

I’d like to share a story from the history of English jurisprudence which is a very clear example of act validity, i.e., decision making based squarely on principle, rather than on the prediction of outcome.

In the 1770’s a slave named Somerset escaped from his “owner” in London. The “owner” had him recaptured, but then Somerset (who sought and gained the assistance of early activists against slavery led by Thomas Clarkson) sued to regain his freedom.

The Somerset case and its appeals rose to the supreme court of England. The court found for Somerset, and the decision was announced and written by the Lord Chief Justice, Lord Mansfield. He ruled, on the basis of his understanding of the fundamental principles of English law, NOT that slavery should be abolished, but that there COULD BE NO SUCH THING as slavery in England, that slavery was absolutely contrary to the spirit of the nation.

The attorneys for Somerset’s “owner,” arguing against the possibility of such a decision, argued that if Somerset were freed and slavery could not exist, well, then what might happen? They pointed out that there were tens of thousands of slaves in England, what would be the consequences if they were all freed? And there were hundreds of thousands of slaves on Jamaica and Barbados and other British colonial islands in the Caribbean, what would happen if this precedent were extended to them? Millions or billions of pounds of “property” would be erased! Where would people go, who might be endangered?!

Lord Mansfield answered them, in effect (and reminiscent of the teaching of our Moral Coherency Workshop on act validity) by stating unequivocally that any such speculation about possible consequences of his decision could have no bearing whatsoever on his decision. His decision must not be based on possible consequences; it must instead be based on principle.

He concluded his decision by saying, “THOUGH THE HEAVENS MAY FALL, JUSTICE MUST BE DONE.”

Oh, to have been there to hear that decision announced! The hundreds of spectators, most of them freed or escaped slaves, stood silently, and bowed and doffed their hats to Lord Justice Mansfield.