

The Rule of the Lash and the Rule of Law:
Amelioration, Enslaved People's Politics, and the Courts in Jamaica, 1780-1834

by

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Dissertation submitted in partial fulfillment of
the requirements for the degree of Doctor
of Philosophy in the Department of
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ABSTRACT

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Abstract

This dissertation examines amelioration – the effort to create a more “humane” or reformed version of slavery – as it intertwined with enslaved people’s everyday conflicts and the legal system of the Jamaican colonial state. In the context of a rising anti-slavery movement in metropolitan Britain, some pro-slavery advocates adopted colonial legal reform as a strategy to present slavery as redeemable and colonial governments as capable of restraining slaveholders’ worst impulses. While these reformers were often cynical in their aims, enslaved people took these proclaimed legal rights seriously and strategically mobilized their rhetoric to secure a semblance of justice and redress within – and without – the legal system. Whether through fighting in court for the return of their stolen possessions, or seeking justice for a friend brutally murdered by an overseer, enslaved people were savvy and calculated legal actors who stretched the modest reforms conceded by the state. Each dissertation chapter develops a thematic approach to a key area of the law of slavery– enslaved people’s flight, property ownership, maltreatment by enslavers, and criminal procedure – and examines enslaved peoples’ attempts to strategically mobilize reformist legal principles to secure rights and justice within the legal system. In the process, the centrality of the legal system to the maintenance of the broader edifice of white supremacy and plantocracy is also considered.

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1. Introduction

In June 1823, enslaved people on Lou Layton Estate in Jamaica's St. George Parish approached the parish slave court. They charged their overseer with abuse, in violation of Jamaica's slave code, and asked the court to intervene. Bessy Chambers, a pregnant enslaved woman, had been whipped to the point of miscarriage for not working hard enough in the field.¹

In pressing their claim before the court, the enslaved people of Lou Layton Estate did not challenge slavery itself. Rather, they turned to the state to rein in their overseer's particular abuses, enunciating their claim within the framework of *amelioration* (the project of producing a more "humane" system of slavery). This approach is discordant with common perceptions of enslaved people's politics. Standard narratives show enslaved people rebelling or taking more informal political action; yet, here the enslaved use a court system to seek redress. Rather than fight against slavery as an institution, they focused on policing slavery's excesses.

This dissertation argues that thousands of Jamaican slave court cases such as this one should shape our understanding of enslaved people's politics. Once focused around heroic metropolitan activists, the narrative of British abolitionism has increasingly acknowledged enslaved people's revolts accelerated the trajectory towards

¹ 2/18/6, St. George Parish Slave Court Records, Jamaica Archives and Records Department.

emancipation.² Scholars have further suggested enslaved peoples' politics might be found in the practice of African traditions or the creation of creolized cultural forms, in strikes or marronage, in dress or the construction of community.³ Nevertheless, these expanded visions of politics still often frame active resistance to slavery as the central focus of enslaved people's political struggles.

Vincent Brown calls for us to acknowledge "a politics of survival, existential struggle transcending resistance against enslavement,"⁴ urging that we ask how enslaved peoples' politics were shaped by the conditions of slavery and how these people established, defended, and expanded their rights and privileges *within* this context. In other words, Brown argues that while a complete history of enslaved people's politics must necessarily consider their opposition to slavery, either to their own enslavement or the enslavement of anyone, discussing that aspect of enslaved people's politics alone is not sufficient.

Drawing on Brown's insights, I argue that, for most enslaved people, maintaining customary arrangements was a crucial survival interest. Here, I refer to privileges and access often first established through struggle with individual plantation owners, then increasingly codified and generalized by state institutions. Examples include property

² David Brion Davis, *The Problem of Slavery in the Age of Emancipation* (New York: Alfred A. Knopf, 2014); Thomas Holt, *The Problem of Freedom: Race, Labor, and Politics in Jamaica and Britain, 1832-1938* (Baltimore: Johns Hopkins, 1992).; Claudius Fergus, *Revolutionary Emancipation: Slavery and Abolitionism in the British West Indies*. (Baton Rouge: Louisiana State University Press, 2013).

³ Steeve Buckridge, *The Language of Dress: Resistance and Accommodation in Jamaica, 1760-1890* (Kingston: UWI, 2004); Mimi Sheller, *Citizenship from below: Erotic Agency and Caribbean Freedom* (Durham: Duke, 2012).

⁴ Vincent Brown, "Social Death and Political Life in the Study of Slavery," *American Historical Review* 114, No. 5 (2009): 1231-49.

rights over provision grounds, mobility off plantations and access to religious services. Amelioration prompted substantial reforms to the slave code and spurred public interest in enslaved people's welfare; I argue that it also impacted enslaved people's political strategies and claims.

One must wonder what the experience of "going to law" must have been like for an enslaved person, called before a slave court. Many enslaved people might not be familiar with the niceties and procedures of the court system. Although sometimes they might be represented by their master or a lawyer hired on their behalf, in many other circumstances they would be on their own. In particularly violent or threatening cases, enslaved people might be held in custody in the workhouse or gaol awaiting trial. More frequently, however, their master or overseer paid a recognizance to the court, promising to return on court day with the enslaved person in tow.

How familiar would enslaved people be with the courtroom and its processes? Aside from formal legal documents, there are limited accounts of the dynamics of proceedings in the courtroom itself. However, it is likely that enslaved people would have heard of the goings-on through oral passing on of the news or hearing local newspapers read aloud or discussions between free persons they were serving. Enslaved people undoubtedly heard what was going on from their compatriots who were placed on trial and returned to the estate. It is plausible that some were in the audience, either inside the courtroom itself or in the crowd outside the courthouse. And, outside the court, the deputy provost marshal for the parish would often conduct a sale, putting on an auction of

seized assets to satisfy unpaid debts. Among the items for sale would often be horses, livestock, furniture, and enslaved people.

Court day in an 18th century Jamaican parish was a hectic and social event. Generally, following English custom, courts met four times a year. In the morning, the court would hear quarter sessions cases, involving petty crimes and misdemeanors committed by free persons in the parish. After a break for lunch, the court's business would pivot to the slave court, hearing offenses concerning enslaved persons. Often, except as conflicts of interest required jurors to be swapped out, the same individuals would serve in the jury box for both the quarter sessions and slave court cases.

Unlike expectations of contemporary courts, magistrates aimed to move through the docket quickly and expeditiously. Although occasionally lawyers would represent either party, more frequently laypeople would present both the prosecution and the defense. While prosecutions were technically made on behalf of the Crown, it was only in rare cases that a government-employed lawyer waged this case. A typical case might be dispensed with in 15 to 20 minutes. The presiding judges were often local elites, most frequently planters, merchants, or overseers, and only infrequently had official legal training. Most relied on printed handbooks and legal volumes to interpret the law; while they usually took their duty seriously, they were known to cut procedural corners or miss relevant legal codes. Judges' income in their roles were partially impacted by court fees and the fines they exacted from litigants.

1.1 Slavery and the Rule of Law

As historian Jack Greene has argued, the English system of law and liberty served as a fundamental component of English identity. Even as British settlers in the Caribbean increasingly established their own colonial identity, they nonetheless retained this attachment to English law and liberty in their self-conception of their mode of government in the Americas. When metropolitan authorities attempted to assert their control over the legislating of colonial assemblies, settlers protested that as descendents of the English, “they were entitled to enjoy all the rights and legal protections of English people in the home island.”⁵ Initially, settlers founded their own claims to liberty upon their birthright as Englishmen. While they might acknowledge that their wealth and standing were not solely due to the sweat from their own brow, that slavery was central to their society and economy, the question of enslaved people as legal subjects entered seldom into this rhetoric nor complicated this claim. In Greene’s analysis, it was the metropolitan-colonial tensions emerging from the American Revolution and the rise of the abolitionist movement as a political force which prompted a re-formulation of this logic. Suddenly, slaveowner intellectuals like Edward Long – or Thomas Jefferson - found themselves prompted to reconcile claims of liberty on their part and the justification of enslavement for the enslaved Africans in their possession.

⁵ Jack Greene, “Liberty, Slavery and the Transformation of British Identity in the Eighteenth Century West Indies,” *Slavery & Abolition* 21, No.1: 1-31; quote on pg. 4.

In riposte to abolitionist critique of the cruelties of Caribbean slavery, slaveholder Hector McNeil argued, abolitionists need only interact with enslaved people on a Jamaican plantation to see how wrong their impressions were. As anecdote, McNeil offered the story of “a Negro of inferior station” approaching his master, seeking redress “for the ill treatment or injustice of another of *superior* rank.” On seeing “his oppressor” rebuked, McNeil’s fictional enslaved man rejoiced, exclaiming, ““Ah! This is no Negro country --- this Buccra (White) Country --- this, Justice Country!”” By way of analysis, McNeil suggested, “...that in their [enslaved Africans’] own country impartial Justice is at least not generally administered, and that the poor seldom, if ever, receive redress from the powerful or the rich.” In bondage, McNeil contended, enslaved people were equal – the master could be trusted to administer impartial justice where the putative African prince could not. Even to the enslaved, McNeil suggested, the fair operation of law and justice in the British empire set it apart.⁶

McNeil’s anecdote underscores a key paradigm governing the importance of the rule of law in the justification of slavery as an institution. Slavery was, in the slaveholder’s view, a timeless condition, practiced in many societies throughout the span of human history. If they were not enslaved on a sugar plantation in Jamaica or a tobacco plantation in the Virginia tidewater, enslaved Africans might just as likely be enslaved to

⁶ Hector McNeil. *Observations on the treatment of the negroes, in the island of Jamaica : including some account of their temper and character : with remarks on the importation of slaves from the coast of Africa : in a letter to a physician in England*. London: Printed for G. G. J. and G. Robinson; Liverpool: J. Gore. [1800?]. 16.

a trading caravan through the Sahara or part of an African chief's retinue. However, Caribbean planters contended, the conditions of slavery in the West marked a notable improvement over the living conditions of slavery on the African continent. In this line of argument, West Indian slavery was a civilizing condition, a marked improvement in the day-to-day lives of enslaved people relative to their treatment in the African context from which they came.

Defenders of slavery frequently presented the relationship between master and slave as a sort of Lockean social contract, in which the enslaved person sacrificed a degree of autonomy and choice over the circumstances of their life in exchange for the protection and material support of their master. Symptomatically, Jamaican planter and historian Edward Long articulated this viewpoint in his 1774 *History*, favorably contrasting slavery as experienced in Africa with slavery in the West Indies, and describing the latter as “a legitimate, equitable species of servitude; including a sort of compact, by which (abstracted from the *right* acquired by *purchase*) one man owes to another perpetual services for the preservation of his life, for his sustenance, and other necessities; and this is founded on the principles of reason.”⁷ Long contended that the master's power was constrained by the “bounds of natural equity,” but also by the legal

⁷ Edward Long. *The history of Jamaica. Or, General survey of the antient and modern state of that island: with reflections on its situation, settlements, inhabitants, climate, products, commerce, laws, and government.* London: Printed for T. Lowndes in Fleet Street. (1774). Vol. 2, 402-3

system “which impose such an obligation upon every owner of slaves, and punish all who fail of conforming to it.”⁸

Several decades later, in 1816, Colonial Agent for Barbados and enslaver Gibbes Walker Jordan presented a similar rubric, suggesting that enslaved people had exchanged some of “those unalienable and indefeasible rights to which labour entitles all her children” for “provision secured for him in infancy, infirmity, and age.” In cases where persons other than the master were at fault for wrongs done to an enslaved person, the master’s internalization of the injury as a “personal violation offered to himself” effectively rendered “the slave ... more secure than the whole class of free persons, black, coloured, or poor whites, who are left to their own remedies.”⁹ In response to the wrongs of masters towards enslaved people, Jordan argued, everything that could be done was done, and, “To the obligations of moral duty the sanctions of legal enforcement have been added.”¹⁰

Historian Robert Worthington Smith has suggested that British abolitionists’ political vision also placed great significance on the law and the place of enslaved people in relation to it. In his history of Jamaican slave law, Worthington Smith noted that:

To make the slave a true object of civil government, entitled to the security of laws which while they placed him under the management of a master yet protected him from the master’s indifference or cruelty was the first goal of the humanitarians. Ultimately they desired emancipation. In the near future they hoped to make the slave an integral, self-sustaining part of society, somewhat

⁸ Ibid.

⁹ Gibbes Walker Jordan. *An examination of the principles of the slave registry bill : and of the means of emancipation, proposed by the authors of the bill*. London: Printed by T. Cadell and W. Davis (1816). 92-4

¹⁰ Ibid, 96-7

after the manner of a medieval serf, having certain rights and in all ways treated as a human being, not a piece of property. ¹¹

Many critics of slavery saw a marked reform of the legal system and a re-envisioning of the enslaved person's place within it as central to their political project. A significant number of abolitionists saw enslaved people as "uncivilized" and morally unenlightened; it was just as important, in their opinion, to save their souls from eternal damnation as to save their persons from the cruelties and indignities of slavery. Within this paradigm, the law could operate as a moral code, and admission to equality before the law as a sign of equality before God. Missionary John Wesley, as early as 1774, contended that Caribbean law "treats these poor men with as little ceremony and consideration, as if they were merely brute beasts!"¹² Member of Parliament Sir Philip Francis, in advocating for a 1796 bill regulating slavery in the West Indies, similarly saw the purpose of law as moral uplift. Rather than a code of law which coerced enslaved people to obey through punishment, Francis argued, the goal should be to raise the slave in civilization "till his apprehension of moral forces should naturally lead him in the paths of right."¹³ Through learning and internalizing the difference between right and wrong, Francis argued, the enslaved person would be less likely to fall into error. In an 1816 speech before Parliament, abolitionist leader William Wilberforce spoke to the centrality

¹¹ Robert Worthington Smith. "The Conflict Between Planter and Parliament over the Slave Laws of Jamaica." Ph.D. dissertation, UCLA (1942). 64

¹² John Wesley. "Thoughts Upon Slavery," in *Works of the Rev. John Wesley*, (New York, n.d.), VI, 278-293.

¹³ *Parl. Hist.* XXXII (1796) pgs. 955-980.

of this paradigm, contending that the greatest evil of slavery as an institution was neither “the physical brutality nor the disregard for the material necessities of the slaves, but the fact that from a moral standpoint they were in such a degraded condition.” After all, Wilberforce argued, “The soul of the Negro could scarcely develop when society treated him as if he had no soul;” and to be regarded as equally deserving of the protection of the King and the same rights before the State was nearly as important in this regard as his place in the eyes of God.¹⁴

During the 1820s and 1830s, ameliorationists increasingly presented the growing litigiousness of enslaved people as a marker of the civilizing project at work. In his 1823 polemic, William Sells argued, “Negroes are becoming more intelligent beings, and if ill used, go to a magistrate and make known their grievances, which are patiently heard, and should their complaints be well founded, are protected accordingly.”¹⁵ Through presenting enslaved people’s engagement with the court system as a strategic practice, and one which enslaved people respected and took seriously as a means to address their grievances, ameliorationists hoped to signal that a peaceful transition to a post-slavery society was possible, and that this could remain consistent with the maintenance and profitability of a large-scale plantation system. Yet, they also routinely contrasted the letter of the reformed slave code to its actual execution in Jamaican court rooms. The anti-slavery periodical *Negro Slavery* argued that “many of the legally constituted

¹⁴ *Parliamentary Debates*, Vol. XXXIV (1816), 1154. See Worthington Smith pg. 172.

¹⁵ William Sells. *Remarks on the Condition of the Slaves in the Island of Jamaica*. (London: Printed for J. M. Richardson, Cornhill, and Ridgways, Piccadilly, 1823) 23

authorities are themselves owners of plantations, following the same system, and perhaps, by means of their managers, practicing the same abuses on their own slaves.”¹⁶

Yet, even as slaveholders argued for the rule of law as a civilizing paradigm that spelled the difference between Caribbean and African slave society, many realistically acknowledged the limitations of the legal system as it stood in delivering justice for enslaved people. In 1774, Edward Long opined that “when judicial commissions are rendered so cheap and common they soon begin to lose much of their dignity and value in the eyes of many...” To Long’s view, as a consequence, “very unworthy and illiterate persons may presume to aspire to them and thus make the office of an associate (judge) disgraceful and useless.”¹⁷ Large scale planter and heir William Beckford, in 1788, described the manner enslaved people were tried as “savage and indecent.” He explained that often, judges did not display solemnity or dignity in their conduct in the court, there was no right to appeal for enslaved people, and a court of two magistrates and three freeholders could sentence enslaved people to death. Beckford advocated that,

This custom should be abolished – they [enslaved people] should be tried by the same laws, the same judges, the same jury, as ourselves; and the Godlike privilege of majesty to respite, or forgive a slave, as well as the delinquent who is free, should be transmitted, with double recommendations of mercy, to his representatives in the Island; that the poor negro may go with confidence to his trial, be assured that the fountain of law is his protector; and that compassion will be the minister of death. ¹⁸

¹⁶ *Negro Slavery*. Vol. 1. London (1823). pgs. 1-8.

¹⁷ Edward Long. *The history of Jamaica. Or, General survey of the antient and modern state of that island: with reflections on its situation, settlements, inhabitants, climate, products, commerce, laws, and government*. (London: Printed for T. Lowndes in Fleet Street, 1774). Vol 1, 74.

¹⁸ William Beckford. *Remarks Upon the Situation of Negroes in Jamaica: Impartially Made from a Local Experience of Nearly Thirteen Years in that Island*. (London: Printed for T. and J. Egerton, 1788). 92-3

Nonetheless, it is notable that Beckford, just as his contemporaries who were decidedly more complimentary of the justice system regarding enslaved people, saw the establishment of a court system in which enslaved people could feel assured of fair and equitable treatment as the end goal.

Decades later, in the early 1830s, planter James Beckford Wildman argued before Parliament that the system of magistracy in place in Jamaica meant an enslaved person could not get redress, and that the judiciary was “a farce upon justice.” Wildman characterized the judges as “persons who have never opened a law book, and know nothing of law, are seated upon the bench, to give judgment in cases in which they are totally incompetent.”¹⁹ Even the most vehement defenders of slavery saw importance in constructing and maintaining the buy-in of enslaved people in the machinery of government and a degree of faith that the court system could deliver them a form of justice. Rev. George W. Bridges, in his *Annals of Jamaica*, characterized the Privy Council’s disallowance of the 1826 Jamaica slave act as a marker of disillusionment. He wrote, “it has weakened, it was said, the confidence of the slave in those benefits which have been held out to him – taught him to consider them as delusive and insecure – embarrassed the whole machine of government and defeated the ends of justice.”²⁰

¹⁹ Parliament. House of Commons (1832). *Report from Select Committee on the Extinction of Slavery Throughout the British Dominions; with the Minutes of Evidence, Appendix and Index.* (HC 1831-32 (721). 514.

²⁰ George Wilson Bridges. *The Annals of Jamaica*. (London: J. Murray, 1827-28). Vol. 2, 391-2

Some colonists urged caution before metropolitan officials deigned to overhaul the colonial legal system, protesting that abolitionists did not properly understand the fragile balance of West Indian societies and how reforms like those they recommended would land. In 1792, Gilbert Francklyn urged metropolitan critics to examine the colonial laws, arguing that “they will find the inhabitants of the West-India islands may be trusted to themselves, and that they have goodness of heart sufficient to secure kind treatment, even to their *useless* slaves, without the interference of the petitioners.”²¹ For Francklyn, there was no justification for the metropolitan government to step in and press Jamaica to accept laws crafted by outsiders to govern their internal affairs. Charles Edward Long, in his essay “Negro Emancipation No Philanthropy,” went further in urging caution and patience to metropolitan abolitionists. Quoting Sir Charles Brisbane, Long compared the position of West Indian colonists to a man walking on a precipice “with every thing that they possess in this world on their back.” In Long’s view, metropolitan reformers ran the risk, by pushing West Indian colonists to adopt ameliorationist reforms at too fast a pace, of destabilizing a fragile socio-political system.²² Anthony Davis, for instance, accused abolitionists with choosing to bypass the experienced jurists and barristers on account of being “too well acquainted with our real circumstances and situation” and “tainted... with

²¹ Gilbert Francklyn. *Observations, occasioned by the attempts made in England to effect the abolition of the slave trade : shewing, the manner in which Negroes are treated in the British colonies in the West-Indies...* ([London] : Kingston, Jamaica, printed, London, reprinted at the Logographic Press, and sold by J. Walter ..., C. Stalker ..., and W. Richardson, 1789.) 24-5

²² Charles Edward Long. *Negro Emancipation No Philanthropy: A Letter to the Duke of Wellington.* (London: J. Ridgway, 1830.) 42.

a residence in the Colonies.” Instead, said Davis, the imperial government intended to send out magistrates “imbued with your millenium notions about the black lambs” and inclined to “deprive the Colonists of their property, through your particular construction of our laws.”²³

Colonial jurists themselves also showed a sensibility of how these changes influenced their practice, and they openly alluded to this dynamic in their instructions to the jury and other public remarks. In March 1816, Justice Stewart, at the first meeting of the Cornwall Assizes Court at Montego Bay, alluded particularly to the importance of fair treatment of enslaved people before the courts in his instructions to the Grand Jury. He assured the Grand Jurymen that he was satisfied that they were “well qualified to acquit themselves in their office,” but nonetheless “the peculiar circumstances of the present times” compelled him to particularly stress the care to be taken with the enforcement of the slave laws. He contended that accusations from England indicating that the slave laws were not being enforced, “being in fact perfect dead letters,” must be commonly recognized as false. Nonetheless, Justice Stewart noted that, “it became proper, in consequence, for the Bench to call in a strong manner on the Grand Jury, to be particularly vigilant and attentive to the discharge of this part of their duty...”²⁴

²³ Anthony Davis. *The West Indies: Comprising a Detail of Facts in Opposition to Theory*. (London: Saunders and Ottley, 1832.) 20-21.

²⁴ *Cornwall Chronicle*, March 9, 1816 issue.

1.2 Literature Review

The reforms to slave codes and slave courts can be mapped to a transformation in the colonial-metropolitan relationship. For much of their early history, Britain's colonial possessions in the Americas were largely regarded as generally autonomous in their internal affairs. Although considered part of the King's realm, they did not see themselves as subject to the legislation of Parliament save as it regarded matters of imperial defense and trade. This was a prerogative generally respected by the metropole. Law-making around slavery and enslaved people were generally conducted by the colony's Assembly and Council in conversation with the royal governor.²⁵ In the later half of the eighteenth century, this was increasingly challenged and undermined. The Seven Years' War (1756-1763), spanning Europe and the Americas, underscored the self-serving attitude of some colonists, who were willing to ally themselves with whatever imperial power's trade and development policies would most effectively enable them to make a quick fortune.²⁶ This was accentuated by the British acquisition of French colonies and their settlers in the war's settlement, as the Crown could not assume the loyalty of their new subjects. The 1760 Tacky's Revolt in Jamaica, a wide-ranging slave

²⁵ John Manning Ward, *Colonial Self-Government: The British Experience, 1759-1856* (London: Macmillan, 1976); D. J. Murray, *The West Indies and the Development of Colonial Government, 1801-1834* (Oxford, Clarendon Press, 1965); D. B. Swinfen and Great Britain., *Imperial Control of Colonial Legislation, 1813-1865: A Study of British Policy towards Colonial Legislative Powers*, (Oxford, Clarendon Press, 1970); Aaron Graham, "The Principle of Representation in Jamaica and the British Atlantic in the Age of Revolutions, 1768-1807." *Parliaments, Estates, and Representation* 40, No. 1 (2020): 1-20; Aaron Graham, "Legislatures, Legislation and Legislating in the British Atlantic, 1692-1800." *Parliamentary History* 37, No. 3 (2018): 369-388; Aaron Graham, "Jamaican Legislation and the Transatlantic Constitution, 1664-1838." *The Historical Journal* 61, No. 2 (2017): 327-355.

²⁶ Trevor Burnard and John Garrigus, *The Plantation Machine: Atlantic Capitalism in French Saint-Domingue and British Jamaica*. (Philadelphia: University of Pennsylvania Press, 2016).

revolt which raised the specter of internal unrest and the overthrow of the colonial government, raised hackles around the empire.²⁷ The American Revolution (1776-1783) fractured the mercantilist system on which Britain's American colonies had once depended for prosperity and further heightened metropolitan suspicions.²⁸

Colonial empires rarely operated as a unitary legal terrain, instead adopting differential laws, claims to sovereignty, and recognitions of subjecthood/citizenship based on geography and political status.²⁹ The extension of metropolitan law and legal rights to the colonies was never separate from an imagination of the typical colonial legal subject and his capacity for self-governance.³⁰ As Parliament made laws to regulate and reform slavery, it did so not only with the intention of controlling enslaved people, but of re-shaping the metropole-colony relationship with Jamaica. As the secondary literature amply demonstrates, metropolitan colonial officials had increasingly called into question the ability of white Jamaicans to successfully govern themselves. This phenomenon extended to the Jamaican Assembly, as elite planters and merchants sitting in the legislature feared their small-scale slaveholder counterparts would aggressively breach the norms and call into question their judgement.³¹

²⁷ Vincent Brown, *Tacky's Revolt: The Story of an Atlantic Slave War*. (Cambridge: Belknap Press, 2020).

²⁸ Andrew Jackson O'Shaughnessy, *An Empire Divided: The American Revolution and the British Caribbean* (Philadelphia: University of Pennsylvania Press, 2000).

²⁹ Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850* (Cambridge: Harvard, 2016).

³⁰ Paul Halliday, *Habeas Corpus: From England to Empire* (Cambridge: Harvard, 2010); Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge: Harvard, 2010).

³¹ Christer Petley, *Slaveholders in Jamaica: Colonial Society and Culture during the Era of Abolition*; Christer Petley, "Gluttony, Excess, and the Fall of the Planter Class in the British Caribbean," no. July 2015 (2012): 37-41; Kamau Edward Brathwaite, *The Development of Creole Society in Jamaica, 1770-*

Abolition and its complex relationship with Britain's imperial project has sparked a rich literature, which this dissertation continues and expands.³² Scholars have pointed to the alignment of the abolitionist movement with a re-alignment in colonial governance, through which colonies increasingly came under direct metropolitan rule and

1820; David Lambert, *White Creole Culture, Politics and Identity during the Age of Abolition* (Cambridge ; New York : Cambridge University Press, 2005).

³² Of course, this is not to pass over the substantial historiographical debate about the relative importance of economic factors vs. humanitarian reason as responsible for shaping the road to abolition. Eric Williams' *Capitalism and Slavery* argued firmly that slavery and the slave trade provided crucial capital to the rise of the British industrial revolution. In turn, the rise of new forms of industrial capitalism served to bring the slave system down. While Williams acknowledges the efforts of the abolitionists, he places the impetus for slavery's fall on the economic conjuncture and not on the weight of activist efforts. David Eltis, Stanley Engerman, David Richardson and others criticized Williams's data, suggesting that the profits of slavery and the slave trade were insufficient to have made a critical impact to the Industrial Revolution's explosive growth. Roger Anstey and Seymour Drescher criticized the other pillar of Williams's argument, contending that plantations remained relatively profitable until the end, and thus, that abolitionism represented an "econocide," a moral decision to shutter an important sector of British economy. While the empirical details of Williams' work have been increasingly come into question, the broader conceptual argument has risen to greater centrality. Simon Smith's *Slavery, Family and Gentry Capitalism in the British Atlantic* connected the wealth of the Lascelles family of York to their participation in the trans-Atlantic trade and later as plantation owners. Nicholas Draper's painstaking investigation of compensation records has yielded *The Price of Emancipation*, a systemic attempt to quantify the value of British slave ownership. Other scholars, such as Joseph Inikori and Kenneth Pomerantz, have extended this argument beyond the benefits of the trade to particular families to its impact on the Industrial Revolution writ large, arguing that as consumers of enslaved people and British manufactured goods and as exporters of sugar and other raw materials for industrial processes, the Caribbean islands fueled Britain's dominance. David Ryden's *West Indian Slavery and British Abolition* reinstates Williams' emphasis on an economic crisis in sugar production as critical to abolitionist success, albeit arguing for a more localized crisis prompted by the rise of British sugar production in the shadow of the Haitian Revolution confronted with a parallel and more expansive increase and competition from Cuban producers. Cedric J Robinson, "Capitalism, Slavery and Bourgeois Historiography," *History* 23, no. 23 (2011): 122–40. Eric Eustace Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1994). David Eltis, *Economic Growth and the Ending of the Transatlantic Slave Trade* (New York : Oxford University Press, 1987); David Eltis and James Walvin, eds., *The Abolition of the Atlantic Slave Trade : Origins and Effects in Europe, Africa, and the Americas* (Madison, Wis.: University of Wisconsin Press, 1981); Roger Anstey, *The Atlantic Slave Trade and British Abolition, 1760-1810* (London : Macmillan, 1975); Seymour Drescher, *Econocide : British Slavery in the Era of Abolition*, 2nd ed. (Chapel Hill : University of North Carolina Press, 2010); S. D. (Simon David) Smith, *Slavery, Family, and Gentry Capitalism in the British Atlantic : The World of the Lascelles, 1648-1834* (Cambridge, UK ; New York : Cambridge University Press, 2006); Nicholas Draper, *The Price of Emancipation : Slave-Ownership, Compensation and British Society at the End of Slavery* (Cambridge, UK ; New York : Cambridge University Press, 2010); J. E. Inikori, *Africans and the Industrial Revolution in England : A Study in International Trade and Economic Development* (New York : Cambridge University Press, 2002); Kenneth Pomerantz, *The Great Divergence : China, Europe, and the Making of the Modern World Economy* (Princeton, N.J. : Princeton University Press, 2000).

surveillance.³³ Others have argued for the critical importance of abolitionism as justification for the expansion of Britain's imperial project in Africa.³⁴ Some have connected this re-alignment to a shift in metropolitan attitudes towards the colonized and a rising emphasis on racial difference and embrace of a civilizing, Christianizing mission and the ethic of free labor.³⁵ Scholars have also connected the logic shaping abolition and emancipation campaigns in the colonies with social reform campaigns in metropolitan Britain.³⁶

Scholars of slavery have recently been paying greater attention to amelioration, a late 18th and early 19th century political movement on both sides of the Atlantic to improve the working and living conditions of enslaved people while maintaining the institution of slavery. In many cases, its advocates saw amelioration as a means to create a more humane slavery, most often in lieu of abolition, although at times in tandem with a long-term, gradualist abolitionist politic. Ameliorative efforts could operate on an

³³ Christopher Brown, *Moral Capital : Foundations of British Abolitionism*; Fergus, *Revolutionary Emancipation : Slavery and Abolitionism in the British West Indies*; Andrew Jackson. O'Shaughnessy, *An Empire Divided : The American Revolution and the British Caribbean* (Philadelphia : University of Pennsylvania Press, 2000).

³⁴ Bronwen Everill, *Abolition and Empire in Sierra Leone and Liberia* (Palgrave Macmillan, 2013); Richard Huzzey, *Freedom Burning : Anti-Slavery and Empire in Victorian Britain* (Ithaca : Cornell University Press, 2012); Derek R. Peterson, *Abolitionism and Imperialism in Britain, Africa, and the Atlantic* (Athens, Ohio : Ohio University Press, 2012).

³⁵ Hall, *Civilising Subjects : Colony and Metropole in the English Imagination, 1830-1867*; Thomas C. (Thomas Cleveland) Holt, *The Problem of Freedom : Race, Labor, and Politics in Jamaica and Britain, 1832-1938* (Baltimore : Johns Hopkins University Press, 1992).

³⁶ Hall, *Civilising Subjects : Colony and Metropole in the English Imagination, 1830-1867*; J. R. (John R.) Oldfield, *Popular Politics and British Anti-Slavery : The Mobilisation of Public Opinion against the Slave Trade, 1787-1807* (Manchester, UK ; New York : Manchester University Press, 1995); Paton, *No Bond but the Law : Punishment, Race, and Gender in Jamaican State Formation, 1780-1870*; Drescher, *Econocide : British Slavery in the Era of Abolition*; Brown, *Moral Capital : Foundations of British Abolitionism*; Fergus, *Revolutionary Emancipation : Slavery and Abolitionism in the British West Indies*.

individual level, as planters and other slaveholders made adjustments to their own treatment of enslaved people, but also resulted in colonial and imperial government-initiated reforms and new programs by missionary societies, schools, and other non-governmental organizations. Amelioration also influenced, directly and indirectly, the political demands and strategies of enslaved people, both in seeking freedom and in shaping their strategies of survival. Questions have rightly been raised about the significance of material changes under these reforms or their place as simply a rhetorical strategy to combat abolitionist momentum. Some scholars have found points of continuity between ameliorationists and advocates of gradual emancipation in shared assumptions about the need to “civilize” enslaved people to prepare them for full freedom. That is to say, while ameliorationists and moderate to conservative abolitionists may have disagreed about their long-term vision for slavery as an institution, many agreed on the inferiority of people of African descent and believed it was incumbent upon Europeans to improve their spiritual and moral temperament.

Historians have principally treated amelioration as a planter-driven project, responding to political pressures from abolitionists to reform slavery as an institution and a pragmatic need for enslaved populations to reproduce. The abolition of the trans-Atlantic slave trade in 1807 intensified both sets of pressure. In this context, much of the scholarship has focused on case studies of particular estates, their relative productivity, and changing agricultural technologies, labor regimes, and treatment of enslaved persons. Scholars have attempted to use statistical analysis of reproduction rates and longevity of enslaved populations from slave inventories, together with their assessment from planter-

kept records of changing living standards for enslaved people, to assess the relative success of the ameliorationist project. In some cases, this approach has tried to connect efforts on individual plantations into a broader rubric of regulation and colonial state intervention, or within the changing trans-Atlantic political context of the abolitionist movement, colony-metropole tensions, and the “long war” for domination of enslaved people.³⁷ Increasingly, this quantitative approach has been enriched by a more intellectual history-centered approach to key architects and spokespeople of amelioration. This approach, for example, considers planters in an Enlightenment context, influenced by ideals of progress, industrialization, and economic and moral improvement, in making decisions to adjust technological strategies of cultivation and production, labor management, and surveillance and discipline of enslaved people.³⁸

Relatively recently scholars have begun to consider amelioration specifically as part of the experience of enslaved people and as a project which they had a role in shaping and influencing. The most path-breaking work here (as makes perfect sense given the pro-natalist drive behind many planters’ investments in amelioration) has focused on reproductive labor and the experiences of enslaved women. Sasha Turner, in particular, has unearthed valuable new sources and read other long-known sources

³⁷ Some key examples of this approach include: J. R. Ward. *British West Indian Slavery, 1750-1834*. Oxford: Clarendon Press, 1988; J. R. Ward. “The Amelioration of British West Indian Slavery: Anthropometric Evidence.” *The Economic History Review* 71, No. 4 (2018): 1199-1226; Dave St. Aubyn Gosse. *Abolition and Plantation Management*. Mona: University of the West Indies Press, 2012.

³⁸ Christa Dierksheide. *Amelioration and Empire: Progress & Slavery in the Plantation Americas*. Charlottesville: University of Virginia Press (2018); Justin Roberts. *Slavery and the Enlightenment in the British Atlantic, 1750-1807*. Cambridge: Cambridge University Press, 2018.

against the grain to highlight the role of enslaved women and children in shaping these reforms and their complex engagement with their implementation. Turner has also underscored the centrality of reproduction and the treatment of enslaved women and children to the abolitionist and ameliorationst projects. In part shaped by this foundational scholarship, other scholars have begun to explore enslaved people's engagement with distribution of provisions and supplies and the management practices of overseers, among other topics.

The institutional role of the colonial state in amelioration, in its regulation of private enterprises and in its own institutional functions, has also been a relative late-comer in the literature. To a degree, the elision of the state's role has echoed a long-standing abolitionist trope which represented the weakness of colonial government and its unwillingness to infringe on planters' rights to manage their plantations and enslaved labor forces as they saw fit. Although there is some level of truth to this assessment, it belies the level of conflict between slaveholders and the state about the limits of acceptable conduct and points of intervention. It also fails to recognize the significant expansion in state institution building during the era of amelioration, characterized by the expansion and construction of new courthouses, workhouses, and gaols and the expansion of the road, water, and mail networks, to list just a few areas. Diana Paton's extensive and rigorous study of the development of Jamaican workhouses over the 1780-

1870 period is a master class in this arena.³⁹ Aaron Graham's recent articles about the Jamaican colonial state also squarely demonstrate the significance of this expansion of the state and transformation of its functions.⁴⁰

This recent scholarship has greatly improved our understanding of the period of amelioration and its implications for the experiences and politics of enslaved people. It reflects a more expansive sense of amelioration as a political and cultural project that expands beyond the operation of the plantation and considers its more thorough-going place in Caribbean societies. In this process, scholars have increasingly recognized that we may have been too premature to dismiss amelioration as a purely cynical shell-game aimed at palliating and stalling the abolitionist project. Rather, this new work contends, amelioration was a complex and dynamic moment which yielded insufficient and uneven, but notable results. While many ameliorationists were cynical and calculating opportunists keen on preserving slavery as an institution as their foremost goal, there were also others who sincerely believed, with a measure of concern for enslaved people's welfare if not full acknowledgement of their equal humanity, that reform was more politically plausible and potentially transformative. Yet, the scholarship has largely lacked an analysis of the interplay between the colonial state's complex and freighted role in ameliorationist reform and enslaved people's political and strategic efforts to

³⁹ Diana Paton. *No Bond But the Law: Punishment, Race, and Gender in Jamaican State Formation, 1780-1870*. Durham: Duke University Press, 2004.

⁴⁰ Aaron Graham, "Towns, Government, and the 'Police' in Jamaica and the British Atlantic, 1770-1805." *Urban History* 47, No. 1 (2020): 41-62; Aaron Graham, "The Colonial Sinews of Imperial Power: The Political Economy of Jamaican Taxation, 1768-1838." *Journal of Imperial and Commonwealth History* 45, No. 2 (2017): 188-209

mobilize ameliorationist logic and rhetoric towards their own aims. This dissertation aims to take this intersection seriously, through an analysis of a key site at which enslaved people's politics and survival strategies met most directly with the institutions of the colonial state: the slave court.

In non-British Caribbean contexts, enslaved people's interactions with colonial legal systems has been more extensively studied, and I draw on this rich literature in approaching my own argument. In his study of colonial Saint Domingue, Malick Ghachem argues that the Code Noir, the slave code governing France's colonies, ultimately laid the groundwork for the Haitian Revolution. He studies both how the Old Regime law was used in new ways by colonial administrators trying to maintain stability and power, but also how enslaved people and free people of color used it to push for an end to brutality and citizenship.⁴¹ Rebecca Scott has written extensively about the social life of the law of slavery, especially in reference to Cuba and Louisiana, examining enslaved people's strategic use of the law to assert their claims to freedom and lay claims to property.⁴² Ariela Gross and Alejandro de la Fuente have recently published a

⁴¹ Malick Ghachem, *The Old Regime and the Haitian Revolution*. Cambridge: Cambridge University Press, 2012. See also Ghachem's "Prosecuting Torture: The Strategic Ethics of Slavery in Pre-Revolutionary Saint-Domingue (Haiti)" *Law and History Review* 29, No. 4 (2011): 985-1029 and "Montesquieu in the Caribbean: The Colonial Enlightenment between 'Code Noir' and 'Code Civil'" *Historical Reflections*. 25, No. 2 (1999): 183-212.

⁴² Rebecca Scott and Carlos Venegas Fornias. "Maria Coleta and the Capuchin Friar: Slavery, Salvation and the Adjudication of Status." *William and Mary Quarterly* 76, No. 4 (2019): 727-762; Rebecca Scott and Michael Zeuske. "Property in Writing, Property on the Ground: Pigs, Horses, Land, and Citizenship in the Aftermath of Slavery, Cuba, 1880-1909." *Comparative Studies in Society and History* 44, no. 4 (2002): 669-699; Rebecca Scott, "Slavery and the Law in Atlantic Perspective: Jurisdiction, Jurisprudence, and Justice" *Law and History Review* 29, no. 4 (2011): 915-924; Rebecca Scott. "Social Facts, Legal Fictions, and the Attribution of Slave Status: The Puzzle of Prescription." *Law and History Review* 35, No. 1 (2016): 9-30; Rebecca Scott, "Paper Thin: Freedom and Re-enslavement in the Diaspora of the Haitian

pathbreaking comparative study of the mutual constitution of race and freedom through the law in Cuba, Louisiana, and Virginia.⁴³ Gunvor Simonsen has examined the narratives enslaved people crafted before Danish West Indian courts, arguing that despite the acceptance of enslaved people's testimony by jurists, they had little impact on the operation of the law.⁴⁴ Ricardo Raul Salazar Rey has studied the alliances forged between enslaved and freed people in navigating the law of slavery in a wide-ranging study of the sixteenth and seventeenth century Spanish empire.⁴⁵ All of these approaches have theoretical and methodological insights to share with historians of the law in the British West Indies. Contemporaries were familiar with legal regimes of slavery in other imperial contexts and frequently borrowed concepts and legal mechanisms. When a colony previously held by one empire was taken by another, aspects of the prior legal system often remained in place. Yet, the specificities of the British and colonial legal system and the unique political and social context mean that these only go so far in addressing the specificities of the British West Indies context in general and the Jamaican context in particular.

Revolution." *Law and History Review* 29, no. 4 (2011): 1061-1087. Rebecca Scott. "The Atlantic World and the Road to Plessy v. Ferguson." *The Journal of American History* 94, No. 3 (2007): 726-733.

⁴³ Alejandro de la Fuente and Ariela J. Gross. *Becoming Free, Becoming Black: Race, Freedom, and Law in Cuba, Virginia, and Louisiana*. Cambridge: Cambridge University Press, 2020. See also Alejandro de la Fuente and Ariela Gross. "Comparative Studies of Law, Slavery, and Race in the Americas." *Annual Review of Law and Social Science* 6 (2010): 469-485; Ariela Gross and Alejandro de la Fuente. "Slaves, Free Blacks, and Race in the Legal Regimes of Cuba, Louisiana, and Virginia: A Comparison." *North Carolina Law Review* 91, No. 5 (2013): 1699-1724

⁴⁴ Gunvor Simonsen. *Slave Stories: Law, Representation, and Gender in the Danish West Indies*. Aarhus: Aarhus Universitetsforlag, 2017.

⁴⁵ Ricardo Raul Salazar Rey. *Mastering the Law: Slavery & Freedom in the Legal Ecology of the Spanish Empire*. Tuscaloosa: University of Alabama Press, 2020.

In contrast to the glut of scholarship about the legal systems of early British North American colonies, relatively little work has been done on colonial British Caribbean legal history. To the extent that existing work examines the law of slavery, it has chiefly focused on an analysis of legislation and slave codes, using the study of these enactments as a key to understanding the transformation of slave society and governmental priorities. Certainly this work has been revelatory and important. However, this scholarship has largely ignored the social life of the law. It has not turned systematically to trial courts to understand how slave codes and other statutes were applied in practice and experienced by litigants. There are some notable exceptions to this trend. Mindie Lazarus-Black made an innovative argument about enslaved people's legal strategies across a wide swath of time and territories in the British Caribbean, but on the basis of limited and unrepresentative court records.⁴⁶ Randy Browne's study of Berbice and Demerara uses the records of the fiscal, a legal position retained from the colony's Dutch past, to study the survival strategies of enslaved people. Yet, Browne's study does not examine the dialogical relationship between enslaved people's strategies and the law.⁴⁷ Trevor Burnard has published a selected set of cases heard by fiscals with an analytical introduction, as well as a piece putting the fiscal system into the broader

⁴⁶ Mindie Lazarus-Black. *Slaves, Masters, and Magistrates: Law and the Politics of Resistance in the English-Speaking Caribbean, 1736-1834*. Chicago: American Bar Foundation, 1991; Mindie Lazarus-Black. "John Grant's Jamaica: Notes Towards a Reassessment of Courts in the Slave Era." *The Journal of Caribbean History* 27, No. 2 (1993): 144-160.

⁴⁷ Randy Browne. *Surviving Slavery in the British Caribbean*. Philadelphia: University of Pennsylvania Press, 2020.

British imperial context.⁴⁸ Several scholars, including Diana Paton, Natalie Zacek, and Melanie Newton, have studied particular well-publicized legal cases involving particular enslaved people.⁴⁹

To take the Jamaican case in particular: Several legal historians in the early twentieth century, including Edwin Watkins and Robert Worthington Smith, engaged in holistic and extensive study of the transformation of the Jamaican legal system in its formal structure from the advent of British colonization.⁵⁰ The development of formal academic training in Caribbean history sparked several attempts to analyze the legal history of slavery using a social history lens. Elsa Goveia, pioneering scholar of Caribbean history, wrote extensively about slavery and the law in her path-breaking work as a founding faculty member at UWI-Mona.⁵¹ Kawau Brathwaite also crafted an as yet unpublished monograph-length manuscript which analyzes the social control of enslaved

⁴⁸ Trevor Burnard, ed. *Hearing Slaves Speak*. Georgetown: The Caribbean Press for the Government of Guyana, 2010; Trevor Burnard, "A Voice for Slaves: The Office of the Fiscal in Berbice and the Beginning of Protection in the British Empire, 1819-1834." *Pacific Historical Review* 87, No. 1. (2018): 30-53.

⁴⁹ Diana Paton. "Witchcraft, Poison, Law, and Atlantic Slavery." *The William and Mary Quarterly*. 69, No. 2 (2012): 235-264; Diana Paton. "Gender, Language, Violence and Slavery: Insult in Jamaica, 1800-1838." *Gender & History* 18, No.2. (2006): 246-265. Melanie Newton. "The King v. Robert James, a Slave, for Rape: Inequality, Gender, and British Slave Amelioration, 1823-1834." *Comparative Studies in Society and History*. 47, no. 3 (2005): 583-610. Natalie Zacek. "Voices and Silences: The Problem of Slave Testimony in the English West Indian Law Court." *Slavery & Abolition* (2008) 24, No. 3: 24-39.

⁵⁰ Robert Worthington Smith. "The Conflict Between Planter and Parliament over the Slave Laws of Jamaica." Ph.D. dissertation, UCLA (1942); Robert Worthington Smith. "The Legal Status of Jamaican Slaves Before the Anti-Slavery Movement." *The Journal of Negro History* 30, No. 3 (1945): 293-303; 4/140/6/42, Horace Watkins, "A History of the Legal System of Jamaica (1661-1900)," DPhil diss., (University of Sheffield, 1968), JARD.

⁵¹ Elsa V. Goveia. *The West Indian Slave Laws of the 18th Century*. Bridgetown: Caribbean Universities Press, 1970.

Jamaicans, including an extensive engagement with the law.⁵² Yet, while Goveia and Brathwaite's interventions mark a turn to engagement of how these legal transformations directly impacted the lives of enslaved people, they remain focused on the interpretation of statutes. More recently, there has been extensive growth in legal historical scholarship on Jamaica's courts and legal system. Jonathan Dalby's work presents a statistical analysis of Jamaica's assizes court system, providing an extensive analysis of the criminal courts which tried free people of all races and classes.⁵³ Diana Paton presents the evolution of the Jamaican workhouse system as counterpoint to a metropolitan-based Foucauldian perspective of the 19th century as a transformation from corporal punishment to incarceration.⁵⁴ Edward Rugemer's recent study places the evolution of slave law in Barbados, Jamaica, and the North American colonies in perspective and connection, demonstrating the links between the levels of formal politics in Parliament and colonial assemblies and slave resistance.⁵⁵ Christine Walker has used remaining late 17th and early 18th century equity court records to analyze the lives of slaveholding colonial women, shedding some light in the process on enslaved people's experiences in early Jamaica.⁵⁶

⁵² Edward Kamau Brathwaite. "Controlling Slaves in Jamaica." 19---. Unpublished manuscript in the Special Collections Library, University of the West Indies at Mona, Jamaica.

⁵³ Jonathan Dalby. *Crime and Punishment in Jamaica: A Quantitative Analysis of the Assize Court Records, 1756-1856*. Mona: Social History Project, Department of History and Archaeology, University of the West Indies, 2000.

⁵⁴ Diana Paton. *No Bond But the Law: Punishment, Race, and Gender in Jamaican State Formation, 1780-1870*. Durham: Duke University Press, 2004.

⁵⁵ Edward Rugemer. *Slave Law and the Politics of Resistance in the Early Atlantic World*. Cambridge: Harvard University Press, 2018.

⁵⁶ Christine Walker. *Jamaica Ladies: Female Slaveholders and the Creation of Britain's Atlantic Empire*. Chapel Hill: University of North Carolina Press, 2020.

It is thus clear that scholarship on the Jamaican legal system has grown substantially in recent years, demonstrating a new critical awareness of its social and cultural significance in the 18th and 19th century. However, this scholarship has remained grounded in an institutional framework that has given much less attention to the shaping effects of subaltern groups and their advocacy, or the social life of the law.

1.3 Source Base

The primary source basis of the dissertation rests in an extensive set of slave court records from late 18th and 19th century Jamaica. To the best of my knowledge, this represents the largest surviving repository of slave court case law in any British Caribbean colony.⁵⁷ The breadth and depth of these records allows this dissertation to pay unprecedented attention to the development of trends not just from the alteration of slave codes and legislation, but through how legal cases were prosecuted, adjudged, and dispensed with on the ground. This body of cases includes records from St. Ann (1785-1815), Port Royal (1816-1834), St. George (1822-1831), and Hanover (1814-1834) Parishes held in Jamaican archives, as well as a comprehensive overview of court records

⁵⁷ Many thanks to Geneva Smith, Kristina Williams, and Jacob Pomerantz who have confirmed this in relation to the existing records for Barbados. Jacqueline Allain reports not seeing any slave court records in the St. Lucia archive. Endangered Archives Programme inventories of archives in Grenada, Montserrat, Anguilla, Turks and Caicos, St. Vincent and the Grenadines, and St. Kitts and Nevis have not located any slave court records. In many of these jurisdictions, however, there are considerable surviving quarter sessions and assizes court records, which in considering the involvement of enslaved peoples' influence in the prosecution of free persons, could shed considerable light on enslaved people's legal strategies and engagement in these societies. There is also the possibility that slave court records are interspersed within some of these record books; this was the case with some stray cases recorded in the record books of a different court in the Jamaican context. Hopefully, further research in international collections or private collections will reveal more British Caribbean slave court records as the foundation for further research.

from 1814-17 collected by the colonial government and forwarded to the Colonial Office, now held in the UK National Archives. The St. Ann and St. George records contain complete records from their parishes for this period, while the Port Royal records reflect summary slave trials – those held before two magistrates for more minor offenses. The Hanover records are individual loose cases and related material, and do not reflect as comprehensive a view of the court hearings held in that parish.⁵⁸

There are certain limitations to this sample. St. Ann, St. George, and Hanover were all northern rural parishes, with more diverse plantation cultures compared to some sugar-dominated southern parishes, and without a concentrated urban population center. Port Royal, in contrast, combined the port town at the tip of the Kingston harbor peninsula with more remote mountainous estates. However, the island-wide sample enabled by the 1814-17 report to the Colonial Office, as well as the temporal span represented by these records held collectively, does enable a more descriptive and robust account of trends overall.

When I discuss Councils of Protection, the ad hoc bodies of justices of the peace and vestry members who combine to hear enslaved people's complaints of maltreatment, I also draw substantially on vestry minutes. Vestries were the governing bodies of individual parishes, elected among propertied male freeholders, who made decisions

⁵⁸ 1A/2/1/1, Hanover Slave Court Records; 2/18/6, St. George Parish Slave Court Records; 2/19/30, Port Royal Summary Slaves Trials 1819-1834, all JARD; MS273, St. Ann Parish Slave Court Record, NLJ; CO 137/147, TNA.

about taxation, roads, local services and some legislation and ordinances. The head vestryman, chosen by vestry members amongst themselves, was known as the Custos Rostulorum or the Custos for short. (The plural form is custodes rostulorum.) This system of parish governance was copied from England in the 17th century; while largely abandoned in England, it remains the current practice in Jamaica. Since Councils of Protection were not permanent bodies, they often did not have a dedicated record book. In some cases these proceedings are recorded in vestry minutes, in others in slave court or quarter sessions record books.

I have supplemented these more extensive and comprehensive records of slave court proceedings in individual parishes with records of individual cases, recorded in contemporary Jamaican and British newspapers, Parliamentary Papers, and enclosed in correspondence between the colony's Governor and the Colonial Office. Frequently, cases discussed in one of these venues were particularly high profile or raised difficult political or legal questions. Partly as a result, the slave court proceedings reported or discussed in these forms of documentation frequently are more detailed and contain more background material than those in the official slave court record books. While I use cases discussed in these exchanges between officials in London and Spanish Town at times for illustrative examples, my analysis of them is always based in a comparative understanding of similar cases arising in the parish slave court records.

While slave court cases represent the primary legal record under study, I have also dabbled into criminal cases brought against free people, both white and of color, in assizes and quarter sessions courts. Since many times these courts heard cases involving

murder, assault, or other maltreatment of enslaved people by free persons, they provide an additional important venue to understand enslaved people's treatment before the law and the impact of enslaved people's legal advocacy. Further, as a parallel legal system to the slave court, the criminal case record of free persons provides the most apt comparison for the differential treatment of white and black, free and enslaved persons. In navigating these records, the extensive statistical survey of these records by historian Jonathan Dalby has been invaluable.⁵⁹

To better interpret the case record, I have turned to a set of supplementary primary sources. Printed editions of Jamaican slave codes, vestry and magistrates' manuals, and memoirs of judges and lawyers provide further contextual understanding of how contemporary legal practitioners would approach the slave code. Official correspondence between the colonial government and the Colonial Office, held in the CO series of the UK National Archives, situate the legislative history of slave codes, important political and legal disputes around particular cases, and the social landscape of maintaining colonial control and order in a slave society. Plantation records and personal correspondence from planters and their managers contextualize elite attitudes towards enslaved people, the role of the courts and the colonial state, and at times provide first-hand accounts of cases in process. Contemporary histories, memoirs, and fiction

⁵⁹ Jonathan Dalby. *Crime and Punishment in Jamaica: A Quantitative Analysis of the Assize Court Records, 1756-1856*. Mona: Social History Project, Department of History and Archaeology, University of the West Indies, 2000.

additionally illustrate shifting attitudes towards the law and the treatment and management of enslaved people.

