

Caribbean “Credit Nations”: Consignment Economies in the British West Indies

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A central tenet of English property law has been the protection of land and the interests of potential interest holders in such land.¹ For centuries, creditors could not reach land to satisfy debts either in the British Isles or in the colonies.² Against this background, Claire Priest delineates how the British Parliament, in a series of deeply controversial moves culminating in the Debt Recovery Act of 1732, modernized law in the American colonies so that it privileged creditors.³ More specifically, the Debt Recovery Act made it possible for creditors of colonial debtors to execute debt judgments on real property as well as on enslaved people for the recovery of debts.⁴ Colonial governments in the American colonies, building on this legislative framework, also promoted innovations that would allow creditors to reach both land and slaves more easily.⁵ For example, several colonial statutes were passed to make clear that enslaved persons were property that could be utilized as collateral for loans, and also auctioned, in the event that debtors later defaulted.

Although *Credit Nation* is a new publication, it is already clear that Priest’s work is foundational for the increasingly held view that a legal framework that was more favorable to creditors helped fuel the

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1. 1 WILLIAM BLACKSTONE, COMMENTARIES *134 (“The third absolute right, inherent in every Englishman, is that of property: which consists in the free use, enjoyment, and disposal of all his acquisitions, without any control or diminution, save only by the laws of the land.”).

2. The difficulties that creditors experienced in executing debt judgments on land was rooted in the emphasis on not breaking up estates—which were to be kept intact and in the family. See generally, JOHN HABAKKUK, MARRIAGE, DEBT AND THE ESTATES SYSTEM, ENGLISH LANDOWNERSHIP, 1650-1950 (1994). Indeed, the protections afforded to ensure undivided ownership of estates were arguably deeply ingrained not only in English law but also in English culture—for good reason such protections have become recognizable plot devices utilized by great writers. See, e.g., Julie Hastrup-Markussen, Unearned Wealth: Inheritance in English Literature from 1800 to 2015 (Apr. 14, 2021) (unpublished Ph.D. dissertation) <https://projects.au.dk/uneared-wealth/subprojects/inheritance-in-english-literature>.

3. CLAIRE PRIEST, CREDIT NATION (2021).

4. *Id.* at 74.

5. *Id.* at 44-45.

extraordinary growth of American capitalism from the colonial era to the Civil War.⁶ Historians including Robin Blackburn, Walter Johnson, and Sven Beckert, have demonstrated that the mass production of cotton, which was the largest commodity in international markets, fueled the growth of international trade in the nineteenth century. The mass production of cotton, and the money derived from its trade, was of course not possible without enslaved labor. “Cotton capital” was happily received by northern and British merchants and manufacturers in a wide variety of industries and flowed freely through northern and British banks. The legal changes and accompanying innovations ushered in by the Debt Recovery Act help explain the eagerness of bankers to engage cotton planters as clients.

The work of the historian Edward Baptist fills in much of the minutiae of how banks engaged with the plantations. By way of background, Baptist argues that the domestic (that is, interstate) trade in slaves played an important role in the growth of both regional banking (for example, in the southern states) and national financial institutions.⁷ The figures are mind-boggling. For example, Baptist estimates that nearly one million slaves were transported from states in the Upper South like Virginia and Maryland to Gulf states like Texas, Alabama, Florida, Louisiana and Mississippi, in the decades preceding the Civil War.⁸ The operational expertise needed to sell and transport these large numbers of slaves over large distances was no small task—it was an extraordinary logistical operation, which needed to be financed—in no small portion by credit. There was serious money to be made with enslaved labor in agricultural production in these Gulf states. And profitable enterprises attracted bankers with credit.

After reading Priest, one reads Baptist through fresh eyes. Baptist is an expert at explaining how complex financial transactions were fueled by slavery and simultaneously fueled slavery. Alongside the growth in the interstate slave trade, banks developed increasingly sophisticated financial instruments such as bonds, backed by both plantation land and enslaved bodies. Through these bonds, planters found ready access to fresh liquidity to buy land and expand their plantations. None of this financial wizardry would have been possible without a legal framework that allowed creditors the “security” of knowing that they could reach assets including enslaved people if debtors did not pay. That is, the Debt Recovery Act and the innovations it spawned, provided a critical historical framework for all of these later complex transactions.

6. Consider the work of historians like Sven Beckert, Robin Blackburn and Walter Johnson. SVEN BECKERT, *EMPIRE OF COTTON: A GLOBAL HISTORY* (2014); ROBIN BLACKBURN, *THE MAKING OF NEW WORLD SLAVERY: FROM THE BAROQUE TO THE MODERN, 1492-1800* (2010); WALTER JOHNSON, *RIVER OF DARK DREAMS: SLAVERY AND EMPIRE IN THE COTTON KINGDOM* (2013).

