The Sources and Nature of Antebellum Jurisprudence: Thomas Reade Roots Cobb's *An Inquiry into the Law of Negro Slavery*

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Thomas Cobb's treatise, *An Inquiry into Negro Slavery in the United States*, published in 1858 (three years before the Civil War) brings together his reading on the history and law of slavery. This paper turns to *An Inquiry* for three purposes. First, it mines the book for evidence of the nature and sources of jurisprudence in the years leading into Civil War. Historical and empirical evidence, located in the specific context—as opposed to grand Enlightenment theories—were central to Cobb's legal thought, as was a utilitarian calculus. Second, this paper recovers the specific thought about the centrality of slavery and the racial thinking of Cobb and his contemporaries. That supported the continuation of slavery and spurred fear of any emancipation plans. Finally, it uses the book as a gauge of proslavery legal thinking on the eve of the Civil War.

Cobb's work is particularly important because he was a central figure in Georgia law (he was a reviser of the Georgia code), an important education reformer, and he participated in secession debates in 1860 and 1861. Later he took to the battlefield to defend his country and society. In Cobb's work we see the ideas of an intellectual, a lawyer, a professor, and an activist, all together.

This paper is part of a larger project, tentatively titled *University, Court, and Slave*, which seeks to understand jurisprudence in the South in the years leading into Civil War by reading academic literature and by using that literature to understand how jurists melded their understanding of history, their views on contemporary society (such as the need for labor and the desirability of hierarchy), and cold legal reasoning. Chapters examine such academics as Thomas Roderick Dew and Beverly Tucker of William and Mary, James Holcombe, George Frederick Holmes, and Albert Taylor Bledsoe of the University of Virginia, and jurists John Archibald Campbell of the United States Supreme Court, Thomas Ruffin of the North Carolina Supreme Court, and Joseph Henry Lumpkin of the Georgia Supreme Court, as well as specific episodes like the Fugitive Slave Act of 1850. In addition, several chapters looks to the critique of slave law by abolitionists. Others look to abolitionists Harriet Beecher Stowe and William Goddell, and to a debate between Brown University's President Francis Wayland and South Carolina minister Richard Fuller.