1.4 Dissertation Organization

This dissertation is organized into an introduction, four chapters, and a conclusion. Each dissertation chapter develops a thematic approach to a key area of slave law – property ownership, slave flight, maltreatment by slaveholders, and criminal procedure – and examines enslaved peoples’ attempts to strategically mobilize reformist legal principles to secure rights and justice within the legal system.

In the first chapter, I examine enslaved people’s claims to property and their efforts to defend and enhance these rights in a legal context. I argue that, absent the ability to bring a claim in civil court, enslaved people lodged property claims through their role in bringing burglary and theft claims in criminal court. I demonstrate that, well before the slave code affirmatively acknowledged enslaved people’s right to own property, criminal courts were routinely acknowledging their ownership interests.

In the second chapter, through examining the development of slave codes and case law around slave flight, I argue that ameliorationist reforms actually represented a re-articulation of state power and engagement in the day-to-day management of enslaved people, gradually usurping power previously vested in individual slaveholders and their agents. Thus, while enslaved people were able to point to newly acknowledged legal rights in many aspects of the slave code, restrictions on mobility and the means escaped enslaved people might use to sustain their absence became tighter and more rigid.

In the third chapter, I trace the history of enslaved people's charges of misconduct against slaveholders and the development of the system of councils of protection. In this context, I suggest that legal forums functioned not just as a place to arbitrate claims, but also partially as a public arena for enslaved people to enact public pressure on slaveholders and shape reform agendas in the colony and abroad. Enslaved people often struggled to obtain favorable verdicts against slaveholders in these cases, but it is possible to trace results in the less formal realms to a powerful presentation in court.

In the fourth chapter, I discuss the changing rights of criminal procedure accorded to enslaved people and how these rights demonstrate a changing perception of their potential to be full subjects of the British crown. I focus on a discussion of three key procedural rights: the right to a trial, the right to testify and give evidence, the right to counsel for defense. Through a study of these factors, I demonstrate how the battle over basic access to the courts and to procedural norms more closely approaching that of the free population, became a central ground for understanding the development of enslaved people as subjects of the crown.

In the conclusion, I discuss the legacy of the Jamaican slave court system and enslaved people's legal strategies in the post-emancipation world. First, the claims waged in courts during the late 18th and early 19th centuries provided an important precedent and framework for the legal battles waged before magistrates and in criminal courts during the apprenticeship period (1834-1838). This familiarity with the legal system and sense of rights and responsibilities were waged by freedpeople in their quest for full citizenship in a post-emancipation Jamaica. This perhaps came to its fullest culmination in the

Morant Bay Rebellion of 1865. However, the legacy of amelioration can also be seen through a more full-ranging understanding of amelioration as a feature of a more humanitarian imperialism in the 19th century British empire. Similar legal frameworks and logics were applied in the treatment of indigenous people in Australia, New Zealand, and Canada. This dynamic also played out in the creation of the protectorate system as a “soft” form of imperialism.

2. “Of Goods and Chattel”: Re-thinking the Legal Logics of Enslaved People’s Possessions in Jamaica, 1780-1834

In 1823, Lord Bathurst, then Secretary of State for the Colonies, wrote to the Duke of Manchester, then Governor of Jamaica, to urge him to advocate for a new slave code with the House of Assembly, a code which would establish in Jamaica ameliorative measures akin to what was already under consideration in Crown Colonies elsewhere in the Caribbean (that is to say, those colonies without elected assemblies). Among the measures Bathurst urged Jamaica to adopt was “ensuring to the slave the enjoyment of whatever property he may be able to acquire,” not only through enshrining this right in law and providing means to redress violation of this right, but also through the establishment of Savings Banks. Manchester told Bathurst not to expect too much, underscoring the reluctance of the Jamaica Assembly to make changes to current customs, but he promised to do his best to bring the legislature to consider gradual improvements.¹

In 1826, responding to the substantial pressure by the British Parliament and Colonial Office to adopt ameliorative legislation, the Jamaica Assembly passed a revised version of the slave code. The bill represented, at best, a modest acknowledgement of the

¹ Manchester to Bathurst, 6 September 1823, folios 341-343, CO 137/154; Manchester to Bathurst, 13 October 1823, folios 345-347; “Heads of Suggestions to be Submitted to the Committee appointed to take into Consideration the Consolidated Slave Law,” folios 362-372

concessions advocated by metropolitan abolitionists and only partly reflected the Orders in Council of 1824. The 16th clause of the bill acknowledged the rights of enslaved people to own property. An official edition of the revised slave code presented this development as “a new clause and very important.”² Publisher John Lunan depicted it as a substantial transformation in the way Jamaican law was practiced and an acknowledgement of transformation under way in the warp and woof of slavery as a system.

Yet, in framing this act, legislators also underscored the limitations of enslaved people’s ability to legally safeguard their personal possessions. Thus, enslaved people could lawfully possess clothing, furniture, modest sums of money, and similar items. The Jamaica Assembly did not acknowledge enslaved people’s right to possess or own real estate. Further, the clause explicitly placed limitations on enslaved people’s ownership of particular kinds of livestock, including horses, mares, mules, cattle, asses, sheep, hogs, and goats. The revised code emphasized that enslaved people should not construe this revision as allowing them the right to graze or pasture their livestock on the lands of their master or a neighbor without explicit permission. Although this recognition of enslaved people’s possession of varieties of livestock marked a notable departure from earlier iterations of the slave code, it nonetheless implicitly gave their masters veto power over potential livestock ownership, through simultaneously denying their right to own land on

² John Lunan. “Commentary on the New Slave Law” in *The Consolidated Slave Law, Passed the 22d December, 1826: Commencing on the 1st May, 1827: With a Commentary (Shewing the Differences Between the New Law and the Repealed Enactments,) Marginal Notes, and a Copious Index*. Jamaica: Courant Office, 1827. 2nd edition. vi.

and requiring permission for them to make use of someone else's land to house their animals.

In a later clause in the same revised slave code, legislators permitted enslaved people to receive bequests or legacies from free people, within certain monetary limits. (The Jamaica Assembly had also placed limitations on the ability of free people of color to inherit in earlier legislation, in part as a means to prevent free children of color born to a white father to ascending to the highest heights of colonial society.³) Yet, while enslaved people could thus be named as heirs in a will, the legislature intentionally denied them the legal privileges that would be necessary for them to file a court challenge to receive this inheritance. The specter of enslaved people as parties to suits at law or in equity raised alarm in planter society about the possibility of their testimony and their privileges as heirs trumping those belonging to freed people.

In theory, this new legislation granted enslaved people more substantial tools in their legal arsenal in trying to enforce their claims to property. The right to property clause explicitly acknowledged that enslaved people's property was sacrosanct not only in reference to other enslaved people or free people of color, but also expressly acknowledged their claims could supersede those of their owners or masters. While the

³ For further discussion of this, see: Daniel Livesay. *Children of Uncertain Fortune: Mixed-Race Jamaicans in Britain and the Atlantic Family, 1733-1833*. Chapel Hill: University of North Carolina Press, 2018; Brooke Newman. *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica*. New Haven: Yale University Press, 2018; Mavis Campbell, *The Dynamics of Change in Slave Society: A Sociopolitical History of the Free Coloreds of Jamaica, 1800-1865*. Rutherford: Farleigh Dickinson University Press, 1976; Gad J. Heuman. *Between Black and White: Race, Politics, and the Free Coloreds in Jamaica, 1792-1865*. Westport: Greenwood Press, 1981.

1826 law did not grant enslaved people the universal right to testify against white people in all situations, it did make this concession in the context of theft or burglary. In addition, the clause expressly envisioned the appearance of enslaved people before three magistrates or justices of the peace to bring these complaints themselves, instead of suggesting that such a suit would be brought on their behalf by their master or another sympathetic free person. ⁴

The Anti-Slavery Monthly Reporter ridiculed the 1826 Slave Code, claiming “the Assembly of Jamaica have framed a clause which mentions, it is true, the property of slaves, but leaves out all the effective provisions for the security of that property.” Rather than explicitly assert the means by which enslaved people could defend their claims to property before the courts, the *Reporter* continued, the Assembly allowed this claim to rest on the customary usage of the island. Indeed, they argued, without new means to assert their rights, “the slave is left in the same helpless and unprotected state, as to all essential rights of property, as he was before the act was framed.”⁵ Although not quite as trenchant in its criticism of the Assembly’s handiwork, the Privy Council in London was nonetheless irked and unwilling to accept the act as written. By mid-1827, they had sent word to the Governor of Jamaica that the 1826 Slave Code was disallowed, forcing the last previous comprehensive slave code (of 1816) back into effect. Although the Privy Council emphasized the 1826 Slave Code’s prohibition on unlicensed preachers and its

⁴ *The Consolidated Slave Law, Passed the 22d December, 1826: Commencing on the 1st May, 1827: With a Commentary (Shewing the Differences Between the New Law and the Repealed Enactments,) Marginal Notes, and a Copious Index.* Jamaica: Courant Office, 1827. 2nd edition.

⁵ *The Anti-Slavery Monthly Reporter*, Vol 1., No. 21. February 28, 1827. p. 304.

affront to religious freedom as a prime obstacle to its approval, property rights figured not far behind.

The Jamaica Assembly responded in kind, contending that metropolitan politicians did not have a sufficient grasp of local context to understand that the Assembly had stretched the limits of local tolerance to introduce meaningful and notable reforms. In the Assembly's view, the further steps they were asked to take would not only threaten the control and authority of slaveholders, but place their very lives at stake. On the limitations of property rights they granted to enslaved people, they emphasized that "Land cannot be a desirable acquisition to the Slave, his duty to his owner not affording him time to cultivate more than the portion always allotted to him by his master for his maintenance."⁶

2.1 Chapter Outline

It is true that the 1826 slave code was the first to explicitly acknowledge enslaved people's (limited) rights to property. However, enslaved people had laid de facto claims to property for much longer, and Jamaican courts had recognized those claims in some forms for at least a decade and a half. These de facto claims were rooted in a common law legal paradigm known as the King's Peace.

Denied access to the civil courts by their status, enslaved people could not bring a lawsuit for recovery of property. However, enslaved people were considered part of the

⁶ Report from Committee of the Jamaica House of Assembly to Respond to Mr. Huskisson's Objections to the 1826 Slave Code, CO 137/165, folios 362-384; quote on folio 376. TNA.

public order, and could find legal resource through calling on the authority of the King's peace to resolve disputes and reclaim stolen property. The peace was, as Laura Edwards describes, "a hierarchical order that forced everyone into its patriarchal embrace and raised its collective interests over those of any given individual."⁷ Everyday Jamaicans called on the authority of the King's peace to resolve a whole range of personal and community conflicts. Even those with attenuated legal rights, such as wives, free people of color, the unpropertied, and enslaved people, participated in identifying offenses and resolving conflicts. The legal participation of these individuals was grounded in the same relationships that gave them their subordinated status in families, households, and communities.

Scholars of slavery across the Americas have grappled with enslaved people's de facto control of property for several decades, trying to account both for the origins of the custom and why slaveholding societies tolerated it. Within the formal structure of slavery, historians and anthropologists have argued, there was an informal economy, in which enslaved people were able to accumulate, own, and trade property between themselves and white people. Enslaved people drew on family and community ties for help in obtaining and maintaining property, in the process establishing communal solidarity and personal pride and responsibility. Masters tolerated, and sometimes

⁷ Laura Edwards, *The People and their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*. Chapel Hill: University of North Carolina Press, 2009, 7. On the representation of enslaved people as subjects and the consequences of this projection, see: Verene Shepherd, "'We All Thought the King Was on Our Side': Voices of the Enslaved in the Post-Slave Trade Abolition Era in Jamaica." *Arts Journal* 3, No. 1 & 2 (2007): 26-46

encouraged, this dynamic because it served their interests.⁸ It could provide another source of income, as enslaved people paid a fee to hire themselves out. Or, granted as a privilege, it could offer incentives for enslaved people to work with industry and abide by good behavior. Other scholars see it as a more explicit, quasi-Faustian bargain accepted by enslaved people as a means to secure a livable world for themselves and their families.⁹ Breaches of such informal contracts could serve as impetus for revolt among enslaved people.¹⁰ This dynamic has been most significantly noted in the Caribbean and Brazil, although increasingly parts of the US South, including the South Carolina and Georgia lowcountry, have also been acknowledged to harbor such dynamics.¹¹

However, much of this literature has recognized enslaved people's de facto property ownership as a quintessentially informal system. The literature generally portrays enslaved people's property ownership as tolerated and recognized by most slaveholders, but intentionally outside the primatur of the law or the regulation of the colonial state. Increasingly, legal historians have challenged this conception. Through increased attention to the public law and to day-to-day legal practice, especially on the local level, our understanding of how law shaped and was shaped by people at the

⁸ Sidney Mintz, *Caribbean Transformations*. Chicago: Aldine Publishing Company, 1974; Stuart B. Schwartz, *Slaves, Peasants, and Rebels: Reconsidering Brazilian Slavery*. Urbana: University of Illinois Press, 1992; João José Reis, *Slave Rebellion in Brazil: The Muslim Uprising of 1835 in Bahia*. Trans. Arthur Brakel. Baltimore: Johns Hopkins University Press: Baltimore, 1995.

⁹ Eugene Genovese. *Roll Jordan Roll: The World the Slaves Made*. New York: Pantheon Books, 1974.

¹⁰ Emília Viotti da. Costa, *Crowns of Glory, Tears of Blood : The Demerara Slave Rebellion of 1823*. New York : Oxford University Press, 1997.

¹¹ Philip Morgan, "The Ownership of Property by Slaves in the Mid-Nineteenth Century Low Country." *The Journal of Southern History* 49, no. 3 (1983): 399-420; Betty Wood, *Women's Work, Men's Work: The Informal Slave Economies of Lowcountry Georgia* (Athens: University of Georgia Press, 1995); Loren Schwening, *Black Property Owners in the South, 1790-1915* (Urbana: University of Illinois Press, 1990)

margins has become significantly more complex and nuanced. Through appeals to public order within the domain of public law, people of marginal and constrained legal status had limited access to the law. The overlapping jurisdictions of public and civil law meant that conflicting legal principles within the two domains could – and frequently did – co-exist. In the context of property claims specifically, classes of property essential to life and survival, including textiles, foodstuffs, certain animals, and tools, had specific qualities which allowed people who did not otherwise have property rights to make claims under the King’s Peace.¹²

Jamaica’s slave court records are uniquely extensive and detailed for any British Caribbean colony. They enable an unusually detailed and nuanced understanding of the development of case law surrounding property ownership. I am primarily focused on the recognition of this custom in criminal law, in cases where a government case was brought for a burglary or theft, and an enslaved person played an active part in proving the theft of the goods and making claim to the stolen goods as their property. I contend that a study of surviving cases demonstrates a growing recognition of enslaved people’s ownership claims by slave courts in this context. It is difficult to discuss property claims without also making passing reference to civil law. Jamaican slave codes routinely

¹² Laura Edwards, “Sarah Allingham’s Sheet and Other Lessons from Legal History.” *Journal of the Early Republic* 38, No. 1 (2018): 121-147; Laura Edwards, “The Legal World of Elizabeth Bagby’s Commonplace Book: Federalism, Women, and Governance.” *The Journal of the Civil War Era* 9, No. 4 (2019): 504-523; Laura Edwards, “James and His Striped Velvet Pantaloon: Textiles, Commerce, and Law in the New Republic.” *The Journal of American History* (2000): 339-361; Kathleen M. Hilliard, *Masters, Slaves, and Exchange: Power’s Purchase in the Old South*. New York: Cambridge University Press, 2014; Dylan C. Penningroth, *The Claims of Kinfolk : African American Property and Community in the Nineteenth-Century South*. Chapel Hill : University of North Carolina Press, 2003.

barred enslaved persons from pursuing the recovery of their property in civil courts, by advancing legal action against other persons, although reformers often remonstrated for the allocation of these rights.

In the next section of this chapter, I use trends apparent in surviving slave court records to discuss the evolution of case law related to enslaved people's claims to property. I underscore the divergence between the official slave code, which did not incorporate an enslaved person's legal right to property until 1826, to judicial decisions made decades earlier around the island. I use contemporary debates, personal accounts, and correspondence to suggest why these property claims had staying power. I then catalogue the key varieties of property claimed by enslaved people. I discuss the social, cultural, and economic significance of the items most commonly claimed by enslaved people. I also explore which genres of property were frequently recognized by criminal courts as properly belonging to enslaved people, versus those items which were frequently claimed by enslaved people in day-to-day life but were seldom or ever recognized as properly being in their possession by the courts. I devote a third section to a discussion of how enslaved people enforced property claims outside the official legal system, pointing to some of the other options at their disposal when slaveholders' courts would not suffice. This section also suggests how enslaved people were able to safeguard property absent and in advance of protection from the colonial legal system.

In the final section, I discuss the cultural significance of enslaved people acting as property owners. I suggest that many colonists and metropolitan residents alike saw property ownership as a sign of civilization and respectability, and associated ownership

with other desirable attributes like community responsibility, commitment to law and order, and industry. This trope cut against other widely circulating conceptions of Black people and especially enslaved Black people, as lazy workers and prolific thieves. I suggest that this drives home the fraught nature of amelioration and its desire to create a particular kind of Black colonial subject who may someday be elevated to full subjecthood in the British empire. In this context, the division between one who can and cannot own property is also a means of dividing more and less deserving members of the Black community.

2.2 An Earlier Legal History of Enslaved People's Property Rights

While the 1826 Slave Code marked the first affirmative and explicit legislative recognition of enslaved people's property rights, it was not the first trace in the legal record of an established custom regarding enslaved people's claims to possessions and property. Law makers themselves referred to the ancient Roman custom of the peculium in advocating for property rights for enslaved people. The peculium, translated roughly as "slave allowance," was the personal property enslaved people were able to claim de facto ownership of themselves, even as these items remained the de jure property of their master or owner. Colonial Office employee and gradual abolitionist James Stephen laid out the social logic behind the peculium in clear terms:

It is indeed alleged by the colonial party, that though the master is legally entitled to all the property acquired by the slave, he never asserts that title; and with few exceptions, I believe the proposition to be true. The slave's little property is, indeed, sometimes seized by way of punishment, or as a means of obtaining restitution of property suspected to have been stolen from the master; but upon

purely sordid principles, I remember only one instance of such an exercise of the owner's power, and in that, his conduct was generally condemned.¹³

Thus, Stephen suggested that the custom of the peculium was enforced more through public pressure and discouragement against slave masters appropriating their enslaved people's property than through any specific code. In contrast with Stephen, William Burge, Attorney General of Jamaica, stated in an 1826 interview with West India legal commissioners that the potential of social disgrace and disapprobation was the primary bar against masters interfering in enslaved peoples' property. Burge admitted that enslaved people had no legal recourse to protect their claim if a master should interfere. Perhaps partly recognizing the ameliorationist and in some cases, abolitionist, sympathies of his audience, he advocated for a law to this effect.¹⁴

Beginning in 1787, and appearing subsequently in every revision of the Jamaica slave code until the 1826 revision, enslaved people were banned from keeping particular kinds of livestock: horses, mares, mules, assess, or geldings. The clause thus tacitly acknowledged the significance of these animals as markers of status and worked to deny enslaved people this option. However, by beginning with the clause: "And whereas the permitting and suffering negro and other slaves to keep horses, mares, mules, assess, or geldings, is attended with many and great mischiefs to the island in general," legislators

¹³ James Stephen. *The Slavery of the British West India Colonies Delineated, as it Exists in Both Law and Practice, and Compared with the Slavery of Other Countries, Ancient and Modern*. London: John Butterworth and Son, 1826. Vol. 1: 61.

¹⁴ CO 318/66, folio 78, TNA. Printed and edited version of this interview can also be found in Parliament. House of Commons. (1827). *First Report of the Commissioners of Enquiry into the Administration of Civil and Criminal Justice in the West Indies: Jamaica*. (HC 1826-1827 559): 78-81.

stressed that, at least in some parts of the colony, enslaved people had with some frequency claimed ownership to these animals. Moreover, by signaling out the specific genre of property which enslaved people did not have legal license to own, legislators tacitly suggested that other kinds of ownership claims by enslaved people did hold validity. James Stephen suggested that enslaved people were not allowed to own these certain kinds of livestock because, given Jamaica's substantial grazing lands, planters were able to make a substantial profit out of raising horses, cattle and other large livestock.¹⁵ Enslaved people's ownership of this livestock represented an unappreciated imposition on their profit margin. Further, horses in particular allowed enslaved people a substantial degree of quick and straightforward (by nineteenth century standards) mobility that worried the planter class.

Provision grounds were a particularly important variety of enslaved people's de facto claims to property. From some of Jamaica's earliest slave codes, legislators enjoined planters to grant enslaved people plots of land to grow their own food if feasible, and if not, to supply provisions of specific minimum quantities. In many plantation contexts, provision grounds served as the principal, if not sole, source of foodstuffs for enslaved people. Planters preferred to grant enslaved people a modest amount of time to cultivate their own grounds than absorb the additional expenditure of purchasing food for their consumption. Enslaved people also found that provision

¹⁵ James Stephen, *The Slavery of the British West India Colonies Delineated, as it Exists in Both Law and Practice, and Compared with the Slavery of Other Countries, Antient and Modern*. London: 1824. Vol 1, 296-300.

grounds had particular advantages. For example, if provision grounds were particularly fruitful in any season, they could earn money by selling their produce at market. Indeed, as many scholars have noted, produce sold at market in this way proved a crucially important food source not only for enslaved people, but for the free population of Jamaica as well. It might be argued that enslaved people could turn to the slave code to confirm their entitlement to provision grounds.¹⁶

Planter Gilbert Mathison noted that, soon after enslaved persons arrived on a new plantation, they were expected to begin a provision ground to provide food for themselves and their family. In Mathison's experience, planters quickly withheld providing any foodstuffs from the plantation's stores to newly arrived enslaved people. Widespread devastation, as in the aftermath of a hurricane, drought, or a local military campaign, would be a rare exception where planters would provide foodstuffs directly. Instead, enslaved people were largely responsible for caring for each other and stepping

¹⁶ On provision grounds and their social significance, see: Woodville K. Marshall, "Provision Grounds and Plantation Labour in Four Windward Islands: Competition for Resources During Slavery," *Slavery & Abolition* 12, No. 1 (1991): 48-67; Sidney Mintz, "Slavery and the Rise of Peasantries," *Roots and Branches: Current Directions in Slave Studies* (1979): 213-253; Judith Carney, *In the Shadow of Slavery: Africa's Botanical Legacy in the Atlantic World*. Berkeley: University of California Press, 2009; Sidney Mintz, "Slave Life on Caribbean Sugar Plantations: Some Unanswered Questions," in *Slave Cultures and Cultures of Slavery*, ed. Stephen Palmié. Knoxville: University of Tennessee Press, 1995, 12-22; Jean Besson, *Martha Brae's Two Histories: European Expansion and Caribbean Culture-Building in Jamaica* Chapel Hill: University of North Carolina Press, 2002; John H Parry, "Plantation and Provision Ground: An Historical Sketch of the Introduction of Food Crops," *Source: Revista de Historia de América*, no. 39 (1955): 1-20; Mark W Hauser, "Linstead Market before Linstead? Eighteenth-Century Yabbas and the Internal Market System of Jamaica," *Caribbean Quarterly* 55, no. 2 (2009): 89-111-192. Barry Gaspar discusses the significance of the Sunday market as an institution, and enslaved people's struggle to have the Sunday market re-established when Antigua legislators attempted to outlaw it, in a move to encourage church attendance and general observance of the Sabbath by enslaved people. See: David Barry Gaspar. "Slavery, Amelioration, and the Sunday Markets in Antigua, 1823-1831." *Slavery & Abolition* 9, No. 1 (1988): 1-28.

in to provide for members of their community when they were in need.¹⁷ Mathison's description suggests not only the vital significance of provision grounds, but the social pressures that would determine the bounds of belonging in the community. Enslaved people might readily share with their family and close friends, but they would be more reluctant to give away precious and hard-earned food to strangers.¹⁸ Although the law required planters to provide enslaved people with provision grounds, Mathison contended that this legal requirement was "no better than waste paper," frequently disregarded by planters and their managers. Instead, he argued, planters pointed to this clause as a justification for neglecting to supply provisions from their stores to enslaved people. When planters lost enslaved people due to hunger, they blamed individual laziness and failure to tend provision grounds, rather than taking any responsibility for their care.

In an 1823 letter to Viscount Goderich, the Colonial Secretary and his personal friend, Lord Charles Grey described encountering enslaved peoples' provision grounds while traveling through backcountry Jamaica. Grey noted that any potential emancipation scheme which attempted to recoup the loss of cheap labor to planters by exacting taxes on freedpeoples' crops grown in provision grounds would be short-sighted. He drew attention in this account to the remoteness and intended concealment of these grounds,

¹⁷Gilbert Farquhar Mathison, *Notices Respecting Jamaica, in 1808-1809-1810*. London: Printed for J. Stockdale, 1811. 36-7.

¹⁸ This community / stranger dynamic is discussed in detail in Anthony Kaye, *Joining Places: Slave Neighborhoods in the Old South*. Chapel Hill: University of North Carolina Press, 2009 and Sylviane Diouf, *Slavery's Exiles: The Story of the American Maroons*. New York: NYU Press, 2016.

but he also hinted at the difficulty of truly estimating the agricultural success of such an enterprise:

Now I should state that since I have been here I have been on horseback, by small roads over all parts of the country and I have generally seen the Negro Provision Grounds (not their gardens) in the wildest parts of the Country at some distance even from the bye-paths. I was traveling and almost inaccessible except to those perfectly acquainted with the country from being situated either on the side of a Mountain or the foot of precipice. You have read accounts of the Maroon War. The secrecy then described is not peculiar to that spot but is the situation of a very great number of the Negro Provision Ground and as it is there they spend the greatest part of their effort. They would assume their residence there the moment emancipation no longer confined them to the neighborhood of the Estate where they now labour. Only that of the expense of the machinery necessary to raise such a tax on such ground, supposing even then was no active resistance to its collection opposed by the persons on whom it was laid. But if they was, how is it to be enforced? The Tax gatherers would find nothing on which to levy, the owner would be in the woods. His goods would consist of nothing any more value than a few plantains and yams. It would not be like the case of a runaway at present as his delinquency is personal. He is known, marked, and caught. But with freedom would come impunity in a great measure from the difficulty of identifying when all are allowed to go at large.¹⁹

In Grey's personal testimony, there is an acute recognition of the limits of slaveholder knowledge, and the extent to which enslaved people already exercised substantial control and autonomy over provisions. Within this, too, there is a sensibility of the challenges faced by a colonial legal regime that deigned to ignore this de facto reality.

Even as slave codes denied enslaved people the ability to claim property rights through litigation in civil courts, a thorough examination of extant slave court records

¹⁹ Lord Charles Grey to Viscount Goderich (Lord Ripon), March 2, 1833, Ad. Ms. 40863, folios 23-35, British Library, London, United Kingdom.

demonstrates that Jamaican slave courts regularly recognized enslaved people's de facto ownership of property and restored these possessions under the rubric of restoring the King's Peace within theft and burglary claims. The integration of enslaved people's property claims within the public order appears to be a relatively late development within the legal case record. These issues are seldom raised in slave court records prior to the 1810s, but by the 1820s appear to be standard in surviving cases. This evidence underscores the critical importance of distinguishing the idealized version of the law expressed in the written slave code and the operation of the law in practice, both as enforced and recognized by colonial courts, and the accepted practice and custom that shaped and scripted the interactions between people.

Nonetheless, this area of case law introduces a vexing problem for historians. Why did the Jamaican colonial government feel compelled to include enslaved people within the peace, and to see the restoration of stolen possessions to enslaved persons as part of maintaining the public order? What prompted the inclination to move towards an explicit legal right to property ownership, as reflected in the 1826 slave code, in lieu of continue to rest the security of enslaved people's possessions within the common law tradition of the King's peace? How and why did they reconcile this legislative provision to property ownership within the same code which proclaimed enslaved people's status as property? And what role did enslaved people's own advocacy and politics, both within and outside the legal system, play in shaping this outcome?

There were two main reasons. First, the colonial government's recognition of enslaved people's property claims underscores that the matrix upholding the system of

slavery could not depend on violence and fear alone. The planter class was also dependent upon the cooperation (under duress) and investment of at least a fraction of the population of enslaved people in order to retain its power. Providing enslaved people with access to opportunities for upward mobility within the framework of plantation society, and the ability to accrue some measure of property and autonomy, also furnished leverage for masters to manipulate. Further, allowing some small number of enslaved people to acquire power and wealth relative to their fellows furthered a project of divide-and-conquer, creating additional social fractures and tension between enslaved people with fewer privileges. The jealousy thus engendered also bolstered the self-interest involved in defending these privileges.²⁰

Pro-slavery advocates did not necessarily regard enslaved peoples' property ownership as inconsistent with the continuation of slavery. In 1788, Stephen Fuller, London-based agent for Jamaican planters and merchants, wrote to members of the Jamaica Assembly, noting that abolitionist forces had gained steam in Parliament around efforts to regulate or perhaps abolish the trans-Atlantic slave trade. He suggested that "an act might be prepared and brought in the first day of their meeting" to address some of the concerns raised by more moderate members. Fuller advised that "it would be of singular service, if it arrived before the decision of this question in Parliament." Among six grievances Fuller thought the Assembly should consider addressing, property

²⁰ On the importance of thinking about the power of slave societies beyond violence and fear alone, see: Vernon Valentine Palmer. "The Customs of Slavery: The War Without Arms." *Global Jurist Frontiers*. Vol. 6, Issue 1. 1-45. See also Jason T. Sharples. *The World That Fear Made: Slave Revolts and Conspiracy Scares in Early America*. Philadelphia: University of Pennsylvania Press, 2020.

ownership figured prominently. He wrote “That the slaves in Jamaica are not suffered to possess any money or property, nor to acquire the means of purchasing their own freedom.”²¹ While Fuller’s motivations for encouraging the Assembly to adopt this measure was undoubtedly cynical, his choice to nonetheless advocate for its adoption shows that he perceived this right as one which could exist in tandem with the ownership of enslaved people themselves as property.

Planter William Beckford, in his 1788 volume *Remarks Upon the Situation of Negroes in Jamaica*, acknowledged the political calculations made by masters and overseers in recognizing enslaved people’s property:

The first business of an indulgent overseer should be to secure the negroes property committed to his charge. His wife, his house, his stock, his ground should always be sacred. No power should be used to force, no temptation put in practice to seduce the person off the first – his hut should be his castle, and the ground upon which it stands his see.²²

For Beckford, the heavily gendered language invoking the enslaved man as property-holder and head of household is crucial. Yet, if Beckford’s emphasis on

²¹ Stephen Fuller to the Committee of Correspondence of the Jamaica House of Assembly, May 10, 1788. Stephen Fuller Papers, Letterbook I, folios 245-248. David M. Rubenstein Rare Book & Manuscript Library, Duke University, Durham, North Carolina.

²² William Beckford, *Remarks Upon the Situation of Negroes in Jamaica: Impartially Made from a Local Experience of Nearly Thirteen Years in That Island*. London: Printed for T. and J. Egerton, 1788. 91. Beckford inherited four plantations and over 900 enslaved people from his father, Richard Beckford, an estate valued at £120,000 sterling. While he intended to restore the estates to their glory and pay off debt, the combination of the American Revolution, hurricanes, negligence from attorneys, and his own elevated taste frustrated his efforts. He was confined to debtor’s prison upon his return to England in 1786, and wrote his works as a money-making enterprise. For further on Beckford, see Richard Sheridan, “Beckford, William” in *The Oxford Dictionary of National Biography*, <https://doi-org.proxy.lib.duke.edu/10.1093/ref:odnb/1904> and Richard Sheridan, “Planter and historian: the career of William Beckford of Jamaica and England, 1744–1799”, *The Jamaican Historical Review*, 4 (1964): 36–58.

indulgence suggested that vociferous and steadfast defense of enslaved people's property was not an entirely consistent practice of overseers, he argued earlier in the same chapter that claims to property ownership among enslaved people were quite widespread: "Most negroes in Jamaica have either fowls, hogs, or cattle; some have all; and some, though slaves themselves, have likewise slaves of their own."²³

Simon Taylor, a plantation overseer who had become a large scale estate manager and eventually one of the wealthiest individuals in Jamaica, had originally planted a large number of coconut trees in the garden of his Holland Estate in St.-Thomas-in-the-East Parish as a form of ornament. As his enslaved people recognized the more practical use of the coconuts and the trees themselves, they staked claims to individual trees. When new trees sprang from the roots of the old, they claimed those as well. In 1807, when the trees had grown so dense as to obstruct the view of the sea from the main house, and blocked the circulation of healthy air both to the house and to the breeze mill crucial for the processing of sugar, Taylor's manager, Hunter, petitioned Taylor to allow him to cut down the trees. Writing to Hunter that his enslaved people "have long claimed these trees as their own, and that claim I shall never dispute with them," Taylor directed his manager

²³ William Beckford, *Remarks upon the Situation of Negroes in Jamaica*. 91. Slaves owning slaves of their own is also discussed in Institute of Jamaica founder's Frank Cundall's letterbook, MS. 23, Vol. 5, folio 945, NLJ. Thanks to James Robertson of UWI-Mona for this reference. Christine Walker discusses several examples of this practice in early and mid-18th century Jamaica in her book *Jamaica Ladies: Female Slaveholders and the Creation of Britain's Atlantic Empire*. (Chapel Hill: University of North Carolina Press, 2020).

to seek their consent and provide compensation for the loss of the trees. Enslaved people received £1.6.8 for each tree they claimed.²⁴

Second, ameliorative legislation recognized, especially by the late date at which the 1826 slave code was passed, that the day might come when enslaved people would become subjects of the British crown and citizens of Jamaica. As part of an imperial civilizing project, ameliorative legislation aimed to shape enslaved people into particular kinds of subjects, especially free laborers. Through recognizing modest and limited rights of enslaved people to property, then, the colonial government aimed to cultivate a respect for property ownership more broadly. Planters hoped that instilling the respect for property in enslaved people would encourage them to also respect the planter's property.

Jamaica Assembly member for St. Thomas-in-the-East Alexander Barclay suggested the advantage to masters and to slave-holding society as a whole in incentivizing enslaved people to cultivate land for their own use and otherwise accrue and maintain property, writing "Negroes, working exclusively for the master, and supported from hand to mouth, as it is termed, have no opportunity of incitement to voluntary labour, and therefore can scarcely ever acquire habits of industry, so essential to raise them in the scale of civilization." Barclay emphasized that, contrary to the

²⁴ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. London: Smith, Elder & Co., 1828. 54. These letters could not be located in the microfilmed edition of the Simon Taylor papers held at Duke Libraries.

perception of many metropolitan residents, including numerous abolitionists whom he ridiculed, substantial caste and class divisions existed between enslaved people – some established, supported, or encouraged by the master, others cultivated by enslaved people themselves. According to Barclay;

A man who has a good house and garden, a stock of pigs and poultry, and a piece of land in good cultivation, - who goes home at night when the work of the day is over, to find himself comfortable with his wife and family, will be much less likely to embark in any desperate undertaking who may gain something by revolution and has something to lose.²⁵

Similarly, Gilbert Mathison, in his *Notices Respecting Jamaica, 1808 -1809 - 1810*, proposed a series of reforms which would enable planters to reverse the population decline of enslaved people following the abolition of the trans-Atlantic slave trade.

Mathison advocated respecting enslaved people's claims to property as a crucial aspect of this agenda. He wrote that the planter "must encourage them [enslaved people] to acquire wealth and property as the most certain means of attaching them to his plantation, as a security for good behavior, as a resource in time of need, as a motive to a wish to raise a family of children."²⁶ He also proposed that planters should see enslaved people's prosperity and level of wealth accumulation as an index of their own success. In Mathison's view, the best behaved enslaved people were also the wealthiest; their ability to benefit and profit from the system led to a greater degree of investment in its stability and to their adherence to its rules and practices.

²⁵ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies*. 267. For more on Barclay, see "Alexander Barclay," *Legacies of British Slave-ownership Project*, <https://www.ucl.ac.uk/lbs/person/view/15549>.

²⁶ Gilbert Mathison, *Notices Respecting Jamaica, 1808-1809-1810*. 100.

Even in proposing a more far-reaching amelioration bill to enable enslaved people to claim property rights in the 1820s, Jamaica Attorney General William Burge and Jamaica Assemblyman Hugo James went to lengths to limit the ability of enslaved people to pursue legal remedy before civil courts:

As the Chief Justice would necessarily have to sit on the trial of any Action brought to recover the property of a Slave if it exceeded in value £20 so as to give the Supreme Court Jurisdiction it not appear proper that the right of bringing such Action should be submitted to him. To have left it in the discretion or power of the Owner to bring such Action would be inconsistent with the right of property conceded to the Slave. There appears therefore no alternative than to rest the power of bringing the Action in the officer to whom the protection of the slaves was delegated.²⁷

Thus, even while considering a more capacious understanding of enslaved people's property rights, and conceptualizing a robust enforcement mechanism to better enable enslaved people to conserve and guard their ownership rights in equity courts, Burge and Hugo rested the discretion and authority to lodge this complaint with an external free individual appointed by the colonial state. They saw it as inappropriate to allow an enslaved person to initiate a case that would have the Supreme Court as the court of first resort, even when the property in question was of significant value. If Burge and James acknowledged the inconsistency of lodging this right to action in the hands of the owner – meaning the slaveholder claiming ownership over the property-holding slave – they nonetheless gave it textual consideration. While specifically addressing enslaved people's limited right to inherit legacies from their owners, planter and merchant George

²⁷ CO 137/163, folios 197-8. TNA.

Hibbert's comments in this regard also spoke to the logic that denied enslaved people the ability to pursue civil cases more broadly:

The rights of enforcing payment, by or on behalf of the slave, in the Court of Chancery, would not be of much use to the slave...; and the Assembly, I presume, think it is not advisable at present to open the courts for the discussion of questions relating to the property of slaves.²⁸

Not only did the logic of colonial slave law presume enslaved people's general incompetence to pursue a case in court, but if enslaved people ever did secure the right to pursue property claims in equity courts, it would open up the potential for precedent-setting court decisions that might challenge or amend the property rights of slaveholders. As a result, unlike free people, enslaved people were barred from pursuing civil cases to reclaim property and were compelled to rely instead on informal means or criminal proceedings. Enslaved people were almost certainly more involved in shaping cases about property claims than the existing record suggests; the strict constraints on their access to the courts means that much advocacy must have taken place on the sidelines and evaded the historical record.

In the late 1700s, enslaved people's property claims were only sporadically recognized as fitting within the King's Peace and thus recognized by slave courts. From the extant court records, it appears that participants in the court system acknowledged as common practice that enslaved people held de facto title to specific items of personal property, and they occasionally turned to legal venues to arbitrate theft in this context.

²⁸ George Hibbert to the Lord of Bathurst, 8 March 1827, CO 137/166, folios 73-74. TNA.

However, surviving cases are much more careful and reserved in talking about who controls and owns these possessions than some of those which appear later. On October 13, 1789, Jack, an enslaved man belonging to Elizabeth Newbould, a spinster, was accused by Yabba, a Black woman, of stealing “negro wearing apparel” – breeches, a coat, and 3 shirts. While Yabba explicitly stated that the clothing was meant for enslaved people, the clerk of courts recorded the breeches, coat, and shirts as the property of Thomas White, the owner of the plantation. The building from which the clothes were stolen was also not described in the court record as the home of a particular enslaved person, but rather as “an outhouse” on White’s estate.²⁹ However, through the substantial involvement of Yabba in the prosecution of the case, there is reason to believe that the clothing in question belonged either to her directly or to members of her community.

By the early 1810s, however, slave courts regularly, if not always consistently, acknowledged enslaved people as holders of personal property, who could be victims of theft themselves. (There are scattered cases of property used and held by enslaved people entering court records as the property of their master throughout the 1810s; this practice drops off precipitously by 1820.) This suggests that the status of the peculium, an often unstated but implied legal device in some of these earlier cases, began to be superseded by a legal logic in which enslaved people could be owners of some forms of property in their own right. On April 9, 1811, Jacky, an enslaved man, was accused of entering the home of William, also an enslaved man, and stealing a shirt, a pair of trousers, a

²⁹ *Rex v. Jack, to Elizabeth Newbould, spinster*, St. Ann Parish Slave Court Record, MS 273, folio 18, NLJ.

waistcoat, a frock, a towel, three half pisolles, a macaroni, and two ten penny pieces. A decade earlier, even if the clothing and coins were used entirely by William in his day-to-day life, the court would likely have described the clothing as the property of his owner. However, in this case and in many like it during this period, William was recognized as the owner of these items. Still, both Jacky and William were acknowledged as the property of Alexander Kidston.³⁰

In acknowledging enslaved people's claims to some forms of property, Jamaican courts still regularly underscored that these claims had legitimacy only to the extent of certain genres of possessions. In an April 1825 case in St. George Parish, Richard Mure, an enslaved man, was charged with stealing "six yards of oznaburgh and two gold rings of the value of forty shillings current money of the island aforesaid and five shillings in cash of the goods and chattels of him the said Charles Robertson." The court readily acknowledged that the oznaburgh and gold rings belonged to Charles Robertson, an enslaved man, despite his unfree status. Yet, Robertson's house (in addition to Robertson himself) are clearly declared in the court record as the property of his master, James Paul, esquire.³¹

Despite extensive correspondence and contemporary publications that describe enslaved people's frequent de facto ownership of large livestock like horses and cattle or

³⁰ *The King v. Jacky to Dr. Kidston*, St. Ann Slave Court Record Book, MS 273, folio 373, NLJ. It is particularly interesting to see that both Jacky and William were owned by the same person; this challenges the presumption that slaveholders would not resort to court in cases between two enslaved people belonging to the same person.

³¹ *The King v. Mure, Richard*. St. George Parish Slave Court Records, 2/18/6, JARD.

their claims to provision grounds, I have not found any court cases which consider theft, appropriation, or disputed ownership over these types of property. (In this, I do not include disputes over ownership of produce from provision grounds, which was somewhat common.) This absence of case law is particularly significant because 1) parallel court records for free people (white and of color) include extensive disputes over land and livestock ownership and 2) slave courts simultaneously heard numerous cases about enslaved people's violation of free people's ownership of animals – frequently sentencing them to death when found guilty. Within the evidence available, it is not clear if this is a result of courts' unwillingness to hear cases over enslaved people's ownership of livestock or land, or if enslaved people instead made the calculation that this type of claim would likely not be winnable before a colonial court and chose to resolve this conflict in other ways.

By the late 1820s to early 1830s, enslaved people in Jamaica were increasingly represented before the court by trained defenders. In October 1829, James Forsyth appeared before the St. George Parish Slave Court to defend Jemmy Baxter, an enslaved man belonging to Osborne Estate. Baxter was charged with breaking and entering into the home of Sam Ewell, an enslaved man who belonged to a free woman of color, Mary Ann Sylvester, living in Kingston. According to the indictment, Baxter carried away a quantity of fish, a bowl, and a basket from Ewell's house, valued at 10 shillings by the court. Thanks in part to Forsyth's appearance on his behalf, Baxter was found guilty only on the second charge of stealing and not on the charge of breaking and entering. Baxter

was sentenced to three months in the workhouse at hard labor, and to receive 39 lashes on his discharge, in punishment for the theft.³²

In contrast to practice in British crown colonies, such as Trinidad, in the same period, where an official of the court was designated as Protector of Slaves and routinely appeared in court to defend enslaved people on such charges, the assignation of legal aid was less routinized in the Jamaican context.³³ However, in the 1826 report of West Indian commissioners on the legal state of Jamaica, James Stewart, the Custos (or head vestryman) of the parish of Trelawney, noted in his interview: “In the parish in which I have the honour to be Custos, a professional gentleman of long experience is employed to defend slaves who are brought to trial.” In the same set of interviews, Attorney General William Burge noted that in some parishes it was customary for solicitors to be appointed and paid by the court to defend slaves. However, Burge also noted that justices frequently solicited the advice and guidance of these solicitors in reaching their decisions. This suggests they might have had interests other than those of their purported client in mind. It was also not infrequent, Burge noted, for slaveholders to either defend their slaves themselves, or to hire a professional solicitor to defend them on their behalf.³⁴In

³² *Rex v. Baxter, Jemmy to Osborne Estate*. St. George Parish Slave Court Record, 2/18/6, JARD.

³³ On amelioration in Trinidad and the Protector of Slaves, see: Noel Titus. *The Amelioration and Abolition of Slavery in Trinidad, 1812-1834: Experiments and Protests in a Slave Colony*. Bloomington: AuthorHouse, 2009; Claudius Fergus. *Revolutionary Emancipation: Slavery and Abolition in the British West Indies*. Baton Rouge: Louisiana State University Press, 2013; Caroline Quarrier Spence. “Ameliorating Empire: Slavery and Protection in the British Colonies, 1783-1865.” PhD. Dissertation, Harvard University, 2014.

³⁴ CO 318/66, p. 77-8, TNA. See also, for printed and edited version of this interview: Parliament. House of Commons. (1827). *First Report of the Commissioners of Enquiry into the Administration of Civil and Criminal Justice in the West Indies: Jamaica*. (HC 1826-1827 559). 218-219.

combination with these testimonies, records of such legal support appear frequently enough in the record to suggest that at least some enslaved people were aware of the importance of professional legal support in trying to obtain a more favorable hearing in court. This also means that lawyers were not on the whole averse to having enslaved people as clients.

While the 1826 Jamaica slave code explicitly included white people and even members of the planter class as potential violators of enslaved people's property claims, the extant court records present a rather more ambiguous picture. Enslaved people were regularly able to secure legal restitution from theft by other enslaved people, but found justice much more elusive when free people were accused of the theft. In 1784, two white men, Lewis Price and Lewis Hoffman, were tried for taking from two enslaved people baskets of roots and vegetables. Although it was unclear whether these (unnamed) enslaved people were carrying vegetables and roots for their own use or the use of the master or overseer on the plantation, the court recognized the produce as belonging to their master, Robert Goutie. The court record underscores the difficulty of charging or especially convicting free people for theft from enslaved people. No free people witnessed Hoffman and Price stealing the baskets. Rather, they were convicted on the basis of the circumstantial evidence of two free men who witnessed them coming into Kingston with the baskets. However, these two witnesses were located only through the initial report of the basket owners. One can imagine the resistance of many enslaved people to approach white authorities about theft. Furthermore, local authorities often had little interest in pursuing theft cases brought by enslaved people as opposed to crimes

against free persons. While Price and Hoffman were found guilty, they received the limited punishment of several days in prison followed by a public whipping on the market square.³⁵

Robert Bell, accused of breaking and entering the home of Richard Burrows, an enslaved man, on Woodstock Estate and stealing articles including a frock, a handkerchief, a cast net, a cutlass and sundry other articles, and also, on a separate occasion, of assaulting Burrows, was tried in slave court as an enslaved man. When evidence emerged that suggested Bell was in fact free, the charges against him were dismissed. There is no documentation suggesting that the court had reason to doubt Bell's complicity and involvement in both the theft and assault. However, the recognition that his status was not enslaved as assumed, but rather free, served as sufficient reason for the prosecution to be waived. While the record does not delve deeper into the circumstances around the case's dismissal, one can imagine possible reasons Bell's freedom was determinative. It is possible the prosecution's case was built upon the testimony of enslaved witnesses, perhaps including Burrows himself before his death on September 1, 1823, proved a substantial part of the case against Bell and the recognition of his free status meant that enslaved individuals were no longer judged legally competent to testify against him.³⁶

³⁵ John Grant, *Notes of Cases Adjudged in Jamaica from May 1774 to December 1787*. Edinburgh: Adam Neil and Company, 1794. p. 143-44.

³⁶ *The King v. Robert Bell, a slave*. St. George Parish Slave Court Records, 2/18/6, JARD.

2.3 The Significance of Property to the Enslaved

What kinds of property did enslaved people regularly possess? What property claimed by enslaved people did the legal system recognize as theirs? Cloth, both as finished clothes and as swaths of fabric, appear very frequently in slave court theft cases. Clothing played an integral role in how enslaved people were able to present themselves and it opened a narrow window of self-expression. Both valuable and portable, cloth was a particularly potent source of wealth for enslaved people.³⁷ In April 1831, Margaret Thomas, an enslaved woman belonging to James Sykes, a Maroon of Charlestown, was brought before the St. George Parish Slave Court on a charge of stealing five handkerchiefs, one chemise, one frock and one underpetticoat belonging to Susanna Guscott, an enslaved woman on Kildare Estate belonging to Anthony Davis.³⁸

Cash, in small amounts and in a variety of currencies, appeared regularly in theft case, revealing enslaved people's active involvement in the market economy and the significance of their purchasing power.³⁹ In Edward Long's history of Jamaica, he famously lamented that enslaved people controlled a full fifth of the currency circulating

³⁷ For more on the importance of clothing as both means of cultural and self-expression and as a store of value, see: Steeve O. Buckridge, *Language of Dress: Resistance and Accommodation in Jamaica, 1750-1890*. Kingston: University of the West Indies, 2004; Tamara J. Walker, *Exquisite Slaves: Race, Clothing, and Status in Colonial Lima*. Cambridge: Cambridge University Press, 2019; Helen B. Foster, *'New Raiments of Self': African American Clothing in the Antebellum South*. Berg Publishers, 1997., among others.

³⁸ *Rex v. Margaret Thomas to James Sykes*. St. George Parish Slave Court Records, 2/18/6, JARD.

³⁹ On cash and its place in enslaved people's extralegal economies, see: Justene Hill Edwards. "Felonious Transactions: Legal Culture and Business Practices of Slave Economies in South Carolina, 1787-1860," *Enterprise & Society* 18, No. 4 (2017): 772-783; Larry E. Hudson Jr, "'All that Cash': Work and Status in the Slave Quarters," in ed. Larry E. Hudson Jr. *Working Toward Freedom: Slave Society and Domestic Economy in the American South*. Rochester: University of Rochester Press, 1996. 77-94.

in the island – a sum he estimated at £10, 437.10s.0d at a time when the enslaved population was placed at 170,000. Long suggested that small silver coins were the primary currency possessed and used by enslaved people, though he noted that their limited available quantity posed difficulties for the internal marketing system. He claimed that enslaved people were “put to great difficulty and loss, by having no other than silver currency, of too high value for their ordinary occasions... the lowest denomination whereof is equal to fivepence sterling.”⁴⁰

Cloth and cash were the most common possessions claimed by enslaved people in theft cases. Food, agricultural produce, and small livestock, however, rank third for frequency. Enslaved men Henry Burgess and John Moore appeared before the St. George slave court in April 1830 for stealing ten shillings from Isabella King, an enslaved woman, and also for killing and stealing a hog belonging to her.⁴¹ These items were of huge significance in enslaved people’s participation in the market system as a central space of community building, sociality, and the development of potential economic autonomy. Yet, this could also create a significant and substantial arena for the development of divisions within the community of enslaved people, as the successful cultivation and sale of provisions enabled them to purchase goods and potentially, in some cases, their freedom.⁴²

⁴⁰ Edward Long, *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972), I, pgs. 562, 571.

⁴¹ *Rex v. Henry Burgess and John Moore to Skibo Estate*. St. George Parish Slave Court Records, 2/18/6, JARD.

⁴² Kit Candlin and Cassandra Pybus. *Enterprising Women: Gender, Race, and Power in the Revolutionary Atlantic*. Athens: University of Georgia Press, 2014; Roderick McDonald, *The Economy and Material*

Enslaved people continued to claim property that they were specifically proscribed by the law from owning. Due to social pressures, masters and overseers felt bound to protect and respect those property claims. On September 4, 1809, overseers James Colquhoun Grant and John R. Webb wrote to absentee planter Joseph Foster Barham:

...by the Consolidated Slave Law amended in 1807 Clause 33 No Slave is permitted to have in his possession any Horse, Mare, Mule or Gelding: Notwithstanding this law in many instances it is evaded and some of your Negroes have a few stock of this description kept in free people's names, as for Horned stock they have upwards of 100 Head amongst them, to compel them to sell them off would not be for your interest. Your Negroes have long been indulged in the same way and it would make them very discontented.⁴³

Grant and Webb acknowledged that the Jamaica Assembly had prohibited enslaved people from owning horses, mules, cattle, and other similar livestock over a decade earlier. Nevertheless, they urged Barham to consider the crucial importance of respecting their claim nonetheless, noting particularly the large number of slaves upon his property that claimed ownership of horses. Barham had the legal right to claim the livestock for himself, to keep or to sell, Grant and Webb acknowledged. However, they cautioned the absentee proprietor that if he chose to take away enslaved people's livestock, he would make it much harder to keep order among the enslaved workforce.

Culture of Slaves: Goods and Chattels on the Sugar Plantations of Louisiana and Jamaica. Baton Rouge: Louisiana State University Press, 1993.

⁴³ J. C. Grant and J. R. Webb to J. F. Barham, Westmoreland, September 4, 1809 in Barham Family Papers, MS, Clarendon dep. C. 358, Bundle 1, Jamaica Correspondence, 1809-1816, Bodleian Library, Oxford University. Quoted in Roderick A. McDonald, *The Economy and Material Culture of Slaves: Goods and Chattels on the Sugar Plantations of Jamaica and Louisiana*. Baton Rouge: Louisiana State University Press, 1993. 17-18.

Enslaved people considered the livestock their property as much as the master considered the plantation to be his. This tension over livestock ownership – where enslaved people felt entitled to something by customary usage, while slaveholders held the legal claim to ownership – recurred across the island.

2.4 Resolving Property Claims Outside the Court System

While court records demonstrate that a substantial minority of enslaved people turned to the court system to retrieve stolen property, it is equally clear that many contentions over property were resolved and disputed outside the formal legal realm. However, conceptualizations of property and ownership supported by the legal system nonetheless formed part of the field on which these contests took place. In order to safeguard their property claims, enslaved people would often obtain the bill of sale and other legal documents of ownership in the name of a free relative or acquaintance. This would enable them to reclaim, for example, a horse which happened to stray and was placed into a pound. Obviously, only enslaved people who had built sufficient ties of trust with a free person felt comfortable enough to obtain ownership documents in the other person's name. Even so, this practice exposed enslaved people to potential deceit or manipulation, having little recourse if the legal owner of the property they had purchased for their own use tried to reclaim it for themselves.⁴⁴ Perhaps obviously, this system also

⁴⁴Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. London: Smith, Elder & Co., 1828. 94-5; J. C. Grant and J. R. Webb to J. F. Barham, Westmoreland, September 4,

creates challenges for historians, where documentation of property ownership may not identify the socially recognized and de facto possessor of the property. If this reflected common practice to even a modest extent, it might lead historians to significantly underestimate the extent to which enslaved people controlled property.

