

## Caribbean Contraband, Slave Property, and the State, 1767-1792

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In May 1767, Roger Hope Elletson, Jamaica's Lieutenant Governor, reported to his London superiors that several slaves had escaped from the colony. About thirty Africans had disappeared from two of the island's north shore plantations. They later reappeared on Cuba's south coast, a distance of perhaps eighty or a hundred miles.<sup>1</sup> Elletson did not believe with absolute certainty that the slaves had "voluntarily" fled; he conjectured that they were "involuntarily" removed by clandestine traders or raiders from the neighboring Spanish island. Following the established protocol for dealing with such situations across Atlantic America, Elletson immediately wrote a letter urging his counterpart in Cuba, Don Antonio Bucareli, to expedite the return of the Jamaican slaves. When Elletson received what he considered to be an elusive response, he promptly raised the matter in his correspondence with London. He did so with the hope that the metropolitan bureaucracy would implore Britain's diplomats to the Spanish Court to pressure Spanish officials who could, in turn, compel the Cuban governor to return the missing "property" forthwith.<sup>2</sup>

The easiest, and usually the fastest, way to achieve results in this kind of an interimperial or intercolonial conflict involved direct negotiations between the aggrieved parties in the Americas. Such contact could be either formal, as in the case described above, or informal; Elletson could have sent out a search party to "steal" back the missing slaves. Whenever direct approaches failed to produce the desired outcome, Atlantic-American governors like Elletson understood that pressure from the Atlantic's eastern side might be applied with better effect.

Involving bureaucrats in the European capitals, however, carried with it a high degree of risk; Elletson's decision to do so would not have been hastily made. In the process of investigating complaints from their representatives in the Americas, officials in London or Seville might catch on to an endemic colonial culture of illegality. As a result, the American governors—whether Spanish, British, or French—tried to make their correspondence specific enough so as to elicit the desired reaction, while simultaneously keeping communication general enough to avoid arousing suspicion about other illegal activities they knew to be taking place. Lieutenant Governor Elletson's letter to London, thus, raised the specific facts of the case and then enunciated only the principle for which he sought support:

[T]he Practice of receiving and detaining runaway slaves in the time of Peace by the Spanish Government must be attended with the worst consequences if an immediate stop is not put thereto, not only by the Court of Spain's discountenancing such proceeding, but [by] giving positive order to the respective Governors to deliver up such slaves to their proper owners. It is impossible for the most exact diligence to prevent these escapes and (unless such orders are issued) they will be attended with ruin to the proprietors of the Plantations....[P]roperty this precarious...can have no real value....<sup>3</sup>

At least in this letter, the government in Cuba is clearly to blame. The Jamaican slaves' shelter in the Spanish colony, rather than their movement out of British territory, is the issue that required action. Officials like Elletson avoided dwelling on anything that might cause alert readers to question how opportunities for slaves to leave his island presented themselves. Local authorities feared exposing a clandestine commercial intercourse that benefited residents of both colonies.<sup>4</sup>

Elletson framed his concern about the removal of slaves from the island as a general desire to protect property, rather than as a humanitarian interest in the slaves' physical or mental welfare. As the British government's chief representative in the colony, Elletson undeniably understood that the state's most important function in the eighteenth-century political economy was to protect private property. Any government that failed to do this could not long maintain the support of those who resided under its authority.<sup>5</sup> That the fugitive slaves' Jamaican masters numbered among the island's most influential inhabitants made the case for the Africans' return all the more critical. If people who held large amounts of property in Jamaica, Cuba, or any other colony withdrew their implicit support of government, then these governments would ultimately fall.<sup>6</sup>

The state's obligation to conserve private property relied upon law as its principal instrument. Yet statutes, without at least the threat of enforcement, had no practical meaning. Policing actions, particularly in far-flung colonies, were not cost-efficient and colonial residents understood this. Consumer desire caused colonists to evade laws designed to protect Europe's mercantilist policies. As a result, metropolitan governments, through their local representatives, negotiated the degree to which the state would exact compliance with laws that concerned property.<sup>7</sup> This led to a general laxity; colonial subjects easily accommodated themselves to it. In cases that involved *slave* property, however, both local populations and governing authorities demanded rigorous statutory adherence. They did so because *all* classes of white colonists understood the value of Africans to their societies and knew that without slave labor, their own livelihoods would be threatened. All of these classes agreed

that their demand to consume took precedence over the state's right to regulate trade and, through it, consumption. In most cases, the law could be capriciously ignored. When slaves were involved, however, laws needed to be regularly applied.

Lieutenant Governor Elletson's efforts to involve government in the recovery of the missing bondsmen is clearly connected to John Locke's proposition:

the Reason why Men enter into society, is the preservation of their property; and the end why they chuse and authorize a legislature, is, that there may be Laws Made, and Rules set as Guards and Fences to the Properties of all the Members of the Society.<sup>8</sup>

It is also within this conceptualization that Cuban Governor Bucareli's hesitance to return the slaves to their previous owners should be understood. Cuban residents—along with the Spanish monarch—had established claims to them as *their own* property. After all, the Africans were now in the possession of Spanish subjects. The governor's interest would clearly have been to conserve the property of those over whom he had jurisdiction. In that sense, his interests closely coincided with Elletson's.<sup>9</sup>

The dispute that arose indicated not just the impermanence of property but also pointed to the need for negotiation and arbitration to settle conflicts. Though presumably not familiar with this case, Adam Smith, the great contemporary economist, understood its significance:

It is only under the valuable shelter of the civil magistrate that the owner of that valuable property, which is acquired by the labor of many years, or perhaps of many successive generations, can sleep a single night in security. He is at all times surrounded by unknown enemies, whom, though he never provoked, he can never appease, and from whose injustice he can be protected only by the powerful arm of the civil magistrate....The acquisition of valuable and extensive property, therefore, necessarily requires the establishment of civil government.<sup>10</sup>

Like Locke, Smith recognized that governments, if they wished to remain operational, needed to guarantee (or at least be seen trying to do so) the property of those who lived under them. Both Bucareli and Elletson, then, acted in harmony with established tenets of political economy. These principles, at least as they were understood in 1767, had been inscribed in imperial taxation and navigation statutes.<sup>11</sup>

Colonial and local authorities nevertheless tolerated widespread illegal and/or extralegal behaviors in the commercial arena. In virtually every society of the eighteenth-century Atlantic world, many illicit transactions went either undetected, unpunished, or remained unacknowledged. Although revenue laws and trading restrictions were designed both to preserve property and to demonstrate the state's authority, enforcement was selective or non-existent. It might be argued that property crimes were relatively victimless transgressions. The state itself had been damaged of course; by not enforcing the laws vigorously, government itself lost its *raison d'être*. But as long as enough members of any society believe that they can better accumulate property by flaunting the law than by obeying it, they do not strenuously object to selective enforcement. In the demotic mind, the state's role was (and is) to facilitate the acquisition of property and not to restrict or otherwise limit it.

