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Acting Professionally:
A Dramatic Guided Tour to the Perceptions of Law as a Profession as Shown in the Plays of William Shakespeare (How Ethical and Professional Conduct Will Improve Upon Those)

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Acting Professionally: A Dramatic Guided Tour to the Perceptions of Law as a Profession as Shown in the Plays of William Shakespeare (and How Ethical and Professional Conduct Will Improve Those Perceptions)

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Recent discussions of ethics and professionalism have centered upon issues related to social media, implications of Web 2.0, ethics of the cloud, and other decidedly 21st century concerns. So why step back to the 16th and early 17th centuries for guidance on the ethics and professionalism of lawyers?

First, the plays of William Shakespeare provide an excellent lens through which to view human behavior on any topic; the works “hold, as ‘twere, the mirror up to nature.” Moreover, Shakespeare appears to have been fascinated by law. “There was an unusual interest in things legal in later Tudor times, and Shakespeare fully shared in that interest. It will have been apparent, however, from his sketches of local justice and its officers that Shakespeare scrutinised our traditional benefactors – our amateur justices –

1 This paper was prepared in connection with a presentation at the American Bar Association Annual Meeting in San Francisco, California, on August 8, 2013. Any opinions set forth above are those of the author and not of the law firm with which he is associated or any of its clients. In addition, I gratefully acknowledge the inspiration drawn from a decade plus of watching live performances of the plays of William Shakespeare performed by The Atlanta Shakespeare Company at the New American Shakespeare Tavern, and in particular thank ASC members Jeffrey Watkins (Artistic Director) and Laura Cole (Director of Education and Training) for having been instrumental in the development of the concepts underlying this paper and presentation.

2 William Shakespeare, Hamlet, Act III, sc. ii. Throughout this paper references to Shakespeare are to the Shakespeare Online versions available at www.shakespeare-online.com/plays/, notwithstanding this author’s personal preference (for a variety of geeky reasons) for the texts published in The Applause First Folio of Shakespeare Comedies, Histories & Tragedies In Modern Type (Neil Freeman, ed.) (Applause 2001). References herein largely conform to the typography and designation of speakers provided in Shakespeare Online.
with a shrewd eye, and that the defects of the system were fully apparent to him.”

Second, the attitudes that Shakespeare expressed and reflected in his plays not only demonstrate how lawyers were viewed in Elizabethan and Jacobean times, but also how lawyers continue to be viewed today. The seeds of the cure for the less nobler aspects of our professional reputations may well lie buried in the soil of these early works.

This paper and the accompanying presentation will focus upon four aspects of ethical and professionalism concerns presented in Shakespeare’s plays. First, what is the role of the lawyer in an ordered society? What part should we, as professionals, aspire to play? Second, how does society at large view the “tricks of the trade” that lawyers have developed over the years? That is, how has the increasingly technical nature of how law is practiced influenced the views of law and what, if anything, can be done about it? Third, how do lawyers function most effectively as advisors and counselors, especially when the pressure is clearly rising? Finally, what can we see in Shakespeare about basic levels of competence?

**Lawyers Play a Key Role in the Development and Maintenance of Ordered Liberty**

Before traveling back 415 or so years to Shakespeare’s time, let’s begin with our profession’s own view of its role. The Preamble to the American Bar Association’s Model Rule of Professional Conduct provides that, “[a] lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.” ABA Model Rules of Professional Conduct, Preamble, ¶ 1. A lawyer is to “use the law’s procedures only for legitimate purposes and not to harass or intimidate others. . . . While it is a lawyer’s duty, when necessary, to challenge the rectitude of official action, it is also a lawyer’s duty to uphold legal process.” ABA Model Rules of Professional Conduct, Preamble, ¶ 5. Moreover, “[a]s a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation

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4 As an aside, that last sentence reveals why William Shakespeare’s works live on and my writing is strictly temporal.

5 The ABA Model Rules of Professional Conduct, including commentary, may be found online at www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents.html.
and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.” ABA Model Rules of Professional Conduct, Preamble, ¶6.

In addition to ethical obligations, many jurisdictions have also implemented “professionalism” or “civility” creeds or codes. In broad terms, these creeds “involve aspirations higher than those required by [the jurisdiction’s] Rules of Professional Conduct . . . .” For example, professionalism standards or goals recognize that lawyers “will strive to improve the law and our legal system, to make the law and our legal system available to all, and to seek the common good through the representation of [the lawyer’s] clients.” A Lawyer’s Creed, ¶6.

So the lawyer’s role in framing, protecting, and explaining the system of ordered liberty is clear. Lawyers are to defend and explain the concepts of ordered liberty.

How do Shakespeare’s plays reflect progress in this area? Let’s turn to two examples. The first is probably the most famous single line that Shakespeare wrote about lawyers and illustrates how vital the role that lawyers play is. The second example amplifies upon what happens when that role is ignored.

The best known line about lawyers comes from Henry VI, Part 2: “The first thing we do, let’s kill all the lawyers.” Before dismissing this as yet another angry screed against our profession, take a moment to examine the quote in context. Here’s the scene from the play:

6 A list of jurisdictions with such creeds and links to them may be found on the American Bar website at: www.americanbar.org/groups/professional_responsibility/committees_commissions/standingcommitteeonprofessionalism2/professionalism_codes.html

7 Rule 9-101 of the Georgia Bar, “Professionalism,” which is followed by “A Lawyer’s Creed” and “Aspirational Statement on Professionalism” appended to Rule 9-102. This version of the Creed and Statement, which has been widely adopted following its adoption in Georgia in 1990, will be the one quoted or cited herein and is available at: www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/lawyers-creed.cfm

8 Similarly, The General Aspirational Ideals of the Aspirational Statement on Professionalism provide that lawyers aspire to “preserve and improve the law, the legal system, and other dispute resolution processes as instruments for the common good” and to “make the law, the legal system, and other dispute resolution processes available to all.” Aspirational Statement on Professionalism, supra n.7, General Aspirational Ideals, (d) & (e).
CADE: Be brave, then; for your captain is brave, and vows reformation. There shall be in England seven halfpenny loaves sold for a penny: the three-hooped pot; shall have ten hoops and I will make it felony to drink small beer: all the realm shall be in common; and in Cheapside shall my palfrey go to grass: and when I am king, as king I will be.--

ALL God save your majesty!
CADE I thank you, good people: there shall be no money; all shall eat and drink on my score; and I will apparel them all in one livery, that they may agree like brothers and worship me their lord.
DICK The first thing we do, let’s kill all the lawyers.
CADE Nay, that I mean to do. Is not this a lamentable thing, that of the skin of an innocent lamb should be made parchment? that parchment, being scribbled o’er, should undo a man? Some say the bee stings: but I say, ’tis the bee’s wax; for I did but seal once to a thing, and I was never mine own man since.

