HARRIET BEECHER STOWE'S INTERPRETATION OF THE
"SLAVERY OF POLITICS" IN DRED: A TALE OF THE GREAT
DISMAL SWAMP

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Judge Michael Hawkins reminds us of the powerful cords that bound antebellum politicians to slavery. While we are well familiar with the conflicts between law and humanity facing jurists, legal scholars less frequently address the moral conflicts facing politicians dealing with slavery. Judge Hawkins, coining the phrase "slavery of politics," maps out in some detail the constraints imposed by John Quincy Adams’ ambition for the Presidency, as well as the ways that his interpretation of slave law changed when he was freed from the constraints of politics.

In his portrayal of Adams, Judge Hawkins is remarkably kind. Theodore Parker, one of the leading liberal theologians of the antebellum era, summarized Adams’ complicity in slavery:

It must be confessed that Mr. Adams, while Secretary of State, and again, while President, showed no hostility to the institution of slavery. His influence all went the other way. He would repress the freedom of the blacks, in the West Indies, lest American slavery should be disturbed, and its fetters broke; he would not acknowledge the independence of Hayti, he would urge Spain to make peace with her descendants, for the same reason—"not for those new republics," but lest the negroes in Cuba and Puerto Rico

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should secure their freedom. He negotiated with England, and she paid the United States more than a million dollars for the fugitive slaves who took refuge under her flag during the late war. Mr. Adams had no scruples about receiving the money during his administration. An attempt was repeatedly made by his secretary, Mr. Clay, through Mr. Gallatin, and then through Mr. Barbour, to induce England to restore the "fugitive slaves who had taken refuge in the Canadian provinces," who, escaping from the area of freedom, seek the shelter of the British crown. Nay, he negotiated a treaty with Mexico, which bound her to deliver up fugitive slaves, escaping from the United States—a treaty which the Mexican Congress refused to ratify. 3

But Adams was not, according to Parker's 1848 eulogy, the typical antebellum politician who took guidance solely from calculations of utility. When asked whether a guiding principle in politics was "to seek 'the greatest good of the greatest number,'" Adams replied that the true principle is "to seek the greatest good of all." 2 And it was Adams' ultimate

2. THEODORE PARKER, A Discourse Occasioned by the Death of John Quincy Adams, in 2 THEODORE PARKER, SPEECHES, ADDRESSES, AND OCCASIONAL SERMONS 252, 288-89 (1867) [hereinafter PARKER, SPEECHES]. Parker went on to ask, in a manner reminiscent of Judge Hawkins: "Should a great man have known better? Great men are not always wise." Id. at 289.

3. Id. at 280. Adams refused to use political patronage, which would have helped in his re-election campaign. See id. at 294.

Despite Adams' protestations against it, calculations of utility—and statements about its importance—were frequent in antebellum political debate. See LEVI WOODBURY, A Speech Delivered in Faneuil Hall, in WRITINGS OF LEVI WOODBURY: POLITICAL, JUDICIAL AND LITERARY 560, 560 (1852) ("But thanks to God, we, or most of us who are assembled in this place consecrated to struggles for liberty in by-gone days, stand arrayed on the liberal side, — in fine, on the glorious side of the greatest good to the greatest number.") (emphasis in original). References to utility appear frequently in antebellum literature. See, e.g., ABOLITION OF NEGRO SLAVERY, 12 AM. Q. REV. 189, 247 (1832) ("If, as is really the case, we cannot rid of slavery without producing a greater injury to both masters and slaves, there is no rule of conscience or revealed law of God which can condemn us."); PROCEEDINGS AND DEBATES OF THE VIRGINIA STATE CONVENTION OF 1829-30, at 56 (Richmond 1830) ("The legitimate objects of all Government, is to promote the greatest happiness of the greatest number; and that the perfect and entire protection of life, property, and personal liberty, constitutes the essential basis of the greatest happiness of the greatest number."). Calvin Colton explained to his English audience that American society did not have the same respect for precedent that English society did. In its place was a respect for utility:
integrity—his belief that “all exercise of human authority must be under the limitation of right and wrong” or it would be “in defiance of the laws of nature and of God”—that led him to “hate American Slavery.”

The quality of sacredness in American feeling has lost one of its main attributes—at least in regard to the matter under considerations—viz., that of antiquity; and is embodied in the idea of utility. The American mind, having once taken the liberty to inquire into the cui bono of things, has become enamoured of the pursuit, and is for ever on the chase, apparently increasing in rapidity by the habit of exercise. No matter where a thing, a custom, a law, or a principle, comes from—whether from the remotest period of man’s history, or from heaven itself—there must be a satisfactory reason, resulting from a consideration of its intrinsic value and practical importance, to insure its adoption. And no matter how long a rule may have been in operation, the moment it is judged to be good for nothing, or positively bad, its authority expires.

CALVIN COLTON, A VOICE FROM ENGLAND TO AMERICA BY AN AMERICAN GENTLEMEN 52 (London, Henry Colburn 1839).

In lectures to college literary societies, Americans described themselves as a utilitarian people. See WILLIS HALL, AN ADDRESS DELIVERED AUGUST 14, 1844, BEFORE THE SOCIETY OF PHI BETA KAPPA IN YALE COLLEGE (New Haven, B. L. Hamlen 1844); N.C. BROOKS, THE IMPORTANCE OF CLASSICAL STUDIES: AN ADDRESS PRONOUNCED BEFORE THE PHILOMATHEAN SOCIETY OF PENNSYLVANIA COLLEGE, FEBRUARY 14, 1840, at 1 (2d ed. Philadelphia, Sorin & Ball 1846) (“The genius of the present age is utilitarian.”); WILLIAM H. SEWARD, ADDRESS BEFORE THE PHI BETA KAPPA OF YALE COLLEGE, JULY 26, 1854, at 22 (B.L. Hamlen, New Haven 1854) (“Required to subdue nature through a broad range quickly, and to bring forth her various resources with haste, and yet having numbers inadequate and capital quite unequal to such labors, the American studies chiefly economy and efficiency.”).

And yet considerations of utility were disdained by many. Utilitarians’ inability to consider sentiment led some Southerners to criticize them. See [Hugh S. Legaré,] Jeremy Bentham and the Utilitarians, 7 S. REV. 261, 286 (1831) (“A thoroughbred Utilitarian, or rather Benthamite, is never wrong: for he goes by ‘arithmetic,’ and figures cannot lie. . . . Let the life of his father or the existence of his country be at stake—he has no scruple about sacrificing them to what he knows to be the interest of the majority. It is vain to speak to him of the fallibility of the human understanding—he has never been conscious of it himself. Talk to him of the voice of nature or the instincts of the heart, he laughs outright at such childish and ridiculous superstition.”).

