“The Guilt of Fragile Sovereigns”: Tyranny, Intrigue, and Martyrdom in an Unchanging Regime (Virginia, 1829-32)

Christopher Tomlins*

Abstract

This essay canvasses how far meanings of “regime change” can be stretched beyond their current invocation as anodyne neologistic cover for the illegality of a “coup d’état.” Some years ago the anthropologist John Borneman made one attempt to extend the compass of regime change beyond simple realist “topplings” of governments one disfavors to responsibility for legal reconstruction of the target regime because he wished to argue that idealistic interventions against tyrannical rule should always be legitimate. This essay asks whether the term can be stretched in a different direction, to encompass instances of intervention against tyrannical rule beyond the sphere of interstate relations where it is currently lodged. To test the proposition I turn here to a particular event—the Turner Rebellion, a slave rebellion that took place in Virginia in 1831—and to recent work in political theory that dwells on the politics of counter-sovereignty. Here regime change encompasses a rebellion of slaves against a tyrannical slaveholding regime, a failed attempt to deploy a revolutionary politics of counter-sovereignty against the regime’s pretensions to legality. Here tyranny remains the target of regime change. But rather than the solvent of tyrannical rule, law in this case is the instrument of its expression.

But all these puerile conceits fall far short of surmounting the great difficulty which, like Memnon, is eternally present and cannot be removed. Sedet eternumque sedebit.

Thomas Roderick Dew (1832)

***

“Regime change,” Henry Ryan wrote in October 2002, on the eve of Operation Iraqi Freedom, “is a trendy new term for an old and special kind of intervention.” The term was not to be confused with “preventing takeovers, restoring ousted leaders, removing ethnic-cleansing marauders or overthrowing governments that help terrorists attack us.” It referred exclusively “to toppling an existing regime that displeases or worries the United States Government.”

* Christopher Tomlins is Elizabeth J. Boalt Professor of Law at the University of California Berkeley. Grateful thanks are due Bonnie Honig and Norman Spaulding for their comments on this essay. Address any correspondence to ctomlins@law.berkeley.edu.

Neither Ryan’s claim of terminological novelty nor his delimitation of definition sets him apart from other contemporary commentators. Although an early twentieth-century use of the term has been detected headlining a 1925 Los Angeles Times news report, it is an isolate. If Google N-Gram is to be trusted, the phrase had no meaningful incidence in English until the beginning of the 1970s. At that point its occurrence begins to increase continuously and steeply. As usage increases over the next three decades, meaning changes. At the beginning of the 1970s, “regime change” was a technical term in political science, meaning alteration in the “values and principles, norms or rules of the game, and structure or authority roles” characterizing a given political community and its administration. By the 1990s, it had come overwhelmingly to be understood in Ryan’s terms, as a euphemism referencing the coerced removal of the leadership of one state by military force directly or indirectly sponsored by another state. Resort to the term has been particularly associated with Anglophone (preeminently U.S.) media and governing circles post-1985, for whom regime change apparently bears a neologistic anodyne connotation of legitimacy or neutrality that alternatives—overthrow, ouster, coup d’état—lack.

In an attempt to stretch “regime change” beyond simple coercive removal to encompass an ethics of accountability, and hence a measure of justification, the anthropologist John Borneman has proposed a tripartite analysis of what regime change entails: government overthrow; military occupation and colonization; and caring for the enemy. Each instantiation exhibits a distinct level of responsibility on the part of the intervenor in the wake of intervention. Government overthrow, the most common expression of regime change, is simply Henry Ryan’s decapitation of an incumbent political echelon with little or no accompanying “exercise of responsibility” after the event. Borneman references multiple post-World War II incidents, all involving the United States, as instances of regime change avant la lettre, all of which he condemns.

---

2 Regime Change Effort Denied, L.A. Times, Aug. 1, 1925, at 8, col. 4. Appearing in the Times’s Saturday morning “News of Southern Counties” section, the report referred to efforts by the Pasadena Voters Municipal League to return the form of Pasadena city government to “the Mayor and Council form of government” from the recently-instituted “Board of elected City Directors and City Manager” form.

3 The profile of incidence in French, German and Spanish sources is identical, but retarded, indicating diffusion from English.


5 See, e.g., Wash. Post, Feb. 20, 1987, at A27, col. 6, reporting President Ronald Reagan had signed a mid-August 1986 National Security Decision Directive seeking “regime change” in Libya. (The term was sufficiently unfamiliar that the Post reported the Directive sought “a ‘regime change’ in Libya.”)


7 Id. at 31. These comprise the covert Anglo-American coup against the Iranian government of Mohammad Mosaddegh in 1953; the American coup against Jacobo Arbenz in Guatemala in 1954; the American coup against Ngo Dinh Diem of the Republic of Vietnam in 1963; and the covert American coup against
Borneman turns to Israel’s 1985-2000 occupation of South Lebanon (although not its occupation of Gaza or the West Bank), which he describes as an instance of change demanded “in the formal behavior of the country and its people toward others . . . primarily toward the occupier’s state and people,” thus expanding the ambit of regime change beyond echelons of government to social organization and its behavioral and attitudinal manifestations. Through not much manifested in the Lebanese case by “self-interested” Israelis, Borneman’s second expression of regime change begins to evidence some degree of “commitment to changing the other” on the part of the intervenor. The ethical radicalism of “changing the other” is underscored in Borneman’s third category, *caring for the enemy*. Citing post-World War II Germany and Japan as examples, Borneman describes a process that “begins with military intervention and a change at the top, but . . . entails a more thorough change of the forms of authority that generate or support the government or kind of regime one regards as unfriendly.” Borneman’s definition of regime change in this third instance invokes “values, norms, and rules of governance” as the target, recalling the original meaning of regime change in political science. The key agency of change is law. The objective is reconstruction of “the internal fabric, the culture and patterns of a society” through inculcation of “the basic principles of the rule of law,” which Borneman identifies as “the greatest inhibitor of and threat to tyrannical rule.”

