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TAXATION AS A SITE OF MEMORY: EXEMPTIONS, UNIVERSITIES, AND THE LEGACY OF SLAVERY

*Bridget J. Crawford**

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INTRODUCTION

Many universities around the United States are attempting to grapple with their institution's history of direct and indirect involvement with transatlantic slavery. One of the first schools to do so was Brown University, which appointed a special committee in 2003 to study its historic institutional ties to slavery.¹ After three years of investigation and discussion, the Brown committee recommended the creation of a public campus memorial and widespread educational efforts.² In 2015, Georgetown University undertook a similar investigation on its campus; the working group ultimately recommended renaming certain university buildings, erecting public memorials, creating an academic center of the study of slavery, and providing an admissions preference for the descendants of slaves who worked for the university or were sold for its financial benefit.³ There is now a

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1. BROWN UNIV., SLAVERY AND JUSTICE: REPORT OF THE BROWN UNIVERSITY STEERING COMMITTEE ON SLAVERY AND JUSTICE (2006), www.brown.edu/Research/Slavery_Justice/documents/SlaveryAndJustice.pdf [<https://perma.cc/HC73-SCJW>]; see also BROWN UNIV., RESPONSE OF BROWN UNIVERSITY TO THE REPORT OF THE STEERING COMMITTEE ON SLAVERY AND JUSTICE (2007), http://brown.edu/Research/Slavery_Justice/documents/SJ_response_to_the_report.pdf [<https://perma.cc/UZ7S-Y6G3>].

2. BROWN UNIV., *supra* note 1, at 83–84.

3. GEORGETOWN UNIV., REPORT OF THE WORKING GROUP ON SLAVERY, MEMORY, AND

multinational coalition of over fifty colleges and universities engaged in investigating their institutions' historic connections with both enslaved individuals and the institution of slavery itself.⁴

Alongside these historical investigations, universities are facing demands from students, alumni, and faculty to address both campus building names and monuments that appear to glorify a slave-owning past. Yale University, for example, initially declined to rename one of its residential colleges that bore the name of a vigorous pro-slavery advocate; eventually, the school agreed to do so.⁵ For many years, Princeton University rejected demands to rename its School of Public and International Affairs and a residence hall that honored President Woodrow Wilson, despite the man's steadfast racism and xenophobia, opting instead to diversify campus art and iconography.⁶ In the wake of George Floyd's killing and the mass protests against police brutality in 2020, the school finally removed Wilson's name from both the School of Public Affairs and the residence hall (but continues to embrace use of the name in other university honors).⁷ In some places, disputes over campus monuments have drawn large protests. Highly publicized battles have flared on the campus of the University of Mississippi, for example.⁸ Disputes over monuments have led to violence; in 2017, a counter-protestor was killed at the University of Virginia when she was run over by a car driven by a supporter of the campus statue of Confederate General Robert E. Lee.⁹ In the wake of unprecedented public demonstrations of support for racial justice during the summer of 2020,¹⁰ demands that universities account for their

RECONCILIATION 36-41 (2016), <http://slavery.georgetown.edu/history/working-group/report/> [<https://perma.cc/H4FG-HEKF>]; Rachel L. Swarns, *Georgetown University Plans Steps to Atone for Slave Past*, N.Y. TIMES (Sept. 1, 2016), http://www.nytimes.com/2016/09/02/us/slaves-georgetown-university.html?_r=0 [<https://perma.cc/M65F-XJ83>].

4. *Universities Studying Slavery*, UNIV. VA., <https://slavery.virginia.edu/universities-studying-slavery/> [<https://perma.cc/TXT9-G2MR>] ("Universities Studying Slavery (USS) is dedicated to organizing multi-institutional collaboration as part of an effort to facilitate mutual support in the pursuit of common goals around the core theme of 'Universities Studying Slavery.'")

