

Book Review

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Book Review

THE LAW OF PROPERTY IN SHAKESPEARE AND THE ELIZABETHAN DRAMA. By Paul S. Clarkson and Clyde T. Warren. Baltimore. The Johns Hopkins Press, 1942. Pp. xxvii, 346. \$3.50.

This book is an enigma; it is truly neither fish, flesh, nor fowl. It is in form a law book, yet it is not about law; it deals with the plays of the Elizabethan dramatists, yet it is not a literary work. When the book was handed to me for review my first reaction was to inquire why anyone should write such a book, and after reading it I still wonder. In fact the authors themselves admit that there is little justification for another book about Shakespeare,¹ and the real excuse (I think that is a better word than justification) for the book is that it is the result (fruition is the word the authors use to describe it) of a hobby. It all started, so it seems, with a discussion of a passage from Shakespeare which contained a figure of speech based upon a principle of law, and from this small and inconspicuous beginning the hobby grew and grew (for a period of eleven years) until it finally blossomed forth into this book. During that period the authors read all the plays written by eighteen Elizabethan writers,² and from those plays transcribed and catalogued all the passages containing legal references, a feat which required a file containing over eight thousand index cards. And having once collected such a stock of source material, it, of course, had to be put to use; the result is the present volume. But a treatise on the law of property hardly exhausts the legal references found in the plays of Shakespeare and the other Elizabethan dramatists (remember there are *eight thousand* cards), and so we are told³ that other volumes will follow which will treat the references to such subjects as Equity,⁴ Marriage and Di-

¹ P. vii.

² Shakespeare, Lyly, Peele, Marlowe, Greene, Kyd, Marston, Chapman, Ben Jonson, Dekker, Webster, Beaumont, Fletcher, Tourneur, Heywood, Middleton, Ford, and Massinger.

³ P. xxvi.

⁴ The late Judge Charles E. Phelps, of the Supreme Bench of Baltimore City, and lecturer on Equity at the University of Maryland School of Law around forty years ago, wrote the well-known book *Falstaff and Equity, An Interpretation*.

voiced, Criminal Law, etc. Far be it from me to discourage the authors from continuing their hobby, but why should they inflict it upon others? What real need, or even excuse, is there for a whole series of such books? Who will read them? More important (to the publisher), who will buy them?

The authors state that they are writing the present volume for three classes of readers: first, for teachers, students, and lovers of the plays; second, for lawyers; third, for persons "interested in the antiquity and development of our literary or legal heritage". But for my own part I have difficulty in determining just which of those groups would be interested in such a book. There is little in it concerning the plays generally which would help one in interpreting them or in determining their literary worth. The book might assist the teachers and students in understanding the meaning intended to be conveyed by the legal references, but that apparently was not the main purpose of the work. As for the lawyer, he certainly would not gain any new legal knowledge from it. Since the book contains little of any literary or legal significance, perhaps it will appeal most to the third group—those interested in historical antiquities. The volume reminds me most of the typical dissertation for a doctorate; it is the result of a detailed and extended investigation of a very limited, and seemingly unimportant, problem. This is the sort of thing which passes as scholarship, and usually succeeds in winning for the writer the degree of doctor of something or other. In this respect the authors have been cheated, for, so far as appears, they neglected to register and pay their tuition before commencing their work; consequently they must continue through life without the satisfaction which comes from having won a doctor's degree. But perhaps their efforts will not pass entirely unrewarded, for in the eyes of the public the publication of this work will undoubtedly lift them (by the bootstrap method) from the common, garden variety of lawyers into the class of legal scholars. And this in spite of the fact they deny any such purpose or ambition.⁵

The book is, in form, an outline of the law of property, and it contains a brief review of the general principles of both personal and real property as well as the law relating to the administration of estates and wills. As a statement of the common law on the various topics covered, it is too

⁵ P. vii.

brief and elementary to be of any practical use although the information it contains is, for the most part, sufficiently accurate. This arrangement would seem to detract from its usefulness to students of literature without adding to its appeal to lawyers. Probably the real explanation for it is the fact that the authors are themselves lawyers and have merely followed what to them was a familiar and logical arrangement for materials involving the law of property.

The conclusion is entirely negative; in reaching it the authors frequently disagree with other scholars, notably Lord Campbell⁶ and Professor Kittredge,⁷ each of whom is an accepted authority, the first in law and the second in literature. According to the authors, there is no evidence in the legal references contained in the plays of Shakespeare and the other Elizabethan dramatists to justify the conclusion that the writers were lawyers. The references seem to be merely the result of the general knowledge possessed by educated persons of that day; a conclusion which in itself seems sound enough, but which I suspect will add little to what was previously known concerning the Elizabethan writers and their plays, and certainly is of no assistance in solving the riddle of Shakespeare's identity.

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⁶ See pp. xix-xx, 121-2, 165, 170, 173-4.

⁷ See pp. 45-6, 83, 204-5.

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