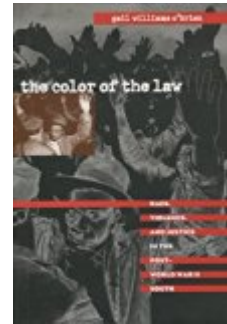


Gail Williams O'Brien. *The Color of the Law: Race, Violence, and Justice in the Post-World War II South*. Chapel Hill and London: University of North Carolina Press, 1999. xiii + 334 pp. \$24.95 (paper), ISBN 978-0-8078-4802-9; \$60.00 (cloth), ISBN 978-0-8078-2475-7.

Reviewed by Christopher R. Waldrep (Department of History, Eastern Illinois University)  
Published on H-Law (June, 1999)



## Race, Riot, and Law

I still remember the first time I read William Faulkner's story, "Barn Burning." Faulkner's description of the justice's court delighted me because it seemed to preserve forever a lost scene from a time beyond my own memory. I felt reassured that what Faulkner's generation knew about the look of country stores and magistrates had been recorded. I do not often think of Faulkner when I read historical monographs, and it makes no sense to compare Gail Williams O'Brien's writing style to Faulkner's, but there are moments when *The Color of the Law* recalls 1948 Maury County, Tennessee with a powerful verisimilitude, just as the great novelist described Yoknapatawpha County. O'Brien's research is extensive, reaching into records not readily available, including interviews with individuals now dead. There is a sense in which she reached out and grabbed a moment in time for us all to examine and think about. The texture of the South in 1948 can be found in this book, and that is a fine and rare achievement.

O'Brien's book begins by narrating a riot in Columbia, Tennessee. The trouble started in a banal quarrel between two African Americans and a white storekeeper. A mob of whites gathered, intent on a lynching, but officials arrested the crowd's prey before violence could erupt. Later the Maury County sheriff took the pair out of jail and turned them over to black merchants for safekeeping. Word quickly spread through the black community, and a crowd of armed blacks assembled to prevent a lynching. No lynching occurred, but when the state highway patrol showed up, the cops

went wild. Highway patrolmen raided Columbia's black neighborhood, crashing into black-owned businesses, abusing people, and looting. Afterwards, a federal grand jury investigated—only to exonerate all the lawmen involved. Twenty-eight blacks faced serious charges in circuit court, but, when they went to trial, an all-white jury acquitted all but two.

O'Brien ends her first story-telling chapter, with four questions. First, she asks, who participated in the African American effort to thwart the original lynching? Second, why did whites fail to carry out their lynching? Third, why did white city cops act so differently than the state police? And why did the sheriff sympathize, a bit, with local blacks? Finally, why did the federal grand jury toe the white line while a state jury acquitted the twenty-eight black defendants? O'Brien spends the rest of the book seeking answers to these four questions.

With subtle precision, O'Brien traces the roots and experience of the black community in Columbia. Her second chapter carefully documents how white abuse and racism made black merchants increasingly resistant to white abuse. At the same time, black World War II veterans came home determined not to be pushed around. In a chapter on the white mob, O'Brien finds that in the wake of World War II's flush economic times left whites with a reduced interest in lynching. O'Brien's picture of the Columbia police department is largely sympathetic. Overworked and underpaid, some at least could identify with blacks enough to remember them as arming only to

defend themselves, not to riot. O'Brien has less sympathy for the state highway patrol. They come across as swaggering thugs used to roaring around Tennessee on their Harley Davidsons. The sheriff of Maury County depended on black votes to get elected, so he occupied a conflicted position in a racist society. There are no real heroes among law enforcement in this book, but the sheriff comes off better than most.

