

Law and Slave Identity in *Dred* and *Pudd'nhead Wilson*

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What is a slave? A slave, according to many of the laws in the individual slave states during the 19th century, was an article of property, a thing, and an object not human. However, according to another, the 3/5 Compromise of 1787, a slave was worth 3/5 of a white man. The population of the Southern states was heavily African, and this compromise enabled them to count those slaves as 3/5 of a citizen in order to get more representation in Congress. What does that mean for interpretations of the law? Can a 'thing' be tried for murder, or is a slave a man who has committed only 3/5 of the crime? Unfortunately, laws often have an ambiguity that allows them to be misinterpreted. In the case of American slave laws, the ambiguity was such that the identity of the slave could be misinterpreted or even manipulated to serve unjust social practices.

Furthermore, one of the interpretations of the slave's identity is as a child under the guardianship of the slave master. If this translation were correct, however, the slave should have the right of protection under the law. But as said before, state law claims that a slave is a thing and therefore warrants no protection. The laws of slavery in the 19th century were ambiguous to the point that no one legal definition of a slave or a slave's rights could be made according to the law. Both Harriet Beecher Stowe and Mark Twain experimented with this ambiguity of identity and the laws surrounding it in their novels *Dred* and *Pudd'nhead Wilson*.

The lawyers in *Dred* and *Pudd'nhead Wilson* are Edward Clayton and David (Pudd'nhead) Wilson. Both of these lawyers are given the opportunity to interpret the identity of the slave during trials, which Stowe and Twain included in each work. Although the trials were very different, Clayton arguing on behalf of a black woman who was assaulted by her hiring slave master, and Wilson defending two Italian twins charged

of murder, both become interested with the identity of the slave and the rights thereof because Negro slaves are involved in both of the crimes. In particular, Twain and Stowe use the closing speeches of both Wilson and Clayton to make an attempt at defining the identity of slaves under the law and to stress the complexities of race and the slave to master relationship.

The trial at the end of *Pudd'nhead Wilson* takes place in Dawson's Landing, Missouri. Lawyer David Wilson, popularly known as Pudd'nhead, is defending Luigi and Angelo Capello, charged in the murder of Judge York Leicester Driscoll. Wilson chooses to use his closing speech not to assert the points that he had made through the course of the trial and remind the jury of the evidence that proves the twin's innocence, but rather to expose the guilty party. This speech begins with, "We will now proceed to find the guilty." (140) The word 'guilty' is ambiguous, however, because although the trial is concerned with the murder of Judge Driscoll, Wilson's closing speech focuses on exposing Tom Driscoll as a Negro who was switched at birth. Out of nearly two pages of text enclosing Wilson's closing remarks, only about 3 sentences even mention the murder. The rest are concerned with the mistaken identities of a slave and a white gentleman. It's more likely that in this case 'guilty' is being applied to Tom Driscoll, Negro, rather than Tom Driscoll, murderer. Wilson is less concerned with exposing the actual murderer than he is with exposing the slave in gentleman's clothes.

Wilson's closing speech leads to the conclusion that Tom Driscoll is guilty of more than just a murder. The writing suggests that Tom broke the law by assuming the position of a respected white man. He cannot be blamed for the baby switch, however, because he was obviously merely a baby when it took place. Instead, he bears

responsibility of the crime that involves falsely identifying a Negro slave as the white son of a respected man in the community. The way the closing speech is written, the crime is actually being black, being a Negro, or being a slave. Murder can no longer be the crime in question because Tom is a Negro and therefore has no identity aside from that which is determined by the law. As a white man, Tom is considered a human and can be held responsible of a crime. Now that it is known that he's a slave, Tom is property and therefore cannot be guilty of murder. A thing cannot commit murder, and so Tom's only crime as concluded from this passage could be being a slave.

In order to fully understand the identity of the slave as determined by law and as Twain presents the problem here, we must first understand what it means to be a slave. Being a Negro slave is not just a temporary role; it is a permanent distinction of character. The qualities that accompany the title of Negro and slave are such that the subject can never escape the social class or the identity that corresponds to the title.

“A was put into B's cradle in the nursery; B was transferred to the kitchen and became a Negro and a slave –but within a quarter of an hour he will stand before you white and free!” (Twain 141)

Rather than writing that B took on the role of slave or assumed the title of Negro, Twain writes that B became a Negro and a slave.

Twain creates an environment in his text in which characters not only bear the name of their labels, but they become and are defined by their labels. Pudd'nhead Wilson presents one example. The first day Pudd'nhead Wilson came to Dawson's Landing, a few people heard him make a comment about wanting to own half of a dog. That one comment earns him the title of Pudd'nhead, but not until he has lived in the town for a while does he eventually become a Pudd'nhead. He cannot get work as an

attorney, he studies fingerprints as well as palmistry, which is looked upon with skepticism even today, and he makes queer and ironic comments that he compiles in a calendar. All of these failures and hobbies make him seem foolish to the townspeople and make him worthy of the name Pudd'nhead. In the same manner, Chambers becomes a Negro after Roxana switches the babies and bestows the name of Negro upon him.

