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INTRODUCTION

Slavery and Sovereignty

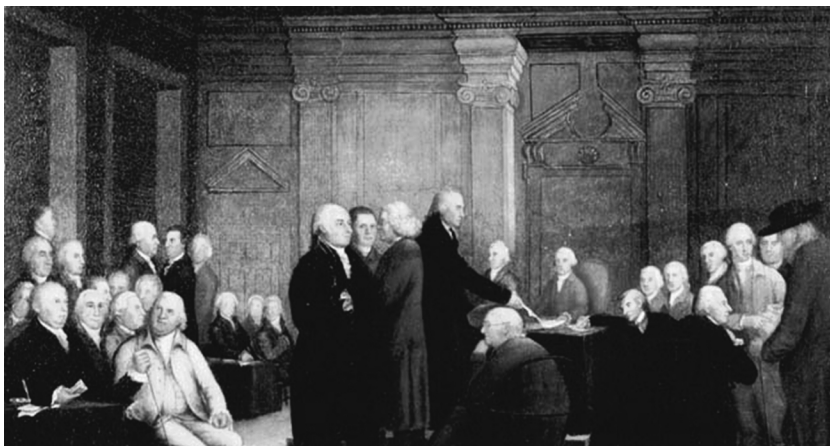


FIGURE 0.1. Robert Edge Pine, *Declaring Independence*, 1776 [painted 1783]. The committee of five presenting the draft of the Declaration to the Second Continental Congress. Jefferson is in the center, passing the document; Franklin is seated in front of Jefferson's hand. The other committee members stand behind Jefferson: John Adams, Roger Sherman, and Robert R. Livingston (left to right). John Hancock is seated behind the table. Independence National Historical Park, Philadelphia.

A NEAR FINAL DRAFT of the Declaration of Independence, four much-amended pages, survives in the deepest vaults of the Library of Congress. The black ink, dried two and a half centuries since, is frozen in swirls, amendments, and corrections, indicating the fraught choices of words, of arguments. The handwriting is mostly Thomas Jefferson's. Even as he wrote those words, he and his wife owned, under British and Virginia law, 180 people, almost all of them inherited (figure 0.2).¹ The powerful

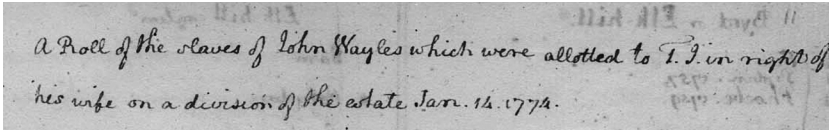
1. Jefferson, "Farm Book," Thomas Jefferson Papers, Massachusetts Historical Society, 9–13. As of 1774, Jefferson had inherited three estates and 52 enslaved people from his father, and eleven estates and 128 enslaved people from his father-in-law, John Wayles. The latter were co-owned with his wife at that point, many of them entailed. He titles these two separate lists, respectively, "A Roll of the proper slaves of Thomas Jefferson,

words that would frame the final document—the condemnation of tyranny, the defense of government based on consent, the claims for equality of birth, words that seemed to contradict such ownership of people—are all there. But other passages are missing. The original dark-ink scratches point toward a longer and more complicated history of the relationship between slavery and freedom, between tyranny and consent, between hierarchy and equality, than the final draft. They illuminate a complex struggle and an imperial power structure that members of the Continental Congress knew then—as did many others beyond that room—but that we have largely forgotten (figures 0.3 a, b, and c).

Jefferson was one of a committee of five, all of whom contributed to that much-amended draft. It began with a statement of principles: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inherent & inalienable rights; that among these are life, liberty, & the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.” These principles of equal creation, inalienable rights (including to one’s own life and liberty), and governance based on the “consent of the governed” formed the philosophical core of a radical theory of government.

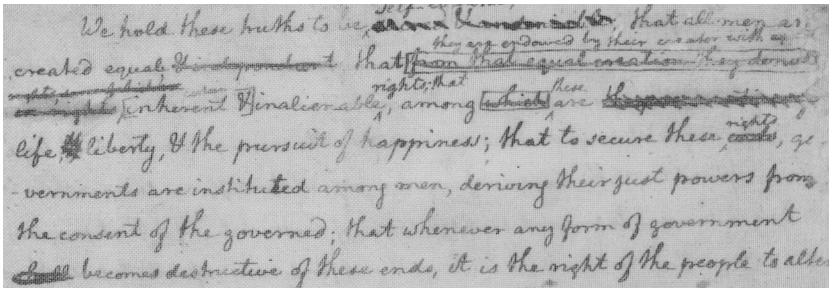
The document then accused the king of twenty acts of tyranny that violated those principles, the last and longest of which concerned slavery. The first nineteen objections focused on the king’s imposition of authoritarian government on the colonies: putting armies and navies in the colonies “in times of peace”; making “our judges dependant on his will alone, for the tenure of their offices”; repeatedly dismissing the colonists’ elected legislatures, vetoing laws that legislatures had passed; and “taking away our charters” of government. He had “abdicated his government here, by declaring us out of his protection & waging war against us,” as part of which he has “endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages.”

January 14, 1774,” and “A Roll of the slaves of John Wayles which were allotted to TJ in right of his wife on a division of the estate Jan 14, 1774.” See https://www.masshist.org/thomasjeffersonpapers/doc?id=farm_9&. Andrew Davenport, in “We Were Scattered: The African American Diaspora from Monticello, 1826–1900” (PhD diss., Georgetown University, 2024), 12–13, shows that in 1773, Jefferson, at his wife’s urging, did purchase Ursula Granger and her two sons, whom his wife had owned or knew well from her prior marriage. She was a “favorite housewoman of the name of Ursula,” and she and her family were being sold at public auction. He later purchased Ursula’s husband. In total, according to Lucia Stanton, Jefferson purchased about twenty enslaved people, usually under such circumstances. *“Those Who Labor for My Happiness”: Slavery at Thomas Jefferson’s Monticello* (University of Virginia Press, 2012), 106–7.



A Roll of the slaves of John Wayles which were allotted to T. J. in right of his wife on a division of the estate Jan. 14. 1774.

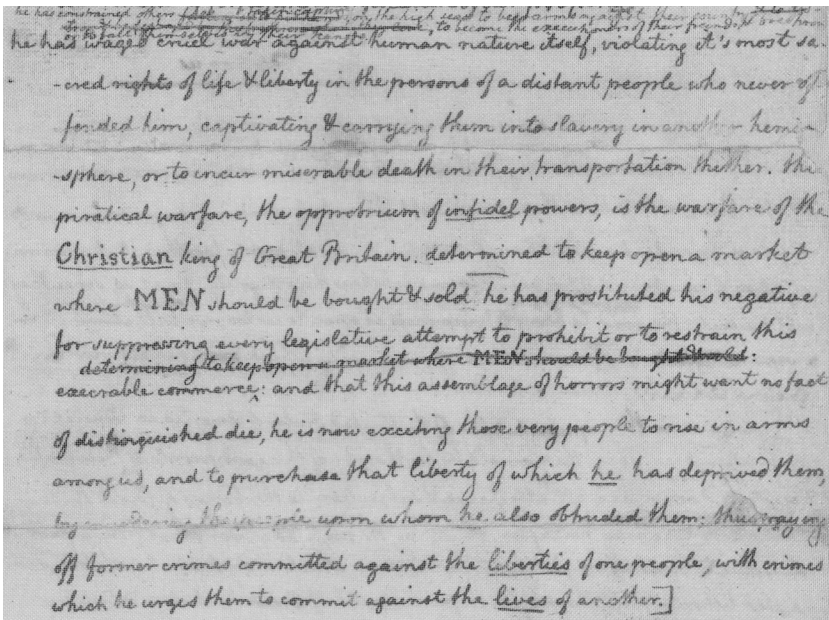
FIGURE 0.2. Thomas Jefferson, “Farm Book [manuscript], 1774–1824,” 11. Massachusetts Historical Society, Boston, Massachusetts.



We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, & the pursuit of Happiness; that to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter

FIGURE 0.3. Rough draft of the Declaration of Independence, pages 1, 3. Jefferson Papers, Manuscript Division, LOC.

FIGURE 0.3A. Holograph, p. 1.



...-ered rights of life & liberty in the persons of a distant people who never of fended him, captivating & carrying them into slavery in another hemis phere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the Christian king of Great Britain. determined to keep open a market where MEN should be bought & sold he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce: and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms against us, and to purchase that liberty of which he has deprived them, by murdering the people upon whom he also obtruded them: thus paying off former crimes committed against the liberties of one people, with crimes which he urges them to commit against the lives of another.

FIGURE 0.3B. Holograph, p. 3, with minor emendations in the hands of John Adams and Benjamin Franklin.

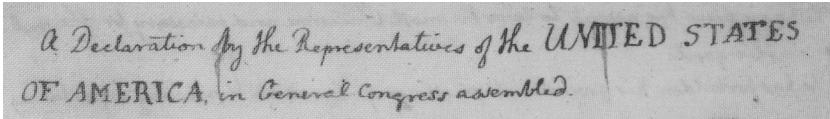


FIGURE 0.3C. Close-up of page 1.

