

# Was Racial Slavery Illegal Under English Law?

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# An Academic Lecture on English Law, Colonial America, and the Founding Paradox

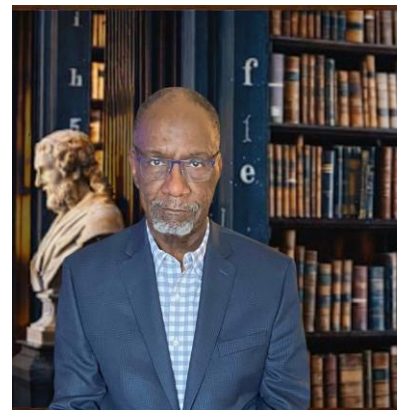
Dr. Walter D. Greason, Dewitt Wallace Professor of History  
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Dr. Walter Greason is the founding scholar and historian of Afrofuturist Design. He is an author, editor, and contributor to more than twenty books, mostly notably the award-winning books *Suburban Erasure*, *Ilmatic Consequences*, *The Black Reparations Project*, and *The Graphic History of Hip Hop*. His work on the Timothy Thomas Fortune Cultural Center has garnered international acclaim for the innovative use of digital technology, leading to multiple urban revitalization projects in Minnesota, Florida, New Jersey, and Louisiana. He appeared on dozens of mass media outlets in the United States and around the world.

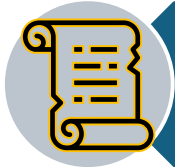


Larry Kenneth Alexander, Founder and President  
Ida B. Wells Center on American Exceptionalism and Restorative Justice

Larry Kenneth Alexander is a St. Paul, Minnesota-based author whose work focuses on cultural theory, history, and justice, particularly concerning the roots of racial inequality in America. He is a proponent of Afrofuturism, offering a "speculative and justice-driven reimagining of Black futures". His research explores how the enslavement of Black colonists after the Treaty of Paris formed a crucial part of the American economy and history, a concept he discusses in his books and presentations. He is an advocate against cultural amnesia and anti-intellectual elitism within America's social and political fabric. He founded the Ida B. Wells Center on American Exceptionalism and Restorative Justice, an organization dedicated to exploring and addressing systemic issues related to race and justice.



# Introduction: America's Founding Paradox



Orthodox narrative: racial slavery was lawfully inherited from British rule



Founders admitted racial slavery was abolished by the American Colonies Act (1766)



Parliament had sovereignty over slave laws in the Kingdom



Slavery continued due to colonial government graft and corruption

# Constitutional Foundations

Magna Carta (1215):  
due process  
protections

*Case of Proclamations*  
(1611): only  
Parliament could  
legislate in the  
Kingdom

First 19 Africans in  
1619 were indentured  
servants, not slaves  
because of English law



# Colonial Charters



Quill

Charters provided for a bicameral legislature; required imperial government approval



