

SUPPLEMENT TO THE SHAKESPEARE FELLOWSHIP NEWS-LETTER, JULY, 1938

A CRITICISM OF DR LESLIE HOTSON'S
"SHAKESPEARE VERSUS SHALLOW" (1931)

By J. Shera Atkinson, LL.B.Lond.

Dr Leslie Hotson, in the course of studying Elizabethan records at the Record Office, found that in 1596 William Wayte applied to the Court to have William Shakespeare, Francis Langley, and others bound over to keep the peace towards William Wayte.

Langley owned Paris Garden, Southwark, and in 1595 had built in it a new theatre, The Swan.

Langley, shortly before, had applied to the Court similarly for sureties of the peace to be given by William Gardiner and William Wayte, William Wayte being Gardiner's stepson.

Probably - one cannot be more definite than this - these were both "moves" in a quarrel between Gardiner and Langley, as a result of which Gardiner brought two actions against Langley in 1596 for slander, Langley having called Gardiner a false perjured knave.

Gardiner dropped both actions.

Dr Hotson with great industry has traced a large number of records of legal proceedings by and against Gardiner, and other information in regard to him, and claims that, on the basis of the material he has discovered, the character of Justice Shallow (in Merry Wives and Part 2 of Henry IV) is a caricature of Gardiner; Slender (in Merry Wives) being a caricature of Wm Wayte. Dr Hotson does not identify Wm Wayte with Silence (in Part 2 of Henry IV) though it is fairly obvious that Silence and Slender are the same character.

The parallels Dr Hotson claims to find between Gardiner and Shallow are as follows:

- (1) Shallow is a Justice of the Peace of the quorum of Gloucestershire: Gardiner, who lived in Southwark close by the Swan Theatre, was a Justice of the Peace of the quorum of Surrey.
- (2) Both were entitled to call themselves Esquire.

- (3) Shallow bore on his coat of arms "a dozen white luces passant" i.e. twelve pike, placed horizontally. Gardiner, who had married Francis Lucy, bore the Gardiner arms (a Griffin) impaling or quartering the Lucy arms of three luces haurient (i.e. three pike placed upright). Dr Hotson has not found any record of Gardiner using more than three luces on his arms, so that Shallow's coat, of twelve luces, hardly bears much resemblance to Gardiner's arms. He does not mention that the three luces were borne by many families besides that of Gardiner's wife.
- (4) Shallow (in 2 Henry IV) accuses Falstaff of beating Shallow's men, killing his deer, and breaking open Shallow's park lodge. Gardiner likewise had a park (Lagham Park, Godstone, Surrey). The parallel is not very marked as Dr Hotson does not find anything about Gardiner's deer (if he had any) being killed, or his gamekeepers being beaten, or the park lodge being broken into.
- (5) Shallow in both plays claims to have been a great swordsman in his youth: Gardiner in a quarrel in his youth had drawn blood from his opponent (which does not necessarily entail that he was a swordsman or that he was fond of bragging about his prowess).
- (6) Shallow in Merry Wives schemes to marry Slender to Ann Page, who has money and prospects of more. Gardiner had, as it was alleged in certain legal proceedings, arranged a marriage between his step-son Wm Wayte and Joan Tayler, who had a certain amount of money. Dr Hotson treats this as indicating that Slender is a caricature of Wayte, though as Wayte's marriage with Joan was before 1580 (over sixteen years earlier) and she had died several years before 1596-7 (the date Dr Hotson gives for the two plays) any resemblance on this head could hardly have been apparent to any one seeing the plays.

Wayte appears to have been a person of little account: a hanger-on of Wm Gardiner, a poor relation who lived in his house: to that extent there is some slight resemblance to Slender and Silence, who were very deferential to Justice Shallow, though neither was dependent on him.

Dr Hotson summarizes by saying as regards Shallow being Gardiner:

"Coincidences can be remarkable, but it seems to me that there are here too many to be set down as accidents.

Esquire, justice of peace and of the quorum, a coat with heraldic luces that agree well, passant - it all fits the enemy of Langley and Shakespeare like a glove." Again he says "In their cumulative force these parallels are overwhelming" and "it is impossible to escape" the identification.

I can see no justification for those statements, and after a careful study of Dr Hotson's book I am satisfied that, even if we assume William Shaksper to have been the author of the plays, the identification by Dr Hotson of Gardiner as Shallow, and Wayte as Slender, is too far-fetched and fanciful to be of value to the serious student.

