Summer 2008

William Faulkner, Legal Commentator: Humanity and Endurance in Hollywood's Yoknapatawpha

Michael Allan Wolf
University of Florida Levin College of Law, wolfm@law.ufl.edu

WILLIAM FAULKNER, LEGAL COMMENTATOR: HUMANITY AND ENDURANCE IN HOLLYWOOD'S YOKNAPATAWPHA

Michael Allan Wolf[*]

I. INTRODUCTION: FAULKNER IN FILM AND LAW

William Faulkner's relationship with Hollywood and the film industry was as complex as Benjy's narrative in *The Sound and the Fury* and as tempestuous as a Snopes family reunion. The Nobel-prize winning novelist summed up the plight of the literary artist in Tinseltown, where he plied the trade of screenwriter for more than two decades, as nobody else could. He told the young southern writer, Shelby Foote, "'Always take the people seriously, but never take the work seriously. Hollywood is the only place on earth where you can get stabbed in the back while you're climbing a ladder.'"[1] Included among Faulkner's film credits are such forgettable titles as "Slave Ship" (1937)[2] and "The Land of the Pharaohs" (1955),[3] and classics

[*] Richard E. Nelson Chair in Local Government Law, University of Florida Levin College of Law.

[1] JOSEPH BLOTNER, FAULKNER: A BIOGRAPHY 447 (1991) (quoting Shelby Foote, *Faulkner's Depiction of the Planter Aristocracy*, *in* THE SOUTH AND FAULKNER'S YOKNAPATAWPHA: THE ACTUAL AND THE APOCRYPHAL 56 (Evans Harrington & Ann J. Abadie eds., 1977)).

[2] *See, e.g.*, *Melodramatic Romance Has Baxter and Beery in Costellar Roles*, WASH. POST, July 31, 1937, at 14 (film review of "Slave Ship").

[3] *See Faulkner Wrote This One With One Finger*, WASH. POST, July 1, 1955, at 42 (film review of "Land of the Pharaohs").

such as "To Have and Have Not" (1944)[4] and "The Big Sleep" (1946).[5] His troubled life on the Hollywood payroll has even been captured on celluloid—in 1991's "Barton Fink."[6] W.P. Mayhew (played by John Mahoney) is a lecherous, alcoholic, southern novelist-screenwriter who serves as an unforgettable symbol of the American writer's Sisyphean struggle to achieve financial security and popular acclaim while maintaining artistic integrity.[7]

Several filmmakers have attempted to bring Faulkner's novels and stories to the big screen, and the record there, as with Faulkner's screenwriting, is also uneven. Nine full-length, feature films appeared between 1933 and 1972: "Today We Live" (1933),[8] "The Story of Temple Drake" (1933, based on *Sanctuary* and *Requiem for a Nun*),[9] "Intruder in the Dust" (1949),[10] "The Tarnished Angels" (1957, based on *Pylon*),[11] "The Long Hot Summer" (1958, very loosely based on *The Hamlet*),[12] "The Sound and the Fury" (1959),[13] "Sanctuary" (1961, based on

---

[4] *See* Bosley Crowther, *'To Have and Have Not,' With Humphrey Bogart, at the Hollywood—Arrival of Other New Films at Theatres Here*, N.Y. TIMES, Oct. 12, 1944, at 24 (film review).

[5] *See, e.g., Bogart-Bacall, Etc.*, WALL ST. J., Aug. 26, 1946, at 8 (film review of "The Big Sleep"). *See also* Howard Thompson, *Through Faulkner's View-Finder: The Nobel Prize Winner Scans His Career in Film Field*, N.Y. TIMES, Mar. 16, 1958, at X7.

[6] *See* Vincent Canby, *'Barton Fink,' a Dark Comedy from Joel and Ethan Coen*, N.Y. TIMES, Aug. 21, 1991, at C11 (film review) ("He [Fink] is befriended by another Capitol writer, W.P. Mayhew (John Mahoney). A drunken Southern novelist of Faulknerian dimensions . . . .").

[7] *Id.*

[8] *See* Mordaunt Hall, *Joan Crawford and Gary Cooper in the First Picture Derived from a Story by William Faulkner*, N.Y. TIMES, Apr. 15, 1933, at 16 (film review of "Today We Live").

[9] *See* Mordaunt Hall, *Miriam Hopkins and Jack LaRue in Pictorial Conception of a Novel by William Faulkner*, N.Y. TIMES, May 6, 1933, at 11 (film review of "The Story of Temple Drake").

[10] *See* Bosley Crowther, *'Intruder in the Dust,' M-G-M's Drama of Lynching in the South, at the Mayfair*, N.Y. TIMES, Nov. 23, 1949, at 19 (film review).

[11] *See* Bosley Crowther, *Faulkner Tale: 'The Tarnished Angels' at the Paramount*, N.Y. TIMES, Jan. 7, 1958, at 31 (film review).

[12] *See* Bosley Crowther, *'The Long, Hot Summer'; New Feature at Fine Arts and Mayfair; Story of the South Is Based on Faulkner*, N.Y. TIMES, Apr. 4, 1958, at 16 (film review).

[13] *See* Richard L. Coe, *Mildew Time Down in Dixie*, WASH. POST, Mar. 27, 1959, at

Sanctuary and *Requiem for a Nun*),[14] "The Reivers" (1969),[15] and "Tomorrow" (1972).[16] Two of these films—"Intruder in the Dust" and "Tomorrow"—are sensitive adaptations of Faulkner tales that are permeated with themes regarding the nature of justice, the role of the attorney, and the place of law and lawlessness in society. In many ways, a careful study of each of these two films (and of the novel and story upon which they are based) reveals that William Faulkner holds a place as an important American legal commentator.

