

TENNESSEE LAW REVIEW

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EVIDENCE FOR A LITERARY BIOGRAPHY

DIANA PRICE*

The criteria used by historians to assess evidence are essentially the same as those used by attorneys. For example, both distinguish between personal and impersonal, and contemporaneous and posthumous evidence. Both make judgments about the reliability of witnesses and testimony to ensure that their cases meet the burden of proof. Documentary biographers are bound by the same rules of evidence, but for Shakespeare's biography, they have made exceptions. Writers in Elizabethan and Jacobean England left behind records of their professional activities. Shakespeare left behind documentation of his professional activities, but none is literary. If Shakespeare was the writer the title pages proclaim him to be, then there should be evidence of his literary career. He is the only alleged writer of any consequence from the time period who left behind no personal evidence of his career as a professional writer. His biographers must rely instead on posthumous, ambiguous, impersonal, and non-literary evidence to make their case.

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I. INTRODUCTION

"[I]n many respects, the historian is like a prosecuting attorney. He or she is trying to make a case and is expected to bear the burden of proof."¹ Have

* Some of the material in this Article is adapted from my *Shakespeare's Unorthodox Biography: New Evidence of an Authorship Problem* (2001). In quotations from sixteenth- and seventeenth-century sources, I have regularized the spelling and typography where appropriate and noted when I have done so.

1. BART D. EHRMAN, *JESUS: APOCALYPTIC PROPHET OF THE NEW MILLENNIUM* 89 (1999). Likewise,

The criteria for the acceptance of an attribution as proven have traditionally been based

Shakespeare's biographers met the burden of proof concerning the authorship debate? Could they satisfy a jury that Shakespeare of Stratford wrote the plays? As an anti-Stratfordian, I do not believe that they have met the burden of proof. Orthodox or Stratfordian scholars, on the other hand, are equally convinced that the man from Stratford wrote the plays traditionally attributed to William Shakespeare. Both Stratfordians and anti-Stratfordians are looking at the same evidence, so why do we come to such radically different conclusions? The answer is simple.

We do not frame our questions in the same way. Orthodox biographers begin by accepting a fundamental assumption, and that assumption underpins their entire theory.² Like most, they accept Shakespeare's authorship as an article of faith. They see no need to go back and comprehensively re-test all the documentary evidence because they are not trying to prove what Shakespeare did for a living. They already know, their knowledge based on the assumption that the man from Stratford was a professional playwright. This assumption affects the way in which they or anyone else interprets the evidence.

We are all familiar with the logical fallacy of begging the question and the classic example: "When did you stop beating your wife?" I submit that the biographer who asks when Shakespeare of Stratford stopped writing plays likewise assumes that which has yet to be proven. In criminal law, if the jury has a reasonable doubt about any fact necessary to constitute the crime, it must acquit the defendant. I have long thought that if writing plays and poems were a crime, Shakespeare of Stratford could not be convicted on the evidence. Allegedly, his biography is a literary biography—the life of a writer. Evidence of a writer's career differs qualitatively from, for example, that of a doctor because certain records are particular to his profession. Evidence for a doctor might include payments to pharmaceutical companies (in Shakespeare's time, apothecaries), or as in the case of Shakespeare's son-in-law, the physician John Hall, a medical case book in his handwriting and a letter from a patient describing symptoms and begging for a house-call.³ Such records form the evidence of John Hall's profession because they are the types of document that would inherently trace the career of a physician in Renaissance England.

My thesis is simple: If Shakespeare of Stratford was the writer that the title pages proclaim him to be, then he was, by definition, a professional

on legal models for the evaluation of evidence Certain basic standards of proof are common to both. In criminal law, guilt has to be proved beyond reasonable doubt; in civil cases the balance of probability determines the findings. In attribution studies the second would be sufficient to let a received attribution stand but . . . it would require the first to overturn an accepted attribution or to establish a new one from scratch.

HAROLD LOVE, *ATTRIBUTING AUTHORSHIP* 209 (2002).

2. Of course, the same can be said of most anti-Stratfordians committed to a particular case, be it Oxford, Bacon, Marlowe, or another candidate.

3. HARRIET JOSEPH, *SHAKESPEARE'S SON-IN-LAW: JOHN HALL, MAN AND PHYSICIAN* xii-xiii, 27-29 (1964).

writer, and we should have no trouble finding evidence of that career. Relevant evidence for a professional writer may include original manuscripts, letters, diaries, personal testimony mentioning literary interests or activities, records of payments for written work, books, and other tools of the trade. I call such records personal literary paper trails.⁴ With the obvious exception of notice or commemoration at death, these paper trails are contemporaneous, created during the lifetime of the writer, or as one authority on the genre of biography puts it, the “paper trail, extending from his entrance to his exit.”⁵

Authorship problems usually concern particular attributions, collaboration, degrees of indebtedness, plagiarism, or forgery, but questioning the accuracy of the attribution of a major corpus is, I think, without precedent. At first glance, the Shakespearean biography seems convincing enough because there is a *prima facie* case. Many plays, including *Hamlet*, were printed during the lifetime of the man from Stratford with his name on the title page. How can anyone propose with a straight face that Shakespeare did not write the plays when he is known to have been a member of the very acting company that performed them? Let me re-frame the question, however: If Shakespeare of Stratford did *not* write the plays, then *why* did his name appear on the title pages?

In some cases, a real person takes credit for another’s work. Two prototypes for this sort of authorship fraud—works falsely attributed to a real person—date back to ancient Rome. The first is Terence, a playwright who specialized in writing comedies but who was also known for taking credit for plays actually written by aristocrats.⁶

A second example is Battillus, a Roman who signed his name to Virgil’s verses and accepted a reward for them. Battillus was well known to Elizabethan readers; the anecdote about him and Virgil had been in print (in English) as early as 1573.⁷ In 1591, a pamphleteer reported:

4. See Gladys Doidge Willcock & Alice Walker, *Introduction* to GEORGE PUTTENHAM, *THE ARTE OF ENGLISH POESIE* xvi-xxv (Gladys Doidge Willcock & Alice Walker eds., Cambridge Univ. Press 1936) (1589) (comparatively analyzing the personal literary paper trails for two candidates for the authorship of *The Arte of English Poesie*).

5. PAUL M. KENDALL, *THE ART OF BIOGRAPHY* ix (1965). See ROBERT C. WILLIAMS, *THE HISTORIAN’S TOOLBOX: A STUDENT’S GUIDE TO THE THEORY AND CRAFT OF HISTORY* 58 (2003). Williams defines a primary source as “a document, image, or artifact that provides evidence about the past. It is an original document *created contemporaneously* with the event under discussion.” *Id.* (emphasis added).

6. DIANA PRICE, *SHAKESPEARE’S UNORTHODOX BIOGRAPHY* 62-67 (2001).

7. See Aelius Donatus, *Virgils Life*, in VIRGIL, *THE THIRTEENE BOOKS OF AENEIDOS* (Thomas Twyne & Thomas Phaer trans., London, Thomas Crede 1596) (1573), reproduced at Early English Books Online, available at <http://eebo.chadwyck.com> (last visited Mar. 25, 2005). Thomas Twyne and Thomas Phaer’s translation of Virgil, including the *vita* by Donatus, was published in 1573 and reprinted in 1584 and 1596. The Battillus anecdote appears on the fourteenth page of the unnumbered text of the *vita*. See also PRICE, *supra* note 6, at 63-64.

[I]f they come to write or publish any thing in print, it is either distilled out of ballads or borrowed of Theological poets, which for their calling and gravity, being loath to have any profane pamphlets pass under their hand, get some other Battillus to set his name to their verses: Thus is the ass made proud by this under hand brokery. And he that can not write true English without the help of Clerks of parish Churches, will needs make himself the father of interludes.⁸

I hypothesize that Shakespeare's name may appear on title pages because he was a play broker who took credit for the work of others. In the course of questioning the evidence for Shakespeare's biography, I will consider this alternative hypothesis.

II. EVIDENCE OF EDUCATION

A photograph of the classroom of the Stratford Grammar School appears in many biographies, and these biographies describe what Shakespeare would have been taught and what books he would have read. Generally, biographers use two arguments to support Shakespeare's grammar school training. First, because his father was a town official, young Will would have been entitled to free enrollment. Therefore, he had the opportunity to attend grammar school. The second argument proposes that Shakespeare's plays offer "direct, certain evidence that William was in grammar school."⁹ This is circular reasoning. Obviously, the plays were written by an educated individual, but the biographer assumes young Will grew up to be the playwright. The biographer assumes that he therefore *must* have been educated at the grammar school and that allusions to schoolboys or elementary education in the Shakespeare plays are echoes of his Stratford schooldays. In fact, Shakespeare of Stratford is a man of no recorded education. The school records for the years in question when he *might* have been a student, in the late 1560s or early 1570s, have not survived. Thus, a biographer cannot tell you whether or not Shakespeare attended grammar school.

Yet there are good reasons to infer some formal education. We know Shakespeare could write his name. He negotiated many legal and business documents, and it is more likely that he could read those documents rather than constantly relying on a scrivener. We know of three letters written to him concerning business matters. Furthermore, as an actor he had to read his roles. I therefore infer that he probably had some grammar school training.

8. ROBERT GREENE, *Farewell to Folly*, in 9 THE LIFE AND COMPLETE WORKS IN PROSE AND VERSE OF ROBERT GREENE, M.A. 223, 232-33 (Alexander B. Grosart ed., London, The Huth Library 1881-83) (1588-91) (spelling and typography regularized). This work was registered in 1587 but was not published until 1591. 1 *id.* at 125.

9. PARK HONAN, SHAKESPEARE: A LIFE 43 (1998). See also, e.g., SAMUEL SCHOENBAUM, WILLIAM SHAKESPEARE: A COMPACT DOCUMENTARY LIFE 64-65 (1977) (extrapolating Shakespeare's attitudes towards grammar school from his works).

Learning, however, was not in the family tradition; his parents, wife, and children were all functionally illiterate.

III. PAYMENTS TO WRITERS

Professional writers get paid to write. Among the hundreds of entries in the *Henslowe Papers* (sometimes called *Henslowe's Diary*, named for Philip Henslowe, the proprietor of the Rose playhouse in London) is a record of payment, dated 22 January 1598: "Received by me George Chapman gentleman of Mr. Phillip Henslowe the sum of three pounds in part of payment of a comedy called *The World Runs Upon Wheels*. . . . ij^{li}"¹⁰ Chapman was paid three pounds expressly for writing a play. It is a personal literary paper trail for Chapman, evidence of his career as a professional playwright.

Many writers made money through the system of patronage; they were rewarded for their literary efforts by the court, aristocrats, or people of means. George Peele was commissioned by the Earl of Northumberland to write a poem for a ceremonial occasion, and the earl's account book records a 1593 entry: "delivered . . . at my Lord's appointment to give to one Geo. Peele, a poett, as my Lord's liberality, 3£."¹¹ Sir George Carey wrote a letter to his wife, referring to *Christ's Tears*, a 1593 pamphlet by the satirist Thomas Nashe: "[N]ashe hath dedicated a booke unto you with promis of a better, [W]ill [C]otton will disburs [£5] or xx nobles in yowr rewarde to him."¹² Carey's letter is evidence that Nashe *obtained* patronage from Sir George and Lady Carey; Nashe was rewarded with money for writing a book.

