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# CAESAR, SUCCESSION, AND THE CHASTISEMENT OF RULERS

*Patrick Martin\**

*John Finnis†*

Julius Caesar's reign as dictator and *praefectus morum* for life ended with his assassination in 44 B.C. It was preceded by over four hundred years of consular rule, a system of executive government by two consuls, elected for a one-year term. Consular government began in 509 B.C., ending the hundred-year rule of the Tarquin kings. Three works printed in 1594 recalled for English readers the overthrow of the Tarquins and the establishing of consular government. One was dedicated to the Earl of Essex. Another, by William Shakespeare, was dedicated to Essex's close companion, the Earl of Southampton. The third work was also by Shakespeare. All three works present the Tarquins as unjust kings whose expulsion was a justified "chastisement" of their public and private misdeeds.

These works of 1594 all shed light on the treatment of political legitimacy, succession, and revolution in Shakespeare's later *Tragedy of Julius Caesar*. By helping restore the historical-political context, they suggest that the play had subversive resonances perceptible to some, at least, among its first audiences. First printed in 1623, *Julius Caesar* was very probably first staged in 1599, less than two years before the two noble dedicatees of 1594 were condemned to death for a concerted attempt to overthrow the government and settle the succession to the aged Queen.

## I. THE TARQUINS' CHASTISEMENT IN 1594

### A. *The Book of Succession*

A group of four English exiles—Fr. Robert Persons, Thomas Fitzherbert, Hugh Owen, and Richard Verstegan—shared responsibility for a 500-page political tract banned under ferocious penalties as

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soon as it was smuggled into circulation in England: *A Conference About the Next Succession to the Crown of England*. The title page, bearing the date 1594,<sup>1</sup> attributed authorship to “Robert Doleman”; the dedication was to the Earl of Essex.<sup>2</sup> Soon known as the *Book of Succession*, the work surveys the claims of the potential successors to Elizabeth, and approves the deposing of bad rulers. The reason given for considering the question of deposition is to prove by an argument a fortiori that, since deposition of rulers “by the commonwealth” is sometimes justifiable and beneficial, “then much more has the said commonwealth power and authority to alter the succession of such as do but yet pretend to that dignity [i.e., who claim to succeed to rulership], if there be due reason and causes for the same [i.e., for altering the succession so as to cut out the unworthy claimant].”<sup>3</sup> Priority under rules of descent by blood relationship is not enough; the claimant must also have other characteristics making him or her *fit* to rule this commonwealth, and *acceptable* to its people.

The deposition of the Tarquin kings and their replacement by consular government is dealt with three times in the first few dozen pages. The first reference is in support of the work’s thesis that,

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1 The work was almost certainly ready for the printer by December 1593, printed at the direction of Richard Verstegan in Antwerp in early 1594, and then held back from circulation in England until 1595 by negotiations with political and ecclesiastical authorities in Spain and Rome. It seems likely that one or a few persons in England “confident with” the Fitzherbert and Persons circles abroad would have seen it in 1594 and/or been involved in its preparation in 1593. Richard Simpson, *The Politics of Shakspeare’s Historical Plays*, 1 NEW SHAKSPEARE SOC’Y’S TRANSACTIONS 395, 403 (1874) says that the *Book of Succession* was circulated in manuscript in 1592, and that in that year Persons received many letters about it out of England. But the source he cites is hearsay too garbled to be believed.

2 The authorial group was identified on June 21, 1595, by Nicholas Williamson, a Catholic confessing to communication with English exiles in the Low Countries, in a statement to the Attorney General, Edward Coke. In response to a question about his awareness of a “plot or practice for the Succession,” he declared that claims were being made for the King of Spain: “Of this it was said that Parsons, Owen, FitzHerbert and Vestigan was the chief advancers, and the setters forth of the book now in print but not published.” Historical Manuscripts Commission, 5 *Hatfield Papers* 252. For Williamson himself, see *id.* at 527. The actual authorship of the political tract—a tract which in fact gives no priority to the claims of the King of Spain—has been hotly contested for centuries. See, e.g., Peter Holmes, *The Authorship and Early Reception of a Conference About the Next Succession to the Crown of England*, 23 *HIST. J.* 415–29 (1980). Holmes entirely neglects the role of Thomas Fitzherbert, which we think may well have been significant.

3 ROBERT DOLEMAN, A CONFERENCE ABOUT THE NEXT SUCCESSION TO THE CROWNE OF INGLAND 62–63 (1st ed. 1594), at Early English Books Online (last visited Apr. 11, 2003) [hereinafter BOOK OF SUCCESSION]. Quotations are from this first edition, but with modernized spelling and punctuation.

though political government is required by reason, nature, and divine law, it is "left unto every nation or country to choose that form of government which they shall like best and think most fit for the natures and conditions of their people."<sup>4</sup> And such choices can rightly be changed from time to time:

For the *Romans* first had kings and after[wards], rejecting them for their evil government, they chose consuls, which were two governors for every year, whose authority yet they limited by a multitude of senators, which were of their counsel, and these men's power was restrained also by adding tribunes of the people . . .<sup>5</sup>

The authors are not arguing against kingship, and later they elaborate on the strong case for unambiguous unity (mon-archy) at the summit of government, here recalling that "[t]he *Romans* also began with kings as before . . . noted."<sup>6</sup> Indeed, kingship is compatible with succession by election rather than mere descent:

For in Rome the kings that succeeded Romulus, their first founder, had as great and absolute authority as ours have nowadays, but yet their children or next of blood succeeded them not of necessity, but new kings were chosen partly by the Senate and partly by the people . . . so as of three most excellent kings that ensued immediately after Romulus . . . none of them were of the blood royal nor of kin, but chosen rather from among strangers, for their virtue and valor, and that by election of the senate and consent of the people.<sup>7</sup>

Romulus, the founder of the Roman state, was himself overthrown "for reigning at his pleasure without law":

[F]or which cause the senators at length slew him, and cut him in small pieces. And afterwards they were greatly grieved at the entering of . . . their sixth king, for that he got the crown by fraud and not by election of the senate and special approbation of the people, as he should have done: but most of all they were exasperated by the proceeding of their seventh king named Lucius *Tarquinius*, sur-named *the proud*, who for that . . . he *neglected the laws of government prescribed to him by the commonwealth* [four kinds of violation of the constitution are here mentioned] he was *expelled with all his posterity and the government of Rome changed* from a kingdom unto the regiment of consuls, after two hundred years that the other [viz. kingship] had endured.<sup>8</sup>

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4 *Id.* at 9.

5 *Id.* at 10.

6 *Id.* at 16.

7 *Id.* at 25.

8 *Id.* at 27–28 (emphases added).

The *Book of Succession* ridicules, as base flattery of rulers and as enslavement of free persons, every political theory that would assert an absolute moral prohibition on such extra-legal<sup>9</sup> changes. Such a prohibition was vehemently taught by the English government's *Homily on Obedience*, and its further *Homily against Disobedience and Wilful Rebellion* (added to the *Book of Homilies* in 1571)<sup>10</sup>—official sermons that everyone was required to hear regularly throughout the Queen's reign. It was a theory stringently reinforced by frequent trials and executions of alleged plotters, whose guilt was sometimes proved merely by their admission that they could *imagine* circumstances when they might support an army opposed to the Queen, and whose fate was then recalled in official prayers to be recited throughout the realm.

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9 We use this term to navigate between (1) the modern usage which distinguishes "legal," i.e., according to positive (state) law, from "moral" and (2) the usage of classical western thought down to and including the *Book of Succession*, in which morality is articulated as a matter of natural law and morally justified revolutionary acts are, therefore, as the book regularly says, *lawful* even though contrary to some rule made by and/or enforced by the state's political and judicial authorities:

[Y]ou asked, by what law th[os]e commonwealths . . . did punish their evil princes? I have answered you before, that it is by all law, both human and divine: divine, for that God doth approve that form of government which every commonwealth doth choose unto itself, as also the conditions, statutes and limitations which itself shall appoint unto her princes: . . . and by all human law also, for that all law, both natural, national and positive, doth teach us that princes are subject to law and order, and that the commonwealth which gave them their authority for the common good of all may also restrain or take the same away again, if they abuse it unto the common evil.

*Id.* at 71–72. At the end of this chapter the authors give "the speech of a soldier," which wittily anticipates the nineteenth-century jurist John Austin's popular but absurd objection that if you rebel, the falsity of your thesis that unjust law is not binding will be demonstrated by hanging you:

I say that whatsoever you lawyers sit and talk of princes' right in your studies, yet I find no way but hanging for a man of my profession, if he shall disobey the worst prince that lives; and you lawyers will be the first that shall give sentence against him, if he chance to come before you in judgment.

*Id.* at 80. To which the pertinent reply is given by the civilian (Roman) lawyer: "we talk not here what men may be driven to do by fear or force of evil princes, but what in right, equity, and good conscience may be done . . ." *Id.* at 80–81; see also JOHN FINNIS, NATURAL LAW AND NATURAL RIGHTS 354–55 (1980); John Finnis, *On the Incoherence of Legal Positivism*, 75 NOTRE DAME L. REV. 1597, 1610–11 (2000).

10 Diplomatically, the *Book of Succession* leaves these Homilies unmentioned while refuting (as enslaving flattery) their central thesis and their appeal to the Bible, 1 *Samuel*, by way of its critique of a contemporary French political theorist of royal absolutism, PIERRE DE BELLOY, EXAMEN DU DISCOURS PUBLIÉ PAR CEUX DE LA LIGUE CONTRE LA MAISON ROYALE DE FRANCE (1587), "and some other of his opinion." BOOK OF SUCCESSION, *supra* note 3, at 64–71.