It certainly is a tall order to demonstrate the veracity of that description, particularly because Faulkner was, technically, not a lawyer. I write "technically" because it is true that there is no record of his having ever studied in a formal law school program, taken a bar examination, or represented anyone in court as counsel. Indeed, Faulkner's efforts to enhance his pocketbook with big Hollywood contracts while forestalling his many creditors were most decidedly not the work of a trained attorney.[17] Still, it must be remembered that during Faulkner's early adulthood, it was not an uncommon practice for one to "read the law," under the guidance of a member of the bar.[18] There is evidence suggesting that Faulkner was at times a "law reader"—time spent in Phil Stone's Mississippi law office

---

B13 (film review of "The Sound and the Fury").

[14] *See* Bosley Crowther, *'Sanctuary': Adaptation of Faulkner Novels Has Premiere*, N.Y. TIMES, Feb. 22, 1961, at 31 (film review).

[15] *See* Vincent Canby, *Faulkner Story Simplified: 'The Reivers' Presented at 3 Theaters*, N.Y. TIMES, Dec. 26, 1969, at 42 (film review).

[16] *See* Vincent Canby, *'Tomorrow': Adapted Faulkner Tale Directed by Anthony*, N.Y. TIMES, Apr. 10, 1972, at 44 (film review). For a review of a Malaysian adaptation of Faulkner's "Barn Burning," see Caryn James, *Faulkner, Set in Malaysia*, N.Y. TIMES, Apr. 6, 1996, at 19 (film review of "The Arsonist") ("Remarkably, this film is among the most faithful renderings of Faulkner ever brought to the screen."). *See also* KAKI BAKAR (1995), http://imdb.com/title/tt0110229/ ("Kaki bakar" is the film's title in Malay).

[17] *See, e.g.*, BLOTNER, *supra* note 1, at 302-03.

[18] "Reading the law" was a possibility in Mississippi until the 1980s. *See* MISS. CODE ANN. § 73-3-2(2)(a)(ii) (2004) (repealed 2006) ("That he has notified the Board of Bar Admissions in writing of an intention to pursue a general course of study of law under the supervision of a Mississippi lawyer prior to July 1, 1979, and in fact began study prior to July 1, 1979, and who completed the required course of study prior to November 1, 1984 . . . "). Virginia is one of a few states that still allows this alternative to the traditional law school route to bar membership. *See* VA. CODE ANN. § 54.1-3926 (2005).

perusing (perhaps even studying) law books;[19] hours spent observing courtroom proceedings and engaging in detailed discussions with Stone and other practicing attorneys about interesting legal disputes;[20] and, of course, the vivid descriptions of legal proceedings and issues that permeate the history of Faulkner's mythical Yoknapatawpha County and its environs. Examples of the latter include the murder trial in *Sanctuary*, the legal and moral implications of the death resulting from an illegal abortion in "The Wild Palms" (part of *If I Forget Thee, Jerusalem*), the arson proceedings and tort lawsuit in *The Hamlet*, the debate over capital punishment in *Requiem for a Nun*, and Gavin Stevens's legal detective work throughout the stories in *Knight's Gambit*. There are several more examples drawn from the novels and short stories throughout Faulkner's career.[21]

That Faulkner would be interested in legal themes and the practice of law should not be surprising, given his origins, his surroundings, and his times. Faulkner came from a family of lawyers and judges, including his legendary great-grandfather, Colonel William Clark Falkner; his grandfather, John Wesley Thompson Falkner; his uncle, Judge John Falkner; and his brother Jack, who studied law at the University of Mississippi.[22] As a boy, Faulkner learned that legal training was a great advantage for one with political, business, and literary aspirations. He socialized with lawyers and law students; law student Stone took a precocious Faulkner (he was four years younger than Stone) under his wing to engage him in a wide range of esoteric pursuits.[23]

In the early decades of the twentieth century, law and legal institutions played key roles in determining the character of the

---

[19] *See* Morris Wolff, *Faulkner's Knowledge of the Law*, 4 MISS. C. L. REV. 245, 246 (1984). *See also* SUSAN SNELL, PHIL STONE OF OXFORD: A VICARIOUS LIFE (1991); Susan Snell, *Phil Stone and William Faulkner: The Lawyer and "The Poet,"* 4 MISS. C. L. REV. 169 (1984) [hereinafter Snell, *Stone and Faulkner*].

[20] *See* Wolff, *supra* note 19, at 245-46.

[21] For an interesting study that considers several Faulkner works, see JAY WATSON, FORENSIC FICTIONS: THE LAWYER FIGURE IN FAULKNER (1993).

[22] *See* BLOTNER, *supra* note 1, at 4, 10, 25-28, 74, 86-87, 112.

[23] *See, e.g.*, *id.* at 43-47; Snell, *Stone and Faulkner*, *supra* note 19, at 171-85.