Liberal ministers, on the other hand, opposed considerations of utility. See, e.g., WILLIAM ELLERY CHANNING, SLAVERY 1 (3d ed. rev. Boston, J. Munroe & Co. 1835) (“The first question that must be asked is not what is expedient, but what is right?”).

4. 2 PARKER, SPEECHES, supra note 2, at 277-78. With that portrait, Parker made Adams into a transcendental politician, who “appeals to a natural justice, natural right; absolute justice, absolute right.” THEODORE PARKER, TRANSCENDENTALISM, IN THEODORE PARKER: AN ANTHOLOGY 89, 91 (Henry Steele Commager ed., 1960).
Harriet Beecher Stowe, one of the most perceptive critics of Southern legal thought in the antebellum era, provides an interpretation similar to Judge Hawkins of the constraints facing politicians in her antislavery trilogy: *Uncle Tom's Cabin*, *A Key to Uncle Tom's Cabin*, and *Dred: A Tale of the Great Dismal Swamp*. Stowe wrote *Uncle Tom's Cabin* with the optimistic view that if she could only make people understand what an accursed thing slavery is, they would act to reform it. But when that failed to happen, she began to ask the question, why was there no reform of slavery?

In the *Key*, a book Stowe published in 1853 to provide support for *Uncle Tom’s Cabin*, she focused on the legal and religious institutions that supported slavery. In particular, she explored North Carolina Justice Thomas Ruffin’s opinion in *State v. Mann*, which freed a man from

5. Judge O’Neal’s response to Stowe’s *A Key to Uncle Tom’s Cabin* (John P. Jewett & Co., Boston 1853) is one of the most powerful demonstrations that Stowe’s contemporaries understood her concern for legal issues, as well as the inhumanity of slavery. See John Belton O’Neal, N. Y. TRIB., Aug. 15, 1853. William Gilmore Simms, the leading novelist of the antebellum South (and a lawyer by training) also engaged Stowe’s legal critique. See [William Gilmore Simms], *Book Review*, 18 S. LITERARY MESSENGER 630 (Oct. 1852) (reviewing *Uncle Tom’s Cabin*). Other authors—who were not lawyers but were also concerned with legal ideas—engaged Stowe’s legal critique. See, e.g., Louisa McCord, *Uncle Tom’s Cabin*, 7 S. Q. REV. 81-120 (1853), reprinted in LOUISA S. MCCORD: POLITICAL AND SOCIAL ESSAYS 245-80 (Richard S. Lounsbury ed., 1995); EDWARD JOSIAH STEARNS, NOTES ON UNCLE TOM’S CABIN (1854).


7. See HARRIET BEECHER STOWE, *UNCLE TOM’S CABIN* 470 (Library Am. ed., 1983) (1852). For an interpretation of Stowe’s attack on slave law in *Uncle Tom’s Cabin*, see Alfred L. Brophy, “over and above . . . there broods a portentous shadow.—the shadow of law”: Harriet Beecher Stowe’s Critique of Slave Law in Uncle Tom’s Cabin, 12 J. L. & RELIGION 457 (1995-96). Together, Stowe’s trilogy sets out an agenda for reform of American society based on values of sympathy for other humans and then explores the limits of the power of sympathy. The language of sympathy appeared throughout DRED. See STOWE, supra, at 552 (“When he examined the emotion more minutely afterwards, he thought, perhaps; of might have been suggested by the perception . . . of a peculiar and delicate perfume, which Nina was fond of using. So strange and shadowy are the influences which touch the darker electric chain of our existence.”); id. at 554 (“I feel this injustice to my heart. I feel it like a personal affliction, and, God helping me, I will make it the object of my life to remedy it!”).

8. 13 N.C. (1 Dev.) 263 (1829). For a recent and comprehensive exploration of Mann, see Arthur LeFrancois, Dissecting the Body of Mann (unpublished manuscript on file with Author). See also TIMOTHY S. HUEBNER, THE SOUTHERN JUDICIAL TRADITION: STATE JUDGES AND SECTIONAL DISTINCTIVENESS, 1790-1890, at 146-53 (1999).
liability for abusing a slave in his custody. Justice Ruffin laments “[t]he struggle... in the Judge’s own breast between the feelings of the man, and the duty of the magistrate.” He plainly acknowledges that he could not “set our notions in array against the judgment of everybody else, and say that this, or that authority, may be safely lopped off.”

Ruffin adopted a rule because he recognized that slaves would not accept their position in Southern society unless they were compelled to by force: “[S]uch services can only be expected from one who has no will of his own; who surrenders his will in implicit obedience to that of another.”

“Why was such a man, with such a mind, merely an expositor and not a reformer of the law,” Stowe asked.12

_Dred_ is her attempt at a comprehensive answer to that question. The novel, published four years after _Uncle Tom’s Cabin_, focuses on the lives of several North Carolina plantation owners. In it she deals with judges, lawyers, politicians, and religious leaders. In her meta-critique of Southern society, she blames all those groups for imped ing reform. An important part of the novel is addressed to the question why judges fail to reform the law.13

Much of the novel revolves around the affair between the beautiful Nina Gordon, a recent (and therefore zealous) convert to abolitionism and her idealistic friend, the young lawyer Edward Clayton and their attempt to find a way for North Carolina to extract itself from slavery.14

Nina Gordon, in the process of converting to abolitionism, hires out one of her slaves, Milly, to a neighbor, Mr. Baker.15 When Baker, in an alcohol-

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9. Mann, 13 N.C. at 263.
10. Id. at 265.
11. Id. at 266.
12. HARRIET BEECHER STOWE, A KEY TO UNCLE TOM’S CABIN 79 (John P. Jewett & Co., Boston 1853).
14. Several fine studies focus on other aspects of the novel, such as the fugitive slave Dred for whom the novel is named. Dred is the fictional son of Denmark Vesey, who planned a revolt in Charleston, South Carolina in the 1820s. See Timothy Patrick McCarthy, _Introduction, Freedom’s Fiction: Antebellum Literature of Slave Rebellion_ (forthcoming, Pennsylvania State Univ. Press 2001) (discussing Dred); Randall Gruter, _Stowe’s Dred: Literary Domesticity and the Law of Slavery_, 20 PROSPECTS 1-37 (1995).
15. Milly is probably based on Sojourner Truth, who used New York courts to reclaim her six-year old son when he was sold in violation of New York law. See Newman, _Introduction, supra_ note 6, at 21-22; NELL IRVIN PANTER, SOJOURNER TRUTH: A LIFE, A SYMBOL 32-34 (1996).
induced rage, tries to punish a slave boy for a small offense, Milly intervenes.\textsuperscript{16} Baker hits Milly, then shoots her when she tries to escape the punishment. When Nina hears of the atrocity, she asks her friend Edward, a young lawyer, to sue Baker. Edward gladly takes the case. He tells Nina

\"[i]t is a debt which we owe . . . to the character of our state, and to the purity of our institutions, to prove the efficiency of the law in behalf of that class of our population whose helplessness places them more particularly under our protection.\"\textsuperscript{17} He succeeds at trial, winning a jury verdict.

