

In Favorem Libertatis: The Life and Work of Granville Sharp

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Libertarians, if they care to examine the subject, will discover that they have a rich historical tradition in the English and American antislavery movements. The libertarian tradition in antislavery thought may be concisely summed up: *In Favorem Libertatis*—In Favor of Liberty. No one familiar with this tradition could fail to identify Granville Sharp (1735–1813) as one of its first and greatest expositors and coadjutors. From the time in 1765 when he first encountered the slave Johnathan Strong, till his death, Sharp's name was inextricably bound up with the freedom of slaves in England.

Sharp was born of a religious family, being the grandson of the Archbishop of York and son of an archdeacon. His early religious training and background permeated much of his adult thinking. Since his father could not afford to attend to his education, Sharp was largely self-educated. He was apprenticed to a linen draper in London from 1750 to 1757 and then secured an appointment as a clerk in the Government Ordnance Department, where he remained employed until 1775. His early activities exemplify his wide-ranging intellectual interests, his freedom from unreasoned prejudice, and his aptitude for patient and scholarly research.

While learning his trade as a linen-draper he encountered a fellow-apprentice who happened to be a Socinian with the irritating habit of referring in religious controversies to the original Greek of the New Testament, with the admonition that Granville Sharp's mistaken opinions arose from his lack of acquaintance with Greek. . . . Accordingly Granville Sharp learned Greek in his spare time, until he was able to argue on a more than equal footing with the Socinian. It was the same with Hebrew. A Jew, another fellow-apprentice with whom he indulged in religious controversy, whenever hard pressed by Granville Sharp's cogent reasonings, constantly declared that he was misrepresenting the prophecies from ignorance of the Hebrew tongue in which they were written.¹

"To be ignorant of the truth, was, to his ardent mind, a source of inexpressible pain; to neglect the means of acquiring a knowledge of it, insupportable disgrace."²

Sharp's first encounter with English law and the blacks involved the person of Johnathan Strong and commenced sometime in 1765. Strong was a young African slave, brought from Barbados by his master David Lisle. Having been seriously beaten and then abandoned by his owner, Strong sought medical help from Granville Sharp's brother, William, a surgeon who devoted part of his time to treating the poor. Befriended and healed by the brothers, Johnathan obtained paid employment through their assistance. In September 1767, Lisle happened upon his former slave, and inasmuch as he had regained his health, Lisle was determined to have him back. Accordingly, Johnathan Strong was ensnared and kidnapped under orders from Lisle and lodged in a London jail where he awaited transport back to Jamaica by Captain Laird, who was acting on behalf of Strong's new owner, John Kerr. As a last resort, Strong sent for Granville Sharp. The message was received on September 12, 1767 and implored "protection from being sold as a Slave." Sharp, who did not recollect the name of Strong, went the following day to the jail and demanded to see the prisoner. The jailer denied that they had anyone named Johnathan Strong committed to their charge. This blatant lie aroused Sharp's suspicion. "He demanded to see the keeper of the prison and insisted on seeing Johnathan Strong. He was then called." On seeing Johnathan Strong, "Sharp immediately recollected 'him, and enquired what he had done to be thus imprisoned. The lad said he had not been guilty of any offense whatever, but that his former master David Lisle' had put him in prison before shipment back to the plantations. Appalled by what he heard, Granville Sharp took Johnathan's case to court on information 'that a Johnathan Strong had been confined in prison without any warrant.'" The action was heard on September 18, 1767 in the presence of the Lord Mayor, who discharged Johnathan Strong because "the lad had not stolen any thing, and was not guilty of any offense, and was therefore at liberty to go away."³

A few days after the hearing Granville was served "with copies of Writs issued by James Kerr, claiming . . . damages in a plea of trespass against the Sharp brothers for depriving him of his property." Thus as Granville wrote in his manuscript entitled "An Account of the Occasion which Compelled Granville Sharp to Study Law, and the Defense of Negro Slaves in England," "a lawsuit commenced against him . . . for having lawfully and openly obtained the liberty of a poor injured Negro before the Chief Magistrate of the City."⁴ When sued by Kerr, Sharp consulted with his own lawyers, all of whom fell back on the joint opinion of Attorney-General Philip Yorke and Solicitor-General Charles Talbot, which was unofficially issued in 1729. Their opinion claimed that a slave, by merely coming from the West Indies to Great Britain, did not become free, and that the slave's master might legally compel him to return to the plantations even though it was against the slave's will. Sharp was told that his case was defenseless, particularly since Lord Mansfield, on the King's Bench, had confirmed the

Yorke and Talbot opinion several times. The lawyers implied that Sharp should save his money and leave Johnathan to his fate. "Granville noted that 'he could not believe that the Laws of England were really so injurious to natural Rights as so many great lawyers, for political reasons had been pleased to assert.' Since the Yorke and Talbot opinion 'so intimidated' the lawyers, he calmly told his lawyers that he proposed to undertake his own . . . defense."⁵ The incident at the Lord Mayor's Court, when Captain Laird claimed Johnathan Strong as the property of Kerr by virtue of a bill of sale produced as evidence, obviously made "a deep and frightening impression on Granville Sharp." As the remainder of his life illustrates, it is reasonably clear that it left him with a "burning desire to combat the injustice and inhumanity of slavery."

