

THE LEGAL LORE OF SHAKESPEARE.

The works of Shakespeare are teeming with legal terms; allusions to legal proceedings and scenes from tribunals exercising the functions of the courts of justice of the present day. So frequently do these appear that the theory has been advanced that he must have served some time in a lawyer's office. If he stood alone in this respect there would be some ground for the contention, but such is not the case. Nearly all of his contemporaries indulged in the same practice although not with the same freedom and grace as did the master mind. We have not a shred of direct evidence that he was ever in any way connected with the profession; but we have very good reason to believe that he was on friendly terms with the benchers and in all probability mingled more or less with the lawyers. Judging from his aptitude in picking up colloquialisms from other walks of life he would not be very long in acquiring a vocabulary of legal terms.

The *Comedy of Errors* was one of the first, if not the very first, of his plays, having been written about 1591. During the next three years some of his best plays were produced, so that by 1594 his reputation as a playwright and actor must have been fairly well established. During Christmas week of that year he was commanded to play before Her Majesty and upon the night of the same day the *Comedy of Errors* was played in the great hall of Gray's Inn before a crowded house. The seats were in such great demand that the guests from the Inner Temple created a disturbance because suitable accommodation had not been reserved for them. So great was the commotion that the occasion was thereafter referred to as the "Night of Errors." Some five or six years later the *Twelfth Night* was played in the hall of the Middle Temple.

We would be paying a poor compliment to the lawyers of the Elizabethan era if we did not credit them with a due appreciation of the merits of the greatest literary genius of any age. They were recognized as a learned body, they entertained guests in their halls and it is not at all improbable that Shakespeare was at times among the number. He must have been on friendly terms with many members of the Bar and would be accorded every facility for visiting the courts and familiarizing himself with their procedure. It is far more probable that he acquired his legal terminology in this way rather than as a lawyer's clerk. It must also be borne in mind that his father was personally involved with his neighbours in more than one lawsuit

and the inevitable family discussions over the issues must have left their impression upon his mind. It is a significant fact that the earlier plays are quite free from these evidences of familiarity with the law and lawyers.

One could explain the use of legal terms when the plot calls for it, as the author could very easily secure the necessary information to help him over the situation; but Shakespeare seems to have had them ready at hand and introduces them without any apparent effort upon his part and quite regardless of the necessities in the development of the plot. For instance it would have been just as easy for Hamlet to moralize upon the skull of a butcher or a sailor; but he chose that of a lawyer, and note with what ease he pours forth the legal terms:—

“Why may not that be the skull of a lawyer? Where be his quiddets now, his quillets, his cases, his tenures and his tricks? Why does he suffer this rude knave now to knock him about the sconce with a dirty shovel, and will not tell him of his action of battery? Hum; this fellow might be in 's time a great buyer of land, with his statutes, his recognizances, his fines, his double vouchers, his recoveries; is this the fine of his fines and the recovery of his recoveries, to have his pate full of fine dirt: Will his vouchers vouch him no more of his purchases, and double ones too than the length and breadth of a pair of indentures?”

To attempt to call attention to any considerable number of allusions to legal terms found in the plays would require more time and space than I would be justified in devoting to that part of my subject. I therefore will content myself with only a few.

In Act 1, Scene 4, of *Antony and Cleopatra* we find the word ‘purchased’ used with its strict legal meaning as distinguished from ‘inherited.’

“His faults in him seem as the spots of heaven,
More fiery by night's blackness, hereditary
Rather than purchased.”

If Petruchio had had a lawyer at his elbow when he was bargaining for the hand of Katharine he could not have expressed himself in more precise legal language.

“And, for that dowry I'll assure her of
Her widowhood, be it that she survive me,
In all my lands and leases whatsoever;
Let specialties be therefore drawn between us,
That covenants may be kept on either hand.”

The following from *King John* seems to imply some familiarity with conveyancing terms:

“Upon thy cheek lay I this zealous kiss,
As seal to this indenture of my love.”

The ‘seal’ is closely associated with a ‘covenant’ in the mind of the writer in,—

“My heart this covenant makes, my hand thus seals it.”