That being said, however, no government could condone, however tacitly, the illegal or extralegal transportation and removal of slaves from one colony to another. Though slaves' were legally considered to be property in most of the Atlantic world, even the most determined and racist lawmakers could not legislate the Africans' human characteristics out of existence.<sup>12</sup> Possessed of speech and vision, slaves posed a much greater risk to social stability than did any form of inanimate property. Stolen or escaped slaves might carry out all kinds of damage, perhaps with the connivance of legally-empowered citizens or subjects. Slaveowners believed, therefore, that human chattel—the most valuable property after land (which was not moveable)—required special protection by their government. In their eyes, the state's legitimacy depended upon actions to hunt down and restore runaway and/or stolen slaves. Planters' interests thus converged with those of the state.

Had Governor Bucareli returned the Jamaican slaves to their British owners, he would surely have received complaints; he may perhaps even have had to fight off challenges to his rule. Because Cuba experienced a shortage of slaves for much of the eighteenth century, the island's governor would have further contributed to an already deficient labor supply by returning the "escapees". In upholding British property rights he would be forced to violate Spanish ones. Employed in constructing battlements that could protect the Spanish island from future British raids (the British capture of Havana was a recent and embarrassing memory for the Cuban government), the Jamaican slaves' presence in Cuba also allowed—at least potentially—for the exchange of information about Jamaica which, quite frankly, Lieutenant Governor Elletson—or any other colonial authority—should have feared. Bucareli would thus have understood that returning the Jamaican property carried a significant risk to imperial security; the slaves could be debriefed in Jamaica, just as they presumably had been in Cuba.

Though nothing further about the thirty slaves who went to Cuba appears in the British records, it is probable that the case fell victim to the usual bureaucratic and diplomatic back-logs.<sup>13</sup> Official remonstrances were certainly lodged and an investigation of the facts, in both metropolises, no doubt ordered. The negotiations carried out in the interim between the various parties—the slaveholders of Jamaica and Cuba, the respective island governors, and the larger European imperial systems—effectively established the limits of state authority. Behind these negotiations lay a fundamental agreement about the paramount role of property in legitimating governmental power. By acting to preserve and enhance their colonists' property interests, local authorities frequently behaved in ways that ran counter to the letter and spirit of the imperial regulations.<sup>14</sup> This was desired, perhaps even encouraged, by all of the parties so long as slaves were not concerned. When Africans became contraband, however, the rules suddenly became much more inflexible. This rigidity, too, enjoyed the support of members of virtually every economic class.

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Slaves in every colony or group of colonies sometimes moved between societies without the aid of thieves, thugs, or kidnappers—especially in years of peace when it was easier to do so. In some instances, they stole themselves—by fleeing from one society or government to reside in another, preferably one controlled by a different imperial power. In 1770, for example, Turks' Islands Agent Andrew Symmer complained to London that slaves consistently escaped, or were forcibly removed, to nearby French and Spanish settlements on Hispaniola. Symmer claimed that, once there, these slaves received a hearty welcome and the equivalent of asylum.<sup>15</sup>

Symmer could not easily ignore such a regular removal of property. Repeated and sustained losses would, he believed, diminish his efficacy as a governing official. He maintained that the few European settlers under his authority would question the necessity of having an imperial representative; what function could he possibly serve, they might ask, if not to conserve their property?<sup>16</sup> Because he had both to preserve property and to maintain order among the slaves, Symmer, like Elletson, complained to his counterparts in French Saint Domingue and Spanish Santo Domingo. He sought in his remonstrances to prevent the slaves in Turks Islands from contact with residents of the two governments on Hispaniola. His protests gently reminded those who welcomed renegade property that their societies too were based upon slavery—and that the problem of escape could cut both ways.

Symmer's efforts at negotiating with the French and Spanish governors failed. He advised London of his inability to reach a satisfactory settlement, as Elletson had earlier done. In a letter to the Secretary of State, Symmer explained that he had warned his French and Spanish counterparts of an impending British imperial response:

I...repeatedly wrote to the French and Spanish Governors of the Northern Department of that Island, in the most forcible manner, after acquainting them, with the Justice which hath always been shewn to the French and Spanish colonists, who repair hither for Salt, I took the Liberty to add, that I should represent the affair to his Majesty's Ministers, which might induce his Majesty to stop the Indulgence [of raking salt in British territory] which he had hitherto granted to the French and Spanish Subjects.<sup>17</sup>

Symmer simultaneously informed his metropolitan masters of the existence of illegal behavior and of his effort to solve the problem himself; he not-so-subtly advised them that they needed to back his ultimatum to the Hispaniola governments if British property was to be consistently secured. He was even so bold as to prescribe the preferred course of action.<sup>18</sup>

London did not fully cooperate. The territory under Symmer's authority was too small to justify a great expenditure on enforcement, especially during peace time. But since slaves were involved the state needed—at the very least—to act decisively. London agreed to send out a "Preventive Officer" to oversee the fledgling territory. Any non-British subjects who made their way to the islands to rake salt (and who simultaneously could provide an escape route for Africans) would be subject to the "Preventive Officer's" careful scrutiny. In theory, this would make clandestinely transporting slaves more difficult. Assuming that he was not corruptible, the officer, by his very presence, would serve as a visible deterrent to any slaves who intended to disappear, as well as to any foreigners who had the idea to remove more than salt from the islands. The official's efficacy, unfortunately, will remain a mystery, as there are no records of potential crimes that were conceived but not committed.

