ALL quotations are from the book "Roll, Jordan, Roll - The World the Slaves Made" by Eugene D. Genovese. 1974

Page 12-15 overseers : fired every 2-3 years – „Contrary to legend, no more than one-third and possibly only one-fourth of the rural slaves worked under overseers……“ “Slaveholders fired overseers for a variety of reasons. They fired those who treated their slaves too leniently and much more often, those who treated them too harshly.”

Page 14-15 “These irate and perhaps self-righteous masters (who fired bad overseers) may be given as much credit as one wishes for defending their slaves, but little could or would have happened if the slaves had not been willing to brave a cruel overseer's wrath to complain or take direct action. The slaves spoke up, and the masters had to listen. There were limits, which the slaves understood because they helped to set them, beyond which an overseer normally dared not go.”

Page 16 1st paragraph - “Whatever the racist pretensions, whatever the cries for white unity across class lines, whatever the 'obvious fact' that a sane master should take the word of his overseer against that of his slaves, the masters, who were indeed sane, did no such stupid thing.”

Page 17 2nd paragraph: “Any sensible master, notwithstanding all pretensions and professions, trusted his slave against his overseer. Overseers came and went; the slaves remained.”

Page 17 3rd paragraph: “From colonial times to secession the master consulted their slave about the performance of the overseers.”

Page 17 3rd paragraph: “My negroes,” wrote J.W. Fowler of Mississippi to his overseer in 1858, “are permitted to come to me with their complaints and grievances and in no instance shall they be punished for so doing.”

***Page 25* “The Hegemonic Function of the Law”**

Page 26 1st paragraph: “Since the slaveholders, like other ruling classes, arose and grew in dialectical response to the other classes of society--since they were molded by white yeomen and black slaves as much as they molded them—the law cannot be viewed as something passive and reflective, but must be viewed as an active, partially autonomous force, which mediated among the several classes and compelled the ruler to bend to the demands of the ruled.”

Page 29 1st paragraph: “Yet, as (William) Styron correctly emphasizes in the words he gives to T.R. Gray, the courts had to recognize the humanity—and therefore the free will—of the slave or be unable to hold him accountable for antisocial acts.”

Page 30 1st paragraph: “The South had discovered, as had every previous slave society, that it could not deny the slave's humanity, however many preposterous legal fictions it invented. That discovery ought to have told the slaveholders much more. Had they reflected on the implications of a wagon's inability to raise an insurrection,

they might have understood that the slaves as well as the masters were creating the law. The slaves' action proceeded within narrow limits, but it realized one vital objective: it exposed the deception on which the slave society rested—the notion that in fact, not merely in one's fantasy life, some human beings could become mere extension of the will of another. The slaves grasped the significance of their victory with deeper insight than they have usually been given credit for. They saw that they had few rights at law and that those could easily be violated by the whites. But even one right, imperfectly defended, was enough to tell them that the pretensions of the master class could be resisted. Before long, law or no law, they were adding a great many "customary rights" of their own and learning how to get them respected."

Page 30 2nd paragraph: "The slaves understood that the law offered them little or no protection, and in self-defense they turned to two alternatives: to their master, if he was decent, or his neighbors, if he was not; and to their own resources. Their commitment to a paternalistic system deepened accordingly, but in such a way as to allow them to define rights for themselves. For reasons of their own the slaveholders relied heavily on local custom and tradition; so did the slaves, who turned this reliance into a weapon. If the law said they had no right to property, for example, but local custom accorded them private garden plots, then woe to the master or overseer who summarily withdrew the "privilege." To those slaves the privilege had become a right, and the withdrawal an act of aggression not to be borne. The slaveholders, understanding this attitude, rationalized their willingness to compromise. The slave forced themselves upon the law, for the courts repeatedly sustained such ostensibly extralegal arrangements as having the force of law because sanctioned by time-honored practice. It was a small victory so far as everyday protection was concerned, but not so small psychologically; it gave the slaves some sense of having rights of their own and also made them more aware of those rights withheld.!

