

fact is the *Diary* of Philip Henslowe, which, as heretofore shown, is recognised as a reliable authority by all the commentators. It is not only a reliable authority, but it is the very best authority on the subject of the original composition of some of the so-called Shakespeare plays. Henslowe's *Diary* is entitled to a high degree of credit, because it was kept by a disinterested man, who cared nothing for any poet or dramatist except in so far as he could buy his plays for the smallest amount of money, and his *Diary*, outside of his expense account and common transactions, is, in effect, a statement of the names of the plays, either by the actual name given to the play, badly spelled, or an identifying reference to the play by the use of the name of some one of the chief characters therein, together with the amount paid for the play, or book as it was then called, and very often the names of the several writers who composed the play. . . . The Henslowe *Diary* shows that Thomas Dekker and Henry Chettle, in the spring of the year 1599, wrote the play of *Troilus and Cressida*. Presumptively, therefore, this play was written by Dekker and Chettle, unless it can be shown by proof which would overcome that presumption that Henslowe's *Diary* was, as to that point, incorrect; or that there were two plays on that subject with the same name; or that some one took the play after Dekker and Chettle had written it, and added to or subtracted from the original composition. Collier, who edited and indexed the *Diary*, appends this note below Henslowe's entry: 'Malone quotes this remarkable entry (showing that Dekker and Chettle were engaged in April, 1599, on a play with the name and on the subject adopted by our great dramatist) in *Shaksper*, by Boswell, III, 331. Henslowe gets a little nearer the proper spelling of the title in a subsequent memorandum.' It is a fact not to be disputed that William Shaksper of Stratford-on-Avon never claimed that he was the author of this play. . . . In 1609 the name of 'William Shake-

speare' is attached to an edition of *Troilus and Cressida*. Such a publication might be of some avail to overcome the presumption that Dekker and Chettle wrote the play were it not for two facts : First, that the attaching of that name to plays which William Shaksper did not write renders such an ascription of no value. As Morgan, in his *Myth*, speaking of the plays ascribed to Shaksper, says, 'It is certainly a fact that none of these, from *Hamlet* to *Fair Em*, from *Lucrece* to the *Merry Devil of Edmonton*, did William Shaksper ever either deny or claim as progeny of his. He fathered them all as they came, and no questions asked; and had Ireland been at hand with his *Vortigern* it might have gone in with the rest.' His name was attached, as we have seen, to the play of Sir John Oldcastle, in 1600, but the discovery of Henslowe's *Diary* put an end to that falsehood, and there is no valid reason why the statements in the *Diary* as to the authorship of *Troilus and Cressida* should not also be accepted for truth. The second fact is that the careful reader of the play will find therein the style of two different persons," etc. The Judge then proceeds to give instances of words and expressions in the play confirmatory of the theory that it was in truth the work of these two writers, which will well repay perusing, and concludes as follows : "I cannot give adhesion to the view expressed by Webb and other gifted writers that Bacon wrote this play. It was, in my opinion, based upon the foregoing facts, originally the production of Dekker and Chettle, added to and philosophically dressed by Francis Bacon."

So Judge Stotsenburg. The Stratfordian reply is, of course, that the *Troilus and Cressida* of Dekker and Chettle had nothing whatever to do with the play subsequently written by Shakspeare of Stratford. Thus Mr. Lee writes : "In 1599 Dekker and Chettle were engaged by Henslowe to prepare for the Earl of Nottingham's company—a rival of Shakespeare's company—a play of

Troilus and Cressida, of which no trace survives. It doubtless¹ suggested the topic to Shakespeare." Therefore it is assumed that the play entered on the Stationers' Register in 1603 by James Roberts (viz. "the booke of Troilus and Cressida, as yt is acted by my Lord Chamberlen's men"), to be printed "when he had got sufficient authority for it," and subsequently re-entered (viz. on January 28th, 1609) before the publication of the Quarto edition of that year, is an entirely different play to that mentioned by Henslowe. Yet it is admitted not only that the different writing of two authors is apparent in the Folio play, but also that "Shakespeare" must have had at least some share in a play of *Troilus and Cressida* as early as this very year 1599, in the spring of which Dekker and Chettle are found engaged in writing their play of that name. For in the old anonymous play of *Histriomastix*, supposed to have been written by Marston and others in or before that year, occurs the following burlesque passage:—

TROYLUS. Come, Cressida, my cresset light,
 Thy face doth shine both day and night,
 Behold, behold thy garter blue
 Thy knight his valiant elbow wears,²
 That when he SHAKES his furious SPEARE,
 The foe in shivering fearful sort
 May lay him down in death to snort.

In the face of all this, however, it is quietly assumed that the play written by Dekker and Chettle has no relation whatever to "Shakespeare's," except as, "doubtless," suggesting to Shakspeare a subject on which to write a new play, the composition of which is assigned by the Stratfordian critics to 1602. The play by Dekker and Chettle is supposed by these commentators to be entirely lost. The ordinary reader, however, will, I think, be inclined to

¹ My italics.

² The text is corrupt here. A line has dropped out ending in a word to rhyme with "blue," and "wears" should be "wear" to rhyme with "speare."

assume from the passage quoted above that a play of *Troilus and Cressida* had been published as by "Shakespeare" about 1599, and it is not altogether unreasonable to suppose that this play was the one to which Henslowe alludes.¹

But we have other notable entries in Henslowe's *Diary*. This, for instance (p. 202): "Lent unto Roberte Shawe, to lend unto Hary Chettel and Antonye Mondaye and Mihell Drayton, in earnest of a boocke called the Rissenge of Carnowlle Wolsey the 10 of Octobr 1601 xxx s."; and again (p. 203): "Lent unto the companye the 9 of Novembr 1601 to pay unto Mr. Mondaye and Hary Chettell, in pt of payment of a boocke called the Risynge of Carnowlle Wollsey, the some of xs." And yet again (p. 204): "Lent unto the company the 12 of Novmbr 1601 to paye unto Antony mondaye and harey Chettell, mihell Drayton, and Smythe, in fulle paymente of the firste pt of Carnowll Wollsey, the some of iij^l."

The play of *Cardinal Wolsey's Life* was evidently designed to make a fine show on the stage. The parsimonious Henslowe went to extraordinary expense over it. Upon the costumes only, says Collier, in the whole, considerably more than two hundred pounds were laid out, reckoning the value of money in 1601 at about five times its value at present.² The Shakespearean *Henry VIII* is also renowned as a pageant and gorgeous spectacle. It is, as Verplanck's editor says, "a drama of show and splendour." The versification has often been commented

¹ Mr. Fleay says that part, at least, of *Troilus and Cressida* is as early as 1597. See further as to this curious play p. 491 *et seq.*

² Preface, p. XXIV. The play called *The Rising of Cardinal Wolsey* seems to have had its origin in the success of Chettle's *Cardinal Wolsey's Life*, generally called "Cardinal Wolsey" by Henslowe. Chettle, Monday, Drayton, and Wentworth Smith "were engaged upon *The Rising of Cardinal Wolsey*, for the greater despatch in bringing it out, in order to take advantage of the popularity of the drama, to which, in fact, it was introductory." (Collier's note, p. 202.) Thus the whole of the great Cardinal's career seems to have been dramatised.

upon. It is described by Verplanck, "as carefully avoiding the pause at the end of the lines, and overflowing the regular rhythm with added syllables—not as in other plays in a single line or two, here and there, but in long passages and apparently on some system." Spedding, whom most modern editors follow, assigns a great part of the play, including some of the speeches generally published among Shakespearean "gems," to John Fletcher, whereupon Judge Stotsenburg writes: "I think that he is clearly right in his opinion that the play was a collaborated play, but the facts disclosed in the *Diary* as to the making of the play of the *Rising of Cardinal Wolsey*, coupled with the extraordinary expense and pains taken to attract an audience, cause me to believe that Drayton, Chettle, and Smyth should receive the credit for the original composition of *Henry VIII*."

Again we read (p. 121): "Lent unto the company to geve Mr. Willsons, Dickers, Drayton, and Cheattell, in parte payment of a boocke called Perce of Exstone, the some of forty shillings"; where Collier's note is, "Sir Piers of Exton killed Richard II, and this play was most likely connected with this historical incident." The date of the entry is 1598, and the month seems to be April, about the first. Now the Shakespearean play of *Richard II* was published anonymously in 1597, but in the following year it appeared with a title-page stating that it was "by William Shake-speare." Between that date and 1608 the additions of the parliament scene and the deposing of King Richard were added to the original play, and "since the new additions," says Stotsenburg, "to *Richard the Second*, published in 1608, embrace the story of Exton's villainous act, it is very likely that Henslowe paid Drayton, Wilson, Dekker, and Chettle for these very additions about the first of April, 1598. Henslowe, of course, was not very particular about the title of the plays which he bought. All that he cared to do was to write

some name, if only that of one of the characters of the play, by which he could identify his purchase."

Another entry in this interesting *Diary* is as follows (p. 240): "Lent unto John Ducke the 25 of Septmbr 1602 to bye a blacke sewt of satten for the play of *Burone* the some of vii." Collier's note here is: "In the *History of English Dramatic Poetry and the Stage*, III, 95, it is suggested that this entry, and others, may refer to Chapman's *Byron's Conspiracy and Tragedy*, printed in 1608, but this is questionable on a comparison of dates. See Collier's *Shakespeare*, I, p. 209, where it is shown that Chapman's two plays have not reached us as they were originally written, in consequence of the remonstrance of the French Ambassador against certain incidents in them."

But, says Stotsenburg, "the next entry in the *Diary*, at page 241, helps to identify the play," viz.: "Layd owt at the apoyntmente of the companye, to macke a scafowld and bare for the play of Berowne, and carpenter's wages xiijs." This, says the Judge, "indicates that there was a play or performance within the play which Henslowe calls *Berowne*, as there actually is in *Love's Labour's Lost*, namely in the presentation of the side show by Armado, Costard, Nathaniel, and the rest of the Nine Worthies. A scaffold and bar are meant by the terms 'scafowld and bare,' and by the word 'Berowne,' Henslowe, this rich murderer of the King's English, probably meant to name the chief character 'Biron' in *Love's Labour's Lost*. This opinion of mine seems to be confirmed by the second note which the learned Verplanck, who edited an excellent edition of the plays, appends to the first scene of Act I. 'Biron,' he says, 'is in all the old editions printed "Berowne," which Rowe altered to "Biron". . . . It is to be pronounced with the accent on the last syllable.' . . . Henslowe, therefore, did not get very far out of the way in his spelling of the word."

Now, whether we are inclined to agree with Judge Stotsenburg's conclusions or not, it must be admitted that we have in the examples given from Henslowe's *Diary* (and others could be added) much food for serious consideration. Here we find references to, and records of the writing of, such plays as *Troilus and Cressida*, *The Taming of a Shrew*, *King Lear*, *Henry V*, *Henry VI*, *Titus Adronicus*, *Henry VIII* ("The Rising of Cardinal Wolsey"), *Julius Cæsar* ("Cæsar's Fall"), and, as it would seem, *Richard II*, and *Love's Labour's Lost*.¹

Are we to suppose that, so soon as the various playwrights mentioned by Henslowe had produced these plays, Shakespeare was at once inspired by the idea of writing entirely different plays of his own on the same subjects—that these publications "doubtless" suggested to Shakespeare topics for plays of his own to be published under the same or very similar titles? That does not seem to me a very reasonable idea. Far more likely does it appear that there was a great man of the time whose genius was capable of "transforming dross into gold," who took these plays, and, in great part, rewrote and revised them, leaving sometimes more, and sometimes less of the original work; and that so rewritten, revised, and transformed they appeared as the plays of "Shake-speare."²

As to the player, Judge Stotsenburg writes: "As heretofore stated and shown by unimpeachable facts it is in evidence that Shaksper was never employed to write plays, either singly or in collaboration, by Philip Henslowe, the principal theatre-manager in London and the man who secured the services of the best playwrights of the

¹ There is also a note, p. 223: "Lent unto bengemy Johnsone, at the apoyntment of E. Alleyn and Wm Birde, the 24 of June 1602, in earneste of a boocke called Richard crockbacke, and for new adicyons for Jeronymo the some of xii." *Richard Crookback* must be a play of Richard III. See Stotsenburg, chap. xxxiv.

² Not unfrequently, of course, plays were published under that well known and useful name without having received any touch from the master hand.

possibly the present
may be also
used - the work
was not all
the "author's"
as the new one,
of which was

time for English audiences; and Shaksper's name is not even mentioned in the *Diary* kept by the manager, as it certainly would have been had Shaksper written plays for the theatre. There is no evidence, and none can be adduced, that Shaksper was ever employed by any one to write plays. It is also in evidence that he commended no contemporary although it was the custom of the poets and dramatists of his time to furnish commendatory and complimentary lines to accompany the books of brother poets, and during his lifetime no book was issued in his name, either with or without his authorisation, in which he was commended by any one, either in prose or poetry; and then there is the uncontradicted evidence that Shaksper was utterly indifferent to literary proprieties. Although books were issued which he did not and could not write, yet he neither claimed nor disclaimed the authorship, but stood mute."

The silence of Philip Henslowe is certainly a very remarkable phenomenon, and one which is, as it seems to me, very difficult to reconcile with the supposition that Player Shakspeare wrote plays. If, however, there was a man in high position, "a concealed poet," who took the works of others and rewrote and transformed them, besides bringing out original plays of his own (founded on Italian novels or whatever came to his hand—*The Tempest*, e.g.), then it is natural enough that his name should not appear among those for the most part impecunious dramatists to whom Henslowe paid money for play-writing. On this supposition, too, it is not difficult to see why he took the wrong in silence if plays not written or revised by him were brought out in the name of "Shakespeare."

Here, too, it is appropriate to mention that Edward Alleyne, the actor who stands pre-eminent among his fellows as being of a higher caste than the ordinary player, and who was not only an actor but a theatrical proprietor, and the founder of Dulwich College, left papers and

memoirs which were published in 1841 and 1843, and which "contain the names of all the notable actors and play-poets of Shaksper's time, as well as of every person who helped, directly or indirectly, or who paid out money, or received money, in connection with the production of the many plays at the Blackfriars Theatre, the Fortune, and other theatres. His accounts were very minutely stated, and a careful perusal of the two volumes shows that there is not one mention of such a poet as William Shaksper in his list of actors, poets, and theatrical comrades!"¹

It may be urged that, whether mentioned or not, there was undoubtedly an actor called William Shaksper or Shakspere. That is true enough, and as he did not play with Alleyne, and if his top performance was the ghost in *Hamlet*, it is not, perhaps, very remarkable that Alleyne did not make mention of him. But if he had indeed been the great and successful dramatist, the man whom Ben Jonson intended to eulogise as "not of an age but for all time," then surely it would, in any case but "Shakespeare's," be thought extraordinary that Alleyne, like Henslowe, entirely ignores his existence!

What makes Henslowe's silence still more extraordinary is that the company with which he was so intimately connected at one time appears to have been united with the Lord Chamberlain's company, of which Shakspere was a member. "At various times," writes Mr. Collier,² "and for uncertain periods, Henslowe was more or less interested in the receipts obtained by players acting under the names of the Queen, Lord Nottingham, Lord Strange, Lord Sussex, Lord Worcester, and the Lord Chamberlain. The latter was the company of which Shakespeare [i.e. Shakspere] was a member, either as actor or author,

¹ Malone quoted a supposed memorandum by Alleyne to the effect that Shakspere lodged in 1596 near "the Bear Garden in Southwark," but there is good reason to think that this is a mythical document. Alleyne certainly does not refer to Shakspere as a poet or dramatist.

² Introduction, p. xvi.

from his first arrival in until his final retirement from London, which company subsequently to the accession of James I was allowed to assume the distinguishing title of the King's Players. . . . On page 35 [of the *Diary*] begins a highly valuable enumeration of all the dramas represented between 3rd June, 1594, and 18th July, 1596, during the whole of which two years and six weeks the Lord Admiral's Players were jointly occupying, or possibly playing in combination at, the Newington Theatre with the Lord Chamberlain's servants; and here we find, by Henslowe's usual indication, that no fewer than forty new plays were got up and acted. . . . We have already spoken of the union of the company to which Shakespeare belonged, and for which he wrote, with that so intimately connected with Philip Henslowe. This union (if such it were, and not merely the joint occupation of the same house while the Globe was in course of construction, and for some time afterwards) lasted for rather more than two years; and, as has been remarked in the *Memoirs* of Edward Alleyn (p. 22), it is singular that most of the old plays which our great dramatist is supposed more or less to have employed, and of the stories of which he availed himself, are found in Henslowe's list of this period. Here we find a *Titus Andronicus*, a *Lear*, a *Hamlet*, a *Henry V*, and a *Henry VI*, a *Buckingham*, the old *Taming of a Shrew*, and several others, the titles of which we need not enumerate, because they are inserted in their proper places, precisely as they stand in the manuscript. For aught we know Shakespeare may originally have had some share in their authorship, or, if he had not, as he probably acted in them, he may have felt himself authorised as a member of the company to use them to the extent that answered his purpose"!