American South, and Mississippi in particular. Some of the most prominent examples of American legal apartheid were Jim Crow laws segregating the races in public accommodations,[24] laws that forbade interracial marriage and that defined who was white and who was not,[25] the denial of voting rights and jury duty to African Americans,[26] and state-mandated school segregation.[27] Notorious demagogues such as Theodore K. Bilbo and James K. Vardaman championed the cause of white supremacy and played on the fears and suspicions of the state's most vulnerable white citizens.[28] Race was much more than a social construct in Faulkner's world: it was a stark and ubiquitous product of law—formal and informal. Questions of racial identity and its effects on interpersonal relationships drive the plots of such Faulkner masterpieces as *Light in August* and *Absalom, Absalom!*.[29]

The sharp disparity between the conditions of whites and blacks was not the only division defined in large part by law. Legal institutions made it hard, though not impossible, to bridge the gap between rich and poor, between the landed gentry and dirt-poor farmers. The key difference between Flem Snopes and his less-successful relations lay in the way he maneuvered through the gaps in the formal legal system, although in *The*

---

[24] The leading case is, of course, *Plessy v. Ferguson*, 163 U.S. 537 (1896) (upholding state law mandating "that all railway companies carrying passengers in their coaches in this State, shall provide equal but separate accommodations for the white, and colored races").

[25] Virginia's ban on interracial marriages was struck down in *Loving v. Virginia*, 388 U.S. 1 (1967).

[26] The Voting Rights Act of 1965, Pub. L. 89-110, 79 Stat. 437, was designed to redress decades of animosity directed toward African Americans and other minorities who sought to exercise their rights in the voting booth.

[27] Sometimes a simple citation will suffice: *Brown v. Board of Education*, 347 U.S. 483 (1954). For a recent, comprehensive account of the Supreme Court's uneven record in combating racial discrimination by law, see MICHAEL J. KLARMAN, FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY (2004).

[28] *See, e.g.*, A. Leon Higginbotham, Jr. & William C. Smith, *The Hughes Court and the Beginning of the End of the "Separate But Equal" Doctrine*, 76 MINN. L. REV. 1099, 1116 n.74 (1992).

[29] For a provocative exploration of questions of black and white in Faulkner's extended family, see JOEL WILLIAMSON, WILLIAM FAULKNER AND SOUTHERN HISTORY 22-29 (1993) ("A Shadow Family in the Falkner yard").

Mansion he met his demise at the hands of a relative who suffered greatly from Flem's manipulations.

No writer (before or since Faulkner) captures so vividly and so truly the moral predicament of an American South that pursued official racism as it continued to suffer from (indeed found glory in) its failed crusade of rebellion, and the profound nobility of seemingly ordinary individuals whose endurance, pride, and simple humanity take on mythic proportions. The film adaptations of the novel *Intruder in the Dust* and the short story "Tomorrow" transmit these crucial aspects of Faulkner's written words to the screen, while challenging some basic beliefs regarding our legal system.

II. LUCAS BEAUCHAMP FOR THE DEFENSE

In the first few months of 1948, Faulkner composed *Intruder in the Dust*; the novel was published by the fall.[30] The novel presents the predicament of Lucas Beauchamp, a very proud and independent man of black and white ancestry who is jailed for the murder of a white man and faces the wrath and madness of a gathering lynch mob. Fully aware that the attorney, Gavin Stevens (he is named John Gavin Stevens in the film), will be unable to see through his own whiteness long enough to consider Beauchamp's innocence, Beauchamp enlists the aid of Stevens's teenage nephew—Charles "Chick" Mallison. Chick, who owes a debt to Beauchamp as a result of an embarrassing incident a few years before (Chick had attempted to pay Beauchamp for rescuing the boy after he fell into icy water), has not yet reached the age when he would process Beauchamp's story through the critical filter of a white, southern, adult male. Therefore, Chick—in concert with an African American youth and an elderly white woman—literally digs up the evidence that ultimately leads to Beauchamp's release: there is a different body in the victim's grave. Later, when the sheriff and Stevens inspect the grave, the second body has been removed by the actual murderer. Beauchamp is then released from jail so he can serve as bait in order to catch the

[30] *See* BLOTNER, *supra* note 1, at 490-96.

murderer—the first victim's brother.

In the late 1940s, American screenwriters and directors tackled difficult social problems, sometimes with critical and popular acclaim. Two Elia Kazan films—"Gentleman's Agreement" (1947),[31] a clever expose of anti-Semitism that won Academy Awards for its director and producer,[32] and "Pinky" (1949),[33] the travails of a light-skinned African American woman who "passes" for white—typify the genre. 1949's "Intruder in the Dust," directed by Clarence Brown and based on a screenplay by Ben Maddow,[34] tackles an equally compelling social problem—the racial injustice that infects the American legal system.

Brown, who earlier in the decade had directed such films as "The Yearling" (1946) and "National Velvet" (1944),[35] worked closely and smoothly with Faulkner, who successfully lobbied for a different actor to play the murderer.[36] This was one of the last films of Brown's career, which stretched back to silent films and included the 1927 classic, "Flesh and the Devil," featuring Greta Garbo.[37] Faulkner tinkered with Maddow's script slightly (apparently with Brown's encouragement),[38] but the dialogue already closely followed the original. Maddow collaborated with John Huston on the screenplay for 1950's "The Asphalt Jungle."[39] Later in the decade, blacklisted as a result of his leftist politics, Maddow reportedly used a front to continue his

---

[31] *See* Bosley Crowther, *'Gentleman's Agreement,' Study of Anti-Semitism, Is Feature at Mayfair—Gregory Peck Plays Writer Acting as Jew*, N.Y. TIMES, Nov. 12, 1947, at 36 (film review).

[32] *See Loretta Young Wins '47 Oscar in Upset*, WASH. POST, Mar. 22, 1948, at 12 ("Fox's 'Gentleman's Agreement' was voted by 1933 academy members as the best picture, . . . Elia Kazan as top director . . . . ").

