

**SHAKESPEARE, SUCCESSION AND ESTATE PLANNING:  
LESSONS FROM THE BARD**

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**TABLE OF CONTENTS**

I. INTRODUCTION.....	2
II. ACT I.....	2
A. Scene 1, Life and Business .....	2
B. Scene 2, The Ubiquity of Taxes.....	3
C. Scene 3, Family.....	6
III. ACT II .....	7
A. Scene 1, Work is Life.....	7
B. Scene 2, Plague .....	8
C. Scene 3, Family Business and Succession.....	9
D. Scene 4, When Heirs Aren't Apparent (or Worthy) .....	11
E. Scene 5, An Exit is Inevitable.....	12
F. Scene 6, Understand the Parent / Understand the Child .....	17
IV. ACT III.....	18
A. Scene 1, The Last of Will and his Testament .....	18
B. Scene 2, Language and Legacy.....	23
V. EPILOGUE .....	26
VI. LAST WILL AND TESTAMENT OF WILLIAM SHAKESPEARE.....	27
A. Transcription.....	27
B. Probate Registry.....	30
C. PDF Page 1 .....	31
D. PDF Page 2 .....	32
E. PDF Page 3 .....	33
VII. LIST OF ADDITIONAL RESOURCES .....	34

## SHAKESPEARE, SUCCESSION AND ESTATE PLANNING: LESSONS FROM THE BARD<sup>1</sup>

Much more, in this great work, which is almost to pluck a kingdom down, and set another up—should we survey the plot of situation and the model, consent upon a sure foundation, question surveyors, *know our own estate*. How able such a work to undergo, to weigh against his opposite. Or else, *we fortify in paper and in figures, using the names of men instead of men*, like one that draws the model of a house beyond his power to build it.

■ WILLIAM SHAKESPEARE, SECOND PART OF HENRY IV, act 1, sc. 3

### I. INTRODUCTION

When a pandemic closed the world in 2020, as a survival strategy, I read books about plague. Our epidemic was mild by comparison to Albert Camus’s walled Algerian city in *The Plague*. Quarantine was easier for us than for Geraldine Brooks’ characters in *Year of Wonders*, a story of sacrifice about a village pastor in 1666 who persuades his congregation to quarantine and confine the plague to their village - condemning most of them to death but saving many lives in the surrounding countryside. Our contagion was more survivable than the alien *Andromeda Strain* by Michael Crichton. Turns out, a pandemic is bearable with pizza delivery, Netflix, and Amazon. Then, after thousands of pages of death and doom, I discovered Maggie O’Farrell’s novel *Hamnet*, a story about William Shakespeare, his wife, Anne Hathaway, and the loss of their only son, Hamnet, during a time of plague.

The story is imaginative and highly fictionalized, necessarily, because very little is known about William Shakespeare, the man, and even less about his family.<sup>2</sup> Despite having written about 40 plays, more than 150 sonnets, and two epic poems,<sup>3</sup> he left no journals, memoirs, letters, or anything remotely autobiographical. Instead, most of what we know about his personal life comes from legal records including records of births, deaths, marriage bonds, land transactions, documents of peerage and title, litigation and court records, writs of attachment, records of taxes paid, licenses and payments from the crown for performance, profits from the sale of published works, and notably, estate planning documents. This includes his Last Will and Testament and the registry of its probate, astounding because it was probated in 1616. As we will see, the reason so much of this material exists is because Elizabethan England was not a Renaissance Fair, it was a totalitarian police state, enforced by a staggering bureaucracy and funded by crushing taxes. But from these legal documents and the plots of his plays, we get a unique perspective on estate planning.

### II. ACT I

#### A. Scene 1, Life and Business

After more than 400 years of research, about 100 legal documents illuminate Shakespeare’s family business.<sup>4</sup> From these, we know he owned interests in at least two successful theaters and was a partner in two theatrical production companies supported by royal patronage of two monarchs. He received royalties for the

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<sup>2</sup> No other author was ever so examined and catalogued as Shakespeare. Scholars know he used 29,066 different words, 15,785 question marks and how many times he referred to the sea, lawyers, or any subject. Example: there are 401 references to ears in his plays. The Library of Congress holds more than 7,000 books about Shakespeare and his work, but very little is known about the man. BILL BRYSON, SHAKESPEARE - THE WORLD AS STAGE 19 – 21 (HarperCollins Publishers 2007) [hereinafter BRYSON] and SHAKESPEARE - THE ILLUSTRATED EDITION (Harper Press 2009).

<sup>3</sup> Some 884,647 words total. BRYSON, *id* at 19.

<sup>4</sup> BRYSON, *id* at 7.

production and publication of his plays, maintained residences in London and in Stratford-upon-Avon, the village where he was born, and acquired additional income producing properties there.

We know this because Elizabethan and Jacobean England were characterized by meticulous record keeping. This was due in part, to civil unrest lingering years after Elizabeth's father, Henry the VIII, rejected Catholicism, then died leaving England in the hands of a male child and two mere females, and resulting in a series of crisis related to the succession of his family business – ruling England. There were multiple plots and attempts at revolution (in business terms, hostile takeovers) that led to suspicion, intrigue, and resulted in a government that monitored its citizens as closely as the technology of the day allowed.<sup>5</sup> The course of history had been changed in divorce court.<sup>6</sup> Understandably, it was a litigious age.

As example, one of only six samples we have of Shakespeare's signature is on a deposition from a lawsuit for breach of contract for marriage in which he was merely a witness.<sup>7</sup> This and many Shakespeare related documents were found by an odd professor from the University of Nebraska, Charles Wallace and his wife, Hulda. They began their research in London in 1906 and spent most of the next ten years there. They found several lawsuits in which Shakespeare was a party or witness including the marriage contract dispute of his former landlord. Shakespeare testified that he knew there was a contract and didn't remember much else, but the transcript tells us where he was living in 1604, his address in 1612, and is signed!<sup>8</sup>

## **B. Scene 2, The Ubiquity of Taxes**

Because there was almost no aspect of ordinary life in Shakespeare's time that didn't involve payment of a governmental fee, application and government approval, purchase of a bond, a tax, a fine, a tithe, or a penalty, we have a rich source of government records. Every village had guildhalls and government officials assigned to inspect, catalog, weigh, and measure virtually everything, from a required uniform size for loaves of bread to the quality of ale, and to report and collect fees. Citizens were fined if they failed to attend church or

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<sup>5</sup> BRYSON, *id* at 27, citing FRANK KERMODE, SHAKESPEARE'S LANGUAGE (Penguin Books 2000) and THE AGE OF SHAKESPEARE (Modern Library 2003). "While Elizabeth survived, the issue of her succession remained a national preoccupation throughout her reign ... Shakespeare's plays would be built around questions of royal succession – though speculating about Elizabeth's successor was very much against the law."

<sup>6</sup> Henry VIII wanted his marriage to Catherine of Aragon annulled. When Pope Clement VII refused his request, he eventually declared the Church of England as the established church of the realm, and himself Head of that Church by virtue of the Act of Supremacy of 1534. He then convened a conclave of his cardinals, seized the assets of the Catholic Church in England and Wales, granted himself a divorce from Catherine and married Anne Boleyn. For this, Pope Paul III excommunicated him in 1538. When his daughter with Catherine, Queen Mary I, came to power, she tried to restore the Church of England's allegiance to the Pope by repealing the Act of Supremacy in 1555. When her half-sister, Elizabeth I, came to power in 1558, she passed a second Act of Supremacy restoring the original but with a new oath declaring the Queen to be Supreme Governor of the Church. See "Henry VIII" and "Mary Tudor", CATHOLIC ENCYCLOPEDIA (Robert Appleton Company 1910); DOCUMENTS ILLUSTRATIVE OF ENGLISH CHURCH HISTORY Henry Gee & William John Hardy, eds. (Macmillan 1896) *citing* Elizabeth's Supremacy Act (Restoring Ancient Jurisdiction), 1559, 1 Elizabeth, Cap. 1 (Hanover Historical Texts Project).

<sup>7</sup> The UK National Archive registry describes the deposition in *Belott v Mountjoy*: "Deposition taken at Westminster of William Shakespeare of Stratford upon Avon, gentleman, age 48 years...in 1604 he was lodging in Christopher Mountjoy's house [in Silver Street], and...knew the arrangements agreed for the marriage of Mary Mountjoy and Stephen Belott. Shakespeare testified he knew the parties, but after 8 years, did not recall any details. Signed May 11, 1612, at National Archives, Kew." Transcribed by C W Wallace, in *Shakespeare and his London Associates*, JOURNAL OF STUDIES OF UNIV OF NEBRASKA, vol. X, no 4, October 1910, pp 261-360.

<sup>8</sup> This, one of only six known signatures of Shakespeare, was one of many significant finds by Charles and Hulda Wallace. Charles wrote several books on Shakespeare, but he was 'quite eccentric' and eventually the university cut off his funding. They returned to the States, where Charles, with no expertise or prior experience, decided to try wildcatting. Using the last of their savings, they bought land assumed to be worthless near Wichita Falls in Archer County, Texas and hit oil. Wallace died in 1932, immensely wealthy – but not from his books on Shakespeare. There is still a renowned Shakespeare research center at the University of Nebraska which owns a First Folio. [Charles Wallace \(February 6, 1865 — August 7, 1932\), American researcher, scholars | World Biographical Encyclopedia \(prabook.com\)](#)

attended the “wrong” church,<sup>9</sup> or they could buy dispensation to eat forbidden foods during Lent.<sup>10</sup> Citizens needed a license to serve certain foods, even in their own homes, or to wear certain types of clothing and fabrics. Essentially these functioned as taxes or duties to encourage domestic production and discourage imported luxuries.<sup>11</sup> Government oversight and control was an enormous enterprise built to enhance surveillance and generate wealth for the Crown and ruling class.<sup>12</sup> Because the Head of State and the Head of the Church were the same, paid permission extended to civil and religious matters. A couple wishing to wed quickly, was required to buy a marriage bond to cover potential liability arising from waiver of the number of public announcements (made in church) before a license could be issued.<sup>13</sup> Fees or taxes were imposed to obtain permission for every type of transfer of wealth.

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<sup>9</sup> In 1580, about 50,000 Catholics chose not to attend Church of England services and paid a relatively small fine under the Act of Uniformity passed 28 April 1559. (1 Eliz. c. 2). But in 1581, the fine for failure to attend Church of England services was raised from 12 pence to 20 pounds per month (or imprisonment) under the Act to Retain the Queen’s Majesty’s Subjects in their Due Obedience, the Religion Act of 1580 (23 Eliz. c. 1). It became high treason to persuade an English subject to withdraw allegiance to the Queen or Church of England in favor of the Church of Rome and imposed fines or imprisonment on those attending Catholic Mass. SUSAN DORAN, *ELIZABETH I AND RELIGION 1558–1603* (Routledge 2002). GEORGE EYRE AND ANDREW STRAHAN, *THE STATUTES AT LARGE, OF ENGLAND AND OF GREAT BRITAIN: FROM MAGNA CARTA TO THE UNION OF THE KINGDOMS OF GREAT BRITAIN AND IRELAND. VOL. IV 374–377* (Printers to the King 1814). See also, Lucy Underwood, *Persuading the Queen's Majesty's Subjects from their Allegiance: Treason, Reconciliation and Confessional Identity in Elizabethan England*, 89 *HISTORICAL RESEARCH* 244, 246–267 (May 2016). Remarkably, 200 of Elizabeth’s subjects were devout and wealthy enough to pay to attend mass generating some 45,000 pounds just as she was raising money to fund Francis Drake’s next voyage. Drake, knighted in 1580 for circumnavigating the globe, nearly doubled the Queen’s annual income when he delivered her half-share. He spent a few months in Parliament and as Mayor of Plymouth, purchased an Abbey (previously seized by the crown) as a home befitting his new status, refitted his ships, and set out again on her majesty’s business as a commissioned privateer. The Queen’s share of the bounty from his voyages: as much as fifty percent. But to the Spanish, he was just a pirate funded by Elizabeth.

<sup>10</sup> After Henry VIII broke from Rome, some rules were relaxed. Eating meat on Friday was no longer a hanging offense but church authorities still sold exemptions to Lenten rules. BRYSON, *supra* note 2 at 32. This marriage of church and state was, in part, why some fled to the new world. Early American history reflects fear and a deep understanding of the dangerous effects of the church and state being the same, and of government dictating religious values and lifestyle choices or exacting financial penalties to enforce the religious beliefs of those in control. A hard-learned lesson, still in play in our current century, where some people in power still work to return to that kind of control and to eliminate intellectual discourse contrary to their own beliefs. Elizabethan and Jamesian citizens accepted banning educational or recreational materials and criminalizing medical, sociological, and religious practices that departed from the values of the church/state in power. In this author’s opinion, 21<sup>st</sup> century citizens should not.

<sup>11</sup> ‘Sumptuary’ laws dictated what people could wear based on their annual income including whether they were allowed satin or velvet and in what colors. Food was also regulated with restrictions placed on how many courses could be served (up to nine for a Cardinal but only two plus soup for anyone who earned less than £40 per year). BRYSON, *supra* note 2, at 30 - 32.

<sup>12</sup> Elizabeth defined the role of Parliament by instructing the Commons to “meddle with noe matters of state but such as should be propounded unto them, and to occupy themselves in other matters concerning the commen wealth”. T.E. HARTLEY, *PROCEEDINGS IN THE PARLIAMENTS OF ELIZABETH I VOL I 199* (Rowman & Littlefield 1981). ‘Commonwealth’ referred to the state and the common good of the people, justifying social and economic legislation and royal policy such as granting licenses to enforce penal statutes; address poverty, unemployment, vagrancy; trade in prohibited commodities, or patents to protect new inventions and industries. Hundreds of patents were issued for manufacture and trade in cloth, leather, and iron; agrarian land use (especially grain and timber); and enforcement of morally acceptable behavior. The patent system, intended to foster economic investment, growth, and create employment for the poor, included monopolies to generate extra-parliamentary revenue for the Queen and rewards to her courtiers for new projects. [Homepage | History of Parliament Online](#) and D.H. Sacks, *Countervailing of Benefits: Monopoly, Liberty, and Benevolence in Elizabethan England*, in *TUDOR POLITICAL CULTURE*, 272-91 (Dale Hoak ed., 1995).

<sup>13</sup> Weddings were religious services, never civil, and always directed by clergy. The first step was to “Cry the Banns”, announcing a couple’s intention to wed. Elizabethan law required intent be declared to the full congregation on three consecutive Sundays or Holy days. Citizens were required to attend church, making it an effective way to provide notice to an entire community and time for any pre-contracts to be revealed. A marriage not announced in advance was covert and unlawful, but a couple in a hurry could buy a Marriage Bond as security that confirmed to a Bishop that issuing a Marriage License was legitimate. A Marriage Bond required a sworn oath by “two sufficient witnesses” (only men - often the groom and bride’s father). Once issued, the couple was required to make only one announcement. BRYSON, *supra* note 2, at 32.

These taxes supported the Church, Court, and Crown – government – as one. This was the “family business” Henry left to his son Edward VI,<sup>14</sup> then to his daughters, Mary, then Elizabeth, and eventually to James VI of Scotland (Elizabeth’s first cousin twice removed) who became James I of England.<sup>15</sup> With each transfer of power and wealth came tension and drama. Succession was an obsession of the age. (In some respects, every age.) Looking at the world Shakespeare inhabited gives us a different perspective from which to examine our own systems of planning and wealth transfer.

But legal documents don’t tell us anything about who William and Anne really were, how they felt about each other, or their values in life. It is the same today: clients struggle to find ways to incorporate their values, goals, and priorities into their estate planning documents but often end up with perfectly drawn documents that are ‘bloodless’ - words that transfer assets but don’t create or define a legacy. This is not a new problem. Dispositive documents of many historic figures are widely accessible but usually tell us very little about the lives, personality, or passions of the testator. Today, pages are carefully word processed to address every legal contingency and create neat and binding entities, but they do not evolve with the family they benefit, nor do they convey much, if anything, about its members or their values.

