



# The Elizabethan Review

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# The Elizabethan Review

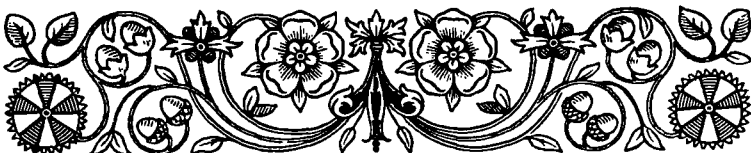
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A Semiannual Journal



# The Elizabethan Review

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## *From the Editor*

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Publication of a new journal invariably prompts the generation of proclamations, manifestoes, and mission statements, all of which tend to assume a revolutionary fervor. On the other hand, programs laid out in such public declarations seldom are realized. On the occasion of introducing *The Elizabethan Review*, therefore, I will not assume the pose of the radical but the commitment of the scholar. Indeed, the goals of *The Elizabethan Review* are ambitious yet keep within the guidelines of scholarly debate, for the journal is designed to enlarge the scope of debate rather than change its rules. Along with widening the boundaries of study and publication on the Elizabethan Era (1558 to 1603), we will endeavor to fuse the disparate efforts of Elizabethan scholars within a multidisciplinary framework, providing our readers with a more rounded perspective of this remarkable historical period.

Achieving that perspective entails traveling beyond the confines of a purely literary magazine. It compels scholars to peer at time frames that encompass revolutionary change—such as the Elizabethan Era—through the glasses of economics, politics, sociology, law, and the martial arts, as well as through the spectacles of theater and poetry. To the modern mind, the foremost achievements of Queen Elizabeth I's reign may be the Shakespeare

canon or the development of the English language itself—as shaped by the poetry and drama of Shakespeare's plays. Yet to realize a deeper understanding of even these signal accomplishments, we must widen our horizons, focusing on *Hamlet*, for instance, not only through the language and poetics of English, but also through Catholic theology, the Court politics of Elizabeth, the Anglo-Spanish War, and the philosophy of feudalism. In short, if we are to evaluate *Hamlet* holistically, we must achieve an understanding of sixteenth-century English psychology. That, I believe, can be achieved only by increasing our knowledge of the historical context of Elizabethan times.

In this vein, I trust that readers of the *Review* will find delving into the Elizabethan secret service, the Counter-Reformation, and the Shakespeare authorship issue as fascinating as examining the Elizabethan theater and the development of poetry, music, and art.

With this mandate in mind, a diverse Editorial Board for the *Review* was assembled in the U.S. and Great Britain. In the United States, members include Felicia Londre, University of Missouri-Kansas City; Anne Pluto, Lesley College, Boston; Ernest Ferlita, S.J., Loyola University, New Orleans; and Warren Hope, Ph.D. (Temple University), who to-

## *From the Editor*

gether contribute significant expertise in the disciplines of English, speech, theater, religion, and poetry.

In England, Board members include Dr. L. L. Ware, Lincoln's Inn, London; Charles Vere, Earl of Burford; and Francis Edwards, S.J., F.S.A., who bring to the *Review* their expert knowledge of science, law, history, and religion.

Publishing tradition dictates that scholarly publications begin their intellectual lives by accepting the challenge of focusing on a provocative subject. In upholding this custom, the inaugural issue of *The Elizabethan Review* will examine the longstanding but timely topic, Who wrote Shakespeare?

In the past 18 months, the issue has been investigated in the pages of *The Atlantic Monthly*, been the subject of an interactive seminar broadcast by the GTE Corporation to colleges in the United States, and been the focus of a documentary by the Public Broadcasting Corporation.

The question of who may have written the Shakespeare canon was initiated in the late eighteenth century, with Sir Francis Bacon the first candidate presented as the true Bard (instead of the actor from Stratford-upon-Avon). In 1920, however, another, more likely individual was proposed—Edward de Vere, 17th Earl of Oxford—by a Welsh schoolmaster, J. Thomas Looney, in his *Shakespeare Identified in Edward de Vere, 17th Earl of*

*Oxford*. Since then, a substantial accumulation of circumstantial evidence linking the work and life of de Vere with the poetry and dramatic plots of the Shakespeare plays and poems has convinced many individuals—among them Sigmund Freud, Orson Welles, and U.S. Supreme Court Justice John Paul Stevens—that de Vere presented himself to the world as William Shakespeare.

As to why scholars would be resistant to acknowledging the Oxford theory, I think that Patrick Buckridge, writing recently in the Australian literary magazine *Imago*, provides much invaluable insight. Aside from the financial incentive of maintaining the booming tourist economy of Stratford-upon-Avon, Buckridge presents four reasons:

First is aesthetic conservatism: "a reluctance to have the perceived basis of one's habitual aesthetic pleasures changed—even if, in principle, there is no reason why the pleasure itself should change."

Second is cultural populism: "a conviction that somehow the greatness of Shakespeare consists in his social 'ordinariness,' and a corresponding tendency to label suggestions that a person of higher rank wrote the plays as 'snobbery.'"

Third is the use of Shakespearean orthodoxy as an index of historical alterity: "if Shakespeare's plays could flow from the pen of a William Shakspere, then the cultural technology that made that extraordinary phenomenon

possible had to be very different indeed from what we have today, or for centuries past.”

Fourth is the resistance of practicing theater professionals: “only a ‘man of the theater’ could have written plays that exhibit such an unerring ‘feel’ for performance values.”

Perhaps the crux of the issue lies in determining the consequences of an alternative authorship. The Oxfordian argument, therefore, may be summed up by stating that a Shakespeare different from the one we know provides us with an entirely different understanding of the development and history of English literature and theater, and revises our knowledge of the cultural politics

of Elizabethan England.

In responding to this controversial question with the articles here assembled, the Editorial Board expects more light than heat to be generated among scholars. While focusing entirely on the Shakespeare controversy, each piece arrives at its noetic destination by traveling down the various paths of jurisprudence, art, poetry, and typography.

Finally and appropriately, I would like to take the opportunity to offer special thanks to Richard Roe, Warren Hope, and Richard Clement for their support—and to invite our readers to participate in the conversation now begun.

*Gary B. Goldstein*





## The Shakespeare Canon of Statutory Construction

John Paul Stevens

The Duke of Gloucester, later King Richard the Third, begins his opening soliloquy with the famous line: "Now is the winter of our discontent..."<sup>1</sup> The listener, who at first assumes that the word "now" refers to an unhappy winter, soon learns that war-torn England has been "made glorious by this son of York."<sup>2</sup> It is now summer, not winter, and "grim-visag'd War hath smooth'd his wrinkled" forehead (I. i. 9). Words—even a simple word like "now"—may have a meaning that is not immediately apparent.

Like the seasons, periods of war and peace come and go. As times change there is also a fluctuation in perceptions about the importance of studying humanistic values and their relation to rules of law. Nevertheless, a society that is determined and destined to remain free must find time to nourish those values. The plays and poems of William Shakespeare, sometimes collectively described as the "Shakespeare Canon," are perhaps the most stimulating and exciting works in the English language. Canons of statutory construction, in contrast, are probably the dullest materials that law students study. For these reasons, this essay includes a mixture of comment on two apparently unrelated subjects: first, the unorthodox view that Edward de Vere, the Seventeenth Earl of Oxford, is the true author of the Shakespeare Canon, and second, the

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John Paul Stevens is an Associate Justice of the Supreme Court of the United States. This essay is based on an address given as the Max Rosenn Lecture at Wilkes University in Wilkes-Barre, Pennsylvania, on April 30, 1991. Reprinted from *The University of Pennsylvania Law Review*, Vol. 140:4, 1992, with the permission of the author.



utility of certain canons of statutory construction in the search for truth and justice. Because Shakespeare's plays are typically divided into five acts, I must, of course, discuss five canons of statutory construction.

### Act I

The first canon of statutory construction is obvious: "Read the statute." The Supreme Court has reminded us over and over again that when federal judges are required to interpret acts of Congress, they must begin by reading the text of the statute. As one rather weary opinion writer has repeatedly explained, "if the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress."<sup>3</sup> Although this proposition is universally accepted, debate often arises over the question of whether there is ambiguity in the text, and if so, how far behind that text the judge may go in the quest for the author's intended meaning.

The text of the First Folio, published in 1623, seven years after William Shakespeare's death, unambiguously identifies him as the author of the Shakespeare Canon. Moreover, respected scholars are virtually unanimous in their conviction that the man from Stratford-on-Avon is the author of the masterpieces that are attributed to him.<sup>4</sup> Nevertheless, questions that were raised by such skeptics as Mark Twain, Walt Whitman, Henry James, John Galsworthy, and Sigmund Freud<sup>5</sup> still intrigue those mavericks who are persuaded that William Shakespeare is a pseudonym for an exceptionally well-educated person of noble birth who was close to the English throne. Edward de Vere, the Seventeenth Earl of Oxford, was such a person (Ogburn, 146).<sup>6</sup>

If we could find an original draft of one of Shakespeare's plays, or an excerpt in his own handwriting, or even a signed statement identifying himself as the author, we would have the kind of unambiguous evidence of authorship that would put an end to the matter. But the evidence of Shakespeare's handwriting that we do have is of an entirely different character. It consists of six signatures on legal documents, each suggesting that merely writing his name was a difficult task and, remarkably, that his name was Shaksper rather than Shakespeare (Ogburn, 118-

121). Indeed, the references to the man from Stratford in legal documents usually spell the first syllable of his name with only four letters—Shak, or sometimes Shag, or Shax—whereas the dramatist’s name is consistently rendered with a long “a”. For that reason, the protagonists of the Earl of Oxford’s cause make a point of distinguishing between Shaksper and Shakespeare (Ogburn, 38-42). In this respect, they are, in effect, relying on the first canon of statutory construction. In response, the Stratfordians point out that signatures, like statutes, should be read in their contemporary context, that incorrect spelling was common in Elizabethan England, and that we should always be conscious of the possibility of a scrivener’s error.<sup>7</sup> This response, like the Oxfordian response to the text of the First Folio, indicates that this is a case in which we must go beyond the first canon.

## Act II

The second canon of statutory construction is much like the first: “Read the *entire* statute.” Courts often tell us that the meaning of a particular statutory provision cannot be divined without reading the entire statute.<sup>8</sup> Similarly, the more of Shakespeare’s writing that we read, the more we learn about him. At least, that is the position that the Oxfordians advocate.

As evidence of the author’s probably noble birth, they point out that all but one of his plays—*The Merry Wives of Windsor*—are about members of the nobility (Ogburn, 240-251). The contrast between Shakespeare’s characters and the commoners, such as the alchemist or the miser, about whom his contemporary Ben Jonson wrote, is striking. Even more striking is Shakespeare’s repeated reference to nobility as the highest standard of excellence. The question that a lonely Hamlet asked himself was “whether ‘tis nobler in the mind to suffer the slings and arrows of outrageous fortune, or to take arms against a sea of troubles, and by opposing, end them” (III. i. 56-59). In the first act of *Macbeth*, when Duncan proclaimed his succession, he noted that “signs of nobleness, like stars, shall shine on all deservers” (I. iv. 41-42). When Marc Antony wanted to explain to Julius Caesar why there was no reason to

fear Cassius, it was enough merely to state: "He is a noble Roman, and well given" (I. ii. 197). And after the conspirators had been defeated, Antony gave Brutus the highest possible praise by referring to him as "the noblest Roman of them all" (V. v. 68).

Shakespeare's account of the events that took place on the Ides of March may also shed light on his views about the common man. When Julius Caesar walked through the streets of Rome, the crowds greeted him with unmixed enthusiasm—obviously in favor of offering him the crown. But when he was brutally murdered in full view of countless witnesses, a few well-chosen words from Brutus, the leader of the murderous gang, were sufficient to satisfy the crowd and earn their unquestioning support. Then a few minutes later, Marc Antony's marvelous address to his "friends, Romans, [and] countrymen" (III. ii. 73) had the mob, once again, convinced that Caesar was their hero. Admittedly, it was a great speech, but how much respect for the common man does this sort of flip-flop-flip reveal? Perhaps the answer is found in Casca's description of the crowd's reaction when Caesar refused the crown for the third time:

As he refus'd it, the rabblement howted, and clapp'd their chop-  
p'd hands, and threw up their sweaty night-caps, and utter'd  
such a deal of stinking breath because Caesar refus'd the crown,  
that it had, almost, chok'd Caesar, for he swoounded, and fell  
down at it; and for mine own part, I durst not laught, for fear of  
opening my lips and receiving the bad air.

