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IN THE  
HIGH COURT OF PUBLIC OPINION  
SEPTEMBER TERM, 1987

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IN RE "WILLIAM SHAKESPEARE"

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BRIEF OF APPELLEE WILLIAM SHAKESPEARE (OR  
SHAKSPERE) OF STRATFORD-UPON-AVON\*

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### QUESTIONS PRESENTED

- I. In summary, the question presented is whether the poems and plays which have been ascribed for 350 years to William Shakespeare, an actor from Stratford upon Avon, were truly written by him, or whether they were instead written by one Edward de Vere, the Seventeenth Earl of Oxford? More concretely;
- II. Whether it is consistent with the principle of parsimonious explanation to assume a conspiracy with the motive, means and opportunity needed to carry off the sham necessary if de Vere is to be identified as the author of "Shakespeare's" plays?
- III. Whether the records of Shakespeare's life are themselves puzzling, or whether it is merely that the imposition of present-day assumptions makes them seem puzzling?
- IV. Whether there is contemporary and posthumous evidence that Shakespeare, the actor from Stratford, was "Shakespeare" the author?

### INTRODUCTION\*\*

There are now some fifty-six candidates whose names are advanced—with greater or lesser seriousness—to claim the distinction of being the true author of the works traditionally assigned to Shakespeare. The paucity of information about Shakespeare's life in combination with his exalted position in the world of letters more or less guaranteed that there would be some sort of speculation. When one adds to this mixture the hypnotic attraction which conspiracy theories offer to those who wish to make the world seem less chaotic, and the well-publicized contemporary events which bear witness to the fact that the most unlikely of conspiracies are sometimes

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\*\* Since the debate I have corrected two or three slips of pen or forebrain. Otherwise, this Brief is identical to the one presented to the Justices.

real, it is hardly surprising that this issue has generated such a range of responses—ranging from learned analysis to vitriolic attack, from cryptograms to computer analysis, from the obscure to the merely obtuse.

It cannot be pretended that orthodox scholarship has abstained from feeding this literary conflagration. The few things which we actually know about Shakespeare's life have been chopped, mangled, and extrapolated from, to the point that it is hard to remember that the whole imposing edifice of Shakespearean biography rests on a set of facts which one could fit onto—if not a postcard—then at least three medium sized sheets of paper. It is no wonder that the sight of this grandiose but flimsy edifice has inspired so many people to attempt the role of Samson. As a final cause of the dispute, we have the intemperate responses with which some orthodox scholars have greeted even the most reasonable of the dissenters. Once again we find confirmation of the general rule that the ingenuity and persistence of the heretic varies directly with the pomposity and intransigence of the orthodox. Yet even a pompous orthodoxy may be correct and ingenious explanations do not fare well under the principle of parsimony.

SUMMARY OF OPPOSING ARGUMENT:  
THE CASE FOR EDWARD DE VERE

A. The court is concerned in this case with only one of the claimants to Shakespeare's works—Edward de Vere, the Seventeenth Earl of Oxford. The Oxfordian case was first put forward by a Mr. John Thomas Looney in 1920<sup>1</sup> and has since won a number of adherents, including a disproportionately large number of lawyers.<sup>2</sup> The Oxfordian argument has two parts, one negative and one positive. The negative case is that William Shakespeare, the man from Stratford, could not have written the works attributed to him because:

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1. J. Looney, "Shakespeare" Identified in Edward De Vere, Seventeenth Earl of Oxford, and the Poems of Edward De Vere (3d ed. 1975) [hereinafter J. Looney]. This argument has been taken up by a number of other authorities including E.T. Clark, *Hidden Allusions in Shakespeare's Plays* (1930) [hereinafter E.T. Clark]; P. Allen, *The Life Story of Edward de Vere as "William Shakespeare"* (1932); and M. Douglas, *Lord Oxford and the Shakespeare Group* (1952) [hereinafter M. Douglas]; G. Rendall, *Shakespeare Sonnets and Edward de Vere* (1930). All the heresies are described in S. Schoenbaum, *Shakespeare's Lives* at 597-607 (1970) [hereinafter *Shakespeare's Lives*].

2. *Shakespeare's Lives*, supra note 1, at 603. There are, of course, two possible explanations for this fact. One explanation is that lawyers have a superior ability to weigh evidence and thus they plump for de Vere, the true author. The second explanation is that lawyers have an argumentative facility which is not matched by their historical knowledge. Thus, they see the record of Shakespeare's life as puzzling—given contemporary assumptions about authors and plays, assumptions which are not applicable to Shakespeare's time.

1. He is supposed to lack the classical education, specialized knowledge, and cosmopolitan experience evidenced by the plays. Some Oxfordians would even deny him basic literacy.<sup>3</sup>

2. The plays are supposed to reveal an aristocratic attitude which—the Oxfordians claim—is incompatible with the life of the thrifty burgher of Stratford.<sup>4</sup> Shakespeare also does a number of things which are inconsistent with certain notions the Oxfordians have about the life of a playwright—in particular he does not protest the publication of pirated versions of his work<sup>5</sup> and he retires to Stratford at the height of his dramatic success, mentioning neither books nor plays in his will.<sup>6</sup>

3. There is not enough contemporary acclaim of Shakespeare's talents—either as an author or an actor—to satisfy the Oxfordians that he really was “the applause, delight, the wonder of our stage!”<sup>7</sup> On the other hand, there are records of him failing to pay taxes, suing others for relatively small sums of money and buying large plots of land. The Oxfordians claim that a transcendent genius would leave a different set of records. They resolve the issue by claiming that Oxford wrote the plays under the pseudonym “Shakespeare” or “Shake-speare” and that the man from Stratford (who is often referred to as “Shakspeare”) either turned up because he was attracted by the similarity of names, or agreed from the outset to be the Earl of Oxford's dummy.<sup>8</sup> Thus, all of the uninteresting commercial records can be imputed to the William Shakespeare from Stratford, leaving the real bard's memory free from the stain left by such worldly concerns.

B. The negative case is supposed to show that Shakespeare could not have written the works ascribed to him. The positive case seeks to demonstrate that Edward de Vere, the Seventeenth Earl of Oxford, is the true author of those works. The demonstration rests on the following kinds of circumstantial evidence:

1. De Vere was a classically learned, well-travelled, aristocratic, field sports aficionado who was also free with his money and a bit of a misogynist.<sup>9</sup> Thus, the Oxfordians claim, he had all of the necessary kinds of specialized knowledge and his attitudes to women,

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3. See *infra* pp. 759-61.

4. See *infra* p. 761.

5. See *infra* pp. 769-70.

6. See *infra* pp. 772-73.

7. See *infra* pp. 770-72.

8. See *infra* pp. 738-40. This brief will refer to the man from Stratford as Shakespeare and the author of the plays as “Shakespeare.”

9. See *infra* p. 737.

money, and the aristocracy are supposed to be identical to the attitudes embodied in "Shakespeare's" works.

2. De Vere was a courtier poet, known to have written plays, who also subsidized a company of boy actors.<sup>10</sup> His name is included in a list of the "best for comedy" compiled by a contemporary—Meres.<sup>11</sup> (The list also includes "Shakespeare's" name—evidently Meres believed them to be two separate people.) These facts are put forward as evidence that de Vere had served his apprenticeship as a playwright and had acquired the necessary technical expertise.

3. The Oxfordians claim that some passages in "Shakespeare's" work are similar to passages known to be written by de Vere, while other Shakespearian passages parallel events in de Vere's own life.<sup>12</sup> Like the Baconians, the Oxfordians believe that their candidate sometimes dropped his obsessively maintained mask of secrecy to leave subtle hints that he was the true author.<sup>13</sup> This strangely irresolute attitude towards secrecy evidently communicated itself to others, particularly Ben Jonson, Shakespeare's friend, whose lavish praise of "William Shakespeare's" work is seen by the Oxfordians as a fiendishly subtle way of denouncing Shakespeare as a fraud and pointing the finger at Oxford.<sup>14</sup> Comment seems superfluous.

#### I. SUMMARY OF ARGUMENT PRESENTED BY THIS BRIEF: THE CASE FOR SHAKESPEARE

The case for Shakespeare parallels—at least in form—the case for Oxford. The negative case consists of the evidence that:

##### A. *Edward De Vere Did Not Write The Works Attributed To Shakespeare:*

1. If de Vere was the author, why should he conceal it? The argument that it was *infra dig* for a nobleman to write plays is destroyed by another part of the Oxfordians' own case: the evidence that Oxford was already a well-known poet and playwright who supported a troupe of actors.<sup>15</sup> As evidence of the shame associated with the theatre in general and playwriting in particular this is distinctly underwhelming. The leading Oxfordian advocate has the thirteen(!)-year-old de Vere publishing poems in the name of another, the seventeen-year-old de Vere doing translations in his un-

10. See *infra* p. 736-37.

11. See *infra* pp. 784-85.

12. See *infra* pp. 747-48.

13. See *infra* p. 740.

14. See *infra* pp. 742-45.

15. See *infra* p. 736-37.

de Vere's name, the twenty-year-old de Vere writing plays and publishing poems in his own name and then the thirty-year-old de Vere writing plays and poems which are published by the forty-year-old de Vere under Shakespeare's name.<sup>16</sup> If this is an obsession with secrecy it is both precocious and strangely episodic.

2. De Vere died in 1604; "Shakespeare" apparently continues to write.<sup>17</sup> The Oxfordians are driven to redate the entire Shakespearean canon and—at least in the most respectable version of the theory—to imagine a group of conspirators who will posthumously publish the plays and who wish to keep secret the fact that the Earl of Oxford was a playwright. This conspiracy is not to be confused with the other conspiracy (Queen Elizabeth and the rest) who are both funding de Vere's playwrighting activities and trying to suppress the true authorship of the plays thus produced by foisting them off on the illiterate man from Stratford, who just happened to have exactly the same name as de Vere's pseudonym.<sup>18</sup> The apparent inconsistency between the tasks of publication and secrecy, or funding and reattribution, is presumably explained by the same schizophrenic attitude towards secrecy displayed earlier by both Ben Jonson and the Earl himself. Leaving aside the credibility of this combination, if one needs to imagine a wide-reaching conspiracy and to redate all of the published works, one can hardly claim to have the "simplest" explanation of the Shakespearean mystery.

3. Oxford is not an overwhelming candidate even when one considers his strongest arguments—the appeal to specialized knowledge and his prior experience as an author. In fact, the plays contain examples of knowledge which would be alien to a member of the aristocracy. According to Oxfordian logic, this would imply that de Vere could not have written them. But the problem is even deeper than this. The arguments made in favour of de Vere's authorship are so broad that they could, and do, lead Oxfordians to claim that de Vere wrote a whole *range* of works, which appear under the names of others—Brooke, Golding, Marlowe and Lyly, to be exact.<sup>19</sup> The breadth of these claims shows that the arguments which supported the original position are capable of justifying anything. As for de Vere's writing, there is a similarity between "Shakespeare" and de Vere—they are both Elizabethan poets—but that is as far as it goes.

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16. See *infra* pp. 737-41, 748-51.

17. See *infra* pp. 745-47.

18. See *infra* pp. 739-40.

19. See *infra* pp. 737, 749-51.

4. If de Vere was going to choose a person to cover for his dramatic aspirations, why would he choose Shakespeare? Here the Oxfordians are undone by one of their earlier arguments. They claim that Shakespeare could not have written the plays because he was essentially illiterate. If the object is concealment, why pick someone who is incapable of carrying off the sham?<sup>20</sup>

This brings us to the heart of the argument presented by this brief. Like the Oxfordian case, it is divided into two parts. First, the allegations that Shakespeare could not have written the plays are mistaken, generally relying on a romantic conception of authorship and an ahistorical vision of Elizabethan theatre. Thus:

*B. The Arguments Against Shakespeare Are Erroneous*

1. The accusation that the works contain specialized knowledge which would not be available to Shakespeare ignores the historical, social and artistic context in which the plays were written. Shakespeare's erudition can be adequately explained by Stratford grammar school and private study,<sup>21</sup> while his use of foreign locations, legal terms, classical allusions, and so on is explained by a variety of factors ranging from the relaxed Elizabethan attitude towards plagiarism,<sup>22</sup> to the contemporary artistic obsession with legal language<sup>23</sup> and the richness of London gossip and educational resources. As to Shakespeare's handwriting, there is good evidence—both paleological and literary—that one of the hands which wrote the play "Sir Thomas More" belonged to Shakespeare.<sup>24</sup> This would not only show that Shakespeare could write, it would prove that he was definitely a dramatist and almost certainly the true author of the works ascribed to him.

2. The claim that "Shakespeare's" plays display an aristocratic attitude inconsistent with his class origins is both an unduly simplistic reading of the plays, and an ahistorical understanding of the context within which they were produced. "Shakespeare's" plays are not merely about aristocratic dilemmas. Ambition, envy, filial piety, thwarted love and awareness of one's own mortality are not the exclusive preserve of the privileged classes. As for the predominant use of aristocratic characters, it is hardly surprising that an art form—then or now—should cater to the self-image of the more powerful classes within its audience. The plays are better explained

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20. See *infra* p. 752.

21. See *infra* pp. 752-56.

22. See *infra* pp. 756-57.

23. See *infra* pp. 756-58.

24. See *infra* pp. 758-61.

by the notion of an author who craved upward social mobility, was influenced by the Euphuist tradition and derived much of his income from playhouses which relied on aristocratic custom.<sup>25</sup>

3. Shakespeare did not live the life that the Oxfordians would expect a dramatist to live, but this is a function of their erroneous and romantic preconceptions rather than being evidence that he was not the true author. Shakespeare acted differently than do modern day dramatists for the excellent reason that he was not a modern day dramatist. He made no protest about the copyright violations over his plays because there *was no copyright over plays in the way we understand it.*<sup>26</sup> What rights there were would have been in the hands of the theatre to whom he sold the play. When we turn to the question of the records which Shakespeare left behind him, it is clear that the records which are left to attest to his life are the records one would expect to survive—legal records, for the most part.<sup>27</sup> To make suppositions about his character on the basis of this pre-selected group of records is unwise, at best. If there are not as many records of Shakespeare's theatrical career as we might want, there are, nevertheless, adequate records to show clearly that he was both playwright and actor.<sup>28</sup> As for the absence of books in his will, numerous other literary figures died without leaving books in their wills—this may be because books were recorded separately in the Inventory Post-Mortem.<sup>29</sup>

4. As for the argument that we know William Shakspere of Stratford and "William Shakespeare" the playwright are two different people because the spelling of their names is different, it ignores the fact that Elizabethan spelling was completely idiosyncratic. It is interesting to note that Christopher Marlowe's name was spelt Marloe, Marley, Morley, and Mar-low and that a contemporary writer records "Shake-speare" as a normal spelling.<sup>30</sup> This is the worst of all historical periods in which to base an assumed difference of identity on a trivial difference of spelling, and yet the Oxfordians must do so if they are to explain away the unequivocal references to Shakespeare as a playwright, poet and actor.

This brings us neatly to the second part of the argument presented in this brief.

25. See *infra* pp. 761-63.

26. See *infra* pp. 769-70.

27. See *infra* pp. 784-87.

28. See *infra* pp. 775-87.

29. See *infra* pp. 772-73.

30. Hausser, *The Shakespearean Controversy: A Stratfordian Rejoinder*, 45 A.B.A. J. 704, 705 (1959); W. Camden, *Remaines of a Greater Work Concerning Britaine* 111 (1605), quoted in *Shakespeare's Lives*, *supra* note 1, at 15.

C. *William Shakespeare Is The True Author*

1. Shakespeare was a real person. We know that he was born and died, that he made a will in which he left friendship rings to his friends and actor colleagues.<sup>31</sup> Two of these friends subsequently edited the *First Folio* in which they refer to Shakespeare as their friend and fellow, and of course, as the author of the plays.<sup>32</sup> Some of the records which remain have little or no bearing on Shakespeare's connection with the theatre. For example, we have records of his marriage, his delinquency in tax paying and his speculative property deals.<sup>33</sup> Other records have a very definite connection; for example, we have a record of a payment in the Queen's Accounts to Shakespeare, Kempe, and Burbage for "two severall comedies or interludes."<sup>34</sup> We even have racy anecdotes about Shakespeare and Burbage competing for the affections of a lady admirer after the performance of *Richard III*, and polemics which appear to be aimed at the "upstart crow" who thinks he can be both playwright and actor.<sup>35</sup>

2. During his own lifetime poems and plays are published with his name or initials attached to them and his work is subject to all of the usual range of artistic comment—that is, it is praised, criticized, and occasionally even mocked by his contemporaries. After his death his work is published in the *First Folio* by Heminge and Condell (the people mentioned in his will) and the plays are prefaced by four introductory poems praising "Shakespeare" which eulogize him in terms that link him to Shakespeare the actor, Shakespeare the lessee of the Globe, and Shakespeare the man from Stratford. What better evidence could one imagine than the testimony of Ben Jonson? We know that Shakespeare appeared in one of Jonson's plays as an actor. We know that they worked with the same theatre companies. We have a characteristically irascible reference in Jonson's own diary to Shakespeare's amazing facility of composition and we have the dedicatory verse in the *First Folio* which praises Shakespeare's work in the most touching of terms.<sup>36</sup> Shakespeare is a real person. His name is on some of the works when they first appear. His friends say that he is the author and the actor and his contemporaries evidently think that he is the author and the actor. If one is allowed to make the imaginative leaps necessary to dispose of all

31. See *infra* pp. 791-92.

32. See *infra* pp. 791-93.

33. *Shakespeare's Lives*, *supra* note 1, at 23, 30-34.

34. See *infra* p. 785.

35. See *infra* pp. 775-79.

36. See *infra* pp. 741-44.

this evidence, one could challenge the authorship of any work whatsoever. Conspiracy theories prove everything and therefore nothing.

3. One of the procedures beloved of all of the pretenders to "Shakespeare's" throne is that of scouring the plays for language which could be taken to refer to incidents in the life of their preferred candidate. Given the range of character, situation and circumstance in "Shakespeare's" work, such a procedure is doubtful at best. However, if one chooses to adopt it, one can play exactly the same game with Shakespeare's own life. A fifteen-year-old girl living in Stratford at the same time as Shakespeare drowned under circumstances identical to those of Hamlet's Ophelia. Her name? Katherine Hamlett.<sup>37</sup> This means as little or as much as one wants it to.

In conclusion, there is ample evidence that William Shakespeare was the true author of the works ascribed to him. The records that we have been left are from the pens of the people most likely to know and they are solidly behind the man from Stratford. The case for the Earl of Oxford—like the case for all of the other fifty-five claimants to "Shakespeare's" works—relies on mistaken notions about authorship and the history of the times, lacks evidence of both motive and means and requires us to redate the entire Shakespearean canon while assuming a schizophrenic conspiracy of gargantuan proportions. Shakespeare wrote "Shakespeare."

## II. EDWARD DE VERE DID NOT WRITE THE WORKS ATTRIBUTED TO WILLIAM SHAKESPEARE

### A. *He Had No Motive For Concealing His Authorship:*

Conspiracy theories have their own inertia, in literary history no less than in contemporary affairs. Once the first leap of faith has been taken, the reader has an investment in following the game through to the end. All of the subsequent assumptions required to sustain the theory flow more easily, if only because they are *relatively* no less believable. Having swallowed the whale of an assumption that Edward de Vere would scheme and plot to pass off his work as someone else's, it seems to be inconsistent to strain at the gnat-like assumptions that follow. But why should we believe this first assumption? First, we already have a perfectly good author for the works. We need no fanciful assumption to provide one. Second,

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37. E.A. Armstrong, *Shakespeare's Imagination* 112 (1946), cited in H.N. Gibson, *The Shakespeare Claimants* 291 (1962).

the only credible motive for de Vere's duplicity—the "shame" associated with authorship and with the stage<sup>38</sup>—is undermined by another of the plaintiff's own arguments. The plaintiff makes much of the fact that de Vere published poems under his own name and was known to have written plays.<sup>39</sup> Like his father, he also supported a company of boy actors.<sup>40</sup> These are hardly the actions of someone who thinks that the stage will bring disrepute on his name.

Even if de Vere had not been a contributor to and patron of the lively arts, the history of his life gives us little evidence to back up the assumption that he was a person whose behavior was carefully calculated to preserve "his good name." Admittedly, in his youth he wrote an ode which showed concern about "his good name"<sup>41</sup> but his subsequent conduct seems only to provide evidence that his concern was well warranted. When he was not having a child with his mistress, Ann Vavasor,<sup>42</sup> he was publicly accusing his wife of adultery,<sup>43</sup> and claiming that his son was not truly his son.<sup>44</sup> Apparently referring to de Vere's association with the boys' theatre company, his own guardian, Lord Burleigh, reports that he was often in the company of "lewd persons."<sup>45</sup> Perhaps Burleigh was merely upset because de Vere had stabbed and killed Burleigh's cook in a mysterious altercation,<sup>46</sup> or perhaps it was the fact that Burleigh did not think much of de Vere's habit of selling off ancestral estates in order to finance his revels.<sup>47</sup> In any event, would a publicly acknowledged playwright who did all these things openly think it necessary to go to such extreme lengths to hide his authorship of the greatest plays the world has ever seen?

