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# THE *SIETE PARTIDAS*: A FRAMEWORK FOR PHILANTHROPY AND COERCION DURING THE AMELIORATION EXPERIMENT IN TRINIDAD, 1823-34

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*Claudius Fergus*

## ABSTRACT

In 1823 the British Anti-Slavery Society initiated a historic debate in Parliament on ameliorating the conditions of slaves in their West Indian colonies via Imperial law. Because of its unique constitutional status at the time, Trinidad was chosen as the nursery for the launch of that experiment. One of the most compelling arguments for optimism was the widespread assumption of the humaneness of Spanish slave laws. The article examines the background to the selection of Spanish law for the reform of British slavery. It argues that Spanish law had failed to meet the standards of British slavery reform even within the first decade of Trinidad becoming a British colony. It further argues that its selection as a standard for Britain's first ever slave code during the period of Amelioration was progressive in respect of civil rights but anachronistic in terms judicial violence, whether in terms of estate management or strictly criminal matters. The article further explores the new forms of punishment of enslaved persons under the British code as characteristically British, consistent with contemporary race relations, but tempered by a genuine attempt to carry on the spirit of Spanish law, which recognised the humanity of the enslaved.

**Keywords:** slave laws, amelioration, *Siete Partidas*, colony of experiment, enslaved, Trinidad

## RESUMEN

En 1823, mediante leyes imperiales, la Sociedad Abolicionista Británica inició un histórico debate en el Parlamento relacionado con el mejoramiento de las condiciones de los esclavos en las colonias caribeñas de las Indias Occidentales. Trinidad fue seleccionada como la cuna de este experimento debido a su particular estado constitucional de la época. Uno de los principales argumentos para el optimismo fue la suposición generalizada acerca del humanitarismo de las leyes esclavistas españolas. Este artículo examina los antecedentes que llevaron a la selección de la ley española para la reforma de la esclavitud británica. Expone que la ley española había fallado en satisfacer los criterios de la reforma esclavista británica, inclusive durante la primera década

en que Trinidad se convirtió en colonia británica. También expone que la selección de dicha ley durante el período de mejoramiento fue progresista en cuanto a los derechos civiles, pero anacrónica en términos de violencia judicial, ya sea en términos de la administración del estado o en asuntos estrictamente criminales. El artículo también explora las nuevas formas de castigo para los esclavos bajo el código británico como característicamente británicas, consistentes con las relaciones raciales de la época, pero atenuadas por el genuino intento de mantener el espíritu de la ley española, que reconocía la humanidad de los esclavizados.

**Palabras clave:** códigos esclavistas, mejoramiento, *Siete Partidas*, colonia de experimentación, esclavos, Trinidad.

### RÉSUMÉ

Grâce aux lois du régime impériaux, en 1823, la société abolitionniste britannique a entamé un débat historique au parlement sur l'amélioration des conditions des esclaves dans les colonies caribéennes. A cause de son statut particulier, un état constitutionnel de l'époque, Trinidad a été choisie pour être le berceau de cette expérience. L'un des arguments principaux était la supposition généralisée par l'humanisme des lois esclavagistes espagnoles. Cet article examine, d'une part, les aspects qui ont précédés la sélection des lois espagnoles sur la réforme de l'esclavage britannique et prouve leurs faiblesses dans la satisfaction des critères relatifs à cette réforme, spécialement durant la première décennie de la transformation de Trinidad en colonie britannique; d'autre part, explique la sélection du territoire trinitadien comme une notion du premier code civil de l'esclavage durant la période d'amélioration progressiste des droits civils; mais, de façon anachronique sur la violence judiciaire dans l'administration de l'état ou strictement dans les affaires criminelles. L'article explore aussi les nouvelles formes de punition pour les esclaves selon le code civil britannique, consistant dans les relations raciales de l'époque, mais atténué par la tentative de maintenir les principes de la loi espagnole qui considérait l'aspect humanitaire des esclaves.

**Mots-clés:** codes esclavagistes, amélioration, *Siete Partidas*, colonie d'expérimentation, esclaves, Trinidad.

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## Introduction

Geo-politically, the island of Trinidad was an extension of the Spanish Main and administered as a province of Venezuela, until its capture by Britain in 1797. As with wartime captures, many features of the island's constitution were retained pending formal cession in 1802. However, the climate of change reshaping early nineteenth-century British colonialism facilitated a much longer continuation of the constitutions of this class of colonies. For Trinidad, this meant the retention of Spanish law and court apparatus, with very little modification throughout the period of slavery. The Legal Commission of Enquiry into Civil and Criminal Justice in the West Indies (1824-29) provided a comprehensive list of Spanish laws then current in Trinidad including *Derecho Real de Castilla*; *Fuero Juzgo*; *Fuero Viejo de Castilla*; *Fuero Real de Espana*; *Siete Partidas*; *Leyes de Estilo*; *Ordenamiento Real*; *Nueva Recopilación de Castilla*; *Novisima Recopilación*; and *Recopilación de las Leyes de las Indias*.<sup>1</sup> An official report at the turn of the century had included other codes such as the *Curia Philippica*, *Bobadilla* and *Herrera*.<sup>2</sup> Notwithstanding the inclusion of slave codes in the list of legal digests and an experimental slave code under Britain's first Governor, Colonel Thomas Picton,<sup>3</sup> in actuality, enslaved persons committing "domestic offences" were punished arbitrarily by their masters. Offences of enslaved persons deemed crimes against the State, ranging from maronage to rebellion, were adjudicated in the criminal courts under the *Siete Partidas* and *Recopilación*.

In 1823, Parliament launched its Amelioration experiment, which it greatly expanded by an Order in Council dated 10 March 1824, Britain's first imperial slave code.<sup>4</sup> Amelioration was a synthesis of British philanthropy and Spanish law and jurisprudence, driven by the imperative of transforming Caribbean colonies into economically competitive enterprises. Indeed, Amelioration had originated in mid-eighteenth century Barbados and Jamaica for purely economic reasons. According to Dunn, amelioration was "a great discovery" of English sugar planters:

By funneling a small part of the money they had been spending on new slaves into ameliorating the living conditions of those they already had, they could significantly reduce the rate of natural decrease within the West Indian population. At Codrington and elsewhere the planters launched a new policy of "amelioration," which gradually raised the Negro birth rate, lowered the Negro death rate, freed the slaveholders from dependence on the African slave trade, and cut costs.<sup>5</sup>

The Imperial Government's adoption of amelioration was essentially to counter the demographic fallout from the abolition of the transatlantic slave trade. Dubbed "the colony of experiment" for over two decades,

Trinidad was the natural choice as the nursery for the amelioration project. Imperial advisors chose to construct the experiment in official amelioration on Spanish slave laws, which enjoyed an inflated status for their humaneness within Britain's anti-slavery circles.