5. *Yale Changes Calhoun College's Name to Honor Grace Murray Hopper*, YALENEWS (Feb. 11, 2017), <https://news.yale.edu/2017/02/11/yale-change-calhoun-college-s-name-honor-grace-murray-hopper-0> [<https://perma.cc/XF7S-HSHE>].

6. Nick Anderson, *Princeton Will Keep Woodrow Wilson's Name on Buildings but also Expand Diversity Efforts*, WASH. POST (Apr. 4, 2016, 2:17 PM), <https://www.washingtonpost.com/news/grade-point/wp/2016/04/04/princeton-will-keep-woodrow-wilsons-name-on-buildings-but-it-will-take-steps-to-expand-diversity-and-inclusion/> [<https://perma.cc/APM8-57AY>].

7. See Alexander K.A. Greenawalt & Bridget J. Crawford, Opinion, *Princeton Must Finish What it Started*, THE HILL (July 10, 2020, 4:30 P.M.), <https://thehill.com/opinion/education/506759-princeton-must-finish-what-it-started> [<https://perma.cc/97SQ-4Q5F>]; Christopher L. Eisgruber, Opinion, *I Opposed Taking Woodrow Wilson's Name Off Our School. Here's Why I Change My Mind*, WASH. POST (June 27, 2020, 5:53 P.M.), <https://www.washingtonpost.com/opinions/2020/06/27/i-opposed-taking-woodrow-wilsons-name-off-our-school-heres-why-i-changed-my-mind/> [<https://perma.cc/X8BQ-GYR9>].

8. See, e.g., *Neo-Confederate Protesters March from Oxford Square to Ole Miss Campus*, DAILY MISSISSIPPIAN (Feb. 23, 2019), <https://thedmonline.com/live-updates-confederate-groups-march-from-oxford-square-to-ole-miss-campus/> [<https://perma.cc/H63K-YUYU>].

9. Benjamin Wallace-Wells, *The Fight over Virginia's Confederate Monuments*, NEW YORKER (Nov. 27, 2017), <https://www.newyorker.com/magazine/2017/12/04/the-fight-over-virginias-confederate-monuments> [<https://perma.cc/9UKL-6NAN>].

10. See, e.g., Larry Buchanan, Quoctrung Bui & Jugal K. Patel, *Black Lives Matter May Be the*

past and present actions will likely take on new salience.

I. PRINCETON AND SLAVERY

Professor Lolita Buckner Inniss's new book, *The Princeton Fugitive Slave: The Trials of James Collins Johnson*, enters directly into the conversation taking place on university campuses and nationwide.¹¹ With hope, Inniss asks whether it is possible to bring reconciliation to black-white relations in this country.¹² Through the story of a fugitive slave who lived and worked near Princeton University for over sixty years, Inniss explores the complex system of laws and social practices that circumscribed and defined freedom for blacks in the years before and after the Civil War. James Collins Johnson escaped from slavery in Maryland in 1839 and worked at the university for over four years before his arrest and trial as a fugitive slave.¹³ After a local white woman paid Johnson's "slave price" to his Maryland owners, Johnson continued to work in and around the Princeton campus for sixty more years, becoming a well-known campus figure.¹⁴ Johnson, in Inniss's astute analysis, functions as a "site of memory" of slavery, the antebellum period in New Jersey, the town and university of Princeton, and generations of Princeton students.¹⁵ In short, the history of James Collins Johnson is important because, as one contemporary explained, "His history is part of the history of our country."¹⁶

Through her careful archival work that draws heavily on Princeton student records, family histories, last wills and testaments, and census records, Inniss seeks to understand Johnson's life as a slave in Maryland, his work and family life in Princeton, the factors leading up to his arrest and trial, and the circumstances of Johnson's life after the trial. How did Johnson escape from Maryland?¹⁷ What was the nature of Johnson's relationship with Princeton University?¹⁸ What factors led to his arrest?¹⁹ Who were the financial backers of his emancipation?²⁰ Was

Largest Movement in U.S. History, N.Y. TIMES (July 3, 2020), <https://www.nytimes.com/interactive/2020/07/03/us/george-floyd-protests-crowd-size.html> [https://perma.cc/7PQD-98A9].