Borneman desires to stretch the meaning of regime change beyond simple realist “topplings” of governments one disfavors to responsibility for reconstruction of the target state’s “culture and social organization” because he wishes to maintain that idealist interventions against tyrannical rule are legitimate. Can the term be stretched even further, to encompass instances of intervention against tyrannical rule beyond the sphere of inter-

---

8 Id.
9 Id.
10 Id. at 32. The border between Borneman’s second and third expressions of regime change is porous. Nothing in his argument segregates the third expression of the term ideationally from half a millennium of colonizations and military occupations (the second expression) directed against incumbent Indigenous sovereigns and the subsequent reconstruction of their cultures legitimated by reference to ideologies of civility, Manifest Destiny, “the white man’s burden,” progress, and so on.
11 Id.; supra note 4.
12 Kunal Parker comments, “Borneman writes, ‘Democratic arrangements will always be historically contingent, varying greatly by region and place, by local cultural forms of power and authority.’ To avoid the variability and indeterminacy associated with ‘democracy,’ Borneman proposes law. Law, for him, is something that establishes negative freedoms, curtails the excesses of government, and guarantees the integrity of political processes.” Kunal Parker, Response: History, Law, and Regime Change, 26 PoLAR 43, 44 (2003) (quoting Borneman, supra note 6, at 36).
state relations where it is currently lodged? To test the proposition I turn here to a particular event—the Turner Rebellion, a slave rebellion that took place in Virginia in 1831—and to recent work in political theory that dwells on the politics of counter-sovereignty. In this treatment tyranny remains the target of regime change. But rather than solvent of tyrannical rule, in this case law—emblem of “the guilt of fragile sovereigns”\(^\text{13}\)—is the instrument of its expression.

The Turner Rebellion was an instance of counter-sovereignty, force deployed in the hope of changing a regime. The means to effect change, conspiracy and self-sacrifice, came from outside law’s field, but they are indelibly associated with the tradition of regime change upon which Borneman’s analysis draws. Regime change as we know it is of course saturated with conspiracy—covert action, misrepresentation, lies, dissembling, intrigue. It is no less saturated with self-sacrifice. The wild risk of change—the bid to chop off the head of the king—always creates martyrs on one or the other side of the attempt, depending on its success or failure.

Here, then, I employ regime change to encompass a failed rebellion of slaves against a tyrannical slaveholding regime, an attempt to confront and lay low a guilty and fragile sovereignty by deploying a revolutionary politics of counter-sovereignty realized in conspiracy and self-sacrifice, against the regime’s legalities. I attempt also to analyze how this failed effort at regime change affected the regime itself, how it led fragile sovereigns to war with each other over changing the legalities of their regime themselves, and how they too failed. Finally, we encounter decisive and successful change, although not in the nature of the regime in question but in the prevailing means of explaining it—epistemological change, intended to secure the regime from ontological change by placing it in a realm beyond sovereignty and guilt, beyond politics and law, altogether. This episode of concatenated regime change is presented here to inform our own understanding of the phenomenon known as a regime, and our own attempts to construct schemata of change.

I. Turner’s Tragedy

Treated as an event, the Turner Rebellion is relatively straightforward. Over the course of twelve hours beginning around 1 a.m. on Monday August 22, 1831, Nat Turner led a group of fellow blacks—mostly slaves\(^\text{14}\)—in an armed attack upon a succession of white slave-holding households in St. Luke’s Parish, Southampton County, Virginia, resulting in the deaths of fifty-five women, children, and men. During the following twenty-four hours members of Turner’s group engaged in a series of confrontations with militia and armed inhabitants, by the end of which Turner was the only participant in the massacre who had managed to avoid death or capture. Remaining in his old neighborhood, in hiding, Turner continued to avoid apprehension for a full two months, until finally discovered on October 30. On October 31 he was taken to Jerusalem, the county seat,

\(^{13}\) The phrase is Bonnie Honig’s, the gloss is mine. See Bonnie Honig, Antigone, Interrupted 92 (2013).

\(^{14}\) One free black—Billy Artis—joined Turner’s band and died in the aftermath of the massacre. Four others were arraigned as participants, and tried, but only one convicted—Berry Newsom.
where he was examined before two magistrates, James W. Parker and James Trezvant, and committed to await trial by the Southampton County Court, sitting as a court of Oyer and Terminer, on charges of conspiring to rebel and making insurrection. Turner's trial took place on November 5 before a bench of ten magistrates. He was convicted, and sentenced to death. He was hanged on November 11.\textsuperscript{15}

We know much more about the Turner Rebellion than this bare succession of occurrences might suggest because on the evening of October 31, following Turner's examination and committal, a local attorney named Thomas Ruffin Gray gained access to him in jail by permission of the jailor and ascertained “that he was willing to make a full and free confession of the origin, progress and consummation of the insurrectory [sic] movements of the slaves of which he was the contriver and head.” Over the next three days Gray listened to Turner's narrative, and found it corroborated, to his satisfaction, “by every circumstance coming within my own knowledge or the confessions of others.”\textsuperscript{16} Following Turner's trial, Gray left Jerusalem for Richmond, 70 miles to the north, where on November 7 he attempted to arrange the printing of his manuscript. Unsuccessful in Richmond, he rode on to Washington D.C., a further 120 miles to the north, where on November 10 he obtained copyright for his pamphlet. The pamphlet itself was printed in Baltimore, another forty miles northeast of Washington, by the firm of Lucas and Deaver. It was published on November 22 in an edition of some 50,000 copies, priced twenty-five cents. A second edition was printed in Richmond by the firm of T.W. White and published the following year.\textsuperscript{17}

Analysis of the pamphlet suggests its narration of Turner’s “confessions” in fact conjoins two relatively distinct texts. The first part discourses upon matters of which Gray could have had little detailed knowledge prior to November 1—Turner's childhood and upbringing, his beliefs and motivations, his account of himself. The central theme of the first part is the ascent of an ascetic personality to a state of ecstatic religious grace and the intellectual consequences attending that outcome. Untidy syntax and ungrammatical composition in this part indicate haste in writing—the text has the character of notes taken verbatim as the narrator spoke. The second section discourses upon the course of the rebellion itself, of which, by the time he met with Turner, Gray had already accumulated considerable independent knowledge. The writing in this section is relaxed, confident, and grammatically and syntactically sophisticated.\textsuperscript{18} To the extent that the pamphlet’s evidentiary reliability turns on whether or not Gray's description of its composition—“little or

\textsuperscript{15} The events of August 22 and 23, and their aftermath, are ably recounted in two recent histories: David F. Allmendinger, Jr., Nat Turner and the Rising in Southampton County (2014), and Patrick H. Breen, The Land Shall Be Deluged in Blood: A New History of the Turner Revolt (2015).

\textsuperscript{16} The Confessions of Nat Turner 3, 18 (1831) [hereinafter Confessions].


\textsuperscript{18} Care in composition suggests that this is the section in which Gray was most invested, with which he was most familiar, and for which he was best prepared.
no variation from his own words . . . a faithful record of his confessions”—is accurate, analysis of the form of the pamphlet suggests there is likely substantially more departure from Turner’s verbatim narrative in the second half than the first, although nothing that rises to the level of invention.¹⁹

The terms of Turner’s narrative, and the genre—tragedy—to which it belongs, take their shape in his first sentence: “You have asked me to give a history of the motives which induced me to undertake the late insurrection, as you call it.”²⁰ From the outset, that is, Turner denies that he and his interlocutor share a common understanding of what had occurred. From this moment we know that Gray calls the event an insurrection and that Turner does not. We do not yet know what Turner calls it, but we can read the first half of his narrative—the half that advances his account of himself and, I have argued, that bears unmistakable signs of composition in the moment of interlocution—for clues.