When probate inventories are available, they may reveal more.<sup>16</sup> For example, the will of Henry VIII, essentially a deathbed will, is grounded in part on earlier drafts, and is a significant constitutional document confirming the line of succession to the crown. It names sixteen Executors, who documented his possessions.<sup>17</sup> That inventory, available in the British Library and National Archives, took 18 months to

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<sup>14</sup> Edward was nine when Henry VIII died. He lived only six years longer and never reigned without a regent. On his deathbed, to avoid Henry’s oldest daughter, Mary, a Catholic, coming to power, Edward named Lady Jane Grey as his heir. She was queen for nine days before she was deposed by Mary and executed. MIKE ASHLEY, *THE MAMMOTH BOOK OF BRITISH KINGS AND QUEENS* 626, 630-638 (Carroll & Graf 1998).

<sup>15</sup> ASHLEY, *id.* at 626, 638-650.

<sup>16</sup> Inventories compiled before 1661 are in the records of the Prerogative Court of Canterbury, published in 17 vols, London, 1704-1735. Entries in the probate and administration act books may also include valuations of a testator's or intestate's personal estate, from the inventories compiled at the time and noted in the right-hand margins of those act books. Three courts exercised probate jurisdiction during the 16<sup>th</sup> and 17<sup>th</sup> centuries. In 1522, Warham, as Archbishop of Canterbury, made an agreement with Cardinal Wolsey, as Papal Legate, whereby personal estates of persons having goods in more than one diocese or ecclesiastical peculiar were put under joint jurisdiction of the archbishop’s prerogative and a court specially established by Wolsey in London. That ceased with the fall of Wolsey in 1529. In 1535, all ecclesiastical courts were put under Henry VIII's supremacy. Thomas Cromwell was appointed Vicegerent of the Church of England, and William Petre was authorized, as Cromwell's Commissary, to prove wills, grant letters of administration, and hear testamentary causes when estates were valued at more than £200. When the vicegerent court closed in May 1540, a separate Court of Probate was established to transact the business of other ecclesiastical courts with probate jurisdiction. The extant records of these Courts are in unbroken series with those of the Prerogative Court of Canterbury and were exhibited after restoration of that Court in 1660. Executors and administrators were required by act of Parliament (21 Henry 8, c. 5) to present to the court granting probate or administration, two copies of an inventory of the testator's or intestate's personal estate. One copy was returned to the executor or administrator and the other preserved by the court. [Prerogative Court of Canterbury and Other Probate Jurisdictions: Inventories compiled before 1661 | The National Archives](#)

<sup>17</sup> Henry VIII “signed” his last will and testament on December 30, 1546, authorizing changes William Paget made on his behalf four days earlier. It is unlikely he signed the document himself. The King had, technically, not signed anything with his own hand since September 1545 when, to save him from the tedium of inscribing his name on countless state documents, three designated royal clerks were given authority to impress a facsimile of his signature using a stamp and delicately ink in the indentation. Sir Anthony Denny, John Gates, and a third with the appropriate name of William Clerk, were then regularly pardoned for “all treasons concerning counterfeiting of the King’s sign” after which, they were reauthorized for the months to come. Henry died a month later, on January 28, 1547. His final will changed some previous titles and grants and confirmed the council of advisors to his son during minority. He added descendants of his sister, Mary Tudor, to the line of succession in the event his own children did not survive or, if his daughters, married without the “written and sealed” consent of the Privy Council. He provided compensation for sixteen executors (six received substantially more than the remaining ten) and gave them discretion to appoint legacies to his servants and increase marriage payments for his daughters if they marry any “outward potentate”. LIPSCOMB, SUZANNAH, *THE KING IS DEAD: THE LAST WILL AND TESTAMENT OF HENRY THE VIII* 51-53 (Pegasus Books 2016). A transcription of the will is available at [Henry VIII: December 1546, 26-31 | British History Online \(british-history.ac.uk\)](#), note 634 (LP xxi. Part 2 634).

complete. It details tens of thousands of items from castles to a marmoset (believed to have been a Christmas present from his first wife, Catherine of Aragon). In Henry's case, we learn far more about him from his inventory than from his will.<sup>18</sup> Unfortunately, Shakespeare's inventory was lost, presumably in London's Great Fire, and his will contains few clues to his personal life. But examining what we do know about the disposition, business, and planning for the Shakespeare family, some of it seems oddly timeless and familiar.

### C. Scene 3, Family

The Shakespeares were an unusual couple. When they were married, William was 18 and Anne was 26 – eight years older, and she was expecting their first child - a daughter, Susanna. That may have been why they paid a substantial fee, £40, for a marriage bond to waive the waiting period. Susanna was born six months later, in 1583. In 1585 they had twins, a girl and a boy, Judith and Hamnet, their only son.<sup>19</sup> Hamnet died in 1596 at age 11, presumably of the plague.<sup>20</sup> Also, unusual was the fact that Anne came from a family higher in social status – Shakespeare married up. That seems to have been a family tradition. His grandfather, Richard Shakespeare was a tenant farmer who married the Landlord's daughter.<sup>21</sup> And his father, John Shakespeare, was a leather worker and glove maker who married Mary Arden, daughter of a second son of local gentry.<sup>22</sup> John was apparently entrepreneurial and modestly successful in local politics. He was the appointed "Ale-Taster" for the borough in 1557, eventually becoming district Constable,<sup>23</sup> but was later

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<sup>18</sup> See, DAVID STARKEY & PHILIP WARD, *THE INVENTORY OF HENRY VIII: THE TRANSCRIPT*, VOL 1, ed. Alasdair Hawkyard (Harvey Miller London 1998) and DAVID STARKEY & PHILIP WARD & MARIA HAYWARD, *THE INVENTORY OF HENRY VIII: ESSAYS AND ILLUSTRATIONS*, VOLUMES 2 AND 3, (2002 and 2012). Revealing personal data, the detailed inventory included his codpieces, symbols of virility and masculinity, ornate and exaggeratedly large (some big enough to use as pockets, a place to put jewels, or even small weapons) and his suits of armor. In 1514, a 23-year-old Henry was 6-foot-1 with a 32-inch waist and 39-inch chest. Twenty-five years later, Henry had another suit of armor made with a 51-inch waist and 54.5-inch chest. The inventory details a bowling alley 200 feet long built in Hampton Court Palace. (Three times longer than the standard today.) His estate held a wide variety of musical instruments (most of which he played himself) including 20 recorders, 19 viols, two clavichords and four sets of bagpipes, one of which was made of purple velvet with ivory pipework. He owned twelve pair of black silk hose, an ebony chessboard, and seven tennis rackets. He had a large collection of animals including ferrets, falcons, hawks and other birds, dozens of dogs with more than 60 dog leashes some highly decorated, and one marmoset.

<sup>19</sup>BRYSON, *supra* note 2, at 39-42.

<sup>20</sup> Presumably, because from surviving records we know there was plague in 1596 and we know that is when he died, but we can't know if plague was his cause of death.

<sup>21</sup> CHARLES ISAAC ELTON, *WILLIAM SHAKESPEARE: HIS FAMILY AND FRIENDS* 110-112 A. Hamilton Thompson ed. (John Murray London 1904 as reprinted by Kessinger Publishing).

<sup>22</sup> Primogeniture was the nearly universal default. (See discussion page 14-15 and note 57.) A second son carried much less status but there was also the possibility that due to an unexpected death the 'spare heir' would be called into service. An even greater possibility in times of plague, marrying a second son could result in an unexpected elevation in social status. Mary's father was Robert Arden, a second son, but the Arden name came with significant social capital since his family lineage could be traced back to the Domesday Book, a great record of properties compiled for William the Conqueror in 1086. Robert's will is dated November 24, 1556, and he died only a few weeks later on December 9, leaving his two daughters his household goods "moveable and unmoveable". He left Mary an estate in Wilmcote, "the crop upon the ground, sown and tilled as it is" including a house and farm on four acres with rights to pasture on about fifty acres of the common fields and livestock - horses, sheep, pigs, "bees and poultry". His widow, not Mary's mother, was entitled to a common law life estate in their primary home, but he left a cash bequest to her to be reduced by half if she did not allow his daughters to share that home as well. ELTON, *id.* at 119-122. Unfortunately, John Shakespeare, encountered financial difficulty and eventually sold his wife's property off, piece by piece to sustain his own growing family. GREENBLATT, STEPHEN. *WILL IN THE WORLD – HOW SHAKESPEARE BECAME SHAKESPEARE* at 58-62, 85 (New York: W. W. Norton & Company Inc. and London: W. W. Norton & Company Ltd., 2004) hereinafter GREENBLATT, *WILL IN THE WORLD*.

<sup>23</sup> An Ale-Taster ensured that bakers and brewers furnished wholesome goods at or under the statutory price. The Constable's duty was to keep the peace and including posting local citizens to a night-watch, arresting 'night walkers' or vagabonds, putting beggars in the stocks, preventing such "unlawful games as bowling, dicing, tabling, carding, or tennis, except at Christmas" or by those who held land that generated £100 or more a year. Those wealthy landholders and their guests had license to engage in such games at any time. ELTON, *supra* note 21, at 78-80.

accused of serious financial indiscretions, including unlawful wool trading and usury.<sup>24</sup> He was fined more than once for failing to attend required church services.<sup>25</sup> Eventually he stopped holding public office and was widely assumed to be near bankruptcy. But he maintained a reasonably comfortable life for William and his siblings<sup>26</sup> during their childhood.

### **III. ACT II**

#### **A. Scene 1, Work is Life**

As an adult, Shakespeare wrote and produced plays, owned interests or profit shares in several theaters, published plays and poems for sale, acted in his own plays and those written by others, and was commissioned by both Elizabeth I and James I to produce and perform at Court. One of King James' first acts was to grant Shakespeare's company a royal patent to perform at court creating The King's Men.<sup>27</sup> For the next 13 years, they would perform for King James 187 times – more than all the other licensed acting troupes combined.<sup>28</sup>

Although almost never at home, Shakespeare was busy and very successful in his own time. There are references to his work in the royal archives and by other authors of his day. Litigation brought by another theater owner suggests jealousy among his competitors. There is at least one case of someone else publishing his work without his consent.<sup>29</sup> Famous in his own time, scholars, authors, poets, and playwrights referred to his work or quoted him often, despite media being limited to pamphlets, folios, or attendance at a live performance. He was the object of literary criticism even early in his career.<sup>30</sup>

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<sup>24</sup> BRYSON, *supra* note 2, at 32-36.

<sup>25</sup> GREENBLATT, *WILL IN THE WORLD*, *supra* note 22, at 61-62. See also, JESSIE CHILDS, *GOD'S TRAITORS: TERROR AND FAITH IN ELIZABETHAN ENGLAND* 45-46 (eBook, Vintage Digital 2014), discussing Shakespeare's father John not attending service and citing "fear of prosecution for debt" as reason.

<sup>26</sup> According to the records of the Shakespeare Birthplace Trust, John and Mary Shakespeare had eight children. Of the four girls, only one, Joan, survived to the age of majority; she is also the only child to have outlived William. Of the four boys, William, Gilbert, Richard, and Edmund, all survived to become adults, but the only one who ever married was William. Sadly, all three of his brothers predeceased him. [William Shakespeare's Family](#)

<sup>27</sup> JAMES SHAPIRO, *YEAR OF LEAR-SHAKESPEARE IN 1606* 21-26 (Simon & Schuster 2015) hereinafter SHAPIRO, *YEAR OF LEAR*.

<sup>28</sup> BRYSON, *supra* note 2, at 134.

<sup>29</sup> *The Passionate Pilgrim* (title cleverly adopted from *Romeo and Juliet* when the lovers first meet) was an anthology of 20 poems, attributed to W. Shakespeare on the title page. Published by William Jaggard in 1599, only five of the poems are confirmed as Shakespeare's: two sonnets later published in a 1609 collection entitled *Shakespeare's Sonnets* and three poems from the play *Love's Labours Lost*. Five of the poems were later published attributed to other authors! But the volume sold, so Jaggard published a later edition and added poems known to be by Thomas Heywood, including some he himself had previously published as Heywood's. The book also contains poems by Richard Barnfield, Bartholomew Griffin, Christopher Marlowe and Sir Walter Raleigh. Frustrating as it may have been to see his work published without his consent, including poems not his, and without compensation, there wasn't much Shakespeare could do about it. In Elizabethan England, publishers, not authors, held copyrights. Jaggard published *The Passionate Pilgrim* early in his career. He was clearly driven by economics. Law dictated he could charge no more than a penny for every two sheets of text, and he knew Shakespeare's name would sell his book when others might not. So, the volume began with four of the five poems that were truly Shakespeare's. A buyer flipping through the first pages would recognize the quality. Jaggard padded the book by printing text on only one side of the paper and with liberal margins to increase its lawful price. For good measure, he sold the book at William Leake's bookshop instead of his own. Leake owned rights to *Venus and Adonis*, which really was Shakespeare's work and was in its fifth edition, so the books were displayed side by side – a marketing ploy that worked. The first edition sold out quickly, as did a second edition before the year's end. Jaggard later atoned for his sins by participating in production of the First Folio in 1623. JAMES SHAPIRO, *A YEAR IN THE LIFE OF WILLIAM SHAKESPEARE: 1599* at 188-192 (HarperCollins Publishers 2005) hereinafter SHAPIRO, *YEAR IN THE LIFE*.

<sup>30</sup> See BRYSON, *supra* note 2, at 83-85, describing a pamphlet entitled *Greene's Groat's-Worth of Wit, Bought with a Million of Repentance* published in 1592. Greene, a university graduate from a humble background, described as a "wastrel and a cad" referred to Shakespeare as "an upstart crow, beautified with our feathers, that with his Tiger's heart wrapped in a Player's hide ... is in his own conceit the only Shake-scene in a country." Soon after, Greene's publisher, Henry Chettle, offered an apology of

We quote him today because his work endured. He was an amazingly successful, literary rockstar.<sup>31</sup> His family business, comprised of theatrical production, publication and acting, was thriving *but it was not a business his wife and daughters could continue*. A baker's widow might bake bread. A woman could tend a family's garden or even some livestock, but Shakespeare's widow and his daughters would never be allowed to carry on his theatrical businesses in an era when boys still played the women's roles on the stage.<sup>32</sup> No wonder then that so many of his plays include issues arising from succession.

## **B. Scene 2, Plague<sup>33</sup>**

Plague in the late 1590s left many widows and orphans in a country racked by poverty and made worse by an economic recession caused by politics, the uncertainty of succession because Elizabeth I was past the age of childbirth, and by spiraling labor shortages caused by repeated surges of plague across the country.<sup>34</sup> The four decades under Elizabeth are often referred to as a 'Golden Age' but it is doubtful the population then would have seen it that way. In addition to continued tension regarding the ultimate succession of Elizabeth's crown, skirmishes and rebellions in Scotland, and Catholics who persisted in claims that she should never have been put there in the first place, the frequent epidemics and plague had a terrible impact on society.

When plague would sweep through a district, there were not enough farmers to work the fields, so there was not enough food and other shortages, leading to rampant inflation. By 1597, the average wage was less than a third (in real terms) of what it had been a century before.<sup>35</sup> People weakened by poverty, malnutrition, and stress were susceptible to more frequent surges of illness and more likely to die, leading to further shortages of labor.<sup>36</sup> Despite a woman on the throne and the labor shortages, women were still excluded from the economic life of the country. Shakespeare's surviving family, a wife and two daughters, could not run his thriving business in theater arts and would undoubtedly face economic hardship should he die suddenly.

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"radiant humility and abjection". But then, as now, it seemed bad publicity was better than no publicity. (Greene also criticized Christopher Marlowe accusing him of atheism – a serious charge in that time.) See also GREENBLATT, WILL IN THE WORLD, *supra* note 22 at 212-215.

<sup>31</sup> "A young man from a small provincial town – a man without independent wealth, without powerful family connections, and without a university education – moves to London in the late 1580s and, in a remarkably short time, becomes the greatest playwright not of his age alone but of all time. His works appeal to the learned and the unlettered, to urban sophisticates and provincial first-time theatergoers. He makes audiences laugh and cry; he turns politics into poetry; he recklessly mingles vulgar clowning and philosophical subtlety. He grasps with equal penetration the intimate lives of kings and beggars; he seems at one moment to have studied law, at another theology, at another ancient history, while at the same time he mimes the accents of country bumpkins and takes delight in old wives' tales ... Not only did Shakespeare write and act for a cutthroat commercial entertainment industry; he also wrote scripts that were intensely alert to the social and political realities of their times. He could scarcely have done otherwise: to stay afloat, the theater company in which he was a shareholder had to draw some 1,500 to 2,000 paying customers a day into the round wooden walls of the playhouse, and competition from rival companies was fierce." GREENBLATT, WILL IN THE WORLD, *supra* note 22 at 11-12.

