

“Let’s [NOT] Kill All the Lawyers”

by David P. Gontar (January 2016)

Courtier: Sire, the peasants are revolting.

Tsar: Yes, aren’t they?

– Ken Solin

One of the most puzzled-over lines in Shakespeare is “The first thing we do let’s kill all the lawyers.” (*King Henry VI*, Part II, IV, ii, 78). Some take this outrageous utterance as a mere “Lawyer Joke” (See, e.g., Seth Finkelstein, “The First Thing We Do, Let’s Kill All the Lawyers – It’s a Lawyer Joke,” *The Ethical Spectacle*, July, 1997). But though it may be admitted that there’s a comic dimension in the *Henry VI* trilogy, proposals of mass extermination rarely get a laugh, and what might be funny about this specimen is hardly apparent. Attorneys and bar associations have zealously argued to the contrary, that the proto-terrorist proposal to destroy the institution and practice of law was intended by Shakespeare as oblique and subtle praise of a noble vocation which is one of the bulwarks of an ordered society. That is inviting and plausible, but it’s hard to discover praise in the manifest content of the line itself. Though the speaker, Dick the Butcher, is a sort of clown whose asides in *King Henry VI* Part Two mock the grotesque personage of John (‘Jack’) Cade, the anti-lawyer vendetta he unleashes isn’t mere fancy but altogether in earnest and instantly implemented by the ring leader, Cade: “Nay, that I mean to do.” (IV, ii, 78) These guys aren’t kidding; they seek nothing less than the obliteration of law in England, forgetting, of course, that the monarchy Cade would reserve for himself is a creature of law. Four brief scenes later this genocidal scheme is set in motion. After hanging the Clerk of Chatham for the crime of literacy (IV, ii, 86), Cade orders Dick the Butcher and the rest of the mob to “go some and pull down the Savoy; others to the Inns of Court – down with them all.” (IV, vii, 1-2) The Inns of Court were the English Renaissance equivalent of modern law schools. Though we aren’t shown actual juricidal deeds in *King Henry VI*, there is no question that “let’s kill all the lawyers” is no idle quip or punch line, but an expression of lethal intent – at the very least a hate crime.

Though no lawyers are assassinated by the Cade gang in the play in question, the anti-attorney campaign in *Henry VI* accurately reflects historical reality. Shakespeare's presentation of this popular uprising in fact is an amalgam of two distinct events: the Peasants' Rebellion of 1381 headed by Wat Tyler and the Jack Cade revolt 69 years later. It was in the former unrest that lawyers were targeted and slain, a fact well known to 16th century audiences in Tudor England. The battle cry, "Kill All the Lawyers," may not have rung out in 1450, but those very sentiments had heralded the violent deaths of many an attorney in 1381, and the collective memories thereof were thus still fresh in the minds of Jack Cade's battalions in 1450 and subsequently common knowledge in Elizabethan England. Thus it follows as the night the day that Dick the Butcher's call for the extinction of lawyers in *King Henry VI* is anything but a lark. It is a plain illustration of long standing public dissatisfaction with the legal profession. What made the people so angry?

In the case of the Cade Rebellion, Peter Saccio's exposition is illuminating.

Drawing on the Peasants' Revolt of 1381, Shakespeare depicts Cade and his men as an ignorant mob who yearn to upset the whole society and particularly to "kill all the lawyers." Cade's men were actually a reasonably well-organized group of artisans and gentry who made the standard requests of most middle- and upper-class medieval rebels. The formal "Complaint of the Commons of Kent" addressed itself to the loss of France, the extravagance of the royal household, excessive taxation, the undue dominance of the evil councillor Suffolk, and the exclusion from power of the natural advisors of the king, namely such lords of the royal blood as York." (Saccio, 124, emphasis added)

Though jural figures may not have had bull's eyes painted on their foreheads in the Cade Rebellion, the legislative acts which mandated oppressive taxes in the 15th century were the handiwork of lawyers. Thus, the anti-attorney sentiments which boiled over in the 1380's were still being felt in 1450. As Saccio implies, Shakespeare saw these two revolts as parts of a single process of enfranchisement and the transcendence of feudalism.

Those peasants who survived the Black Death (1348-1350) had been left with an enhanced sense of entitlement and confidence. ("The Peasants' Revolt," Simon