Left without legal help and impelled by circumstances, Granville Sharp once again began the laborious study of yet another subject. He determined "to give up two or three years to the study of English law, that he might better advocate the cause" of the Negro on English soil. "The result of these studies was the publication of a book in 1769, which he called *A Representation of the Injustice and Dangerous Tendency of Tolerating Slavery in England*." In it he refuted the opinion of Yorke and Talbot. He produced against it the opinion of Lord Chief Justice Holt, who had determined many years before that every slave coming into England thereby became free.

He vigorously rejected the plea of *private property* in a black as if in a horse or dog. This he regarded as a preposterous, 'very insufficient and defective' claim, because the comparing of a man to a beast 'is unnatural and unjust.' The claim of *private property* was maintainable only if 'the pretended proprietors' could prove that a slave 'is neither man, woman nor child': and if they are not able to do this, how can they presume to consider such a person as a mere 'chose in action'? or 'thing to be demanded in action'?

Sharp contended that men are rendered obnoxious to the law by their offenses and not by their particular denomination, rank, parentage, color or country. "True justice make no respect of persons, and can never deny to any one that blessing to which all mankind have an undoubted right, their *natural liberty*."⁷ He also showed it to be "an axiom in the British constitution, 'That every man in England was free to sue for and defend his rights, and that force could not be used without legal process.'"⁸ Sharp quoted Sir Edward Coke's statement made in 1628 that, "*The law favors liberty and the freedom of a man from imprisonment; and therefore kind interpretations shall be made on its behalf.*" This reinforced his argument that in English law the terms "subject" and "person" referred to both black and white people and were not limited to white people only, as the Courts were prone to interpret the law.⁹

While Sharp was engaged in his studies, another case involving a Negro slave was called to his attention. This occurred in the year 1768. John Hylas and his wife Mary, were black slaves born in Barbados. They were married in England in 1758, having been brought there previously by their masters. John was granted his freedom after his marriage and he lived with his wife until 1766. At this time, Mary was kidnapped by her former owners, the Newtons, and sent back to the West Indies to be sold as a slave. "And so, in 1768, over two years after his wife had been kidnapped by Newton, Hylas complained to Granville Sharp, who interested himself in the success of the cause. Armed with a memorandum prepared by Granville Sharp, Hylas commenced an action against Newton," which was heard on December 3, 1768.¹⁰ The result of the trial was that Newton, the owner of Hylas' wife, was bound to bring back the woman, either by the first ship or within six months, and was judged to pay damages in the nominal amount of one shilling. The import of the decision was not that blacks gained their freedom in England, but only that as Hylas had been manumitted, he was entitled to both his own liberty and that of his wife.¹¹ In his manuscript account of the case, "Remarks on the Case of John Hylas and his Wife, Mary," Sharp noted that Hylas should have been entitled to both his wife and substantial damages. "If he had a right to his wife, which cannot be denied, he most certainly had a right to damages also, in consideration of the violent and unpardonable outrage committed against himself in the *person* of his wife, for which no pecuniary allowance whatsoever can really make amends."¹² Sharp charged the court with doing a manifest injustice to Hylas, "who is as much entitled to 500 pounds damages, at the least, besides treble the costs, by this Act, as the first lawyer of the kingdom would be, if he should lose his wife in the same manner." Despite his plea for justice, Granville Sharp was alone. The courts and the lawyers were convinced that the Habeas Corpus Act (upon which Sharp based his legal action) did not have blacks in mind.¹³ To Sharp the matter was clear: on the plainest and most literal interpretation of the laws of England, blacks were entitled to liberty and freedom in England.¹⁴

Shortly after the publication of his work in 1769, Sharp was solicited to assist in procuring another writ of habeas corpus for a kidnapped Negro, Thomas Lewis. Lewis was seized by watermen in the dark of the night on July 2, 1770 and put on board a ship bound for Jamaica, where it was intended that he be sold as a slave. His former master, Robert Stapylton, had engineered the kidnapping. Sharp eventually obtained a habeas corpus, and just in time, as the ship on which Lewis was confined was making ready to sail from port. Following the rescue, Sharp began criminal proceedings for assault on behalf of Lewis against Stapylton and the two watermen who had assisted him.¹⁵ Stapylton defended himself with the plea "that Lewis belonged to him as a slave." In the course of the criminal trial, John Dunning, counsel for Lewis, paid Sharp a handsome compliment, for he

held in his hand Sharp's book on the injustice and dangerous tendency of tolerating slavery in England while he was pleading that he was prepared to maintain in any of the courts in Great Britain, that "*no man can be legally detained as a slave in this country.*"¹⁶ Lord Mansfield directed the jury to find Stapylton guilty if they found that Lewis was not his slave. In February 1771 the jury decided against Stapylton and showed that they thought Lewis was not his property. In spite of the guilty verdict, Stapylton suffered no punishment for his crime since Lord Mansfield repeatedly refused to render a sentence against him.¹⁷

This contempt of justice disturbed Sharp, even though he had secured the legal freedom of other Negroes. Not one of these cases had been pleaded on the broad ground of the question of "whether an African slave coming into England became free?" This great question had been avoided by the judiciary, especially Lord Mansfield, and legally it was still in doubt.¹⁸ Sharp was desirous of having a case argued and decided on the basis of general principles and it was the case of *Somerset v. Stewart* that answered his wish.

