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Justice and Art, Face to Face

Desmond Manderson and Cristina S. Martinez*

This essay studies in detail, for the first time and in the context of legal as well as art history, Sir Joshua Reynolds's representation of *Justice* (1779). We argue that the image is of particular significance in the history of representations of justice, and marks the emergence of neoclassical ideals. These ideals became, for example in the work of Sir William Blackstone, central to the development of Anglo-American concepts of the common law. We argue that Reynolds's work exemplifies a profound shift and a rich complexity in these concepts. Our study also reveals the ways in which the artist's aesthetic practice and precedents gave him unique insights into the form and ideas of Justice. More than this, we suggest that the relationship between legal ideas and portraiture is suggestive for how the relationship between abstract norms and individual cases ought to be mediated – both in the formative period of the late eighteenth century, and now. The connection between law and art helps not only to clarify but to develop and more richly comprehend both the history and the implications of legal concepts. Not in philosophy or jurisprudence or political theory is justice's struggle between particular and general most productively encountered, but in the dual cases of portraiture and common law.

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Our exploration of this image and these themes derives from a surprising convergence. We discovered only recently that we had been working independently along very similar lines, specifically on the relationship between Sir Joshua Reynolds and Sir William Blackstone, the greatest artist and the greatest legal writer of the English Enlightenment. Indeed, Martinez's interest dates from her doctoral dissertation completed several years ago. This research will soon appear as chapters in two books on which we are now working: that of Cristina S. Martinez on law and art in England in the eighteenth century, and that of Desmond Manderson on law, time, and the visual arts from 1500 to the present. But these very different projects converge in the person of Reynolds, and in particular in our recent research on the personification of *Justice*, a work completed in the late 1770s. Rather than write separately on the same painting, it seemed to us both more equitable and more exciting to collaborate in an article that explores the significance of this image for a wider public. The present work represents the fruits of this collaboration.



Figure 1:
Sir Joshua
Reynolds,
Justice, 1778-79,
Oil on canvas,
223.5 x 83.8 cm, ...
Private Collection

I. SIR JOSHUA REYNOLDS AND THE NEO-CLASSICAL MOMENT

What form does justice take when rendered visually? How does that form change in different times and places? These questions invite us to reflect on the relationship between the ideology and the aesthetics of law. Such a reflection helps illuminate for us underlying limits, ambiguities and tensions that inhere in our concepts of justice: between rigour and compassion, the universal and the particular, judgment and expression, the cry of order on the one hand, and the plea for balance on the other. Furthermore, and equally importantly, what does the particular training and sensibility of the artist bring to these matters? This essay explores these questions in the specific context of the work of Sir Joshua Reynolds. In what sense, we ask, is the justice of the portrait and the portrait of justice *intertwined*? How might our insights of one inform and enrich our understanding of the other?

The eighteenth century is dominated by an intellectual movement now known as neoclassicism, though it went by no such name at the time. This movement had its origins in response to the excesses and sensuality of the baroque and rococo, drawing first on the rationalism and humanism of the late seventeenth century. Michel Foucault, attending largely to French sources, argues that the Western *episteme* underwent a profound transformation in the late seventeenth century.¹ During the Renaissance, argued Foucault, the structure of thinking was essentially metaphorical. The parallels between elements, even of quite different kinds, yielded clues as to their underlying meaning. The look of a walnut, to take one well-known example, was thought to indicate its connection to the brain. “These buried similitudes must be indicated on the surface of things; there must be visible marks for the invisible analogies.”² In the Renaissance period, all meaning, said Foucault, is circulatory, textual, and interpretative. There is no other way of knowing than by the accumulation and discourse of texts. History is an ever-ramifying textual discourse, and “the task of commentary can never, by definition, be completed.”³

In the neo-classical period, this obsession with the accumulation of and relation between signs was overturned. The logic of similitude was replaced by a logic of identity, difference, measurement and order. The classical thinker sought not the resemblance of things, but their tabulation—in other words, their separation and their placement within a hierarchical and taxonomic order. According to Foucault, “this relation to *order* is as essential to the classical age as the relation to *interpretation* was to the Renaissance.”⁴ As he observes:

1. MICHEL FOUCAULT, *THE ORDER OF THINGS: AN ARCHAEOLOGY OF THE HUMAN SCIENCES* (1973).

2. *Id.* at 26.

3. *Id.* at 41.

4. *Id.* at 57.

From now on, every resemblance must be subjected to proof by comparison, that is, it will not be accepted until its identity and the series of its differences have been discovered by means of measurement with a common unit, or more radically, by its position in an order. . . . The activity of the mind . . . will therefore no longer consist in drawing things together, in setting out on a question for everything that might reveal some sort of kinship, attract, or secretly shared nature within them, but, on the contrary, in *discriminating*.⁵

John Locke, writing at the beginning of this period, makes a key distinction between additive and subtractive processes:

For *wit* lying most in the assemblage of ideas, and putting those together with quickness and variety, wherein can be found any resemblance or congruity, thereby to make up pleasant pictures and agreeable visions in the fancy; *judgment* on the contrary, lies quite on the other side, in separating carefully, one thing from another, ideas wherein can be found the least difference, thereby to avoid being misled by similitude[.]⁶

“Western reason is entering the age of judgment,” says Foucault.⁷ We will see how much this concept of judgment transformed theories of both art and law.

The unity of the classical project in the English Enlightenment, across so many different fields of endeavour, is truly remarkable.⁸ The English intellectual elite was a small group, most of whom knew each other, and often well. Sir Joshua Reynolds (1723-92) was one glue that held them together. With Samuel Johnson he founded the Literary Club in 1764. It was the beating heart of the English enlightenment; Reynolds was its soul.⁹ Appointed the first President of the Royal Academy of Art when it was founded in 1768, he delivered an annual or biennial address for the next 25 years. These *Discourses on Art* set out with accuracy and elegance his vision of art in “the grand style,” and advanced a broader thesis of the relevance of aesthetics to social and political values.¹⁰ Reynolds self-

5. *Id.* at 55.

6. JOHN LOCKE, AN ESSAY CONCERNING HUMAN UNDERSTANDING, BOOK 2 [XI] 203 (Dover ed., 1959).

7. FOUCAULT, *supra* note 1, at 61.

8. LAWRENCE LIPKING, THE ORDERING OF THE ARTS IN EIGHTEENTH CENTURY ENGLAND (1970); JOHN BARRELL, THE POLITICAL THEORY OF PAINTING FROM REYNOLDS TO HAZLITT (1986). Lipking’s work, which appears a few years after Foucault’s discussion of similar themes in French intellectual history, but makes no mention of it, provides another striking example of scholarly convergence.

9. On Reynolds’s prominent role, see, for example, CHARLES ROBERT LESLIE & TOM TAYLOR, LIFE AND TIMES OF SIR JOSHUA REYNOLDS WITH NOTICES OF SOME OF HIS CONTEMPORARIES, VOL. 1 228-29 (1865).