The twentieth charge against the king is less familiar because Congress deleted most of it. This paragraph condemned the king's support of slavery across the empire. It charged the king with conducting unjust and "piratical" wars that violated the most fundamental rights of "life & liberty" and justice itself to make people into slaves. The king gave every support to a market—an "execrable commerce"—that made people into things, "where *MEN* should be bought & sold." The king also "prostituted his negative"—that is, he vetoed laws that colonists had passed to limit the importation of enslaved people into their colonies.

The king's support for slavery violated the most sacred human rights of life and liberty: "He has waged cruel war against human nature itself, violating it's most sacred rights of life & liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither." Jefferson described the slave trade as "piratical warfare, the opprobrium of *infidel* powers," and considered it obscene that it "is the warfare of the *Christian* king of Great Britain." He then condemned how the king protected slavery by vetoing of laws that sought to limit it: "determined to keep open a market where *MEN* should be bought & sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or to restrain this execrable commerce." Finally, Jefferson condemned the king's offer of freedom to those whom his policies had allowed to be enslaved, if they would fight for Britain: "and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which *he* has deprived them, by murdering the people upon whom *he* also obtruded them; thus paying off former crimes committed against the *liberties* of one people, with crimes which he urges them to commit against the *lives* of another."²

His original draft explicitly included Africans as "*MEN*," a word that Jefferson wrote in italics and all caps, who had "sacred rights of life &

2. Julian P. Boyd, ed., *The Papers of Thomas Jefferson* (Princeton University Press, 1950), 1:243–47. Julian P. Boyd, *The Declaration of Independence: The Evolution of the Text as Shown in Facsimiles of Various Drafts by Its Author, Thomas Jefferson* (Princeton University Press, 1945), 29. Misspellings in original.

liberty,” words that echoed the opening claims to rights in Jefferson’s original draft (before even John Adams’s and Benjamin Franklin’s edits), which read, “We hold these truths to be sacred and undeniable that all men are created equal and independent, that from that equal creation they derive rights inherent and inalienable, among which are the preservation of life and liberty and the pursuit of happiness.”³ In the deleted clauses these rights were explicitly extended to Africans: “[The king] has waged cruel war against human nature itself, violating it’s most sacred rights of life & liberty.” Enslavement, and the slave trade, which English kings promoted and protected, violated the first and most basic principle upon which this entire draft of the Declaration was based; the “sacred . . . rights . . . of life and liberty” that appear at the beginning as a statement of human rights were repeated here on page three to assert the rights of Africans. George III had “prostituted his negative”—that is, he had vetoed (for lucre) “every legislative attempt to prohibit or restrain this execrable commerce,” the slave trade. The reference to prostitution alludes to the vast sums of revenue that the British crown earned from the labor of those enslaved. Placing these passages at the end of the list of the king’s crimes privileged them. Jefferson and the committee emphasized the connection between tyranny and real slavery. George III’s support for slavery was the best evidence of his character and intentions, his lack of respect for the rights of anyone, and his belief in his own absolute power. It was the highest proof of his efforts “to build a foundation so broad & undisguised, for tyranny.”

Besides the word “*MEN*” for Africans, the only other words that Jefferson wrote in both italics and all caps were the “*UNITED STATES OF AMERICA*” at the beginning of the Declaration.

Jefferson repeated his scribal emphasis on African *MEN* in the six manuscript copies of the Declaration that he sent to friends, always writing the word *MEN* in all caps and italics.⁴ Likewise he included the deleted clauses in all six copies, always underlined to mark their deletion, and always with angry comments about their deletion. The deleted clauses themselves express his horror about slavery: “cruel,” “violating,” “miserable death,” “opprobrium,” “prostituted,” “execrable commerce,” and “assemblage of horrors.”

Removing these passages was the result of a backroom deal, an effort by the South Carolina delegates to keep what Edward Rutledge, their leader, called “the staff [of power] in our own hands.” Jefferson recorded

3. “Jefferson’s Original Rough Draught,” June 1776, pp. 1–4, Thomas Jefferson Papers, LOC. Misspellings in original.

4. The six copies are reproduced in Boyd, *The Declaration of Independence*.

that the passage “reprobating the enslaving the inhabitants of Africa, was struck out in complaisance to South Carolina & Georgia, who had never attempted to restrain the importation of slaves.” It appears that Edward Rutledge made the same threat in 1776 that his brother John would make during the Constitutional Convention eleven years later. If such language opposing slavery were part of the document, then South Carolina would leave the union. When slavery was challenged during the Constitutional Convention, John Rutledge responded, “The true question at present is whether the Southern States shall or shall not be parties to the Union.”⁵

The evidence for Edward Rutledge’s role comes from a combination of sentiments in Rutledge’s correspondence and from the logistics of the voting on July 1 and 2. Rutledge wrote to John Jay on June 29, 1776, in horror at the “leveling principles” of the Declaration of Independence, which threatened to put the governance of South Carolina under the rule of the “eastern provinces” (that is, Massachusetts and other Northern colonies), which would pass “measures which may lay the Foundation of their Ruin.” Such “leveling principles” of equality would undermine “property” in South Carolina.

If the Plan now proposed should be adopted nothing less than Ruin to some Colonies will be the Consequence of it. The Idea of destroying all Provincial Distinctions and making every thing of the most minute kind bend to what they call the good of the whole, is in other Terms to say that these Colonies must be subject to the Government of the Eastern Provinces [New England]. The Force of their Arms I hold exceeding Cheap, but I confess I dread their over-ruling Influence in Council, I dread their low Cunning, and those levelling Principles which Men without Character and without Fortune in general Possess, which are so captivating to the lower Class of Mankind, and which will occasion such a fluctuation of Property as to introduce the greatest disorder. I am resolved to vest the Congress with no more Power than what is absolutely necessary, and to use a familiar Expression to keep the Staff [the scepter of power] in our own Hands, for I am confident if surrendered into the Hands of others a most pernicious use will be made of it.⁶

After the South Carolina delegates voted against the Declaration on July 1, Rutledge proposed that another vote be postponed until the next

5. Paul Leicester Ford, ed., *Autobiography of Thomas Jefferson* (G. P. Putnam’s Sons, 1914), 33; Max Ferrand, *The Records of the Federal Convention of 1787* (Yale University Press, 1911), 2:364, Madison’s Notes, August 21, 1787.

6. Paul H. Smith, ed., *Letters of Delegates to Congress* (Library of Congress, 1979), 4:337–38.

day. What happened that night at some tavern or in a corner of Carpenter's Hall, we do not know. But the next day Rutledge and the other South Carolina delegates insisted on removing the clauses condemning slavery, the "levelling principles" about equality under the law for all. Rutledge was consistent: In September 1775 he had objected against George Washington including Black soldiers in the Continental Army, on the grounds that armed Black men were a threat to the social order.⁷

While Georgia's delegates echoed the South Carolinian objections on July 2, it was a hollow "we too," because Georgia had already assented to the Declaration on July 1. Jefferson also reported that some of the New England delegates were worried about upsetting merchants: "Our northern brethren also I believe felt a little tender under those censures; for tho' their people have very few slaves themselves yet they had been pretty considerable carriers of them to others."⁸ But like Georgia, the New England colonies had already voted in favor of independence on July 1. The voting logistics show that sacrificing such specific language was the price for keeping South Carolina in the new union. Securing South Carolina's support for independence from the British empire in 1776 came at great cost. South Carolinians would become the leading defenders of slavery up to and including the start of the Civil War in 1861. So one might legitimately ask whether the Continental Congress should have ignored Rutledge's demand.

It is not surprising that South Carolina's delegates, all slaveowners themselves, were terrified that their principled protest against British tyranny might bring "ruin" to their social order. In 1776 South Carolina and possibly Georgia were the only colonies with a Black majority, with some 60 percent of their population enslaved, compared to about 45 percent in Virginia, 14 percent in New York, 10 percent in Rhode Island, whose merchants participated in the slave trade, and only 2–3 percent in most other New England colonies.⁹ South Carolina's threat not to support the

7. See James Haw, *John & Edward Rutledge of South Carolina* (University of Georgia Press, 1997), 72.

8. Jefferson, *Autobiography*, 33; reprinted in "Thomas Jefferson's Notes of Proceedings in Congress," July 1–4, 1776, in *Letters of Delegates to Congress, 1774–1789*, 4:358–360. On Northern merchants' involvement in the slave trade before the revolution, see Wendy Warren, *New England Bound: Slavery and Colonization in North America* (W. W. Norton, 2017).

9. Given the nature of colonial records, such numbers are estimates, but a good overview map, with percentages by colony, is in Jacqueline Jones et al., *Created Equal: A Social and Political History of the United States* (Pearson/Longman, 2006), 2:132, map 4.3, "Enslaved People Living in North America by Colony in 1750." These percentages did not

Declaration might have been real. Edward Rutledge and the others had voted for a new government in South Carolina in 1776 and thus had taken strong steps toward revolution. Yet they were also more deeply invested in slaves than planters elsewhere. They could still have backed out. To retain South Carolina's support, the new United States forfeited the clear claim that promoting slavery was evidence of tyranny. Lost, too, was the explicit acknowledgment that those enslaved in Africa, and their descendants, were created equal.