Scroll

Colonial assemblies could only propose ordinances; required assent



Lacked Sovereignty

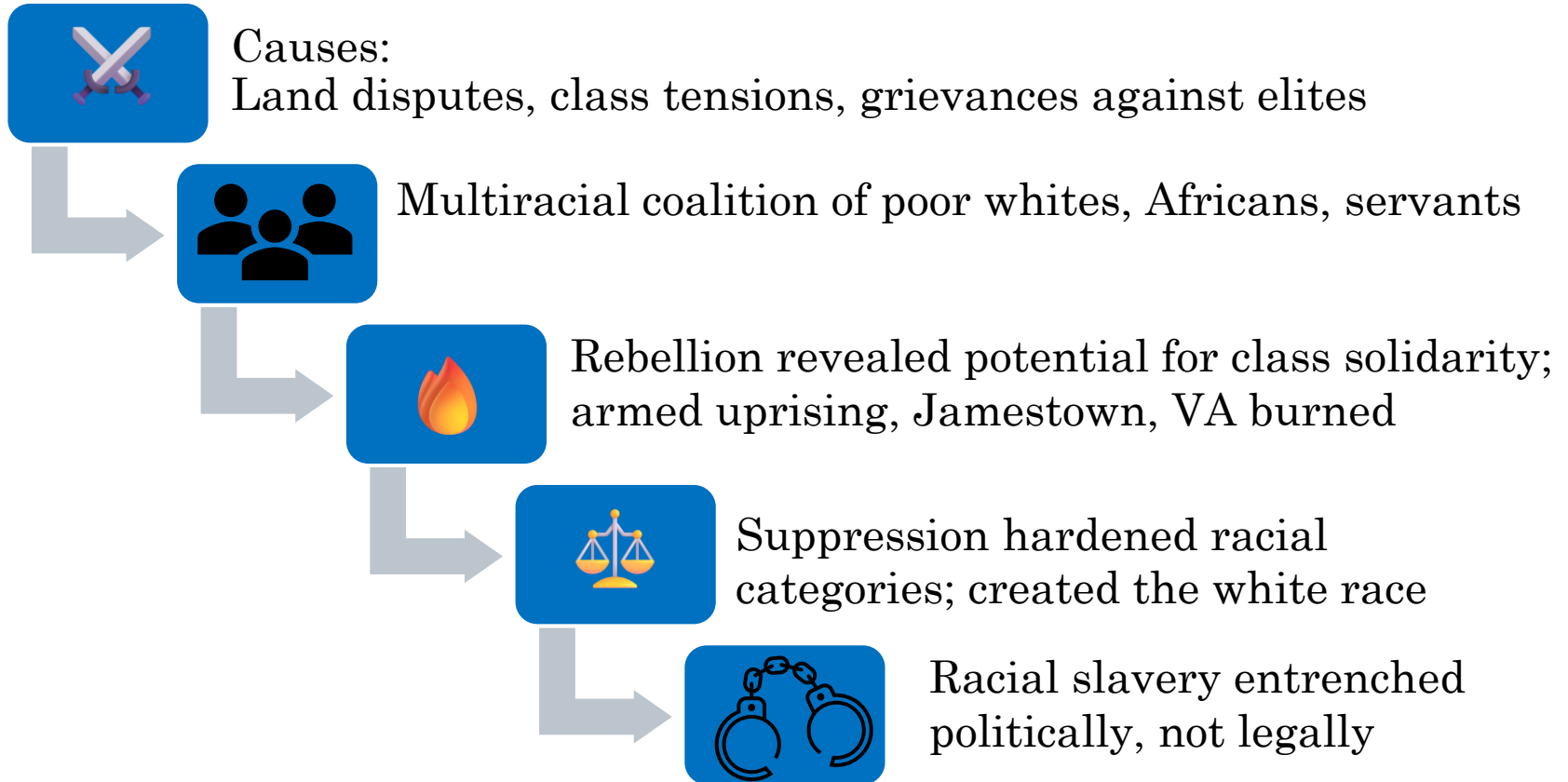
1662 Virginia law: *partus sequitur ventrem* did not change English law



