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FEMINISM AND ADAPTIVE HEROINISM: THE PARADIGM OF PORTIA AS A MEANS OF INTRODUCTION*

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I. INTRODUCTION

A.

Feminist jurisprudence is young, ambitious, and energetic. In this,

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This essay is dedicated, with great thanks, to the three adaptive heroines who willed it into being: Laura Gonsalves, Ann Mesmer, and Julie Cheit Ross.

I owe an abundance of further thanks to Kate Bartlett, Derek Parfit, Margery Sabin, Larry Sager, and my now-immortal uncle, Max Blatt (1905-1990), for their comments on earlier drafts; to the staff of The Folger Shakespeare Library for their bibliographic assistance; to William Kaleva for his devoted, and often ingenious, technical aid, and to Anita Lalwani for her energetic research assistance.

A special acknowledgment, and much admiration, goes to Professor Marjorie Garber, whose year-long Shakespeare course provided the foundation, the inspiration, and in some instances, the germinal insights for this work.

Lastly, I owe a peculiar form of gratitude to the *Tulsa Law Journal* editorial staff for their willingness to honor a pair of my neo-romantic affectations, of which this mention constitutes a warning to the reader: This essay opens onto its theme in the manner of the essays I most admire outside of law, that is, the argument flows out of itself without an initial restatement or "road map." Moreover, other authors' works are cited as in other literatures, that is, without the parenthetical one-liners used to wedge their theses into thimbles. It is my hope that the over-all distribution of burdens and benefits that is the essay justifies these taxes on the reader's patience.

its first decade of existence,¹ it has attacked the sanctity of privacy,² debated the meaning and sufficiency of equality,³ and questioned the justice, indeed, the plausibility, of neutrality.⁴ But these are, in some sense, among legal feminism's⁵ more conventional projects, despite the special

1. Feminist activity with regard to law reaches back at least as far as the pressures that women, even as non-voters, were able to bring to bear on mid-nineteenth century state legislatures, pressures that helped to generate the passage of the Married Women's Separate Property Acts in successive states. Contemporary feminist lawyering truly began to mature with the abortion test case litigation that led to *Roe v. Wade*, 410 U.S. 113 (1973). Feminist jurisprudence, the development of wide-ranging theoretical work by feminists about law, was jump-started as a distinct scholastic endeavor by Catharine MacKinnon's paired essays *Feminism, Marxism, Method, and the State: An Agenda for Theory*, 7 SIGNS 515 (1982) [hereinafter MacKinnon, *An Agenda for Theory*], and, more particularly, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 SIGNS 635 (1983). I do not mean by this to slight other contemporary path-breakers, some of whom may actually have published ahead of MacKinnon; nonetheless, the roses seem to me to belong to her for the sheer galvanism of her early work.

2. The arresting reformulation of privacy as "an injury got up as a gift" is also Catharine MacKinnon's, as a matter of contemporary jurisprudence, though Elizabeth Clarke's forthcoming work on nineteenth-century American feminism will discuss, *inter alia*, the manner in which this theme was strongly sounded at the inception of the feminist movement by Elizabeth Cady Stanton, among others. See, e.g., C. MACKINNON, *FEMINISM UNMODIFIED: DISCOURSES ON LIFE AND LAW* 100-02 (1987).

3. Within legal feminism, the status of formal equality is in dispute as a matter of doctrine, theory, and value. Its prime competitors include unequal ("special") treatment deferential to biological difference, a mixed regime of equal and special treatment sensitive to context, and a use of standards untethered to notions of abstract equality.

Four illuminating expositions of these positions are found in Becker, *Prince Charming: Abstract Equality*, 1987 SUP. CT. REV. 201; Ginsburg, *Some Thoughts on the 1980's Debate over Special Versus Equal Treatment for Women*, 4 LAW & INEQUALITY 143 (1986); Law, *Rethinking Sex and the Constitution*, 132 U. PA. L. REV. 955 (1984); and Williams, *The Equality Crisis: Some Reflections on Culture, Courts, and Feminism*, 7 WOMEN'S RTS. L. REP. 175 (1982).

Catharine MacKinnon takes a fifth position, arguing that legal treatment predicated on either the sameness or the biological differences between men and women reinforces male dominance. See C. MACKINNON, *supra* note 2, at 32-40, 71-77.

4. The pedigree of "neutrality" as a source of descriptive and normative ferment long predates the advent of feminist jurisprudence. It figured prominently in the scholarly attentions of Herbert Wechsler and Alexander Bickel. More recently, it has energized, and been re-energized by the legal realists and, still more recently, the Critical Legal Studies clan. Two versions of legal feminism's contributions to this area belong to Martha Minow and Judith Resnik. See Minow, *The Supreme Court, 1986 Term—Foreword: Justice Engendered*, 101 HARV. L. REV. 10 *passim* (1987); for an abbreviated treatment, see Minow, *Feminist Reason: Getting It and Losing It*, 38 J. LEGAL EDUC. 47 (1988) [hereinafter Minow, *Feminist Reason*]. See Resnik, *On the Bias: Feminist Reconsiderations of the Aspirations for Our Judges*, 61 S. CAL. L. REV. 1877 (1988). Resnik's article engendered a "comment" by Patricia Cain which provides yet a third feminist view on the issue. Cain, *Good and Bad Bias: A Comment on Feminist Theory and Judging*, 61 S. CAL. L. REV. 1945 (1988).

5. Although the term "feminist jurisprudence" is commonly used to situate much of feminism's theoretical activity within the domain of contemporary jurisprudence, it seems to me the term "jurisprudence" is losing definitional focus and that, even by the light of a relaxed definition, not all of the important contributions of feminists to legal thought should or seem intended to be regarded as jurisprudential. Therefore, I prefer in what follows to employ such terms as "feminist legal scholarship," "feminist theory," "feminist practice," or "feminist lawyering," where the particularities of the discussion call for them, and otherwise to refer to feminism's generic activities within law, as I do in the text, by my preferred term, "legal feminism."

For other, more provocative concerns about the propriety of the term "feminist jurisprudence,"

dimensions that feminist perspectives bring, as privacy, equality, and neutrality are matters of perennial interest within contemporary jurisprudence, linking its various strands through a network of common concerns.

Other enterprises—the critique of law as a manifestation of “patriarchy,”⁶ and “woman” as a category of meaning,⁷ for example—are the children of feminist jurisprudence to the exclusion of jurisprudence more generally, though some of them have incubated in the protective warmth of a feminist theory more capacious than any single discipline such as law. An interdisciplinary feminist focus has itself become a feature of legal feminism.⁸ So has an *intra* disciplinary endeavor: the production, in co-venture with minority legal scholars, of a newly voiced, newly emotive

see West, *Jurisprudence and Gender*, 55 U. CHI. L. REV. 1, 4 (1988) and Cain, *Feminist Jurisprudence: Grounding the Theories*, 4 BERKELEY WOMEN'S L.J. 191, 193-95 (1989-1990).

6. The critique of male-dominated law and, more pointedly, legal rules that disfavor women is such a widely-embedded aspect of legal feminism that to trace its lineage would be daunting and perhaps unuseful. Having said this, it does seem reasonable to indicate that Catharine MacKinnon has been a seemingly indefatigable exponent of this stance, from her earliest work through her most recent, *TOWARD A FEMINIST THEORY OF THE STATE* (1989). For a brief, invigorating tour of MacKinnon's argument by a passionate defender of her work, see Olsen, *Feminist Theory in Grand Style* (Book Review), 89 COLUM. L. REV. 1147 (1989). For a brief, invigorating tour of MacKinnon's general argument by a shrewd and not unfriendly critic, see S. FISH, *Introduction: Going Down The Anti-Formalist Road*, in *DOING WHAT COMES NATURALLY: CHANGE, RHETORIC, AND THE PRACTICE OF THEORY IN LITERARY AND LEGAL STUDIES* 16-25 (1989).

A useful collation of non-legal feminist source materials on patriarchy can be found in Bender, *A Lawyer's Primer on Feminist Theory and Tort*, 38 J. LEGAL EDUC. 3, 6 n.7 (1988).

7. That a universalistic, categorical view of “woman” is deficient in its failure to accommodate differences in experience, interests, and identity among women of different races, classes, sexual preferences, and other attributes has become an increasingly debated concern among legal feminists; see, e.g., Minow, *Feminist Reason*, *supra* note 4, at 49-53; see also Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L. REV. 581 (1990). But the originating insights in regard to this concern belong to feminists outside of law. See, B. HOOKS, *AIN'T I A WOMAN: BLACK WOMEN AND FEMINISM* (1981), A. LORDE, *Age, Race, Class, and Sex: Women Redefining Difference*, in *SISTER OUTSIDER* 114 (1984) and E. SPELMAN, *INESSENTIAL WOMAN: PROBLEMS OF EXCLUSION IN FEMINIST THOUGHT* (1988), for examples of American contributions to this development. A separate and widely significant source of issuance, especially for non-legal feminism, is the work of the French postmodern feminist theorists Cixous, Irigeray, and Kristeva. For an introduction to their thought, see *NEW FRENCH FEMINISMS: AN ANTHOLOGY* (E. Marks & I. de Courtivron eds. 1980).

8. This assertion probably requires no elaboration. In any event, it would be impossible to usefully elaborate here, beyond reference to the fact that there may be no area of intellectual endeavor in Western Society that feminism is not now coming to influence. Indeed, as Stanley Fish has recently noted, “intellectual endeavor” is itself a porous boundary: Feminism has become “a true revolution in our political and social life . . . [T]he pressure either to adopt a feminist perspective or to resist it (and by resisting it to testify to its power) cannot be avoided.” S. FISH, *supra* note 6, at 24.

The osmotic quality of feminism is probably irresistible; still, it seems worth noting that legal feminism has been genuinely enthusiastic, perhaps, at times, overly enthusiastic, about appropriating for its use the insights of feminists in other disciplines. The unending, sometimes reflexive citation within feminist legal scholarship to Carol Gilligan's work exemplifies this over-enthusiasm. It seems aberrant, therefore, that the work of American feminist literary critics has been slow to be absorbed into legal feminism, a reflection, perhaps, of the relative dearth of legal feminist attention to the relationship between law and literature. For some of my recent thoughts on this relationship, see

scholarship of personal and collective experience, of narrative, of anger, frustration, and impatient aspiration for law.⁹ Yet further, some feminist theorists have sought to define the scope or purpose of "feminist jurisprudence,"¹⁰ while others have questioned the utility, or possibility, of definition.¹¹

Another project of feminist jurisprudence identifies various techniques in common use within feminist theory as giving methodological, rather than formal, meaning to its efforts.¹² This project treats as uniquely and self-consciously feminist a variety of approaches to and techniques for framing issues, shaping categories, criticizing doctrine, and revising assumptions about the relationships between law and politics and the treatment and status of women, and it observes a reliance on these approaches and techniques within feminist pedagogy¹³ and feminist scholarship.¹⁴

Cohen, *The Arrival of the Bee Box: Feminism, Law and Literature*, 13 HARV. WOMEN'S L.J. 345 (1990) [hereinafter *The Arrival of the Bee Box*].

9. There are many ways that this new narrative scholarship tends to get further categorized, such as along racial, ethnic, or gender-based lines, but to do so lays stress on differences that are less relevant here than is the bare fact that a new genre of legal scholarship is emerging, one that is written in an emotive, first-person voice or with the use of narrative autobiographical or fictional elements or with both voice and narrative elements combined. For powerful examples, see D. BELL, *AND WE ARE NOT SAVED* (1987); Williams, *On Being the Object of Property*, 14 SIGNS 5 (1988); Williams, *Spirit-Murdering the Messenger: The Discourse of Fingerpointing as the Law's Response to Racism*, 42 U. MIAMI L. REV. 127 (1987); and Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 42 STAN. L. REV. (forthcoming 1990). For an early precursor, see Schrag, *Bleak House 1968: A Report on Consumer Test Litigation*, 44 N.Y.U. L. REV. 115 (1969). A valuably detailed analysis of the new narrative tradition within feminist legal scholarship can be found in Abrams, *Hearing the Call of Stories* (forthcoming 1991).

10. See, e.g., Littleton, *In Search of a Feminist Jurisprudence*, 10 HARV. WOMEN'S L.J. 1 (1987); Littleton, *Feminist Jurisprudence: The Difference Method Makes* (Book Review), 41 STAN. L. REV. 751, 766 n.73 (1989); Scales, *The Emergence of Feminist Jurisprudence: An Essay*, 95 YALE L.J. 1373 (1986); and Sherry, *Civic Virtue and the Feminine Voice in Constitutional Adjudication*, 72 VA. L. REV. 543 (1986).

11. See, e.g., Minow, *Beyond Universality*, 1989 U. CHI. LEGAL F. 115.

12. Various authors have worried at the question of whether legal feminism has, or should have, a distinctive methodology and, if so, what its relationship to "theory," to "practice," or to "praxis" should be. For an analytically powerful and persuasive treatment, see Bartlett, *Feminist Legal Methods*, 103 HARV. L. REV. 829 (1990).

13. See, e.g., Frug, *Re-Reading Contracts: A Feminist Analysis of a Contracts Casebook*, 34 AM. U.L. REV. 1065 (1985), and the essays by Ann Shalleck, Nancy Erickson, Mary Irene Coombs, Taunya Lovell Banks, Stephanie Wildman, Catharine Hantzis, and Patricia Cain in *Women in Legal Education—Pedagogy, Law, Theory, and Practice*, 38 J. LEGAL EDUC. 97-181 (1988).

14. Since the use of feminist legal methods is passe partout within feminist legal scholarship, any exemplary citations of its use would be either pointlessly subjective or essentially random. Instead, I want to commend to the attention of readers interested in feminist method two analytic overviews: Bartlett, *supra* note 12, and Rhode, *Feminist Critical Theories*, 42 STAN. L. REV. 617 (1990). For a vigorous defense of MacKinnon's methods that contains provocative insights of general significance, see Littleton, *Feminist Jurisprudence: The Difference Method Makes* (Book Review), 41 STAN. L. REV. 751 (1989).

One of the most powerful and widely elaborated components of feminist methodology is consciousness-raising, a technique brought into contemporary flower by the women's movement of the 1960s to achieve several objectives. These have included exposing, through the sharing and comparing of women's personal experiences with subordination and oppression, the impersonal, class-based nature of those experiences so that women can understand the commonality and sources of their suppressed status and thereby liberate themselves from isolation and self-blame.¹⁵

Another such aspect has come to be known across several academic disciplines as "asking the woman question." Perhaps the most fundamental component of feminist method, this element has been succinctly described as "designed to identify the gender implications of rules and practices which might otherwise appear to be neutral and objective."¹⁶ More expansively, "the woman question" has been detailed¹⁷ so as to encourage legal feminists to take up the challenge posed by feminist poet Adrienne Rich: "to question everything."¹⁸

A broad canvas of the feminist legal literature of the past near-decade suggests that, while consciousness-raising and asking the woman

15. Being a child of the 1960s, when my own consciousness was raised, I have taken the liberty of describing consciousness-raising in a manner consistent with my own experience. Descriptions of what consciousness-raising is and is intended to do and evaluations of its utility and desirability are actually very various within feminist legal writing. Compare, e.g., MacKinnon, *An Agenda for Theory*, *supra* note 1, at 519-20 with Bottomley, Gibson & Meteyard, *Dworkin; Which Dworkin? Taking Feminism Seriously*, 14 J.L. & Soc'y 47 (1987); Colker, *Feminism, Sexuality, and Self: A Preliminary Inquiry into the Politics of Authenticity* (Book Review) 68 B.U.L. Rev. 217, 245; and Littleton, *supra* note 14, at 764-65. For an example of an apparently unself-conscious migration of consciousness-raising techniques into legal pedagogy, see Eyster, *Analysis of Sexism in Legal Practice: A Clinical Approach*, 38 J. LEGAL EDUC. 183 (1988). For a self-conscious migration, see Espinoza, *Constructing a Professional Ethic: Law School Lessons and Lesions*, 4 BERKELEY WOMEN'S L.J. 215, 222 (1989-1990).

16. Bartlett, *supra* note 12, at 837-49.

17. The detailed expansion, by Heather Wishik, takes the form of seven interrelated questions:

(1) What have been and what are now all women's experiences of the "Life Situation" addressed by the doctrine, process, or area of law under examination? (2) What assumptions, descriptions, assertions and/or definitions of experience—male, female, or ostensibly gender neutral—does the law make in this area? . . . (3) What is the area of mismatch, distortion, or denial created by the differences between women's life experiences and the law's assumptions or imposed structures? . . . (4) What patriarchal interests are served by the mismatch? . . . (5) What reforms have been proposed in this area of law or women's life situation? How will these reform proposals, if adopted, affect women both practically and ideologically? . . . (6) In an ideal world, what would this woman's life situation look like, and what relationship, if any, would the law have to this future life situation? . . . and (7) How do we get there from here?

Wishik, *To Question Everything: The Inquiries of Feminist Jurisprudence*, 1 BERKELEY WOMEN'S L.J. 64, 72-75 (1985).

18. A. RICH, ON LIES, SECRETS, AND SILENCES 13 (1979).

question have become essential aspects of the far-flung enterprises I have noted earlier, legal feminism has not fully proceeded, as yet, "to question everything." Indeed, by dint of a combination of factors which most probably include the still-underwhelming number and proportion of women in legal academia; the fraction of such women who, in concert with a relatively small number of male academics, pursue an explicitly feminist scholarly agenda; the actual and/or perceived pressure placed on that agenda by the tenure process; and independent of these factors, to some extent, the collective concern of feminists during this past decade to document and articulate an experientially-grounded-yet-theoretical critique of "male" law, there remains a host of matters that legal feminism has thus far interrogated only occasionally, informally, partially, or tentatively.

Perhaps the most central subject that has gone under-addressed, or so it seems to me, is the relationship between feminist self-consciousness, whether understood as a method, an ideology, a preoccupation or a predilection, and a conception, or multiple conceptions, of the good life—the ethical, admirable, and appropriately gratifying life—for persons who aspire to be feminist lawyers. Sculpted in the interrogative, a cornucopia of un- and under-explored questions pours forth: How might legal feminism wish to revise the professional ethos?¹⁹ Does feminism make a distinct set of ethical demands on lawyers? Even if not, should feminist

19. Here and in what follows, I have appropriated the term "ethos" to refer to a composite of attributes of the milieu in which lawyers, primarily, but also judges both generate and respond to legal norms. These attributes include the over-arching, often unarticulated mores with which the professional role is, in any time and place, saturated by historical conventions and contemporary pressures on those conventions; regional practice ethics, as well as those that sprout within law firms and among firms that have considerable common business, and those that develop within specialized areas of practice; the statutory and common law of lawyer liability; and the formal rules, standards, precatory and hortatory ethical pronouncements that courts, legislatures, and authorized agencies of the organized bar promulgate and, as to the former, attempt to enforce.

At times, I have chosen to revert to "ethos" even when it would be more accurate to reference "ethics." I have done so because "ethics," if not carefully superintended and further qualified, has come to connote the ethical "rules" and standards contained within the American Bar Association's *Model Code of Professional Responsibility* and *Model Rules of Professional Conduct*, and similar codifications, and I neither wished to reference the professional ethic in a manner so constrained nor interject tedious qualifiers on an as-needed basis. Yet, ethics remains at the heart of the matter, the matter being any attempt to generate substantive answers to the question, "When is a lawyer a good lawyer?"

But even "ethos" falls short of helping to flesh out appropriately conditioned answers to the companion question with which I believe legal feminism ought to be concerned. That question, stated in only one of the several useful ways it may be put is: According to what ethical and other postulates should we envision the good life for those engaged in doing law?

Some of my notions about *why* these questions should matter to legal feminism are embedded in the text, particularly in Parts I(B) and IV of this essay.

pedagogy try to find ways to inscribe feminist inclinations into the everyday practice of law? How can feminist inclinations or a feminist conception of justice be fitted to law as it is now practiced in the large and megasized firms that bewitch many of the ablest students now graduating from law schools, transforming them into well-heeled wage slaves with barely enough time and energy to eke out a personal existence around the margins of their professional one? How can feminist legal theory help to transmute the collective, interpersonal, conceptual and cognitive insights of feminism—insights that include the social and political centrality of equal justice and the collective anger borne of women's historic and continuing subordination—into a model of or a program for the affirmative and self-affirming feminist lawyer, the choosing self who seeks to resist or wishes to help reform wage slavery in an effort to achieve some of feminism's extra-pedagogical commitments, though she may also need, or want the money, the training, the prestige, the self-validation that practice in a mega-firm may offer? How can a feminist, to rework the animating question of David Copperfield, among other idealized representatives of admirable behavior, find ways as a lawyer to become the heroine of her own life?²⁰ If she manages to do so, will she simultaneously become a feminist legal heroine? If not, then how does one become a feminist legal heroine?

To the extent that feminist scholars and other legal writers have already set out to conceptualize either the feminist lawyer or a feminist ethos for law, their efforts sort into two broad avenues of approach. One draws on the actual lawyering experiences of its authors for either abstract or more contextualized insights and observations about the relationship between feminism and the lawyering process.²¹ The other approach relies on idealization²² and sometimes metaphor. When the

20. C. DICKENS, *DAVID COPPERFIELD* 1 (1850). The stirring opening, always worth a re-visit, reads: "Whether I shall turn out to be the hero of my own life, or whether that station will be held by anybody else, these pages must show." *Id.*

21. A prominent exemplar of this approach is Elizabeth Schneider. See Schneider, *The Dialectic of Rights and Politics: Perspectives from the Women's Movement*, 61 N.Y.U. L. REV. 589 (1986), and Schneider, *Equal Rights to Trial for Women: Sex Bias in the Law of Self-Defense*, 15 HARV. C.R.-C.L. L. REV. 623 (1980). A fine, newly minted example, of the highly contextualized variety, is White, *Subordination, Rhetorical Survival Skills, and Sunday Shoes: Notes on the Hearing of Mrs. G.*, 38 BUFFALO L. REV. 1 (1990).

22. Idealization is the principal structural mode in such expansively visionary works as Karst, *Woman's Constitution*, 1984 DUKE L.J. 447; Menkel-Meadow, *Toward Another View of Legal Negotiation: The Structure of Problem-Solving*, 31 U.C.L.A. L. REV. 754 (1984); and Sherry, *supra* note 10.

A third approach, which does not so much conceptualize as attempt to provide empirical support for the conceptualization of lawyering along feminist lines can be found in such studies as R.

move is to metaphor, nonexperientially derived claims about feminist lawyering tend to get filtered through a character analysis of or more informal reference to that female literary figure who has been an enduring resident of our legal environment: Shakespeare's Portia, at once the heroine of the *The Merchant of Venice* and our by-now standard metaphor for the woman lawyer.²³

Of the insights and observations that emerge from both types of accounts, the autobiographical and the idealized, what seems striking is their fundamental similarity, for, more or less explicitly, they both seem to yield three closely linked propositions. The first is that women, whether socially or biologically constructed, inhabit the role of lawyer differently from the way that men do—or would, as a matter of preference, if men's domination of the professional domain were not a vast impediment to women's reconstruction of it.²⁴ Second, because women are more caring, accommodating, and relationally oriented than are men while also being less rigidly principled, rights-oriented, and universalistic, women lawyers care to create a more cooperative, less competitive;

JACK & D. JACK, MORAL VISION AND PROFESSIONAL DECISIONS: THE CHANGING VALUES OF WOMEN AND MEN LAWYERS (1989) and Project, *Gender, Legal Education, and the Legal Profession: An Empirical Study of Stanford Law Students and Graduates*, 40 STAN. L. REV. 1209 (1988). Further impressionistic support for a "difference" hypothesis involving women and men, or feminists and non-feminists is to be found in the essay by Jennifer Locke in the Law and Literature Section of 13 HARV. WOMEN'S L.J. 391 (1990), and in Espinoza, *supra* note 15. See also *infra* note 29.

23. For examples of more and less reflexive metaphorical linkage of the woman lawyer to Portia, see Fossum, *Women in the Law: A Reflection on Portia*, 69 A.B.A. J. 1389 (1983); Heidensohn, *Models of Justice: Portia or Persephone? Some Thoughts on Equality, Fairness and Gender in the Field of Criminal Justice*, 14 INT'L J. SOC. L. 287 (1986); LaRussa, *Portia's Decision: Women's Motives for Studying Law and Their Later Career Satisfaction as Attorneys*, 1 PSYCHOLOGY WOMEN Q. 350 (Summer 1977); Lazarou, "Fettered Portias": *Obstacles Facing Nineteenth-Century Women Lawyers*, 64 WOMEN LAW. J. 21 (1978); Mossman, *Portia's Progress: Women as Lawyers: Reflections on Past and Future*, 8 WINDSOR Y.B. 252 (1988); and Ruskin, *How Portia Would Argue the Baby M Case*, N.Y. Times, Feb. 2, 1987, at 7, col. 7 (letter to the editor).