This passage in the committee draft points to the connection, in many revolutionaries' eyes, between slavery and the tyrannical power of kings. It also shows their consciousness that their revolutionary principles could undermine slavery. This book explores other manuscripts to show how slavery was challenged and debated on multiple levels throughout the British empire during the colonial period, in and out of courts and legislative halls, and especially in the turmoil surrounding England's Civil War (1640–1649) and the Glorious Revolution (1688–1702). Arguments against both royal absolutism and slavery led to legal and military challenges that we associate with the American Revolution and to philosophical ideas that we associate with the roots of democracy and the Enlightenment. Complex debates over power shaped the emergence of slavery as well as the challenges that would eventually undermine it. While some argued then that Black people were excluded from such rights, others held that they were part of a common humanity, eligible to claim equality of birth and basic rights, including the possibility of consent to government.

Historians have long dismissed the deleted clauses of the Declaration of Independence on the grounds that slavery was a New World problem, an institution that emerged outside England and Europe, not within it. Most historians of the United States have either ignored these passages altogether or portrayed the deleted clauses as merely Jefferson's self-serving attempt to deflect blame from men like himself for something—enslavement—that was wholly their creation. As one scholar summarized, “Critical commentators agree that the passages on slavery and the slave trade in Jefferson's original draft of the Declaration were extravagant and embarrassing. The idea that George III was somehow responsible for American slavery—and the implication that the Americans, whose prosperity was based on slave labor, were not responsible—was not likely

change substantially by 1776, except in Georgia, which went from 20 percent enslaved to about 60 percent. Ira Berlin, *Generations of Captivity: A History of African American Slaves* (Harvard University Press, 2003), 272–76, esp. 272ff., table 1.

to command the respect of a ‘candid world.’” Some scholars go further, emphasizing that the egalitarian principles of the Declaration were never meant to include anyone but white people, and the revolution itself relied on racism to inspire fear of Britain, implying that without such unjust appeals, few colonists would have joined the revolutionary cause. They all begin with assumptions that downplay Britain’s and the crown’s role in promoting, legitimating, and profiting from slavery.¹⁰

Such an interpretation assumes that all revolutionaries embedded racism into their ideas about equality.¹¹ Or that, as Edmund Morgan put it in his well-known *American Slavery, American Freedom* in 1975, American democracy depended on enslaving others.¹² Such a reading emphasizes Jefferson’s racist statement in his *Notes on the State of Virginia* (written in 1782, published in 1786) to argue that he never meant to challenge slavery. The consensus has been that it was ridiculous for Jefferson to blame the king for something that was an entirely colonial institution—something that grew and developed in the colonies by themselves. Colonists such as Jefferson or his ancestors wanted slaves and created a demand for them,

10. The passage is from Peter S. Onuf, “‘To Declare Them a Free and Independent People’: Race, Slavery, and National Identity in Jefferson’s Thought,” *Journal of the Early Republic* 18, no. 1 (1998): 12. Otherwise, see Carl Lotus Becker, *The Declaration of Independence: A Study in the History of Political Ideas* (Harcourt, Brace, 1922), 220–21; Boyd, *The Declaration of Independence*, 29; Garry Wills, *Inventing America: Jefferson’s Declaration of Independence* (Doubleday, 1978), 65–75; Staughton Lynd, *Intellectual Origins of American Radicalism* (Harvard University Press, 1982), 4–18; Jay Fliegelman, *Declaring Independence: Jefferson, Natural Language, and the Culture of Performance* (Stanford University Press, 1993), 4–15, 19; Pauline Maier, *American Scripture: Making the Declaration of Independence* (Knopf, 1997), 146–47; Roger W. Wilkins, *Jefferson’s Pilgrimage: The Founding Fathers and the Dilemma of Black Patriotism* (Beacon Press, 2002), 48–49; Gary B. Nash, *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America* (Penguin, 2006); Alfred W. Blumrosen and Ruth G. Blumrosen, *Slave Nation: How Slavery United the Colonies and Sparked the American Revolution* (Sourcebooks, 2006); Paul Finkelman, *Slavery and the Founders: Race and Liberty in the Age of Jefferson* (M. E. Sharpe, 2014); Annette Gordon-Reed and Peter S. Onuf, *“Most Blessed of the Patriarchs”: Thomas Jefferson and the Empire of the Imagination* (Norton, 2016); Edmund Sears Morgan, *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (Norton, 1975); Robert G. Parkinson, *The Common Cause: Creating Race and Nation in the American Revolution* (University of North Carolina Press, 2016), 252–53, 260; Robert G. Parkinson, *Thirteen Clocks: How Race United the Colonies and Made the Declaration of Independence* (University of North Carolina Press, 2021), 157; Woody Holton, *Liberty Is Sweet: The Hidden History of the American Revolution* (Simon & Schuster, 2021).

11. See, e.g., “The 1619 Project,” *New York Times Magazine*, August 14, 2019, <https://www.nytimes.com/interactive/2019/08/14/magazine/1619-america-slavery.html>.

12. Morgan’s is the most important book to make that argument, but many others have built on it. More recently, see Parkinson, *Thirteen Clocks*.

which spurred the slave trade. Most colonists did not condemn slavery as “execrable,” and removal of that passage from the Declaration requires no historical interrogation of the records of the Continental Congress. If the members of Congress did not intend to challenge slavery, the passage did not belong there.¹³

But congressmen from most states *did* want to include the provision, because they thought slavery contradicted the principles of the revolution. The provision built on earlier measures and debates. For example, in 1774, the Continental Congress not only passed a resolution complaining that British policies that made laws for them were “entailing the endless and numberless curses of slavery upon us, our heirs and their heirs,” but also banned the slave trade. It did so not only for British merchants but for colonial merchants as well. “We will neither import, nor purchase any Slave imported after the First Day of *December* next; after which Time, we will wholly discontinue the Slave Trade, and will neither be concerned in it ourselves, nor will we hire our Vessels, nor sell our Commodities or Manufactures to those who are concerned in it.”¹⁴

Abigail Adams was one of many who regretted the loss of the powerful passages condemning slavery that Congress had deleted at the last minute. She wrote to her husband, John, on July 14, wondering at their absence: “I cannot but feel sorry that some of the most Manly Sentiments in the Declaration are Expunged from the printed copy. Perhaps wise reasons induced it.”¹⁵

Historians have dismissed the debate over that passage because we have misunderstood its importance. In fact, it was one in a train of such debates in many different venues, framed by structures of power. In Privy Council meetings or when justices gathered en banc, among the crowds at theatrical performances or those planning slave insurrections, in the lower houses of colonial assemblies or in the corridors of the royal palace at Whitehall, these contests framed the policies that defined American plantation slavery. Such policies—as well as other factors, such as climate, and contingent events—created sharp differences in patterns of enslavement and legal structure across states by the early nineteenth century.¹⁶

13. See, e.g., Dumas Malone, *Jefferson the Virginian* (Little, Brown & Co., 1948), 187, 222; Wills, *Inventing America*; etc.

14. Worthington Chancey Ford, ed., *Journals of the Continental Congress 1774–1789* (Government Printing Office, 1904), esp. 1:32, 77 (September–October 1774).

15. Abigail Adams to John Adams, July 14, 1776, Adams Family Papers, Massachusetts Historical Society, <https://www.masshist.org/digitaladams/archive/doc?id=L17760713aa>.

16. For important books that emphasize the influence of the climate on the development of slavery, see esp. Justin Roberts, *Fragile Empire: Slavery in the Early English*

Some sense of how power played a role is clear in that final condemnation of George III. It was not simply a statement of abstract principles. In the decades before the revolution, as Jefferson indicated and as W.E.B. Du Bois later charted, Virginia's assembly alone proposed five separate bills to limit the slave trade by imposing substantial duties on imported slaves. All were vetoed by royal governors, on standing orders from the crown.

Such royal instructions were common long before George III ascended the throne. When King George II appointed Arthur Dobbs as royal governor of North Carolina in 1754, his instructions to Dobbs were standardized, typical of those sent to many other governors, and covered 133 separate issues. They included rules about appointing new members of the council (the upper house of North Carolina's legislature, who were also the high court justices) and which counties could elect members of an assembly (the king voided North Carolina laws that gave representatives to towns). Dobbs's instructions told him when he should issue proclamations or decrees, and need not bother calling an assembly. The king's instructions prohibited him from approving any law that might impact trade: "We do hereby Will and Require you not to pass or give your assent hereafter to any Bill or Bills in the Assembly of our said Province of unusual and extraordinary nature and importance wherein our Prerogative or the property may be prejudiced nor to any Bill or Bills whereby the trade and shipping of this kingdom may be anyways affected until you shall have first transmitted unto Our Commrs for Trade and Plantations in order to be laid before us the draught of such a Bill or Bills and shall have received our Royal Pleasure."