The Oxfordians could attempt to deal with this problem by postulating a sudden *volte face* over the respectability of authorship.<sup>48</sup> Un-

38. C. Ogburn, *The Mysterious William Shakespeare* 189-90 (1984) [hereinafter C. Ogburn].

39. *Id.* at 190.

40. *Id.* at 44.

41. See J. Looney, *supra* note 1, at 255-65.

42. C. Ogburn, *supra* note 38, at 633. Anne Vavasor was no shrinking violet either. "Certainly she was to have three husbands, two of them at once—or so in 1618 the charge read under which she was to be convicted of bigamy. . ." *Id.* at 611.

43. Mr. Ogburn interprets de Vere's words differently. When de Vere said "that if she were with child it was not his," Mr. Ogburn believes that "he was not charging his wife with infidelity, but denying she was with child." *Id.* at 572.

44. *Id.* at 572-75. For a bowdlerised biography see B.M. Ward, *The Seventeenth Earl of Oxford 1550-1604* (1928).

45. C. Ogburn, *supra* note 38, at 535.

46. *Id.* at 454.

47. *Id.* at 481; *Shakespeare's Lives*, *supra* note 1, at 600.

48. In reference to de Vere's publishing habits Looney informs us, "[H]e published his poems *voluntarily* in 1516, but probably never again." Looney, *supra* note 1, at 553 (emphasis added); neither Ogburn nor Looney seem to have any reasonable hypothesis as to why this change of mind occurred.

less we adopt the circular procedure of assuming that de Vere did conceal his authorship, and thus find proof of our premises in our conclusion, there is no evidence for this whatsoever. We also need to assume this sudden solicitous respect for his good name at the same time as de Vere is living a life which clearly makes such solicitude particularly incongruous. Anything can be proved if we make such assumptions.

The second explanation of de Vere's use of a pseudonym is not so much that de Vere intended to hide his authorship but that others conspired to hide his authorship without regard to what he wanted. A difficult task, one might think. Far from it. Mr. Ogburn states the case for the enforced pseudonym theory.

Suppose, in brief, that the earl-dramatist felt he had a mission to expose what was rotten in the state of England. Suppose the plays, if correctly attributed to a courtier close to the throne would be seen as commentaries on affairs at Court by an insider, as sardonic and mischievous portrayals of highly placed officials and as intimate revelations about the author himself unheard of on the part of a nobleman—and this a nobleman with the proudest name—and hence as intolerably unbecoming in the eyes of his peers. Powerful interests would thus have a stake in keeping the author's identity hushed up—if they could not shut him up to begin with: . . .<sup>49</sup>

The idea of the hostile conspiracy to rob de Vere of the credit for his plays may explain his apparent fickleness over secrecy later in life. But Mr. Ogburn claims de Vere also wrote the works attributed to a number of *other* writers—apart from his own works and those of "Shakespeare," that is—and we may doubt whether the hostile conspiracy of "powerful interests" explains de Vere's concern for secrecy while he was writing Brooke's *Tragicall Historie of Romeus and Juliet* (published when de Vere was thirteen)<sup>50</sup> or Golding's translation of the *Metamorphoses* (published when he was seventeen).<sup>51</sup> Assuming that there must have been yet another set of explanations for these episodes, we are driven to wonder how Shakespeare from Stratford got involved in this whole affair and how the conspiracy was to be carried out.

The inference must be—and I am still repeating—that the Queen, Burghley, and his son Robert had decided that to prevent the pseudonym "William Shakespeare" from being exposed as such there would have to be an actual person to go with it, officially,

49. C. Ogburn, *supra* note 38, at 189.

50. *Id.* at 449-51.

51. *Id.* at 443-46.

and though others of similar name were probably available, picked William Shakspere.<sup>52</sup>

As we will see, it was lucky for William that he had exactly the same name de Vere had coincidentally chosen for his pseudonym. Having picked Shakespeare the rest was easy.

Everything falls into place, Oxfordians have long pointed out, if we take it that in 1597 the persons in whose hands the matter rested decided that the authorship of the plays we know as the world's greatest would be lastingly concealed;. . . Southampton was made the agent for paying him the £1,000 to return to Stratford and there to maintain a non-committal reserve about his London activities.<sup>53</sup>

It is important that this sum of one thousand pounds not be confused with another similar sum. In 1586 Oxford was accorded a £ 1000 annuity by Elizabeth.<sup>54</sup> This annuity was renewed by James I on his accession to the English throne in 1603.<sup>55</sup> Since Elizabeth was notoriously tight-fisted, Mr. Ogburn asks the obvious question. "Why would Oxford be treated with such signal generosity(?). . . It seems to me reasonable to believe that Oxford received the grant as Shakespeare, to finance his activities in the theatre."<sup>56</sup> The idea is apparently that Oxford was being subsidized for the patriotic plays that he would write and for the work he was doing to get other playwrights to work at this form of stage propaganda.<sup>57</sup> This is a familiar Oxfordian idea,<sup>58</sup> and all of the authors concerned are full of the highest praise for the beneficial patriotic messages of the plays. But this seems completely to contradict everything that has gone before.

The plays for which Elizabeth is supposed to be paying £1000 a year are also the plays she is supposed to be working to suppress because their author had set out to "expose all that was rotten in the state of England." The same conspiracy that was working to suppress the information that de Vere was the author was also funding him. An alternative Oxfordian explanation is that de Vere hides his true name because he is frightened that he will be punished by the powerful Elizabethan state apparatus of censorship. . .for saying the very things he is being paid £1000 a year to say.<sup>59</sup> Oxfordians are—

52. *Id.* at 745.

53. *Id.* at 194-95.

54. *Id.* at 688.

55. *Id.* at 689.

56. *Id.* at 690.

57. E. T. Clark, *cited in* C. Ogburn, *supra* note 38, at 694; C. Ogburn, *supra* note 38, at 690-94.

58. M. Douglas, *supra* note 1, at 47 *et seq.* (1952).

59. H.N. Gibson, *supra* note 37, at 76.

with good reason—eternally vigilant for people who might ridicule their ideas, but it seems fair to say that none of this is terribly *likely*.

When we find that the Essex faction used Shakespeare's company to put on a production of *Richard II* in order to foment a rebellion against Elizabeth, and that de Vere kept his £1000 a year subsidy, the propaganda argument adds factual to logical impossibility. "I am Richard II, know ye not that?" was Elizabeth's comment to Lambarde, "He that will forget God will also forget his benefactors; this tragedy was played 40tie times in open streets and houses." Lambarde's response clearly shows—if any proof was needed—that she was thinking of Essex. "Such a wicked imagination was determined and attempted by a most unkind Gent., the most adorned creature that ever your Majesty made."<sup>60</sup> Mr. Ogburn claims that, because Essex was not responsible for *all* of the forty performances, and could not be accused of forgetting God, this must refer to de Vere.<sup>61</sup> Given the way that actual people talk, this interpretation seems more than a little strained—but the point is moot. Elizabeth was many things—but she was not a person who would fund plays that aimed at her overthrow. Elizabeth is cast as both paymaster and suppressor of de Vere's work. The same plays are both a patriotic hymn and a lurid, biting satire of those they are intended to glorify. De Vere starts hiding his authorship of other works at age thirteen even though he also publishes under his own name.<sup>62</sup> And all of this can be discovered because his strangely ambivalent urge for secrecy still allows him to leave us hundreds of clues in the plays and Sonnets. These things cannot be.

*B. The Idea Of A Posthumous Conspiracy Is Far-Fetched  
And Internally Contradictory*

It has been argued that none of the explanations of de Vere's use of a pseudonym are convincing and that they contradict both themselves and each other. The argument from shame founders on de Vere's overt publications, plays, and theatrical activities, as well on the rest of his rather unashamed behaviour. The argument of a hostile conspiracy founders on its own contradictions as well as on the simultaneous claim that de Vere was being funded by the very people who suppressed him. The same fate befalls the argument that he was frightened of the state censorship apparatus. Finally, *all* of

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60. *William Lambarde's Diary*, printed in 3 J. Nichols, *Progresses and Processions of Queen Elizabeth* 552 (1823), cited in C. Ogburn, *supra* note 38, at 10.

61. C. Ogburn, *supra* note 38, at 10.

62. J. Looney, *supra* note 1, at 539; C. Ogburn, *supra* note 38, at 189-90.

the arguments founder on the fact that the Oxfordians must also present de Vere as a person who is revealing his name over and over again in almost every line of the plays. And how convinced can we be of any explanation (for example, shame) if the evidence will also support exactly the opposite explanation (for example, conspiracy)? But even if a way could be found to circumvent this pattern of contradiction, a pattern which—*of necessity*—appears again and again in the argument for de Vere, there is still the problem of the *mechanism* by which this conspiracy was carried out.

So far, the argument is that in 1597 the most powerful people in England—Elizabeth, Burleigh, and even Southampton<sup>63</sup>—conspired for rather obscure motives to pass off a real person as the author “William Shakespeare.” Luckily, they found a semi-illiterate provincial who happened to have almost exactly the same name.<sup>64</sup> Paying him £ 1000 to keep quiet, they managed—by 1604 or so—to persuade him to retire back to Stratford.<sup>65</sup> Faced with such powerful people and such an enormously large bribe, one might have thought that William would have taken less than seven years to make the leap, but no matter.

If we are assuming that de Vere is not named as author because the plays are to be suppressed, and the author concealed by the substitution of a cats-paw, why was the *First Folio* published? We might also wonder why Heminge and Condell—Shakespeare’s actor friends—should produce it and why Jonson, Holland and Digges all add praises to Shakespeare’s ability. All of these difficulties vanish if we assume a (different) conspiracy—to get the plays published. Philip and William Herbert, the Earls of Montgomery and Pembroke, and the dedicatees of the *First Folio*, were the true moving forces behind its publication.<sup>66</sup> The apparent motive is that de Vere’s daughter was Montgomery’s wife. The rest were merely more or less willing pawns, the degree of willingness being measurable by the amount of irony which can be read into their statements by Oxfordians.

Pembroke had moved George Buck—one of his kinsmen—into the office of Master of the Revels in 1603.<sup>67</sup> Thus, one of the most

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63. Southampton is Elizabeth’s bastard son by de Vere according to some, but not all Oxfordians. Mr. Ogburn reserves his judgment on this one, calling it extremely far-fetched but not impossible. C. Ogburn, *supra* note 38, at 519.

64. For reasons we will get to, the Oxfordians discount two earlier references to Shakespeare as an actor and actor-playwright. All of the references to Shakespeare the author, are of course, to de Vere.

65. C. Ogburn, *supra* note 38, at 745.

66. *Id.* at 216-19.

67. *Id.* at 217.

important offices to theatrical publishing would now be in the hands of a group that are supposed to be favorable to keeping de Vere's (pseudo-)name alive. Was there an immediate flood of Shakespearean publication? No, quite the opposite. The flow slowed but did not stop altogether. This would appear to be evidence against the theory, but not at all. "*The design must be apparent to us: Pembroke, with Buck's cooperation, was clamping down on the traffic in Shakespeare's plays anticipating publication of an authorized edition with the whole collection.*"<sup>68</sup> Again, using this kind of logic, it is not clear what state of facts—the publication of more plays, less plays, no plays at all—could possibly count against the argument.

The motive of this conspiracy—like that of the others—remains unclear. The Elizabeth/Burleigh/Southampton conspiracy wants to suppress de Vere's authorship by pretending Shakespeare is a real person.<sup>69</sup> Luckily, the Herbert/Buck/Ben Jonson conspiracy, working in the opposite direction, wants to do exactly the same thing.<sup>70</sup> It was fortunate for the hapless man from Stratford that not one but two powerful conspiracies working in opposite directions should perpetuate his (now posthumous) claim to the authorship. Fortunate, but rather unlikely.

This story requires us to believe that honest Ben Jonson's lines are not so honest, or rather to believe that the parts of it addressed to the man from Stratford are ironic, while the praise of the work is genuine. Jonson is another character with contradictory motives, another person whose words mean the opposite of what they seem. Fragments of Jonson are taken out of context and parsed, as if one could best appreciate a butterfly by dissecting it. The poem is best read in its entirety, but two particular claims do warrant analysis.

My Shakespeare, rise; I will not lodge thee by  
Chaucer, or Spenser, or bid Beaumont lye  
A little further, to make thee a roome:  
Thou art a Monument, without a tombe,<sup>71</sup>

Jonson is apparently referring to William Basse's proposal that Shakespeare's body should be lodged in Westminster Abbey.<sup>72</sup> To the Oxfordians these lines can bear all kinds of cabalistic innuendoes, but the next lines rather undercut them. "And art alive still,

68. *Id.* at 218 (emphasis added).

69. *Id.* at 745.

70. *Id.* at 218-21.

71. B. Jonson, *To the memory of my beloved, The Author Mr. William Shakespeare and what he hath left us*, in the *Folio* of 1623 [hereinafter B. Jonson], reprinted in *William Shakespeare, The Complete Works* xix (A. Harbage ed. 1969). [hereinafter *The Complete Works*].

72. 2 E. Chambers, 2 *The Elizabethan Stage* 226 (1923).

while thy Booke doth live,/ And we have wits to read and praise to give."

Jonson's lines say that no monument is needed to commemorate Shakespeare's genius because his work is itself a monument. In fact, Shakespeare is alive "while thy Booke doth live."<sup>73</sup> The comment—indeed the whole poem—manages to be warm, even though the sentiments are expressed in very conventional Elizabethan form. From Jonson, who cared so deeply about fame and skill, who was so notoriously envious of other writers,<sup>74</sup> this is a real eulogy. Writers of epitaphs often write the things they wish that people would say about *them*. It is rather sad that this touching personal tribute from one great playwright to another should be taken for denigration, irony and deceit. "To the memory of my beloved" says the title and it rings true.<sup>75</sup> It rings true as a poem from one stage professional to another. Ben wanted to hear Shakespeare's "Buskin tread, and shake a Stage."<sup>76</sup> It even rings true when Jonson drops in the famous line about Shakespeare having "smalle Latin and lesse Greeke." Classical learning was Jonson's forte—he was the equal even of Bacon—and we hear his *amour propre* in those lines. They were true. Compared to Jonson, anyone—including a contemporary professor of classics—would have small Latin and less Greek. It rings also true when he takes those lines and counterbalances them. Shakespeare's genius is not all "natural brilliance," untouched by

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73. Mr. Ogburn believes that the line, "a monument without a tomb" is mysterious. Shakespeare cannot be a monument without a tomb because *he has a tomb*. He dismisses the idea that the line is metaphorical, believing instead that it is actually part of a series of hints that we should look within Shakespeare's monument for a copy of his works. C. Ogburn, *supra* note 38, at 790. One of Mr. Ogburn's arguments on this score concerns the wording of the inscription on the monument which reads, "Stay passenger, Why goest thou by so fast/ Read if thou canst whom envious death has plast/ With in this monument Shakespeare." But Shakespeare is buried in the floor, and the monument is too small to contain anyone. Thus, he reasons, the inscription must have another, darker meaning. *Id.* Clearly Mr. Ogburn likes his poets to say what they mean and no messing around. The lines on the monument should have read, "Stay passenger, Why goest thou by so fast/ Read if thou canst whom envious death has plast/ Under the floor of the church (quite near this monument) Shakespeare." One is reminded of the story about the mathematician Charles Babbage, who wrote to Tennyson suggesting that his lines, "Every minute dies a man And every minute one is born" should be changed to "Every minute dies a man/ and one and a sixteenth is born." Now that's accuracy for you. *The Oxford Book of Literary Anecdotes* 228 (J. Sutherland ed. 1975). The attempt to open, or X-ray the monument in search of the manuscripts has been made more difficult by a set of bizarre recent circumstances, including a break-in. Apparently Ogburn believes that the Chief Constable of Stratford is somehow mixed up in a mysterious effort to downplay a criminal attempt to break into the monument in search of exactly those manuscripts. The court's attention is drawn to pages 788-802, which it would be hard to summarize in this brief for reasons which will make themselves apparent.

74. C. Ogburn, *supra* note 38, at 220-21.

75. B. Jonson, *reprinted in The Complete Works*, *supra* note 71, at xix.

76. *Id.*

work or learning—even if Jonson would like to think that it was—and Jonson knew it.

Yet must I not give Nature all: Thy Art,  
My gentle Shakespeare, must enjoy a part.  
For though the Poets matter, Nature be,  
His Art doth give the fashion. And, that he,  
Who casts to write living line, must sweat,  
(Such as thine are) and strike the second heat upon the Muses  
anvile. . . .<sup>77</sup>

These do not seem like the ironic and deceitful words of a person who is perpetrating a charade for one of his patrons. They seem like the words of a jealous but honest man, a good man, who actually liked Shakespeare—the “Sweet Swan of Avon”—and who cannot write him off as “merely” a natural genius. “For a good Poet’s made, as well as borne. And such wert thou.”<sup>78</sup> Buskins, stages, Avon, genuine affection; there is no Oxford here.

Some years later Jonson was to reinforce this image of Shakespeare in his private papers. In a passage which characteristically mixes praise with criticism he refers to “the player’s” comment that Shakespeare never blotted out a line and responds “would he had blotted out a thousand.” Saying that he loved Shakespeare and honours his memory “this side of idolatry” Jonson goes on to comment that “[h]ee was (indeed) honest and of an open and free nature: had an excellent Phantasie; brave notions and gentle expressions: wherein he flowed with that facility, that sometimes it was necessary he should be stop’d.”<sup>79</sup> Are these lines in Jonson’s private diary also part of the conspiracy? If they are not, then must one not concede that the lines in the *Folio* are true, that this reference is true and thus that Shakespeare the actor was “Shakespeare” the playwright?

The posthumous conspiracies require too many assumptions to be credible—lies, venality, massive control, irony, mixed motives—one side trying to protect de Vere by calling him “Shakespeare,” and the other group trying to undermine him by doing the same thing. There is much, much more. We must also postulate “operation clean sweep”—the destruction of all of the documents which would disprove this massive falsehood.<sup>80</sup> We must imagine a sani-

77. *Id.* at xx. Much is made of the fact that he called Shakespeare “gentle” a word which often meant “noble.” What of it? Would one be surprised if he had called him “noble.” in a poem like this? In any event, after 1596 Shakespeare had a legitimate claim to be called a gentleman.

78. *Id.*

79. E.T. Clark, *supra* note 1, at 348.

80. C. Ogburn, *supra* note 38, at 194, 745.

tizing of diaries, a control over drunken reminiscence, all by a group who both funded de Vere and tried to suppress his works. But at a certain point the credibility gap becomes too large and we must stop.

C. *De Vere Died In 1604. "Shakespeare" Continues To Write.*

Even if we assume the conspiracy for the sake of argument, de Vere has a slight handicap in the authorship stakes since he was dead nine years before the *first* performance of *King Henry VIII*. There is a fair amount of evidence that "Shakespeare" was still writing after de Vere's death. "The history of knowledge is a tragic tale in which beautiful theories are persistently mugged by ugly, brutal facts." Those who believe that Christopher Marlowe wrote the plays deal with the same problems of chronology by claiming that Marlowe's murder was a facade arranged by his lover, the head of the English secret service. They paint a delicious picture of Marlowe composing the plays in hiding long after his apparent death.<sup>81</sup> The Oxfordians' response is less exciting but no less audacious—they simply redate the entire Shakespearian canon.

There are some obvious and some not so obvious problems with this maneuver. It seems so implausible that fairness requires a recitation of the argument in its favour—which is that the plays are commonly dated under the assumption that Shakespeare wrote them. Of course, if one is challenging precisely that attribution, one cannot use the attribution to date the plays and then use the dates to settle the attribution. This is a perfectly good argument provided the only method used to date the plays is their fit with the known details of Shakespeare's life. In fact, things are much more complicated—allusions, performance records, closings of theatres owing to plague, are all milked of their significance. The complexities of dating the Shakespeare canon are simply too esoteric and recondite to deal with fully in this brief, but two examples may suffice to show the implausibility.