Edward loses an appeal, however, in an opinion delivered by his father, Judge Clayton, which is based closely on Ruffin’s opinion in \textit{Mann}. Judge Clayton acknowledges the difficulty he faces in issuing the opinion to free Baker. When asked by his wife whether he had to make the decision, the judge responded, \“[a] judge can only perceive and declare. What I see, I must speak, though it go against all my feelings and all my sense of right. . . . I sit in my seat, not to make laws, nor to alter them, but simply to declare what they are.\"\textsuperscript{18} He concluded with a justification of following law: \“However bad the principle declared, it is not so bad as the proclamation of a falsehood would be. I have sworn truly to declare the laws, and I must keep my oath.\"\textsuperscript{19}

Later, Judge Clayton talks with Edward about the decision. Judge Clayton asks his son what will happen if his plans for abolition of slavery bring him \“into conflict with the law of the state?\"\textsuperscript{20} Judge Clayton was beginning to show why reform did not take place. For he supposed that the law of slavery was so intertwined with slavery that the law could not be changed without uprooting the institution itself. Edward’s response was that he wished to do justice, even if the sky fell. \“That is undoubtedly the logical line of life,\” the judge responded. \“But you are aware that communities do not follow such lines; your course, therefore, will place you in opposition to the community in which you live. Your conscientious convictions will

\begin{footnotes}
\item[16] \textit{Stowe, supra} note 6, at 380-82.
\item[17] \textit{Id.} at 382.
\item[18] \textit{Id.} at 444.
\item[19] \textit{Id.} As Nina’s half-brother (and slave) Harry told Edward, \“I heard your father’s interpretation of the law; I heard Mr. Jekyll’s; and yet, when men rise up against such laws, you wonder what in the world could have induced them! That’s perfectly astonishing!\” \textit{Id.} at 545.
\item[20] \textit{Id.} at 453.
\end{footnotes}
cross self-interest, and the community will not allow you to carry them out." 21

Such insights led Edward to ask his father the same question Stowe had earlier asked about Ruffin, "why could you not have been a reformer of the system?" 22 Judge Clayton's answer has two parts. First, no reform is possible until society is willing to abolish slavery. Second, he is not "gifted with the talents of a reformer." Judges, in Stowe's mind, could not abide the departure from precedent and settled forms of thinking that was necessary for reform. 23 For the judge believed that "Human law is, at best, but an approximation, a reflection of many of the ills of our nature. Imperfect as it is, it is, on the whole, a blessing. The worst system is better than anarchy." 24

The antislavery Judge Clayton has two counterparts in Dred: his brother-in-law, the Presbyterian minister Dr. Cushing, and the politician Frank Russel. Both Cushing and Russel held antislavery views. The parallels between Judge Clayton and Dr. Cushing are particularly prominent. While both would like to take action against slavery, neither can, because of professional obligations. Where Judge Clayton could not depart because professional norms prohibited him, Dr. Cushing did not depart because his denomination's doctrine prohibited him and because of practical political concerns. 25

21. Id. at 454.
22. Id. at 455.
23. But even among reformers there were limits to the possible charges. As Ralph Waldo Emerson explained:

You quarrel with my conservatism, but it is to build up one of your own, it will have a new beginning, but the same course and end, the same trials, the same passions; among the lovers of the new I observe that there is a jealousy of the newest, and that the seeder from the seeder is as damnable as the pope himself.

RALPH WALDO EMERSON, The Conservative, in 1 EMERSON'S WORKS 279, 288 (1876).

24. STOWE, supra note 6, at 454.
25. See, e.g., id. at 497, 540-41. For a comparison of the nature of legal and religious thought, which addresses Stowe's treatment of Dr. Cushing, see Alfred L. Brophy, On the Extra-Professional Influence of the Pulpit and the Bar: Daniel Lord, Harriet Beecher Stowe, and Antebellum Legal and Religious Thought (unpublished manuscript on file with Author).
A. Stowe’s View of How Politicians and Lawyers Ought to Act

Dred represents Stowe’s own searching for an appropriate response to slavery. Part of Stowe’s answer may be that each person should act according to his own sense of duty, which is how Judge Clayton advises his son to act. That is a radical prescription; Judge Clayton is not forcing his son to live up to some external standard, but to follow his own internal compass. Such attitudes, so characteristic of abolitionists and Transcendentalists, found disfavor among jurists, who taught that everyone must act according to external standards. It found even more disfavor among Southern ministers. But among abolitionists, there was the strong sense that each person should interpret the Bible for herself. William Ellery Channing’s sermon Unitarian Christianity told that:

[W]e feel it our bounden duty to exercise our reason upon it perpetually, to compare, to infer, to look beyond the letter to the spirit, to seek in the nature of the subject, and the aim of the writer, his true meaning; and, in general, to make use of what is known, for explaining what is difficult, and for discovering new truths.

26. See STOWE, supra note 6, at 454 (“Every man must act up to his sense of duty.”).

[Al]though the spirit of an instrument, especially of a constitution, is to be respected not less than its letter, yet the spirit is to be collected chiefly from its words. . . . But if, in any case, the plain meaning of a provision, not contradicted by any other provision in the same instrument, is to be disregarded because we believe the framers of that instrument could not intend what they say, it must be one in which the absurdity and injustice of applying the provisions to the case would be so monstrous, that all mankind would, without hesitation, unite in rejecting the application.
Abolitionists had the optimistic idea that if they could convince people to act according to their own internal, moral compass that there might be reform. Theodore Parker elaborated on that theme when he spoke of the three safeguards of society: righteousness in a person, righteousness in the establishments of the people, and righteousness in public officers. The righteousness of the people ("the first and indispensable safeguard") rejected what was false to God or to conscience. If a people failed to act according to their own conscience, they would soon lose their liberty:

I know it is now-a-days-taught in the United States, that, if any statute is morally binding on all men, no matter what the statute may be; that a command to kidnap a black man and sell him into slavery, is as much morally binding as a command for a man to protect his own wife and child. A people, that will practically submit to such a doctrine is not worthy of liberty, and deserves nothing but law, oppressive law, tyrannical law; and will soon get what it deserves. If a people has this notion, that they are morally bound to obey any statute legally made, though it conflict with public morals, with private conscience, and with the law of God,

3 Ga. 146, 154 (1847). See also [James Kent], Supreme Court of the United States, 2 N.Y. Rev. 372, 389 (1838) ("The old books are full of stern rebukes of attempts of parties to keep their contracts to the letter and break them in the spirit."); Theodore Sedgwick, A Treatise on the Rules Which Govern the Interpretation and Construction of Statutory and Constitutional Law 593-94 (1859) (John Norton Pomeroy ed., 2d ed. 1874) (Dartmouth College held that "the charter was a contract made on a valuable consideration for the security and disposition of property, and as such came within not only the letter but the spirit of the Constitution."); Bank v. Cooper, 10 Tenn. 599, 623 (1831):

But so long as the judiciary is a separate and independent branch of the government, it must result, that if a legislative act should be plainly and obviously opposed to the letter and spirit of the constitution, the judiciary is incapable of observing the injunctions of the statute, and regarding the constitution at the same time.