Jamaican plantation owner and Assembly member Alexander Barclay explained that enslaved people, facing difficulty collecting on a debt owed to them by an enslaved person on another plantation, would petition their master or overseer for assistance. This master or overseer would then craft a letter or statement to the master or overseer of the other slave, who, upon receipt of the letter, would launch an investigation. Barclay, writing in defense of ameliorative efforts in Jamaica, overstated the extent to which enslaved people could reliably count on this mechanism of dispute resolution.⁴⁵

However asymmetrical this relationship, the relative frequency of formal legal cases concerning enslaved people's property indicates that this relationship did at times result in legal action on enslaved people's behalf. Why did these individuals feel compelled to appear in court to defend the property claims of enslaved people? One might imagine why masters or overseers of enslaved people who were either bringing a

1809 in Barham Family Papers, MS, Clarendon dep. C. 358, Bundle 1, Jamaica Correspondence, 1809-1816, Bodleian Library, Oxford University. Quoted in Roderick A. McDonald, *The Economy and Material Culture of Slaves: Goods and Chattels on the Sugar Plantations of Jamaica and Louisiana*. Baton Rouge: Louisiana State University Press, 1993. 17-18.

⁴⁵ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. London: Smith, Elder & Co., 1828. 94-5.

suit or under accusation might appear on behalf of a person they claimed as property. In the case of the accused, a guilty verdict might in some cases result in a sentence to imprisonment, hard labor, and / or transportation, which could result in the loss of an important laborer whose loss might not be adequately compensated for by the trial court. In appearing on behalf of either accuser or victim, a master or overseer might attempt to cultivate a reputation among enslaved people as an advocate for their interests and garner loyalty of at least directly impacted individuals for their solicitude on their behalf.⁴⁶

Slaveholders also acknowledged and accommodated the property claims of enslaved people through the assignment of enslaved men as watchmen to keep an eye on their houses and on provision grounds. Stationing watchmen was not without its own sense of self-interest to slaveholders. If provision grounds were not protected, enslaved people might either starve or compel the estate to spend money in order to ensure their minimal nourishment. Nonetheless, watchmen did draw on a limited pool of laborers. Further, watchmen were often stationed at some distance from the fields, where they would also be farther from the constant observation of the overseer or other free staff.

Even as slaveholders recognized some of enslaved people's claims to property and tasked watchmen with guarding it, they simultaneously placed limitations on enslaved people's ability to defend their property. The case of Bungy reveals some of these limits. Bungy, an enslaved man, was charged with assaulting and murdering

⁴⁶ See, for example, Ariella Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. Athens: University of Georgia Press, 2006; Anne Twitty, *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787-1857*. Cambridge: Cambridge University Press, 2018.

Quashie, an enslaved man belonging to surveyor David Gibson, who he had found stealing coconuts from his provision grounds. Wilkins Cator, overseer on Orange Hill plantation, testified that, after the provision grounds had been plundered several nights before, the enslaved man who had previously acted as watchman refused to guard the crops alone, saying that he was afraid of being killed by the intruders in his attempt to safeguard the crops. Cator explained that he had assigned Bungy to join the previous watchman in guarding the grounds, but urged him to capture the thief if at all possible and bring him to him for discipline. Bungy had insisted that he could defend himself and protect his own grounds; however, Cator noted, he had agreed to bring the offender to him for discipline. Thus, Cator acknowledged enslaved people's claim to the food and other crops in their provision grounds. Further, he took measures to guard the grounds against theft and presented himself as willing to discipline whichever enslaved person was responsible for this property violation. However, in prosecuting Bungy for Quashie's death, the court did not consider Quashie's theft as a mitigating factor in Bungy's crime. The court found Bungy guilty and sentenced him to hang.

Property ownership served to amplify and extend divisions of caste and status in communities of enslaved people. Historian Barry Higman, in his analysis of Montpelier Estate, notes that both skilled and "coloured" slaves were more likely to have considerable numbers of livestock and larger provision grounds. These possessions made these enslaved people more marriageable, and wealth and property ownership

increasingly accumulated in family lines.⁴⁷ Planter Gilbert Mathison, writing around 1810, noted that “well-conditioned” enslaved people had a propensity to cultivate surplus provisions for market, raise pigs or poultry, or otherwise participate in the underground economy, while “those less fortunate suffered from poverty.” Mathison stated that the idle, sick, old, and those with large numbers of children were the most likely to struggle to support themselves. In his view, enslaved people who struggled to obtain life’s essentials were morally degenerate and deserved blame and ridicule.⁴⁸

Enslaved people in Jamaica also often turned to obeah to defend their property. John Stewart discussed the placement of obeah objects on provision grounds as a “excellent guard or watch, scaring away the predatory runaway and midnight plunderer with more effective terror than gins and spring-guns.”⁴⁹ In situations where the provision ground was already robbed, Robert Renny suggested that enslaved people often sought out an obeah man to set an *obi* for the purported thief. In this context, Renny suggested, the only real remedy for the thief would be to seek an obeah man capable of more powerful magic. Only in this scenario, he said, could the thief hope to survive the spell cast on him.⁵⁰

⁴⁷ Barry W. Higman. *Montpelier, Jamaica: A Plantation Community in Slavery and Freedom, 1739-1912*. Mona: University of the West Indies Press, 1998, 191-257. For more extended discussion of this dynamic in the US context, see: William Andrews, *Slavery and Class in the American South: A generation of Slave Narrative Testimony, 1840-1865*. Oxford: Oxford University Press, 2020.

⁴⁸ Gilbert Mathison, *Notices Respecting Jamaica in 1808-1809-1810*, p. 30, 39-40.

⁴⁹ John Stewart. *A View of the Past and Present State of Jamaica: With Remarks on the Moral and Physical Condition of the Slaves, and on the Abolition of Slavery in the Colonies*. Edinburgh, 1823. 278-9.

⁵⁰ Robert Renny. *A History of Jamaica: With Observations on the Climate, Scenery, Trade, Productions, Negroes, Slave Trade, Diseases of Europeans, Customs, Manners, and Dispositions of the Inhabitants: To Which is Added, an Illustration of the Advantages Which Are Likely to Result from the Abolition of the Slave Trade*. London, 1807. 171-3.

We know about some of these contests over property because they appear in court records in the context of other offenses. For example, Ossian, an enslaved man, sought out Cambridge, another enslaved man belonging to a neighboring plantation for stealing his hog. The importance of the hog to Ossian, potentially as a future source of food or income, is indicated in his response to Cambridge's alleged theft. According to several sworn witnesses, Ossian spent the greater part of an afternoon searching through the slave quarters on John Blagrove's plantation for Cambridge. When Cambridge finally appeared, Ossian did not waste time in disputing the facts of the case or demanding material restitution from him. Instead, he cried out, "You are a thief, you stole my hog, I will kill you!" and promptly attacked Cambridge with a sharp bill (an agricultural implement he likely carried in his regular plantation work) chopping him severely on his head, legs, and arms. Although Ossian seriously wounded Cambridge, he did not die immediately, languishing for several weeks until he expired on November 23. To judge from the testimony of Peachy and Joan, two enslaved women on the same estate and who lived in the same community as Cambridge, it does not appear that any other enslaved people interfered in Ossian's attack on Cambridge. Perhaps this situation reflected a recognition that Cambridge's alleged theft represented a notable and unacceptable breach of community norms, and an acknowledgement that Ossian's rage and reaction were warranted by the nature and scale of Cambridge's trespass. One might also imagine that the energy and vigor of Ossian's attack deterred potential standers-by from intervening, fearing that to do so would only open themselves up to an equally vigorous attack. Alternatively, it is possible that other enslaved people did interfere, but Joan and Peachy

did not enter this into the testimony for fear of opening their community members up to either punishment by their master or retribution from Ossian's friends and family.⁵¹

Thus, Ossian's decision not to pursue Cambridge's purported theft of his pig in the courts did ultimately end up in the legal realm. But by this point, Ossian's property claim was no longer of central significance to the case. Instead, Ossian's role in Cambridge's death was the subject of legal inquiry. Ossian's case also serves as a reminder that, even as enslaved people found their own means to police their own claims to property outside the purview of the colonial state, this did not necessarily make these claims just nor did they render the means of policing necessarily less severe or violent. It shows, too, that enslaved people who could count on the social cohesion of their community against outsiders or those lower in the hierarchy were more likely to assert their claims without meeting resistance. Though it is impossible to know how common incidents like the one chronicled here were, it is likely that Ossian's case was not alone. Indeed, Ossian may have faced prosecution *because* he incorrectly calculated his own support within the enslaved community.

2.5 “Calibash Estate”: Tropes of Property Ownership and Black Subjectivity

In the anonymous novel *Marly, or a Planter's Life*, an unnamed plantation overseer instructed Marly, a new bookkeeper, in the responsibilities and obligations of his new job. In the process, the overseer warned Marly about Calibash Estate, the biggest

⁵¹ *Rex v. Ossian*, St. Ann Slave Court Record Book, MS 273, NLJ.

threat to the plantation's productivity and competitiveness against the rest of the sugar market. He explained:

Calibash estate, therefore, is furnished from the sugar purloined by the negroes from the numerous plantations on which they live, and from the extent of the population which they supply, the quantity stolen in a year must be immense. It seems, however, altogether impossible to put an entire stop to this nefarious traffic, for Calibash estate will always be supplied. But, where the white people are continually on the alert, they are in a great measure able to save their own sugar from being embezzled.⁵²

In the overseer's lingo, Calibash Estate was not an individual plantation, but rather a metaphor to describe the underground economy of plantation crops sold on the open market by enslaved people. This metaphor presents the problem of slave theft as unresolvable for the society as a whole. The best an individual planter could hope for, in the fictional overseer's view, was to make the process of stealing from their particular estate so difficult and risky as to encourage potential thieves to seek their spoils elsewhere.

The naturalization of thievery as a quality of Black people, free and enslaved, served a pernicious purpose within slaveholding logic. If Black people were inclined to steal goods indiscriminately, their recourse to theft in order to obtain food, clothing, and other necessities could not be marked as a sign of negligence, disregard, or mistreatment on the part of the master or overseer. This trope could be mobilized to suggest that, on their own, Black people outside of the confines of slavery would succumb their worst

⁵² Anonymous. *Marly; or a Planter's Life in Jamaica*. Glasgow: R. Griffin; London: Hunt and Clark, 1828. 43-4.

impulses – it suggested that slavery was necessary in order to “civilize” slaves. It is this idea that *Marly*’s anonymous author articulates through the purported proverb, “Whenever you see a black face, you see a thief,” frequently repeated by plantation manager and bookkeeper on the fictional Water Melon Valley Estate.⁵³ Similarly, early Jamaican historian Robert Renny suggested that “... whatever they can steal from *Buckra* (a white man) is appropriated to their own use with as much coolness and perhaps more pleasure, than if it was assigned to them by law.”⁵⁴ Even writers critical of slavery, like the missionary Thomas Cooper, noted that enslaved people were chronic thieves.⁵⁵ Attributing theft as a chronic character flaw lent credence to the idea that a firm hand, including the use of the whip and other forms of torture and corporal punishment, was not only expeditious but necessary to prevent even worse outrages.

This was the foil against which ameliorationists pushed for property rights for slaves. Through allowing an enslaved person to acquire and secure wealth and then defend those rights in civil courts, they strived to establish and cultivate an industrious individualist who would value free labor and the ability to accumulate material goods. Ameliorationists strived to construct a particular subjectivity, which, in at least the view of some, could create the ground for enslaved people to become upstanding and free

⁵³ Anonymous. *Marly; or a Planter's Life in Jamaica*. Glasgow: R. Griffin; London: Hunt and Clark, 1828. 36.

⁵⁴ Robert Renny. *A History of Jamaica: With Observations on the Climate, Scenery, Trade, Productions, Negroes, Slave Trade, Diseases of Europeans, Customs, Manners, and Dispositions of the Inhabitants: To Which is Added, an Illustration of the Advantages Which Are Likely to Result from the Abolition of the Slave Trade*. London, 1807. 166.

⁵⁵ Thomas Cooper. *Facts Illustrative of the Condition of Negro Slaves in Jamaica: With Notes and An Appendix*. London: J. Hatchard & Son, 1824. 43-44.

subjects of the British empire. Nowhere were the dueling tropes of the degenerate thief and the upstanding and loyal slave illustrated more poignantly than in the story of Three-Fingered Jack. According to most versions of the Jamaican legend, Jack escaped from slavery in the 1780s and became a leader of a community of runaway slaves. Jack made a living as a highway robber and through pilfering from the homes and gardens of both planters and enslaved people, before finally being killed by a Maroon named Quashie. First publicized in the 1799 *A Treatise on Sugar* by Dr. Benjamin Moseley, Jack's story circulated in several editions of novels and plays, as well as in paraphernalia from playing cards to popular prints and sheet music. Notable about Jack's story was the extent to which it created opposing images: a dutiful, productive, and conscientious slave, willing to sacrifice himself to protect his master's property, and the notorious, sneaky, and murderous highwayman, respecting no one's property, slave or master alike.⁵⁶

Despite the neat binary represented by these two characters in the story of Three-Fingered Jack, the narrative advanced by planters of enslaved people's property

⁵⁶ Among other versions, see: William Burdett. *The life and exploits of three-finger'd Jack, the terror of Jamaica. : With a particular account of the Obi; being the only true one of that celebrated and fascinating mischief, so prevalent in the West Indies.* Sommers Town: Printed and Published by A. Neil, 30, Chalton Street; sold also by Champante & Whitrow, Jewry-street, Aldgate, 1801.; William Earle Jr.. *Fairburn's edition of The wonderful life and adventures of Three fingered Jack, the terror of Jamaica! : Giving an account of his perservering courage and gallant heroism in revenging the cause of his injured parents: with an account of his desperate conflict with Quashee! Who, after many attempts, at last overcomes him, and takes his head and hand to Jamaica, and receives a large reward for destroying him. Embellished with four coloured engravings.* London: Published by J. Fairburn, [1825?]; John Fawcett. *A description of the grand pantomimical drama of Obi: or, Three-Finger'd Jack. : As performed at the Theatre-Royal, Norwich. With the words of the songs, duets, and chorusses. : And A narrative of the life and exploits of Mansong, commonly called Three-finger'd Jack.* Norwich: Printed by Stevenson and Matchett [1800?]. For further commentary on Three-Fingered Jack, see: Frances R. Botkin. *Thieving Three-Fingered Jack: Transatlantic Tales of a Jamaican Outlaw, 1780-2015.* New Brunswick: Rutgers University Press, 2015.

ownership often tried, rather, to have it both ways. John Stewart, in his *A View of the Past and Present State of the Island of Jamaica*, gestured to the different ethical lenses through which enslaved people saw theft from each other as opposed to theft from their master: “To pilfer from their masters they consider no crime, though to rob a fellow slave is accounted heinous.” Ventriloquizing a slave on his estate, Stewart suggests as a proverb amongst slaves: “What I take from my master, being for my use, who am his slave or property, he loses nothing by its transfer.”⁵⁷ Similarly, in a passage which could be read as either a complaint on enslaved people’s pilfering from his property or a defense of the comparative abundance enjoyed by Jamaican slaves compared to the English working poor, Hector de la Beche wrote,

During crop time they eat as many canes as they please, drink as much hot and cold cane-juice as they think proper, not clandestinely, but as a customary privilege, and in spite of all our vigilance carry off a considerable quantity of sugar for themselves, and of course for their hogs.⁵⁸

In other words, slaveholders implied, enslaved people already had ideas of property and ownership, of who has just title to particular crops or land or material goods. The problem, these statements suggest, was that these visions of ownership did not neatly align with the hierarchy of ownership slaveholders had articulated for colonial society. And, when enslaved people tried to operate along their own visions of what they were entitled to possess, instead of the logic slaveholders tried to articulate on their behalf,

⁵⁷ John Stewart. *A View of the Past and Present State of Jamaica: With Remarks on the Moral and Physical Condition of the Slaves, and on the Abolition of Slavery in the Colonies*. Edinburgh, 1823. 261.

⁵⁸ Hector T. de la Beche. *Notes on the Present Condition of the Negroes in Jamaica*. London: 1825. 8.

tension and distress ensued, and even the limited property slaveholders were prepared to concede their slaves came into question. Ultimately, property possession was a privilege, not a right.

James Lawson, manager of the absentee Lord Holland's estates in Jamaica, put this principle more bluntly than most in a letter to his employer in 1832 on recent happenings on the estate:

Your Lordship appears to consider the act of burning down the Negro Houses harsh & unnecessary. I have understood this course was pursued by the order of Sir Willoughby Cotton the Major General commanding the forces in this Island – it was part of the military operations & at all events was beyond my controul. In justice however to the policy of this measure, I must remark, it was the only successful means of stopping the horrid system of incendiaries which was spreading devastation over the whole Island. --- The destruction of some of the Baptist Chapels was committed under feelings of extreme popular excitement & several of the persons alleged to be implicated in this act had to lament the murder of their relations & loss of their Houses burnt down, and there is no doubt that numerous confessions of Slaves before they were executed, denounced the system of religious instructions & discipline pursued by the Baptist preachers in particular as having induced the revolt and all the chiefs in the insurrection were holding rank in that sect as “Leaders & Rulers” as for instance, Gardner, Dove & Tharp & c.

The Negroes in Jamaica are for the most part the immediate descendants of savage Africans, they are certainly very much meliorated both in physical & moral condition, but still they are in a state of incomplete civilization. The language they speak is a very corrupt dialect, they use many words in a different sense from their Masters, & it requires a residence of some duration among them to form a perfect conception of their ideas, or to communicate one's own without danger of being misunderstood.⁵⁹

Lawson acknowledged the sense of possession and ownership the enslaved people on Lord Holland's estate felt about their homes. They likely had constructed the houses

⁵⁹ James Lawson to Lord Holland, August 5 1832, Add Ms 51820, folios 97-98, Holland House Papers, British Library, London, United Kingdom.

themselves, and had viewed them as spaces of relative safety and control within a system that did not afford them much of either. Indeed, Lawson even recognized that Lord Holland, an absentee proprietor dependent on letters such as this one to acquire a good sense of local circumstances, would view the message destroying these houses would send as contrary to the good of the estate – and is careful to distance himself from executing the action. However, Lawson asserted, there had been mischief in the area – a rash of arson – and some enslaved people had been fingered as potential culprits. The destruction of slave houses, indiscriminately to their particular role in setting the fires, would send a message. After all, Lawson reasoned, it could be difficult to communicate with enslaved people; the pleasantries and subtlety he could use with English peasants would not resonate with these “savages.” He implied that this violent appropriation of what they saw as theirs – destroying their homes – would send a message they would be bound to grasp.

Henry Garbutt’s case similarly demonstrates the priorities of the regimes of property law in colonial Jamaica. An enslaved man belonging to Osborne Estate in St. George Parish, Garbutt was charged on October 4, 1826 with being a habitual runaway and “a notorious thief, in the habit of robbing Negro houses, and plundering provision grounds.” The indictment painted a picture of Garbutt taking advantage of enslaved people fulfilling their duties to their masters and their families by absenting himself from the coerced labor regime of the sugar estate, while living off the labor of other enslaved people. Shortly after Garbutt appeared before the court, the prosecutor moved to dismiss the case. After having constructed an argument which stressed Garbutt’s infringement on

enslaved people's property having a corrosive effect on the social bonds of the community, the prosecutor suddenly had heard of another relevant case concerning Garbutt. Garbutt was accused of killing cattle belonging to white plantation owners and stealing their meat. As opposed to stealing from enslaved people, which might carry a whipping or short incarceration in the workhouse as a punishment, this new offense carried the death penalty.⁶⁰ Despite the fact that killing one cow would have a lesser impact on most planters than habitual stealing from provision grounds which might endanger the food security of an enslaved family, killing a cow was a status offense as well as a property crime. Ultimately, this meant that slaveholders valued some forms of property more than others. While proprietors were sometimes willing to take to the courts to defend enslaved people's claims to property, ultimately they prized their own title above all else.

⁶⁰ *The King v. Henry Garbutt, a slave to Osborne Estate*. St. George Parish Slave Court Records, 2/18/6. JARD.

3. Monitoring Movement : Mounting Restrictions on Enslaved People’s Mobility in the Time of Amelioration and Abolition

On April 2, 1817, Ruth, an enslaved woman attached to Guatemala Plantation, belonging to George Hall and William Norman, was brought before the St. George Parish slave court. The court charged “that the said Ruth did runaway from her said possessors George Hall and William Norman, sometime between the first and thirty first day of December in the year of our Lord one thousand eight hundred and thirteen and continued to be absent three years and upwards...” We know that Ruth pled not guilty, but the details of the argument and presentation by advocates is lost to history. A jury of white male property owners found her guilty. Magistrates Robert Gray, H. Forbes, and William F. Lagourgue sentenced her to be transported from the colony for life. In compensation for their loss of their property and laborer, George Hall and William Norman were awarded £50 Jamaica currency, half of the maximum amount the jury by law could give as compensation.¹

In the absence of further details, scholars are left to our broader knowledge of the time and space of early nineteenth century Jamaica to imagine how and why Ruth ran away and appeared before the court. The fuzziness of the date which the prosecutor stated Ruth ran away underscores the ambiguity regarding when an enslaved person could be said to have run away – or when slave flight represented a problem for the

¹ *Rex v. Ruth, to Guatemala Plantation*. CO 137/147, Returns of the Trials of Slaves, folio 118. TNA.

planter class. Further, the length of Ruth's absence points to a story likely lost to the archive. In one sense, Ruth's presence in the archive suggests that her attempt to escape was ultimately unsuccessful. However, the length of her absence also shows that she could find a space within the plantation society in which she was able to live outside of slavery for over three years, a testament to her resourcefulness and to the limitations of the policing power of the state and the plantation complex.

Ruth's case is fairly representative of the experience of enslaved people accused of running away and brought before a Jamaican slave court. In the parishes for which there are records, running away was one of the most common offenses for which enslaved people were tried.² Although a few cases include detailed testimony and documentation which allow researchers to reconstruct something of the circumstances that led enslaved people to escape, by and large the record is limited to a bare bones indictment, verdict, and sentence. Such cases contain less information than records for most other offenses tried before Jamaican slave courts. However, an examination in aggregate of the surviving documentation can provide a richer picture of the broader social dynamics behind cases like Ruth's.

² These records are from Port Royal, St. George, Hanover (all three in the Jamaica Archives and Records Department, Archives Unit) and St. Ann (in the National Library of Jamaica). CO 137/147 includes returns from most of the island's parishes for the years 1814-1817. Additional details of particular cases, although not usually regarding runaways, are found in the UK Parliamentary Papers.

3.1 Chapter Outline

Slave codes are a necessary but not sufficient source for the study of slave flight within Jamaica or escape from the colony. While Caribbean historians have written extensively about slave flight, especially in the Jamaican context, few have made use of court records to discuss this phenomenon.³ Few have explicitly considered the impact of transformations in slave codes and abolitionist political pressures on the rate, frequency, and duration of slave flight. Through the study of extant slave court records, this chapter explores how the rising strength of the abolitionist movement and eventually the dawn of emancipation shaped Jamaican slave codes, their implementation, and the number of runaway slaves. When and why did slave flight cases appear before slave courts, as opposed to being dealt with through private punishment by overseers or plantation owners?

In the next section, I examine the development of slave codes addressing slave flight, beginning with the 1696 code (which remained in force for much of the 18th century in Jamaica) to the last pre-abolition slave code of 1831. In contrast to the

³ For a holistic overview of slave flight, see Alvin O. Thompson, *Flight to Freedom: African Runaways and Maroons in the Americas*. Kingston: University of the West Indies Press, 2006. Key texts on the Maroons in particular, which often treat slave flight in passing, include: Bev Carey, *The Maroon Story: The Authentic and Original History of the Maroons in the History of Jamaica, 1490-1880*. Gordon Town: Agouti Press, 1997; Kenneth M. Bilby, *True-Born Maroons*. Gainesville: University Press of Florida, 2008; Carey Robinson, *The Iron Thorn: The Defeat of the British by the Jamaican Maroons*. Kingston: Kingston Publishers Limited, 1993. Some texts which deal extensively with slave flight in Jamaica include: Stefanie Hunt-Kennedy, " 'He Had His Nose Cropt for Being Formerly Runaway': Disability and the Bodies of Fugitive Slaves in the British Caribbean." *Slavery & Abolition* 41, No. 2 (2020): 212-233; Shauna Sweeney, "Market Marronage: Fugitive Women and the Internal Marketing System in Jamaica, 1781-1834" *William & Mary Quarterly* 76, No. 2 (2019): 197-222; Michael Sivapragasam, "The Second Maroon War: Runaway Slaves Fighting on the Side of Trelawny Town." *Slavery & Abolition* 41, no. 3 (2020): 555-581

generally slow but steady pace in articulating greater legal rights for enslaved people in many other areas of law, legislative change regarding slave flight instead reflects more fits and starts, in which increased state policing of enslaved people's mobility is the primary governing premise.

While there are methodological challenges involved in any discussion of case law of slavery, this is especially pronounced in relationship to slave flight in this context due to the sparse nature of records around this offense. Thus, the following section discusses the component pieces of a typical court case surrounding slave flight, and provides an overview of the method and strategy used to analyze these cases for their broader implications and aggregate transformation over the period of study.

In the subsequent section, I focus on enslaved people's motivations in running away from plantations, providing a more complex and nuanced understanding of when and why slave flight occurred. Better understanding enslaved people's motivations also underscores the complex landscape of mobility the colonial state tried to control and why policing enslaved people's movements were so critical. This policing apparatus depended on shaping the built landscape of the colony, getting buy-in from Maroons and other enslaved people to police enslaved people's movements, and criminalizing not just unauthorized movements but ancillary strategies by which escaped enslaved people tried to provide for themselves and meet their basic needs.

I conclude with a brief digression on the continuing legacy of the legal and policing strategies built around slave flight in the context of vagrancy legislation in the apprenticeship and post-emancipation period.

3.2 Slave Law and Runaways

The 1696 slave code mandated a regime to control the mobility of enslaved people. Masters, overseers, and other slaveholders were to require any enslaved person leaving their estate, except as a servant or in liveries, to go with a ticket or a white servant. If carrying a ticket, it should have “their Names and Number, and also from and to what Place” they were going. If an enslaved person were seen without such a ticket, the public was called up to apprehend “any Slave coming into their Plantations” and punish them with a “moderate whipping” or forfeit 40 shillings. Upon capturing an enslaved person roaming without a ticket, the person capturing said enslaved person was required by law to return them to their owner, or failing that, to a provost-marshal or deputy provost-marshal. The person returning the runaway was required to “give an Account of his own Name and Place of Abode, with the Time and Place when and where taken up, with an Account of the Mark and Sex of all and every such Slave and Slaves coming into their Custody.” Such persons would be compensated by the owner or the provost marshal at a set fee per mile per slave.⁴

Restrictions were further set to compel the care of captured runaways and provide the best possible opportunity for the original owner to reclaim them. Only the provost-marshal, in custody at a gaol in the three major towns of St. Jago de la Vega, Port Royal, and Kingston, could “keep any runaway Slave or Slaves above Ten Days.” Further,

⁴ “An Act for the better Order and Government of Slaves. Passed 1696. Confirmed 1699.” In *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London: Printed by W. Wilkins, at the Dolphin in Little-Britain, 1716. pgs. 225-256.

penalties were levied on any person denying captured runaways food, water, or lodging, or making them work on their behalf. Should a runaway die in their custody or be sold by the Provost-Marshall before a year should pass, large sums were to be forfeited to the enslaved person's owner.⁵

Enslaved people were encouraged to cooperate in informing on runaways. If an enslaved person took up a runaway, they would receive the same benefit as a free person. If a free person deprived a slave of such a benefit, the free person would forfeit three times the value. This is a rare early piece of legislation offering the same treatment to free and enslaved people. If an enslaved person sheltered a runaway, they would face a severe whipping by a justice of the peace; an owner or overseer who interfered with such a whipping would forfeit 40 shillings.⁶

This 1696 slave code recognized a difference between enslaved people who had been absent from their plantation a short time from those who had been absent for a longer period. Any enslaved person who ran away for 12 months or longer, with the exception of those who had been in the island for less than 3 years, were deemed rebellious. The seizure of these runaways carried a particular bounty; a freeman or servant killing or capturing such a slave would earn 5 pounds, while an enslaved person capturing such a rebel would earn 40 shillings and a serge coat. An enslaved person so taken would frequently be sentenced to transportation by the order of two justices and

⁵ Ibid.

⁶ Ibid.

three freeholders or a majority thereof, with the owner receiving 50 pounds as compensation. Returning from transportation would be grounds for execution, usually by hanging. The 1696 slave code also demonstrated a clear understanding that certain geographical features and areas were more hospitable to slave flight. If a plantation were deserted for six months or longer, any person could legally destroy it to avoid it becoming “a Receptacle for Fugitives.” If not destroyed, justices of the peace could issue a warrant to a surveyor of highways to destroy “the Provisions in the said Plantations.” Likewise, if a Commission-Officer were to learn of the “Haunt, Residence, or hiding Place of any runaway Slaves,” he was empowered and required to raise a party of not more than twenty men to “pursue, kill, or take alive, all or any of the said Runaways.”⁷ These provisions of the 1696 slave code continued to furnish the primary legal rubric governing the policing of slave flight for over 80 years, until replaced by the 1781 slave code.

Like the 1696 code, the 1781 slave code required enslaved persons to carry a ticket from their master, employer, or overseer. However, owners were not susceptible to punishment for allowing enslaved people to travel without a ticket if they could prove the slave traveled without his consent. It is likely that this policy was adopted in response to the use of forged tickets. If enslaved people were caught without such a ticket, they were to be committed to goal and there be whipped not more than 39 lashes. At every meeting of Quarter-Sessions, every justice present was required to order the parish constables to

⁷ Ibid.

visit the markets or other “places of public resort” (such as taverns) every Sunday or holiday and apprehend all enslaved people present without tickets, and to carry them before the court. ⁸

The 1781 slave code adopted a new legal definition of a runaway. Under this code, any enslaved person found 8 miles or more from their plantation without a ticket and absent for 6 or more days was classified as a runaway. As before, any person seizing a runaway was entitled to a monetary reward and mile money from their owner. The code also newly penalized tickets “given by Free Negroes, Mulattoes or Indians” to enslaved people as a pass, making this an offense of forgery. White people who were not the owner or overseer of an enslaved person were also barred from creating tickets and subject to conviction for forgery as well. ⁹

The owner / employer of enslaved people was newly required to give an account under oath of slaves runaway from him within the first 10 days of March, June, September, and December in every year and cause them to be delivered to the custos or any magistrate and then to also deliver this list to the clerk of the vestry. This requirement created an active paper trail of escaped enslaved people. Likewise, workhouse and gaol keepers were newly required to regularly advertise “the Names, Marks and Sex of each and every runaway Slave then in their Custody, together with the Time of their being sent

⁸ “An Act to Repeal Several Acts and Clauses of Acts Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes.” In *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston: Printed for James Jones, Esq. by Lewis and Eberall. 1786. 256-279.

⁹ Ibid.

into Custody, and the Name or Names of the Owner or Owners thereof, (if known)” in a major newspaper in each historical county: Spanish Town’s *Gazette of Saint Jago de la Vega* (Middlesex County), one of the Kingston newspapers (Surrey County) and the *Cornwall Chronicle* (Cornwall County). Owners were required to subsidize this cost on collecting their enslaved people from the relevant workhouse or gaol. Under this code, if an enslaved person had been in custody in a gaol or workhouse for 12 months or longer, the provost marshal would sell the enslaved person at public outcry to the highest bidder, with an advance notice of 30 days. ¹⁰

The 1781 code also responded to the concern that enslaved people were deserting their owners and fleeing the island. If a free person of color helped an enslaved person to go off the island and should be convicted, they would lose their freedom and be transported out of the colony. If a white person did the same, they would forfeit 100 pounds. The law also demonstrated concern about enslaved people going about the island pretending to be free. Justices and the vestry in each parish were instructed to inquire about the number of free people of color and to require each such free person of color to give an account of their manner of obtaining their freedom. Vestries were required to issue a certificate of freedom to any legitimately free person of color who was not able to produce one, but could demonstrate their freedom by other means. From this date forward, freed people were required to produce their certificate to justices and vestry every March 25th, under the penalty of 40 shillings Jamaica currency for each neglect to

¹⁰ Ibid.

do so. Freed people were also obliged to wear the badge of their freedom whenever they appeared in public, under the penalty of 10 pounds Jamaica currency. Only people of color who had obtained a private bill giving them privileges or immunities or free people of color possessing real estate were exempted from this requirement. The number of individuals covered by this clause were small and these individuals were prominent enough that they would have been recognizable and well-known in the area around their homes.¹¹

The revised 1787 slave code further modified the legal landscape surrounding slave flight. This code retained the requirement for enslaved people traveling off their estate to carry a pass, but made an exception for Sundays, the usual day of market, when enslaved people were entitled to travel without such a pass. The 1787 slave code also reacted to planter anxiety about runaway slaves carrying forged tickets “under pretence of being authorised by their owners to work out for wages for their master, or otherwise to hire themselves out.” To prevent this, the code required that such a ticket be signed not only by the master or overseer, but by the clerk of the vestry or either of the churchwardens of the parish as well, and that this ticket have only a three month duration, the sum of one shilling and three-pence to be paid for each three month ticket and a record to be kept by the clerk of the vestry.¹² The code also required slaveholders to submit to the local magistrates, every March, June, September, and December, a return

¹¹ Ibid.

¹² *The Act of Assembly of the Island of Jamaica, For the Better Order and Government of Slaves, Commonly Called the Consolidated Act*. London: B. White and Son, 1788.

under oath of the enslaved people who had run away from them, their plantations or settlements, with the intent that the record would be examined by the vestry at their quarterly meetings. At each quarter sessions, justices were required “to order the constables to attend every holiday at markets, or places of public resort of negroes in their respective parishes, there to apprehend all such slaves as they shall find without tickets; and being so apprehended, that they carry them before any of the said justices, to be punished according to the directions of this act.”¹³

The code provided incentives for enslaved people to cooperate in returning fugitive enslaved people to bondage. Enslaved persons leading authorities to a runaway slave – or to other enslaved people harboring a runaway – were entitled to “such reward as any justice shall in reason and justice think just and reasonable,” provided it did not exceed twenty shillings. Enslaved persons caught harboring another enslaved person or helping them to escape off the island were subject to trial before two justices and five freeholders, and to receive any punishment this panel should find fitting, except the loss of life or limb.¹⁴

Different penalties were applied to white persons or free people of color who assisted in attempts at running away or escape. For aiding enslaved people in going off the island, a convicted free person of color would suffer transportation, and if returning from transportation, death. If white persons assisted an enslaved person in going off the

¹³ Ibid.

¹⁴ Ibid.

island, they would be fined £100 Jamaica currency per fugitive and also face imprisonment for up to twelve months without bail or mainprize.¹⁵

The 1802 Slave Code retained many of the provisions articulated in the 1781 and 1787 Codes. It required enslaved people to carry a pass in more situations. While the previous code had required enslaved people to carry a pass except on Sundays and on going to market, the 1802 Code removed the Sunday exclusion and narrowed the market provision, noting that it excepted only those as “are going with firewood, grass, fruit, provisions, or small stock, and other goods which they may lawfully sell.” In the 1802 code, any enslaved person found more than eight miles away from their estate without a ticket was classified as a runaway. Similarly, any enslaved person absent “without leave, for the space of ten days” was also classified as a runaway. The 1802 code also explicitly stated that runaway slaves were to be committed to workhouses. It was no longer permissible to commit them to the gaol in parishes where there was no workhouse. On the other hand, the 1802 code omitted the requirement of quarterly reports to runaway slaves to the vestry, the special provision about enslaved people being hired out for wages, as well as the requirement for constables to attend holiday markets to look for enslaved people without tickets. Notably, the 1802 code also respond to “a mischievous practice” adopted “of punishing ill-disposed slaves, and such as are apt to abscond from their owners, by fixing or causing to be fixed round the necks of such slaves, an iron

¹⁵ *The Act of Assembly of the Island of Jamaica, For the Better Order and Government of Slaves, Commonly Called the Consolidated Act.* London: B. White and Son, 1788.

collar with projecting bars or hooks, to prevent the future desertion of such slaves.” The 1802 code declared this practice unlawful, authorizing only chains, irons, or weights “absolutely necessary for securing the person of such slave.” It required justices of the peace to order such collars, chains, irons, or weights taken off enslaved people they encountered wearing them.¹⁶ The 1807 code left slave flight measures essentially untouched.

The new 1816 slave code also further refined the definition of runaway, leaving the space of eight miles distance as in the 1787 and 1802 codes, but restricting the time further from the 10 days noted in the 1802 code to five days. This slave code, in addition to earlier expressed concerns about mobile enslaved people spreading discontent and rebellion reflected a new fear that ill enslaved people could spread disease. It noted that “negroes afflicted with the yaws, coco-bay, or other contagious diseases, are sometimes permitted to leave their masters’ property, and travel about the country, to the great annoyance of the public and those in the neighbourhood.” Proprietors and their overseer could forfeit £20 Jamaica currency for each offense, half to be paid to the informer and half to the churchwardens for the poor of the parish. Notably, no criminal sentence was imposed on slaves with such a disease who wandered the parish. The 1802 code’s restrictions regarding iron collars and similar devices were loosened a bit in the 1816 code, allowing a light collar without hooks to “be put on by the directions of a magistrate,

¹⁶ *An Act for the Better Order and Government of Slaves; and Other Purposes*. St. Jago de la Vega: Alexander Aikman, 1802.

on complaint being made.” The 1816 code was more explicit regarding enslaved people who informed on runaways or harborers of runaways, keeping twenty shillings as the upper limit on the award they could be granted, but setting a floor of ten shillings. While penalties remained differentiated for free people of color and white people for assisting runaway enslaved people to stay hidden or escape the island altogether, monetary penalties increased.¹⁷

The 1826 slave code was widely presented as a reformist and ameliorationist revision of slave law, granting and acknowledging many rights and privileges for enslaved people and implementing new protections. However, in this particular domain, it further restricted enslaved people’s mobility. Sunday markets after 11 am were abolished. This effectively outlawed them for enslaved people who lived further away from market towns. New provisions were enacted to allow the better policing of runaways. Most notably, justices could enter warrants for the capture of runaway slaves to allow constables or special constables to enter estates and search the slave quarters for runaways. The rewards for enslaved people who informed on those running away or harboring runaways were doubled, from the minimum of ten shillings, maximum of twenty shillings in the 1816 code to the minimum of twenty shillings and maximum of forty shillings. For the first time since the 1787 code was supplanted, the code explicitly addressed hiring out of enslaved people. Planters were forbidden from employing another

¹⁷ *An Act for the Subsistence, Clothing, and the Better Regulation and Government of Slaves; For Enlarging the Powers of the Council of Protection; For Preventing the Improper Transfer of Slaves; and For Other Purposes.* St. Jago de la Vega: Alexander Aikman, 1817.

person's slaves without written permission of the owner. The 1826 code was soon disallowed by the Crown, and the 1816 code went back into effect until a new code was passed in 1831.¹⁸

The new Slave Code of 1831 again implemented many of the reforms of the 1826 code. Sunday markets after 11pm were again abandoned and rewards were doubled for enslaved people acting as informants. There were once again provisions around the hiring out of enslaved people, returning to the 1787 provision about a limited three month pass signed by the clerk of the vestry. Although provisions surrounding a differential penalty for assisting runaways remained between enslaved and free persons, there was no longer a difference between the penalty for free white persons and free people of color. Further, the 1831 code did not retain the provision regarding a warrant-led search by the constable of slave quarters for runaways.¹⁹

The slave codes themselves thus reveal the ongoing story of the colonial state's pre-occupation with enslaved people's mobility. In all the codes discussed above, up to a third of the legal text directly concerned enslaved people traveling without a pass, acting as runaways, or trying to escape the island. Even as other dimensions of the slave code were subject to reform and revision, however, the evolution of the legal text demonstrates

¹⁸ Augustus H. Beaumont, ed. *The Consolidated Slave Law, passed the 22nd December, 1826, Commencing the 1st May 1827, with a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index*. St. Jago de la Vega: Published for Augustus H. Beaumont by the Courant Office, 1827.

¹⁹ Andrew Graham Dignum. *A Letter to the Right Honorable the Earl of Suffield, on Subject Connected with Slavery in the Island of Jamaica, with an Abstract of the Law Now in Force in that Colony, for the Government of Slaves*. London: Joseph Shackell, 1831.

substantially less movement towards explicitly acknowledging rights or privileges of enslaved people concerning their movement. The changes in the codes from one version to another instead chart tighter restrictions on mobility, greater efforts to limit gatherings of enslaved people, and increasing incentives for cooperation with slave patrols and otherwise helping to capture runaways.

3.3 Documenting Trials for Running Away and the Limits of the Archive

The legal documentation available for most slave court trials regarding running away consists of three elements. First, there is a formal indictment, listing the name of the enslaved person or persons accused, the proprietor and/or plantation of the enslaved person, and the crime of which they are accused. Indictments carried a specific language regarding the length and kind of absence of runaway enslaved people. “Incorrigible” enslaved people were absent for six or more months, often continuously. “Habitually absent” enslaved people were recorded as absent more than once, although sometimes for shorter durations than six months each time. Indictments referring to a runaway slave as “notorious” carried a higher level of opprobrium and was decidedly more likely to result in a sentence of transportation if the enslaved person was found guilty. This last term was much more frequently applied to adult male runaways. Jamaican law made a distinction between enslaved people who ran away for periods longer or shorter than six months. Those who were absent for periods shorter than six months could and sometimes did appear for discipline before a slave court, but they were likely to receive a smaller number of lashes and then be discharged to their owner. On the other hand, those absent

for longer than six months would often be labelled an “incorrigible runaway” and faced significantly more serious punishments, including transportation or confinement in the workhouse. Most frequently, the distinction of “incorrigible” was reserved for those absent for a continuous six months, but occasionally enslaved people who had frequently been absent for shorter periods could also face this sanction. Occasionally, the prosecutor might present an enslaved person as incorrigible, but the court would disagree. On January 5, 1825, for example, an enslaved woman named Margaret French belonging to Gibraltar Estate was tried as an incorrigible runaway for being absent from the estate longer than six months. While the jury found French guilty, they also noted in the record, “in consequence of the strong impression on the minds of the jurors that the prisoner is not an incorrigible runaway they strongly recommend her to the mercy of the court.” As a result of the jurors’ intervention, French was sentenced to only six months confinement in the workhouse at hard labor, and not to sentences of transportation or life imprisonment in the workhouse, as was more common for convicted incorrigible runaways.²⁰ While the precise length of enslaved people’s absences was only sometimes recorded, the extent to which absences longer than a year appear suggest that it was not always easy for masters and overseers to track and retrieve enslaved people once they had taken flight. And this, of course, leaves out enslaved people who were never found.

The formal language of the indictment for running away echoes the language of British law for servants running away from their employers. The enslaved person was

²⁰ *Rex v. Margaret French*. 2/18/6, St. George Slave Court Records. JARD.

accused of “absenting himself [or herself] from his owner and his services.” Although the owner was named as being deprived of owed services, the offense was framed instead “against the peace of our said Lord the King, his Crown and Dignity.” This language situated the offense in an imperial frame, in which the person of the King, as a representative of the state, was victimized by the enslaved person’s action. It also underscored running away as a violation of the social fabric of colonial society. Implicitly, this language suggested that the “peace” was the status quo – that the state placed substantial value on the preservation the dependent’s subservience to their master. In England, this might be a servant, a child, perhaps even a wife. In Jamaica, this language primarily applied to enslaved people.

The second major component of documentation in runaway cases was the verdict. In most cases, the verdict was reached by a jury, although in cases of lesser absence tried only before a panel of two magistrates, they might issue both verdict and sentence. Although the vast majority of accused runaways brought before slave courts were found guilty, roughly 10-15% resulted in another outcome. The majority of such individuals were discharged, when or if the prosecutor did not appear or dropped charges before the case proceeded to trial without a verdict or sentence. More seldom, but more frequently than in most other slave court cases, juries or magistrates found the defendant not guilty, arguing that the evidence presented by the prosecutor (usually the overseer or owner) did not substantiate the claim against the defendant.

Thirdly, court records in runaway cases routinely include a sentence. If defendants were found guilty, punishments generally fell into one of four categories. In

the most minor cases, some enslaved people were simply issued a verbal reprimand; this punishment was often dealt to the old, infirm, or pregnant, or to runaways who had already been incarcerated in the workhouse for a long time awaiting trial at a quarterly session. Next in severity was the punishment of flogging. Reforms to the slave code generally limited this punishment to fewer than 39 lashes, although magistrates could sentence a defendant to more lashes spread out over an extended period, or insist that the flogging be carried out publicly to discourage other enslaved people from running away. Commitment to the workhouse at hard labor for a term ranging from a few days to life was issued to particularly “incorrigible” runaways. This punishment could also be combined with a flogging sentence. Finally, the punishment of greatest severity was transportation, or lifelong relocation to another part of the British empire. Convicted adult men were by far the group most likely to be sentenced to transportation for running away. However, convicted adult women were more likely to be sentenced to transportation for running away than as a punishment for any other offense. Enslaved people were rarely executed if their only criminal offense was running away.

These records reveal a discrepancy between the number of runaways mentioned in surviving editions of contemporary Jamaican newspapers and those actually brought to the court for trial.²¹ Summary slave trials, held before just two magistrates, handled

²¹ For a selected compilation of advertisements in Jamaican newspapers for runaway slaves, see: Douglas B. Chambers, ed., *Runaway Slaves in Jamaica (I): Eighteenth Century*. Online at Digital Library of the Caribbean: <https://ufdc.ufl.edu/AA00021144/00001>. For an analysis of such advertisements, see Rebecca Schneider, “‘He Says He is Free’’: Narrative Fragments and Self-Emancipation in West Indian Runaway Advertisements.” *European Romantic Review* 29, No. 4 (2018): 435-447.

minor offenses of slave flight for shorter periods. Longer absences or those combined with more severe offenses such as burglary or assault were tried before a judge and jury, or later by a panel of magistrates. The rough periods of absence mentioned in the court records suggest that punishment for shorter absences was often handled privately without intervention of the slave court system.

3.4 Why Did Enslaved People Run Away?

In some cases, running away was decisively about seeking freedom from enslavement and striking out to start a new free life. However, running away could also have other political foundations. Enslaved person might temporarily take flight from a plantation to escape a threatened punishment while the master was in a fit of rage, hoping for milder discipline on their return. In April 1813, two indictments were entered against an enslaved man named Richard belonging to the estate of James Clayton. Maureen Roberts charged Richard with “having sundry materials notoriously used in the practice of Obeah,” as well as having been runaway and absent for over six months. Although not immediately clear from the limited information, it is plausible Richard ran away after being caught with suspicious materials rather than face punishment from his owner.²² Escape to avoid punishment often continued after trial. When Jamaica, an enslaved man who had been accused, tried, and found guilty for stealing and killing several ewes, escaped from prison in January 1795, the court issued a warrant for his arrest.²³

²² *Rex v. Richard*. MS273, St. Ann Slave Court Record Book, unnumbered folio. NLJ.

²³ MS273, St. Ann Slave Court Record Book, folio 38. NLJ.

Similarly, in the early 1800s, Cuffee, previously belonging to Flat Point Estate, who had been sentenced to life imprisonment at hard labor, escaped from the St. Ann Parish Workhouse. Recaptured, Cuffee was tried and sentenced to the harsher punishment of transportation for life.²⁴

An enslaved family might disappear when the overseer considered auctioning off a set of slaves to create financial liquidity, hoping to preserve the family as a group if they were not around to be traded. Similarly, a group of enslaved people might flee a plantation in protest, pressuring the master to make a specific reform: replacing an unpopular overseer, purchasing labor-saving machinery, or granting some other lobbied-for concession. Enslaved people on Lancaster Plantation in St. George Parish took flight in late September and early October 1813. They sought out local magistrates and charged that their master John Thomson had made inadequate provisions for food, clothing, and periods of rest. (Unfortunately, the magistrates found against them and in favor of Thomson). Other enslaved individuals ran away with rather more direct action in mind. John Stewart described the case of a group of “fugitive slaves” who acted together to murder an overseer known to be of “violent and tyrannical temper.” The overseer was widely known as cruel and abusive among enslaved people and free persons in the neighborhood alike, but he had never been brought before the courts to answer for his crimes. The runaway slaves in question were later sentenced to death and executed for his

²⁴ *Rex v. Cuffee*, MS273, St. Ann Slave Court Record Book, folio 228-9. NLJ.

murder.²⁵ Charismatic persuasion by a particular enslaved person could also mobilize a larger party to escape. An enslaved man named Fortune in St. George Parish was tried in January 1833 for “by pretending to such supernatural power as aforesaid, and by certain charms and spells, seduce divers Negro slaves belonging to Canewood Estate in the said parish to the number of seventeen to abscond from said estate for the purpose of living in the woods.”²⁶ However, not all enslaved people who disappeared can or should be assumed to have run away. Enslaved persons were valuable assets and liable to kidnapping. In May 1796, Juan Manuel Castenado, a free mulatto man of Kingston, was charged before the Surrey Assizes Court with stealing an enslaved woman named Pamela belonging to Joseph Ezekiel the younger, and sending her off the island, while he remained in Jamaica. The court found Casternado guilty and sentenced him to be hanged.²⁷ Similarly, before the same court in March 1803, John Robertson, a mariner, was charged with stealing and carrying away six enslaved men (Jarvis, Dick, Sam, London, Billy, Ben) and two enslaved women (Venus and Silvia) belonging to John Pennycook. The Grand Jury in this case did not return a true bill, and so Robertson was ultimately not tried.²⁸

Not all absent enslaved people were necessarily runaways by choice. In November 1799, planters Alexander Steel and Henry Paulett, of Venture Plantation in

²⁵ John Stewart. *A View of the Past and Present State of Jamaica: With Remarks on the Moral and Physical Condition of the Slaves, and on the Abolition of Slavery in the Colonies*. Edinburgh, 1823: 239.

²⁶ *Rex v. Fortune*. 2/18/6, St. George Slave Court Records. JARD.

²⁷ 1A/7/3/2: Pleas of the Crown, Surrey, May 1795-Aug 1810, folio 8. JARD.

²⁸ 1A/7/3/2: Pleas of the Crown, Surrey, May 1795-Aug 1810, folio 122. JARD.

Trelawny Parish, petitioned the Assembly for financial relief. They reported that on April 18, 1798, their estate had been “attacked by a gang of runaway negroes, armed with muskets and cutlasses, and having with them plenty of powder and ball.” From the afternoon of the 18th into the morning of April 19th, the runaway slaves killed one white man and seriously injured two others, and set fire to a house on the plantation containing coffee and provisions, which Steel and Paulett valued at £50 Jamaica currency.

According to the planters, “the said runaway slaves carried from off the property a negro woman slave, the property of the petitioners, of whom they have not since heard.”²⁹

Moments of large-scale slave flight represented a substantial threat to the economic productivity of Jamaica and prompted substantial concessions and willingness to negotiate on the part of the colonial state. During the Maroon Wars (1728-1740 and 1795-1796), for example, Jamaican governors issued wide-ranging proclamations offering complete amnesty to enslaved people who had run away provided they returned within a particular period. The desperateness of these requests was underscored by the threat of violence and even death against those runaways who remain absent from plantations. Enslaved people were evidently aware that the colonial economy was dependent on their labor – and they used this knowledge to their advantage.

Jamaica’s planter class had their own explanations for why enslaved people ran away. They widely expressed these explanations in pamphlets, newspapers, and their

²⁹ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 10, 323.

legislative projects. In his book *Jamaica As It Was*, planter Bernard Senior contended that even on the best plantations there were frequently several enslaved people who had run away, whom he characterized as “worth-less.” He described the ubiquity of places of rendezvous and refuge as a ready incentive for an enslaved person receiving even a “minor” rebuke to escape, and he suggested that this served to moderate the behavior of overseers and slaveholders. He noted that runaways often primarily gathered their supplies through robbery or other crimes, although they also often cultivated a small plot of land. Senior’s characterization participates in a long tradition of representing enslaved people who ran away as fundamentally flawed in character, rather than as people who were reacting legitimately to being held in bondage and treated unjustly.³⁰

Colonial medical professionals turned to scientific logic to contend that running away was an inherent biological quality of enslaved people’s character, and that slaveholders could strive only to mitigate and not end this behavior. In this way, medical doctors squarely shifted the responsibility for the flight of enslaved people to biology and away from their condition. Plantation doctor John Williamson argued that “Negroes” were naturally inclined to vagrancy and wanderlust through their disposition and character, and that no intelligent slaveholder could hope to end this altogether.

Williamson suggested the best thing planters could do to reduce flight to improve their

³⁰ Bernard Senior. *Jamaica, as it was, as it is, and as it may be: : comprising interesting topics for absent proprietors, merchants, &c. and valuable hints to persons intending to emigrate to the island: also an authentic narrative of the Negro insurrection in 1831; with a faithful detail of the manners, customs and habits of the colonists, and a description of the country, climate, productions, &c. including an abridgment of the slave law.* London: T. Hurst, 1835: 48-49.

treatment of enslaved people.³¹ Dr. David Collins, on the other hand, writing for a similar audience but with greater sympathy towards amelioration, also noted that running away might have some connection to enslaved people's disposition and character, but he thought that severity was the main reason enslaved people ran away.³²

Pro-slavery authors, such as Alexander Barclay, even went so far as to characterize slave patrols, branding, and other means of identifying and capturing runaways as in the service of humanity. Barclay wrote:

Granting that it had its origin in self-interest, humanity was also promoted by it; a newly-imported African occasionally wandered away and lost himself, or was seduced away by others ; and when taken up and committed, as frequently happened, to some distant workhouse, being of course unable to speak English, he could give no account of himself by which it was possible for his master to identify him in a public advertisement; and the consequence was, not only his loss to the owner, but, which was more important to humanity, it separated him for ever from his shipmates and friends, and from a permanent and comfortable home on a plantation, and placed him in the possession of one of those low characters who are most commonly the purchasers of workhouse slaves.³³

Characterizations such as Barclay's relied on the trope of the enslaved person as an uncivilized innocent to whom the master and overseer served as a civilizing force and caretaker. This trope presented the plantation as a caring and comfortable community, not a brutal forced work camp. Furthermore, this characterization suggested that the welfare

³¹ John Williamson. *Medical and Miscellaneous Observations, Relative to the West India Islands*. Edinburgh: Alex. Smellie, 1817. Vol. 2: 224-225.

