

An Early Edict on Slavery in English America: The Barbados Resolution of 1636 and the Island's Slave Laws. Ms. Submitted for publication May 2019.

### **Abstract**

A resolution on slavery by the Barbados Governor and Council in 1636 has been widely cited and quoted by writers on Anglo American slavery and Barbados history from the early 19<sup>th</sup> century until the present. Writers have universally accepted either explicitly or implicitly that the Resolution was the earliest slave law and was foundational in legitimizing slavery in Anglo America. No writer has attempted to explain why the Resolution was adopted or has questioned or challenged its role in the history of slave law in Barbados or Anglo America.

This paper considers a possible reason for the Resolution's adoption and argues, primarily relying on evidence from the history of Barbados slave law, that it had absolutely no impact on how early English settlers thought about the status of chattel slaves or on how slave law developed in Barbados. In fact, the Resolution disappeared from the legal record of Barbados and never influenced any later law pertaining to slaves.

**Keywords:** Barbados, Caribbean, Anglo-American slavery, Slave Laws, Slave Status

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## Introduction

In their 1972 social history of the early English West Indies, American colonial historians Carl and Roberta Bridenbaugh quote a 1636 Barbados Council resolution they identify as ‘the earliest law governing slavery in the English Dominions.’ The ‘law,’ discussed further below, specified ‘that Negroes and Indians, that came here to be sold, should serve for life, unless a contract was before made to the contrary.’ The Bridenbaughs’ observation was reiterated about two decades later by the legal historian William Wiecek in a comparative study of the origins of slave law in British North America. Also citing the 1636 Resolution, Wiecek writes, by ‘linking the two fundamental characteristics of American slavery: race and perpetuity,’ Barbados ‘pioneered development of a statutory law of slavery’ in Britain’s New World colonies; and, more recently, for the historian Betty Wood, this law was also ‘the earliest pronouncement anywhere in English America legitimizing slavery and linking it specifically to ethnicity. . . [It] went unchallenged not only in Barbados, but also in England’ (Bridenbaugh and Bridenbaugh 1972: 33; Wiecek 1996:1741; Wood 2011: 64-79).

Although other scholars who reference the 1636 law do not generally suggest its chronological significance in the history of England’s/Britain’s New World slave laws, as do the authors quoted above, the Resolution has been widely cited and quoted by historians, legal scholars, and other writers of early English/British America, New World slavery, and particularly Barbados from the early 19<sup>th</sup> century until the present-day. None of the many writers who have cited the law including myself (Handler 1974:12) have attempted to explain why the

Resolution was adopted or have questioned or challenged its role in the history of slave law in Barbados or English/British America. <sup>i</sup>

In this paper, I consider a possible reason for why the Resolution may have been adopted (apparently, as is discussed below, to address a specific and unique issue rather than a general societal condition) and argue, contrary to a number of authors, that it had absolutely no impact on how early English settlers thought about chattel slavery or on the statutory law of slavery in Barbados; moreover, it played no role in linking slavery ‘specifically to ethnicity’ (Wood 2011: 72). In fact, the Resolution disappeared from the legal record of Barbados and never influenced any later law pertaining to the enslaved.

In an earlier publication I argued that Barbados never had a law that established or legitimized slavery -- any more than England had a law that established or legalized slavery for its colonies (Handler 2016). Because legal scholars and historians focus on statutory or written law, they ignore that statutory law never established slavery in Barbados; it was embedded in custom from the beginnings of European settlement on the island. When in early 1627, a group of English settlers established their colony in Barbados they brought with them a small number of Africans they had captured as a prize, probably from a Portuguese vessel, during the Atlantic voyage. As booty, these Africans were considered slaves. The earliest English carried with them, as part of their cultural baggage, ideas of African enslavement that were prevalent in the Euro-Atlantic (primarily Iberian) world, and had no need to formally legitimize or legalize the

enslavement of Africans. Moreover, the English Crown considered African enslavement an acceptable practice.

Despite a number of Barbadian laws governing the lives of the enslaved, these laws, as well as slave laws in other seventeenth-century English Caribbean and North American colonies, never defined the term ‘slave’ or codified its attributes. As in all New World slave societies, these attributes included lifetime (or permanent) servitude, chattel and private property status, and inheritance of slave condition from an enslaved mother. A concomitant attribute was the absolute authority of the slave owner. <sup>ii</sup>

The attributes of slave status, <sup>iii</sup> it bears stressing, were already present in the Euro-Atlantic world before the colonization of Barbados. Thus I believe, as I have earlier argued (Handler 2016), it is reasonable to assume they were shared by the early English who settled the island. From the very beginnings of the colony, these attributes were implicitly associated with the term ‘slave’ in everyday parlance and in all documents, legal and otherwise; they were, however, embedded in custom and social conventions and *never* articulated in statutory or written law throughout the long history of slavery on the island.

