

# The Lawyer of Belmont

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## I.

Another article on *The Merchant of Venice*?<sup>1</sup> Richard Weisberg has thought the play capable of sustaining even such hyperbole as this: “Perhaps no text except the Bible and the United States Constitution has so implicated audiences in fierce struggles for dominance and control.”<sup>2</sup> Within the legal commentary alone, an entire law-and-literature symposium has been devoted to the play,<sup>3</sup> while academics find the play appropriate as a paradigm for such disparate topics as international commerce,<sup>4</sup> bribes,<sup>5</sup> and gender bias in moot courts.<sup>6</sup> Legal scholarship has paid the work perhaps its highest compliment in speculating that the play transcends the boundaries of “the literary” to have an effect on judicial outcomes.<sup>7</sup> All these commentaries share the play’s focus on Portia, its cross-dressing, silver-tongued, lawyering heroine. That Portia has become a paradigm for thinking about the way in which lawyers should act<sup>8</sup> is underscored by the generic use

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1. WILLIAM SHAKESPEARE, *THE MERCHANT OF VENICE* (Kenneth Myrick ed., Signet Classic 1987) (c. 1598). All subsequent citations to the play are by act, scene, and line number.

2. Richard Weisberg, *Editor's Preface*, 5 *CARDOZO STUD. L. & LIT.* at i, i (1993).

3. See Symposium, *The Merchant of Venice*, 5 *CARDOZO STUD. L. & LIT.* 1 (1993).

4. See Anita L. Allen & Michael R. Seidl, *Cross-Cultural Commerce in Shakespeare's The Merchant of Venice*, 10 *AM. U. J. INT'L L. & POL'Y* 837 (1995).

5. See JOHN T. NOONAN, *BIBES* 322-24 (1984).

6. See Mairi N. Morrison, *May It Please Whose Court?: How Moot Court Perpetuates Gender Bias in the "Real" World of Practice*, 6 *UCLA WOMEN'S L.J.* 49, 77-78 (1995).

7. See DANIEL J. KORNSTEIN, *KILL ALL THE LAWYERS?* 88 (1994) (“As a legal parable, *The Merchant of Venice* may have influenced contemporary judges and changed the course of English legal history.”).

8. Lord Denning, the now-retired great British judge, for example, once denied the accusation that his jurisprudence surrenders to the pleas of Bassanio, who begs Portia, “Wrest once the law to your authority, / To do a great right, do a little wrong . . .” 4.1.214-15. Instead, Denning called himself a “Portia man,” loyal to the law, but willing to avoid an “unjust decree”

of the word "Portia"<sup>9</sup> to refer to a female lawyer,<sup>10</sup> although the epithet has been used in both a negative<sup>11</sup> and positive<sup>12</sup> sense. Indeed, part of Portia's continued vitality may arise from the fact that encrypted within the strong consensus about her importance lies an equally intense disagreement about how her role is to be interpreted. When analyzed as a character, Portia has been called both the most<sup>13</sup> and least<sup>14</sup> attractive of the Shakespearean heroines.

Why is Portia such a crucial and overdetermined character for so many commentators, and for so many legal commentators in particular? Why has so much ink been spilled, with such vehemence and even vitriol, over what is in the end a fictive character in a play written in the late sixteenth century?<sup>15</sup> My answer first invokes the framework outlined in Michael Walzer's *Spheres of Justice*.<sup>16</sup> In that work, Walzer argues that (1) human activity is properly divided into distinct spheres (such as money, kinship, and work), and that much of what makes us define acts as improper arises from our perception that the integrity of a given sphere has been violated, (2) great power inheres in the role of defining the boundaries of the spheres, because the manner in which these boundaries are defined in turn determines

by construing the law "so as to do what justice and equity require." Perry Dane, *Vested Rights, "Vestedness," and Choice of Law*, 96 YALE L.J. 1191, 1275 n.160 (1987) (quoting ALFRED T. DENNING, *THE DISCIPLINE OF THE LAW* 30-31 (1979)).

9. There are, of course, two Portias in the Shakespearean canon. Within *The Merchant of Venice*, Bassanio compares Portia to her more famous classical forebear to situate her for his friend Antonio, noting that the lady of Belmont is "nothing undervalu'd / To Cato's daughter, Brutus' Portia." 1.1.165-66. Outside the economy of the play, there is no question which Portia is more known and valued. When commentators, legal and otherwise, refer to "Shakespeare's Portia," they almost inevitably refer to the Portia of *The Merchant of Venice* and not to the Portia of *Julius Caesar*.

10. See, e.g., Carrie Menkel-Meadow, *Portia in a Different Voice: Speculations on Women's Lawyering Process*, 1 BERKELEY WOMEN'S L.J. 39 (1985); Carrie Menkel-Meadow, *Portia Redux: Another Look at Gender, Feminism, and Legal Ethics*, 2 VA. J. SOC. POL'Y & L. 75 (1994); Sandra Day O'Connor, *Portia's Progress*, 66 N.Y.U. L. REV. 1546 (1991).

11. See, e.g., Christine Cendagorta, *Women Lawyers*, 2 NEV. LAW. 13, 19 (1994) (women lawyers derisively called Portia).

12. See, e.g., John Paul Stevens, *The Shakespeare Canon of Statutory Construction*, 140 U. PA. L. REV. 1373, 1387 (1992) (referring to colleague Justice Sandra Day O'Connor as "the Portia that now graces our Court").

13. See BERNARD GREBANIER, *THE TRUTH ABOUT SHYLOCK* 230 (1962) (quoting ANNA JAMESON, *CHARACTERISTICS OF WOMEN* 66 (New York, J. Wiley 1833)).

14. See *id.* at 231 (quoting M.R. RIDLEY, *SHAKESPEARE'S PLAYS* 93 (1957)).

15. The play was written no later than 1598, when its title was entered in the Stationers' Register. See M.M. Mahood, *Introduction to THE MERCHANT OF VENICE* 1, 1 (M.M. Mahood ed., 1987). The reference to the ship Andrew, 1.1.27, is thought to be a reference to a Spanish galleon called the San Andréa that was taken as a prize in an English attack on Cadiz, and counts as "small but significant evidence that *The Merchant of Venice* was written not earlier than the late summer of 1596." *Id.*

16. MICHAEL WALZER, *SPHERES OF JUSTICE* (1983).

whether an act is improper, and (3) we properly distrust those who occupy that role, because they have both motive and opportunity to deploy that power to their own advantage. I then argue that this framework, when applied to *The Merchant of Venice*, explains our obsession with Portia. First, I note that, as Alice Benston has indicated, the play presents itself as a parade of binaries<sup>17</sup>—among others love/money; law/equity; appearance/reality; male/female; heterosexual/homosexual; alien/citizen; Jew/Christian; Venice/Belmont; cognition/paranoia; public/private—that may be seen as a sequence of paired and conflicting spheres of activity.<sup>18</sup> Much of what makes *The Merchant of Venice* “the most scandalously problematic of Shakespeare’s plays”<sup>19</sup> rests on the violation of one of these spheres by a value that more properly belongs to the sphere to which it is contrasted. Second, by focusing on two of these binaries—money/love and law/equity—I show the great power that Portia wields in delineating the boundaries of these spheres. Indeed, it is only Portia’s persuasiveness that preserves the play as a comedy for its main protagonists. Third, I argue that while we view Portia’s virtuosity in defining these boundaries with admiration, we also view it with anxiety. We may challenge both the means she employs to draw these lines and the ultimate determination of where these lines lie.

The application of Walzer’s framework to the play thus leads us to an answer to our question. We focus on Portia because she represents our deepest anxieties about the persuasive power of rhetoric. And it is no accident that Portia acts as a “legal doctor” in the most famous scene of the play, for the line-drawing activity that is her primary preoccupation is also that most intimately aligned with the occupation of the lawyer. Ultimately, it may be that we as lawyers focus on Portia as part of an obsession of self-conception. What we say about her is what we say about ourselves, what we fear about her is what we fear about the profession.

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17. See Alice N. Benston, *Portia, the Law, and the Tripartite Structure of The Merchant of Venice*, 30 SHAKESPEARE Q. 367, 367 (1979).

