this country, gentlemen will not be so fond of bringing them here as they used to be, it being computed there are now 14,000 blacks in this country.'"⁷

The *Virginia Gazette*, printed a critique of the decision that had first been published in England by those in favor of slavery. The critique argued that the court's decision would negatively impact slavery within the colonies. The article's author, Edward Long, a West Indian planter, warned: "Slave holding might perhaps be well discontinued in every province of the North American continent."⁸ He also went so far as to argue that the Somerset decision made it so that the certainty of maintaining slave property for slave owners in the colonies was more theoretical than it was real.⁹ The *South Carolina Gazette* went so far as to report the decision of the court almost verbatim. This paper also published a subsequent story about a banquet that was held in England by 200 blacks, in order to celebrate the liberation of the slaves.¹⁰ The belief that England had freed its slaves was making the rounds within the colonies.

⁶ *New York Journal*, August 27, 1772.

⁷ *Boston Gazette*, September 21, 1772.

⁸ *Virginia Gazette*, November 12, 1772 and Edward Long, *Candid Reflections on the Judgment*, pg 33 section iii, Library of Congress, section on "Slaves and the Courts, 1740-1860."

⁹ *Ibid.*

¹⁰ *South Carolina Gazette and Country Journal*, Tuesday, Sept. 15, 1772.

4.1 The Decision's True Meaning

Despite the confusion that resulted from the court's decision, the Court of King's Bench had not freed all of England's slaves. It had only freed Somerset. A careful reading of the decision makes that clear. When Lord Mansfield read the court's decision, he only said that Somerset was free. He did not say that all of England's slaves were free. Although he called slavery odious and said that it could only be upheld by positive law, he did not claim to have the power to create the law that would free the slaves. During the trial, Mansfield said that the court could not and would not create the law, it would only interpret it. A law could only be created by Parliament. Although the arguments of the Somerset case dealt with slavery in England as a whole and not just the status of James Somerset, the court saw its role as the direct decision makers only of Somerset's fate.¹¹ In the court's opinion that slavery was so odious that it could only be upheld by positive law, they were stating that the nature of slavery was so terrible that nothing about it could be protected or promoted without a formal decision by a nation's law makers to do so. If slavery was going to be upheld in England by the courts, it first had to be established as law by Parliament.

4.2 Real and Theoretical Colonial Reaction to the Somerset Effect

As previously stated, when the colonial press received news of the court's decision and the interpretation of it, the news was printed in at least twenty colonial newspapers.¹² However, a few southern papers, particularly in Virginia and South Carolina made it a point to create concern for their readers. In her article, "The Newsworthy Somerset Case: Repercussions in

¹¹ Adam Hochschild, *Bury the Chains: Prophets and Rebels in the Fight to Free an Empire's Slaves*, (Boston: Houghton Mifflin Company, 2005), 50.

¹² See Note 5.

Virginia,” Emma L. Powers argues, “The [Somerset] case was much debated in Virginia-both in the press and face to face.”¹³ In “Colonial Newspaper Reaction to the Somerset Decision,” author Patricia Bradley argues a bit differently than Powers. Her findings show that the Somerset decision received only a moderate amount of coverage in southern papers; however, she argues that the coverage was more than likely inflammatory. Bradley states, “Since the patriotic press saw its duty as inflaming rather than informing the public, the findings suggest that coverage of the Somerset trial manipulated colonial fear of racial equality as a way of inflaming rather than informing the public...Coverage of the Somerset trial [i.e. decision] manipulated colonial fear of racial equality as a way of providing yet another reason colonists should seek separation from Great Britain.”¹⁴ Although the evidence suggests that the coverage of Somerset was moderate as Bradley suggests, there are not many examples of inflammatory coverage of the decision. However, Bradley is correct when she states that some inflammatory coverage did exist.

This was particularly true in the *Virginia Gazette*'s decision to print Edward Long's *Candid Reflections on the Judgment*. Long wrote his reflections as a rebuttal to the Court of King's Bench decision to free Somerset. In addition to warning that the Somerset decision threatened the stability of slavery in the West Indies and colonies, he gave reasons why the English government should protect the rights of slaveowners over the rights of slaves¹⁵. Though fears about the Somerset decision were based on a misunderstanding of the verdict, they were a rational reaction to the belief that slavery had been outlawed in England. The colonists were still

¹³ Emma Powers, “The Newsworthy Somerset Case: Repercussions in Virginia,” *Colonial Williamsburg Interpreter* 23(Number 3, Fall 2002):1-6,1

¹⁴ Bradley, “Colonial Newspaper Reaction to the Somerset Decision.”

¹⁵ *Virginia Gazette*, November 12, 1772 and Edward Long, *Candid Reflections on the Judgment*, pg 34section iii, Library of Congress, section on “Slaves and the Courts, 1740-1860.”

ultimately governed by the mother country and their charters authorized local governance, as long as that governance did not create laws that were “not repugnant to the laws of England.”¹⁶ If slavery had become odious- and illegal- in England, would the English government force the colonist to rid themselves of slaves, as well? Based on the false information that the colonists had received, any theoretical or real concerns regarding the Somerset decision were entirely logical.¹⁷

Another factor that may have contributed to some southerner’s concern regarding the Somerset decision was the recent history that the thirteen colonies had with England involving a disagreement with taxation. Although the British Parliament had recently repealed many of the taxes of which the colonists protested, it passed a resolution in 1766, entitled the Declaratory Act that asserted their authority “in all cases whatsoever.”¹⁸ Although Parliament had no hand in determining the Somerset verdict, it did have the authority to overturn laws in the colonies that it did not want to uphold. This meant that Parliament had the authority to pass a law that forbade slavery in the colonies. Additionally, Parliament regulated the colonists with repugnancy clauses that forbade the colonists from implementing policies that contradicted British policy. The combination of the repugnancy clauses and the Declaratory Act may have caused some southern leaders concern about the implications of the Somerset decision on their way of life.¹⁹

Additionally, southern anxieties may have been enhanced by the fact that their slaves might become aware of the Somerset decision. This may have been more of an immediate

¹⁶ Francis Newton Thorpe, *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America. Vol 1-3, 5-7.* (Washington D.C.: Government Printing Office, 1909).

¹⁷ Richard Hildreth, *History of the United States, vol.II,* (New York: Harper&Bros.,1880), 567.

¹⁸ Henry Steele Commager, *Documents of American History. 9th ed.,* (New York: Appleton Century Crafts, 1971), 60.

¹⁹ Hildreth, *History of the United States, vol.II,*567.

concern for slave owners than what Parliament's actions would be. After all, the maintenance of the southern slave system was not only based on the laws that upheld slavery, it was based on the fear that masters held over their slaves. It was important that slaves were not emboldened to challenge their masters by the false news that the Somerset decision freed all of England's slaves. The slaves that did hear and believe that the Somerset decision freed all of England's slaves were buoyed by the news. It gave them hope, and it gave some of them the courage to stand up for their own freedom. Some slaves ran away with the intent of finding English ships because of what they heard regarding the Somerset decision. Advertisements for runaways included warnings that the offender would probably try to board a ship to England. Because of the Somerset effect, Charles Steuart, James Somerset's former owner, had to deal with the loss of another slave, who ran away from him. He left Steuart with a note. In explaining what happened to an acquaintance, Charles Steuart stated "he[his slave] had received a letter from his Uncle [James] Somerset acquainting him that Lord Mansfield had given them their freedom and he[his slave] was determined to leave me [Steuart] as soon as I had returned from London which he did without even speaking to me. I don't find he has gone off with anything of mine. Only carried off all his own cloths (sp) which I don't know that he had any right to do so. I believe that I shall not give myself any trouble to look after the ungrateful villain."²⁰ A similar instance occurred in the fall of 1773. A nineteen-year old man named Bacchus ran away from his master in Virginia and boarded a ship headed for Great Britain. The *Virginia Gazette* reported his departure and stated Bacchus left "to get on board some vessel bound for Great Britain, from knowledge that he had determined of Somerset's case."²¹

²⁰Simon Schama, *Rough Crossings: Britain, the Slaves and the American Revolution*, (New York: Harper Collins, 2006), 57.

²¹ *Williamsburg Virginia Gazette*, June 30, 1774.

If slaves were emboldened to leave their masters, then the control that their masters had was in jeopardy. This ultimately meant that the livelihood and finances of their masters were in trouble. Slaves were economically profitable to their masters in a number of ways. “The wealth from slaves was exhibited in three primary areas: the value of the slave as capital and loan security, the value of what the slave produced, and the value that came from the land that the slave cultivated.”²² Historian and economist James Henretta emphasizes this point by explaining that slavery made slave owners the wealthiest group among the colonists. He states:

The average free wealth holder in the South had total physical resources of 395 pounds in 1774 as compared to 161 pounds for those in New England and 187 pounds for the Middle Colonies... Yet the economy of the South was not more productive than the economies of other regions... Per capita wealth-land, livestock, producer and consumer goods- was almost exactly the same in 1774 in every region of the country. White southerners had more wealth than white northerners only because black southerners had none.²³

Because of this, the potential for the loss of slaves may have seemed more threatening to some slave owners than the previous laws that had been implemented by Parliament after the French and Indian War that had since been repealed.

4.3 A Possible Response to Somerset

It is important to remember that during this time, all thirteen colonies were in a temporary stall in a previous disagreement they held with the English government. This disagreement stemmed from the taxes that the British Parliament forced on the colonists after the French and Indian War, without the colonists consent. During this disagreement, the colonists complained that they were being taxed by a Parliament in which they had no representation. In the minds of

²² James Oakes, *The Ruling Race: A History of American Slaveholders*. (New York: Norton & Co., 1998), 12-14 and 73.

²³ James A. Henretta, *Wealth and Social Structure*, (Baltimore: John Hopkins University Press, 1984), 273.

the colonists, taxation without representation came from their belief that they were being treated as though they were less than English citizens. Their focus, at that time, was on maintaining their rights and their identity as English citizens. However, historians, Alfred Blumrosen, and Ruth Blumrosen believe that the Somerset verdict, contributed to the Southern colonists shifting their priorities. Identifying with the English became less important.²⁴ In *Slave Nation: How Slavery United the Colonies & Sparked the American Revolution*, Alfred and Ruth Blumrosen state, “The *Somerset* decision, with its implications for southern slavery, had been the most recent and profound event that led them [the Virginians] to assert publicly that, since the Stamp Act of 1765, the British government had demonstrated a pattern of disregard of colonial interests.”²⁵ The Blumrosens spoke of Virginia specifically because it was Virginia’s House of Burgesses that met some time after the Somerset verdict and made the decision to invite the other colonies to discuss the grievances of British governance. The Blumrosens do not provide documentation that shows that Virginians or any southern colony met specifically to discuss the Somerset decision. However, they do make an effective argument that the Somerset decision may have been one of the many topics of discussion for Virginians when their governing body, the House of Burgesses decided to create a resolution to meet with other colonies to discuss the problems with English governance. The Blumrosen’s rationale is based on the fact that some southerners saw the Somerset decision as another example of a grievance caused by the British government. Since the result of the Virginia House of Burgesses’ meeting was to subsequently invite the other

²⁴ Gerald Horne, *The Counterrevolution of 1776: Slave Resistance and the Origins of the United States of America*, (New York University Press, 2014), 211.