The most extensive and thoughtful treatment of the Portia metaphor appears in Carrie Menkel-Meadow's *Portia in a Different Voice: Speculations on a Women's Lawyering Process*, 1 BERKELEY WOMEN'S L.J. 39 (1985). Menkel-Meadow's idealized interpretation of feminist lawyering uses as conceptual building-blocks the observations and insights of Carol Gilligan, made famous in her seminal work, IN A DIFFERENT VOICE: PSYCHOLOGICAL THEORY AND WOMEN'S DEVELOPMENT (1982), where Gilligan also cites Portia as an example of her theory, as further noted in my text to notes 27-28, *infra*, though Gilligan fashions "Jake" and "Amy," composites of her boy and girl research subjects, into the governing metaphors of her study.

An indication, if one were needed, of the strength of Gilligan's hold on the legal academic imagination is that Portia's only rivals, as metaphors for the feminist revision of lawyering, are Gilligan's "Jake" and "Amy" (and a third composite of hers, "Hilary"). See, e.g., Menkel-Meadow, *supra*, at 51-62, and Spiegelman, *Integrating Doctrine, Theory, and Practice in the Law School Curriculum: The Logic of Jake's Ladder in the Context of Amy's Web*, 38 J. LEGAL EDUC. 243 (1988).

24. See, e.g., Menkel-Meadow, *supra* note 23, at 55-63.

more contextualized, less rule-bound; more widely responsible, less narrowly client-centered milieu for the accomplishment of socially just ends through legal means.²⁵ Third, although women may experience financial, social, and psychological disadvantage by virtue of their refusal to capitulate to the “macho” ethic of the male professional role, they can be expected to strive toward a reformulation of legal professionalism and legal institutions that more fully and satisfactorily integrates women’s psychosocial identity into a common vision of and set of expectations for law and for the lawyer’s role.²⁶

On this convergent account, then, “Portia” is no longer the distant, fictitious, fondly-remembered-but-irrelevant heroine of our high school memories, occasionally re-encountered in an evening at the theater. Nor is she that morally disengaged, seemingly tireless referent for women lawyers, women judges, and high school and college-aged women thinking of becoming lawyers, or that figurative subject of an endless stream of celebratory proclamations about the re-gendering of the bar. Instead, or perhaps it is more accurate to say, in addition, “Portia” has been called upon to serve as the metaphor for a feminist conception of the good lawyer—or, when a contrast with “male” lawyering is being highlighted, a feminist conception of the *better* lawyer that the feminization of the legal profession will engender. More pointedly and contextually, Shakespeare’s Portia is valorized as a feminist legal heroine for, as Carol Gilligan has put it, “bring[ing] into the masculine citadel of justice the feminine plea for mercy”²⁷ so as to occasion a “resolution in which no one is hurt, and as the men are forgiven for their failure to keep both their rings and their word, Antonio in turn forgoes his ‘right’ to ruin Shylock.”²⁸ Thus, Portia has been cast in a dramatic new role: heroic model and, therefore, recuperated metaphor for the ethically attuned woman lawyer.

B.

I am given to believing that the account I have just offered, which I shall hereafter term “the Portia Paradigm,” is so nice, attractive, literary,

25. See Menkel-Meadow, *supra* note 23, at 50-55, and Bender, *supra* note 6, at 28-37. For more highly elaborated and contextualized versions of this hypothesis, see Menkel-Meadow, *supra* note 23 at 49-62, and Minow, *Beyond State Intervention in the Family: For Baby Jane Doe*, 18 U. MICH. J.L. REF. 933 (1985).

26. See Menkel-Meadow, *supra* note 23, at 49-63, and R. JACK & D. JACK, *supra* note 22, especially chs. 5 and 6.

27. C. GILLIGAN, *supra* note 23, at 105.

28. C. GILLIGAN, *supra* note 23, at 105.

optimistic, and, finally, affirmative that it is worth maintaining even if its descriptive claims about the role-related preferences of women as lawyers have yet to be empirically grounded by any methodologically reliable means.²⁹ The fact—the social reality, anyway—is that, as with Gilligan's work more generally, there is a widespread sense that a chord has been touched to which we find ourselves resonating in some positive way or other: We may, for instance, find it quite plausible on an intuitive basis, that women tend, for biological or social reasons or both, to instantiate our concerns for justice differently from men. Or, because our legal system seems to be delivering so poorly on its core commitment to equal justice, we may want to trust that a large influx of previously excluded women, branded collectively by a history of oppression, are likely to help somehow bail it out.

Because the Portia Paradigm consorts so pleasantly with these beliefs, it seems unfortunate and may possibly seem disserving, to shape an essay around the concern that, however strongly or weakly grounded it

29. A footnote in an essay such as this one is a cramped and wholly unsatisfactory place in which to lay out the methodological issues implicated by gender-based claims regarding moral development, moral preference, and role-identity. All I can do here is to indicate that the issues that have been raised, commonly by way of response to Gilligan's work, identify as concerns the impressionistic, "soft" nature of the data; experimental bias in the collection and interpretation of interviews and similar sampling techniques and the same deficiency of over-generalization and under-qualification with regard to class, race, cultural, ethnic, and other differences among women referenced earlier. See, *supra* note 7 and accompanying text. These concerns are not insubstantial and they have been found to have considerable force when replications of Gilligan's research have been attempted to test the reliability of her findings. A recent survey article reports on some sixty empirical studies which failed to find significant gender-based differences in moral reasoning. Earlier critiques report the same failure. See Greeno & Maccoby, *How Different is the "Different Voice"?*, 11 SIGNS 310 (1986); J. Walker, *In a Diffident Voice: Cryptoseparatist Analysis of Female Moral Development*, 50 SOC. RES. 665 (1983); and L. Walker, *Sex Differences in the Development of Moral Reasoning: A Critical Review*, 55 CHILD DEV. 667 (1984).

I have not reviewed this literature personally and I am not sufficiently sophisticated about social science research methodology to judge it authoritatively even if I had. On the basis of my own episodic experiences, however, I have a healthy regard for the obvious, interpretive pitfalls to which research interviewing is subject. And the over-generalization/under-generalization problems with categorical, gender-based claims about role-identity seem intuitively obvious, even if the intuition had to survive unaided by such persuasive advocates as Patricia Cain (see *supra* note 5, *passim*) and Deborah Rhode (see *supra* note 14, at 631-32).

Yet, and it seems to me a matter of some poignancy, the methodological, and, in a fuller sense, conceptual deficiencies I have noted should not cause us to be dismissive of the impressionistic data that is being gathered about women's responses to conventional strictures within the professional environment, and to feminist complaints about the similar strictures that pervade the law school environment. We live in a culture which has socialized women far more than it has men to experience pain and conflict, to articulate the experience of pain and conflict, and to respond instrumentally to pain and conflict. Therefore, a theory grounded in essentialism is unnecessary to explain the gender-based incidence of complaints about moral/ethical shortcomings, hyper-rationalism, and other deficiencies in the pedagogical/professional ethos: Women are simply doing their socially constructed job by responding to these problems. At least, this is my current hypothesis.

may be empirically, the Paradigm is both over-confident descriptively and under-developed normatively. On the other hand, for of course there is another hand, I believe that feminists not only can but must do better, push further, work harder at understanding the possible ways that feminism and lawyering, feminism and the concept of justice, and feminism and our system of justice may relate to one another than a reflexive embrace of the Portia Paradigm encourages.

Some of my reasons for permitting this second hand to become the hand of fate for the purposes of this essay are theoretical. That is to say, even as an idealization of the woman lawyer, the Portia Paradigm gives rise to some interesting and somewhat puzzling questions. One involves the putative responsibilities of feminist theory to give strong and persuasive accounts of feminist norms. On a purely theoretical basis, the Portia Paradigm fails to meet those responsibilities. According to the Paradigm, let us recall, the "Portia" who is understood to be shaking the tree of male professionalism until it either falls or begins to grow in a new direction stands in for an ever-renewing cadre of women lawyers who are understood to be perpetrating that shaking because they are women and because they wish to assert their female identities within the context of their professional roles, *not* because they understand themselves to be feminist lawyers self-consciously equipped with a particularly situated new vision of a professional ethos. Thus, it is gender itself that is driving the story, with feminist theory along—even on its own account—for the ride.

But treating sex or gender as the engine of ethical change is problematic, at best, for feminist theory. It relies on a universalistic and orthodox claim of how "women" believe they are or wish to be at a time when critical race theorists and others are persuasively discounting such claims.³⁰ It denies the possibility that men are able to and might desire to become feminist lawyers or, at least, persons willing to shoulder the burden of revising the professional ethos along normatively feminist lines. And it assumes that neither male nor female lawyers who are thoughtful, conscientious, choosing selves might either require or benefit substantially from persuasive normative guidance while they are engaged in the ongoing, option-laden, complex task of building a professional identity.

As is indicated by the last of these three assumptions—tendentiously overstated, though framing my immediate concern—I see the blithe or,

30. *See supra* notes 7 and 29.

perhaps, the dainty stance of legal feminism toward professional ethics and the professional ethos as having practical, at least as much as theoretical import. More fully etched, this concern extends to the possibility that newly graduated feminist and proto-feminist lawyers, sophisticated by feminist legal pedagogy, may be subject to an awful culture shock, even after the competitiveness of law school and a summer or two of practice experience, on account of the drivingly competitive and aggressive circumstances that exist within most specialties and in most urban practice environments—circumstances they may find themselves expected uncritically to accept. That is, unaided by the systematic interventions of a deliberate pedagogical concern, the feminist-leaning lawyer may either rationalize an indeed uncritical acceptance of the dominant professional ethos, try to oppose it atomistically in a needlessly isolated way, or might simply allow herself to be defeated by the pressures to conform, especially without a working model of anything of a non-conforming nature already in place.

In this essay I do not attempt to provide a complete set of coordinates, along any axis of fact or value, of such an existence. Rather, in far more preliminary terms, I use a kind of exfoliative interpretive process that I shall next sketch in to provide, as well as to exclude, some possible meanings for and about the feminist good lawyer, meanings we can derive by taking a close look at Portia—not the reconstructed, abstract, concelebratory Portia who has been drafted all too submissively into the Portia Paradigm, but the more complex, problematic, and inevitably controversial Portia of Shakespeare's richly embroidered play.

C.

What follows, then, is a narrative and analytic account first of the play and then, more extensively, of Portia, its chief female protagonist. Since the scaffolding for the project consists of our attempt to consider Portia's speech and action from both a feminist and a legal ethical standpoint, I have borrowed from literary criticism the technique of "reading out," that is, of unraveling from the text a single dramatic figure who simultaneously personifies and illumines the subject of critical inquiry.³¹

31. I first came across the designation "reading out," as well as the felicitous metaphor to "unravel" from the text in Jardine, *Cultural Confusion and Shakespeare's Learned Heroines: "These Are Old Paradoxes,"* 38 SHAKESPEARE Q. 1, 3 (1987). It is not oppositional, or otherwise related, to the standard interpretive objection: "reading in." For a succinct discussion of the latter, see S. CAVELL, *Words for a Conversation*, in PURSUITS OF HAPPINESS: THE HOLLYWOOD COMEDY OF REMARRIAGE 35 (1981).

It is the case that, read out from the text as a whole in order to enter the pre-defined boundaries of interpretive argument,³² certain aspects of the figure, her rhetoric, her style, her persona, her dramatic and structural roles will get emphasized—"privileged," in the current vernacular—over others, and the insidiously powerful fact of this emphasis, together with the distortive effect of reading out on any manifest regard for the play as a coherent subject has predictable consequences, some of which candor deems worthy of mention.

There is, for example, the well-noted tendency of argument to becloud art. This, argument accomplishes, necessarily, if sometimes reluctantly, by narrowing its focus to a point or a set of points that have been rationally conceived and can be logically derived from the fuller, more various, and to some extent the crucially non-rational "experience of art,"³³ leading even literary critics whose mainstay is such argument to regret the "troubles"³⁴ caused "in good part from the value we have put on reductiveness,"³⁵ the "bias toward what can be set out in rational argument"³⁶ which may lead to an unnecessarily sharp critical divisiveness, "the fallacy of misplaced concreteness,"³⁷ or to a concentration "on matters . . . less than central to an understanding of the work itself."³⁸ Others engaged in similarly argumentative pursuits have bowed to the associated misfortune of paraphrase, which "does not even succeed in

32. It seems to me the nature of the boundaries, and the issues that pertain to what, begging some of the most provocative attendant questions, I have termed their pre-definition, is a matter much larger than I can even begin to frame here. Much of post-modern critical theory is concerned to argue the position that pre-defined boundaries around our interpretive practices are inevitable, as they are the result of our internalized allegiances to our own culture and, within it, to particular interpretive communities. On another of several hands, such theory also prods our sensitivities to linguistic and rhetorical "play," including the play in the joints of common terms used in standard legal contexts, subverting our conservative compatriots' insistence on "plain" meaning as a felicitous solution to legitimate interpretive disputes. Can a shared belief in the need to stabilize the meaning of legal texts withstand this push without, as a consequence, shoring up the defenses of the "plain meaning" faction?

Shortly, in the further text of this Section, I will call into question a third aspect of the pre-definition issue, by registering what amounts to a complaint against the ideological pre-definition of the bounds of interpretive inquiry, a complaint I have entered elsewhere (see *The Arrival of the Bee Box*, *supra* note 8, at 353-61). My concern is to make room for what I have previously described as "heterodox interpretive engagement" (*The Arrival of the Bee Box*, *supra* note 8, at 359-60), though I have yet to define it or project its strategies and possibilities from the type of collective interpretive experience I was earlier considering to the sort of monologic exercise in which I am here engaged.

For a related, but more narrowly focused rumination on the limits of pre-definition, see *infra* note 60.

33. N. RABKIN, *SHAKESPEARE AND THE PROBLEM OF MEANING* 19 (1981).

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.* at 20.

38. *Id.* at 19.

displacing the original prose; for it is . . . devoid of a richness of feeling and a rightness of tone and rhythm that characterize the original, whose cadences stamp themselves inexorably on the heart,"³⁹ as well as to the more general circumstance that attends argument: a loss of aesthetic value.⁴⁰

A second and related matter involves the hegemonic nature of critical argument, its need to filter ambiguity, irony, and other devices for layering a subject work's meaning, its multivalences, its linguistic and imagistic "play," even its very plot, through the critical interpreter's need to pick and choose and muster evidence in order to establish the credibility, and therefore, the authority and legitimacy of her reading; and this, not only in and for itself but also, whether explicitly or implicitly, in a potentially adversarial relationship to other readings which, to the extent they are oppositional in viewpoint, in outcome, or even in method, rival, equally hegemonically, for the judicious attentions of her audience.⁴¹

Thus, in its emphatic predilection for one character over all others and its intensification of certain aspects of that character over others, the reading out of a literary character is likely to aggravate the already distortive effects of critical argument on the holistic, non-rational, unmediated experience of art, substituting or perhaps merely augmenting that experience with interpretations which, to satisfy their underlying hegemonic and possibly adversarial purposes, have, as I have been suggesting without much subtlety, a fair amount in common with legal argument in its most standard forms.

Indeed, it is interesting to note that, not unlike its legal cousins, critical argument that seeks to establish preferred meanings for literary texts encodes anxieties about its own pedigree. Together with selective citations to the text itself, we find citations which tend to privilege other works by the author and, despite distancing references to source study as

39. Nussbaum, "*Finely Aware and Richly Responsible*": *Literature and the Moral Imagination*, in *LITERATURE AND THE QUESTION OF PHILOSOPHY* 167, 177 (A.J. Cascardi ed. 1987).

40. Nussbaum makes this claim in the essay cited in note 39. It, together with the recent move toward cross-disciplinary interpretation by her and by other philosophers, a move that has interesting parallels to the cross-disciplinary law and literature enterprise, is finely interrogated by Daniel Brudney in *Knowledge and Silence: The Golden Bowl and Moral Philosophy*, 16 *CRITICAL INQUIRY* 397 (Winter 1990).

41. An essay that vividly exemplifies aspects of an adversary relationship toward at least some interpretations of Shakespeare by feminist literary critics, while judiciously befriending selected insights of feminist theory, is Jonathan Goldberg's *Shakespearean Inscriptions: The Voicing of Power*, in *SHAKESPEARE AND THE QUESTION OF THEORY* 116 (P. Parker & G. Hartman eds. 1985).

“the elephants’ graveyard of literary history,”⁴² efforts to reach back to the author’s known or premised textual and non-textual influences so as to create a chain of reference—of, in effect, precedent—for the argument.

There is also a pair of moves within contemporary literary criticism highly reminiscent of the intentionalist debates within law: on the one hand, among the practitioners of cutting-edge critical ideologies, there is a sometimes sweeping regard for the insuperability, or more pugnaciously, the irrelevance of attempts to divine authorial intent;⁴³ on the other, a certain shrewdly deployed tendency to sidle past the fortuitously pliant bounds of such concerns, employing as the necessary wedge what one reader has depicted as “the belief that marks on a page stand for the intention of their author to use words in precisely the way that *that* author would use them—to refer to *that* context in precisely *that way*”⁴⁴ so as to guide “the reach of the associative net that words cast out into the language.”⁴⁵ Standing apart from its application, such a “belief” can be

42. Greenblatt, *Shakespeare and the Exorcists*, in *SHAKESPEARE AND THE QUESTION OF THEORY* 163 (P. Parker & G. Hartman eds. 1985).

43. Post-modern interpretive theories, including post-structuralism, deconstruction, continental semiotics, and Marxist and related strands concerned with cultural materialism, share a core belief that texts must be “de-mystified,” their audiences deprived of the mistaken beliefs that texts, dependent as they are on the vagaries and instabilities of word meanings and groupings of words, have stable achievable meanings which their authors can or should be ceded the right to control—or that authors intend, or even, according to some theoretical postulates, can be taken to *know*. The locus classicus for readers whose lives are not spent steeped in these pursuits is the writing of Jacques Derrida, of which an adequate example might be *Signature Event Context*, in *MARGINS OF PHILOSOPHY* 307 (A. Bass trans. 1983). For a collection of readings of Shakespeare assembled in order to display these critical theories at work on the demystification of the plays—and their author, too—see *ALTERNATIVE SHAKESPEARES* (J. Drakakis ed. 1985), for which the neophyte will find the Introduction, at pp. 1-25, a modest imperative. A useful aggregation of essays that are in some measure taken up with advancing or defending against the importance of these matters for law is *Symposium: Law and Literature*, 60 *TEXAS L. REV.* 373-586 (1982).

The critical relevance of authorial intent gets pushed back into a separate realm, one that may give the post-modern interpreters a special bonus, by those who remain convinced, or at least open to the possibility, that, whether or not there ever were a William Shakespeare, we have good grounds for the belief that he should not be treated as the author of the body of dramatic work we traditionally attribute to him. Theories of this sort typically posit alternative candidates for authorship, once they have gone about deconstructing Shakespeare, or they may simply wash their hands of the matter of identity at the point of deconstruction, content to replace him with an existential question mark. A brief but comprehensive distillation of these theories, to which I find myself stubbornly unsympathetic, is to be found in M. GARBER, *SHAKESPEARE’S GHOST WRITERS: LITERATURE AS UNCANNY CAUSALITY* 1-27 (1987).

44. Lane, *The Poetics of Legal Interpretation*, 87 *COLUM. L. REV.* 197, 211 (1987) (reviewing R. DWORKIN, *A MATTER OF PRINCIPLE* (1985)). For an essay that mounts an impressive defense of intentionalism, and, in so doing incorporates a valuable synopsis of its recent literary critical history, see Dutton, *Why Intentionalism Won’t Go Away*, in *LITERATURE AND THE QUESTION OF PHILOSOPHY* 194 (1987).

45. See Lane, *supra* note 44, at 210-11.

mistaken for a truism: the author *did*, after all, go to the trouble of fitting certain words to certain patterns to create certain images in order, generally speaking, to share with others a particularized version of a shared understanding about some aspects of life and the creative experience. It is in application, however, that this belief comes interestingly alive, masking the nakedness of the claim that the interpreter has discovered, through text study, *oeuvre* study, source study, the cogitations of her brilliantly intuitive mind and assorted other methods and attributes, just what it is that the author *did* intend—not merely to *say* but to *mean*—by virtue of the subject work.

Interpretation, we have paused to note, seeks to be powerful: to exert power over texts and over a judiciously critical audience. It does so through selective argument, of which readings out are one variety. The reach for power, no less here than elsewhere, bears with it the inevitable temptations of hubris—here, the hubris of the critical interpreter who seeks to climb into Shakespeare's skull, wishing to perform this astonishing feat to thunderous applause, while not confessing aloud that she is even attempting it!

D.

One might suppose, especially from the finger-wagging I have just engaged in, that I would have purged my own interpretive argument of intentionalism, hegemonic tendencies or other of the aesthetic or political contaminants I have been mentioning. But actually, I have brought these matters to the fore to confess the opposite, for in order to construct this essay, I have discovered, somewhat to my surprise, an inability to resist jumping into the swim of rationally based and biased, overtly or covertly competitive, even, in places, intentionalist argument, albeit of a wholly amateur kind. The previewing here of these now-structural supports of my reading is simply to disclose their presence in what follows.

But something less consolingly simple seems pertinent, too. This implicates the tendency I find in feminist Shakespeare criticism to engage in interpretive argument along just these same lines and, in the process, to have produced two deeply divisive, conceptually dichotomous positions, each of which seeks to dominate the field of feminist inquiry with its own perspective on Portia. The authors of these positions, a number of them, anyway, seem determined to remind the legally trained reader that the nature of the “pre-defined interpretive encounter” I mentioned

earlier⁴⁶ may be less related to what I have elsewhere termed “heterodox interpretive engagement”⁴⁷ than to the all-too-familiar lawyer’s insight: the answers you get are a function of the questions you ask and the way that you go about asking them.

Thus, on the one side of the feminist debate about Portia are critics who tend to valorize her, either because her masterful assertions of power on male terms subvert the basis for gender hierarchy,⁴⁸ because she instantiates a feminist conception of mercy and therefore idealizes the power of a feminist ideal,⁴⁹ or because the fluidity of Portia’s moves between female-identified and male-identified behaviors within the play “interrogate[s] and reveal[s] contradictions in the Elizabethan sex/gender system”⁵⁰ and “elides the conventional poles of sexual difference by denaturalizing gender-coded behaviors.”⁵¹ On the other side, are a separate group of feminist critics who find throughout his plays evidence of Shakespeare’s “essential conservatism and phallogentrism,”⁵² evidence supplied by the presence of women who have “vitality”⁵³ but not “power,”⁵⁴ women who are “objects in a male game,”⁵⁵ and women who merely “play their parts in the drama of the male psyche.”⁵⁶ Some of the feminists in this latter group have, from an early point, asserted that the ultimate basis of their “inadequacy”⁵⁷ is that “invented by a man, [t]here was no reality in any of Shakespeare’s women.”⁵⁸

This tendency within feminist Shakespeare criticism to recreate what has elsewhere perspicuously been called the “tyranny of dualisms”⁵⁹

46. See *supra* Part I(C) and note 32.

47. I discuss this reading strategy in *The Arrival of the Bee Box*, *supra* note 8, at 359-60.

48. See, e.g., Engle, “Thrift is Blessing”: Exchange and Explanation in *The Merchant of Venice* 37 SHAKESPEARE Q. 20, 34-37 (1986).

49. See *supra* note 23, especially C. GILLIGAN, at 105.

50. Newman, *Portia’s Ring: Unruly Women and Structures of Exchange in The Merchant of Venice*, 38 SHAKESPEARE Q. 19, 32 (1987).

51. *Id.* at 33.

52. Heilbrun, Book Review, 8 SIGNS 182, 185 (1982) (reviewing THE WOMAN’S PART: FEMINIST CRITICISM OF SHAKESPEARE (C. Lenz, G. Greene & C. Neely eds. 1980); M. FRENCH, SHAKESPEARE’S DIVISION OF EXPERIENCE (1981); and C. KAHN, MAN’S ESTATE: MASCULINE IDENTITY IN SHAKESPEARE (1981)).

53. *Id.* at 183.

54. *Id.*

55. *Id.*

56. *Id.* at 184.

57. Greene, “This That You Call Love”: Sexual and Social Tragedy in *Othello*, 1 J. WOMEN’S STUD. LITERATURE 16, 20 (1979).

58. D. M. RICHARDSON, *The Tunnel*, in PILGRIMAGE 188 (1967).

59. Gutmann, *Communitarian Critics of Liberalism*, 14 PHIL. & PUB. AFF. 308, 316 (1985).

One feminist Shakespeare critic cuts the plays along a different dualistic divide, reconstructing the women of Shakespeare’s comedies as akin to their genre, *i.e.*, figures of goodness, while also, in comparison to Shakespeare’s comedic men, being “more aware of themselves and their world, saner,

heaps distortive insult on injury, multiplying yet again the bias toward rational reductionism and against artistic “play.” Moreover, in the apparent service of one or the other brand of ideological orthodoxy, the dichotomous feminist readings out of Portia suggest (though they do not require) a second form of hegemonic interpretation: an over-determined pre-adjudication that forces character, plot, authorial intention, and meaning into an interpretive either/or that, for all the inspiration and ingenuity that some of these readings demonstrate, ignores or fails manifestly to observe the conceptual space between or among the plausible “eithers” and “ors” where the subtlest or fullest or perhaps the fairest understandings of the work or aspects of the work may actually reside.