Referring to the holiday season of 1604-05, Walter Cope wrote to Cecil, "Burbage ys come and sayes ther ys no new playe that the Quene hath not seene, but they have revyved an olde one cawled *Loves Labore Lost*."<sup>82</sup> De Vere is dead by this time. We have to imagine that the King's men or their friends are hoarding de Vere's old manuscripts, so this shortage of plays does not make any sense. All

81. H.N. Gibson, *supra* note 37, at 27.

82. Quoted in Barroll, *The Chronology of Shakespeare's Jacobean Plays and the Dating of Antony and Cleopatra in Essays on Shakespeare 136-37* (G. Smith ed. 1965) [hereinafter Barroll].

the "Shakespeare" plays would *have* to have been written by this time—barring ghost-writers—and so the company would have in its clutches all the Shakespearean plays that they were going to perform for the next *nine years*. They would have *The Tempest*, *A Winter's Tale*, *Coriolanus*, *Cymbeline*, *Anthony and Cleopatra*, *King Lear*, *Pericles*,<sup>83</sup> and maybe even a few more, none of which had ever performed. All of those plays would be just sitting there waiting to be staged. In such a situation—with Burbage claiming the Queen was getting tired of "reruns"—is it reasonable to imagine that the company would put on a retreaded version of *Love's Labour's Lost*?

Second, there are strong reasons, ranging from topical allusion to performance history, to believe that *The Tempest*, among others, was definitely written after 1604. For this reason, Mr. Looney, the originator of the Oxfordian theory, denied it the status of a *bona fide* "Shakespearean"—that is to say, de Verean—work.<sup>84</sup> Other commentators have been less sure. Mr. Ogburn takes the plunge and identifies it as de Vere's but argues that the conventional dating is wrong on grounds that de Vere could have had early access to topical sources different than those normally understood to be referred to by the play.<sup>85</sup> The argument is a complicated one and cannot be summarized here, however we should note that we are being required to make yet another mammoth assumption which goes against the views of almost every expert on the dating of the plays.

It is true that there are disputes over the dating of Shakespeare's plays. It is difficult to date plays which were originally written only for performance and which were subsequently published in a number of different versions, authorised and unauthorised—taken from working copies of the scripts or from the drunken reminiscences of actors. Dating is made still more difficult by the fact that playwrights stole freely from each other, that apparent contemporary references to the play one wishes to date may only be proof of a common source, and that allusions in the play make references to some current event or may be references to something that happened years earlier. Having said all of this, the disparities in the dating of Shakespeare's plays are normally a matter of only one or two years, not the five or six years required to make Oxford the author of the later plays.

Perhaps we should give Mr. Barroll the last word. After many

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83. See, e.g., Harbage, "The Canon," reprinted in *The Complete Works*, *supra* note 71, at 18-20.

84. J. Looney, *supra* note 1, at 415-36.

85. C. Ogburn, *supra* note 38, at 388-90.

pages of closely packed analysis of all of the various sources which would allow one to date the plays he comments ruefully, "There is no reason why *Macbeth* might not have been written as late as 1611, the same year in which *The Tempest* was produced, and we cannot simply deny this because we wish to."<sup>86</sup>

1. *Plaintiff exaggerates the similarities between the works of "Shakespeare" and de Vere*

This section of the brief presents several dilemmas—dilemmas because of insufficient space and dilemmas because of the difficulty of doing the subject justice. One argumentative strategy would be to ask if it is likely that "William Shakespeare" was the author of the following delightful lines from Lyly's "Tooth-ache Song," a poem attributed to de Vere by Mr. Looney et al.

"O my teeth! dear barber ease me,  
Tongue tell me why my teeth disease me.  
O, what will rid me of this pain?  
Some pellitory fetched from Spain.  
Take mastick else.  
Mastick's a patch;  
Mastick does many a fool's face catch.  
If such a pain should breed the horn,  
'Twere happy to be cuckolds born. . . ."<sup>87</sup> And so on.

Yet to quote such lines out of context—they appear to have been a satire on Burghley—as representative of de Vere's poetry is to descend to the level of the worst arguments on both sides. After all, James Grainger wrote the line "Come Muse, let us sing of rats" and he was not *that* bad a poet.<sup>88</sup> Even Wordsworth could be laid low by the task of describing a pond. "I've measured it from side to side/ 'Tis three feet long and two feet wide."<sup>89</sup> If one searches for more representative passages, one may be accused of picking selectively or told that—despite his earlier experiences in publishing under the names of others—de Vere's genius had not matured. The following verse seems more typical. "What cunning can express/ The favour of her face?/ To whom in this distress,/ I do appeal for grace./ A thousand Cupids fly/ About her gentle eye."<sup>90</sup> This competent, but rather dreary offering does not seem likely to have come from the same pen as wrote the *Sonnets*, or even the *Rape of Lucrece*. But some

86. Barroll, *supra* note 82, at 153.

87. E. de Vere, "Tooth-ache Song (Trio)" *Poems of Edward de Vere*, reprinted in J. Looney, *supra* note 1, at 614.

88. S. Pile, *The Book of Heroic Failures* 116 (1979).

89. *Id.* at 117.

90. E. de Vere, "What Cunning Can Express," in J. Looney, *supra* note 1, at 563.

of "Shakespeare's" work is by no means sparkling; de Vere was young at the time and once again the selection may be problematic.

If general comparisons are difficult, specific ones are even more so. Both "Shakespeare" and de Vere compare the colour of a woman's cheek to a rose<sup>91</sup> but we may doubt what this proves. More specific equivalences may in fact be phrases which now seem esoteric but were then familiar, or be the result of common sources, or even of "Shakespeare" borrowing from de Vere, as he borrowed from so many others. Those who are looking for such correspondences will see them everywhere—Mr. Looney raises such parallels as a roughly similar use of the following words and phrases—"perused," "yield to your desire," "execute mine own intention," "considered in my mind," "noble thoughts" and so on.<sup>92</sup> Such evidence is underwhelming.

More striking than these parallels is the evidence provided by the sonnets and the plots of some of Shakespeare's plays. The sonnets will be dealt with in the section of the brief which discusses the fit between Shakespeare's life and his works.

2. *The arguments supporting de Vere's authorship are so broad that they could (and do) lead Oxfordians to claim that de Vere wrote almost any Elizabethan literary work*

When one examines the arsenal of Oxfordian arguments, it becomes clear that they can explain away any counterargument through a variety of devices. The first and most obvious is the deliberate conspiracy to mislead. This device can dispose of the name on the book, the testimony of witnesses and so forth, but it is far from being the only weapon in the Oxfordian arsenal. There is also "the ironic comment." This is a comment which means exactly the opposite of what it appears to. An example would be Ben Jonson's loving praise of his friend William Shakespeare. This, it turns out, is actually an ironic denunciation.<sup>93</sup> There is also the "concealed reference" or "topical allusion," (the cook de Vere killed is recalled by Polonius behind the arras)<sup>94</sup> the anagram "And E.Ver/y word doth almost tell my name"<sup>95</sup> and a host of others—some of which are sensible and some are not, just as in the orthodox literature. The

91. *Id.* at 564.

92. *Id.* at 574-75.

93. C. Ogburn, *supra* note 38, at 233.

94. *Id.* at 454-55.

95. *Sonnet 76*. The sonnet refers in fact to Shakespeare's consistent use of one style so that his verse is easily identifiable.

trouble with these arguments is that they could justify de Vere's authorship of any work.

This is not a hypothetical debating point. Mr. Ogburn, whose carefully researched and meticulously argued *The Mysterious William Shakespeare* is deservedly thought to be the centerpiece of Oxfordian scholarship, thinks that de Vere wrote a great deal more than merely the "Shakespearean" canon and his own work. He is led to this point, not by foolhardiness, but because he is forced to this position by his prior arguments—in particular the argument that many of the apparent "borrowings" in Shakespeare's work are in fact examples of de Vere alluding, consciously or unconsciously, to other works he had written under the name of others, or to the works of authors whom he had substantially influenced.<sup>96</sup>

One notable example of this process is Mr. Ogburn's claim that de Vere was actually substantially responsible for Arthur Golding's popular translation of Ovid's *Metamorphoses*.<sup>97</sup> Golding was de Vere's uncle and thus we have the kind of coincidence which starts off the idea that de Vere might have been the author. Mr. Ogburn gives as evidence for this rather precocious exercise in translation the stylistic incongruity between the bawdy, picaresque *Metamorphoses* and Golding's other dense, pious works<sup>98</sup>—works which, *ex hypothesi*, de Vere did not write. One is puzzled here by the same pattern of paradoxical assumptions as appears in the larger case. We assume a conspiracy of silence. The silence is to be ensured by publication under the name of another, whose reason for going along with the deception is unclear. In fact, Golding's motivation is doubly obscure since the reason for doubting his authorship in the first place is the supposition that he would have heartily disapproved of both the content and the style of the book. To explain Golding's complicity, Mr. Ogburn quickly reverses his tack, and assumes it stemmed from Golding's discovery of enlightening precepts in Ovid's salacious work.<sup>99</sup> Thus, we undermine the very disapproval which started us off in the first place. Occasionally one can "have it both ways," but the Oxfordian case, with its recurring *pattern* of paradoxes, seems overly dependent on such flip-flop assumptions.

Golding's *Metamorphoses* was not de Vere's first work, according to the same source: Mr. Charlton Ogburn, who also credits him with Arthur Brooke's *The Tragicall Historie of Romeus and Juliet*, published

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96. C. Ogburn, *supra* note 38, at 383, 449.

97. *Id.* at 446, 772.

98. *Id.* at 446.

99. *Id.* at 444.

when de Vere was *thirteen* years of age.<sup>100</sup> This time the explanation for the named author's silence is simplified by the assumption that he never existed at all. Obviously de Vere's obsession with secrecy arrived before his adolescence. It must have been a fickle obsession—allowing the publication of poems under his own name between de Vere's incarnations as Brooke and Golding and his later role as Shakespeare. What of poor imaginary Brooke? The poet George Turberville wrote "An epitaph on the death of Master Arthur Brooke drounde in passing to New Haven" but this can be explained away by assuming that "having served his purpose, he was disposed of as an unwanted kitten may be, as a favor to de Vere by Turberville, a poetical disciple of de Vere's uncle, the Earl of Surrey."<sup>101</sup> Thirteen year old poets, conspiracies to dispose of people who never existed, pre-adolescent obsessions with secrecy which strike without warning and depart no less suddenly: It is to Mr. Ogburn's great credit that he does not back away when his thesis about plagiarism forces him to put forward these ideas and he rather charmingly admits that the idea of the thirteen year old poet may be seen to be "reaching very far";<sup>102</sup> but it is submitted that "reaching" is not the word.

Nor was de Vere's canon limited to these two early pieces. Mr. Ogburn seems to hint that de Vere also wrote most of John Lyly's novels and all the lyrics for his plays.<sup>103</sup> After all, Lyly was at one time de Vere's secretary, and Shakespeare clearly "borrowed" much from Lyly. Now, given his romantic view of Shakespeare, Mr. Ogburn cannot bring himself to believe that "Shakespeare" would follow the Elizabethan practice of plagiarism: "I have rejected the contention of the Stratfordians, as insulting to the peerless dramatist and unreasonable on its face, that Shakespeare stooped to cribbing the grossly inferior work of others."<sup>104</sup> He is thus under pressure to do with Lyly what he did to poor Arthur Brooke, to assign all of his works to de Vere. Self-reference is not plagiarism, after all. He does go so far as to say that John Lyly was almost certainly not the author of the lyrics in "John Lyly's" plays,<sup>105</sup> and indicates that Oxford had a substantial hand in Lyly's work. He also

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100. *Id.* at 449-51. To back up this claim of pseudonymous precocity, Mr. Ogburn points out that Brooke was referred to as "this dainty babe." *Id.* He takes this to be another piece of evidence that Brooke did not exist but was actually the 13 year old de Vere. *Id.* It is on such ingenious interpretations that the Oxfordian case is founded.

101. *Id.* at 450.

102. *Id.* at 449.

103. *Id.* at 43-46, 625-31.

104. *Id.* at 449.

105. *Id.* at 706.

says that "Lyly presents, like Arthur Golding, the case of a writer who, entering Oxford's *ambience*, glows with a refulgence unprecedented in his past and deserting him when once he is on his own again."<sup>106</sup>

This last sentence might seem to be merely a claim of beneficial influence if one did not remember that Ogburn claimed that Golding's equivalent work was probably largely of de Vere's authorship, and that Ogburn thinks that Lyly did not write the substantial parts of the plays attributed to him. From the evidence given above it seems that he would add Lyly's considerable oeuvre of plays and novels to the Earl's list of accomplishments—along with Golding's *Metamorphoses*, Brooke's *Tragicall Historie*, Marlowe's *Edward the Second*,<sup>107</sup> and all of the works of Shakespeare and—of course—de Vere.<sup>108</sup> So far as one can tell, Oxfordians are willing to concede that Ben Jonson actually wrote his own works—even if the poem in the *First Folio* leans to the Oxfordian cause and is supposed to have been written at the behest of the conspiracy. One is tempted to ask whether Ben's famous irascibility can be attributed to his chagrin that he had to write his own plays?

Regrettably, the most likely response to these claims—and one that is evidently hard to suppress—is a humorous one. But even if some Oxfordian advocates have made claims that are a little too wide for comfort, their case might still be sound. Two points must be made. The first is that the ascriptions to all of the other authors are justified by the same kind of argument which supports the case for Shakespeare. Humor aside, this leads one to rethink the arguments for de Vere. The second point is that these wide claims of authorship cannot be deserted so easily. Many of them have been taken up because the Oxfordians find it hard to believe that Shakespeare copied the work of others. In a subsequent section it will be argued that this is an ahistorical response. Plagiarism was commonplace in Elizabethan theatre and it was not viewed with the feelings we associate with it today.<sup>109</sup> Shakespeare, who was not immediately hailed as the "peerless dramatist," is very unlikely to have thought that the idea of borrowing from the work of others was "in-

106. *Id.* at 627 (emphasis in original).

107. *Id.* at 694-95.

108. Yet Mr. Ogburn does not come right out and say that de Vere wrote Lyly's works. Perhaps Mr. Ogburn feels that he should refrain from the actual attribution in order to preserve the modesty and credibility of his claims for de Vere. Such a feeling would be entirely to his credit, even if the "modest" version still strikes some as over-broad.

109. "With Elizabethans, stories, ideas, even phrases, were regarded as common literary property which anyone could translate or adapt." K. Holznecht, *The Backgrounds of Shakespeare's Plays* 221 (1950).

sulting" or "unreasonable." But if one rejects the romantic vision of the solitary creator bringing forth beauty *ex nihilo*, then much of the argument for de Vere goes by the board. And if one does not one is stuck with the idea that de Vere wrote, or played a substantial part in writing, all of the works listed above. How likely is that?

*D. If The Oxfordian Arguments About Shakespeare's Incompetence Are True, De Vere Would Never Have Chosen Shakespeare As His Front-Man*

Even if the Court dismisses the above arguments and accepts the idea that de Vere might have been the author, that he had a motive for denying his authorship, that all of the "Shakespearean" works are dated wrongly, and imagines a posthumous conspiracy which sought to maintain de Vere's anonymity by publishing his work, there still remains an almost insuperable obstacle to the plaintiff's argument. Why would de Vere have picked Shakespeare as his cat's-paw? In order to build up the Shakespeare mystery, the man from Stratford has been represented as a bumbling provincial, uneducated and almost illiterate. Worse still, he is actually working in the theatre so that his ignorance of his own lines could not help but become evident in the daily procedure of rehearsal and rewriting. It is hard to imagine a better recipe for the exposure of the deception. Surely Shakespeare would have been the very last person de Vere would have chosen for his cover, even assuming that he needed a real person to masquerade as the author in the first place.

III. THE ARGUMENTS AGAINST SHAKESPEARE ARE ERRONEOUS

*A. The Argument About Shakespeare's Lack Of Specialized Knowledge Is Inaccurate Because It Relies On A Mistaken View Of Authorship And Underestimates The Importance Of The Literary And Social Context*

One of the principal arguments against Shakespeare is that he could not have had sufficient learning, both basic and specialized, to write "Shakespeare's" works. A short review of the sources of knowledge available to Shakespeare, and the accomplishments of his contemporaries who came from similar backgrounds, shows that this is untrue.

1. *Shakespeare's knowledge of languages is adequately explained by Stratford Grammar School, experience as a schoolmaster, the 'short-cuts' available in London and the availability of translations*

"The English nation in the time of Shakespeare was yet struggling to emerge from barbarity. . . (L)iterature was yet confined to professed scholars, or men and women of high rank. The public was gross and dark; and the ability to read and write was an accomplishment still valued for its rarity."<sup>110</sup>

Doctor Johnson's famous comment is accurate only as a portrayal of the *misconceptions* of many readers of "Shakespeare." Lawrence Stone is closer to the truth when he observes that "[w]hat is striking about this period is not the appearance of individual men to genius who may bloom in the most unpromising soil, but rather the widespread public participation in significant intellectual debate on every point."<sup>111</sup> The sudden increase in contacts with other cultures, the excitement over the discoveries of a generation of privateers and adventurers, the increasingly wide availability of translations, classical and continental—all of these played their part in the "knowledge revolution" of Elizabethan England. Thus, to insist that "Shakespeare's" plays could only have been written by someone with the educational training received by a nobleman is to be either elitist or ahistorical; perhaps both.

Ben Jonson—universally conceded to have been a man of enormous classical learning—became a bricklayer's apprentice after he left grammar school and is reputed to have studied the classics in the spare time available after working a twelve hour day at his trade.<sup>112</sup> Thus, the idea that Shakespeare must have attended university is demonstrably false. The claim that Stratford Grammar School could not have provided a good enough education is equally meritless. Stratford was by no means a rustic little town. "Stratford had produced an archbishop of Canterbury, a lord mayor of London, and, in Shakspeare's lifetime, a far from illiterate middleclass. . ."<sup>113</sup> It was rich enough to have a grammar school which was free to all members of the Guild, such as Shakespeare's father, John.<sup>114</sup> The school—"King's New School of Stratford upon Avon"—was situated only a quarter mile from the Shakespeare fam-

110. S. Johnson, *Johnson on Shakespeare* 81-82 (A. Sherbo ed. 1968), cited in E. Jones, *The Origins of Shakespeare* 6 (1977).

111. L. Stone, *Past and Present* 68 (1964).

112. H.N. Gibson, *supra* note 37, at 173; M. Chute, *Ben Jonson of Westminster* 35 (1953).

113. Honigmann, *The Sweet Swan of Oxford?*, N.Y. Rev. of Books 23 (Jan. 17, 1985).

114. Campbell, *Shakespeare Himself*, Harper's Mag. 172, 175-76 (July, 1940).

ily house.<sup>115</sup> Most scholars have accepted the likelihood that Shakespeare went there. The school's charter specified that it should have one teacher<sup>116</sup> who was paid twenty pounds a year and who received rent-free accommodations. Twenty pounds was a good salary, actually a larger amount than that received by the equivalent teacher at Eton (whose perquisites were better) and double that of other rural schoolmasters.<sup>117</sup> The masters who served during the period that Shakespeare was a boy were all Oxford graduates. They all held at least the B.A. degree and one of them even published Latin verses.<sup>118</sup> Shakespeare's learning begins to look less surprising.

From the curricula of other, less well-endowed, schools of the time, it is possible to reconstruct the probable contents of the curriculum at the King's New School. The eight hour school day would be filled with Latin. Shakespeare probably began with Lily's Latin Grammar<sup>119</sup> which is satirized so exactly and effectively in *The Merry Wives of Windsor*.<sup>120</sup> As the children progressed through the school they were soon studying original Latin texts, in a curriculum which included Cicero, Quintilian, and Erasmus for rhetoric and Vergil, Horace, and Ovid—particularly the *Metamorphoses*—for verse.<sup>121</sup> Scholars have added to this list of probable textbooks the works of Topica, Seneca, Aesop, Copia, Plautus, Pliny and Caesar.<sup>122</sup> If Shakespeare studied half of these typical grammar school texts we have an adequate explanation of his knowledge of the classics.

Boys who had spent the best part of six long days a week for perhaps as many as ten or eleven years reading, translating, analyzing and explicating Latin literature would have memorised hundreds, perhaps thousands of lines or scraps of lines from the poets, as well as having innumerable phrases, constructions and rhythms from the prose writers impressed on their minds.<sup>123</sup>

To us, Latin may be an obscure language, the understanding of which signifies extraordinary learning, but in Shakespeare's time this simply was not so. To Ben Jonson—who thought him the author of the plays—Shakespeare may have had "small Latine and less

115. S. Schoenbaum, *William Shakespeare: A Documentary Life* 51 (1975) [hereinafter *A Documentary Life*].

116. *Id.* at 50; A.L. Rowse, *Shakespeare The Man* 22 (1973); T.W. Baldwin, *Shakespeare's Small Latin & Lesse Greek*, *passim* (1944). *But see* C. Ogburn, *supra* note 38, at 273.