Dickinson v. McCamy, 5 Ga. 486, 489 (1848) ("We propose to pause and adopt a course which is not only more congenial with our state of society, but more in accordance with both the letter and spirit of the Statute."); Vance v. Crawford, 4 Ga. 445, 458 (1848) ("Foreign emancipation neither conflicts with the letter or spirit of our municipal regulations relative to this subject.").

30. See PARKER, Three Chief Safeguards of Society, in 3 PARKER, SPEECHES, supra note 2, at 292, 310-18.
31. Id. at 312.
then there is no hope of such a people; and the sooner a tyrant
whips them into their shameful graves, the better for the world.
Trust me, to such a people the tyrant will soon come.\textsuperscript{32}

But people, even when moved by appeals to sentiment, were failing to
act to end slavery. Thus, Stowe explored the reasons why there was no
reform.

\textbf{B. The Institutional Forces Impeding Reform}

Stowe’s condemnation of the church and of the law is part of a larger
critique of institutions prevalent in antebellum religious thought. It was
institutions, the great forces in society, that made humane action
impossible. Law and the churches were joined in Stowe’s mind, tied
together, by politics, for political calculations slowed reform. The most
prominent politician in Stowe’s trilogy was Senator Bird, an Ohio
legislator. Bird, a character in \textit{Uncle Tom’s Cabin}, voted for an act to
require Ohioans to return fugitive slaves. He apparently did so for practical
reasons—the practical in morals that Stowe often wrote about and that
made its appearance in antebellum moral philosophy, which determined
how people should behave in the world as it existed.\textsuperscript{33} One suspects that

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\textbf{32. Id. at 311-12.}
\textbf{33. John Randolph Tucker’s 1854 lecture at William and Mary asked what was to be
done about slavery. He relied upon cold calculations from the present circumstances and
distinguished sentimental affections for slaves. Southerners’ duties were:}

Clearly not to attempt to meet the responsibilities of others; nor to pry into the
decrees of Providence, nor to enquire how we may undo what they have already
accomplished; nor to imagine how much better things would have been
managed, had we only lived at a former day, and especially, if we had been at
the helm of dominion in the affairs of men. None of these! they are the idle
dreams of the sentimentalist, of the order of the “Do Nothings,” which must be
discarded by men of this practical “Do Something” age. We must simply meet
our responsibility, and, taking things as they are, do what is best in the
circumstances in which we are placed. This is our duty and we must perform it.
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\textbf{JOHN RANDOLPH TUCKER, ADDRESS \ldots DELIVERED BEFORE THE PHOENIX AND
PHILOMATHEAN SOCIETIES, OF WILLIAM AND MARY COLLEGE 13 (Chas. A.Wynne,
Richmond 1854).}

Concerns of practical experience supplemented sentiments and Enlightenment ideas.
Representative Barbour argued that:
Bird's character is based at least partly on Daniel Webster, whose speech on March 7, 1850 was credited with securing the compromise of 1850, which included the Fugitive Slave Act. Yet, Senator Bird acted humanely once he was faced with the inhumanity of abiding by the law he helped pass; he violated the law and helped Eliza and her child, Harry, escape.

Theodore Parker sought explanations for why antislavery ideas had made such little headway by 1848. One of his reasons was the power of political parties:

Tell a whig he could make whig capital out of anti-slavery, he would turn abolitionist in a moment, if he believed you.... But the fact is, each party knows it would gain nothing for its political purposes by standing out for the rights of man. The time will come, and sooner too than some men think, when it will be for the interest of a party to favor abolition; but that time is not yet. It does seem strange, that while you can find men who will practice a good deal

Notwithstanding the lights of our own revolution, and those reflected by the lamp of experience, we are now to disregard all, and to pursue a path as yet untrodden, either by prudence or success.... [Gentlemen] will be guided by experience, rather than follow the lights of the French Revolution. Lights that shone for a time upon the path of despotism....

PROCEEDINGS AND DEBATES OF THE VIRGINIA STATE CONVENTION OF 1829-30, supra note 3, at 138 (J.S. Barbour, Nov. 2, 1829). They emphasized practical effects, rather than metaphysical abstractions. "The only question that a wise Statesman should ask, is whether the measure proposed, is best calculated to promote the liberty, interest, and happiness of the people on whom it is intended to operate as they really are." Id. at 206. There was also the opportunity to learn from more recent events. "Though our present government was the best production of nearly 6000 years, experience and the progress of political light have discovered some defects in it." Id. at 384.

34. See Speech of Mr. Webster, in CONG. GLOBE, 31st Cong., 1st Sess. 274-75 (1850).
35. See STOWE, supra note 7, at 109-10. On evangelical antislavery thought, see Robert F. Forbes, Slavery and the Evangelical Enlightenment, in RELIGION AND THE ANTEBELLUM SLAVERY DEBATE (John R. McKivigan & Mitchell Sny eds., 1998). I disagree with Mr. Forbes' assignment of the power of moral philosophy to oppose slavery; while many of the most important moral philosophers opposed slavery, the grammar of their thought frequently supported the calculations of utility and their focus on "practical ethics." See Brophy, supra note 7, at 480 n.57 (discussing moral philosophy and considerations of "utility"); SNAY, supra note 27, at 82 (discussing Southern moral philosophers). Some important moral philosophers, similarly, supported slavery. See, e.g., WILLIAM A. SMITH, LECTURES ON THE PHILOSOPHY AND PRACTICE OF SLAVERY (Thomas O. Summers ed., Nashville, Stevenson & Evans, 1856).
of self-denial for their sect or party, lending, and hoping nothing in return, you so rarely find a man who will compromise even his popularity for the sake of mankind.36