There is no comparable evidence for Shakespeare, although biographers often claim that Shakespeare the writer, whoever he was, obtained patronage from an important aristocrat, the Earl of Southampton, to whom he dedicated his first two published works. The first was the narrative poem *Venus and Adonis*, published in 1593, and the second was *The Rape of Lucrece*, published in 1594. It is his *second* dedication to Southampton that biographers cite as evidence that Shakespeare found a patron and obtained a reward.¹³

10. HENSLOWE'S DIARY 268 (R.A. Foakes & R.T. Rickert eds., 1961) (spelling and typography regularized). This page of the diary became separated from the papers preserved in Dulwich College and is now in the Folger Shakespeare Library. See Joseph Quincy Adams, *Another Fragment from Henslowe's Diary*, 20 LIBRARY 154, 155 (1939-1940).

11. LEONARD R.N. ASHLEY, GEORGE PEELE 182-83 (1970).

12. Katherine Duncan-Jones, *Nashe in Newgate*, TIMES LITERARY SUPPLEMENT, Mar. 22, 1996, at 15.

13. See, e.g., JONATHAN BATE, THE GENIUS OF SHAKESPEARE 18-19 (1998); KATHERINE DUNCAN-JONES, UNGENTLE SHAKESPEARE: SCENES FROM HIS LIFE 65-66, 83, 86 (2001) (assuming "that Southampton both gave Shakespeare some reward" for *Venus and Adonis* and then "encouraged him" to write *Lucrece*); STEPHEN GREENBLATT, WILL IN THE WORLD 240, 245-46 (2004); ANTHONY HOLDEN, WILLIAM SHAKESPEARE: HIS LIFE AND WORK 110-11 (1999); PETER HOLLAND, 49 OXFORD DICTIONARY OF NATIONAL BIOGRAPHY 945 (2004); HONAN, *supra* note 9, at 176-77, 179, 371; STANLEY WELLS, SHAKESPEARE: A LIFE IN DRAMA

TO THE RIGHT HONOURABLE,
HENRY Wriothesley,
Earle of Southampton, and Baron of
Titchfield.

The love I dedicate to your Lordship is without end: whereof this Pamphlet, without beginning is but a superfluous Moiety. The warrant I have of your Honourable disposition, not the worth of my untutored Lines, makes it assured of acceptance. What I have done is yours, what I have to do is yours, being part in all I have, devoted yours. Were my worth greater, my duty would show greater, mean time, as it is, it is bound to your Lordship; To whom I wish long life still lengthened with all happiness.

Your Lordships in all duty,
William Shakespeare¹⁴

In the absence of any external evidence, such as records of payment or rewards, what is the evidentiary value of a dedication? What can it tell us about the poet and patron? Taken alone, dedications in Elizabethan literature are usually not good evidence of a direct relationship between writer and patron.¹⁵ Most are formulaic, couched in impersonal and conventional terms. In fact, the majority of dedications were *unauthorized* and written on speculation, without the patron's knowledge, advance approval, or agreement to pay. In other words, authors wrote them having only heard about a generous patron, rather like addressing a grant application to a foundation program officer one has never met.

The opening phrase of the dedication to *Lucrece*, "The love I dedicate to your Lordship," is often interpreted as evidence of warmth or friendship between the two men. In England during the rule of Queen Elizabeth, however, supplicants with ambitions to the court and those making bids for preferment or patronage often advanced their suits using the language of love. The word "love" may simply express, as one critic puts it, the "economic transaction" between poet and patron. If no reward was forthcoming, the poet's love for the prospective patron fizzled out, and he looked elsewhere.¹⁶

120 (1995) (asserting that Shakespeare obtained patronage and developed a relationship with the Earl of Southampton).

14. WILLIAM SHAKESPEARE, *Dedication to THE RAPE OF LUCERE*, in *THE RIVERSIDE SHAKESPEARE* 1816 (G. Blakemore Evans ed., 2d ed. 1997) [hereinafter *THE RIVERSIDE SHAKESPEARE*] (spelling and typography regularized). Note that all references to and quotations from the Shakespeare canon in this Article are from *THE RIVERSIDE SHAKESPEARE*.

15. See ARTHUR FREEMAN, THOMAS KYD: FACTS AND PROBLEMS 32-34 (1967); Alistair Fox, *The Complaint of Poetry for the Death of Liberality: The Decline of Literary Patronage in the 1590s*, in *THE REIGN OF ELIZABETH I: COURT AND CULTURE IN THE LAST DECADE* 229 (John Guy ed., 1995) (discussing the evidentiary value of dedications).

16. JOHN BARRELL, *POETRY, LANGUAGE AND POLITICS* 24-25 (1998); see also Arthur Marotti, *Love is Not Love*, 49 *ELH* 396 (1982) (discussing the metaphoric and non-amatory use of the word "love" in Elizabethan literature); Curtis Perry, *Court and Coterie Culture*, in *A COMPANION TO ENGLISH RENAISSANCE LITERATURE AND CULTURE* 106, 114 (Michael

The beginning of the second sentence (“The warrant I have of your honorable disposition”) is the sort of statement typically used by writers who did *not* know their would-be sponsors but who attempted to flatter them by vouching for their generous or honorable reputations. In his dedication for *The Mirror of Modesty*, for example, Robert Greene extolled the Countess of Derby’s fine qualities: “The fame . . . of this your virtuous life, and the report of your Ladyship’s surpassing courtesy, encouraged me to present this pamphlet to your honor’s protection.”¹⁷ The language is impersonal, and there is no evidence in this dedication of any reward or that the author ever met the patroness.

In contrast, when patronage *had* been obtained, writers tended to tell their readers in explicit terms. After Nashe received his reward of five pounds from Lady Carey, in a subsequent dedication to her daughter, he expressed his gratitude to Lady Carey “whose purse is so open to her poor beadsmen’s distresses. Well may I say it, because I have tried it . . . [and] have found in her extraordinary liberality and bounty.”¹⁸ Such explicit expressions of gratitude for favors, liberality, or bounties are evidence that the author succeeded in obtaining patronage.

There is no comparable language, however, in Shakespeare’s dedication to Southampton. Even after his first try in *Venus and Adonis*, the author was able to write in his dedication before *The Rape of Lucrece* only that he had heard about Southampton’s disposition.¹⁹ This tells us that his first dedication was unsuccessful and that he was trying again. Shakespeare’s two dedications are, by themselves, insufficient to prove that the poet and patron ever met, much less to prove that the poet, whoever he was, was rewarded. In other words, we cannot call the Earl of Southampton to testify as a witness that he personally recognized the man who wrote the dedication.

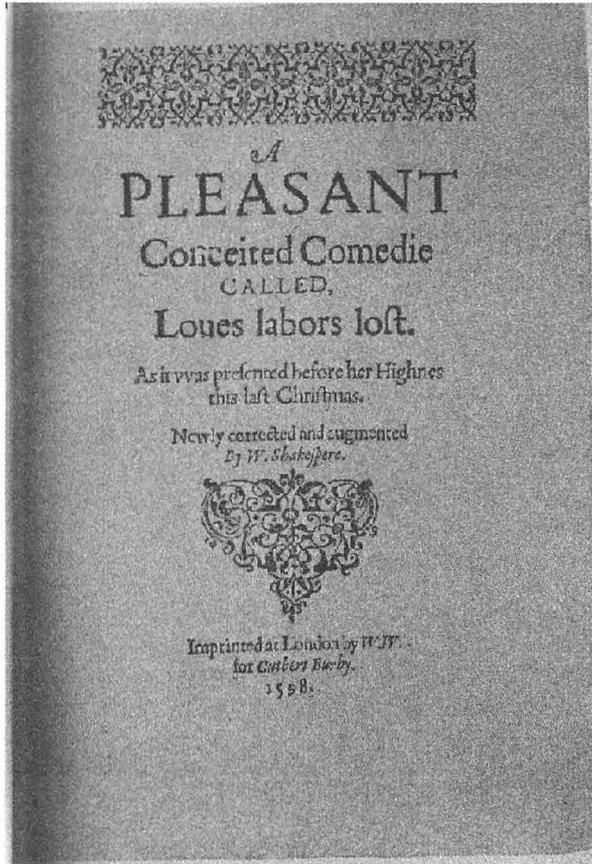
Hattaway ed., 2000) (pointing to the “enormous popularity of sonnets and stories of unrequited love” that reflected the frustration of aspirants to patronage and courtly circles).

17. ROBERT GREENE, *The Mirror of Modesty*, in 3 THE LIFE AND COMPLETE WORKS, *supra* note 8, at 1, 7-8 (spelling and typography regularized).

18. THOMAS NASHE, *Terrors of the Night*, in 3 THE COMPLETE WORKS OF THOMAS NASHE 215 (Alexander B. Grosart ed., London, The Huth Library 1883-84) (1594) (spelling and typography regularized).

19. Shakespeare’s language in this dedication, “[t]he warrant I have of your Honourable disposition . . . makes it assured of acceptance,” falls far short of an explicit statement of received patronage. SHAKESPEARE, *supra* note 14, at 1816 (emphasis added) (spelling and typography regularized).

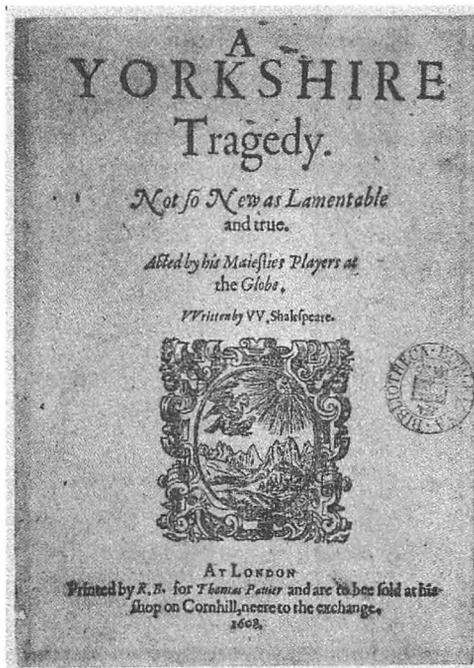
Figure 1: The 1598 quarto of *Love's Labour's Lost*, the first surviving edition of a play attributed to Shakespeare. A recently discovered catalogue of books once owned by Viscount Conway (1594-1655) lists "Loves Labours Lost by W: Sha: 1597," but if the entry is accurate, no copy is extant.²⁰



The first Shakespeare play published with author attribution was the 1598 quarto of *Love's Labour's Lost* (Figure 1). Readers in 1598 would certainly have concluded that someone named Shakespeare wrote *Love's Labour's Lost*.

20. Arthur Freeman & Paul Grinke, *Four New Shakespeare Quartos?*, *TIMES LITERARY SUPPLEMENT*, Apr. 5, 2002, at 18.

Figure 2: The 1608 quarto of *A Yorkshire Tragedy*, printed when Shakespeare was about forty-four years old. During his lifetime, at least five other non-Shakespearean plays (comprising part of the “Shakespeare Apocrypha”)²¹ were published over his full name, his abbreviated name (“W. Sh.”), or his initials.



In 1608, readers would likewise have concluded that someone named Shakespeare wrote *A Yorkshire Tragedy* (Figure 2), but they would have been wrong.²² *A Yorkshire Tragedy* is one of several plays printed during the lifetime of the man from Stratford that were falsely attributed to Shakespeare. In this case, the style and content of the play are sufficiently *un-Shakespearean* to outweigh the strength of the printed attribution. This title page, however, might be explained by my alternative hypothesis. If I am correct that

21. For more information on plays ascribed to Shakespeare, see *THE SHAKESPEARE APOCRYPHA* (C.F. Tucker Brooke ed., 1918).