²⁵ Alfred W. and Ruth Blumrosen, *Slave Nation: How Slavery United the Colonies and Sparked the American Revolution*, (Naperville: Sourcebooks, 2005), 48.

colonies to discuss grievances by the British governance, then the Somerset decision may have been one of the many subjects discussed by those who considered the decision egregious.

Additionally, Charles Steuart, the former owner of James Somerset, was a Virginian, and it had been his property rights that had been disregarded by the court of the Somerset case. Steuart had bought Somerset when Somerset was just eight years old and brought him to Virginia. Although they later moved to Massachusetts, most of Somerset's service for Steuart occurred in Virginia.

Some Virginians may have also been frustrated by the Somerset decision because they found it to be an example of moral hypocrisy. The English had supposedly declared slavery odious although they had been and still were actively involved in the slave trade. After the Somerset decision, Benjamin Franklin, who was not a Virginian or a southerner, expressed the sentiments of many Virginians and southerners when he stated: "Pharisaical Britain! To pride thyself in setting free a single slave that happens to land on thy coasts, while thy merchants in all thy ports are encouraged by thy laws to continue a commerce whereby so many hundreds of thousands are dragged into a slavery that can scarce be said to end with their lives, since it is entailed on their posterity!"²⁶ Based on Franklin's quote, he seemed to understand that the Somerset decision only freed Somerset; nonetheless, he still believed that the court's decision was hypocritical, since England was so heavily involved in the slave trade. Also, the leading slave holders [in the colonies] had sent a plea to the king [of England] in 1772 to abolish the slave trade, but the British government did not honor the request.²⁷ Their petition read in part, "The importation of slaves into the colonies from the coast of Africa hath long been considered a

²⁶ Benjamin Franklin, "The Somerset Case and the Slave Trade," *London Chronicle*, June 20, 1772,

²⁷ Rhys Issac, *Transformation of Virginia, 1740-1790* (Chapel Hill, NC:University of North Carolina Press, 1982),247-248.

trade of great inhumanity, and under its present encouragement we have too much reason to fear will endanger the very existence of Your Majesty's American dominions.”²⁸

The idea of British moral superiority regarding slavery may have also bothered some slave holders in Virginia because they had developed less strenuous ways of developing their crop, which meant the work of their slaves seemed less strenuous than it had been previously. They grew tobacco and wheat, which required less strain on slaves than did sugar and rice, the more popular crops of other colonies. Because growing tobacco and wheat was less strenuous, Virginian slaves lived longer and had higher reproduction rates than slaves from higher colonies. “Some Virginia planters found themselves with surplus slaves to sell to other colonies; others began to ‘breed’ slaves for sale. Cutting off further importation of slaves would enhance the value of the Virginians’ slaves. Thus Virginia could oppose the international slave trade while combining conscience and economics. The elimination of the trade would increase the value of the existing slaves and reduce the risk of severe slave over-population, which might threaten slave revolts. In addition, domestic and domesticated slaves were more valuable because they knew the language, work habits, and plantation customs, and were considered more peaceable and better security risks.”²⁹ Virginians could uphold slavery while denouncing the slave trade for moral and practical reasons: the slave trade was indescribably cruel, and the colony of Virginia had a surplus of slaves that they could sell and thus replace the international slave trade and gain the money that the international slave traders would have gained.

Historian T. H. Breen argues that another reason that the verdict of the Somerset case may have proved an affront to some Virginians and other southerners was that it not only

²⁸ James Curtis Ballagh, *A History of Slavery in Virginia*, (Baltimore: John Hopkins University Press, 1968.), 22.

²⁹ Alfred W. Blumrosen and Rose G. Blumrosen, *Slave Nation: How Slavery United the Colonies and Sparked the American Revolution*, (Naperville: Sourcebooks, 2005),46.

undercut their economic system, but it undermined their values and their aspirations. Breen states that southerners saw the work of planters as honorable, and the institution of slavery was vital to their work. The Somerset case's opinion of slavery as *odious* and its rumored decision to free all of England's slaves was interpreted by southerners to mean that their values, their aspirations, and their way of life were considered *odious*.³⁰

To be sure, all Virginians and all southerners were not oblivious to the moral problems associated with slavery. However, they believed that it was a necessary evil that brought about greater good. The cultural and economic success of many southerners depended on it, and so it was important to protect and maintain it. Even Richard Henry Lee, a member of the House of Burgesses and a defender of slave interest made a speech as early as 1759 that decried the importation of slaves. He stated that other colonies superseded Virginia in the cultural pursuits of their white population because they were not as heavily dependent on slavery as Virginians. Lee stated, "With their whites, they import arts and agriculture, while we, with our blacks, exclude both...they [blacks] are deprived, forever deprived, of all the comfort of life, and to be made the most wretched of the human kind."³¹ Patrick Henry expressed a similar sentiment. He explained his mixed feelings regarding slavery by stating, "When the rights of humanity are defined and understood with precision...we find men, professing a religion the most humane, mild, gentle, and generous, adopting a principle as repugnant to humanity as it is inconsistent with the Bible and destructive to liberty...Would anyone think I am master of slaves of my own purchase!...I am drawn along by the general inconveniences of living without them. I will not, I cannot, justify

³⁰ *Virginia Gazette*, November 12, 1772 and Edward Long, *Candid Reflections on the Judgment*, pg 34 section iii, Library of Congress, section on "Slaves and the Courts, 1740-1860."

³¹ Oliver Perry Chitwood, *Richard Henry Lee: Statesman of the Revolution*, (Morgantown: West Virginia University Foundation, 1967), 18-19

it.”³² Slavery was evil, but it had become a necessary evil with which the southern colonists were not ready to part. The Somerset decision seemed to threaten English slavery and colonial slavery, and therefore some of the southern colonists may have believed that they needed to ensure that the decision was not enforced upon them.

4.4 The Virginia House of Burgesses

At the time that the Virginia House of Burgesses came up with the idea to organize the rest of the colonies to regularly meet about decisions from the English government that were considered harmful or problematic to the colonies, they were unsure of the degree of annoyance that the other colonies had about recent British policies. At this point, the communication between the colonists was neither streamlined nor consistent. The Virginians believed this needed to change in order to address the problem of what they believed was English interference in their lives. They decided to find out how each colony regarded its relationship with England and English policies.³³ They began by gaining a resolution from the lower house of the Virginia legislature, entitled the House of Burgesses, which requested all the colonies to create correspondence committees to discuss British activities that were problematic to the colonists. Richard Henry Lee, one of the Virginian colonists who became an important part of the revolutionary period described this decision as, “[ultimately] leading to that union, and perfect

³² Henry Mayer, *A Son of Thunder: Patrick Henry and the American Republic*, (Charlottesville: University Press of Virginia, 1991), 168-9.

³³ If the result of the Virginia’s House of Burgesses’ meeting was to meet with other colonies to discuss political offenses, then it is reasonable to conclude that political offenses were a topic discussed in their meeting. Since the Somerset decision was the latest political offense for Virginia, then it is reasonable to believe that the Somerset decision would have been discussed during the meeting. (Notes on Bradley, Powers, Horne, and the *Virginia Gazette* give evidence to the importance of the Somerset Decision to Virginians.)

understanding of each other, on which the political salvation of America so eminently depends.”³⁴ Thomas Jefferson described this period by stating,

We were all sensible that the most urgent of all measures was that of coming to an understanding with all the other colonies to consider the British claims as a common cause to all, to produce a unity of action: and for this purpose that a committee of correspondence in each colony would be the best instrument for intercommunication: and that their first measure would probably be to propose a meeting of deputies from every colony at some central place, who should be charged with the direction of the measure which should be taken by all.³⁵

On March 13, 1773, the Virginia House of Burgess published a formal resolution that called for intercolonial committees of correspondence. Their idea was to forego the previous practice of using any British appointed officials as middlemen between the colonies. Instead they wanted representatives of the colonies to meet among themselves regularly in order to discuss real and/or perceived decisions made by the British government that seemed to threaten their liberties. In their resolution, they did not mention the Somerset decision specifically; they used very general language in order to infer that the concerns of the intercolonial committees would be broad: the committee could discuss the Somerset decision as well as all other concerns. This was a strategic decision on the part of the committee: they knew that a more broad agenda would have a greater chance of enticing all of the colonies. In stating their reason for recommending the commencement of the intercolonial committees, the Virginia House of Burgesses stated:

Whereas, the minds of His majesty’s faithful subjects in this colony have been much disturbed by various rumours and reports of proceedings tending to deprive them of their ancient, legal, and constitutional rights. And wheareas, the affairs of this colony are frequently connected with those of Great Britain as well as of the neighboring colonies, which renders a communication of sentiments necessary; in order therefore to remove the

³⁴ Edmund Cody Burnett, *The Continental Congress*, (New York: MacMillan & Co, 1941), 16.

³⁵ Thomas Jefferson, *Works of Thomas Jefferson*, vol. 1 (New York: G.P. Putnam’s Sons, 1904), 9-10.

uneasiness and to quiet the minds of the people as well as for the other good purposes above mentioned,³⁶

a representative from each colony would be asked to join with the others to discuss their mutual dissatisfaction with England. Simply stated, the Virginia House of Burgesses asked the other colonies to join them in discussing various annoyances that each colony felt or may have felt regarding the British government. This suggestion in the form of a resolution by the House of Burgesses was accepted unanimously by the colonies.

Massachusetts responded to the House of Burgesses' resolution by stating: "This House [has] a very grateful sense of the obligations they are under to the House of Burgesses in Virginia for the vigilance, firmness, and wisdom which they have discovered at all times in support of the rights and liberties of the American colonies, and do heartily concur with them in their said judicious and spirited resolves."³⁷ South Carolina stated, "We are firmly persuaded of the utility of the measure so seasonably proposed by the colony of Virginia and, we hope, universally adopted by the other colonies, and hope thereby to cultivate and strengthen that harmony and union among all the English colonies on the continent."³⁸ Delaware responded by stating, "This House [has] a very grateful sense of the obligation they are under to the House of Burgesses in Virginia, for the vigilance, firmness, and wisdom which they have discovered at all times in support of the rights and liberties of the American colonies, and do heartily concur with them in their said judicious and spirited resolves."³⁹ Georgia stated, "The thanks of this House be

³⁶ John Pendleton Kennedy, ed., *Journal of the House of Burgesses of Virginia, Volume 1773-1776*, (Richmond, 1905-15), 28.

³⁷ Flournoy, H.W. ed., *Calendar of Virginia State Papers, May 16, 1795 to December 31, 1798, Embracing the Letters and Proceedings of the Committee of Correspondence and Inquiry of Virginia and the Other Colonies from March 12, 1773 to April 7, 1775. Vol. viii, 1890 and 1968.*

³⁸ Ibid.