In 1774, the British state's role as the guardian of slave property again found itself being challenged. Andrew Phillipe, a French resident of Grenada (ceded to the British in 1763), clandestinely removed his slaves from that island to the nearby French colony of St. Lucia. This action allowed him to avoid paying off debts he had acquired after the British takeover; he had no property in land, therefore the government could neither seize nor sell anything in order to placate his creditors. Because those who lent capital to Monsieur Phillipe allowed him to use his slaves as security, the Africans' removal from Grenada amounted to the elimination of a loan guarantee.<sup>19</sup> If all of the island's French inhabitants had removed their human property, then they could have destroyed British authority by depriving it not just of resources in the form of capitation taxes and import duties, but also of the revenue-producing crops produced using African labor. By so evading his obligations, this French Grenadian provoked a reaction from British officials.

No ruling establishment could claim to be the legitimate government of Grenada, or any other colony for that matter, without assuring that those who lent money under its watch would be repaid according to prevailing commercial practice. Moving slaves from one colony to another affected not just the value of a slaveowner's current holdings but also impacted the estate's future income potential. Moreover, if slaves—real estate—could be removed without fear of punishment, so too could other more portable instruments of credit be manipulated. The British state's interest, as a result, required it to avoid the slippery slope on which all forms of capital accumulation were threatened. Protecting real estate—slaves and land—therefore assumed a position of primacy. Once again, the state's interests coincided with a group of its residents.

By the second half of the eighteenth century, the British government had become dependent upon merchants for much of the capital used to finance wars.<sup>20</sup> Placating merchant grievances and protecting state credit therefore held great sway over imperial administrators. Andrew Phillippe's creditors—colonial merchants—demanded that his slaves, their security, be returned to British territory. Merchants who were, as a group, deeply implicated in trade violations of all kinds (including slave smuggling) here pressed vigorously for strict enforcement of trade laws.<sup>21</sup> They maintained that allowing the secured slaves to remain outside of British territory prevented not just Andrew Phillippe's Grenadan estate from producing a high yield, but that it also prohibited his creditors from acquiring *their* share of it. The government's compelling interest in ensuring strict adherence—its own dependence upon merchants and taxation—therefore became irresistible.<sup>22</sup>

In the summer of 1774, The Earl of Dartmouth, His Majesty's Secretary of State for the Southern Department, sought an order from his superiors at the Court of St. James's to allow British diplomats in France to pressure French metropolitan officials. He hoped they would push the French Governor of Saint Lucia to restore to Andrew Phillippe's creditors, in particular:

[the] Negroes who are the pledges and security for the sums advanced to him on mortgage of his Lands and Slaves in Grenada, and which Negroes have been clandestinely and surreptitiously carried off from the Island of Grenada to...St. Lucia, by the said Phillippe in order to evade payment of his just debts.<sup>23</sup>

Though the final disposition of the case remains unknown, Dartmouth sought this order for a specific reason. By explicitly asserting property rights with regard to slaves, the British government could demonstrate its own legitimacy—and simultaneously secure the merchants' approbation. This support would prove essential. At almost precisely that moment in time, the Brit-

ish Parliament faced charges from mainland colonists and merchants who maintained that the legislature had been infringing upon and dismantling property rights—rights that colonists had considered well-established.<sup>24</sup>

These three examples—Phillipe, Symmer, and Elletson—represent the coalition of classes in whose interest strict commercial regulation of slaves was. The merchants in Phillipe's case actively sought the return of contraband slaves, even though traders regularly engaged in other ventures of questionable legality. Government supported their claims because its own finances depended on merchant capital. Symmer's and Elletson's cases show local officials responding to residents' demands to have their illegally removed slaves returned to them. These residents were not above either purchasing smuggled goods when they were available or, if they were wealthy enough, arranging for contraband shipments of their own. In Elletson's example, the planters whose slaves appeared in Cuba had political clout, like Phillipe's Grenadan creditors. In Symmer's case, the planters would have had considerably less clout and their slaves would have comprised an even greater proportion of their total worth. Preventing slave property from entering into the illegal economy, and working for its return if it did enter into it, therefore unified government objectives with those of its subjects—of *all* socioeconomic ranks.

In peacetime the state attempted to protect slave property while also tolerating, if not acknowledging, violations of other kinds of property laws; war changed this dynamic. The authorization of privateers, who were nothing more than state-licensed pirates, proved just how elastic property laws could become. Seizures of the property of one nation's (or one colony's) residents by those of another became not just acceptable, but also highly profitable. Nationalism thus replaced consumerism as a unifying force. Only after peace had been re-established were legal rights vis-à-vis property negotiated anew between the imperial state and its colonists of every class.

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What was impermissible in Jamaica in 1774—seizing a Spanish galleon outside territorial waters for example—might well have been legal just a year later, under wartime conditions.<sup>25</sup> During the American Revolution, European colonists of divergent economic strata constantly sought to further the interests of their respective metropolises—while simultaneously enriching themselves. Privateering arose as residents from virtually every colony tried to seize their enemies' property. Wartime thus tested a government's ability to protect the belongings of those who lived under its authority. Preserving property required negotiations in times of peace; the law was relatively porous. Only the conservation of slave property evoked consistent responses, because colonists of all classes insisted upon it. In war years, the state might secure its boundaries, and thus its territory, against outside intrusions. But it could rarely protect its residents' belongings outside national borders or against superior

military force. As a result, a great deal of property changed hands. In many ways, war created a much more free marketplace than was possible under peacetime mercantilist conditions. With the cessation of hostilities, prizes taken during the war generally remained in the hands of their captors who—after paying the state its share—could do with them as they pleased. Slaves who had been seized, however, posed a much thornier legal problem.<sup>26</sup>

In 1784, the Bahamian House of Assembly raised what it considered to be a sensitive issue with the colony's governor. During the recently concluded war, slaves who "belonged" to British, French, Spanish, Dutch, and American owners had all been captured. After the war, many of the slaves so acquired were offered for sale, despite their status as stolen property, and often without regard to promises of freedom that had been made to them during the hostilities. The sales of such slaves were deemed legal in some instances. In other cases, local officials had questions about whether or not disposing of confiscated slave property without reference to the original owner—even that which had been legally taken as the spoils of war—was permissible under the law. As Bahamian Governor John Maxwell elaborated:

Great bargains have been obtained to the very great prejudice of the first possessors, who are now our friends, and in particular with respect to these slaves so fraudulently obtained to the Disgrace of Christians. (In the discussion of this subject) two questions arise, 1st Is the property in the slave so acquired Legal? 2nd Are we bound to Honour to return the slave to the first owner? <sup>27</sup>

In other words, should French, Spanish, or American slaves seized and sold in the Bahamas during the war be returned to their original owners in Hispaniola or on the mainland now that peace had been restored? To what degree must slave property revert to its original owners, even property that was "legally" obtained during wartime?