<sup>32</sup> BRYSON, *supra* note 2, at 78.

<sup>33</sup> Shakespeare's plays provide insight into many aspects of daily life in his age, and especially, interesting perspectives on succession. But there are no plots built upon or even descriptions of plague. He doesn't shrink from horror - victims of rape and domestic violence, war, and ambition stagger on stage to die. Throats are slit, eyes are gouged, bodies are hanged and beheaded but there are no depictions of plague. Even a mention is rare. This shouldn't surprise us. It is bad for business to remind an audience, already packed tightly together in a theater, of the risks and effect of contagious disease: businesses shuttered, movement restricted, families imprisoned at home to survive, or not, with what is on hand. Traumatizing then, as now.

<sup>34</sup> A nasty cycle that, unfortunately, seems familiar to us since our modern plague began in 2020.

<sup>35</sup> BRYSON, *supra* note 2, at 117-118.

<sup>36</sup> Alan D. Dyer, *The Influence of Bubonic Plague in England 1500-1667*, 22 MEDICAL HISTORY 308-26 (1978). [The influence of bubonic plague in England 1500-1667. - PMC \(nih.gov\)](#).

So, it seems more than a coincidence that in May of 1597, nine months after losing his only son, Shakespeare bought his first real estate asset, an estate in his hometown, Stratford-on-Avon. Described as the ‘second largest dwelling in the town’, the Shakespeare’s new estate was brick, had ten fireplaces, large gardens, and grounds including a secondary cottage, two barns, and an orchard.<sup>37</sup> Following that, he bought another cottage and plot of land directly across the road (perhaps to house servants or a manager). He had never owned a home before, but this was much more than a starter home. This was an estate that could provide stability, sustain more than just his immediate family, generate income, and food.<sup>38</sup> He also invested the money and time to apply for and obtain a coat of arms for his father, which would eventually pass back to him as the eldest son. Once secured, men in his family now had those privileges reserved to “gentlemen”.<sup>39</sup>

### **C. Scene 3, Family Business and Succession**

Next, Shakespeare entered a partnership that took a 31 year ground lease and built a new theater, the Globe,<sup>40</sup> constructed of materials “salvaged” from a prior venture which lease had expired.<sup>41</sup> He made a second investment with some Globe partners in a more modern and smaller but luxurious theater, in a better neighborhood, Blackfriars, that became very profitable.<sup>42</sup> These new ventures were structured to provide income from the performances, even if he wasn’t performing in them. He acquired 107 acres of tenanted farmland north of his Stratford property for £320. Later, in 1605, he purchased a 50 percent interest in production tithes of crops in three neighboring villages for £440.<sup>43</sup> Eventually he bought a London property, the Blackfriars Gatehouse in 1613, apparently only as an investment, continuing to rent rooms for himself when he was in London. He named three of his colleagues to hold a deed in trust on that house.<sup>44</sup> Gradually, he shifted his resources to long term real estate investments held in entities that would pay income even if he were no longer there to write, produce, and act. *Shakespeare reallocated his assets to better sustain his family of females.*<sup>45</sup>

Perhaps this was mere coincidence. It is possible Shakespeare didn’t really think about things in terms of the succession of his family business. We don’t really know what he thought about. Based on his writing, we can’t be certain if he considered his own legacy or preservation of his family business. The plots of his plays

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<sup>37</sup> BRYSON, *supra* note 2, at 121.

<sup>38</sup> Until this purchase, Anne and his children lived with his parents, his siblings, and their children. Then, as now, plague and quarantine made less crowded living spaces desirable. In addition to being able to raise their own food and generate income, this home provided his family with a place to live that allowed social distancing - a true luxury in that time.

<sup>39</sup> BRYSON, *supra* note 2, at 122.

<sup>40</sup> CATHARINE ARNOLD, *GLOBE – LIFE IN SHAKESPEARE’S LONDON 171-178* (Simon and Schuster 2015).

<sup>41</sup> The old theater was dismantled on its previous site and spirited away between Christmas and the New Year in 1598 to the fury of Giles Allyn who owned the land. Allyn planned to take advantage of the death of James Burbage in 1597, assuming his sons, Richard, and Cuthbert Burbage, would not be able to raise funds to dispute the rights to the materials or to move them. By default, the theater would remain in his possession when the lease was cancelled. But they proved surprisingly resourceful. A lawsuit ensued. The defendants, including the Burbage brothers and other members of the venture (most of the Lord Chamberlain’s Men) had invested a considerable amount of money into the project. They eventually prevailed but were not free from the nuisance of pending litigation until 1602. ARNOLD, *id.* at 171-173; BRYSON, *supra* note 2, at 124-126.

<sup>42</sup> ARNOLD, *supra* note 40, at 231-233.

<sup>43</sup> BRYSON, *supra* note 2, at 128.

<sup>44</sup> Blackfriars Gatehouse was a well-known Catholic safehouse near Blackfriars Theater (a damaged reputation may have made it more affordable). As trustees for this transaction, Shakespeare named William Johnson, owner of London’s infamous Mermaid Tavern, a meeting place for the gunpowder plot conspirators, SHAPIRO, *YEAR OF LEAR*, *supra* note 27, at 117 and authorities cited therein at 328-329, to serve with Thomas Pope and John Heminges. BRYSON, *supra* note 2, at 151.

<sup>45</sup> SHAPIRO, *YEAR OF LEAR*, *supra* note 27, at 8.

are taken from history or legend and contain no suggestion that they are autobiographical. But from them, we do know he thought a great deal about succession – even if not his own. Plot lines related to the transition of wealth and power are present in half of his plays. To put that in perspective, of the thirty-nine<sup>46</sup> plays that we have, nineteen include some issue of succession or transfer of power. And in many of these plays, Shakespeare looks at inheritance as a lens into human morality, a lens that magnifies questions about the meaning of inheritance and the obligations of an heir.<sup>47</sup>

In fact, succession was a predominant and overriding theme during the two decades that Shakespeare wrote, produced, and acted in the English theater. Politics, religion, government, business, and art were irrevocably intertwined. Transfer of assets and power were critical concerns that made being a writer tricky. People were interested in and focused on succession, but it was a capital offense to speculate about the death of a monarch or succession of the crown and all the players of the age, including Shakespeare, were dependent upon the patronage of that crown.<sup>48</sup> It is a testament to his genius that he was able to write about succession in a time so politically fraught, producing successful works that were widely embraced, merely by changing the time and geography.

Lucky for us that he was so good at it. Some authors of his day were severely punished up to and including being put to death for the treason of imagining the death or overthrow of the sovereign.<sup>49</sup> Remarkably, despite

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<sup>46</sup> At least two plays are known to have existed but are lost to history. Some scholars say only 38; even this isn't certain. A play published anonymously in 1596 titled *The Raigne of King Edward the Third*, commonly shortened to *Edward III*, is attributed to Shakespeare and another as a collaboration. It is not in the First Folio, but its publication survived as an original Quarto. The co-author remains a mystery despite much speculation. The publisher was Cuthbert Burbage, one of Shakespeare's partners in the theaters. It contains material derogatory to Scotland and is assumed to have been left out of the First Folio in deference to King James who granted the Royal Patent to the Kings Men. Possible collaborators are Thomas Kyd, Christopher Marlowe, Michael Drayton, Thomas Nashe or George Peele. Some historians think Shakespeare collaborated with Christopher Marlowe on the Henry VI plays. There are also a few plays from Shakespeare's day which have remained completely unattributed but upon which some scholars think he collaborated. ERIC SAMS, *SHAKESPEARE'S EDWARD III: AN EARLY PLAY RESTORED TO THE CANON* (Yale University Press 1996) and WILLIAM SHAKESPEARE, *KING EDWARD III ARDEN SHAKESPEARE THIRD SERIES*, 58-60 John Proudfoot & Nicola Bennett ed. (Bloomsbury 2017).

<sup>47</sup> KATHERINE UHLIR, [Inheritance in Shakespeare](#) (21 July 2016) from website of [Shakespeare Birthplace Trust](#).

<sup>48</sup> The Treasons Act 1571 (13 Eliz. c.1), issued by Parliament during the reign of Elizabeth I, restored provisions of the Treasons Act 1534, passed during the reign of her father, Henry VIII, then repealed by the Treason Act 1547, during the reign of her half-brother, Edward VI. It was high treason to intend bodily harm to the Queen, levy war against her, or incite others to levy war against her, say that she ought not to enjoy the Crown, publish in writing that she was a heretic, tyrant or usurper, claim a right to the Crown, or usurp it during the Queen's life, assert that someone else has right of succession to the throne, or say that laws of Parliament do not govern the succession to the throne. That remained the law for nearly 300 years, until the Statute Law Revision Act of 28 July 1863. And under the Succession to the Crown Act of 1707, it was treason to say that Parliament did not control succession until 1967. Estate planners note that the wording of section V of the Treasons Act of 1571 describing the legal line of succession, abandons the term "heirs of the body" in favor of the phrase "natural issue" to refer to the monarch's heir to the throne. "That any one particular person, whosoever it be, is or ought to be the right heir and successor to the Queen's Majesty that now is (whom God long preserve) except the same be the natural issue of her Majesty's body." Scholars suggest this was meant to include any illegitimate child, or "natural issue", born to Queen Elizabeth I, as legal successor to the monarchy. As recently as 2016, debate continues but most agree the change was meant to prevent a crisis of succession. David P. Gontar, "*Stand Up for Bastards*": *Natural Issue in the 1571 Act of Parliament, 13 Eliz., c. 1*, *NEW ENGLISH REVIEW* (March 2016). "[Stand Up for Bastards](#)": [Natural Issue in the 1571 Act of Parliament, 13 Eliz., c. 1 – New English Review](#); see also, J. D. TANNER, *TUDOR CONSTITUTIONAL DOCUMENTS, A.D. 1485-1603*, 413-417 (University of Cambridge Press 1922).

<sup>49</sup> John Hayward - civil servant, lawyer, historian and author complained to the Prince of Wales in 1612, "men might safely write of others in manner of a tale; but in manner of a history, safely they could not: because, albeit they should write of men long since dead, and whose posterity is clean worn out; yet some alive, finding themselves foul in vices they see observed, reprov'd, and condemned in others, their guiltiness maketh them apt to conceive, that, whatsoever the words are, the finger pointeth only at them". JOHN HAYWARD, *LIVES OF THE III NORMANS, KINGS OF ENGLAND: WILLIAM THE FIRST, WILLIAM THE SECOND, HENRIE THE FIRST* (London 1613) (Rare Books Club 2013). Hayward had cause to complain. In 1599, after interrogation in the Star Chamber, he was sent to the Tower by Elizabeth I for writing sympathetically about Richard II's abdication in *The First Part of*

having staged Richard II only days before the failed coup of Robert Devereaux, Earl of Essex, and despite an investigation of the Lord Chamberlain's Men regarding that production (or perhaps because of it), they were summoned to play before the queen at Whitehall on the very day she signed Essex's death warrant.<sup>50</sup>

All eleven history plays address succession and the transfer of power and wealth<sup>51</sup> and many of the tragedies. *Anthony and Cleopatra*, *Julius Caesar*, and *Coriolanus*, are obvious examples. In *Hamlet* and *Macbeth* power is seized through violence and assassination. In *The Tempest*, in a coup, the usurper seizes power and the deposed admits his own poor governance was his undoing - he put a deputy in place and chose poorly. (In family business terms - poor judgment facilitated a hostile takeover.) In *Measure for Measure*, a Duke passes power to an agent, doesn't like how the power is wielded, so works against him - demonstrating the importance of care in choosing a successor. (Today, if an executor or trustee takes over the business and runs it improperly, a lawsuit rather than a coup is likely to result but might still be very costly.) There is a coup in *As You Like It*. The plot in *Cymbeline* is driven by the demands of a father who has lost his sons, and so his only daughter must marry the right person to produce an acceptable successor. Then, there is the most obvious of all the tragic stories of succession, *King Lear*, a powerful monarch with no obvious successor (no son), who makes an intervivos transfer of control to his daughters that goes horribly wrong.

#### **D. Scene 4, When Heirs Aren't Apparent (or Worthy)**

In the beginning of the play, Lear is aging. We suspect he knows his mind is going. Certainly, his family and friends talk about him as if they know but with no open acknowledgment of this and no attempt to address it. **Mistake.** Retaining the name "and all the additions to a king," he divides his kingdom.<sup>52</sup> His two older daughters and their husbands get their inheritance now but are expected to care for him and his men. He assumes they will cheerfully allow him to continue to enjoy the assets for his personal use even after he has given them full control. **Mistake.** And the size of the share that each daughter will receive depends not on her ability, intelligence, or resourcefulness to carry on the business of the kingdom, but on the flattery, declarations of love, and sycophancy each offers him. **Big mistake.**

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*the Life and Reign of King Henry I.* This error in judgment was compounded by having dedicated the work to the Earl of Essex, Robert Devereaux, who later staged a coup to overthrow Elizabeth. It failed. Devereaux was arrested, Elizabeth signed his death warrant on Shrove Tuesday, 1601, and he and six supporters were executed the next day. Hayward remained in prison until Elizabeth died in 1603. BRYSON, *supra* note 2, at 129-131. Shakespeare alone, of the playwrights of his day, avoided major confrontation with power. Innocent, Thomas Kyd was broken on the rack, Ben Jonson was imprisoned for his role in the *Isle of Dogs*, and many believe Christopher Marlowe was assassinated by government agents. SHAPIRO, YEAR OF LEAR, *supra* note 27, at 126-127.

<sup>50</sup> This moment is depicted in a modern play, *Elizabeth Rex*. Elizabeth, waiting for the execution at dawn of Essex, to whom she was close, has summoned the Lord Chamberlain's Men to perform (as diversion or warning). Fearing riots in reaction to the execution, a curfew is imposed. The players must remain in the castle overnight where the queen visits them. Speaking to a young man who plays the women's parts, she reveals how she struggles with her emotions, having to conceal her passions, behave as a man, and remain unmarried so she can govern. The actor, says he must act like a woman to succeed on the stage and conceal his passions since, being gay, his love is forbidden. He is dying of syphilis but mourns the soldier he loved who infected him and wants his sorrow acknowledged. Elizabeth hides her sorrow refusing to mourn Essex to avoid appearing weak. Sharing the challenge of gender: monarch and actor each struggle against their true nature and adopt the opposite gender's traits to succeed. Poignantly, Elizabeth says to the actor, "if you will teach me how to be a woman, I will teach you how to be a man." An actor playing Shakespeare hangs in the shadows making notes as they speak in lines from his plays. TIMOTHY FINDLEY, *Elizabeth Rex* (2000).

<sup>51</sup> Ten history plays in the first folio are: King John; Richard II; Henry IV Part 1 and Part 2; Henry V; Henry VI Part 1, Part 2 and Part 3; Richard III; and Henry VIII. The eleventh history play is the collaboration, Edward III. See note 46.

<sup>52</sup> WILLIAM SHAKESPEARE, KING LEAR, act 1, sc. 1. Come not between the dragon and his wrath. I lov'd her most and thought to set my rest on her kind nursery...Cornwall and Albany, with my two daughters' dowers digest this third; let pride, which she calls plainness, marry her. I do invest you jointly in my power, preeminence...Ourself, by monthly course, with reservation of an hundred knights, by you to be sustain'd, shall our abode make with you by due turns. *We still retain the name, and all additions to a king.* The sway, revenue, execution of the rest, Beloved sons, be yours, which to confirm, this coronet part betwixt you.