The facts in *Somerset v. Stewart* are clear-cut. Lord Mansfield in his summary of the case put them as follows:

That James Somerset, is a Negro of Africa, and long before the return of the King's writ was brought to be sold, and was sold to Mr. Charles Stewart, Esq. then in Jamaica, and has not been manumitted since; that Mr. Stewart, having occasion to transact business, came over hither, with an intention to return; and brought Somerset, to attend and abide with him, and to carry him back as soon as the business should be transacted. That such intention has been, and still continues; and that the Negro did remain till the time of his departure, in the service of his master Mr. Stewart, and quitted it without his consent; and thereupon, before the return of the King's writ, the said Charles Stewart did commit the slave on board the "Ann and Mary," to save custody, to be kept till he should set sail, and then to be taken with him to Jamaica, and there sold as a slave. And this is the cause why he, Captain Knowles, who was then and now is, commander of the above vessel, then and now lying in the river of Thames, did the said Negro, committed to his custody, detain; and on which he now renders him to the orders of the Court.¹⁹

The chronology of the events was that both Stewart and his slave, Somerset, arrived in England in November 1769. Prior to their scheduled return in early October 1771, Somerset left his master, Stewart. The master then seized his slave and placed him on board ship for safekeeping on November 26, 1771. The godparents of Somerset obtained a writ of habeas corpus on November 28, 1771, and it was they who initially interceded on Somerset's behalf.

Sharp was soon involved in the case. He recorded on January 13, 1772 that "James Somerset, a Negro from Virginia, called on me this morning to complain of Mr. Charles Stewart. I gave him the best advice I could." Sharp also contributed towards the expense of retaining counsel for Somerset.

"Money," he said, "has no value but when well spent; and I am thoroughly convinced that no part of my little pittance of ready money can ever be better bestowed than in an honest endeavor to crush a growing oppression, which is not only shocking to humanity, but in time must prove even dangerous to the community."²⁰ Sharp quickly printed an "Appendix" to his *Injustice of Tolerating Slavery*. The "Appendix" hinted at Mansfield's previous contemptuous behavior in the Lewis case and forthrightly declared that there was no reason for judicial hesitation nor delay in granting "relief and discharge of a poor innocent man from an unlawful imprisonment and unjust oppression":

When a Notorious Outrage and Breach of the Peace is committed under the pretence of any such groundless claim of service, the Magistrate who neglects to relieve the person oppressed, and to punish the Offenders, is certainly a partaker of their Guilt; and no upright and conscientious Judge (who does not set his own will above the laws of the Land) can possibly entertain any doubt in his mind about the punishment of such Offenders; for when the Laws of the Land, and especially the Habeas Corpus Act, are expressly and clearly on one Side of the Question (without the least exception whatever concerning any difference or distinction of Persons), and when the only plea on the other side of the Question is absolutely without foundation either in Natural Equity or the established Law and Customs of this country, what room can there be for doubt? and how would a Judge be able to justify an Arrest of Judgment in such a case? . . . A Doubt is certainly a very insufficient excuse for an arrest of Judgment, in any case whatever, unless "strong and probable Grounds" are allowed to justify it; but a groundless doubt upon the present question would be more particularly criminal; because it would, probably, tend to the introduction of the diabolical Tyranny and Injustice of our West Indian Colonies, whereby human Nature is villified and delegated to the rank and level of brute Beasts . . . into this kingdom: which, added to the manifold corruptions and depravities into which this Kingdom has already fallen, will certainly cause our measure of Iniquity to overflow, and, in all probability, draw down upon us some dreadful and speedy national calamity, besides that severe judgment, which is already too apparent amongst us, I mean the deplorable Hardness of Heart, and abandoned Spirit of Injustice, which has rendered publication of this remonstrance necessary.²¹

"All the Court had to decide was whether Stewart had the right, which he claimed as the owner of Somerset, to remove him by force and against his will out of England and consign him to slavery in the plantations."²²

To represent Somerset, Sharp obtained some of the most eminent legal counsel of his day: Serjeants William Davy and John Glynn, and barristers James Mansfield, Francis Hargrave, and Mr. Alleyne. On the other side, representing Stewart and the West Indies Interest were William Wallace and John Dunning, who had represented the slave Lewis the previous year. Hargrave, young and unknown, contributed his own time to the case and after

the conclusion of the hearings published his book, *An Argument in the Case of James Somerset, a Negro, Lately Determined by the Court of the King's Bench: Wherein It Is Attempted to Demonstrate the Present Unlawfulness of Domestic Slavery in England. To Which Is Prefixed, A State of the Case (1772)*.²³

Hargrave adopted several lines of reasoning suggested by Sharp. He opened his argument by declaring, "The question . . . is not whether slavery is lawful in the colonies, but whether [it is lawful] in England? Not whether it ever has existed in England; but whether it be not now abolished?"²⁴ Hargrave argued that the only form of slavery ever countenanced by English law was that of villenage (a feudal status) and that by 1770 that institution had been defunct for well over a century. He further argued that slavery was antithetical to other parts of English law, pointing out that the English law of contracts would not permit an individual to enslave himself and his posterity for their lifetimes. If the law of England would not permit a man to bind himself by contract to service for life, even when the parties were willing, then how could it ever sanctify the condition of a slave, who is coerced against his will? Hargrave questioned, "In England, where freedom is the grand object of the laws, and dispensed to the meanest individual, shall the laws of an infant colony, Virginia, or a barbarous nation, Africa, prevail?" He maintained that the Negro, while in England, was duty bound to submit to English law, and that therefore he has a right to claim the protection of English law. Hargrave concluded his brief by stating his belief that Mr. Stewart's claim was opposed to "natural justice" and inconsistent "with the laws of England."

