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## Review of Beverley Tucker: Heart over Head in the Old South

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Oratory." Political institutions and their development are dealt with on pages 1509-1546; the courts of justice and their development, the relationship of English and colonial law, and the legal profession in the South is discussed on pages 1587-1609; legal oral rhetoric is covered briefly (pp. 1620-1625). Professor Davis has not done much work from the original sources of southern legal history; his primary interests lie in other areas of intellectual history. What is presented here is a summary of the major secondary works on the subject. The treatment of southern colonial legal history given here is accurate, lucid, and scholarly, but it is sketchy. The brevity of these sections is due not to the lack of primary materials but to the failure of legal historians to investigate them.

Professor Davis's work is a good place for the southern legal historian to start his researches. It puts legal history into its broader perspective, and it points out many avenues for further investigation. It is an excellent work; it is the general result of a full career of careful and intelligent research. This is an important work, and the readers of this journal should be aware of it. If they will read it or even read in it, they will be well rewarded.

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Robert J. Brugger, *Beverly Tucker: Heart over Head in the Old South*. Baltimore, Maryland. Johns Hopkins University Press, 1978. xvii, 294 pp. \$15.00.

Beverly Tucker (1784-1851) was a lawyer in Virginia and Missouri, a judge in Missouri, and finally a law professor back home in Williamsburg. Even though Professor Brugger is concerned primarily with Tucker's personality and political philosophy, this biography of a man whose entire life revolved around the legal profession will be of interest to the readers of this Journal. Beverly Tucker was a prolific letter writer and pamphleteer, and from his literary remains and from the well-preserved Tucker family papers, Brugger has been able to examine Tucker as a human being at all periods of his life. The result is a very intimate biography. It is, moreover, a book which is dense with ideas which regularly excite the reader as the author places Tucker into his social and political milieu.

Beverly Tucker was born in 1784 the son of the prominent revolutionary, lawyer, judge, and scholar, St. George Tucker. He had an older brother, Henry St. George Tucker, and an older half-brother, John Randolph of Roanoke. It is Brugger's thesis that Beverly Tucker spent his life trying to cope with the prominence of his immediate family while having a sense of his own failure. This led him in early life to reject the eighteenth century rationalism of his father and of Jefferson and to follow the dashing and romantic model of his eccentric half-brother. Beverly's older brother, Henry, had been successful from the beginning of adult-

hood; the patient and moderate Henry followed steadily in his father's footsteps and achieved the same degree of recognition as his father. Beverley during his entire life struggled desperately, too frantically to be successful, for the same public applause.

Beverley Tucker was not a success in his early law practice in central Virginia. He had settled in a poor location in order to live near his hero, John Randolph. Then, like so many easterners, he moved to the greener pastures of the western frontier. Beverley succeeded in practice in Missouri, was made a judge, got married, and began to assume a political role as he conceived it his due and duty as a Virginia gentleman. He dreamed of Virginia and his fantasies led him to write of an ideal Virginia society of past generations. Slavery was, of course, an integral part of Tucker's society, and he considered his slaves to be part of his immediate family occupying an important social place. The greater part of Tucker's life and writing was spent explaining and defending slavery as an institution. Brugger concisely describes how Tucker convinced himself that slave labor was good and that the Northern factory system was bad.

In 1834 when the professorship of law at the College of William and Mary was offered to him, he accepted immediately and moved his family back to Virginia. He spent the rest of his life teaching law and propagandizing anyone who would listen to his political theories. As the attacks on slavery grew bold to the point of illegal actions in the North, Tucker became more defensive of the South and began advocating secession. It was Tucker's insatiable need to be in the limelight that led him to radical thoughts and proposals. Brugger asserts that Tucker was completely out of touch with reality and that he was largely ignored in Virginia, the South, and elsewhere. One of the most interesting ideas of the author is that Tucker preached secession so that he could be a part of forming a new nation as his father had done in the 1770s. Here was the chance for instant glory as a patriot. But Virginia was not interested in such radicalism during Tucker's lifetime, and he was denied the popular acclaim that he so obviously coveted. He was a pathetic figure.

In 1846 Tucker published his *Principles of Pleading* which explained the common law system of pleading. He wrote this book in order to preserve the common law from legislative tinkering. "It bothered Tucker that codifiers were trying to outguess experience, to outdo reasonableness." But, like slavery, the common law writs have been abolished.

This brief review does not do justice to the complexities of Tucker's political thought nor to Brugger's descriptions of Tucker as a man and a thinker. It is only an introduction to a fascinating study of a fascinating person.

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