22. See, e.g., JONATHAN HOPE, *THE AUTHORSHIP OF SHAKESPEARE'S PLAYS: A SOCIO-LINGUISTIC STUDY* 124-26 (1994) (arguing that it is unlikely that Shakespeare is the author of *A Yorkshire Tragedy* on the basis of a linguistic comparison of the play with Shakespeare's plays); Posting of Ward Elliott, ward.elliott@claremontmckenna.edu, to editor@shaksper.net (Mar. 26, 2004), available at <http://www.shaksper.net/archives/2004/0767.html> (on file with the *Tennessee Law Review*) (concurring based on a computer-aided analysis of *A Yorkshire Tragedy*); see also R.V. Holdsworth, *Middleton's Authorship of A Yorkshire Tragedy*, 45 *REV. ENG. STUD.* 1, 1-2 (1994) (noting some scholars' reluctance to question Shakespeare's involvement but holding to the view that he did not write the play). But see DUNCAN-JONES, *supra* note 13, at 210-12 (adopting the minority view of attribution to Shakespeare).

Shakespeare of Stratford was a play broker who took credit for other men's work, then we might not be so surprised to find some plays written by other dramatists with Shakespeare's name or initials on the title page, in his capacity as a Battillus.

Some readers may not realize at first that Mark Twain is a pseudonym. In Twain's case, however, we can quote letters that Samuel Clemens wrote, or his diaries, or his interviews, to say categorically that Mark Twain is a pen name; it stood for Samuel Clemens and Clemens wrote *Huckleberry Finn*. In Twain's case, there can be no authorship controversy. In contrast, when I encounter the name Shakespeare in literary evidence, such as on the title page of *A Yorkshire Tragedy*, I ask whether it represents (a) the real name of the real author, (b) a pseudonym—a real author using a pen name, or (c) a Battillus—a real person but not the real author. I submit that it is not possible to make a decision between (a), (b), or (c) solely on the basis of a title page, or for that matter, on that of a subscription to an impersonally worded dedication. We need personal testimony.

IV. PERSONAL VS. IMPERSONAL TESTIMONY

In general, most legal testimony must be based on firsthand personal knowledge; hearsay is usually inadmissible. In literary research, it is equally important to distinguish between firsthand and secondhand reports. Any critic can comment on literary accomplishments or write a book review without actually knowing the author. Such critics cannot, though, testify to having firsthand knowledge of the author. Because all witnesses who could testify to Shakespeare's biography are dead, how do we distinguish personal from impersonal testimony?

Sir Philip Sidney was widely admired both as a poet and as a patron of Elizabethan writers. Imagine, for a moment, that we are at Sir Philip's funeral service, listening to a eulogy. If you heard the following tribute (in modernized language), what would you conclude about the speaker? Is it one of his peers, a personal friend, a writer who benefited from Sidney's patronage, or a complete stranger?

Gentle Sir Phillip Sidney, you knew what belonged to a Scholar, you knew what pains, what toil . . . conduct to perfection: well could you give every Virtue his encouragement, every Art his due, every writer his desert: [be]cause none [were] more virtuous, witty, or learned than thy self.

But you are dead in the grave, and have left too few successors to thy glory, too few to cherish the Sons of the Muses . . . which your bounty erst planted.²³

23. THOMAS NASHE, *Pierce Pennilesse*, in 2 THE COMPLETE WORKS, *supra* note 18, at 12 (spelling regularized).

To me, it sounds as though the eulogist probably benefited personally from Sidney's generosity. However, the writer of these lines was Thomas Nashe, who was "still an undergraduate at Cambridge" when Sidney died in the Lowlands in 1586.²⁴ Nashe wrote these lines six years later without ever meeting Sidney; he was repeating hearsay and expressing the common opinion. In this case, documentary evidence leaves us with no doubt that the tribute is not based on firsthand knowledge. The evidence for Shakespeare is not as clear-cut.

An important allusion to Shakespeare, the writer, was published in 1598 in a book by Francis Meres, *Palladis Tamia*.²⁵ It marks the first time that Shakespeare, the writer, whoever he was, is alluded to in print as a dramatist:

[S]o *Shakespeare* among the English is the most excellent in both kinds for the stage; for Comedy, witness his *Gentlemen of Verona*, his *Errors*, his *Love's Labours Lost*, his *Love's Labour's Won*, his *Midsummer Night's Dream*, & 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*.²⁶

This passage is part of a chapter comparing English writers to their classical counterparts. Meres names a dozen Shakespearean play titles, most of which were not yet in print at that time. We do not know the source(s) of his information, but there is nothing in this passage to tell us that Meres got his information directly from the playwright. Meres refers elsewhere in the chapter to other titles not yet printed, as well as to playwrights who had not yet published anything.²⁷ Meres also praised Shakespeare's poetry: "As the soul of *Euphorbus* was thought to live in *Pythagoras*: so the sweet witty soul of *Ovid* lives in mellifluous & honey-tongued *Shakespeare*, witness his *Venus* and *Adonis*, his *Lucrece*, his sugared Sonnets among his private friends, &c."²⁸ Is this evidence that Meres personally knew Shakespeare and his private friends? No, because Tudor England was still largely a manuscript culture; poems were copied, recopied, and passed around in ever-widening circles to family members, friends, colleagues, and, inevitably, complete strangers.²⁹ Meres does not name any recipients of Shakespeare's works. He may or may

24. D. Nichol Smith, *Authors and Patrons, in 2 SHAKESPEARE'S ENGLAND: AN ACCOUNT OF THE LIFE & MANNERS OF HIS AGE* 194 (Clarendon Press 1962) (1916).

25. FRANCIS MERES, *PALLADIS TAMIA* (Don C. Allen ed., Scholars' Facsimiles & Reprints 1938) (1598).

26. *Id.* at 282r (spelling and typography regularized).

27. Meres named Thomas Dekker and Henry Chettle as playwrights of note, but as far as we know, neither had published any plays by 1598. *Id.* at 283r-284v. Meres reported that Michael Drayton was "penning" *Poly-Olbion*, a poem then in progress. *Id.* at 281r.

28. *Id.* at 281v-282r (spelling and typography regularized).

29. See Michelle O'Callaghan, *Publication: Print and Manuscript, in A COMPANION TO ENGLISH RENAISSANCE LITERATURE AND CULTURE* 81, 82-85 (Michael Hattaway ed., 2000) (describing the circulation of literary manuscripts during the Renaissance).

not have known who they were, and his statement does not suggest that he ever received one. Further, Meres names several dozen writers in his chapter on poetry, and no one supposes that he personally knew every single one of them. One *could* claim that he was a personal acquaintance of the poet Richard Barnfield because he refers to him as his “friend master *Richard* Barnfield.”³⁰ He makes no such claim for Shakespeare, however.

As a cleric, Meres was on the fringe of literary life. Aside from *Palladis Tamia*, his writing career was undistinguished, confined to two religious translations and a sermon. His modern editor concludes that he obtained most of his information on poets secondhand, through what he read or heard around town.³¹

Nevertheless, Meres’s testimony is far from worthless. Since *Palladis Tamia* was published in 1598, we know that certain plays attributed to Shakespeare were written by that time. He tells us about Shakespeare’s literary reputation and about his indebtedness to the classical poet Ovid.³² Still, in order to admit this testimony as firsthand knowledge, we would need something more, such as an explicit reference to his “dear friend, William.” Thus, Francis Meres cannot be called as a witness to testify that he personally recognized the man who wrote Shakespeare’s plays and poems.

John Davies’s epigram to “Shake-speare,” published circa 1610-11, is another critical allusion:

To our English Terence Mr. Will: Shake-speare.
 SOME say good *Will* (which I, in sport, do sing)
 Had’st thou not played some Kingly parts in sport,
 Thou hadst been a companion for a *King*;
 And, been a *King* among the meaner sort.
 Some others rail; but rail as they think fit,
 Thou hast no railing, but, a reigning Wit:
 And honesty thou sow’st, which they do reap;
 So, to increase their Stock which they do keep.³³

The title is important. As mentioned earlier, Terence was a playwright, famous for writing comedies. Orthodox biographers argue that John Davies was simply comparing Shakespeare to a Roman playwright, making this title

30. MERES, *supra* note 25, at 284v.

31. Don C. Allen, *Introduction to MERES*, *supra* note 25, at vii-viii; *see also* C.R. Baskervill, *Francis Meres’s Treatise “Poetrie,”* 33 MOD. PHILOLOGY 195-97 (1935) (reviewing an earlier version of Don C. Allen’s introduction).

32. MERES, *supra* note 25, at 281v.

33. JOHN DAVIES, *To Our English Terence Mr. Will: Shake-speare*, in 2 THE COMPLETE WORKS OF JOHN DAVIES OF HEREFORD 26 (Alexander B. Grosart ed., AMS Press 1967) (1611) (spelling and typography regularized). This poem is from Davies’s *Scourge of Folly*, a work separately paginated in this collection of his works.

a literary allusion.³⁴ However, Terence was also recognized as a front for aristocratic playwrights.³⁵ *Anti-Stratfordians* can therefore argue that Davies was comparing Shakespeare to someone who took credit for somebody else's work, making this title an entrepreneurial or business allusion. By itself, though, the title is ambiguous.

Does the content of the poem clarify its meaning? According to one recent biographer, the sobriquet *Terence* "seems to imply that Davies thinks of him primarily as a comic playwright, but goes on to speak of him in cryptic terms *as an actor*."³⁶ This is a view shared by many biographers. Davies writes about his having played "kingly parts," an allusion to Shakespeare as an actor, but does not use any tell-tale *literary* phrases such as "by your pen" or "our English Plautus."³⁷ As such, it is not clear whether Davies compares Shakespeare to a playwright or to a Battillus.

Is Davies's testimony personal or impersonal? Did Davies actually *know* Shakespeare of Stratford? Davies mentions "good Will" and his honesty,³⁸ but recall that Nashe praised Sidney's generosity without having known of it firsthand. Because the beginning of the poem reads like hearsay ("some say"), we need more information from this witness. The epigram to Shakespeare is one in a series:

To my well-accomplish'd friend Mr. Ben Johnson. EPIG. 156. . . .

....

34. Leonard Barkan, *What Did Shakespeare Read?*, in *THE CAMBRIDGE COMPANION TO SHAKESPEARE* 31, 34 (Margreta de Grazia & Stanley Wells eds., 2001) (pointing out that "there is small trace of Terence in Shakespeare and far more of Plautus").

35. MONTAIGNE, *A Consideration Upon Cicero*, in *THE ESSAYS OF MONTAIGNE* 199 (J.I.M. Stewart ed., John Florio trans., Modern Library 1933) (1603); Roger Ascham, *The Scholemaster*, in *1 ELIZABETHAN CRITICAL ESSAYS* 28 (G. Gregory Smith ed., Oxford Univ. Press 1971) (1570). Though first published in 1570, this work was reprinted twice in 1571, and additional reprints followed in 1579 and 1589.

36. WELLS, *supra* note 13, at 26 (emphasis added).

37. DAVIES, *supra* note 33, at 18, 26, 33 (using tell-tale literary words and phrases in other epigrams mentioning John Donne's "Muse" and "pen"; Samuel Daniel's "Muse," "foot's length," and "Parnassus"; Joseph Hall's "Muse," "Satire" and "pen"; and John Marston's play *Malcontent*) (spelling and typography regularized); cf. GREENE, *supra* note 8, at 232-33 (noting the Battillus allusion).