117. *A Documentary Life*, *supra* note 115, at 50-52.

118. *Id.* at 53.

119. W. Lily, *A Shorte Introduction of Grammar* (1567).

120. *Merry Wives of Windsor*, Act IV, Scene 1.

121. Baldwin, *Shakespeare's Small Latine* i, 380 (1949), *cited in A Documentary Life*, *supra* note 116, at 56.

122. *A Documentary Life*, *supra* note 115, at 52-57; E. Jones, *supra* note 110, at 9-13.

123. E. Jones, *supra* note 110, at 12-13.

Greek"<sup>124</sup> but that was by the benchmark of Jonson's own learning, which was so prodigious that even Bacon consulted him for help with classical translations.<sup>125</sup>

So much for the educational opportunities of Stratford Grammar School. Next, we have the John Aubrey's story, gleaned from William Beeston, the son of an actor in Shakespeare's company, that Shakespeare "understood Latine pretty well: for he had been in his younger years a schoolmaster in the country."<sup>126</sup> Oscar Campbell<sup>127</sup> fills out the logic of such a possibility by noting that works of Latin authors whom Shakespeare imitated were studied in grammar school. Thus, among the earliest Shakespearean plays we find *The Comedy of Errors* (based on Plautus) and *Titus Andronicus* (an imitation of Seneca). There is a lot of support for this idea—much more support than there is for the speculative features of the Oxford biography—and it provides a neat explanation of any remaining examples of unexplained erudition in Shakespeare's plays. Nevertheless, to insist that Shakespeare *must* have been a schoolteacher is to fall into the same trap as the Oxfordians—the need to load up one's preferred hero with all of the qualities revealed by plays, so as to construct a kind of "six million dollar playwright." In the end, even though received testimony, internal evidence and scholarly opinion<sup>128</sup> all favor the idea that Shakespeare was a schoolteacher, we simply do not know. But if we do not know whether or not Shakespeare was a schoolmaster, even given fairly credible third-hand contemporary testimony that he was, we certainly do not know that the Earl of Oxford wrote the plays—a supposition for which we have no contemporary testimony whatsoever.

Whether or not Shakespeare was a schoolmaster, once he came to London he had arrived at what Marchette Chute calls "the home of short cuts to knowledge."<sup>129</sup> H.N. Gibson summarises the facilities available in the following terms "There were in the city teachers of Arabic, Russian, Italian, Spanish, Dutch, Turkish, German, and Polish, and a whole colony who taught French."<sup>130</sup> So much for the arguments about Shakespeare's knowledge of languages. Apart from the human resources there were, of course, books—including some of the books which Shakespeare obviously used in his plays.<sup>131</sup>

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124. B. Jonson, reprinted in *The Complete Works*, *supra* note 71, at xix.

125. H.N. Gibson, *supra* note 37, at 173.

126. J. Aubrey, *Brief Lives* 276 (O. Dick ed. 1957).

127. Campbell, *supra* note 114, at 172.

128. *Id.* at 177; S. Guttman, *The Foreign Sources of Shakespeare's Works* (1968).

129. M. Chute, *Shakespeare of London* 54 (1949).

130. H.N. Gibson, *supra* note 37, at 174.

131. See S. Guttman, *supra* note 128.

One example should be sufficient. Most authorities seem to agree that Shakespeare used Arthur Golding's popular translation of Ovid's *Metamorphoses* as well as the Latin original.<sup>132</sup> At first sight, this is good news for the Oxfordians. Golding was Edward de Vere's uncle. Yet if de Vere knows Latin so well, why is he relying so heavily on this popular translation? Of course, it is by no means impossible that he did, but the translation would have been equally available to Shakespeare, so why should we think that de Vere is the author? The answer of the principal Oxfordian advocate is that de Vere not only wrote all of Shakespeare's works, he probably also wrote most of Golding's translation, published when de Vere was only seventeen years old.<sup>133</sup>

Two points should be made here—the wide availability of translations such as Golding's tends to undercut the need for a classically trained Shakespeare, and the "simpler" assumption that the classically trained de Vere wrote the plays leads us along a primrose path at the end of which we have made a host of assumptions, each much more unlikely than the initial "puzzle" we were trying to explain. Of course we cannot rule out the possibility that de Vere published poems before he was thirteen and did translations when he was seventeen—he was certainly fluent in Latin before he was twenty and we do not have Arthur Brooke's poor drowned body in front of us—but surely the hypothesis is considerably more far-fetched than the pedigree just given for Shakespeare's Latin?

2. *"Shakespeare's" knowledge of the law is far from unusual in the playwrights of his time*

In the section on "Shakespeare's" facility with languages, it was argued that his knowledge could be easily explained by the resources of his time and place, and that only an ahistorical vision of the era prevented one from seeing this. The same is true of "Shakespeare's" much-vaunted legal knowledge. Legal terms were extremely common in Elizabethan and Jacobean dramatic works and the society of the time has been described as the most litigious in English history.<sup>134</sup> Shakespeare's own family history bears ample

132. See *supra* notes 100-03 and accompanying text. As was pointed out earlier, this was not his first work, according to Mr. Ogburn, who also credits him with Arthur Brooke's, *The Tragicall History of Romens and Juliet*, published when de Vere was 13 years of age. C. Ogburn, *supra* note 38, at 449-51.

133. *Id.* at 449-51.

134. "English men and women used the courts more regularly and with less trepidation than do their descendants. Indeed, it has credibly been supposed that his was the most litigious period in English history." Baker, *Law and Legal Institutions*, quoted in *William Shakespeare: His Work, His World, His Influence* (J.F. Andrews ed. 1985).

testimony to this fact. His father, John Shakespeare, was in court sixty-seven times,<sup>135</sup> and Shakespeare himself was involved in a variety of legal proceedings, in roles ranging from witness to plaintiff, land-buyer to money-lender.<sup>136</sup> Such experience would, by itself, go a long way toward giving Shakespeare a working knowledge of the law, something which was far from being a possession of the privileged few.

The assumption that only men of legal training knew anything about the law is anachronistic. There were few Elizabethans or Jacobean who stayed out of court. . . . Small wonder then, that legal terms occur often in Elizabethan literature. The dramatists may sometimes have had an Inns of Court audience in mind, but it is doubtful whether legal allusions were aimed at impressing the elite: they were a natural reflection of everyday life.<sup>137</sup>

This brings us neatly to the second point. Shakespeare's use of legal terms was by no means exceptional. Clarkson and Warren, having indexed the plays of Shakespeare together with those of seventeen other well-known Elizabethan dramatists, came to the conclusion that he employed about the median number of legalisms, that is to say—about half of his contemporaries used legal terms more frequently than did "Shakespeare." They concluded that most of the "more legal" half of the sample used more complicated and complex legal allusions with a degree of accuracy at least equal to "Shakespeare's."<sup>138</sup> Approaching the issue in another way, J.M. Robertson devotes 140 pages to an examination of the particular legal phrases used by "Shakespeare," finding that each phrase is also used by other contemporary authors.<sup>139</sup> Thus, arguing that the true author must have had legal training would "classify as impostors" Ben Jonson, Christopher Marlowe, Dekker, Kyd, and Webster.<sup>140</sup> If this is true it would tend to argue *against* the idea that the author was someone who—like Edward de Vere—had substantial legal training.<sup>141</sup>

135. J. Robertson, *The Baconian Heresy* 145-46 (1970).

136. C. Allen, *Notes On The Bacon-Shakespeare Question* 24-26 (1970).

137. Baker, *supra* note 134, at 41.

138. P. Clarkson & C. Warren, *The Law of Property and Elizabethan Drama* 285 (1942).

139. J. Robertson, *supra* note 135, at 38-177 (1970).

140. Other books by prominent lawyers and legal scholars give one the general impression that "Shakespeare's" use of legal terms was sometimes jejune, out of date or just plain wrong. See D.P. Barton, *Links Between Shakespeare and the Law* 40 (1971). But see G. Keeton, *Shakespeare's Legal and Political Background* (1967).

141. There is a further possibility. Scholarly opinion now seems to be tilting towards the genuineness of the recently discovered "Lambarde" signature—a seventh signature of William Shakespeare. This signature was (re-)discovered in a law book, *Lambarde's Arachainomia*. On the basis of the book, the internal evidence of the plays, a reference in *Lambarde's* diary, and a host of other biographical evidence and conjecture Professor Knight argues for a possi-

All of this is hardly surprising in an age in which litigation had reached the status of a national sport. Once again, the problem here is the tendency to read "Shakespeare" out of his context—the literature and society of Elizabethan England. In that context, his legal knowledge is no more remarkable than a knowledge of rock music would be in a novelist of the 1970s, however arcane such knowledge might seem 300 years hence.

3. *The arguments based on Shakespeare's handwriting are, once again, ahistorical, since they ignore the peculiarities of the English Secretary Hand, as well as the jointly authored manuscript, "Sir Thomas More," part of which is almost certainly in Shakespeare's own handwriting. This piece of evidence alone would prove Shakespeare's authorship.*

Most of the attacks on Shakespeare's handwriting rely on the evidence of the six signatures which remain to discredit the idea that he was a literate man. Apart from the superficial implausibility of this idea—most people would not care to have their literacy judged by a signature affixed to a legal document—there are three basic problems with the argument. First, most of the signatures which remain come relatively late in Shakespeare's life—the will was framed only a month before his death.<sup>142</sup> Thus, though paleographical analysis detects "weakness and malformation"<sup>143</sup> it seems that we are dealing with ill-health and not illiteracy. The second problem with the argument concerns, once again, the problem of judging sixteenth-century evidence from a twentieth-century viewpoint. Most of the people of Shakespeare's generation in England simply did not use the same system of handwriting that we use today.

Some people after trying to decipher the signatures to Shakespeare's will and other legal documents have, in their own ignorance, called him illiterate. The usual hand written in England from about 1500 until long after Shakespeare's death bears the name of English or secretary . . . English or secretary letters resemble those used in German script, and most of them are totally different from the familiar italic letters of the modern cursive hand . . . It is just as proper to call Goethe illiterate for writing German script as to say that Shakespeare was illiterate because he

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ble personal association between Lambard—the distinguished lawyer and keeper of the Rolls—and "Shakespeare." See generally W. Knight, *Shakespeare's Hidden Life* (1973). Such an association offers a broad scope of conjecture about the source for legal cross-fertilization. Yet, though they are convenient for the Stratfordian argument, these conjectures cannot be taken too far. There is the danger that convenience becomes a substitute for plausibility until one arrives at the more extravagant Oxfordian hypotheses—12 year old poets, adolescent Latin translations and the rest.

142. *A Documentary Life*, *supra* note 115, at 246.

143. *Id.*

wrote English or secretary script.<sup>144</sup>

The peculiarities of the secretary hand are also the most likely explanation for the abbreviated form of Shakespeare's signatures. The secretary hand, as its name suggests, had need of a great number of contractions—which in good Elizabethan fashion were anything but standardized. One of the reasons for thinking Shakespeare's signatures were substandard is that they appear to be unfinished. Of course this is a particularly weak point to begin with since many people with beautiful handwriting cultivate an illegible, curtailed and abbreviated signature—perhaps in the belief that it is harder to forge. But when one realizes that Shakespeare's abbreviations of his signature are relatively common abbreviations for “p-e-r” in the secretary hand, the argument disappears altogether.<sup>145</sup>

The third and final problem with the argument about Shakespeare's handwriting has wider implications. In fact, it seems to prove once and for all that William Shakespeare was the author of the plays. It was relatively common for English dramatists to collaborate in the writing of plays.<sup>146</sup> Shakespeare appears to have collaborated in the writing of the play *Sir Thomas More*. The original text of the play has been substantially edited and it bears additions in five different hands. One of those hands—hand D—is believed to be Shakespeare's. Professor Samuel Schoenbaum summarizes the evidence thus:

The Ill May-Day scene parallels a memorable episode in a later play: Menenius Agrippa using his eloquence and cajolery to calm the plebs in Coriolanus's Rome. Actually a broad spectrum of evidence supports the Shakespearean attribution. Palaeographers, most notably Sir Edward Maunde Thompson, have minutely com-

144. J. McManaway, *The Authorship of Shakespeare* 32 (1962).

145. S. Tannenbaum, *Problems in Shakspeare's Penmanship* 16 (1927). Tannenbaum also suggests the signature may have been “trimmed” to insert within the will. *Id.* at 35; Evans & Levin, *Shakespeare as Shakespeare*, 77 *Harv. Mag.* 41 (1974). Mr. Ogburn points out that Sir E.K. Chambers was apparently also puzzled by the signatures and apparently did not consider the possibility that the signatures were contractions, but this surely fails to counter the actual argument. C. Ogburn, *supra* note 38, at 119. Mr. Ogburn then mentions the supportive opinions of two handwriting experts hired by the Shakespeare/Oxford Society. *Id.* at 119-22. Neither is presented as an expert in the secretary hand, the first does not appear to have considered the argument about contraction, and the second, who does not believe them to have been contractions, described his opinions as “provisional only” because he was working from half-tone reproductions. *Id.* at 121.

146. G. Bentley, *The Profession of Dramatist in Shakespeare's Time 1590-1642* 197-234 (1971). The idea of collaboration is hardly surprising when one realizes that the dominant ethos was one of professionalism. *Id.* at 3-17. If we are going to be ahistorical and find modern day counterparts, their own vision of their craft was probably closer to that of Hollywood scriptwriters working together to knock out a commercially viable script than to the image of Proust struggling with Art alone in the isolation of his cork-lined garret. This point bears remembering when we come to the question of whether Shakespeare's behavior fits the romantic image of the transcendent artist.

pared the three pages in hand D with the six authenticated Shakespeare signatures, and concluded that in every instance the same penman wielded the quill. Thompson's most striking exhibit is the extremely rare spurred 'a' found in one of the signatures, and most closely approximated in the word 'that' on line 105 . . . . Palaeographical confidence is qualified, however, by the fact that the sampling of Shakespeare's hand is so small and most of what we have abnormal because of illness (a dying man signed the will) or the cramping confines of conveyancing seals. Spelling provides another kind of evidence. At line 50 scilens for silence, is most unusual, but it also appears eighteen times in the speech prefixes for Justice Silence in the Quarto of 2 Henry IV. . . . Most striking however are the likenesses of style and thought. . . .<sup>147</sup>

The importance of this point cannot be overestimated. If this section of *Sir Thomas More* is in fact by, and in the handwriting of, William Shakespeare then we have proved more than that Shakespeare was literate. We will have proved that the man from Stratford, the same man who signed the much-maligned will, was a playwright and—given the stylistic and spelling similarities—was almost certainly *the* playwright, the immortal bard himself. Needless to say, the supporters of the Earl of Oxford argue that William Shakespeare was not "Hand D." It is true that both Tannenbaum and E.K. Chambers expressed doubts as to the validity of the comparison, but recent scholarly opinion has shifted more in favor of the attribution.<sup>148</sup> It also seems fair to point out that compared to some of the far-fetched similarities between de Vere's poems and Shakespeare's plays put forward by Mr. Looney and Mr. Ogburn, the argument for Shakespeare's authorship of the *Sir Thomas More* fragment is overwhelming.

A more general point can be made here. Professional scholars are generally—though by no means always—cautious in their attributions. They tend to differ in their interpretations of the material because they are not trying to seize every piece of evidence and bend it to the service of a single argument. Thus on any issue the Oxfordians will have some scholar whom they can cite to their purposes. One wonders what the Oxfordians would say about the evi-

147. *A Documentary Life*, *supra* note 115, at 157.

148. Compare Bald, "The Books of Sir Thomas More and its Problems" in 2 *Shakespeare Survey* 55 (1949) with Evans, "Sir Thomas More: The Additions Ascribed to Shakespeare" in *The Riverside Shakespeare* 1683 (1974) and the acceptance of Sir Thomas More "into the canon of two recent editions." Evans & Levin, *Shakespeare as Shakespeare*, 77 *Harv. Mag.* 41 (1974). In 1986 a scholar not directly involved in the debate described the consensus in favor of identifying Shakespeare as Hand D as "admittedly not unanimous," Melchiori, *The Booke of Sir Thomas More: A Chronology of Revision*, 37 *Shakespeare Q.* 291, 291 (1986), but said that scholarly opinion considered it "most probably Shakespeare." *Id.* at 305.

dence if the fragment was thought to be in *de Vere's* handwriting. Somehow one gets the impression that their skepticism would undergo a deep sea-change. This is no imputation of dishonesty, but merely the natural enthusiasm of an advocate for an unorthodox cause, an enthusiasm which may not always be the best servant of dispassionate fact-finding. As Professor Schoenbaum puts it,

The cumulative evidence of Shakespeare's hand in the 'More' fragment may not be sufficient to sweep away all doubts—but who else in this period formed an 'a' with a horizontal spur, spelt 'silence' as 'scilens,' and had identical associative patterns of thought and image? All roads converge on Shakespeare.<sup>149</sup>

B. "*Shakespeare's*" *Plays Are Not The Product Of An Aristocrat And His Poems Are Not Autobiographies Which Should Be Read Literally*

The examination of the plays for their supposed aristocratic leanings is extremely difficult within the limited compass of this brief. Accepting only for the sake of the argument that the plays really are aristocratic in outlook we still run into a number of problems. First, the idea that all authors must have inside knowledge of their subjects makes one wonder about Dante Alighieri. How *did* he get that material for the *Inferno*? Second, it is hardly unusual for works of art to display the prejudices of the class toward which they are aimed. Third, since we know that Shakespeare received a coat of arms<sup>150</sup> which may have been applied for by his father or grandfather, it is possible that he felt that his plays were expressions of latent nobility. To adopt such a view would be to rebel in some small way against the attitudes of his class and time. Some artists rebel against the values of the bourgeois class by adopting the values of the working class and others by adopting those of the aristocracy.

When we look at the plays it is by no means clear that the values are so uniformly aristocratic. Shylock is hardly a one-dimensional character, and yet he is not aristocratic. Is *Hamlet* a play about the dilemmas of incipient kingship, or does it address rather more general themes? Would *Romeo and Juliet's* lovers still be star-crossed if they were commoners?

There is another problem with the idea that "Shakespeare's" plays are aristocratic. Contemporary audiences do not realize what

149. *A Documentary Life*, *supra* note 115, at 158. Schoenbaum also notes in a footnote that "scholarly opinion now also favours ascription to Shakespeare of a shorter addition, a 21 line speech by More, which is, however, in the hand of a professional playhouse scribe." *Id.* at n. 2; see Bald, *Addition III of Sir Thomas More*, 7 R. of Eng. Stud. 67, 67-69 (1931).

150. *A Documentary Life*, *supra* note 115, at 166-67.

Shakespeare's plays would be like to an audience that understood their often very bawdy language, their earthy allusions.

Today's audiences seem to believe that Shakespeare's plays are "ART," meaning boring and highbrow. This makes contemporary readers more willing to accept claims that these are "aristocratic" plays. They certainly have kings and dukes in them, but then so did almost all plays at this time. But are these really aristocratic plays? The American poet Don Marquis, summed up the other side of Shakespeare's plays in the poem, "pete the parrot and shake-speare." The embittered Shakespeare is complaining that he cannot get away from "these damned cheap shows" to produce real art, that is to say, poetry.

"any mutt can write/ plays for this london public/ says bill if he puts enough/ murder in them what they want/ is kings talking like kings/ never had sense enough to talk/ and stabbings and stranglings/ and fat men making love/ and clowns basting each/ other with clubs and cheap puns/ and off color allusions to all/ the smut of the day oh i know/ what the low brows want/ and i give it to them."<sup>151</sup>

All of this is in Shakespeare's plays, too. If they were really so aristocratic, no one would have liked them and this debate would not be taking place.

Having addressed these general comments to the plays, the argument must turn to the *Sonnets* in order to discuss more particular claims about Shakespeare's life. The *Sonnets* have long been a source of material for claimants to Shakespeare's throne. In the *Sonnets*, the author tells a young, beautiful man—perhaps a patron—that he should marry in order to preserve his beauty by having a child, suggests that the young man has stolen the poet's mistress and that it is her fault, and complains somewhat jealously that another poet has gained the young man's affections. The poet then turns to the famous "dark lady" and addresses her in terms which alternate between the passionately obsessed and the obsessively angry. What is one to make of this? The answer, apparently, is almost anything, and theorists of every description have wrung meanings favorable to their cause from the profusion of images and allusions which the *Sonnets* contain. In this labyrinth of strained interpretations, the Oxfordians come off very well. If honesty requires one to point out that other parts of the Oxfordian argument are contradictory or wildly implausible, it also requires one to admit that their

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<sup>151</sup> don marquis, *Pete the Parrot and Shakespeare* in *The Penguin Book of American Verse* 230-32 (G. Moore ed. 1977).

argument about the *Sonnets* is simple and fairly logical. This is not to say, however, that it is right.