It is into one such intermediate—and intermediary—conceptual space⁶⁰ that I believe my reading of Portia fits. It seemed useful to try to locate it among other feminist readings so as to treat this occasion not only as a part of an introductory preview but also as an explicit invitation to you to consider other feminist and non-feminist interpretations after reading the play for yourself, for it is only by so doing that you can fully enjoy the opportunity to adjudicate the matters to which I have been offering my own critical responses here. In so doing, you will participate in the critical, interpretive, and ultimately judgmental enterprise that *The Merchant* invites and that, as I will contend more fully in Part IV, legal feminism needs.

E.

There is one final matter, again pertinent to feminist interpretation, that we should consider before moving on to the play. This matter is definitional. To give focus to our feminist-ethical inquiry, I have concentrated on whether, how and to what extent we ought to consider Portia

livelier, more gay,” while viewing the women of Shakespeare’s tragedies as being akin to *their genre*: “nightmare female figures,” “terrible portraits, charged as they are with sexual antagonism.” See L. BAMBER, *COMIC WOMEN, TRAGIC MEN: A STUDY OF GENDER AND GENRE IN SHAKESPEARE 2* (1982).

60. The devolution of my present reading suggests to me, though I probably should not attempt to generalize from it as broadly as I am about to, that authorial intention and the “associative net” it can cast over the author’s art, as Jessica Lane has put it (*see supra* note 44), really do act as powerful constraints on interpretation, if what I have termed the “pre-defined” boundaries of the interpretive encounter do not prevent one from divining the shape of the net.

When I first attempted to read *The Merchant* from a legal feminist point of view, I was determined to find reasons to treat Portia as a legal heroine. I did not permit myself to notice the extent to which the text kept bristling with resistance to my reading until, with a complete draft of my essay in front of me, I was quite simply forced to confront its implausibility. The result: a total shredding of that reading, followed by this entirely new attempt, one that still does not satisfy me, but is, I believe, more accurately fitted to the play.

as a literary heroine, a feminist heroine, and a feminist legal heroine. This effort received an initial set-back when I undertook to establish as a starting point a common meaning for "heroine," only to discover that all there is by way of a common meaning, apparently unreconstructed as yet by feminists, is a definition completely derivative of the masculine type. Here, by way of example, is what the *American Heritage Dictionary* has to offer:

heroine . . . 1. The female counterpart of a hero. 2. The principal female character in a novel, poem, or dramatic presentation.⁶¹

But this "definition" is most unsatisfactory, from a feminist standpoint. Its first meaning unfairly necessitates the fusion of every heroine to a hero at the hip. But with identities that are of mythologically, biologically, and culturally different proportions, the metaphorical hip of every male and female candidate for the status will simply not meet all of the time,⁶² and when there is a failure of the female candidate to measure up, as it were, she must be rejected from the winners' circle without definitional recourse. Yet surely we have long recognized in women and in their female literary counterparts valorizing attributes not commonly ascribed to males.⁶³ Thus, the root problem with the first definition is

61. AMERICAN HERITAGE DICTIONARY 618 (1978). Compare this much-employed source's definition of "hero," the principal definitions for which appear as follows: "1. In mythology and legend, a man, often born of one mortal and one divine parent, who is endowed with great courage and strength, celebrated for his bold exploits, and favored by the gods. 2. Any man noted for feats of courage or nobility of purpose; especially, one who has risked or sacrificed his life: *heroes of forgotten wars*. 3. A person prominent in some field, period, or cause by reason of his special achievements or contributions: *the heroes of medicine*. 4. The principal male character in a novel, poem, or dramatic presentation." *Id.* at 617-18.

It is a matter of some provocation to note that the far more exhaustive *Oxford English Dictionary* (O.E.D.) provides four separate, detailed definitions for "hero," while only two narrower and less descriptive ones for "heroine" and that the latter do not reference, and are, therefore, not associatively enriched by the former. 7 THE OXFORD ENGLISH DICTIONARY 171-73 (2d ed. 1989).

62. An easy example of this phenomenon is that, since women have been excluded from front-line military participation throughout most of history, there is thought to be no basis for an inclusion, on the side of "heroine," of the O.E.D.'s second definition of "hero": "A man distinguished by extraordinary valour and martial achievements . . . an illustrious warrior." 7 THE OXFORD ENGLISH DICTIONARY 171 (2d ed. 1989). More curious is the total lack of supplement for "heroine" of the transcendental dimension picked up in the O.E.D.'s third version of "hero," *viz.*, "A man who exhibits extraordinary bravery, firmness, fortitude or greatness of soul . . ." *Id.* One thinks of any number of women in history or as portrayed in literature (and what about the fortitudinous women who disobeyed the dictates of their times to *write* literature?) who would have no difficulty fulfilling these exactions.

63. At an earlier time, our culturally conditioned tastes and preferences ran, for example, to the quietly patient, self-sacrificingly brave or largely inspirational rather than instrumental heroine of a sort purposively unmatched to male models.

Henry James transformed this answer to the social constraint of women into the arch but provocative question: "Millions of presumptuous girls, intelligent or not intelligent, daily affront their

under-inclusion.

The second definition is no less satisfactory, though the nature of its failing—over-inclusion—is also inherent in the parallel meaning of “hero” from which it, too, apparently derives. The fact is, a “principal” male or female character in a literary work may run the gamut from the high-minded or nobly activated to the Cartesian evil demon or to just plain scum. Indeed, in any artistic rendering that reaches for verisimilitude, our fascination with well-drawn characters not uncommonly relates to their power to remind us of the dark and menacing as well as the bright and inspirational ideas, motivations, and behaviors that exist within us in combination, ever-ready to manifest kaleidoscopic aspects of our noble but weak, lofty yet sometimes contemptible, altogether human and only-very-partially-god-like dimensions.

Shylock, as we shall see, makes much the same point in his most compelling speech in the play. His ennobling plea for tolerance, pathetically yoked to his gnarled passion for revenge, reminds us, as do certain complications in our understandings of Portia, of the not-always-equitable, if not truly iniquitous anti-hero who resides somewhere inside many of us. Translated into institutional terms, Shylock and Portia further jog our collective memory about the reasons we have and need a rule of law configured around impartial process and a pre-eminent desire for justice. But that is to get ahead of our effort. For definitional purposes, I mean to point out that the traditional linkage of “hero” to the structural requirements of literature appears to have become severed from the ethical foundations of the status, a matter that requires some form of recognition in any reconstructive effort.

My own reconstructed definition sets out in a mildly experimental (and certifiably biodegradable) way to respond to these perceived deficits:

heroine . . . 1. A woman or a female literary character whose noble, caring, or courageous qualities or conduct causes her to risk or undergo sacrifice for the welfare of others, achieve prominence by virtue of these attributes or the activities they engender, or secure the resolution of conflict. 2. A woman or a female literary character whose conduct exhibits morally or ethically exemplary attributes.⁶⁴

destiny, and what is it open to their destiny to *be*, at the most, that we should make an ado about it?” H. JAMES, *Preface* to *THE PORTRAIT OF A LADY* xx (1908).

A gentle probing response to that question which examines several female literary heroines from a self-described feminist standpoint is R. M. BROWNSTEIN, *BECOMING A HEROINE: READING ABOUT WOMEN IN NOVELS* (1982)

64. It is, of course, more than a little unfortunate that the term “heroine” should sound the same and look so similar to the name of a drug—its etymological sibling, both being rooted in

In Parts III and IV, this definition will undergo further elaboration as needed for contextual purposes, but I have deemed it a sufficient, if rudimentary, basis on which we may proceed.

This leaves us with just one more definitional issue to address. It is the lack of an extant norm to reference the behavior of heroines, for unlike the separately gendered offshoot of "hero," "heroism" has never developed a counterpart. Yet we have seen that the separate gendering of heroic behaviors may be justified and if it is, then the skewed definition of "heroism" as "the condition or quality of being a hero" is obviously incomplete and unsatisfactory. Having voted, *sub silentio*, against an androgynous, blended definition of "hero," I have similarly opted against an androgynous recasting of "heroism," but have chosen instead, the neologism of my title, which I hereby dispatch into the definitional universe by the most efficient course—"heroism: The condition, qualities, conduct or characteristics of being a heroine."

F.

This concludes the preliminaries. As you will see, "heroism" is not the only focus, but it is the primary focus of my inquiry. Other matters that tumbled out of the cornucopia I mentioned earlier of un-or under-addressed topics in legal feminism are likely to re-enter the discussion.

We go next to my abbreviated treatment of the play, for while literary critics may read out a character to a specialized audience presumptively familiar with the text, intensive analysis of Portia's conduct starkly devoid of context seems a wrongful tax on the memories of the assumed audience for this essay.⁶⁵ Besides, consistent with some of my earlier remarks, no introduction to a work can be a standard matter, since any

"hero"—having lethal capacities. For reasons I have adumbrated in the text, I have stuck with this choice in preference to an androgynous re-definition of "hero." I suppose, going even further than the neologism of my title, one might depart from these choices and offer a new terminological invention. But this would be to risk the surrender of associational links to heroic thought and action which shares a common history or a common set of premises across the boundaries of gender difference. I, for one, find this risk too prominent to justify the choice of a complete terminological break, at least for now.

65. Even when such readings are found within the literature most commonly accessed by specialists, their stark non-contextualism is sometimes seen as requiring explicit justification. Thus, one encounters asides like the following: "I have chosen deliberately to leave Shylock out of my reading of *The Merchant of Venice* in order to disturb readings of the play that center their interpretive gestures on the Jew." Newman, *supra* note 50, at 19 n.3.

Perhaps because mine is such a detailed analysis, but also because contextual evaluation is what I want to stress, mine is a much more contextualized reading than appears to be usual within the literary critical genre.

such rendition is itself an interpretation that privileges some aspects of the work while suppressing others, in service of a view or set of views its author wishes to convey. Given the inculpatory statements I have made about the hegemonic nature of interpretation, including feminist interpretation, it should be assumed that Part II, my introduction to *The Merchant of Venice* as a narrative whole, intends to support the more detailed exposition of Portia that follows in Part III, and that that exposition hopes, on a preponderance of the evidence I shall adduce,⁶⁶ to displace any that rival for your affection. Indeed, I wonder if it is not the ultimate intent of such a reading to naturalize itself such that its bases for critical judgment seem substantially the same as you would render had you undertaken the task that I have, all on your own.

II. ABOUT THE PLAY

It may be that the dramatic nub of *The Merchant of Venice*—beautiful heiress, disguised as male judge, foils villain's intended commission of murder by reinterpreting the flesh-bond that would otherwise seem to permit it—has so embedded itself in our culture as to obviate the need for restatement.⁶⁷ Still, for the reasons I have offered, an introduction to the play as whole seems in order.

On best available evidence, Shakespeare wrote *The Merchant of Venice* between 1596 and 1598,⁶⁸ at about the mid-point of his play writing career and late in the reign of his first monarchical patron, Elizabeth I.⁶⁹ Much about the play suggests it may have been written, in part, as a kind of valentine to her. Portia, its heroic female protagonist, has more

66. The notion is afoot in the literary-critical community that a persuasive reading of a literary text requires, by analogy to a criminal trial, that its author bring forward supportive evidence from the text and, perhaps, from elsewhere, so as to convince the reader *beyond a reasonable doubt* that this reading, and not rival readings, deserves to prevail in any contest for her allegiance. On the point, see Brudney, *supra* note 40, at 436-37. I am not convinced by the arguments I have seen in favor of the criminal evidentiary standard. Hence, my remark in the text.

67. A few summers ago, the man who came to install new flooring in the kitchen that adjoins our faculty lounge told me, with obvious pleasure, that although he had left school after the fifth grade, he had been taught one really interesting story he had never forgotten: a woman lawyer dresses up as a man to save a guy who had promised to give a pound of his own flesh but not a drop of his blood, where *she* was the only one who was wise to this distinction. That suggested to me, as have other incidents since, that Portia is alive and well amidst the general populace.

68. The many interesting facts and allusions used to help date the play are discussed at pages xxii-xxvii of the *Introduction* by John Russell Brown to THE ARDEN EDITION OF WORKS OF WILLIAM SHAKESPEARE: THE MERCHANT OF VENICE (1955) [hereinafter *Arden Introduction*], which Brown edited.

69. For a brief discussion of Elizabeth's literary patronage, including its oft-scant monetary value, see P. HOGREFE, *TUDOR WOMEN: COMMONERS AND QUEENS* 122-23 (1975).

speaking lines than any other figure⁷⁰ and manages by virtue of her beauty, strength, resourcefulness, energy, lucidity, and wit ultimately to dominate—indeed, actively to subdue—every important male character in the play. These include her deceased but domineering father, whose will, in the double sense of intent plus legal instrument that operationalizes intent, means to direct her marriage from the grave; Bassanio, her successful suitor, whose profligacy jeopardizes the life of his own patron and whose divided loyalty jeopardizes his marriage; Antonio, the merchant of Venice and patron/friend/father-figure/and, possibly, lover⁷¹ of Bassanio, whose life Portia saves but whose emotional and financial holds over Bassanio she simultaneously breaks; and Shylock, the Jewish money-lender who threatens Antonio's life and, thereby, the happiness of her marriage to Bassanio until Portia bests him, though she never quite manages to defeat his threat to her hold over the play.

Moreover, the most central element of its plot involves the vanquishing of a Jew who plots a murder of vast consequence to the heroine. In 1594 and, therefore, fresh in the minds of the Queen and the rest of Shakespeare's audience, Roderigo Lopez, a Portuguese Jew who had served as Elizabeth's personal physician, despite the official ban that by then had barred Jews from England for three centuries, was hanged for treason on conviction of participating in a plot to take her life.⁷² Then, too, the ingenious Portia elides the boundaries of restricted womanhood, not only through her boldness of thought and speech—bold, indeed by

70. Portia's part consists of 585 lines; Shylock's, by comparison, is 364. T. BALDWIN, *THE ORGANIZATION AND PERSONNEL OF THE SHAKESPEAREAN COMPANY*, ch. IX table II preceding p. 229 (1927), as cited in Wills, *Shylock Without Usury*, N.Y. Rev. Books, Jan. 18, 1990, at 25 n.14.

The direct, witty and often aggressive manner in which Portia interrogates the other characters may itself have been a reference to Elizabeth, who is said to have begun her powerful career by stopping along the route to her coronation not merely to watch but to interrupt and question performers engaged in dramatic and other kinds of performance enacted by way of tribute. In contrast, her successor, James I, passed along the similarly lively route to his coronation in total silence. See Goldberg, *supra* note 41, at 134.

71. The ambiguous status of the relationship between Antonio and Bassanio is further considered at notes 165-66 and accompanying text, *infra*. As with the dichotomous readings of Portia mentioned earlier, it is not uncommon to encounter interpretations of Antonio that either assert categorically that he's homosexual or that mold his character and the relationship with Bassanio into an asexual and intergenerational relationship, one that is frequently seen to reference the Renaissance ideal of friendship. For an example of each, see Kleinberg, *The Merchant of Venice: The Homosexual As Anti-Semite in Nascent Capitalism*, 8 J. HOMOSEXUALITY 113 (1983) and *Arden Introduction*, *supra* note 68, at xlv-xlvi. There are also, however, readings that tread carefully between these possibilities. See, e.g., Geary, *The Nature of Portia's Victory: Turning to Men in The Merchant of Venice*, 37 SHAKESPEARE SURV. 55, 58-60 (1984).

72. For a discussion of this circumstance and its possible relation to the plot, see, e.g., *Arden Introduction*, *supra* note 68, at xxiii-xxiv.

the social standards of Shakespeare's time⁷³—but also through her action, disguising herself as a young male judge—an illusion which would have had greater dramatic resonance on the Elizabethan stage than it has on ours, since Portia was a “breeches” part, written for a boy actor⁷⁴ who, to the delight of his knowing audience, would have cross-dressed to play the female part and then cross-dressed again to play the male-in-disguise. Elizabeth herself is known to have pushed out the envelope of gender boundaries, referencing herself as “Prince,” an allusion Shakespeare may have intended as a bow to her when Portia is addressed thusly, at the pinnacle of courtship.⁷⁵ Lastly, as we shall see, although formal adherence to the comedic-romantic genre requires a happy ending that reaffirms the harmony in nature through the evocation of connubial

73. Among the several subjects of contemporaneous ferment that give bite to *The Merchant* as satire and as social commentary, the subject of arranged marriage, discussed at greater length in Part III *infra*, and the more general issue of gender difference are among the most prominent. For women to function, largely as intended, as pawns within the family alliance and wealth stabilization and aggrandizement system of the early modern period, their social, political and even psychosocial weakness and passivity were a virtual necessity. The clergy came to the aid of the social system, in this regard, issuing sermons, prayer books, and conduct books that praised male dominance and female subservience, treating any other arrangement as one promotive of “unruly” women, women threateningly “on top,” and warning of the vastness of the peril that would issue from any such arrangement. Published a good deal later than the period in which *The Merchant* was written, but indicative of what were, by then, pervasive anxieties over the matter of woman's place, is this passage, taken from Daniel Tuvill's *St. Pauls Threefold Cord* (1635):

Yea, though there were never so great a disproportion betwixt them in state and condition; as say the wife were a Princesse, the husband but a pesant, she must be yet in conjugal respects as a hand-mayd unto him; he must not be as a servant unto her. . . . And this subjection is so necessary, that without it the world could not long subsist; yea nature herselfe would suddenly be dissolved

Newman, *supra* note 50, at 26.

For more on “unruly women,” see N. Z. DAVIS, *SOCIETY AND CULTURE IN EARLY MODERN FRANCE* (1975) (esp. *Women on Top*, at 124-51).

74. Throughout Shakespeare's time and beyond (in fact, until 1660) women were banned from the public stage, just another manifestation of the pandemic view that, to the extent possible, women were to be seen but not heard in public life, though perhaps it would be more accurate to characterize their preferred role as invisible, too. I find it almost incomprehensible to imagine how Elizabeth, even with the dogma of theocracy on her side, managed to contend with the extremity of belief and practice involving gender hierarchy in her time. Her problems in this regard fortify one's assumption—ratified yet further by her father's murderous pursuit of a male heir—of the appeal to her of gender elision, hence her self-reference as “Prince” and her avoidance of marriage and childbirth. However mixed my ultimate assessment of Portia, on ethical grounds, I join countless admirers of her and of Shakespeare's other gender-fluid heroines, Rosalind and Viola, all created during Elizabeth's reign and, I conclude, *for* her.

75. See *THE ARDEN EDITION OF THE WORKS OF WILLIAM SHAKESPEARE: THE MERCHANT OF VENICE* Act III, Scene ii, line 179 (J. Brown ed. 1955) (quoted *infra* text accompanying note 154). All citations to the text of the play are to this edition, and are abbreviated as is standard: large Roman numerals indicating the Act; small Roman numerals, the scene; and arabic numerals, the lines.

bliss, nothing about Portia's domination over the play's final events suggests that she will retreat into that subordinated status with which the possibility of marriage had doggedly menaced Elizabeth.

Still, despite the significance of these elements, so distinct from the later Jacobean plays in their generosity toward female empowerment,⁷⁶ *The Merchant of Venice* is far more complex in its treatment of both character and plot than befits a simple valentine, even one intended as a deeply political gesture. Indeed, it is bountiful evidence of Shakespeare's genius that *The Merchant* is so complex, balanced, judicious, didactic and yet morally self-interrogating, self-critical, and ironic that the play, conventionally classified as one of his festive comedies, refuses to be other than an extra-generic admixture of its romantic, comedic, satiric, and tragic elements. But the genius made manifest in this particular admixture, when added to the astonishing welter of plots, plot-fragments and cultural annotations which Shakespeare appropriated from history, myth, folklore and contemporaneous theater⁷⁷ to forge into the play, is not without its costs. Despite its undying popularity, *The Merchant* is a cumbersome vehicle⁷⁸ that gains speed only in its run, beginning in Act III, toward the dramatic courtroom confrontation between Portia and Shylock, though long before that run its shifts in mood and tone become subversive of the coherence that conventional theater ordinarily demands. Thus, it may be that Portia's power over the dramatic action serves needs of an aesthetic more than or together with those of a political sort, for as I mean to imply in the streamlined rendition that follows, it is Portia's purposes and actions, together with her active and refractive persona, that bind together the otherwise diffuse elements of the play.

In five acts, *The Merchant of Venice* tells an increasingly interwoven story, set in two different settings, the differences being both maintained

76. The single, powerful exception to this distinction—so powerful as to undermine even this commonly observed dichotomy between the Elizabethan and the Jacobean plays—is Cleopatra, whose stunningly rich evocation of the poetry and tragedy of voluptuary conquest has earned her the designation “‘greatest of Shakespeare's female characterizations.’” For a brief but handsome and, as against her detractors, a casually defensive tribute to Cleopatra, see Kermode, *Introduction to The Tragedy of Antony and Cleopatra*, THE RIVERSIDE SHAKESPEARE 1343, 1345-46 (1974).

77. Estimates of plots and plot-fragments that Shakespeare drew on for inclusion in *The Merchant of Venice* are various but invariably run high. I have seen estimates as high as 56. The story of the flesh-bond has a special status among them, not only because of its centrality but because of its ancient and near-universal origins. Versions have been found in Persian and Indian religious stories and fables and in ancient Roman law, among other places. Assumed to have a special status, as the richest near-contemporary source, is the *First Story of the Fourth Day of Ser Giovanni, Il Pecorone*, reproduced in THE ARDEN EDITION OF WORKS OF WILLIAM SHAKESPEARE: THE MERCHANT OF VENICE app.I at 140 (J. Brown ed. 1955) [hereinafter *Il Pecorone*].

78. I elaborate the basis for this charge in note 118, *infra*.

and interrogated as the play moves on. It concerns three distinct, though not wholly distinct, groups of characters. The first scene of the first Act introduces two of these groups in one of these settings: Venice—mercantile, competitive, aggressive, and materialistic, fraught with anxieties about money and the use of money and riddled with tensions between its ostentatious, hedonistic Christians and its abstemious, avaricious Jews.⁷⁹ Yet the moral and behavioral dichotomies that are understood by the Venetians to track ethnic difference are undercut from the inception of the play, when in the first Act we meet Antonio, the merchant of the play's title;⁸⁰ Bassanio, the young friend of whom Antonio is altogether fond; and an entourage that includes Lorenzo, who will elope with Jessica, the daughter of Shylock, plus Salerio and Solanio, friends who, as messengers and commentators—a kind of small chorus—help to keep the action moving between its two locales.

Prefiguring his mood throughout the play, Antonio opens with a soliloquy that evidences a melancholy he fails to understand. The hedonic life he leads as a rich merchant has somehow delivered him into a kind of chronic depression, relieved only by his emotional and, it will be ambiguously suggested, his physical attachment to Bassanio. As proud as he is that he observes the Christian ban against usury, lending money at no interest commercially as well as personally, Antonio is obsessed by wealth and his desire for more wealth—as obsessed, ironically, as is his Jewish nemesis, Shylock, the usurious money-lender. For his part, Bassanio is little more an advertisement for Christian virtue than is Antonio,⁸¹ announcing in his first entrance that he has “disabled” his

79. The latter group, Venice's Jews, are represented almost entirely by Shylock, since his sole companion, Tubal, has a bit part and his daughter, Jessica, abandons him and also converts to Christianity. Thus, Shylock nearly forms a set of one. This proves dramatically efficient, for the increasing isolation that culminates with his scapegoating is aided by his near-isolation from the beginning.

80. Readers have frequently noted that, although the title applies literally to Antonio, the only character referred to in the play as a “merchant,” he is more the object than the subject of the action, which itself is an intricate play on the virtues and vices of mercantilism. One might speculate that the title is intended, in part, as an ironic reference to the practice, common throughout the continent in Shakespeare's time, of banning Jews from most forms of mercantile activity other than money-lending, thus excluding Shylock, the play's most dramatically active merchant, from that honorable designation, while creating the very circumstance—usury—that Antonio, Venice's authorized “merchant,” so deplors. For a fascinating study of Christian and Jewish usury in the Renaissance, see J. SHATZMILLER, *SHYLOCK RECONSIDERED: JEWS, MONEYLENDING, AND MEDIEVAL SOCIETY* (1990).