Another argument for Somerset was that the laws of Virginia could not be used to sanction slavery in England. Serjeant Davy contended that the toleration of slavery in the colonies was merely local in character and wholly dependent on colonial law. An English court "was bound to apply its own law—the law of England—which is the *lex situs* and the proper law." According to Davy, and echoing Hargrave and Sharp, "All the people who come into this country immediately become subject to the laws of this country, are governed by the laws, regulated entirely in their whole conduct by the laws, and are entitled to the protection of the laws of this country, and become the King's subjects." Davy points out that this man, Somerset, "remains, 'upon his arrival in England, in the condition he was abroad, in Virginia or not. If he does so remain, the master's power remains as before. If the laws, having attached upon him abroad, are at all to affect him here, *it brings them all*: either all the laws of Virginia are to attach upon him here, or none,—for where will they draw the line?"²⁶

The arguments for Somerset were concluded by Mr. Alleyne. He laid it down as "an unimpeachable proposition that all municipal relations which were repugnant to natural law, ceased to operate the moment the persons affected by them were out of the state in which they were made." In

Alleyne's consideration, the state of slavery was such a municipal relation which violated natural law, so that although the laws of Virginia might establish slavery there, they could never establish slavery in England. "The laws of Virginia extend to Virginia alone."²⁷ He focused attention on the subject of the case, James Somerset, who was there in the English court. Said Alleyne, "This man is *here*: he owes submission to the laws of England, and he claims the protection of those laws; and as he ceases to be a citizen of Virginia, and stands in no such relation *now* to Mr. Stewart, so he is certainly not bound to him; and therefore he stands, like any other man in the kingdom, entitled to his freedom."²⁸

Mr. Wallace, the junior counsel for Stewart, opened his submission for the slaveholder by pointing out that slavery was found in more than three-quarters of the world and that this proved how widespread a practice it was. He argued that it would be unjust and absurd to divest Stewart of his property in Somerset only because he sailed in pursuit of his lawful business from one country to another. By implication, he held that the laws of Virginia, by which Somerset was a slave, must be recognized in England. Since there was no law in the West Indies or in the Northern Colonies or in England by which slavery was directly prohibited, he could not understand how or why slavery should be unlawful in those places. There was no "positive law . . . against it."²⁹ He raised the question of the inconvenience and, especially, the loss of value in the slaves which English masters would suffer, should Somerset be set free. His final argument rested on the comparison of a slave to the status of an English servant. He reasoned that private force which an English master of that era might use against his servant to correct error was the equivalent of the force by which a master held his slave.

Mr. John Dunning was the senior counsel for the defendant and was in a very delicate situation. Only a year before, he had pleaded for the freedom of Thomas Lewis by declaring that no property could exist in a slave in England. Trying to extricate himself from this about-face, he said, "I am bound by duty to maintain those arguments which are useful to Captain Knowles (and Mr. Stewart) as far as are consistent with truth, and if his conduct has been agreeable to the laws throughout, I am under a further indispensable duty to support it."³⁰ Dunning had little to add to Wallace's arguments, but he did note that earlier English decisions, which the plaintiff's attorneys used to support their case, did not destroy the Negro's obligation to serve his master. According to Dunning, Somerset was in a condition of servitude when he left Africa and the British legislature had merely confirmed him in that condition.

Lord Mansfield also found himself in trying circumstances. As Chief Justice, he had to interpret the law regardless of his personal views and regardless of the possible consequences of his decision. Prior to announcing his decision in the case, he summed up his views of the issues:

The question is, if the owner had a right to detain the slave, for the sending of him over to be sold in Jamaica. In five or six cases of this nature, I have known it to be accommodated by agreement between the parties: on its first coming before me, I strongly recommended it here. But if the parties will have it decided, we must give our opinion. Compassion will not, on the one hand, nor inconvenience on the other, be to decide; but the law . . . Contract for sale of a slave is good here; the sale is a matter to which the law properly and readily attaches, and will maintain the price according to the agreement. But here the person of the slave himself is immediately the object of inquiry; which makes a very material difference. The question now is, whether any dominion, authority or coercion can be exercised in this country, on a slave according to the American laws? . . . Mr. Stewart advances no claim on contract; he rests his whole demand on a right to the negro as slave, and mentions the purpose of detainure to be the sending of him over to be sold in Jamaica. If the parties will have judgment, *fiat justitia, ruat coelum*, let justice be done whatever the consequence. . . . We cannot in any of these points direct the law; the law must rule us.³¹

On June 22, 1772, Lord Mansfield delivered his final opinion in *Somerset v. Stewart*:

The only question before us is, whether the cause on the return is sufficient? If it is, the negro must be remanded; if it is not, he must be discharged. Accordingly, the return states, that the slave departed and refused to serve; whereupon he was kept, to be sold abroad. So high an act of dominion must be recognized by the law of the country where it is used. The power of a master over his slave has been extremely 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 whence it was created, is erased from memory: it's 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.³²

Technically considered, the judgment "settled only two narrow points of English law." A master could not seize his slave and remove him from the country against his will. And a slave could secure a writ of habeas corpus to prevent that removal.³³ Regardless of the claims of historians, the case did not legally declare slaves free when they landed in England, nor did it abolish slavery there. Even after the decision, blacks were still hunted and kidnapped in the streets of English cities. What Mansfield declared was that there was no positive law enforcing slavery in England and that when the actions of slave masters were contrary to the Habeas Corpus Act, the slaves might rely on the Act itself for legal relief.