Specifically the Oxfordians claim that the internal evidence of the *Sonnets* reveals their author to be an older man than Shakespeare could have been at the time of their writing.<sup>152</sup> From a reference by Meres we know that some, at least, of the *Sonnets* were in private circulation in 1598.<sup>153</sup> Most attributions center around this date—Mr. Ogburn suggests 1603 or 1604 as the end date.<sup>154</sup> This makes Shakespeare an author of some of the *Sonnets* by the time he is twenty-four and all of them by the time he is thirty. De Vere, however, would have been thirty-eight and forty-four respectively. Given these facts, the Oxfordian argument is obviously on much firmer ground than it was in the earlier more romantic and ahistorical assertions about the record. The *Sonnets* have long been a *bete noire* of Shakesperean scholars, although one suspects this has more to do with the overtly erotic (and homoerotic) content of the poetry than it has to do with their inconvenient lack of fit to Shakespeare's life. This still leaves us with a question. How can we reconcile Shakespeare's age to the tone of weariness, the awareness of mortality, the theme of transitoriness of life's successes and the other examples of age-related *angst* which we can find in the *Sonnets*?

There are a number of possible explanations. The first is that the *Sonnets* are not autobiographical, but are instead a literary exercise less real even than *Lucrece*. This idea has been powerfully argued by a number of theorists and it is certainly not impossible. Imagine that one had to pick, from all the poets in history, a poet who could write a totally believable set of poems based around a number of realistically drawn characters. Imagine that these poems ruthlessly exposed the persona of a single character by revealing his feelings about the people for whom he feels the strongest—even if not the most creditable—emotions. Which poet would one pick? Surely "Shakespeare" would be near the top of the list. If the question is—could "Shakespeare" write so well that his poems would appear to be autobiography rather than mere fiction—then the answer is, again, that he could. This brings up another question. Was "Shakespeare," from all of the other evidence that we have, capable of coming up with such a novel idea for literary creation? To answer this question we need only ask ourselves whether "Shakespeare" had the originality to come up with the fictional equivalent of Michel

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152. C. Ogburn, *supra* note 38, at 337.

153. *Id.* at 335.

154. *Id.* at 336.

de Montaigne's plan for the *Essays*—which is, after all, a contemporary autobiography built around the author's fragmentary responses to a bizarre range of topics.<sup>155</sup> The answer must be that obviously he was an original enough writer to come up with such a plan. If one can answer all of these questions in the affirmative then it seems possible that Shakespeare *could have* written the *Sonnets* as a literary exercise and not as autobiography. Thus they *could* be anything from total fiction to imaginatively reworked autobiography.

So the first possibility is that the Oxfordians are wrong to see an anomaly here because the *Sonnets* are fiction. The second possibility is that they are autobiographical after a fashion, but that, for a variety of reasons, they adopt a pose of an older, sadder writer. There have been suggestions that it was customary for poets to adopt the pose of an older man.<sup>156</sup> Intimations of mortality are certainly not the exclusive preserve of people over forty—a brief perusal of the most depressing works of existentialist philosophy will show that the jacket photograph frequently portrays someone in the flush of youth, even if he writes like Sisyphus in torment. The author of *Lear*—a play written sometime between 1603-05<sup>157</sup>—portrays the terrors and horrors of extreme old age with a poignancy that surpasses all expectations. In 1603, both de Vere and Shakespeare were remote from that kind of old age. In 1605 de Vere was dead. So if this argument works, it applies with equal force to disqualify de Vere from the authorship of *Lear*. On the other hand, an author who could put himself in the shoes of Lear could certainly exaggerate his age convincingly in the *Sonnets*.

Impending death is in some sense the touchstone of all deep experience, the yardstick against which a reflective person will measure the "worth" of all wordly achievement. But someone who thinks this way will undoubtedly sound older than his—or her—years. In fact, the juxtaposition of thoughts such as these with the self-revelatory tone of the *Sonnets* would *force* a writer who cared about tone to exaggerate his age. Could "Shakespeare" have written something like this at thirty? "So shalt thou feed on Death, that feeds on men/ And Death once dead, there's no more dying

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155. There is even a suggestion that Shakespeare owned a copy of Montaigne's *Essays*, a book which does provide an example of a strong affection between a younger and an older man which informs the character development of a most unorthodox and fragmentary autobiographical sketch. However, there is considerable division among scholars over the authenticity of the "Shakespeare" signature in the front of the book.

156. Hotson, Mr. W. H. 65-73 (1964), cited in C. Ogburn, *supra* note 38, at 337.

157. See Taylor, *A New Source and An Old Date for King Lear*, 33 Rev. of Eng. Stud. 396, 396 (1982). Taylor argues persuasively that *Lear* was not written until 1605, after de Vere's death.

then."<sup>158</sup> Surely he could. But if he did, how could he also paint himself as a comparatively young man? Such thoughts would go better aesthetically with a portrayal of oneself as aging. "Bare ruin'd choirs, where late the sweet birds sang."<sup>159</sup> However unreasonably, people in today's world—with its dramatically expanded expectation of life—will become depressed at their own decrepitude when they hit the Methuselan age of thirty. How much more strongly might Shakespeare—perhaps rocking under the twin impulses of insight and illness, or just living in a world where people died young—feel that he was in the autumn of his life.

There is further evidence of this line of thinking given by the order of the plays. The conventional dating assigns the plays which deal most deeply with the dilemmas of mortality to the middle of "Shakespeare's" writing. *Hamlet* and *King Lear* come before *A Winter's Tale*.<sup>160</sup> Could this not be the record of a man—a remarkable man, whoever he was—who faced his demons young, struck with them whatever deal he could and then tailed-off his artistic production through some lighter works into bittersweet romance and then . . . silence. Silence and the return to Stratford.

This account could be elaborated on. If Professor Rowse is correct, the *Sonnets* tell the tale of Shakespeare's infatuation with Emilia Bassano, and his relationship with Henry Wriothesley, the Earl of Southampton.<sup>161</sup> Southampton is widely accepted as being the young man addressed in the *Sonnets*, whether or not he is the H.W. referred to in the dedication<sup>162</sup> Mr. Ogburn agrees in the belief that de Vere, rather than Shakespeare, addressed the *Sonnets* to Southampton.<sup>163</sup> Emilia Bassano was a daughter of court musicians and the mistress of the Lord Chamberlain—the patron of Shakespeare's company. She seems to fit many of the details given to us about the "dark lady." Her husband was called "Will," a fact which Professor Rowse uses to make some sense of the "will" sonnets.<sup>164</sup> He also conjectures that a family background of Italian musicians makes it likely that she would be both dark and musical—as the lady in the *Sonnets* seems to be. She was four years younger than Shakespeare, and we have records from an Elizabethan astrologer in which he de-

158. *Sonnet 146*.

159. *Sonnet 73*.

160. "Table I: The Canon," in *The Complete Works*, *supra* note 71, at 19.

161. A.L. Rowse, *supra* note 116, at 63-143 (1973). Mr. Rowse's case is somewhat weakened by the mistakes he has made in deciphering the handwriting of the original documents.

162. *Shakespeare's Lives*, *supra* note 1, at 64-66.

163. C. Ogburn, *supra* note 38, at 328-29.

164. "Will" meaning Shakespeare. "Will" meaning Will Lanier, Emilia's husband, and "will" meaning the sexual organs. A.L. Rowse, *supra* note 116, at 93.

scribes the progress of his attraction to her in terms which reveal a similar vision of her character to that held by "Shakespeare."<sup>165</sup>

Professor Rowse also makes a persuasive case that the poet who superceded Shakespeare in the favor of his patron, was in fact, Christopher Marlowe. Marlowe's *Hero and Leander* can be read as being a rival and parallel poem to Shakespeare's *Venus and Adonis*, which is dedicated to Southampton.<sup>166</sup> Much is said of the genius of the other poet, but then he suddenly disappears from the *Sonnets*. Could Marlowe's decline and premature death have ended the rivalry? Shakespeare certainly went on to honor him in *As You Like It*. "Dead shepherd now I find thy saw of might/ 'Who ever loved that loved not at first sight?" The quote is from Marlowe. Shepherd is the conventional name for a poet. Marlowe was indeed dead.<sup>167</sup> (Unless he was secretly writing Shakespeare). In any event, it is inconceivable that Edward de Vere, the Seventeenth Earl of Oxford, should plead with Southampton as a poet who fears that his patron will transfer his support to another poet, and even more demeaning, show willingness to accept a subordinate role, provided Southampton continues at least some support. "My saucy bark, inferior far to his/ On your broad main doth wilfully appear/ Your shallowest help will hold me up afloat/ Whilst he upon your soundless deep doth ride."<sup>168</sup> What need had de Vere of patronage? This seems to rule him out as the author.

One thing must be made clear lest we fall into the beguiling certainties offered by Bardolators and Oxfordians, both. We do not know any of this. It is all conjecture. It is the kind of conjecture against which Oxfordians, and Mr. Ogburn in particular, write most successfully and amusingly.<sup>169</sup> The Shakespearean camp is in need of such well-written warnings, and they should be thankful to Mr. Ogburn's wit and his elegant sarcasm for providing them. However, the Oxfordians must admit in turn that their accounts of de Vere's life rest on exactly the same sort of conjecture, exactly the same sort of self-referential development of more or less persuasive hypotheses. Thus, comparatively speaking, the two sides are relatively equal here. We are faced with a simple absence of evidence. Some of

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165. *Id.* at 105-13.

166. *Id.* at 76.

167. *Id.* at 78-82.

168. *Sonnet 80*.

169. "Promoting Ivor Brown's *Shakespeare*, the Programmers announce that 'Here is Shakespeare for the millions who quote him but do not know what kind of a man he was—the affable, social, fastidious, thrifty man whose name is a household word but whose character is obscure.' The author of the *Sonnets*, and of *Hamlet* and *King Lear*: affable, sociable, thrifty! A perfect *maitre d'hotel*." C. Ogburn, *supra* note 38, at 327.

what evidence we have runs in favour of an older author and Oxford was older than Shakespeare. So were millions of others. Some of the evidence seems to disqualify Oxford. It is possible to explain the *Sonnets* and to relate them convincingly to Shakespeare's life in a number of ways. When all is said and done we are left with the presumption that the man with his name on the *Sonnets* actually wrote them.

1. *Shakespeare's life is not inconsistent with the life of a dramatist. Plaintiff's assertions to the contrary rely on a romantic and ahistorical picture of authorship*

Under this heading we deal with a number of assertions about the difficulty of "marrying" Shakespeare's life to his art—to use Emerson's phrase. There are assertions based on the absence of surviving manuscripts, on Shakespeare's non-appearance in the diary of Henslowe the famous theatrical agent, on the absence of books in Shakespeare's will, on Shakespeare's early retirement from the stage, on his failure to protest apparently pirated editions of his work, on his unromantic concern with business and land, on his apparent concern for his social status. Each of these seems puzzling. In combination they give the Oxfordian case whatever weight it has, because of the unspoken assumption that one could perhaps explain away a single one of these strange puzzles but not *all* of them. But there is a way that one can explain away all these apparent puzzles about Shakespeare's life without straining—if they each have the same explanation. The explanation is a simple one. These puzzles are not such puzzles at all—for the most part they only appear to be strange if one adopts the romantic and ahistorical picture of authorship and the Elizabethan stage that has already been in such evidence in the Oxfordian argument. If one understands a little more about the social, historical, and artistic context these puzzles either entirely disappear or are robbed of most of their force.

2. *No inference can be drawn from the lack of surviving autograph manuscripts*

Why are there no surviving manuscripts of Shakespeare's plays? Does this indicate an enormous conspiracy to suppress the evidence of Oxford's authorship or perhaps a fear that the Stratford man's pitiful illiteracy would finally be discovered? No, it indicates nothing more than one would expect if one knew anything about the practices of Elizabethan theatre companies, the scarcity of paper in Elizabethan times and the lack of interest in autograph manuscripts.

It is quite likely that no "finished manuscript" of many plays ever existed in the author's handwriting.<sup>170</sup> Instead the playwright may have handed in something rather like an untidy first draft, with many erasures and interlineations. This draft, known by the appropriate name of the "foul papers," would then go through a number of stages of revision and rewriting. Different members of the company might insist that a new part be written for them and speeches might be rewritten or rearranged.<sup>171</sup>

At some point during this whole process the bookkeeper of company would have to construct the "prompt-book" which would be used in the actual production, and which would itself suffer many revisions during rehearsal, having the names of the actors and particular stage-directions inserted beside the parts. Once this process had gone on for a while a new copy would have to be made and the whole process would have to be repeated.<sup>172</sup> In the context of such a system it is quite likely that many of Shakespeare's own manuscripts were fed into the paper-hungry maw of the Elizabethan production process and never emerged again. Assumptions based on an era of photo-copiers and word-processors can do nothing but lead one astray.

Still, this would not account for all of the autograph manuscripts. Heminge and Condell's testimony in the *First Folio* is that Shakespeare's "mind and hand went together. And what he thought he uttered with such easinesse, that we have scarce received from him a blot on his papers."<sup>173</sup> From this we can probably conclude that they had some of Shakespeare's manuscripts. Forgetting for a moment that their testimony is, in itself, direct evidence that William Shakespeare the actor-playwright wrote the plays, why would these precious manuscripts not be retained? Put it the other way. Why should they be retained? Elizabethans had no interest in autograph manuscripts. Francis Bacon, who was, at the comparable period, considerably more famous than William Shakespeare, gave the

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170. A. Pollard, *Shakespeares' Fight With The Pirates and the Problems of the Transmission of his Text* 56 (2d ed. 1920) quoting Daborne's correspondence with Henslowe over his tragedy on Machiavelli.

171. One might note at this point that this process may have been the inspiration for the hilarious production scene in *A Midsummer Night's Dream*, and for Hamlet's complaints against the actors in the play within *Hamlet*. But these scenes are exactly the ones which would be penned by a professional playwright for whom these experiences were a source of daily annoyance. They are precisely the kind of scenes one would not expect from a "dabbler" in the theatre, a noble dilettante whose whim would be law to his players and who would thus have no experience of the frustration which fuels the humor in both scenes.

172. W. Greg, *The Editorial Problem In Shakespeare* 22-37 (3d ed. 1954); A. Pollard, *supra* note 170, at 53-63.

173. J. Heminge & H. Condell, *To the great Variety of Readers, in the Folio of 1623, reprinted in The Complete Works*, *supra* note 71, at xvii.

printer the manuscript of his *Essays*. As McManaway puts it "[h]ad Elizabethans been collectors of literary autographs, surely the manuscripts of the successive revisions of and additions to the *Essays* would have been a prize worth striving for. But no one was interested and in consequence Bacon's manuscripts of the *Essays* perished."<sup>174</sup> Contemporary society may show a quasi-religious reverence for autographs and even for household objects which have been touched by the famous. Elizabethan society did not.

One reason for all of this may have been that paper was a scarce commodity and many manuscripts were reused after their main purpose—the commercial production of a stage play—was finished. For example, consider the only surviving copy of the first edition of *King Henry IV*. Part I is a single sheet which *someone used to make a binding for a copy of a grammar book*.<sup>175</sup> Such practices do not make the survival of autograph manuscripts very likely. In fact, "[o]f all the hundreds of plays put in print up to 1700, there is not one surviving example of a manuscript that went through a print shop."<sup>176</sup> So much for that argument.

The picture that we get from all of this is that many of the Shakespearean autographs perished at some point in the production process and that the surviving ones were collected by Shakespeare's friends and actor colleagues, Heminge and Condell for the creation of the *First Folio* and then suffered the fate of all of the other manuscripts that went into a print-shop. *Sir Thomas More* is probably the closest thing we will ever have to a Shakespearean autograph manuscript.

3. *Shakespeare did not protect the unauthorized publication of his plays because—among other reasons—he did not own them*

In the preceding section it was indicated that playwrights sold their manuscripts directly to the theatre companies. The law of copyright was nothing like the one we know today. The company got everything—the physical manuscript, the rights of performance and publication, and so on. Elizabethan playwrights probably would have had a hard time understanding what was meant by a right that was neither located in the physical corpus of the manuscript, nor automatically transferred on sale nor maintained by a professional monopoly like that of the Stationer's Company. These were practical businessmen, not Hohfeldian legal scholars.

174. J. McManaway, *supra* note 144, at 26 (1962).

175. *Id.* at 27.

176. *Id.* at 29.

In any event, even if they could have imagined it there was nothing that they could have done since the author sold all of the rights to his work in one fell swoop. Thus, if anyone was going to complain it would be the theatre company, who could have protested to the Stationer's Company—with dubious effects. Generally, however, theatre companies relied on the control of the physical manuscripts rather than on intangible entitlements to preserve their interests. The goal was not so much to stop someone else from gaining profits from publication as to protect the company's ability to put on a play exclusively and to prevent piracy by other companies. There is some evidence that Shakespeare's company, The Lord Chamberlain's Men, did take actions at the Stationer's Company to prevent the pirating of Shakespeare's work.<sup>177</sup> In any event it is hard to see where all of this leads once one gets rid of the ahistorical notion of Shakespeare himself storming into court protesting violation of copyright.

Now, if the Earl of Oxford had written the plays, and given them to The Lord Chamberlain's Men—or to any company at all—the company still would have had the same interest in protecting exclusivity of performance. Since the *company* could have protested any infringement of their interests without bringing in all of the authorial details we associate with a copyright suit, there is no reason why they could not have protested even if de Vere was the author.

4. *Shakespeare does not appear in the diaries of Henslowe the literary Agent because he did not work for him*

Philip Henslowe is one of our best sources on the Elizabethan stage. His account books are an extraordinarily fruitful source of the most minutely detailed information on actors and playwrights.<sup>178</sup> He lists loans made to the impecunious actors between engagements, the buying and selling of plays, and dozens of other details of the day-to-day life of the theatre. Yet Shakespeare's name appears nowhere within his pages. Is this proof that Shakespeare was a fraud? The answer once again is "no," and, again, an understanding of the history and organization of the stage-companies and contemporary attitudes toward playwrights is necessary to explain why. That answer is provided by Mr. McManaway of the Folger, on whose argument this section relies closely.

To the people, and particularly the actors, who lived through them, the 1590s were very far from being a golden era for the stage.

177. A. Pollard, *supra* note 170, at 35-38.

178. See *Henslowe's Diaries* (W. Gregg ed. 1904, 1908).

In the early 1590's theatrical people were in a turmoil. Acting companies formed, disintegrated and reformed, with much shifting about of actors and sale and resale of promptbooks. The plague closed the playhouses for much of the time between 1592 and 1594, with occasional brief intervals of theatrical activity. Several titles of Shakespearean interest appear in Henslowe's business records for these years: *Henry VI*, *Titus Andronicus*, *Taming of the Shrew*, *Hamlet*. But at the time Henslowe did not name the authors of the plays, and so it is not possible to match plays and poets.<sup>179</sup>

In 1594, however, the prospects were getting a little better and it was at this point that the Lord Chamberlain became the patron of a company of actors which is still famous for having included William Shakespeare. That company had a more or less uninterrupted existence under a number of noble patrons—and even a royal patron—until the year 1642.

Not once in these years did Shakespeare have any financial connections with Philip Henslowe or any of the acting companies dependent on him. Since, after 1594, Shakespeare wrote only for the company of which he had become a sharer, his name could not appear in Henslowe's records any more than the president of General Motors could be named on the payrolls of Chrysler or Ford.<sup>180</sup>

One can counter this argument by arguing—with a somewhat strained analogy to Lee Iacocca, of all people—that many of the companies had a floating membership and that it is likely that Shakespeare would have appeared on the rolls of some other company at some time and thus would have found his way into Henslowe's record.<sup>181</sup> There is some truth to this argument but it ignores the fact that a successful playwright like Shakespeare who, from all of the records we have, was on good terms with the other members of his company, would have had scarce need to go elsewhere. By this period, he certainly would not have had to borrow money from Henslowe! At best, the argument that Shakespeare *might* have been involved with another company is not enough to make us feel that we have discovered some great mystery when we do not see Shakespeare's name on Henslowe's books. Hence, the Henslowe argument fails, like the others before it.

In any event, it is hard to see what a mention of Shakespeare in Henslowe's diary would prove to the Oxfordians. Since they explain

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179. J. McManaway, *supra* note 144, at 35.

180. *Id.* at 36.