10. SIR JOSHUA REYNOLDS, DISCOURSES (Pat Rogers ed., 1992) [hereinafter referenced by Discourse and page number] (originally published in THE WORKS OF SIR JOSHUA REYNOLDS, 2 VOLS. (Edmund Malone ed., 1798)). The first seven discourses were first published in 1778.

consciously absorbs the whole current of Enlightenment thought and attempts to apply it to the realm of art. Certainly his lectures clearly reflect the influence of Johnson and, later, of Edmund Burke.¹¹ Indeed, some have churlishly suggested that the discourses were really cobbled together—even ghost-written—by the Club.¹² But there is no conspiracy or plagiarism here. Reynolds's *Discourses* attempt to capture the intimate intercourse between aesthetic, political, and philosophical considerations in the middle and latter parts of the eighteenth century. He argued that true art is not merely technical but conceptual; not interested in trivialities of accurate representation and fetching ornament, but in the expression of ideals. Indeed, Reynolds's *Discourses* continually oscillate between an aesthetic and a political argument, not only in emphasizing the critical distinction between whether painting was a "liberal art or [a] mechanical trade,"¹³ but in drawing out the parallels between aesthetic and other forms of judgment:

A man of real taste is always a man of judgment in other respects; and those inventions which either disdain or shrink from reason are generally, I fear, more like the dreams of a distempered brain than the exalted enthusiasm of a sound and true genius.¹⁴

Reynolds marks a period in which the influence of art on society was both deep and wide.¹⁵ Artistic production was self-consciously part and parcel of the whole *equipage* of governance. It was typically conceived to be an ally of the political and social establishment – a position that it would thoroughly disavow in the nineteenth century. His *Discourses* are not only a vital neoclassical text on the theory and nature of art. It is a textbook on the aesthetic unity of knowledge, a primer in the strain of civic humanism which dominated political thought.¹⁶

II. THE SHADES OF JUSTICE

Studies on the image of justice have mostly been concerned with the figure's historical development and iconography. Legal scholars and art historians have turned attention to chronological analysis, explored the uses and display of images of justice in courthouses and other spaces, and

11. PAT ROGERS, *Introduction* to REYNOLDS, DISCOURSES, *supra* note 10, at 3-35.

12. WILLIAM BLAKE, ANNOTATIONS TO THE WORKS OF SIR JOSHUA REYNOLDS xliv, in THE COMPLETE POETRY AND PROSE OF WILLIAM BLAKE 639 (David Erdman ed., 1982).

13. See, e.g., REYNOLDS, *supra* note 10, (III) at 103; (IV) at 116; see also BARRELL, *supra* note 8.

14. REYNOLDS, *supra* note 10, (VII); see LIPKING, *supra* note 8, at 398.

15. See BARRELL, *supra* note 8. Richard Wendorf, in his book on Reynolds's life and career, examines the extent to which art and society converge in the figure of the portrait painter. As the author explains, "complaisance," or the art of pleasing, played an important role in Reynolds's artistic success: "the painter's temperament was suited or adapted to the society he 'captured' and in which he thrived." RICHARD WENDORF, SIR JOSHUA REYNOLDS. THE PAINTER IN SOCIETY 21 (1996).

16. BARRELL, *supra* note 8; see also COSTAS DOUZINAS & RONNIE WARRINGTON, JUSTICE MISCARRIED: ETHICS, AESTHETICS, AND THE LAW 265-309 (1994).

yet our historical understanding is still incomplete.¹⁷ A careful examination of Reynolds's representation of *Justice* within the political and legal thought of the Enlightenment, and its full significance in relation to aesthetic and philosophical debates and art practices in eighteenth-century England, constitute our main focus. In this section, we discuss the unique attributes as well as the context in which Reynolds produced an image of *Justice* that in its integration of legal and artistic theory represents a real breakthrough in English painting. Indeed, as we will show, the best guide to Reynolds's treatment of justice in this image lies not by an analysis of legal or philosophical texts but in another of his works of art.

In 1777, Reynolds was commissioned to design new stained glass windows to replenish the gothic West Window at New College, Oxford.¹⁸ Rather than simply provide drawings from which the glass artist, Thomas Jervais, could work, Reynolds chose to realize full paintings for a series of the seven virtues, beneath a vast nativity scene.¹⁹ Ultimately, as Reynolds himself conceded, the window was not entirely successful.²⁰ The tonal restraint that characterizes Reynolds's work, reflecting the neoclassical preference for line over colour and form over effect, does not perfectly suit the unfamiliar medium. The glass-work competes rather than complements the gothic figuration of the chapel and the window. Reynolds's diffuse brushwork becomes, in glass, over-simplified and crude. The colours appear washed out. Indeed, the softer tones of Jervais contrast with William Raphael Eginton's stained-glass reproduction of Reynolds's *Justice*, which underlines her lit face and direct gaze and evinces a sharper use of colour.²¹ Jervais does not render well the shadows that are so important to Reynolds's *Justice* (second from right). As a result, Lady Justice's face is brought into sharper relief than in the original, like a cartoon, depriving it of its ideal quality, and making her

17. Prominent among them is PLEISTER & SCHILD, *RECHT UND GERECHTIGKEIT IM SPIEGEL DER EUROPÄISCHEN KUNST* (1988); SCHILD, *BILDER VON RECHT UND GERECHTIGHEIT* (1995); JUDITH RESNIK AND DENNIS CURTIS, *REPRESENTING JUSTICE* (2012).

18. REYNOLDS 290-91 (Nicholas Penny ed., 1986); MARTIN POSTLE, *The West Window of New College Chapel*, 423 *APOLLO* 51-52 (1997).

19. The picture of *Justice* is currently in the collection of the Earl of Normanton at his country seat, Somerley, Ringwood, Hampshire. A note in John Thomas Smith's *Nollekens and his Times* states: "The 'Virtues' for which Lord Normanton gave £5,565 at the sale of Lord Thomond's pictures in 1821, are now at Somerley. Seven years later George IV was willing to give double this sum for the set, but his offer and a later one of three times the sum by the Trustees of the National Gallery were refused." JOHN T. SMITH, *NOLLEKENS AND HIS TIMES: COMPREHENDING A LIFE OF THE CELEBRATED SCULPTOR; AND MEMOIRS OF SEVERAL CONTEMPORARY ARTISTS, FROM THE TIME OF ROUBILIAC, HOGARTH, AND REYNOLDS, TO THAT OF FUSELI, FLAXMAN, AND BLAKE*, VOL. 2 231 (Wilfred Whitten ed., 1920).

20. MARTIN POSTLE, *SIR JOSHUA REYNOLDS: THE SUBJECT PICTURES* 184 (1995); REYNOLDS, *supra* note 18; MARTIN POSTLE, *The Subject Pictures*, in DAVID MANNINGS, *SIR JOSHUA REYNOLDS: A COMPLETE CATALOGUE OF HIS PAINTINGS*, 2 VOLS. 551 (2000).

