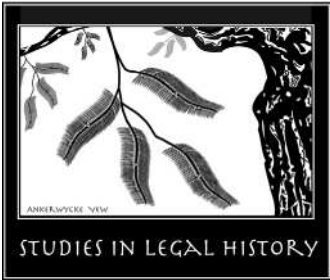


Moral Contagion

Between 1822 and 1857, eight Southern states barred the ingress of all free black maritime workers. According to lawmakers, they carried a “moral contagion” of abolitionism and black autonomy that could be transmitted to local slaves. Those seamen who arrived in Southern ports in violation of the laws faced incarceration, corporal punishment, an incipient form of convict leasing, and even punitive enslavement. The sailors, their captains, abolitionists, and British diplomatic agents protested this treatment. They wrote letters, published tracts, cajoled elected officials, pleaded with Southern officials, and litigated in state and federal courts. By deploying a progressive and sweeping notion of national citizenship – one that guaranteed a number of rights against state regulation – they exposed the ambiguity and potential power of national citizenship as a legal category. Ultimately, the Fourteenth Amendment recognized the robust understanding of citizenship championed by antebellum free people of color, by people afflicted with “moral contagion.”

Michael A. Schoepner is Assistant Professor of History at the University of Maine, Farmington.

Cambridge University Press
 978-1-108-46999-9 — Moral Contagion
 Michael A. Schoepner
 Frontmatter
[More Information](#)



See the Studies in Legal History series website at
<http://studiesinlegalhistory.org/>

Studies in Legal History

EDITORS

Sarah Barringer Gordon, University of Pennsylvania
 Holly Brewer, University of Maryland, College Park
 Michael Lobban, London School of Economics and Political Science
 Reuel Schiller, University of California, Hastings College of the Law

Other books in the series

Sam Erman, *Almost Citizens: Puerto Rico, the U.S. Constitution, and Empire*
 Jessica K. Lowe, *Murder in the Shenandoah: Making Law Sovereign in Revolutionary Virginia*
 Martha S. Jones, *Birthright Citizens: A History of Race and Rights in Antebellum America*
 Cynthia Nicoletti, *Secession on Trial: The Treason Prosecution of Jefferson Davis*
 Edward James Kolla, *Sovereignty, International Law, and the French Revolution*
 Assaf Likhovski, *Tax Law and Social Norms in Mandatory Palestine and Israel*
 Robert W. Gordon, *Taming the Past: Essays on Law and History and History in Law*
 Paul Garfinkel, *Criminal Law in Liberal and Fascist Italy*
 Michelle A. McKinley, *Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700*
 Mitra Sharafi, *Law and Identity in Colonial South Asia: Parsi Legal Culture, 1772–1947*
 Karen M. Tani, *States of Dependency: Welfare, Rights, and American Governance, 1935–1972*
 Stefan Jurasinski, *The Old English Penitentials and Anglo-Saxon Law*
 Felice Batlan, *Women and Justice for the Poor: A History of Legal Aid, 1863–1945*
 Sophia Z. Lee, *The Workplace Constitution from the New Deal to the New Right*
 Michael A. Livingston, *The Fascists and the Jews of Italy: Mussolini's Race Laws, 1938–1943*

Moral Contagion

Black Atlantic Sailors, Citizenship, and Diplomacy in Antebellum America

MICHAEL A. SCHOEPNER

University of Maine, Farmington



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
978-1-108-46999-9 — Moral Contagion
Michael A. Schoepner
Frontmatter
[More Information](#)

CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India
79 Anson Road, #06-04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108469999
DOI: 10.1017/9781108695404

© Michael A. Schoepner 2019

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2019

Printed and bound in Great Britain by Clays Ltd, Elcograf S.p.A.

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

Names: Schoepner, Michael A., author.

Title: Moral contagion: black Atlantic sailors, citizenship, and diplomacy in antebellum America / Michael A. Schoepner, University of Maine, Farmington.

Description: Cambridge, United Kingdom; New York, NY, USA:

Cambridge University Press, 2019. | Series: Studies in legal history |

Based on author's thesis (doctoral – University of Florida, 2010) issued under

title: Navigating the dangerous Atlantic: black sailors, racial quarantines, and U.S. constitutionalism. | Includes bibliographical references and index.

Identifiers: LCCN 2018039930 | ISBN 9781108469999 (hardback) |

ISBN 9781108455121 (paperback)

Subjects: LCSH: Free African Americans – Legal status, laws, etc. – History – 19th century. |

Free Blacks – Legal status, laws, etc. – United States – History – 19th century. |

Merchant mariners, Black – Legal status, laws, etc. – Southern states – History – 19th century. |

United States – Foreign relations – 1783–1865 | BISAC: HISTORY / United States / General.

Classification: LCC KF4757.S36 2019 | DDC 342.7308/73–dc23

LC record available at <https://lccn.loc.gov/2018039930>

ISBN 978-1-108-46999-9 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Cambridge University Press
978-1-108-46999-9 — Moral Contagion
Michael A. Schoepner
Frontmatter
[More Information](#)

For Ryan

Contents

<i>List of Tables</i>	page viii
<i>Acknowledgments</i>	ix
<i>List of Abbreviations</i>	xiii
Introduction	I
1 The Atlantic's Dangerous Undercurrents	14
2 Containing a Moral Contagion, 1822–1829	31
3 The Contagion Spreads, 1829–1833	64
4 Confronting a Pandemic, 1834–1842	92
5 “Foreign” Emissaries and Rights Discourse, 1842–1847	125
6 Sacrificing Black Citizenship, 1848–1859	162
7 Black Sailors, Their Communities, and the Fight for Citizenship	198
Epilogue	217
<i>Appendix</i>	221
<i>Bibliography</i>	231
<i>Index</i>	247