### **The 1636 Resolution: William Duke**

It merits emphasis that the *only primary source* that establishes the existence and contents of the 1636 Resolution is William Duke’s *Some Memoirs of the First Settlement of the Island of Barbados* (Barbados, 1741; reprinted, London, 1743). <sup>iv</sup> The author, a member of a prominent white Barbadian family,

was clerk of the Barbados Assembly from 1735 to 1743 and again from 1744 to 1765; he died in the latter year.

Duke's brief (100 pp.) work, published over a century after the passage of the 1636 resolution, gives a superficial and rapid narrative of the island's early settlement, political conflicts among settlers, the establishment of administrative divisions, land grants by the governor, the names of principal actors etc.

Information is chronologically arranged by gubernatorial terms.

Reviewing some of the Barbados Council's actions taken on 21 July 1636, Duke, without any special emphasis, almost casually writes 'it was also resolved in Council, that Negroes and Indians, that came here to be sold, should serve for life, unless a contract was before made to the contrary' (Duke 1741:19). Duke offers brief commentaries on several other laws enacted during the period, but he gives no reason or rationale for the passage of the 1636 resolution and the resolution is not mentioned again in his work. Although not explicitly cited, his source appears to have been minutes or some other record of the Barbados Council proceedings. As clerk of the Assembly, Duke would have had access to records which had survived over a long period of time, despite the depredations of a tropical environment and what must have been very inadequate record storage facilities. In any case, lacking any other contemporary evidence the reason why the Resolution was adopted is left to speculation.

### **The 1636 Resolution: Why Adopted**

A possible reason for its adoption lies within the context of the island's early history. Barbados was a proprietary colony for the first several decades of

its life. The proprietorship was disputed for many years with political intrigues and machinations in London and Barbados as two factions laid claim to the island. One faction represented William Courteen of the Anglo-Dutch merchant syndicate, which had sponsored the first colonizing party in 1627; the other represented James Hay, the Earl of Carlisle, to whom the Crown had 'awarded' various Caribbean islands, including Barbados, that were claimed by England. The issue of the island's proprietorship was not resolved until 1629-30, when Carlisle's representatives and his local supporters gained control of the island's government; however, bitterness and tensions between the two sides continued for some years thereafter. Carlisle died in 1636, having bequeathed his right to Barbados to his son, but his right continued to be challenged by the Courteen syndicate, which tried to get compensation for their loss of Barbados from his heirs. The conflict between these two sides played out on the island itself (e.g., Schomburgk 1846: 260-65; Harlow 1926:3-13; Dunn 1972: 49-51). As in other proprietary colonies, the rights given by the Crown to a Proprietor included the power to make laws and impose taxes; he, in turn, could transfer his power to deputies. An appointed Governor normally exercised the proprietor's powers and a Council assisted the Governor.

The Governors and their Councils had considerable power, but in 1639 a House of Assembly was established in Barbados. Selected by a small electorate defined by a very narrow franchise based on property holding, race, religion, and gender, the Assembly, in effect, represented the property-owning elite and its interests. At its beginning, the Assembly was only an advisory body, but in 1641

it began to initiate legislation. Thus, prior to 1641 the laws were, in effect, edicts issued by the Governor and his Council (Spurdle 1963; also, Campbell 1993: 57-81; Wrong 1969).<sup>v</sup>

The fact that the 1636 Resolution referred to both enslaved Africans as well as Amerindians suggests the possibility that in some way the Resolution was related to the Courteen-Carlisle proprietorship dispute and an Amerindian group that had come to the island not long after it was colonized. This possibility can be inferred from a petition that was personally delivered in 1652 to the new Governor Daniel Searle (appointed by Parliament which had recently assumed control of the island from the Royalists) by Henry Powell, captain of the ship that in early 1627 had landed the first colonizing party. Powell had returned to Barbados after an absence of several decades to argue for Courteen's claim to the island; at the same time, he also petitioned for the liberation of Indians he had brought to Barbados many years earlier.