18. I realize that casting the tensions of the play in terms of binaries may be reductive. I borrow Eve Kosofsky Sedgwick’s defense:

My casting of all these definitional nodes in the form of binarisms, I should make explicit, has to do not with a mystical faith in the number two but, rather, with the felt need to schematize in some consistent way the treatment of social vectors so exceedingly various. The kind of falsification necessarily performed on each by this reduction cannot, unfortunately, itself be consistent. But the scope of the kind of hypothesis I want to pose does seem to require a drastic reductiveness, at least in its initial formulations.

EVE KOSOFSKY SEDGWICK, *THE EPISTEMOLOGY OF THE CLOSET* 11 n.19 (1990).

19. LAWRENCE DANSON, *THE HARMONIES OF THE MERCHANT OF VENICE* 2 (1978).

## II.

Walzer begins *Spheres of Justice* by positing that all human activity can be divided into various spheres, such as power, honor, divine grace, wealth, and kinship.<sup>20</sup> Because human activity is plural, “the principles of justice are themselves pluralistic in form,”<sup>21</sup> thereby making the quest for a universal distributive principle futile. Thus, while certain principles might properly obtain in the sphere of money, those principles would be inappropriate if applied to another sphere: The mercantile principle that obtains when buying oranges may become a mercenary one when buying organs. Indeed, Walzer states that the misapplication of a value from one sphere to another is not only inappropriate, but tyrannical. He draws on one of Pascal’s *Pensées*:

The nature of tyranny is to desire power over the whole world and outside its own sphere. There are different companies—the strong, the handsome, the intelligent, the devout—and each man reigns in his own, not elsewhere. But sometimes they meet, and the strong and the handsome fight for mastery—foolishly, for their mastery is of different kinds. They misunderstand one another, and make the mistake of each aiming at universal dominion. Nothing can win this, not even strength, for it is powerless in the kingdom of the wise.<sup>22</sup>

Every positive attribute thus properly commands respect in one or more of the spheres, but none properly commands “universal dominion.” Universal dominion can be obtained in one of two ways: One must either possess all the attributes properly honored in each sphere (a result Walzer guesses is impossible),<sup>23</sup> or improperly use one’s power in one sphere to tyrannize the others. Thus, the tycoon “deserves” everything money can buy, but when he attempts to parlay his wealth into values that properly occupy another sphere—by, for example, attempting to buy a Senate seat or a Nobel Prize—he is striving for universal dominion without universal excellence and therefore falls into tyranny.

The anxiety that inheres in Walzer’s scheme arises from the question of who gets to define the contours of the spheres, for that critical act of definition will distinguish legitimate from illegitimate transactions.

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20. WALZER, *supra* note 16, at 3.

21. *Id.* at 6.

22. *Id.* at 18 (quoting BLAISE PASCAL, *THE PENSÉES* 96 (J.M. Cohen trans., 1961) (1670)).

23. *See id.*

Walzer's initial answer is that we all define the spheres through our intuitions:

The first claim of Pascal and Marx is that personal qualities and social goods have their own spheres of operation, where they work their effects freely, spontaneously, and legitimately. There are ready or natural conversions that follow from, and are intuitively plausible because of, the social meaning of particular goods. *The appeal is to our ordinary understanding and, at the same time, against our common acquiescence in illegitimate conversion patterns.* Or it is an appeal from our acquiescence to our resentment. There is something wrong, Pascal suggests, with the conversion of strength into belief. In political terms, Pascal means that no ruler can rightly command my opinions merely because of the power he wields. Nor can he, Marx adds, rightly claim to influence my actions: if a ruler wants to do that, he must be persuasive, helpful, encouraging, and so on. *These arguments depend for their force on some shared understanding of knowledge, influence, and power. Social goods have social meanings, and we find our way to distributive justice through an interpretation of those meanings. We search for principles internal to each distributive sphere.*<sup>24</sup>

The norms are thus communitarian rather than categorical. Walzer asks us to reason up from empirical experience rather than down from empyrean ideals. "We" have common assumptions about "knowledge, influence, and power," and it is on the basis of those assumptions that we should carve up the world.

This makes some sense. As Walzer notes, the perception that certain acts are improper may often be explained by the fact that they violate our intuitions about spheres of life that should be kept apart. Thus, we might object to simony because of our intuition that the sphere of office should not intersect with the sphere of money, or to prostitution because of our intuition that the sphere of sexuality should not mingle with the sphere of money, or to nepotism because of our intuition that the sphere of office should not be penetrated by the sphere of kinship or love. This answer, however, begs the question of how these intuitions are formed. Whoever the "us" implied by "our shared understanding" is, that group is bound to be significantly smaller than the population at large. And because these shared intuitions regulate transactions in all the realms of human activity, those who have control over the act of defining "our" intuitions will have immense power.

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24. *Id.* at 19 (emphasis added).

Walzer acknowledges this danger. He recognizes that the acts that shape our intuitions themselves comprise a sphere—the political sphere. Politics, while a sphere like any other, is thus simultaneously a sphere unlike any other:

For [political power] is not simply one among the goods that men and women pursue; as *state power*, it is also the means by which all the different pursuits, including that of power itself, are regulated. It is the crucial agency of distributive justice; it guards the boundaries within which every social good is distributed and deployed. . . . Political power protects us from tyranny . . . and itself becomes tyrannical.<sup>25</sup>

This is a significant concession. For if politics is intrinsically tyrannical, there is little use in talking about keeping any sphere of human activity from tyrannizing another, for the sphere of politics necessarily defines and tyrannizes all other spheres.

Walzer's response to this criticism is that although politics may dominate all spheres, the fact that it is difficult to dominate the sphere of politics keeps the individual who seeks to do so from becoming a tyrant. Specifically, he argues that the intrinsic bounds of persuasiveness will act as a natural check on the power of these politicians. This seems true—the possibility that anyone will ever be able to buy the Presidency on the open market by overriding collective intuitions about the proper boundaries of money and office seems remote. Yet on the other hand, Walzer concedes that it is difficult to impose any further checks on the persuasive power of individuals because "politics is unavoidable," and "power belongs to persuasiveness."<sup>26</sup> Thus, Walzer cannot offer us full comfort, because if a person is superbly persuasive, she will have an extremely potent effect on how we think at the margins. Such a person will inevitably dominate the political sphere, because persuasiveness is the value that properly leads to power in that sphere. Yet because the political sphere necessarily defines the boundaries of the other spheres, she will be able to dominate those other spheres as well.

### III.

Walzer's theory and its attendant anxieties do not solve the problem of *The Merchant of Venice*, but they diagnose it. The play is racked with an incurable set of binaries, which may be conceived of as braces of conflicting spheres. While I ostensibly restrict my discussion to two of these pairings—money/love and law/equity—these

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25. *Id.* at 281 (second ellipsis in original).

26. *Id.* at 306.

two switchpoints necessarily implicate a host of others. As we consider it, money/love transmutes to Jew/Christian, bestial/human, homosexual/heterosexual; similarly, law/equity shifts through desire/will, appearance/reality, sadism/wisdom, and receiving/giving. To write on the play is to wrestle with Proteus, to have it squirm away every time one thinks one has grasped a stable characterization of its central conflict. Such efforts on the part of the critics outside the play inspire admiration for the efforts of Portia within it. With one lapse,<sup>27</sup> Portia is able to deploy her rhetoric to pin these shifting shapes momentarily in the forms most useful to her. As they shift, she releases them without regret; indeed, she does so with pleasure, because the plasticity of the forms allows her to shape them to advantage. Thus it is that Portia becomes the figure of and for our deepest anxiety.

Money and love are inextricably linked in *The Merchant of Venice*. The conventional critical wisdom about the play's money/love nexus is that this nexus is unproblematic so long as money is subordinated to love, and that the Christians in the play understand this axiom while the Jews do not. A certain amount of evidence may be adduced to support this view. But such a mapping of untroubled and troubled conceptions of the nexus onto Christians and Jews, respectively, seems presumptively suspect in its tidiness. Indeed, on closer examination, the Christians reveal themselves to have an often conflicted response to the question of where money ends and love begins. Conversely, the Jew who is seen to be consummately mercenary is capable of taking things off the market; indeed, of having a rather spectacularly coherent set of rules about the proper boundaries of the spheres of money and love. When tested against the textual evidence, the hypothesis that Christians harmonize love and money while Jews problematize them seems less truth than propaganda, the most artful forms of which have been drafted by Portia.