³⁹ Ibid.

transmitted to the...members of the House of Burgesses of Virginia...for communicating their intentions firmly to support the right and privileges of his Majesty's faithful subjects."⁴⁰

Philadelphia stated, "All America looks up to Virginia to take the lead on the present occasion. Our united efforts are now necessary to ward off the impending blow leveled at our lives, liberty, and property... Some colony must step forth and appoint the time and place. None is so fit as Virginia. You are ancient. You are respected. You are animated in the cause."⁴¹ Positive responses to Virginia's resolution also came from Connecticut, New York City, New Jersey, New York, and North Carolina. By the time of the first Continental Congress, all of the colonies were on board for meeting jointly regarding their concerns about England. This meeting was the first major step toward independence for the colonists from their mother country.

⁴⁰ Ibid.

⁴¹ Ibid.

CHAPTER 5

I AM MY BROTHER'S KEEPER: OTHER DECISIONS BY THE ENGLISH GOVERNMENT THAT CAUSED THE COLONISTS CONCERN

The Virginia House of Burgesses successfully wooed the other colonies into accepting its invitation to meet through intercolonial committees of correspondence. Virginia was successful in convincing the colonies to join the committees of correspondence because at the time that it extended its invitation, the English government had made a myriad of decisions that were offensive to both southerners and northerners. At the meetings, colonists from both regions would have a list of complaints- with some identical items-against British governance. If the Somerset decision was discussed, it would have be one of many items that may have been mentioned by the colonies as they became better acquainted with one another and their particular concerns.

The committees would consist of representatives from each colony who would communicate with the representatives of the other colonies. By appealing to the pervasive belief among the colonies that the English government purposefully and continuously overextended its power within the colonies, the Virginia House of Burgesses was able to use their growing exasperation with English governance to initiate unity among all of the colonies.

The reason there were negative feelings among the colonies about the English government's use of power is because at the time of the Somerset decision, and shortly thereafter, other decisions from the English government were implemented that seemingly and/or blatantly restricted the liberties of the colonies. These policies not only put restrictions on the colonies, they simultaneously enhanced the power of the English government. Some of the policies affected only one or few of the colonies at a time, while others affected all of the

colonies at once. The culmination of these policies made the colonists readily accept Virginia's suggestion that they began conferring with one another through committees of correspondence, instead of continuing the usual practice of communicating with one another through intermediaries appointed by the English government. The colonists' vexation with English policy not only caused the colonists to implement committees of correspondence, but their vexation eventually led to the establishment of the First and Second Continental Congresses.

One unpopular decision from the English government affected Rhode Island and caused great indignation within the northern colonies. This event became known as the *Gaspee* Affair.¹ In June of 1772, a Royal Navy Lieutenant named William Dudington brought his ship near the shore of Providence, Rhode Island. He did this in order to catch what he believed was a ship of a colonist who was smuggling tea from Holland. At this time, it was customary for the colonists to smuggle tea from Holland because it was less expensive than the tea that was sold to them from England. The English ship that followed the smuggler was called the *Gaspee*. Once the merchants of Providence became aware of the *Gaspee's* landing, they became angry and made plans to penalize the ship's captain and crew for landing in their town.² To the colonists of Providence, the presence of the *Gaspee* seemed nothing more than another example of unnecessary and unsolicited military interference by the British in their lives. At this time, the colonists were becoming increasingly weary of British authorities and military officers who had been in their presence since the years of the French and Indian War.³

¹ Pauline Maier, *From Resistance to Revolution*, (New York: Alfred A. Knopf, 1972), 125.

² Don Cook, *The Long Fuse: How England Lost the American Colonies*, (New York: The Atlantic Monthly Press, 1995), 160.

³ Robert Middlekauff, *The Glorious Cause: The American Revolution, 1763-1789*, (Oxford: Oxford University Press, 1982 and 2005), 223.

After the people of Providence became aware of the *Gaspee* landing on their shore, a group of merchants went aboard the ship and started a verbal and physical conflict with the crew that resulted in British Lieutenant, William Dudington, being shot in the midsection of his body. Dudington's wound was not fatal. After the conflict, the merchants forced Dudington and his crew off the boat and then set the boat on fire. The news of the confrontation reached England, and the English government responded to this incident by stating that those responsible for the *Gaspee* incident would have to stand trial in England. Not only that, the English government created a Commission of Inquiry. The Commission's job was to conduct an investigation with the purpose of getting the names of the *Gaspee*'s perpetrators so that they could be taken to trial as soon as possible.⁴ The colonists of Rhode Island and the rest of New England became incensed by the threat of the *Gaspee*'s perpetrators having to stand trial in England instead of Rhode Island, among their peers. They viewed the decision as both unjust and unorthodox.⁵

The Commission of Inquiry's report stated that those who were responsible for the incident could not be identified. This was true because none of the colonists of Rhode Island were willing to disclose the names of those who were responsible for the incident.⁶ Also, by the time the report was published, Lieutenant Dudington and his crew were back in England and were unable to identify those who attacked them and set the *Gaspee* on fire. The English government did not subsequently pursue the incident; however, the fact that the English government had initially threatened to try the case of the *Gaspee*'s perpetrators in England instead of in Rhode Island left a bitter taste in the colonists' mouths. Although "the [commissions] report ended the *Gaspee* Affair in a legal sense, the political results were longer

⁴ Cook, *The Long Fuse*, 161 and Blumrosen, *Slave Nation*, 62 and Middlekauff, *The Glorious Cause*, 220.

⁵ John R. Alden, *A History of the American Revolution*, (New York: Alfred A. Knopf, 1969), 131.

⁶ Cook, *The Long Fuse*, 164.

lasting.”⁷ The *Gaspee* Affair became one of the occurrences that led northerners to readily accept the suggestion by the Virginia House of Burgess to create a committee of intercolonial correspondence for the purpose of discussing injurious English policies.⁸

The northern psyche had also become tender due to events involving the colony of Massachusetts. In the summer of 1772, the Massachusetts legislature became frustrated with the British government over the issue of whose responsibility it was to pay the salaries of royal officials who lived within the colony. The Massachusetts legislature preferred to pay the salaries of the royal officials because it forced the royal officials to see themselves as somewhat accountable to the colonists who paid them instead of solely to the king and Parliament of England. As early as 1768, the British government began asserting its control over its officials by beginning to pay the Massachusetts chief justice, Thomas Hutchinson, instead of continuing to allow the Massachusetts legislature to pay him. The problem was exasperated in 1772 by the British government’s decision to make Hutchinson the governor of Massachusetts and to pay Governor Hutchinson, along with Lieutenant Governor Andrew Oliver, and all of the superior court justices of Massachusetts.⁹ The colonists of Massachusetts saw this as a tactic by the British government to control their officials. They requested a meeting of the legislature to discuss the officials’ salaries, but they were denied this request by Governor Hutchinson. After their request was denied, the colonists of Massachusetts created a committee with the following three-fold mission: “ [to] state the rights of the colonists and of this [the] province [of Massachusetts] in particular, as men, as Christians, and as subjects; [to] communicate and [to]

⁷ Middlekauff, *The Glorious Cause*, 220.

⁸ *Ibid.*, 221.

⁹ *Ibid.*

publish the same to the several towns in this province and the World...[to] request of each town a free communication of their sentiments on this subject.”¹⁰

In less than one month, this committee produced a document that outlined the continuous problems that the colony of Massachusetts had with Great Britain. It decried the issue of taxation without representation, and denounced the 1766 Declaratory Act from Parliament which asserted Parliament’s right to govern the colonists’ “in all cases whatsoever.”¹¹ Finally, the document complained about the presence of English soldiers and the increasing number of government/royal officials being sent to Massachusetts. The document, later known as the *Boston Pamphlet*, discussed the problem of soldiers and government/royal officials in their midst by stating: “Our houses, and even our bed chambers, are exposed to be ransacked; our boxes, trunks, and chests [are] broke open, ravaged and plundered by wretches, whom no prudent man would venture to employ as menial servants.”¹² The *Boston Pamphlet* also overtly criticized the governor of Massachusetts. It referred to him as nothing more than a “ministerial engine.”¹³

The colonists of Massachusetts became further incensed with the English government when their governor, Thomas Hutchinson, made a public speech in June 1773 that scolded the colonists for their complaints against the English government. Hutchinson, “a wealthy scion of one of Massachusetts oldest families”¹⁴ and an appointed official of the English government, was

¹⁰ Merrill Jensen, ed., *English Historical Documents*, vol. IX: *American Colonial Documents to 1776*, (New York: 1955), 763.

¹¹ Pauline Maier, *American Scripture: Making the Declaration of Independence*, (New York: Alfred A. Knopf, 1997), 23.

¹² Boston Records Commission, *Reports of the Boston Records Commissioners, XVIII*, (Boston: 1876-1904), 95-108.

¹³ Ibid.

¹⁴ Cook, *The Long Fuse*, 168.

a British loyalist at heart.¹⁵ He told the colonists that it was inappropriate for them to expect to have the same rights as those who lived on the English island. He believed that the colonists' geographical position as a people an ocean away from the English island made it necessary for them to assume a position that was somewhat less significant than those who lived within England. He also said that they should be happy with the power that their legislatures were allowed to have and that they should not press for more power. His speech reached its climax when he famously stated: "I know of no line that can be drawn between the supreme authority of Parliament and the total independence of the colonies."¹⁶ Hutchinson meant that the colonists could not and should not act independently of parliament, as long as they were colonists of England. In the colonists' mind, Hutchinson's speech proved their earlier suspicions that the British government had successfully gained and maintained control of him by deciding to take him off the colonial pay roll and placing him on the English pay roll instead.

The colonists of Massachusetts' anger with England and Hutchinson became even more intense when Massachusetts officials gained access to letters that made it clear that Hutchinson and the English government were conspiring to limit the rights of the people of Massachusetts.¹⁷ The letters were written between the years 1767-1769. Because the letters were between three to five years old, they proved that Hutchinson and certain British officials had been planning to limit the rights of the colonists for some time. One of the most infamous passages from the letters that Hutchinson wrote stated:

I never think of the measures necessary for the peace and good order of the colonies without pain. There must be an abridgment of what are called English liberties...I doubt whether it is possible to project a system of government in which a colony 3,000 miles

¹⁵ Ibid, 169.

¹⁶ Richard D. Brown, *Revolutionary Politics in Massachusetts: The Boston Committee of Correspondence and the Towns, 1772-1774*, (Cambridge:1970), 80.

