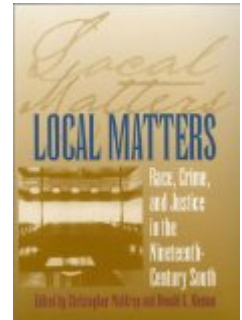


Christopher Waldrep, Donald G. Nieman, eds.. *Local Matters: Race, Crime, and Justice in the Nineteenth-Century South*. Athens: University of Georgia Press, 2001. xix + 259 pp. \$50.00, cloth, ISBN 978-0-8203-2247-6.



Reviewed by Michael J. Pfeifer

Published on H-South (September, 2004)

Historians of southern legal history have for many years profitably mined state statutes, state appellate court rulings, and U.S. Supreme Court decisions on cases originating in southern jurisdictions for insights into the intersection of law and society in the nineteenth-century American South. More recently, scholars have supplemented this constitutional approach with intensive studies of formal legal institutions (such as courts and the slave patrol) and sources of informal authority (such as the slaveholders' expansive prerogative in disciplining slaves and the white community's recourse to vigilantism) at the grass-roots level in the South.[1] Accordingly, we now know much more about the complex ways in which formal law and informal authority, including crucial understandings of white masculine honor, functioned at different times and places in the antebellum, Civil War and Reconstruction era, and post-bellum South. *Local Matters*, an anthology of nine essays with topics ranging the breadth of the nineteenth century and across the South, superbly encompasses these recent tendencies in southern legal history. Taken as a whole, the essays combine an appreciation for the broader

scope of historical developments with a keen analysis of the complex and particular ways in which legal and social transformation occurred at the local level. Questions of race and authority in southern society, approached in a variety of ways, link the diverse essays.

The collection begins with an introduction that masterfully summarizes current scholarly understanding of the function of law in nineteenth-century southern society and which situates each of the essays in this larger social and cultural framework. Starting with Alexis de Tocqueville's observation that law and constitutionalism lay at the core of American democracy, the editors, Christopher Waldrep and Donald G. Nieman, suggest the contradictions in southerners' experience with law over the course of the nineteenth century. Slaveholders enjoyed a highly expansive prerogative that lay outside of courts, yet in the middle decades of the century, before and after emancipation, the state accumulated authority and slaves and then freedpeople increasingly came under formal legal jurisprudence. Southern whites ultimately rejected the limitations to white

authority that they saw in legal procedure and the abstract promise of legal fairness, and conservative whites turned to wide-scale vigilantism after reclaiming power from Radical Republican governments in "Redemption" in the 1870s. Prior to this, however, planter whites experimented with the legal mechanisms of the black codes to seek racial control after emancipation, and subsequent Radical Republican governments, including many African American officials and jurors, vigorously employed law to protect the rights of African Americans. The editors conclude that white supremacy ultimately triumphed in the South over de Tocqueville's confidence that Americans' passion for law could temper the dangers of a tyrannical majority exerting its will over an unpopular minority (pp. ix-xvii).

The first several essays of the collection amplify and elaborate upon our understanding of slavery and law in the antebellum South. In an essential contribution, Sally Hadden examines biographical factors that shaped North Carolina Supreme Court Justice Thomas Ruffin's famous decision in *State v. Mann*. Hadden convincingly argues that Ruffin's influential opinion that courts must not interfere with the master's prerogative to punish a slave grew out of the "selective paternalism" he exercised in his often poor treatment of his own slaves as well as the fears aroused in Ruffin and other slaveholding whites by David Walker's *Appeal* and rumors of slave insurrection (pp. 1-28). Timothy S. Huebner examines another case argued before the antebellum North Carolina Supreme Court, *State v. Caesar*. Huebner skillfully shows how a variety of factors, including the legal resources provided by a prominent master and the absence of a fear of slave insurrection at the time, led to a relatively lenient and fair disposition of the case of a slave accused of murdering a white man (pp. 29-52). Next, in an essay that should be required reading for anyone interested in slaves and the criminal justice system, Judith Kelleher Schafer analyzes the special tribunals of slaveholders that tried slaves accused of crimes in

Louisiana. Focusing on the New Orleans records of this separate legal system that consciously strove to deny slaves virtually any meaningful due process protections, Schafer shows how the Louisiana slave tribunals protected the interests of slaveholders by ensuring that slaves could serve sentences while continuing to work for masters or that slaveholders would be compensated in the event of an execution of a slave. Schafer persuasively contends that slave trials in Louisiana closely resembled property condemnations (pp. 53-91). In her essay, Ariela Gross also considers slaves in the legal system, focusing on how civil law adjudicated the commercial law of slavery in Natchez, Mississippi. Gross etches a deeply revealing portrait of the culture of the antebellum southern courtroom and of the ways in which slave-related civil trials perpetuated racial hierarchies (pp. 92-124).

