

1984

## Law and Lawyers in Faulkner's Life and Art: A Comment

Robert A. Ferguson

Follow this and additional works at: <https://dc.law.mc.edu/lawreview>



Part of the [Law Commons](#)

---

### Custom Citation

4 Miss. C. L. Rev. 213 (1983-1984)

This Comment is brought to you for free and open access by MC Law Digital Commons. It has been accepted for inclusion in Mississippi College Law Review by an authorized editor of MC Law Digital Commons. For more information, please contact [walter@mc.edu](mailto:walter@mc.edu).

# LAW AND LAWYERS IN FAULKNER'S LIFE AND ART: A COMMENT\*

Robert A. Ferguson††

Susan Snell has demonstrated the importance of the lawyer in the immediate background of William Faulkner's life. Richard Weisberg has shown how Faulkner plays off of the larger tradition of the lawyer in literature. To bring these very different contributions together, I want briefly to introduce a third strand that is essential to our understanding of "Law and Lawyers in Faulkner's Life and Art." I refer here to the specific tradition of the lawyer in Southern culture. Faulkner both uses and re-works this tradition in ways that show both his indebtedness to and his independence *from* it. To demonstrate the peculiar place of the lawyer in the intellectual life of the South, I want to give you three brief descriptions of the phenomenon: one from 1806, one from 1890, one from 1959. It is, of course, the similarities in these three descriptions across 150 years that are important. The first, then, is from a Charleston journal in 1806.

My greatest favourite in the society is MR. VERDICT, proprietor of a small plantation, not far from town. He was bred to the law . . . . He has been known to refuse a fee, when the cause of his client was evidently bad; though he seldom failed in settling it by arbitration; and so acknowledged was the integrity of his character, that he was generally chosen, on such occasions, the judge or umpire of both parties.<sup>1</sup>

The second description I will paraphrase from Thomas Nelson Page's long essay "The Old Virginia Lawyer," which first appeared in 1890. The Virginia lawyer, "easily first" in his county, is a planter and a literary presence. Classical works outnumber law books in his library, and his use of the law is idiosyncratic rather than precise. In the words of Page, "no man had more contempt for authorities, no man has more respect for authority." "Under his analysis the most intricate problems appeared plain, the most eccentric phrases resolved themselves into reason, the 'common law was common sense.'"<sup>2</sup>

My last passage comes from Allen Tate's "A Southern Mode of the Imagination" in 1959. Tate, in a few words, summarizes the tradition that I have been trying to capture:

---

\* A version of these comments appeared in Professor Ferguson's book, *Law and Letters in American Culture*, published by Harvard University Press in the autumn of 1984.

†† Associate Professor of English Language and Literature, the University of Chicago.

1. "The Archer, No. II," *The Monthly Register, Magazine and Review of the United States*, I (June 1, 1806), 308.

2. Thomas Nelson Page, "The Old Virginia Lawyer," *The Novels, Stories, Sketches and Poems of Thomas Nelson Page*, Plantation Edition, 18 vols. (New York: Charles Scribner's Sons, 1908-1912), XII: 281-94.

The South was an aggregate of farms and plantations, presided over by our composite agrarian hero, Cicero Cincinnatus. I can think of no better image for what the South was before 1860, and for what it largely still was until about 1914, than that of the old gentleman in Kentucky who sat every afternoon in his front yard under an old sugar tree, reading Cicero's Letters to Atticus. When the hands suckering the tobacco in the adjoining field needed orders, he kept his place in the book with his forefinger, walked out into the field, gave the orders, and then returned to his reading under the shade of the tree. He was also a lawyer and occasionally he went to his office, which was over the feed store in the county seat, a village with a population of about four hundred people.<sup>3</sup>

Several things stand out in these descriptions. *First*, the ideal Southern lawyer is an old-style generalist who depends upon neoclassical values and the oratorical tradition as the primary tools of a small-town practice. His actual use of the law is loose and informal. *Second*, this small-town generalist has dominated his culture throughout the nineteenth and into the twentieth century—long after specialization and the enormous growth of American statutory law have displaced the generalist in favor of the technical expert or business lawyer in the North, East, and West. Here, Allen Tate's claim of an ascendancy that lasts into modern times is more than substantiated by the evidence that Professor Snell has presented concerning the immediate forebears of Faulkner and Phil Stone, those last aristocrats bred for the law and civic power. *Third*, and most important, the figure that I have presented is *always* more than just a lawyer. Cicero Cincinnatus is remarkable for the variety of functions that he must perform. He is planter, intellectual, overseer, classicist, lawyer, politician, and not least, gentleman of leisure. Above all, he uses these many roles to preserve the existing order. It is in this sense that we can agree with Professor Snell's suggestion that Phil Stone is "strangely representative" in his social standing, his multifaceted career, and his instinctive acts of preservation.