Tables

5.1	British vessels entering Charleston, November 10–20, 1843	<i>page</i> 131
A.1	New Orleans municipal arrest records, 1842–1852	223
A.2	Adjusted arrest records for New Orleans, 1842–1852	224
A.3	Records of the Third Municipality jailhouse, New Orleans, 1855–1859	226
A.4	Enforcement of 1859 Law against Free People of Color, New Orleans, October 1859–February 1862	227
A.5	Total arrests in South Carolina, Alabama, Georgia, and Louisiana	228

Acknowledgments

This book and I have been in a relationship for well over a decade, one as rocky and joyous and despised as any I have ever had. We have both changed considerably since 2005. I have moved from Florida to New York City to Los Angeles to western Maine, and it has moved from an inchoate chain of anecdotes and analysis to a defensible dissertation to a trimmed-down manuscript to book in print. It is difficult to say which changed more, the book or its author, but we both have been helped along considerably by a wonderful community of friends and scholars.

I owe a massive debt to a number of people in Gainesville, Florida. Their collective wisdom sustained the project and nurtured me. Jessica Harland-Jacobs, Jon Sensbach, and especially Elizabeth Dale were superb mentors, and their respective influences can be found throughout the book. Dave Tegeder, Steven Noll, Chris and Mary Beckmann, Jon Petrie, and Chris Johanson provided support, humor, and love at crucial moments. Part of me has never left Gainesville.

A number of individuals and institutions have offered generous support in various capacities since I left graduate school. The members of the 2012 Constitutional History Webinar, especially Elizabeth Dale, Bill Mercer, Joel Black, and Scott Catey, posed difficult questions about the overall trajectory of the project. Portions of the introduction and Chapter 7 received extensive criticism from Tony Kaye, Sally Hadden, the editors and reviewers of *Law and History Review*, and the members of the 2013 J. Willard Hurst Summer Institute in Legal History. I am especially grateful to the participants in the 2011 conference on Race and Law in the Americas at the University of Michigan Law School – Martha Jones, Chris Schmidt, Martin Pernick, Sarah Levine-Gronningsater, and especially Edlie Wong – who offered valuable commentary as the dissertation transformed into book manuscript. Chapter 2 was improved considerably by the 2010 Harvard Atlantic History Seminars, including

Sally Hadden, Lauren Benton, and Bernard Bailyn, as well as the editors and reviewers of *Journal of American History*. A special thank you to J. Morgan Kousser, Jean-Laurent Rosenthal, Cindy Weinstein, Tracy Dennison, and the other members of the Social Science History brownbag workshops at Caltech, whose criticisms made Chapter 5 much, much better. The members of the Carolina Lowcountry and Atlantic World program at the College of Charleston were kind enough to fly me to South Carolina and discuss Chapter 7, which is much improved as a result. At various stages, Randy Sparks, Gerald Horne, Kelly Kennington, Kirt van Daacke, and Kimberly Welch offered valuable critiques at conferences too numerous to list.

Historians would be a useless bunch if not for the remarkable work of librarians. I am indebted to Lindsay Cleary at the Dabney Library at Caltech, and especially Vaughan Gagne and Laurie MacWhinnie at the Mantor Library at the University of Maine-Farmington, who suffered through my incessant loan requests and questions regarding newspaper databases.

This book would not have been possible without the financial assistance of a number of organizations. The College of Liberal Arts and Sciences and the History Department at the University of Florida provided the seed money for my initial research trips across the South. The American Council of Learned Societies, funded by a grant by the Mellon Foundation, provided me two years of postdoctoral support through its New Faculty Fellowship program. I would not be in the academy, and this book would not exist, without this wonderful program. The American Society for Legal History and the William Nelson Cromwell Foundation have offered continuing financial and professional support through various grants and fellowships. The American Historical Association's Littleton-Griswald Award provided me with funds to visit archives in North Carolina.

Sarah Barringer-Gordon and Holly Brewer, two editors of the Studies in Legal History Series at Cambridge University Press, have been godsend. Their encouragement and critical eyes motivated me to re-think and sharpen some of the central claims of the book. I will never be able to repay them for the hours and hours of time they dedicated to this project. They have personified patience and dedication. I am also indebted to the anonymous readers, whose close reading prevented a number of errors from making their way into print.

I have been incredibly fortunate to land at the University of Maine-Farmington, a small college in the Maine foothills that just happens to employ an amazing community of scholars. Allison Hepler and Christopher O'Brien read draft after draft of the book's introduction without complaint, and I have been the lucky beneficiary of conversations with faculty members from across the social sciences and humanities. When I left Los Angeles to come to small-town Maine, I never imagined that I would find home in northern New England, but Ross Cram, Lorien Batt, Laura Columbia, Derek Katzenbach, Ali Geshnizjani, Jeff Thomson, Jen Eriksen, Ryan Whitt, and Kate Cook convinced me otherwise.

Acknowledgments

xi

The most important person related to this project is Ryan Marie Mastrangelo, who has heard more about antebellum race law and free black sailors than she ever expected or wanted. She has been my guiding influence over the past decade. Critic, cheerleader, teammate, and now mother to our son Liam, she is as responsible for the following pages as I am. It is to her that this book and its author are dedicated.

Abbreviations

<i>Correspondence</i>	<i>Correspondence Relative to the Prohibition against the Admission of Free Persons of Colour into Certain Ports of the United States, 1823–1851</i> , Series 5, Volume 579, <i>Foreign Office Papers</i> , National Archives, Kew, UK.
FO	<i>Foreign Office Papers</i> , National Archives, Kew, UK
LHR	<i>Law and History Review</i>
NOPL	Early Records, New Orleans City Archives, New Orleans Public Library