Lear's older daughters are married to the Dukes of Cornwall and Albany.<sup>53</sup> His third and youngest daughter, Cordelia, is engaged – her share will be her dowry. Lear says he is ready to relinquish the income and responsibilities of office but not his title. He divides his kingdom assuming his daughters and the powerful men they married (or will marry), will maintain him in his lifestyle as a King. To decide who will rule the best parts of the kingdom, he calls the family together and explains the division will be based on how much they love him (clearly, a red flag for competency). The married daughters, Regan and Goneril, each profess love in flattering, flowery, even ridiculous terms. But Cordelia says only that she loves him as much as she should. She points out that her sisters have husbands and cannot be speaking truthfully if they say all their loyalty and affection goes to their father.<sup>54</sup> This infuriates Lear. He cuts Cordelia out completely and divides her share between her sisters splitting the kingdom into two, not three, shares. (Any experienced planner can verify that a 50/50 split of a business, with no mechanism for breaking a tie, is also a mistake.) With no dowry, Cordelia's suitor disappears. (Happily, the powerful King of France is impressed by her virtue and marries her anyway despite her sudden impoverishment.)

Lear said he intended to divide his time between his two older daughters, and duly arrives with his retinue to stay with the first. She takes him in but decides he is too expensive and reduces his lifestyle dramatically. They quarrel, he curses her and goes to the second daughter who also spurns him. The sudden access to significant power and sibling rivalry leads to corruption and creates a power vacuum that destabilizes the country. Lear finds himself homeless and destitute, in a metaphorical and literal storm. Cordelia, the French King, and his army will eventually come to the rescue but have not arrived.

There is a second plotline in the play delivering the same lessons. Lear's old friend and advisor, the Earl of Gloucester has two sons. One is his legitimate heir, the other is a bastard (by birth and by temperament) who plots to undermine his legitimate brother. He persuades Lear's daughters that his father and brother have sided with Lear and the French. This is the only tragedy in which Shakespeare uses a "mirror plot" so nearly identical to the main plot. The duplicated and unexpected treachery of sons and daughters dramatically emphasizes the main theme of thankless children.<sup>55</sup> The rivalry between Gloucester's sons stems from the fact that only one is legitimate. It is tempting to draw a parallel between the son born out of wedlock and a daughter - neither is supposed to inherit. But Shakespeare sends us another direction when Lear considers whether evil arises from nature or nurture, an ancient question with strong arguments on either side.

The same concerns still arise in family business successions today. Ultimately, Lear, Gloucester, and all parents must accept that they are responsible for genetic material, the home environment, and the education of their children. Whether by nature, nurture, or both, children get their character, values, and business acumen from the parents who raised them. Spoiler alert: in *King Lear*, this does not end well. Predictable in a Shakespearean tragedy, nearly everyone dies. But consider how by taking further lessons from Shakespeare, and with better business planning, Lear, or anyone might pass a family business down more effectively.

### **E. Scene 5, An Exit is Inevitable**

A primary truth to accept from the start is that an exit comes for every business owner. Shakespeare constantly reminds us that we are mortal. Planned or unplanned, by death, disability, sale, or dissolution, eventually

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<sup>53</sup> *Lear* was written and produced under James I for whom unification of the kingdoms of Scotland and England was a primary goal. James gave his sons, Henry and Charles, the titles of Duke of Cornwall and Duke of Albany, the same titles Shakespeare chooses for the husbands of Lear's daughters. "While it may have pleased King James to hear a Scot take command (for that was Albany's original kingdom and James himself held that title), the widowed and childless Albany offers little prospect for renewal of the kingdom." SHAPIRO, YEAR OF LEAR, *supra* note 27, at 302-303.

<sup>54</sup> SHAKESPEARE, KING LEAR, act 1, sc. 1. "You have begot me, bred me, loved me. I return those duties back as are right fit - obey you, love you and most honor you. Why have my sisters husbands if they say they love you all? Happily, when I shall wed that lord whose hand must take my plight shall carry half my love with him, half my care and duty. Sure, I shall never marry like my sisters, to love my father all."

<sup>55</sup> SHAKESPEARE, KING LEAR, act 1, sc. 4. "How sharper than a serpent's tooth it is to have a thankless child."

every founder of every business will exit. And for many founders, the business they have created and that sustains them is very much like another child. We don't wait for children to need one before we give them an education. Neither should a business owner wait until he needs one to create an exit strategy. Even if an owner assumes from the beginning that a business will be sold rather than handed down to family, an exit plan is important. When investing in private equity, a standard step is to examine the exit strategy. Buyers don't want a business that is so owner dependent it will likely fail if the founder is no longer there to keep it healthy.

When an owner intends to rely on the business to support a comfortable retirement, an objective analysis must include whether the owner has other resources. If 80 or 90 percent of a family's wealth is tied up in a single enterprise and the owner becomes disabled, is forced out sooner than expected, or dies, the business may die too. Key employees may present a similar risk. Lear's kingdom might not have disintegrated as quickly if Gloucester, the longtime trusted advisor, had not been undone at the same time. But successful founders are often alpha personalities who find it hard to accept that other key relationships are important to a successful transition. Good planning requires examining all the important relationships: employees, vendors, customers, family, and then creating redundancies to avoid the chaos created by the loss of any key person. The sudden loss of a major customer or major supplier can wreak as much havoc as the loss of the founder.

Often in Shakespeare, and in life, succession creates unnecessary and toxic drama in a family. Assumptions that all the children will want or be suited to run the family business are dangerous. For an alpha founder, it may be difficult to separate the components of a business but doing so provides clarity. It is easy (and not binding) to ask family members what they want but few seem willing to do so. And some, like Lear, don't like the answers. But realistically, desire does not equal ability and lack of planning often leads to litigation. Some planners suggest breaking the business into components to consider what to transfer and use an agricultural analogy. Will you relinquish control (the rancher)? Do your children want capital (the pastures)? Who will have the income (the cattle)?<sup>56</sup> For some families this is a useful exercise.

In every case, for a successful transition, clients must clear the emotional hurdles associated with their business. They should make a cash flow analysis and get valuations to know exactly what they have. An owner may want to give the business to children but need to sell instead to provide retirement income. Plans should consider what makes the most sense for the founder, the family, and the business (Lear apparently gives no thought to the fate of his subjects) but remain flexible because control of timing can be lost at any point. To accomplish this, good corporate governance that formalizes decision making is critical. Early in a business, the owner will set the vision and values and make decisions that reflect those, but every business needs a Board of Directors and trusted advisors. This should be a real board – not sycophants, puppets or people not qualified to give solid advice. The sooner in the lifespan of the business a Board is put in place, the better, as it allows the company's vision and values to be recorded, progress toward goals to be measured, and creates consistent processes for accountability and decision making.

Business planners should advise an owner to consider all these steps early in the process: (1) Choose one or more people to succeed the founder and groom them; (2) Plan carefully to empower the owner to choose the timing; (3) Prepare for possible unplanned succession; (4) Evaluate the most optimal terms for owner exit for the family and for the business. Redundancies can be expensive but provide strength and allow a business to address unplanned challenges. Only when goals are clearly established, and enough information gathered should tax efficiency become a priority. It is rarely a smooth transition if taxes are the starting point.

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<sup>56</sup> The list of novels, films, musicals, operas, and other art forms that borrow from Shakespeare numbers in the thousands and continues to grow. *King Lear* lends itself to farm and ranch scenarios. Examples: The novel, *A Thousand Acres*, by Jane Smiley, winner of the Pulitzer Prize for Literature in 1992, is the story of a wealthy farmer in Iowa who passes his farm to his three daughters. When the youngest objects, she is cut off, setting events in motion that reveal dark family secrets of justice and pride. It was made into a film in 1997. *King of Texas* (2002) is a film set in the days of the Republic of Texas, in which a wealthy cattle baron (played by noted Shakespearean actor, Patrick Stewart) divides his ranch among three daughters. And in 1985, the film *Ran* retells *King Lear* as a Japanese War Lord handing off his estate to his three sons.

Now, consider these steps in the light of Lear's mistakes. **First mistake:** as the play begins, Lear and his daughters acknowledge that he is old and feeble, isn't himself, and isn't being rational. But greed overcomes any concern that he is not competent to make decisions. Neither a business owner nor a monarch should wait until he is no longer able to run his business before beginning the process of planning a transition. A poorly planned and hasty transition to children unprepared to assume responsibility is almost guaranteed to fail. Of course, a King doesn't hire an interim manager or send his children to monarch school when they are adults. But a modern business owner can consider various options to plan a smooth transition, years or even decades before he or she can no longer function effectively to run the business.

**Second mistake:** Lear hands off all control and all the assets immediately assuming his daughters will spend whatever is needed so he may continue the standard of living he enjoyed when he was in charge. But with no specific agreement in place, the first time a daughter finds it inconvenient, she reduces her father's resources, then again, until he is penniless and homeless. Lear assumed that despite having transferred all his assets to his daughters, he could continue to use those resources as he had before. The outcome might have been better had the transition been made gradually, the recipients properly prepared to accept new responsibilities and contractual agreements made as to what Lear would retain.

**Third, and perhaps the worst mistake:** Despite his "family business" requiring experience, diplomacy, discipline, wisdom, and strength, Lear hands his kingdom to his daughters based solely on their willingness to say what he wants to hear. In any business, large or small, leaders should avoid sycophants. All parties, the founder, and next generation, should find capable advisors, learn to listen, and to accept constructive criticism. Neither an ancient kingdom nor a modern business is benefitted by "yes" men. Neither should skimp on the development of expertise, or the skills required for the next generation to succeed.

The best transitions are planned well in advance, when a founder is still strong and capable, can make a thoughtful, strategic long-term plan, and ensure it is communicated and agreed to by all in advance. Those who will receive responsibility for any part of the business should possess the necessary skills and character traits and/or be trained to meet the challenges assigned to them. Parents need a realistic view of children's capabilities and their ability to work together. Ideally, they will first work in the business under the supervision of the founder. Family dynamics matter and planners must acknowledge the deep cultural biases that shouldn't, but often remain in modern society.

The most common of these is primogeniture<sup>57</sup> which evolved to prevent the subdivision of estates. The earliest example is the Old Testament story of Isaac's sons Esau, born first, and Jacob, who was born second. Esau was entitled to the "birthright" but sold his right to Jacob for food.<sup>58</sup> Although examples are found from ancient Egypt to modern day Japan, our version of primogeniture had its origins in Medieval Europe to keep the estates of feudal lords large and as united as possible to maintain social stability, wealth, and power for ruling families as in monarchies today. In its simplest form, the system was devised to keep a family business together and in the family.

Americans associate it with nobility and title. It is true, in many cultures with a title comes wealth. Perhaps the most famous example is the British Crown Estate, a perpetuity, and an independently managed business

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<sup>57</sup> Primogeniture is when the firstborn inherits a parent's entire estate instead of a shared inheritance between all children. Agnatic primogeniture is inheritance of the whole by the first-born son; matrilineal primogeniture is all to the first-born daughter. Still common in Europe, especially as to inherited titles of nobility, for centuries, nearly all monarchies passed by agnatic primogeniture. First to adopt absolute primogeniture (prize goes to the first born – male or female) was Sweden in 1980, followed by The Netherlands in 1983, Norway in 1990, Belgium in 1991, Denmark in 2009, and Luxembourg in 2011. Also, in 2011, the 16 Commonwealth realms (sovereign states which had Elizabeth II as head of state) announced the Perth agreement which came into effect by legislation on March 26, 2015 – nearly 98 years after women first voted in a UK General Election on December 14, 1918.

<sup>58</sup> Genesis 25:25-34

that belonged to Elizabeth II for the duration of her reign and has now passed to Charles III. Estimated at ~\$14 billion, Elizabeth also had significant personal wealth estimated at more than \$3 billion.<sup>59</sup> (Before her death, she paid annual income and capital gains taxes of about \$500 million.) Each British sovereign since 1740 (George III) has entered into the same agreement to formally surrender hereditary revenues, including the crown estate, to the United Kingdom government, and receive a sovereign grant to fund official duties as monarch. Charles did so on September 10, 2022, just two days after the death of his mother, Elizabeth II. Income taxes are paid but estate taxes are not required on personal assets passed to the next sovereign so most personal wealth follows the Crown Estate. Anything left to anyone else is subject to estate tax – a powerful incentive to continue the tradition and keep as much of the wealth consolidated in the “family business” as possible. (Traditionally, the British monarch also provides some care for the various relations - aunts, uncles, and cousins who might otherwise have been left something independently. This has received a great deal of media attention, recently.)

All the original American Colonies followed English primogeniture laws as a default provision, but most of those were repealed at the time of the American Revolution. Now, some states have a constitutional or statutory prohibition against primogeniture as a default for intestate succession on the books. Of course, an individual can leave assets to anyone they choose by testamentary or intervivos transfer. Although true primogeniture (either agnatic or matrilinear) is rarely encountered in American documents today, various forms of “winner takes all” and gender bias are still common. It is common to see a patriarch leave funds outright to sons and in trust for daughters, allow some descendants to serve as a sole or co-trustee but exclude others, or leave control to a child unfit to run the business but deemed worthy simply because he is oldest. And it is true that equal division between descendants is increasingly favored in the United States but in some families, that may not be best for the business or the family.<sup>60</sup> In Shakespeare’s day, however, leaving assets to anyone other than the oldest - male if there was one - was unthinkable. Even when there was no male heir, women rarely received assets without the governance or supervision of a male relative. Not just in politics, but religious views in his day supported this custom.

There has been a great deal of speculation as to whether he was Catholic, but there are no big themes of religion in Shakespeare’s plays and no direct references to the Bible or the Holy Ghost. However, he uses biblical stories and allusions liberally. That is predictable given the politics of the time; many of the worst implications arising from the succession of power in his day revolved around the tension between Catholic and Protestant monarchs. Being politically savvy, he makes his points by adapting stories already familiar to his audience. In *Macbeth*, he draws an obvious parallel to the original sin of Adam and Eve in the murder committed by Macbeth and his wife.<sup>61</sup> Direct and indirect references to the ultimate sibling rivalry, the struggle between Adam and Eve’s sons, Cain, and Abel, appear twenty-five times in his plays,<sup>62</sup> as when Lear’s daughters and Gloucester’s sons are pitted against one another. Cain, jealous when God prefers Abel’s

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<sup>59</sup> Difficult to appraise a property like Balmoral but the offshore energy portfolio alone was estimated at \$1.4 billion.

<sup>60</sup> Winston Churchill and Franklin Roosevelt met at Placentia Bay in August 1941. Roosevelt told Churchill he didn’t understand British aristocracy’s use of primogeniture; he planned to divide his estate equally between his five children. Churchill explained that equal distribution was nicknamed the *Spanish Curse* by British upper classes: “We give everything to the eldest and the others strive to duplicate it and found empires. While the oldest, having it all, marries for beauty. Which accounts, Mr President, for my good looks.” ANDREW ROBERTS, *MASTERS AND COMMANDERS: MILITARY GENIUSES WHO LED THE WEST TO VICTORY IN WORLD WAR II* at 53. London: Penguin ISBN 978-0-141-02926-9 (2009).

<sup>61</sup> The story of the fall of Adam and Eve, a single page in Genesis, became a major event in the drama of human existence, convenient for those who use the story to claim inherent flaws in females and opening the floodgates to a wave of misogyny in the major faiths swirling for millennia to keep women under control and out of power. This continues in some ways today. *Genesis* 2:15 – 3:19 (King James Version). As an aside, King James was notorious for his misogyny. One assumes this distaste accounts at least in part for the attitude toward women that pervades his version of the Bible.

<sup>62</sup> For example: WILLIAM SHAKESPEARE, *THE FIRST PART OF KING HENRY THE SIXTH* act 1, sc. 3. “Nay, stand thou back, I will not budge a foot: This be Damascus, be thou cursed Cain, to slay thy brother Abel, if thou wilt.”

gift, murders his brother to eliminate the competition. The parallel is unmistakable. Lear bestows his kingdom on the daughters who flatter him most and express the deepest appreciation for his gifts. Lear (and sometimes our clients) stand in the roles of both Adam, the father whose children fight among themselves, and God, withholding approval to cause the rift in the first place.