This essay argues that while the Amelioration Order in council enfranchised the enslaved class with unprecedented rights, the Imperial Government's flirtation with Spanish law was fatal for the Amelioration experiment, since coded violence embedded in Spanish colonial slave laws was irreconcilable with the demographic expectations of amelioration. Consequently, Britain's "Code Noir"—as the Amelioration Order in Council was commonly described—not only legalised the existing terror regime but also placed new instruments of cruelty in the hands of both plantership and the State. Another feature of the Amelioration that this essay engages was succinctly expressed by protesting planters in claiming that the experiment "appears to be subversive of the established order of society previously existing: which carries with it the anomaly of attempting to engraft the attributes of freedom upon a system of slavery."<sup>6</sup> This dichotomy had serious consequences for colonial slavery and the future of Britain's plantation system in the West Indies.

According to Patrick Nerhot, "the coherence of law is bound up with the idea that for any legal system there is only one ethics, one political doctrine that constitutes the foundation and justification for the law."<sup>7</sup> In Trinidad, this was clearly not the case from 1797 to 1834, especially during the last decade of this period. Although the "political doctrine" of colonial governance in Trinidad was settled by 1810 with the establishment of Crown Colony Government, the colony struggled to assimilate two different legal systems, Spanish and English, and two imperial culture-systems, Franco-Spanish Catholicism and English Protestantism. St. Lucia manifested a similar dichotomy between French and English; and, to a lesser extent, the mainland colony of Demerara which syncretised English juridical culture with implants of pre-conquest Dutch law and judicature. On the other hand, the so-called Legislative Colonies were loosely bound to a mix of English common law and Acts of Parliament in operation prior to their respective settlement.<sup>8</sup>

Trinidad was known as an "island of experiment" even before its cession in 1802. Under Spanish governance, the "Royal Cedula of Population" of 1783 supported a liberal policy towards free black and coloured settlers who were recognised as property-owners and sharing common, though unequal, interests with propertied whites. Governor Chacon broke down other racial barriers which, elsewhere, set the free coloured as a marginal entity among the free population. One consequence of this demographic experiment was the resetting of social distinctions of Trinidad's plantation society to basically two classes, namely free and enslaved.

Under British rule the colony was consistently chosen as the nursery for various projects in the reconstruction of the colonial system. As early as 1802, it hosted the first experiment in free labour under the codename “creole colonisation,” a term coined by George Canning, a prominent figure in Parliament and Government. Colonial Secretary Lord Hobart quickly responded to the appeal for a new paradigm in colonialism by sending out despatches to Governor Picton to prepare Trinidad for “establishing a Colony of White Inhabitants of the labouring class for the purpose of bringing the Hilly and most healthy parts of the Country into early cultivation.”<sup>9</sup> The inducements extended to a wide spectrum of immigrants, including demobilised soldiers and Dissenters from Ireland and Scotland.<sup>10</sup> Under the proposed settlement scheme, each white corporal received 10 acres and each Lieutenant, 75 acres.<sup>11</sup> Dissenters would be contracted under five-year indentures with wages fixed by law; at the end of their contracts a token acreage would be granted as inducement for permanent residence in the island. Heads of such families would be given five acres; to every other free person, three acres; and for every child, two acres.<sup>12</sup> The colonisation scheme included emancipated Africans with military training, a master strategy to convert legendary “enemies” into allies.<sup>13</sup> The preferred Africans were the most trustworthy soldiers of the West India Regiments, who were expected to become small farmers after demobilisation.<sup>14</sup> Underpinning this landmark project was the selection of Trinidad as the premier stage for the launch of the first phase in the abolition of the slave trade, two years prior to the general Abolition Act.<sup>15</sup> The colony was also first into compulsory registration of the enslaved class. It was the first colony to experiment with emancipation, though limited in scope. From 1815 six Companies of discharged black soldiers, self-styled the “Merikins,” who had escaped servitude to serve in the British army during the Anglo-American War of 1812-1813, were disembarked in the island as free settlers under the protection of the Governor; each veteran was apportioned sixteen acres of land, the same as that granted to non-whites under the Population Cedula of 1783.<sup>16</sup> From 1816 discharged soldiers of the West India Regiment began to augment this class of demobilised settlers; they were accorded similar civil liberties and land grants.<sup>17</sup> Trinidad was also the first colony to be pushed headlong into the most contentious experiment of all, the amelioration of slavery under Britain’s first metropolitan slave code.<sup>18</sup>

Interestingly, Jamaica’s ameliorated “Consolidated Slave Act” of 1781 and the more advanced Grenada slave code (“The Guardian Act”) of 1784<sup>19</sup> were not incorporated in the construction of the Imperial Amelioration project; neither was any thought given to any of other British colony which had followed in the footsteps of Jamaica and Grenada

and reformed its slave laws by 1789; under directives from the Crown, these laws were further reformed between 1797 and 1800. Instead, the preferred model was the “*Siete Partidas*” the content of which was baffling even to some Spanish legal experts, and certainly a misty arena for British legislators and Colonial Office advisors. Indeed, the *Partidas* was a generic expression for Spanish slave laws, since in many instances the relevant code was often the *Recopilación* or some other legal compilation. Nonetheless, in order to understand Britain’s preference for Spanish law, it is necessary to review the legal status of the “Articles of Capitulation,” and the politicising of the *Partidas* during the first two decades of British rule in Trinidad.

### Background to the Mystique of Spanish Law

Although irrelevant to the peculiar race and class relations of the Americas, the thirteenth-century metropolitan Spanish code, *Las Siete Partidas*, was, in many respects, the *Magna Carta* of Spanish-American slave laws. However, as with later European colonies, Spanish colonial administrations made their own laws for the management of the enslaved class in their respective territories.<sup>20</sup> Not surprisingly, those were decidedly police laws, devoid of the legendary liberalism and humanism of the *Partidas*. In 1680, the plethora of colonial laws was assimilated to the metropolitan and compiled in a new Code, *La Recopilación de las Leyes de los Reynos de las Indias*, known even to the English as the *Recopilación*. This compilation comprised some 6,400 laws in nine books, divided into chapters or *títulos*, and further subdivided into statutes.<sup>21</sup> However, the available literature attests to the fact that the *Recopilación* was not cast in stone: one hundred years after its promulgation, the authority for settling matters relating to colonial slavery was once more located in a hodgepodge of slave codes, legal compilations and digests some of which contained serious contradictions.<sup>22</sup> Notwithstanding, the *Partidas* remained a legal buzzword up to the dissolution of the Spanish-American Empire, and was the ultimate authority in slavery matters.<sup>23</sup> Overall, however, as Franklyn Knight recognises, the treatment of enslaved persons was often at variance with metropolitan legislation regardless of the vigilance of colonial officials.<sup>24</sup>

Contrary to apologists for Spanish paternalism, Spanish slave laws contained many draconian measures long before the launch of Cuba’s sugar revolution. For example, the punishment prescribed by the *Recopilación* for seeking freedom by running away ranged from fifty strokes for a period of four days’ absence to two hundred strokes for four months’ absence and the death penalty if over six months.<sup>25</sup> For assaulting a white person, this law prescribed 100 lashes and the nailing of the hands for the

first offence; for a second offence, amputation.<sup>26</sup> For robbery, adultery with his mistress, rape or murder, an enslaved person was liable to mutilation and a slow, painful death.<sup>27</sup> According to early nineteenth-century observer, Pierre McCallum, all of these punishments were meted out to the enslaved in Trinidad under Thomas Picton.<sup>28</sup> Other authorities have shown that up to 1823, on the eve of Parliamentary Amelioration, these offences were listed as capital offences for the enslaved class only.