The king ordered Dobbs to veto any bills that would limit slavery by imposing taxes on newly imported slaves. Note that they used the word "negro" here as a synonym for "slave," though it was not always so simple. That is why, as I explain more below, I have retained the word within quotations in this book. "Whereas Acts have been passed in some of our [the king's] Plantations in America for laying duties [taxes] on the importation and exportation of Negroes . . . It is our [the king's] Will and Pleasure that you do not give your assent to or pass any Law imposing duties upon Negroes." The king also ordered that no restrictions could be placed on the reception of felons reprieved from the noose and punished instead by being sent to the colony as indentured servants. "It is our further Will and

Tropics, 1645–1720 (Cambridge University Press, 2025); John Robert McNeil, *Mosquito Empires: Ecology and War in the Greater Caribbean, 1620–1914* (Cambridge University Press, 2012).

Pleasure that you do not give your assent to or pass any law whatsoever for imposing duties on the importation of any felons from this Kingdom to North Carolina.”¹⁷

Over more than a century, colonial legislatures often attempted to tax such trade in people, especially slaves, taxes that would have depressed imports.¹⁸ If bills were vetoed at the level of the colony, such bills would not be sent to England, and thus would not have to be vetoed directly by officials in England, whether the Board of Trade, the Privy Council, or the king. Such royal instructions to governors deterred colonial assemblies from even considering bills they knew would be rejected. It means historians cannot see every effort to pass legislation and muddies our ability to gauge the true sentiments of colonial assemblymen.

Not all these legislators sought to abolish the slave trade or slavery. Some colonial legislators were themselves engaged directly in the trade, and thousands more purchased slaves. Slavery was routinely legitimated in colonial newspapers that advertised for the capture of runaways. Attempts to impose taxes on imported slaves show how costly slavery was for colonial governments. Upholding slavery required active force: judicial and militia systems all backed by imperial power. Enslaving people was dangerous—they sought ways to evade and rebel—and failures to control them could spark uprisings and war. The higher the percentage of the population enslaved and indented, the more fragile the system became. Such efforts at taxation reflect the many layers of expense, fear, and instability underlying slavery.¹⁹

17. “Instructions for our Trusty and well beloved Arthur Dobbs Esquire Our Captain General and Governor in Chief in and over our Province of North Carolina in America,” June 17, 1754, items #13–16, #21, #36, reprinted in William L. Saunders, ed., *Colonial Records of North Carolina* (Josephus Daniels, 1890). 5:1103–44, esp. 1118, order # 36, available at <https://docsouth.unc.edu/csr/index.html/document/csr05-0359>. For efforts to restrict the slave trade regardless, see W.E.B. Du Bois, *Suppression of the African Slave Trade to the United States of America, 1638–1870* (Longmans, 1896), ch. 2, appendix.

18. In addition to Du Bois, see, e.g., Elizabeth Donnan, *Documents Illustrative of the History of the Slave Trade* (Carnegie Institution of Washington, 1930), for Virginia: 4:66, 91–93, 112, 127–42, 153–58; Wills, *Inventing America*, 67; Steven Pincus, *The Heart of the Declaration: The Founders’ Case for an Activist Government* (Yale University Press, 2016), 126.

19. Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Harvard University Press, 2003). For a discussion of one slave trader, John Brown, see Charles Rappleye, *Sons of Providence: The Brown Brothers, the Slave Trade, and the American Revolution* (Simon & Schuster, 2007); Sharon Block, *Colonial Complexions: Race and Bodies in Eighteenth-Century America* (University of Pennsylvania Press, 2018).

Efforts to promote, debate, or even limit slavery were embedded not only in local governments, but also in the imperial legal structure. The deleted clauses in the Declaration of Independence point back over two centuries to a complex history in which the monarchy—and many others in power across the empire—developed policies that encouraged slavery in Britain’s New World colonies. When these colonial legislatures debated such policies, it was within limits set by kings that constrained even who could vote. In some colonies, the right to vote, by royal proclamation, hinged on the act of buying a bound laborer, especially a slave, in the sense that voting usually required landownership. In royal colonies, the kings’ proclamations granted land to those who paid for the transport of themselves or their families, but also to those who brought over indentured servants or slaves. Such land grants were called “headrights.” In those colonies, political power belonged to colonists who enslaved others. The connection to slavery was strongest in the councils. As George II instructed his new Governor Dobbs: “And in the choice and nomination of Members of Our said Council as also of the Chief Officers Judges Assistant Justices and Sheriffs you are always to take care that they be men of good life well affected to Our Government of good estates and of abilities suitable to their employments.” Such appointments to councils were conferred only on men, up to twelve in each colony, who were the largest landowners, land obtained via headrights that granted lands to planters for importing slaves or servants. Each councilor was in turn entitled to be a justice in the general court, a judge in his county court, and colonel of the local militia, in which every freeman between certain ages had to serve. Councilors had the power to block and overturn legislation originating in the elected lower houses. They were also actively linked to imperial authorities. The logic of such power structures and policies is clear; in royal or proprietary colonies where land was conferred on those who purchased bound servants and slaves, only those who bought into such a system of lordship, or mastership, were eligible for such privileges. Headrights of land for servants and slaves, in other words, helped to create self-perpetuating systems. Councilors, justices, and militia officials were often the same men. By such rules, they were also, depending on the headright policies, often substantial slaveowners.



Such background helps to make sense of the retention of the final sentence of this paragraph of the Declaration. It condemned the king for

the actions of his royal governor in Virginia, Lord Dunmore, for issuing a proclamation in November 1775 to offer freedom to any slave or indentured servant who would join the royal cause, if their master had not already done so. Retaining only that section on one level highlights the signers' own hypocrisy: It condemned Lord Dunmore for offering freedom, if on limited terms. Many enslaved people embraced that offer and risked their lives to claim it. The proclamation directly impacted the war and led to freedom for many. But Dunmore was no liberator in any deeper sense. He protected loyalists' ownership of slaves, and after the revolution, he provided sanctuary for many loyalist masters—who brought their slaves with them—in the English colony of the Bahamas, where he later served as governor. Furthermore, Congress retained that sentence because Dunmore's proclamation was an effort to temporarily intimidate slave-owners into submission by encouraging rebellion within the colony. In a letter addressed directly to "negroes" and "slaves" in Virginia and published in the *Virginia Gazette* immediately after the proclamation in November 1775, the author pointed out the obvious—the British crown made far too much money from slavery to contemplate real liberation: "The British ministry are greater enemies to them than any of their masters are," in that they had long upheld the racial system of slavery and protected it at the level of empire. Lord Dunmore's proclamation of the previous week, "so far from desiring to set them free, [is] endeavoring to enslave their masters." The writer pointed to the larger structures of power:

The Assembly has frequently endeavored to put a stop to the importation of slaves, but that the king has been prevailed on, by the African company of merchants in England, to refuse his assent to such laws as had been passed here for that purpose; that they must be sensible the more slaves there are in this countrey the more tobacco, & c. would be made, which is what the merchants of England, and ministry, must wish for, since the tobacco trade carries an immense sum of money into their hands, and consequently they should never wish that the slaves should be set free.²⁰

The anonymous author was correct: Taxes on tobacco, produced by slave labor, were flooding crown coffers. Profits from the tobacco trade filled merchants' purses.

Focusing only on the final printed text of the Declaration emphasizes a unity of purpose and sentiment that conceals conflict and debate. The

20. *Virginia Gazette*, November 17, 1775, issue 42, 1.

passages condemning slavery were concerned not only with ideological purity but also with recognizing historical policy. Slavery did not develop on its own in each colony but coherently, as part of an imperial design. Many prior historical studies treat the move toward slavery as a series of separate colonial decisions, based on visions of self-governance, but the colonies were never politically, legally, or militarily independent. This misconception is partly practical: Historians have long sought answers in the records of individual colonies—many printed and bound long ago—because they are more accessible. But it is also ideological, shaped by ideals of colonial self-governance and of a natural “democracy” emerging in America from the beginning. If one assumes that colonies were self-governing, then why look beyond local records? As a result, imperial structures of power have remained largely unexplored.