11. LOLITA BUCKNER INNISS, *THE PRINCETON FUGITIVE SLAVE: THE TRIALS OF JAMES COLLINS JOHNSON* (2019). For a reference to the naming controversy in the context of a large northern state, see Sarah Maslin Nir & Sharon Otterman, *Cuomo Says Confederate Names on New York Streets Should Go*, N.Y. TIMES (Aug. 16, 2017), <https://www.nytimes.com/2017/08/16/nyregion/cuomo-confederate-streets-rename-lee.html> [https://perma.cc/DWD3-J5D5].

12. INNISS, *supra* note 11, at xxii.

13. *Id.* at 68.

14. *Id.* at vii.

15. *Id.* at 131 ("James Collins Johnson, like Princeton University, is also a site of memory. . . . Johnson carried memories of slavery in the Mid-Atlantic and in the northern United States and memories of justice and law more broadly. . . . Johnson carried . . . the memories of antebellum Princeton, both the town and the university.")

16. *Id.* at 131 (quoting JAMES WADDEL ALEXANDER, *PRINCETON - OLD AND NEW: RECOLLECTIONS OF UNDERGRADUATE LIFE* 89 (1898)).

17. *Id.* at 4-5.

18. *Id.* at xii.

19. *Id.* at xiii.

20. *Id.*

Johnson's public persona as a "contented, jovial soul who reveled in his role as campus food purveyor and mascot" an accurate reflection of who he was?²¹ Most of the questions are difficult to answer with certainty, given the limitations (or total absence) of traditional documentary evidence. Inniss carefully examines the evidence and guides the reader through what is certainly known: race, class, and gender were defining aspects of life in the shadow of Princeton University and elsewhere.²² The focus on James Collins Johnson and his life at Princeton reveals the complex and interconnected histories of slavery and the university before, during, and after the Civil War.²³

Inniss's work highlights the myriad ways that interconnected laws and cultural practices supported the institution of slavery, and not just in the South. New Jersey, for example, abolished slavery in 1804,²⁴ but state laws protecting the rights of slave owners made it difficult, if not impossible, for enslaved individuals to find refuge in the state.²⁵ Inniss details multiple New Jersey state laws designed to prevent slave escapes, including a law that presumed that all black men were slaves absent evidence to the contrary.²⁶ Indeed, a boat captain in *Gibbons v. Morse* was found liable to a slave's owner for "harbouring, entertaining, or concealing any slave" under particular circumstances by transporting the slave on his boat, notwithstanding evidence that the captain did so at the owner's request.²⁷ Although New Jersey was technically a free state, "freedom was not entirely free," Inniss explains, pointing to the conditions of poverty and deprivation in which some black families lived.²⁸ An 1855 survey may have found many black families in "comfortable, clean, and even relatively prosperous conditions,"²⁹ but by 1917, "disorder, poverty, and illness" were rampant in the black and white-immigrant communities in Princeton.³⁰

II. TAXES AND SLAVERY

Tax law, too, is deeply intertwined with slavery and its legacy throughout the United States. In colonial times, for example, South Carolina imposed a flat tax on each slave and acre of land.³¹ In the United States Constitution, Article I

21. *Id.* at 1-2.

22. *See id.* at xii-xiii (referring to gender, race, and class aspects of Johnson's story).

23. *Id.* at 67 (explaining that southern students "constituted one of the largest geographic groupings of students at the Princeton in the period 1839-48"); *id.* at 117 (describing the college's rules against public displays of support for the Union or Confederacy during Civil War, because "a large number of students were from the South," and because of the level of pro-Confederacy support among residents of the town of Princeton).

24. *See* An Act for the Gradual Abolition of Slavery, 28th Gen. Assemb., 2d Sitting (N.J. 1804), <http://nlegallib.rutgers.edu/slavery/acts/A78.html> [<https://perma.cc/BJ6Z-BEKK>] ("BE it enacted by the Council and General Assembly of this State, and it is hereby enacted by the authority of the same, That every child born of a slave within this state, after the fourth day of July next, shall be free.")