81. Throughout the play, Antonio is identified with Christianity. His antithetical attitude toward Shylock's practice of usury becomes the engine of his unrelenting hatred of “the Jew.” So enmeshed in hatred are these two that they remain blind, in their mutual opposition, to the irony of their sameness: Not only are Antonio and Shylock equally bound up with wealth and its acquisition, but both exist outside the frame of comedy and romance from the three marriages that, by the play's

“estate,”⁸² including past borrowings from Antonio, through profligacy and now wishes to borrow lavish further sums from Antonio so that he can court a rich heiress. It may be that Bassanio first evokes Portia in these terms only to impress his wealthy friend and patron, but it is at least open to question whether Bassanio frames his quest in crassly materialistic terms (“In Belmont is a lady richly left”⁸³ is his description of Portia) for deeper, personal reasons⁸⁴ or—a third possibility—because if you are Venetian, then wealth is the lens through which you view the world. Moreover, although he soon mentions Portia’s other virtues, Bassanio’s speech puns on the nature of Portia’s “worth,”⁸⁵ one of a steady stream of puns and other rhetorical and dramatic devices that eventually undercuts the distinctions between wealth and virtue, vice and virtue, self-esteem and communal evaluation, women and property, Christians and Jews in the play.

Antonio has not the liquidity to produce the money; his wealth is tied up in “argosies”⁸⁶ on the high seas. But he will not deny Bassanio the loan—a love-bond that seems aimed at maintaining Bassanio’s ties to him, even as Portia will seek, through the marriage-bond, to tie Bassanio securely to her. And it is his resultant need for credit that will deliver Antonio, by the end of Act I, into the hands of Shylock, a usurious money-lender, representative of the “tribe”⁸⁷ of Jews uneasily settled in Venice, whom Antonio insistently and publicly despises for his usury—a matter of considerable perturbation for the Elizabethan audience⁸⁸—

conclusion, will figure a hedonic, anti-religious, union of Eros and Mamon as the defining circumstance of mortal happiness. For an erudite and elegant treatment of this theme, see W.H. AUDEN, *Brothers and Others*, in *THE DYER’S HAND AND OTHER ESSAYS* 218 (1948).

82. I.i.123.

83. I.i.161.

84. One particularly unlovely reason—Portia’s wealth as a route out of bankruptcy—is later suggested. See I.i.131-34. As the critic H.C. Goddard once drily remarked, “‘This is not exactly in the key of *Romeo and Juliet*.’” Thompson, *The Modification of Stereotypes in The Merchant of Venice*, 26 ENG. STUD. IN AFRICA 1, 2 (1983).

85. Bassanio recounts: “In Belmont is a lady richly left, / And she is fair, and (fairer than that word), / Of wondrous virtues . . . / Nor is the wide world ignorant of her worth . . .” I.i.161-63, 167.

86. I.i.9.

87. III.i.70.

88. The early modern struggle over the matter of usury had several dimensions. It was at once a Christian problem—Christian, especially Thomist, dogma having absorbed the Aristotelian teaching that it is immoral for money to “breed”—and a Jewish problem: Jewish dogma was in conflict over usury, one stance prohibiting its being taken by a Jew from a Jew but not by a Jew from a non-Jew; the other stance being a blanket prohibition. For the biblical source of this schism, compare *Deuteronomy* 23:19-20 with *Ezekiel* 18:8, 13, and *Psalms* 15:5. It was no less an economic problem. Not only the newly emergent mercantile class of England but also the Crown, impoverished by the lusty expenditure patterns of Henry VIII, habitually borrowed at interest. Importantly, usury was not able to be the source of Judeo-Christian conflict for the Elizabethans that Shakespeare portrayed

even while negotiating the loan for Bassanio. So taunted, Shylock offers to take Antonio as surety, on condition of a "merry bond".⁸⁹ that if the principal is not repaid in three months, Antonio will forfeit a pound of his flesh "to be cut off and taken / In what part of your body pleaseth me."⁹⁰ A "merry" bond? It seems dubious, even if we had not known the outcome for some 400 years.⁹¹ Yet, Shakespeare's mastery turns this first transaction between Shylock and Antonio into a set of social gestures and political postures on Shylock's part so filled with ambiguity as to evoke the benefit of a doubt about his motives, however-much we already understand and, therefore, anticipate about the dire consequence Shylock will seek to inflict.⁹²

The second scene of Act I introduces the third brace of principals: Portia; her maid, Nerissa; and their retinue, together with Belmont, the romantic estate-region-fairyland—this matter of identity, like so many in the play, will remain suggestively open—which seems the literal antithesis of mercantile Venice but more subtly comes to resemble its domestic complement. Like the unconvincing dichotomy between "old" and "new" money or arriviste and gentrified wealth, Belmont, in superficial distinction to Venice, evidences its status not through a striving after worldly success but through an other-worldly, ethereally beautiful *calme et luxe*, standardly represented on the modern stage by an exquisite neo-classical facade in verdant surrounds. But this is not to say that lucre has been banished. Indeed, no sooner does Bassanio marry Portia but at her urging he equips himself, on hearing of Antonio's forfeit, to barter, ineffectually, with Shylock for Antonio's release using enormous sums of Portia's apparently bottomless and, therefore, painlessly expendable money for the intended ransom.⁹³ In this second scene, the casket lottery, which Portia's father has devised to control the selection of her husband, a folkloric plot well-known to Shakespeare's audience,⁹⁴ is set

it as being for the Venetians; since Jews had been officially banned from England since the time of Edward I, most usurers familiar to Shakespeare's audience were, in fact, Christians. Brief and interesting analyses of the usury issue and its relationship to *The Merchant of Venice* are contained in Wills, *supra* note 70 and *Arden Introduction*, *supra* note 68, at xliii-xlv. See also J. SHATZMILLER, *supra* note 80.

89. I.iii.169.

90. I.iii.146-47.

91. Shakespeare's audience was even likelier to have known the flesh-bond plot. It was a standard theatrical item during his time. Indeed, the rendition of it in Act I is extremely faithful to what is taken to be one of his chief sources for *The Merchant of Venice*. See *Il Pecorone*, *supra* note 77, at 146.

92. I.iii. 133-47.

93. III.ii.298-313.

94. Indeed, this casket-riddle fragment was marketed to its contemporary audience in the play's

up. In a significant echo of Antonio's entrance onto the stage, Portia establishes an affective link with him when here she enters the play: Like him, she begins by announcing that she is melancholy ("By my troth, Nerissa, my little body is aweary of this great world"⁹⁵), though she will soon overcome this mood with much livelier ones—a first rite among the many passages to comedic resolution she will successfully negotiate—while Antonio will end the play in passive resignation,⁹⁶ a relatively short emotional distance from where he began.

Act II commutes from Belmont to Venice and back again in the service of introducing a number of subplots, most importantly the fueling of Shylock's hatred for his Christian detractors by his daughter's theft, abandonment, religious conversion, and, in this play, Christian-like prodigality⁹⁷ and the fueling of Portia's longed-for courtship by Bassanio as she shepherds her other suitors through their interpretive failures in regard to worth and value in the casket-riddle game.

Act III again commutes between Venice and Belmont but as its pivotal status among the five Acts demands, the action in each of the two locales is more focused and central to the play's development. On the high seas, Antonio's fortunes are understood to have collapsed, even as in Belmont, Bassanio's fortunes—literally as well as figuratively—are skyrocketing.⁹⁸ At this, the moment that marks the apparent demise of Antonio's luck and the painfully real reversal of Shylock's fortunes due

original title: "The most excellent / Historie of the *Merchant / of Venice /* With the extreame crueltie of *Shylocke* the Iewe / towards the sayd Merchant, in cutting a iust pound / of his flesh: and the obtaining of *Portia /* by the choise of three / chests." *Arden Introduction, supra* note 68, at xi.

95. I.ii.1-2.

96. It is not that the text has Antonio speak this resignation. Indeed, his last lines are rather joyful. See V.i.286-88. But dramatic interpreters have often portrayed Antonio's exclusion from the blissful future of the play's romantic pairs by closing the play with Antonio seated, physically and existentially alone, on the stage. See, e.g., *The Merchant of Venice* (BBC television broadcast 1972) (J. Miller prod.). See also Leslie Fiedler's provocative essay, *The Jew as Stranger: or "These be the Christian Husbands,"* in *THE STRANGER IN SHAKESPEARE* 85 (1972), in which he characterizes *The Merchant of Venice* as a "play of one too much a merchant to be a tragic hero and trapped for all his tragic implications in a comedy where Spartan reticence is as little at home as Roman virtue or Jewish piety. No wonder he ends by falling quite out of the play, whose course of action he cannot at any point control by rhetoric or wit." *Id.* at 90.

97. The subplot involving Shylock's daughter Jessica, who steals his riches in conjunction with her conversion to Christianity and choice of Lorenzo, a Christian, as her husband is important to the play. Among other things, it helps to subvert the distinction between Jewish miserliness and Christian profligacy and it may comment, ironically, on the moral value of freedom from parental control in courtship and marriage matters. But as it bears almost not at all on our rather single-minded attention to Portia's activities, the Jessica-Lorenzo subplot, together with the Nerissa-Gratiano subplot are virtually absent from this treatment.

98. At times, Bassanio's rise is conveyed through sexual innuendo and satirically, perhaps, at that. See, e.g., III.ii.240 and V.i.46-47.

to his daughter's double conversion, Shylock, catalyzed by anger and hatred, will prepare to ask the state to allow the forfeiture of Antonio's pound of flesh according to the hitherto "merry" bond. Antonio, his Jew-baiting behavior unmodified by these events, perhaps because he has decided that without Bassanio's companionship life is worthless, faces the possibility of death.

The contrasting scene in Belmont is dramatically different. The gentle and gentrified scene portrays the fully flowered courtship and marriage⁹⁹ of Portia and Bassanio. As death prepares to triumph in Venice, setting the stage for Act IV, the marriage of youth to beauty and both to harmony-in-nature triumphs in Belmont. But even at this entirely predictable juncture, Shakespeare invests Portia with unconventional, role-reversing power and authority. Surpassing the firm but delicate control she exhibits during the casket rituals, Portia takes her ring, that doubly portentous symbol of female sexuality as well as marital fidelity, and places it on Bassanio's finger. Her maid Nerissa redoubles the gendered symbolism of the act by reenacting this same reversal of roles with Gratiano, Bassanio's companion, whom she has also consented to wed.

By the end of Act III, four kinds of bonds, allegories for the characters' affective and dramatic links, have been created. Through them, Shakespeare has delineated the promises and concomitant problems that Portia will need to act on in the remaining portions of the play: Antonio's suretyship to Shylock by means of the flesh-bond, which now jeopardizes his life, has secured the loan that signifies the love-bond of Antonio for Bassanio, even after the marriage-bond to Portia has been symbolically consummated through her invocation of the ring-bond. Thus, to free Bassanio from Antonio's emotional as well as financial grip, Portia must free Antonio from Shylock and then re-encircle Bassanio inside, and Antonio outside, the marriage. It will require two further Acts for Portia to devise and accomplish the necessary actions. Since a close consideration of these actions forms the meat of Part III, there is no reason not to proceed there immediately. Afterwards, we will reconsider her acts in feminist retrospect.

99. Actually, the marriage does not reach full flower, that is, consummation, as Portia sends Bassanio to Venice to join the imperiled Antonio after the exchange of vows (*see* III.ii.302-05) causing reunion and the immediate promise of physical union to merge within Act V so as to produce a curiously bawdy, resonantly pagan, conclusion to this sometime-satire of a late-state religious morality play.

III. ABOUT PORTIA

A.

To take account of where we have been and where we are going, I have employed Part II not only to introduce *The Merchant* as whole, but to make the case that the chief male characters—Antonio, Bassanio, and Shylock—have managed to implicate themselves in each other's lives in ways unsatisfactory to a resolution of the play that is both comedic and romantic—in ways, that is, that thwart the possibility of a happy ending founded on the achievement of peace and order through harmony in marriage. And I have been making the further case, more by implication than explication, that none of the principal male characters seems both willing and able to extricate himself from the unfortunate consequences of his own entangling designs.

Let us now consider the tasks that Portia undertakes and the ways she undertakes them in the process of vanquishing the opposition to marital happiness and its allegorized concomitant: ordered, communal harmony—opposition provided by the various males we have encountered, whose threats to the desired resolution she must subdue or overcome. First, there is her father's vexatious control over the husband-selection process, a process that subjugates Portia and deprives her of control over her destiny, while necessitating her management of a barrage of unwanted suitors; and there is her resultant conflict over intervention on behalf of Bassanio, the suitor of choice, all of which I shall fold under the referential umbrella "courtship adaptations." Second, there is her need to subjugate Antonio, her rival for Bassanio's affections. Portia will accomplish this subjugation by the symbolic and didactic means I shall reference as the "ring rituals." And third, there is her vanquishment of Shylock's threat to martyr Antonio and the resultant hold of this looming sacrifice over Bassanio through what I shall call her "disguised interventionism." To package Portia's activities as I have just done somewhat revises the timing of their dramatic unfolding, but seems to me best suited to the coherent development of the analysis we are pursuing here.

B.

Unlike the un-understood melancholy that beshrouds Antonio at the beginning of the play, the melancholy that Portia attributes to herself

in her introductory scene¹⁰⁰ seems plausibly related to her next topic of conversation. This topic is her deceased father's will, through which he has bound her to accept in marriage whichever suitor shall correctly choose from among three inscribed metal caskets the one that contains Portia's picture: a casket of gold bearing the message "Who chooseth me, shall gain what many men desire"; a silver casket reading "Who chooseth me, shall get as much as he deserves"; and a casket made of lead encoded "Who chooseth me, must give and hazard all he hath."¹⁰¹

For the modern audience, sympathy with Portia's fate is easy, whether based on the existential pain occasioned by a dead father's preference for a lottery among strangers over his daughter's own choice of suitor, or the still-sharper feminist pain at the woman's reduction to a medium of exchange-value, described by the anthropologist Claude Levi-Strauss as a relationship which is "not established between a man and a woman . . . but between two groups of men [in which] the woman figures only as one of the objects in the exchange, not as one of the partners,"¹⁰² and by the literary critic Eve Sedgwick as one among a "whole spectrum" of "homosocial" "bonds between men, including friendship, mentorship, rivalry, institutional subordination, homosexual genitality and economic exchange—within which the various forms of the traffic in women take place."¹⁰³

For the Elizabethan audience, however, arranged marriages were a newly emergent topic of debate, one which affected all social classes, though most particularly those of significant social standing or feasible economic or social aspiration. Moreover, because early mortality necessitated some compromise with the hegemonic practice of parental choice, legal instruments settling the marriage fates of young women—contracts made when women were, typically, years below the age of consent—were not uncommonly entered into by guardians, executors, or deceased fathers, the terms not always prescribing a named mate but sometimes the governing mechanism for selecting one.¹⁰⁴ The stakes on all sides were real. For families, social security and social advancement both hung in

100. I.ii.1-2.

101. See II.vii.4-9 for the first appearance of these inscriptions.

102. C. LEVI-STRAUSS, *THE ELEMENTARY STRUCTURES OF KINSHIP* 115 (R. Needham ed. 1969), quoted in Newman, *supra* note 50, at 20.

103. Sedgwick, *Sexualism and the Citizen of the World: Wycherley, Sterne and Male Homosocial Desire*, 11 *CRITICAL INQUIRY* 226, 227 (1984), quoted in Newman, *supra* note 50, at 21.

104. Pearl Hogrefe's account of Elizabethan marriage arrangements includes this choice example: "Robert Burdon, a gentleman of Northamptonshire, stated in his will of 1533 the agreement he had made with a local yeoman, Roger Knollys: his oldest son was to marry the yeoman's oldest daughter 'at or before the age of nineteen. If she died, he was to marry any other daughter chosen by

the balance when the marriages of children were a matter of design. For young women, the alternatives to arranged marriage were bleak: withdrawal from secular society into religious orders; a spinsterhood dependent for economic survival upon willing relatives; or for the extremely stalwart, marriage to the partner of choice but on pain of forfeit of dowry and the denial of continued parental maintenance.¹⁰⁵

The issue was joined in the public forum by publications such as George Whetstone's *An Heptameron of Civil Discourses* (1582), declaring forced marriages to be "the most extreme form of bondage in existence";¹⁰⁶ by John Stockwood's *A Bartholomew Fairing for Parents* (1589), complaining of young people's desire to "follow their own will and let out the reins onto their own . . . unsettled lusts";¹⁰⁷ and by Robert Cleaver in *A Godly Form of Household Government* (1598), suggesting that parents treat voluntariness as an extra-legal proxy for consent, vitiating marriage contracts if either of the intendeds loathed the other.¹⁰⁸

Whereas, with his other prominent examples of intergenerational marital conflict, Romeo and Juliet and Desdemona and Othello, Shakespeare drew out the tragic possibilities inherent in them, both the structure and mood of Shakespeare's response in *The Merchant* are more subtle. Portia's reactions to her father's design begins on a note of unhappy resistance, but in the dialogue with Nerissa that follows, we find evidence of an ambivalence that Portia permits Nerissa to prod into a kind of creative acceptance. Note the trajectory and, along it, the balance of responsive engagement:

Por. By my troth Nerissa, my little body is aweary of this great world.

Ner. You would be (sweet madam), if your miseries were in the same abundance as your good fortunes are: and yet for aught I see, they are as sick that surfeit with too much, as they that starve with nothing; it is no mean happiness therefore to be seated in the mean,—superfluity comes sooner by white hairs, but competency lives longer.

Por. Good sentences, and well pronounc'd.

Knollys; if he died, his place was to be taken by the second son, and if he also died, by the third." P. HOGREFE, *supra* note 69, at 18.

105. The extent of parental control over marriage, and the thinly numbered alternatives to marriage for women in this period are comprehensively researched and described in L. STONE, *THE FAMILY, SEX AND MARRIAGE IN ENGLAND 1500-1800* (1977).

106. P. HOGREFE, *supra* note 69, at 20.

107. P. HOGREFE, *supra* note 69, at 20.

108. P. HOGREFE, *supra* note 69, at 20.

- Ner.* They would be better if well followed.
- Por.* If to do were as easy as to know what were good to do, chapels had been churches, and poor men's cottages princes' palaces,—it is a good divine that follows his own instructions,—I can easier teach twenty what were good to be done, than be one of the twenty to follow mine own teaching: the brain may devise laws for the blood, but a hot temper leaps o'er a cold decree,—such a hare is madness the youth, to skip o'er the meshes of good counsel the cripple; but this reasoning is not in the fashion to choose me a husband,—O me the word "choose"! I may neither choose who I would, nor refuse who I dislike, so is the will of a living daughter curb'd by the will of a dead father: is it not hard Nerissa, that I cannot choose one, nor refuse none?
- Ner.* Your father was ever virtuous, and holy men at their death have good inspirations,—therefore the lott'ry that he hath devised in these three chests of gold, silver, and lead, whereof who chooses his meaning chooses you, will no doubt never be chosen by any rightly, but one you shall rightly love. But what warmth is there in your affection towards any of these princely suitors that are already come?
- Por.* I pray thee over-name them, and as thou namest them, I will describe them, and according to my description level at my affection.¹⁰⁹

It is not that, anywhere in her portions of this exchange, Portia signs on for Nerissa's wholly benign view of a wise and benevolent father. Rather, it is as if Portia allows herself to buy into the selection procedure by degrees, one of which consists of her acknowledgment of the difficulty—much belied by her conduct in the rest of the play—of mature self-rule, where the passions of youth are involved. This acknowledgment, crafted, it might be noted, with the use of legal rhetoric ("laws," "decree," "good counsel") prefigures the later action, establishing by means of "reasoning" a justification for her father's action through which Portia can identify with, rather than simply accept her father's will—a more highly rationalized result than the passive acceptance Nerissa's explanation bears in train.

A second, equally creative means toward acceptance is presaged in the invitation with which Portia ends this first dialogue. It sets in motion a further exchange in which Nerissa serves up for Portia's intensely witty verbal dissection the identity—by title and locale, not by such an apparent irrelevancy as a name—each volunteer in the army of suitors who

109. I.ii.1-37.

have already come from most of the Old World's aristocratic strongholds, only to fail in the casket-game and leave—equally controlled by the dead hand of Portia's father—on a promise of life-long celibacy. The extended repartee it takes to run through this inventory¹¹⁰ accomplishes a host of purposes. Most germane to our present concerns, it serves to emboss the father's motives with justification, for how but through the application of a test of parental suitors based on notice, open invitation, neutral application, and forewarned consequence¹¹¹—not so much a riddle-game, perhaps, as a legal code—could he attempt to protect his daughter, unguarded in her social and sexual inexperience, against the potential dangers of an otherwise unregulated marriage market?

To the extent the dialogue succeeds in establishing this justification, it must manage to do so against the opposing strength of Portia's near-castrating wit¹¹² which seems, throughout this exchange, more than capable of managing the suitor problem without benefit of parental intervention. But the controlled force of her responses is not wholly competitive with or oppositional to her father's will. It also reifies her identification with him, so as to rationalize still further the position of ultimate acceptance on which she comes to rest: "If I live to be as old as Sibylla, I will die as chaste as Diana, unless I be obtained by the manner of my father's will . . ." ¹¹³ And it is this position of creative, self-generated acceptance, an acceptance based, however ambivalently at first, on identification with a controlling, managerial, legalistic male, that sets the stage both literally and figuratively for Portia's further courtship conduct and for her eventual courtroom conduct.

In the next, penultimate courtship scene, we get a first- rather than a

110. I.ii.35-107.

111. The casket-lottery has attracted suitors for this rich, beautiful and unattended daughter from most of the known world, as Portia's unhappy inventory of them attests, though, as Bassanio's desire for heavy financial backing and the social ranks of the other suitors suggest, this is not entirely a meritocratic undertaking. It is, however, one to which a severe penalty attaches, for before choosing among the caskets, suitors must promise never again to seek a lady's hand in marriage if they fail to win Portia's (see II.i.40-42)—an unenforceable restriction that echoes the play's central concern with the relationship between law and morality.

112. Here is but one example:

Ner. How like you the young German, the Duke of Saxony's nephew?

Por. Very vildly [vilely] in the morning when he is sober, and most vildly in the afternoon when he is drunk: when he is best, he is a little worse than a man, and when he is worst he is little better than a beast,—and the worst fall that ever fell, I hope I shall make shift to go without him.

I.ii.80-87.

113. I.ii.102-04.

second-hand opportunity to view Portia's own controlling and managerial tendencies, even as we are treated to the dramatically necessary defeat of two more suitors, each of whom sets up Bassanio's ensuing victory by wrongly choosing first the gold and then the silver casket. Unfortunately, for all the grace of her comportment toward these losers, we also catch a glimpse of two other, prefiguratively suggestive aspects of Portia's character: intolerance and hypocrisy.¹¹⁴ The first of these two suitors, the Prince of Morocco, is described in the stage directions as a "tawny Moor."¹¹⁵ His introductory speech is rather anxious and defensive, but not, as it happens, unintuitive: "Mislike me not for my complexion,"¹¹⁶ he leads off. Portia's direct response betrays, then seeks to bury her reaction:

Por. In terms of choice I am not solely led
By nice direction of a maiden's eyes:
Besides, the lott'ry of my destiny
Bars me the right of voluntary choosing:
But if my father had not scanted me,
And hedg'd me by his wit to yield myself
His wife, who wins me by that means I told you,
Your self (renowned prince) then stood as fair
As any comer I have look'd on yet
For my affection.¹¹⁷

But, later, following the dejected double couplets of Morocco's eloquent farewell comes Portia's openly biased and disturbingly imperious private rejoinder: "A gentle riddance,—draw the curtains, go,— / Let all of his complexion choose me so."¹¹⁸

Between this and Bassanio's contrastingly welcomed arrival, there is just one more glimpse of Portia: the scene that portrays her management and dispatch, on utterly disposing terms, of the Prince of Aragon, the final contestant to follow a losing suit. Again prefiguring the courtroom

114. See *infra* Part IV (A) for the discussion of Portia's ethical shortcomings.

115. II.i. The direction reads: "Enter [the Prince of] Morocco (a tawny Moor all in white)"

116. II.i.1.

117. II.i.13-22.

118. II.vii.78-79. Note that Morocco enters to make his selection among the caskets in Act II, scene I, but the selection process gets interrupted—for six scenes—by Shakespeare's desire to cut to several different aspects of the action in Venice, a cutting process that breaks down the dramatic rhythm, rather than, as happens in other plays of his, effecting its augmentation. It is cutting of this sort, together with the stationary quality of the play—its lack of physical motion among the personae, its prolixity of scenes, and its over-all length that leads me to pronounce the first three Acts "cumbersome" as I did earlier in the text, and has led directors, for much of the time the play has been in production, to cut or re-arrange its scenes with greater than usual abandon.

scene and Shylock's own losing suit, she closes: "Thus hath the candle sing'd the moth: / O these deliberate fools! when they do choose, / They have the wisdom by their wit to lose."¹¹⁹

It is on the heels of all of this news about Portia—her resilience and adaptability, her wit and fluency, her managerial strength, her racial prejudice and hypocrisy, and what I have, contestably, isolated as her identificatory alliance with her powerful male parent—that the final chapter of the courtship narrative plays out. This "news," these diverse qualities which we are still caught up in evaluating, cannot but influence our judgments about the Portia whose complex, ambiguous, and possibly ambivalent mating behavior next gets revealed. Here, in response to the comparatively straight-forward Bassanio, we encounter a Portia replete with several conflicting agendas—or, so the strands of her behavior have been interpreted by critics and by those who have recreated her upon the stage.

