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COMMENTARY:
PAPERS BY NOEL POLK AND MORRIS WOLFF
*Thomas L. McHaney**

The dean of my own university's two-year old law school, former dean of the Emory University Law School, tells me that English is the best pre-law major, but many of my former students who have gone on to law school complain that the writing skills that made them good English majors do not seem to be much in demand in schools of law, where they are made to learn a different diction and syntax, a discipline that is probably to their ultimate benefit. Do the hearts of poets beat secretly beneath the pin-striped vests? Are the chambers of judges hiding closet critics? Is the ambition to serve on the nation's highest court really the hope to have more time for writing and the desire to create opinions and dissents that rank with those of Cardozo, Brandeis, Holmes, Hand, Frankfurter, and Douglas? But on the other hand, why are we literary types publishing in a law journal? Do we want to find better ways to prosecute our authors, document our opinions, and sue our universities? I propose that the secret motto of this commentary be: "Show me how you find your loopholes, and I'll show you how I find mine."

The study and practice of the law has in common with the study and practice of literary criticism — and indeed with the study and practice of writing — a fascination with language: its diction, structure, rhetoric, ambiguity, interpretation, and meaning; and the need or desire to seek humanistic judgments. Both are effective when expressed with eloquence. Both require the marshalling of evidence and scrupulous citation and documentation. It will be from the perspective of these interests that I comment upon Professor Wolff's article, *Faulkner's Knowledge of the Law* and Professor Polk's article, *The Law in Faulkner's Sanctuary*.

Each paper, though similar in title, approaches the topic of Faulkner and the law from a different perspective. Professor Wolff's paper uses the techniques of source study to argue convincingly for Faulkner's knowledge of Mississippi law and his application of that knowledge in his fiction, and then he employs the approach of the New Criticism to make some generalizations about legal language and scenes involving legal matters in the three novels of the Snopes trilogy, *The Hamlet* (published in 1940), *The Town* (published in 1957), and *The Mansion* (published in

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1959), specifically the function of these elements as contributions to the thematic structure of those books. Professor Polk's paper is psychoanalytic criticism which seeks to find classical Freudian iconography in the law-related characters, events, and judgments of Faulkner's work, specifically as regards matters of guilt, punishment, and terror in the notorious 1931 novel *Sanctuary* and such related works as *Requiem for a Nun* and the original version of *Sanctuary*, which Polk has recently edited.

I like Professor Wolff's description of Faulkner as a "curbstone lawyer"— or, as Faulkner himself once put it in regard to a character, a "sawmill advocate," the backwoods version of a sea lawyer. But I would like to know more about this. Professor Wolff discusses at length Philip Stone's influence on Faulkner and his work. I suspect that Phil Stone's law library is not fully represented in the quaint old building off the Oxford square where his family practiced so many years, and I wonder what we could find out about books on law that Stone kept at home, both before and after the burning of his family house. I remember, during a two year tenure in Oxford, that the local used furniture store had some of Stone's office furniture, including a revolving bookcase and a great many books probably, but not certainly, of little importance. (I say that because one also might expect that Carvel Collins, who visited the Stones often, and helped them sell manuscripts, might have helped them dispose of any Faulkner-related books as well; but he might not have thought of law volumes as important, though surely they are important.)

I would also like to know something about the kinds of cases tried in Oxford during the years Faulkner was writing his patently law-oriented fiction. It is reported that he often attended chancery court, and perhaps Federal court too. I suspect he did so most regularly when he was writing about legal matters in his fiction. Faulkner did not have much time to waste, nor was he the type of man to waste it. But, though a modernist in attitude and style, Faulkner was very much a naturalist in the sense that he did perform first-hand research for his fiction, including carrying a small notebook into the black section of Charlottesville, buying Greenfields farm when he was writing about farming, and so on. (His trips to Memphis and Clarksdale brothels were also research visits rather than what the Army calls R&R, according to reliable sources.) I suspect he is more likely to have attended court during the writing of the later Snopes volumes, or the tales of *Knight's Gambit*, *Intruder in the Dust*, and *Requiem for a Nun*, especially since he had been away from Oxford, off and on, for

a number of years prior to the writing of those books and might have felt the need to renew his acquaintance with Mississippi legal affairs.

I understand that Mississippi's chancery court system is unique, or nearly unique in the United States, and I would like to know if Faulkner's knowledge of this system leads to identifiable differences in his treatment of the law from that of authors from other states, or at least whether the specific nature of the Mississippi system is reflected strongly in his work, knowledge that would help us decide whether Faulkner invented the Yoknapatawpha legal system or adapted it from that of his native state. In regard to chancery court, as well as in regard to documenting Faulkner's knowledge of the law, Professor Wolff would be better served in his first footnote, which now cites an article about Faulkner's naturalism, perhaps, citing an article on *Absalom, Absalom!* that convincingly argues for our recognizing Rosa Coldfield's testimony as a plea for equity in chancery.¹ The article on Indian lore that Wolff cites is, by the way, diminished in its importance by recent discoveries that Yoknapatawpha is not a word Faulkner invented or coined, but the ancient name of the Yocona or Yokny River that runs through Lafayette County.