Page 31 2nd paragraph to top Page 32 "The laws of Virginia and Maryland, as well as those of the colonies to the south, increasingly gave masters the widest possible power over the laves and also, through prohibition of interracial marriage and the general restriction of slave status to nonwhites, codified and simultaneously preached white supremacy. Kenneth Stampp write: 'Thus the master class, for is own purposes, wrote chattel slavery, the caste system, and color prejudice into American custom and law.' These earliest, Draconian slave codes served as a model for those adopted by new slave states during the nineteenth century. Over time they became harsher with respect to manumission, education, and the status of the free Negro and milder with respect to protection for slave life; but most of the amelioration that occurred came through the courts and the force of public opinion rather than from the codes themselves.

"At the end of the antebellum period the laws remained Draconian and the enormous power of the masters had received only modest qualification. The best that might be said is that the list of capital crimes had shrunk considerably, in accordance with the movement toward general sensibility, and that the ruthless enforcement of the eighteenth century had given way to greater flexibility during the nineteenth. The laws at least as amended during the early nineteenth century, tried to protect the lives of the slaves and provided for murder indictments against masters and other whites. They also demanded that masters, under penalty of fine or imprisonment, give adequate food, clothing, shelter, and support to the elderly. But these qualifications added confirmation to the power of the master over slaves' bodies as well as labor-time. Nowhere did slave marriages win legal sanction, and therefore families could be

separated with impunity. Only Louisiana effectively limited this outrage by forbidding the sale away from their mothers of children under the age of ten. Most significantly, blacks could not testify against whites in court, so that enforcement of the laws against cruel or even murderous masters became extremely difficult."

Page 32 1st Paragraph: "Kentucky had one of the mildest of slave codes, including the notable absence of an antiliteracy provision, but it probably suffered more personal violence and lynching than most other states, although much more often directed against allegedly negrophile whites than against blacks. The South had become the region of lynching *par excellence* during antebellum times, but of the three hundred or so victims recorded between 1840 and 1860, probably less than 10 percent were blacks."

Page 32 last sentence to top page 33 "The direct power of the masters over their slaves and in society as a whole, where they had little need for extralegal measures against black, provided the slaves with extensive protection again mob violence. So strong a hold did this sense of justice take on the master class that even during the war prominent voices could be heard in opposition to panicky summary actions against defecting slaves. Charles C. Jones, Jr., then a lieutenant in the Confederate army, wrote his father: *'A trial by jury is accorded to everyone, whether white or black, where life is at stake…..'* "

Page 33 1st paragraph "The extent to which the law, rather than mobs, dealt with slave criminals appeared nowhere so starkly as in the response to rape cases. Rape meant, by definition, rape of white women, for no such crime as rape of a black woman existed at law. Even when a black man sexually attacked a black woman he could only be punished by his master; no way existed to bring him to trial or to convict him if so brought. "

Page 33, 2nd paragraph: "Rape and attempted rape of white women by black men did not occur frequently. Ulrich Bonnell Phillips found 105 cases in Virginia for 1780 to 1864, with a few years unaccounted for. Other states kept poor records on slave crime, although enough cases reach the appellate courts to make it clear that every slaveholding area had to face the issue once in a while. But even these infrequent cases provide a body of evidence of contemporary white southern attitudes."

Page 33 3rd paragraph: "On the whole, the racist fantasy so familiar after emancipation did not grip the South in slavery times. Slaves accused of rape occasionally suffered lynching, but the overwhelming majority, so far as existing evidence may be trusted, received trials as fair and careful as the fundamental injustice of the legal system made possible."

Page 34 1st paragraph: "The astonishing facts—astonishing in view of postemancipation outrages—are that public opinion usually remained calm enough to leave the matter in the hands of the courts and that the courts usually performed their duty scrupulously. The appellate courts in every southern state threw out convictions for rape and attempted rape on every possible ground, including the purely technical. They overturned convictions because the lower courts had based their convictions on possibly coerced confessions; or because the reputation of the white victim had not been admitted as evidence. The calmness of the public and the judicial system, relative to that of postbellum years, appeared most pointedly in reversals based on the failure to prove that black men who approach white women

actually intended to use force. The Supreme Court of Alabama declared in one such instance: 'An indecent advance, or importunity, however revolting, would not constitute the offense….' The punishment for rape remained death, punishment by castration receded, although in Missouri it survived into the late antebellum period."