Prior to the launch of the plantation revolution under the 1783 *Cedula*, the number of enslaved Africans was too insignificant to warrant specialised slave laws. With the promise of land grants proportionate to the number of slaves owned, there was a rapid build-up of that class mainly on the estates of French-speaking colonists. A similar plantation orientation for Cuba led to the framing of a revised, simplified slave code in 1789, the "Royal *Cedula* for the Protection of Slaves in the Spanish Colonies," better known in Trinidad by its French pseudonym, the *Code Noir*. This legislation clearly reflected metropolitan and colonial attitudes to slavery. It incorporated both the servile laws of Old Castile and Imperial Spain. Moreover, it assimilated aspects of eighteenth-century French moral philosophy as well as the practical problems of treatment and management of enslaved Africans in the aftermath of the American Revolution. Indeed, it is interesting to note that the 1789 *Code Noir* was formulated by migrant proprietors from Grenada, a colony which had already broken new ground in establishing one of the earliest ameliorative slave codes in the British West Indies.

The new *Code Noir* recognised two levels of authority over the enslaved class; both were repressive. Enslaved persons were liable to a maximum of 25 stripes for "domestic" offences; in addition, they could be put in stocks, chains and iron rings on the authority of their owners; the cart-whip remained a lethal weapon in the hands of masters, though theoretically constrained "in such a manner as not to cause any contusion or effusion of blood [Clause 8]."<sup>29</sup> For more serious offences, the State could impose mutilation or death. Yet, Spanish laws governing slavery continued to hold a hypnotic appeal to British legislators and largely informed the long-sought-after amelioration of their slave system.

Interestingly, there has been a long history of uncertainty among historians and political commentators about the true status of this Ordinance. As early as 1812, leading advocate for English law, John Sanderson, observed, "It does not appear that such an Ordinance was in force in Trinidad, although it was enforced on the continent."<sup>30</sup> One hundred years later, John Brierley, a top government official, claimed that the 1789 *Cedula* or *Code Noir* "received the sanction of the King and Court at Madrid and was embodied accordingly in the laws of Trinidad."<sup>31</sup> Such thinking must have informed historian, Pierre-Gustave Louis Borde who



maintained the position, several decades after Brierley, that the *Cedula* “came into force” within the first few years of the Population *Cedula*.<sup>32</sup> This view continued to have currency in Linda Newson’s history of the island published four decades after Borde.<sup>33</sup> On the contrary, Franklyn Knight stated emphatically that the *Cedula* “was not even read in the colonies;”<sup>34</sup> indeed, the 1825 “Report of His Majesty’s Commissioners of Legal Inquiry on the Colony of Trinidad” did not list the *Cedula* among the legal compilations in force in the island. Notwithstanding, Knight conceded that the code had a major impact on all nineteenth-century Spanish legislation.<sup>35</sup>

The status of Spanish law in Trinidad was more vexatious to British creditors than to Trinidad proprietors. According to Carl Campbell, the insistence by some colonists that Spanish law was in force was really a ruse to continue to enjoy financial shelter from creditors, provided by Spanish law.<sup>36</sup> General Ralph Abercromby, leader of the expeditionary force to capture Trinidad, was a prime suspect for foisting Picton’s legalised tyranny on the Trinidad population. Picton was given a clear mandate that he was responsible to no-one so long as his powers were used to hold the island for Britain. However, Abercromby had simply authorized the new Governor to “execute Spanish law as well as you can.”<sup>37</sup> Picton’s actual confirmation as the legal successor to *Intendant* and Governor, José Maria Chacon, was the work of the British Crown.<sup>38</sup> The extent of this power was made clear to Picton by Christoval de Robles, a top-ranking Spanish official, who assured him that any action of his was bound to be lawful:

The circumstances of the conquest have combined in you the whole power of government. You are supreme political, criminal, civil, and military judge. You unite in your person the separate powers of the Governor, Tribunals, and Royal Audencia of Caracas; Our laws enable you to judge summarily without recusation or appeal. Circumstances like the present have been foreseen by our lawyers, who have provided remedies equal to the occasion. You are not shackled by forms or modes of prosecution. If you do substantial justice, you are only answerable to God and your conscience.<sup>39</sup>

According to Sanderson, Spanish law did not really exist in the colony, as British policy-makers believed. He was convinced that there was no substitute in Trinidad for the administrative machinery which secured checks and balances in the Spanish colonial system. He argued that Spanish law had ceased to be practicable with the capitulation of the island. Because the conquest had cut Trinidad off from the *Audencia* of Caracas, “the judicial system of Trinidad became immediately defective, according to Spanish law, in its most valuable jurisdiction.”<sup>40</sup>

As mentioned earlier, Picton united the traditional powers of

Intendant with those of the *Audencia* of Caracas. This was the first major shift away from Spanish law. The second was Abercromby's appointment of John Nihell as Chief Judge.<sup>41</sup> There was no such officer under Spanish rule. Abercromby had justified this piece of legal engineering on the basis that "there was no stipulation in the capitulation in favour of the Spanish laws, in the administration of justice."<sup>42</sup> The General claimed that Chacon, "had forgotten to demand the continuation of Spanish laws."<sup>43</sup> However, he was tactful enough to mandate that "the administration, of civil and criminal justice, and of the police or Cabildo, was to continue as theretofore, under the Spanish laws."<sup>44</sup>

Although the new Governor probably spoke Spanish, there is no evidence of his knowledge of Spanish law.<sup>45</sup> In any case, Abercromby's empowerment of Picton as military dictator was a recipe for legalised terror. Under Spanish administration, the Assessor would have modified the Governor's authoritarianism. Once this office was removed, Spanish juridical culture crumbled with it. Spanish law was thus a fatality of the Conquest and any claim to its operation was a mockery of Spanish jurisprudence. Abercromby sought to bring the dead apparatus to life by reengineering his own machinery of Spanish judicature.

