

Isle of Exceptions: Slavery, Law, and Counter-Revolutionary Governance in Cuba, 1825-1856

by

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Table of Contents

Acknowledgments	ii
Abstract	v
Introduction	1
Chapter 1: A Precarious Balance: Repression and Authority in Matanzas, 1825	25
The Guamacaro Rebellion of 1825	30
Slave Resistance and Repressive Justice	34
Insular Security and Interrogatory Justice	45
Sovereignty and Authority	54
Chapter 2: An Intractable Problem: Free People of Color and Insular Security, 1826-1832	71
White Residents, Local Authorities, and the Fear of Black Violence	79
Free People of Color and the Military Commission	91
Free People of Color and the Captain General	103
Chapter 3: “An Imprudent Anomaly”: Colonial Exceptionality and the Limits of Executive Authority, 1825-1843	113
The Intendancy and the Costs of Military Justice	121
The Real Audiencia and the Boundaries of Military Justice	134
The Court of Vagrants and <i>Picapleitos</i>	146
Chapter 4: “As Exceptional as Slavery Itself”: Inquiry and Repression in the Escalera Process, 1843-1844	162
The Rebellions of 1843 and the Origins of the Escalera Process	171
The Investigatory Phase of the Escalera Process	178
The Institutional Phase of the Escalera Process	193
Judicial Violence, Racial Plunder, and the Consolidation of Sovereign Authority	201

Chapter 5: Isle of Tranquility: The Consolidation of Sovereign Authority, 1848-1856	215
Narciso López and the “Tranquility of Terror”	222
Reforming the Administration of Justice	237
Abolition of the Military Commission	250
Conclusion	256
Bibliography	261

Abstract

Following the Haitian Revolution, the island of Cuba emerged as the most productive sugar colony in the world. With the wars of independence on the American mainland threatening to spread to Cuba, and with the island's growing population of enslaved Africans raising concerns that isolated acts of slave resistance might develop into more coordinated rebellions of larger scale, metropolitan officials sought to shield the colony from the transformations of the Age of Revolution by consolidating Spanish sovereignty over the island. As part of a broad effort to develop a mode of counter-revolutionary governance, metropolitan officials ordered the establishment in Havana of a permanent military tribunal known as the Military Commission, aiming to bolster the legal powers of the colony's captain general to contend with threats to Cuban slavery and Spanish empire.

Through a study of Cuba's Military Commission during the three decades it was in operation from 1825 to 1856, this dissertation demonstrates how colonial officials learned to channel fears of racial violence into an exceptional mode of repressive justice that afforded them the latitude and discretion to pursue the consolidation of sovereign authority within the executive branch of the colonial state. Though metropolitan officials envisioned the tribunal as a bulwark against political dissent, colonial officials regularly used the tribunal to contend with the actual and perceived threats posed by the island's population of free and enslaved people of color. The Military Commission's efforts to extend the legal powers of the captaincy general throughout Cuban slave society over three decades thus offers a rich case study for historicizing the roles

that juridical exclusion and states of exception played in the development of legal and political regimes capable of abrogating the very norms, laws, and practices they claimed to sustain. By focusing on the way legal practices that evolved in the repression of free and enslaved people of color were institutionalized, becoming fundamental components of the normative administration of justice, this dissertation argues that the legal dimensions of slavery did not disappear with slavery's demise, but contributed to the emergence of administrative structures and the reconfiguration of inter-institutional relations of power that characterized the development of modern states and empires during the nineteenth century.

Introduction

There was a time when prevailing winds and ocean currents sustained Cuba's place in the Spanish Empire. Overshadowed by Spain's possessions on the American mainland, Cuba's relevancy hinged on Havana's role as the final port of call for ships preparing to move America's wealth across the Atlantic and into Spanish coffers. For hundreds of years, Cuba served as a point of transit.¹

Towards the end of the eighteenth century, a different set of forces emerged that would help make Cuba more than a pivot in the imperial system of trade. In 1791, enslaved men and women on the northern plain of the French colony of Saint-Domingue rose up against their masters. Over the next thirteen years, they and their allies fought for and erected the independent nation of Haiti on the remains of what had been the most productive sugar colony in the world.² Having long aspired to replicate the fortunes of Saint-Domingue, Cuban planters were well prepared to step into the opening in the global market for sugar left by the Haitian Revolution. Aware that their capacity to do so was contingent on their ability to import increasing numbers of enslaved Africans to work the fields, they had already successfully lobbied Spain to begin

¹ Stanley J. Stein and Barbara H. Stein, *Silver, Trade, and War: Spain and America in the Making of Early Modern Europe* (Baltimore: Johns Hopkins University Press, 2000), 32; Alejandro de la Fuente, *Havana and the Atlantic of the Sixteenth Century* (Chapel Hill: University of North Carolina Press, 2008).

² Laurent Dubois, *Avengers of the New World: The Story of the Haitian Revolution* (Cambridge, MA: Harvard University Press, 2004).

liberalizing the slave trade to Cuba in 1789.³ Over the next three decades, during the years of the liberalized slave trade to Cuba, an estimated 300,000 Africans were brought to Cuban shores through legal and illegal means.⁴ During the 1820s and 1830s, even as the British exerted increasing pressure on Spain to comply with its treaty obligations to abolish its slave trade, the contraband slave trade introduced an additional 322,560 slaves to Cuba.⁵

Just as Cuba's plantation economy was in ascendancy, the Napoleonic invasion of the Iberian Peninsula and the abdications of Carlos IV and his son Fernando VII threw the Spanish Empire into turmoil. Throughout Spanish domains, anti-French resistance organized around regional experiments in self-governance. In the Americas, independence movements emerged from the ensuing disruption, steadily eroding Spain's once formidable Atlantic empire. By 1823, only Cuba and Puerto Rico were fully under metropolitan control. Whereas Cuba was long a place most people passed through, it now became the hub of what Josep Fradera has called the "colonies after empire."⁶

Spain too proved susceptible to these disruptions. During the French occupation, political resistance eventually coalesced around the Cortes de Cádiz, which in 1812 proclaimed a liberal constitution premised on the idea that national sovereignty reverted to the people in the king's

³ Ada Ferrer, *Freedom's Mirror: Cuba and Haiti in the Age of Revolution* (New York: Cambridge University Press, 2014), chap. 1.

⁴ David R. Murray, *Odious Commerce: Britain, Spain and the Abolition of the Cuban Slave Trade* (Cambridge: Cambridge University Press, 1980), 19.

⁵ David Eltis and David Richardson, "A New Assessment of the Transatlantic Slave Trade," in *Extending the Frontiers: Essays on the New Transatlantic Slave Trade Database*, eds. David Eltis and David Richardson (New Haven: Yale University Press, 2008), 48-49.

⁶ Josep M. Fradera, *Colonias para después de un imperio* (Barcelona: Ediciones Bellaterra, 2005).

absence. With the defeat of French forces in 1813, Fernando VII reclaimed the throne as sovereign, abolished the Constitution of 1812, and nullified most of the liberal reforms enacted by the Cortes. Resentment over his absolutism lingered, however, until elements in the military compelled the king to reinstate the Constitution of Cádiz in 1820. For three years known as the *trienio liberal*, constitutional monarchy prevailed throughout Spanish domains, until a coalition of European forces led by the French invaded Spain and restored Fernando VII, who reigned as absolute monarch until his death a decade later.⁷

By 1823, then, Cuba found itself caught up in winds and currents of a different sort. In a world where the struggle against slavery had engendered the nation of Haiti and propelled the project of British abolitionism, Cuban slavery was stronger and more important than ever. In a time when a hemisphere once the site of colonies was now the home of nations, Cuba maintained its imperial relationship with Spain. And at a moment when emerging liberal ideologies were transforming notions of citizenship and sovereignty, residents of the “ever-faithful isle” remained subjects of an absolutist monarch. In the waning days of the Age of Revolution, Cuba’s political and economic elites plotted a counter-revolutionary course.⁸

For those directing Cuban economic policy, negotiating the cross-currents of slavery and empire promised great rewards. By the late-1820s, planters in Cuba had succeeded in mobilizing the labor of enslaved Africans to transform the island into the largest producer of sugar in the world.⁹ In the capital city of Havana, the resultant wealth was on full display as what Manuel

⁷ Miguel Artola, *La España de Fernando VII* (Madrid: Editorial Espasa Calpe, S.A., 2008).

⁸ Ferrer, *Freedom’s Mirror*, 15.

⁹ Dale Tomich, *Through the Prism of Slavery: Labor, Capital, and World Economy* (Lanham: Rowman & Littlefield, 2004), chap. 4.

Moreno Fragonals has coined the “sugarocracy” acquired noble titles, built palaces, and bejeweled themselves in the finest imports from the east.¹⁰ Furthermore, the wealth wrought from Cuban slavery transformed the island into the most important colonial possession in Spain’s greatly diminished empire. Whereas the empire had once financed the costs of colonial governance in Cuba through a subsidy from New Spain known as the *situado*, by the 1820s it was the colony that was subsidizing metropolitan governance in Spain.¹¹

Far from assured, Cuba’s fortunes were premised on a risky proposition. Planters seeking to move into the openings afforded to them by the Haitian Revolution could only do so by harnessing the lives and labor of increasing numbers of African captives. With the nation of Haiti an ever-present reminder of the revolutionary potential of this enslaved labor force, they pursued a bold and delicate course, seeking to, in the words of Ada Ferrer, “emulate Saint-Domingue, but to contain Haiti.”¹²

The risks of this endeavor became manifest in 1812 when a conspiracy of free men of color led by José Antonio Aponte, an artist, carpenter, and veteran of Havana’s free black militia, persuaded slaves on a number of sugar plantations on the outskirts of the city to rise up in rebellion. The uprising was quickly suppressed, and soon after the conspiracy dismantled. After a judicial proceeding commissioned by the captain general, the island’s highest ranking colonial official, Aponte and his co-conspirators were publicly executed, their bodies decapitated, and their severed heads displayed in the black neighborhoods of Havana as a warning to free and

¹⁰ Manuel Moreno Fragonals, *El ingenio: Complejo económico social cubano del azúcar*, vol. 1 (Havana: Editorial de Ciencias Sociales, 1978).

¹¹ Fradera, *Colonias para después de un imperio*, 56.

¹² Ferrer, *Freedom’s Mirror*, 38.

enslaved people of color. Slaves who had denounced the rebellions and cooperated with investigating officials, by contrast, were rewarded with their freedom.¹³ As Matt Childs has pointed out, however, “the most attentive pupils to the lessons of death for rebellion and rewards for loyalty to the Spanish Crown were the white Creoles,” as the rebellion “served to dilute whatever aspirations white Cubans had of creating an independent country.”¹⁴

If aspirations to independence had been diluted, they had not been rendered fully inert. By 1823, the emergence of Simón Bolívar and the final Wars of Independence on the American mainland had lent credence to the possibility of national independence, while the dissolution of the *trienio liberal* in Spain seemed to portend the foreclosure of even moderate reforms in Cuba. Inspired and frustrated, a conspiratorial movement eventually emerged from a network of secret societies throughout the island, drawing some support from free people of color and with links abroad, apparently aiming to abolish slavery and secure Cuban independence from Spain. Upon learning of the conspiracy, Cuba’s captain general relied on district and municipal courts to conduct preliminary investigations before convening a special commission of jurists from the Real Audiencia, the island’s final court of appeals, to prosecute what was by then known as the Conspiracy of the Soles y Rayos de Bolívar.¹⁵

By 1824, colonial administrators in Cuba and metropolitan officials in Spain were well

¹³ Matt D. Childs, *The 1812 Aponte Rebellion in Cuba and the Struggle against Atlantic Slavery* (Chapel Hill: University of North Carolina Press, 2006); Ferrer, *Freedom’s Mirror*, chap. 7.

¹⁴ Childs, *The 1812 Aponte Rebellion*, 177.

¹⁵ Vidal Morales y Morales, *Iniciadores y primeros mártires de la revolución cubana* (Havana: Imprenta Avisador Comercial, 1901), chap. 1; Roque E. Garrigó, *Historia documentada de la conspiración de los soles y rayos de Bolívar*, 2 vols. (Havana: Academia de la Historia de Cuba, 1929); Edgardo A. Pérez Morales, “Itineraries of Freedom: Revolutionary Travels and Slave Emancipation in Colombia and the Greater Caribbean, 1789-1830” (PhD diss., University of Michigan, 2013), chap. 6.

aware that in an Atlantic world replete with black citizens, new nations, and growing momentum behind the abolitionist project, anti-slavery and anti-colonial struggles were not aberrations in the normative functioning of Cuban slavery and Spanish empire, but were now among their permanent features. To maintain Spanish sovereignty over Cuba in opposition to the forces of revolution and the threats they posed while also attending to the economic interests of Cuban elites and the exigencies of imperial finance, then, would require a sustained response to persistent crises. It would require, in other words, a counter-revolution through governance.

Isle of Exceptions considers colonial governance in Cuba in the aftermath of the near total collapse of Spain's empire in the Americas, and in particular the development of some of the legal mechanisms colonial officials turned to when confronting threats to Cuban slavery and Spanish empire. Though the colonial state relied on a constellation of forces to defend the island from physical attack, including a sizeable garrison of soldiers in the regular army, local militias, regional magistrates with policing powers, and the auxiliary support of area residents, it promoted the long-term cause of insular security through practices that were decidedly legal in form. Following the slave rebellions of 1812, after all, it had been interrogations conducted during the investigatory phase of a judicial process that had identified José Antonio Aponte as the leader of the conspiracy. Similarly, the dismantling of the Conspiracy of the Soles y Rayos de Bolívar had occurred at the hands of a distributed set of investigations that had then been combined into a unified prosecution of over 600 defendants.¹⁶ In these instances, determining culpability and passing sentences served a strategic purpose beyond merely meting out justice. They were also about gathering intelligence on present threats and diminishing the potential of future ruptures.

¹⁶ Garrigó, *Historia documentada*, 1:243.

To help confront threats to Cuban slavery and Spanish empire, the metropolitan government ordered the establishment on the island of an Executive and Permanent Military Commission on March 4, 1825.¹⁷ An extension of a system of permanent military tribunals set up in Spain in 1824 following the restoration of Fernando VII's absolutist regime, Cuba's Military Commission institutionalized the captaincy general's powers to commission judicial processes on an ad hoc basis, as had been done with the prosecutions of the conspiracies of Aponte and the Soles y Rayos de Bolívar. Furthermore, the new tribunal, as a military court that operated within a military hierarchy, afforded captains general a juridical apparatus that served at their discretion.¹⁸

The captaincy general's ability to defend Cuba through legal means, however, was not a competency that could be amplified with the stroke of a pen. As Malick Ghachem has observed about the Code Noir in colonial Saint-Domingue, "few laws are so immaculately designed, few decisional principles so clearly drawn, as to leave no room at all for creative tinkering with their margins" or for "unintended applications."¹⁹ Indeed, the captaincy general's ability to prosecute threats to Cuban slavery and Spanish empire meant contending with the gaps and fissures between imperial designs and their colonial articulations.

The originating system of permanent military tribunals in Spain had been explicitly

¹⁷ Decreto, Havana, 4 March 1825, exp. 1, leg. 1, Comisión Militar Ejecutiva y Permanente (hereafter CM), Archivo Nacional de Cuba (hereafter ANC).

¹⁸ For the only dedicated study of the Military Commission, see Joaquín Llaverías, *La comisión militar ejecutiva y permanente de la isla de Cuba* (Havana: Academia de la Historia de Cuba, 1929).

¹⁹ Malick Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), 6.

established following the *trienio liberal* to purge liberals from all levels of government.²⁰ If metropolitan officials had envisioned Cuba's Military Commission as a bulwark against the threats posed by liberal constitutionalists following the island's own experience during the *trienio liberal*, Captain General Francisco Dionisio Vives acknowledged the differing challenges facing his administration when he introduced the tribunal to Cubans as an expression of the King's desire to "protect them from the horrors and ruin brought on by the unrest that has been experienced in his American domains."²¹ However threatening Captain General Vives may have found subversive political ideologies from the mainland to be, threats like those posed by the Cuban conspiracies of Aponte and of the Soles y Rayos de Bolívar, which relied on free people of color to channel the potential of the island's enslaved population towards a separation from Spain, were surely of more immediate concern. Whereas the targets of Spain's system of permanent military tribunals were envisioned as governing officials, Cuba's tribunal would thus expend much time and effort prosecuting free and enslaved people of color.

This difference in the social standing of the defendants prosecuted by Cuba's Military Commission had immediate and long-lasting consequences. The tribunal functioned at a time when most expenses incurred during judicial proceedings, from the cost of paper to the consultative services of legal advisers, were paid for through fees, fines, and the confiscation of

²⁰ For Spain's system of Military Commissions, see Pedro Pegenaute, *Represión política en el reinado de Fernando VII: Las comisiones militares (1824-1825)* (Pamplona: Universidad de Navarra, 1974).

²¹ Decreto, Havana, 4 March 1825, exp. 1, leg. 1, CM, ANC. "para preservarlos de los horrores y de la ruina que traen consigo las inquietudes que se han experimentado en sus dominios de América;"

property.²² The tribunal thus faced the unique challenge of having to finance its operations when some of its most costly prosecutions involved slave rebellions, where most defendants not only lacked property to embargo, but were themselves held as property by others. In order to function, the tribunal thus required a host of financial accommodations that had not been mandated in the royal order of March 4, 1825, forcing successive captains general to attend to the tribunal's administrative needs even as they wielded the tribunal as a court of law.

Through a study of Cuba's Military Commission during its three decades in operation, *Isle of Exceptions* demonstrates how threats to Cuban slavery and Spanish empire served as motive forces behind a set of legal and administrative innovations that disrupted established governing practices and relations of institutional power constituting the colonial government. Over time, successive captains general took advantage of the openings caused by the tribunal's work to assist in a broader program of administrative reforms aimed at consolidating governing authority within the office of the captaincy general. In his study of slavery and governance in sixteenth-century Quito, Sherwin Bryant argues that "by governing the importation, distribution, sale, management, and use of enslaved Africans, the crown and its officials conducted the development of colonial authority and over time colonial state formation."²³ By extending Bryant's insights into the waning days of the Age of Revolution, and focusing on the application of law in the service of insular security, *Isle of Exceptions* argues that it was in part through the Military Commission's experience applying law in the repression of free and enslaved people of color that the colonial state developed the mechanisms and ability to practice counter-

²² M.C. Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America* (Austin: University of Texas Press, 2004), 27.

²³ Sherwin K. Bryant, *Rivers of Gold, Lives of Bondage: Governing through Slavery in Colonial Quito* (Chapel Hill: University of North Carolina Press, 2014), 3.

revolutionary governance.

In his study of the lead-up to Spanish American independence, Jeremy Adelman observes that “social revolutions were not the cause of imperial breakups, but their consequence.”²⁴ With the Spanish Empire having already all but collapsed, metropolitan and colonial officials resisted further imperial deterioration by adjusting governance to prevent social revolution. Effectively governing the island in the face of persistent threats to insular security, however, was not merely an exercise in more effectively defending Spanish sovereignty. It was also about contending with the ways sovereign authority was expressed throughout the island. As *Isle of Exceptions* demonstrates, slaveholders, white residents, and governing officials could all influence the state’s response to the actual and perceived threats posed by free and enslaved people of color, just as functionaries of different governing institutions could then claim authority over different aspects of that response. As a disparate cast of characters with varying degrees of formal and informal power attended to challenges to Cuban slavery and Spanish empire, they also often found themselves contesting the configuration of Spanish sovereignty itself. Through these struggles over who had claims to sovereign authority, and who had the power to determine how that authority might itself be transformed, a new form a colonial governance emerged constituted through and of the practices of repression and domination.

Evoking Lauren Benton’s observation that “the administration of empire depended ... on the exercise of delegated legal authority,” Spanish sovereignty in Cuba was expressed by officials from the captain general in Havana and governors in regional capitals like the city of Matanzas to the neighborhood commissars and district captains extending governing authority

²⁴ Jeremy Adelman, *Sovereignty and Revolution in the Iberian Atlantic* (Princeton: Princeton University Press, 2009), 8.

throughout urban centers and the countryside.²⁵ While they ostensibly worked towards similar goals, their distribution across the geography of Cuban slavery served to differentiate their particular strategies for enacting sovereign authority. The focus of chapter 1, this strategic divergence was on full display in the Military Commission's first major prosecution, which dealt with a slave rebellion that broke out across multiple plantations in the Guamacaro district of Matanzas on June 15, 1825.

According to Manuel Barcia, the Guamacaro rebellion of 1825 was “the first large African-led slave revolt in nineteenth-century Cuba,” signaling a new phase in the “Africanization of the manifestations of slave resistance.”²⁶ For the officials coordinating its suppression, investigation, and prosecution, however, the rebellion was a more enigmatic event, posing different challenges and eliciting different responses. The governor of Matanzas, for instance, saw the rebellion as an expression of the inherent risks of plantation slavery. Investigating the rebellion thus served the purpose of identifying its leaders so that their public executions would act as warnings to other slaves considering similar actions. For Captain General Vives in Havana, on the other hand, the size of the rebellion and the number of plantations affected were indications that the slaves themselves could not have planned and coordinated the uprising on their own. By ordering the Military Commission to investigate the rebellion and prosecute its leaders, Vives hoped to verify his suspicion that political dissidents with ties to independence movements on the American mainland had been behind the uprising.

²⁵ Lauren Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (New York: Cambridge University Press, 2009), 3.

²⁶ Manuel Barcia, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012), 5; Manuel Barcia, *West African Warfare in Bahia and Cuba: Soldier Slaves in the Atlantic World 1807-1844* (Oxford: Oxford University Press, 2014), 5.

Because the rebellion posed different types of threats, it also afforded the officials who did the actual work of suppression, investigation, and prosecution with different types of opportunities. Local authorities participating in the military and legal responses to the rebellion hoped to curry favor with the government in order to pave the way for future commissions and possible rewards. While Military Commission officials similarly hoped to merit personal distinction, they also sought to demonstrate the new tribunal's ability to advance the interests of the captaincy general and insular security more broadly.

As tribunal officials prosecuted the rebellion, then, they engaged in a series of disputes with other agents of colonial governance regarding the ends to which their efforts would serve. Hoping that the prosecution would itself work against future outbreaks of violence, Matanzas-based officials pursued a repressive mode of justice aimed at terrifying the region's enslaved population. Military Commission officials, on the other hand, sought an interrogatory mode of justice, hoping to uncover what they believed to be the true origins of the rebellion. These contestations unfolded through interpretative disagreements over laws mandating the abrogation of normal legal practices when prosecuting slave rebellions and on the legitimacy of the use of torture when interrogating slaves.

Sovereign authority was not the purview of governing officials alone. Indeed, as Benton points out, the "outsourcing of violence [was] also integral to layered systems of sovereignty in which the sovereign's claim to a monopoly on coercive power was consistent with the authorization of weakly regulated violence in the sovereign's name."²⁷ In Cuba, as in other slave societies, a prevailing example of this sovereign outsourcing was found in the sanctioned use of

²⁷ Benton, *A Search for Sovereignty*, 292.

violence by slaveholders against their slaves.²⁸ A related form of sovereign outsourcing was also found in the spaces of urban life, where white residents, though not formally authorized to use violence against populations of color, were nonetheless called on to participate in the work of policing.²⁹

Chapter 2 considers the Military Commission's first seven years in operation and focuses on cases where the tribunal's role in promoting insular security brought it into contact with free and enslaved people of color in the urban centers of Havana and Matanzas. Since the tribunal was not itself a police force, Captain General Vives frequently assigned it cases to prosecute that had already been initiated by regional officials and local authorities. In cases dealing with people of color accused of engaging in subversive activities, it was often the denunciations and testimonies of area residents that initiated these preliminary investigations. The tribunal thus often encountered defendants of color whose apprehensions reflected the suspicions and prejudices of white residents and neighbors engaging in an informal, yet legally sanctioned practice of insular security.

It is difficult to discern with any precision to what extent these denunciations stemmed from suspicions regarding the threatening activities of people of color, and to what extent they reflected petty bigotries and personal grievances. In the aggregate, however, they fueled an informal mode of repressive justice that placed restrictive pressure on the social lives of urban people of color. Following the Guamacaro rebellion of 1825, Matanzas-based officials living and

²⁸ For a discussion on the sovereign claims of slaveholders over their slaves in the context of colonial Saint-Domingue, see Ghachem, *The Old Regime and the Haitian Revolution*, chap. 1.

²⁹ For an example of an ordinance requiring area residents to assist local authorities in policing, see code 42 in *Bando de buen gobierno* (Havana: Imprenta Fraternal de los Diaz de Castro, 1828), 43.

working within the heart of Cuban slavery viewed the law as a means to terrify the enslaved into submission. In the urban centers of western Cuba, area residents and local authorities living proximate lives with a diverse urban population of color also turned to the law in a similar project of social domination.

For Military Commission officials who did the actual work of prosecuting these cases, however, fear, suspicion, and animosity did not constitute evidence of actual wrong-doing. In their efforts to uncover threats to Cuban slavery and Spanish empire, tribunal officials grew frustrated with the frequency with which they expended time and energy pursuing prosecutions against free people of color that resulted in acquittals. These frustrations engendered intra-institutional ruminations about the inconveniences that resulted from following the letter of the law in such prosecutions. Over time, tribunal officials began contemplating ways of bypassing the law when prosecuting free people of color.

Even as these prosecutions were inconvenient and engendered frustrations, they were nonetheless consequential, as they placed the Military Commission and the captaincy general in contact with white Cubans who may have been readily inclined to collapse any distinctions between the revolutionary potential of free people of color and the actual threats they posed. Though the outcomes of these prosecutions seldom confirmed their originating biases, the accusations they acted upon placed the impulse of tribunal officials to hold free people of color to a less rigorous practice of law in dialog with their growing preoccupation regarding possible alliances between free and enslaved people of color.

While the Military Commission's work placed it in contact with agents of imperial sovereignty layered vertically along the political, military, and social hierarchies ordering Cuban governance and society, its very existence placed it within a distributed network of governing

institutions possessing distinct legal competencies and particular political interests. During the crafting of the 1812 Constitution of Cádiz as well as the years of liberal governance of the *trienio liberal*, political contestations between Cuban elites and Spain may have seemed to pivot around questions of citizenship and representation within the fledgling liberal order. As Josep Fradera has also demonstrated, “the struggles for control of the institutions of government were just as fierce.”³⁰ By shifting focus from the tribunal’s prosecutorial work to its institutional presence, chapter 3 demonstrates how Spanish sovereignty in Cuba was also articulated through a set of inter-institutional relationships that held colonial governance suspended within the push and pull of competing political objectives. Within this web, the tribunal’s mandate to contend with actual and perceived threats to Spain’s continued dominion over Cuba earned it room to operate, while its role in amplifying the executive authority of the captaincy general attracted the ire of self-interested institutions.

Captain General Vives introduced Cuba’s Military Commission into a governing context characterized by a negotiated division of administrative authority that afforded large measures of autonomy and local control to some of the government’s most important institutions.³¹ The Real Audiencia, located in the city of Puerto Príncipe in central Cuba, served as the institutional center of the island’s legal system, enjoyed broad consultative powers, could draft certain types of legislation, and possessed the right to communicate directly with the metropolitan government in Spain.³² For the members of the island’s highest court, the new tribunal was seen as an

³⁰ Fradera, *Colonias para después de un imperio*, 103-104.

³¹ Fradera, *Colonias para después de un imperio*, 103-120.

³² Duvon C. Corbitt, “The Colonial Government of Cuba” (PhD diss., University of North Carolina, 1938), 146-159.

unnecessary infringement on its jurisdiction.

For the Intendancy, the Military Commission's disruptions were more subtle, though potentially more consequential. As the island's chief financial institution, the Intendancy and its ancillary organizations played important roles in promoting the rise of Cuba's sugar economy. While the Intendancy's importance to imperial finance grew after the Wars of Independence on the American mainland, the institution also increasingly expressed the interests of Cuban elites aspiring to greater levels of control over sectors of the Cuban economy responsible for their growing wealth. Its role as an instrument of local interests became further entrenched in 1825 with the appointment of the Cuban-born Claudio Martínez de Pinillos as superintendent.³³ Even as the Intendancy welcomed the Military Commission's efforts to promote political and social stability on the island, then, it did not look favorably on the financial burdens the tribunal might impose. And like the Real Audiencia, it was wary of the tribunal's potential to diminish their claims to sovereign authority by amplifying the executive powers of the captaincy general.

Though the threats posed to Cuban slavery and Spanish empire brought some of these divergent interests and objectives into line, they were not enough to obliterate them altogether. In attending to the Military Commission's finances, for instance, Superintendent Martínez de Pinillos insisted that all directives be mandated by the responsible ministries in Spain, rather than by order of the captain general. And when the Real Audiencia received orders to disband the Military Commission, its members jumped at the opportunity to instruct then Captain General Miguel Tacón to disband a judicial rival.

During the tenure of Captain General Miguel Tacón from 1834 to 1838, these tensions developed into discord. With the death of Fernando VII in 1833, contestations over the future of

³³ Fradera, *Colonias para después de un imperio*, 192-204.

Spanish sovereignty provoked the first Carlist war on the Peninsula. Cuba too faced its share of disruptions, as former subjects of an absolutist monarch contemplated futures with a greater political voice as Spanish citizens. For metropolitan officials and Captain General Tacón alike, the opening of political possibilities in Cuba evoked the specter of Latin American independence, prompting the captain general to assume a more assertive disposition regarding the authority of his office. One way he articulated this disposition was through increased use of the Military Commission to not only prosecute threats to insular security, but to promote a more diffuse sense of social order throughout the island. When Tacón then attempted to create a new court to oversee the prosecution of vagrants and the suppression of unsanctioned jurists known as *picapleitos*, he faced open opposition from the Real Audiencia. A developing rivalry with Superintendent Martínez de Pinillos of the Intendancy further distressed Tacón's administration. The limits of executive power within a governing context of distributed sovereign authority were revealed in 1838, when leading figures in Cuban society and government successfully orchestrated Tacón's recall to Spain.³⁴

Indeed, for the first decade and a half of the Military Commission's existence, it proved ineffectual as a centralizing force precisely because institutions like the Intendancy and Real Audiencia were such powerful agents of Spanish sovereignty that they could determine how, if at all, they would facilitate the tribunal's work. Even as successive captains general tried to use the tribunal to bolster the legal competencies of their office, there was always the risk of destabilizing the foundations of Spain's dominion over the island and producing precisely the

³⁴ Juan Pérez de la Riva, *Correspondencia reservada del Capitan General Don Miguel Tacón con el gobierno de Madrid, 1834-1836* (Havana: Consejo Nacional de Cultural, 1963), 13-96; Fradera, *Colonias para después de un imperio*, 140-182.

type of revolutionary upheaval the court was designed to combat. From its inception, then, the Military Commission engendered disruption and discord, limiting its ability to provoke any fundamental transformations in the configuration of sovereign authority constituting colonial governance.

The growth in Cuban slavery, however, engendered the conditions for that to change. By the 1840s, Cuba's continued reliance on the contraband slave trade to sustain and increase its enslaved labor force had provoked the ire of the British government and abolitionists alike. Their particular agendas converged in 1840 with the appointment of David Turnbull as British consul to Cuba. While Turnbull's abolitionist activities created such a stir that his superiors eventually transferred him off the island, he remained a potent symbol of foreign meddling with the future of Cuban slavery.³⁵

Through its very success, the contraband slave trade to Cuba also invigorated concerns regarding threats to Cuban slavery from within. When an 1841 census revealed that Cuba's free and enslaved population of color exceeded its white population, it undercut the argument that Cuba would not succumb to a general slave uprising because of the demographic superiority of the island's white population.³⁶ When a succession of slave rebellions rocked the region of Matanzas in 1843, then, colonial officials were primed to believe that Captain General Vives's original fears were coming true and that outside forces were relying on free people of color as intermediaries in efforts to incite the enslaved to rise up en masse to abolish slavery and

³⁵ Robert L. Paquette, *Sugar is Made With Blood: The Conspiracy of La Escalera and the Conflict between Empires over Slavery in Cuba* (Middletown, CT: Wesleyan University Press, 1988), chap. 5.

³⁶ For 1841 census, see Kenneth F. Kiple, *Blacks in Colonial Cuba, 1774-1899* (Gainesville, FL: University of Florida Press, 1976), chap. 8.

overthrow the colonial regime. And indeed, a version of that formulation seems to have been taking place.

In early January 1844, Captain General Leopoldo O'Donnell authorized a group of local authorities and area planters to conduct an explicitly extrajudicial investigation into revelations that some of the slave rebellions of 1843 might have been premature actions of a vast plot. This investigatory process was organized around the premise that slaves under interrogation would only reveal the truth of the conspiracy if compelled to do so by employing the corrective measures slaveholders used to maintain plantation discipline, measures that were considered torture and thus prohibited during lawful interrogations. Even though officials thus described this investigation as extrajudicial, the violence undergirding the master/slave relationship itself possessed legal sanction and was only steps removed from the mode of repressive justice Matanzas-based officials had advocated for in the wake of the Guamacaro rebellion of 1825.

Eventually, O'Donnell extended his authorization to use torture against slaves to include free people of color as well. As the extrajudicial investigation grew, so too did the scale and scope of the conspiracy it claimed to have discovered. Elevating repressive modes of interrogation to their most egregious levels, the investigatory process became notorious for the overt violence employed by interrogators, who were known to whip slaves while they were tied to ladders. This practice was so prevalent that the conspiracy came to be known as La Escalera (the ladder) and 1844 as the Year of the Lash.

Generations of scholars have debated whether the plot investigators claimed to have discovered was a convenient fabrication or accurately reflected the efforts by a coalition attempting to foment revolution.³⁷ Robert Paquette provides the most useful framework for

³⁷ Paquette, *Sugar is Made With Blood*, 3-26.

understanding what the investigators were contending with when he wrote that “the Conspiracy of La Escalera existed not as one conspiracy but as several distinct yet overlapping conspiracies, central elements of which were revolutionary in their aspirations.”³⁸ In her recent study on La Escalera, Aisha Finch highlights the roles that slaves of African descent, especially enslaved women, played in sustaining what she refers to as “a black political culture in the rural plantation world that produced an insurgent struggle, and transcended its limitations.”³⁹ Taking the existence of the conspiracy as a settled matter whose precise details nonetheless remain elusive, then, chapter 4 considers the Military Commission’s role in the investigatory process that uncovered the conspiracy and its implications for the reconfiguration of sovereign authority on the island.

Captain General O’Donnell assigned the Military Commission to assume jurisdiction over the “Escalera process” only after investigators claimed to have uncovered links between rural slaves and urban free people of color in a conspiratorial network.⁴⁰ It was not this “evidence” of a conspiracy that compelled him to do so, however, so much as it was the toll the Escalera process was taking on the colonial government’s ability to sustain a judicial process that had quickly grown out of control. With the number of investigators growing and with hundreds

³⁸ Paquette, *Sugar is Made With Blood*, vii.

³⁹ Aisha K. Finch, *Rethinking Slave Rebellion in Cuba: La Escalera and the Insurgencies of 1841-1844* (Chapel Hill: University of North Carolina Press, 2015), 7.

⁴⁰ In his work on free people of color in nineteenth century Cuba, Pedro Deschamps Chapeaux referred to the colonial state’s response to the Conspiracy of La Escalera as a *proceso* (process), simultaneously referring to its legal dimensions and its expression of the class interests of the island’s *burguesía esclavista* (pro-slavery bourgeoisie). See Pedro Deschamps Chapeaux, *El negro en la economía habanera del siglo XIX* (Havana: Unión de Escritores y Artistas de Cuba, 1971), 24-25. I use the phrase “Escalera process” to refer specifically to the evolving phases of the colonial state’s legal response to the supposed conspiracy.

of detainees filling the prisons and hospitals of Matanzas, there was no clear indication of who was going to foot the bill. As a court operating at the captain general's discretion and with a long history of financing the prosecution of free and enslaved people of color, the Military Commission was the obvious instrument to start moving from investigations into prosecutions and to bring the Escalera process to a conclusion. In doing so, however, the tribunal did not displace the functionaries and ethos of the extrajudicial phase of the Escalera process, but rather incorporated the men and the mentality into the institutional expression of Captain General O'Donnell's legal powers. The Escalera process was thus more than a series of investigations and prosecutions. It was also a transformative event during which the exigencies of insular security in the face of massively organized black resistance compelled the convergence of the instruments of governance with the forces of social domination.

Through imprisonment, torture, execution, exile, and expropriation, free and enslaved people of color experienced the worst of the Escalera process.⁴¹ The entire episode also had an important influence on the colonial government and Cuban society more broadly. Though legislative reforms augmenting the powers of the captaincy general were still on the horizon, Captain General O'Donnell emerged from 1844 empowered with a greater de facto concentration of sovereign authority than any of his predecessors, and that his successors would carry into the 1850s.

If the Conspiracy of La Escalera represented the culmination of struggles against Cuban slavery stretching back to the Guamacaro rebellion of 1825 and the Aponte Rebellion of 1812 before that, Narciso López's efforts to effect Cuba's annexation to the United States from 1848

⁴¹ Michele Reid-Vazquez, *The Year of the Lash: Free People of Color in Cuba and the Nineteenth-Century Atlantic World* (Athens, GA: University of Georgia Press, 2011).

to 1851 marked a new phase in a history of Cuban anti-imperialism stretching back to the Conspiracy of the Soles y Rayos de Bolívar of 1823. The initial focus of chapter 5, López's actions against Spanish empire were particularly alarming because of his storied career serving the empire he eventually turned against. A general in the Spanish army who had commanded soldiers in the Americas and Spain, and had even served as the Military Commission's president from 1842 to 1843, López had retreated from government service thereafter only to emerge five years later as a proponent of Cuba's separation from Spain and annexation by the United States. The Military Commission prosecuted López in absentia when the general fled the island after an aborted insurrection in 1848. Following López's first expedition to Cuba in 1850, Captain General José de la Concha directed the tribunal to prosecute suspected supporters of Cuba's annexation to the United States. And when Spanish troops in Cuba captured López and fifty of his soldiers during a second expedition in 1851, De la Concha directed tribunal officials in enacting the kind of severe and exemplary justice against the prisoners that Matanzas-based officials had called for in response to the Guamacaro rebellion of 1825 and that Leopoldo O'Donnell had achieved during the Escalera process of 1844. Rather than publicly executing free and enslaved people of color as a warning to those who might seek to end Cuban slavery, however, De la Concha executed a former Spanish general in order to dissuade future action against the empire itself.⁴²

De la Concha's execution of Narciso López was the most dramatic example of a captain general directing the legal powers and practices the colonial government had developed in the

⁴² Tom Chaffin, *Fatal Glory: Narciso López and the First Clandestine U.S. War Against Cuba* (Charlottesville: University Press of Virginia, 1996); Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA: The Belknap Press of Harvard University Press, 2013), chaps. 11 and 12.

repression of free and enslaved people of color towards securing the island from the evolving threats to Cuban slavery and Spanish empire. Another focus of chapter 5, the concentration of sovereign authority within the captaincy general accompanying this transformation also took place at an institutional level. In 1853, the captaincy general assumed all the powers once held by the superintendent of the Intendancy. And in 1855, De la Concha enacted a series of legal reforms that centralized the administration of the island's system of lower courts by professionalizing its workforce and affording the captaincy general broad authority over judicial appointments. Through these reforms, the metropolitan government codified into law the centralization of colonial governance under the sovereign authority of the captaincy general. Their ability to do so without inciting the type of disruption that had contributed to Latin American independence, however, reflected how this process of centralization had already taken place. In this final regard, the Military Commission had played an important role as one of the main tools successive captains general used to wrest sovereign authority from leading institutions of colonial governance such as the Real Audiencia and the Intendancy. As if to highlight this point, De la Concha followed the implementation of the legal reforms of 1855 with the Military Commission's dissolution, claiming that the tribunal's role in amplifying the legal dimensions of executive power had now been replicated throughout the island's system of lower courts.

Isle of Exceptions thus opens up the conceptual terrain established by Frank Tannenbaum, when he argued that “nothing was beyond or above or outside the slave institution; the institution was the society in all of its manifestations.”⁴³ Taking Sherwin Bryant's call to recognize “the centrality of slavery to colonial development and the emergence of race as a modality of early modern colonial governance” into the contentious world of Cuban slavery and

⁴³ Frank Tannenbaum, *Slave and Citizen* (New York: Vintage 1946), 116-117.

Spanish empire in the waning days of the Age of Revolution, *Isle of Exception* argues that administering justice in the service of counter-revolutionary governance would itself involve a revolution in how justice was administered.⁴⁴

⁴⁴ Bryant, *Rivers of Gold, Lives of Bondage*, 6.

Chapter 1

A Precarious Balance: Repression and Authority in Matanzas, 1825

On July 21, 1825, in a military fortress in the city of Matanzas, the enslaved Pablo Gangá faced Captain Francisco Lamadriz as a different sort of captive.¹ Pablo had been detained in the late-afternoon of June 15, following a slave rebellion that had broken out across multiple plantations in the Guamacaro district of the jurisdiction of Matanzas.² He now stood before Lamadriz accused of being among the principal leaders of the rebellion. A *fiscal* (prosecutor) with Cuba's Military Commission, Lamadriz had been charged with determining the origins of the rebellion. At that moment, his primary concern was to take Pablo's confession. His efforts that day, however, were only the most immediate step in a broader legal intervention into colonial governance upon which metropolitan and colonial officials staked the future of Cuban slavery and, indeed, the Spanish Empire itself.

Less than two years earlier, Captain General Vives had reported to his superiors in Spain that Cuba's poorly administered system of justice hindered his prosecution of the Soles y Rayos de Bolívar, the name given to a separatist conspiracy aiming to achieve Cuban independence

¹ Confesión de Pablo Gangá, Matanzas, 21 July 1825, f. 51v-55, exp. A, leg. 172, Miscelánea de Expedientes (hereafter ME), ANC.

² Declaración de Pablo Gangá, Matanzas, 19 June 1825, f. 27-29v, exp. 4, leg. 1, CM, ANC. For a book length study of the Guamacaro rebellion of 1825, see Manuel Barcia, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012).

from Spain. He had thus requested a set of extraordinary powers, normally reserved for governors of cities under siege, to authorize him to dismiss judges whom he believed were imperiling the prosecutions. He had also sought approval to establish a special court in Havana in order to unify into a single prosecution the myriad investigations into the conspiracy being conducted by district and municipal judges and officials.³ Ultimately, the *fiscal* responsible for the unified prosecution recommended that twenty-five of the leading conspirators be exiled to Spain and that charges be dropped against more than 600 remaining conspirators, owing to the massive disruption that would be caused by punishing them according to the law.⁴

As Vives contended with the limitations of Cuba's legal system in his efforts to maintain the colony within the Spanish Empire, Fernando VII also turned to the law to defend his claims to absolute sovereignty. In 1823, a coalition of European powers led by the French invaded Spain and restored Fernando VII as absolute monarch, bringing an end to the three years of constitutional rule known as the *trienio liberal*.⁵ In an effort to consolidate his claim to absolute sovereignty and purge liberal partisans from municipal and provincial governments, the king approved the establishment of a system of military tribunals throughout the provincial capitals of Spain known as the Executive and Permanent Military Commissions, which would empower provincial executives with a judicial apparatus to bypass municipal and regional courts when

³ Roque E. Garrigó, *Historia documentada de la conspiración de los soles y rayos de Bolívar* (Havana: Academia de la Historia de Cuba, 1929), 1:219-220.

⁴ Garrigó, *Historia documentada*, 1:chap. 11.

⁵ Miguel Artola, *La España de Fernando VII* (Madrid: Editorial Espasa Calpe, S.A., 2008), 644-666.

prosecuting enemies of the state.⁶

In 1825, the metropolitan government granted Vives the extraordinary powers he had initially requested during the prosecution of the Soles y Rayos de Bolívar.⁷ Because Spain's system of Military Commissions was already in place and because Vives had already raised concerns about the capacity of Cuba's legal system to contend with political threats, the metropolitan government had also authorized Vives to establish the island's own Executive and Permanent Military Commission.⁸ In the colony as in the metropole, then, the solution to a potential crisis of sovereignty was to amplify the powers of governing executives to contend with political threats through legal means.

As *fiscal* Francisco Lamadriz's interrogation of Pablo Gangá made apparent, however, Cuba was not Spain. If Captain General Vives considered the Soles y Rayos de Bolívar as New World analogs to the Spanish liberals the Military Commissions in Spain had been set up to prosecute, he was also aware that Cuba's growing enslaved population posed an equal if not greater threat to the plantation economy that had elevated Cuba's importance within Spain's greatly diminished empire.⁹

⁶ For Spain's system of Military Commissions, see Pedro Pegenaute, *Represión política en el reinado de Fernando VII: Las comisiones militares (1824-1825)* (Pamplona: Universidad de Navarra, 1974).

⁷ "Real Orden de 28 de Mayo de 1825, concediendo facultades extraordinarias al Capitan General de Cuba," in Juan Clemente Zamora, *Derecho constitucional, Cuba, colección de documentos selectos para el estudio de la historia política de Cuba* (Havana: Imprenta "Siglo XX", 1925), 179-180.

⁸ Joaquín Llaverías, *La comisión militar ejecutiva y permanente de la isla de Cuba* (Havana: Academia de la Historia de Cuba, 1929), 13-15.

⁹ Ada Ferrer, *Freedom's Mirror: Cuba and Haiti in the Age of Revolution* (New York: Cambridge University Press, 2014), chap. 1.

While the growing demands of local production for global markets had served to pull Africans like Pablo Gangá toward the regional center of Cuba's booming agricultural economy, he had also been pushed into this world as a consequence of war. Though it is impossible to discern anything precise about their origins from the ethnonym *gangá* attached to their assigned Christian names, Africans designated as *gangá* had often arrived in Cuba on vessels that had embarked from the Sierra Leonean coast.¹⁰ This was a region affected by decades of war resulting from the rise of the Sokoto Caliphate at the expense of the Oyo Empire; a conflict that provided the trans-Atlantic slave trade with much of its human cargo during the first half of the nineteenth century.¹¹ Even if Pablo had never fought in the service of conquest or defense, he came from a place where the violence of war prevailed. Finding himself at the heart of Cuban slavery, he now found that the violence of war held the possibility for an end to his enslavement.¹²

¹⁰ Philip Misevich, "The Origins of Slaves Leaving the Upper Guinea Coast," in *Extending the Frontiers: Essays on the New Transatlantic Slave Trade Database*, eds. David Eltis and David Richardson (New Haven: Yale University Press, 2008), 155-175; Stephan Palmié, *The Cooking of History: How Not to Study Afro-Cuban Religion* (Chicago: University of Chicago Press, 2013), 91-92.

¹¹ David Eltis, "The Diaspora of Yoruba Speakers, 1650-1865: Dimensions and Implications," in *The Yoruba Diaspora in the Atlantic World*, eds. Toyin Falola and Matt D. Childs (Bloomington, IN: Indiana University Press, 2004), 17-39; Paul E. Lovejoy, "The Yoruba Factor in the Trans-Atlantic Slave Trade," in *The Yoruba Diaspora in the Atlantic World*, 40-55; Ann O'Hear, "The Enslavement of the Yoruba," in *The Yoruba Diaspora in the Atlantic World*, 56-73.

¹² Some historians of slavery have expended much energy coming up with a heuristic of resistance when accounting for the myriad ways captive Africans and their descendants resisted their enslavement. In considering slave rebellion specifically, some have focused on the roles that soldiers enslaved during conflicts in West and West Central Africa played in New World rebellions. For just two examples, see John K. Thornton, "African Soldiers in the Haitian Revolution," in *Origins of the Black Atlantic*, eds. Laurent Dubois and Julius S. Scott (New York: Routledge, 2010), 195-213; Manuel Barcia, *West African Warfare in Bahia and Cuba: Soldier Slaves in the Atlantic World 1807-1844* (Oxford: Oxford University Press, 2014). While Pablo Gangá's personal experience with or knowledge of warfare certainly informed the actions he took, I think it is an overstatement to posit such a past as essential to the choices he made. In

When Pablo Gangá led slaves in rebellion in the Guamacaro district of Matanzas on June 15, 1825, Captain General Vives was thus inclined to consider the event as the type of threat that could potentially disrupt Spanish dominion over Cuba. After Matanzas-based forces suppressed the rebellion and initiated a preliminary investigation to identify its leaders, Vives ordered the newly established Military Commission to take over the investigation, setting into motion a legal process that would repeatedly place slaves like Pablo Gangá in the presence of officials like Francisco Lamadriz. To protect Spanish sovereignty over Cuba, then, meant extending the captain general's legal powers to contend with threats to Spanish empire into the heart of Cuban slavery.

When it came to employing the law to contend with slave resistance, however, officials with the Military Commission and Captain General Vives himself would discover that defending Spanish sovereignty was a matter subject to interpretation. For officials with the Matanzas government, slave resistance was not a potential concern that had to be discovered and understood through a legal process rooted in interrogation and deliberation, but an intrinsic aspect of plantation slavery that had to be managed through repression. For local authorities, many of whom were slaveholders themselves, managing slave resistance was also an exercise in ownership, in which they possessed a form of "domestic" sovereignty over their human chattel.¹³ If Vives's deployment of the Military Commission to address the ruptures of Cuban slavery represented a concentration of sovereign authority in legal matters within the executive powers

this regard, I follow Herbert Aptheker when he observed that the cause of slave rebellions was slavery itself. See Herbert Aptheker, *American Negro Slave Revolts* (New York: International Publishers Co., 1943), 139.

¹³ For a discussion of a master's sovereignty over their slaves in a political system recognizing the absolute sovereignty of a monarch, see Malick Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), chap. 3

of the captaincy general, he would find that the institution of slavery itself served as a countervailing force, diverging the interests of central and regional governments, and confusing the motivations of local actors pursuing their interests as subjects of an absolutist monarch, residents of an ascendant slave society, and themselves masters of slaves.

The Guamacaro Rebellion of 1825

On June 15, 1825, around one in the morning, Joshua Armitage awoke to the sound of someone knocking at the front door. A voice rang out through the darkness, informing Armitage that a maroon was hiding among the slave quarters. Armitage made for the front door and was greeted by Federico Carabalí, his *contramayoral* (slave driver). Such a commotion was certainly cause for concern, though perhaps not for alarm.¹⁴ After beckoning his eldest son to join them, Armitage followed Federico, armed only with a whip, into the dead of night.¹⁵

Originally from England, Armitage had immigrated to Cuba in 1819 after making a life for himself in the United States as a steamboat owner and captain. He had responded to a package of incentives offered by the Cuban government to promote white immigration to centers

¹⁴ Neighbors recalled that Armitage's family had been "extremely indulgent to their blacks & had not the least suspicion of danger." Stephen Chambers, "At Home Among the Dead: North Americans and the 1825 Guamacaro Slave Insurrection," *Journal of the Early Republic* 33, no. 1 (Spring 2013): 84.

¹⁵ Declaración de la parda Ana perteneciente a Hermitage, Guamacaro, 22 June 1825, f. 76v-77v, exp. 4, leg. 1, CM, ANC. Developing a sense of a slave rebellion from testimonies collected during the investigation into the rebellion requires care and deliberation. In narrating the events of June 15, 1825, I relied on the testimonies of slaves for whom it was clear that investigators did not consider them to have participated in the rebellion. I also used the testimonies of area residents who had survived the rebellion. Even when relying on testimonies I deemed to be reliable, I mainly focused on details that had been corroborated in other testimonies, resulting in a sparse recounting of the rebellion. For a treatment of the actual rebellion that references a greater range of testimonial evidence, see Barcia, *The Great African Slave Revolt*, chap. 4.

of agricultural production. While these incentives were intended to foster economic growth, they were also meant to address concerns that the island's growing enslaved population was engendering a dangerous demographic imbalance.¹⁶ Accompanying Armitage were his wife, two sons from a previous marriage, a free woman of color who worked as the family's governess, and three domestic slaves. After arriving in Cuba, his wife gave birth to their third son. In 1822, he purchased a coffee plantation in the Guamacaro district of the jurisdiction of Matanzas. By 1825, he owned nineteen slaves who farmed 60,000 coffee plants on eighteen *caballerías* of land. As he accompanied Federico Carabalí to the slave quarters, Armitage sat atop his own little fiefdom as patriarch and master.¹⁷

Ana, the family's governess, had also been awakened by the commotion. She followed the men toward the slave quarters out of curiosity and was startled when a group led by Lorenzo Lucumí, whom she recognized as a slave from a neighboring plantation, attacked Armitage and his son, hacking them to death with machetes. Ana rushed back to the house to warn the others, after which Armitage's wife, Margaret Littlewood, ran towards the slave quarters to see for herself. At the sight of her dead husband and stepson she began to scream. Ana then witnessed another slave named José de la Luz, also from a neighboring plantation, struggle with Littlewood before striking her over the head with a club, killing her. Armitage's second son then attempted to escape towards the coffee fields, to no avail. José de la Luz quickly caught up with the boy

¹⁶ For white immigration to Cuba, see Barcia, *The Great African Slave Revolt*, 76-83.

¹⁷ Barcia, *The Great African Slave Revolt*, 90-91; Chambers, "At Home Among the Dead," 71; José Guadalupe Ortega, "The Cuban Sugar Complex in the Age of Revolutions, 1789-1844" (PhD diss., UCLA, 2007), 242; *Pittsburgh in 1816* (Pittsburgh, PA: Carnegie Library, 1916), 37-38.

and struck him dead with his club.¹⁸

By then slaves had begun sacking the house in search of provisions and weapons. One of them grabbed Armitage's youngest son and prepared to kill him before being stopped by Lorenzo Lucumí. The boy then passed through a number of hands before being entrusted to Ana, who had sought refuge in the kitchen with a group of Armitage's slaves. Led by Ana, the group then set off towards the back country to get away from what was clearly an open rebellion.¹⁹

As the rebels continued sacking the house, someone shouted that a figure on horseback was approaching. They soon recognized the figure to be Pablo Gangá. Pablo dismounted his horse and surveyed the scene, asking to be shown the bodies of Armitage and his family members. When the rebels finished sacking the house, Pablo gathered them together before mounting his horse and riding off into the night. The rebel force then proceeded to carry their rebellion to neighboring plantations.²⁰

Under the cover of night, the rebels traversed the countryside, their numbers growing as area slaves joined the uprising. Upon arriving at a coffee plantation named La Java, they were greeted by the plantation's slaves. The force now numbered approximately one hundred.²¹

La Java's owner, Jean Fouquier, was a Dutchman who resided on the plantation with his

¹⁸ Declaración de la parda Ana perteneciente a Hermitage, Guamacaro, 22 June 1825, f. 76v-77v, exp. 4, leg. 1, CM, ANC.

¹⁹ Declaración de la parda Ana perteneciente a Hermitage, Guamacaro, 22 June 1825, f. 76v-77v, exp. 4, leg. 1, CM, ANC.

²⁰ Declaración del negro Esteban, Guamacaro, 20 August 1825, f. 61v-65, exp. 5, leg. 1, CM, ANC.

²¹ Barcia, *The Great African Slave Revolt*, 105.

American-born wife, Marie Louise Beauvais, and their two children.²² Around 3:30 AM, they were awakened by the sound of a commotion. Upon stepping outside to check on the commotion, Fouquier realized that he was in immediate danger. He made a run for it, but was attacked and left for dead. When Beauvais attempted to escape the house with her two children, she found her dying husband lying on the ground. While holding Fouquier in her arms, Beauvais saw one of the plantation's slaves end her husband's life with a blow from a machete. Beauvais and her children managed to survive, however, finding refuge in the hut of a trusted slave who had not joined the rebellion.²³

Around 6:30 AM, the rebels approached a coffee plantation named Nuestra Señora de la Luz. The plantation's owner, a Spaniard named Juan Bautista Tosca, was busy fixing a fence when he heard his wife, María de la Luz, yelling at him from the house. When he looked up, he saw the approaching rebels. He then took off running, leaving his wife to fend for herself.²⁴ After sacking Tosca's house, which they found to be empty, the rebels took to the main road and were joined again by Pablo Gangá, riding a horse and wielding a *trabuco* (blunderbuss).²⁵

As they continued traversing plantations, the rebel force grew in size, as did the trail of death and destruction. By noon, approximately 180 rebels approached the crossroads at Coliseo. A group of fleeing area residents who had managed to stay ahead of the growing rebellion had already come together at a tavern next to the crossroads. After the rebels set fire to the tavern, the

²² Barcia, *The Great African Slave Revolt*, 85-86.

²³ Barcia, *The Great African Slave Revolt*, 106.

²⁴ Declaración de Don Juan Tosca, Guamacaro, 22 June 1825, f. 75-76, exp. 4, leg. 1, CM, ANC.

²⁵ Declaración de José Felipe Navarro, Matanzas, 18 June 1825, f. 10v-12v, exp. 4, leg. 1, CM, ANC.

area residents barricaded themselves in the second floor of a neighboring house. They successfully held off the rebels with firearms until a group of soldiers and armed civilians arrived and finally dispersed the insurgents.²⁶

In the rebellion's aftermath, colonial officials would blame the widespread outbreak of violence on foreign plantation owners such as Joshua Armitage who were said not to have subjected their slaves to sufficiently severe levels of discipline.²⁷ To acknowledge deeper causes would have provoked inconvenient conversations that might have drawn causal connections between the growth in the region's plantation economy, the region's growing enslaved labor force, and a future replete with more frequent and more dramatic outbreaks of resistance to slavery. A far easier lesson to learn would be that the answer to violence was more violence.