How strange, how more than strange, that Henslowe should make no mention in all this long diary, embracing all the time from 1591 to 1609, of the "actor-author," who

"doubtless" (according to Mr. Lee), secured his earliest "pronounced successes alike as actor and dramatist" in Henslowe's own theatre! No matter. *Credo, quia impossibile!*

But a further consideration arises in connection with the theory that Shakespeare revised, remodelled, rewrote, redressed, and transformed plays originally written by Dekker, Chettle, Monday, Heywood, and other playwrights of the time. If this hypothesis be adopted, the difficulty arising from the marvellous vocabulary of Shakespeare (far beyond that of any other mortal man) does not appear so formidable, for the vocabulary is not, in truth, the vocabulary of one, but of many.

The question of course remains, "Who was the great reviser?" That question we could answer if only we could say for certain who was the author of *Venus and Adonis* and *The Rape of Lucrece*.¹

¹ It has sometimes been said that if we could only know who wrote the Sonnets we should know the true Shakespeare. But the authorship of the Sonnets was never avowed or claimed by Shakespeare. They were published in 1609 as "*Shake-speares Sonnets, Never before Imprinted. At London. By G. Eld for T. T.,*" etc. "T. T." stands for Thomas Thorpe, the "piratical publisher," as Mr. Lee calls him. The poems were published without any sanction from the author. Two of them, viz. Sonnets 138 and 144, had already seen the light (in rather varied form), having been printed in 1599 by that other "piratical publisher" William Jaggard, in *The Passionate Pilgrim*, purporting to be the work of "*W. Shakespeare,*" but containing much work for which Shakespeare had no responsibility at all. The Sonnets, which, as Masson says in his *Essays on Shakespeare and Goethe*, are "autobiographic, distinctly, intensely, painfully autobiographic," were, in all probability, not intended for publication at any time. Meres alluded to them in 1598 as "Shakespeare's sugared sonnets among his private friends," which is certainly some authority in favour of their ascription to "Shakespeare"; but Meres's testimony, as we have already seen, is by no means infallible, and some critics maintain that the Sonnets are not by Shakespeare at all. As to their ascription to Shaksper, or Shakspeare, of Stratford, Judge Stotsenburg thus writes (p. 214): "In the year 1609 a book appeared in England called *Shake-speare's Sonnets never before imprinted*. The word 'Shake' and the suffix 'speare' were hyphenated, thereby distinguishing the hyphenated words from the surname 'Shaksper.' Mr. William Shaksper, the reputed author of the plays and poems, was living at that time, and he lived for more than six years thereafter, and he did not, so far as the world knows, either

before or after the publication of the Sonnets, claim to be the maker, begetter, furnisher, or author of them, or any of them; he did not take them to the publisher; he did not enter the book in the register of the Stationers' Company; he did not spell his name in the hyphenated way, and he did not dedicate his Sonnets to any one."

But were the Sonnets "Shakespeare's"? Judge Stotsenburg believes not, and ascribes their real authorship to Sir Philip Sidney. For his ingenious reasoning I must refer to chapters XXI. and XXII. of his work. Amongst other things, the reader will, I think, be interested in the Judge's very plausible identification of the

"Man in hue, all hues in his controlling,"

of the twentieth sonnet, with Sidney's bosom friend Sir Edmund Dyer, though a writer in *Baconiana* (July, 1906, and see also for January, 1907) with equal ingenuity contends that the reference is to Bacon's friend the Earl of Essex and Ewe.

I may here perhaps be allowed to note a very curious "Baconian" coincidence. In Sonnet 107 occurs the line—

"The mortal moon hath her eclipse endured."

Mr. George Stronach points out in *Baconiana* for January, 1906, that in Bacon's *History of Henry VII* is the following expression: "The Queen hath *endured* a strange eclipse." Mr. Stronach has not been able to find a third example of this expression—*enduring an eclipse*—nor have *Notes and Queries* been able to supply him with one. Bacon's allusion was to the Queen Dowager, but it much enforces those critics who make "the mortal moon" refer to Elizabeth, and the line in the Sonnets has, certainly, a very Baconian appearance! I must leave to others the task of unravelling the tangled web of the Sonnets, if they can, but that they were written by the Stratford player appears to me an incredible hypothesis. The more they are considered the more certain does it become that they are, for the most part, intensely autobiographical. I venture also to think it highly probable that the author of them was not unacquainted with Plato's *Phædrus*. Haply he had the soul of one not only φιλοσοφήσαντος ἀδόλως, but also παιδεραστήσαντος μετὰ φιλοσοφίας. But such things are not easily understood in days when

Folds of summer light enclose
All that once was Anteros.

(See *ante*, p. 82, and see Plat. *Phædrus*, 249 A. and 255 D.)

CHAPTER XIII

SHAKESPEARE AS A LAWYER

THE *Plays* and *Poems* of Shakespeare supply ample evidence that their author not only had a very extensive and accurate knowledge of law, but also that he was well acquainted with the manners and customs of members of the Inns of Court and with legal life generally.

“While novelists and dramatists are constantly making mistakes as to the laws of marriage, of wills and inheritance, to Shakespeare’s law, lavishly as he expounds it, there can neither be demurrer, nor bill of exceptions, nor writ of error.” Such was the testimony borne by one of the most distinguished lawyers of the nineteenth century who was raised to the high office of Lord Chief Justice in 1850, and subsequently became Lord Chancellor.¹ Its weight will, doubtless, be more appreciated by lawyers than by laymen, for only lawyers know how impossible it is for those who have not served an apprenticeship to the law to avoid displaying their ignorance if they venture to employ legal terms and to discuss legal doctrines. “There is nothing so dangerous,” wrote Lord Campbell, “as for one not of the craft to tamper with our freemasonry.” A layman is certain to betray himself by using some expression which a lawyer would never employ. Mr. Sidney Lee himself supplies us with an example of this. He writes (p. 164): “On February 15, 1609, Shakespeare . . . obtained judgment from a jury against Addenbroke for

¹ Lord Campbell. See *Shakespeare’s Legal Acquirements*.

the payment of £6, and £1. 5s. od. costs." Now a lawyer would never have spoken of obtaining "judgment from a jury," for it is the function of a jury not to deliver judgment (which is the prerogative of the court), but to find a verdict on the facts. The error is, indeed, a venial one, but it is just one of those little things which at once enable a lawyer to know if the writer is a layman or "one of the craft."¹

But when a layman ventures to plunge deeply into legal subjects, he is naturally apt to make an exhibition of his incompetence. "Let a non-professional man, however acute," writes Lord Campbell again, "presume to talk law, or to draw illustrations from legal science in discussing other subjects, and he will speedily fall into laughable absurdity."

And what does the same high authority say about Shakespeare? He had "a deep technical knowledge of the law," and an easy familiarity with "some of the most abstruse proceedings in English jurisprudence." And again: "Whenever he indulges this propensity he uniformly lays down good law." Of *Henry IV*, Part 2, he says: "If Lord Eldon could be supposed to have written the play, I do not see how he could be chargeable with having forgotten any of his law while writing it." Charles and Mary Cowden Clarke speak of "the marvellous intimacy which he displays with legal terms, his frequent adoption of them in illustration, and his curiously technical know-

¹ Dr. Abbott (not "LL.D.," but "D.D.") supplies us with another example. He writes (*Life of Bacon*, p. 145): "In our days Parliament can at once rectify, by a new Act, an injury arising from a judicial interpretation of statutes or *from the overriding of statutes by common law*." Now statutes can, and frequently do, override the common law, but the common law cannot override a statute of the realm. No lawyer, therefore, would have written the above sentence. I find yet another instance in Mr. J. M. Robertson's *Did Shakespeare write "Titus Andronicus"?* (p. 59). Mr. Robertson writes: "Let us formulate all the tests that the problem admits of, first putting a few necessary caveats." No lawyer would speak of "*putting* a caveat." The legal term is to "*enter* a caveat."

ledge of their form and force." Malone, himself a lawyer, wrote: "His knowledge of legal terms is not merely such as might be acquired by the casual observation of even his all-comprehending mind; it has the appearance of technical skill." Another lawyer and well-known Shakespearean, Richard Grant White, says: "No dramatist of the time, not even Beaumont, who was the younger son of a judge of the Common Pleas, and who after studying in the Inns of Court abandoned law for the drama, used legal phrases with Shakespeare's readiness and exactness. And the significance of this fact is heightened by another, that it is only to the language of the law that he exhibits this inclination. The phrases peculiar to other occupations serve him on rare occasions by way of description, comparison or illustration, generally when something in the scene suggests them, but *legal phrases flow from his pen as part of his vocabulary, and parcel of his thought*. Take the word 'purchase' for instance, which, in ordinary use, means to acquire by giving value, but applies in law to all legal modes of obtaining property except by inheritance or descent, and in this peculiar sense the word occurs five times in Shakespeare's thirty-four plays, and only in one single instance in the fifty-four plays of Beaumont and Fletcher. It has been suggested that it was in attendance upon the courts in London that he picked up his legal vocabulary. But this supposition not only fails to account for Shakespeare's peculiar freedom and exactness in the use of that phraseology, it does not even place him in the way of learning those terms his use of which is most remarkable, which are not such as he would have heard at ordinary proceedings at *nisi prius*, but such as refer to the tenure or transfer of real property, 'fine and recovery,' 'statutes merchant,' 'purchase,' 'indenture,' 'tenure,' 'double voucher,' 'fee simple,' 'fee farm,' 'remainder,' 'reversion,' 'forfeiture,' etc. This conveyancer's jargon could not have been picked up by hanging round the

courts of law in London two hundred and fifty years ago,¹ when suits as to the title of real property were comparatively rare. And beside, Shakespeare uses his law just as freely in his first plays, written in his first London years, as in those produced at a later period. Just as exactly, too; for the correctness and propriety with which these terms are introduced have compelled the admiration of a Chief Justice and a Lord Chancellor."

Senator Davis wrote: "We seem to have something more than a sciolist's temerity of indulgence in the terms of an unfamiliar art. No legal solecisms will be found. The abstrusest elements of the common law are impressed into a disciplined service. Over and over again, where such knowledge is unexampled in writers unlearned in the law, Shakespeare appears in perfect possession of it. In the law of real property, its rules of tenure and descents, its entails, its fines and recoveries, and their vouchers and double vouchers, in the procedure of the Courts, the method of bringing writs and arrests, the nature of actions, the rules of pleading, the law of escapes and of contempt of court, in the principles of evidence, both technical and philosophical, in the distinction between the temporal and spiritual tribunals, in the law of attainder and forfeiture, in the requisites of a valid marriage, in the presumption of legitimacy, in the learning of the law of prerogative, in the inalienable character of the Crown, this mastership appears with surprising authority."

To all this testimony (and there is much more which I have not cited) may now be added that of a great lawyer of our own times, viz. Sir James Plaisted Wilde, Q.C. 1855, created a Baron of the Exchequer in 1860, promoted to the post of Judge-Ordinary and Judge of the Courts of Probate and Divorce in 1863, and better known to the world as Lord Penzance, to which dignity he was raised in 1869. Lord Penzance, as all lawyers know, and as the late

¹ Now three hundred and twenty years ago.

*conveys a
false impression;
as if the plays
were scholarly
legal treatises*

Mr. Inderwick, K.C., has testified, was one of the first legal authorities of his day, famous for his "remarkable grasp of legal principles," and "endowed by nature with a remarkable facility for marshalling facts, and for a clear expression of his views."¹

Lord Penzance speaks of Shakespeare's "perfect familiarity with not only the principles, axioms, and maxims, but the technicalities of English law, a knowledge so perfect and intimate that he was never incorrect and never at fault. . . . The mode in which this knowledge was pressed into service on all occasions to express his meaning and illustrate his thought, was quite unexampled. He seems to have had a special pleasure in his complete and ready mastership of it in all its branches. As manifested in the plays, this legal knowledge and learning had therefore a special character which places it on a wholly different footing from the rest of the multifarious knowledge which is exhibited in page after page of the plays. At every turn and point at which the author required a metaphor, simile, or illustration, his mind ever turned first to the law. He seems almost to have thought in legal phrases, the commonest of legal expressions were ever at the end of his pen in description or illustration. That he should have descanted in lawyer language when he had a forensic subject in hand, such as Shylock's bond, was to be expected, but the knowledge of law in 'Shakespeare' was exhibited in a far different manner: it protruded itself on all occasions, appropriate or inappropriate, and mingled itself with strains of thought widely divergent from forensic subjects." Again: "To acquire a perfect familiarity with legal principles, and an accurate and ready use of the technical terms and phrases not only of the conveyancer's office but of the pleader's chambers and the Courts at Westminster, nothing short of employment in some career

¹ Preface to *The Bacon-Shakespeare Controversy: A Judicial Summing-up*, by the Rt. Hon. Sir James Plaisted Wilde, Baron Penzance, 1902.

involving constant contact with legal questions and general legal work would be requisite. But a continuous employment involves the element of time, and time was just what the manager of two theatres had not at his disposal. In what portion of Shakespeare's [i.e. Shakspeare's] career would it be possible to point out that time could be found for the interposition of a legal employment in the chambers or offices of practising lawyers? "

Stratfordians, as is well known, casting about for some possible explanation of Shakespeare's extraordinary knowledge of law, have made the suggestion that Shakspeare might, conceivably, have been a clerk in an attorney's office before he came to London. Mr. Collier wrote to Lord Campbell to ask his opinion as to the probability of this being true. His answer was as follows: "You require us to believe implicitly a fact of which, if true, positive and irrefragable evidence in his own handwriting might have been forthcoming to establish it. Not having been actually enrolled as an attorney, neither the records of the local court at Stratford nor of the superior Courts at Westminster would present his name as being concerned in any suit as an attorney, but it might reasonably have been expected that there would have been deeds or wills witnessed by him still extant, and after a very diligent search none such can be discovered."

Upon this Lord Penzance comments: "It cannot be doubted but that Lord Campbell was right in this. No young man could have been at work in an attorney's office without being called upon continually to act as a witness, and in many other ways leaving traces of his work and name. There is not a single fact or incident in all that is known of Shakespeare, even by rumour or tradition, which supports this notion of a clerkship. And after much argument and surmise which has been indulged in on this subject, we may, I think, safely put the notion on one side, for no less an authority than Mr. Grant White

says finally that the idea of his having been clerk to an attorney has been 'blown to pieces.'"¹

It is altogether characteristic of Mr. Churton Collins that he, nevertheless, adopts this exploded myth. "That Shakespeare was in early life employed as a clerk in an attorney's office, may be correct. At Stratford there was by royal charter a Court of Record sitting every fortnight, with six attorneys, beside the town clerk, belonging to it, and it is certainly not straining probability to suppose that the young Shakespeare may have had employment in the office of one of them. There is, it is true, no tradition to this effect, but such traditions as we have about Shakespeare's occupation between the time of leaving school and going to London are so loose and baseless that no confidence can be placed in them. It is, to say the least, more probable that he was in an attorney's office than that he was a butcher killing calves 'in a high style,' and making speeches over them."²

This is a charming specimen of Stratfordian argument. There is, as we have seen, a very old tradition to the effect that Shakspeare was a butcher's apprentice.³ John Dowdall, who made a tour in Warwickshire in 1693, testifies to it as coming from the old clerk who showed him over the church, and it is unhesitatingly accepted as true by Mr. Halliwell-Phillipps. (Vol. I, p. 11, and see Vol. II, p. 71, 72.) Mr. Sidney Lee sees nothing improbable in it, and it is supported by Aubrey, who must have written his account some time before 1680, when his manuscript was completed. Of the attorney's clerk hypothesis, on the other hand, there is not the faintest vestige of a tradition. It has been evolved out of the fertile imagina-

¹ "The worst of it is," said that ardent Shakespearean Gerald Massey, "for the theory of his having been an attorney's clerk, that it will not account for his insight into law; his knowledge is not office sweepings, but ripe fruits, mature, as though he had spent his life in their growth."

² *Studies in Shakespeare*, p. 238.

³ The "butcher" was, probably, his own father.

tions of embarrassed Stratfordians, seeking for some explanation of the Stratford rustic's marvellous acquaintance with law and legal terms and legal life. But Mr. Churton Collins has not the least hesitation in throwing over the tradition which has the warrant of antiquity and setting up in its stead this ridiculous invention, for which not only is there no shred of positive evidence, but which, as Lord Campbell and Lord Penzance point out, is really put out of court by the negative evidence, since "no young man could have been at work in an attorney's office without being called upon continually to act as a witness, and in many other ways leaving traces of his work and name." And, as Mr. Edwards further points out, since the day when Lord Campbell's book was published (between forty and fifty years ago), "every old deed or will, to say nothing of other legal papers, dated during the period of William Shaksper's youth, has been scrutinised over half a dozen shires, and not one signature of the young man has been found."

Moreover, if Shakspere had served as clerk in an attorney's office it is clear that he must have so served for a considerable period in order to have gained (if indeed it is credible that he could have so gained) his remarkable knowledge of law. Can we then for a moment believe that, if this had been so, tradition would have been absolutely silent on the matter? That Dowdall's old clerk, over eighty years of age, should have never heard of it (though he was sure enough about the butcher's apprentice) and that all the other ancient witnesses should be in similar ignorance!