38. DAVIES, *supra* note 33, at 26. Davies's ambiguity extends to the word "honesty." I am indebted to a symposium attendee, Lynne Kositsky, who points out that "honesty" is also the herb *lunaria biennis*. Intentional ambiguity is signaled by Davies's choice of the verb "sow'st." According to the 1633 edition of John Gerard's *Herbal*: "[T]he later herbarists do call it *Lunaria*; Others, *Lunaria Graeca* We call this herb in English Penny flower, or Money flower . . . and among our women it is called Honesty." JOHN GERARD, *THE HERBAL OR GENERAL HISTORY OF PLANTS* 405-07 (Dover Publ'ns 1975) (1633) (from the 1633 edition of the *Herbal*, greatly revised and enlarged by Thomas Johnson over the 1597 original, though the 1597 edition also included the description of the *lunaria*) (spelling and typography regularized). The word therefore carries connotations for Shakespeare as a money-man.

To my much esteemed Mr. Inego Jones, our English Zeuxis and Vitruvius.
EPIG. 157. . . .

. . . .
To my worthy kind friend Mr. Isacke Simonds. EPIG. 158. . . .

. . . .
To our English Terence Mr. Will: Shake-speare. EPIG. 159. . . .

. . . .
To his most constant, though most unknown friend; No-body.
EPIG. 160. . . .

. . . .
To my near-dear well-known friend; Some-body. EPIG. 161. . . .

. . . .
To my much-regarded and approved good friend Thomas Marbery, Esquire.
EPIG. 162.³⁹

The shift from addressing his “well-accomplish’d,” “worthy,” or “approved good” friends to “our” English Terence suggests that Davies may not have had personal knowledge of Shakespeare.

Elizabethan writers frequently used the possessive “our” to compare an Englishman to an epitome or prototype. Davies uses the convention when he compares the architect Inigo Jones to both a painter and an architect of ancient Rome.⁴⁰ Even though Inigo was “much esteemed,” we could not be sure, on the strength of this salutation, that the two men were personal friends. Perhaps Davies esteemed his skills as an artist. In this case, though, it is possible to grill the witness further. His epigram to Inigo Jones begins:

I once did sup with thee, dear Inigo
For nothing; then to me thou art not so:
Yet dear thou art to me for thy dear worth⁴¹

The text of the poem, especially the first line, confirms personal knowledge; John Davies *did* know Inigo Jones. There is, however, no comparable personal language in the epigram to Shakespeare.

More often than not, John Davies made it clear in his poetry whether he knew the person and why he was addressing them. In the same book of epigrams, Davies writes:

To my highly valued Mr. George Chapman, Father of our English Poets.

39. DAVIES, *supra* note 33, at 26.

40. *Id.*; cf. Paul Morgan, ‘Our Will Shakespeare’ and Lope De Vega: An Unrecorded Contemporary Document, 16 SHAKESPEARE SURV. 118, 118-20 (Allardyce Nicoll ed., 1963) (introducing Leonard Digges’s 1613 allusion to “our” Shakespeare, handwritten on the flyleaf of a book). See Diana Price, *Author’s Response*, at <http://www.shakespeare-authorship.com/responses/nelson.asp> (last visited Feb. 16, 2005) (debating Leonard Digges’s notation concerning “our Will Shakespeare”).

41. DAVIES, *supra* note 33, at 26 (spelling and typography regularized).

I know thee not (good George) but by thy pen;
 For which I rank thee with the rarest men.
 And in that rank I put thee in the front,
 Especially of poets of account⁴²

Both the salutation and the text of the epigram contain explicit *literary* tributes to George Chapman. Despite the phrase “good George,” the two men did not know each other, as the opening line makes clear. The phrase “good George” can be an *impersonal* epithet, comparable to the impersonal phrase “my good man.”

Davies’s epigram to “Shake-speare” shows that he was aware that Shakespeare was an actor (“kingly parts”), but we cannot be sure whether Davies intended Terence to represent a writer of comedies or a Battillus who took credit for someone else’s comedies. Thus, it is not necessarily a literary allusion, and Davies cannot be called as a witness to testify that he personally knew or recognized Shakespeare of Stratford.

The late Samuel Schoenbaum, whose documentary biography remains pre-eminent today, concludes that “almost everyone seems to have thought well of Shakespeare,” and he quotes the phrase, “good Will,” as evidence of the playwright’s affability.⁴³ Yet, this is more than we know. Davies’s poem to Shakespeare does *not* confirm personal knowledge because “good Will” can be an impersonal epithet, and the title is not necessarily a literary allusion. In other words, Schoenbaum quotes an impersonal allusion to the man from Stratford as though it were personal and firsthand testimony about the playwright. Schoenbaum goes on to report that “Shakespeare is enshrined in consciousness as Gentle Will Shakespeare . . . [a] fitting designation for the innate gentleman who was not gently born.”⁴⁴ Likewise, in *The Riverside Shakespeare*, we read that “[t]he recurrent word in the testimonials of Shakespeare’s friends and acquaintances is ‘gentle.’”⁴⁵ What is the evidence?

The first time Shakespeare, the dramatist, whoever he was, was described in print as “gentle” was in 1623, seven years *after* the man from Stratford died. The following epigram introduced the frontispiece in the first collection of Shakespeare’s plays, known today as the First Folio:

To the Reader.
 This Figure, that thou here seest put,
 It was for gentle Shakespeare cut;
 Wherein the Graver had a strife
 with Nature, to out-do the life:
 O, could he but have drawn his wit

42. *Id.* at 59 (spelling and typography regularized).

43. SCHOENBAUM, *supra* note 9, at 255.

44. *Id.*

45. Harry Levin, *General Introduction* to THE RIVERSIDE SHAKESPEARE, *supra* note 14, at 4.

As well in brass, as he hath hit
 His face; the Print would then surpass
 All, that was ever writ in brass.
 But, since he cannot, Reader, look
 Not on his Picture, but his Book.
 B. J.⁴⁶

The author of this epigram, the playwright Ben Jonson, is not describing a gentle-mannered fellow. The word “gentle,” when not specifically describing someone’s behavior, was used to denote a person of gentle birth. Shakespeare frequently used the word in this sense. The final scene of *Richard II* takes place near the battlefield:

KING HENRY: Welcome, my lord what is the news?
 NORTHUMBERLAND: . . . I have to London sent
 The heads of Oxford, Salisbury, Blunt, and Kent:
 The manner of their taking may appear
 At large discoursed in this paper here.
 KING HENRY: We thank thee, gentle Percy, for thy pains.⁴⁷

Percy did not send the heads of four conspirators back to London in a gentle-mannered fashion. Gentle Percy is the Earl of Northumberland, a peer born into the nobility, and the term “gentle” is here used to denote that nobility. The man from Stratford, however, was not gently born. He bought his way into the lower gentry, styled himself thereafter as a gentleman, and was satirized by Ben Jonson for doing so.⁴⁸

So this myth of a gentle or good-natured, and sometimes a sweet,⁴⁹ Shakespeare is just that, a myth. Yet it is not harmless because it spawns a bigger myth. Biographers report that such allusions tell us not only about

46. Ben Jonson, *To The Reader*, in the First Folio, reproduced in THE RIVERSIDE SHAKESPEARE, *supra* note 14, at 90 (spelling and typography regularized).

47. WILLIAM SHAKESPEARE, THE TRAGEDY OF KING RICHARD THE SECOND act 5, sc. 6, lines 5-11.

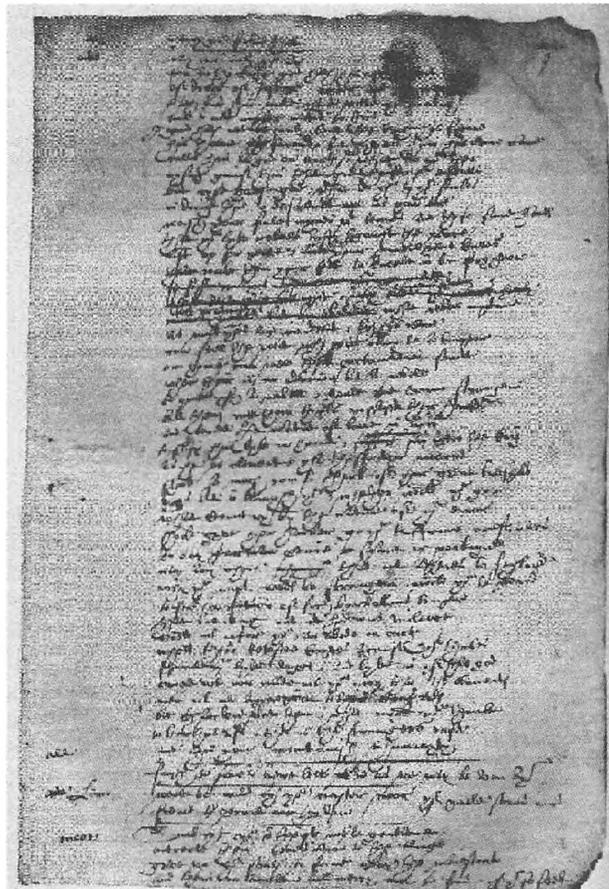
48. See 2 E.K. CHAMBERS, WILLIAM SHAKESPEARE: A STUDY OF FACTS AND PROBLEMS 202-03 (Oxford Univ. Press 1951) (1930) (reproducing Jonson’s satire of the purchase of a coat of arms as Sogliardo in *Every Man Out of His Humour*); see also BATE, *supra* note 13, at 25-26; JAMES P. BEDNARZ, SHAKESPEARE AND THE POETS’ WAR 24, 113-14 (2001); DUNCAN-JONES, *supra* note 13, at 96; GREENBLATT, *supra* note 13, at 80; HOLDEN, *supra* note 13, at 153; HOLLAND, *supra* note 13, at 947; HONAN, *supra* note 9, at 228.

49. In 1709, Nicholas Rowe described Shakespeare as “a good natur’d man, of great sweetness in his manners.” 2 CHAMBERS, *supra* note 48, at 266; see also DUNCAN-JONES, *supra* note 13, at 137 (inferring that Elizabethan gentlemen who admired Shakespeare’s poem “also adored his person” and quoting the line “O sweet Master Shakespeare” from *The First Return from Parnassus*, a contemporary university play). Early allusions to a “sweet” Shakespeare, however, were commentary on his sweet or honey-tongued poetry. See E.A.J. HONIGMANN, SHAKESPEARE’S IMPACT ON HIS CONTEMPORARIES 14-16 (1982).

Shakespeare's supposed personality, but also, by extension, about his presumed circle of friends and literary colleagues who personally *recognized* and knew him. In this way, biographers routinely transmute impersonal allusions or literary criticism into firsthand testimony identifying Shakespeare, the man from Stratford, as the writer.⁵⁰ However, no one referred to Shakespeare of Stratford as gentle, good-natured, or sweet during his lifetime. Moreover, no one wrote about the playwright, whoever he was, as *though they actually knew him*.

V. SHAKESPEARE'S HANDWRITING: CRITERIA VS. AGENDA

Figure 3: One of three pages of additions to the manuscript play *Sir Thomas More*, thought by most biographers to be in Shakespeare's handwriting.



50. See SCHOENBAUM, *supra* note 9, at 255 (constructing the playwright's "amiable" disposition by using more impersonal literary allusions, such as Scoloker's "friendly" Shakespeare). For an analysis, see PRICE, *supra* note 6, 136-38.

The play *Sir Thomas More* survives in manuscript. It is a collaborative play written by six different scribes, identified today as Hand A, Hand B, Hand C, Hand D, Hand E, and Hand S. The three pages by Hand D are of particular interest, because Hand D is thought by most biographers to be the handwriting of Shakespeare of Stratford.⁵¹ In his recent biography, Anthony Holden reproduces one of the pages (Figure 3), and his caption identifies it, without qualification, as “the only surviving example of Shakespeare’s handwriting apart from the six signatures.”⁵² If this is a true statement, and if it is an authorial manuscript page in Shakespeare’s handwriting, then Shakespeare of Stratford does have a personal literary paper trail.