Slave Resistance and Repressive Justice

For the officials constituting the Matanzas government, from authorities at the district level to the jurisdiction's governor in the city of Matanzas, slave resistance had never been an abstract concept, but was instead a persistent feature of plantation slavery. The rebellion of June 15, 1825, thus elicited an immediate response from officials seeking to bring order to the countryside while they also tried to determine the origins of the uprising. In these endeavors, a sense of urgency served to blur the distinction between the military and legal responses to the rebellion. This proved to be a source of tension, however, as interrogating, judging, and sentencing

²⁶ Barcia, *The Great African Slave Revolt*, 113-119.

²⁷ Conclusión Fiscal, Havana, 17 December 1825, f. 207-212v, exp. 5, leg. 1, CM, ANC. In his study of the Guamacaro rebellion of 1825, Manuel Barcia reproduces the conclusion of the colonial officials investigating the rebellion when he argues that "the character of plantation owners and their relatively benign treatment of their slaves also contributed to the success of the uprising." See Barcia, *The Great African Slave Revolt*, 100.

prisoners was a time-consuming process that stood in the way of their prompt execution.

Matanzas officials thus pursued a repressive mode of justice as they confronted the problems of applying the law in a context where violence could break out at any moment.

Immediately after the confrontation at the Coliseo crossroads, armed forces made up of soldiers and area residents began the process of securing the countryside by hunting down those they saw as active rebels who remained at large, and apprehending free and enslaved people of color whom they suspected of being connected to the rebellion. The next day, Lieutenant Carlos Gherzi, a member of the local militia and commander of one of these forces, reported that he and his men had spent the night near the affected areas in order to prevent rebels from communicating with slaves who had remained on their respective plantations. He also suggested that the uprising had originated on Jean Fouquier's plantation, and that Fouquier's *mayoral* (overseer), Cristóval Carabalí, and his *contramayoral*, Tomás Carabalí, both of whom were free, had been its leaders.²⁸ Two days later, Guamacaro's *capitán de partido* (district captain), Andrés Máximo Oliver, reported that he and his men had eleven rebels in custody, and that according to Marie Louise Beauvais, some of them had been involved in the murder of her husband. Among Oliver's prisoners was Pablo Gangá, who, he noted, "is the one who (so they say) spread the word to the other plantations."²⁹

On June 16, interim governor of Matanzas Manuel de Castilla y Armenteros initiated a

²⁸ Gherzi to Castilla y Armenteros, Cafetal La Java, 16 June 1825, f. 2-3, exp. 4, leg. 1, CM, ANC. It is worth noting a peculiarity with this report. In general, *mayorales* were usually not African and *contramayorales* were usually enslaved.

²⁹ Oficio del capitán del partido de Guamacaro, Guamacaro, 18 June 1825, f. 16v-17, exp. 4, leg. 1, CM, ANC. "es el que (segun se dice) avisaba a los demas fincas."

formal investigation into the origins of the uprising.³⁰ Accompanied by an *asesor* (legal advisor) and a secretary, Castilla y Armenteros began the investigation by personally interrogating a slave name Vicente Carabalí, who had been apprehended on the day of the rebellion and placed in a holding cell for captured maroons in the city of Matanzas.³¹

By June 18, Governor Cecilio Ayllón had returned to the city of Matanzas. A colonel in the regular army, Ayllón served as the jurisdiction's political and military chief. As he took the reins of the military response to the rebellion, he also assumed control of the investigation initiated in his absence by Manuel de Castilla y Armenteros. With the aid of Félix de Acosta, his official *asesor*, Ayllón continued to personally interrogate prisoners. One such prisoner was José Felipe Navarro, a free man of color who had been apprehended following the uprising. Ayllón plied Navarro with questions aimed at gathering information, while a secretary kept pace with the proceedings by summarizing in his own words the questions posed and the answers proffered. When ordered to identify himself, Navarro replied that he was a thirty-five year old native of Maracaibo and that he was employed on a plantation owned by Luis Juan Maria Chatelain. Ayllón then asked about the role he had played in the rebellion. The secretary recorded an extended answer, the precise nature of which, including the tone of the interrogation and the extent to which Navarro felt his life to be in danger, was occluded by his quill.³²

³⁰ Auto de proceder, Matanzas, 16 June 1825, f. 1, exp. 4, leg. 1, CM, ANC.

³¹ Declaración del negro Vicente esclavo de Bowen, Matanzas, 16 June 1825, f. 1-1v, exp. 4, leg. 1, CM, ANC.

³² While the testimonies of slaves suspected of rebelling are generally unreliable sources for reconstructing a sense of the chain of events constituting a given rebellion, they are vital sources for understanding the actions and decisions made by authorities suppressing and investigating slave rebellions. For some of the challenges of interpreting slave testimonies, see Ada Ferrer, "Speaking of Haiti: Slavery, Revolution, and Freedom in Cuban Slave Testimony," in *The World*

Navarro claimed that he had learned of the rebellion only as it had unfolded. While he placed himself in the thick of things, he presented himself as a passive witness to the actions of others. He claimed, for instance, to have witnessed Pablo Gangá riding on a horse while wielding a *trabuco*. He also singled out Lorenzo Lucumí as a leader of the rebellion and claimed to have witnessed Lorenzo kill a white man. Towards the end of the interrogation, Navarro claimed that the uprising had been planned entirely by the slaves themselves and that he had heard that they had been in communication with slaves from the city of Matanzas and as far away as Havana. While Ayllón's role in directing Navarro's declaration through leading questions or physical coercion remains unclear, the contours of Navarro's own intentions are less ambiguous. In an act of self-preservation, Navarro provided cooperative testimony that minimized his own role in the rebellion while directing attention towards others.³³

A prisoner named José Antonio Gangá extended his own attempts at self-preservation to include other slaves owned by his master, Jean Fouquier. Prompted by Governor Ayllón, José Antonio described how he and his fellow slaves had actively resisted the rebels and had even attempted to save Fouquier's life. When asked to identify the leaders of the rebellion, he readily gave up the names of Lorenzo Lucumí and Federico Carabalí, both of whom came from different plantations. But when asked whether three other slaves belonging to Fouquier had taken part in the violence, he reiterated his earlier claim that Fouquier's slaves had refused to participate. Unbeknownst to José Antonio, Ayllón had just received another report from Lieutenant Carlos Gheresi stating that Fouquier's widow had identified José Antonio and the other three as active

of the Haitian Revolution, eds. David P. Geggus and Norman Fiering (Bloomington, IN: Indiana University Press, 2009), 229-234.

³³ Declaración de José Felipe Navarro, Matanzas, 18 June 1825, f. 10v-12v, exp. 4, leg. 1, CM, ANC.

members of the rebellion.³⁴

Governor Ayllón then asked José Antonio about Pablo Gangá. Pablo's name had already come up during José Felipe Navarro's interrogation. That same day, Ayllón had received *capitan de partido* Andrés Máximo Oliver's field report stating that Pablo was in his custody and was said to have participated in the rebellion. José Antonio claimed that he had not seen Pablo during the rebellion, but that Pablo lived on a nearby plantation and would regularly be seen on the outskirts of his own plantation. He added that on the day of the uprising he had heard that Pablo had acquired gun powder, but that he did not know from whom.³⁵

By June 19, soldiers had delivered Pablo Gangá to authorities in the city of Matanzas. Pablo soon found himself before Governor Ayllón. Having emerged as a person of interest, Pablo encountered a governor whose inquisitorial focus had narrowed considerably. The interrogation began with Pablo identifying himself as a twenty-six year old native of the "African coast." He was married and worked as a carriage driver on Juan Bautista Tosca's coffee plantation. When questioned about the rebellion itself, Pablo attempted to conceal the role he had played, claiming that he had no prior knowledge of the uprising and that he had been forced to join the rebels after they had attacked his master's plantation. One of them had even handed him a *trabuco*. He claimed to have been present as the rebels moved through the countryside, burning houses and killing white residents, but to have played no active role in the violence. He had also been among the rebels who had been dispersed at the Coliseo crossroads, and had hidden out in

³⁴ Gheri to Ayllón, Guamacaro, 18 June 1825, f. 19-?, exp. 4, leg. 1, CM, ANC.

³⁵ Declaración of José Antonio de Fouquier, Matanzas, 18 June 1825, f. 17-19, exp. 4, leg. 1, CM, ANC.

the backcountry before presenting himself at the house of an area planter later in the day.³⁶

As others before him had done, Pablo also provided detailed information (or disinformation) regarding some of the uprising's more active participants. He identified Lorenzo Lucumí and two of Jean Fouquier's slaves as the principle leaders of the rebellion. He even claimed that the two slaves owned by Fouquier had been responsible for their owner's death. Through deceit and misdirection, Pablo Gangá attempted to diminish his culpability. With one revelation, however, he also sought to elevate his eligibility for whatever mercy might be available. Pablo claimed that prior to being swept up in the rebellion, he had tried to safeguard his mistress, María de la Luz, by ordering two of Juan Bautista Tosca's slaves to protect her from the coming violence.³⁷ When the rebels entered Tosca's house, then, they found it to be empty. Following Pablo's orders, the two slaves had hidden their mistress behind a door.³⁸

Following up on the testimonial evidence he had already amassed, Governor Ayllón then asked Pablo Gangá if he had acquired any gun powder prior to the rebellion. Pablo admitted that on the Sunday before the uprising, while running an errand for his master, he had run into Lorenzo Lucumí on the road and that Lorenzo had asked him to deliver a package on his behalf. Pablo insisted, however, that he had not been aware that the package contained gunpowder.³⁹ While interrogating another prisoner two days later, however, Ayllón learned that Pablo had been seen firing several shots during the uprising. It remained unclear, though, if Pablo had

³⁶ Declaración de Pablo Gangá, Matanzas, 19 June 1825, f. 27-29v, exp. 4, leg. 1, CM, ANC.

³⁷ Declaración de Pablo Gangá, Matanzas, 19 June 1825, f. 27-29v, exp. 4, leg. 1, CM, ANC.

³⁸ Declaración de D. M^a de la Luz, Guamacaro, 22 June 1825, f. 80v-81v, exp. 4, leg. 1, CM, ANC.

³⁹ Declaración de Pablo Gangá, Matanzas, 19 June 1825, f. 27-29v, exp. 4, leg. 1, CM, ANC.

actually killed anyone.⁴⁰

After three days of interrogating prisoners and reading reports from the field, Governor Ayllón was left with many questions about the events of June 15. He thus ordered his *asesor* Félix de Acosta to travel to the affected plantations to survey the damage and continue the investigation in the field.⁴¹ But he also took time to assess his current situation. While reports from officials and soldiers such as Andrés Máximo Oliver and Carlos Ghersi depicted a situation increasingly under control, many rebels, including Federico Carabalí and Lorenzo Lucumí, remained at large, raiding plantations as they avoided capture.⁴² The threat of further unrest was compounded as Ayllón determined that the rebellion had been preceded by months of planning and that the conspiratorial network might have extended as far as the city of Matanzas and even Havana. Though an uprising had been suppressed on June 15, renewed violence was a real possibility. While an 1817 census had found the jurisdiction of Matanzas to be home to 9,511 white residents and 9,447 slaves, Ayllón surely had a sense of what an updated census would reveal. Since 1817 the growth in Matanzas's enslaved population had greatly outpaced that of whites. By 1827 Matanzas's white population would be listed at 16,671 and its enslaved population at 26,522.⁴³ If colonial officials in Havana had convinced themselves that the demographic superiority of white Cubans throughout the island shielded them from the violence that had afflicted the French colony of Saint-Domingue, Ayllón could take no such comfort.

⁴⁰ José de la Luz de Gómez, Matanzas, 21 June 1825, f. 54v-60, exp. 4, leg. 1, CM, ANC

⁴¹ Dictamen del asesor de Matanzas, Matanzas, 25 June 1825, f. 90-91, exp. 4, leg. 1, CM, ANC.

⁴² Barcia, *The Great African Slave Revolt*, 140-141.

⁴³ For the 1817 and 1827 censuses, see Kenneth F. Kiple, *Blacks in Colonial Cuba, 1774-1899* (Gainesville, FL: University of Florida Press, 1976), chap. 8.

It was not sufficient, then, simply to suppress the rebellion and restore peace to the countryside. Nor could Governor Ayllón's investigation be considered a success if it only served to identify the leaders of the uprising. He thus sent a preliminary report to Captain General Francisco Dionisio Vives, stating that "it is important to the security of the island that we expedite as much as possible the conclusion of this case, so that the punishments be as quick and exemplary as the nature of the crime demands."⁴⁴ In his view, "quick and exemplary" punishment could deter future rebellions. For the investigation to serve such a function, it would have to be concluded as quickly as possible and at the scene of the crime, so that rebels could be punished in the presence of the area's slaves as a warning against further violence. Ayllón thus asked Captain General Vives to transfer control of the investigation to the recently established Military Commission. He believed that continuing the investigation under the auspices of a military court, allowing the entire judicial process to be conducted rapidly in the field, would enable authorities to mete out the type of swift and severe justice that these exceptional circumstances required.⁴⁵

Governor Ayllón's sense that the Military Commission needed to be called in was reinforced by reports indicating that the situation on the ground threatened to compromise the investigation itself. On June 21, Andrés Máximo Oliver captured Cristóbal Carabalí and Tomás Carabalí, Jean Fouquier's *mayoral* and *contramayoral*, whom Carlos Ghersi had suggested were the masterminds behind the rebellion. Oliver placed the prisoners in the custody of soldiers responsible for transferring them to the city of Matanzas. The soldiers shot and killed Cristóbal

⁴⁴ Ayllón to Vives, Matanzas, 20 June 1825, exp. A, leg. 172, ME, ANC. "importe la seguridad de la Isla se abrevien del modo posible los términos de la causa para que el castigo sea tan pronto y ejemplar como demanda la naturaleza del crimen."

⁴⁵ Ayllón to Vives, Matanzas, 20 June 1825, exp. A, leg. 172, ME, ANC.

and Tomás, however, supposedly during an attempt at escape.⁴⁶

Ayllón also became aware that his sense of urgency was not necessarily shared by officials in Havana. On June 22, Captain General Vives ordered Ayllón to return canons he had sent to Matanzas immediately following the rebellion, perhaps because his initial concerns about the severity of the threat posed by the rebellion had dissipated somewhat. Perhaps in a bid to demonstrate the colonial government's control over the situation, Vives also ordered Ayllón to dismiss the area residents participating in the forces still patrolling the countryside.⁴⁷

By June 24, *asesor* Félix de Acosta had returned from the field, having questioned various individuals who had experienced the rebellion first hand. Among them had been Joshua Armitage's governess, Ana, who had witnessed the uprising's initial moments.⁴⁸ He had also interviewed Juan Bautista Tosca and María de la Luz, both of whom had corroborated Pablo Gangá's claim that he had saved his mistress's life.⁴⁹

In his report to the governor, Acosta declared that soldiers had succeeded in either capturing or killing most of the rebellion's principle leaders. Almost all of them had been *contramayorales* on their respective plantations and it appeared that they had been conspiring to rebel for several months. Though the depths of the conspiracy had yet to be determined, Acosta might have thought it advantageous to describe the rebellion in terms that evoked the Haitian Revolution when he stated that the conspiracy aspired "to take [the city of Matanzas] as well as

⁴⁶ Barcia, *The Great African Slave Revolt*, 125-126.

⁴⁷ Barcia, *The Great African Slave Revolt*, 125-126.

⁴⁸ Declaración de la parda Ana perteneciente a Hermitage, Guamacaro, 22 June 1825, f. 76v-77v, exp. 4, leg. 1, CM, ANC.

⁴⁹ Declaración de Don Juan Tosca, Guamacaro, 22 June 1825, f. 75-76, exp. 4, leg. 1, CM, ANC; Declaración de D. M^a de la Luz, Guamacaro, 22 June 1825, f. 80v-81v, exp. 4, leg. 1, CM, ANC.

Havana and establish a free, black state on the island, after killing all the whites.”⁵⁰

As the governor’s official legal adviser, Félix de Acosta then presented Ayllón with a set of recommendations. In the long term, Acosta suggested that the government draft a set of ordinances regulating free and enslaved people of color within the jurisdiction of Matanzas. In the short term, however, he argued that the situation was sufficiently urgent that they could proceed with the investigation without attending to the formal requirements of legal processes. “With atrocious crimes such as this one,” he wrote, “privileged evidence is sufficient to condemn the guilty.”⁵¹ In this case, “privileged evidence” referred to testimony that would have been inadmissible in other contexts.⁵² In a civil suit, for instance, slaves could not give testimony. In building a legal case against the leaders of the rebellion, however, slave testimony would suffice.

Still, Acosta believed that it was the execution of a judicial sentence, “not so much for its severity, but for the promptness with which it is applied, that is most effective for promoting the beneficial effects of exemplary punishments.” In order to dissuade further violence, and so that “the heads of the criminals fall before the knife of the Law,” he argued that it was necessary that the investigation “not be detained by the search for excessively detailed evidence.”⁵³

⁵⁰ Dictamen del asesor de Matanzas, Matanzas, 25 June 1825, f. 90-91, exp. 4, leg. 1, CM, ANC. “establecer un estado libre de negros en la isla, tomando esta ciudad y la de la Habana, despues de matar la parte blanca.”

⁵¹ Dictamen del asesor de Matanzas, Matanzas, 25 June 1825, f. 90-91, exp. 4, leg. 1, CM, ANC.

⁵² For a contemporaneous definition of *pruebas privilegiadas* (privileged evidence), see Joaquín Escriche, *Diccionario razonado de legislación civil, penal, comercial y forense, ó sea, Resumen de las leyes, usos, prácticas y costumbres, como asimismo de las doctrinas de los jurisconsultos* (Valencia: Imprenta de J. Ferrer de Orga, 1838), 546. “Una prueba que es prueba en unos delitos y no es prueba en otros, como la que se hace en el crimen de lesa magestad con el testimonio de personas que la lei ha declarado indignas ó incapaces de ser testigos en todas las demás causas, y la que se hace en causas de usura con testigos singulares.”

⁵³ Dictamen del asesor de Matanzas, Matanzas, 25 June 1825, f. 90-91, exp. 4, leg. 1, CM, ANC. “en los delitos atroces como el presente las pruebas privilegiadas bastan para condenar al

Supporting this call for processual expediency, Acosta cited a provision in the vast body of laws governing Spain's overseas possessions known as the *Recopilación de las leyes de Indias* mandating that, in his words, "ordinary judicial proceedings will not be brought in cases of riots, sedition, and rebellions that include the uprising of blacks; and that their leaders be promptly punished in an exemplary way."⁵⁴ In order to avoid the fate that had befallen the former French colony of Saint-Domingue so as to "conserve this precious part of His Majesty's domains," Acosta thus advised Governor Ayllón to ask Captain General Vives to direct the newly formed Military Commission to take up the case so that "in conformity with the *Recopilación*, the perpetrators be punished at the scene of the crime."⁵⁵

Governor Ayllón and *asesor* Félix de Acosta's successive calls to have the Military Commission assume control over the investigation reflected the conflicting priorities of the government of the jurisdiction of Matanzas, one that was at the same time a purveyor of law and a military force. As they investigated the origins of the rebellion in conformity with the processual requirements of law, they shared the sense that the winding down of military operations required a simultaneous escalation in state violence in order to dissuade further slave resistance. Standing in the way of the use of violence was a centuries-old legal tradition

culpado; y no ignora que las penas no tanto por su tamaño, cuanto por la prontitud con que se aplica son mas eficaces para [...] el saludable efecto del escarmiento. De consiguiente para que se logre la segundo y que las cabezas de los criminales caigan cuanto antes la cuchilla de la Ley, preciso la no detenerse en buscar pruebas demasiado minuciosas."

⁵⁴ *Recopilación de las Leyes de Indias*, Libro VII, Título V, Ley XXVI. "no le formen procesos ordinarios en los casos de motines, sediciones, y rebeldias con actos de alzamientos de negros y que se castiguen ejemplarmente los cabezas, escusando tiempo."

⁵⁵ Dictamen del asesor de Matanzas, Matanzas, 25 June 1825, f. 90-91, exp. 4, leg. 1, CM, ANC. "que á conformidad de [dichas] Leyes sean castigados en el mismo teatro del crimen, los actores."

prescribing everything from the questions to be asked during interrogations to the procedural steps required in preparing a legal process for judgement. Both officials were also aware that this legal tradition was not without its exceptions. Ten days after the outbreak of the rebellion, Ayllón forwarded a copy of Acosta's report to Captain General Vives in Havana.⁵⁶ If Ayllón and Acosta felt bound by law, the newly formed Military Commission promised to set their investigation free.

Insular Security and Interrogatory Justice

Captain General Vives had learned of the rebellion soon after it had broken out and dispatched soldiers and artillery to Matanzas to assist in its suppression.⁵⁷ As the highest ranking military official in Cuba, however, he was also occupied with security threats beyond the island's shores. Seven months prior, Spanish forces had suffered a decisive defeat in Perú at the Battle of Ayacucho. Vives was busy coordinating resources to assist the besieged fortress San Juan de Ulúa, just outside the city of Veracruz, the last stronghold of Spanish forces in Mexico.⁵⁸ Spanish dominion was in retreat on the American mainland, while Haitian president Jean-Pierre Boyer was three years into his rule of a unified and independent Hispaniola.⁵⁹ With the successors of the Haitian Revolution now occupying former Spanish territory, and the prosecution of the separatist Conspiracy of the Soles y Rayos de Bolívar only recently concluded, Vives was also

⁵⁶ Oficio, Matanzas, 25 June 1825, f. 91, exp. 4, leg. 1, CM, ANC.

⁵⁷ Barcia, *The Great African Slave Revolt*, 115-125.

⁵⁸ Vives to Secretary of State, Havana, 4 December 1824, no. 1, exp. 79, leg. 6367, Estado, Archivo Histórico Nacional (hereafter AHN).

⁵⁹ For the period of the unification of Hispaniola, see Laurent Dubois, *Haiti: The Aftershocks of History* (New York: Metropolitan Books, 2012), chap. 3.

inclined to consider the rebellion as the latest conflict in an ongoing and developing period of regional instability and disruption with the potential of affecting the island.

As Captain General Vives and the Military Commission took control of the investigation from the Matanzas-based officials, then, the rebellion itself assumed a different meaning. Whereas Governor Ayllón had treated the rebellion as an immediate threat to life and property, Vives viewed the rebellion in the context of all the threats to Spanish sovereignty over Cuba. For Vives and the Military Commission, learning as much about the uprising as possible would be as important as suppressing the rebellion and preventing further violence had been for officials in Matanzas. The tribunal thus pursued an interrogatory mode of justice, where success was predicated on their command of the law.

By June 22, Captain General Vives had read Governor Ayllón's report from June 20, in which the governor had requested that control of the investigation be transferred to the Military Commission. Though Vives granted Ayllón's request, complications related to the tribunal's novelty conspired to delay any action. Upon receiving his orders, the tribunal's first president, Brigadier General Luis de Michelena, resigned from his position, citing ill health. On June 25, Vives formally appointed Brigadier General José Cadaval to replace Michelena as the tribunal's president.⁶⁰

As these administrative matters delayed the Military Commission's assumption of responsibility, the situation in Matanzas continued developing. Since the showdown at the Coliseo crossroads, armed forces had been busy capturing and sometimes killing slaves who had been dispersed during the rebellion. On June 26, soldiers killed Lorenzo Lucumí, the slave who had initiated the rebellion by killing Joshua Armitage. The next day, his accomplice Federico

⁶⁰ Barcia, *The Great African Slave Revolt*, 127.

Carabalí suffered the same fate.⁶¹

On July 2, President Cadaval arrived in the city of Matanzas to oversee the initial stages of the Military Commission's first major case. He was accompanied by the tribunal's *asesor*, José Ildelfonso Suárez, and two *fiscales*, Captains Francisco Lamadriz and Anastasio Castellanos.⁶² After taking custody of the case file Governor Ayllón and Félix de Acosta had assembled thus far, Cadaval ordered Suárez to study the case file and draft a *consulta* (legal review) outlining future courses of action.⁶³

For two days Suárez poured over the 250 folios making up the case file. In what was his first major opinion as the Military Commission's *asesor*, Suárez expressed a measured sense of urgency as he outlined his vision for the tribunal's pursuit of the investigation, while also signaling his thoughts on the greater ends to which the tribunal served:

Scenes such as the ones my imagination has considered, the traversal of which have filled me with anguish and pain as I have contemplated the innocent victims who perished at the hands of their own servants, have obliged me to meditate with circumspection regarding the path that the commission should follow in order to punish such barbarous and cruel men at the same time that the punishments not drive the tribunal to such extreme rigor that we confuse the naive with the wicked, and the loyal servant with the traitor.⁶⁴

Suárez's call for deliberation was rooted in the observation that while they were certainly dealing

⁶¹ Barcia, *The Great African Slave Revolt*, 126.

⁶² Cadaval to Ayllón, Matanzas, 2 July 1825, f. 115v-116, exp. 4, leg. 1, CM, ANC.

⁶³ "Oficio del Señor Presidente," Havana, 2 July 1825, f. 125, exp. 4, leg. 1, CM, ANC.

⁶⁴ Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC. "Escena como las que ha considerado mi imaginación, al paso que me llenaron de angustia y de dolor, contemplando las inocentes victimas que perecieron á manos de sus mismos domésticos, me han obligado a meditar al mismo tiempo con detenimiento sobre la senda que debería [seguir] la comisión para conducirse al término de castigar a hombres tan barbaros y crueles sin que el mismo castigo la haga precipitar á un extremo de rigor que confunda al [incauto] con el malvado al siervo fiel con el traidor."

with “ferocious and bloodthirsty men,” they had seen others “recognize humanity and practice virtue.”⁶⁵ He pointed to the Armitage children’s governess, Ana, the unnamed slave who had hidden Marie Louise Beauvais and her children in his hut, and Pablo Gangá for the roles they had played in saving the lives of some of their patrons and masters during the rebellion.

Unlike the Matanzas-based officials, however, José Ildefonso Suárez did not believe that enacting swift and severe punishments was a priority. Governor Ayllón had conducted his investigation as part of a broader military response to the uprising, and had thus articulated a strategy for regaining control of the situation that was about suppressing the rebellion as much as it was about terrorizing the enslaved population of Matanzas into submission. By contrast, Suárez framed his recommendations in a way that reflected pragmatic considerations for governing societies that rested on enslaved labor. Beyond merely regaining control of the countryside, the Military Commission was to play an instrumental role in restoring a social order within which rewarding slave loyalty, in the hope of encouraging other slaves to behave similarly, would be an important part of maintaining the peace and ensuring productivity.⁶⁶ Suárez thus set about plotting a course for the tribunal that “appropriately discharges onto the bad the severe sword of the law, and proportions to the good their deserved prize and reward.”⁶⁷

⁶⁵ Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC. “Hombres feroces y sanguinarios han destrozado considerable número de individuos blancos de todos sexos y edades, y son dignos, es verdad, de severo castigo y escarmiento; pero á otros de su misma especie los hemos visto en medio de la sangre y del fuego reconocer la humanidad y practicar la virtud.”

⁶⁶ Gordon K. Lewis, *Main Currents in Caribbean Thought: The Historical Evolution of Caribbean Society in its Ideological Aspects, 1492-1900* (Baltimore: Johns Hopkins University Press, 1987), 165-168.

⁶⁷ Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC. “descargue oportunamente sobre el malo la severa Espada de la justicia, y proporcione al bueno de debido premio y recompense.”

But Suárez's sense of social order extended beyond the coffee and sugar fields of Matanzas. In outlining the tribunal's course, Suárez focused on the investigation's legal dimensions. While Governor Ayllón found that adhering to proper legal form hindered his attempts to contend with the dangers of rural society, Suárez's defense of legal form, through his call for deliberation, recast the countryside as an extension of a social order that was decidedly urban, constituted in law, and articulated through the labor of *letrados* (men of letters), who joined legal doctrine and praxis.⁶⁸ Suárez had gained recognition as a *letrado* by placing his legal training at the service of individuals and interests with power and influence.⁶⁹ As the Military Commission's legal advisor, Suárez was now responsible for ensuring that the tribunal adhered to proper legal form. He thus began asserting the Military Commission's ownership of the process by rebuking the Matanzas-based officials for the deficiencies in their investigation. "They have taken many declarations superficially when what was required was exhaustive and careful examination," he wrote, "and even now, having written 250 folios, they have achieved only the slightest flashes of insight regarding the origin of such horrors."⁷⁰

In this final regard, Suárez signaled the most crucial way the Military Commission's

⁶⁸ Angel Rama, *The Lettered City*, trans. John C. Chasteen (Durham: Duke University Press, 1996), 21-22.

⁶⁹ Juan Pérez de la Riva, *Correspondencia reservada del Capitan General Don Miguel Tacón con el gobierno de Madrid, 1834-1836* (Havana: Consejo Nacional de Cultural, 1963), 335-336. For a more in-depth treatment of José Ildefonso Suárez, see Chapter 3. For an excellent study of the social and political worlds of lawyers in colonial Latin America, see Victor M. Uribe-Uran, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780-1850* (Pittsburgh: University of Pittsburgh Press, 2000).

⁷⁰ Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC. "Se han tomado muchas declaraciones superficialmente cuando se requería examen prolijo y detenido, y aun ahora, escritos doscientos cincuenta folios, no se alcanzan sino muy débiles destellos de luz sobre el origen de tantos horrores."

investigation would differ from that of Governor Ayllón. By sending the tribunal to Matanzas, Captain General Vives had already revealed his initial impulse to consider the uprising as a possible expression of the revolutionary forces that had all but destroyed Spain's empire in the Americas. As a functionary of a legal institution operating at Vives's discretion, Suárez was now responsible for channeling his legal knowledge in ways that promoted Vives's interests. As Suárez continued with his *consulta*, then, he rejected Felix de Acosta's interpretation of the provision in the *Recopilación* that the exigencies of the moment required the abrogation of proper legal form, asking, "what will this country achieve from hanging twenty blacks who killed their masters if [we] do not discover the schemes they carried out in preparation for the rebellion, with its sources and origins remaining in place?"⁷¹ Suárez thus concluded that the tribunal needed to continue interrogating prisoners to uncover the conspiracy preceding the rebellion. Despite his criticism of Ayllón's investigation, Suárez advised President Cadaval to assign one of the tribunal's *fiscales* to bring charges against those determined to be leaders of the rebellion in order to enact "swift and severe punishment." Suárez also recommended that a second *fiscal* continue investigating the rebellion in order to bring charges against a second round of prisoners, and in doing so hopefully determine the origins of the uprising.⁷²

President Cadaval assigned Francisco Lamadriz to conclude Governor Ayllón's investigation and bring charges against those prisoners determined to be leaders of the

⁷¹ Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC. "¿Que logrará este País, ahorcar veinte negros que mataron a sus dueños, si no descubre las preparatorias combinaciones que se ejecutaron para ello quedando en pie la fuente y origen de aquellos mismos males?"

⁷² Consulta del Señor Asesor, Matanzas, 5 July 1825, f. 125-128, exp. 4, leg. 1, CM, ANC.

rebellion.⁷³ Lamadriz thus began a process of verifying existing testimonies and collecting confessions from those he intended to charge. On July 21, for instance, Lamadriz brought Pablo Gangá before him in order to take his confession. After the requisite formalities of reviewing and verifying Pablo's previous statements, Lamadriz charged him with being a leader of, obtaining gun powder for, and firing shots during the rebellion. Pablo denied the charges, reiterating his previous claim that he had unknowingly handled a package that happened to contain gun powder, but that he had not been involved in its purchase. He added that he had no foreknowledge of the plan to rebel and mentioned how he had saved his mistress's life during the uprising. In concluding the proceeding, Lamadriz asked Pablo if he had anything else to say in his defense. Pablo responded by reiterating his previous denials.⁷⁴

On August 18, Lamadriz submitted his final report and sentencing recommendations to the Military Commission's main deliberative body, the Consejo de Guerra (War Council). Comprised of the tribunal's president and six senior military officers, the Consejo was responsible for passing judgements and sentencing prisoners.⁷⁵ As most of the members of the Consejo de Guerra had little exposure to the particulars of the case, Lamadriz began his report with a summary of the rebellion and its aftermath. He then listed the nine individuals he considered to have been the principle leaders. Among them were Federico Carabalí and Lorenzo Lucumí, who had initiated the rebellion with the murders of Joshua Armitage and his family, and Cristóval Carabalí and Tomás Carabalí, Jean Fouquier's *mayoral* and *contramayoral*, who had

⁷³ Decreto, Matanzas, 5 July 1825, f. 128, exp. 4, leg. 1, CM, ANC.

⁷⁴ Confesión de Pablo Gangá, Matanzas, 21 July 1825, f. 51v-55, exp. A, leg. 172, ME, ANC.

⁷⁵ Joaquín Llaverías, *La comisión militar ejecutiva y permanente de la isla de Cuba* (Havana: Academia de la Historia de Cuba, 1929), 8-11.

been killed by soldiers under questionable circumstances following the rebellion. Since these nine individuals had all been killed during or after the rebellion, Lamadriz presented the Consejo with charges against ten prisoners who had also played leading roles and were currently being detained. Among the ten was Pablo Gangá, whom Lamadriz charged with purchasing gun powder, stealing his master's horse and *trabuco*, and discharging the weapon. Their crimes, Lamadriz continued, broke the laws "of the kingdom and the military ordinances according to which this commission adjudicates," which "impose on homicide, arson, and sedition the ultimate punishment." Lamadriz thus recommended that the prisoners be executed by a firing squad, their bodies decapitated, and their heads displayed near the site of the rebellion so that the slaves of the area would be sure to see them.⁷⁶

That is, however, with the exception of Pablo Gangá. "By virtue of having saved the life of his mistress at the risk of his own," wrote Lamadriz, "and considering the recommendation made of him by his mistress and her husband and that we have no evidence that he killed anyone, [I recommend] that we commute his death sentence, because he made himself worthy with his prior actions, to 200 lashes at the hands of the executioner while tied to a pillory and that he then be handed over to his owner, who is obliged to employ him for two years in chains in the plantation's harshest and most unpleasant tasks."⁷⁷ In a unanimous vote, the Consejo de Guerra

⁷⁶ Conclusión Fiscal, Havana, 18 August 1825, f. 101v-109, exp. A, leg. 172, ME, ANC. "del reino y ordenanza general del egercito que con por las que juzga esta Comision, imponen al homicida, al incendiario y al sedicioso la del ultimo suplico."

⁷⁷ Conclusión Fiscal, Havana, 18 August 1825, f. 101v-109, exp. A, leg. 172, ME, ANC. "En virtud de haver salvado la vida de su señora con riesgo de la suya, y de la recomendación que esta y su esposo hacen de él y a que no consta cometiese homicidio, que se le comute la pena de muerte a que se hizo acreedor por su posterior conducta en la pena de doscientos azotes por mano del verdugo, atado a la picota y que se le entregue a su dueño con la precisa obligacion de emplearlo por dos años con prision en los trabajos mas rudos y ásperos del cafetal."

chose to follow Lamadriz's recommendations but reduced the number of lashes Pablo Gangá was to receive from 200 to 100.⁷⁸

The Consejo then forwarded their decision to Captain General Vives for his approval. Vives conferred with his official advisor on military matters, *auditor de guerra* (judge advocate) Felipe Martínez. Martínez approved of the Consejo's sentences and added that "the punishment should be prompt and exemplary, so as to terrify the bad and encourage the good in their sound principles."⁷⁹ Toward that end, he commended the Military Commission's decision to commute Pablo Gangá's death sentence to corporal punishment.⁸⁰ Following Martínez's recommendation, Vives approved the tribunal's sentences on August 22.⁸¹ On September 1, the nine prisoners condemned to death were executed.⁸² On September 20, Pablo Gangá received his 100 lashes and was then handed over to the custody of Juan Bautista Tosca.⁸³

Despite Governor Ayllón and Félix de Acosta's hopes that the Military Commission would prosecute the leaders of the rebellion in a quick and exemplary manner that would also serve to dissuade future slave resistance, the first round of executions took place more than two months after the rebellion had been fully suppressed. For tribunal officials such as *fiscal* Francisco Lamadriz and *asesor* José Ildefonso Suárez, the threat of renewed slave violence was

⁷⁸ Sentencia, Havana, 18 August 1825, f. 119-119v, exp. A, leg. 172, ME, ANC.

⁷⁹ Martínez to Vives, Havana, 21 August 1825, leg. 2085, Cuba, Archivo General de Indias (hereafter AGI). "debe ser pronto y ejemplar el castigo, para que aterre á los malos y [alienata] á los buenos en sus sanos principios."

⁸⁰ Martínez to Vives, Havana, 21 August 1825, leg. 2085, Cuba, AGI.

⁸¹ Decreto, Havana, 22 August 1825, leg. 2085, Cuba, AGI.

⁸² Barcia, *The Great African Slave Revolt*, 174.

⁸³ Diligencia, Matanzas, 20 September 1825, leg. 2085, Cuba, AGI.

less pressing than demonstrating command and competence in what was the tribunal's first major prosecution. While these institutional considerations did not preclude the execution of slaves judged to be leaders of the rebellion, they also left room for acts of mercy. Questions remained, however, regarding the origins of the rebellion.

Sovereignty and Authority

With the first round of executions, Military Commission officials had attempted to strike a balance between the impulse of officials in Matanzas to use a legal process to repress the regions enslaved population and Captain General Vives's need to gain intelligence regarding threats to insular security. As attention turned to the tribunal's second prosecution, which *asesor* José Ildefonso Suárez had recommended attend to the rebellion's origins, two incidents revealed the ways in which the tribunal's mission was not contained solely within the ostensibly opposing imperatives of repressive and interrogatory modes of justice and their attendant concerns over slave resistance and insular security. At stake was also the issue of Spanish sovereignty over Cuba and who had authority to act in its interest.

While Francisco Lamadriz worked to conclude the investigation initiated by Governor Ayllón, *fiscal* Anastasio Castellanos began a second investigation aimed at uncovering the depths of the conspiracy leading up to the rebellion. Castellanos soon fell ill and returned to Havana. His replacement, Lieutenant Francisco Seidel, arrived in Matanzas on July 24 and formally took up the investigation the following day.⁸⁴ After reviewing the existing case file, Seidel began conducting his own interrogations. On August 20, he visited the ruins of Joshua

⁸⁴ Juramento de Secretario, Matanzas, 25 July 1825, f. 2-2v, exp. 5, leg. 1, CM, ANC; Barcia, *The Great African Slave Revolt*, 206.

Armitage's plantation. The plantation's *mayoral* was still on the premises. He informed Seidel that while most of the other slaves had either been killed during the rebellion, imprisoned in its aftermath, or were missing, there were two boys milling about.

One of the boys was named Esteban. A native of New Orleans, Esteban had been one of the slaves Armitage had brought with him to Cuba. Since he had been sleeping in his master's house, Esteban presented Seidel with a first-hand account of the initial moments of the rebellion. Though he claimed not to have been privy to specific conversations on account of his youth, he did provide Seidel with a sense of the social world from which the uprising had emerged. For instance, Joshua Armitage had been in the habit of allowing his slaves to gather on Sundays to play drums and dance. Pablo Gangá had frequented these dances and could often be seen conversing with his friend Federico Carabalí. Esteban also recounted how Pablo had seemed anxious upon arriving at Armitage's plantation on the night of the rebellion. After asking to see the bodies of the dead, Pablo had distributed packets of gun powder to some of the rebels. Pablo had then ordered all the rebels to proceed to the next plantation.⁸⁵

Esteban's account of Pablo Gangá's actions on the night of the uprising proved problematic for the new *fiscal*. On August 31, Seidel learned of the sentences given in Francisco Lamadriz's case, and was alarmed to see that Pablo Gangá's death sentence had been reduced to corporal punishment. Believing that Esteban's revelation that Pablo had distributed gun powder during the uprising was important new evidence, Seidel asked Governor Ayllón to suspend execution of Pablo's sentence until he could determine if new charges were warranted, a request

⁸⁵ Declaración del negro Esteban, Guamacaro, 20 August 1825, f. 61v-65, exp. 5, leg. 1, CM, ANC.

to which the governor acceded.⁸⁶ Seidel then sent President Cadaval an update, before heading to the prison in the city of Matanzas to question the nine prisoners slated for execution about Pablo Gangá's precise role in the rebellion.⁸⁷

Though Francisco Seidel may have thought himself to be acting in a diligent manner, his superiors believed otherwise. *Asesor* José Ildefonso Suárez lambasted Seidel for countermanding the Consejo de Guerra's judgement regarding Pablo Gangá's sentence, commenting that the *fiscal's* actions might have been justified if he were presenting new evidence attesting to Pablo's innocence. Since Seidel was actually presenting evidence of a lesser crime to argue that Pablo deserved a more severe punishment, however, Suárez believed there was no reason for the Military Commission to reconsider the matter. Through an "excess of zeal," Seidel's actions threatened to "discredit" the "reputation" of the tribunal. Suárez thus considered the *fiscal's* offense to be serious enough to warrant raising the matter with the captain general.⁸⁸

Vives in turn referred the matter to *auditor de guerra* Felipe Martínez, who responded that "there are no examples in the annals of the Spanish military of a *fiscal* suspending a sentence imposed by a *consejo de guerra* and approved of by a captain general!"⁸⁹ Such actions, he continued, "give the public the sinister impression that the Consejo de Guerra and the captaincy general are acting either unfairly or in a confused manner, and lack the facts to impose

⁸⁶ Lancis to Ayllón, Matanzas, 31 August 1825, leg. 2085, Cuba, AGI.

⁸⁷ Oficio, Matanzas, 31 August 1825, f. 120, exp. 5, leg. 1, CM, ANC; Seidel to Cadaval, Matanzas, 31 August 1825, f. 153-154, exp. 5, leg. 1, CM, ANC.

⁸⁸ Suárez to Cadaval, Havana, 4 September 1825, f. 150-152, exp. 5, leg. 1, CM, ANC.

⁸⁹ Cadaval to Seidel, Havana, 7 September 1825, f. 144-146v, exp. 5, leg. 1, CM, ANC. "no habrá ejemplar en los fastos de la milicia Español, suspender el Fiscal la ejecucion de la pena impuesta por un consejo de guerra y aprobado por el Capitan General!"

penalties.”⁹⁰ Pablo Gangá’s fate aside, Seidel’s actions had been problematic because of “the bad impression possibly left in [the island’s] inhabitants regarding the rashness of the *fiscal*, against the Military Commission, and against all that justifies the superior authority of [the captain general.]”⁹¹

Felipe Martínez’s criticism passed from Captain General Vives to President Cadaval to Francisco Seidel himself.⁹² In his own defense, Seidel took issue with Martínez’s characterization of his action, arguing that in an effort to comply with his duty he had merely presented Governor Ayllón with some new information and an opinion regarding what to do next. If anyone had undercut the authority of the tribunal’s Consejo de Guerra and Captain General Vives, Seidel argued, it had been Governor Ayllón.⁹³ But if Seidel understood this incident to be simply about the integrity of the chain of command, he had not fully understood Martínez’s critique. At stake was far more than the formal integrity of a judicial process carried out by military men.

The metropolitan government had mandated the establishment of Cuba’s Military Commission in order to bolster the legal powers of captains general to prosecute threats against the state. In doing so, they had endeavored to extend to Cuba parallel efforts to centralize

⁹⁰ Cadaval to Seidel, Havana, 7 September 1825, f. 144-146v, exp. 5, leg. 1, CM, ANC. “Suponer y dar al publico la siniestra impresión o de injusticia, o de atropellamiento y falta de datos para la imposición de la pena en el consejo de guerra y en la Capitanía General!”

⁹¹ Cadaval to Seidel, Havana, 7 September 1825, f. 144-146v, exp. 5, leg. 1, CM, ANC. “Reclama Exmo. Señor este desafuero un publico y pronto desagrado, que borre la mala impresión que ha podido imprimir en los aminos de estos habitantes la impreccion á la ligereza del Fiscal, contra la comision Militar y contra la justificacion de la superior autoridad de V.E.”

⁹² Cadaval to Seidel, Havana, 7 September 1825, f. 144-146v, exp. 5, leg. 1, CM, ANC.

⁹³ Seidel to Cadaval, Havana, 12 September 1825, f. 147-148v, exp. 5, leg. 1, CM, ANC.

governance in Spain. In announcing the establishment of Cuba's Military Commission on March 4, 1825, Captain General Vives had cast the tribunal as an expression of the King's desire to protect Cubans from the "horrors and ruin brought on by the unrest that has been experienced in his American domains."⁹⁴ Cuba's precarious position within the Empire was indeed foremost on Vives's mind, but he was also following orders. On November 23, 1824, Spain's Ministry of War had ordered Vives to establish a Military Commission in Cuba in conformity with a royal order dated January 13, 1824, requiring that Military Commissions be established in all the provincial capitals of Spain.⁹⁵

Even as Vives presented the Military Commission as an institution attending to problems particular to Cuba, the royal order of January 13, 1824, situated its origins in the urban and rural spaces of the Iberian Peninsula. "In some of the kingdom's towns there exist men," the order read, "who, persistent and stubborn in their wanderings, or who are accustomed to living and thriving in disorder, have altered the public peace."⁹⁶ Aggravating the matter, "the security of the public roads has been compromised," the order continued, "by armed gangs that interrupt commerce and transit, causing damages and harm that are now well-known."⁹⁷

Since the mid-eighteenth century, uneven economic development and steady population

⁹⁴ Llaverías, *La comisión militar*, 14-15. "la prosperidad de esta isla, y en la felicidad y tranquilidad de sus fieles vasallos habitantes de ella, para preservarlos de los horrores y de la ruina que traen consigo las inquietudes que se han experimentado en sus dominios de América."

⁹⁵ Llaverías, *La comisión militar*, 14-15.

⁹⁶ Llaverías, *La comisión militar*, 8. "En algunos pueblos del Reino existen hombres que pertinaces y obsecados en sus estravíos, ó acostumbrados á vivir y medrar en el desórden, han alterado la tranquilidad pública."

⁹⁷ Llaverías, *La comisión militar*, 8. "la seguridad de los caminos públicos se halla comprometida por cuadrillas armadas que interrumpen el comercio y el tránsito, causando los daños que son notorios."

growth had created high levels of social dislocation in Spain. The increasing prevalence of displaced men was accompanied by the emergence of large gangs engaging in smuggling and other forms of banditry. In 1781, Carlos III deployed the military to pacify regions deemed to be in a state of unrest. This military response was followed by new laws empowering regional courts to prosecute such crimes. The Napoleonic invasion of 1808 and the years of military struggle that ensued wreaked further havoc throughout portions of rural Spain. After his restoration to power in 1814, Fernando VII also deployed the military to reassert his authority over the countryside. Instead of amplifying the legal powers available to regional courts for the prosecution of vagabonds and bandits, however, he empowered the military to mete out its own justice by authorizing the creation of ad hoc military tribunals to try cases in the field.⁹⁸

In 1820, Spanish liberals succeeded in establishing a constitutional monarchy organized around the Constitution of Cádiz of 1812. By 1823, European powers wary of three years of liberal rule in Spain turned to France's Louis XVIII, who sent French troops into Spain once again, this time to restore Fernando VII as absolute sovereign. When Fernando then moved to purge liberals from government, his conservative supporters pressured him to reinstate the Holy Inquisition for the task.⁹⁹ Facing greater pressure from his moderate backers, including the French, Fernando reconfigured his Consejo de Ministros (Council of Ministers) with more moderate members.¹⁰⁰ From this moderate *consejo* came the idea of repurposing the ad hoc

⁹⁸ Stephen Haliczer, "Inquisition Myth and Inquisition History: The Abolition of the Holy Office and the Development of Spanish Political Ideology," in *The Spanish Inquisition and the Inquisitorial Mind*, ed. Angel Alcalá (Boulder, CO: Social Science Monographs, 1987), 536-537.

⁹⁹ Artola, *La España de Fernando VII*, 676-677.

¹⁰⁰ Josep Fontana, *La crisis del antiguo régimen 1808-1833*, 2nd ed. (Barcelona: Editorial Crítica, 1983), 174-175.

military tribunals Fernando had originally authorized for rural pacification towards political ends. In drafting the royal order of January 13, 1824, establishing Military Commissions in all the provincial capitals of Spain, then, they added to the vagabonds and bandits constituting the original targets of such military tribunals in the past, those “uttering expressions against the legitimate rights of the Throne and in favor of the abolished constitution.”¹⁰¹ The new Permanent and Executive Military Commissions promised to amplify executive authority in legal matters by situating the tribunals within a chain of command atop of which sat the King, thus affording Spain’s central government in Madrid increased independence from the Church and regional courts.¹⁰²

As it crossed the Atlantic, however, the royal order of January 13, 1824, passed into a different political context, where dissidents did not merely seek the reconfiguration of Spanish sovereignty, but in their own ways sought to reject Spanish sovereignty all together. With wealthy and influential planters signaling that their continued loyalty to Spain was contingent on their continued prosperity, Captain General Vives’s authority to govern derived from his position as the highest-ranking agent of the Spanish Empire in Cuba, but was also contingent on his ability to govern in a way that would satisfy planters. While the Military Commission was intended to empower Vives, it also introduced a new instrument of governance he was responsible for and upon which his credibility resided. Whether the tribunal adjudicated the rebellion with an eye towards repressing slaves or gathering intelligence, it was imperative that it demonstrate competence in doing so. As signaled by José Ildefonso Suárez and explicitly stated

¹⁰¹ Llaverías, *La comisión militar*, 8. “profiriendo espresiones contra los lejítimos derechos del Trono y en favor de la abolida constitución”

¹⁰² William J. Callahan, *Church, Politics, and Society in Spain, 1750-1874* (Cambridge, MA: Harvard University Press, 1984), 136-144.

by Felipe Martínez, then, Francisco Seidel's actions were offensive precisely because they threatened to undermine the credibility sustaining Captain General Vives's authority, and upon which Spain's fragile sovereignty over Cuba rested.

In his overzealous attempt to live up to his responsibilities as a *fiscal* of the Military Commission, Francisco Seidel had failed to attend to his responsibilities as an agent of the Spanish Empire. A contemporaneous set of events involving local authorities eager to involve themselves in the tribunal's work also raised the ire of governing officials in Havana for related reasons. On August 14, 1825, Sebastián Braz, acting as interim governor of Matanzas, had informed Seidel that Andrés Máximo Oliver, *capitan de partido* of the district of Guamacaro, had uncovered a new conspiracy of slaves preparing to rebel. Seidel immediately traveled to Guamacaro to meet with Oliver and then began interrogating slaves, before informing his superiors that he was looking into these allegations of a new conspiracy.¹⁰³

Two weeks later, Seidel became embroiled in a second allegation regarding a new conspiracy. On August 30, a resident of Matanzas named Francisco Hernández Morejón sent letters to Seidel, Governor Ayllón, and Captain General Vives in Havana announcing that he had uncovered yet another conspiracy of slaves planning to rebel.¹⁰⁴ The son of a wealthy family, Hernández Morejón was a captain in the local militia who had gained recognition pursuing rural bandits. During the *trienio liberal*, he had been elected to the city council of Matanzas and had also played a role in the initial phase of the prosecution of alleged members of the Soles y Rayos

¹⁰³ Barcia, *The Great African Slave Revolt*, 134-136.

¹⁰⁴ Hernández Morejón to Seidel, Matanzas, 2 September 1825, f. 45v-48v, exp. 1, leg. 2, CM, ANC.

de Bolívar.¹⁰⁵ On at least one occasion, Hernández Morejón had been called on to serve as interim governor of Matanzas.¹⁰⁶

In his various letters, Hernández Morejón reported that *capitán de partido* Andrés Máximo Oliver had recently learned that a captured maroon had confessed to the existence of a new conspiracy. Hernández Morejón also reported that he had instructed Oliver to interrogate the slave, and included a copy of the interrogation record in his letter to Seidel.¹⁰⁷ On the surface, the interrogation record described a seemingly reasonable set of events. On August 27, Oliver had travelled to a coffee plantation owned by an Englishman named William Bowen. In a barn, with the assistance of the plantation's *mayoral* and a secretary, Oliver interrogated the maroon, whose name was Martín Gangá, ostensibly according to all the legal requirements. When asked why he had run away and where he had been during his absence, Martín presented a simple, yet alarming story. He had first stayed at the house of a free person of color who lived adjacent to Bowen's plantation for two days, during which time three different slaves had visited to talk about "making war against the whites in order to kill them all." Martín then went to a neighboring plantation, where he hid out for three days, overhearing two conversations between *contramayorales* from that plantation and slaves from neighboring plantations about how they were soon going to "make war against the whites." Then Martín hid out for a couple of days on his master's plantation during which time he met with several slaves behind the chicken coop and talked about the coming war. Martín then stole a horse and headed towards the city of

¹⁰⁵ Vidal Morales y Morales, *Iniciadores y primeros mártires de la revolución cubana* (Havana: Imprenta Avisador Comercial, 1901), 158; Garrigó, *Historia documentada*, 2:179-180.

¹⁰⁶ Hernández Morejón to Vives, Matanzas, 23 March 1825, [no folio], [no expediente], leg. 2019, Cuba, AGI.

¹⁰⁷ Hernández Morejón to Seidel, Matanzas, 30 August 1825, f. 1, exp. 1, leg. 2, CM, ANC.

Matanzas, where he was apprehended and imprisoned.¹⁰⁸

In his letter to Captain General Vives, Francisco Hernández Morejón described how he had ordered Andrés Máximo Oliver to continue investigating the new conspiracy. He also recommended that a cavalry unit be deployed to the countryside in case the rebellion did break out, that all district captains throughout Matanzas be put on full alert, and finally that Oliver be commended in some official way.¹⁰⁹ Of his own volition, Hernández Morejón had inserted himself into a matter that he had as of yet not been a part of. Because of his social standing and because all feared the break out of a new rebellion, the captain general took his allegations of a new conspiracy seriously.

These two allegations of new conspiracies emerged just as Francisco Seidel's superiors were contending with his interference in the matter of Pablo Gangá. After *auditor de guerra* Felipe Martínez had finished criticizing Seidel for countermanding the Consejo de Guerra's sentence, he lamented that "this obsession with talking about new conspiracies has become an epidemic," adding that there would be "bad consequences" if they turned out to be false. Having doubts about Seidel's competence, Martínez suggested that President Cadaval recall Seidel to Havana so as to review the evidence he had gathered pertaining to the alleged new conspiracies.¹¹⁰ And even as José Ildefonso Suárez advised Cadaval to investigate the allegations of new conspiracies, he suggested that these were but echoes of the original conspiracy that had preceded the rebellion of June 15.¹¹¹

¹⁰⁸ Declaración del negro Martín Gangá, 27 August 1825, f. 12-14, exp. 1, leg. 2, CM, ANC.

¹⁰⁹ Vives to Cadaval, Havana, 1 September 1825, f. 60-64, exp. 1, leg. 2, CM, ANC.

¹¹⁰ Cadaval to Seidel, Havana, 7 September 1825, f. 144-144v, exp. 5, exp. 1, CM, ANC.

¹¹¹ Suárez to Cadaval, Havana, 4 September 1825, f. 150-152, exp. 5, leg. 1, CM, ANC.

With Francisco Seidel's competence under increasing scrutiny, it fell on *fiscal* Francisco Lamadriz to follow up on Francisco Hernández Morejón's allegations. While under questioning by Lamadriz, Martín Gangá revealed that he had been tortured by his *mayoral* prior to Andrés Máximo Oliver's initial questioning and had been instructed to provide false testimony about the existence of the conspiracy. He also revealed the wounds on his back from the torture he had received.¹¹²

On September 10, Francisco Seidel returned to Havana to face *asesor* José Ildelfonso Suárez's scrutiny.¹¹³ After reviewing the documents Seidel had brought with him, and with news coming from Matanzas that Martín Gangá's confession may have been a fabrication, Suárez emerged from the meeting with a sense of confidence, writing to President Cadaval on September 19. "I have the satisfaction of informing Your Honor," he began, "that my judgement, expressed in previous *consultas*, about the absence of more than one conspiracy, has turned out to be accurate and true."¹¹⁴

In the days and months that followed, *fiscal* Francisco Lamadriz continued to investigate Francisco Hernández Morejón's alleged new conspiracy, perhaps out of an abundance of caution, but also to uncover the true depths of the deception itself. Not only did *capitan de partido* Andrés Máximo Oliver admit that Martín Gangá had been tortured prior to the interrogation, but when Lamadriz attempted to question the *mayoral* from Martín's plantation, he learned that the

¹¹² Careo entre Félix de Aleo y Martín, [no location], 7 September 1825, f. 71-72v, exp. 1, leg. 2, CM, ANC.

¹¹³ Oficio, Matanzas, 10 September 1825, f. 140, exp. 5, leg. 1, CM, ANC.