¹⁷ Alden, *A History of the American Revolution*, 134-135.

distant from the parent state shall enjoy all of the liberty of the parent state...I wish the good of the colony when I wish to see some further restraint of liberty rather than the connexion (sp) with the parent state should be broken; for I am sure such a breach must prove the ruin of the colony.¹⁸

The letters were printed in the Massachusetts newspapers soon after they were released to the Massachusetts officials. They painted a picture of a governor who had long been participating in a conspiracy with the English government. Colonial leader, John Adams, who had been somewhat hesitant to break ties with England, was particularly sensitive to the publication of the letters. Historian John Ferling explains that the letters changed Adams from somewhat of a British loyalist, who gave the British government the benefit of the doubt with policies he did not support, to a die-hard American revolutionary. Ferling writes:

No one was more touched than John Adams by these occurrences coming one a top another; London's apparent drive to deprive the provincial authority of its independence, the governor's intransigent position on colonial autonomy, and the revelation of a possible plot among imperial officials to destroy the liberties of the colonists, all had a transforming impact on Adams. As if by alchemy, these events changed Adams. The uncertain patriot of the 1760s was at last recast. Never again would he see British policy as merely misguided. When Great Britain next moved against the colonies, John Adams emerged as a committed revolutionary.¹⁹

The colonists grew in their exasperation of English policy when in May of 1773, the English government passed the Tea Act. This legislation was intended to provide funds for the financially troubled East India Company, as well as raise revenue for the British government. The Tea Act gave the East India Company a monopoly on tea within the colonies while still maintaining one of the former requirements of the Townsend Acts of 1767 which stated the colonists were responsible for paying a three pence tax on tea. When the Townsend Acts were originally implemented, they also placed taxes on glass, lead, paint, and paper. The colonists

¹⁸ Leonard W. Larabee et al., eds., *The Papers of Benjamin Franklin vol.20*, (New Haven: 1959), 550.

¹⁹ John Ferling, *John Adams: A Life*. (New York: Henry Holt & Co., 1992), 80-84.

responded to the Townshend Acts of 1767 by boycotting English goods and by petitioning the English government to rescind the act. The colonists were successful in getting most of the requirements of the Townshend Acts repealed; however, the English government kept the tax on tea. The previous year in 1766, Parliament implemented the Declaratory Act, which stated that Parliament had the right to assert its authority “in all cases whatsoever.”²⁰ To the colonists, the implementation of the Tea Act in 1773 was nothing more than England reasserting its supremacy as it had in the 1766 Declaratory Act and forcing them to purchase English tea from the East India Company in order to gain the tea tax from the 1767 Townshend Acts.

The disdain for the Tea Act was pervasive among the colonies. On October 16, 1773, a mass meeting was held in Philadelphia at which colonial leaders warned the public not to accept any imports of tea from England. The attendants were warned that anyone who was caught importing tea from England would be considered “an enemy to his country.”²¹ In Delaware, a committee was formed that called itself “The Committee for Tarring and Feathering” and promised to tar and feather any merchant who was caught on the Delaware River with the intent to import tea. One captain of a ship with English tea was threatened with the possibility of “ten gallons of liquid tar decanted on [his] pate-with the feathers of a dozen wild geese laid over that to enliven [his] appearance.”²² As for New York, a ship with tea bound for New York’s harbor turned around and went back to England once the ship’s captain learned of the unfavorable response that awaited him.

²⁰ Pauline Maier, *American Scripture: Making the Declaration of Independence*, (New York: Alfred A. Knopf, 1997), 23.

²¹ Benjamin Woods Larabee, *The Boston Tea Party*, (New York: 1964), 88-89.

²² *Ibid*, 97-102.

In Boston, opposition to the Tea Act became climatic. Although Bostonians asked the merchants in their area not to receive any of the English tea, their governor, Thomas Hutchinson, insisted that the merchants receive it. In response, the citizens demanded that the tea not be allowed to land and that the ships that arrived with tea be sent back to England. However, the governor still refused.²³ Because of Governor Hutchinson's refusal to hinder the arrival and delivery of the tea, three ships of tea from the East India Company sailed into Boston in November and December. In response, on December 16, 1773, men dressed as Mohawk Indians boarded the ships and tossed the tea into the harbor. The faux Indians discarded approximately 340 chests of tea worth more than 9,000 lbs into the harbor. This event became famously known as the Boston Tea Party. John Andrews, a contemporary of the time and a citizen of Boston, wrote a friend about the town meeting that was held in Boston on the day of the Boston Tea Party and subsequently described the Boston Tea Party in the following manner:

They [the participants of the Boston Tea Party] mustered, I'm told, upon Fort Hill, to the number of about two hundred, and proceeded two by two, to Griffin's wharf, where [the ships] Hall, Bruce and Coffin lay, each with 114 chests of the ill-fated article on board; the two former with only that article, but the latter, arrived at the wharf only the day before, was freighted with a large quantity of other goods, which they took the greatest care not to injure in the least, and before nine o'clock in the evening, every chest from on board the three vessels was knocked to pieces and flung over the sides. ...²⁴

Another contemporaneous account of the day's events came from a participant of the Boston Tea Party, George Hewes. He attested to the meeting that the citizens of Boston had before the Boston Tea Party, as well as the citizens' attempt to meet with Governor Hutchinson about the arrival of the tea. He also discussed the tea being guarded by members of the English navy, who were well aware that the colonies did not want the tea aboard their shores. He explained,

²³ Alden, *A History of the American Revolution*, 139.

²⁴ *Massachusetts Historical Society Proceedings*, VIII, 325-326.

The tea destroyed [from the Boston Tea Party] was contained in three ships, lying near each other at what was called at the time Griffin's wharf, and were surrounded by armed ships of war, the commanders of which had publicly declared that if the rebels, as they were pleased to style the Bostonians, should not withdraw their opposition to the landing of the tea before a certain day, the 17th day of December 1773, they should on that day force it on shore, under the cover of their cannon's mouth. On the day preceeding the seventeenth, there was a meeting of the citizens of the county of Suffolk [Boston] convened at one of the churches in Boston, for the purpose of consulting on what measures might be considered expedient to prevent the landing of the tea, or secure the people from the collection of the duty, [i.e. the three pence tax]. At that meeting a committee was appointed to wait on Governor Hutchinson, and request him to inform them [of] whether he would take any measures to satisfy the people on the [purpose of their] meeting. To the first application of this committee, the Governor told them he would give them a definite answer by five o' clock in the afternoon. At the hour appointed, the committee again repaired to the Governor's house, and on inquiry found he had gone to his country seat at Milton, a distance of about six miles. When the committee returned and informed the meeting of the absence of the Governor, there was a confused murmur among the members, and the meeting was immediately dissolved, many of them crying out, "Let every man do his duty, and be true to his country!"²⁵ The participants of the meeting left with the knowledge that there was a group among them that would prevent the tea from being distributed in the colonies by throwing the tea overboard.

Other cities also showed resistance. In December 1773, a ship carrying 257 chests of tea arrived in Charleston, South Carolina.²⁶ A group of men tried to coerce the ship's captain to return the tea back to England. Although the captain refused and landed his ship with the tea on December 22, the tea was stored and locked away. It was only sold several months later in 1774 when South Carolina's Revolutionary government decided to use it for proceeds towards the Revolutionary War against England. On December 25, a ship carrying English tea appeared in the Delaware River below Philadelphia.²⁷ The citizens of the nearest town forbade the captain from unloading his merchandise. He listened to them and took his tea back to England. In April 1774, two ships appeared in New York. A small consignment of tea from one of the ships was

²⁵ James Hawkes, *A Retrospect of the Boston Tea-Party*, pp.39-41. and *A Memoir of George R.T. Hewes, Survivor of the Little Band of Patriots Who Drowned the Tea in Boston Harbour in 1773*, (New York: S.S. Bliss, 1834).

²⁶ Alden, *A History of the American Revolution*, 139.

²⁷ *Ibid*, 140.

seized and thrown into the harbor. The chests that held the tea were subsequently used by the conspirators to make bonfires in order to celebrate their conquests. After this occurred, the captain of the second ship returned to England. Another tea party occurred in Annapolis, Maryland during the fall of 1774. The citizens of Annapolis, Maryland kept a merchant company from bringing 2,000 pounds of tea into the town. The tea and the ship that carried it were destroyed. Nowhere in the colonies was the East India Company able to make a profit from its tea.²⁸

The news of the colonists' response to the Tea Act reached London. Although the pervasive belief among the English Parliament was that the colonists' actions were unmerited and inappropriate, the English government saw the citizens of Boston as the initiators of the action taken among all the colonies, and they sought to make an example of them. In March, Parliament implemented a bill that closed the harbor of Boston. This bill, entitled the Boston Port Bill, "provided that the harbor of Boston was to be closed to commerce until 'peace and obedience to the laws' should be restored in the city, so that 'the trade of Great Britain may be safely carried on there, and his Majesty's customs duty collected.' The [English appointed] privy council would decide when that time had arrived."²⁹ In April, Parliament followed the Boston Port Bill with the Massachusetts Government Act. It established a royally chosen council in Massachusetts; it stated that all provincial judges, sheriffs, and law enforcement would be chosen by the English government, and it stated that the sheriffs would select the juries. Also, it required that each Massachusetts town have only one meeting per year, unless it had permission from the governor. Another bill the British government established allowed for people charged of crimes

²⁸ Ibid, 140.

²⁹ Ibid, 142.

in Massachusetts to have a change of venue for their trials. This was entitled the Impartial Administration of Justice Act. Parliament also established the Quartering Act which required the colonists of Massachusetts to provide housing and provisions to British soldiers. Another act that the British Parliament implemented that seemed punitive to the colonists was the Quebec Act. Essentially, this act gave religious freedom to the Catholic Canadians. To the colonists, the Quebec Act seemed to be nothing more than a ploy to make the Canadians feel ingratiated to the English and therefore more likely to identify with the English than the colonists. Additionally, the colonial Protestant and Puritan religious beliefs caused them to view the Quebec Act with hostility.

Parliament's response to Boston was seen as despotic and tyrannical by the colonists. Even some in the English government and English public saw the measure as overbearing. William Lee, who was living in London as an American alderman of the city of London, wrote his brother to discuss the political events that were occurring in America and admitted, "The American business engages at present the whole attention of everyone here, from the King to the shopkeeper."³⁰ Although Lee told his brother that he found Parliament's response to Boston overbearing and tyrannical, he seemed unsurprised that it occurred. He believed that Boston's punishment was a part of a larger scheme by the King to force compliance of the colonists to his every whim. He wrote, "...The punishment of Boston was intended as an example to all the other colonies, who should be treated in the same manner whenever they dared to resist the shackles which the king is determined they shall wear...."³¹ Lee not only assessed the motives and strategies of the English government, he told his brother that the colonies should unite in order to

³⁰ Worthington Chauncey Ford, ed. *Letters of William Lee, 1766-1783, vol. I* (Brooklyn: Historical Printing Club, 1892), 81-85.

³¹ *Ibid.*

defend their rights and liberties against the British. Towards the end of the letter, he stated, “I have no doubt there will be a perfect union among all the colonies which is indeed more absolutely necessary now than any time before, as the attack is intended against the whole, and I am of [the] opinion it will check the sanguinary spirit of your enemies here, if they find the colonies are firm and closely united.”³²

At this time, the committees of correspondence that were suggested by the Virginia House of Burgess were in full swing. The events in Boston caused them to resolve to stand with Boston during the implementation of the Coercive Acts.³³ These committees wrote to the correspondence committee of Massachusetts and promised to send provisions to help through their hardship. The intent of the Coercive Acts was to punish Massachusetts- particularly Boston- by not only controlling them politically but by economically alienating them. The first Coercive Act, the Boston Port Bill, closed the port of Boston from overseas trade and domestic shipping. In essence, the British Parliament intended nothing to enter the Boston port and nothing to exit the Boston Port. A closed port meant that Boston merchants would no longer be able to make a living and supply their fellow citizens with many of the materials that they needed to continue with their daily lives. This was the reason why many of the letters from the various committees of correspondence of the respective colonies that were sent to Massachusetts promised to send provisions.³⁴

The colonists of Farmington, Connecticut responded to the Coercive Acts by having a meeting where they burned a copy of the Coercive Acts and declared their resolve to support

³² Ibid.