[33] *See* Bob Roy, *'Pinky' Turns Other Cheek in Parade of Problem Films; This Time the Girl is the Non-Grey Eyes*, CHICAGO DEFENDER, Nov. 26, 1949, at 26 (film review).

[34] *See* Crowther, *supra* note 10, at 19.

[35] *See Clarence Brown, Movie Director Since 1920, Dies*, WASH. POST, Aug. 19, 1987, at C11 [hereinafter *Clarence Brown*].

[36] BLOTNER, *supra* note 1, at 502.

[37] *See Clarence Brown*, *supra* note 35, at C11.

[38] BLOTNER, *supra* note 1, at 502.

[39] *See* Richard L. Cos, *'Asphalt Jungle', A Dry Ice Chiller*, WASH. POST, June 16, 1950, at C9 (film review).

screenwriting on films such as "God's Little Acre."[40]

MGM's filming of "Intruder in the Dust" itself—on location in and around Oxford, Mississippi, Faulkner's home and the inspiration for Jefferson—raised some practical difficulties, given the novel's decidedly negative view of the lynch mob phenomenon and the racial make-up of the cast. Tennessee-born-and-educated Brown assured the local newspaper, "'We can make this film the most eloquent statement of the true Southern viewpoint of racial relations and racial problems ever sent out over the nation.'"[41] Black actors and actresses were housed in the homes of prominent local African Americans.[42] The toughest social challenges during the filming in March and April of 1949 were posed by Juano Hernandez, the Puerto Rico native who was selected to play Lucas Beauchamp (and who would later appear in such films as 1965's "The Pawnbroker"[43]), the proud man of mixed racial heritage who was wrongly accused of murder. First, because Faulkner thought that Hernandez sounded too Shakespearean, the novelist worked with the actor to imitate a Mississippi accent.[44] Second, because it would not have been fitting (under the prevailing, white mores of the Deep South of the 1940s) for the novelist to entertain Hernandez's nonwhite hosts, the lead actor did not attend a reception for the

---

[40] Philip Yordan was apparently Maddow's front:

> The best-known of the "surrogates," and one of the first blacklistees to join the Yordan payroll, was the poet, documentarist, and screenwriter Ben Maddow . . . . Introduced to Yordan through Irving Lerner, . . . Maddow had adapted *Intruder in the Dust* and *The Asphalt Jungle* for MGM before finding himself persona non grata at the studios because of left-wing affiliations. Out of work under his own name, he was grateful to Yordan for the opportunity to "write underground," and Maddow is credited in various film encyclopedias as having scripted such Yordan-signed films during the 1950s as *Johnny Guitar*, *The Naked Jungle* (1954), *Men in War* (1957), *God's Little Acre* (1958), and two directed by Lerner, *Man Crazy* (1953) and *Murder by Contract* (1958).

PATRICK MCGILLIGAN, BACKSTORY 2: INTERVIEWS WITH SCREENWRITERS OF THE 1940s AND 1950s 332 (1997). *See also* http://imdb.com/name/nm0534693/ (listing Maddow as the screenwriter for several films otherwise credited to Yordan).

[41] BLOTNER, *supra* note 1, at 502 (quoting OXFORD EAGLE, Feb. 3, 1949).

[42] BLOTNER, *supra* note 1, at 502.

[43] *See* Bosley Crowther, *'The Pawnbroker' Opens at 3 Theaters*, N.Y. TIMES, Apr. 21, 1965, at 51 (film review).

[44] BLOTNER, *supra* note 1, at 503.

movie crew at the Faulkner home.[45] In October, the movie premiered at Oxford's Lyric Theatre, much to the delight of many Oxonians who appeared as extras in the film.[46]

New York newspaper advertisements declared that, just as "Birth of a Nation" and "Gone with the Wind" had "created a sensation" in 1915 and 1939, "Intruder" "gives the dramatic answer in 1949."[47] The *Newsweek* reviewer praised Brown for the film's "bitingly accurate portraiture" and for the way he "wisely avoided romanticizing a problem Southern communities have all too often been faced with."[48] Nevertheless, the reviewer was somewhat puzzled by why Miss Haversham would "risk her life and reputation for" the "magnificently intractable Lucas."[49]

While it might have sold tickets, the decision to place "Intruder in the Dust" in the same category as "Birth of a Nation" and "Gone with the Wind" betrays the filmmaker's (and novelist's) intent. While all three films have the South and racial issues at their core, Brown's film—because the screenplay tracks so closely with the novel, and because it captures the place and people that are Mississippi—is a major departure from those two classic (and decidedly racist) looks back at the evils that plagued the South following the Civil War.

We know from the automobiles of the townspeople who gather from the carnival atmosphere preceding the anticipating lynching that this story is set several decades after Reconstruction. Chick's generation is being challenged to confront head-on the self-inflicted pain of racism in the 1940s. Unlike his father and uncle, Chick is too young to have fallen

---

[45] *Id.*

[46] Blotner writes:

> On Sunday night, October 9, the white-blue beam of an eight-million-candlepower searchlight probed the sky above the [Oxford] square. Three smaller ones threaded bands of light over the courthouse and a dozen more bathed the front of the newly painted Lyric Theatre to illuminate the square for newsreel cameras. The *Eagle*'s banner headline proclaimed WORLD PREMIERE EXCITEMENT READY TO BREAK.

BLOTNER, *supra* note 1, at 508.

