

## Air makes free: The 1772 Somerset Case and the poetics of England’s “pure air”

"TYRANTS, no more the servile yoke prepare  
For breath of slaves too pure is English air"<sup>1</sup>  
- *Morning Chronicle and London Advertiser*, June 27, 1772

Slaves cannot breathe in England; if their lungs  
Receive our air, that moment they are free,  
They touch our country and their shackles fall.  
- William Cowper, *The Task*, 1785, Book II, ll.40-43.<sup>2</sup>

The case was decided in 1772, and from that time it became a maxim that slaves could not exist in England. The idea was reiterated in the popular literature of the language, and fixed in the public mind by a striking metaphor which attributed to the atmosphere of the British Islands a quality which caused the shackles of the slave to fall off.

- *Lemmon v. the People*, 20 N.Y. 562, 605 (N.Y. 1860)<sup>3</sup>

This paper is about the ‘striking metaphor’ of English air as freedom-granting, that blows through Anglophone culture from its deployment in the signal slavery case of 1772, through nineteenth-century America, to the present. It is a fairly well-known image, and yet a strangely under-researched one. In retracing this metaphor, this paper aims to contribute to a historicization of the connection of air quality and (racial) inequality, one which has become in the last few years a major theme of both public campaigns and critical theory. Christina Sharpe has eloquently and influentially delineated the ‘atmosphere of anti-blackness’ which stopped Eric Garner and so many others from breathing, linking it to Franz Fanon’s description of ‘combat breathing’ in *Toward the African Revolution* (1964). As Sharpe puts it, ‘Slavery, then, simultaneously exhausted the lungs and bodies of the enslaved even as it was imagined and operationalized as that which kept breath in and vitalized the Black body.’<sup>4</sup>

In highlighting a legal-literary notion, or fantasy, that ‘air makes free’, I am drawing on a longstanding body of scholarship by historians of European slavery and serfdom, on the free soil principle.<sup>5</sup> Sue Peabody and Keila Grinberg define this principle as ‘local, popular traditions, dating back at least as far as the sixteenth century, [which] freed people in

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<sup>1</sup> Cited in F.O. Shyllon, *Black Slaves in Britain* (OUP, 1974), as ‘five days after’ the judgment.

<sup>2</sup> William Cowper, *The Task and Selected Other Poems*, ed. by James Sambrook (Longman, 1994).

<sup>3</sup> Derek A. Webb, ‘The “Somerset” Effect: Parsing Lord Mansfield’s Words on Slavery in Nineteenth Century America’, *Law and History Review* (2014), 32:3, pp.455-490, p.463.

<sup>4</sup> Christina Sharpe, ‘The Weather’, *The New Inquiry* (2017), <https://thenewinquiry.com/the-weather/>, excerpted from *In the Wake: On Blackness and Being* (Duke, 2016).

<sup>5</sup> Sue Peabody built on the work of Seymour Drescher, attempting to find a European ‘freedom principle’ underlying the historical abolition of slavery.

bondage when they crossed particular state borders’, customs which were ‘sometimes articulated in court decisions’, and ‘formulated, advanced, contested and manipulated’ by historical actors.<sup>6</sup> Peabody shows that the ‘precious maxim’ that ‘there are no slaves in France’ - said to be ‘imprinted in the hearts of Frenchmen’ and the ‘greatest privilege of the Kingdom’ - was an artful piece of eighteenth-century legal-nationalist myth-making.<sup>7</sup> Lawyers for Jean Boucaux, a slave brought to France from St Domingue, argued successfully in 1738 that he had become a free man upon setting foot on French soil, with a legal case that blended pre-standing but only partially relevant ideas, including Louis X’s 1315 limited ending of serfdom and the notion that baptized Christians could not be held by Jews.<sup>8</sup> Peabody writes: ‘Like a seashell tossed by the tides, the maxim’s barnaclelike accretions and collisions with opposing forces eventually distorted its original form’.<sup>9</sup>

William Harrison’s 1587 *Description of England* announced a similar principle:

As for slaves and bondmen, we have none; naie, such is the privilege of our countrie by the especiall grace of God, and bountie of our princes, that if anie come hither from other realms, so soone as they set foot on land they become so free of condition as their masters, whereby all note of servile bondage is utterlie removed from them, wherein we resemble (not the Germans, who had slaves also, though such as in respect of the slaves of other countries might well be reputed free, but the old Indians and the Taprobanes, who supposed it a great injury to Nature to make or suffer them to be bond, whom she in hir wonted course doth product and bring forth free).<sup>10</sup>

Here, the nationalistic claim for England’s specialness is nuanced by the comparison of English to Indians and Sri Lankans.<sup>11</sup> Harrison’s idea of instantaneity - ‘so soone as’ - carries through into later legal commentary, including Sir John Holt’s 1701 decision, invalidating a £20 debt claim for a lost slave, that “as soon as a negro comes into England, he becomes free; one may be a villein in England but not a slave.” The William and Mary-appointed Holt rolled back of some of Charles II’s pro-slavery judicial interventions. In the Restoration and Glorious-Revolution eras, common law was used both to shore up slavery and to undermine

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<sup>6</sup> Sue Peabody and Keila Grinberg, ‘Free Soil: The Generation and Circulation of an Atlantic Legal Principle’, *Slavery & Abolition*, (2011),32:3, 331-339, DOI: 10.1080/0144039X.2011.588468, p.331.

<sup>7</sup> Sue Peabody, *There are No Slaves in France: The Political Culture of Race and Slavery in The Ancien Regime* (Oxford, 1996), 30.