But in rejecting this as a servile extreme, the authors of the *Book of Succession* also reject any attempt to change the government unless "it is done upon just and urgent causes and by public authority of the whole body:<sup>11</sup> the justice thereof is plain . . . [by] those examples of the Romans . . . already mentioned, who lawfully deposed their kings upon just considerations, and changed also their monarchy and kingly government into other forms of regiment."<sup>12</sup> In short, as they say, the mean between two extremes is this:

As all the duty, reverence, love, and obedience before named is to be yielded unto every Prince which the commonwealth has once established, so yet retains still the commonwealth her authority not only to restrain the same Prince, if he be exorbitant, but also to *chasten and remove* him, upon due and weighty considerations . . .<sup>13</sup>

So it is that the Tarquins reappear in the immediately succeeding section, on "*lawful chastisement of kings*":

Again when Tarquinius the proud, their seventh and last king, was *expelled by the same Senate for his evil government*, and the whole government changed, as before hath been touched, we see the success was prosperous, for that not only no hurt came thereby to the commonwealth, but exceeding much good, seeing their government and increase of Empire was so prosperous under their consuls for many years, in such sort that whereas at the end of their kings' government they had but fifteen miles territory without their city, it is known that when their consuls' government ended and was changed by Julius Caesar, their territory reached more than fifteen thousand miles in compass . . . so as *this chastisement so justly laid upon their kings* was profitable and beneficial to their commonwealth also.<sup>14</sup>

In its next sentence, the *Book of Succession* turns from the consular government to its unjust overthrow by Julius Caesar, and then on to his own assassination:

Moreover, when Julius Caesar (upon particular ambition) had broken all law both humane and divine, and taken all government into his own hands alone, he was in revenge thereof slain, (as the world knows), by senators in the senate-house, and Octavianus Augustus preferred in his room, who proved the most famous Emperor that ever was.<sup>15</sup>

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<sup>11</sup> See *infra* note 33.

<sup>12</sup> BOOK OF SUCCESSION, *supra* note 3, at 32–33.

<sup>13</sup> *Id.* at 36 (emphasis added).

<sup>14</sup> *Id.* at 44 (emphases added).

<sup>15</sup> *Id.* at 45.

The *Book of Succession*'s importance in the history of Western political thought lies in its next move, which enters the mainstream of constitutionalism when the work is republished in the ferment of thought preceding the English revolution of 1688.<sup>16</sup> Among Christians, at least,

the power and authority which the Prince has from the commonwealth is in very truth not absolute, but . . . a power delegate, or *power by commission* from the commonwealth, which is *given with such restrictions, cautels, and conditions*, yea, with such plain exceptions, promises, and oaths of both parties (I mean between the king and the commonwealth at the day of his admission or coronation) as, if the same be not kept but willfully broken, on either part, then is the other not bound to observe his promise neither, though never so solemnly made or sworn, for that in all bargains, agreements, and contracts, where one part is bound mutually and reciprocally to the other, by oath, vow, or condition, there, if one side go from his promise, the other standeth not obliged to perform his.<sup>17</sup>

This implied contract between ruler and ruled is free from the historical fictions of later theories of social contract. It entails that the commonwealth, or persons acting *de facto* with its authority, may "upon urgent necessity and due deliberation had, against evil princes that break openly their oaths and promises made at their first entrance,"<sup>18</sup> take action to "chastise" such ruler or rulers. The making of such promises, which in English practice occurs at coronation, is thus of real significance,<sup>19</sup> and until coronation with its oaths and their acceptance by or on behalf of the people, no one can be said to have fully succeeded to the crown or become fully entitled to the allegiance

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16 Anglican opponents of the Glorious Revolution of 1688 (and its aftermath in Whig political and constitutional doctrine) attributed high significance to the *Book of Succession*:

having mention'd Hobb[e]s, how I am ashamed to find, that his Authority and the Reasons which he derived from Milton, and both from Doleman, i.e. Parsons the Jesuite, are of a sudden so generally received, as if the Doctrine were apostolical . . . . That Power is originally in the Body of the people, that the Foundation of all Government is laid in compact . . . . etc.

THOMAS H. CLANCY, *PAPIST PAMPHLETEERS: THE ALLEN-PERSONS PARTY AND THE POLITICAL THOUGHT OF THE COUNTER-REFORMATION IN ENGLAND, 1572-1615*, at 72 (1964) (quoting ABEDNEGO SELLER, *Preface* to *HISTORY OF PASSIVE OBEDIENCE* (Amsterdam, 1690)).

17 *BOOK OF SUCCESSION*, *supra* note 3, at 73 (emphasis added).

18 *Id.* at 81.

19 Accordingly, Chapter V of the *Book of Succession* is "[o]f the coronation of Princes and manner of their admission to their authority, and the oaths which they do make in the same unto the commonwealth, for their good government." *Id.* at 82.

of the subject. The right to undertake the chastisement of one who violates the mutuality established by the making and acceptance of these promises is analogous, according to the *Book of Succession*, to the right of self-defense.<sup>20</sup> As is implied by our quotations from the book's treatment of ancient Rome, the chastisement may be of various forms, on a spectrum running from more or less coerced replacement of the tyrant/monarch's advisers and ministers, through the deposition or banishment, to the killing of the tyrant/monarch.

Elizabethan elites well understood the implications of the *Book of Succession*. Although it focused on the situation that would arise on Elizabeth's natural death, and did not call for ousting her as monarch, it did supply philosophical foundations for a possible effort to do so. Moreover, the *Book of Succession* undercut the essentially *genealogical* (descent-based) case for installing or accepting James VI of Scotland as successor to Elizabeth. The authors were, in fact, strong opponents of James and for years worked against his rising to the throne of England.

### B. *Titus Andronicus*

Shakespeare's early play, *Titus Andronicus*, was first published (albeit without his name attached) in 1594, probably in a form revised for the publication.<sup>21</sup> The opening two speeches present with startling directness the issue argued in the *Book of Succession*: should rulership descend by priority of blood, as the eldest son of the deceased emperor proclaims to the patricians and his countrymen? Or should the country choose the more deserving amongst the claimants qualified by descent, as the younger son proposes (like the *Book of Succession*)? Tragedy unfolds when the war hero empowered by the people to choose the next emperor elects the eldest son, merely *hoping* that he has the requisite virtues—which, as events soon make plain, the new emperor singularly lacks. All aspects of the story of the Tarquins' overthrow are touched on in the play's four or five references to it: Lucrece's rape by Tarquin,<sup>22</sup> the expulsion of the

20 *Id.* at 72–73.

21 Recently, however, a significant case has been made that *Titus Andronicus* is substantially or wholly a work of early 1594. See, e.g., J.J.M. Tobin, *More Evidence for a 1594 Titus*, 247 NOTES & QUERIES 222–24 (2002). For present purposes it matters little whether or not the opening scene is, as some argue, by George Peele. Collaborative or not, the play's treatment of succession and chastisement is sufficiently unified and pervasive.

22 WILLIAM SHAKESPEARE, THE TRAGEDY OF TITUS ANDRONICUS act 2, sc. 1, lns. 108–09; *id.* act 4, sc. 1, lns. 64–65 [hereinafter TITUS ANDRONICUS]. Line numbers for



Tarquins,<sup>23</sup> and the role of Junius Brutus in that vindication at once of Lucrece and of the well-being of the commonwealth.<sup>24</sup> The legitimately descended and appointed but unworthy emperor is overthrown by a Roman patriot (a son of the war hero) whom he had banished. This patriot, the "turned forth" from Rome, "preserved her welfare in [his] blood" and returns to Rome at the head of a foreign army (of Goths only recently defeated by his father's Roman forces!) to punish the guilty, "knit again / This scattered corn into one mutual sheaf. . . . Let Rome herself be bane unto herself," and "govern so / To heal Rome's harms and wipe away her woe."<sup>25</sup> The beneficent foreign army<sup>26</sup> then recedes into the background as the "common voice"<sup>27</sup> elects the Roman patriot emperor in succession to the unworthy.

### C. *The Rape of Lucrece*

Shakespeare's long poem *The Rape of Lucrece* is the third of the works first printed in 1594 that take up the overthrow of the Tarquins and their replacement by the consuls. Dedicated to the Earl of Southampton, it was perhaps the "graver labour" promised by the author in dedicating *Venus and Adonis* to the same young earl in 1593,<sup>28</sup> by which time he was the established comrade-in-arms of the warrior Essex. The new poem is preceded by a page-long *Argument*, complete in itself—indeed seemingly detachable—and strikingly political in content. As the *Book of Succession* asserts a theory of government founded on consent of the governed and a right of rebellion against tyranny, so too does the *Argument*. (It is Shakespeare's only extant free-standing prose passage.) We here set out the whole *Argument*, indenting for clarity the only parts of it that describe the actual poem, and italicizing the politically significant phrases:

Lucius Tarquinius (for his excessive pride surnamed Superbus), after he had caused his own father-in-law Servius Tullius to be cruelly murd'ed, and *contrary to the Roman laws and customs, not requiring or staying for the people's suffrages*, had possessed himself of the kingdom, went, accompanied with his sons and other noblemen of Rome, to besiege Ardea; during which siege, the principal men of the army

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works of Shakespeare are cited according to THE RIVERSIDE SHAKESPEARE (G. Blakemore Evans, ed. 1974).

23 TITUS ANDRONICUS, *supra* note 22, act 3, sc. 1, lns. 296–98.

24 *Id.* act 4, sc. 1, lns. 89–91.

25 *Id.* lns. 70–73, 109, 110, 147–148.

26 *See infra* note 69.

27 TITUS ANDRONICUS, *supra* note 22, act 5, sc. 3, ln. 140.

28 William Shakespeare, *Dedication to Venus and Adonis*.

meeting one evening at the tent of Sextus Tarquinius, the King's son, in their discourses after supper every one commended the virtues of his own wife; among whom Collatinus extolled the incomparable chastity of his wife Lucretia. In that pleasant humor they all posted to Rome, and intending by their secret and sudden arrival to make trial of that which every one had before avouched, only Collatinus finds his wife (though it were late in the night) spinning amongst her maids; the other ladies were all found dancing and revelling, or in several disports; whereupon the noblemen yielded Collatinus the victory, and his wife the fame.