But such are the methods of Stratfordian controversy. Tradition is to be scouted when it is found inconvenient, but cited as irrefragable truth when it suits the case. Shakspere of Stratford was the author of the *Plays* and *Poems*, but the author of the *Plays* and *Poems* could not have been a butcher's apprentice. Away, therefore, with

tradition. But the author of the *Plays* and *Poems* must have had a very large and a very accurate knowledge of law. Therefore, Shakspeare of Stratford must have been an attorney's clerk! The method is simplicity itself. By similar reasoning Shakspeare has been made a country-schoolmaster, a soldier, a physician, a printer, and a good many other things beside, according to the inclination and the exigencies of the commentator. It would not be in the least surprising to find that he was studying Latin as a schoolmaster and law in an attorney's office at the same time.

However, we must do Mr. Collins the justice of saying that he has fully recognised, what is indeed tolerably obvious, that Shakespeare must have had a sound legal training. "It may, of course, be urged," he writes, "that Shakespeare's knowledge of medicine, and particularly of that branch of it which related to morbid psychology, is equally remarkable, and that no one has ever contended that he was a physician. [Here Mr. Collins is wrong; that contention also has been put forward].¹ It may be urged that his acquaintance with the technicalities of other crafts and callings, notably of marine and military affairs, was also extraordinary, and yet no one has suspected him of being a sailor or a soldier. [Wrong again. Why even Messrs. Garnett and Gosse "suspect" that he was a soldier!] This may be conceded, but the concession hardly furnishes an analogy. To these and all other subjects he recurs occasionally, and in season, *but with reminiscences of the law his memory, as is abundantly clear, was simply saturated.* In season and out of season, now in manifest, now in recondite application, he presses it into the service of expression and illustration. At least a third of his myriad metaphors are derived from it. It would indeed be difficult to find a single act in any of his dramas,

¹ Had Mr. Collins never heard of Dr. Bucknill's and Dr. Chesney's books?

may, in some of them, a single scene, the diction and imagery of which is not coloured by it. Much of his law may have been acquired from three books easily accessible to him, namely Tottell's *Precedents* (1572), Pulton's *Statutes* (1578), and Fraunce's *Lawier's Logike* (1588), works with which he certainly seems to have been familiar; but much of it could only have come from one who had an intimate acquaintance with legal proceedings. We quite agree with Mr. Castle that Shakespeare's legal knowledge is not what could have been picked up in an attorney's office, but could only have been learned by an actual attendance at the Courts, at a Pleader's Chambers, and on circuit, or by associating intimately with members of the Bench and Bar."

This is excellent. But what is Mr. Collins's explanation? "Perhaps the simplest solution of the problem is to accept the hypothesis that in early life he was in an attorney's office [!], that he there contracted a love for the law which never left him, that as a young man in London, he continued to study or dabble in it for his amusement, to stroll in leisure hours into the Courts, and to frequent the society of lawyers. *On no other supposition is it possible to explain the attraction which the law evidently had for him, and his minute and undeviating accuracy in a subject where no layman who has indulged in such copious and ostentatious display of legal technicalities has ever yet succeeded in keeping himself from tripping.*"¹

A lame conclusion. "No other supposition" indeed! Yes, there is another, and a very obvious supposition, namely, that Shakespeare was himself a lawyer, well versed in his trade, versed in all the ways of the courts, and living in close intimacy with judges and members of the Inns of Court.

One is, of course, thankful that Mr. Collins has appreciated the fact that Shakespeare must have had a sound

¹ My italics.

legal training, but I may be forgiven if I do not attach quite so much importance to his pronouncements on this branch of the subject as to those of Malone, Lord Campbell, Judge Holmes, Mr. Castle, K.C., Lord Penzance, Mr. Grant White, and other lawyers, who have expressed their opinion on the matter of Shakespeare's legal acquirements. I cannot attach much weight to the judgment of a critic who sees the trained lawyer's hand in *Titus Andronicus* because he finds there such expressions as "*affy* in thy uprightness," "true nobility *warrants* these words," "*Suum cuique* is our Roman justice," "The Prince in justice *seizeth*¹ but his own," "rob my sweet sons of their *fee*," "*purchase* us thy lasting friends," "let me be their bail," "the end upon them should be *executed*," "do execution on my flesh and blood," "do shameful *execution on* herself," "and make a *mutual closure* of our house," "the *extent* of *egal*² justice," "a *precedent* and lively *warrant*," and "will *doom* her death."³ It seems to me ridiculous to contend that such very ordinary expressions as these show the hand of the trained lawyer. But Mr. Collins is labouring to prove that this monstrous play is the work of Shakespeare, whereas that *Titus Andronicus* is *not* Shakespeare's is (*pace* Mr. Collins) "as certain as anything connected with him can be." Mr. Collins, however, has not, I believe, served an apprenticeship to the law, and, therefore, can hardly be taken as an authority where legal matters are concerned. Here I much prefer the judgment of Mr. Castle, K.C., a trained and experienced lawyer, who writes of *Titus*: "Whatever reason there is for thinking that it was not the work of Shakespeare, there is still greater reason for thinking it could not be the work of any lawyer, especially of one who has shown such accurate knowledge

¹ Mr. Collins appears to think "seizeth" must imply a reference to the legal "seisin"!

² Mr. Collins substitutes "legal" for "egal," but this may be a printer's error.

³ *Studies in Shakespeare*, p. 118. Original italics.

as we find in Shakespeare's other plays. The whole play is not only offensively written, but it outrages every feeling and idea that a lawyer would possess. It tramples upon all his notions of right and wrong, justice and injustice; it seems not to have an idea that no society could exist without some approach to law and a legal procedure, in fact, it seems to do everything that a lawyer would not do, and leave undone everything that he would. It does not read like a serious play, but a sort of a travesty that seems more like the work of one who had studied 'Jack the Giant Killer,' rather than the law books of the time, such as they were, or had gained his knowledge in the Courts. . . . Any one has only to see how differently the arrest and trial of a prisoner is treated in *Measure for Measure* or in *Henry the Fifth*, where the three conspirators are arrested in due form, and then compare these plays with the stuff given in *Titus Andronicus*, to at once see that the former plays show a knowledge of law and legal procedure, whilst the latter is the work of one who is remarkably ignorant of both." But, as Mr. Castle adds, "the fact that Shakespeare was the author of *Titus Andronicus* has been so much doubted [I would say so completely disproved] that it is not perhaps advisable to waste further time upon it . . . but it may be remarked that if *Titus Andronicus* is Shakespeare's work, I think it effectually disposes of the suggestion that Shakespeare learned his law when a boy at Stratford, because this must be his earliest play, and it is the one that most conspicuously displays his ignorance of law, and want of legal training."

Mr. Collins, one may remark, occupies rather a peculiar place in Shakespearean criticism. Some of us have long looked upon it as axiomatic that Shakespeare was not only the representative of the highest culture of his time, but also that he had an extensive acquaintance with the ancient classics, not merely through translations but as a

result of study of the original authors—in fact, that Jonson's "small Latin and less Greek," if meant to be taken seriously, can only be applicable to Shakspeare of Stratford and not to Shakespeare. This, we were convinced, sufficiently appeared from a perusal of "the works themselves." Now Mr. Collins, with much industry and ability, and no small learning, has presented us with a full and detailed demonstration of this part of our case. We naturally welcome this contribution to the argument, and are grateful for it. Mr. Collins, however, has nothing but contempt, reiterated *usque ad nauseam*, for those who pray in aid his essay on "Shakespeare as a Classical Scholar" in support of the contention that Shakspeare could not possibly have been the author of the *Plays* and *Poems*. He thinks it the most natural thing in the world that the Stratford rustic should have acquired all this learning by a supposed attendance for five years or so at the Stratford Free School. He unhesitatingly throws over the positive evidence of tradition which speaks with remarkable unanimity of an unlearned Shakespeare; he attaches no value to the equally cogent negative evidence which is clamant in the fact that none of the ancient witnesses had ever heard of quick-witted industrious Shakspeare acquiring knowledge of the classics at the Grammar School; and he makes an attempt to explain away Jonson's description, which is so strongly contradictory of his theory. He next proceeds to add his opinion to that of Lord Campbell, Lord Penzance, Judge Holmes, Judge Webb, Mr. Castle, K.C., and other distinguished lawyers, who have pointed out with such force and ability, and, it must be added, with such authority, that Shakespeare had a very extensive and very accurate knowledge of the law, yet again he thinks that this may be explained quite naturally, and without any difficulty, by the entirely gratuitous assumption that Shakspeare was an attorney's clerk at Stratford, and supplemented the

knowledge so acquired by "strolling in leisure hours into the Courts," and frequenting the society of lawyers! As to the general culture of this miraculous young provincial, Mr. Collins thinks it "highly probable" that the extraordinary poem of *Venus and Adonis* "was composed at Stratford before he came up to London, as early perhaps as 1585"!¹ It is not at all surprising that a commentator who can hold such theories as these should bespatter his pages with contemptuous epithets expressive of his superior scorn of the "absurdity" and "ignorance" of all those who venture to disagree with him, which nevertheless does not in any way affect their opinion that the "absurdity" is altogether on the side of this very petulant critic.²

Here it may, perhaps, be worth while to quote again

¹ In another place Mr. Collins, following Mr. Lee, who follows Dr. Gosse, has said that *Venus and Adonis* is plainly modelled on Lodge's *Scilla's Metamorphosis*, which was not published till 1589. "Mr. Collins has not even taken the trouble to reconcile his assertions—and this in an essay in which he imputes to his gainsayers perversity, paradox, sophistry, and illegitimate criticism." (*Did Shakespeare write "Titus Andronicus"?*, by J. M. Robertson, p. 22.)

² Mr. Collins's words really deserve to be quoted *in extenso* in order that we may see what is not considered "fantastic" or "absurd" or "fanatical" by ardent Stratfordian critics. "We quite agree with Mr. Castle that Shakespeare's legal knowledge is not what could have been picked up in an attorney's office, but could only have been learned by an actual attendance at the Courts, at a pleader's chambers, and on circuit, or by associating intimately with members of the Bench and Bar." Good. Now for the explanation. "Perhaps the *simplest solution* of the problem is to accept the hypothesis that in early life he was in an attorney's office, that he there contracted a love for the law which never left him; that as a young man in London he continued to study or *dabble in it for his amusement, to stroll in leisure hours into the Courts*, and to frequent the society of lawyers. On no other supposition [!] is it possible to explain the attraction which the law evidently had for him, and his minute and undeviating accuracy in a subject where no layman, who has indulged in such copious and ostentatious display of legal technicalities, has ever yet succeeded in keeping himself from tripping." Yes, indeed, a mighty "simple" explanation, and a mighty simpleton must he be who can accept it. I once heard the story of a man who could speak seven languages. "And the odd thing was he learnt them all from a drummer in a marching regiment." "My God, how he must have marched!" was the reply.

from Lord Penzance's book as to the suggestion that Shakspeare had somehow or other managed "to acquire a perfect familiarity with legal principles, and an accurate and ready use of the technical terms and phrases, not only of the conveyancer's office, but of the pleader's chambers and the courts at Westminster." This, as Lord Penzance points out, would require "nothing short of employment in some career involving constant contact with legal questions and general legal work." But "in what portion of Shakespeare's career would it be possible to point out that time could be found for the interposition of a legal employment in the chambers or offices of practising lawyers? . . . It is beyond doubt that at an early period he was called upon to abandon his attendance at school and assist his father, and was soon after, at the age of sixteen, bound apprentice to a trade. While under the obligation of this bond he could not have pursued any other employment. Then he leaves Stratford and comes to London. He has to provide himself with the means of a livelihood, and this he did in some capacity at the theatre. No one doubts that. The holding of horses is scouted by many, and perhaps with justice, as being unlikely and certainly unproved;¹ but whatever the nature of his employment was at the theatre, there is hardly room for the belief that it could have been other than continuous, for his progress there was so rapid. Ere long he had been taken into the company as an actor, and was soon spoken of as a 'Johannes Factotum.' His rapid accumulation of wealth speaks volumes for the constancy and activity of his services. One fails to see when there could be a break in the current of his life at this period of it, giving room or opportunity for legal or indeed any other employment. 'In 1589,' says Knight, 'we have undeniable evidence that he had not only a

¹ It is, however, a very ancient tradition and accepted by most Shakespearean biographers. There is, certainly, nothing improbable in it.

casual engagement, was not only a salaried servant, as many players were, but was a shareholder in the company of the Queen's players with other shareholders below him on the list.' This (1589) would be *within two years of his arrival in London*, which is placed by White and Halliwell-Phillipps about the year 1587. The difficulty in supposing that, starting with a state of ignorance in 1587, when he is supposed to have come to London, he was induced to enter upon a course of most extended study and mental culture, is almost insuperable. Still it was physically possible, provided always that he could have had access to the needful books. But this legal training seems to me to stand on a different footing. It is not only unaccountable and incredible, but it is actually negatived by the known facts of his career." Lord Penzance then refers to the fact that "by 1592 (according to the best authority, Mr. Grant White) several of the plays had been written. *The Comedy of Errors* in 1589, *Love's Labour's Lost* in 1589, *Two Gentlemen of Verona* in 1589 or 1590,"¹ and so forth, and then asks, "with this catalogue of dramatic work on hand . . . was it possible that he could have taken a leading part in the management and conduct of two theatres, and, if Mr. Phillipps is to be relied upon, taken his share in the performances of the provincial tours of his company—and at the same time devoted himself to the study of the law in all its branches so efficiently as to make himself complete master of its principles and practice, and saturate his mind with all its most technical terms?"²

¹ These dates, of course, are questioned by those who, like Mr. J. M. Robertson, believe that *Venus and Adonis* was really and truly the "first heir" of the poet's "invention," but they will find it difficult to uphold their contention that Shakespeare wrote no plays before that date. The date of *Love's Labour's Lost* is generally put at about 1591-2, of *The Two Gentlemen* at 1590-92. Mr. Gollancz dates the composition of the *Dream* at about 1592, and of *Romeo and Juliet* at 1591.

² *The Bacon-Shakespeare Controversy*, p. 89.

I have cited this passage from Lord Penzance's book, because it lay before me, and I had already quoted from it on the matter of Shakespeare's legal knowledge; but other writers have still better set forth the insuperable difficulties, as they seem to me, which beset the idea that Shakspeare might have found time in some unknown period of early life, amid multifarious other occupations, for the study of classics, literature, and law, to say nothing of languages and a few other matters. Lord Penzance further asks his readers: "Did you ever meet with or hear of an instance in which a young man in this country gave himself up to legal studies and engaged in legal employments, which is the only way of becoming familiar with the technicalities of practice, unless with the view of practising in that profession? I do not believe that it would be easy, or indeed possible, to produce an instance in which the law has been seriously studied in all its branches, except as a qualification for practice in the legal profession." It may, of course, be said that some men study law sufficiently to enable them to pass the examination necessary for the call to the Bar, in order to qualify themselves for an appointment, or because they think that as barristers they will be better fitted to act as magistrates, and without any intention of "practising"; but obviously these considerations detract nothing from the weight of Lord Penzance's criticism as applied to the case of William Shakspeare of Stratford.

Let us now consider a work by another lawyer of undoubted competence and long experience, E. T. Castle, K.C., to which I have already alluded. Mr. Castle appropriately puts upon his title-page the words of the Archbishop of Canterbury in *Henry V* (Act I, Scene 1):—

Miracles are ceast,
And therefore we must needs admit the means
How things are perfected;

but, seeing that a general knowledge of legal terms may

be acquired from books (always supposing that serious and prolonged study be devoted to them), this writer, though impressed with "the vast range of legal subjects known to, or affected to be known by, the writer of these [Shakespeare's] works," lays even greater stress on "the familiarity with the habits and thoughts of counsel learned in the law," which, he thinks, "is the peculiar characteristic of the legal plays." In his opinion the constant occurrence in the works of Shakespeare of legal expressions, remarkable though it is as showing that the man who made use of them must have had a legal training, is less valuable as a test than "the more subtle evidence which points to the life and habits of a lawyer which may not happen to be clothed in legal language." Speaking of Malone and Lord Campbell, he writes: "Both these authors, I think, have taken too narrow a view of the subject, and have therefore failed to recognise the evidence of the social and professional life of an English barrister, which is to be found by those who look for it."

The point to which Mr. Castle directs our attention is an important one, and ought not to be overlooked. The argument, therefore, stands thus: Not only does Shakespeare's knowledge of law and constant and accurate use of legal terms compel us to assume that he must have had a sound legal training, but also there is unmistakable evidence in the *Plays* of familiarity with the habits and thoughts of counsel and members of the Inns of Court, indicating that the writer was leading "the social and professional life of an English barrister."