Newman, n.d.) They believed on account of a smaller labor pool they could expect and were deserving of higher wages. But they were checked in that enterprise by passage of the Statute of Labourers (1351) which effectively capped the price of manual labor, keeping them in the abject poverty which was the traditional concomitant of their lives. Blame for hunger and suffering was placed squarely on the lawyers. As Kim Milone points out, it was they who codified customs, services, dues and obligations. (See, "The English Peasants' Revolt of 1381," by Kim Milone) To make matters worse, protracted wars with France led to a harsh and inequitable poll tax which fell regressively on the poor. Again, the lawyers, architects of society so often serving the interests of rulers and oligarchs, were seen as responsible. Among the legal edicts of the land was one that required serfs to toil two days a week for the exclusive benefit of the church (that is, the clergy). As David Giacalone observes, "Peasants who had been freed from servitude or serfdom by their masters were returned to bondage when lawyers found loopholes in the documents that purportedly freed them." Thus it is no surprise that the unyoked peasants struck with special vehemence places containing tax and work records. Kim Milone notes that "Houses of lords were attacked and manorial documents, documents of slavery, tax rolls and judicial records were burned." The devastation of John of Gaunt's palace the Savoy and the Inns of Court which Shakespeare situates in the Jack Cade Rebellion occurred in fact in 1381. The Tower of London was commandeered, and Fleet Prison was broken open. Many lawyers were put to death in the attack on the Temple (an Inn of Court). Allied with the peasants were numbers of townsmen, who wanted to rid themselves of middlemen, identified by Kim Milone as lawyers, nobles and churchmen, leaving the people in direct communication with the King. Lawyers were seen as shielding a privileged and corrupt establishment. (See, "Shakespeare and the Lawyers: The Bar's Propaganda," by David Giacalone)

It is true that, as the bar associations are quick to point out, lawyers played a vital role in establishing government by law in England and its dominions, holding in check impulses to despotism and anarchy. And it is important in this context to remember that 2015 is the 800th anniversary of *Magna Carta*, which was largely the creation of Stephen Langton, a brilliant canon lawyer, in 1215. (See, *King John*, III, i, 69) Abuses of the lessor orders of English society did not end with King John, however. The Peasants' Rebellion of 1381 and the Jack Cade Rebellion 69 years later, and dramatized so effectively by Shakespeare in *King Henry VI*, reflected the discontent of peasants and

commoners with institutions and practices in which counselors served in less than creditable ways.

Even in our own enlightened era, portions of the legal profession often ally themselves with oligarchs inimical to the public weal. For example, it was lawyers who were responsible for the introduction of the Adjustable Rate Mortgage into the private home market, a move originally opposed by the Congress. Between 1978 and 1981 the Federal Home Loan Bank Board and the Comptroller of the Currency oversaw the dissemination of the A.R.M. into the general real estate market, where it led to widespread bankruptcy, repossessions and the financial collapse of 2008. (See, Joe Peek, "A Call to Arms: Adjustable Rate Mortgages in the 1980's," *New England Economic Review*, March/April, 1990) Lawyers also presided over countless real estate closings in which the principal instrument was an adjustable rate mortgage.

Unfortunately, readers and theatergoers exposed to *King Henry VI* who attend to the slogan calling for the annihilation of lawyers are not told what social ills prompted such an extreme remedy. Without benefit of careful research it is all too easy to suppose the proposal to annihilate lawyers in England was either a Shakespearean gag to provide comic relief, or a demonstration of how thoughtless groundlings, given too much liberty, might run amok and tear down one of the most fundamental institutions of society: law. Neither of these readings is supported by the historical background. The peasants and their civil cohorts in the 14th and 15th centuries had every reason to feel vexed by the legal profession, which for the most part served the special interests of the nobility, the Church, and the wealthy. As the social constraints and frictions of feudalism grew, the consequent oppressions began to bother not only peasants and serfs but ranks more highly placed, thereby leading ultimately to the abandonment of the feudal system. Though Shakespeare detested the mob, and saw in it the undoing of the benefits and decencies of civilization, he did not hesitate to allude to the abuses committed by kings, queens, courtiers and their legal minions which led those sansculottes to take to the streets. (See, e.g., *King Henry V*, I, ii, 1-114) in which greedy bishops devise legal sophisms for a giddy monarch to rationalize the invasion of France, entailing the deaths of many conscripted commoners.)

Close students of the Shakespearean corpus have long known that the actual

author of the plays and poems was himself trained in law at Gray's Inn, one of the Inns of Court, where he was admitted in 1567. There were skits, masques and plays performed at those Inns, including *A Comedy of Errors* (performance, 1594) and *Twelfth Night* (performance, 1601). (Ogburn, 454.) Mr. Ogburn writes:

One play given at Gray's Inn in 1567 was George Gascoigne's *Supposes*, a translation of Ariosto's *I Suppositi*, which is accepted as a source of the story told in *The Taming of the Shrew*. The performance would appear to have taken place five weeks before [Edward] de Vere [17th Earl of Oxford] entered Gray's Inn but since the Inn was only half a mile from his home at Cecil House, we may believe he would have elected to be there for it. (Ogburn, 454)

As a member of the legal profession, "Shakespeare's" vantage point was that of an insider. While he would never indulge in coarse or wholesale condemnation of his own field, he took the liberty of pointing to shortcomings in law as practiced by its votaries. The idea of eliminating lawyers altogether arose on account of the dubious role played by the legal guild in the exploitation of masses of people who yearned for a better life, and whose struggles eventually led to the casting aside of feudalism. The plays of Shakespeare contributed to that progress, ushering in a modern world which is, alas, still beset by legal shenanigans.

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