<sup>8</sup> Peabody, p.25-31.

<sup>9</sup> Peabody, p.32.

<sup>10</sup> Raphael Holinshed, *The first and second volumes of Chronicles . . . now newlie augmented and continued (with manifold matters of singular note and worthie memorie) to the yeare 1586* (London: Henry Denham, 1587), bk. 2, chap. 5, 163, Early English Books Online, ebbo.chadwyck.com (accessed 26 May 2010). Also in William Harrison, *The Description of England*, 1587 ed. Georges Edelen (Folger society, 1968), p.118. <https://sourcebooks.fordham.edu/mod/1577harrison-england.asp#Chapter%20X>

<sup>11</sup> Note, Arthur Little, in ‘Re-historicizing Race, White Melancholia and the Shakespearean Property’, in *Shakespeare Quarterly*, 1-2016, 84-103, looks at this passage to suggest English writers used a “classical derived and historically fixed whiteness deeply embedded in human freedom”, p.83.

it, complexly interwoven with challenges to monarchical absolutism, judicial corruption, and conjoined royal and private business interests.<sup>12</sup> As Holly Brewer has shown in forensic detail, although England lacked a constitutional slavery code (such as other empires were creating in this period), the crucial legal fiction for English slavery - that 'people' could be 'property' - was created through a case of debt-recovery (trover) in *Butts vs. Penny* in 1677, and the subsequent "20 years of precedents that had cut a deep groove on the terrain of legal thought, an impact that proved persistent, powerful, and difficult to undo".<sup>13</sup> Brewer shows that from 1660-1860, 'fundamental choices' in English common law created an empire of slavery, "shaped by visions of a political order that idealized and manipulated an ancient feudal and Roman past. They converted these vestiges into newer principles of absolute monarchy, absolute power, and absolute property".<sup>14</sup> Holt was shortly overturned by the infamous *Yorke-Talbot* opinion, written by the Attorney General and Solicitor General in 1729, purported to 'rectify a Mistake, that Slaves become free, by their being in England, or Ireland or being Baptized'.<sup>15</sup> Lord Mansfield - who we shall encounter shortly - allegedly dismissed this opinion as being issued 'upon a petition in Lincoln's Inn Hall, after dinner'; and Thomas Clarkson in 1808 called it a 'cruel and illegal opinion' brought about by pressure from planters, though there is a newer, paradoxical view that it was motivated by missionaries whose Christianizing activities were being hindered by slave-holders who feared their slaves would then be legally freed.<sup>16</sup>

Yet the foot-soil-free association could not be undone: in *Shanley v. Harvey* (1762), lord Chancellor Henley ruled that 'as soon as a man sets foot on English ground he is free' (Potter), and this was repeated in William Blackstone's first edition of his *Commentaries* (1766), which went back to Holt to note that 'this spirit of liberty is so deeply implanted in our constitution, and rooted even in our very soil, that a slave or a negro, the moment he lands in England, falls under the protection of the laws, and with regard to all natural rights becomes *eo instanti* a free man.'<sup>17</sup> The idea that a spirit of liberty is 'infused' in the soil seems potentially to have laid the ground - or opened the window, one might say - for the introduction of an air thematic into the *Somerset* case of 1772.

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<sup>12</sup> Brewer H. Creating a Common Law of Slavery for England and its New World Empire. *Law and History Review*. 2021;39(4):765-834. doi:10.1017/S0738248021000407

<sup>13</sup> Brewer, 831.

<sup>14</sup> Brewer, 832.

<sup>15</sup> See Nicholas Leah's extensive summary of the opinion, 'Confronting the Yorke-Talbot Slavery Opinion and its legacy within English law', Gatehouse Chambers, Insight paper (2021), 1-13, <https://gatehouselaw.co.uk/wp-content/uploads/2021/07/Nicholas-Leah-Confronting-the-Yorke-Talbot-Slavery-Opinion-and-its-legacy-within-English-law.pdf>

<sup>16</sup> Leah, p.4, p.8.

<sup>17</sup> William Blackstone, *Commentaries on the Laws of England*, 4 vols. (Oxford: Clarendon, 1765-69), 1:123. This line is controversial due to a later amendment in the 2nd and 3rd editions, where a modification was inserted, apparently on the advice of Lord Mansfield [and so far becomes a free man, though the master's right to service may probably still continue].

This paper will go on to analyse in detail the way air became the key metaphor of Somerset, highlighting how and why a junior lawyer named William Davy decided to introduce the idea that ‘slaves cannot breathe in England’ into the case. I highlight how the lawyers’ sparring opens up the very commonality and circulating nature of air - its actual indivisibility between France, Jamaica, England and Russia - pointing up the dilemma of national rules versus natural law on slavery. At the same time, we can note in the case materials a surprising consciousness of contemporary conditions of atmospheric pollution. I briefly consider the treatment of air in the abolitionist movement that began in the 1770s, before turning to William Cowper’s *Task* of 1785, which makes a direct allusion to the Somerset case. He presents British air as nationalistically ideal and quasi-magical; and yet also polluted, and tainted by history. The main thought of this paper is that only a consciousness of air’s ruination leads to air being idealised; that one needs to envisage the air as a mixed, complex and even polluted substance, in order to recognise that air quality might also be a site of air inequality - a recognition which in itself fuels the metaphorical possibility of air as evoking liberty.