Of course, the two code words in these descriptions of the Southern lawyer are "gentleman" and "planter," the first signifying the Southern aristocrat's code of honor, and the second, his involvement in slavery and, after the Civil War, his acceptance of a conspiracy of racial discrimination that continued to bar a third of the South's population from the legal rights of effective citizenship. As scholars have shown, the law constituted just one of several competing modes of social order in the South. In the antebellum period, the code of honor and slavery sharply restricted traditional legal prerogatives. In the postwar period, the debase-

---

3. Allen Tate, "A Southern Mode of the Imagination," *Collected Essays* (Denver: Alan Swallow, 1959), pp. 563-64.

ment of the courts in Reconstruction, the search for a lost honor in defeat, and the need to keep a freed slave population in line led to organized lawlessness and casual violence on a broad scale. All of these tendencies were part of "the unwritten constitution of the Old South," and their impact was to enlarge the area of life in which Southerners acted without reference to legal guidance.<sup>4</sup> For the legal profession in particular, the result was a strange paradox. The more restricted the law became in its areas of application, the more expansive the lawyer had to become a social arbiter and symbol of order.

My point here is that the Southern lawyer had no choice but to incorporate the code of honor and racial discrimination into his professional life. To have relied exclusively upon a narrowing legal expertise, as lawyers in the North and West increasingly did from 1850, would have meant social and political suicide in the South. Instead, as the central spokesman of his culture, the lawyer tried to reconcile the code of honor, racism, and the rule of law in a republic, and he did so by embodying contradictions that he could never eliminate. He created an expansive social persona that reduced conflicting systems of order to personal modes of behavior. He absorbed alternative roles into a single grand style as both planter and lawyer. This is the reason why descriptions always make him something beyond himself, something more than his professional identity.

To the extent that the Southern lawyer remains unaware of the contradictions that he embodies, he appears in literature as a comic figure. Take, for example, Old Caesar Kasm in Joseph G. Baldwin's classic, *The Flush Times in Alabama and Mississippi* (1853). "Sar Kasm," to use the nickname that is also a homonym, combines high honor and low vituperation in a comic mixture of decorum and chicanery, reason and force. Slaveowner, lawyer, duelist, old-fashioned Federalist, and a Virginia gentleman who has seen better days, the self-divided "Sar Kasm" wins a weak case through sheer force of will.<sup>5</sup> His character and his victory personify the predicament and, unfortunately, the hope of the Old South.

To the extent, however, that this same Southern lawyer becomes aware of his contradictions — a twentieth-century phenomenon — he becomes a tragic figure. Cicero Cincinnatus appears in

---

4. See in particular Charles S. Sydnor, "The Southerner and the Laws," *Journal of Southern History*, 6 (February, 1940), 3-23, and W.J. Cash, *The Mind of The South* (New York: Alfred A. Knopf, 1941), pp. 113-21.

5. Joseph G. Baldwin, *The Flush Times of Alabama and Mississippi: A Series of Sketches* (New York: Hill and Wang, 1957), pp. 52-76, 82-103, 15-33.

modern fiction mostly to watch what remains of Southern culture destroy itself. He is the solitary holder of a negative wisdom and, hence, of a terrifying woe. One thinks here of Judge Rumford Bland, the blind, syphilitic "ruined angel" who names Thomas Wolfe's *You Can't Go Home Again* (1934) or of Jeremiah Cobb, the chief magistrate in William Styron's *The Confessions of Nat Turner* (1960), as he drunkenly mourns over "my poor Virginia, blighted domain."<sup>6</sup>

Faulkner's great achievement in a figure like Gavin Stevens is that he brilliantly combines the comic and the tragic in another twist of the underlying contradiction. Thus, on the one hand, Stevens is Faulkner's "bucolic Cincinnatus" and "designated paladin of justice and truth and right," ironic appellations that gently mock a figure in painful and hopeless contradiction with himself.<sup>7</sup> Of this Gavin Stevens, Faulkner notes in *The Town* that "even his in-grown toenails was on the outside of his shoes." Here is the naive guardian of Southern honor who has delegated himself into "the monument business." He is the man of honor whom Flem Snopes easily defeats because Snopes is so utterly without any sense of honor. This Stevens is essentially comic.<sup>8</sup>

On the other hand, Professor Weisberg is surely right about Gavin Stevens' concomitant capacity for growth — and this is the tragic side of the lawyer who sees his contradictions, grows through them, and even learns to express them with dignity and grace. The Stevens of *Intruder in the Dust* (1948), *Requiem for a Nun* (1951), and parts of *The Town* (1957) has learned that the attempt to win Sar Kasm's case brings only despair. He has moved beyond the reflexive need for self-justification, and this is the beginning of a better understanding. At his best, this Gavin Stevens faces and expresses an ugly reality that is also a new beginning. As he explains to Temple Drake, symbol and type of a false Southern honor, "What we are trying to deal with now is injustice."<sup>9</sup>

---

6. Thomas Wolfe, *You Can't Go Home Again* (New York: Harper and Brothers, 1940), pp. 70-84, and William Styron, *The Confessions of Nat Turner* (New York: Random House, 1966), pp. 58-68.

7. William Faulkner, *Requiem for a Nun* (New York: Random House, 1951), p. 49, and *Go Down, Moses and Other Stories* (New York: Random House, 1942), p. 382.

8. William Faulkner, *The Town* (New York: Random House, 1957), pp. 342, 347-48, 357.

9. Faulkner, *Requiem for a Nun*, p. 88. See also Faulkner, *Intruder in the Dust* (New York: Random House, 1948), pp. 243-44.