Parker celebrated the role that society might have in advancing humanity; through schools, hospitals, almshouses, churches, post-offices, roads and railroads, lighthouses and breakwaters, "society furnishes its members a positive help for the mind, body, and estate."37 But even more of the work of advancing humanity was done by individuals acting outside of formal societal structures.38 The abolitionists' focus on the individual stressed the good that might come from action outside the great elements of society. That was necessary, for as Judge Clayton told his son, there may be many individuals who seek reform, but that "they are mostly without faith or hope, like me. And, from the communities—from the great organizations in society—no help whatever is to be expected."39

C. Stowe's Interpretation of Politicians: "The So-Called Practical in Morals"40

In Dred, Stowe develops two politicians who are not swayed by their internal moral compass and one budding politician (Edward Clayton) who is. The first, Frank Russel, is antislavery in private, but yet he supports proslavery in his run for the North Carolina legislature. Russel, one suspects, is similar to John Quincy Adams. The other, Representative Knapp, is proslavery in both private and public. Together they present the

36. Speech at Faneuil Hall, Before the New England Anti-Slavery Convention, May 31, 1848, in PARKER, SPEECHES, supra note 2, at 344, 351. Parker's speech presents a comprehensive picture, much like the one that Stowe presents in Dred, looking to the combination of political, religious, and financial interests in favor of slavery. Together they illustrate how abolitionists thought the world fit together; they are the thoughtful comments of perceptive contemporary observers, which suggest the ways that strands of ideas fit together. One might profitably compare how Stowe's world view fit with that of Thomas Roderick Dew, President of William and Mary, and one of the leading proslavery writers. See THOMAS R. DEW, THE LAWS, CUSTOMS, AND MANNERS OF ANCIENT AND MODERN NATIONS (Appleton, New York 1852); DREW GILPIN FAUST, THE IDEOLOGY OF SLAVERY: PROSLAVERY THOUGHT IN THE ANTEBELLUM SOUTH 1830-1860, at 21-23 (1979) (discussing Dew).
37. Speech at Faneuil Hall, in PARKER, SPEECHES, supra note 2, at 302.
38. See id.
39. STOWE, supra note 6, at 555.
40. Id. at 55.
spectrum of politicians’ attitudes towards slavery. Russel and Knapp illustrate the various ways that humans were made slaves to politics.

1. Edward Clayton’s Advocacy of Abolitionist Politics

The idealistic Edward had high hopes for reform. He began with the premise that “[w]e make our own laws, and every one of us is responsible for any unjust law which we do not do our best to alter.” Edward sought to shock North Carolinians into action, for “[p]eople have got to be shocked . . . in order to waken them up out of old absurd routine. Use paralyzes us to almost every injustice; when people are shocked, they begin to think and to inquire.” In response to his mother’s plea for even more gradual reform, Edward responded that many probably felt the same way he did, yet they did not speak. “Somebody must brave this mad-dog cry; somebody must be willing to be odious; and I shall answer the purpose as well as anybody.”

Edward advanced an agenda for legal reform. First, he wanted to remove barriers to slaves’ humanity, such as prohibitions on education and marriage and allow slaves to sue in court and be witnesses. Second, he wanted to make emancipation easier. The example of educated, emancipated slaves would lead to wider emancipation. Those goals fit well with Edward’s desire to use his plantation as a model for educating slaves, for, as he said, “I regard my plantation as a sphere for raising men and women, and demonstrating the capabilities of a race.” Edward thought that such gradual means might be the way to reform. He hoped to harness slaveholders’ sentiments to remake the matrix of slave law.

A problem with reliance upon the internal moral compass of the slaveholder was that considerations of practical politics might overcome the slaveholders’ sympathies. Judge Clayton explained that while “[a]s a matter of personal feeling, many slaveholders would rejoice in some of the humane changes which you propose; but they see at once that any change endangers the perpetuity of the system on which their political importance depends.”

Neither could one expect help from the lessons that slaveholders might learn from a gradual reduction in the harshness of

41. Id. at 541.
42. Id. at 494.
43. Id. at 495.
44. See id. at 495-96.
45. Id. at 51.
46. Id. at 496.
slavery, for slavery was profitable—and useful—in the short run. "The holders of slaves are an aristocracy supported by special constitutional privileges. They are united against the spirit of the age by a common interest and danger, and the instinct of self-preservation is infallible. No logic is so accurate," thought Judge Clayton.47

Judge Clayton predicted that the community would reject Edwards if he attempted reform. Even if, as Mrs. Clayton thought, reform of slave law was "one of the noblest and one of the most necessary of all possible changes," Judge Clayton predicted "it will be made to appear extremely odious."48 Quite simply, the "catch-words of abolition, incendiaryism, fanaticism, will fly thick as hail. And the storm will be just in proportion to the real power of the movement."49 He predicted Edward would be expelled from the state.50

And yet, Edward continued to try to use law to promote abolition. When Tom Gordon, Nina’s adamantly proslavery brother, led a mob that began lynching the abolitionist minister Father Dickson, Clayton dispersed the mob by threatening to resort to prosecution if they did not.51 Later, when others tried to persuade Father Dickson to leave the state, Clayton urged them to respect his right to speak. "If we give way before mob law, we make ourselves slaves of the worst despotism on earth."52

2. Frank Russel and the Slavery of Politics

It is through Edward’s friend Frank Russel that Stowe reveals the power of slavery to constrain the actions of antislavery politicians. Russel, Edward’s friend from childhood, was a natural politician. The contrast between Edward’s well-developed moral sense and Frank’s common sense drew them together.53 And as adults, the contrast continued. While Edward

47. Id.
48. Id. at 498.
49. Id.
50. See id.
51. See id. at 605.
52. Id. at 607.
53. Stowe explained the attraction:

The diviner part of man is often shame-faced and self-distrustful, ill at home in this world, and standing in awe of nothing so much as what is called common sense; and yet common sense very often, by its own keenness, is able to see that these unavailable currencies of another’s mind are of more worth, if the world
enjoyed the study of the law, he found the practice objectionable. “Are legal examinations anything like searching after truth? Does not an advocate commit himself to one-sided views of his subject, and habitually ignore all the truth on the other side,” Edward asked. Frank feared Edward’s conscience would interfere with practice. “It’s what I call a crotchety—conscience always in the way of your doing anything like anybody else.”

Stowe reveals more of Frank Russel’s compromising character when he discusses Edward’s suit against Baker. Frank is happy that Edward’s case is so closely aligned with his conscience. If he won the case, Edward might even form a more positive vision of the law and continue to practice it. Frank contrasted the typical lawyer with Edward:

Clayton has got one of those ethereal stomachs that rise against almost everything in the world. Now, there isn’t more than one case in a dozen that he’ll undertake. He sticks and catches just like an old bureau drawer. Some conscientious crick in his back is always taking him at a critical moment . . .