[47] *See, e.g.*, N.Y. TIMES, Nov. 16, 1949, at 39; N.Y. TIMES, Nov. 21, 1949, at 29.

[48] NEWSWEEK, Dec. 5, 1949, at 81-82.

[49] *Id.*

under the spell of Populist demagogues and to have grown tired of calls for racial justice by northerners who faced their own problems with social integration. More importantly, Chick's personal contact with Beauchamp—he fruitlessly tries to even the score with this imposing, prideful man whom he had once humiliated in Beauchamp's own home—prevents him from making the otherwise "natural" assumption that Beauchamp was responsible for the death.

It is easy to view the film as a somewhat one-dimensional condemnation of lynching and mob mentality. Indeed, given the year of the film's release, "Intruder in the Dust" would deserve the kind of acclaim it received for that aspect alone. Stevens (played by David Brian, who later played a lawyer on television in "Mr. District Attorney"[50]) instructs Chick that one of Chick's neighbors, who offers to aid the lynching crew,

> has nothing against Lucas. He'll probably tell you he likes him better than he does a lot of white folks, and he'll believe it. All he requires is that Lucas act like a Negro, which he believes is what must have happened. Lucas blew his top and murdered a white man. Now the white folks are going to take him out and burn him—no hard feelings on either side. In fact, Mr. Lilley will probably be one of the first to contribute cash money to Lucas's funeral and the support of his widow and children if he had any.[51]

I would imagine that many non-southern viewers—especially then, but even now—would find some solace in hearing the Mississippi accents of the lynch mob, as these viewers could assure themselves that they would never act as uncivilized as their backward distant cousins. Yet, to focus on the "accurate portraiture" of Faulkner's neighbor extras is to miss the broader message Brown and Faulkner are conveying about the difficulties of achieving racial justice in America.

The first key scene is Beauchamp's initial conversation with

---

[50] *See* Eric Pace, *David Brian, 82, Actor Is Dead: Starred in 'Mr. District Attorney,'* N.Y. TIMES, July 19, 1993, at B8.

[51] INTRUDER IN THE DUST (Metro-Goldwyn-Mayer 1949) [hereinafter INTRUDER, MGM]. The quotations from the two films discussed in this essay—"Intruder in the Dust" and "Tomorrow"—derive directly from the films themselves, not from the scripts.

Stevens in the jail, in which the defendant raises the question of representation by counsel:

> Beauchamp: Then you can take my case?
>
> Stevens: Take your case? What do you mean? Defend you before the judge?
>
> Beauchamp: I'm gonna pay you. You don't have to worry.
>
> Stevens: I don't defend murderers who shoot people in the back.
>
> Beauchamp: Let's forgit the trial. We ain't come to it yet. Now I wants to hire somebody. Don't have to be no lawyer.
>
> Stevens: To do what?
>
> Beauchamp: Is you or ain't you going to take the job?
>
> Stevens: I'd already taken your case before I came in here. I'm going to tell you what to do as soon as you've told me what happened . . . .
>
> Beauchamp: So you don't want the job?
>
> Stevens: No. But I'll do it just the same. Now tell me exactly why you killed Vincent Gowrie . . . .
>
> Beauchamp: Is you or ain't you going to take the case?
>
> Stevens: You haven't got a case. You, Lucas Beauchamp, took a pistol and went to straighten out a wrong between two white men. What did you expect? What else did you expect? You don't want justice. You want mercy . . .
>
> Stevens: Now, you listen to me. I'm going to get you tried in another county. Persuade the district attorney out there since they don't know you, that you're an old man, never been in trouble before. You'll plead guilty [Beauchamp quickly lifts his

> head and glares at Stevens] and throw yourself on the mercy of the court, and hope they send you to the penitentiary where you'll be safe from the Gowries . . . . You want me to stay in here with you tonight?
>
> Beauchamp: I reckon not. They kept me up all last night. I'm gonna try to get some sleep. If you stay here, you'll talk 'til morning.
>
> Stevens: Right.[52]

Today, law schools train their students to listen actively; instructors caution budding lawyers not to impose their will on clients.[53] Stevens abuses his role as legal adviser and treats Beauchamp not as an intelligent equal, but as a child. Moreover, Stevens gratuitously assumes the guilt of his potential client, a fact that Beauchamp has anticipated—and that explains his reticence in part.

It is only when Stevens leaves the jail that Beauchamp begins his legal (self-)defense. Taking advantage of Chick's feelings of guilt and obligation, and with full knowledge that Chick is not too old to assume the innocence of an accused

---

[52] INTRUDER, MGM, *supra* note 51.

[53] *See, e.g.*, Thomas L. Shaffer & Robert F. Cochran, Jr., *"Technical" Defenses: Ethics, Morals, and the Lawyer as Friend*, 14 CLINICAL L. REV. 337 (2007). Professors Shaffer and Cochran, two of the most prominent champions of a nontraditional advocacy approach, provide this background:

> In our book, *Lawyers, Clients, and Moral Responsibility* [1994], we suggest four ways in which a lawyer might deal with a decision during legal representation which has negative implications for people other than the client. The godfather lawyer ignores the interests of other people, keeps the issue to himself, and does what he thinks will benefit the client. The hired gun defers to whatever the client wants to do. The guru considers the interests of other people, and controls the decision by aggressively persuading the client to do what the lawyer believes to be the right thing. The approach we recommend, the practice of our preferred lawyer, the lawyer as friend, raises the moral issue with the client, engages the client in moral conversation, and seeks to arrive at moral decisions with the client. Only when the client insists on doing something the lawyer believes to be wrong—only, that is, when moral conversation fails—would the lawyer-as-friend insist on following his own conscience.