(I. ii. 244-250)

Of course, the author of such a comment need not be of noble birth, but it seems appropriate to pause to take note of the fact that Edward de Vere was not an ordinary nobleman. In her biography of Queen Elizabeth, Carolly Erickson, after relating contemporary gossip about the Queen's relationship with the Earl of Leicester, had this to say about de Vere:

But it was not only Leicester who was widening his circle of conquests. Elizabeth too, it was said, was seducing handsome

young men and keeping them under surveillance by her well-paid spies when they were not in amorous attendance on her. Prominent among these favorites was Edward de Vere, Earl of Oxford, a boyish, hazel-eyed young courtier whose expression combined poetic languor and aristocratic superciliousness. Oxford excelled at those courtly graces Elizabeth admired. He was athletic and acquitted himself brilliantly in the tiltyard, dashing fearlessly, lance lowered, against any and all comers and retiring the victor despite his youth and slight build. He was an agile and energetic dancer, the ideal partner for the queen, and he had a refined ear for music and was a dextrous performer on the virginals. His poetry was unusually accomplished, and his education had given him a cultivated mind, at home with the antique authors Elizabeth knew so well.<sup>9</sup>

When Edward de Vere was twelve years old, his father died and he became a royal ward in Sir William Cecil's household (Ogburn, 435-437). Cecil, also known as Lord Burghley, was the Queen's principal adviser and a master of intrigue who controlled an elaborate network of spies (Ogburn, 455). In *Hamlet*, the character Polonius is unquestionably a caricature of Burghley.<sup>10</sup> His position as advisor to the King, his physical appearance, his crafty use of Rosencrantz and Guildenstern to try to ascertain the cause of Hamlet's antic disposition, and his employment of Reynaldo to spy on his own son, Laertes, while away at school, are all characteristic of Burghley (Rowse, 1725-26). One who had lived in his house, as de Vere did, and therefore had firsthand knowledge of Burghley's use of a spy to report on the activities of his oldest son, could well be responsible for the scene including Reynaldo—a scene that seems to have no purpose except to illuminate Polonius's—or Burghley's—character. The suspicion that there is an autobiographical element in *Hamlet* increases when one recognizes the parallel between Hamlet's relationship with the fair Ophelia—the daughter of Polonius—and the fact that at the age of twenty-one de Vere married Anne Cecil, the daughter of Lord Burghley.<sup>11</sup>

These are, of course, only tiny fragments from the text of the

Shakespeare Canon. They are sufficient, however, to lead us to the third canon of statutory construction.

### Act III

This canon is much like the first and second, but it adds the requirement that the text be read in its contemporary context. In *Cannon v. University of Chicago*, the Supreme Court wrote that “it is always appropriate to assume that our elected representatives, like other citizens, know the law...[and that an] evaluation of congressional action [taken at a particular time] must take into account its contemporary legal context.”<sup>12</sup> The third canon therefore tells us that we should direct our attention to the sixteenth century context that produced the genius who created the Shakespeare Canon.

In those days relatively few people could read and write the English language, and those who were familiar with the leading works of Latin and Greek literature were even more scarce. Edward de Vere was such a person. In Lord Burghley’s home he received instruction from the most accomplished tutors in England and later received degrees at both Cambridge and Oxford and became a member of Gray’s Inn (Ogburn, 432). As a young man he earned a reputation as a gifted writer. To the extent that literary skill is a product of education and training, de Vere’s academic credentials attest to his unique qualifications (Ogburn, 415, 432).

On the other hand, we know little about the education of William Shaksper, the man from Stratford-on-Avon. His father and two daughters, one of whom was married to a physician, were apparently illiterate (Ogburn, 117). William did not attend Oxford or Cambridge, and, indeed, there is not record of his attendance at any school (Ogburn, 276-279, where Ogburn states that if Shaksper attended a university, “we may suspect that we should be hearing of all he had learned there...[but] such was not the case.”) Perhaps it was the assumption that Shaksper’s formal education was much too limited for him to have acquired the largest vocabulary of any author who ever lived that led other authors like Mark Twain and John Galsworthy to doubt his authorship of the Shakespeare Canon.

Knowledge of the contemporary context provides these possible answers to this concern. The illiteracy of his daughter is merely a reflection of the universal gender discrimination that permeated sixteenth century England; except for persons of noble birth, education was for males, not females. Even though his father may have been uneducated, he achieved success in business in Stratford and occupied an important public office (Schoenbaum, 27, 29-36). Moreover, the secondary education that was available to the sons of leading citizens in towns like Stratford-on-Avon was of a high quality (Schoenbaum, 50-59). It is not unreasonable to assume that a good high school education is all that was needed to nurture the genius of Shakespeare to full flower.

The most telling contemporary argument, however, is found in Ben Jonson's tribute to Shakespeare in the introduction to the First Folio. Because Jonson must have been well acquainted with his leading competitor as a successful dramatist, these words take on special significance:

And though thou hadst small Latin, and less Greek,  
From thence to honour thee, I would not seek  
For names; but call forth thundering Aeschylus,  
Euripedes, and Sophocles...  
To life again, to hear thy buskin tread,  
And shake a stage...<sup>13</sup>

The emphasis is, of course, on the words "though thou hadst small Latin, and less Greek" as evidence that the author of the Shakespeare Canon was a man of limited formal education.

The Oxfordians, however, are not without a contemporary reply. They argue that the words "though thou hadst small Latin and less Greek" were ambiguous because the word "though" sometimes conveyed the meaning "even if" (Ogburn, 232-233). Thus, the use of this ambiguous term may have been a conspiratorial ploy to preserve the anonymity of the true author of the Canon. If you find this rejoinder a little hard to swallow, perhaps you should reflect on the ambiguity in another equally famous line by Jonson: "Drink to me, only, with thine eyes."<sup>14</sup> Is this a plea for his lover's abstinence, asking her not to drink to him with any-

thing but her eyes? Or, more probably, is it a subtle invitation to drink only to Jonson—to save her inviting glances for him alone? Does the word “only” modify the noun “eyes” or the pronoun “me”?

### Act IV

Since ambiguity persists, we must turn to the fourth canon of statutory construction. If you are desperate, or even if you just believe it may shed some light on the issue, consult the legislative history.

The study of legislative history is itself a debatable and complex subject, including subtopics such as the respective importance of committee reports, debates on the floor of Congress, and the fact that Congress failed to enact a proposed bill that would have unambiguously resolved the point at issue. It also requires an ability to discount comments manufactured by staff members to appease lobbyists who were unable to persuade legislators to conform the statutory text to their clients’ interests. As then-Justice Rehnquist observed in a dissenting opinion a few years ago:

The effort to determine congressional intent here might better be entrusted to a detective than to a judge....While I agree with the Court that the phrase “any other final action” may not by itself be “ambiguous,” I think that what we know of the matter makes Congress’ additions to § 307 (b)(1) in the Clean Air Act Technical and Conforming Amendments of 1977 no less curious than was the incident in the Silver Blaze of the dog that did nothing in the nighttime.<sup>15</sup>

For present purposes, I shall confine my analysis of the fourth canon to the Sherlock Holmes principle that sometimes the fact that a watchdog did not bark may provide a significant clue about the identity of a murderous intruder.<sup>16</sup> The Court is sometimes skeptical about the meaning of a statute that appears to make a major change in the law when the legislative history reveals a deafening silence about any such intent.

This concern directs our attention to three items of legislative history that arguably constitute significant silence. First, where is Shakespeare’s

library? He must have been a voracious reader and, at least after he achieved success, could certainly have afforded to have his own library. Of course, he may have had a large library that disappeared centuries ago, but it is nevertheless of interest that there is no mention of any library, or of any books at all, in his will, and no evidence that his house in Stratford ever contained a library (Ogburn, 35). Second, his son-in-law's detailed medical journals describing his treatment of numerous patients can be examined today at one of the museums in Stratford-on-Avon. Those journals contain no mention of the doctor's illustrious father-in-law.<sup>17</sup> Finally—and this is the fact that is most puzzling to me, although it is discounted by historians far more learned than I—there is the seven-year period of silence that followed Shakespeare's death in 1616. Until the first Folio was published in 1623, there seems to have been no public comment in any part of England on the passing of the greatest literary genius in the country's history (Ogburn, 11, 112). Perhaps he did not merit a crypt in Westminster Abbey, or a eulogy penned by King James, but it does seem odd that not even a cocker spaniel or a dachshund made any noise at all when he passed from the scene.

### Act V

The fifth canon of statutory construction requires judges to use a little common sense. This canon is expressed in various ways. For example: An interpretation that would produce an absurd result is to be avoided because it is unreasonable to believe that a legislature intended such a result.<sup>18</sup> Both the Oxfordians and the Stratfordians believe this canon provides the answer to the authorship question. The traditional scholars consider it absurd to assume that William Shakespeare, who is known to have made a fortune as an investor in the Elizabethan theater, if not also as an actor and playwright, was just a front for a gifted author who, for reasons unknown, elected to conceal his true identity from posterity. They point out that at least one of Shakespeare's plays, *The Tempest*, is generally considered to have been written several years after de Vere's death in 1604,<sup>19</sup> and that the explanations for his use of a pseudonym depend on highly improbable theories of conspiracy, for at



least Ben Jonson and Lord Burghley would surely have known the true identity of the author of the Shakespeare Canon. Nothing short of a royal command could have induced the author to remain anonymous.

The Oxfordians respond to the argument that it is absurd to claim that de Vere authored a play that was first published several years after his death by pointing out that there is great uncertainty about the dates when the plays were actually written.<sup>20</sup> They also suggest that the possibility of a royal command may not be so absurd after all, because Queen Elizabeth made an extraordinary grant to de Vere. Using a formula that was characteristic of special payments to members of the Secret Service, on June 26, 1586, she signed a privy seal warrant granting de Vere an annuity of one thousand pounds per year for which no accounting was to be required.<sup>21</sup> This was an unusually large amount at the time, and the grant continued for the remaining eighteen years of de Vere's life, it having been renewed by King James (Clark, 113). The Queen, it appears, may have been a member of the imaginative conspiracy and for reasons of her own may have decided to patronize a gifted dramatist, who agreed to remain anonymous while he loyally rewrote much of the early history of Great Britain.<sup>22</sup>

Whatever one may think of the fifth canon as a method of analyzing the authorship question, before I leave the subject I want to refer briefly to three cases that suggest that the fifth canon should tell us something about justice. Two of them are cases decided by William Shakespeare, whoever he may be, and the third was decided by the Supreme Court of the United States.

In *The Merchant of Venice*, as security for a loan of three thousand ducats, Antonio promised that if he should default, Shylock could have "a pound of his fair flesh to be taken and cut off from whatever part of his body" (I. iii. 1-4) might please Shylock. As might have been predicted, Antonio did default, and Shylock demanded literal performance of the terms of the bargain. In the end, however, justice was served by Portia's even more literal interpretation of the bond:

Tarry a little, there is something else.  
This bond doth give thee here no jot of blood;

The words expressly are "a pound of flesh."  
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.

(IV. i. 305-312)

Although Portia's ruling may seem somewhat technical, she was actually making a just application of the fifth canon of statutory construction.

In *Measure for Measure*, Claudio was sentenced to death for the crime of fornication. Since Julietta was pregnant and there was therefore no question about Claudio's guilt, and since the text of the law was perfectly clear, Angelo (who had been left in charge of law enforcement by the Duke) had no choice but to insist on literal application of the statute. Otherwise, he would:

Make a scarecrow of the law,  
Setting it up to [frighten] the birds of prey,  
And let it keep one shape, till custom make it  
Their perch and not their terror.

(II. i. 1-4)

Nothing, of course, could be more damaging to the fabric of society than allowing the law against fornication to deteriorate into a mere scarecrow. Accordingly, it was imperative that the death penalty be administered without delay.

Fortunately for Claudio, however, three Acts later the all-powerful Duke reappeared and pardoned him in the nick of time. Unlike Portia in *The Merchant of Venice*, who served justice by using one literal reading of the bond to trump another, the Duke in *Measure for Measure* simply enforced the fifth canon, barely pausing to explain why any other result would have been unjust and absurd. (He simply says, "Like doth quit like, and Measure still for Measure" [V. i. 411].)

My final words are about a little-known decision of the Supreme Court that averted the danger that a federal statute would turn into a

toothless scarecrow. For a century and a half, the United States enjoyed the same sovereign immunity that Queen Elizabeth and King James possessed during Shakespeare's time. It was not until 1946, when Congress passed the Federal Tort Claims Act,<sup>23</sup> waiving the defense of sovereign immunity, that the United States could be sued for damages caused by the negligence of government employees.

Eighteen years earlier, Congress had enacted the Mississippi River Flood Control Act of 1928<sup>24</sup> to authorize a major land acquisition and construction project to control overflow and damage along the banks of the Mississippi River where it was impracticable to construct levies. A section of that Act—I shall call it the “pound-of-flesh” provision—states that “[n]o liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place.”<sup>25</sup>

In the ensuing decades Congress has authorized the expenditure of countless millions of dollars to construct additional flood control projects, many of which produce artificial lakes and recreational facilities. Unfortunately, a number of people have been killed or seriously injured in those facilities.<sup>26</sup> The Case of *United States v. James*<sup>27</sup> arose out of a tragic accident in the reservoir behind the Millwood Dam in Arkansas. As the result of what the district court found to be worse than gross negligence, enormous underwater portals were opened without adequate warning, and water-skiers were caught in the unforeseen swift current and hurled against the dam's tainter gates.<sup>28</sup> Some drowned and others suffered permanent injuries. As other innocent victims of the negligence of federal employees had done in the past, representatives of the injured parties brought suit against the federal government under the Federal Tort Claims Act. The lower federal courts were divided on the question of whether the pound-of-flesh provision enacted in 1928 in connection with the Mississippi River project should protect the United States from liability in such cases.<sup>29</sup>

As you can see, the issue is much like the ones that confronted Portia and the Italian Duke. The government based its defense on the plain language found in the text of the 1928 statute. The plaintiffs responded by arguing that the pound-of-flesh provision applied only to the Mississippi River project, that it had been impliedly repealed by the

Federal Tort Claims Act, which contained its own set of special defenses for the government, and that in any event the use of the word “damage” rather than “damages” indicated that the statute did not apply to personal injury cases.<sup>30</sup>

Although three dissenters, including the Portia that now graces our Court, would have applied a modern version of Portia’s jot-of-blood argument—using a narrow interpretation of the word “damage” to trump the majority’s reliance on the first canon of statutory construction<sup>31</sup>—the majority ruled in the government’s favor. It relied, of course, on the first canon of statutory construction, buttressed by the principles espoused by Angelo and Shylock.<sup>32</sup> Sadly, there was no Italian Duke to arrive on the scene in the nick of time and apply the fifth canon of statutory construction. Even more sadly, this is the kind of case—involving the average citizen rather than a nobleman who can command legions of well-armed lobbyists—that is not apt to interest a busy Congress.