Of central interest are the strands that relate to her adherence to the strict terms of her father's will: It is the suitors who are to do the choosing of Portia and not *vice versa* . . . Yet, here comes Bassanio, whom the otherwise-obedient and hitherto rule-observant Nerissa has twice-heralded in suffusingly romantic terms.¹²⁰ Will Portia simply leave the choice to him? Her opening speech, on Bassanio's arrival, is utterly unlike anything we have heard or will hear from her in the rest of the play. Alarming, if disarmingly, fey, it flutters between a willingness to let him proceed to the caskets and the wish to delay him; a desire to "teach [him] / How to choose right"¹²¹ countered by the tug of remembered subservience—and newly pledged loyalty—to her father's will.¹²² The rhetoric of this speech everywhere represents this conflict, through half-utterances set out in broken lines; the use of seven argumentative "but" 's; and an extended metaphor on her divided self.¹²³

119. II.ix.79-81. In modern productions, directors have succumbed to a variety of comic excesses in no way called for by the stage directions, which tend to give an oddly literal cast to Portia's satiric pronouncements. Thus, Arragon has been heard to deliver his lines in a wildly exaggerated version of the Castilian lisp and has been seen to doddle into Portia's presence, unable to read the caskets' inscriptions absent the aid of a misplaced monocle, accompanied sometimes by a domineering mother, at others, by acolytes costumed in an ersatz livery of the Spanish Inquisition! As amusing as these touches can be, the literal depiction of the suitors' foolishness drains Portia's judgments, in these early courtship scenes, of their wit and irony, which are needed more than is low comedy to balance the intemperate prejudice of her attitude toward Morocco.

120. See I.ii.108-13, II.ix.101.

121. III.ii.10-11.

122. III.ii.11-14.

123. III.ii.1-24.

The much-debated question, one to which the text refuses a clear answer, though both critics and performers seem frequently impelled to give one,¹²⁴ is whether in preparing Bassanio's way to the caskets, Portia subverts the selection process she is so reluctant to disavow entirely, or whether she stops short of any such attempt to influence his conduct. As one critic has put it, "[T]he script never gives us enough evidence to resolve the issue with confidence. . . . [T]he clues . . . lie inertly in the scene."¹²⁵

Let us consider two such clues—one covert, the other, quite overt—more closely. The lengthy exchange that precedes Bassanio's soliloquy in front of the caskets contains both. The covert clue seems to me to be embedded in Portia's attempt to allegorize Bassanio's choice of the correct casket to the mythic struggle between Hercules and the sea monster over Hesione, daughter of the King of Troy.¹²⁶ Exhaustive effort against the monstrously heightened forces of nature hardly parallels the quietly cerebral undertaking that Bassanio must perform.¹²⁷ Yet Portia fashions her mythological metaphor, a supposed analogy between Hesione's plight and her own, so as to make way for the pronouncement, "I stand for sacrifice,"¹²⁸ a line that could well be intended, even if not with full awareness, to assimilate Portia, in the mind of Bassanio, to the leaden casket's inscription: "Who chooseth me, must give and hazard all he

124. See the discussion of this issue in Berger, *Marriage and Mercifixion in The Merchant of Venice: The Casket Scene Revisited*, 32 SHAKESPEARE Q. 155, 157-61 (1981); see also Smidt, *Unconformities in The Merchant of Venice*, in HISTORICAL & EDITORIAL STUDIES IN MEDIEVAL & EARLY MODERN ENGLISH 15, 27, 33 n.18 (1985).

125. Berger, *supra* note 124, at 157.

126. III.ii.53-57.

127. In the legend Portia calls up, Hercules rescues Hesione, daughter of the King of Troy, from the raging sea-monster to which she has been sacrificed as a tribute, but does so not out of love but because Laomedon, her father, had promised to give him horses if he succeeded.

Critics of the play have found diverse reasons to note that when the characters reach for allegories to their actions from Greek mythology, as the Christian characters are wont to do, the parallels they seek never succeed and end up seeming comic, absurd, or unintentionally self-parodic, depending on the moment. No one I have read, however, offers a theory of what they take Shakespeare to have been about in these repeated jabs at the stature of these characters. My own thought is that the failed allegories are but a decorous part of his strategy of subverting our natural desire to form allegiances to the characters, most especially the romantic pairs. It is as if he is underlining the self-glorifying/self-rationalizing tendencies of these young lovers who, as their off-based attempts at linkage to past greatness demonstrate, seem divorced from adequate self-reflection, allowing them to pursue the same ends we ourselves desire—love and security—through means that include lying, stealing, and profligate, reckless borrowing. The young lovers seem to occupy an extremely privileged space—one in which moral consequences do not readily attach to their actions and disproportion goes happily unnoticed with respect to their conceits. Not surprisingly, I will return to this concern in Part IV.

128. III.ii.57.

hath"—itself, an encoding of the need for Portia's intended mate to stand for sacrifice.

The other overt clue is the one around which the debate about Portia's behavior commonly centers.¹²⁹ The same lengthy speech just quoted finds Portia summoning musicians to perform while Bassanio chooses. The stage direction that follows specifies that the music is "[a] song [to music] the whilst Bassanio comments on the caskets to himself."¹³⁰ As it happens, this song, fully specified in the text, begins with three lines all of which rhyme on "lead."¹³¹ Shakespeare is direct, but subtle. The stage direction is thought to be his own.¹³² Are the singers within earshot of Bassanio? Is he *attending* to the lyrics "whilst" commenting on the caskets? Even if not, he may be hearing with his inner ear. The music may be penetrating his soul, even if he is not fully aware of it, at once holding out to Bassanio an interpretive key to the caskets and simultaneously commencing his passage into Belmont, Portia's musically defined realm. Does Bassanio profit by this clue directly—that is, does he consciously or unconsciously pick up on the rhyme?¹³³ Or, does he profit less directly, by the confidence Portia's analogy of him to Hercules may build or by the sweet comfort her call for music may inspire?

These actions on Portia's part are decorous as well as subtle. In her courtship behavior toward Bassanio she has neither strictly adhered to the neutral principles of her father's process nor openly flouted them. She has neither stayed aloof from nor overtly engineered the outcome. Rather, through a form of subtle instrumentalism, Portia has steered a course between the two men who, together, bracket her past and her future. In so doing, she has begun to impose her own maturing identity on the life that would otherwise be ordered by the hegemonic structures of her male-dominated world. Is the path she has begun to cut through

129. See, e.g., *Merchant of Venice*, *supra* note 75, at 80 n.63 in which John Russell Brown cites some of the commentary on the question, including that by prominent Shakespeare critics of an earlier day, and then offers his own position.

130. III.ii. (stage direction following line 62).

131. The song begins: "Tell me where is Fancy bred, / Or in the heart, or in the head? / How begot, how nourished?" III.ii.63-65.

132. See, e.g., *Merchant of Venice*, *supra* note 75, at 80 n.63 and *Arden Introduction*, *supra* note 68, at xiv.

133. Harry Berger sends a parallel thought deeper into the domain of the psyche when he writes, "[Portia] wants him but does not want to betray herself to him, and perhaps she would like it if she could somehow unknowingly conspire with him to outwit her father while observing the letter of the law. . . . The dialogue is odd, even compelling, because some of the phrases we hear are muffled indicators that Bassanio and Portia would each like to draw from the other (without being found out) a signal of willingness to dupe the dead father." Berger, *supra* note 124, at 158-59.

this world heroic? Surely, it is too early to say.¹³⁴ But it is not too early to note how clever Portia is at maneuvering between and around seemingly fixed points in her social universe, a cleverness we will see let out to its full extent in her verbal duet and duel with Shylock in Scene iv.

Meanwhile, from those activities which I have termed the “ring rituals,” we will muster the evidence for a second look.

C.

By a route that has wended its way to Act III, Scene ii—non-accidentally, the very heart of the play—the courtship scenes have transported us to Bassanio’s moment of choice, the only moment when his actions, as compared with Antonio’s or Portia’s or Shylock’s, rise to some level of dramatic significance.¹³⁵ It is here that he chooses the lead casket, secures position as Portia’s mate, and utters the invocation that suggests his readiness for true Belmontian status: “joy be the consequence!”¹³⁶ But the speech that concludes with this invocation discredits Bassanio’s worthiness to enjoy the meritocratic role the casket-riddle may be intended to require, for, among Portia’s suitors, only Bassanio has made his casket-choice by dismissing the gold and silver and reaching for the lead without reading or interpreting their messages, let alone assuming the obligation of lead’s solemn oath: “Who chooseth me must give and hazard all he hath.” It is true, of course, that Portia herself has yet to meet this test, if the test requires that the all-giving, all-hazarding person has assumed this status voluntarily: It is her father, after all, who has positioned her “to stand for sacrifice.” Yet, the point, we may assume, is that the father’s intent is not just to deny his daughter control

134. *See infra* Part IV.

135. Among the distancing curiosities the plot consistently yields—matters that disfavor our otherwise-ready alliances to the play’s romantic pairs—is the fact that the foundations for Portia’s love of Bassanio seem insecurely anchored in his thinly drawn character. At an early point, Nerissa refers to him as a “scholar and soldier” (I.ii.109) but, perhaps pointedly, these references are bracketed by parentheses in the text and neither is supported thereafter by Bassanio’s actions, though he does get to deliver one powerfully insightful speech (III.ii.73-107), to which I take exception, on other grounds, in the text within this Section.

What does find support, not infrequently through his own self-incriminating statements, is evidence of Bassanio’s profligacy (I.i.123-34), his conflicted and inconsistent loyalties (IV.i.278-83, 426-27, 448-53), and that helplessness in the face of danger that afflicts the central male characters in the play. If Bassanio appears suitable as Portia’s romantic choice, it is only because her rival suitors are made to seem far less suitable. Or because, at a deeper level, the boyishly graceful seductiveness that puts him at the center of both Portia’s and Antonio’s affections complements the mature strength of Portia’s instrumental nature, or promises a permanent capacity for gender reversal that suits both their natures. In any event, Bassanio is never in the running for the designation “hero.” In that, he joins ranks with all the other male characters in the play.

136. III.ii.107.

over her marital destiny but to winnow out for her a husband of surpassing mettle, one willing to shoulder the utmost risk on account of his choice of Portia.¹³⁷

As of the time Bassanio stands before the casket, it is painfully obvious he falls short of fulfilling this condition and not solely on account of his symbolically significant failure to read and, thereby, to internalize the casket's message. What Bassanio has given and hazarded in his pursuit of Portia are Shylock's money and Antonio's fiscal or personal well-being. The extent to which he remains financially bound to both men is clear. The extent to which he remains emotionally, and perhaps psycho-sexually, bound to Antonio is not. Later in the same scene, the wooing of Portia will again be mythologically analogized to an act of manly courage, the metaphor itself cutting against any evidence of devoted sacrifice in its depersonalized, punningly sexual treatment of women.¹³⁸ To be sure, the reference in question is not uttered by Bassanio but by his companion Gratiano, the suitor of Portia's maid Nerissa, but Gratiano's speech is consistent with the equally depersonalized depiction of courtship-as-commercial-venture that Bassanio first trolled past Antonio to solicit his investment in it.¹³⁹ Moreover, in the next Act's courtroom scene, when he gratuitously and uselessly offers to surrender on Antonio's behalf not just Portia's wealth but Portia herself,¹⁴⁰ and, later, symbolically, her ring,¹⁴¹ it will become clear that Bassanio's failure to read the inscription bespeaks a deeper failure to understand its vow.

The task for Portia, then, is to school Bassanio in the requirements of both personal constancy and marital fidelity, while re-schooling Antonio in the forms of sacrifice appropriate to his revised status in the

137. This is a problematic, and, therefore, an insecure assumption. Like the ghost of Hamlet's father, there is more that is ambiguous than certain in the nature and motives of Portia's father and the winning inscription on the lead casket is itself ambiguous. Indeed, the fact that the losing suitors could not interpret the meanings of the casket riddles, while Bassanio never even engages in the effort complicates any understanding of what the father aimed to have happen in this lottery. Certainly, it undermines the notion that the literacy of accurate interpretation is the true test of a suitor's worth. Like much of the rest of the play, there may be a subtextual comment here on the "winner take all, and by whatever means" strategy that pervades the doings of all of the characters. This possibility undermines my textual defense of the father and my textual critique of Bassanio's conduct. Nevertheless, this second possible reading seemed to justify ventilation.

138. Gratiano's reach for allegorical significance takes him to "We are the Jasons, we have won the fleece," matching his thoughts to earlier ones of Bassanio. *See infra* note 139.

139. Compare Bassanio's "Nor is the wide world ignorant of her worth, / For the four winds blow in from every coast / Renowned suitors, and her sunny locks / Hang on her temples like a golden fleece, / Which makes her seat of Belmont Colchos' strond, / And many Jasons come in quest of her." I.i.167-72.

140. IV.i.278-83.

141. IV.i.448-53.

world of intimacy. The lesson-plan that Portia adapts to these purposes is imbued with sexual inversion and disguise, though it begins in seeming innocence, its didactic message veiled in subtle, rather than secret forms of concealment. The plan, whether or not fully formed when it first unfolds, treats Portia's ring as the test through which she will teach Bassanio, and Antonio too, about the twinned significance of fidelity and sacrifice within the constraints imposed by marriage. The sequence of events through which this theme plays out begins where we have left off, in Act III, Scene ii.

Bassanio has now chosen the leaden casket. The suitor-selection process set in motion by the dead hand of Portia's father is now complete. But the process through which romantic desire becomes linked by the conventions of marriage and dynastic succession¹⁴² to the social stability and lasting order that are the promise of comedic romance has only just begun. For this process to satisfy its own logic, the dynamic elements of the play must come to bear on two impediments to the achievement of marital harmony that have knit together to a considerable extent by the middle of Act III, causing it to form the bridge to the two final Acts, where they will be removed. One of these impediments consists of Bassanio's lingering attachment to Antonio, an attachment that is variously suggested¹⁴³ as being inconsistent with the "mutuall societie, helpe and coumfort," as the Prayer Book of 1549 described it,¹⁴⁴ of monogamous marriage. The other impediment causes the play to achieve its dramatic focus. It is Antonio's melancholic, perhaps self-martyring, surrender to the flesh-bond with Shylock, liberation from which will still require his symbolic sacrifice, this time to the marriage-bond of Portia and Bassanio, at the close of the play.

While the text that contained the key to the suitor-selection conundrum was devised by her father and was only ambiguously revised by her possibly instrumental behaviors in regard to it, Portia's full maturation as a textual interpreter is signaled not only in her by-now familiar mastery over the legal texts that unlock the human-sacrifice conundrum¹⁴⁵

142. The theme of intergenerationalism and ongoingness does not play out only in the affairs of deceased or elderly parent and parent-surrogates and their adult children and child-substitutes. Dynastic succession also becomes a part of the thematic play, becoming enmeshed, at once, in risk/reward materialism by means of Gratiano's and Bassanio's bet as to which couple will have the first boy. See III.ii.213-15.

143. See *infra* note 166 and accompanying text.

144. Quoted in Kastan, *Shakespeare and "The Way of Womenkind,"* DAEDALUS, Summer 1982, at 115.

145. Among the play's manifold ambiguities is the matter of how much of Portia's suddenly explicit mastery over the law derives from the off-stage tutelage she may have received from her

but, I would propose, in her more original and creative achievement: the elucidation of textual significance from the lore, imagery and ritual of the wedding or betrothal ring.

The didactic process that Portia invents through the use of her ring threads its way through the remainder of the play, accomplishing in three installments, each mirrored in similar transactions between Nerissa and Gratiano, the lessons that Portia must teach to Bassanio and Antonio to secure the full promise of her marriage.

The first such lesson is utterly direct, though its context may not promote entire understanding. It occurs immediately after Bassanio's choice when, "[g]iddy in spirit,"¹⁴⁶ he seeks not to rest upon the certainty that he has won Portia, but rather to remain "doubtful . . . Until confirm'd, sign'd, ratified"¹⁴⁷ by her. That is, working both sides of the debate I mentioned earlier, he steps outside the homosocial terms of the male-to-male marriage arrangement that Portia's father had in mind,¹⁴⁸ to ask for her independent and voluntary consent. Portia's response is far more elaborate than the mere consent Bassanio seems to have bargained for. Her speech to him is really a pastiche of responses that incorporates the charmingly, if unconvincingly, self-effacing behavior she demonstrated on meeting him ("but the full sum of me . . . / Is an unlesson'd girl . . . / Happiest of all . . . that her gentle spirit / Commits itself to yours to be directed"),¹⁴⁹ the seemingly habitual association between self-worth and monetary value ("yet for you, / I would be trebled twenty times myself, / A thousand times more fair, ten thousand times more rich, / That only to stand high in your account")¹⁵⁰ that effaces the distinction between the inhabitants of Belmont and Venice, while adding satire to the play's mix of genres; the hyper-conventional and, again, unconvincing assumption of a position subordinate to his ("Myself, and

cousin Bellario. There is no way to tell, though it is only logical to assume that his tutoring has given her some purchase on the statutory penalties for the offenses with which she charges Shylock. The Duke has also been in touch with Bellario (*see* IV.i.105-07), but the extent of their contact is ingeniously compressed out of the telegraphic message we get: Out of these ambiguous clues and my own reading of the scene, I have opted for the view that Portia is no mere puppet of her absent cousin—no more than we have seen her to be the puppet of her dead father—but rather, the author of and, therefore, the responsible moral agent for her conduct in the courtroom scene, including the ethical shortcomings that we are about to delve into.

146. III.ii.144.

147. III.ii.147-48.

148. See Newman, *supra* note 50, at 19-23 for an illuminating discussion of homosocial marriage.

149. III.ii.157-59, 163-64.

150. III.ii.152-55.

what is mine, to you and yours / Is now converted");¹⁵¹ and finally, the more imposing and conditional pledge of fidelity to their marriage that Portia both offers and demands in the symbolic ceremony of betrothal with which she concludes: "This house, these servants, and this same myself / Are yours,—my lord's!—I give them with this ring, / Which when you part from, lose, or give away, / Let it presage the ruin of your love, / And be my vantage to exclaim on you."¹⁵²

Bassanio's reply may evidence his continued bedazzlement. Or, it may speak to his unwillingness to buy into the marriage of unequals which Portia's speech, but not his own earlier bid for her consent, invokes. Then again, it may suggest a certain seductive softness in his nature which simultaneously blurs his sexuality and his social identity,¹⁵³ granting purchase to his status as the singular object of affection of both a powerful older man and a powerful young woman—the conflict the ring rituals will, outwardly at least, resolve. Indeed, it is not implausible to believe that Bassanio's metaphorical resolution of his sexual dilemma begins to converge here, as it finally will do in Act V, with the play's thematic need for a heroine powerful enough to be a man and creative enough to play at being one, while fulfilling Shakespeare's desire for the approbation of his patron Queen, the self-referencing "Prince" I mentioned earlier as the thinly veiled direct addressee of this play. In any event, consistent with his response to the caskets, Bassanio rises to the occasion on a swell of emotion that again—here, explicitly—evidences an intuitive, though not a fully rational understanding of the matter:

Bass. Madam, you have bereft me of all words,
 Only my blood speaks to you in my veins,
 And there is such confusion in my powers,
 As after some oration fairly spoke
 By a beloved prince, there doth appear
 Among the buzzing pleased multitude,
 Where every something being blent together,
 Turns to a wild of nothing, save of joy
 Express'd and not express'd: but when this ring
 Parts from this finger, then parts life from hence, —
 O then be bold to say Bassanio's dead!¹⁵⁴

It is at the conclusion of Act IV that Bassanio's incomprehension of

151. III.ii.166-67.

152. III.ii.170-74.

153. See *infra* note 166.

154. III.ii.175-85.

the ring's symbolic import is made manifest. Portia, disguised as Balthazar, has just saved the life of Antonio, as we will consider more closely in what follows.¹⁵⁵ The threat that Shylock has posed to the Merchant of Venice and, therefore, to Bassanio's peace of mind and Portia's happiness will be no more. Having illumined Shylock's failure to interpret the moral subtext of law,¹⁵⁶ Portia now turns her analytic ray on Bassanio to see how he will interpret the moral subtext of marriage.

Bassanio's response to the test she poses is deeply flawed. Still disguised as Balthazar, Portia first refuses Bassanio's offer to pay to her the sum that he borrowed from Shylock and Antonio guaranteed—a sum Bassanio is now able to proffer only because Portia herself gave it to him to permit his failed ransom of Antonio!¹⁵⁷ It is only when Bassanio presses her/him to accept a keepsake that “Balthazar” asks for the ring Bassanio pledged—on pain of death and only the scarcest time earlier—never to remove from his finger.¹⁵⁸ It is here, when he could announce, in candor, his reason for withholding the ring that Bassanio's failing sets the transaction on its downhill course. Instead of describing his pledge and its importance to the marriage-bond, he trivializes the ring: “alas it is a trifle, / I will not shame myself to give you this”¹⁵⁹ and when, as “Balthazar” becomes more obdurate, Bassanio finally does refer to the transaction with Portia, he describes it literally, rather than giving it symbolic and emotional content, and puts the burden of the undertaking on her, rather than accepting it for himself: “Good sir, this ring was given me by my wife, / And when she put it on, she made me vow / That I should neither sell, nor give, nor lose it.”¹⁶⁰

It is these comments that set up Bassanio for what follows: “Balthazar's” seemingly self-interested, though not altogether unjust interpretation—“And if your wife be not a mad-woman, / And know how well I have deserv'd this ring, / She would not hold out enemy for ever / For giving it to me”¹⁶¹—followed by Antonio's determinative and interpositional over-reaching: “My Lord Bassanio, let him have the ring, / Let

155. See notes 191-228 and accompanying text.

156. This point over-simplifies the relationship between morality and law and Portia's and Shylock's relation to both, as I will discuss in detail later in Part III and again in Part IV.

157. III.ii.297-313.

158. III.ii.171-85.

159. IV.i.426-27.

160. IV.i.437-39.

161. IV.i.441-44.

his deservings and my love withal / Be valued 'gainst your wife's commandement."¹⁶² Is this that same "wife"—referred to in this scene by all, including Bassanio, in this impersonal, distancing way—who "made" him take a "vow" he has already displaced by an interest-balancing test? Any sense that if *The Merchant* contains a hero that hero is Bassanio has been undermined yet further than when he skipped off to woo a rich heiress on lavishly borrowed funds. But Shakespeare will close out this on-stage transaction between Bassanio and Antonio by perturbing our sensibilities yet again. "Balthazar," Nerissa and everyone else have now exited. The two men are left alone on stage, when Bassanio brings the Act to a close with this: "Come, you and I will thither presently, / And in the morning early will we both / Fly toward Belmont,—come Antonio."¹⁶³ Contrast this with Bassanio's final words to Portia, his just-wedded wife, at the close of Act III: "Since I have your good leave to go away, / I will make haste; but till I come again, / No bed shall e'er be guilty of my stay, / Nor rest be interposer 'twixt us twain."¹⁶⁴

Homosexuality was not condoned in Elizabethan England, though Shakespeare himself may have been drawn to it.¹⁶⁵ Despite official censorship, it was not unknown as a dramatic theme, though it had to be handled with care. In *The Merchant*, care has consisted primarily of ambiguity, such that the attachment between Antonio and Bassanio is given, at times, to resemble that of a father-surrogate and his son; at times, that of two men whose relationship captures the emotional essence of the Renaissance ideal of friendship; while only interleaved between these two referential frames are there always-ambiguous glimpses to be had of the pair's possibly homosexual, in addition to homosocial, bond.¹⁶⁶

162. IV.i.445-47.

163. IV.ii.451-53.

164. III.ii.322-25.

165. This is a heavily bombarded issue in the critical literature. An especially nuanced interpretation of the textual evidence from an obviously empathic reader is L. FIEDLER, *supra* note 96, at 15-81. See also Smidt, *supra* note 124, at 19-21. Shakespeare's sexual preferences lend fuel to the feminist debate about his treatment of women characters, though, curiously, this theme is not picked up in even the strongest feminist critiques of Shakespeare I have read.

