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History Project Report

With funding from the History Project and the Institute for New Economic Thinking (INET), I completed and defended a Ph.D. dissertation, entitled *Masters of Law: English Legal Culture and the Law of Slavery in Colonial South Carolina and the British Atlantic World, 1669-1783.* In this interdisciplinary work, I examine how English law facilitated the expansion of slavery in colonial South Carolina. Focusing upon daily legal practice rather than statutory prescription, I follow ordinary colonists as they used English law to manage their slaves. I also place their activities in a larger Atlantic context, attending in particular to legal practice in Jamaica and other Caribbean colonies. Rather than viewing the adaptation of English law to slave societies as a fraught process, this project shows that English law easily served colonists' desire to command slave labor and, in doing so, contributed to the dehumanization of Africans throughout the Atlantic World.

Most historians believe that the law of slavery in plantation America was an anomaly, and that slave law was something separate from English law. Taking as a starting point Lord Mansfield's claim in *Somerset's Case* (1772) that slavery was "so odious, that nothing can be suffered to support it, but positive law," scholars have argued that because there was no statutory law of slavery in England, English law provided few precedents for the development of systems of chattel slavery. My work, however, reveals that English law supplied the forms, procedures, and vocabulary that made slave law work. Rather than separate from English law, slave law was part and parcel of England's many laws.

Understanding this requires attending to words. In and of themselves the words are mundane: chattel, credit, *in rem*, equity. They are legal words, jargon or stock phrases that mean very little at first glance. But to eighteenth-century colonists, these stock phrases simultaneously signified nothing and everything. Indeed, by the early modern period they were the building blocks of a shared legal heritage, one that English people used to construct new legal systems throughout the Atlantic World. Just as colonists sought to transform the American environment into something that resembled their idealized notions of an English landscape, they deployed these words to create familiar legal cultures in the New World. On the whole, they found that these centuries-old words -- far from being rigid, as we might expect -- were flexible enough to accommodate their needs as they hacked out lives in a howling wilderness. This was true even for slave-holding colonists, who drew upon their English legal heritage to transform people into property, with invidious results.

In this dissertation, then, I focus upon legal words, moving beyond prescription (statutory law) to follow colonists of all sorts -- sailors and planters, men and women -- as they acquired legal knowledge, and as they deployed that knowledge in the court room, on the plantation, and on their death beds. Although statutes play a role in this study, on the whole I focus upon daily practice and litigation in local courts. Funding provided by the History Project and INET has allowed me to travel to archives in Jamaica, the United Kingdom, South Carolina, Georgia, and North Carolina, where I have examined thousands of manuscript court records, private correspondence, and ephemera. Many of these documents have been underutilized by scholars due to their poor state of preservation, but also because they are difficult to read and understand. On the whole, they reveal that although England lacked a statutory law of slavery, at the level of legal practice, English law offered colonists an abundance of workable precedents as they constructed one of the world's most brutal legal regimes.

In each chapter, I watch as colonists used English forms and procedures to commodify enslaved people. In Chapter One, for example, I reflect upon why colonists made the momentous decision to classify slaves as chattel property (moveable, personal property) rather than as real estate. Despite the fact that "chattel slavery" has become an uninterrogated catch-phrase used to describe the legal status of human property, the term had a distinct legal meaning. Under English law, defining something or someone as chattel property endowed owners with a bundle of rights that allowed them to dispose of that property with little hindrance. But the decision to consider slaves as chattel property also had profound cultural consequences. One of the most important of these was that making slaves legally equivalent to other

types of moveable property invited colonists to compare slaves to livestock, which also were considered chattels under English law. Historians have long noted that American colonists analogized slaves to cattle and other large farm animals, and recent work has made it clear that such analogies played a key role in dehumanizing enslaved people. Showing that these analogies were rooted in a distinctively English legal heritage highlights the important role that English property law played in that process of dehumanization.

In Chapter Two, I examine another significant legal consequence of the decision to classify slaves as chattel property. Specifically, in treating their slaves as chattels, colonists made them available to creditors, who could attach them in payment of debts. Using records from South Carolina's Court of Common Pleas as well as private correspondence, plantation account records, and diaries, I follow South Carolinians from a variety of socio-economic backgrounds as they deployed their knowledge of English law to expand their credit with English merchants and as they used that credit to purchase more slaves. By leveraging their human property, these colonists expanded their plantation and mercantile enterprises at the expense of enslaved people, who were routinely sold away from families to satisfy debts.

In the remaining chapters, I supplement these analyses by attending to litigation in understudied colonial jurisdictions. In a variety of local courts, colonists adapted English legal jargon and procedures to suit their desire to treat slaves as commodities. In Chapter 3, for example, I examine slave litigation in the Vice Admiralty Courts of colonial South Carolina and Jamaica, arguing that litigants in these courts facilitated the dehumanization of Africans when they used centuries-old admiralty procedure to claim slaves and free African sailors on ships as valuable prizes. By comparing enslaved people to objects that could be seized and sold just like ships and cargo, these litigants were able to convince Vice Admiralty Courts, which had jurisdiction over maritime objects (*in rem*) to condemn and sell human beings. One of the benefits of reconstructing the business of these Courts, then, is that it lays bare the visceral realities of life in slave societies, where enslaved and free African mariners lived in peril on the sea in more than the traditional sense. Although Africans who spent their working lives on water moved more freely through plantation societies than agricultural laborers, their voyages often brought them into contact with Vice Admiralty Courts, where litigants claimed them as property. In places where human beings were considered things at law, the Vice Admiralty Court -- a jurisdiction that specialized in seizing, appraising, and condemning things -- demarcated the boundaries of slave agency as it opened up other strategies for resistance. Indeed, the *in rem* process that admiralty jurisdictions exercised renders the property component of slavery highly visible to historians, even as it reminds us just how easily English law in all its varied forms accommodated slavery.

Similarly, in Chapter Four, I examine manuscript Chancery Court records from South Carolina and Jamaica, and argue that even the legal language of "equity," which developed in medieval England to provide litigants with access to the King's justice, could be adapted to treat slaves as property. Finally, I conclude with an analysis of administrative law in Revolutionary War-era Charles Town, analyzing the records of the British Board of Police to show how colonists and administrators drew upon a shared English legal heritage to maintain order among an increasingly restless enslaved population. Using a hodge-podge of older martial law and administrative law concepts, soldiers, administrators, and loyalist colonists all mined English law for precedents that allowed them to maximize the value of enslaved people as property. Taken together, this chapter and those preceding it upend traditional narratives that link English law's extension overseas with the flowering of liberty. Focusing on practice, not prescription, I show how English law ultimately served colonists' desire to command slave labor, with untold tragic human consequences that reverberated throughout the Atlantic World.