Sharp took a quiet pride in the decision. He noted on the day that it was given that, "This day, James Somerset came to tell me that judgment was

today given in his favor. Somerset was the last Negro whom G[ranville] S[harp] brought before Lord Mansfield by writ of habeas corpus; when his Lordship declared, as the opinion of all the Judges present, that the power claimed by the master 'never was in use here, nor acknowledged by the law; and, therefore the man James Somerset must be discharged.' Thus ended G. Sharp's long contest with Lord Mansfield on the 22nd of June 1772."³⁴

Sharp had waged a long "uphill battle" in obtaining Lord Mansfield's decision. In the course of his struggle, Sharp lost whatever faith he may have had in the legal profession. First, the practitioners had claimed his outlook on the law of slavery was futile and faulty. They had advised against offering any defense at all in the case of Johnathan Strong. Then he had employed Dunning to defend Lewis, after which Dunning pleaded the case of the slaveholder, Stewart. Of Dunning's behavior on behalf of two mutually contradictory causes, Sharp wrote, "This is an abominable and insufferable practice in lawyers, to undertake causes diametrically opposite to their own declared opinions of law and common justice."³⁵ William Blackstone, the author of *The Commentaries on the Laws of England*, written in 1765, also changed his opinion on the law of slavery in England during the course of Sharp's struggle in the Courts. In the beginning of his research, Sharp had found and noted the following passage in Blackstone's commentaries: "And this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a Slave, or Negro, the moment he lands in England, falls under the protection of the laws, and with regard to all national rights, becomes *eo instanti* a freeman." In his second and third editions of 1766 and 1768, Blackstone altered this passage: "A Negro, the moment he lands in England, falls under the protection of the laws, and so far becomes a freeman; though the master's right to his service may *possibly* still continue."³⁶ In private correspondence with Sharp, Blackstone went so far as to request that Sharp not cite the passage "from my first edition as decisive in favor of your Doctrine."³⁷

In 1783, Sharp became involved in another court case concerned with the issue of slaves as property. The case of the slave-ship *Zong*, officially cataloged as *Gregson v. Gilbert*, involved the loss of 132 slaves, all of whom were thrown overboard by the crew of the *Zong*. Gregson and other members of his Liverpool mercantile firm owned the *Zong* and sued their underwriters for the value of the slaves, who had been insured as common merchandise or cargo. According to the policy, the underwriters would not be liable if the slaves perished of a natural death, such as sickness; they would be held liable if it were proven that the slaves had been jettisoned out of necessity. The pretense of throwing the slaves overboard was that there had been an acute shortage of water aboard ship, which jeopardized the other slaves and crew. Nevertheless, the evidence proved that the captain, Luke Collingwood, had taken no efforts to ration water supplies.

The underwriters defended their position by arguing that there had been

no need for conduct so shocking to humanity, that the water situation might have been alleviated by a port call, and that, in fact, the *Zong* still carried at least a five-day supply of water when she finally docked. The chiefmate, John Kelsal, testified that at first he opposed the captain's orders, but that on second thought he had decided that they were sufficient enough authority for throwing the slaves overboard—without considering whether such an action was criminal or not. Sharp was not aware of the case until near the end of the civil trial. He immediately took steps to insure that accurate records of the proceedings be kept, and he initiated legal action to see that the murderers be punished. He corresponded, without success however, with the Lords Commissioners of the Admiralty because the "right of inquiry concerning all murders committed on board British ships, belongs properly to the Admiralty department." Sharp also contacted other high-placed officials and prominent clergymen in an effort to seek their assistance in prosecuting the crew members of the *Zong*. Although the Admiralty took no action, Sharp must be given much of the credit for publicizing the case in public and governmental circles. Sharp's call for punishment was doomed because law and public opinion in 18th-century England still did not regard the African as a human being. In the eyes of most Englishmen, they were chattels or property, and the insurers were bound to pay for their loss.³⁸

Sharp prepared an essay for distribution entitled "An Account of the Murder of One Hundred and Thirty-Two . . . Slaves on Board the Ship *Zong*." Invoking both natural and divine law, Sharp attacked on two fronts. First he denied that there was any case for pleading "necessity" in the death of the slaves; and even if there were grounds for such a plea, he thought the plea of necessity was never a sufficient excuse for the murder of innocent slaves. Secondly, he disputed that slaves lost their claim to humanity just because they were slaves. Sharp pointed out that the supposed property in the persons of the slaves was a very limited kind of property, limited by the inevitable consideration of their human nature. Consequently, the property of the injured Africans in their own lives, despite their status as slaves, was infinitely superior to any claim of the slave dealers. The indispensable point under consideration was that the act of jettison was "*the case of throwing over living men*: and that, notwithstanding they are, in one sense, unhappily considered as goods or chattels (to the eternal disgrace of this nation!), yet they are still *men*; that their existence in *human nature*, and their natural rights as men, nay as *brethren*, still remains!"³⁹ Sharp's commentary on the inexcusable plea of necessity probably remains unique in the history of English law:

Thus one hundred and thirty-two innocent human persons were wilfully put to a violent death, not on account of any mutiny or insurrection, nor even through the fear of any such, . . . but merely on a pretended plea of *necessity* through want of water. . . . So that, even if the plea of necessity for the wilful murder of the innocent persons was at all admis-

sable (which it can never be) in a case of want or scarcity, yet no such necessity existed in the present case; because it is proved, even by their own evidence, that the stock of water was sufficient to have held out till the time that an ample supply was actually received.—But there can never be a necessity for the wilful murder of an innocent man, notwithstanding the high authority of those learned and dignified persons who seem to have conceived a contrary idea, because wilful murder is one of the worst evils that happen among men; so that the plea of a necessity to destroy a few men in order to save many, is not only the adoption of a declared damnable doctrine (“Let us do evil that good may come!”), which is extreme wickedness, but is also extreme ignorance; for it is obvious that the death of many by misfortune, which is properly in the hand of Divine Providence, is not near so great an evil as the murder of a few, or even of *one* innocent man—the former being the loss only of temporal lives, but the latter endangers the eternal souls, not only of the miserable aggressors themselves, but the souls of all their indiscriminate abettors and favourers. God’s vengeance is so clearly denounced against *wilful murder*, that it is certainly a *malum in se* of the most flagrant and odious nature, such as cannot, without extreme ignorance of the English common law, be admitted as a legal justification. . . . And therefore, whenever a man wilfully takes the life of an innocent man on pretense of necessity to save his own, in any case where *se-defendendo* will not hold (which requires proof of an actual attack by the deceased, who therefore is not an innocent man), . . . such a man, I say, is guilty of a *felonious homicide*.⁴⁰

“The extraordinarily cruel nature of the Zong case furnished the anti-slavery crusade with a powerful, and almost unanswerable argument” in their favor.⁴¹ Sharp was active in other antislavery activities as well. In June 1787, he was invited to cooperate with other English abolitionists to form the Committee for Effecting an Abolition of the Slave-Trade. Here he associated with Clarkson, Wilberforce, and others, whose immediate aim was to mitigate and abolish the slave trade and eventually to outlaw slavery itself. Of the ten people in the founding group, Sharp alone stood for including the abolition of slavery, *per se*, in the title of their society. For he feared that “the vast object of his benevolence—the abolition of slavery throughout the world,” might be “compromised by subordinate measures. . . . As slavery was as much a crime against the Divine Laws as the *Slave-Trade*, it became the Committee to exert themselves equally against the continuance of both; and he did not hesitate to pronounce all present *guilty before God* for shutting those, who were then slaves all the world over, out of the pale of their approaching labors.”⁴² Finding himself unable to influence those present, “he felt satisfied that he had delivered his testimony against the proceedings which circumscribed them, and from that hour proved himself thoroughly desirous to aid, to his utmost ability, the *part* which he found could be undertaken with greater and more general consent.” It is worthy of note that during this same decade, Sharp was also devoting his energies to the establishment of a colony in Africa, which was

to be settled by freed English Negroes. Although Sierra Leone was eventually to become a government project, Sharp was one of its earliest and most persistent advocates and organizers.

Sharp was, above all, his own man and was not about to betray his conscience for any reason whatsoever. He forcefully emphasized this point in an undated letter:

I look on myself to be perfectly independent, because I have never yet been afraid to do and avow whatever I thought just and right, without the consideration of consequences to myself: for, indeed, I think it unworthy of a *man* to be afraid of the world; and it is a point with me, never to conceal my sentiments on any subject whatever, not even from my superiors in office, *when there is a probability of answering any good purpose by it.*⁴³

Sharp was sympathetic to the position of the American colonists, and when armed hostilities broke out he was in a trying situation. He had been an employee of the Government Ordnance Department since 1758. In 1775, when demands were made for munitions from his department, he made his opposition to royal intervention in the colonies known and requested a leave of absence from his position. In September 1775, he wrote that he could not "return to my ordnance duty whilst a bloody war is carried on, unjustly as I conceive it, against my fellow-subjects; and yet, to resign my place would be to give up a calling, which, by my close attendance to it for near 18 years, and by my neglect of every other means of subsistence during so long a period, is now become my only profession and livelihood."⁴⁴ When no end to the hostilities appeared in sight, Sharp formally resigned his clerkship. Meanwhile, he had determined to engage in his own private diplomacy in an effort to negotiate a peaceful settlement of the dispute between the colonists and the King and Parliament. From 1777 almost until the end of the war, he was engaged in lobbying for American representation in Parliament. He hoped that the North American colonists might put down their arms were they to obtain such representation.

Sharp's "noble and incessant labors in the best causes, the preservation of the rights of mankind," were noted as early as 1770, by another English radical, John Wilkes.⁴⁵ His political philosophy was bound by the maxim that "Honesty is the best policy":

That excellent adage for all the ordinary circumstances of life, viz., "Honesty the best Policy," will be found to hold equally good in politics or affairs of government, even throughout the most dangerous and alarming difficulties. . . . An administration which cannot subsist with law, justice, and common honesty is unjust to subsist at all because law is the only basis of good and lawful government.⁴⁶

In spite of his liberal tendencies, Sharp was illiberal to Roman Catholics, who he believed already had sufficient privileges in England. Though a religious man, he bore the most implacable hatred towards their religion.⁴⁷

Nevertheless, in many ways he was ahead of his time, as the lengthy list of his pamphlets and books illustrates. As a citizen of England in the days of pocket boroughs and rotten districts, he published a series of pamphlets urging a more equal system of representation, universal adult suffrage, and more frequent Parliaments.⁴⁸ He wrote in favor of *The People's Natural Right to a Share in the Legislature: Against the Attempts to Tax America and to Make Laws for Her Against Her Consent* (1774). Sharp opposed standing armies and wrote a series of severe tracts on "Free Militia," among which were included *The Ancient Common Law Right of Associating with the Vicinage to Maintain the Peace* (1780), and *A General Militia, Acting by Rotation, Is the Only Safe Means of Defending a Free People* (1780). He wrote against the prevailing practice of duelling in his *Remarks on the Opinions of Some of the Most Celebrated Writers on Crown Law, Respecting the Distinction Between Manslaughter and Murder* (1773).