It would take too long were I to attempt to give a statement of the evidence upon which this conclusion rests. I can only refer the reader to Mr. Castle's book, and other works dealing with the subject.¹

¹ There is much interesting matter in Mr. Castle's book, but I fear few have accepted the curious conclusion at which he has arrived, viz. that Shakspeare and Bacon collaborated in what he calls "the Legal Plays,"

We have, therefore, a number of lawyers, some of great eminence, others of great experience and known competence, Lord Campbell, Lord Penzance, Judge Holmes, Judge Webb, Mr. Castle, K.C., and many others, who are convinced, after careful consideration of the *Plays* and *Poems*, that Shakespeare must have studied law in a regular and systematic manner, and it is to be observed that this opinion is by no means confined to the unorthodox, but is shared by, besides Lord Campbell, devout Stratfordians such as Malone, Grant White, Gerald Massey, Mr. Collins, and others of the faithful. What says Mr. Sidney Lee? After dismissing "the theory that Field found work in Vautrollier's printing-office for Shakespeare on his arrival in London" as "fanciful,"¹ he adds, very truly, that "no more can be said for the attempt to prove that he obtained employment as a lawyer's clerk," and then proceeds as follows: "In view of his general

Bacon supplying the player with the law. Mr. Castle seems to have been misled by the very mistaken notion that everybody—"even Baconians"—admit that the Sonnets and "the two Poems" were written by Shakespeare, i.e. by Shakspeare; whereas, of course, those who do not believe in the Stratfordian authorship insist most strongly on the impossibility of these poems having been written by the Stratford player. Mr. Castle, finding that "law is to be found equally in the two Poems as it is in the Sonnets or Plays," is driven to assume a combined authorship of these also. It is his opinion that some of the plays, which he classes as "non-legal," "show not only absence of law, but ignorance of it." In these, of course, Bacon had no hand. Among such are *Titus Andronicus*, *Macbeth*, and *Othello*. As to *Titus*, I entirely agree with him, but it is not a Shakespearean play at all. As to the others, his argument seems to me unconvincing. Mr. Castle fares badly at the hands of Mr. Churton Collins. "Nothing could be more absurd" (p. 211), "Palpably absurd" (p. 213). I will not argue whether or not the epithets may be deserved, but Mr. Collins is about as well qualified to instruct Mr. Castle in law, as he affects to do, as I am to instruct a Senior Wrangler in the Differential Calculus.

¹ Shakspeare has been made a printer, as well as a schoolmaster, attorney's clerk, etc. etc. See Blade's *Shakespeare and Typography*. The author, quoting the *Winter's Tale*, II, 3, asks: "Is it conceivable that a sentence of four lines containing five distinct typographical words, three of which are especially technical, could have proceeded from the brains of one not intimately acquainted with typography?" (p. 42).

curious

quickness of apprehension, Shakespeare's accurate use of legal terms, which deserves all the attention that has been paid to it, may be attributable in part to his observation of the many legal processes in which his father was involved, and in part to early intercourse with members of the Inns of Court" (p. 30).

This, then, is how it strikes the layman's mind, in Mr. Lee's case at all events. To Lord Campbell Shakespeare displays "a deep and technical knowledge of law," and a familiarity with "some of the most abstruse proceedings in English jurisprudence." Lord Penzance, in view of the legal knowledge displayed, considers that "he must have received the regular legal education which men ordinarily receive who desire and intend to practise the law as a profession," (p. 157). Mr. Lee, however, knows better. For him there is no difficulty whatever. It is simplicity itself. John Shakspeare of Stratford was involved in "legal processes"; he was, for instance, summoned for "not keeping the gutters clean," and for having a muck-heap in front of his house; he had actions brought against him, generally for debt (*in placito debiti* occurs again and again in Mr. Halliwell-Phillipps's list of these proceedings); he was involved, with others, in a chancery suit respecting an estate, and so forth. Some of these were before his son William was born, others while he was living a busy life in London, actor, manager, and, of course, turning out plays at the rate of three or four a year,—but what of that? Such a man as Shakspeare had only to bestow his "observation" on these "processes," and have a few talks with members of the Inns of Court (Southampton and Bacon, for instance, both of Gray's Inn), and the rest would follow as a matter of course. In this way a young man of genius could easily "pick up" an accurate and comprehensive knowledge of law and legal principles! One's only fear is that in such case he might, perchance, have talked of getting "judgment from a jury," and of property in

animals *feræ naturæ*—deer, for example, when not in a forest, or park, or other place impaled, or have confounded “beasts of the forest” with “beasts of the chase”!¹ However, such is the stuff which passes among some Stratfordians—to do them justice, not all—as rational criticism.

But there is yet another argument advanced in explanation of Shakespeare's incessant use of legal terms. “Legal terminology abounded in all plays and poems of the period” (Lee, p. 30, n. 3.) The statement is characteristically hyperbolical. “*All* plays and poems of the period”! If Mr. Lee had said that many lay writers of the period, including poets and dramatists, were much more given to the use of “legal terminology” than such writers are at the present day, his assertion would have been within the bounds of truth and reason. We must admit that this use of legal jargon is frequently found in lay writers, poets, and others of the Elizabethan period—in sonnets, for example, where it seems to us intolerable. That is true, and by all means let due weight be given to the fact. Our contention, however, is that Shakespeare uses this legal terminology not only with a persistency but with an accuracy, and with a knowledge of the subject—that he displays a familiarity not only with legal terms and legal principles but with the life and habits of lawyers, judges, and members of the Inns of Court, which cannot be paralleled in the writings of any layman of the times.

Here we are once more confronted by His Honour Judge Willis, one of the few lawyers who think that Shakespeare's knowledge of law might have been picked up without any legal training. Having summoned up the spirit of Jonson as a witness at his imaginary trial, he makes his imaginary counsel put this question: “Did you, or do you know anybody, who was not a lawyer, have as great a knowledge of law as is displayed in this Folio volume?” To which the astral body of Ben makes

¹ *Ante*, p. 24 n.

answer, "Oh yes, many. It has been quite common for Divines, who to my knowledge have never been in any lawyer's office, to draw some of their happiest illustrations from legal proceedings. Why, there is my friend Thomas Adams. I know he has not been in a lawyer's office, because I heard him one Sunday morning in his discourse 'nonsuit the devil,' a thing a lawyer would never do." Here Mr. Willis is really rather too hard on his profession. I feel sure the late Lord Cairns, or the present Lord Halsbury, nay, even Judge Willis himself, would nonsuit his Satanic Majesty without hesitation, and there is, really, just as much evidence to show that Thomas Adams was an attorney's clerk as there is to show that either Shakspeare or Shakespeare was the professional colleague of Uriah Heap or Sampson Brass. However, this, of course, is Mr. Willis's little joke, and he is very welcome to it. Let us see what more he has to tell us of Thomas Adams. "In the same sermon he asked every one of the congregation whether God had *acknowledged a fine* to him. That's pretty technical, I think, and accurate. You 'suffer' a recovery, and you 'acknowledge' a fine.¹ I heard him one morning when he had not cleared a matter up quite to his satisfaction, say he must have a writ *ad melius inquirendum*; and on another occasion he said that when God cites men to judgment there will be no return to the writ *non est inventus*. Preaching at St. Paul's Cross [I am sure Ben would have said "Paul's Cross"!] March 7th, 1612, to eight thousand people, he said, 'If no plummets except of unreasonable weight can set the wheels of the lawyers' tongues a-going, and then if a golden addition can make the hammer strike to our pleasure; if they keep their ears and mouths shut, till their purses be full, and will not

¹ Technical knowledge concerning the terminology of "fines" seems to us now something rather remarkable, but to the men of Adams's day these expressions were natural enough, since "fines" were in constant use for the conveyance of land; consequently every educated man would know that "you 'acknowledge' a fine," just as every educated man to-day knows that you "deliver" a deed.

understand a cause till they feel it ; then, to speak in their own language, *Noverint universi, be it known to all men by these presents*, that these are thieves ; though I could wish that, *Noverint ipsi*, they would know it themselves and reform this deformity.' On another occasion Thomas Adams said, 'The inheritance is ours already, not *in re* but *in spe*. Our common law distinguisheth between two manner of freeholds ; a freehold indeed, where a man hath made his entry upon lands and is therefore really seised ; a freehold in law, where a man hath a right to possession, but hath not made his actual entry.' I heard him exclaim, 'Do not complain, Esau : *Volenti non fit injuria*.'"¹

Now my first comment is this. Here we have, it is true, a "divine" making use of certain legal terms, showing that he has probably looked into some law books, and perhaps been thrown into legal company. But let the intelligent and unprejudiced reader go through the *Plays* and *Poems* of Shakespeare, and "read, mark, learn, and inwardly digest" the persistence, the accuracy, with which he makes use of legal terms and legal allusions, in season and out of season, not only by citing legal terms and maxims, but by subtle references,—let him mark further, if he has sufficient knowledge of law to appreciate it, the familiarity shown by Shakespeare with legal proceedings, and, as Lord Campbell puts it, "some of the most abstruse proceedings in English jurisprudence," and then say if he thinks these expressions, culled from the sermons of Thomas Adams, furnish anything like a parallel case to that which we have been considering. This legal terminology used by the preacher certainly does not prove that he had had a regular legal training, they are, however, examples of that "omnivorous learning and recondite reading" for which, as Dr. Grosart has told us (*Dict. of National Biography*), he was famous, and "the spoils" whereof he constantly "lays under con-

¹ *The Shake-speare-Bacon Controversy*, by William Willis, p. 53 *et seq.*

(tribution." And this alone would be almost sufficient for our case, even although he had made use of much more recondite "legal terminology." For what time and opportunity had the young man from Stratford for "omnivorous learning and recondite reading"? But there is more than this to be said. How came it that Thomas Adams was so fond of displaying his familiarity with certain legal terms? The answer is that he was "observant chaplain" to Sir Henry Montague, Lord Chief Justice of England, and had dedicated to him a work on the "Spiritual Privileges" of the Church. That Thomas Adams, a man of omnivorous learning and recondite reading, observant chaplain to the Lord Chief Justice, thrown much among lawyers, and constantly preaching to them, should have affected the use of legal terminology in his sermons is not very remarkable. The only thing which, as it seems to me, can be inferred from the analogy is that Shakespeare also was a man "of omnivorous learning and recondite reading."

But Judge Willis has yet another case. "I have heard my friend Dr. Sibbes ask whether the congregation had a 'freehold' in the love of God or whether they were only 'tenants at will,' and whether they held all they possessed *in capite* of God."

Now who was Richard Sibbes? He was educated at the Grammar School, Bury St. Edmunds, was a scholar of St. John's College, Cambridge, was, in 1617, chosen *preacher at Gray's Inn*; and became, in 1623, Master of St. Catherine's College, Cambridge, but still retained his post at Gray's Inn, where he died in 1635. He was a friend of Sir Henry Yelverton, who succeeded Bacon as Solicitor-General, and it was through Yelverton's influence that he was chosen preacher at the most celebrated of the Inns of Court (as Gray's Inn then was), which counted, by the way, both Bacon and Southampton among its members. That this learned man, preacher at Gray's Inn and friend

and companion of lawyers, should have thought it appropriate to address lawyers in some of their own jargon, taking, perhaps, a little pride in showing that he had acquired some familiarity with legal terminology, is, certainly, not very remarkable.

Mr. Willis cites yet a third case, that of the Dean of Worcester, who, "when preaching from 'Buy the truth,'" exclaimed, "Here, my friends, is a bargain and sale," which, says Mr. Willis, through the imaginary mouth of Jonson, is "highly technical." Then the Dean, as quoted by Mr. Willis, goes on to say that "in every bargain and sale there must be a thing, a subject, which the writers on Roman law called 'merx.'"

I confess I do not know anything about the Dean of Worcester, cited by Mr. Willis, nor have I taken the trouble to inquire. I cannot think that the occasional legal language of those learned divines (two of whom I have shown to have been specially associated with lawyers) furnishes any analogy with the case of Shakespeare. It is not a question of the mere use of legal phrases or maxims, such as "acknowledging a fine," "a writ *ad melius inquirendum*," "*non est inventus*," "*noverint universi*," "*seised*," "*volenti non fit injuria*," "tenants at will," "tenants *in capite*," "bargain and sale," and the like. The question is, whether Shakespeare, when we consider his works as a whole, does not exhibit such a sound and accurate knowledge of law, such a familiarity with legal life and customs, as could not possibly have been acquired (or "picked up") by the Stratford player; whether it be not the fact, as Richard Grant White puts it, that "legal phrases flow from his pen as part of his vocabulary, and parcel of his thought"? It is not to the purpose to compile mere lists of legal terms and expressions from the pages of other Elizabethan writers, and those who do so simply display an *ignoratio elenchi*, as the old philosophers would say.

Meantime we again note the edifying divergence of opinion which exists among the Stratfordians. We may be content to leave Mr. Lee and Judge Willis to fight it out with Mr. Churton Collins, to say nothing of the older critics such as Malone, the Cowden Clarkes, Grant White, Gerald Massey, and a few others.

I cannot conclude this chapter without adverting to some curious remarks made by Mr. J. M. Robertson, in his work on *Titus Andronicus* (p. 54), with regard to Mr. Collins's essay on the law of Shakespeare. "The general thesis as to Shakespeare's legal knowledge or proclivities," writes Mr. Robertson, "maintained by Professor Collins in a special essay, 'Was Shakespeare a lawyer?' in his volume of *Studies in Shakespeare*, was exhaustively dealt with five years before by Mr. Devecmon in a treatise to which the Professor makes no allusion." Now Mr. Devecmon's book is a little volume of fifty-one pages, and how a critic like Mr. Robertson can describe it as an exhaustive dealing with the subject I am at a loss to understand. To do the author justice, although he imagines he has shown "that Shakespeare had no knowledge of the technique of the law, and no just appreciation of those fundamental principles of justice which are the basis of the law," he owns that this has been done "in a very brief and imperfect way." To me, the book, so far from being an "exhaustive" treatise, appears not only inadequate and superficial, but altogether erroneous and misleading. "There was," says Mr. Devecmon, "a fortnightly court held at Stratford-on-Avon," and it appears that that worthy marksman, John Shakspeare, or Shaxpere (as Walter Roche, ex-master of the Grammar School, spelt the name)¹, was not unfrequently before it, usually as defendant in some petty action of debt, though the first time we have mention of him, in 1552, he comes before the court charged, jointly with

¹ H.-P., II, 232.

Humphrey Reynoldes and Adrian Quiney, with having caused a nuisance by making a dung-heap in Henley Street, to which charge it appears they pleaded guilty.¹ Therefore, says Mr. Devecmon, "his son, the future poet, was thus brought up in an atmosphere of litigation," and "from these circumstances it can readily be seen how Shakespeare acquired his extensive knowledge of legal expressions, and his love of litigation which involved him in almost as many lawsuits as his father." One wonders what sort of an idea Mr. Devecmon, "of the Maryland Bar," had formed of this little "fortnightly court" in squalid Stratford! He speaks in grandiose fashion of "the arguments of the lawyers, the verdicts of the juries, and the judgments of the court," as though Coke had been sitting on the Bench with learned counsel pleading before him in some great civil or criminal cause. One might as well imagine Shakespeare getting his law from Mr. Nupkins, and his legal terminology from a court of *pie poudre*.

That any man after even the most cursory perusal of the *Plays* and *Poems* should imagine that Shakespeare's knowledge of law and lawyers was derived from such a tribunal as this, seems to me not a little extraordinary; that a lawyer should so conceive is more extraordinary still.

But then, says Mr. Robertson, Mr. Devecmon points out that in Webster's *The Devil's Law Case* there are "more legal expressions (some of them highly technical, and all correctly used) than are to be found in any single one of Shakespeare's works." Now if this statement were true, the answer would be that the subject of the play is a "Law Case," and that, therefore, the work was naturally full of legal expressions, and, further, that doubtless the brilliant author had well got up his subject for the purposes of the drama; whereas the proposition concerning

¹ See *John Shakespeare, Annals*, Halliwell-Phillipps, Vol. II, pp. 215-48. Where Mr. Devecmon gets his "nearly fifty lawsuits" in which John Shakespeare was engaged, I know not.

Shakespeare is that his knowledge not only of legal terminology, but of legal principles and of the habits and customs of lawyers, had become so much a part of his life and character and mental equipment that it was always showing itself even when very little appropriate to the subject on hand.¹

But the fact is that the statement as to *The Devil's Law Case* is not only not true, but so preposterously contrary to the truth that one can hardly believe that Mr. Devecmon had read the drama in question. There is, incredible as it may sound, practically *no law at all* in Webster's play! There are, indeed, a few legal terms such as "livery and seisin,"² "a caveat," "tenements," "executors," thrown in here and there, and there is an absurd travesty of a trial where each and everybody—judge, counsel, witness, or spectator—seems to put in a word or two just as it pleases him; but to say that there are "more legal expressions" in the play "(and some of them highly technical and all correctly used) than are to be found in any single one of Shakespeare's works" is an astounding perversion of the fact, as any reader can see who chooses to peruse Webster's not very delicate drama. I cannot but think that Mr. Robertson had either not read the play, or had forgotten it when he quoted this amazing passage.

And now let us see what is Mr. Devecmon's own opinion as to Shakespeare's law. We have seen how he imagines that it had its origin in the little provincial court of squalid and illiterate Stratford, but he conceives (p. 5) that the poet supplemented it afterwards in London at drinking-bouts in taverns such as "The Mermaid," with actors and "lawyer-playwrights," and also by looking in at the law

¹ See the remarks of Malone, Lord Penzance, and Mr. Churton Collins quoted above.

² If Webster had been a lawyer, would he not have said "livery of seisin"?

courts. "But legal expressions are highly technical, and when Shakespeare attended those feasts of the law in courts and in gatherings of attorneys, and carried away *scraps* [my italics] it is not at all surprising that he should occasionally commit an error when he used them so frequently." Shakespeare, in fact, according to this theory, "picked up" his legal knowledge by "scraps"; but "when in a comparatively few instances, his applications of law terms are so highly technical and so correctly given as to suggest a lawyer's touch, can we not readily believe that here he took advice of some lawyer friend?"