### **The Somerset Case**

Let us first consider the atmosphere of Westminster Hall on Friday, February 7, 1772, at the opening of the celebrated *habeas corpus* case brought by “James Somerset, a Negro”, against Charles Stewart (or Stuart), his former “owner” from whom he had escaped in 1771’.<sup>18</sup> Inside the Court of King’s Bench, the air must have felt stuffy and human; we know the hall was crowded with lawyers, including Jeremy Bentham, and writers; the three puisne judges were, as required, wearing their thick velvet winter robes faced with miniver furs.<sup>\*19</sup> Winters in the 1770s were strikingly cold, with Februarys often foggy: conditions likely to have trapped pollutants at low, head-height, levels.<sup>\*20</sup> It was noticeably smoky outdoors, since a new edition of John Evelyn’s anti-air-pollution tract *Fumifugium*, first published in 1661, and reissued in 1772, lamented that the smoke from water works, ‘glass houses, foundries and sugar bakers’ was even worse than the breweries’ notorious sea-coal smoke a century earlier; now London garden fruit trees no longer bore leaves, let alone fruit.<sup>\*21</sup> The

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<sup>18</sup> ‘The case of James Somerset, a Negro, on a Habeas Corpus, King’s-Bench: 12 George III A.D. 1771-72’ in *Cobbett’s Complete Collection of State Trials*, ed. T.B. Howell (33 vols, London: 1816-1828), xx, 1-82, 79. *Granville Sharp’s Cases on Slavery*, ed. Andrew Lyall, (Oxford and Portland Oregon), 2017.

<sup>19</sup> Steven Wise, *Though the heavens may fall: the landmark trial that led to the end of human slavery* (Da Capo Press: Cambridge, MA 2005).

<sup>20</sup> See: <https://www.pascalbonenfant.com/18c/geography/weather.html>;  
<https://www.britannica.com/place/London/Climate>

<sup>21</sup> John Evelyn, *Fumifugium, Or the Inconvenience of the Aer and Smoake of London Dissipated* (National Society for Clean Air, 1961), Preface to the Edition of the Tract, Reprinted for B. White in Fleet Street, 1772, p.40. I discuss *Fumifugium* earlier in the book.

trial, with four hearings (7 February, 9 May, 14 May, 21 May) went on for months into a 'dry and warm' summer, so the London air may have felt soft and balmy on Monday June 22, the day of the verdict that marked what historian Steven Wise dubbed "the beginning of the end of slavery".<sup>22</sup>

The details of the Somerset case, and the meaning of the verdict, have been pored over by historians for years, with intensity only increasing in the last decade.<sup>23</sup> Known originally as 'Somerset's Case' or 'A Case of a Negro', it was dubbed 'The Mansfield Judgment' some time after the judge William Murray was made Lord Mansfield in 1776. The source base is large yet contradictory.<sup>24</sup> Transcripts were made by the stenographer William Isaac Blanchard (commissioned by Granville Sharp) and the junior barrister Capel Lofft, as well as extensive newspaper accounts which immediately recognised the importance of the case. One report in the *Public Advertiser* stated that "near 200 Blacks ... had an Entertainment at a Public-house in Westminster, to celebrate the Triumph which their Brother Somerset had obtained over Mr. Stuart his Master".<sup>25</sup>

James Somerset had been the property of a British customs cashier Charles Stewart (or Stuart), and was brought from Virginia to London, where he was baptized and lived for a few years before escaping his master in the autumn of 1771, living in hiding for 56 days. In November 1771 he was recaptured and detained on the Ann and Mary, bound for a Jamaica plantation, where he was to be sold into what he knew would be a brutal and brief labouring life. Witnessing his recapture, his British (baptismal) godparents immediately obtained a writ of *habeas corpus*. Somerset came to Granville Sharp in mid-January 1772 for help, and two weeks later Sharp 'Gave cash £6 to retain 2 counsel on the case of Somerset'.<sup>26</sup> With very little time, as several of them complained, to prepare the case, five lawyers eventually represented Somerset until the judgement in June: Serjeant-at-law William ("Bull") Davy, Serjeant-at-law John Glynn, Counsel James Mansfield (note, not the judge, William Murray, Earl of Mansfield), John Alleyne, and Francis Hargrave. The language of 'pure air' was introduced by Bull Davy on the first day of the hearing, and was immediately remarked upon: the *Middlesex Journal* of 8 February reported 'that any slave being once in England, the very air he breathed made him a free man; and by the stenographer Blanchard, 'that England

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<sup>22</sup> <https://www.pascalbonenfant.com/18c/geography/weather.html>.

<sup>23</sup> Daniel J. Hulsebosch, "Nothing but Liberty: 'Somerset's Case' and the British Empire." *Law and History Review*, vol. 24, no. 3, 2006, pp. 647–57. *JSTOR*, <http://www.jstor.org/stable/27641405>. Accessed 6 July 2023.

<sup>24</sup> Lord Mansfield's original manuscript judgment was lost, possibly in the Gordon Riots fire that burned down his collection, but one contemporary account noted that it contained the phrase: 'The air of England has long been too pure for a slave, and every man is free who breathes it.' Wise, 189.

<sup>25</sup> *Public Advertiser*, date.