³³ Henry Steele Commager and Richard B. Morris, ed., *The Spirit of 'Seventy-Six: The Story of the American Revolution as Told by Participants*, (New York: Da Capo Press, 1995), 17-18.

³⁴ Ibid, 17-35.

Boston. They declared the Boston Port Bill to be “unjust, illegal, and oppressive”³⁵ and claimed that they “and every American [were] sharers in the insults offered to the town of Boston.”³⁶ They also promised to immediately begin making plans for the relief of Boston’s poor.³⁷ Philadelphia held a meeting in which they declared, “the act of parliament for shutting up the port of Boston is unconstitutional, oppressive to the inhabitants of that town, dangerous to the liberties of the British colonies, and therefore, [we consider] our brethren at Boston as suffering in the common cause of America.”³⁸ They also resolved that a “committee be instructed immediately to set on foot a subscription for the relief of such poor inhabitants of the town of Boston as may be deprived of their means of subsistence...”³⁹ Windham, Connecticut also sent relief to Boston. They sent a letter to Boston that stated that they had “unanimously” chosen to send provisions to Boston. They declared, “we have procured a small flock of sheep, which at this season are not so good as we could wish, but are the best we had, and the people of this town were almost unanimous in contributing to this purpose.”⁴⁰

Virginian George Washington wrote a letter to his friend, Bryan Fairfax, on July 20, 1774, explaining how unjust he found the Coercive Acts to be. He began the letter by stating that the punishment that the English Parliament had given to the colonists of Massachusetts did not fit their crime. Washington’s analysis of the punishment was judicious. He entertained the

³⁵ Peter Force, ed., *American Archives: Fourth Series, Containing a Documentary History of the English Colonies in North America from the King’s Message to Parliament of March 7, 1774, to the Declaration of Independence by the United States.* 4th series, vol 1, (Washington: M. St. Clair Clarke and Peter Force, 1848-1853), 336.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Hezekiah Niles, ed., *Centennial Offering. Republication of the Principles and Acts of the Revolution in America*, (New York: A.S. Barnes & Co., 1876), 180.

³⁹ Ibid.

⁴⁰ Commager and Morris, *The Spirit of ‘Seventy- Six*, 31-32.

possibility of Parliament having a right to punish the Bostonians, if they [Parliament] had asked Boston to pay for the tea and Boston had refused. According to Washington, no such offer was made, and therefore he could only deduce that the response to Boston was another symptom of an old problem- the desire of the British Parliament to continuously assert their right to tax the colonists without their consent. Washington exclaimed: “Are not all these things self evident proofs of a fixed and uniform plan to tax us?!”⁴¹ Not only did Washington make it clear that he thought that he found the punishment of Massachusetts unjust, he conspicuously stated that he thought that the colonists should escalate their actions towards the British. Bryan Fairfax, the friend to whom Washington wrote his letter, seemed to believe that the appropriate response to the Coercive Acts was to petition Parliament. To this suggestion by Fairfax, Washington wrote:

Shall we, after this, whine and cry for relief, when we have already tried it in vain? Or shall we supinely sit and see one province after another fall a prey to despotism? If I was in any doubt as to the right which the Parliament of Great Britain had to tax us without our consent, I should most heartily coincide with you [Bryan Fairfax] in opinion , that to petition and petition only, is the proper method to apply for relief; because we should then be asking a favor, and not claiming a right, which by the law of nature and our constitution, we are, in my opinion, indubitably entitled to...I think the Parliament of Great Britain hath no more right to put their hands into my pocket, without my consent, than I have to put my hands into yours for money; and this being already urged to them in a firm, but decent manner, by all the colonies, what reason is there to expect anything from their justice?⁴²

There were also those within Parliament who saw the Coercive Acts as unreasonable. As a young man in Parliament, Edmund Burke famously defended the colonies against the heavy hand of the Coercive Acts, along with his wise and seasoned colleague, the Earl of Chatham. Burke saw that the root of the problem was that the English government continuously overextended its power by taxing the colonies in order to produce revenue for the operational

⁴¹ John C. Fitzpatrick, ed., *The Writings of George Washington, from the Original Manuscript Sources, 1745-1799.*, vol. III, (Washington: United States Government Printing Office, 1931-1944), 232-233.

⁴² Ibid.

costs of the empire, even if those operational costs were for the operations within the colonies. He believed that the Tea Act was particularly ineffective because it enforced the already unpopular tea duty of the Townshend Acts, which was a three pence tax on tea, while simultaneously forcing the colonists to purchase English tea. On April 19, 1774, Burke gave a speech in opposition to the Massachusetts Government Act, the act that officially made all of the colony's governing officials appointed by the English government. Burke stated, "Again and again, revert to your old principles- seek peace and ensue it- leave America, if she has taxable matter in her to tax herself. ..Reflect how you are to govern a people, who think they ought to be free, and think they are not. Your scheme yields no revenue; it yields nothing but discontent, disorder, disobedience and such is the state of America, that after wading up to your eyes in blood, you could only end just where you begun; that is, to tax where no revenue is to be found."⁴³

Shortly thereafter, on May 2, Burke argued again against Parliament's plans to regulate the government of Massachusetts. This time he emphasized that no amount of rules or soldiers to enforce rules would cause the colonists to comply with legislation that they believed was unjust. He told Parliament, " I have to protest against this bill [the Massachusetts Government Act] because you refuse to hear the parties aggrieved [the colonists]...Repeal sir, the Act [the Tea Act] which gave rise to this disturbance; this will be the remedy to bring peace and quietness and restore authority."⁴⁴

The Earl of Chatham shared Edmund Burke's concern. He told Parliament that although he did not condone the actions of those involved in the Boston Tea Party, he believed that the

⁴³ Cook, *The Long Fuse*, 189.

⁴⁴ William Cobbett, *The Parliamentary History of England from the Earliest Period to the Year 1803*, XVII, (London: Hansard, 1806-1820), 1314-1315.

actions of the English government in response to the Boston Tea Party were too severe. The Coercive Acts punished many people who were innocent of involvement in the Boston Tea Party with the few who were guilty. The earl believed that even when the English government found it necessary to punish the colonists, they had an obligation to implement punishment in a way that was principled and in keeping with the spirit of English values. The Earl of Chatham stated,

[I must first] condemn in the severest manner the late turbulent and unwarrantable conduct of the Americans, particularly in the riots of Boston...But, my lords, the mode which has been pursued to bring them back to a sense of their duty to the parent state has been so diametrically opposite to the fundamental principle of sound policy that individuals, possessed of common understanding, must be astonished at such proceedings... It is contrary to all principles of justice and civil policy....⁴⁵

Despite the concerns from those on both sides of the ocean and the inevitable discontent and deep resentment that the laws would present, the Coercive Acts became reality. Their instigator, Lord North, prime minister of England, saw the implementation of the acts as absolutely necessary. Shortly after the Boston Tea Party, Lord North made it clear that he believed that it was imperative for the British government to deal with the colonies using a very heavy hand. Because he had visited the North American continent, he was aware of the intensity of the colonists' discontent with the Tea Act. From his observations he noted, "we are not entering into a dispute between internal and external taxes...but we are now to dispute whether we have, or have not any authority in that country."⁴⁶ North's analysis made it clear that the Coercive Acts were intended to unequivocally assert the authority of the British government over all the colonies. The punishment was not intended just for the offense of the Boston Tea Party or

⁴⁵ Cook, *The Long Fuse*, 190.

⁴⁶ Bernard Donough, *British Politics and the American Revolution: The Path to War, 1773-1775*, (London, 1964), 77.

intended just to punish those who participated in it; the Coercive Acts were a punishment for all of the times the colonists had questioned or defied the authority of the British government since the French and Indian War. Lord North saw a pattern of increasing defiance within the colonies that he intended to break.

The colonists' outrage regarding the Coercive Acts was not just apparent at its inception; their outrage increased as they witnessed Boston's suffering. The suffering that Lord North and the English Parliament intended to bring to Boston through the Coercive Acts had its desired effect. Despite the assistance that was provided to Massachusetts by the other colonies, the closing of the ports, as dictated by the Boston Port Bill, caused great poverty within Massachusetts. To add to the misery of poverty, the citizens of Boston had to face the occupation of their city by soldiers. However, Parliament's ultimate goal of breaking the spirit of Massachusetts and instilling fear into the other colonies did not work. Not only were the colonists' spirits not broken, but they became further committed to the idea of communicating with one another without the assistance of English appointed intermediaries. In other words, they became more comfortable with the idea of unifying with one another in their shared dispute with the English government. As it had previously, Virginia led the way in calling all of the colonies to join together to discuss their shared adversary. However, instead of just communicating with one another through committees of correspondence as they had in the past, the colonists were encouraged to send representatives from each of their colonies to discuss the English problem face to face in order to find a more successful and permanent solution to their shared problem.

On September 4, 1774, delegates from the colonies met for the first time in Philadelphia for the First Continental Congress. The first day of official business began the following day. At this time, two primary questions occupied the delegates' minds. The delegates wondered: "What

was the basis of American rights, and how should they be defended?"⁴⁷ To these questions, the colonists did not initially find a consensus. The first point of contention came regarding the origin of American rights. Although most of the delegates believed that one point of origin for American rights came from the laws of nature, there were some delegates who felt as though this point of view was too liberal. Delegates James Duane, John Rutledge, and Joseph Galloway disagreed with the argument about the colonists' rights coming from nature because they believed that an argument that attributed the rights of the colonists to nature would inevitably lead to the colonists' desire for separation from England. Joseph Galloway stated, "I never could find the rights of Americans, in the distinctions between taxation and legislation, nor in the distinction between laws for revenue and for the regulation of trade. I have looked for our rights in the laws of nature- but could not find them in a state of nature, but always in a state of political society."⁴⁸ Galloway's political society was a reference to the British constitution, the common law, and the colonial charters. He went so far as to say that the colonists should be exempt from any law made by British Parliament that was implemented after English colonization of North America occurred. Eventually, the delegates agreed that the origins of their rights came from three entities: the laws of nature, the British constitution, and the colonial charters.

Another issue that was a part of the Congress' discussion was the idea of having a grand council that operated as a type of colonial parliament. Theoretically, this parliament would work alongside the English parliament to ensure that laws were passed with the best interest of the colonists and of the English in mind. The current existence of an English parliament whose job it was to provide governance for both the people of the English island and of the English colonies

⁴⁷ Middlekauff, *The Glorious Cause*, 249.

⁴⁸ Lyman H. Butterfield et al., eds., *Diary and Autobiography of John Adams* vol.II, (Cambridge, 1961), 122-124.

seemed ineffective, impractical, and most importantly, unjust. The thinking was that a parliament that represented each group would keep the current English parliament from continuing to tax the colonists against their will. Despite the musings regarding the implementation of a grand council to serve as a colonial parliament, the colonists ultimately decided against it because they believed that the only way that the English government would consent to the establishment of a grand council would be if they could control it. This would mean that the members of the council would be suspect to bribes and/or coercion by the English government.