Crown

No royal or Parliament approval meant that racial slavery was extra-legal

# Bacon's Rebellion (1675–1676)



# English Bill of Rights (1689)



Reaffirms Parliament's supreme legislative authority



Codified habeas corpus protections into constitutional law



No subject could be deprived of liberty without lawful cause



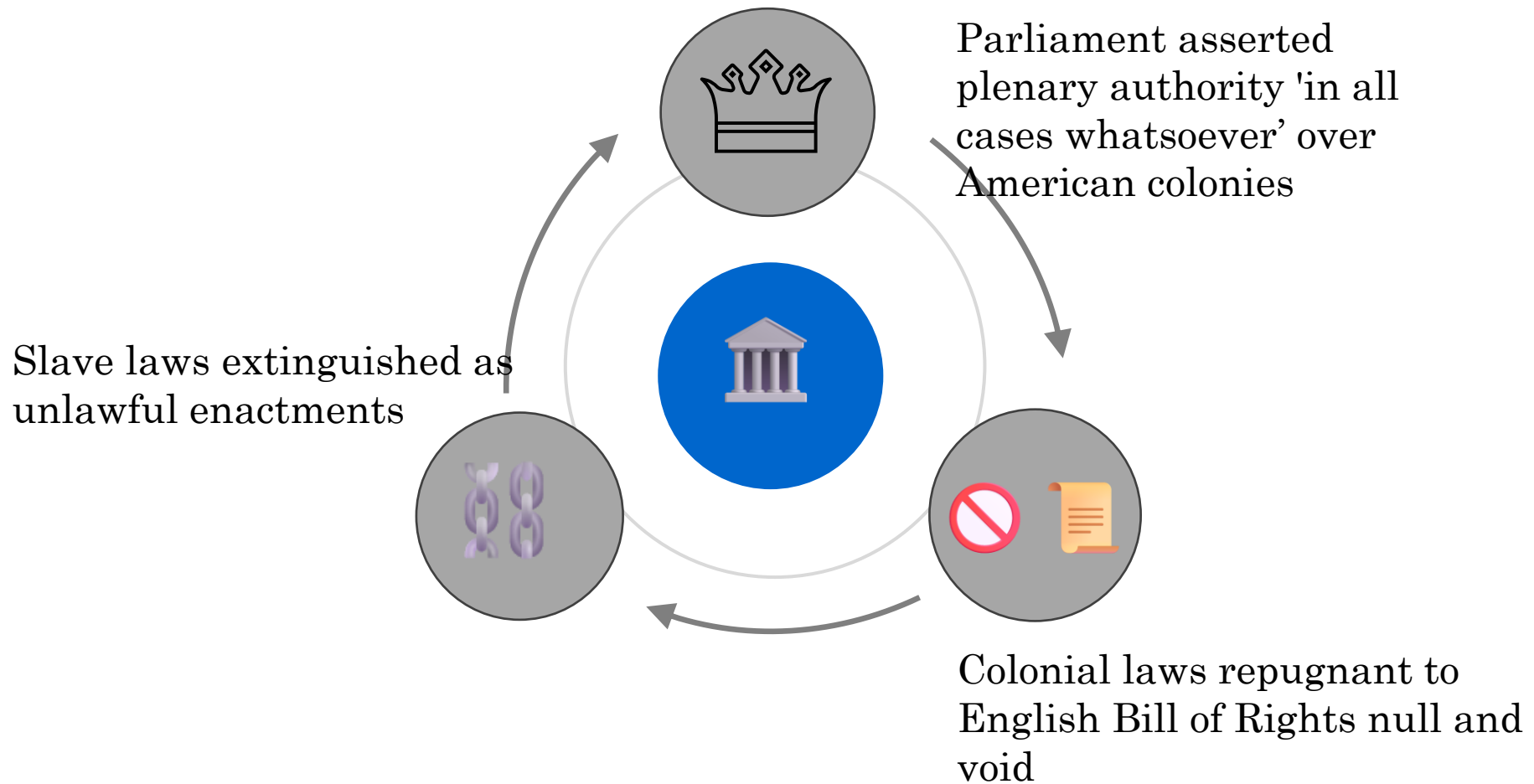
Extra-legal slave laws became constitutionally foul



No statute authorized racial slavery ➡ bondage legally indefensible

# American Colonies Act (1766)

[aka Declaratory Act]



# *Somerset v. Stewart (1772)*



Lord Mansfield: 'slavery so odious, can only exist by positive law' enacted by Parliament



No Parliamentary enacted slavery statute existed



Judicial confirmation: slavery was not approved and authorized in the Kingdom → Somerset discharged

# Declaration of Independence (1776)

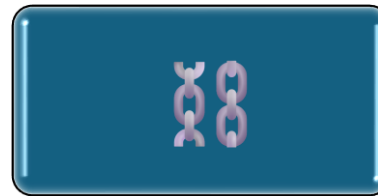


Preamble:  
'all men are created equal'  
echoed rights of Englishmen  
in the American colonies



Grievance:

King 'abolished our most valuable laws'  
➡ nullified slave laws



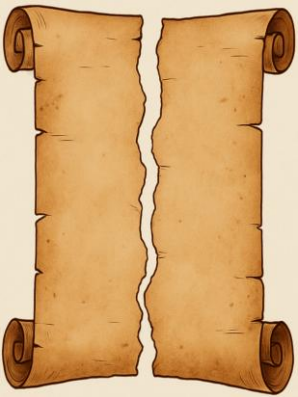
Paradox:

liberty proclaimed, bondage defended

# Key Grievances



“He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation:”

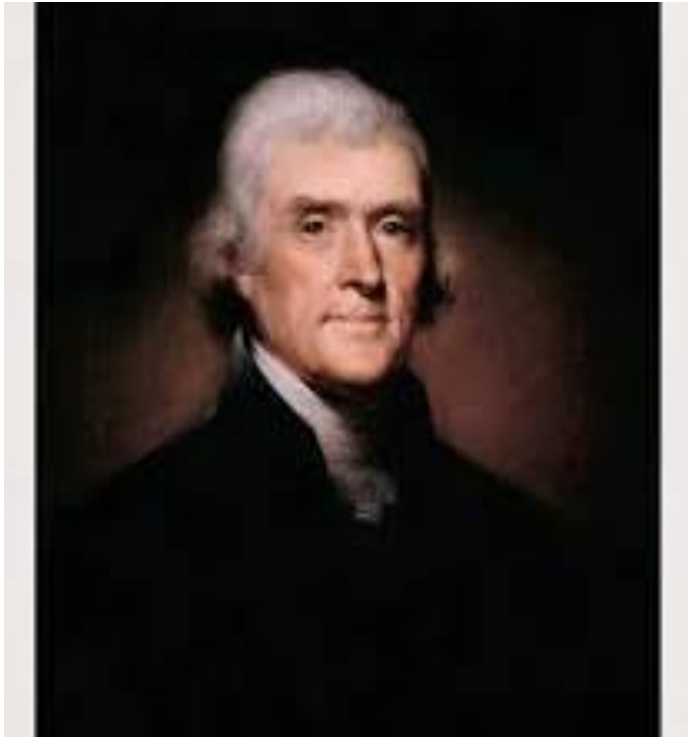


“For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments.”

# Linking Magna Carta to Declaration of Independence

| Magna Carta Guarantee                                                                                               | Colonial American Application                                                                              | Revolutionary Complaint (1776)                                                                                                                    |
|---------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| No free man shall be seized or imprisoned... except by the lawful judgment of his equals or by the law of the land. | Foundation of due process. Cited in colonial courts to resist arbitrary imprisonment and property seizure. | “For depriving us in many cases, of the benefits of Trial by Jury.”<br>“For transporting us beyond Seas to be tried for pretended offences.”      |
| To no one will we sell, to no one deny or delay, right or justice.                                                  | Colonists claimed equal access to courts and justice as Englishmen.                                        | “For obstructing the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary powers.”                                |
| Consent to taxation through common counsel.                                                                         | No taxation without representation. Assemblies saw themselves as lawful parliaments.                       | “For imposing Taxes on us without our Consent.”                                                                                                   |
| Protection of property rights.                                                                                      | Charters guaranteed secure property rights under English law.                                              | “For taking away our Charters, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments.”                       |
| Rule of law above the King.                                                                                         | Colonists cited Coke: even the monarch must govern by law.                                                 | “He has refused his Assent to Laws, the most wholesome and necessary for the public good.”<br>“He has made Judges dependent on his Will alone...” |