In 1627, shortly after the colonizing party was landed, Powell embarked on a trade mission to the Dutch colony in Guiana (Essiquebo), with which his Anglo-Dutch firm had connections. Within five or six months he returned to Barbados with a variety of plants intended for cultivation on the island as well as a group of about 32 Amerindians who were to instruct the English colonists in their cultivation and facilitate their adaptation to the tropical environment. According to Powell's 1652 petition, several Amerindians had approached him while he was in Guiana and expressed 'a desire to go with me as free people' to Barbados (which they had heard about 'from their forefathers' who had once

visited the island, then uninhabited) and cultivate the plants he had acquired in trade. Thus, the Amerindians, including some who were ‘the wives and children’ of men who had stayed behind, came as ‘free people’ to Barbados under some type of agreement that Powell and the Dutch governor had worked out to the Indians’ satisfaction. Under the terms of this agreement (it is not known if it was made in writing or can be considered an indenture contract similar to what was given to European servants) the Indians were ‘to bring up their children to Christianity’ and were to be given ‘a piece of land’ in Barbados. At the expiration of two years, in the words of the petition, ‘if they did not like the country, or should upon any other occasion desire to go back to Essequibo, they should be transported with their reward, which was to be fifty pounds sterling in axes, bills, hoes, knives, looking- glasses, and beads.’ However, within two to three years after the Indians’ arrival the agreement was broken. Powell’s petition claimed ‘the former government of this island... hath taken them by force and made them slaves.’

I have no direct evidence that explains why the Indians were enslaved. However, suggestive evidence indicates they were caught up in the conflict between the local supporters of Courteen and Carlisle and were treated badly (including violation of the initial agreement with Powell?) by the latter; the Indians were identified, through Powell, with Courteen’s claims to the island. Whatever the reason, Powell ends his petition by requesting the Governor to ‘set these poor people free that have been kept thus long in bondage.’<sup>vi</sup> Powell’s 1652 petition shows that the 1636 Resolution had no immediate effect or even a

short-term impact on liberating any Indian. (I have no information if Africans were affected, although I doubt that any were.)

Evidence from a legal proceeding that came before the Barbados Council a few years later, in 1654-55, supports this conclusion. This proceeding, possibly stimulated by Powell's petition, also makes it clear that the Indians were kept in bondage for many years, during which period most of them died; the few survivors were not liberated until early 1655. <sup>vii</sup>

Whatever the specific reasons for the Indians' enslavement, it is likely that the 1636 resolution was adopted only to clarify an ambiguity surrounding the status of the original group and its descendants. If this is true, why the Governor and his Council felt impelled to clarify this ambiguity is not known. With this and only one other known exception related to Amerindians, there is no evidence that other Amerindians brought to the island in later years arrived under any type of contractual agreement. <sup>viii</sup> And why the resolution included Africans is also unknown. I am not aware of any documentary evidence that suggests an answer to this question. There are no recorded cases of Africans, unlike many European indentured servants in the first several decades of colonization, who voluntarily came to the island at this early period (or any other, for that matter) under a contractual agreement or something similar. Moreover, throughout the period of slavery no Barbados law ever implied even the possibility that an enslaved African could have had a contract, and no Barbados law ever defined lifetime servitude for an enslaved person; this feature of slave status, as noted above, was

well established in custom from the very beginnings of slavery in the colony (Handler 2016; Handler and Reilly 2017).

What is certain, however, is that the 1636 Resolution, in wording and substance, was never incorporated into the legal code of Barbados and did not become part of the island's slave laws. In other words, the Resolution never established a precedent for slavery on the island and cannot be considered a landmark or foundational law, as some scholars have maintained, in the development of the 'statutory law of slavery' in Barbados, let alone the early English colonies in the New World.

### **Barbados Slave Laws and the 1636 Resolution**

In a survey of Barbados laws, particularly those relating to slavery, it is noteworthy that the 1636 Resolution, or its substance (lifetime servitude, possibility of a contract) is not mentioned in the earliest publication of the island's laws. Compiled by John Jennings, clerk of the island's Assembly, this slim volume was published in 1654, not even twenty years after adoption of the 1636 Resolution. The laws operative at the time were those enacted by the House of Assembly, authorized to initiate legislation in 1641, with ultimate approval by the Governor. Whether the House was even aware of the 1636 Resolution and chose to ignore it is unknown. The Jennings volume included 102 acts in force as of July in that year. By this time, despite the significance of European indentured servants in the island's labor force, chattel slavery of Africans had become an important feature of the island's social structure. Fourteen of the 102 laws in the Jennings volume concern, or refer to, 'servants' (meaning Europeans) and the

conditions of their servitude; five others mention ‘Negro’s’ (meaning slaves), but none of the laws are specific only to the enslaved. In any case, none of the laws mention ‘Indians,’ define the legal status or attributes of the enslaved in general, or refer to lifetime servitude or possible contracts (Jennings 1654).<sup>ix</sup>

\_\_\_\_\_ William Rawlin (1699), clerk of the Barbados Assembly, published the next compilation of Barbados laws. This over 200-page work includes laws in force as of 1698 (the earliest passed in 1648 or 1649) and also includes an extensive list of laws which were no longer in effect. As with the Jennings volume, nothing in the Rawlin compilation refers to the 1636 Resolution or any stipulations of the conditions of servitude encompassed within it.