At that time Sextus Tarquinius being inflamed with Lucrece's beauty, yet smothering his passions for the present, departed with the rest back to the camp; from whence he shortly after privily withdrew himself, and was (according to his estate) royally entertained and lodged by Lucrece at Collatium. The same night he treacherously stealeth into her chamber, violently ravish'd her, and early in the morning speedeth away. Lucrece, in this lamentable plight, hastily dispatcheth messengers, one to Rome for her father, another to the camp for Collatine. They came, the one accompanied with *Junius Brutus*, the other with Publius Valerius; and finding Lucrece attired in mourning habit, demanded the cause of her sorrow. She, first taking an oath of them for her revenge, revealed the actor, and whole manner of his dealing, and withal suddenly stabbed herself. Which done, *with one consent* they all vowed to root out the whole hated family of the Tarquins; and bearing the dead body to Rome,

*Brutus acquainted the people* with the doer and manner of the vile deed; with a bitter invective against the tyranny of the King; wherewith

the people were so moved, that with one consent and a general acclamation the Tarquins were all exiled,

*and the state government changed from kings to consuls.*<sup>29</sup>

The political statement of the *Argument* prefacing *Lucrece*, particularly its final sentence, may seem superfluous to the poem, a needless distraction. But the author's dedication hints that, in its own way, the *Argument* is at least as important as the poem: "this pamphlet *without beginning* is but a superfluous moiety"<sup>30</sup>—as if to suggest that without its essential (non-superfluous) *Argument*, this poem is but a fragment.

If he had written nothing but *Lucrece*, Shakespeare's intent in the *Argument* might remain obscure. But just as he had already made mul-

29 William Shakespeare, *The Argument to The Rape of Lucrece* (emphases added).

30 William Shakespeare, *Dedication to The Rape of Lucrece* (emphasis added).

tiple references in *Titus Andronicus* to succession issues in general and the Tarquins and their overthrow in particular, and as the *Book of Succession* links the Tarquins and Caesar, so the *Argument* of *Lucrece* will be linked by Shakespeare with *Julius Caesar*. Many aspects of this play, not least its allusion back to that *Argument*, suggest a political bent radical for its time and congenial, both in political perspective and in treatment of historical events, to the unsettling enterprise of the authors of the *Book of Succession*.

#### D. Julius Caesar and the Just Deposition of Rulers

Central to *The Tragedy of Julius Caesar* is the question of the justice of coercively overthrowing a ruler. In having Brutus make this explicit, the playwright emphasises the idea of justified deposition as *chastisement* of rulers, the concept and word thematic to several chapters of the *Book of Succession*. The occasion is his accusation that Cassius, his partner in deposing Caesar on the Ides of March, has an itch for bribes:

*Brutus:* The name of Cassius honors this corruption,  
And chastisement doth therefore hide his head.  
*Cassius:* Chastisement?  
*Brutus:* Remember March, the Ides of March remember:  
Did not great Julius bleed for justice' sake?  
What villain touch'd his body, that did stab,  
And not for justice?<sup>31</sup>

Was it just? Brutus's question, considered as a question that the playwright poses and responds to, cannot be answered without considering two contrasted readings of the play. The first, perhaps the more obvious, is along these lines. Caesar is a statesman and general who is popular and waxing in power. He is within a day or two of ending centuries of republican rule by accepting a kingly crown. A group of Roman leaders, ambitious and envious, conspire to assassinate him. They are led by Cassius, who draws Brutus into the plot as its head. These men stab Caesar to death in the Senate and seize power. But Caesar's lieutenant, Mark Antony, will not let them enjoy their victory. Through skillful rhetoric he turns the populace against them, and overthrows their control through an alliance with Octavius and Lepidus. Civil war ensues. A pitched battle on the plains of Philippi ends with first Cassius and then Brutus taking their own lives. Successful in removing Caesar, they have failed to secure their constitutional purpose. Assassins, even of a tyrant, will get their deserts, and Caesar's

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31 WILLIAM SHAKESPEARE, *THE TRAGEDY OF JULIUS CAESAR* act 4, sc. 3, lns. 15–21 [hereinafter *JULIUS CAESAR*].

death is avenged. Many generations of theater-goers have seen this play, or more properly, this reading of the play.

But there is another, rather deeper reading, in which the problem of political justice becomes richer and more complex, and the play more sombre. In this second reading, the play's central figure and tragic protagonist is Marcus Brutus. Caesar is not so much wise statesman as ambitious and self-serving ruler, on the verge of becoming a tyrant who will deprive Rome's citizens of the liberties they won and the well-being they enjoyed under the predecessor he overthrew, great Pompey. Antony is no hero restoring good government but a demagogue who willfully and with utter irresponsibility—"Mischief, thou art afoot, / Take thou what course thou wilt"<sup>32</sup>—inaugurates a dreadful civil war in which brother kills brother. Brutus decides to join a conspiracy against Caesar reluctantly, and only because there seems to him no other way to avert tyranny. Caesar, after all, was to be crowned not by any constitutional process but simply at the hand of his own lieutenant, Antony, in front of the rabble. Even crowning by senators, a possibility mentioned by Casca and Decius, had no place in Rome's constitutional order. Brutus's noble effort to preserve freedom is neither unjust in its end nor, perhaps,<sup>33</sup> wrongful in its choice

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32 *Id.* act 3, sc. 2, lns. 260–61.

33 The playwright, showing the fatal flaw in Brutus's reasoning about whether the assassination in justified *in the circumstances*, seems rather non-committal about the means, that is, about assassination as opposed to arrest and banishment or trial and execution. See *infra* text accompanying note 62. The *Book of Succession* assumes, without insisting on the point, that tyrannicide is murder unless it is a *public* act of persons acting with at least *de facto* public authority. BOOK OF SUCCESSION, *supra* note 3, at 45–46. That point was important to the Catholic subjects of Elizabeth: in 1585 a group of them presented to the Queen at Greenwich a petition affirming that it is a matter of Catholic faith that not even a pope can license any man to lift up his hand against an anointed sovereign. (The presenter, Richard Shelley of Michelgrove, was imprisoned until he died.) The enquiries that in 1582–1583 the government *agent provocateur* William Parry made of English and Scottish Catholic priests in exile, about the permissibility of his killing the Queen, always elicited a firm negative. On the petition and on Parry, see 6 JOHN LINGARD, THE HISTORY OF ENGLAND 376–82 (C. Dolman ed., 5th ed. 1849). And indeed the Council of Constance in 1415 defines it to be heretical to hold that tyrants can rightfully be killed by a subject with whatever deceptive means and without awaiting any judicial sentence or order. See DENZIGER-SCHOENMETZER, ENCHIRIDION SYMBOLORUM DEFINITIONUM ET DECLARATIONUM DE REBUS FIDEI ET MORUM 1235 (Barcelona 1967). Tyrannicide or regicide can be permissible, however, after such a public sentence or order, e.g., of excommunication: THOMAS AQUINAS, SUMMA THEOLOGIAE II-II, q. 12, a. 2; see also WILLIAM SHAKESPEARE, THE LIFE AND DEATH OF KING JOHN act 3, sc. 1, lns. 98–104 [hereinafter KING JOHN]. That is doubtless why the *Book of Succession* takes care to say that Caesar was assassinated "by senators in the senate-house," BOOK OF SUCCESSION, *supra* note 3, at 45, insinuating that this is not the tyrannicidal act of a private person or persons, but

of assassination as its means. What dooms it is Antony's willingness to manipulate power while Brutus acts always with high motives. The play ends with praises, from all sides, of Brutus's character, honor, courage, and conviction.

Which is the better interpretation? Performance can make either plausible, and the political preferences of viewers may color what they see before them. But it remains legitimate to ask oneself which interpretation is closer to the author's intentions—closer to what the work was meant to mean when it was being written and first seen or read. Any literary work more than a few years old suffers something, perhaps much, from loss of its historical context. Understanding the historical context is no less important to interpreting a play or book than to interpreting a constitutional provision, a statute, or a contract. Awareness of context need not diminish or distort aesthetic appreciation of a work of art, but may and should enhance it.

No one can doubt that the *Lives* of Caesar, of Brutus, and of Antony, in *Plutarch's Lives of the Noble Grecians and Romans*, were primary sources for the plot and much of the incident of Shakespeare's play. Yet dialogue, characterization, and thematic portrayal were at the playwright's choice. And the work also reflects other sources, which cast a somewhat different light on the basic story from Plutarch. One should ask, in any event, why the author was drawn to a story of Roman governance. Perhaps this Roman story, like the historical myth of Lucrece and the freely invented story of *Titus Andronicus*, afforded the opportunity to "comment" on contemporary matters that he could not speak upon more directly. Perhaps, too, the play's anachronisms, such as chimneys and a striking clock, arose from the author's purpose to suggest to the audience the bearing of his drama on the present—the present of his own day.

Playwrights and other authors have long used historical displacement, a cluster of techniques allowing the writer to comment on present matters by historical parallels that offer a distant, more or less veiled perspective while affording the writer "deniability" when questioned by political figures keen to suppress dissent. Arthur Miller's

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rather the public act of a public authority. See *supra* text accompanying notes 11 & 15. The play touches only lightly on this difficult public versus private issue, but Brutus makes clear (1) in his deliberative soliloquy, that he is not acting on any private motive, and (2) in his speech to the people, that "[t]he question of his death is enroll'd in the Capitol [senate house]." JULIUS CAESAR, *supra* note 31, act 3, sc. 2, lns. 37–38. Antony's final speech may revisit the issue, though only in vague terms which concern ends rather than means, by saying that Brutus, unlike the other conspirators, did what he did "in a general honest thought / And common good to all." *Id.* act 5, sc. 5, lns. 71–72.

*The Crucible*, first produced in 1953, held up a distant mirror to McCarthyism and explored problems of individual conscience and guilt by association.<sup>34</sup> A generation of viewers who know little of McCarthyism will miss an important part of the play, vital to its original appeal.

A play cannot make present its own context. That is made present, to the extent that it can be, by the experience that audiences and readers bring with them. Good writers understand this, and use language and symbol to convey meaning and affect in ways that will be lost on readers without the experience—the memories, understanding, and beliefs—presupposed by the writer.<sup>35</sup>

The *Julius Caesar* of 1953 or 1970 or 2000 is not that of 1599—the year to which almost all modern scholars, albeit without decisive proof, assign the play's composition. These audiences' knowledge, experience, and awareness are widely different, and the author's relation with the audience or reader is based in a different context. By making present to ourselves some main elements of that original context, we make possible a different and, in a particular and central sense, *authentic* understanding of the play.<sup>36</sup>

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34 ARTHUR MILLER, *THE CRUCIBLE* (1953).