³² David Collins. *Practical Rules for the Management and Medical Treatment of Negro Slaves, in the Sugar Colonies*. London: J. Barfield, 1802: 60.

³³ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. (London: Smith, Elder & Co., 1828). 218

of enslaved people, rather than the profit-making motive, was the motivating force behind planters' actions.

Despite the prevalence of planter's fears about slave flight, not all planters continually expressed this anxiety. In June 1816, Charles Gordon Gray in Jamaica wrote to his father in the United Kingdom concerning the turmoil created locally over the 1816 Bussa Rebellion in Barbados, one of Britain's other main sugar colonies in the Caribbean. Gray suggested that absentee planters' fears of widespread unrest were largely unwarranted, and explained that the enslaved people on his family's own Fairfield Estate were calm and orderly, writing:

I have the Care of a considerable number of Negro & I have never seen them more orderly or more anxious about their Grounds than this year, if any strange ideas had got into their heads, they would neglect their little Concerns. On the contrary they appear more industrious than usual. There are many Properties, that was Freedom offer'd them they would refuse it many now tell me, for they all know this affair, indeed it is better they should know the real facts than parts. What better can they be than at present. The number of Proprietors or those connected with them that reside in St. James has a great influence over & tranquillize the minds of the Slaves in this Parish. Their Complaints are heard and redressed if proper & their ----- preserved better perhaps than any Parish on the Island.³⁴

Gray's account reflects both the anxiety about the flight or resistance of enslaved people and the clues planters, overseers, and other managers of enslaved people looked for in determining the "contentedness" of enslaved people.

³⁴ Letters of Charles Gordon Gray to his father, 1809-1819. MS163, NLJ.

3.5 Policing Mobility

Discussions of slave societies have increasingly used the metaphor of the panopticon, leaning on French theorist Michel Foucault's *Discipline and Punish*, or the prison (or even concentration) camp to characterize the surveillance faced by enslaved people and to underscore the degree to which enslaved peoples' lives were shaped and dictated by the planter class.³⁵ In my view, this comparison is empirically insupportable, at least for Jamaican estates in this period. Free employees or residents of plantations were small in number. Efforts to compel estate owners to maintain a certain percentage of white servants to slaves through a punitive tax had become by the late eighteenth century a revenue-raising measure rather than a means of keeping the proportion of free to enslaved in the colony's population in check. Throughout the eighteenth and first half of the nineteenth century, the Jamaican colonial government and local parish governments attempted to organize slave patrols; these efforts faded as the authorities found it difficult to gather enough free and especially white individuals to serve as a volunteer policing force. However, during periods of increased slave unrest and especially active slave rebellion, colonial or parish authorities might form a posse to track down escaped slaves or enlist and mobilize a militia or British army unit to play this role. After the First Maroon War, the Jamaican government agreed to recognize Maroons as a semi-

³⁵ See for example: Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of Modern Capitalism*. New York: Basic Books, 2014; Miranda Spieler, *Empire and Underworld: Captivity in French Guiana*. Cambridge: Harvard University Press, 2011. One might trace the roots of this to arguments like Eugene Genovese, *Roll, Jordan, Roll: The World the Slaves Made*. New York: Vintage Books, 1976 and Orlando Patterson, *Slavery and Social Death: A Comparative Study*. Cambridge: Harvard, 1988.

autonomous and free society, on the condition that they act as slavecatchers and not admit newly escaped slaves to their communities. Although Maroon communities did not fully and consistently follow through on this commitment, they did cooperate often and frequently enough to significantly deter some would-be runaways *and* exacerbate tension between the enslaved and Maroon communities. While enslaved people with roles of greater authority and power on plantations were incentivized to monitor and regulate the behavior of their fellow enslaved people, there were competing demands on their attention and loyalties.

However, even as planters reacted negatively to the idea of enslaved people moving freely throughout the colony on a large scale, on an individual and more localized level they were somewhat more willing to turn a blind eye. It was neither uncommon nor particularly remarked upon for enslaved people to visit family or lovers on nearby plantations, take provisions to the local market for sale, or even attend religious meetings in nearby towns. In many cases, this tacit acceptance of enslaved people's mobility reflected implicit negotiation between owner and slaves.

James Williamson, a doctor to many plantations, observed that, in many cases, enslaved people who had absented themselves from the plantation for a relatively short period sought the intervention of another white man to intervene on their behalf to negotiate a return to the plantation without receiving punishment. He wrote:

For slight offences, negroes of character will absent themselves for a few hours or days, and apply to a white man, of whom they entertain a good opinion, to

intercede for them. This is successfully done; and he is restored to his labour, without the infliction of any punishment.³⁶

The picture Williamson painted here exposed a quasi-feudal relationship, in which an enslaved person's cultivation of relationships with free white men, and a general reputation of good conduct, provided them with greater room to navigate and obtain leniency in the space of overstepping bounds and expectations, such as an extended absence from a plantation. Yet, the system Williamson described did not only present free people as purveyors of influence able to cajole a planter or overseer into altering their treatment of an enslaved person. He also contended that a respected slave, in pledging his own word and labor to the overseer as surety for a runaway's future good conduct, could also cause a captured runaway to be released from punishment.³⁷ Pro-slavery polemicist Samuel Mathews concurred with Williamson that enslaved people frequently turned to neighboring planters to intercede on their behalf for mercy in the case of running away.³⁸ Williamson and Mathews' strong interests in maintaining slavery and presenting West Indian planters in a favorable, benevolent light to metropolitan audiences mean that their presentation of this interpersonal dynamic between enslaved people and planters should be viewed with caution. Nonetheless, the

³⁶ John Williamson. *Medical and Miscellaneous Observations, Relative to the West India Islands*. Edinburgh: Alex. Smellie, 1817. Vol. 2, 225

³⁷ John Williamson. *Medical and Miscellaneous Observations, Relative to the West India Islands*. Edinburgh: Alex. Smellie, 1817. Vol 2, 220-225

³⁸ Samuel Augustus Mathews. *The lying hero or an answer to J. B. Moreton's Manners and customs in the West Indies*. St. Eustasius: Edward J. Low & Co., 1793: 41-2.

broad strokes of this argument appear frequently enough to suggest that it had some basis in the real negotiation of power and influence in Jamaican society.

Why were cases of enslaved people running away brought before slave courts in the first place? What did owners or overseers hope the slave court would do that they could not? In the account of Jamaica assembly member and enslaver Alexander Barclay, the pursuit of a case of a runaway before the slave court was an absolute last resort. The slaveholder resorted to the law only when “it has been found impossible to keep a wandering vagabond of this kind at home” and “it has become an absolute tax upon the master to be constantly sending people into the woods after him” and needing to frequently pay for damages the runaway committed.³⁹ Yet, seemingly at odds with Barclay’s statement, owners frequently spoke to the general good character of enslaved people charged for running away or requested the court to show mercy in delivering their sentence. Perhaps the court served partly as a theatrical environment to drive home to rebellious enslaved people the force and power of planter society. It also allowed the owner or overseer to play the role of saving an enslaved person from a potentially much harsher punishment, and demonstrate that they were as capable of largesse as they were of punishment. In some cases, to present enslaved people before the court for punishment also offered planters an alternative to administering a punishment themselves if they were

³⁹ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen’s “Slavery of the British West India Colonies”; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. London: Smith, Elder & Co., 1828. 169.

unable or unwilling to do so, or it enabled them to advocate for a harsher punishment that the law would not enable them to give alone.⁴⁰ Dave St. Aubyn Gosse has argued that, especially in cases involving running away, Jamaican planters would routinely bring enslaved persons before a slave court when they were unable to sell them on the open market hoping to gain a profitable payment in compensation after they were sentenced to be imprisoned for life, transported, or hanged.⁴¹ Although I have yet to find direct evidence of this in the 1780-1834 period, Gosse's suggestion is borne out by a 1739 hearing of the Jamaica Assembly which found this practice relatively commonplace at that point in the island's history.⁴² Nonetheless, it is also likely that in many cases enslaved people escaped or absented themselves from plantations and returned to punishment without ever appearing before a court.

What did it mean for enslaved people when disputes over their mobility were decided formally before a court instead of informally by give-and-take with their enslaver? On the one hand, judicial norms required a greater degree of consistency in the resolution of cases; the whims and idiosyncrasies of individual planters and overseers were less determinative in the legal system. However, the types of negotiations, in which runaway enslaved people mobilized ties and relationships to one set of free landowners to

⁴⁰ This mirrors the dynamic Douglas Hay discusses around the same time in the metropolitan context. Douglas Hay, "Property, Authority, and the Criminal Law." In Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*. London: Verso, 2011. 17-64.

⁴¹ Private communication with author.

⁴² Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 3, 489-493.

negotiate concessions and mercy from their owner, as described by Williamson, nonetheless likely remained an important component of this resolution before a case arrived before the court. Occasionally, a glimpse of negotiation in progress in the court itself is possible. On March 2, 1822, Edward, an enslaved man belonging to Mr. Bees was brought before the Port Royal Summary Slave Court as a runaway. While it was clearly recorded that Edward was found guilty of running away, the court nonetheless chose not to enter a verdict and discharged him, noting that he had made “strong promises of improvement.”⁴³ Without further documentation, it is hard to know what these promises could be or why it would sway the court, especially this court, which seemed to be particularly harsh on enslaved individuals even by Jamaican standards.

Unlike other types of cases, such as disputes over property ownership by enslaved people or cases of cruelty by overseers and planters brought before Councils of Protection, legal cases surrounding running away did not seem to provide as much opportunity for enslaved people to use the court as a means of applying different types and varieties of leverage. In part, this could be a direct product of a growing consensus regarding the need for limitations on enslaved people’s movement and the lack of an explicit or implicit stated right around mobility as a component of the overall amelioration process.

⁴³ *Rex v. Edward to Mr. Bees*. 2/19/30, Port Royal Summary Slaves Trials 1819-1834, folio 12. JARD.

3.6 The Fugitive Landscape

As Rebecca Ginsburg has argued, enslaved people developed a pronounced geographical consciousness of their surrounding area, heavily bounded and shaped by their condition of enslavement. They learned to recognize which areas were under the greatest surveillance, where they were unlikely to be followed by slavers, and where they might expect shelter and comfort.⁴⁴ Although fractured, the surviving record underlines the extent to which enslaved people's efforts to carve out zones of autonomy and refuge were at least partially successful and hint at an alternative understanding of the landscape.

Edward Long alluded to those regions of Jamaica as “those pathless districts of the island, which as yet have no other inhabitants, except trees, runaway slaves, and wild hogs!”⁴⁵ The opening of new areas for settlement and the construction of new infrastructure often sparked discussion among the Jamaica planter class about the encouragement to runaway slaves to take refuge in new desolate areas, or how the construction of a road and development of a once-remote area might limit its appeal to runaway slaves. In 1785, the construction of a new road between Chambers and McLellan's cattle pens in Hanover Parish to Fromme Estate in Westmoreland Parish prompted some local planters to petition the House of Assembly. The planters expressed their concern that to build a new road through a largely unsettled area might lead runaways to seek refuge in this area, and they asked the government to encourage

⁴⁴ Rebecca Ginsburg. “Escaping Through a Black Landscape.” In ed. Clifton Ellis and Rebecca Ginsburg. *Cabin, Quarter, Plantation: Architectures and Landscapes of North American Slavery*. New Haven: Yale University Press, 2010. 51-66.

⁴⁵ Edward Long, *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972). Vol. 1, 428.

settlement there, as a deterrent to runaway concentration.⁴⁶ In contrast, an Assembly committee led by Alexander Grant, reported in 1793 that a new road between Stirling Castle Estate in St. Thomas-in-the-Vale Parish and the Vale of Luidas in St. John Parish,

opens an easy access for heavy carriages into the most interior and hitherto inaccessible parts of the country, which are unsettled, and much frequented by runaways; but that, by means of this road, the settlement of these places will be encouraged and facilitated, and the security of the island against foreign as well as domestic enemies advanced.⁴⁷

Although the rural and remote terrain of Jamaica's mountains and swamps received a specially romanticized attention, the urban spaces of the colony also could serve as places of refuge for runaways. Bernard Senior, offering a retrospective on the 1832 Baptist War, noted the extent to which Jamaica's urban settlements had also become spaces of refuge for runaway slaves and communities where black people and people of color were able to live in an unstable freedom without necessarily needing to produce freedom papers. He wrote:

In Kingston and Spanish Town were congregated so many loose characters, inhabiting insignificant huts about the suburbs, that it was deemed a miracle either town escaped [being sites of conflict in the Baptist War]. Several of these men and women had originally been slaves; some had from former good conduct received the boon of freedom from their liberal proprietors; but had fallen into every species of wickedness, from their natural depravity of character, and unconquerable propensity to idleness. Many, again, had been run-away negroes, who, after absenting themselves from their work in the country-parts, had sought, and unfortunately with success, privacy and concealment in a crowded city; and thus were the offspring of these two classes, apparently born free, but without

⁴⁶ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 8, 113

⁴⁷ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 9, 237

either ability or means of earning a livelihood. These worthless beings were certainly considered assistants to the enemy without the walls...⁴⁸

Indeed, urban spaces offered unique opportunities for fugitive enslaved people to seek employment, find community, and melt into the urban space to avoid capture.⁴⁹

3.7 Running Off the Island

Other colonial powers also shaped the political and legal landscape of enslaved people who ran away. Cuban and Jamaican officials had extended and heated exchanges about enslaved people from northern Jamaican parishes stealing or sneaking aboard boats to seek refuge in Cuba. Although Spain was also a slaveholding power, Spanish colonies recognized conversion to Christianity as a mitigating factor, and granted freedom to any self-professed Christian who appeared on their shores. Internal discussions amongst Spanish colonial officials show that this policy was partly colonial *realpolitik* and not exclusively a sign of religious deference.⁵⁰ According to Jamaican planter and historian Edward Long:

The Negroes here, either perceiving the facility of this passage, or (which is most probable) inveigled by the flattering assurances of ... strolling Spanish traders,

⁴⁸ Bernard Senior. *Jamaica, as it was, as it is, and as it may be: : comprising interesting topics for absent proprietors, merchants, &c. and valuable hints to persons intending to emigrate to the island: also an authentic narrative of the Negro insurrection in 1831; with a faithful detail of the manners, customs and habits of the colonists, and a description of the country, climate, productions, &c. including an abridgment of the slave law.* London: T. Hurst, 1835: 250

⁴⁹ See especially Wilma R. Bailey. *Kingston 1692-1843: A Colonial City.* PhD. Diss, UWI Mona (1974); Shauna Sweeney, "Market Marronage: Fugitive Women and the Internal Marketing System in Jamaica, 1781-1834" *William & Mary Quarterly* (2019) 76, No. 2: 197-222; Trevor Burnard, "Slaves and Slavery in Kingston, 1770-1815." *International Review of Social History* (2020) 65, No. S28: 39-65. For an examination of urban slave flight in a comparable Caribbean urban center, see chapter 1 of Marisa J. Fuentes. *Dispossessed Lives: Enslaved Women, Violence, and the Archive.* (Philadelphia: University of Pennsylvania Press, 2018).

⁵⁰ For extended treatment of this manumission policy, see: *insert citation for Linda Rupert, and Venezuela book)

who for the greater part are a thievish race, have taken every opportunity to desert in canoes and withdraw to Cuba, ... in hopes of obtaining their freedom; so that several hundreds have, within a few years past, decamped from this [St. Ann's Bay] and other parts of the North side, to the great loss of the planters. ⁵¹

Northern parishes especially made efforts to guard against this possibility. In 1790, freeholders of St. Ann's Parish petitioned their local vestry for a measure "to restrain and limit the canoes employed on the coasts of the north side... to a size not exceeding 14 feet in length, whereby the purposes of fishing will be answered, and the negroes probably ... deterred from adventuring in such vessels out of sight of the coast."⁵² In a November 1788 petition to the House of Assembly, planter Richard Martin of St. Mary's Parish complained that eleven of his enslaved people had escaped in a small canoe the preceding April. Martin had asked Major John James, superintendent of the Maroons of Trelawny, to track down his escaped property. Major James discovered that a Spanish brigantine had scooped up the eleven enslaved people and their canoe in the sea, transported them to Cuba, and claimed them as their property. Martin painted the activities of his enslaved people and their subsequent capture by the Spanish as a blight on the north coast of the island and urged the Assembly to consider "exemplary punishments" to this end. ⁵³ On March 15, 1811, an enslaved man named Tiver belonging to the heirs of George Fenton was tried and found guilty of helping five enslaved men and at least one enslaved woman steal a high-mast canoe to escape off the island. Three

⁵¹ Edward Long, *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972), Vol II, p. 85

⁵² St. Ann Vestry Minutes, 2/9/1, NAJ

⁵³ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 8, 457-62

of the men, George, Soco Jack, and Tom, all belonging to Green Park Pen, were tried the following day and also found guilty.⁵⁴

During and especially following the Haitian Revolution, when the newly independent Haitian governments declared the island an open refuge for enslaved peoples across the Americas, Haiti also became a popular destination for enslaved fugitives. In 1817, a crew of seven enslaved men on board the pilot boat *Deep Nine* escaped to southern Haiti, where President Pétion refused to return them to their master in Jamaica despite the intervention of high-level officials from the Jamaican colonial government.⁵⁵ Enslaved people who worked in portside industries, especially those with training as pilots, sailors, or similar professions, were most likely to attempt this route of escape.

Further, while more enslaved people escaped from Jamaica than escaped from elsewhere to Jamaica, some enslaved people from other colonies did try to escape to Jamaica. In 1796, the slave court of St. Ann Parish decided that two enslaved men from Cuba who had been taken up offshore in a canoe were to be advertised for sale with other runaways from the workhouse.⁵⁶ On November 5, 1795, Richard Bartlett, captain of Kingston's Town Guard, reported to the Assembly of Jamaica that he had captured eight

⁵⁴ *Rex v. Tiver to the Heirs of George Fenton; Rex v. George, Soco Jack, and Tom to Green Park Pen*, both MS273, St Ann Slave Court Book, folios unnumbered. NLJ.

⁵⁵ Richard Sheridan, "From Jamaican Slavery to Haitian Freedom: The Case of the Black Crew of the Pilot Boat, *Deep Nine*," *The Journal of Negro History* 67, No. 4 (1982): 328-339; Ada Ferrer, "Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic," *The American Historical Review* 117, No. 1 (2012): 40-66; Johnhenry Gonzalez, "Defiant Haiti: Free-Soil Runaways, Ship Seizures and the Politics of Diplomatic Non-Recognition in the Early Nineteenth Century," *Slavery & Abolition* 36, No. 1 (2015): 124-135; Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 12, 148, 164-66.

⁵⁶ MS273, St. Ann Slave Court Record Book, folio 143. NLJ.

enslaved people, six men and two women, from French St. Domingue, “going at liberty in the Town of Kingston, to the manifest danger of the peace of the community and the public tranquility.” In Bartlett’s account, the eight enslaved people had landed in an open boat on the west end of Kingston. He feared they might commit “material mischief,” likely thinking of the ongoing revolution just across the sea.⁵⁷ In November 1799, six people of color, claimed as slaves by the firm Messrs. Bigam & Ellison, were brought before the St. Ann Slave Court to testify on their place of origin and how they arrived in the company’s hands. All of the six individuals claimed before the court to be of free birth, citing points of origin ranging from Trinidad to French St. Domingue. They said that they came to Jamaica after being captured by privateers and sold as slaves. Messrs. Bigam & Ellison had violated the law by having enslaved people of foreign origin outside the cities of Kingston and Spanish Town. Nonetheless, the court found only one of the people to be definitively free, and chose to hold the others in the workhouse and advertise them in the local papers to be claimed as slaves.⁵⁸ Substantial effort – by government and planter society alike - was deployed to prevent and discourage enslaved people in Jamaica from developing connections and networks of communication with “foreign negroes” whom planters and slaveholders feared would introduce potentially seditious ideas threatening the slaveholding order.

⁵⁷ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol 9, 219

⁵⁸ MS273, St. Ann Slave Court Record, folio 106-7. NLJ.

3.8 Proving Freedom?

While the law was enforced with particular harshness against enslaved people, court records underscore that suspicion about unchecked mobility extended to free people of color as well. Black people and people of color were assumed to be enslaved without documentation to the contrary. If, when charged with running away, they asserted they were, in fact, free, the burden of proving their freedom fell on their own shoulders. If they were found far afield from their home area, the difficulty of securing timely verification from respectable white people or free people of color would become more laborious. It is likely that the court sold many free people into slavery when they were unable to affirmatively prove their freedom. These people, without an owner to claim them from the workhouse at a certain period, were sold at public auction to the highest bidder.

Two fairly similar cases, both occurring in St. George Parish in autumn 1817, helps establish the freighted nature of freedom suits and how moving away from their long term place of residence made establishing their freedom more challenging for Black people and other people of color. On August 6, 1817, a “Negro man” named William was committed to the St. George Parish workhouse. He indicated that he was free, but parish officials assumed he was enslaved because he was unable to immediately produce any documents. The clerk of courts made some effort to write to free persons William identified who might be able to establish his freedom, but by September 12, the clerk had not heard back from anyone. Local magistrates therefore sentenced William to be committed to the workhouse as a slave of the parish. Only a few days later, on August 19th, Margaret Yirebras, also known as Margaret Hibbert, described as a “Negro woman,”

was also committed to the workhouse on the grounds that she claimed to be free but was unable to immediately produce any supporting documents. When the clerk of courts wrote to the free persons identified by Margaret Yirebras, however, he did receive a response. John McDermot of Kingston, gentleman, identified Yirebras as “Peggy,” an enslaved woman given a conditional grant of freedom in Elizabeth McDermot’s will. Elizabeth McDermot had specified that on payment of £100, her executors should grant Peggy her freedom, and John McDermot was able to produce a receipt of this payment. As a result of McDermot’s response and his ability to produce a paper trail, Yirebras was released from the workhouse as a free person. It is easy to imagine a scenario where McDermot did not receive the letter or did not deign to respond. In such a case, Yirebras would have suffered the same fate as William.⁵⁹ Without free people in the area who were familiar with them as free persons and were willing to stick their necks out to testify to this fact before a court, Black people and people of color more generally were subject to be enslaved on the suspicion of a free person, regardless of whether they were born into freedom, were accustomed to living as free, or had at some point been granted or purchased their freedom.

⁵⁹ *Rex v. William*, folio 107; *Rex v. Margaret Yirebas, alias Margaret Hibbert*, folios 107-108. Both in CO 137/147, Returns of Slave Trials, TNA. Elizabeth McDermott’s will provided that “ in case of the death of my beloved son Peter Grant before he comes of age, that if two Negro slaves Charles and Peggy can get money to purchase themselves, that my Executors aforesaid and Executrix will give them a good and sufficient Title.” More specifically, she stipulated that, “It is further my particular desire and request, that my Executors and Executrix, will not exact more than the Sum of One Hundred and fifty pounds for the Negro Man Charles’s freedom, and only one Hundred pounds current money of this Island to be paid by my Negro Wench named Peggy, for her freedom.” Will of Elizabeth McDermott of St. Thomas in the East. Volume 70 (1802-3), folios 199-201. Island Record Office, Twickenham Park, Jamaica.

Even if free people of color were able to satisfy the court that they were in free, they could nonetheless be subject to special laws that restricted their mobility. On August 9, 1821, a free woman of color named Susanna was tried before the Port Royal Summary Slave Court and found guilty of being an incorrigible vagrant. She was sentenced to six months hard labor in the workhouse.⁶⁰ On October 18, 1821, a free Black man named Durrant was tried and found guilty by the same court of being an incorrigible vagabond and sentenced to three months hard labor in the workhouse.⁶¹ The echoes of these laws and the specific legal terms of “vagrant” and “vagabond” would continue to haunt Jamaican society after the coming of emancipation.

3.9 Harboring Runaways

The colonial state did not only criminalize the act or attempt of running away itself, but also efforts to assist enslaved people who ran away or planned to run away. In other words, the state effort to suppress slave flight depended on creating and exacerbating division between enslaved people and creating incentives for enslaved people to police each other. In this way, the judicial system penalized the constitution and maintenance of bonds between enslaved people in a way which might lead to subversion of the plantation system. On November 22, 1817, Beatrice, an enslaved woman on Eden Estate, was charged before the St. George slave court with harboring an escaped enslaved woman named Nelly on the evening of September 14, 1817 “and at divers other times.”

⁶⁰ *Rex v. Susanna*, 2/19/30, Port Royal Summary Slaves Trials 1819-1834, folio 12. JARD.

⁶¹ *Rex v. Durrant*, 2/19/30, Port Royal Summary Slaves Trials, 1819-1834, folio 14. JARD.

The indictment did not address the relationship between Beatrice and Nelly. Given the substantial risks an enslaved person would take in harboring a runaway, it is certainly possible that Nelly and Beatrice knew each other prior to that evening. It is also unclear how a night or more spent at Beatrice's figured into Nelly's more prolonged absence. Was September 14th stated specifically because it was on that day that Nelly was found on Eden Estate? Had she been there for much longer? Contrary to popular belief, runaways did not always strike out on their own, but often continued to live on nearby plantations or at the fringes of settled parts of the colony. Nelly's proprietor was Elizabeth Brown, a free Black woman. If Brown were a typical free Black woman, Nelly would be one of few slaves in her possession, and it was unlikely that she owned a substantial plantation.⁶²

On August 7, 1821, Hanover Parish Magistrate Robert Oliver Vassall issued a warrant for the arrest of Lucky, an enslaved man belonging to absentee planter John Graham Campbell, esquire, of Westmoreland Parish, and Ben, an enslaved man belonging to David Innes of Hanover Parish. Vassall's warrant stated that Lucky had been absent from Campbell's estate for more than two years, and rumor had it that he had been harbored by Ben. Vassall instructed the constable to search the "Negroe houses" at Innes's Mount Grace Estate for Lucky and Ben.⁶³

⁶² *Rex v. Beatrice to Eden Estate*, CO 137/147, Returns of Slave Trials. TNA.

⁶³ Warrant for Lucky. 1A/2/1/1, Hanover Slave Court. JARD.

While enslaved people received particularly harsh sentences for helping other enslaved people to run away or hide, free people could also face prosecution and punishment. On January 31, 1778, Robert Terry, “a free mulatto man,” was brought before the St. Ann Parish Slave Court on the charge of harboring an enslaved woman named Devoll belonging to David Jones. Robert Terry had been accused several weeks prior in an affidavit by a Richard Terry, who could potentially be Robert’s relative, and who described seeing Devoll frequently around Robert’s house and plantation. Richard further alleged that Robert intended to travel off the island in the near future and carry Devoll with him. It is unclear how to read Devoll’s connection with Robert; Richard does mention that she was frequently locked up in the house, held against her will. The court found Richard guilty and sentenced him to be transported off the island for life, a severe penalty.⁶⁴ Similarly, in 1822, Governor Bathurst announced his intention to order John Waterman, a free man of color, transported to England. He worried that, as Waterman was a skilled seaman and had aided enslaved people escape by sea to independent Haiti, he might be a flight risk.⁶⁵

3.10 Enslaved Informants and the Runaway Slave

Alexander Barclay in his pro-slavery tract *A Practical View of the Present State of Slavery in the West Indies* suggested that enslaved people sometimes also saw running

⁶⁴ *Rex. Robert Terry*. MS273, St. Ann Slave Court Record Book, folio 108. NLJ.

⁶⁵ William Burge to Colonial Secretary, 28 February 1822, folios 16-17; *Rex v. John Waterman also known as William David*, folio 18; Henry Couran to Governor Bathurst, 26 March 1822, folio 62, all CO 137/153, TNA. For further discussion of transportation, see Ebony Jones. *Enslaved and Convicted: Criminal Transportation as Punishment During British Amelioration*. PhD. Diss., New York University, 2018.

away as a character flaw in each other. He related a likely apocryphal story of two elderly enslaved men who appeared before a minister with the hope of being baptized. Before he would agree to administer the sacrament, the minister required them to answer some questions to determine their readiness for baptism and their ability to be good representatives of the faith. In Barclay's telling, when only one of the men was admitted to be baptized, the other enslaved man cursed him as "a worthless runaway and thief," compared to his positive assessment of his own character.⁶⁶ Pro-slavery author John Stewart suggested that other enslaved people saw runaway slaves as "predatory" when they stole from provision grounds to provide themselves with foodstuffs.⁶⁷ Missionary Thomas Cooper reported that enslaved people sent out in search of runaways were often armed by the overseer or master with cutlasses, and authorized to chop, or cut down, the runaway if they met with resistance.⁶⁸ Similarly, the monetary awards and the attendant rise in prestige and privileges from slaveholders served as incentives for enslaved people to report runaways in certain cases.

⁶⁶ Alexander Barclay, *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell.* (London: Smith, Elder & Co., 1828). 110.

⁶⁷ John Stewart. *A View of the Past and Present State of Jamaica: With Remarks on the Moral and Physical Condition of the Slaves, and on the Abolition of Slavery in the Colonies.*(Edinburgh, 1823). 288-89.

⁶⁸ Thomas Cooper. *Facts Illustrative of the Condition of Negro Slaves in Jamaica: With Notes and An Appendix.* (London: J. Hatchard & Son, 1824). 32

Responding to planter Thomas Hibbert's suggestion that good character represented a boon to an enslaved person, using the example of an enslaved driver named Porus, missionary Thomas Cooper responded derisively:

And do you really think, Sir, to destroy the credit of my statement, that a good name is of no avail to the slave *himself*, by shewing that it may have the effect of enhancing his value to *another*; that is, of raising his price as a species of goods, a mere marketable commodity? I have admitted, in the letter from which your quotation is taken, "that a regular line of orderly conduct may save him from the lash," and even afford him some hope of being elevated to the distinguished office of a driver. But what else can it do for him? You say, make him sell at an advanced price. *That*, I rejoin, is to increase the difficulty in the way of his freedom. A discontented, dishonest, lazy, runaway fellow would, if valued by impartial persons, be, as you reason, rated very low, perhaps not above 50 pounds and consequently he would obtain the precious boon of liberty for at least 300 pounds less than the almost worn-out, *but well-disposed*, driver on *Porus* estate.⁶⁹

In the case brought against two enslaved women belonging to the custos of Port Royal discussed in depth in Chapter 3, several enslaved men playing leadership roles on the plantation served to testify to their running away and their general pattern of conduct on the estate in ways which served the interests of the slaveholder. While this might align somewhat more neatly with preconceived notions of what enslaved peoples' relationship to the colonial legal system could be, it nonetheless represents an important component of the story that shaped the range of enslaved people's relation to the court system.

For numerous reasons, ranging from self-interest in potential reward from helping to capture a runaway, dislike for a particular individual, or fear of punishment from not

⁶⁹ Thomas Cooper. *Facts Illustrative of the Condition of Negro Slaves in Jamaica: With Notes and An Appendix*. (London: J. Hatchard & Son, 1824). 4-5.

reporting a runaway, enslaved people also alerted masters and authorities to the presence of runaways. On April 29, 1797, an enslaved man named Charles reported to his master Arthur McKenzie that he had seen Joan, an enslaved woman who had been absent from McKenzie's estate for several months, on James Ferguson's estate in St. Ann, harbored by an enslaved man named Quao. Although Ferguson's property was described as a "plantation" in the indictment, Charles testified in court that only one person besides Quao was enslaved there, suggesting that Ferguson was likely a small landholder. Although McKenzie had explicitly tasked Charles with searching for Joan, one wonders both why he reported finding Joan and why he explicitly fingered Quao as her concealer. He could, for example, have pointed Joan's location to Ferguson without mentioning Quao by name. He could have also chosen, risking punishment if someone else eventually revealed Joan's location, to make a false report to his master.⁷⁰

Sometimes, an enslaved person's role in testifying against another enslaved person seemed to have come about due to personal insult or injury sustained by the accuser. James, an enslaved man belonging to Alexander Kidston, charged an enslaved man named Hero with assaulting him on the King's Highway between the Great Town Road and Alexander Kidston's house. According to James, Hero stole eight reals from him and broke his arm in the process. Hero had, at that point, been runaway for six weeks. It is plausible that his theft from James was about obtaining money to purchase food or other necessities. He may have injured James to dissuade him from informing his

⁷⁰ *Rex v. Joan to Arthur McKenzie*. MS273, St. Ann Slave Court Record Book, folio 149. NLJ.

master about his sighting of a runaway. Instead, angered by the theft, James played a crucial role in testifying against Hero in the slave court and ensuring that he was sentenced to hard labor in the workhouse for life.⁷¹

3.11 Surviving Away from the Plantation

It was not merely or only the act of running away itself that drove enslaved runaways into the slave courts. Frequently, the challenges of obtaining adequate food, clothing, medical care, and other necessities proved their undoing. On August 21, 1821, an enslaved man named Adam testified before three magistrates in Hanover about how he attempted to provide for himself while a runaway. Enslaved on Haughton Court Estate, he had been absent about a week and had spent much of his time hiding among the sugar cane and trying to get a little food from the slave community's provision grounds and storehouses on the estate. Hunger drove him to town on a Friday night, where he bought five pence worth of cakes. While he was eating his cakes seated on a cannon on the town square, he came across three enslaved men he knew (Prince, Quashie, and William Masters) in the process of breaking into a shop. They promised him to share the proceeds if he did not say anything about their robbery and participated. Adam agreed and helped the men steal several rolls of cloth and a half-hamper of meat.⁷²

In April 179?, an enslaved man named Quashy belonging to William Beckford and an enslaved boy named Drake belonging to an unnamed owner, both of whom had

⁷¹ *Rex v. Hero*. MS273, St. Ann Slave Court Record Book, folio 235. NLJ.

⁷² "Examination taken before Alexander Campbell, John Malcolm, and Lewis Grant, esq. Justices of the Peace, at the Court House Lucea 21st day of August 1822." 1A/2/1/1, Hanover Slave Court Records. JARD.

been runaway for more than six months, stole and led away a steer belonging to Joseph Price near Winefield, St. Ann Parish. Cudjo, another enslaved man belonging to William Beckford, testified in slave court to Quashy and Drake's theft of the steer. It seems likely that Quashy and Drake intended to use the steer for food, to supplement whatever they'd been able to scavenge in the forests or obtain from enslaved people on neighboring plantations. Drake's fate remains unknown, as he had not been captured at the time of the trial. Quashy, however, was sentenced to a life at hard labor in the county workhouse in Spanish Town.⁷³

Even when runaway slaves attempted to provide for themselves through engaging in more legitimate enterprise, their status itself placed them under scrutiny of the law and made their capture and return to bondage more likely. In September 1830, Thomas Smith, an enslaved man belonging to John Sethers of Kingston, was arrested in Buff Bay for peddling without a license. The inventory that the court officials entered of Smith's wares was extensive: "12 yards red print, 10 ½ yards green ditto, 5 ½ yards yellow print, 9 ½ yards blue print, 11 ½ yards striped print, 6 handkerchiefs, 3 yards sheeting, 4 pair of braces, 4 pair socks, 1 necklace, 4 nutmegs, 5 pieces tape, 1 ½ half-knots thread, 3 dozen dead eye buttons, 8 shirtneck buttons, 1 pair of scissors, 1 trunk."⁷⁴ The variety and amount of Smith's wares suggest a level of mercantile success and that he had been engaged in this business for some time.

⁷³ *Rex v. Quashy to William Beckford*. MS273, St. Ann Slave Court Record Book, folio 24. NLJ.

⁷⁴ *Rex v. Thomas Smith to John Sethers*. 2/18/7, St. George Quarter Sessions, JARD.

Runaway slaves were frequently accused of other crimes, under the planter class's suspicion that their greater mobility and the lack of an immediate watch on their behavior allowed them more opportunity to challenge planter society. In September 1803, Ned, an enslaved man, was accused by Charles Fyfe and Akra, an enslaved man belonging to Fyfe, with attacking Fyfe with a knife. According to their testimony, Ned had been a runaway slave for about three weeks. When they were nearing him on the road, Fyfe on horseback and Akra accompanying him on foot, they saw Ned duck into the bushes. Fyfe assumed that Ned was trying to hide from them and that he might have stolen something. He instructed Akra to pursue Ned. Akra captured Ned and brought him back toward Fyfe, who proceeded to search his belongings. Among other items, Fyfe found a wallet and knife. As Fyfe drew the knife from its sheath, he stabbed himself with it. On that ground, Fyfe deigned to charge Ned with assault. In this case, the court did not find the accusation credible. Not only did the court find Ned not guilty, but they did not make any note of his purported status as a runaway.⁷⁵

3.12 Conclusion

As emancipation began to seem more inevitable in the British Empire, colonial officials exchanged letters about the consequences of freedom for laws against slave flight. As they imagined what post-emancipation society would look like, they feared unchecked mobility by the newly free population. Further, there was the question of whether people already serving sentences for running away would remain in custody or

⁷⁵ *Rex v. Ned*. MS273, St. Ann Slave Court Record Book, folios 208-9. NLJ.

banned from returning to Jamaica after running away no longer became a crime. George Lowman Tuckett, an Englishman who served as judge on the Admiralty Court and a short term as Lord Chief Justice of the Jamaica Supreme Court, raised the concern to Edward Stanley of the Colonial Office about what would happen to enslaved people who had runaway and were serving life sentences in workhouses at the time of abolition. Although noting that he had never presided over a case of this sort himself, Tuckett recalled from digests in contemporary colonial newspapers the sheer frequency of this kind of case and sentence. In Tuckett's view, it would be unjust and inappropriate to allow people to remain incarcerated for an offense which was no longer valid in a post-slavery society.⁷⁶

Yet, as the Jamaican House of Assembly prepared for emancipation in 1833, one of the key orders of business was to pass new laws to restrict the mobility of the newly free population. In a new act on vagrancy, the Assembly listed a wide range of characteristics that could allow a constable to imprison a person for vagrancy:

...all persons who threaten to runaway and leave their wives or children chargeable to any parish, town, or place, or without any visible means of support, all persons who being able to work, and thereby or by other means to maintain themselves and families, shall wilfully refuse or neglect so to do, and all persons who shall not have any visible means of employment, by which default or neglect they or any of them shall become chargeable to any parish, town, or place, and all persons who shall return to any parish, town, or place from whence they have been legally removed by order of two justices of the peace, and shall there become chargeable, without producing a certificate owning them to be settled elsewhere, and all common prostitutes or night walkers walking in the public streets or public highways, not giving a satisfactory account of themselves, and all persons who cannot shew any visible means of employment, shall be deemed idle and disorderly persons.⁷⁷

⁷⁶ George Lowman Tuckett to Edward Stanley, 12 October 1833. CO 137/191, folios 289-290. TNA.

⁷⁷ *An Act to Restrain and Punish Vagrancy*. St. Jago de la Vega: Alexander Aikman, 1831.

The Jamaica Assembly also placed new restrictions on trespassing, making it difficult for persons, especially those who were newly freed and did not own property, to find a place to be without submitting to the new regime of apprenticeship and otherwise coerced plantation labor.⁷⁸ Magistrates were newly empowered, granted more abilities to jail individuals pending trial, appoint special constables with arrest powers, and generally restrict mobility of people judged suspicious on intentionally vague grounds.⁷⁹ One can see the legacy of this policy and this sentiment of uneasy fear in apprenticeship-era laws that strove to bind apprentices to the land they occupied and in harsh measures enforced against individuals of color classed as “vagrants.”

⁷⁸ *An Act for the Summary Punishment, in certain cases, of Persons willfully and maliciously damaging or committing Trespasses on Public or Private Property.* St. Jago de la Vega: Alexander Aikman, 1831.

⁷⁹ *An Act to Increase the Power of the Magistracy.* St. Jago de la Vega: Alexander Aikman, 1831.

4. “Master Said He Was Over All the Magistrates”: Adjudicating Discipline of Enslaved People in Jamaica’s Courts

On May 30, 1831, Catherine White, a 40 year-old enslaved woman described as a “mulatto” came before local magistrates along with her daughter, Amelia King, a young enslaved woman of 20, described as a “quadroon.” White had long been a domestic servant to Port Royal’s Custos, or head vestryman and lead magistrate, John Rawleigh Jackson and his family. In her testimony, she painted her prior service for the Jacksons as an unusually permissive and generous one. White recounted that Jackson had given her permission to hire herself out to try to buy her freedom, and had also offered to sell her to a new master if she found one she preferred and he was willing to pay a fair price. In addition to her domestic service, White had developed substantial skill as a milliner or hat maker. White also described receiving some freedom of movement, such that she was able to go to dances with other enslaved people on neighboring plantations, purchase little luxuries from town, and borrow a horse from Mrs. Stupar, Jackson’s resident mother-in-law. Amelia King, 20, on the other hand, was described as a quadroon.¹ Like her mother, she spent her lifetime as domestic servant. However, unlike her mother, who

¹ Although this is not clear, her daughter Amelia King’s description as a “quadroon,” suggests that she may be the product of a sexual relationship between White and a white man. Some readings of the case may suggest that Catherine had a sexual relationship with John Rawleigh Jackson and the shift in her family’s fortune in relationship to their treatment on the plantation may be due to the discovery of this relationship by Jackson’s wife and mother-in-law.

had previously been enslaved under another owner, King had been born and raised under Jackson family ownership.²

One day in early January 1831, Ann King had just finished feeding the household dog. Their owner's young daughter, Elisabeth, ordered her to feed the dog again, contending that it was still hungry and had not had enough to eat. Ann, having just fed the dog and alarmed at the thought of an animal gorging itself while humans starved, refused. Irritated by an enslaved woman speaking back to her daughter, Mrs. Jackson intervened. Ann spoke back to her, and Mrs. Jackson responded with force, seized on a supple-jack (walking stick) nearby and began to beat Ann. Alarmed, Catherine attempted to mitigate the punishment, by urging her owner to turn to a whip – which she imagined to be less painful and destructive – if she must beat her daughter. Although irritated at Catherine's impudence and swearing to punish her, Mrs. Jackson did switch to using the whip.

As a supplementary punishment, the Jacksons forced Ann to stand by the door all day and refused her breakfast and lunch. When she was finally given a meal at dinnertime, Ann refused to eat in protest. Catherine complained to her master and mistress throughout the day that her daughter was being denied food. For speaking back, Catherine herself faced further punishment and was ordered to be placed in the stocks by

² Parliament. House of Commons (1832). *Copy of all Correspondence Relative to the Punishment of Two Female Slaves Belonging to Mr. Jackson, the Custos of Port Royal, and the Proceedings Held Thereon.* (HC 1831-1832 737).

Mrs. Jackson. For six weeks, Catherine spent the nights in the stocks, first in the house and then the hot house or estate hospital, and spent the days doing the laborious work of harvesting coffee in the fields.

Ann was concerned about her mother Catherine's imprisonment in the stocks - she had been flogged shortly before the incident and her previous wound had not yet healed. She spoke to several members of the Jackson household she perceived as more sympathetic and asked for leniency for her mother. One free woman of color, acting as a servant to Mrs. Jackson's mother, was sympathetic and offered to help. That night, when her mistress was asleep, Ann escaped from her room and made her way towards the neighboring parish of Kingston. Knowing that both John Rawleigh Jackson and his brother were magistrates in Port Royal Parish, and had substantial connections and sway with the other magistrates, Ann was convinced that she could not hope for helpful intervention from officials in her own parish. As she later testified, "master said he was over all the magistrates." Along her route, she stopped at Pen Hill, and later Mahogany Vale, seeking help and shelter from other enslaved people. However, at Mahogany Vale, Campbell Robert Jackson, her master's brother, recognized and caught Ann and put her in the stocks. Soon thereafter, she was sent back to John Rawleigh Jackson's plantation at Belle Vue.³

Upon her arrival back to Belle Vue, Ann was subjected to additional and harsher punishment in response to her efforts to seek out assistance. Whereas previously she had

³ Ibid.

received more modest treatment than her mother, she was now forced to alternate shifts of harvesting coffee all day and spending the night in the stocks, with spending time in the stocks all week. She was denied permission to wear fancier clothing she had purchased with her own earnings and relegated to wearing the plain, standard-issue clothing given to the estate's field hands. Further, to increase Ann's discomfort working all day outdoors after having long worked inside as a house servant, the Jacksons denied her the use of any head covering to protect herself from the sun while working. Meanwhile, the estate's free people took any behavior they perceived as impudence as an excuse for repeated and liberal floggings.⁴

Although particularly well-documented, the White and King case against the Jackson family is not otherwise unique. Although it took its time to make its way to the legal system and to the attention of the colonial and imperial government, once it did, the ripple effect was vast. The case received high visibility in both the United Kingdom and British empire broadly and in Jamaica specifically. Numerous colonial and metropolitan newspapers reported the case and subsequent developments, including reprinting large portions of White's and King's testimony. At a moment when West Indian interests were waging a publicity campaign against abolitionists, contending that slavery need not be abolished and that the local government was capable of preventing the worst abuses and cruelties of slavery, this case struck a nerve. In part, the irony of a case of palpable cruelty conducted by the highest jurist and civil authority, the *custos rotulorum*, in Port

⁴ Ibid.

Royal Parish, suggested that this claim was paper-thin. Furthermore, the case against Jackson emerged almost simultaneously with two other high profile stories of cruelty. Reverend George Wilson Bridges, the parish rector of St. Ann's and a prolific published author and historian of Jamaica, made headlines for brutally whipping Kitty Hilton, an enslaved woman who had failed to prepare dinner to his specifications.⁵ Henry Williams, an enslaved man severely beaten for praying, also elicited widespread attention.⁶

4.1 Chapter Outline

This chapter takes as its central subject efforts, like those of Catherine White and Ann King, to hold slaveholders accountable for their treatment of enslaved persons through the Jamaican legal system. It traces the development of sensibilities and legal restrictions surrounding the treatment and management of enslaved people, both by average free persons they may encounter in the course of going about their lives, and by their enslavers and other free persons – overseers, bookkeepers, managers, and attorneys – in their employ. (These categories were of material distinction and significance in the

⁵ Parliament. House of Commons. (1831). *Copy of any Information Which May Have Been Received from Jamaica, Respecting an Inquiry into the Treatment of a Female Slave, by the Reverend Mr. Bridges, Rector of St. Ann's, in that island; with the Minutes of Evidence Taken by the Magistrates on that Occasion, and the Result of the Inquiry.* (HC 1830-31 231). London: The Colonial Department. This case is also discussed in greater detail and in the context of Bridges's life and pro-slavery writings by Daive Dunkley, "The Life of Rev. George Wilson Bridges: The Jamaican Experience." In D.A. Dunkley, *Readings in Caribbean History and Culture: Breaking Ground.* (? : Lexington Books, 2011): 80-96.

⁶ Parliament. House of Commons. (1830). *Copies of all Communications Relative to the Reported Maltreatment of a Slave Named Henry Williams, in Jamaica.* (HC 1830-31 91); Parliament. House of Commons. (1831). *Copies of all Communications Relative to the Reported Maltreatment of a Slave Named Henry Williams, in Jamaica.* (HC 1831 101). London: The Colonial Department. See also Parliament. House of Commons (1832). *Copy of the Minutes of Evidence Taken on the Trial of Henry Williams, for Administering Illegal Oaths During the Late Insurrection in Jamaica.* (HC 1833 541). London: The Colonial Department.

legal framework). Fundamentally, this chapter contends that the changing landscape of social consensus about the appropriate treatment of enslaved people reflects lessening acceptability of violence as the primary means of control and discipline. It also argues that the colonial state increasingly became a more significant purveyor of violence against enslaved persons and took increased interest in the practices of plantation management and policing of enslaved people.

In the next section, I discuss the association of violence and power / control in the maintenance of slave societies and the ways in which the association between their power loosened in the context of amelioration during the early part of the 19th century. I then outline the development of the legal frameworks that governed the treatment and control of enslaved persons, and the restrictions placed on the exercise of slaveholders' power and authority. In this context, the establishment and development of the ad hoc council of protection is a particularly significant institution.

Next, I discuss the subsequent legal proceedings in the White and King case against the Jackson family, describing how the two enslaved women pursued their case to hold their owners accountable. Their case underscores both the capabilities and limitations of this framework for policing the "excesses" of the system of slavery. I argue that while the ameliorationist framework provided an opportunity for enslaved people to lodge their critique of their treatment by slaveholders in terms that would be taken seriously by the colonial state, these terms explicitly labeled such treatment as "excesses" of the system.

In the final sections of the chapter, I analyze how Councils of Protection and courts assessed the credibility and seriousness of allegations of cruelty and other misconduct towards enslavers. In many cases, enslaved people were charged with bringing frivolous complaints. Even complaints which were prosecuted through the legal system were often discredited by the public or parties to the action because of stereotypes about the trustworthiness or reliability of enslaved people's words. Yet, enslaved people strategically navigated this system and considered means to enhance their own credibility and the likelihood that colonial legal officials would take their charges seriously. Different standards were applied to cases brought against slaveholders by other slaveholders, and I briefly consider what prompted these cases. Finally, I conclude with a discussion of how these dynamics played out in the post-slavery apprenticeship period, when relationships between ex-slaves and plantation owners were complicated by the introduction of a new magistrate system with similarities to the slave court and council of protection framework forged in the amelioration era.

4.2 Violence and Power

In his history of the British West Indies, eighteenth century historian and large-scale slaveholder Bryan Edwards argued, “in countries where slavery is established, the leading principle on which the government is supported, is fear; or a sense of that coercive necessity, which, leaving no choice of action, supersedes all questions of right.”⁷

⁷ Bryan Edwards, *The History, Civil and Commercial, of the British Colonies in the West Indies: In Two Volumes*. (London: printed for John Stockdale, 1793).

One early advocate of amelioration, the Rev. James Ramsay, agreed. He suggested that the balance of power in Jamaican slave society was dependent on force and violence, contending that it was only rarely that slaveholders turned to other means to control the enslaved population:

Almost the only Instruments used in managing Slaves are, the Whip, Bean-stick, Dungeon, and Chains; The Master is actuated by his Conduct towards them by a constant suspicious Jealousy, that is to be satisfied by no Exertion, that is to be softened by no Attachment....The master, conscious that he makes his Slave a mere Instrument of Profit, concludes that his Slaves must view him as his Enemy, and oppresses him in Revenge... he is a Sponge that must be squeezed before he can be made to render his Contents.⁸

And, indeed, there is ample evidence to suggest that in many cases violence and its threat was a primary tool of power and control in Jamaican slave society. This is what Vincent Brown gestures to when he describes slaveholding colonial Jamaica as a fundamentally unstable society.

However, historian Kamau Edward Brathwaite has argued that this focus on violence is misplaced and incomplete when trying to understand the exercise of slaveholder control over enslaved people. He writes:

How effective violent punishment was, however, as a pervasive, long-term means of control, is debatable.... If slaves were to be made to fear their masters, it did

⁸ Parliament. House of Commons (1789). *Report of The Lords of the Committee of Council Appointed for the Consideration of all Matters relating to Trade and Foreign Plantations; Submitting to His Majesty's Consideration the Evidence and Information They Have Collected in Consequence of His Majesty's Order in Council, dated the 11th of February 1788, Concerning the Present State of the Trade to Africa, and Particularly the Trade in Slaves; and Concerning the Effects and Consequences of this Trade, as well in Africa and the West Indies, as to the General Commerce of this Kingdom.* (HC 1788-89). quotation pg. 458, Ramsay interview pgs. 457-463.

not follow within the same context, masters did not fear their slaves. In fact, the savagery of punishment during the period of slavery suggests that they did.⁹

In other words, Brathwaite suggests that violent punishment may have temporarily chilled immediate and active resistance by enslaved people, but it also exacerbated resentment and discontent among enslaved people towards the system of bondage. The virulence and ferocity of enslavers' brutality, he contends, signaled to enslaved people that enslavers felt their control was threatened and, if enslaved people organized and acted collectively, might be lost altogether. Brathwaite continues, questioning what happens with fear when it comes to be a permanent condition, a fact of daily life, for both slaves and masters in colonial society. He suggests it may be more accurate to consider punishment as “‘coercive necessity,’ which is functionally quite different from fear – certainly in a qualitative sense.”¹⁰ The routinization of violent coercion served to normalize it to an extent, Brathwaite suggests, and in the process dull the fear in enslaved people of what would happen should they take on the system of slavery by force. If we take Brathwaite's comments seriously, it then requires a re-thinking of what it means for enslaved people to contest their punishments, and for colonial law to seriously take their concerns into account.

The pro-slavery colonial physician David Collins characterized colonial jurisprudence as “necessarily severe,” arguing that terror is an essential tool to ensure the

⁹Edward Kamau Brathwaite. “Controlling Slaves in Jamaica.” 19--. Unpublished manuscript in the Special Collections Library, University of the West Indies at Mona, Jamaica. 64

¹⁰ Edward Kamau Brathwaite. “Controlling Slaves in Jamaica.” 19--. Unpublished manuscript in the Special Collections Library, University of the West Indies at Mona, Jamaica. p. 64

compliance of enslaved people.¹¹ He further wrote, “every gang of negroes being a community, and the person who commands them a despot, who is to administer the multifarious functions of manager, doctor, and judge; from whose sentence there is no appeal.”¹² Other slaveholders differed with Collins’s view, however. Despite his own position as a large-scale slaveholder, Edward Long, in his extensive history of Jamaica, wrote that enslaved people were subjected to relatively arbitrary punishments for disobedience to their masters. In Long’s opinion, this could be traced to the influence of the legacy of the military law first applied to the islands when conquered from the Spanish and brought under British rule.¹³ Long drew on his classical learning to suggest Jamaican society adopt a practice from ancient Athenian slavery, wherein enslaved people could sue their owners for mistreatment.¹⁴ Hector McNeil joined the chorus of slaveholders proclaiming that enslaved people required corporal punishment to be compelled to work, while similarly underscoring the necessity of finding an appropriate balance:

Such they certainly are, that without punishment, or the dread of it, a Negro will do nothing; with too much, you break his spirit, injure his health and ruin your interest; with a moderate portion, and always applied with justice, you render him a useful and docile labourer, a tolerable servant and artist, and, as far as nature and habitudes will permit, a friend.¹⁵

¹¹ David Collins. *Practical Rules for the Management and Medical Treatment of Negro Slaves, in the Sugar Colonies*. London: Printed by J. Barfield, 1803. 41.