In these cases, each state's best interests appeared unclear. If at least part of governmental authority derived from its ability to protect property, as both Locke and Smith argued, then every polity needed to protect the property of its residents. For example, British colonies needed to secure the return of British property to British subjects. If a régime could not do so, then it might be destabilized, much as Elletson and Symmer feared in the earlier examples. The precariousness of a neighboring colony's government was not, as it might initially seem, always desirable. In some instances, a stable neighbor—even one controlled by a hostile European power—would be welcome in the neighborhood. This was especially the case after war had thrown off the balance.

Regional security sometimes outweighed other considerations. The Caribbean's island geography might suggest that isolation could easily arise.

But both licit and illicit commerce regularly joined the various colonies to each other. In societies with large black majorities, maintaining order governed local actions. Though many islands could have profited from increased slave labor, their governments had to take into account what might happen when Africans arrived from elsewhere in the hemisphere. Slaves who had lived in one colony, and who later resided in another, posed a danger to the receiving society because they possessed information about alternative politics and material conditions. Allowing them to remain in the new society risked contaminating the slaves already there. Moreover, because war profoundly disrupted illicit and legal commercial intercourse, colonies often sought stable neighbors during peace. By keeping slaves from their home colonies after an armistice, one island's government might risk the destabilization of another government by not allowing it to recover its residents' property. Both external régimes and internal stability were therefore threatened when slaves captured in war were not returned.

Two sets of competing negotiations therefore needed to be reconciled. First, the negotiation between local government and those whom it governed required the government to support its residents' demands to protect property in slaves, even while it ignored other activities of dubious legality that involved non-slave property. Second, appeals for the return of slaves needed to be weighed against the impact that non-return might generate for the international system. Sending slaves back after a legal wartime capture, could in fact *bolster* the legitimacy of the government that demanded them. With the resulting increased regional stability would come easier access to non-slave contraband. In principle, the metropolises carried on these negotiations in Europe. In practice, however, local authorities served as mediators and did their own balancing acts, which, in turn, led to a far more comfortable reality for those who lived in the colonies.<sup>28</sup>

The Bahamian Assembly replied to the Governor's query within a week and predictably took an unambiguous, though clever stand. Every state, the legislature argued, must vigorously protect slave property. Inanimate objects could be disposed of with little worry; slaves could not. The sale of Africans who had been clandestinely or fraudulently obtained, whether captured in war, or falsely promised freedom, therefore needed to be prevented. In the assembly's view, laws *already* existed to effect this:

there can be no good property in slaves so acquired and when a proper Claimer appears they must undoubtedly be restored to their proper Owner. But as we apprehend the Laws already in force have provided a sufficient Remedy against the evil above mentioned, We are of opinion that it would be unnecessary to pass any new Act for that purpose....<sup>29</sup>

The Assembly thus did not directly confront the “flagitious” practice of disposing of captured and stolen slaves. At once it said that the laws on the books *were sufficient* to stop those who sought profits from the sale of property that did not belong to them and, perhaps more importantly, it placed the burden of proof, not at all insignificant, on the original owner. To obtain their stolen or confiscated property, owners needed to trace it to the Bahamas, knowing that it could likely be sold if they did not hastily do so.<sup>30</sup> Such a task would have been much more onerous in the confusion that war created than during a prolonged period of peace. Possession thus meant more than the law itself. In this specific case, government appeared to be the great protector of property—no slaves who had been previously owned could be legally disposed of without the original owners’ consent. At the same time, local officials avoided confrontations with privateers—who sought to keep their rewards for faithful wartime service. The Bahamian Legislature thus negotiated its way out of a potentially explosive situation. Its ultimate success, however, depended upon the London government allowing it to do so. Metropolitan approval, in turn, depended upon the level of external pressure, in the form of diplomatic remonstrances, it faced.

The 1780s therefore saw many colonial governments in negotiations, with both each other and their own citizenries, over the disposition of such wartime contraband. In many instances, these deliberations dragged on for years—often with little or no result. Indeed, the cases proved so numerous and received so much attention in imperial correspondence that they may have, among other factors, influenced the later Bourbon reforms.<sup>31</sup> The King of Spain’s 1789 cedula decreed that any foreign-owned black found in a Spanish colony would not be given protection. This controverted local practice, as seen in the 1767 Cuba case. Moreover, the King also ordered that

such run away negroes as are there, notwithstanding they may have received the protection of the Church, shall be forthwith returned to the owners who may claim them.<sup>32</sup>

The King’s decision to give slave property outside Spain preference over his subject’s rights may appear odd. But in the context of 1789, the cedula reflects the role of the larger international system. Maintaining peace with Britain, with its nearby colonies and awe-inspiring navy, took precedence over protecting the property, admittedly of questionable origin, of Spain’s American subjects. The threat to Spain from within, from locals who stood to lose non-Spanish slave property, paled in comparison to the threat posed by the British navy.<sup>33</sup> Though Spain may well have been on the American Revolution’s winning side, its resources were stretched to the treasury’s limit.<sup>34</sup> Moreover, the Spanish government in Seville had decided to clean up what it considered

to be colonial corruption. Adhering to preexisting property rights and consistently enforcing statutes was an easy way to do so. Local officials in Spanish America thus found themselves in far-less flexible positions than ever before.