21. Eginton's copy of Reynolds's work, now at the Birmingham Museum and Art Gallery, was part of a set of six windows commissioned around 1816 by Sir Joseph Scott to decorate St. Margaret's Church in Great Barr.

look more like a child than a woman.



Figure 2: Thomas Jervais, *Justice*, 1779, Stained glass, *West Window of the Chapel*, New College, Oxford, © Courtesy of the Warden and Scholars of New College, Oxford / Bridgeman Images

Fortunately, although several of the original paintings on which the West Window figures were based have been lost or destroyed over the years, *Fortitude* and *Justice* remain. *Justice* stands out for the unorthodoxy of its conception and the brilliance of its execution.²² She stands against a stormy sky, a sword in her right hand, scales in her left. These were two of the traditional symbols of justice as described in Cesare Ripa's *Iconology*,²³ an English translation of which was published in 1779 by the Scottish architect George Richardson. The translator's preface commends the science of Iconology as a "useful and entertaining" repertory of "representations and symbols, which by an ingenious modification, [the artist] might happily apply to the subjects he should have occasion to treat."²⁴ Richardson's publication boasted an impressive list of subscribers, including Reynolds, who was at that very moment engaged in applying "ingenious modifications"²⁵ of his own to *Justice* and the other Virtues.

Indeed, the treatment of the theme was already unusual. As noted by the author of *An Inquiry into the Requisite Cultivation and Present State of the Arts of Design in England*, "the walls of our palaces have been, from the period of the Reformation, successively covered with the work of foreign artists. Holbein, Rubens, Vandyck, Lely, Kneller, nay [sic], Verrio, Gennari, and La Guerre, have by turns enjoyed the numerous favours of Sovereigns, adorned the halls and filled the cabinets of the nobles."²⁶ Yet, as Alexander S. Gourlay observed, "the class that controlled English courts of law had so far been the least interested in paintings."²⁷

Of course, Reynolds's work was not without precursors. In the 1720s, Sir James Thornhill painted the ceiling of the Aldermen's Court Room, Guildhall, showing the City of London personified, surrounded by Prudence, Justice, Temperance, and Fortitude. The work included an overmantel piece, now destroyed, showing Justice embracing Mercy with Liberty, Piety, and Truth.²⁸ Two decades later, in the late 1740s, the

22. See POSTLE, *supra* note 20, MANNINGS, *supra* note 20.

23. CESARE RIPA, *ICONOLOGIA* (printed initially without illustrations in 1593 and then reprinted with illustrations in 1603; Dover reprint ed., 1976).

24. GEORGE RICHARDSON, *ICONOLOGY; OR, A COLLECTION OF EMBLEMATICAL FIGURES, CONTAINING FOUR HUNDRED AND TWENTY-FOUR REMARKABLE SUBJECTS, MORAL AND INSTRUCTIVE* (1779).

25. *Id.*

26. PRINCE HOARE, *AN INQUIRY INTO THE REQUISITE CULTIVATION AND PRESENT STATE OF THE ARTS OF DESIGN IN ENGLAND* 216 (1806). In the early 1700s, for example, the Italian painter Antonio Verrio created a large ceiling painting representing *Queen Ann as Justice* for the Queen's room in Hampton Court Place, but it may be safely stated that England lacked a tradition of justice pictures. BRETT DOLMAN, *Antonio Verrio (c. 1636-1707) and the Royal Image at Hampton Court*, *THE BRITISH ART JOURNAL* 18-28 (2009).

27. ALEXANDER S. GOURLAY, *Hogarth, Rubens, and the 'Justice-Picture' Tradition*, 14(1) n.s. *EIGHTEENTH CENTURY LIFE* 38 (Feb. 1990).

28. SIR JAMES THORNHILL OF DORSET, 1675-1734: *CATALOGUE OF THE TERCENTENARY EXHIBITION HELD AT THE DORSET COUNTY MUSEUM, DORCHESTER* (1975).

English painter Francis Hayman produced an allegorical study representing Prince Frederick and Princess Augusta for the rotunda at Vauxhall Gardens. The royal couple are surrounded by three female figures representing Justice (holding a sword), Truth (holding a mirror) and Britannia (holding a shield). The painter and engraver, William Hogarth—Thornhill's son-in-law—also represented the theme of justice in *Paul Before Felix*, a work he retouched and which exists in various versions.²⁹ In 1747, following the recommendation of Lord Mansfield, he was engaged by the Society of Lincoln's Inn to paint a picture to decorate the Chapel of the Society, later placed in the Great Hall that served as a court of law. The picture, produced in the *grand manner* and illustrating a Biblical scene, represents the legendary trial of Paul. Hogarth's controversial choice of subject reflected his critical view of justice and raised troubling questions about the judicial process and the impartiality of judges. A carved figure of justice holding the scales in the foreground can also be seen, for example, in Hogarth's representation of the interior of a law office in his print *Hudibras and the Lawyer* (1726). The unmistakable figure of justice is outlined against the large collection of books and legal documents on the shelves. Situated slightly higher and in front of the comfortably seated lawyer and his two clerks, it is a reminder of how they must act and carry out justice. Similarly, a drawing by Hayman, for the illustrated volume of Edward Moore's *Fables for the Female Sex* (1744), represents a dazed lawyer confronted by justice. The scene takes place in an office, illuminated by candlelight, where justice has suddenly emerged from a big, nebulous cloud.

But Sir Joshua Reynolds's *Justice* offers a far more ambitious treatment of legal themes. In the painted version in particular, Reynolds achieves a synthesis of legal and artistic theory, a practical demonstration of his theoretical *Discourses*, that marks a real watershed in English painting. Of the innovative elements of the painting, let us note to begin with his radical departure from traditional representations of justice, which after the sixteenth century was usually represented blindfolded in order to convey its impartiality.³⁰ On the contrary, *Justice*'s open eyes gaze out at the world; "the shadow from the arm falls upon the upper part of the face, and preserves the idea of the character without depicting her blind."³¹ Various interpretations of this highly unusual choice are possible. Nicholas Penny concludes that "the point of the blindfold was that justice

29. See CLOVIS WHITFIELD, *William Hogarth's 'Paul before Felix' at Lincoln's Inn*, 113 BURLINGTON MAGAZINE 210-14 (April 1971); RONALD PAULSON, HOGARTH: ART AND POLITICS, 1750-1764. VOL. 3 (1993).

30. COSTAS DOUZINAS, *Prosopeion and Antiprosopeion: Prolegomena for a Legal Iconology*, in LAW AND THE IMAGE. THE AUTHORITY OF ART AND THE AESTHETICS OF LAW 53 (Costas Douzinas & Lynda Nead eds., 1999).