The first half of the narrative is a description of a worldview informed by a coherent legal-religious cosmology that is entirely distinct from the profane legality inhabited by Gray, a cosmology that Gray (known as “a scoffer at religion”) scorns.²¹ Turner identifies a slowly-maturing (indeed, spiritually agonizing) realization that his calling is to serve God as a slave rather than direct his wishes “to the things of this world,” such as his own liberty as a runaway. He describes an ascetic withdrawal from the world, so far as his situation allowed, in a quest for “true holiness,” and his eventual achievement of an ecstatic state of grace. He describes learning through revelations and miracles that his purpose was the advancement of Christ’s work of redemption in preparation for the Last Judgment, a purpose that he communicated “to many, both white and black.” He describes his growing realization that “the great day of judgment was at hand,” his role in saving a white sinner (whom Gray names as Etheldred Brantley) who, at Turner’s urging, “ceased from his wickedness,” and of the many by whom both he and Brantley were reviled. He describes a revelation instructing him that “the Serpent was loosened, and Christ had laid down the yoke he had borne for the sins of men, and that I should take it on and fight against the Serpent.”²² In precisely 2000 words, Turner transports himself and his interlocutor from a squalid jail cell to a moment of sacred space and time, beyond Armageddon, to which Turner has been called to fight the final battle against Satan “loosed a little season,” and

---

¹⁹ David F. Allmendinger has argued that Gray authored the most comprehensive of several reports of the rebellion that appeared (without attribution) in Richmond newspapers in the weeks following the event. The resemblance between the report attributed to Gray and the pamphlet is clear both in substance and structure. It is likely that Gray used his initial account of the progress of the rebellion published in the Constitutional Whig, Sept. 26, 1831 [hereinafter Constitutional Whig Report]; as a template for the second half of the narrative that the pamphlet attributes to Turner. See Allmendinger, supra note 15, at 235-40.

²⁰ Confessions, supra note 16, at 7 (emphasis added).

²¹ Parramore, supra note 17, at 120. Turner, Gray wrote, was “a gloomy fanatic” who was “excited by enthusiasm.” Confessions, supra note 16, at 4, 19. In his Constitutional Whig Report, supra note 19, Gray inveighs more curtly against the effects of the “ranting cant” of preachers on “ignorant blacks.”

all those that Satan had deceived, so that the Last Judgment could take place, completing humanity’s redemption, and the New Jerusalem appear. Gray refuses to accompany him. “Ques. Do you not find yourself mistaken now?” Turner’s answer rebukes Gray’s unbelief and reaffirms his own purpose. “Ans. Was not Christ crucified.”

In light of all this, what then was “the great work laid out for me to do” that Turner finally shared with four confidants in February of 1831, and which they discussed repeatedly amongst themselves over the next eight months? It was, he says, “the work of death.” We must ask, who were to be the slain? As it turned out, a dozen wretched Southside farmers and their families. But in Turner’s mind, at least, were the slain not to be the “blasphemous, murtherous enemies” pressing in on Christ’s church, “wicked persons . . . not fit to live” whose threat to the final realization of redemption Turner had been charged to end, against utterly impossible odds, in what one might therefore represent as the most sublime “pouring out of the spirit of God”? Just as Christ crucified had been brought “under the power of death” to complete the purchase of human redemption, so Christ’s enemies had themselves finally to be brought under the power of death to complete the work of redemption itself.

II. Gray’s Melodrama

Turner’s discourse is a tragic narrative of conspiracy and self-sacrifice, of “political agency as action under conditions of (near) impossibility.” It is political because it is a discourse of counter-sovereignty; of, that is, regime change. To the sovereignty of the wicked—the profane, the unregenerate, the “children of darkness”—Turner counterposes the sovereignty of God. His is an act of faith rather than works, of heroic “(in)human boldness in the face of impossibility.”

23 Condemning to their second—which is to say eternal—death “the fearful, and unbelieving, and the abominable, and murderers, and whoremongers, and sorcerers, and idolaters, and all liars.” Revelation 21:8, and see 20:13-15.

24 Confessions, supra note 16, at 11.

25 Id.


27 Edwards, supra note 26, at 117, 295, 305, 331, 334, 358. Note that Christ was not backward in calling for his enemies to be brought to account. “[T]hose mine enemies, which would not I should reign over them, bring hither, and slay them before me.” Luke 19:27.

28 Honig, supra note 13, at 152.

29 Confessions, supra note 16, at 10.

30 Honig, supra note 13, at 151. Turner, wrote Gray, “expressed himself fully satisfied as to the impracticability of his attempt.” Confessions, supra note 16, at 18. We take this to mean that Turner acknowledged his “rebellion” had no chance of success. But “impracticable” also carries the connotation of that which requires faith rather than works. That which is impracticable—“in practice impossible”—is that which cannot be achieved except by an unmediated act of faith, or of God, an act, that is, of “divine
By adding his own prologue and epilogue, Thomas Ruffin Gray enfolds Turner’s narrative within a melodrama of his own devising that attempts to reverse the narrative’s tragic valence by using its characteristic elements against their author. “It will thus appear,” Gray informs his readers, as he ushers them carefully toward Turner’s words, “that whilst everything upon the surface of society wore a calm and peaceful aspect . . . a gloomy fanatic was revolving in the recesses of his own dark, bewildered, and overwrought mind, schemes of indiscriminate massacre to the whites.”\(^3\) Gray’s melodramatic emplotment attempts to undo Turner’s tragic heroism, to render him instead a shallow composite of corrupted characters—intrigant, tyrant, and martyr—a tripartite threat to the fragile sovereigns who rule Southampton County, Virginia, and indeed the slaveholding South.\(^2\) Turner is condemned as artless intrigant, says Gray, by his own words: “His own account of the conspiracy is submitted to the public, without comment. It reads an awful, and it is hoped, a useful lesson, as to the operations of a mind like his, endeavoring to grapple with things beyond its reach.”\(^3\) As ideas yield to actions, the cartoon conspirator “bewildered and confounded, and finally corrupted” becomes cartoon tyrant, perpetrator “of the most atrocious and heart-rending deeds,” hideous invader of peace and innocence: “No cry for mercy penetrated their flinty bosoms. No acts of remembered kindness made the least impression upon these remorseless murderers. Men, women and children, from hoary age to helpless infancy were involved in the same cruel fate.” In Gray’s melodrama, Turner becomes an atrocious butcher who forces the helpless dead “from Time to Eternity,” a monster from beyond civility. “It will be long remembered in the annals of our country, and many a mother as she presses her infant darling to her