The Continental Congress also dealt with the issue of how best to support Boston during its time of need. Despite the fact that all of the colonies had sent food and some type of encouraging correspondence to Boston through their committees of correspondence, Boston wanted specific guidance from the Continental Congress on how to deal with their present political circumstances. The inference in this question may have been Boston's pondering about whether or not the Continental Congress would provide military support to them, if needed. The Continental Congress decided that if Boston needed military assistance while enduring the Coercive Acts, then all of the colonists would support her in her fight.⁴⁹ The delegates of Boston also presented the *Suffolk Resolves*, a document that stated the citizens of Suffolk County, the county where Boston is located, found the Coercive Acts unjust and illegitimate and that the citizens of the county should be prepared for military action, if/when it became necessary. The Continental Congress adopted the *Suffolk Resolves*, in order to show its support of Boston. John Adams was so enthused by the support of the Continental Congress for Boston that he wrote that the day the Continental Congress endorsed the *Suffolk Resolves* was the happiest day of his life.

⁴⁹ Worthington C. Ford et al., eds., *Journals of the Continental Congress, 1774-1789 vol. I*, (Washington D.C., 1904), 58.

He explained, “In Congress we had generous, noble sentiment and manly eloquence. This day convinced me that America will support Massachusetts or perish with her.”⁵⁰

Although the Continental Congress adopted the Suffolk Resolves, it did not agree to all of its terms. In their attempt to establish punitive measures against England in response to the Coercive Acts, the delegates could not unanimously accept the Suffolk Resolves suggestion to immediately stop trade with England. The people of Boston, as expressed in the Suffolk Resolves, wanted “to withhold all commercial intercourse with Great Britain, Ireland, and the West Indies, and abstain from the consumption of British merchandise and manufactures, and especially of East-India teas and piece goods, with such additions, alterations, and exceptions only, as the General Congress of the colonies may agree to...”⁵¹ Although the Continental Congress had affirmed the resolution, the suggestion that trade with England stop immediately interfered with the interests of the individual colonies and temporarily got in the way of their shared interests. The delegates of Virginia, who were usually the first to uphold the common cause, confessed that they had received instructions not to agree to an anti-export policy until after August 10, 1775.⁵² More than likely, this was the date that Virginia’s tobacco exports would be sent to market. South Carolina had a similar concern. The delegates of South Carolina would not participate in an anti-export policy that required the involvement of their rice and indigo crops because both were sold in British markets. Eventually, the consensus that the delegates came to was that a ban on imports from Britain would begin on December 1. Nonconsumption of East India Tea would begin immediately, and the prohibition of exports would begin after September 10, 1775, if the measure was still needed at that time. South

⁵⁰ Commager and Morris, *The Spirit of ‘Seventy- Six*, 46.

⁵¹ Worthington, *Journals of the Continental Congress*, 31-36.

⁵² Middlekauff, *The Glorious Cause*, 250.

Carolina's exports of rice would be excluded from the non-exportation policy. This agreement became known as the *Association*. In order to ensure that the colonies kept the terms of the *Association*, the Continental Congress called for committees in each county, city, and town to hold the colonists accountable. The members of the committees would be chosen by the citizens of the counties, cities, and towns who were eligible to vote. The committees were given the task of checking the records of merchants to ensure that they had not transgressed the terms of the *Association*. If the *Association's* terms were broken, then the committee was to report the names of the offending merchants to local newspapers. Finally, the committees were to ensure that offenders no longer received business from the colonists because they would be considered "the enemies of American liberty."⁵³

The crown jewel of the Continental Congress was its *Declaration and Resolves*, "which included a declaration of the rights of the colonies."⁵⁴ Here, the Continental Congress included their earlier resolve that their colonial rights originated from the laws of nature, the British constitution, and the colonial charters.⁵⁵ They also asserted that they had no obligation to pay taxes as prescribed by the British Parliament, since they had no representation in that body. They also went so far as to say that it was not possible for them to be represented by the British Parliament because of their "local and other circumstances."⁵⁶ The declaration also acknowledged the colonists' allegiance to the British Crown, but it decried the acts of Parliament that they felt infringed upon their rights. To make their point unequivocal, the colonists listed

⁵³ Jensen, *English Historical Documents*, 813-816.

⁵⁴ Commager and Morris, *The Spirit of 'Seventy-Six*, 46.

⁵⁵ Jensen, *English Historical Documents*, 805-808.

⁵⁶ *Ibid.*

“the infringements and violations”⁵⁷ of Parliament. The Continental Congress also sent an address to the people of Great Britain and an address to the inhabitants of Quebec, as well as a petition to the king. In order to attest to the validity and sincerity of the delegates’ decisions, once the Continental Congress dismissed, the *Essex Gazette* reported, “The American Congress derives all of its power, wisdom, and justice not from scrawls of parchment signed by kings, but from the people. A freeman in honoring and obeying the Congress honors and obeys himself. The least deviation from the resolves of the Congress will be treason.”⁵⁸

When the king received the Continental Congress’ petition, he did not respond to the Congress. However, he made his sentiments known regarding the petition to England’s prime minister, Lord North. He wrote,

There is no denying the serious crisis to which the dispute between the Mother Country and its North American colonies are growing, and that the greatest temper and firmness are necessary to bring matters to a good issue... Had the Americans in prosecuting their ill-grounded claims put on an appearance of mildness it might have been very difficult to chalk out the right path to be pursued; but they have boldly thrown off the mask and avowed that nothing less than a total independence of the British legislature will satisfy them.⁵⁹

In the first week of February, both houses of the English Parliament approved an address to the king that declared that the colonies were in rebellion and that they needed to be forcibly put back in their place. Parliament also approved legislation that restrained New England’s trade and fisheries, which became extended to all colonies except New York and North Carolina. Despite the heavy handed legislation from Parliament, the colonists were undeterred. This was particularly true for Boston. General Gage, the military governor whom the English government appointed for Boston, continuously complained of unruly citizens who challenged the authority

⁵⁷ Jensen, *English Historical Documents*, 63-73.

⁵⁸ Commager and Morris, *The Spirit of ‘Seventy- Six*, 47.

⁵⁹ Cook, *The Long Fuse*, 199.

of the soldiers both verbally and physically. Even before the Continental Congress convened, Gage and his troops were challenged by the colonists. Gage had begun enforcing the Coercive Acts by dissolving the Massachusetts Council and appointing twenty-four new councilors who were British loyalists. These new councilors along with the new judges, magistrates, and sheriffs, who were appointed by the English government, were attacked by the colonists. Although Gage tried to use minimal force to control the colonists, he realized this was not possible. Because of this, he advised the English government to either amend its policies or to send more troops to help enforce them.⁶⁰

Out of Gage's two suggestions, King George III found the second more acceptable. It was not that King George desired to go to war with the colonists or that he was eager to use force; it was simply that he was uncompromising in his belief that the colonies had an obligation to adhere to the laws that were implemented by Parliament and endorsed by him. In his correspondence to Lord North and others he frequently stated that he wanted to bring the colonists back to order with as little passion and violence and as much calm, as possible. Unlike North, King George wanted to use minimal force in dealing with the colonies initially. In December of 1774, King George III wrote the following to Lord North: "Nothing can be more provoking than the conduct of the inhabitants of Massachusetts Bay. Some measures must undoubtedly be adopted after Christmas to curb them, and by degrees bring them to a due obedience to the Mother Country; but reason not passion must point out the proper measures."⁶¹ However, when General Gage's communication and the colonists conduct made it clear that a gentle touch would not bring the colonists into submission, the king became more comfortable

⁶⁰ Clarence E. Carter, ed., *The Correspondence of General Thomas Gage, vol. 1* (New Haven: 1931), 366-372.

⁶¹ Cook, *The Long Fuse*, 200.

with the idea of using force in addition to coercive legislation to put the colonists in their place. Once it became clear that force was necessary, the king told Lord North that he had no equivocation about using it. He famously wrote: "I am not sorry that the line of conduct seems now chalked out, which the enclosed dispatches thoroughly justify; the New England governments are in a state of rebellion, blows must decide whether they are to be subject to this country or independent."⁶²

As provocative and intense as this statement was, neither the king nor Parliament was ready to declare war against the colonies. By the end of 1774, their major goals were to heavily chastise Massachusetts only and to curb the other New England colonies who were showing signs of rebellion, as well. Truth be told, many in Parliament did not believe that the colonies were brave enough or capable enough to present a true military challenge to the British Army. On February 10, 1775, the Earl of Sandwich made a speech in the House of Commons declaring how harmless the colonies would be in any potential military conflict. In part of his speech, he stated: "Suppose the colonies do abound in men, what does that signify? They are raw, undisciplined, cowardly men. I wish instead of forty or fifty thousand of these "brave" fellows they would produce in the field at least two hundred thousand; the more the better, the easier would be the conquest; if they did not run away, they would starve themselves into compliance with our measures...."⁶³ Four days later, on February 14, 1774, Major John Pitcairn wrote to the Earl of Sandwich with a similar sentiment that the earl had expressed in Parliament. He admitted to wishing for an opportunity to exhibit the British military's prowess against the colonies. He

⁶² Bodham W. Donne, ed., *Correspondence of George III with Lord North, 1766-1783, vol. 1*, (London: Murray, 1867), 214-215.

⁶³ Peter Force, ed., *American Archives: Fourth Series, Containing a Documentary History of the English Colonies in North America from the King's Message to Parliament of March 7, 1774, to the Declaration of Independence by the United States, vol. 1*, (Washington: M. St. Clair Clarke and Peter Force, 1837-1846), 1682-1683.

wrote, “When this army is ordered to act against them, they will soon be convinced that they are very insignificant when opposed to regular troops.”⁶⁴ What Parliament, the king, and the British army did not realize was that the colonists were planning to handle themselves in military conflict with England and were filled with bravery and fervor for their cause.

One person who did not underestimate the courage or the abilities of the colonies was the English government’s military governor, General Gage. He had served on the North American continent long enough to know the anger and the resolve of the colonies. He was all too aware of what the colonists were capable of doing, and he knew that it was only a matter of time before conflict became heavy and continuous- and he did everything in his power to warn the British government and to prepare himself for the inevitability of war. The English appointed colonial secretary, Lord Dartmouth, believed that General Gage was exaggerating the threat of violence from the colonists and told him that a previous request he had made for 20,000 additional troops was excessive and that it would not be granted.⁶⁵ Some troops would be sent but not the number that were requested. He then reiterated to Gage that the British forces should quickly and decisively handle the rebellion in Massachusetts but with as little force as possible. Like other British officials, Dartmouth believed that the colonial threat was much more benign than it was in reality. Lord Dartmouth believed that the easiest way to squash the rebellion was to arrest the leaders of the Massachusetts Provincial Congress. The Massachusetts Provincial Congress was an unofficial leadership group appointed by the people of Boston, once their government had been replaced by English appointed officials. More than likely, Lord Dartmouth’s instructions to General Gage were more of a suggestion than an order since General Gage took a different

⁶⁴ G.R. Barnes and J. H. Owen., eds., *The Private Papers of John, Earl of Sandwich, First Lord of the Admiralty, 1771-1782.*, vol. 1(London: Printed for the Navy Records Society, 1932-1938), 57-59.