35 Both the use and the loss of experience are examined in relation to *Macbeth* in GARRY WILLS, *WITCHES AND JESUITS: SHAKESPEARE'S MACBETH* (1995). As Wills observes, audiences in 1606 or 1607 would have a vivid memory of the Gunpowder Plot of 1605, to blow up the English Parliament with virtually all its members and most of the Royal Family, and would have seen this play about the killing of a king as certainly related to that most recent attempt to kill a king. The witches of *Macbeth* can then—as Wills's title suggests—seem to be like Jesuit priests, such as were executed for supposed complicity in the Gunpowder Plot. The witches are presented by Shakespeare as practisers of “equivocation,” the term used by the Jesuits themselves, and by government officials and other hostile critics of misleading answers to questions put to them by officials probing the plot, and other alleged plots and crimes over the preceding twenty-five years. Protestants would readily understand the play as showing the dire consequences of murderous usurpation of lawful authority. Catholics (whose religion was hidden) may have focused upon the fact that the witches' equivocations have told the truth, truths simply misunderstood by Macbeth: Birnam Wood did come to Dunsinane, and Macduff was not of woman born. Some Catholics may even have seen King James in Macbeth rather than in Duncan or Malcolm. Viewers and readers of *Macbeth* unaware of the suppression of Catholicism from Elizabeth's accession in 1558 to the time of the play in 1606, and of the Gunpowder Plot, will find a play somewhat different in meaning and richness from the play found by those aware of that context. Whether Wills's own explorations of the play in its context are sufficiently attuned to the experiences intended to be recalled by the author is another matter.

36 The historical awareness or focus of current commentary on *Julius Caesar* is sometimes curious. *The Norton Shakespeare*, for example, discusses the succession question as it was framed in 1599 and suggests that the playwright may have been speaking to it. But the discussion omits the active concern of Catholics that there be a successor of a certain kind (Catholic), and of the government and the Puritans that the

*Julius Caesar* is not a "history," but a "tragedy." Our only original source for this play, the *First Folio* of 1623, so names it and classifies it. Though tragedy (like history) is an analogous, and not a univocal term, a tragedy is to be presumed to have some tragic protagonist, someone above the common level, a noble figure who stood in prosperity but, through some defect of character,<sup>37</sup> suffers a great reversal and fall<sup>38</sup>—meeting with courage an inevitable defeat.<sup>39</sup>

Who then is the tragic protagonist in *Julius Caesar*? It is not Caesar himself. He is on the stage too briefly, and his death is not an inevitable defeat. Courage? Not Caesar. He may be a great figure, but the playwright makes clear that he is not a noble one—as Cassius tells it, the mighty Caesar drowning in the Tiber cried out plaintively. In illness, too, great Caesar was "as a sick girl." Irresolute, he changes his mind several times whether to go to the Senate on the Ides of

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successor *not* be of that kind. Indeed, nowhere in the discussion of *Caesar* does the *Norton* take up the numerous legal proceedings involving alleged plots by Catholics—oppressed, as they saw it, for their religion—to assassinate the monarch or in some other way forcibly change the succession to supreme governing authority in England. THE NORTON SHAKESPEARE 1526 (Walter Cohen et al. eds., 1997).

37 Shakespeare, it seems, knew Aristotle's *Poetics*. And while recalcitrant to Aristotle's prescriptions for the "unities" and unconstrained by the rigidity of Aristotle's definition of tragedy taken simply, his plays "revealed new meanings in the idea of the tragic *hamartia* [error, frailty, flaw, defect of judgment or character]." S.H. BUTCHER, ARISTOTLE'S THEORY OF POETRY AND FINE ART 333 (4th ed. 1927). Aristotle's definition is scattered across sections 2, 13 and 15 of the *Poetics*; in section 15 we read,

Again, since Tragedy is an imitation of persons who are above the common level, the example of good portrait painters should be followed. They, while reproducing the distinctive form of the original, make a likeness which is true to life and yet more beautiful. So too the poet, in representing men who are irascible or indolent, or have other *defects of character*, should preserve the type and yet ennoble it. In this way Achilles is portrayed by Agathon and Homer.

38 Shakespeare read Chaucer and doubtless agreed with the Monk in his *Canterbury Tales* ("The Monk's Prologue"):

Tragedy is to say a certain story  
From ancient books which have preserved the glory  
Of one that stood in great prosperity  
And is now fallen out of high degree  
In misery, where he ends wretchedly.

GEOFFREY CHAUCER, THE CANTERBURY TALES 239 (J.U. Nicolson trans., 1934).

39 The PRINCETON ENCYCLOPEDIA 860 (enlarged ed. 1974), begins its treatment of "tragedy": "Courage and inevitable defeat: when we confront the great literature of tragedy from our everyday world, it is perhaps these two qualities that strike us most forcibly . . . ."

March.<sup>40</sup> If not Caesar, perhaps Antony? But he suffers no defeat, and with Octavius ends up ruler of the Roman world. Nor is Antony's a noble spirit. Expediently, he has his own sister's son killed—"with a spot I damn him."<sup>41</sup> He betrays his comrade Lepidus, "a tried and valiant soldier" whom Antony will treat "as a property."<sup>42</sup> And the Antony who earlier declared "When Caesar says, 'Do this,' it is perform'd,"<sup>43</sup> the Antony who read Caesar's will to the Roman mob, now advances his own purposes by cutting off some of the will's grants. His irresponsibility in unleashing mob terror is self-confessed. Cassius, then? Though in some ways the most far-seeing of the play's leading persons, and one presented with increasing sympathy, he seems to mix public-spirited enterprise with private ends and dubious means, and no soliloquy of his clarifies his motivations, for good or ill. That seems to leave only Brutus.<sup>44</sup>

By any calculation, Marcus Brutus is the central figure of *Julius Caesar*. He speaks 194 times in the play for a total of 5608 words. Antony speaks fifty-one times, with fewer than half as many words (2603), and Caesar only forty times. Antony's ultimate description of Brutus as "the noblest Roman of them all"<sup>45</sup> is no mere gallantry of Antony, but by its elaboration and finality allows us to sense that—

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40 As S.F. Johnson remarks, "Shakespeare presents [Caesar] in his own person as a pompous, arrogant usurper." S.F. JOHNSON, *Introduction to WILLIAM SHAKESPEARE, JULIUS CAESAR*, reprinted in *THE COMPLETE PELICAN SHAKESPEARE* 896 (Alfred Harbage ed., 1969).

41 *JULIUS CAESAR*, *supra* note 31, act 4, sc. 1, ln. 6.

42 *Id.* lns. 28, 40.

43 *Id.* act 1, sc. 2, ln. 10.

44 Willard Farnham plausibly says,

*Julius Caesar* is a landmark not merely in the history of Shakespearean tragedy but in the history of English tragedy. Before Brutus there had been no tragic hero on the English stage whose character had combined noble grandeur with fatal imperfection . . . . In Brutus, then, Shakespeare discovered the noble hero with a tragic flaw. By that discovery he made it possible for English tragedy to reach a greatness hitherto attained only by Greek tragedy.

WILLARD FARNHAM, *SHAKESPEARE'S TRAGIC FRONTIER* 3–4 (1963). In Plutarch's life of Brutus, Shakespeare could find a firmly argued case for assessing Brutus as noble and public spirited, acting out of "respect of the common wealth", always "only referring his friendship and enmity unto the consideration of justice and equity", so that "his very enemies themselves have confessed that, of all those that conspired Caesar's death, he only had no other end and intent to attempt his enterprise but to restore the empire of Rome again to her former state and government"—"having no private cause of complaint or grudge against Caesar, he ventured to kill him only to set his country at liberty." Plutarch, *The Comparison of Dion with Brutus*, in 5 GEOFFREY BULLOUGH, *NARRATIVE AND DRAMATIC SOURCES OF SHAKESPEARE* 133–34 (Sir Thomas North trans. 1579) (spelling modernized).

45 *JULIUS CAESAR*, *supra* note 31, act 5, sc. 5, ln. 68.



despite Antony's demonstrated untrustworthiness—it is a privileged assessment of Brutus's character. Brutus had acted in "honest thought" for the "common good to all."<sup>46</sup> Octavius agrees with Antony and refers to Brutus's "virtue,"<sup>47</sup> a virtue such that he should be used with all the rites and honors of burial; until then, his bones shall lie in Octavius's own tent.<sup>48</sup> By then, public-spiritedness has been many times portrayed.<sup>49</sup>

In most portrayals on stage or in film, Brutus is both noble and reluctant. It is only after considerable ambivalence and reflection that he allows himself to be drawn into the conspiracy. When the other conspirators stab Caesar, Brutus stands back. Caesar turns to him and utters, "*Et tu Brute?*" while staggering towards him. Brutus looks on in

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46 *Id.* lns. 71, 72.

47 *Id.* ln. 76.

48 *See id.* lns. 76–79.

49 FARNHAM, *supra* note 44, at 4 ("Brutus and Hamlet have a consuming desire to further the cause of right . . ."). We would add that Shakespeare seems to have wanted readers of *Hamlet* to notice the link between Brutus and Hamlet:

*Hamlet*: [To Polonius.] My lord, you play'd once i' th' university, you say?

*Polonius*: That did I, my lord, and was accounted a good actor.

*Hamlet*: What did you enact?

*Polonius*: I did enact Julius Caesar. I was kill'd i' th' Capitol; Brutus kill'd me.

WILLIAM SHAKESPEARE, *THE TRAGEDY OF HAMLET, PRINCE OF DENMARK* act 3, sc. 2, lns. 98–104 [hereinafter *HAMLET*].