---

\(^3\) Confessions, supra note 16, at 4. On melodrama and political theory, see Honig, supra note 13, at 14, 80-81, 92-94. Melodrama is a recurring genre in Southern slaveholder depictions of the legalities of sovereignty. For a superior example, see the judgment of Thomas Ruffin in State v. Mann, 13 N.C. 263 (1830), which begins as follows:

A Judge cannot but lament, when such cases as the present are brought into judgment. It is impossible that the reasons on which they go can be appreciated, but where institutions similar to our own, exist and are thoroughly understood. The struggle, too, in the Judge’s own breast between the feelings of the man, and the duty of the magistrate is a severe one, presenting strong temptation to put aside such questions, if it be possible. It is useless however, to complain of things inherent in our political state. And it is criminal in a Court to avoid any responsibility which the laws impose. With whatever reluctance therefore it is done, the Court is compelled to express an opinion upon the extent of the dominion of the master over the slave in North-Carolina.

\(^2\) Here I follow Honig in deploying Walter Benjamin’s account of the Baroque Trauerspiel (Mourning Play) in The Origin of German Tragic Drama (John Osborne trans., 1998) (1928). Like Honig’s, my deployment is indebted to James R. Martel, Textual Conspiracies: Walter Benjamin, Idolatry, and Political Theory (2013).

\(^3\) Confessions, supra note 16, at 4. Turner’s “account of the conspiracy” actually has relatively little to say about the process of conspiring other than its difficulties—“Many were the plans formed and rejected by us” (11). Turner’s conspiracy as it appears in Gray’s pamphlet is, rather, a “textual conspiracy,” specifically a conspiracy between Turner and particular biblical texts. See Martel, supra note 32, at 153.
bosom, will shudder at the recollection of Nat Turner.” Melodrama is how we distinguish evil from good, fanaticism from wisdom, as black from white; it supplies narrator and audience with the moral compass they need to counteract divine inspiration with the deranged irrationality of its implementation; and finally, it dictates the familiar sentiments of slaveholder humanity that become explicit in the reported words of presiding magistrate Jeremiah Cobb. Cobb’s “sympathy” underscores how Gray has pacified the ingenuous Turner—reduced him to pitiful cartoon martyr to his own lost cause. “Nat has survived all his followers, and the gallows will speedily close his career,” writes Gray, sanctimoniously lauding “a mind capable of attaining any thing” had it not been perverted by obsessive religiosity. Though recoiling elaborately from “[t]he calm, deliberate composure with which he spoke of his late deeds and intentions,” and from “the expression of his fiend-like face when excited by enthusiasm, still bearing the stains of the blood of helpless innocence about him,” Gray nevertheless martyrs him. Turner, helpless, “clothed with rags and covered with chains,” still “raise[s] his manacled hands to heaven, with a spirit soaring above the attributes of man.” Recognizing, perhaps, that the martyr is the greatest melodramatic threat of all, Gray assures his readers that he has not forgotten he beholds a monster. As “I looked on him . . . my blood curdled in my veins.”

Whom does the martyr threaten? Southampton’s fragile sovereigns. They are a constant presence in Gray’s melodrama, both audience and players. In his opening peroration they are “Public curiosity” agape at this “first instance in our history of an open rebellion of the slaves,” and “on the stretch to understand [its] origin and progress . . . and the motives which influence[d] its diabolical actors.” They are the litter of slaughtered innocents left in Turner’s wake, and the few who escaped: “a little girl who went to school at Mr. Waller’s”; Harriet Whitehead, the only member of her family (mother, brother, three sisters, a nephew) to survive; Lavania Francis, who concealed herself in the recesses of an attic; Mary Barrow, her escape covered by a brave husband who “scorn[ed] to fly.” They are the resourceful Dr. Blunt, whose firm resistance broke the rebellion’s back, and Benjamin Phipps, “armed with a shot gun well charged,” who captured Nat. Above all they are the magistrates of the Southampton County Court, who presided over Nat Turner’s trial (as they had “with unwearied patience” over the trials of all the other captured rebels), who certified (doubtless with no sense of irony) his confession to be “free and voluntary,” who sought “full faith and credit” for their acts of just condemnation, and

34 Confessions, supra note 16, at 5, 21.

35 “From my soul I pity you; and while you have my sympathies, I am, nevertheless called upon to pass the sentence of the court.” Id. at 21. On the question of “humanity to the improvident slave” see Mark Tushnet, The American Law of Slavery, 1810-1860: Considerations of Humanity and Interest 3-5, 50-54 (1981).

36 Confessions, supra note 16, at 4, 18-19. “Fiend-like face” appears to allude to the serpentine Aron, in Shakespeare’s Titus Andronicus (5.1.44-45): “Say, wall-eyed slave, whither wouldst thou convey / This growing image of thy fiendlike face?”


38 Constitutional Whig Report, supra note 19.
who listened and nodded as their appalled chairman denounced Turner for “plotting, in
cold blood, the indiscriminate destruction of men, of helpless women, and of infant children,”
for slaughtering “many of our most valuable citizens” while they were asleep and defense-
less—the old, the young, his own master, a man “in your own language ‘too indulgent.’”39
The fragility of these fragile sovereigns was their innocence, their acts of kindness, their
indulgence, their trust, their sympathy, their very defenselessness. No more. Turner was to
be “hung by the neck until you are dead! dead! dead.”40 As for the remainder of “this class
of our population,” it was past time to ensure that the laws restraining them were “strictly
and rigidly enforced.”41

But these vulnerable, fragile sovereigns were also guilty sovereigns. They—some
of them, at least—had been quietly contemplating their guilt for decades.42 At the Virginia
Constitutional Convention of 1829-30 their contemplation had become somewhat more
open. Responding to representatives of the non-slaveholding western section of the state
who sought reform of suffrage qualifications and reapportionment of representation hith-
terto biased in favor of the slaveholding east, Benjamin Watkins Leigh of Chesterfield
County joined defense of the representation of wealth in slaves in legislative apportion-
ment to depreciation of the existence of slavery per se. “I wish that Providence had spared
my country this moral and political evil.”43 Fears for the security of their property in slaves
underlay eastern resistance to western suffragists’ arguments for a shift in representation
in their favor, but as Leigh evidences, eastern delegates were unwilling to speak out in de-
fense of slavery as such. Rather, they wrung their hands and lamented their ill-fortune.
Take as exemplary this from the convention’s chair, former U.S. President James Monroe:

What has been the leading spirit of this State, ever since our independence was obtained?
She has always declared herself in favor of the equal rights of man. The revolution was
conducted on that principle. Yet there was at that time, a slavish population in Virginia.
We hold it in the condition in which the revolution found it, and what can be done with

39 Confessions, supra note 16, at 5, 6, 21.
40 Id. at 21.
41 Id. at 5.
42 “Whilst America hath been the land of promise to Europeans, and their descendants, it hath been the vale of
death to millions of the wretched sons of Africa,” wrote St. George Tucker, in 1796. “Whilst we adjured the
God of Hosts to witness our resolution to live free, or die, and imprecated curses on their heads who refused
to unite with us in establishing the empire of freedom; we were imposing upon our fellow men, who differ in
complexion from us, a slavery, ten thousand times more cruel than the utmost extremity of those grievances
and oppressions, of which we complained.” St. George Tucker, A Dissertation on Slavery: with A Proposal for
the Gradual Abolition of it, in the State of Virginia 9-10 (1796); see generally Alan Taylor, The Internal Enemy:
Slavery and War in Virginia, 1772-1832, at 35-39, 85-89 (2013). Tucker was no radical abolitionist, but his
public condemnation of slavery was unusual. Virginians were obsessed with avoiding public discussion of the
demerits of slavery, or its end. As the successor to Tucker’s chair of law and police at the College of William
and Mary, Thomas Roderick Dew (of whom more below), noted in 1832, “[W]e have heretofore doubted the
propriety even of too frequently agitating, especially in a public manner, the question of abolition, in
consequence of the injurious effects which might be produced on the slave population.” Thomas Roderick
this population? If they were extinct, or had not been here, white persons would occupy their place, and perform all the offices now performed by them. . . . If you set them free, look at the condition of the society. Emancipate them, and what would be their condition? Four hundred thousand, or a greater number of poor, without one cent of property, what would become of them? Disorganization would follow, and perfect confusion. They are separated from the rest of society by a different colour; there can be no intercourse or equality between them; nor can you remove them. How is it practicable? The thing is impossible, and they must remain as poor, free from the control of their masters, and must soon fall upon the rest of the society, and resort to plunder for subsistence.

Slaves could not be emancipated unless the emancipists were removed from Virginia. But the cost of removing them was too great. What to do? No one knew. Plaintively, Monroe blamed the British. Colonial Virginia had attempted to prohibit slave importation but the Crown had refused to accede. “No imputation, then, can be cast upon [Virginia] in this matter. She did all that was in her power to do, to prevent the extension of slavery, and to mitigate its evils.” Slavery was not Virginia’s fault. It was all so unfair.

Turner’s rude intervention in white Virginia’s affairs caused a panic that only heightened public anxiety. Many a mother shuddered. In the weeks that followed, memorials began appearing in Virginia newspapers calling for public meetings to urge upon the legislature “the necessity of devising some means by which [free] blacks may be removed beyond our borders, and by which the number of slaves may be gradually diminished.” Between early December 1831 and late February 1832, petitions arrived in Richmond signed by more than two thousand citizens in twenty-seven different counties, mostly in the slaveholding Tidewater and Piedmont regions. Citizens called upon the legislature to address the “appalling and increasing evil” of black population growth. Their language was of a threat to be expunged, a “fatal, paralyzing, destroying mischief” that had to be removed—“the unhappy and degraded race of Africans, whose presence deforms our land”—if Virginians were to enjoy “peace and happiness, quiet and prosperity.”

As the petitions arrived in Richmond they were referred to a select committee created by the House of Delegates to consider and report on “the insurrectionary movements of the slaves,” and the removal of people of color from the commonwealth. “Is there one man in Virginia, who does not lament that there was ever a slave in the state?” the committee’s chairman, William Brodnax of Dinwiddie, asked the House, “who

---

44 Id. at 149 (James Monroe); see also id. at 248-49 (William B. Giles, who was the incumbent governor at the time). Compare id. at 858 (John Randolph).

45 Whites deserted the countryside and congregated in centrally-defended locations. “One account asserted that more than ‘15 hundred women and children’ had taken refuge in Jerusalem.” Breen, supra note 15, at 81.


48 Id. at 245-46. Both the petitions and the subsequent legislative debate showed the influence of the federal census of 1830. Both petitioners and legislators were alarmed by the census’s record of rapid growth in Virginia’s black population, free and enslaved.
considers the decay of our prosperity, and the retrograde movement of this once flourishing Commonwealth, who does not attribute them to the pregnant cause of slavery?" Did anyone doubt slavery was an evil, that the cost of production by slave labor was far greater than by white labor? On December 20 the Richmond Enquirer enjoined the legislature not to rise “without ordering the police of the State on wise and secure principles.” On January 7 it encouraged the select committee to address “the greatest evil . . . ‘something must be done.’”

III. Uno Avulso Non Defecit Alter

But nothing was done. Instead Virginia’s fragile sovereigns fought with each other. Representatives of eastern slaveholders assailed the “misguided and pernicious” legislation contemplated by those from the west—gradual emancipation at the expense of the slaveholder—as a confiscation of property, a matter the legislature had no right to consider or even debate. They denounced open discussion of abolition in the press. The effects upon the value of slave property would be disastrous. Slaves themselves—“an active and intelligent class”—would take notice, and redouble their “murderous acts” in the hope of forcing the legislature into a speedier emancipation. Western emancipationists argued that slaveholders’ property rights must yield to the security interests of society at large. But the east was intransigent. Slaves were the east’s marketable “capital stock,” realizable for “the discharge of our just obligations.” They were “nearly all our wealth.” Adoption of legislation unfriendly to slavery would destroy the east’s economy. And for the first time, guilty hands ceased their wringing. Eastern voices began defending slavery without concession to the customary discourse of regret. Slavery was no “crying evil” said Alexander Knox, of Mecklenburg, no “cormorant preying upon the vitals of the body politic.” Slavery, rather, was the foundation of the Commonwealth’s “high and elevated character.” Historically, it had proven “indispensably requisite in order to preserve the forms of a Republican Government. . . . [F]rom the very inherent nature of society, it has and will continue to exist.” Such was human circumstance, “distinction between him who drives, and him who rides within the coach” was inevitable: the one must serve to accommodate the other. Should “deluded fanaticism” attempt to force emancipation on the east, “[t]he bonds of this Confederacy must be dissolved.” John Thompson Brown, of the town of Petersburg, declared against condemnations of slavery as criminal and immoral. “In what code of ethics, human or divine, is it written that slavery is an offence of so odious a


50 Richmond Enquirer, Dec. 20, 1831; Jan. 7, 1832.

51 VSD, supra note 46, at 26 (William O. Goode).

52 Id. at 106, 107, 108 (Charles J. Faulkner).

53 Id. at 45, 46, 47, 49, 54, 55 (James H. Gholson).

54 Id. at 141, 147-48 (Alexander G. Knox). (Turner’s delusory fanaticism was now western Virginia’s.)
character that no circumstances can palliate it—no necessity excuse it? Whence is derived the authority for saying that it is a sin, so very foul and monstrous, that Virginia is bound to pluck it from her bosom, though her life’s blood should gush after it?  