It is cases of this kind—and they appear in a variety of forms—that sometimes make me feel that now is a season of discontent. Judge Rosenn and I have lived long enough to learn, however, that like the seasons, judicial opinions about canons of statutory construction and the relation between law and justice tend to come and go. The fear that a particular law may become a toothless scarecrow, and that if judges are ever allowed to extract a single tooth from any part of a venerable code of laws, the entire code may disintegrate, is a fear that experience teaches wise judges to discount in appropriate cases. Accordingly, no matter how unhappy a particular winter may be, in due course, it is sure to be followed by other seasons that will be “made glorious by the son of York.”



### Notes

<sup>1</sup> William Shakespeare, *The Tragedy of Richard the Third* [hereinafter *Richard III*], I. i. 1 (emphasis added). All quotations from the Shakespeare Canon in this essay are from *The Riverside Shakespeare* [hereinafter *Riverside*], G. Blakemore Evans, ed. (1974).

<sup>2</sup> *Richard III*, I. i. 2. The word "son" in this line is a pun on "sun," the badge of King Edward IV. See *Riverside* at 712 n. 2.

<sup>3</sup> *Chevron v. Natural Resources Defense Council, Inc.*, 467 U.S. 837, 842-43 (1984); see also *INS v. Cardoza-Fonseca*, 480 U.S. 421, 445 n. 29 (1987) (quoting *Chevron*).

<sup>4</sup> See Samuel Schoenbaum, *William Shakespeare: A Documentary Life* (1975) (presuming throughout that William Shakespeare of Stratford-on-Avon was the author of the Shakespeare Canon); see also James G. McManaway, *The Authorship of Shakespeare* (1962).

<sup>5</sup> See Mark Twain, *My Autobiography* (1909), 324; Horace Traubel, *With Walt Whitman at Camden* (1906), 136; *The Letters of Henry James*, Percy Lubbock, ed. (1920), 424. Both Freud and Galsworthy were persuaded by the writings of John Thomas Looney (1870-1944), an English elementary schoolmaster who was one of the earliest scholars, if not the very first, to assert that Edward de Vere, the Seventeenth Earl of Oxford, was the author of the works attributed to "William Shakespeare." See Charlton Ogburn, *The Mysterious William Shakespeare* (1984), 146.

<sup>6</sup> Ogburn's comprehensive and interesting volume contains the primary current exposition of the arguments in favor of Edward de Vere's authorship. He credits Looney with the scholarship that discovered de Vere's identity (Ogburn, 145-146).

The authorship question has concerned writers and scholars at least since the nineteenth century. In this century, a voluminous amount of scholarship, as well as pure speculation, has been offered questioning whether Stratford's William Shakespeare wrote the plays attributed to him. The names of Francis Bacon; Christopher Marlowe; Roger Manners, the Fifth Earl of Rutland; William Stanley, the Sixth Earl of Derby; and, most commonly, Edward de Vere, the Seventeenth Earl of Oxford, have at various times been proposed as alternatives. See Ogburn at 133-150; see also McManaway at 33 (suggesting other possibilities).

The debate has even involved members of the American legal community. In February 1959, the *American Bar Association Journal* published an article by lawyer Richard Bentley discussing the issue ["Elizabethan Whodunit: Who Was 'William Shakespeare'?", *A.B.A.J.* 45 (1959): 143] Bentley noted that the problem has both literary and evidentiary components, and that it therefore should be of interest to lawyers (Bentley, 143). The article led to a flurry of letters and reply-articles in the *Journal*; these are collected in *Shakespeare Cross-Examination*, A.B.A.J. ed. (1961).

On September 25, 1987, David Lloyd Kreeger, under the auspices of The American University, sponsored a debate on the authorship question between two American University law professors. The professors wrote legal briefs, one arguing that de Vere, the Earl of Oxford, was the true author, the other taking the traditionally accepted view. Both briefs utilized the voluminous

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scholarship on the question. Justices William Brennan, Harry Blackmun, and I judged the debate. The panel decided that the proponents of de Vere's authorship had not met their burden of proof on the basic issue. The briefs written by the debaters, as well as several articles reflecting on the debate about Shakespearean authorship more generally, are collected in "In re Shakespeare: The Authorship of Shakespeare on Trial," *American University Law Review* 37:3 (1988) 609-826.

<sup>7</sup> Indeed, it appears as though the spelling of one's name was often simply a matter of personal whimsy. See Charles Hamilton, *In Search of Shakespeare* (1985) 44-45.

<sup>8</sup> See, e.g., *Crandon v. United States*, 494 U.S. 152, 158 (1990); *K. Mart Corp. v. Cartier, Inc.*, 486 U.S. 281, 291 (1988); *Bethesda Hosp. Ass'n v. Bowen*, 485 U.S. 399, 405 (1988).

<sup>9</sup> Carolly Erickson, *The First Elizabeth* (1983), 267.

<sup>10</sup> Shakespearean scholar A.L. Rowse writes:

There is nothing original in pointing out that Polonius is clearly based on old Lord Burghley—merely in showing how close the resemblance is in detail. Lord Treasurer and the Queen's leading minister, he had been Southampton's guardian, whose granddaughter the young Earl would not marry and had been made to pay for it. All the Essex faction detested the politic old man, who was irremovable until his death in 1598; after that it was safe to portray him as Polonius.

Hamlet describes Polonius to his face: "old men have gray beards, their faces are wrinkles, their eyes purging thick amber and plumb tree gum...together with most weak hams." Those who are familiar with Burghley's letters in his last years well know that they are full of his querulous complaints about his health, the weakness of his limbs, his gout, his running eyes...

One clue to Burghley's hold on power was his remarkable intelligence system. This is clearly rendered in Polonius' interview with Reynaldo, setting him to spy on his son's doings in Paris and report on them. Burghley's elder son, Thomas, had had an unsatisfactory record in France and been similarly reported on. Burghley's famous Precepts, however, were for his clever younger son, Robert—Essex's enemy: Polonius has a similar set for his son, while his perpetual moralising is Burghley all over—it drove the young men mad, all the more because the old man was all-powerful and wise, though prosy and pedestrian.

A.L. Rowse, *The Annotated Shakespeare* (1988), 1725-26.

<sup>11</sup> On Edward de Vere's marriage, see Ogburn at 482-484, 493.

<sup>12</sup> 441 U.S. 677 (1979) at 696-99.

<sup>13</sup> Ben Jonson, "To the Memory of My Beloved, the Author Mr. William

Shakespeare: And What He Hath Left Us” in *Ben Jonson: The Complete Poems*, George Parfitt, ed., (1975), 263-264. Jonson’s elegy appeared in the introductory pages of the First Folio of Shakespeare’s works, which was published in 1623. See *Riverside* at 58, 65 (reproducing the first few pages of the First Folio).

<sup>14</sup> Ben Jonson, “To Celia” in *The Complete Poems*, 106.

<sup>15</sup> *Harrison v. PPG Industries, Inc.*, 446 U.S. 578, 595-96 (1980) (J. Rehnquist dissenting).

<sup>16</sup> Holmes discerned that the thief of a prized horse was a person known to the stable’s watchdog, since the dog had not barked to awaken the boys sleeping in the stable’s loft the night the horse was stolen. See Arthur Conan Doyle, “Silver Blaze,” in *The Memoirs of Sherlock Holmes*, Julian Symons, ed. (1950) 7, 32.

<sup>17</sup> See Peter Levi, *The Life and Times of William Shakespeare* (1988), 264-266.

<sup>18</sup> See, e.g., *Church of the Holy Trinity v. United States*, 143 U.S. 457, 459 (1892) (if a statute frequently uses “words of general meaning,” such broad language may include particular acts which, if considered within the legislation as a whole, produces “absurd results,” therefore making it “unreasonable to believe that the legislator intended to include the particular act”).

<sup>19</sup> See G. Blakemore Evans, “Chronology and Sources,” in *Riverside* at 47, 56. Evans carefully evaluates the contemporary evidence and Shakespeare’s source material for each play, and estimates that *The Tempest* was not written before 1611, since some of the sources used by the author were not available before September of 1610.

<sup>20</sup> See Ogburn at 382, 388. Ogburn does believe, however, that *The Tempest* can be dated prior to de Vere’s death. See Ogburn at 388-390.

<sup>21</sup> See Bernard M. Ward, *The Seventeenth Earth of Oxford 1550-1604: From Contemporary Documents* (1928), 255-263; see also Eva Turner Clark, *The Man Who Was Shakespeare* ([1937] 1970), 111.

<sup>22</sup> See Clark at 111-16. Clark credits B. M. Ward (note 21) with having uncovered the existence of the grant, and with having formulated the conspiracy theory involving Elizabeth and Edward de Vere (Ward, 111-113). On the rewriting of the history of Richard III, see, for example, Josephine Tey, *The Daughter of Time* (1951).

<sup>23</sup> Pub. L. No. 79-601, §§ 401-24, 60 Stat. 812, 842-47 (1946) (codified as amended at 28 U.S.C. §§ 2671-2680 (1988)).

<sup>24</sup> Pub. L. No. 70-391, 45 Stat. 534 (1928) (codified as amended at 33 U.S.C. §§ 702a-702m, 704 (1988)).

<sup>25</sup> 33 U.S.C. § 702c (1988).

<sup>26</sup> For a recent example of such a tragedy, see *Hiersche v. United States*, 60 U.S.L.W. 3614 (Mar. 9, 1992) (J. Stevens, memorandum respecting denial of certiorari).

<sup>27</sup> 478 U.S. 597 (1986).

28 Ibid., at 599-600.

29 Ibid., at 603 and n. 4.

30 Ibid., at 608-12.

31 "The immunity provision absolves the United States of liability for any 'damage' by floods or floodwaters. The word 'damage' traditionally describes a harm to property (hence, 'property damage'), rather than harm to the person (usually referred to as 'personal injury')." Ibid. at 614 (J. Stevens dissenting).

32 Chief Justice Rehnquist wrote:

Our role is to effectuate Congress' intent, and Congress rarely speaks more plainly than it has in the provision we apply here....We therefore follow the plain language of § 702c, a section of the 1928 Act that received careful consideration by Congress and that has remained unchanged for nearly 60 years, and hold that the Federal Government is immune from suit in this type of case.

478 U.S. at 612 (majority opinion by C. J. Rehnquist).



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## The Singing Swallow: Sir John Davies and Shakespeare

Warren Hope

True hope is swift, and flies with swallow's wings;  
Kings it makes gods, and meaner creatures Kings.

*Richard III* (V. ii. 23)<sup>1</sup>

One of the persistent puzzles of the Elizabethan period is the identity of the "singing Swallow" in John Davies' poem, *Orchestra or a Poeme of Dauncing*. The reference appears in stanza 131 of the poem as it was originally printed:

O that I might that singing Swallow heare  
To whom I owe my service and my love,  
His sugred tunes would so enchant mine eare  
And in my mind such sacred fury move,  
As I shou'd knock at heav'ns great gate above  
    With my proud rimes, which of this heav'nly state  
I doe aspire the shadow to relate.<sup>2</sup>

I think the meaning of Davies' words is literal. They mean that his own poetic efforts take flight as a result of hearing those produced by the Swallow—sweet, swift, singing "inventions." These qualities serve to define the nature of the poet Davies identified with the Swallow. In fact, these lines, with their clarion echo of Shakespeare's sonnet 29, do what they say, demonstrate what they state. To think that the Swallow

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stands for either Richard Martin or Henry Wotton—two candidates that have been proposed—forces us to question Davies’ taste or veracity or both.<sup>3</sup> The evidence I have gathered and present here allows us to avoid that difficulty by identifying the Swallow with “William Shakespeare,” that is, Edward de Vere, the seventeenth Earl of Oxford. The evidence in support of this identification is of three kinds. First, the established connections between Davies and Oxford. Second, the date of composition of *Orchestra* and the event for which it seems to have been composed. And third, the literary and theatrical traditions surrounding the figure of the swallow.



Charles Wisner Barrell, that prodigious and entertaining Elizabethan scholar, first drew attention to the connections between Davies and Oxford in his dazzling but too little known analysis of the *Epistle Dedicatorie* to Thomas Nash’s pamphlet, “Strange News” (1593). Barrell’s main aim in that piece of literary detective work was to identify the recipient of the *Epistle Dedicatorie*—a man Nash addressed as “Gentle M[aster] William”—with the Earl of Oxford. Barrell made that identification with learning and verve. But what concerns us here is a single paragraph from Nash’s *Epistle*: “By whatsoever thy visage holdeth most precious I beseech thee, by John Davies’s soul and the blue Boar in the Spittle I conjure thee to draw out thy purse, and give me nothing for the dedication of my Pamphlet.”<sup>4</sup>

Barrell reasonably concluded from this paragraph, in part: “That John Davies’s poem, *Of the Soul of Man* (the second part of *Nosce Teipsum*) was considered ‘precious’ by the Earl of Oxford in 1592 is plausible enough.” He goes on to point out that Nash’s testimony serves to corroborate that of Nahum Tate, who as Poet Laureate could have had access to the manuscript of *Nosce Teipsum* that Davies presented to the Queen. When Tate republished *Nosce Teipsum* in 1697, he included Davies’ poem dedicating the work to Queen Elizabeth, a poem dated 11 July 1592 (Barrell, 944).