7. EDWARD BAPTIST, *THE HALF HAS NEVER BEEN TOLD: SLAVERY AND THE MAKING OF AMERICAN CAPITALISM* 229-59 (2014).

8. *Id.* at 3 tbl.1.1.

To help provide further context for the significance of Priest's work, I take a quick detour from the American colonies to the West Indian colonies. Why? Baptist's work (and work of similar ilk connecting the slave trade to the explosive growth of capitalism in the United States) is still relatively recent. Scholarship connecting the slave trade to the explosive growth of capitalism in the British Empire has a much longer heritage among historians who study the West Indies. The landmark book that spawned this field of work is Eric Williams's *Capitalism and Slavery*.⁹ Williams famously argued that West Indian plantations played a critical role in financing the English industrial revolution. Although Williams's book remains controversial, *Capitalism and Slavery* has spawned a significant body of work on the role of West Indian plantations in fueling capitalism in different parts of the British Empire (including the former American colonies). Indeed, one might view Baptist as a descendant of Williams.

Importantly for my purposes, as was the case with Baptist, Williams's work dovetails beautifully with Priest's. Although Priest is primarily focused on the American colonies, she understands the economic importance of the West Indian colonies.¹⁰ For example, the Debt Recovery Act allowed British creditors to out-manuever Jamaica-based planters who were not inclined to pay their debts, forcing them to turn over land and slaves in the sugar-rich colony.¹¹ This is particularly important given the economic significance of the West Indies at the time. Jamaica, for example, was the epicenter of sugar exportation in the British Empire for much of the eighteenth century. Indeed, at the time of the American Revolution, Jamaica was home to the wealthiest subjects in the British Empire and had more influence with the imperial government than any other colony.¹²

Williams, and the many persons influenced by his work (many of whom are critics), focuses on what might be called "macro" indicators of the influence of West Indian slave economies on the metropole—for example,

9. ERIC WILLIAMS, *CAPITALISM AND SLAVERY* (1944).

10. Indeed, the genesis of the Act was in fact not in the American colonies but in the West Indian colonies. The difficulties that British merchants experienced collecting debts in Jamaica, a West Indian colony, spurred the passage of the Debt Recovery Act in the first place. See SELWYN H.H. CARRINGTON, *THE BRITISH WEST INDIES DURING THE AMERICAN REVOLUTION* 32–33 (1988) (noting that in the decades preceding the American Revolution, Jamaica's exports to Britain exceeded those of the far larger American colonies that would become the United States); SIDNEY W. MINTZ, *CARIBBEAN TRANSFORMATIONS* 60 (2d ed. 1989) (summarizing Phillip Curtin's finding that only Saint Domingue (later Haiti) and Brazil, far larger countries, imported larger number of slaves than Jamaica in the region).

11. In the year preceding passage of the Act (1731), a coalition of politically powerful British merchants organized to lobby Westminster after they experienced particularly high losses when a significant number of planters in Jamaica failed to make good on their debts. If deadbeat planters in Jamaica could default on their debts with no consequence, it would set a terrible precedent, undermining the likelihood that they could do business in the most valuable colony. And so, the stakes were high. Determined to force the Jamaica-based deadbeats to pay, the merchants sought the aid of the British Parliament. Priest, *Credit Nation*, 77–78.

12. TREVOR BURNARD, *JAMAICA IN THE AGE OF REVOLUTION* 1 (2020).

profits from the slave trade and from commodity trading (particularly sugar).¹³ Williams also focuses on the repatriation of those profits to London, where they supported significant investments in the key sectors fueling the industrial revolution, the purchase of seats in the British parliament, and the growth of tax revenues for the Exchequer. Williams says less about the “micro” aspects of how plantations were financed than Baptist does, although Williams notes the involvement of English merchant classes and bankers in West Indian plantation slavery. He says less about the minutiae of how English bankers and planters became involved in West Indian sugar plantations. To understand these minutiae, one needs to follow Priest’s lead and investigate credit and more generally what might be called “consignment economies” in the West Indies.¹⁴

When we think of English merchant classes, we typically think of “merchants” in the conventional sense. That is, merchants who were middlemen, selling agricultural machinery and other valuable supplies to West Indian planters and then distributing sugar from West Indian plantations in the metropole and throughout the broader British Empire. But British merchants were more than middlemen distributors. Importantly, they were also financiers of plantations through sophisticated consignment schemes.¹⁵