Henry VI, Part 2, Act IV, sc. 2. So, yes, Dick the Butcher does yell out, “The first thing we do, Let’s kill all the lawyers.”

But notice why Dick the Butcher wants all lawyers removed. In this scene Dick the Butcher, the rebel leader Jack Cade, and the fulminating mob surrounding them recognize something special about lawyers – lawyers stand in the way of arbitrary mob rule. If one wishes to create anarchy and return to rule by sheer force of might or will, “[t]he first thing [one must] do [is] kill all the lawyers.”9 This is not to say that the context is immediately obvious. “Dick the Butcher’s cry would have resonated with Shakespeare’s audience just as lawyer jokes do with us today. (‘What do you call fifty lawyers chained together at the bottom of the sea?’ ‘A Good start.’) Although humor at the expense of lawyers has its origins far back in Western culture, there is evidence that during the half-century leading to the English Revolution, the public’s animus against

9 Admittedly, this contextualized reading is almost certainly not what Glenn Frey and Don Henley had in mind when penning the Eagles song “Get Over It,” and including the line, “Old Billy was right: Let’s kill all the lawyers; kill ‘em tonight.” G. Frey & D. Henley, “Get Over It” (Geffen Records 1994).
lawyers reached unprecedented levels.” Yet the play itself does not support a “lawyer-bashing” view of Dick the Butcher’s proposal.

The point is driven home by Shakespeare in picturing what follows. We get a scene of a trial conducted by mob rule. “Cade’s trial scenes are darkly comic and turn the English court system on its head in much the same way that, during the carnival season, the King of Mardi Gras, or in England’s case, The Lord of Misrule, turns topsy-turvy the established hierarchy and established modes of conduct. One hardly knows whether to laugh or shudder at Cade’s inverted trial scenes, which address legitimate grievances but attempt to solve them in horrific ways.” Notice both the charge lodged against the unfortunate clerk and the course of the following “trial”:

[Enter some, bringing forward the Clerk of Chatham]
SMITH The clerk of Chatham: he can write and read and cast compt.  
CADE O monstrous!
SMITH We took him setting of boys’ copies. 
CADE Here’s a villain!
SMITH Has a book in his pocket with red letters in’t. 
CADE Nay, then, he is a conjurer.
DICK Nay, he can make obligations, and write court-hand. 
CADE I am sorry for’t: the man is a proper man, of mine honour; unless I find him guilty, he shall not die. 
Come hither, sirrah, I must examine thee: what is thy name? 
Clerk Emmanuel. 
DICK They use to write it on the top of letters: ’twill go hard with you. 
CADE Let me alone. Dost thou use to write thy name? or hast thou a mark to thyself, like an honest plain-dealing man? 
CLERK Sir, I thank God, I have been so well brought up that I can write my name. 
ALL He hath confessed: away with him! he’s a villain and a traitor.

10 Craig Bernthal, The Trial of Man: Christianity and Judgment in the World of Shakespeare, at 32-33 (ISI Books 2003)

11 C. Bernthal, supra n.10, at 33-34.

12 “[C]ast compt” appears to indicate that the dastardly clerk can not only read, he is able to do math as well.
CADE Away with him, I say! hang him with his pen and ink-horn about his neck.
[Exit one with the Clerk]

*Henry VI, Part 2*, Act IV, sc. ii. So once the lawyers are removed, the rule of law disappears. Writing becomes a crime, for writing can lead to unfortunate things like precedent and treating like situations alike – anathema to Cade and his gang. In context, Shakespeare’s “First thing we do, let’s kill all the lawyers” really does have a point.

Absent a time machine Shakespeare could not have been aware of the Preamble to the ABA Model Rules of Professional Conduct. But the view of the role of lawyers expressed in *Henry VI, Part 2* lines up neatly with the concluding paragraph of the Preamble: “Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system.”

Much later in his career, Shakespeare again portrayed a character attempting to invent his own “rule” without “law.” Notice Gonzalo’s speech from *The Tempest* as he is outlining how he would rule were he to become king suddenly, as well as Sebastian’s and Antonio’s observations about Gonzalo’s logic:

**GONZALO** I' the commonwealth I would by contraries
Execute all things; for no kind of traffic
Would I admit; no name of magistrate;
Letters should not be known; riches, poverty,
And use of service, none; contract, succession,
Bourn, bound of land, tilth, vineyard, none;
No use of metal, corn, or wine, or oil;
No occupation; all men idle, all;
And women too, but innocent and pure;
No sovereignty;--

**SEBASTIAN** Yet he would be king on't.

**ANTONIO** The latter end of his commonwealth forgets the beginning.

**GONZALO** All things in common nature should produce
Without sweat or endeavour: treason, felony,
Sword, pike, knife, gun, or need of any engine,
Would I not have; but nature should bring forth,
Of its own kind, all foison, all abundance,

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13 ABA Model Rules of Professional Conduct, Preamble, ¶ 13. Immediately after the quotation above, the paragraph ends, “The Rules of Professional Conduct, when properly applied, serve to define that relationship.”
To feed my innocent people.

SEBASTIAN  No marrying 'mong his subjects?
ANTONIO  None, man; all idle: whores and knaves.
GONZALO  I would with such perfection govern, sir,
To excel the golden age.
SEBASTIAN  God save his majesty!
ANTONIO  Long live Gonzalo!

*The Tempest*, Act II, sc. i.  “The utopia described in this passage can be read both as the logical result of and a defence against the state of exception: the fictional establishment of a new lawless law.”\(^{14}\) So Gonzalo realizes that were he to become a dictator “no name of magistrate” could be known and that “Letters” would have to be outlawed. And, as Antonio observes, without rules and magistrates to enforce them, it will not be long before “[t]he latter end of his commonwealth forgets the beginning”; however noble Gonzalo’s or any other tyrant’s intentions may be at the start, accountability to law as an outside standard is vital.

Of course, law can be bent to ignoble ends. As we see in *The Tempest*, “[i]n his attempt to establish and preserve his utopia, and thus his sovereignty, Gonzalo depends on precisely that lawful power which his utopia excludes.”\(^{15}\) The same law that can rein in a potential tyrant can be abused by a potential tyrant once in power.