¹² David Collins. *Practical Rules for the Management and Medical Treatment of Negro Slaves, in the Sugar Colonies*. London: Printed by J. Barfield, 1803. 16-17.

¹³ Edward Long. *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972).vol. 2, p. 496-7

¹⁴ Edward Long. *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972).vol. 2, p. 504

¹⁵ Hector McNeil. *Observations on the treatment of the negroes in the island of Jamaica: including some account of their temper and character, with remarks on the importation of slaves from the coast of Africa /*

In presenting this perspective, McNeil adopted ultimately a stalwart position of the ameliorationists – the idea that while checks must be placed on the system of slavery and the apparatus of punishment and discipline within it, the fundamental characteristics of people of African descent meant that slavery – and the big picture system of carrots and sticks it involved – was ultimately a necessary civilizing force.

Matthew Lewis, in his fictionalized account of his residence on his plantations in Jamaica in 1818, contributed to this sensibility of corporal punishment as an uncomfortable necessity. He thought that planters should only deploy flogging as a response to “absolute crimes” from enslaved people. Nonetheless, Lewis also noted that receiving corporal punishment was an event that stuck with enslaved people who received it and served as an important event in their moral development. Indeed, Lewis described having conversations with enslaved people who had received corporal punishment several years later, who then thanked him for administering the punishment and described what they had learned from it. Obviously, enslaved people would be unlikely to provide a full and honest account of their reaction to a punishment to the person who ordered it, and there is plenty of reason to believe Lewis manufactured even the actual content of the conversation. More important here is that Lewis chose to present this narrative of punishment as one step in a process of growth. To Lewis as well as many

in a letter to a physician in England from Hector M'Neill. (London: Printed for G.G. J. and J. Robinson, 1788[?]). p. 29

other slaveholders, it was important that their strategies of discipline and punishment could be slated into a rubric of the civilizing mission.¹⁶

Even after the most extreme punishments were seen as beyond the pale of the law, the community of free people turned a blind eye to actions and abuses of pernicious offenders. Dr. Jackson described a slave being flogged to death. He distinctly heard the reverberating sounds of the whip and thought that the enslaved man would not survive and overheard neighboring whites chatting at length about how the man's death would be a substantial monetary loss for the planter. Similarly, Henry Coor told the story of an overseer who, in the course of managing a plantation, killed three slaves. The plantation owner recognized the overseer's talents and ability as a manager of an enslaved labor force, and so the plantation owner dismissed him from employment, but allowed him to quietly leave without making a public scene and alerting other potential future employers.¹⁷

4.3 A History of Legislation "Protecting" Enslaved People

The 1696 Jamaica slave code recognized few protections and immunities for enslaved people. Among these limited protections, slaveholders were required to supply each enslaved person with clothes and to plant provisions for them. If a slaveholder did not meet these basic requirements, the code authorized justices to issue penalties. While

¹⁶ Matthew Lewis. *Journal of a West India Proprietor: Kept During a Residence in the Island of Jamaica*. (ed. Judith Terry). Oxford: Oxford University Press, 1999. 340-343

¹⁷ Edward Kamau Brathwaite. "Controlling Slaves in Jamaica." 19---. Unpublished manuscript in the Special Collections Library, University of the West Indies at Mona, Jamaica. 53.

slaveholders were largely permitted free rein in their treatment of enslaved people, the 1696 code did make it a criminal offense for a person to “willingly, wantonly, or bloodily-mindedly kill a Negro or Slave.” Should a free person kill an enslaved person, and were duly convicted in the Supreme Court, they would be found guilty of a felony with benefit of clergy for the first offense. If the same free person killed a second enslaved person, such second offense would be deemed murder “and the Offender suffer for the said Crime according to the Laws of *England*.” In such circumstances, the offender would not be required to forfeit lands and tenements, goods and chattels, as an offender in England could incur for murder of a free person. This same enactment provided numerous exceptions when it was acceptable to kill an enslaved person.¹⁸

The 1781 Jamaica slave code made just modest advances on the 1696 code in protecting enslaved people. The code established slightly more onerous penalties for the murder of enslaved people and differentiated between murder committed by a lawful master or manager and murder committed by a third party. While the first conviction of killing an enslaved person remained a felony with benefit of clergy, this code added a prison sentence of not more than twelve months at the discretion of the court. Should the murder be committed by a third party, the offender was required to pay £100 Jamaica currency to the owner, recoverable through action of debt. Should a person commit a second murder of an enslaved person, conviction carried the death penalty without

¹⁸ “An Act for the better Order and Government of Slaves. Passed 1696. Confirmed 1699.” In *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London (1716): Printed by W. Wilkins, at the Dolphin in Little-Britain. pgs. 225-256.

benefit of clergy. Contrary to provisions handling the murder of free persons, the code stipulated that the clause should not “make or work any Corruption of Blood, Loss of Dower, or Disherison of Heirs; any Law, Custom or Usage to the contrary notwithstanding.” The 1781 code further extended criminal penalties to incorporate the mutilation or dismemberment of enslaved people, levying a penalty of £100 Jamaica currency on offenders. If a third party committed the mutilation or dismemberment, the code authorized owners to pursue damages at common law.¹⁹

The 1781 code stipulated, for the first time, a principle which would govern many protective laws around the government and management of enslaved people: “it is necessary and proper for the Encouragement of Slaves, that they shall be protected in their Persons against all and every Person or Persons not being the Master, Owner, Possessor or Person having the Care or Management of such Slaves.” In other words, the law articulated its intention to preserve the authority of masters and their designees over enslaved people. Rather, the law promoted the primary protective role of the colonial state to protect enslaved people from being maltreated by others. This approach underscores the centrality of colonial understanding of enslaved people as property.²⁰

¹⁹ “An Act to Repeal Several Acts and Clauses of Acts Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes.” In *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston (1786): Printed for James Jones, Esq. by Lewis and Eberall. pgs. 256-279.

²⁰ “An Act to Repeal Several Acts and Clauses of Acts Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes.” In *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston (1786): Printed for James Jones, Esq. by Lewis and Eberall. pgs. 256-279.

The 1787 Jamaica slave code was of critical importance in dramatically expanding the protective measures for enslaved people and the limitations on the exercise of a master's power. This code introduced language that prohibited enslavers from turning out ill or elderly enslaved people from their estate, ensuring that enslaved people would continue to be cared after their productivity had waned.²¹ While previous slave codes had included provisions that penalized enslavers for killing or mutilating enslaved people, these provisions were either financial or penal. Such provisions did not include the possibility of freedom or other amelioration in condition for enslaved people themselves. The 1787 code amended the standing provision on mutilation and dismemberment to provide for the possibility that the court could declare the enslaved person or people free should they "think it necessary for the future protection of such slave or slaves." In such circumstance, the slaveholder would be further sentenced to pay a fine of £100 Jamaica currency to the justices and vestry of the parish, who were then to pay the enslaved person £10 Jamaica currency per annum for their maintenance and support for life. This amendment also added a provision enabling justices to send an enslaved person who suffered mutilation to be lodged and attended at the expense of a

²¹ "The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22^d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica." London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

parish in the workhouse until the next time the justices and vestry of the parish could meet to hear their case.²²

This code also created the Council of Protection as a new colonial institution. Rather than a standing institution or board, the Council was to be formed out of existing justices and vestry members on an ad hoc basis in response to particular cases of mutilation or dismemberment of enslaved people in the parish. These justices and vestry were empowered to investigate cases of mutilation or dismemberment. When the council found just cause, they were empowered to prosecute the slaveowner, with the expense of the prosecution to be borne by the parish where the offense was committed. If the slaveowner appeared capable of paying costs and charges, the council was further empowered to pursue civil cases to recover them. The workhouse or gaol keeper was required to take charge of the mutilated enslaved person or people and to transport them to the court when required by the council.²³

²² “The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica.” London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

²³ “The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica.” London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

In addition to these penalties for slaveholders for murder, mutilation, and dismemberment, the 1787 Jamaica code broadened the possible grounds for prosecution for other free people for crimes against enslaved people they did not own. The code penalized “any person or persons that shall wantonly or cruelly, whip, beat, bruise, wound, or imprison, or keep in confinement without sufficient support, any slave or slaves, not being his, her, or their own property, or not being under his, her, or their management, care, or employ.” These cases could be prosecuted before the supreme court or an assizes or quarter session court, and justices were given significant latitude in determining the financial or penal penalty. Criminal conviction under these statutes still permitted the slaveholder to pursue action for damages under common law. Notably, these penalties did not apply to a slaveholder committing these acts to their own enslaved people. However, the inclusion of these acts as subject to criminal prosecution was important. It would not be long before these provisions were extended to apply to actions committed by slaveholders on their own enslaved people and placed under the jurisdiction of the Council of Protection.²⁴

Following the landmark implications of the 1787 Jamaica slave code, the 1801 code made a few modest changes. Under the 1801 code, enslavers and their agents were

²⁴ “The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica.” London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

liable not only for themselves in mutilating or dismembering enslaved people, but for any such action that occurred “by their direction, knowledge, sufferance, privity, or consent,” and could be sentenced to a fine not exceeding £100 Jamaica currency and imprisonment not exceeding 12 months per enslaved person. This code placed a specific limit on the use of whipping as punishment, permitting no more than 10 lashes in most circumstances, and 39 lashes when the owner, attorney, guardian, executor, administrator, overseer or workhouse or gaol supervisor was present. In addition, instruments of confinement, like iron collars and the use of irons, chains, and weights to weigh down the limbs of enslaved people, were barred from use in most circumstances under penalty of £100 Jamaica currency.²⁵

The 1807 slave code made some additional modest changes which increased the scope and ability of the Council of Protection to exercise its powers. “Probable intelligence from any slave or otherwise” was added to the legally viable means through which a justice of the peace could learn actionable information about the potential mutilation or maltreatment of an enslaved person. The list of potential offenses the Council of Protection could investigate was amended to include confinement “without sufficient support” and general maltreatment. The Council of Protection was also authorized to send the allegedly maltreated enslaved person to the workhouse for protection, to be kept in custody until an inquiry was made according to the law. Finally,

²⁵ “An Act for the Better Order and Government of Slaves; and for Other Purposes.” St. Jago de la Vega [Spanish Town] (1801): Printed by Alexander Aikman, Printer to the King’s Most Excellent Majesty.

the 1807 code further restricted the frequency and circumstances in which whipping could be used by slaveholders as a means of punishment. The new additions clarified that not only could no more than 39 lashes be administered at a time to any individual enslaved person, but that no more than 39 lashes could be administered in total in any day. Even beyond that day, no additional lashes could be administered to an enslaved person who had not yet recovered from the effects of their former punishment. Violation of either of these terms carried a fine of £10 Jamaica currency.²⁶

The 1817 Jamaica slave code made two very significant changes to the Council of Protection's operation. First, and in a significant advance for enslaved people's efforts to get their cases investigated thoroughly, Councils of Protection were newly empowered to call witnesses as part of their inquiry into whether or not to launch a prosecution. However, Councils of Protection were also newly authorized to punish the complainant if, in the judgment of the panel, the complaint was "groundless." This last provision effectively served to discourage some enslaved people from bringing complaints and

²⁶ "Appendix, No. 1 : An Act to repeal an Act, intituled, "An Act to repeal several Acts and Clauses of Acts respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes;" and also to repeal the several Acts and Clauses of Acts, which were repealed by the Act intituled as aforesaid; and for consolidating, and bringing into one Act, the several Law relating to Slaves, and for giving them further Protection and Security; for altering the Mode of Trial of Slaves charged with capital Offences; and for other Purposes." In Renny, Robert. *An history of Jamaica : with observations on the climate, scenery, trade, productions, negroes, slave trade, diseases of Europeans, customs, manners, and dispositions of the inhabitants ; to which is added, an illustration of the advantages, which are likely to result from the abolition of the slave trade.* London (1807), Printed by J. Cawthorn. pgs. 245-278.

penalized some of those who did bring complaints that the council was unwilling to consider seriously.²⁷

The 1826 Jamaica slave code made further transformative changes in the slave codes and the conduct of Councils of Protection. Most significantly, this code punished both “carnal knowledge of female slave[s], under ten” and rape of female slaves generally with death. Neither of these offenses worked corruption of blood or forfeiture on convicted offenders. Secondly, the code added an additional layer of operation to the Council of Protection process. On hearing of allegations of maltreatment, a justice of the peace was now to report to the custos, or lead vestryman and magistrate for the parish. The custos would then convene a special session of three or more justices. If this special session found the complaint frivolous, this panel was authorized to punish the complainant. Should the special session find the complaint well-founded, they were required to take recognizances of witnesses and remand the slave to the workhouse to await a meeting of justices and vestry as a Council of Protection. Once convened, the Council of Protection would operate as previously described, hearing witnesses and reaching a decision on whether or not to bring prosecution against the accused. The 1826

²⁷ “An Act for the Subsistence, Clothing, and the Better Regulation and Government, of Slaves; for Enlarging the Powers of the Council of Protection; for Preventing the Improper Transfer of Slaves; and for Other Purposes.” In *The Laws of Jamaica: Comprehending all the Acts in Force, Passed Between the Fifty-First Year of the Reign of King George the Third, and Fifty-Seventh Year of the Reign of King George the Third, inclusive*. St. Jago de la Vega [Spanish Town] (1817), Vol. 6, pgs. 495-533.

code introduced monetary penalties to justices or vestry who did not attend a scheduled Council of Protection.²⁸

The new provisions enacted in the 1826 Jamaica slave code were annulled when the code was disallowed by the Privy Council in 1827 and the 1817 code's provisions went back into effect. However, the provisions and changes enacted in the 1826 code surrounding the Council of Protection were re-enacted in the new code created in 1831.²⁹

4.4 Councils of Protection

Councils of Protection represent a unique legal venue within British Caribbean law. While in most cases, enslaved people were, at least technically, dependent on free individuals to press their case before the court, the Council of Protection offered a legitimated way for enslaved people to approach magistrates on their own behalf to press their grievances about maltreatment and abuse. In Jamaica, the Council of Protection was an ad hoc body, composed of magistrates and vestry members, and its composition differed from meeting to meeting. In this regard, the hearings of Councils of Protection can be difficult to trace, as they did not as a result leave a centralized archival footprint and did not have the same institutional stability as, for example, the Protector of Slaves in

²⁸ *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index.* [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office.

²⁹ "An Act for the Government of Slaves." Inclosure in No. 1, Copy of a Despatch from the Earl of Belmore to Viscount Goderich, 21 February, 1831, Spanish Town, Jamaica. In Parliament. House of Commons (1831). *Papers Presented to Parliament, by His Majesty's Command, in Explanation of the Measures Adopted by His Majesty's Government for the Melioration of the Condition of the Slave Population in His Majesty's Possessions in the West Indies, on the Continent of South America, the Cape of Good, and at the Mauritius.* (HC 1830-1831 230). London: J. Hartnell. pgs. 3-54.

the Crown colony of Trinidad. Sometimes, inquiries launched by Councils of Protection are recorded in quarter sessions records; when enslaved people's complaints were deemed frivolous, they could end up discussed in the slave court records. We know of other hearings held by Councils of Protection from contemporary newspapers, private correspondence, or letters from colonial officials to their counterparts in the metropole. Therefore, it is difficult to speak with precision about the frequency or general outcomes of these cases. Nonetheless, the fragmented evidence which does exist suggests that enslaved people saw Councils of Protection as an imperfect but significant venue to air their complaints and place pressure upon overseers and planters, even as they recognized that in many cases these claims opened themselves up to prosecution for frivolous complaints and retaliation from free people. It is also clear that, in many cases, Councils of Protection operated with, at best, a secondary consideration for the welfare of enslaved people, and with greater sensitivity to protecting local elites and serving as an institutional safeguard against stories of cruelty and brutality which might discredit West Indian slavery and embolden abolitionists.

The Council of Protection as an institution is mentioned in Jamaican slave law from 1787. However, the scope of the Council of Protection's jurisdiction changed over time. Initially, the Council's ambit encompassed just acts of substantial physical harm against enslaved people, including dismemberment, mutilation, and attempted murder. However, as ameliorative measures took on greater importance and the Jamaican slave code was adapted to encompass further discrete rights of enslaved people, Councils of Protection were convened to hear a wider range of grievances from enslaved people, from

being forced to work on the Sabbath, to denying adequate provision grounds, to receiving more lashes than permitted by the law. The expansion of the council's scope meant that enslaved people could increasingly testify and press grievances in their own right before a legal body. In the December 29, 1787 *Cornwall Chronicle*, James Fannin reported on an amendment to the slave code being considered by the Jamaica Assembly regarding restrictions on “*unnatural or inhuman punishment*” on enslaved people and which promoted punishment and fines at the judgement of the Supreme Court or Assize Court.

The amendment noted

...the *extreme cruelties* and *inhumanity* of the Managers, Overseers and Book-keepers of estates have frequently driven slaves into the woods, and occasioned *rebellions* and *internal insurrections* to the great prejudice of the proprietors, and the manifest danger of the lives of the inhabitants of this island. ³⁰

The language of the amendment reveals the operative concerns shaping this and other reforms. The wellbeing and health of enslaved persons was not the priority for colonial legislators. Rather, the continuing stability of the colony and the safety of free – and primarily white – residents was the leading concern.

Correspondence between the Governor and other colonial officeholders in Jamaica and officials at the Colonial Office reflect an ongoing tug-of-war around the functionality of the Council of Protection. Metropolitan officials repeatedly stressed the advantages of appointing a single official to take charge of this responsibility, to ensure

³⁰ William Dickson. *Letters on slavery by William Dickson : to which are added addresses to the whites and to the free Negroes of Barbadoes : and accounts of some Negroes eminent for their virtues and abilities*. London: Printed and sold by J. Phillips and sold by J. Johnson, 1789. p. 129. Emphasis in original.

that the legal guardianship of enslaved people had a single point-person. Jamaican officials suggested that this posed a challenge to the portfolio of responsibilities given to individual magistrates and that separating out the guardianship of slaves from other legal responsibilities might undermine the already minimal support of the planter class for this arrangement.

Despite the charge of planters that the council of protection tilted towards enslaved people, surviving records heavily dispute this. Although extant records suggest that councils of protection were formed several times a year in most parishes to investigate complaints by enslaved people, indicating that at least *pro forma* obedience to the legal form was followed, the actual hearings indicate a heavily planter-slanted bias. In many cases, councils of protection found that the complaint had been frivolous or was not sufficiently proven. This often resulted in a punishment ranging from a whipping to confinement in the workhouse for a fixed period for some or all of the complaining enslaved people. Even when enslaved people's complaints were sustained, those charged often got off with a modest fine. Only in rare and especially notorious circumstances did slaveholders or overseers face imprisonment or the sale of their human property.

4.5 Holding the Custos Accountable

Magistrate Archibald Palmer was the first Port Royal official to receive Catherine White and Amelia King's complaint. It is not entirely clear how Palmer first heard the news, but it seems probable that he was engaged in regular rounds to the different plantations in the parish and was approached by one of the enslaved women at that time. While Palmer was no opponent of slavery, he was concerned by the appearance of a

conflict of interest, and petitioned Governor Belmore for a change of venue, suggesting that because the accused was the highest official in the parish and several other officials were related to him by blood or business ties, it might be best for officials of a neighboring parish to lead the investigation. Before Belmore could weigh Palmer's suggestion, Custos John Rawleigh Jackson's brother, Campbell Robert Jackson, caught wind of Palmer's plan and decided to hold a Council of Protection to pre-empt the change of venue. He ordered White and King remanded to the parish workhouse for their "protection" pending the trial.³¹

On hearing of White and King's confinement, Palmer visited them in the workhouse and interviewed them at some length, intending to determine how Campbell Robert Jackson had learned of the case and how he had informed them of his intention to proceed. While Palmer discussed the women's claims against their owner, John Rawleigh Jackson, and his family, with them, he either did not make a record or did not share his notes with the rest of the magistrates. As a result, Campbell Robert Jackson also visited the women in the workhouse and compelled them to testify. Believing their claims would not get a fair hearing or be adequately represented by their master's brother, the women initially refused to tell him their story. However, when Campbell Robert Jackson threatened them with violence if they did not comply, they reluctantly narrated the events.

³¹ Parliament. House of Commons (1832). *Copy of all Correspondence Relative to the Punishment of Two Female Slaves Belonging to Mr. Jackson, the Custos of Port Royal, and the Proceedings Held Thereon.* (HC 1831-1832 737).

When the Council of Protection met to consider the coerced statements Campbell Robert Jackson had obtained, Palmer protested. He diplomatically suggested to the Council of Protection that, while he believed all the members present would conduct themselves with propriety, he thought it best for another body to conduct the investigation. Palmer's protest was rebuffed and the Council insisted on hearing the case and voting on whether to pursue a prosecution of John Rawleigh Jackson and his family anyways. The Council of Protection concluded the claim against the Jackson family was frivolous and vexatious. They grounded their analysis, such as it was, in the 1816 slave code, noting that there was no stated maximum length for a slaveholder's incarceration of their enslaved people, simply that a justification for the incarceration must be provided. In their view, Jackson had amply satisfied this requirement; it was White and King who were at fault. Palmer, viewing the proceedings as illegitimate, opted not to vote; only one participating magistrate dissented from the decision. White and King were remanded to Jackson's custody.³²

When Governor Belmore received correspondence from Palmer on the matter, he became concerned about the proceedings in light of the broader colonial – imperial tensions and decided to intervene. At Belmore's prompting, Attorney General William Burge brought an indictment against the Jacksons in the Surrey Assizes Court. In this proceeding, White and King's injuries were visually inspected by the grand jury, but the enslaved women were not permitted to speak and their prior testimony was not entered

³² Ibid.

into the record. Of the free witnesses who were permitted to testify, only Palmer spoke in favor of the cause of the two enslaved women and against Jackson's cruelty. In contrast, many people testified about the good character of the Port Royal custos and his family and of their generous treatment of enslaved people. The Grand Jury refused to indict Jackson. Sensing that his legal options exhausted, Governor Belmore chose to use his executive authority instead. He suspended John Rawleigh Jackson as custos and as assizes judge. Jackson, riled up by Belmore's action and armed with the refusal of the Grand Jury to indict, complained at length, writing extensive letters to Belmore and other officials in both Jamaica and the metropole. Among the papers he included were a number of sworn affidavits from neighboring planters and magistrates he with whom he served on the vestry and assizes court and also from three enslaved people on his estates. After he received encouragement from the Colonial Office for this initial suspension of John Rawleigh Jackson, Belmore permanently removed both Jacksons from their positions as magistrates, judges, and vestrymen. The one magistrate from the Council of Protection who had dissented was appointed as the new custos.³³

Thus, in this case, the legal system failed to offer any meaningful resolution for the two enslaved women, White and King. Their owner benefited from his position as custos and from the broader solidarity of the plantocracy towards their own. Eventually, thanks to external pressure exerted by the Colonial Office and public airing of details of the case in the *Anti-Slavery Reporter*, *The Jamaica Watchman*, and other publications

³³ Ibid.

sympathetic to abolition, Jackson did lose his positions of power and authority in the parish and legal system. However, this did not the situation of White and King, enslaved women under the Jackson family's power and control. They were remanded to the Jackson family's custody and no more is heard of them in the archival record. One can only imagine what might have happened to them. However, given Jackson's evident rage at being accused of maltreatment, as well as the wildly disproportionate punishments the women had already received, it does not seem extreme to imagine that additional coercion and abuse could have continued well after the case. Indeed, John Rawleigh Jackson's loss of political and judicial positions and the whole family's loss of community esteem and respect may have exacerbated the virulence and violence the family exercised towards the enslaved women.

4.6 Excesses of the System: Enslaved People Appealing their Own Maltreatment

The clear bias of the Jamaican court system leads to the question of why enslaved people in substantial numbers still turned to Councils of Protection. One may assume that by bringing a case before a Council of Protection, enslaved people faced the real possibility of retribution from either their own owner or another slaveholder, even if they presented a sufficiently strong case to avoid a claim of frivolousness. Enslaved people seem to have often approached the council of protection in substantial numbers, speaking to a unified set of complaints and relying on their numerical strength to register the serious consequences of not addressing their grievances. As Councils of Protection held public hearings and news of their content and verdict would spread well beyond just the

people in the room, it is plausible that enslaved people saw the Council of Protection in part as a performative space where they could lay claim to the public sphere of the colony and publicly embarrass and defame their master or overseer, in an effort to compel better treatment. It is also likely that enslaved people saw this as but one tool in an arsenal of other strategies to challenge mistreatment.

Approaching the courts about the violence and other mistreatment inflicted on them by their masters and overseers required enslaved people to adopt the language and logic of amelioration. If they wished their case to be acted on with seriousness and gravity by the slave court, it would not do for an enslaved person to enter an argument about the inherent injustice and violence of the system of slavery itself. Nor would it do to enter a radical argument against corporal punishment *tout court*. Thus, in reading these records, one must recognize that enslaved people's claims before the court were always already shaped and conditioned by the system which they inhabited; it is plausible enslaved people held staunchly abolitionist views or at least more trenchant critiques of the system of discipline and punishment embedded within it than they manifested before local magistrates. What is clear in these cases is a performative critique of specific "excesses" of the system which enslaved people felt might compel even agents of the colonial state and slave system into action, in steps that at least temporarily might align with some of their own needs and desires.

Perhaps, then, it should not surprise the scholar to find that some of the cases brought before slave courts were framed to underscore the spectacularity of violence and abuse. In June 1823, enslaved people on Lou Layton Estate in the Jamaican parish of St.

George approached the parish court, charging their overseer with mistreatment and abuse. The court record lists a group exceeding 20 individual enslaved people who appeared before local magistrates, diverse in gender, age, and ethnic origin. United in their frustration, individual enslaved people nonetheless entered diverse critiques into the record. For example, Samuel Shattock complained that the overseer forced them to work for the planter on the day set aside for tending to their own provision grounds. Quamin Lloyd insisted that he was too old to be kept in the main gang, and should instead be assigned to keep watch. Most frequently, however, the enslaved people testifying before the court drew attention to the great frequency of flogging and especially to the case of Bessy Chambers, an enslaved pregnant woman who was whipped to the point of miscarriage for not working hard enough in the field.

The repetition of Chambers's flogging within their testimonies indicated the alarming nature of this event to the enslaved community on Lou Layton, and also a strategic recognition that this particular incident was most likely to strike a chord with the slaveholding magistrates. In a moment where concern over the failure of Jamaica's enslaved population to self-reproduce coincided with the first decade of the outlawed slave trade, enslaved people would have known that most planters were anxious for enslaved women on their estates to give birth and thus increase their enslaved labor force. One might imagine that the story of a pregnant woman being punished so harshly that she lost a child might evoke interest from planters as a waste of a valuable investment. Further, the particular alacrity with which abolitionist forces responded to corporal punishments that degraded and exposed enslaved women might have factored both into

the presentation of the case by enslaved people and the response they might have anticipated from the magistrates. The enslaved people of Lou Layton Estate turned to both the normative practices of neighboring plantations and the protections proclaimed in colonial law to challenge their overseers' strategies of plantation management.³⁴

Yet, even as the Council of Protection system offered one set of possibilities for pressing charges and seeking redress, enslaved people did not rely exclusively on it to address unjust punishment. The record clearly demonstrates that they saw it as one tool in a broader set of options to challenge the system of arbitrary corporal punishment that slaveholders used to rule their lives. In July 1806, in a deposition before the St. James Parish Quarter Sessions, Peter Drummond, the overseer on Sunderland Estate, described the evolution of a riot on his plantation in response to a punishment given to an enslaved man. On July 5, 1806, Drummond had been absent from the estate to attend to his militia duty in Montego Bay. During his absence, the driver and most of the other enslaved people took an impromptu day away from field work. According to Drummond, when on the following Monday, July 7, he began to read the roll call, many of the enslaved people who had been born in Africa did not respond or otherwise talked improperly. When Pompey, an enslaved man, answered to his name "in his Country Tongue," Drummond ordered the driver to administer several lashes to Pompey. Immediately, Pompey and at least seven other enslaved people threw down their hoes and ran off, leaving behind their work hoeing rattan canes. The driver ran after Pompey. Drummond ordered the driver to

³⁴ *The King v. McGibbon, et. al, Slaves*. St. George Slave Trials, 2/18/6, JARD.

toss Pompey into the stocks in the hothouse. After the driver had seized Pompey, numerous enslaved people followed them to the hot house and made much noise in protest of their friend's ill treatment. Finally, a short way from the hothouse, many of them "stripped off their frocks and insisted that Pompey should not be put in the stocks." Drummond guarded the entryway to the hothouse as the driver locked Pompey into the stocks and then handed over the keys. Drummond gave the keys to the enslaved woman tending the hothouse and went into the great house himself. According to Drummond, about ten minutes later, he heard the sound of a shell or horn blowing. He went to the great house's back door, where he was met by several enslaved people armed with bills and cutlasses. They liberated Pompey from the stocks and emerged from the hothouse singing "in their country tongue." The hothouse nurse approached Drummond to tell him that the other enslaved people had cut her leg and threatened to decapitate her if she did not give them the keys to release Pompey. In Drummond's view, the enslaved people had intended to attack him in the house, but for the arrival of several neighboring men who had heard the shell blow and galloped up to the house to investigate the sound of emergency.³⁵

Drummond's account illustrates the catalyzing force of punishment on enslaved people, and the symbolic power of protesting the maltreatment of a particular member of the group to draw a whole community into action. It is noteworthy that, in Drummond's

³⁵ *The King against Pompey, Lyon, Nelson, King, Green, Pryce, Cuthbert and Success*, St. James Court of Quarter Sessions Kalendar Book, 1A/2/8/1, JARD.

deposition, he emphasized the unity of the “new negroes” (African born enslaved people newly arrived in Jamaica) instead of the enslaved workforce as a whole, suggesting that perhaps the relative newness of their situation compelled these enslaved people to respond more trenchantly to the injustice. Given the central role the whip played in abolitionist accounts as a particularly cruel form of corporal punishment, it is noteworthy that here the stocks, supposedly a gentler and less brutal punishment, nonetheless elicited widespread outrage.

4.7 Reforming Punishment

As scholars like Marcus Wood, Dawn Harris, and Henrice Altink have pointed out, the British abolitionist movement gravitated towards depictions bordering on pornographic of the extreme violence and brutal discipline received by enslaved people. Descriptions of cruelty emphasized graphic scenes of violent acts and the physical harm enslaved people received, but also and even more harmfully underscored that the worst traits of slavery were embodied by these instances. Through emphasizing these exceptional and graphic acts, abolitionists unintentionally undermined their own argument about the system of slavery itself as the problem. Slaveholders could use their emphasis on particular acts to argue that somehow slavery could become humane, if they could effectively legislate and regulate these particularly blatant cruelties out of existence. Then slavery could continue more or less without metropolitan intervention, as it long had been. The reliance of the abolitionist movement on these accounts of slavery’s extremes also fueled efforts by planters and other pro-slavery partisans and apologists to

discredit the details of particular stories in order to undermine the credibility of the movement.³⁶

Regulations surrounding punishments effectively placed less trust in individual slaveholders, but they displaced the power to regulate violence against enslaved people to the state and its judicial officers. This was part of the reason that the accusation levied against John Rawleigh Jackson which opened this chapter was so damning: Jackson was the leading judicial authority of a parish that held great responsibility for adjudicating the complaints of enslaved people. If it were credibly demonstrated that Jackson had abused his power as a slaveholder in his own private life, how could he be credibly considered to have the authority to judge and adjudicate claims of cruelty against other slaveholders? It was a problem that simmered underneath the legal reforms of amelioration: the inability of enslaved people to expect fair treatment from the courts and the inability in even a formulaic way for them to get a hearing on so many matters which directly affected them. Enslaved people could not testify in court. They were not represented on juries or among the judiciary. Indeed, given that judges and jurors could only be white male property owners, the great majority of who were slaveholders, one could argue that enslaved people's enemies constituted the supermajority on most such panels.

³⁶ Marcus Wood, *Slavery, Empathy, and Pornography*. (Oxford; New York: Oxford University Press, 2002); Dawn P. Harris, *Punishing the Black Body: Marking Social and Racial Structures in Barbados and Jamaica*. (Athens: University of Georgia Press, 2017); Henrice Altink, *Representations of Slave Women in Discourses on Slavery and Abolition, 1780-1838*. (New York: Routledge, 2005).

Planters pleaded the case of necessity or parallels with the treatment of other individuals in England to make the case for why some of the reforms to penal regimes were not forthcoming. For example, one common refrain to the argument against whipping was a point of comparison to the use of flogging as a means of punishment in the British navy. Another common argument was that enslaved people would not work without the threat or inducement of corporal punishment. It was also argued that, while the use of the whip to administer corporal punishment could be discontinued, it was necessary for the overseer or head driver to carry it into the field as a symbol and badge of authority. To dispense with the whip altogether would shake the fundamentals of the slave system. Many commentators shared the perspective of British sailor Gordon McDonald, who wrote in his diary from Jamaica:

The Enemies of the West Indians have always armed themselves in their arguments with such Weapons as the Cruelty, flogging and so forth of the Slaves in answer to this I beg to observe that no large body of people can be kept in discipline without some summary mode of punishment (the Army and Navy as an instance) but that of late Years among other ameliorations of the slave condition that of punishment has been looked to.³⁷

Although McDonald described himself as amenable to additional reforms in punishment – and described as salutary some of the adjustments which had been made hitherto – he also contended that metropolitan opponents of slavery operated with an inaccurate perception of the complexity of the situation in Jamaica. The Jamaican Assembly and Council also participated in this rapt and intentional politics of comparison

³⁷ Gordon Gallie McDonald. *Autobiography, 1809-1831, of Gordon Gallie McDonald: An account of travels in Jamaica, also the hanging of 41 pirates at Port Royal*. MS71. NLJ.

with exemplars of brutality and mistreatment in the metropole. In a November 1794

address to Lieutenant Governor Williamson, the Council wrote:

To reproach us with partial Instances of Cruelty, which may be cited (and Eloquence can transparently blazon) even in Countries blessed with perfect Freedom, is absurd, is unjust in the Extreme... The vices of particular persons must be radical, and generally predominant, before they fairly Characterize a large Community. The same Publication in London that Exhibits a Placard from an abolition Junto, to defame the Colonists, gives also (by Order of the Royal Humane Society) the following paragraph, “A woman at Epsworth administered Poison to Sixteen Persons and afterwards poisoned herself”, “A Man and Woman were lately Executed at Hereford for Poisoning the Wife of the former and last Week a Family of Eight Persons Were Poisoned by Arsenic, put into the Flour for Making bread.” We have here most Tragic Examples of Wickedness near the Metropolis of the Empire, strikingly grouped, and which, to excite horror in every feeling breast, demand not the Aid of an Orator.³⁸

Indeed, the Council went to extremes to question, critique, and attack the motivations of their critics with West Indian experience, suggesting in inflammatory terms that they expected these individuals to more likely be aboard convict ships to colonial Australia than taken seriously as sources of official information by a British government agency.

Similarly, a renewed conscience of the gendered dimensions of colonial society and, specifically, the treatment of enslaved women, elicited public outcry in the metropole and shaped some of the debates about specific forms of punishment.

Abolitionist publications emphasized the immodesty of stripping enslaved women to be whipped, stressed the particular cruelty of making enslaved women engage in the same labor in the fields as men, and so on. As a result, some of the proposed “reforms” were geared more specifically around introducing additional layers of modesty and

³⁸ Address of the Council to Lt. Gov. Adam Williamson, 24 November 1794. CO 137/90, folios 49-51, TNA.

differentiated treatment of enslaved women and men, in ways which did not address the unfairness or cruelty of the punishment itself. On some estates, slaveholders applied rules against flogging married enslaved women. In a letter quoted in Reverend John Jenkins's memoir, Reverend Trew recounted one case of an enslaved woman who attempted to enforce this "right" against a persistent driver. In Reverend Trew's account, the enslaved woman had been "remiss in some department of her labour," and the driver, himself also a "Negro," prepared to administer the usual whipping. The driver, frustrated at her resistance, called for other enslaved people to assist and prepared to give a particularly hearty flog. Boiling with anger, the woman pointed to her wedding ring, daring the driver to proceed: "Hei! Me da married woman – first take off dis, and den flog me." In Reverend Trew's telling, this gesture and physical reminder was sufficient to compel the driver to seek out another form of punishment.³⁹

The contest about specific forms of punishment served (to a level that surpasses that in other forms of debate over ameliorationist policies) to emphasize the conflict amongst members of the ruling class and even amongst slaveholders. As abolitionists in the metropole challenged the ability of the West Indian planter class to responsibly govern themselves in making a case for imperial intervention to end slavery or introduce substantial reforms the colonial governments themselves seemed unwilling to implement, slaveholders and colonial governments similarly tried to introduce reform measures to

³⁹ Rev. Trew, qtd in George Jackson. *A Memoir of the Rev. John Jenkins: Late a Wesleyan Missionary in the Island of Jamaica: Including Character Notices of West Indian Slavery &c., &c.* (London: J. Stephens, 1832). 113-114.

create a distance between themselves and those who were failing to toe the line. In the eyes of the slaveholding class, significant differentiation from the norm was the largest offense; a master who was particularly liberal with his enslaved people represented, in their eyes, at least as much a threat to system stability and continuation as a master who conducted himself with particular cruelty and malice. Popular lines of argument included the importance of punishments above a certain threshold being approved by an individual higher on the ladder, first by an overseer rather than a driver, then by a manager or the owner rather than an overseer. Others stressed the distinction between the treatment of enslaved people owned by a slaveholder who was primarily in residence versus one who was owned by an absentee slaveholder and thus dependent on an attorney or manager for carrying out his instructions. Gilbert Francklyn argued that the absence of “better white people” was an important contributing factor to the harsh and cruel punishments of enslaved people. He noted that:

Besides having some people born amongst us of bad dispositions, we have too many vicious and bad people sent us from Europe; which, from the scarcity of better white people, or from compassion to their situation, we are obliged, or induced, to employ upon our estates as bookkeepers, or in inferior capacities; who, having seen how the poor are used at home, and the punishments inflicted upon soldiers and sailors for slight offences, and not having, themselves, any particular interest in the welfare of their master’s negroes, may, when they can without the knowledge of their superior... beat, abuse, or otherwise ill treat, the poorer and more indifferent negroes; those of consequence and character know their own importance – would dare to complain, and would certainly find redress.⁴⁰

⁴⁰ Gilbert Francklyn. *Observations, occasioned by the attempts made in England to effect the abolition of the slave trade: shewing, the manner in which Negroes are treated in the British colonies in the West-Indies : and also, some particular remarks on a letter addressed to the treasurer of the society for effecting such abolition, from Rev. Robert Boucher Nicholls ...* [London] : Kingston, Jamaica, printed, London, reprinted at the Logographic Press, and sold by J. Walter ..., C. Stalker ..., and W. Richardson, 1789. 24.

It appears that there was a strong sense of hierarchy and status imbedded in the reaction to flogging and other forms of corporal punishment, and a sense among free inhabitants of Jamaica that the infliction of such punishment breached some sort of social contract and represented a status offense. This comes through particularly well in the early response of the Trelawney Town Maroons in the late 1790s when two Maroon men were charged with theft, tried, and found guilty. The men were sentenced to receive a whipping, which was administered by an enslaved man. The use of flogging to punish Maroons caused strong Maroon community outcry, against this particular genre of punishment taken as a re-inscription of their ancestors' enslaved status and as an abrogation of their earned free and autonomous status.⁴¹

In addition to flogging, confinement in the stocks was another punishment many enslaved people received. Gilbert Francklyn thought that the stocks were a milder punishment than that inflicted for similar offenses in England:

Confinement of a night, in these stocks, (behind which is a platform on which they may lie conveniently and sleep, wrapped up in their blankets, the hole for their feet being parallel with the platform) is frequently the punishment for offences, for which people are hanged in England, or sent to Botany Bay...⁴²

Among the approaches towards an alternative to flogging, Hector de la Beche advocated solitary confinement. De la Beche observed that enslaved people placed particular

⁴¹ "Grievances complained of by the maroons of Trelawney Town." CO 137/95, folio 141-142. TNA.

⁴² Gilbert Francklyn. *Observations, occasioned by the attempts made in England to effect the abolition of the slave trade: shewing, the manner in which Negroes are treated in the British colonies in the West-Indies : and also, some particular remarks on a letter addressed to the treasurer of the society for effecting such abolition, from Rev. Robert Boucher Nicholls ...* [London] : Kingston, Jamaica, printed, London, reprinted at the Logographic Press, and sold by J. Walter ..., C. Stalker ..., and W. Richardson, 1789. p. 28

importance on being able to gather together and build community, and that to deny this “privilege” of human interaction would have tremendous impact.⁴³ Yet, despite the comparative “humanity” of imprisonment in stocks or solitary confinement, these methods still came in for substantial critique. See, for example, the case discussed in the prior section of enslaved peoples’ response to one of their own who was imprisoned in the stocks for speaking in his native language.

One reform routinely called for by ameliorationists, was the establishment of a plantation punishment book. This document would keep track of every punishment administered to an enslaved person, the reason it was administered, and who delivered the punishment. Plantations heavily documented many aspects of their work, and so the punishment book would have seemed to fit within the routine and record-keeping practice of many estates.⁴⁴ As the creation of the punishment book did not in and of itself require any other transformation in the discipline practices of plantations, pro-slavery writers found it harder to resist. Nonetheless, Anthony Davis and others worried that it could be “created into an instrument of oppression, in the hands of a protector of your choosing.” Davis trotted out the specter of the punishment book used “to convict us, out of our own mouths, of an infamy which, quite as much as you can do, we ourselves abhor!”⁴⁵ In

⁴³ Hector de la Beche. *Notes on the Present Conditions of the Negroes in Jamaica*. London: Printed for T. Cadell in the Strand, 1825. 32-33

⁴⁴ Caitlin Rosenthal. *Accounting for Slavery: Masters and Management*. Cambridge: Harvard University Press (2018).

⁴⁵ Anthony Davis. *The West Indies : From the Pen of a Gentleman Recently Arrived, and Who Intends to Depart Again for Jamaica Immediately*. London: s.n. p. 67

extensive searching through plantation papers, I have not found an actual punishment book. The closest thing is a reproduction of a form and one entry in Hector de la Beche's book.⁴⁶

Some commentators, such as the Reverend Mr. Trew, presented the construction and application of a predictable set of laws to protect certain legal rights of enslaved people, as a crucial preliminary step to a future "full free." Trew wrote:

Let the Negro be taught to respect the laws; let him, whilst slavery has a being, and even when it shall have ceased to exist, be made amendable to what is right and proper; but, having taught him first what his rights are, then secure to him, against violence and against outrage, the full and the impartial enjoyment of those rights, and thus raise him above the level of the brute, which by British enactment is secured by laws and penalties from the wanton barbarity of its oppressors.⁴⁷

Like many abolitionists who preceded and followed him, Trew made particular note of the discrepancies in laws of protection across British imperial jurisdictions. Trew lamented that "in one happy portion of the king of England's dominions" a man was forbidden to "cruelly abuse his ass," while "in another portion of the very same possession (oh lamentable fact!) man may with impunity, and as spleen or passion governs him, so despotically lord it over his fellowman."⁴⁸ Anti-slavery missionaries were not the only ones who noted hypocrisy, though, and saw law as a solution. Anthony

⁴⁶ Hector de la Beche. *Notes on the Present Conditions of the Negroes in Jamaica*. London: Printed for T. Cadell in the Strand, 1825. 17

⁴⁷ Rev. Trew, qtd in George Jackson. *A Memoir of the Rev. John Jenkins: Late a Wesleyan Missionary in the Island of Jamaica: Including Character Notices of West Indian Slavery &c., &c.* (London: J. Stephens, 1832). P. 110-111.

⁴⁸ Rev. Trew, qtd in George Jackson. *A Memoir of the Rev. John Jenkins: Late a Wesleyan Missionary in the Island of Jamaica: Including Character Notices of West Indian Slavery &c., &c.* (London: J. Stephens, 1832). P. 110-111.

Davis undoubtedly spoke for other planters, too, when he wrote accusing the imperial government of hypocrisy for charging local magistrates with not upholding imperial ameliorationist laws. Davis alleged that judges sent from the metropole lacked an acquaintance “with our real circumstances and situation.” He claimed that the empire, no doubt, intended “to send out one who shall be imbued with your millenium notions about the black lambs, and who shall be better able to deprive the Colonists of their property, through your particular construction of our laws...”.⁴⁹

4.8 “Frivolous Complaint”: Trivializing Enslaved People’s Claims of Maltreatment

The underlying suspicion of enslaved people’s testimony and trustworthiness regarding claims of abuse and mistreatment heavily shaped the courts’ reaction to their testimonies, and often resulted in court proceedings. For example, a January 1831 perjury case emerged from the testimony of Robert Livingston, an enslaved man, regarding the maltreatment of Fanny Francis by William Jacob Lewis, a man whose exact role is unclear, but who seems to have been an overseer or other authority figure on the plantation. Robert Livingston, an enslaved man, testified in that trial that Lewis subjected Francis to waterboarding. He said:

...that buckra had a jug of dirty water brought and caused the woman to be held down, an handkerchief stuffed into her mouth, and four gallons of the dirty water poured into her mouth and made her drink it all not a drop was lost, that the dirty water was poured through the handkerchief into her mouth.⁵⁰

⁴⁹ Anthony Davis. *The West Indies: From the Pen of a Gentleman Recently Arrived, and Who Intends to Depart Again for Jamaica Immediately*. London: s.n. p. 21-22.

⁵⁰ *Rex v. Robert Livingston to James Lawes*, 2/18/6, St. George Slave Trials, National Archives of Jamaica, Spanish Town, Jamaica

Livingston and Fanny Francis's owner, James Lawes, charged Livingston with perjury for his testimony, claiming that Francis could not possibly have drunk four gallons of water and that Lewis had given no such order. It is unclear the extent to which Livingston attempted to enter a defense, but the court was swayed by Lawes's case and sentenced Livingston to the workhouse for six months.⁵¹

Some planters went so far as to charge that enslaved people resorted to trickery and subterfuge to create or exaggerate injuries they received from punishment. In some cases, they charged, enslaved people used "inflammatory vegetable juices... for the immediate purpose of creating a sore," in the process undermining the character and trustworthiness of the overseer."⁵² Addressing himself to a metropolitan readership, Anthony Davis said, "I anticipate your almost pardonable disbelief, that any Negro could thus afflict the flesh of his own body; but, I ask you to go to Jamaica, and witness for yourselves the numbers who have created sores, merely that (as they term it) they may *sit down* from all labour!"⁵³ This discourse similarly found a place in the metropolitan press, including in the form of numerous political cartoons depicting enslaved people with minor and/or self-inflicted physical injuries presenting themselves before their masters or local magistrates for intervention. Perhaps most prominently, cartoonist George

⁵¹ *Rex v. Robert Livingston to James Lawes*, 2/18/6, St. George Slave Trials, National Archives of Jamaica, Spanish Town, Jamaica

⁵² Anthony Davis. *The West Indies: From the Pen of a Gentleman Recently Arrived, and Who Intends to Depart Again for Jamaica Immediately*. London: s.n. 32.

⁵³ Anthony Davis. *The West Indies : from the pen of a gentleman recently arrived, and who intends to depart again for Jamaica immediately*. London: s.n. p.32

Cruikshank produced a series of four cartoons in which enslaved people began by protesting for the end of slavery, but by the last number in the series they were demanding to be re-enslaved in order to secure access to the healthcare, provisions, and housing they had formerly been provided.

The abolitionist periodical *Negro Slavery* noted the striking distinction between the policies of protection articulated by the law and those made active by the existing court system. For example, the anonymous authors acknowledged that authorities existed to whom injured slaves could apply for redress of their grievances. However, they argued “many of the legally constituted authorities are themselves owners of plantations, following the same system, and perhaps, by means of their managers, practicing the same abuses on their own slaves.” In the authors’ judgment, the magistrates “consider it a greater crime for the Negroes to complain of their wrongs, than for the master to inflict them.” They characterized the investigations as shams, in which the magistrates “barely listen... to the exculpatory tale of the master.”⁵⁴ In the periodical *West India Sketches*, abolitionists noted one of the biggest shortcomings of the protective regime that amelioration laws attempted to create: except “*in atrocious cases of mutilation*,” Jamaican law did not contain a provision for setting an enslaved person free from even the severest master. Thus, even in a context where an enslaved person was able to establish their injury, despite not being able to testify on their own behalf, and convicting

⁵⁴ *Negro Slavery*, Vol. 1, pg. 4

their master, they would “be necessarily redelivered into the power of the exasperated tyrant, whose former ill usage drove him to complain.”⁵⁵

For example, on July 23, 1823, Josiah Boyer, the overseer to Eden Estate in St. George Parish, was brought before the St. George Quarter Sessions Court on the charge of having had an iron collar affixed to the neck of an enslaved girl named Abba. The prosecutor in the case is not noted, and it is not clear what role Abba may have played directly in bringing the case before the court. Given the venue, she would not have been permitted to give testimony. Boyer, in his response to the court, suggested that his responsibility was mitigated, because while he had instructed the driveress to place a collar around Abba’s neck, he did not see that it was an iron collar, and Abba had escaped the following day, before he had a chance to see it. It is unclear what offense may have prompted Boyer to order a collar placed around Abba’s neck. Neither is it noted, although plausible, what role the punishment of the collar may have played in prompting Abba to runaway. While the court found against Boyer, the sentence was fairly restrained: “Upon this admission, and the positive promise of Mr. Boyer to be more circumspect in future, we have under the authority of the 29th clause of the Slave Law, sentenced the said Josiah Boyer to the Payment of the unmitigated sum of twenty pounds.”⁵⁶

⁵⁵ *West India Sketches*, Vol. VI, pgs. 65-66

⁵⁶ *In a matter of complaint against Josiah Boyer, overseer of Eden Estate for fixing or causing to be fixed an iron collar or crown on the neck of a Negro girl named Abba belonging to that Estate. St. George Quarter Sessions, 2/18/7, JARD.*

In many cases, enslaved people brought claims of abuse before Councils of Protection and described in detail what had happened to them and how they hoped the law would redress their situation. However, in hearing their case and reaching a decision, magistrates did not take the time to record these testimonies. Thus, for example, on May 5, 1825, eight enslaved people working on Galloway Plantation in St. George Parish - Thomas Gardiner, Robert Gillies, Peter Dyce, James Giscome, Jessey Oliver, Poppy Gardner, Anny McClary, and Sarah Wray – appeared before the slave court to press charges against Charles Kirkland, their overseer. Whatever details these eight enslaved people divulged to the magistrate were boiled down to “Charles R. Kirkland has overworked them and subjected them to excessive punishments.” Despite this very passing gloss of the situation, the Council of Protection described their investigation as “most careful,” and characterized the claims of the eight enslaved people as groundless and frivolous. The magistrates stated that they believed “Charles Kirkland has behaved to these slaves with great moderation and forbearance and that the punishments he inflicted have not been severe,” while the enslaved people had formed a confederacy to resist any reasonable work. All eight enslaved people were sentenced to receive fifteen lashes and to be incarcerated in the workhouse until “Monday next the 9th instant.” At that point, five of the eight were to be released back to Galloway Plantation, while Thomas

Gardiner, Robert Gillies and Peter Dyce would remain at hard labor in the workhouse for one more week and receive an additional twenty-five lashes before being discharged.⁵⁷

Even as the colonial state presented the slave court as a means of accountability for abusive slaveholders, and the Council of Protection as a forum where enslaved people had an opportunity to pursue charges of maltreatment against abusive masters and overseers, the slave court themselves held enslaved people to exceptionally high standards of proving a case.

4.9 Planters Bringing Planters to Court

Although enslaved people brought many cases of abuse and maltreatment to colonial officials for prosecution, they were not the only individuals who initiated such cases. Yet, one must assume that motivations for approaching a court with these types of charges differed significantly for individuals who were themselves slaveholders as opposed to those who were enslaved. For most slaveholders, the individual welfare of enslaved people was a less pressing and prescient consideration; rather, the operative dynamic more often stressed maintaining the stability of the slaveholding system and disciplining outliers to socially articulated norms that threatened that stability, whether these individuals evoked particular ire from abolitionists for their extreme and violent measures or threatened to provoke rebellion among enslaved people. It should be underscored that this dynamic could equally reflect planters who were substantially more

⁵⁷ *The King v. Thomas Gardner et al slaves belonging to Galloway Plantation*. St. George Parish Slave Court Records, 2/18/6. JARD.

lenient and benevolent towards their enslaved people. Especially benevolent treatment of enslaved people also represented a threat to the status quo and something many planters were eager to circumvent. Another dynamic at work was a rivalry between large-scale planters (especially in sugar) and smaller scale planters, especially those who were free people of color. Many quarter sessions cases involving cases of cruelty / mistreatment involved free people of color as the accused. It seems more probable that this alignment reflects a particular bias and political aim on the part of the planter class writ large rather than an unusually high incidence rate of maltreatment and abuse on behalf of these slaveholders compared to those from different demographic groups.

It appears from time to time that the courts conducted cursory investigations and took at surface level statements which might have prompted greater investigation in other circumstances. For example, in October 1826, the St. George Quarter Sessions investigated a charge against John Jacob Stamp on the charge of having cut off the ear of an enslaved man. Eight prominent white men, including at least one magistrate, signed a petition to the court calling for an investigation into the rumor surrounding Stamp. In the hearing related to the charge against Stamp, he himself presented evidence on his kindness and graciousness as a master. Robert Baugh, the enslaved man who was alleged to have had had his ear cut off, also appeared before the court. Intriguingly and importantly, despite the ease of conducting a physical examination of Baugh's face, there is no mention of whether or not he was missing an ear in the court proceedings. The court's silence on this matter is deafening. If Baugh had not been maimed, would not that material evidence be of great utility in clearing Stamp's name? The court reporter

summarized Baugh's testimony as "he declared that he had no complaint whatever to make that he is in a happy and comfortable situation and that his Master is kind and indulgent to him." Nowhere in the court's analysis of the situation is it considered that Baugh's appearance before the court placed him between a rock and a hard place. Even if Stamp was found guilty of abuse, he would almost certainly remain in Stamp's custody; if he played an active role in convicting Stamp or otherwise lodged complaint, he might become the subject of greater cruelty. The court declared itself satisfied with the testimony provided by both parties and did not pursue charges or a further investigation.⁵⁸

John Moaut was among a few Jamaican planters who wrote explicitly about advancing claims of cruelty against fellow slaveholders. In a letter to family in Britain, Moaut wrote that this past action influenced a court's evaluation of a later land claim:

They also might see the Truth of what I told them October 1775 when I summoned an Inquest at White Chaple Clarendon for a Negro that had been Killed by Cruelty having had received 500 Lashes as I was acquitted by Read overseer; I hesitated not to tell them that it was not the Americans who was Rebbels...⁵⁹

Mouat's statement, however, also suggests that his motivation for reporting this abuse was not entirely pure. He noted the political affiliation and message of the involved parties and remarked that this was a contributing factor in his decision to bring this case to the attention of local authorities.⁶⁰

⁵⁸ *Proceedings in an Investigation for a Charge against John Jacob Stamp, of cutting off a Negro's Ears.* St. George Quarter Sessions, 2/18/7, JARD.