31. *A Candid Review of the Exhibition 24* (1780), as quoted by Postle in MANNINGS, *supra* note 20, at 551.

was unswayed by superficial evidence: Reynolds indicates that she has eyes only for the balance.”³² But *Justice* is not looking at the balance at all, rather past and through it, to something else. Judith Resnik and Dennis Curtis offer instead a smorgasbord of possibilities:

The gesture could be protective—as if to maintain balance, Justice needed to insulate herself from the glare of the sun. One could also read her raised arm and balance as authoritative, indicating the power to decide what light . . . ought to be brought before her. Or Justice’s stance could be seen as putting her in a quizzical posture, requiring her to peer out to decipher what comes before her eyes.³³

But none of these alternatives suffices. “Protective” does not capture the mood of her pose; “authoritative,” for the same reason, seems to convey quite the wrong affect. “Quizzical” is closer to the mark, but overall, her hands shade her eyes not in an expression of puzzlement but rather—it seems to us—as a confident aid in achieving clarity.

None of these explanatory words adequately reflects on the kind of familiar gesture that Justice deploys, or on exactly what we use such a gesture for. The best clue to the interpretation of the image lies in Reynolds’s first self-portrait, from 1747-49.³⁴ Here too, the artist is shown staring into the distance, shading his eyes against the brightness of the light. A direct transposition of the hand over the eyes, an “attitude” which James Northcote noted “is often chosen by painters when they paint their own portraits,”³⁵ can be seen in George Richmond’s later *Self-Portrait* (1840, Fitzwilliam Museum, Cambridge), where the contrast of light and shadow, evocative of Rembrandt’s technique, imparts a psychological drama to the work. Perhaps there is something “quizzical” about Reynolds’s portrait; a flicker of doubt creases his brow. But here too, the artist portrays shaded vision as a sign of his confident and discriminating gaze. The hand framing the face and casting a band of shadow that frames the eyes shows the artist directing his contemplation and disciplining his representation. Reynolds presents himself to us in the dual role of seeing and being seen.³⁶ With the portrait in mind, the figure of Justice is

32. REYNOLDS, *supra* note 18, at 291.

33. JUDITH RESNIK & DENNIS CURTIS, REPRESENTING JUSTICE 99 (2012).

34. See MANNINGS, *supra* note 20, at 46-47; CHARLES CRAMER, ABSTRACTION AND THE CLASSICAL IDEAL 53-54 (2006).

35. See JAMES NORTHCOTE, THE LIFE OF SIR JOSHUA REYNOLDS, VOL. I 304 (1818).

36. In the *Nativity* scene, placed above the virtues in the New College chapel, it is worth noting that St. Joseph, like *Justice*, is represented looking out at the spectator, a choice condemned by one critic: “except in ludicrous subjects, none of the personages of the picture ought to be represented as looking out of it – his Nativity, therefore, according to this rule, is a ludicrous subject, as Joseph is looking at the spectator, and pointing to the infant.” Reynolds’s pupil James Northcote, however, commented that “the critic does not seem to understand the strict propriety of this action,” explaining that “Joseph is not to point out the holy child to those persons represented in the picture, who are supposed to come prepared to adore it” adding that he “looks *out* of the picture on the world, and directs them to behold their Redeemer.” JAMES NORTHCOTE, THE LIFE OF SIR JOSHUA REYNOLDS, VOL. II 109 (1818).

revealed not only as the counterpart of the artist, but as engaged in a similar exercise of precision and judgment. The portrait very clearly helps us understand both the meaning he intended by the gesture, and the aesthetic parallel that he was drawing.



Figure 3: Sir Joshua Reynolds, *Self-Portrait Shading the Eyes*, c. 1747-49, Oil on canvas, 63 x 74 cm, National Portrait Gallery, London. © National Portrait Gallery, London

“A man of real taste is always a man of judgment in other respects,”³⁷ he writes.

Like a sovereign judge and arbiter of art, he is possessed of that presiding power which separates and attracts every excellence from every school; selects both from what is great, and what is little; brings home knowledge from the East and from the West; making the universe tributary towards furnishing his mind, and enriching his works with originality and variety of inventions.³⁸

Significantly, the ability to make an informed judgment in matters of art was a prerogative of men. Women were not considered cultivated or experienced in the appreciation of pictures. So too, connoisseurship was a male-dominated pursuit during the eighteenth century.³⁹ Yet the embodiment of Justice as feminine (only a few male personifications

37. REYNOLDS, *supra* note 10, (VI) at 202.

38. *Id.* (VI) at 170.

39. See IAN PEARS, *THE DISCOVERY OF PAINTING: THE GROWTH OF INTEREST IN THE ARTS IN ENGLAND 187* (1988).

exist), contrasts sharply with the representation of Judgement “allegorically expressed by the figure of an old man,” as noted in Richardson’s *Iconology*.⁴⁰

Indeed, in both his art and his writings, Reynolds consistently entwined legal and artistic judgment. Nathaniel Hone’s *Sketch for the Conjuror* (Tate Britain, London), rejected for the 1775 Royal Academy Exhibition, satirizes Reynolds as a wizard, his maulstick transformed into a wand, with a collection of old master prints, an opened book, and an owl. Tellingly, the sketch of a justice scale rests at his feet. In his eighth *Discourse*, delivered the same year that he was painting *Justice*, Reynolds declared that, “an artist is obliged for ever to hold a balance in his hand, by which he must determine the value of different qualities; that, when *some* fault must be committed, he may choose the least.”⁴¹

For Reynolds, the painter must “preside like a supreme judge, over all the productions of nature.”⁴² A great artist works like a lawyer: “Great lawyers call the leading points in a case, or the leading cases relative to those points. The details of particulars, which does not assist the expression of the main characteristic, is worse than useless, it is mischievous, as it dissipates the attention.”⁴³ This is no mere metaphor. Reynolds’s argument is that the artist both edifies the public through his conception, and trains them in the practice of reasoned judgment. Likewise, and equally importantly, the lawyer undertakes the role of artist whose task is to paint a picture in the brightest light for all to see. His art is indeed an art of judgment, arrangement and design.

III. ABSTRACTION AND EMBODIMENT

Our objective in the present section is to discuss the extent to which Reynolds’s representation of justice revolved around key theoretical issues and, in particular, how the tension between abstraction and particularity, to which Reynolds alludes, and which runs through Enlightenment thought, permeates his interpretation of *Justice*.⁴⁴ Furthermore, our argument is that the image of *Justice* marks a shift in Reynolds’s view and moreover, a shift in which his practical experience as a portrait painter was fundamentally implicated. Again then, Reynolds embodies in his own person not the separation of art and law or art and philosophy but on the contrary, an on-going and dynamic discourse between them; in which art proved itself capable of informing our thinking about law and not just the other way around.

40. RICHARDSON, *supra* note 24, at 97.

41. REYNOLDS, *supra* note 10, (VIII) at 222.

42. *Id.* (III) at 106.

43. *Id.* (XI) at 249.