181. C. Ogburn, *supra* note 38, at 100.

away direct references to Shakespeare—such as those from Jonson, Heminge, Condell—as part of the conspiracy, since records of payments to Shakespeare are explained away as *post hoc* forgeries, since praise—from the likes of Meres—is supposed to be either ignorance, irony or deceit, what would it matter if Henslowe did mention Shakespeare? Obviously, it would mean that he was in on the conspiracy. Dr. McManaway's argument could then be used to show that it was unlikely that—given the composition of the companies—Henslowe would ever have mentioned Shakespeare, and thus that the mention was inherently suspect, and we could then use it as further evidence of the very conspiracy we hypothesized in the first place. The Oxfordians have apparently invented a new theory of interpretation—absences from the record are deeply meaningful, but actual statements in the record mean nothing, or are taken to signify their opposite (unless they favour de Vere's case, of course). Given these interpretive criteria, one is driven to ask the following question. What contemporary testimony could disprove their theory? Using the techniques described one could explain away anything.

5. *The argument based on the absence of books, leases, or plays in Shakespeare's will, depends on the assumptions which have already been disproved and a certain ignorance of the standard form in Elizabethan wills*

One of the most famous names in seventeenth-century political theory is Richard Hooker—remembered now more as a counterpoint to Locke and Hobbes, but still admired even by those who disagree with him. Hooker was not simply a political philosopher and theologian—he was also Master of the Temple and if anyone must have owned a substantial library it is him. Yet Hooker left no books in his will. Nor did Samuel Daniel the poet or Reginald Scot, the author of *The Discovery of Witchcraft*.<sup>182</sup> The Oxfordians argue that Shakespeare must be a fraud because he left no books in his will. Now unless Edward de Vere was Hooker, Daniel, and Scot in the spare time he had left when he was not being de Vere, Shakespeare, Golding, and Brooke, this argument seems a trifle wide. In fact, books were frequently not mentioned in wills for a number of reasons—one being that they were often specified separately in the Inventory Post Mortem, another being that they were disposed of more informally.

When we come to the issue of the plays and the shares in the

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182. H.N. Gibson, *supra* note 37, at 175.

theatres, the likely explanation is more simple yet. Shakespeare did not dispose of these in his will because he did not have them. Plays were sold lock, stock and manuscript to the companies and it is fairly likely that the shares in the theatres were probably disposed of at some point between the time he went to Stratford and the time he died (in 1616). There is some testimony that Shakespeare was still a shareholder in 1608,<sup>183</sup> apart from that we know almost nothing. Selling the shares would seem to make a great deal of business sense if Shakespeare was no longer on hand. Apart from this there is little that we can say but again the record does not seem so strange as to demand an alternative explanation.

#### IV. SHAKESPEARE WROTE THE WORKS ATTRIBUTED TO HIM

In the first section, it was argued that most of the evidence is against Edward de Vere's authorship and that the claims made to the contrary are contradictory, implausibly wide, overly reliant on conspiracy theories, lacking in proof of motive, method, or opportunity and that they rely on tactics for dealing with the record which would be capable of either wringing significance from or explaining away any evidence whatsoever. In the second section it was argued that the attacks on William Shakespeare all rely on ahistorical assumptions and romantic ideas of authorship which can be proved to be inappropriate to both the times and the man. In this section it will be argued that there is ample historical proof that William Shakespeare, the actor from Stratford, is the author of the plays and poems attributed to him.

Despite the jeremiads, both orthodox and heretical, about the lack of evidence about Shakespeare's life, there is a surprising amount of evidence and contemporary testimony which points directly at the man from Stratford and directly away from Edward de Vere and the other pretenders to Shakespeare's throne. We have already met two other major pieces of such evidence. Hand D in *The Booke of Sir Thomas More* ties the handwriting of the man from Stratford to the imagery and composition of Shakespeare.<sup>184</sup> This piece of evidence *alone*, is overwhelming evidence that Shakespeare was the author. Ben Jonson's eulogy to Shakespeare provides us with unique testimony on the side of the man from Stratford from a contemporary who both knew Shakespeare personally and was himself a

183. C. Ogburn, *supra* note 38, at 785; *Shakespeare's Lives*, *supra* note 1, at 39.

184. *See supra* at pp. 758-61.

great playwright.<sup>185</sup> Of course, conspiracy theories can be used to explain away much of the record and the remainder can be—and is in fact—challenged as irony, fraud, forgery, mistake, ignorance, confusion and coincidence. Alternatively, it is simply appropriated as a reference to de Vere. But this is a case where the whole is more than the sum of the parts. Each attempt to dispose of the inconvenient evidence makes it harder to impeach the remainder of the evidence for Shakespeare and renders the Oxfordian case less and less likely.

A preliminary point must be disposed of before one descends into the archives. How is one to tell whether the references are to Shakespeare from Stratford, or “Shakespeare”—the author who is supposed to be Edward de Vere?<sup>186</sup> If there are references to or pieces of evidence about Shakespeare which show that he was an actor, or prominent in the theatre, or that he hailed from Stratford, or that he is the same man as signed the will, and which also show him as an author—then one has come as close as is possible to proving that the man from Stratford wrote the plays. The more such pieces of evidence one can pile up, the better. If this evidence has been ignored by the Oxfordians, better still. The more far-fetched the explanation needed to explain it away, the more far-reaching the conspiracy needed to undermine it, the more the evidence must be taken to have a cumulative probative value.

185. See *supra* pp. 742-45.

186. A note on spelling. Oxfordians claim that the occasional hyphenation of Shakespeare's name as Shake-speare shows that it was considered to be a pseudonym such as Martin Marprelate (a name which was not always hyphenated). C. Ogburn, *supra* note 38, at 97. They claim that no other contemporary playwright hyphenated his name. This argument is extremely weak. First, it appears to be factually incorrect. According to Mr. Hauser, amongst the many spellings of Christopher Marlowe's name appear the following: “Marloe,” “Marley,” “Morley,” and “Mar-Low.” Hauser, *supra* note 30, at 705 (emphasis added). Was Marlow another pseudonym for the Earl of Oxford? According to a book published by the antiquary Camden, in 1605, Shake-speare was a normal spelling. W. Camden, *Remaines of a Greater Work Concerning Britaine* 111 (1605), quoted in *Shakespeare's Lives*, *supra* note 1, at 15. Second, even if there were no other playwrights who had their names hyphenated, the reason is fairly obvious. They do not have names which can be disintegrated into meaningful collections of nouns; “Jon-son” “Dek-ker” do not have much of an attraction. Third, the Elizabethan attitude toward spelling makes the explanation too ingenious. People who had no consistent spelling for their own names can hardly be presumed to have loaded a simple hyphen with so much signification. Fourth, if the object was concealment, why signify it with a hyphen? If the object was revelation—why use a pseudonym at all? Shakespeare was simply taking advantage of a fortuitous meaning in his name to add lustre to his verse. Jonson, Fuller, Bancroft, and perhaps Spenser, made allusions to the bard's warlike name. *The Shakespeare Allusion Book* (Ingleby, Smith, Furnivall, Munro & Chambers eds. 1932) [hereinafter *Allusions*]. These allusions are particularly significant when one remembers that (in the verse introducing the *First Folio*) Jonson seems clearly to have shown that he knew Shakespeare of Stratford to be the author. *Id.*

A. "Greene's *Groatsworth*" Supports The Stratfordian Case And Cannot Be Explained Away

Scholars generally accept that the first clear reference to William Shakespeare is contained in a pamphlet written by Robert Greene, entitled *Greene's Groats-worth of Witte: Bought With a Million of Repentance*.<sup>187</sup> Dated to 1592, the pamphlet contains an injunction to Greene's fellow writers—almost certainly Marlowe, Nash and Peele—to be warned of his (Greene's) misery.

[F]or unto none of you (like me) sought those burre to cleave: those Puppits (I mean) that spake from our mouths, those Anticks garnisht in our colours . . . Yes, trust them not: for there is an upstart Crow beautified with our feathers, that with his *Tygers hart wrapt in a Players hide*, supposes he is as well able to bumbast out a blanke verse as the best of you: and being an absolute *Johannes fac totum*, is in his own conceit the onely Shake-scene in a countrie. O that I might intreate your rare wits to be employed in more profitable courses: and let these Apes imitate your past excellence, and never more acquaint them with your admired inventions.<sup>188</sup>

The editors of the book of *Allusions* describe this excerpt in the following terms. "That Shakespeare was the 'upstart crow,' and one of the purloiners of Greene's plumes, is put beyond a doubt by the following considerations."<sup>189</sup> They then go on to list three main sets of reasons to consider this an allusion to Shakespeare. First, the obvious joke on both Shakespeare's name and his craft contained in the word "Shake-scene." Jonson's eulogy, quoted earlier,<sup>190</sup> with its lines "to heare thy Buskin tread/ And shake a stage" makes the same kind of allusion to the tread of feet on boards. "Puppits," in this reference, are actors and the phrase "that spake from our mouths" conjures up the playwright's resentment against the actor who gains fame through repeating the writer's lines.

So far then, this is merely a strangely vehement attack on actors—something that Edward de Vere most certainly was not. The second key to the passage is the line "Tygers hart wrapt in a players hide." This phrase is an obvious allusion to a line which appears in two plays. The first of those plays is *The True Tragedie of Richard Duke of York*, published in 1595. Scholars used to believe this play was probably attributable to Greene and Marlowe writing jointly.<sup>191</sup> They

187. Robert Greene, *Greene's Groats-worth of Witte, Bought With a Million of Repentance* sig A3v. (1592).

188. *Allusions*, *supra* note 186, at 2.

189. *Id.* at 3.

190. *See supra* note 71 and accompanying text.

191. *See Allusions*, *supra* note 186, at 3.

now believe that it is probably a corrupt and unauthorised version of the second play in which the "Tyger's hart" line appears, Shakespeare's *Henry VI*.<sup>192</sup> The line bears rehearsing as it appears in the latter play. "Oh Tygers heart wrapp'd in a womans hide!/ How couldst thou drain the life-blood of the child/ To bid the father wipe his eyes withal."<sup>193</sup> Although the editors of *Allusions* quote only the single parallel line, it seems that the larger fragment is particularly significant when we come to consider the other allusions in this passage.

The accusation that this "Tyger's Hart wrapt in a Player's hide supposes he is as well able to bombast out a blanke verse as the best of you," when coupled with the phrase "upstart Crow beautified in our feathers," now takes on a clearer meaning. At the very least, this is an accusation that Shakespeare is aspiring above himself— aspiring to be a playwright as well as an actor. There is a more extreme interpretation. Ingleby provides a good summary of the earlier scholarly consensus. "That Marlowe and Robert Greene were (probably) the joint authors of *The Two Parts of the Contention* and of *The True Tragedie*, which furnish Parts II & III of *Henry VI* with their *prima stamina*, and a considerable number of their lines."<sup>194</sup> If this were true then Greene is saying in terms that would be very clear to those around him that "Shake-scene," an actor who thinks he can write as well as the authors to whom Greene's work is addressed, has gained much of his success from "draining the life blood from the child" of Greene's (and Marlowe's) invention. Greene would then be citing a line that *Shakespeare had actually purloined*. Even if *The True Tragedie* is a corrupt version of one of Shakespeare's plays, Greene might still be using Shakespeare's own line against him while accusing him of plagiarism—not necessarily related to *The True Tragedie*. The line has all kinds of unpleasant connotations ranging from simple cold-heartedness, to the more complicated and horrific idea of draining the life-blood from the child/play and bidding the father/author wipe his eyes. The following lines by 'R.B. Gent'<sup>195</sup> seem to tie up the package. "Greene, gave the ground, to all that wrote upon him/ Nay more the men, that so ecliptst his fame:/ Purloynde his Plumes, can they deny the same?"<sup>196</sup> Finally,

192. *A Documentary Life*, *supra* note 115, at 139.

193. 3 *Henry VI* (l. iv. 137-39); see also *A Documentary Life*, *supra* note 115, at 116.

194. *Allusions*, *supra* note 186, at 3.

195. From *Greene's Funeralls Sonnet ix*, sign. C. (1594), quoted in *Allusions*, *supra* note 186, at 2.

196. It has been argued that R.B. Gent's lines refer to Gabriel Harvey, rather than to Shakespeare. Austin, *A Supposed Contemporary Allusion to Shakespeare as a Plagiarist*, VI Shakespeare Q, 373-80 (1955), cited in *A Documentary Life*, *supra* note 115, at 119. Even if this were

we have "Horace's Third Epistle, in which the poet uses the image of a crow, (*cornicula*) divested of its plundered lustre, (*furtivis nudata coloribus*) in connection with the idea of plagiarism. These lines were well known in the Renaissance."<sup>197</sup> The other possible classical allusion is to that of Aesop, to the crow that imitates its betters—as would an actor who aspired to turn playwright.<sup>198</sup>

Thus, we have two very plausible interpretations. In the first, Shakespeare's main crime is that he thinks he can do everything, be a player and also "bumbast out a blank verse" with the best of the authors. In the second, Shakespeare is not just an upstart. He is also a plagiarist. Both interpretations, however, identify Shakespeare as both actor and playwright—and that is the real issue, no matter how much ink clouds the waters.<sup>199</sup>

How do Oxfordians deal with this passage? It would obviously be hard to appropriate this as a reference to Edward de Vere. "Shakespeare," "Purloyned Plumes," "Upstart Crow," "Players Hide," these seem to point unequivocally to Shakespeare. When we add the quotation from *Henry VI*, and the sneer that Shakespeare thought himself an absolute "Iohannes fac-totum" (a person who does everything—rather than sticking to acting) the identification is clear indeed. Oxfordians seem to concede this fact, and thus they have to concentrate their ingenuity on finding some alternative explanation.

Mr. Ogburn's explanation is that the author<sup>200</sup> is telling the playwrights that the actors are ungrateful, and that they should not write any more plays for them.<sup>201</sup> He disposes of the reference to Shakespeare writing as well as acting by claiming that the words "he is as well able to bumbast out a blanke verse as the best of you" mean only that Shakespeare could "fill out a blank verse."<sup>202</sup> By this phrase, reminiscent of "filling out the blanks," Mr. Ogburn means

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true it would not change the reference to Shakespeare in the *Groatsworth* and it would confirm the use of the phrases as "purloyned plumes"—whether or not they themselves come from Harvey—to describe plagiarism.

197. *A Documentary Life*, *supra* note 115, at 116.

198. *Id.*

199. *Id.* at 116-17.

200. He has some doubts whether the author is Greene, preferring Henry Chettle, the publisher, but it is hard to see what difference this would make here even if we accepted the computer analysis on which he bases this assumption. See C. Ogburn, *supra* note 38, at 62-64, citing W. Austin, *A Computer Aided Technique for Stylistic Determination — The Authorship of Greene's Groatsworth of Wit* (1969); *A Documentary Life*, *supra* note 115, at 118.

201. C. Ogburn, *supra* note 38, at 56-58.

202. *Id.* at 57. Mr. Ogburn seems to feel that the use of the singular "a" in "a blank verse" supports his position. Surely this is not so. If the passage had read "he is as well able to knock out a line as the rest of you" would Mr. Ogburn have thought it referred to one single line? *Id.* at 58.

that Shakespeare was being accused only of modifying a passage in an existing play prior to its performance. This explanation seems to run contrary to the clear language of the passage. It certainly ignores the fact that the line parodied is from one of Shakespeare's plays; this is more than mere "filling." Finally, Mr. Ogburn's interpretation ignores the possibility that Shakespeare was criticised for being a plagiarist as well as an upstart actor-playwright. Although the plagiarism explanation does not now command a majority opinion, "it is not impossible that Greene was making a double accusation, thus conflating Aesop's crow with Horace's, which were anyway closely associated in the minds of his audience."<sup>203</sup> Neither accusation can easily be converted into a claim that Greene was complaining about actors who were getting too uppity in their minor revisions.

If it is accepted that the *Groatsworth* bears the interpretation given in this brief, and by practically every scholar on the subject,<sup>204</sup> then it seems that Shakespeare the actor from Stratford has been identified by a contemporary as being the author of at least one of the plays. What is more, the person making the identification is no mere outsider. He is deeply involved in the same business, and is working with the same people as is Shakespeare. Finally, the identification is made in the course of a hostile attack—thus rendering it immune to many of the normal Oxfordian methods of reinterpretation. It is submitted that the interpretation given above is the only reasonable one. The passage cannot easily be made to yield any other meaning and it certainly cannot be made to yield the meaning that Greene thought Shakespeare was playing a part in some enormous fraud. In fact, it seems to say exactly the opposite.

There are two false, or at least, less central issues here which should not distract one from the central theme of the identification of the actor Shakespeare (however spelt) with the author "Shakespeare" (however hyphenated). The first has already been raised. It is the question of whether or not the *Groatsworth* was written by Greene or by Chettle. It has been argued that a majority of scholars favor Greene as the author, but a statement by either Greene or Chettle identifying the two Shakespeares as one and the same person would have overwhelming probative value. The second issue is the apology issued by Chettle about the *Groatsworth*,<sup>205</sup> an apology

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203. *A Documentary Life*, *supra* note 115, at 117.

204. Mr. Ogburn seems to concede that the interpretation is universally held, although he takes this as further evidence of the ability of Stratfordians to ignore inconvenient evidence. See C. Ogburn, *supra* note 38, at 56-57.

205. H. Chettle, *Kind-Harts Dreams* (1592).

which has generally been taken to be directed at Shakespeare. Mr. Ogburn points out that there is no direct evidence of this, and that, since the apology is directed to one of the "divers play-makers" to whom the original work was addressed, it cannot be to Shakespeare.<sup>206</sup> This is possible. It is also possible—and seems from the wording of the apology, somewhat more likely—that Chettle merely means that Greene had directed his letter at a number of play-makers, some as addressees and others as targets for his satire. Since, as has just been argued, Shakespeare falls into the latter category, the apology may well have been directed to him. Whatever the truth of the matter, we still have the *Groatsworth* which stubbornly resists re-interpretation—even when computer- or conspiracy-aided.

*B. The Record Shows Links Between Actor And Author Indicating They Are One And The Same, The Oxfordian Attempts To Explain Away The Evidence Collapse Of Their Own Weight*

In 1594 there is a reference to Shakespeare's company, the Lord Chamberlain's men, performing a *Comedy of Errors* at Gray's Inn.<sup>207</sup> This is the first of a number of references which link Shakespeare's plays to the company of Shakespeare the actor. There are also references which mention Shakespeare the actor by name. In the Accounts of the Treasurer of the Queens Chamber for 15 March 1595, we find William Kempe, William Shakespeare & Richard Burbage "servauntes to the Lord Chamberleyne" being paid for "two severall comedies or interludes" performed by them in front of her Majesty on the 25th and 26th of December 1594.<sup>208</sup> This reference would seem to establish a number of points. It shows Shakespeare as an important actor, places him with other famous actors from his company, spells his name the same way as the playwright, and adds more circumstantial evidence to the case for his authorship of the plays—such as the *Comedy of Errors*—which we know from the previous reference the company was putting on around that time. The reference to the 28th of December may be wrong—since that is also the date of the performance at Gray's Inn, and the Admiral's men are also listed in the Accounts for a performance on the same day.

Now we come to the Oxfordian explanation for all of this. The mistake about dating is used by Mr. Ogburn to explain away the evidence provided by the Accounts. His idea is that the Dowager Countess of Southampton—who was under pressure to produce her

206. C. Ogburn, *supra* note 38, at 58-59.

207. H. Helmes, *Gesta Grayorum* 22 (2d ed. 1688), cited in *Allusions*, *supra* note 186, at 7.

208. *A Documentary Life*, *supra* note 115, at 136.

late husband's Accounts for the Queen's Chamber, had falsified the records, and merely added the reference to Shakespeare *et al.* in order to add versimilitude to the accounts.<sup>209</sup> Mr. Ogburn hypothesizes that she was in on the secret of "Shakespeare's" true identity, because "Shakespeare" had dedicated to her son both *Venus* and *Lucrece* and that this was one of the reasons she used Shakespeare as a payee.<sup>210</sup> Surely this argument cuts exactly the other way. Forgers do not normally list payments to those who have connections with their immediate family (unless they, like so many other characters in the Oxfordian theory, have a strange self-revelatory urge).

Even more bizarre is the idea that the Countess would list a payment to a non-existent player (Mr. Ogburn finds no evidence he had yet arrived on the scene) when she knew that the name was merely the authorial pen-name of a secrecy-seeking nobleman. Mr. Ogburn does not appear to argue that the Countess was either trying to expose de Vere or to conceal his authorship by pinning it on another. Thus, it is unclear which conspiracy she belonged to, or whether she was acting freelance. Whatever she was doing she was not very good at it. Since these are the Queen's own accounts, since, according to Mr. Ogburn, the Queen herself is funding de Vere as "Shakespeare" by 1596,<sup>211</sup> since—at least by 1597—Southampton is involved in the conspiracy to pass off the man from Stratford as the author,<sup>212</sup> who is the Countess of Southampton trying to fool? Unless there is an ingenious way of reconciling these ideas which is as yet not apparent, at least one of these arguments will have to be abandoned. Incidentally, since the illiterate commoner Shakespeare of Stratford gets £1000 from Southampton for pretending to be Shakespeare the author<sup>213</sup> while Southampton's mother—a Countess—only manages to save £20 by pretending to pay Shakespeare the actor, it would seem that she is playing the wrong game. She should have become a paymaster to a professional impostor, or turned impostor herself.