⁵⁹ John Mouat to his nephew Hector, November 20, 1786, MS 520, National Library of Jamaica, Kingston, Jamaica.

⁶⁰ John Mouat to his nephew Hector, November 20, 1786, MS 520, NLJ.

The case of Bob Glenn demonstrates that the involvement of planters and other elites in bringing criminal charges against slaveholders for maltreatment was often not independent of the activities of enslaved people in pressuring them to do so. It also underscores that these cases were often brought not out of disinterested concern, but to avoid being constantly bothered and pressured by enslaved people to bring a case to court. Robert Livingston, an enslaved man on Fort George Penn, approached the St. George Parish Magistrates with the complaint that his brother, Bob Glenn, had been unjustly imprisoned in the stocks on the plantation. Liddell and the other enslaved people on the pen must have been particularly persistent. Magistrate William Espeut wrote to his colleagues that “The Fort George people are really an annoyance especially as unwell as I am.” Espeut referred the bearer of a written complaint to another magistrate for action. According to the complaint, overseer Richard Lidell had returned to the plantation from an errand to town and asked Glenn, appointed as watchman, to brush down his horse. Glenn complained that he was feeling ill and, while content to continue doing the work of watchman, he did not have the strength to brush down the horse at that moment. In response to Glenn’s complaint of illness, Liddell ordered the estate doctor to give Glenn a dose of calomel. Shortly thereafter, Glenn was also incarcerated in the stocks in a dark and locked hothouse. Witnesses before the quarter sessions differed on the cause of his incarceration: from a general precaution to make sure that he sufficiently rested while recovering, to a response to a habit of enslaved people on the estate from using the excuse of being ill as reason to absent themselves from work and travel off the plantation. The consistency in the testimony is that Glenn was given only slight provisions and was

not released from the stocks even for the purpose of relieving himself. One further point of contestation that emerges from the testimony is the role of his lover in providing food to Glenn to make up for the paucity of food provided by the plantation. The enslaved witnesses suggested that the lover was only acting to fill this gap because the plantation management did not. In contrast, the plantation manager said that he did not provide more food because he saw that Glenn was fully satiated.⁶¹

Several components stand out regarding Glenn's incarceration. First, the stocks were presented by many parties as being a more humane alternative to the whip; yet, here, the stocks themselves stand as an additional indicator of cruelty. Second, we see conflict between the estate and the enslaved people on it about who has first responsibility for meeting the basic needs of enslaved people. In stepping in to provide for their own, enslaved people also opened the door for the slaveholder and his employees to avoid their basic responsibility to keep enslaved people alive. Third, despite being ill, Glenn's first instinct was to keep working within reason, and to limit his activities to those he felt he could continue to perform. Rather than accept that Glenn's work would be more limited while he recovered, Liddell took Glenn away from work entirely. Although it is not clear, it is distinctly plausible that Liddell assumed Glenn was lying about being sick, and that he was inclined to punish Glenn until he agreed to return to work fully.⁶²

⁶¹ *In a Matter of Complaint Against the Overseer of Fort George Pen*, St. George Quarter Sessions, 2/18/7, JARD.

⁶² *Ibid.*

4.10 Apprenticeship and Punishment in the Hands of the State

The anonymous abolitionist author of *Twenty Millions Thrown Away* contended that the function of the system of appointed special magistrates adopted as safeguards under the system of apprenticeship was simply a re-distribution of functions: “The power to flog exists in all its degrading terrors, but it is no longer the master who flogs, but the special magistrate.”⁶³ In this view, the end of slavery was not a sharp break with prior practice, but a re-calibration of specific facets of the standing system.

Shortly after the abolition of slavery, Governor Sligo wrote to his counterpart in the Colonial Office that he was scandalized by the treatment of apprentices by the workhouse supervisors. He wrote:

The characters of the supervisors of workhouse here, are generally of the most harsh description, they are elected by votes of the Magistrates all of whom have formerly been in the habit of ordering corporal punishment, who are galled at the loss of it, and who are therefore not likely to choose any person to replace in such an office who will not act up to those opinions, which I scruple not to say are in the majority of instances favorable to flogging; when they continually declare that the country is going to ruin from the unjust conduct of the special justices in not exacting labor by the infliction of the lash, it is not to be supposed that they could place any man in a position where he would have that cherished power, unless they knew his principles to be their own.⁶⁴

Sligo further noted that the attitude of the magistrates towards corporal punishment of ex-slaves could be exemplified by a situation in the parish of Hanover in northern Jamaica. There, Sligo had initiated proceedings against a man named Calder,

⁶³ Anonymous. *Twenty Millions Thrown Away, and Slavery Perpetuated*. London: Printed and Published by G. Morgan, [1836?]. p. 12.

⁶⁴ Letter from Governor Sligo, October 13, 1835. CO 137/203, folio 208-210. TNA.

who was acting as workhouse supervisor and had been accused of particularly punitive tactics towards apprentices in his institution. However, before the proceedings could produce a verdict, Calder died. The magistrates of the parish chose to appoint Calder's similarly punitive brother to his seat. They said bluntly that they were not put off by Calder's attitude to corporal punishment and in fact desired such an attitude in their workhouse supervisors.

5. “To Guard with Increased Vigilance the Purity of the Slave Code”: Criminal Procedure and Slave Trials in Jamaica

Cuffee, an enslaved man belonging to Thomas Ludford, had been tasked with minding his master’s storehouses, some distance from the main plantation at St. Jago Savanna in Clarendon Parish. Starving and unable to obtain food despite pleas to his master and friends, Cuffee stole some rum and sugar from the stores and sold them to buy yams. When Ludford discovered Cuffee’s theft, he was furious. For a time, Ludford confined him in stocks in the mountains. When Cuffee still would not reveal who had assisted him in robbing the stores or where the property he had stolen had gone, Ludford became even more enraged. Ludford’s business partner was still unaware of the loss, and Ludford was anxious that his partner would discover the theft and hold him responsible, either for the theft itself or for not having better judgment in his choice of watchman. After a final confrontation, in which Cuffee justified his theft as an act of desperation, but still refused to name his accomplices and revealed that the rum and sugar could not be recovered, Ludford took Cuffee out to the barbecue and shot him repeatedly. He then ordered other enslaved people to return Cuffee to the bilboes, where he remained, in pain and unable to eat, until he died. ¹

When Cuffee died, and contrary to law, Ludford did not summon a coroner to investigate the circumstances of the death. It was what happened afterwards, when his

¹ Examinations of Mary Howell, Robert Williams, Alfred, and Edward LaCruize Torth, taken by R. W. Fearon. Folios 70-75. CO 137/144. TNA.

neighbors and local authorities began to learn about Ludford's crime and Cuffee's death, that would render the enslaver's actions very important to our narrative. The slow and beleaguered local response to Ludford's role in Cuffee's death would underscore the complicity and deep interconnections that characterized the enforcement of slave law throughout Jamaica. In contrast, the alarmed and hurried response of high-level colonial government officials, under pressure and scrutiny from the Colonial Office and the metropolitan British public, largely reflected the tensions in play over the rule of law and how the operations of slavery fit – or failed to fit – within them.

5.1 Chapter Outline

In this chapter, I look at the place that the rule of law had in slave society in Jamaica, and how the procedural rights enslaved people were accorded in the courtroom reflected the changing vision of how the law should operate in relation to enslaved people in the time of amelioration. I contend that, in the early 19th century, the disputed ability of the colonial court system to mediate the worst excess of the system of slavery played an important rhetorical role both for defenders of slavery and abolitionists. As a result, abolitionists paid particular attention to dramatic cases of abuse or excessive punishment of enslaved people, keen to scrutinize the operations of colonial courts. Reformist pro-slavery colonists, in turn, were particularly solicitous of procedural reform to juridical processes, willing to cede a few inches in order to protect the slavery system as a whole. However, the rubber almost invariably met the road: the practical consequences of granting procedural rights to enslaved people routinely met resistance, particularly when it conflicted with the higher priorities of state and civil society interests. Thus, the gap

between how cases should be investigated and trials conducted in theory and how these proceeded in practice, became a substantial source of friction between colonial officials and the metropole. I begin the chapter with a close analysis of how the rules governing the procedure of slave court trials changed over the course of the period. I use the response to Ludford's murder of Cuffee serves as an apt illustration of this dynamic.

The second part of this chapter turns to a more granular analysis of enslaved people's procedural rights, both in their statutory articulation and in practice. I begin through an analysis of the structural transformations of slave court format and enslaved people's procedural rights in criminal trials over the 50 year span under focus in this dissertation. I then explore in greater detail three specific procedural rights of particular significance and which served as major flash points: the right to a fair trial, the right to give evidence, and the right to counsel for defense. I illustrate each of these areas of contestation with rich case studies.

5.2 Investigating Ludford's Murder of Cuffee

Cuffee's death became known in the neighborhood chiefly due to Alfred, a friend and shipmate of Cuffee, who fled the plantation the day after Cuffee's death.² When Alfred left the estate, he took with him shot he had removed from Cuffee's body, visual

² By shipmate, I mean that Alfred and Cuffee had been carried into slavery from Africa to the Americas aboard the same slave ship, and had formed a particular bond on that basis. For discussion of the fictive kinship bonds created among enslaved people aboard the same ship, see: Walter Hawthorne, "'Being Now, As It Were, One Family: Shipmate Bonding on the Slave Vessel Emilia, in Rio de Janeiro and Throughout the Atlantic World.'" *Luso-Brazilian Review* (2018) 45, No. 1: 53-77; Alex Borucki. "Shipmate Networks and Black Identities in the Marriage Files of Montevideo, 1768-1803." *Hispanic American Historical Review* (2013) 93, no. 2: 205-238.

evidence he used to plead with authorities to investigate the death. The authorities of Clarendon Parish were slow to snap into action, perhaps influenced by Ludford's significant landholdings and prominence in the parish, and perhaps from solidarity among slaveholders. Despite hearing from Alfred about Cuffee's decease, coroner Thomas Parkes Howell did not conduct the legally mandated coroner's inquest on Cuffee's body. Custos and Chief Magistrate Robert W. Fearon did eventually conduct several examinations, both with the two free people of color living on Ludford's plantation, Mary Howell and Robert Williams, and with two enslaved men who had witnessed the event, Alfred and Edward. Yet, despite numerous corroborating accounts of Ludford's actions, Fearon did not perform his duty as magistrate and issue a warrant for Ludford's arrest pending trial, or issue recognizances for the appearance of Howell and Williams, the two individuals who could give legally admissible testimony before the grand jury and the court. The case came to the official attention of Governor Manchester and Attorney General William Burge when Fearon forwarded his examinations to the Attorney General for action.

Unlike local Clarendon Parish officials, Manchester and his associates took more expedient action. Manchester noted in a letter to the Secretary of State for the Colonies that this case merited metropolitan official notice "as this is one of singular atrocity, and committed by a Person possessing some property."³The official response demonstrated a ripe cognizance of both the high visibility of the case and what Howell and Fearon's

³ Manchester to Lord Bathurst, 17 June 1817. Folio 65, CO 137/144. TNA.

actions, together with the Clarendon community more broadly, suggested about the rule of law in Jamaica as it applied to crimes against enslaved persons. The implicit message of local action was that crimes of brutality against enslaved people, even as severe as murder, were not a priority for local officials and that they were willing to look the other way when men of property and influence were accused. Governor Manchester, however, recognized that Ludford's crime was "an affair of such much importance not only to the particular Interests of this Island, but to the very existence of the Colonial System."⁴

Thus, the failure to hold Ludford to justice for his actions suggested that everything abolitionists claimed about the colonial government was true: that slaveholders were unable to keep the excesses of slavery in check or to hold accountable those who breached those bounds. It revealed that colonial legislators and magistrates were self-interested actors who were keen on protecting the absolute authority of slaveholders over their enslaved people at any cost.

In immediate response to Fearon's examinations, Manchester ordered the Custos to issue a warrant for Ludford's arrest, secure recognizances for Howell and Williams, and seek affidavits and recognizances from two other individuals who had visited Ludford's estate shortly after the shooting and could shed further light on the case. At first, the Governor expressed his extreme disapproval of Fearon's conduct, but he attributed his actions to "ignorance of his duty rather than to a desire to defeat the ends of

⁴ William Bullock to Robert W. Fearon, 18 July 1817, Folio 129, CO 137/144. TNA.

justice.”⁵ However, when some time had passed, and it seemed clear that Ludford had fled the island with the help of sympathizers, aided no doubt by the delay in issuing a warrant for his arrest, Governor Manchester’s assessment of Fearon’s conduct became less sympathetic. William Bullock, Manchester’s secretary, communicated Fearon’s dismissal as custos and magistrate, noting:

Under these circumstances it becomes necessary that it should be known that no consideration of Station or Character can be allowed to screen Gentlemen holding situations of responsibility from those consequences which ought to follow either means want of capacity for such Employments, or their remissness in the discharge of the duties belonging to them.⁶

In Manchester’s account to the Colonial Office of Fearon’s dismissal, he indicated that a broader message had been successfully sent:

And I have reason to believe that even in the Parish over which he had presided, and which he represented in the Assembly, the necessity for this proceeding was generally felt and acknowledged. I am also satisfied it has already had the effect of producing greater activity in the Magistracy of the Island.⁷

The Governor and Attorney General further attempted to amplify this message through prosecuting the coroner for failing to conduct an inquest and other individuals that had helped Ludford escape. However, Manchester and Bullock quickly encountered further difficulties. Crown law officers had to rely on Clarendon Parish magistrates to conduct examinations of witnesses that might establish that Howell knew of Cuffee’s death and had knowingly decided not to hold an inquest. Yet, as an enslaved person, Alfred,

⁵ Manchester to Lord Bathurst, 17 June 1817. Folio 65, CO 137/144. TNA.

⁶ William Bullock to Robert W. Fearon, 18 July 1817, Folio 129, CO 137/144. TNA.

⁷ Manchester to Lord Bathurst, 21 October 1817. Folio 128, CO 137/144. TNA.

Cuffee's friend and an eyewitness, could not give admissible testimony. Among free persons, the law officers also faced challenges, noting:

From the influence possessed by Mr. Howell as the Colonel of the Regiment of the Parish and from his Family connections there, a degree of reserve and silence has been maintained by those from who information might have been expected to have been obtained which has rendered it very difficult to elicit the necessary Evidence.⁸

Another prospective witness died before he could be examined, and still another witness was sick and unable to attend the next sitting of the court. When the coroner, Howell, was finally tried, nearly a year later, he was found not guilty.⁹

A Kingston merchant named Anderson who was suspected of helping Ludford escape was also prosecuted, but unfortunately, assizes court records from Surry County for this period are no longer extant, so it cannot be determined how the court decided.¹⁰ John Hogg Farquhar, a gentleman from the neighboring parish of Vere, was tried for attempting to bribe two deputy marshals the sum of £25 each to prevent them from taking Ludford and then violently assaulting them when they refused his bribe. Farquhar was found guilty of offering the bribe, but innocent of the assault.¹¹ A grand jury found a true bill for Ludford, but there is no record if he ever stood trial for Cuffee's murder.¹²

⁸ William Burge to William Bullock, October 12, 1817. Folios 131-132, CO 137/144. TNA.

⁹ *The King v. Thomas Parkes Howell*, 1A/7/4/3: Pleas of the Crown, Middlesex, Feb 1804-Jun 1819. JARD.

¹⁰ William Burge to William Bullock, October 12, 1817. Folios 131-132, CO 137/144. TNA.

¹¹ *The King v. John Hogg Farquhar*, folios 426-433, 1A/7/4/3: Pleas of the Crown, Middlesex, Feb 1804-Jun 1819. JARD.

¹² William Burge to William Bullock, October 12, 1817. Folios 131-132, CO 137/144. TNA.

In short, Thomas Ludford murdered Cuffee, an enslaved man he owned, with premeditation and in cold blood. The news became quickly known throughout the neighborhood and all of Clarendon Parish, due to Alfred, another enslaved man on Ludford's plantation and Cuffee's friend and shipmate, but local authorities were slow to take action. When the colonial government in Spanish Town heard of this news, they jumped into action and took aggressive steps to prosecute Ludford and those who helped him avoid justice. Yet, ultimately, most of these efforts ran aground. Social solidarity among slaveholders helped protect Ludford and his accomplices.

Due to ample documentation and the involvement of the colonial state, the details of Cuffee's murder and the subsequent miscarriage of justice can be narrated in substantial detail. Yet, aside from its ample documentation, there is little indication that the miscarriage of justice depicted here was uncommon or unprecedented in jurisdictions across the colonial British Caribbean. Despite state pretensions to the contrary, justice was not blind and legal institutions were not consistently operated with the best interests of enslaved people in mind. What does merit greater investigation here, however, is the robust and rapid response of the colonial state once officials received word of Ludford's murder. What had changed in Jamaica so that extensive state resources were used to investigate this crime and to place extensive pressure on local authorities to fulfill their legal responsibilities towards enslaved people?

5.3 Statutory History of Procedural Rights for Enslaved People

Under the provisions of the 1696 Jamaican slave code, if enslaved people were accused of a capital offense, such as "Felony, Burglary, Robbery, burning of House,

Canes, rebellious Conspiracies,” before a justice of the peace, the justice could issue warrants for the apprehension of the offender and “for all Persons to come before him that can give evidence.” Should the initial inquiry suggest that the apprehended person was guilty, the justice would commit the accused to prison and convene a court consisting of two justices of the peace and three freeholders. This court would again hear the offender(s) and witnesses. Notably, the code declared “the Evidence of one Slave against another, in this and all other Cases, shall be deemed good and sufficient Proof.” Under these provisions, the court was entitled to grant “Sentence of Death, Transportation, Dismembering, or any other Punishment as they in their Judgment shall think meet to inflict.” In cases where more than one enslaved person committed a crime, save only murder, the act insisted that only one enslaved person should suffer death, and the rest returned to their owner after receiving corporal punishment. In this regard, the 1696 act underscored that the loss of several enslaved people could have a significant economic effect on a planter. Colonial legislators believed that punishment of one enslaved person by public example was preferable to the same punishment to all those found guilty. Unlike in later iterations of the code, the 1696 version did not make provisions for summary trials in cases of more minor offenses. This seems to suggest that the separate slave court system described in this early code saw some offences as outside

the operation of state judgment, and more properly the place of individual discipline by a slave owner.¹³

The 1696 slave code declared that the slave court system applied equally to “such as have been Slaves and are already freed, and also all such as are now Slaves and shall hereafter be declared free.” In this regard, the judicial process recognized a lasting distinction between people born into freedom and people born into slavery. While later codes would increasingly recognize a distinction between freedpeople and enslaved people, the secondary status of freedpeople compared to people born in freedom, whether of color or white, would continue much longer.¹⁴ Further signifying the separateness of the slave court system, the 1696 code mandated that the Clerk of Peace or Clerk of Vestry in his absence in each precinct would attend each trial and keep a record of all the proceedings in a “distinct book.”¹⁵

The slave code adopted in 1696 remained in force in Jamaica for nearly 90 years, not being replaced until 1781. In the intervening years, some subsidiary acts were passed which altered specific provisions. However, the format of the hearings in which enslaved people appeared before the court remained relatively consistent across this long period.

¹³ “An Act for the better Order and Government of Slaves. Passed 1696. Confirmed 1699.” In *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London (1716): Printed by W. Wilkins, at the Dolphin in Little-Britain. pgs. 225-256.

¹⁴ “An Act for the better Order and Government of Slaves. Passed 1696. Confirmed 1699.” In *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London (1716): Printed by W. Wilkins, at the Dolphin in Little-Britain. pgs. 225-256.

¹⁵ “An Act for the better Order and Government of Slaves. Passed 1696. Confirmed 1699.” In *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London (1716): Printed by W. Wilkins, at the Dolphin in Little-Britain. pgs. 225-256.

The 1781 slave code represented the first comprehensive rewriting of the slave code since 1696. Despite the long passage of time between the 1696 and 1781 code, the later code retained much of the slave court system's fundamental structure. Within the framework of capital trial procedure, the 1781 code made some modest but significant alterations. Most importantly, rather than simply call three freeholders forward to serve on the court in addition to the two justices, "not less than Five" freeholders would be summoned, of which three would be chosen by ballot to serve on the court. The 1781 code retained death and transportation as potential sentences, while excising mention of dismemberment. As an additional procedural note, the 1781 code required at least two days notice provided "to the Owner, Proprietor or Possessor of such Slave or Slaves, his, her, or their lawful Attorney or Attornies, or other Representative or Representatives" before the trial. Further, in those cases where an enslaved person was sentenced to die, the justices and freeholders at the time of sentencing would also assess the value of the enslaved person, the owner to receive up to £40 Jamaica currency for each slave executed. The 1781 code also included a provision allowing the Justices to respite the execution of an enslaved person for up to thirty days or "until the Pleasure of the Commander in Chief shall be known" if proper cause should appear to them.¹⁶

¹⁶ "An Act to Repeal Several Acts and Clauses of Acts Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes." In *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston (1786): Printed for James Jones, Esq. by Lewis and Eberall. pgs. 256-279.

Perhaps most notably, however, the 1781 code established a second track for misdemeanor trials. Specifically, the code ordered that enslaved people accused of “concealing runaway Slaves, being guilty of Gaming, making and throwing of Squibs, in any of the Towns, and other Crimes and Misdemeanours” should be tried in a summary manner. These offenses were not recognized by name in the 1696 code. Their inclusion in the 1781 code suggests a shift in social consensus of what offenses by enslaved people merited a formal, state-sanctioned trial. These cases would be heard by two justices of the peace, the expenses to be paid by the master, owner, or employer of such enslaved people, or be levied on them by the constable. The tacit provision that, unlike capital trials, misdemeanor trials would be paid for directly by the owner or employer of the accused enslaved person, suggests that their formal legal hearing was viewed as less essential, and that many slaveholders took this as effective license to police these offenses on their own estate without intervention of the legal establishment.¹⁷ As historian Robert Worthington Smith opined, “The general consensus of opinion on the island preferred that every slave should heed only his master. The state should actively interfere between owner and slave as infrequently as possible.”¹⁸

¹⁷ “An Act to Repeal Several Acts and Clauses of Acts Respecting Slaves, and for the Better Order and Government of Slaves, and for Other Purposes.” In *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston (1786): Printed for James Jones, Esq. by Lewis and Eberall. pgs. 256-279.

¹⁸ Robert Worthington Smith. “The Conflict Between Planter and Parliament over the Slave Laws of Jamaica.” Ph.D. dissertation, UCLA (1942), pgs. 49-50

After the long delay between the 1696 and 1781 codes, the next round of revision came much more quickly. The 1787 code retained many of the reforms made by the 1781 code, and added several more. The metropolitan newspaper *Monthly Review* saw these provisions as admirable and a hallmark for the British West Indies writ large, noting,

These laws and regulations are, as far as we can pretend to judge, every way consistent with the principles of sound policy, justice, and humanity. Could all the islands and plantations boast a Code Noir equally just and expedient, the charges of cruelty and oppression, so frequently brought against the slaveholders, would be much lessened, if not totally removed.¹⁹

The provisions for selection of a jury were altered, so that instead of five freeholders being summoned, of which three would be selected, instead “not less than nine” freeholders would be summoned, of which five would be chosen by ballot. Further, while retaining the provision allowing enslaved people to serve as witnesses on trials of other enslaved people, the 1787 code introduced a perjury statute, so that if an enslaved person should “willfully, and with evil intent, give false evidence,” if convicted on trial, that person should “suffer the same punishment as the person or persons, on whose trial such false evidence was given, would, if convicted, have been liable to suffer.” The 1787 code retained the record-keeping provisions, while adding both a time limit – thirty days – and a financial penalty for a clerk of the peace or vestry not fulfilling this obligation. It also introduced a provision requiring the deputy marshal of the parish, or “some proper person acting under him,” also to attend such trial, or face a penalty of £20 Jamaica currency for each instance of neglect. The 1787 code also extended the requisite notice

¹⁹ *Monthly Review*

for slaveholders of the trial of their enslaved people from 2 to 10 days. The code additionally extended compensation to slaveholders for enslaved people sentenced to death to also include enslaved people sentenced to hard labor for life.²⁰

The 1801 code continued this pattern of modest changes and reforms. The code included “confinement to hard labour for life” as a potential sentence in addition to death or transportation. It also incorporated a larger jury pool, consisting of 18 persons, of whom nine would be selected. For the first time, the 1801 code set conflict of interest provisions for jury composition in writing; “the master, owner, or proprietor, of the slave or slaves so complained of, or the attorney, guardian, trustee, overseer, or book-keeper of such master, owner, or proprietor, or the person prosecuting, his or her attorney, guardian, trustee, overseer, or book-keeper” could not serve on the jury trying that enslaved person. Notably, unanimity was required for a guilty verdict. Three, rather than two, justices would preside over capital cases.²¹

Perhaps more notably, the 1801 code stipulated that the slave court was to be held after the quarter sessions, meaning that in many cases the justices and jury that would try free and enslaved people would, except as conflict of interest might provide, consist of

²⁰ “The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22^d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica.” London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

²¹ “An Act for the Better Order and Government of Slaves; and for Other Purposes.” St. Jago de la Vega [Spanish Town] (1801): Printed by Alexander Aikman, Printer to the King’s Most Excellent Majesty.

the same individuals. This represented an important transition, whereby the trials of enslaved people gradually began to more closely resemble the trials of their free white counterparts. The 1801 slave code provided for “no peremptory challenges of any of the said jurors, or any exception to the form of the indictment.” In the absence of concrete proof, it is difficult to be sure, but this statement certainly suggests that these practices had happened prior to this point.

As regards the execution of enslaved people convicted of capital crimes, the 1787 code had granted justices the option to suspend the execution of enslaved people sentenced to death for up to thirty days, pending the decision of the governor. By contrast, the 1801 code mandated that if the jury should apply to the justices to do so, the justices were obliged to grant their request for a stay of execution of thirty days. The only exception provided for was in cases of a “slave or slaves convicted of actual rebellion.” The 1801 code shortened the advance notice required to be provided for owners, proprietors, or possessors of enslaved people from 10 days to 6 days; however, the code retained the mandatory 10 day wait between the issue of warrants for the accused and witnesses and the commencement of the trial. The code also increased the maximum sum of compensation slaveholders could receive when an enslaved person was sentenced to death, transportation, or life imprisonment from £40 to £100 (both Jamaica currency).²²

²² “An Act for the Better Order and Government of Slaves; and for Other Purposes.” St. Jago de la Vega [Spanish Town] (1801): Printed by Alexander Aikman, Printer to the King’s Most Excellent Majesty.

The changes that the 1801 code made to the summary court proceedings were equally fairly modest. While the 1787 code had provided for justices to “order and direct such punishment on them [convicted enslaved people], as such justices, in their judgment, shall think fit,” the 1801 code stipulated more narrowly what those punishments could be: “not exceeding fifty lashes, or six months confinement to hard labour.” This code retained the provision that the master, owner, or employer of the accused enslaved person would pay the expenses of this summary trial or otherwise have their property levied for the expense.²³

The 1807 slave code emerged against the backdrop of the ban on the trans-Atlantic slave trade, passed by Parliament the previous year. In procedural effect, the 1807 code was very modest. Rather than summon 18 persons to select 9 for the jury, the code summoned 12 to select 9. Further, while the code retained death and transportation as sentences for capital crimes, the sentence to hard labor in imprisonment was limited to a maximum of ten years, as opposed to the option for life imprisonment in the 1801 code. The 1807 code slightly relaxed the requirements for record-keeping on slave trials, so that records of enslaved people who could be sentenced for less than two years of confinement at hard labor need not be recorded. Further, rather than stipulating a specific number of days advance notice that slaveholders must receive of their enslaved people

²³ “An Act for the Better Order and Government of Slaves; and for Other Purposes.” St. Jago de la Vega [Spanish Town] (1801): Printed by Alexander Aikman, Printer to the King’s Most Excellent Majesty.

being tried, the 1807 code stipulated just “sufficient notice,” without defining this term.

No substantial alterations were made to the processes for summary slave trials.²⁴

As regards judicial process for capital crimes, the 1816 slave code made a few modest changes from the 1807 code. The code returned the jury pool to the size of 18 individuals, of which 9 would be selected to sit on the trial. It also returned the possibility of life imprisonment at hard labor, or for a term less than life but more than 10 years, as a potential sentence in a capital case. Furthermore, it extended the possibility of justices choosing to immediately execute a convicted enslaved person from simply those convicted of actual rebellion, to include those convicted of rebellious conspiracy, “in all which cases the said justices shall, if they think it expedient, order the sentence passed on such slave or slaves to be carried into immediate execution.” The 1816 code also introduced the possibility of enslaved people being convicted of manslaughter, instead of just murder.²⁵

²⁴ “Appendix, No. 1 : An Act to repeal an Act, intituled, “An Act to repeal several Acts and Clauses of Acts respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes;” and also to repeal the several Acts and Clauses of Acts, which were repealed by the Act intituled as aforesaid; and for consolidating, and bringing into one Act, the several Law relating to Slaves, and for giving them further Protection and Security; for altering the Mode of Trial of Slaves charged with capital Offences; and for other Purposes.” In Renny, Robert. *An history of Jamaica : with observations on the climate, scenery, trade, productions, negroes, slave trade, diseases of Europeans, customs, manners, and dispositions of the inhabitants ; to which is added, an illustration of the advantages, which are likely to result from the abolition of the slave trade.* London (1807), Printed by J. Cawthorn. pgs. 245-278.

²⁵ “An Act for the Subsistence, Clothing, and the Better Regulation and Government, of Slaves; for Enlarging the Powers of the Council of Protection; for Preventing the Improper Transfer of Slaves; and for Other Purposes.” In *The Laws of Jamaica: Comprehending all the Acts in Force, Passed Between the Fifty-First Year of the Reign of King George the Third, and Fifty-Seventh Year of the Reign of King George the Third, inclusive.* St. Jago de la Vega [Spanish Town] (1817), Vol. 6, pgs. 495-533.

While earlier codes included protection for magistrates, jurors, and evidences going to, attending on, and returning from court, the 1816 code was the first to incorporate penalties and fines for witnesses, both free witnesses and for the proprietors of enslaved witnesses, who did not attend. In cases where masters did not bring their enslaved people before the court for trial after a warrant was issued by a justice, that master could be fined £100 Jamaica currency for failing to produce the slave. The 1816 code also re-introduced the use of a specific advance notice of trial to slaveholders of 6 days; for the first time, the code also included precise provisions on how notice was to be served upon a slaveholder resident in a different parish from where the enslaved person was to be brought to trial. Under the 1816 code, slaveholders no longer were required to pay the cost of summary proceedings; rather, taxes would cover court costs. This shift marked a transition in the function of summary hearings. Previously, these hearings were primarily intended as an optional service to slaveholders; increasingly, however, they became themselves a function of the colonial state and part of the state interest in policing enslaved people.²⁶

The 1826 slave code marked the most robust re-configuration of the Jamaican court system as it applied to enslaved people. For the first time, this code explicitly compared the format of trial to those for free people, noting that trials of enslaved people

²⁶ “An Act for the Subsistence, Clothing, and the Better Regulation and Government, of Slaves; for Enlarging the Powers of the Council of Protection; for Preventing the Improper Transfer of Slaves; and for Other Purposes.” In *The Laws of Jamaica: Comprehending all the Acts in Force, Passed Between the Fifty-First Year of the Reign of King George the Third, and Fifty-Seventh Year of the Reign of King George the Third, inclusive*. St. Jago de la Vega [Spanish Town] (1817), Vol. 6, pgs. 495-533.

should be conducted “in like manner as is the practice usual and accustomed at the quarter sessions on the trial of indictments against white persons or persons of free condition.” In addition, the 1826 code provided both the court and the prisoner the right to challenge jurors sitting on the trial, in noted distinction to previous practice, which did not provide such safeguard for enslaved people regarding the jurors sitting in judgment of them. The code retained as potential sentences death, transportation, and confinement to hard labor for life or a limited period; whipping was also explicitly introduced as a potential punishment for capital crimes (although evidence clearly demonstrates that it was previously given in such cases in the past). Most notably, the 1826 code required the consent of the governor, in both cases of execution and transportation, with the stipulation that the governor also be provided with “the charge or indictment, the evidence taken down at the trial, and the sentence of the court.” As before, in cases of “rebellion or rebellious conspiracy,” the court retained the ability to immediately execute a convicted enslaved person, although the code included a note that “if no pressing occasion arise, the court may if it sees fit, refer the proceedings to the governor.”²⁷

The 1826 slave code further provided for a special slave court to be summoned, at which no fewer than 48 individuals must be summoned to serve as a potential jury. The

²⁷ *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index.* [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office. The Clerk of Peace of St. George Parish changed the way he kept court records as a result, noting: “No July and October 1827 recorded in Quarter Sessions book. The New Slave Law (afterwards disallowed) being in force which abolished slave courts and enacted that slaves should be tried by Grand and Petit Jury in every respect as free persons in consequence of such disallowance the old Slave Law of 1816 becomes in force by which slave courts are again revived.” 2/18/6, St. George Slave Court, JARD.

code provided that if a slave should be held in custody for six calendar months, and no indictment was preferred or no person appeared to prosecute a complaint, the justices of the quarter-sessions were required to discharge the enslaved person by proclamation without trial. For the first time, the 1826 code specifically required parishes to employ “a person who has been regularly admitted as a barrister or attorney at law in the courts of the island, to attend the trials of all slaves for capital offenses in the quarter sessions or special slave courts, and to take the defense of such slaves.” While the mandatory appointment of defenders of slaves was a new requirement of the 1826 slave code, some parishes had previously employed such defense attorneys prior to this date.²⁸

In a matter equally critical for the procedural rights of enslaved people, although not directly shaping the slave courts themselves, the 1826 code permitted the admission of slave evidence against free individuals, whether white or of color, in certain criminal trials – namely,

...murder, felony, burglary, robbery, rebellion or rebellious conspiracy, treason or traitorous conspiracy, rape, mutilation, branding, dismembering, or cruelly beating or confining without sufficient support, a slave or slaves, or in any cases of seditious meeting, or of harbouring or concealing runaway slaves, or giving false tickets or letters to such runaway slaves, to enable them to elude detection, or on any inquisition before a coroner.²⁹

²⁸ *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index.* [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office.

²⁹ *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index.* [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office.

Notably, not all enslaved people were permitted to give testimony in this way. The code specifically provided that an enslaved person serving as witness must produce a certificate of baptism, and the justice must be satisfied “that such slave comprehends the nature and obligation of an oath.” Furthermore, the code enabled the court to receive challenges to an enslaved witness’s competency or credibility as in the cases of white persons and free persons of color. No white person could be convicted of a crime aforesaid on the testimony of just one enslaved person – at least two enslaved people being required, and they to be examined apart from each other. The 1826 code further ensured that enslaved persons could give evidence even if their owners did not want them to do so; but, the court was prohibited from freeing an enslaved person if their owner was convicted of offenses due to the testimony of an enslaved witness.³⁰

In 1828, the Privy Council disallowed the 1826 slave code, and the code in force reverted to the 1816 code. For the next several years, the Jamaica Assembly struggled to construct and pass a new code that the metropolitan government would allow to become law. Finally, a new slave code was adopted in 1831.

The 1831 code provided for enslaved people to be tried in quarter-sessions or in a special slave court. As before, the code mandated for free people to be tried first, and enslaved people to be tried later in the court’s meeting. This new code reinstated the provision about the constitution of the jury and the process of selecting jurors and the

³⁰ *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index.* [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office.

right of the crown and the prisoner to object. The code also once again provided for each parish to employ a defender of slaves, to represent them in capital cases before quarter sessions or special slave-courts.³¹ For the first time, the code made provision for what was to happen if a slave sentenced to death, transportation, or imprisonment to hard labor for life was pardoned. Previously, pardons for slaves sentenced to death, transportation, or life imprisonment created a tremendous difficulty for government officials. Under compensation law, the prior slaveholder would have received payment for the value of the enslaved person, and thus no longer held valid title to the slave. However, if a pardon released an enslaved person from confinement, but not to a specific owner, it would free the enslaved person altogether. Thus, counterintuitively, an enslaved person pardoned after conviction of a capital offense wound up in a much better position than a well-behaved enslaved person. The provisions for summary trials in the 1831 code were essentially the same as those enacted in the 1828 code.³²

³¹ “An Act for the Government of Slaves.” Inclosure in No. 1, Copy of a Despatch from the Earl of Belmore to Viscount Goderich, 21 February, 1831, Spanish Town, Jamaica. In Parliament. House of Commons (1831). *Papers Presented to Parliament, by His Majesty’s Command, in Explanation of the Measures Adopted by His Majesty’s Government for the Melioration of the Condition of the Slave Population in His Majesty’s Possessions in the West Indies, on the Continent of South America, the Cape of Good, and at the Mauritius.* (HC 1830-1831 230). London: J. Hartnell. pgs. 3-54.

³² “An Act for the Government of Slaves.” Inclosure in No. 1, Copy of a Despatch from the Earl of Belmore to Viscount Goderich, 21 February, 1831, Spanish Town, Jamaica In Parliament. House of Commons (1831). *Papers Presented to Parliament, by His Majesty’s Command, in Explanation of the Measures Adopted by His Majesty’s Government for the Melioration of the Condition of the Slave Population in His Majesty’s Possessions in the West Indies, on the Continent of South America, the Cape of Good, and at the Mauritius.* (HC 1830-1831 230). London: J. Hartnell. pgs. 3-54. On pardons, see CO 137/168, folios 174-182, J. Stephen to Hay, TNA.

Over a period of 50 years, the Jamaican legal system, as it pertained to the procedural rights of enslaved people as victim of crime and defendant, underwent a process of significant – if gradual – restructuring. The 1780 slave courts composed an intentionally separated legal system chiefly focused on trying capital crimes under provisions that afforded few rights to enslaved people, largely operating under a 1696 framework. By 1831, while still a distinct institution, the slave court increasingly paralleled the quarter sessions court used to try free people, and afforded enslaved people substantial procedural rights. This system evolved in dynamic tension between colonial legislators and the imperial government, expanding in fits and starts and sometimes regressing towards more punitive and restrictive measures. And it evolved against the backdrop of fundamental change to slavery as an institution and to colonial West Indian society.

5.4 Right to a Trial

Before enslaved people could secure guarantee of any other rights of courtroom procedure, they had to ensure that their purported offences would be heard before a court, instead of simply handled through corporal punishment on the plantation or by state violence. Despite the importance of the law to the ideological project of late eighteenth to early nineteenth century British Caribbean slavery, this was not by any practical means to be assumed. As I discuss in an earlier chapter, many slaveholders continued to see their plantations as their fiefdoms, and to believe in their near-absolute right to exercise power and control over the bodies and labor of enslaved people.

Initially the constitution of the legal system for enslaved people in Jamaica was constructed so as to discourage the hearing of many misdemeanor cases. Under the first slave codes, the same slave court was to be constituted for hearing any offences committed by enslaved people – felonies and misdemeanors alike. When summary hearings were introduced via the 1781 slave code, slaveholders prosecuting a slave before the court were expected to pay for the court proceedings. Although not explicitly articulated as such in the law, the effect of this measure was to make prosecutors think twice before bringing a case before the court, and to seek extrajudicial ways of resolving a case. In a venue void of whatever narrow protections were offered by the constrained legal rights of enslaved people, it was far from guaranteed that enslaved people would face a better or more just outcome. It was not until the enactment of the 1816 code that prosecutors' fees were abolished.

In testimony before Parliament in 1826, Jamaican planter James Beckford Wildman said that he understood his role on his estate as “the sole judge when a man should be punished, and to what extent.” Asked to clarify if it was correct to say he considered himself (and other slaveowners) “*quasi* a magistrate,” Wildman responded: “Precisely, as if the overseer had been a farmer in my own parish, and he came to me to complain of a man’s neglect of his labour; I should have sent him to the tread mill for a certain time there; there I punished him.” While Wildman acknowledged that the law

officially established limitations on punishments that could be administered, he testified that “persons do go far beyond the law, constantly.”³³

The other primary means through which enslaved people were denied a trial was through state action. Repeatedly, in moments of societal unrest and especially of slave rebellion or conspiracy, the colonial state rushed to issue summary judgments on whole groups of enslaved people, conduct trials in hurried and slipshod manner even by the loose standards of colonial slave courts, or even to dispense with trials altogether, quickly enacting punishments such as transportation without following legal procedure. The loosening of normal legal practice in these emergencies reflected a valuation of the real importance of the rule of law, and the circumstances and conditions under which enslaved people could lay claim to procedural rights.

In December 1806, rumors of a slave rebellion swept the rural northern parish of St. George. The local militia regiment was called up, other local authorities put on full alert, and dozens of enslaved people were arrested and monitored. Many of these enslaved individuals were brought before local slave courts for trial. Three of the leading accused conspirators were tried and found guilty. Two were sentenced to a public execution and the third was sentenced to transportation from the island for life. However, two leading suspects, Anthony Gutzmer and Adam Williamson, both enslaved men, were tried but acquitted by the jury of planters and merchants. Numerous local elites expressed

³³ Parliament. House of Commons (1832). *Report from Select Committee on the Extinction of Slavery Throughout the British Dominions: With the Minutes of Evidence, Appendix and Index*. (HC 1831-1832 721). pgs. 516.

their concern to Governor Eyre Coote at the prospect of these men being allowed to go at liberty. The governor accordingly convened his Council to discuss the matter. Coote commented in his instructions to the Council that Gutzmer and Williamson were acquitted “altho the Evidence adduced against them at their Trial was as strong and conclusive as that which occasioned the Conviction of the three other criminals,” and he asked the board to determine “how far it would be consistent with the Public Security that persons of such a dangerous description and of such extensive influence over their own class should be permitted to remain in this Island.” Coote thus called into question the legitimacy of the court’s decision, and he convened the Council in order to put Gutzmer and Williamson again in jeopardy through an extra-judicial process.³⁴ During a meeting, Coote and the Council reviewed a sheaf of documents submitted by the St. George militia, the slave court, and Attorney General William Burge. The Council unanimously resolved after consulting this evidence that the Governor “should adopt immediate measures for removing from this Island the Negroes Anthony Gutzmer and Adam Williamson and that the greatest precaution should be taken to prevent the possibility of their return.” When Coote reported this proceeding to his contact in the Colonial Office, the contact heartily approved and praised Coote’s decision as a wise move for the security of the island.³⁵

³⁴ 19 February 1807. 1B/5/3/22, Minutes of Council, 1805-1815. JARD.

³⁵ 19 February 1807. 1B/5/3/22, Minutes of Council, 1805-1815. JARD.

On hearing of the Council's actions in calling for the deportation of Gutzmer and Williamson, the members in the House of Assembly for St. George Parish reached out to Governor Coote and advised him that, while they approved of the decision to have Gutzmer and Williamson deported, they thought two other enslaved men were even more deserving of being transported from Jamaica. Coote then had a further interview with the star witness for the Crown at initial slave court trials and asked the overseer on the witness's estate to testify before the Council itself. On hearing the further evidence, the Council likewise moved to have those two enslaved men, Captain and Peregrine, banished from the island for life.³⁶

A review of the actions of Governor Coote and his council in February and March 1807 casts into sharp relief the distinction between this action and the choices made by Governor Manchester and his Council just over two years later in December 1809. The two situations involved many parallels: a rumored conspiracy, interrupted by local authorities before it could come to full fruition; the mass arrest of many enslaved people; the trial of some and the suspicion of others who were either not tried or found not guilty under traditional judicial processes. Both cases also involved the consideration of deportation without trial as a potential resolution, justified by its advocates as a last ditch effort to safeguard colonists' safety. What differed was how the two situations were ultimately resolved, and what this revealed about the shifting political terrain of enslaved people's procedural rights.

³⁶ 9 March 1807. 1B/5/3/22, Minutes of Council, 1805-1815. JARD.

In fall 1809, local authorities in Kingston discovered a planned conspiracy among enslaved people, which they linked to unrest among the locally stationed all Black 2nd West India Regiment. As with the incident of alleged slave rebellion in 1806, dozens of enslaved people were similarly arrested and tried. Two particularly prominent leaders were tried, found guilty, and sentenced to hang. Local Kingston authorities strived to have the remaining suspected or accused enslaved people transported from the island without trial, claiming that the time and expense of a trial risked the possibility of insurrection as long as the suspects remained in the island.³⁷ The Assembly twice tried to pass legislation authorizing the Governor to transport these suspects from the island for life. On both occasions, the Council vetoed the legislation, remanding it to the Assembly. In one veto message to the Assembly, the Council observed that “nothing but extreme necessity can excuse a departure from the ordinary administration of justice,” stressing that only the representative of the King could properly make such a determination and “that for any subordinate power to arrogate to itself a responsibility so dangerous, is an innovation in government not to be endured.” The Council also noted that “recent occurrences have made it the duty of this board to guard with increased vigilance the purity of the slave code,” and that in their judgment, ensuring that the rule of law should be followed in the discipline of enslaved people became more, not less, important in the wake of rebellions. The Council empowered and instructed a committee to conduct a

³⁷ “Appendix No. V. Documents Respecting the Late Conspiracy Discovered in the City of Kingston.” CO 137/129, folios 124-191. TNA.

thorough investigation of the trials held for the enslaved people so accused in Kingston and to account for the time prisoners were held in confinement, the laws that governed the trials, the persons who acted as judges, the manner the trial was conducted, and more.³⁸

The Assembly tried to circumvent the usual course of action by sending a petition to the King. In this petition, they asked the imperial government to step in and authorize this deportation where the Governor and Council had not. In so doing, the Assembly stressed,

You are too well acquainted with the circumstances of this Colony to render it necessary for us to dwell on the extreme danger which will attend these persons remaining in the Island and we cannot avoid expressing our confident expectation that his Majesty's Government will never expose so valuable a part of the Empire to the hazard and danger which would attend the enlargement of so many dangerous characters.

Central to the dispute between the Assembly, the Council, and the Governor was the interpretation of a clause in the Parliamentary legislation that outlawed the slave trade which banned the deportation of enslaved people from the Caribbean colonies without trial. This clause carried substantial weight in the consideration of the Governor and the Council, and ultimately, to the Colonial Office. To the Assembly, however, this bill's purport was "the prevention of Trade being carried on in Slaves," not the protection of procedural rights of enslaved people. In contrast, the Assembly argued that the decision to deport the enslaved men or allow them to remain in the island was substantial, "a

³⁸ Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. Vol. 13, 230-1.

measure on the success of which the very existence of this Island may be found to depend.” Nonetheless, the Assembly readily acknowledged the shortage of evidence at their disposal, writing “It may be doubtful whether the overt Acts could be completely proved against each of the persons so apprehended.”³⁹ An unnamed Colonial Office official advised the Colonial Secretary, Earl Bathurst, that the plan to have these individuals transported was plainly against the law. While noting that the law in question authorized exceptions against enslaved people who posed active threats, the official nonetheless noted, that the exceptions “did not contemplate the Case of Persons accused of Crime, but not tried, &, of course, not convicted: tho’ the fact probably is that they [the law’s authors] did not contemplate such a Case, as this case actually is.”⁴⁰

After the 1831-32 Baptist War (a slave revolt that broke out between the last weeks of December and first of January and swept much of northeastern Jamaica) similarly animated efforts were made by the Jamaican colonial government to shortcut the usual legal processes. Rather than hold civil trials, enslaved people suspected of involvement in the revolt were tried by courts martial. On receiving returns of the courts martial, the Colonial Secretary, Viscount Goderich, responded with concern. While he acknowledged that, in the context of shortened court proceedings, that it was “impossible” to “form any opinion as to the impartiality exercised towards the Negroes,” he was concerned by the 111 cases he reviewed. Goderich observed: “It is, however,

³⁹ Petition of Assembly of Jamaica. 8 December 1809. CO 137/129, folio 123-4. TNA.

⁴⁰ Anonymous to Lord Bathurst. 30 July 1810. CO 137/129, folio 119-20. TNA.

singular that in none of the 111 cases detailed was a single witness called for the accused, nor, as far as can be gathered from the Minutes, did the Prisoner's Counsel even cross examine the witnesses called for the prosecution." Goderich characterized the sentences as "far from lenient," noting that 63 of the 111 prisoners had been sentenced to death.⁴¹

Actual witnesses to the courts martial seemed to confirm Goderich's suspicions. Rev. Henry Bleby witnessed the trial of George Spence for "rebellion and rebellious conspiracy." According to Bleby, the evidence presented against Spence proved only that "he was one amongst a crowd of people, looking on when the buildings of an estate were burning," while "nothing was brought out to show that he had borne arms or taken any part in the revolt, or that he had assisted in the destruction of any of the plantations which had been burnt." When a major in the militia tried to interrupt the proceedings, protesting the unfairness of the trial, he was silenced. Bleby noted wryly that "in their hurry to complete the tragedy, they [the court] had omitted the formality of passing sentence upon the criminal." Spence was found guilty and shot.⁴²

Rev. Bleby's perspective was not universal. Captain C. H. Williams testified before Parliament that "every man had a fair trial before the courts... and I believe every man to have merited his punishment that was sentenced to it." As evidence of this statement, Williams adduced that enslaved people were able to seek any help they desired

⁴¹ Viscount Goderich to Mulgrave, July 1833. CO 137/188, folios 176-7. TNA.

⁴² Henry Bleby. *Death struggles of slavery : being a narrative of facts and incidents, which occurred in a British colony, during the two years immediately preceding Negro emancipation*. London: Printed by W. Nichols (1868). 30-33

and had the opportunity to call and cross-examine witnesses. However, Williams did not account for the gap in comfort and familiarity with court proceedings between enslaved people and the militia officers running the courts martial. He noted that nonetheless enslaved people did not call on any professional barristers to assist them nor were they offered legal advice.⁴³

5.5 Right to Give Evidence

In 1789, Barbadian planter Joshua Steele noted the contradiction between the rules of evidence present in England and the West Indies. While, he noted, “all Ranks of Men, Slaves, Bondmen, and Apprentices are admitted as legal Evidences” in England, this was not the case in Barbados or most other West Indies islands. Rather, he imagined, a newcomer would be “surprised to find, among English People, a mode of thinking, and a System of Laws, so new to me.” In his 1793 history, Jamaican planter and historian Bryan Edwards concurred, writing, “The great, and I fear incurable, defect in the system of slavery, is the circumstance already mentioned, that the evidence of the slave cannot be admitted against a White person, even in cases of the most atrocious injury.”⁴⁴

⁴³ Parliament. House of Commons (1832). *Report from Select Committee on the Extinction of Slavery Throughout the British Dominions: With the Minutes of Evidence, Appendix and Index*. (HC 1831-1832 721). 306-7.

⁴⁴ Joshua Steele, *Letters of Philo-Xylon*. Bridgetown, Barbados (1789). 9. ; Bryan Edwards. *The History, Civil and Commercial, of the British Colonies in the West Indies: In Two Volumes*. Vol. 2. London (1793): Printed for John Stockdale, Piccadilly. 171-2. Despite the statements of these two pro-slavery intellectuals, it is important to note that testimony was valued not only on the basis of slave status or race, but that courts gave testimony different weight depending on gender, class, age and reputation. This is an important intersecting dynamic which merits further discussion here and I have not been able to fully develop due to time. See also Barbara Shapiro. *A Culture of Fact: England, 1550-1720*. Ithaca: Cornell University Press, 2003; Ariella J. Gross, *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. Athens: University of Georgia Press, 2006; Laura Edwards, *The People and Their Peace: Legal Culture*

Jamaican Attorney General William Burge joined many other colonists in framing his skepticism of enslaved people testifying in court through the lens of civilization and moral capacity. In 1826, he testified to the Commission of Legal Inquiry tasked with reporting on and evaluating the efficacy of the judicial systems of all the West Indian colonies:

With the imperfect knowledge which the Negro mind at present has of the fundamental truths of religion and morality, they want the restraints of conscience rather than capacity, to render their testimony generally entitled to credit; not that I would be understood to say, that there are not very many slaves who might be admitted to give evidence, and which evidence, standing the test of examination and sifting by a court and jury, might, with perfect propriety, warrant convictions or acquittals.