So what’s the takeaway from our first foray into four to five hundred year old plays?  Shakespeare shows us that law, lawyers, and magistrates stand in the way of anarchy and dictatorship.  Our ethical and professional obligation is to continue to stand in the way of anarchy, protect and defend the rule of law, and even “further the public’s understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.”  *ABA Model Rules of Professional Conduct, Preamable and Scope, ¶ 6.*

**People Distrust Hidden Meanings and Complexity**

So how do we get it wrong?  That is, what can Shakespeare show us about sources of negative attitudes toward lawyers, both circa 1599 and today?

One of the best times to find out how someone is viewed is to examine what others remember after the person passes away.  “The Grave-diggers’ scene [in Hamlet],


\[^{15}\] Katrin Trüstedt, *supra n.14*, at 111.
however, is the mine which produces the richest legal ore.”

Shakespeare gives us this glimpse of thoughts about a deceased lawyer:

HAMLET There’s another: why may not that be the skull of a lawyer? Where be his quiddities now, his quilllets, his cases, his tenures, and his tricks? why does he suffer this rude knave now to knock him about the sconce with a dirty shovel, and will not tell him of his action of battery? Hum! This fellow might be in's time a great buyer of land, with his statutes, his recognizances, his fines, his double vouchers, his recoveries: is this the fine of his fines, and the recovery of his recoveries, to have his fine pate full of fine dirt? will his vouchers vouch him no more of his purchases, and double ones too, than the length and breadth of a pair of indentures? The very conveyances of his lands will hardly lie in this box; and must the inheritor himself have no more, ha?

HORATIO Not a jot more, my lord.
HORATIO Is not parchment made of sheepskins?
HORATIO Ay, my lord, and of calf-skins too.
HORATIO They are sheep and calves which seek out assurance in that.

Hamlet, Act V, sc. i. Before going too deeply into Prince Hamlet’s point here, realize that the speech is loaded with legal terms of art. “Here the lawyer descants upon mortality in the abstrusest language of his science.”

The speech is jammed full of legal jargon. In 1859 John Gregorson Campbell noted, “These terms of art are all used seemingly with a full knowledge of their import; and it would puzzle some practising barristers with whom I am acquainted to go over the whole seriatim, and to define each of them satisfactorily.” To take just one example, peek at “double vouchers” where a


17 Okay, to be pedantic, Hamlet does not know whether the person was a lawyer. It’s just a skull to him, but it’s at least a hypothetical lawyer.

18 Cushman K. Davis, The Law in Shakespeare, at 267 (Washington Law Book Co. 1883). One can’t beat the nineteenth century for summing up abstruse legal prose in abstruse legal prose.

19 J.G. Campbell, supra n.16, at 89.
A series of fictitious lawsuits are instituted to strip title to property. As Cushman Davis explains:

This was an incident of alienation of lands by a common recovery. A. desired to suffer a common recovery so as to bar entailments, remainders, and reversionary interests, and thereby to convey the land in fee-simple to B. To effect this B. brought a suit against A. for the lands, alleging that A. had no legal title, but that he came into possession after one C. (a fictitious person) had turned the plaintiff out. Whereupon A., the defendant, appeared, and called on D., (who was usually the crier of the court, who was used for that purpose,) who, by fiction, was supposed to have warranted the title to A. when the latter bought, to come in and vouch and defend the title which he had so warranted. D. thereupon pleaded, defending the title. B. returned into court, but D. absented himself and made default. Whereupon judgment was given that B. recover the lands of A., and A. had judgment to recover lands of equal value of D., the man of straw. This recovery was with a single voucher. But D. being a mere man of straw, it was manifest that A. had only a nominal recompense for the lands. It was customary to have a recovery, with double voucher, by first conveying an estate of freehold to any indifferent person against whom the suit was brought, who vouched the tenant in tail who wished to carry through the recovery, who in turn vouched the man of straw again. The reason of this double voucher was that if a recovery was had immediately against the tenant in tail, (A.,) it barred only such estate to the lands of which he was then actually seized, but if the recovery was had against another person, and A., the tenant in tail, was vouched, it bound every latent or contingent right which he might have in the premises recovered.20

And that’s just one example.

So what’s Hamlet’s point? The hypothetical lawyer may well have been able to twist, mangle, convey, reconvey, and double-vouch his way through life; but none of “his quilllets, his cases, his tenures, and his tricks” will serve to evade the leveling justice of death. However much land the lawyer conveyed (or perhaps even glommed from unsuspecting clients), “[t]he very conveyances of his lands will hardly lie in this box [i.e., a coffin].”

Shakespeare knew whereof he wrote, for his family had encountered the arcane real estate litigation of his time.21 In 1556 Robert Arden had bequeathed property to his

C.K. Davis, supra n.18, at 269-70.

While there are multiple accounts of the litigation over Mary Arden’s property and John Shakespeare’s (and William’s) involvement in the lawsuits, the account above is drawn primarily from James Shapiro, A Year in the Life of William Shakespeare: 1599, at 247-49 (HarperCollins 2005). Cf. Stephen Greenblatt, Will in the World: How Shakespeare Became Shakespeare, at 61 (largely concurring in version set forth above, although adding detail that John Shakespeare later claimed “that he had in fact proffered
daughter Mary, who went on to marry John Shakespeare. John and Mary begat William Shakespeare. In 1578, John borrowed forty pounds from a relative, Edmund Lambert, and mortgaged Mary’s legacy. “William Shakespeare was fourteen years old when his father, unable to repay all of the money on time on September 29, 1580, saw his wife’s property pass into Lambert’s hands. . . . After Lambert’s death in 1587, the property went to his son John. At this point the Shakespeares seemed ready to cut their losses, and, according to their version of what happened, in 1588, they agreed to give up any rights to the property and hand over any title deeds in their possession if John Lambert would compensate them with a cash payment of twenty pounds. It seems that some kind of conversation about this took place, but Lambert later denied that an agreement had been reached.”