# Jefferson's Contradictions



Summary View (1774):  
denounced Parliamentary  
sovereignty



Knew colonial assemblies  
lacked authority for slavery



Ignorance of English law is no  
excuse



Congress 'mangled' his  
Declaration

# Phillipsburg Proclamation (1779)



Issued under imperial authority by  
Sir Henry Clinton



Direct exercise of plenary authority  
emancipated Afro-Englishmen



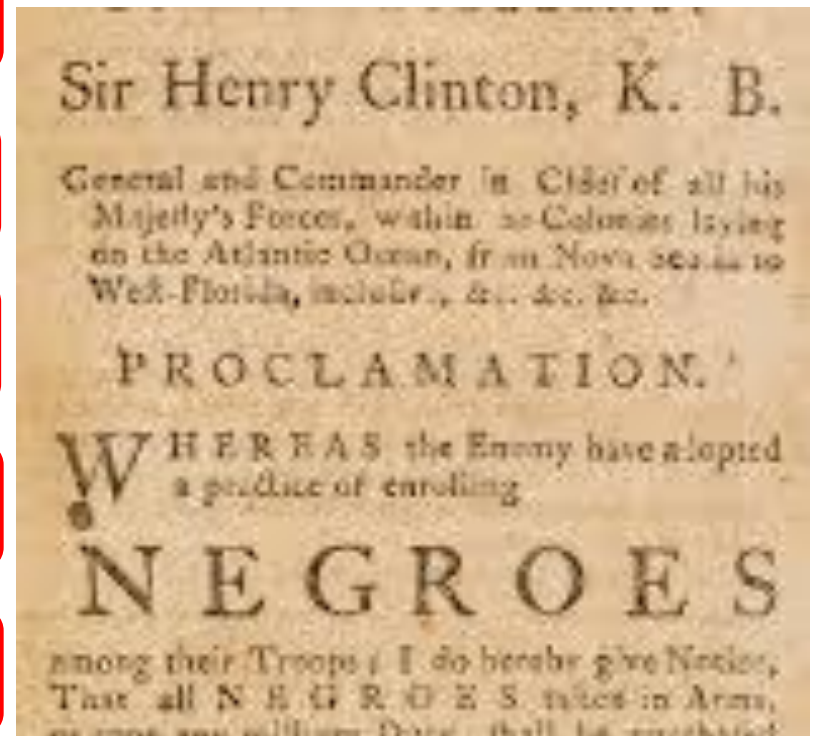
Freed all enslaved colonials



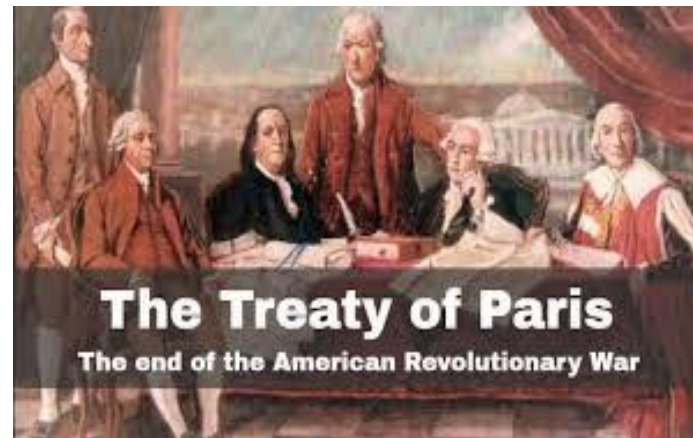
Congress later conceded British  
authority in Treaty of Paris (1783)



Confirmed legitimacy of imperial  
emancipation under English law



# Treaty of Paris (1783)



Ratified  
British  
plenary  
authority  
during the  
Revolution

Secured rights  
of British  
subjects,  
including  
Black  
Loyalists

United States  
refused to give  
due process to  
500,000 Afro-  
Englishmen;  
ignored the  
Book of  
Negroes

Betrayed the  
rule of law  
and  
international  
norms

# Jefferson's Later Reflections



Notes on the State of Virginia  
(1785): slavery's corrupting  
influence



Feared cycle of racial  
tyranny passed to future  
generations

## Lamentations



Debased both enslaved and  
enslavers



Trembled for America under  
God's justice

# Epilogue: Law, Memory, Reckoning

## Chain of law

**Magna Carta**

**Bill of Rights**

**American Colonies Act**

**Somerset**

- Slavery extra-legal, not approved by Parliament → stayed unlawful
- U.S. slavery founded on legal fiction of British inheritance
- Memory institutions (NMAAHC and ASALH) preserve true history
- Douglass: the Fourth of July a day of mourning for the excluded
- Reckoning with the past necessary for democracy's survival

# Questions??



# Ida B. Wells Center on American Exceptionalism and Restorative Justice



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