

## Appendix A

### Decision of Lord Mansfield in the *Somerset Case*, 1772

Lord *Mansfield*—On the part of *Somerset*, . . . the court now proceeds to give it's opinion. I shall recite the return to the writ of *habeas corpus*, as the ground of our determination; omitting only words of form. The captain of the ship on board of which the negro was taken, makes his return to the writ in terms signifying that there have been, and still are, slaves to a great number in *Africa*; and that the trade in them is authorized by the laws and opinions of *Virginia* and *Jamaica*; that they are goods and chattels; and, as such, saleable and sold. 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 *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 safe custody, to be kept till he should set sail, and then to be taken with him to *Jamaica*, and there sold as a slave. . . . We pay all due attention to the opinion of Sir *Philip Yorke*, and Lord Chief Justice *Talbot*, whereby they pledged themselves to the *British* planters, for all the legal consequences of slaves coming over to this kingdom or being baptized, recognized by Lord *Hardwicke*, sitting as Chancellor on the 19th of October 1749, that *trover* would lie: that a notion had prevailed, if a negro came over, or became a christian, he was emancipated, but no ground in law; that he and Lord *Talbot*, when Attorney and Solicitor-General, were of opinion, that no such claim for freedom was valid; that tho' the Statute of Tenures had abolished villains regardant to a manor, yet he did not conceive but that a man might still become a villain in gross, by confessing himself such in open court. . . . [T]he 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 aboard. So high an act of dominion must be recognized by the law of the country where it is used. The power of the 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 it's 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.