British scholars have also tended to portray Britain as having little to do with the development of slavery across its early empire, but much to do with its abolition in 1833. Over the past few years, Britain has begun to reckon with these questions, in debates over how to portray its history in the many aristocratic houses that belong to the National Trust, for example, or in the toppling of a prominent merchant’s statue in Bristol. Even so, most blame still falls on individual adventurers, merchants, or legislators, and rarely on the British government, least of all the crown, which remains surrounded by a protective aura.²¹

The Declaration’s deleted passages thus suggest a more complex history of both slavery and American democracy, one that many revolutionaries themselves understood: Slavery emerged in the New World under

21. As Christopher L. Brown wrote in 2002, “The history of the British government’s relation to the development and evolution of slavery—unlike the US government’s—remains unwritten.” See “The Politics of Slavery,” in *The British Atlantic World, 1500–1800*, 2nd ed., ed. David Armitage and Michael J. Braddick (Palgrave, 2009), 232–50, esp. 235. To be clear, many scholars have told parts of this story, including in the 1914 doctoral thesis of George Zook, who later became US secretary of education. But while he acknowledged the role of the navy and the king in the slave trade, he did not really connect it to the infrastructure of the empire more comprehensively, and considered it as a trading company. More recently, there are other exceptions, including Abigail Swingen, *Competing Visions of Empire* (Yale University Press, 2015), though even still there is a tendency to see the colonists as creating much of the infrastructure. An influential book that raised some of these issues more than fifty years ago was Richard S. Dunn, *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624–1713* (University of North Carolina Press, 2012), but like most of the scholarship written after World War II, he downplayed the role of empire and interpreted the development of slavery as mostly coming from Wild West-style planters. For a recent roundtable that explores historiographical critiques, see *Early American Studies* (Fall 2022).

the mantle of authoritarian policies and principles that emanated from the English crown. Royal policies created a structure of power and a set of institutions and laws, especially in the seventeenth century, that created a platform for the dramatic growth of slavery in the eighteenth. In fits and starts, especially after 1660 but even before, the crown encouraged slavery via royal proclamations, royal governors and councils, and high court decisions. The kings of England in the seventeenth century—the descendants of James VI of Scotland, who became James I of England, commonly called the Stuarts—idealized absolute power and hereditary status. Beginning with Charles I, and through his sons Charles II and James II, and his granddaughter Anne, they encouraged conceptual parallels between the divine rights of kings and the power of lesser lords; of freeborn subjects, who inherited obligations to their king; and of those born enslaved, who inherited obligations to all. Such ideologies helped to turn myth into legal reality, enforced by words and deeds, written on parchment that granted legal force.

The King's Slaves is thus about legitimacy, reputation, and credit, and how injustice could become justice via the influence of a powerful few. While slavery has existed in many societies throughout history, it assumed a new and more comprehensive form in European colonies in the Americas in the sixteenth and seventeenth centuries, including in England's empire. The extent to which England—later Britain—followed the model of other empires has been sharply disputed, with many portraying England as a nation and England's empire as entirely different from the others: more democratic, more representative, less autocratic.²² This book shows how kings of England, and their administrations, were more hierarchical than often portrayed in matters of both governance and slavery. They pushed an English version of slavery modeled on systems of slavery in other European nations and their empires. Over generations, they promoted men who provided elaborate legal, religious, and philosophical rationales to make slavery acceptable. The justice system that enabled slavery emerged from deliberate policies and actions refined over more than two centuries. These policies were in many ways consistent with models of governance and slavery found in other empires and then

22. There are a few exceptions, mostly partial. See especially J. H. Elliott, *Empires of the Atlantic World: Britain and Spain in America, 1492–1830* (Yale University Press, 2006); Jorge Cañizares-Esguerra, *Puritan Conquistadors: Iberianizing the Atlantic, 1550–1700* (Stanford University Press, 2006); Jorge Canizares-Esguerra, *Entangled Empires: The Anglo-Iberian Atlantic, 1500–1830* (University of Pennsylvania Press, 2018).

shared across the British empire. Plantation slavery required that elaborate support structure.

Colonial militias and royal navies were a crucial part of the structure. They enforced slavery at the point of a sword. Such brute force was not always necessary, but the threat was always there. Likewise, subtler powers—religious, political, and legal—played a crucial role. They upheld slavery as legal, as right and just, as moral, even though it was not. The Stuart-era high courts in England established a common law of slavery, one that defined people as things, beginning in 1677. English officials, including judges, thus created legal norms for slavery across the empire. In other respects, the institution of slavery varied significantly by colony and over time. Plantation slavery built on common law precedents, on positive laws, and on issues that ranged from how to capture and determine ownership of runaways, to different forms of punishment, to legal rulings that people could be property, which enabled financial transactions. Slavery developed in bits and pieces, a slow erosion of rights that took place within the empire, and within England itself to some degree, especially in the seventeenth century. At the same time, others struggled to justify, expand, and maintain rights; the Declaration's statement of principles was only one such effort. Slavery emerged in England's empire during a century when England itself was convulsed by two revolutions, both centered on questions of rights and privilege. There is no question that, at some level, those contests over power—whether in the highest courts of privilege or on the plantations—were connected.

The deep connections between power and slavery are exemplified in the person of King James II. As heir to the throne and later as king, James inspired and then led the Royal African Company between 1660 and 1688. The company held monopoly control over England's slave trade, and James played a central role in protecting and expanding it. Imperial power and slavery—the institution of slavery and the absolutist state—were linked not only in principle but in practice.

Much secondary scholarship has sought to explain the origins of slavery through revolutionary and Enlightenment ideals, as though the thinkers who articulated those ideals were the ones who held power when slavery and the empire were formed. They were not. To find the origins of slavery, one must examine the philosophies and propaganda of those who were actually in power. Their justifications for slavery were neither enlightened nor revolutionary. These ideas and legal structures have long been neglected in schools and universities over the past two centuries

because they were not forward-looking and offered no model for what America, Britain, or Europe aspired to become in the modern age. They have not been widely reproduced, published, or taught, yet their echoes linger in manuscripts or in books long out of print. While nearly every Enlightenment thinker expressed some element of racism or argument for exclusion, many also argued against the philosophical foundations of slavery. To understand slavery, in other words, we must focus on the unenlightened, the reactionary, the authoritarian—on the explicitly racist and intolerant. We must confront the elements of America's and Britain's past that we have preferred to ignore.

Slavery developed earliest and most extensively in England's colonies where the king had the most influence—colonies, including proprietaries, whose governors shared in the king's own "absolute lordship." Other colonies, such as Massachusetts, where more people had a direct voice in governance, took steps to resist early legal rationales and practices for enslaving all non-Christians. Some of Oliver Cromwell's officers challenged slavery in the 1650s. But in colonies controlled *de facto* by royalists, slavery continued to expand, fostered by ideas of hereditary status and natural hierarchy. After the Restoration in 1660, the Stuart kings, for both financial and ideological reasons, played a crucial role in legitimizing slavery. They created policies to promote it in other colonies, following patterns established in Barbados. Charles II issued royal proclamations granting land for importing slaves in colonies such as Virginia and Jamaica, while the Royal African Company, led by his brother, acquired castles off the African coast to engage directly in the slave trade.

While the Stuarts vigorously promoted slavery, the colonies themselves remained largely subordinated to the crown, rarely given the autonomy that Cold War-era historians such as Bernard Bailyn imagined. With a few exceptions, particularly during times of crisis, the colonies could not make their own laws and policies without royal sanction. Most colonial charters initially limited the role of assemblies: Representatives' consent was required only for revenue laws; in many colonies, revenues were written into the charters; governors could issue proclamations and decrees without consulting an assembly, especially if they were under threat. When assemblies did play a role in legislation, anything they proposed also had to be approved by appointed councils, the upper house, governors, and, after 1660, authorities in England, including imperial councils, culminating in the king's Privy Council. Proprietary colonies had slightly more independence, but crown committees—and often the king himself—approved all major appointments, including governors. In short, English colonies in the Americas were not

self-governing enterprises with elected assemblies making their own laws and rules during a long era of so-called benign neglect.

England's power was authoritarian in many respects. Crown officials used the brute force of armies and navies; and the legal authority of royal governors, judges, and other appointed officials to support slavery. Especially after 1660, royal influence extended even to fashion: Charles II helped popularize the display of Black boys in silver collars as attendants via a court-commissioned play in 1675. Those who criticized royal and colonial policy—slavery being official policy between 1660 and 1776—could be charged with crimes, while those who cooperated were often rewarded. In this sense, I approach “legitimacy” not only as a project of law—the legal enforcement of property in people and political decisions—but also as an aim of the spectacular politics of Charles II's court. Because the crown was then, and remained, central to the expansion and legitimation of slavery, the rejection of slavery in the draft of the Declaration of Independence follows logically: It was the most dramatic example of imperial tyranny and absolutism.



The hand of empire in American slavery would be more visible were it not for the fragmentation of manuscript archives and the difficulty of accessing them. Early American history was recorded in bits and pieces—in archaic handwriting, maps, paintings, letters, and court documents—its record scattered across different collections. Furthermore, historians have tended to divide their work between US and British archives. When I began this project, I worked within the prevailing paradigm that focused on discrete colonial developments. I sought the origins of a 1705 Virginia law within Virginian sources, tracking letters and legislative debates. The law allowed testators to designate perpetual ownership of their estates—and at the same time to attach the bodies of the enslaved and their progeny to the land, so that both property and people could pass intact from eldest son to eldest son. I thought I would find references to English feudal law—and I did. But as I tracked the debates over this law through more than a decade of Virginia records, I found the heavy hand of empire everywhere.²³

23. Other scholars acknowledge the importance of empire, including Abigail Swingen and Carla Pestana. I tend to see the empire as more powerful over time. Swingen, *Competing Visions of Empire: Labor, Slavery, and the Origins of the British Atlantic Empire* (Yale University Press, 2015); Pestana, *The English Conquest for Empire: Oliver Cromwell's Bid for Empire* (Belknap, 2017).