*Page 34 2nd Paragraph: "*The scrupulousness of the high courts extended to cases of slaves' murdering or attempting to murder whites. In Mississippi during 1834-1861, five of thirteen convictions were reversed or remanded; in Alabama during 1825-1864, nine of fourteen; in Louisiana during 1844-1899 two of five. The same pattern appeared in other states."

Page 34 3rd paragraph: "A slave could kill a white man in self-defense and escape conviction, provided that his own life stood in clear and imminent danger. …. During the nineteenth century the southern courts said plainly that a slave had the right to resist an assault that threatened his life, even to the point of killing his attacker. In practice, these rulings meant that a white man who attacked a slave with a deadly weapon risked the consequences; they did not mean that a slave had the right to make a judgment on the potential effects of, say, a prolonged whipping."

Page 36 2nd paragraph: "the courts could never have sustained the right to self-defense for slaves if public opinion had been hostile. For the most part it was not."

Page 38 2nd paragraph: "The courts moved to eliminate the excuses for killing blacks."

Page 38 3rd paragraph - "When whites did find themselves before the bar of justice, especially during the late antebellum period, they could expect greater severity than might be imagined. The penalties seldom reached the extreme or the level they would have if the victim had been white; but neither did they usually qualify as a slap on the wrist…..Ten-year sentences were common, and occasionally the death penalty was invoked."

Page 39 1st paragraph: "Despite the efforts of the authorities and courts, masters and overseers undoubtedly murdered more slave than we shall ever know….And the arrests, convictions, and punishment never remotely kept pace with the number of victims."

Page 39 2nd paragraph: Compared to other western hemisphere slave societies, the Antebellum South was a place of justice: "Despite so weak a legal structure, the slaves in the United States probably suffered the ultimate crime of violence less frequently that did those in other American slave societies, and white killers probably faced justice more often in the Old South than elsewhere. The murder of a slave in Barbados drew little attention or likelihood of punishment. Effective protection was out of the question in Saint-Domingue. The Catholic slaveholding countries of Spanish and Portuguese America abounded in unenforceable and unenforced protective codes. Wherever the blacks heavily outnumbered the whites, as they did in so much of the Caribbean, fear of insurrection and insubordination strangled pleas for humanity. The bleak record of the southern slave states actually glows in comparison. These observations reveal something about the sociology of law and power. But they would not likely have provided much comfort to the slaves of South Carolina or Mississippi."

Page 40 1st paragraph: " the racism of whites worked against them"

Page 43 to Page 49: an assessment of the Southern Legal System compared to the other parts of the U.S. and Western Europe.

Page 44 1t paragraph: "Southerners considered themselves law-abiding and considered northerners lawless. After all, southerners did not assert higher-law doctrines and broad interpretations of the Constitution."

Page 45 2nd paragraph to top page 46: "But the slaves simply by asserting their humanity quickly demolished this nice arrangement. The moral, not to mention political, needs of the ruling class as a whole required that it interpose itself, by the instrument of state power, between individual masters and their slaves. It is less important that it did so within narrow bounds than that it did so at all The resultant ambiguity, however functional in quiet time, ill prepared the South to meet the test of modern war."

Page 48 top: "The system of enforcement (of slave codes) in the United States, conditioned by Anglo-American standards of efficiency and civic discipline, generally exceeded that in, say, Brazil, where effective power lay with the *senbores de engenbo*—the great sugar planters. And the Spanish slogan, *Obedezco pero no cumplo!* (I obey, but I do not comply) says enough. More to the point, the slave codes of Brazil, the various Caribbean colonies and Spanish South America had been drafted by nonslaveholders in the several metropolitan capitals and had had to be imposed upon resistant planters with enormous power of their own. The British, for their part, showed great reluctance to impose a slave code on the Caribbean planters. The slave codes of the southern United States came from the slaveholders themselves and represented their collective estimate of right and wrong and of the limits that should hedge in their own individual power. Their positive value lay not in the probability of scrupulous enforcement but in the standards of decency they laid down in a world inhabited, like most worlds, by men who strove to be considered decent. These standards could be violated with impunity and often were, but their educational and moral effect remained to offer the slaves the little protection they had."