The last phrases, incidentally, seem a foreshadowing of the death of Polonius, stabbed to death in the ruler's palace by Hamlet. This passage may well hearken back to a play performed, in Latin, at Christchurch College in Oxford University in early 1582, when in a period of a few weeks no fewer than five plays were performed with themes and, in one or two cases, images, trains of thought, or formal features that are found again in Shakespeare. *See* John Finnis & Patrick Martin, *An Oxford Play Festival in 1582* (forthcoming in *NOTES & QUERIES*). The play relevant here was *Caesar Interfectus* (Caesar Slain) by Richard Eedes. Only a fragment, from the Epilogue, remains, but it is enough to move Frederick Boas to say,

Nothing is more improbable than that Shakespeare should have known *Caesar Interfectus*, but this Epilogue [which he quotes in Latin], with its linked series of antitheses in artificially balanced and *staccato* prose, anticipates curiously the method and rhythm of Brutus's speech in the Forum in [*Julius Caesar*].

FREDERICK BOAS, *UNIVERSITY DRAMA IN THE TUDOR AGE* 165 (1914). Bullough finds the parallel "interesting." 5 BULLOUGH, *supra* note 44, at 33. Bullough also gives much material for thinking that in composing *Julius Caesar*, Shakespeare may well have been influenced by another Oxford play, in English and composed and acted at Trinity College Oxford probably in the 1590s, *The Tragedie of Caesar and Pompey, or Caesar's Revenge*. *Id.* at 33–35. For more recent scholarly confirmation of this, see William Poole, *Julius Caesar and Caesar's Revenge Again*, 247 *NOTES & QUERIES* 227–28 (2002).

horror; he seems to shrink from his participation in the bloody deed. With horror, he knows he must stab too, and he then delivers the unkind cut. When Brutus tells Antony why they have acted, he is earnestness itself.

Critics who have taken Brutus to be a tragic hero have been troubled by the tension between the play's apparent politics and what they take to be the playwright's royalism as a presumably loyal subject of Elizabeth. This tension extends to particularities. The play's Caesar, for example, like the Elizabeth of 1599,<sup>50</sup> is someone in decay—even his hearing is deteriorating—prey to manipulative flattery, and vainglorious. If Brutus is presented as admirable and Caesar not, is Brutus's cause just? Can the ruler's overthrow, lethal or not, be justified? Consider the question in the context of late Elizabethan England. Change of the constitutional order is one thing, change of ruler another. One could be a royalist, favoring a social and constitutional order substantially like England's under Elizabeth, and yet urgently desire change to a different monarch, perhaps a prompt or even coercive change. In 1599 or 1600 there was no question that Elizabeth would not live forever. There would soon be a succession, and Elizabeth had forbidden every kind of deliberation, decisionmaking, or discussion of it.<sup>51</sup> Members of Parliament had been trying to

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50 It is a Catholic intelligencer, writing pseudonymously to exiled Catholic leaders, who said of the Queen at Christmas 1600, "It was commonly observed this Christmas, that her Majesty when she came to be seen was continually painted not only all over her face but her very neck and breast also, and that the same was in some places well near half an inch thick." Letter from "Antony Rivers" to "Ridolfo Perino" [Robert Persons] (Jan. 13, 1601) (Westminster Diocesan Archive MSS VII/1). Compare the queen in *Hamlet*. Hamlet, while holding a skull, declares to Horatio, "Now get you to my lady's [chamber], and tell her, let her paint an inch thick, to this favor she must come." *HAMLET*, *supra* note 49, act 5, sc. 1, lns. 192–94. The parallel between the report of "Antony Rivers" and Hamlet's jibe has long been noted, but it can now be added that this "Rivers" was actually William Sterrell, an intelligencer for the Catholic exiles and a uniquely close associate of the group responsible for the *Book of Succession*. See Patrick Martin & John Finnis, *The Identity of "Anthony Rivers"*, 26 *RECU-SANT HIST.* 39 (2002). On another occasion, in 1602, "Rivers," who was traveling with the court, remarked on Elizabeth's unwillingness to accept even professional medical advice that acknowledged her growing infirmity, that is to say, her mortality. Letter from "Antony Rivers" to "Ridolfo Perino" (Mar. 1602) (Westminster Diocesan Archive MSS VII/29) ("She was exceedingly displeased, commanding [her physician] from her presence, she being most impatient to hear of any decay in her self, and thereupon will admit no help of phisick or surgery.").

51 A statute of the servile Parliament of 1581, popularly known as the "statute of silence," made it a capital offence to "set forth by express words, deeds or writings who shall reign as King or Queen of this Realm after her Highness's decease." 23 *Eliz.* 1, c. 2 § 5 (1581).

bring up the question of succession on the floor of the House of Commons since 1576. When the irascible Peter Wentworth did so again in 1593, he was jailed and left to die, years later, in the Tower, merely for suggesting discussion of the problem on everyone's mind—the succession to the throne.<sup>52</sup> What sort of Queen was this who would not let her people prepare for a transition to a new monarch?

Moreover, Elizabeth Tudor, especially in the last decade of her life and reign, craved the flattery that Caesar was said to love. She was spoken of as a living goddess (Astrea or Diana), as if immortal—flattery of a kind derided by Cassius: “this man [Caesar] is now become a god,”<sup>53</sup> “immortal Caesar.”<sup>54</sup> And Elizabeth's Catholic subjects had reason to see more significant resemblances between her and the Julius Caesar in Shakespeare's play. Above all, they saw her rule as seriously, indeed grossly, unjust. She had overseen and still continued to oversee the execution of scores of Catholics—priests and laity alike and even a Catholic Queen (Mary Stuart)—the banishment of hundreds of others for religion, and the expropriation, imprisonment and ruin of Catholic men, women, and children, in thousands, for the evident purpose of utterly extirpating their religion in England. How does a subject overcome unjust rule when the monarch is neither elected nor removable, and there is no established method of succession capable of identifying a definite successor? How does one get free of grossly unjust rule if the killing of the tyrant, even when fully justifiable in defense of the state's commonwealth, can leave the state in the same or worse condition, such as hot civil war and the rule of some new and more absolute Caesar?

*Julius Caesar*, understood as a tragedy of Brutus, seems to speak to this dilemma—of potent injustice confronting lethal but ultimately perhaps powerless human justice. Does the play, then, make allusion, real albeit deniable, to the thoughts and actions of some English Catholics who saw themselves as trapped in a similar situation and facing a similar dilemma?

Similar—but with a difference. Caesar was not yet fully launched on tyranny, whereas Elizabeth had ruled more or less like this for forty years. And here it is important to notice the remaining element in tragedy: a “defect of character,” which contributes not merely acciden-

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52 At the end of 1598, a year after Wentworth's death, a treatise of this leading Parliamentarian, *A Pithie Exhortation to Her Majesty*, exalting the claim of blood (and denying the power of Parliament to alter the succession!) against the *Book of Succession*, and upholding the claim of King James to the English throne, was published in Scotland.

53 JULIUS CAESAR, *supra* note 31, act 1, sc. 2, lns. 115–16.

54 *Id.* ln. 60.

tally to the hero's great fall. Is there such a defect, unremarked in some accounts of Brutus's nobility, beginning with Antony's?<sup>55</sup> Shakespeare has taken care to show that there is, by using a technique he was perfecting in *Lucrece*: close-up focus on the articulated thoughts of the deliberating subject, on the precise interplay of conscience and practical reasoning towards objectives. As he took the reader step by step through Tarquin's inner "disputation / 'Tween frozen conscience and hot burning will,"<sup>56</sup> so he takes us into Brutus's solitary deliberation on the proposed assassination's justifiability. With economy and exactness he makes evident a critical flaw in Brutus's reasoning, and thus, it seems, in his decision.

Brutus begins by noting, correctly, that the choice towards which he is moving satisfies the conditions that will be emphasized in the *Book of Succession*: he is not acting out of private motivations ("personal cause"), but for public reasons and the common good ("for the general").<sup>57</sup> Caesar's accession to the crown will, or naturally would, put the sting of an adder into him. Yet, Brutus grants that Caesar has not yet shown himself an adder. Brutus has never known him to allow passions to overpower reason. Caesar, *as seen by Shakespeare's Brutus*, has *not*, like the Caesar of the *Book of Succession*, broken "all law both human and divine."<sup>58</sup> Here, then, is the failure of Brutus's judgment:

And since the quarrel

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55 Cassius's soliloquy beginning, "Well, Brutus, thou art noble," does get close to some important truth about Brutus—that he is seducible by such devices as Cassius is shown using: appeals to an honor scarcely distinguishable from self-regard, and straightforward deception by forged letters (not in Plutarch) reinforcing this susceptibility. See *id.* act 1, sc. 2, lns. 308–22.

56 *The Rape of Lucrece*, *supra* note 29, ln. 247 (emphasis added).

57 JULIUS CAESAR, *supra* note 31, act 2, sc. 1.

58 As David Lowenthal says, "Shakespeare has taken pains to keep Caesar from appearing morally repulsive by withholding almost all references, indirect as well as direct, to the wickedness by which the real Caesar, as depicted by Plutarch and others, actually sought ever-increasing and sole power . . ." David Lowenthal, *Shakespeare's Caesar's Plan*, 10 INTERPRETATION 223, 240 (1982). In this respect Shakespeare departs, to some extent, not only from the *Book of Succession* but also from Eedes's *Caesar Interfectus*, which seems to have presented a Caesar "so in love with power that for the sake of it he thought he could violate oaths and any other kind of law or right." LAURENCE HUMPHREY, PHARISAISMUS VETUS ET NOVUS 164 (Oxford 1582); Martin & Finnis, *supra* note 50. Moreover, Shakespeare's *Julius Caesar* carefully avoids presenting Caesar's imminent accession to a crown as usurpatory and unconstitutional—it is twice said that the Senate will offer him this crown—and so avoids reminding his audience of the doctrine—more consistent with the position of the Elizabethan government *Homilies* than with the *Book of Succession*—that usurpers are necessarily tyrants in or by virtue of their defect of title. Cf. Robert S. Miola, *Julius Caesar and the Tyrannicide Debate*, 38 RENAISSANCE Q. 271, 274–78 (1985).

