

VIEWS
OF
AMERICAN CONSTITUTIONAL LAW,
IN ITS BEARING UPON
AMERICAN SLAVERY.

BY WILLIAM GOODELL.

SECOND EDITION:

REVISED, WITH ADDITIONS.

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"The Reasonableness of Law is the soul of Law."—(Jenks.) *Com. Law Maxim.*  
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INTRODUCTION.

Sure triumph of truth—Former construction of the British Constitution, by York, Talbot, Blackstone, and Mansfield—New construction involved in the decision of Lord Mansfield, in the Somerset Case, (1772)—Revolution in English Jurisprudence—Secret of that Revolution—Granville Sharpe—Origin and foundation of law, immutable and eternal.

THE main views I have presented will assuredly be condemned,—and in that condemnation I read the sure presage of their prevalence. They will be condemned, in this selfish and bewildered world, *because they are true*, and they will ultimately triumph, *for the same reason*. The popular suffrage may determine whether they shall be received in time to prevent the wreck of the present Federal Government:—but it can no more decide against their *final* reception than it can decide against the final reception of any other truths of science, physical or moral. There is immortality in Truth. But all lies are doomed.

Up to the month of May, 1772, it was as currently believed in England, that the slaves held and sold there, were thus held and sold, *legally*, and in accordance with the *British* Constitution, as it is now believed that the slaves held and sold in the United States of America, are thus held and sold, *legally*, and in accordance with the *American* Constitution. But the decision of Lord Chief Justice Mansfield, in the case of James Somerset, at the date above mentioned, revolutionized the jurisprudence of the realm, overthrew ancient precedents, reversed venerated decisions—and inscribed beneath the cross of St. George, on the royal flag—*“slaves can not breathe in England.”*

And what was the secret of that mighty revolution?—It was this.—The simple foundation truth of all legitimate and valid jurisprudence, divine and human, that *Right is authority*—that *reason* is the soul of *law*, had obtained a lodgment in *one human heart*, that truly apprehended its meaning, and

did not hold it an idle abstraction. That heart was *not* the heart of a York or a Talbot, (the Attorney and Solicitor General of their day,) who, in 1729 had recorded their opinions in favor of the slave master's claim. It was *not* the heart of a titled judge, Dr. Blackstone, who, at a later day, finding that a passage in his learned Commentaries was effectively quoted, at pending trials, in favor of the rights of the enslaved, adroitly furnished a new and revised edition of them, in season to be used, triumphantly, *during the trials*, by the slave master's counsel. It was *not* the heart of Sir James Eyre, Recorder of London; who, when retained as counsel, on behalf of the oppressed, adduced, to dishearten his employer, the opinions of York and Talbot, and added that the Lord Chief Justice was agreed with them. It was *not* the heart of any one of those eminent lawyers who, when consulted by the friends of the enslaved, declared "that the laws were against them." It was *not* the heart of that Lord Chief Justice Mansfield himself, whom history has ranked with "the most distinguished lawyers" of that age, and who along with them, "crouched down beneath the lie" (of legal enslavement) and "affirmed its validity"—the same Lord Chief Justice, who in 1771 (one year before his own immortal decision *against* legal slavery) was so firmly attached to the ancient precedents in its *favor*, as to refuse giving judgment against the noted kidnapper, Stapylton, when an honest jury had given verdict against him;—that Chief Justice Mansfield, who, during this same Somerset trial, when overpowered by the argument for liberty, and dreading the public rebuke, delayed judgment, hesitated, sought, unsuccessfully, to shun the issue, by beseeching the slave master to manumit the slave, and whose final decision (the boast and glory of his country) was delivered with a "lawyer-like circumlocution" that betrayed the inward bent of his mind, and the reluctance with which he yielded to the claims of equity, and the rising voice of human nature.*

* See Charles Stuart's Memoir of Granville Sharpe, which contains in detail, the particulars above alluded to.

No! It was *not* to hearts like these, that the "soul" and vitality of British Constitutional Law, and of *all* law, were revealed! It was reserved to GRANVILLE SHARPE, without rank, without office, without literary pretension, or legal erudition, in the face of all the law authorities of his age and nation, to plant himself upon the *right* and the *true*, to breast the current, almost single handed and alone, till he saw the Right prevail, and Mansfield officially announce it—and Blackstone condescendingly record and endorse it—thus rearing a column of glory under which their own learned lumber, with that of Talbot and York, lies buried out of sight, among rubbish of the dark ages! Thus shall it always be!

Whether my argument has been happily presented, time and the public voice must determine, though they can not nullify the truths I present. I only ask the candid reader to weigh the evidences of those truths. I will not dishonor his reason by asking him whether the reception and practice of them would degrade our common humanity, or offend our benevolent CREATOR. There is neither legitimate authority, nor binding precedent, nor valid law, except in harmony with *His will*. Let the Yorks and the Talbots, the Blackstones and the Mansfields of America understand *that* :—and let them remember their relation to the PEOPLE, to whom Divine Providence is rapidly teaching the alphabet of that sublime truth. It is for the people I have written ;—for the *people*, by the grace of God, and under his authority, free, independent and sovereign—the divinely appointed arbiters of their own destinies, the students (if they will understand themselves) and the subjects, not the framers, nor yet the arbiters of those original laws, immutable and eternal, upon which human nature itself was modelled, and from the sure operation of which, no age, no nation, no race of men, ever escaped.