The arrival of George Smith in 1808 expanded the farce of administering Spanish law. His appointment as Chief Judge is an outstanding example of ambitious Englishmen exploiting the ignorance of imperial bureaucrats to attain lucrative postings in the colonies. His interest in championing Spanish law was personal, but based on his claims as an authority on Spanish law and judicature, he was appointed to the top judicial post in Trinidad.<sup>46</sup> More importantly, Smith had enjoyed a personal relationship with Secretary of State for the Colonies, Lord Castlereagh. He exploited this relationship and persuaded the Minister to allow him to frame his own Commission of Office as Chief Judge.<sup>47</sup> According to D.J. Murray, Smith intended to recreate in Port of Spain the hierarchical judicial structure of Caracas, and even to reclaim Spanish as the language of the court.<sup>48</sup> However, he became a super jurist, fusing the powers of "chief *oidor*; first *alcalde del crimen*, and *fiscal*."<sup>49</sup> In addition, his Warrant of Office gave him the right to exercise:

all such powers and jurisdictions as are at present exercised by our governor of our said island, conjointly with his assessor, or by the magistrates known to the Spanish law by the name of corregidores, regente, alcaldes mayores, or alcaldes ordinarios without prejudice nevertheless to their or either of their jurisdictions....<sup>50</sup>

These positions gave him original and appellate jurisdiction consonant with the *Audencia* of Caracas, thus creating a web of contradictions and setting the stage for an abuse of power and a parody of justice. For

example, Smith sometimes sat as an appeal judge in a matter that he had heard in an inferior court, and might even overturn the decision of the latter.<sup>51</sup>

To many contemporaries and historians, Picton's Slave Code of 1800 became the new *Code Noir* for Trinidad. However, this Ordinance did not secure royal affirmation and lapsed after two years.<sup>52</sup> In one of George Smith's despatches to the British government, he declared, "The Spanish slave owner is obliged to maintain his manumitted slave in sickness, infirmity and old age."<sup>53</sup> This statement undoubtedly referred to the *Code Noir* of 1789. For this reason Smith campaigned for the immediate implementation of the Spanish Slave Code and suggested to British Attorney General James Stephen (Sr.), that 500 copies of the *Code Noir* be printed in French, Spanish and English.<sup>54</sup> Smith was soon to learn, however, that knowledge of the legal obligation of masters to their enslaved labourers was one thing; enforcement was another. Stephen himself acknowledged that it was

now admitted that the Spanish law though general and expressly retained have not been executed for the protection and benefit of slaves. Their neglect has been so intense and systematic that the Oidor thinks an instruction from His Majesty's Governance necessary to restore this efficacy.<sup>55</sup>

In arguing his case for the retention of Spanish law, George Smith brought to centre stage the arguments which were only peripheral to abolitionists' circles. He accused "the English party" of wanting British laws only as a tool of narrow class interest. Indeed, as mentioned earlier, the concern of the British party over Spanish law was that it did not protect capital in the same way as British law. Smith maintained that in Trinidad the British legal system was "incompatible with our physical powers because we have not the means within ourselves of giving effect to its leading principles in the administration of justice."<sup>56</sup> In his opinion, British juridical culture needed a polity that was much larger than Trinidad so that personal intimacy would not compromise impartiality.<sup>57</sup> Clearly, Smith was not willing to admit that the defects in the administration and practice of British law and justice in the West Indies were equally applicable to Spanish law and justice.

To legal minds interpretation is the essence of law. However, they maintain that the meaning of a law must be interpreted within the context of the social environment that gave rise to it.<sup>58</sup> This explanation supports the assertion that the spirit of the law is as important a guide to action and censure as the letter. The legal equality of all free inhabitants established under the 1783 *Cedula* was guaranteed by the Articles of Capitulation. However, the legal persecution of the free coloureds

before and under Smith's tenure as Chief Judge was an indication that even the spirit of Spanish law had been undermined by the contempt of British officialdom.<sup>59</sup> Interestingly, the Capitulation was silent on the treatment of the enslaved. The free coloureds could appeal to Article 12 as well as the "spirit" of the Capitulation. The enslaved could appeal to neither to secure the limited benefits enshrined in the 1789 *Cedula Real*. The persistence with the myth of administering Spanish law was the greatest influence on the Amelioration experiment in Trinidad, and by extension, the rest of the British West Indies.

### **Spanish Law and Amelioration Order in Council**

The debate over Spanish law was decided in 1823 when Trinidad was officially inducted as a model slave-colony. In spite of the misunderstanding of enslaver-enslaved relations in Trinidad, the "spirit" of Spanish law was adopted by Parliament as the ethic of slavery reform throughout the British West Indies. In preparing for the full launch of the Amelioration project, British Foreign Secretary George Canning requested that Governor Ralph Woodford provide him with copies of "all slave laws" in force in Trinidad.<sup>60</sup> These certainly included the *Siete Partidas* and the *Recopilación*.

The mainspring of the Amelioration project was the Protector of Slaves. He was assisted by rural, quasi-government officers called Commandants of Quarters as ex-officio Assistant Protectors of Slaves. Under the 1789 *Cedula*, the Attorney General was ex-officio Protector of Slaves, but under the 1824 Amelioration Order in Council, the Protector's office was made independent. By a curious twist of logic, the Protector was the sole attorney for the enslaved in criminal matters, but a magistrate in "domestic" and industrial disputes. Henry Gloster, a young, talented lawyer, was the sole occupant of this office for the entire period of Amelioration. Although Governor Woodford personally selected him for the post, he admitted that Gloster's combined functions violated fundamental principles of Spanish and British jurisprudence. Throughout the period under study, Gloster enjoyed respect and trust of the enslaved class, equal to the odium of the slavocracy. Almost immediately into the Amelioration project, he represented a province of hope for justice and revenge to countless enslaved litigants who cleverly exploited the many loopholes in the Amelioration laws, including the right to lodge complaints with the Protector of Slaves and his Deputies, or directly with the Governor, without molestation from their masters or the police establishment.

The invocation of legal protection of the slave derived fundamentally from the *Siete Partidas* and the 1789 *Cedula Real*, since there was clearly

no precedence for such in English jurisprudence. The British Amelioration code actually reflected a mix of Spanish law and Enlightenment philosophy of the natural rights of man, deliberately blurring the boundary between the rights of the enslaved and the rights of the enslavers, particularly the right to private property.<sup>61</sup> Some of the most radical reforms included the strict prohibition of flogging of females above the age of ten years, the right of the enslaved to buy their freedom, to marry a person of their choice, to open accounts in the Savings Bank, and to own and bequeath property.<sup>62</sup>

However, the enslaved class felt no relief from the culture of violence perpetrated against it for centuries, in addition to new kinds of legalised violence, in stark contradiction to an ameliorative ethic. For example, the Amelioration Order in Council copied the provision of the *Cedula* of 1789 limiting the maximum number of lashes inflicted on an enslaved person from his master to twenty-five, administered under strict guidelines.<sup>63</sup> While this represented a significant reduction of the Mosaic prescription of 39 lashes adopted in the Legislative Colonies, such statistical refinement produced no qualitative improvement in the lives of the enslaved. Even Governor Woodford, as final arbiter in colonial jurisprudence, did not hesitate to enforce the more draconian principles of the *Recopilación* in dealing with unsubstantiated claims of the enslaved against their enslavers.<sup>64</sup>

In recognition of the apparent anomalies of the new slave code, the plantocracy called for a more decisive weighting of the law in their favour, arguing among other things, that the enjoyment of property was “a maxim so consonant to every feeling of British justice and so conformable to British practice.”<sup>65</sup> Compromise came in the way of the tightening up of police measures from mid-1824 to 1826. From that time, the conditional rights of the enslaved to the protection of the law was carefully weighted against the more definitive right to private property of the enslavers. Indeed, this equation defined the operation of the Amelioration, bearing in mind that the enslaved population represented the highest capital in West Indian plantation colonies.