Mr. Devecmon then proceeds to give us some instances of Shakespeare's "inaccuracy in the use of law terms," which he would have us think are fatal to the argument that the great poet had any real knowledge of law. Thus he quotes *Richard III*, Act IV, Scene 4, 247, where Queen Elizabeth asks of Richard—

Tell me what state, what dignity, what honour
Canst thou demise to any child of mine?

But, observes Mr. Devecmon, "Dignities and honours could not be demised," and he cites *Comyn's Digest*, Tit. Dignity (E), in support of the proposition. "Q.E.D."

Let us consider this a little more closely. In the first place, I am not aware that it has ever been asserted that Shakespeare was not only such a hide-bound lawyer, but also so wanting in dramatic propriety as to make his ladies use legal expressions with the accuracy of the trained lawyer. But there is a good deal more to be said than this. What is it that that excellent old work known to all lawyers as *Comyn's Digest* really tells us? That "a dignity or nobility cannot be aliened or transferred to another." Not a very unreasonable proposition! If the king grants a title or "dignity" to a subject, it is natural enough that the grantee should not have the power to assign it away to another (perhaps for a round sum down),

or to put it up to auction. Therefore the Queen is right, *prima facie* at any rate, when she suggests to Richard that he has no power to "demise" any dignity or honour to a child of hers. Where is the legal error here? But there is this further observation to be made. It *was* possible for Richard to "demise" such dignities or honours, inasmuch as he was king, and even a subject could make a grant of such things "with the king's licence." (*Comyn's Dig., ad loc.*) Therefore the error is entirely on the side of Mr. Devecmon.¹

Let us take another instance. Queen Catherine, in *Henry VIII*, Act II, Scene 4, says to Wolsey:—

I do believe,
Induced by potent circumstances, that
You are my enemy, and make my challenge.
You shall not be my judge, etc.

But, says Mr. Devecmon, "To 'challenge' is to object or except to those who are returned to act as *jurors*, either individually or collectively as a body. The judge was not subject to challenge." Here the same curious idea is apparent, viz. that a dramatist cannot be a lawyer unless he makes his ladies and laymen speak in the language that a trained lawyer would employ. But, apart from this, it really seems to me no better than solemn trifling to argue from such an expression put into the Queen's mouth that the writer had no accurate knowledge of law. "Challenge" was constantly used in the sense of "objection," and even though the poet might have had the legal significance in his mind, it certainly does not argue the absence of legal training on his part that Catherine should apply, by a very natural analogy, to one of the Cardinals who were to act as judges in the case, a term which, in strict legal usage, was properly applicable only to a juror.²

¹ It may be noted that Folios 2, 3, and 4 read "devise" instead of "demise," but there is no reason to suppose that the First Folio reading is not the correct one.

² I assume, of course, that Shakespeare, and not Fletcher, wrote this scene.

It would be quite as much to the purpose were I to accuse John Webster (who, according to Mr. Devecmon, is always correct in his legal terminology) of inaccuracy because in *The Devil's Law Case* he makes Contarino say, "I sent you the *evidence* of the piece of land, I motion'd to you for sale"; instead of saying "*the deeds*"!

What next? Well, Hamlet says (Act IV, Scene 2):—

Besides, to be demanded of a sponge! What replication should be made by the son of a King?

Why, says Mr. Devecmon, "a very few days, or at most, weeks of practical training in a lawyer's office, would have sufficed to teach Shakespeare that this is an incorrect use of the word replication. The plaintiff makes his demand on the defendant by a narratio or declaration; the defendant replies by a plea; and the plaintiff's reply to this plea is called a replication. Certainly comment is here unnecessary."

On the contrary, comment is very necessary. Certainly, in pleading, a "replication" is the document which answered to the modern "reply," and was put in by the plaintiff; but even here it was not always so, for in actions of Replevin it was the *defendant* who put in a "replication" to the plaintiff's plea in bar; so, not even if we are to take the word (absurdly enough) as used in a technical legal sense, is Mr. Devecmon correct. But the fact is that "replication" was constantly used in ordinary parlance in the sense of "reply." Thus in *Julius Cæsar* (Act I, Scene 1, 50) we have it of an echo:—

Have you not made an universal shout
That Tiber trembled underneath her banks
To hear the replication of your sounds
Made in her concave shores?

With which we may compare Glover's

The echoes sighed
In loving replication.

And we have the word in Chaucer's *Knight's Tale* (C. 988) in its simple sense of "reply."

My will is this, for plain conclusion
Withouten any replication.

Mr. Devecmon must really try again.

But here, surely, is a gross inaccuracy! In *Henry V*, Act I, Scene 1, the Archbishop of Canterbury says:—

For all the temporal lands, which men devout
By Testament have given to the church,
Would they strip from us?

On which says the learned Devecmon: "The use of the word 'Testament' is here incorrect. A testator bequeaths *personal* property by a 'testament,' he devises real estate by a 'will.'"

"How absolute the knave is! We must speak by the card"! Must the Archbishop speak by the card too, or the writer be set down as no lawyer? But really this is but another example in support of the proposition that a little learning is a dangerous thing. "A *testament* is the true declaration of our last Will; of that wee would to be done after our death," says the learned author of that famous old book *Termes de la Ley*. A "testament" includes a "will," said the Court in *Fuller v. Hooper* (2 Vesey Senior 242). Nay, more, Littleton, the great and learned Littleton, uses "testament" as applicable to a devise of lands and tenements; and all Coke has to say about it is that "in law *most commonly* 'ultima voluntas in scriptis' is used where lands or tenements are devised, testamentum when it concerneth chattels." But we know that "testator" is used of a man who has made a will, whether it be of lands or of personal property. So that again Mr. Devecmon's attempt fails.

But take this case. Mark Antony says (*Julius Cæsar*, Act III, Scene 2):—

Moreover he hath left you all his walks,
His private arbors, and new planted orchards,
On this side Tiber, he hath left them you,
And to your heirs for ever.

Here Mr. Devecmon quotes Senator Davis to the effect that "Antony in speaking of the real estate left by Cæsar to the Roman people, does not use the appropriate word 'devise.'" Well, the fact is that Shakespeare was here just transcribing, *more suo*, from North's *Plutarch*, where he found the words, "*He left his gardens and arbours unto the people, which he had on this side of the river Tiber,*" and he did not, as a dramatist, think it necessary, nor was he so absurdly pedantic as to alter these words in order to make Antony use the technically correct legal expression. Ah! but then, says the critic, "it was also unnecessary for Cæsar's will to have contained the expression 'to your heirs for ever,' in order to give the people a perpetual estate in the realty." Really, really! This is just a little irritating. Shakespeare does not say that the will *did* contain those words; Antony is telling the people the effect of the will. To pray in aid these words, "and to your heirs for ever," used with excellent dramatic effect, as though they upheld the proposition that Shakespeare was no lawyer, is surely an argument fit only for the least intelligent of readers.

I pass over two supposed instances of legal inaccuracy contained in *Pericles* and *3 Henry VI* respectively, because, as I have already argued, there is really no reason to suppose that Shakespeare was the author of either of these plays, and therefore it is not worth while to waste time over them; but I must notice an alleged case of legal inaccuracy in *Love's Labour's Lost*, Act I, Scene 1, where the King says of Biron, Dumain, and Longaville that they

Have sworn for three years term to live with me,
My fellow students, and to keep those statutes
That are recorded in this schedule here.

Says Mr. Devecmon: "The word 'statutes' is here used to mean simply articles of agreement. It has no such meaning in law. A statute is an act of the legislature."

He thinks that Shakespeare might have got his idea "that any agreement might be called a statute" from "statutes merchant" and "statutes staple." But the word is *not* used by him, in the passage cited, "to mean simply articles of agreement," but rather in the sense of "ordinances," as in the very usual case of the "statutes" of a college or school, or of a cathedral chapter. And so it is used in the Authorised Version of the Bible (1611), as in Psalm CIX. 8, "I will keep thy statutes." Therefore, to put forward this use of the word "statute" as a case of legal inaccuracy appears to me not a little absurd.¹

Mr. Devecmon concludes his work with what seems to me a very absurd criticism of *The Merchant of Venice*, by which he claims to prove that "Shakespeare not only manifests his lack of knowledge of the technique of the legal profession, he shows a profound ignorance of law *and of the fundamental principles of justice*,—unless we assume that the trial scene disregards all ideas of law, justice and morality for mere dramatic effect; but it has been repeatedly shown by many writers that equal dramatic effect could have been attained without such sacrifice."

I do not think many readers, on this side of the Atlantic at any rate, will be impressed by Mr. Devecmon's argument. It must not be forgotten that *The Merchant of Venice* is a *comedy*, although such actors as the late Sir Henry Irving used to send us away with the idea that we had been witnessing a tragedy. I conceive that audiences in Shakespeare's day, to whom "Jew baiting" was far from distasteful, used to laugh at the misfortunes of Shylock, where we now experience not a little sympathy for the poor old Jew, in spite of his insistence on his "pound of flesh." At any rate, it seems to me simply ridiculous to contend that the dramatist was in "profound ignorance

¹ Cf. "The statute of thy beauty thou wilt take," of Sonnet 134, quoted at p. 411.

of law," and "of the fundamental principles of justice also" (alas for our immortal bard!), because, following an Italian romance, he has presented us in his comedy with a fantastic trial scene, in which he has not been either such a bad artist or, I may add, such a portentous pedant as to make his characters solemnly conform to the rules of British law and legal procedure.¹

I here leave Mr. Devecmon's "exhaustive treatise" over which I feel I have already wasted too much time; but since a critic such as Mr. J. M. Robertson seems to have been unaccountably misled by it, it seemed necessary to warn others against this untrustworthy guide who affects to speak with all the authority of a lawyer.²

The case, then, stands thus: such a great lawyer as Lord Campbell, who filled the highest legal offices in our land, having been both Lord Chief Justice of England and Lord Chancellor, and who was withal an orthodox Stratfordian, after a careful examination of Shakespeare's *Plays* and *Poems* was brought to the conclusion that the author must have had a serious legal training. In this he is fully supported by another great lawyer of more recent times, viz. Lord Penzance. On the same side are amongst

¹ Mr. John T. Doyle has shown that a very similar procedure to that exhibited in Shakespeare's comedy used to prevail in Nicaragua, once a Spanish colony, and still under the sway of Spanish customs. *Shakespeariana*, 10, 57, cited in Reed's *Bacon v. Shakspeare*, p. 232.

² Mr. Devecmon quotes *King John*, Act II, Scene 1, "Till you compound whose right is worthiest, etc."; and *The Taming of the Shrew*, Act II, Scene 1, "I will compound this strife"; and contends, rightly enough, that "compound" here is not used, as seemingly Senator Davis will have it that it is, in a technical legal sense. "To compound is in all these cases used in the general sense of to settle or determine. . . . To-day in general literature the word is used in pretty much the same sense in which Shakespeare uses it, perhaps that is due to the force of his great example." I venture to think that Shakespeare's "great example" had not very much to do with it. Mr. Devecmon might have cited Webster in *The Devil's Law Case*, concerning which he has made such an amazing statement: "One that persuades men to peace, and compounds quarrels among his neighbours, without going to law" (Act II, Scene 1). But really the "great example" is Virgil's *tantas componere lites*.

others, Malone, Richard Grant White, Judge Webb (a lawyer of no mean reputation), Mr. Castle, K.C., and Judge Holmes of the United States.¹ Mr. Devecmon, however, tells us that the great poet got his legal "terminology wrong quite as often as he got it right," and that this "is apparent to any serious examination: certainly it is apparent to any lawyer not tempted by an appetite for *tours de force*, or burning to make a fellow-barrister out of the greatest of dramatists."

Such criticism is, I venture to think, hardly applicable to either of the two great legal lords above mentioned, both of whom (and especially Lord Campbell) certainly made a "serious examination." But I am content to leave the reader to judge between the authorities I have referred to on the one side and Mr. Devecmon and Judge Willis on the other. Certainly if the question is to be decided by authority there can be no doubt what the verdict must be. The fact seems to be that modern critics, like Mr. Devecmon, have become painfully aware that if Shakespeare was really a trained lawyer, then Shakespeare cannot have been the Stratford player. Hence these attempts to discredit the too ingenuous, though deeply learned, Lord Chancellor; and as those who are not learned in the law are, in most cases, quite unable to appreciate the argument, they naturally follow their own inclinations in the matter, and these, of course, lead them to the Stratfordian shrine.²

¹ See, too, *Shakespeare as a Lawyer*, by Franklin Fiske Heard.

² Mr. Henry Davey, in the *Stratford Town Shakespeare* (Vol. X, p. 271), writes, "both his father and himself were so frequently concerned in legal transactions that he could have *picked up quite casually* all the law terms employed in his dramas and sonnets." As I have shown, it is not a question of the mere employment of "law terms," and really it is rather difficult to speak with patience of these airy pronouncements. Perhaps if Mr. Davey had served an apprenticeship to the law he might have appreciated the difficulties in the way of this casual picking-up theory! But he is himself another instance of a layman who betrays the fact that he is no lawyer, for he writes (p. 294), "New Place and all the Stratford properties . . . were *bequeathed* to

NOTE TO CHAPTER XIII

SHAKESPEARE AS A LAWYER

Mr. Sidney Lee, after telling us (p. 30, n. 3) that "legal terminology abounded in *all* plays and poems of the period" (the exaggeration of which statement I have already pointed out, and which, indeed, speaks for itself), refers to Barnabe Barnes's *Sonnets*, 1593, and *Zepheria*, 1594, as instances. That many of the sonnets of *Zepheria* "labour at conceits drawn from legal technicalities" (see Lee, Appendix IX) is certainly undeniable. Take the following for example (Canzon 37):—

When last mine eyes dislodged from thy beauty,
 Though served with process of a parent's writ;
 A *supersedeas* countermanding duty,
 Even then, I saw upon thy smiles to sit!
 Those smiles which me invited to a Party,
 Dispeopling clouds of faint respecting fear;
 Against the summons which was served on me,
 A lawyer privilege of dispense did bear.
 Thine eyes' edict the statute of Repeal
 Doth other duties wholly abrogate,
 Save such as thee endear in hearty zeal,
 Then be it far from me that I should derogate,
 From Nature's Law, enregistered in thee!
 So might my love incur a *Praemunire*.

Now this is so very absurd that we hesitate to believe that it was put forward as serious poetry. But, however this may be,

Susanna Hall." Now no lawyer would speak of *bequeathing* real estate. It is true that the attorney who, presumably, drafted Shakspeare's will makes use of the word with reference to his houses and lands, but he does so in the common and comprehensive formula "I give, will, bequeath, and *devise*." He never uses the word "bequeath" alone with reference to land; which of itself ought to have saved Mr. Lee and Mr. Davey from the error of saying that Shakspeare left the tenement in Chapel Lane to his daughter Judith. See p. 189 n. 2.

(the example of *Zepheria* has no relevancy to our argument in Shakespeare's case, because the author is anonymous. I should think it highly probable that he was a lawyer, and what we are in search of is instances of familiarity with legal learning, and a legal life, in the writings of a layman without legal training, such as may fairly be put forward as parallel to the Shakespearean instances.¹ Perhaps it was partly because the author was a lawyer that another lawyer poet—Sir John Davies—eminent both at the Bar and on the Bench, held him up to ridicule in his *Gullinge Sonnets* of 1595.

Let us, then, leave *Zepheria* as not to the point, and turn to Barnabe Barnes's *Sonnets*. "In these," says Mr. Lee, "legal metaphors abound"; yet if the reader will turn to the hundred and four sonnets and twenty-six madrigals of *Parthenophil and Parthenophe* he will, I think, only find legal allusions in nine of the sonnets and one madrigal, which can hardly be said to justify Mr. Lee's exuberant description.

Let us now examine these "legal metaphors." It seems (though the meaning is not always easy to follow) that the poet had been in bondage to a certain "light Laya," but seeing this nymph coquetting with "a youthful Squire," his heart flies back to Parthenophe and asks for pardon. Then follows Sonnet vi:—

Him when I caught, what chains had I provided !
 What fetters had I framed ! What locks of Reason !
 What keys of Continence had I devised
 (Impatient of the breach) 'gainst any treason !
 But fair Parthenophe did urge me still
 To liberal pardon, for his former fault ;
 Which, out alas ! prevailed with my will.
 Yet moved I bonds, lest he should make default :
 Which willingly she seemed to undertake,
 And said "As I am virgin ! I will be
 His bail for this offence ; and if he make
 Another such vagary, take of me
 A pawn, for more assurance unto thee !"
 "Your love to me," quoth I, "your pawn shall make !
 So that, for his default, I forfeit take."

Thereupon "her love to me, she forthwith did impawn," and

¹ On the supposition, of course, that Shakspere = Shakespeare.

sets his heart at liberty, but the heart meditates another flight to the lady.