⁶⁵ Middlekauff, *The Glorious Cause*, 272.

approach. General Gage made plans to have his troops capture the arms and ammunition in Concord and Worcester. He planned to do this secretly. He believed that by secretly taking away the arms and ammunition, he would accomplish two goals that were important to him: first, he would take away useful military equipment from the colonies that would inevitably be used by the colonies against British troops at a later date. Secondly, he hoped to take proactive steps to put the colonists in a military disadvantage without directly engaging them in military conflict. Ironically, General Gage's strategy led to the battles of Lexington and Concord, which made full scale war between the English and their colonies no longer a fear between the two groups-but an absolute fact.⁶⁶

In the middle of the night, on April 18, 1775, the British planned to move secretly into Concord. They went as far as to start their mission in the wee hours of the morning so they would not be discovered. However, they were unsuccessful in keeping their mission quiet. The colonists had developed their own surveillance system in order to keep up with every movement of the British. The colonists were aware that the British were on their way to Concord to take their arms and ammunition. They were unaware of exactly when the British would begin their movement, but they knew they were coming. Because of their active intelligence system, the colonists quickly found out when the English were on their way. Because Paul Revere and his group of messengers were so competent in their roles as spies and informers, they were able to warn the colonial militia in enough time to engage the British in Lexington before they reached Concord. In the morning of April 19, the colonial militia stood ready at Lexington to engage the British, led by Major John Pitcairn. The colonists were told by Major Pitcairn to put their weapons down and sometime soon after that, a shot was fired. History will never know which

⁶⁶Commager and Morris, *The Spirit of 'Seventy- Six*, .69-97.

side fired first. However, because of that shot, a very short battle occurred that commenced a war between the colonies and the British. At the battle of Lexington, eight militiamen were killed and ten were wounded. One British private was wounded.⁶⁷ The British subsequently traveled to Concord. The colonial militia engaged them there as well. At the Battle of Concord, the British received 275 casualties; the colonists only suffered 95 casualties.⁶⁸ Although war was a certain reality at this point, neither war nor independence had been formally declared.

Shortly after Lexington and Concord, the Second Continental Congress convened on May 10, 1775. Most of the members from the First Continental Congress returned along with some new faces that included Benjamin Franklin and James Wilson from Pennsylvania, John Hancock from Massachusetts, and in June, Thomas Jefferson from Virginia, arrived to replace Peyton Randolph. New York added five new members that included George Clinton, Robert R. Livingston, and Philip Schuyler. Although Georgia was the only colony that did not send a representative, there was a representative from the Georgia area of St. John's Parish. This representative was named Lyman Hall. The purpose of the meeting was to discuss the recent escalation of events with England. Dr. Joseph Warren, the president of the Massachusetts Provincial Congress, asked the Congress for advice on how to handle the imposing British presence in their midst and recommended that the Congress create a colonial army. The New York delegates wanted advice on how to handle reports that British troops were coming to New York Harbor. Not only did the delegates have to deal with the frustrations of the delegates from Massachusetts and New York, they had to deal with the reality of the military conflicts of Lexington and Concord, which had happened recently. To complicate matters, the Congress

⁶⁷ Middlekauff, *The Glorious Cause*, 276.

⁶⁸ *Ibid*, 279.

received word that as they conducted their meetings, Benedict Arnold, Ethan Allen, and a group called the Green Mountain Boys of Vermont seized the fort of Ticonderoga in New York. The men seized the fort in order to prevent the British from taking it; however, the act was provocative and it was not authorized by the Congress. Although there were some delegates who were ready to use the weapons and ammunition taken at Ticonderoga for imminent revenge against the British for Lexington and Concord, cooler heads prevailed, and revenge was not taken. Instead, the Congress conducted an inventory on the weapons and ammunition from Ticonderoga and held them with the intention of returning them. They stated that the resources would be kept “in order that they may be safely returned when the restoration of the former harmony between Great Britain and these colonies, so ardently wished for by the latter, shall render it prudent and consistent with the overruling law of self- preservation.”⁶⁹ The Congress also advised New York to respond peaceably to the arrival of British troops, but the Congress also said that the citizens of New York should defend themselves if the troops tried to keep them from communicating with the other colonies or destroyed their private property. The Congress took Massachusetts suggestion to implement a Continental Army, and they made George Washington the commander of all the continental forces. Even after making this step, the Congress still did not declare war. Instead, the Congress attempted to make a step toward reconciliation with the British. The Continental Congress sent the king a document entitled the Olive Branch Petition. “The resolution expressed a desire for restoration of harmony with England and beseeched the king to prevent further hostile action until a reconciliation could be worked out.”⁷⁰ With the implementation of the Olive Branch Petition, the colonists took a

⁶⁹ Cook, *The Long Fuse*, 223.

⁷⁰ *Ibid*, 224.

balanced approach between the most aggressive and passive opinions of its delegates. John Adams compared the experience to balancing a team of horses. He stated, “The swiftest horses must be slackened and the slowest quickened, that all may keep an even pace.”⁷¹ The colonists’ willingness and ability to keep an even pace with one another would soon be tested as they fully engaged in war and subsequently declared their independence-eternally from their once esteemed mother country.

⁷¹ Butterfield, ed., *Adams Family Correspondence*. I, 216.

CHAPTER 6

AT LAST: SEPARATION! FURTHER COMPLICATIONS BETWEEN THE ENGLISH AND HER COLONIES

By 1775, the year that the Second Continental Congress sent the Olive Branch Petition to King George III, it was clear that the colonists were quite comfortable in their practice of sending representatives to the Continental Congress in order to meet on their behalf regarding their shared problems with England. Although the colonists saw themselves in dual roles as subjects of the crown and citizens of their respective colonies, there was a growing sense of unity among them as time passed and problems persisted. A burgeoning determination to weather the uncertain future together seemed to exist; this unity of sorts would ultimately culminate into a decisive decision to detach from England.

Of course, before the Continental Congress began meeting and before they declared separation from England, the colonists had taken several steps that would eventually lead towards independence. Their first unified step away from England came in 1772, when they agreed to begin regularly meeting with one another through committees of correspondence instead of using English intermediaries. The idea of meeting with one another without the assistance of an English intermediary came from the colonists of Virginia who were frustrated with English policy. The latest English policy that may have caused some Virginians concern was the 1772 *Somerset* decision, which came from an English court. This decision stated that slavery was too odious to be upheld by positive law¹, which subsequently gave the impression

¹Capel Lofft, *Reporter of Cases Adjudged in the Court of King's Bench from Easter Term 12 George 3 to Michaelmas 14 George 3, 1776*, xvi.

that slavery had been outlawed within England and possibly all of its territories.² Although this was the prevailing impression, the impression was inaccurate: the decision only meant that James Somerset, the black man whose status as free or slave was in question, would be free from slavery. The court's decision to characterize slavery as odious was not the court's attempt to take on the legislative responsibility of creating laws; instead it was the court's way of explaining the reason why slavery existed in England without a law. In other words, although slavery existed at the time, there was no formal law from Parliament that legalized it. In its decision to free James Somerset and its characterization of slavery as odious, the court, in essence, was saying that although slavery existed in practice without a positive law on the books, it could not exist without a law, and such a law was a bad idea. The only prescriptive part of the court's decision was the part that freed Somerset: the rest was simply commentary. Despite this, some slaveowners were concerned about the implications of the court's decision. ³ The Somerset decision, along with many other controversial English policies, may have been one of the impetus for representatives of Virginia to meet with other colonies through the committees of correspondence. By regularly conversing among one another, the colonists would be able to keep up with British policies that were theoretically, or actually, harmful to the colonial way of life.

One issue of concern among the colonists may have been ensuring that their slaves did not hear of the Somerset decision. The English public and the people of the American colonies were not the only ones under the impression that the Somerset decision freed the slaves; some of the slaves heard about the decision and believed that they were free. That year, John Adams

² Jerome Nadelhaft, "The Somersett Case and Slavery: Myth, Reality, and Repercussions," *The Journal of Negro History* 51, no.3 (July 1966): 193.

³ *Virginia Gazette*, November 12, 1772 and Edward Long, *Candid Reflections on the Judgment*, pg 34 section iii, Library of Congress, section on "Slaves and the Courts, 1740-1860" and Emma Powers, "The Newsworthy Somerset Case: Repercussions in Virginia," *Colonial Williamsburg Interpreter* 23 (Number 3, Fall 2002):1-6,1 and Richard Hildreth, *History of the United States, vol.II*, (New York: Harper&Bros.,1880), 567.

wrote in reference to the network of communication within slave communities by stating, “the negroes have a wonderful art of communicating intelligence among themselves; it will run several hundreds of miles in a week or fortnight.”⁴ To be sure, most of them were aware that their masters were not going to voluntarily give them their freedom, and because of this, some of them decided to run away to England in order to live as freedmen.

6.1 How the Incorrect Interpretation of the Somerset Decision May Have Again Affected the Relationship between the Colonies and their Mother Country

Although the English government had never planned to outlaw slavery in the colonies or to take all of the colonists slaves by force, they did recognize the importance of slavery to the economy and social structure of the colonies, particularly in the South. In 1775, as the Continental Congress was making their last efforts toward reconciliation with England by sending the king the Olive Branch Petition, the English appointed governor of Virginia, Lord Dunmore, decided to use the issue of slavery to militarily weaken the colonies in their dispute with England. Lord Dunmore knew that the colonists had the advantage of the battles being fought on their turf, as well as an advantage of numbers. The Battles of Lexington and Concord had made Lord Dunmore appropriately cautious to the fighting prowess of the colonists. Because of this, he came up with a strategy to enhance the British advantage. In early May, he began arming his own slaves and arming other slaves who would fight for the British cause. Dunmore may have known that some slaves saw the increased presence of English soldiers in the colonies as a sign that a war would take place to set them (the slaves) free. These slaves were likely to run away and fight for the British cause if they could be promised their freedom.

⁴ Sidney Kaplan and Emma Nogrady Kaplan, *The Black Presence in the Era of the American Revolution*, (Amherst, 1989), 25.