With the return of peace, old patterns of illegal property transactions resumed and new commerce in it emerged. Once again, those exchanges in which slaves were involved provoked both the most notice and the most consistently inflexible responses. In 1790, for example, James Hott accused Bartholomew Redmon of clandestinely removing slaves from Jamaica over an indeterminate period of time and selling them elsewhere in the Atlantic world. With the profits from these sales, Hott claimed, Captain Redmon bought foreign goods that he then sold at New Providence. Hott chose to make his accusation public, by sending it to the *Bahama Gazette* in Nassau where, he supposed, Redmon would have had a great deal of business. Hott, however, was unknown to the paper's publishers, so the *Gazette* took no official position. "Bartholomew Redmon, a smugler on the Northside of your Island in the Sloop Polly & Jeanne of Bermuda," the paper reported

has from Time to Time Taken from off the Plantations Some Negroes without the consent of their owners and carried them to some parts of [His]Spanola and Turks Islands and disposed of them there as his owne property, and [he] is now in some of the Ports of [His]Spanola loding with Brandy wine &c for the North side of your Island....<sup>35</sup>

The letter went on to accuse Redmon of smuggling through a reasonably common mechanism. The captain, he claimed, had legally obtained a droghing pass. This document allowed him to trade along intra-coastal routes. Smugglers regularly used such vouchers to avoid stopping and clearing at the custom house, especially if they were carrying contraband that they had acquired abroad. Hott maintained that Redmon used his droghing pass to remove slaves from a colony while claiming that he was shipping them elsewhere within the same colony.

Hott's accusation did not escape rebuttal. Once again, the *Gazette* published the retort because neither the accuser nor the accused was known to the Publisher. The paper suggested, moreover, that readers should be just as capable of judging the merits of the positions as were the publishers.<sup>36</sup> Redmon's reply to Hott appeared in the very next *Gazette*. In it, Redmon denounced his accuser:

I now positively declare I never was in N[ew] Providence or do I know of any such person as James Hott — or that I ever carry'd off, any island, any Negroes, but my own, & such others as I had a right to do in the Line of my profession [emphasis mine] that, for many years bypast I have followed with an unsullied Reputation....<sup>37</sup>

Redmon later threatened his accuser with legal action; he demonstrated either the exasperation of a man who had been exposed or the self-righteousness of someone who had been unjustly charged. But which was it?

Writing from Titchfield in Jamaica, the terms Redmon used in his letter do not actually preclude his having been a smuggler. He admitted to “carrying off” blacks; these either belonged to him or were “such others as I had a right to do in the line of my profession.” The text could be construed as an admission of guilt. But perhaps a more plausible explanation is that Redmon’s work as a sea captain required him constantly to be looking for laborers. The high population of blacks in the West Indies, along with their debased legal status, made them readily available for such work.<sup>38</sup> Recruitment of these laborers could have provided easy cover for their illegal transportation to other colonies. While it might have been legal for these blacks to work on board a ship, it was illegal for them to be sold to another owner who might cause them to disappear without a trace. Hott’s accusation and Redmon’s rebuttal demonstrate government impotence to police this traffic effectively.<sup>39</sup>

Most residents of the eighteenth-century Atlantic world protested about illegal traders only infrequently. Locals did not inform authorities that smuggled goods were in the market because, in general, these commodities cost less than legally obtained articles; in many instances, contraband also allowed a consistent supply of goods that would otherwise have been scarce. As a result, government could not count on much localized and/or popular support or assistance in policing the region. The vast majority of cases about which we know anything come from colonial officials communicating with their metropolitan superiors.<sup>40</sup>

In the Redmon/Hott case, however, the complaints against smugglers came from the “bottom up.” Hott was neither a government official nor, so far as we know, a member of the Bahamian or Jamaican elites. Middling or lower class men protested because this case involved slaves. The extralegal movement of Africans affected people of all ranks. Slave owners were universally opposed to losing human property. Merchants considered slaves to be real estate and therefore needed to make sure that they were secured. And, of course, Africans insured that even the lowest whites would have someone lower than them on the socioeconomic scale. Those who stole slaves threatened the superior positions of small whites—at least in principle.<sup>41</sup> These concerns would have been especially important in the aftermath of war, given the return to a peaceful, perhaps less robust economy.

The year 1792 proved an eventful one for the Atlantic world. With France in turmoil, an uprising against white colonial rule broke out in Saint Domingue. After 1792 and the commencement of hostilities, the laws became difficult—at best—to enforce.<sup>42</sup> The British Parliament, in 1792, was in the midst of a protracted, and oftentimes, heated disagreement about what

to do with slavery. Peace, as usual in the eighteenth century, was short-lived. Jamaican colonists—at least on the north coast—took advantage of Europe's preoccupations to smuggle slaves from Saint Domingue into their own colony. Law enforcement officials in Jamaica believed that some of those slaves ended up on Zachary Bayly's plantation in St. Mary's Parish.<sup>43</sup>

French colonists on Hispaniola were selling slaves at a loss. In a desperate effort to control black access to revolutionary ideas, white residents in Saint Domingue exported the slaves whom they deemed irredeemable troublemakers. They hoped thus to prevent the "contamination" of the rest of their property. In the crisis, however, they flaunted their own laws—rules designed to keep slave property within the colony by prohibiting its easy disposal outside of it. The illegal exportation of slaves exacerbated British fears; colonists did not want revolutionary ideas to spread to their own colonies.<sup>44</sup> If, on the other hand, they acted to keep French slaves out of British territory, they might further destabilize Saint Domingue—the largest of the region's sugar economies—abetting a potentially catastrophic change to the international system.<sup>45</sup> Though there were economic reasons to justify a new commerce, maintaining social stability and regional equilibrium took precedence.