One additional thing I would like to know is whether or not the passage that Wolff quotes in discussing the Justice of the Peace's legal knowledge has any special meaning: The judge appears to have used only one page of his 1881 *Mississippi Reports*, but that "quite often"; it would be amusing if Faulkner knew that this page referred to livestock litigation of some kind — such as cattle being hit by railroad equipment, which I know to have been a major problem in Faulkner's part of Mississippi in the early decades of the century, or even to something prurient (like stock diddling). Documenting this would be a contribution to our understanding of the world of *The Hamlet*. I will come back to Professor Wolff's paper, but now I have a few comments I would like to make about Polk's essay.

What I miss in Polk's essay is more discussion of the relationship between matters of law and matters of psychology: as it stands now, we have reference to symbols of law bracketing reference to psychological symbols. Is there an established psychological symbology for law? For lawyers and judges? For courthouses and jails? Is there legal writing on, say, the play *Oedipus* and/or the

1. Marvin K. Singleton, "Personae at Law and Equity: The Unity of Faulkner's AA!" *Papers on Language and Literature* III (Fall 1967): 345-70.

imagic authority it has achieved in our culture? Exactly what is Polk's intention; are his psychological remarks made in order to send us back to rethink *Sanctuary* and Horace Benbow, or to rethink Faulkner himself, or to rethink matters of guilt and punishment in a Puritan backwoods culture for which Freud's turn of the century Viennese paradigms have certain interpretive application? I think most deeply informed students of Faulkner would say that in the earliest works, up through about 1932 or so, Faulkner's psychological paradigm centers on the individual and seems predominantly Freudian; what of the more cosmological, almost Jungian view of the later work say between 1935 and 1939; or, as a recent critic has observed, the interpretation of man according to an economic model, rather than a psychological one, that one finds in the post 1930's fiction. Do the symbols — including the legal ones — change value or meaning in Faulkner's work because of some such movement or shift of Faulkner's own thought, or do they merely seem to change because of changing interpretation? Some mention of *The Wild Palms*, *The Hamlet*, *Go Down*, *Moses*, *Knight's Gambit*, and *Intruder in the Dust* might be in order, if only to point out what seems to be Faulkner's growing concern about a narrow legalism of the sort noticed by Professor Wolff, a subject that Faulkner handled from so many perspectives that we should see, in his frequent return to the subject, as many reflections of his humanistic concerns as shadows of his psychological obsessions.

Well I hope that in both sets of my remarks I can be forgiven for suggesting subjects and points of view that were not exactly in the mandates for papers nor altogether possible to approach during the allotted time. Consider them, if you will, food for thought, subjects for other papers, or temporizing before I actually tackle the things for which I may not be forgiven, which follow: a few criticisms and counter arguments.

If I were an opposing lawyer, I believe I would have grounds for objecting to Professor Wolff's harsh treatment of the justice of the peace in the case of *Tull pl. vs. Eckrum Snopes*. Certainly Wolff recognizes that Faulkner's object is a rather malevolent humor, but to say that this travesty of a trial works out as it does because the judge is corrupted by Flem Snopes is a misstatement. The judge is confounded by Snopes's unbeatable demeanor, like everyone in *The Hamlet*, including the decent V. K. Ratliff and even, in Ratliff's imagination, the devil. These rural folks do not have money for lawyers; Legal Aid will open no branch offices in Yoknapatawpha; Jefferson, with its more sophisticated system

of justice, is very remote; and the justice of the peace, whose needs at law are apparently summarized in that taunting soiled page of the 1881 *Mississippi Reports*, prosecutes and defends using only the rule of testimony under oath and a simple empiricism. He is as outraged as anyone by what is occurring, but he has no sophistication to deal with blatant disregard of the dignity of the court, unabashed violation of the oath on the bible, outright lies, or ambiguities irresolvable by empirical means. Against the kind of flagrant immorality that the Snopeses represent, he is powerless, reduced first to a shaking rage and finally to an anguished existential cry that he cannot and will not take any more.

I wonder, too, if Professor Wolff has missed the joke — and the chance for turning up some more of the interesting parallels he has found in Mississippi case law — about finding relief in the “body” of the animal, a piece of legalese which surely was not intended to refer to the *carcass* of an expired horse. (Fictionally, by the way, this scene provides a neat parallel to Ratliff’s solution for the exploitation of Ike Snopes’s diddling of the cow, which is bought, butchered, and fed to the hapless idiot, providing a cruel relief to his lover’s complaint in the body of the beloved.)