As lawyers around the courthouse discuss Milly’s case, Stowe reveals more of Russel’s compromising character. When Russel says that the law is against Edward, one points out that the case involves terrible abuse. Russel acknowledges Baker’s abuse, but concludes that “the world is full of things that are too bad. It’s a bad kind of place.” Yet Russel thinks Edward will carry the case with the jury because he believes in his cause. “When a powerful fellow mystifies himself, so that he really gets himself thoroughly on to his own side, there’s nobody he can’t mystify.” Russell contrasted

only knew it, than the ready coin of its own; and so the practical and the ideal nature are drawn together.

STOWE, supra note 6, at 43.
54. Id. at 44.
55. Id. at 45. Edward’s conscience would prevent him from entering politics. Edward was better fitted for politics in Rome than America: “If political duties were what they were [in the Roman Republic],—. . . if anything was to be done by putting your right hand in the fire and burning it off . . . you would be on hand for any such matter.” Id.
56. See id. at 383.
57. Id.
58. Id. at 385.
59. Id.
his own personality with Edward's. Russel did not believe in his cases. "It's this power of self-mystification that makes what you call earnest men. If men saw the real bread and butter and green cheese of life, as I see it, — the hard, dry primitive facts, — they couldn't raise such commotions as they do," Russel believed in a few things—like the multiplication table—but he was not interested in abstractions. "It's a pity such fellows as Clayton couldn't be used as we use big guns. He is death on anything he fires at; and if he only would let me load and point him, he and I together would make a firm that would sweep the land," thought Russel.61

Stowe describes Russel more fully when he is running for a seat in the state legislature. Edward presents him with a petition for reform of the "slave legal personality," which called for a statute allowing slaves to sue in court.62 Russel conceded the harshness of the slave code. "It's a bottomless pit of oppression. Nobody knows it so well as we lawyers. But, then, Clayton, it's quite another thing what's to be done about it."63 To Edward's simple suggestion that the solution was to change the law, Russel had an equally simple (and honest) answer: "[I]t won't do for me to compromise Frank Russel's interests." Political interests just would not consider such results. "[O]ur party can't take up that kind of thing. It would be just setting up a fort from which our enemies could fire on us at their leisure."64 Clayton asked (in classic Hawkinsian fashion), "are you going to put your neck into such a noose as this, to be led about all your life long — the bond-slave of a party?"65

Russel predicted that his position might change later. "The noose will change ends, one of these days, and I'll drag the party. But we must all stoop to conquer, at first."66 Russel was pessimistic about the prospects for change, however. "Those among us who have got the power in their hands are determined to keep it, and they are wide awake. They don't mean to let the first step be taken, because they don't mean to lay down their power."67

60. Id.
61. Id. at 386.
62. Id. at 578.
63. See id. at 582 (arguing that law protecting against the breaking up of slave families would be useless unless slaves have the power to sue and testify).
64. Id. at 578.
65. Id.
66. Id. at 578-79.
67. Id. at 579.
68. Id. at 580.
Russel perhaps represented Stowe's own pessimism about the chances for political reform.

Russel's self-interest was strong. "The world looks to me like a confounded humbug, a great hoax, and everybody is going in for grub; and, I say, hang it all, why shouldn't I have some of the grub, as well as the rest?" Russel thought that slavery was fixed in American society and he wondered why he should try to change it. While God and nature might fight the evil of slavery, Russel wanted to be "on the side that will win while I'm alive." Quite simply, Russel told his friend, "I wasn't made for defeat. I must have power." The contrast between the moral philosophy of Edward and Russel is that Edward has sympathy for other individuals and Russel seems not to. For Edward does not worship success, and will not. And if a cause is a right and honorable one, I will labor in it till I die, whether there is any chance of succeeding or not." Such moral absolutes won relatively few converts in an age that worshiped, as orators often told college audiences, the practical.

The contrast between the self-sacrificing Edward and the self-centered Frank represents, one supposes, Stowe's interpretation of the nature of politics in the 1850s. There were the idealists, like William Graham Sumner, and the materialists, who urged compromise for their own ends. Russel does not have the virtue of Daniel Webster, who seems to have supported slavery to the extent it was necessary to preserve the Union.

69. Id. at 579.
70. Id. at 581.
71. Id.
72. Id. at 581-82.
73. See, e.g., JOHN W. ANDREWS, AN ORATION PRONOUNCED . . . BEFORE THE PHI BETA KAPPA SOCIETY AT YALE COLLEGE . . . (B.L. Hamlen, New Haven 1850) ("In a word, the last century was an age of theory, and not of practical application of truth."); ALBERT BARNES, AN ORATION ON THE PROGRESS AND TENDENCY OF SCIENCE; DELIVERED . . . AT NEW HAVEN, AUGUST 18, 1840 (J. Ashmead, Philadelphia 1840) ("The dreaming and the speculative have passed away; and on the discovery of a new principle, men now ask at once to what purpose may it be applied in promoting human comfort, in abridging human labour, and in diffusing a knowledge of the art of life."); SAMUEL HENRY DICKSON, AN ORATION DELIVERED AT NEW HAVEN, BEFORE THE PHI BETA KAPPA SOCIETY, AUGUST 17, 1842 (B.L. Hamlen, New Haven 1842) ("It seems to have been but recently, that legislators have recognized in any practical manner, the principle that 'the greatest happiness of the greatest number' is to be the object of all our institutions . . . ").
Webster's calculations had (one hopes) some motive other than maintenance of base power. 74

We can see in Russell the ways that Stowe believed political aspirations constrained action, particularly Russell's desire for statutory reform. Judge Hawkins' subtle essay maps out in some detail the interplay between political concerns and legal argument. Russell gives us a fictional picture of a politician whose personal ambition and concerns for his party constrain both his advocacy of antislavery views and his willingness to countenance legal reform.

Where scholars like Robert Cover and James Ely write about the constraint that law imposed (or failed to impose) on judges in cases involving slaves, 75 Judge Hawkins now reverses the path analysis and

74. See generally Maurice G. Baxter, One and Inseparable: Daniel Webster and the Union 416 (1984) (interpreting Webster's position as a "patriotic attempt to save the Union by compromise").