In *All's Well That Ends Well* when Parolles is asked if gold would corrupt Captain Dumain to revolt, he made reply:

“Sir, for a carducue he will sell the fee-simple of his salvation, the inheritance of it; and cut the entail from all remainders and a perpetual succession for it perpetually.”

That speech bears all the earmarks of having been framed in a lawyer's office.

An officer of the court could not have been more precise in his use of the proper legal terms than was Bolingbroke in *Richard II.*,—

“Lords, you that here are under our arrest,
Procure your sureties for your days of answer.”

When Queen Elizabeth was praying that she might be taught how to curse Richard III she was asked:

“Why should calamity be full of words?”

To which she replied:

“Windy attorneys to their client woes,
Airy succeeders of intestate joys,
Poor breathing orators of miseries;
Let them have scope: though what they do impart
Help not at all, yet do they ease the heart.”

The language is so beautiful I could not bear to mangle the speech but call especial attention to the words:

“Airy succeeders of intestate joys.”

A remarkable illustration of apt phraseology and of the art of condensation.

Bolingbroke seeking to recover his inheritance could not have stated his case more clearly if counsel learned in the law had written his speech for him:

“ I am deni'd to sue my livery here
 And yet my letters-patent give me leave;
 My father's goods are all distrain'd and sold,
 And those and all are all amiss employ'd.
 What would you have me do? I am a subject
 And challenge law; attorneys are deni'd me;
 And therefore personally I lay my claim
 To my inheritance of free descent.”

It would be difficult to improve upon the language of Mark Antony when he declared that if the commons but heard the will of Cæsar they would—

“ beg a hair of him for memory,
 And, dying mention it within their wills
 Bequeathing it as a rich legacy
 Unto their issue.”

All's Well That Ends Well furnishes a fair illustration of an impatient cross-examiner dismissing a smart witness:

“ Thou art too fine in thy evidence:
 Therefore stand aside.”

Although he may have been on fairly intimate terms with the frequenters of the Inns of Court we will search in vain throughout the plays for a single comment complimentary to the profession of the law or in acknowledgment of the useful service rendered by the profession in the administration of justice. If I were to admit a single exception to this sweeping statement it would be from the speech of Tranio in the *Taming of the Shrew*,—

“ Do as adversaries do in law
 Strive mightily, but eat and drink as friends.”

This might, however, be considered an obiter dictum and not very complimentary at its best, when taken with the context.

But the unkindest cut of all is from the second part of *King Henry VI*. Jack Cade was picturing in glowing terms the Eutopian era he was about to introduce, when all would dress in one livery and agree like brothers. Dick the butcher was heart and soul with Jack in his worthy enterprise and promptly announced his views as to the first step necessary towards the attainment of that desired end,—

“ The first thing we do, let's kill all the lawyers.”

The only lawyer designated as such appearing in any of the plays is an anonymous one taking a very indifferent part in Act. II., Scene IV., of the first part of *King Henry VI.* This scene, by the way, is laid in the Temple Gardens. He has very little to say and that of so little consequence that his omission from the play would not have detracted from its merits.

I do not know but that the Justice of the Peace has greater cause for complaint. 'Tis true it was a madman said,—

“Which is the justice, which the thief?”

but such words have a sting in them, no matter by whom they are uttered.

When Falstaff had used Shallow to his heart's content in selecting his company of scarecrows, he did not hesitate in one of his soliloquies to give us his opinion of him with his characteristic frankness.

“I do see the bottom of Justice Shallow — Lord, Lord, how subject we old men are to the vice of lying. This same starved justice hath done nothing but prate to me of the wildness of his youth, and the feats he hath done about Turnbull Street: and every third word a lie.”

The constable did not fare much better at the hands of Shakespeare than the Justice of the Peace. In Dogberry we have a most incongruous combination of conceit and assininity, but we are disposed to overlook his failings for having left us that delightful expression “comparisons are odorous.”

In the misuse of words he is excelled only by his counterpart, Elbow, in *Measure for Measure.*

Why should Shakespeare hold up to ridicule these officers of the law and withhold his compliments from the lawyers? There seems to be very good authority for believing that Shallow is a caricature of Sir Thomas Lucy, whom he never forgave for prosecuting him for poaching at Charlecote, and he must have had a constable of the Dogberry type to carry out his orders. But why should he not find something good to say about the lawyers? It was not owing to a general tendency to be cynical, for no one could be more complimentary than he when the occasion called for it.