25. INNIS, *supra* note 11, at 39-40.

26. *Id.*

27. *Id.*

28. *Id.* at 41.

29. *Id.* at xviii-xix.

30. *Id.* at xviii.

31. ROBIN L. EINHORN, AMERICAN TAXATION, AMERICAN SLAVERY 93 (2006) (describing the

provides that any “direct” tax must be apportioned among the states according to their populations,³² but for enumeration purposes, the Constitution famously counted enslaved persons as three-fifths of the number of white persons in the state (and did not count “Indians” at all for representation purposes).³³ Inniss notes that from 1778 through 1837, New Jersey enacted forty-five different state tax assessments on slave owners in the state.³⁴ To avoid those taxes, some people went to court specifically for a declaration that they were not the owners of a particular slave.³⁵ Otherwise, a putative owner might be both taxed and fined if a slave turned out of a home became a ward of the local township.³⁶ Indeed, some towns even sued former owners to recover costs associated with maintaining slaves that had been abandoned.³⁷

In the years after the Civil War, the inability to pay rising property taxes resulted in the loss of homes by several black families in Princeton and elsewhere.³⁸ By 1896, property taxes may have led to the loss of James Collins Johnson’s home at 32 Witherspoon Street, which historic documents show that, just four years prior, Johnson had run as a boarding house with his wife Anetta.³⁹ Rising property taxes, along with commercial interests, are directly responsible for the steady decline in the black population in the town of Princeton over the course of the twentieth and twenty-first centuries.⁴⁰ Inniss carefully builds her story of James Collins Johnson’s trial and conviction as a fugitive slave, as well as his subsequent redemption, by thorough work with historical records, including census records and property valuations that reveal the relative economic positions of major players in Johnson’s life story, including his nominal benefactor, Theodosia Ann Mary Prevost, step-granddaughter of the third U.S. Vice President, Aaron Burr.⁴¹

To fully understand the tax law’s involvement with slavery and its aftermath, it is important to understand the operation of tax exemptions. Educational and religious institutions are, for the most part, exempt from paying property taxes and income taxes. These tax exemptions have origins in medieval Europe; they

tax system of South Carolina colony).

32. U.S. CONST. art. I, § 9, cl. 4.

33. *Id.* art. I, § 2, cl. 3, amended by U.S. CONST. amend. XIV, § 2 (“Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”).

34. INNIS, *supra* note 11, at 157 n.16.

35. *Id.* at 40.

36. *Id.* at 40–41.

37. *Id.* at 41.

38. *Id.* at 124.

39. *Id.*

40. *Id.* at xix. (“At the beginning of the twenty-first century, blacks in the town of Princeton were the only demographic group to see a loss of population. This loss occurred because of increasing taxes, pressure to sell from people seeking what were some of the last affordable housing units in town, and the ongoing spread of commercial interests.”).

41. *Id.* at 85 (describing the family of and value of real property owned by Theodosia Ann Mary Prevost).

were commonplace in colonial America.⁴² Soon after independence, almost every state adopted either an explicit constitutional provision or a statute to exempt educational and religious institutions from state and local taxes.⁴³ At the federal level, as early as 1802, Congress permitted the federally controlled County of Alexandria, Virginia, to exempt church property from taxation.⁴⁴ In 1894, the first federal corporate income tax laws also included the first exemption: the law specifically exempted from taxation “corporations, companies, or associations organized and conducted solely for charitable, religious, or educational purposes.”⁴⁵

Viewed in the broadest perspective, both historic and current tax exemptions should be understood as a form of tax subsidy.⁴⁶ Without the obligation to pay state or local real estate or other taxes, or federal income taxes, religious and educational institutions have more funds to use in furtherance of those purposes that society has deemed desirable, i.e., the promotion of education and religion. In carrying out their tax-exempt activities, however, these institutions are free to employ workers, own real estate, and otherwise function in the marketplace in manners that are quite similar to for-profit concerns. Thus, through local, state, and federal tax exemptions, the government offers indirect financial support—a tax preference—for exempt organizations.