Page 49 top: "The contradictions in the dual system and in the slave law, per se, which had developed in the first place because of the slaves' assertion of their humanity, constantly reminded the slaves of the fundamental injustice to which they were being subjected. Paternalism and slavery merged into a single idea to the masters. But the slaves proved more astute in separating the two; they acted consciously and unconsciously to transform paternalism into a doctrine of protection of their own rights—a doctrine that represented the negation of the idea of slavery itself."

Page 5, 1st paragraph: "The slaveholders of the South, unlike those of the Caribbean, increasingly resided on their plantations and by the end of the eighteenth century had become an entrenched regional ruling class. The paternalism encouraged by the close living of masters and slave was enormously reinforced by the closing of the African slave trade, which compelled masters to pay greater attention to the reproduction of their labor force. Of all the slave societies in the New World, that of

the Old South alone maintained a slave force that reproduced itself. Less than 400,000 imported Africans had, by 1860, become an American black population of more than 4,000,000."

Page 422, 3rd paragraph: "The frequent charge that slaveholders and overseers seduced or forced most of the young, sexually attractive slave girls appears to be a great exaggeration and an injustice to blacks as well as whites. The big plantations of the South Carolina and Georgia low country, for example, had few mulatto children, much to the surprise of the northerners who accompanied the Union occupation. Many ex-slaves told stories about the seduction and rape of black women; others insisted that their masters permitted no such nonsense and that the black women lived without dread of white sexual violence. This white disapproval of the exploitation of black women---or rather, of sexual irregularities in general—requires a close look, but by itself it cannot explain the large number of plantations on which little or no miscegenation occurred. Many black women fiercely resisted such aggression, and many black man proved willing to die in defense of their women. [plus the remainder of this paragraph….]…On this evidence alone, slavery stands convicted of inexpiable crimes against black people. But black women and their men were able to set limits by their own actions."

Page 423, 1st paragraph: "The sexual exploitation of black women, however outrageous, will startle no one. The problem is to explain why it did not go much further. The resistance of the women and their men, important as it was, does not provide a full explanation, for the restraint shown by so many whites must also be accounted for. Brazil offers an illuminating contrast. The Portuguese settlers and their descendants availed themselves freely and openly of Indian and then African women. The shortage of white women explains little. Wherever white women were in short supply, as in the Caribbean, masters and overseers took black or mulatto concubines, but Luso-Brazilian men won a reputation for widespread philandering and for openly flaunting colored mistresses long after their marriages to upper-class ladies. A slaveholder's son who reached his teens without having sampled the slave girls cast grave doubt on his masculinity. Something had to be wrong with him. Perhaps his earlier indulgence in *leva-pancadas* with the slave boys, instead of whetting his appetite for richer treasures, had caught his fancy as a way of life. Had he become a "sissy"?

"No mystifications about Latin versus Anglo-Saxon sexuality need be invoked to explain a profound cultural difference. Latin and Anglo-Saxon Europe, both Protestant and Catholic, had their share of virtuous and lascivious men, however defined, but mores diverged with the Reformation and its Puritan development. The permissible and the taken-for-granted changed radically even if the impulses to violation did not. This shift in values itself reflected a shift in social conditions that helps explain the growing restraint in areas of Anglo-Saxon ascendancy. The decline of seigneurialism in England and Holland, in contradistinction to its continued strength in Portugal, meant a decline in the easy attitude that "that's what servant girls are for." This attitude never wholly died among the English upper classes, and Fielding among other novelists entertained his own and future generations with the theme; but it became increasingly gauche to flaunt it. Until the nineteenth century, upper-class marriage had little to do with initial love. Its purpose was to secure the family fortune, to legitimize issue, and to sustain the public order. Mistresses and lovers, naturally, had their place in any civilized relationship. With the coming of the