<sup>26</sup> Granville Sharp thus gained the reputation as the man who had reaffirmed that England was by definition a 'free' country, Vincent Brown, *The Reaper's Garden, Death and Power in the World of Atlantic Slavery* (Harvard, 2008), p.170.

was too pure an Air for Slaves to breathe in'.<sup>27</sup> Visitor Henry Marchant, in court, was impressed enough to note down the phrase, though perhaps directly from the newspaper report, "That any slave being once in England, the very air he breathed made him a free man"\* <sup>28</sup>

Bull Davy's inspiration to make air the dominant rhetorical trope in his two-and-a-half hour opening arguments drew from an obscure Elizabethan case he had found. Davy set two key propositions before the judge: that 'no Man at this Day is, or can be a Slave in England', that 'it was resolved that England was too pure an Air for Slaves to breathe in'.<sup>29</sup> (Granville's own copy of the transcripts show both underlining and a little pointing manicule on those two points.) To link the propositions, Davy turned back to the history of villeinage in medieval England, a state that was always-already failing ('as soon as we hear of a State of Villenage we hear of its decline'); a state fundamentally unnatural to the English "Climate, the Genius of the People and the Soil".<sup>30</sup> As he warmly expounded: 'true genuine Liberty is the Birth Right and Inheritance of the People in this Country'.<sup>31</sup> Turning next to further case law, Davy cited the distinctions between villeins and slaves in the fourteenth-century law text the *Mirror of Justices*, concluding that 'In every one of these Accounts I don't find a Man ever come into Court and went out of Villein in any Case for these 2 or 300 Years past'.<sup>32</sup> But the crucial case came from Rushworth's 1721 volume of Elizabethan court records, which stated that in the 11th of Elizabeth [1569]: 'One Cartwright brought a Slave from Russia and would scourge him for which he was questioned - (Cartwright was) And it was resolved that England was too pure an Air for Slaves to breathe in.'<sup>33</sup>

Davy emphasized how this decision for liberty had won even when the 'collective Capacity' of the People was limited by absolute monarchy, repeating the key notion of pure air:

when Monarchy held its Head so very high in this Country as it did in the Reign of Queen Elizabeth it was resolved that England was too pure an Air for slaves to breathe in – I hope, my Lord the Air does not blow worse since – I hope it is not but unless there is a Change of Air I hope they will never breathe here. for that is my Assertion. The moment they put their foot upon English Ground that moment they become free– there are subject to the Laws and they are entitled to the protection of the Laws of this Country, and so are their Masters thank God'.<sup>34</sup>

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<sup>27</sup> Lyall, p.69.

<sup>28</sup> Worrall suggests Marchant copied directly from the *Middlesex Journal*; see also Wise, p.139.

<sup>29</sup> Lyall, p.170.

<sup>30</sup> Lyall, p.162, 165.

<sup>31</sup> Lyall, p.168.

<sup>32</sup> Lyall, p.169-70.

<sup>33</sup> Rushworth, *Historical Collections of Private Passages of State*. Volume 2: 1629– 38 (1721), pp 461–481. [<http://www.british-history.ac.uk/rushworth-papers/vol2/pp461-481>],

<sup>34</sup> Lyall, p.170.

The half humorous reference to ‘Change of Air’ - the widely understood health cure - and the possibility that the air might ‘blow worse’ since the Elizabethan era - suggests atmospheric historicity. Davy went through a further set of arguments, mentioning the more well-known freedom principle relating to soil - ‘the right of Liberty which every Man setting his Foot upon English Ground has’ - but sometimes expanding soil into air again: ‘if the Gentleman should ask what is their Enfranchisement I answer the Soil and the Air is their Enfranchisement and their Arrival here make them free’.<sup>35</sup> Sarjeant Glynn, continuing the case, elaborated the metaphor to suggest that Somerset’s very breathing contradicted Stuart’s claim that he could be property: ‘he has stated the Person he claims as Goods & Chattels to be a Man breathing the Air of England, [96] and having stated that, he has in the Sentence he asserts confuted his Claim.’<sup>36</sup> Glynn praised his ‘Brother Davy’ for his ‘very diligent research’ finding ‘the Case of the Russian Slave where it was resolved that England was too pure an Air for Slaves to breath in’.<sup>37</sup> Glynn asserted that this breathing-liberty connection grounded ‘The Claim a Man derives from common Nature’, suggesting the ‘common resource’ account of air (which I discuss elsewhere). At length Glynn wrapped up, to which the judge (almost entirely silent in the transcript thus far) closed the proceedings with one question, asking for any further ‘traces’ of the ‘Russian Slave’ case, but being fairly answered by Davy that ‘I know nothing more of it than what I told your Lordship’, the judge recognised that the case was likely to ‘go to a great length’ and ordered it to be carried to the next term.<sup>38</sup>

When it resumed in May - poor Somerset still languishing anxiously - Counsel Mansfield, for Somerset, returned to the air thematic: ‘Where then is the mighty magic of the air of the West Indies, by transplanting them [slaves] for a while there, that they should become our absolute property here?’.<sup>39</sup> As historian David Worrall has recently noted, “By alluding to the Atlantic trade winds on which the business of slavery was borne, he may have felt well pleased with his attempt to embed the idea of an invisible, yet palpable, medium redolent with British exceptionalism”, though he adds “There is no evidence that the pure English ‘air’ argument had any impact on the verdict”.<sup>40</sup> But as we have seen, even on the first day of the trial Lord Mansfield was highly alert to Davy’s retrieval of the ‘Russian Slave’ / pure air case. On 14 May, Francis Hargrave gave a long and philosophical argument (published separately later that year), alluding again to the question of the literalness of the air metaphor: ‘a soil

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<sup>35</sup> Lyall, p.172, p.174.

<sup>36</sup> Lyall, p.188.

<sup>37</sup> Lyall, p.192.