In *The Merchant of Venice*, money permeates every activity. The play begins with Antonio, the merchant of the title, expressing a sadness whose cause he does not know. His friend Salerio hypothesizes that Antonio fears for his ships abroad:

My wind cooling my broth  
 Would blow me to an ague when I thought  
 What harm a wind too great might do at sea.  
 I should not see the sandy hourglass run  
 But I should think of shallows and of flats,  
 And see my wealthy *Andrew* docked in sand,

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27. See *infra* text accompanying notes 142-44.

Vailing her high top lower than her ribs  
 To kiss her burial. Should I go to church  
 And see the holy edifice of stone  
 And not bethink me straight of dangerous rocks,  
 Which touching but my gentle vessel's side  
 Would scatter all her spices on the stream,  
 Enrobe the roaring waters with my silks—  
 And in a word, but even now worth this,  
 And now worth nothing?<sup>28</sup>

Salerio's first diagnosis of Antonio's sadness is a mercantile one. He posits that a merchant whose ships are abroad would view the entire world through the lens of commercial concern, and we are here treated to a fully realized vision of that world. It is a world in which commodities—here merchant ships—are the protagonists; indeed, the first proper name mentioned in the play is that of the ship *Andrew*. While Shylock's gold and silver are later rhetorically bestialized to become ewes and rams,<sup>29</sup> Antonio's ships are anthropomorphized into even higher lifeforms to become "signors and rich burghers on the flood."<sup>30</sup> Every quotidian activity—blowing on soup, watching an hourglass, attending church—only serves to take the merchant back to these actors.

If money permeates everything, it must also permeate love. It has often been noted<sup>31</sup> that the first words Bassanio uses to describe Portia are that "in Belmont is a lady richly left."<sup>32</sup> Defending against the implication that Bassanio is a gold-digger, one commentator notes that Bassanio says this only to assure Antonio that Antonio's loan, which Bassanio will use to woo Portia, will be returned.<sup>33</sup> Yet this putative rescue does not take the statement out of the realm of the commercial—it merely makes Bassanio's motive the repayment of Antonio rather than self-enrichment. Nor does it account for the play's relentless insistence on Portia's money. Bassanio continues his paean about Portia by stating that "her sunny locks/ Hang on her temples like a golden fleece,"<sup>34</sup> thereby conflating her beauty with

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28. 1.1.22-36.

29. See *infra* text accompanying notes 44-48.

30. 1.1.10.

31. See, e.g., René Girard, "To Entrap the Wisest," in WILLIAM SHAKESPEARE'S *THE MERCHANT OF VENICE* 91, 91 (Harold Bloom ed., 1986); Kenneth Myrick, *Introduction to WILLIAM SHAKESPEARE, THE MERCHANT OF VENICE* at xxi, xxv (Kenneth Myrick ed., Signet Classic 1987) (c. 1598).

32. 1.1.161.

33. See Myrick, *supra* note 31, at xxv.

34. 1.1.169-70.

her wealth.<sup>35</sup> And after she is won by Bassanio, Portia reveals that she has intuited his commodification of her by colluding in it: "For you / I would be trebled twenty times myself, / A thousand times more fair, ten thousand times more rich."<sup>36</sup> Finally, when Portia learns that Bassanio comes to marriage encumbered by financial and spiritual debts, she says to her husband, "Since you are dear bought, I will love you dear."<sup>37</sup>

Such a conflation of money and love would seem to raise problems of intersphere tyranny. Yet according to the conventional wisdom about *The Merchant of Venice*, to say that money and love are inextricably linked in the play is not necessarily to say that they conflict.<sup>38</sup> In a celebrated commentary on the play, Mark Van Doren attempts to minimize the Christian conflict between money and love:

When Bassanio declares, early in the comedy of which he is so casually the hero, "To you, Antonio, I owe the most, in money and in love," he characterizes the world he lives in and the only world he knows. It is once more, and fully now, the gentlemen's world whose tentative capital for Shakespeare had been Verona. The capital moves to Venice; the atmosphere enriches itself until no element is lacking; and a story is found, or rather a complex of stories is assembled, which will be adequate to the golden air breathed on fair days and through soft nights by creatures whose only function is to sound in their lives the clear depths of human grace. In such a world, or at any rate in such inhabitants of it, there is no incompatibility between money and love. Shylock cannot reconcile the two; but Shylock is not of this world, as the quality of his voice, so harshly discordant with the dominant voice of the play, will inform any attentive ear.<sup>39</sup>

Van Doren's point of departure—Bassanio's line "To you, Antonio, I owe the most, in money and in love"—seems inauspicious. The line deploys the literary device of zeugma, in which two disparate ideas are yoked with syntactic violence together. The syntactic parallelism of "money" and "love" highlights nothing so much as the difference

35. "The comparison with the golden fleece is particularly significant, for the phrase was used of the fortunes for which merchants ventured; Drake, for example, was said to have returned from his voyage round the world bringing 'his golden fleece.'" John Russell Brown, *Love's Wealth and the Judgement of The Merchant of Venice*, in *TWENTIETH CENTURY INTERPRETATIONS OF THE MERCHANT OF VENICE* 81, 84 (Sylvan Barnet ed., 1970).

36. 3.2.154-55.

37. 3.2.314.

38. See, e.g., Brown, *supra* note 35, at 88; Max Plowman, *Money and The Merchant*, in *SHAKESPEARE: THE MERCHANT OF VENICE* 77, 79 (John Wilders ed., 1969); Mark Van Doren, *The Merchant of Venice: An Interpretation*, in *SHAKESPEARE: THE MERCHANT OF VENICE*, *supra*, at 91, 91.

39. Van Doren, *supra* note 38, at 91 (citation omitted).

between the two terms—surely it is different to owe in money and to owe in love. But as we read the play, we begin to wonder. The strength of Van Doren's point is that he uses the greatest potential criticism that we can make of the Venetians—that they are money-mad—and turns it into a strength. The fact that money is tied to love, Van Doren argues, does not debase love, but rather ennoble money. When Antonio says "My purse, my person, my extremest means / Lie all unlocked to your occasions,"<sup>40</sup> he offers his money as part of himself, and its potential mercenary valence is exorcised by his affection. Similarly, when Portia learns of the flesh bond, she says:

Pay him six thousand, and deface the bond.  
Double six thousand and then treble that.  
Before a friend of this description  
Shall lose a hair through Bassanio's fault.<sup>41</sup>

With these words, Portia rewrites the terms of the flesh bond so that money and flesh are placed in proper relation to each other. While Shylock insists that the inability to pay three thousand ducats is worth a pound of man's flesh (and therefore his life), Portia says that twelve times that amount is not worth a hair of his head. When ducats are warmed by the hands of friends and lovers, crass commercialism transmutes into *doux commerce*.<sup>42</sup>

According to Van Doren's portrait, it is only Shylock who problematizes the distinction between money and love. The conventional portrait of Shylock depicts him as an outsider who has not been dulcified by the customs of the Christians, and who therefore makes a series of category mistakes that must be corrected by them. Shylock's difficulty in distinguishing between money and love reveals itself in his first appearance in the play, where he discusses the terms of the loan with Bassanio and Antonio. Shylock is much maligned because he engages in usury, in sharp contrast to the Christian Antonio who generally does not lend or borrow at interest.<sup>43</sup> In

40. 1.1.138-39.

41. 3.2.299-302.

42. Or does it? While I will later adduce counterexamples, I should note that even the evidence presented here contains traces of repressed conflict. In Salerio's speech, the innocuous slippage from soup to hourglass to church occludes the fact that, as Karen Newman has pointed out, even religion is placed in the service of commerce. See Karen Newman, *Portia's Ring: Urruly Women and Structures of Exchange in The Merchant of Venice*, 38 SHAKESPEARE Q. 19, 19 (1987). Moreover, Alexander Pope attempted to eliminate Portia's line "since you were dear bought, I will love you dear" from the main text of his version of the play precisely because of its mercenary undertones. See Brown, *supra* note 35, at 85-86.