nineteenth century these eminently sensible views gave way to the idea that marriage ought to follow love instead of vice versa, and that nice people did not engage in extracurricular activity. Although the upper classes violated their own precepts, which like most precepts were intended to guide the masses rather than their betters, the new sentiments made steady progress. One might even measure the progress by measuring the decline in the number of retainers attached to the great families, were not such a procedure to betray a cynicism not to be countenanced. With whatever qualifications, playing around in the pantry no longer amused society in the old way: husbands and wives were expected to observe their marriage vows, or rather, to exercise discretion and respect each other's sensibilities.

"Typically, the slaveholders could not take their black "wenches" without suffering psychic agony and social opprobrium. The men could not sow their wild oats with the happy abandon of the Braizilians. Could any sane Brazilian have agonized in the manner of David Gavin of the South Caroline low country?

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"Gavin's large plantation housed its share of young black women, to whom he never refers; his speculations concerned the white whores in town. And if he was lying to himself, so much the more significant. That Gavin was not typical is beside the point. Even in the Victorian South forty-four-year-old male virgins did not abound. Yet, he can hardly be thought unique when the *New Orleans Medical and Surgical Journal* could publish a grave warning about the dangers of abstinence among men, who suffer in consequence from "irritable state of the testes, headaches, malaise, etc. and from nocturnal emissions." The anonymous author challenged a moral code that so clearly contradicted nature. Men with such problems did not exist in Brazil outside the ranks of the demented. Nor would an irate slaveholder disown his son for sleeping with a slave girl --- unless, of course, she was his own mistress, in which case he might kill his son. Nor would a planter tear his church apart over his demand for the censure of a respectable young man who had fathered a mulatto while visiting his plantation. Southern slaveholder, like respectable Anglo-Saxons everywhere, had come a long way since the days when William Byrd of Virginia could confide to his diary that he had "rogered my wife with vigor"; had "good sport" with an Indian girl; "asked a negro girl to kiss me"; and indulged himself royally with pliable servant girls and miscellaneous wenches, white, red, and black.

"By the early nineteenth century many slaveholders had become prudes, with enough exceptions to torment the quarters. Even the prudes took their share, but with an uneasy conscience. Their own women had not been brought up to share their husbands with a mistress and a procession of one-night stands in the quarters. C. Vann Woodward points out:

'It is plain enough that the ladies in crinoline had a lot to put up with. And they did put up with it, many of them, but only in their own fashion . . . The ladies were reticent, evasive, often willfully blind about what sometimes went on in their own backyards. But what was shameful was regarded as shameful. It was not condoned as the legitimate prerogative of patriarchs, the proper initiation to manhood for one's sons, or an acceptable means of increasing one's labor supply. Nor was it brought into the parlor and flaunted in the streets.'

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Page 430, 2nd paragraph: "So far as impressions go, the slaves did value white as the color of those with power and accomplishment but did not despise their own blackness. Evidence of a thirst for whiteness comes largely from the war years and long after, when new forces came into play within and without the black community. The fateful division between lighter- and darker-skinned Negroes, so often correlated with distinctions of class, income and education, had remained weak during slavery. The mulatto elites of New Orleans and Charleston had to discover their own blackness when they made their bid for political power during Reconstruction, for the country blacks did not flock to them unless they demonstrated the value of their education and experience with a fraternal attitude toward the ex-slaves. The leadership that emerged after the war had a disproportionate share of mulattoes because the better-educated northern and southern free Negroes and privileged town slaves were in the best position to step out front. They did so, however, by strengthening their ties to their black brothers and sisters—a task made easier by previous associations. In short, the divisions and attitudes that manifested themselves later had their roots in the slave period, but those roots were fragile and might have been cut. Nothing in the slave experience made the future shape of the black community inevitable."