For the above reasons, it is submitted that the Oxfordian attempt to explain away the accounts fails—at least in its present form. The *Groatsworth*, Gray's Inn, the Queen's Accounts; each has its individual plausibility. Taken collectively, the case for Shakespeare mounts.

209. *Id.* at 65-66.

210. *Id.* at 66-67.

211. *Id.* at 690.

212. *Id.* at 194-95.

213. *Id.*

C. *Willobie's "Avisa" Seems To Contain A Reference Identifying Which Indicates The Actor Is The Author*

Much is made by both sides of *Willobie His Avisa* published in 1594, which recounts the unsuccessful attempts of a number of men to woo "Avisa," speculatively identified with Queen Elizabeth.<sup>214</sup> The verses contain two principal references which are seized upon by both sides. The first is relatively obvious. "Yet Tarquyne pluckt his glistening grape/ And Shakespeare paints poor Lucrece rape." This might seem to be a fairly conventional reference to the author of *Lucrece*, whoever he was. If it has any importance at all it would seem to be that it tends to undermine the claim that there was never any identification of the author with the works. In fact, it is seized upon as evidence of Oxford's authorship—and all because of the hyphenation of the name. However, as was pointed out earlier, nothing can be deduced from hyphenation unless one ignores the anarchic quality of Elizabethan spelling and the fact that Shakespeare is recorded as a normal spelling by a contemporary expert, forgets that the purpose of a pseudonym is to *conceal*, and thinks that Mar-low was not Christopher's real name.<sup>215</sup>

The second point of interest in *Willobie* is the advice sought from and freely given to "H.W." ("Henrico Willobego, Italo-Hispalensis") by one "W.S." who is represented as being "determined to see whether it would sort to a happier end for this new actor, then it did for the old player."<sup>216</sup> "W.S." is thought to refer to Shakespeare "[b]ecause W.S. appears in this "imaginary conversation" as a standard authority on love; and assuredly "Shakespeare was *the* amatory poet of the day . . ." <sup>217</sup> and because of the reference to "actor/player" in the fragment just quoted. There are also arguments to be made on possible connections of the "his brother's-wife's-sis-

214. H. Willobie, *Willobie His Avisa* (1594), cited in *Allusions*, *supra* note 186, at 8-13; C. Ogburn, *supra* note 38, at 737; *A Documentary Life*, *supra* note 115, at 134. The identification of *Avisa* with Elizabeth is argued in B. De Luna, *The Queen Declined* 5-43 (1970).

215. See *supra* at pp. 758-61. A converse point needs to be made. If the Oxfordians are to claim that, in the absence of other contextual claims, spelling signifies person, and to make hyphenation and hard "a" refer to de Vere and no hyphenation and soft "a" refer to the man from Stratford, they must play the game consistently. In the *Revels Accounts* for 1605, "Shaxberd" is listed as the "poet" or author of the *Merchant of Venice* and *Measure for Measure* in a performance by the King's players, Shakespeare's company. *A Documentary Life*, *supra* note 115, at 196, 200-01. "Shaxberd" clearly falls within the spellings attributed to the man from Stratford, and the fact that it was the King's company adds to the circumstantial evidence that playwright and author were one and the same. Yet Mr. Ogburn puts the account into his chronological column for "Shakespeare" (the author) leaving poor "Shakspere" with such glittering biographical entries as "brings action against Stratford loan apothecary." C. Ogburn, *supra* note 38, at 784. Much can be done if one is free to assign the evidence to whichever character one wishes.

216. *Allusions*, *supra* note 186, at 9.

217. *Id.* at 13.

ter is married to a friend of mine" type. However unlikely such connections may sound in print, they make up much of the fabric of everyday life, and the final link-stitch, Thomas Russell, was left five pounds in Shakespeare's will.<sup>218</sup>

Oxfordians predictably seize on the speculative identification of Avisá with Elizabeth and downplay or ignore the identification of playwright with actor.<sup>219</sup> Claims are made that the character H.W. (Henrico Willobego, Italo-Hispalensis) was not Henry Willobie, but Henry Wriothesley, Earl of Southampton.<sup>220</sup> Mr. Ogburn gives his approval to this idea.<sup>221</sup> Somewhat surprisingly, however, he does not appear even to mention the fact that there was a *real Henry Willobie*, the details of whose life fit reasonably closely with those of Henry Willobie, the author, and who had the extended connection to Shakespeare of Stratford which was mentioned earlier.<sup>222</sup> This gives the argument a distinctly one-sided quality. Even if H.W. is meant to represent Southampton, we still have a strong circumstantial train of evidence between Henry Willobie, the presumed author and William Shakespeare, the man from Stratford. With Willobie (the person Shakespeare may have known) knocked out of the picture, Southampton substituted in his place, and Avisá speculatively identified as Queen Elizabeth, claims for Oxford can now be made based on his proximity to and possible dalliance with the "Virgin Queen," and his connections to Southampton.<sup>223</sup> But then there are Shakespeare's possible court appearances with the Lord Chamberlain's men, which might provide enough observation upon which to base a satire. Shakespeare may or may not have been a sailor, but the most that one can say about puzzles like this is that they leave everyone at sea.

In the face of all this information, the best that can be said for Mr. Ogburn's claim that "'W.S.' can hardly be other than . . . [Oxford]"<sup>224</sup> is that it is a little enthusiastic. When Stratfordians present a case in a similarly one-sided way—as they sometimes do—Mr. Ogburn is considerably more harsh in his judgement of their motives and scholarship. *Willobie His Avisá* presents a conundrum but, as was explained above, the acting reference and the extended connection to Shakespeare of Stratford leave us with a persuasive argu-

218. *A Documentary Life*, *supra* note 115, at 135.

219. C. Ogburn, *supra* note 38, at 736-40.

220. G. Akrigg, *Shakespeare and the Earl of Southampton* 218-19 (1968).

221. C. Ogburn, *supra* note 38, at 737.

222. Compare *A Documentary Life*, *supra* note 115, at 134-35 with C. Ogburn, *supra* note 38, at 736-40.

223. C. Ogburn, *supra* note 38, at 736-40.

224. *Id.* at 781.

ment which links W.S. to the man from Stratford. This in turn would identify the actor from Stratford as "William Shakespeare," the famed author of love poetry. There is, however, an argument which links *Willobie* to the Earl of Oxford. It is respectfully submitted that the Oxfordian argument is much more strained and speculative. Certainly it cannot be considered proved unless the other hypothesis is at least mentioned.

*D. Shakespeare's Listing In Jonson's Cast-Lists Is Important  
Circumstantial Evidence*

History now brings us to a further record of Shakespeare's acting career, which is relevant here because it undercuts the Oxfordian arguments that there are no genuine records of Shakespeare even as an actor, shows the weakness of the conspiracy theory arguments, and further enhances the credibility of Jonson's eulogy in the *First Folio* and John Aubrey's account of Shakespeare's life. In 1598 Shakespeare was one of the "principall Comoedians" in Ben Jonson's *Evry man in his Humour*. In 1603 he appeared in *Sejanus, His Fall*, by the same author. The other actors included Burbage, CondeU, Heminge, Kempe and Slye. We know all of this because they are so listed in Ben Jonson's collected plays which are published in 1616.<sup>225</sup> Consistently, with his rejection of Jonson's eulogy in the *First Folio*, Mr. Ogburn rejects this cast list. Shakespeare's name appears hyphenated (as Shake-speare and Shake-Speare) in both plays and Mr. Ogburn repeats his claims about hyphens. "Shakespeare and its variants was never hyphenated as a bona fide surname."<sup>226</sup> This point has already been dealt with at length, and disposed of as factually incorrect, ahistorical and somewhat confusing, since one would hardly pick a pseudonym which immediately revealed itself as such.<sup>227</sup> However, given Mr. Ogburn's explicit language this may be an opportune moment to quote Camden's *Remains* from 1605. Camden believed that men took their names "from that which they commonly carried, as Palmer, that is, Pilgrim, for they that carried palm when they returned from Hierusalem, Long-sword, Broad-spere, *Shake-speare*, Shotbolt, Wagstaffe . . ."<sup>228</sup> Two things are particularly worthy of note. First, Camden does not hyphenate all of the names—evidently he is reproducing them as he had found them—but he does hyphenate Shakespeare's. Second, the explana-

225. B. Jonson, *Workes* (1616).

226. C. Ogburn, *supra* note 38, at 786.

227. *See supra* at pp. 758-61.

228. W. Camden, *supra* note 30 (emphasis added), quoted in *Shakespeare's Lives*, *supra* note 1, at 15.

tion for his hyphenation is most specifically not that these were pseudonyms. Whatever we think of Camden's etymology of names, his testimony concerning current naming practices is rather unfortunate for the Oxfordian argument, which was not terribly strong to begin with.

Thus, the only remaining ground on which to dismiss this record of Shakespeare as an important actor, is the same one as offered to explain away the verse in the *Folio*. "[U]lterior motives are to be suspected in this long-ex-post-facto listing . . ."229 Presumably this means that the Pembroke and Montgomery conspiracy wished Jonson to pretend that Shakespeare was an actor. We must assume that they actually went to the lengths of asking him to lie since people do not make up such things without reason. What could they possibly gain from such a false reference? How can we imagine that this is what Jonson is doing if—as Mr. Ogburn believes—the whole point of the hyphen is to signal that this is a pseudonym? Once again the explanation dissolves into contradiction and confusion. We are left with a clear reference to Shakespeare as an important actor and are, thus, further towards our goal of showing him as an actor-playwright. At the same time, if the conspiracy argument fails to explain away Jonson's statements here, it is weakened even further and Jonson's clinching eulogy in the *First Folio* made all the stronger.

*E. Meres Lists De Vere And Shakespeare Separately As Playwrights. This Undercuts The Idea They Are The Same Person And The Idea That De Vere Would Not Publish Under His Own Name*

In 1598 the mediocre Euphuist, Francis Meres, achieved a kind of immortality by giving Shakespeare his first big review.<sup>230</sup> By this time at least eight of Shakespeare's plays had already appeared, most of them apparently pirated, and with his name appearing only on *Richard I & II*, *Love's Labour's Lost* and *Henry IV*. Meres pours on a deluge of Euphuistic compliments which are worth reproducing, if not for historic reasons, then because they will be source of contention later.

[T]he sweete wittie soule of Ovid lives in melliflous & hony-tongued Shakespeare, witnes his Venus and Adonis, his Lucrece, his sugred Sonnets among his private friends, &c.

229. C. Ogburn, *supra* note 38, at 786.

230. F. Meres, *Palladis Tamia. Wits Treasury. Being the Second Part of Wits Commonwealth* 281-88 (1598), cited in *A Documentary Life*, *supra* note 115, at 139-42; *A Documentary Life*, *supra* note 115, at 137-41.

As Plautus and Seneca are accounted the best for Comedy and Tragedy among the Latines: so Shakespeare among y English is the most excellent in both kinds of the stage; for Comedy, witness his Getleme of Verona, his Errors, his Love Labours lost, his Love Labours wonne, his Midsummers night dreame, & his Merchant of Venice: for Tragedy his Richard the 2. Richard the 3. Henry the 4. King John, Titus Andronicus and his Romeo and Juliet.

As Epilus Stolo said, that the Muses would speake with Plautus tongue, if they would speak Latin: so I say that the Muses would speak with Shakespeares fine filed phrase, if they would speak English.<sup>231</sup>

For our purposes, one of the most interesting things about Mere's work is that he also mentions Edward de Vere as being one of the best for comedy. This would seem to undermine the idea that de Vere and "Shakespeare" were one and the same, but Mr. Ogburn is quick to respond that there are other examples of authors being listed in indexes under more than one name.<sup>232</sup> This is true, but it fails to explain how we can reconcile de Vere's supposed desire for secrecy with the clear knowledge that he was a playwright—knowledge which had clearly been public for at least ten years, for in 1589, Putterham was listing de Vere as being one of the best for comedy and interlude.<sup>233</sup> As was argued earlier,<sup>234</sup> the conspiracy theories used to explain this irresolute attitude to secrecy fall apart from their own internal strains, even before they are brought forward to confront their implausibility.

*F. Shakespeare Continues To Advance In The Theatre And "Shaxberd"  
Is Listed As A Playwright At A Performance  
By Shakespeare's Company*

The record following 1598 gives evidence of Shakespeare's advancement in the theatre. He becomes a theatrical entrepreneur.

[A] post-mortem inventory (16 May 1599) of the property of Sir Thomas Brend, whose son Nicholas had leased the site of the Globe Theatre to shareholders in the Chamberlain's company, describes the newly erected playhouse as in the occupation of William Shakespeare and others (*sic* "in occupatione Williemi Shakespeare et aliorum"); another inventory, in 1601 singles out "Richard Burbage" and "William Shakespear Gent." for mention

231. F. Meres, *supra* note 230, cited in *A Documentary Life*, *supra* note 115, at 140.

232. C. Ogburn, *supra* note 38, at 195-96.

233. G. Putterham, *The Arte of English Poesie* (1589), cited in G. Ward, *The Seventeenth Earl of Oxford* 264 (1928).

234. See *supra* pp. 738-44.

as tenants of the Globe.<sup>235</sup>

The famous Manningham anecdote records him vying with Burbage for the favours of a stage-struck citizen.<sup>236</sup> In 1603 Shakespeare is listed together with Burbage, Fletcher, Phillips, Heninges, Condell, Sly, Armin and Cowley in the Patent for "The King's Men" issued by James I.<sup>237</sup> In 1604 Shakespeare is one of nine actors issued four and a half yards of red cloth so that they could act as grooms of the King's chamber in the coronation procession.<sup>238</sup> In 1608, the King's Men acquired the lease of Blackfriars Theatre, while maintaining the Globe in operation. For four years Shakespeare's share fluctuated between one sixth and one seventh, dropping to one fourteenth in 1612.<sup>239</sup> This was a substantial investment; in 1634 one Blackfriars and two Globe shares fetched £350.<sup>240</sup> Shakespeare was obviously doing very well in the theatre. Professor Schoenbaum suggests that he may have sold his shares after the Globe burned down in 1613.<sup>241</sup> This would fit in with his return to Stratford and would explain why the shares do not appear in his will.

Other records show him living in Bishopsgate, across the Thames in Surrey Bankside, and in the house of Christopher Mountjoy, a French Huguenot maker of lady's headresses.<sup>242</sup> Shakespeare even testified in a dispute over Mountjoy's daughter's dowry.<sup>243</sup> What is clear from all this is that Shakespeare was actually living in London, and working in the theatre, that his name is associated time and time again with the same people—some of whom will edit the *First Folio*, and that he is doing extremely well financially. He is working with the company that performs "Shakespeare's" plays and he is succeeding. This is all strong circumstantial evidence.

In 1604 there was evidence that was more than circumstantial. In the 1604-05 *Revels Accounts*, the scribe drawing up the accounts for the pieces has listed both the names of the plays performed by His Majesty's players and the names of some of the playwrights or poets. Beside "Mesur for Mesur," "A plaie of Errors," and "A Marthant of Venis" the name of the poet is given in each case. The name is

235. *Shakespeare's Lives*, *supra* note 1, at 37.

236. *A Documentary Life*, *supra* note 115, at 152.

237. *Id.* at 195-98.

238. *Id.* at 196; *Shakespeare's Lives*, *supra* note 1, at 38-39.

239. *Shakespeare's Lives*, *supra* note 1, at 39.

240. *A Documentary Life*, *supra* note 115, at 156.

241. *Shakespeare's Lives*, *supra* note 1, at 39.

242. *Id.* at 40.

243. *Id.* at 40-43.

"Shaxberd."<sup>244</sup> Not only is this one of the spellings which Oxfordians tend to impute to the man from Stratford, it is also listed beside a performance of Shakespeare's company "The King's Men." How are we to explain this if not by assuming that actor and playwright are one and the same? Will it be conspiracy this time, or is the scribe simply incompetent? One eagerly awaits the answer, but as yet none seems to be forthcoming.

More evidence is racked up in the years that follow. The first Quarto of *Lear*, published in 1608, gives William Shakespeare as the author on the title page and adds helpfully, "As it was played before the King's Majestie at Whitehall St, Stephans night in Christmas Hollidayes." In case there is any doubt, the next line reads, "By his Majesties servants playing usually at the Gloabe, on the Bancke-side."<sup>245</sup>

Around 1611 to 1613 Shakespeare seems to be back in Stratford, where he remains until his death in 1616.<sup>246</sup> This is further fuel for all of the pretenders to his throne, whose champions cannot imagine the man stopping at the height of his powers. Why not? Perhaps among the many virtues of our ever-living poet, was included the virtue of knowing when to stop. Perhaps he had written all that he had in him—must we ask for more?—and had retired to seek a different kind of fulfillment, one that is less in tune with the romantic vision of the author relied on so heavily by the Oxfordians, but which is no less real.

Since Shakespeare had retired to Stratford, it is highly likely that no more than a few people in London even knew about his death. In lines that Jonson was to allude to in the *First Folio*, William Basse bid Spencer, Beaumont and Chaucer to make room for "Shakespeare" in Westminster Abbey.<sup>247</sup> If "Shakespeare" was de Vere, this is a fairly tardy thought—fifteen years too late. John Taylor "the water-poet," who may well have known Shakespeare personally, since he ferried passengers to the London theatres, was moved to say that "Shakespeare," along with a large number of others, survived immortally on paper.<sup>248</sup> This was a theme which was to be repeated in the *First Folio*, and which was to start the Oxfordians down many a merry trail of innuendo. Given the poor communications of the time and Shakespeare's long absence from London, that

244. *A Documentary Life*, *supra* note 115, at 196, 200-01.

245. *Id.* at 202. Incidentally, since Bankside is hyphenated, is one to assume that the location of the theatre, too, was pseudonymous?

246. *Id.* at 231-50.

247. *Shakespeare's Lives*, *supra* note 1, at 57.

248. *Id.*

there was even this much eulogy is surprising. By the time the *First Folio* appeared in 1623, sorrow over his death was muted and his friends and admirers concentrated on the fact that his works would make him immortal. In a way this is ironic, because from all that we know it is reasonable to assume that Shakespeare thought of his plays as live theatre, rather than thinking of them as things which had to be published to be important. This may well account for the fact that he had no interest in his works once they appeared on stage, and was relatively indifferent both artistically, and commercially (after all he did not own them) to their exploitation by others. Again, one should not impose contemporary visions of what is artistically important onto the artistic production of a man who has been dead for three hundred and seventy-one years.

G. *Aubrey's "Brief Lives" Provides Strong Evidence That Shakespeare Was The True Author*

One of our best posthumous sources of information comes from the much-maligned John Aubrey—probably one of the most delightful men ever to put pen to paper—whose *Brief Lives* is a major source of information on Thomas Hobbes, Sir Edward Coke, Francis Bacon and many, many others.<sup>249</sup> *Brief Lives* also contains short sketches of William Shakespeare and Edward de Vere, hence its relevance here. Aubrey passes on many pieces of evidence about Shakespeare, some apparently accurate and others inaccurate. The interesting parts of Aubrey's account are excerpted below:

Mr. William Shakespeare was borne at Stratford upon Avon in the County of Warwick . . . This William, being inclined naturally to Poetry and acting, came to London, I guesse at about 18: and was an Actor at one of the Play-Houses, and did acte exceedingly well: now B. Johnson was never a good Actor but an excellent Instructor. He began early to make essayes at Dramatique Poetry, which at that time was very lowe; and his Plays tooke well . . . [After describing a possible source for one of Shakespeare's characters and getting the play and the character wrong Aubrey continues] He was wont to goe to his native Countrey once a yeare. I thinke I have been told that he left 2 or 300 pounds per annum there and thereabouts to a sister. I have heard Sir William Davenant and Mr. Thomas Shadwell (who is counted the best Comoedian we have now) say that he had a most prodigious Witt, and did admire his naturall parts beyond all other Dramaticall writers . . . Though, as Ben Johnson sayes of him, that he had little Latine and lesse Greek, He understood Latine pretty well: for he had

249. J. Aubrey, *supra* note 126.

been in his younger yeares a schoolmaster in the countrey. He was wont to say that he never blotted out a line in his life. Sayd Ben Johnson, I wish he had blotted-out a thousand.<sup>250</sup>

A note attached to the manuscript indicates that the information about Shakespeare being a schoolmaster came "from Mr. Beeston."<sup>251</sup> Aubrey wrote these lines around 1682, although much of the information was gathered up to 40 years earlier.<sup>252</sup> He writes about many of Shakespeare's contemporaries—Francis Beaumont and John Fletcher, Ben Jonson, the Herberts, and even John Florio on whom "Holofernes" may be based. He seems to have collected his information from a number of sources—most important among these is "the William Beeston" mentioned in the note. "I have met with old Mr. Beeston who knew all the old English Poets, whose lives I am taking from him: his father was Master of the Playhouse."<sup>253</sup> William Beeston's father, Christopher Beeston, had been in charge of the King and Queen's Young Company (Beeston's Boys).<sup>254</sup> Like Shakespeare, he is mentioned in the will of Augustine Phillips, one of the actors in the Chamberlain's Men.<sup>255</sup> More important still, he is listed with Shakespeare in the cast of *Evry Man in His Humour* by Ben Johnson, who knew them both.<sup>256</sup> So Aubrey is getting much of his information from the son of a man who definitely knew Shakespeare, and who bids fair to have been one of his friends. Obviously distortions can creep into such an orally transmitted account, but the fundamentals—Shakespeare is an actor and playwright from Stratford—come through very clearly indeed. This is strong evidence that the actor and playwright were one and the same.