In accordance with the Amelioration law of 1824, the legal battles between masters and enslaved labourers were fought at three levels. Complaints of minor domestic offences were decided by the Protector of Slaves or his Deputies.<sup>66</sup> Complaints of serious infringements of the law, including capital offences, were adjudicated in the Criminal Courts.<sup>67</sup> The Amelioration slave code eliminated the *Cabildo* as a court of criminal jurisdiction for matters involving the enslaved. This function was now exclusive to the Court of Criminal Enquiry and the Court of Criminal Trial, the latter formerly reserved for major crimes. However, in order to satisfy the insistence of masters to have their

enslaved labourers receive “greater punishment and correction than such owner or person is empowered to inflict” under private authority, a middling jurisdiction was created by a Proclamation of 23 June 1824, which restored summary magisterial authority over enslaved persons to the *Alcaldes* of the *Cabildo*, including the Chief of Police.<sup>68</sup> *Alcaldes* were all men of substantial vested interest in slavery. Therefore, their incorporation as amelioration arbiters led to a more faithful application of the principle in Spanish law of returning enslaved persons to their masters for punishment “commensurate with the nature of the charge such slave may have preferred.”<sup>69</sup> Indeed, this tier of jurisdiction was the vehicle of appeasement of planters’ fears of malicious persecution by their enslaved labourers; it also preserved the ethos of superiority of the plantocracy. Arbitration in rural areas remained unchanged in the hands of Commandants of Quarters, only that their authority was conditioned by the Protector’s jurisdiction over the whole island.

The Proclamation also widened the range of punishments on estates, mainly to compensate for the abolition of flogging of women. Under this Proclamation, a new range of torture technology was added, perhaps the most injurious being the treadmill. Thereafter, females were subject to imprisonment in the Royal Gaol with or without hard labour in the treadmill, for a maximum of one month.<sup>70</sup> Stocks were the main substitute for flogging of women. Before 1824, bed stocks were the only kind of such restraint on estates; these devices, complete with chains and iron rings, were sanctioned by the *Recopilación* and the 1789 *Cedula*, and became a common feature on every estate, including the estate hospitals, a practice that shocked the Colonial Office.<sup>71</sup> Confinement in stocks could be extremely cruel; they inflicted similar pain, discomfort and shame as the infamous treadmills, even if to a lesser degree. For the “crime” of disobedience females were put in stocks for several hours. Even after the Proclamation of a more humanitarian version of the Amelioration slave code in 1830, the Protector of Slaves reported that an enslaved man named Ross died of hunger and related symptoms after seven days and nights of confinement in the stocks. Interestingly, the owner of the estate, Mrs. O’Brien was found not guilty of extreme cruelty.<sup>72</sup> The 1824 Proclamation also increased the flogging of enslaved male labourers to a maximum of 40 stripes for “domestic offences,” or confinement in the public stocks, as well as the humiliation of wearing “a distinguishing dress or mark.”<sup>73</sup>

Interestingly, the Proclamation also gave enslaved persons the right of appeal against their masters’ conduct. Of particular interest was the obligation of these judicial officers to hear complaints of enslaved litigants “*ex parte*,” where the accused refused or neglected to appear before them.<sup>74</sup> This condition altered considerably what was otherwise

a measure greatly modifying the potential of the enslaved class for radicalising the Amelioration experiment.

In all three tiers of arbitration, judgements were made summarily. Appeals against judgements were only allowed against decisions of the Criminal Courts, but these were conditioned by the colony's constitution. Because appeals from these jurisdictions to the Crown were subject to interminable delays, the practice of the Colonial Office reviewing serious cases even where no appeals or complaints were made, imposed on the Protector of Slaves and the local courts the obligation to be guided by the basic principles of British justice. In addition, it made judicial appellation cheap and accessible to the most unprivileged, and served to expedite and pre-empt the need for appeals to the Privy Council.<sup>75</sup>

One critical area where the new ethos of legal protection of slaves and the old ethos of defence of property came into sharp conflict was in cases involving runaways. Under the Amelioration laws, enslaved labourers were free to leave their estates even without their masters' permission, in order to lodge complaints with the Protector or his Deputies. Nonetheless, running away for other purposes was treated with the harshness of Spanish law. One such case was that of Carlyle Pompey, a runaway of more than three years. The lawyers provided for his defence refused to offer any witnesses. Gloster also claimed that he could offer no defence, not even a plea of mitigation. The court therefore sentenced Pompey to a flogging of 100 stripes in the Market Place, after which an iron clog was attached to his leg for the next three years, a punishment consistent with the *Recopilación*.<sup>76</sup> Such cases showed clearly that Gloster recognised that Amelioration did not rescind the right of property in an enslaved person.

However, even for runaways, there was protection in the legal process. For example, Thomas Barrow was accused of escaping from the Royal Gaol. The Prosecutor, Attorney General Henry Fuller, requested a postponement of the trial because of the absence of his key witness, Patrick Denohoe, the overseer of the Chain Gang. The trial Judge refused, stating that "... the trial must proceed; Patrick Denohoe is fined the sum of Five Pounds sterling."<sup>77</sup> Barrow was found "Not Guilty."

The slavocracy often accused Gloster of being an implacable defender of the enslaved. In reality, neither the Protector's office nor the Criminal Courts seriously compromised plantation elitism. Whenever charges of misdemeanours were proven, guilty masters were likely to get away with a warning or a very light fine.<sup>78</sup> Even if there were witnesses against him, a master's denial could secure the dismissal of a charge. One of many such instances was that of Manuel Basso who complained to the Protector that he was given thirty lashes by his master, Henry Coryat, immediately following his return from the Commandant,



Le Chevalier de Verteuil who had given Basso a letter of reprieve for a minor offence. Although three eye-witnesses testified for Basso, including the slave who administered the flogging, Coryat countered that only twelve strokes were administered after the legal stipulation of twenty-four hours. In support of his contention, he produced a copy of his Record Book and Quarterly Returns. He also produced two white witnesses who, according to sworn testimony by all the enslaved, were never on the scene of the alleged offence. Gloster dismissed the case and wrote to the Chevalier: "The declaration of Mr. Coryat coupled with the statements made upon oath by Mr. [Don Jose Maria] Camino and the free Spaniard Raymundo Carera satisfy me, that the slaves you examined are not worthy of belief."<sup>79</sup> In another case Innocence Romeo was charged with falsely accusing Corryat of fatally shooting a young enslaved boy. The Attorney General called for the death penalty, consistent with the *Recopilación* law on such matters. However, Gloster, acting as defence attorney, countered that under the *Siete Partidas* a slave was incompetent to accuse any person, except in certain cases. In deference both to the law and to the ethos of plantership, Romeo was found guilty and sentenced to twenty stripes in the public road at Guapo, his home district. The sentence included a further twenty strokes the next day on the estate of his master, to be witnessed by enslaved labourers from every estate in the Quarter.<sup>80</sup>

Although the *Recopilación* was often invoked by enslavers to save them from serious charges, the system of fees made it profitable for Gloster to prosecute them to the best of his ability. The case of Marie Noel of Resource Estate, Tacarigua, is instructive. More than three years after prohibition, she was flogged with a cartwhip by estate manager, William Lampier. Following investigation, Gloster sent the case straight to the Court of Criminal Trial. Under Spanish judicature, the case ought to have gone first to the Court of Criminal Enquiry. Not surprisingly, the Judge upheld Lampier's challenge to the Court's authority to hear the case. Undaunted, Gloster followed due process and Lampier was eventually fined £50 sterling, half of which went to Gloster, according to law.<sup>81</sup> Similar cases of unlawful flogging of enslaved labourers came before the courts during the Amelioration, yielding hefty fees for Gloster.