As Judge Hawkins makes clear, the power was lessened in the political realm. Nevertheless, fidelity to law was a powerful argument for antebellum politicians. The Fugitive Slave Act debates are extraordinary vehicles for exploring popular attitudes towards law: the need to support law against lawlessness, the role of sentiment in supporting (or undermining formal law), and ways that law shapes the sentiment of the community. Senators debated the role of law in forming—and in drawing nourishment from—the sentiments of the community. Senator Winthrop, for instance, recognized that "all laws depend for their execution and efficiency, in no small degree, upon the opinion of the community that they are just and reasonable laws." Cong. Globe, 31st Cong., 1st Sess. 1588 (1850). "If there be a strong sense of the injustice and oppressiveness of any particular provision, whether of this law or of any other, there will always be more or less of opposition to its execution." Id. See also id. at 1588 ("if this law should go forth to the people of any of the free States with an idea that it is arbitrary, oppressive, and regardless of the great principles of justice, it would be much less likely to be faithfully executed than if it was more in conformity with the public sentiment of those States."); id. at 1593 (Aug. 20, 1850) (Senator Winthrop) ("[For the faithful observance and efficient operation of any law, it is essential that its provisions should not do violence to the opinions and principles of the people over whom it is to operate."). Senator Winthrop concluded his discussion, "it is the daily experience of this and of every other Government, that, where laws are repugnant to the moral sense of the people it is almost impossible to execute them." Id.

Americans understood the need to maintain the majesty of the law. See, e.g., Cong. Globe, 31st Cong., 2d Sess., at 312 (1851) (Senator Douglas) ("When these trials shall come on, when the majesty of the law shall be asserted, when the judgment of the court shall
shows us the ways that slavery influenced the arguments that lawyers made. It is a remarkable essay, both because of the content of the argument and because of the occupation of the author. One is reminded of other federal judges who have remade our understanding of the relationship of law to culture, such as Joseph C. Hutchinson, Jerome Frank, and more recently, John Noonan. 76

It is more natural for lawyers to study the imperative duty that law imposes on judges to decide a case according to law, 77 than the duty that

be pronounced, I trust it will fall upon the conspirators themselves . . . .”). Southerners were well schooled in such lessons. As one said, “[The law is a nullity because the will of the people is against it . . . .” Id. at 1592. Nevertheless, the law might have lost some of its majesty because it was so accessible. Emerson called in 1837 for such a new world: “The sun shines to-day also, There is more wool and flax in the fields. There are new lands, new men, new thoughts. Let us demand our own works and laws and worship.” RALPH WALDO EMERSON, Nature, in 1 EMERSON’S WORKS, supra note 23, at 9. Calvin Colton attributed the close connections between public opinion and law to the ability of the people to rewrite them. Colton went so far as to call America “the dynasty of opinion.” COLTON, supra note 3, at 38-60.

Timothy Walker warned students graduating from the Cincinnati Law School that:

Questions are now agitated, which may shake its deepest foundations. A spirit of insubordination, too, is abroad in the law. Well tried opinions paling before new lights. Vested rights are trembling before false doctrines. Ancient landmarks are swept away by the rushing torrent of innovation. In fine, life, liberty, and property are no longer secure from ruthless mobs. At such a time, therefore, the law has peculiar claims on you, to vindicate her violated majesty .

Timothy Walker, Advice to Law Students, 1 WEST, L. J. 481, 482 (1844).


77. Antebellum jurists spoke frequently about the imperative duty that law imposed upon them. See, e.g., Cotten v. County Comm’rs of Leon County, 6 Fla. 610, 667 (1856) (“My duty is to declare the law as it is; and, having a clear conviction in my own mind, free from any doubt, there remains the questionable and imperative duty to announce it.”) (dissenting opinion); Jones’ Executors v. Lightfoot, 10 Ala. 17, 27 (1846) (“We feel it our imperative duty, to enforce this statute according to its spirit, as well as its letter, and thus make it what it was intended to be, a final limitation of suits, after the period provided for has elapsed.”); Owen v. Branch Bank at Mobile, 3 Ala. 258, 262 (1842) (“Indeed, by the examination which this question has already undergone in the Supreme Court of the United States, . . . our labor is reduced to an examination of the principles decided in these cases; for whatever may be our private opinions, we shall feel it an imperative duty to yield to the authoritative
politics impose on legal arguments, but both are necessary for a complete understanding of the role of slavery in the structure of legal thought. For

exposition of the constitution of the U[nited] States, made by the Supreme Court."); Campbell v. Georgia, 11 Ga. 353, 373 (1852) ("Should the Legislature, through haste or inadvertence, pass an act at war with the spirit, object and design of our social system, as manifested in this charter, it would become the imperative duty of the Courts, however delicate the task, to vindicate the rights of the citizen, by pronouncing such a Statute invalid."); Gardner v. Lane, 14 N.C. 53, 54 (1831) ("The direct authority of Shepherd v. Lane is imperative upon the Court. It would be so with me, did I, as an individual, retain ever so strongly the opinion given by me upon the trial of that cause on the circuit."). Cf. Heard v. Sill, 26 Ga. 302, 309 (1858) (Lumpkin) ("After all, where lies the justice of the case? I try always to dig deep for that; and when found, nothing but the most imperious legal necessity can restrain me from administering it."). In other instances, judges departed from precedent when it was not imperative and there was no sound reason supporting the authority. See Harwell v. Lively, 30 Ga. 315, 320 (1860):

When a principle is sound it ought to be carried to all strictly analogous cases, unless stringent authority forbids; but if the principle be unsound, analogy ought not to be allowed to carry it to a single case beyond the imperative demands of authority—the cases in which it has been already planted by decisions.

And judges compared public and private imperatives in deciding claims of nuisance. See Mayor & Council of Rome v. Omberg, 28 Ga. 46, 49 (1859) ("The public necessities compel the opening of streets of a certain width. But there is no such imperative necessity for the plaintiff's having his yard or garden a few feet wider. There is more of selfishness at the bottom of all these claims than appears at first blush.").

There was also an imperative duty to see that the law was followed. See Vance v. Crawford, 4 Ga. 445, 459 (1848) ("We feel it to be an imperative duty to see to it that the laws are not evaded, which have been wisely and studiously framed, to prevent the extension of the evil."). In Vance, Justice Henry Lumpkin addressed an attempt to free slaves. He concluded, in line with Stowe's proslavery judges, that:

Neither humanity, nor religion, nor common justice, requires of us to sanction or favor domestic emancipation; to give our slaves their liberty at the risk of losing our own. They are incapable of taking part with ourselves, in the exercise of self government. To set up a model empire for the world, God in His wisdom planted on this virgin soil, the best blood of the human family. To allow it to be contaminated, is to be recreant to the weighty and solemn trust committed to our hands. Republican institutions cannot exist in Mexico, or the commingled races of South America. And while we concede that the condition of our slaves is humble, still it is infinitely better than it would have been, but for this very system of bondage, better than the lower orders in Europe, and better far than it would be, if they were emancipated here, "destroying others, by themselves destroyed."

Id.
just as law imposes modes of thought that decide cases, political considerations channel the types of arguments that are presented for resolution and the ways that politicians interpret the law.