It was not by mere chance that Shakespeare did not find occasion to hold up some member of the legal profession for our admiration. Was he a victim of the popular belief that seems to have prevailed more or less in every age that lawyers are a sort of necessary evil that we tolerate, but would be glad to be rid of, if we felt that it would

be safe to do so? Perhaps he had in mind some disagreeable experience of his own when he caused Alcibiades to say,—

“It pleases time, and fortune, to lie heavy
Upon a friend, who, in hot blood,
Hath stepp’d into the law, which is past depth
To those that, without heed, do plunge into it.”

We might comfort ourselves with the reflection,—

“No might nor greatness in mortality
Can censure ’scape.” (*Measure for Measure*, III., 2, 197.)

Not even the judges were exempt from rather serious charges, as appears from the following from *Measure for Measure*:—

“Thieves for their robbing have authority when judges steal themselves.”

The judges, in extenuation, might have replied in the words of Speed:—

“It is an honorable kind of thievery.”

Shakespeare fully recognized the evils flowing from the neglect to enforce the laws and has most beautifully summed up his views in *Measure for Measure*,—

“We have strict statutes, and most biting law,
(The needful bits and curbs to headstrong steeds)
Which for this fourteen years we have let sleep;
E’en like an o’ergrown lion in a cave,
That goes not out to prey. Now, as fond fathers,
Having bound up the threat’ning twigs of birch,
Only to stick it in their children’s sight,
For terror, not to use, in time this rod
Becomes more mock’d than fear’d; so our decrees
Dead to infliction, to themselves are dead;
And liberty plucks justice by the nose;
The baby beats the nurse, and quite athwart
Goes all decorum.”

Even Falstaff was moved to give utterance to the same thought when he spoke of,—

“The rusty curb of old father antic the law.”

We almost invariably find a plea put forward by him for some degree of mercy towards the transgressor, and in this respect he was

several generations ahead of his age; for Portia's appeal for mercy would in most courts have fallen upon ears as deaf as those of Shylock. Sentences in his time were severe and promptly executed, so he was striking at a serious evil through Portia's famous deliverance:—

“The quality of mercy is not strained,
It droppeth as the gentle rain from heaven,
Upon the place beneath; it is twice bless'd,
It blesseth him that gives and him that takes,
'Tis mightiest in the mightiest, it becomes
The throned Monarch better than his Crown.”

It was the rich and winsome heiress of Belmont that gave utterance to the words, but the spirit of Shakespeare is breathing through the entire speech. We find the same sentiment in *Titus Andronicus*,—

“Sweet mercy is nobility's true badge.”

Isabella, in *Measure for Measure*, pursues the theme in almost the self-same words as Portia,—

“Well, believe this,
No ceremony that to great ones 'longs
Not the king's crown, nor the deputed sword,
The marshal's truncheon, nor the judge's robe,
Become them with one-half so good a grace
As mercy does. If he had been as you
And you as he, you would have slipp'd like him
- But he, like you, would not have been so stern.”

Shakespeare has given us several trial scenes, and the one that most readily comes to our minds is from the *Merchant of Venice*. If that scene were seriously put forward as his conception of a fair trial in a court of justice, then I fear his reputation for depicting real scenes from life would greatly suffer. An eminent English jurist once remarked that he would have granted Shylock a new trial at once if an appeal had been made to him. We are so intent in following the fortunes of Antonio that we are disposed to applaud the unseemly interruptions of Gratiano which would have called forth a rebuke from any well constituted court. The author has sacrificed the dignity of the court to the dramatic effect he desired to produce. The pronouncement of Portia, as Shylock is about to exact his penalty, is the merest sophistry; yet there are few of us who have not at times been disposed to join with Gratiano in his jeering sarcasm,—

“A second Daniel, a Daniel Jew;”

The acknowledgment of such a disposition upon our part is the highest compliment we can pay the poet. We have been so overcome by his art that we are ready to place a laurel wreath upon the brow of the "learned doctor" and join the rabble in pelting stones at poor old Shylock.