Then to Parthenophe, with all post haste
 (As full assuréd of the pawn fore-pledged),
 I made ; and, with these words disordered placed,
 Smooth (though with fury's sharp outrages edged).
 Quoth I, "Fair Mistress ! did I set my Heart
 At liberty, and for that, made him free ;
 That you should arm him for another start,
 Whose certain bail you promiséd to be !"
 "Tush !" quoth Parthenophe, "before he go,
 I'll be his bail at last, and doubt it not !"
 "Why then," said I, "that Mortgage must I show
 Of your true love, which at your hands I got."
 Ay me ! She was, and is his bail, I wot :
 But when the Mortgage should have cured the sore
 He passed it off, by Deed of Gift before.

The poet next complains that Parthenophe keeps his heart
 "like a slavish martyr" (Sonnet x).

Ah me ! since merciless, she made that charter,
 Sealed with the wax of steadfast continence,
 Signed with those hands which never can unwrite it,
 Writ with that pen, which (by pre-eminence)
 Too sure confirms what's ever was indightit.

He upbraids the lady for

Leaving thy love in pawn, till time did come on
 When that thy trustless bonds were to be tried !
 And when, through thy default, I thee did summon
 Into the Court of Steadfast Love, then cried,
 "As it was promised, here stands his Heart's bail !
 And if in bonds to thee, my love be tied,
 Then by those bonds, take Forfeit of the Sale !"
 (Sonnet xi)

In Sonnets xv and xvi we have allusions to "thy love's large
 Charter and thy Bonds," and "that accursed Deed, before
 unsealed," and in Sonnet xx we find the following lines :—

These Eyes (thy Beauty's Tenants !) pay due tears
 For occupation of mine Heart, thy Freehold,
 In Tenure of Love's service ! If thou behold

With what exaction, it is held through fears ;
 And yet thy Rents, extorted daily, bears.
 Thou would not, thus, consume my quiet's gold !

Here the poet takes leave of law, and soon afterwards plunges into astronomy. It is rather a stretch of language, therefore, to say that "legal metaphors *abound*" in these poems ; neither can it be said that such as these exhibit so sound a knowledge of legal doctrines and technicalities as would make us imagine that the author must have had a legal training. What have we? The common notion of going bail for a prisoner ; giving a pledge for his good behaviour ; a Bond ; a Mortgage ; a charter ; a Deed, signed and sealed ; Freehold ; Tenure ("of love's service") ; Rents ;—surely the introduction of such well-known terms as these, jumbled together with nothing to suggest that the writer had any special knowledge of the subject from which they are borrowed, but rather the contrary, cannot be seriously put forward as a parallel to Shakespeare's familiarity with law and lawyers, and the persistency and accuracy with which he makes use of legal phraseology !

Compare with these specimens from Barnabe Barnes Shakespeare's Sonnets xlvi and cxxxiv.

SONNET XLVI

Mine eye and heart are in a mortal war,
 How to divide the conquest of thy sight ;
 Mine eye mine heart thy picture's sight would bar,
 My heart mine eye the freedom of that right.
 My heart doth plead that thou in him dost lie,
 A closet never pierced with crystal eyes,
 But the defendant doth that plea deny,
 And says in him thy fair appearance lies.
 To 'cide this title is impanneled
 A quest of thoughts, all tenants to the heart ;
 And by their verdict is determined
 The clear eyes moiety and the dear heart's part ;
 As thus ; mine eye's due is thine outward part,
 And my heart's right thine inward love of heart.

A layman reads this sonnet, does not appreciate its meaning,

and thinks that it might perfectly well have been written by a man who had never had any legal training. What does the trained lawyer say? Lord Campbell's comment is as follows: "I need not go further than this sonnet, which is so intensely legal in its language and imagery, that without a considerable knowledge of English forensic procedure it cannot be fully understood. A lover being supposed to have made a *conquest* of (i.e. to have gained by *purchase*) his mistress, his EYE and his HEART holding as joint tenants, have a contest as to how she is to be partitioned between them, each moiety then to be held in severalty. There are regular pleadings in the suit, the HEART being represented as Plaintiff and the EYE as Defendant. At last issue is joined on what the one affirms and the other denies. Now a jury (in the nature of an inquest) is to be empanelled to decide, and by their verdict to apportion between the litigating parties the subject-matter to be decided. The jury fortunately are unanimous, and after due deliberation, find for the EYE in respect of the lady's outward form, and for the HEART in respect of her inward love. Surely Sonnet 46 smells as potently of the attorney's office as any of the stanzas penned by Lord Kenyon while an attorney's clerk in Wales."

In Sonnet cxxxiv Shakespeare makes play with the law of debtor and surety. It is a well-established rule of law, which holds good to-day as it did when Shakespeare wrote, that the payment of a debt by a surety releases the debtor so far as the creditor is concerned. The creditor has been satisfied, not by the debtor it is true, but by somebody else, and has no further claim; but the surety can sue the debtor for the sum which he has been called upon to pay on his behalf. In Sonnet cxxxiv the poet complains that this rule does not hold good in love as it does in law. He is, as Mr. Castle writes, "referring to some old love of his who has attracted the affections of a common friend, whereby he is deprived of his love and friend, and yet is not himself set free." In Sonnet cxxxiii the author complains the lady has captured both himself and his friend, and continues in cxxxiv thus:—

So now I have confessed that he is thine,
And I myself am mortgaged to thy will;

Myself I'll forfeit, so that other mine
 Thou wilt restore, to be my comfort still ;
 But thou wilt not, nor he will not be free,
 For thou art covetous, and he is kind ;
 He learn'd but surety-like to write for me,
 Under that bond that him as fast doth bind.
 The statute of thy beauty thou wilt take,
 Thou usurer, that putt'st forth all to use,
 And sue a friend, came debtor for my sake ;
 So him I lose through my unkind abuse.
 Him have I lost ; thou hast both him and me ;
He pays the whole, and yet am I not free.

Mr. Castle explains that by a "statute" here is meant "an old form of bond, whereby a man's body and lands were made liable to be taken in satisfaction of a debt incurred either as a merchant or in the staple market."

Then we have, in *Venus and Adonis*, the extraordinary and highly unpoetical allusion to what is known to lawyers as a common money-bond, which was "a contrivance by the English lawyers to enforce payment of a debt, or the fulfilment of some other obligation on a fixed day. Time was not considered by the law an element of the contract in many cases. Thus, if a debtor promised to repay a loan at a certain date, if he failed to do so the creditor, though he might be put to great inconvenience by the non-receipt of the money on the day named, could not recover any damages for the non-fulfilment of the promise beyond interest in certain cases. This might be a very inadequate remedy for the damage the creditor might suffer in being thus disappointed in his money at the proper time. He would have to proceed by action to recover, and might be delayed by the different proceedings in law. To remedy this the English lawyers contrived the plan of making the debtor enter into a bond in which he acknowledged that he was indebted to the creditor in a sum generally twice the original loan. This bond being under seal was binding, though not true ; but there was a condition attached to it, viz. that if the debtor paid or otherwise fulfilled his obligation on the day named the bond should become null and void. So that the creditor had the sanction of the penalty of a double payment to enforce the return of the sum

due on the day named. This penalty, as it was called, being a penalty, was very strictly construed by the Courts and was not always a money one. It may be remembered in *The Merchant of Venice* it was a pound of flesh, and Portia, well knowing the law, or rather, having the author's knowledge, saved Antonio's life by noticing the fact that flesh only was mentioned, so that not one drop of blood was to be taken, and a pound to a hair's weight, neither more nor less, was to be cut off. In *Venus and Adonis* the author, with his fondness for law, brings this money bond into use. He makes Venus, in the midst of her passion, being an Italian goddess, play upon the terms and conditions to be found in a bond, even to its sealing with wax:—

Pure lips ! Sweet seals in my soft lips imprinted,
What bargains may I make, still to be sealing?
To sell myself I can be well contented,
So thou wilt buy, and pay, and use good dealing ;
Which purchase, if thou make, for fear of slips
Set thy seal-manual on my wax-red lips.

A thousand kisses buys my heart from me ;
And pay them at thy leisure, one by one.
What is ten hundred touches unto thee ?
Are they not quickly told and quickly gone ?
*Say, for non-payment that the debt should double,
Is twenty hundred kisses such a trouble ?*

This allusion by Venus to an English common money bond is so incongruous that it is almost burlesque.”¹

Mr. Castle further points out that “some of the most remarkable references to law are to be found in the *Rape of Lucrece*, where the author shows that he is familiar with a very technical and

¹ Castle on *Shakespeare, Bacon, Jonson, and Greene*, pp. 16-18. In *Macbeth*, Act IV, Sc. 1, we have the well-known lines:—

“But yet I'll make assurance doubly sure,
And take a bond of fate.”

Here every lawyer recognises legal terminology. “Assurance” is, of course, a legal term, and to make the instrument doubly sure he will take a bond, “referring,” says Mr. Rushton (*Shakespeare a Lawyer*, p. 20), “not to a single, but to a conditional bond, under or by virtue of which, when forfeited, double the principal sum was recoverable.” See, too, III, 2, 49, where the same figure is used with a different application.

intricate form of pleading, happily long obsolete, which for some time has ceased to be any part of modern practice. An ordinary writer might have known the conditions of a money bond, though I doubt if he would have thought of introducing it into a passionate poem like *Venus and Adonis*; but I doubt if any one but a lawyer would have been familiar with the example I am now about to refer to."

The writer then alludes to the use of the word "colour" in the *Rape of Lucrece*, as in the lines

But she with vehement prayers urgeth still,
Under what colour he commits this ill,

which he shows to mean "under what title or justification he commits this trespass. If this were by a husband, the answer would be by colour of a husband's rights. If a favoured lover had to reply, his answer would be by colour of leave and licence. Tarquin had no colour—he is a trespasser pure and simple. He therefore plays upon the word as we so often find in our author's works."

The word "colour," as Mr. Castle points out, "as used in legal pleadings, has a very specialised meaning . . . the old English lawyer used it as something beyond an appearance, viz. a pretended title," and the writer gives an extract from a book well known to lawyers, *Viner's Abridgment*, explaining that "colour in pleading is a feigned matter which the defendant or tenant uses in his bar, when an action of trespass, or an assize, or entry *sur disseisin* for rent or forcible entry is brought against him, in which he gives the plaintiff or demandant some colourable pretence which seems at first sight to intimate that he hath good cause of defence, the intent whereof is to bring the action from the jury's giving their verdict upon it to be determined by the judges, and, therefore, it always consists of matter of law, and that which may be doubtful to the *lay people*." But I must refer to the work cited for further illustration on this point.

The plays, as is well known, teem with allusions to law and legal doctrines and life and customs and habits. For these I must refer to the works of Lord Campbell, Mr. Cushing Davis, Mr. Richard Grant White, Mr. Castle, K.C., Malone, Mr. Rushton,

Judge Holmes, Lord Penzance, Judge Webb, and others. The reader may also refer, if he will, to Mr. Churton Collins's essay, *Was Shakespeare a Lawyer?* but Mr. Collins not having himself any special knowledge of this part of the subject, is an unsafe guide, and is apt to see things altogether out of their proper proportion, as is shown by the quotations which he makes from *Titus Andronicus* in a quite ineffectual attempt to prove legal knowledge on the part of the author of that horrible tragedy. I will content myself with one or two instances. The first shall be the allusion in *Hamlet* to the famous case of *Hales v. Petit*, which was decided about the time when Shakspeare was born, reported by Plowden in Norman-French, and to be found in the black-letter reports bearing his name.¹ Sir James Hales, a puisne judge, was so worried by proceedings which had been brought against him, that in the year 1564 he committed suicide by drowning himself, and a jury had found a verdict of *felo de se*. He was a joint tenant with his wife of some land. If he had died a natural death she would have taken the whole by the right of survivorship; but as he died by his own hand the Crown claimed the whole of his property as forfeited by that felony, and had actually conferred it on the defendant, Cyriac Petit. Lady Hales, however, contended that no forfeiture had been incurred during her husband's lifetime, since the crime which involved the forfeiture was not complete so long as her husband was alive, for as long as he was alive he had not killed himself, and the moment he died the estate vested in the widow, his joint-tenant, by right of survivorship. The question, then, was whether the crime was committed in Sir James's lifetime. Counsel for the widow argued after this fashion: "Two things were to be considered, first, the cause of death; secondly, the death ensuing the cause, and these two make the felony, and without both the felony is not consummate, etc." For the defendant Serjeant Walsh argued thus: "The act of felony consists of three parts—the first is the imagination whether or not

¹ Mr. Castle seems to be in error in thinking that the report of this case was "not printed until after his [Shakspeare's] death." The Folio edition of Plowden's *Reports* was printed in 1571, and reprinted 1578. A later edition with a second part was printed in 1579, and both parts were reprinted in 1599 and 1613.

it is convenient for him to destroy himself, and what way it can be done; the second is the resolution, which is a determination of the mind to destroy himself; and the third is the perfection, which is the execution of what the mind had resolved to do."

The Court gave judgment for the defendant, that is, in favour of the contention of the Crown, delivering themselves thus: "Sir James Hales is dead. How came he to his death? By drowning. And who drowned him? Sir James Hales. And when did he drown him? In his lifetime; and the act of the living man was the death of the dead man, for Sir James Hales being alive caused Sir James Hales to die."¹

Now the dialogue of the two clowns in "the grave-digger's scene" in *Hamlet* is, without doubt, intended as a travesty of this case. This dialogue is not to be found in the First or 1603 Quarto of *Hamlet*, but was added in the Second Quarto (published in the very next year, 1604), which is said to be "newly imprinted and enlarged to almost as much again, which shows much careful revision, and which contains some passages of the highest poetry omitted by the Folio of 1623. Everybody will remember the concluding words: "But is this law?—Ay, marry, is't, crowner's quest law." Lord Penzance cites this dialogue as "a very curious proof of the thorough legal studies which the author of the plays must have gone through." Yet, as Mr. Collins says, "it is not likely that Shakespeare (i.e. Shakspeare) had studied or was even acquainted with Plowden's *Commentaries and Reports*, which were only accessible to him in Norman-French." I trow not, but I have no doubt that the author of *Hamlet* knew his Plowden well enough.

I have already expressed the opinion that *Henry VI*, Part 1, is not the work of Shakespeare, but it is generally admitted that if Shakespeare's pen is to be found in it at all, it appears in the scene in the Temple Gardens (Act III, Scene 1), where much familiarity is shown with the habits of members of the Inns of Court. Here I will merely refer to Mr. Castle's book (p. 65).

¹ See Lord Campbell, *Shakespeare's Legal Acquirements*, p. 33; Lord Penzance, *The Bacon-Shakespeare Controversy*, p. 90; Mr. Castle on *Shakespeare, Bacon, Jonson, and Greene*, p. 83; Mr. Churton Collins's *Studies in Shakespeare*, p. 223.

Mr. Castle thinks that the scene must have been written by a member of Gray's Inn, at that time the most famous of the legal inns.

One more instance. In *Love's Labour's Lost* (Act II, Sc. 1, 222) the grant of a kiss is compared to a grant of pasture:—

Boyet. So you grant pasture for me.

Maria. Not so, gentle beast;

My lips are no common, though several they be.

Boyet. Belonging to whom?

Maria. To my fortunes and me.

Common of pasture is, of course, a right of common with which lawyers are very familiar. Boyet desires a grant of pasture on Maria's lips, but she replies that there is "no common" there. This suggests the distinction between tenancy in common and "severalty" or individual ownership, and Maria, bethinking her that her lips are "several," or severed one from the other, adds "though several they be." The same idea appears in the Sonnets.

Why should my heart think that a *several* plot,
Which my heart knows the world's wide *common* place?)

In the play there seems, at first sight, to be some little confusion involved by the use of the word "though," for things which are "several" would naturally not be "common," but I think the explanation is to be found in a note of William Hazlitt's to *Sir John Oldcastle*, Part 1, Act III, Sc. 1, where the Earl of Cambridge says:—

Of late he broke into a *several*
Which doth belong to me;

and the note explains "several" here as meaning "portions of common land assigned for a time to particular proprietors." Thus "severals" could be part of common lands, and so Maria might say that her lips, *though* "several" are "no common," though, even so, the conjunction seems rather forced.¹

But examples from the plays could be multiplied almost *ad*

¹ Knight tells us that "Dr. James has attempted to show that *several*, or *severell*, in Warwickshire, meant the *common field*;—common to a few proprietors, but not common to all. In this way the word 'though' is not

) Note

infinitum. I have only given a few specimens. To compare with all this profusion of legal phraseology and wealth of legal knowledge the few feeble instances which can be cited from Barnabe Barnes is but to heighten by way of contrast the case for a legal Shakespeare. Meanwhile we may well ask, Did the provincial player, the "Stratford rustic," write such sonnets as those which I have quoted? Is it *his* law which appears in Venus's allusion to a common money bond, or in the various passages of *Lucrece*? Did *he* write the travesty of *Hales v. Petit* in *Hamlet*? Did *he* discourse of "common of pasture" and "severalty" in *Love's Labour's Lost*? Is it to *him* that we owe the thousands of legal allusions scattered throughout the *Plays*? I think not. *Credat Judæus*.

contradictory. Maria's lips are 'no common though several.' . . . 'I and my fortunes' are the co-proprietors of the common-field, but we will not 'grant pasture' to others." Unfortunately for this explanation no commons are "common to all"—the common rights are confined to a limited number of commoners. As to the supposed reference to Warwickshire, it may be remarked that "common-fields" were by no means peculiar to that county, but were *common* throughout England. Mr. Elton (p. 144) has yet another explanation. He tells us that "the farmers as a rule enjoyed the rights of pasture on the corn lands in fallow, the weeds providing an abundance of coarse food for the town-herd or common flock. But in some districts portions of the fallow were exempted from the general right, and were kept as 'severals' or 'sunder-lands' for the owner's private use." I cannot think that this interpretation (which, by the way, gives us no explanation of the word "though") is the right one. Mr. Elton seems to me to have been sometimes carried away by his love of finding some recondite antiquarian meaning where none had been suspected before. I may add, in further illustration of the fact that the word "several" does not always exclude the idea of "common-right," that there is near Midhurst, in Sussex, a large wood known as "The Severals," in which certain rights of common were once, I believe, enjoyed. The late Rev. H. D. Gordon writes, in his *History of Harting*, "'Severals,' not an uncommon name for a piece of land severed and enclosed from the Common," and he quotes in illustration the above passage from *Love's Labour's Lost* (chap. VIII. p. 207, n.). There is a farm known as "Severals" in West Norfolk, in the neighbourhood of Stoke Ferry. If we could ascertain the origin of these old names it might throw light upon the passage above quoted.