On January 24, after two weeks of debate, William O. Goode, of Mecklenburg, repeated the slave party’s warning that passage of an act of emancipation would mean “a division of this great Commonwealth.” A series of votes then brought Virginia’s emancipation debate to an inconclusive end. “The debate is stopped,” noted the governor, John Floyd. But that was not all: “[T]he members from the South side of the James River talk of making a proposition to divide the State by the Blue Ridge Mountains.”

A further expression of eastern disaffection appeared the following week, February 4, in the shape of a long letter “To the People of Virginia” written by Benjamin Watkins Leigh under the pseudonym “Appomatox” and published in the Richmond Enquirer. Mocking Turner as a hallucinating impostor and his rebellion as “a mere scene of massacre” perpetrated by a gang of drunks and cowards, easily dispersed, Leigh expressed studied incredulity that the House of Delegates should respond by debating not stricter discipline and security but abolition. An “unmanly” panic had been whipped up by the press mouthing “the slang of the English newspapers . . . that something must be done,” and the House had allowed itself to be manipulated into a discussion of the “violent abrogation of the rights of slave property,” the “general demoralization of the master race,” and the encouragement of “the slave race.” Hinting that agitators unnamed would like nothing better than to see another insurrection to hasten their schemes, Leigh warned that in fact it was their solution—gradual abolition—that would result in “general servile war.”

Composed in late January, Leigh’s letter had much in common with the increasingly pugnacious and unapologetic tone that eastern Virginia’s defenders of slavery had adopted during the second week of Assembly debate. “The evils of slavery have been displayed in this debate . . . and in my opinion those evils have been exaggerated, too, in a manner which sober reason must forever condemn.” Slavery produced not tyranny in the master and moral depravity in the slave but mutual affection between them, tempered by “the ordinary duties of police, intended to keep our slaves out of mischief and in due subordination.” Slaveholders did not live in fear of their slaves but in harmony with them.

---

55 Id. at 174-75, 178, 179 (John T. Brown).
56 Id. at 285 (William O. Goode); see also id. at 148 (Alexander G. Knox), 209 (John E. Shell).
57 Charles H. Ambler, The Life and Diary of John Floyd, Governor of Virginia 175 (1918). In fact, debate resumed on January 27, this time on colonization (repatriation) of black Virginians. William Brodnax, of Dinwiddie, introduced proposals from his select committee for compulsory colonization of free people of color. The proposals were debated on February 6 and 7, and were rejected in favor of voluntary colonization of free people and mandatory colonization of manumitted slaves. See Alison Goodyear Freehling, Drift Toward Dissolution: The Virginia Slavery Debate of 1831-1832, at 177-83 (1982).
58 Ambler, supra note 57, at 175.
59 Richmond Enquirer, Feb. 4, 1832, subsequently published in pamphlet form as The Letter of Appomatox to the People of Virginia (1832).
60 Id. (pamphlet), at 4, 6, 7, 11, 14, 18-20, 22.
for their role was pastoral, the exercise of a Providential, Christian care. “Necessity, it has been argued, imperiously dictates abolition and deportation. On the contrary, we lie under an invincible necessity to keep them here, and to hold them in subjection; a necessity imposed upon us by Providence. For I firmly believe, that it was a dispensation of Providence which sent them hither; it is the dispensation of Providence that here they shall remain; and Providence, in its own good time, will dispose of them and us according to its wisdom.”\(^{61}\) How interesting that Benjamin Watkins Leigh’s deprecation of Nat Turner’s evil hallucination should be grounded on an answering dispensationalist hallucination all his own.

Leigh’s letter underlined some of the slave party’s most important points from the abolition debate. First, it stressed that the single most important attribute of slave property was its duality, both labor and capital. So far as returns on labor were concerned, “the owners of slaves must bear the charge of rearing the young, tending the sick, and maintaining the diseased, the decrepit and the aged.” The charge was necessarily met “out of the profits of the labor of such as are in the vigor of youth or manhood.” The slave-owner’s opportunity for gain lay in whatever surplus accrued from the profits of the slave’s labor over the costs of maintenance. But “very frequently” in fact, gain was to be had only from “the increase of their slave property.” Leigh therefore underlined the fundamental economic importance to the slaveholder of retaining rights of possession over the increase in population so that he could earn a return on slave property as capital. Second, in addition to the normal defense of the principle of property rights in slaves from uncompensated assumption by the Commonwealth in the name of necessity, Leigh criticized the proposal’s efficiency. “There is not a man that ever bestowed a thought upon such subjects, who does not know, that property of any kind in the hands of the public, is worse managed and more unprofitable, than property of the like kind in the hands of individuals.” Once forcibly transferred to the Commonwealth, “slave property let out to hire under the management of public agents, having no other interest than to enhance to the utmost, the expenses of their agency, will be peculiarly unproductive.” One could be sure that the “nett profits” would never suffice to defray the costs of transporting the emancipated slave population out of the state. All the schemes of gradual emancipation, transportation, and colonization floated by the state’s “abolitionist” interests were in violation of “the known elements of political economy.”\(^{62}\)

The regime had not changed. But its description had. No longer an evil to be lamented, a historic injustice done to Virginia by an uncaring imperial metropolis, an alien blot on her ideals with which Virginians had somehow by the necessities of the situation to cope, slavery had become an ingredient essential to Virginian identity: a good to be defended, a responsibility to be fulfilled, an asset that, when managed in accordance with “the known elements of political economy,” would redound to the state’s great advantage.

---

\(^{61}\) Id. at 21-22, 27, 46.

\(^{62}\) Id. at 13, 14, 24-25. And see VSD, supra note 46, at 279 (William O. Goode).
The argument was rammed home—and, simultaneously, once more transformed—in a pamphlet published in December 1832 by Thomas Roderick Dew, St. George Tucker’s successor in George Wythe’s chair of law and police at the College of William and Mary, where he was professor of history, metaphysics, natural and national law, government, and political economy. Entitled Review of the Debate in the Virginia Legislature of 1831 and 1832,63 Dew’s pamphlet drew an emphatic line under the convulsions that had followed Turner’s rebellion. It ejected from the discussion both of its previous dominant genres of expression: Providence—whether in the shape of Turner’s Last Judgment or Leigh’s Christian dispensationalism—and politics. It gave matters over, decisively, to a distinct form of knowledge, political economy.