Will bear no color for the thing he *is*,  
 Fashion it thus: that what he is, augmented,  
*Would* run to these and these extremities;  
 And therefore think him as a serpent's egg,  
 Which, hatch'd, would as his kind grow mischievous,  
 And kill him in the shell.<sup>59</sup>

Here we see Brutus admitting that Caesar is *not as yet*—and cannot even be portrayed as—a tyrant (“the quarrel / Will bear no color for the thing he *is*”). The mischief of tyranny is not yet hatched. Why not wait until, perhaps as purported king, he actually engages in unconstitutional and oppressive acts of misgovernment?<sup>60</sup> Brutus’s own analogy of the serpent’s egg tells against his reasoning: it is but surmise that this is a “*serpent’s egg*.” And even if it is, cannot alert guardians scotch a young snake even as it slithers? Brutus’s principal defect of character is deficiency in *prudentia*, his (partial) failure of practical reasonableness.<sup>61</sup> It is thus a moral failure, a defect of character. Here, his end is good, and nothing appears—here or elsewhere in the play—to suggest that his chosen means are inevitably wrongful even though they are outside the regular course of law, and homicidal. But the circumstances, precisely as Brutus understands them, are not yet in place that could justify resort to such means. All this Brutus himself

59 JULIUS CAESAR, *supra* note 31, act 2, sc. 1, lns. 28–34.

60 We might say, though the conspirators seem not to say, that such acts of tyranny have already begun with the sinister putting to silence of the tribunes of the people; and we might add that the smoothness with which, apparently, that silencing was accomplished also gives reason to fear that the conspiracy, if it is to succeed, needs to resort to more drastic and violent measures than attempted arrest of Caesar. See also *infra* note 61.

61 What is *morally* decisive is Brutus’s failure to deliberate adequately, to think the matter through. Had he done so, he *might* have given an affirmative answer to the question whether pre-emption (a preventive strike) is necessary to stop or prevent this tyranny he fears, or to avert the kind of tyranny that is involved (according to a common opinion) in the very fact of usurpation. Later in the same scene, when no longer deliberating about the essential question, but about an ancillary matter (whether the conspirators should take an oath), he says that unless they kill Caesar they will be letting “high-sighted tyranny range on, / Till each man drop by lottery.” JULIUS CAESAR, *supra* note 31, act 2, sc. 1, lns. 118–19. And the later scene, *id.* act 4, sc. 1, lns. 1–17, showing the macabre process, in some respects more arbitrary than a lottery, by which the winners choose many citizens (and seventy if not a hundred senators, *id.* act 4, sc. 3, lns. 173–78) including their own close relatives, who “should be prick’d to die,” suggests that some young serpents, once hatched, may prove too fast-moving to be scotched and thus may “range on” uncheckably. But the combination of (morally) *too early* with (factually) *too late* is not the standard case, and so the issue deserves more and better deliberation than Shakespeare’s Brutus gave it—as the playwright makes clear enough by presenting a Brutus whose decisive private deliberation focuses on presentation (spin) rather than actualities.

seems half to recognize by his focus on pretext, on what is colorable: “*fashion it thus*”—*present* the situation thus. But even as thus presented, the preconditions for justified revolution or tyrannicide are not satisfied.<sup>62</sup>

There were those, such as most or all of the authors of the *Book of Succession*,<sup>63</sup> who judged that Elizabeth’s rule, having long been unreasonable, oppressive to the common good by cultivating interminable war, and tyrannically unjust to many of her subjects, might legitimately be overthrown by public means—such as invasion by the forces of a nation already at war with England—in order to install some person or body who would rule not in the interests of that foreign nation or its ruler, but for the common good of England. The factual premises of their reasoning might be challenged, but certainly not on the ground that it was *too early* to say how she would or did rule.

Brutus, having failed in his judgment when assessing the justifiability of assassinating Caesar in these circumstances, will fail again and again in assessment of circumstances affecting the success of his enterprise. Thoroughly misjudging Antony’s character, Brutus will reject the proposal to assassinate him along with his patron Caesar, and will later compound his misassessment by allowing Antony to address the crowd unsupervised. Unlike Brutus’s misjudgment of the factual preconditions for *justifying* rebellion, the latter misjudgments are not *moral* failures, and the play, while interweaving one kind of misjudgment with the other, does not confuse the conditions for justification with the conditions for success. One’s success will ever depend on the

62 “Brutus gave the word too early . . .” *Id.* act 5, sc. 3, ln. 5. This is the judgment of an officer in the republican army at Philippi, not on the killing of Caesar but on Brutus’s manoeuvre in battle. But the judgment it articulates applies to the crucial decision to overthrow Caesar, and becomes thematic of the fall of the conspirators; indeed, the officer’s judgment itself is probably too hasty, and certainly Cassius goes to his own death because he prematurely assumes that his observer has been killed, and that it is now time for suicide. And the prematurity of Brutus’s fundamental decision to leave the safety of the “hills and upper regions,” *id.* act 5, sc. 1, ln. 3, and chance all on doing battle at Philippi is both symbolized by his unwillingness, *see id.* act 4, sc. 3, lns. 196–97, 213–14, to attend to Cassius’s counter-arguments, and demonstrated by Octavius’s relief at his enemy’s decision. *See id.* act 5, sc. 1, lns. 1–6.

63 Fr. Robert Persons and Sir Francis Englefield, leading figures in the production of the *Book of Succession*, can be observed in autumn 1596 in Madrid, deeply involved in the Spanish government’s preparations for a new Armada to overthrow Elizabeth’s regime. With them is Thomas Thorpe, later to be well known as the publisher of works of Shakespeare, particularly *Shake-speares Sonnets* (1609); he seems to have been involved also, beginning in 1597, in the publication of certain Shakespeare plays (all concerned with rebellion and succession): *Richard II*, *Richard III*, and 2 *Henry IV*. *See* Patrick Martin & John Finnis, *Thomas Thorpe, ‘W.S.’, and the Catholic Intelligencers*, 38 *ENG. LIT. RENAISSANCE* 3–43 (2002); *infra* note 70.

interplay of one's own acts and defaults of will with the acts and defaults of others and the accidents of chance, all overseen and willed or permitted by that "divinity that shapes our ends, / Rough-hew them how we will."<sup>64</sup> But in exposing Brutus's defective judgments, and in depicting the ruin and civil war brought on by Antony's response to the conspirators' response to Caesar's reaching for the crown<sup>65</sup>—and equally in indicating flaws which make Brutus fall short both of sanctity and of real statesmanship<sup>66</sup>—the play neither supplants its portrayal of Brutus's overall nobility, nor in any way suggests that one can never be justified in seeking to restore liberty and preserve constitu-

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64 HAMLET, *supra* note 49, act 5, sc. 2, lns. 10–11. The thought is explicit that the *indiscretion* (lack of judgment) of acting *rashly* "sometime serves us well" (and implicit, that what "serves us well" may well be morally questionable or wrong, and/or serve the common good well or badly).

65 A perverse interpretation, widespread in the first part of the twentieth century, presented Shakespeare as a Caesarist monarchist who in *Julius Caesar* is concerned to show that those (e.g., aristocrats like Brutus and Cassius) who would overthrow a Caesarist monarch are defying universal principles of government and inevitably unleash appalling evils which expose the futility of their purpose. See, e.g., JAMES EMERSON PHILLIPS, *THE STATE IN SHAKESPEARE'S GREEK AND ROMAN PLAYS* 172–88 (1940). The interpretation is perverse because the same kind of argument is available to show that anyone (e.g., Julius Caesar) who would overthrow an aristocratic republic is defying principle and inevitably unleashing assassination, proscription, and civil war. Accompanying interpretations such as that of Phillips is the explicit assumption that Shakespeare speaks simply as a "Renaissance thinker," a "Renaissance political theorist" or, more precisely (and even more questionably), a "Tudor theorist" who like all such is taken to have "believed all kings to be [ ] the divinely appointed lieutenant[s] of God on earth." *Id.* at 179.

66 His lack of self-awareness, and his consequent self-regard, are shown in various ways. Philosophically most interesting, perhaps, is his blindness to the disciplines, and even the reality, of *deliberation*. Soon after his pseudo-deliberative soliloquy about the serpent's egg, Brutus delivers the widely admired soliloquy: "Between the acting of a dreadful thing / And the first motion, all the interim is / Like a phantasma or a hideous dream." JULIUS CAESAR, *supra* note 31, act 2, sc. 1, lns. 63–65. But in an adequately conscientious mind, and equally in a statesmanlike mind, the space between the first motion and the acting will largely be occupied by deliberation which considers alternative options for action in terms of those options' respective ends, means, and circumstances. The playwright dramatizes this void in Brutus's working conscience in Brutus's entirely unargued move from his long-meditated and principled condemnation of suicide—including suicide "for fear of what might fall"—to, three or four lines later, implicitly embracing it as preferable to "go[ing] bound to Rome"—[t]or which he says he "bears too great a mind." *Id.* act 5, sc. 1, lns. 104, 111, 112. Shakespeare has here "altered his source to emphasize Brutus's disapproval of suicide on principle." CAMILLE WELLS SLIGHTS, *THE CASUISTICAL TRADITION* 89 n.17 (1981); see also *id.* at 80–91 on the reasoning of the characters in *Julius Caesar*.

tional government and the general good by coercive overthrow of supreme rulers.<sup>67</sup>

A few facts, out of many that could be mentioned, will underline the topicality of all this. Consider Shakespeare at the end of May 1603, a week or ten days after his playing company has received from James I, their new King, his royal warrant appointing them the King's Players. Only three of his works have dedications. The dedicatee of two of them has just been released from the Tower and reprieved from the death penalty imposed on him for attempted coup d'état in 1601, his fellow earl having suffered that penalty. The dedicatee of the book containing the third work, the mysterious poem usually called "Phoenix and Turtle," lost his Catholic elder brother to the Tyburn hangman for plotting Elizabeth's overthrow with the help of a foreign army in 1586; two Catholic cousins of the same name fought, and one of them died, for the earls in the failed coup of 1601; and a son of the dedicatee's sister (who married another cousin of the same surname) has just entered England clandestinely as a Catholic priest. The activities of the King's Players will now be connected more closely than ever to the Palace of St. John's Clerkenwell, home of the Office of Revels, where the Master of Revels censors all plays and supervises all productions of plays to be staged at court. The Master, Edmund Tilney, who has overseen all Shakespeare's plays, lost a favored nephew, Charles Tilney, in the executions for the Catholic plot of 1586. With the accession of the new king, Edmund Tilney's functions at the Office of Revels are largely performed by George Buck, a cousin of the executed Charles Tilney. Buck's beloved brother is a Catholic priest, later a Jesuit, and Buck's copy of *Lochrine* (a verse drama entered in the *Stationers Register* in July 1594 and stated on its title page to be "newly set forth, overseen and corrected by W.S.") bears a note in Buck's handwriting stating that the author was Charles Tilney.<sup>68</sup> As for the Palace of St. John's itself, its keeper, appointed by the king on the same day as Shakespeare's elevation to King's Player, is a man who, as May 1603 ends and June begins, is active, it seems, in international conspiracy to see whether the new king, whose pre-accession promises of toleration have proved a sham, can be expelled with the

67 Allan Bloom concluded, "[Shakespeare] saw that the times were against Brutus and Cassius; but [that] their cause was right." ALLAN BLOOM, *SHAKESPEARE'S POLITICS* 105 (1964). His analysis of Brutus's moral deliberations about the assassination is scarcely sound or coherent, however. See *id.* at 95.