Id. at 337 (footnote omitted). Gavin Stevens was clumsily attempting to play the role of "guru," not "friend."

African American, Beauchamp uses Chick to secure the truth that will literally set Beauchamp free. When Chick returns to the hallway outside the cell a few minutes later, Beauchamp asks Chick to dig up the victim's grave. Chick whispers through the iron lattice: "But, why me? Why you pick on me? What can I do about it?" Beauchamp responds, "Cause you ain't cluttered. You can listen. But a man like your uncle, he ain't got time. He's too full of notions."[54]

Brown captures this essential connection between Beauchamp and Chick with a striking camera shot of the black and white hands nearly touching through the cell door. Faulkner's description of this important connection matches the impact of the scene on the screen:

> Lucas did so, approaching, taking hold of two of the bars as a child stands inside a fence. Nor did he remember doing so but looking down he saw his own hands holding to two of the bars, the two pair of hands, the black ones and the white ones, grasping the bars while they faced one another above them.[55]

Chick is moved by Beauchamp's humanity, and this profound feeling is motivation enough to undertake the grave digging adventure.

The second important legal "lesson" imparted by "Intruder in the Dust" is the pernicious evil embodied in laws, written and unwritten, that define racial identity and mandate the separation and differential treatment of individuals based on that identity. Beauchamp attracts hatred and resentment from the whites of Yoknapatawpha because he refuses to play the subordinate role assigned to him and others with African heritage. In the middle of their initial "interview," Stevens asks, "Lucas, has it ever occurred to you that if you just said 'mister' to white people and said it like you meant it, you might not be sitting here now?" Beauchamp answers with the perfect amount of sarcasm, "So I'm to commence now. I can start off by saying 'mister' to the folks that drags me out of here and builds a fire

---

[54] INTRUDER, MGM, *supra* note 51.

[55] WILLIAM FAULKNER, *Intruder in the Dust*, *in* NOVELS 1942-1954, at 335, 335 (1994).

under me?"[56]

Like Tom Robinson, the falsely accused rape defendant in *To Kill a Mockingbird*,[57] Beauchamp finds himself facing serious criminal charges in a legal system irretrievably tainted by racism and distrust. Unlike Harper Lee's pitiful victim, Beauchamp manipulates and persuades the white people around him in order to find justice and vindication outside the formal system.[58]

There is one white person who believes in Beauchamp's possible innocence—Eunice Haversham, one of Stevens's clients, who happens to be in the lawyer's office when Chick reports on his meeting with Beauchamp. She accompanies Chick and his young friend, Aleck, to the graveyard in the dark of night. (One of the unfortunate aspects of the film is that Brown chooses to use Aleck as his comic foil, for the young African American actor is called upon to react in the stereotypical fashion of a minstrel show.)

When the three adventurers report their findings to Stevens and the sheriff, Stevens asks himself why he didn't believe in Beauchamp's innocence and Miss Haversham why Beauchamp "didn't trust me with the truth."[59] Her answer and Stevens's response echo Beauchamp's earlier observation:

> Miss Haversham: You're a white man. Worse than that you're a grown white man.
>
> Stevens: Oh yes, I've heard that before, too. I heard Aleck's grandfather tell Chick and Aleck that once. If you want to get anything done, don't bother the men folks with it. They're too cluttered up with facts. Get the women and children to workin'

---

[56] INTRUDER, MGM, *supra* note 51.

[57] HARPER LEE, TO KILL A MOCKINGBIRD (1960).

[58] For a provocative comparison of the lessons imparted by Lee's Atticus Finch and Faulkner's Gavin Stevens, see Rob Atkinson, *Liberating Lawyers: Divergent Parallels in* Intruder in the Dust *and* To Kill a Mockingbird, 49 DUKE L.J. 601 (1999). Atkinson argues, very much against the prevailing tide, "that Faulkner's *Intruder* should displace Lee's *Mockingbird* in the canon of lawyers' inspirational literature." *Id.* at 610.

[59] INTRUDER, MGM, *supra* note 51.

on it. Is that what you meant?[60]

Once again, the lawyer demonstrates that, although he can hear, he does not listen. Then, in an especially revealing moment, Stevens acknowledges that he has been lacking another sense, too: "It's more than that. There's a wall grown up between us. Lucas can't see through it and I won't. Well, maybe that's wrong. We're the ones who can't see through it because we're the ones who are blind."[61]

While Brown and Maddow take some liberties with the plot (the visits to the graveyard and the way the murderer is trapped are, not surprisingly, more complicated in the novel), the film's ending resembles Faulkner's version. A freed Beauchamp, dressed in his going-to-town clothes, carrying his white ancestor's pistol, and chewing on his gold toothpick, visits Stevens's office to even his account. Stevens refuses to accept attorney's fees and won't allow Beauchamp to pay Chick, because that would be "practicing law without a license."[62] So, Beauchamp settles for paying Stevens two dollars' worth of expenses—for a broken pipe (in the novel, it is a fountain pen). Still proud, Beauchamp counts out his change and requests a receipt. While the novel ends with that request, the film closes with Chick and Stevens observing, in Stevens's words, a "proud, stubborn insufferable" Beauchamp meander through a crowd of white folks: "But there he goes: the keeper of my conscience." "Our conscience," corrects Chick, just before the inspirational music rises.[63] Beauchamp has remained a constant throughout the film, but Stevens has learned an important lesson about not letting "notions" and "facts" get in the way of truth and justice. We can hope that, by questioning his assumptions and listening more carefully, Stevens will become a better lawyer and citizen so that he can aid his region in the coming, often bloody, struggle for equality.