44. See CRAMER, *supra* note 34; WALTER JACKSON BATE, FROM CLASSIC TO ROMANTIC 57 (1946).

As a rule, the neoclassical quest for purity and simplicity privileged generalization as a mode of thought. “The business of a poet,” writes Samuel Johnson, “is to examine not the individual, but the species: to remark general properties and large appearances: he does not number the streaks of the tulip . . . and must neglect the minuter discriminations which one may have remarked and another have neglected.”⁴⁵ Reynolds was quick to disparage mere “mechanical” artists, whose art pursued a meticulous realism. He dismisses, with the arch-epithet “Gothic,” art which merely “attends to the minute accidental discriminations of particular and individual objects.”⁴⁶ It was on these grounds that his friend Thomas Warton celebrated Reynolds’s painted window:

Thy powerful hand has broke the Gothic chain,
And brought my bosom back to truth again.⁴⁷

Reynolds in his theoretical work favours the “universal” over the “capricious” and “fashionable.” The best art, Reynolds insisted, does not reside in details but expresses the general conception of an ideal. “Perfect form,” he said, “is produced by leaving out particularities, and retaining only general ideas. . . . The general idea constitutes real excellence.”⁴⁸ It is only the “inferior style that marks the variety of stuffs.”⁴⁹ The distinguishing marks of a particular tree are for Reynolds “*deformities*” that detract us from our pursuit of ideal form. Even the art of portraiture, the genre he made his own, should not aspire to merely the “capturing of a likeness.”⁵⁰ Rather than an exact imitation of the real world, the artist should instead draw out the general type and ideal that the sitter will exemplify.

In the *Discourses*, Reynolds’s argument for abstraction and generalization is made, at one point, using a strikingly visual metaphor. He commends:

the habit of looking upon objects at large, and observing the effect which they have on the eye when it is dilated, and employed upon the whole, without seeing any one of the parts distinctly. It is by this that we obtain the ruling characteristic. . . . Great fame does not proceed from works being more highly finished than those of other artists, but from that enlarged comprehension which sees the whole object at once.⁵¹

45. See BARRELL, *supra* note 8, at 91.

46. REYNOLDS, *supra* note 10, (I) at 81; *see also id.* (IV) at 128.

47. THOMAS WARTON, VERSES ON SIR JOSHUA REYNOLDS’S PAINTED WINDOW AT NEW COLLEGE, OXFORD (1782) (cited in NORTHCOTE, *supra* note 35, VOL. II at 108).

48. REYNOLDS, *supra* note 10, (IV) at 116.

49. *Id.* (IV) at 122.

50. *Id.* (III) at 106-7; *see also* CRAMER, *supra* note 34, at 39-40.

51. *Id.* (XI) at 250-51.

Charles Cramer connects dilated vision to the shaded eyes in Reynolds's self-portrait, and thence to the figure of Justice. He argues that what is being depicted here is 'the ability of judgment to weigh that empirical evidence based on broad universal principles rather than minute, circumstantial details, just as the generalizing artist, with "dilated" vision, sizes up and sorts perceived objects without becoming lost in the welter of adventitious contingencies."⁵²

But this is not why we shade our eyes. Cramer refers to "squinting or dilating the vision," but these are surely opposites. Squinting – and the Reynolds self-portrait does appear to be squinting – does not dilate the pupils, but *contracts* them, in order to limit the amount of light (or change the shape of the lens), which under bright conditions provides an excess of visual information. Shading the eyes performs the same function. It eliminates glare, precisely in order to allow us to select and focus our vision better. Again, what is important here is how the artist's practical and aesthetic understanding not only seeps into his thinking about the philosophical theme, but puts real pressure on the theoretical tension between abstraction and particularity, turning his representation in new directions, and nuancing the more dogmatic position taken in his theoretical writing. In a portrait above all, as Reynolds well knew, judicious behavior demanded the consideration of particulars. As Nikolaus Pevsner argues, "If you are biased by principles, or preconceived notions, or prejudice, you cannot judge objectively."⁵³ Samuel Johnson, likewise, attacked the "shallow" critic or connoisseur, "who judges only by narrow rules, and those too often false, and which, tho' they should be true, and founded on nature, will lead him but a very little way towards the just estimation of the sublime beauties in works of Genius."⁵⁴

So the self-portrait does not show Reynolds striving towards a broader outline, but a sharper image. The eye is not generalizing but, as John Locke put it, *discriminating* – exercising judgment. *Justice* does the same thing. She, too, is not shading her eyes simply to see a general whole. Instead, she expresses the artist's commitment to a more precise discrimination. Indeed, in this respect the innovative position taken by Reynolds's *Justice* runs counter to a traditional relationship between light and justice that extends all the way from the Egyptian god Shamash—one thousand years before Hammurabi—*via* Apollo, to Christian figures such as *Sol Justitiae*.⁵⁵ In the age of absolute sovereignty the sun was

52. CRAMER, *supra* note 34, at 53.

53. NIKOLAUS PEVSNER, *THE ENGLISHNESS OF ENGLISH ART: AN EXPANDED AND ANNOTATED VERSION OF THE REITH LECTURES* 67 (1978).

54. SAMUEL JOHNSON, *The Idler*, No. 76 (Sept. 29, 1759) in *THE WORKS OF SAMUEL JOHNSON* 176 (Arthur Murphy ed., 1825).

55. See DESMOND MANDERSON, *Metastases of Myth: Legal Images as Transitional Objects*, 26 *LAW AND CRITIQUE* 207-23 (2015); see also PETER GOODRICH, *LEGAL EMBLEMS AND THE ART OF LAW* (2014); *GENEALOGIES OF LEGAL VISION* (Peter Goodrich & Valerie Hayaert eds., 2015).

transmuted into a figure of kingly authority, most notably in Louis XIV's megalomaniacal iconography.⁵⁶ Any similar fantasies the English royal family might have nourished had been quashed in 1689. Reynolds's *Justice*, on the contrary, represents light not as the emanation of justice, but an impediment to it. Justice uses the scales to *shut out the light*, limiting its excessive information in order to allow her faculty of discrimination to operate. By representing light *against* justice, as an excess or distraction, Reynolds draws us resolutely away from ideas of transcendence, authority, or divinity, and towards the human skill requiring all the composure and concentration of a craftsman's practice. As opposed to the abstraction and neutrality of "blind justice," Reynolds emphasizes that the process of discernment is a matter of judgment to be performed by the judge herself, as part of her wisdom and in each and every decision. Her blindness is not absolute. She chooses not to see, the better to see what she chooses.



Figure 4: Joshua Reynolds, *Theory*, 1779-80, Oil on canvas, 172.7 x 172.2 cm, © Courtesy of the Royal Academy of Arts, London.

