

*Double Character: Slavery and Mastery in the Antebellum Courtroom.*  
By Ariela J. Gross. (Athens and London: University of Georgia Press,  
2006. 263pp Paperback: \$22.95, ISBN-10: 0-8203-2860-7).

Few scholars have demonstrated better than Ariela Gross that the law can provide a window into the cultural mores of another era. Her study *Double Character: Slavery and Mastery in the Antebellum Southern Courtroom*, originally published in 2000 by Princeton University Press and now republished in paperback by the University of Georgia Press, uses trials involving slaves to shed new light on the antebellum South. In doing so, her study has helped to extend our understanding of social divisions among slaveholding and non-slaveholding whites, the white South's seemingly endless quest for vindication of honor, black and white gender roles, and the all important question of slavery and race in the antebellum South.

Gross uses records in cases of commercial disputes over transactions involving slaves as her primary lens through which to view social relations and cultural mores. She examines records from the lower South states of Alabama, Georgia, Louisiana, Mississippi, and South Carolina. Her concern is with trial courts. Trials are a better vehicle than appellate proceedings through which to study social mores. Their procedures are less formal and verdicts are rendered by lay jurors. Judges in trial courts are under less of an obligation to issue lengthy opinions explaining their legal reasoning in an effort to make their decisions consistent with precedent and the broader world of legal thought. Gross's study is an excellent example of the law and society approach to legal history, exploration of local trial court records, use of basic quantitative methods to illustrate the aggregate tendencies in certain types of litigation, and an overarching concern with how the disputes adjudicated in trial courts reveal underlying social structures and social tensions.

The private or business law of southern slavery has been explored by a number of scholars, including Andrew Fede, Paul Finkelman, Thomas Morris, Judith Schafer, and Jenifer Wahl. Their research has done much to expand our understanding of the institutional basis of the slave economy and to provide something of an alternative narrative to the development of the common law in antebellum America. That latter contribution has been especially important for legal historians concerned with the evolution of legal doctrine. If much of the development of private law

in antebellum America can be seen as a judicial response to the liberal notions of the political economists of the day, the business law of slavery often took a different turn precisely because the law of slavery was meant to govern a decidedly non-liberal institution. The decisions of southern jurists like Thomas Ruffin or the writings of commentators like Thomas Cobb often reflected the different path that southern law took because it was charged with regulating commerce in the region's most valuable commodity – human beings.

The kinds of disputes over slaves as property that were heard in antebellum courts ran the range of private law litigation. Some litigation fell into the category of contract disputes, the extent to which a given sale of a slave was tainted by consumer fraud. If a slave had been warranted as being free from defects, such a sale might occasion a lawsuit by a dissatisfied purchaser who later discovered that the human property had an undisclosed physical defect or what was considered to be a mental or moral defect (such as might be exhibited in a tendency to run away). Some disputes involved the question not of express, but implied warranties. Other trials involved claims of trespass or tort, the extent to which a master might be held responsible for the harmful actions of his slave and how far such liability could go. Still other disputes involved the nineteenth-century fellow servant rule, which prohibited workers from suing employers for injuries caused by the negligence of fellow employees and the extent to which that doctrine could be applied in cases of slaves who were rented out to hazardous industrial and quasi-industrial enterprises.

These trials had much to say concerning the social hierarchy of the plantation South. The trials, as Gross notes, often became affairs of honor between white men. Could a given white man's word be trusted? Did he live up to the antebellum South's paternalistic ideal; judicious, firm, and ultimately correct in his treatment of the slaves? The trial records also reveal the plantation South's ambivalent and indeed often schizophrenic relationship to slave traders. Often looked down upon by planters and other slave-holders as traffickers in human misery, they were nonetheless an integral part of the system of slavery, and as Gross's examination of the trial records shows, many became linchpins of slave-holding society despite the official prejudice against them.

Most importantly, Gross shows that if the trials were an important vehicle for vindicating the honor of whites, they also served as an important vehicle for reinforcing the degraded state of blacks. Gross places the

prohibition on black testimony within a broader framework enunciated by Orlando Patterson and others on the outcast status of the slave. But Gross takes this discussion yet further by discussing a feature that was somewhat singular to the law in the antebellum South. Increasingly, as the nineteenth century unfolded, the legal disabilities of the slave devolved onto the population of free people of color. Most slave societies placed restrictions on the right of slaves to testify against free people. What was somewhat singular to the antebellum South was visiting that disability on the free descendants of slaves, even those from families that had been free for generations. Gross's realization that race was overtaking slavery as the important social barrier in the antebellum South is an important insight that tells us much about the course of southern history and indeed the history of the rest of the nation in the antebellum era and well beyond.

Ariela Gross's *Double Character* is a well executed study in the social history of the law of slavery. Her examination of litigation that put the slaves' character at issue does much to reveal the moral character of the slaveholding South. *Double Character* will prove invaluable to students in a number of areas. It not only provides a model of applying socio-legal research to legal history, but it also shows a mastery of contemporary research on slavery as well. It will prove to be of great value for students of legal history and the history of race relations in the United States.

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