166. Parent/Friend/Lover: The subtle variants and critical ambiguities that are unique to Antonio's and Bassanio's relationship and give rise to these and other possibilities do not lead necessarily to unitary interpretation, though they have often received it. See *supra* note 165. For instance, the paternal, or avuncular, qualities in Antonio's attachment to Bassanio, manifested in his extreme financial generosity and, arguably, in his insistence that "Balthazar" be gratified in "his" seemingly modest desire for Portia's ring, are not inconsistent with homosexual attachment, though a purely emotional tie to Bassanio would be capable of inducing Antonio's rivalrous "My Lord Bassanio, let him have the ring, / Let his deservings and my love withal / Be valued 'gainst your wife's commandement." (IV.i.445-47). Indeed, still another possibility seems viable, though it has gone unnoticed in the criticism I have encountered that focuses on the two men's relationship. It is that

Because the problem of attachment between Bassanio and Antonio is textualized more subtly than the conflict with her domineering father that Portia works creatively to resolve and the altogether-explicit problem with Shylock that she must find an explicit way to solve, her response to the two men's involvement takes a more subtle and, perhaps of necessity, a less convincing form than her other actions. What is subtle about Portia's response is its simultaneously explicit and implicit, literal and symbolic properties: It seeks to foster an acknowledgment and, through acknowledgment, an understanding in Bassanio of the completeness and exclusivity of marital alliance in such a way as to promote—or force—his disattachment from Antonio, even as it obliges Antonio to assume a symbolically paternal role in connection with a second, marriage-like, ring ritual. And it reinforces the relationship between marital choice, loyalty, and fidelity and the need for interpretive clarity about their mutual dependence by translating the casket metaphor—an elaborate, punning Elizabethan reference both to women's genitalia and to the box used to bury the dead, where “die” meant both to achieve orgasm and to end life—into the ring metaphor—another elaborate pun, referencing all at once the female sexual organ, chastity, and the symbol of marital fidelity, while re-working the folkloric ritual of three chances, first introduced in her father's casket-lottery, into Portia's own tripartite ring rituals.

It is in the ring rituals that we see, to borrow a phrase of Shylock's, that Portia may lay claim to having bettered her father's instruction,¹⁶⁷

Antonio is and understands himself to be homosexual (“I am a tainted wether of the flock, / Meetest for death,—the weakest kind of fruit / Drops earliest to the ground,” IV.i.114-16) whose fantasies about Bassanio sometimes color his rhetoric (“My purse, my person, my extremest means / Lie all unlock'd to your occasions,” I.i.138-39) but whose passion is not requited. This possibility is at least undercut by Bassanio's already-mentioned offer to spend the night with Antonio at the close of the courtroom scene (IV.i.451-53) in derogation of his vow to Portia (“No bed shall e'er be guilty of my stay, / Nor rest be interposer 'twixt us twain,” III.ii.324-25), but still there seems to be a lesser degree of innuendo in his gestures toward Antonio than in Antonio's toward him.

These inconclusively layered meanings, strewn throughout the text, may well invite but do not force interpretation of their sexual significance. The option of walking past this invitation seems not to belong to contemporary directors, however. For whatever reason or reasons, they seem determined to portray Antonio as overtly homosexual and the relationship with Bassanio as actively sexual, though the latter is not as consistent a matter as the former. This treatment, unlikely to have been foregrounded so insistently in earlier productions, necessarily complicates the portrayal of any conventional basis in love for the Portia-Bassanio romance, a difficulty not every contemporary rendering seems to have found a way to resolve. It may be that the subtler tensions between idealized male friendship and monogamous marriage—tensions that had a lot of resonance for the audience of Shakespeare's time—are considered less accessible to today's audience than is the theme of homosexual-heterosexual conflict, but there is certainly a loss of suggestive power in the acting-out, as it were, of this conflict.

167. III.i.66. See *infra* text accompanying note 184.

for the ring rituals, as a course of study, are of a more varied and creative design than was the casket-lottery.¹⁶⁸ The first ritual was, as we have seen, an explicitly didactic pledge.¹⁶⁹ The second, a test, was disguised when Portia herself was disguised.¹⁷⁰ The third and last of the rituals we shall now consider, noting by way of entrée, that the conclusion of Portia's pledge—"Let it [Bassanio's giveaway] presage the ruin of your love, / And be my vantage to exclaim on you"¹⁷¹—was sufficiently ambiguous to permit a considerable range of response within the third remaining ritual. Will Portia "exclaim" on Bassanio by a mere protestation against the breaking of his vow?¹⁷² By chastening him more fully? By withdrawing, or threatening to withdraw, from the yet-unconsummated union? How might she re-encircle Bassanio in a fully monogamous relationship that lastingly excludes the generous but rivalrous Antonio? And how, in the course of these recastings, will she reveal the disguised identities through which she, as "Balthazar," and Nerissa, as her clerk, have worked the liberation of Antonio, so that what she has already given and hazarded in the service of this marriage can be exposed as a part of its true foundation?

Perhaps to help compensate for the anti-climactic nature of the fifth Act in contrast to the just-concluded courtroom scenario—the dramatic cornerstone of the play that we will next examine—the action is tightly centered on the third ring ritual, through which all the necessary transactions are played out. In a series of peppery speeches that contain a remarkable admixture of scorn and mockery, pain or its counterfeit, remonstrance and admonition, laughter and forgiveness, Portia, doubled by Nerissa, leads all three men—Bassanio, Antonio and Gratiano—to the didactic recognitions on which depend the happiness of the two young couples and the future of the play's romantic pairs. The clearest, most textually explicit of these recognitions, accomplished through a

168. Here, in my interpretation of the ring rituals, I lay perhaps extreme emphasis on the instrumental, rather than the symbolic, literary, or anthropological aspects of the ring subplot. This strikes me as an overt manifestation of my lawyerly, rather than literary-critical training and, by now, professional bias. For a richer, more classically grounded interpretation, see Newman, *supra* note 50.

169. III.ii.171-74.

170. IV.i.421-50.

171. III.ii.173-74.

172. According to Lisa Jardine, the term "exclaim" is linked to "quitclaim" in that, traditionally, the contractual obligation to marry could be renounced and an as-yet unconsummated betrothal disavowed if the pledge that accompanied the transmittal of the ring were to be broken. See Jardine, *supra* note 31, at 12-13 nn. 33-36.

new, clarifying exchange of vows, is that the oath of fidelity that accompanies the acceptance of a marriage or betrothal ring requires strict adherence for a marriage to achieve its full and lasting consummation. The second, more symbolic recognition is that which places Antonio outside the charmed circle of the romantic pairs. This, Portia accomplishes by directing Antonio to assume the joint roles of ring-bearer and communal elder that the father and priest play in the nuptial rite—"give him this, / And bid him keep it better than the other"¹⁷³ instructs Portia, to which Antonio dutifully responds: "Here Lord Bassanio, swear to keep this ring."¹⁷⁴

The third recognition is sub-textual. That is, it derives from the patterning of action and dialogue that culminates in this scene but is observable only at the critical distance achieved by reader or by audience, rather than by or among the characters on the stage. It is captured in the ease and fluidity and control that are so much the mark of Portia's and Nerissa's dominance of this fifth and final Act. Earlier, disguised as men, and even now, when returned to manifest womanhood, they have elided the gender distinctions on which so much social convention has depended. As "men" doing the work traditionally reserved to men—providing definitive interpretations of the social texts of law, morality and relationship—they have bested the efforts of all the "real" men in the play. Indeed, in one manner or another, each of the male principals—Antonio, Bassanio, Gratiano, suitor of Nerissa and Bassanio's double in the romantic subplot, and, as we are about to see, Shylock—has become stuck in a soup of his own devising. Each recipe devised by a man for maintaining or renewing the social order has failed to nourish that order. Indeed, *none* of these men has been fully capable of securing even his narrow self-interest! Moreover, when romance, happiness and the promise of dynastic succession have finally been accomplished—all, through the paradoxically comedic misrule of women¹⁷⁵—the parting dialogic gestures of the men continue to evidence their passivity, their disturbingly un-romantic coarseness and, rather more understandably, the sexual anxiety that accompanies their marriages to these strong women.¹⁷⁶

173. V.i.254-55.

174. V.i.256. Note the parallelism that links this highly formal reference to "Lord Bassanio" with the reference—the only other of its kind on Antonio's part—made when Antonio chides Bassanio for not being willing to surrender the same ring to "Balthazar." (IV.i.445). By this explicit cross-reference, Shakespeare enlists rhetoric in the service of the behavioral and attitudinal shift on Antonio's part that these mirrored transactions serve to explicate.

175. On women's "misrule," see *supra* note 73.

176. The final act is a Freudian interpreter's dream: Antonio having received surprising news

But female strength and fluidity set against male helplessness, inflexibility and bravado is not the only lasting perturbation with which Shakespeare rocks this play. For another, crucial to the evaluation we shall attempt in Part IV, we must return briefly to Act III and then to Act IV and the courtroom scene where, to state my version of the bottom line, we shall see Portia save one man to secure her happiness with a second, but only by spearheading the destruction of a third.

D.

We have reached the second scene of Act III, wherein news reaches Portia and Bassanio that the time has run on Bassanio's obligation to Shylock and that Antonio's seagoing ventures have all, it seems, failed.¹⁷⁷ The news continues: Shylock's flesh-bond is no longer, if it ever was, a "merry jest": "He plies the duke at morning and at night, / And doth impeach the freedom of the state / If they deny him justice"¹⁷⁸ which, for Shylock, has come to mean "That he would rather have Antonio's flesh / Than twenty times the value of the sum / That he did owe him,"¹⁷⁹ so that "none can drive him from the envious plea / Of forfeiture, of justice, and his bond."¹⁸⁰

This news, conveyed to Belmont by Salerio and Solanio, friends of Antonio and Bassanio, is, not surprisingly, one-sided. Were Shylock to have sent his own representative, a different side of the story would have emerged, for since we last checked in on Shylock, his only child, Jessica, has eloped with Lorenzo, a friend of Bassanio and Gratiano and, therefore, a member of Antonio's circle. What is more, Jessica has converted to Christianity and stolen from Shylock's house considerable money and jewels and even the betrothal ring given him before their marriage by his now-deceased wife—a ring which, in marked contrast to Bassanio and Gratiano and now to his newly Christian, newly prodigal daughter, he

from the mysteriously well-informed Portia that his ships are safe from the ruination that had been assumed since nearly the beginning of the play, fades into solitude without so much as an "adieu" to Bassanio. For his part, Bassanio offers an aside easily interpreted as the verbalization of castration anxiety (V.i.177-78), evoked by his remorse for his faithlessness over the ring, if not his possible sexual disloyalty with Antonio, to whom—perhaps pointedly—he never utters a direct word in this scene. Gratiano re-presents himself as a high-spirited lout, brandishing verbal threats, in the form of castration puns (V.i.236-37), and, in a final, ironic subversion of the romantic fade-out that Act V is constructed to deliver, ends the scene, and the play, with a tired and extremely coarse pun on rings, female genitalia and the chafing anxieties that males experience as a consequence of heterosexual monogamy. (V.i.306-07).

177. III.ii.262-70.

178. III.ii.276-78.

179. III.ii.285-87.

180. III.ii.281-82.

held dear and safe in loyalty to his wife's memory.¹⁸¹ Moreover, prior to their arrival in Belmont, Salerio and Solanio have continued to mock and bait Shylock, even in his angry, confused, semi-comic grieving over the losses involving Jessica, re-evoking Antonio's consistently hateful, provocative treatment of him.

Recalling this treatment, recounting its dimensions—"he hath disgrac'd me, and hind'ed me half a million, laugh'd at my losses, mock'd at my gains, scorned my nation, thwarted my bargains, cooled my friends, heated mine enemies"¹⁸²—Shylock goes on to offer the tortured account through which he achieves the fullest dramatic height of any character in the play,¹⁸³ while rising above the stock Jewish anti-Christ,

181. In marked contrast to the by-play involving rings, disloyalty, possible sexual infidelity and prodigality among the Christians in the play, Shylock provides a glimpse into an undisfigured portion of his soul in the sorrowful rejoinder he delivers on discovering that his daughter Jessica has traded his cherished betrothal ring for a monkey, symbol to the Elizabethans of wantonly lewd behavior: "thou torturest me Tubal,—it was my turquoise, I had it of Leah when I was a bachelor: I would not have given it for a wilderness of monkeys." (III.i.110-13). It is likely that this terse reflection of his grief and unpitied victimization marks the point in the play when the audience, though never anyone on the stage, begins to feel for the tortured bit of humanity that the vengeance-driven Shylock remains. For an elegant elaboration of the multiple meanings of the scapegoat as structure and theme in *The Merchant*, see Girard, "To Entrap the Wisest": *A Reading of The Merchant of Venice*, in *LITERATURE AND SOCIETY* 100 (E. Said ed. 1980).

182. III.i.48-52.

183. There is fearsome debate in the critical literature about whether and to what extent Shakespeare consciously intended for Shylock to become a figure of pathos, of tragic dimension. On one view, Shylock's rise to dramatic height is a product of Shakespeare's losing control over the comedic amusement the play set out to be, a process not made manifest until a series of great English actors, beginning in 1814 with Edmund Kean, transformed the role from that of a comic or grotesque to one which elicited from William Hazlitt the response: "his Jew is more than half a Christian. Certainly our sympathies are much oftener with him than with his enemies. He is honest in his vices; they are hypocrites in their virtues." *Arden Introduction*, *supra* note 68, at xxxiv (quoting from *The Chronicle*, Apr. 6, 1816).

Later than Hazlitt though earlier than we, a generation of critics, including some highly prominent ones, considered tragic portrayals of Shylock to do violence to Shakespeare's intent. Shylock is, on this further view, a comic part which "has been the victim of the great actor." E. M. W. TILLYARD, *SHAKESPEARE'S EARLY COMEDIES* 189 (1965). As the eminent critic E. E. Stoll more roundly argued:

Shylock's disappointment is tragic to him, but good care is taken that it shall not be to us. . . . The [courtroom] scene is a rise and a fall, a triumph turned into a defeat, an apparent tragedy into a comedy; and the defeat is made to repeat the stages of the triumph so as to bring home to us the fact—the comic fact—of retribution. . . . The outcries against the Jew and his stony heart, of the Duke, Bassanio, and Gratiano—protested against by Antonio as futile—give place to the jeers of Gratiano and the irony of the fair judge. . . . But for more than the meagre mercy which Shylock is shown there is neither time nor place. . . . The Jew's very words are echoed by Portia and Gratiano as they jeer, and at every turn that the course of justice takes . . . there are now peals and shouts of laughter

E. E. STOLL, *SHAKESPEARE STUDIES* 317-18 (1927).

It may matter that Stoll and his contemporaries wrote so far ahead of what Leslie Fiedler has called "the inadvertent achievement of the greatest anti-Semite of all time," whose "final solution" to the Jewish problem has done much to reduce both the comic and terrible aspects of Shylock to, at

machiavels and comic villains of common portrayal in Shakespeare's time, as he reveals the arrogance and bigotry that has reduced Antonio into the morally foreshortened victim of his own pain-drenched need for revenge:

—and what's his reason? I am a Jew. Hath not a Jew eyes? hath not a Jew hands, organs, dimensions, senses, affections, passions? fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer as a Christian is?—if you prick us do we not bleed? if you tickle us do we not laugh? if you poison us do we not die? and if you wrong us shall we not revenge?—if we are like you in the rest, we will resemble you in that. If a Jew wrong a Christian, what is his humility? revenge! If a Christian wrong a Jew, what should his sufferance be by Christian example?—why revenge! The villainy you teach me I will execute, and it shall go hard but I will better the instruction.¹⁸⁴

As philosophers are fond of noting, reasons are not justifications. It is not that blight makes might right, not that these wounds against Shylock's humanity validate his desire to wound Antonio mortally. But here, before his final undoing, Shylock kindles our responsive sympathy by revealing something of himself and the awful history of his antagonism toward Antonio and the other Jew-baiting Venetians that, for their part, they never have or will go beyond repeating. A crucial shift has just taken place in the dramatic balance—a complex balance between comedy and tragedy, between abstraction and characterization, between amusement and involvement—that offers the audience a privileged vantage-point, relative to Portia's blind and distant one. Having dominated the action until now, she has suddenly been excluded from it in a crucial

most, "uneasy laughter." L. FIEDLER, *supra* note 96, at 98. Still, more or less stalwart defenses of the conduct of Portia and the Venetians live on, prompting Rene Girard's witty riposte: "Those critics who idealize the Venetians write as if the many textual clues that contradict their view were not planted by the author himself, as if their presence in the play were a purely fortuitous matter, like the arrival of a bill in the morning mail when one really expects a love letter." Girard, *supra* note 181, at 100-01.

The very different view, with which it should be clear by now that my own sympathies lie, accords primary significance to the over-all pattern which treats the extraordinarily packed and balanced virtues and vices, idiosyncracies and stereotypes of all of the principal characters as a part of Shakespeare's design to subvert the authority of our faith in the distinction between Christian and Jew, male and female, Belmont and Venice, and most central to my argument—Portian and Shylockian justice. As Keith Geary has commented, looking back on Stoll's argument and others similarly situated: "The black-and-white judgement that E.E. Stoll . . . encourages seems peculiarly inappropriate to a play that argues the falsity of such neat and absolute distinctions. *The Merchant of Venice* deals in shades of grey and continually raises the problem of appropriate response and judgement" Geary, *supra* note 71, at 55.

184. III.i.52-66.

way. A new bond has been formed, a bond between Shylock and those outside the play who are aware of his pain, the only bond that Portia will never have the opportunity to interpret, for she never catches even a glimpse of these humanizing dimensions of Shylock—his losses, his deep injuries, his confusion, the responsive nature of his hatred—meeting him, as she does, for the first and last time in the courtroom, only after Shylock's great speech, unanswered, has fallen on the remorselessly deaf ears of Salerio and Solanio. And—crucially—on ours.

We are back in Belmont, a scene later. Bassanio has just read a note from Antonio entreating him to come to Venice, an entreaty wrapped, as usual, in the play's most sustained self-critical allusion, the metaphorical link between financial and personal worth: "all debts are clear'd between you and I, if I might but see you at my death."¹⁸⁵ It is this same metaphor that brackets the scene as a whole, for at its beginning Bassanio reveals to Portia, as the basis for Antonio's predicament, his debt and complete impoverishment, while, at its end, Portia dispatches Bassanio to Venice, authorizing him to spend vast sums to free Antonio, while punning on the dominant theme: "Since you are dear bought, I will love you dear."¹⁸⁶

The action surges toward the courtroom scene. No sooner is Bassanio *en route* than Portia, punning still more elaborately, hints broadly to Nerissa, and, therefore, to the rest of us, of the cross-dressing venture which will shortly gain them admission to the Venetian courtroom, Portia in the guise of "Balthazar," a young legal "doctor," with Nerissa suited up as "his" "clerk."

The speech that launches this expedition¹⁸⁷ may function by way of ironic juxtaposition, when held alongside the famous "mercy" speech that follows,¹⁸⁸ as well as when compared to Shylock's compelling "Hath not a Jew eyes?"¹⁸⁹ so recently concluded, for it is composed entirely in the key of comedy and altogether lacks moral substance. As Portia describes what is to follow, disguise and adventure are all—or rather, there is one additional, transformative ingredient, exemplified by this rhetorical flourish: "I'll hold thee any wager / When we are both accoutered like young men, / I'll prove the prettier fellow of the two, / And wear my

185. III.ii.317-18.

186. III.ii.312.

187. III.iv.60-78.

188. IV.i.180-202.

189. III.i.47-66.

dagger with the braver grace.”¹⁹⁰ It seems Shakespeare’s bag of interpretation-begging devices, themes and questions never empties. In Portia’s and Nerissa’s relationship we have, until now, borne witness to the only unpredatory, unproblematic, undisturbing intimacy in the entire play. And so it will remain, but for this one jarring moment when the delightful relational balance that exists, despite their vast disparity in station, is subverted by the suggestion that, just as soon as they even *play* at being male, competitive-aggressive behavior will serve to destroy that balance—a matter of intrigue, couched within the general intrigue that will get revisited in the discussion that follows in Part IV.

By the time we reach the courtroom scene in Act IV, the sides are drawn. Antonio—melancholy over the loss of Bassanio and wracked by the loss of his fleet, generous to a fault in his lending of money and equally generous in his goading hatred of Shylock—stands, as Portia claimed to stand, for sacrifice. Shylock, wounded by his personal, financial and psychological losses—Antonio’s double, in these regards, but for the crucial difference in the far more personal way these losses have been inflicted—stands for vengeance. So it is Shylock against Antonio, Jew against Christian. But it is also Jew, alien, alienated and alienating, against all of the rest of Venice—its presiding Duke, its magnificoes, Antonio, and Antonio and Bassanio’s wide circle of friends and acquaintances—the Christian community, the moral community which will swiftly, by one of the play’s manifold acts of conversion, turn Shylock’s suit for a legal judgment of execution against Antonio into a moral judgment that gives onto a criminal case against Shylock. Even outside the borders of its comedic dimensions, the play remains faithful to transformative possibility: Everything remains fluid and subject to interpretation—everything, that is, except Shylock’s driven, bounded, altogether-literal persona which has failed to help him forecast the danger in his own deceitful conversion of a “merry jest” into a murder weapon.

By the time that Portia, disguised as “Balthazar,” enters the courtroom, the Duke—no impartial arbiter of these events, though his role, presumably, is otherwise—has already conducted a mini-trial of the proceedings. In so doing, he has placed Shylock on the extreme defensive—first, by framing the conflict as a moral rather than as a legal one;¹⁹¹

190. III.iv.62-65.

191. IV.i.18-21.

second, by re-framing the conflict as one between “the world” and Shylock,¹⁹² third, by insisting that morality requires, and as morality’s collective voice “We all expect,”¹⁹³ both a voluntary forfeit of the flesh-bond and also the harsh and wholly arbitrary forfeiture of half the principal—a debt still owed, though “the world” seems oddly indisposed to remember it, by the newly enriched debtor, Bassanio, not, in the first instance, by his surety, the seemingly impoverished Antonio. Lastly, the Duke insults Shylock, trifling with his identity by employing the same pun with which Antonio earlier abused Shylock, thereby bracketing at each end of the play its punitive, identity-depriving outcome: “We all expect a gentle [gentile] answer Jew!”¹⁹⁴

Small wonder that Shylock’s response is to stand on law—to flee to the reliable—he hopes—impersonality of law; to invoke Venice’s need, as an international trading center, for impartial law; to remind the Venetians of their contemptible and wholly unmerciful practice of slavery; and to refuse, simultaneously, to treat himself or his motives as the subject of inquiry.¹⁹⁵ The response to Shylock’s unadorned and non-obsequious reframing—his demand for impartial legal process—is verbal abuse from Bassanio and Antonio as the packaging for what, in fact, is a generous financial tender on Bassanio’s part—double the borrowed sum—followed, on Shylock’s wounded and defensive refusal, by the Duke’s threat to shut down the proceeding unless a certain “Dr. Bellario,” a juridical specialist from Padua, comes to bail it out.

Enter Portia, cousin of Bellario, as “Balthazar,” a young legal “doctor” from Rome sent, so “he” claims, in the stead of the ill Bellario, and

192. IV.i.17.

193. IV.i.34.

194. *Id.*

195. IV.i.89-103. Like an external, unwanted superego, Shylock attempts to pith the Venetians’ hypocritical blindness toward their own chronic mercilessness, reminding them:

You have among you many a purchas’d slave,
Which (like your asses, and your dogs and mules)
You use in abject and in slavish parts,
Because you bought them,—shall I say to you,
Let them be free, marry them to your heirs?
Why sweat they under burthens? let their beds
Be made as soft as yours, and let their palates
Be season’d with such viands? you will answer
“The slaves are ours,”—so do I answered you:
The pound of flesh which I demand of him
Is dearly bought, ’tis mine and I will have it

IV.i.90-100.

As more than one critic has noted, Shylock’s unrelenting, unperfumed, un-Venetian candor is itself a reason the Christians would like him expunged.

the matter recommences, sounding, as it does so, a dramatically different note. The initial exchange is between the Duke and the disguised Portia, whose opening query suggests the possibility, for the first time in these proceedings, of impartial justice. "Which is the merchant here? and which the Jew?"¹⁹⁶ Portia inquires, as blind, it seems, as would be Justice herself to the glaring visual disparity between the sumptuously clad Antonio and the lone gnarled, bearded figure garbed in his dark, plain "Jewish gaberdine."¹⁹⁷ Is this apparent impartiality a ruse, a formality offered up to mask rhetorically what Portia's disguise hides visually: that she is Bassanio's wife here for a single-minded purpose—to free Antonio? We need not yet conclude this, for, as we shall next observe, there is a shifting balance in the ensuing dialogue between Portia and Shylock that may play a role in our evaluation of her conduct.