¹¹⁴ Suárez to Cadaval, Havana, 19 September 1825, f. 163-167v, exp. 5, leg. 1, CM, ANC. "Tengo la satisfaccion de hacer presente á V.S. que mi juicio esplicado en anteriores consultas sobre no haber existido mas que una conspiracion ha salido exacto y cierto."

mayoral had left the region to attend to business elsewhere.¹¹⁵ Furthermore, it was later revealed that the *mayoral* was Oliver's brother-in-law, suggesting that there had indeed been a new conspiracy taking place in the Matanzas countryside, not of slaves planning to rebel, but of local actors trying to insert themselves into a process that had long since reverted to the centers of power in the provincial capital of Matanzas and Havana.¹¹⁶

The entire affair was a waste of time and energy. Indeed, as Suárez reviewed the evidence and recommended that the Military Commission cease pursuing the case, he also recommended that Francisco Hernández Morejón be reprimanded in some way. But there were also indications that Military Commission officials were sensitive to another set of offenses. In his final report to President Cadaval regarding the case, *fiscal* Lamadriz stated that in addition to engendering false testimony, the use of torture against Martín Gangá was in violation of the royal decree of July 25, 1814, outlawing the use of torture when taking declarations and confessions during legal proceedings.¹¹⁷ This prohibition had its genesis in an 1811 decree issued by the Cortes de Cádiz during the Napoleonic occupation of Spain. With the defeat of the French and the return of Fernando VII to the throne, he issued a decree on May 4, 1814, nullifying the 1812 Constitution and all decrees issued by the Cortes. But there was widespread support for prohibiting torture, and so Fernando VII issued another decree on July 25, 1814, reinstating the ban on judicial torture.¹¹⁸

¹¹⁵ Oliver to Ayllón, Guamacaro, 9 September 1825, f. 72v-73, exp. 1, leg. 2, CM, ANC; Diligencia, Matanzas, 19 October 1825, f. 98v, exp. 1, leg. 2, CM, ANC.

¹¹⁶ Suárez to Cadaval, Havana, 13 December 1825, f. 102v-104, exp.1, leg. 2, CM, ANC.

¹¹⁷ Lamadriz to Cadaval, Havana, 8 December 1825, f. 100-102, exp. 1, leg. 2, CM, ANC.

¹¹⁸ Franco Tomás y Valiente, *La tortura judicial en España* (Barcelona: Editorial Crítica, 2000), 135-138.

It is unlikely that *fiscal* Lamadriz was overly concerned that Martín Gangá had been physically tortured. Most likely Martín had experienced the type of routine violence enacted on the bodies of the enslaved in order to compel their labor and induce their submission. The greater offense was that in orchestrating their deception, Francisco Hernández Morejón and *capitan de partido* Andrés Máximo Oliver had supplanted the laws of their sovereign with the practices sustaining their mastery over the enslaved.¹¹⁹

After reporting to President Cadaval on September 19 that there were no new conspiracies, José Ildefonso Suárez then turned his attention to the Military Commission's remaining tasks. "The Romans," he wrote, "who were always keeping an eye on the subordination of their slaves, would not have left anyone alive in this territory, until the memory of those who killed their owners was erased." Reiterating his initial views on the nature of the tribunal's involvement in the case, he stated that the tribunal, "following the most humane and civil laws, should not act as judges in ways that we would not act as owners." Suárez thus argued

¹¹⁹ It should not be taken for granted that Spain's prohibition on judicial torture transferred unquestioningly to its colonial possessions. As Natalie Zemon Davis has pointed out regarding the abolition of judicial torture in the Netherlands and its continued practice in the colony of Suriname, "Dutch commitment to the institution of slavery and racist beliefs served to bracket off that world as one that need not be reformed." See, Natalie Zemon Davis, "Judges, Masters, Diviners: Slaves' Experience of Criminal Justice in Colonial Suriname," *Law and History Review* 29, no. 4 (November 2011): 978. For colonial officials in Cuba in 1825, however, upholding the ban on judicial torture also served the purpose of claiming for the state a greater stake in the exercise of violence, as they took on an increasing role in maintaining security and stability. In her study of slavery, slave emancipation, and punishment in eighteenth and nineteenth century Jamaica, Diana Paton demonstrates how managing the violence enacted on the enslaved was also a central concern for a colonial state preparing to abolish slavery. "Because part of the legal meaning of slavery is that slaveholders have the right to inflict physical violence on their slaves, part of the legal meaning of slavery's abolition is that this right is withdrawn from slaveholders. In practice, because no emancipation process led to the complete liberation of enslaved people from coercion, these rights were always taken over by the state." See, Diana Paton, *No Bond but the Law: Punishment, Race, and Gender in Jamaican State Formation, 1780-1870* (Durham: Duke University Press, 2004), 4.

that although “the blood of the innocent victims of June 15 cry from the grave for a just and severe vengeance, the interest of the country, and of the landowners as well, urgently demand that we not carry out excessive punishment, it being as dangerous as the original crime.”¹²⁰

In this continued call for moderation in the tribunal’s treatment of slaves, Suárez argued that the island’s government could find “a model for the policing measures that should be established precisely to prevent a repetition of such devastating events.”¹²¹ Ever the *letrado*, Suárez articulated this opinion through legal reasoning. At the core of the “system” he had endeavored to establish was a negotiation between the Havana government’s desire to unravel the origins of the rebellion, and the need of regional officials to punish rebels in an exemplary manner as quickly as possible. Suárez claimed to have achieved this by directing the Military Commission to conduct a thorough and rigorous investigation that adhered to all the formal requirements of law, but that only focused on the leaders of the uprising and its worst offenders. By exercising discretion in choosing who to press charges against, Suárez believed he had attended to the legal exception included in the *Recopilación*, mandating that ordinary judicial processes be disregarded in cases of slave rebellion, while also satisfying the tribunal’s political mandate to amplify executive power in the administration of justice. In doing so, he noted, the

¹²⁰ Suárez to Cadaval, Havana, 19 September 1825, f. 163-167v, exp. 5, leg. 1, CM, ANC. “Entre los Romanos que tanto vigilaban por la subordinación de sus esclavos, no quedaría unos á vida de este territorio hasta dejar borrada la memoria de los que mataron a sus dueños [...]; pero nosotros, bajo de leyes mas humanas y mas políticas, no demos de verificar como jueces, lo que no hacemos como propietarios. [...] Si contra todo incendiario y asesino la sangre de las inocentes victimas del 15 de Junio clama desde el sepulcro por una justa y severa venganza; el interetez del país y de los propietarios por otro lado demandan imperiosamente que no se execute un exsesivo castigo, tan perjudicial como el mismo delito.”

¹²¹ Suárez to Cadaval, Havana, 19 September 1825, f. 163-167v, exp. 5, leg. 1, CM, ANC. “y puede servirle de regla en las de policía que ha de establecer precisamente para impedir la repetición de tan devastosos acontecimientos.”

“commission further embraces the spirit of [the provision in the *Recopilación*],” by establishing “[the judicial process] in a simple manner in order to defend the delinquent man’s sacred right to be heard, that no one can deny him.”¹²²

Suárez made a number of further recommendations, among them that Seidel begin concluding his investigation, focusing only on prisoners he deemed to be guilty of the most egregious crimes. The tribunal would also initiate new investigations into the alleged new conspiracies so as to identify suspects the tribunal might have overlooked during Francisco Lamadriz and Francisco Seidel’s respective investigations.¹²³

Over the next two weeks, Francisco Seidel gathered the necessary declarations and confessions to bring charges against thirteen prisoners he had determined to have been directly involved in the killing of white residents.¹²⁴ In his final report to the Consejo de Guerra, Seidel assuaged Captain General Vives’s initial fears that the rebellion might have been an expression of one of the regional conflicts threatening Spanish sovereignty over Cuba, attributing the rebellion entirely to the planning and efforts of the slaves themselves, as evidenced by “its ferocity, its simplicity, and its ignorance.”¹²⁵

All told, approximately 200 slaves had participated in the rebellion, twenty-four estates had been damaged, and fifteen white residents, forty-three slaves, and two free men of color had

¹²² Suárez to Cadaval, Havana, 19 September 1825, f. 163-167v, exp. 5, leg. 1, CM, ANC. “esta misma comision se estrecha mas al espíritu de aquella ley, si lo establece de un modo sencillo para guardar al hombre delincente el derecho sagrado de ser oído, que nadie puede negarle.”

¹²³ Suárez to Cadaval, Havana, 19 September 1825, f. 163-167v, exp. 5, leg. 1, CM, ANC.

¹²⁴ Seidel to Cadaval, Matanzas, 3 October 1825, f. 171-174v, exp. 5, leg. 1, CM, ANC.

¹²⁵ Conclusión Fiscal, Havana, 17 December 1825, f. 207-212v, exp. 5, leg. 1, CM, ANC. “...de su ferocidad, de su rudeza y de su ignorancia.”

been killed.¹²⁶ On December 24, the *consejo* unanimously voted to condemn the thirteen to death by firing squad.¹²⁷ Captain General Vives gave his approval on January 12, 1826, and on February 1 the thirteen were executed in the presence of other prisoners.¹²⁸ Over the next month, Seidel tied up loose ends before certifying on March 10 that the judicial process was complete and the case file was in order. In a final act signifying the colonial state's newly assumed commitment to confronting massively organized slave resistance through legal means in the name of Spanish sovereignty over Cuba, but which also suggested a sense of relief, Seidel's secretary signed off on the case file with a final note to "file it away," punctuating the imperative with a forcibly written exclamation point.¹²⁹

The Guamacaro rebellion of 1825 revealed the violent potential of a rural population of African captives willing to channel their resistance to slavery through rebellion organized on a large scale. By assigning the newly formed Military Commission to assume jurisdiction over the investigation and prosecution of the rebellion, Captain General Vives also revealed the ways the colonial state sought to institutionalize its capacity to respond to such threats through legal means. This was an exercise subject to interpretation, however, as regional officials, local authorities, and slaveholders had their own ideas about the need to use the law in the service of

¹²⁶ Barcia, *The Great African Slave Revolt*, 132, 160-161.

¹²⁷ Sentencia, Havana, 24 December 1825, f. 218-219, exp. 5, leg. 1, CM, ANC.

¹²⁸ Oficio, Havana, 12 January 1826, f. 220v-221, exp. 5, leg. 1, CM, ANC; Untitled, Matanzas, 1 February 1826, f. 236-236v, exp. 5, leg. 1, CM, ANC.

¹²⁹ Untitled, Havana, 10 March 1826, f. 240, exp. 5, leg. 1, CM, ANC. "Archívese!"

repression and terror when confronting slaves bent on resisting their enslavement. For agents of Spanish empire in Havana such as the captain general and the officials of the Military Commission, on the other hand, the interests of insular security required that they interrogate slaves with deliberation as they worked towards determining the precise nature of the threats facing the island. For all involved, wielding the law thus meant contending with the ways in which emergency and crisis could unravel any sense that the law had a singular meaning and a singular purpose. Extending law into rural Matanzas to grapple with slave resistance, then, was also an exercise in extending a sense of sovereign authority concentrated in the powers of the captaincy general into the heart of Cuban slavery.

Chapter 2

An Intractable Problem: Free People of Color and Insular Security, 1826-1832

On January 24, 1826, José Emeterio Lazo returned to Havana. A soldier in the *pardo* (mulatto) battalion of the free black militia, Lazo had spent the previous year stationed at the fortress San Juan de Ulúa.¹ The fortress overlooked the port of Veracruz and housed the last of Spanish forces on the American mainland. Following a prolonged siege, the fortress's garrison succumbed to disease, forcing their capitulation on November 21, 1825.² Thus ended over three centuries of Spanish military presence on the American mainland.

José Emeterio Lazo first headed to his battalion's Havana barracks, where he spent most of the day.³ Since the earliest days of the Spanish Empire, free men of color had played important roles in defending Spanish settlements and colonies from the forays of pirates and the armies of rival empires.⁴ From this proud tradition of colonial defense, the free black militias emerged as important social institutions, where free men of color with means derived social standing and material benefits. Officers in the free black militias often held relatively prestigious

¹ Copia de filiación, Havana, 1 March 1826, f. 33-33v, exp. 1, leg. 5, CM, ANC.

² Ricardo R. Arenas, *General History of San Juan de Ulúa* (Veracruz: n.p., 1953), 29-36.

³ Instructiva del acusado, Guanabacoa, 27 January 1826, f. 10v-12v, exp. 1, leg. 5, CM, ANC.

⁴ Herbert S. Klein, "The Colored Militia of Cuba: 1568-1868," *Caribbean Studies* 6, no. 2 (July 1966): 17-27.

occupations and passed wealth to their descendants as property in real estate and in persons.⁵ But the free black militias also served as sources of income for free men of color who were not so well off. A mere soldier, Lazo worked as a carpenter when not deployed with his battalion. He had little money and appears not to have owned any property. Upon leaving his barracks, he went to spend the night at his mother's house in the municipality of Guanabacoa, in the eastern outskirts of Havana.⁶

That same day, the warden of the prison in Guanabacoa informed the municipality's mayor that he had intercepted a letter delivered by what he described as a white man of nineteen or twenty years, intended for an inmate named Francisco Javier Lazo.⁷ "Long live the sacred Mexican republic," the letter began, before recounting the experience of the inmate's friend, who had been garrisoned at San Juan de Ulúa and had defected to the Mexican side in the final days of the siege. Along the left-hand margin, scribbled in a rough hand, the letter's author implored "unresponsive Habaneros" to "break the tyrannical [...] that have oppressed you so much," and to "be free Americans, my beloved countrymen!"⁸ The mayor found the contents of the letter alarming enough that he initiated a preliminary investigation into the matter. Despite the warden's initial description of the courier, the recently returned José Emeterio Lazo emerged as

⁵ Pedro Deschamps Chapeaux, *Los batallones de pardos y morenos libres* (Havana: Editorial Arte y Literatura, 1976); Matt D. Childs, *The 1812 Aponte Rebellion in Cuba and the Struggle against Atlantic Slavery* (Chapel Hill: University of North Carolina Press, 2006), 80-95; María del Carmen Barcia, *Los ilustres apellidos: Negros en la Habana colonial* (Havana: Editorial de Ciencias Sociales, 2009).

⁶ Instructiva del acusado, Guanabacoa, 27 January 1826, f. 10v-12v, exp. 1, leg. 5, CM, ANC.

⁷ Pérez to Puebla, Guanabacoa, 24 December 1825, f. 1, exp. 1, leg. 5, CM, ANC.

⁸ José Emeterio Valdés to Francisco Javier Lazo, Veracruz, 12 January 1826, f. 2-4, exp. 1, leg. 5, CM, ANC. "Viva la Sagrada Republica Mejicana." "Ynsensibles Habaneros Romper tirano [...] que tantos tes oprime ser libres Americanos hamados paisanos."

the key suspect, in part because the letter's intended recipient was his brother. Authorities arrested him soon after.⁹ Owing to the nature of the letter, the mayor forwarded the documents he had amassed thus far to Captain General Francisco Dionisio Vives.¹⁰

Captain General Vives learned of José Emeterio Lazo just as the Military Commission was concluding its prosecution of the Guamacaro rebellion of 1825.¹¹ The largest slave uprising in Cuban history to that point, the rebellion had thrown into stark relief the risks to insular security accompanying the growth in Cuban slavery. Yet, even though the tribunal had concluded that the rebellion had been planned and executed by the slaves themselves, an underlying assumption pervading its prosecution was that slaves did not possess the capacity to pull off such a feat and that they must have been assisted by free people of color. During the waning days of the prosecution, *fiscal* Francisco Lamadriz had even compiled a report regarding all the free people of color who had been caught up in the tribunal's investigation of the rebellion. Of the seven free men of color addressed in the report, Cristóval Carabalí and Félix Carabalí, Jean Fouquier's *mayoral* and *contramayoral* who had been apprehended immediately after the rebellion and killed by soldiers during a supposed attempt to escape, were the only confirmed rebels.¹² Even so, Lamadriz cautioned that "though it is fortunate that we have not been presented with cause to proceed against the free blacks found in this report, I judge that it will always be useful that territorial authorities closely monitor their behavior, though without

⁹ Instructiva del acusado, Guanabacoa, 27 January 1826, f. 10v-12v, exp. 1, leg. 5, CM, ANC.

¹⁰ Untitled, Guanabacoa, 27 January 1826, f. 16v, exp. 1, leg. 5, CM, ANC.

¹¹ Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, Gobierno Superior Civil (hereafter GSC), ANC.

¹² See Chapter 1.

disturbing them in any way, unless thereafter they should change their behavior.”¹³

Concerns that free people of color were inclined to form alliances with the enslaved had a long history in Cuba. Despite the historical role free soldiers of color had played in colonial defense, for instance, colonial officials maintained reservations about deploying them against bands of maroons or to put down slave rebellions, for fear that they might switch sides.¹⁴ It was the more recent example of the Haitian Revolution, however, that had revealed to the full range of the island’s inhabitants, as inspiration or as threat, what was possible when the supposed incapacity of slaves was coupled with the apparent capacity of free people of color.¹⁵ Though some believed the upheaval of the Haitian Revolution could not occur in Cuba because of the demographic superiority of the island’s white population and the supposed beneficence of Cuban slavery, the slave rebellions of 1812 organized by black militia officer José Antonio Aponte revealed that even Cuba was susceptible to a coalition of free and enslaved people of color striking out against slavery.¹⁶ When free soldiers of color who had participated in Spain’s military campaigns against the liberation forces of Spanish America began returning to Cuba, then, Captain General Vives expressed concerns they might channel their growing pride against

¹³ Lamadriz to Cadaval, Havana, 10 December 1825, f. 36v-38, exp. 3, leg. 2, CM, ANC. “Y sin embargo de que felizmente no se ha presentado por lo actuado mérito para proceder contra los negros libres á quienes le contrae éste expediente, juzgo que siempre será útil que las justicias territoriales observen de cerca el proceder de ellos, aunque sin molestarlos en manera alguna, á menos que en lo sucesivo [unirían] de comportamiento.”

¹⁴ Pedro Deschamps Chapeaux’s claim that colonial officials “never” deployed the free colored militias against maroons or rebel slaves may have been the case at certain times in Cuban history, but as Matt Childs has shown, such was not the case during and after the Haitian Revolution. See Deschamps Chapeaux, *Los batallones de pardos y morenos libres*, 25; Childs, *The 1812 Aponte Rebellion*, 87-88.

¹⁵ Ferrer, *Freedom’s Mirror*, chap. 5.

¹⁶ Childs, *The 1812 Aponte Rebellion*.

the colonial state if they were rewarded too generously for their service.¹⁷

At a time when the forces of American liberation and slave rebellions threatened Cuba from without and from within, the allegation that José Emeterio Lazo had transported a letter from Mexico exhorting Cubans to rise up against the Spanish raised many red flags. Captain General Vives thus ordered the Military Commission to assume jurisdiction over the case and on January 31 *fiscal* Anastacio Castellanos began to investigate the matter in haste.¹⁸

As the Military Commission began prosecutions on a regular basis, the way in which local authorities in Guanabacoa had arrested Jose Emeterio Lazo and conducted their own preliminary investigation before forwarding the matter to Captain General Vives emerged as the primary way the tribunal took on new cases. Even if Captain General Vives, his advisers, and tribunal officials entertained specific and particular ideas about the nature of the threats challenging Spanish sovereignty over Cuba, the cases that eventually appeared before the tribunal reflected the various ways local authorities and area residents interpreted those threats. It remains unclear exactly how it was that the mayor of Guanabacoa decided that José Emeterio Lazo had been the courier of the letter even after the prison warden's initial claim that it had been a white man. The actions of local authorities immediately following Lazo's arrest, however, suggest that material gain was a possible motive. Soon after Guanabacoa's mayor questioned Lazo for the first time, local authorities went to Lazo's mother's house to inventory his and her property so that it might be embargoed in the future.¹⁹ Military Commission prosecutions, then,

¹⁷ Deschamps Chapeaux, *Los batallones de pardos y morenos libres*, 51.

¹⁸ Vives to Cadaval, 30 January 1826, no folio, exp. 1, leg. 5, CM, ANC; Auto de proceder, Havana, 31 January 1826, f. 17, exp. 1, leg. 5, CM, ANC.

¹⁹ Untitled, Guanabacoa, 27 January 1826, no folio, exp. 1, leg. 5, CM, ANC.

were never precise reflections of the tribunal's concerns, or even those of the captain general it served. They were always imbued with and refracted through the prejudices, proclivities, and motivations of local actors.

As Military Commission *fiscales* prepared prosecutions to be brought before the tribunal's Consejo de Guerra for final judgement, they regularly discovered that accusations levied against people of color were often more alarming than what the evidence supported. This served as a source of frustration for the tribunal, whose *fiscales* were burdened by the work of prosecuting multiple cases simultaneously and whose leaders were wary of wasting the tribunal's time. For the tribunal's *asesor*, José Idefonso Suárez, these frustrations engendered new ways of thinking. During the tribunal's prosecution of the Guamacaro rebellion of 1825, Suárez had argued that the government's legitimacy rested on its ability to command the law. By 1831, however, he was conceiving of ways to truncate fully articulated legal processes in some cases dealing with free people of color in order to avoid their accompanying inconveniences.

Fiscal Anastacio Castellanos worked on José Emeterio Lazo's case while also working on at least two other cases.²⁰ When another *fiscal* became ill towards the end of March, Castellanos had to take on his work load.²¹ He became so overburdened that he was unable to resume work on Lazo's case until August 5.²² For four months Lazo languished in prison. When Castellanos finally brought Lazo's case before the tribunal's Consejo de Guerra, he presented them with a tepid summation of the defendant's crime. Suggesting that Lazo may have been

²⁰ Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC.

²¹ Diligencia, Havana, 30 March 1826, f. 39, exp. 1, leg. 5, CM, ANC.

²² Diligencia, Havana, 5 August 1826, f. 39v, exp. 1, leg. 5, CM, ANC.

unaware of the ambiguous contents of the letter, he wrote that “Lazo’s offense was committed solely in having admitted to being the courier of a personal correspondence. Thus even though the letter contains expressions, more [indicative] of ignorance, than of an intention to incite rebellion..., we cannot, without making assumptions, be sure that Lazo had been aware of its contents.”²³ Rather than condemning Lazo to death, which he claimed the law required for anyone found guilty of transporting a correspondence from an enemy, Castellanos recommended that the defendant be sentenced to four years in prison.²⁴ Despite witness testimony placing Lazo at his barracks on the day the letter had been delivered, the *consejo* voted to follow Castellanos’s recommendation.²⁵ A week later, Captain General Vives signed off on the sentence.²⁶

When the mayor of Guanabacoa brought José Emeterio Lazo to Captain General Vives’s attention, or when Vives finally approved of the Consejo de Guerra’s sentence, such a prosecution of a black soldier transporting a letter from the breakaway republic of Mexico that urged Cubans towards revolution seemed to exemplify the defense of Spanish sovereignty the tribunal had been created to promote. In its particulars, however, the case represented a more complex set of circumstances and concerns, where local authorities such as the mayor and prison warden of Guanabacoa seem to have been inclined to conflate their official responsibilities with

²³ Conclusión fiscal, Havana, 7 November 1826, f. 74-76v, exp. 1, leg. 5, CM, ANC. “El delito de Lazo, cometió solamente en haber admitido ser el conductor de una carta familiar; pues aunque en ella se lean espreciones, [lujas] mas bien de la ignorancia, que de una intencion de excita á la rebelión, efecto que no podia esprexar producir su miserable [autos], no podemos sin aventurar mucho, asegurar que Lazo se hallaba instruido de su contenido.”

²⁴ Conclusión fiscal, Havana, 7 November 1826, f. 74-76v, exp. 1, leg. 5, CM, ANC.

²⁵ Defensa, Havana, 4 November 1826, f. 72-72v, exp. 1, leg. 5, CM, ANC; Sentencia, Havana, 7 November 1826, f. 78v-79, exp. 1, leg. 5, CM, ANC.

²⁶ Vives to Cadaval, Havana, 15 November 1826, f. 79v-80, exp. 1, leg. 5, CM, ANC.

their material interests, and in the process overlook some of the distinctions between an actual threat to insular security and an opportunity.

As the Military Commission began prosecuting cases on a regular basis, interpretative decisions regarding the constitution of infractions, the identification of culprits, and the seriousness of alleged offenses, increasingly influenced the tribunal's work, as dramatic threats to insular security like the Guamacaro rebellion of 1825 gave way to a greater volume of more mundane incidents concentrated in urban centers. The subjective reasons why local actors, from petty officials to area residents, took offense, felt threatened, or otherwise decided to act, thus constituted the raw materials the tribunal then worked to transform into prosecutions and then into sentences. In the process, its adherence to legal form and the pragmatic constraints of legal institutions, if only nominal at times, did not always make this an easy task. The tribunal's work was nonetheless consequential, for the role it played in promoting insular security, but also as a practice whereby officials gained experience dealing with the peculiarities that accompanied employing the law against free and enslaved people of color.

From his founding of Cuba's Military Commission on March 4, 1825, until the end of his tenure as captain general on May 15, 1832, Francisco Dionisio Vives signed off on sentences for 557 defendants implicated in a total of 183 cases brought before the tribunal's Consejo de Guerra. Of these 557 defendants, at least 211 were free or enslaved people of color.²⁷ Even as white defendants outnumbered defendants of color, the tribunal's adjudication of free and enslaved people of color played an outsized role in shaping the sense of the threats facing Cuba.

²⁷ Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC. These figures come from a report that lists all the cases brought before the Military Commission's Consejo de Guerra for judgement during its first seven and a half years in operation. While the report contains details for each case, the race and status of 80 defendants are illegible. Hence the usage of the qualifier "at least."

In particular, these prosecutions served as a vital conduit, channeling a diverse urban world, variegated according to class, color, and status, through the prejudices, proclivities, and motivations of local authorities and area residents, through the legal machinations of the tribunal, into the thoughts and policy prescriptions of the captain general himself. Considering his numerous responsibilities, signing off on these sentences constituted a relatively minor part of his job. Nevertheless, these cases offered Vives a skewed perspective on the world of race in Cuba, one that affirmed preconceived notions about the potential threats posed by an alliance between free and enslaved people of color, in which violence overshadowed lawfulness, and where difference and distinction were collapsed into a potent sense of black threat.

White Residents, Local Authorities, and the Fear of Black Violence

A collection of statistics for the year 1827 commissioned by Captain General Vives had high praise for the city of Havana. “You can be assured that this capital is of the richest in the New World. Abundance radiates everywhere.”²⁸ Like other port cities attached to the networks of Atlantic slavery, Havana’s economic growth bore overtly racial overtones, having given rise to a complex urban population of Africans and the African-descended.²⁹ For free and enslaved people of color, life in the city was variegated, their experiences shaped by legal status, place of origin,

²⁸ *Cuadro estadístico de la siempre fiel isla de Cuba, correspondiente al año de 1827* (Havana: Arazoza y Soler, 1829), 48. “Puede asegurarse que esta capital es de la más ricas del Nuevo-Mundo: en ella resplandece la abundancia por todas partes...”

²⁹ Jorge Cañizares-Esguerra, Matt D. Childs, and James Sidbury, eds., *The Black Urban Atlantic in the Age of the Slave Trade* (Philadelphia: University of Pennsylvania Press, 2013).

color, class, gender, and religion.³⁰ For many white residents of Havana, on the other hand, people of color could serve as convenient counterpoints, demarcating realms of social life that they aspired to avoid, such as occupations in the trades.³¹ In the years after the Aponte Rebellion of 1812, as Cuba's booming slave economy was accompanied by increasing slave resistance in the countryside, white residents could make recourse to the perceived potential of black violence to bolster their position of social domination over people who were at once their neighbors, their rivals, and perhaps even their enemies.

On June 19, 1830, the slave Simón Madrazo left Havana, headed for the surrounding countryside with a mule laden with goods for sale. His master's wife had written him out a pass, authorizing Madrazo to travel from plantation to plantation selling goods such as chickens and textiles for a period of six months. Madrazo was a regular fixture on the roads connecting Havana to its hinterland, selling goods, delivering correspondences, and carrying sums of money from rural residents to their acquaintances and family in Havana.³²

As a slave in the colonial capital, Simón Madrazo lived a life distinct from slaves who had been sent to work on plantations. Upon arriving in Havana, Madrazo began earning money for his owner by selling second-hand goods in a market and working on the docks. By 1827, Madrazo had married a slave belonging to Joaquin de Santacruz. So that the couple could live

³⁰ Pedro Deschamps Chapeaux, *Los cimarrones urbanos* (Havana: Editorial de Ciencias Sociales, 1983); Carmen Barcia, *Los ilustres apellidos*; Matt D. Childs, "Re-creating African Ethnic Identities in Cuba," in *The Black Urban Atlantic in the Age of the Slave Trade*, 85-100.

³¹ Robert L. Paquette, *Sugar is Made With Blood: The Conspiracy of La Escalera and the Conflict between Empires over Slavery in Cuba* (Middletown, CT: Wesleyan University Press, 1988), 89.

³² Travel License, Havana, 19 June 1830, f. 25, exp. 9, leg. 6, CM, ANC; Declaración del siervo Simón Madrazo, Havana, 6 July 1830, f. 26-27, exp. 9, leg. 6, CM, ANC; Declaración de D. Joaquín Santacruz, Havana, 7 July 1830, f. 27-28v, exp. 9, leg. 6, CM, ANC.

together, Madrazo's owner and Santacruz had arranged for Madrazo to live in Santacruz's house. Madrazo thus enjoyed a certain measure of autonomy as he navigated life in the city and its hinterland.³³

On June 28, 1830, after being on the road for nine days, Simón Madrazo was passing through the town of Arroyo Naranjo, south of Havana, when he decided to enter a tavern, perhaps to try to sell some of his goods, or simply to buy himself a drink. The tavern was occupied by a number of patrons, all of whom were residents of Arroyo Naranjo. At some point a noisy confrontation ensued between Madrazo and the other patrons.³⁴

The confrontation occurred just as a local official named Mariano Laguardia, who served as deputy to the *capitán de partido* of the district of Jesús de Monte, was passing by the tavern. In the everyday lives of the inhabitants of Cuba, the most visible representatives of the state were the *jueces pedáneos* (local magistrates with policing powers). In rural districts they were known as *capitanes de partido*, while those in charge of urban neighborhoods were referred to as *comisarios de barrio* (neighborhood commissioners). *Jueces pedáneos* were often assisted by a number of deputies such as Laguardia. Since *jueces pedáneos* were unsalaried officials, they made livings by charging fees for issuing administrative documents such as travel licenses and imposing fines for infractions, both of which could blur into revenue-generating corruption. They were responsible for patrolling their districts and neighborhoods, and thus constituted the limited policing force extending the formal sovereign authority of the colonial government into urban

³³ Testimonio de Simón Madrazo, Arroyo Naranjo, 29 June 1830, f. 6v-10v, exp. 9, leg. 6, CM, ANC; Declaración de D. Joaquín Santacruz, Havana, 7 July 1830, f. 27-28v, exp. 9, leg. 6, CM, ANC.

³⁴ Testimonio de Simón Madrazo, Arroyo Naranjo, 29 June 1830, f. 6v-10v, exp. 9, leg. 6, CM, ANC; Auto de proceder, Arroyo Naranjo, 28 June 1830, f. 1, exp. 9, leg. 6, CM, ANC.

and rural Cuba.³⁵

As described in his report, Mariano Laguardia entered the tavern to find white patrons engaged in a heated exchange with Simón Madrazo. The white patrons alleged that Madrazo had threatened them when he declared that in two months they would all be his slaves and that he would bathe in their blood. Considering the nature of Madrazo's supposed threats, Laguardia took him into custody. The deputy also took charge of Madrazo's mule and all of his goods.³⁶

The next day, Mariano Laguardia began conducting interviews. One of the white patrons who had witnessed the incident, a 30-year-old resident of Arroyo Naranjo and apothecary named Justo Pineda, alleged that in addition to making the threatening statements, Simón Madrazo had waved a piece of paper, claiming that it attested to his commission as an officer in a military unit. Pineda stated that when he pointed out that the paper was actually Madrazo's travel license, Madrazo declared that he was a slave to no one except God. Pineda responded that he was glad to see that Madrazo would thus be hung, just as José Antonio Aponte had been in 1812.³⁷

Among white Cuban planters and slaveholders, the Aponte Rebellion of 1812 had served to dampen their enthusiasm for following the path of the wars of independence on the Spanish American mainland, as the Spanish Empire seemed to be an effective source of security against the forms of black violence accompanying the rise in Cuban slavery.³⁸ On a more popular level, Aponte had emerged as a potent symbol for white Cubans, allowing them to project onto any

³⁵ José de la Concha, *Memorias sobre el estado político, gobierno y administración de la isla de Cuba* (Madrid: Establecimiento Tipográfico de D. José Trujillo, 1853), 94-105.

³⁶ Auto de proceder, Arroyo Naranjo, 28 June 1830, f. 1, exp. 9, leg. 6, CM, ANC.

³⁷ Testimonio de D. Justo Pineda, Arroyo Naranjo, 29 June 1830, f. 11-13, exp. 9, leg. 6, CM, ANC.

³⁸ Childs, *The 1812 Aponte Rebellion*, 177-178.

person of African descent the violent potential of the island's growing population of free and enslaved people of color.³⁹ While there is no way of knowing whether Justo Pineda lied about what happened in the tavern, merely exaggerated the nature of the confrontation, or provided testimony in good faith, his mentioning of José Antonio Aponte was a clear attempt to convey to deputy Mariano Laguardia the threatening light in which he now wanted the incident to be seen.

Even as Justo Pineda evoked Aponte when denouncing Simón Madrazo, Mariano Laguardia's questioning revealed the way the deputy tried to link Madrazo's criminal culpability to his individual mobility. Laguardia began his questioning by attempting to retrace Madrazo's Atlantic itinerary. After determining that Madrazo had been born in Africa and was a member of the Mandinga "nation," Laguardia asked Madrazo if he had been anywhere else after being taken from Africa but before arriving in Cuba, perhaps in a bid to link Madrazo to regions in the Americas where anti-colonial or anti-slavery struggles had taken place. Madrazo answered that he had been taken directly to Havana from Africa. In another attempt to determine if Madrazo had spent time elsewhere, Laguardia asked if he spoke any languages other than Spanish and his native tongue. Madrazo replied that he spoke some English, but only because he had spent some time working on the docks.⁴⁰

After determining that Simón Madrazo's Atlantic itinerary had no suspicious points of disembarkation, Mariano Laguardia turned to Madrazo's travels within Cuba. The autonomy and mobility of free and enslaved people of color had long been sources of concern in Cuba, even as they were essential features of their social lives as domestic servants, laborers, midwives, heads

³⁹ Childs, *The 1812 Aponte Rebellion*, 9-10

⁴⁰ Testimonio de Simón Madrazo, Arroyo Naranjo, 29 June 1830, f. 6v-10v, exp. 9, leg. 6, CM, ANC.

of households, soldiers, merchants, dentists, and sailors, to name just a few occupations. In the set of municipal ordinances for the city of Havana from 1574, slave owners were required to obtain a license before permitting their slaves to work independent of their purview or to live outside of their house.⁴¹ Following the 1825 slave rebellion in the Guamacaro district of Matanzas, the governor of Matanzas continued in this legal tradition by issuing a set of ordinances that aimed to, among other things, prevent slaves from coordinating future rebellions by restricting their ability to move and communicate across plantations.⁴² In response to a series of questions aimed at retracing his movements prior to the incident in Arroyo Naranjo, Madrazo revealed that he had been traveling around the countryside selling goods to plantations in the rural areas surrounding Havana.⁴³ Madrazo claimed not to have been aware of the fact, but even this practice had recently been made illegal in Cuba. As mandated in the *Bando de buen gobierno* for the year 1828, a collection of ordinances with application throughout the island, “white and colored persons” were “strictly forbidden” from working in the countryside as “peddlers [or as] street vendors of clothes, knives, comestibles, and whatever other kinds of effects,” owing to the “damages, harm, and disturbances caused by free *pardos* and *morenos* of both sexes, who, under the pretext of selling clothes, foods, and other kinds of effects, enter the slave huts [on plantations], where they enter into negotiations with slaves that frequently result in

⁴¹ *Ordenanzas municipales de la Habana* (Havana: Imprenta del Gobierno y Capitanía General, 1827), 19-20.

⁴² Reglamento policía rural de la jurisdicción del gobierno de Matanzas, Matanzas, 22 October 1825, exp. 57999, leg. 1469, GSC, ANC.

⁴³ Testimonio de Simón Madrazo, Arroyo Naranjo, 29 June 1830, f. 6v-10v, exp. 9, leg. 6, CM, ANC.

robberies owing to the clumsy and fraudulent exchanges that take place.”⁴⁴

Mariano Laguardia concluded his questioning of Simón Madrazo by focusing in on the confrontation in the tavern. Madrazo denied uttering any of the alarming expressions he had been accused of by the white patrons in the tavern, claiming, instead, that he had entered the tavern hoping to sell some chickens. When asked if he knew of any plots against the government and if he was really an officer in a military unit, Madrazo denied the accusations, pointing out that he could not be an officer because he was a slave. At the end of the interrogation, when asked how he could deny threatening the white patrons of the tavern even after they had all attested to his having done so, Madrazo replied that if he had said any of those things, it had only been because he had consumed some alcohol.⁴⁵

By the next day, deputy Mariano Laguardia had compiled sufficient testimonial evidence and forwarded it all to his superior José López Gavilán, the *capitán de partido* of the district of Jesús del Monte.⁴⁶ Gavilán responded by forwarding the documents to Captain General Vives, who then ordered the Military Commission to look into the case.⁴⁷

⁴⁴ See code 48 in *Bando de buen gobierno* (Havana: Imprenta Fraternal, 1828), 46. “Muchas y muy repetidas son las quejas que me han dado los dueños de ingenios y demás fincas del campo sobre los daños, perjuicios y desórdenes que ocasionan en ellas los pardos y morenos libres de ámbos sexos, que á pretexto de vender ropas, víveres y otras clases de efectos, se introducen en los bohíos de aquellas, en donde entablan negociaciones con los esclavos, de que resultan frecuentes robos, por los cambios torpes y fraudulentos que celebran con estos; por tanto, y conviniendo mucho evitar tan perjudicial abuso, prohíbo terminantemente á toda persona blanca y de color que se egercite en los campos de buhonero, vendedor ambulante de ropas, cuchillos, comestibles y cualquiera otra especie de efecto;”

⁴⁵ Testimonio de Simón Madrazo, Arroyo Naranjo, 29 June 1830, f. 6v-10v, exp. 9, leg. 6, CM, ANC.

⁴⁶ Laguardia to Gavilán, Arroyo Naranjo, 30 June 1830, f. 3, exp. 9, leg. 6, CM, ANC.

⁴⁷ Vives to Cadaval, Havana, 1 July 1830, f. 1, exp. 9, leg. 6, CM, ANC.

Local authorities such as deputy Mariano Laguardia and *capitán de partido* José López Gavilán played important roles in extending state power into urban spaces and the countryside. Their limited numbers and the administrative need to dedicate time and effort to extracting money from the population, however, meant that they depended on the cooperation of local residents to assist in the task of policing. The *Bando de buen gobierno* required that plantation owners, administrators, and overseers report to their respective *capitanes de partido* regarding escaped slaves so that those officials would then keep the captain general regularly informed.⁴⁸ Another provision in the *Bando de buen gobierno* mandated that area residents assist in policing whenever asked.⁴⁹ Area residents thus influenced who was arrested and why. Though deputy Mariano Laguardia was primed to consider Madrazo's mobility as a possible source of concern, it had been the inclination of white residents of Arroyo Naranjo such as Justo Pineda to confront people of color such as Madrazo, out of fear, discomfort, or even merely out of spite, that had been the genesis of the case.

Transient slaves such as Simón Madrazo were not the only people of color capable of stirring the anxieties of white Cubans. In the majority black neighborhood of Jesús María, many white Habaneros were similarly wary of their free black neighbors. Domingo Santaya, for example, was born in Havana in 1806. By 1827, at the age of twenty-one, Santaya held the rank of first sergeant in the *moreno* battalion of the free black militia. He also made money by working out of his house as a tailor. Many of his clients were also soldiers, whose uniforms he

⁴⁸ See code 11 in *Bando de buen gobierno*, 27.

⁴⁹ See code 42 in *Bando de buen gobierno*, 43.

mended.⁵⁰ It is possible that in addition to mending uniforms, he designed them as well, as he spent some of his free time sketching images of black soldiers in uniform, perhaps as they actually appeared in real life, or perhaps as he imagined them to be.⁵¹ He was also literate and was likely a member of one of the dance academies that free people of color, especially those born in Cuba, often formed as part of their associational lives.⁵²

All this seems to have done little or nothing to diminish the suspicions of some of Domingo Santaya's white neighbors. One day in early April 1827, a white resident of Jesús María named Víctor José Ruiz informed Manuel Martínez, a deputy to the neighborhood's *comisario de barrio*, that he and others had overheard a distressing conversation regarding Santaya between a white resident of Jesús María named Francisco Rodríguez and a slave named José.⁵³ According to deputy Martínez's recollection of Ruiz's verbal denunciation, the slave José had uttered the following words during the conversation: "Look Mr. Pancho [nickname for Francisco], these blacks are very young. They've come to talk to me so that I'd enter into conspiracies with them, and I haven't wanted to, because I love my master and I remember the nine who were hung."⁵⁴ Whether the slave José had actually uttered those words, or Ruiz had

⁵⁰ Declaración del Sarg^o 1^o Dom^o Santos, Havana, 11 April 1827, f. 23v-29v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁵¹ Aprensión de los negros en el Manglar, Havana, 10 April 1827, f. 10v-12v, 1^a pieza, exp. 7, leg. 5, CM, ANC. A sketch of a soldier confiscated during the raid is reproduced in Carmen Barcia, *Los ilustres apellidos*, 264,

⁵² Carmen Barcia, *Los ilustres apellidos*, 299-301. In her treatment of the case of Domingo Santaya, María del Carmen Barcia points to some documents containing lists of names that Santaya claimed to have authored as evidence that he might have belonged to a dance academy.

⁵³ Declaración de D. Víctor José Ruiz, Havana, 10 April 1827, f. 4-5v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁵⁴ Declaración del teniente de partido de J.M. Dn. Manuel Martínez, Havana, 10 April 1827, f. 1v-4, 1^a pieza, exp. 7, leg. 5, CM, ANC. "Mírese señor Pancho, estos negros son muy

merely used the slave as a vector for his denunciation, the nine in question were presumably the alleged leaders of the 1812 Aponte Rebellion.

For reasons that remain unclear, deputy Martínez took Ruiz's denunciation to Captain General Vives's *asesor primero*, a man named Rafael Rodríguez. The denunciation concerned *asesor* Rodríguez enough that he brought the matter to Vives himself, who subsequently ordered Rodríguez to question all of those involved.⁵⁵

On April 10, *asesor* Rafael Rodríguez began interviewing those implicated in the denunciation, beginning with deputy Manuel Martínez, who simply recounted Víctor José Ruiz's initial denunciation.⁵⁶ Rodríguez then interviewed Ruiz himself. After identifying himself as a 27-year-old worker in the tobacco industry, Ruiz said he had been motivated to make his initial denunciation because deputy Martínez had once advised residents of Jesús María to be particularly vigilant. When asked about the suspicious meetings the slave José had referred to, Ruiz described how he had noticed a number of black men coming and going from Domingo Santaya's residence. Despite claiming that he did not know what they were up to, he was able to identify by name four of the black men he had seen entering Santaya's house.⁵⁷

The *asesor* then interviewed Francisco Rodríguez, the man who had been seen conversing with José. A fisherman and resident of Jesús María, Francisco Rodríguez verified that

muchachos, me han venido á hablar para que yo entre en reuniones, y yo no he querido, por que estimo á mis amos no me han dado que sentir, y me acuerdo de los nueve que ahorcaron.”

⁵⁵ Auto de proceder, Havana, 10 April 1827, f. 1-1v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁵⁶ Declaración del teniente de partido de J.M. Dn. Manuel Martínez, Havana, 10 April 1827, f. 1v-4, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁵⁷ Declaración de D. Víctor José Ruiz, Havana, 10 April 1827, f. 4-5v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

he had spoken with José, and when prompted added that at various times he had seen up to eight men entering Domingo Santaya's residence. Based on his own experience, he claimed, he was certain that those men had been up to something. Though he could not identify any of the men by name, he claimed that he recognized them from around the neighborhood.⁵⁸

Asesor Rafael Rodríguez then interviewed José. Originally from the mainland Caribbean port city of Cartagena, the 40-year-old José lived in the district of San Andrés with his master, whom he had served for the last twenty-two years. When asked about the comments he was alleged to have made when chatting with Francisco Rodríguez, José denied ever uttering those words, claiming that he had just stopped to say hello. When asked if he knew Domingo Santaya, he claimed that he did not.⁵⁹

On the night of April 10, *asesor* Rafael Rodríguez led a raid on Domingo Santaya's house with the assistance of deputy Manuel Martínez, Víctor José Ruiz, and others. Upon entering the house, the raiding party found four men of color, including Santaya. While searching the premises, they discovered some weapons and papers containing sketches of soldiers and lists of names, all of which they took as evidence. After confining the men in deputy Martínez's house, the raiding party conducted two more raids based on Víctor José Ruiz's guidance, arresting two more men.⁶⁰

Over the next two weeks *asesor* Rafael Rodríguez conducted more arrests and

⁵⁸ Declaración de D. Francisco Rodríguez, Havana, 10 April 1827, f. 5v-7, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁵⁹ Declaración del negro José de Mesa, Havana, 10 April 1827, f. 7-9v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

⁶⁰ Aprensión de los negros en el Manglar, Havana, 10 April 1827, f. 10v-12v, 1^a pieza, exp. 7, leg. 5, CM, ANC.

interrogations before forwarding the case file he had amassed to the Military Commission for its consideration.⁶¹

People of color like the enslaved Simón Madrazo and the free Domingo Santaya lived particular lives that were also influenced by their African origins and their places within the economy, giving dynamism to the world of Havana in the 1820s and 1830s. As much as Madrazo's world was determined by his enslavement, by becoming a husband he had been able to shape some aspect of his life, if only with whom he spent his free time at the end of a long day. And while Santaya was well on his way to taking advantage of some of the professional opportunities available to free men of color in Havana, his sketches hinted at an interior world through which he conducted his social life. By feeding off of and contributing to the growing fear and suspicion associated with free and enslaved people of color, however, their white neighbors had been able to collapse all that distinction and particularity into objects of threat that could provoke the colonial government's developing concern over insular security. During the Military Commission's first seven years in operation as part of Captain General Vives's administration, this formal and informal security apparatus presented the tribunal with a total of 329 potential cases involving at least 812 defendants.⁶² Of these defendants, at least 320 were

⁶¹ Rodríguez to Cadaval, Havana, 24 April 1827, f. 1, 2^a pieza, exp. 7, leg. 5, CM, ANC.

⁶² Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC; Segunda relación, causas pasadas á otros tribunales, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC; Tercera relación, causas fenecidas en sumario, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC. Though the "Primera relación" contains a precise number of defendants that appeared before the Military Commission's Consejo de Guerra for judgment, the other two reports are less precise. Sometimes the accused are simply referred to as "various individuals." I came up with the conservative estimate of 812 defendants by counting "various individuals" as two defendants.

probably people of color.⁶³ Guilty or not, these defendants and their alleged crimes constituted evidence in support of persistent and developing sense of the threats facing Cuba from potential alliances between free and enslaved people of color.

Free People of Color and the Military Commission

Cuba's Military Commission was founded as a colonial articulation of a metropolitan development in the administration of justice. From the mid-eighteenth century, the Spanish monarchy had increasingly relied on the military and military courts to suppress and adjudicate instances of social unrest. Following the dissolution of the *trienio liberal* in 1823, Fernando VII extended the practice of using military courts to contend with social unrest to include political

⁶³ Determining the precise number of people of color presented to the Military Commission through the information contained in the reports cited in footnote 62 is impossible. As mentioned in footnote 27, the racial and status information in "Primera relación" for some defendants is illegible. While "Segunda relación" and "Tercera relación" list individual defendants, their race and status are not differentiated into separate columns and are seldom referenced in the case description. When counting the number of white defendants versus defendants of color, then, I relied on the usage of the honorific "Don" to determine a defendant's race. I decided this was an adequate metric for determining race for four reasons. First, I was able to confirm that all of the defendants listed in these two reports that I knew to be white were referred to as "Don." Second, I was also able to confirm that all of the defendants listed in the reports that I knew to be of color were listed without the honorific. Third, many of the cases included in these reports listed several defendants. In these types of cases, some defendants were listed with the honorific "Don" and others were not, indicating a level of discretion in attaching the prefix. Fourth, the tribunal officials who compiled these reports were Spanish soldiers residing in Havana. They were thus more likely to put increased importance on the racial connotations attached to the honorific, and they did not live in a part of Cuba where the preponderance of free people of color made such racial connotations less important. In coming up with an admittedly imprecise yet telling count of people of color, I counted those without the honorific "Don," and those who were explicitly listed as black, mulatto, or enslaved, as people of color. When no name or racial information was included, I did not include that defendant in the count. I thus doubly qualify my count of 320 with "at least" and "probably." For the reasons mentioned above, it was impossible to make a distinction based on the reports between free people of color and enslaved people of color. For a discussion of the relationship between naming practices and the development of Cuban slavery, see Michael Zeuske, "Estructuras e identidad en la 'segunda esclavitud': el caso cubano, 1800-1940," *Historia crítica* 24 (2003), 125-140.

dissidents as well.⁶⁴ Of the 329 potential cases presented to the tribunal for its consideration during Captain General Vives's administration, a few perfectly represented the types of political dissent the tribunal had originally been set up to combat. Between 1830 and 1831, for instance, the tribunal prosecuted a conspiracy of white Cubans with connections to Mexico known as the *Águila Negra*, which aspired to secure Cuba's independence from Spain.⁶⁵ In the main, however, the tribunal often found itself considering cases that hardly represented threats to the colonial state. Of the 329 potential cases, the tribunal pursued just 183 cases, the remainder either being forwarded to other courts or dropped altogether. Of these 183 cases, just 30 cases stemmed from allegations that could be characterized as dealing with threats to Spanish sovereignty over Cuba. While these included the Guamacaro rebellion of 1825 and conspiracies such as the *Águila Negra*, they were mostly made up of individual acts deemed to be subversive, such as José Emeterio Lazo's alleged transport of a letter from Mexico.⁶⁶ More to the point, the tribunal prosecuted a total of 148 cases involving 374 defendants that dealt with incidents of alleged theft, assault, carrying of prohibited weapons, and homicide.⁶⁷ However metropolitan officials in Spain or even Captain General Vives himself had envisioned the tribunal, the reality was that it spent a lot of its time prosecuting cases of everyday crime.

⁶⁴ See Chapter 1.

⁶⁵ Adrian del Valle, *Historia documentada de la conspiración de la Gran legión del águila negra* (Havana: Imprenta "El Siglo XX," 1929).

⁶⁶ Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC; Segunda relación, causas pasadas á otros tribunales, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC; Tercera relación, causas fenecidas en sumario, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC.

⁶⁷ Primera relación, causas sentenciadas en consejo de guerra, Havana, 27 October 1832, exp. 35421, leg. 1022, GSC, ANC.

A factor contributing to the number of cases of everyday crime passing through the Military Commission's purview was its reliance on local authorities, who in turn relied on area residents, to initiate investigations over which it might then assume jurisdiction. In the case of Simón Madrazo, the slave who had allegedly threatened the white patrons of a tavern, the tribunal pursued the case for a month and a half before concluding that he posed little threat, sentencing him to fifty lashes, and ordering his owner to keep him in fetters for a year.⁶⁸ They also ordered his owner to pay court costs amounting to 340 pesos and a 100 peso fine for violating the provision in the *Bando de buen gobierno* prohibiting people of color from selling goods to rural plantations.⁶⁹ In the case of Domingo Santaya and the suspicious meetings he was alleged to have hosted, the tribunal's *fiscal* spent more than three months determining that Santaya did in fact work as a tailor, and that the men seen frequenting his residence were his clients.⁷⁰ The tribunal's Consejo de Guerra voted unanimously to absolve all the men who had been arrested in connection with the case.⁷¹ As the tribunal confronted the free and enslaved people of color caught up in its prosecutions, its adherence to formal legal process, which ranged from rigorous to nominal at times, meant that its *fiscales* sometimes expended tremendous time and energy discovering that the fears and suspicions that varyingly motivated the denunciations against people of color were not always evidence of actual crimes.

On August 25, 1830, Cecilio Ayllón, governor of the jurisdiction of Matanzas, sent to

⁶⁸ Sentencia, Havana, 6 August 1830, f. 47v-48v, exp. 9, leg. 6, CM, ANC.

⁶⁹ Vives to Cadaval, Havana, 12 August 1830, f. 49-49v, exp. 9, leg. 6, CM, ANC.

⁷⁰ Conclusión Fiscal, Havana, 17 August 1827, 2^a pieza, f. 83-87, exp. 7, leg. 5, CM, ANC.

⁷¹ Voto del Señor Brigadier Presidente, Havana, 17 August 1827, 2^a pieza, f. 88v, exp. 7, leg. 5, CM, ANC.

Captain General Vives a case file that he and his *asesor*, Félix de Acosta, had compiled.⁷² The case focused on a free black man named Francisco Trujillo, who had been accused of uttering expressions disparaging of the church and against the public peace while visiting the house of a free black woman named Eusebia Domínguez. White tenants living in Domínguez's house had overheard Trujillo during a visit, and one of them took it upon himself to denounce Trujillo to the *comisario de barrio* in charge of the Santa Isabel neighborhood of the city of Matanzas. The *comisario de barrio* then brought the matter to Governor Ayllón's attention.⁷³

The accusations against Francisco Trujillo had sustained an investigation lasting close to seven months owing to three inter-related reasons. According to the initial denunciation, while conversing with Eusebia Domínguez, Trujillo had been overheard comparing the church to a prison and priests to scoundrels.⁷⁴ When questioned by Governor Ayllón, Domínguez herself added that Trujillo had also stated that the island had once been governed by Indians, and that they would rule the island once again, adding that Cuban-born people of color were in the same family as the Indians.⁷⁵ Trujillo's comments, which combined the claims of two dispossessed peoples, seemed to challenge the legitimacy of Spain's sovereignty over Cuba.

Francisco Trujillo's alleged statements appeared all the more alarming when Governor Ayllón questioned Trujillo himself. Trujillo's answers revealed the contours of his social world. Trujillo acknowledged knowing Eusebia Domínguez and her tenants, adding that he was on

⁷² Ayllón to Vives, Matanzas, 25 August 1830, f. 3, exp. 10, leg. 6, CM, ANC.

⁷³ Auto de proceder, Matanzas, 5 February 1830, f. 4-4v, exp. 10, leg. 6, CM, ANC.

⁷⁴ Declaración de D. Pedro Romero, Matanzas, 5 February 1830, f. 6-7v, exp. 10, leg. 6, CM, ANC.

⁷⁵ Declaración de la morena libre Eusebia Domínguez, Matanzas, 6 February 1830, f. 11v-14, exp. 10, leg. 6, CM, ANC.

friendly terms with all of them. In response to repeated questions about people of color he knew, Trujillo also provided the names of nine free men and women of color who lived in the city of Matanzas, in Guanabacoa, and in Ceiba Mocha, southwest of the city of Matanzas. One of the people he named was his sister, María Bernardina Trujillo, with whom he stayed whenever he visited Guanabacoa.⁷⁶

Finally, Francisco Trujillo revealed that he regularly traveled throughout the Matanzas countryside visiting sugar plantations. He claimed that he did so to purchase sugar to make candies, which he sold in the city of Matanzas. When asked if he ever spoke with any of the slaves on the plantations he visited, Trujillo claimed that he only ever spoke with their owners and a couple of *contramayorales*.⁷⁷

While Francisco Trujillo might have thought that he was representing himself as a harmless and productive resident of Matanzas, Governor Ayllón was primed to consider black sociality and mobility as antecedents to black violence.⁷⁸ Ayllón and his men thus spent months tracking down and questioning all the free people of color Trujillo had mentioned in his testimony. Another source of concern was a slave rebellion that had recently broken out in the Matanzas countryside. Though Ayllón suspected that Trujillo might have been involved, by August 7 officials failed to uncover any connection between Trujillo and the slave rebellion.⁷⁹

⁷⁶ Instructiva del Moreno Francisco Trujillo, Matanzas, 6 February 1830, f. 14-19, exp. 10, leg. 6, CM, ANC.

⁷⁷ Instructiva del Moreno Francisco Trujillo, Matanzas, 6 February 1830, f. 14-19, exp. 10, leg. 6, CM, ANC.

⁷⁸ Governor Ayllón had been responsible for the suppression of and initial investigation into the Guamacaro Rebellion of 1825. See Chapter 1.

⁷⁹ Paula de Albuquerque to Ayllón, Matanzas, 7 August 1830, f. 49-50v, exp. 10, leg. 6, CM, ANC.

