

## What's Past is Prologue

.....man, proud man,  
Drest in a little brief authority,  
Most ignorant of what he's most assured

—*Measure for Measure*



In January 22, 1988, Louis J. Halle (1910-1998), a distinguished professor of the history of ideas at The Ecole de Haute International in Geneva, wrote to Charlton Ogburn, Jr. (1911-1998). I like to imagine it was a postcard from the foothills of the Alps, but maybe it was like one of those carefully prepared missives Ogburn himself used to type on an orange 6x9 sheet, as he so often did to me, starting in about 1991 until shortly before his death in 1998. Ogburn was a Harvard graduate, journalist, and writer of well respected books on many subjects. A former State Department analyst, he had served as the communications officer of the fabled Merrill's Marauders, the U.S. special ops jungle combat team that against many odds traversed hundreds (by some accounts, thousands) of miles through the forbidding Burmese jungle during the struggle over control of the Pacific in 1944. Ogburn turned this experience into a bestselling narrative history of the 3,000-man squadron, later turned into a blockbuster 1962 movie. But neither Halle nor I, in our correspondences with Mr. Ogburn, were primarily interested in Merrill's Marauders.

After many years of research, as a second generation scholar of the Shakespeare question, Ogburn had in 1984 published an influential underground study: *The Mysterious William Shakespeare: The Myth and the Reality* is the book your English professor still won't read, a kind of samizdat, a grad student's forbidden thrill but not something you would ever dare to discuss with your advisor for fear of being branded with a scarlet letter in academia's hall of shame for "doubting Shakespeare." Expanding on the argument of J. Thomas Looney's revolutionary 1920 book, *Shakespeare Identified in Edward de Vere, 17th Earl of Oxford*, Ogburn's book not only identified Oxford as the author, but documented a long history of academic evasion and double-talk that had for so long prevented the case for Oxford's authorship from receiving a fair hearing.

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Halle wrote to suggest that Charlton Ogburn cheer up after the results of a 1987 moot court debate on the authorship of the Shakespearean canon held at American University in Washington, D.C., before three Justices of the U.S. Supreme Court—Brennan, Blackmun and Stevens—and in front of an audience of nearly 1,000. Ogburn's own book, then in its third year in print, had been perhaps the prime motive force for the moot. Sponsored by Washington philanthropist and entrepreneur David Lloyd Kreeger, then CEO of Geico, the large attendance signaled that the public had never abandoned its much-discussed curiosity about the problems of Shakespearean biography. Garnering extensive media coverage, the moot court eventually hit the *New Yorker*, in a fourteen-page spread by James Lardner, "Onward and Upwards with the Arts: The Authorship Question," published May 20, 1988.

Despite such positive coverage, Ogburn (among others) was bothered by the moot's outcome. At the outset of the debate, Justice Brennan (the presiding judge) announced, apparently without any debate or discussion among the participants, that the burden of proof would be on the Oxfordians, who would be obliged to show by "clear and convincing evidence" that William Shakspere of Stratford was not the author and that Edward de Vere was. At the conclusion of the debate, the three judges ruled that the Oxfordian side had not met this burden.

Many, like Ogburn, believed that imposing this standard on the Oxfordians was unfair for at least two reasons, each deserving a separate adjudication. Shouldn't the Oxfordians, as the outsiders and critics of an established paradigm, have the opportunity to test whether the orthodox had proved their own case—as orthodox authorities assert *ad nauseum* until the present—"by clear and convincing evidence"? This would seem on its face to be a necessary preliminary to examining any particular alternative claim to authorship. If the traditional case really has already been proved why would anyone question it? If we had to convict someone "beyond a reasonable doubt" as the true author of the works, how would the traditional Stratford candidate fare?

"He would be found innocent as a lamb," answers Ruth Loyd Miller in Lardner's *New Yorker* article. That finding, not the possession of any particular piece of "smoking gun" beyond-a-reasonable-doubt-in-five-minutes-inspection type of evidence, is the basis for post-Stratfordian doubts about the official story of Shakespeare. To the Oxfordians, the true author of the works is demonstrated by a significant *preponderance of the evidence*, especially when considered in its large aggregate and variegated forms. That such a preponderance exists is, on the other hand, itself actually a fact, even if comprehending its magnitude and detail requires a careful and discerning study that few professional Shakespeareans have dared to undertake. The Oxfordians therefore had reason to lament the absence of a more evenly balanced and carefully reasoned approach to the burden of proof in the 1987 moot court.

Stratfordians like to recount the story of the moot court as a defeat for the Oxfordians. They rarely admit what happened next, nor do they "connect the dots" the way an intellectual historian might. One justice, John Paul Stevens, had already expressed doubts about the orthodox story at the 1987 moot court; afterward, it is

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clear, Stevens continued to study the Shakespearean question. Five years later, in a 1992 *University of Pennsylvania Law Review* article, "The Shakespearean Canon of Statutory Construction," Stevens carefully summarizes several of the most telling arguments supporting the Oxfordian theory and lends the force of his personal ethos to the inquiry.

At the time that Halle wrote, however, this was all in the future. To Charlton Ogburn, in 1987, the event had not gone well for the Oxfordians. Wrote Halle:


Dear Charlton:

I think the outcome of the trial before the moot court was to be expected, and that the triumph of the cause can only come by way of such successive defeats. The fact that *The Mysterious William Shakespeare* has been published in England—and favorably reviewed in *The Guardian*—shows that the thesis will continue to rise, stronger than ever, after every killing. It is more important to lose all but the last battle than to win all but the last.

I know something of the academic world, having had a long career on the inside as an outsider—first as a graduate student in anthropology at Harvard, then as a professor of politics in Geneva. The objective of the members of any academic community is to learn to say what we all say in the language in which we all say it. (Surely it was the same in the priesthood, and in the preparation for the priesthood, in the Middle Ages.) I have known students who in their Ph.D. theses would say what they knew to be factually false because the saying of it would identify them with the community in which they intended to make their careers. Such behavior, in my experience, is more the rule than the exception. In fact, it would be hard to find any exception in the academic communities I have known. *You* can be unorthodox because you are an outsider—as I have always been an outsider.<sup>1</sup>

Halle went on to explain that "in the progress of human knowledge...a time does come when orthodoxy is seen to have points of implausibility. It is *then* that those who are not making their careers as insiders begin to be heard..." Halle's "then" is *now*; the place is *here*, in the mind of every reader. Yes, Virginia, there is a Shakespeare question, and yes, the people who have studied it—whose research is gratefully sampled in the present volume—have made many genuine discoveries pertinent to the question. They know something about Shakespeare, the writer, and *where* the plays actually *come from*, that Shakespearean orthodoxy in institutions like the Folger still fails to understand. Perhaps more surprisingly, they seem to know that you can't truly have an informed discussion about the 1623 First Folio without acknowledging the authorship question. The reason is interesting.

As these essays demonstrate, the question is written all over the Folio.

 Roger Stritmatter, PhD  
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**ENDNOTES**

- <sup>1</sup> Halle, Louis J. Letter to Charlton Ogburn, January 22, 1988. Reprinted in the *Shakespeare Oxford Society Newsletter*, 25:2 (Spring 1989), 20-21.