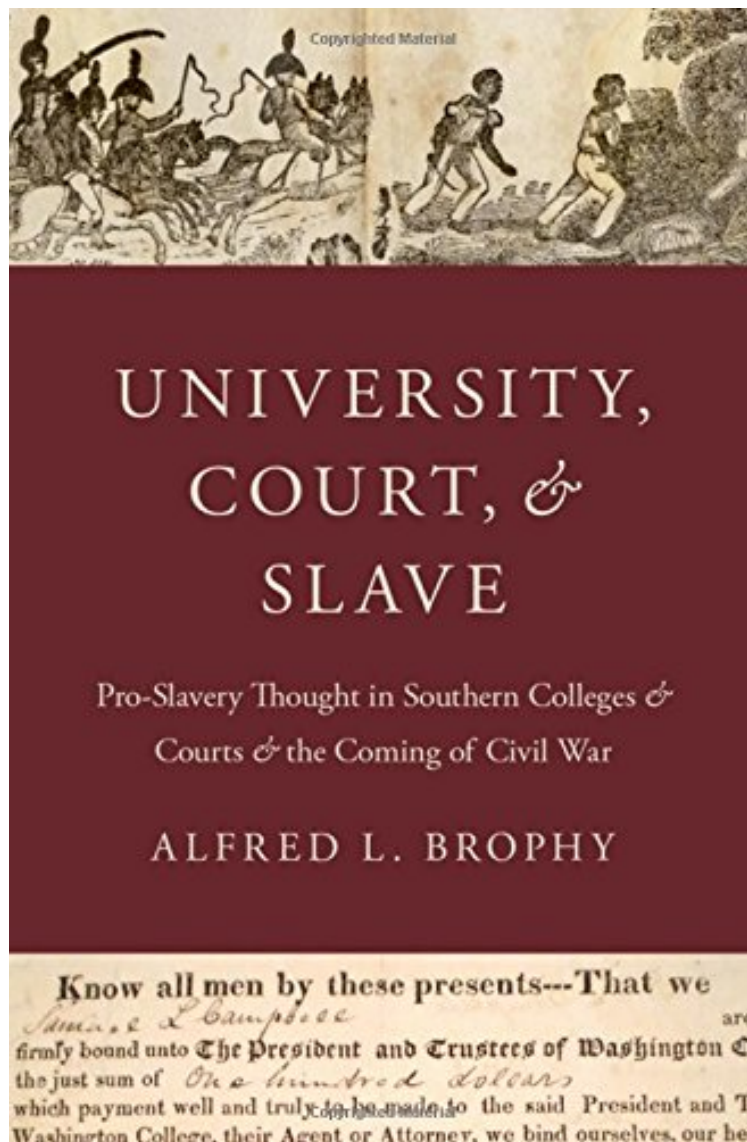


# University, Court, and Slave: Pro-Slavery Thought in Southern Colleges and Courts and the Coming of Civil War

Alfred L. Brophy

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Alfred L. Brophy : University, Court, and Slave: Pro-Slavery Thought in Southern Colleges and Courts and the Coming of Civil War before purchasing it in order to gauge whether or not it would be worth my time, and all praised University, Court, and Slave: Pro-Slavery Thought in Southern Colleges and Courts and the Coming of Civil War:

0 of 1 people found the following review helpful. Five StarsBy Jeff SchmittVery interesting and well-written2 of 2 people found the following review helpful. The Southern Academic and Legal Justifications for SlaveryBy Ronald H. ClarkThis is quite an interesting book relating to American slavery written by legal historian Alfred L. Brophy of the University of North Carolina law school. Brophy argues that during the period between the Nat Turner revolt in 1831 and the beginning of the Civil War in the 1860's, a sustained battle of ideas occurred relating to southern slavery. Basically, southern thought leaders realized that northern abolitionists were producing a forceful literature attacking slavery from a variety of perspectives. It also became evident to these leaders that unless pro-slavery advocates were able to mount their own counter-arguments, the South would lose this debate and weaken its ability to protect slavery. This book examines those southern academic and legal arguments from the perspectives of history, economics, morality and law. The book is divided into three sections, each with multiple chapters, as well as a preface and introduction. The introduction effectively outlines the key themes and arguments to come. The first section deals with the contours of academic pro-slavery arguments. Much attention to developing supportive arguments occurred in various academic institutions. The major figure here was Thomas R. Dew of the College of William and Mary. He analyzed the findings of a special committee established in Virginia in the wake of Nat Turner. His book on the commission laid out many of the arguments that would be relied upon for the next 30 years: how slavery had been recognized throughout history; why abolition was impracticable; and how slavery actually benefited the slaves. So instead of philosophical arguments based on the Enlightenment, the focus of argument shifted to practical considerations like economics. The remaining chapters in this section focus on particular institutions and their personnel; the role of literary societies; and the arguments put forward by various southern scholars in defense of slavery. Two anti-slavery academics are also profiled, including the difficulties they faced. The second section involves "connecting moral philosophy and legal thought." This is where the book really hits its stride. One chapter deals with the Fugitive Slave Act of 1850. In this connection the author adds to our understanding of American jurisprudence in a surprising discussion of Harriet Beecher Stowe's "jurisprudence of sentiment." Stowe in her important trilogy ("Uncle Tom's Cabin"; "Dred: A Tale of the Great Dismal Swamp"; and the "Key to Uncle Tom's Cabin") brilliantly tied the continued existence of slavery to the legal system. Instead of applying cold legal logic to cases, judges needed to consider the human dimensions, i.e., sentiment. Human considerations ought to override utility. In fact, Stowe launched the first attack on American legal formalism. I have studied jurisprudence for years and never became aware of Stowe's contributions to the field. This uncovering of her role is one of the greatest contributions of the book. Moreover, she certainly intensified the attack on southern slavery. In the third section, the author moves on to "the core of southern legal thought." Here are discussed several key legal thinkers who defended slavery and constituted a reaction to Stowe. Three southern thinkers are examined: Thomas Ruffin, Joseph Henry Lumpkin, and the especially important Thomas R.R. Cobb. Cobb writes a vital book in 1858 (which neatly bookends with Dew's earlier treatise) which collects all the arguments in favor of slavery on the very doorstep of the Civil War. One volume is devoted to the history of slavery going back to the ancients; the second to the legal issues employing the very legal formalistic techniques that Stowe had attacked. Looking at his book demonstrates that Cobb was a scholar of some repute even though his arguments are regrettable. Another chapter looks at judicial opposition to freedom. The final discussion is how the issue of protecting slavery was addressed in the secession debates. The 295 pages of text are supported by 64 pages of invaluable notes and references, as well as a thorough index, helpful illustrations and a timeline. While this is a book of the highest scholarship, it is not only for scholars to read and ponder but for all of us. I would suggest that one could not have a truly complete understanding of American slavery without having read and digested this fine book. The author is to be commended.