On the chance that the Military Commission might have its own information on Trujillo's role in anything nefarious, Ayllón sent the case file to Captain General Vives, who then forwarded it to the tribunal. After consulting with *asesor* José Ildefonso Suárez, President Cadaval instructed *fiscal* Francisco Letamendi to begin a formal investigation.⁸⁰

By assuming jurisdiction over this investigation, the Military Commission shifted the case's center of gravity from the city of Matanzas to Havana, creating new delays and inconveniences. On September 13, within days of taking over the investigation, Francisco Letamendi asked President Cadaval to write to the governor of Matanzas requesting that Francisco Trujillo be transferred to Havana for further questioning.⁸¹ It was not until October 6 that Cadaval heard back that Trujillo was about to be sent to Havana, and not until October 13 that Trujillo was actually behind bars in a Havana prison.⁸²

Francisco Letamendi encountered similar delays when he attempted to bring in people for questioning. On September 13, he had also asked President Cadaval to ask the mayor of Guanabacoa to arrange for the three free women of color residing in Guanabacoa that Francisco Trujillo had mentioned in his declaration, one of which was the defendant's sister, to come to Havana for questioning.⁸³ Trujillo's sister, María Bernardina Trujillo, finally arrived in Havana more than three weeks later. In her testimony she credited her brother's alarming statements to

⁸⁰ Cadaval to Suárez, Havana, 8 September 1830, f. 1, exp. 10, leg. 6, CM, ANC; Suárez to Cadaval, Havana, 9 September 1830, f. 1-1v, exp. 10, leg. 6, CM, ANC; Cadaval to Letamendi, Havana, 9 September 1830, f. 1v, exp. 10, leg. 6, CM, ANC.

⁸¹ Letamendi to Cadaval, Havana, 13 September 1830, f. 55-55v, exp. 10, leg. 6, CM, ANC.

⁸² Francisco de Paula de Albuquerque to Cadaval, Matanzas, 6 October 1830, f. 67, exp. 10, leg. 6, CM, ANC; Untitled, Havana, 13 October 1830, f. 68, exp. 10, leg. 6, CM, ANC.

⁸³ Letamendi to Cadaval, Havana, 13 September 1830, f. 56-46v, exp. 10, leg. 6, CM, ANC.

the fact that in his old age Trujillo had begun acting “half mad.”⁸⁴

On November 4, close to two months after he had taken responsibility over the case, Francisco Letamendi sent President Cadaval his first report. After reviewing Governor Ayllón’s case file and conducting a round of follow-up interviews, Letamendi opined that the distance between Havana and Matanzas was too much of an inconvenience and the case appeared to be less alarming than originally thought. While the allegations against Francisco Trujillo were certainly alarming, the expressions he was alleged to have uttered appeared to have been spontaneous and vague. The free people of color he was acquainted with posed no threats, and there was nothing connecting him to the slave rebellion in Matanzas. Letamendi concluded that this was clearly a case of an old man suffering from dementia, saying some inappropriate things. The *fiscal* thus recommended that the tribunal either drop the case or forward it to an ecclesiastical court, owing to Trujillo’s pronouncements against the church.⁸⁵

José Ildefonso Suárez disagreed with Francisco Letamendi’s recommendation. “The subversive expressions that are being dealt with in this case file amount to a crime,” he wrote. “The accused is either accused or he is not.” He thus recommended that the case be continued.⁸⁶ And so Francisco Letamendi continued prosecuting the case. On November 26, he requested that the governor of Matanzas conduct another round of interrogations on his behalf and on

⁸⁴ Declaración de la parda libre María Bernardina Trujillo, Havana, 5 October 1830, f. 59, exp. 10, leg. 6, CM, ANC. “medio loco.”

⁸⁵ Letamendi to Cadaval, Havana, 4 November 1830, f. 76-76v, exp. 10, leg. 6, CM, ANC.

⁸⁶ Suárez to Cadaval, Havana, 8 November 1830, f. 77, exp. 10, leg. 6, CM, ANC. “Las palabras subvercivas de que se trata en este expediente importan un crimen, o el acusado está acusado, o no lo está.”

December 16 he received copies of the interrogation records.⁸⁷ As Letamendi began preparing the case to be brought before the tribunal's Consejo de Guerra, he was required to ratify all of the testimonial evidence amassed thus far. The ratification process itself lasted until April 1831. On April 22, when Letamendi finally brought the case before the *consejo*, he reiterated the main points of his earlier report. Though Francisco Trujillo had certainly made subversive statements, there was no evidence indicating that they had been uttered out of malice and were most likely a result of his old age. Letamendi then recommended that the *consejo* sentence Trujillo to one year in prison and two years of labor on the public works.⁸⁸ For reasons that were not recorded, the Consejo de Guerra took pity on Trujillo, sentencing him to a single year of public works.⁸⁹ On April 26, 1831, Captain General Vives signed off on the case that officials in Matanzas had initiated over a year earlier.⁹⁰

Francisco Letamendi's frustration over having to pursue a case of such minimal importance emerged from the disconnect between a denunciation born out of fear and suspicion and a legal process within which those suspicions alone were insufficient cause for further action. While officials such as Governor Ayllón and *fiscal* Letamendi believed that Trujillo's social world was a cause for concern, attempting to prove as much required time, effort, and an implicit disregard of other potential threats. As the Military Commission continued encountering defendants of color like Francisco Trujillo, these frustrations grew, stressing the tribunal's

⁸⁷ Letamendi to Cadaval, Havana, 26 November 1830, f. 81-81v, exp. 10, leg. 6, CM, ANC; Ayllón to Cadaval, Matanzas, 16 December 1830, f. 83, exp. 10, leg. 6, CM, ANC.

⁸⁸ Conclusión fiscal, Havana, 22 April 1831, f. 124-124v, exp. 10, leg. 6, CM, ANC.

⁸⁹ Sentencia, Havana, 22 April 1831, f. 127v-128, exp. 10, leg. 6, CM, ANC.

⁹⁰ Untitled, Havana, 26 April 1831, f. 129, exp. 10, leg. 6, CM, ANC.

commitment to the legal foundation upon which it rested.

On February 17, 1831, Governor Ayllón had another case file for the Military Commission to consider, detailing a months-long investigation into a series of suspicious meetings in the house of a man identified as a *moreno* named Bernardo Sevillán.⁹¹ The investigation had begun in early December of the previous year, when a military officer informed the governor that an anonymous informant had told him that Sevillán was hosting secret meetings in his residence. Ayllón acted on the denunciation by placing Sevillán's residence under surveillance.⁹²

The surveillance revealed that groups of people of color, numbering between twenty and thirty, were meeting on a regular basis at Bernardo Sevillán's residence with the door closed and with someone seemingly posted as a look out. By mid-December, they had met on four different occasions.⁹³ Governor Ayllón thus arranged to get access to an adjacent house from which to continue the surveillance and at some point to stage a surprise raid. The house's landlord had agreed to cooperate and had even been sworn to secrecy, but not before telling the governor that he should not be so worried, for the people coalescing in Sevillán's house were merely rehearsing a play. After noticing that the reunions had stopped, and fearing that the landlord had alerted Sevillán of the surveillance, Ayllón ordered that the house be raided and that those who had been seen attending the meetings be arrested.⁹⁴

The raid itself resulted in numerous arrests and the confiscation of much documentary

⁹¹ Ayllón to Cadaval, Matanzas, 17 February 1831, f. 2, exp. 24, leg. 9, CM, ANC.

⁹² Auto de proceder, Matanzas, 4 February 1831, f. 7-8v, exp. 24, leg. 9, CM, ANC.

⁹³ Auto de proceder, Matanzas, 4 February 1831, f. 7-8v, exp. 24, leg. 9, CM, ANC.

⁹⁴ Acto, Matanzas, 7 February 1831, f. 12v, exp. 24, leg. 9, CM, ANC.

evidence, including some books. Bernardo Sevillán was found to own a book titled *Diccionario o nuevo vocabulario filosófico democrático, indispensable para todos los que desean entender la nueva lengua revolucionaria*, while his associate Jorge López also had several books, including one titled *El bosquejo ligerísimo de la revolución de Méjico* and another titled *Catecismo o Cantón constitucional para la educación de la juventud española*.⁹⁵ Despite the initial suspicions and the presence of these books, the picture that emerged was, as the landlord had already suggested, quite innocent. During questioning, Bernardo Sevillán readily admitted that the reunions had been rehearsals for a comedy called “El triunfo del Ave María,” which they were preparing to perform during the next carnival.⁹⁶ Others arrested during the raid and questioned corroborated Sevillán’s testimony. One of the men arrested revealed that a document confiscated as evidence was actually a list of subscribers who had each contributed five pesos to the endeavor, some of which was spent building a stage at Sevillán’s residence upon which they rehearsed. The rehearsals had apparently been called off when the grandfather of one of the actors had passed away.⁹⁷

In his report to the governor, *asesor* Félix de Acosta concluded that there was not much to this case. While some of the documents and books confiscated during the raid were a cause for concern, they did not amount to evidence of any wrong doing, and the only laws these people had broken was failing to obtain authorization to hold meetings behind closed doors. Acosta thus

⁹⁵ Ayllón to Cadaval, Matanzas, 17 February 1831, exp. 24, leg. 9, CM, ANC; Jane G. Landers, *Atlantic Creoles in the Age of Revolutions* (Cambridge, MA: Harvard University Press, 2010), 215.

⁹⁶ Declaración de Bernardo Sevillán, Matanzas, 9 February 1831, f. 24v-26, exp. 24, leg. 9, CM, ANC.

⁹⁷ Declaración de Eulogio Duran, Matanzas, 8 February 1831, f. 22v-24, exp. 24, leg. 9, CM, ANC.

concluded that investigating further would be pointless and that they should forward the case file to the Military Commission on the chance that it deemed the case worth pursuing.⁹⁸

On March 4, 1831, José Ildefonso Suárez determined that the case of Bernardo Sevillán fell under the Military Commission's jurisdiction.⁹⁹ President Cadaval assigned the case to *fiscal* Francisco Seidel. After reviewing the case file for a few days, Seidel reported that the case file contained numerous deficiencies dealing with the rigor with which people had been questioned that impeded his ability to properly consider the case. Before he could begin prosecuting this case, Seidel asked that the case file be sent back to Matanzas and fixed.¹⁰⁰ On March 10, President Cadaval sent the case file back to Matanzas so they could bring it up to standards.¹⁰¹

Over the next two weeks Governor Ayllón coordinated the series of re-interviews needed to bring the case file up to Francisco Seidel's standards. On March 27, Seidel commented on the recently returned case file, stating that it was now clear to him that Bernardo Sevillán and the others had in fact been rehearsing for a play. If the Military Commission were to pursue the case, Seidel counselled, it should only do so in relation to some of the books collected as evidence during Governor Ayllón's raid, which he deemed to be subversive.¹⁰²

After reviewing Francisco Seidel's recommendation, José Ildefonso Suárez advised President Cadaval to consider dropping the case, as there was no evidence of any real crime. As for the suggestion that the Military Commission might pursue charges against Sevillán for

⁹⁸ Acosta to Ayllón, Matanzas, 12 February 1831, f. 41-42v, exp. 24, leg. 9, CM, ANC.

⁹⁹ Suárez to Cadaval, Havana, 4 March 1831, f. 2, exp. 24, leg. 9, CM, ANC.

¹⁰⁰ Seidel to Cadaval, Havana, 8 March 1831, f. 46v-47v, exp. 24, leg. 9, CM, ANC.

¹⁰¹ Suárez to Cadaval, Havana, 10 March 1831, f. 48, exp. 24, leg. 9, CM, ANC.

¹⁰² Seidel to Cadaval, Havana, 27 March 1831, f. 69-70v, exp. 24, leg. 9, CM, ANC.

possessing subversive books, Suárez suggested that instead of initiating a new prosecution concentrating on the books, the tribunal should instead develop “a system of moderate reprimands” for cases dealing with incidents born out of ignorance, rather than criminal intent. “A prosecution and a judgement according to all legal procedures,” he added, “will be reserved for major crimes.”¹⁰³ Suárez thus suggested that instead of preparing the case to be judged by the tribunal’s Consejo de Guerra, they should punish the owner of the subversive books with six months of public works. He also advised that they burn the books.¹⁰⁴

Following José Ildefonso Suárez’s recommendation, President Cadaval personally sentenced Bernardo Sevillán to six months in public works and ordered that the books be burned without bringing the matter before the Consejo de Guerra.¹⁰⁵ After consulting with his *auditor de guerra*, Captain General Vives signed off on this abbreviated course of action.¹⁰⁶

While the Military Commission did pursue a few high-profile prosecutions, it spent most of its time prosecuting cases of relatively minor importance. As the cases of Francisco Trujillo and Bernardo Sevillán suggest, however, prosecutions against free people of color could provoke frustrations among tribunal officials not because they were of minor importance from the beginning, but because they were revealed to be less serious as their prosecutions progressed. In this regard, the cases against Trujillo and Sevillán were extreme examples of a general trend. In the case of Francisco Trujillo, the suggestion that Indians and people of color were planning to

¹⁰³ Suárez to Cadaval, Havana, 30 April 1831, f. 71-71v, exp. 24, leg. 9, CM, ANC. “Un proceso y un juicio por todos los tramites de la ley, los reserve esta para los grandes delitos.”

¹⁰⁴ Suárez to Cadaval, Havana, 30 April 1831, f. 71-71v, exp. 24, leg. 9, CM, ANC.

¹⁰⁵ Untitled, Havana, 30 April 1831, f. 71v, exp. 24, leg. 9, CM, ANC.

¹⁰⁶ Vives to Cadaval, Havana, 18 May 1831, f. 72-73, exp. 24, leg. 9, CM, ANC.

take over the island turned out to be the ramblings of an old man. In the case of Bernardo Sevillán, the secret meetings turned out to be rehearsals for a play. During its first seven years in operation, the Military Commission certainly contended with some serious challenges to Spanish sovereignty over Cuba. But it also dealt with a number of cases revealing that white Cubans and local authorities were willing to exaggerate and inflate, if not fabricate, the threats posed by free and enslaved people of color in Cuba.

This is not to suggest, however, that Military Commission officials were devoid of prejudices and bigotries when contending with defendants of color. In the case of José Emeterio Lazo, who had been accused of transporting a subversive letter, though the evidence was by no means definitive regarding his guilt, the tribunal sentenced him anyway. But after the investigation into the allegations against Bernardo Sevillán turned up nothing, José Ildefonso Suárez became sufficiently annoyed by the waste of time that he began to contemplate ways of sidestepping formal procedures when handling such cases. His goal might not have been to apply the law in less rigorous ways in cases that were revealed to be of less importance, but rather to bypass the law altogether.

Free People of Color and the Captain General

Francisco Dionisio Vives served as Cuba's captain general from May 2, 1823, until May 15, 1832. Though he came to power during trying times for the Spanish Empire, he succeeded in ushering the colony through a period of growing prosperity.¹⁰⁷ His tenure as captain general was certainly eventful, as independence conspiracies such as the Soles y Rayos de Bolívar and the

¹⁰⁷ Jacobo de la Pezuela, *Diccionario geográfico, estadístico, histórico, de la isla de Cuba* (Madrid: Imprenta del Banco Industrial y Mercantil, 1866), 4:667-669.

Águila Negra and slave uprisings such as the Guamacaro rebellion of 1825 ensured that defending Spanish sovereignty over the island from internal threats became an important aspect of colonial governance.

In governing Cuba, however, Vives did not draw from a vast pool of experience in the Americas. Born in 1775 in the North African city of Orán, then under Spanish control, Vives had followed in his father's footsteps and joined the military at a young age. During a storied career in Europe, Vives rose through the ranks, becoming a Brigadier General in 1810, during the struggle against Napoleon's forces. Following the expulsion of the French and the restoration of Fernando VII to the Spanish throne in 1814, Vives served in various capacities before being sent to Washington, D.C., as ambassador to oversee the transfer of Florida to the United States. He returned to Spain in 1821, before being called on once again to serve Spain's interests abroad, this time as captain general of Cuba.¹⁰⁸ His time as captain general was very much a learning experience, one that imperial administrators in Spain were eager to mine. It may have come as a surprise, then, that after nine years at the helm of the colonial state, it was not separatist conspiracies nor slave rebellions the former captain general claimed was the biggest threat to Spain's sovereignty over its most precious remaining colonial possession. Rather, Vives pointed to the island's population of free people of color as his greatest source of concern.

On September 10, 1832, Spain's Minister of War, the Marqués de Zambrano, sent Francisco Dionisio Vives a questionnaire aimed at gleaning information from the former captain general regarding his time in Cuba. The questionnaire contained fifteen questions, the first six of which focused exclusively on white Cubans. Vives was asked to provide demographic information regarding Cuba's white population and on the nobility. He was also asked to assess

¹⁰⁸ Pezuela, *Diccionario geográfico*, 4:667-669.

the nobility's influence throughout the island, to describe the make-up of Cuba's merchant class, to provide a sense of how white laborers were represented within the population, and to say a few things about the opinions that predominated among the island's white residents. Though Cuba's position within the Spanish Empire in 1832 appeared secure, it was by no means assured. These questions reflected the concerns of imperial administrators attempting to secure Spain's most important remaining colonial possession from the social and political forces that had resulted in independence on the American mainland.

In answering these questions, Vives pushed back against the metropolitan focus on Cuba's white population. He reported that the 1827 census listed the white population at 311,051, and that there were an additional 26,075 soldiers stationed on or passing through the island. While this represented an increase from previous counts, Vives was quick to point out that in relation to the number of free and enslaved people of color, the proportion of whites in the overall population had actually contracted. When addressing the nobility's influence throughout the island, Vives was even more explicit that attention should instead be focused on Cuba's population of color. Putting it bluntly, "the nobility has little influence in a country where the only and principle division depends on an individual's color. The whites need to retain a [demographic] superiority that diminishes the numerical strength of the colored people."¹⁰⁹

In shifting focus to Cuba's population of color, Vives revealed that security concerns were foremost on his mind when he concluded that Spain had nothing to fear from elite Cubans. "The happy coincidence of circumstances noticed on this island appear not to leave any doubt

¹⁰⁹ Francisco Dionisio Vives, "Un interrogatorio," in José Antonio Saco, *Historia de la esclavitud*, (Havana: Imagen Contemporanea, 2006), 5:284. "La nobleza poco influjo tiene en un país en donde la única y principal división depende del color de los individuos. Los blancos necesitan conservar una preponderancia que disminuye la fuerza numérica de la gente de color..."

that it will remain united with the metropolitan government,” he wrote. “Wealthy Cubans and residents of the island, fully aware of the consequences of a separation, are convinced of the advantages that will result from remaining under the shade of a protector government, enjoying peace, security, and other benefits offered to them by the King.”¹¹⁰

Only two questions in the questionnaire explicitly dealt with free and enslaved people of color, and in answering them Vives elaborated on where he claimed the actual threat to Cuba lay. When asked to report on the number of slaves on the island, he quickly moved beyond the demographic implications of the question and turned to matters of security. In a show of confidence, Vives discounted the threat that slave rebellions, in and of themselves, posed to the island. “The slaves have accomplished nothing but partial movements of brief consequence,” he wrote. In a statement clearly reflecting his experience at the head of government during slave uprisings such as the Guamacaro rebellion of 1825, Vives added that this could be “credited to the efforts of white [Cubans],” who had been successful in suppressing slave rebellions “without the need of involving the regular army.”¹¹¹

In purely military terms, then, Vives concluded that the island had nothing to fear from the enslaved if they attempted to rise up on their own. “The distribution of the army throughout the territory,” he wrote, “the new facilities we have given to the rural militias, the creation of

¹¹⁰ Vives, “Un interrogatorio,” 284-285. “El feliz concurso de circunstancias que se advierten en la Isla, parece que no deja duda de que permanecerá unida al gobierno de la metrópoli... Los naturales y vecinos pudientes, bien penetrados de las consecuencias funestas de una emancipación, están convencidos de las ventajas que les resultan de permanecer a la sombra de un gobierno protector disfrutando de la paz, de la seguridad, y otros bienes que el rey N.S. les proporciona.”

¹¹¹ Vives, “Un interrogatorio,” 288. “la esclavitud no ha hecho jamás sino movimientos parciales, y de cortísima influencia, que han dado lugar a acreditar entre ella la fuerza de los blancos, sin necesidad de que se mezclase en ellos la tropa veterana.”

urban corps in each of the districts, and the vigilance of the government, contribute to maintaining [the slaves] subjected [such] that they do not undermine public security.”¹¹²

When it came to free people of color, however, Vives rang a more cautionary tone. In response to a question vaguely asking about the desirability of free people of color in Cuba, Vives provided his longest answer to any of the questions in the questionnaire. “The existence of free blacks and mulattos amidst the enslavement of their comrades is an example that will be very prejudicial one day.”¹¹³ What followed was not a blanket condemnation of all people of color based on universal stereotypes and prejudices, but a nuanced calculation that drew from his many years of experience governing Cuba.

At the core of Vives’s calculation was his belief that “not all free blacks are dangerous to the same degree.”¹¹⁴ He described a first group of free people of color who “live submerged in vice, who have bad habits, and who possess a disposition towards engaging in a life of crime.”¹¹⁵ It was unfortunate, he continued, that this first class of free people of color lived in close contact with a second class “made up of honorable artisans and good fathers of families, who own urban

¹¹² Vives, “Un interrogatorio,” 288. “la distribución del ejército por todo el territorio, la nueva planta que se le ha dado a las milicias rurales, la creación de cuerpos urbanos en sus respectivos partidos, y la vigilancia de gobierno, contribuyen a mantenerlos sujetos y a que no aflojen los resortes de la publica seguridad.”

¹¹³ Vives, “Un interrogatorio,” 288. “La existencia de negros y mulatos libres en medio de la esclavitud de sus compañeros, es un ejemplo que será muy prejudicial algún día.”

¹¹⁴ Vives, “Un interrogatorio,” 288. “No todos los libertos son peligrosos en igual grado.” In this answer, Vives uses the term *liberto*, which normally refers to people who had once been enslaved and had then been freed. It is clear from the text, though, that he is using the term to refer to all free people of color, regardless of whether they were born free or became free.

¹¹⁵ Vives, “Un interrogatorio,” 288. “viven sumergidos en los vicios; tienen malas costumbres, y se hallan con todas las disposiciones para lanzarse en la carrera del crimen.”

properties and slaves.”¹¹⁶ This second class of free people of color, he added, “should not inspire distrust, [owing to] the commendable merit that they have acquired through their constant loyalty to the King, which results in our being able to count on their help in maintaining public order.”¹¹⁷

Nevertheless, Vives contended that even this second class of free people of color could not be fully counted on, “it being normal,” he wrote, “and most expected that in case of a well-coordinated revolution of people of color, they will be swept away by the torrent.” Vives thus cautioned that even this second class of free people of color “should be considered indirectly dangerous.”¹¹⁸

In response to the suggestion that the problem of the island’s population of free people of color could be dealt with by deporting them all, Vives argued that deportations would engender precisely what the Spanish Empire hoped to avoid. “Having previously committed the error of not placing restrictions that would have made freedom difficult and slow to obtain,” he wrote, “and having made matters worse by indifference to the growth of this group, it would be very imprudent to want to correct omissions and defects now that we can only come to regret, because we cannot take a step toward reform without running into injustices that would awaken discontent and inevitably produce the ruin of this country.”¹¹⁹

¹¹⁶ Vives, “Un interrogatorio,” 289. “se compone de honrados artesanos, Buenos padres de familias, que tienen fincas urbanos, y esclavos.”

¹¹⁷ Vives, “Un interrogatorio,” 289. “no debe inspirar desconfianza, aun por el recomendable mérito que tienen adquirido con su fidelidad constante al rey N.S. y esto da lugar a que se cuente su auxilio para mantener el orden público.”

¹¹⁸ Vives, “Un interrogatorio,” 289. “Sin embargo, no debe exponerse la virtud de esos hombres a pruebas de heroísmo, siendo lo regular y más consiguiente que en una revolución bien combinada de las gentes de color, sean aquéllos arrastrados del torrente, por cuyo motivo se han considerado como indirectamente peligrosos.”

¹¹⁹ Vives, “Un interrogatorio,” 289. “Cometido el error de no poner trabas a la libertad que la hicieran tardía y difícil, y reagrandando el mal con la indiferencia que se ha mirado su

According to Vives, the main problem with the idea of deporting all free people of color was that he could not envision enacting such a program lawfully. During times of peace, administering justice was a core competency of the colonial state. As shown during the Military Commission's prosecution of the Guamacaro rebellion of 1825, however, colonial officials such as the captain general and the heads of the tribunal also believed that the legitimacy of the colonial state depended on its ability to demonstrate competence in the administration of justice even during times of emergency. If the concern in 1825 had been that white Cubans might seize upon any hint of government incompetence as a pretense for beginning their own struggle for independence, Vives's dismissal of mass deportation as a solution for the perceived threats posed by the island's free population of color revealed the extent to which he also considered the proper administration of justice as a main reason why free people of color, even if only the good ones, remained loyal to the King. As he put it, "free people of color, born and raised on the island, witnesses to the protection afforded to them by private interest, and, certain of the impunity of their crimes, unable to find anywhere the advantage they enjoy, would raise the cry of insurrection that would, without a doubt, raise the enslaved on the plantations."¹²⁰

The only solution Vives could offer, then, was that of deporting free people of color in a lawful manner. He suggested that when free people of color were sentenced to prison in criminal cases, that they be sent to prisons in Spain's possessions in Northern Africa, from which it would

propagación, sería muy imprudente querer ahora corregir omisiones y defectos que solo pueden deplorarse, pues no es lícito dar un paso de reforma, sin tropezar con injusticias que despertarían el descontento, y producirían indefectiblemente la ruina del país."

¹²⁰ Vives, "Un interrogatorio," 289. "los libertos criollos, nacidos y educados en la Isla, testigos de la protección que el interés privado les dispensa, y ciertos de la impunidad de sus delitos, no encontrando ventajas en ninguna parte iguales a las que disfrutaban, levantarían el grito de insurrección, que sin duda levantaría las esclavitudes de las fincas."

be too difficult for them to return to Cuba.¹²¹

Captain General Vives's focus on the dangers posed by free people of color was informed by his particular experience as the island's chief executive, in which his relationship with the Military Commission played an important role. The tribunal was a unique juridical institution precisely because it answered directly to the captain general. During the seven years from its inception until the end of Vives's administration, the tribunal channeled a steady stream of information regarding the state of social unrest and political dissent to the captain general. Through his relationship with the Military Commission, Captain General Vives had his finger on the pulse of the threats perceived as challenging social stability and political continuity in Cuba.

Vives's sense of the sources of instability in Cuba, however, was not an objective reflection of the social and political strains affecting Cuban society. Owing to the local contexts in which incidents became crimes worthy of the Military Commission's attention, Captain General Vives's window onto the world was necessarily shaped by the ways the island's white inhabitants, local authorities, and his own subordinates could choose to portray the objects of their prejudices, bigotries, enmities, and fears as threats to Spanish sovereignty over the colony. Despite the fact that a majority of the defendants charged by the Military Commission were white and that defendants of color were not always found to be guilty of the accusations levied against them, then, Captain General Vives could thus see cause to single free people of color out as the biggest threat against the colony.

For seven years, Vives signed off on every case judged by the tribunal's Consejo de Guerra. In the aggregate, these cases mapped out the contours of a contentious world, one that may not always have been borne out by the facts, but that nonetheless situated free people of

¹²¹ Vives, "Un interrogatorio," 290.

color at the center of the social and political dislocations threatening Spanish sovereignty over Cuba. Even if the tribunal's Consejo de Guerra found a particular defendant of color to be innocent or less guilty of the crimes they had been accused of, that defendant was still situated within a collection of information, the totality of which served as a measure of the threats against Cuba that the captain general was charged with confronting. Military Commission prosecutions thus served as a conduit, channeling prejudices, enmities, and anxieties regarding Africans and the African-descended from the streets and taverns of cities like Havana and Matanzas into the worldview of Vives himself.

Even though Military Commission officials were the ones who did the work revealing that people of color were often being denounced of crimes they were not committing, or that were less severe than was being alleged, the measure of how compelling these allegations were can be seen in the way tribunal officials and the captain general himself came to view formal legal process as hindering the promotion of insular security. For *asesor* José Ildefonso Suárez, attending to the processual requirements of law meant that the tribunal expended tremendous time and energy prosecuting cases that turned out to be of relatively minor importance. His response to learning of Bernardo Sevillán's innocence was to start thinking of ways the tribunal could, in certain instances, disregard formal legal process and move directly to issuing sentences. And even though Captain General Vives credited the proper administration of justice with engendering loyalty from what he deemed to be the good segment of Cuba's free population of color, he also pointed to the law as the main obstacle preventing the colonial state from fully attending to the existential threat he believed they posed to the colony through mass

deportations. In terms of insular security and race, then, a sense was emerging that following the law in matters related to free people of color and their potential alliances with the enslaved could stand in the way of maintaining Spanish sovereignty over the island.

Chapter 3

“An Imprudent Anomaly”: Colonial Exceptionality and the Limits of Executive Authority, 1825-1843

On February 9, 1834, José Ildefonso Suárez wrote to the Ministry of Justice in Madrid to express how news of Queen Isabel II's ascension to the throne had marked his heart “with tears of the purest joy and happiness.”¹ The Queen's ascension had not been uncomplicated. Her father, Fernando VII, had had to alter the law of succession to allow his daughter to take the throne at the expense of his brother Carlos's claim. Upon Fernando VII's death on September 29, 1833, the three-year-old Isabel became sovereign and her mother, María Cristina de Borbón-Dos Sicilias, was named Queen Regent.²

Suárez's letter also expressed more material concerns. After nine years serving as the Military Commission's *asesor* without a salary, Suárez claimed to be on the verge of ruin. He assured the Ministry of Justice, however, that he would serve the “innocent and legitimate queen,” even if it meant “spilling [his] last drop of blood.”³ Through this emphatic protestation of loyalty, Suárez registered with his superiors in the metropolitan government a pressing

¹ Suárez to Ministry of Justice, Havana, 9 February 1834, no. 33, exp. 20, leg. 1661, Ultramar, AHN.

² Miguel Artola, *La España de Fernando VII* (Madrid: Editorial Espasa Calpe, S.A., 2008), 74-752.

³ Suárez to Ministry of Justice, Havana, 9 February 1834, no. 33, exp. 20, leg. 1661, Ultramar, AHN.

concern that was at the same time personal and systemic.

On a personal level, Suárez's concern emanated from his professional history as a trained jurist who had staked much of his livelihood on service to the colonial government. Born in Cuba on April 21, 1785, he had attended university in Havana, and then followed in his father's footsteps, apprenticing under two notable judges before becoming a lawyer in 1815. The following year the Real Audiencia, the island's highest court, had authorized Suárez to practice law in Havana. He was soon providing occasional legal advice to Captains General José Cienfuegos y Jovellanos (1816-1819) and Juan Manuel de Cagigal (1819-1821) as Simón Bolívar led liberation forces on the American continent.⁴

As Spain's empire in the Americas was in decline, however, Cuba's economy prospered. With sugar production spreading from its historic centers around Havana, the district of Güines, southeast of the capital, had emerged as a center of cane cultivation, eventually being linked to Havana through the island's first railroad.⁵ In 1820, Captain General Cagigal had commissioned Suárez to serve as judge in a legal action over water rights to the Güines River brought by the Real Consulado, a consultative body made up of members of the economic elite who advised captains general on matters pertaining to economic development.⁶

These years had also coincided with political turmoil in Spain. In 1820, Spanish liberals revolted against Fernando VII's absolutist regime, instituting the period of liberal governance

⁴ Relación de los méritos, grados, y servicios de Don José Ildefonso Suárez, 27 April 1829, no. 11, exp. 20, leg. 1661, Ultramar, AHN; José Ildefonso Suárez, *Breve memoria escrita por el oidor honorario de la Audiencia de Cuba* (Paris: Imprenta de Everat, 1839), 5.

⁵ Manuel Moreno Fraginals, *El ingenio: Complejo económico social cubano del azúcar* (Havana: Editorial de Ciencias Sociales, 1978), 1: 52-62, 151.

⁶ Francisco de Paula Hornillos to La Junta Económica Consular, Havana, 7 June 1826, exp. 310, leg. 5, Real Consulado y Junta de Fomento (hereafter RCJF), ANC.

that would later be known as the *trienio liberal*. Though the ascendancy of Spanish liberalism did not fundamentally alter Cuba's colonial relationship with Spain, liberal reforms did begin to transform aspects of colonial governance.⁷ In 1821, Captain General Cagigal began to restructure Cuba's system of lower courts in accordance with the 1812 constitution by dividing the island into judicial districts to be presided over by *jueces de letras* (judges trained in law), naming José Ildefonso Suárez to serve as judge of the district of San Antonio Abad.⁸

Even as Spanish sovereignty over Cuba endured the disruptive years of the *trienio liberal*, the island had nonetheless been susceptible to the anti-imperial currents affecting Spanish domains. In 1823, authorities had uncovered the Conspiracy of the Soles y Rayos de Bolívar. The conspiracy had been distributed in nature, organized around masonic lodges throughout the island. The state's adjudication of the conspiracy thus began in a similarly distributed way, with district and municipal courts overseeing the investigatory phase of the prosecution.⁹ Captain General Francisco Dionisio Vives commended Suárez for his investigation into the members of the conspiracy residing in San Antonio Abad, and rewarded him with the title of *oidor honorario* (honorary judge) of the Real Audiencia in recognition of his service.¹⁰

By 1825, Suárez had impressed important men in powerful positions in a career that had

⁷ On the *trienio* in Cuba, see Josep M. Fradera, *Colonias para después de un imperio* (Barcelona: Ediciones Bellaterra, 2005), 114-120; Olga Portuondo Zúñiga, *Cuba. Constitución y liberalismo* (Santiago de Cuba: Editorial Oriente, 2008), 1:123-201.

⁸ Jacobo de la Pezuela, *Historía de la isla de Cuba* (Madrid: Carlos Bailly-Baillière, 1878), 4:92-96; Relación de los méritos, grados, y servicios de Don José Ildefonso Suárez, 27 April 1829, no. 11, exp. 20, leg. 1661, Ultramar, AHN.

⁹ Vidal Morales y Morales, *Iniciadores y primeros mártires de la revolución cubana* (Havana: Imprenta Avisador Comercial, 1901), chap. 1.

¹⁰ Suárez, *Breve memoria*, 5-6; Vives to Suárez, Havana, 4 June 1824, exp. 17, leg. 70, Reales Órdenes y Cédulas (hereafter ROC), ANC.

intersected with the major institutions of colonial governance. When Captain General Vives established Cuba's Military Commission in 1825, then, Francisco Arango y Parreño, the planter and statesman who had played a decisive role in developing Cuba's sugar economy, who had been one of the Real Consulado's founding members, and who was currently serving as superintendent of the Intendancy, recommended Suárez for the position of the tribunal's *asesor*.¹¹ And yet after nineteen years practicing law in the service of the state, Suárez felt compelled to write to his superiors in a thinly veiled request for more money.

On a systemic level, José Ildefonso Suárez's 1834 letter to the Ministry of Justice noting his loyalty and service also revealed how the administration of justice afforded jurists such as himself a precarious living even as the colonial state relied on them to help run the government, staff the judiciary, and, as reflected in his work for the Military Commission, defend Spanish sovereignty over the island. Though some officials within Cuba's legal system such as the *oidores* of the Real Audiencia earned salaries, most carved out livings by collecting fees on a per-signature or per-page basis.

At the heart of Suárez's letter, then, was a conundrum. The collapse of Spain's empire on the American mainland at the hands of liberation armies, the growing number of enslaved Africans propelling the rise of Cuba's plantation economy, and the decades-long struggle in Spain between defenders of absolutism and proponents of liberalism had all emerged as forces capable of disrupting, if not destroying, Spanish sovereignty over Cuba. Even as metropolitan and colonial officials relied on jurists like Suárez to help amplify the government's capacity to defend Cuba and the Spanish Empire from these threats through law, they found that

¹¹ Juan Pérez de la Riva, *Correspondencia reservada del Capitan General Don Miguel Tacón con el gobierno de Madrid, 1834-1836* (Havana: Consejo Nacional de Cultural, 1963), 335.

administrative structures rooted in politics that distributed sovereign authority across multiple governing institutions could stand in the way of an escalated, decisive, and sustained response. Attending to the threats posed by a world in transformation thus meant enabling jurists like Suárez who were inclined to lend their services in this endeavor to earn satisfactory incomes, thus requiring transformations in the way colonial governance was administered.

Suárez's career as the Military Commission's *asesor* reveals some of the challenges accompanying the renewed emphasis placed on insular security in the administration of colonial governance. After French forces ended the *trienio liberal* by restoring Fernando VII as absolute monarch in 1823, metropolitan officials refocused attention on Cuba's position within the empire. Soldiers passing through the island on their way to or returning from the American continent constituted a sizable garrison, poised to defend the island from invasion and internal rebellion.¹² Metropolitan officials also sought to increase the captaincy general's ability to defend Cuba from less bellicose threats to Spanish sovereignty and were particularly eager to amplify its control over the legal means with which to confront political dissent.¹³

But amplifying the legal competencies of executive power was no panacea, as the law itself presented its own set of obstacles. The myriad courts populating Cuba's judicial landscape, each with its own jurisdiction and interests, and the processual and administrative requirements inscribed in legal texts such as the *Recopilación de las Leyes de Indias*, were not designed to be attentive to the political exigencies of colonial governance at any given moment. Rival courts

¹² Francisco Dionisio Vives, "Un interrogatorio," in José Antonio Saco, *Historia de la esclavitud*, (Havana: Imagen Contemporanea, 2006), 5:284.

¹³ Robert L. Paquette, *Sugar is Made With Blood: The Conspiracy of La Escalera and the Conflict between Empires over Slavery in Cuba* (Middletown, CT: Wesleyan University Press, 1988), 48-49.

contesting jurisdiction over cases, and defendants finding refuge behind lengthy appellate processes, special corporate rights, and local patronage networks, all worked against the swift enactment of justice towards specific political ends.

Though the law itself could hinder decisive executive action, wholesale reform of the administration of justice in a governing context in which divisions of administrative authority had been negotiated over decades and were vigorously guarded was bound to be disruptive.¹⁴ As metropolitan officials considered ways to amplify the legal dimensions of executive power, they eschewed major reforms in favor of two workarounds that could empower captains general to bypass the legal system when acting in the interest of insular security. The first of these tools were the extraordinary powers given to Captain General Vives in a royal order dated May 28, 1825. Following a legal tradition affording exceptional powers to governors of cities under siege, these extraordinary powers authorized Vives to dismiss and deport officials whose presence he deemed to be prejudicial. They also gave Vives discretion in implementing all royal orders from Spain.¹⁵ The second tool was the Military Commission, which allowed Vives complete oversight over prosecutions against people deemed to be enemies of the state and disturbers of the peace.¹⁶

But even the introduction of a court of limited jurisdiction and specific intent proved to be problematic. As the Military Commission began prosecuting cases, seemingly mundane matters regarding operational expenses and salaries placed the tribunal and the captaincy general it served in delicate negotiations with the Intendancy, the institution responsible for government

¹⁴ Fradera, *Colonias para después de un imperio*, 218-220.

¹⁵ “Real Orden de 28 de Mayo de 1825, concediendo facultades extraordinarias al Capitan General de Cuba,” in Zamora, *Derecho constitucional*, 179-180.

¹⁶ See Chapter 1.

revenues and expenditures. Though the Intendancy recognized among its responsibilities the funding of colonial defense, its superintendents were equally committed to maintaining administrative independence from the captaincy general. And though the Real Audiencia was the institutional center of Spanish law on the island, it saw the new tribunal as usurping an entire class of prosecutions that had once fallen under its purview. The Military Commission's interactions with the Intendancy and the Real Audiencia thus mapped out the dispersed nature of sovereign authority in Cuba, where governance took place in a complex world of institutional rivalry and cooperation, and through which imperial designs necessarily had to traverse.

Even as the Military Commission navigated the institutional world of colonial governance, it was steered by individuals acting on their own interests towards particular ends. Though José Ildefonso Suárez's title of *oidor honorario* had not been accompanied by any sort of financial reward, for instance, it had other value. As a Cuban born outside of the networks of patronage and privilege upon which personal wealth, social mobility, and political influence were often predicated, Suárez had achieved professional success by offering his legal training in the service of the state.¹⁷ Honorary titles were thus a form of professional capital, promising more important commissions and, perhaps, greater rewards. And in this last regard, Suárez was particularly attuned. While Suárez often professed his loyalty and zeal for the Spanish monarchy, he was no less propelled by his own material interests. Following his role in the prosecution of the Soles y Rayos de Bolívar, Suárez had asked the Intendancy for an honorarium of 1,300 pesos. The Intendancy rejected the request, arguing that functionaries with salaries should not

¹⁷ For more on the social and political lives of jurists in colonial and post-colonial Latin America, see Victor M. Uribe-Uran, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780-1850* (Pittsburgh: University of Pittsburgh Press, 2000).

receive honorariums for attending to their obligations.¹⁸ If the state proved less than reliable as a source of income, however, it appears that Suárez was not above enriching himself through other means. Around this time, Suárez also acquired a sugar plantation in the district of Güines, where only a few years before he had worked to settle disputes over water rights. Rumors circulated that he had purchased the plantation with money he had extorted from defendants during the prosecution of the Soles y Rayos de Bolívar.¹⁹

As the Military Commission's *asesor*, Suárez's material interests coincided with the captaincy general's governing interests. His efforts to build up the tribunal as a vehicle for his own ambitions required that he advocate for the tribunal's legitimacy by asserting its prerogatives, and those of the captaincy general it served, in its prosecution of cases and as a legal institution. The style and substance of Suárez's consultations, which were often written in the margins of official correspondences and reports, thus infused the captaincy general's interactions with other governing institutions in tribunal-related matters with an antagonistic edge that was only smoothed over by the shared imperatives of insular security. When Miguel Tacón became captain general of Cuba in 1834, however, he sought to extend the legal discretion and leeway his office had enjoyed when contending with racial violence and political dissent towards the promotion of social order. In doing so, Tacón engaged Suárez's services, who brought with him into the context of civil governance the assertiveness that characterized his direction of the Military Commission. While institutions like the Intendancy and the Real Audiencia had accommodated, if sometimes begrudgingly, the amplification of the legal powers

¹⁸ Vives to Intendente de Exército, Havana, 2 April 1824, f. 3-3v, exp. 27, leg. 27, AP, ANC; Señores Ministros de las Cajas Matrices to Intendente de Exército, Havana, 7 April 1824, f. 4v-5, exp. 27, leg. 27, AP, ANC.

¹⁹ Pérez de la Riva, *Correspondencia reservada*, 335.

of the island's executive when it was seen as forestalling another Haitian Revolution or the perceived ruin that had recently befallen the American continent, they were less willing to acquiesce when they deemed the goal to be the concentration of sovereign authority within the office of the captaincy general. As Tacón and Suárez both learned, Cuban interests were too powerful and Spanish politics too chaotic for any fundamental reconfiguration of sovereign authority within the colonial government to take place.

The Intendancy and the Costs of Military Justice

Captain General Vives's establishment of the Military Commission in 1825 served practical and political purposes. By empowering Vives with a juridical instrument for contending with threats against the colony that operated at his discretion, the new tribunal played a role in extending the sovereign authority of captains general by amplifying their legal powers. José Ildefonso Suárez, however, saw the tribunal as an opportunity. Though the position of *asesor* came without a salary, it afforded Suárez a stable foothold within the government, in whose service he had already staked much of his career. The interests of Suárez, the tribunal, and the captaincy general they both served thus became inextricably linked. For instance, Suárez's efforts to shape the Military Commission into a viable court of law often took place through his efforts to transform the tribunal into a sustainable source of employment. Vives's contestations with the Intendancy regarding the tribunal's finances further exemplified this convergence of interests even as they revealed some of the limits of executive power during his tenure as captain general.

Administrative considerations regarding the organization and management of the Military Commission's functionaries emerged soon after Captain General Vives established the tribunal, when Suárez engaged in a tense exchange with the tribunal's first president, Brigadier General

Luís de Michelena, regarding the work the tribunal would do. Citing other obligations that prevented him from managing the tribunal's activities on a regular basis, Michelena proposed that the tribunal meet twice a month, during which time *fiscales* would update him on their respective prosecutions and he would issue all appropriate orders. This proposition did not sit well with Suárez, who responded with an assertiveness and attention to detail for which he would become renowned and reviled. He argued that the royal order of January 13, 1824, establishing Spain's system of Permanent and Executive Military Commissions, mandated a much more rigorous rhythm of work. Article 6 of the royal order, for instance, stipulated that *fiscales* consult with the *asesor* by directing their correspondences through the president, while Article 8 stated that the president consult with the *asesor* before presenting a case to the Consejo de Guerra for final judgement and sentencing. According to Suárez, then, the tribunal's president was responsible for overseeing the prosecution of cases from beginning to end; a procedure that would presumably involve the *asesor* every step of the way.²⁰ The outbreak of the slave rebellion in the Guamacaro district of Matanzas on June 15, 1825, soon forced everybody's hand. Following Vives's order that the Military Commission investigate the origins of the rebellion, Michelena promptly submitted his resignation.²¹ His replacement, Brigadier General José Cadaval, embraced the daily requirements of managing the tribunal's adjudication of the slave rebellion, ensuring that both he and Suárez would be fully occupied during all of the tribunal's subsequent prosecutions.

As tribunal officials made preparations to leave for Matanzas, the topic of compensation

²⁰ Michelena to Vives, Havana, 2 May 1825, leg. 2085, Cuba, AGI.

²¹ Manuel Barcia, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012), 127, 205n34.

arose. Upon informing Captain General Vives that he would personally travel to Matanzas to oversee the tribunal's first major case, along with Suárez, two *fiscales*, and two secretaries, President Cadaval asked Vives to submit a request to the Intendancy for funds to cover their anticipated expenses.²² The Intendancy's superintendent, Francisco de Arango y Parreño, did not share Vives or Cadaval's sense of urgency, waiting two days before replying that he needed a precise amount before releasing those funds, and that any amount would have to be paid back.²³ Cadaval apparently wrote directly to Arango y Parreño with a request for 1,500 pesos, prompting the superintendent to declare that the request would have to come directly from the captain general.²⁴ The protracted exchange tested Vives's patience, for he summoned the superintendent to a meeting the next morning to discuss the matter, after which Arango y Parreño agreed to advance the two *fiscales* 200 pesos each to cover their expenses.²⁵

The money provided by the Intendancy proved to be an ad hoc and temporary solution. On August 14, 1825, President Cadaval informed Captain General Vives that the Military Commission needed more money. One of the two *fiscales* who had traveled to Matanzas had fallen ill, and his replacement, Captain Francisco Seidel, had traveled to Matanzas at his own expense. Rather than approach the Intendancy again, Cadaval asked Vives to provide his men with some sort of bonus as a means to cover their expenses. Vives replied that he did not have the power to disperse funds in such a way and advised Cadaval to confer with José Ildefonso

²² Cadaval to Vives, Havana, 25 June 1825, leg. 2085, Cuba, AGI.

²³ Arango y Parreño to Vives (1), Havana, 27 June 1825, leg. 2085, Cuba, AGI.

²⁴ Arango y Parreño to Vives (2), Havana, 27 June 1825, leg. 2085, Cuba, AGI.

²⁵ Vives to Arango y Parreño, Havana, 27 June 1825, leg. 2085, Cuba, AGI; Suárez to Cadaval, Havana, 2 September 1825, leg. 2085, Cuba, AGI.

Suárez about a permanent solution to this problem of operating expenses, suggesting as he did that planters affected by the rebellion might be a source of funds.²⁶

Over the next six months, as the Military Commission pursued and concluded its prosecutions related to the slave rebellion, Suárez engaged in a protracted debate with Captain General Vives's legal advisor on military matters, *auditor de guerra* Felipe Martínez, regarding the tribunal's finances. While both men were committed to turning the tribunal into a fully functioning court that promoted the interests of executive power in the service of insular security, they did so as functionaries whose positions depended on their opinions being respected and acted upon. During this formative period for the tribunal, then, the rivalry between Suárez and Martínez helped shape the tribunal's institutional development.

In terms of the Military Commission's prosecution of the slave rebellion in Guamacaro, a consensus emerged around the captain general's suggestion that the tribunal ask planters affected by the rebellion for funds. Supporting the proposal, Suárez cited a law in the *Recopilación de las leyes de Indias*, which he claimed mandated that the costs of suppressing "black runaways and rebels" be divided between the Intendancy, merchants, and area residents who had benefited from such efforts.²⁷ Suárez noted that the law was not strictly applicable because the tribunal had not participated in suppressing the rebellion. He argued, though, that the tribunal's work was no less important and thus, using the law as a guide, recommended that they ask planters from the affected areas for 600 pesos to reimburse the Intendancy for the 400 pesos it had already

²⁶ Vives to Cadaval, Havana, 16 August 1825, leg. 2085, Cuba, AGI.

²⁷ *Recopilación de las leyes de Indias*, Libro 7, Título 5, Ley 20. The law only refers to actions against runaway slaves and makes no mentions of slave rebellions.

advanced to the tribunal and to cover Francisco Seidel's expenses.²⁸

Felipe Martínez concurred with Suárez's recommendation, but did so by pointing out two flaws in the very idea of institutionalizing a military tribunal in colonial Cuba. The first was that military tribunals were not authorized to charge fees to cover their operational expenses.²⁹ Martínez cast this lack of a financial stake in the outcome of cases as a positive feature, though it did cut the tribunal off from a standard practice for funding judicial proceedings. Even if the Military Commission was granted that right, Martínez pointed out that slaves had nothing of value to confiscate, and that it would be unfair to confiscate the property of their owners instead. Since they could not expect *fiscales* to pay for the legitimate expenses they incurred while carrying out their duties, however, Martínez felt that they had no choice but to turn to the planters for money.³⁰ On October 7, 1825, then, Captain General Vives ordered the Governor of Matanzas to collect 600 pesos from area planters affected by the rebellion.³¹

The core of the discussion addressed the lack of any structure for funding the tribunal's operating expenses beyond the salaries that tribunal officials earned as commissioned officers in the military. Suárez suggested that the tribunal pay its *fiscales* a monthly allowance to cover necessary expenses such as travel costs and the price of paper.³² Though not rejecting Suárez's proposal, Martínez added that an alternative solution would be to institute a system of expense

²⁸ Suárez to Cadaval, Havana, 2 September 1825, leg. 2085, Cuba, AGI.

²⁹ Indeed, *asesores* like José Idefonso Suárez providing legal counsel to military tribunals were expressly forbidden from collecting fees for their work. See Félix Colón Larriátegui, *Juzgados militares de España y sus Indias* (Madrid: Ibarra, Impresor de Cámara de S.M., 1817), 2:217.

³⁰ Martínez to Vives, Havana, 3 October 1825, leg. 2085, Cuba, AGI.

³¹ Vives to Ayllón, 7 October 1825, leg. 2085, Cuba, AGI.

³² Suárez to Cadaval, Havana, 2 September 1825, leg. 2085, Cuba, AGI.

accounts that *fiscales* could draw from by submitting periodic expense reports.³³ Captain General Vives ultimately decided to follow his *auditor de guerra*'s recommendation.³⁴ The tribunal's *fiscales* were not pleased about the tedious work of registering all their expenses, however, and asked President Cadaval if they could instead receive monthly allowances as originally suggested by José Ildefonso Suárez.³⁵ After consulting with Suárez, who saw nothing objectionable about raising the *fiscales*'s concern with the captain general, Cadaval forwarded the *fiscales*'s complaint to Vives.³⁶

Felipe Martínez advised Captain General Vives to deny the *fiscales*'s request to follow Suárez's recommendations regarding monthly allowances, citing a number of royal orders, issued over the years and in different contexts, mandating that officials recoup expenses by submitting expense reports. He also pointed to a royal order dated February 6, 1824, revealing that the metropolitan government had already determined that the operating expenses of the Military Commissions in Spain were to be covered through a system of expense accounts backed by the Intendancy.³⁷ Following Martínez's counsel, Vives rejected the *fiscales*'s request and on March 2, 1826, informed the Intendancy of his decision.³⁸

There was one other thread pervading the discussion about the Military Commission's short- and long-term finances, having to do with the unremunerated position of the tribunal's

³³ Martínez to Vives, Havana, 3 October 1825, leg. 2085, Cuba, AGI.

³⁴ Vives to Cadaval, Havana, 7 October 1825, leg. 2085, Cuba, AGI.

³⁵ Lamadriz, Rosete, and Seidel to Cadaval, Havana, 5 December 1825, leg. 2085, Cuba, AGI.

³⁶ Suárez to Cadaval, Havana, 16 January 1826, leg. 2085, Cuba, AGI.

³⁷ Martínez to Vives, Havana, 23 February 1826, leg. 2085, Cuba, AGI.

³⁸ Vives to Martínez de Pinillos, Havana, 2 March 1826, no folios, exp. 24, leg. 118, AP, ANC.

asesor, who, unlike the other members of the tribunal, was not a military officer. In his written opinion in which he had proposed giving *fiscales* monthly allowances in order to cover their operating expenses, Suárez had concluded by pointing out that the tribunal's *asesor* did not receive a salary. Though Suárez refrained from making any recommendations on this matter, perhaps in a show of strategic deference and humility, President Cadaval advocated on his behalf when writing to Captain General Vives, stating that Suárez had also incurred expenses when the tribunal travelled to Matanzas to investigate the slave rebellion.³⁹

Suárez revealed just how much he valued his position within the Military Commission when Felipe Martínez suggested, in response to Suárez's financial plight, that *fiscales* consult with local *letrados* when in the field, so as to not force the tribunal's *asesor* to incur unnecessary expenses.⁴⁰ Suárez responded forcefully, arguing that there was no way of assessing whether local *letrados* warranted the tribunal's confidence in delicate matters. Forgoing his previous deference and humility, Suárez then suggested that Captain General Vives use his extraordinary powers to assign a salary to the Military Commission's *asesor*, a competency that fell outside the purview of those extraordinary powers. Perhaps suspecting Martínez's motivations, he also argued that the *auditor de guerra* should register his opinion on the matter in writing.⁴¹ In follow up consultations, however, Martínez conspicuously failed to mention Suárez's financial predicament, and Captain General Vives signaled the resolution of the matter when he ordered the Intendancy to set up expense accounts for the Military Commission without broaching the

³⁹ Suárez to Cadaval, Havana, 2 September 1825, leg. 2085, Cuba, AGI; Cadaval to Vives, Havana, 3 September 1825, leg. 2085, Cuba, AGI.

⁴⁰ Martínez to Vives, Havana, 3 October 1825, leg. 2085, Cuba, AGI.

⁴¹ Suárez to Cadaval, Havana, 16 January 1826, leg. 2085, Cuba, AGI.

topic of Suárez's lack of a salary.⁴²

Even as the internal rivalry between José Ildefonso Suárez and Felipe Martínez influenced the Military Commission's integration into the colonial government, the divisions in administrative authority within the government itself shaped the institution's design. The tribunal had already begun working on other cases when the Intendancy's new superintendent, Claudio Martínez de Pinillos, informed Captain General Vives on March 2, 1826, that the Intendancy would not comply with Vives's order to set up expense accounts for the tribunal. Even though the tribunal was a military court, Martínez de Pinillos argued, it prosecuted cases that would otherwise be tried in the island's ordinary courts, where the costs of such prosecutions would be covered by confiscating the property of defendants.⁴³

With the Intendancy refusing to play a role in financing the Military Commission's operations, what had been an internal discussion between functionaries of the executive branch of government became a more consequential matter, pitting distinct branches of government against each other. Following the British occupation of Havana in 1762, Cuba's Intendancy had become the focus of reforms giving it greater autonomy in determining economic policy and increased control over colonial finances, with the hope that the island could play a greater role in financing its own defense. These reforms coincided with the emergence of wealthy Cuban planters as an influential lobby. Their particular interests merged with the institutional interests of the Intendancy when Francisco Arango y Parreño was given the position of superintendent of

⁴² Martínez to Vives, Havana, 23 February 1826, leg. 2085, Cuba, AGI; Vives to Martínez de Pinillos, Havana, 2 March 1826, no folios, exp. 24, leg. 118, AP, ANC.

⁴³ Martínez de Pinillos to Vives, Havana, 18 March 1826, exp. 4, leg. 5, CM, ANC. The term used is "juzgados ordinarios." Throughout this chapter, "ordinary" refers to courts or legal proceedings that do not attend to *fuero* rights or corporate status.

the Intendancy in 1823, followed by his protégé Claudio Martínez de Pinillos in 1825. Asserting the Intendancy's autonomy took on an added valence as it articulated the aspirations of a planter class wanting to have a greater say in colonial governance.⁴⁴

For the captaincy general and the imperial order it was charged with defending, however, such autonomy was a source of concern, raising fears of the spirit of independence that had brought about the end of Spain's empire on the American continent. When Captain General Vives asked for his opinion, Felipe Martínez espoused the logics of executive power, arguing that the royal orders establishing Spain's system of Permanent and Executive Military Commissions and outlining their funding mechanisms superseded any doubts Cuba's Intendancy may have had regarding the tribunal's purpose.⁴⁵ By way of reaffirming his original order, then, Vives forwarded Martínez's consultation to the Superintendent Claudio Martínez de Pinillos.⁴⁶ Though the Intendancy's internal deliberations on this matter remain unclear, by mid-1827 Vives was regularly forwarding expense reports from tribunal *fiscales* to the Intendancy for payment.⁴⁷

As the institutional voice of a planter class whose economic prosperity depended on continued productive stability, the Intendancy was committed to supporting insular security, which may explain their acquiescence on this particular matter. But that did not mean that they would simply open up their vaults. On November 19, 1827, President Cadaval sent Captain General Vives a copy of the royal order that *auditor de guerra* Felipe Martínez had cited when arguing that the Intendancy had a responsibility to cover the expenses of the Military

⁴⁴ Fradera, *Colonias para después de un imperio*, 197-204.