Well, when one side contends an agreement was reached and the other side denies it, then, as now, lawyers enter the picture. In November of 1597 John and William Shakespeare sued in Chancery Court to recover the land itself. “The wheels of justice ground slowly, and it wasn’t until the summer of 1598 that the court appointed commissioners to look into the facts of the case. Because John Shakespeare had mistakenly filed proceedings with the court twice in the same cause, there were further delays, and it wasn’t until late June 1599 that the confusion was straightened out. Between June and October of 1599 witnesses for both sides were deposed and depositions prepared and submitted to the court, and evidence shared by the two parties. It would have been critical for William Shakespeare to be on the scene in Stratford at some point during these months to sift through documents, contact potential witnesses, and steer the case (we don’t know whether his father was literate or whether, given his advanced age, he was physically up to the task). . . . It appears that [the Shakespeares’] claim wasn’t strong enough, or, alternatively, that they grudgingly came to terms with Lambert, for the case was never heard by the court. Shakespeare and his father had spent an enormous amount of time, money, and energy in their attempt to regain this Arden legacy.”

the payment” and concluding that “the courts found for Lambert”) (W.W. Norton & Co. 2004).

22 J. Shapiro, supra n.21, at 247-48.

23 J. Shapiro, supra n.21, at 248. Incidentally, the time William Shakespeare spent reviewing documents and arguments concerning this real estate matter more than adequately account for his knowledge of law. Contra J.G. Campbell, supra n.16, at 110 (“I say, if Shakespeare is shown to have possessed a knowledge of law, which he might have acquired as clerk in an attorney’s office in Stratford, and which he could have acquired in no other way, we are justified in believing the fact that he was a clerk in an attorney’s office at Stratford without any direct proof of the fact.”) (emphasis added). No matter how much we may wish to embrace William as a fellow lawyer or clerk, his own involvement in family litigation more than provides an explanation for any supposed familiarity with some legal processes.
Litigation records from the late 1500s are far from complete, of course, and all of the depositions have been lost. One other biographer posits that the entire debt and recovery issue may have been even more closely linked to convoluted real estate schemes. Peter Ackroyd posits the following:

It is a confusing history, but the pattern is clear: the Shakespeares were selling land to relatives while arranging for its later reversion to them.

The most plausible explanation for these complicated arrangements lies in John Shakespeare’s difficult position as a known recusant. One of the penalties of recusancy was the confiscation of land. An official report, published at a slightly later date, noted how recusants employed ‘preventions commonly’ in use to deceive. One subterfuge or ‘prevention’ was detailed thus — ‘Recusants convey all their lands and goods to friends, and are relieved by those which have the same lands.’ Others ‘demise their land to certain tenants.’ The strategy is clear. A recusant such as John Shakespeare could thus avoid the prospect of confiscation. After an agreed interval the property was then returned. The conduct of Edmund Lambert, however, acts as a reminder that events did not always turn out as happily as they had been planned.

So Ackroyd concludes that John Shakespeare may have been trying to deceive the government via a legal fiction. Either way, William Shakespeare’s own reaction to suffering through the litigation from 1597 to 1599, at the height of Shakespeare’s career, may well be reflected in the gravediggers’ scene in Hamlet and in other plays.

Putting aside Shakespeare’s personal animosity toward a system that he had already demonstrated needed lawyers to protect ordered liberty, what can we draw from this thinly-disguised critique? First, laws that seem overly complicated or seem to be designed to thwart a simple understanding of justice undermine “the popular participation and support” that lawyers are committed to fostering in the law. In some instances the remedy may be education. For example, a populace outraged that “even criminals” have rights may need to be reminded of the importance of the presumption of innocence as well as the policies underlying various laws that can, quickly, become fairly technical.


25 In Shapiro’s dating of events, Shakespeare was finishing Hamlet, and thus the gravediggers’ scene, while this litigation was drawing to a close. J. Shapiro, supra n.21, at 248. The multiple and apparently correct references to writs and real property conveyancing terms in the gravediggers’ scene are hardly coincidental.

26 ABA Model Rules of Professional Conduct, Preamble, ¶ 6.
Second, there will be times that lawyers are called upon by both professional and ethical guidelines to press for change within the system of ordered liberty.

An additional professionalism point that can be drawn from the gravediggers’ scene is that the more words it seems to take to “justify” a course of action or result, the less inherently “justifiable” the course may well be. Legal jargon should not be viewed as an adequate substitute for reality or justice.

Of course, Shakespeare also presents at least one faux lawyer using legal procedure to craft a type of rough justice when a litigant seeks to go too far. In the trial scene from *The Merchant of Venice*, Shylock demands literal payment of a “pound of flesh” from Antonio.

In order to aid his friend Bassanio, Antonio borrows money from Shylock. The terms of the bond require that Antonio pay in full within three months or forfeit a pound of his own flesh. “The Code [i.e., bond] is sealed at a notary’s. Thus do two seasoned businessmen [Shylock and Antonio], acting at arm’s length and fully cognizant of the Code’s terms, set in motion a series of events that eventually find them in a Venetian court. The three months have passed, Antonio has defaulted, and Shylock demands his pound of flesh, or – to put it better – demands of the court that it place its formal imprimatur on The Private Code. It is quite unclear [at least at first] that he intends, in fact, to cut the flesh.”

Portia, disguised as the lawyer Balthasar, reminds the entire courtroom of the “quality of mercy” and its importance, but when Shylock still continues to reject payment and insists upon “the bond” being performed, suddenly Shylock finds himself on trial for seeking to injure a citizen of Venice, even though Shylock has already been assured by Portia/Balthasar that, “Of a strange nature is the suit you follow; // Yet in such rule that the Venetian law // Cannot impugn you as you do proceed.”

The twists and turns in this trial scene should put paid to any theory that Shakespeare actually was a lawyer. In the course of one scene what begins as an action to recover under a bond becomes a criminal proceeding, all the while with

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28 The disguise is apparently so good that even Shylock refers to her as “[a] Daniel come to judgment! yea, a Daniel!” *The Merchant of Venice*, Act IV, sc. i; cf. Daniel 1:7 (KJV) (noting that the Chaldean version of Daniel’s name was Belteshazzar).

29 *The Merchant of Venice*, Act IV, sc. i.