\_\_\_\_\_ Several published compilations of Barbados laws in the early eighteenth century also lack any reference to the 1636 Resolution.<sup>x</sup> Nor is the Resolution mentioned in what is the most detailed and authoritative version of Barbados laws published in the eighteenth century. *Acts, Passed in the Island of Barbados. From 1643, to 1762* (London, 1764) was compiled by Richard Hall (born ca. 1709), a prominent merchant, sometime member of the Barbados Council and vestryman for St. Michael; when he died in 1758 he had been a justice of the peace for about thirty years and was a member of the House of Assembly. The compilation, continued for a few years after his death by his son, also Richard, contains the texts of hundreds of laws then in effect with occasional explanatory footnotes; several of these footnotes are crucial in establishing that Barbados Council records of the 1630s were still available or extant in the middle of the eighteenth century (see below). The volume also provides a valuable list of the titles of

many hundreds of other laws (with dates of passage and occasional notes by the editor) that were enacted ‘from the settlement of the island of Barbados, to the present time; and which are now become obsolete, repealed, expired or had their effect’ (Hall 1764:459). The 1636 Resolution or reference to its contents is not mentioned in any of the laws then active or the ones which, in Hall’s listing, had ‘become obsolete, repealed, expired or had their effect.’

The earliest major slave law for which a text is available was enacted in 1661. This law was never published and is only known in manuscript (Barbados Assembly and Council 1661; cf. Handler 2016).<sup>xi</sup> Its authors mention, but fail to identify, the earlier passage of ‘many good laws and ordinances...for the governing, regulating, and ordering the Negro slaves in this island.’ Although the Assembly retained in the 1661 law what it found ‘necessary & useful in the former laws,’ the 1661 law was felt necessary ‘for the public safety and ...peace of this island.’ By addressing issues of ‘public safety,’ the law was clearly intended to curtail a growing enslaved labor force that increasingly posed problems of social control for slave owners, particularly in their ‘running away’ and other forms of rebellious behavior. The 1661 law repeals all former slave laws (which are not mentioned or identified in the law itself), but it incorporates some features found in earlier laws. Most clauses in the 1661 law relate to public order and policing of the enslaved, but nothing in the law refers or alludes to the 1636 Resolution or its contents, or even addresses the defining attributes of slave status.<sup>xii</sup>

The same holds for ‘An Act for the Governing of Negroes’ passed in August 1688 (Hall 1764: 112-21). Mainly focusing on issues of social control, the 1688 law was to become the island’s most comprehensive and enduring slave law; it nullified all earlier laws pertaining to the ‘governing of Negroes,’ but identified none of them specifically. In neither the 1688 act nor its subsequent amendments and modifications, is there any reference or allusion to the 1636 Resolution (Hall 1764: passim; Moore 1801: passim). The 1688 law persisted with occasional modifications until 1826 when it was repealed and superseded by the major ‘Slave Consolidation Act,’ sometimes referred to as the ‘Consolidated Slave Act. The preamble to this lengthy act of 68 clauses itemized by title all of the slave laws and clauses in these laws which were being repealed by the act, starting with the 1688 act and continuing with many other laws passed over subsequent years and up to 1818. Nothing in the ‘Slave Consolidation Act’ makes any reference to the 1636 Resolution or, in fact, the conditions of servitude specified in it (Barbados Assembly and Council 1826).<sup>xiii</sup>

Similar negative results were obtained in consulting various early discussions of Barbados laws, particularly those relating to slavery and the enslaved (e.g., Dwarris 1827:12-27).<sup>xiv</sup> In over fifty years of research on slavery in Barbados I have consulted many other materials relating to the island’s early history; other than the Duke volume, I do not know of any other primary source that mentions the 1636 Resolution.<sup>xv</sup> The conclusion is inescapable: the Resolution had an ephemeral existence and had no permanent impact on the legal history of Barbados or the defining attributes of enslaved status.