However, Burge did suggest a process through which slave testimony could be gradually phased in. He thought that enslaved people who intended to give evidence against free people should present a certificate from their owners of good conduct, a certificate of the clergyman of their parish that they had been christened, and should be examined to determine that they knew the nature of an oath. Burge foresaw a possibility that these requirements could eventually be removed, but he argued that their implementation at first would serve the purpose of “furnishing the slave with a strong inducement to conduct himself faithfully towards his owner, and to obtain his good opinion, and to obtain that instruction in religion and morality which would qualify him for this privilege.” Further, Burge argued, the adoption of such qualifications would also

and the Transformation of Inequality in the Post-Revolutionary South. Chapel Hill: University of North Carolina Press, 2009. In the British Caribbean context specifically, this is also discussed by Miles Ogborn, *The Freedom of Speech: Talk and Slavery in the Anglo-Caribbean World*. Chicago: University of Chicago Press, 2019.

build support for allowing a form of slave testimony among free people, which he believed “would do more to advance the slave in the scale of civilization than any which could be suggested.”⁴⁵

Rev. George Wilson Bridges, Anglican rector in St. Ann Parish, Jamaica and himself notorious for his maltreatment of his enslaved people, found the outrage about enslaved people’s “incompetency” to testify overstated; in Bridges’s view, the denial of this right to enslaved people in Jamaica only mirrored “those principles which in every legal system establish an incompetency of witnesses, dependent upon station and condition.” To Bridges, the many other forms of evidence which could be legitimately entered into the record obviated concern that excluding slave testimony would deny justice.⁴⁶

William Dickson, a poor Scot turned secretary of Barbados governor Edward Hay, was radicalized to abolitionism by his experience in the Caribbean. However, even as he toured the English countryside calling for abolition, he echoed many plantocrats in arguing that equivalence between the evidence of enslaved and free white people was inappropriate. Dickson did, however, question whether “is there no medium between allowing the evidence of negroes *that* weight, and allowing it *no weight* at all?” In this context, he argued for the testimony of two or more enslaved people to be considered equivalent to the testimony of one white person. As justification for granting enslaved

⁴⁵ Parliament. House of Commons (1827). *First Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica*. (HC 1826-1827 559). 83-84

⁴⁶ George Wilson Bridges. *The Annals of Jamaica*. (London: J. Murray, 1827-28.) Vol. 1, 96-7.

people the right to testify against white people, Dickson drew not only on the civilizing and Christianizing influence of missionaries, but also to the “principles they have brought with them from Africa,” pointing to their purported belief in an afterlife and the reverence with which they held “an oath on a negro grave.”⁴⁷

Even as Jamaican officials and the planter class disavowed the suitability of enslaved people as witnesses against free people, that did not bar them from considerably relying on the evidence of enslaved people when it suited them to make decisions about the guilt of free people. For example, in 1823, a series of slave uprisings swept Jamaica, from Hanover Parish in the west to St. George Parish in the east. At the trials of rebels and conspirators in St. George, two enslaved men, Charles Mack and Jean-Baptiste Corberand, emerged as key witnesses for the crown. They described in detail the role of individual enslaved people, the strategy of the unsuccessful revolt, the location of weapons and stores, and so forth. Mack and Corberand were designated as Crown’s Evidence, and despite their own substantial roles in the St. George Parish rebellion, they were spared execution so they could testify in dozens of trials to the role of other enslaved people. Over the course of these proceedings, Corberand especially drew attention to the role of a loose network of French-speaking free men of color from Kingston who they charged had supplied the rebels with arms and munitions and had

⁴⁷ William Dickson. *Letters on slavery by William Dickson : to which are added addresses to the whites and to the free Negroes of Barbadoes : and accounts of some Negroes eminent for their virtues and abilities*. (London: Printed and sold by J. Phillips and sold by J. Johnson, 1789.) 146. For biographical details on Dickson, see H. T. Dickson, “William Dickson.” In *Oxford Dictionary of National Biography*: <https://doi-org.proxy.lib.duke.edu/10.1093/ref.odnb/109796>.

incited the attack. In the trial of ringleaders Jack and Prince, Corberand testified that the conspirators were to fight “with guns, of which there were fourteen; that the negroes were supplied with guns by a brown named Lecesne; the guns were brought over... in Spanish bags, on two mules, about two months before Christmas; a week after he (witness) brought over a keg of powder on a mule also from Lecesne.”⁴⁸ At the trial of Chance, Corberand further described seeing Lecesne and the accused whispering a long discourse at his (Lecesne’s) store in West Street” and offering to send the conspirators guns whenever they desired.⁴⁹

Mack and Corberand’s testimonies aligned with the politically-motivated investigation of Francophone fraternal societies among free people of color in Kingston and planter class outrage about their efforts to expand their civil rights under Jamaican law. Although Mack and Corberand did not themselves testify in Lecesne and Escoffery’s case, they nonetheless provided evidence that factored into the Assembly and Governor’s decision to order Lecesne and Escoffery deported. Governor Manchester wrote to the Colonial Secretary, Earl Bathurst, that “in evidence adduced at the trial of the conspirators in the parish of Saint George, it appeared that arms had been furnished them by *Lecesne the Alien*.” Manchester noted that, “Although this information rests on

⁴⁸ *The King v. Jack and Prince*. In Parliament. House of Commons (1825). I. *Papers Relating to the Manumission, Government, and Population of Slaves in the West Indies; 1822-1824*. (HC 1825 66). Quote pg. 104, trial transcript pgs. 101-109.

⁴⁹ *The King v. Chance*, In Parliament. House of Commons (1825). I. *Papers Relating to the Manumission, Government, and Population of Slaves in the West Indies; 1822-1824*. (HC 1825 66). Quote pg. 130, trial transcript pgs. 128-132.

the evidence of slaves, and could not have convicted *Lecesne* in a court of justice, there is the greatest reason to believe that it is true.”⁵⁰ In a late July dispatch, Manchester added examinations since taken in Kingston to the litany of evidence justifying his decision, noting that it was abundantly clear to him that *Lecesne* “was concerned with the conspirators in that parish [St. George]; that he had supplied them with arms; and that his house was the place of resort for all disaffected persons of all denominations.”⁵¹ When further investigation suggested that *Corberand* had lied prolifically in his testimony in numerous trials of rebels, it also raised serious doubts about how seriously he could be taken regarding *Lecesne* and *Escoffery*’s guilt. In this light, the weight Governor Manchester and other colonial elites placed in the words of a rebellious enslaved person became an object of some ridicule.

When enslaved peoples’ testimony was first given legal weight, it brought its own set of challenges. In 1826, Jamaica’s legislature passed and the governor signed a

⁵⁰ Copy of a Despatch addressed to Earl Bathurst by His Grace the Duke of Manchester. 9 February 1824, Spanish Town, Jamaica. No. 2. In Parliament. House of Commons (1825). *Further Papers Relating to Slaves in the West Indies: Viz. Return to an Address of the Honourable House of Commons, dated 13th April 1824; - for Copy of any INFORMATION which has been received, respecting the Apprehension, for the purpose of being carried off the Island of Jamaica, of two free Men of colour named Lecesne and Escoffery, in the month of October 1823, with the Proceedings consequent thereupon; and Copies of the Affidavits filed in the Grand Court of that Island, on the occasion of moving for a Writ of Habeas Corpus on their behalf.* (HC 1825 74). 3.

⁵¹ Copy of a Despatch addressed to Earl Bathurst by His Grace the Duke of Manchester. 30 July 1824, Spanish Town, Jamaica. No. 3, In Parliament. House of Commons (1825). *Further Papers Relating to Slaves in the West Indies: Viz. Return to an Address of the Honourable House of Commons, dated 13th April 1824; - for Copy of any INFORMATION which has been received, respecting the Apprehension, for the purpose of being carried off the Island of Jamaica, of two free Men of colour named Lecesne and Escoffery, in the month of October 1823, with the Proceedings consequent thereupon; and Copies of the Affidavits filed in the Grand Court of that Island, on the occasion of moving for a Writ of Habeas Corpus on their behalf.* (HC 1825 74). 4.

comprehensive slave code that included limited rights for enslaved people to testify against free people, along with restrictions on preaching without a license from the parish vestry. The imperial government had previously indicated to colonial governors that they were not to sign legislation including religious restrictions without a suspending clause. (Suspending clauses meant that a law would not go into effect unless it had first received royal approval.) Under significant political pressure from the Assembly and Council, however, the governor signed this law into action without a suspending clause. For a little over a year, the 1826 law went into action and numerous arrests were made and cases litigated under its premises. In late 1827, the Privy Council reviewed the 1826 Slave Code and motioned to disallow it. The colonial government's efforts to deal with this disallowance's after-effects as it impacted particular cases underscored the concern with the rule of law and the differing priority placed on different legal persons.

The case of Adam Schoates McKay, a bookkeeper convicted of the murder of overseer James McDonald before the Cornwall Assizes Court, came under review for this reason. Over time, McDonald had received numerous complaints about McKay's conduct, especially about his exceptional brutality towards enslaved people, and eventually fired him at the behest of his employing planter. In a rage at being fired, McKay insisted at gunpoint that McDonald rescind his dismissal. When McDonald refused, McKay shot him at close range. McDonald lingered a few days, but eventually died. Bessy Dunstone and Margaret White, two enslaved women who did domestic work in McDonald's house, witnessed the quarrel between the two men and attended to McDonald shortly after he was shot. A free housekeeper, Margaret Craighton, also heard

the shot. George Palmer, another bookkeeper, attested to the ongoing power struggle between McDonald and McKay. All of these individuals testified to the court. McDonald was able to leave a deathbed affidavit of the events, which was entered into the court record. Under the 1826 slave code, the testimonies of the enslaved women Dunstone and White were admissible in court. However, when the 1826 slave code was disallowed, the 1816 slave code applied instead. This meant that the evidence of enslaved people was no longer admissible in court. Suddenly, despite the breadth of the evidence against McKay, the fact that Dunstone and White had testified raised questions about whether his conviction should stand.⁵²

Lieutenant Governor John Keane described McKay's alleged offense as "one of the most wanton and atrocious cases of Murther I have ever heard of." Nonetheless, he was reluctant to order McKay's execution without receiving advice from both local legal advisers and the Colonial Office.⁵³ Attorney General William Burge advised Keane that he should determine if the evidence of the enslaved witnesses was material to McKay's conviction.⁵⁴ Chief Justice William Scarlett sent his minutes of the trial to Keene, noting that,

In respect of the Case of McKay it will be found that the Evidence given against him by the two Slave Witnesses was very material and from their conduct and demeanor whilst under Examination I think it reasonable to presume that it had

⁵² *The King vs. Adam Schoates McKay*. CO 137/165, folios 345-6. TNA.

⁵³ Governor Keane to William Huskisson. Spanish Town, Jamaica. 1 December, 1827. CO 137/165, folios 342-3. TNA.

⁵⁴ William Bullock to Chief Justice William A. Scarlett. Spanish Town, Jamaica. 17 November 1827. CO 137/165, folio 344. TNA.

some weight with the Jury tho' in point of Law what fell from the other Witnesses would in my opinion have fully justified their verdict.

Scarlett's letter suggested that, in theory, it was legitimate for the governor to try to deduce whether a witness's testimony was material to the conviction in deciding whether the verdict should stand. However, he suggested that as the content of the enslaved witnesses' testimony could conceivably have been very material to the jury's decision, it would be a more questionable move to assume McKay's conviction should stand.⁵⁵ On receipt of Scarlett's letter, Attorney General Burge amended his analysis. He held that it was unnecessary to consider the materiality of the enslaved witness's testimony to the verdict, arguing instead that, "Their Testimony having been received, its influence on the Jury in forming their Verdict cannot be ascertained or Examined." Burge contended, that since the 1826 slave code was no longer in force, "that Evidence was inadmissible and inadmissible Evidence having been received at the Trial, a Conviction upon such Trial could not be sustained."⁵⁶

Confronted with this doubt from Chief Justice Scarlett and Attorney General Burge, Lieutenant Governor Keene sought guidance from the Colonial Office. James Stephen of the Colonial Office agreed with Burge that the inadmissibility of slave evidence tainted the case, but he also commented that, "A further objection to the execution would be that McKay was indicted upon the recent Slave Act, and that

⁵⁵ William A. Scarlett to William Bullock, Spanish Town, Jamaica, 20 November 1827. CO 137/165, folio 345. TNA.

⁵⁶ William Burge to William Bullock, Spanish Town, Jamaica, 27 November 1827. CO 137/165, folio 350. TNA.

consequently the Statute which denounced the penalty of death against the offence being at an end, it is no longer possible to punish him under it.” Stephen went on to berate the Governor for how he had handled the enactment of the 1826 Slave Code in the first place, arguing, “It should be observed that this inconvenience would not have arisen if the standing Instructions to the Governor had been observed, which require him to transmit for the Royal approbation any Act of this nature before his assent is given.”⁵⁷ Law Officers for the Crown R. C. Tindall and Chris Weatherell offered as further opinion that “in consequence of the disallowance of the Act in question, McKay cannot now be lawfully executed, but ought to be discharged.”⁵⁸ Keane, considering these legal opinions, determined that McKay’s conviction must be voided under the circumstances and he was ordered to be discharged.⁵⁹

McKay’s case illustrates perfectly that the testimony of enslaved people was not only a significant battleground for ensuring the accountability of free people for crimes against enslaved people. Enslaved people’s inability to testify against free people also allowed free people to get away with crimes, even heinous ones, against other free people. The temporary shift in law-in-force allowed McKay to be tried and convicted for murder. The fact that the Crown had disallowed the 1826 Slave Code, in turn, let him escape the gallows and go free.

⁵⁷ James A. Stephen to Law Officers for the Crown, 1 February 1828. CO 137/168, folios 170-1. TNA.

⁵⁸ Ch. Weatherell and R. C. Tindall to William Huskisson, 4 March 1828. CO 137/168, folio 163. TNA.

⁵⁹ 15 August 1828, Governor’s secretary to Provost Marshall General Anthony Davis. 1B/5/81/2: Governor’s Secretary Office, Letter Book, 8 May 1827 – 26 Dec 1831. JARD.

5.6 Right to a Defense

Generally, in British and colonial courts, free defendants represented themselves before the court in most criminal cases. Legal representation was commonly sought or provided in felony cases. Yet, prior to the designation of Defenders of Slaves to represent enslaved people in court, enslaved people brought before the slave courts on felony cases were at a disadvantage. Even if they had a passing familiarity with the law and competency in the formal English in which trials were conducted – itself a relatively rare occurrence – they might be intimidated by the setting and unable to follow the procedural nuances of the legal proceedings. Certainly, they were appearing before jurists and juries who were almost invariably slaveholders themselves and invested in the maintenance of slavery as an institution and white economic and political power. In some cases, slaveowners, attorney, or overseers would themselves represent their slave in court, or hire a professional solicitor to play this role. However, especially in cases where an enslaved person was prosecuted by their own owner or overseer, they were often without legal representation.

Before the 1826 Commission of Legal Enquiry, Attorney General William Burge testified:

Since I have been Attorney General, either on a reference from the Governor, or on the application of the slave himself, or on information conveyed to me by others, I have rendered him my services gratuitously, either by preferring bills of indictment, or by actions, as his Counsel, in cases for the recovery of his freedom; and I have also called upon the Solicitor of the Crown, who holds his situation under me, to render his services gratuitously as an attorney at law.

Aware of the Commissioners' reformist agenda, Burge likely strove to represent the legal situation of enslaved people as favorably as possible. While there is evidence that suggests his intervention, and those of the Solicitor of the Crown, in a few select cases involving enslaved people (as, for example, in the murder charge against Thomas Ludford discussed in the introduction of this chapter), this was by no means a systematic or widespread effort.⁶⁰ The Custos of Trelawny Parish provided similarly glowing evidence, explaining:

Legal assistance is not by law afforded to the accused in this court, but it seldom occurs that a trial takes place without some person interested in the fate of the accused attending the trial, and it very frequently happens, that professional men are employed at the charge of the owner of an accused slave.⁶¹

In contrast to practice in British crown colonies, such as Trinidad, in the same period, where an official of the court was designated as Protector of Slaves and routinely appeared in the court to defend enslaved people on such charges, the provision of legal aid was less routinized in the Jamaican context.⁶² However, in the 1826 Commission of Legal Inquiry report, James Stewart, the Custos (or head vestryman) of the parish of Trelawney, noted in his interview, "In the parish in which I have the honour to be Custos,

⁶⁰ Parliament. House of Commons (1827). *First Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica*. (HC 1826-1827 559). 220-6.

⁶¹ Parliament. House of Commons (1827). *First Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica*. (HC 1826-1827 559). 253-4.

⁶² On amelioration in Trinidad and the Protector of Slaves, see: Noel Titus. *The Amelioration and Abolition of Slavery in Trinidad, 1812-1834: Experiments and Protests in a Slave Colony*. (AuthorHouse, 2009); Claudius Fergus. *Revolutionary Emancipation: Slavery and Abolition in the British West Indies*. (Baton Rouge: Louisiana State University Press, 2013); Caroline Quarrier Spence. "Ameliorating Empire: Slavery and Protection in the British Colonies, 1783-1865." PhD. Dissertation, Harvard University, 2014. See also forthcoming work from Yale History PhD candidate Patrick Barker.

a professional gentleman of long experience is employed to defend slaves who are brought to trial.” In the same set of interviews, Attorney General William Burge noted that in some parishes it was customary for solicitors to be appointed and paid by the court to defend slaves. However, Burge also noted that justices frequently solicited the advice and guidance of these solicitors in reaching their decisions, which suggests they might have had interests other than those of their purported client in mind. It was also not infrequent, Burge noted, for slaveholders to either defend their slaves themselves, or to hire a professional solicitor to defend them on their behalf.⁶³ In combination with these testimonies, records of such legal support appear frequently enough in the record to suggest that at least some enslaved people were aware of the importance of professional legal support in trying to obtain a more favorable hearing in court. This also suggests that lawyers were not on the whole averse to having enslaved people as clients, or in putting on defenses for them that the judge and jury were compelled to consider with some seriousness.

Anthony Graham Dignum was appointed in 1827 as Defender of Slaves for the parishes of St. Dorothy and St. John. In testimony before Parliament, Dignum described his duty as “to attend the trials of slaves when placed upon their trials, in all criminal matters; and to, in fact, take the duties of a barrister, those which are usually taken by that person in a superior court.” Dignum noted that a strict construction of the language of

⁶³ CO 318/66, folios 77-8, TNA. For printed and edited version, see Parliament. House of Commons (1827). *First Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica*. (HC 1826-1827 559). 78-81.

the 1826 slave code might mean the Defender need only attend cases where death was a possible sentence, but that he nonetheless “made it a point to attend all cases, even of running away” where the case was before a jury (as opposed to a summary trial before two magistrates only). In Dignum’s characterization, the rate of pay for Defenders ranged from £70 to £250 Jamaica currency per annum.⁶⁴ (Vestry records in St. Ann support this range. In 1827, the vestry compensated the solicitor or defender of slaves at £150 Jamaica currency per annum.⁶⁵ By 1832, however, the attorney in the same position in the same parish was compensated at only £80 Jamaica currency per annum.⁶⁶)

Despite the stated legislative intent that the appointment of Defenders of Slaves would ensure a proper legal defense for enslaved people, in practice the colonial government expected this defense to occur within certain tight parameters. As Anthony Dignum testified, the role of the Defender was never to involve interfering on the part of an enslaved person who had been punished beyond the remit of the law by a master or overseer. Further, in a context where enslaved people were mostly denied the right to appeal, Defenders were expected not to follow up on sentences through one of the few avenues available: petition to the Governor for mercy or a pardon. When, in November 1828, the Defender of Slaves for Kingston petitioned the Lieutenant Governor on behalf of his client, William McDonald, an enslaved man convicted of assault on Joseph Fry and

⁶⁴ Parliament. House of Commons (1832). *Report from Select Committee on the Extinction of Slavery Throughout the British Dominions; with the Minutes of Evidence, Appendix and Index.*(HC 1831-32 (721). 498-501.

⁶⁵ 2/9/5. St. Ann Vestry Minutes, folio 235. JARD.

⁶⁶ 2/9/6, St. Ann Vestry Minutes, folio 1. JARD.

sentenced to the workhouse for life, the Lieutenant Governor protested this breach of protocol. The governor's secretary opined in a letter to Kingston Mayor Joseph Barnes: "The Duty of Defender of Slaves ought to be confined to taking care that impartial Justice is done to the Slave during his Trial and he ought not to animadvert on the Judgment pronounced by the Court." Nonetheless, in this case, the secretary noted, the evidence presented by the Defender was so compelling that, if verified by the magistrate, McDonald would in fact be pardoned. There only awaited the opinion in verification of the presiding magistrate in the case.⁶⁷ Yet, one might be forgiven for wondering if a case like McDonald's plea of innocence would even receive that hearing absent such unorthodox intervention from the Defender. The stipulation that any such petition come through the presiding magistrate, presumably the same individual granting the guilty verdict, suggests the uphill battle of making such a claim in the preferred manner.

Similarly, as a political appointment made by the local vestry, a Defender of Slaves faced potential consequences for advocating too vigorously for enslaved people. In early 1831, St. George Parish Solicitor and Defender of Slaves James Forsyth came under substantial public criticism, in the press and by the parish vestry, for voicing his support for missionary efforts to evangelize among slaves and decrying the cruelty of slaveholders in an opinion piece in *The Christian Record*. Forsyth made a forthright effort to defend himself, through a public statement to the board and in a letter to the

⁶⁷ Governor's Secretary to Hon. Joseph Barnes. 25 November 1828. 1B/5/81/2: Governor's Secretary Office, Letter Book, 8 May 1827 – 26 Dec 1831. JARD.

editor in *The Jamaica Watchman*, noting that his political opinion need not infringe on his duty. However, when the vestry next considered the annual renewal of his appointment, another individual, less sympathetic to enslaved people and their legal rights, was instead selected, not only for the Defender of Slaves, but also for the Solicitor position.⁶⁸

Yet, even as some trumpeted the mandated appointment of defenders as a critical step towards a more robust defense for enslaved people, others questioned the sincerity and robustness of the defense they offered. *The Jamaica Watchman* opined that, despite the intentions of British government that “professional men” should be “appointed at the expence of the several parishes,” more often the appointees have rendered their clients “little or no assistance.” At times, *The Watchman* continued, “the appointments have been given to young, inexperienced, and too frequently incompetent men, the sons or relatives of some friends or acquaintances,” leaving the enslaved people just as bad off as if they had not had a Defender. The editorialist went on to provide examples. W. S. Gringnon, an accomplished lawyer and member of Assembly serving as Defender of Slaves in Montego Bay, he charged, failed to meet his client, William, charged with being an incorrigible runaway, in advance of his trial. L. S. Campbell, Defender of Slaves in Kingston, merited particular opprobrium from the editorialist, who complained that Campbell’s entire contribution to one defense was to cross-examine a single witness, and

⁶⁸ *The Jamaica Watchman and Free Press*, April 30, 1831 & May 7, 1831 issues.

in another to refuse to deny his client's guilt and simply to request the mercy of the court on account of the individual's youth.⁶⁹

One of the most detailed accounts of an enslaved person's struggle to secure a credible legal defense comes in missionary Rev. Henry Bleby's 1868 memoir *Death Struggles of Slavery*. Bleby recounts the narrative of a parishioner, James Malcolm, an enslaved man and lay religious leader. Malcolm was not only a regular at services, but actively involved in encouraging other enslaved people to attend and spreading the Gospel on his estate. This active proselytizing activity earned Malcolm the hostility of his master and his attorney. When the 1831-2 Baptist War broke out, Malcolm was nonetheless active in protecting his master's estate and belongings from rebels; however, due to his active role, he was captured by rebels. In the aftermath of the revolt, Malcolm's master capitalized on this connection to ensure his arrest and charge on this claim.

Bleby and his congregation tried to secure a defense attorney for Malcolm. However, Bleby learned that "The law did not allow them to interfere without the consent of the owner or overseer of the accused slave, and also of a certain officer called "the Defender of Slaves," whose business it was to conduct the defense of slaves when brought to trial." Of the Defender in particular, Bleby heavily doubted his willingness to intervene, characterizing him as "a well-known oppressor of the negro" and "a most

⁶⁹ *The Jamaica Watchman and Free Press*. Sept 3, 1831 issue. Further on Campbell's incompetence in Aug. 6, 1831 issue.

unlikely man to consent to a mode of procedure in this case which would unavoidably imply something like a reflection upon his official integrity or ability.”⁷⁰ Bleby and his compatriots were ultimately able to help Malcolm by having him subpoenaed as a witness in another case, and hence removed to custody in another parish. However, the concerns Bleby raised were undoubtedly experienced by many others, and most enslaved people were not as well-connected and able to resort to such extensive and creative measures as Bleby was able to facilitate.

Thus, enslaved people had extremely limited access to legal counsel for much of the existence of the slave court system. In situations where their interests and the interest of their enslaver overlapped, an enslaved person might benefit from legal representation proffered by their enslaver or hired to represent them. In rare cases, parish government might take interest in the case and solicit counsel for them. In theory, the establishment of Defenders of Slaves as a permanent position in the late 1820s held forth the promise of more robust legal representation. However, as the cases set forth here amply demonstrate, this position was intentionally and calculatingly limited in remit, and subject to political appointment by parish vestry. As a result, Defenders could not be counted on to wage a reputable defense of their enslaved client – and some were notorious for doing the opposite.

⁷⁰ Henry Bleby. *Death struggles of slavery : being a narrative of facts and incidents, which occurred in a British colony, during the two years immediately preceding Negro emancipation*. London: Printed by W. Nichols (1868). 93-96.

5.7 Conclusion

Protection under the law and access to legal remedy were crucial to the articulation of a new and “gentler,” “more humane” form of slavery articulated by ameliorationists. Through proclaiming enslaved people to be under the protection of the King’s Peace, they were claimed as significant, albeit inferior, subjects of the realm and thus as parties whose welfare and well-being were properly the concern of the colonial state and the empire. Their conduct and treatment were thus expressly articulated as a matter of state interest and internal security. Even to many slaveholders and defenders of slavery, the maintenance and preservation of rule of law as it concerned enslaved people marked a distinguishing and civilizing factor in slavery as it operated in the British Caribbean as opposed to their vision of West Africa. It explicitly served slaveholders’ interests, especially in the socio-political context of the late eighteenth and early nineteenth centuries, to name, embrace, and perform this state investment in enslaved people’s treatment and well-being.

Under this rubric, the articulation of enslaved people’s procedural rights in the courtroom took on a particular and freighted significance. And, in tandem, the development of enslaved people’s procedural rights over the period 1780-1834 demonstrates a significant, if not consistent and steady, shift in the formal statutory articulation of these rights. Additional offences were considered judicable under criminal law and the incentive structure of the court system transformed to encourage a further shift away from planter-driven extrajudicial justice. Further, there was a growing attempt to align the experience of trial for enslaved and free people, from the addition of a jury,

the establishment of a right to defense in capital cases, and the increasingly parallel structures of the slave court and quarter sessions court structure, schedule, and personnel. At the same time, other dissimilarities continued – the inequality of punishments meted out to the free and to the enslaved and to white, Black, and mixed race defendants, the persistence in some crimes only enslaved people could commit, and the lack of a right to appeal, to name just a few.

However, even as enslaved people could in theory claim greater procedural rights before the court over the last decades of the eighteenth and into the nineteenth century, there remained tremendous slippage between the model articulated in legal code and enslaved peoples' experiences in and beyond the courtroom. Indeed, part of the key story in this chapter is the profound reluctance of local parish officials and magistrates, not to mention local freeholders acting as jurors or members of civil society, to actively and in good faith execute the procedural formalities of the court system. This continued to pose a major challenge to any ameliorationist attempt to posit the ability of the legal system to check the “excesses” of slavery as an institution. In large part, these norms continued even as colonists clearly understood their courts were under scrutiny by the metropolitan government and abolitionists. Where officials did attend to enslaved people's procedural rights, it not infrequently intentionally performative – as Justice Stewart's address to Montego Bay jurors cited earlier clearly illustrates. It is perhaps no wonder, in this context, that fair access to the courts for enslaved people became a ripe area of challenge for colonial autonomy and authority. The through-line of the struggle for these procedural rights frequently reflects extra-judicial intervention, as metropolitan authorities – or

Crown appointees in the colonies like several subsequent colonial governors - exceed their customary remit to intervene in local legal proceedings.

Nonetheless, the familiarity and engagement of a subset of enslaved people in these juridical norms and their attempts to challenge the contours of this system is striking. For, if to employ the legal system as a means to settle disputes, challenge the terms of servitude, and contest the cruelty and mistreatment of enslavers meant using the master's tools, the efforts to challenge the terrain in which that dispute was fought meant an attempt to gain mastery of those tools – and a recognition of their limits.

6. Conclusion

“The question will not be left to the arbitrament of a long angry discussion between the Government and the planter. The slave himself has been taught there is a third party, and that party himself. He knows his strength and will assert his claim to freedom. Even at this moment, unarmed by the latest failure, he discusses the question with a fixed determination...”

– F. B. Zinche to Governor Belmore, May 23, 1832. ¹

“The sickness I had more than 12 months back is still upon me, sometimes very bad.” Susanha Stewart, an apprentice on Green Valley Estate in Port Royal Parish, testified to Justice of the Peace Archibald Palmer. The date she spoke to Palmer, August 4, 1835, was just a year and three days since the abolition of slavery in Jamaica and the commencement of the apprenticeship period. Ever since she had had a miscarriage, Stewart said, she had felt “a lump in the Belly, constantly moving about,” sometimes resulting in the discharge of clots of blood. While she testified that she had never given “any Busha room to find fault with me for work” while she was well, she had repeatedly faced challenges and punishment for trying to seek medical care since her pain began. Indeed, Stewart testified, her overseer had said “he would never rest, till he got me sent to Tread Mill.”

Stewart proceeded to recount her appearance before the special magistrate, Captain Kent, about four or five weeks earlier, when he had made his routine visit to

¹ F.B. Zinche to Governor Belmore, May 23, 1832. CO 137/191, TNA. Quoted in 4/140/6/42, Horace Watkins, “A History of the Legal System of Jamaica (1661-1900),” DPhil diss., (University of Sheffield, 1968), pg. 228. JARD.

Green Valley Estate. The overseer had reported to Captain Kent that Stewart had refused to work, and when the hothouse doctor examined her condition, had found nothing wrong. Stewart protested that this was just wrong, that the estate's midwife could provide proof that she had been suffering symptoms and that she would never pretend to be sick knowing the lengths the overseer would go to make her prove it. Captain Kent had provided an ultimatum – if Stewart returned to work in the field the next morning she could stay on the estate. If she did not, Stewart would be sentenced to a month at hard labor on the treadmill in the parish workhouse. Kent made an allusion to her prior treatment at Guava Ridge, likely an earlier estate on which she had labored under another magistrate's jurisdiction, as having taught her to seek exemption from field labor.

Stewart described to Palmer her conversations that evening with the other apprentices and the estate's constables, as they urged her to push past her discomfort and pain to return to the fields in order to save herself from the brutality of the workhouse. And indeed, Stewart told Palmer, she had managed to work for an additional week in the field, first in the main gang and then in the grass gang after some exertion made it too painful for her to wield the hoe. The following week, however, Stewart again felt immense pain in her belly and she sought out the hothouse doctor. The doctor provided her with medicine and oils and kept her in the estate's hospital for two weeks. But then, she testified, following those two weeks, he pushed her back to the field.

When Captain Kent returned to Green Valley Estate at the end of the following week, the overseer again had Susanna Stewart brought before him, complaining that since Stewart's miscarriage she had never worked an uninterrupted month in the field. Kent

remonstrated with her that she had “no right” to go to the hot house for treatment, and sentenced her to a month in the hothouse. Concerned about their community member, the estate’s constables pled with Kent that Stewart was a “very sickly Woman” and that she had never given the estate any trouble when well. Kent insisted that he would not relent, after having forgiven Stewart’s purported misconduct on his earlier visit.

Stewart pled to Palmer, “If I go to work house with the sickness upon me I know it will kill me.” She fled the estate, refusing to “die like a Dog” under Stewart’s sentence, and had sought out Palmer as a judicial authority capable of remanding Kent’s order. Under Stewart’s testimony, Palmer did intervene, noting in his order that for the past eighteen months Stewart had been “labouring under a Chronic disease of the Womb” that he feared would develop into “open Cancer.” He instructed the estate’s manager that “the Woman is unfit for any but the lightest employment.”²

Susanha Stewart’s case draws attention to the complex and challenging terrain newly freed people faced after emancipation. The interests and incentives that motivated planters and their agents to provide to a degree for the continued survival, maintenance and sometimes reproduction of enslaved people under slavery changed under apprenticeship. Now, with extreme consciousness of a ticking time clock to full freedom, planters and their agents were increasingly incentivized to drive their apprentices to the breaking point. The unnamed Busha in Stewart’s testimony, likely in tandem with the

² “Manuscript Documents Affidavits of Aggrieved Apprentices, Submitted to the Inspection of Mr. Beldam.” MS 321a, No. 3, folios 7-9. Beldam Papers. NLJ.

hothouse doctor who continually recorded Stewart's malady as nothing to be concerned about, was motivated to squeeze any bit of labor out of the apprentices, regardless of the impact on their well-being.

The establishment of a system of special magistrates was designed to closely monitor the operation of the new system of apprenticeship. Through regular visits to estates, special magistrates would be equipped to manage conflicts between masters, their agents, and apprentices, and ensure that the requirements of the law were met. However, in practice, the special magistrate system created a patchwork of overlapping jurisdictions, in which the laws and policies governing apprenticeship were interpreted in different ways. This emerges in Stewart's story in the conflict Special Magistrate Kent alludes to, in describing the influence of the special magistrate overseeing Guava Ridge in altering Stewart's approach to the law and her labor. However, it also created a tension in jurisdictions between special magistrates and the regular justices of the peace, like Archibald Palmer, who in many cases had also acted as slave court magistrates under the prior legal regime.

Yet, apprentices developed a keen awareness of customary arrangements and the rights they had been accorded under the old system, which they were prepared to defend vociferously under the new one. And the template forged through the slave code reforms and legal struggles during the period of amelioration had laid a rich groundwork. Stewart insisted on her right to receive respite from fieldwork and medical treatment for the persistent pain in her womb. Her community, apprentices and constables alike, played an active role in advising her on how to navigate the system and then lobbying on her behalf

when she faced the prospect of a workhouse sentence. When Special Magistrate Kent was unwilling to reconsider, Stewart sought intervention from the justice of the peace.

Though not noted in her testimony, Justice of the Peace Archibald Palmer had developed a reputation in the parish, at least since his handling of a Council of Protection case involving former Custos John Rawleigh Jackson, for sympathy towards and willingness to defend the rights of enslaved people and later apprentices.³ It would seem plausible that this knowledge influenced Stewart when she approached Palmer specifically to review Special Magistrate Kent's decision.

Building on concepts developed in scholarship about the slavery and emancipation eras in the United States, historical sociologist Mimi Sheller contends that ex-slaves and free people of color in the post-emancipation Caribbean constructed a "black public sphere" or "black counterpublic." For Sheller, publics are "open-ended flows of communication that enable socially distant interlocutors to link positions, identities, and projects in pursuit of influence over issues of common concern."⁴ She

³ Palmer was a medical doctor and later was editor of the *Colonial Advertiser* and a candidate for Assembly. He also assisted James Williams in writing his famous account of his experience as an apprentice. For further discussion of Palmer in his context in Port Royal Parish, see chapter 3, especially the introductory anecdote regarding the complaints brought by enslaved women Catherine White and Ann King against Custos John Rawleigh Jackson and his family. Palmer's role in the creation of Williams' text appears in James Williams, *A Narrative of Events, Since the First of August, 1834, by James Williams, an Apprenticed Labourer in Jamaica*, ed. Diana Paton (Durham: Duke University Press, 2001). See also Swithin Wilmot, "Black Politics in Free Jamaica, 1838-1865," in *The End of Slavery in Africa and the Americas: A Comparative Approach*, eds. Ulrike Schmieder, Katja Füllberg-Stolberg, Michael Zeuske. (Berlin; Piscaraway, NJ: Distribution in North America by Transaction Publishers, 2011), *insert pages*.

⁴ Mimi. Sheller, *Democracy after Slavery: Black Publics and Peasant Radicalism in Haiti and Jamaica* (Gainesville: University Press of Florida, 2000).11. While Sheller has been most significant in theorizing this concept in the Caribbean context, a similar approach has been adopted more broadly, including: Brian Moore and Michelle Johnson, *They Do as They Please: The Jamaican Struggle for Freedom After Morant Bay*. (Kingston: University of the West Indies Press, 2011); Brian Moore and Michelle Johnson, *Neither Led Nor Driven: Contesting British Imperialism in Jamaica, 1865-1920* (Kingston: University of the West

suggests that the groundwork for this political community was constructed through the struggle against slavery, in which enslaved people developed “a shared radical vision of democracy based on the post-slavery ideology of freedom,” consisting of a critique of white racial domination, a demand for full citizenship and political rights, and a critique of unbridled market capitalism.⁵ In adopting this quasi-Habermasian model, Sheller pushes back against a literature which suggests peasants are incapable of developing democratic institutions and a common wisdom which sees a long history of authoritarian rule as inevitable.

Sheller explains that though neither Haiti nor Jamaica emerged from slavery as particularly democratic, the fall of planter power had opened up space in which nascent democratic institutions and practices had began to grow, and there seemed ample potential for this growth to continue. In particular, the explosion in peasant landholding and the consolidation of plebian and bourgeois civil institutions, from the press, to popular religion, to political parties provided an avenue for opposition to elitist authoritarianism. She further points to the mobilization of universalist logic of British imperial institutions towards claims for democratic change as an important and prescient weapon in their political arsenal.⁶ To Sheller, missionary and mass meetings, friendly

Indies Press, 2004); Melanie Newton, *The Children of Africa in the Caribbean: Free People of Color in Barbados in the Age of Emancipation* (Baton Rouge: Louisiana State University Press, 2008).

⁵ Ibid.5

⁶ Ibid. 65-8

societies, newspapers, and labor protests were important venues for the development of a Black counterpublic and a shared political consciousness.⁷

While Sheller roots her analysis of the development of a post-emancipation Jamaican Black counterpublic in the social, cultural, and political developments of the last decades of slavery, she devotes limited space to fleshing out the implications of this analysis for how we conceive of enslaved people's politics and strategies. This dissertation is, in part, a response to these lacunae. It places enslaved people's engagement with the legal system and with its guiding principles and norms within the context of amelioration as one limited but significant venue. The articulation of specific and litigable rights for enslaved people within the slave codes, and the assertion of state-enforced limitations on the power of the planter and his agents, set important if not always marked parameters for legal struggle. Just as significantly, the recognition of enslaved people as legal subjects – even if inferior and constrained legal subjects compared to their free white counterparts – marked a re-orientation of imperial political logic and scrambled the normative operations of colonial Jamaican society. In brief, the period of amelioration represented a gradual and halting but ultimately significant shift in the constellations of power, control, and discipline in Jamaican society.

In part, this transformation was a re-configuration of colonial – metropole relationship and the assertion of greater metropolitan and imperial intervention in local colonial affairs. Imperial policymakers were increasingly distrustful of the legal pluralism

⁷ Ibid. 154-70

that had permeated empire. The American Revolution and the loss of many of the North American colonies in the 1770s and 80s had made the British skeptical of colonial loyalties to the Crown. The 1787-1795 impeachment trial of East India Company Governor Warren Hastings served as an exemplar of colonial mismanagement. And the abolitionist movement drew attention to the rampant cruelties against enslaved people and the inefficacy of colonial governments in adequately addressing this miscarriage of justice.⁸

On another level, this change represented a reconfiguration of the management of enslaved people and plantations. The earliest conceptions of slave law in Jamaica reflected an underlying ethos that within very broad and lax parameters, slaveholders were permitted to treat enslaved people however they liked without consequence and that the sanctity of that property right was first and foremost. The period of amelioration and the consequent transformation of the slave code and its operation had inserted the colonial government more solidly and squarely into this relationship. The guidelines with which enslaved people were to be treated became more pointed and specific. The legal system took greater interest in the ways planters and their agents deigned to treat enslaved people, and asserted consequences for treating them improperly. Increasingly,

⁸ For the importance of narratives of colonial misgovernment towards the realignment of imperial priorities, see: James Epstein, *Scandal of Colonial Rule: Power and Subversion in the British Atlantic During the Age of Revolution*. (Cambridge: Cambridge University Press, 2012); Christer Petley, *Slaveholders in Jamaica: Colonial Society and Culture During the Era of Abolition*. (London: Pickering & Chatto, 2009); Trevor Burnard, *Powerless Masters: The Curious Decline of Jamaican Sugar Planters in the Foundational Period of British Abolitionism*. (Mona: Department of History & Archaeology, University of the West Indies: 2010).

avenues were constructed for enslaved people themselves to press complaints and pursue criminal charges against planters and their agents for their mistreatment. During the apprenticeship period, this was further escalated through the direct assignation of special magistrates to make routine visits to individual plantations throughout their districts. Although this system did not remove the burden of servitude and subservience for apprentices, it did increasingly insert the state for the slaveholder as master.

Finally and perhaps most significantly, enslaved people were increasingly endowed with legal subjecthood and the ability to call on the colonial and imperial state to intervene in their interests through the legal system. Notably, this definition of subjecthood was constrained and hesitant, evolving in fits and starts over the course of this period. Furthermore, the declaration of these legal rights did not consistently align with their practice in the slave courts, wherein magistrates often deferred to the planter class and viewed enslaved people's claims with skepticism and prejudice. Nonetheless, many enslaved people took these statements of principles and ideals put forward by ameliorationists seriously. They adopted these claims as the foundation for arguments before slave courts. They used the power of collective action and public shaming to compel planters and magistrates to live up to the promises of the law. And they made ample use of the limited legal access they were permitted as one among other political strategies.

This dynamic effectively encouraged and compelled enslaved people to develop a strategic and informed understanding of the colonial legal system, which they used as one arrow in the quiver of strategies to push for greater autonomy and control over their lives.

Contemporary white observers occasionally noted the existence of extralegal tribunals set up within slave communities in which enslaved people considered high-ranking amongst themselves served as arbiters. In this context, gifts made to the judges frequently swayed decisions and the authority of the presiding parties served to ensure acceptance of the decisions.⁹ Abolitionist Richard Madden described the sentences passed down by these tribunals as “often very partial and influenced to a great extent by bribery.”¹⁰ Those enslaved people who had joined the congregations forged by Baptist missionaries might also be accustomed to trials in that context. As independent historian Doreen Morrison has shown, founding charters included provisions that authorized congregations to resolve disputes among members via a trial process and also to hear, consider, and reach resolution on the conduct of members violating shared guidelines of behavior and conduct.¹¹ Rev. Peter Samuel notes his congregation had such a hearing concerning the potential expulsion of a female member who had committed marital infidelity against her husband.¹²

Enslaved people managed, through negotiation, collective action, and strategic mobilization of ameliorationist rhetoric, to secure certain customary rights broadly

⁹ Mindie Lazarus-Black, *Slaves, Masters, and Magistrates: Law and the Politics of Resistance in the English-Speaking Caribbean, 1736-1834*. (Chicago: American Bar Foundation, 1991); Nicole Aljoe, “‘Going to Law’: Legal Discourse and Testimony in Early West Indian Slave Narratives.” *Early American Literature* 46, No. 2: 351-380.

¹⁰ Richard Robert Madden. *A Twelve Months Residence in the West Indies During the Transition from Slavery to Apprenticeship: With Incidental Notices of the State of Society, Prospects, and Natural Resources of Jamaica and Other Islands*. (Philadelphia: Carey, Lea and Blanchard, 1835). Vol. 2, 149-150

¹¹ Doreen Morrison, *Slavery’s Heroes: George Liele and the Ethiopian Baptists of Jamaica, 1783-1865*. (N.P.: Liele Books, 2015).

¹² Journal and Letterbook of Rev. Peter Samuel, 1832-1842, folio 18. MS283. NLJ.

accepted by enslavers and their agents. The shifting landscape of slave law and the growing attention to colonial treatment of enslaved people meant that throughout the first decades of the nineteenth century, these customary rights were increasingly recognized before slave courts and inscribed in the latest iterations of the slave code. Under the conditions of slavery, there were incentives for many slaveholders to recognize and respect these rights. In some cases, such as issuing rewards for enslaved mothers raising multiple children or providing rations for young children, they served slaveholder interests directly by incentivizing slave reproduction in a moment where the trans-Atlantic slave trade had been forbidden and it was more difficult to acquire new enslaved people. In other cases, respecting property rights or certain freedom of mobility, earned some collective buy-in and cooperation from other enslaved people. In still other cases, rewarding loyal enslaved people or those in particular positions of authority in the community enabled enslavers to stoke division and prevent more effective collective action and organization among a more numerous group of slaves.

The announcement of the abolition of slavery disturbed this fragile *détente*. Slaveholders had new incentive to maximize their profits in the waning days of slavery and the apprenticeship period by removing these limited benefits to enslaved people and working them harder than before. Independent missionary Rev. Mr. Woolridge reported that “As the majority of the planters *expect* their laborers to abandon them after 1840,

their sole effort is to make as much out of them as possible before that time.”¹³ In a July 1833 letter, John Bowen, proprietor of Bowen Hall Estate in Clarendon Parish, instructed his overseer, Mr. Sconce, to discontinue incentives to pregnant enslaved women. Bowen noted that, in light of pending abolition, he no longer had any reason to encourage their pregnancy; indeed, pregnancy would remove workers from the field and exact a demand for more food and supplies for raising children. By May 1834, three months before the official end of slavery and the beginning of apprenticeship, Bowen instructed Sconce to stop ordering all but essential supplies, stop offering prepared meals to children under 6, and generally encourage his enslaved people to do as much as possible to provide for their own needs rather than relying on rations and supplies from the estate.¹⁴ Bowen’s instructions mirrored the actions of many enslavers across the island.

Jamaican Attorney General Dowell O’Reilly officially instructed special magistrates that many customary rights or indulgences granted under slavery should be

¹³ Thomas Clarkson, *Not a Labourer Wanted for Jamaica: To Which is Added, an Account of the Newly Erected Villages by the Peasantry there and their Beneficial Results, and of the Consequences of Re-opening a New Slave Trade, as it Relates to Africa ... in a Letter Addressed to a Member of Parliament Appointed to Sit on the West India Committee*. (London: T. Ward, 1842). 348.

¹⁴ John Bowen to Sconce, 12 July 1833 and John Bowen to Sconce, 8 May 1834. John and Martha Bowen Letterbook Concerning Bowen Hall Sugar Plantation, C1490, Manuscripts Division, Department of Special Collections, Princeton University Library. This pattern of reducing or eliminating incentives developed to urge enslaved women to have children and raise them to healthy adulthood in the aftermath of the emancipation resolutions and the advent of apprenticeship has been discussed at length by other scholars. See most notably Sasha Turner, *Contested Bodies: Pregnancy, Childrearing, and Slavery in Jamaica*. (Philadelphia: University of Pennsylvania Press, 2017); Katherine Paugh, *The Politics of Reproduction: Race, Medicine, and Fertility in the Age of Abolition* (Oxford; New York: Oxford University Press, 2017); Colleen Vasconcellos, *Slavery, Childhood, and Abolition in Jamaica, 1788-1838*. (Athens: University of Georgia Press, 2015). This broader dynamic of retrenchment and trying to get the maximum amount of labor out of enslaved people and then apprentices during the waning days of the systems is also discussed most notably in J. R. Ward, *British West India Slavery, 1750-1834; The Process of Amelioration* (Oxford: Clarendon Press; New York: Oxford University Press, 1988).

maintained by masters during the apprenticeship period. O'Reilly argued that slavery itself had achieved legal recognition through universal custom first, and that the same principle should apply to freedpeople's rights. He wrote, "Slavery is and was however contrary to common Law and as it invoked the aid of Custom as making it valid so I conceive may the Apprentices invoke Custom in the support of their usual allowances even whilst they are in the intermediate state of Apprentices."¹⁵ O'Reilly specifically instructed special magistrates that freedwomen who had more than six children should be exempted from field labor, mothers should be granted time away from the field to suckle infant children, and that the common law spouses of enslaved people should be granted unobstructed entry to their spouse's dwelling, even if they lived on a different plantation under a different master. Yet, despite O'Reilly's opinion, Governor Sligo noted to Secretary of the Colonies Thomas Spring-Rice, "The Attorney General it is true gave an opinion that the Apprentices were entitled to all their former allowances, but without any public or official order having been given on the subject, they were not enforced after the first week, with the exception of giving the mothers reasonable time to suckle their Children."¹⁶

However, the new apprentices defended their hard-earned customary rights zealously, insisting that the change of circumstances represented by the transition from slavery to apprenticeship should not absolve their enslavers of their responsibility to

¹⁵ Circular signed by D. O'Reilly, re the treatment of apprentices. 4/47/23. Thomas Davies Papers, JARD.

¹⁶ Governor Sligo to Thomas Spring-Rice, December 25, 1834. MS228, Letterbooks of Howe Peter Brown, 2nd Marquis of Sligo. Vol. 1, folios 152-156. NLJ.

fulfill their obligations. As Thomas Baines, special magistrate for Port Morant in St. Thomas-in-the-East noted in his report, “The apprentice is perfectly conversant and tenacious of his rights and privileges, which he will not allow in the slightest degree to be infringed....”¹⁷ Rebecca Stewart, of Chester Vale Estate in Port Royal Parish, was the mother of eleven children and under the late slave code had been exempted from labor two years prior to emancipation. Yet, under apprenticeship, her overseer tried to force her back to the field. She complained to the justice of the peace that “she has done her duty to Chester Vale by bringing 7 Children to work on the Property – and as she had been thrown up by the old Law, she does not see that they can make her work under any new Law.”¹⁸ When the overseer of Dublin Castle Estate in St. Andrews Parish tried to take away the watchmen who had once been tasked with protecting enslaved people’s provision grounds from theft, the apprentices protested. The watchmen were almost always old men who were incapable of other kinds of work, and thus the overseer would not get more field labor by repurposing these apprentices, but rather just compel his enslaved people to work longer hours to look after their own provisions.¹⁹

¹⁷ Thomas Baines to Governor Sligo, June 1835. Enclosure No. 36 in Item No. 142, Extract of a Despatch from the Marquis of Sligo to Lord Glenelg, dated Highgate, Jamaica, 7 July 1835. Parliament. House of Commons (1835). *Papers Presented to Parliament, by His Majesty’s Command, In Explanation of the Measures Adopted by His Majesty’s Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part II. Jamaica – (continued), Barbadoes, British Guiana, and Mauritius. 1833-1835.* (HC 278.-I.) 257.

¹⁸ “Manuscript Documents Affidavits of Aggrieved Apprentices, Submitted to the Inspection of Mr. Beldam.” MST 321a, No. 3, folios 13-14. Beldam Papers. NLJ.

¹⁹ Governor Sligo to Thomas Spring-Rice, September 10, 1834. MS228, Letterbooks of Howe Peter Brown, 2nd Marquis of Sligo. Vol. 1, folio 61. NLJ.

This close attendance by apprentices to their rights extended to the new obligations instantiated by the apprenticeship law. Governor Sligo commented on apprentices' tendency to "passive resistance," wherein they kept "within the limits of the law but [went] no further." As one special magistrate noted, this work-to-rule approach had the power "to annoy the managers much, and spoil much sugar" and was a substantial weapon.²⁰ Where overseers, managers, and planters failed to meet their obligations under the contract in more substantial ways, they could also face strike action from the apprentices. In St. James's Parish, Special Magistrate R. S. Cooper noted that in almost all cases when a manager complained to him about apprentices not upholding their end of their work contract, on investigation he found "the discovery of an idea on the negroes' part that they were cheated in the payment of wages." On investigating into these claims, Cooper noted, "that with one exception I have found that idea correct."²¹

Reforms to the slave codes during the early part of the nineteenth century required magistrates and vestry members to be more responsive to the concerns and complaints of

²⁰ William Marlton to Governor Sligo, St. Mary's, 30 June 1835. Enclosure No. 45 in Item No. 142, Extract of a Despatch from the Marquis of Sligo to Lord Glenelg, dated Highgate, Jamaica, 7 July 1835. Parliament. House of Commons (1835). *Papers Presented to Parliament, by His Majesty's Command, In Explanation of the Measures Adopted by His Majesty's Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part II. Jamaica – (continued), Barbadoes, British Guiana, and Mauritius. 1833-1835.* (HC 278.-I.) 260-1.

²¹ R.S. Cooper to Governor Sligo, 11 August 1835, St. John's. Enclosure No. 10. in Item. No. 163. Extract of a Despatch from the Marquis of Sligo to Lord Glenelg, dated Highgate, Jamaica, 6th September 1835. Parliament. House of Commons (1836). *Papers Presented to Parliament, By His Majesty's Command, in Explanation of the Measures Adopted by His Majesty's Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part III (1.) Jamaica – (continued.) 1836.* (HC 166.-I.) pg. 70. Further discussion of this dynamic between special magistrates and apprentices is discussed in: Mary Turner, "The 11 O'Clock Flog: Women, Work, and Labour Law in the British Caribbean." *Slavery & Abolition* 20, No. 1 (1999): 38-58; Kenneth Morgan, "Labour Relations During and After Apprenticeship, 1834-1840." *Slavery & Abolition* 33, No. 3 (2012): 457-478;

enslaved people. However, enslaved people still frequently faced the challenges of travelling off their estate to track down a responsive magistrate and they faced the possibility of punishment for issuing a “frivolous complaint.” Even in this late period, many magistrates retained the belief that the legal system should only interfere in a slaveholder’s management of his plantation in extreme circumstances. The special magistrate system under apprenticeship represented a further extension of the court system and more opportunity for direct interaction between the apprentice and the legal arm of the state. When concerns were raised about a perceived increase in crime during the apprenticeship period, Governor Sligo noted, “It is said that a great increase of crime has taken place since the Abolition; my impression is, that this is not the fact, for though the cases adjudged in open court are much multiplied, I think that the same number of offences were before committed, but that they were punished on the estates in a summary manner, and no public notice taken of them.”²²

Special magistrates were assigned a specific district, usually representing an area of about 30 miles radius. Each magistrate was expected to visit every estate in his district at least once every two weeks. Many magistrates were hired from abroad, with the

²² Extract of a Despatch from the Marquis of Sligo to Lord Glenelg, dated the King’s House, St. Jago de la Vega, 28th November 1835. Item No. 180. Parliament. House of Commons (1836). *Papers Presented to Parliament, By His Majesty’s Command, in Explanation of the Measures Adopted by His Majesty’s Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part III (1.) Jamaica – (continued.) 1836.* (HC 166.-I.) 140. Regarding the purported increase in crime in post-emancipation Jamaica, see also: Jonathan Dalby, *Crime and Punishment in Jamaica: A Quantitative Analysis of the Assizes Court Records, 1756-1856.* (Mona: Social History Project, Department of History and Archaeology, University of the West Indies at Mona, 2000). Jonathon Booth, PhD candidate in History at Harvard, is doing comparative work on this post-emancipation period in Jamaica and the United States and has been kind enough to share some of his finding on this point.

expectation that some level of detachment from local relationships would make it easier for them to issue impartial judgment. Yet, their salaries were often inadequate to recruit the best candidates. The demanding travel schedule and lack of inns and eating houses also meant that many special magistrates felt compelled to turn to planters to host them during their travels, a benefit that was generally accorded them only when they were felt amenable to planters' interests. American abolitionist Dr. William Lloyd wrote, reporting on an extended visit to Jamaica, "If he [a special magistrate] is regarded as a friend to the properties, on leaving home, he breakfasts at one, dines at a second, and sleeps at a third; and in this way goes his round, and on returning can rest during the intervening time; whereas, if managers close their hospitalities against him, he must ride out, and return home every evening, to the imminent risk of his health, from constant fatigue."²³

Apprentices did demonstrate greater trust and faith in the special magistrates than their masters and overseers and they made use of the protections proffered them under this system. Special Magistrate Edward Baynes commented that the relative clarity and consistency of requirements under apprenticeship allowed the apprentice to "understand his position better," and to recognize that the law rather than the master's whim would serve as guidepost. Baynes also commented, "the experience of eighteen months has moreover taught him [the apprentice] to place more reliance in the assertions of his white superiors than he formerly did."²⁴ Governor Sligo noted the "in many instances the

²³ William Lloyd, *Letters from the West Indies, During a Visit in the Autumn of MDCCCXXXVI, and the spring of MDCCCXXXVII* (London: Darton and Harvey, 1839), 221.