43. See 1.3.41-42 ("[Antonio] lends out money gratis, and brings down / The rate of usance here with us in Venice."); 1.3.59-61 ("Shylock, albeit I neither lend nor borrow / By taking nor by giving of excess, / Yet to supply the ripe wants of my friend, / I'll break a custom.");

defending the practice of usury, Shylock tells the story of Jacob and Laban<sup>44</sup> as a homily on the value of thrift, whereupon Antonio asks: "Was this inserted to make interest good? Or is your gold and silver ewes and rams?"<sup>45</sup> Shylock responds: "I cannot tell; I make it breed as fast."<sup>46</sup> This seems tantamount to a confession that Shylock is incapable of seeing the line between acceptable and unacceptable commerce that the Christians have drawn. To conceive of money as breeding is the very crux of usury, in which money begets more money. In such a closed system, persons serve the ends of money, which then assumes a life of its own. Antonio points this out when he later retorts: "If thou wilt lend this money, lend it not / As to thy friends—for when did friendship take / A breed for barren metal of his friend?"<sup>47</sup> referring to the Aristotelian doctrine that money, unlike living things, *cannot* reproduce.<sup>48</sup> By confusing sexual generation with financial generation, Shylock conflates animals with money, a category error that foreshadows his later conflation of humans with money.

Shylock falls again into the category mistake of conflating persons with money when he laments Jessica's flight:

My daughter! O my ducats! O my daughter!  
 Flew with a Christian! O my Christian ducats!  
 Justice! The law! My ducats and my daughter!  
 A sealèd bag, two sealèd bags of ducats,  
 Of double ducats stol'n from me by my daughter!  
 And jewels—two stones, two rich and precious stones,  
 Stol'n by my daughter! Justice! Find the girl!  
 She hath the stones upon her, and the ducats!<sup>49</sup>

The linguistic parallelism of "daughter" and "ducats" in this speech reveals that Shylock seems unable to determine which loss he feels more deeply. Later in the play, we will hear Bassanio reject gold as "hard food for Midas," invoking the myth of the king who, upon being granted a wish by Bacchus, said that he wanted everything he touched to turn to gold. Midas's wish is the ultimate conversion fantasy that recognizes no borders between the sphere of money and other spheres of life. Yet the point of the myth is that this conversion fantasy, once fulfilled, becomes its own condign punishment. After he

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44. 1.3.68-87.

45. 1.3.91-92.

46. 1.3.93.

47. 1.3.129-31.

48. See W.H. Auden, *Brothers and Others*, in SHAKESPEARE: *THE MERCHANT OF VENICE*, *supra* note 38, at 224, 231.

49. 2.8.15-22.

turns his own food and daughter into gold, Midas learns his lesson—that many things in life are devalued through such conversions. By invoking the myth, Bassanio shows that he shares that wisdom. In the speech about his daughter, however, Shylock perceives the daughter and the ducats to be fungible. He recreates the Midas myth in which the daughter is turned into gold without gleaning its moral. Moreover, he later privileges the ducats themselves over the daughter, stating monstrously that “I would my daughter were / dead at my foot, and the jewels in her ear! Would she / were hearsed at my foot, and the ducats in her coffin!”<sup>50</sup>

While this evidence supports the proposition that money and love do not conflict for the Christians but do conflict for the Jew, the play will not lie pat for any such easy characterization. While the Christians try to minimize the tension between money and love, that repressed conflict surfaces at crucial moments in the play. Most notably, the very structure of Portia’s predicament at the inception of the play, against which she protests so vehemently,<sup>51</sup> reflects the fact that she herself has been objectified by her father. According to her father’s will, Portia may not marry for love; indeed, she may not marry anyone except the person who chooses the correct casket out of the three displayed.<sup>52</sup> The casket is an “elaborate, punning Elizabethan reference both to women’s genitalia and to the box used to bury the dead, where ‘die’ meant both to achieve orgasm and to end life.”<sup>53</sup> This synecdochic relationship between casket and person illuminates the dynamic wherein the suitor who chooses the right casket gets Portia (and her sexuality). But this means that Portia “figures only as one of the objects in the exchange, not as one of the partners.”<sup>54</sup> And by offering his own flesh up as the collateral for his loan, Antonio appears to blur categories in the same way.

Moreover, while the Christians rail against Shylock for attempting to enforce the flesh bond, he rightly responds that they too engage in flesh-for-money transactions:

You have among you many a purchased slave,  
Which like your asses and your dogs and mules  
You use in abject and in slavish parts,

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50. 3.1.83-85.

51. See, e.g., 1.2.21-26.

52. See 1.2.28-32.

53. Jane M. Cohen, *Feminism and Adaptive Heroism: The Paradigm of Portia as a Means of Introduction*, 25 TULSA L.J. 657, 703 (1990); see also Sigmund Freud, *The Theme of the Three Caskets*, in SHAKESPEARE: *THE MERCHANT OF VENICE*, *supra* note 38, at 59, 60 (“Caskets are also women, symbols of the essential thing in woman, and therefore of a woman herself, like boxes, large or small, baskets, and so on.”).

54. Newman, *supra* note 42, at 22.

Because you bought them. Shall I say to you,  
 "Let them be free! Marry them to your heirs!  
 Why sweat they under burdens? Let their beds  
 Be made as soft as yours and let their palates  
 Be seasoned with such viands?" You will answer,  
 "The slaves are ours." So do I answer you:  
 The pound of flesh which I demand of him  
 Is dearly bought, is mine, and I will have it.  
 If you deny me, fie upon your law!  
 There is no force in the decrees of Venice.  
 I stand for judgment. Answer, shall I have it?<sup>55</sup>

Although slavery and murder are obviously distinct, Shylock raises the possibility that this distinction may only be one of degree. This argument plays particularly well to our modern sensibilities, in which one's life and one's self are both seen to be inalienable. Yet even within the framework of the play, the argument seems to carry a certain moral weight. The only answer that Shylock receives from the Duke is this:

Upon my power I may dismiss this court  
 Unless Bellario, a learned doctor  
 Whom I have sent for to determine this,  
 Come here today.<sup>56</sup>

Lacking an answer to the charge that the Christians themselves are complicit in a lesser version of Shylock's category mistake, the Duke adverts instead to his authority to dissolve the tribunal.

If the Christians fail to keep bright lines between money and love, so does the Jew markedly succeed in creating such boundaries. In both good and bad senses, Shylock appears to have a clear sense of what money cannot buy. When he learns from his kinsman Tubal that his daughter Jessica has exchanged one of his rings for a monkey, he exclaims: "Out upon her! Thou torturest me, Tubal. It was my turquoise; I had it of my wife Leah when I was a bachelor. I would not have given it for a wilderness of monkeys."<sup>57</sup> While there is bathos in the invocation of "a wilderness of monkeys" as a measure of value, there is pathos in Shylock's rantings as well. The attachment Shylock feels to his ring transcends the commercial, and his safekeeping of it stands in sharp contrast to Bassanio's and Gratiano's relinquishment of their respective rings, which had also been given to

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55. 4.1.90-103.

56. 4.1.104-07.

57. 3.1.113-16.

them by their wives-to-be.<sup>58</sup> Indeed, the contrast between Shylock on the one hand and Bassanio and Gratiano on the other is foreshadowed in the trial scene, where the two Christians tell Antonio that they would sacrifice the lives of their wives for him.<sup>59</sup> Overhearing this, Shylock grimly notes the difference between his sensibilities and theirs, noting that “These be the Christian husbands!”<sup>60</sup> We understand from this that Shylock contrasts Christian husbands with Jewish ones, and knows that his own wife is not a commodity to be exchanged for something else, even another human life.

Shylock’s understanding of what money cannot buy reveals itself in a darker way when he shows that money cannot dissuade him from taking Antonio’s pound of flesh. When Shylock is offered six thousand ducats by Bassanio to forgo the right to collect his pound of flesh, Shylock responds: “If every ducat in six thousand ducats / Were in six parts, and every part a ducat, / I would not draw them. I would have my bond.”<sup>61</sup> The commercial generation that Shylock espoused and Antonio rejected in Act I recurs—ducats spawning ducats. Yet by the trial scene, Shylock perversely agrees with Antonio’s earlier implication that money and flesh are not fungible. Shylock here says he would refuse twelve times the amount of the original debt; Jessica elsewhere recounts that he would refuse twenty times the sum.<sup>62</sup> The

58. As Portia says to Bassanio:  
This house, these servants, and this same myself  
Are yours, my lord’s. I give them with this ring,  
Which when you part from, lose, or give away,  
Let it presage the ruin of your love  
and be my vantage to exclaim on you.

3.2.170-74.