Review of the Debate has been described as a decisive reorientation of the Southern pro-slavery argument, “from the defense of a necessary evil to the assertion of a positive good.”64 Although this is not incorrect,65 it is somewhat beside the point. It is of course possible to conclude from an examination of the language of the Review that Dew was indeed “proslavery,” and that he thought slavery a positive good.66 But neither was really at issue in the Review: that turn had already occurred in the course of the Virginia emancipation debate. Rather, Dew was applying a mode of analysis in which he was well-versed to a contentious contemporary issue. Using that mode of analysis his objective was to demonstrate the profound and damaging error of imagining that legislative politics was the realm within which the matter in debate (slavery) should be addressed or could be resolved. Government—“that most miserable of all managers”—should abstain from interventions in economic activity because its actions would always result in consequences unanticipated by their advocates.67 Whether in the short or the long term, outcomes were driven by very different forces than political decision-making: in the short term, by self-interest and “the spring of population”; in the long term, by the gradual accumulation of social and institutional change that conformed to a classic human progression, from the “savage” society of hunting and gathering, to pastoral and then sedentary agriculture, to commerce.

Concretely, Dew grounded an extended critique of the House of Delegates’ debate, and the various proposals for gradual emancipation and colonization of Virginia’s black population it had spawned, on a stadialist history of human development and of servile labor forms, and on a comparative efficiency argument for slavery. Purely as a matter of political economy, the argument went, it mattered little what form labor took. The slave form was culturally and climatically rather than economically or civically determined.

---

63 Dew, supra note 42.
66 There is clear evidence to this effect in Dew’s Lectures on the Restrictive System, Delivered to the Senior Political Class of William and Mary College 10, 153-55 (1829).
67 Dew, supra note 42, at 63; Dew, supra note 66, at 5, 7, 8, 180.
It was a creature of the agricultural stage of human development, and particularly of the plantation, hence its emergence in Virginia and throughout the southern United States. This notwithstanding, economics furnished the main argument against any form of abolition: the catastrophic loss of invested capital that it would necessarily entail. Even were slavery the calamitous evil its legislative opponents depicted, still Virginia could not be rid of it without causing the state terminal economic damage. “The physician will not order the spreading cancer to be extirpated although it will eventually cause the death of his patient, because he would thereby hasten the fatal issue.” Happily, Dew could show the metaphor was inapplicable, because slavery was no cancer: “[A]ll those dreadful calamities which the false prophets of our day are pointing to, will never in all probability occur.”

Dew’s stadial account of slavery’s “origin and progress” normalized it as a mode of human labor while also situating the conditions for its eventual disappearance outside the realm of politics and law: “[S]omething else is requisite to convert slavery into freedom, than the mere enunciation of abstract truths, divested of all adventitious circumstances and relations.” It had been precisely such a regime of enunciation that, Dew argued, had been on display in the legislature’s debate. But wishful thinking was impotent in the face of political economy’s clear-eyed empirical truths. “The spring of population” would defeat any attempt to alter the balance between the white and black populations by having government gradually purchase and then expel existing slaves. “Government entering into the market with individuals, would elevate the price of slaves beyond their natural value, and consequently the raising of them would become an object of primary importance throughout the whole state.” Increased demand for slaves—whatever the source—would be met by increased supply: “[S]laves in Virginia multiply more rapidly than in most of the Southern States;—the Virginians can raise cheaper than they can buy; in fact it is one of their greatest sources of profit.” Meanwhile, fiscal imposition of the costs of gradual emancipation and expulsion on the white population would diminish white wealth and encourage white emigration. The unintended and paradoxical consequence would be an increase in the black population and ruination, hence decrease, in the white: “uno avulso non deficit alter,” Dew solemnly observed. Worst of all was that variation on gradual emancipation that deemed property to be a social creation, held subject to society’s right to abate as a nuisance any property (such as slave property) that endangered the greater good. The object of government, Dew responded, was the protection of property, not its abatement. “No government can exist which does not conform to the state of property.” Here lay the gravest threat of all, a threat to all property, calculated to “disorganize and unhinge the condition of society . . . to produce uncertainty and 

---

68 Dew, supra note 42, at 106.

69 Id. at 46. In fact the slave party’s assault on “abstract” legal and political truths had been a feature of both the state constitutional convention’s representation and suffrage debates and the legislature’s abolition debate.

70 Id. at 54, 55, 56-57.

71 Id. at 57. *Primo evulso, non deficit alter* (“When the first is torn away another succeeds”). Virgil, Aeneid, VI.143.
alarm . . . to create revulsions of capital,” that imperiled the entire economy. “[T]he ruin of the farmer will draw down ruin upon the mechanic, the merchant, the sailor, and the manufacturer.”

What then should be done? Dew’s answer was . . . nothing. Even were slavery admitted an injustice, and an economic calamity, still, its precipitate elimination would produce more of both, to the detriment of both master and slave. But Dew denied that slavery was in fact either unjust or calamity. It was sanctioned by scripture. It was assuredly a republican institution for “the perfect spirit of equality” it created among whites. The responsibilities of management and control instilled in masters both humanity and virtue, which in turn inspired loyalty and happiness in their slaves. And slavery, in its proper place, properly directed, was in no way inferior to free labor. Indeed, in southern staple-producing countries slave labor was more efficient than free. The reason the North was gaining in wealth over the South was not that slave labor was ruining the south, but that the federal government, with its protective tariff, was systematically ruining slave labor.

Slavery's comparative advantage in southern climes meant that, ruinous federal policies notwithstanding, slavery had a long-term future in the United States. “We very much doubt even whether slave labor be not best for all southern agricultural countries.” Dew thought Virginia “too far north” to expect slavery to exist there indefinitely. He looked to internal improvements—the completion of west-east arteries connecting the Ohio and the James Rivers—to bring about the final crucial shift in Virginia’s political economy, from sedentary agriculture to commerce, that stadial political economy predicted. For the eastern regions of the state, this would mean the rise of cities and manufactures, the immigration of free labor, a corresponding increase in the density of population and the division of labor, growing urban demand for local foodstuffs, a breakdown of plantation agriculture in favor of truck farming, and a consequent decline in demand for enslaved agricultural labor. For the west it would mean the opening of markets and the substitution of commercial arable for subsistence pastoral agriculture.

The rise of manufactures and commerce, and a change in tillage, east and west; here was “the true ground for unity of action.” Emancipation was at best an irrelevance, at worst a fatal impediment to economic prosperity. The state faced a simple choice between productive and unproductive capital investment. Virginians should reject the foolish prattling of politicians, put their energies into internal improvements, and wait patiently while the historical logic of political economy unfolded. “Time and internal improvement will cure all our ills.”