### **Nathaniel Lucas: Transcription of Early Records**

The omission of the 1636 Resolution from the corpus of Barbados slave law can lead one to suspect that the Resolution never existed. I had reached this conclusion earlier in my research, but subsequent work and comments of friends who had read an earlier version of this paper caused me to change my mind. My original conclusion was greatly influenced by the writings of Nathaniel (or Nathan) Lucas (b. 1761; d. 1828) who in the early nineteenth century strongly suspected and argued that the Resolution had never existed.

Lucas was a descendant of an old Barbadian planter family and a prominent member of the island's plantocracy. As a young man, he studied medicine in Britain. Sometime after returning to Barbados he inherited Mt. Clapham plantation. Employing a manager to run the plantation, Lucas lived 'the life of a country gentleman' while pursuing his interests in natural history and science. He also served on the Barbados Council and became a major figure in the island's judiciary. Between 1818 and 1828 (when he died), Lucas transcribed, 'with his own hand all the Minutes of Council from the earliest times' in addition to a variety of other early records. Many of the available records were already in poor condition by the time Lucas began his transcriptions, and over subsequent years they deteriorated further or were lost. Thus, as E. M. Shilstone, the founding editor of the *Journal of the Barbados Museum and Historical Society*, wrote in 1940, 'Judge Lucas's copies are now the only local record of the contents of these missing volumes.' Shilstone had the very fragile volumes copied and then published these transcriptions, sometimes providing his own explanatory

footnotes, in various early issues of the *JBMHS*. I have relied on these publications for this article.<sup>xvi</sup>

In an early volume of his transcripts, Lucas provides a brief essay on ‘the introduction of Negro and other slaves into Barbados.’ He mentions the records available to him at the time of his writing, and describes their deficiencies when dealing with early African slavery on the island. On that subject, he says, ‘Our records, at any rate those in existence, are silent.’ But, he continues, ‘As for that account given in the *Memoirs of Barbados* published by an anonymous author . . . but whose real name was William Duke, the factious clerk of the House of Assembly of that day, I fear no reliance can be placed in it; his accounts appear to me to be garbled and incorrect, brought forth to suit some sinister purpose’. Lucas does not suggest what this ‘sinister purpose’ might have been, but he directly addresses the resolution by noting that on 21 July 1636 ‘It was also resolved in Council, that Negroes and Indians that came here to be sold, should serve for life, unless a contract was before made to the contrary.’ Lucas comments, with apparent sarcasm, that since the first known volume of the Council Minutes only starts ‘after this period [1636] . . . I put no faith in his [Duke’s] account. How he could *quote Resolutions in Council, where no Minutes existed, is singular enough*’ (Shilstone 1942b: 15-17, 20-21; my emphasis).<sup>xvii</sup>

Lucas, in effect, accuses Duke of fabricating the Resolution, but offers no explanation or speculation as to what Duke’s motivation might have been.<sup>xviii</sup>

Lucas may not have been aware of the Amerindians who were brought to Barbados in 1627 -- in any case, he does not mention them-- and, as discussed

above, subsequent developments with respect to this group and the appeals by Henry Powell on their behalf. Moreover, at one point in time, contrary to Lucas's assertion, early records of the Council did in fact exist. Evidence for their existence is found in Richard Hall's *Acts, Passed in the Island of Barbados*, that I discussed above. Writing at least a half a century, if not more, before Lucas, Hall gives several footnoted commentaries to a 1661 (non-slave) law, and refers to actions by Governor Hawley and his Council in 1631 and 1636 (Hall 1764: 33). Hall does not mention the 1636 Resolution, but these footnotes make clear that, contrary to Lucas's assertion, some type of record existed of Council proceedings, at least during the period that Hall compiled materials for his volume. Despite Lucas's implication that Duke fabricated the 1636 Resolution, there is no discernable reason why Duke would have done so.<sup>xix</sup> Moreover, as clerk of the Assembly, he would have been aware of existing records and proceedings of the Council and the records available to him easily could have disappeared by the time that Lucas wrote. Whatever the case, the evidence indicates that Lucas was wrong and that the Resolution mentioned by Duke had at one time existed-- even though it left no mark on the history of Barbadian slave law and, indeed, seems to have had no impact in liberating anyone when it was adopted.