There is a little more evidence to support this early date of composition for *Nosce Teipsum*. (The poem was first published in 1599 and many scholars, following Alexander Grosart, think of it as written after, rather than before, *Orchestra*, Davies' epigrams, and so on.) Anonymous "Notes of the Life of Sir John Davys" dated May 2, 1674, and preserved among the Carte Papers at the Bodleian Library include this statement on the poem: "...ye first essay of his pen was so well relisht yt ye queen encouraged him in his studdys, promising him preferment, and had him sworn her servant in ordinary" (Krueger, 324).

It is, of course, incredible that *Nosce Teipsum* was literally "ye first essay of his pen." That Davies composed the work when he was only twenty-three years old is extraordinary enough without trying to believe that he did so with no apprentice work. Barrell suggested a partial solution to this problem with these words: "...by the age of twenty (1589) Davies had made himself persona grata to the same literary set in London that Oxford favored. He appears to have written at least one of the anti-Martin Marprelate tracts" (Barrell, 944). The "tract" Davies appears to have written was a verse pamphlet issued as "Sir Martin Marpeople, his Coler of Esses, Workmanly wrought by Maister Simon Soothsayer, Goldsmith of London, and offered to sale upon great necessity by John Davies." This verse pamphlet is clearly work Davies was capable of producing, and its appearance in 1590 represents the first time John Davies' name appeared in print. That Davies entered the Middle Temple on 3 February 1587-88 and that Thomas Nash knew Davies' poetry in manuscript in 1592 increase the likelihood of Davies' involvement in the anti-Martinist campaign.

In his note on Davies, Charles Wisner Barrell wrote, "John Davies is one of the most important contemporary witnesses against the Stratford claimant and in favor of the Earl of Oxford as the real Bard. But his evidence is much too interesting to include in these brief notes" (Barrell, 944). What Barrell probably had in mind was the material eventually brought to light by Davies' most recent editor, Robert Krueger, who worked with a unique manuscript collection in the Bodleian of which earlier editors were unaware—adding immeasurably to our knowledge of Davies and Oxford-Shakespeare.



In 1962, Robert Krueger published for the first time an “Epithalamion” by Davies which is made up of ten sonnets. The first sonnet in the series is an introductory one entitled Epithalamion Io: Daviesij. Each of the remaining nine sonnets is addressed by one of the muses to a couple about to be married. The wedding for which Davies composed this series of poems was that of Elizabeth Vere, the daughter of the seventeenth Earl of Oxford, to William Stanley, the six Earl of Derby. As Krueger wrote:

The conveniently inscribed date (‘finis 95 Ian:’) gives the first clue to the marriage being celebrated in the “Epithalamion.” The second occurs in the poem, where Melpomene mentions the bride’s cousin:

Your most victorious cosin warlike Vere,  
The glory of your glorious familie...

This is the same Francis Vere (1560-1609) whose valour Davies celebrated in his 40th Epigram, ‘In Afrum,’ written about the same time:

He tells how Gronigen is taken in  
By the braue conduct of illustrious Vere....

Davies gives a third clue in a speech by Calliope, who says she will witness ‘an earls daughter married to an Erle’. This evidence points unerringly to a famous marriage of the time: Elizabeth Vere, daughter of Edward de Vere, Earl of Oxford, to William Stanley, Earl of Derby, on 26 January 1594-5.<sup>5</sup>

Because of the relationship of these sonnets to Davies’ *Orchestra* and their echoes of Shakespeare’s sonnets, it is worth reproducing them here in full:

Love not that Love that is a child and blynde  
But that Heroicke, honorable Love  
Which first the fightinge Elements combinde,  
And taught the world in harmony to move:  
That God of Love, whose sweet attractive power  
First founded cities, and societyes,  
Which links trewe frendes, and to each paramor  
That virtewe loves, a virtewous Love affies.  
This Love hath caused the Muses to record  
Their sweetest tuens, and most celestiall,  
To you sweet Lady, and to you great Lorde,  
In honor of your joyfull nuptiall.

And to their tuens this prayer they still apply,  
That with your dayes your joyes maye multiplie.

Clio.

Illustrious Lord, heire of that happy race  
Which with great Lordshipps doth great Love inherit,  
Raysd by the heavens unto that glorious place,  
Which your great grawnseirs did by virtewe merit:  
And you sweete Lady, virtewes noble fayre,  
Whom when I name your grandsier, father, mother,  
Of all whose excellencies you are heire,  
I then extoll, and prayse above all other.  
Your famous Auncestors eternall names  
My diamond pen in adamant shall write,  
And I will spread your owne younge Loving fames,  
As far as Phoebus spreades his glorious Light.

Still with my tuens importuninge the skye,  
That with your dayes your Joyes maye multiplie.

Thalia.

And I the merry Muse of Comedyes,  
That with a marriage ever end my playe,  
Will into mirth, and greatest joye arise,

While I applawd this blessed marriage daye.  
Yet will I sadly praye my Father Jove,  
That as cross chaunce fought not agauست your will  
In the fayre course of your most happy Love,  
So with out crosse ye maye continewe still.  
That as the voice and Echo doe agree,  
So maye you both, both doe, and saye the same,  
And as your eyes being two, but one thinge see,  
So maye ye to one end your actions frame.  
So shall your Lyves be a sweete harmonye,  
And with your dayes your Joyes shall multiplie.

Melpomene.

And I which sownd the tragicke tuens of warr,  
Have Layd my harsh and fearfull Trumpe aside,  
Wherwith I usd to rende the ayre a farr,  
In service of your cosin, bewtious bride.  
Your most victorious cosin, warlike Vere,  
The glory of your glorious familye;  
A braver spirit the earth did never beare,  
Since first the fyer of lyfe came from the skye:  
This fyery starre of Mars my trumpett tooke,  
And put a warlinge lute betwine my handes,  
And with a joyfull voyce and joyfull looke,  
Sent me to blesse these sacred marriage bandes,  
And to commend his voves to Jove on hie,  
That with your dayes your joyes maye multiplie.

Euterpe.

And I betwine whose lipps the ayre doth playe,  
Changinge her wanton forme ten thousand wayes,  
Will not distingwish one halfe note this daye,  
Which shall not sownd both to your joye and prayse,  
For even your marriage doth sweete musicke make,  
Like two sweete notes matcht in an unisone,

Where each from other doth full sweetnesse take,  
Where one could make no harmony aloane.  
Longe maye you Joye such sympathye of Loves  
As doth betwine the Elme and Vine remayne,  
Or betwine palme trees, twinns, and turtle doves,  
Wher in one Lyfe doth live the Lives of twayne.  
    Longe live you in each other mutually,  
    That with your dayes your Joyes maye multiplie.

Terpsicore.

And I whose cunnige feete with measurd motion  
Express the musicke which my Sisters singe,  
Will nowe in songes expresse my trewe devotion,  
To you which to my Arte most honor bringe;  
For who can dawnce with better skill and grace,  
Then you great bridgroome, or then you fayre bride?  
Whether a solleme measure ye doe pase,  
Or els with swifter tuens more swiftly slide.  
Still maye you dawnce, and keepe that measure still  
In all your lyfe which you in dawncinge shewe,  
Where both the man and woman have one will,  
And both at once the selfe same paces goe.  
    So shall you never drawe your yoke awry.  
    But with your dayes your joyes shall multiplie.

Erato.

And I the waytinge mayde of bewtyes Queene,  
Which oft am wonte to singe of wanton Love,  
Since I these sacred nuptials have seene,  
An other godhead in my brest doth move;  
For nowe I singe of bewty of the minde,  
Which bewtifies the fayrest outward bewty,  
And of a passion which is never blinde,  
But waytes on virtewe with respectfull dutye.  
O sacred Love, where one loves only one,

Where each to other is a mirror fayre  
Wherein them selves are each to other shone:  
Such is your sacred love, illustrious payre,  
Whose fyer like Vestas flame shall never dye,  
But with your dayes your joyes shall multiplye.

Polyhimnia.

And I which with my gesture seeme to speake,  
Will speake indeede, in honor of this daye,  
And with my sweetest tuens the ayre will breake,  
Which shall to Jove passe through the milkey waye.  
Even to the eares of Jove my tuens shall come,  
And be for you (sweet bride) a zelous praier,  
That as a cherye graft uppon a plumme,  
You maye be fruitfull in your issues fayre.  
Or that you and your Love be like two streames,  
Which meetinge after many windes and crookes,  
Soe spread their mingled waves through many realmes,  
And from them selves dirive a thousande brookes.  
And though the lesser loose her name thereby,  
Yet with her dayes her Joyes shall multiplye.

Calliope.

And I which singe th'eroicke Love of Kinges,  
Must use like notes whiles I your names rehearse,  
For he which your great names in number singes,  
With names of Princes doth adorne his verse.  
And princly is your match as gold and Pearle,  
Both bewtifull, each other bewtifie;  
So an earls daughter married to an Erle,  
Gives and receaves like honor mutually.  
And as the purest cullors which alone,  
Sett by themselves, imperfect bewty make,  
Wher they are mingled and conjoynd in one,  
One from an other lyfe and lustre take.



So you beinge matcht, each other glorifie,  
That with your dayes your Joyes maye multiplye.

Urania.

But I the Muse of Heaven, to heaven will rayse (you,)  
And your fayre names in starry letters write,  
That they which dwell under both poles maye prayse you  
And in rehearsall of your names delight.  
And you fayre Bride, shall like fayre Cynthia shine,  
Which beinge in conjunction with the Sunne,  
Doth seeme her beames and glory to resigne,  
But hath indeede more light and virtewe wonne.  
Longe shall you shine on earth, like Lampes of heaven,  
Which when you Leave, I will you stellifie;  
To you sweet bride, shall Hebes place be given,  
But your Lord shall his Ganimedes roome supplye.  
Till when I will invoke each dyetye,  
That with your Dayes your joyes maye multiplye.

Krueger's careful analysis of the other contents in the manuscript collection containing these sonnets—a manuscript collection which he convincingly argues was based on Davies' own manuscripts—throws new light on the composition of John Davies' *Orchestra*. Krueger, who uses the initials of the compiler of the manuscript, LF (Leweston Fitzjames), to identify the collections, notes: "LF shows that Davies made two important but independent structural changes in *Orchestra*—one before its first publication in 1596, the other before its second printing in 1622. These alterations have caused confusion in understanding the poem, and have prompted the erroneous belief that it was never completed."<sup>6</sup> The first of these structural changes—the one Davies introduced before the first publication of *Orchestra* in 1596, shows "the poem originally contained only 113 stanzas and was considered complete by Davies in that form" (Krueger 49, 17-29).

Through an analysis of the manuscript and the structure of the poem, Krueger soundly argues that Davies inserted stanzas 109-126 of

the poem “not because he felt the poem required them, but either because he simply wanted to pay homage to Elizabeth more overtly, or—which I feel more likely—because the poem was to be used in an entertainment attended by the Queen” (Krueger 49, 17-29). He goes on to note, “...stanzas 119-126 particularly suggest that they might have been written for use in a court entertainment at which the Queen was present. All the action narrated is such that it could easily have been acted” (Krueger 49, 17-29). Finally, Krueger wrote of the Epithalamion written by Davies for the marriage of Elizabeth Vere and William Stanley:

On reading the Epithalamion, the marked similarity it bears to *Orchestra* in thought, imagery, and diction will be so immediately apparent that it requires no illustration here. By simply altering their rhyme scheme, some of the lines could easily be transferred from one poem to the other. They are products of the same period, written in the same style: smooth, light, and easy, with an Elizabethan love for pageantry and classical allusion (Krueger 50, 8).

Professor Krueger fails to let his mind follow where his evidence inevitably points: the Epithalamion and *Orchestra* were written for the same court entertainment at which Queen Elizabeth was in attendance—the festivities held at Greenwich for the marriage of Elizabeth Vere and William Stanley. Not only the stanzas Krueger draws attention to but the whole of *Orchestra* could easily have been, not acted, but presented as a recitation accompanied by music, dancing, and, perhaps, dumb shows. The very name of the work should have been the key to it long ago—*Orchestra* is not only Greek for dancing, it is also the name of that part of the Greek theater in which the Chorus danced and chanted, an area below what would be considered the stage proper.

Seen in this setting, *Orchestra* takes on a very literal and concrete meaning; it is given a local habitation and a name. When, in stanza 6, Davies makes what has been thought of as a merely rhetorical appeal to his Muse:

Sing then Terpsichore, my light Muse sing  
His gentle art, and cunning curtesie:

You lady can remember every thing,  
For you are daughter of Queene Memorie:  
But singe a plaine and easy melodie:  
For the soft meane that warbleth but the ground  
To my rude eare doth yeeld the sweetest sound.

it is likely that a member of the wedding party stood, present as Davies' Muse. Since there is a logical break in the structure of *Orchestra* following this appeal, it is at least possible that the Muse responded with the sonnet in the Epithalamion assigned to Terpsichore.