59. The passage reads:  
*Bassanio*. Antonio, I am married to a wife  
Which is as dear to me as life itself;  
But life itself, my wife, and all the world  
Are not with me esteemed above thy life.  
I would lose all, ay sacrifice them all  
Here to this devil, to deliver you.  
*Portia* [disguised as Balthasar]. Your wife would give you little thanks for that  
If she were by to hear you make the offer.  
*Gratiano*. I have a wife who I protest I love.  
I would she were in heaven, so she could  
Entreat some power to change this currish Jew.  
*Nerissa* [disguised as Balthasar’s clerk]. ’Tis well you offer it behind her back;  
The wish would make else an unquiet house.

4.1.281-93.

60. 4.1.294.

61. 4.1.85-87.

62. Jessica says:  
I have heard him swear  
To Tubal and to Chus, his countrymen,  
That he would rather have Antonio’s flesh

pound of flesh, and it only, is the wages of Shylock's carefully nursed revenge.

For Christian and Jew alike, the lines between money and love are not clear, nor are they free of conflict. In fact, the spheres of money and love jar continually in the play. Van Doren and others can sustain the illusion that no such conflict exists for the Christians, but that it does exist for the Jew, only because they have accepted the Christian *portrayal* of the relationship between the spheres. Specifically, such commentators may have been gulled by the way in which Portia has reshaped a series of commercial transactions in the play. As I will indicate later, Portia regulates the transaction in which the commodity of the casket is exchanged for her hand in marriage and the transaction in which the commodity of a pound of Antonio's flesh is exchanged for the loan. And as I will argue here, she regulates the transaction in which the ring she gives to Bassanio is traded as an emblem of her sexuality and therefore of his fidelity.

One way to view Portia's persuasiveness in the ring sequence is to compare it to Shylock's and to contrast it with Bassanio's and Antonio's. To begin with the "merry bond," we see that Bassanio and Antonio are failed interpreters who can neither rhetorically sculpt their own realities nor resist the attempts of others to shape them. Shylock, on the other hand, is adept at doing both. When Shylock tells Antonio and Bassanio that the forfeit for default is "an equal pound / Of your [Antonio's] fair flesh, to be cut off and taken / In what part of your body pleaseth me,"<sup>63</sup> Bassanio initially has the good sense to demur, protesting to Antonio—"You shall not seal to such a bond for me! / I'll rather dwell in my necessity."<sup>64</sup> But Bassanio then lapses into silent acquiescence as Antonio assures him that his ships will come in a month before the day the loan is due,<sup>65</sup> and Shylock makes the following argument:

Pray you tell me this:  
 If he should break his day, what should I gain  
 By the exaction of the forfeiture?  
 A pound of man's flesh taken from a man  
 Is not so estimable, profitable neither,  
 As flesh of muttuns, beefs, or goats. I say

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than twenty times the value of the sum  
 that he did owe him: and I know, my lord,  
 If law, authority, and power deny not,  
 It will go hard with poor Antonio.

3.2.284-90.

63. 1.3.146-48.

64. 1.3.151-52.

65. See 1.3.152-53.

To buy his favor I extend this friendship.  
If he will take it, so; if not, adieu.<sup>66</sup>

The question that arises, of course, is why the “pound of flesh” is the only condition on which the loan is offered if Shylock gains nothing “[b]y the exaction of the forfeiture.” Bassanio does not ask this question, muttering only that he “like[s] not fair terms and a villain’s mind.”<sup>67</sup> In the trial scene, Shylock undertakes to answer that question himself:

You’ll ask me why I rather choose to have  
A weight of carrion flesh than to receive  
Three thousand ducats. I’ll not answer that,  
But say it is my humor. Is it answered?  
What if my house be troubled with a rat  
And I be pleased to give ten thousand ducats  
To have it baned?<sup>68</sup>

Shylock’s “answer” is that he is entitled to assign idiosyncratic value to the pound of flesh. Bassanio and Antonio were taken in by his prior rhetoric, which weighed the flesh on the scales of the public market (trafficking in mutton, beef, and goats) where human flesh would serve no purpose, rather than on the scales of the private market of vengeance, where the pound of flesh will “feed fat the ancient grudge”<sup>69</sup> that Shylock bears Antonio.

As we will see, Shylock meets his match in Portia. Any concern we might have about the tyrannical effects of his rhetoric are entirely defused by the end of the trial scene. Shylock’s enormous persuasiveness, like Iago’s,<sup>70</sup> is not only checked but destroyed by the end of the play. Yet our relief is short-lived. While Shylock’s persuasiveness has been checked by Portia’s, the question then arises of whose persuasiveness checks hers.

No sooner is Bassanio saved by Portia from his interpretive error than he lapses into it again, this time through the wiles of his rescuer. In the guise of Balthasar, Portia asks Bassanio for the ring on his finger. Again, he shows initial reluctance, explaining that “this ring was given me by my wife, / And when she put it on me she made me vow / that I should neither sell nor give nor lose it.”<sup>71</sup> This time

66. 1.3.154-66.

67. 1.3.176.

68. 4.1.40-46.

69. 1.3.44.

70. See WILLIAM SHAKESPEARE, *OTHELLO* act 5, sc. 2, lines 300-01 (Norman Sanders ed., New Cambridge Shakespeare 1984) (c. 1604) (“Demand me nothing; what you know, you know / From this time forth I never will speak word.”).

71. 4.1.440-42.

Bassanio at least appears to comprehend the concept of idiosyncratic value. He recognizes that “[t]here’s more depends on this than on the value,”<sup>72</sup> and promises Portia (Balthasar) the “dearest ring in Venice”<sup>73</sup> as an alternative, distinguishing between the personal value the ring has for him and the public value it might have for others (that is, while the ring is “dearest” to him, it is not the “dearest” in Venice). Yet while Bassanio has learned his lesson, he has not learned it well enough. Like Shylock, Portia (Balthasar) successfully rewrites his distinction between public and private value:

That ’scuse serves many men to save their gifts.  
 And if your wife be not a madwoman,  
 And know how well I have deserved this ring,  
 She would not hold out enemy forever  
 For giving it to me. Well, peace be with you!<sup>74</sup>

Portia (Balthasar) takes the ring out of the realm of the private both by emphasizing that “many men” use the rhetoric of private value as an excuse to save their chattels from the public market, even when there is no underlying sentimental value to protect, and by stressing the “unreasonable” aspects of idiosyncratic value by saying that Bassanio’s wife would have to be a “madwoman” not to acquiesce to the transaction. Moreover, like Shylock, she presents the transaction as a take-it-or-leave-it deal, not allowing the colloquy that would reveal the flaws of her argument. When Shylock says, “If he will take it, so; if not, adieu,” and when Portia says, “Well, peace be with you,” they both signal impending departure and refusal to dicker over terms through percussive monosyllables. Antonio, as taken in by Portia (Balthasar) as he was by Shylock, says, “My Lord Bassanio, let him have the ring / Let his deservings, and my love withal, / Be valued ’gainst your wife’s commandment.”<sup>75</sup> And Bassanio, similarly deceived, relinquishes the ring.

Like Shylock, Portia later points out the flaws in her own previous (il)logic. When she confronts Bassanio, this time as his wife, she asks:

What man is there so much unreasonable,  
 If you had pleased to have defended it  
 With any terms of zeal, wanted the modesty  
 To urge the thing held as a ceremony?<sup>76</sup>

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72. 4.1.433.

73. 4.1.434.

74. 4.1.443-47.

75. 4.1.448-50.

76. 5.1.203-06.

Now it is not Bassanio's wife who is the madwoman, but Bassanio's judge who is the potential madman. Now it is only rational to respect the irrational value others place on goods "held as a ceremony," such that Bassanio's relinquishment of the ring bespeaks a want of "zeal" in its defense. We can sympathize with Bassanio's discomfiture, for he is utterly outclassed by an adversary who, in her protean ability to appear both as man and woman, and be in two places at once, can make arguments of perfect symmetry that catch him coming and going.<sup>77</sup>

Portia's ability to draw and enforce the appropriate lines of commercial conduct contrasts with Antonio's relative impotence in the ring sequence. When Bassanio begs for pardon, Antonio again interpolates himself as surety for his friend, saying, "I dare be bound again, / My soul upon the forfeit, that your lord / Will never more break faith advisedly."<sup>78</sup> Although this time he knows that the contract is unenforceable (how does one collect a soul?), Antonio here repeats and compounds his previous category mistake. I have noted that both Portia and Antonio earlier shared the status of being the object of contracts (one between Portia's father and the prospective suitor, the other between Shylock and Antonio). The similarity ends there. Portia did not choose to be in that position, and having found herself there, she extricated herself. Antonio, on the other hand, not only placed himself in that position, but seemed resigned to it when he found himself there.<sup>79</sup> Moreover, after being saved from it at considerable effort, he places himself in that position again at the next turn.