Partly as a consequence of this focus on colonial legislatures, slavery is often portrayed as emerging paradoxically: Inequality arose within colonies and a kingdom that valued liberties and equality. In this reading, explaining slavery requires only an assumption of pervasive personal racism. In 2019, scholars highlighted the coincidence that North America's first assembly met in Jamestown in 1619, the year that the first Africans arrived.²⁴ Yet coincidence is not causation. As explored in the pages that follow, Virginia's short-lived first assembly—organized by a Virginia company that James I condemned as too “democratical”—played no role in the origins of slavery. In 1623 William Cavendish noted, “The government [of Virginia] is not democraticall,” and that to claim otherwise would be slanderous and seditious. “The government cannot be termed democraticall wher the Kinge onely hath absolute power.” The assembly met rarely over the next two decades. The appointed council and governor were far more powerful. By 1650, the councilors became the first owners of Africans in Virginia.²⁵ In Barbados the governor legalized key elements of slavery by decree in 1636, effectively creating law where no legislature yet existed. These early proprietary colonies were designed to benefit the crown, with hierarchical structures ensuring the production of colonial exports, the shipment of staple crops (and, if possible, gold and silver) to England, and the imposition of customs duties and other taxes. These provisions were written into charters, mostly framed and written by court lawyers, with a few notable exceptions in New England. Royal navies protected these rights—or at least sought to—except during England's civil wars and the interregnum of 1642–1660.

This book argues that plantation slavery was less the product of little democracies than of kings and queens—and an empire—that both assumed inequality and sought to embed it. It emphasizes structural

24. James Horn, 1619: *Jamestown and the Forging of American Democracy* (Basic Books, 2018); Paul Musselwhite, Peter C. Mancall, and James Horn, eds., *Virginia 1619: Slavery and Freedom in the Making of English America* (University of North Carolina Press, 2019). As Lauren Working points out in her essay for the volume, “‘The Savages of Virginia Our Project’: The Powhatans in Jacobean Political Thought,” the first meeting of the assembly (the “Burgesses”) in Jamestown in 1619 was summoned merely to ratify laws already agreed upon in London by the Virginia Company. The assembly, elected only by those few with a share in the Virginia Company, was a feeble attempt to rein in that company's authoritarian governor, Thomas Smythe, and met only intermittently until the 1640s. See Holly Brewer, “1619: Racial Slavery, Representative Democracy, and . . . Empire?,” *U.S. Intellectual History Blog*, November 9, 2019, <https://s-usih.org/2019/11/1619-racial-slavery-representative-democracy-and-empire>.

25. John C. Coombs, “The Phases of Conversion: A New Chronology for the Rise of Slavery in Early Virginia,” *WMQ* 68, no. 3 (2011): 332.

inequalities over personal prejudice and hypocrisy. Slavery required the support and legitimacy of larger power structures: monarchs and Privy Councils, armies and navies, boards of trade, and the courts. It also required the support of Parliament and local assemblies, though these bodies had narrow franchises and limited authority. They could be bought, corrupted, and manipulated. They could be forced, after rebellions, into acquiescence. Royal power depended on who was entitled to what privileges—not only the right to vote, but also to own land, claim legal protection, and assert freedom. It also depended on those empowered to deny such privileges to others, who had the authority to judge, command, confiscate, and punish.

Slavery was therefore not merely a New World problem, one that Britain addressed with emancipation in 1833. England, and later Britain, was deeply involved in slavery from the beginning. The crown—not only the king but also his ministers, governors, and judges—was closely involved in shaping policies and practices, in ways that stretched beyond the slave trade and beyond the seventeenth century. Evidence from hundreds of thousands of imperial records shows Britain's extensive role in facilitating, enabling, and promoting slavery. It was not, to echo a phrase from an earlier book, that masters and slaves made their world together; rather, the power of masters was upheld by a larger, well-organized imperial state.²⁶ Slavery was therefore not an “unthinking decision,” as historian Winthrop Jordan memorably claimed.²⁷

The empire did not establish a uniform system. Policies varied by colony. But by the 1730s most colonies were royal colonies, with relatively standardized and elaborate mechanisms of control over their governance and laws. Colonies such as Barbados, Jamaica, and Virginia, which had large populations of enslaved laborers, also required comparable instruments of coercion, whether in the form of militias or “slave patrols,” or permanent British troops (as in the islands of Jamaica and Barbados).²⁸

26. Michal Sobel, *The World They Made Together: Black and White Values in Eighteenth-Century Virginia* (Princeton University Press, 1989).

27. Winthrop Jordan, *White over Black: American Attitudes Toward the Negro, 1550–1812* [1968], 2nd ed., with forewords by Peter Wood and Christopher Leslie Brown (University of North Carolina Press, 2012) who are also critical of the term “unthinking decision.” See also, e.g., Anthony Parent, *Foul Means: The Formation of a Slave Society in Virginia, 1660–1740* (University of North Carolina Press, 2012).

28. Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Harvard University Press, 2003). On the crucial role of imperial power in supporting local power structures, see Gary Puckrein, *Little England: Plantation Society, and Anglo-Barbadian Politics 1627–1700* (New York University Press, 1984). On the stationing of

Imperial councils supported their forms of government, their legal structures and policies. Local assemblies also played a role in the development of slave codes and systems.²⁹ However, representative governance was narrowly circumscribed, especially in royal and in most proprietary colonies. Assemblies were only one component of lawmaking, with appointed councils, judges, governors, and legal bodies in England playing pivotal roles.

While slavery was universally legal across England's empire in the Americas by 1776, it did not emerge the same way in every colony, nor did it emerge in England's empire in the same form it had in the Spanish or Portuguese empires, or in ancient Rome. Slavery in various forms predated English colonization; so too did some kinds of racism, as well as religious intolerance. But English and American slavery became distinct and assumed its own form. At the same time, slavery varied by colony and later by state. The degree to which slavery developed differently in the forty British colonies in the Americas illuminates how varying policies in each colony negotiated with imperial efforts.³⁰ These policies, as traced in the pages that follow, illustrate how debates over justice—over slavery and human rights, over absolutism and democracy—impacted both governance and human lives. My research began with a simple question: How did owning people become respectable and legitimate? My question evolved to: How were some persuaded that the most brutal norms of slavery were acceptable, even as others resisted and fought, or recoiled in horror?

Environmental and economic forces, which other scholars have foregrounded, no doubt partly explain the sharp differences in the extent of slavery across colonies—ranging from about 2–3 percent of the population in Massachusetts to almost 90 percent in some Caribbean colonies and certain counties in South Carolina. Slavery developed most in colonies

British troops in different colonies and their key role in suppressing slave rebellions, see, e.g., Richard B. Sheridan, "The Jamaican Slave Insurrection Scare of 1776 and the American Revolution," *Journal of Negro History* 61 (1976): 190–207; Vincent Brown, *Tacky's Revolt: The Story of an Atlantic Slave War* (Belknap Press, 2020). Richard Morris notes that Barbados held a major British naval base, with at least six ships of the line permanently stationed there by 1776. Morris, *The Peacemakers: The Great Powers and American Independence* (Harper and Row, 1970).

29. See, e.g., Edward B. Rugemer, "The Development of Mastery and Race in the Comprehensive Slave Codes of the Greater Caribbean During the Seventeenth Century," *WMQ* 70, no. 3 (2013): 429–58; Rugemer, *Slave Law and the Politics of Resistance in the Early Atlantic World* (Harvard University Press, 2018).

30. These colonies are listed in full in the conclusion.

with year-round growing seasons that could support profitable staple crops like tobacco, sugar, rice, and later cotton. But climate does not explain why Maryland and Delaware, which shared a peninsula and had almost identical environmental conditions, had such different proportions of their populations enslaved in 1750 (31 percent versus 5 percent).³¹ Economic choices—curves of demand and supply—were shifted dramatically by taxes, by navies, and by mercantilist policies generally. Nor did technology alone dictate slavery's demise.

Environmental and economic forces do not fully explain the political struggles, the changes in laws, and the massive proliferation of words and ideas people expended to either justify or challenge slavery. Such justifications set ships sailing and founded settlements, elevated some men to judges or planters, and entrapped other people in chains. Slavery was no mere accidental institution shaped by the invisible hands of economy and environment. It was shaped by powerful people, by their choices, by their policies.

This book focuses especially on how the British empire made slavery both respectable and *legal*. It argues for a paradigm shift in understanding how the empire and especially the crown benefited from slavery, and how, as a consequence, the crown promoted and enabled it. Slavery emerged in the king's American colonies because of the support of a powerful empire that profited from large estates and bound labor. The same ideas about just power that upheld the English crown also legitimated slavery—namely, the principles of “inheritable blood,” the expression used by William Fitzhugh, who helped to revise Virginia's laws in the 1790s. One is born to a place in society, whether as prince or slave, freeman or subject.