CHAPTER XIV

SHAKESPEARE AS NATURALIST AND SPORTSMAN

THE orthodox conception of Shakspeare's early life is that, except for the time when he was assiduously cramming himself with Latin at the Free School (as abundantly appears from his works, though his great industry and ability were, unfortunately, not marked or recorded by those with whom he was associated), he was wandering through the fields and woods of Stratford, and especially along the banks of the Avon, a thoughtful and contemplative student of nature, and especially observing the birds and the beasts in their natural habitats and taking careful note of their ways and manner of life. Thus Charles Knight has expressed his opinion that "Shakspeare was a naturalist in the very best sense of the word. He watched the great phenomena of nature, the economy of the animal creation, and the peculiarities of inanimate existence; and he set these down with almost undeviating exactness, in the language of the highest poetry."¹ And this dictum as to Shakspeare having been a great "naturalist" and a close observer of "the economy of the animal creation" has been repeated over and over again until it has come to be accepted as an axiomatic truth.

In April, 1894, however, there appeared in the *Quarterly Review* an article on "Shakespeare's Birds and Beasts," which caused some little flutter in the literary dovecots, because the writer appeared to speak as one in authority

¹ *Pictorial Shakspeare*. Illustrations of *1 Henry IV*, Act V.

and not as the scribes. This very able and instructive article has been a good deal quoted at second-hand, and has met with considerable animadversion from critics who evidently have not taken the trouble to read it. Thus Mr. G. A. B. Dewar, himself a naturalist and sportsman, after citing Mr. Bompas's reference to the *Quarterly Review*,¹ writes as follows: "I confess at once, with no sense of shame, that I write without having collated the various impugned or suspected passages in the plays bearing on Nature and natural history with their alleged originals. If they really so resemble these originals as to leave no doubt that the writer of the plays had read the various books referred to by the *Quarterly Review* and others, it may furnish an argument to those who contend that Bacon, not Shakespeare, wrote the plays, that is, if it can at the same time be shown that Shakespeare could have had no access to those books. *It does not in the least show that the writer of the plays had not earnestly observed, was not in true sympathy with Nature.* Evidently there are passages in Tennyson bearing on Nature which owe much in expression to Virgil; yet Tennyson, as we all know, did observe very closely and was in sympathy with Nature. *The truth is that the plays bear throughout, stamped with the utmost distinctness upon them, the hall-mark of the great-hearted lover of Nature.*"²

(Mr. Dewar is here merely fighting with phantoms of his own creation. Nobody has ever made such an absurd assertion as that Shakespeare was not "in true sympathy with Nature," or that he was not a "great-hearted" lover of Nature. Had Mr. Dewar taken the trouble to see what the proposition really is which the *Quarterly Review* has emphasised with so much acuteness, he might have spared us some arguments which, though put with admirable

¹ *Problem of the Shakespeare Plays*, p. 31.

² "Shakespeare's Nature" in the *New Liberal Review*, January, 1904. The italics are mine.

brevity and with much charm of style, are employed in support of a proposition which never has been impugned.

Let us see, then, what the argument really is. Dr. Johnson, in the preface to his edition of Shakespeare (1765), wrote: "Shakespeare is above all writers, at least above all modern writers, the poet of nature." Here most readers seem to have stopped, and the above words are quoted as though Johnson's opinion was that Shakespeare was the great "Naturalist poet." But let us see how the passage continues: "The poet that holds up to his readers a faithful mirror of manners and of life. His characters are not modified by the customs of particular places, unpractised by the rest of the world; by the peculiarities of studies or professions, which can operate but upon small numbers; or by the accidents of transient fashions or temporary opinions: they are the genuine progeny of common humanity, such as the world will always supply, and observation will always find. . . . It is from this wide extension of design that so much instruction is derived. It is this which fills the plays of Shakespeare with practical axioms and domestick wisdom. It was said of Euripides that every verse was a precept, and it may be said of Shakespeare, that from his works may be collected a system of civil and œconomical prudence."¹ This is admirable; and it shows us in what sense Shakespeare was, in Johnson's opinion, "the poet of nature." He was the poet of *human* nature; a proposition which nobody, I imagine, has ever disputed or will dispute. It is very much akin to what Dryden said, viz. that Shakespeare "needed not the spectacles of books to read Nature, for he looked inwards and found her there."

But Johnson does not stop here, for further on he says: "Nor was his attention confined to the actions of men; he was an exact surveyor of the *inanimate world*; his

¹ I quote from Nichol Smith's *Eighteenth Century Essays on Shakespeare*, p. 114.

descriptions have always some peculiarities, gathered by contemplating things as they really exist." And now we have a complete statement of Johnson's meaning when he described Shakespeare as "the poet of nature." He is the poet of *human* nature and of *inanimate* nature. But, as the Quarterly Reviewer writes: "This phrase of Johnson's has been passed on by pen to pen, and in time his 'nature' has become to be written 'Nature,' and his words to mean that Shakespeare was a born naturalist." And so it is that we find men like Charles Knight speaking of William Shakspeare as though he was a worthy precursor of White of Selborne; a close observer of the life-habits of birds and beasts. And it is with this idea in their minds that men have been inspired to write elaborate but, I fear, quite useless treatises on Shakespeare's Entomology, and Shakespeare's Ornithology, and so forth.

Now the proposition which, following the Quarterly Reviewer, I confidently propound, is that Shakespeare, "great-hearted lover of Nature" though he was; profoundly though he had studied human nature; closely though he had observed, and deeply though he had contemplated the phenomena of the inanimate world,—had really devoted no close observation at all to the wild birds, and the wild animals, or, for the matter of that, to the fishes or the insects, whether of Stratford or elsewhere.

Here it may be as well to give in his own words what the Quarterly Reviewer has said as to Shakespeare's borrowing from books in the matter of "Natural History," but let it be clearly observed that the criticism relates to the poet's "familiarity with *animate* Nature," and to that alone. "Chaucer wrote of what he saw and heard in the animal life about him with a sense of personal delight that convinces the reader of his familiarity with animate Nature. So, too, with Spenser. Though the scholar in him was often led aside by classical precedent, we are certain that his swans were real swans upon the Thames

and 'the culvers on the bared boughs' actually upon trees in the poet's sight. Ben Jonson, again, was beyond any doubt very fond of Nature, and singularly well-informed: had he finished his *Sad Shepherd*, we should have possessed a most valuable and delightful document on the outdoor life of his time, for the fragment that we have is instinct with authentic observation and a fine fidelity to truth. Marlowe is quite different, preferring the bizarre and outlandish in natural history—the flying-fishes, remoras, and torpedosa of Pliny—to the more moderate fauna of his own neighbourhood. Shakespeare resembles none of them. He borrows from Gower and Chaucer and Spenser; from Drayton and Du Bartas and Lyly and William Browne; from Pliny, Ovid, Virgil, and the Bible; borrows, in fact, everywhere he can, but with a symmetry that makes his natural history harmonious as a whole, and a judgment that keeps it always moderate and possible. But with the exception of his treatment of the victims of the chase—an exception well worth the notice of those who claim him as an enthusiastic 'sportsman'—he is seldom so personally sympathetic as to convince us of his sincerity."

This seems to me an entirely accurate statement of the case. Take, for instance, Shakespeare's famous description of the horse in *Venus and Adonis*. The Reviewer points out that "it is borrowed word for word from Du Bartas," but as I have already shown,¹ the words appear to be taken directly from Joshua Sylvester's translation of Du Bartas, which it seems Shakespeare must have had before him whether in print or in manuscript. The fact seems to be that Du Bartas derived his description of the horse, or most of it, from Virgil,² and Shakespeare took *his* from Du Bartas, through Joshua Sylvester.

curious

The Reviewer, who, however, had not apparently had his attention called to Sylvester's translation, thus sums

¹ *Ante*, p. 59 *et seq.*

² *Georgics*, III, 73 *seq.*

up the case as to "the ideal horse." "If Shakespeare did not borrow from Du Bartas, it is obvious that he borrowed from some other work to which Du Bartas had already been. And if critics will read the whole of Du Bartas' description, they cannot, in any honesty, deny that it is much superior to Shakespeare's summary of it. At all events, it is time that 'critics' gave over eulogizing it as 'Shakespeare's description' of an ideal horse."

The next example is that of the bee, and the Commentator quotes *Henry V*, Act I, Scene 2, 187-204, of which passage he says: "As poetry, it is a most beautiful passage; as a description of a hive, it is utter nonsense, with an error of fact in every other line, and instinct throughout with a total misconception of the great bee-parable. Obviously, therefore, there could have been no personal observation. How, then, did the poet arrive at the beautiful conception? From the *Euphues* of Lyly. The passage will be found in a speech of Fidus by any one who will read from 'a kind of people; a commonwealth for Plato,' to 'whom they that tarry at home receive readily, easing their backs of so great burthens.' Was it original in Lyly? No, for any one who will turn to the fourth book of the *Georgics* will find there Virgil's description of a bee-hive, and if Shakespeare had, in his own matchless language, directly paraphrased the Latin poet's beautiful version, his description would have gained greatly in accuracy, and lost but little in originality.¹ And again; "Shakespeare's description of the hive owes its design to the fancies of others, and its details to the poet's own imagination. Not only is it full of errors (those, perhaps, would not matter), but Shakespeare has so perverted for his purpose—the Archbishop is holding

¹ For the passage in Lyly's *Euphues* see Arber's Reprint, pp. 262-4. Mr. Gollancz thinks that "the *ultimate* source is probably Pliny's *Natural History*, Bk. XI," of which, as he notes, Holland's translation did not appear till 1601.

forth before the King on the necessity of co-operation for the welfare of the Kingdom and his Majesty—the whole natural scheme of bee-economy as to show himself entirely out of sympathy with Nature's design. Shakespeare has a great many references to the bee, in metaphor and simile and moral, but his natural history of the insect is as limited as it is inaccurate. Thus, 'The old bees die, the young possess their hive';¹ a line which reads like a platitude or a truism, and seems hardly worth the saying. Yet it is so instinct with misconception that it would be hard to find its equal. Of anything else in the world it might be true, but said of the bee it is a monumental error, the most compendious misstatement possible. There are no 'generations' of bees; they are all the offspring of the same mother; and they possess the hive by mutual arrangement and not by hereditary succession, for when it gets too full the superfluous tenth goes off with a queen bee to 'the colonies,' leaving, as it were, the old folks at home. . . . What was Shakespeare's idea of the 'drone' bee? Suffolk says, 'Drones suck not eagle's blood, but rob bee-hives,'² and a fisherman in *Pericles* talks of misers as 'drones that rob the bee of her honey'—as if drones were some outside insects that plundered honey-bees. Again, Lucrece, confessing her ravishment, says:—

My honey lost, and I, a drone-like bee,
Have no perfection of my summer left,
But robbed and ransacked by injurious theft;
In my weak hive a wandering wasp has crept
And sucked the honey which thy chaste bee kept.

This, if literally translated, reads thus: 'I was a female

¹ *Lucrece*, 1769.

² But this is from *2 Henry VI*, and perhaps Shakespeare was not responsible for it. Neither, I think, are we justified in holding him responsible for what the fisherman in *Pericles* says, since it is generally considered that his hand cannot be traced in the first two acts of that play. In any case the alleged inaccuracy does not amount to much in this instance.

Note.

bee, but a wasp robbed me of my honey, and I am now like a male bee.' Again we have, 'We'll follow where thou lead'st, Like stinging bees in hottest summer's day, Led by their master to the flower'd fields.' The passage is of course ridiculous, but it is taken from Du Bartas (*The Furies*), Shakespeare using 'master' in the sense of 'King' in the original.¹ Again, Shakespeare, of bees returning to the hive, 'Our thighs packed with wax, our mouths with honey,' though bees do not carry their wax on their thighs, but in their 'tails,' and their honey, not in their mouths, but in their 'stomachs.' However, the line is borrowed from Lyly's *Euphues*.²

Shakespeare, then, bestowed no personal observation upon the bee; he took the conventional description, whether he found it in Lyly or in Virgil or in Pliny or elsewhere. That need not excite our surprise, and it would be indeed foolish to find fault with him on that account. But a lover and observer of animate nature, whether by the side of the Avon or elsewhere, must surely have loved to watch the bees hovering over the flowers and to hear their humming in the summer air! Who does not recall those exquisite lines of Shelley's?

He would watch from dawn to gloom
The lake-reflected sun illumine
The yellow bees in the ivy bloom.

Here we have the true note of a poet who loved to watch the bees and the birds, as well as the

Autumn evening, and the morn
When the golden mists are born.

But how is it, asks our Reviewer, that with Shakespeare,

¹ But as this quotation is from *Titus Andronicus* (V. 1, 13), it is, in my opinion, of no argumentative value. (*note that Du Bartas is used*).

² *2 Hen. IV*, IV, v, 77. Wax, as we now know, is a secretion from the abdomen of the bee, and exudes from the rings which enclose the posterior part of the body.

"in all his sunshine there is not a single bee humming among the flowers?"

But did not Shakespeare watch the birds? Does he not speak to us about the birds? Does he not sing "his native woodnotes wild" about them? Take the cuckoo, for example. Did he not thoroughly understand its habits? Had he not closely observed it? Is it not true, as Charles Knight says, that "before White and Jenner and Montagu had described the remarkable proceedings of the cuckoo, Shakspeare described them," and "from what he saw"? Now, here is a definite instance of Shakespeare's alleged personal observation of a very familiar, but, at the same time, most curious and interesting bird. Let us, then, examine the passage over which the enthusiastic Charles Knight waxes so eloquent.

In *Henry IV*, Part I, Act 5, Scene 1, Worcester says to the King:—

Being fed by us you used us so
As that ungentle gull the cuckoo's bird
Useth the sparrow: did oppress our nest,
Grew by our feeding to so great a bulk
That even our love durst not come near your sight
For fear of swallowing; but with nimble wing
We were enforced for safety sake, to fly
Out of your sight.

It is on this passage that Knight makes the comment which I have already quoted that Shakespeare was "a naturalist in the very best sense." But the lines teem with error, and well indeed may the Quarterly Reviewer express his surprise that the editor of the *Henry Irving Shakespeare* should quote with approval this "most preposterous criticism." What observer of birds would suggest that when the young cuckoo grows to a "great bulk" the foster-parents are afraid to come near "for fear of swallowing," and take refuge in flight? The truth is, of course, that "the fascination of the young cuckoo over its little foster-parents is so curious and lasting that, long

after the cuckoo has left the nest and is able to forage for itself, its small guardians still continue to feed it, and industriously drop down its huge gullet their tiny morsels of food." Yet Knight actually quotes White of Selborne, who tells how he once teased with his finger a young cuckoo in a titlark's nest, and how the pugnacious nestling sparred and buffeted with its wings like a game-cock; "the dupe of a dam hovering about with meat in her mouth, and expressing the greatest solicitude." Exactly; the dam, so far from fearing or shunning its foster-child, was solicitous for its safety, and only anxious to continue to feed it. According to Shakespeare, it ought to have taken to flight "for fear of swallowing," the meaning of which is illustrated by another passage from *King Lear*: "The hedge-sparrow fed the cuckoo so long, That it had its head bit off by its young"; upon which some sapient critic (noted by the Quarterly Reviewer) says: "Shakespeare seems to speak from his own observation, and to have been the first to notice how the hedge-sparrow was used by the young cuckoo"! Yet it is hardly necessary to say that "a cuckoo could not bite off a hedge-sparrow's head, and it certainly would not suicidally destroy its only food-provider."¹ In this way, then, has Shakespeare anticipated "White and Jenner and Montagu," viz. by imagining that the young cuckoo was in the habit of biting its foster-parents' heads off, and that the birds that have reared it with so much care dare not come near it when it grows big, but are "enforced, for safety's sake to fly" out of its sight!