30 More technically, this can even be viewed as an action in “specific performance” in light of the initial failure to pay. “It is made clear repeatedly that the
Portia/Balthasar insisting that Bassanio cannot just make a double, or even tenfold payment, and “Wrest once the law to your authority: // To do a great right, do a little wrong, // And curb this cruel devil of his will.” The Merchant of Venice, Act IV, sc. i. Instead, it was apparently far more “just” to have Shylock forfeit his loan, provide a full dowry for his daughter to marry a Christian, and forcibly be converted to nominal Christianity himself.\(^{31}\)

Throughout the scene the twists and traps in the supposed law of Venice that the supposed lawyer uses are exaggerated for comic effect. While ostensibly not doing “a little wrong,” Portia/Balthasar “performs on [the bond’s] grammar series of tricks acceptable perhaps to the comic medium of the play but outlandish according to even the most ‘liberal’ of legal interpretations.”\(^{32}\) However, the maze-like process only comes into view after Shylock has repeatedly turned down offers of payment in his single-noted insistence upon the legal right to have “the bond.” In doing so, “Shylock sows the seeds of his own destruction when he attempts to wrest the legal-commercial system of Venice to, the noncommercial purpose of revenge. In Venice, all ducats are created equal. So long as a person has money, does not break the law, and gears his actions to the making of more money, his conduct and motives will be accepted by the state as reasonable, though he be an outsider of questionable morality.”\(^{33}\) So in order to avoid the twisted result of allowing a citizen to be maimed as part of the performance of a bond that could now be made good, the twisted law is twisted a bit further to get where the law might have gone more quickly had it not been gnarled in the first place.\(^{34}\) Had the Duke and Portia/Balthasar simply stated that the State would not enforce the contract because to do so would involve Venice itself imposing a physical penalty when only a commercial debt pound of flesh cannot be replaced with any award of damages.” Mark Fortier, Shakespeare and Specific Performance, in Shakespeare and the Law, 7, 12 (Paul Raffield & Gary Watt, eds. 2008).

\(^{31}\) The word “nominal is used advisedly. “Everything is demanded under threat that otherwise the Duke will rescind the pardon on Shylock’s life that he has just granted. The conversion, therefore, will not be a product of religious belief, deeply held or otherwise, but under duress.” Mark Fortier, supra n.30, at 13.

\(^{32}\) Richard Weisberg, supra n.27, at 291-92.

\(^{33}\) C. Bernthal, supra n.10, at 110.

\(^{34}\) The plea “To do a great right, do a little wrong” has been taken by one commentator as a possible support for civil disobedience. See Margaret Graham Tebo, Shakespeare for Lawyers: A Practical Guide to Quoting the Bard, at 123 (ABA Publishing 2010).
was at issue, the knotty issue would not have arisen. Yet, both the Duke and Portia/Balthasar at least appeared willing to have the maiming and torturing take place.\textsuperscript{35}

**Portrait of the Lawyer as an Independent Advisor/Counselor**

Not all legal situations require litigation, and not all litigation should be handled in the same way. The Model Rules of Professional Conduct expressly recognize that, “In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.” ABA Model Rule of Professional Conduct 2.1. Simply put, “[a] client is entitled to straightforward advice expressing the lawyer’s honest assessment.”\textsuperscript{36} Moreover, a lawyer is to aspire to “fully informed client decision-making” and to seek to “achieve the excellence of our craft, especially [in] those situations that permit me to be the moral voice of clients to the public in advocacy while being the moral voice of the public to clients in counseling. Good lawyering should be a moral achievement for both the lawyer and the client.”\textsuperscript{37}

Let’s see how that particular Rule and those professionalism ideal plays out in the opening Act of *Henry V*. In scene two, Henry brings in his advisor, the Archbishop of Canterbury, and asks a fairly simple question. Henry wants to know if “in right and conscience” he “can make this claim” to be the hereditary ruler of certain lands in France. The legal advice follows:

**CANTERBURY**

Then hear me, gracious sovereign, and you peers,
That owe yourselves, your lives and services
To this imperial throne. There is no bar
To make against your highness’ claim to France
But this, which they produce from Pharamond,
’In terram Salicam mulieres ne succedant:’

\textsuperscript{35} I stress “apparently” because this author remains of the view that Portia knew of the legal “out” from the moment she stepped into the courtroom, and wanted to either allow Shylock to accept payment himself (and exercise “mercy) or to reveal himself as seeking only revenge. This point is not universally agreed upon, and some productions of *The Merchant of Venice* picture Portia as only finding the solution after she pronounces that the law cannot “do a little wrong,” asks to “look upon the bond,” and then proclaims “[t]arry a little; there is something else.” *The Merchant of Venice*, Act IV, sc. i. To jump ahead a few centuries, Portia’s “tarry a little” strikes me as far more akin to Lieutenant Columbo’s “oh, one more thing” than to a statement of sudden revelation.

\textsuperscript{36} Comment 1 to ABA Model Rule of Professional Conduct 2.1.

\textsuperscript{37} Aspirational Statement on Professionalism, supra n. 7, Specific Aspirational Ideals, As to clients, (b) and General Aspirational Ideals, (h).
'No woman shall succeed in Salique land:
Which Salique land the French unjustly gloze
To be the realm of France, and Pharamond
The founder of this law and female bar.
Yet their own authors faithfully affirm
That the land Salique is in Germany,
Between the floods of Sala and of Elbe;
Where Charles the Great, having subdued the Saxons,
There left behind and settled certain French;
Who, holding in disdain the German women
For some dishonest manners of their life,
Establish'd then this law; to wit, no female
Should be inheritrix in Salique land:
Which Salique, as I said, 'twixt Elbe and Sala,
Is at this day in Germany call'd Meisen.
Then doth it well appear that Salique law
Was not devised for the realm of France:
Nor did the French possess the Salique land
Until four hundred one and twenty years
After defunction of King Pharamond,
Idly supposed the founder of this law;
Who died within the year of our redemption
Four hundred twenty-six; and Charles the Great
Subdued the Saxons, and did seat the French
Beyond the river Sala, in the year
Eight hundred five. Besides, their writers say,
King Pepin, which deposed Childeric,
Did, as heir general, being descended
Of Blithild, which was daughter to King Clothair,
Make claim and title to the crown of France.
Hugh Capet also, who usurped the crown
Of Charles the duke of Lorraine, sole heir male
Of the true line and stock of Charles the Great,
To find his title with some shows of truth,
'Through, in pure truth, it was corrupt and naught,
Convey'd himself as heir to the Lady Lingare,
Daughter to Charlemain, who was the son
To Lewis the emperor, and Lewis the son
Of Charles the Great. Also King Lewis the Tenth,
Who was sole heir to the usurper Capet,
Could not keep quiet in his conscience,
Wearing the crown of France, till satisfied
That fair Queen Isabel, his grandmother,
Was lineal of the Lady Ermengare,
Daughter to Charles the foresaid duke of Lorraine:
By the which marriage the line of Charles the Great
Was re-united to the crown of France.
So that, as clear as is the summer's sun.
King Pepin's title and Hugh Capet's claim,
King Lewis his satisfaction, all appear
To hold in right and title of the female:
So do the kings of France unto this day;
Howbeit they would hold up this Salique law
To bar your highness claiming from the female,
And rather choose to hide them in a net
Than amply to imbar their crooked titles
Usurp'd from you and your progenitors.