<sup>38</sup> Lyall, p.198.

<sup>39</sup> Note here the confusion over hearing dates - the Lyall documents do not quote 9 May transcripts, going straight to 14 May. - Check against Cobbett.

<sup>40</sup> David Worrall, ‘How Much Do We Really Know About *Somerset v. Stewart* (1772)? The Missing Evidence of Contemporary Newspapers, *Slavery & Abolition*, 43:3 (2022), 574-593, DOI: 10.1080/0144039X.2022.2041316, p.580, p.581.

whose air is deemed too pure for slaves to breathe in? Not that they cannot actually breathe in it; but the laws, the genius and spirit of the constitution, forbid the approach of slavery'.<sup>41</sup> Pointing out how few English laws even mentioned slavery, he went back to the Elizabethan Star-Chamber case, noting that it had been recognised 'the air of England was too pure for slavery'.<sup>42</sup>

Dunning, the lawyer for the enslaver, finally spoke, and agreed that the 'Russian Case' was convincing; yet suggested that human political relationships, of master and servant, even 'husband and wife', were subject of municipal laws, contracts, agreements - rather than being 'natural'. He rejoindered: 'Let me take notice: neither the air of England is too pure for a slave to breathe in, nor have the laws of England rejected servitude'.<sup>43</sup> Dunning's cultural relativism is magnificently excoriated by Davy:

For the air of England; I think, however, it has been gradually purifying ever since the reign of Elizabeth. Mr Dunning seems to have discovered so much, as he finds it changes a slave into a servant; though unhappily he does not think it of efficacy enough to prevent that pestilent disease reviving, the instant the poor man is obliged to quit (voluntarily quits, and legally it seems we ought to say,) this happy country. However, it has been asserted, and is now repeated by me, this air is too pure for a slave to breathe in: I trust, I shall not quit this court without certain conviction of the truth of that assertion.<sup>44</sup>

Punning on air pollution, air health, and the pestilence of slavery, this passage shows the significance of the discourse of air inequality. There is a deep literalness underlying the passage - the idea of free life as freedom to breathe, alongside an irony of arguing against slavery by saying (even ironically) that the slave would not be able to bear the purity of the English air, drawing on racist discourse of the atmospheric corruption of the tropics making slavery a natural condition.

### **Cowper's 1785 Task: 'a breath of unadult'rate air'**

The British abolition campaign as it began in the 1770s had to recognise that the real air was *not* a transformative or even benign force in the slaves' experience. Because it was aimed at ending the slave trade, not plantation slavery, its rhetoric focused heavily on the environment of the Middle Passage.<sup>45</sup> The stink of the slave ships was described frequently in the eighteenth century - they could even be 'sensed off shore by inhabitants of Atlantic

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<sup>41</sup> Lyall, p.201

<sup>42</sup> Lyall, p.202.

<sup>43</sup> Cobbett, p.74, Lyall pp.212-213.

<sup>44</sup> Cobbett, p.79.

<sup>45</sup> Emphasis on the air / water, because 'the horrors of the middle passage, and those of plantation slavery could be set out as foreign evils which tainted, but in fact were no part of, British law, thought or society', Marcus Wood, *The Poetry of Slavery: An Anglo-American Anthology, 1764-1865*, xxxviii, xvii.

ports' - and is a major theme of its tragic historiography; as Andrew Kettler notes, following Burnard, Rediker, Hartman and Brion Davis: 'Even before being taken into the stinking holds of the slave ship, many Africans faced the terrible odors of the slave system during their journeys from the African interior to the shore'.<sup>46</sup> Polluted by illness and death, and 'rent' with cries of anguish, the air was a frequent topos of the anti-slavery poetics that began in the early 1770s, which have a frequently 'elemental' quality, posing questions of the agency of the winds themselves. In Thomas Day's 'Dying Negro' (1773), said to be the first explicitly anti-slave-trade poem, the lovelorn slave first blames the air and water - "Curst be the winds, and curst the tides which bore / These European robbers to our shore!"; then he predicts them turning against the oppressor: "No more proud Commerce courts the western gales, / but marks the lurid skies, and furls her sails". Thomas Clarkson, who "did more than anyone to secure the association of slavery with death" decried the ships' 'pestilential air' in his 1785 *Essay on the Slavery and Commerce of the Human Species*.<sup>47</sup> The same essay repeatedly figures a damaged air - filled with cries, dust and trembling - in his powerful evocation of an African first-person witness:

And first, let us turn our eyes to the cloud of dust that is before us. It seems to advance rapidly, and, accompanied with dismal shrieks and yellings, to make the very air, that is above it, tremble as it rolls along. What can possibly be the cause? "[...] Alas!" says the unhappy African, "the cloud that that you see approaching, is a train of wretched slaves. They are going to the ships behind you."<sup>48</sup>

The author asks rhetorically of these cries: "Can the southern winds convey them to the ear of Britain?". The chapter ends with a bleakly synaesthetic pathetic fallacy: "they had turned their face to their country, as if to take a last adieu, and, with arms uplifted to the sky, were making the very atmosphere resound with their prayers and imprecations."<sup>49</sup> This motif of the elements as cruelly, blankly unresponsive to the slaves' agonized cries continued in the poems of the subsequent years: - 'Nought, but the wide expanse of air, and sea, / Heard all their cries with double rage renew'd' (Roscoe, *The Wrongs of Africa*, 1787); Mary Robinson's 'Negro Girl' (1808), Zelma, cries out to her lover Draco, but he can hear only the 'shrill yelling of the fateful blast'.<sup>50</sup>

William Cowper's antislavery position is now seen as central to his poetics, rather than

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<sup>46</sup> Andrew Kettler, *The Smell of Slavery: Olfactory Racism and the Atlantic World* (Cambridge, 2020), p.148, 147

<sup>47</sup> Vincent Brown, p.175.