The principal case for Shakespeare as Hand D was made in 1923, when bibliographer Alfred W. Pollard published a collection of essays on the subject.⁵³ The primary argument was paleographic; scholars compared Hand D with the only authenticated samples of Shakespeare’s handwriting, the six signatures (Figure 4).

51. Parts of this Section are adapted from my website essay. Diana Price, “*Hand D*” in *the Manuscript of Sir Thomas More: Is It a “Literary Paper Trail” for Shakespeare?*, at <http://www.shakespeare-authorship.com/resources/more.asp> (last visited Feb. 16, 2005).

52. HOLDEN, *supra* note 13, at 198-99. Several editions of Shakespeare’s works include the Hand D additions. See THE COMPLETE WORKS OF SHAKESPEARE (David Bevington ed., 4th ed. 1997) (assuming Shakespeare wrote it but not including the scene itself); THE NORTON SHAKESPEARE 2011-19 (Stephen Greenblatt ed., 1997); THE RIVERSIDE SHAKESPEARE, *supra* note 14, at 1775 (qualifying the attribution as “now almost universally accepted as Shakespeare’s”). Cf. BATE, *supra* note 13, at 98-99, 104, 350 (accepting that Shakespeare was Hand D with virtual certainty); GREENBLATT, *supra* note 13, at 263-64 (describing “one of the passages in Shakespeare’s hand—Hand D, as it is more cautiously called”); HOLLAND, *supra* note 13, at 944 (concluding that “the sheets in Hand D are as close as we are ever likely to come to Shakespeare in the throes of composition”); HONAN, *supra* note 9, at 45-46, 170-72 (assuming Shakespeare was Hand D); STANLEY WELLS, SHAKESPEARE: FOR ALL TIME 104-08 (2003); STANLEY WELLS & GARY TAYLOR, WILLIAM SHAKESPEARE: A TEXTUAL COMPANION 77, 463-67 (1987) (including the Hand D addition but acknowledging the dispute over Shakespeare’s hand).

53. For these essays, see ALFRED W. POLLARD ET AL., SHAKESPEARE’S HAND IN THE PLAY OF SIR THOMAS MORE (1923).

Figure 4: Shakespeare's six signatures appear (from top to bottom) on a 1612 deposition, a 1613 property deed, a 1613 property mortgage, page one of his 1616 will, page two of the will, and page three of the will.



All six are *presumed* to be authentic because they are subscribed-to legal documents of the type to which the attesting party usually signed.⁵⁴ From the beginning, the *presumption* of authenticity has sustained despite the variations in spelling and inconsistent penmanship with many letters formed several different ways in these signatures.⁵⁵ It should be obvious even to those who are not handwriting experts that these signatures do not constitute an adequate control sample with which to make a positive identification of Hand D.

Criteria and method of analysis are at issue. In his annotated collection of *English Literary Autographs*, bibliographer W.W. Greg is reluctant to authenticate, without qualification, a fairly long handwritten letter signed by the playwright Thomas Kyd because there were only two inconsistent signatures elsewhere with which to make a comparison.⁵⁶ Elsewhere, Greg identifies some criteria in his analysis of other handwriting found in the *Sir Thomas More* manuscript, specifically identifying Hand E's portion of the

54. *Contra* Jane Cox, *Shakespeare's Will and Signatures*, in DAVID THOMAS, SHAKESPEARE IN THE PUBLIC RECORDS 33-34 (1985) (arguing that the six signatures were not done by the same hand and questioning their authenticity).

55. See, e.g., Michael L. Hays, *Shakespeare's Hand in Sir Thomas More: Some Aspects of the Paleographic Argument*, in 8 SHAKESPEARE STUD. 241, 248-49 (J. Leeds Barrol III ed., 1975) (reviewing the presumption of authenticity as well as the problem of determining what Shakespeare's regular hand may have been).

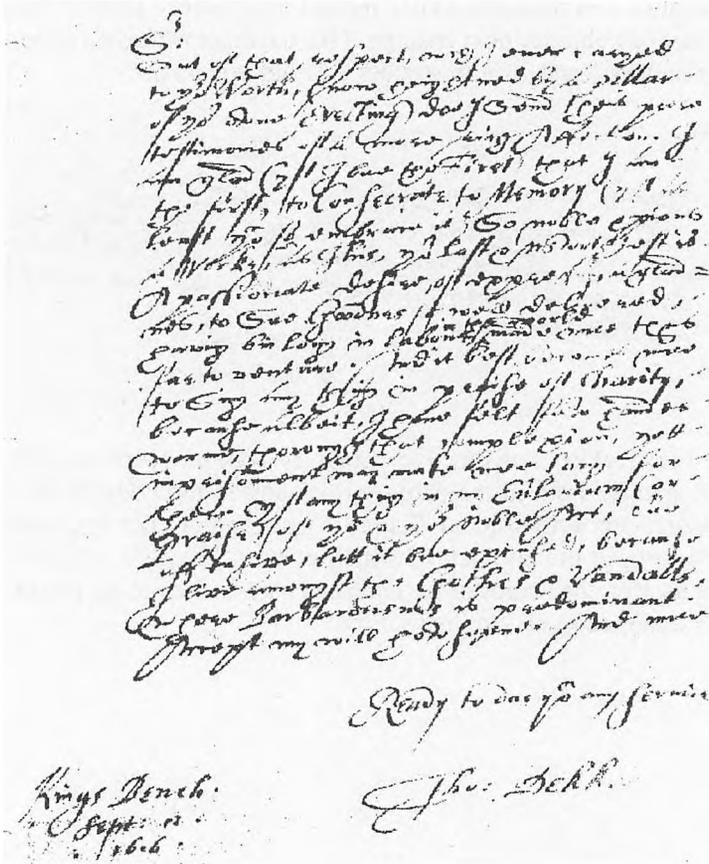
56. ENGLISH LITERARY AUTOGRAPHS: 1550-1650, § XV (W.W. Greg ed., 1925) [hereinafter AUTOGRAPHS]. There is a second letter that Greg assumes is in the same hand, but Robert D. Parsons is convinced the two hands are different. Robert D. Parsons, *Thomas Kyd's Letters*, 27 NOTES & QUERIES 140, 140-41 (1980).

Figure 7: Dekker's handwritten receipt dated 30 January 1598 reads: "Received by mee Thomas Dekker of M^r. Phillip Hynchlow the / some of Three Powndes Ten Shillings to bee repayd [upo] unto / Him or his Assigns upon the last of February next ensuing. / for payment whereof I bynd mee my Heyres executors, / and Administrators, / Thomas Dekker."

Note that Dekker's distinctive signature appears twice in each receipt (Figures 6 and 7), both in the subscriptions and in the body of the receipts. His signatures are written in an "Italian script" and are not representative of his handwriting in the body copy, which is in an "English script."⁵⁸ In the *More* manuscript, the names of the characters are written in his pseudo-Italian script, the dialogue in his English script.

58. POLLARD ET AL., *supra* note 53, at 53.

Figure 8: Thomas Dekker's 1616 letter to the actor Edward Alleyn.



Thomas Dekker's handwriting also survives in a letter⁵⁹ (Figure 8) to the actor Edward Alleyn written in 1616. According to Richard D. Altick, it "is axiomatic in handwriting analysis" that the control sample be "a genuine specimen written at the same time as the suspected document."⁶⁰ Greg, who edited the critical edition of *Sir Thomas More*, placed the date of composition of the play somewhere between 1593 and 1597. Therefore, Greg did *not* use Dekker's letter of 1616 as a basis for comparison to Hand E because it was written at least nineteen years later or, in his own words, "too late for useful comparison."⁶¹ To use it would violate one of the paleographer's cardinal rules.

Shakespeare's signatures date from 1612 to 1616, the last three written in

59. AUTOGRAPHS, *supra* note 56, § IX.

60. RICHARD D. ALTICK, *THE SCHOLAR ADVENTURERS* 157 (1951).

61. POLLARD ET AL., *supra* note 53, at 53.

the same year as the letter by Thomas Dekker, at least nineteen years *after* the presumed date of composition of *Sir Thomas More*. The paleographers have suspended their own rules or applied a double standard to admit Shakespeare's six signatures as a control sample to make the case for Hand D. Because they have no other handwritten specimens for Shakespeare, as they do with Thomas Dekker, they cannot be sure if any of these irregular signatures are representative of Shakespeare's regular handwriting, assuming he wrote more than just these signatures.

To support the hoped-for linkage via Hand D between Shakespeare's six signatures and the Shakespeare canon, various scholars have identified perceived similarities of style and spelling between Hand D and certain Shakespearean plays. According to their own advocates, however, these arguments are inconclusive, and more importantly, they are intended to corroborate, not replace, the primary argument for Hand D, based on handwriting, which cannot be made on the available evidence. How did the case for Hand D as Shakespeare gain such wide and uncritical acceptance?

In 1923, when A.W. Pollard published on *Sir Thomas More*, the Shakespeare authorship question was gaining visibility. Anti-Stratfordian challenges were coming from J. Thomas Looney and Sir George Greenwood in England, and Mark Twain's 1909 book popularized the case in the United States. In his preface, Pollard explained that

if Shakespeare wrote these three pages, the discrepant theories which unite in regarding the "Stratford man" as a mere mask concealing the activity of some noble lord (a 17th Earl of Oxford, a 6th Earl of Derby, or a Viscount St. Albans [Bacon]) come crashing to the ground.⁶²

That is the agenda, but the sub-text is just as significant. If Pollard thought that Hand D could settle the authorship controversy, then he was tacitly acknowledging the point I am trying to make here: that Shakespeare of Stratford left behind not one personal literary paper trail that proves he was a writer by profession. Otherwise, Pollard would not have needed Hand D to settle the authorship debate. While the case for Shakespeare as Hand D has been substantively refuted in the journals,⁶³ it has developed a popular life of its own, as witnessed in Anthony Holden's recent biography.⁶⁴

VI. THEATRICAL EVIDENCE

Quite a bit of evidence for Shakespeare of Stratford is theatrical, and in most of the documentation, he is named prominently and sometimes first. For

62. *Id.* at v.

63. *E.g.*, Hays, *supra* note 55, at 241-53; Paul Werstine, *Shakespeare More or Less: A.W. Pollard and Twentieth-Century Shakespeare Editing*, 16 *FLORILEGIUM* 125 (1999).

64. *See* HOLDEN, *supra* note 13, at 199.

example, in 1594, when he was twenty-nine years old, he became a founding member of a London acting company, the Lord Chamberlain's Men. In 1595, the company received payment from the royal court for comedies and interludes performed before the Queen in the previous year. Of the ten or eleven shareholders, three are named to accept the payment: Will Kemp, the company's leading comedian, Richard Burbage, its leading tragedian, and William Shakespeare.⁶⁵

Shakespeare of Stratford was also a partner in the Globe and Blackfriars playhouses, and again, his name figures prominently in the related documentation. In a 1599 legal document, he is singled out as the shareholder representing the company ("Willielmi Shakespeare *et aliorum*") occupying the then recently-built Globe.⁶⁶ When King James succeeded to the English throne, the Lord Chamberlain's Men became the King's Men. Shakespeare's name heads the list of players in the King's Men who were issued livery on the occasion of the King's 1604 procession through London.⁶⁷

Some authorities correlate Shakespeare's prominence in these kinds of theatrical records with his presumed value to the company as its principal playwright.⁶⁸ That interpretation falls under the logical fallacy of confusion of correlation and causation. Prominent position in documents such as these had nothing to do with a shareholder's artistic contributions as playwright or performer. Being named in an official record indicated that the shareholder was a legally responsible party,⁶⁹ and prominence of position was directly related to business dealings and working capital. Let me offer some comparative information.