Antonio's failure to stop sacrificing himself repeatedly for his friend is a deeper problem for Portia. Commentary surrounding the play has noted a possible homoerotic attachment between Antonio and Bassanio.<sup>80</sup> Under this reading, Portia's task is to wean Bassanio

77. Indeed, one strong argument for the fact that Portia cheats in the casket scene, *see infra* notes 112-23 and accompanying text, can be made by comparing the trial of the caskets and the trial of the rings. Both the caskets and the rings can be seen as metaphors for women and female sexuality. But while Bassanio is able to make the right choice the first time with the caskets, he is unable to do so with the rings. One explanation for the difference is Portia's persuasiveness: Portia induces Bassanio to make the "correct" decision about the caskets, but convinces him to make the "incorrect" one about the ring.

78. 5.1.251-53.

79. As Antonio says during the trial:  
I am a tainted wether of the flock,  
Meetest for death. The weakest kind of fruit  
Drops earliest to the ground, and so let me.

4.1.14-16.

80. *See, e.g.,* Auden, *supra* note 48, at 234-40; Leslie A. Fiedler, "These Be Christian Husbands," in WILLIAM SHAKESPEARE'S *THE MERCHANT OF VENICE*, *supra* note 31, at 63, 88-

away from the love of men, which she accomplishes through the ring trick. Bassanio has just given Portia's ring—a symbol of his fidelity and her sexuality—to someone whom he thinks is a man. He has done so at Antonio's urging that Bassanio's love for Antonio be weighed against his wife's commandment.<sup>81</sup> Antonio thus sanctions and arguably induces the breach of the compact of fidelity between man and wife. By converting herself from the man who receives the ring into the woman who returns it, Portia enforces Bassanio's commitment to heterosexuality in general and to her in particular.

The relationship between money and love is inevitable, and inevitably problematic, for all the characters in the play. While the conventional wisdom about the play casts the relationship as unproblematic for the Christians and problematic for the Jew, the text does not sustain such a proposition. This conventional wisdom endures only because the critics outside the play have been persuaded by the same rhetoric that beguiled the characters within it. By focusing on the ring sequence, I have shown that Portia persuades the Christians of whatever relationship between money and love best suits her needs at the time. While I approach the other two transactions (the exchange of Portia for a correct interpretation of the casket riddle, and the exchange of flesh for a loan) through the law/equity binary, the implications of that analysis for the money/love relationship should be self-evident.

#### IV.

Critical commentary on the division *The Merchant of Venice* makes between law and equity usually focuses on the trial scene, but many critiques often (and rightly) link the trial scene to the casket scene that foreshadows it.<sup>82</sup> Indeed, I will argue that the connection between the two sequences is tighter than has been identified. In the

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81. 4.1.448-50. As Fiedler notes:

[Antonio] puts it wickedly enough: "my love" against her "commandment," affection against mere duty; and it seems to work, bringing him a momentary triumph which Portia does not easily forgive him. Yet it is for him only a delusive victory, since the "boy" who gets the ring is really she, a good witch, who, possessing the only real power in the play (her dream, we know by now, not Antonio's, motivates the plot), gets everything. And there is one more thing which she desires: real revenge for that seeming victory, which in the final sense, she has.

Fiedler, *supra* note 80, at 88-89.

82. See, e.g., DANSON, *supra* note 19, at 97-106. The importance of these two plots is reflected in the title page of the earliest printed text of *The Merchant of Venice*, which described the play as "the most excellent Historie of the *Merchant of Venice*. With the extreame crueltie of *Shylocke* the Jewe towards the sayd Merchant, in cutting just pound of his flesh: and the obtayning of *Portia* by a choise of three chests." JOHN GROSS, *SHYLOCK: FOUR HUNDRED YEARS IN THE LIFE OF A LEGEND* 1 (1992) (quoting 1600 folio).

casket scene, Portia is caught between the legal concern of obeying her father's will, which states that she may only marry the suitor who correctly chooses the casket in which her portrait lies, and the equitable concern that she be able to marry for love. She resolves this conflict by leading Bassanio to the right casket through a series of hints, thereby formally obeying her father's will but getting her own way as well. In the trial scene, law and equity are once again in conflict, and Portia is caught between the legal concern of upholding Venetian law and the equitable concern of saving Antonio's life. She resolves this conflict by presenting Shylock with a similar election between the two rhetorical caskets of justice and mercy. But this time, she uses her rhetorical power to lead Shylock *away* from the right choice.

A reading that presents the trial scene as an explicit recapitulation of the casket scene, casting mercy and justice in the trial scene as rhetorical analogues of the correct and incorrect caskets in the casket scene, has not, to my knowledge, hitherto been attempted. Yet such a reading has an intensely clarifying effect on our understanding of the trial scene. First, it explains where Portia has gained the knowledge she deploys in the trial scene by showing that she simply re-enacts in that scene the kind of justice her father has earlier inscribed most deeply on her consciousness. Second, and relatedly, Portia's drastic vengeance on the Jew also finds psychological explanation when read against her father's own practice of punishing the failed suitors. Finally, and most importantly, both the trial scene and the casket scene reveal that, in this play, there may be no such thing as law that is not inflected by equity, and that equity bears an uncanny resemblance to Portia's will.

The Duke of Belmont exhibits equal parts wisdom and sadism in the casket sequence. The terms of his will dictate that every person who seeks to marry Portia must submit himself to a trial in which he chooses among three caskets. Before he "hazards" for Portia, each suitor must swear three things—first, not to reveal to others which casket he chose;<sup>83</sup> second, to leave immediately if he fails;<sup>84</sup> and third, and most onerously, never again "[t]o woo a maid in way of marriage."<sup>85</sup> He is then shown the caskets—one of gold, one of silver, and one of lead. The gold casket bears the inscription, "Who chooseth me shall gain what many men desire."<sup>86</sup> The silver casket

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83. See 2.9.10-11.

84. See 2.9.14-15.

85. 2.9.11-13.

86. 2.7.5.

offers the motto, "Who chooseth me shall get as much as he deserves."<sup>87</sup> The lead casket presents the legend, "Who chooseth me must give and hazard all he hath."<sup>88</sup>

The Duke of Belmont's wisdom may be seen in the combination of these conditions, a combination that allows Nerissa to say with confidence that the correct casket "will no doubt never be chosen by any rightly but one who you shall rightly love."<sup>89</sup> The condition that the suitor will not seek to marry another if he fails to win Portia has the effect of dissuading the faint-hearted from hazarding for her, as evinced by Nerissa's report that six unwanted suitors have decided to "trouble [her] with no more suit, unless [she] may be won by some other sort than [her] father's imposition."<sup>90</sup> More importantly, the caskets and their inscriptions—the matter they are made of and the matter they express—constitute riddles that foil those who misconstrue the nature of love and marriage. Morocco chooses the gold casket because he interprets the Duke's meaning too literally. He believes, first, that gold must be the correct casket because "never so rich a gem [as Portia] / Was set in worse than gold,"<sup>91</sup> and, second, that the inscription on the gold casket must refer to Portia because she is desired by many suitors.<sup>92</sup> Upon opening the casket, he discovers a skull and a scroll, the latter of which chides him for both faults.<sup>93</sup> Noting that "all that glisters is not gold,"<sup>94</sup> the scroll points out the literalism that disables him from distinguishing form from substance. Moreover, by noting that "many a man his life hath sold / But my outside to behold,"<sup>95</sup> the scroll hints that "what many men desire" is often nothing more than crass materialism. Common tastes, the scroll teaches, are not to be trusted. Aragon evades both traps, correctly intuiting that the gold casket seeks to seduce "the fool multitude that choose by show, / Not learning more than the fond eye doth teach, / Which pries not to th' interior."<sup>96</sup> Yet the amulet that saves him is worse than the danger it guards against, for, as Aragon's name might indicate, it is his arrogance that makes him unwilling to "jump with common spirits / And rank [himself] with the barbarous

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87. 2.7.7.

88. 2.7.9.

89. 1.2.31-32.

90. 1.2.102-04.

91. 2.7.54-55.

92. See 2.7.38-47.

93. See 2.7.64-65.

94. 2.7.65.