At the time of James Collins Johnson’s fugitive slave trial, slavery was not unknown at the College of New Jersey (the predecessor to modern-day Princeton University).⁴⁷ As Inniss explains, “[W]hile slavery has largely been on the margins of recorded Princeton college history, its practice was never very far away from matters concerning faculty, administrators, and students.”⁴⁸ Several presidents of the college, including Aaron Burr, Samuel Finley, Ashbel Green, and James Carnahan, owned slaves, as did prominent members of the faculty.⁴⁹ Of the college’s twenty-three founding trustees, sixteen owned slaves at some point

42. See John D. Colombo, *Why Is Harvard Tax-Exempt? (and Other Mysteries of Tax Exemption for Private Educational Institutions)*, 35 ARIZ. L. REV. 841, 844–45 (1993) (“In colonial America, religious and educational institutions were exempted from local taxes from the beginning. In fact, several colonies even extended local tax exemption to the professors who taught in colleges or universities as well as their students. The educational exemption appears to have been connected to the historic exemption for churches and religious institutions, since virtually all educational institutions of the time had the training of ministers as a primary objective.”).

43. See John P. Persons, John J. Osborn, Jr. & Charles F. Feldman, *Criteria for Exemption Under Section 501(c)(3)*, in 4 RESEARCH PAPERS SPONSORED BY THE COMMISSION ON PRIVATE PHILANTHROPY AND PUBLIC NEEDS 1909, 1923 (U.S. Dep’t Treasury ed., 1977).

44. See *Gaylor v. Mnuchin*, 919 F.3d 420, 436 (7th Cir. 2019) (citing Act of May 3, 1802, ch. 53, 2 Stat. 194). In a 1970 opinion, the Supreme Court said that religious property tax exemptions reflected “more than a century of our history and uninterrupted practice.” *Walz v. Tax Comm’n*, 397 U.S. 664, 680 (1970).

45. Revenue Act of 1894, ch. 349, § 32, 28 Stat. 556.

46. Evelyn Brody, *All Charities Are Property-Tax Exempt, but Some Charities Are More Exempt than Others*, 44 NEW ENG. L. REV. 621, 639 (2010).

47. INNIS, *supra* note 11, at 7. Princeton University was known as the College of New Jersey from 1746 to 1896; it is entirely distinct from the institution currently known as the College of New Jersey (formerly Trenton State University). *Id.*

48. *Id.* at 42.

49. *Id.* at 42–44, 158 n.27.

during their lifetimes.⁵⁰ Nathaniel FitzRandolph, who donated the original land on which the university was founded, was a slave owner.⁵¹

Of the Princeton faculty members who did not own slaves, less is known about their attitudes toward blacks like James Collins Johnson who lived in the community. Most Princeton faculty members attended the Presbyterian Church in Princeton; in 1836, that congregation expelled its black members.⁵² Princeton was considered the “intellectual center” of the entire American Presbyterian Church.⁵³ It may have been the location of the inaugural public meeting of the American Colonization Society, a group that advocated for gradual emancipation and ultimate resettlement of blacks in African colonies established for that purpose.⁵⁴ The American Presbyterian Church was a founding institution of the Princeton Theological Seminary; that seminary relied heavily on contributions from slave-owning southerners and the churches those southerners attended.⁵⁵ Indeed, in the 1830s, the Princeton Theological Seminary invested its endowment in the same institutions that financed slave operations in the South.⁵⁶ Northern religious organizations therefore had financial ties to slaveowners and the institution of slavery.