⁴⁵ Martínez to Vives, Havana, 30 March 1826, exp. 4, leg. 5, CM, ANC.

⁴⁶ Vives to Martínez de Pinillos, Havana, 1 April 1826, exp. 4, leg. 5, CM, ANC.

⁴⁷ Vives to Martínez de Pinillos, Havana, 11 July 1827, exp. 46, leg. 119, AP, ANC.

Commission's *fiscales*. Pointing out that rental payments figured among the expenses mentioned in the order, Cadaval asked Vives to order the Intendancy to pay the rent for the tribunal's headquarters.⁴⁸ Superintendent Claudio Martínez de Pinillos rejected the idea, replying that the Intendancy could not comply with Vives's request unless they received explicit orders to do so from their governing ministry in Madrid.⁴⁹ During their earlier, failed attempt to avoid covering the tribunal's operating expenses, the Intendancy had called into question the definitiveness of the royal order requiring that they do so. This time around, they couched their resistance in the administrative mechanism structuring their independence from the captaincy general.⁵⁰

Captain General Vives informed President Cadaval of the Intendancy's decision, offering to refer the matter to Madrid. Perhaps Cadaval believed that his response would be more forceful if presented as his own opinion, or perhaps José Ildefonso Suárez was concerned about the seemingly antagonistic relationship he had develop with Vives's *auditor de guerra*. For whatever reason, Cadaval echoed Suárez when writing directly to Vives, arguing that "when a sovereign resolution is communicated by any ministry and openly fulfilled by the captain general of a province, all of his employees, whatever [branch of government] they belong to, must execute [the order] the same." For instance, Cadaval pointed out that the Real Audiencia had accepted Vives's establishment of the Military Commission even though they had not been explicitly ordered to do so by the Ministry of Justice in Spain. Furthermore, the Intendancy had already complied with some of the royal order of February 6, 1824, and had thus acknowledged that

⁴⁸ Cadaval to Vives, Havana, 19 November 1827, leg. 2085, Cuba, AGI.

⁴⁹ Martínez de Pinillos to Vives, Havana, 27 November 1827, exp. 5, leg. 5, CM, ANC.

⁵⁰ For the divisions in administrative authority between the captaincy general and the Intendancy, see Duvon C. Corbitt, "The Colonial Government of Cuba" (PhD diss., University of North Carolina, 1938), 29-32.

aspects of the Military Commission's finances were its responsibility. It did not make sense, then, for the Intendancy to acknowledge the tribunal's legitimacy by complying with portions of a royal order, and then refuse to act on another portion of the same order unless told to do so from their responsible ministry in Spain. The Intendancy's actions undermined the sovereign will of the King and the authority of the captain general, Cadaval argued, and so it was in the interest of Vives and his office to order the Intendancy, once again, to comply with the law.⁵¹

During his time governing Cuba, Captain General Vives had maintained good relations with leading segments of Cuban society. His support of the slave trade despite treaty obligations, and his attention to social niceties ingratiated Vives within the social world of Cuban elites.⁵² This social integration also had political ramifications, as the metropolitan government relied on Cuban revenues to subsidize its depleted coffers. His prowess in this regard did not merely come from his willingness to hand out titles and rewards, but extended to his governing style. Rather than confront the Intendancy again, Vives asked the Ministry of War to increase President Cadaval's annual salary by 1,000 pesos, with the additional funds being earmarked to cover the tribunal's rent payments.⁵³ This solution had the benefit of directing the Intendancy to proportion additional funds to the Military Commission as part of the institution's acknowledged responsibility to pay for military salaries. The matter worked its way through the system for almost two years before the Ministry of War issued a royal order increasing President Cadaval's

⁵¹ Cadaval to Vives, Havana, 5 December 1827, exp. 5, leg. 5, CM, ANC. "Cuando una soberana resolución se ve comunicada por cualquiera ministerio y cumplida notoriamente por el Capitan General de una Provincia, todos los empleados de ella, sean del ramo que fueren deben ejecutarla lo mismo."

⁵² Fradera, *Colonias para después de un imperio*, 229.

⁵³ Vives to Minister of War, Havana, 15 December 1827, exp. 5, leg. 5, CM, ANC.

salary by 1,500 pesos to cover such expenses.⁵⁴ The matter had taken so long to resolve because Cuba's Intendancy had been asked to consult on the matter and had advised that an annual increase of 1,500 pesos would be more appropriate than the proposed 1,000 pesos.⁵⁵ With its autonomy respected, the Intendancy accepted the solution.

Guided by a shared interest in colonial defense, Captain General Vives and the Intendancy maintained a positive relationship as they got the Military Commission up and running. This had required a delicate and diplomatic touch on the captain general's part, one that was not reflected in any of José Ildefonso Suárez's opinions directed to President Cadaval, or through the president to Vives himself. Though at times contentious, these disputes between branches of government were the inevitable consequence of putting policy into practice. On August 5, 1828, the Ministry of War issued a royal order giving military courts working on cases in the ordinary jurisdiction the right to sentence defendants to pay court cost and to have their property confiscated if need be. This authorization paved the way for José Ildefonso Suárez to claim rights to an honorarium as part of the cost of a prosecution.⁵⁶

Despite these efforts to shore up the Military Commission's finances, Cuba was not fertile terrain for a court primarily prosecuting cases of everyday crime to finance its operations

⁵⁴ Vives to Martínez de Pinillos, Havana, 8 August 1829, exp. 5, leg. 5, CM, ANC.

⁵⁵ Consulta, Madrid, 2 May 1829, f. 827-829, leg. 5, Ultramar, AGI.

⁵⁶ Minister of War to captain general of Puerto Rico, Madrid, 5 August 1828, leg. 768, Ultramar, AGI. Though this royal order was issued to the captain general of Puerto Rico, a copy of this royal order was also sent to Cuba, as mentioned in Cadaval to Tacón, Havana, 18 July 1834, no. 39, exp. 20, leg. 1661, Ultramar, AHN. That Suárez could now charge fees against recovered court costs is mentioned in Cadaval to Vives, Havana, 16 March 1831, exp. 31, leg. 9, CM, ANC.

on the backs of its defendants.⁵⁷ During an 1830 review of the tribunal's pecuniary practices, President Cadaval revealed that he had as of yet only recovered thirty pesos from his share of court costs, while *fiscal* Francisco Letamendi reported that the tribunal regularly sentenced defendants to pay court costs knowing full well that they did not have the means to do so.⁵⁸

No one was more directly affected by the Military Commission's precarious financial situation than José Ildefonso Suárez. Though he had gained the right to claim fees against court costs, he still worked without a salary. As late as June 28, 1829, President Cadaval was still mentioning Suárez's lack of a salary in his status reports to Captain General Vives.⁵⁹ Finally, on March 14, 1831, Suárez played his only remaining card. In a letter to President Cadaval, Suárez announced that he was renouncing his rights to a portion of recovered court costs, asking that they instead be given to the colonial treasury. As these rights had never generated much revenue, Suárez's move was mostly symbolic. Its symbolism was strategic, though, in that renouncing his rights was meant to bolster his reputation among his superiors. Undoubtedly in coordination with Suárez, President Cadaval announced soon after that all of the other members of the tribunal, including himself, had decided to follow Suárez's example.⁶⁰ In an institutional context where the tribunal's place was acknowledged but by no means guaranteed, such a move was mostly symbolic, but had the potential to play a major role in future contestations regarding the tribunal's place in the colonial government.

⁵⁷ See Chapter 2.

⁵⁸ Vives to Cadaval, Havana, 15 October 1830, exp. 4, leg. 5, CM, ANC; Fiscales's reports on finances, Havana, 17 October 1830, exp. 5, leg. 5, CM, ANC.

⁵⁹ Cadaval to Vives, Havana, 28 June 1829, exp. 7, leg. 6, CM, ANC.

⁶⁰ Cadaval to Vives, Havana, 16 March 1831, exp. 31, leg. 5, CM, ANC.

The Real Audiencia and the Boundaries of Military Justice

While the Military Commission and the Intendancy developed a working relationship guided by their shared commitment to promoting Cuba's security, the tribunal's relationship with Cuba's highest court, the Real Audiencia, proved to be contentious. Captain General Vives's inclusion of the Military Commission within Cuba's judicial landscape necessarily infringed upon the jurisdiction of the island's system of civil courts, atop of which sat the Real Audiencia. A degree of antagonism was inevitable, as the Military Commission was created precisely so that the captain general could bypass existing courts in the prosecution of threats against the colony. This antagonism was not specific to Cuba and had served to undermined previous efforts to use military courts in civil contexts in Spain. For José Ildefonso Suárez, however, this antagonism threatened the very existence of the tribunal and thus his attempts to use it as a vehicle for his own ambitions. Suárez thus assumed an assertive posture when advocating for the tribunal, a disposition that engendered discord with one of the major institutions of the colonial government, but which was compatible with resurgent efforts to centralize governing authority within the office of the captaincy general.

The system of Permanent and Executive Military Commissions established throughout the Spanish Empire between 1824 and 1825 was only the latest attempt to use military courts in civil jurisdictions. In response to the social unrest that followed the expulsion of Napoleon's forces from the Iberian Peninsula in 1814, Fernando VII had authorized the military to employ ad hoc military tribunals to prosecute the alleged vagrants and bandits they had apprehended, rather than turning such prisoners over to local authorities. Civil courts at the municipal and provincial levels voiced sufficient opposition to this infringement upon their jurisdictions that the

monarchy suspended the use of these ad hoc military tribunals on October 15, 1815.⁶¹

The next steps towards deploying such military tribunals against political targets, however, took place in 1823, after the French, fearful of the entrenchment of liberal governance along their southern border, again invaded the Peninsula to put an end to the *trienio liberal* and restore Fernando VII as absolute monarch. On August 18, 1823, before Fernando VII officially retook the throne, the head of French forces ordered the Royal Commission of Andalusia to establish a military tribunal in Seville in order to prosecute enemies “of the altar and the throne,” in light of “the critical and dangerous circumstances in that city.” The Real Audiencia of Seville resisted the move, arguing that the exigencies of the moment did not warrant diminishing its jurisdiction. In a bid to curry favor with conservative elements supporting Fernando’s restoration, Seville’s Real Audiencia argued that the military tribunal would also infringe upon the jurisdiction of ecclesiastical courts.⁶²

The Real Audiencia of Seville’s objection presaged the one forwarded by the Consejo de Castile, one of the monarchy’s oldest consultative bodies, when Fernando VII’s government issued the royal order of January 13, 1824, establishing the system of Permanent and Executive Military Commissions. The Consejo stated that they would not have objected to the new military tribunals if they were only to handle cases dealing with “thieves and criminals that were apprehended by the army on rural roads and estates,” quoting language in the royal order, as those were powers that captains general already enjoyed. Giving these new tribunals jurisdiction over cases dealing with disloyalty and other forms of political dissent, however, would infringe

⁶¹ Consulta, Madrid, 10 April 1824, f. 198-216v, lib. 988, Consejos, AHN.

⁶² Consulta, Madrid, 22 September 1823, f. 331-327, lib. 987, Consejos, AHN. “del altar y del trono,” in light of “las críticas y peligrosas circunstancias en que se hallan esa ciudad...”

upon the jurisdiction of existing civil courts and engender the same kind of problems that had forced Fernando VII to suspend the use of similar military tribunals in 1815. Citing the prominent role elements of the military had played in the uprising that had resulted in the *trienio liberal*, the Consejo went so far as to speculate on whether the military could even be trusted with such expanded powers. As they saw it, the courts and other legal institutions constituting Spain's system of civil law, which had remained loyal during the *trienio liberal*, were the backbone of Spanish society, channeling the power of the state to the people, while protecting the individual rights of all. By undermining the legal foundations upon which Spanish society resided with military courts that were of questionable loyalty and capacity, "the effective result of this new provision would be to invite anarchy, encouraging disturbers of the peace and His Majesty's enemies with guarantees and safeguards they lacked before."⁶³ As in 1815, opposition to the new system of permanent military tribunals grew until Fernando VII ordered that they be suspended on August 4, 1825, at the same time authorizing captains general at the head of provincial governments throughout Spain to keep their respective Military Commissions in operation if they deemed it necessary for maintaining the peace.⁶⁴

Captain General Vives's establishment of Cuba's own Military Commission on March 4, 1825, provoked some public derision. The liberal educator and public intellectual Father Félix Varela, who had represented Cuba in Spain during the *trienio liberal* and was currently in exile in New York City, saw the new tribunal as an escalation in a form of military governance run by

⁶³ Consulta, Madrid, 10 April 1824, f. 198-216v, lib. 988, Consejos, AHN. "el efectivo resultado de esta nueva disposición, debe ser invitar á la anarquía, alentando a los perturbadores del orden y a los enemigos de Vuestra Majestad, con aquellas garantías y salvaguardias de que antes carecían."

⁶⁴ Pedro Pegenaute, *Represión política en el reinado de Fernando VII: Las comisiones militares (1824-1825)* (Pamplona: Universidad de Navarra, 1974),79.

“men who are not interested in the good of [Cuba], with the exception of their jobs and the exactitude with which they are paid their salaries, and who, having returned to Spain with honor, that is, having attended to the wishes of their masters, have gained everything, though at the expense of the island.”⁶⁵ The tribunal’s notable success in prosecuting the slave rebellion in Guamacaro, however, validated the new court in Vives’s eyes as a tool for defending insular security. When he received a royal order dated October 15, 1825, mandating that he suspend Cuba’s Military Commission as had been done on the Peninsula, he thus used his extraordinary powers to disregard the order and keep the tribunal in operation, an act that received Spain’s approval the following year.⁶⁶

Leading figures in Cuba also supported the Military Commission for its perceived role in preserving the peace. While the tribunal occasionally dealt with high-profile cases such as the Guamacaro rebellion of 1825 and the separatist conspiracy known as the *Águila Negra* in 1830-1831, it directed most of its energies to prosecuting cases of everyday forms of crime, such as murder and theft, in and around Havana.⁶⁷ When Mariano Ricafort replaced Francisco Dionisio Vives as captain general in 1832, he pointed to anecdotal evidence of rampant crime when spearheading an effort to determine if the Military Commission should have its powers expanded. While the tribunal counted the whole island within its jurisdiction in cases of political dissent, it only handled cases of crime if they occurred within a one league radius of Havana.

⁶⁵ Félix Varela y Morales, *Obras* (Havana: Imagen Contemporánea, 2001), 2:233-236. “hombres a quienes nada les interesa el bien del país, sino sus empleos y la mayor o menor exactitud con que se paguen sus sueldos, y que en volviendo a España con honor, esto es: habiendo correspondido a las intenciones de su amo, todo lo tienen ganado, aunque se arruine la Isla.”

⁶⁶ Vives’s use of his extraordinary powers is mentioned in Martínez to Tacón, Havana, 21 February 1835, exp. 58001, leg. 1469, GSC, ANC.

⁶⁷ See Chapter 2.

Captain General Ricafort proposed extending this radius to ten leagues, and asked some of Havana's most prominent residents for their opinions. The Conde de Fernandina, one of the largest slaveholders in Cuba, supported the idea, crediting the tribunal with a decline in violent crimes in the city.⁶⁸ Though the superintendent of the Intendancy claimed that he could not offer a specific opinion unless ordered to do so from Spain, he did state that in the past he had supported the idea of increasing the number of *fiscales* working for the tribunal.⁶⁹ Owing to the growing sense that the tribunal was playing a vital role in securing the island from slave rebellions and everyday forms of crime, then, Cuba's Military Commission avoided the overwhelming pushback that had doomed its counterparts in Spain. By 1832, it had become a seemingly permanent fixture on the institutional landscape of the colonial government.

Permanence, however, did not necessarily entail acceptance. Like their counterparts on the Peninsula, members of Cuba's Real Audiencia saw in Captain General Vives's establishment of the Military Commission an unnecessary transgression of their own authority. The mere presence of the new tribunal upon the island's judicial landscape thus engendered tension between the island's high court and the purveyors of increased executive authority. This was exemplified in early September 1828, when the Commandant General in charge of the eastern department of Cuba informed Captain General Vives that a man named Antonio Arango had disembarked in the city of Manzanillo without a passport and under an alias. Arango had fled Cuba in 1823, after being implicated in a case of treason being prosecuted by the Real Audiencia. Wary of Arango's return to Cuba, the Military Commission ordered his transfer to Havana for questioning. The Real Audiencia, on the other hand, claimed Arango as their own as

⁶⁸ Conde de Fernandina to Ricafort, Havana, August 1833, exp. 35421, leg. 1022, GSC, ANC.

⁶⁹ Martínez de Pinillos to Ricafort, Havana, 20 May 1833, exp. 35421, leg. 1022, GSC, ANC.

part of their unfinished prosecution from 1823.⁷⁰

In counseling President Cadaval on the matter, José Ildefonso Suárez argued that the Military Commission's claim over the imprisoned Antonio Arango was substantiated by Article 16 of the royal order of January 13, 1824, establishing the system of Permanent and Executive Military Commissions. The article stated that courts prosecuting cases that would subsequently be handled by the new system of military tribunals would be allowed to conclude those prosecutions if they had been initiated prior to the establishment of the new tribunals. While it was true that the Real Audiencia's claim over Arango was based on a case that predated the Military Commission's founding, Suárez argued that Arango had now been arrested for activities that clearly fell within the tribunal's jurisdiction, thus giving its claim priority. Suárez's opinion won the support of *auditor de guerra* Felipe Martínez and Captain General Vives, who ordered the commandant general of the Eastern Department to have Arango transferred into the tribunal's custody.⁷¹

The Real Audiencia responded to the commandant general's order with silence. When word of this slight got back to the Military Commission, Suárez advised that the incident be the basis of a formal complaint against the high court to be sent to Captain General Vives. As part of this complaint, one of the tribunal's *fiscales* compiled a list of other incidents in which the Real Audiencia had slighted the Military Commission by, for example, failing to acknowledge receipt of documents or even to respond to official correspondence. On November 27, 1828, Cadaval sent the complaint to Captain General Vives, asking that he refer the matter to the responsible

⁷⁰ Cadaval to Vives, Havana, 13 September 1828, exp. 47, leg. 120, AP, ANC.

⁷¹ Cadaval to Vives, Havana, 13 September 1828, exp. 47, leg. 120, AP, ANC; Vives to Commandant General of Oriente, Havana, 19 September 1828, exp. 47, leg. 120, AP, ANC.

ministries in Spain.⁷²

While it remains unclear what came of the Military Commission's complaint, it appears that the Real Audiencia acquiesced and transferred Antonio Arango into the tribunal's custody. By September 7, 1829, the tribunal had concluded its prosecution against Arango, finding no evidence of any wrongdoing other than entering Cuba without a passport and under an alias. While the tribunal's Consejo de Guerra voted to drop the case, they nonetheless sentenced Arango to pay the cost of his prosecution. The tribunal then transferred Arango back to the Real Audiencia, along with copies of important documents from its investigation, so that the high court could continue with its original prosecution from 1823.⁷³ Even in this seeming act of inter-institutional cooperation, the tribunal's precedence in matter related to insular security was being affirmed.

The tensions in the institutional relationship between the Military Commission and the Real Audiencia were exacerbated by José Ildefonso Suárez, who was as interested in furthering his own professional and material aspirations as he was in promoting the interests of insular security. Since the tribunal's legitimacy hinged, in part, on having cases to prosecute, Suárez had an incentive to keep the tribunal busy by claiming the jurisdiction necessary to initiate prosecutions. Each case the tribunal prosecuted, moreover, also had the potential of generating revenues.

Conflicts over jurisdiction between the Military Commission and the Real Audiencia

⁷² Suárez to Cadaval, Havana, 18 November 1828, leg. 2085, Cuba, AGI; Castellanos to Suárez, Havana, 25 November 1828, leg. 2085, Cuba, AGI; Cadaval to Vives, Havana, 27 November 1828, leg. 2085, Cuba, AGI.

⁷³ Cadaval to Vives, Havana, 7 September 1829, leg. 2085, Cuba, AGI; Martínez to Vives, Havana, 24 September 1829, leg. 2085, Cuba, AGI.

took place within a division of administrative authority that had been negotiated over time and for specific reasons. The introduction of the tribunal was certainly disruptive, but the tensions and antagonisms that ensued were more or less within the bounds of normal governing practices. Inter-institutional contestations soon took on greater significance, however, with the wholesale reconfiguration of the governing order itself. After Fernando VII's death, his wife María Cristina served as Queen Regent for their three-year-old daughter, who formally ascended to the throne as Queen Isabela II. Fernando VII's brother Carlos contested his niece's succession, sparking the First Carlist War (1833-1840). In response, María Cristina formed a governing alliance with liberals in order to fend off Carlos's conservative challenge. The alliance resulted in a number of reforms in Spain, the most notable of which was the Royal Statute of 1834, which instituted a legislature with an appointed upper house, an elected lower house, a limited franchise, while maintaining that national sovereignty resided with the monarchy.⁷⁴

This new political order in Spain also resulted in the naming of Miguel Tacón as captain general of Cuba on March 7, 1834. A life-long man of the Spanish navy and military, Tacón had distinguished himself as a military leader during the wars for independence in South America before returning to Spain in 1819. He had been an active supporter of Spanish liberalism during the *trienio liberal*, serving as the Governor of Málaga and then Seville, and counted as his friends and acquaintances leading political figures in the new liberal order. Following the restoration of Fernando VII in 1823, however, Tacón retreated from public life. With María Cristina's alliance with liberals after Fernando VII's death, Tacón came back into favor, being named the captain general of Andalucía before ultimately being given the captaincy general of

⁷⁴ Raymond Carr, *Spain: 1808-1875*, 2nd ed. (Oxford: Oxford University Press, 1982), 155-168.

Cuba.⁷⁵

Miguel Tacón's arrival in Cuba in early June 1834 was accompanied by royal orders that reaffirmed the extraordinary powers that had been enjoyed by his predecessors. In response to earlier attempts by Francisco Arango y Parreño to obtain greater policy-making powers for Cuban planters on economic matters, contemporaneous royal orders also reaffirmed the captaincy general's supremacy at the head of colonial governance, signaling the metropolitan government's commitment to isolating Cuba from the political transformations taking place in Spain.⁷⁶ Despite the hopes of proponents of liberalism such as Cuban statesman and intellectual José Antonio Saco that the liberal turn in Spain would result in the lifting of prohibitions on certain types of public expression, Tacón continued Mariano Ricafort's policy of press censorship. And just as Francisco Dionisio Vives had maintained a productive and working relationship with Superintendent Claudio Martínez de Pinillos, Tacón continued in this spirit of cooperation when he ordered Saco to leave the island at the superintendent's urging because of Saco's outspoken opposition to the slave trade.⁷⁷ Tacón's tenure thus began as an extension of the administrations of his predecessors. Though he had been guided by liberal ideals as a partisan in Spain, he approached colonial governance in Cuba as an agent of the Spanish Empire, committed to maintaining Cuba's booming economy servicing the financial needs of the metropole.⁷⁸

⁷⁵ Pérez de la Riva, *Correspondencia reservada*, 13-17.

⁷⁶ Fradera, *Colonias para después de un imperio*, 133-140.

⁷⁷ Larry R. Jensen, *Children of Colonial Despotism: Press, Politics, and Culture in Cuba, 1790-1840* (Tampa, FL: University of Florida Press, 1988), 110-111.

⁷⁸ Pérez de la Riva, *Correspondencia reservada*.

Reverberations from the political changes taking place in Spain nonetheless reached Cuba in other ways. On July 29, 1834, Queen Regent María Cristina called for the immediate suspension of the remaining vestiges of the system of Permanent and Executive Military Commissions established by her late husband, as part of a greater effort to shore up her governing coalition by making concessions to regional autonomy within the peninsula.⁷⁹ A week later, the Ministry of Justice in Madrid sent a royal order to Regent Ignacio Escoto, the head of Cuba's Real Audiencia in Puerto Príncipe, mandating that he put María Cristina's decree into immediate effect. Escoto received the royal order on January 8, 1835, and published the decree in Puerto Príncipe's newspaper eight days later. He then forwarded the documents to Tacón, with the expectation that the captain general would disband the Military Commission and transfer its ongoing prosecutions to the Real Audiencia.⁸⁰

Upon receipt of Escoto's communication, Captain General Tacón asked *auditor de guerra* Felipe Martínez for his opinion. Martínez pointed to a number of provisions in the *Recopilación de las leyes de Indias* structuring the relationship between the captain general, who was also the titular head of the Real Audiencia, and the high court's regent. The captain general was the regent's superior in all matters, he argued, thus making Escoto's communication to Tacón, a communication that read like a command, a serious breach of protocol. Turning to the substance of the matter, Martínez then argued that the Military Commission should not be disbanded owing to its proven role in defending the island from large-scale slave rebellions, rural banditry and urban crime, and the multiple conspiracies attempting to foment political revolution. In his opinion, neither the *jueces pedáneos* policing rural districts and urban

⁷⁹ Ybarrola to Escoto, Madrid, 11 August 1834, exp. 58001, leg. 1469, GSC, ANC.

⁸⁰ Escoto to Tacón, Puerto Príncipe, 7 February 1835, exp. 58001, leg. 1469, GSC, ANC.

neighborhoods nor the lower courts of the ordinary jurisdiction were sufficiently capable to prevent, contend with, and punish these threats in ways that were quick and exemplary. That is why Captain General Vives had founded the tribunal in the first place, he continued, and why Vives had used his extraordinary powers not to comply with Fernando VII's royal order of October 15, 1825, disbanding the system of Military Commissions he had established the year before.⁸¹

Considering the vital role the tribunal played in securing Cuba, Martínez warned, "all this would disappear with the removal of this tribunal, because it is indisputable that the Military Commission, made up of high ranking judges, of *fiscales* and secretaries of principle and honor, guided by a decorated and reputed *asesor*, subject to the immediate supervision of [the captain general], who approves and corrects its sentences, and assisted by the full power of [the captain general], is the only [court], that at this remove, and in our position and circumstances, can fulfill the objective of its founding, the security and conservation of this part of Her Majesty's domains."⁸²

Citing the Real Audiencia's known antipathy towards the Military Commission, Martínez concluded by advising Captain General Tacón to use his extraordinary powers to disregard the royal order calling for the suspension of Cuba's Military Commission in order not to deny the

⁸¹ Martínez to Tacón, Havana, 21 February 1835, exp. 58001, leg. 1469, GSC, ANC.

⁸² Martínez to Tacón, Havana, 21 February 1835, exp. 58001, leg. 1469, GSC, ANC. "Y todo desaparecería con quitar este Tral. pues es indudable que la comisión militar compuesta de Jueces de alta graduación, de fiscales y secretarios oficiales de principios y de honor, ilustrados por un Asesor condecorado y de reputación bajo la inmediata inspección de VE que a prueba ó enmienda sus sentencias, auxiliadas de todo el lleno del poder de VE, es el unico que á esta distancia, en nuestra posición y circunstancias puede llenar el objeto de su institución, la seguridad y conservación de esta parte de los dominios de SM."

government a useful tool for maintaining the peace.⁸³ In a decree dated February 23, 1835, Tacón stated that though the metropolitan government had deemed it appropriate to suspend the remaining Military Commissions in Spain, circumstances in Cuba made the tribunal essential for maintaining the peace. He thus ordered that copies of his decree be sent to all local and regional authorities for publication in local newspapers. All this, Tacón argued, would help to undo the damage the Real Audiencia had done by failing to consult with the captain general before mandating the suppression of the Military Commission. As a final reprimand to the Real Audiencia, Tacón ordered that henceforth only the captain general was authorized to publish royal orders and decrees.⁸⁴ Unlike his predecessors who had had to acquiesce some to the levels of administrative independence and sovereign authority enjoyed by institutions like the Intendancy and the Real Audiencia as a pragmatic strategy for maintaining Cuba within the empire, Tacón would pursue a different tack, attempting to concentrate authority within the office of the captaincy general.

The discord between the Military Commission and the Real Audiencia emerged as metropolitan and imperial politics were undergoing drastic transformations, turning questions of legal jurisdiction and governing authority into objects of intense contestation. Within this dynamic context, José Ildefonso Suárez's professional aspirations for the tribunal and Captain General Tacón's political goals for colonial governance converged such that defense of the tribunal and its prerogatives could stand in for more consequential disputes over the distributed nature of sovereign authority in Cuba. As Tacón's wishes to concentrate power within the office of the captaincy general and the Real Audiencia's efforts to maintain its institutional autonomy

⁸³ Martínez to Tacón, Havana, 21 February 1835, exp. 58001, leg. 1469, GSC, ANC.

⁸⁴ Decreto, Havana, 23 February 1835, exp. 58001, leg. 1469, GSC, ANC.

pitted these two pillars of the colonial government against each other, the ensuing conflicts mapped onto emerging fault lines between the central government in Havana and regional centers like the city of Puerto Príncipe.

The Court of Vagrants and *Picapleitos*

Captain General Tacón's struggle with the Real Audiencia did not end with his use of his extraordinary powers to keep the Military Commission in operation. The Real Audiencia soon appealed to the Consejo de Indias, charging that for a captain general to disregard royal orders from Spain was incompatible with a well-ordered society.⁸⁵ Tacón, in turn, portrayed the courts of the ordinary jurisdiction as standing in the way of efforts to promote security and stability on the island. He assumed a more assertive disposition towards extending executive power into the judiciary and called on the Military Commission to increase its prosecutions of cases of everyday crime, charging that the ordinary courts were failing to meet their obligations.⁸⁶

Tacón's increasing dependence on the Military Commission to adjudicate cases of everyday crime, however, did nothing to reduce José Ildefonso Suárez's dissatisfaction with the tribunal as a source of income. As much as he valued the recognition he had gained through advising the tribunal, he also hoped to take some other position within the government. Some years earlier, Suárez had sought the recently vacated position of *asesor primero*, the captain general's primary legal advisor on matters pertaining to civil governance.⁸⁷ In his final days in

⁸⁵ Candelaria Saiz Pastor, "Liberales y esclavistas: El dominio colonial español en Cuba, 1833-1868" (PhD diss., Universidad de Alicante, 1990), 44-45.

⁸⁶ Fradera, *Colonias para después de un imperio*, 137-140.

⁸⁷ Untitled, Madrid, 27 April 1829, no. 11, exp. 20, leg. 1661, Ultramar, AHN.

Cuba, Captain General Vives had advocated on Suárez's behalf, petitioning the Secretary of State in Madrid to award Suárez with the salary of an *oidor* of the Real Audiencia in recognition of his years of service.⁸⁸ Vives's successor, Captain General Mariano Ricafort had similarly solicited a salary for Suárez, adding that Suárez's sugar plantation in Güines had lost fifty-six slaves during a recent cholera epidemic and that Suárez, his wife, and their eight children were on the brink of financial ruin.⁸⁹ And shortly after arriving in Cuba in 1834, Tacón had taken heed of President José Cadaval's recommendation of Suárez and asked the Secretary of State to consider appointing Suárez as an official *oidor* of the Real Audiencia.⁹⁰ In spite of these efforts, no salary or new position had been forthcoming.

As Captain General Tacón assumed a more assertive disposition in promoting insular security, he extended his focus towards behaviors that, though perhaps not security threats in themselves, transgressed his vision of a well-ordered society. Towards that end, he would soon solicit José Ildefonso Suárez's assistance, as Suárez had years of experience practicing law in the service of security, repression, and domination. On September 22, 1834, Tacón issued a set of instructions resurrecting and updating a neglected royal ordinance from 1775 outlining procedures for dealing with vagrants outside the ordinary system of law. According to Tacón, the 1775 ordinance rested on a legal tradition stretching back to the fourteenth century, authorizing

⁸⁸ Vives to Secretario de Estado y del despacho de gracia y Justicia, [no location], 22 August 1832, no. 26, exp. 20, leg. 1661, Ultramar, AHN.

⁸⁹ Cadaval to Ricafort, Havana, 3 May 1833, no. 31, exp. 20, leg. 1661, Ultramar, AHN; Ricafort to Secretario de Estado y del Despacho de la Guerra, Havana, 28 May 1833, no. 30, exp. 20, leg. 1661, Ultramar, AHN.

⁹⁰ Cadaval to Tacón, Havana, 18 July 1834, no. 39, exp. 20, leg. 1661, Ultramar, AHN; Tacón to Secretario de Estado y del Despacho de la Guerra, Havana, 28 July 1834, no. 38, exp. 20, leg. 1661, Ultramar, AHN.

local authorities to take vagrants into custody and subject them to forced labor or corporal punishment, not as a sentence for a crime, but as a corrective measure meant to dissuade future criminal activity. In his instructions for Cuba, Tacón ordered *jueces pedáneos* to detain men deemed to be vagrants found within a five-league radius of Havana, to collect testimony from two witnesses capable of attesting to their vagrant status, and then to imprison them. The instructions were sweeping for their broad definition of what constituted a vagrant, including any man over sixteen years of age without an occupation, property, or other sources of income, men living off of an inheritance who spent all their time gambling and frequenting places of ill repute, drunkards, beggars, men who were otherwise good but demonstrated arrogance, and men carrying prohibited weapons. Pointing to a provision in the *Novísima recopilación de las leyes de España* giving captains general in Spain exclusive jurisdiction over cases involving vagrants captured by soldiers, and pointing to the soldiers used by *jueces pedáneos* to apprehend these men, Tacón concluded by claiming that in cases of vagrancy, other courts could not contest jurisdiction and the vagrants themselves could not appeal their sentences.⁹¹ A few weeks later, on October 7, 1834, Tácon updated his instructions, extending their reach to encompass the entire island. Though he would still personally oversee cases against vagrants only within a five-league radius of Havana, the ordinary courts overseeing the others were to send him summary reports.⁹²

Tacón's anti-vagrancy initiative encountered its first obstacle a few months later, when authorities arrested a man who was a ship's pilot by profession, but who had not worked as such since arriving in Havana in 1828. This alone made the man a vagrant according to Tacón's broad definition. His presence in Havana was deemed further prejudicial because he made a living as a

⁹¹ Bando, Havana, 22 September 1834, exp. 56810, leg. 1448, GSC, ANC.

⁹² Circular, Havana, 7 October 1834, exp. 56814, leg. 1448, GSC, ANC.

picapleito, a catch-all term denoting men who worked in legal capacities without being sanctioned members of the legal profession. Indeed, the *Bando de buen gobierno* of 1828 defined *picapleitos* as “pernicious men... who, without any title, and to the dishonor of the brilliant profession of the law and to the detriment of the proper administration of justice, appear to have sworn to ruin landowners through litigation and to perpetuate discord, in order to enrich themselves with the fortunes of honorable families.”⁹³ Furthermore, the *Bando de buen gobierno* stipulated that *picapleitos* were to be punished as vagrants.⁹⁴ Owing to the man’s original profession as a ship’s pilot, however, the Naval Court claimed that they had jurisdiction in this matter. Tacón wrote to the Secretary of State outlining his claim to jurisdiction in all cases of vagrancy, arguing that his efforts to promote social order in Cuba would be undermined if other courts had the ability to slow down or halt these prosecutions by contesting jurisdiction. He thus asked the Secretary of State to refer the matter to the Queen Regent, suggesting that other courts cede their rights to contest jurisdiction for the good of the public.⁹⁵

Captain General Tacón’s claim that he had exclusive jurisdiction in cases of vagrancy

⁹³ See code 55 in *Bando de buen gobierno*, 15. “Desgraciadamente se ha cundido el foro en esta capital de una plaga de hombres perniciosos llamados pica-pleitos, que sin título alguno, y con desdoro de la brillante carrera de la abogacía y mengua de la recta administracion de justicia, parece que han jurado arruinar con litigios á los propietarios y eternizar la discordia, para enriquecerse con la fortuna de las honradas familias; por lo cual orden y mando que los litigantes, escribanos, y los mismos letrados, á cuyo honor tanto interesa el esterminio de esta raza, me los denuncien secretamente, para sorprenderlos en sus mesas, que mantienen tan pública y abusivamente, y proceder con brevedad y sin estrépito de juicio á la averiguacion debida; y con su mérito destinarlos como vagos por un año ó mas, segun corresponda, al servicio de la marina, en donde el riguroso cumplimiento de sus leyes les enseñara á respetar las públicas en lo adelante; y apercibo de la mas séria correccion, hasta informar a S.A. la real Audiencia, para que se le recojan los títulos á los letrados que cubriesen con sus firmas á semejantes perturbadores.”

⁹⁴ See code 55 in *Bando de buen gobierno*, 15.

⁹⁵ Tacón to Secretary of State, Havana, 30 January 1835, f. 1-1v, exp. 52126, leg. 1332, GSC, ANC.

replicated the Military Commission's exclusive jurisdiction over cases of political dissent and extended his predecessors' reliance on the tribunal to contend with forms of everyday crime in and around Havana. His anti-vagrancy initiative was an innovation, however, as it extended the juridical reach of the captaincy general, not just in matters of insular security and crime, but in the promotion of social order as well. To anchor this move in juridical arguments, his best bet was to seek the advice of José Ildefonso Suárez, longtime champion of executive authority. Taking advantage of the sudden departure of his official *asesor primero*, Tacón named Suárez to the position on an interim basis, soon after informing his superiors in Madrid of the appointment to ask for their approval.⁹⁶

By the time Suárez began formally advising Captain General Tacón on governing matters, Tacón face multiple challenges in his relationships with different segments of Cuban society. His continued practice of press censorship and his deportation of José Antonio Saco antagonized an emerging cohort of liberal-minded intellectuals increasingly dissatisfied with the nature of Cuba's relationship with Spain. His use of his extraordinary powers to keep the Military Commission in operation despite directives from Spain had placed him at odds with the Real Audiencia. And unlike his predecessors, Tacón was unable to maintain an amicable working relationship with Claudio Martínez de Pinillos, engaging in a series of disputes with the superintendent of the Intendancy regarding railroad construction, public works, and a growing list of social slights against the superintendent's peers and allies.⁹⁷ Within this contentious

⁹⁶ Tacón to Secretario de Estado y del Despacho de Gracia y Justicia, Havana, 20 September 1835, no. 34, exp. 20, leg. 1661, Ultramar, AHN.

⁹⁷ Miguel Ferrer y Martínez, *El general Tacón, marqués de la unión de Cuba y el conde de Villanueva o sea constestación a varios artículos y folletos en favor del primero y contra el segundo* (Madrid: Imprenta Amarita, 1838).

context, Suárez pursued his duties as the captain general's *asesor primero* with the rigor and assertiveness that had characterized his work for the Military Commission, transferring the defense of executive authority he had promoted in criminal and security contexts into the realm of civil governance, often triggering political conflict.

One incident is telling. As a result of the alliance Queen Regent María Cristina had made with liberals in order to stave off the Carlist challenge, she had agreed to hold elections throughout Spanish domains, including its overseas possessions, in order to select deputies according to the Royal Statute of 1834. The elections were structured in a way that placed significant control in the hands of municipal governments. Given the contentious relationship Tacón had developed with certain municipal governments, including Havana's city council, and fearing that the electoral process would work against the captain general's interests, Suárez advised Tacón to postpone and reconfigure the elections in a way that might result in more favorable outcomes. The results were nonetheless a fiasco for Tacón, resulting in the election of the exiled José Antonio Saco as one of Cuba's deputies.⁹⁸

Meanwhile, Tacón's dispute with the Naval Court over the errant ship's pilot worked its way through the system for over a year before the metropolitan government issued a royal order dated April 7, 1836, authorizing him to act exclusively in proceedings against vagrants and *picapleitos* and prohibiting other courts from contesting jurisdiction in such cases. The royal order nonetheless affirmed that such proceedings were to be considered civil cases, not military cases, requiring that the captain general consult with his *asesor primero*, and not his *auditor de guerra*, regarding the prosecution of these cases.⁹⁹ Tacón thus turned to Suárez for an opinion on

⁹⁸ Suárez, *Breve memoria*, 11-12; Fradera, *Colonias para después de un imperio*, 150.

⁹⁹ Ministry of War to Tacón, Madrid, 8 May 1836, f. 2, exp. 52126, leg. 1332, GSC, ANC.

how to proceed.

In advising Tacón on the anti-vagrancy initiative, Suárez's revealed the influence of his time directing the Military Commission as an instrument of executive power. He began by advising Tacón to notify the governors and lieutenant governors of all the departments and jurisdictions in Cuba that he would from here on out be the exclusive judge in cases dealing with vagrants and *picapleitos*. He then recommended that Tacón elect an *asesor* to oversee the prosecution of these cases. In a final move that spoke of his institutional history, Suárez advised Tacón to announce throughout the island the installation of what he now referred to as a new court.¹⁰⁰ A few days later Tacón named Suárez as the *asesor* of the new court.¹⁰¹

It is unclear whether Captain General Tacón's anti-vagrancy initiative had always intended to treat *picapleitos* as vagrants, as none of Tacón's orders regarding the initiative made explicit mention of *picapleitos*. Though the dispute with the Naval Court that had initiated this process had involved a man who made a living as a *picapleito*, he had been arrested owing to his status as a vagrant. The royal order of April 7, 1836, however, included *picapleitos* as well as vagrants in its grant of jurisdiction to Tacón. Suárez's first action as the new court's *asesor* was to draft instructions outlining a method for identifying *picapleitos* through the creation of a registry of men legitimately working within the legal profession. These included jurists, notaries, secretaries, and apprentices working for the government or private practices. If anyone arrested as a vagrant or *picapleito* tried to gain special treatment by claiming to be attached to the legal profession, they would have to appear on the registry for their claim to be taken seriously.¹⁰²

¹⁰⁰ Suárez to Tacón, Havana, 18 July 1836, f. 4-6, exp. 52126, leg. 1332, GSC, ANC.

¹⁰¹ Tacón to Suárez, Havana, 22 July 1836, f. 9, exp. 52126, leg. 1332, GSC, ANC.

¹⁰² Suárez to Tacón, Havana, 27 August 1836, f. 16-17v, exp. 52126, leg. 1332, GSC, ANC.

Upon learning of the royal order of April 7, 1836, and having read José Ildefonso Suárez's consultations on the matter, the members of the Real Audiencia registered their discomfort in a terse letter to Tacón. Though they recognized the captain general's exclusive jurisdiction in cases dealing with vagrants and *picapleitos*, the new court could not disregard standard legal practices and procedures. Indeed, they encouraged Tacón to remind Suárez that he was expected to follow the law without introducing "innovations," such as the new instructions for identifying *picapleitos*.¹⁰³

In his response to the Real Audiencia's criticism, Suárez revealed that the main point of contention was whether or not the high court had the right to hear appeals from defendants being tried by the new court of vagrants and *picapleitos*, as defendants apprehended beyond a five-league radius of Havana were tried by courts in the ordinary jurisdiction. Referencing a number of royal orders issued in Spain in the late-eighteenth century, Suárez argued that the Real Audiencia did not have the right to hear appeals in these cases because in Spain the issue of vagrancy was treated as a policing matter, not a legal matter. As such, cases of vagrancy were handled exclusively by provincial captains general and defendants could not make appeals. In Cuba, he continued, the captain general was military and political chief of the island. The captain general's policing powers as the island's military chief thus extended throughout the branches of the island's civil government. By virtue of the military authority under which those cases were being adjudicated, Suárez argued, the Real Audiencia did not have a right to hear appeals.¹⁰⁴ Approving of his *asesor's* interpretation of the law, Tacón informed the Real Audiencia that he

¹⁰³ Escoto to Tacón, Puerto Príncipe, 1 September 1836, f. 40-40v, exp. 52126, leg. 1332, GSC, ANC.

¹⁰⁴ Suárez to Tacón, Havana, 27 September 1836, f. 42-45v, exp. 52126, leg. 1332, GSC, ANC.

was referring the matter to his superiors, with copies of all the pertinent royal orders, so that they could resolve the dispute.¹⁰⁵

Events in Spain and Cuba quickly altered the governing terrain upon which Tacón's dispute with the Real Audiencia was taking place. Unsatisfied by the pace of reforms, liberals in the Spanish military staged a revolt and on August 12, 1836, forced Queen Regent María Cristina to call a constituent assembly to craft a constitution, and rule under the 1812 Constitution of Cádiz in the meanwhile.¹⁰⁶ When news of these events reached Cuba in September, the Governor of the Eastern Department of Cuba, General Manuel Lorenzo proclaimed the restoration of the 1812 Constitution without consulting Captain General Tacón. In October, Tacón informed Lorenzo that Spanish officials had declared that the restored constitutional order was not to be extended to the colonies. Lorenzo then appealed directly to Spain, instigating a standoff with the captain general that dissipated when Lorenzo began losing local support in the face of Tacón's willingness to use military force to suppress what he clearly saw as a rebellion.¹⁰⁷ The episode contributed to the exclusion of colonial deputies during the crafting of the Constitution of 1837, and of the colonies from the constitutional order that followed, leaving them to be governed by "special laws" to be determined at a later date.¹⁰⁸

Tacón earned praise for his handling of the Lorenzo affair and it appeared that Suárez might also receive some sort of reward. On January 5, 1837, Tacón wrote to his superiors

¹⁰⁵ Decreto, Havana, 30 September 1836, f. 46, exp. 52126, exp. 1332, GSC, ANC; Tacón to Escoto, Havana, 30 September 1836, f. 47-48, exp. 52126, leg. 1332, GSC, ANC; Tacón to Secretary of State, Havana, 4 December 1836, f. 54-56v, exp. 52126, leg. 1332, GSC, ANC.

¹⁰⁶ Carr, *Spain: 1808-1875*, 177-178.

¹⁰⁷ Portuondo Zúñiga, *Cuba. Constitución y liberalismo*, 2:13-142.

¹⁰⁸ Fradera, *Colonias para después de un imperio*, 150-164.

praising Suárez for his service during the Lorenzo affair and requesting that either Suárez's position as interim *asesor primero* be made permanent or that he be given another position within the government.¹⁰⁹ On April 6, 1837, the Ministry of Justice informed Tacón that while Suárez's case merited attention, they could not officially give him the position of *asesor primero* until after the new constitution had been ratified. Suárez was to continue in his current interim role until such time that they could address the matter.¹¹⁰

While Suárez's professional future looked promising, Cuba's emerging position of exclusion from Spain's new constitutional order appeared to have worked against Tacón and Suárez's designs for the court of vagrants and *picapleitos*. On May 4, 1837, the Ministry of Justice rejected Tacón's argument that his military authority gave him exclusive jurisdiction in cases dealing with vagrants and *picapleitos*, stating that the provisions in the *Novísima recopilación de las leyes de España* he had pointed to in substantiating his case were not applicable in Cuba. Though the captain general retained jurisdiction, prosecutions against vagrants and *picapleitos* were to be carried out as though they were civil cases, thus giving the Real Audiencia the right to hear appeals.¹¹¹ In an ironic twist, Tacón's attempt to promote social order through an exceptional mode of legal practice that relied on his military authority to bypass the island's ordinary system of law had now been rejected in part because the precedent for such a practice originated in a metropolitan legal context, from which Cuba was to be excluded.

Responding to the Ministry of Justice's decision to reverse the royal order of April 7,

¹⁰⁹ Tacón to Secretario de Estado y del Despacho de la Gobernación de Ultramar, Havana, 5 January 1837, no. 53, exp. 20, leg. 1661, Ultramar, AHN.

¹¹⁰ Ministry of Justice to Tacón, Madrid, 6 April 1837, no. 55, exp. 20, leg. 1661, Ultramar, AHN.

¹¹¹ Ministry of Justice to Tacón, Madrid, 4 May 1837, f. 84, exp. 52126, leg. 1332, GSC, ANC.

1836, that had affirmed executive authority by denying the Real Audiencia any role in the captain general's prosecutions of vagrants and *picapleitos*, José Ildefonso Suárez counselled Tacón to take action, claiming that this seemingly minor quibble regarding a new court of questionable importance had broader implications for Tacón's attempts to concentrate sovereign authority within the office of the captaincy general. "Suspending [the royal order] now and annulling it," Suárez argued, "would be a regressive step that would very much endanger Her Majesty's interests, in that her enemies would see with pleasure the authority of the captain general of this island withered and tarnished."¹¹² While Suárez's evocation of the Queen's "enemies" was most likely an overstatement designed for dramatic effect, Cuba was not without critics of aspects of colonial governance who maintained their loyalty to the Spanish Empire. Indeed, by mid-1837, Tacón appeared to have garnered broad antipathy, most notably from Superintendent Claudio Martínez de Pinillos, who was publicly accusing the captain general of aspiring to name himself Cuba's viceroy.¹¹³

As the Military Commission's *asesor*, Suárez had developed an assertive style that advanced his own personal interests while promoting the amplification of the legal powers of the executive branch of government. His assertiveness informed the captaincy general's relationship with governing institutions such as the Intendancy and the Real Audiencia in tribunal-related matters, engendering friction and discord. Owing to the tribunal's acknowledged role in promoting insular security, and with the support of a metropolitan government committed to

¹¹² Suárez to Tacón, Havana, 23 July 1837, f. 85-86v, exp. 52126, leg. 1332, GSC, ANC. "suspenderlo ahora y anularlo, sería un paso retrógrado que perjudicaría mucho á los intereses de SM por cuanto sus enemigos verían ajaba y menoscabada con placer la autoridad del Capitan General de la Ysla."

¹¹³ Pérez de la Riva, *Correspondencia reservada*, 86.

defending its sovereignty over the island, however, the tribunal became a permanent fixture on the governing landscape and Suárez's style and expertise an acknowledged asset to the practice of colonial governance.

The amplification of the legal powers of the captaincy general through the Military Commission, when perceived to be in the service of protecting the island from racial violence and political revolution, could overcome objections, whether they originated from critics of Spanish sovereignty over Cuba or from the major institutions of colonial governance like the Intendancy and the Real Audiencia. When the concentration of sovereign authority within the captaincy general was directed towards concerns deemed to be less critical, like the social disorders wrought of vagrancy and the questionable activities of *picapleitos*, the effort soon stalled. In the case of the court of vagrants and *picapleitos*, José Ildefonso Suárez's promotion of executive power, which served him well as the Military Commission's *asesor*, failed to withstand the Real Audiencia's willingness to assert its own claims to sovereign authority in legal matters. And with metropolitan finances increasingly dependent on Cuban revenues collected and dispersed by the Intendancy, Superintendent Martínez de Pinillos's influence in Spain had never been stronger. With Tacón's administration engendering unprecedented levels of discord within the colonial government and throughout Cuban society more broadly, Tacón's days as captain general and Suárez's position as *asesor primero* were numbered.

* * *

On January 5, 1838, the Ministry of War issued a royal order relieving Captain General Tacón of his command.¹¹⁴ Despite earning praise for successfully staving off the challenge posed by

¹¹⁴ Pérez de la Riva, *Correspondencia reservada*, 88.

General Manuel Lorenzo, Tacón had run afoul of Cuba's planter elite, who took advantage of Spain's precarious economic position owing to the Carlist War and its unsettled political situation following the liberal resurgence that had resulted in the Constitution of 1837 to successfully orchestrate his recall to Spain.¹¹⁵ Before departing Cuba on April 22, 1838, Tacón had time to advocate on José Ildefonso Suárez's behalf one more time, with a letter to the Secretary of State requesting that Suárez be given a salaried position somewhere in the government.¹¹⁶ The day after Tacón's departure, Suárez sent a petition directly to the Queen, expressing his surprise and hurt upon learning that the position of *asesor primero* had been assigned to someone else and asking that the decision be reconsidered or that he be given another position within the government.¹¹⁷ It seems, though, that Suárez's time had passed.

Captain General Tacón's departure from Cuba was accompanied by a judicial proceeding known as a *juicio de residencia*, a standard legal practice in which governing officials such as viceroys and captains general, as well as their *asesores*, were subjected to a review of their conduct while in office, during which time aggrieved parties could make claims against the officials.¹¹⁸ Owing to the unpopularity of Tacón's administration, numerous individuals voiced grievances and made claims against the departing captain general during his *juicio de residencia*, which was overseen by an *oidor* of the Real Audiencia. Though the metropolitan government had already acquiesced to the economic and political realities substantiating those grievances and

¹¹⁵ Fradera, *Colonias para después de un imperio*, 173-177.

¹¹⁶ Pérez de la Riva, *Correspondencia reservada*, 91; Tacón to Secretario de Estado y del Despacho de Gracia y Justicia, Havana, 2 April 1838, no. 58, exp. 20, leg. 1661, Ultramar, AHN.

¹¹⁷ Suárez to the Queen, Havana, 23 April 1838, no. 62, exp. 20, leg. 1661, Ultramar, AHN.

¹¹⁸ For more on *juicios de residencia*, see *Recopilación de las leyes de Indias*, Libro 5, Título 15.

claims when recalling Tacón to Spain, it was not about to allow dissatisfaction with one particular executive to descend into a more general critique of the imperial order. In conclusion, then, the judge presiding over the *juicio de residencia* determined that none of the grievances or claims levied against Tacón had any merit.¹¹⁹

Suárez's *juicio de residencia*, however, did not go as well. Over the course of a career that had been characterized by his assertive and aggressive style, Suárez had made numerous enemies. With Suárez's most powerful patron out of the picture, his enemies now turned to his *juicio de residencia* for retribution. The charges levied against Suárez by his accusers focused on incidents of wrongful imprisonment and indefinite detention during his time as *asesor* to the Military Commission and the court of vagrants and *picapleitos*. The same *oidor* of the Real Audiencia who had presided over Captain General Tacón's *juicio de residencia* found Suárez guilty of the charges and prohibited him from serving as the Military Commission's *asesor* for a period of six years. The accumulated value of the fines, penalties, and recompense required approached 5,000 pesos.¹²⁰

In an effort to escape the immediate reach of his enemies, and to better defend himself as he appealed the results of his *juicio de residencia*, Suárez travelled to Spain in 1839.¹²¹ While overseeing the lengthy appeals process, he engaged in a public quarrel with some of his detractors, much of which took place through published pamphlets and books with titles such as

¹¹⁹ *Juicio de residencia del excelentísimo señor Don Miguel Tacón* (Philadelphia: Imprenta de A. Walker, 1839).

¹²⁰ José Ildefonso Suárez, *Causas principales del juicio de residencia de Don José Ildefonso Suárez* (Madrid: Imprenta de Don Juan de la Vega, 1841).

¹²¹ José Ildefonso Suárez, *Memoria segunda escrita por el oidor honorario* (Madrid: Imprenta de la Compañía de impresores y libreros, 1839).

*Breve resumen de los excesos y arbitrariedades cometidas por Don José Ildefonso Suárez, Mordaza puesta al famoso criminal D. José Ildefonso Suárez, and Breve memoria escrita por el oidor honorario de la Audiencia de Cuba.*¹²² In one of his own publications, Suárez framed his current legal predicament as stemming from a lack of consideration of the way the legal world of Spanish colonies was different from that of Spanish law.

It would indeed be an imprudent anomaly and very momentous, if, having been informed by our current constitution that the islands of Cuba, Puerto Rico, and the Philippines are to be governed by laws for the Indies and royal orders applicable there, public functionaries [of those islands] were to be judged in the Peninsula according to its current laws and by judges, who being very devoted to and passionate about Peninsular law, had little or no knowledge of [the laws] of those distant lands.¹²³

As a functionary of the Spanish Empire in one of its remaining colonies, Suárez thus argued that failure to attend to Cuban difference in a legal sense could drive a wedge between Cuban functionaries and the imperial order they worked to uphold. Regarding his experience as the Military Commission's *asesor*, Suárez wrote:

If when dealing with events of this sort, that took place [in Cuba], Peninsular judges were not sufficiently discreet, informed, and keen to distinguish between one body of legislation and the other, and were not sufficiently versed in [the laws of Cuba], the honor and fortune of American employees would be endangered, while the sentences of the peninsular [judges] could appear as though inspired by the spirit of partisanship rather than dictated by impartial and

¹²² *Breve resumen de los excesos y arbitrariedades cometidas por Don José Ildefonso Suárez* (Madrid: Imprenta de D. F. Pascual, 1838); José de Bulnes y Solera, *Mordaza puesta al famoso criminal D. José Ildefonso Suárez* (Madrid: Imprenta de Sanchiz, 1839); Suárez, *Breve memoria*.

¹²³ José Ildefonso Suárez, *Memoria tercera del oidor honorario* (Madrid: Compañía General de Impresores y Libreros del Reino, 1839), 3. “Impolítica anomalía y muy transcendental sería por cierto que estando prevenido por nuestra actual Constitución que las islas de Cuba, Puerto-Rico, y Filipinas sean regidas por leyes de Indias y reales órdenes allí vigentes, los funcionarios públicos de aquellas vinieran á ser juzgados en la Península por sus actuales leyes y por jueces, que muy adictos y apasionados á ellas, poco ó ningun conocimiento tuvieran de las de aquellos remotos paises.”

equitable justice.¹²⁴

The key to maintaining loyal Cubans such as himself working in the service of Spain's colonial interests, then, was not to treat them as though they worked apart from the imperial order they served, but rather to recognize the ways they occupied an exceptional legal space required for colonial governance.