Her next gesture toward Shylock is, on the other hand, little else but damaging to a portrayal of Portia as heroine of the hour. Note the change-up, the kind of bait-and-switch, that results from Portia's two sequential gestures toward him. Here is the first: "Of a strange nature is the suit you follow, / Yet in such rule, that the Venetian law / Cannot impugn you as you do proceed."¹⁹⁸ Yet here, after she has elicited from Antonio his agreement to the validity of the bond is the second: "Then must the Jew be merciful."¹⁹⁹ On the one hand, "rule," the rule of law, "cannot impugn" him, Portia tells Shylock. On the other, "Balthazar," newly arrived juridical representative of the Christian power elite, places him under some unreferenced compulsion to "be merciful." Moreover, taking up exactly where the Duke left off, Portia has addressed her mandate not to Shylock by name, nor, conversationally or dialogically, to him in the vocative case. Instead, once again, distanced as far as possible from everyone else, he is referenced, nominatively, as "the Jew." It is his terse and, not surprisingly, quizzical "On what compulsion must I?"²⁰⁰ that offers the lead to Portia's eloquent, mellifluous, justly famous but, from where Shylock is situated, understandably unpersuasive speech:

Por. The quality of mercy is not strain'd,
It droppeth as the gentle rain from heaven
Upon the place beneath: it is twice blest,
It blesseth him that gives, and him that takes,

196. IV.i.170.

197. I.iii.107.

198. IV.i.173-75.

199. IV.i.178.

200. IV.i.179.

'Tis mightiest in the mightiest, it becomes
 The throned monarch better than his crown.
 His sceptre shows the force of temporal power,
 The attribute to awe and majesty,
 Wherein doth sit the dread and fear of kings:
 But mercy is above this sceptred sway,
 It is enthroned in the hearts of kings,
 It is an attribute to God himself;
 And earthly power doth then show likest God's
 When mercy seasons justice: therefore Jew,
 Though justice be thy plea, consider this,
 That in the course of justice, none of us
 Should see salvation: we do pray for mercy,
 And that same prayer, doth teach us all to render
 The deeds of mercy. I have spoke thus much
 To mitigate the justice of thy plea,
 Which if thou follow, this strict court of Venice
 Must needs give sentence 'gainst the merchant there.²⁰¹

Perhaps this opening effort should lead us to respond with considerations of an "on the one hand, on the other" variety, for it may well be that Portia seeks to enlist Shylock, as has the Duke, as a member of the moral community. However, the rhetorical mandate with which she initiated their exchange has turned out to provide no ground for his "compulsion" to join it unless, in preview of the outcome soon to follow, the ground is that it is mercy, not justice, that must be understood literally to be our saving grace, without which we are all compelled to damnation. But look at the package Shylock is being asked—or, rather told—to accept: a plea to his own self-interest, understood by all within a moral community he stands completely outside, to entail belief in *its* "God," not his; *its* "heaven," *its* "salvation," *its* "mercy." What is more, though Portia presents this package innocent of the knowledge that Antonio and the others have hated and baited Shylock unceasingly for his Jewishness; innocent, even of the fact that, as Shylock has so recently reminded the Duke and the assemblage, the Venetians not only keep slaves but treat them mercilessly, she is certainly not innocent of the knowledge that she, Nerissa and Jessica have somehow managed to have their courtships funded entirely by Shylock, who is unfairly out all of the money implicated in these arrangements, and that Jessica, who has treated her father heinously, is now being harbored at Belmont.²⁰²

201. IV.i.180-202.

202. Since the Jessica-Lorenzo romance has, in essence, fallen out of this reading, there has been no prior occasion on which to mention that they, the play's sweetest pair, however prodigal, have

Small wonder, then, that Shylock reacts rigidly and defensively to this supposed mandate which seeks not so much his ethical but his religious conversion and that he adamantly retreats to the alternative Portia continues to hold out to him, a mandate of a different kind, which she continues to place reassuringly where he keeps expecting—and being encouraged—to find it: “this strict court of Venice / Must needs give sentence ’gainst the merchant there.”²⁰³

As in the casket-lottery and the ring rituals, the pedagogy of the courtroom scene requires for its dramatic unfolding the mythic-folkloric necessity of three passes at the eventual result. The first of these, we have just considered. The second, which centers on Bassanio’s offer to pay tenfold the borrowed sum, finds Portia again offering Shylock reassurance that his plea for law is good, that is to say, valid, for when Bassanio implores that Portia substitute arbitrary “authority” for law²⁰⁴ in order to negate the bond by fiat, she reacts as if the flesh-bond were the analog not merely of an ordinary contractual obligation but, instead, of a precedent-setting “decree.”²⁰⁵ Ensnared, Shylock emits an Old Testament cheer for the law—“A Daniel come to judgment: yea a Daniell / O wise young judge how I do honour thee!”²⁰⁶—then, spurred on by the momentum that Portia’s intercessions seem to have created for his vengeful cause, he ties together, in the manner of her “mercy” speech but with his usual succinct passion, the religious and ethical taproots of his suit: “An oath, an oath, I have an oath in heaven, — / Shall I lay perjury upon my soul? No not for Venice.”²⁰⁷

Shylock is implacable. He wants only what he has come to have and that is vengeance, in the reified form of a pound of Antonio’s flesh. But it is this atavistic yearning, bent and twisted into its present shape by sustained communal antagonism, we may have come to believe, that places Shylock beyond the reach of Portia’s sudden turn to a direct, less-posed urging—“Shylock there’s thrice thy money off’red thee”²⁰⁸—and leaves him squarely in the path of her third and final intervention, the hyper-literal interpretation of the flesh-bond that will prove the undoing of his plan and, finally, of his identity.

taken refuge in Belmont, where Portia has left them in charge during her sojourn to Venice. (See III.ii.219-23; III.iv.1-44; and, for some of the most gorgeous utterances in the play, see V.i.54-88.)

203. IV.i.200-01.

204. IV.i.211.

205. IV.i.215.

206. IV.i.219-20.

207. IV.i.224-26.

208. IV.i.223.

It is in this last exchange, wherein Shylock abjures the possibility of change, of persuasion, of transformation by choice or by consent—"by my soul I swear, / There is no power in the tongue of man / to alter me"²⁰⁹—that Portia turns on him and does so unrelentingly—indeed, mercilessly—proving that language, the figurative "tongue of man," *does* have the power to alter him, or anyone, provided it is backed by coercive power—here, the coercive power of the legal establishment, which in its concordant role as moral community has consistently rejected him, only now, in fatally unacceptable and untimely terms, to command him to change and to enter. Aggressively, Portia bears down on Shylock. Her last offer—"be merciful, / Take thrice thy money, bid me tear the bond"²¹⁰—having been refused, she eggs him on one final time²¹¹ before delivering, in extended, dialogic form, her coup de grace:

Take then thy bond, take thou thy pound of flesh,
But in the cutting it, if thou dost shed
One drop of Christian blood, thy lands and goods
Are (by the laws of Venice) confiscate
Unto the state of Venice.²¹²

Is Portia's reading, then, "a wretched subterfuge,"²¹³ a "miserable pettifogging trick,"²¹⁴ a "flagrant distortion"²¹⁵ of the bond, as her latter-day critics have insisted? Doubtless, it is the case that a contract may imply some of its operative terms without suffering interpretive defeat. Thus, it is assumed, in the ordinary course, that when one signs up to give blood, the person drawing it commits no battery in piercing one's

209. IV.i.236-38. Compare III.iii.14-17, where the later action is prefigured when Shylock earlier cuts off—how apt the idiom!—Antonio's speech with: "I'll not be made a soft and dull-ey'd fool, / To shake the head, relent, and sigh, and yield / To Christian intercessors . . . I'll have no speaking." And, still earlier, on the eve of Jessica's elopement, again intuitively fearful of Christian penetration, we find: "Hear you me Jessica, / Lock up my doors, and when you hear the drum / And the vile squealing of the wry-neck'd fife . . . stop my house's ears, I mean my casements, / Let not the sound of shallow fopp'ry enter / My sober house." II.v.28-36.

210. IV.i.229-30.

211. IV.i.240-41.

212. IV.i.304-08.

213. O. H. PHILLIPS, *SHAKESPEARE AND THE LAWYERS* 93 (1972) (citing, perhaps translating, the great German jurist Rudolf von Ihering, who wrote about the courtroom scene in *DER KAMPF UMS RECHT* (1872)).

214. *Id.*

215. T. EAGLETON, *WILLIAM SHAKESPEARE* 37 (1986). Predictably one-sided and damning in his judgment of the Venetians and of their disguised hand-maid Portia, Eagleton, begging the crucial question, opines: "Portia's ingenious quibbling would be ruled out of order in a modern court, and Shylock (given that his bond were legal in the first place) would win his case." *Id.* However unobvious, Eagleton's is a passionate, though seemingly unsparring exercise that rewards engagement.

flesh, though the legal instrument authorizing the procedure may be silent on the infliction of a wound. But interpretive generosity, the non-literal rendering often necessary to effectuate through reasonable inference the stipulated end sought by parties to legal arrangements, is a secondary process, one that does not come into play unless and until it has been determined that the end itself deserves legal legitimation. The flesh-bond fails to deserve legitimacy, however, on two quite separate grounds: it was procured by fraud, Antonio's consent having been conditioned on the offer of a jest, and is, no less than any other sort of murder contract, torture compact or suicide pact, the attempted commodification of human suffering which must be voided *contra bonos mores*, no matter how procured. To this extent, the frustration of Shylock's purpose survives rational reconstruction even as it dissolves into the plot's dramatic logic, where it services the need to vanquish the Shylock whose structural role is that of conventional blocking agent, the comic villain who would obstruct the achievement of communal harmony and the personal happiness of the play's romantic pairs.²¹⁶

Of course, in law rather than in its theatrical representation, our expectation and demand would be for a judgment to rest on its foundational principles and not on an interpretive quibble, the distinction between "flesh" and "blood" on which Portia rests her case. Yet Shylock's repeated, insistent demand for "justice," his consistent retreat to the literal terms of the bond in response to the oppositional alternatives—generosity, on the one hand; greed, on the other—urged on him by both Portia and Bassanio gives rise to the possibility that, even as a matter of formal justice, Portia's quibble can be understood to relate to the unfairness of his claim, a practice akin to our own when we construe contracts literally against the side for which they are drafted, where bargaining positions are so unequal that fair negotiation cannot be had. Thus do our attempts at real-world justice sometimes, at least marginally, resemble poetic justice, vitiating the standard criticisms of Portia's interpretation of the bond.²¹⁷

216. Linda Bamber makes the interesting, debatable point: "Blocking figures like Malvolio and Shylock do not so much disrupt the social order as struggle for the power to define it in their own terms." L. BAMBER, *supra* note 59, at 28. For a brief and useful discussion of the functions that Shylock and Antonio perform as blocking agents who must be removed from the romantic thrust of the play's action "in order to liberate the natural energies of the community," see Cantor, *Religion and the Limits of Community in The Merchant of Venice*, 70 *SOUNDINGS* 239, 256 (1987).

217. A fascinating, if unorganized collation of such criticisms, together with a few defenses of Portia, composes the chapter *The Trial in The Merchant of Venice* in O. H. PHILLIPS, *supra* note 213, at 91. By far the most extreme of the more recent criticisms is Eagleton's, *supra* note 215, at 35-48.

But the validity of the flesh-bond and the rather distinct question of the validity of its interpretation go to the treatment of Shylock's claim and not yet to the treatment of Shylock, on which our evaluation of Portia must finally depend. I have begun this last portion of our analysis by noting that Portia's "mercy" speech is couched in the eloquent but gratuitously repellent terms of a religiously embedded morality, not a morality even passingly addressed as an issuing source, variously—here, materially—encoded in secular law. Moreover, we have seen that in her exchanges with Shylock, Portia has repeatedly provided support, through her deceptive juristic impersonation, for Shylock's belief in the validity of the bond. In these ways, Portia has fashioned the machinery for his destruction, though offering him ample opportunity in their tripled maneuvers to drive it to personal safety. But there is more. In the last of the three go-rounds, when finally Portia has unveiled the blood-flesh distinction that will doom his cause, Shylock does recant and retreat. Here, edited to exclude the ever-obnoxious goading of Gratiano, is the ensuing exchange:

Por. Why doth the Jew pause? take thy forfeiture.

Shy. Give me my principal, and let me go.

Bass. I have it ready for thee, here it is.

Por. He hath refus'd it in the open court,
He shall have merely justice and his bond.²¹⁸

.....

Shy. Shall I not have barely my principal?

Por. Thou shalt have nothing but the forfeiture
To be so taken at thy peril Jew.

Shy. Why then the devil give him good of it:
I'll stay no longer question.

218. IV.i.331-35.

Por.

Tarry Jew,

The law hath yet another hold on you.
 It is enacted in the laws of Venice,
 If it be proved against an alien,
 That by direct, or indirect attempts
 He seek the life of any citizen,
 The party 'gainst the which he doth contrive,
 Shall seize one half his goods, the other half
 Comes to the privy coffer of the state,
 And the offender's life lies in the mercy
 Of the Duke only, 'gainst all other voice.
 In which predicament I say thou stand'st:
 For it appears by manifest proceeding,
 That indirectly, and directly too,
 Thou has contrived against the very life
 Of the defendant: and thou hast incurr'd
 The danger formerly by me rehears'd.
 Down therefore, and beg mercy of the duke.²¹⁹

Surely, we are being invited to observe that, even as of this third time that Shylock has failed to interpret in appropriately yielding terms the flesh-bond-relinquishment test of his moral worth, the soft-natured Bassanio is still willing to extend to him his financial due, while Portia is unwilling to permit his departure even without it. Note, moreover, that "mercy" itself has become enrolled in a course of transformation, for the scene that opened with the Duke's expectation of mercy on Shylock's part, followed by Portia's didactic rendition of, as it were, the virtues of mercy has now seen mercy reconceived as the latest medium of exchange, its value as a potentially life-saving currency now added to money, loyalty, hatred, and vengeance, the heavily trafficked media through which pleasure and pain have been distributed and redistributed throughout the striving, tension-filled, materialistic but romantically and religiously aspiring community whose social life bears such a striking resemblance to our own.

Perhaps it is the fact of this resemblance that renders us more susceptible to the ironic, disturbing, authoritarian overtones of the final unpacking of "mercy" that follows than to its appeal as the crude but potentially well-intentioned instrument of Shylock's premised salvation. Fresh from her interpretive defeat of Shylock's demand for justice, Portia now brokers the power elite's terms and conditions for mercy: The

219. IV.i.338-59.

Duke's contributions are to lift the death threat and reduce the confiscation of half of Shylock's property to a lesser, though unspecified, fine. Shylock's response echoes Antonio's earlier in the scene, expressing a view familiar to Shakespeare's contemporary audience through Marlowe's forerunner, *The Jew of Malta*, a sentiment that finds expression as far back as *Ecclesiastes*: "Nay, take my life and all, pardon not that,— / You take my house, when you do take the prop / That doth sustain my house: you take my life / When you do take the means whereby I live."²²⁰

Shylock asks the Venetians to attend to the death-dealing menace inherent in their transformations of mercy. But, as if he is already dead, Shylock is totally ignored. Still presiding, Portia now asks: "What mercy can you render him Antonio?"²²¹ And Antonio answers:

Antonio. So please my lord the duke, and all the court,
To quit the fine for one half of his goods,
I am content: so he will let me have
The other half in use, to render it
Upon his death unto the gentleman
That lately stole his daughter.
Two things provided more, that for this favour
He presently become a Christian:
The other, that he do record a gift
(Here in the court) of all he dies possess'd
Unto his son Lorenzo and his daughter.²²²

To this, the Duke adds: "He shall do this, or else I do recant / The pardon that I late pronounced here."²²³

With this, Portia finally does turn back to Shylock to ask leadingly, disposingly: "Art thou contented Jew? what dost thou say?"²²⁴ What

220. IV.i.370-73. In *The Jew of Malta*, which was successfully revived on the London stage following the execution of the Queen's Jewish physician, appear these lines, uttered by "the Jew": "I esteem the injury far less, / To take the lives of miserable men / Than be the causers of their misery. / You have my wealth, the labour of my life, / The comfort of mine age, my children's hope; / And therefore ne'er distinguish of the wrong." *Merchant of Venice*, *supra* note 75, at 118 nn.370-73. In *Ecclesiasticus*, xxxiv.22 is the even more direct parallel to Shylock's final lines: "He that taketh away his neighbour's living, slayeth him." (cited in *Merchant of Venice*, *supra* note 75, at 119 nn.372-73). For a more detailed treatment of the biblical sources of the play, one which, in emphasizing *Deuteronomy* as a primary source, misses the reference to *Ecclesiasticus* altogether, see Anderson, *The Old Testament Presence in The Merchant of Venice*, 52 J. ENG. HIST. 119 (1985).

221. IV.i.374.

222. IV.i.376-86.

223. IV.i.387-88.

224. IV.i.389.

can Shylock say? His answer—"I am content"²²⁵—bespeaks his withdrawal into hopelessness and is followed by "I pray you give me leave to go from hence, / I am not well"²²⁶—lines that augur the loss of life-giving vitality his earlier speech, "you take my life / When you do take the means whereby I live," and the Venetian punishments have prefigured.

And what of the forced conversion? Is it intended as an act of mercy, the only remaining means by which this now-defeated villain may be saved from the consequences of his villainy? The Elizabethans were given to believing in such a possibility, whether conversion was voluntary or not, but the rhetorical as well as the dramatic context cut against the sense that those on the scene have this as their intention. Antonio certainly has made no mention of salvation as the hoped-for consequence in his astringent addition of conversion to the list of, as another reader has called them, mercifixions.²²⁷ And Gratiano oversees Shylock's exit with this ghastly hook, which reforges the link not between conversion and mercy but between conversion and the dual subject of Shylock's fears: "In christ'ning shalt thou have two godfathers,— / Had I been judge, thou should'st have had ten more, / To bring thee to the gallows, not to the font."²²⁸

Still disguised as Balthazar, Portia turns away from these debatable triumphs, brought to closure by the coarsest of all the Venetians' unsettling invocation of a hanging jury. She is off to begin the third of the ring rituals, while our remaining task is to deliberate, the play behind us, on the meanings and applications of heroinism to Portia and to ourselves.

IV. PORTIA, HEROINISM, AND US

A.

The process in which we have been engaged is to "read out" the

225. IV.i.390.

226. IV.i.391-92.

227. I have borrowed this deliciously ironic term from Harry Berger, Jr. His most pungent description of it goes: "If Shylock practices usury, Portia is the . . . mistress of negative usury. Usury, stripped of its subtleties, amounts to getting more than you give. Negative usury is giving more than you get. More efficient than Jewish or Christian fatherhood, it works like Jewish motherhood to sink hooks of gratitude and obligation deep into the beneficiary's bowels. Against Antonio's failure to get himself crucified, we can place Portia's divine power of mercifixion; she never rains but she pours." Berger, *supra* note 124, at 161-62. Herewith, the ironic link from the mercy that "droppeth as the gentle rain from heaven / Upon the place beneath" to "What mercy can you render him Antonio" and on to Portia's final "Art thou contented Jew?"

228. IV.i.394-96.

character of Portia from *The Merchant of Venice*, a process that of necessity hugs the rocky shoals of contemporary critical engagement, yet provides the only course able to yield the close views on which an assessment of Portia-as-heroine can be based. Taking in one hand the evidence we have sifted throughout Part III and, in the other, the rudimentary definition of “heroine” I offered at the outset, I shall now suggest that (1) there is both an easy and a somewhat more complex case to be made for Portia as a literary heroine, in accord with the first of my two definitions of “heroine”;²²⁹ (2) there are reasons for feminists to be especially regarding of some of Portia’s heroic attributes; but (3) that Portia’s relationship to the second of my definitions²³⁰ is highly compromised, leading to my belief that (4) her joint status as feminist legal heroine and as apt metaphor for the woman lawyer ought not to be renewed. Still, in a final bow to the comedic form, this process of analysis need not end as harshly as my fourth conclusion portends, though latter-day advocates of Shylock might see a certain poetic justice in this demotion of Portia. Thus, I shall suggest that Portia enriches the self-conception of feminist lawyers by providing us with two refinements, one constructive and one critical, of the concept of heroic action—“adaptive” and “flawed” heroism. Together, these seem to me both a fitting valediction and a potentially useful by-product of the exegesis we are about to conclude.

The easy case for literary heroism is correspondingly easy to state and I shall do so with dispatch. Portia is smart, witty, competent, powerful, generous, ingenious, as shall figure more prominently in the further case for literary heroism, and is, as we have seen, in some measure noble, caring *and* courageous, all in accord with the terms of my definition, in taking charge of the central action of the play and bringing to resolution its entangling conflict. It is not that the easy, definitional case for heroism survives, unsullied, an encounter with the more complicating ethical concerns that I will raise below but that, as the further literary case and its feminist gloss will underline, the easy case for heroism from a literary standpoint *does* survive.

The more complex case for literary heroism proceeds on two levels. The first of these levels is structural. For the play to fulfill the

229. My reconstructed first definition currently reads: “1. A woman or a female literary character whose noble, caring, or courageous qualities or conduct causes her to risk or undergo sacrifice for the welfare of others, achieve prominence by virtue of these attributes or the activities they engender, or secure the resolution of conflict.” See *supra* p. 676.

230. My reconstructed second definition is: “2. A woman or a female literary character whose conduct exhibits morally or ethically exemplary attributes.” See *supra* p. 676 and Part I(E) for the discussion of hero, heroism, and heroism.

requirements of its most widely assumed, conventional genre, Renaissance comedic romance—a girl meets boy/girl marries boy sequence that evokes, through its associative links of personal to marital to communal happiness, an encompassing, all's-right-with-the-world unity—the plot standardly incorporates a threatening, interruptive force typified by the comic villain. The character who assumes responsibility for removing the threat that the villain poses becomes the hero or heroine; his or her instrumental actions, the pivot of the play. *The Merchant* can be and is not uncommonly read as we have read it: as a play that doubles this thematic requirement by interposing one comedic blocking agent, Shylock, and also, though more subtly, a second, romantic blocking agent, Antonio. Indeed, one could easily enough add Portia's father to this list to the extent his insistence on the casket-lottery deprives Portia of that control over her marital destiny to which the romantic heroine-as-choosing-self aspires and, for modern Western purposes, to which she is unequivocally entitled.

There is no question but that Portia devises all of the strategies and performs all of the actions necessary to defuse each of the threats to the new romantic order that these agents somehow represent. Thus, her structural claim to heroinism is unchallengeable. What is more, when we consider in retrospect the sheer variety and ingenuity of devices—the courtship adaptations that permit her all at once to identify with her powerfully instrumental father and to maximize her own power by securing her right to dynastic succession, yet allow her to subvert her father's authority by choosing her mate and overseeing his success; the ring rituals that cause her to subjugate Antonio's claims on Bassanio to her own, while educating Bassanio and Gratiano to the need for marital fidelity; and disguised interventionism, through which she saves Antonio from his undoing at Shylock's hands and Bassanio from his otherwise enduring place in the chain of this undoing—we see why Portia deserves the appellation “adaptive heroine” that I have created for her and see, also, the native attractions of the adaptive-heroic role.

Indeed, it is a different sort of adaptiveness that promotes a certain unity among these otherwise disparate devices, while illustrating the second analytic level on which rests the justification for Portia's status as literary heroine. This level, which I might term the interpretive-didactic, reminds us of the ways that Portia, superior to all others in the play, reads, comprehends, and translates into action the encoded messages, the social texts, the moral conventions that bind together the real and the

ideal, the actual and the possible in such a way as to give a sort of integrity, an almost-believability, to our abidingly paradoxical wish for and belief in the realistic elements but fabulistic excesses of stylized romantic comedy. A casket-lottery? Far-fetched in the extreme. No less so than Belmont itself, that magical aerie where time loses its everyday significance; wealth, its identifiable source or limit; gender and class, their non-transcendability; while all such elements yet remain imbedded in the social landscape, ineradicably imbued with seemingly conventional, if simultaneously unsettled and, therefore, ambiguous meaning. Here, in the insistently fantastical realm of Belmont, where Portia is to be found in all but the courtroom scene of Act IV, it is no small thing that she manages to achieve some degree of mimetic significance, reminding us of the difficulties most of us would have in renouncing a bounteous inheritance that came with fettering strings attached; of the developmental anxieties and constraints that accompany separations from well-meaning but controlling parents; of the embarrassingly fey, cleverly half-spoken, or wishfully unspoken messages through which we try to shape the responsive behavior of others; and of our ever-present need to interpret the meaning and significance of risk and reward, love and friendship, disguise and candor, wealth and value.