There is no historical evidence to suggest that Princeton students brought enslaved people to campus.⁵⁷ But students at Princeton tended to be wealthy and many came from slaveholding families in the South. In fact, as Inniss notes, “Princeton has sometimes been referred to as the most southern of the Ivy League schools,” and not because of its location.⁵⁸ Inniss explains that in the years before the Civil War, both northern and southern students tended to avoid public dialogues over the question of slavery, as many of the students “were the white sons of privilege, many of whose families owned slaves, had done so in earlier times, or had significant involvements in shaping the practice of slavery.”⁵⁹ Inniss

50. See Michael R. Glass, *Princeton's Founding Trustees*, PRINCETON & SLAVERY, <https://slavery.princeton.edu/stories/founding-trustees> [<https://perma.cc/MZ58-LP9L>] (“Overall, a firm majority of the founding trustees—sixteen out of twenty-three—bought, sold, traded, or inherited slaves during their lifetime. Founded to defend religious and intellectual freedom, the College of New Jersey began with deep and intimate ties to human bondage.”).

51. Catherine Zandonella, *Princeton Research Project Explores Past Ties to Slavery*, PRINCETON UNIV. (Nov. 6, 2017, 10:00 AM), <https://www.princeton.edu/news/2017/11/06/princeton-research-project-explores-past-ties-slavery> [<https://perma.cc/4QER-V8UK>] (“The Princeton project did not find evidence that the University as an institution owned slaves, nor that students brought slaves to campus, but the scholars and student researchers involved in the project did establish that the man who deeded the University’s original 4.5 acres, Nathaniel FitzRandolph, was a slave owner.”).

52. INNIS, *supra* note 11, at 43–44, xix–xx.

53. *Id.* at 42; see also Michael J. Paulus, Jr., *Historical Tour of Princeton Theological Seminary*, PRINCETON THEOLOGICAL SEMINARY (2012), <https://library.ptsem.edu/historical-tour-of-princeton-theological-seminary/> [<https://perma.cc/R4M7-USSA>].

54. INNIS, *supra* note 11, at 43.

55. *Overview of Findings*, PRINCETON THEOLOGICAL SEMINARY, <https://slavery.ptsem.edu/the-report/overview/> [<https://perma.cc/U5HT-8GQN>] (“In the early years of the school, a portion of the Seminary’s financial contributions came from Southern sources who were either slave owners or congregations involved in slave ownership.”).

56. *Id.*

57. Zandonella, *supra* note 51.

58. INNIS, *supra* note 11, at 46.

59. *Id.* at 49.

reasons that “[t]here was little desire among students to disrupt the slavery status quo.”⁶⁰ Thus, individuals from all parts of the university—administrators, faculty, and students—were directly or indirectly involved in some aspect of it: as direct slaveholders, as members of families that owned slaves or profited from slavery, or as members of churches and other organizations focused on slavery and its aftermath, including the possible involuntary deportation of former slaves to African colonies.

Like many other colleges, Princeton has begun to explore its historic involvement with slavery.⁶¹ The Princeton and Slavery Project has not found any evidence that the institution itself owned slaves, but Inniss’s research suggests the possibility that figures at the university may have been somehow involved in the payment of Johnson’s enslavers after he was deemed a fugitive slave. In describing his relationship with the university, Johnson himself said, “I never got no free papers. Princeton College bought me; Princeton College owns me; and Princeton College has got to give me my living.”⁶² Inniss does not find any evidence to suggest that the university “bought” Johnson or transacted directly with his enslavers, but she raises careful questions about whether Theodosia Prevost was, in fact, acting alone when she paid for Johnson’s liberty.⁶³ Inniss also points to evidence suggesting that a few years after Johnson’s trial, the university may have been involved in the 1851 purchase of a home for him at 32 Witherspoon Street.⁶⁴ Inniss weighs multiple factors including Johnson’s relatively low wages at the university, the size of his outstanding debt to Theodosia Prevost, the location of the lot directly adjacent to a parcel owned by the then-president of the college, and the university’s retention of the original recorded deed; she suggests that Princeton might have sold the land to Johnson in return for payment with funds that the college itself provided.⁶⁵ In other words, Princeton may have made an indirect gift to Johnson of the real estate.⁶⁶ So even if Princeton played no financial role in the procurement of Johnson’s liberty immediately after his 1843 trial, it does appear that the school played some role—beyond mere employer—in attempting to provide for him financially thereafter.