Though Krueger nowhere suggests the whole of *Orchestra* was an entertainment or interlude, he writes of it as if it were: "The opening five stanzas provide the story's legendary background. Stanza 6 uses the familiar poetic device of an invocation to the Muse—in this case the Muse of Dancing, since *Orchestra* is subtitled *A Poeme of Dauncing*. Five further stanzas give the setting, after which Antinous invites Penelope to dance, preparing for the situation. Her refusal (stanzas 14-15) prompts him to describe how Dancing was created by Love and acts as a harmonizing force in the cosmic order, etc." (Krueger 49, 17-29). It would be impossible to give a more accurate description of the opening of the poem. Let us see now if a few details of the poem will bear being placed in the setting I have suggested for it.

The legendary basis for *Orchestra* is indeed very slight. It begins with the story, drawn from Homer, of loyal Penelope waiting for the return of Ulysses, despite the fact that he has been reported dead. It soon breaks clean from this basis, however, by adding to the tale of these loyal lovers an element which Davies claims Homer either forgot, or was unaware of, or failed to discuss for fear it would hurt Ulysses—the story of Antinous:

Antinous that fresh and jolly knight,  
Which of the gallants that did undertake  
To win the widdow, had most wealth and might,  
Wit to perswade, and beautie to delight.

(Stanza 5)

Was this “story” appropriate for the wedding of Elizabeth Vere and William Stanley? Fortunately, we know a good deal about the events surrounding this match.

Elizabeth Vere, like Penelope, was no widow, but she lived in a kind of widowed state during her long engagement to Henry Wriothesley, Earl of Southampton, which seems to have extended from about 1590 until 1594. This was no love match, but rather a match made in the mundane heaven of Elizabeth’s court. Neither of the parties to this engagement seems to have wished to marry the other. Shakespearean scholars who are hostile to the Oxford theory have reasonably argued that the first seventeen of Shakespeare’s sonnets were written to encourage the Earl of Southampton to accept the match. Elizabeth Vere’s grandfather, William Cecil, Lord Burghley, was apparently anxious to see the match consummated so that one of his kin would gain access to the Earl of Southampton’s wealth—wealth Cecil could control while Southampton was a ward under Cecil’s guardianship. Throughout this precarious engagement other attempts were apparently made to marry Cecil’s granddaughter to men of noble rank and means, but she refused. It seems that she had eyes only for William Stanley, who, as a younger son with neither title nor wealth, made, in Ruth Loyd Miller’s phrase, a poor marriage prospect “for a young lady whose grandfather and guardian was looking for advantageous family alliances.”<sup>7</sup> Stanley spent much of this time, like Ulysses, traveling abroad. Mistaken reports of the deaths of Elizabethan travellers were common.

If Penelope can reasonably stand for Elizabeth Vere and Ulysses for William Stanley, it seems likely that Antinous stands for Edward de Vere, urging his daughter to marry:

One only night’s discourse I can report,  
When the great Torch-bearer of Heaven was gone  
Down in a maske unto the Ocean’s Court,  
To revell it with Thetis all alone;  
Antinous disguised and unknowne,  
Like to the Spring in gaudie ornament,  
Unto the Castle of the Princesse went.

(stanza 7)

What to my mind suggests the Earl of Oxford here, and suggests that Oxford is the Swallow to whom John Davies refers at the end of *Orchestra*, is the description of him working to convince Penelope to enter the courtly dance of love “disguised and unknowne, / Like to the Spring in gaudie ornament.” It has been frequently pointed out that Vere or Ver is the Latin for spring. More to the point, in an interlude by Thomas Nash, *Summers Last Will and Testament*, the character of Ver is based on Oxford and clearly identifies him with plays, dancing, and poetry, as well as spring.<sup>8</sup> Oxford was known for his extravagant dress, plumes, jewelry, and rich clothing—gaudie ornament. Finally, the phrase clearly echoes the first of Shake-speare’s sonnets: “Thou that art now the world’s fresh ornament / And only herald to the gaudy spring.” John Davies’ *Orchestra* seems to embody the love dance which had gone on for some time between Elizabeth Vere, Henry Wriothesley, William Stanley, Queen Elizabeth, and the Earl of Oxford. Oxford may well have used masks and dances to urge the Queen to intervene and bring a resolution to the situation by either encouraging Southampton to marry or by elevating William Stanley to a position that would make him acceptable to Burghley. That William Shakespeare of Stratford could have taken an interest in any of this is preposterous. Still, no less an authority than E. K. Chambers has suggested that Shakespeare’s *A Midsummer Night’s Dream* was performed at Greenwich at the wedding of Elizabeth Vere and William Stanley.

As in a Shakespearean comedy, the lovers were finally married—but not through the intervention of the Queen. The sudden death of William Stanley’s elder brother, the fifth Earl of Derby, metamorphosed Stanley into the sixth Earl and, reportedly, one of the wealthiest men in the kingdom. William Cecil would therefore permit the wedding to take place. It was with a little maliciousness as well as humor that the Queen notified Cecil that she expected him to dance at this wedding. As Conyers Read wrote in his life of Cecil:

She [the Queen] sent word to Burghley that she expected him to dance at the wedding. He wrote about it to Robert [Cecil] on December 2nd: “For her hope to have me dance, I must have a

longer time to learn to go, but I will be ready in mind to dance with my heart when I shall behold her favorable disposition to do such honours to her maid [Elizabeth was both namesake and a maid of honour to the Queen] for an old man's sake."

There is one apparent drawback to the basis for the composition of John Davies' *Orchestra* suggested here. The work was originally registered for publication as early as June, 1594, months before the wedding. This apparent drawback can be explained in a way that, to my mind, clinches the argument.

The wedding was agreed to and planned as soon as the fifth Earl of Derby died on 16 April 1594. The plans had to be cancelled, however, when it was learned that the fifth Earl's widow was pregnant, possibly with a male heir. This posthumous child was a girl, which made William Stanley the sixth Earl and permitted the wedding to proceed on 26 January 1594-5. It seems to me that the original, complete *Orchestra* of 113 stanzas which Robert Krueger describes is the poem that Davies wrote in fifteen days and nights, as he says in his Dedicatory Sonnet to Richard Martin. I suggest that the joyous news of the wedding from his master, the Earl of Oxford, whose financial position would also be greatly improved by the marriage, provided the immediate impetus for the composition of that poem. When the wedding plans fell through, the patronage Davies expected to win by the poem fell through. So, possibly in great need (as he had been in 1590), he sold the poem to be printed, and it was registered for publication. Oxford no doubt did not wish for the piece to be published, and the necessity for selling it vanished when the marriage plans proceeded. It is not unlikely that Oxford suggested that Davies add verses which would cause the piece to end on a tribute to the Queen, explaining why Penelope is most clearly identified with the Queen in these inserted stanzas, as Krueger realized. This explanation of the composition of *Orchestra* fits the facts as we know them, if the Earl of Oxford is the singing Swallow to whom Davies owed his service and his love.



One feature of good literature is that it means more than it says. It can be enjoyed or appreciated on several levels simultaneously, depending on the wit or knowledge of the work's readers or listeners. What comes to mind for most readers or listeners, I should think, when they come across a reference to a swallow, is the proverb "one swallow does not make summer" or, as it is sometimes given, "one swallow does not make spring." There is no poet of the Elizabethan period, much less one known for the singing quality of his poetry, his sweet "sugred tunes," for whom the literary history of this proverb could have more meaning than the Earl of Oxford.

The proverb derives from Aesop's fable of *The Spendthrift and the Swallow*:

A few warm days in winter brought a swallow from its hiding-place, and a young prodigal seeing it, sold his cloak and spent the proceeds in riotous living. But the frost returned, and he discovered, to his sorrow, that "one swallow does not make summer."

Oxford was profligate in his youth, and it is likely that William Cecil used this proverb to try to restrain the young peer's extravagance and spending. More than that, for all children, but particularly for those children destined to become writers, their names have a special attraction. Our names are usually the first words we learn to write. Imagine the force this proverb had for Edward de Vere as a boy, when he came across it in Latin books of maxims compiled by Erasmus and other Renaissance scholars: *Ver non una dies, no una reducit hirundo*, or again, *Una hirundo non facit ver*. As he matured and his interest in plays, particularly comedies, deepened, he would have found it in places which would have connected it in his mind with his calling, his vocation: in *The Knights* by Aristophanes ("Look, friends, don't you see a swallow? The herald of Spring.") and in the same playwright's *The Birds* ("That requires more than one swallow, I'm thinking."). And he would have found it perhaps most forcibly in the Italian he loved: *Una rondine non fa primavera*.

All of this, alone, would only suggest the possibility of a multilingual

and rather roundabout pun which some listeners to John Davies' *Orchestra* might have smiled at when it was recited before wits and courtiers at the wedding of Edward de Vere's daughter. But the two works which gave this proverb its currency in English in Elizabethan times suggests perfectly the relationship between John Davies and the Earl of Oxford.

The first English work in which the proverb appears, given as "one swalowe maketh not sommer, men saie," was the *Proverbs* of John Heywood, issued in 1546, four years before Oxford's birth. Heywood was not only known for his book of proverbs but also for his epigrams and for his comic interludes performed at court under Edward and Mary. He lived his last years in retirement, and when he died is not known. He received wages for singing at court from Henry VIII as early as 1515. That John Davies consciously competed with the memory of Heywood appears in one of Davies' epigrams, written sometime before November 1594:

In Haywodum. 29

Haywood, that did in Epigrams excell,  
Is now put downe since my light Muse arose;  
As buckets are put downe into a well,  
Or as a schoole-boy putteth down his hose.

It is highly unlikely that a swallow could be mentioned by an author of an interlude during a court performance without bringing John Heywood to mind for many listeners. His memory would bring with it for at least some listeners thoughts of the good old days—Roman Catholicism or, at least, Episcopalianism; feudalism; and an agricultural society in which life moved to the measure of the seasons, in which a person's place was fixed by birth and blood, a society the last glorious expression of which can be found in the plays of Shakespeare.

Curiously, the other current, popular work which spread this proverb was John Northbrooke's *Against Dancing*, issued in 1577. This book, remarkable as the first denunciation in English of plays and interludes, of dancing and dicing, contains the first references to The Theatre and



The Curtain and gives some idea of the topics dealt with in the plays performed in those public theaters. This book represents what some would have considered to be the slightly uncouth expression of the coming winter, of a new order, based on money and trade instead of blood, that moved to the measure of busy streets in seaport cities instead of the seasons, that was outspokenly Protestant, a forerunner of Martin Marprelate and, later, the Puritans who closed the theaters. It is possible that Davies composed his *Orchestra or a Poeme of Dauncing* at least in part as an answer to Northbrooke, a defiant announcement that the old ruling class still ruled and would continue to rule, thanks to marriages like the one he celebrated.

Finally, listeners to *Orchestra* would have heard in Davies' tribute to the singing Swallow echoes of lines from the plays of Shakespeare—Falstaff asking Lancaster, "Do you think me a swallow, an arrow, or a bullet?" or the second Lord addressing Timon of Athens: "The swallow follows not summer more willing than we your lordship."<sup>9</sup> But Grosart long ago pointed out that the close of *Orchestra* sounds like a new invocation. The five stanzas that close with the appeal and tribute to the singing swallow (which appeared in the 1596 edition of the poem but were excised from the 1622 edition, the edition issued the year before the appearance of the First Folio of Shakespeare's plays) begin by dismissing the muse who had presided over *Orchestra*, the muse of dancing, and invoking another muse:

Away, Terpsichore, light Muse away!  
And come Vranie, prophetesce divine;  
Come, Muse of Heav'n, my burning thirst allay.

I think Grosart was right. *Orchestra* was probably recited and danced in the orchestra at Greenwich while sets were changed and actors prepared themselves between the performances of plays. As Chambers has suggested, one of these plays could well have been *A Midsummer Night's Dream*. Another of these plays, it seems to me, might have been *The Winter's Tale*, appropriate enough for the January event, especially since it ends with a marriage to be performed. I think that Davies' urgent plea

to hear the Swallow sing was answered, a little later, from the stage above where his lines were recited, with words like these:

O Proserpina,  
For the flowers now, that frightened thou let'st fall  
From Dis's waggon! daffodils,  
That come before the swallow dares, and take  
The winds of March with beauty.

*The Winter's Tale* (IV. iv. 116-120)



### Notes

I am indebted to the late A. Bronson Feldman, Ph.D., an Oxfordian scholar, for reading and commenting on an early draft of this article.

<sup>1</sup> All quotations of Shakespeare are drawn from the Neilson and Hill edition of *The Complete Plays and Poems of William Shakespeare* (1942).

<sup>2</sup> All quotations of Davies' poems are drawn from *The Poems of Sir John Davies*, ed. Robert Krueger (London, 1975).

<sup>3</sup> Robert Krueger identifies the Swallow with Richard Martin because of the pun on the name and Davies' dedication of an early version of *Orchestra* to Martin. Martin was a fellow member of the Middle Temple with Davies, a wit, a high-spirited and attractive youth, and the associate of poets. But there is no sign that he was a poet himself, much less the kind of poet Davies describes. Dr. D. W. Thomson Vessey identified the Swallow with Henry Wotton in *The Bard: The Journal of the Shakespearean Authorship Society* 2:4 (1980): 130-132. Setting aside the quality of Wotton's verse, Vessey conjectures that Davies may have addressed Wotton in an effort to attract the notice of the Essex faction and gain patronage. Davies' lines clearly state that he is paying tribute to his master, not seeking one. Vessey does make a strong case against Drayton as the Swallow, another candidate who had been proposed in the past.