This book reveals an empire that was far from benign and distant. As Adam Smith wrote in 1776—and he should know, having served as a customs collector in Scotland—the British empire was a mercantilist system that prioritized crown revenue. Crown revenue depended largely on taxation of imports. All colonial staple crops, by law, had to go to England or Scotland, where they were heavily taxed. Customs officers poured money into the hands of crown officials.³² The empire enforced key rules—

31. As noted above, these statistics are only approximate, due to many uncertainties in the data. Some efforts to tabulate such data are Jones and Wood, *Created Equal*, p 132; Berlin, *Generations of Captivity*, table 1 on p. 272ff; Peter H. Wood, “The Changing Population of the Colonial South: An Overview by Race and Region,” in *Powhatan's Mantle: Indians in the Colonial Southeast*, ed. Gregory A. Waselkov, Peter H. Wood, and M. Thomas Hatley (University of Nebraska Press, 2006), 57–132.

32. The quote, of course, originates in Edmund Burke's 1775 speech before Parliament. See Holly Brewer, “The Myth of Salutary Neglect: Empire and Revolution in the Long

headrights that granted land to planters in exchange for purchasing slaves and bound servants, plantation acts and tariffs and taxes, a panoply of policies to make the colonies profitable to the crown. The profits from slavery through tariffs on goods produced by bound laborers, especially tobacco and sugar, became crucial to crown revenue, especially after 1660.³³ Even in the early seventeenth century, as King Charles I struggled to find sources of revenue without calling Parliament, customs on tobacco had their own revenue line in Charles I's official treasury tallies. Charles I, it appears, sought to follow Spain's imperial model with the cooperation and support of merchants and lords, via policies that also benefited them. He sought to create, as his attorney general Robert Heath advocated in an April 1625 Privy Council meeting, an empire "underhand"—that is, to supply men, material, and the legal and political structure to enable England to gain more colonies in the New World, especially in the Caribbean and on the mainland.³⁴

Plantation slavery made manifest the darkest potential of the crown's promotion of lordship and dominion. The crown's actions overseas created sources of revenue upon which the monarchy, and the kingdom, came to depend. In implementing such policies, the kings and queens of England used their own influence and stature to justify slavery. The range of people forced to labor included not only Africans and Native American Indians but also kidnapped English youths and so-called criminals (some of them convicted for minor crimes such as stealing bread or a silver spoon). Who had rights, and under what circumstances, was a fraught and entangled question. Reports of abuses in the colonies, based in part on the behavior of the king's governors, would play a role in the origins of

Eighteenth Century," in *Cambridge History of the Age of Atlantic Revolutions*, vol. 1, *The Enlightenment and the British Colonies*, ed. Wim Klooster (Cambridge University Press, 2003), 189–206; Adam Smith, *The Wealth of Nations* (W. Strahan and T. Cadell, 1776). James Henretta, *Salutary Neglect: Colonial Administration Under the Duke of Newcastle* (Princeton University Press, 1972), has shaped the textbook interpretation, yet Henretta's study does not actually support the idea that the colonies were neglected. Other recent books push back on that narrow perspective, though often implicitly rather than explicitly. See, e.g., even Jack P. Greene, *Evaluating Empire and Confronting Colonialism in Eighteenth-Century Britain* (Cambridge University Press, 2013); also see Mary Sarah Bilder, *The Transatlantic Constitution: Colonial Legal Culture and the Empire* (Harvard University Press, 2004).

33. See appendix A to this book. I laid out this argument in a preliminary way in Holly Brewer, "Slavery, Sovereignty, and 'Inheritable Blood': Reconsidering John Locke and the Origins of American Slavery," *American Historical Review* 122 (2017): 1038–78. Also see Sven Beckert, *Empire of Cotton: A Global History* (Knopf Doubleday, 2014).

34. "Memorial [by Attorney Gen. Heath] on the advantages derived by the Spaniards and Dutch from the West Indies, and suggesting that His Majesty must openly interpose, or permit it to be done underhand," April 14, 1625, TNA CO 1/3, 37.

England's two seventeenth-century revolutions. Exploitation was difficult to confine.

As the cost of this systematic chipping away of rights became clear, many began to protest. Slavery was the day-to-day business of some people forcing others to labor without contract or consent, under threats of punishment. It came at great mental and physical cost to the enslaved. But it was not only the enslaved who resisted slavery. The implementation of such a vast system of hereditary forced labor was disturbing to many. It intensified broader debates within England and its empire not only over labor relations and human rights, but over authoritarian (or absolutist) governance. Such debates were often intimately connected. Many elements of slavery, from the chattel principle to questions of systematic torture and violence, were debated on the grounds that allowing such treatment of some people enabled the same principles to be applied to others.



Slavery was increasingly an issue related to race, but it was also about class or hierarchy generally, and those connections have a common linguistic origin in how race was understood. The word “race” in the late sixteenth century referred to common descent rather than skin color. Sir Thomas Smith’s *De Republica Anglorum*, published in 1583, inveighed against allowing young people to choose their own marriage partners, on the grounds that they might marry someone from the wrong status. That is why parents or guardians should arrange marriages for them. “It was thought that most like, that noble men, good knights, and great capitaines would bring up their wards in their owne feates and vertues, and then marry them into like race and stocke where they may finde and make friendes.”³⁵ When he spoke of “race and stocke,” Smith referred to hierarchical distinctions. Smith, like others, was using “race” differently than we mean it now; it was more about class than skin color. The later linking of the word “race” to skin color was connected to these earlier categories of hierarchy based on lineage that is more akin to class. The shift to a focus on skin color would help to legitimate the racial slavery that emerged in

35. Thomas Smith, *De Republica Anglorum: A Discourse on the Commonwealth of England* [1583], ed. L. Alston (Cambridge, 1906), rpt. (New York, 1979), 122. Guardians were required to arrange their wards’ marriages with someone of the same social class. Joel Hurstfield, *The Queen’s Wards: Wardship and Marriage Under Elizabeth I* (Harvard University Press, 1958), 187–89.

Britain's New World empire. But racism was not static. Charles II's court arguably nurtured racist claims to justify and legitimize what some contended were egregious actions, particularly the slave trade. Following the formulation of modern scholars Karen Fields and Barbara Fields, his court used "racecraft" to spread racist ideas; racism was linguistic warfare to justify differential status.³⁶

Understanding the older meaning of "race" as mostly about class or hierarchy is critical for making sense of the seventeenth-century transition to slavery, in that the arguments supporting slavery were not necessarily about skin color.³⁷ These debates were neither simple nor clean. In many cases those who argued for absolute power of kings and lords over subjects also argued for the power of masters over servants and slaves, but there were variations. Many debated not only whether subjects might have rights in relation to the king or to one another, but also the rights of aliens and denizens (who were partial subjects of a sort). How were they different under English law, in any colony? To what extent were slaves defined as aliens? Such disputes over the status of aliens appear even in the early seventeenth century. Struggles over ideas and principles filled books, pamphlets, letters, legislative debates, and court decisions.

Slavery as a word and concept had many degrees and meanings. This is true now and was especially true then. In English records before 1660, the term was rarely used to refer to the status of Black or Indian people in England itself or in its colonies.³⁸ More commonly it described the status of white servants who were forced into labor. Despite some concerns about words, and acknowledging that the word "negro" is no longer a comfortable word, I have retained it within quotations because understanding its usage provides a window into their discussions of slavery. Some scholars argue that when the word "negro" appears in letters or legal documents, it

36. Karen E. Fields and Barbara J. Fields analyze race as a weapon, using the term "racecraft," a particularly compelling word they chose to compare it to warcraft. Karen E. Fields and Barbara Jeanne Fields, *Racecraft: The Soul of Inequality in American Life* (Verso, 2014).

37. Jennifer L. Morgan, "Partus Sequitur Ventrem: Law, Race, and Reproduction in Colonial Slavery," *Small Axe: A Caribbean Journal of Criticism* 22, no. 1 (55) (2018): 1–17; Jennifer L. Morgan, *Reckoning with Slavery: Gender, Kinship, and Capitalism in the Early Black Atlantic* (Duke University Press, 2021); Jordan, *White over Black*; David Brion Davis, *The Problem of Slavery in Western Culture* (Oxford University Press, 1966).

38. Richard Ligon's account of Barbados in 1647–1648 (first published in 1657) is a notable exception. A quite wonderful study of the appearance of Black men and women in English archives before 1677 makes this point clearly, including all the relevant documents the author could find in a table: Imtiaz H. Habib, *Black Lives in the English Archives, 1500–1677: Imprints of the Invisible* (Ashgate, 2008).

should be read as a synonym for “slave,” from the beginning of English settlement.³⁹ But that claim is problematic, to say the least. The word “negro” was at first used in part as a direct translation of the Portuguese term in the sixteenth century, which meant something like “those who labor in the land” or, in English, vassals or villeins, where the term could also apply to Indians.⁴⁰ A striking letter to Providence Island in 1638 referred to the dozen Pequot Indians to be sold there as the “Cannibal negroes from New England.”⁴¹ Racism factored into these questions of status, but not in a simple way. “Negro” could refer to place of origin as well as skin color. In a Bermuda law of 1623 it referred to “vassals.” But under English law its meaning was only gradually worked out over the next decades.