Consider more closely Johnson’s statement that “Princeton College bought me; Princeton College owns me.”⁶⁷ Apart from any suggestion of the university’s complicity with slaveholding, Johnson’s statement alludes to the persistent dehumanization, disenfranchisement, and subordination of former slaves and

60. *Id.*

61. See, e.g., *About the Project*, PRINCETON & SLAVERY, <https://slavery.princeton.edu/> [<https://perma.cc/M6XM-2XWH>] (“The Princeton and Slavery Project investigates the University’s involvement with the institution of slavery. We invite you to explore the many stories and sources included here and to contact us with research, stories, and ideas of your own.”).

62. INNISS, *supra* note 11, at ix.

63. *Id.* at 95 (“[W]hile some of the accounts of Johnson’s release give Prevost the entire credit for arranging the purchase, other accounts suggest that a man named Thomas Lavender ‘aided and facilitated’ the purchase of Johnson’s liberty.”).

64. *Id.* at 108–09.

65. *Id.*

66. See *id.* at 109.

67. *Id.* at ix.

their descendants in the post-Civil War era.⁶⁸ Johnson's role on the margins of campus culture at Princeton—someone “whose stutter and caramels will long be affectionately remembered by all old graduates of Nassau Hall”⁶⁹—is a lens for examining the many ways in which the end of slavery did not necessarily mean the end of oppression. As Inniss explains, Johnson's life after slavery “remained riddled with uncertainty and limitations as he lived among a community of whites who had mixed opinions on slavery and on the rights of blacks.”⁷⁰ The fact that Johnson did not have papers confirming his free status made it difficult or impossible for him to leave Princeton at all.⁷¹

III. PAYING DEBTS

Inniss ends *The Princeton Fugitive Slave* by placing her study of Johnson in the larger context of a nation that has not come to grips with its slaveholding past or the ongoing legacy of the brutal and inhumane enslavement of millions of people. Inniss understands both Johnson and Princeton University itself as what she calls “site[s] of memory,” meaning touchstones for personal memories and focal points for larger questions about justice, law, and culture.⁷² Inniss points out that of all the universities studying their past involvements with slavery, only two schools, Georgetown University and the University of Glasgow, have undertaken any kind of explicit reparations efforts.⁷³ Most schools have chosen to tinker at the margins of their historical legacies by, say, diversifying the portraiture on their walls, instead of grappling more comprehensively with their direct and indirect involvement with slavery and persistent racial inequalities.⁷⁴ All university involvement with slavery becomes even more complicated when focusing on the institutions' tax-exempt statuses: universities received indirect subsidies from local, state, and federal governments for their slavery-fueled or slavery-financed activities. Inniss concludes the book with a powerful and hopeful observation: “It is one thing to say *mea culpa*, I am guilty, to the classes of individuals harmed by Princeton's and other universities' involvement with slavery and its aftermath. It is quite another to say *debitor sum*—I am indebted. For this we must wait.”⁷⁵ That wait shows no sign of ending any time soon, though.

68. I am grateful to Professor Taja-Nia Henderson for this insight.

69. INNIS, *supra* note 11, at xvi (quoting *Princeton Alumni Wkly.*, Feb. 13, 1903, at 307).

70. *Id.* at 99.

71. *Id.*

72. *Id.* at 131.

73. *Id.* at 131–32 (noting that Georgetown students voted to increase their tuition for the benefit of the descendants of the enslaved people sold by the institution in 1838 and that the University of Glasgow paid 200 million pounds to the University of the West Indies as payment for wealth extracted from Jamaica by those with some relationship with the university).