We can understand the painting therefore as taking issue with some of his own assertions in the *Discourses*, reflecting a more subtle balance between universal and particular. This conceptual shift was given powerful impetus by his own practical insight. Throughout Reynolds's work—in his portraits most especially—the notion of abstraction is constantly tempered by the compelling human embodiment of his figures.⁵⁷ But, in relation to the subject pictures in particular, *Justice* might

56. See, e.g., PETER BURKE, *THE FABRICATION OF LOUIS XIV* (1994).

57. See in particular discussions in REYNOLDS, *supra* note 19; MANNINGS, *supra* note 20; and

be thought to mark a conscious decision by Reynolds to move away from more generalized conceptions. The contrast with the ceiling painting of *Theory* produced for the 1780 opening of the Royal Academy's first premises, in Somerset House, is striking. The figure of *Theory* is ethereal, not grounded. She is described by one 1780 reviewer as "sitting in a cloud, darting her eye through the expanse. . . . This piece possesses a most beautiful lightness, and the figure seems rather to hover in the air, than to have any settled feat."⁵⁸ The painting's two strong diagonals draw the corners of the room in upon her figure, representing the importance—both aesthetic and intellectual—of this upward aspiration away from the world and towards the giddy heights of abstraction. She holds a compass in one hand, and in the other a scroll inscribed with the words: "THEORY is the knowledge of what is truly NATURE." Thus while the compass acknowledges the importance of measuring and accurately observing nature, this science is in the service of a *theoretical* inquiry, to be pursued by reason and idealism. The contrast between the two female figures of *Theory* and *Justice* highlights this tension between the general (Plato) and the particular (Aristotle) in Reynolds's art. *Justice*, unlike *Theory*, has her bare feet firmly on the ground. *Theory*'s hair flies away upwards while that of *Justice* is divided into equal parts. *Theory*'s open pose and contemplative eyes search out the heavens; *Justice*'s measured pose and fixed gaze directly address the viewer.

If we return to what is characteristic and distinctive about Reynolds's treatment of *Justice*, it is her highly particular and natural embodiment that arrests our gaze. We are immediately confronted by the intimacy and embodied sensuality – the qualities of humanity and femininity – in her address. Facing the viewer, *Justice* is dressed in plain salmon-pink robes and brought up close to the picture plane, one of her feet shown peeping out from beneath the dress. Never before had she been represented quite so explicitly in her facial and bodily address to the spectator. Like Catherine, Lady Bampfylde (1776-7, Tate Britain), she wears a flowing ribbon that envelops her forearm and delicate silhouette. In a manner reminiscent of the female full-length portraits that he exhibited in the 1770s, Reynolds's painting affords a striking example of the "Historical Style" praised in his fifth *Discourse* of 1772.⁵⁹ Her strong nose and fine neckline, untainted by the love of vanity or luxury, endows the figure with the "simplicity of the antique air and attitude."⁶⁰ The unadorned hair, coiffed in equal parts on each side, further endows the image with a classical symmetry and simplicity. Yet her wide eyes, sharply-defined chin and the full curve of her lips convey a desirable woman. In thus

POSTLE, *supra* note 20.

58. ROYAL ACADEMY CRITQUES &C, ROYAL ACADEMY ARCHIVES VOL. 1 81 (1780).

59. REYNOLDS, *supra* note 10, (V) at 149.

60. *Id.* (V) at 153.

balancing the modern and the antique, the elegant and the seductive, the conventional and the imaginary—the portrait and the virtue—Reynolds endeavours as always “to conciliate fashion with beauty.”⁶¹

The intimate physicality of the figure of *Justice* marks a profound turn from imagining justice as an abstract ideal, to one capable of human realization, even of eliciting human desire. This concern for the realization and embodiment of virtue was typical of the neoclassical world view.⁶² Hence the profound shift from allegory to personification. Neoclassicism had little time for the Renaissance obsession with ciphers, signs, or signals. The emblem literature, sophisticated but disembodied, was dying out. Richardson’s *Iconology* turned out to be not only the first, but the last English translation of Ripa. Instead, Reynolds offers up scene after scene of men and women dressed up as heroes or in the costume of allegorical figures, acting out their ideals in everyday lives. *Justice*, in her own way, is another such personification—not a symbol but a real person, whose dress and attributes suggest she is inhabiting an ideal and bringing it to life in her daily practice. Indicative of this transformation are her slim and finely rendered scales as well as the attenuated, linear and razor-thin sword that fuses in similar colours with her body. As Pevsner points out, Reynolds “painted portraits and not mythology and saints,”⁶³ all the while exploring “a variety of visual possibilities and cultural references, both classical and non-classical.”⁶⁴ *Justice* likewise, while posed in classical costume and posture, offers facial features and a sensual embodiment that derive from Reynolds’s sensitivity as a portrait painter.

So too, like Reynolds’s portraits more generally, the figure of Justice is strikingly dynamic in composition. In contrast with the staunch stability, legs apart and arms akimbo, of the portrait of *Fortitude* (1778-79, Private collection), Reynolds depicts *Justice* in a life-like *contrapposto* stance, one leg straight and the other slightly bent at the knee. In a pose that affirms the decorum and dignity of his classical subject, *Justice* is neither walking nor standing but poised for action. This fine balance between composure and alertness establishes her constant disposition to judge, and cleverly underlines the message of the scales she holds. Early critics accused Reynolds of showing the scales off-kilter, in a manner “repugnant to the ancients’ idea of justice.”⁶⁵ On the contrary, Reynolds communicates their sensitivity and precision. Justice is presented as literally a “balancing act”—an *effort*, an almost physical attentiveness that must be constantly adjusted, rather than merely a fact or a natural kind or a disembodied aspiration. As do so many of his portraits and subject

61. LESLIE & TAYLOR, *supra* note 9, VOL. 2 at 273.

62. See discussions in BATE, *supra* note 44; HUGH HONOUR, *NEO-CLASSICISM* (1968); *NEOCLASSICISM AND ROMANTICISM 1750-1850*, 2 VOLS. (Lorenz Eitner ed., 1971).

63. PEVSNER, *supra* note 53, at 65.

64. MARK HALLETT, *REYNOLDS: PORTRAITURE IN ACTION* 114 (2014).

65. *THE MORNING POST*, May 2, 1780, as quoted in MANNINGS, *supra* note 20, at 551.

pictures, Reynolds invites us to understand virtue as a living practice, a performative and constitutive act.