<sup>48</sup> Thomas Clarkson, *An essay on the slavery and commerce of the human species, particularly the African, translated from a Latin dissertation, which was honoured with the first prize in the University of Cambridge, for the year 1785, (in Latin 1785, in English 1786), Part III, Ch2*. Accessed from <https://quod.lib.umich.edu/e/evans/N15396.0001.001/1:5.3.1?rgn=div3;view=fulltext> 22/4/23

<sup>49</sup> Clarkson, Part III, Chapter 1.

<sup>50</sup> Wood, p.50.

merely one of several moral concerns of his Evangelical Protestantism. Marcus Wood notes that he ‘thought about slavery with unique ambition’, comparable only to Walt Whitman in the white Anglophone sphere.<sup>51</sup> But the stakes of Cowper’s thinking about *air* in relation to slavery have been little discussed.<sup>52</sup> Air and weather imagery, as well as newspaper reading, informs the extended denunciation of slavery as ‘human’s broadest, foulest blot’ (22) in Book II, ‘The Time-Piece’. The intriguing presence of the news - particularly the post horn - ‘herald of a noisy world’, bringing ‘News from all nations’ - Book IV, has attracted the attention of scholars, becoming arguably even canonical.<sup>53</sup> Given his newspaper habit - *The Morning Chronicle*, the *General Evening Post*, the *Gentleman’s Magazine* - and his habit of ‘converting the daily newsprint into poetry’ - it is not impossible that the poet William Cowper also scribbled down the ‘Slaves cannot breathe’ line from contemporary press coverage, filing it away for a decade before beginning to draft his epic poem, *The Task*, in 1784.<sup>54</sup>

Cowper introduces the slavery question in Book II by noting that he would not have a slave for any amount of wealth; that ‘dear as freedom is’, ‘I had much rather be myself the slave / And wear the bonds, than fasten them on him.’ The poet continues, quoting directly from the Somerset case:

We have no slaves at home—then why abroad?  
And they themselves, once ferried o’er the wave  
That parts us, are emancipate and loosed.  
Slaves cannot breathe in England; if their lungs  
Receive our air, that moment they are free,  
They touch our country and their shackles fall.  
That’s noble, and bespeaks a nation proud  
And jealous of the blessing. Spread it then,  
And let it circulate through every vein  
Of all your empire; that where Britain’s power  
Is felt, mankind may feel her mercy too. (l.37-47)

This passage exemplifies the way the Evangelical character of the abolition movement shaped the air-slavery metaphor, for Evangelism’s imperative was to extend the idea of

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<sup>51</sup> Wood, p.81 and xxvi.

<sup>52</sup> On the Laki volcano-induced weather conditions, see Tobias Menely, "The Present Obfuscation": Cowper's *Task* and the Time of Climate Change, *PMLA*, May 2012, Vol. 127, No. 3 (May 2012), pp. 477-492. Menely identifies the strange ‘Boetian atmosphere’, in which ‘time had lost its most reliable measure’, p.482. 1784 also saw the invention of Watt’s steam engine, itself leading to the loss of human time-meaning dependent upon the ‘periodicity of a stable climate’, p.490.

<sup>53</sup> Whilst William Hazlitt first paid attention to the post horn passage, more recent studies such as those of Kevis Goodman have recognised the ‘pressure of historical presentness’, in *Georgic Modernity*, p.101; Mary Favret in *War at a Distance: Romanticism and the making of Modern Wartime* has emphasized the newspapers in the construction of a ‘complex aesthetic for modern wartime’, p.22.

<sup>54</sup> Wise (2005, 191) suggests that Cowper’s poem may have been a response to commentary published in the *Morning Chronicle* and *London Advertiser* five days after the *Somerset* judgment. See also Carrie Hyde. Shyllon, *Black Slaves*, p. 165. Goodman, p.71

British pure air to a global context, gifting freedom and salvation to all slaves. As the legal scholar Daniel Hulsebosch has noted, abolitionists made an ‘expansive’ interpretation of the Somerset case far beyond the lawyers’ actual argument for ‘English supremacy’: ‘The “pure air” remark helped galvanize the movement. For abolitionists, lifting that remark out of the context of the decision made it seem like the principle of purity applied everywhere in the Anglophone world’.<sup>55</sup> John Wesley had been reading both Anthony Benezet’s *Some Historical Account of Guinea* (1772) and the Mansfield judgment a few weeks before writing his *Thoughts on Slavery* (1774), in which he wrote: ‘Liberty is the right of every human creature, as soon as he breathes the vital air; no human law can deprive him of that which derives from the law of nature.’<sup>56</sup> This was a significant ‘rights’ expansion of the key Somerset metaphor. It is not impossible that Wesley’s phrase ‘vital’ air may have evoked Virgil’s *Aeneid*, ‘while yet he breathes the vital air’, which had been cited in Aldred’s celebrated case of nuisance - air pollution - in the previous century.