95. 2.7.67-68.

96. 2.9.25-27.

multitudes."<sup>97</sup> He chooses silver because he believes he merits Portia: "I will assume desert."<sup>98</sup> In this assumption, he shows a vice deeper than that of Morocco, who was at least alert to the possibility that he might not deserve the object of his affection.<sup>99</sup> The casket contains a portrait of a fool's head and a scroll that says, in a tone more derisive and less didactic than that of the gold scroll, "Take what wife you will to bed, / I will ever be your head. / So be gone; you are sped."<sup>100</sup>

The interpretive error that Morocco and Aragon commit may be seen as one that emphasizes the third verb of each inscription over the second. Remember that the inscriptions for gold, silver, and lead caskets are, respectively: "Who chooseth me shall *gain* what many men *desire*"; "Who chooseth me shall *get* what he *deserves*"; and "Who chooseth me must *give* and *hazard* all he hath." Morocco and Aragon both focus on the final verbs of the inscriptions: Morocco contrasts "desire" to "hazard"; Aragon contrasts "deserves" to "hazard." Yet the real contrast between the gold and the silver caskets on the one hand and the lead casket on the other may lie in the penultimate verbs of their inscriptions. The gold casket's inscription emphasizes what the suitor will "gain," and the silver casket's motto stresses what the suitor will "get." But the lead casket's inscription underscores what the suitor must "give." It may well be that in this play, as John Russell Brown has noted, "[i]n the commerce of love, giving is the secret of keeping as well as of gaining."<sup>101</sup>

While it effectively eliminates these unsavory suitors, the Duke's scheme does so by exacting severe costs. The Duke's requirement that the suitors must not seek another's hand in marriage is a hint that the correct answer is that they must give and hazard all they have to win Portia. Just by virtue of the fact that they are entering into the casket trial means that they are risking and hazarding a considerable amount

97. 2.9.31-32.

98. 2.9.50.

99. Immediately prior to choosing a casket, Morocco ruminates:

Pause there, Morocco,  
and weigh thy value with an even hand  
If thou be'st rated by thy estimation,  
Thou dost deserve enough, and yet enough  
May not extend so far as to the lady.

2.7.24-28.

100. The irony of these lines, of course, is that under the terms of the agreement, Aragon may *not* take a wife to bed.

101. Brown, *supra* note 35, at 86.

of their personal happiness.<sup>102</sup> As Marc Shell has noted, the injunction that failed suitors not marry invokes the fear of castration,<sup>103</sup> a fear that pervades the play.<sup>104</sup>

These costs, however, are dwarfed by those the Duke imposes on Portia. While the suitors may elect not to enter the contest, Portia is required to “stand for sacrifice.”<sup>105</sup> The Duke exposes his daughter to the uncertainties of being wooed and possibly won by a series of strangers.<sup>106</sup> The suitors choose among caskets that symbolize her sexuality, one of which contains her portrait. Rather than her body subsuming her sexuality, here her sexuality subsumes her body; the emblem of the most private part of her being is exposed for examination and evaluation by strangers. More, while they consider the caskets, Portia must wait agonizingly for them to choose, her fate hanging repeatedly in the balance. While she does so, her torment is directly proportional to her distrust of her father’s foresight and taste. For if she completely trusted her father, she would have no qualms at all. Thus, the casket scene can be seen not just as a trial of interpretive skill for her suitors, but as a trial of faith for Portia. She is punished exactly insofar as she swerves from faith in her father.

Portia occludes the harms of the casket trial by taking a jesting attitude toward it. While she complains about these harms to Nerissa,<sup>107</sup> she also jokes with her about the various shortcomings of the six suitors who leave without choosing a casket.<sup>108</sup> She is, however, notably silent during the scenes in which Morocco and Aragon actually make choices. A *film noir* interpretation of the act could cast Portia as alternately manic and depressive, her fey moments with Nerissa giving way to the deathly silence with which she confronts odious suitors making their choices. Such a rendition would be consistent with the near-disintegration of Portia’s consciousness after Bassanio chooses the correct casket and releases her from her torment.<sup>109</sup>

102. Indeed, the more seriously a suitor takes the “hazards” of the wager, the more likely he will be to make the correct decision.

103. See Marc Shell, *The Wether and the Ewe: Verbal Usury*, in WILLIAM SHAKESPEARE’S *THE MERCHANT OF VENICE*, *supra* note 31, at 107, 113.

104. See, e.g., 2.8.20-21 (Shylock: “And jewels—two stones, two rich and precious stones, / Stol’n by my daughter!”); 4.1.114 (Antonio: “I am a tainted wether [castrated ram] of the flock.”).

105. 3.2.57.

106. We do not know how many suitors have actually ventured to make the casket choice, although Morocco implies that many have. See 2.7.38-47 (Morocco’s hyperbolic, but nonetheless telling speech about Portia’s many suitors).

107. See 1.2.22-26.

108. See 1.2.35-110.

109. See 3.2.14-24; *infra* text accompanying notes 142-44.

The wisdom and cruelty of the Duke's scheme set legal and equitable conceptions of justice into relief. The Duke's will is clear—Portia “cannot choose one nor refuse none.”<sup>110</sup> Yet the potential unfairness of the Duke's will is also clear; “O these naughty times / Puts bars between the owners and their rights!”<sup>111</sup> Portia's gift is that she is able to negotiate the directives of both law and equity, to evade forswearing herself while garnering the desired result. She again achieves this result through persuasive rhetoric, specifically through her ability to induce Bassanio to make the right decision.

Controversy has swirled around the issue of whether Portia cheats by leading Bassanio to the correct casket.<sup>112</sup> While those who argue that Portia does not cheat emphasize that all the evidence is circumstantial, they have difficulty overcoming the sheer mass of it. Because the terms on which the debate takes place are often incomplete, it is worth laying out the arguments in full here. The case that Portia cheats may be made as follows: (1) While Bassanio chooses, Portia has a song sung that rhymes on “lead,” which is the metal of the correct casket;<sup>113</sup> (2) the content of the song teaches that love “engend' red in the eyes” expires “in the cradle where it lies,”<sup>114</sup> thereby indicating that a love that relies on external appearances alone is ill-fated; (3) Portia compares herself to the

110. 1.2.25-26.

111. 3.2.18-19.

112. While the blurring of the money/love binary attracts scholarly attention, it does not elicit the same kind of emotional engagement as the casket debate. This may stem from the fact that there is more at stake in the outcome—while a Portia who blurs the line between commerce and love only engages in the kind of clouding that was endemic to her culture, a Portia who cheats the law in the name of equity calls her own integrity (indeed, as she admits, her own salvation) into question.

113. The song reads:

Tell me where is fancy bred  
Or in the heart or in the head  
How begot, how nourished?  
Reply, reply,  
It is engend' red in the eyes,  
With gazing fed, and fancy dies  
In the cradle where it lies,  
Let us all ring fancy's knell,  
I'll begin it—Ding, dong, bell.  
Ding, dong, bell.

3.2.62-72. As Fiedler notes:

Not only the spell of the music, which, as everywhere in Shakespeare, resolves discord and dispels terror, but the words, too, do the trick: the reiterated end rhymes in “ed” of the first stanza, echoed in the word “fed” in the very midst of the second, and reinforced by the allusion to death on which the whole closes. They move Bassanio to make—on the rim of consciousness where the “magical” occurs—associations with the unspoken words “dead” and “lead” and thus to realize that the casket in which his golden girl is “locked” is a coffin, where she lies, as if wrapped in lead, until he revives her.

Fiedler, *supra* note 80, at 75.

114. 3.2.63-65.

Greek heroine Hesione by saying, "I stand for sacrifice," thus invoking a myth in which both Hesione and Hercules "give and hazard" all they have;<sup>115</sup> (4) Portia may reveal her intent to cheat by earlier joking about leading ill-favored suitors away from the correct casket,<sup>116</sup> as well as by stating that a "hot temper leaps over a cold decree";<sup>117</sup> and (5) Portia uses the words "sacrifice,"<sup>118</sup> "hazard,"<sup>119</sup> "venture,"<sup>120</sup> and "peize"<sup>121</sup> in speaking with Bassanio before he chooses, all of which arguably refer to the lead casket.<sup>122</sup> The case against her cheating is that (1) there is no clear evidence of her cheating, and (2) Portia exhibits an "apparently sincere nervousness immediately before Bassanio makes his selection."<sup>123</sup> I have responded to the first point; the second, it seems to me, is a makeweight argument. Portia could cheat and still be nervous that Bassanio would not detect her cues.