Not just found in Shakespeare, from the parable of the prodigal son<sup>63</sup> to *Cat on a Hot Tin Roof*,<sup>64</sup> literature explores these themes. The “natural successor” or the most beloved child may also be the most troubled and unaddressed sibling rivalry can be the ruin of a plan. Any experienced planner can provide anecdotes of similar disfunction and sibling rivalry undermining generations of accomplishment to destroy a family business. Clearly, a successful strategy to transfer a business to more than one child must include an honest assessment of each child’s abilities – to run the business and to get along with others. A good planner (and counselor in the true sense of that word) should help clients find a way for each child to bring something to the table, or a plan for those who work in the business to be compensated in a way that is also fair to those who do not. Shakespeare was a genius of the heart, portraying and resolving the effects of ambition, intrigue, love, jealousy, and rejection. As estate planners, we can only approach such problems with practicality, accept that the emotions exist, that kids may equate money to love, and work out the consequences of those feelings.

Lear did get it right in one respect, if you are going to distribute unevenly, do it during life, *intervivos*. This provides time to resolve disputes and controversy while the grantor is still around. A well-planned lifetime transfer may avoid claims that the testator was incompetent or mistaken. It may also avoid the last message of the testator being interpreted as hurtful. But any document (or family meeting) that disposes of property in a way that disfavors one or more members of a class or generation, risks a legacy of harsh words, and perpetuating rivalry. Ideally, a business planner will help an owner build family harmony in advance – at the dinner table and in the operation of the business. This work to develop the talents of heirs and acceptance of their various roles in the enterprise is a necessary part of a successful business plan. Instead, if possible, a successful interfamily business transition should give children power gradually and keep one or more trusted advisors positioned to supervise and guide them as they learn the business. This may be a carefully chosen Board of Directors, a Trustee, or Trust Protector. (For the aging King Lear - a Board of Regents or Privy Council.) Such advisors can be guided or bound by the terms of written documents. *Thoughtfully prepared*. Again, Lear should not have waited until he was unable to continue before beginning his transition. In the play, he questions himself and his competency to make decisions is questioned even while he is making them.

Shakespeare reminds us that *language matters*. For example, simply telling kids who want candy or a spot in the family business “not yet” instead of “no” may avoid a legacy of resentment. Documents should detail any continued benefits a founder will receive during the transition. Lear should have clearly defined the extent to which his daughters would continue to support him with the wealth they received for benefit of both the short-term and long-term success of his enterprise. An added benefit is that allowing time for transition allows time for tax strategy and for advisors and the children receiving the assets to be taught to think strategically and be educated in the business.

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<sup>63</sup> Luke 15:11-32. A father with two sons agrees when the youngest considered to be *prodigal* (wasteful/extravagant) asks for his inheritance in advance. He squanders it, returns destitute, and begs his father to take him in as a servant. Surprisingly, he is not scorned by his father but is forgiven and his return celebrated. Envious, the older son refuses to participate. He is admonished by his father: "you are ever with me, and all that I have is yours, but thy younger brother was lost and now he is found."

<sup>64</sup> Tennessee Williams’ *Cat on a Hot Tin Roof*, opened in 1955 and won his 2<sup>nd</sup> Pulitzer Prize. It is said to be his favorite work. A larger than life, wealthy, and patriarchal owner of a Mississippi plantation is dying. One son, respectable, compliant, and married with children, pushes for control. The other, a former high school hero struggles with life after football and alcohol. He is grieving, self-destructive, questions his sexuality, and is married to Maggie (the Cat) who comes from poverty. Maggie wants her husband to claim a place in the business. She is angry when he refuses to compete with his brother. Adapted to film in 1958 and again in 1984, Williams did not like either screenplay, reportedly, because the family conflict was toned down. The 1958 version with Burl Ives, Elizabeth Taylor, and Paul Newman received six Academy Award nominations. Billington, Michael, [Cat on a Hot Tin Roof: Tennessee Williams's southern discomfort | Tennessee Williams | The Guardian](#), THE GUARDIAN (US ED), September 30, 2012.

## F. Scene 6, Understand the Parent / Understand the Child

Shakespeare used language to illuminate emotions and character. We are better advisors when we listen - to learn about our clients' values and motivations and to help them share those with descendants and smooth the transitions between generations. A successful business requires constant evolution and innovation. The person a founder is when beginning a business is rarely the same person who transitions the business to the next generation. Growth requires questioning the status quo and hard work to achieve positive change. Choosing successors who told him what he wanted to hear and did not keep their promises was Lear's downfall. He did not see clearly who his daughters and their husbands really were.

That is the essence of *King Lear*. It is a play about blindness, a theme that runs throughout the play – literally and figuratively. One of Shakespeare's "darkest" plays, the ending is far more tragic than it was in the original source material, the legend of an ancient King Leir.<sup>65</sup> Perhaps this was deliberate to make the troubles of Shakespeare's England seem more bearable.<sup>66</sup>

In the early moments of the play, professing love for the King, Goneril says she loves him more than "eyesight, space, or liberty." Cordelia points out how wrong that is, but her sisters and father do not see the logic in her statement. With disturbing violence, Lear's friend and trusted adviser, Gloucester, is deliberately blinded by his evil son and Lear's daughter Regan. Both fathers are blind to the flaws in their children and all the characters are blind to each other's motivations and to the emptiness of power and privilege. Lear wants to live comfortably in old age but cannot see how absolute power, wielded for so long, has warped his relationship with his daughters. He is blind to their faults. Shakespeare speaks of vision and its importance in human interaction as Lear beseeches his blind friend, Gloucester, "...are you there with me? No eyes in

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<sup>65</sup> The original Leir, an ancient king from the dynasty of Brutus of Britain, came to the throne after his father died attempting to fly with artificial wings. GEOFFREY OF MONMOUTH, HISTORY OF THE KINGS OF BRITAIN (~1136). Longest reign of the Geoffrey kings, Leir ruled 60 years in the 8th century BC, near the time of the founding of Rome. He founded Leicester (in ancient Welsh "City of Leir"). The Queen's Men had performed a comedy called *The True Chronicle of King Leir and his Three Daughters, Goneril, Ragan, and Cordella*. Shakespeare often reworked older plays. King Leir also appears in a collection of English Tudor poems by various authors retelling the lives and tragic ends of historical figures. WILLIAM BALDWIN & GEORGE FERRERS, a MIRROR FOR MAGISTRATES (1559). As the title suggests, the poems reflect previous rulers' lives so those in power may learn from past errors. Shakespeare took liberties in his history plays to make better stories, but little is known about Leir. As J. R. R. Tolkien said much later, "some things that should not have been forgotten were lost. History became legend. Legend became myth."

<sup>66</sup> 1606 was a good year for Shakespeare but fraught for his country. Preceded by the narrowly averted Gunpowder Plot on November 5<sup>th</sup>, 1605, an attempt to blow up parliament in session, which could have killed most of England's leaders at one stroke. Foiled at the last moment (powder kegs found in a chamber directly below the House of Lords), some historians believe James' government discovered it sooner but waited to advance an agenda of the state and suppress Catholics alleged to have planted the explosives (suggesting the only thing that galvanizes more than a tragedy is a near tragedy barely averted). England was racked with anxiety over anti-Catholic legislation, the government's search for "recusants," and paranoia arising from "equivocation". Most people genuinely believed that if they lied, they would be damned, so an oath was an accepted means to determine loyalty. But a movement for "equivocation" arose from a Jesuit manuscript suggesting God would forgive a penitent liar. If asked to swear an oath to follow an abhorrent doctrine, the affiant could metaphorically cross fingers behind their back and lie to protect their faith and save their soul. Encouragement, by men of faith, to deceive for a greater good meant no one was certain who could be trusted. "Equivocation" (much like today's "fake news"), contributed to a pervasive state of heightened anxiety throughout the country. Widely discussed by those in power and in prosecution of religious non-conformity, the discovery of an actual manuscript of 61 pages, titled A TREATISE AGAINST LYING AND FRAUDULENT EQUIVOCATION shocked the inner circles of power. Found during his investigation of the Gunpowder Plot by Sir Edward Coke, it was a "how-to guide" setting out four distinct ways to equivocate. Perhaps most shocking: it was found in the library of one of London's four Inns of Court - a professional association for the further education and training of barristers and judges. This chapter in English history and reflections on its long-term impact on the psyche of the population appears in many sources. Perhaps one of the most dramatic was John Milton's obsession. Born in 1608, three years after the plot, he wrote a series of poems on the gunpowder plot when he was young. Decades later, he explored the evil of gunpowder in *Paradise Lost*, describing gunpowder as an invention of Satan meant to be used as a weapon to challenge God's power. It is easy to compare our anxiety over a pandemic, insurrection, and government enforcement of religious values not shared by all people to the fraught politics of London in the year of Lear – 1606. SHAPIRO, YEAR OF LEAR, *supra* note 27, at 120, 133, 156-157.

your head ... yet you see how this world goes.” Gloucester replies, “I see it feelingly.”<sup>67</sup> Despite blindness, he understands how the world works. Losing his power gives Lear insight into his mistakes. Recognizing his shortsightedness, he admits “mine eyes are not the best.”<sup>68</sup> But the ability to see the world as it really is, comes too late. Lear’s last words reference sight, “look there, look there,” a literal command that others see his lost daughter, Cordelia, and a symbolic plea to see the world’s true nature, accurately.<sup>69</sup>

Most planners have had clients who could not or would not see their family members as they are. Even those able to see the flaws in their children are often unable to see how the family dynamic they created or role they played in who their children became. Even with literature as a teaching tool, it is hard for an attorney, counselor, or advisor, to tell a client they are blind to a problem – worse if the client created the problem.

#### **IV. ACT III**

##### **A. Scene 1, The Last of Will and his Testament**

Turning back to Shakespeare himself, revisions made to his will near the end of his life suggest he was disappointed by his own family. Early in 1616, he began to finalize his document with the help of Francis Collins of Warwick, a prominent attorney who had drafted some of his real estate documents years earlier<sup>70</sup>, and may also have been a close friend. (Although the friendship, as with so many other aspects of his life, is just an assumption.) The Will does not match Collins’ usual handwriting; suggesting it was prepared by a clerk. The original month of the first draft, January, has been stricken through. March is written in and there are other interlineations and changes. After the document was prepared in January, Shakespeare and/or Collins made changes before it was signed on March 25<sup>th</sup> of 1616.

We can speculate about reasons for the changes and delay. His younger daughter, the surviving twin, Judith, married on February 10<sup>th</sup> that year, between the dates of the first and final drafts. She was 31 years old, well past the usual age. The groom was a vintner, Thomas Quiney, charged with unlawful fornication. Found guilty the day after the will was signed,<sup>71</sup> he was ordered to pay fines and perform public penance – a significant embarrassment to any family. The complainant in the criminal action, Margaret Wheeler, and her child, died giving birth - a tragic “Shakespearean” end to the scandal. It would be a natural assumption that after announcing their engagement, the “crying of the banns” was what caused Miss Wheeler to come forward, to press her case. Corrections in the will include crossing out the new son-in-law to leave Judith’s specific bequest to her alone and to add restrictions on her marriage portion. (Procedures have changed. Making changes by having someone unknown make interlineations would cause probate issues today.) Shakespeare died less than a month later, on his 52<sup>nd</sup> birthday, April 23, 1616.<sup>72</sup> He describes himself in the document as

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<sup>67</sup> WILLIAM SHAKESPEARE, KING LEAR, act 4, sc. 6.

<sup>68</sup> WILLIAM SHAKESPEARE, KING LEAR, act 5, sc. 3. “Mine eyes are not o’ th’ best. I’ll tell you straight.”

<sup>69</sup> WILLIAM SHAKESPEARE, KING LEAR, act 5, sc. 3. “And my poor fool is hang’d! No, no, no life! Why should a dog, a horse, a rat, have life, and thou no breath at all? Thou’lt come no more, never, never, never, never! ... Do you see this? Look on her! Look! Her lips! Look there, look there!” He dies.

<sup>70</sup> Francis Collins drafted the Deeds of Bargain and Sale for the purchase of the Blackfriars Gate House, dated March 10, 1613, and available at [Shakespeare purchases the Blackfriars Gatehouse: copy of bargain and sale signed by buyers, including Shakespeare | Shakespeare Documented \(folger.edu\)](#). That mortgage was eventually paid off and the property put in a trust with dispositive terms. Thus, it did not pass by probate of this will.

<sup>71</sup> BRYSON, *supra* note 2, at 152-153.

<sup>72</sup> We aren’t certain this was his birthday. We know it was 3 three days before the record of his christening and it was customary to christen children at the earliest opportunity within the confines of the church rules. A father might bring a child even before the mother was able to get up because infant mortality was high, and children not baptized died with their “sins” unforgiven and were not admitted to heaven. From that we surmise Shakespeare was born on the 23<sup>rd</sup>. We are certain that he died on the 23<sup>rd</sup>.

being in “perfect” health; however, the document suggests he may have been unwell. Signed on each of the three pages, the signatures are shaky, and each is spelled differently.<sup>73</sup> He apparently could not recall the names of his brother-in-law<sup>74</sup> and one nephew. He refers to his granddaughter, Elizabeth, as a niece. These errors may have been carelessness by the scrivener or may suggest that he was ill. His contemporaries remarked on his sudden death in published tributes noting that they had seen him very recently and did not know he was ill.<sup>75</sup> We cannot know whether he was healthy at the signing on March 25<sup>th</sup>, or whether his death less than a month later was caused by illness, accident, stress, or excess.<sup>76</sup> Certainly, “plagues” and epidemics continued to sweep through England for the next 50 years, only subsiding somewhat in 1666 after London’s Great Fire incinerated huge swaths of slum housing and the rats and fleas that lived in them.

Shakespeare’s will, written on three pages of parchment, each a different size and each bearing a signature is in the British National Archives. (Photos and a transcription appear at the end of these materials.) The will is witnessed by five people. Why he needed or wanted five is a mystery, but they were uncertain times. The usual number then was two as it is today. Perhaps it was a wise precaution intended to be certain that at least one witness was alive and available to prove the will.<sup>77</sup> Or perhaps having just acquired and then disinherited a son-in-law in two months’ time, he was worried about a will contest. We assume he did not know he would be gone in less than a month. The will is a truly passionless document. Just as so many of the dispositive documents we draft today are dry and emotionless, it gives us little information about his relationships other than that he included his daughters, some members of his family and friends. Somehow, given the unusual circumstances and because it was Shakespeare, it seems reasonable to expect more.

Under the law protecting widows that was in place at the time, Anne was entitled to one-third of his estate,<sup>78</sup> comprised of £350 in cash, four houses and their contents, and a substantial amount of real estate.<sup>79</sup> He made specific cash bequests to his only living sibling, his sister, Joan Hart, and her children and left her a life estate in one of his homes.<sup>80</sup> He also left Joan his clothing; probably a significant gift under the circumstances. Joan had sons and Shakespeare did not. At least one son-in-law had recently disappointed him. A gentleman who had spent a great deal of time at court would have worn rich imported fabrics with valuable embellishments. Wearing some types of clothing required a certain social status and/or to pay for the privilege of doing so. Fine clothing bequeathed to someone who could not lawfully wear it meant it might be sold for a pittance - wasted. The wording of the request, that the clothing be “paid or delivered to her within one year of my decease”, suggests he thought someone might want to buy it, perhaps a former colleague in the theater.

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<sup>73</sup> It is worth noting that of the six known signatures of Shakespeare, no two are spelled alike and the three signatures found on each of the three pages of his will are each spelled differently. This would be a red flag in our century but spelling in Shakespeare’s time was “casual” at best. Spelling your own name the same way every time was not required, nor even, apparently, considered.

<sup>74</sup> Historians note that the brother-in-law, Joan’s husband, died shortly after the will was signed so perhaps, he was not named because he was not well.

<sup>75</sup> THE OXFORD HANDBOOK OF SHAKESPEARE, (Arthur F. Kinney, ed., 2012).

<sup>76</sup> Although later sources, in some cases many years later, have suggested among other things that he had been out drinking, caught a fever, or had been ill since 1613. There is no contemporaneous support or real evidence for any of these theories.

<sup>77</sup> BRYSON, *supra* note 2, at 152. The self-proving affidavit that we take for granted today was not in use.

<sup>78</sup> BRYSON, *supra* note 2, at 154; GREENBLATT, WILL IN THE WORLD, *supra* note 22, at 144.

<sup>79</sup> At least in so far as we know; as previously noted, the inventory was lost.

