South Carolina’s planters and lawyers often spoke and wrote in defense of their cherished legal rights in the 1760s and 1770s. They seldom did so with complete honesty. Timothy Ford, a Princeton graduate and lawyer from New Jersey, traveled to Charleston in 1785 after his sister married into a prominent South Carolina family. When comparing New York and Charleston, he was naturally struck by the prominence and power of the elite and the great inequalities he saw in his new home. Ruminating on the great division between black and white in South Carolina, he wrote:

This sight occasions a reflection rather painful; that, in a land of Liberty & Christianity, that boasts & builds upon the irrefrayable [sic; irrefutable?] rights of human nature; so many of the species should be torn from the enjoyment of them & devoted to perpetual slavery for no other cause but that God has formed them black. It begets a strange confusion of ideas & contradiction of principles—the general rule is liberty, but the Exceptions form a majority of 5 to 1.

The elite planters and merchants who ruled South Carolina enjoyed and jealously protected their liberties. They spoke and wrote eloquently in defending them. They based their government on the power of legislative government and the rule of law. However, they used that law more to rule over others—the Exceptions—than to establish and secure anything like participatory or liberal government.

The legal system was perhaps the lowcountry elite’s most tremendous political advantage. They controlled the legislature, which constructed the system within the British legal tradition. Through that power, the assembly extended lowcountry elite influence to every corner of the province and refused to grant autonomy to local communities. The Commons House of Assembly acted as

---

1 This chapter solely covers the legal system for whites. South Carolina had a separate system for slaves and free blacks, which will be covered extensively in chapter 3.
3 Ibid., 142.
both legislature and municipal government. It controlled local administration and infrastructure through the legislative process to a point unknown in other colonies or even in England. Even Charles Town itself remained unincorporated until after the American Revolution. The legislature distributed colonial resources and selectively responded to grievances. The legal culture too was dominated by those wealthy enough to obtain the best legal training. Legal training and knowledge of the law were restricted to the lowcountry elite, who could use their knowledge to shape and manipulate the system for their own benefit. Navigating the system required assistance from the same people who controlled and ultimately limited access to the system.

This centralized system existed to protect elite property, order the province, and mediate between interests. The lowcountry elite increased their political domination of the province by tightly controlling the definition, function and constitution of legal institutions. By limiting access to the courts in formal and informal ways, the colony’s governing elite set themselves up as the gatekeepers of legal processes. The legislature used its authority over the law and courts to centralize the legal system, strictly control it from Charles Town, and administer colonial resources in ways that mainly benefitted the ruling class. Defining and controlling the law and the courts and guarding access to the legal system allowed the elite to determine “who is who and who should be where” in colonial society and served to perpetuate elite control of the government and economy. South Carolina’s courts were impositions of elite authority used to manage provincial society and resources. The elite were unwilling to engage in any meaningful debate over how the legal system was constituted or who would gain access to it unless the argument was in favor of more elite control.

Little overall and virtually nothing recent has been written on South Carolina’s colonial courts or legal system. Jack P. Greene deals mainly with the issue of judicial tenure as part of a larger discussion of the colonial assembly’s “quest for power.” The closest thing to a comprehensive study of the colonial legal system can be found in a collection of conference papers edited by Herbert Johnson that deal with select legal issues and the court structure in South Carolina. Two works, both now more than a century old, provide brief descriptive accounts of the court system as part of larger political narratives.

---

5 Greene, The Quest for Power.