A more truly humane system of Amelioration might have accommodated similar fines imposed on the enslaved, since the cost of manumissions during the Amelioration show clearly that the enslaved often possessed more liquid cash than their masters. In the first year of the Amelioration experiment, ending June 1824, sixty-nine enslaved persons paid a total of £10,206 18s (local currency) to purchase their freedom.<sup>82</sup> Yet, the preferred punishments for them included public floggings, incarceration, the chain gang and the treadmill. For example, the same



tribunal which fined planter Wells £6 for inflicting severe blows on his female slave and her infant child, and also fined Mr. Charade £10 for illegally cart-whipping and scourging a slave, proceeded to sentence five enslaved persons from one to seven years' hard labour for "absconding." In addition, they were to be given 80 to 150 stripes each. Two others received 10 years' hard labour for attempting to poison their master.<sup>83</sup>

## Conclusion

Spanish law was an ideal instrument for preserving the paternalism of the predominantly Roman Catholic, plantocratic culture in Trinidad. Planters' genuine pride in their paternalism facilitated their general compliance in carrying out many of the provisions of the Amelioration project. They withdrew enthusiasm only for a few contentious clauses which threatened their traditional conservatory of privilege. Conversely, those clauses provided a window of opportunity for the enslaved to use due process in challenging and undermining the system of slavery. The relatively smooth operation of Amelioration in Trinidad loosened the rigid divides between ruling class and labouring class, creating a basis for continued negotiation and adjustment, which became a cultural trademark of post-slavery Trinidad.

There is no doubt that the effort to extend the Trinidad model of Amelioration to all British West Indian colonies accelerated the decline of slavery, leading to statutory emancipation in 1834. The adoption of Spanish law as model for Amelioration created problems of acceptance in the Legislative Assemblies as well as Demerara, all of which had strong Protestant traditions. Their intransigence triggered immense discontent among the enslaved, culminating in two of the most destructive rebellions in the British colonies. The dress rehearsal for Amelioration conducted in 1823 unleashed a massive revolt in Demerara, the worse in the British colonies to that time. Similarly, the 1831 revised version of the Amelioration Code, which sought to relieve the enslaved of the heavier burdens of planter and State brutalities triggered the worst rebellion in Jamaica's history. Research has shown that both rebellions were long in the making.<sup>84</sup> The massive destruction of property and savage reaction of the slavocracy precipitated the enactment of Parliamentary Emancipation as the only guarantee of future security in the region.<sup>85</sup>

## Notes

- <sup>1</sup> "Report of His Majesty's Commissioners of Legal Inquiry on the Colony of Trinidad" in *British Parliamentary Papers: Report From the Commissioners of Enquiry on the Administration of Civil and Criminal Justice in the West Indies and South American Colonies, 1825-29. Colonies West Indies* vol. 3. 1971. Ireland: Irish University Press: 290.
- <sup>2</sup> Evidence of Nicholas St. Pea, Syndic Procter [sic] General to the Cabildo. "Sessional Papers, Trinidad, His Majesty's Council" (Colonial Office [CO] 298/2): 192. Included was the code *Recopilación de Castile* whereas the reference to note 1 above is to *Nueva Recopilación de Castilla*.
- <sup>3</sup> Picton to Melville, 21 June 1804. Papers Relevant to Trinidad, 1802-04, vol. 2. (British Library [BL]. Mss. W. Ind. S. 8. 109.2).
- <sup>4</sup> "Appendix to Report of Commissioners of Enquiry on the Colony of Trinidad" (CO 318/69): 226-236. The Amelioration Order in Council, 10 March 1824, comprising 43 Clauses.
- <sup>5</sup> Richard Dunn. 1972. *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624-1713*. London: Jonathan Cape: 324.
- <sup>6</sup> Planters' Memorial to Ralph Woodford, No. 555, 1824 (Trinidad National Archives. Trinidad Duplicate Despatches [TDD]).
- <sup>7</sup> Patrick Nerhot. 1990. "Interpretation in Legal Science: The Notion of Narrative Coherence" in *Law, Interpretation and Reality: Essays in Epistemology, Hermeneutics and Jurisprudence* edited by Patrick Nerhot. Dordrecht: Kulwer: 207.
- <sup>8</sup> "Report of His Majesty's Commissioners of Legal Inquiry:" 294.
- <sup>9</sup> Hobart to Picton, 18 July 1802 (CO 296/4): 28-28d.
- <sup>10</sup> Hobart to Commission, 16 October 1802 (CO 296/4. Enclosure No. 20): 64-72.
- <sup>11</sup> Hobart to Commission, 16 October 1802 (CO 296/4. Enclosure No. 20): 72.
- <sup>12</sup> Hobart to Commission, 16 October 1802 (CO 296/4. Enclosure No. 20): 70. Convicts were to be transported with their families; land grants to them on a reduced scale.
- <sup>13</sup> This was the basic argument behind Stephen's Letter IV in James Stephen. [1802] 1969. *The Crisis of the Sugar Colonies or an Enquiry into the Objects and Probable Effects of the French Expedition to the*

*West Indies and their Connection with the Colonial Interests of the British Empire to which are subjoined Sketches of a Plan for Settling the Vacant Lands of Trinidad.* New York: Negro University Press; also, Canning's speech, 27 May 1802 in *Parliamentary History*, vol. 36: 874-76.