3. The Proslavery Politician: Representative Knapp

There is yet another politician in Dred, Mr. Knapp, a North Carolina Representative in the United States Congress. He is purely proslavery. One suspects that he offers little in the way of instruction for how one ought to act. But he does suggest how Stowe thought that cold, utilitarian calculations might make a politician impervious to considerations of humanity.78 Knapp makes his appearance near the end of Dred, when Edward has been unsuccessful in promoting his reforms. Knapp and Judge Oliver visit Magnolia Grove to ask Edward and Anne to abide by North Carolina law and stop teaching their slaves to read. Edward thought that such laws might be a “dead letter,” but Representative Knapp explained that the laws had to be enforced. The laws, he said, “are founded in the very nature of our institutions. They are indispensable to the preservation of our property, and the safety of our families. Once educate the negro population, and the whole system of our domestic institutions is at an end.”79 Knapp counseled against instruction in writing, even against religious instruction, for education might end in rebellion.80 Knapp calmly reflects that he did not want to tempt rebellion. “The system is as good as forty other systems that have prevailed, and will prevail. We must proceed with things as they are.”81 Moreover, Knapp complained that Edward subscribed to an abolitionist newspaper.82 Knapp, employing an argument from nuisance law, told Edward he was not allowed to receive literature that “may imperil a whole neighborhood. You are not free to store barrels of gunpowder on your premises, when they may blow up ours.”83

78. See STOWE, supra note 6, at 653.
79. See id. at 654-55.
80. See id. at 656.
81. Id.
82. See id. at 657.
And Knapp is willing to harness the mob to enforce his will. Knapp finally threatened mob violence if Clayton continued to violate the law. 44 And after Knapp and Oliver leave Magnolia Grove, Edward, Anne, and Frank Russel considered their course. Russel pointed out the connections between the leaders of the community and the mob: “our republic, in these states, is like that of Venice; it’s not a democracy, but an oligarchy, and the mob is its standing army. . . . We are free enough as long as our actions please them; when they don’t we shall find their noose around our necks.” 45 Later that evening, a mob appeared and burned the school. Russel then went to the mob. Russel’s practical political skills—he did not have “any conscience to prevent my saying and doing what is necessary for an emergency”—allowed him to lead them off to a local tavern, where they became so drunk that they were unable to do any more harm. 46 The next morning, Russel returned to Magnolia Grove to discuss Edward and Anne’s options. Gradual emancipation would not be accepted. “It is, as they told you, a finality; and don’t you see how they make everything in the Union bend to it?” 47 Similarly, public opinion in the North was unhelpful. “The mouth of the North is stuffed with cotton, and will be kept full as long as it suits us.” 48 The practical Russel, who is presumably speaking for Stowe at this point, thought reform impossible. He understood that Northern opinion supported slavery.

They have their fanatics up there. We don’t trouble ourselves to put them down; we make them do it. They get up mobs on our account, to hoot troublesome ministers and editors out of their cities; and

84. See STOWE, supra note 6, at 658-59. Theodore Parker explained in similar terms:

In the main, this controlling class governs the land by two instruments: the first is the Public Law; the next is Public Opinion. The law is what was once public opinion, or thought to be; is fixed, written, and supposed to be understood by somebody. Public opinion is not written, and not fixed; but the opinion of the controlling class overrides and interprets the law,—bids or forbids its execution. Public opinion can make or unmake a law; interpret as it chooses, and enforce or forbid its execution as it pleases.

PARKER, The Chief Sins of the People, in 3 PARKER, SPEECHES, supra note 2, at 230, 250. One manner of controlling public opinion was convincing the public that “the people are morally bound to obey any law which is made until it is repealed.” Id. at 257, 260.

85. STOWE, supra note 6, at 661.
86. Id. at 663.
87. Id. at 665.
88. Id.
their men that they send to Congress invariably do all our dirty work.\textsuperscript{89}

Upon hearing Russel's pessimistic assessment, Anne proposes that they leave the state.\textsuperscript{90} And so Edward's transition from gradual reformer who disagrees with William Lloyd Garrison's position in The Liberator\textsuperscript{91} to immediate abolitionist is complete. Russel concluded that,

If there was any public sentiment at the North for you reformers to fall back upon, you might, in spite of your difficulties, do something; but there is not. They are all implicated with us, except the class of born fanatics, like you, who are walking in that very unfashionable narrow way we've heard of.\textsuperscript{92}

Perhaps Stowe was appealing for a change of sentiment in the North, which might yet remake the options available to antislavery Southerners.

Stowe details the process by which religious sentiments are overcome by law, which is a common theme in abolitionist legal thought. Theodore Parker explained that:

At the beginning, religion takes precedence over law. Before there is any human government, man bows himself to the Source of law, and accepts his rule of conduct from his God. By and by, some more definite rule is needed, and wise men make humane laws; but they pretend to derive these from a divine source. All the primitive lawgivers, Moses, Minos, Zaleucus, Numa, and the rest, speak in the name of God. For a long time, law comes up to religion for aid and counsel. At length law and religion, both imperfect, are well established in society, religion being the elder sister; both act as guardians of mankind. Institution after institution rises up, all of them baptized by religion and confirmed by law, taking the sacrament from the hands of each. At length it comes to pass that law seeks to turn religion out of doors. Politicians, intoxicated with ambition, giddy with power, and sometimes also with strong drink, make a statute which outrages all the dictates of humanity, and then

\textsuperscript{89} \textit{Id.}
\textsuperscript{90} \textit{See id.} at 666.
\textsuperscript{91} \textit{See id.} at 50-51.
\textsuperscript{92} \textit{Id.} at 665-66.
insist that it is the duty of sober men to renounce religion for the
sake of keeping the wicked statute of the politicians. All tyrants
have done so!93

There is a grand tradition of bowing to the public will; indeed, one may
measure the attitudes towards democracy by it.94 Jefferson wrote in his
autobiography of the desire to adopt a plan for the gradual abolition of
slavery just after the Revolution, but that the public mind was not yet ready
for it.95 Such protestations make sense, of course. But there is a limit to their
exculpatory (or explanatory) power, for one is reminded of the question
asked by Representative Phillip Doddridge in the Virginia Constitutional
Convention of 1829-30, “when were men in power ready for reform?”96

93. PARKER, The Chief Sins of the People, in 3 PARKER, SPEECHES, supra note 2, at
230, 258-59.
changing attitudes of judges towards democracy in the nineteenth century).
95. See JEFFERSON'S WRITINGS 46 (Merrill Peterson ed., 1983).
96. PROCEEDINGS AND DEBATES OF THE VIRGINIA STATE CONVENTION OF 1829-30,
supra note 3, at 427.