The scales of justice themselves demonstrate Reynolds's ability to imagine his figures in a social context as well as a physical one. In a somewhat backhanded compliment, the painting, which was exhibited in the Royal Academy in 1780, was adjudged "an astounding mixture of beauty, elegance and affectation . . . but the emblems and the disposition of them are suggested by the taste of a Petit-Maitre."⁶⁶ Martin Postle points out that the reproach was likely in reference "to the scales held by Justice, which were modelled upon those used in contemporary commerce rather than the scale-pans found in traditional iconography."⁶⁷ *The Morning Post* compared her to "the wife of a butcher weighing out a leg of mutton to his dainty customer."⁶⁸ Yet the everyday familiarity of such scales surely evokes the mundane human practice of measurement and calculation at the heart of "the age of judgment." Neither should the way in which Reynolds translates normative values into a modern commercial society surprise us. He developed a profitable portrait business but warned in the ninth *Discourse*, delivered in 1780, that "[t]rade and its consequential riches must be acknowledged to give the means; but a people whose whole attention is absorbed in those means, and who forget the end, can aspire but little above the rank of a barbarous nation."⁶⁹ *Justice*, caught in two different worlds, evokes Reynolds's effort to balance political and professional concerns. As President of the Royal Academy, Reynolds advocated the formal teaching of art and the importance of rules; but as a practising artist he was equally determined to explore new compositions and artistic methods. The figure of *Justice* is modified and shaped by both sides of his character and his work. *Justice*, under the imperative of these dual pressures, ceases to be an abstract trope and truly comes to life.

IV. JUST IN TIME

Reynolds's neo-classicism reflected a distinctive conception of the relationship between past, present, and future, and this temporality also modifies the figure of Justice he described. Reynolds's attitude towards the past provides us with a vital point of comparison with the work of Sir William Blackstone. He too, shaped in a similar fashion by the powerful ideologies and assumptions of the neoclassical age, develops a treatment of the common law which was both a radical departure from previous work and a text that was to dominate generations of legal thinkers. On the one hand, our study of Reynolds allows us to see how much Blackstone's

66. *St James Chronicle*, April 29, 1780, as quoted in *id.* at 551.

67. MARTIN POSTLE, *The subject pictures*, in MANNINGS, *supra* note 20, at 551.

68. THE MORNING POST, *supra* note 65, as quoted in MANNINGS, *supra* note 20, at 551.

69. REYNOLDS, *supra* note 10, (IX) at 229.

work was shaped by and reflected the intellectual, including the aesthetic, climate of the age. On the other hand, it leads us to conclude that if Reynolds became a jurist, in and through his art, so too Blackstone was an artist, in and through his jurisprudence.

Returning to Reynolds' meditation on fame, judgment and the future in his self-portrait, we do not shade our eyes to see broader, but further. The very act communicates distance. In the case of the early self-portrait it is easy to see this distance as an expression of Reynolds's ambition. Entirely in keeping with the tenor of the times, he saw the pursuit of fame not as a vice but a virtue.⁷⁰ Fame was not merely worldly success. Rather, it looked towards immortality, a way of testing our lasting worth. "Without the love of fame," he advised the Academy's students, "you can never do anything excellent."⁷¹ Above all, fame imports time into judgment. The person who is driven by fame does not live in the present, but in the past against which he measures himself, and in the future that will recognize him. In this sense it can be contrasted with the emerging culture of celebrity. Celebrity is transitory, superficial, and commodified; fame is permanent, essential, and virtuous. Reynolds's youthful self-portrait is a portrait of the artist as a young man, fixed intently on the distance, which is to say on the future that awaits him.⁷²

This idea of looking into the future was articulated by Titian in his renowned painting of the *Allegory of Prudence* (1550-65, National Gallery, London). The picture, believed to be a self-portrait of the artist, represents the heads of three men juxtaposed to the heads of three animals each facing opposite directions. Titian epitomizes age and visually articulates man's need to assess judiciously the relationship of the past and present to the future. This meaning is suggested by the Latin inscription: "from the past, the present acts prudently, lest it spoil future action."⁷³ Prudence, gained by experience and associated with foresight and judgment, was a notion of great significance in Renaissance art theory and rhetoric.⁷⁴ Every portrait, like any judicial decision, is a form of prudence. The prudent artist, like the prudent lawyer, proceeds according to his past experience in order to profess good judgment in the present.

Such temporal complexity infused eighteenth century thought. "Whatever withdraws us from the power of our senses," wrote Johnson, "whatever makes the past, the distant or the future predominate over the present advances us in the dignity of thinking beings."⁷⁵ In Renaissance

70. JOSHUA REYNOLDS – THE CREATION OF CELEBRITY 17-22 (Martin Postle ed., 2005).

71. REYNOLDS, *supra* note 10, (V) at 149.

72. See CRISTINA S. MARTINEZ, *Self-Portraits*, in SIR JOSHUA REYNOLDS. THE ACQUISITION OF GENIUS 96-100 (Sam Smiles ed., 2009).

73. ERWIN PANOFSKY, *Titian's Allegory of Prudence: A Postscript*, in ERWIN PANOFSKY, MEANING IN THE VISUAL ARTS 181-205 (1970).

74. See DAVID SUMMERS, THE JUDGEMENT OF SENSE. RENAISSANCE NATURALISM AND THE RISE OF AESTHETICS 266-82 (1987).

75. BARRELL, *supra* note 8, at 11.

art, for example Van Eyck's *Madonna of Chancellor Rolin* (c. 1435, Musée du Louvre), multiple temporalities were commonly mixed in a single canvas—patrons or contemporary figures were painted into religious or historical scenes, and figures from ancient times were shown in modern dress. But where Reynolds places his models in ancient or mythological scenes, they have not been somehow transported through time. They are typically shown acting a part, evoking a history that must be consciously revived. They are conscious of the past but entirely anchored in the present; it is the very existence of this temporal gap that creates the normative demands that the present experiences as a mandate, an injunction, or a vision – above all, as a call to judgment. The past is constantly being judged as the future will judge us.

What does it mean to conceive of justice as a crossroads in time? In earlier periods, the question was hardly raised. There, justice was thought of as absolute and unique. Each instance was its own crisis—the Greek *krisis*, after all, whether medical or juridical, marked the moment of truth.⁷⁶ The judgment of Solomon was unique—a singular strategy to disclose a single truth. The justice of Christ is also unique—He is not subject to rules or doctrines, precedents or quotas. The Last Judgment, which affects all of us, is in no way *comparative*. What is due to us is wholly a function of our own particular merits or demerits.

Reynolds's *Justice* shades her eyes and looks into the distance. The discrimination she practices, then, is not concerned with a wilderness of instances: she is seeking out patterns and comparisons. In temporal terms, her judgment is influenced by both the past and the future, by its tradition and its consequences. The same message is conveyed by the scales she holds. Measurement, too, implies a selective comparison of various different cases. The common law, said Sir Edward Coke, is “the golden *metewand* [ruler] and measure to *try the causes* of the subjects.”⁷⁷ Understanding her role *diachronically* takes justice out of the realm of the singular and propels it into the sphere of the universal. This tension between the singular and the universal, between this decision here and those decisions there, measuring justice for this person *against* justice for many other persons at many other times, has always been a critical question for the practice of judgment. Justice is not in modern dress. She inhabits one of those purer, simpler times that the century so adored. But from the past she looks forward to the future. By portraying Justice as the diachronic embodiment of human judgment—engaged in comparison, discrimination and measurement against a temporal horizon—Reynolds articulates the distinctive tightrope it would henceforth walk.