I suspected, reading Professor Wolff’s piece, that he was originally thinking more of the short version of “Spotted Horses,” where sure enough Buck Hipps is not named as the Texas fellow, though he quotes from the novel. He also, perhaps equally unintentionally, misrepresents the chronology of Flem’s career. The episode about the stolen brass occurs after the “Spotted Horses” incident, and the collaborators should not be referred to as boys, for several good reasons: they are grown men, proud, strong, relatively dangerous, and black. The railroading of Montgomery Ward Snopes with planted whiskey also occurs later, and does not represent the kind of collusion between Snopes and the district attorney that Wolff implies. It is ironic, and another example of the way Snopes triumphs even over his adversaries, that Stevens’s chivalric desire to keep a pornography scandal out of Jefferson advances Flem’s plan to send a relative into prison to do something about preventing the murderous Mink Snopes’s early release. (An additional, and crucial, episode concerning law in the Snopes trilogy is illuminating in this regard: What of Stevens’s later collusion with Linda Snopes to effect Mink’s release and to facilitate his murder of Linda’s step-father? What can we say about the corrupting influence of Snopesism on the law then?)

I find some of the same values as mentioned and a few similar misinterpretations in Wolff’s discussion of the “Pound Fee” inci-

dent in *The Hamlet*. I am glad to know the relationships between actual Mississippi law and Faulkner's own "case," but I think the discussion of the sources of the fictional version is too speculative — Wolff proceeds to personify the possibility of actual influence by talking of "Faulkner's reading" in the law, about which we can make no firm statements. One final comment: Professor Wolff uses an interview with Phil Stone by H. Edward Richardson. He has no way to know that this is a suspect document, if only because by the time Richardson made the interview, Stone was deeply unwell with mental illness, and, I think, already committed to the state mental hospital outside Jackson, Mississippi. Stone's remarks about his influence upon Faulkner were always suspect, but as he sank into an unrelieved paranoia, they lost all credibility, despite occasional moments of truth and even self-revelation.

That psychological remark leads me naturally to Professor Polk. I like what his paper teaches us about Faulkner's sophisticated use of Freudian material that may lie behind the characterization of one of Faulkner's most unsuccessful lawyers, but I am a little reluctant to take Professor Polk's full interpretation of the symbolism of Jefferson's courthouse and jail, without at least a few additional comments, some of which Professor Polk himself actually makes in appropriate contexts in his book on *Requiem for a Nun*. One comment is that, in my reading, Faulkner does not assign the jail solely the function of preserving a symbolic record of man's depravity. He goes on to say in *Requiem* that the walls of a jail preserve history because only within its cells do men have the idleness to record in simple language the timeless stories of the human heart and its yearnings. And, also as I read him, at least, Faulkner also goes on to say — and perhaps to prove — much the same thing that Professor Wolff has demonstrated from *The Hamlet*: that the system of law personified in the courthouse and eventually in the golden dome of the state capital ceases, with its very institutionalization, to be a record or servant of man, like those scratchings from the heart on the walls of the jail, and becomes the reason, and even the rule, of man's existence, with no regard for anything but literal-minded applications of the laws of evidence which lead to the ultimate destruction of the individual.

It would be interesting to note, if possible, what effect was exerted on these passages in *Requiem* by Faulkner's preservationist tendencies as regards the Oxford jail — which actually looked like a house from the front and side, save for the interesting steel gratings, and which was eventually torn down to make way for a modern, clinical-looking building on the same site — and the

court house, which was eventually saved, and even recently restored, thanks to the current crop of young businessmen in Oxford. Perhaps Faulkner is equating man's depravity and the meaningful part of man's history in ways more positive than Professor Polk claims, much as Lucas Beauchamp in *Go Down, Moses* seems right to venerate the strength and individualism of his "sinful" forebear, L.Q.C. McCaslin, whose deeds paralyze the well-meaning but ineffectual grandchild Ike, a follower of the letter rather than the spirit.