<sup>80</sup> This was important to Joan. Her husband, William Hart, died in the days between Shakespeare signing his will and his death. She lost her husband and brother in less than 30 days. She and her husband were already living in the home her brother left her and she remained there until her death. BRYSON, *supra* note 2, at 153.

He made additional cash bequests to a godson, some friends, three business associates (partners in the theaters), and to purchase memorial rings, then a common practice. There is no mention of the theater interests themselves. They may have been sold in 1613 when he substantially retired or, more likely, transferred by virtue of the terms of the ventures - outside of probate. Again, we would know more if we had his inventory.

Most of the rest of his estate passed in an elaborate fee tail,<sup>81</sup> to the oldest, his daughter Susanna and her future male heirs – of which there were none. Susanna only had one daughter, Lady Elizabeth Hall Bernard, who married twice but died without children. Judith had three sons, but Shakespeare had already died when her children were born. Her first, Shakespeare Quiney, lived only six months. Two more, Richard and Thomas, died a month apart in 1639 at ages 19 and 21 of unknown causes.<sup>82</sup> Had they lived, they would have had rights to the entailment.

We can assume from the surviving legal documents and the fact that Shakespeare named her as a co-executor that Susanna was literate. His granddaughter, Elizabeth, married two men of property, acquired a title, left a complicated estate of her own with significant assets, and was well-educated.<sup>83</sup> But based on Judith having executed various documents with only a mark, it is assumed that she could not read or write. Because Shakespeare made Susanna and her husband his executors instead of Anne, and because we have no record of Anne having ever signed anything, we may assume that Anne, too, was illiterate.<sup>84</sup> We have no way to know whether she ever traveled to see her husband's work performed but can be reasonably certain that she never read anything he wrote.

After the death of Judith's sons, Susanna and her daughter and son-in-law, offered a settlement for the inheritance. Judith refused and litigation ensued lasting thirteen years, until 1652, three years after Susanna died in 1649. Judith died in 1662 at age 77 having outlived her father by 45 years. We would know much more about Shakespeare had any of his many biographers bothered to find and interview her. Apparently, no one did. Lady Elizabeth Hall Bernard, his granddaughter and the last of his direct line, died in 1670.<sup>85</sup>

Much has been made of the specific bequest of his "second-best" bed and furnishings (linens) Shakespeare made to his wife, Anne. Admittedly an odd gift, at least from the perspective of the 21<sup>st</sup> century.<sup>86</sup> There are dozens of theories – some rather fanciful. One theory is that the second-best bed was the marital bed because the best bed in a gentleman's home was reserved for important visitors of a high social status suggesting the

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<sup>81</sup>A *fee tail* or *entail* is a trust form to restrict sale or inheritance of real property preventing it from being sold, devised, or otherwise alienated by the tenant-in-possession. Instead, it passes automatically by operation of law to the person determined by the instrument. The term *fee tail* is from Medieval Latin *feodum talliatum*, which means "cut (short) fee" as opposed to "fee simple" where no restriction exist, and the possessor has absolute title in the property which could be further bequeathed or otherwise disposed of; although, still subject to the allodial title of the monarch. BLACK'S LAW DICTIONARY 476, 554 (5<sup>th</sup> ed. 1979).

<sup>82</sup> Although, plague is a reasonable assumption. ELTON, *supra* note 21, at 265-274.

<sup>83</sup> ELTON, *supra* note 21, at 265-274.

<sup>84</sup> Historic literacy rates are hard to assess. In 1538, English parishes were ordered to keep registers of baptisms, deaths, and weddings but assuming the records would be used to enforce new taxes, not all complied. (Tax avoidance drove decisions then too.) Records in Stratford begin in 1558, so they include Shakespeare's baptism in 1564 but not Anne's, who was eight years older. Literacy rates are calculated, roughly, by how many signed with their full name versus those who simply made a mark.

<sup>85</sup> ELTON, *supra* note 21, at 265-274.

<sup>86</sup> Bedclothes (linens) included heavy drapes hung around the bed to keep out the cold. Still a bequest of value more than 200 years later, in 1843, when Charles Dickens published *A Christmas Carol* including a scene where Scrooge's servants take them before the undertaker arrives. Fine fabrics were a luxury, rare, valuable, and obtained only by paying additional duties/taxes.

bequest was a sentimental gesture reflecting a close and loving relationship.<sup>87</sup> Beds and bedding were valuable objects, frequently mentioned in testaments then and virtually always left to either a wife or eldest son. Further, weighing against sentimentality is that the bed is the only mention of Anne in the entire document. Anne would receive a widow's share; so, it could just as easily be a bequest to avoid the appearance of having forgotten her entirely, such as many planners today recommend when a client chooses to exclude someone. Or it may have been a token to make it clear she would receive only her share under the law, plus, this one additional object, and no more.

It was customary in the 16<sup>th</sup> century for testators to include tender, even flowery sentiments about wives and family members. No such statements appear in Shakespeare's will. That may have been influenced by the personal style of the attorney. Just as today, individual attorneys had preferences as to form and style. It could also mean that Shakespeare, despite the statement that he was healthy, was too ill to make flowery declarations or elaborate on anything that was not necessary to the document. We cannot know.

Perhaps this was simply a smaller bed and Shakespeare gave his married daughter the larger "best" bed leaving the smaller bed to Anne, presuming she would sleep alone for the rest of her life. Anne was 8 years older than her husband so would have been 60 when he made the will. Assuming she would never remarry wasn't necessarily sentimental.

Some scholars believe Shakespeare was superstitious. Despite his claim to be in perfect health, they theorize he thought he would die in his "best" bed; and so, made certain it did not go to Anne. There is no real evidence to support this odd theory, either, but he may have been superstitious. Many of his plays reference ghosts and spirits - often crucial to the story. Hamlet's father appears as a ghost to demand he be avenged. *Richard III*'s victims appear before battle and warn him he will "despair and die" and then appear to his enemy to say that he will "live and flourish".<sup>88</sup> Ghosts are found in *Macbeth*, *Romeo and Juliet*, *Henry VI*, and in *Julius Caesar*.<sup>89</sup> His plays are riddled with portends, warnings and omens.<sup>90</sup> But we can't know from these whether Shakespeare believed in omens and ghosts or just found them to be a convenient literary device. Perhaps the most interesting support for the theory that Shakespeare was superstitious is his epitaph. Buried in the chancel of the Holy Trinity Church, he lies under a stone slab that does not bear his name but is carved with this curse:

GOOD FRIEND FOR JESUS SAKE FORBEAR  
TO DIG THE DUST ENCLOSED HERE.  
BLEST BE THE MAN THAT SPARES THESE STONES  
AND CURSED BE HE THAT MOVES MY BONES.

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<sup>87</sup> Supporters of this theory point to his feisty female characters – Beatrice in *Much Ado About Nothing* and the *Taming of the Shrew*, perhaps modeled after Anne or his daughters but just as likely modeled after Elizabeth I. Nothing in the Will provides any real clues to Anne's personality or their relationship.

<sup>88</sup> WILLIAM SHAKESPEARE, *RICHARD III* act 5, sc. 3.

<sup>89</sup> [www.opensourceshakespeare.org/concordance](http://www.opensourceshakespeare.org/concordance) is an open-source concordance of Shakespeare's works, including the plays, sonnets, collaborative works, and poetry anthologies, allowing anyone to search for any word. "Ghost" or "ghosts" appear 71 times in 21 of his works. "Spirit" or "spirits" appear 387 times in 42 of his works.

<sup>90</sup> "These late eclipses in the sun and moon portend no good to us, though the wisdom of nature can reason it thus, yet nature finds itself scourg'd by the sequent effects. Love cools, friendship falls off, brothers divide. In cities, mutinies; in countries, discord; in palaces, treason; and the bond crack'd 'twixt son and father. This villain of mine comes under the prediction; there's son against father: the King falls from bias of nature; there's father against child. We have seen the best of our time. Machinations, hollowness, treachery, and all ruinous disorders follow us disquietly to our graves." WILLIAM SHAKESPEARE, *KING LEAR*, act 1, sc. 2.

Like so much else about him, we do not know if he composed this epitaph.<sup>91</sup> If he did, it may suggest a superstitious nature or could have been his way of foreclosing investigation into Shakespeare the man. Perhaps he wanted to be remembered only for his work and not for his private life. Or not. He moved in talented literary circles - an executor or friend may have composed the epitaph. Perhaps there was controversy as to whether he should rest in Stratford or London. Although Shakespeare purchased a family vault inside the church by a title deed costing £440, that did not necessarily guarantee permanent tenancy. There are records of a Saxon monastery on the site in 713, the limestone building was begun in 1210, and the chancel where he lies was added in the late 1400s. Thus, graves had been laid there for nearly a millennium.<sup>92</sup> Space was at a premium.<sup>93</sup> Perhaps the epitaph was intended to prevent future eviction. Contemporary planners often advise clients to include burial instructions in a separate document. Perhaps Shakespeare explained the epitaph but set it out in a separate document now lost to us (as noted, the inventory and later probate papers are lost). Nevertheless, when the church underwent a significant restoration in 2008, great care and extra expense was taken to avoid disturbing Shakespeare's grave.<sup>94</sup>

The bequest of the bed to Anne is a late addition to the document, made in a different ink, wedged between more generously spaced lines, and with text that overlaps letters in the lines above and below - clearly a last-minute change. Despite these theories and more, the world will likely never know why Anne got only the "second best" bed of her husband.

Shakespeare included a charitable bequest to the poor of Stratford, a specific bequest of a ceremonial sword to a friend, and a silver and gilt bowl to Judith. It is tempting to speculate he chose this valuable object, a bowl that is a symbol of domesticity, plenty, and generosity for his youngest daughter to ease the pain arising from her recent and already troubled marriage. Shakespeare clearly understood the impact of symbolism; but again, this is merely speculation.

Clients often attach special meaning to objects and ask to include them as a specific bequest. Such bequests frequently are the reason for codicils, as testators change their minds. So much so, that today, many planners have adopted the format of referencing a handwritten list to be prepared separately. These are not enforceable but have the advantage of leaving the testator entirely free to make as many changes and as often as they want. This was not a custom of Shakespeare's time. But then, as now, personal objects were also handed off informally, from a sickbed or when a parent succumbed to age and moved in with children or grandchildren. "Downsizing" is not new. That he chose not to part with these objects until he was gone may suggest he was not anticipating his imminent death when he made the will.

As with Henry VIII,<sup>95</sup> Shakespeare's executors prepared a detailed inventory listing all his property, books, art, and furniture for tax purposes and because the crown had to "approve" a testator's gifts. Similar to probate

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<sup>91</sup> Whether he composed this epitaph has never been established or disproved. Alfred Corn, *Shakespeare's Epitaph*, HUDSON REVIEW, Summer 2011, Republished March 2013. [Shakespeare's Epitaph | The Hudson Review](#).

<sup>92</sup> Val Horsler, *Shakespeare's Church*, [Holy Trinity Church, Stratford: Shakespeare's Family Church \(nosweatshakespeare.com\)](#); (2010).

<sup>93</sup> In churches across Europe, space is limited, so burial is allowed for enough time to honor the deceased 'sufficiently' and then they are relocated. Most famous of these is the Venetian cemetery on the Island of San Michele where obscure dead are allowed ten years, then shipped to other cemeteries on the mainland. Only the truly famous (Igor Stravinsky and Ezra Pound) remain on the island. Horsler, *id.*; Ben Miller, *Shakespeare's Stratford-upon-Avon Grave*, ARCHAEOLOGY CULTURE 24, (March 23, 2016).

<sup>94</sup> Horsler, *supra*, note 92.

<sup>95</sup> See notes 16-18.

today, approval was achieved by a complicated bureaucracy in London.<sup>96</sup> We know the inventory was filed, but alas, is presumed lost forever, with so many other documents consumed by London's Great Fire in 1666.<sup>97</sup> Losing the record of books he owned, whether he left blank parchment or incomplete manuscripts to suggest he was continuing to write, what type and style of clothing he wore, or knowing how his home was furnished to reveal his tastes and lifestyle is one of the many tragedies of that Great Fire.

An interesting lesson from Shakespeare's will is how it was amended in less than 90 days preceding his death to reflect the great drama unfurling in his personal life. Estate plans should never be "once and done." Not in 1616. Not today. Families and businesses evolve. Change happens and plans must be modified to accommodate those changes. Fortunately, Shakespeare began making changes to the nature of his estate by reallocating his assets to accommodate the loss of his only male heir, 20 years before his death. A spectacular example of long-term business transition planning. All transitions are difficult. Family, in-laws, or employees may not like the terms and tension is inevitable but can be alleviated by open communication and full disclosure. 'Silos' inhibit business even, or perhaps especially, in family businesses. Family business plans may be impacted by external changes. Our clients may find their business impacted by disaster such as a fire, flood, plague, or by new regulations or new technology. Again, business and succession plans must adapt. Worth repeating: "once and done" is not enough. And the sooner a business owner starts, the better.

## **B. Scene 2, Language and Legacy**

One of many things gained by studying Shakespeare 450 years later, and a significant part of his legacy, is a deeper understanding of the power of language. His life spanned a time when the English language was first gaining acceptance for use in anything serious. Latin was the language of official documents and of education.<sup>98</sup> Shakespeare, clearly had a hand in turning the tide. It is reasonable to assume the presence of

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<sup>96</sup> A taker of assets bequeathed without restrictions had absolute title except as subject to the allodial title of the monarch, who alone could authorize ownership that was free and not subject to any lord or superior. BLACK'S LAW DICTIONARY 70 (5<sup>th</sup> ed. 1979), explains allodial as "owned without obligation of vassalage or fealty; the opposite of feudal." Recording and certification of the inventory by the court, effectively granted that authorization.

<sup>97</sup> David Garrioch, *1666 and London's Fire History: A Re-evaluation*, 59(2) THE HISTORICAL JOURNAL 319–338 (2016); STEPHEN PORTER, THE GREAT FIRE OF LONDON Bramley Books (1998). NEIL HANSON, THE GREAT FIRE OF LONDON IN THAT APOCALYPTIC YEAR, 1666 Wylie Press (2001). Ignited in a bakery just after midnight, September 2, 1666, the fire raged for five days gutting the medieval city inside the old Roman walls. A usual firefighting technique, to create a firebreak by demolition, was delayed by the indecisive Lord Mayor, so fire spread across the city. It destroyed St Paul's Cathedral then leapt the River Fleet to threaten Charles II's court at Whitehall. That inspired better, more coordinated firefighting efforts, but too late. London had ~400,000 inhabitants with ~80,000 living inside the 400-year-old Roman walls - an inner city of haphazard wooden structures augmented by combustible materials: tar paper, pitch, hemp, rosin, and flax. Unplanned and unregulated, it was a makeshift urban sprawl with narrow streets. Extremely crowded, traffic-clogged, polluted, and unhealthy, especially after a devastating outbreak of bubonic plague in 1665. The high Roman walls impeded escape except at eight narrow gates. In the first days of the fire, few citizens fled; instead, they moved what they could carry to "safer areas" - some moving belongings and themselves several times. The need to get outside the walls wasn't understood for days, then there was panic in the narrow streets and gates as terrified refugees tried to flee. Flames at the riverfront set fire to water wheels, eliminating piped water for firefighting. St. Paul's Cathedral, with thick stone walls and a natural firebreak in its wide empty plaza was considered safe. But crammed full of rescued goods including the tightly packed stocks of printers and booksellers, it was undergoing restoration by Christopher Wren, and covered in wooden scaffolding that caught fire. In half an hour, the lead roof was melting, books and papers stored inside were burning, and the cathedral was a ruin. The fire was finally extinguished when winds dropped. The Royal garrison used gunpowder to create firebreaks. But already destroyed were 13,200 homes, 86 parish churches, 44 Company Halls, the Royal Exchange, the Custom House, St Paul's Cathedral, the city prisons, the General Letter Office, and three city gates. Cultural responses continued for centuries: poetry and sermons (17<sup>th</sup> century 'social media'), novels *Old St. Paul's* (1841) and *Forged in the Fire* (2006), a 1914 film adaptation, a 2014 television drama *The Great Fire*, and a musical *Bumblescratch*, performed at the 350th anniversary commemorations. History becomes Art.