University, Court, and Slave reveals long-forgotten connections between pre-Civil War southern universities and slavery. Universities and their faculty owned people-sometimes dozens of people-and profited from their labor while many slaves endured physical abuse on campuses. The profits of enslaved labor helped pay for education, and faculty and students at times actively promoted the institution. They wrote about the history of slavery, argued for its central role in the southern economy, and developed a political theory that justified slavery. The university faculty spoke a common language of economic utility, history, and philosophy with those who made the laws for the southern states. Their extensive writing promoting slavery helps us understand how southern politicians and judges thought about the practice. As Alfred L. Brophy shows, southern universities fought the emancipation movement for economic reasons, but used history, philosophy, and law in an attempt to justify their position. Indeed, as the antislavery movement gained momentum, southern academics and their allies in the courts became bolder in their claims. Some went so far as to say that slavery was supported by natural law. The combination of economic reasoning and historical precedent helped shape a southern, proslavery jurisprudence. Following Lincoln's November 1860 election, southern academics joined politicians, judges, lawyers, and other leaders in arguing that their economy and society was threatened. Southern jurisprudence led them to believe that any threats to slavery and property justified secession. Bolstered by the courts, academics took their case to the southern public-and ultimately to the battlefield-to defend slavery. A path-breaking and deeply researched history of southern universities' investment in and defense of slavery, University,

Court, and Slave will fundamentally transform our understanding of the institutional foundations of pro-slavery thought.

"Brophy's book is a well-crafted introduction to pro-slavery thought as expressed in venues that historians have not visited often enough."--Mark Tushnet, *Journal of Interdisciplinary History*"The labor lords of the antebellum American South did not just engage in a war of maneuver, but also in a war of position. Violence and brute force allowed them to dominate their workers, but, as Al Brophy shows in this fascinating study, so was the development of an ideological and legal edifice that justified the persistence of slavery in the American republic. To understand slavery, argues Brophy, we need to not just think of the lash, the overseer and the plantation, but also the law, the courts and southern universities. Sophisticated lawyers, smart professors and passionate ideologues enabled unfathomable repression to descend upon millions of enslaved Americans."--Sven Beckert, Laird Bell Professor of History, Harvard University and author of *Empire of Cotton: A Global History*"In this deeply researched, beautifully written book, Alfred Brophy recreates the world of pro-slavery academics and jurists and their literary critics--north and south, well-known and largely forgotten. This important volume reinforces the pervasiveness of pro-slavery thought in the nineteenth-century United States, and reinvigorates our understanding of the intellectual and cultural histories and legacies of the slavery era in our legal system."--Leslie M. Harris, Professor of History, Northwestern University and author of *In the Shadow of Slavery: African Americans in New York City, 1626-1863*"A learned treatise about learned treatises, *University, Court, and Slave* introduces readers to the professors and jurists who sustained American slavery. Reaching far beyond the standard intellectual histories of pro-slavery thought, Brophy recovers the potent interplay of slaveholding jurisprudence and university curricula in protecting property rights in people and shaping the nature of liberal market society in the nation as a whole. This is a major accomplishment and a significant contribution to the revitalized study of slavery and capitalism."--Seth Rockman, Associate Professor of History, Brown University and co-editor of *Slavery's Capitalism: A New History of American Economic Development*About the AuthorAlfred L. Brophy is the Judge John J. Parker Distinguished Professor of Law at University of North Carolina and the author of *Reparations Pro and Con* and *Reconstructing the Dreamland*.