---

[60] INTRUDER, MGM, *supra* note 51.

[61] *Id.*

[62] *Id.*

[63] *Id.*

III. A PEERLESS JUROR

In 1940 Faulkner wrote "Tomorrow," a short story about Gavin Stevens that is narrated by Chick; *Saturday Evening Post* accepted the story in the summer of 1940.[64] The story was later included in a slim volume of Gavin Stevens detective stories entitled *Knight's Gambit*.[65] In fact, Faulkner completed the collection in 1949, between the time he finished *Intruder in the Dust* and the release of the filmed version of that novel.[66]

"Tomorrow" begins with Stevens's unsuccessful defense of a "solid, well-to-do farmer"[67] named Bookwright, who is reluctantly charged by the district attorney with the killing of Buck Thorpe (also known as Bucksnort). Thorpe is described as "kinless, who had appeared overnight from nowhere, a brawler, a gambler, known to be a distiller of illicit whiskey" and a cattle thief.[68] Bookwright admits that he had shot Thorpe in an effort to save his seventeen-year-old daughter from running off with the (apparently married) scoundrel. Surprisingly, the jury cannot reach a unanimous verdict to acquit. The one holdout is a poor farmer, Stonewall Jackson Fentry, whose reluctance to join the majority is witnessed by Chick. On Stevens's order, Chick had climbed a tree to get within earshot of the jury room (this is yet another indication of Stevens's failure to serve as an ethical and effective lawyer). After some investigation, Stevens learns that Fentry had cared for Buck's mother during the last few weeks of her pregnancy and the childbirth that killed her, and that Fentry had then begun the task of raising her baby (named Jackson and Longstreet Fentry). That baby, who was taken from Fentry forcefully a few years later by the mother's kin, grew up to become the lowlife known as Buck Thorpe.

The screenplay for the filmed version of "Tomorrow" was written by Horton Foote, the Pulitzer-prize-winning playwright

---

[64] BLOTNER, *supra* note 1, at 422. *See also* William Faulkner & Floyd Davis, *Tomorrow [a Story]*, SATURDAY EVENING POST, Nov. 23, 1940, at 22.

[65] WILLIAM FAULKNER, KNIGHT'S GAMBIT (Vintage Books 1978) (1949).

[66] BLOTNER, *supra* note 1, at 504-05.

[67] WILLIAM FAULKNER, *Tomorrow*, *in* KNIGHT'S GAMBIT 85, 85 (Vintage Books 1978) (1949).

[68] *Id.* at 86.

("The Young Man from Atlanta" (1995)) who has also received two Academy Awards—"To Kill a Mockingbird" (1962), for best adapted screenplay, and "Tender Mercies" (1983), for best original screenplay—and one Emmy ("Old Man" (1997), based on the "Old Man" sections of Faulkner's *If I Forget Thee, Jerusalem*).[69] "Tomorrow," a small, independent film shot in Mississippi, reunited Foote with Robert Duvall, the actor who had made his screen debut as Boo Radley in "To Kill a Mockingbird," and whose blockbuster film, "The Godfather," also premiered in 1972.[70] The actor and screenwriter would again collaborate in "Tender Mercies," for which Duvall would carry home the Best Actor Oscar.[71]

Duvall prepared for the role of Jackson Fentry by performing in Foote's stage version of the play in 1968 (Foote's teleplay was also broadcast on Playhouse 90 in 1960, starring Richard Boone).[72] The actor noted, "Since I was 10, I've known guys like Jackson Fentry, these kind of stoic, Appalachian guys. If Fentry is putting a stick of wood on the fire, or if he's dying, he's the same."[73] Duvall's Fentry speaks in short, deliberate sentences, suggestive of Billy Bob Thornton's portrayal of Karl Childers in "Sling Blade" (1996), the film in which Duvall played Karl's father.[74]

Duvall's co-star in the film is Olga Bellin, a stage and television actress appearing in her only major film role.[75] Bellin's Sarah is a pitiful, abandoned, but perfectly proper, southern woman whose extended soliloquies contrast sharply with Fentry's crisp, grunt-like utterances. The director, Joseph

---

[69] *See* Carol Strickland, *After 60 Plays, Horton Foote Still Striving*, CHRISTIAN SCIENCE MONITOR, Sept. 21, 2007, at 11.

[70] *See* Nan Robertson, *Robert Duvall: The Actor As Chameleon*, N.Y. TIMES, Jan. 29, 1989, at A1.

[71] *Id.*

[72] *See* John P. Shanley, *Kim Stanley and Richard Boone Star in Foote's Adaptation of 'Tomorrow,'* N.Y. TIMES, Mar. 8, 1960, at 67 (film review).

[73] *See* Chris Chase, *Quick—What's This Man's Name?*, N.Y. TIMES, Apr. 23, 1972, at D11.

[74] *See* Janet Maslin, *Rejoining a World Left Behind*, N.Y. TIMES, Sept. 30, 1996, at C15 (film review of "Sling Blade").

[75] *See Olga Bellin; Actress, 54*, N.Y. TIMES, Nov. 12, 1987, at D31 (obituary).