76. GIORGIO AGAMBEN, *JESUS AND PILATE* 51-58 (2015).

77. SIR EDWARD COKE, *Prohibitions del Roy*, in *THE STUART CONSTITUTION, DOCUMENTS AND COMMENTARY* 81 (J.P. Kenyon ed., 1986).

In other words, Reynolds's *Justice* is not who she is but what she is *searching* for. Her gaze remains intently focused on a "perfection, which is dimly seen, at a great though not hopeless distance, and which we must always follow because we never can attain."⁷⁸ The virtue of justice is not divine but human, not a person or a thing but a quest. The fact that it will never be attained does not diminish, but ennobles, our practices. What rescues Reynolds's art from the stalely repetitive, the dogmatic, and the conformist fate of much late classical art, is that central feature of neoclassicism—judgment. Judgment is the constant standard of critique that Reynolds uses to evaluate all his predecessors, and to measure his own work. This practice of judgment and discrimination gave neoclassicism its rigour and its nobility of purpose—in philosophy, in art, in literature, in criticism, and so on. In particular, the practice of judgment tempered abstract principles by reference to the changeable and specific contexts of human societies and experiences.

Perhaps above all, what Justice sees in the distance is none other than the artist himself. We can imagine these two images not side by side, but face to face. The painter looks out, and virtue returns his gaze. This encounter takes place across time as well as space. Reynolds's *Self-portrait, Shading the Eyes*, shows a young man intent on conquering the world. He looks forward to the future. *Justice* looks out from the past, measuring him as she measures herself, against the highest standards. Perhaps what creases his brow, across that unbridgeable divide, is her scrutiny. Each looks at or for the other, conscious of the burden of past and future on the techniques of description and measurement they practice in the present. The *encounter* of those two gazes—justice and art—turns the practice of judgment from something which is merely rote and ideological into something which is self-questioning and critical. It turns paint into art and, occasionally, transmutes law into justice.

Ironically, then, Reynolds's art provides a perfect example of the inductive reasoning of the common law. Reynolds was frequently accused of plagiarism, and attacked for his pastiches of the old masters. The Irish painter Nathaniel Hone, in "a cleverly constructed satirical attack," mocked Reynolds's "extensive use of the thinly disguised figure"⁷⁹ of the old beggar in his *Sketch for the Conjuror* (1775). These criticisms echo, of course, the accusation that legal precedent was nothing but the mindless reiteration of the past. But the best of Reynolds's paintings go beyond a merely "*servile*" imitation (a term he frequently employed)⁸⁰ creating

78. REYNOLDS, *supra* note 10, (V) at 230; see LIPKING, *supra* note 8, at 189-206.

79. POSTLE, *supra* note 20, at 134.

80. REYNOLDS, *supra* note 10, (I) at 86; (VI) at 153, 164; (XII) at 264; (XIII) at 290. See in particular ANNE-PASCALE BRUNEAU, *Tradition and the 'English School': Reading Reynolds's Discourses*, 57.1 BULLETIN DE LA SOCIÉTÉ D'ÉTUDES ANGLO-AMÉRICAINES DES XVIIIE ET XVIIIIE SIÈCLES 25-36, at 30 (2003); Edgar Wind, 'Borrowed Attitudes' in *Reynolds and Hogarth*, 182 JOURNAL OF THE WARBURG INST. at 182-185 (1938); E.H. GOMBRICH, *Reynolds's Theory and*

instead a genuine dialogue with his exemplars. As we have observed in the relationship between *Justice* and the *Self-portrait*, Reynolds's allusions and resonances, often intricately developed, suggest a notion of precedent which relates judgment to tradition *without* abandoning its capacity for development and responsiveness. The exercise of judgment demands that we reflect on ourselves in our difference as well as our sameness from the past.

This fluid ideal of precedent as “an argument through time”⁸¹ was powerfully embodied in Reynolds's feminine *Justice* and in its elegant *contrapposto* of neoclassical ideals. Just in time. For at the same moment, particularly in the work of Sir William Blackstone, the English common law was itself starting to be clarified and articulated with greater coherence and eloquence than ever before.⁸² English law had shown little interest in systematic and conceptual ordering. It was a congeries of specific instances governed by obscure forms of action, highly technical writs, and a kind of anecdotal memory that lawyers imbibed rather than learned. In a remarkable and surprising development, the four volumes of Blackstone's *Commentaries on the Laws of England* succeeded in introducing into popular consciousness an idea of the common law quite at odds with its reputation (and arguably its reality), transforming its disparate and conceptually eclectic fragments into a coherent tradition—an image of the law which for 250 years has not been dislodged. Blackstone too was not intending simply to “describe the law” in meticulous detail; he was not, in Reynolds's disparaging words, a “high finisher of the Dutch school.”⁸³ No, he too was committed to an ideal neoclassical form: showing “connexions” and appealing to the imagination, he presented law as a set of substantive norms and principles worthy of our emulation, but without succumbing to the imprisonment of purely abstract legal principles, or the “servile” repetition of legal cases. In England, as Hegel stated, “the common interest is concrete . . . render[ing] a general system impossible. . . . [A]bstract and general principles have no attraction for Englishmen.”⁸⁴ Blackstone turned law into a matter of viewing. Like a portrait, or likeness, not always adhering to the strictly factual but reaching towards the aspirational, law as it emerged in the *Commentaries* eschews a simple description of the current state of the law, seeking its purpose instead in an idealism to which the actual law tends but does not reach. In attempting to unify juristic principles with art, style, and law, Blackstone's *portrait* of the common law can be best understood as

Practice of Imitation, THE BURLINGTON MAGAZINE FOR CONNOISSEURS, Feb. 1942, at 40-45.

81. ALASDAIR MCINTYRE, WHOSE JUSTICE? WHICH RATIONALITY? 12 (1988).

82. WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND, 1765-1769. 4 VOLS. (Dover reprint ed., 1979); see also BLACKSTONE AND HIS COMMENTARIES (Wilfrid Prest ed., 2009); REINTERPRETING BLACKSTONE'S COMMENTARIES (Wilfrid Prest ed., 2012).

83. REYNOLDS, *supra* note 10, (I) at 81.

84. G.W.F. HEGEL, THE PHILOSOPHY OF HISTORY 454 (J. Sibree trans., 2007).

another neoclassical creation. In keeping with the spirit of the times, the *Commentaries* offer an image of art and law that mirrors and rivals that of Reynolds's portraiture, and his *Justice*.

Perhaps this surprising convergence makes a certain sense. In the common law, the particulars of a case always challenge and modify the application of abstract principles. Just so, the art of portraiture steered Reynolds away from the somewhat idealized generalizations of his *Discourses* and forced upon him an accounting for the embodied particulars of individual identities. Not in philosophy or jurisprudence or political theory is justice's struggle between particular and general most productively encountered, but in the twin cases of portraiture and common law.