As Chambers lived as a slave, he became unfit to live the life of a southern gentleman. He was mistreated and uneducated for over twenty years. By the time he learned of his true identity, he was already made a slave for life by the cruel treatment from Tom, the lack of education, and the lack of guidance in social standards and manners. Chambers was ruined for life and unable to enjoy his life as a white man with freedom and luxuries at his disposal.

The real heir suddenly found himself rich and free, but in a most embarrassing situation. He could neither read nor write, and his speech was the basest dialect of the Negro quarter. His gait, his attitudes, his gestures, his bearing, his laugh- all were vulgar and uncouth; his manners were the manners of a slave. Money and fine clothes could not mend these defects or cover them up; they only made them the more glaring and the more pathetic. (Twain 142-3)

So we see that the term 'became' actually describes the situation quite well. Twain is suggesting that no man could live more than twenty years thinking that he was a slave and adopting slave characteristics and then make a change to become a civilized man. When faced with the challenge of actually being free to define his own identity without the restriction of law, Chambers became aware of the scary and stifling reality of having to conform to the identity of a man who had already existed before him. Thomas a Becket Driscoll already had a life and identity as defined by the legacy of his ancestors and as set forth by the former Tom. Chambers found freedom to have little comfort

because he had to become a person that already existed rather than define his own identity.

Chambers may have become a slave for life, but what effect did the baby switch have on Tom?

“From seven months onward until now, A has still been a usurper, and in my finger-record he bears B’s name.” (Twain 141)

The name ‘usurper’ was used in this passage to remind the reader of Tom’s real identity.

Back at the beginning of the story Twain writes,

This history must henceforth accommodate itself to the change which Roxana has consummated and call the real heir “Chambers” and the usurping little slave “Thomas a Becket” (75).

Evan Carton interprets these passages by suggesting “The name ‘Tom,’ as Twain agrees to use it, will always resound as ‘usurper,’ ... ‘the false heir’ (Twain 79)” (88). However, this theory is not consistent with Roxana’s feelings towards Tom. Twain shows that Roxana becomes the slave to her own fiction, that she begins to forget the truth on some level and believe truly that Tom is her master. Tom eventually fools even his own mother into believing that he is a Driscoll. He does not experience the same kind of labeling and transformation as Chambers.

We have already seen the irreversible effects that being a slave can have on a man. Now, returning to the second half of Pudd’nhead’s statement, “-but within a quarter of an hour he will stand before you white and free!” (Twain 141), we can appreciate Twain’s irony. Although Chambers will henceforth be recognized as white and free, it is impossible for him to become white and free. Parts of him will always be a slave and always be haunted by his defects. The Negro has become his lifelong identity, and becoming white is impossible because the “blackness” is irreversible.

Wilson condemns Tom at the close of the trial.

“Valet de Chambre, Negro and slave- falsely called Thomas A Becket Driscoll-make upon the window the finger-prints that will hang you!”
(Twain 141)

In this statement, there is no reference to murder. The only part of the sentence that hints toward any particular guilt is “Negro and slave.” Wilson’s condemnation does not seem to derive from the guilt of Tom’s murder, but from the guilt of being a Negro. Wilson is condemning Tom to a life of slavery. Tom, himself, doesn’t feel remorse for the murder that he committed, but instead feels guilty for being black. Tom blames the “nigger” in him for the cowardliness, humility, fear, and shame that he felt while assuming the false role as Thomas a Becket (Twain 54).

We have spent much time discussing the identity of the Negro according to the closing statements of Wilson in the trial of Mark Twain’s *Pudd’nhead Wilson*. We have seen Wilson condemn Tom for being a slave rather than for committing a murder because a slave is considered property and cannot be convicted of a crime. Harriet Beecher Stowe uses a more developed legal argument to assess the identity of the slave. The trial in *Dred* takes place in North Carolina. Lawyer Edward Clayton is arguing on behalf of Milly, a slave woman, who was assaulted by her hiring slave master. Clayton’s closing statement focuses on the foundation of the law rather than the statement of the law. Stowe uses this trial in her novel to attempt to change the way that slave laws are interpreted in the courts. However, this mode of defense for the Negro or method of looking at the law also leads to some confusion about the identity of slaves under the law.

Clayton sums up his argument by saying,

“The good of the subject is understood to be the foundation of the right;
but, when chastisement is inflicted without just cause, and in a manner so

inconsiderate and brutal as to endanger the safety and well-being of the subject, the great foundation principle of the law is violated. The act becomes perfectly lawless, and as incapable of legal defense as it is abhorrent to every sentiment of humanity and justice.” (Stowe 302)

“The subject” in this case is, of course, the slave. The slave is thought of as a child, and the slave master as the guardian.

“The law guarantees to the parent, the guardian, and the master, the right of enforcing obedience by chastisement; and the reason for it is, that the subject being supposed to be imperfectly developed, his good will, on the whole, be better consulted by allowing to his lawful guardian this power.” (Stowe 302)

This theory, however, conflicts with the original laws that define slaves as property.