St. Mary's, St. Ann's, and St. James's parishes (Jamaica) were all conveniently located for ships sailing south from Cuba and Hispaniola. Because of the prevailing winds, however, northward voyages from Jamaica would have taken significantly longer. Sometime in mid- or late July 1792, a schooner carrying twenty-one slaves from Saint Domingue entered Port Maria, Jamaica, under the cloak of darkness and unloaded its cargo. All of the slaves on board went immediately to Zachary Bayly's local estates. The ship's captain, several eyewitnesses agreed, then loaded local produce to be sold in Saint Domingue. Soon after, the ship set sail for Cap François, later Cap Haïtien, to dispose of the produce and take on more slaves.<sup>46</sup>

In mid-August 1792, a special Court of Sessions convened in St. Mary's parish, Jamaica. The court learned that the ship had indeed returned to Saint Domingue. Its captain had there purchased about sixty more slaves. As he prepared to leave the French colony, "he was accidentally killed by the discharge of his own pistol, as he was ascending the companion ladder in coming out of the cabin...."<sup>47</sup> It was, perhaps, a fitting way for a smuggler to die—by his own carelessness while on an illegal mission.

In order to prevent this second venture from failing (and in order to enrich himself), one Captain Howell, a Charleston-based seaman, in Saint Domingue to trade a cargo, of rice perhaps, from Charleston, agreed to bring the illegally-obtained slaves to Jamaica. When he got there, the slaves again found their way to Zachary Bayly's plantations. The Africans never passed through customs in Jamaica, thereby violating local and imperial regulations. Captain Howell claimed to those who observed him unloading his cargo on

the north shore that he had come from Kingston, where he had cleared the slaves; he produced a droghing pass to prove it. He lied, knowing that few residents would bother to make either the sixty-mile journey over the mountains or travel around the coast to verify his story.

His ruse nearly worked. His would-be critics were quieted until several witnesses overheard "the negroes speak the same broken French as our negroes speak broken English."<sup>48</sup> A Jamaican plantation owner accosted one of the slaves using French. The slave responded properly, with all due respect—in French. Sensing that he had been exposed—it would have been hard to find legally-obtained French-speaking slaves in Kingston—Howell admitted his activities; within twenty-four hours, before local authorities could arrest him, he fled the island. Before they returned to Charleston, members of his crew explained that "negroes are dog-cheap at the Cape (Cap François), the prison ships quite full, and provisions very dear."<sup>49</sup> Those slaves sold for export had become troublesome to the still tenuous French regime, which welcomed their transportation from the colony, even though technically illegal. Traders could exchange the contraband for much-needed provisions in neighboring entrepôts. In hindsight, of course, the French régime in Saint Domingue failed to eliminate its most difficult slaves; discontent was widespread throughout the African population and war soon erupted across the colony. Blacks, with the mulattos who eventually joined them, took up arms against whites.<sup>50</sup> They overthrew a government that both depended upon slave labor and protected slaveowners' property, replacing it with a state that quickly became a hemispheric pariah.

The entrance of French slaves into Jamaica violated the British Navigation Acts on two levels. In the first place, Captain Howell's ship was not a British bottom—it came from the United States and had, presumably, an American crew. More importantly, however, no duties were paid on these blacks as they were imported directly into the hands of their new owner, Zachary Bayly. A direct affront to governmental authority, one of the state's own subjects (with a citizen of another state acting complicitously) deprived government revenue that was its due.

The Jamaican government's reaction to the exposure of clandestine commerce should by now come as no surprise. It left Bayly alone. Given his stature within the community, Bayly's support for government was required. Had he been publicly humiliated or privately excoriated, Bayly could have caused other men of property, presumably his friends and associates, to withdraw their support from the island's rulers. Local officials might not have survived such a challenge. In this instance, moreover, sending the slaves back to Saint Domingue would have accomplished nothing; the old régime there was already disintegrating and could not be propped up. Weighing the letter of the law against its property-protecting spirit, Jamaican officials yielded, ignoring the illegal im-

portation and securing domestic harmony—at least momentarily. Had the shoe been on the other foot—for example had Bayly's slaves been the ones illegally removed from him, local authorities would have been far more vigorous in their efforts to secure the return of his property.

All of these illustrations reveal that in the colonies' climate of endemic smuggling, slaves were the only property that provoked a consistent governmental response. Both local populations and their leaders understood the value in protecting Africans from entering the illicit marketplace. Each group had its own reasons for doing so; the results, however, demonstrated unanimity. Planter elites needed African labor to produce agricultural commodities that, in turn, provided them with their income. These revenues guaranteed expansion and accumulation. Merchants, who were otherwise little concerned with stopping illicit commerce, sought the protection of slave labor because the traders considered slaves to be collateral, like other real estate. The state therefore needed to guarantee their security, particularly since merchants had gotten into the habit of financing the state's wars. *Petits blancs* wanted slave property to be secured in order to guarantee their own upward mobility or, perhaps, limit downward mobility.

Governmental authorities did not hesitate to demand enforcement of the laws where slaves were concerned for two reasons: the first is that the state depended upon the support of local populations in order to exist. The second, and equally significant, reason is that tolerating illicit transactions involved "national security" risks. Either local slaves would be contaminated with each influx of new Africans, with their knowledge of other colonies, or allowing slaves to enter would destabilize the *sending* colony, which itself could lead to increased regional conflict. As a result, local officials did everything in their power to protect themselves from this particular hidden marketplace.

War posed a unique problem, though conflict in the eighteenth century was utterly unexceptional. Governments that otherwise vigorously sought to protect slaves now seized them with great regularity and disposed of their human prizes with little thought about either original ownership or regional security. This again points to the negotiations that took place between local populations and governments. The state needed popular support in order successfully to prosecute a war; one way to achieve this end was to allow civilians to profit from the hostilities. Encouraging privateers, thus, led to state complicity in breaking the very rules that it was so keen to preserve at other times. The return to peace, as we have seen, required some legal gymnastics.

Such gymnastics were not at all uncommon. Indeed, they characterized the ways in which government and empire operated in the eighteenth century. Despite a slowly growing rhetoric about essential governmental functions, the idea of the state and its authority was anything but fixed. Though policies and laws seemed boldly constructed, applying them uniformly and effectively was

utterly impossible. Colonial populations in the Caribbean, and elsewhere in the Americas, regularly subverted or contravened metropolitan authority when it went against local interests. Mediated by imperial representatives in America, disputes rarely became known in London, Paris, or Seville. European governments became involved only when its bureaucrats perceived an attack upon what they considered fundamental governmental prerogatives. A series of complex negotiations then took place over the degree to which actual colony-metropole interactions would resemble those in the heads of the planners. Slavery was one area where minds could converge, at least until the latter half of the 1830s, when a new series of negotiations began with abolition.