A 1583 record names "George Haysell" as the "chief player" of his acting troupe, but Haysell was not acting at the time. The eminent historian E.K. Chambers infers that the patent named Haysell "chief player" because he was the company's financier and posted the bond with the Revels Office to secure the touring license.⁷⁰ According to another eminent theater historian, "there is evidence that [Thomas] Greene was the manager" of Queen Anne's Men because "[h]is name *heads the list* of sharers in the draft patent" and

65. GERALD EADES BENTLEY, *SHAKESPEARE AND HIS THEATRE* 66-67 (1964).

66. C.W. Wallace, *New Light on Shakespeare: History of the Globe Theatre*, *TIMES*, May 1, 1914, at 4.

67. THOMAS, *supra* note 54, at 15.

68. BENTLEY, *supra* note 65, at 66-67; HONAN, *supra* note 9, at 268-69; David Kathman, *Six Biographical Records "Re-Discovered": Some Neglected Contemporary References to Shakespeare*, *SHAKESPEARE NEWSL.* (Iona College, New Rochelle, NY), Winter 1995, at 73, 76; Wallace, *supra* note 66, at 4.

69. W.R. Streitberger, *Personnel and Professionalization*, in *A NEW HISTORY OF EARLY ENGLISH DRAMA* 337, 347 (John D. Cox & David Scott Kastan eds., 1997).

70. 2 E.K. CHAMBERS, *THE ELIZABETHAN STAGE* 222-24 (Oxford Univ. Press 1951) (1923). The phrase "chief player" is regularized from the original "chefe player."

because he “is also *named first* in the company’s patent” of 1609.⁷¹

A 1609 lawsuit recites the terms of organization for an acting company, and one clause specifies that

when their patent for playing shall be renewed, the *said Martin Slater his name, with the said Michael Drayton shall be joined therein*, in respect that if any restraint of their playing shall happen by reason of the plague or otherwise, it shall be for more credit of the whole Company that the said Martin shall travel with the Children, and *acquaint the Magistrates with their business*.⁷²

After Shakespeare retired from the stage, probably shortly after 1603 when his name disappeared from the acting documentation, it was *not* a leading actor or a playwright who replaced him as the most prominently named in company documents. Instead, he was replaced by the known business manager from those later years, John Heminges.⁷³

There is one anomalous case. The 1603 Letters Patent that created the King’s Men names Shakespeare second, after Lawrence Fletcher.⁷⁴ As far as we know, Fletcher was not a financier, business agent, or even an active member of the company. He had been an actor in Scotland and a royal favorite. When King James succeeded to the English throne, Fletcher came down from Scotland and continued as a servant to James. I infer that Fletcher is named first in the 1603 record by royal prerogative.⁷⁵ He received royal livery with the company in the following year (and was named third in the roster), and thereafter, he drops out of the company documentation.

As far as I have investigated, there is no precedent of a shareholder being singled out for mention in theatrical documents by virtue of his playwriting or artistic contributions. When biographers use theatrical documents, such as the legal documents for the Globe Playhouse or the 1595 court payment, as

71. GERALD EADES BENTLEY, *THE PROFESSION OF PLAYER IN SHAKESPEARE’S TIME 1590-1642*, at 164-65 (1984) (emphasis added).

72. Harold Newcomb Hillebrand, *The Child Actors*, 11 U. ILL. STUD. LANGUAGE & LITERATURE 1, 223 (1926) (emphasis added) (spelling and typography regularized).

73. 2 CHAMBERS, *supra* note 70, at 321.

[Heminges] appears in all the official lists of the company up to 1629, and regularly acted as their payee for Court performances, generally with a colleague from 1596 to 1601, and thereafter alone. This and his *prominence* in the negotiations of the company and the lawsuits arising out of them, suggest that he acted as their business manager. *Id.* (emphasis added); see also 2 GERALD EADES BENTLEY, *THE JACOBAN AND CAROLINE STAGE 465-69* (1941). A 1624 assignment of the lease of land on which the Globe was situated picks up some of the language from Thomas Brend’s 1601 inquisition *post mortem*, in which Shakespeare is named first as “in occupation” of the Globe. In the 1624 deed, Heminges has replaced Shakespeare as first named. Shakespeare and Richard Burbage, then both deceased, are named after Heminges and Cuthbert Burbage. Wallace, *supra* note 66, at 4.

74. THOMAS, *supra* note 54, at 14.

75. See ANDREW GURR, *THE SHAKESPEARIAN PLAYING COMPANIES 113-14* (1996).

evidence of Shakespeare's value as a playwright, they are ignoring comparable evidence or making an exception for him. Essentially, the biographers are converting *theatrical* and *business* paper trails into *literary* paper trails. In the process, they silently downplay or ignore his role as business agent or financier for his company.

In 1982, maverick orthodox biographer E.A.J. Honigmann first proposed that Shakespeare *was* the financier or banker of his troupe,⁷⁶ but few subsequent biographers have followed suit. Nevertheless, I think he could have made a stronger case.

Shakespeare's prominence in the theatrical records is significant, and because of his prominence, I first theorized that he was his company's financier. Theatrical financiers had the resources to advance the cash necessary to buy costumes, properties, and plays.⁷⁷ We know from a lawsuit that Christopher Beeston was named the financier for his company because he was "a thriving man . . . of ability *and means*."⁷⁸ We are speaking of a considerable amount of money. Philip Henslowe, the proprietor of the Rose playhouse, spent, on average, upwards of one hundred and fifty pounds each year on costumes, properties, and plays.⁷⁹ His diary shows that he was capable of carrying a large accounts receivable; in 1599 the tenant acting company owed him over £350.⁸⁰

Who among the shareholders named prominently in the records for the Lord Chamberlain's Men or for the playhouses in which they performed is *known* to have had that kind of money in the first dozen years of its operation? Every shareholder had to initially invest around forty or fifty pounds for the acting company,⁸¹ probably more for the Globe. However, most of their respective financial histories fail to recommend them as likely financiers. As

76. HONIGMANN, *supra* note 49, at 7-8; E.A.J. Honigmann, "There Is a World Elsewhere": William Shakespeare, Businessman, in IMAGES OF SHAKESPEARE: PROCEEDINGS OF THE THIRD CONGRESS OF THE INTERNATIONAL SHAKESPEARE ASSOCIATION, 1986, at 40-46 (Werner Habicht et al. eds., 1988).

77. See ANN ROSALIND JONES & PETER STALLYBRASS, RENAISSANCE CLOTHING AND THE MATERIALS OF MEMORY 181-93 (2000).

78. Charles William Wallace, *Three London Theatres of Shakespeare's Time*, 9 U. STUD. U. NEB. 287, 321 (1909) (emphasis added) (spelling and typography regularized); see also 2 BENTLEY, *supra* note 73, at 363-69. In 1622, the Revels list of Lady Elizabeth's Men begins by listing Christopher Beeston as the "chief of them." *Id.* at 367. Beeston's will of 1638 "shows that he owned two-thirds of the shares in the company and furnished the theatre and the costumes." *Id.* at 365.

79. Neil Carson, *Literary Management in the Lord Admiral's Company, 1596-1603*, 2 THEATRE RES. INT'L 186, 192, 196 (1977); S.P. Cerasano, "Borrowed Robes," *Costume Prices, and the Drawing of Titus Andronicus*, in 22 SHAKESPEARE STUD. 45, 51 (Leeds Bartoll ed., 1994).

80. HENSLOWE'S DIARY, *supra* note 10, at 95-96.

81. A share in the Chamberlain's Men "in 1596 was probably the same as the Admiral's, at £50." GURR, *supra* note 75, at 94.

to the three named in the 1595 court payment, that payment is the *only* record in which Will Kemp appears prominently. Apart from his investment in a share of the Globe in 1599, which he sold almost immediately, we know little of his finances until 1602, when he was a shareholder with Worcester's Men, was named as a payee for a court performance, and subsequently borrowed twenty shillings from Philip Henslowe.⁸²

Richard Burbage is described by theatre historian Andrew Gurr as a "financier of sorts and leading sharer in the King's Men, allied with his old brother, Cuthbert, a non-playing manager of sorts and investor in the company."⁸³ Gurr qualifies his statements because Richard and Cuthbert together owned fifty percent of the Globe, but we know from litigation records that they were strapped for cash throughout the 1590s.⁸⁴ Contemporary evidence shows that the Burbages borrowed to finance their investments in the Curtain and Blackfriars playhouses. If Cuthbert's testimony of 1635 is to be trusted, they also borrowed money at interest to invest in the Globe playhouse.

After 1601, with few exceptions, John Heminges appears as the first named in the company documents and as the sole payee for court performances. His growing wealth can be traced to 1605 when his equity in the acting company and the Globe increased following the death of a shareholder. In 1610, after Shakespeare's name has dropped out of the documentation for both the King's Men and the Blackfriars playhouse, Heminges sold used costumes to another company.⁸⁵ A 1619 lawsuit describes

82. 4 CHAMBERS, *supra* note 70, at 167; HENSLOWE'S DIARY, *supra* note 10, at 196. Kempe performed his famous traveling Morris dance in 1600; there is a record of payment to him of 40s in the Norwich records. GURR, *supra* note 75, at 303.

83. GURR, *supra* note 75, at 115 (emphasis added).

84. Gurr describes the years 1596-98 as "cash-straitened" for the Chamberlain's Men and for the Burbages in particular. The Burbage family history throughout the decade is one of perpetual litigation over money matters, during which they borrowed to relieve a "chronic shortage of cash." *Id.* at 116, 284; *see id.* at 104n, 115-16, 282-85, 292-93, 347. Gurr describes the situation in 1597-98, when the Burbages were trying to salvage the Theater lease with Giles Allen: "Allen would not accept Richard the player as surety. The company shared this problem of their financier's lack of cash." Andrew Gurr, *Money or Audiences: The Impact of Shakespeare's Globe*, 42 THEATRE NOTEBOOK 3, 7 (1988); *see also* THEODORE B. LEINWAND, THEATRE, FINANCE, AND SOCIETY IN EARLY MODERN ENGLAND 60-67 (1999) (summarizing the Burbages's finances during the 1590s). Bernard Capp discovered additional depositions related to the Burbages's endless litigation. In the fall of 1597, Richard stated that he "could dispose of about £40 a year." Cuthbert was "worth £100, debts paid." Bernard Capp, *The Burbages At Law (Again)*, 245 NOTES & QUERIES 433, 434 (2000). These statements cannot refer to or include his father James's investment in the Blackfriars because James's death the previous February left the mortgaged investment in limbo.

85. *See* C.W. WALLACE, GLOBE THEATRE APPAREL (1909) (reprinting a set of legal documents from Heminges's suit against the famous actor, Joseph Taylor, for a debt of twenty pounds stemming from the sale of used costumes); *see also* 2 CHAMBERS, *supra* note 70, at 323; Mark Eccles, *Elizabethan Actors II: E-J*, 236 NOTES & QUERIES 454, 457-59 (1991) (documenting the history of Heminges's finances).

him as a man of “great living wealth and power.” No significant evidence of Henry Condell’s financial history exists prior to about 1608.⁸⁶ Augustine Phillips’s 1605 will shows that he was worth over three hundred and fifty pounds at his death,⁸⁷ but little else is known of his financial history.⁸⁸

Shakespeare’s liquid assets did not substantively compare to Philip Henslowe’s until 1602, eight years into his company’s existence. From the beginning, however, Shakespeare of Stratford was good at making money. His recorded financial history begins in 1592, two years before he joined the Chamberlain’s Men, when he made a cash loan in London of seven pounds and later sued to recover.⁸⁹

In 1597, Shakespeare spent at least sixty pounds on the second-largest house in Stratford and took the expensive, though legally redundant, step of certifying his purchase with an elaborate exemplification.⁹⁰ The following year, he was approached by a neighbor in Stratford to finance a thirty-pound loan. Four years later, in 1602, he invested £320 in Stratford real estate, one of several lucrative investments.