<sup>4</sup> Charles Wisner Barrell, "Thomas Nash in the *Epistle Dedicatorie* to "Strange News," in Eva Turner Clark, *Hidden Allusions in Shakespeare's Plays*, ed. Ruth Loyd Miller (1974), 933.

<sup>5</sup> Robert Krueger, "Sir John Davies: *Orchestra* Complete, Epigrams, Unpublished Poetry," *Review of English Studies*, New Series XIII, No. 50 (1962) [hereinafter Krueger 50]: 8.

<sup>6</sup> Krueger, "Sir John Davies: *Orchestra* Complete, Epigrams, Unpublished Poetry," *Review of English Studies*, New Series XIII, No. 49 (1962) [hereinafter Krueger 49]: 17-29.

<sup>7</sup> J. Thomas Looney, *Shakespeare Identified in Edward de Vere, 17th Earl of Oxford*, Ruth Loyd Miler, ed., (1974), Introduction.

<sup>8</sup> See *Hidden Allusions in Shakespeare's Plays*, 907-909. For details of Oxford's life, see B. M. Ward, *The Seventeenth Earl of Oxford* (1928).

<sup>9</sup> *Henry IV, Part Two* IV. iii. 32-33; *Timon of Athens* III. vi. 29-30.



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## The Rare Italian Master and the Posture of Hermione in *The Winter's Tale*

Bette Talvacchia

The princess, hearing of her mother's statue, which is in the keeping of Paulina—a piece many years in doing and now newly performed by that rare Italian master, Julio Romano, who, had he himself eternity and could put breath into his work, would beguile Nature of her custom, so perfectly he is her ape. He so near to Hermione hath done Hermione that they say one would speak to her and stand in hope of answer.

*The Winter's Tale* (V. ii. 93-101)<sup>1</sup>

It is with this curious speech of the Third Gentleman that Shakespeare introduces into his play the name of Giulio Romano, an artist famed as Raphael's heir and honored as a member of the Gonzaga court in Mantua.<sup>2</sup> The content of the speech is curious, in part because it is less ekphrasis than allusion: the sculpture is not so much described as evoked, its qualities defined in terms of the virtues of the artist who created it. Another puzzling matter, which has caused extensive discussion, is that Shakespeare seems to have misidentified the only artist whom he ever mentioned by name. With his characterization of Giulio Romano as a sculptor, the playwright presents him in the single capacity for which twentieth-century criticism has no terms of reference. Contemporary

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architectural history of the Renaissance features Giulio as a major force; art historians try to fathom the artist's undeniable prominence in his own day, sometimes begrudgingly attributing it to fame-by-association with Raphael, sometimes to an era of decadent tastes. As a sculptor, however, Giulio Romano is non-existent. Scholarship has not constructed a corpus of three-dimensional works for the artist, and so criticism presumes the mention of sculptural work by Giulio Romano to be a mistake. If, however, we change the orientation and assume that Shakespeare consciously introduced the reference, based on what Elizabethan culture has made of Giulio Romano (whether it agrees with our own construction of him or not), and in response to needs of the play, then attention to the function of the cypher "Julio Romano" within the framework of the drama may help to elucidate and justify its presence there.

A close reading of Shakespeare's language in the passage cited reveals that the word "sculptor" is never explicitly applied to Giulio. The term is apparently not of much interest to the author, who instead presents his character in the much more inclusive terms of "that rare Italian master." At this point it is useful to recall that during the Renaissance, artists—and court artists in particular—vaunted their skill in the various manifestations of the Fine Arts, which were all linked by their common source in *disegno*. Giulio Romano, who in real life attained sovereignty over the unfolding of the arts within Federico Gonzaga's Mantua, would have been at home in the courtly surroundings of Leontes' "Sicilia."

Shakespeare's less specific and loftier identification of Giulio Romano is in fact instructive: as the prestigious master of a large workshop, the artist was in a position to call into being works that came from his ideas, but were executed by others. In his position as originator and overseer of the vast programs of decoration for the residences of the Duke of Mantua during the 1520s and '30s, Giulio incorporated a great deal of sculpture, in the form of friezes and bas-reliefs made of stucco, modeled upon classical prototypes. Thus Shakespeare was accurate when he allowed that Giulio could have been involved with the production of a statue. His focus on the artist from this isolated perspective, however, causes enough distortion that further explanation is required.

Some elucidation comes from carefully considering the description of the statue as “a piece many years in doing and now newly performed.” Shakespeare makes a clear distinction for his audience between two separate phases in the realization of the sculpture: first, the long period of carving or modeling, and afterwards, the bravura touches that complete the work, which constitute the “performance” by the master. The choice of the word “perform” is a precise clue as to how Shakespeare imagined Giulio Romano’s contribution to the production of the statue: a contemporary usage of that verb connoted “completion by painting” (Chew, 11). The finished piece, brightly painted to render contrasts among the various fictions of skin, hair, and fabrics, was thus made to conform to the popular Elizabethan predilection for polychrome sculpture.<sup>3</sup> Clearly, the statue of Hermione as envisioned by Shakespeare belonged to a particular genre of fully painted three-dimensional funeral effigies, and the type would be both appropriate as a monument to the dead queen, and well known to the contemporary audience. In addition to providing a rational visual basis for the homologous appearance of Hermione both as a statue and as a living presence, the differentiated surfaces of the sculpture, colored to imitate life, also acknowledge Giulio Romano’s mastery as a painter.

The designation of two processes that combined to produce the final work of art accurately represents a system in which the director of a highly organized *équipe* would oversee and then touch up the work of assistants as they executed his designs. Giulio’s art, like Shakespeare’s, was ultimately a collaborative affair. The reference to the working methods of the statue’s maker may stem from this, and points to the question of what Shakespeare might have known about Giulio Romano, and from where his information would have come.

The essential source for details about the life of Giulio Romano is found in the monumental compilation of artists’ biographies by Giorgio Vasari, *Le vite dei più eccellenti pittori, scultori, ed architettori*. Vasari first published his multifaceted work in 1550, and then greatly amplified it and modified the contents in the second edition of 1568. A biography of Giulio appeared in both, with differences especially in the introductory and final passages. Since the full series of the *Vite* did not exist in a

complete English translation until the nineteenth century, any hypothesis of Shakespeare's consultation of Vasari will introduce the inconclusively debated issue of the playwright's ability to read Italian.<sup>4</sup> And while a scholar immersed in the reconstruction of Renaissance England's reading habits has told us that "Almost every cultivated Elizabethan had at least a smattering of Italian" (Lievsey 1984, 9), in order to glean effectively from Vasari, the reader would need a polished level of Italian to match the sophistication of the writer's prose. This problem notwithstanding, lengthy discussions have posited Shakespeare's knowledge of Vasari as central. One in particular that takes up aspects of *The Winter's Tale* finds "common ground" in Vasari's anecdotes about Michelangelo's sculpture for the Medici Chapel, and Shakespeare's approaches to the statue of Hermione (Barkan, 648-49).

Even more compelling is the echo from Vasari that resonates in the phrase of the Third Gentleman when he proclaims "had he himself eternity and could put breath in his work, [Giulio] would beguile Nature of her custom." These ideas follow closely the epitaph on Giulio's lost tomb in Mantua, which Vasari recorded at the close of Giulio's *Life* in the 1550 edition:

Videbat Iuppiter corpora sculpta pictaque  
Spirare, et aedes mortalium aequarier Coelo,  
Iulii virtute Romani. Tunc iratus,  
Concilio divorum omnium vocato,  
Illum et terris sustulit; quod pati nequiret  
Vinci aut aequari ab homine terrigena.

Jupiter saw sculpted and painted bodies breathe and the homes of mortals made equal to those in heaven through the skill of Giulio Romano. Thus angered he summoned a council of all the gods, and he removed that man from the earth, lest he be exposed, conquered, or equalled by an earth-born man.<sup>5</sup>

This source would instantly explain, without the need for elaborate discussion, why Shakespeare set the character "Julio Romano" within his

play as a sculptor—the lines praise the artist's flagrant ability to counterfeit both "sculpted and painted bodies." Indeed the compact epitaph holds all of the concepts that are crucial to Shakespeare's dramatic use of Giulio Romano: he was an artist of such renown that he attracted the attention of Jupiter; his art was so considerable that his sculptures and paintings lacked only the breath of the living; Giulio's deftness at simulation threatened the divine prerogative of creation (so the artist was removed from earth).

The reason to insert Giulio Romano into *The Winter's Tale* was to present him as the epitome of the artist who could deceive the beholder's eye into mistaking plaster and pigment creations for nature's moving and living beings. Later on, of course, one of the play's *coups de théâtre* will hinge on the acceptance of just such a confusion of art and reality when the statue of Hermione comes to life. The existential status of the figure of Hermione—is it the living woman imitating a sculpture, or is it art that copies life with wondrous success—is never clarified, and the statements of the characters who disclose information about the statue only confirm the ambiguity. Hermione may never have died, but was hidden and sustained by her faithful friend, as implied by the words of the Second Gentleman with regard to Paulina's action:

I thought she had some great matter there in hand, for she hath privately twice or thrice a day, ever since the death of Hermione, visited that removed house.

(V. ii. 104-106)

Thus is the possibility established that Hermione was really alive and hidden throughout the sixteen years that passed before her reintroduction to life at court in the guise of a statue. A further clue that sustains this theory is that the sculpture does not represent the young queen at the moment of her death, but appears to have aged at the same rate as the living woman would have. Picking up the leit motif of the artist's ability to duplicate nature to perfection, Paulina avers that Giulio Romano could even reproduce its systems:

LEONTES. But yet, Paulina,  
Hermione was not so much wrinkled, nothing



So aged as this seems.

.....  
PAULINA. So much the more our carver's excellence,  
Which lets go by some sixteen years and makes her  
As she lived now.

(V. iii. 27-31)

By employing the conceit of art's aping nature, so insisted upon throughout the play, Paulina can provide a reason for the otherwise inexplicable conundrum presented by the statue: it is the portrait of a woman who never lived to the age at which she is represented. If this is indeed the case, Giulio Romano, as characterized by Shakespeare, is the artist capable of such a feat. If, on the other hand, the ploy of the sculpture is taken to be a mere feint, then the explanation would be that the mature Hermione stands before us.

This second reading would be supported by Hermione's own statement to her daughter at the end of the play when she promises to recount the story of her preservation:

For thou shalt hear that I,  
Knowing by Paulina that the oracle  
Gave hope thou wast in being, have preserved  
Myself to see the issue.

(V. iii. 125-128)

Hermione's postponed explanation is not to be delivered on stage. But her prefatory remarks, however summary, are straightforward and claim active responsibility in having made provision for her own survival. The amazing statement of self-determination is never explored within the structure of the play; indeed, Paulina quickly tells the queen not to bore everybody with a long-winded explanation at a time of such rejoicing. The lack of a clear resolution to the mystery allows for a rich ambiguity that calls into play the mystifying powers of art, and even permits the suggestion of the darker forces of magic, traditionally also linked to artistic creation.

A direct evocation of magical powers springs to the lips of Leontes, "O royal piece, / There's magic in thy majesty" (V. iii. 38-39), as he struggles to control his emotions when he first sees the statue. The

princess Perdita immediately furthers the reference by disavowing superstition, even though she wants to kneel before the statue and ask its blessing. Paulina later vaunts that she can make the statue move, and at the same moment protests that this may give the appearance of being in league with evil powers, which she vehemently denies. The most solemn tone of awe in the presence of supra-human accomplishment is struck by Leontes when he is moved to question "what was he that did make it?" (V. iii. 65). This voices both the admiration and fear with which the artist's capacity to create has been traditionally received in society. When an artist imposes human form on inert matter, the act of divine creation is mimicked with perhaps too much audacity. The perilous nearness to transgression is recorded in ancient myths, and certainly Pygmalion's ability to give form to a figure that was later vivified, albeit with celestial intervention, puts him a stone's throw from divinity himself. The use of the motif of the statue that becomes a woman in *The Winter's Tale* certainly recalls Pygmalion's story, and with it conjures an atmosphere in which the artist's power to rival nature is a major consideration.

Before it could be animated, Hermione's statue had to be "performed" by an artist whose work inspired praise for being life-like. Based on the characterization in the epitaph quoted by Vasari, Shakespeare could have been convinced that he found the perfect symbol of the artist who rivalled nature, especially if he did not know much else about Giulio, and in particular if he had not seen his work. It is this more than anything else that leads me to doubt that Shakespeare had read extensively about Giulio Romano; certainly not the amount that Vasari, who knew the artist, conveyed in his full texts.<sup>6</sup> "Jupiter saw sculpted and painted bodies breathe...through the skill of Giulio Romano;" this single excerpt from the tomb's inscription is sufficient, and a sufficiently striking formulation, to have swayed the playwright to select the artist thus memorialized as the symbol in his play. Giulio Romano's potent skill called forth the envy of the heavens when his configurations seemed to breathe—to which master could Shakespeare have better attributed a carved and painted likeness of Hermione? Or, in Leontes' formulation, the artist whose "chisel / Could ever yet cut breath" (V. iii. 78-79).