Dr Hotson has, without any warrant in fact, discovered a fancied topical allusion in two plays and writes a big book about it. This, though he belongs to the orthodox school who still (with few exceptions) deny strenuously that there is anything topical in the plays. One would have thought that if he had wanted to break with orthodoxy - to throw his bonnet over a windmill - he would at least have chosen a real windmill and not one which existed only in his imagination. Most of his book is occupied with particulars of legal proceedings etc. in which Gardiner and sometimes Wayte were concerned, none affecting Langley or Shakespeare except the one matter which I mentioned at the outset.

Gardiner was a good business man, a hard bargainer and not very scrupulous: a man of considerable fortune; a member of one of the City Companies - the Leathersellers' Company - and for one year Warden of it: he was twice elected Sheriff of the City of London and fined for refusing to accept the office: in 1594 he was High Sheriff of Surrey and Sussex. He took his duties as a justice of the peace very seriously, doing more work than any other justice in his County. He appears to have been on friendly terms with the Lord Chancellor, who dined at his house, and with Sir John Fortescue, Chancellor of the Exchequer, Sir Edward Anderson, Chief Justice of the Court of Common Pleas, and other people of position.

He appears to have had more than his fair share of litigation.

Dr Hotson admits there is little resemblance between Gardiner, the keen London business man, and Shallow, the doddering but swaggering country justice of the peace from

Gloucestershire. He says the lack of resemblance results from Shakespeare realizing that "to stage the cunning justice as an imbecile fit only for inextinguishable laughter would flick him (Gardiner) on the raw."

That might be all very well if there were resemblance enough for the caricature to be recognized. But Dr Hotson has failed to show any real resemblance. Even in the matter of age the identification fails: Gardiner was sixty-five in 1596, whereas Shallow in both plays is much older: he is over eighty in Merry Wives.

Dr Hotson is at great pains to show that Gardiner was a man of greed, fraud, cruelty, perjury, and crime - enough to mark him even in Elizabethan times; a scoundrelly justice; a man who defrauded his stepchildren and his own wife.

The so-called evidence of all this, which Dr Hotson produces, is of little or no value. Dr Hotson's knowledge in regard to legal proceedings and the Courts of the sixteenth Century is at fault.

Legal procedure was in a state of transition: besides the old Courts of law (Queens Bench, Common Pleas, and Exchequer) there were other courts, of more recent origin and keen on getting business, to which one person seeking redress against another could resort, such as the Court of Chancery, the Court of Star Chamber, and the Court of Requests.

These newer courts claimed and exercised a jurisdiction founded on the assumption that the older courts were unable to do complete justice. If you could persuade one of the newer courts that it was "against conscience" that your opponent should enforce his strict legal claim upon you, or that you ought to have a remedy against him, you could get redress which the older courts could not have given, and in some cases you could get an injunction prohibiting your opponent from enforcing his legal rights against you in the older courts.

Generally, to get the help of the newer courts, you had to assert in your petition that your opponent was guilty of sharp practice or of some fraudulent device, or something "contrary to right, equity, and good conscience."

The allegations were usually set out at great length, with much use of expressions such as "most fraudulently," "deceits and fraudulent dealings," "for his own private lucre without care of good conscience and contrary to all right." The

defendant would then no doubt reply, at equal length, that the complaint was contrived by the complainant of his own malicious, troublesome, and envious nature, to the intent wrongfully to vex, molest, and trouble the defendant, complaining of him whom he himself oppresseseth.

Evidence of witnesses was not taken in court, but by private examination before an official who recorded the testimony in written depositions. Many of these latter are quoted at length by Dr Hotson. The other side had no opportunity to cross-examine the witness, so that the evidence was generally of an extremely partisan nature: much of it was mere hearsay and completely irrelevant, and dragged in to create prejudice against the opposite party.

Accusations of this latter kind - which Dr Hotson accepts at their full face value - make up a large part of his case that Gardiner was a scoundrel. They include accusations that he was addicted to witchcraft, kept toads, held irreligious opinions, and that the witness had heard that by shameful falsehood Gardiner had defeated some one else (not in any way concerned in the case) of great sums of money, and so on.

The Courts in fact attached little or no importance to irrelevancies of that kind and no one to-day, knowing something of sixteenth-century legal procedure, would do so.

Much of this kind of testimony against Gardiner bears the obvious mark of falsity, and it is clear in a number of the cases that it was not believed, or was brushed aside as irrelevant, by the Court.

When advisable Gardiner was able to get witnesses to swear that he was reputed "of good and honest conversation and a just and true man of his words and promises."

Dr Hotson does not appear to notice that in a large proportion, probably a majority, of the proceedings in which Gardiner was involved, which he quotes, Gardiner won, or the other party dropped the case. This would not have been so if, as Dr Hotson suggests, Gardiner was generally in the wrong.