Aubrey had other informants. Robert Davenant and his brother Sir William Davenant. Sir William is reputed—and not just by Aubrey<sup>257</sup>—to have claimed that he might be Shakespeare's illegitimate son. In any event, both men are a likely source of material, and Davenant took over from William Beeston—who had earlier succeeded his father Christopher—as the Governor and Instructor of Beeston's Boys.<sup>258</sup> Taken individually these sources of information are fairly strong, together they are very strong indeed.

250. *Id.* at 275-76.

251. *Shakespeare's Lives*, *supra* note 1, at 116.

252. *Id.* at 129.

253. Quoted in J. Aubrey, *supra* note 126, at 79.

254. G. Bentley, *The Profession of Player in Shakespeare's Time, 1590-1642*, 142 (1984).

255. *Id.* at 19.

256. *Id.* at 156.

257. *Shakespeare's Lives*, *supra* note 1, at 101.

258. G. Bentley, *supra* note 254, at 142.

Now for the attacks upon Aubrey, of which there have been many. It is hard to summarize the peculiar character of Aubrey's testimony, without reading the book. The classic biography by Anthony Powell paints him as he was—a person who was quite capable of putting down the most outlandish claims next to painfully garnered oral testimony.<sup>259</sup> Certainly Aubrey is a major and respected source of biographical details about a wide range of seventeenth century figures ranging from Hobbes to Coke. Aubrey is made to look unreliable by the famous quote from Anthony A. Wood that Aubrey was “a shiftless person, roving and magotie-headed, and sometimes little better than crazed. And being extremely credulous would stuff his many letters sent to A.W. with folleries and misinformations, which sometimes would guide him into the paths of error.”<sup>260</sup> But Wood, who appears to have been a truly poisonous person, had written this account up to twenty-five years after the event, after he and Aubrey had been through a falling out and, as Powell puts it, “there is certainly some cause to doubt the accuracy of the pretended assessment of Aubrey's value as a collaborator, an estimate which can, in fact, be shown to have been very different.”<sup>261</sup> Aubrey's information is yet another piece of strong evidence that the Oxfordians must explain away, yet given his informants, this is hard to do.

Finally, we have the interesting fact that Aubrey also has a biography of Edward de Vere, the seventeenth Earl of Oxford.<sup>262</sup> The biography is infamous, containing as it does a . . . colorful anecdote about an audience with the queen at which de Vere broke wind, to his great embarrassment. Aubrey's biography alternates between the fantastical (a seven year long self-imposed exile at sea) and the mundane, as when he devotes an entire paragraph to discussing the personality faults of the Earl's secretary, “Gwin,” who “cutts some sower faces that would turne the milke in a faire ladie's breast.”<sup>263</sup> Now, one can say many things about Aubrey, but one cannot accuse him of hiding anything. If there had been any rumor, no matter how fantastic, that de Vere was secretly writing plays under the name of another, Aubrey would have seized upon it, and repeated it. The fact that he did not do so, given his network of informants and his knowledge of Shakespeare argues strongly against de Vere's case.

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259. A. Powell, *John Aubrey And His Friends* (1963).

260. *Quoted in id.* at 130.

261. *Id.* at 129.

262. J. Aubrey, *supra* note 126, at 466.

263. *Id.*

H. *The First Folio Clinches The Attribution To Shakespeare (The Actor From Stratford) Of "Shakespeare's" Plays*

Probably the single most persuasive set of materials attesting to Shakespeare's authorship are those contained in the *First Folio*, published in 1623. On first reading it seems that this is a set of plays published by two friends of the author (they say they are his friends and they are remembered in his will),<sup>264</sup> who begin their volume with some good old-fashioned sycophancy towards the dedicatees, and a rather bluff and over-comic address "to the great variety of readers." "From the most able, to him that can but spell: There you are number'd. We had rather you were weighd."<sup>265</sup> Through their rather tortured prose, the prose of men who have been in the company of the articulate and who have borrowed the florid language of their contemporaries to go with their straightforward sentiments, comes respect and affection for the man whose plays they are publishing. "Who, as he was a happie imitator of Nature, was a most gentle expresser of it. His mind and hand went together: And what he thought, he uttered with that easinesse, that we have received from him scarce a blot on his papers."<sup>266</sup> So much for first readings. The interpretations that have been wrung out of the superlatives in the introductory dedication of John Heminge and Henry Condell would put even lawyers to shame. One might as well try to wring cosmic significance 300 years hence out of the ecstatic puffs given to paperback thrillers by reviewers who are paid by the word. What did they *really* mean by the phrase, "I couldn't put it down?"

Heminge and Condell were both members of the Lord Chamberlain's company. They had been listed earlier as appearing with Shakespeare in Jonson's *Evry Man in His Humour* in 1598 and in *Sejanus* in 1603. In Shakespeare's will they had each been left twenty-six shillings and eightpence to buy memorial rings.<sup>267</sup> The same bequest had been made to Burbage, another actor "fellow." There are other links between Shakespeare and the editors of the *First Folio*. In 1603 'Will[i]am Shakespeare,' 'Richard Burbage,' 'John Heninge,' 'Henrie Condell,' and 'Augustine Phillips'—as well as a number of others—are mentioned in the Royal Patent which turned the Old Chamberlain's company into the King's Men. In case one had any doubt that this was a world of close acquaintance-

264. *Shakespeare's Lives*, *supra* note 1, at 44.

265. J. Heminge & H. Condell, *To the great Variety of Readers*, in the Folio of 1623, reprinted in *The Complete Works*, *supra* note 71, at xvii.

266. *Id.*

267. *Shakespeare's Lives*, *supra* note 1, at 44.

ships, in 1605 we find that both Condell and Shakespeare had been bequeathed a thirty shilling gold piece in the will of (the same) Augustine Phillips, who died in 1605. The same man left money to Christopher Beeston, the father of Aubrey's informant.<sup>268</sup> The number and exactitude of the records put them beyond reach of the normal methods of re-explanation. Clearly, Heminge and Condell knew the man from Stratford, and clearly this is the person that they have in mind as they edit these plays. Thus, the Oxfordians must have recourse to their standby argument—conspiracy. Before turning to the conspiracy argument, it is necessary to examine the rest of the introductory materials in the *First Folio*.

Ben Jonson's eulogy has already been discussed at some length. Mention has been made of its obvious references to Shakespeare as an actor and its famous line "sweet Swan of Avon."<sup>269</sup> Hugh Holland's dreadful verse contains only two things of interest apart from its magnificent disregard of rhyme, metre and imagery. The first is its obvious allusion to "the Globe" which "Shakespeare's" plays made ring. The second is the drying of the Thespian spring. Both are fully consistent with the identification of the author with the actor. Apart from this, Holland seems fully to live up to Schoenbaum's description of him as "a comparative nonentity."<sup>270</sup> Like most comparative nonentities, he had to share this characteristic with a number of others, in this case "I.M." and Leonard Digges, the other two admirers whose verses were used.<sup>271</sup> Digges' poetry is a lot better than Holland's and he crams his lines with references which make it clear that he was an insider who was describing "Shakespeare's" plays from the point of view of their effect *on stage*. Most striking of all, however, Digges' lines begin, "Shake-speare, at length thy pious fellowes give/ The world thy workes: thy workes, by which, out-live/ Thy Tombe, thy name must when that stone is rent/ And time dissolves thy Stratford Monument . . ." <sup>272</sup> Since de Vere could hardly be thought to have a Stratford monument, this is about as clear as a reference as we could hope to find. I.M. rounds off the eulogies with a poem that concentrates entirely on acting themes. "An Actors Art,/ can dye, and live, to acte a second part."<sup>273</sup> Turning the page finds the list of "Principall players in all

268. G. Bentley, *supra* note 254, at 142.

269. Oxfordians see this as another cleverly ironic hint. De Vere had a house which was near the Avon river, although not near *Stratford-upon-Avon*.

270. *Shakespeare's Lives*, *supra* note 1, at 59.

271. *Id.*

272. L. Digges, *To The Memorie of the deceased Authour Master W. Shakespeare*, in the *Folio* of 1623, reprinted in *The Complete Works*, *supra* note 71, at xxv.

273. I.M., *To the memorie of M.W. Shake-speare*, in the *Folio* of 1623, reprinted in *The Complete*

these Playes." Shakespeare's name heads the list.

One final piece of information is needed before the discussion of Oxfordian attempts to explain away this set of clear references to William Shakespeare the actor-playwright from Stratford. Throughout the introduction and the poems, including the poem by Jonson, certain themes reappear. One is that the plays are Shakespeare's true monument, or rather that while his works are alive he is alive and thus, that he needs no monument. The second is that it is hard to praise someone as talented as Shakespeare, and—from Jonson,—that praise by the mediocre may be worse than slander. "[A]s some infamous Bawd, or Whore,/ Should praise a Matron. What could hurt her more?"<sup>274</sup> Given the quality of Holland's verse in particular—"Those hands which you so clapt, go now, and ring/ You Britaines brave; for done are Shakespeares dayes:/ His dayes are done, that made the dainty Playes."<sup>275</sup>—given eulogies of this quality, Jonson's comment seems rather appropriate. Both themes in the eulogies are conventional, both have hints of the Euphuistic, or oppositional, compliments so popular in Elizabethan times.<sup>276</sup> Finally, both are fairly obvious themes to hit on if one is part of a group of people who are both praising and publishing the plays of a departed fellow—and presumably profiting from them.

The details of the *First Folio* conspiracy have already been described in the section of the brief which dealt with the lack of both motive and method in the Oxfordian's postulated cover-up.<sup>277</sup> The mechanism remains to be described. Pembroke and Montgomery are supposed to have engaged honest Ben Jonson to lie for them in order to publish de Vere's works, although not under de Vere's own name. Presumably they felt that it was alright to risk exposure of the facts that they had lied, put their cats-paws into public offices such as that of the Master of the Revels, enter into "trade" through their servant, Ben Jonson, and perpetrated a fraud upon the world. Exposure of any or all of these would put at least their "good names" and perhaps their lives in danger. But they could not risk the good name of a man who had been dead for nineteen years. That is to say, they could not risk exposure of the fact that a publicly acknowl-

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*Works*, *supra* note 71, at xxv. Incidentally, only Digges and I.M. hyphenate Shakespeare's name. If these are conspirators they are fickle ones.

274. Jonson, *reprinted in The Complete Works*, *supra* note 71, at xix.

275. H. Holland, *Upon the Lines and Life of the Famous Scenic Poet, Master William Shakespeare*, in the *Folio* of 1623, *reprinted in The Complete Works*, *supra* note 71, at xxi.

276. E.g., "Bad Praise is really slander." "The book would be your monument, but only dead people need monuments and while your book lives, you are still alive."

277. *See supra* pp. 738-45.

edged playwright who had been dead for nineteen years had written more plays under another name.

In Mr. Ogburn's version, Jonson was chosen to oversee the conspiracy. His loyalty to this cause is explained by the fact that Pembroke had arranged a pension of £100 a year for him from the Crown, and had unsuccessfully proposed him as Buck's successor at the Revels in 1621, in which year the pension was temporarily increased from £100 to £200.<sup>278</sup> We have no proof that the pension was for nefarious, rather than for normal theatrical purposes and Jonson—as a friend of Shakespeare the actor's—would seem a strange choice for such a scheme. Jonson is credited with writing all of the dedicatory and introductory material, which Heminge and Condell put their names to, and then with writing his own poem with what Mr. Ogburn sees as a mixture of ironic and sincere praises—praising Shakespeare the author while subtly ridiculing the idea that the actor could have managed to create such a body of work. Apart from the mix of motivations, one strange feature of this explanation is that Jonson is apparently identified as the author of most of the introductory material by Heminge and Condell.<sup>279</sup> The hypothesis that Jonson wrote Heminge and Condell's is attractive to Oxfordians, presumably because it would at least get them started on the task of proving that the *First Folio* is not what it seems. The idea that some of the lines are attributable to Jonson has received some scholarly support.<sup>280</sup> But what does such a hypothesis prove? It is submitted that it is far from unlikely that two actors confronted with the task of writing an introduction, should turn to the works of a fellow member of their profession, in whose plays they had appeared, and should either directly crib his work, or ask him to pretty-up their own. No cabalistic inferences can be inferred from such a practice.

We are asked to believe that Ben Jonson wrote Heminge and Candell's introduction and then turned round to ridicule them for their praise of Shakespeare—praise contained in the introductory material of which we assume Jonson is the author.<sup>281</sup> “[A]s some infamous Bawd, or Whore,/ Should praise a Matron. What could hurt her more?”<sup>282</sup> If Heminge and Candell were really editors they would have taken this insulting reference out, Mr. Ogburn ar-

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278. C. Ogburn, *supra* note 38, at 222.

279. *Id.* at 226-27.

280. *See* authors cited in *id.* at 226-27.

281. *Id.* at 230.

282. B. Jonson, *reprinted in The Complete Works*, *supra* note 71, at xix.

gues.<sup>283</sup> They did not do so, so they cannot be editors. But if they are not really editors then they did not write the bawd's line of praise, in which case the lines did not apply to them, in which case. . . . This, it is submitted, is a mathematically perfect paradox. If Jonson did write Heminge and Condell's introduction—which Mr. Ogburn seems to suggest<sup>284</sup> then these lines cannot bear the meaning he assigns to them.

What of the other eulogies?<sup>285</sup> What of I.M.'s poem with its exclusive concentration on themes of acting?

Wee wondred (Shake-speare) that thou went so soone  
From the Worlds-Stage, to the Graves-Tyring-roome.  
Wee thought thee dead, but this thy printed worth,  
Tels thy Spectators, that thou went'st but forth  
To enter with applause. An Actors Art  
Can dye and live, to acte a second part.  
That's but an Exit of Mortalitie;  
This, a Re-Entrance to a Plaudite.<sup>286</sup>

Surely, if there was ever a eulogy aimed at an actor-playwright it is this? Even the reference to the famous lines—"All the worlds a stage"—cannot be used to explain away the appropriateness of dedicating these lines to a man who had been an actor. Mr. Ogburn gives short shrift to I.M.'s poem—he merely mentions that it exists.<sup>287</sup> But this is yet another piece of evidence that the actor and playwright are one and the same person.

What then, of Leonard Digges' poem with its claim that Shakespeare works will outlive his tomb, that they will keep his name alive until times dissolves "thy Stratford Monument"? Mr. Ogburn thinks that the language about the monument dissolving is significant<sup>288</sup> and believes that most readers would think of the "Stratford that was then in the northeast of London . . . and that Stratford was the town nearest Hackney, where Edward de Vere was buried. . . ." <sup>289</sup> First, one must say that this seems a little implausible. Clearly, whatever version of the story one accepts, there was a man

283. C. Ogburn, *supra* note 38, at 230.

284. *Id.* at 226.

285. It does not appear that Mr. Ogburn thinks that these poems were written by Ben Jonson, and it is not clear what status he assigns them in the supposed conspiracy. *Id.* at 226-36.

286. B. Jonson, *reprinted in The Complete Works, supra* note 71, at xxv.

287. C. Ogburn, *supra* note 38, at 236.

288. *Id.* This seems strange given that the poet more or less says straight out, "Your works will keep your name alive. When your tomb dissolves we will still see you alive in this book." See *supra* note 272 and accompanying text. Surely this is hardly an unusual sentiment for someone writing an introductory eulogy?

289. *Id.* (footnote omitted).

called William Shakespeare, who was involved in the theatre, who came from Stratford-on-Avon, who returned to his town and eventually died and was buried there. Any reader who knew some part of this story would presumably interpret the lines to fit that information. Second, if Digges is trying to tell us that Shakespeare wrote the plays, why would he put in this line which—to Mr. Ogburn's eyes points straight at, or at least one town over from, de Vere? If he was trying to tell us de Vere wrote the plays, why did he not say "thy Hackney monument."? If Digges is another of the many, many, many people in this conjectural history who is trying to say one thing while seeming to say another, what is supposed to be his motivation? This clear identification of author with man from Stratford emerged unscathed.

Finally, what of Digges' comments about the plays? "Nor shall I e're beleeeve, or thinke the dead/ (Though mist) Until our bankrout stage be sped/ (Impossible) with some new straine t'outdo/ Passions of Iuliet and her Romeo;"<sup>290</sup> Again these seem to be lines that would be natural to address to the memory of a man who saw his plays through production, who thought of them as theatre, who concentrated on how they *played*. "Our bankrout stage," indeed. They would be bizarre in the extreme if addressed to a noble dilettante, who saw his works as poetry.

Enough is enough. Mr. Ogburn concludes his interpretation of Jonson's poem "If we can hardly view the Stratford monument as other than designed to convey different things to different spectators, we can hardly explain the introductory material in the *First Folio* except as intended to have one meaning for the superficial reader, the opposite for the observant."<sup>291</sup> Sadly, the author of this brief must resign himself to the former group. It is submitted that the *First Folio* could not be clearer in the person it identifies as the author of the plays. Despite all of the Oxfordian's ingenious attempts to explain them away, the introductory addresses and poems show beyond any shred of reasonable doubt that Shakespeare the actor was also Shakespeare the playwright.

#### CONCLUSION

The Oxfordian claim is an ingenious argument which has had the beneficial function of showing up some of the wilder flights of Shakespeare's biographers. Yet to believe that the Oxfordian theory was *true* one would need to embark on much wilder flights of

290. B. Jonson, reprinted in *The Complete Works*, supra note 71, at xxv.

291. C. Ogburn, supra note 38, at 233.

fancy. Even the best Oxfordian arguments fail to provide de Vere with the method, means or temporal opportunity necessary to write Shakespeare's plays. The contradictions in the Oxfordian theory, the proliferation of contradictory conspiracies, the idea that he was writing pseudonymously at thirteen years of age, the overwhelming probability that he was dead before all of the plays were written and the bizarre idea that he (or others) would choose an illiterate provincial bumpkin to cover for him—all of these are against de Vere's case. The purported puzzles in Shakespeare's biography turn out to be the result of ahistorical assumptions (for example, ignorance of English secretary hand, or of contemporary schooling, or of the copyright law of the time) or the result of romantic notions of authorship (for example, the idea that artists cannot have worldly concerns, or that a play must be published to be art). We take our romantic vision of the "Artist" to be universally true, but it is in fact a product of a later era, and it would have been foreign to the professional dramatists of Shakespeare's day. Finally, the historical record leaves ample, mutually reinforcing proof that Shakespeare was "Shakespeare." Greene's *Groatsworth*, Willobie's *Avisa*, the Revels Accounts of 1604-05, John Aubrey's biography of Shakespeare, Ben Jonson's testimony in his diary—these alone are enough to carry the case for Shakespeare. There is more. Everything leads to the conclusion that the man from Stratford was also "Hand D" in the Booke of *Sir Thomas More*. This is overwhelming evidence of Shakespeare's authorship. Finally, of course, we have the *First Folio* with its unambiguous and affectionate testimony that Shakespeare was "Shakespeare"—testimony which cannot be explained away. "[W]hen that stone is rent,/ And Time dissolves thy Stratford Monument,/ Here we alive shall view thee still."<sup>292</sup> And so we shall.

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292. L. Digges, *To The Memorie of the deceased Authour Master W. Shakespeare*, in the *Folio* of 1623, reprinted in *The Complete Works*, *supra* note 71, at xxv.