There is little doubt that Professor Polk is right about the psychological problems of Horace Benbow, and indeed the psychological basis of the whole world of evil and illegality in *Sanctuary*. One resonance of the title, surely, is that there is no sanctuary in the law and Faulkner would hardly have been unaware of the old temples of the law in England to which Temple Drake's name so aptly applies. However, I find myself worrying a bit that, though only implicitly, I am being urged to extrapolate from the psychological problems of Horace Benbow to the psychological problems of his creator, on the basis of recurrent obsessive imagery that fits the Freudian paradigm. Whenever we are asked to accept the Freudian paradigm, we are being asked to accept that art and neurosis are one and the same; that the fictionist is sublimating his own traumatic experience through his fictional creations, which are revelatory. And finally, with the references to Addie Bundren, Kloss's article and Freud's "A Child is Being Beaten," I begin to wonder if I am not being led away from the subject of *Sanctuary* and the law, a feeling not substantially alleviated by our arrival at the superego, though there would seem to be matter in that concept for discussing Freud's interpretation of the existence of law. Of perhaps minor interest in that regard is a lecture of Freud's, from 1906, on using word association to elicit truth or guilt from witnesses in court.

While we have come to understand that Faulkner's famous 1932 preface to the Modern Library *Sanctuary* drips with irony, and that *Sanctuary* in both versions was and is on certain levels a serious book, we cannot overlook the possibility that it is still a deliberate *tour de force* of its own sort — different from *As I Lay Dying*, which Faulkner himself called a *tour de force*, where the virtuosity is expressed in sheer technique. *Sanctuary* is on one level a *tour de force*, then, in the horrific, a work that is as darkly comic as Kafka's work, and as brutal in its denouncement, a work in which Faulkner takes the popular hard-boiled detective fiction of his time, sets it in the homely gangsterism of the mid-

South, and applies to it as well Joyce's "mythical method" and some of the emblemata of the Symbolist novel. The "roman policier" — which is what Malraux said *Sanctuary* infused with the spirit of Greek tragedy — necessarily demands the law as its context. The detective may not be as hapless as Benbow, but he is nevertheless as often disabused of the few illusions he has kept, meeting corruption at all levels of society, involving himself with women who betray him, getting roughed up in the process and frequently causing the death of relatively innocent people because of his snooping. The Symbolist novel demands fragmented narrative, episodic structure made poetically coherent by the play of repeated images and symbols, often decadent, that replace or stand for realistic experience. The "mythical method" demands mediation between the present — often perceived as debased or dispirited — and a rich mythological past, especially through reference to stories that we now refer to as archetypes. It has been demonstrated that *Sanctuary* reflects the Eleusinian Mysteries, other matter from Frazer's *Golden Bough* and Dante's *Inferno*, as well as, in Professor Polk's suggestion, *Oedipus*. It may be that in writing such a novel, Faulkner, as he had taken "love" for a multivalent theme in *The Sound and The Fury*, deliberately took "law" in *Sanctuary*. Doubtless, as with *The Sound and The Fury*, personal as well as cultural and aesthetic reasons existed for his doing so, some of them unconscious. But in view of works by other writers before and during the period that attempt similar syntheses of images which Faulkner is also using, we might ask first, not what had happened to Faulkner but what had happened to the western world in the 1920's and 1930's that made so many writers, not just Faulkner, turn their wrath against the law? The possibility of some large cultural stake, from the contemporary end, and the near certainty of the inheritance from Hawthorne, makes me wonder whether Faulkner was marching as exclusively to Freud as Polk suggests.

Both papers demonstrate two of the perils of source investigations, perils that apply to any sort of criticism, actually: the first is that what happens when we deliberately focus on a single aspect of a work of art is a necessary distortion. Perhaps the reader of criticism thus needs periodic assurance that the scheme before him is not the *raison d'être* of the work under study. Faulkner's use of law, like his use of psychoanalytic theory and speculation is only part of the rich fabric of complex books — but to talk about these things, we must lift them to an unwanted prominence above the work wherein they normally co-exist happily, in the best in-

stances, with sources of other schemes and signs. The second peril is to proceed with a writer of fiction as if he or she were a scholar, too, fresh from a comprehensive study or reading of whatever source currently fascinates us. It is my experience that even the writers who are scholars are rarely comprehensive in their researches, borrowings, stealings — call them what you will — but that instead they fasten onto the images and ideas that suit them, sometimes misunderstanding and just as often deliberating, rounding off, filling in, or adapting to suit their own imaginative purposes. What are we to do then, as critics, when we come with excitement upon what appears to be the sure thing? I think we must, as Cleanth Brooks has already told us, be certain that what we discern really matters, that it not only helps to explain the work but is part of what makes the literary work live and breathe. How, you may ask, however, does one know the truth?

I remember being a bit appalled, in graduate school, when I seemed to discover that what my friends in law school were studying was not justice but the pragmatics of winning cases for clients. Yet the rule of law, and even the principle of justice, still manages to hold up its head in this country, and is in fact probably kept from complacency by the adversary system upon which it survives. So too with truth and criticism: the adversary system, by a slow dialectic, drags us to certain unanimities, which have to be adjusted themselves from time to time. Of course, if you're clever, you can get by with anything, for a while. Show me how you find your loopholes, and I'll show you how I find mine.