This last work reflects Sharp's scholarly and legal abilities. He attempted to show that "the plea of sudden anger cannot remove the imputation of guilt of murder, when a mortal wound is wilfully given with a weapon," as in the case of a duel. It was his opinion that "No Man can give or accept a challenge to fight with weapons, on any private difference whatever, without being guilty of wilful murder if he kills his antagonist."⁵⁰ Sharp reasoned that:

When two persons fight with *dangerous weapons* an *intention of killing* is expressed by the *weapons*; and *such intention* renders the manslaughter *voluntary*, which is the same thing as *wilful*. . . . For if the *killing be voluntary*, the evil and *malicious intention* is necessarily included in the act, . . . for a *voluntary striking*, without an intention to kill, is indeed pardonable, though death ensues; but a *voluntary killing* (where murderous weapons imply the intention to kill) . . . must, necessarily, be esteemed *Murder*.⁵¹

Sharp attributed the propensity for duelling, especially among military men, to a false sense of honor and pride. He berated the military men as well as the professors of law for their misunderstanding of the law, but he asserted that

Gentlemen of the Army are not obliged, indeed, to acquire a critical knowledge of the Law, but they must not forget that they are *Men*, as well as *Soldiers*; and that if they do not maintain the Natural Privilege of *Men*, (viz. that of thinking for themselves, and acting agreeable to the Dictates of their *own Conscience*, as Members of the Community), they are unfit for *British Soldiers*, of whom the *Law* requires an acknowledgment for *her supremacy*.

For the Law will not excuse an *unlawful Act* by a Soldier, even though he commits it by the *express Command* of the highest military Authority in the Kingdom: and much less is the Soldier obliged to conform himself *implicitly* to the mere opinions and false Notions of

Honor, which his Superiors may have unfortunately adopted. . . . The Law manifestly requires the Soldier to *think for himself*; and to consider, before he acts in any war, whether the same be *just*; for, if it be otherwise, the Common Law of this Kingdom will *impute* to him the *Guilt of Murder*.⁵²

In 1778, Sharp published *An Address to the People of England: Being the Protest of a Private Person Against Every Suspension of Law that Is Liable to Injure or Endanger Personal Security*. This book expresses as well as any of his other writings his views on government and politics. The compendium or sum total of his politics was:

I am thoroughly convinced that *right* ought to be adopted and maintained on all occasions, without regard to the consequences either probable or possible; for these (when we have done our own duty as honest men) must, after all, be left to the disposal of Divine Providence.⁵³

In Sharp's view, "It was better to endure all adversities than to assent to one evil measure; it was better that ten offenders should escape penal justice than one innocent man should suffer by denial or suspension of common right."⁵⁴ No government could ever be justified in suspending the law, even in times of national emergencies. "There never can be any *necessity for injustice*," wrote Sharp. "No *necessity*, therefore, whatever, can justify the adoption of an *unrighteous* or *unjust* measure, by any legislature upon earth."⁵⁵

Part of Sharp's Address was directed against the practice of impressing seamen, which was conducted by the Royal Navy. Pressing was a form of involuntary conscription by which the Navy seized Englishmen and forced them on board ships where they were made to serve as sailors. Sharp had been employed to help obtain a writ of habeas corpus to secure the freedom of Millachip, a freeman of London, who had been kidnapped by a press gang in 1777. He described the practice of pressing as "a warrant to take a man *by force*, to drag him away, like a thief, to a floating prison (the most dangerous and detestable of them all); that, by *imprisonment* and *duress* he may be compelled to enter into an *involuntary servitude*."⁵⁶ Sharp claimed that pressing the poorer and seafaring elements of the citizenry was intolerable and that no such thing as common rights (applicable to all men) could exist where this was the case.⁵⁷ Those engaged in the press gang and those enforcing the press warrants in court were criminal and acting contrary to the King's Peace. Those who resisted the press officers, Sharp maintained, were acting legally, in defense of their own freedom and against unjust violence. And such resisters must not be "deemed guilty of *murder* even if they *kill* the assailants, provided the *killing* be *inevitable* in their defense; and that they cannot otherwise maintain their rights. —Nay men are not only justified in defending themselves with force and arms but may also legally defend and rescue any other persons whatever that is attacked or

oppressed by unlawful violence."⁵⁸

Sharp's role in the history of liberty in England seems easily assured. He was both a writer and an activist; he was willing to go to court to prove his theories, and in many cases he was successful. In the case of the African Negro he determined upon a plan of action and devoted a considerable portion of his time, energy and talents toward procuring their freedom. His life, in the words of his first biographer, was the example of the inestimable "value of a single step of virtue."⁵⁹ If his charitable virtuousness had not brought him into contact with Johnathan Strong, his life may have been spent in other directions. That small step led to his early actions on behalf of the distressed Negro, which led to his study of law, and which eventually led to the abolition of the slave-trade and finally of slavery in England. Once Sharp had convinced himself that some cause needed his help, no consideration of the difficulties or magnitude of his task would deter him.⁶⁰ "All times were, in his estimation, the proper times for pursuing what was right to be done, and no time so particularly proper as the present instant."⁶¹ Such was the man and his life.