<sup>98</sup> A dramatic example of the rise of English during Shakespeare's life, is that the entry of his baptism is recorded in Latin, but the entry of his death is in English: "William Shakespeare, gentleman". BRYSON, *supra* note 2, at 115 - 116. Ironically, when Sir Thomas Smith, noted scholar, parliamentarian, and diplomat, produced the first textbook on the English language, he wrote it in Latin. *De recta & emendata lingvæ Anglicæ scriptione, dialogus (Correct and Improved English Writing, a Dialogue)*, 1568.

Shakespeare in his court may have influenced King James when he undertook his own great passion project, the production of an “authorized” English Bible. The King James Version, still used today, was completed under his patronage and direction over seven years (1604–1611),<sup>99</sup> some of Shakespeare’s most productive.

Our modern plague makes us even more appreciative of the miraculous gift Shakespeare was to humanity. In 1564, England’s population had declined significantly, due to a series of “plagues” we now know to be typhus, measles, anthrax, smallpox, bubonic plague or black death (*yersinia pestis*), leprosy, cholera, and a plethora of fevers and “sweating sicknesses” - virulent influenzas or coronaviruses.<sup>100</sup> For the lower classes, home was often a room or two, small (cheaper to heat) and crowded. Poor homes did not have ceilings so fleas from rats that infested the roof thatch fell directly onto occupants and when a family member fell ill, many more were likely to become infected.<sup>101</sup> During this century, “normal” infant mortality rate in England was seventeen percent<sup>102</sup> but in 1564, the year of Shakespeare’s birth, the rate was much higher.<sup>103</sup> Shakespeare surviving his first year was against the odds. What a tragic loss if he had not.

Shakespeare stretched the English language to clearly express his ideas. He provides the first recorded use of more than 2,000 words and boldly incorporated new words from the very beginning of his catalog of works. Among those are assassination, antipathy, critical, frugal,<sup>104</sup> dwindle, extract, hereditary, horrid, indistinguishable, leapfrog, lonely, unmask, unveil, vast, well-read, zany, and countless others - including, apparently, the word countless.<sup>105</sup> In his plays, Shakespeare doesn’t just describe events but uses language to illuminate emotions, perhaps even the souls of his characters. Obviously, we do not put emotions in transactional or dispositive documents - nor should we. But we can be better attorneys by working to see,

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<sup>99</sup> In January 1604, James I convened the Hampton Court Conference to propose a new version of the Bible in English. His was not the first. Portions of the Bible had been translated into Old and Middle English between c.735 and c.1435. William Tyndale produced a translation, in Early Modern English, c. 1522-1536, considered to be the first to work directly from the Hebrew and Greek texts (although he also relied heavily on the Latin Vulgate). Considered heretical, the Tyndale Bible was published by Miles Coverdale in 1535. But then, both Henry VIII (1535) and his daughter, Elizabeth I (1568) commissioned “officially sanctioned” English Bibles (based largely on Tyndale’s work). King James provided specific instructions to the translators to ensure the new version would reflect the episcopal structure of the Church of England, appointing 6 panels, 47 men in all, to translate the New Testament from the Greek and the Old Testament from Hebrew and Aramaic. Completed in 1611, it was printed by Royal Patent. Today, his version is in the public domain in most of the world. However, in the United Kingdom, the right to print, publish and distribute the King James Bible is still a royal prerogative. The Crown licenses publishers to reproduce it under letters patent, held by the King’s Printer, in England, Wales and Northern Ireland. Letters patent for publication in Scotland, are held by the Scottish Bible Board. DAVID DANIELL, *THE BIBLE IN ENGLISH: ITS HISTORY AND INFLUENCE*, Yale University Press (2003).

<sup>100</sup> Non-bacterial pathogens, first ‘found’ in plants in the 1890s, were proved in the 1930s after invention of the electron microscope but viruses existed in the first living cells arising from primordial ooze. Now science can study them and learn how they spread. But in the 1500s, plague was a terrifying mystery, usually seen as punishment from God.

<sup>101</sup> A. D. Dyer, *The influence of bubonic plague in England 1500-1667*, 22(3) MED HIST. 308-26 (July 1978). [The influence of bubonic plague in England 1500-1667. - PMC \(nih.gov\)](#).

<sup>102</sup> [Mortality in the past – around half died as children - Our World in Data](#) - From the United Nations Interagency Group for Child Mortality Estimation (IGME).

<sup>103</sup> Major epidemics were recorded in 1563, 1593, 1625 and 1665. The first in 1563, caused the greatest proportional mortality. Up to 18,000 people, nearly a third of London’s population, died. In mid-August, the deathrate was over 1,000 per week. Elizabeth I, then aged 30, left London for Windsor with her court and ordered gallows built, to execute anyone arriving there from London that might bring plague with them. Disease spread to the rest of the country the next year; the fleas having survived a mild winter. Stratford-upon-Avon lost nearly a third of its population in 1564. Mercifully, the plague missed John and Mary Shakespeare and their baby, christened William on April 26th, 1564. As a result of this epidemic “the English finally lost their French possession, Le Havre, being held as a hostage for Calais. Plague broke out in the occupying garrison, so the town was surrendered in June, and Calais was lost forever.” Anne Roberts, *The Plague in England (1348 – 1679)*, 30 HISTORY TODAY 4 (April 1980).

<sup>104</sup> Frugal is a word often found in older estate planning documents and some more recent ones.

<sup>105</sup> BRYSON, *supra* note 2, at 113-115.

hear, and understand our clients' values and motivations and help them share those with their descendants. We should choose our language carefully, remembering that when we draft, we are expressing the desires of our clients, and that at each stage of a transition of assets to family, the client is also conveying a legacy.

History may be written by the victors,<sup>106</sup> but history may be re-written by clever manipulation of legacy. In Shakespeare's *Anthony and Cleopatra*, both Octavius and Cleopatra know that legacy is not only tied to how they lived, but how they die. Cleopatra calls for her robes in her final moments to orchestrate an image defining her legacy. Octavius inters Antony and Cleopatra together memorializing them as celebrated lovers, to enhance his own reputation, and downplay their rivalry for power. "She shall be buried by her Antony. No grave on earth shall clip in it a pair so famous."<sup>107</sup>

Elizabeth saw no need to memorialize herself with an expensive tomb. Aware she was the end of her line, she was interred in Westminster Abbey, not with her divisive father Henry VIII, but with her grandfather, Henry VII - the first and last of the Tudors resting side by side. But James wanted that spot badly, so in 1606, three years into his reign, still insecure about his ability to unify Britain and build a Stuart legacy, he exhumed Elizabeth, and reburied her on top of her Catholic half-sister, Mary. As further reminder that Protestant Elizabeth had prevailed over Catholic Mary, he erected a monument - a white marble sculpture of Elizabeth reclining.<sup>108</sup> Then James exhumed his mother, Mary Queen of Scots, brought her to Westminster and put her opposite her nemesis, Elizabeth, with an even more elaborate monument. A Latin inscription proclaims they rest together "in hope of one resurrection,"<sup>109</sup> creating a permanent reminder of the rivalry between the Catholic and Protestant Tudor Queens and promoting his own legacy as a peacemaker. Finally, when he died in 1625, James took Elizabeth's original place, identifying himself as first in a new branch from Henry VII, to rewrite the narrative with a complicated manipulation of graves and memorials and cement his legacy.<sup>110</sup>

Our clients, vastly wealthy or of modest means, entrust their legacies to us. If that includes a family business, and we can find a way to pass along the experiences of the founder, the (unvarnished) stories and hard-won wisdom, we can improve the odds that the business will survive or thrive. A founder sharing history and experience is also sharing risks already taken, problems already solved, mistakes already made, and hard work already invested with the next generation - enhancing the value of the bequest. It is human nature to hide mistakes and missteps from the next generation, but a wise business planner knows that including the

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<sup>106</sup> Attributed to Winston Churchill, this sentiment appears in a speech in the House of Commons on Jan. 23, 1948: "For my part, I consider that it will be found much better by all parties to leave the past to history, especially as I propose to write that history myself." But there are many versions. From the Nuremberg trial of Hermann Goring: "Der Sieger wird immer der Richter und der Besiegte stets der Angeklagte sein," or [A] victor is always the judge and the vanquished the accused. From France: "[L]'histoire est juste peut-être, mais qu'on ne l'oublie pas, elle a été écrite par les vainqueurs" or [T]he history is right perhaps, but let us not forget, it was written by the victors (1842), and Italy: "La storia di questi avvenimenti fu scritta dai vincitori" or [T]he history of these events was written by the winners (1852). From an 1844 account of the defeat of Robespierre (Jacobin hero of the French Revolution): Vanquished—his history written by the victors—Robespierre left a memory accursed. From Scotland: It is the victor who writes the history and counts the dead. And in August 1891, former Confederate Congressman, Missouri Sen. George Graham Vest, still advocating the right of states to secede: In all revolutions the vanquished are the ones who are guilty of treason, even by historians, for history is written by victors and framed according to the prejudices and bias existing on their side. See, Matthew Phelan, *The History of "History is Written by the Victors"*, November 26, 2019. [Origins of the quote \(slate.com\)](https://www.slate.com/articles/feature/the-history-of-history-is-written-by-the-victors/)

<sup>107</sup> WILLIAM SHAKESPEARE, ANTHONY AND CLEOPATRA, act 5, sc. 2. Some commentators see *Anthony and Cleopatra* as a tragedy of nostalgia expressing a longing for the Elizabethan past. SHAPIRO, YEAR OF LEAR, *supra* note 27, at 266.

<sup>108</sup> Coincidence or not - 1606 was the year of *Lear*. SHAPIRO, YEAR OF LEAR, *supra* note 27, at 266-268. Most historians think Elizabeth would have preferred portrayal as a warrior queen but that was not the history James wanted to tell.

<sup>109</sup> See, SHAPIRO, YEAR OF LEAR, *supra* note 27, at 267-268, wherein the author opines: "It is hard to decide which of these two queens would have resented this more."

<sup>110</sup> SHAPIRO, YEAR OF LEAR, *supra* note 27, at 267.

history and stories of a family business as part of the legacy for the next generation, gives recipients a richer heritage, and allows them to avoid repeating past mistakes as they move forward to write the next chapter.

King Richard II commands: “Let’s choose executors and talk of wills”.<sup>111</sup> Looking at Shakespeare’s view of legacy, he reminds us in *All’s Well That Ends Well*, “No legacy is so rich as honesty.”<sup>112</sup> And predictably, Shakespeare chose the theater as metaphor for life. In *As You Like It* he tells us, “All the world’s a stage, and all the men and women merely players; they have their exits and their entrances; and one man in his time plays many parts, his acts being seven ages.”<sup>113</sup> But he also leaves a legacy as a great teacher. “When I am forgotten, as I shall be, and asleep in dull cold marble, where no mention of me be heard, say, I taught thee.”<sup>114</sup>

## **V. EPILOGUE – A TECHNICAL LOOK AT SHAKESPEARE’S WILL**

Shakespeare’s three-page Will was prepared in January of 1616 by his attorney, Francis Collins.<sup>115</sup> Revisions were made, presumably to address his second daughter, Judith’s marriage to Thomas Quiney on February 10. The will was signed on March 25<sup>th</sup>, and he died on April 23<sup>rd</sup> (probably his birthday).

Shakespeare named his daughter Susanna and her husband as executors. The will was probated by delivery to the Prerogative Court of Canterbury, in London, on June 22, 1616, and was copied into a parchment register. The date at the beginning and the co-executor’s oath, his son-in-law, Dr. John Hall, at the end are in Latin. The rest is in English.

Photographs of the actual pages are difficult to read but are available for further study, including the probate register and copied version, from the British National Archives and at the Folger Library Website.<sup>116</sup> The modernized transcription below, shows items stricken from the original and reproduces in bold, the interlineated text, written in different ink and apparently added after the pages were created in January but before they were signed on March 25, 1616.

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<sup>111</sup> WILLIAM SHAKESPEARE, RICHARD II act 3 sc. 2, on succession: Let's talk of graves, of worms, and epitaphs, make dust our paper and with rainy eyes, write sorrow on the bosom of the earth. Let's choose executors and talk of wills: And yet not so, for what can we bequeath save our deposed bodies to the ground? ... nothing can we call our own but death, and that small model of the barren earth which serves as paste and cover to our bones.

<sup>112</sup> WILLIAM SHAKESPEARE, ALL’S WELL THAT ENDS WELL act 3, sc. 5.

<sup>113</sup> WILLIAM SHAKESPEARE, AS YOU LIKE IT act 2, sc. 7.

<sup>114</sup> WILLIAM SHAKESPEARE, HENRY VIII, act 3, sc. 2.

<sup>115</sup> Document-specific information, Creator: Francis Collins, esq. et al.; William Shakespeare; the Prerogative Court of Canterbury, Shakespeare's last will and testament: dated 25 March 1616, proved 22 June 1616, Repository: The National Archives, Kew, UK. [Will of William Shakespeare 25 March 1616. Proved 22 June 1616. | The National Archives](#)

<sup>116</sup> [William Shakespeare's last will and testament: Entry for probate | Shakespeare Documented \(folger.edu\)](#). Page 1 [William Shakespeare's last will and testament: original copy including three signatures | Shakespeare Documented \(folger.edu\)](#). Page 2 [William Shakespeare's last will and testament: original copy including three signatures | Shakespeare Documented \(folger.edu\)](#). Page 3 [William Shakespeare's last will and testament: original copy including three signatures | Shakespeare Documented \(folger.edu\)](#). Apart from his colleagues who compiled and published the First Folio, the world may owe no greater debt for the protection of Shakespeare than it does to self-made millionaire and the eventual Chairman of Standard Oil, Henry Clay Folger and his wife, Emily. Henry quietly collected Shakespeareana for four decades. His first rare book cost \$107.50, paid in installments. Eventually, he became a major collector, cabling agents to offer cash, quietly and early to win what he wanted, while keeping a low profile and shy demeanor. Once at golf, his boss questioned his business sense, “What’s this about you paying \$100,000 for a book?” Folger dissembled, “You know how the press exaggerates. Buy something for \$10,000 and it becomes \$100,000.” John D. Rockefeller expressed relief, “no Standard Oil President should ever pay \$100,000 for a book.” In 1930, two weeks after laying the cornerstone for his library in Washington D.C., Henry died. But the Folger Library stands next to the library of Congress, a monumental gift to the American people and the repository of more Shakespeare material than anywhere else in the world. Merle Severy, *Shakespeare Lives at the Folger*, VOL. 171, No. 2 NATIONAL GEOGRAPHIC 244-259 (February 1987).

## The Will

~~January~~ March 25, in the 14th year of the reign of James now king of England and the 49th year of Scotland, 1616 – Registering Testament of William Shakespeare.

In the name of God, Amen. I, William Shakespeare of Stratford upon Avon in the county of Warwick, gentleman, in perfect health and memory, God be praised, do make and ordain this my last will and testament in manner and form following, that is to say, first I commend my soul into the hands of God my creator, hoping and assuredly believing through the only merits of Jesus Christ my Savior to be made partaker of life everlasting, and my body to the earth whereof it is made.

Item - I give and bequeath unto my ~~son-in-law~~ and Daughter, Judith, one hundred and fifty pounds of lawful English money to be paid unto her in manner and form following, that is to say, one hundred pounds **in discharge of her marriage portion**<sup>117</sup> within one year after my decease, with consideration after the rate of two shillings in the pound, for so long time as the same shall be unpaid unto her after my decease, and the fifty pounds residue thereof upon her surrendering of, or giving of, such sufficient security as the overseers of this, my will, shall like of to surrender or grant all her estate and right that shall descend or come unto her after my decease or **that she** now hath of in or to one Copyhold tenure<sup>118</sup> with the appurtenances lying and being in Stratford upon Avon aforesaid in the said county of Warwick, being parcel or holder of the manor of Rowington<sup>119</sup> unto my daughter Susanna Hall and her heirs forever.