74. See, e.g., Brianna Wu, *Davenport Unveils Dining Hall Portrait*, YALE DAILY NEWS (Apr. 23, 2018, 1:10 AM), <https://yaledailynews.com/blog/2018/04/23/davenport-unveils-dining-hall-portrait> [https://perma.cc/JH5N-YV82]. In one dining hall at Yale, for example, a group portrait including a dining hall worker, custodian, professor, and alumni was commissioned “through the efforts of the Davenport Walls Project Committee, a group of students charged with improving the diversity of the college's portraits.” *Id.*

75. INNIS, *supra* note 11, at 132.

CONCLUSION

If reparation payments are, as Inniss explains, “a bridge too far” for many individuals and institutions,⁷⁶ consider whether the tax system itself might play a role in shaping the present behavior of tax-exempt organizations in light of their historic involvements with slavery and slavery’s aftermath. As a condition of ongoing tax exemption, for example, a university might be required to pay its workers a living wage, or refrain from making reductions in its workforce once its profits or endowment, if any, reach a particular level. Consider Harvard University, with an endowment of over \$40 billion; that school has moved to lay off dining hall workers in response to financial losses caused by the COVID-19 pandemic.⁷⁷ Harvard University has over 6,800 employees in non-academic and non-professional positions.⁷⁸ Thirty-seven percent of those workers are people of color.⁷⁹ In a time of financial difficulty, Harvard seeks to terminate its workers but maintain its endowment. Workers’ lives will be thrown into disarray, while the school’s financial cushion will continue to grow tax-free. What if institutions like Harvard were required to make reasonable incursions into unrestricted portions of that tax-free income before firing workers? Such an approach requires understanding the university as having both a core educational mission and a role in the community. If a school can fulfill both its core educational mission and provide secure and fair employment for a large number of people, it should do so, and tax exemptions should be so conditioned. Like James Collins Johnson and Princeton University then, the tax system itself is part of “history, memory, presence, and future.”⁸⁰ Demanding that well-endowed tax-exempt universities engage in fair labor practices is a way of honoring history and memory, providing greater education and security in the present day, and enhancing future well-being for a large group of people with a nexus to the campus.

76. *Id.* at 131.

77. Alana Goodman, *Harvard, Boasting \$40 Billion Endowment, Lays Off Dining Hall Workers Due to Coronavirus*, WASH. FREE BEACON (Mar. 24, 2020, 3:00 PM), <https://freebeacon.com/latest-news/harvard-not-paying-all-workers-during-coronavirus-shutdown-despite-40-9b-endowment/> [<https://perma.cc/L4SA-X3YX>] (explaining the objections of advocates who claim that the decision to fire subcontracted dining hall workers “violates Harvard’s wage equality policy, which requires the university to compensate dining hall contract workers in a fashion comparable to the school’s directly hired employees”). The university subsequently agreed to pay both direct employees and contract workers through May 28, 2020. Terrence Doyle, *Harvard Agrees to Compensate Furloughed Contract Dining and Catering Workers*, EATER BOS. (Mar. 27, 2020, 2:25 PM), <https://boston.eater.com/2020/3/27/21197182/harvard-compensating-furloughed-dining-hall-contract-workers-covid-19-pandemic> [<https://perma.cc/FHS8-5HG5>].

78. *University-Wide Faculty and Staff (2019–2020), By Race/Ethnicity (Head Count)*, HARVARD UNIV., <https://oir.harvard.edu/fact-book/faculty-and-staff> (last visited Aug. 19, 2020) (showing 19,512 total employees, with 6,805 workers classified in “Services and Trades” and “Support,” combined; of those 6,805 workers, 2,579 identified in race/ethnicity categories other than white). The university does not appear to keep information about the demographics of its subcontracted employees. *See id.*

79. *Id.* Members of racial or ethnic minority groups comprise approximately thirty percent of the total population of Middlesex County, Massachusetts, where Harvard is located. *Middlesex County QuickFacts*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/middlesexcountymassachusetts> [<https://perma.cc/K8HJ-L7X7>] (giving population estimates as of July 1, 2019).

80. INNIS, *supra* note 11, at 129.