²⁴ Ed. Dacrest Baynes to Governor Sligo. St. John's. 30 December 1835. Enclosure in Item No. 189. Copy of Despatch from the Marquis of Sligo to Lord Glenelg. 1 January 1836. Parliament. House of Commons

Negroes would not enter into any kind of bargain with their Masters, but that the moment that the Special Magistrate has been present and guaranteed to them the due performance of their bargain they have at once assented.”²⁵ Yet, this trust for the word of the special magistrate had to be earned. Special Magistrate W. Hewitt, stationed in Buff Bay in St. George’s Parish, reported in late March 1835 that on assuming his post, apprentices brought cases to him with the intent of testing “whether I do or do not strictly enforce the laws.” Once it was settled that he would arbitrate fairly, Hewitt continued, apprentices were more selective in the cases they brought before him.²⁶

On one hand, the stated mission of special magistrates demonstrated a sensibility that former masters and overseers could not be fully trusted to observe the new regulations of apprenticeship without state surveillance, and regular visits would better enable apprentices to pursue their grievances and plead cases of mistreatment. On the other hand, however, the colonial government went to extensive lengths to paint this position as an impartial one. In his instructions to special magistrates, Governor Sligo underscored that the magistrate

(1836). *Papers Presented to Parliament, By His Majesty’s Command, in Explanation of the Measures Adopted by His Majesty’s Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part III (1.) Jamaica – (continued.)* 1836. (HC 166.-I.) 164-165.

²⁵ Governor Sligo to Thomas Spring-Rice. 25 December 1834. MS228, Letterbooks of Howe Peter Brown, 2nd Marquis of Sligo. Vol. 1, folios 152-156. NLJ.

²⁶ William Hewitt to Governor Sligo. St. George Parish. 25 March 1835. Part of Enclosure 2, “Copies and Extracts of Letters from Special Justices,” in Item No. 38. Extract of a Despatch from the Marquess of Sligo to the Earl of Aberdeen, dated The King’s House, St. Jago de la Vega, 27 March 1835. Parliament. House of Commons (1835). *Papers Presented to Parliament, by His Majesty’s Command, In Explanation of the Measures Adopted by His Majesty’s Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part II. Jamaica – (continued), Barbadoes, British Guiana, and Mauritius. 1833-1835.* (HC 278.-I.) 29.

must recollect that his Oath is to do his duty between master and apprentices Impartially that the measure is not one to affect Exclusively one party: He must not become the partisan of one more than the other: He must recollect that if it is his duty to protect the apprentice from any Oppressive Conduct on the part of those placed over him, So it is also his Bounden duty to protect that master from insolent and ungrateful behaviour on the part of the apprentice and to see that he gets the full amount of labour which the Law Entitles him to, when he is securing to the apprentice, the advantages which are given to him by the Emancipation Act.²⁷

With the end of slavery, the separate slave court system was abolished. Freed people and their former masters were now subject to the same criminal and civil courts. This transition had resonances in the transformation of the slave court system over the 1780-1834 period discussed here, wherein the slave court's criminal procedure, jury composition, standards of evidence, rules of testimony, and more had gradually come to mirror the assizes court system used to try free people. Missionary E. Woolley described a spike in litigation in magistrates' courts, involving matters like "non-payment of debts, quarrels and other matters," driven chiefly by freedpeople. Woolley reported that these matters, "used to be settled by the masters formerly, but everything now appears before the Justices. Indeed, the people have been too ready to exercise their own rights in this

²⁷ Governor Sligo, "General instructions to all special magistrates," 4/47/20, Thomas Davies Papers, JARD.

respect.”²⁸ Sylvester Hovey observed that, even compared to other Caribbean colonies, Jamaican overseers and proprietors had particularly hostility towards this transition, both because it stripped from them some of their authority and tools to exercise power over enslaved people. Equally significantly, Hovey noted, they resented that they were “now placed under the same civil jurisdiction as the negroes, over whom they had so long been the absolute masters; and both were hereafter to seek redress and protection from the same source.”²⁹

Legal historians Lauren Benton and Lisa Ford have convincingly argued that the British empire of the mid-nineteenth century was engaged in a wide-ranging “effort to construct a coherent imperial legal system, a project that corresponded to a different, more powerful vision of global order.”³⁰ This effort pushed, with varying degrees of success, to smooth over the legal pluralism which had once been more normative throughout the empire, and to impose greater consistency and normative principles in the operations of criminal and civil law alike. In the Caribbean colonies in particular, the battle over the future of the slave trade and slavery itself became a central driving force of this effort. The narrative of bad or untrustworthy governance by colonial planters animated metropolitan rhetoric of reform and abolition alike. The abolition of slavery and

²⁸ E. Woolley, *The Land of the Free, or, A Brief View of Emancipation in the West Indies*. (Cincinnati: Printed by C. Clark, 1847). 29.

²⁹ Sylvester Hovey. *Letters from the West Indies: Relating Especially to the Danish Island St. Croix and to the British Islands Antigua, Barbadoes and Jamaica*. (New York: Gould and Newman, 1838) 144.

³⁰ Lauren Benton and Lisa Ford, “Island Despotism: Trinidad, the British Imperial Constitution and Global Legal Order.” *The Journal of Imperial and Commonwealth History* 46, No. 1 (2018), 21-46; quote on 21. Discussed at greater length and depth in Lauren Benton and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850*. (Cambridge: Harvard University Press, 2016).

establishment of apprenticeship effectively crossed the threshold of interference with internal colonial affairs that had long been guarded by advocates of colonial self-government.

In October 1835 instructions to Governor Sligo, Lord Glenelg, the Secretary of State for the Colonies, noted that the long conflict between metropole and colonies over the regulation of slavery and plantation management had induced enslaved people and then apprentices “to draw invidious distinctions between the disposition towards them of the executive government on the one hand, and of the local legislatures on the other.” While Glenelg acknowledged that Crown ministers or local governors may have been justified in drawing those distinctions at the time, this sense among the apprentices that one could be played off the other was “pregnant with many great evils” for the broader good of the empire. As a result, Glenelg remonstrated, Sligo’s obligation specifically – and that of the empire more broadly – was to present a united front, papering over the differences between them and speaking with one voice on the regulation of apprenticeship. To Glenelg, the end goal was “the growth and encouragement of mutual confidence between the minority who possess the wealth, intelligence and lawful authority in the colony and the great body of the people, separated from them by so many natural and social distinctions.”³¹ The empire had decided to check and counter the

³¹ Copy of a Despatch from Lord Glenelg to the Marquis of Sligo. 5th October 1835. Item No. 159. Parliament. House of Commons (1836). *Papers Presented to Parliament, By His Majesty’s Command, in Explanation of the Measures Adopted by His Majesty’s Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part III (1.) Jamaica – (continued.)* 1836. (HC 166.-I.) 73-74.

violence of the planter class, but expressly in the service of ensuring the continued political, economic, and social future of the empire. Apprentices and freedpeople were to be welcomed in as junior subjects of the British empire, with the expectation that the promise of their gradual assimilation would serve to effectively paper over the tremendous exploitation and inequality of post-emancipation Jamaican society.

While freedpeople's existence under this officially two-tiered legal system entirely ended with the end of apprenticeship in 1838, the structures, institutions, and logics of the slave courts and the special magistrates continued in other guises. Indian, and to a lesser degree Chinese and African indentured laborers brought in to the Caribbean region to fill enslaved peoples' role in the plantation agriculture process encountered Protectors of Immigrants and Immigration Agents. Similarly to the Special Magistrates, these individuals were tasked with routinely visiting estates and intervening in conflicts between indentured laborers and their supervisors. In other imperial jurisdictions, the logic of amelioration and the structures and processes created and deployed in the slave colonies took on new life. Protectorates and Protectors of Aborigines were established in the New Zealand and Australian colonies. These offices operated under the recognition that colonial settlement disrupted and unsettled indigenous communities, and they were granted the powers of justices of the peace to manage relationships between indigenous people and settlers. Unlike in the West Indian colonies, in these jurisdictions, some efforts were made to respect and incorporate native laws and customary practices into handling intra-community relationships. Nonetheless, indigenous people were held to British law when they came in conflict or tension with

Europeans. In the Straits Settlements – in contemporary Malaysia and Singapore - Protectors were adopted as a supervisory capacity over Chinese migrant laborers' movement and work. Similarly, these positions also held political salience for Chinese diasporic communities, as a channel of communication to leverage a political voice. These systems of protection have been the focus of much significant scholarship in recent years, but as of yet there has been but limited discussion of their precedents and connections with the amelioration era slave court systems of the colonial Caribbean.³²

What did Jamaican law and the legal system mean to enslaved people? Did they understand it as an instrument of their oppression and enslavement, used by their enslavers to justify keeping them in bondage and administering brutal and sadistic punishments? Was it, rather, notable for its relative consistency and moderation, a potential source of protection and solicitude, however paternalistic? How did it figure into their experience of life, labor, community, and conflict? Was it a tool they could use? When, why, and how?

For many of the enslaved Jamaicans whose lives appear in shimmers and glimpses in the surviving slave court records, the slave court probably meant many of

³² See, among others: Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance: Protecting Aborigines Across the Nineteenth-Century British Empire*. (Cambridge: Cambridge University Press, 2014); Amanda Nettlebeck, *Indigenous Rights and Colonial Subjecthood: Protection and Reform in the Nineteenth-Century British Empire*. (Cambridge: Cambridge University Press, 2019); Ng Siew Yoong, "The Chinese Protectorate in Singapore, 1877-1900." *Journal of Southeast Asian History* 2, No. 1 (1961): 76-99; Goolam Vahed, "The Protector, Plantocracy, and Indentured Labour in Natal, 1860-1911." *Pacific Historical Review* (2018) 87, No. 1: 101-127; Preben Kaarsholm, "Indian Ocean Networks and the Transmutations of Servitude: The Protector of Indian Immigrants and the Administration of Freed Slaves and Indentured Labourers in Durban in the 1870s." *Journal of Southern African Studies* 42, No. 3 (2016): 443-461.

these things at once. Many enslaved people were brought before the court against their will, accused of a crime they may or may not have committed. But others came to court to resolve an interpersonal conflict, reclaim a stolen possession or air a grievance against an enslaver and seek redress. Some enslaved people even came before the court to play a part in convicting another enslaved person. A few individuals appear in the court records in several of these roles over the course of their lives. It becomes abundantly clear that while colonial jurists and imperial bureaucrats intended to impose the law upon enslaved people, enslaved people were rather active agents in its construction and its transformation. The logic of amelioration, in fits and starts, opened a narrow window to legal subjectivity for enslaved people. These people, in turn, mobilized ameliorationist logic to their own interests and advantage, consciously expanding their autonomy, stabilizing and expanding customary arrangements, and providing for their own well-being and those of their families and communities.

References

Archival Sources

Jamaica Archives and Records Department (JARD)

1A/2/1/1 Hanover Slave Court Records

1A/2/8/1 St. James Court of Quarter Sessions Kalendar Book

1A/7/3/2: Pleas of the Crown, Surrey, May 1795-Aug 1810

1A/7/4/3: Pleas of the Crown, Middlesex, Feb 1804-Jun 1819

1B/5/3/22, Minutes of Council, 1805-1815

1B/5/81/2: Governor's Secretary Office, Letter Book, 8 May 1827 – 26 Dec 1831

2/9/5-6. St. Ann Vestry Minutes

2/18/6 St. George Parish Slave Court Records

2/18/7, St. George Quarter Sessions Records

2/19/30, Port Royal Summary Slaves Trials 1819-1834

4/47/1-172 Thomas Davies Papers

National Library of Jamaica (NLJ)

MS23 Frank Cundall's letterbooks

MS71 Autobiography, 1809-1831, of Gordon Gallie McDonald: An account of travels in Jamaica, also the hanging of 41 pirates at Port Royal. MS71

MS150 John Mouat letters

MS163 Letters of Charles Gordon Gray to his father, 1809-1819

MS228 Letterbooks of Howe Peter Brown, 2nd Marquis of Sligo.

MS273 St. Ann Parish Slave Court Record

MS283 Journal and Letterbook of Rev. Peter Samuel, 1832-1842

MS 321a Joseph Beldam Papers

Duke University, Rubenstein Library, Special Collections

Stephen Fuller Papers

Princeton University, Firestone Library, Special Collections

C1490 John and Martha Bowen Letterbook Concerning Bowen Hall Sugar
Plantation

British Library (BL)

Add Ms 51820 Holland House Papers

Add Ms. 40863 Lord Ripon Papers

The National Archives (TNA), United Kingdom

CO 137 series, 1780-1838

CO 318/66 Commissioners of Legal Enquiry to the West Indies

Newspapers & Periodicals

Anti-Slavery Monthly Reporter

The Cornwall Chronicle

Monthly Review

The Jamaica Watchman and Free Press

Printed Primary Sources

Anonymous. *Marly; or a Planter's Life in Jamaica*. (Glasgow: R. Griffin; London: Hunt and Clark, 1828).

Anonymous. *Twenty Millions Thrown Away, and Slavery Perpetuated*. London: Printed and Published by G. Morgan, [1836?].

Barclay, Alexander. *A Practical View of the Present State of Slavery in the West Indies; or, An Examination of Mr. Stephen's "Slavery of the British West India Colonies"; Containing More Particularly an Account of the Actual Condition of Negroes in Jamaica; with Observations on the Decrease of the Slaves Since the Abolition of the Slave Trade, and on the Probable Effects of Legislative Emancipation; also Strictures on the Edinburgh Review, and on the Pamphlets of Mr. Cooper and Mr. Bickell*. (London: Smith, Elder & Co., 1828).

Beckford, William. *Remarks Upon the Situation of Negroes in Jamaica: Impartially Made from a Local Experience of Nearly Thirteen Years in That Island*. (London: Printed for T. and J. Egerton, 1788).

Bleby, Henry. *Death struggles of slavery : being a narrative of facts and incidents, which occurred in a British colony, during the two years immediately preceding Negro emancipation*. London: Printed by W. Nichols (1868)

Bridges, George Wilson. *The Annals of Jamaica*. London: J. Murray, 1827-28. 2 vols.

Burdett, William. *The life and exploits of three-finger'd Jack, the terror of Jamaica. : With a particular account of the Obi; being the only true one of that celebrated and fascinating mischief, so prevalent in the West Indies*. Sommers Town: Printed and Published by A. Neil, 30, Chalton Street; sold also by Champante & Whitrow, Jewry-street, Aldgate, 1801

Clarkson, Thomas. *Not a Labourer Wanted for Jamaica: To Which is Added, an Account of the Newly Erected Villages by the Peasantry there and their Beneficial Results, and of the Consequences of Re-opening a New Slave Trade, as it Relates to Africa ... in a Letter Addressed to a Member of Parliament Appointed to Sit on the West India Committee*. (London: T. Ward, 1842).

Collins, David. *Practical Rules for the Management and Medical Treatment of Negro Slaves, in the Sugar Colonies*. London: Printed by J. Barfield, 1803.

Cooper, Thomas. *Facts Illustrative of the Condition of Negro Slaves in Jamaica: With Notes and An Appendix*. (London: J. Hatchard & Son, 1824).

- Davis, Anthony. *The West Indies: from the pen of a gentleman recently arrived, and who intends to depart again for Jamaica immediately*. London: s.n.
- de la Beche, Hector. *Notes on the Present Conditions of the Negroes in Jamaica*. London: Printed for T. Cadell in the Strand, 1825.
- Dickson, William. *Letters on slavery by William Dickson : to which are added addresses to the whites and to the free Negroes of Barbadoes : and accounts of some Negroes eminent for their virtues and abilities*. London: Printed and sold by J. Phillips and sold by J. Johnson, 1789.
- Dignum, Andrew Graham. *A Letter to the Right Honorable the Earl of Suffield, on Subject Connected with Slavery in the Island of Jamaica, with an Abstract of the Law Now in Force in that Colony, for the Government of Slaves*. London: Joseph Shackell, 1831.
- Earle Jr, William. *Fairburn's edition of The wonderful life and adventures of Three fingered Jack, the terror of Jamaica! : Giving an account of his perservering courage and gallant heroism in revenging the cause of his injured parents: with an account of his desperate conflict with Quashee! Who, after many attempts, at last overcomes him, and takes his head and hand to Jamaica, and receives a large reward for destroying him. Embellished with four coloured engravings*. London: Published by J. Fairburn, [1825?]
- Edwards, Bryan. *The History, Civil and Commercial, of the British Colonies in the West Indies: In Two Volumes*. London (1793): Printed for John Stockdale, Piccadilly. 2 volumes.
- Fawcett, John. *A description of the grand pantomimical drama of Obi: or, Three-Finger'd Jack. : As performed at the Theatre-Royal, Norwich. With the words of the songs, duets, and chorusses. : And A narrative of the life and exploits of Mansong, commonly called Three-finger'd Jack*. Norwich: Printed by Stevenson and Matchett [1800?].
- Francklyn, Gilbert. *Observations, occasioned by the attempts made in England to effect the abolition of the slave trade: shewing, the manner in which Negroes are treated in the British colonies in the West-Indies : and also, some particular remarks on a letter addressed to the treasurer of the society for effecting such abolition, from Rev. Robert Boucher Nicholls ...* [London] : Kingston, Jamaica, printed, London, reprinted at the Logographic Press, and sold by J. Walter ..., C. Stalker ..., and W. Richardson, 1789.
- Grant, John. *Notes of Cases Adjudged in Jamaica from May 1774 to December 1787*. (Edinburgh: Adam Neil and Company, 1794.)
- Hovey, Sylvester. *Letters from the West Indies: Relating Especially to the Danish Island St. Croix and to the British Islands Antigua, Barbadoes and Jamaica*. (New York: Gould and Newman, 1838).

Jackson, George. *A Memoir of the Rev. John Jenkins: Late a Wesleyan Missionary in the Island of Jamaica: Including Character Notices of West Indian Slavery &c., &c.* (London: J. Stephens, 1832).

Jamaica Assembly. *Journals of the Assembly of Jamaica*. St. Jago de la Vega [Spanish Town] (1811-1829): Alexander Aikman. 14 volumes.

Jamaica. *The Laws of Jamaica, Pass'd by the Governours, Council and Assembly in that Island, and Confirm'd by the Crown*. London (1716): Printed by W. Wilkins, at the Dolphin in Little-Britain.

Jamaica. *Acts of Assembly Passed in the Island of Jamaica; From 1770, to 1783, inclusive*. Kingston (1786): Printed for James Jones, Esq. by Lewis and Eberall.

Jamaica. "The Act of Assembly of the Island of Jamaica, To Repeal Several Acts, and Clauses of Acts, Respecting Slaves, and for the better Order and Government of Slaves, and for other Purposes; Commonly Called the Consolidated Act, as Exhibiting at One View Most of the Essential Regulations of the Jamaica Code Noir; Which was Passed by the Assembly on the 19th Day of December 1787, and by the Lieutenant Governor and the Council on the 22d of the said Month. Respectfully Communicated to the Public by Stephen Fuller, Esq. Agent for Jamaica." London (1788): Printed for B. White and Son, Fleet-Street; J. Sewell, Cornhill; R. Faulder, New-Bond-Street; and J. Debrett and J. Stockdale, Piccadilly.

Jamaica. "An Act for the Better Order and Government of Slaves; and for Other Purposes." St. Jago de la Vega [Spanish Town] (1801): Printed by Alexander Aikman, Printer to the King's Most Excellent Majesty.

Jamaica. *The Laws of Jamaica: Comprehending all the Acts in Force, Passed Between the Fifty-First Year of the Reign of King George the Third, and Fifty-Seventh Year of the Reign of King George the Third, inclusive*. St. Jago de la Vega [Spanish Town] (1817).

Jamaica. *The Consolidated Slave Law, Passed the 22d December, 1826, Commencing on the 1st May, 1827. With a Commentary, Shewing the Difference Between the New and Repealed Enactments, Marginal Notes, and a Copious Index*. [Kingston] (1827): Published for Augustus H. Beaumont, by the Courant Office.

Jordan, Gibbes Walker. *An examination of the principles of the slave registry bill : and of the means of emancipation, proposed by the authors of the bill*. London: Printed by T. Cadell and W. Davis (1816).

Lewis, Matthew. *Journal of a West India Proprietor: Kept During a Residence in the Island of Jamaica*. (ed. Judith Terry). Oxford: Oxford University Press, 1999.

Lloyd, William. *Letters from the West Indies, During a Visit in the Autumn of MDCCCXXXVI, and the spring of MDCCCXXXVII* (London: Darton and Harvey, 1839)

Long, Charles Edward. *Negro Emancipation No Philanthropy: A Letter to the Duke of Wellington*. London: J. Ridgway, 1830.

Long, Edward. *The History of Jamaica* (3 vols.; 1774; reprinted New York, 1972).

Madden, Richard Robert. *A Twelve Months Residence in the West Indies During the Transition from Slavery to Apprenticeship: With Incidental Notices of the State of Society, Prospects, and Natural Resources of Jamaica and Other Islands*. (Philadelphia: Carey, Lea and Blanchard, 1835). 2 volumes.

Mathews, Samuel Augustus. *The lying hero or an answer to J. B. Moreton's Manners and customs in the West Indies*. St. Eustasius: Edward J. Low & Co., 1793.

Mathison, Gilbert. *Notices Respecting Jamaica in 1808-1809-1810*

McNeil, Hector. *Observations on the treatment of the negroes in the island of Jamaica: including some account of their temper and character, with remarks on the importation of slaves from the coast of Africa / in a letter to a physician in England from Hector M'Neill*. (London: Printed for G.G. J. and J. Robinson, 1788[?]).

Parliamentary Debates, Vol. XXXIV (1816), p. 1154.

Parliament. House of Commons (1789). *Report of The Lords of the Committee of Council Appointed for the Consideration of all Matters relating to Trade and Foreign Plantations; Submitting to His Majesty's Consideration the Evidence and Information They Have Collected in Consequence of His Majesty's Order in Council, dated the 11th of February 1788, Concerning the Present State of the Trade to Africa, and Particularly the Trade in Slaves; and Concerning the Effects and Consequences of this Trade, as well in Africa and the West Indies, as to the General Commerce of this Kingdom*. (HC 1788-89).

Parliament. House of Commons (1825). I. *Papers Relating to the Manumission, Government, and Population of Slaves in the West Indies; 1822-1824*. (HC 1825 66).

Parliament. House of Commons (1825). *Further Papers Relating to Slaves in the West Indies: Viz. Return to an Address of the Honourable House of Commons, dated 13th April 1824; - for Copy of any INFORMATION which has been received, respecting the Apprehension, for the purpose of being carried off the Island of Jamaica, of two free Men of colour named Lecesne and Escoffery, in the month of October 1823, with the Proceedings consequent thereupon; and Copies of the Affidavits filed in the Grand Court of that Island, on the occasion of moving for a Writ of Habeas Corpus on their behalf*. (HC 1825 74).

- Parliament. House of Commons (1827). *First Report of the Commissioners of Enquiry into the Administration of Criminal and Civil Justice in the West Indies: Jamaica*. (HC 1826-1827 559).
- Parliament. House of Commons (1831). *Papers Presented to Parliament, by His Majesty's Command, in Explanation of the Measures Adopted by His Majesty's Government for the Melioration of the Condition of the Slave Population in His Majesty's Possessions in the West Indies, on the Continent of South America, the Cape of Good, and at the Mauritius*. (HC 1830-1831 230). London: J. Hartnell.
- Parliament. House of Commons (1832). *Report from Select Committee on the Extinction of Slavery Throughout the British Dominions; with the Minutes of Evidence, Appendix and Index*. (HC 1831-32 (721)).
- Parliament. House of Commons (1835). *Papers Presented to Parliament, by His Majesty's Command, In Explanation of the Measures Adopted by His Majesty's Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part II. Jamaica – (continued), Barbadoes, British Guiana, and Mauritius. 1833-1835*. (HC 278.-I.)
- Parliament. House of Commons (1836). *Papers Presented to Parliament, By His Majesty's Command, in Explanation of the Measures Adopted by His Majesty's Government, For Giving Effect to the Act for the Abolition of Slavery Throughout the British Colonies. Part III (1.) Jamaica – (continued.) 1836*. (HC 166.-I.)
- Renny, Robert. *A History of Jamaica: With Observations on the Climate, Scenery, Trade, Productions, Negroes, Slave Trade, Diseases of Europeans, Customs, Manners, and Dispositions of the Inhabitants: To Which is Added, an Illustration of the Advantages Which Are Likely to Result from the Abolition of the Slave Trade*. (London, 1807).
- Sells, William. *Remarks on the Condition of the Slaves in the Island of Jamaica*. London: Printed for J. M. Richardson, Cornhill, and Ridgways, Piccadilly, 1823
- Senior, Bernard. *Jamaica, as it was, as it is, and as it may be: : comprising interesting topics for absent proprietors, merchants, &c. and valuable hints to persons intending to emigrate to the island: also an authentic narrative of the Negro insurrection in 1831; with a faithful detail of the manners, customs and habits of the colonists, and a description of the country, climate, productions, &c. including an abridgment of the slave law*. London: T. Hurst, 1835.
- Steele, Joshua. *Letters of Philo-Xylon*. Bridgetown, Barbados (1789)

Stephen, James. *The Slavery of the British West India Colonies Delineated, as it Exists in Both Law and Practice, and Compared with the Slavery of Other Countries, Antient and Modern*. London: 1824. 2 volumes.

Stewart, John. *A View of the Past and Present State of Jamaica: With Remarks on the Moral and Physical Condition of the Slaves, and on the Abolition of Slavery in the Colonies*.(Edinburgh, 1823).

Wesley, John. "Thoughts Upon Slavery," in *Works of the Rev. John Wesley*, (New York, n.d.), VI, 278-293.

Williams, James. *A Narrative of Events, Since the First of August, 1834, by James Williams, an Apprenticed Labourer in Jamaica*, ed. Diana Paton (Durham. Duke University Press, 2001).

Woolley, E. *The Land of the Free, or, A Brief View of Emancipation in the West Indies*. (Cincinnati: Printed by C. Clark, 1847).

Dissertations & Unpublished Manuscripts.

Bailey, Wilma R. "Kingston 1692-1843: A Colonial City." PhD. Diss, University of the West Indies at Mona, 1974

Brathwaite, Edward Kamau. "Controlling Slaves in Jamaica." 19--. Unpublished manuscript in the Special Collections Library, University of the West Indies at Mona, Jamaica.

Jones, Ebony. "Enslaved and Convicted: Criminal Transportation as Punishment During British Amelioration." PhD. Diss., New York University, 2018.

Smith, Robert Worthington. "The Conflict Between Planter and Parliament over the Slave Laws of Jamaica." Ph.D. dissertation, UCLA, 1942.

Spence, Caroline Quarier. "Ameliorating Empire: Slavery and Protection in the British Colonies, 1783-1865." PhD. Dissertation, Harvard University, 2014.

Watkins, Horace. "A History of the Legal System of Jamaica (1661-1900)," DPhil diss., (University of Sheffield, 1968). Found in 4/140/6/42, JARD.

Secondary Literature

- Aljoe, Nicole. "'Going to Law': Legal Discourse and Testimony in Early West Indian Slave Narratives." *Early American Literature* 46, No. 2: 351-380.
- Altink, Henrice. *Representations of Slave Women in Discourses on Slavery and Abolition, 1780-1838*. (New York: Routledge, 2005).
- Andrews, William. *Slavery and Class in the American South: A Generation of Slave Narrative Testimony, 1840-1865*. Oxford: Oxford University Press, 2020.
- Anstey, Roger. *The Atlantic Slave Trade and British Abolition, 1760-1810* (London : Macmillan, 1975)
- Baptist, Edward. *The Half Has Never Been Told: Slavery and the Making of Modern Capitalism*. (New York: Basic Books, 2014);
- Benton, Lauren and Lisa Ford, *Rage for Order: The British Empire and the Origins of International Law, 1800-1850*. (Cambridge: Harvard University Press, 2016).
- Benton, Lauren and Lisa Ford, "Island Despotism: Trinidad, the British Imperial Constitution and Global Legal Order." *The Journal of Imperial and Commonwealth History* 46, No. 1 (2018), 21-46.
- Besson, Jean. *Martha Brae's Two Histories : European Expansion and Caribbean Culture-Building in Jamaica* (Chapel Hill : University of North Carolina Press, 2002)
- Bilby, Kenneth M. *True-Born Maroons*. Gainesville: University Press of Florida, 2008
- Borucki, Alex. "Shipmate Networks and Black Identities in the Marriage Files of Montevideo, 1768-1803." *Hispanic American Historical Review* (2013) 93, no. 2: 205-238.
- Botkin, Frances R. *Thieving Three-Fingered Jack: Transatlantic Tales of a Jamaican Outlaw, 1780-2015*. New Brunswick: Rutgers University Press, 2015.
- Brown, Vincent. *Tacky's Revolt: The Story of an Atlantic Slave War*. Cambridge: Belknap Press (2020).
- Brown, Vincent. "Social Death and Political Life in the Study of Slavery," *American Historical Review* 114, No. 5 (2009): 1231-49.
- Browne, Randy. *Surviving Slavery in the British Caribbean*. Philadelphia: University of Pennsylvania Press, 2020.
- Buckridge, Steeve O. *Language of Dress: Resistance and Accommodation in Jamaica, 1750-1890* (Kingston: University of the West Indies, 2004)

Burnard, Trevor. "A Voice for Slaves: The Office of the Fiscal in Berbice and the Beginning of Protection in the British Empire, 1819-1834." *Pacific Historical Review* 87, No. 1. (2018): 30-53.

Burnard, Trevor, ed. *Hearing Slaves Speak*. Georgetown: The Caribbean Press for the Government of Guyana, 2010

Burnard, Trevor. *Powerless Masters: The Curious Decline of Jamaican Sugar Planters in the Foundational Period of British Abolitionism*. (Mona: Department of History & Archaeology, University of the West Indies: 2010).

Burnard, Trevor and John Garrigus, *The Plantation Machine: Atlantic Capitalism in French Saint-Domingue and British Jamaica*. (Philadelphia: University of Pennsylvania Press, 2016).

Burnard, Trevor. "Slaves and Slavery in Kingston, 1770-1815." *International Review of Social History* (2020) 65, No. S28: 39-65.

Campbell, Mavis. *The Dynamics of Change in Slave Society: A Sociopolitical History of the Free Coloreds of Jamaica, 1800-1865*. Rutherford: Farleigh Dickinson University Press, 1976

Candlin, Kit and Cassandra Pybus. *Enterprising Women: Gender, Race, and Power in the Revolutionary Atlantic*. (Athens: University of Georgia Press, 2014).

Carey, Bev. *The Maroon Story: The Authentic and Original History of the Maroons in the History of Jamaica, 1490-1880*. Gordon Town: Agouti Press, 1997

Carney, Judith. *In the Shadow of Slavery: Africa's Botanical Legacy in the Atlantic World*. (Berkeley: University of California Press, 2009)

da Costa, Emilia Viotti. *Crowns of Glory, Tears of Blood : The Demerara Slave Rebellion of 1823* (New York : Oxford University Press, 1997).

Dalby, Jonathan. *Crime and Punishment in Jamaica: A Quantitative Analysis of the Assizes Court Records, 1756-1856*. (Mona: Social History Project, Department of History and Archaeology, University of the West Indies at Mona, 2000)

Davis, David Brion. *The Problem of Slavery in the Age of Emancipation* (New York: Alfred A. Knopf, 2014)

de la Fuente, Alejandro and Ariela J. Gross. *Becoming Free, Becoming Black: Race, Freedom, and Law in Cuba, Virginia, and Louisiana*. Cambridge: Cambridge University Press, 2020.

- de la Fuente, Alejandro and Ariela Gross. "Comparative Studies of Law, Slavery, and Race in the Americas." *Annual Review of Law and Social Science* 6 (2010): 469-485
- Dierksheide, Christa. *Amelioration and Empire: Progress & Slavery in the Plantation Americas*. Charlottesville: University of Virginia Press (2018).
- Diouf, Sylviane. *Slavery's Exiles: The Story of the American Maroons*. New York: NYU Press, 2016
- Draper, Nicholas. *The Price of Emancipation : Slave-Ownership, Compensation and British Society at the End of Slavery* (Cambridge, UK ; New York : Cambridge University Press, 2010)
- Drescher, Seymour. *Econocide : British Slavery in the Era of Abolition*, 2nd ed. (Chapel Hill : University of North Carolina Press, 2010)
- Edwards, Justene Hill. "Felonious Transactions: Legal Culture and Business Practices of Slave Economies in South Carolina, 1787-1860," *Enterprise & Society*, Vol. 18, No. 4 December 2017 p. 772-783
- Edwards, Laura. "James and His Striped Velvet Pantaloon: Textiles, Commerce, and Law in the New Republic." *The Journal of American History* (2000): 339-361
- Edwards, Laura. "The Legal World of Elizabeth Bagby's Commonplace Book: Federalism, Women, and Governance." *The Journal of the Civil War Era* 9, No. 4 (2019): 504-523.
- Edwards, Laura. "Sarah Allingham's Sheet and Other Lessons from Legal History." *Journal of the Early Republic* 38, No. 1 (2018): 121-147
- Edwards, Laura. *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*. (Chapel Hill: University of North Carolina Press, 2009).
- Eltis, David. *Economic Growth and the Ending of the Transatlantic Slave Trade* (New York : Oxford University Press, 1987).
- Eltis, David and James Walvin, eds., *The Abolition of the Atlantic Slave Trade : Origins and Effects in Europe, Africa, and the Americas* (Madison, Wis.: University of Wisconsin Press, 1981)
- Epstein, James. *Scandal of Colonial Rule: Power and Subversion in the British Atlantic During the Age of Revolution*. (Cambridge: Cambridge University Press, 2012)
- Everill, Bronwen. *Abolition and Empire in Sierra Leone and Liberia* (Palgrave Macmillan, 2013)

- Fergus, Claudius. *Revolutionary Emancipation: Slavery and Abolition in the British West Indies*. (Baton Rouge: Louisiana State University Press, 2013)
- Ferrer, Ada. "Haiti, Free Soil, and Antislavery in the Revolutionary Atlantic," *The American Historical Review* 117, No. 1 (2012): 40-66.
- Ford, Lisa. *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge: Harvard, 2010).
- Foster, Helen B. *'New Raiments of Self': African American Clothing in the Antebellum South* (Berg Publishers, 1997)
- Fuentes, Marisa J. *Dispossessed Lives: Enslaved Women, Violence, and the Archive*. (Philadelphia: University of Pennsylvania Press, 2018).
- Gaspar, David Barry. "Slavery, Amelioration, and the Sunday Markets in Antigua, 1823-1831." *Slavery & Abolition* 9, No. 1 (1988): 1-28.
- Genovese, Eugene. *Roll, Jordan, Roll: The World the Slaves Made* (New York: Vintage Books, 1976)
- Ghachem, Malick. "Montesquieu in the Caribbean: The Colonial Enlightenment between 'Code Noir' and 'Code Civil'" *Historical Reflections*. 25, No. 2 (1999): 183-212.
- Ghachem, Malick. "Prosecuting Torture: The Strategic Ethics of Slavery in Pre-Revolutionary Saint-Domingue (Haiti)" *Law and History Review* 29, No. 4 (2011): 985-1029
- Ghachem, Malick. *The Old Regime and the Haitian Revolution*. Cambridge: Cambridge University Press, 2012
- Ginsburg, Rebecca. "Escaping Through a Black Landscape." In ed. Clifton Ellis and Rebecca Ginsburg. *Cabin, Quarter, Plantation: Architectures and Landscapes of North American Slavery*. New Haven: Yale University Press, 2010. 51-66.
- Gosse, Dave St. Aubyn. *Abolition and Plantation Management*. Mona: University of the West Indies Press (2012)
- Gonzalez, Johnhenry. "Defiant Haiti: Free-Soil Runaways, Ship Seizures and the Politics of Diplomatic Non-Recognition in the Early Nineteenth Century," *Slavery & Abolition* 36, No. 1 (2015): 124-135.
- Goveia, Elsa V. *The West Indian Slave Laws of the 18th Century*. Bridgetown: Caribbean Universities Press (1970).

- Graham, Aaron. "Towns, Government, and the 'Police' in Jamaica and the British Atlantic, 1770-1805." *Urban History* 47, No. 1 (2020): 41-62.
- Graham, Aaron. "The Principle of Representation in Jamaica and the British Atlantic in the Age of Revolutions, 1768-1807." *Parliaments, Estates, and Representation* 40, No. 1: 1-20
- Graham, Aaron. "The Colonial Sinews of Imperial Power: The Political Economy of Jamaican Taxation, 1768-1838." *Journal of Imperial and Commonwealth History* 45, No. 2 (2017): 188-209
- Graham, Aaron. "Legislatures, Legislation and Legislating in the British Atlantic, 1692-1800." *Parliamentary History* 37, No. 3: 369-388.
- Graham, Aaron. "Jamaican Legislation and the Transatlantic Constitution, 1664-1838." *The Historical Journal* 61, No. 2: 327-355
- Greene, Jack. "Liberty, Slavery and the Transformation of British Identity in the Eighteenth Century West Indies," *Slavery & Abolition* 21, No.1: 1-31
- Gross, Ariella. *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*. (Athens: University of Georgia Press, 2006)
- Gross, Ariella and Alejandro de la Fuente. "Slaves, Free Blacks, and Race in the Legal Regimes of Cuba, Louisiana, and Virginia: A Comparison." *North Carolina Law Review* 91, No. 5 (2013): 1699-1724
- Halliday, Paul. *Habeas Corpus : From England to Empire* (Cambridge: Harvard, 2010)
- Harris, Dawn P. *Punishing the Black Body: Marking Social and Racial Structures in Barbados and Jamaica*. (Athens: University of Georgia Press, 2017)
- Hauser, Mark W. "Linstead Market before Linstead? Eighteenth-Century Yabbas and the Internal Market System of Jamaica," *Caribbean Quarterly* 55, no. 2 (2009): 89-111-192.
- Hawthorne, Walter. " 'Being Now, As It Were, One Family:' Shipmate Bonding on the Slave Vessel Emilia, in Rio de Janeiro and Throughout the Atlantic World." *Luso-Brazilian Review* (2018) 45, No. 1: 53-77
- Hay, Douglas. "Property, Authority, and the Criminal Law." In Douglas Hay, Peter Linebaugh, John G. Rule, E. P. Thompson, and Cal Winslow, eds., *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*. London: Verso, 2011. 17-64.
- Heuman, Gad J.. *Between Black and White: Race, Politics, and the Free Coloreds in Jamaica, 1792-1865*. Westport: Greenwood Press, 1981.

- Higman, Barry W. *Montpelier, Jamaica: A Plantation Community in Slavery and Freedom, 1739-1912*. (Mona: University of the West Indies Press, 1998).
- Hilliard, Kathleen M. *Masters, Slaves, and Exchange: Power's Purchase in the Old South*. New York: Cambridge University Press, 2014
- Holt, Thomas C. *The Problem of Freedom : Race, Labor, and Politics in Jamaica and Britain, 1832-1938* (Baltimore : Johns Hopkins University Press, 1992).
- Hudson Jr., Larry E. "‘All that Cash’: Work and Status in the Slave Quarters," in ed. Larry E. Hudson Jr. *Working Toward Freedom: Slave Society and Domestic Economy in the American South* (Rochester: University of Rochester Press, 1996). 77-94.
- Hunt-Kennedy, Stefanie. "‘He Had His Nose Cropt for Being Formerly Runaway’: Disability and the Bodies of Fugitive Slaves in the British Caribbean." *Slavery & Abolition* 41, No. 2 (2020): 212-233
- Huzzey, Richard. *Freedom Burning : Anti-Slavery and Empire in Victorian Britain* (Ithaca : Cornell University Press, 2012)
- Inikori, J.E. *Africans and the Industrial Revolution in England : A Study in International Trade and Economic Development* (New York : Cambridge University Press, 2002)
- Kaarsholm, Preben. "Indian Ocean Networks and the Transmutations of Servitude: The Protector of Indian Immigrants and the Administration of Freed Slaves and Indentured Labourers in Durban in the 1870s." *Journal of Southern African Studies* 42, No. 3: 443-461.
- Kaye, Anthony. *Joining Places: Slave Neighborhoods in the Old South*. Chapel Hill: University of North Carolina Press, 2009.
- Lambert, David. *White Creole Culture, Politics and Identity during the Age of Abolition* (Cambridge ; New York : Cambridge University Press, 2005).
- Lazarus-Black, Mindie. "John Grant's Jamaica: Notes Towards a Reassessment of Courts in the Slave Era." *The Journal of Caribbean History* 27, No. 2 (1993): 144-160.
- Lazarus-Black, Mindie. *Slaves, Masters, and Magistrates: Law and the Politics of Resistance in the English-Speaking Caribbean, 1736-1834*. (Chicago: American Bar Foundation, 1991)
- Lester, Alan and Fae Dussart. *Colonization and the Origins of Humanitarian Governance: Protecting Aborigines Across the Nineteenth-Century British Empire*. (Cambridge: Cambridge University Press, 2014)
- Livesay, Daniel. *Children of Uncertain Fortune: Mixed-Race Jamaicans in Britain and the Atlantic Family, 1733-1833*. (Chapel Hill: University of North Carolina Press, 2018)

- Marshall, Woodville K. "Provision Grounds and Plantation Labour in Four Windward Islands: Competition for Resources During Slavery," *Slavery & Abolition* Vol. 12, Issue 1 (1991): 48-67
- McDonald, Roderick A. *The Economy and Material Culture of Slaves: Goods and Chattels on the Sugar Plantations of Jamaica and Louisiana*. (Baton Rouge: Louisiana State University Press, 1993)
- Mintz, Sidney. *Caribbean Transformations* (Chicago: Aldine Publishing Company, 1974)
- Mintz, Sidney. "Slavery and the Rise of Peasantries," *Roots and Branches: Current Directions in Slave Studies* (1979), pgs. 213-253
- Mintz, Sidney. "Slave Life on Caribbean Sugar Plantations: Some Unanswered Questions," in *Slave Cultures and Cultures of Slavery*, ed. Stephen Palmié (Knoxville: University of Tennessee Press, 1995), 12–22
- Moore, Brian and Michelle Johnson, *They Do as They Please: The Jamaican Struggle for Freedom After Morant Bay*. (Kingston: University of the West Indies Press, 2011);
- Moore, Brian and Michelle Johnson, *Neither Led Nor Driven: Contesting British Imperialism in Jamaica, 1865-1920* (Kingston: University of the West Indies Press, 2004)
- Morgan, Kenneth. "Labour Relations During and After Apprenticeship, 1834-1840." *Slavery & Abolition* 33, No. 3, pg. 457-478
- Morgan, Philip. "The Ownership of Property by Slaves in the Mid-Nineteenth Century Low Country." *The Journal of Southern History* 49, no. 3 (1983): 399-420
- Morrison, Doreen. *Slavery's Heroes: George Liele and the Ethiopian Baptists of Jamaica, 1783-1865*. (N.P.: Liele Books, 2015).
- Murray, D. J. *The West Indies and the Development of Colonial Government, 1801-1834* (Oxford, Clarendon Press, 1965).
- Nettlebeck, Amanda. *Indigenous Rights and Colonial Subjecthood: Protection and Reform in the Nineteenth-Century British Empire*. (Cambridge: Cambridge University Press, 2019)
- Newman, Brooke. *A Dark Inheritance: Blood, Race, and Sex in Colonial Jamaica*. (New Haven: Yale University Press, 2018).
- Newton, Melanie. *The Children of Africa in the Caribbean: Free People of Color in Barbados in the Age of Emancipation* (Baton Rouge: Louisiana State University Press, 2008).

- Newton, Melanie. "The King v. Robert James, a Slave, for Rape: Inequality, Gender, and British Slave Amelioration, 1823-1834." *Comparative Studies in Society and History*. 47, no. 3 (2005): 583-610.
- Ogborn, Miles. *The Freedom of Speech: Talk and Slavery in the Anglo-Caribbean World*. Chicago: University of Chicago Press, 2019.
- Oldfield, J. R. *Popular Politics and British Anti-Slavery: The Mobilisation of Public Opinion against the Slave Trade, 1787-1807* (Manchester, UK ; New York : Manchester University Press, 1995).
- O'Shaughnessy, Andrew Jackson. *An Empire Divided: The American Revolution and the British Caribbean* (Philadelphia : University of Pennsylvania Press, 2000)
- Palmer, Vernon Valentine. "The Customs of Slavery: The War Without Arms." *Global Jurist Frontiers*. Vol. 6, Issue 1. 1-45.
- Parry, John H. "Plantation and Provision Ground: An Historical Sketch of the Introduction of Food Crops," *Source: Revista de Historia de América*, no. 39 (1955): 1–20
- Paton, Diana. "Gender, Language, Violence and Slavery: Insult in Jamaica, 1800-1838." *Gender & History* 18, No.2. (2006): 246-265.
- Paton, Diana. *No Bond But the Law: Punishment, Race, and Gender in Jamaican State Formation, 1780-1870*. Durham: Duke University Press (2004).
- Paton, Diana. "Witchcraft, Poison, Law, and Atlantic Slavery." *The William and Mary Quarterly*. 69, No. 2 (2012): 235-264
- Patterson, Orlando. *Slavery and Social Death: A Comparative Study* (Cambridge: Harvard, 1988).
- Paugh, Katherine. *The Politics of Reproduction: Race, Medicine, and Fertility in the Age of Abolition* (Oxford; New York: Oxford University Press, 2017)
- Penningroth, Dylan C. *The Claims of Kinfolk: African American Property and Community in the Nineteenth-Century South* (Chapel Hill : University of North Carolina Press, 2003).
- Petley, Christer. *Slaveholders in Jamaica: Colonial Society and Culture During the Era of Abolition*. (London: Pickering & Chatto, 2009).
- Petley, Christer. "Gluttony, Excess, and the Fall of the Planter Class in the British Caribbean," no. July 2015 (2012): 37–41

- Peterson, Derek R. *Abolitionism and Imperialism in Britain, Africa, and the Atlantic* (Athens, Ohio : Ohio University Press, 2012).
- Pomeranz, Kenneth. *The Great Divergence : China, Europe, and the Making of the Modern World Economy* (Princeton, N.J. : Princeton University Press, 2000).
- Reis, João José. *Slave Rebellion in Brazil: The Muslim Uprising of 1835 in Bahia*. Trans. Arthur Brakel (Baltimore: Johns Hopkins University Press: Baltimore, 1995).
- Roberts, Justin. *Slavery and the Enlightenment in the British Atlantic, 1750-1807*. Cambridge: Cambridge University Press (2018)
- Robinson, Carey. *The Iron Thorn: The Defeat of the British by the Jamaican Maroons*. Kingston: Kingston Publishers Limited, 1993
- Robinson, Cedric J. "Capitalism, Slavery and Bourgeois Historiography," *History* 23, no. 23 (2011): 122–40.
- Rugemer, Edward. *Slave Law and the Politics of Resistance in the Early Atlantic World*. Cambridge: Harvard University Press (2018).
- Salazar Rey, Ricardo Raul. *Mastering the Law: Slavery & Freedom in the Legal Ecology of the Spanish Empire*. Tuscaloosa: University of Alabama Press, 2020.
- Schwartz, Stuart B. *Slaves, Peasants, and Rebels: Reconsidering Brazilian Slavery* (Urbana: University of Illinois Press, 1992).
- Scott, Rebecca and Carlos Venegas Fornias. "Maria Coleta and the Capuchin Friar: Slavery, Salvation and the Adjudication of Status." *William and Mary Quarterly* 76, No. 4 (2019): 727-762
- Scott, Rebecca. "Paper Thin: Freedom and Re-enslavement in the Diaspora of the Haitian Revolution." *Law and History Review* 29, no. 4 (2011): 1061-1087.
- Scott, Rebecca and Michael Zeuske. "Property in Writing, Property on the Ground: Pigs, Horses, Land, and Citizenship in the Aftermath of Slavery, Cuba, 1880-1909." *Comparative Studies in Society and History* 44, no. 4 (2002): 669-699
- Scott, Rebecca. "Slavery and the Law in Atlantic Perspective: Jurisdiction, Jurisprudence, and Justice" *Law and History Review* 29, no. 4 (2011): 915-924
- Scott, Rebecca. "Social Facts, Legal Fictions, and the Attribution of Slave Status: The Puzzle of Prescription." *Law and History Review* 35, No. 1 (2016): 9-30

- Scott, Rebecca "The Atlantic World and the Road to Plessy v. Ferguson." *The Journal of American History* 94, No. 3 (2007): 726-733.
- Schweninger, Loren. *Black Property Owners in the South, 1790-1915*. (Urbana: University of Illinois Press, 1990)
- Shapiro, Barbara. *A Culture of Fact: England, 1550-1720*. Ithaca: Cornell University Press, 2003.
- Sharples, Jason T. *The World That Fear Made: Slave Revolts and Conspiracy Scares in Early America*. Philadelphia: University of Pennsylvania Press, 2020.
- Sheller, Mimi. *Democracy after Slavery : Black Publics and Peasant Radicalism in Haiti and Jamaica* (Gainesville : University Press of Florida, 2000).
- Sheller, Mimi. *Citizenship from below : Erotic Agency and Caribbean Freedom* (Durham: Duke, 2012)
- Shepherd, Verene. "We All Thought the King Was on Our Side': Voices of the Enslaved in the Post-Slave Trade Abolition Era in Jamaica." *Arts Journal*. Vol. 3, No. 1 & 2. March 2007. 26-46
- Sheridan, Richard. "From Jamaican Slavery to Haitian Freedom: The Case of the Black Crew of the Pilot Boat, *Deep Nine*," *The Journal of Negro History* 67, No. 4 (1982): 328-339.
- Simonsen, Gunvor. *Slave Stories: Law, Representation, and Gender in the Danish West Indies*. Aarhus: Aarhus Universitetsforlag, 2017.
- Sivapragasam, Michael. "The Second Maroon War: Runaway Slaves Fighting on the Side of Trelawny Town." *Slavery & Abolition* 41, no. 3 (2020): 555-581
- Smith, Robert Worthington. "The Legal Status of Jamaican Slaves Before the Anti-Slavery Movement." *The Journal of Negro History* 30, No. 3 (1945): 293-303
- Smith, S.D. *Slavery, Family, and Gentry Capitalism in the British Atlantic : The World of the Lascelles, 1648-1834* (Cambridge, UK ; New York : Cambridge University Press, 2006)
- Spieler, Miranda. *Empire and Underworld: Captivity in French Guiana* (Cambridge: Harvard University Press, 2011)
- Sweeney, Shauna. "Market Marronage: Fugitive Women and the Internal Marketing System in Jamaica, 1781-1834" *William & Mary Quarterly* 76, No. 2 (2019): 197-222.
- Swinfen, D.B. *Imperial Control of Colonial Legislation, 1813-1865: A Study of British Policy towards Colonial Legislative Powers*, (Oxford, Clarendon Press, 1970.)

- Thompson, Alvin O. *Flight to Freedom: African Runaways and Maroons in the Americas*. Kingston: University of the West Indies Press, 2006
- Titus, Noel. *The Amelioration and Abolition of Slavery in Trinidad, 1812-1834: Experiments and Protests in a Slave Colony*. (AuthorHouse, 2009)
- Turner, Mary. "The 11 O'Clock Flog: Women, Work, and Labour Law in the British Caribbean." *Slavery & Abolition* 20 (1999), No. 1: 38-58
- Turner, Sasha. *Contested Bodies: Pregnancy, Childrearing, and Slavery in Jamaica*. (Philadelphia: University of Pennsylvania Press, 2017)
- Twitty, Anne. *Before Dred Scott: Slavery and Legal Culture in the American Confluence, 1787-1857*. Cambridge: Cambridge University Press, 2018.
- Vahed, Goolam. "The Protector, Plantocracy, and Indentured Labour in Natal, 1860-1911." *Pacific Historical Review* (2018) 87, No. 1: 101-127
- Vasconcellos, Colleen. *Slavery, Childhood, and Abolition in Jamaica, 1788-1838*. (Athens: University of Georgia Press, 2015)
- Walker, Christine. *Jamaica Ladies: Female Slaveholders and the Creation of Britain's Atlantic Empire*. Chapel Hill: University of North Carolina Press, 2020.
- Walker, Tamara J. *Exquisite Slaves: Race, Clothing, and Status in Colonial Lima* (Cambridge: Cambridge University Press, 2019)
- Ward, John Manning. *Colonial Self-Government: The British Experience, 1759-1856* (London: Macmillan, 1976)
- Ward, J. R. *British West India Slavery, 1750-1834; The Process of Amelioration* (Oxford: Clarendon Press; New York: Oxford University Press, 1988).
- Ward, J.R.. "The Amelioration of British West Indian Slavery: Anthropometric Evidence." *The Economic History Review* 71, No. 4: 1199-1226
- Williams, Eric Eustace. *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1994).
- Wilmot, Swithin. "Black Politics in Free Jamaica, 1838-1865," in *The End of Slavery in Africa and the Americas: A Comparative Approach*, eds. Ulrike Schmieder, Katja Füllberg-Stolberg, Michael Zeuske. (Berlin; Piscaraway, NJ: Distribution in North America by Transaction Publishers, 2011), *insert pages*.

- Wood, Betty. *Women's Work, Men's Work: The Informal Slave Economies of Lowcountry Georgia*. (Athens: University of Georgia Press, 1995)
- Wood, Marcus. *Slavery, Empathy, and Pornography*. (Oxford; New York: Oxford University Press, 2002).
- Yoong, Ng Siew. "The Chinese Protectorate in Singapore, 1877-1900." *Journal of Southeast Asian History* 2, No. 1: 76-99
- Zacek, Natalie. "Voices and Silences: The Problem of Slave Testimony in the English West Indian Law Court." *Slavery & Abolition* (2008) 24, No. 3: 24-39.

Biography

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