I think it more probable that Shakespeare knew, not Vasari's ample biography, but the epitaph alone, from a source independent of the Italian editions of the *Vite*. It is important to recall that Vasari chose not to include Giulio's epitaph in the 1568 edition, making the earlier version of 1550 the only possible source for the hypothesis that Shakespeare read Vasari directly. It is arguable that Shakespeare's acquaintance with facts about the artist was of a more general sort, information that might circulate verbally, that would catch the popular interest and therefore be repeated and spread. Thus he might have known that Giulio had been connected to Raphael's shop in Rome; that he worked as artist-in-residence to the Gonzaga court; that Mantua was full of his fanciful inventions. A traveller could have easily brought back a record of the evocative epitaph transcribed directly from the artist's tomb, which found its way to Shakespeare's attention. Within this context the patterns of travel followed by Elizabethan Englishmen are significant. In the early seventeenth century Mantua was a powerful draw, with its courtly culture in the full flower of a "second golden age."<sup>7</sup>

When Shakespeare first mentions the statue, then, he links it inextricably to Giulio Romano, as the true-to-life object created by the artist who rivalled nature. In the following scene the audience gets its first view of the statue, along with Leontes, whose immediate words of recognition form the exclamation "Her natural posture!" (V. iii. 24). The convincing apparition of his dead wife elicits Leontes' shock, and the statue's close imitation of her semblance excites the King's desire for Hermione; his words soon convey erotic longing. The figure's stance is itself alluring, so that it recalls to Leontes the early days of the couple's love:

O thus she stood  
Even with such life of majesty—warm life,  
As now it coldly stands—when first I wooed her!  
(V. iii. 34-36)

The recollection of the flush of existence contrasts with the gelid statue, and yet the figure's posture vivifies the stone. Leontes is finally so overcome by desire that he makes a move to kiss the statue, which is denied

him, with the excuse that he will ruin the painted surface that is still wet. The reference to a lover's kiss bestowed upon a statue evokes forcefully the obsessive love and avidity for sexual fulfillment upon which Pygmalion's story hinges, and in this way prepares the audience for the statue's coming to life. The miracle of regeneration is implicitly tied to the physical drive of generation as the passions of Leontes are aroused. Since the error of Leontes was a reckless surrender to the force of unbridled jealousy, a crime of passion gone wrong, it is appropriate that at the moment of forgiveness the positive side of that passion should be in play. The appearance of Hermione is such that it rekindles Leontes' erotic impulses—the statue is a representation of his legitimate desire. This reading is in keeping with the import of the drama, for the erotic nature of the scene, though highly charged, is not smutty: Hermione's voluptuousness and Leontes' yearning are sanctioned within the bonds of married love. At the moment when the burden of an unjust imputation against Hermione's chastity has been lifted, the sensuousness and desirability of her living presence is reconfirmed.<sup>8</sup>

The "natural posture" of the sculpture arouses Leontes' lust; the figure must therefore be understood as disturbingly erotic in its simulation of real flesh. The emphasis on the pose of the statue and the appearance of the word "posture" at this key moment in the play's denouement introduce considerations about the function of the erotic in the tormented relationship of Leontes and Hermione, and give further indication that the connection of Giulio Romano to the sculpture was a loaded calculation.

The deliberateness with which Shakespeare chose to use the word "posture" can be deduced from the fact that it appears only six other times in the corpus of plays.<sup>9</sup> The word consistently makes reference to artifice and a contrived presentation of the human form, as when Norfolk tells Henry VIII of the cardinal's curious behavior: "in most strange postures / We have seen him set himself." In another instance, the contrivance is linked to physical allure that comes by means of divine intervention: Brutus is amazed at the tumultuous popular reception of Marcius, and observes that it seems "whatsoever god who leads him / Were slyly crept into his human powers / And gave him graceful posture."

When put into the mouth of Cleopatra, the enunciation of “posture” reverberates with salacious overtones, and its setting has to do with the stage. Cleopatra imagines a future theatrical production that takes the story of her tragedy for its plot:

Antony

Shall be brought drunken forth, and I shall see  
Some squeaking Cleopatra boy my greatness  
I th’ posture of a whore.

*Antony and Cleopatra* (V. ii. 219-221)

The connection made between posing and imitating, between posture and imposture, is as strong in this scene as it is in *The Winter’s Tale*, while the erotic connotations are even more pronounced. The character voices concern that her greatness—which includes potent and seductive sexuality—will be degraded into the semblance of common prostitution by the vulgarity of the acting in some future theatrical production. In part this will be due to the fact that, following conventions of the stage, Cleopatra’s role will be played by a youth. In the queen’s disdainful assessment, the young man’s mimicry of her mature sexuality could only render an ignoble and farcical spectacle. The boy’s tawdry best efforts might, for example, drain passion of all but its lust and demote love to sex; his every gesture and each raffish pose would give the appearance of, or take the posture of, a whore. In performance there may have been a further implication about a young male prostitute, and gender confusion abounds, since the actor to utter the lines bemoaning such imposture would, on the Elizabethan stage, have himself been a boy. So would the actor who impersonated Hermione, striking the pose of her “natural posture.”

Postures are also described in *Cymbeline*, a play written probably within a year of *The Winter’s Tale*. The context again has to do with artifice and the statues of female figures: the Italian Iachimo recalls “The shrine of Venus or straight-pight Minerva, / Postures beyond brief nature” (V. v. 164-165). In this case the figures, frozen in the postures fixed by art, will outlive the cycles of nature. The endurance of artistic representation becomes an equivalent for the immortality of the god-

desses. It is less clear whether Shakespeare intends the postures in this case to be suggestive, although images of the goddess of love would inherently carry the possibility. These citations of the word “posture” in Shakespeare’s plays indicate a possible association of ideas that works to reinforce a specific reading. Repeatedly, “posture” signals thoughts about impersonation and the eroticism of the female form. The association, however, was not Shakespeare’s alone.

The loading of the word “posture” with provocative sexual implications occurred during the Renaissance in that arena where high culture met more popular vehicles of expression, and it originated in a group of works by none other than Giulio Romano. Shakespeare’s rare Italian master had been responsible for designing a set of drawings that showed imaginative variations on the positions taken by couples during the sexual act, therefore known in Italy as *I Modi*.<sup>10</sup> Sometime around 1524, the engraver Marcantonio Raimondi transformed the drawings into a series of prints and put them into circulation in Rome, causing an uproar. The prints were suppressed, and the printmaker landed in prison. The poet Pietro Aretino used his influence with Clement VII to help liberate Raimondi, and then joined the mêlée himself by writing sixteen sonnets of a very lubricious nature, one for each engraved position. Vasari knew about the combined product of words and images, and remonstrated in his most gentlemanly fashion:

And, what was worse, for each position Messer  
Pietro Aretino wrote a most obscene sonnet;  
so that I do not know which was more offensive:  
the sight of Giulio’s designs or the sound of  
Aretino’s words.<sup>11</sup>

Not surprisingly, the expanded version of *I Modi*, which appeared in book form as early as 1527,<sup>12</sup> redoubled the scandal, for if Giulio’s couples were composed of elegant lines, those in Aretino’s couplets lacked any touch of delicacy. The banned work nevertheless became a valued collector’s item, and gave rise to a legacy of legends and copies. The scandal around *I Modi* and versions of the poems and prints were widely

known, and many references, both direct and covert, were made to them. Ariosto alludes to the erotic drawings in the second version of his prologue to *I Suppositi*; Brantôme avers that he talked with a Parisian bookdealer who sold fifty copies before a year had run its course; and eventually a copy made its way into Rembrandt's personal art collection. The diffusion of *I Modi* through northern Europe is unexpectedly documented. The *Modi* were dispersed in several ways: as independent engravings, bound together with the sonnets, and eventually in many other versions, including woodcut copies and pirated editions. It would have been easy for Shakespeare to have come upon this less flattering reference to Giulio Romano in the whispered and largely unrecorded gossip around forbidden books.

A few traces of the notoriety of *I Modi* survive in the literature of Shakespeare's world. Ben Jonson injects a snicker about the erotic postures in *Volpone*, when Lady Wouldbe mentions Aretine, whose "pictures are a little obscene" (III. iv. 96-97); and in *The Alchemist*, Sir Epicure Mammon fantasizes about decorating his chambers "with such pictures, as Tiberius tooke from Elephantis: and dull Aretine But coldly imitated" (II. ii. 44-46). Ariosto, in his reference to *I Modi*, links the pictures of Elephantis with "the prints, more beautiful than modest" that are renewing the ancient tradition in his contemporary Rome. It is interesting to speculate if Jonson's equation found its source in the earlier play.

That Jonson also knew explicitly about Giulio Romano is recorded in two other words, *The Under-wood*, LXXVII and *Discoveries*. In both of these instances the writer names Giulio Romano in the company of the most outstanding Italian artists. In each case the group is select, with at maximum a half-dozen others sharing the situation with Giulio. In *The Under-wood*, "Romano" heads the list, while in *Discoveries*, Giulio is placed along with Raphael, Michelangelo, and Titian in a selection prefaced by the description: "There liv'd in this latter Age six famous Painters in Italy: who were excellent, and emulous of the Ancients."<sup>13</sup>

Jonson's plays, dating from 1606 and 1610, are exactly contemporary to *The Winter's Tale*. If Jonson took for granted his audience's under-

standing of the references to Aretino and erotic images, Shakespeare may well have intended an allusion to the *Postures* in Leontes' exclamation of recognition at his first glimpse of the statue of Hermione. Given his specific introduction of Giulio Romano, Shakespeare could have calculated the outcry of the word "posture" to carry a spark of recognition to the *cognoscenti*, reinforcing the erotic undercurrent in Leontes' relation to the statue of Hermione.<sup>14</sup> For in their English diffusion the *Modi* became the *Postures*. This is apparent in an incident that took place at Oxford in 1675, when students at All Souls College tried to employ the university press to print an edition of *Aretins Postures*. The project failed, but its attempt left for us a record of the topic of interest, and the title used.

A slightly earlier source also indicates frustrated interest in having copies of the *Postures*, whose unavailability had clearly become as legendary as its content. In 1666 an Italian publisher who lived and worked in London, Giovanni Torriano, presented his *Piazza Universale*. The book is a copious bilingual compilation of proverbs with an addendum of lively dialogues, through which he intended to pass an understanding of Italian culture on to his new countrymen. Among other models, Torriano devised a conversation between an Italian bookseller and an English tourist to give the flavor of the spoken word, and as an exercise to increase the foreigner's proficiency in the Italian language. Torriano's scheme was to present vignettes that offered amusement, practicality, and topicality as a means of making the acquisition of a foreign tongue more compelling. The entertaining encounter takes place as follows:

Il Forastiere discorre con un Libraro Romano

Vo cercando le opere di A.

V.S. puo cercar da un Capo all'altro della Strada che nolle  
trovera.

E perche?

Perche sono proibite, le *Figure* e li *Raggionamenti*, quel braccicare d'huomini e Donne con artificii ricercati mette scandalo, et il Sant'Officio non sopporta tal cosa, anzi condanna tutte le cose brutte e sporche, per fin a gl'Amorosi Avvenimenti de'Romanzi condanna.

A Stranger discourseth with a Roman Bookseller



I am seeking the works of A.

You may seek from one end of the Row to the other, and not find them.

And why?

Because they are forbidden, both the *Postures* and *Discourses*, that imbracing of men and women together in unusual manners, begets a scandal, and the Inquisition permits no such matters, it condemns all such sordid things, nay not so much, but the Amorous [sic] Adventures in Romances it condemns. (Torriano, 80)

After this introduction, the dialogue goes on to cover, through the feigned conversation, aspects of serious book purchasing such as the relative value of first editions, emended editions, and translations versus editions in the original language. The necessary vocabulary for seeking out and discerning all of these refinements is thus provided at the same time that the information is given—a nice touch from a professional of Torriano's standing. It is striking that such a discussion should be introduced by chat about the censored works of Aretino—a name too hot to write out in full, and thus inevitably recognizable behind the lone initial. The reference to Aretino and mention of the *Postures* as an ostensibly random example of conversation between a Stranger and a Roman Bookseller was Torriano's way of getting the attention of his readers before proceeding to the language lesson. Clearly this topic engaged the sort of interest that could be counted upon to entice an audience.

The comprehension of the audience is a central concern for the performance of a play. Shakespeare's introduction of a real artist's name into the unfolding of *The Winter's Tale* would function only if it furthered the dramatic action of the play, through some predictable range of associations in the context of shared contemporary culture. The effect of Giulio's name was not contingent upon everything that history yields about the artist and his work, but upon what Elizabethan culture might have conjured up for the cypher "Julio Romano." In my opinion, Shakespeare counted on his audience's recognition of an Italian master who was reputed to have brilliantly blurred the boundary between art and life, yet who, from another frame of reference, could spiritedly evoke the

passage from cold stone to warm life, with all of its vivid eroticism.



### Notes

My inquiry into this subject began in 1986, after a conversation with James Shapiro of Columbia University, and for a while we researched the topic jointly. Despite the fact that the project has taken on a completely different form over the intervening years, I would like to acknowledge James Shapiro's remarks as the original impetus for this study, and to thank him for turning the material that we shared over to me. Most recently I have presented ideas contained in this article at the Getty Center for the History of Art and the Humanities. I would like to thank Dr. Kurt W. Forster, the Center's director, for the invitation to give the talk.

<sup>1</sup> All quotations from Shakespeare are from the Arden edition of *The Works of William Shakespeare* (1990).