At a time when the metropolitan government's exclusion of the colonies from the governing order established with the Constitution of 1837 had raised the ire of some of his fellow countrymen, who saw in a future governed by "special laws" something from which to distance themselves, José Ildefonso Suárez embraced the recognition of Cuban exceptionality as requisite for Spain's continued dominion over the island. As a way of governing a colonial society increasingly fractured along fault lines of race, class, origin, and ideology, however, this mode of exceptional legal practice, pioneered in many respects by Suárez himself, would soon have its day. But Suárez would not live to see this development. His prolonged efforts to rehabilitate his public and professional name came at the cost of the fortune he had accumulated during his storied career in Cuba. Though by 1841 Suárez would find himself absolved of all the charges levied against him during his *juicio de residencia*, in 1843 he died in Seville a ruined man.¹²⁵

¹²⁴ Suárez, *Memoria tercera*, 3. "Si al tratarse de acontecimientos de esta especie, que allí tuvieran lugar, los jueces de la Península no fueran bastante discretos, instruidos y perspicaces para distinguir la diversa índole de una y otra legislación, y no estuvieran suficientemente versados en la de aquellos dominios, la honra y suerte de los empleados americanos peligrarían, mientras los fallos de los peninsulares pudieran aparecer como inspirados por el espíritu de partido antes que dictados por la imparcial y equitativa justicia."

¹²⁵ Suárez, *Causas principales*; Pérez de la Riva, *Correspondencia reservada*, 335.

Chapter 4

“As Exceptional as Slavery Itself”: Inquiry and Repression in the Escalera Process, 1843-1844

General Gerónimo Valdés arrived in Cuba in 1841 after a storied career in the Spanish military. He had come to prominence during the Wars of Independence in Spanish America and had been present at the decisive defeat of Spanish forces at the Battle of Ayacucho in 1824. Upon his return to Spain, he maintained a low profile until the death of Fernando VII in 1833, after which he fought in the Carlist War in support of Isabella II's claim to the throne. Valdés's commanding officer during the war and fellow veteran of the failed campaigns in Spanish America, General Baldomero Espartero, leveraged the prestige he had attained for defeating the Carlists to displace Queen Regent María Cristina from Spanish politics, first as prime minister and then as regent himself. In recognition of his service, Espartero rewarded Valdés with the captaincy general of Cuba.¹

Though Spanish politics had entered an ostensibly liberal phase, organized around a constitutional monarchy where national sovereignty emanated from the people and contestations over power would be carried out between supporters of moderate and progressive forms of

¹ Jacobo de la Pezuela, *Diccionario geográfico, estadístico, histórico, de la isla de Cuba* (Madrid: Imprenta del Banco Industrial y Mercantil, 1866), 4:638.

liberalism, Cuba had already been excluded from this developing liberal order.² Moreover, in spite of the victory Cuban interests claimed with Miguel Tacón's recall to Spain in 1838, the metropolitan government began implementing colonial reforms concentrating sovereign authority within the purview, if not yet powers, of the captaincy general.

On June 16, 1838, the Spanish Ministry of Justice had issued a royal decree establishing a new high court in Havana known as the Real Audiencia Pretorial.³ The designation *pretorial* signaled that a given *real audiencia* was not fully subordinate to the viceroy ruling the region within which it had jurisdiction, and in this case was probably meant to signal that Havana's high court was superior to the one in Puerto Príncipe.⁴ Debates about relocating the Real Audiencia from Puerto Príncipe to Havana dated back to the time the Real Audiencia in Santo Domingo had been relocated to Cuba in 1797. Tacón had resuscitated the debate during his administration and the move had the support of Cuba's Intendancy and Spain's Consejo de Indias.⁵ Though the Real Audiencia in Puerto Príncipe would remain in operation, its jurisdiction was reduced to encompass only Cuba's central and eastern departments. And even though the powers of the new high court and its formal relation to the captaincy general remained unchanged, the decree's mandate that the new high court be housed in the Palace of the Captain General carried with it a

² Raymond Carr, *Spain: 1808-1875*, 2nd ed. (Oxford: Oxford University Press, 1982), 155-168; Josep M. Fradera, *Colonias para después de un imperio* (Barcelona: Ediciones Bellaterra, 2005), 140-182.

³ José María Zamora y Coronado, *Biblioteca de legislación ultramarina* (Madrid: Imprenta de Alegria y Charlain, 1844), 1:485-486.

⁴ Joaquín Escriche, *Diccionario razonado de legislación civil, penal, comercial y forense, ó sea, Resumen de las leyes, usos, prácticas y costumbres, como asimismo de las doctrinas de los jurisconsultos* (Valencia: Imprenta de J. Ferrer de Orga, 1838), 1:369.

⁵ Duvon C. Corbitt, "The Colonial Government of Cuba" (PhD diss., University of North Carolina, 1938), 146-159.

symbolic significance, suggesting that captains general could more easily exercise their powers of oversight as the high court's president.⁶

Captain General Valdés revealed a way the establishment of the Real Audiencia Pretorial concentrated sovereign authority under the auspices of his office when he issued a decree on April 7, 1841, updating the Military Commission's mandate. Whereas the Military Commission had been founded to prosecute liberal partisans following the reinstatement of Fernando VII's absolutist regime, espousing support for the Constitution of 1812 could hardly be considered a crime against the state in the new era of constitutional governance in Spain. Valdés thus removed such language from his reformulation of the crimes falling within the tribunal's jurisdiction. He also stripped the tribunal of the additional powers Captain General Ricafort had assigned it in 1833, citing the beneficial influence the new Real Audiencia Pretorial was having on the prompt administration of justice.⁷ Finally, he formalized one of the tribunal's foundational practices when he decreed that the Military Commission would prosecute "the slaves who rebel, whatever the pretext or motive, whenever the number of conspirators exceeds three."⁸ Perceiving that the Real Audiencia Pretorial served the interests of insular security to a greater degree than its counterpart in Puerto Príncipe, Valdés could thus focus the Military Commission's energies towards more pressing matters.

Indeed, Captain General Valdés's explicit inclusion of slave rebellions within the Military Commission's jurisdiction reflected growing concerns over the island's restive

⁶ Zamora y Coronado, *Biblioteca de legislación ultramarina*, 1:485-486.

⁷ See Chapter 3.

⁸ Decreto, Havana, 7 April 1841, exp. 1, leg. 1, CM, ANC. "los esclavos que se subleven, cualquiera que sea el pretexto ó motivo, excediendo el número de tres los confabuladores."

population of enslaved laborers. From 1821 to 1840, imports of enslaved Africans had sustained Cuba's growing fortunes, as the contraband slave trade introduced an additional 322,560 slaves to the island.⁹ The risks of this endeavor became all the more apparent in 1841, when a census revealed that the island's combined population of free and enslaved people of color was greater than its white population, unsettling the assurance, if only rhetorical, that the events of the Haitian Revolution could never occur in Cuba because of the demographic superiority of whites.¹⁰ In an effort to forestall the outbreak of slave violence, Valdés thus issued an update to the *Bando de buen gobierno* of 1828 that included a section regulating the management of plantation slavery.¹¹ The new slave regulations were based on a set of regional slave codes promulgated by governor of Matanzas Cecilio Ayllón following the Guamacaro rebellion of 1825.¹² Despite their lack of representation in the Spanish Cortes, Cuban planters were nonetheless a powerful lobby, and their refusal to comply with the new regulations on the grounds that they undercut their "domestic sovereignty" over their slaves effectively rendered the regulations a dead letter.¹³

While the struggles between governing officials and planters regarding the treatment of

⁹ David Eltis and David Richardson, "A New Assessment of the Transatlantic Slave Trade," in *Extending the Frontiers: Essays on the New Transatlantic Slave Trade Database*, eds. David Eltis and David Richardson (New Haven: Yale University Press, 2008), 48-49.

¹⁰ Aisha K. Finch, *Rethinking Slave Rebellion in Cuba: La Escalera and the Insurgencies of 1841-1844* (Chapel Hill: University of North Carolina Press, 2015), 22-23.

¹¹ *Bando de gobernación y policía de la isla de Cuba* (Havana: Imprenta del Gobierno, 1842).

¹² Manuel Barcia, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012), 210n90.

¹³ Robert L. Paquette, *Sugar is Made With Blood: The Conspiracy of La Escalera and the Conflict between Empires over Slavery in Cuba* (Middletown, CT: Wesleyan University Press, 1988), 77-80.

the enslaved expressed the planter class's continued authority in some matters related to the island's slave-based economy, forces outside and inside the island placed increasing pressure on Cuban slavery and threatened the future of Spain's claims over the colony itself. The contraband slave trade to Cuba, operating in clear violation of Spain's treaty obligations with Great Britain, had become a central concern of British abolitionists. Their interests, and those of British diplomacy, converged with the appointment of David Turnbull as British consul to Cuba. From 1840 to 1842, Turnbull raised the ire of governing officials and slave interests in Cuba as he promoted his avowedly abolitionist agenda in ways that transgressed diplomatic norms. Owing to the growing opposition to Turnbull's activities, Britain's Foreign Secretary stripped him of his consulship, after which Turnbull left the island.¹⁴

It appears that David Turnbull had indeed moved beyond agitating simply for the abolition of the slave trade to Cuba. During his time as consul, he had cultivated associations with prominent white Cubans and free people of color possessing varying degrees of sympathy for the ideas of Cuban independence and slave emancipation. While his white associates seem to have lost heart when speculative conversations began transitioning into concrete plans of action, his associates of color appear to have taken steps to extend these conversations and plans beyond the urban centers of Havana and the city of Matanzas.¹⁵

Among this cohort of free people of color was the noted poet Gabriel de la Concepción Valdés, also known as Plácido. Born in Havana, Valdés had emerged from obscurity owing to

¹⁴ Paquette, *Sugar is Made With Blood*, chap. 5.

¹⁵ Paquette, *Sugar is Made With Blood*, chap. 6.

his literary talents, obtaining the admiration of prominent members of Cuban high society.¹⁶ His poetry maintained a strategic ambivalence, resonating with the sentiments of Cuban independence and anti-slavery while remaining within the bounds of acceptable public expression.¹⁷ After dividing his time between Havana and the city of Matanzas, he settled permanently in Matanzas in 1836.¹⁸ Though the precise nature of his associations and activities are vague, by 1841 it appears he was participating in conspiratorial meetings and on April 6, 1843, he was arrested while travelling in the jurisdiction of Villa Clara, suspected of conspiratorial activities.¹⁹ As his travels brought him deeper into the heart of Cuban slavery, however, he would have found that a related movement was already underway.

During his travels, Valdés would have passed through, if not interacted with, a rural population of free people of color who made their livings cultivating small plots of land and working on plantations as contingent and skilled laborers, and as *contramayorales* and *mayorales*.²⁰ He may have even met with Agustín Jiménez. A former slave, Jiménez had been detained in connection with the Guamacaro rebellion of 1825 and had even been questioned by the Military Commission.²¹ By 1844, Jiménez owned a plot of land in rural Matanzas with three small houses and two slaves of his own. He earned a living as a day laborer and by renting a

¹⁶ Daisy A. Cué Fernández, *Plácido, el poeta conspirador* (Santiago de Cuba: Editorial Oriente, 2007).

¹⁷ Finch, *Rethinking Slave Rebellion in Cuba*, 119-120.

¹⁸ Cué Fernández, *Plácido*, 20-22.

¹⁹ Finch, *Rethinking Slave Rebellion in Cuba*, 122; Cué Fernández, *Plácido*, 89.

²⁰ Finch, *Rethinking Slave Rebellion in Cuba*, 41-42.

²¹ Declaración de Agustín libre, Matanzas, 21 June 1825, f. 44-45v, exp. 4, leg. 1, CM, ANC.

portion of his land to other cultivators.²² Some claimed that he hosted meetings in his residence with free and enslaved people of color from the area during which they made plans for a regional uprising.²³ Others even claimed that the poet Valdés had participated in some of those meetings.²⁴

Throughout the region of Matanzas, similar encounters were taking place along rural roads, in the fields, and in the huts and barracks occupied by plantation slaves. One host of such meetings was Pablo Gangá. By 1844, at the age of forty-five, Pablo was an old man for a slave. It had been nineteen years since he had led slaves in the Guamacaro rebellion of 1825.²⁵ He had been spared execution by the Military Commission because he had saved his mistress's life during the uprising.²⁶ His recently deceased owner had followed the prevailing economic trends and moved from growing coffee beans to sugar cane. Whereas Pablo had once worked as a carriage driver, he now drove slaves in the labor of cane cultivation as a *contramayoral*.²⁷ He

²² Declaración del moreno libre Agustín Jiménez, Macurijes (La Andrea), 26 January 1844, f. 39-40, exp. 1, leg. 37, CM, ANC; "Relación de los individuos encausados en el ministerio fiscal del comandante graduado D. Apolinar de la Gala que tienen bienes embargados," Matanzas, 14 December 1844, f. 9-9v, exp. 1, leg. 64, CM, ANC.

²³ Ratificación del mulato Perco Criollo, esclavo de Don Miguel Coto, Macurijes (La Andrea), 24 January 1844, f. 30v-31, exp. 1, leg. 37, CM, ANC.

²⁴ Declaración de Tomas Criollo, esclavo de Dn. Franco Adan, Macurijes (La Andrea), 28 January 1844, f. 54v-56, exp. 1, leg. 37, CM, ANC.

²⁵ Manuel Barcia claims that the Pablo Gangá who led the Guamacaro rebellion of 1825 and the Pablo Gangá who was caught up in the Escalera process of 1844 are the same person based on two facts. First, they shared a common owner, Juan Bautista Tosca. Second, their ages, 26 and 45, correspond to the 19 years separating the two events. See Barcia, *The Great Africa Slave Revolt*, 146-147.

²⁶ See Chapter 1.

²⁷ Declaración del negro Pablo Ganga de la Sabanilla, Lagunillas, 29 February 1844, f. 31-34, exp. 1, leg. 43, CM, ANC.

also worked in concert with his wife, a former slave named Juana Carabalí, organizing slaves on their plantation La Sabanilla and the surrounding area for future action.²⁸

The meetings hosted by Agustín Jiménez, Pablo Gangá, and Juana Carabalí were the distributed foci of an insurgent movement made up of free and enslaved people of color that had developed in tandem with the growth of Cuban slavery in rural Matanzas.²⁹ This movement developed independent of, though with links to, conspiratorial associations in urban centers such as Havana and the city of Matanzas, in which prominent white Cubans, socially mobile free people of color, and foreign abolitionists considered futures for Cuba independent of Spain and without slavery.³⁰ In the aggregate, this collection of associations, movements, and conspiracies had the potential to challenge Cuban slavery and Spanish empire, as agents of Spanish sovereignty in Cuba, including planters, local authorities, and governing officials, had always feared. Following a series of slave rebellions in the region of Matanzas in 1843, the two largest of which were investigated and prosecuted by the Military Commission, many believed those fears were on the verge of coming true.

In December 1843, the revelation of an enslaved woman to her master that his slaves were on the verge of rebelling thus sparked a multifaceted response that saw area planters and local authorities work in coordination with soldiers and officials of the jurisdiction of Matanzas to uncover the origins and scope of the alleged rebellion. With the approval of the captain general in Havana, this investigatory process explicitly excluded the Military Commission,

²⁸ Numerous declarations point to Juana Carabalí's leadership role. For just one example, see Alejos Ganga de la dotación de la Sabanilla, Lagunillas, 29 February 1844, f. 27-28, exp. 1, leg. 43, CM, ANC.

²⁹ Finch, *Rethinking Slave Rebellion in Cuba*, 7.

³⁰ Paquette, *Sugar is Made With Blood*, vii.

owing to criticisms that the tribunal adhered too faithfully to the law to effectively extract useful information from slaves. Indeed, the captain general had even authorized portions of the investigatory process to employ “extrajudicial methods” when questioning slaves.

Whether the men participating in this investigatory process were propelled by ambition, duty, an interest in the potential material rewards of their activities, a desire to commit violence against Africans and the African-descended, or some combination of the four, their collective efforts soon outpaced the colonial state’s ability to materially sustain their investigations. As the investigatory process enveloped rural dwellers like Agustín Jiménez, Pablo Gangá, and Juana Carabalí to find evidence that urban free people of color like Gabriel de la Concepción Valdés were involved in a conspiratorial network led by abolitionists like David Turnbull, it quickly ballooned to administratively unmanageable proportions, stressing the Intendancy’s ability to financially sustain the endeavor and compelling Captain General O’Donnell to institutionalize the process under the purview of the Military Commission.

To the extent that the investigatory process was guided by a desire to uncover the depth and scope of the suspected conspiracy, it also became the most dramatic and high-stakes expression of a process of colonial state formation, stretching back to the Military Commission’s prosecution of the Guamacaro rebellion of 1825, whereby the amplification of the legal powers of the captaincy general to contend with threats to Cuban slavery and Spanish empire necessarily developed in tandem with the government’s ability to fund such measures. In this instance, however, the propensity of a range of planters, authorities, and officials to interpret the threat of slave rebellion as a material opportunity, to channel a fear of black revolution into exemplary repression, and to transform the exigencies of insular security into a program of social domination, overrode the ability of institutions of colonial governance like the Intendancy to

keep the powers of the captaincy general in check. Whether inadvertently or by design, the Escalera process saw Captain General O'Donnell channel a mode of plantation governance, authorized by the "domestic sovereignty" slaveholders held over their human chattel and expressed through violence and repression, towards a mode of colonial governance characterized by the concentration of sovereign authority within the office of the captaincy general.

The Rebellions of 1843 and the Origins of the Escalera Process

On March 27, 1843, slaves on plantations in the Matanzas districts of Macurijes and Cimarrones joined forces with slaves working on the railroad in the town of Bemba in an uprising involving approximately 500 rebels.³¹ Governor of the jurisdiction of Matanzas Antonio García Oña personally led military units in suppressing the rebellion.³² Five days later, the governor convened a *consejo de guerra* in the field to try the leaders of the rebellion in an expeditious and exemplary manner.³³ He then appointed Captain Apolinar de la Gala as *fiscal*, charging him with investigating the origins of what was now being referred to as the Bemba rebellion.³⁴ On May 8, 1843, Captain General Valdés ordered the Military Commission to take over De la Gala's investigation.³⁵

Military Commission officials investigated the Bemba uprising as a series of smaller

³¹ Finch, *Rethinking Slave Rebellion in Cuba*, 81-88.

³² Paquette, *Sugar is Made With Blood*, 177-178.

³³ Untitled, May 1843, Matanzas, f. 12, exp. 5, leg. 29, CM, ANC.

³⁴ García Oña to Valdés, Matanzas, 26 April 1843, f. 2-5, exp. 5, leg 29, CM, ANC.

³⁵ Valdés to López, Havana, 8 May 1843, f. 1, exp. 5, leg. 29, CM, ANC.

slave rebellions disturbed the Matanzas countryside from May through July.³⁶ Back in Spain, moderate liberals led by General Ramón María Narváez successfully rebelled against the regency of Baldomero Espartero, declaring Queen Isabella to be of age, forcing Espartero to abandon Spain for England on July 30, 1843, and naming Narváez prime minister.³⁷ Narváez then named Leopoldo O'Donnell, moderate liberal partisan and hero of the Carlist War to replace progressive liberal Gerónimo Valdés as Cuba's captain general.³⁸

The Military Commission was reaching the end of its prosecution of the Bemba uprising when another large slave rebellion consumed the district of Sabanilla. On November 5, 1843, slaves on the plantation Triunvirato rose up in an action that quickly spread to neighboring plantations. Though the rebel force contained approximately 300 individuals, soldiers sent by Governor García Oña were able to suppress the rebellion.³⁹

This most recent incident compounded fears that rural security in the jurisdiction of Matanzas was not up to the task of contending with increasing slave violence such that ninety-three planters from the area petitioned the recently arrived Captain General Leopoldo O'Donnell to ramp up the military presence in the region.⁴⁰ The state's response to the rebellion, however, followed a familiar script. As he had done after the Bemba uprising, Governor García Oña ordered his subordinates to convene a *consejo de guerra* in the field, which then hastily

³⁶ José Luciano Franco, *Gesta heroica del Triunvirato* (Havana: Editorial de Ciencias Sociales, 2012), 15-16.

³⁷ Carr, *Spain: 1808-1875*, 218-228.

³⁸ Paquette, *Sugar is Made With Blood*, 209.

³⁹ Finch, *Rethinking Slave Rebellion in Cuba*, 88-92; Franco, *Gesta heroica del Triunvirato*, 19-22.

⁴⁰ Paquette, *Sugar is Made With Blood*, 211-212.

sentenced eight slaves to death. They were divided into groups of two, with each group being executed at a different plantation in the presence of slaves from those and neighboring plantations.⁴¹ One of García Oña's subordinates then began a preliminary investigation into the origins of the rebellion at Triunvirato. On December 3, 1843, the Military Commission assumed jurisdiction over the investigation.⁴²

In early December 1843, a planter in the district of Sabanilla named Esteban Santa Cruz de Oviedo announced that his slave and concubine Polonia had revealed to him the existence of a plot to rebel amongst the slaves on his plantation.⁴³ On the heels of the rebellion at Triunvirato, Governor García Oña's response was swift, ordering cavalry units from the city of Matanzas to secure the areas surrounding Santa Cruz de Oviedo's plantation. Once again, García Oña followed the legal script he had employed after the rebellions at Bemba and Triunvirato, placing Apolinar de la Gala in charge of prosecuting the alleged rebels. This time, however, De la Gala worked in coordination with Santa Cruz de Oviedo's cousin, area planter and militia officer Lieutenant Colonel Francisco Hernández Morejón.⁴⁴ Though it is unclear precisely how Hernández Morejón leveraged his familial relation to Santa Cruz de Oviedo to become involved in the preliminary investigation, it was a role he undoubtedly relished. During the Military Commission's investigation into the Guamacaro rebellion of 1825, he had, after all, orchestrated the false confession of a slave, extracted under torture, in a failed attempt to involve himself in

⁴¹ Finch, *Rethinking Slave Rebellion in Cuba*, 100-101.

⁴² O'Donnell to Falgueras, Havana, 3 December 1843, f. 1-2, exp. 3, leg. 30, CM, ANC.

⁴³ Aldama to Del Monte, 29 December 1843, in Domingo del Monte, *Centón Epistolario* (Havana: Imagen Contemporanea, 2002), 3:218-220.

⁴⁴ Dictamen Fiscal, Matanzas, 5 October 1844, f. 1-74v, exp. 1, leg. 38, CM, ANC; Paquette, *Sugar is Made With Blood*, 217.

the Military Commission's investigation.⁴⁵

Apolinar de la Gala and Francisco Hernández Morejón quickly concluded that the plan to rebel involved seven plantations. On December 21, 1843, Governor García Oña personally convened a *consejo de guerra* at the sight of the rebellion. After a quick trial in the field, the *consejo* sentenced sixteen slaves to death, six to imprisonment in Africa, and fifteen to receive 100 lashes after which they were to wear fetters for five years on their respective plantations.⁴⁶ Miguel de Aldama, son of Domingo de Aldama, one of the wealthiest planters in Cuba, witnessed these events and recounted watching the prisoners “suffer under the torment of the lash,” while slaves from the surrounding area were then forced to witness the execution of the sixteen slaves sentenced to death.⁴⁷ Finally, the *consejo* granted Polonia her freedom and awarded her 500 pesos, in accordance with article 38 of the *Bando de buen gobierno*.⁴⁸

Suspecting that outside agitators were behind the plan to rebel, Captain General O'Donnell ordered Apolinar de la Gala to continue investigating the origins of the thwarted rebellion. Governor García Oña then asked Francisco Hernández Morejón and Esteban Santa Cruz de Oviedo to pursue a parallel investigation towards similar ends. This parallel investigation differed from De la Gala's, however, in that the governor authorized them to use what he would later describe as “coercive measures” when interrogating slaves.⁴⁹ After

⁴⁵ See Chapter 1.

⁴⁶ Dictamen Fiscal, Matanzas, 5 October 1844, f. 1-74v, exp. 1, leg. 38, CM, ANC.

⁴⁷ Aldama to Del Monte, 29 December 1843, in Del Monte, *Centón Epistolario*, 3:218-220; Paquette, *Sugar is Made With Blood*, 215.

⁴⁸ Dictamen Fiscal, Matanzas, 5 October 1844, f. 1-74v, exp. 1, leg. 38, CM, ANC.

⁴⁹ Dictamen Fiscal, Matanzas, 5 October 1844, f. 1-74v, exp. 1, leg. 38, CM, ANC; García Oña to O'Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC.

interrogating five slaves, including a twelve-year-old boy, with recourse to what amounted to torture, the two men informed the governor that they believed that the plan to rebel was much vaster than had been determined by the *consejo de guerra* of December 21, 1843.⁵⁰

As he had in 1825, Francisco Hernández Morejón saw an opportunity to increase his level of participation in the government's response to the thwarted rebellion. He consulted with noted jurist and plantation owner Anastasio Carrillo y Arango in drafting a letter to Governor García Oña, proposing that the parallel investigation he and Santa Cruz de Oviedo had just concluded be given official sanction to continue.⁵¹ Following a tumultuous year governing a jurisdiction that had been plagued by slave rebellions, including two of the biggest uprisings ever seen on the island, the governor was particularly receptive to the idea.

On January 8, 1844, Governor García Oña informed Captain General O'Donnell of Francisco Hernández Morejón and Esteban Santa Cruz de Oviedo's parallel investigation. Pointing to the revelations extracted from the slaves under torture, García Oña claimed that the two men had obtained such useful information because, being the owners of plantations and slaveholders themselves, they knew best how to deal with slaves. He continued:

Only by combining the authority of the masters, with all their prestige, and the coercive measures that they can use, will we be able to subdue the blacks into confessing, and unravel those plots, that are no longer isolated incidents contained within the limits of one or two plantations, but vast plans conceived with audacity and that have as their objective, ridiculous if you will, but no less

⁵⁰ *Colección de fallos pronunciados por una sección de la Comisión Militar establecida en la ciudad de Matanzas para conocer de la causa de conspiración de la gente de color* (Matanzas: Imprenta de Gobierno, 1844), case 38. Note that this publication does not have page numbers. The reference is to the case number, which are presented in order of completion.

⁵¹ Vidal Morales y Morales, *Iniciadores y primeros mártires de la revolución cubana* (Havana: Imprenta Avisador Comercial, 1901), 156.

grave and ambitious, to seize dominion over the land.⁵²

He justified this proposal by pointing to the recent cycle of rebellions, investigations, and prosecutions. The investigation into the Bemba uprising had been unable to uncover the rebellion's origins because, he now judged, his men and the Military Commission had "proceeded by the regular means."⁵³ And he now suspected that the rebellion at Triunvirato might have been a premature action connected to the planned rebellion that Hernández Morejón and Santa Cruz de Oviedo had uncovered, a possibility that the preliminary investigation into Triunvirato had failed to suggest.

The governor argued that "it is indispensable to turn to special measures, as exceptional as is slavery itself and the relations that emerge from it, whatever those means may be."⁵⁴ He thus recommended that the captain general officially authorize Hernández Morejón and Santa Cruz de Oviedo to continue their extrajudicial investigation, in coordination with other planters, so they could "administer punishments to their slaves according to the severity that [the slaves] have come to deserve."⁵⁵ The governor's recommendation included one caveat, however. Since

⁵² García Oña to O'Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. "Solo concurriendo la autoridad de los amos con todo su prestigio y los medios de coerción de que pueden valerse, es como se conseguirá reducir á los negros á que declaren, y desentrañar esas tramas que ya no son hechos aislados encerrados en los límites de una ó dos fincas, sino planes vastos concebidos con osadía y que tienen el objeto ridículo si se quiere, pero no por esto menos gravas y ambiciosos de apoderarse del dominio de la tierra."

⁵³ García Oña to O'Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. "se procedía por los medios regulares."

⁵⁴ García Oña to O'Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. "es preciso indispensable, ocurrir á medidas particulares, excepcionales como lo es la esclavitud y las relaciones que [son] los resultados que de ella surgen cuales sean esos medios."

⁵⁵ García Oña to O'Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. "aplicaran á sus siervos el castigo mas ó menos severo á que se hayan hecho acreedores."

the prevailing wisdom held that the enslaved had been encouraged to rebel by outside parties, the governor recommended that an additional official be assigned to the investigation, in case the process enveloped white people and free people of color, against which “we cannot proceed except in accordance with the law.”⁵⁶

Though never invoked, the 1814 prohibition on judicial torture initially passed by the Cortes de Cádiz during the Napoleonic occupation of the Iberian Peninsula and maintained by Fernando VII’s first restorationist government loomed large over García Oña’s recommendation that Hernández Morejón and Santa Cruz de Oviedo be authorized to torture slaves. Seven years after the Constitution of 1837 had excluded Spain’s remaining colonies from the resultant liberal order to be governed by “special laws” that were never forthcoming, Governor García Oña’s recommendation may have been influenced by ambiguities regarding the continued applicability of the 1814 prohibition on judicial torture in the colonies.⁵⁷ In this moment of apparent crisis, however, García Oña need only point to the particularities of the institution of slavery itself to argue that slaves merited an exception from the protections of law. On January 13, 1844, after consulting with *auditor de guerra* Antonio Armero, Captain General O’Donnell announced his approval of Governor García Oña’s recommendation, adding that the governor should provide Hernández Morejón with whatever assistance he might need.⁵⁸ Three days later, the governor

⁵⁶ García Oña to O’Donnell, Matanzas, 8 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. “contra estas no se pueden obrar sino con arreglo á las leyes.”

⁵⁷ Similar ambiguities existed in the Dutch colony of Suriname after the abolition of judicial torture in the Netherlands. See, Natalie Zemon Davis, “Judges, Masters, Diviners: Slaves’ Experience of Criminal Justice in Colonial Suriname,” *Law and History Review* 29, no. 4 (November 2011): 978.

⁵⁸ Armero to O’Donnell, Havana, 13 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC; Decreto, Havana, 13 January 1844, f. 7v, exp. 1, leg. 37, CM, ANC.

informed Hernández Morejón that the captain general had approved of his plan and that he could proceed in his investigation as *fiscal*.⁵⁹

The Investigatory Phase of the Escalera Process

Francisco Hernández Morejón began his extrajudicial investigation charged by Captain General O'Donnell to uncover evidence of what they already believed: that white people and free people of color were conspiring to incite the enslaved to rise up en masse. The security situation in Matanzas was sufficiently serious and the legal script for attending to slave rebellions had been shown to be sufficiently ineffectual in preventing future uprisings that deviations from the letter of the law seemed warranted. The key to his success, then, lay in the captain general's authorization to use torture when interrogating slaves. The ensuing investigatory process was far from lawless, though, as it adhered to legal forms even as its protagonists had been sanctioned to act extrajudicially. For instance, the authorization effectively marshalled the lawful violence of plantation slavery towards a legal process carried out by the state that served the interests of territorial security. And even though Hernández Morejón described his work as "extrajudicial" in nature, he nonetheless kept a written record of his interrogations that appeared legalistic in its composition and organization.⁶⁰ In order to effectively deal with what *auditor de guerra* Antonio Armero referred to as the "common desire" of slaves to "remove themselves from the exceptional state in which they live," colonial officials were willing to engage in exceptional

⁵⁹ García Oña to Hernández Morejón, Matanzas, 16 January 1844, f. 8-8v, exp. 1, leg. 37, CM, ANC.

⁶⁰ Diligencia de agregación á esta actuación las del expediente extrajudicial, Macurijes, 23 January 1844, f. 15v, exp. 1, leg. 37, CM, ANC.

practices themselves.⁶¹ In so doing, they nonetheless made recourse to other types of law and familiar legal practices.

Fearing that the planned insurrection could erupt at any moment, Hernández Morejón maintained an ardent pace as he coordinated troop movements, travelled between plantations interrogating slaves, and initiated a growing number of ancillary investigations. On the evening of January 17, 1844, Francisco Hernández Morejón headed to the plantation La Andrea in the district of Macurijes with soldiers Governor García Oña had placed at his disposal. In a letter to Hernández Morejón, the plantation's owner had claimed to have discovered that his slaves and those of a neighboring plantation owned by Miguel Coto, were planning to rebel.⁶² Over three days the *fiscal* interrogated three slaves from La Andrea, with his secretary keeping records of the proceedings. According to the testimony of an enslaved adolescent named Martín Gangá, *contramayorales* from both plantations had been meeting in secret for some time. The original plan to rebel on January 6 had been put off, however, after the wife of La Andrea's owner had ordered the detention of two of these *contramayorales* for reasons that were unclear.⁶³ It appears that Hernández Morejón did not feel the need to torture Martín Gangá during the interrogation. Such was not the case during his interrogation of Antonio Lucumí. Though Antonio's account of the clandestine meetings was similar to Martín's, the *fiscal* suspected that he was holding

⁶¹ Armero to O'Donnell, Havana, 13 January 1844, f. 5-7v, exp. 1, leg. 37, CM, ANC. "asi como no puede ni debe dudarse tampoco que el de toda la esclavitud es igual, uno mismo el deseo comun de sustraerse del estado excepcional en que viven."

⁶² Jáuregui to Hernández Morejón, Macurijes, 17 January 1844, f. 11-12v, exp. 1, leg. 37, CM, ANC; Diligencia de trasladarse el Sor. Fiscal al Ingenio de Dn. José de Jáuregui, Sabanilla, 17 January 1844, f. 13, exp. 1, leg. 37, CM, ANC.

⁶³ Declaracion del negrito Martin Ganga como de 16 á 17 años, Eno 18_844, Macurijes, 18 January 1844, f. 21-22, exp. 1, leg. 37, CM, ANC.

something back. As noted by the secretary, “in this state, the interrogator knowing that the declarant is hiding the majority of what he knows, the proceedings have been suspended, to be continued tomorrow, [the interrogator] occupying his time in maneuvers that, from experience, he knows are the means of obtaining frank declarations.”⁶⁴

The interrogation resumed the next day. Though Antonio’s subsequent testimony lacked new details about the clandestine meetings, it included the names of fifty slaves from La Andrea, from the Coto estate, and from two neighboring plantations that he claimed were involved in the plan.⁶⁵ For Hernández Morejón, details about clandestine meetings merely substantiated what he already suspected. The names of slaves, on the other hand, were fuel for his investigation, each name potentially leading to proof of what he was hoping to verify.

On January 20, four days into his investigation, Hernández Morejón informed Governor García Oña that he had uncovered a new plan to rebel in the district of Macurijes involving slaves from multiple plantations. Fearing an outbreak of violence, he announced that he would continue investigating this new plan, with La Andrea serving as his headquarters.⁶⁶ Over the next two days, he interrogated four more slaves from La Andrea, learning that some of them had tried

⁶⁴ Declaración del negro Antonio Lucumí, como de 40 años, Enero 18, Macurijes, 18 January 1844, f. 22-23, exp. 1, leg. 37, CM, ANC. “en este estado, conociendo el que interroga que el declarante oculta la mayor parte de lo que sabe, se suspende este acto para continuarlo mañana, ocupando el tiempo en maniobras que por la experiencia se sabe que son los medios de conseguir franca manifestacion.”

⁶⁵ Declaracion del negro Antonio Lucumi, como de 40 años, Enero 18, Ingenio Andrea en Partido de Macurijes, 18 January 1844, f. 22-23, exp. 1, leg. 37, CM, ANC.

⁶⁶ Hernández Morejón to García Oña, Ingenio Andrea Partido de Macurijes, 20 January 1844, f. 14-15, exp. 1, leg. 37, CM, ANC.

to meet with a gang of maroons led by a former slave named José Dolores a few months prior.⁶⁷ Dolores was a notorious figure in the area who had spent the previous few years raiding plantations with his gang and avoiding capture.⁶⁸ Maybe Hernández Morejón believed that the revelation that La Andrea's slaves had sought out and perhaps received outside help sufficiently confirmed his suspicions. Or perhaps he believed that La Andrea's slaves were unlikely to hide the truth after the punishment he had already meted out to Antonio Lucumí. Whatever the reason, his secretary did not make further note of his use of torture.

On January 23, Hernández Morejón informed Governor García Oña that he had found evidence that white people and free people of color had been involved in the plan to rebel.⁶⁹ Over the last two days, he had interrogated three slaves from the Coto estate, attempting to learn more about the mysterious gang of maroons. In at least two of these interrogations, he had promised pardons in exchange for full cooperation, a promise he did not have authority to make. Gil Gangá had claimed that Coto's slaves had also tried to contact the gang and that he had heard that they were accompanied by three white men who provided them with weapons and fraudulent travel licenses.⁷⁰ In response to questions about the gang, Perico Criollo had pointed to an area known as El Palenque, the term for a maroon community, where a group of free black men

⁶⁷ Declarations of Gabriel Criollo, Mateo Lucumí, Marcos Criollo, and Marcelino Lucumí of La Andrea, Macurijes, 20-21 January 1844, f. 23v-26v, exp. 1, leg. 37, CM, ANC.

⁶⁸ Finch, *Rethinking Slave Rebellion in Cuba*, 68.

⁶⁹ Diligencia de haberse hecho la Segunda comunicación al Sor. Gobernador de Matanzas, La Andrea en Partido de Macurijes, 23 January 1844, f. 29v-30v, exp. 1, leg. 37, CM, ANC.

⁷⁰ Declaración de Gil Gangá esclavo de D. Miguel Coto, como de 25 años. Eno 22, no place, 22 January 1844, f. 26v-27, exp. 1, leg. 37, CM, ANC.

lived.⁷¹ The last slave Hernández Morejón had interrogated claimed that he too had heard about the gang and their free allies and had recounted a meeting attended by one of the free black man from El Palenque.⁷²

Within this morass of rumor, hearsay, desperate fabrication, and possible lies, Francisco Hernández Morejón saw confirmation of what he was looking for. Because his authorization to use torture did not extend to interrogations of free people, and because the scale of the investigation was growing, he suggested that the governor name an additional *fiscal* to the investigation who could conduct interrogations in accordance with the prohibition against judicial torture.⁷³

Hernández Morejón also took steps to make his extrajudicial investigation appear more like an ordinary legal process. In addition to compiling the records of his extrajudicial interrogations into a formal case file, he ratified the three declarations he had taken from Coto's slaves that had attested to the involvement of free people of color in the plan to rebel, a standard part of a legal process.⁷⁴ While Gil Gangá and German Gangá claimed they had nothing to add to their original declarations, Perico Criollo asserted that one of the two men from El Palenque was named Agustín Jiménez. Perico claimed that Jiménez was a noted *brujo* (witch) and one of the leaders of the plan to rebel. He had not mentioned Jiménez before, he claimed, because they

⁷¹ Declaración del mulato Perico Criollo, esclavo de D. Miguel Coto, edad 30 años, Eno 23, no place, 23 January 1844, f. 27-28, exp. 1, leg. 37, CM, ANC.

⁷² Declaración del negro German Gangá de Don Miguel Coto, como de 40 años, Eno 23, 23 January 1844, f. 28v-29v, exp. 1, leg. 37, CM, ANC.

⁷³ Diligencia de haberse hecho la Segunda comunicación al Sor. Gobernador de Matanzas, La Andrea en Partido de Macurijes, 23 January 1844, f. 29v-30v, exp. 1, leg. 37, CM, ANC.

⁷⁴ Diligencia de agregación á esta actuación las del expediente extrajudicial, Ingenio Andrea en Partido de Macurijes, 23 January 1844, f. 15v, exp. 1, leg. 37, CM, ANC.

were friends and because Jiménez carried great prestige throughout the area.⁷⁵

It is unclear from the documentary record how Hernández Morejón worked through the differing and confused accounts of maroons, free people of color, and white people participating in the plan to rebel. The only recorded direction his investigation took, however, was towards the four men living on the plot of land known as El Palenque. On January 24, he ordered their apprehension.⁷⁶

Prior to interrogating the men from El Palenque, Francisco Hernández Morejón received a communication from Governor García Oña responding to his initial report that the plan to rebel in the district of Macurijes involved several plantations, but which had not yet made mention of free people of color or white people. As though anticipating this eventuality, however, the governor reminded Hernández Morejón that if he started questioning free people, “they should not be harmed with domestic corrections.”⁷⁷

Having already acknowledged that the interrogation of free people would have to be conducted without recourse to torture, and with the governor of Matanzas now having reinforced that point, Hernández Morejón began interrogating Agustín Jiménez by asking the prisoner to identify himself. Jiménez replied that he had been born into slavery in the nearby district of Sumidero and had been freed by his owner. He was not married and currently worked as a laborer. Jiménez denied knowing the reason for his detention, and when asked if he had ever

⁷⁵ Ratifications of Gil Gangá, Perico Criollo, and German Gangá from Coto, Macurijes, 24 January 1844, f. 30v-31v, exp. 1, leg. 37, CM, ANC.

⁷⁶ Diligencia de aprehensión a los cuatro negros libres, La Andrea (Macurijes), 24 January 1844, f. 33-33v, exp. 1, leg. 37, CM, ANC.

⁷⁷ García Oña to Hernández Morejón, Matanzas, 24 January 1844, f. 34-36v, exp. 1, leg. 37, CM, ANC. “deban castigarse no de una manera de correcciones domesticas.”

been detained before he mentioned being arrested during the Military Commission's investigation of the Guamacaro rebellion of 1825. When asked if he knew Perico Criollo from the Coto estate, Jiménez acknowledged that they had worked together clearing forest. He denied being a *brujo* as well as having any knowledge of the planned rebellion. He added that he would have alerted authorities if he had known about the rebellion, as he owned a small tract of land and two slaves of his own, so he had something to lose.⁷⁸ Two of the other free men living in El Palenque also denied knowing anything about the planned rebellion, while the fourth acknowledged that he had heard slaves from Coto's estate mention something about a rebellion.⁷⁹

The governor's warning against torturing free people should not be taken as evidence that Hernández Morejón refrained from doing so when questioning the men from El Palenque. A comparison of these interrogations with his prior interrogations of slaves from La Andrea and the Coto estate, however, suggests that it was unlikely. When interrogating slaves using a combination of physical coercion and the promise of rewards, he never failed to obtain acknowledgments that a rebellion was being planned, though the details were seldom stable or uniform. Agustín Jiménez and the other men from El Palenque, by contrast, all denied having any knowledge beyond a passing whisper of the planned rebellion. If Hernández Morejón indeed tortured them, they seem to have proven uniquely capable of resisting his methods. It seems more likely that he did not. Having collected a series of denials, then, the *fiscal* ordered that the

⁷⁸ Declaracion del moreno libre Agustín Jiménez, Macurijes, 26 January 1844, f. 39-40, exp. 1, leg. 37, CM, ANC.

⁷⁹ Declarations of Ramon Jiménez, Basilio Barbuseda, and Domingo Sardiña of El Palenque, Macurijes, 26 January 1844, f. 40-42v, exp. 1, leg. 37, CM, ANC.

four men be transferred to the prison in the city of Matanzas.⁸⁰

Over the previous week and a half, Francisco Hernández Morejón had closed in on the figure of Agustín Jiménez. In the days that followed, however, as he endeavored to learn more about Jiménez and the men from El Palenque, new revelations splintered the investigation in several different directions. On January 28, Hernández Morejón interrogated a slave named Tomás Criollo, who worked as a carriage driver on a plantation owned by Francisco Adan. Tomás, perhaps under torture, provided cooperative testimony, denouncing six free people of color from the city of Matanzas who he claimed knew about the plan. He identified five of them by name. He also claimed that he had seen the sixth man, a mulatto, four months earlier in the town of Corral Falso. Though he did not know the man's name, he knew that the man was from the city of Matanzas and was married to the daughter of a woman named Pilar Poveda. Tomás added that he had seen the mysterious man at Jiménez's house, where the guest had discussed events in the place he referred to as "Santo Domingo," presumably Saint-Domingue/Haiti.⁸¹

Whether through prior knowledge or through reflection, the mysterious mulatto was determined to be none other than the poet Gabriel de la Concepción Valdés, also well-known as Plácido. Following the Bemba rebellion in March 1843, regional officials had been placed on a heightened state of alert.⁸² On April 6, the governor of the jurisdiction of Villa Clara had ordered Valdés's arrest, as the poet's travels through the region had engendered suspicions. Valdés remained in jail until October 11, 1843, at which point he was released and returned to the city of

⁸⁰ Diligencia de haber remitido a la ciudad de Matanzas los cuatros negros libres, Macurijes, 27 January 1844, f. 42v-46, exp. 1, leg. 37, CM, ANC.

⁸¹ Declaracion de Tomas Criollo, esclavo de Dn. Franco Adan, La Andrea, 28 January 1844, f. 54v-56, exp. 1, leg. 37, CM, ANC.

⁸² Paquette, *Sugar is Made With Blood*, 181.

Matanzas.⁸³ While Hernández Morejón already had evidence that free people of color had participated in the plan to rebel, the revelation linking Agustín Jiménez to a public figure who was known to associate with distinguished white Cubans suggested that the regional plan to rebel might be part of a much vaster conspiracy. Tomás Criollo's testimony prompted authorities to arrest Valdés again on January 30, 1844.⁸⁴ On February 1, Lieutenant Francisco de Paula Espinoza questioned Valdés in relation to Tomás Criollo's declaration. The poet denied ever being in Corral Falso or having met or otherwise heard of Agustín Jiménez.⁸⁵ For over a month Valdés remained in prison before interim governor of Matanzas Fulgencio Salas, who had taken over command of the jurisdiction on a temporary basis, ordered the creation of a formal investigation into his activities.⁸⁶

Just as Francisco Hernández Morejón's investigation was splintering off in new directions, Captain General O'Donnell responded to his report of January 23. Since the extrajudicial investigation had uncovered evidence that free people of color and white people were involved in the plot, O'Donnell ordered Captain Apolinar de la Gala to take over the extrajudicial investigation, freeing up Hernández Morejón to follow leads and look for more evidence regarding the origins of the planned rebellion.⁸⁷ On February 26, he uncovered what he took to be a new plan to rebel by slaves on a plantation named San Francisco de Paula. Not

⁸³ Cué Fernández, *Plácido*, 89.

⁸⁴ Cué Fernández, *Plácido*, 78.

⁸⁵ Declaración del Pardo Gabriel de la Concepción Valdés, Matanzas, 1 February 1844, f. 334v-337, exp. 1, leg. 37, CM, ANC.

⁸⁶ Cué Fernández, *Plácido*, 78; *Colección de fallos*, 12.

⁸⁷ M^a de Pierra to De la Gala, Matanzas, 27 January 1844, f. 2-3v, exp. 1, leg. 37, CM, ANC.

wanting to deviate from his current line of inquiry, he ordered one of his subordinates in the local militia, Lieutenant Luís Dulzaides, to go to the plantation to begin a preliminary investigation.⁸⁸

Over the next month, Hernández Morejón initiated at least four more investigations in this way.⁸⁹

Over two days, Luís Dulzaides interrogated seven slaves at San Francisco de Paula.⁹⁰

Though the declarations reflected a range of responses, they consistently pointed to two men as leaders of the planned rebellion: a free black man named Meliton Sotolongo, who lived adjacent to the plantation La Carolina, and Pablo Gangá from La Sabanilla.⁹¹ Two days later, while interrogating slaves on the plantation San Fernando, Luís Dulzaides continued to learn about the leadership Meliton Sotolongo and Pablo Gangá had apparently provided in organizing the rebellion across multiple plantations.⁹²

On February 28, Luís Dulzaides began interrogating slaves at La Sabanilla.⁹³ Three of the declarants described a series of clandestine meetings between slaves and free people of color across seven to nine plantations. They all referred to Pablo Gangá and Meliton Sotolongo as among the main organizers. They also claimed that Pablo's wife, the free woman Juana Carabalí,

⁸⁸ Hernández Morejón to Dulzaides, Ingenio Atrevido, 26 February 1844, f. 1-1v, exp. 1, leg. 43, CM, ANC.

⁸⁹ *Coleccion de fallos*, cases 15, 24, 35, and 63.

⁹⁰ De la Gala to Dulzaides, Macurijes, 29 February 1844, f. 30, exp. 1, leg. 43, CM, ANC.

⁹¹ Declarations of Joaquin Carabalí, Casémiro Gangá, Pablo Gangá de Hernández, Luis Chiquito Ganga, Millo Carabaly, Leon Locumy, and Diego Ganga, Lagunillas, 26-27 February 1844, f. 2v-14v, exp. 1, leg. 43, CM, ANC.

⁹² Declarations of Ylario Ganga, Miguel Mina, Nicolas Mina, Agustín Locumy, and Juan Bautista, Lagunillas, f. 15-23v, exp. 1, leg. 43, CM, ANC.

⁹³ Diligencia de pasar á tomar declaraciones, Lagunillas, 28 February 1844, f. 23v, exp. 1, leg. 43, CM, ANC.

was one of the leaders, with one of them stating that “Juana was the queen here.”⁹⁴

Before leaving La Sabanilla to return to San Francisco de Paula, Luís Dulzaides interrogated Pablo Gangá. In a declaration remarkable for its length and level of detail, Pablo claimed that the plan to rebel involved eight plantations and was expanding. It was a group of free black men who worked in the regional economy as carpenters, muleteers, and slave drivers who did much of the coordinating between different plantations. Until they had been discovered, most of their efforts had been directed towards raising money to buy weapons. Towards that end, Pablo described how he had tried to collect some money from Meliton Sotolongo from the sale of two pigs, but Sotolongo had had no money at the time.⁹⁵

Pablo Gangá’s testimony, so full of incriminating details, may well have been provided under torture. The level of specificity in the testimony nonetheless suggests that Dulzaides was looking for information rather than seeking simply to confirm what he already believed. Pablo’s answer to the *fiscal*’s final question is thus noteworthy. When asked about his motivations for rebelling, Pablo provided an answer that the secretary recorded as follows:

The motive was the desire to be free and the hope that they would succeed, which had gotten everyone excited, because the *libres* offered to help them, telling them that it was necessary that they work for their liberty, that otherwise they would see that the whites would not do anything other than make sugar plantations and make them slaves, that they, the *libres*, even though they were of that class, sympathized with the slaves and for that reason were working to give them their freedom.⁹⁶

⁹⁴ Declarations of Pio Gangá, Diego Mandinga, and Alejos Gangá, Lagunillas, 29 February 1844, f. 23v-28, exp. 1, leg. 43, CM, ANC. Alejos Gangá is the declarant who refers to Juana as “la reyna aqui.”

⁹⁵ Declaración del negro Pablo Gangá de la Sabanilla, Lagunillas, 29 February 1844, f. 31-34, exp. 1, leg. 43, CM, ANC.

⁹⁶ Declaración del negro Pablo Gangá de la Sabanilla, Lagunillas, 29 February 1844, f. 31-34, exp. 1, leg. 43, CM, ANC. “Que el motibo era por deceo de ser libres y que la esperanza de salir bien, y el haberse embullado todos, es por que los libres les ofrecian ayudarlos, diciendoles que

Even if Dulzaides had tortured Pablo into uttering the words the secretary had thus recorded, his actual sentiments may not have been so removed from the answers Dulzaides had been hoping to find.

If the record of Luís Dulzaides's interrogations are ambiguous about his use of torture during his first investigation, accounts of other investigations are less so. With the investigatory process splitting off into a growing number of directions, the Escalera process had already begun to assume the character for which it would later become notorious. The lieutenant governor of the jurisdiction of Cárdenas, for instance, also coordinated his own set of investigations. Acting on his orders, soldiers interrogated seven slaves on the plantation of an Englishman named Theodore Phinney, leading to their deaths. In describing the interrogation process, Phinney later recalled the scene:

Stripped naked & lashed to a ladder on the ground with a rope around each wrist so tight that the blood could scarcely circulate, and the whole arm drawn above the head till the shoulder joints fairly cracked, while the ropes were secured to the top of the ladder, the feet and legs stretched in the same manner, and fastened to the lower part with a double run around the loins and back, binding the whole trunk of the body immoveably to the rounds of the ladder, in this position, the poor negro was thought to be ready to commence his declaration!⁹⁷

Over the next few days, Luís Dulzaides conducted several more interrogations of slaves before turning his attention to a group of nine free people of color that Francisco Hernández Morejón had recently apprehended and made available to the *fiscal* for questioning, including

era preciso que trabajaran por su libertad, que sino veian que los blancos no hacian otra cosa que hacer ingenios y á ellos esclabos, que ellos, los libres, aunque eran de esta clase, se compadecian de los esclabos y por eso estaban trabajando para proporcionarles su libertad.”

⁹⁷ Theodore Phinney to Crawford, 20 June 1844, FO 72/664, as cited in Paquette, *Sugar is Made With Blood*, 226.

Meliton Sotolongo and Juana Carabalí.⁹⁸ It does not appear that he tortured these prisoners during their interrogations. Meliton Sotolongo, for instance, denied having any knowledge of the plan to rebel. He even denied knowing all but a few of the people Dulzaides asked him about. Of the slaves from La Sabanilla, Sotolongo claimed that he only knew Pablo Gangá because he had purchased two pigs from the slave.⁹⁹ Juana Carabalí's testimony was similarly uncooperative. She denied having any knowledge of the plan to rebel and claimed that if she had known, she would have said something in order to protect herself and her children. She too claimed that she did not know any of the people Dulzaides asked her about, with the exception of Meliton Sotolongo, confirming that he had purchased two pigs from her husband for twenty-seven pesos.¹⁰⁰ At the end of these interrogations, the nine prisoners were transferred from the plantation San Francisco de Paula to the prison in the city of Matanzas.¹⁰¹

As the investigatory process initiated by Francisco Hernández Morejón developed, Captain General O'Donnell was beginning to question its efficacy. On February 22, 1844, he wrote to interim governor of Matanzas Fulgencio Salas welcoming reports that the countryside was calm and secure. He thought it noteworthy, though, that the growing number of investigations had yet to produce any insights into the origins of the planned insurrection.

⁹⁸ Hernández Morejón to Dulzaides, Lagunillas, 27 February 1844, f. 12-12v, exp. 1, leg. 43, CM, ANC; Diligencia de pasar a recibir las instructivos, Lagunillas, 2 March 1844, f. 52, exp. 1, leg. 43, CM, ANC.

⁹⁹ Ynstructivo del negro libre Meliton Sotolongo, Lagunillas, 2 March 1844, f. 53v-55, exp. 1, leg. 43, CM, ANC.

¹⁰⁰ Ynstructiva de la morena libre Juana Carabaly, Lagunillas, 3 March 1844, f. 70-71v, exp. 1, leg. 43, CM, ANC.

¹⁰¹ Diligencia de haberse remitido los presos para Matanzas, Lagunillas, 4 March 1844, f. 71, exp. 1, leg. 43, CM, ANC.

Pointing to the records of some interrogations Apolinar de la Gala had conducted with free people of color, O'Donnell expressed doubt that the prisoners were being fully forthcoming. O'Donnell thus informed Salas that "when dealing with the security of the land and a crime against the state, any method is legal and permitted if there exists beforehand a moral conviction that it will produce the result that the wellbeing of all desires and demands."¹⁰² Recognizing that the captain general was effectively authorizing *fiscales* to begin torturing free people of color, Salas forwarded the communication to Apolinar de la Gala the very next day.¹⁰³

Revelations of torture and pain seldom made it into the official documented record of interrogations against slaves and free people of color. Making note of their vestiges, however, was a procedural requirement. On March 12, for instance, interim Governor Salas transferred Agustín Jiménez back to the plantation La Andrea, where Captain Apolinar de la Gala, now authorized to use torture, waited to resume interrogations.¹⁰⁴ For ten days, Jiménez remained absent from the documentary record, but on March 22 a soldier informed De la Gala that Jiménez had attempted to hang himself in his cell.¹⁰⁵ When asked to explain his actions, Jiménez was recorded as saying that he was being punished because people had lied about him, and that

¹⁰² Salas to De la Gala, Matanzas, 23 February 1844, f. 452-453v, exp. 1, leg. 37, CM, ANC. "cuando se trata de la seguridad del Pais, y de un delito de Estado, cualquier medio es legal y permitido si de antemano ecsiste una [convicción] moral de que ha de producir el resultado que se desea y [ecsije] al bien general."

¹⁰³ Salas to De la Gala, Matanzas, 23 February 1844, f. 452-453v, exp. 1, leg. 37, CM, ANC.

¹⁰⁴ Salas to De la Gala, Matanzas, 12 March 1844, f. 293, 2^a pieza, exp. 1, leg. 37, CM, ANC.

¹⁰⁵ Lapuerta to De la Gala, Ingenio La Andrea, 22 March 1844, f. 321, 2^a pieza, exp. 1, leg. 37, CM, ANC.

he preferred to die.¹⁰⁶ Four days later, De la Gala's secretary inserted a bizarre note in the case file, claiming that he and the *fiscal* had gone to Jiménez's cell "with the objective to see if something had occurred to him to declare," only to find Jiménez with his head propped up in an unnatural position, claiming that it bothered him to lie down.¹⁰⁷ In the case file's next entry, the same soldier who had thwarted Jiménez's first suicide attempt reported that the prisoner was dead.¹⁰⁸ No new information extracted from Jiménez appeared in the case file.