68 Mark Eccles, *Sir George Buc, Master of the Revels*, in *THOMAS LODGE AND OTHER ELIZABETHANS* 409, 473, 438 (Charles J. Sisson ed., 1933).



aid of foreign military forces<sup>69</sup> before his accession is cemented by coronation and genuine popular acceptance. The same man may well have been responsible for arranging that in 1596, in the enemy capital Madrid, two of the leading personages connected with the *Book of Succession* met up with Thomas Thorpe, who from 1597 began to be involved in the publishing of Shakespeare plays, notably three plays much concerned with rebellion and succession: *Richard III* (printed 1597), *Richard II* (printed 1597), and *2 Henry IV* (printed 1600).<sup>70</sup>

## II. WHEREOF WHAT'S PAST IS PROLOGUE<sup>71</sup>

Brutus himself locates his thoughts about overthrowing Caesar within the long history of Rome, and understands his proposed ac-

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69 Here we may recall the rarely noticed or pondered fact that foreign military forces enter the realm to coerce or depose the government *with the sympathy of the people and/or the audience*, in the following eight Shakespeare plays: *Titus Andronicus*, *3 Henry VI*, *Richard III*, *King John*, *Hamlet*, *King Lear*, *Macbeth*, and *Cymbeline*. One might well append to this list *Richard II* and even *Coriolanus*, and there is no Shakespeare play in which the audience is invited to share in a patriotic opposition to invasion from abroad (except perhaps the mention of Scots supporters of rebels against the (usurper) king in WILLIAM SHAKESPEARE, *THE FIRST PART OF HENRY THE FOURTH* act 1, sc. 1, lns. 67–70), and no play in which exiled leaders hoping to return to the homeland are shown in an unsympathetic light, to put against the presentation of attractive and patriotic exiles in *As You Like It*, *Titus Andronicus*, *Richard III*, *Richard II*, *King Lear*, *Macbeth*, *Cymbeline*, and *The Tempest*. See also Richard Wilson, *A World Elsewhere: Shakespeare's Sense of an Exit*, 117 *PROC. OF THE BRIT. ACAD.* 165, 181–88 (2002).

70 See *supra* note 63. In making the connection between these plays and Thorpe, DONALD W. FOSTER, *ELEGY BY W.S.: A STUDY IN ATTRIBUTION* 256 n.15 (1989) notes also that “Thorp cannot be linked to the bad quarto of any play or to any good quarto that was published without authorization [e.g. by Shakespeare’s company].” *Id.* at 256. There is reason to think that the printer of these plays was Valentine Simmes, who had in 1595 printed works by Robert Southwell, the Jesuit priest recently executed for treason. See Martin & Finnis, *supra* note 63, at 35.

71 WILLIAM SHAKESPEARE, *THE TEMPEST* act 2, sc. 1, ln. 253.

*Antonio*: She that is Queen of Tunis . . .

. . . that from whom

We were all sea-swallow’d, though some cast again

(And by that destiny) to perform an act

*Whereof what’s past is prologue*, what to come

In yours and my discharge.

*Id.* lns. 246, 250–54 (emphasis added).

The act that Antonio, the usurper Duke of Milan, has in mind discharging (performing) is the murder of Alonso King of Naples by Antonio and Alonso’s brother Sebastian so that the latter may “come by Naples” (i.e., usurp it); the would-be killers do not even pretend to have any justification for any such “advancement” of Sebastian at the expense of Alonso and his daughter and rightful heir, Claribel, Queen of Tunis.

tions as re-enactments of the justified and beneficial actions of his ancestor<sup>72</sup> Junius Brutus: "My ancestors did from the streets of Rome / The Tarquin drive when he was call'd a king."<sup>73</sup> As is recalled in each of Shakespeare's 1594 texts, *Titus Andronicus* and *Lucrece*, it was Junius Brutus who, bearing Lucrece's body to Rome, stirred the people to banish the Tarquins and who thereby, as the *Argument* adds, instituted a republican consular government. Shakespeare's *Julius Caesar* makes Marcus Brutus painfully aware of his responsibility to emulate his forebear and restore Rome's ancient liberties:

Shall Rome stand under one man's awe? What, Rome?  
My ancestors did from the streets of Rome  
The Tarquin drive when he was call'd a king.<sup>74</sup>

Shakespeare's Brutus had been reminded by Cassius of these ancestors, and specifically of Junius Brutus, in their first conversation:

O! you and I have heard our fathers say  
There was a Brutus once that would have brook'd  
Th' eternal devil to keep his state in Rome  
As easily as a king.<sup>75</sup>

Marcus Brutus will resolve, in effect, to follow the example of his forebear and treat Caesar much as Junius Brutus treated Tarquin.

But, more proximate historical events are also present. The whole drama, from its first moments, unfolds in the silent presence of Rome's most recent past, the time of Pompey, taken to be the last ruler within Rome's historic republican constitutional tradition. The play's first scene serves for a prologue as generally found in Greek tragedy.<sup>76</sup> The setting is a Roman street. The first words are those of

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72 If the rumor is accepted that Marcus Brutus was Julius Caesar's bastard son, Junius Brutus is only the supposed ancestor of Marcus Brutus. Shakespeare is aware of the rumor, and makes Suffolk take it for granted in WILLIAM SHAKESPEARE, *THE SECOND PART OF KING HENRY THE SIXTH* act 4, sc. 1, lns. 136–37 ("Brutus' bastard hand / Stabb'd Julius Caesar."). But, *pace* STEVE SOHMER, *SHAKESPEARE'S MYSTERY PLAY* 83–84 (1999), Plutarch in his *Life of Brutus*, though mentioning it, does not prefer it to the official account of Brutus's descent, and in *Julius Caesar*, Shakespeare clearly does not adopt the rumor, but rather, through the mouth of Brutus himself (and by implication Cassius also, *see* JULIUS CAESAR, *supra* note 31, act 1, sc. 2, lns. 158–61), prefers and takes as unquestioned the official account. *See infra* note 73 and accompanying text.

73 JULIUS CAESAR, *supra* note 31, act 2, sc. 1, lns. 53–54.

74 *Id.* lns. 52–54.

75 *Id.* act 1, sc. 2, lns. 158–61.

76 "The prologue (*prologos*), the part preceding the entrance of the chorus, a monologue or dialogue which sets out the subject of the drama and the situation from which it starts." OXFORD COMPANION TO CLASSICAL LITERATURE 577 (M.C. Howatson ed., 2d ed. 1989).

the two tribunes of the people, Flavius and Marullus, chiding the "idle creatures,"<sup>77</sup> the commoners (a chorus appearing several times in the play) who are making holiday to rejoice in Caesar's triumph "over Pompey's blood."<sup>78</sup> Marullus exhorts the flippant crowd to remember what great Pompey did for them. They should go to their houses, he demands, and pray that the gods will "intermit the plague that needs must light on this ingratitude."<sup>79</sup> Everything that happens in *Julius Caesar* is framed, therefore, as a plague that befalls Rome because of Caesar's overthrow of Pompey, his bringing on Pompey's death, his destruction of Pompey's sons, and his reaching to be more honored and exalted than Pompey ever was.<sup>80</sup>

Shakespeare makes Pompey a silent but continuing presence in the play. Several times we are told—even through the mouth of Antony—that Caesar dies at the base of Pompey's statue, "Pompey's basis,"<sup>81</sup> and that the conspiracy is planned at "Pompey's Porch"<sup>82</sup> and "Pompey's theatre."<sup>83</sup> The willful embracing of "Domestic fury and fierce civil strife" by Caesar's henchman Antony<sup>84</sup> generates a new extension of the civil war that Caesar himself had launched, years before, by crossing the Rubicon to attack Pompey in Rome. What

77 JULIUS CAESAR, *supra* note 31, act 1, sc. 1, ln. 1.

78 *Id.* ln. 51.

79 *Id.* lns. 54–55. The passage in Plutarch's *Life of Julius Caesar* from which Shakespeare's account is taken recounts that

there were set up images of Caesar in the city with diadems upon their heads, like kings. Those the two Tribunes, Flavius and Marullus, went and pulled down, and furthermore, meeting with them that first saluted Caesar as king, they committed them to prison. The people followed them rejoicing at it, and called them "Brutes", because of Brutus, who had in old time driven the kings out of Rome and that brought the kingdom of one person unto the government of the Senate and people. Caesar was so offended withal that he deprived Marullus and Flavius of their Tribuneships, and, accusing them, he spake also against the people, and called them *Bruti* . . . to wit, "beasts" . . . [T]he people went straight unto Marcus Brutus, who from his father came of the first Brutus . . .

SHAKESPEARE'S PLUTARCH 83–84 (T.J.B. Spencer ed., 1964) (North's translation of Plutarch, spelling modernized).

80 And soon we hear that those who would remember Pompey—Flavius and Marullus, the constitutional representatives of the common people—have been by Caesar "put to silence." JULIUS CAESAR, *supra* note 31, act 1, sc. 2, ln. 286. All this is the more striking because the play is *not* following Plutarch when it presents the tribunes calling upon the people, and the play's audiences and readers, to remember Pompey.

