

**SHAKESPEARE'S
LEGAL MAXIMS.
[LIVERPOOL-1907]**

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Shakespeare's Legal Maxims. [Liverpool-1907] by William Lowes Rushton

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WILLIAM LOWES RUSHTON

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SHAKESPEARE'S LEGAL
MAXIMS.

BY

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Corresponding Member of the Berlin Society for the Study of Modern Languages;
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Author of 'Shakespeare a Lawyer,' 'Shakespeare Illustrated by Old Authors,'
'Shakespeare Illustrated by the Lex Scripta,' 'Shakespeare's Testamentary
Language,' 'Shakespeare's Euphuism,' 'Shakespeare an Archer,' &c.

Juvat integros accedere fontes atque haurire.

LUCRETIVS.

It is pleasant to handle an untouched subject.

HENRY FIELDING.

not ed.

LIVERPOOL:
HENRY YOUNG & SONS,
1907.

NOTICE.

THE first edition of this attempt to illustrate obscure passages in the works of William Shakespeare by legal maxims was published when I was a student-at-law. It was sent to the press for review, and some of the London papers referred to it as a second edition of 'Shakespeare a Lawyer.' The only notice I saw of it appeared in the *Liverpool Albion* as follows:—

'Not very long since, Mr. Rushton published a pamphlet, "Shakespeare a Lawyer," which attracted considerable attention in the literary and theatrical world. It is well known that Lord Campbell, some time afterwards, published a similar work, availing himself, without acknowledgment, of Mr. Rushton's labours, as the *Examiner* conclusively pointed out. Like its predecessor, this brochure shows the author is deeply read in law.'

On page 100 of 'William Shakespeare' by Karl Elze, published in Germany in 1876, the following may be seen :—

'Lord Campbell, "Shakespeare's Legal Acquirements," London, 1859—Vergl. ausserdem W. L. Rushton, "Shakespeare a Lawyer," London, 1858. Rushton ist schon vor Lord Campbell zu dem gleichen Ergebnisse gekommen wie dieser, wenngleich sich seine Schrift im Uebrigen nicht mit der des letztern messen kann. Beachtung verdienen jedoch Rushton's Erklärungen der einschlagenden Stellen bei Shakespeare.'

German students of Shakespeare, who are induced by this note to refer to Lord Campbell's 'Shakespeare's Legal Acquirements Considered' for accurate explanations of the law and law terms they meet with in Shakespeare's works, will often be misinformed, because that book contains many mistakes in law.

Bacon, in his 'Legal Maxims,' says, 'It might have been more flourish and ostentation of reading to have vouched the authorities and sometimes to have enforced or

noted them; yet I have abstained from that also, and the reason is, because I judged it a matter undue and preposterous to prove rules and maxims.' I should have saved myself some trouble if I had 'abstained from the flourish and ostentation' of vouching my authorities.

In the plays of Ben Jonson, George Chapman, and other dramatists of their time, legal maxims are to be seen in Latin. Shakespeare never quotes legal maxims in Latin, but he gives correct translations of them which are so embodied in his verse and prose that they have not the appearance of quotations. This may be one of the reasons why they have not been noticed by the commentators. Another reason may be that the commentators who were not members of the legal profession did not recognise them because they were ignorant of law, and the commentators who were lawyers did not recognise them because they were ignorant of Shakespeare. Shakespeare's correct translations of legal maxims are, I think, the only satisfactory evidence we have of his knowledge of Latin.

I now give one example of Shakespeare's correct translations of the Latin maxims, and of the good verse he makes of it.

Dormiunt aliquando leges moriuntur nunquam.
The law hath not been dead, though it hath slept.

where the verbs dormio and morior in Latin are represented correctly by the verbs sleep and die in English. Although Bacon's legal maxims are twenty-five in number I have not found any of them in Shakespeare's plays, but a portion of one of them¹—*Sententia definitiva revocare non potest*, as I venture to put it—expresses the law to which Shakespeare refers in the *Comedy of Errors*.

Duke. But, though thou art adjudged to the death,
And *passed sentence cannot be recall'd*
But to our honour's great disparagement,
Yet will I favour thee in what I can.
Comedy of Errors, Act i. Scene 1.

Those who believe that Francis Bacon wrote the plays attributed to William Shakespeare

¹ *Sententia interlocutoria revocare potest, definitiva non potest.*

may think that this statement is worthy of consideration.

Some commentators have concluded that Shakespeare was not a lawyer because, as they say, he has made mistakes in law. In answer to this conclusion, I ask three questions.

1. Is there a barrister or a solicitor in large practice, or a judge on the bench, who can say with truth, 'I never made a mistake in law'?

Seldom sits the judge that may not err.

Partheniades.

2. Why have we a Court of Appeal?

3. Was it established to confirm or reverse the judgments and decisions of men who were *not* lawyers?

But it is not necessary to cite the Court of Appeal to prove that even learned lawyers make mistakes in law. It is sufficient to mention Lord Campbell, who in his 'Shakespeare's Legal Acquirements Considered,' has made several mistakes in law, a few of which I have noticed in *Archiv. f. n. Sprachen* and in 'Shakespeare's Testamentary Language,'

published in the year 1869. The Appendix B. of that book concludes with these words : 'We all know that Lord Campbell was a lawyer of great experience, yet in his "Shakespeare's Legal Acquirements Considered" he has made several mistakes in law. How, then, could any errors in law which I might find in Shakespeare's works afford conclusive evidence that Shakespeare was not a lawyer?'

4 ULLET ROAD,

DINGLE,

LIVERPOOL,

Long Vacation, 1907.