The remaining essays in *Local Matters* examine the complex local dimensions of legal and social change in the South from Reconstruction through the 1880s. Laura Edwards effectively traces how African American and poor white women in North Carolina during Reconstruction sought to use courts to limit their husbands' power over them. Edwards concludes that the increasing supervision of the state over the domestic realm did little to give meaningful voice to poor women (pp. 125-154). Turning from interpersonal violence to collective violence, Michael W. Fitzgerald argues that Ku Klux Klan vigilantism in the Alabama Black Belt had less to do with planters' attempt to reassert labor control over African Americans than with the racial resentments of lower-class white farmers and "the exigencies of Democratic politics" (pp. 155-171). Fitzgerald's analysis is suggestive, but one wonders whether the dynamics of the black belt may have differed from other areas of the South where racial demographics were more even and where the Klan or other Democratic-allied paramilitaries were similarly active in violently reclaiming power from African Americans. Lou Falkner Williams exam-

ines such a locale in her analysis of the 1876 El-lenton Riot in South Carolina's upcountry Edgefield district. Williams demonstrates that white and black South Carolinians' distinctly different views of reality shaped the racial violence of Redemption and prevented a mixed race federal jury from convicting white perpetrators of conspiracy in their murder of nearly one hundred blacks (pp. 172-200). Along parallel lines, Christopher Waldrep chronicles how whites coalesced to depose a black sheriff, Peter Crosby, and violently reclaim authority from African Americans in Warren County, Mississippi in the 1870s. Waldrep convincingly asserts that while blacks in Reconstruction sought to use constitutionalism, that is law and legal institutions, to improve their lives and protect their recently gained freedoms, whites increasingly turned away from law to the informal violence of "mobbing" (pp. 225-249). Finally, Donald G. Nieman underlines the truly radical nature of African Americans' grass-roots experience of Reconstruction in Washington County, Texas. Nieman shows how black voters, jurors, and officeholders, assisted by white Republicans, many of them of German extraction, energetically worked to create "a vibrant biracial democracy" and to render local criminal justice more equitable. White Democrats did not reclaim power in Washington County until the late 1880s, when they did so through lynchings and assassinations. Nieman's essay effectively shows how Reconstruction can look different, and perhaps much more radical and substantial in its impact, when it is viewed from the local level (pp. 201-224).

In sum, this collection of essays valuably exploits the sometimes difficult to access riches of local records to offer a number of compelling interpretations of race and law in southern locales in the nineteenth century. Moreover, due to its excellent integrative introduction, it hangs together better than many anthologies do. It is highly recommended to all interested in the social history of

American law and in the social history of the American South.

Notes

[1]. See, for example, Sally E. Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas* (Cambridge: Harvard University Press, 2001); Christopher Waldrep, *Roots of Disorder: Race and Criminal Justice in the American South, 1817-80* (Urbana: University of Illinois Press, 1998); Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1874-1947* (Urbana: University of Illinois Press, 2004); Susan Jean and W. Fitzhugh Brundage, "Legitimizing 'Justice': Lynching and the Boundaries of Informal Justice in the American South," in *Informal Criminal Justice*, ed. Dermot Feenan (Ashgate: Dartmouth, 2002), 157-178. For a work that anticipated the recent trends in southern legal history scholarship, see Michael S. Hindus, *Prison and Plantation: Crime, Justice, and Authority in Massachusetts and South Carolina, 1767-1868* (Chapel Hill: University of North Carolina Press, 1980). The classic work on antebellum southern honor, violence, and law remains Bertram Wyatt-Brown, *Southern Honor: Ethics and Behavior in the Old South* (New York: Oxford University Press, 1982).

If there is additional discussion of this review, you may access it through the network, at
<https://networks.h-net.org/h-south>

Citation: Michael J. Pfeifer. Review of Waldrep, Christopher; Nieman, Donald G., eds. *Local Matters: Race, Crime, and Justice in the Nineteenth-Century South*. H-South, H-Net Reviews. September, 2004.

URL: <https://www.h-net.org/reviews/showrev.php?id=9748>



This work is licensed under a Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 United States License.