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## Southern Slavery and the Law, 1619-1860 - Morris,TD

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# BOOK REVIEWS

Edited by James C. Bradford

*Southern Slavery and the Law, 1619-1860.* By Thomas D. Morris. (Chapel Hill: University of North Carolina Press, 1996. Pp. X, 575. \$49.95.)

Thomas D. Morris's *Southern Slavery and the Law* is a valuable contribution to the historiography of southern law and to the historiography of the institution of slavery. Based on prodigious research in published statute and case law, as well as an impressive amount of research in local court records, Morris's book chronicles and analyzes the evolution of laws related to slavery and most importantly, the meaning of statute law as interpreted by jurists. Morris divides his study into four parts: "Sources," "Slaves as Property," "Slaves as Persons," and "Manumission." Each chapter revolves around a common theme; consequently, subdivisions contain references to events that occurred at various times and in sundry places.

The first part of Morris's book outlines the formation of a complex racial society and the effort by jurists and legislatures to conflate the concepts of black and slave. He also traces the origins of slave law to English common law as adapted to the southern frontier, arguing that the peculiar institution occupies a peculiar place in western legal history.

The second part of the volume describes slaves' standing as property—a matter that affected slaves little but that concerned owners immensely. According to Morris, some courts treated slaves as real property and others treated slaves as personal property, regardless of statutory descriptions of slaves as belonging to the latter class of property. Laws regarding estates, the sale and mortgaging of slaves, and the hiring of slaves were equally contradictory; increasingly in the nineteenth century, paternalistic legal doctrines began to recede in the face of doctrines borne in the age of liberal capitalism. (Yet curiously, the basis of legal doctrine regarding slavery remained fixed on the idea that enslavement was perpetual, a notion antagonistic to the spirit of liberal capitalism.)

"Slaves as Persons," the third subdivision, treats slaves' standing before the law both as victims and perpetrators of criminal activities. Southern legislatures created a legal system that provided slaves with

security before the law. The object was not to establish slaves as chattel with human feelings but to protect slaveowners. In the process of protecting owners' pecuniary interest in slavery, the law perpetuated slaveholders' power.

The final part of the book briefly describes the legal effort to prevent slaveowners from exercising their established right to free their slaves. By the 1840s, most states denied owners "the right to discontinue property as property" (399).

Morris's book holds obvious appeal for legal historians and historians of slavery, but others too will benefit from reading the work. Intellectual historians will find much to ponder in his nuanced and complex interpretation as will historians interested in the impact of the market economy on society.

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***Slavery and Freedom in Delaware, 1639-1865.*** By William H. Williams. (Wilmington: Scholarly Research Books, 1996. Pp. xvii, 270. Illustrations. \$50.00.)

Although African slaves constituted 20 percent of Delaware's population in the 1660s, little has been published about their lives or those of their descendants during the long era of slavery. Researching this important aspect of the state's past was thwarted by the illiteracy of most of the state's African Americans, both enslaved and free, who left few written records. Nor did whites leave abundant documentation. Delaware was small with relatively few slaveholders and fewer yet who engaged in large scale agriculture more characteristic of the deep South; record keeping was neither meticulous nor extensive. The result has been a near void about a subject of obvious importance. Now, finally, that void has been filled by the appearance in 1996 of two books which provide good overviews of the topic and a firm foundation for additional scholarly investigation: *A House Divided: Slavery and Emancipation in Delaware, 1638-1865* by Patience Essah, and *Slavery and Freedom in Delaware, 1639-1865* by Williams.

Williams, the author of a history of Delaware as well as a study of Methodism in the state, has relied on his thorough familiarity with manuscript resources in Delaware to provide readers with a developmental narrative of how slavery and freedom evolved in Delaware, and how the evolution of both affected blacks, whites, and their relationship with one another. To a more limited extent, he has utilized secondary