These tensions around the meaning of air - as both nationalistically ideal, and quasi-magical; and yet also polluted, tainted by history, are present in Cowper’s rich exposition. In the ‘Somerset’ passage from Book II above, Cowper’s suggestive use of political paradox (‘if not here, why there?’) flowers into a larger biological-political paradox and metamorphosis (‘slaves cannot exist’). The moment of emancipation on British shores is magical and generous: the slave lungs passively ‘receive our air’; the slave feet lightly ‘touch’ the ground. In case we were in any doubt as to Britain’s faery force, Cowper doubles down with propagandistic approbation: ‘noble’, ‘proud’, ‘blessing’; and ends with a naturalizing image of compassionate Britain’s warmly-beating body politic. *The Task* elsewhere is very conscious of the actual problems of Britain’s air. In a long peroration on liberty in Book V, which opens with an airy metaphor of liberty as life’s ‘perfume’ (V, l.447), Cowper bemoans Britain’s ‘fickle’, ‘rude’, ‘vapour’-filled and frankly depressing climate (V, l.484, V, ll.462-4); if liberty were lost, he would opt for France’s ‘skies / Milder’. In his letters, Cowper writes often of the need to escape damp miasmas: of an impending move he writes “Here we have a bad air in winter, impregnated with the fishy-smelling fumes of the marsh miasma; there we shall breathe in an atmosphere untainted”.<sup>57</sup> *The Task* is very conscious of English industrial pollution and the loss of what England ‘was’. In his Hymns and memoir, ‘pollution’ carries for Cowper its older moral and sexual meaning (rooted in ‘smearing’): “My God, how perfect are thy ways! / But mine polluted are”; “I remembered the pollution which is in the world, and the sad share I had in it myself”.<sup>58</sup> Nonetheless, the historically incipient meaning of pollution as

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<sup>55</sup> Hulsebosch, 2007, p.701.

<sup>56</sup> Wesley, *Thoughts on Slavery*, check edition.

<sup>57</sup> Cowper, letter To William Unwin, Olney, July 3, 1786, check edition.

<sup>58</sup> Cowper, ‘Jehovah Our Righteousness’, *Olney Hymns*, ed. Sambrook, p.246; Adelphi an

the smoke of London is registered throughout *The Task*: “the smoke of lamps / The pent-up breath of an unsav’ry throng’ (IV, ll.195-6); the life of scientists and industrialists who ‘go out in fume’, spend their life “all for smoke”. The pointlessness of city endeavours is also figured as smoky and airy in Cowper’s poem ‘Retirement’: “employ’d with ceaseless care / In catching smoke and feeding upon air”.<sup>59</sup> ‘Cities then / Attract us’, he admits in *The Task*:

But are not wholesome airs, though unperfum’d  
By roses [...]  
To be preferr’d to smoke, to the eclipse  
That Metropolitan volcanos make  
Whose Stygian throats breathe darkness all day long (III.729 -738)

Tobias Menely points out the ‘distressing’ similarity between the Laki haze as experienced in the Buckinghamshire countryside and the ‘everyday atmosphere of London’: ‘Everywhere Cowper looks - the English state; its capital, London; its growing empire; his own garden and native countryside - he discovers a smoggy intermingling of human affairs and atmospheric phenomena [...] an urban haze obscures divine portent, providential explanations fail to clear the fog of the present’.<sup>60</sup> The ‘world’s contaminating touch’ (‘Expostulation’) is experienced in *The Task* as olfactory: a ‘whiff / Of stale debauch’, ‘curling clouds / Of Indian fume’ (IV.468-476). Towards the end of Book IV, Cowper insists that every ‘citizen’ is revived and cheered by ‘A breath of unadul’t rate air’ which ‘brace[s] his languid frame’; that even those trapped in ‘brick-wall bounds’ feel a ‘burning instinct’ to ‘range the fields and treat their lungs with air’ (IV.750-2; IV.771-72). The word ‘unadul’t rate’ implies the other possibility, of mixture and penetration of air with varied chemicals. Only Cowper’s awareness of air’s tainted reality and history can generate the concept that ‘air makes free’ in *The Task*; only an apprehension of atmospheric ruination can point to the utopian possibility of an airy equality.

### **Conclusion: figuring the common wind**

Some final brief comparisons can be made with William Wordsworth’s poems, which idealize air as a medium of connection but do not enquire deeply into its unequal atmospheric effects.<sup>61</sup> Wordsworth’s ‘vision of slavery’, as Marcus Wood has noted, was within ‘completely orthodox parameters’; from early on he appeared ‘detached from the slave trade as a general political issue’, and ‘simply... not that interested’.<sup>62</sup> His famous sonnet,

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Account of the Conversion of William Cowper, Esquire, 1772, first published 1802, check edn.

<sup>59</sup> ‘Retirement’, ll.36-38, in *Poems of William Cowper*, 1782, <https://www.eighteenthcenturypoetry.org/works/o3794-w0080.shtml>.

<sup>60</sup> Menely (2012), p.484; p.488.

<sup>61</sup> Wordsworth’s enthusiasm for air metaphors has been well known since MH Abrams’s exploration of the ‘Correspondent Breeze’ - the notion that sets up the *Prelude*.

<sup>62</sup> Wood, p.231, 233.

‘To Toussaint L’Ouverture’ (1803, revised 1807), shows how Haiti and its personages had registered in mainstream English culture, but rather blandly enjoins that the ‘miserable Chieftain’ should nevertheless wear ‘a cheerful brow’ after being trapped and captured by the French in 1802. Yet the splendid lines that follow are worth noting in the context of the politics of air and atmosphere:

Live, and take comfort. Thou has left behind  
Powers that will work for thee; air, earth, and skies;  
There’s not a breathing of the common wind  
That will forget thee.