By mid-March, two months after Captain General O'Donnell had authorized Francisco Hernández Morejón to use torture while conducting his extrajudicial investigation, and a month since he had extended that authorization to include interrogations of free people of color, the investigatory process now involved at least sixteen separate inquiries. Hernández Morejón had initiated some of these by ordering subordinates in the militia to begin investigations, as he had done with the investigation led by Luís Dulzaides. Others had been initiated by regional officials like Governor Oña and the lieutenant governor of Cárdenas.¹⁰⁹ The impetus behind this legal experiment in investigating slave resistance in Matanzas had been the Military Commission's failure to prevent the succession of slave rebellions that had consumed the Matanzas countryside in 1843. This failure had in retrospect been blamed on the tribunal's inability to uncover what officials presumed to be the role played by white people and free people of color in instigating

¹⁰⁶ Instructiva del negro libre Agustín Jiménez, Macurijes, 22 March 1844, f. 325v-326v, 2^a pieza, exp. 1, leg. 37, CM, ANC.

¹⁰⁷ Diligencia en que se hace constar haber pasado el Sor. fiscal con asistencia de mí el secretario al punto donde se halla preso el negro libre Agustín Jiménez, Macurijes, 26 March 1844, f. 357-357v, 2^a pieza, exp. 1, leg. 37, CM, ANC.

¹⁰⁸ Nota, La Andrea, 26 March 1844, f. 375v, 2^a pieza, exp. 1, leg. 37, CM, ANC.

¹⁰⁹ *Colección de los fallos*, cases 1, 2, 3, 4, 6, 12, 13, 17, 18, 20, 22, 25, 34, 38, 43, and 67.

those rebellions. Now that the current investigations were producing increasing evidence of their participation, O'Donnell informed his superiors in Madrid that it was time to gather the myriad investigations under the institutional umbrella of the Military Commission so that the tribunal could oversee the prosecution of cases dealing with what he now referred to as "the conspiracy of the people of color."¹¹⁰ On March 20, 1844, O'Donnell decreed the establishment of a new section of the Military Commission in Matanzas.¹¹¹

The Institutional Phase of the Escalera Process

Captain General O'Donnell's decision to place a new section of the Military Commission in charge of the multiple investigations into the thwarted insurrection was due in part to his belief that it was time to transform them into prosecutions against what he now referred to as the "conspiracy of the people of color." He was also concerned that the process itself had become untenable. O'Donnell's authorization of the use of torture against free and enslaved people of color had enabled two distinct yet mutually reinforcing impulses. As *fiscales* such as Francisco Hernández Morejón, Apolinar de la Gala, and Luís Dulzaides tortured prisoners to obtain information that might propel their respective investigations, they were also aware of the potential for self-enrichment presented by an investigatory process that recognized their claims to the embargoed property of its defendants once the investigations were brought before courts to be judged. Francisco Ximeno, the son of a wealthy Matanzas family and college student during 1844, recalled decades later that "bribery and the unseemly idea of obtaining the large honorariums that they charged, was the motive that drove those beasts [the *fiscales*], who

¹¹⁰ O'Donnell to Ministry of War, Havana, 20 March 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹¹¹ Decreto, Havana, 20 March, 1844, no folio, exp. 5, leg. 66, CM, ANC.

ruthlessly pursued their depraved intentions.”¹¹²

Indeed, the issue of embargoed property had emerged as a pressing concern as the many investigations began to stress the state’s ability to sustain them financially. By March 20, the prisons in Matanzas were already filled with over three hundred alleged conspirators, and the widespread use of torture meant that many detainees needed hospitalization, engendering expenses that could not be ignored.¹¹³ By institutionalizing the investigatory process under the purview of the Military Commission, Captain General O’Donnell thus made use of the tribunal’s existing financial relationship with the Intendancy, one that had been negotiated over time so as to maintain the Intendancy’s independence from the captaincy general even as the two institutions cooperated to bolster the state’s promotion of insular security. This relationship had emerged as an imperfect solution to a problem that had never been fully resolved: with legal proceedings generally financed by embargoing the property of defendants, how was the state to enact a repressive form of justice against a population of free and enslaved people of color when so many of them owned little, or were property themselves?

After Captain General Francisco Dionisio Vives had established the Military Commission in 1825, it had taken several years for the captaincy general, the Military Commission, and the Intendancy to settle on a financial accommodation that would sustain the tribunal’s operations. Through a combination of expense accounts and increasing the salary of the tribunal’s president,

¹¹² Morales y Morales, *Iniciadores y primeros mártires*, 159. “El cohecho y la idea halagadora de obtener el pago de crecido honorarios que se cargaban, era el móvil que aguijoneaba á aquellas fieras, que no reparaban en medios para conseguir sus depravados intentos”; On Francisco Ximeno, see Paquette, *Sugar is Made With Blood*, 6.

¹¹³ Paquette, *Sugar is Made With Blood*, 220; O’Donnell to Minister of War, Havana, 20 March 1844, no folio, exp. 5, leg. 66, CM, ANC. On paying for hospitalization, see O’Donnell to Salas, Havana, 28 October 1844, no folio, exp. 2, leg. 79, CM, ANC.

the Intendancy would cover the tribunal's operating expenses in exchange for rights to the embargoed property of the tribunal's defendants.¹¹⁴ Though O'Donnell had initially chosen to bypass the Military Commission in order to unshackle the investigations from the tribunal's formal adherence to law, institutionalizing the ongoing investigations under the auspices of the Matanzas Section of the Military Commission now inserted them into an institutional framework with a functioning, if imperfect, system of finance. After decreeing the establishment of the Matanzas Section, O'Donnell named interim governor of Matanzas Fulgencio Salas to serve as the section's president and then ordered him to begin embargoing the property of defendants.¹¹⁵

The existence of an established system of finance allowed for the new tribunal's quick deployment. On April 3, 1844, O'Donnell ordered the Intendancy to pay the rent for the Matanzas Section's headquarters at a rate of no more than twenty-six pesos per month. Unlike the contentious debate that had ensued years earlier when the Military Commission and the captaincy general tried to get the Intendancy to pay for the tribunal's rent, the Intendancy's superintendent now promptly and unquestioningly approved the outlay.¹¹⁶

Even as these pre-existing accommodations facilitated the Matanzas Section's quick deployment, they also provided a framework for dealing with unforeseen circumstances. A new expense, for instance, was incurred when the group of new *fiscales*, including Luís Dulzaides, had been incorporated as members of the Matanzas Section. Unlike the Military Commission's *fiscales*, who received salaries as commissioned officers in the regular army, many of these new

¹¹⁴ See Chapter 3.

¹¹⁵ O'Donnell to Salas, Havana, 3 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹¹⁶ O'Donnell to Salas, Havana, 3 April 1844, no folio, exp. 5, leg. 66, CM, ANC; Martínez de Pinillos to O'Donnell, Havana, 10 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

fiscales were either retired regular officers or officers in the Matanzas militia.¹¹⁷ Part of institutionalizing the Escalera process, then, meant establishing new salaries for them. Furthermore, the large workload prompted O'Donnell to assign the Matanzas Section's *asesor* a salary, a development for which the Military Commission's original *asesor* had unsuccessfully lobbied for many years.¹¹⁸ As with all other expenses, the Intendancy covered these salaries and looked towards the embargoed property of the Matanzas Section's defendants to recoup its financial outlays.

The existing framework also allowed Captain General O'Donnell to conceive of the expenses generated by the investigatory process broadly. Not only would the Matanzas Section use the embargoed property of prisoners to reimburse the Intendancy for its operational expenses, but those revenues would also be used to cover the ancillary expenses incurred by the government because of the investigatory process, such as the cost of maintaining defendants in prisons and hospitals, and the anticipated rewards to be given to cooperating slaves according to article 38 of the *Bando de buen gobierno*.¹¹⁹

The Intendancy was thus quite literally invested in the Escalera process. On May 10, 1844, Claudio Martínez de Pinillos announced that the Intendancy would cover the costs of imprisoning and maintaining defendants of the Escalera process, citing the threat to public security that the conspiracy posed. This was a far greater pecuniary commitment than the Intendancy had ever made to Havana's Military Commission, but as had been settled years

¹¹⁷ Relacion de los oficiales no procedentes de los cuerpos, que se hallan empleados de Fiscales de este Tribunal, 27 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹¹⁸ Armero to O'Donnell, Havana, 12 October 1844, exp. 14, leg. 42, AP, ANC.

¹¹⁹ O'Donnell to Salas, Havana, 3 April 1844, no folio, exp. 5, leg. 66, CM, ANC; Martínez de Pinillos to O'Donnell, Havana, 10 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

before, Martínez de Pinillos announced that the Intendancy would recoup its financial outlay through the embargoed property of defendants.¹²⁰

The rebellions of 1843 and the revelations of the investigatory phase of the Escalera process pointing to a vast conspiracy linking anti-slavery and anti-imperial forces in common cause forged new levels of cooperation between the leading institutions of colonial governance. Because Captain General O'Donnell was taking an assertive role marshalling the resources of the state to confront this threat, and because the region most likely to be affected by a general slave uprising was also the center of Cuba's sugar economy, the Intendancy had an interest in helping O'Donnell's efforts to restore security and tranquility. Its cooperation was made easier by O'Donnell's decision to deploy the Military Commission for this task, since the tribunal already had a financial relationship with the Intendancy. Though the Matanzas Section of the Military Commission would have to expand its operations, given the scale of the investigatory process, the Intendancy anticipated that the property of prisoners caught up in the process would yield the necessary revenues and reimbursements.

But following the law and paying for the law, as it turned out, were two quite different things. With so many cases and defendants to deal with, any delays in prosecutions meant that defendants had to be maintained in prisons and hospitals for extended periods of time, thus incurring further expenses. Recognizing the importance of prosecutorial expediency, then, Captain General O'Donnell had asked *auditor de guerra* Antonio Armero on March 17 how to expedite the prosecution of these investigations.¹²¹ Armero had replied with six recommendations, the first one of which had been to institutionalize the process by establishing

¹²⁰ Untitled, Havana, 11 May 1844, no folio, exp. 31, leg. 100, AP, ANC.

¹²¹ O'Donnell to Armero, Havana, 17 March 1844, no folio, exp. 5, leg. 66, CM, ANC.

the Matanzas Section.¹²² The other five recommendations had attended to legal procedures and were meant to streamline prosecutions to shorten the time it took to bring them before the Matanzas Section's Consejo de Guerra for final judgement. The tribunal would decide on a system of classifications for crimes and punishments to quickly determine appropriate sentences. Only the bare minimum of witness testimony would be obtained. The practice of interrogating prisoners in groups would be kept at a minimum. Defense counsels, who were selected from lists of officers in the militia and regular army, would only be given twenty-four hours to review case files and would be allowed to submit their defenses orally before the *consejo*. And finally, each prosecution would be judged independently.¹²³ On March 20, O'Donnell had given his approval to Armero's recommendations as he decreed the establishment of the Matanzas Section.¹²⁴

On March 31, President Salas wrote to Captain General O'Donnell with his own recommendation for streamlining prosecutions. He noted that according to proper interrogation procedures, *fiscales* issued formal charges against defendants during their final interrogation session, known as the confession. Considering the number of defendants the Matanzas Section would be prosecuting, Salas identified this practice as a procedural bottleneck. He thus suggested that prosecutions could be further streamlined by omitting the issuing of formal charges altogether, as the crimes each defendant would be accused of would have already emerged during previous interrogations.¹²⁵ In response, *auditor de guerra* Armero argued that omitting formal charges was too much of a deviation from the procedural requirements mandated by law.

¹²² Armero to O'Donnell, Havana, 20 March 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²³ Armero to O'Donnell, Havana, 20 March 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²⁴ Decreto, Havana, 20 March, 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²⁵ Salas to O'Donnell, Matanzas, 31 March 1844, no folio, exp. 5, leg. 66, CM, ANC.

He suggested, though, that they could accomplish the same ends by authorizing *fiscales* to issue formal charges when they first questioned prisoners.¹²⁶ This method for streamlining prosecutions turned out to be of limited efficacy, as so many prisoners had already been questioned according to the unaltered procedure, meaning that they still needed to be formally charged.¹²⁷ When presented with this dilemma, O'Donnell could only reply that *fiscales* should nonetheless make every effort to conclude these cases as quickly as possible.¹²⁸

Over a month later, after the Matanzas Section's Consejo de Guerra had already passed judgement on eight prosecutions, Salas informed the captain general of another bottleneck slowing down the conclusion of prosecutions.¹²⁹ In military proceedings, all defendants had a right to defense counsel, and it was up to the owners of enslaved defendants to select a defense counsel for their slaves from a pre-determined list. The Matanzas Section was having trouble, however, tracking down many slaveholders, thus preventing *fiscales* from referring cases up to the tribunal's *consejo* in a timely manner.¹³⁰ Advising O'Donnell, Armero recommended that in these cases the *síndicos procuradores* of the jurisdictions of Matanzas and Cárdenas, appointed officials responsible for representing slaves in some legal matters, could be asked to select defense counsels for enslaved defendants.¹³¹

¹²⁶ Armero to O'Donnell, Havana, 1 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²⁷ Salas to the O'Donnell, Matanzas, 4 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²⁸ O'Donnell to Salas, Havana, 5 April 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹²⁹ *Colección de fallos*, cases 1-8.

¹³⁰ Salas to O'Donnell, Matanzas, 14 May 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹³¹ Armero to O'Donnell, Havana, 16 May 1844, no folio, exp. 5, leg. 66, CM, ANC. For more on the office of *síndico procurador* in Cuba, see Alejandro de la Fuente, "Slaves and the

Captain General O'Donnell was even willing to incur additional expenses if necessary to speed up the process. By May 5, after *fiscales* had already brought three cases before the tribunal's Consejo de Guerra, President Salas identified yet another problem. After the *consejo* passed sentences for a given prosecution, the captain general was required to give his approval on an individual basis for defendants destined for imprisonment on the island. The required paperwork for each individual sentence included a copy of the prisoner's sentencing report. Each sentencing report, however, attended to a collective prosecution, and thus included a list of all the prisoners, often numbering in the dozens, all the charges levied against them, and then all of the sentences. These documents often took up several, if not dozens, of handwritten pages. Salas pointed out that the tribunal did not employ enough secretaries to make copies of the sentences for each individual prisoner. Since delays in doing so meant that sentences could not be executed in a timely manner, meaning that the prisons would continue to be congested, Salas suggested that the tribunal commission the production of printed copies of each sentencing report. The cost of this, he continued, would be added to the court costs of each prosecution, which would be recovered from the embargoed property of defendants.¹³² On May 6, 1844, *auditor de guerra* Martínez advised the captain general that the circumstances required this added expense, and two days later O'Donnell gave his consent.¹³³

From the Military Commission's founding in 1825, the adherence to legal procedure had

Creation of Legal Rights in Cuba: *Coartación* and *Papel*," *Hispanic American Historical Review* 87, no. 4 (November 2007), 659-692.

¹³² Salas to O'Donnell, Matanzas, 5 May 1844, no folio, exp. 5, leg. 66, CM, ANC.

¹³³ Armero to O'Donnell, Havana, 6 May 1844, no folio, exp. 5, leg. 66, CM, ANC; O'Donnell to Salas, Havana, 8 May 1844, no folio, exp. 5, leg. 66, CM, ANC.

undercut the expectation that the tribunal would be a purveyor of swift justice.¹³⁴ Even during this moment of apparent emergency, when the existential stakes posed by the conspiracy tested the state's ability to contend with the threat, the law maintained its irresistible ability to slow things down. During the investigatory phase of the Escalera process, when the hidden knowledge of free and enslaved people of color was viewed as the key to the process, *fiscales* had been authorized to use torture to uncover evidence of the conspiracy. During the institutional phase of the process, however, it appears that legal scripts could be tinkered with, but not fully or visibly abrogated.

Judicial Violence, Racial Plunder, and the Consolidation of Sovereign Authority

Despite being brought into line with the Military Commission's administrative and legal practices, the Escalera process maintained its extra-legal sanction of the use of torture against free and enslaved people of color into its institutional phase. *Fiscal* Juan Costa, an officer in the regular army whom Francisco Hernández Morejón had charged with investigating reports of a planned insurrection in the rural district of Lagunillas just before the establishment of the Matanzas Section, for instance, was said to have killed forty-two free people of color and fifty-four slaves during his interrogations.¹³⁵ The imprisonment and torture of free and enslaved people of color also became regular parts of urban life in cities like Matanzas and Cárdenas. A

¹³⁴ See Chapters 1 and 2.

¹³⁵ *Colección de los fallos*, case 63; Richard P. Kimball, *Cuba, and the Cubans* (New York: Samuel Houston, 1850), 85. Kimball was a lawyer from New York who often travelled to Cuba in the early 1840s and was present in Matanzas in 1844. His writings on the events that transpired, and especially his descriptions of the interrogation methods used by Military Commission officials often make reference to newspaper accounts, published records of the tribunal's proceedings, and hearsay, making them useful, though imprecise, accounts of the violent character of the Escalera process.

man named George Bell, who was in Cárdenas at the time, wrote to British consul to Cuba Joseph Crawford about hearing whippings every night.¹³⁶ Writing decades later, Dolores María de Ximeno y Cruz, niece of Francisco Ximeno, recalled her grandmother's descriptions of processions of prisoners marking the streets with their blood.¹³⁷

Though conspicuous and rampant, this sort of violence was also deployed with a certain selectivity. On April 12, Luís Dulzaides visited Juana Carabalí in a Matanzas prison to take her confession. As she had done during her preliminary declaration, Juana denied having any knowledge of the planned rebellion. Despite charging her with participation in the plan to rebel and repeatedly challenging her denials, Dulzaides could not get Juana to confess. For her part, Juana claimed that all accusations against her and her husband Pablo Gangá were lies. She added that she would never have allowed the meetings she was accused of attending to take place in her hut, on account of her children and because she feared the consequences.¹³⁸

Dulzaides continued taking confessions from defendants until Meliton Sotolongo and Pablo Gangá were among his last remaining prisoners. On April 23, he traveled to the hospital in Matanzas, where the two men were being held. According to the record, Sotolongo denied having anything to do with the rebellion and asserted, once again, that his only interaction with Pablo Gangá had been related to the sale of two pigs.¹³⁹ Pablo also denied having anything to do with the rebellion. He claimed that he had only admitted to having been the leader of the planned

¹³⁶ Paquette, *Sugar is Made With Blood*, 222, 322n50.

¹³⁷ Paquette, *Sugar is Made With Blood*, 8, 222.

¹³⁸ Confesión de Juana Carabalí Tosca, Matanzas, 12 April 1844, f. 227-229, exp. 1, leg. 43, CM, ANC.

¹³⁹ Confesión de Melitón Sotolongo, Matanzas, 23 April 1844, f. 284v-287v, exp. 1, leg. 43, CM, ANC.

insurrection on La Sabanilla during his preliminary declaration because at the time he had already been denounced by others. Pablo then proceeded to answer all of Dulzaides' follow-up questions with denials. He denied travelling between plantations organizing the rebellion, hosting clandestine meetings in his hut with Juana Carabalí, collecting money, distributing weapons, and a host of other allegations made against him. There was one question, however, that Pablo answered in the affirmative. When asked if he knew what the penalty was for participating in the plan to rebel, Pablo perhaps recalled the fate suffered by his fellow rebels during the Military Commission's prosecution of the Guamacaro rebellion of 1825, stating that he was aware that the penalty was imprisonment or death.¹⁴⁰

Subsequent accounts of the Escalera process often recalled the ways *fiscales* tortured defendants until their confessions conformed with the *fiscal's* expectations. According to the college student Francisco Ximeno, "no one is ignorant of the means employed and the horrors committed in their substantiation, using the most cruel torments to extract declarations, which for the most part were reduced to a yes or a no, in response to the tricky questions of the *fiscal*."¹⁴¹ It is noteworthy, then, that Luís Dulzaides could not obtain admissions of guilt from Juana Carabalí, Meliton Sotolongo, and Pablo Gangá. In the case of Juana, it is likely that Dulzaides discounted her significance because of her gender. In his final report, which included his sentencing recommendations, Dulzaides found Juana guilty in the third degree. While he recommended that other defendants assigned the same degree of culpability be deported from the

¹⁴⁰ Confeción de Pablo Ganga de la Sabanilla, Matanzas, 21 April 1844, f. 273v-277, exp. 1, leg. 43, CM, ANC.

¹⁴¹ Morales y Morales, *Iniciadores y primeros mártires*, 159. "...nadie ignora los medios empleados y los horrores cometidos en su sustanciación, usando de los más crueles tormentos para arrancar las declaraciones, que en su mayor parte se reducian á un si o á un no, en respuesta de las capciosas preguntas del fiscal..."

island, he did not recommend a punishment for Juana.¹⁴² And when the tribunal's Consejo de Guerra passed final judgement on the case, they absolved Juana of all guilt, citing her three young children.¹⁴³

If Luís Dulzaides had been inclined to spare Juana Carabalí the use of torture because she was a woman, that was not an indication that he was less inclined to torture prisoners than were the other *fiscales*. Richard Kimball, a lawyer from New York who was visiting Matanzas at the time, recounted how Dulzaides was said to have “had a free negro placed in the jail in what is called ‘campaign-stocks,’ which is a most distressing position of the body, the arms being arranged so as to hold the legs; and thus placed, ordered him to be whipped unmercifully, until he should confess.”¹⁴⁴ His failure to extract confessions from Pablo Gangá and Meliton Sotolongo, then, might be explained by his inability to impose further pain upon them. At the time of their confessions, Pablo and Sotolongo were being hospitalized, possibly due to injuries they had incurred under torture. Their bodies already ravaged, Dulzaides may not have had the option to coerce the desired confessions without killing them. In that little space, too broken to be broken any further, they resisted their captors one last time.

Luís Dulzaides submitted his final report on July 15. He found Pablo Gangá and Meliton Sotolongo guilty in the first degree of culpability and recommended that they be executed.¹⁴⁵ On July 22, the Matanzas Section's Consejo de Guerra voted to follow Dulzaides' recommendations. Meliton Sotolongo never made it to his execution, as he died in the hospital on September 4.

¹⁴² Conclusión fiscal, Matanzas, 15 July 1844, f. 768-779, 3ª pieza, exp. 1, leg. 43, CM, ANC.

¹⁴³ *Colección de los fallos*, case 18.

¹⁴⁴ Kimball, *Cuba, and the Cubans*, 86.

¹⁴⁵ Conclusión fiscal, Matanzas, 15 July 1844, f. 768-779, 3ª pieza, exp. 1, leg. 43, CM, ANC.

Authorities executed Pablo Gangá on September 10 in front of slaves from La Sabanilla and surrounding plantations. They then made a slave from La Sabanilla cut off Pablo's head so it could be displayed in front of the plantation. The witnessing slaves were then made to proceed past Pablo's decapitated body as they were led back into the Matanzas countryside.¹⁴⁶

With the Matanzas Section's assumption of control, the investigation into the poet Gabriel de la Concepción Valdés also went into high gear. Between March 28 and June 23, he was interrogated twelve times as part of an investigatory process that would eventually envelop forty-eight defendants, most of them free people of color, and which would claim to have produced definitive proof that former British consul to Cuba David Turnbull had been the mastermind behind a vast conspiracy of free and enslaved people of color aiming to abolish slavery and overthrow Spain's dominion over the island.¹⁴⁷ Though the record of these interrogations say nothing conclusive about the use of torture, Valdés's inability to continue answering questions owing to his physical state was alluded to on a few occasions.¹⁴⁸ The experience of one of his associates who was also detained by the Matanzas Section, however, became the subject of rumor and gossip. According to Richard Kimball, "Don Mariano F____ brought on himself the execration and odium of the whole city of Matanzas for his barbarous treatment of Andrew Dodge, a colored man, born free, who was generally beloved and esteemed, and was the owner of a considerable property. He was tied to the ladder and flogged on three different occasions, but never avowed what he was accused of; and finally he was executed, in defiance even of those sanguinary laws of old, which instituted the ordeal of torture in ages

¹⁴⁶ *Colección de los fallos*, case 18.

¹⁴⁷ Cué Fernández, *Plácido*, 78; *Colección de fallos*, case 12.

¹⁴⁸ Cué Fernández, *Plácido*, 78.

called barbarous.”¹⁴⁹

Indeed, it was in the apprehension, torture, and eventual execution of free people of color like Andrew Dodge that the originary logic of the Escalera process, in which colonial officials used a state of emergency to justify an exceptional mode of repressive justice in the adjudication of free and enslaved people of color, converged with the administrative requirements of colonial governance, in which any escalation in the state’s ability to contend with threats to Cuban slavery and Spanish empire had to be paid for.¹⁵⁰ In the final analysis, the exercise of sovereign authority was contingent on institutional cooperation and financial solvency. A dentist, Andrew Dodge owned considerable property at the time of his apprehension, including several plots of land in and around the city of Matanzas and four slaves.¹⁵¹ His holdings, however, paled in comparison with those of his brother-in-law Santiago Pimienta, who was also arrested as one of the associates of Gabriel de la Concepción Valdés. Pimienta owned a ranch occupying almost twenty *caballerías* of land and seventeen slaves. Following his execution along with Valdés, Andrew Dodge, and eight others on June 28, 1844, Pimienta’s total holdings were valued at 33,977 pesos.¹⁵²

¹⁴⁹ Kimball, *Cuba, and the Cubans*, 85.

¹⁵⁰ Pedro Deschamps Chapeaux argued that the objective of the Escalera process was to remove free people of color as economic rivals and as threats to Cuban slavery. See Pedro Deschamps Chapeaux, *El negro en la economía habanera del siglo XIX* (Havana: Unión de Escritores y Artistas de Cuba, 1971), 25. Daisy Cué Fernández added some nuance to Deschamps Chapeaux’s analysis when she suggested that this objective was actually the consequence of the Escalera process, rather than its original intent. See Daisy Cué Fernández, “Plácido y la conspiración de la escalera,” *Santiago* 42 (1981), 145-206.

¹⁵¹ Relación de los individuos comprendidos en la causa del fiscal D. Ramon González que tienen bienes embargados, f. 14-14v, exp. 15, leg. 42, AP, ANC.

¹⁵² Retasación del potrero la paciencia, Matanzas, 17 September 1844, f. 141-144v, exp. 15, leg. 42, AP, ANC.

Free people of color such as Gabriel de la Concepción Valdés, Andrew Dodge, and Santiago Pimienta were the objects of scrutiny, but also the inquiry's core source of revenue, with claims to their property emerging as the lynchpin unifying the motivations and actions of the captaincy general and the Intendancy.¹⁵³ This dynamic came to the fore on June 21, when the Matanzas Section placed an announcement in the local newspaper that it would be auctioning twenty-one slaves of both sexes and of various ages. This news alarmed the Intendancy's representatives in Matanzas, as they had not been informed of the auction and had yet to receive any reimbursements from the Matanzas Section for the considerable expenses they had already incurred.¹⁵⁴

Deliberations within the Intendancy determined that the Matanzas Section was obligated to turn over to them the proceeds from the auction. When presented with the claim, President Salas consulted with the Matanzas Section's *asesor*, who replied on August 27 with a long opinion that boiled down to one key point. As he saw it, the Matanzas Section was a different institution than the Havana-based Military Commission and was thus not bound to its arrangement with the Intendancy, developed decades earlier, for financing its operations.¹⁵⁵

This dispute between the Intendancy and the Matanzas Section developed until Claudio Martínez de Pinillos elevated the matter to Captain General O'Donnell on September 25. In proffering his opinion, *auditor de guerra* Armero framed his response historically, recounting the

¹⁵³ For more on the economic position held by some prominent free people of color in cities like Havana and Matanzas, see Deschamps Chapeaux, *El negro en la economía habanera del siglo XIX*.

¹⁵⁴ José García to Antonio García, Matanzas, 30 July 1844, no folio, exp. 14, leg. 42, AP, ANC.

¹⁵⁵ Armero to O'Donnell, Havana, 12 October 1844, no folio, exp. 14, leg. 42, AP, ANC. The *auditor de guerra's* opinion summarizes the whole debate.

series of royal orders and decrees defining the Military Commission's financial relationship with the Intendancy, a chain of events that had culminated with the tribunal's original *asesor*, José Ildelfonso Suárez, leading tribunal officials in renouncing their rights to the embargoed property of their defendants in favor of the treasury. Since this accommodation between the Military Commission and the Intendancy had made possible O'Donnell's rapid deployment of the Matanzas Section and was the only foreseeable way to sustain the colonial government's ability to facilitate its numerous prosecutions, Armero argued the government had to be adaptable in its implementation even as the accommodation had not specifically taken into consideration the creation of an independent section of the tribunal. He concluded that "the section of the Military Commission established ad-hoc in Matanzas should govern itself by the same rules as its headquarters, according to which its president, [members of the Consejo de Guerra], its *asesor*, *fiscales*, and other functionaries must act!"¹⁵⁶ He thus recommended that the governor of Matanzas be placed in charge of auctioning property embargoed during the Escalera process and that those revenues should be deposited in the royal treasury. O'Donnell approved of Armero's recommendation and then informed all pertinent parties.¹⁵⁷ What had once been a financial accommodation that the Intendancy had been forced to accept and which had proven to be disappointing for *asesor* José Ildelfonso Suárez and other Military Commission officials in 1831, was now the most important administrative component structuring the colonial government's ability to contend with the massive challenge posed by the Conspiracy of La Escalera.

¹⁵⁶ Armero to O'Donnell, Havana, 12 October 1844, no folio, exp. 14, leg. 42, AP, ANC. "la sección de la Comisión militar establecida ad-hoc en Matanzas, deber regirse por las mismas reglas que su matriz en punto á que su Presidente, vocales, asesor, fiscales y demás ministros generales actúan!"

¹⁵⁷ Armero to O'Donnell, Havana, 12 October 1844, no folio, exp. 14, leg. 42, AP, ANC.

During the Military Commission's first decades in operation, it had occasionally prosecuted high-profile cases of slave rebellion and political dissent. For the most part, however, it had contended with a steady stream of prosecutions dealing with everyday forms of crime. Because the tribunal was perceived as promoting social, economic, and political stability, the Intendancy thus learned to accommodate the modest financial burden posed by the tribunal.¹⁵⁸ As the Escalera process grew in scale, however, officials with the Intendancy found themselves fiercely defending a financial relationship with the tribunal that only decades before they had grudgingly accepted. Because the Matanzas Section of the Military Commission clearly fell within the purview of the captaincy general, the Intendancy could only turn to the executive to make its case. And because the state's ability to sustain the Escalera process depended on the Intendancy's ability to cover its expenses, it was in Captain General O'Donnell's interests to compel the Matanzas Section to turn over the revenues it generated from auctioning off the embargoed property of its defendants. In doing so, however, the Intendancy diminished some of its autonomy and independence from the captaincy general and a precedent was being set.

The Matanzas Section of the Military Commission continued prosecuting cases until January 22, 1845, when its Consejo de Guerra issued its last judgment.¹⁵⁹ According to one tabulation from March 1, 1845, which was based on the published sentencing reports produced by the Matanzas Section, the tribunal issued judgements on 3,361 individuals across seventy-one prosecutions,

¹⁵⁸ See Chapter 3.

¹⁵⁹ *Colección de los fallos*, case 71.

including 72 white people, 2,364 free people of color, and 925 slaves.¹⁶⁰ According to another tabulation lacking a clear indication of its source material, the tribunal issued judgments on just 11 women of color. It is unclear whether these women were free or enslaved.¹⁶¹

Of the 3,361 individuals who were judged by the Consejo de Guerra of the Matanzas Section of the Military Commission, 1,583, or almost half, were acquitted, including 59 white people, 1,248 free people of color, and 276 slaves. For a legal process that had focused on questioning and prosecuting free and enslaved people of color, it is understandable why the tribunal would eventually acquit most white people caught up in the process. Indeed, the tribunal only sentenced 3 white people to death, 7 white people to imprisonment either in Cuba or in Africa, and another 3 to exile. Considering the value of slaves to their owners, it also makes sense that the tribunal would have refrained from sentencing all but those deemed to be the principle leaders of the conspiracy to imprisonment and execution. In addition to the 276 slaves who were acquitted, the tribunal sentenced 19 slaves to corporal punishment and 356 slaves to “imprisonment” on their plantations, meaning that of the 925 slaves judged by the tribunal, 651, or 70 percent, were returned to their owners. And even though the process eventually turned to the property of free people of color to pay for its inflating costs, it is notable that almost 53 percent of free people of color judged by the tribunal were acquitted.¹⁶² For all the ways the Escalera process came to articulate the violence of plantation slavery in a legal process aimed at defending Cuban slavery and Spanish empire, it was not entirely overwhelmed by it, leaving

¹⁶⁰ *Colección de los fallos*. The tabulation is hand written on the final page. There is no page number.

¹⁶¹ Morales y Morales, *Iniciadores y primeros mártires*, 173.

¹⁶² *Colección de los fallos*.

room for pragmatic and procedural considerations to affect the outcome of prosecutions.

For its victims, however, the Escalera process was certainly overwhelming. The tribunal sentenced 37 free people of color and 46 slaves to death, while 636 free people of color were sentenced to imprisonment either in Cuba or in Spanish prisons in North Africa, and 567 slaves were sentenced to imprisonment in Cuba, Africa, or on their plantations. Furthermore, the tribunal sentenced 443 free people of color and 17 slaves to exile.¹⁶³

Still, the tabulated outcomes of the Escalera process only reveal a small portion of the drama that had unfolded. For victims like Pabló Gangá and the poet Gabriel de la Concepción Valdés, the tribunal's accumulated sentences gave context to their involvement in a judicial process that not only consumed their lives, but also put an end to years and decades of escalation in the struggle and organization against Cuban slavery by Africans and the African-descended.¹⁶⁴ For other victims like Agustín Jiménez and the countless dead who did not even survive to be judged, these numbers masked the true extent of the horrors inflicted in 1844. For Captain General O'Donnell, however, the tabulated outcomes of the Escalera process substantiated a prefigured truth, that foreign abolitionists had been working in concert with free people of color to incite the enslaved to rise up against Cuban slavery and Spanish empire. During the Matanzas Section's prosecution of Gabriel de la Concepción Valdés and his associates, the tribunal's *fiscal* had concluded:

There is no doubt that Mr. David Turnbull, the representative of Great Britain on this island, as consul of that nation, a friend and ally of ours, abusing highly and mightily the confidence which she placed in him, either on his own, or united with others of his colleagues, was, if not the one who conceived of the

¹⁶³ *Colección de los fallos.*

¹⁶⁴ Gloria García, *Conspiraciones y revueltas: La actividad política de los negros de Cuba (1790-1845)* (Santiago de Cuba: Editorial Oriente, 2003).

destructive idea, at least the initial motive and source from which the present plan of conspiracy emanated.¹⁶⁵

Aside from some diplomatic back and forth between Spain and England, it does not appear that much resulted from this conclusion.¹⁶⁶

Even if David Turnbull remained beyond Captain General O'Donnell's grasp, the process itself engendered other rewards that may not have afforded the drama of La Escalera a similar sense of closure, but which had far more significant consequences in decades to come. Two events are emblematic. Ever since the Spanish Empire had committed to the growth and development of Cuban slavery, metropolitan and colonial officials had wanted to institute slave regulations to mitigate against the risks of importing increasing numbers of enslaved Africans. Indeed, as the metropolitan government began liberalizing the slave trade to Cuba in 1789, it also prepared a set of slave regulations known as the *Real Cédula Instrucción circular sobre la educación, trato y ocupaciones de los esclavos en todos sus dominios de Indias e islas Filipinas* with the intention of promoting security and stability on plantations. Through regulations that, among other things, limited the type of corrective punishments slaves could receive, the *Real Cédula Instrucción* aimed in part to ameliorate the conditions of enslavement so that slaves were less inclined to resist. With the anticipated revenues of Cuban slavery assuming increasing importance in the financial designs of the Spanish Empire, and with Cuban planters claiming that any restrictions on their ability to physically punish their slaves would undermine the coercive

¹⁶⁵ *Colección de los fallos*, case 12. “no queda la menor duda de que Mr. David Turnbull, representante que fué en esta Isla de la Gran-Bretaña, como cónsul de dicha nacion, amiga y aliada nuestra, abusando alta y poderosamente de la confianza que aquella depositará en él, bien por sí, ó unido con otros de sus cólegas fué, si no quien concibió la idea destructora, á lo ménos el primer móvil y foco de donde emanó el presente plan de conspiración.”

¹⁶⁶ Paquette, *Sugar is Made With Blood*, 246.

foundations of the entire institution, the metropolitan government suspended the *Real Cédula Instrucción* in 1794.¹⁶⁷

In 1842, when Captain General Gerónimo Valdés had attempted to institute similar slave regulations, Cuban planters had again voiced opposition to any attempts to limit their ability to physically punish their slaves. Because of the Spanish Empire's continued reliance on Cuban revenues, Valdés had no choice but to let the regulations go unenforced.¹⁶⁸

With the events of 1844, the issue of plantation security carried with it a renewed urgency. As others had attempted before, Captain General O'Donnell issued his own set of slave regulations. Unlike his predecessor, O'Donnell issued his regulations from a position of elevated prestige and authority, as he was being credited with saving Cuba from catastrophe. Rather than use that prestige to force Cuban planters to accept the type of slave regulations they had rejected in the past, however, O'Donnell instead reconfigured the regulations themselves so they now authorized slaveholders to use "the full extent of their domestic authority, conceded to them by law," to punish slaves in the maintenance of plantation discipline.¹⁶⁹ In doing so, he brought to the administration of colonial governance, albeit in a very specific context, the innovation at the heart of the Escalera process, which authorized *fiscales* to use the corrective measures of plantation slavery when interrogating free and enslaved people of color in formal legal processes.

¹⁶⁷ Manuel Lucena Salmoral, *Leyes para esclavos: El ordenamiento jurídico sobre la condición, tratamiento, defensa y represión de los esclavos en las colonias de la América Española* (Madrid: Fundación Histórica Tavera, 2000), 354-379; Richard L. Turits, "Raza esclavitud y libertad en Santo Domingo," *Debates y perspectivas* 4 (2004), 69-88.

¹⁶⁸ Paquette, *Sugar is Made With Blood*, 77-80.

¹⁶⁹ Zamora y Coronado, *Biblioteca de legislación ultramarina* 3:139-141. "usando en toda su plenitud de la autoridad [doméstica], que les conceden las leyes." It should be noted that in the printed text, "doméstica" is represented as "dominica," which, considering the context, is most likely an error.

The more lasting consequence of the Escalera process on the administration of colonial governance was revealed in the way O'Donnell's growing personal prestige augmented the captaincy general's sovereign authority within a division of governing powers that had historically afforded institutions like the Intendancy high degrees of autonomy and influence. On November 2, 1849, a royal order from Spain stipulated that owing to budgetary concerns the Military Commission's president was no longer to receive the supplementary funds to cover the tribunal's rent and other expenses that his office had been assigned in 1829.¹⁷⁰ The royal order also stated that the Intendancy would no longer cover the tribunal's expenses and that the tribunal would have to make due with whatever revenues it raised from the embargoed property of its defendants. This royal order effectively undid the financial relationship between the Intendancy and the Military Commission that Captain General Vives had forged during the 1820s and that the Intendancy had argued to defend in 1844. On February 6, 1850, the Intendancy's superintendent informed the captain general that the Intendancy saw no reason not to comply with the order. Three weeks later the captain general replied that he was using the "extraordinary powers" that had been given to captains general in 1825 to disregard the royal order.¹⁷¹ If in previous years the Intendancy might have raised objections, in the post-Escalera era, relations of power had been reconfigured such that captains general could increasingly govern with impunity.

¹⁷⁰ For the debate about paying for the Military Commission's rent, see Chapter 2.

¹⁷¹ Expediente formado sobre el personal y gastos de la Comisión Militar a consecuencia de la disposición tercera de la real orden de 2 de noviembre de 1849, exp. 5, leg. 88, CM, ANC.

Chapter 5

Isle of Tranquility: The Consolidation of Sovereign Authority, 1848-1856

In early July 1848, Pedro Gabriel Sánchez, a wealthy planter and resident of the city of Trinidad, learned that his son had become involved in a conspiracy to gain independence from Spain through an armed insurrection. Though it is unclear how he felt about his son's cause at the time, he certainly feared for his son's life. This was not an unfounded concern that "something" might happen, but a certitude that this insurrectionary movement did not stand a chance against the combined force of the colonial state and the Spanish army. On July 4, Sánchez thus denounced the conspiracy to local authorities.¹

Four years after the events of 1844, the island's residents were now well aware of the colonial state's capacity to act in the interest of insular security in a conspicuous, decisive, and overwhelming manner. For free and enslaved people of color, the Escalera process had brought an end to a decades-long cycle of organization and struggle against Cuban slavery.² And though Leopoldo O'Donnell's supporters and indeed the captain general himself could write to Spain about the subsequent state of "tranquility" on the island, others looked at the peace that followed Escalera and saw a "tranquility of terror," the type of terror that could provoke a father to

¹ Dictamen Fiscal, Havana, 8 February 1849, f. 1288-1314, 4^a pieza, exp. 1, leg. 84, CM, ANC.

² Gloria García, *Conspiraciones y revueltas: La actividad política de los negros de Cuba (1790-1845)* (Santiago de Cuba: Editorial Oriente, 2003).

denounce his son.³

The conditions that had made it possible for the colonial state to exert itself during the Escalera process also evidenced its near-failure to shield the island from the threats and ruptures accompanying the growth in Cuban slavery. During the Military Commission's adjudication of the Guamacaro rebellion of 1825, the tribunal's *asesor*, José Ildelfonso Suárez, and Captain General Vives's *auditor de guerra*, Felipe Martínez, had denounced allegations of the discovery of new conspiracies independent of the rebellion. They argued that such rumors could take on a life of their own and undermine public confidence in the government's ability to maintain order.⁴ Following the Escalera process of 1844, during which the apparent threat posed by the conspiracy had been matched by the ferocity of the state's response, supporters of Cuban slavery began to doubt the state's ability to maintain the institution, critics of slavery increasingly feared a future that continued to rely on the importation of enslaved Africans, and a growing number of the island's white residents questioned whether the control offered by Spanish dominion was worth its many costs.

One group of men channeled their doubts and frustrations through an association they called El Club de la Habana. Though El Club's members were ambivalent on the issue of slavery, they were unified in their desire to see Cuba annexed by the United States. Meeting in the Havana residence of the prominent planter Domingo de Aldama, the association's members included disaffected planters, merchants, professionals, and intellectuals. Miguel de Aldama, son

³ Robert L. Paquette, *Sugar is Made With Blood: The Conspiracy of La Escalera and the Conflict between Empires over Slavery in Cuba* (Middletown, CT: Wesleyan University Press, 1988), 231-232; The quote "tranquility of terror" comes from an anonymous letter from Havana dated July 16, 1844, which appeared in the London newspaper the *Morning Herald* before being reproduced in *The Anti-Slavery Reporter*, August 21, 1844.

⁴ See Chapter 1.

of Domingo de Aldama, had himself witnessed the early moments of the Escalera process in late 1843.⁵ His friend and club member Cirilo Villaverde had been an active participant in the literary gatherings hosted by Miguel de Aladama's brother-in-law Domingo del Monte, had penned the 1839 anti-slavery novel *Cecilia Valdés*, and had been an acquaintance of the poet Gabriel de la Concepción Valdés.⁶

By June 1848, the members of El Club had taken their plan to effect Cuba's annexation to the United States to a fairly advanced stage. They had tasked their associate John O'Sullivan, the North American journalist and coiner of the phrase "manifest destiny," with presenting US President Polk with a proposition whereby Cubans would reimburse the US up to \$100 million if the president offered to purchase Cuba from Spain.⁷ Another representative worked to promote the idea of Cuban annexation in the US press, while yet another had been sent to offer William J. Worth, a US general who had just served in the Mexican-American War, \$3 million to recruit an army and invade Cuba.⁸

Another center of discontent emerged in the city of Cienfuegos. It was there that former president of the Military Commission General Narciso López had settled after Leopoldo O'Donnell's arrival in Cuba had prompted his resignation. By 1846, López had assembled a circle of confidants around the idea of realizing Cuba's separation from Spain through an armed insurrection, including José María Sánchez Iznaga, whose father, Pedro Gabriel Sánchez, would

⁵ See Chapter 4.

⁶ Herminio Portell Vilá, *Narciso López y su época* (Havana: Cutral, S.A., 1930), 1:243; Tom Chaffin, *Fatal Glory: Narciso López and the First Clandestine U.S. War Against Cuba* (Charlottesville: University Press of Virginia, 1996), 13.

⁷ Chaffin, *Fatal Glory*, 14-15.

⁸ Chaffin, *Fatal Glory*, 40.

eventually denounce the conspiracy. At first in coordination with El Club de la Habana and then on his own, López would carry the annexationist logic to its military conclusion, leading two filibustering expeditions to Cuba in 1850 and 1851. Though these invasions were abysmal failures, with the latter costing the lives of López and many of his men, their success had been premised on white residents of the “ever-faithful isle” fighting for a separation from Spain, and thus represented a seemingly more insidious threat to Spanish sovereignty over Cuba than the Conspiracy of La Escalera had ever posed.

Well aware of the example set by the Haitian Revolution, and in particular the 1804 massacre of many of Haiti’s white residents ordered by Jean-Jacques Dessalines, agents of Spanish sovereignty dispersed throughout the political, economic, and social institutions of Cuban slave society had long been unified in their developing sense of the threat posed by the island’s growing population of free and enslaved people of color.⁹ Acts of black resistance to Cuban slavery and Spanish empire such as the Aponte rebellion of 1812, the Guamacaro rebellion of 1825, the Conspiracy of La Escalera of the early 1840s, and all the less notable acts of resistance in between, could thus be seen as threats, not only to the political order of the Spanish Empire, but to the lives of all of Cuba’s white residents. In the most basic formulation, free and enslaved people of color were thus “natural enemies of society,” to invoke the phrase of Montesquieu, who, as often appeared in the testimonial record of the Escalera process, sought nothing more than “to kill all the whites and take over the land.”¹⁰

⁹ Sibylle Fischer, *Modernity Disavowed: Haiti and the Cultures of Slavery in the Age of Revolution* (Durham: Duke University Press, 2004), chap. 1; Ada Ferrer, *Freedom’s Mirror: Cuba and Haiti in the Age of Revolution* (New York: Cambridge University Press, 2014).

¹⁰ Charles-Louis de Secondat, Baron de Montesquieu, *The Spirit of the Law*, trans. and ed. Anne M. Cohler, Basia Carolyn Miller, and Harold Samuel Stone (Cambridge: Cambridge University Press, 1989), 256; For an example of the oft-recorded phrase, “to kill all the whites and take over

Narciso López, by contrast, had commanded troops in the Spanish army and had governed citizens of Spain. While most of the men he convinced to participate in his expeditions were foreign to Cuba, the masses who would have constituted his imagined revolutionary force in 1850 and 1851 were white property owners. In responding to the threats posed by López's filibustering expeditions, then, the colonial government had a much more complicated task than merely combating an insurrectionary force through military means. Rather than defending Spanish sovereignty from the "natural enemies of society," the Spanish Empire had to defend Spanish sovereignty from its citizens and its subjects.¹¹

In this vital endeavor, the Military Commission proved to be essential, not necessarily for what it did, but for what it enabled. Since its inception in 1825, the tribunal had served as the captaincy general's primary juridical tool for contending with threats to Spanish sovereignty. Though its inclusion within the institutional makeup of the colonial government had proven to be disruptive, the tribunal had expanded to adjudicate free and enslaved people of color, everyday forms a crime, and acts of political dissent. Even though the tribunal's formal adherence to legal process often hindered its ability to enact the type of swift, decisive, and repressive justice its functionaries may have preferred, it had emerged as the only juridical institution capable of acting on those interests in a financially viable way.¹² When the investigatory phase of the Escalera process grew to encompass an unsustainable number of investigations, then, it was the

the land," see Declaración del negro Antonio Lucumí, como de 40 años, Enero 18, Macurijes (La Andrea), 18 January 1844, f. 22-23, exp. 1, leg. 37, CM, ANC.

¹¹ For the phrase "domestic enemies," a derivative of Montesquieu's "natural enemies of society," see Malick Ghachem, *The Old Regime and the Haitian Revolution* (New York: Cambridge University Press, 2012), 56-58.

¹² See Chapter 3.

Military Commission that assumed its stewardship. While this had the effect of turning an ad hoc process responding to a perceived crisis into an administrative matter, it also channeled the leeway and discretion enjoyed by the Escalera process in a time of emergency into a mode of governance that afforded increasing levels of formal and informal deference to the captaincy general.¹³

When Narciso López invaded Cuba for a second time in 1851, then, Captain General José de la Concha's military reaction was accompanied by a juridical response that was so swift and decisive that it was over before anyone could really take stock. Though the Military Commission lacked a formal role, De la Concha relied on tribunal officials to carry out his orders. In this moment, the Military Commission finally achieved its greatest potential, not just as a juridical instrument of executive authority, but as executive authority itself.

In 1852, De la Concha was recalled to Spain after he had expressed some criticisms of the metropolitan government.¹⁴ The former captain general took the opportunity to author a sweeping review of the history and present state of colonial governance.¹⁵ By his determination, the populace's unwillingness to accept the opportunity Narciso López had offered them and their assistance in the response to López's second expedition in particular signaled that the time was opportune to enact key reforms throughout the colonial government whose impact would certainly be disruptive, but which Cuba's populace would now be willing to accept. A principal component of his proposed reforms focused on the administration of justice in Cuba, with special

¹³ See Chapter 4.

¹⁴ Francisco Calcagno, *Diccionario biográfico cubano: comprende hasta 1878* (New York: N. Ponce de Leon, 1878), 204.

¹⁵ José de la Concha, *Memorias sobre el estado político, gobierno y administración de la isla de Cuba* (Madrid: Establecimiento Tipográfico de D. José Trujillo, 1853).

attention directed towards the form and function of the lower courts in the ordinary jurisdiction. In the ways they outlined a system of lower courts staffed by professional jurists who enjoyed salaries and were appointed by the central government, these reforms were in line with proposed reforms to the administration of justice put forward by liberals and absolutists, governing officials and civilians, stretching back to the times of the short-lived *trienio liberal* and the 1812 Constitution of Cádiz.

José de la Concha returned to the captaincy general of Cuba in 1854 over concerns that his predecessor Juan de la Pezuela was not sufficiently attentive to the continued importance of slavery in Cuba.¹⁶ The next year he enacted a sweeping set of reforms to the administration of justice in Cuba as outlined in a royal decree approved by the Ministry of State on January 30, 1855.¹⁷ After enacting the reforms outlined in the royal decree, Cuba possessed the type of professional judiciary that reformers, including De la Concha, had long sought. Though these reforms were meant to relieve the ordinary jurisdiction of the abuses and corruption that had long been sources of concern, De la Concha acknowledged far more fundamental implications when he concluded their enactment by abolishing the Military Commission, as he no longer deemed the tribunal necessary for the promotion of insular security. In doing so, De la Concha signaled that the legal intervention into colonial governance begun in 1825 by granting captains general the exceptional powers afforded to governors of cities under siege and the establishment of the Military Commission had finally come to fruition.

¹⁶ Josep M. Fradera, *Colonias para después de un imperio* (Barcelona: Ediciones Bellaterra, 2005), 314.

¹⁷ *Organización y competencia de los juzgados y tribunales de la isla de Cuba* (Havana: Imprenta del Gobierno, Capitanía General y Real Audiencia Pretorial, 1855).

Narciso López and the “Tranquility of Terror”

In February 1848, a popular uprising in France responding to rampant unemployment, food scarcity, restricted government, and a limited franchise forced the abdication of King Louis Philippe and resulted in the founding of the Second Republic. Though some of the reforms of France’s second republican period, such as a new constitution and an expanded franchise, were short-lived, other reforms endured. On April 27, 1848, slavery was finally abolished in French colonies.¹⁸

Cubans whose interests were aligned with maintaining slavery feared that the revolution in France would spread to Spain along with its abolitionist impulse. In a meeting in Havana responding to the news from Europe, leading figures met to discuss and make plans. Newspaper accounts reported that superintendent of the Intendancy Claudio Martínez de Pinillos had been present at the meeting and had advised that they accept a potential republican government in Spain, while Captain General Federico Roncali was purported to have proclaimed his loyalty to the monarchy and his intention to disregard any orders coming from a future republican government. Another man present at the meeting was Narciso López.¹⁹

López had been born into a wealthy merchant family in Caracas in 1798. At the onset of the wars for independence, he had initially sided with the patriots before joining the Spanish army in 1814. Over the next nine years, he served with distinction, attaining the rank of colonel before withdrawing to Cuba after the defeat of Spanish forces in 1823. Four years later, after the

¹⁸ For histories of the Second French Republic and the end of slavery in the French Empire, see William Fortescue, *France and 1848: The End of Monarchy* (London: Routledge, 2005); Lawrence C. Jennings, *French Anti-Slavery: The Movement for the Abolition of Slavery in France, 1802–1848* (Cambridge: Cambridge University Press, 2006).

¹⁹ Portell Vilá, *Narciso López y su época*, 1:244.

metropolitan government had abandoned plans to reconquer the American mainland, López traveled to Spain. For years he maintained a low profile, until conservative discontent over the ascension of Isabela II to the throne following Fernando VII's death in 1833 led to the first Carlist War. With a new war to fight, López joined the side of Queen Isabela II and Queen Regent María Cristina. He served under General Geronimo Valdés, another veteran of the wars on the American continent. It is said that he defeated Carlist cavalry officer Carlos O'Donnell, Leopoldo O'Donnell's brother, in hand to hand combat. During the conflict, he attained the rank of general.²⁰

As the war concluded, López aligned himself with the group of progressive liberals who had propelled Baldomero Espartero to power and for a time he served as the military governor of Madrid. When Espartero named Geronimo Valdés as captain general of Cuba, López followed his long-time commanding officer back to the island. He served briefly as lieutenant governor of Matanzas before taking up the position of commandant general of the island's central department. López then returned to Havana to assume the presidency of the Military Commission on October 27, 1842, overseeing among other cases the tribunal's prosecution of the Bemba rebellion of 1843. With the change in Spanish government occasioned by the defeat of Espartero and the ascension of moderate liberals to power in 1843, Leopoldo O'Donnell assumed the captaincy general of Cuba. Finding himself on the wrong side of the political contestations that had resulted in the change in colonial governance, López was relieved of the Military Commission's presidency and retreated from public life. After starting a bakery business that failed, López tried his hand at sugar cultivation near Cienfuegos and coffee cultivation in the region of Pinar del Río before returning to Cienfuegos to enter the mining

²⁰ Portell Vilá, *Narciso López y su época*, 1:chaps. 1-3.

business.²¹

Though it remains unclear when and for what reasons Narciso López began to consider the possibility of leading an armed insurrection against Spanish control over Cuba, it does appear that by 1846 he was well on his way to drawing together a group of supporters and confidants around the idea, including a young man named José María Sánchez Iznaga. Whether the goal of the planned insurrection was the establishment of an independent Cuban republic, immediate annexation to the United States as a slave state, or the former as a path towards the latter, also remains unclear. What seems to be without dispute, however, was that his vision of Cuba's separation from Spain would not entail an end to Cuban slavery, but would be done in its name. During the 1848 meeting in Havana regarding the founding of the Second Republic in France, López was purported to have supported the idea that if Spain became a republic and abolished slavery, Cubans should seek annexation to the United States to avoid a race war. It was also during this time that López became acquainted with the members and project of El Club de la Habana. After a subsequent meeting, López agreed to put off his planned uprising until word got back regarding the club's offer of \$3 million to General William J. Worth to assemble a force of soldiers and lead an invasion of Cuba with the hope that the United States would then annex the island.²²

On July 4, however, everything fell apart. When Pedro Gabriel Sánchez, a planter from the city of Trinidad, learned from his son José María Sánchez Iznaga of Narciso López's intentions, he denounced the planned rebellion to the commandant general of Cuba's central department. The commandant general immediately sent word to authorities in Cienfuegos, the

²¹ Portell Vilá, *Narciso López y su época*, 1:chap. 4.

²² Portell Vilá, *Narciso López y su época*, 1:217-244.

cite of López's planned insurrection. On July 5, authorities in Cienfuegos arrested José María Sánchez Iznaga and an associate named José Gregorio Díaz de Villegas. Hoping to lure López into their hands, authorities then sent a letter to López's residence asking him to see the governor of Cienfuegos to discuss a matter. Though López responded that he would do so shortly, he instead absconded, first to Cárdenas and then to Matanzas, where on the night of July 8 he boarded a ship for the United States.²³

The incident prompted a swift response from the colonial government. On July 10, Captain General Federico de Roncali directly ordered Military Commission *fiscal* Colonel Cristoval Zurutia to investigate López's planned insurrection and his dramatic escape, bypassing the tribunal's president.²⁴ It is unclear when captains general began bypassing the Military Commission's president when directing the actions of tribunal officials. It was certainly a departure from the way things had been done in the past, however, and spoke of the captain general's ability to wield the tribunal as he saw fit when circumstances warranted.