There can be no guardians for “things,” only ownership of them. Clayton’s argument deems a law invalid if the original intent of the law is jeopardized. Although he is entirely correct, and several cases have been won and laws been amended because of this argument, his fault lies in interpreting the original intent of the law in the first place.

Each state made its own slavery laws, but all of them determined that slaves were property and therefore had no rights. As far as any research can tell, slavery laws were made to protect slavery, not to protect the inferior black race.¹ Even if an attempt were made to justify slavery by saying that the Negroes could not take care of themselves and masters were able to act as guardians of the helpless blacks, it would not correspond with the original intent of the slavery laws. Therefore the justification would be invalid.

Furthermore, some may argue that times had changed and that the American slavery of

¹ “Initially, most laws passed concerned indentured servants, but around the middle of the seventeenth century, colonial laws began to reflect differences between indentured servants and slaves. More important, the laws began to differentiate between races: the association of ‘servitude for natural life’ with people of African descent became common. Virginia was one of the first states to acknowledge slavery in its laws, initially enacting such a law in 1661.” (“Slavery and Indentured Servants”)

the 19th century was indeed a guardian relationship. However, to imply that a slave needed a guardian implies that he is more than an object and therefore has a right to protection under that guardianship. The fact that no such protection exists proves that the argument is again wrong, and slave masters are not guardians to their slaves.

Although the case in *Dred* attempts to provide a slave with that protection, the laws of the time do not warrant it. Even though Clayton wins his case, the decision is eventually overturned by the Supreme Court because “THE POWER OF THE MASTER MUST BE ABSOLUTE, TO RENDER THE SUBMISSION OF THE SLAVE PERFECT.” (353) Clearly the key words in the previous sentence are power and submission. This court interprets slavery to be about power and submission, not a guardianship.

Gregg Crane writes that Stowe’s concern is “that the law may prove to be chiefly if not solely an expression of power.” (163) According to Crane, “this concern is particularly manifest in the failure of Edward Clayton to enter into partnership with the black Americans he defends.” (163) Clayton not only fails to “enter into a partnership” with the Negroes, but he speaks of them in a derogatory manner. Although Clayton refers to slaves as “human beings” and “bitter sufferers” with a history of “wrong and cruelty” (302), he also speaks condescendingly of the African race. They become “helpless” (302) under his words. The “superior strength and intelligence” of whites is needed to be “the protector and educator of their simplicity and weakness.” (303) It’s ironic that in order to elevate Africans into a “human” status giving them rights to protection under the law, Clayton feels the need to belittle their intelligence and capabilities. His eloquence is somewhat distorted in the light of these chastising

comments. His comments make the jury feel sorry for the cruel treatment of Milly, and so they give the case to Clayton regardless of what the laws say. The lawyer wins the case, but in order to do so and still keep power in the hands of the whites, he needs to stress the inferiority of the African race.

Both Stowe and Twain recognize that if slavery laws are not taken at face value, they allow room for the interpretation of the identity of slaves. The closing speeches of both Wilson and Clayton attempt to make that interpretation. Although Stowe tries to reach out to the “helpless blacks” and create a guardian relationship between slave and master, Twain chooses to accept the laws as written and instead experiment with the irony that results from a slave who commits murder, but is not eligible to be tried for murder.

In addition to stressing the complexities of slave identity according to the law, these works also attempt a prediction at how the two races will interact after slavery is abolished. From Stowe’s writing, we see that she feels slaves would either need to emigrate to Africa after abolition, or be protected and taught by the whites until they could contribute to society on their own. Twain is more pessimistic. When Wilson first arrives in Dawson’s Landing, he commented, “I wish I owned half of that dog because I would kill my half.” (Twain 4) Evan Carton suggests that

the “general dog” implicates a body politic, half of whose members are owned by the other half. Then it would follow that the possessors could not dispose of their own possessions without destroying themselves. (84)

This situation directly corresponds with that of Negro slaves and their white masters. Carton’s theory might suggest that Twain felt the white half of the population could not survive without their slaves, the black half. However, it is quite clear that Twain wrote

Pudd'nhead Wilson after the slaves had already been emancipated. Instead Twain may actually be questioning if two halves of a dog were successfully separated and both halves were able to live as two separate entities, then would they be able to get along with each other? It is evident from Twain's writing that he believes both races will forever remain separate and unable to work together or accept one another as equals. He shows how damning it is to become a slave, and so it is foolish to think that ex-slaves could rebound and become positive contributors to the community. Furthermore, he shows that the law attempts to keep the African race separate from whites by denying them the rights of other humans.

Historically both authors were correct in their assessments. Even though slaves were emancipated during the Civil War, it was not until well into the 20th century that African Americans were respected by the law. Whites attempted to keep the two races separate by offering different services and facilities to each race for more than a century after emancipation. It may seem selfish that whites were so unwilling to help African Americans bounce back from slavery, but according to *Pudd'nhead Wilson*, the whites should not be blamed for trying to keep blacks inferior. After all, they were, ironically, just protecting themselves from the bite.

“If you pick up a starving dog and make him prosperous, he will not bite you. This is the principal difference between a dog and a man. –
Pudd'nhead Wilson's Calendar.” (Twain 99)

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