Thomas Ford connects this ‘common wind’ to the airy wings of Sound in the twelfth stanza of the ‘Ode: On the Power of Sound’: “Thy pinions, universal Air, / Ever waving to and fro, / Are delegates of harmony”.<sup>63</sup> Explicating Wordsworth’s ‘politics of language’, Ford points out that ‘rhythm for Wordsworth modelled absolute equality in language’; since the fact that air is ‘universal’ means that that poetic communication is ‘impersonal’, and may ‘suspend the linguistic force of individuation’: ‘As long as the sky belongs to all, air is a communal medium’.<sup>64</sup> Whilst this ‘utopian promise’ of the air-rhythm dyad in Wordsworth is significant - and its perhaps unanticipated liberatory potential is suggested by the fact the ‘common wind’ inspired the title of American historian Julius S. Scott’s ground-breaking 1986 PhD on the communication of news of the Haitian revolution amongst slaves and free people of colour - there is only limited explicit recognition in Wordsworth that the sky did not in fact model ‘absolute equality’.<sup>65</sup> Some acknowledgment seems evident in Wordsworth’s links between air and abolition in his *Prelude* Book X, which sees ‘the air yet busy with the stir / Of a contention which had been rais’d up / Against the Traffickers in Negro blood’.<sup>66</sup> This was reworked for the 1850 *Prelude* as ‘the general Air still busy with the stir / Of that first memorable onset made / By a strong levy of humanity / Upon the Traffickers in Negro blood’.<sup>67</sup> The idea of a contemporary *political* atmosphere is reinforced by the idea that abolitionist arguments are ‘diffus’d’ in the nation, that they ‘spread a novel heat / Of virtuous feeling’.<sup>68</sup> The air is ‘general’, with its promise of being shared and communicable, yet paradoxically still and *busy*, stirred and hot. In a way that is less far reaching than Cowper’s avowedly abolitionist politics of air, Wordsworth’s poetry may nonetheless faintly register that the air does not represent ‘absolute equality’; the sky may not ‘belong to all’.

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<sup>63</sup> Thomas Ford, *Wordsworth and the Poetics of Air* (Cambridge, 2018). p.35.

<sup>64</sup> Ford, 36.

<sup>65</sup> Julius S. Scott, *The Common Wind: African-American Currents in the Age of the Haitian Revolution*, (Verso, 2018).

<sup>66</sup> Wordsworth, 1805 *Prelude*.

<sup>67</sup> Wordsworth, 1850 *Prelude*.

<sup>68</sup> Wordsworth, 1805 *Prelude*; 1850 *Prelude*.

This paper has explored eighteenth-century legal histories and poems to unearth the oft-quoted Somerset verdict that English air was too pure for slaves. I have suggested that a metaphoric of air erupted quite suddenly into an older discourse of ‘free soil’ rights, and hinted that this might have come about both from William Blackstone’s reference to the ‘spirit of liberty’, an originally religious phrase that took on a new political hue in the eighteenth century, and more speculatively, even from a contemporary consciousness of air and smoke pollution that brought air directly to the lawyers’ and journalists’ consciousness. Whilst Cowper’s re-use of the term a decade later was certainly to propagandistic, nationalistic ends, it was wrapped up in a disturbed awareness of air pollution that might dialectically generate the thought problem of how atmosphere may be unequally experienced and imbricated with slavery. At root here is a question of how air might be at once a quasi ‘simple’ metaphor for liberty, or how clean air might literally subtend freedom. Freedom and slavery are themselves, of course, woven from a complex web of metaphorical relations and historical experience. David Brion Davis suggested that “For eighteenth-century thinkers [...] slavery stood as the central metaphor for all the forces that debased the human spirit.”<sup>69</sup> Orlando Patterson outlined how freedom as a value emerged sporadically from the ancient institution of slavery.<sup>70</sup> Susan Buck Morss proposed that Hegel’s apparent metaphor of lordship and bondage came from his reading about the real Haitian revolution in the newspapers of 1805-7.<sup>71</sup> Brad Pasanek has argued that “The slave, both a person and a thing, makes paradoxical those twin values of the eighteenth century: liberty and property”.<sup>72</sup> His digital corpora analysis suggests that “before the rise of antislavery and antiabolitionist discourses, most thinking about slavery was figurative, with metaphors of slavery far outnumbering literal references to enslaved persons”; and that the tension between literal and figurative became part of the debate by the end of the eighteenth century.<sup>73</sup> By adding air into this tension, we can begin to consider the significance of environmental metaphors in the history of political thought, and indeed, potentially, the environmental underpinnings, and consequences, of human domination.<sup>74</sup>

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<sup>69</sup> David Brion Davis, *The Problem of Slavery in Western Culture*, (OUP, 1975), p.263, check.

<sup>70</sup> Orlando Patterson, *Freedom in the Making of Western Culture*, (Basic Books, 1992), passim.

<sup>71</sup> Susan Buck Morss, ‘Hegel and Haiti’, *Critical Inquiry*, Vol. 26, No. 4 (Summer, 2000), pp. 821-865.

<sup>72</sup> Brad Pasanek, *Metaphors of Mind: An Eighteenth-Century Dictionary*, (Johns Hopkins University Press, 2015), p.119.

<sup>73</sup> Pasanek, p.118.

<sup>74</sup> On eighteenth-century metaphor as embodied cognition, see Sean Silver, *The Mind is a Collection: Case Studies In Eighteenth-Century Thought* (University of Pennsylvania Press, 2015).