## **Conclusions**

Although there is no strong reason to doubt the existence of the Resolution adopted by the Barbados Governor and Council in 1636, documentary evidence indicates that it did not result in freeing any enslaved person and that it rapidly disappeared from the recorded legislative history of Barbados and, probably as

well, the institutional memory of the island's legislators. Moreover, and most importantly, not one of the many slave laws enacted in Barbados from the seventeenth century up to the early decades of the nineteenth century ever specified that the enslaved should serve for life. This condition or attribute of slave status was always implied whenever slaves were mentioned in laws or other legal documents, as were other markers of slave status such as descent through the maternal line and chattel property; none were ever mentioned in statutory law.<sup>xx</sup> This fact has been overlooked by historians and legal scholars. These attributes of slave status were brought to the island by the earliest English settlers in their cultural or ideological baggage and were always implied in any law that affected or mentioned slaves. Finally, no Barbados law ever implied or suggested the possibility that persons brought to the island as slaves could have made an earlier contract or agreement specifying their terms of service. In sum, the 1636 Resolution addressed a specific issue in the early history of Barbados-- the status of the original group of Amerindians and their descendants-- but it cannot be considered as a landmark in the 'statutory law of slavery' in the English/British Caribbean and mainland colonies and it is misleading, if not irrelevant, to characterize it as 'the earliest pronouncement anywhere in English America legitimizing slavery' (Wiecek 1996:1741).

The 1636 Resolution did not legitimize slavery. The Crown already considered enslavement of Africans (and Amerindians) legitimate in its Caribbean Empire as did the English colonists who first settled Barbados. What it did, however, is clarify an apparently ambiguous historical situation involving the

original Amerindian group. Why the Governor and his Council felt the need for this clarification remains unknown. In any case, slavery was introduced to Barbados with the earliest English colonizing party and the Africans that had been captured en route, and never required the sanction of the Crown or local legislative authority for its legitimization. At best, the 1636 Resolution is merely a footnote in the history of slavery in Barbados and had no significant or permanent impact on what was a fundamental institution for over two hundred years of the island's early history.

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<sup>i</sup> As best as I can ascertain, the first writers to cite this law in their histories of Barbados were John Poyer (1808:32) and Thomas Southey (1827 1:279). The list of later writers who reference the Resolution could be considerably expanded, but specific examples include: Beckles (1990:18-19); Blackburn (1997: 235); Bridenbaugh and Bridenbaugh (1972: 33); Bush (1996: 625-26); Davis (1887: 67); Dunn (1972: 228); Fisher (2014); Guasco (2014: 203); Gragg (2003:114); Handler (1974: 12); Handlin and Handlin (1950: 220); Heywood and Thornton (2007: 319); Jordan (1968: 64); Menard (2001:35); Newell (2015: 46); Newton (2008:27); Parent (2003:108); Rugemer (2018:1-18); Scanlan (2000: 674); Schomburgk (1848:145); Stark (1903: 69); Tomlins (2010: 428); Wiecek (1996: 1741); Wood (2011:72).

<sup>ii</sup> These attributes were also linked to enslaved persons in Virginia and other early English colonies long before these colonies enacted slave laws (Tomlins 2010: 420; Kupperman 1993:165; Jarvis 2010:29-31).

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There is no evidence for Hilary Beckles' assertion that, 'the slave codes of Barbados consistently held that all children at birth took the status of their mothers' (1989:133). No Barbados law specified this rule, although the rule was firmly entrenched in custom from the earliest days of slavery on the island (Handler 2016).

iii I use the term 'status' in the sociological sense of a position within a social system or society. In the slave society, 'slave' was a status as was 'slave owner', etc. I do not use the term to imply prestige or how a person was ranked in the social order, or the societal value that might be attached to a particular status, e.g., high or low status.

iv The content of both editions is identical. The author is not identified in the work itself, but his authorship is well documented elsewhere. Duke based his account, as stated on the title page, on 'antient [sic] records, papers, and accounts taken from Mr. William Arnold, Mr. Samuel Bulkly, and Mr. John Summers, some of the earliest settlers, the last of whom was alive in 1688, aged 82'.

v Heywood and Thornton (2007: 319) erroneously refer to the 1636 Resolution as an 'act of the Barbados Assembly', but the Assembly only came into existence in 1639 and could not initiate legislation until 1641.

vi For details, see 'The Humble Petition of Capt Henry Powell, to ... Daniel Searle Governor of the Island of Barbados... and to the Council and Assembly of the said island' [October 1652] (Rawlinson Mss C94, Bodleian library, University of Oxford, printed in V.T. Harlow, ed., *Colonizing Expeditions to the West Indies and Guiana*. London: Hakluyt Society, 1925, pp. 36-8); also, 'First Plantation of

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Barbados’, in ‘Breviat of the Evidence Given into the Committee of the House of Commons by the Petitioners Against the Earl of Carlisle’s Patent for the Caribee Islands [1647],’ Trinity Mss. G. 4. 15, pp. 80-4, Trinity College, Dublin. Another account of these events, which the writer John Darell claimed was given to him directly by ‘Captain Henry Powell, John Powell and others’ after they returned to England from Barbados in 1627, can be found in: ‘An abstract of some principal passages concerning Sir William Courteen [sic], his heirs and their claim in and to the Island of Barbados’ (Shaftesbury Papers, PRO 30/24/49, item 2B, June 1660, The National Archives, London).