Succinctly stated, the slaves may have believed that the English soldiers, who came to the colonies after the 1772 Somerset decision, came in order to *enforce* the decision.⁵ Lord Dunmore capitalized on this, and on November 7, 1775, he issued a proclamation declaring all the slaves free who were willing to fight for the British cause. The proclamation stated,

I do require every person capable of bearing arms to resort to his majesty's standard or be looked upon as traitors to his majesty's crown and government and therefore be liable to the penalty the law inflicts upon such offences, such as forfeiture of life, confiscation of lands &c &c. And I do hereby further declare all indented servants, negroes, or others (appertaining to rebels) free that are able and willing to bear arms, they joining his majesty's troops as soon as may be, for the more speedily reducing this colony to a proper sense of their duty to his majesty's crown and dignity.⁶

Although the proclamation seemed to have an abolitionist and/or humanitarian agenda, its true intent was completely tactical and strategic. Lord Dunmore admitted this to be the case in his stated purpose of the proclamation. He stated that the proclamation's purpose was "to defeat such treasonable purposes,"⁷ and that "all such traitors and their abettors might be brought to justice and that the peace and good order of this colony may be restored, which the ordinary course of the civil law is unable to effect."⁸ The proclamation used abolitionist means to accomplish a militaristic and political agenda. Lord Dunmore even went so far as to create what he called his Ethiopian Regiment with uniforms emblazoned with the words "liberty to slaves."⁹

Dunmore's plan worked. Slaves heard of the proclamation, and many left their masters. Ironically, some of the men who would be later called America's founding fathers lost their slaves to the British promise of freedom. George Washington lost at least one slave; Patrick

⁵ Simon Schama, *Rough Crossings: Britain, the Slaves and the American Revolution*, (New York: Harper Collins Publishers, 2006), 66-88.

⁶ Public Record Office, London

⁷ *ibid* and Francis Berkeley, *Dunmore's Proclamation of Emancipation*, (Charlottesville, 1941).

⁸ *Ibid*.

⁹ Public Record Office, London.

Henry did, as well. Benjamin Harrison lost twenty. Others, who later became signers of the declaration of independence, also lost slaves. These included James Madison, Arthur Middleton, Edward Rutledge, and General Francis Marion.¹⁰ After Dunmore's proclamation, as many as one thousand slaves joined the British army.¹¹ Not included in this number are those slaves who left their masters without joining the British armed forces.¹² Also, it is important to note that although the proclamation was written to engage the interest of slave men, slave women and children left their masters, as well.

Dunmore's strategy infuriated the colonists. They were well-aware that many of the slaves believed that the Revolutionary War was about the freedom of slaves, as supposedly dictated by the *Somerset decision*. In fact, even before Lord Dunmore's proclamation, there were complaints and worries from the slave owners about their slaves looking to the British for their emancipation. A Lutheran pastor from Pennsylvania wrote that the slaves, "secretly wished the British army might win for then all Negro slaves will gain their freedom. It is said that this sentiment is universal among all the Negroes in America."¹³ In late 1774, James Madison reported that some slaves had met secretly in order to make a plan to find the British army for refuge.¹⁴ William Drayton reported that the slaves in Charleston, "entertained ideas that the

¹⁰ Schama, 9.

¹¹ David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World*, (Oxford University Press, 2006), 150.

¹² Schama, 8.

¹³ Ira Berlin, *Generations of Captivity: A History of African-American Slaves*, (Cambridge, 2003), 129-157.

¹⁴ William T. Hutchinson, William M. Rachal et al. (eds.), *The Papers of James Madison*, vol. 1, (Chicago, 1962-), 129-130.

present contest was for obliging us to give them liberty”¹⁵ and because of this their behavior became “impertinent”¹⁶ to their masters.

Once Lord Dunmore made his proclamation, the colonists criticized him as uncivil and inhumane. George Washington called Dunmore an “arch traitor to the rights of humanity.”¹⁷ Mark Bird of Pennsylvania, placed an advertisement for one his slaves who ran away by stating, “As Negroes in general think that Lord Dunmore is contending for their liberty, it is not improbable that said negroe is on his march to join his Lordship’s own black regiment, but it is to be hoped he will be prevented by some honest Whig from effecting it.”¹⁸

Lord Dunmore hoped that his proclamation would cause the colonists to reconsider their stance towards Great Britain. However, the proclamation had the opposite effect. The proclamation caused some colonists to be unequivocal in their desire to be free from their ties to the English. The deputizing of blacks against them seemed to be a reality that was too much of an affront to their dignity. According to historian Simon Schama, “Instead of being cowed by the threat of a British armed liberation of the blacks, the slaveholding population mobilized to resist...The news that the British troops would liberate their blacks, then give them weapons and their blessing to use them on their masters, persuaded many into thinking that perhaps the militant patriots were right and that the British government, in tearing up the ‘bonds’ of civil society (as George Washington had put it), might be capable of any iniquity.”¹⁹ Historian Gerald

¹⁵ Silvia R. Frey, *Water from the Rock: Black Resistance in a Revolutionary Age*, (Princeton, 1991), 56.

¹⁶ Ibid.

¹⁷ Berlin, *Generations of Captivity*, 129-157.

¹⁸ *Pennsylvania Gazette*, 17th July 1776.

¹⁹ Schama, *Rough Crossings*, 67.

Horne speaks similarly. Horne states that Lord Dunmore's proclamation "solidified opposition to London[for slave holders] and ushered in to existence a new republic.." ²⁰

6.2 The King Formally Declares War

Despite the fact that the Continental Congress made one last attempt at reconciliation with England by way of the Olive Branch Petition that was sent to the king in July 1775, the petition fell on blind eyes and deaf ears. King George III refused to acknowledge the petition since the body of people from which it came, i.e. the Continental Congress, was not a group that he or Parliament recognized as a legally governing body. This meant that nothing the Continental Congress did was legitimate in the minds of the English Parliament or king. Additionally, the English government took issue with the fact that the Continental Congress addressed its petition to the king instead of Parliament. This was considered both impudent and inappropriate because it ignored Parliament's legislative authority. Of course, the Continental Congress intended to snub Parliament by sending their petition directly to the king because they believed-or at least argued- that the British Parliament had no authority over them since they had no representation within the body. One British official, Lord Suffolk, stated, "The King and his cabinet are determined to listen to nothing from the illegal congress, [instead they wish] to treat with the colonies only one by one, and in no event to recognize them in any form of association." ²¹

²⁰ Gerald Horne, *The Counterrevolution of 1776: Slave Resistance and the Origins of the United States of America*, (New York and London: New York University Press, 2014), 211.

²¹ Henry Steele Commager and Richard B. Morris, *The Spirit of 'Seventy-Six: The Story of the American Revolution as told by Participants*, (New York: Da Capo Press, 1995), 278.

Instead of entertaining the idea of reconciliation, the English government responded to the Olive Branch petition by declaring the colonists to be in a state of rebellion. On August 23, 1775, King George III explained the following in this proclamation:

To the end therefore, that none of our subjects may neglect or violate their duty through ignorance thereof, or through any doubt of the protection which the law will afford to their loyalty and zeal, we have thought fit...to issue our Royal Proclamation, hereby declaring, that not only all our officers, civil and military, are obliged to exert their utmost endeavors to suppress such rebellion, and to bring the traitors to justice, but that all our subjects of this realm, and the dominions thereunto belonging, are bound by law to be aiding and assisting in the suppression of such rebellion.²²

In essence, the proclamation explained that all of the members of the Continental Congress and those who shared their sentiments, were considered enemies of the English government and that they would be treated as such. The proclamation also made clear that there could be no neutral parties in the dispute. He expected the colonists who were not in agreement with the Continental Congress to work on behalf of the British government in destroying the colonial rebellion. King George III explicitly stated he expected those who were not a part of the colonial rebellion to

disclose and make known all traitorous conspiracies and attempts against us, our crown and dignity; and for that purpose, that they transmit to one of our principal secretaries of state, or other proper officer, due and full information of all persons who shall be found carrying on correspondence with, or in any manner or degree aiding or abetting the persons now in open arms and rebellion against our government, within any of our colonies and plantations in North America, in order to bring to condign punishment the authors, perpetrators, and abettors of such traitorous designs.²³

Essentially, the king was formally declaring war against his colonies.²⁴

²² Peter Force, ed., *American Archives: Fourth Series, Containing a Documentary History of the English Colonies in North America from the King's Message to Parliament of March 7, 1774, to the Declaration of Independence by the United States*, 4th series, vol. 3 (Washington), 240-241.

²³ Ibid.

²⁴ Don Cook, *How England Lost the American Colonies, 1760-1785*, (New York: The Atlantic Monthly Press, 1995), 230.

ADDENDUM

POSSIBLE REASONS MORE EVIDENCE DOES NOT EXIST REGARDING THE
COLONIAL REACTION TO THE SOMERSET DECISION

When the judges of the Court of King's Bench freed Somerset and declared that laws should not be created that upheld slavery, they were making a moral judgment about slavery without abolishing it. They were doing exactly what they promised to do during the trial: they were interpreting the law instead of creating it. When the English press misinterpreted the court's decision to mean that all of England's slaves were free, they created a theoretical crisis for some slave owners within the English empire. If the Court of King's Bench abolished slavery in England, then slavery could possibly be abolished throughout the empire. Since this possibility existed, one may ponder: why were there not more signs from the colonial press that there was concern about the Somerset decision within the colonies?

One reason there may not have been overwhelming coverage of the Somerset decision was because there was another story from the European press that competed with coverage of the Somerset decision. This story was about the sister of the British monarch of that time, King George III. George's sister, Princess Caroline, was the queen of Denmark. She was accused of having an affair with her physician and trying to usurp the throne from her husband, the King of Denmark. Historian Patricia Bradley argues that although the Somerset decision mattered to the colonial press, the coverage of the Somerset decision was overshadowed by the Danish scandal. Bradley states, "The Somerset decision did not play a large role in any of the newspapers when compared to other stories of the day. The foreign news story that received the most words concerned the queen of Denmark....thousands of words were taken from the British press [about the queen of Denmark] and printed in the foreign news columns of the colonial newspapers."¹

Historian Steven Wise makes a similar assessment: "American periodicals, especially the

¹ Patricia Bradley, "Colonial Newspaper Reaction to the Somerset Decision" This paper was presented to the History Division, Association for Education in Journalism annual convention, University of Florida, Gainesville, FL, August 1984. The paper was obtained from the U.S. Department of Education National Institute of Education Educational Resources Information Center.

colonial Tory press, covered *Somerset*, though the salacious details of the Danish Queen's affair with her court physician, and the subsequent attempt of this sister of King George III to unseat her cuckolded husband, were given greater prominence."²

Another possibility may have been that the majority of the colonial press and public saw the implications of the Somerset decision as theoretical instead of real. In other words, there were no reports from the English press that stated that the slaves in the colonies were free: there were only reports, albeit incorrect, that the slaves on the English island were free. The possibility that the English would force the colonies to free their slaves was only that- a possibility. There was no hard evidence to confirm this fear.

An additional reason that there may not have been more coverage in the colonial press was because of the Court of King's Bench rationale for freeing Somerset. The court freed Somerset because there was no positive law within England that upheld slavery. All thirteen colonies had laws that made slavery legal at this time. Theoretically, this meant that the English government would not bother the practice of slavery within the colonies.

Finally, the Somerset decision may have not been more extensively discussed within the colonies because of the colonists' possible desire to deal with the Somerset decision strategically instead of emotionally. They may have not wanted to create too much emotion or conversation about the decision because doing so may have communicated weakness or vulnerability to the slaves. Fewer slaves would try to challenge their masters because of the Somerset decision, if their masters and the rest of colonial society showed minimal concern for the decision.

² Steven M. Wise, *Though the Heavens May Fall: The Landmark Trial that Led to the End of Human Slavery*, (Da Capo Press, 2005), 199.

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