As prompt as Roncali's response had been, *fiscal* Zurutia's investigation dragged on for months. After his superiors preemptively acquitted ten individuals caught up in his investigation, Zurutia recommended that they bring the prosecution to a conclusion.²⁵ In his final report to the tribunal's Consejo de Guerra, Zurutia downplayed the seriousness of the threat López had posed and recommended acquitting six of the remaining eight defendants of all guilt. The only sentences Zurutia recommended were against José María Sánchez Iznaga, who he said should be placed in exile for a period of eight years, and López himself, who should be stripped of all his

²³ Dictamen Fiscal, Havana, 8 February 1849, f. 1288-1314, 4^a pieza, exp. 1, leg. 84, CM, ANC.

²⁴ Roncali to Zurutia, Havana, 10 July 1848, f. 1-4, 1^a pieza, exp. 1, leg. 84, CM, ANC.

²⁵ Zurutia to Salas, Havana, 21 January 1849, f. 1282v-1284, 4^a pieza, exp. 1, leg. 84, CM, ANC.

commissions and distinctions and be banished from all Spanish domains in perpetuity.²⁶ With a plurality of votes, the Consejo de Guerra followed Zurutia's recommendations when they passed judgement on the two on March 3, 1849.²⁷

In reviewing the *consejo*'s judgement, Captain General Roncali's *auditor de guerra*, Antonio Armero, continued to downplay the significance of the threat López had posed, claiming that the conspiracy only existed in López's "manifest desire to create it." He believed, however, that the Military Commission had been too lenient and advised Roncali to convene a *consejo de revisión* in conjuncture with members of the Real Audiencia to review the sentences against López and Sánchez Iznaga.²⁸ The *consejo de revisión* submitted its findings on April 23, reducing Sánchez Iznaga's sentence from eight years of exile to six years with a prohibition from returning to Cuba, and increasing López's sentence from perpetual exile to death.²⁹

However serious Narciso López's insurrectionary plans had been prior to his escape, and however committed they were to the goal of Cuban annexation to its northern neighbor, once in the US he encountered a public that was receptive to the idea as a solution to developmental pressures stemming from the politics and economics of slavery.³⁰ With the help of various intermediaries, López threw himself into the task of organizing an armed expedition to Cuba.

²⁶ Dictamen Fiscal, Havana, 8 February 1849, f. 1288-1314, 4^a pieza, exp. 1, leg. 84, CM, ANC.

²⁷ Sentencia, Havana, 3 March 1849, f. 1373v-1374v, 5^a pieza, exp. 1, leg. 84, CM, ANC.

²⁸ Armero to Roncali, Havana, 17 March 1849, f. 1375v-1379, 5^a pieza, exp. 1, leg. 84, CM, ANC.

²⁹ Conclusión de la junta de revisión, Havana, 23 April 1849, f. 1385-1385v, 5^a pieza, exp. 1, leg. 84, CM, ANC.

³⁰ Walter Johnson, *River of Dark Dreams: Slavery and Empire in the Cotton Kingdom* (Cambridge, MA: The Belknap Press of Harvard University Press, 2013), chaps. 11 and 12.

One of his closest allies was John O’Sullivan, the proponent of American expansionism.³¹ O’Sullivan’s brother-in-law was the wealthy Cuban planter Cristóbal Madan, who had introduced O’Sullivan to El Club de la Habana and their annexationist plans when O’Sullivan visited Cuba in 1847.³² With O’Sullivan’s help, López sought support for his expedition in New York, Washington, and New Orleans through meetings with such figures as President Polk, Senators John C. Calhoun, Stephen Douglass, Jefferson Davis, and Major Robert E. Lee, distinguished veteran of the recent war in Mexico. Encountering some interest, little support, and in certain instances outright resistance, López set off on his own.³³

On the early morning of May 19, 1850, López arrived in the port city of Cárdenas aboard a steamer named the *Creole* with a force of approximately 500 men. Though the force succeeded in capturing the city’s lieutenant governor and garrison, they encountered none of the support from disaffected Cubans they had anticipated. Because of their clumsy approach, they had also lost the element of surprise. When López learned of the approach of a sizable force of Spanish soldiers, he ordered his men to board the *Creole* and retreated to the United States.³⁴

The Military Commission’s 1848 prosecution of Narciso López had downplayed the significance of the threat he had posed. Captain General Roncali’s response to López’s 1850 invasion, by contrast, took little for granted. Upon learning of López’s landing at Cárdenas, Roncali proclaimed the island to be under a state of siege, declaring that captured members of

³¹ For a biography of John O’Sullivan, see Robert D. Sampson, *John L. O’Sullivan and His Times* (Kent: Kent State University Press, 2003).

³² Chaffin, *Fatal Glory*, 11-13.

³³ Chaffin, *Fatal Glory*, chaps. 2 and 3.

³⁴ Chaffin, *Fatal Glory*, chap. 4.

López's expedition were to be immediately executed and that any of the island's inhabitants found to have supported López or who in any way tried to undermine the public peace by attempting to recruit plantation slaves or through political dissent would be subjected to the same fate.³⁵

As he and his predecessors had done in the past when contending with threats to insular security, Captain General Roncali turned to the Military Commission. Though his proclamation was clear and unambiguous, the tribunal acted on its imperatives in uneven ways. Six members of López's expedition had been left behind after the general's hasty retreat. Authorities captured five of them. Rather than being immediately executed, as per Roncali's proclamation, the five prisoners were all brought before the Military Commission. The tribunal prosecuted them expeditiously, sentencing them all to death. On May 25, authorities executed four of the prisoners. Britain's consul to Cuba intervened on behalf of the fifth prisoner, who was an Englishman, securing a reduction in his sentence to ten years of imprisonment in Africa.³⁶

The sixth member of López's expedition, a North American named William Wilcox, experienced a longer trial. He had been a member of the *Creole's* crew and claimed that he had learned of the expedition's purpose only after they had embarked from New Orleans, and that he had initially refused to participate in the invasion. When the *Creole* arrived in Cárdenas, however, López's soldiers tried to enlist him forcibly. Rather than participate, Wilcox jumped

³⁵ Bando, Havana, 19 May 1850, in *Memoria y recolección de documentos para la historia de la ridícula invasión* (Havana: Imprenta del Faro Industrial, 1850).

³⁶ Portell Vilá, *Narciso López y su época*, 2:394-395.

overboard and swam to shore, where he hid out during the actual invasion.³⁷ After the Americans apparently had departed, he surrendered to the first Cuban he saw.³⁸

Luckily for Wilcox, he had been taken into custody by the Navy, thus sparing him from the expedited trial and execution suffered by the other prisoners. On June 3, however, Captain General Roncali ordered that Wilcox's case be transferred to the Military Commission.³⁹ Despite Wilcox's denial of being an actual member of the expeditionary force, *fiscal* Francisco Javier Mendoza recommended that Wilcox be executed.⁴⁰ The tribunal's Consejo de Guerra instead sentenced him to ten years of imprisonment in Africa.⁴¹ By the end of the year, Wilcox was in the Spanish port city of Algeciras, awaiting transfer to a prison in Ceuta.⁴²

For Cubans who had been in Cárdenas during the invasion and whose activities on that day aroused the suspicions of authorities, the Military Commission was less vigorous in attending to Captain General Roncali's proclamation promising immediate executions. One person who was soon arrested for assisting the invaders was Joaquín Malléa. A twenty-seven-year-old free *pardo*, Malléa was originally from Villa Clara. In 1835 he had moved to Havana, where he obtained a seven-year contract to work as the barber for the military. He eventually

³⁷ Declaración de William Wilcox, Havana, 21 May 1850, f. 7v-9, exp. 3, leg. 94, CM, ANC; Ampliación á la declaración instructiva del Norte Americano William Wilcox, Havana, 7 June 1850, f. 14-19, exp. 14, leg. 19, CM, ANC.

³⁸ Declaración de José Sánchez, Havana, 24 May 1850, f. 10v-11, exp. 3, leg. 94, CM, ANC.

³⁹ Roncali to Salas, Havana, 3 June 1850, f. 1-2, exp. 3, leg. 94, CM, ANC.

⁴⁰ Dictamen Fiscal, Havana, 2 August 1850, f. 109v-114, exp. 3, leg. 94, CM, ANC.

⁴¹ Sentencia, Havana, 12 August 1850, f. 119v-120, exp. 3, leg. 94, CM, ANC.

⁴² *Executive Documents Printed by Order of the Senate of the United States, during the Second Session of the Thirty-First Congress, Begun and Held at the City of Washington, December 2, 1850* (Washington, DC: Union Office, 1851), 5:38.

moved to Cárdenas, where he entered into a business partnership with the brother of a public notary and opened up a barber shop of his own.⁴³

On the day of López's invasion, numerous witnesses saw Malléa riding a horse while wielding a sword and meeting with the invaders. Following López's retreat, authorities apprehended Malléa after he had attempted to leave Cárdenas. The Military Commission eventually assumed jurisdiction over the case and after a legal process that lasted ten months, *fiscal* Francisco Javier Mendoza recommended that Malléa be sentenced to imprisonment for ten years overseas, with a prohibition from returning to Cuba or Puerto Rico.⁴⁴ The tribunal's Consejo de Guerra reduced Malléa's sentence to just six years of imprisonment overseas.⁴⁵

Another focus of the Military Commission's prosecutorial ire had been a source of concern for regional officials prior to López's invasion. In 1849, Governor García Oña of Matanzas had denounced a planter named Victoriano Arrieta for being an active sympathizer of Cuban independence and had named among Arrieta's associates a neighboring planter named Basilio Tosca.⁴⁶ In early June 1850, as he directed his resources towards rooting out suspected supporters of López, Captain General Roncali ordered Cárdenas authorities to arrest Tosca.⁴⁷

At the time of his arrest, Basilio Tosca was twenty-seven years old. When he was a child, his parents Juan Bautista Tosca and María de la Luz had survived the Guamacaro rebellion of

⁴³ Primer acto de la instructiva del pardo libre Joaquín Malléa por asunto reo, Matanzas, 23 May 1850, f. 3v-8, exp. 2, leg. 93, CM, ANC.

⁴⁴ Dictamen fiscal, Havana, 27 March 1851, f. 254-260, exp. 2, leg. 93, CM, ANC.

⁴⁵ Sentencia, Havana, 5 April 1851, f. 267v-268, exp. 2, leg. 93, CM, ANC.

⁴⁶ Portell Vilá, *Narciso López y su época*, 2:328-329.

⁴⁷ Diligencia, Cárdenas, 5 June 1850, f. 6, exp. 4, leg. 89, CM, ANC.

1825, which had been organized and led by their slave Pablo Gangá.⁴⁸ Nineteen years later, Basilio Tosca witnessed firsthand the Escalera process play out, as authorities again identified Pablo as a leading conspirator and eventually executed him.⁴⁹ Now the head of his household, Basilio Tosca administered the plantation on behalf of his widowed mother.⁵⁰

While under interrogation by Cárdenas-based officials, Tosca claimed that he had headed to the city on the day of the invasion simply out of curiosity. Learning that López's soldiers were not preventing residents from moving about, he entered the city, he claimed, to collect eighteen ounces of gold in case he had to flee with his family. As he moved about the city, he ran into an acquaintance named Felipe Gaunaurd. While passing the city's jail, some Cubans who were part of López's expedition beckoned Tosca and Gaunaurd to enter the jail to converse. Soon after, Tosca and Gaunaurd left the city. When asked if the Americans had invited him to join them, he said not directly. When asked if he had recognized anyone else, Tosca claimed that he had seen Narciso López and had recognized the general from his time as the president of the Military Commission. At the end of the interrogation, authorities asked Tosca if he knew anything about Gaunaurd having boarded López's ship. Tosca replied that he did not.⁵¹ Unbeknownst to Tosca, authorities had already interrogated Gaunaurd, who had confessed that after the meeting at the jail, he and Tosca had boarded the filibuster's ship and had even had lunch with some of the

⁴⁸ See Chapter 1.

⁴⁹ See Chapter 4.

⁵⁰ Declaración indagatoria de D. Basilio Tosca, Cárdenas, 6 June 1850, f. 15-17v, exp. 4, leg. 89, CM, ANC.

⁵¹ Declaración indagatoria de D. Basilio Tosca, Cárdenas, 6 June 1850, f. 15-17v, exp. 4, leg. 89, CM, ANC.

filibusters later in the day.⁵²

By the beginning of July, the Military Commission had assumed jurisdiction over Tosca's case and he had been transferred to the royal prison in Havana.⁵³ On July 15, *fiscal* Pedro Pablo Cruces took Tosca's confession. Tosca denied all the charges levied against him, claiming, according to the record, "that he is convinced of the trouble and ruinous harm that would be caused to the country by the project of which he is accused, and that he has valuable interests to lose and he is the head of his large family, circumstances that make him desire peace and tranquility."⁵⁴

In his final report to the tribunal's Consejo de Guerra, Cruces recommended that Basilio Tosca and Felipe Gaunaurd be exiled to Puerto Rico for a period of time to be determined by the captain general.⁵⁵ With a plurality of votes, the *consejo* instead sentenced Tosca and Gaunaurd with time served and court fees.⁵⁶

Captain General Roncali relied on the Military Commission to prosecute several other suspected supporters of López and the project of annexationism.⁵⁷ In this endeavor, the tribunal's actions reflected a range of approaches, including the captain general's direct command of

⁵² Declaración del acusado D. Felipe Gaunaurd, Cárdenas, 5 June 1850, f. 12-15, exp. 4, leg. 89, CM, ANC.

⁵³ Tosca to Salas, Havana, 1 July 1850, f. 71, exp. 4, leg. 89, CM, ANC.

⁵⁴ Confesión del acusado D. Basilio Tosca, Havana, 15 July 1850, f. 75-83, exp. 4, leg. 89, CM, ANC. "Que está convencido del trastorno y prejuicio ruinoso que ocasionaría al país el proyecto de que se le acusa y tiene que perder intereses valiosos, y está á la cabeza de su numerosa familia, circunstancias que le hacen desear la paz y tranquilidad."

⁵⁵ Dictamen fiscal, Havana, 26 August 1850, f. 149-150, exp. 4, leg. 89, CM, ANC.

⁵⁶ Sentencia, Havana, 4 September 1850, f. 163v-164, exp. 4, leg. 89, CM, ANC.

⁵⁷ Portell Vilá, *Narciso López y su época*, II:389-399.

tribunal officials, the expedited prosecution and execution of some of López's men, and the more drawn out prosecutions that had typified the tribunal's workflow in the past. Despite this versatility, in cases when tribunal officials followed established procedures and practices, adherence to process could still slow things down and often lead to reduced sentences.

Despite Roncali's efforts to crack down on supporters of the annexationist project following López's taking of the city of Cárdenas, his superiors in Spain nonetheless held him responsible for what they deemed to be an unacceptable breach of Spanish sovereignty. On November 10, 1850, José de la Concha arrived in Cuba to relieve Roncali of the captaincy general of Cuba, with a mandate to prevent the island from succumbing to the forces of annexationism.⁵⁸

Narciso López returned to the US after his failed filibustering expedition to popular acclaim and legal troubles. Federal officials indicted López and some of his supporters for violating the Neutrality Act of 1794. After the prosecution ended in a mistrial, López and his supporters immediately began organizing a second expedition.⁵⁹ In the early hours of August 12, 1851, López and his second force of 400 filibusters landed in the small town of El Morrillo, west of Havana. López then split his men into two groups, with a smaller force led by William L. Crittenden remaining near El Morrillo with the bulk of their supplies, while López led a larger force inland in search of sympathizers willing to join his cause. Through a well-organized intelligence apparatus in the United States, Captain General José de la Concha had anticipated López's arrival and had positioned Spanish soldiers in strategic locations. On August 13, Spanish

⁵⁸ Portell Vilá, *Narciso López y su época*, 2:440-442; Fradera, *Colonias para después de un imperio*, 308.

⁵⁹ Chaffin, *Fatal Glory*, chaps. 5, 6, and 7.

soldiers attacked the divided force of filibusters. The next day, Crittenden and his remaining men escaped to sea on four small boats, but were captured two days later and taken to Havana. López eluded capture for almost two weeks. Through a series of small skirmishes, insects, oppressive heat, and declining morale, his force had been reduced in number and resolve. On August 26, De la Concha announced safe quarter for all filibusters who surrendered. On August 28, López and his remaining men finally surrendered.⁶⁰

As with the Guamacaro rebellion of 1825 and the Bemba and Triunvirato rebellions of 1843, the military and legal responses to López's second expedition were intimately related. Unlike those prosecutions, which had been complicated by the competing imperatives of interrogation and repression, the legal response to López's second expedition brought swift, repressive, and exemplary punishments.

On the early morning of August 16, Captain General José de la Concha ordered Military Commission *fiscal* Pedro Pablo Cruces to conduct a "brief and summary examination" of William Crittenden and his men, who were currently being detained on a vessel named the *Esperanza*. With the aid of a secretary and a translator, Cruces questioned thirty-four prisoners in quick succession, including Crittenden. Crittenden's interrogation appears to have followed standard, if expedited, form. Upon being prompted by Cruces to recount the circumstances of his arrest, Crittenden described having been led to believe by López that the island was in a "state of revolution" and that he and his men had come to "assist in the cause." The remaining interrogations played out in a similar manner, with the record of each successive interrogation diminishing in length.⁶¹

⁶⁰ Chaffin, *Fatal Glory*, chap. 8.

⁶¹ "Correspondence on the Lopez Expedition to Cuba," 1849-51, Entry 121, Box 1, Miscellaneous Correspondence 1784-1906, General Records of the Department of State, Record

After receiving the records of Cruces's interrogations later that morning, De la Concha ordered another *fiscal* with the Military Commission, Captain Luís de la Guardia, to finish interrogating the remaining sixteen prisoners. Though De la Concha deployed tribunal officials to take depositions in a legalistic way, there was no pretense that Crittenden's men would be subject to the type of fully articulated prosecution the Military Commission typically conducted. Upon receiving records of the second round of interrogations, De la Concha cited his predecessor's proclamation of April 20, 1850, issued the day after López's first invasion, mandating the immediate execution of all filibusters, and announced that all fifty prisoners would be immediately executed. There would be no ratification of testimonies, no defense, no deliberation, and no vote by the Military Commission's Consejo de Guerra, just executions on the order of the captain general. De la Concha then had the prisoners placed into the custody of Brigadier General Francisco de Velasco, who had served as President of the Military Commission from 1835 to 1842, prior to being replaced as president by Narciso López himself. He now once again presided over the tribunal and oversaw the executions. At 11:30AM, outside the Castle Atares, Velasco had the prisoners executed in four groups of twelve and thirteen, promptly had their bodies taken to a cemetery to be buried, and then returned to the Palace of the Captains General to hand the signed and certified case file to De la Concha.⁶²

Narciso López's execution was conducted in a manner that was similarly hasty, though

Group 59, United States National Archives. These records contain correspondences between US and Spanish officials regarding the activities of Narciso López. They were compiled into a bound volume by Robert Granville Caldwell in 1915. The records include translations commissioned by the US Department of State of the case file compiled by Military Commission officials in the expedited interrogations of William L. Crittenden and his soldiers. The Spanish consul to the US had sent a copy of the case file to the Department of State at the Secretary of State's request.

⁶² "Correspondence on the Lopez Expedition to Cuba."

perhaps a bit more attentive to formal legal process. After López's flight from Cuba in 1848, the Military Commission had tried him in absentia, and after a legal process that had included the intervention of then Captain General Roncali, had sentenced him to death. On the morning of September 1, 1851, with his fate thus already sealed, López was brought to a plaza overlooking the port of Havana. With López presented before the surviving members of his expedition, 2,000 cavalrymen, and 3,000 infantrymen, it may have appeared as though his execution was being conducted in the sort of exemplary manner that had characterized the executions of insurgent slave leaders during the Guamacaro rebellion of 1825, the Bemba and Triunvirato rebellions of 1843, and the Escalera process of 1844. Those executions had been performed in front of slaves and had been meant to terrorize them into refraining from future slave resistance. In this instance, however, the executions were not meant to warn the assemblage of surviving filibusters against future attempts to wrest the island away from Spanish dominion. More likely, the intended recipients of this warning were the 20,000 residents of Havana who had assembled to witness the execution and who were now being reminded of the might and resolve of the Spanish Empire's claims to sovereignty over the island.⁶³

In the twenty-six years the Military Commission had been in operation, its formal adherence to legal process had consistently undercut its ability to mete out swift and exemplary justice, even when its defendants and victims were free and enslaved people of color. At first, tribunal officials were not perturbed by the dilatory effects of the law, as their command of the law, even at a slow pace, expressed the sovereign authority of the captaincy general they served.⁶⁴ Over the years, however, their experiences prosecuting free people of color whose

⁶³ Chaffin, *Fatal Glory*, 215-216; Johnson, *River of Dark Dreams*, 350-351.

⁶⁴ See Chapter 1.

alleged crimes were often exaggerated, if not fabricated, exacerbated financial pressures experienced by the tribunal, which had to finance much of its operations through successful prosecutions, engendering a developing sense that free people of color could be adjudicated with a less rigorous attention to law in certain instances.⁶⁵ During the tribunal's involvement in the Escalera process of 1844, the exceptional position free and enslaved people of color occupied within the tribunal's legal framework continued to develop, as the process came to sanction their torture.⁶⁶ With Narciso López's second filibustering expedition, then, Captain General De la Concha extended the legal exception the tribunal had learned to assign to free and enslaved people of color in certain instances to López and his men, as tribunal officials acting under the direct command of the captain general bypassed all but the most superficial trappings of formal legal process in order to subject the prisoners to the swiftest and most severe punishment.

Reforming the Administration of Justice

In the aftermath of Narciso López's second filibustering expedition, Captain General De la Concha headed a colonial government that had in the last seven years withstood dramatic challenges to Cuban slavery and Spanish empire from the likes of slaves, free people of color, foreign abolitionists, and now a former Spanish general. In matters of insular security, the colonial government had proven itself more than capable of addressing threats to Spanish sovereignty over Cuba through military and legal means. In the years to come, De la Concha led an effort to consolidate the captaincy general's sovereign authority to maintain insular security and promote social order by reforming the administration of justice in ways that diffused

⁶⁵ See Chapter 2.

⁶⁶ See Chapter 4.

throughout the island's legal system his office's capacity to repress and dominate. Though these reforms were promulgated by a metropolitan government committed to excluding Cuba from the rights and benefits of liberal governance and were enacted by a captain general who had proven his willingness to govern with an iron fist, they articulated a set of principles for the administration of justice regarding salaries for jurists and the centralization of judicial appointments that had been supported by liberals since the days of the 1812 Constitution of Cádiz. Not incidentally, these principles also characterized much of what made the Military Commission such a useful instrument of executive authority.

Captain General José de la Concha returned to Spain on April 15, 1852, after some of his criticisms of the metropolitan government had caused him to fall from favor. He was replaced by Juan de la Pezuela.⁶⁷ Recalling his role in overseeing the colonial state's response to Narciso López's second invasion, De la Concha summed up his overall impression:

The great spectacle that [Cuba] has offered, during the events that have just ended, with the justice given to the expeditionary leader, could only be one more reason to force me to work hard in everything that could contribute to their greater well-being and prosperity, especially when we saw the growth of the prestige of Her Majesty's government, as clearly revealed by the enthusiasm with which the civil population had come to aid the troops in the pursuit of the pirates, and to render to the former all the aid which may have been necessary.⁶⁸

Whether these perceived feelings of popular enthusiasm were wrought of fear, genuine loyalty, or something in the middle, De la Concha saw them as a sign of support by the island's populace

⁶⁷ Calcagno, *Diccionario biográfico cubano: comprende hasta 1878*, 204.

⁶⁸ De la Concha, *Memorias*, 230. "El grandioso espectáculo que el país había ofrecido, durante los sucesos que acaban de terminar con la justicia del cabecilla expedicionario, no podía ser sino un motivo mas para obligarme á trabajar con empeño en todo lo que pudiera contribuir á su mayor bienestar y prosperidad, máxime cuando de ello veía seguirse inmediatamente el crecimiento del prestigio del Gobierno de S.M., tan á las claras revelado por el entusiasmo con que el paisanaje había acudido á ayudar á las tropas en la persecución de los piratas y á prestar á las primeras todos los auxilios que pudieran serles necesarios."

for its government. The time was right, then, to pursue a series of reforms to colonial governance that in the past might have been too disruptive.⁶⁹

Indeed, while his appointment to the captaincy general of Cuba had been occasioned by perceptions that Federico Roncali had not acted firmly enough to prevent Narciso López's first invasion, De la Concha claimed that he had approached the administration of the island comprehensively. In the months prior to his departure for Cuba, he had done extensive research into the topic of colonial governance and had interviewed many people who had spent time in Cuba. At the time, he had signaled his sense of the origins of the troubles plaguing colonial governance when he conditioned his acceptance of Cuba's captaincy general upon receipt of a raise.⁷⁰

As De la Concha later recounted regarding his income, captains general received relatively small salaries, as dictated by the relevant legislation and established practices. In a formal sense, they supplemented their incomes with the fees they accrued on a per-signature-basis during the normal course of overseeing and approving the work of civil and military governance, and the administration of justice.⁷¹ Considering the various avenues captains general of Cuba normally pursued towards self-enrichment, including collecting a per-head fee on the activities of the contraband slave trade, De la Concha's concern over his salary should not be seen as an actual concern over his material wellbeing.⁷² Rather, as he repeatedly pointed out, the

⁶⁹ De la Concha, *Memorias*, 230.

⁷⁰ De la Concha, *Memorias*, 134-135.

⁷¹ De la Concha, *Memorias*, 141.

⁷² During Francisco Dionisio Vives's administration, the colonial government collected 10 pesos for each African sold into slavery in Cuba, with Vives personally receiving a small percentage. Tacón lowered the amount to 8 pesos 4 reales per head, but collected a higher percentage. See

structure of remunerations for captains general meant that they had to expend tremendous time participating in the actual work of colonial governance. Freed from these time-consuming practices, De la Concha claimed that he had thus been able to dedicate the appropriate time and resources towards a review of colonial governance and possible reforms.⁷³

Though contending with Narciso López's second invasion and its aftermath had occupied much of his time, De la Concha's return to Spain in 1852 was an opportunity to set his thoughts and observations to paper. Much as Francisco Dionisio Vives had done by filling out the Ministry of War's questionnaire upon his return to Cuba in 1832, De la Concha contributed to the administrative memory of Spain's imperial project by publishing his own account of his time in Cuba. De la Concha's *Memoria* took the practice to a whole new level, as it laid out a comprehensive assessment of the problems ailing colonial governance, his actions taken to alleviate some of these problems, and his recommendations for future administrations. While his review of colonial governance covered a vast territory, including public education, sanitation, relations with the church, and the role of the Intendancy, he directed a great deal of attention towards the administration of justice.

In this facet of colonial governance, De la Concha revisited the interrelated issues of antiquated funding structures and salaries. Much like his argument that Captains General needed adequate salaries in order to attend to their responsibilities, De la Concha focused on the negative consequences of a legal system that relied on the labor of unsalaried officials to help sustain social stability. In highlighting the problems brought by a system of justice that was not

Juan Pérez de la Riva, *Correspondencia reservada del Capitan General Don Miguel Tacón con el gobierno de Madrid, 1834-1836* (Havana: Consejo Nacional de Cultural, 1963), 41-42.

⁷³ De la Concha, *Memorias*, 141.

financially administered by the state, he was the latest contributor to a growing chorus calling for reforms to the administration of justice. Though these calls for reform originated in different political contexts by officials and jurists working in different relations to the state, they shared a common sense of what had to be done.

The 1812 Constitution of Cádiz had decades earlier set the stage for major reforms to Spain's legal system when it mandated that Spanish provinces be divided into judicial districts headed by *jueces de letras* (judges trained in law) who were to be appointed by the government and receive salaries.⁷⁴ Fernando VII regained the throne as absolute monarch and abolished the 1812 constitution before these reforms could be implemented.⁷⁵ During the years of the *trienio liberal* in Cuba, however, Captain General Cagigal began restructuring the colonial legal system in accordance with the 1812 constitution, a process that saw the young jurist José Ildefonso Suárez named *juez de letras* for the district of San Antonio Abad.⁷⁶

Even if Captain General Francisco Dionisio Vives could find merit in the actions of individual jurists within this system of legal districts and *jueces de letras*, as he had done with the role José Ildefonso Suárez's had played in the prosecution of the Soles y Rayos de Bolívar, his inability to easily replace judges and the decentralizing tendencies of appellate processes beyond his control motivated him to ask his superiors in Spain to grant him the extraordinary

⁷⁴ Jacobo de la Pezuela, *Historía de la isla de Cuba* (Madrid: Carlos Bailly-Baillière, 1878), 4:92-96.

⁷⁵ Duvon C. Corbitt, "The Colonial Government of Cuba" (PhD diss., University of North Carolina, 1938), 161-162.

⁷⁶ See Chapter 3.

powers enjoyed by governors of cities under siege.⁷⁷ With the renewed push to secure Cuba's position within the Spanish Empire that followed the end of the *trienio liberal*, Fernando VII's government afforded Vives these extraordinary powers as well as the Military Commission with which to prosecute enemies of the state, for which Vives named José Ildefonso Suárez to serve as *asesor*.⁷⁸

Under both liberal and absolutist regimes, then, captains general voiced concerns about the present state of the island's legal system by working towards the establishment of a professional judiciary and by seeking to increase the system's responsiveness to the executive authority of the central government. Within the Military Commission itself, *asesor* José Ildefonso Suárez promoted these imperatives towards authoritarian ends in his related struggles to secure a salary for himself and to carve out administrative space for the tribunal within the institutional makeup of the colonial government.⁷⁹

Jurists working within Cuba's legal system but not necessarily in alignment with the interests of the captaincy general also made similar calls for reform. One such voice was the noted jurist and liberal proponent Francisco de Armas. Born in 1804 in Puerto Príncipe to a Cuban mother and a father from the Canary Islands, De Armas had completed his legal studies at the age of sixteen and was authorized to practice law by the Real Audiencia two years later. In 1836, he was one of three Cuban deputies who had been denied participation in the constituent assembly that drafted the constitution of 1837. Though Cuba remained outside of Spain's

⁷⁷ Roque E. Garrigó, *Historia documentada de la conspiración de los soles y rayos de Bolívar* (Havana: Academia de la Historia de Cuba, 1929), 1:219-220.

⁷⁸ See Introduction.

⁷⁹ See Chapter 3.

political order to be governed in principle by a set of “special laws” that in practice were never enacted, De Armas continued promoting the cause of Cuban representation in the Spanish Empire until his unexpected death in 1844.⁸⁰

In 1835, as a member of Havana’s municipal council, Francisco de Armas authored a report on the state of the administration of justice in Cuba that he then sent to the Ministry of State in Spain. Perhaps channeling the ascendant liberal fervor accompanying the death of Fernando VII in 1833, De Armas’s report spoke of the experience of regular folks caught up in the legal system. Though he characterized the island’s legal system as notorious for its high levels of official corruption, the prevalence of frivolous lawsuits, and endemic fraudulent practices, De Armas argued that these maladies were not merely the result of unscrupulous people acting in bad faith within an otherwise well-formed legal system. Rather, they were derived from a set of independent yet interconnected administrative structures that encouraged practices and behaviors that taken together worked to compromise the system as a whole.⁸¹

According to De Armas’s analysis, the issue of remunerations was central. Functionaries within Cuba’s legal system earned incomes based on their level of participation in lawsuits and prosecutions, where participation was measured according to the number of documents they signed or the number of pages they authored. Legal functionaries such as local judges hearing cases in municipal courts thus had a financial incentive to see lawsuits and prosecutions drag on. The problems of this system of remuneration were further exacerbated by the system’s dependence on lay judges. As lay judges were not trained in law, they depended on the legal

⁸⁰ Calcagno, *Diccionario biográfico cubano: comprende hasta 1878*, 65-66.

⁸¹ Francisco de Armas, *Memoria sobre la administración de justicia en la Ysla de Cuba, sus principales abusos y sus más necesarios y practicables reformas*, Havana, 31 August 1835, no. 2, exp. 30, leg. 1628, Ultramar, AHN.

counsel of trained *asesores*. Since *asesores* also earned incomes based on fees measured against their participation in a given case, they too had a financial incentive to prolong legal processes.⁸²

De Armas also criticized *fueros*, a system of special legal rights and specialized jurisdictions that, in his view, led to predatory practices and abuses of the legal system. Individuals who enjoyed the active *fuero*, because they were in the military or were members of other *fuero*-bearing entities, could initiate lawsuits that would be heard in the specialized court that corresponded to their *fuero*. Since active *fuero*-bearing litigants could expect lawsuits they initiated to be heard before friendly courts, De Armas argued that they had an incentive to initiate lawsuits that ranged from frivolous to fraudulent in the hope that their victims would instead choose to settle out of court. De Armas also argued that even the passive *fuero*, which afforded their bearers the right to defend themselves against legal actions in the specialized court that corresponded to their *fuero*, had detrimental effects, as friendly *fuero* courts might try to shield *fuero*-bearing defendants through prolonged hearings and lengthy appellate processes.⁸³

Francisco de Armas thus proposed two reforms. The first involved greatly reducing the number of *fuero* courts of first and second instance, abolishing the active *fuero*, and placing restrictions on who could enjoy the passive *fuero*. The second was to staff the legal system with government appointed *jueces letrados* who earned salaries, thus eliminating the influence of lay judges who were not necessarily interested in the proper administration of justice and removing financial interests from complicating legal processes. The added expense that came with paying legal functionaries salaries would be covered, De Armas claimed, by channeling the fees and

⁸² De Armas, *Memoria sobre la administración de justicia en la Ysla de Cuba.*”

⁸³ De Armas, *Memoria sobre la administración de justicia en la Ysla de Cuba.*”

finances normally destined for the pockets of legal functionaries into the treasury.⁸⁴

Francisco de Armas's proposal for reforming the administration of justice spoke of the political aspirations resonating in Cuba during the early years of Captain General Tacón's administration, when many Cubans hoped that the island might experience some of the political transformation taking place in Spain. But they were not particular to that moment. In the midst of the prosecutorial phase of the Escalera process in 1844, the Ministry of Justice in Madrid ordered the Real Audiencia Pretorial in Havana to respond to alleged abuses within the high court itself. In compiling its response, the high court's presiding officials commissioned the high court's *fiscal* José Antonio de Olañeta to outline the problems plaguing the administration of justice. In a framing that alluded to the ongoing Escalera process, Olañeta began his report by summarizing Cuban demographics, crediting the commanding presence of "the colored race, free and enslaved," for the prevalence of immorality in Cuban society. He also pointed to productive and commercial practices attached to slavery and the slave trade as sources of immorality. In short, he blamed social heterogeneity deriving from slavery and the slave trade for the problems plaguing the legal system as a whole.⁸⁵

Without drawing any connections between Cuba's population of free and enslaved people of color and the particular problems plaguing the administration of justice, the *fiscal* then enumerated maladies reminiscent of Francisco de Armas's report from a decade earlier. Atop his list was the complicating impact of *fueros* and their attendant courts, and the prevalence of lay judges and *asesores* who had financial stakes in the legal processes they presided over. Not only

⁸⁴ De Armas, *Memoria sobre la administración de justicia en la Ysla de Cuba.* "

⁸⁵ Consulta, Havana, 27 February 1845, no. 2, exp. 3, leg. 1669, Ultramar, AHN. "la raza de color libre y esclava."

did Olañeta echo De Armas's critique, he also offered the same solutions, arguing that the state had to populate the legal system with salary-earning *jueces letrados*.⁸⁶

Indeed, in 1845, of the more than seventy lower courts throughout the island, only six were headed by trained jurists. After collecting a range of opinions, including the one proffered by *fiscal* Olañeta, the metropolitan government approved a series of legal reforms, some of which applied to Cuba's lower courts. *Jueces letrados* serving in the capacity of *alcaldes mayores* would be assigned to major cities such as Havana, Matanzas, and Trinidad to hear cases in the ordinary jurisdiction. Regional governors and lieutenant governors would then be responsible for appointing *asesores* to advise lay judges in smaller municipalities. These new *jueces letrados* would enjoy salaries, with their rights to fees, fines, and confiscated property being ceded to the royal treasury. The *asesores* appointed to advise local lay judges, however, would still maintain their rights to charge fees.⁸⁷

In practice, however, these reforms were costly. *Alcaldes mayores* who now enjoyed salaries heard increasing numbers of processes orally, for which they could still charge fees. Additionally, they continued to rely on the assistance of ancillary legal officials like *asesores* and scribes, who themselves possessed the right to charge fees, thus undermining the amount per legal process being deposited in the treasury.⁸⁸

A royal decree from January 29, 1851, issued by the Ministry of Justice further refined the reforms of 1845 by expanding the number of *alcaldes mayores* throughout the island and prohibiting heads of municipalities without *alcaldes mayores* from acting as lay judges. These

⁸⁶ Consulta, Havana, 27 February 1845, no. 2, exp. 3, leg. 1669, Ultramar, AHN.

⁸⁷ Concha, *Memorias*, 117-118.

⁸⁸ Concha, *Memorias*, 117-118.

reforms also apportioned greater appointing and oversight responsibilities to the captain general and the Ministry of Justice.⁸⁹

José de la Concha returned to the captaincy general of Cuba on September 21, 1854, in response to concerns from those with a continued stake in the maintenance of Cuban slavery that his predecessor, Juan de la Pezuela, had not been a sufficiently ardent defender of the institution.⁹⁰ De la Concha was sent by a metropolitan government already committed to the task of institutionalizing Spanish sovereignty within the executive powers of the captaincy general. In 1853, the metropolitan government had already issued a royal order assigning all the competencies of the Intendancy's superintendent to the island's superior government, atop of which sat the captain general, thus unceremoniously putting an end to the hopes and aspirations Cuban planters had placed in their control of the institution.⁹¹ 1853 was also the year that the metropolitan government finally abolished the Real Audiencia in Puerto Príncipe, leaving the Real Audiencia Pretorial as the island's only high court, and keeping it under the close watch of the captain general in Havana.⁹²

On January 30, 1855, the metropolitan government promulgated a royal decree mandating and outlining a comprehensive reformation of the administration of justice in Cuba. The decree addressed the powers and responsibilities of local ley judges, the form and function of the island's system of lower courts, the organization and powers of the Real Audiencia Pretorial, the supreme tribunal of justice in Spain, *fueros* and their attendant courts, the relation

⁸⁹ Real cédula, Madrid, 29 January 1851, exp. 223, leg. 155, ROC, ANC.

⁹⁰ Fradera, *Colonias para después de un imperio*, 314.

⁹¹ Fradera, *Colonias para después de un imperio*, 316-317.

⁹² Corbitt, "The Colonial Government of Cuba," 151.

between *fuero* courts and the administration of the government, the work of ancillary legal figures such as notaries, the establishment and organization of a ministry of *fiscales*, and more.⁹³

The 1855 decree nonetheless addressed a set of core concerns that had been raised repeatedly by the 1812 Constitution of Cádiz, by Captain General Vives when he pointed to the limitations of the constitutionally mandated legal system when asking for extraordinary powers, by Francisco de Armas's recommendations for reforming the legal system, and by the initial set of legal reforms made in 1845. The 1855 decree finally stripped lay judges, locally elected municipal officials, and *jueces pedáneos* such as *comisarios de barrios* and *capitanes de partidos* of all legal powers within the ordinary jurisdiction. Though they could still make oral judgements on minor matters and could act as justices of the peace, their formal roles as legal figures was now to channel criminals and complaints into the lower courts.⁹⁴

The 1855 decree also relieved more important governing officials at the rank of governor and lieutenant governor of having to hear cases in the ordinary jurisdiction. This had been made possible with the appointment of *jueces letrados* in the form of *alcaldes mayores* in municipalities and *jueces de partido* in less populated areas. In addition to making more stark the division between civil governance and the administration of justice, the 1855 decree assigned salaries to legal officials working in the ordinary jurisdiction, relieving them of the need to charge fees against recovered court costs. While this had been extended to *alcaldes mayores* with the 1845 reforms, the 1855 decree now also provided salaries for *asesores*, who would thus cede

⁹³ *Organización y competencia de los juzgados y tribunales de la isla de Cuba.*

⁹⁴ See articles 1 through 13, *Organización y competencia de los juzgados y tribunales de la isla de Cuba*, chap. 1.

their right to charge fees to the royal treasury.⁹⁵ Finally, the 1855 decree streamlined the appellate process, channeling all appeals in the ordinary jurisdiction and most other appeals in other jurisdictions to be heard by the Real Audiencia Pretorial in Havana.⁹⁶

Though the Ministries of War and the Navy registered complaints regarding the manner in which the reforms had been drafted, their diminution of the *fuero*, and the appellate process they outlined for cases involving the specialized tribunals of the army and navy, by late April De la Concha's government was ready to begin implementing the reforms and began sending to Spain lists of candidates to fill the new positions required by the reforms for approval.⁹⁷ The island would now be divided into twenty-five judicial districts, presided over by thirty-two *alcaldes mayores* acting as judges. Along with the prosecutors, secretaries, and ancillary staff working for each *alcalde mayor*, the entire system of lower courts was now staffed with 160 officials, each earning a salary. Prior to the reforms, the annual cost of all the salaried positions working within the lower courts of the ordinary jurisdiction amounted to 72,604 pesos. With the reforms, that annual cost more than doubled, to 171,700. Indeed, when the increased costs of the reforms to the entire ordinary jurisdiction were taken into account, the escalation in the government's financial responsibilities for the administration of justice became even more pronounced. Prior to the reforms, the annual cost of maintaining the ordinary jurisdiction, including the lower courts and the *reales audiencias*, was 151,604 pesos. After the reforms, that

⁹⁵ See articles 14 through 30, *Organización y competencia de los juzgados y tribunales de la isla de Cuba*, chap. 2.

⁹⁶ See articles 31 through 87, *Organización y competencia de los juzgados y tribunales de la isla de Cuba*, chap. 3.

⁹⁷ Report from the Ministry of War, Madrid, 30 March 1855, f. 1-5v, exp. 1, leg. 1692, Ultramar, AHN; De la Concha to Ministry of State, Havana, 24 April 1855, f. 6-9v, exp. 1, leg. 1692, Ultramar, AHN.

annual cost increased to 270,700 pesos.⁹⁸

This massive escalation in the government's financial responsibilities would nonetheless be offset by new revenues. De la Concha estimated that prior to the reforms, the ordinary jurisdictions had recovered 87,000 pesos from court costs and an additional 170,000 pesos from the sale of sealed paper, for total annual revenues of 257,000 pesos. With 100 percent of these revenues now being channeled into the royal treasury, the difference between estimated revenues and the increased costs of affording 160 judicial officials with salaries was only 13,700 pesos, a much more palatable expense.⁹⁹

The 1855 decree outlined an ideal model for the administration of justice staffed by professional jurists acting as judges, prosecutors, and advisers, all of whom were chosen by the captain general and approved by the Ministry of Justice in Spain. The added expense of paying so many legal functionaries would be offset by channeling fines, embargoed property, and court costs directly into the colonial treasury controlled by the Intendancy, which was now controlled by the captain general. And all appeal cases would be channeled to the Real Audiencia Pretorial, whose president was the captain general. In short, the 1855 decree was a final step in a decades-long push, with origins in the 1812 Constitution of Cádiz, to centralize the administration of justice, and indeed, the administration of colonial governance.

Abolition of the Military Commission

With the judicial reforms outlined in the royal decree of January 30, 1855, enacted, Captain

⁹⁸ De la Concha to Ministry of State, Havana, 27 June 1855, no folios, exp. 1, leg. 1692, Ultramar, AHN.

⁹⁹ De la Concha to Ministry of State, Havana, 27 June 1855, no folios, exp. 1, leg. 1692, Ultramar, AHN.

General José de la Concha stood atop a governing apparatus that expressed a united Spanish sovereignty.¹⁰⁰ From this position of uncontested authority, he considered the totality of colonial governance and decided what to do next.

On June 8, 1855, De la Concha presented Ignacio Gonzalez Olivares, the regent of the Real Audiencia Pretorial and president of the Real Acuerdo, the main consultative body for the civil administration of the island, with a proposal to consider the feasibility of abolishing the Military Commission. His reason for questioning the tribunal's continued utility were cast in historical terms and focused on the conditions in Spain and in Cuba that had made the tribunal necessary in the first place. "The Military Commission was established on this island on March 5, 1825," he wrote, "during a period of reaction and insecurity on the Peninsula, and of great danger for Cuba, owing to the moral and [...] influence exerted over her by the victorious insurrection of the remaining Spanish possessions in America." But it had been the colonial government's lack of institutional means to promote law and order that had made the tribunal necessary. "Preventative and repressive policing did not exist at the time," he continued, "either in the cities or in the countryside, and the administration of justice was performed in near totality by lay judges directed by volunteer *asesores*. The necessary consequence of such a state of affairs would be, and indeed was, that robberies, homicides, and every class of crime increased to alarming proportions." At the time, he claimed, "the establishment of a tribunal, brief in its forms and severe in its sentences, was a measure that was not only beneficial, but necessary."¹⁰¹

¹⁰⁰ Fradera, *Colonias para después de un imperio*, 316-322.

¹⁰¹ De la Concha to Gonzales Olivares, Havana, 8 June 1855, exp. 6, leg. 120, CM, ANC. "Fue establecida la Comision militar de esta isla en cinco de Marzo de 1825, esto es en una época de reaccion y de inseguridad en la Peninsula, de gran peligro también para Cuba, por la influencia moral y [...] que sobre ella ejercia la insurreccion triunfante de las demás posesiones españolas en America. La policia preventiva y represiva no [existia] a la sazón, ni en las Ciudades ni en los Campos y la administración de justicia se desempeñaba en [casi] su

In the ensuing three decades, however, much had changed. Not only had crime diminished, he claimed, “but in the field of civil and judicial administration, immense progress has been made.”¹⁰² Furthermore, the violent threats to insular security posed by slave resistance and political dissent attempting to foment revolution had been supplanted by another sort of threat in which perceptions of Cuba in the public and political spheres of the United States were being used to argue for the annexation of Cuba. Because Spain’s enemies were pointing to the Military Commission as evidence that Spain could only maintain control over the island through “terror and force,” and since the distribution of lower courts throughout the island had been recently reformed, De la Concha asked Gonzalez Olivares and the other members of the Real Acuerdo if the time had not arrived “to abolish the Military Commission?”¹⁰³

After internal deliberations, the members of the Real Acuerdo were split on what to do. Some believed that the Military Commission still had utility, but that its jurisdiction could be reduced. As the justification for the tribunal resided upon a legal framework affording exceptional powers to governors of cities under siege, the dissenters believed that since Cuba was not in a state of siege, the tribunal should be abolished. Cases once handled by the tribunal could be handled by the ordinary courts, thus preserving the rights of all inhabitants of Cuba. Splitting the difference, the Real Acuerdo recommended that the Military Commission be abolished with the understanding that captains general could resurrect the tribunal whenever

[totalidad] por jueces legos dirigidos por asesores voluntarios. Consecuencia necesaria de semejante estado de cosas debía ser y fue con efecto, que los robos, los homicidios y toda clase de delitos creciesen en proporción alarmante. El establecimiento de un Tribunal, breve en las formas, y severo en los fallos, era una medida no solo saludable, sino necesaria.”

¹⁰² De la Concha to Gonzales Olivares, Havana, 8 June 1855, exp. 6, leg. 120, CM, ANC. “Pero en el terreno de la administración civil y judicial se han hecho inmensos progresos.”

¹⁰³ De la Concha to Gonzales Olivares, Havana, 8 June 1855, exp. 6, leg. 120, CM, ANC.

circumstances warranted.¹⁰⁴

Approving of the Real Acuerdo's decision, De la Concha wrote to his superiors in Spain, asking that the Military Commission be abolished, but that he be given the power to reinstate the tribunal whenever he deemed it appropriate.¹⁰⁵ In the meantime, he issued a circular on August 16, 1855, informing the inhabitants of Cuba that since the royal decree of January 30, 1855, had extended professional and capable courts throughout the island, the Military Commission was no longer necessary in the way that it once had been. For the time being, he then announced, the tribunal's jurisdiction would be reduced to cases of political dissent and slave rebellions. All other cases that would have been tried by the tribunal would now revert to the ordinary jurisdiction, to be handled by the newly reformed system of lower courts.¹⁰⁶ On January 5, 1856, the Ministry of State issued a royal order abolishing Cuba's Military Commission and authorizing captains general to reinstate the tribunal whenever circumstances required.¹⁰⁷ On May 8, 1856, President Juan Aquiles Rameau of the Military Commission informed Captain General De la Concha that he had completed the transfer of the tribunal's material possessions, including its archive, and its remaining cases to the Real Audiencia Pretorial.¹⁰⁸

From 1825 to 1856, the Military Commission had served to amplify the legal powers of the

¹⁰⁴ Voto del Real Acuerdo, Havana, 5 July 1855, exp, 6, leg. 120, CM, ANC.

¹⁰⁵ De la Concha to Ministry of State, Havana, 12 August 1855, exp. 6, leg. 120, CM, ANC.

¹⁰⁶ Circular, Havana, 16 August 1855, exp. 6, leg. 120, CM, ANC.

¹⁰⁷ Decreto, Havana, 20 February 1856, exp. 6, leg. 120, CM, ANC.

¹⁰⁸ Rameau to De la Concha, Havana, 8 May 1856, exp. 6, leg. 120, CM, ANC.

captaincy general to contend with threats to Cuban slavery and Spanish empire. Though the tribunal did not play a formal role, Captain General De la Concha's use of tribunal officials in the summary adjudication and execution of Narciso López and his men was the starkest example of the type of swift and decisive executive action metropolitan and colonial officials had hoped the tribunal would enable. Furthermore, through the exemplary executions of López and his men, De la Concha presented this expression of his sovereign authority for all of Cuba to consider and contemplate.

With the office of the captaincy general thus empowered, the metropolitan government sought to consolidate these gains through reforms to the administration of colonial governance. In addition to abolishing the Real Audiencia in Puerto Príncipe and subsuming the Intendancy within the administrative purview of the captaincy general, the metropolitan government further consolidated the powers of the captaincy general through the 1855 reforms to the administration of justice in Cuba, effectively centralizing the staffing and territorial organization of the island's legal system.

On paper, the Military Commission did not figure in these centralizing reforms. In the ways the tribunal was predominantly staffed by salaried functionaries and its operating expenses came to be covered by the Intendancy in exchange for rights to the embargoed property of its defendants, however, the tribunal did serve as a model for some of the administrative reforms De la Concha advanced in his *Memoria* of 1853. And in the way it amplified the legal powers of captains general to contend with threats to insular security, the tribunal also modeled the type of administrative authority the captaincy general would enjoy over the administration of justice that the 1855 reforms enabled. De la Concha acknowledged the important role the tribunal had played in the concentration of sovereign authority within the office of the captaincy general, and

in particular in the amplification of the legal powers of the office, when he then abolished the tribunal in 1856, as all that had been exceptional about the Military Commission had now been incorporated into the normative administration of justice.

Conclusion

The political scientist Hugh Heclo once wrote that states must “puzzle before they power.”¹ From the moment Captain General Vives established Cuba’s Military Commission in 1825, officials dispersed throughout the institutions of colonial governance puzzled over this peculiar court. Through debates and contestations over the tribunal’s jurisdiction, its finances, and the strategies, tactics, and practices it employed in its prosecutions, these officials expressed differing opinions about the tribunal’s purpose and utility that often articulated the particular roles they played as agents of Spain’s sovereign authority over the island. Governing officials in the jurisdiction of Matanzas saw in the tribunal a way of suppressing slave resistance and repressing slaves, while officials with the Real Audiencia saw in the tribunal an unnecessary rival. For the jurist José Ildefonso Suárez, working as the tribunal’s *asesor* had the potential of opening up professional and material opportunities, while the Intendancy’s superintendent Claudio Martínez de Pinillos at times saw the tribunal as a burdensome expense. The different ways the tribunal left the colonial state puzzled, then, reflected the ways Spanish sovereignty in Cuba was dispersed throughout the institutions of colonial governance.

Though the Military Commission’s institutional presence was sometimes a source of discord and contention, its utility in matters of insular security was seldom questioned. This was

¹ Hugh Heclo, *Modern Social Politics in Britain and Sweden: From Relief to Income Maintenance* (New Haven: Yale University Press, 1974), 305.

particularly the case when the tribunal addressed the actual and perceived threats posed by the island's population of free and enslaved people of color. Successive captains general thus saw in the tribunal a useful and at times indispensable tool for amplifying their legal powers to contend with threats to Cuban slavery and Spanish empire. Even in this regard, however, the law itself served to confuse the captaincy general's reliance on the tribunal, as formal adherence to legal process had dilatory effects on prosecutions and tended to lessen the severity of sentences, when the exigencies of insular security were deemed to necessitate prosecutorial expediency and severity in judgments.

Captain General O'Donnell came close to solving the puzzle introduced by the Military Commission during the multi-phased response to the Conspiracy of La Escalera. First by authorizing investigating officials to torture slaves during the initial moments of the investigatory phase of the Escalera process, then by extending that authorization to encompass free people of color, O'Donnell brought the sanctioned violence of plantation slavery into a formal legal process. Though this infused the investigations with the desired repressive edge, their continued adherence to legal form inflated the Escalera process to unsustainable proportions. By assigning the Matanzas Section of the Military Commission to assume jurisdiction over the growing number of investigations, O'Donnell thus situated the Escalera process within the administrative structures developed over the previous two decades by the captaincy general, the Intendancy, and the Military Commission for financing the tribunal's operations. While the dramatic threat posed by the alleged conspiracy brought the different institutions of colonial governance together in unified intent, by channeling the colonial state's response through the Military Commission, O'Donnell also organized the process around the sovereign authority of the captaincy general.

Captain General De la Concha solved the puzzle introduced by the Military Commission

during his response to Narciso López's second filibustering expedition. By employing tribunal officials to summarily question and execute López and his men, De la Concha channeled all that had been enabled legally and administratively by the Military Commission's adjudication of free and enslaved people of color over the preceding two and a half decades towards a show of force that bypassed formal legal process and was legitimized by his own claims to sovereign authority.

With the concentration of sovereign authority within the office of the captaincy general on full display, it was now time to power. The 1855 reforms to the administration of justice in Cuba outlined the institutional expression in legal matters of a unified mode of colonial governance organized in hierarchical relation to the captaincy general. Within this newly reconfigured institutional context, the Military Commission was now redundant, as all that had once made it exceptional now informed the normative practice of colonial governance.

In the period following the dissolution of the Military Commission, the decline in instances of large-scale slave resistance that followed the Escalera process of 1844 continued, even as this period saw the last great surge in slave imports. And though some still held out hope for the United States to annex Cuba, there were no more filibustering expeditions.² On a few occasions, captains general established ad hoc military commissions to try specific cases, but it appears that Captain General De la Concha's designs for the colony's system of lower courts to handle cases of social and political dissent were holding fast.³

Despite the colonial government's increased capacity to promote insular security,

² Gloria García, *Conspiraciones y revueltas: La actividad política de los negros de Cuba (1790-1845)* (Santiago de Cuba: Editorial Oriente, 2003); Louis A. Pérez, Jr., *Cuba: Between Reform and Revolution*, 3rd ed. (New York: Oxford University Press, 2006), 81-83.

³ For examples of investigations and prosecutions conducted by ad-hoc military commissions following the suppression of the Permanent and Executive Military Commission, see the case files initiated in 1864 in leg. 124, CM, ANC.

instability in global markets for Cuban cash crops, the concentration of economic growth and development in western and central Cuba, and political developments in the United States and Spain, among other factors, stressed the island's economy and destabilized social relations such that regional discontent in eastern Cuba turned into open insurrection in 1868.⁴ Combining the struggles against Cuban slavery and Spanish empire, the conflict took on revolutionary proportions as "a powerful multiracial army waged anticolonial war."⁵ But victory would have to wait. As summed up by Louis Pérez, Jr., "for ten years Cubans waged war, mostly in desultory fashion, mostly in the east, mostly without effect."⁶

The measure of the colonial state's capacity to power, then, might not be adequately reflected in its inability to avoid the outbreak of the Ten Years' War, but rather by its ability to withstand the challenge that the war represented. Though the war provoked the eventual demise of Cuban slavery, Spanish forces and the colonial state were able to shield the centers of Cuba's agricultural economy from major disruptions, while the metropolitan government was able to maintain degrees of control over the process of slave emancipation, delaying final abolition until 1886.⁷ And though the insurgent army posed a major challenge to Spanish dominion over Cuba, most of the island's inhabitants did not take up arms and Spain managed to maintain its

⁴ Rebecca J. Scott, *Slave Emancipation in Cuba: The Transition to Free Labor, 1860-1899* (Princeton: Princeton University Press, 1985), chap. 1.

⁵ Ada Ferrer, *Insurgent Cuba: Race, Nation, and Revolution, 1868-1898* (Chapel Hill: University of North Carolina Press, 1999), 1.

⁶ Pérez, Jr., *Cuba*, 91.

⁷ Laird W. Bergad, *Cuban Rural Society in the Nineteenth Century: The Social and Economic History of Monoculture in Matanzas* (Princeton: Princeton University Press, 1990), 91-93; Scott, *Slave Emancipation in Cuba*.

sovereign claims over the island for another three decades.⁸

⁸ Ferrer, *Insurgent Cuba*.

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Gobierno Superior Civil
Miscelánea de Expedientes
Real Consulado y Junta de Fomento
Reales Órdenes y Cédulas

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