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Bryan Wagner. *Disturbing the Peace: Black Culture and the Police Power after Slavery*. Cambridge: Harvard University Press, 2009. 320 pp. \$35.00 (cloth), ISBN 978-0-674-03508-9.

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Black Culture and the Law

Bryan Wagner's *Disturbing the Peace* is a re-imagining of the possibilities of cultural history. Rather than subjecting his source material—early twentieth-century popular music, the recordings of folklorists, novels, and newspaper articles, all supplemented by prodigious secondary reading—to the traditional analytical methods of social history, Wagner uses them to experiment with voice and temporality in a way that troubles our understanding of folklore, black culture, and the construction of history itself. He admits a degree of “speculation, and even presumption” in his work, but believes it is worth it if “the book succeeds in making otherwise unimaginable connections appear indelible, even for a moment” (p. 237).

I hope that a historian ignorant of the contemporary academic study of literature can credibly claim that *Disturbing the Peace* is a genuinely multidisciplinary work at a time when lots of lip service is given to the idea, but little seems to come of it. Wagner dips into his expertise in textual analysis, using both fiction and song lyrics; he analyzes court cases like a legal historian; he has done his archival research in historic newspapers and other documents; and he has read his theory. The result blends critical theory, cultural history, legal history, black studies, performance studies, and even folklore, not to mention oral history, as Wagner listens closely to the voices of his subjects. The complex outcome means that the historian-as-reviewer must focus on questions of history and leave the engagement with Wagner's critical interpretation of literature to others.

A key premise of this book is that we can best understand unresolved issues of race and identity at their point of conjunction with the police power, the power of the state to defend itself against specific threats. The result, in Wagner's words, is “a possible history of the black tradition” (p. 237). Much of this fresh understanding springs from Wagner's interpretation of the law's vagaries. From the perspective of police power, it does not matter very much whether a slave is “thinking property,” as Aristotle put it, or “persons made things,” Harriet Beecher Stowe's formulation. Whatever you want to call him, the fugitive must be dealt with. Judges wrestled with the boundaries of personhood in countless cases, but as Wagner demonstrates, when they considered their subjects only as “police objects,” they were able to resolve troubling ambiguities (p. 74).

Contributing to this ambiguity was the fact that blackness, which Wagner understands as a kind of invisibility, is necessarily an inexpressible condition because speech makes the speaker visible. Open your mouth, and you are no longer invisible, no longer a vagrant, and no longer black. How, then, to sing out about blackness when that very singing elevates you into a social and political position your blackness denies you? “As Du Bois says, it is a problem,” writes Wagner (p. 21). A legal history allows us to unpack this problem using our awareness of statement and counterstatement, a kind of appreciation that the tradition must “mimic the conditions of its alienation” before growing itself (p. 21). It requires a willingness to read tradition in new ways, accepting that it

can move, for example, “from the newspapers to the oral tradition” (p. 236).

African Americans in the 1920s, though, might have disagreed that blackness meant a kind of statelessness. Many African Americans during this time, especially in the Jim Crow South, were comfortable passing in a variety of ways, including from visibility to invisibility and back again. Head down and hands thrust into pockets in a majority-white area, the black laborer uses white assumptions about his insignificance to protect himself. Among friends, he casts off this cloak and becomes, dare I say it, his authentic self. Blackness, as perceived by those who do not own it, may be a form of vagrancy. But blackness, as expressed by those who are black, might indicate more duality than invisibility. Here, the reader learns less about black culture as experienced by black Americans than about a point of cultural contact important to cultural theorists. Wagner does not promise the former, but its absence is felt.

Wagner opens his book with a provocative critique of folklore, not just as practiced by its originators in the American South, but also as a practice. He suggests that folklorists and cultural scholars—like John Lomax and his son Alan, Walter Prescott Webb, Howard Odum, and Zora Neale Hurston—were not gathering authentic black voices. By the time they turned on their recorders, they had settled on an idea of what constituted authenticity, deciding that the ragged drifter or prison inmate fit the bill. After all, the song sounded like the singer and the singer looked like the sound. And when a Lomax showed up in your neighborhood, it was foolish to pass up the opportunity to play the part. Or, as Wagner puts it, folklorists “facilitated not the discovery but the artificial instigation of folk expression through their fieldwork” (p. 34). Folklore was fantasy made real.

Similarly challenging are Wagner’s suggestions that to the folklorists of the early twentieth century, the value of preserving black culture lay in its impending extinction. Folklorists likely would not disagree with the idea that their mission is to a large extent preservation. But Wagner’s argument stems from his reading of author and scholar George Washington Cable, for whom the “cultural value of ... slave-made songs and stories was predicated upon their growing irrelevance to contemporary society” (p. 82). Similarly, Joel Chandler Harris, the creator of the Uncle Remus stories, whom Wagner calls the “immediate inspiration” for the professional interest in black folklore around the turn of the twentieth century, according to one history did a great service when he

“perpetuated a vanishing civilization” (p. 117). Following this line of thought, African American music and legend interested folklorists because in sum they served as a kind of memento of a vanished, primitive civilization—as interesting, but maybe as useless, as artifacts in a museum.