A key feature of the West Indian plantation economy was a utilization of consignee agents in England. To sell their sugar, most West Indian plantations relied on merchant brokers. Planters relied on these same merchants to access essential supplies. British merchants were willing to provide supplies for the plantations on credit if they were later consigned the sugar crop. Purchases, for example, of plantation machinery would be accounting entries to be offset against accounting entries in the merchants’ books for later arriving sugar and other products such as rum. Indeed, the economic historian Caitlin Rosenthal has argued that sophisticated modern accounting and valuation methodologies arose in part from the importance of consignment accounting to the merchant classes providing services to plantations.¹⁶ With merchants in England exporting supplies to them on

13. Barbara Solow and Stanley Engerman’s collection provides an excellent overview of the influence of Williams’s work. See, BARBARA SOLOW AND STANLEY ENGERMAN, *THE LEGACY OF ERIC WILLIAMS* (1987), including pieces by William Green (“Race and Slavery: Considerations on the Williams Thesis”), Joseph Inikori (“Slavery and the Development of Industrial Capitalism in England”), David Richardson (“The Slave Trade, Sugar and British Economic Growth, 1748 to 1776”) and Richard Sheridan (“Eric Williams and Capitalism and Slavery, A Biographical and Historiographical Essay”).

14. Priest, *Credit Nation*, 30-31. See also Donald J. Harris, *The Circuit of Capital and the ‘Labor Problem’ in Capitalist Development*, 37 *SOC & ECON. STUD.* 15 (1988) (discussing the importance of consignment economies to the operations of plantations in the West Indies); Richard A. Lobdell, *Patterns of Investment and Sources of Credit in the British West Indian Sugar Industry, 1838-97*, 4 *J. CARIBBEAN HIST.* 31 (1972).

15. Lobdell, *supra* note 14.

16. CAITLIN ROSENTHAL, *ACCOUNTING FOR SLAVERY: MASTERS AND MANAGEMENT* (2018) (arguing that slaveholders in the antebellum South and the West Indies were utilizing advanced

consignment in exchange for a portion of the sugar crop they produced, West Indian plantation owners were able to operate their plantations in a near cashless manner.¹⁷

Thus, the question of credit—the origins of plantation financing and what to do if planters defaulted—was foundational to the operation of the West Indian slave plantations. This system only works because merchants in Bristol, Liverpool, and London could rest easy in the knowledge that they could reach assets on the other side of the Atlantic in the event a planter based in Jamaica, Barbados, or Antigua defaulted. And this of course was only possible because of the legal framework that Priest describes. By following Priest’s lead, we gain a better understanding of the evolution of the British merchant classes made rich on the back of West Indian plantation slavery, as described by Williams. That is, consignment economies make clear how Williams’s and Priest’s works are in fact inextricably intertwined.

I end with one final point. The legal framework Priest describes also has implications for slave feeding regimes. The economist Donald Harris has written that planters had significant incentives to preserve cash under conditions of credit constraints, and he has speculated that under such conditions planters might prioritize “internal provisioning” (in which they barter for goods among friends and neighbors, in a way that does not require cash), over “external provisioning” (in which they have to pay for goods in the marketplace).¹⁸ It is true that planters undoubtedly had an obligation to feed the enslaved people on their plantations.¹⁹ Yet planters may have had incentives to “outsource” the feeding of enslaved people to enslaved people themselves.²⁰

Priest’s work raises the possibility of another interesting incentive for planters to innovate with respect to slave feeding arrangements. That is, creditors’ legal right to reach far-flung assets (including both land and enslaved people) in the West Indies may have created a financial incentive for planters to preserve cash and augmented the likelihood that they would support cash-preserving innovations with respect to slave feeding arrangements. Why waste your precious credit purchasing food for slaves in London if there were cheaper alternatives?

The primary innovation was provisioning, that is, planters allowed slaves to grow their own food on provision grounds. Importing food to the isolated West Indian islands was expensive—indeed, these costs increased

accounting and valuation techniques long before businesses in other industries).

17. Kenneth Morgan, *Remittance Procedures in the Eighteenth-Century British Slave Trade*, 79 *BUS. HIST. REV.* 715, 720 (2005).

18. Harris, *supra* note 14, at 22-27.

19. Eleanor Brown, *The Blacks Who “Got Their 40 Acres”*: A Theory of Black West Indian Migrant Asset Acquisition, 89 *N.Y.U. L. REV.* 27, 64-65 (2014)

20. *Id.*; Eleanor Brown & Ian Ayres, *The Nature of the Farm* (unpublished manuscript) (revise and resubmit with *JOURNAL OF LEGAL STUDIES*).

substantially following the American revolution, when cheap importation from the American colonies was no longer possible.²¹ To reduce their importation bills, planters gradually replaced London food merchants with slave provisioners. The slaves fed themselves, relieving the planters of the obligation to do so. Provisioning was, in effect, a mechanism of reducing planters' debt load to English merchants. In summary, Priest's work helps us better understand planters' incentives for such innovations in the West Indies.

21. Carrington, *supra* note 12, at 827.