Sharp represents a tradition extending back to the Magna Carta of 1215, which provided that "no freemen should be killed, imprisoned, or disseised except by lawful judgment of his peers or by the law of the land." During the reign of Edward III (in the mid-1300's) Parliament had revised the "law of the land" provisions by extending the Magna Carta's applicability to all men, not just freemen: "no man of whatever estate or condition that he be, shall be put out of land or tenement, nor taken nor imprisoned, nor disinherited, nor put to death without being brought in answer by due process of law." The Habeas Corpus Act of 1679 "explicitly extended the prosecution of the Great Writ to 'Any person or persons.'"⁶² Sharp argued that these provisions gave all persons in England a statutory right to contest their restraint through the courts. He believed that the Great Writ affirmed the natural right of all men and women to their own freedom and that the same principles of natural law and English Common Law applied to all people, regardless of their color or status. "Liberty was his darling object."⁶³ He was an extreme votary of the habeas corpus writ.

The motivation of any great libertarian must be a passion for justice, which Sharp definitely embodied. He thus represents a strong link in the historic chain of English liberty, extending as it does from the Magna Carta, through medieval Parliaments, to the Bill of Rights and the Habeas Corpus Act. That chain of history has linked itself to the American Revolution of the 18th century, the antislavery movements of the 19th century, and the libertarian movement of the 20th century.

NOTES

1. F.O. Shyllon, *Black Slaves in Britain* (London: Oxford University Press, 1974), p. 29. This is the best full-length study of Sharp, drawing on his private papers.
2. Prince Hoare, *Memoirs of Granville Sharp*, 2nd ed., (London: Henry Colburn, 1828), 1:44. This is the first biography of Sharp.
3. Shyllon, *Black Slaves*, p. 21.
4. The last quotation appears in Sharp's *The Case of James and Granville Sharp, As Far As They Are Concerned with James Kerr, Esq.* See Shyllon, *Black Slaves*, p. 22.
5. *Ibid.*, pp. 22-23.
6. See Thomas Clarkson, *The History of the Rise, Progress, and Accomplishment of the Abolition of the African Slave-Trade by the British Parliament* (London: R. Taylor & Co., 1808; reprint ed., London: Frank Cass & Co., 1968), p. 71. Clarkson's is a broad, general account of the antislavery crusade in England, written by a young contemporary of Sharp.
7. Shyllon, *Black Slaves*, pp. 31-33.
8. Clarkson, *African Slave-Trade*, p. 72.
9. Shyllon, *Black Slaves*, pp. 33-34.
10. *Ibid.*, p. 41.
11. *Ibid.*
12. *Ibid.*, p. 42.
13. *Ibid.*
14. *Ibid.*, p. 43.
15. *Ibid.*, p. 45.
16. Clarkson, *African Slave-Trade*, p. 74; Hoare, *Memoirs*, 1:81-82.
17. Hoare, *Memoirs*, 1:92.
18. Clarkson, *African Slave-Trade*, p. 76.
19. Cappel Lofft, 98 *English Reprints*, 510.
20. Shyllon, *Black Slaves*, p. 125.
21. *Ibid.*, p. 127.
22. *Ibid.*, pp. 125-126.
23. *Ibid.*, p. 85.
24. Lofft, *English Reprints*, pp. 499-500.
25. *Ibid.*, p. 501.
26. Shyllon, *Black Slaves*, pp. 91-92.
27. *Ibid.*, p. 99.
28. *Ibid.*, p. 100.
29. Lofft, *English Reprints*, p. 503.
30. *Ibid.*, p. 504.
31. *Ibid.*, p. 508.
32. *Ibid.*, p. 510.
33. See William M. Wiecek, "Somerset: Lord Mansfield and the Legitimacy of Slavery in the Anglo-American World," *University of Chicago Law Review* 42 (Fall 1974): 87.
34. Hoare, *Memoirs*, 1:137.
35. *Ibid.*, p. 132.
36. *Ibid.*, 137-38. Reprinted from William Blackstone, *The Commentaries on the Laws of England*, 1st ed. (1765), bk. I, p. 123; 2nd ed. (1766), 3rd ed. (1768).
37. Shyllon, *Black Slaves*, pp. 66-67.
38. *Ibid.*, pp. 192-97.
39. *Ibid.*, p. 196.
40. *Ibid.*, pp. 194-97.
41. See Robert Weisbord, "The Case of the Slave-Ship 'Zong,' 1783," *History Today* 19 (August 1969): 567.
42. Hoare, *Memoirs*, 2:234-35.
43. *Ibid.*, 1:100.
44. *Ibid.*, 1:185-86.

45. Shyllon, *Black Slaves*, p. 137.
46. Granville Sharp, *An Address to the People of England* (London: 1778), p. 74. (Copy from Duke University Library.)
47. Shyllon, *Black Slaves*, p. 138.
48. *Ibid.*
49. Sharp, *Remarks on Crown Law* (London: B. White & R. Horsfield, 1773), title page. (Copy from Library of Congress.)
50. *Ibid.*, p. vi.
51. *Ibid.*, pp. xii-xiv.
52. *Ibid.*, pp. 66-68.
53. Hoare, *Memoirs*, 1:101.
54. Sharp, *Address*, pp. 33, 44.
55. *Ibid.*, p. 46.
56. *Ibid.*, p. 57.
57. *Ibid.*, pp. 64-65.
58. *Ibid.*, p. 71.
59. Hoare, *Memoirs*, 2:269.
60. See E. C. P. Lascelles, *Granville Sharp and the Freedom of Slaves in England* (London: Oxford University Press, 1928), p. 136.
61. Hoare, *Memoirs*, 2:323.
62. Wiecek, "Somerset," p. 97.
63. Hoare, *Memoirs*, 2:384.