

The Good, The Bard and the Ugly

By Derek R. Sambrook - Dec 8, 2016



The relevance of William Shakespeare in western lives has come to the fore in 2016 as we commemorate the 400th anniversary of his death. Quite naturally, the year has seen many articles written about the Bard, some of which have observed how his 36 plays mirror much of the human experience and go straight to the heart of the human condition. As the American philosopher, Noam

As the American philosopher, Noam Chomsky, put it: "It is quite possible – overwhelmingly probable, one might guess – that we will always learn more about human life and personality from novels than from scientific psychology". Plays as well. During my years of writing I have often quoted Shak

With that backdrop let me proceed with the concluding part of The Panama paper trail which began with "The Stiglitz Factor" and which was published on 29th August. As I said during my talk last month at Jesus College, Oxford, I am neither an apologist, nor Panama's Panjandrum, on the subject of the Panama Papers, but my views have been shaped by the relevance of close to 40 years offshore experience, earned as a practitioner in several jurisdictions, with part of that time spent wearing a regulator's hat before donning the Panama hat I wear today.

Mossack Fonseca was the casualty of a hacker who has launched a campaign against the international sinister elements of offshore financial activities, wherever they are to be found, not necessarily in Panama, and it is a crusade fuelled by resentment, bordering on rage. The law firm has been the catalyst, and just like Shakespeare's Hamlet, Mossack Fonseca – and by association Panama – are but the play within a play. A play with the largest number of characters happening to reside well beyond Panama's shores; or to put it another way, as a reporter in another seminar in Oxford recently did: "What we learned from the Panama Papers is that it is the economic system". He had worked on the story and this was his conclusion after months of searching through millions of leaked documents.

Panama prejudice, glaringly obvious today, reminds me that people in the past have believed or perceived things to be true that were not, all based on what was regarded as reliable knowledge. We can see that they still do and I call them barnacle believers. In centuries past it was believed that barnacles hatch to produce barnacle geese, that lions are frightened by cockerels, and that magnets smeared with garlic will cease to work. We are still susceptible, without close analysis, to accept what we are told; if you don't think so, consider, as examples, the reckless rhetoric during the Brexit campaign and the warm-up to the war in Iraq, the facts of which were laid bare by the chilling Chilcot conclusions. No wonder Mark Twain said that man is the only animal that blushes or needs to.

Panama indeed shares the dock for the illicit activities revealed; but the history in so many of these transgressions dates back to the dark ages of due diligence, well into the last century when the offshore world in general took a breezy approach to the fine detail of its clientele's bona fides. I know this because I have worked on islands in that world, some with four seasons and others with just two: hot and very hot. Panama, however, in line with most jurisdictions, has introduced regulations and controls since the bad old days which would have made jaws drop on such islands back then. I should add that the ripple effect from the stone thrown into the Panama pool has already shone light on the shortcomings to be found, still today, in the offshore world's often most harshest critic, the United States of America.

So having resolved the controversy over Panama's bearer shares, it is a bitter sweet moment, then, that saw the FATF promote Panama to its white list at the beginning of this year. But in any event, if the Panama Papers result in a cleansing process where all but the fittest, cleanest and compliant will survive, this will be welcome news to me and to the professionals I work with in Panama and outside of it.

Transparency International's 2015 Corruption Perception Index puts Denmark in first place as being the least corrupt country in the world. "Perception" is a keyword in the title of the index, and which, admittedly, focuses on the perception of corruption in the public sector. Although I would not think of geese, lions or magnets, I am drawn to Hamlet again because, apparently, there is something rotten in the state of Denmark. The Danish tax authority has paid just over US\$900,000 to an anonymous source in order to obtain information leaked from Mossack and Fonseca.

In 2008, when Germany purchased data stolen from a Liechtenstein bank in order to pursue tax evaders, Denmark's then tax minister described this as "an advanced form of handling stolen goods" and said that "I think it's a moral problem to reward a criminal for information that he stole. I don't like this and I don't think this ethically is the best way to ensure that taxes are paid correctly". Denmark's current tax Minister, however, has stated that the tax agency had been given permission to acquire the stolen Panama data following "broad political support". A Danish People's party MP said that in this instance it was necessary to bend principles, and I can hear Benjamin Disraeli's earnest plea echoing down the corridors of Christiansborg Palace, "Damn your principles! Stick to your party".

But rather than Shakespeare, let me end by quoting the Victorian philosopher and polymath, Herbert Spencer, who, in his book "Social Statics" had this to say about bending principles: "Make a hole through a principle to admit solitary exception, and, on one pretence or other, exceptions will by and by be thrust through after it, as to render the principle utterly good for nothing. In fact, if its consequences are closely traced, this same plea for license in special cases turns out to be the source of nearly all the evils that afflict us..." O tempora! O mores!



Derek R. Sambrook

<http://www.trustservices.net>

Derek R. Sambrook, who has worked in Africa, Europe, the Caribbean, and the US, is a professionally trained and qualified trust and estate practitioner. He is a Fellow of the Institute of Bankers in South Africa and holds the Institute's specialist Trustee Diploma in law and accounting. He is the Managing Director of Trust Services, S.A. a licensed trust company in Panama and Treasurer of the Panama-British Business Association. He was appointed by the British government (1989-1992) as the first Bank, Trust Company and Insurance Regulator in the Turks & Caicos Islands, British West Indies, where he established a regulatory body and drafted trust and insurance laws, banking and other regulations. During his tenure he was also a Member of the Latin American and Caribbean Banking Commission. He is the former treasurer of British Chamber of Commerce Panama and author of only Latin Letter and Offshore pilot Quarterly, as well as a columnist for a leading offshore finance journal.