KING HENRY V May I with right and conscience make this claim?
CANTERBURY The sin upon my head, dread sovereign!
For in the book of Numbers is it writ,
When the man dies, let the inheritance
Descend unto the daughter. Gracious lord,
Stand for your own; unwind your bloody flag;
Look back into your mighty ancestors:
Go, my dread lord, to your great-grandsire's tomb,
From whom you claim; invoke his warlike spirit,
And your great-uncle's, Edward the Black Prince,
Who on the French ground play'd a tragedy,
Making defeat on the full power of France,
Whiles his most mighty father on a hill
Stood smiling to behold his lion's whelp
Forage in blood of French nobility.
O noble English. that could entertain
With half their forces the full Pride of France
And let another half stand laughing by,
All out of work and cold for action!

Henry V, Act I, sc. ii. So, in short, Henry has a legal claim to the lands in France so long as the lands in France are actually considered to be lands of Germany (where females may inherit the throne) and, anyway, the land has been illegally seized by rulers before. “However much he may admire the eloquence of the Archbishop of Canterbury
in *Henry V.*, the lawyer cannot forbear to smile at the arguments he advances in support of Henry’s claim to the French throne. . . . One imagines that the French law officers of the period [in which *Henry V* is set] did not have a great deal of trouble in reducing the claim to absurdity.”

“A weaker claim than Henry V.’s to the French Crown could not, therefore, be easily imagined, and the responsibility for it Shakespeare most plainly wishes to place upon the wily Archbishop, . . .”

Far from counseling Henry “about the value of cooperation as a means towards the productive resolution of disputes,” the Archbishop is urging him to war.

Another disturbing factor appears. The playgoer has already learned from Act I, scene one, that the supposedly independent judgment being given by the Archbishop of Canterbury is more than a bit tainted. Both the Archbishop of Canterbury and the Bishop of Ely are gravely concerned that if King Henry is not soon distracted he will look favorably upon a bill to seize additional lands from the church. Immediately before the Archbishop was summoned to deliver his learned opinion he and the Bishop had discoursed:

ELY: But, my good lord,
   How now for mitigation of this bill
   Urged by the commons? Doth his majesty
   Incline to it, or no?

CANTERBURY: He seems indifferent,
   Or rather swaying more upon our part
   Than cherishing the exhibitors against us;
   For I have made an offer to his majesty,
   Upon our spiritual convocation
   And in regard of causes now in hand,
   Which I have open'd to his grace at large,

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38 G.W. Keeton, *supra* n.3, at 217. I differ slightly from Keeton on the question of whether the speech is intended to be viewed as “eloquent” or as simply a stretch argument.

39 G.W. Keeton, *supra* n.3, at 226.

40 Aspirational Statement on Professionalism, *supra* n.7, Specific Aspirational Ideals, As to clients, (b)(2).

41 The Archbishop “is seeking to employ Henry’s vigour against a foreign foe in the hope that an attack upon the possessions of the church will thereby be averted.” G.W. Keeton, *supra* n.3, at 226.
As touching France, to give a greater sum
Than ever at one time the clergy yet
Did to his predecessors part withal.
ELY  How did this offer seem received, my lord?
CANTERBURY  With good acceptance of his majesty;
Save that there was not time enough to hear,
As I perceived his grace would fain have done,
The several and unhidden passages
Of his true titles to some certain dukedoms
And generally to the crown and seat of France
Derived from Edward, his great-grandfather.

_Henry V_, Act I, sc. i. So not only was the Archbishop of Canterbury’s advice pitched to tell Henry what he wanted to hear, it was also designed to benefit Canterbury’s and Ely’s other “client” and “employer,” the church.

The ethical problems with this type of advice are obvious. The Archbishop of Canterbury has not really exercised “independence,” but has tailored his advice to tickle King Henry’s ears. Moreover, the Archbishop did not reveal the conflict to Henry, let alone seek Henry’s consent to continue to press for a solution benefitting the “other” client. In Shakespeare’s day this type of backroom bargaining was held up to ridicule and exposed.\(^{42}\) Today, that type of double-dealing would run afoul of Model Rules of Professional Conduct 1.7 and 2.1. This provides another example of how the final paragraph of the Preamble to the Model Rules works: “Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.”\(^{43}\)

In addition the ethical restrictions presented in the scene, professionalism concerns enter in as well. In order to assure that clients are fully informed, a lawyer is to aspire to “[m]aintain the sympathetic detachment that permits objective and independent advice to clients.”\(^{44}\) Given what the playgoer has seen in scene one, the Archbishop is far from sympathetically detached and is not even seeking to provide “objective” advice.

\(^{42}\) Of course, Shakespeare was able to “expose” the dubious undertakings of the Catholic Archbishop of Canterbury because Shakespeare was writing after Henry VIII established the Church of England and during the reigns of the Protestant rulers Elizabeth I and James I.

\(^{43}\) ABA Model Rules of Professional Conduct, Preamble, ¶ 13.

\(^{44}\) Aspirational Statement on Professionalism, _supra_ n.7, As to clients, (b)(3).
Shakespeare also gives us a positive example of a lawyer serving as a counselor. In *Henry IV, Part 2*, Henry IV has died and the Lord Chief Justice of England, William Gascoigne, realizes that he will soon have to answer to the former Prince Hal, now King Henry V:

WARWICK  How now, my lord chief-justice! whither away?
LORD CHIEF-JUSTICE  How doth the king?
WARWICK  Exceeding well; his cares are now all ended.
LORD CHIEF-JUSTICE  I hope, not dead.
WARWICK  He's walk'd the way of nature;
    And to our purposes he lives no more.
LORD CHIEF-JUSTICE  I would his majesty had call'd me with him:
    The service that I truly did his life
    Hath left me open to all injuries.
WARWICK  Indeed I think the young king loves you not.
LORD CHIEF-JUSTICE  I know he doth not, and do arm myself
    To welcome the condition of the time,
    Which cannot look more hideously upon me
    Than I have drawn it in my fantasy.