- <sup>14</sup> Hobart to Picton, 18 July 1802 (CO 296/4): 28d. The suggestion had originated with Stephen and Canning.
- <sup>15</sup> Claudius Fergus. 2007. "The Trinidad Question and Britain's First Slave-Trade Abolition Legislation." *The Arts Journal* 3 (1&2): 134. The first abolition legislation was an Order in Council dated 15 August 1805; the second, an Act of Parliament dated 1 May 1806. Both applied only to Trinidad and five other recently "Conquered Colonies."
- <sup>16</sup> Woodford to Bathurst, 5 August 1815 (Trinidad Duplicate Despatches [TDD]). Woodford mentioned the arrival of 58 settlers. However, K. O. Laurence gave a figure of 86 (61 men, 18 women and 7 children): "The Settlement of Free Negroes in Trinidad Before Emancipation," *Caribbean Quarterly* 1963, 9(1): 27. Noel Titus gave an even higher figure of 95. "Amelioration and Emancipation in Trinidad, 1812-1834." Dissertation. 1974. The University of the West Indies: 58-59. The total originally listed for resettlement in Trinidad was 577, but the total arrivals recorded was 404: John Mc Nish Weiss. 2002. *The Merikens: Free Black American Settlers in Trinidad, 1815-16* (London: Mc Nish & Weiss): 24; for a listing of the names of the "Americans," see Weiss: 25-67.
- <sup>17</sup> Laurence, "Free Negroes": 27.
- <sup>18</sup> For discussion on all issues, see Claudius Kelvin Fergus. 1996. "British Imperial Trusteeship: the Dynamics of Reconstruction of British West Indian Society, with Special Reference to Trinidad, 1783-1838." Ph.D. dissertation, The University of the West Indies: 175-221.
- <sup>19</sup> Second Report on The Consolidated Slave Act, 12 November 1788 (CO 137/88): 5-6; "An Act for Better Promoting the Natural Increase & Population of Slaves within the Island of Grenada & Such of the Grenadines" (CO101/8): 304-313. The latter Act was passed in the Assembly but not proclaimed.
- <sup>20</sup> C.H. Haring. 1975. *The Spanish Empire in America*. San Diego: Jovanovich: 101.
- <sup>21</sup> Haring, *The Spanish Empire*: 102-106.

- <sup>22</sup> Franklyn W. Knight. 1970. *Slave Society in Cuba During the Nineteenth Century*. Madison: University of Wisconsin: 123.
- <sup>23</sup> Rolando Mellafe. 1975. *Negro Slavery in Latin America*. Berkeley: California University Press: 100. According to Sanderson, masters appealed conveniently to a variety of metropolitan authorities to preserve their power over their slaves. See John Sanderson, 1812. *An Appeal to the Imperial Parliament Upon Claims of the Ceded Colony of Trinidad to be Governed by a Legislature and Judicature Founded Upon Principles Sanctioned by Colonial Precedents and Long Usage*. London: 18 -19.
- <sup>24</sup> Knight, *Slave Society in Cuba*: 122-23.
- <sup>25</sup> Enclosure (CO 295/60): 218-19.
- <sup>26</sup> Enclosure (CO 295/60): 220.
- <sup>27</sup> Mellafe, *Negro Slavery*: 106.
- <sup>28</sup> Pierre M'Callum, 1805. *Travels in Trinidad during the Months of February, March, and April 1803*. Liverpool: United Kingdom: 131-35.
- <sup>29</sup> For a full reproduction of the 1789 *Cedula*, see Pierre-Gustave Louis Borde. 1982. *The History of the Island of Trinidad under Spanish Rule*, vol. 2, translated by James Alva Bain. Trinidad: Paria: 433-41; the Ordinance was reproduced earlier in the text, but dated 28 February 1785. Bain: 195-202.
- <sup>30</sup> Sanderson, *An Appeal to the Imperial Parliament*: 197.
- <sup>31</sup> John Norris Brierley. 1912. *Trinidad Then and Now*. Port of Spain, T'dad: Franklyn Electric Press: 63
- <sup>32</sup> Borde, *History*: 194.
- <sup>33</sup> Linda A. Newson. 1976. *Spanish Colonial Trinidad: A Study in Culture Contact*. London: Academy: 200.
- <sup>34</sup> Knight, *Slave Society in Cuba*: 124-25.
- <sup>35</sup> Knight, *Slave Society in Cuba*: 78-85.
- <sup>36</sup> Carl Campbell. 1975. "The Transition from Spanish Law to English Law in Trinidad before and after Emancipation." Proceedings of the 7<sup>th</sup> Conference of the Association of Caribbean Historians, Jamaica; also, "Statement of the Committee appointed by the Landholders of Trinidad," highlighting an appeal by proprietors for constitutional restraints against Woodford's high-handed rule. (B.L. Liverpool Papers, add. ms. 38263. 2 November 1816: 309-25; many of the

problems were swept away in a series of Orders in Council in 1822: see for example, Proclamation giving preference to the claims of mortgagees over those of supply merchants, 5 August 1822 (CO 295/60): 223-24d; Proclamation facilitating writs of execution, 16 September 1822 (CO 295/60): 227-27d; and Proclamation abolishing special protection of married women against writs of execution, 16 September 1822 (CO 295/60): 230-30d.

<sup>37</sup> James Millette. 1970. *The Genesis of Crown Colony Government: Trinidad, 1783-1810*. Trinidad: Moko: 49.

<sup>38</sup> Brierley, *Trinidad*: 96-97.

<sup>39</sup> Brierley, *Trinidad*: 87.

<sup>40</sup> Sanderson, *Appeal*: 17. In reality, Picton and Chacon were equally absolute in their exercise of civil and military powers, except that under Spanish rule, every subject of the King, including an enslaved person, had the right of appeal to the *Audiencia* against the judgement of the Intendant whereas under early British rule this right was non-existent. The colonial government censured Sanderson for his denunciation of Spanish law in Trinidad. See "Trinidad Board of Council Minutes," 29 November 1810 (CO 298/5): 8.

<sup>41</sup> Sanderson, *Appeal*: 21.

<sup>42</sup> Abercromby to Nihell, 1 March 1797, quoted in Sanderson, *Appeal*: 21.

<sup>43</sup> Abercromby to Nihell, 1 March 1797, quoted in Sanderson, *Appeal*: 20.

<sup>44</sup> Abercromby to Nihell, 1 March 1797, quoted in Sanderson, *Appeal*: 20.

<sup>45</sup> It is interesting to note the striking similarities of institutions in West Indian colonies, whether French, Spanish or English. E.g., in Barbados, the "gentleman-judges" were the equivalent of the Trinidad Commandants, *Alcaldes*, etc. In 1803, the Barbados Chief Justice had no legal training. The Governor was "Chancellor of the Court of Chancery and Equity," but legal training was not a pre-requisite for appointment. Cited in Neville Hall. 1972. "Law and Society in Barbados at the turn of the nineteenth century," *Journal of Caribbean History* 5:21.

<sup>46</sup> See Sanderson, *Appeal*: 96.

<sup>47</sup> Sanderson, *Appeal*: 96.