## Notes

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1. Archibald Campbell claimed that twenty of the thirty slaves belonged to him while Samuel Whitehorne claimed the remaining ten. Both of these men could be counted among the larger land and slaveowners of St. Ann's parish. They were, as well, politically important. Campbell would serve as Governor from 1781-84 and Whitehorne served on the Governor's Council. The slaves eventually ended up in St. Jago (Santiago) de Cuba, Cuba's second largest city after Havana. See Roger Hope Elletson to the Earl of Shelburne, 17 May 1767, CO 137/62, pp. 276-78, PRO, Kew.
2. Elletson's action was in many ways an attempt to create an insurance policy. Bucareli responded to Elletson by telling him that he

could not return the missing slaves, who just happened to be building fortifications at Santiago de Cuba, until he received an indication of what "His Majesty's pleasure" towards the slaves would be. This was a typical stalling technique, used by all of the colonial governors when they did not wish to take action. Going over Bucareli's head, Elletson decided, would at least guarantee that even if Bucareli did not report the problem, as he said he would, Spanish authorities would know of it. For Bucareli's full response to Elletson, see CO 137/62, pp. 280-81, PRO.

3. Roger Hope Elletson to the Earl of Shelburne, 17 May 1767, CO 137/62, p. 276, PRO.

4. Regular trading voyages, operating outside both English and Spanish commercial regulations, took place between Jamaica and Cuba. It is possible that the slaves were taken—unlawfully—by Spanish traders on the Jamaican coast in exchange for other commodities. We will never know the entire story here; what is important for us to see however is that Elletson dwelled *only* on the issue of what happened to the slaves once they were in Cuba. It was much safer for him to do so than to raise the issues of what Spanish traders were doing on the Jamaican coast or how slaves could otherwise

get access to a boat. For a brief discussion of the contraband commerce in slaves between Jamaica and Cuba, see David R. Murray, *Odious Commerce: Britain, Spain, and the Abolition of the Cuban Slave Trade* (Cambridge, 1980), p. 7.

5. Most eighteenth-century political and economic theorists made the links between property, the state, and liberty quite explicit. The state derived its authority from those who held property; it needed, therefore, to keep these individuals happy. Law became the instrument through which the state secured private property. The degree of its enforcement, thus, was directly linked to the degree of property protection which would result. For a discussion of concepts of early modern property, see John Brewer and Susan Staves (eds.), *Early Modern Conceptions of Property*, (London, 1995), esp. pp. 3-13. Also see John Locke, *Two Treatises on Government* (London, 1728), 5th edition, Book II, Chs. iv-v, pp. 157-175. John Philip Reid, in *The Concept of Liberty in the Age of the American Revolution* (Chicago, 1988), argues that "the security of property, not property itself, was what ensured British liberty." (p. 5). William Blackstone, *Commentaries on the Laws of England: A Facsimile of the First Edition of 1765-1769* (Chicago, 1979) also discusses the relationship of property to the state (v.1, p. 138ff; v.2, pp 195-96).

6. Indeed, the American Revolution, as well as several of the Latin American independence movements, was led by people with property withdrawing their support of government as it failed to protect their perceived rights to acquire and accumulate property. See, for example, Jennifer Nedelsky, *Private Property and the Limits of American Constitutionalism: The Madisonian Framework and its Legacy* (Chicago, 1990) and John Lynch, "The Origins of Spanish American Independence," in *The Cambridge History of Latin America*, ed. Leslie Bethell, (Cambridge, 1984), v.4, pp. 3-50.

7. I discuss this process with respect to Rhode Island and Dominica in the forthcoming, "Negotiating with the State: Smuggling in Rhode Island and Dominica, 1768-1800."

8. Locke, *Two Treatises*, Book 2, sections 221-222.

9. See Blackstone's discussion of possession as

one of the major mechanisms for determining the ownership of property in *Commentaries*, v.2, pp. 195-199.

10. Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, eds. R.H. Campbell and A.S. Skinner (Oxford, 1976), v.2, p. 710.

11. A good general introduction to this subject can be found in Oliver Dickerson, *The Navigation Acts and the American Revolution* (Philadelphia, 1951), esp. ch. 3.

12. For a discussion of some of the legal gymnastics that accompanied making human beings property, see P.J. Marshall, "Parliament and property rights in the late eighteenth-century British Empire," in Brewer and Staves (eds.), *Early Modern Concepts of Property*, pp. 530-544. Also see Nedelsky, *Private Property*, p. 155, and Brewer and Staves, p. 13.

13. I have not yet checked the AGI in Seville; inspection of these records may reveal the case's final disposition.

14. See, for example, J.R. McNeill, *Atlantic Empires of France and Spain: Louisbourg and Havana, 1700-1763* (Chapel Hill, 1985), pp. 4-6, Lynch, "Origins of Spanish American Independence," pp. 8-12, Hubert H.S. Aimes, *A History of Slavery in Cuba, 1511-1868*, pp. 17, 37-38, and Murray, *Odious Commerce*, pp. 5-8.

15. Note the differences between the slave laws on the French and British islands first. Symmer likely would have known this as he had himself been accused of being an extralegal trader at Monte Christi (Hispaniola) in 1763. See H.E. Sadler, *Turks Islands Landfall* (Turks Islands, 1980?), v.4, pp. 32-34.

16. Symmer's efficacy as an Agent was already being questioned by other parties. The position he held [King's Agent] was designed to be under the control of the Bahamian legislature, yet he often ignored that body's wishes. The Bahamas Colonial Office Papers are full of charges and countercharges between Symmer and the legislature. A history of the dispute can be found in Papers Relating to the Bahama Islands (Codex =Eng 75-76, vols. 1-2), John Carter Brown Library, Providence.

17. Andrew Symmer to Lord Hillsborough, 12 November 1770, CO 23/20, p. 1, PRO.

18. Andrew Symmer frequently found him-

self at odds with both Britain's Bahamian Governor and the British bureaucracy itself. Symmer did not like being told what to do from Nassau and constantly strove to get himself an appointment as governor of a new colony. For examples of this, see Andrew Symmer to Hillsborough, 5 January 1770, CO 23/19, p. 32 and Andrew Symmer to Whitehall, 27 June 1768, CO 23/17, p. 55, PRO.