*Henry IV, Part 2*, Act V, sc. 2. In short, the Chief wishes he had died with Henry IV and cannot imagine life with Henry V, whom the Chief Justice had actually ordered jailed.

But notice what unfolds as Henry V first confronts the Chief Justice:

KING HENRY V  You all look strangely on me: and you most;
    You are, I think, assured I love you not.
LORD CHIEF-JUSTICE  I am assured, if I be measured rightly,
    Your majesty hath no just cause to hate me.
KING HENRY V  No!
    How might a prince of my great hopes forget
    So great indignities you laid upon me?
    What! rate, rebuke, and roughly send to prison
    The immediate heir of England! Was this easy?
    May this be wash'd in Lethe, and forgotten?
LORD CHIEF-JUSTICE  I then did use the person of your father;
    The image of his power lay then in me:
    And, in the administration of his law,
    Whiles I was busy for the commonwealth,
    Your highness pleased to forget my place,
    The majesty and power of law and justice,
    The image of the king whom I presented,
And struck me in my very seat of judgment;
Whereon, as an offender to your father,
I gave bold way to my authority
And did commit you. If the deed were ill,
Be you contented, wearing now the garland,
To have a son set your decrees at nought,
To pluck down justice from your awful bench,
To trip the course of law and blunt the sword
That guards the peace and safety of your person;
Nay, more, to spurn at your most royal image
And mock your workings in a second body.
Question your royal thoughts, make the case yours;
Be now the father and propose a son,
Hear your own dignity so much profaned,
See your most dreadful laws so loosely slighted,
Behold yourself so by a son disdain'd;
And then imagine me taking your part
And in your power soft silencing your son:
After this cold considerance, sentence me;
And, as you are a king, speak in your state
What I have done that misbecame my place,
My person, or my liege's sovereignty.

KING HENRY V
You are right, justice, and you weigh this well;
Therefore still bear the balance and the sword:
And I do wish your honours may increase,
Till you do live to see a son of mine
Offend you and obey you, as I did.
So shall I live to speak my father's words:
'Happy am I, that have a man so bold,
That dares do justice on my proper son;
And not less happy, having such a son,
That would deliver up his greatness so
Into the hands of justice.' You did commit me:
For which, I do commit into your hand
The unstained sword that you have used to bear;
With this remembrance, that you use the same
With the like bold, just and impartial spirit
As you have done 'gainst me. There is my hand.
You shall be as a father to my youth:
My voice shall sound as you do prompt mine ear,
And I will stoop and humble my intents  
To your well-practised wise directions.  
And, princes all, believe me, I beseech you;  
My father is gone wild into his grave,  
For in his tomb lie my affections;  
And with his spirit sadly I survive,  
To mock the expectation of the world,  
To frustrate prophecies and to raze out  
Rotten opinion, who hath writ me down  
After my seeming. The tide of blood in me  
Hath proudly flow'd in vanity till now:  
Now doth it turn and ebb back to the sea,  
Where it shall mingle with the state of floods  
And flow henceforth in formal majesty.  
Now call we our high court of parliament:  
And let us choose such limbs of noble counsel,  
That the great body of our state may go  
In equal rank with the best govern'd nation;  
That war, or peace, or both at once, may be  
As things acquainted and familiar to us;  
In which you, father, shall have foremost hand.  
Our coronation done, we will accite,  
As I before remember'd, all our state:  
And, God consigning to my good intents,  
No prince nor peer shall have just cause to say,  
God shorten Harry's happy life one day!

Henry IV, Part 2, Act V, sc. ii.

The Chief Justice’s approach provides the antithesis to that of the Archbishop of Canterbury. In this scene, “Shakespeare has created a portrait of a great Chief Justice, and has paid an impressive tribute to the impartiality of [England’s] courts in the Middle Ages.”

45 G.W. Keeton, supra n.3, at 158. Incidentally, the historical Lord Chief Justice William Gascoigne was famed for an additional reason. “His tenure of office was also notable for the introduction of examinations as a preliminary to admission to practise as an attorney; and the same statute also provided that an attorney should cease to practise on conviction for fraud.” G.W. Keeton, supra n.3, at 159-60. So Lord Chief Justice Gascoigne was a forefather of both the bar exam and disbarment proceedings.
While the Chief Justice had exercised the King’s authority upon the soon-to-be-King, with an even hand; the Archbishop acted for his own advantage. Yet, when King Henry V was enthroned and confronted his former accuser and disciplinarian, the King appreciated the balanced counsel that the Chief Justice had provided and even looked forward to the Chief Justice advising him. To make the contrast even starker, the King whom Canterbury sought to manipulate and to whom he would not provide honest advice was, of course, the same Henry V whom the Chief Justice had disciplined and who thanked the Chief for it.

From these positive and negative portrayals one can glean how a lawyer should act as advisor. Like the Chief Justice in Henry IV, Part 2, lawyers should be willing to proclaim emphatically what the law is. Clients and society are best served when lawyers follow Model Rule 2.1 and “exercise independent professional judgment and render candid advice.” This may at times be unwelcome. “A lawyer ordinarily has no duty . . . to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client’s interest.” The dramatic portraits of the various advisors to young King Henry V show both types of advisors: those who do and who do not abide by these rules.

**Incompetence Is Not Pretty**

The final ethical and professional point drawn for this paper involves Model Rule of Professional Conduct 1.1: “A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” While it must remain true that “[a]s advocate, a lawyer zealously asserts the client's position under the rules of the adversary system,” no amount of sheer zeal can replace competence.

Shakespeare makes this wonderfully clear in Much Ado About Nothing. Captain of the Watch Dogberry is certainly zealous. Yet Dogberry makes a marvelous hash out of (i) his examination of two criminals apprehended by his watchmen, and (ii) his own report of the results of the examination to Don Pedro.

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46 Comment 5 to ABA Model Rule of Professional Conduct 2.1.