- 48 D. J. Murray. 1962. "The Colonial Office and the Plantation Colonies, 1801-34: A Study of Imperial Government in Evolution." Ph.D. dissertation, Oxford: 177-78.
- 49 An excerpt from Smith's "Warrant of Office," 1 October 1808, quoted in Sanderson, *Appeal*: 34.
- 50 "Warrant of Office," 1 October 1808, Sanderson, *Appeal*: 34.
- 51 "Trinidad Board of Council Minutes," 5 March 1811. Translation of John Nihel's "Memorandum" of 19 February 1811 (CO 298/5): 21d-22.
- 52 Vincent Leahy. 1980. *History of the Catholic Church in Trinidad, 1797-1820*. Trinidad: St. Dominic: 49.
- 53 Smith to Stephen, enclosed in Stephen to Perceval (Private & Confidential), 10 April 1810 (B.L. Perceval Papers, ms. 49183): 158.
- 54 Smith to Stephen, (Private & Confidential), 10 April 1810 (B.L. Perceval Papers, ms. 49183): 158.
- 55 Smith to Stephen, (Private & Confidential), 10 April 1810 (B.L. Perceval Papers, ms. 49183): 160.
- 56 Smith to Liverpool, 14 February 1810. The University of the West Indies, Department of History Collection [U.W.I. Hist. Dep't]: "Topics in the History of Trinidad and Tobago": 17.
- 57 Smith to Liverpool, 14 February 1810 (U.W.I. Hist. Dep't): 17. Stephen had identified this same problem of geography and impartiality in administering justice in the old colonies. He described the result as "a pigmy model of the British Constitution. *Crisis*: 190.
- 58 See Nerhot, "Interpretation in Legal Science:" 201-04.
- 59 This was only true in respect of the *Cedula* of Population. Free coloureds in other Spanish colonies remained subject to a wide range of prejudicial legislation. This fact was recognised in Article 45 of the *Cedula*. Indeed, British jurists in Trinidad habitually appealed to pre-*Cedula* precedents to justify caste legislation. For a list of disabilities and punishments, see "Commission of Legal Enquiry, 1827, Trinidad Report" (CO 318/69): 70. In response to the intervention of the Legal Commissioners Colonial Secretary Lord Bathurst repealed the discriminatory legislation against the free coloureds via Proclamation dated 5 January 1826. See "Report of His Majesty's Commissioners," *British Parliamentary Papers*: 331.
- 60 Speech of Wilmot Horton in the House of Commons, 26 February

1828 (B.L. *Parliamentary Debates*, vol. XVIII): 1024-25.

<sup>61</sup> Speeches of Horton and Huskisson, House of Commons, 26 February 1828 (*Parliamentary Debates*, vol. XVIII): 1024-39; and speech of Grant, House of Commons, 25 July 1828 (*Parliamentary Debates*, vol. 19): 1779.

<sup>62</sup> According to Beckles, it was common in the older colonies for slaves to own and bequeath property even against prohibitive legislation: Hilary McD Beckles. 1991. "An Economic Life of their Own: Slaves as Commodity Producers and Distributors in Barbados." *Slavery and Abolition* 12 (1): 40-44. Patterson rightly emphasized that, although the practice of owning property by slaves was common in the West Indies, it was still illegal; Orlando Patterson. 1967. *Sociology of Slavery: An Analysis of the Origins, Development and Structure of Negro Slavery in Jamaica*. London: Cox & Wyman: 224; the Chief Justice of Trinidad recognised that "a slave cannot by the Spanish law acquire any property except for the benefit of his master" (CO 318/69, vol. 13): 72. Slave-ownership of property with an economic potential was a peculiarity of slavery. It had never attained the status of prescription. The mirage of land-owning by slaves was wiped away by the laws which ushered in post-slavery society.

<sup>63</sup> Clause 12, Amelioration Order in Council, 1824, in "Appendix to Report of Commissioners of Enquiry on the Colony of Trinidad" (CO 318/69): 226.

<sup>64</sup> Woodford to Bathurst, 26 May 1824, the case of slaves Marquis and Regis vs. their master, Nolly Beaubrun. No. 550 (TDD); also in Woodford to Bathurst, 3 September 1824 (CO 295/63): 52d.

<sup>65</sup> Report of Meeting of the Trinidad Board of Council, 20 May 1824 (TDD).

<sup>66</sup> In this sense, Protectors of Slaves were also magistrates. See Clauses 6 & 7 of the Trinidad Order in Council, 10 March 1824 (CO318/69): 226-27.

<sup>67</sup> B.L. "Reports from the Commissioners of Inquiry:" 312; for second comment, see Peschier to Woodford, 14 July 1823 (CO 295/60): 42d. The Court of Criminal Inquiry was the only court for the trial of slaves. While serious offences were defined in the Trinidad Order as "misdemeanours," planters' reference to "capital crimes" of slaves included breaking open a rum cellar, stealing provisions of other slaves and running away.

<sup>68</sup> "A Proclamation" CO 318/69): 237.

- <sup>69</sup> "A Proclamation" CO 318/69): 237.
- <sup>70</sup> "A Proclamation" CO 318/69): 237. For example, Judy Brush and Celia, in unrelated incidents were both sentenced to 15 days on the treadmill; for Judy's case, see *Port of Spain Gazette*: 8, 12 and 19 October, 1825; for Celia, see *Port of Spain Gazette*: 23 August 1828.
- <sup>71</sup> "Protector of Slaves Report July - December 1826" (CO300/21): 4; also "Protector of Slaves Report January - June 1828" (CO300/24): 254d-255.
- <sup>72</sup> "Protector of Slaves Report January - June 1828" (CO 300/24): 62-70.
- <sup>73</sup> "A Proclamation" (CO318/69): 227.
- <sup>74</sup> "A Proclamation" (CO318/69): 227.
- <sup>75</sup> For Henry Brougham, the struggle for justice was imperial: the entire structure needed to be addressed. He stated that all aspects of government "shrink into nothing, when compared with the pure, and prompt, and cheap Administration of Justice throughout the community." Brougham. 1828. *The Present State of the Law: The Speech of Henry Brougham, Esq. M.P. in the House of Commons on Thursday, February 7, 1828, on his Motion That An Humble Address be Presented to his Majesty praying that he will graciously be pleased to issue a commission for inquiring into the defects occasioned by time and otherwise in the laws of this realm, and into the measures necessary for improving the same.* London: 1.
- <sup>76</sup> 2 August 1826, *Port of Spain Gazette* (CO 300/1).
- <sup>77</sup> Appendix A, No. 1, Protector's Report, January - June 1828 (CO 300/24).
- <sup>78</sup> For all cases, see Protector's Report, January - June 1827 (CO 300/22).
- <sup>79</sup> 7 April 1827, *Port of Spain Gazette* (CO300/1).
- <sup>80</sup> Protector's Report, January - June 1828 (CO 300/24): 2d.
- <sup>81</sup> 17 May 1827 (TDD ): (n.p)
- <sup>82</sup> Henry Gloster to Ralph Woodford, 20 January 1825, "Returns of Manumissions" (TDD). A similar figure, £10,364 7s 6d for 170 slaves over an eighteen-month period, ending June 1826, suggested a significant drop in the cost of manumission. *Port of Spain Gazette*, 30 August 1826.



- <sup>83</sup> All cases, Protector's Report, January - June 1827 (CO 300/22).
- <sup>84</sup> See Fergus, "British Imperial Trusteeship:" 394-405.
- <sup>85</sup> Fergus, "British Imperial Trusteeship:" 394-405.

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