Shakespeare’s ability to make money and his access to ready cash are documented *earlier* than any of his fellow shareholders. His cash flow steadily increased, and he amassed greater wealth than any of them at the time. This documented progression towards wealth makes him the most likely candidate for the role of financier during the early years of operation of his company, at least until 1604. If this theory is correct, then his prominence in the company documentation is entirely consistent with that of shareholders in other companies who financed the necessary purchases.

86. According to Mark Eccles, Condell married a woman of property in 1596. Mark Eccles, *Elizabethan Actors I: A-D*, 236 NOTES & QUERIES 44 (1991). The first recorded evidence for his theatrical investments are the 1603 Letters Patent, specifying him as a shareholder in the King’s Men and the 1615 Ostler suit naming him as an original shareholder in the Blackfriars theatre of 1608. 2 B. ROLAND LEWIS, *THE SHAKESPEARE DOCUMENTS: FACSIMILES, TRANSLITERATIONS, TRANSLATIONS, & COMMENTARY* 363-66, 510-11 (1940). Condell did not become a shareholder in the Globe until 1610. C.W. Wallace, *Shakespeare in London*, TIMES, Oct. 2, 1909, at 9.

87. E.A.J. HONIGMANN & SUSAN BROCK, *PLAYHOUSE WILLS: 1558-1642*, at 72-75 (1993).

88. See 2 CHAMBERS, *supra* note 70, at 333-34; EDWIN NUNGEZER, *A DICTIONARY OF ACTORS* 280-82 (1929).

89. Hotson proposed a man with the same name from Bedfordshire as the Clayton lender, but there is no trace of this man in London. LESLIE HOTSON, *SHAKESPEARE’S SONNETS DATED AND OTHER ESSAYS* 229-30 (1949). Only one “William Shakespeare,” the one from Stratford, can be traced in the London records. Further, a man referred to as “Shake-scene” is accused of usury the following year in GREENE’S GROATSWORTH OF WIT 85 (D. Allen Carroll ed., *Medieval & Renaissance Texts & Studies* 1994) (1592) (attributed to Henry Chettle and Robert Greene) (citing HONIGMANN, *supra* note 49); see also PRICE, *supra* note 6, at 20-22 (discussing the Clayton loan).

90. ROBERT BEARMAN, *SHAKESPEARE IN THE STRATFORD RECORDS* 16-18 (1994).

One who trades in costumes, plays, or other commodities is, by definition, a broker.⁹¹ Recall that some authors of certain social rank and calling did not want to publish under their own names, and so would get a Battillus to put his name to their work, a Battillus who might then be accused of underhanded brokery.⁹² This scenario is as close as I can get to the point of intersection between the dramatist who wrote the works attributed to William Shakespeare, whoever he was, and Shakespeare of Stratford.

VII. LITERARY VS. NON-LITERARY EVIDENCE

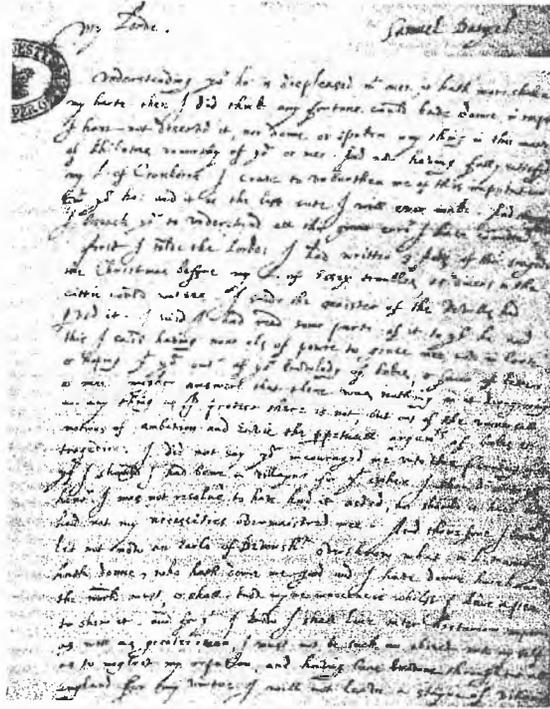
A book is one of the writer's tools of the trade. Gabriel Harvey, a minor writer who was a friend of the poet Edmund Spenser, once owned a copy of Lodovico Domenichi's 1571 *Facetie, motti, et burle*. Harvey wrote notes on many pages. Because some of the marginalia is in Latin and the text itself in Italian, the book is good evidence of Harvey's literary and linguistic interests. It is one of about 180 books surviving that once belonged to Harvey, many containing marginalia, some his autograph of ownership, and at least two his handwritten notes acknowledging the books as gifts from Edmund Spenser—all of which attest to his literary interests.⁹³ As of today, no book purporting to have belonged to Shakespeare has been authenticated.

91. For an extended discussion of the importance and cost of costumes in the Elizabethan theater, along with a provocative look at the roles of brokers and frippers, see JONES & STALLYBRASS, *supra* note 77, at 176-95.

92. See *supra* text accompanying notes 6-7.

93. VIRGINIA F. STERN, *GABRIEL HARVEY: A STUDY OF HIS LIFE, MARGINALIA, AND LIBRARY* 226, 228, 237, 240 (1979) (discussing marginalia concerning books received from Spenser). Plate H presents a typical page with Harvey's marginalia.

Figure 9: Samuel Daniel's 1604 letter protesting that his play *Philotas* did not depict real events involving the late Earl of Essex.



Among the documentation for some authors are letters mentioning their literary activities. One was written in 1604 by a poet and playwright named Samuel Daniel (Figure 9), who had run afoul of the authorities. In his letter, he protested to the Earl of Devonshire that he had not intended his play as a fictional or allegorical depiction of real life events involving the Earl of Essex. A few lines down in Figure 9, Daniel protests: "I told the Lords I had written 3 Acts of this tragedy the Christmas before my L[ord]. of Essex's troubles."⁹⁴ This statement is an explicit reference to a play that he wrote and is in his own handwriting. It is, therefore, a personal literary paper trail.

There is one surviving letter in Shakespeare's correspondence file, and it was written in 1598, not *by* him, but *to* him, by a neighbor and town official from Stratford, Richard Quiney. It is addressed "[t]o my Loving good friend & countryman Mr Wm. Shackespere" and reads in part:

Loving Countryman, I am bold of you as of a friend, craving your help with

94. Alexander B. Grosart, *Memorial Introduction* to 1 SAMUEL DANIEL, *THE COMPLETE WORKS IN VERSE AND PROSE OF SAMUEL DANIEL* xxiii (Alexander B. Grosart ed., Russell & Russell 1963) (1885) (spelling regularized).

xxx^{li} [£30] upon Mr. Bushell's & my security or Mr. Mytton's with me. . . .
 You shall friend me much in helping me out of all the debts I owe [I]f
 we bargain further you shall be the paymaster yourself. . . .
 Yours in all kindness Ric. Quiney⁹⁵

This letter shows that Shakespeare was recognized personally by Quiney as a source of financing for thirty pounds, but it tells us nothing about Shakespeare's alleged literary career. Shakespeare is mentioned in some other letters exchanged between Stratford neighbors; all of these concern attempts to persuade Shakespeare to finance a loan or investment or other business matters.⁹⁶

In 1604, at about age forty, Shakespeare sued in the Stratford Court of Record to collect money owed (35*s*.10*d*.) by an apothecary named Philip Rogers, to whom he had sold twenty bushels of malt over a three-month period and to whom he made a cash loan of two shillings.⁹⁷ This lawsuit tells us what Shakespeare was doing and where he was doing it.

Samuel Schoenbaum suggested that some of Shakespeare's less glamorous transactions, such as the malt sales, might have been handled by someone else in his household, perhaps by his wife Anne, since "[u]sually the womenfolk in Jacobean households attended to the brewing."⁹⁸ The language in this lawsuit, however, is explicit. It repeatedly names the seller as "the same William."

Other historians have tried to dismiss this evidence for different reasons. According to C.W. Wallace, Shakespeare of Stratford had ongoing theater commitments in London, so he could not possibly have been in Stratford at the same time to conduct these transactions.⁹⁹ A good point. Yet as of today, historians and the International Genealogical Index have traced only one William Shakespeare to Stratford during the relevant time period. There was a person by the same name in nearby Rowington, but the Court of Record's jurisdiction was Stratford, and any parties from outside its jurisdiction were so noted.¹⁰⁰

Since Shakespeare's regular, and possibly continuous, presence in Stratford over these months is confirmed by the language of the lawsuit,¹⁰¹ then the resolution of the schedule conflict that Wallace identifies must

95. 2 CHAMBERS, *supra* note 48, at 102 (spelling and typography regularized).

96. 2 *id.* at 102-03, 143.

97. 2 LEWIS, *supra* note 86, at 368-72; *see also* BEARMAN, *supra* note 90, at 31.

98. SAMUEL SCHOENBAUM, WILLIAM SHAKESPEARE: RECORDS AND IMAGES 57 (1981); *see also* PRICE, *supra* note 6, at 34.

99. C.W. Wallace, *Other William Shakespeares: The Poet and the Brewers*, TIMES, May 15, 1915, at 11. Like Wallace, Stopes assigns the record, with minimal reservation, to another William Shakespeare in Rowington. C.C. STOPES, SHAKESPEARE'S INDUSTRY 263 (1916).

100. 2 LEWIS, *supra* note 86, at 370.

101. Wells mentions this document as one of several that "tell us about Shakespeare's continuing Stratford presence." WELLS, *supra* note 52, at 34.

involve some revision to the narrative concerning not his Stratford-based activities, but his *London* ones. I will come back to that matter in a moment. C.W. Wallace also objected that the amount of malt sold, twenty bushels in all, was a commercial quantity, and he could not conceive of Shakespeare as a licensed trader.¹⁰² But this is not the only record of Shakespeare's interest in grain.

Six years earlier, in 1598, a year of famine, Shakespeare was one of many Stratford residents cited for hoarding either barley or wheat. Even five bushels was a large amount to have on hand, and Shakespeare's holdings were ten quarters, or eighty bushels, of wheat worth more than ten pounds, more than many London tradesmen earned in a year.¹⁰³ And of the 120-plus citizens cited, only a dozen held more than Shakespeare. Eighty bushels is, of course, four times the quantity that Shakespeare sold Philip Rogers. Despite Wallace's discomfort with the Rogers lawsuit, the malt sales in 1604 are compatible with the grain hoarding citation of 1598.