Item - I give and bequeath unto my said daughter, Judith, one hundred and fifty pounds more if she or any issue of her body living at the end of three years next ensuing the day of the date of this my will, during which time my executors to pay her consideration from my decease according to the rate aforesaid. And if she die within the said term without issue of her body then my will is and I do give and bequeath one hundred pounds thereof to my niece, Elizabeth Hall<sup>120</sup>, and fifty pounds to be set forth by my executors during the life of my sister, Joan Hart, and the use and profit thereof coming shall be paid to my said sister, Joan, and after her decease the said 50 pounds shall remain amongst the children of my said sister equally to be divided amongst them. But if my said daughter Judith be living at the end of the said three years, or any issue of her body, then my will is, and so I devise and bequeath the said hundred and fifty pounds to be set out by my executors and overseers for the best benefit of her and her issue, and the stock not to be paid unto her so long as she shall be married and covert baron<sup>121</sup> ~~by my executors and overseers~~ but my will is that she shall have the consideration yearly paid unto her during her life and after her decease the said stock and consideration to be paid to her children if she have any and if not to her executors or assigns, she living the said term after

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<sup>117</sup> A Marriage Portion is a dowry, money or other property given to or settled to a woman on her marriage. BLACK'S LAW DICTIONARY 877 (5<sup>th</sup> ed. 1979). This bequest to his daughter Judith consists of £100 to satisfy her dowry and an additional £50 if she disclaims her interest in the cottage in Rowington Shakespeare purchased and left to Susanna. See note 119 below.

<sup>118</sup> Copyhold tenure (in the 'custom of the manor'), a term common from the Middle Ages, where the "title deed" given to the tenant was a copy of an entry in the manor court roll and usually the only visible title. BLACK'S LAW DICTIONARY 304 (5<sup>th</sup> ed. 1979) citing 2 Bl. Comm 95.

<sup>119</sup> Rowington, a village that grew around the Norman era Church of St. Laurence in Warwickshire County, is 14 miles from Stratford-on-Avon. Rowington Hall, main house of the Manor, was owned by Catherine Parr, sixth wife of Henry VIII, and later given to the Earl of Dudley by Elizabeth. Many relatives of Shakespeare lived in the area. The Folger library has a 1604 Survey of the Manors listing William Shakespeare as owner of a cottage now known as Shakespeare Hall and still occupied as a private home today.

<sup>120</sup> Elizabeth Hall was his granddaughter, not his niece.

<sup>121</sup> Covert-baron means the status of being married, usually applied to a woman, it derives from the French meaning "covered by the lord or husband." BLACK'S LAW DICTIONARY 330 (5<sup>th</sup> ed. 1979). Essentially, Judith would receive £150 pounds on which her husband would have no claim unless he settled lands on her to the same value.

my decease, provided that if such husband as she shall, at the end of the said three years be married unto or attain after, do sufficiently assure unto her and the issue of her body, lands answerable to the portion by this my will given unto her, and to be adjudged so by my executors and overseers then my will is that the said £150 shall be paid to such husband as shall make such assurance to his own use.

Item - I give and bequeath unto my said sister Joan 20 pounds and all my wearing apparel to be paid and delivered within one year after my decease. And I do will and devise unto her the house with the appurtenances in Stratford wherein she dwelleth for her natural life under the yearly rent of 12 pence.

Item - I give and bequeath unto her three sons, William Hart, \_\_\_\_\_ [name omitted] Hart, and Michael Hart, five pounds apiece to be paid within one year after my decease unto her. ~~to be set out for her within one year after my decease by my executors with the advice and direction of my overseers for her best profit until her marriage and then the same with the increase thereof to be paid unto her.~~

Item - I give and bequeath unto ~~her~~ the said Elizabeth Hall all my plate **except my broad silver and gilt bowl** that I now have at the date of this my will.

Item - I give and bequeath unto the poor of Stratford aforesaid ten pounds; to Mr Thomas Combe, my sword; to Thomas Russell, Esquire, five pounds; and to Francis Collins of the borough of Warwick in the county of Warwick, gentleman, thirteen pounds, six shillings, and eight pence, to be paid within one year after my decease.

Item - I give and bequeath to ~~Mr. Richard Hamlett Sadler~~<sup>122</sup>, Tyler, the Elder 26 shillings 8 pence to buy him a ring; to **William Reynolds, gentleman, 26 shillings 8 pence to buy him a ring**; to my godson, William Walker 20 shillings in gold; to Anthony Nash, gentleman, 26 shillings 8 pence; to Mr. John Nash, 26 shillings 8 pence; **and to my fellows, John Heminges, Richard Burbage, and Henry Condell 26 shillings 8 pence, a piece to buy them rings.**<sup>123</sup>

Item - I give, will, bequeath, and devise unto my daughter Susanna Hall, **for better enabling of her to perform this, my will, and towards the performance thereof:** All that capital messuage<sup>124</sup> or tenement<sup>125</sup> with the appurtenances in **Stratford**<sup>126</sup> aforesaid called the New Place, wherein I now dwell, and two

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<sup>122</sup> Hamnet Sadler was his longtime friend, neighbor, and Godfather to the twins, including his son, Hamnet, who was named for him. Twin Judith was named for Hamnet's wife, Judith Sadler.

<sup>123</sup> John Heminges, Richard Burbage, and Henry Condell were his business partners, actors and empresarios who co-owned the Globe and Blackfriars Theaters. Burbage died 3 years later, and his estate was hotly contested creating a well-documented glimpse into the business of theaters in London. His brother Cuthbert Burbage was still embroiled in disputes related to the share of Blackfriars Theater when he died in 1637. Heminges and Condell survived to co-edit the First Folio published in 1623 – preserving so much of Shakespeare's work. ARNOLD, *supra* note 40, at 249-256.

<sup>124</sup> Capital Messuage is the main house of an estate with adjacent buildings and curtilage where the owner normally resides. Its use strongly implies there were other houses included in the given estate. BLACK'S LAW DICTIONARY 893 (5<sup>th</sup> ed. 1979). Curtilage is the area immediately surrounding a residence that harbors the intimate activity associated with the sanctity of a man's home and the privacies of life. United States v. Dunn, 480 U.S. 294, 300-302 (1987).

<sup>125</sup> Tenement, as used in a will from this period, meant everything that may be held, of a permanent nature, whether it be substantial and sensible or of an unsubstantial kind. A frank tenement or freehold may include any kind of permanent property, lands, or rents. It may also refer to a room or set of rooms forming a separate residence within a house. But most often at common law it included lands, rents, and other inheritances capable of being held in freehold. BLACK'S LAW DICTIONARY 1316 (5<sup>th</sup> ed. 1979).

<sup>126</sup> Stratford-upon-Avon is a market town and civil parish, 91 miles northwest of London and 22 miles southeast of Birmingham at the southern end of the Arden District (named for Shakespeare's mother's family). Inhabited since the neolithic era, Briton, then Anglo-Saxon, it was small until 1196 when Lord John of Coutances, began to develop a town and Richard I granted a charter for a market. Named from the Latin (stratum = street), Old English (ford = shallow river crossing), and Celtic (avon = river). The

messuages or tenements with the appurtenances situate, lying and being in Henley Street within the borough of Stratford aforesaid. And all my barns, stables, orchards, gardens, lands, tenements, and hereditaments<sup>127</sup> whatsoever, situated, lying, and being, or to be had, received, perceived, or taken within the towns and hamlets, villages, fields, and grounds of Stratford upon Avon, Old Stratford, Bishopton, and Wolsombe<sup>128</sup>, or in any of them in the said county of Warwick. And also, all that messuage or tenement with the appurtenances wherein one John Robinson dwelleth, situated, lying and being in the Blackfriars in London near the Wardrobe, and all other my lands, tenements and hereditaments whatsoever.

To have and to hold all & singular the said premises with their appurtenances unto the said Susanna Hall for and during the term of her natural life and after her decease to the first son of her body lawfully issuing, and to the heirs male of the body of the said first son lawfully issuing and for default of such issue to the second son of her body lawfully issuing and to the heirs male of the body of the said second son lawfully issuing and for default of such heirs to the third son of the body of the said Susanna lawfully issuing and of the heirs male of the body of the said third son lawfully issuing. And for default of such issue the same so to be and remain to the fourth ~~son~~, fifth, sixth, and seventh sons of her body lawfully issuing, one after another, and to the heirs male of the bodies of the said fourth, fifth, sixth, and seventh sons lawfully issuing in such manner as it is before limited to be and remain to the first, second and third sons of her body and to their heirs male.<sup>129</sup> And for default of such issue the said premises to be and remain to my said Niece Hall and the heirs male of her body lawfully issuing for default of such issue to my daughter Judith and the heirs males of her body lawfully issuing. And default of such issue to the rightful heirs of me, the said William Shakespeare forever.

**Item - I give unto my wife my second best bed with the furniture.**

**Item - I give and bequeath to my said daughter Judith my broad silver gilt bowl.** All the rest of my goods, chattel, leases, plate, jewels, and household stuff whatsoever, after my debts and legacies paid and my funeral expenses discharged, I give, devise, and bequeath to my son in law, John Hall, gentleman, and my daughter Susanna, his wife, whom I ordain and make executors of this my last will and testament. And I do entreat and appoint the said Thomas Russell, Esquire, and Francis Collins, gentleman, to be overseers hereof. And do revoke all former wills and publish this to be my last will and testament. In witness whereof I have hereunto put my hand the day and year first above written.

By me **William Shakespeare** (signed)

Witness to the publishing hereof  
Francis Collins  
Julius Shawe  
John Robinson  
Hamnet Sadler  
Robert Whattcott

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ford used even before the Romans built a road with a timber bridge, still used in 1235. In 1484, Hugh Clopton built the 14-arch masonry bridge/causeway that is still there today. Repairs were made in 1642, when an arch was deliberately destroyed to stop the advancing army of Oliver Cromwell. Shakespeare was born into a place steeped in history.

<sup>127</sup> Hereditaments are properties capable of being inherited, corporeal (land or building) or incorporeal (right of way or rents), real, personal, or mixed, including not only land and everything thereon but also heirlooms and furniture, which by custom may descend to the heir together with the land. BLACK'S LAW DICTIONARY 653 (5<sup>th</sup> ed. 1979).

<sup>128</sup> Bishopton is a civil parish in Stratford-on-Avon District, Warwickshire County, Midlands, England. Wolsombe may have been a local parish or may refer to a village in Devon on the coast. If not lost, the inventory might have solved these mysteries.

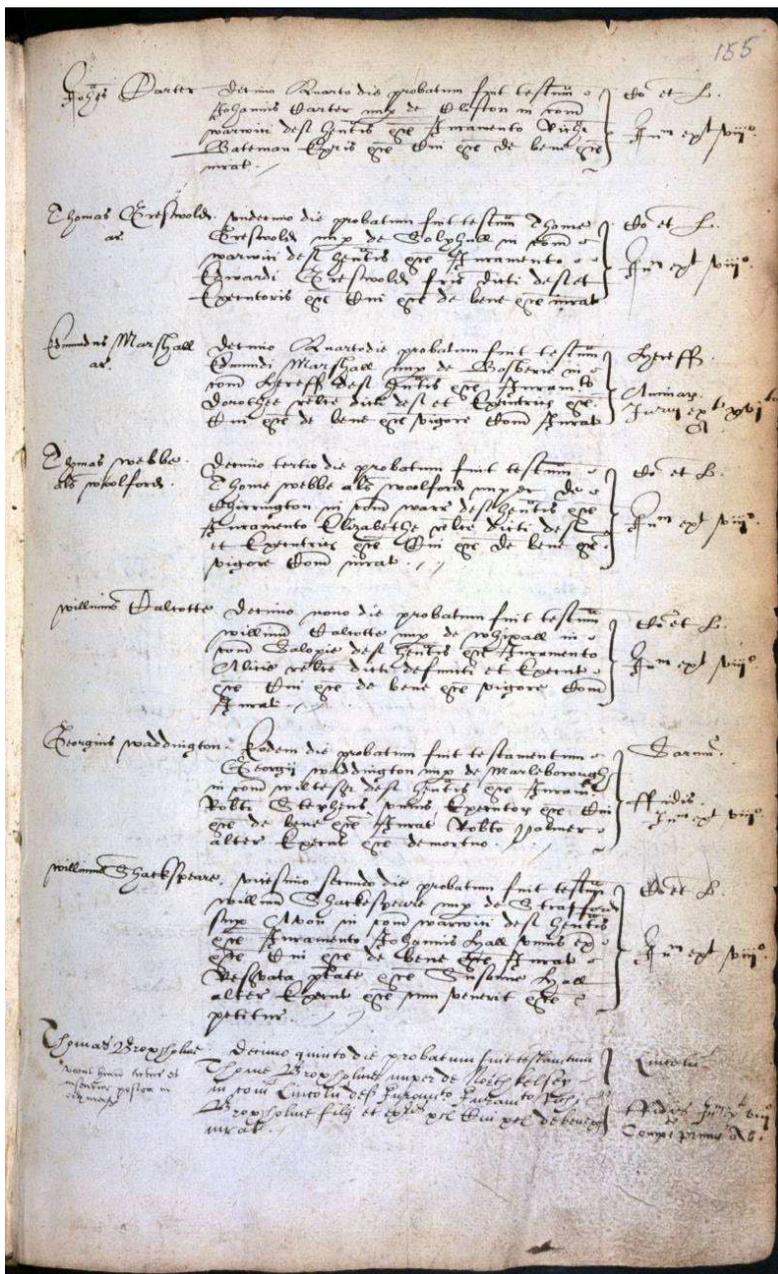
<sup>129</sup> Suggests Shakespeare still hoped for grandsons, but Susanna and John had only a daughter, Elizabeth (1607-1670) who married twice, to Thomas Nash in 1626 (died 1647), then Sir John Bernard in 1649 with no children in either marriage. When Nash tried to appoint the Shakespeare estate to a cousin, Elizabeth sued to ban the entail. Bernard, landowner, and member of Parliament was widowed with eight children. Elizabeth's will made bequests to Hathaway cousins. ELTON, *supra* note 21, at 265-274.

Approved in the presence of Magistrate William Byrd, Commissary of Laws, the 22nd day of June in the year of our lord 1616, a sworn oath by the said John Hall, one executor and reserved power for Susanna Hall, another executor, when it arrives inventory is displayed.

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THE PROBATE REGISTRY AND THE WILL

After Shakespeare's death, his executors, Susanna and her husband, Dr. John Hall, delivered his will to the Prerogative Court of Canterbury, in London, for probate and to be copied into a parchment register. This photo is the entry in the register recording the date of probate, June 22, 1616. (Second entry from the bottom.)



[William Shakespeare's last will and testament: Entry for probate | Shakespeare Documented \(folger.edu\)](#)

The last will and testament of William Shakespeare

In the name of god Amen I William Shakespeare of Stratford upon Avon in the county of Warwick gent in shert pale a man now god be prayd for doe make a last will and testament in maner following That y<sup>e</sup> to fyre first I comitt my soule into the hande of god my Creator hoping a assured beleevyng through the merits of Iesus Christe my Saviour to be made partaker of life everlasting And my bodye to be buryed w<sup>th</sup> my wyfe Anne at such place as shal be thought good by the churchwardens of the towne of Stratford upon Avon in the church of St. Andrew the Evangelist And I do give and bequeath unto my sayd daughter Judith the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Susanna the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Hamnet the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Anne the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Elizabeth the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Mary the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter John the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Thomas the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Richard the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Robert the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Christopher the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Thomas the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Richard the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Robert the sum of five poundes and the interest thereunto during her life And I do give and bequeath unto my sayd daughter Christopher the sum of five poundes and the interest thereunto during her life

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Page one of William Shakespeare's last will and testament: original copy including three signatures | Shakespeare Documented (folger.edu)





The registered will as it was probated - meaning copied by hand into the record books - is also available. The handwriting is a little easier to read; although, once sanitized, removing the corrections, additions, and variations of handwriting and ink color, we learn even less by studying this version.

At [William Shakespeare's last will and testament: registered copy | Shakespeare Documented \(folger.edu\)](#)

### **ADDITIONAL RESOURCES**

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For additional material on Charles William Wallace and Hulda Berggen Wallace, see <https://beforeshakespeare.com/2017/06/09/barren-of-all-interpretative-comment/>

“He let him outlive the day to see his greatness and to teach others how they should prepare.”  
HENRY V, act 4, sc. 1. (Henry V)