47 ABA Model Rules of Professional Conduct, Preamble, ¶ 2. Accord Aspirational Statement on Professionalism, supra n. 7. Specific Aspirational Ideals, As to the courts, other tribunals, and to those who assist them, (b)(2) (“As a professional I should . . . [k]now court rules and procedures.”), & As to our profession, (b) (“I will aspire . . . [t]o protect the public from incompetent or other wrongful lawyering.”).
Here is Dogberry’s examination, in which he identifies himself as a “malefactor” and concludes by wishing emphatically that he “had been writ down an ass”:

DOGBERRY Is our whole dissembly appeared?
VERGES O, a stool and a cushion for the sexton.
Sexton Which be the malefactors?
DOGBERRY Marry, that am I and my partner.
VERGES Nay, that's certain; we have the exhibition to examine.
Sexton But which are the offenders that are to be examined? let them come before master constable.
DOGBERRY Yea, marry, let them come before me. What is your name, friend?
BORACHIO Borachio.
DOGBERRY Pray, write down, Borachio. Yours, sirrah?
CONRADE I am a gentleman, sir, and my name is Conrade.
DOGBERRY Write down, master gentleman Conrade. Masters, do you serve God?
CONRADE Yea, sir, we hope.
BORACHIO |
DOGBERRY Write down, that they hope they serve God: and write God first; for God defend but God should go before such villains! Masters, it is proved already that you are little better than false knaves; and it will go near to be thought so shortly. How answer you for yourselves?
CONRADE Marry, sir, we say we are none.
DOGBERRY A marvellous witty fellow, I assure you: but I will go about with him. Come you hither, sirrah; a word in your ear: sir, I say to you, it is thought you are false knaves.
BORACHIO Sir, I say to you we are none.
DOGBERRY Well, stand aside. 'Fore God, they are both in a tale. Have you writ down, that they are none?
Sexton Master constable, you go not the way to examine: you must call forth the watch that are their accusers.
DOGBERRY Yea, marry, that's the eftest way. Let the watch come forth. Masters, I charge you, in the prince's name, accuse these men.
First Watchman This man said, sir, that Don John, the prince's brother, was a villain.
DOGBERRY  Write down Prince John a villain. Why, this is flat perjury, to call a prince's brother villain.

BORACHIO  Master constable,--

DOGBERRY  Pray thee, fellow, peace: I do not like thy look, I promise thee.

Sexton  What heard you him say else?

Second Watchman  Marry, that he had received a thousand ducats of Don John for accusing the Lady Hero wrongfully.

DOGBERRY  Flat burglary as ever was committed.

VERGES  Yea, by mass, that it is.

Sexton  What else, fellow?

First Watchman  And that Count Claudio did mean, upon his words, to disgrace Hero before the whole assembly, and not marry her.

DOGBERRY  O villain! thou wilt be condemned into everlasting redemption for this.

Sexton  What else?

Watchman  This is all.

Sexton  And this is more, masters, than you can deny. Prince John is this morning secretly stolen away; Hero was in this manner accused, in this very manner refused, and upon the grief of this suddenly died. Master constable, let these men be bound, and brought to Leonato's: I will go before and show him their examination.

Exit

DOGBERRY  Come, let them be opinioned.

VERGES  Let them be in the hands--

CONRADE  Off, coxcomb!

DOGBERRY  God's my life, where's the sexton? let him write down the prince's officer coxcomb. Come, bind them. Thou naughty varlet!

CONRADE  Away! you are an ass, you are an ass.

DOGBERRY  Dost thou not suspect my place? dost thou not suspect my years? O that he were here to write me down an ass! But, masters, remember that I am an ass; though it be not written down, yet forget not that I am an ass. No, thou villain, thou art full of piety, as shall be proved upon thee by good witness. I am a wise fellow, and, which is more, an officer, and, which is more, a householder, and, which is
more, as pretty a piece of flesh as any is in Messina, and one that knows the law, go to; and a rich fellow enough, go to; and a fellow that hath had losses, and one that hath two gowns and every thing handsome about him. Bring him away. O that I had been writ down an ass!

_Much Ado About Nothing_, Act IV, sc. ii. No matter how many hints the Sexton or even the dim members of the watch proffer, the Constable seeks to foul up the record.

Yet if discovery proceeded badly, watch how Constable Dogberry presents the case to Don Pedro:

DON PEDRO Officers, what offence have these men done?

DOGBERRY Marry, sir, they have committed false report; moreover, they have spoken untruths; secondarily, they are slanders; sixth and lastly, they have belied a lady; thirdly, they have verified unjust things; and, to conclude, they are lying knaves.

DON PEDRO First, I ask thee what they have done; thirdly, I ask thee what's their offence; sixth and lastly, why they are committed; and, to conclude, what you lay to their charge.

CLAUDIO Rightly reasoned, and in his own division: and, by my troth, there's one meaning well suited.

DON PEDRO Who have you offended, masters, that you are thus bound to your answer? this learned constable is too cunning to be understood: what's your offence?

_Much Ado About Nothing_, Act V, sc. i.

Apparently the pressure becomes too much for Borachio, who then confesses. As the Don and his party seek to capture the villainous Don John who has fled, Dogberry misfires this Parthian shot:

DOGBERRY Come, bring away the plaintiffs: by this time our sexton hath reformed Signior Leonato of the matter: and, masters, do not forget to specify, when time and place shall serve, that I am an ass.

_Much Ado About Nothing_, Act V, sc. i. Finally, as Leonato takes Dogberry’s prisoner from him, ending Dogberry’s official duties, Dogberry expresses his gratitude to Leonato:
LEONATO    Go, I discharge thee of thy prisoner, and I thank thee.

DOG Berry    I leave an arrant knave with your worship; which I
     beseech your worship to correct yourself, for the
     example of others. God keep your worship! I wish
     your worship well; God restore you to health! I
     humbly give you leave to depart; and if a merry
     meeting may be wished, God prohibit it! Come, neighbour.

Much Ado About Nothing, Act V, sc. i. While Dogberry’s exit from the stage usually
draws applause from live audiences who appreciate the comic tour de force, who knows
how many clients, jurors, judges, and just plain people have had to endure meandering,
incompetent presentations of facts, law, and positions. Shakespeare mocks incompetent
lawyering; the Model Rules prohibit it.

Our Hour Upon the World’s Stage

So what do we, as members of a “learned profession” do with all of this?
Shakespeare’s lens can reveal to us the mixed feelings sixteenth and early seventeenth
century society had about lawyers. If we are honest, we see many of the same concerns
present today.

Law is a powerful and absolutely necessary tool for the development and
protection of an ordered society. Law cannot survive without the careful protection and
service of lawyers – whether they are lawyers in the trenches of negotiations, the
conference rooms of depositions, or the behind the benches of a courtroom serving as
judges.

We owe it to the profession to remind people of the noble calling that the law can
be. More importantly, we owe the same thing to ourselves.

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