Anthony, was a curious choice. "Tomorrow" was the last of the seven films that he directed, capping a career that began with "The Rainmaker" (1956) and "The Matchmaker" (1958).[76] In between, Anthony found success as a Broadway director, staging four hits at the same time in the early 1960s.[77] The major obstacle that Anthony faced was the grinding pace of the middle portion of Foote's screenplay, the long flashback between the trial and the solution to the mystery of Buck Thorpe. While the opening and closing sequences follow the story, the meat of the film—the caring relationship between Jackson and Sarah—is the product of Foote's imagination much more than Faulkner's.

Despite the liberties taken by the author of the screenplay, the legal themes of the film, revolving around the trial and the mystery, are pure Faulkner. The writer challenges a basic precept of the Anglo-American criminal justice system: that jurors must be objective and uninfluenced by personal knowledge of the case before them.[78] Bookwright's trial was intended to be a formality (by the prosecution and the defense). The entire community should have appreciated the fact that Buck Thorpe was a menace to society, and that a father had the right to use deadly force to protect his daughter from Thorpe's clutches. Consider Stevens's closing argument for the defense:

> Now I know there's not a man on this jury or a man in Mississippi that in his heart can find my client, Bookwright, guilty for defending his daughter against a rascal like Buck Thorpe. And that's what I'm talking about. Not about the dead

---

[76] *See* Bruce Lambert, *Joseph Anthony, 80, a Director and Stage and Film Actor, Dies*, N.Y. TIMES, Jan. 22, 1993, at A17.

[77] *Id. See also Joseph Anthony; Had 4 Successes on Broadway at the Same Time*, L.A. TIMES, Jan. 23, 1993, at A22.

[78] *See, e.g.*, Gentile v. State Bar of Nev., 501 U.S. 1030, 1055 (1991) (Kennedy, J., plurality opinion) ("*Voir dire* can play an important role in reminding jurors to set aside out-of-court information and to decide the case upon the evidence presented at trial."); Rosales-Lopez v. United States, 451 U.S. 182, 188 (1981) (White, J., plurality opinion) ("*Voir dire* plays a critical function in assuring the criminal defendant that his Sixth Amendment right to an impartial jury will be honored. Without an adequate *voir dire* the trial judge's responsibility to remove prospective jurors who will not be able impartially to follow the court's instructions and evaluate the evidence cannot be fulfilled.").

> man, character, or the morality of the act he was engaged in, not about self-defense, whether or not the defendant was justified to the point of taking life, but about all of us who are not dead—human beings who at the bottom just want to do right. Human beings with all the complexities of human passion, instincts, beliefs.[79]

If a competent *voir dire* had been conducted, Jackson would have been taken out of the jury pool, given his close relationship with Thorpe as a child. Yet, it is *because* of that relationship, because of Fentry's knowledge of Thorpe's essential humanity, that Bookwright's crime is given Fentry's (and then Stevens's) serious consideration. Faulkner is telling us that justice would not have been present in that courtroom without Fentry—the technically unqualified juror—on the panel.

The second lesson William Faulkner the legal commentator imparts in "Tomorrow" is that our existing legal system often ignores the uncontrollable factors that lead to a life of lawlessness. Buck Thorpe came into the world enveloped by the love and devotion of Jackson Fentry. Foote captures these emotions skillfully, showing us Fentry's care and affection for the baby as he grows into a small boy. Yet, in a painful scene, the child is snatched away from this protective shell by the brutish men in Sarah's family. Fentry, the lowest white man on Mississippi's socioeconomic ladder, can appreciate better than the sophisticated and educated Gavin Stevens the effect that nurture (or the lack thereof) can have on human behavior. Anthony captures that knowledge when, during the return to Stevens's closing argument after the long flashback sequence, we see Fentry remembering the child, while the defense attorney paints a vivid picture of Buck as an evil adult. When the full story of Buck Thorpe is revealed to us, we begin to question the legal proceedings that should have been designed to vindicate and respect Thorpe's existence.

The last lines of the film, in which Foote combines Stevens's observations with those of another character in the story, invoke

---

[79] TOMORROW (Filmgroup Productions 1972) [hereinafter TOMORROW, FILMGROUP].

Shakespeare[80] to capture the essential humanity of the simplest person, as he or she endures the indignities of a harsh physical existence and the injustice of an imperfect system of legal redress:

> I would never have guessed Fentry's capacity for love. I suppose I'd figured that coming from where he came from, that even the comprehension of love had been lost out of him, back down the generations when the first Fentry had to take his final choice between the pursuit of love and the pursuit of keeping on breathing. The lowly and invincible of the earth—to endure and endure and then endure, tomorrow and tomorrow and tomorrow.[81]

Once again, as in "Intruder in the Dust," the film version of Gavin Stevens reconsiders the assumptions that he jumped to upon his initial consideration of the crime.

Like Brown and Maddow's "Intruder in the Dust," the Anthony-Foote version of "Tomorrow" captures much of the drama and atmosphere of the Faulkner work. In both films, the viewer is challenged to consider the nature of justice in our formal legal system, the personhood of those at the margins of society, and the fine line between law and lawlessness. In these ways and others, the filmmakers have provided an intriguing introduction to William Faulkner as an American legal commentator who deserves our more serious consideration.

---

[80] "To-morrow, and to-morrow, and to-morrow, Creeps in this petty pace from day to day, To the last syllable of recorded time . . . . " WILLIAM SHAKESPEARE, MACBETH act 5, sc. 5.

[81] TOMORROW, FILMGROUP, *supra* note 79.