<sup>2</sup> For overviews of Giulio's life and work see Carlo D'Arco, *Storia della vita e delle opere di Giulio Pippi Romano* (1838; reprint, Mantua, 1986), and Frederick Hartt, *Giulio Romano*, 2 vols., (1981).

<sup>3</sup> In "Painted Statues," 250, B. J. Sokol reminds us that "The Globe theatre stood near the masons' yards that supplied all of England with richly painted funeral effigies," which stresses the topicality and conspicuousness of the genre of painted sculpture. I am not necessarily convinced by Sokol's deduction of a "novel attitude" of disparagement for painted statues from the citations given, which often are merely descriptive of sculpture seen, without particular judgmental emphasis on the fact that they are not painted. With reference to *The Winter's Tale*, I believe that Shakespeare's use of a painted statue was not concerned with questions of the modernity or archaism of the type, but with a theme of his play that centered on art being capable of imitating nature. Thus, Sokol's example of Paulina's insistence on the wet, freshly painted surface of the statue has nothing to do with contempt for this way of making a sculpture, but with key elements of the plot, which I will discuss further on. On the other hand, a consideration very much worth taking up is Sokol's musing that "the *paragone* discussions of Benedetto Varchi and others about painted surfaces, sculptural forms, and love, are alluded to" in the whole treatment of the device of the painted sculpture.

<sup>4</sup> There was, however, an English translation of the *Vita* of Giulio Romano in 1685, in a selection with ten others, rendered by William Aglionby. Although this is too late to have been a help to Shakespeare, it points out the enduring interest in the personality and work of Giulio Romano in England in the seventeenth century. See Borenus.

<sup>5</sup> This translation is taken from Barkan, 656, who also discusses the strong link between the epitaph and Shakespeare's allusions to the artist.

<sup>6</sup> Easy access to the volume itself is dubious. Editions of Vasari do not surface in accounts of Italian books readily available in England during the sixteenth and seventeenth centuries. See Lievsay 1969, and Scott.

For a recent, informative essay about the array of contemporary literary sources that mention or give notices and criticism of Giulio Romano, see Severi. The article is particularly good in its collection of the manifold citations of the artist. The author posits that Shakespeare's primary knowledge of Giulio came from Richard Haydocke's translation of Giovan Paolo Lomazzo's *Treatise*, and Robert Peake's English version of five of Sebastiano Serlio's *Books on Architecture*. While the hypothesis demonstrates the wide-ranging references to the artist available in the late sixteenth century, in my opinion it places too much emphasis on the necessity of highly specialized reading, in the form of treatises on art and architecture. In fact, the crucial analogous points outlined by Severi—aspects of the imitation of nature—were based on established paradigms, and were in general circulation, easily available outside of the meticulous consultation of expert theoretical tracts.

<sup>7</sup> The phrase is used by Martinet, 265, who makes a strong point about Mantua's interest for early seventeenth-century England. The impact of Mantuan culture on Shakespeare is glaring enough that it prompted one scholar to hypothesize, although not convincingly, a visit by the playwright to the city during his youth, and further that a series of frescoes by Giulio depicting the Trojan War influenced descriptions in the *Rape of Lucrece*. See G. Sarrazin, "Shakespeare in Mantua?" *Jahrbuch der deutschen Shakespeare-Gesellschaft* (29-30) 1894, 249-254.

<sup>8</sup> If the certainty of Hermione's blamelessness is challenged, then the eroticism of her "posture" and the images conjured by the reference take on diverse tones, or multiple "suppositions." Howard Felperin poses such questions of what we can know about the queen's state of guilt or innocence in a provocative and scintillating reading of the play's "condition of interpretive uncertainty" in "Tongue-tied our queen?"

<sup>9</sup> *Julius Caesar* V. i. 33; *Coriolanus* II. i. 210; *Cymbeline* III. iii. 94; V. v. 165; *Antony and Cleopatra* V. ii. 221; *Henry VIII* III. ii. 118.

<sup>10</sup> The history of the prints is complex, and is just beginning to be clarified in the art historical literature. For aspects of the subject see Henri Delaborde, Giorgio Lise, Henri Zerner, Lynne Lawner, Manfredo Tafuri, and Bette Talvacchia.

<sup>11</sup> Vasari, 418. The translation is my own.

<sup>12</sup> The volume is mentioned in a letter from Pietro Aretino to Cesare Fregoso in November, 1527. Ettore Camesasca, ed., *Lettere sull'arte di Pietro Aretino*, vol. 3 (Milan, 1957), 18.

<sup>13</sup> C. H. Herford et al., eds., *Ben Jonson*, vol. 8 (1947), 260, 612.

14 Terence Spencer parenthetically “forebears from suggesting” that the name of Giulio Romano was meant to have erotic innuendo in association with Hermione’s posture, considering that it would be “an appalling jest.” My reading sees it as something considerably more sophisticated. Spencer’s conclusion that “Giulio Romano” was used as a generic name to indicate “Italian artist” is not a convincing alternative in my opinion.



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## Notes



### Shake-hyphen-speare

An interesting argument was offered during GTE's televised debate on the Shakespeare authorship question on September 17, 1992, moderated by William F. Buckley, Jr. Professor Gary Taylor, citing the work of Randall McLeod, stated that the Bard's name was hyphenated as "Shake-speare" for typographical reasons. Taylor said that the forward tail of a swash *k* would curl down under the *e* and shove against or crowd out the rearward tail of a swash *s*. The result would be loose type falling out of its frame during the printing process, unless a hyphen was inserted to add more space. Consequently, Taylor maintained, there is nothing suspicious in the spelling "Shake-speare."

Let us respond. To begin with, common sense tells us that typesetting technology 130 years after Gutenberg must have been remarkably poor if a simple letter combination like *kes* had to be hyphenated, but let us examine some evidence.

I looked for "Shake-speare" in all of the facsimiles of early Shakespeare works that were readily available: *Shakespeare's Plays in Quarto, A Facsimile Edition of Copies Primarily from the Henry E. Huntington Library*; the original edition of the Sonnets; the title page facsimiles and other illustrations in *The Reader's Encyclopedia of Shakespeare*, edited by O. J. Campbell and Edward G. Quinn; and the First Folio. The first three of these sources give the following hyphenated examples of the author's name: the title pages of the 1603 quarto of *Hamlet* and both quartos of *King Lear*, the cast list for *Sejanus* from the 1616 edition of Ben Jonson's complete works, the title page of the 1640 John Benson edition of Shakespeare's poems, and the 1609 Sonnets, where the name is hyphenated on the title page and in the running title printed throughout the book. In all of these examples, the name is printed in normal roman type. Neither the *k* nor the *s* has a tail descending below the line, and it is impossible for the two letters to collide. Professor Taylor's theory does not explain these examples—the name was hyphenated intentionally

and not as a typographic accident.

The prefatory pages to the First Folio print the author's name nineteen times. Five of these are hyphenated, all five being on the page with the commendatory poems by L. Digges and I. M. On all other pages where the name appears, it is not hyphenated. On the Diggs/I. M. page, the name appears six times: first, unhyphenated in the title of Digges' poem; next, hyphenated three times in the body of Digges' poem; next, hyphenated in the title of I. M.'s poem; and last, hyphenated in the body of I. M.'s poem. In four of the five hyphenated cases, the name is in normal roman type, and there is no typographic need for hyphenation. In the title of I. M.'s poem, the name is in swash italic type, and the *k* and *s* have descending tails.

We seem to have found what we were looking for. I measured the width of the hyphen and the horizontal distance between the tails of the *k* and *s* as carefully as possible with dividers. It appears that if the hyphen were deleted, the tails would probably collide. So the Taylor/McLeod theory seems to check out in this example.

But is there an alternative explanation? The oversized italic type used in the title of I. M.'s poem is from the same font as (i.e., is identical to) the type used to print the dedication on pages A2r and A2v, the heading "To the great Variety of Readers" at the top of page A3r, and the names of the "Principall Actors in all these Playes" on the last prefatory page. The name "William Shakespeare" heads the list of actors and is not hyphenated, the typesetter having chosen a *k* with a short tail. Further, none of the other material printed with this font contains words with unnecessary hyphens. These facts, coupled with the fact that the italic "Shake-speare" is found on the one page where the name is regularly hyphenated, make it extremely improbable that the italic example of hyphenation resulted from the typesetter being too lazy to toss the long-tailed *k* back in its case and replace it with a short-tailed *k*.

Still, let us give this hyphen hypothesis every opportunity to succeed. Suppose the Digges/I. M. page was set up last, and the long-tailed *k* was the only *k* left in the case. Was the typesetter compelled to hyphenate the name? No, he had another option that would detract far less from the appearance of the word.

There was a simple way to gain the minute amount of spacing needed to prevent clashing tails. A font of type includes not only pieces that print letters, numbers, and punctuation marks, but also pieces that produce blank spaces. These “spaces,” as they are called, are mostly of a standard size, about equal to the width of an average letter, and provide the separations between words. But there are also longer spaces to fill out lines that don’t reach to the right margin—for example, the last line of a paragraph or a line of verse. And there are shorter spaces, some hair-thin, used to adjust the spaces between words so that the entire line of type fits tightly between the left and right margins. Therefore, the typesetter who prepared the Digges/I. M. page could easily have used a hair-space instead of a hyphen if the tails of the two letters collided. He spelled the name “Shake-speare” because he wanted it that way. In other words, even in the one example that seems to meet Professor Taylor’s requirement of colliding tails, there is still no need for a hyphen.

The evidence presented here is only a sample of all the early hyphenations of the author’s name. But I feel that it justifies rejecting Professor Taylor’s explanation of “Shake-speare” as a typographic accident. The hyphenation was intentional.

—Peter R. Moore

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### “Concealed Poets”

The following letter from Francis Bacon to John Davies, listed as MSS. 976, fo. 4 at Lambeth Palace and published in Bacon’s collected writings, firmly establishes that “concealed poets” were an integral part of Elizabethan life and that Davies was associated with them. After James became king and the seventeenth Earl of Oxford died, Davies all but stopped writing poetry. He devoted himself instead to politics, becoming attorney-general for Ireland and enjoying the patronage of Oxford’s



brother-in-law, Robert Cecil.

A Letter to Mr. Davis, Then Gone To the King, At His First Entrance,  
March 28, 1603

Mr. Davis,

Though you went on the sudden, yet you could not go before you had spoken with yourself to the purpose which I will now write. And therefore I know it shall be altogether needless, save that I meant to show you that I am not asleep. Briefly, I commend myself to your love and to the well using of my name, as well in repressing and answering for me, if there be any biting or nibbling at it in that place, as in impressing a good conceit and opinion of me, chiefly in the King (of whose favour I make myself comfortable assurance), as otherwise in that court. And not only so, but generally to perform to me all the good offices which the vivacity of your wit can suggest to your mind to be performed to one, in whose affection you have so great sympathy, and in whose fortune you have so great interest. So desiring you to be good to concealed poets, I continue

Your very assured,  
Fr. Bacon

—Warren Hope

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Warren Hope is the author of "The Singing Swallow," in this issue.



## Did Shakespeare Read Dante in Italian?

In his 1936 book, *Have You Anything to Declare?*, Maurice Baring suggested that Shakespeare had read *The Divine Comedy*: "There is a passage in *Measure for Measure* which makes me think that Shakespeare may possibly have read the *Inferno*" (109). Baring then compared Canto V of the *Inferno* with Claudio's outburst in *Measure for Measure* (see

III. i. 119-133), which summarizes the punishments Dante prescribed for those (like Claudio) found guilty of the “crime” of lust.

In 1940, James Dwyer made the same claim in *The Shakespeare Fellowship Newsletter* (Vol. 1, No. 5), providing compelling verbal parallels, such as: “e’l modo ancor m’offende” (*Inferno*, V. 102). This unusual expression, says Dwyer—“and still the manner of it offends me”—is another echo of the Fifth Canto, employed by Francesca to relate how she was suddenly slain. It crops up in the middle of *Othello* when Montano is called upon by Othello to explain what happened to him in the night brawl fomented by Iago: “I am hurt to danger. / Your officer, Iago, can inform you— / While I spare speech, which something now offends me— / Of all that I do know....” (II. iii. 190-194).

Dwyer then compares the unusual phrase, “cima di giudizio” (*Purgatory*, VI. 37)—“the top of judgment”—with its literal translation in *Measure for Measure* and then *Hamlet*: ISABELLA: How would you be / If He, which is the top of judgment, should / But judge you as you are? (II. ii. 80-82). HAMLET: others, whose judgment in such matters cried in the top of mine— (II. ii. 437-438).

Upon rereading Shakespeare’s poems, I came across further Dantean echoes, especially in the sonnets: “Your love and pity doth th’ impression fill / Which vulgar scandal stamped upon my brow” (sonnet 112). Compare with Dante: “Even as wax the seal’s impressed, / Where there’s no alteration in the form, / so does my brain now bear what you have stamped.” (“Si come cera da suggello / che la figura impressa non transmuta / segnato è or da voi lo mio cervello” (*Purgatory*, XXXIII. 79-81).

Since *The Divine Comedy* had not been translated into English until 1802 (by Henry Boyd), it’s likely that Shakespeare had thoroughly read this epic poem in Dante’s polished and sophisticated Italian. Inevitably, one must ask how someone with a grammar school education could become fluent in Italian in a socially restricted society, one whose population was 85 percent illiterate in its native tongue.

—Gary B. Goldstein