A number of authors writing on early Barbados mention the 1636 resolution but do not attempt an explanation for its passage. Only a few, following Harlow (1926: 6), suggest a link between the enslavement of the Indians and the Courteen-Carlisle controversy, but this link is not discussed.

Alone among authors, Menard (2006: 86-8) conjectures that the Indians were enslaved because European settlers valued their cotton spinning skills. Cotton was one of the crops introduced from Guiana in 1627, and cotton hammocks became popular among Euro-Barbadians. However, there is no suggestion in any early source that the Indians were enslaved because they were adept at spinning cotton; in short, Menard’s conjecture cannot be supported by any available evidence.

On the original group of Amerindians, their enslavement and material contributions to early Barbados, see Handler 1969; Handler 1970; Fisher 2014.

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vii Appended to Powell's petition are the names of 'Yow, a woman and her three children [and] Barbadoes, a boy living at Coll. Ellises'. Apparently these were the only survivors/descendants of the original group.

A few entries in the minutes of the Barbados Council over the period, 5 September 1654 -3 January 1655, while Daniel Searle was Governor, show that some kind of litigation took place between several Indians, who were represented by an 'attorney', and Thomas Ellis, a prominent landowner, concerning the status of the Indians. Although I am not entirely clear on the specifics of the proceedings, it appears that these Indians were attempting to achieve a freedom they had been promised by the will of a former (unnamed) master; they had, however, been kept in slavery (by Ellis, the executor of the will?). In a letter from Barbados, dated February 1655, John Thurloe, Secretary of State in Cromwell's government, was notified of a recent 'trial' in Barbados by which 'the Indian Christians were set free, after they had all been destroyed by oppression except five' (Berkenhead 1655:159; also Barbados Council 1654-58).

viii Dunn (1972: 228) mentions a New England Indian brought to Barbados in 1648 under some type of contract. In any case, Amerindians were a minute percentage of the seventeenth century labor force. They are very rarely mentioned in primary sources and the only known figure for the number of Indians is in 1684, when a count of the island's population reported seventy-two, although there were probably more (Dutton 1683/84). By this time, the enslaved Amerindian population could have included people from neighboring islands as

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well as the mainlands of North and South America (Handler 1969; Handler 1970; Fisher 2014; Lauber 1913).

<sup>ix</sup> Some laws in Jennings' compilation had been enacted in the 1640s and up to late 1651, when the forces of Parliament, under the command of George Ayscue, took command of the island. Daniel Searle was appointed deputy-governor in March of 1652, and became governor in the following year. While Ayscue had signed a few of the laws, during Searle's administration (1652 - c.1660) all earlier laws enacted under the Royalist government were first voided. Some of these laws were then reaffirmed because they were germane to contemporary conditions, while new ones were added which 'were thought necessary for the good government of the island' (Duke 1741:28). Searle affirmed most of the laws between October 1652 and July 1654 (Handler 2016).

<sup>x</sup> See Barbados Assembly 1732-1739. This source consists of two volumes, usually bound together, the first volume published in 1732 (some copies say 1721), and the second in 1739. Each volume has its own title page and imprint, but the pagination is continuous. Contains over 600 laws, many listed by title only.

<sup>xi</sup> I say first known with a text because in August 1644 the legislature passed 'An Act Concerning Negroes', which may have been *the earliest* law that specifically addressed the governing of the enslaved; it was later repealed. There is no known copy of the 1644 law and it is known by title only (Hall 1764:450; my emphasis).

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<sup>xii</sup> The 1661 act has 23 clauses and not one specifies the attributes of slave status such as private property (chattel), descent through the maternal line, etc. Virtually the entire act treats the control of the enslaved and their policing. Well over half of the clauses deal with fugitives/runaways, and the penalties for various types of crimes constitute the remainder, e.g., assault on whites, theft. Despite all the attention paid to fugitive/runaway slaves in this and later laws, runaways were a major problem for slave owners throughout the period of slavery. There is no way of telling how much punitive measures, some very severe especially for repeated offenders, curtailed these behaviors (Handler 1997).