Dr Hotson accepts, to take an example or two out of many at random, the following accusations against Gardiner:

- (1) The Lord Chancellor went to dine with Gardiner on the day fixed for the hearing of the complainant's case in the Court of Chancery against Gardiner: so that it did not get

heard and the complainant had not subsequently been able to get a hearing.

- (2) In a dispute in which Gardiner said that his signature had been forged, the other party alleged to the Court of Star Chamber that he had heard that Gardiner had by shameful falsehood defeated his step-children of great sums. He also put in a very amusing affidavit of an alleged attempt by Gardiner to trap a man into slandering Gardiner as a "subtle knave and a defrauder of fatherless children": in which the witness explains how he got a free breakfast by pretending to help in the plot but warning the intended victim. These matters had nothing to do with the dispute in the proceedings.
- (3) That when Gardiner bought land and had it conveyed to his two lawyers, or scribes, in trust for him, he did so to defraud his wife of her right to dower - that is, to have a third share of the land during her life, after her husband's death. The practice of having land conveyed in that way had in fact become very common, because a wife's right to dower made it expensive and difficult to re-sell the land. In later years expedients for preventing a wife's right of dower from attaching to landed property became the invariable practice - everyone adopted them.

When Gardiner came to make his will he provided handsomely for his wife, so that he certainly had no intention of defrauding her. Here again Dr Hotson fastens on a clause in Gardiner's will saying that what he gave her was instead of her right to dower, which she was to give up. Actually, that was nearly always done in well-drawn wills, for the reason that the right of dower involved difficulties between the widow and the heir, and certainly not out of any lack of kindness or generosity to the wife. The testator provided for his widow by more convenient provision, which she took instead of dower.

Incidentally Dr Hotson thinks that Gardiner's will, disposing of the goods "wherewith it hath pleased God to bless me" and making pious bequests to the poor, to hospitals, and to prisoners, "makes extraordinary reading." There is nothing extraordinary about the introductory words - they were "common form". Even if they had not been, neither they nor the pious gifts would be extraordinary unless we believed, with Dr Hotson, the allegations of which he makes so much.

I have spent possibly too much time in showing that Dr Hotson's very voluminous evidence, as to the kind of man Wm

Gardiner was, is far from establishing what Dr Hotson, taking it at its face value, thinks.

It is however, as I think, useful to show that he has misunderstood the material which he has collected, as it has a bearing on his methods, not only in this but in his other research work.

Actually, as I pointed out earlier, whether Gardiner was a model citizen or (as Dr Hotson thinks) the reverse, Dr Hotson's claim that Gardiner is caricatured as Shallow is not substantiated.

It will be noticed that Dr Hotson claims to have disposed finally of the idea that Shallow was a caricature of Sir Thomas Lucy of Charlcote, near Stratford, who also bore three lucas on his coat of arms.

Dr Hotson makes an interesting deduction from his identification of Shallow with Gardiner. The dispute between Gardiner and Langley into which Shakespeare appears to have been drawn came to a head in November 1596, and Gardiner died in November 1597. The caricature would only be effective while Gardiner lived: therefore, 2 Henry IV and Merry Wives were written between those two dates - and Dr Hotson puts the occasion of the writing and performance of Merry Wives as the festivities connected with the election to the Order of the Garter of (among others) the Duke of Württemberg (in absentia) in April or May 1597, as compared with some date between 1598 and 1601 which has hitherto been the orthodox conjecture.

From the point of view of those who deny that William Shaksper of Stratford wrote the plays anything like this - or like Prof. Cairncross's dating of Hamlet not later than 1588 - which puts back a play to a date earlier than the orthodox guess, is of value. It tends to crowd the writing of so many of the works into the late 'eighties and early 'nineties that the orthodox position as to the authorship is progressively weakened.

It seems to me not without interest that a book heralded by the orthodox as an important addition to Shakespearean literature should upon examination prove of slight value.

So far from being a valuable addition, it would appear to point to the approaching complete bankruptcy of the orthodox theory. It reminds me of the amusing mistakes made by J. M. Robertson some years ago in his book designed to explode the

Bacon theory. He set out to prove that there was nothing in the Shakespeare works to show more knowledge of law than was possessed by the average Elizabethan. Actually he showed his own complete misapprehension of the meaning of some of the more important instances of abstruse legal technicalities which the writer of the plays understood.

It would mark an advance in Shakespearean study if writers, whose work takes them into branches of knowledge beyond their own, would take the precaution of securing the help of persons acquainted with those branches.