Of an entirely different character is the impeachment of Othello before the Senate. Brabantio's charge rests alone upon circumstantial evidence that it was "against all rules of nature" that Desdemona should "fall in love with what she fear'd to look on." The jury is composed of his peers from whom the accused can look for little sympathy. There is no air of defiance as we might have expected from a man accustomed to "feats of broil and battle" and "little blest with the soft phrase of speech." He delivers "a round unvarnished tale" before his "very noble and approved good masters." It is free from artifice or exaggeration; but so skilfully does he play upon the finer feelings of his auditors, laying bare his own heart, that they forget the repulsive outer man and the dangerous consequences likely to flow from such an unnatural match and see only the natural workings of the inner soul of a maiden,—

"Never bold;
Of spirit so still and quiet that her motion
Blushed at herself."

yet the very one above all others to fall in love with him for the dangers he had passed. That is the keynote of the relation between them, fully understood and appreciated by the poet, but never suspected by Brabantio, being himself "deficient, blind and lame of sense."

The jury lawyer might profit well by studying in every detail this address of Othello and thereby learn the lesson that the simple narrative and heart-to-heart talk is more convincing in the end than the wild gesticulation and loud declamation that we frequently witness at our jury trials.

In Act II., Scene IV., of *Henry VIII.* we have one of the most gorgeous scenes ever put upon the stage, and fully in keeping with the exalted position of the chief actors in it. There is the solemn procession headed by the vergers followed by the ecclesiastical dignitaries with all their insignia, and lastly the royal suitors and their trains. It was a bold attempt to gloss over the conspiracy to foist upon the Queen a prejudiced tribunal. Although the proceedings were frustrated by Katherine rightfully challenging Wolsey to act as her judge; yet we get the full benefit of the dazzling splendour of a royal

trial of four hundred years ago. What a brilliant setting it was for that touching, defiant, womanly appeal of Her Majesty, the strength of whose position lay largely in the emphatic assertion of her own weakness,—

“I was a simple woman, much too weak
To oppose your cunning.”

What a striking contrast we witness when we turn from the grandeur of the hall in Black-Friars to the scene enacted before Shallow's house where Falstaff is mustering his recruits.

The trial of Hermione in *A Winter's Tale* provides us with a very fair portrayal of the summary manner in which the Kings in mediæval times exercised their “divine right” over the lives of their subjects.

Shakespeare furnishes us with many illustrations of this despotic power where sentence is pronounced upon the impulse of the moment with no pretense of a trial.

King Lear, in a fit of anger, thus banishes Kent,—

“If on the tenth day following,
Thy banish'd trunk be found in our dominions,
The moment is thy death.”

Rosalind was not even made acquainted with the nature of her offense, and the first intimation she received that she had incurred the displeasure of the duke was her sentence of banishment,—

“You cousin:
Within these ten days if that thou be'st found
So near our public court as twenty miles
Thou diest for it.”

And when she appeals to him to acquaint her with the nature of her offense she gets little satisfaction from his reply,—

“Let it suffice thee that I trust thee not.”

The fate of Hastings was determined in the same impetuous manner,—

“Thou art a traitor:—
Off with his head!—now by Saint Paul, I swear
I will not dine until I see the same,—
Lovell and Ratchiff, look that it be done.”

The age of Shakespeare was not altogether free from the despotism of the Sovereign, and it is not unreasonable to conclude that the correction of this evil was one of the objects he had in view in presenting these scenes. He seems to have been deeply impressed with the conviction that the whole system of administering the laws was sadly in need of an overhauling; for there are presented to us very few scenes of impartial justice. It is rather the exception to find a faultless judge prepared to,—

“Poise the cause in justice’ even scales.”

There is no uncertain sound in this scathing denunciation of favoritism from *King Lear*,—

“Through tatter’d clothes small vices do appear;
Robes and furr’d gowns, hide all, plate sin with gold,
And the strong lance of justice harmless breaks;
Arm it in rags, a pigmy’s straw doth pierce it.”

Just what effect his writings had in bringing about the much-needed reforms I am not prepared to say; but if the better elements were not moved by them it was not through any failure upon the part of Shakespeare to set a spacious mirror before them.

Napanee.

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