To the legal historian, this book is most valuable when it addresses the place of blackness in the law, the role of police and police power in the lives of African Americans, and the career of Uncle Remus. Wagner considers the figure of Uncle Remus as sectional healer, the broker of a post-Civil War compromise that eased aggrieved southerners back into the national fold by allowing their nostalgia for the slave South to become part of a shared American character. Harris adapted an early story in which Remus killed a northern soldier to defend his master to one where the soldier lives, marries Remus’s master’s sister, and takes Remus with him to Atlanta. The son of this Union veteran and his Confederate wife grows up on Uncle Remus’s knee, both a symbol of and receptacle for reconciliation. Wagner argues that furthermore, Remus played a role in redefining culture and politics in the modernizing nation. This redefinition matured in Atlanta, where Harris wrote his Uncle Remus columns for the *Constitution*. Atlanta, then and now a symbol of the economic potential of the South, was also the site of a contest over the role of the police force in the post-emancipation South.

If the future of the New South was dependent on Atlanta, Atlanta’s future was, at least in the opinion of the paper’s New South boosters, dependent on a civilizing process secured by a professional police force. One service police could provide Atlanta was labor to build the city’s industries. They did not provide this labor themselves, but rounded up ex-slaves (“vagrants”) to provide convict labor for industrialists with few regulations to keep them healthy, let alone alive. The police acted against a backdrop of *Constitution* propaganda that howled about the vicious black migrants who lounged on Atlanta’s streets, waiting for the chance to harm God-fearing Atlantans. The *Constitution*’s zeal inflamed whites who were not policemen, too, and worried black journalists, who did their best to rebut the *Constitution*’s claims in their own papers, including the *Atlanta Tribune*. But the *Constitution* was a formidable opponent, so much so that its claims about black criminality, intended to aid the police force, ended up inventing a local tradition of black lawlessness that crept back in time so as to feign earlier roots.

Wagner concludes his book with a study of “coon song” singer George Johnson and the recordings made by Lomax and his son, Alan, of imprisoned blues singer Ozella Jones. Johnson, the vastly popular performer of such hits as “The Laughing Song” (1894) and “The Whistling Coon” (1891) sounded to white listeners just as they expected. Recording technology was advanced enough by the 1890s that Johnson could bark and slur his way through his performances without reducing them to total illegibility to whites, who desired from black performers something messy and edgy, but also accessible. Here was a marriage between performer and technology that gave whites the proof they were looking for of the simple character of African Americans. It is for this reason—because he was willing to play the minstrel, and because of his success, argues Wagner—that Johnson was largely excluded from folklorists’ construction of the vernacular tradition.

Two such folklorists Wagner examines in this chapter are the Lomaxes, who in 1933 loaded an impressive three hundred-pound recording device into their Ford and set off on the first of many research trips. Lomax reinvented the apocryphal chance encounters that defined the recording of black music, from W. C. Handy’s tale about a ragged bluesman at a train station, to Thomas Edison’s alleged discovery of George Johnson. Lomax’s need for financing meant that he defined the parameters of his recordings before encountering his subjects. The prison, Lomax decided, was the best place to discover “‘unsophisticated ballad-singing Negroes in considerable numbers’” (p. 216). Embarking on a tour of southern penitentiaries, Lomax made his research a testimony that “prisons were the last remaining repositories for black cultural authenticity” (p. 216). Lomax’s high-fidelity recording offered listeners what they thought

was objective truth about black culture.

Disturbing the Peace will be of use to instructors planning courses, though it is likely suitable reading only for graduate students not only because of the sophistication of Wagner’s ideas, but also because his prose sometimes requires familiarity with academic language to decode. Wagner’s many points of incursion into his subject would have made a more detailed index helpful, but readers should have no trouble sampling from the work if they wish. It should be said, too, that there is something odd about such an erudite book, so obviously written for an academic audience, that uses endnotes rather than footnotes. To truly appreciate this book, the reader must flip back and forth, searching out notes. The publisher would have been wiser to acknowledge the complex lattice of knowledge on which the book rests and use footnotes instead. These are minor deficits in a fine book.

Among Wagner’s accomplishments is that he privileges the thinkers of the period about which he writes. He has read extensively in the secondary material, but his background in literature (if I may make an assumption) leads him to believe, or at least write like he believes, that the voices of an era are to be trusted. This lesson is an important one for historians, who despite their fealty to discoverable truth in archives, in their desperate quest for new niches to win them tenure (or, at this point, even just an adjunct position), sometimes discard old books for ones making new claims, whatever their merit. Thus figures like T. Thomas Fortune and Ida B. Wells-Barnett, as well as blues singers and novelists, make welcome appearances. By engaging in such depth with these voices, Wagner successfully inverts and challenges the concept of tradition, and with it, the creation of history and the creations of historians.

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