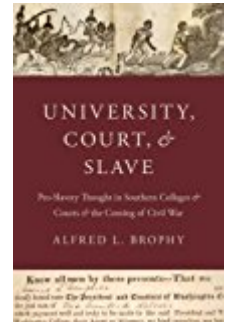


Alfred L. Brophy. *University, Court, and Slave: Pro-Slavery Thought in Southern Colleges and Courts and the Coming of Civil War.* New York: Oxford University Press, 2016. 408 pp. \$39.95, cloth, ISBN 978-0-19-996423-9.



Reviewed by Jamie Diane Wilson

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Commissioned by David M. Prior (University of New Mexico)

The antebellum concepts of reason, sentiment, and law battle vigorously in Alfred Brophy's *University, Court, and Slave* as he discusses the intersections of proslavery argument, antislavery novels, and litigation between 1830 and 1860. With several weighty themes to cover, Brophy centers his three-part work not only in the university and slavery literature but also within the body of legal history. He also hopes to demonstrate the multifaceted sources used by proslavery authors and to underline the “relationships between capitalism and slavery” (p. 17). Through numerous references to important Southern court decisions of the era, Brophy well establishes the supreme importance of slaves as property in the minds of Southerners and how this conviction led them to cite the Constitution, with its emphasis on the protection of property, as being in support of slavery.

Part 1 takes the reader down familiar lanes of proslavery argument. Individuals that range from eminent proslavery author Thomas Roderick Dew to lesser-known Southern college professor James

W. Massie of the Virginia Military Institute discussed what they presumed to be the benefits of slavery over the free labor system for both the slave and society. Within the slavery model, according to the ideologues, the slave was cared for throughout life; without it, hungry, discontented free workers would revolt and throw society into ungoverned chaos. Using a wide range of sources as justification, these proslavery intellectuals avowed that slavery had taken place throughout history, was not contradicted by religion, and was economically crucial to the South. Historians Eugene Genovese, Michael O'Brien, and Lacy Ford have made similar observations on the nature of proslavery argument. Brophy includes two chapters that review the proslavery arguments of Southern college professors at various institutions, but does not discuss specifically how these arguments influenced their students. Although it provides a handy overview of proslavery thought at various institutions, complete with helpful tables, *University, Court, and Slave* does not contribute new concepts to the historiography of proslav-

ery thought. In contrast, the work's analysis of proslavery law as it fought the burgeoning movement of antislavery sentiment greatly facilitates historians' understanding of Southern and American society in conversation with the coming of the Civil War.

Part 2 takes an intriguing turn as Brophy delves into the abolitionist works of Harriet Beecher Stowe and uncovers a sustained attack on Southern law at the heart of them. In fact, her novel *Dred: A Tale of the Great Dismal Swamp* (1856) was largely based on an actual court case: in *State v. Mann* (1829), the Southern judge ruled against his personal sympathy and meted out a harsh punishment to a slave in order to uphold North Carolina law. To Stowe, "bad laws" are even more responsible for slavery's evils than "bad people" (p. 169). Throughout the work, Brophy emphasizes the Southern concept of the utility of slavery as key to proslavery philosophy, and how antislavery authors, such as Stowe, fought against this claim of practicality as inferior to the supreme Christian laws of morality, sentiment, and justice. In response, proslavery authors such as George Frederick Holmes argued that, if slave law was not kept intact, social anarchy would result.

Part 3 delves into the "world of pro-slavery jurisprudence" where judges "separated law from morality" in favor of the status quo in order to preserve what was, in their minds, the best and safest socioeconomic system (pp. 195, 197). In some cases, Southern judges' decisions even strengthened slave laws past what was legally required, ostensibly in order to correct "common errors" (p. 221). Brophy declares that Thomas R. R. Cobb was the purest expression of proslavery jurisprudence, as he not only composed a summary of major proslavery arguments, but also codified Georgia's common law, putting proslavery thought into action. Southern judges consistently held that both federal and state law upheld slavery. However, as the Civil War drew near, the sen-

timent and morality-based doctrines of abolitionists--what Abraham Lincoln called "the better angels of our nature"--were defeating the proslavery arguments and court decisions based on "utility, history, religion, and economy" (p. 274.) Brophy contends that law is a part of culture, and as Northern culture increasingly interpreted key documents of the period, such as the Constitution and the Bible, as being antislavery, the South's stricter interpretations were challenged, driving them to fight the war which, ironically, freed enslaved persons.

Brophy's source base includes printed pamphlets of speeches, published works of proslavery authors, nineteenth-century law reviews, newspapers, and his own prior publications, with some research in university archives. This work would be helpful for a graduate seminar that is discussing Southern antebellum law, African American legal history, or other relevant legal history topics. *University, Court, and Slave* is also a useful reference for understanding slave laws in various Southern states, discussing crucial topics like slave manumission, testimony, inheritance, and marriage.

For further reading on proslavery thought within colleges and other respected Southern institutions, Jennifer Oast's *Institutional Slavery: Slaveholding Churches, Schools, Colleges, and Businesses in Virginia, 1650-1860* (2016) provides interesting and valuable insights. Brophy briefly discusses antislavery thought in Northern colleges and Southern colleges' fear of such opinions and he notes that Northern college professors occasionally supported slavery. A recent work that complements this discussion, tackling the antislavery tendencies of professors and students at the University of North Carolina, is Timothy Williams's *Intellectual Manhood: University, Self, and Society in the Antebellum South* (2015).

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