As to the schedule conflict, what was Shakespeare doing in 1604, besides selling malt? There is some theatrical evidence to tell us what Shakespeare or his fellow actors were doing. At the beginning of the year, the London playhouses were closed due to plague, but the King's Men performed privately at court on January 1, February 2, and February 19.¹⁰⁴ The King's Men received their royal livery on March 15. Three and a half weeks later, on April 9, the playhouses were officially re-opened. Like the other principal acting companies, the King's Men performed continuously in London, so April 9 marked the resumption of daily business.¹⁰⁵ On April 10, 1604, the day after the playhouses re-opened, Shakespeare was in Stratford selling his second batch of malt to Philip Rogers. The Rogers lawsuit then, tells us that he was *not* always on the job in London. It contradicts the traditional claims for his "continued active daily involvement in his company."¹⁰⁶ Even though Wallace identified this schedule conflict, biographers do not address it. Instead, they generally segregate the Stratford and London-based records into different sections or chapters, making it difficult for a reader to spot conflicts.

This conflict (and there are others) raises questions about Shakespeare's role with the King's Men and the two London playhouses. Because he seems

102. Wallace, *supra* note 99, at 11.

103. 1 LEWIS, *supra* note 86, at 280-94. The going rate was 26s for a quarter (or eight bushels). For reference, in Elizabethan currency, 12d = 1s, and 20s = £1. For annual earnings, see ELIZABETHAN PEOPLE: STATE AND SOCIETY 57-58 (Joel Hurstfeld & Alan G.R. Smith eds., St. Martin's Press 1978) (1972).

104. 4 CHAMBERS, *supra* note 70, at 118.

105. As Honan put it, "[t]he year 1604 had been busy for the King's players." HONAN, *supra* note 9, at 312. On Shakespeare's involvement with the ongoing activities of the acting company, see JOHN SOUTHWORTH, SHAKESPEARE THE PLAYER: A LIFE IN THE THEATRE 115, 202 (2000) and WELLS, *supra* note 13, at 27-29.

106. DENNIS KAY, SHAKESPEARE: HIS LIFE, WORK AND ERA 230 (1992); see also GURR, *supra* note 75, at 54. For a discussion of schedule conflicts, see PRICE, *supra* note 6, at 32-40.

to have been able to commute back to Stratford at pleasure during performing seasons, including those at court, I conclude that his roles with various theatrical enterprises did not necessarily require his physical presence. Since he is named prominently or first in the theatrical records, and since he is documented as a man of means with a head for business, I propose that his primary role with his company was not one as actor or playwright, but as financier and, from time to time, business agent. That is, he was a source of working capital and a resource for negotiation and purchasing, in which case, his Stratford-based records do not present a serious problem.

VIII. LITERARY EVIDENCE FOR SHAKESPEARE OF STRATFORD?

On the second page of Shakespeare's last will and testament of 1616 appear bequests to his acting company "ffellowes" John Heminges, Richard Burbage, and Henry Condell.¹⁰⁷ While the will sheds no light on his alleged literary activities, the interlineation is good evidence that Shakespeare viewed these actors and fellow shareholders as his friends.

107. THOMAS, *supra* note 54, at 32.

Figure 10: Shakespeare's funerary monument in the chancel of Holy Trinity Church, Stratford-upon-Avon.



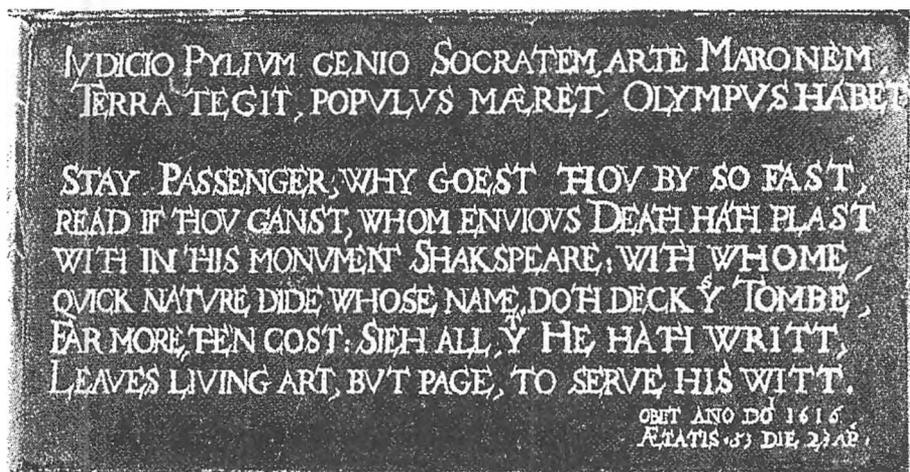
A month after he signed his will in March 1616, Shakespeare died. The funerary monument (Figure 10) was installed in Holy Trinity Church in Stratford sometime before 1623, when it was first referred to in print. But we know nothing about the circumstances of installation—who made the arrangements, when they were made, who paid for the monument, and so on. The effigy has both paper and quill, suitable accoutrements with which to commemorate a writer. The epitaph (Figure 11), however, is problematic.

If one of us had been asked to write the dramatist's epitaph, we might have lifted a few lines from the sonnets, and come up with something like this:

Here lies William Shakespeare.
Not marble, nor the gilded monuments
Of princes, shall outlive his powerful rhyme.

We might also have invoked the name of the dramatist's favorite poet, Ovid, as did Francis Meres back in 1598. However, the epitaph makes no mention of Ovid and no mention of literary genius.

Figure 11: The epitaph engraved on Shakespeare's Stratford monument. The "Y," superscribed with a small letter "s" or "t," is a "thorn" representing the word "this" in line 6 and "that" in line 7. The word "SIEH" (second to last line) is either a variant spelling for "see" or a misspelling for "sith," an archaic form of "since."



The first two lines translate: "In judgment a Nestor. In wit a Socrates. In art a Virgil." The monument thus lists Virgil, whose influence on the dramatist was negligible, and Nestor and Socrates, neither of whom were writers. In particular, consider the lines "SIEH ALL, [THAT] HE HATH WRITT, / LEAVES LIVING ART, BUT PAGE, TO SERVE HIS WITT." Many biographers simply reproduce the epitaph without comment, a few admit to having difficulty with the syntax or consider this wording to be "cryptic."¹⁰⁸ I agree. In my view, this epitaph does not constitute coherent praise for an eminent playwright and poet.

Seven years after he died, in 1623, thirty-six Shakespearean plays were collected and printed in a book referred to today as the First Folio. Two introductory letters in the First Folio appear over the names of his fellow shareholders and actors, John Heminges and Henry Condell.¹⁰⁹ As noted above, Shakespeare left them bequests in his last will, so there is no question that these men all knew each other.

One of the critical passages from Heminges's and Condell's testimony is the claim that they are publishing the plays in the First Folio "[o]nly to keep the memory of so worthy a Friend, & Fellow alive, as was our SHAKESPEARE,

108. WELLS, *supra* note 13, at 10.

109. See THE RIVERSIDE SHAKESPEARE, *supra* note 14, at 93-95 (reproducing the introductory letters from the First Folio).

by humble offer of his plays.”¹¹⁰ This claim is made in no uncertain terms. The issue of who wrote this passage is an authorship question for another day, but in weighing this testimony, one would need to put the author on the stand to determine whether he was an impartial and trustworthy witness, if he was a pen for hire, if he had an agenda, if he contradicted himself, and so on. In other words, we would need to be satisfied that this testimony holds up under cross-examination.¹¹¹ Still, putting aside the complexities of this testimony, let us accept this statement at face value for the sake of argument. If we do, is this good evidence that Shakespeare of Stratford was the writer? I would say yes. Is it personal evidence? I would say yes. Does it then qualify as a personal literary paper trail for Shakespeare? That depends on the admissibility of posthumous evidence. I maintain that it is inadmissible as contemporary testimony. Every modern biographer, however, follows the lead of E.K. Chambers, who asserts that this “prefatory matter . . . *may be regarded as contemporary.*”¹¹²

Why? Why should it be regarded as contemporary when it is posthumous by seven years? Chambers was fudging with the semantics. Yes, Heminges and Condell were Shakespeare’s contemporaries, but testimony from a contemporary may be either contemporaneous or posthumous. Historians make this distinction. Shakespeare’s chroniclers should not have to bend the rules of evidence to reconstruct his professional career. In my view, Chambers arbitrarily converted posthumous evidence to contemporary evidence. If we agree with Chambers, however, and accept this testimony as contemporary, then yes, the Folio testimony is a personal literary paper trail for Shakespeare of Stratford, the first in print to qualify. Yet if this testimony is admitted without qualification, the prosecutor will still have a hard time convincing the jury that Shakespeare was a professional playwright because for no other writer of any consequence from the time period are we asked to rely on such belated information to prove that the man wrote for a living.

IX. CLOSING COMMENTS

I would like to offer some final comments on Shakespeare’s biography in terms of statistics and probabilities. As far as I have investigated the biographies of Shakespeare’s literary contemporaries, the deficiency of contemporaneous evidence for Shakespeare’s career *as a writer* is unique. Yet his life is, comparatively speaking, quite well documented. He left behind over

110. John Heminges and Henry Condell, *To the Most Noble and Incomparable Paire of Brethren*, in the First Folio, reproduced in THE RIVERSIDE SHAKESPEARE, *supra* note 14, at 94.

111. Of the three criteria that H.B. George imposes on the “value of human testimony,” his last is particularly relevant here: “How far is [the witness] to be trusted to tell the truth without bias?” H.B. GEORGE, HISTORICAL EVIDENCE 31 (1909).

112. E.K. CHAMBERS, SOURCES FOR A BIOGRAPHY OF SHAKESPEARE 50 (Clarendon Press 1970) (1946) (emphasis added); *see also* WELLS, *supra* note 13, at 10.

seventy records. Even the most poorly documented writers, those with less than a dozen records in total, still left behind a couple of personal literary paper trails. Based on the average proportions, I would conservatively have expected perhaps a third of Shakespeare's records, or about two dozen, to shed light on his professional activities. In fact, over half of them, forty-five to be precise, are personal professional paper trails, but they are all evidence of *non-literary* professions: those of actor, theatrical shareholder, financier, real estate investor, grain-trader, money-lender, and entrepreneur. It is the absence of contemporary personal *literary* paper trails that forces Shakespeare's biographers to rely, to an unprecedented degree, on posthumous evidence.

Let me close with a recent example. The fall 2003 issue of the *Shakespeare Newsletter* carries a rave review of Alan Nelson's new book about the Earl of Oxford, a biography that inherently refutes Oxfordian claims for Shakespeare's authorship laurels. In defense of the traditional Shakespearean biography, the reviewer asserts that those who have investigated the authorship question know that there is solid evidence that Shakespeare of Stratford actually wrote the works. This reviewer then lists the three essential or pre-eminent pieces of evidence for the orthodox biography, namely, Shakespeare's last "will, the Stratford monument, and the First Folio."¹¹³ This reviewer concludes that the evidence for Shakespeare's literary biography "is somewhere between abundant and overwhelming."¹¹⁴ On the contrary, I would say that the evidence is ambiguous, impersonal, non-literary, or posthumous.

Shakespeare died on April 26, 1616. If on that day, Shakespeare went on trial for the crime of writing plays, based on all the evidence of which we are aware today, no prosecutor could have gotten a conviction.

113. Thomas A. Pendleton, *Book Review*, SHAKESPEARE NEWSL. (Iona College, New Rochelle, NY), Fall 2003, at 65, 69 (reviewing Alan Nelson's *MONSTROUS ADVERSARY: THE LIFE OF EDWARD DE VERE, 17TH EARL OF OXFORD* (2003)). Pendleton specifies the same three essential pieces of evidence in his response to Richard F. Whalen's letter to the editor in the subsequent issue. *Letters to the Editor*, SHAKESPEARE NEWSL. (Iona College, New Rochelle, NY), Winter 2003/2004, at 104 (including Whalen's letter and Pendleton's response).

114. Pendleton, *supra* note 113, at 69.