81 *Id.* act 3, sc. 1, ln. 115.

82 *Id.* act 1, sc. 3, ln. 247.

83 *Id.* act 3, sc. 1, ln. 152.

84 *See id.* act 3, sc. 1, ln. 263.

Antony rekindles will consume Brutus, noble but unfortunate, and poor in judgment: as Cassius complains near the end, "against my will / (As Pompey was) am I compell'd [by Brutus] to set / Upon one battle all our liberties."<sup>85</sup> Shakespeare reminds a cultured section of his audience of this civil war, and of the tradition which saw Pompey's defeat by Caesar as the defeat of the republic itself and of republican freedom everywhere. This reminder takes the form of multiple allusions to the republican poet Lucan's great poem about the war between Pompey and Caesar, the *De Bello Civile*, usually known as the *Pharsalia* for its focus on the battle of Pharsalus in which Caesar decisively defeated Pompey's republican army.

Allusions to Lucan's *Pharsalia* in this play have been traced by others.<sup>86</sup> But the most pertinent allusion of all seems to have been overlooked. It is made by Mark Antony. Standing over the body of Caesar, he vows vengeance. But not simply the bringing down of the conspirators. Rather, Antony cries havoc and lets slip the dogs of war, civil war. The horrors of the foreign battlefield, in the war between Caesar and Pompey, will be seen in Italy itself:

A curse shall light upon the limbs of men;  
Domestic fury and fierce civil strife  
Shall cumber all the parts of Italy;  
Blood and destruction shall be so in use,  
And dreadful objects so familiar,  
That mothers shall but smile when they behold  
Their infants quarter'd with the hands of war . . .<sup>87</sup>

Antony finishes with a particular vision of a future of a nation rent by civil war:

That this foul deed shall smell above the earth  
With carrion men, groaning for burial.<sup>88</sup>

What are carrion men? The piles of dead men slain in battle. How do these dead and rotting men groan? Their spirits cry out for burial, making the earth seem alive. Why do they cry for burial? Modern scholars sought an answer in Elizabethan writings,<sup>89</sup> but without convincing result. The answer, which illumines and enriches the whole

85 *Id.* act 5, sc. 1, lns. 73–75 (emphasis added).

86 See, e.g., Clifford J. Ronan, *Lucan and the Self-Incised Voids of Julius Caesar*, 22 *Comp. Drama* 215, 215–26 (1988); see also *id.* at 225 nn.1–3 (relevant bibliography).

87 JULIUS CAESAR, *supra* note 31, act 3, sc. 1, lns. 262–68.

88 *Id.* lns. 274–75 (emphasis added).

89 KENNETH MUIR, *THE SOURCES OF SHAKESPEARE'S PLAYS* 119–20 (1977).

play, is made plain by the *Pharsalia*.<sup>90</sup> In a passage which tells a story that seems to be Lucan's own invention, at the end of the section (book) on the battle itself, the poet tells how the bodies of Pompey's troops lay unburied in the thousands because Caesar refused to allow their burial:

You would have thought the field  
Had groan'd, and that the guilty earth did yield  
Exhaled spirits that in the air did move . . . .<sup>91</sup>

Memorably, Lucan pictures Julius Caesar breakfasting on a hill overlooking the rotting bodies on the plain, and the poet himself, as if at Caesar's elbow, reproaching him: his inhumanity to Pompey's defeated slain is pointless, futile, for

Death free[s] from fortune: Earth receives again  
Whatever she brought forth: and they obtain  
Heaven's coverture that have no urn at all.<sup>92</sup>

Let Caesar inhale this air if he can, "the air by carrion putrified to smell."<sup>93</sup> Here in Lucan, then, is a true "foul deed smelling above the earth," the carnage-smelling fields filled with carrion men groaning for burial.

Elizabethans who caught the playwright's hints of Lucan—the poet condemned to death by suicide without trial by the emperor Nero—would also recall the poet's judgment on Caesar's victory over Pompey; not merely the soldiers, the men, but Rome itself perished there: *per populos hic Roma perit . . . mors hic gentis erat*—it was the death of the Roman people. Indeed, the people of the whole world, our whole aeon, were here wounded, killed, o'erthrown: *in totum mundi proternumur aevum / vincitur his gladiis omnis quae serviet aetas*—Caesar's swords conquer all, in every age, who will be made servants.<sup>94</sup> The tragedy is not of one man, whether Pompey (or Brutus), but of Rome,<sup>95</sup> and all whose freedom perishes as the old and tried rotation of elected consuls is supplanted by emperors for life—men who like

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90 The passages are in Book VII, not translated into English by 1599. But today it is widely accepted that Shakespeare "could certainly read Latin and . . . kept up some study of it . . . we can confidently assert that if he wished to consult any of the major Roman historians he could do so profitably and without great difficulty." BULLOUGH, *supra* note 44, at 35–36.

91 LUCAN'S PHARSALIA OR THE CIVILL WARRES OF ROME BETWEENE POMPEY THE GREAT, AND IULIUS CAESAR (Thomas May trans., 2d ed. 1631).

92 *Id.* at 818–19 (ending "*caelo tegitur qui non habet urnam*").

93 *Id.* at 830.

94 *Id.* at 632–41.

95 So May's early seventeenth century version freely translates *mors hic gentis est* "here nations' tragedies."

the winner Octavius cold-heartedly prescribe death without trial for their colleagues' brothers.

The playwright juxtaposes his invocation of Lucan's vision of carrion men with a more obvious reminder of a feature of the English state's civil war against the Catholic resistance. Unlike Brutus himself, the convicted Catholic "traitors," cut down still living from the hangman's noose, were literally "*quartr'd with the hands of war*."<sup>96</sup> Like Caesar, the English government forbade their burial, and their rotting quarters with their severed heads were displayed as carrion around the City of London. So there may have been those in the play's first audiences who sensed a parallel between the old republican order, overthrown by Caesar and anew by Antony and Octavius, but hauntingly present like its emblem Pompey, and the old religious order overthrown by the Queen who claimed to be supreme governor of the life and doctrine of the religion of her realm and—by all too credible threats of death and confiscation—the regulator of even the most private devotions and other religious acts of any and every of her subjects.<sup>97</sup>

In short, the author of *Titus Andronicus*, the *Argument to Lucrece*, and *Julius Caesar* showed a strong, clear-headed, and subtle concern with questions of political succession. This concern—vividly extended in his *King John*<sup>98</sup> and his *Richard II* (both circa 1595),<sup>99</sup> and present

96 JULIUS CAESAR, *supra* note 31, act 3, sc. 1.

97 For example, by the statute 23 Eliz. 1, c. 1 (1581) (Eng.) the Queen in Parliament made it punishable as high treason (partial strangulation, then castration and disemboweling alive, and quartering) to *be reconciled to the Church of Rome*.

98 For an up to date introduction to a reading of the politics in *King John*, see John Klause, *New Sources for Shakespeare's King John: The Writings of Robert Southwell*, 98 *STUD. IN PHILOLOGY* 401. 401–27 (2001). Too little attention, we would add, has hitherto been paid to the radical dissonance between Shakespeare's presentation of the relations between John, France, England, and the Papacy and the extensive presentation of those relations in the *Homily on Rebellion* (1571). One—in itself minor but telling—aspect of this contrast is the play's sympathetic presentation of the King of France's claim to be the divinely appointed guardian of the young English prince whose rightful claim to the throne of England has been usurped by King John:

That judge [God] hath made me guardian to this boy,

Under whose warrant I impeach thy wrong,

Any by whose help I mean to *chastise* it.

KING JOHN, *supra* note 33, act 2, sc. 1, lns. 115–17.

99 *Richard II*, first published in 1597, but probably completed in 1595 and quite possibly begun in 1594, shows a king "worthily depos'd" (though later unworthily murdered) for "grievous crimes . . . / Against the state and profit of this land"—including political murder and illegal expropriations—which arouse "the commons" to welcome his forced abdication. WILLIAM SHAKESPEARE, *THE TRAGEDY OF KING RICHARD THE SECOND* act 4, sc. 1, lns. 223, 224, 272. From the outset, Henry Bolingbroke,

also in his probably somewhat earlier *Richard III*<sup>100</sup>—coincides, in timing, intensity, and governing ideas, with that of the banished, proscribed, and much reviled authors of the *Book of Succession*.

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who is to replace Richard II as Henry IV, presents the issue as one of "justice and rough chastisement" for plotting the murder of the Duke of Gloucester. *Id.* act 1, sc. 1, ln. 106. Explicitly, it is the Duke of Norfolk who is to be chastised by Henry, but implicitly, as Richard himself well knows, the murdered Duke's blood's cry for justice is directed against the King, and so the whole play unfolds as chastisement of Richard. *See id.* lns. 87–108. Almost as early, the play makes the sympathetically presented John of Gaunt articulate crisply the theory of the Elizabethan *Homilies*: even when the King is guilty, he is (says Gaunt) "God's substitute, / His deputy anointed in His sight," and so "*God's is the quarrel . . . / Let heaven revenge*" the King's crimes, for the subject "may never lift / An angry arm against His minister." *Id.* act 1, sc. 2, lns. 37–40 (emphasis added). But the play then proceeds to show that this theory—and the charge of treason that the theory levels against "usurpers" who chastise a king—is completely impotent when confronted by a person who makes the quarrel his own and successfully assumes the throne in order to vindicate rights trampled on by the (former) King. There are circumstances (exemplified by those in this play) in which to take one's stand on the theory, even on the watered down version of it articulated by the Bishop of Carlisle, *id.* act 4, sc. 1, lns. 117–31, is to become punishable for treason oneself, and perhaps morally guilty of treason.

100 *Richard III*, first published in 1597 and unlikely to have been written before 1592 or after 1595, shows Richmond, the future Henry VII, praying in soliloquy to God to "make us thy ministers of *chastisement*," THE TRAGEDY OF RICHARD THE THIRD act 5, sc. 3, ln. 113, against the king whose rule he has earlier characterised as the "yoke of tyranny." *Id.* act 5, sc. 2, ln. 2.