The 1661 law is the first known comprehensive slave act in English America, and it directly or indirectly influenced slave laws in Virginia, Jamaica, South Carolina, and Antigua (Nicholson 1994; Gaspar 1999:343-66; Rugemer 2013: 430-31).

<sup>xiii</sup> The Crown assented to the act in October 1827 (CO 31/21, The National Archives). For the Slave Consolidation Act, see Handler 1974:97-100.

<sup>xiv</sup> Also, there is no mention of the 1636 Resolution in the final compilation of Barbados laws, as they had been enacted by the end of the eighteenth century. This compilation was done by the clerk of the Assembly and contained not only the laws in force but also a detailed listing of acts passed between 1762 and 1800 which were no longer in effect as well as an eight page subject index (see Moore 1801).

<sup>xv</sup> In addition to sources discussed above, I have also consulted the on-line version of the well-known *Calendar of State Papers Colonial, America and West*

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*Indies* <<http://www.british-history.ac.uk/search/series/cal-state-papers--colonial--america-west-indies>>. Using the search terms, ‘slave’ and ‘1636,’ the *Calendar* yields many hundreds of items, many more under the former than the latter. Perusing the entries under these terms, I could find no reference to the 1636 Resolution.

In his history of early Barbados, N. Darnell Davis (1887: 67), mentions in a footnote the passage of a 1636 ‘law’ which ‘authorized the sale of Negroes and Indians for life.’ He cites a British Library manuscript, Sloane 3662 (folios 54-62) ‘The Description of Barbados.’ This manuscript is an early account of Barbados written by John Scott, ca. 1668; however, it contains no reference to the Resolution and Davis’s footnote is clearly an error. Scott’s account has been transcribed and reprinted in several places; see Handler 1971:135-36 and Campbell 1993: 246-59.

<sup>xvi</sup> For materials on Lucas’s life, see Shilstone 1940:138-40; Shilstone 1941: 107-17. The Lucas transcriptions cited in this article are from Shilstone 1942a: 155-82 and Shilstone 1942b: 15-25.

Eustace Maxwell Shilstone was a well-known Barbadian lawyer with a keen interest in the island’s history, particularly of its European-descended population. At the time, he was the president of the Barbados Museum and Historical Society, which he had helped establish. By time the Lucas volumes were copied, they were in a very fragile state. Shilstone had the transcriptions published in various early issues of the *JBMHS*; these transcriptions sometimes contain explanatory footnotes by Shilstone.

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The actual transcribing was done by Audrey Skinner who, in Shilstone's (1942a: 156) words, confronted a 'task which is made extremely irksome by the difficulty of deciphering the faded writing on yellowed pages.'

xvii The earliest known minutes of the Barbados Council are from February 1654 to December 1658. These are included in two typescript volumes which were copied in 1934 from the original fragmentary manuscript minutes in Barbados by F.G. Spurdle (1963), author of a privately published little known work on early West Indian government, and then donated to the Public Record Office (today, The National Archives [TNA]); see PRO 31/17/43 (1654-1656) and PRO 31/17/44 (1656-1658). The earliest manuscript minutes of the Barbados Council in TNA only begin in 1660, CO 31 (Handler 1971: 151; Chandler 1965:4). Lucas did more than merely transcribe early records; he also provided commentaries, sometimes several pages long, on a variety of early governmental, administrative, and socio-political issues.

xviii Lucas takes a dim view of Duke's involvement in the politics of the day, but he does not explain his apparent animus toward Duke. They could not have known each other personally since Duke died in 1765, when Lucas was about four or five years old. Lucas apparently formed his opinion of Duke by reading his *Memoirs* as well as the minutes of the Barbados Assembly for the years that Duke was its clerk. Lacking any substantive information that would explain Lucas's negative views or any external information that would suggest why Lucas believed that Duke fabricated the 1636 resolution, I believe this question must go unanswered (Shilstone 1942b: 20-21).

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<sup>xix</sup> Writing close to 60 years ago, Winthrop Jordan was unaware of Lucas's writings but observed that Duke 'had no apparent motive for distortion' by including the 1636 Resolution in his book; it 'was a casual statement of action taken, sandwiched between other actions on judicial appointments and allotments of land' (Jordan 1961: 248n21).

<sup>xx</sup> But see Handler (2016: 246-47) for a discussion of slaves as chattel in Barbados law.