72 Id. at 64, 66, 68, 69.
73 Id. at 106-08, 127-29.
74 Id. at 126.
75 Id. One should note, however, that Dew attributed slavery’s original introduction to Virginia to the Chesapeake’s “sultry” and “warm” climate, “so congenial to the African constitution.” Id. at 39.
76 Id. at 124.
IV. Sedet Eternumque Sedebit

Thus we encounter a tyrannical regime that does not change, that resists the politics of change, that ends up decrying the message of politics altogether and embracing political economy to explain and justify its stasis. Dew thought slavery in Virginia would eventually wither away because Virginia would eventually make the transition from an agricultural to a commercial stage of development. He thought it in the state’s economic interests to make that transition. But the transition should not be hurried “by the helping hand of government.” And for as long as Virginia remained engaged in plantation agriculture, the comparative advantage of slave over free labor would ensure that it would remain committed to slavery. “The time for emancipation has not yet arrived, and perhaps it never will.” Attempts forcibly to change this state of affairs by improvident and wasteful legislative plans could have only the ruinous effect of destroying “more than half of Virginia’s wealth.” Matters should be left to take their course.

In Virginia, then, epistemological change defeated ontological change. Virginia’s sovereigns gave slavery over to political economy. They forestalled regime change by changing the definition of their regime. They shook off politics by locating epistemological authority elsewhere. And so the regime stood intact. Neither the ripples of Turner’s legal-religious cosmology nor the state’s own querulous siren song of lamentation that “something must be done” moved the rule of law. In antebellum Virginia, law and political economy stood for the tyranny of the state’s fragile sovereigns, not for confrontation with it.

What of the West’s emancipationists? Reluctantly, they went along. “All the sources of wealth and departments of industry, all the great interests of society, are really interwoven with one another,” Dew had written. They formed “an indissoluble chain” such that “a blow at any part quickly vibrates through the whole length—the destruction of one interest involves another.” Slave emancipation was “at war with the true interests

77 Dew, supra note 66, at 153, 156.
78 Dew, supra note 42, at 130: “The power of man has limits, and he should never attempt impossibilities . . . . The deep and solid foundations of society, cannot be broken up by the vain fiat of the legislator” (emphasis in original).
79 See Slavoj Žižek, Event: A Philosophical Journey through a Concept 91 (2014). One is reminded of Macheath:

Grooch . . . you are an old burglar. Your profession is burglary. I wouldn’t think of suggesting that your profession, in itself, is out of date. That would be going too far. Only in its form, Grooch, does it lag behind the times. You are an artisan, a hack, and that’s all there is to it. That class is on the wane—you can’t deny that. What is a pick-lock compared to a debenture share? What is the burgling of a bank compared to the founding of a bank? What, my dear Grooch, is the murder of a man compared to the employment of a man? . . . Brute force is out of date. Why send out murderers when one can employ bailiffs? We must build up, not pull down; that is, we must build up for profit.

80 Dew, supra note 42, at 68.
of Virginia, in every quarter—in the west as well as the east.” Emancipation was economic suicide. Instead let east and west “steadily unite in pushing forward a vigorous system of internal improvement.”81 Sure enough, elaborate displays of eastern indifference to improvements in the 1820s and early 1830s were succeeded by the state-led investment in canals, railroads, and banks that the west had long desired.82 But the pattern of development did not bridge the state’s sectionalism. In the thirty years after 1830, more than eighty-five per cent of state funds expended on improvements went to projects east of the Alleghenies; nearly seventy per cent to projects east of the Blue Ridge. State funding of improvements in the Trans-Allegheny west lagged badly behind the rest of the state.83 A half-century of relative deprivation imposed by eastern slaveholders was not lost on western Virginia. When 1861 offered a second chance at regime change, the west broke Virginia in two.84

And what of Virginia’s slaves? Only a tiny and localized minority had supported Turner. Most had stood aloof, many in dismay.85 What else could they have done, but look to themselves?86 The tradition of antebellum slave resistance is one far less of overt rebellion than of endurance, its anthem the Sorrow Song—“weird old songs,” in W.E.B. DuBois’s words, “in which the soul of the black slave spoke to men.”87

Odd then that, searching for an image to emphasize the massive material reality of slavery in Virginia, “eternally present . . . cannot be removed,” invulnerable to political resolution, to “vain juggling legislative conceits,” Thomas Roderick Dew should have had resort to a most powerful symbol of tragic black African heroism that, in its sheer implacable endurance, reunited Turner, as it were, with those of his fellows who had deprecated his impossibilist, failed attempt.88 Memnon.89

Memnon? Pausânias, the second century (CE) Greek geographer, writes in his Description of Greece, “At Thebes in Egypt, when you have crossed the Nile . . . you come to a seated image which gives out a sound. Most people name it Memnon; for they say that

81 Id. at 124.
83 Majewski, supra note 82, at 136 (Table 5.4), 136-38.
85 Breen, supra note 15, at 5-8.
88 On Turner’s impossibilism, see supra notes 28-30 and accompanying text. (On Dew’s, see supra note 78.) On failure, see Martel, supra note 32, at 36 (“failure becomes refusal, resistance, subversion.”)
89 Dew, supra note 42, at 64.
Memnon marched from Ethiopia to Egypt and onward as far as Susa . . . This image Cambyses cut in two; and now the part from the head to the middle of the body is thrown down; but the rest of it remains seated, and every day at sunrise it reverberates.”90

“Sedet aeternumque sedebit,” Dew intoned, inspired by Memnon.91 But did the broken, thrown-down statue of an Ethiopian warrior-king inspire Dew, or haunt him? What was the sound that Memnon made when touched by the rising sun every day, day after day? Was it the sound of sorrow, the sound of a slave’s unhappy soul, eternally beseeching men? Perhaps. But Pausânias says it was the sound of something breaking, like “the breaking of the string of a lute or lyre.”92 Perhaps it was the sound of regime change. Perhaps the two are after all one.93

---

90 Pausânias, Pausanias’s Description of Greece I, 64 (J.G. Frazer trans., 1913).
91 Sedet, aeternumque sedebit / Infelix Theseus (“There sits, and to eternity shall sit, the unhappy Theseus”). Virgil Aeneid, VI.617-18, quoted in Dew, supra note 42, at 64.
92 Pausânias, supra note 90, I, 64.
93 To return to Antigone, Interrupted, Honig, supra note 13, the political parallel suggested here is that of the apparently timid Ismene’s surreptitious unity in conspiracy with Antigone against Creon, which Honig explores in her chapter entitled “Sacrifice, Sorority, Integrity,” id. at 151-96, a chapter with many resonances (for example, on the nature and ethics of choice) for the study of rebellion and endurance in slavery.