The word “slavery” is also used today, under norms of international law defined by the United Nations, to describe any kind of forced labor or status, including the marriages of girls younger than sixteen, for example. In the pages that follow, I argue that applying such an expansive definition of slavery to the distant past—one that could be applied to almost everyone at the time—is too broad. Paying attention to degrees of rights is essential to understanding the origins of the particular and extreme condition that became American slavery by the early nineteenth century. Essentializing slavery as one single thing, fully formed from the beginning—“social death,” as Orlando Patterson calls it—actually obscures our ability to understand its gradual emergence in different British colonies, and how and why small legal changes had immense impacts on people’s lives. Instead, I argue for closer readings of rights and status as they are portrayed in the historical documents of various colonies during the seventeenth and eighteenth centuries.

As slavery matured into its fully developed form in many of England’s colonies by the late seventeenth century, it came to encompass a wide range of lost civil and criminal rights, even as those same rights were being more clearly defined, argued over, and granted to other men of English origin. Before 1660, however, legal designations and distinctions among humans were more subtle and revolved around questions

39. E.g., Richard S. Dunn, *Sugar and Slaves*; Warren, *New England Bound*; Coombs, “The Phases of Conversion.”

40. For the Portuguese use of the word “negro,” see Stuart B. Schwartz, *Sugar Plantations in the Formation of Brazilian Society: Bahia, 1550–1835* (Cambridge University Press, 1985); John M. Monteiro, *Blacks of the Land: Indian Slavery, Settler Society, and the Portuguese Colonial Enterprise in South America* [1994 in Portuguese], ed. and trans. James Woodard and Barbara Weinstein (Cambridge University Press, 2018).

41. “The Company of Providence Island to the Governor and Council,” July 3, TNA CO 124/1, 123–25.

of whether one's status was permanent (at least unless manumitted) or hereditary, and whether one could claim rights such as testifying in a court or being protected by law as a subject. These were part of broader debates about the rights of subjects. Could they be imprisoned without cause, for example? Could they be granted land? Or civil authority? Or serve in a militia?

After 1660, a much more comprehensive set of codes (and common law innovations) developed that allowed more concrete claims of control over a group of people now often and openly called slaves, all of which involved government, both colonial and imperial. These laws allowed governments to enforce masters' claims to property in people, to finance their purchase through enforceable contracts, to capture runaways, to treat the enslaved under an entirely different set of rules about justice and punishment, to compensate masters for the costs of executed slaves, and to deny the enslaved basic legal privileges such as marriage. Most such elements of state control over the institution of slavery, however, were not obtained until after the Restoration, and in many colonies not until the early eighteenth century. In other colonies the full array of legal innovations and differentiations was never created. Still, by 1776, slavery—in its most essential form as simple property in people—was legal in all forty-one British colonies in the Americas.

Focusing attention on these discrete characteristics of British slavery also shows its departure as an institutional structure from Spanish slavery. British slavery in most colonies became more of a “closed” system—it was harder for an enslaved person to be heard, harder to escape.⁴² Using finer tools of analysis to examine the development of a fully articulated British slavery, or of slavery in the American South, as something that emerged not all at once but in bits and pieces, allows for a better understanding of its origins. Using the word “slave” to describe someone subjected to only part of this structure obscures change over time and hinders historical comparisons with Spanish or Portuguese practices.

Critics of slavery began to mount increasingly sophisticated challenges to patriarchal and authoritarian structures—arguments that grew out of and were strengthened by Puritan, Quaker, and other dissenting religious critiques of hierarchies in church and state, even in the seventeenth

42. Alejandro de la Fuente, *Havana and the Atlantic in the Sixteenth Century* (University of North Carolina Press, 2011); Michelle A. McKinley, *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700* (Cambridge University Press, 2016).

century.⁴³ Arguments against both royal absolutism and slavery, as both were grounded in law, led to philosophical ideas that we associate with the roots of democracy, the Enlightenment, and the American Revolution. Such arguments drew on a variety of religious, political, and racial ideologies. Ideas—including about race—were often weapons in larger struggles. Especially by the late eighteenth century, some who argued for principles of equality before the law—and against absolutism—articulated racist principles and defended slavery. Some Virginia planters in 1775 might have joined the revolutionary cause precisely because Royal Governor Lord Dunmore had offered freedom to the slaves and servants of those who were in rebellion against the crown. At the same time, the broader arguments—of equality before the law or the consent of the governed—threatened slavery’s logical and legal foundation.

Ideas mattered; they shaped laws and people’s lives. Those in power often sought to dictate struggles over legitimacy but could never do so completely. Ideas—about race, power, class, and religious beliefs—could rarely be easily managed. And yet in the struggle over legitimacy, those in power, whether in Britain or in the colonies, had greater leverage because they controlled, for example, judges, patronage appointments, and the spread of information via print.

Even as African Americans and Native Americans resisted slavery, local elites responded with harsher legal regimes, as in South Carolina in 1740. Thus, different colonies introduced elements of the institutional and legal structures of slavery at critical junctures. The harsh abuses required to force people to labor are almost unspeakable.⁴⁴ Racism was part of the

43. These questions are explored in new ways in the pages that follow. Many scholars have explored the particularly important role of Quakers in antislavery, though clearly not all opposed it. For examples of their roles as leaders, see Alden T. Vaughan, *Roots of American Racism: Essays on the Colonial Experience* (Oxford University Press, 1995); Philippe Rosenberg, “Thomas Tryon and the Seventeenth-Century Dimensions of Anti-slavery,” *WMQ* 61, no. 4 (2004): 609–42; Brycchan Carey and Geoffrey Plank, *Quakers and Abolition* (University of Illinois Press, 2014); Manisha Sinha, *The Slave’s Cause: A History of Abolition* (Yale University Press, 2016); Marcus Rediker, *The Fearless Benjamin Lay: The Quaker Dwarf Who Became the First Revolutionary Abolitionist* (Beacon Press, 2017).

Some examples of Quakers who cooperated with slavery are recounted in Kenneth L. Carroll, “Maryland Quakers and Slavery,” *Quaker History* 72, no. 1 (1983): 27–42; Larry Dale Gragg, *The Quaker Community on Barbados: Challenging the Culture of the Planter Class* (University of Missouri Press, 2009). Christianity could be used to justify slavery, as Katherine Gerbner has explored. Gerbner, *Christian Slavery: Conversion and Race in the Protestant Atlantic World* (University of Pennsylvania Press, 2018).

44. Saidiya V. Hartman, *Lose Your Mother: A Journey Along the Atlantic Slave Route* (Farrar, Straus and Giroux, 2007); Marisa J. Fuentes, *Dispossessed Lives: Enslaved Women, Violence, and the Archive* (University of Pennsylvania Press, 2016).

rationale behind such treatment, but only part. Religious arguments about obedience and God-ordained social orders, so-called scientific arguments about species, legal arguments that “aliens” had no legal protections—from such arguments were born laws and policies that differentiated between white and Black, Christian and heathen, noble and common, rich and poor, free and enslaved. The larger pattern of structural racism relied on a variety of arguments, many of them about class and religion. In the seventeenth century and for two centuries afterward, arguments that one could be born a slave, that one might have ignoble, sinful, or nonhuman ancestors, were paralleled by arguments about other kinds of hereditary status, hereditary monarchy and nobility, and the hereditary privileges of subjects.

Racism was only one tool that kings, planters, and merchants used to justify a repressive and extreme social order where everyone was unequal. Thomas Herbert, for example, had royal approval in 1664 to publish radically racist ideas about hereditary status. Herbert had traveled along the coast of Africa in 1627 as part of an embassy sent by Charles I to the Ottoman empire, and he published accounts of his adventures and observations in two separate editions in the 1630s. He padded the narrative of his adventures with stories he had heard from others, including racist descriptions of African women. In 1664, as Charles II vigorously pursued the slave trade, his censors authorized, with their official imprimatur, a new edition of Herbert’s narrative, to which Herbert added new and deeply offensive allegations. He claimed that African people were not people. He literally alleged that he had witnessed African women having sexual intercourse and cross-breeding with apes. By then, Herbert was flourishing under the king’s patronage, having been granted a baronetcy. His new allegations spread far and wide over the next two decades. Morgan Godwyn, a minister in Barbados, recorded hearing them used to justify the enslavement of Africans, exactly as they were intended.⁴⁵ Allegations that Africans were of a different species and not fully human—the logical conclusion of Herbert’s claims—became part of radically racist ideas about hereditary status. Charles II’s court seems to have nurtured such explicitly racist notions in an effort to justify and legitimize what some condemned, even then, as egregious actions and the court’s role in the slave trade.

45. Jennifer L. Morgan provides an excellent discussion of Herbert’s racism in his descriptions of African women nursing over their shoulders, but she does not note that his later editions made explicit claims about Black people reproducing with apes, and that they were not human. Morgan, *Laboring Women: Reproduction and Gender in New World Slavery* (University of Pennsylvania Press, 2011), 32–34.

(continued...)

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