19. Slaves were, more often than not in the eighteenth century, considered to be real estate and not personal property; hence they could be used as security. See P.J. Marshall, "Parliament and Property Rights," p. 536, and the discussion in Thomas D. Morris, *Southern Slavery and the Law, 1619-1860* (Chapel Hill, 1996), p. 66 ff.

20. See John Brewer, *The Sinews of Power: War, Money, and the English State, 1688-1783* (New York, 1989), esp. pp. 206-17.

21. One of the most thorough discussions of the trade laws and their application to America, along with law cases that clarified problems in the law, is John Reeve, *A History of Shipping and Navigation* (London, 1792).

22. See Nedelsky, *Private Property*, p. 153, Brewer, *Sinews of Power*, op. cit., and David Brion Davis, *The Problem of Slavery in the Age of Revolution, 1700-1823* (Ithaca, 1975), p. 351 *passim*, p. 471 ff.

23. Dartmouth to Earl of Rochford, 27 August 1774, CO 5/138/2, p. 386, PRO.

24. See Marshall, "Parliament and Property Rights," p. 532.

25. Another example of this would have been granting foodstuffs from foreign territories to be imported, in order that the population might continue to subsist as normal supply routes were cut during the periods of hostility. See, for example, Richard Sheridan, "The Crisis of Slave Subsistence in the British West Indies during and after the American Revolution," *William and Mary Quarterly* 33 (1976), pp. 615-641.

26. See Robert W. Gordon, "Paradoxical Property Rights," in Brewer and Staves (eds), *Early Modern Conceptions of Property* (London, 1985), p. 96 for a brief discussion of competing or "fragmented" property rights.

27. Governor John Maxwell to Assembly, 10

May 1784, Votes of the House of Assembly, Archives of the Bahamas, Nassau.

28. Such negotiations always took place during years of peace; war years allowed every kind of behavior.

29. Notes of the House of Assembly, 17 May 1784, p. 25, Archives of the Bahamas.

30. If the slaves had already been sold, owners might have been able to get some assistance with which to pursue their claims. Success was by no means guaranteed.

31. The Bourbon Reforms are discussed in John Lynch, *Spanish colonial Administration, 1782-1810* (London, 1958), pp. 8-22. Also see C.H. Haring, *Trade and Navigation between Spain and the Indies in the Time of the Hapsburgs* (Cambridge, MA, 1918), pp. 123-154, 201-30 and Arthur L. Stinchcombe, *Sugar Island Slavery in the Age of Enlightenment: The Political Economy of the Caribbean World* (Princeton, 1995), pp. 202, 313.

32. See *Bahama Gazette*, 25 July -1 August 1789. The Cedula itself is dated 28 February 1789.

33. This came at the height of the Bourbon reforms that sought to redistribute the relationship between church, state, and society in the Spanish empire. As a result, it seems clear that this decision would alienate the creole ruling classes in the colonies. See Lynch, "The Origins of Spanish American Independence," p. 8.

34. See John Lynch, *Bourbon Spain, 1700-1808*, pp. 321-28, 341-47. Spain had a much larger military force but a very high cost to its treasury. Also see Jacques Barbie and Herbert Klein, "Revolutionary Wars and Public Finances in the Madrid Treasury," *Journal of Economic History* 41 (1981), pp. 315-39.

35. See *Bahama Gazette*, 4-8 June 1790.

36. It goes without saying that an appeal was being made for local residents to reject the purchase of less expensive contraband articles. The complainant may well have been a trader who played by the British government's rules, and whose profits would have diminished through competition with smugglers. See Anonymous, *The Duty of Paying Custom and the Sinfulness of Importing Goods Clandestinely and of Buying Goods that are so Imported*, 3rd Edition (London, 1750).

37. *Bahama Gazette*, 8-12 June 1790.

38. For one example see *Equiano's Travels*, ed. Paul Edwards (New York, 1967), pp. 63-90, et passim.

39. Neither Redmon nor Hott appears to have brought a court case, at least in the Bahamas, preferring instead to try the case in the court of public opinion.

40. These cases were the ones that got caught—either because the violations were so flagrant or because circumstances conspired against the illegal venture. That we know anything at all, in fact, makes them quite unusual.

41. This argument is set forth in Edmund Morgan, *American Slavery, American Freedom* (New York, 1975). It is also worth mentioning here that the opposite of liberty, a concept that was dependent upon the protection of property, was slavery. Opponents of British government's American policy, for example, claimed that they were becoming slaves. See Nedelsky, *Private Property*, p. 153.

42. See David Geggus, "The Haitian Revolution," in Franklin Knight and Colin Palmer (eds.), *The Modern Caribbean* (Chapel Hill, 1989), pp. 21-50, for an excellent discussion of the changes which took place during this period. Also see Dale Tomich, *Slavery in the Circuit of Sugar: Martinique and the World Economy, 1830-1848* (Baltimore, 1990), pp.

14-21.

43. This Zachary Bayly was almost certainly the son of the Zachary Bayly who died in 1769. The father had served as Chief Magistrate for St. Mary's Parish and as a member of the Island's Privy Council. He was a wealthy man and his son would have inherited much of his property. The 1754 Jamaica Landholder's List does not list Bayly as having any separately owned property in the parish. It does, however, indicate that Bayly and Ellsworth owned 250 acres in St. Mary's parish. Bayly held 1,318 acres in three other parishes in that year and about 4000 acres in partnership with Ellsworth. See Jamaica landholder's list, CO 142/31, PRO.

44. See Geggus, "The Haitian Revolution," pp. 25-26.

45. See Robert Louis Stein, *The French Sugar Business in the Eighteenth Century* (Baton Rouge, 1988) and *The French Slave Trade in the Eighteenth Century: An Old Regime Business* (Madison, 1979) for discussions on smuggling and the end of the slave trade.

46. See *Bahama Gazette*, 28-31 August 1792.

47. *Ibid.*

48. *Ibid.*

49. *Ibid.*

50. See Geggus, "The Haitian Revolution," p. 31 ff.