What else does Shakespeare say about the cuckoo? "The cuckoo builds not for himself." This, says the

¹ It is, of course, merely a proverbial, though very inaccurate saying that is put into the fool's mouth. It is not, I trust, necessary to guard against misunderstanding by saying that nobody would be so foolish as to find fault with Shakespeare for not having devoted personal observation to the habits of the cuckoo. The fault lies with those commentators who, like Knight, will have it that he did.

Reviewer, "is true, but scarcely original." Again, "Hateful cuckoos hatch in sparrows' nests." Upon which the comment is, "True again, but only original in calling this universal favourite 'hateful.'" ¹

I must again quote from the *Quarterly*. "Let us in the same way take a beast at random—the weasel. What has Shakespeare to say about it? He calls it 'quarrelous,' 'night-wandering,' and 'egg-sucking,' and says, 'The eagle England being in prey, To her unguarded nest the weasel Scot Comes sneaking, and so sucks her princely eggs.' 'Suck-egg weasel' was a proverb, and so was 'quarelsome as a weasel.' Of the rest we need only remark that the weasel is not a night-wanderer, and that it does not plunder eagles' eyries. So that the total again amounts to two proverbs and two misstatements. Yet a critic tells us that 'the knowledge which Shakespeare displays of the habits of the weasel could only have been acquired by one accustomed to much observation by flood and field.' It is hardly credible that responsible writers will go to such lengths in order to mislead. Yet, as we have seen, they will. Nor is it really any wonder that very false impressions of Shakespeare's familiarity with Nature should generally prevail, when editors, critics, and professed students of Shakespeare betray such miserable lack of judgment and so indifferent a regard for facts. . . . We have shown by taking a bird, a beast, and an insect, the complexion of Shakespeare's natural history, and, without any thought of depreciating the matchless language in which he clothes his errors, have proved, by the most direct manner of proof, *quotation*, that the knowledge upon which a certain class of critics so pride themselves in exalting, does not exist. And so we might easily go, if we had the space, item by item, through his *animated Nature*, and prove, in the same indisputable way, how judicious

¹ It is true if by "sparrow" we mean the hedge-sparrow, or dunnock, which is not in truth a sparrow at all.

) note.

Johnson was when he declined to commit himself to an opinion upon Shakespeare's Zoology."

But the extraordinary thing is, if Shakespeare had, in truth, been the poetical wanderer, and close observer of the animals *feræ naturæ* along the sweet banks of the Avon, that he gives us no indication that he loved these beasts and birds and other living things, which he is supposed to have watched and fondly contemplated. Of these he seems, as the Reviewer says, "to have seen very little." His works, "while they abound with beauties of fancy and imagination, are most disappointing to lovers of Nature by (their errors apart) their extraordinary omissions. Stratford-on-Avon was, in his day, enmeshed in streams, yet he has not got a single kingfisher. It is true, he refers to that mythic old sea-bird of antiquity, the halcyon, hung up by its beak as a kind of indoor weather-cock. But that is not the kingfisher. Nor on all his streams or pools is there an otter, a water-rat, a fish rising, a dragon-fly, a moor-hen, or a heron. . . . His boyhood was passed among woods, and yet in all the woods in his Plays there is neither woodpecker, nor wood-pigeon; we never hear or see a squirrel in the trees, nor a nightjar hawking over the bracken." This, he adds, "is surely extraordinary in a poet." Yes, in a poet such as Shakespeare is fondly supposed to have been—a child of Nature, whose fount of inspiration was his own observation as he roamed through the woods and fields of his native Stratford. Not quite so extraordinary if that idea be a myth, and if the real Shakespeare had been brought up in very different surroundings, and had for the most part confined his observation to men and manners, and to the inanimate world. But of this more anon; for, at this point, I seem to hear some critic triumphantly asking, What about the birds? Even if he goes astray in the matter of the cuckoo, what of the others? Had not Shakespeare listened to the nightingale, for example, and observed her ways? Think of *Romeo*

and Juliet. "Nightly she sings on yon pomegranate tree." Well, Shakespeare could hardly have observed a nightingale on a pomegranate tree. And *she* sings! Why, if I remember right, it is Mr. Dewar himself, in that charming work *Wild Life in Hampshire Highlands*, who compassionates the ignorant people who are unaware that it is only the male nightingale that sings, fondly imagining, if they think about it at all, that the hen-bird leaves her eggs to their fate while she chaunts to the moon, "most musical, most melancholy." But we might, perhaps, not be justified in expecting this amount of knowledge from Shakespeare. The point is that, as our Reviewer points out, "his nightingale is a beautiful poem, but its theme is 'Philomela,' not a bird, and when he does speak of the bird, he shows that he went to contemporary error or antiquated fancy for his facts, not to nature. . . . Ben Jonson's one line, 'Dear good angel of the Spring,' is enough to satisfy any lover of Nature. Shakespeare has not a kind word for the bird. Lucrece ravished, Lavinia outraged and mutilated,¹ the Passionate Pilgrim beguiled and left lamenting, find solace and sympathy in the lamentations of the victims of Tereus' cruelty. But the man Shakespeare never speaks to us from the Poet's lines to say that the bird-nightingale delighted him." This last criticism is, perhaps, a little overstated, for we hear love for the bird's song in such lines as:—

Except I be by Silvia in the night
There is no music in the nightingale ;

but, after all, "the music of the nightingale" is common to many poets, so common as to be a conventional expression. What we want is some personal note. "As with Shelley's skylark (in which though there is no direct Natural History, there is a wonderful description of the actual song), a single stanza suffices to assure us that the

¹ But, as already said, I certainly think that Shakespeare had no hand in *Titus*.

poet really took a personal delight in a little bird that was singing overhead ; so in Keat's *Ode to the Nightingale* a single stanza is enough to convince us of the actual joy of the poet in listening to another little brown bird singing in its bower." But this personal touch we do not find in Shakespeare, though his nightingale is for ever associated with those immortal lovers in a warm Italian night.

But the lark ! Here, surely, we have Shakespeare the naturalist, the observer of birds ! " His treatment of the lark, the most important of his real birds, never fails to meet with special comment from his 'critics' when they are insisting upon his observations of Nature ; but how is it they have never concerned themselves to learn how much of Shakespeare's description was his own and how much borrowed ? We cannot find space to exhaust the subject, but may note here some of his most-quoted epithets, and distribute them among their sources. It is 'the morning lark' (so in Lyly), 'the mounting lark' (Wm. Browne), the 'merry lark' (Spenser), 'herald of the day' (Chaucer), 'shrill lark' (Spenser), 'summer's bird' (Spenser), 'the busy day waked by the lark' ('the busy lark, waker of the day,' Chester), 'Hark ! Hark ! the lark at Heaven's Gate sings, and Phœbus 'gins arise' ('At Heaven's Gate she claps her wings, The morn not waking till she sings,' Lyly.) These alone are enough to warn the critic that he should go very cautiously when he approaches the text of Shakespeare with the intention of proving the 'original' observation of the poet."

Again : " His contemporaries call the lark 'crested,' 'speckled,' 'long-heeled,' 'low-nested.' Shakespeare does not borrow these phrases : he cares apparently nothing about the real bird in Nature : he never refers to its appearance, its mate, its nest, or its young, which so delight some poets before him. This is distinctly worth noting, and extraordinary."

When Shakespeare writes (*Winter's Tale*, IV, 2), "The

lark that tirra-lirra chants," we seem to have another echo of Du Bartas :—

La gentille allouette avec son *tirè-lire*,
Tirè-lire a lirè et tirè-lirant tire,
Vers la voute du ciel, puis son vol vers ce lieu
 Vire et desire dire adieu Dieu, adieu Dieu.¹

curious

While, therefore, yielding to none in my admiration for these lovely lyrics, I cannot think that they afford us any proof of Shakespeare's personal observation of bird-life.

Nor is it, as Mr. Dewar seems to suppose, that we "look to poets for the nice precision we must have in the man of science or the professional natural historian." I entirely agree with Mr. Dewar that no one "in his senses would demand it in supreme lyric such as Shelley's *Ode to the West Wind* or *The Skylark*, though it does happen by some chance [*"chance,"* quotha!] that the skylark's song and soar were in that latter poem described in a way that may delight the heart of the man who wants nothing but precision." No; we do *not* expect, or require precision from the poets. We do not expect it (though "by some chance," it seems, we find it) in Shelley's *Skylark*; nor do we expect it in Keats's *Ode to a Nightingale*; nor do we expect it in Browning, though when we read

That's the wise thrush, he sings each song twice over,
 Lest you should think he never could recapture
 His first fine careless rapture,

we know that he must have listened attentively to and been deeply penetrated with the love of the thrush's vernal song.¹ Nay, we do not fail to recognise some measure of personal observation of birds even in Matthew Arnold, though he has so little of "nice precision" that he speaks of the nightingale as "tawny throated"! But

¹ Du Bartas, *Première Semaine*, Liv. 5. The Quarterly Reviewer has not noted this reference to Du Bartas.

¹ Burns had written before him, "while falling, *recalling*, The amorous thrush concludes his sang."

it is just this note of personal observation which is not found in Shakespeare where animated Nature is concerned; and which, nevertheless, is absurdly claimed for him by indiscriminating Shakespearialaters.

True

Again, we do not expect to find in Shakespeare that intense Nature worship which is a characteristic of a later age, and which may be said to have culminated in Shelley and in Wordsworth. It is not *that* we are seeking for, but for some evidence that he was in any real sense a "naturalist," as that term, which Knight so confidently claims for him, is usually understood; and this evidence we find conspicuous by its absence.

Let us take another instance from our Reviewer. "Again with the dove. Shakespeare's dove is an exquisite collation of all previous 'doves'—of fancy, and when he comes to facts, of the pigeon under domestication. The real dove, the bird that those whom he borrowed from meant, he leaves to them; for himself, the household pigeon, translated into 'classical' terms, is sufficient. For Shakespeare needed but little material with which to work his wonders; and the less he was compelled to use the better Shakespeare was pleased. It serves him, this 'dove,' as the emblem of 'patience,' 'modesty,' 'harmlessness,' 'pity,' and 'mildness,' 'maternal devotion,' 'innocence,' and is 'the very blessed spirit of peace.' It is white, snow-white, silver-white, and when it is a 'turtle' dove, it is the symbol of love, of lover's fidelity, of supreme constancy, of chastity, and when separated from its love is inconsolable. A very beautiful bird it is, and yet with all its virtues, it is not one that commends itself to a lover of birds. Compare it with Spenser's 'culvers' or the 'quists' of Shakespeare's contemporaries, and the difference is to be seen at once. Yet a certain critic goes into raptures over it, and because Shakespeare says 'it picks up peas' and 'feeds its young ones from its own crop,' eulogizes the description as being of 'almost photographic accuracy.' Any urchin who lives

within walking distance of St. Paul's or the Law Courts could have said as much, and in Shakespeare's own words; yet in Shakespeare it is 'almost photographic accuracy.' The poet again applauds the mother dove's patience when 'her golden couplets are disclosed.' Disclosed means 'hatched,' so we are told by the editors of the *Henry Irving Shakespeare*, and 'the young doves when hatched are covered with yellow down,' therefore the beauty of the phrase, 'golden couplets.' Now we might point out, as a matter of fact, that pigeons when first hatched are not covered with yellow down, that 'golden couplets' here means eggs, that 'disclosed' means 'revealed,' and that the notes of the *Henry Irving Shakespeare* are sheer nonsense—'Anon as *patient* as the female dove, When that her golden couplets are disclosed, His silence will sit drooping'—but there is no need to do so, so let it pass. But when the poet's very defective natural history has to depend for its accuracy upon such details as these 'critics and editors' suggest, it is surely worse off than it was before it had its house swept and garnished and was repossessed. Nor are the classic errors about the 'chaste' and 'mild' dove—the emblem, with the 'lecher-sparrow,' of the lascivious Paphian, and, for its constant quarrelling, 'the bird of war,' and 'dedicate to Mars'—worth referring to; for in Shakespeare's day they were less hackneyed by over two hundred years of use than they are to-day."

Mr. Dewar quotes:—

The ouzel-cock so black of hue
 With orange-tawny bill,
 The throstle with his note so true,
 The wren with little quill;
 The finch, the sparrow, and the lark,
 The plain-song cuckoo gray,
 Whose note full many a man doth mark
 And dares him answer nay;

and asks, "Is it not great and simple?" Yes; great and

simple certainly. But are these lines really put forward in proof that Shakespeare was a close observer of birds? To notice that the ouzel is black, and has a bill which may be described as orange-tawny (it is, as Morris says, "more or less yellow and blackish brown" in the ring-ouzel, but I take it that Shakespeare by the "ouzel-cock" is really referring to the blackbird), is hardly to put oneself in competition with Gilbert White. "The plain-song cuckoo gray" certainly does not strengthen the case. "The plain-song" of the cuckoo is referred to by poets long before the time of Shakespeare, and his monotonous, though delightful call is the leading note of the oldest of plain-songs.

Summer is icumen in
Lhude sing cu-cu.¹

The rest, with the exception of the observation that the throstle has a note "so true," and that the wren has a "little quill," is mere enumeration.

Note Here it may be observed that many, if not most, of Shakespeare's most beautiful touches on the subject of birds or flowers occur among the lyrics. The authorship of these lyrics is sometimes very doubtful. They are occasionally old things adopted, with or without alteration and improvement. These lines, quoted by Mr. Dewar, are, I believe, echoes of an old song. However, I am quite content, for the sake of argument, to accept them as Shakespeare's.

¹ See Chapell's *Old English Popular Music* (Vol. I, p. 10), where the date of this old song is given as about 1240. We may note that while the cuckoo gives us an example of "plain-song," the nightingale, in Lyly's exquisite lyric (Trico's song in the *Campaspe*), is cited as an example of "prick-song":

Jug, jug, jug, jug, terew ! she cries,
And still her woes at midnight rise,
Brave prick-song !

The scholars in the Song Schools were required to learn both "plain-song" and "prick-song." See, for instance, the Statutes of the Song School at Newark.

A friend writes that the beautiful line in *Venus and Adonis*,
 Like a dive-dapper, peering through a wave,"

shows personal observation on Shakespeare's part. He had doubtless, it is suggested, watched a dabchick, or other diver, in one of the pools of his native Stratford. On this I may remark, first, that "wave" is suggestive rather of the sea than a pool or inland lake. But had Shakespeare watched a diver in the sea, and is this his one solitary example of a sea-bird? To this it may be answered that, beautiful as the expression is, it was, in fact, a stock simile, and used, as Shakespeare uses it, to illustrate the raising of Adonis's chin, it does not seem very appropriate. But the motions of the dive-dapper (viz. any small diving water-fowl) were thus cited in illustration of anything that went up and down; and so much was this the case that there was actually a verb to "dive-dop," i.e. "to dive or duck like a dabchick." Thus Becon (1559), speaking slightly of the Catholic Mass, says, "Then once again kneel ye down, and up again like dive-doppels, and kiss the altar." And J. Stephens (1615), "He is worse than otter-hound for a dive-dopping alehouse keeper." Here, then, is very little indication of any personal observation of animated Nature.

It is not a little amusing to see how editors and "critics" are always finding Stratford-on-Avon in any allusion in Shakespeare's plays to the country or country matters. True, he never mentions the place, but he is supposed to have it, though "never on his lip," yet ever in his mind. Thus Caliban in the *Tempest* (II, 2. 180) says:—

I prithee, let me bring thee where crabs grow;
 And I with my long nails will dig thee pignuts;
 Show thee a jay's nest, etc.

Upon which Mr. Elton's comment is, "The finding of a jay's nest shows that we are in the heart of some Midland

wood."¹ Now why a *Midland* wood any more than a Surrey or Sussex or Hampshire or, for the matter of that, Middlesex wood? I have seen wild jays within twelve miles of London Bridge. No doubt they might have been frequently seen by Londoners in Shakespeare's time.

Baconians have observed that Shakespeare never once mentions Stratford-on-Avon, whereas he on several occasions makes mention of St. Albans. To which the answer has been made that St. Albans figures prominently in that part of English History with which Shakespeare has dealt, whereas Stratford-on-Avon was an insignificant place and was historically quite unimportant. There is, it must be admitted, much force in that answer. And yet, if it were true that Shakespeare drew the inspiration for his "wood notes wild"—for his rural scenes, his birds, and his flowers—from Stratford; if his mind was ever turning to Stratford as the home of his romantic and contemplative boyhood—surely we might expect to find it, if not actually mentioned by name, at least alluded to in such a manner as that we might say here clearly is a reminiscence of the banks of the Avon! Is there any such allusion? No, there is none at all. Yet if we have a jay, a lark, a nightingale, an owl, a ladysmock, a cuckoo-bud, an adder, or even a horse-pond, they are at once hailed as Stratford memories, as though no other spot in England produced such things!²

Mr. Elton supplies us, too, with an entirely new interpretation of a well-known passage in *Macbeth*. Who does not remember those fine lines:—

Light thickens, and the crow
Makes wing to the rooky wood?

¹ *William Shakespeare, his Family, and Friends*, by the late C. J. Elton, p. 164.

² Mr. Morton Luce is more prudent in his introduction to *The Tempest*. Speaking of the Island (which, by the way, he terms "this New Atlantis") he says, "there is the smallest possible proportion of local 'fauna and flora,' just enough to place the spot somewhere beyond the seas, and the rest is Stratford-on-Avon, or at most England"!