O'Brien's final two chapters look at the legal politics surrounding the state trial and federal grand jury. In some ways, these chapters seem less strong than the others. O'Brien gives all the credit for the outcome of the state trial to the lawyers. Z. Alexander Looby and Maurice Weaver represented the defense and, according to O'Brien, did so brilliantly. The state, on the other hand, was led by Paul Bumpus, intellectually boxed in by legal formalism and racism. This formalism, O'Brien writes, evidenced itself in the district attorney's failure to see the social context, ignoring Maury County's tradition of lynching. O'Brien's criticism of Bumpus as peculiarly formalistic misses the target; few prosecutors care much for the social fabric that produced the men and women they charge with crimes. Most prosecutors zero in on the actual criminal conduct, ignoring everything else. Bumpus's conduct, therefore, hardly seems a characteristic of legal formalism alone.

Moreover, it is troubling that we learn so little about the judge presiding over the trial in which Looby, Weaver, and Bumpus did their lawyering. Although her research into the biographies of most of the figures in this story is impressive, we learn little about Judge Joe Ingram. Ingram seems a cipher, silent and passive. But Ingram led a "painstaking" search for a jury through 700 veniremen (p. 43). Allowing veniremen to opt out of jury service may have helped the defense. When the defense used up all their 200 peremptory challenges, Ingram gave them fifty more. Although O'Brien does not make this argument, Ingram, no doubt an avowed racist, may well deserve considerable credit for the outcome of the trial. Is it possible that the same legal formalism that O'Brien thinks led Bumpus astray led Ingram to strive for due process? The jury Ingram seated proved sympathetic to the black defendants.

O'Brien's research is generally more detailed and

thorough than her treatment of Ingram. She has tracked down and opened sealed grand-jury records. She includes twenty-four photographs, most of which appear courtesy of the United States Attorney's Office, Middle District of Tennessee. Between 1989 and 1992 she interviewed 47 people, including a former policeman, Bumpus, a juror from the state trial, and other key figures. O'Brien acquired the record of the FBI's investigation.

The structure of the book makes it especially appropriate for undergraduates. The first chapter really is the "historical page-turner" W. Fitzhugh Brundage promises on the back cover. O'Brien's technique of asking a series of questions does not lead to a tightly argued thesis, but students will enjoy watching O'Brien unpack the impact of state, local, and neighborhood politics on race and law.

But although the structure is appealing, the analysis sometimes seems a bit thin. There are places where O'Brien skips opportunities to offer original analysis, choosing instead to quote other historians' thinking. In her chapter on the politics of justice, for example, O'Brien repeatedly relies on Jerold Auerbach to explain Maury County lawyers' thinking. With such rich sources and oral history interviews, readers have a right to expect O'Brien to extend or challenge Auerbach's generalities, not simply trot them out. And sometimes, O'Brien simply missteps. When she mentions Felix Frankfurter in passing, she quotes "historian Donald Nieman" as saying Frankfurter was "an inspiring teacher, an exacting scholar, an avid civil libertarian" (p. 226). All true, no doubt, though irrelevant to this story. And while Don Nieman is unquestionably an excellent historian, he is hardly the foremost expert on Felix Frankfurter. There really was no need to quote anyone on that point.

Despite such quibbles, O'Brien has written an excellent book. Like William Faulkner, she has recovered and preserved a slice of Southern life. Her picture of stalwart black resistance and faltering white racism after World War II feels authentic and should be admired by a wide audience.

Copyright (c) 1999 by H-Net, all rights reserved. This work may be copied for non-profit educational use if proper credit is given to the author and the list. For other permission, please contact H-Net@h-net.msu.edu.

If there is additional discussion of this review, you may access it through the network, at:

<https://networks.h-net.org/h-law>

**Citation:** Christopher R. Waldrep. Review of O'Brien, Gail Williams, *The Color of the Law: Race, Violence, and Justice in the Post-World War II South*. H-Law, H-Net Reviews. June, 1999.

**URL:** <http://www.h-net.org/reviews/showrev.php?id=3172>

Copyright © 1999 by H-Net, all rights reserved. H-Net permits the redistribution and reprinting of this work for nonprofit, educational purposes, with full and accurate attribution to the author, web location, date of publication, originating list, and H-Net: Humanities & Social Sciences Online. For any other proposed use, contact the Reviews editorial staff at [hbooks@mail.h-net.msu.edu](mailto:hbooks@mail.h-net.msu.edu).