It is not that the other characters are not a part of these same resonances. It is that Portia embodies our concern with all of them and does so, moreover, not merely by being the subject or object of the plot conventions through which the tensions over meaning are revealed, but by becoming—whether seriously, jestingly, ironically, satirically or self-satirically—the principal reader and dialogically engaged interpreter of meaning in the play. Thus, it is she who both interrogates and attempts to reconcile the meanings of the courtship conventions that are thrust upon her, the marriage conventions that she thrusts on Bassanio, and the legal conventions that Shylock thrusts at the Venetian community. Without interpretation, the “bonds” that instantiate social convention may endure, but they are not likely to forge links to the understandings and acceptances that underlie personal happiness and communal harmony. With interpretation, happiness and harmony may be achievable, yet without moral and ethical sensitivity in the interpretive engagement, the price of social reconciliation may be unfairly meted out in the interpretive process. For the moment, no matter, though obviously we shall return to this concern. Portia’s second-level claim to literary heroism is that she is the most literate character in the play, the character whose

inspired, adaptive and energetic readings of social texts, symbolic texts and actual texts cause social conventions to create the possibilities for social reconciliations, the reconciliations that breathe life—the life of meanings that endure—into the comedic-romantic dimensions of the play.

Moreover, it is not difficult to see why Portia rewards feminist, as well as literary critical inquiry. As noted previously, there is a prominent helplessness in the social dealings of all of the central male characters in the play. Melancholy, angry, passive, socially illiterate, meddlesome, scheming, vengeful, or simply sarcastic, all are adept at implicating themselves and each other in the bonds of predicament. None seems capable of extricating himself or anyone else so as to secure happiness or harmony. Meanwhile, paternally linked creature though she is, analogized by her husband to a “beloved prince,” valentine to a princely Queen, created by a male author as a breeches part for a boy actor who, in playing Portia, cross-dresses to become a female who cross-dresses to appear male, despite these and the other vibrations and undercurrents we have noted that constitute Shakespeare’s notations on the fluidity of gender—on the unreality, perhaps the fantasy, of gender difference—there is a strong sense in which we are called upon to accept, and many of us do accept, Portia as our representational other: female who is counter and counterpart to the males in the play.²³¹

Thus, do we find ourselves willing to assume that Portia’s motivating energy is female energy—not only her practical wisdom but also her mysterious and sophisticated knowingness—and somehow treat it as underived from her father, or from her cousin Bellario, or even more interestingly, from Shakespeare, except as our mirror. We posit this energy, this knowingness, as a form of basic, intuitionistic female auto-didacticism which makes possible the interpretive creativity that Portia authors within her “play.” It is not altogether surprising, then, that some recent feminist readers lay stress on the delightfulness of *The Merchant’s* sexual inversions, its “mocking [of the] authorized social structure and hierarchical gender relations,”²³² the way that Portia “evokes the ideal of a

231. In her study of the relationship between gender and genre in Shakespeare, Linda Bamber elaborates on the matter of feminine “Other” in a variety of ways supportive of my position here. Her initiating premise is: “The feminine Other, then, is Shakespeare’s natural ally in the mode of festive comedy. . . . The detachment of the woman as Other, her distance from the centers of Self, is what makes her so useful an ally for the playwright in a mode that challenges our self-centeredness. To the extent that the comic mode presents a permanent possibility rather than a trivial escape, the comic heroine is a substantial alternative to the masculine Self.” L. BAMBER, *supra* note 59, at 41.

232. Newman, *supra* note 50, at 28.

proper Renaissance lady and then transgresses it,"²³³ becoming an "unruly woman"²³⁴ "who steps outside her role and function as subservient, a woman who dresses like a man, who embarks upon behavior ill-suited to her 'weaker' intellect, a woman who argues the law."²³⁵

It is my position that one can travel some way down this feminist road, perhaps about as far as we have just gone, without signing on for an uncritical acceptance of the further premise that "Portia's wise quibble saves the Venetian republic by enabling the Duke to follow the letter of the law *and* to save Antonio, to satisfy the opposing viewpoints represented by the Old and New law, by Shylock and Antonio,"²³⁶ without buying into the proposition that Portia's legal maneuverings constitute " 'noble' actions",²³⁷ and without, as I shall go on to contend, embracing the notion that Portia "brings into the masculine citadel of justice the feminine plea for mercy."²³⁸

To lay to rest the last of these propositions, the one that initiated our long journey through the play, it should be clear from our tour of the courtroom scene that "mercy" is urged on Shylock by the Duke on behalf of the entire assemblage, before Portia in the guise of "Balthazar" has even entered the forum. Chronologically, then, mercy does not enter the halls of justice when Portia does; it has preceded her. Next, as we have seen, the pedigree of mercy, as it were, is the very essence of her speech, and that pedigree Portia emphatically demarcates as religious, not ethical; Christian, not ecumenical. Ontologically, therefore, mercy is not of woman born, though its loveliest rhetoric depiction is borne via a woman.

Moreover, to the extent explicitly related to gender in the speech, mercy finds itself associated with the male and not the female. A canvas of the gendered references in the speech reveals two distinct forms of linkage from mercy to the masculine: one, its direct, nominal references; the other, its indirect, metonymic ones. Thus, do we encounter "Balthazar" intoning, as mercy's doubled "blessings," that "It blesseth *him* that gives, and *him* that takes, / 'Tis *mightiest* in the *mightiest*, it becomes / The throned monarch better than *his* crown. / *His* sceptre shows the *force* of temporal *power*, / The attribute to awe and majesty, / Wherein

233. Newman, *supra* note 50, at 29.

234. Newman, *supra* note 50, at 28-31; *see also* Lisa Jardine's subtle and supple reading of Portia and Helena of *All's Well That Ends Well*, *supra* note 31, at 7-18.

235. Newman, *supra* note 50, at 28.

236. Newman, *supra* note 50, at 30-31 (emphasis in original).

237. Jardine, *supra* note 31, at 16.

238. C. GILLIGAN, *supra* note 23, at 105.

doth sit the dread and fear of *kings* . . . / And earthly *power* doth then show likest God's / When mercy seasons justice."²³⁹ Sociologically, then, mercy's role is here assimilated to that which is associatively male.

What is more, neither the stage action nor the shape of the dramatic play can sustain the position that "mercy" is derivative of the female, without disturbing the sexual inversion on which the comedic basis of the plot depends. To test the accuracy of this assertion, imagine how violative of the action it would be for the *dramatis personae*—whether Shylock or his adversaries—to find need to react to "Balthazar's" plea if it were intended to be unloaded as an argument to regender justice along identifiably female lines. Even a general acceptance of the mystifications of the law would be unlikely to blanket the shock of the assembled multitude, were the newly entered "male" jurist on the scene to urge the voluntary overthrow of masculinist justice for feminist mercy. Rather, as in the revelatory moment within every episode of *Perry Mason*, surprise would light each face in the courtroom and the loud buzz of collective response would need to be driven back by a demand for hushed silence. Nor could the integrity of the scene survive if the female identity of mercy were immanent but the assemblage failed to note it. In the name of dramatic realism, it seems, the tie of mercy to the feminine, rather than to the universal, has suffered some 400 years of denial.

Now there is one last matter that undermines the connection between mercy and the feminine, to the extent we are interested in mercy as an ideal and are concerned about its lineage. This takes us outside the play and the data we are able to gather simply by scrutinizing the play, as we have been doing. It takes us, instead, to Shakespeare's long-premised and, so far as I know, undisputed primary source for Portia's "mercy" speech: the essay *De Clementia (On Mercy)* of the Stoic philosopher, rhetorician, and playwright Seneca.

239. IV.i.183-88 and 192-93 (emphasis added). Of course, one could simply dismiss the use of the masculine pronoun as having no special significance, in a culture whose language has, until very recently, been unequivocally reflective of patriarchy in its insistence on the universality of the masculine referent. Or, one could read the seemingly emphatic resort to the masculine in this passage as part of Portia's intended game-plan, an attempt to engage Shylock man-to-man, as it were, and thereby enlist his sympathies through homosocial bonding. Or—a third possibility that aligns itself to the one I have just offered—Portia's heavy-duty masculinist rhetoric could be a form of linguistic play in service of her disguise, a follow-through of her boast to Nerissa, "I have within my mind / A thousand raw tricks of these bragging Jacks, / Which I will practise." III.iv.76-78. But there is also a fourth possibility, one to which I grant a lot of plausibility in the text that begins at note 240 *infra*.

Written for his advisee and former pupil, the difficult²⁴⁰ and, ultimately, the heedless Nero²⁴¹ when the latter was eighteen and had recently become Emperor, the essay is a magisterial argument fashioned so as to present this young and probably insecure “vicar of the gods”²⁴² with a panoply of reasons in support of the position that virtue and mercy are indices of strength, rather than of cowardice or frailty, in a supreme ruler. Reading it, one is struck by the appropriateness, given its purpose, of the reach for metaphors that would serve to wrap the advice being given in the twin mantles of masculinity and divinity. And one is then struck by the irony with which Shakespeare must have intended to imbue this same “advice” when he caused it to be delivered, in almost identically magisterial, though more religiously inspired terms, by a cross-dressed, barely mature woman to a disempowered, soon-to-be-broken old Jew.

What we must, it seems to me, accept is that the “mercy” speech, however lofty and emblazoned with a sentiment we want very much to own, bespeaks, in the context in which it is proffered, a failure: the failure of the social system we have been witnessing to attend to the claims being made on it to do justice. This failure to do justice is not Portia’s alone, though she bears a special onus with respect to it that we must presently confront. It is the failure of all those who have aided in the creation of a disputatious, hate-filled, either/or society, one in which all of the supposed dichotomies which seem importantly to matter collapse before a single, unseen truth: the truth that it is toleration, equality, and fairness of process—not, in substitution for these, mercy—that forms the substrate on which personal happiness and communal harmony can justly, as opposed to serendipitously, converge.

The point, most assuredly, is not that mercy holds no place within a system of justice: that is not my point, nor, I believe, is it Shakespeare’s. The point is that mercy incorporates itself rather easily as an element of informal justice, but cannot be advanced, as Portia intends to advance it, as a substitute for the necessary attributes of formal justice. Feminists are among the first to make this point in other contexts, where a representative statement of our position holds: “Good men will, of course,

240. See Basore, *Introduction to SENECA, 1 MORAL ESSAYS* at xiii-iv (J.W. Basore trans. 1928) [hereinafter *SENECA*].

241. Nero has not received high marks from history for wise emperors. Seneca himself was forced to commit suicide after being accused of complicity in the conspiracy of Piso against Nero.

242. *SENECA*, supra note 240, at 357.

treat women properly under any circumstances, but as long as social institutions give men an advantage over women . . . feminists have cause for complaint. We should not be at the mercy of men."²⁴³

This quotation serves as a reminder. It marks our recognition that among the qualities of mercy that Portia did not consider are its fragility, its contingency, its poignantly unreliable particularization. In the play itself, we see these attributes awash in the sea of responses that Portia invites in when, at her most pedantic, she instructs Shylock that it is our prayers for mercy that "doth teach us all to render the deeds of mercy."

Recall what she elicits when she commands Shylock to beg for mercy: the Duke is willing to reduce the confiscation of all of Shylock's property to a fine, but how much of a fine he does not specify; and, besides, he offers his plea bargain in trade, contingent on Shylock's "consent" to convert to Christianity and to endow his errant daughter and son-in-law with a "gift" of all his remaining property. Antonio's version of mercy is itself contingent on the satisfaction of these demands, while Gratiano would transform "mercy" into an ugly joke—indeed, two of them.²⁴⁴ But Portia is responsible not only for issuing the call for these responses—herself a rather passive role—she is responsible for actively spurning the last untethered offer of settlement in Shylock's favor—Bassanio's "Here is the money."²⁴⁵ It is her interdiction—"soft no haste! He shall have nothing but the penalty"²⁴⁶—that strips away the opportunity to do a "deed" of mercy from these, Shylock's both disguised and naked enemies, whose hypocritical intonations about mercy they—and most especially Portia, the play's reigning queen of interpretive sensibility—fail utterly to understand. Thus, not only is it clear that the pedigree of mercy bears no special marks of female ancestry in this play; it is also clear that, whether for reasons of naivete, over-empowerment, self-interest, religious intolerance, or an unchecked desire for her own little piece of revenge—it's a buyer's market, so many possibilities are in evidence—Portia denatures any link between merciful activity and female action, as well.

Instead, Portia's incomprehension of the demands of both justice

243. J. R. RICHARDS, *THE SKEPTICAL FEMINIST: A PHILOSOPHICAL ENQUIRY* 328 (1980).

244. One is the interjection that follows Portia's "What mercy can you render him Antonio?" (IV.i.374), when Gratiano breaks in with "A halter gratis, nothing else for Godsake!" IV.i.375. The other is quoted in my text accompanying note 228.

245. IV.i.315.

246. IV.i.317-18.

and mercy²⁴⁷ provide the female complement to Shylock's own incomprehension, subverting any distinction between the Jewish and the Christian, the male and the female, in regard to contextual ethical sensitivity, and warranting the place of irony within the deep structure of the play. So, it is the ethically blind leading the ethically blind, when Portia dispatches Shylock from the gathering, from the community, and from the rule of law by walking him down the gangplank of misplaced beliefs and understandings to his humiliating ruination.

Does Shylock deserve to be so utterly humiliated? Ruined? Deprived of his religious identity on pain of death? Should we believe or discount his final claim, that he is indeed being destroyed? Should we credit these Christians with the intent, however unarticulated when presented as a demand,²⁴⁸ of saving his soul from damnation? Should we rest assured that, in granting Shylock three chances to turn aside from vengeance, Portia made a good faith effort to save him from himself? Is the Christian response to his undeviating pursuit of revenge a just apportionment of return vengeance, modeled—or perhaps merely rationalized—on the *lex talionis* Shylock has himself been charged with pressing into service;²⁴⁹ on some later version of corrective, or retributive justice; or on the weak but not unappealing ground, akin to poetic justice, that turnabout is fair play? Should we grant Portia some moderating dispensation on grounds of her youth or her previously untested intuitions in the world of experience? Or should we exact some moral penalty for the failure of youth in this play—a failure of the moralizing Christians more generally—to starve their self-conceits by engaging in ethical reservation?

However we adjudicate the matter of Shylock's ultimate disposition—and the play, treated as anything but purest comedy, insists on an adjudication—there is still more ground for objection to Portia's conduct, once she chooses, in the least constrained exercise of free will of any

247. I mean the "demands" of mercy in context, as a coherent expression of human benevolence; unlike justice, mercy makes no "demands" as a claim of right.

248. See IV.i.383 and text accompanying notes 227-28, for Antonio's demand on Shylock regarding conversion.

249. Critics of an earlier generation tended to see Shylock's obsession with revenge as making him an exemplar of the *lex talionis* (an eye for an eye, a tooth for a tooth). In her fascinating study, *A KIND OF WILD JUSTICE: REVENGE IN SHAKESPEARE'S COMEDIES* (1987), Linda Anderson disputes this view, arguing that the *lex talionis* was intended to limit the extent of *justifiable* revenge, such that "Shylock would be perfectly justified in spitting on, kicking, or otherwise insulting and degrading Antonio, but not in seeking to kill him." *Id.* at 176 n.5. See also *id.* at 58-63. Curiously, the Christians' revenge against Shylock is not measured against this same standard in any of the copious criticisms I have read.

central figure in the play, to disguise herself as the arbiter, the procedural font, the interpreter of the demands of justice in the deadly conflict underway.

Portia enters the courtroom with a serious, instrumental purpose—to save Antonio—as well as a lighter one—to have an adventure by playing with gender reversal. Yet she disguises her motives, together with her person, to gain control over the proceedings. No longer does she “stand for sacrifice”²⁵⁰—a criterion for heroinism²⁵¹ which, to the extent she may have fit it early in the action, she has now left far behind. Moreover, she is equipped by virtue of her dual purposes to acknowledge the terrible capacity for sacrifice that implicates only one of the two possible victims whose dispute entails the potential for this consequence. Thus, she is prepared, for reasons of her own self-interest as much as, if not more than any that pertain to justice, to save Antonio from a form of sacrifice, a kind of martyrdom, he may for reasons of *his* self-interest have goaded Shylock to supply.²⁵² Holding firmly to these ends, Portia cannot and she does not accord Shylock the accoutrements of a fair and dignitary process, one that would address him by his proper name and not, as she immediately, even before losing patience with him, does by abusive epithet: one that would give him a fair chance at backing down, by tutoring him as to the penalties that lie in wait for him, not by nurturing his ill-placed hope for murderous revenge; one that would offer him, perhaps, some recompense for his substantial monetary outlays; and one that would remit the condition of his soul and his religious identity to his own autonomous charge.

For those who see Shylock's moral banishment as justified by his own failings, Portia's treatment of him, in Kantian terms, as a means toward her pre-determined ends may weigh little in the balance. But weighed against the demands of liberal justice, I say we cannot grant her the status of feminist legal heroine, a status that should want to satisfy my second definition of “heroine”: “A woman or a female literary character whose conduct exhibits morally or ethically exemplary attributes.”²⁵³ Her actions with respect to Shylock, to law, and to the

250. III.ii.57, discussed at Part III(B), *supra*.

251. See *supra* p. 676 and note 229 for the first of my two homespun definitions of “heroinism.”

252. Many critics are wont to link Antonio to Christian martyrdom; others see his rhetoric and actions as induced by the psychological need to surrender his bond to Bassanio. René Girard has theorized, “What we have . . . is a masochistic and theatrical self-pity that announces the romantic subjectivity. This is the reason why Antonio is eager to be ‘sacrificed’ in the actual presence of Bassanio.” Girard, *supra* note 181, at 115.

253. See *supra* Part I(E) and note 230.

ecumenical ethics that help to secure justice under law are unadmirable failures. She might easily have saved Antonio—a morally exemplary end—without authoring and directing Shylock's total reduction to a means. Thus, for all her interesting and ingenious adaptations of the constraining circumstances of historic women, she ends, as a heroic figure, deeply flawed.

But Portia is a fiction and heroinism is far from an everyday concern. What of Portia's adaptive successes and failures should we take to matter to the lives and careers of those of us whose commute is *not* between Belmont and Venice but between some version of a feminist consciousness and a contemporary career in the law? I will dispatch my answers quickly, for what I mean to do is leave this question largely in your hands.

B.

A motivating concern of mine in writing this essay has been to note that feminist legal theory and pedagogy have spent most of their first decade involved in doctrinal challenges to legal patriarchy, ambitious challenges that have flown under the banner "to question everything." But I have also noted that little has been said or written as yet on the subject of feminist ethics or the relationship between feminism and the professional ethos. To the extent the latter efforts exist, they seem to suggest—the Portia Paradigm is such an instance—that women lawyers, by virtue of the fact that they are women, are imbued with the innate capacity, the will, and the full measure of understandings necessary to recreate law and the legal system along more just, feminist lines.

The close look at Portia I have put on offer derives from a different set of premises. One is that feminist pedagogy ought to direct more attention to the formulation of a professional ethos that feminist lawyers can then help to build. A second is that ethically critical, including self-critical, perspectives are essential to the person who, feminist or otherwise, would step into the role of lawyer. A third is that a well-honed capability to do justice *requires* ethically self-critical understandings. And a fourth is that dramatic and narrative literature offers texts which, like *The Merchant of Venice*, help us to sort the possibilities for a well-led ethical existence by opening onto a rich field of inquiry about the potentials we have and the potential limitations we face in constructing and deconstructing our social order, an order marked by the limits of constrained and self-interested choice.

Propelled by these premises into the world of the play, I have understood Portia to be boldly active and ingeniously adaptive. She reminds us of the sodden fact that existing social institutions—for her, arranged marriage and a relatively hermetic domestic sphere—can sometimes be moved in more equitable directions only inches at a time unless, *unlike* Portia, we are prepared to renounce them altogether. Does this mean that adaptive efforts, on a less than grand scale, are not worth feminist time and effort? I think not. That is why I believe a good deal of generosity in the conception of feminist heroism, so that it may include and applaud self-authored acts of feminist adaptation, is in order.

In this regard, Portia's activities provide further instruction, inviting us to regard with vast enthusiasm the opportunities that are ours for the interpretation of the binding web of social and legal texts as to which our judgments can be made to matter. Whether or not we live a Belmontian life of affluent pleasure, we are likely to experience some of that which makes the life of a lawyer a life of privilege. Indeed, we would do well to regard the power of social and economic translation—our extraordinary control over the meaning of legally enforceable transactions—as an essential form of privilege.

As feminists, we have both reason and opportunity to enjoy but also to reshape this privilege in accordance with the heightened capacity for interpretative judgment that is ours, deriving as does this capacity from the history and current status of women as outsiders and, therefore, as eager revisionists of legal institutions. My hope is that each of us will set sight on projects small and large worth doing, from a feminist perspective, and that they will somehow improve the law.

But my obvious further hope is that, in going about our projects, we shall treat my now-concluded account of Portia as a cautionary tale and take from it three (the ritual three we saw at work within the play, incorporated here, as there, into the nature of possibility) specific cautions.

The first caution may well attend the careers of new and insecure lawyers more than more seasoned, self-confident ones. It derives from Portia's boast to Nerissa, the one in which we hear her promise to "practise" the bragging, lying, trickery, the manipulative and competitive behavior of boys and men.²⁵⁴ Of course, she is joking at the time of these claims, psyching herself up, as my daughter would say, for the cross-dressed performance that follows. But then we see her enact most of

254. III.iv.60-78.

these behaviors—and use the utmost control in doing so—in her exchanges with Shylock. Hence, this caution: The stage on which legal behaviors get played out is full of manipulation, prevarication, unfair boasting and competition. It does not take a feminist perspective to know that professional privilege gave onto these excesses long before women entered the scene, certainly before we did so in meaningful numbers. A renaissance for dignitary values, not just as a matter of procedural justice but as a matter of professional ethics would seem a worthy contribution of legal feminism to the law. And one that individuals can make in individual ways—beginning, I would hope, with young lawyers who should set themselves to resist as well as to oppose the excesses of the existing ethos as early in their careers as possible—whether or not the effort develops aggregative, organized force.

The second caution pertains to self-interest and self-satisfaction, the opposition to which is as likely to require increasing as decreasing effort, as a career in law accretes power, prestige and the accoutrements of privilege for its typically hard-striving owner. The limits of a lawyer's, and of the legal profession's just deserts is a topic not bounded by my present enterprise, except in this suggestive way: We saw Portia's zeal for rescue curdle into merciless revenge when self-interest remained untempered by the kind of self-critical awareness that can serve as a lever on self-interest and self-satisfaction. As lawyers, most of us do not enter our profession, and many do not leave it, imbued with understandings of the abstract demands of justice or sensitivities to the contextual claims of justice. Sad to say. But a self-critical awareness of these deficits and of the seductive claims of self-interest and self-satisfaction, fortified as they are by the habitual practice of rationalizing argument, can help to reshape alternatives. I am not sure I want to assert that this project belongs especially to feminists,²⁵⁵ though the last of my cautions does pertain specially to feminism and links back to this one in obvious ways.

Unlike Shakespeare's plays, feminist criticism of law does not embody a self-critique. Its strongest tendency is to push outward, against what is perceived to be the oppositional force of patriarchal law. Thus,

255. Nor does it pertain exclusively to lawyers. For an extremely interesting extension of this point, an argument for "strong evaluation" as a means toward resolutions of our "conflict[s] of self-interpretations" that are able to take full account of "what is essential to my identity" and "what I sense to be the highest mode of life," see Taylor, *Responsibility for Self*, in *THE IDENTITIES OF PERSONS* 281, 285, 296 (A.O. Rorty ed. 1976). One might also choose to find guidance in Iris Murdoch's reflection, "In the moral life the enemy is the fat relentless ego," in I. MURDOCH, *THE SOVEREIGNTY OF GOOD*, 52 (1970).

what is considered to be feminist is perceived to be virtuous and worthwhile, while what is perceived to derive from patriarchy is critically observed. This perspective leads to the Portia Paradigm, with its twin assumptions that Portia is valorous and that her valor resides substantially in her “bring[ing] into the masculine citadel of justice the feminine plea for mercy.”

I have tried to give a decent burial to the notion that “mercy” is feminine. I want in conclusion, to suggest that neither is “justice” masculine and that, counter to this perception among feminists, our job as lawyers is to construe and to constitute justice as neither feminine *nor* masculine, but to subvert the distinction. Moreover, as the courtroom debacle begs us to appreciate, the identities of “mercy” and “justice” are trivially related to their pedigrees and crucially related, in the contexts that give them life, to our immediate social identities. A facility for “over-naming”²⁵⁶ the “qualities of mercy,”²⁵⁷ to borrow twice from Portia, will not produce applications of the concept of mercy that feminists should necessarily want to own—not unless we can look unblushingly on Portia’s “deeds”²⁵⁸ with respect to Shylock. I rest on the proposition that, as lawyers, our primary concern should be the delivery of justice, not mercy, and that improving the conditions of a just legal order should be our highest goal in the law.

Having said all of this, I would register no complaint if feminists bent much of their immediate purpose to the achievement of justice for women. At a minimum, that purpose is consistent with my desire to leave the furtherance of this project, as I promised—in your hands.

256. I.ii.35. I have changed the verb form in the original to a gerund.

257. IV.i.180. I have turned the singular of the original to a plural.

258. IV.i.198.