The manner in which Portia forces Shylock to choose between mercy and justice in the trial scene recapitulates the choice forced on the suitors in the casket scene. One question raised by the trial scene is where Portia gets such wisdom; where did a woman, self-described as "unschooled . . . unlesioned"<sup>124</sup> find such an exquisite scheme to get the Jew to hang himself with his own rope? One answer to that question is that she inherited the idea from her father, recreating the rulemaking that, by making her its sacrificial object, has most strongly etched itself on her psyche.

Portia in essence presents Shylock with two rhetorical caskets, and he, like the suitors, must choose between them. Mercy, like the lead casket, is less immediately appealing, insofar as it will not get Shylock the pound of flesh he proximately desires. Mercy, like the lead casket, is presented as something that asks those who choose it to give and

115. See Cohen, *supra* note 53, at 694-95.

116. The portentious passage reads:

*Nerissa.* If he [the young German, the Duke of Saxony's nephew] should offer to choose, and choose the right casket, you should refuse to perform your father's will if you should refuse to accept him.

*Portia.* Therefore, for fear of the worst, I pray thee set a deep glass of Rhenish wine on the contrary casket, for if the devil be within and that temptation without, I know he will choose it. I will do anything, Nerissa, ere I will be married to a sponge.

1.2.91-98.

117. 1.2.18-19.

118. 3.2.57.

119. 3.2.2.

120. 3.2.10.

121. 3.2.22.

122. "Sacrifice," "hazard," and "venture" all resonate with the inscription on the lead casket, while "peize," meaning to weigh, can be read as a reference to the metal itself.

123. Daniel H. Lowenstein, *For God, for Country, or for Me*, 74 CAL. L. REV. 1479, 1512 n.30 (1986) (reviewing NOONAN, *supra* note 5).

124. 3.2.159.

hazard rather than to demand and collect, and to do so unstintingly: "The quality of mercy is not strained; / It droppeth as the gentle rain from heaven / Upon the place beneath."<sup>125</sup> Justice, like the gold and silver caskets, is presented as more superficially prepossessing. Like the gold and silver caskets, it frames itself in terms of desire and desert. Portia evokes these caskets in the trial scene by acknowledging that Shylock both *desires* justice—"though justice be thy plea, consider this"<sup>126</sup>—and (in a narrow legalistic sense) *deserves* it—"if thou follow [justice], this strict court of Venice / Must needs give sentence 'gainst the merchant there."<sup>127</sup>

Needless to say, Shylock makes the wrong choice. Like Morocco, he falls into the trap of literalism. The law, like gold, is "what many men desire," and Shylock is one of those: "I crave the law."<sup>128</sup> The law, like silver, is what a man deserves, and like Aragon, Shylock falls into the trap of "assuming desert," noting that "[t]he pound of flesh which I demand of him / Is dearly bought, is mine, and I will have it."<sup>129</sup> Like both suitors, Shylock is unable to see that the language of desire and desert will not procure salvation. In his desire to "get" and "gain" justice, he fails to see how he might "give" mercy.

Reading the trial scene against the casket scene also explicates Portia's strange and overweening desire for vengeance against Shylock. This desire for vengeance seems incongruous when contrasted with the relative mercy of the other Christians,<sup>130</sup> and with Portia's own earlier encomium to mercy.<sup>131</sup> As Richard Weisberg has noted:

Despite having her husband's mind set at ease, his friend's life saved (and, not so parenthetically, his pocketbook enriched), and the quality of mercy sustained in open court against a harsh legalism, she wants the rest of Shylock's wealth, at least as an

125. 4.1.183-86.

126. 4.1.197.

127. 4.1.203-04.

128. 4.1.205. After he has chosen the law, Shylock persists in a literal reading of it. When Portia asks if Shylock has provided a surgeon to staunch the bleeding that his collection of the pound of flesh will occasion, Shylock asks: "Is it so nominated in the bond?" 4.1.258.

129. 4.1.199-200.

130. Because he has violated a statute that prohibits an alien from conspiring to kill a citizen, Shylock must surrender all his goods, half to the state and half to his intended victim, *see* 4.1.345-53, and his life is at the mercy of the state, *see* 4.1.353-55. The Duke pardons his life, *see* 4.1.369, and states that "humbleness may drive [the forfeit due the state] unto a fine," *see* 4.1.371. Antonio asks that the Duke remit even the fine, *see* 4.1.380, and states that he will only take the other half in trust, intending to render it to Lorenzo and Jessica upon Shylock's death, *see* 4.1.382-84. Antonio also asks, however, that Shylock convert to Christianity, *see* 4.1.386, and that he will his estate to Lorenzo and Jessica, *see* 4.1.387-89.

131. *See* 4.1.183-204.

equitable remainder, and she wants his soul in fee simple absolute.<sup>132</sup>

Again, however, the casket scene provides the explanation. Just as the Duke her father penalized the failed suitors for their misjudgment by forbidding them to seek another's hand in marriage, Portia punishes Shylock's error by imposing a devastating burden on him. As noted, the Duke's sanction on the failed suitors was a kind of castration that deprived them of legitimate succession; similarly, the imposition of conversion and the cession of property to his Christianized daughter and her husband deprives Shylock of succession within his faith, a psychic castration already foreshadowed by Jessica's flight with the family jewels. In both cases, just as the decision to give is heavily rewarded, the attempt to gain is heavily punished—once the chooser arrives at the critical moment of choice, there is no ground on which he may elect without enormous consequence.

Most importantly, the juxtaposition of the casket scene and the trial scene implies that there is no law that is not susceptible to equitable override, and that there is no equity in this play that does not resemble Portia's will. In the trial scene, Shylock shows both a kind of wisdom and a kind a naïveté. His wisdom relates to the fact that he knows that if he is to win, he must cling to the law. As Judge Posner has observed:

[I]t should be noted that Shylock's insistence on the principle of literal interpretation need not be viewed merely as the product of a primitive and vengeful spirit. As an unpopular alien (a point that Shylock harps on and the Christians do not deny), naturally he would mistrust a jurisprudence that gave judges a broad discretion to mitigate the rigors of legal rules, for he could expect any discretion to be exercised against him.<sup>133</sup>

Because he wisely recognizes that all ambiguity will be interpreted against him, Shylock clings to the unambiguous words of the contract. And it is true that these words seem to cut unequivocally in his favor, such that any reading of them that does not allow him his pound of flesh would impugne the court system itself.<sup>134</sup>

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132. Richard H. Weisberg, *Entering with a Vengeance: Posner on Law and Literature*, 41 *STAN. L. REV.* 1597, 1621 (1989).

133. RICHARD A. POSNER, *LAW AND LITERATURE* 97 (1988).

134. Even Bassanio implicitly recognizes that it would be "wrong" to deny the Jew his bond when he argues that this "little wrong" would be cancelled by the "great right" of saving Antonio's life. He says to Portia (Balthasar):

And I beseech you,  
Wrest once the law to your authority,  
to do a great right, do a little wrong,  
And curb this cruel devil of his will.

This is particularly true because Venice's commerce, the mainstay of the city, is predicated on the fair treatment of aliens by the law.<sup>135</sup> As Antonio says:

The Duke cannot deny the course of law;  
 For the commodity that strangers have  
 With us in Venice, if it be denied,  
 Will much impeach the justice of the state,  
 Since that the trade and profit of the city  
 Consisteth of all nations.<sup>136</sup>

While the court may be biased against individual aliens, it has bound itself, at a higher level of generality, to the principle that aliens will be treated fairly.<sup>137</sup>

Shylock is naive, however, to think that any law can be so perspicuously read. For while the court is formally neutral between the parties before it, it is clear that all of its members are restrained only by the law from expressing their hatred of the Jew. Portia foils Shylock's argument by noting that he is entitled only to a pound of flesh but no blood.<sup>138</sup> A number of commentators have noted that this is a ridiculous argument for precisely the reason it works—namely that it is impossible to exact a pound of flesh without also shedding blood; one even goes so far as to say that it is a “miserable pettifogging trick,” and a “wretched quibble.”<sup>139</sup> Of course it is a quibble, but in railing against it, these commentators, like Shylock, obscure the

4.1.213-16. Portia responds:

It must not be. There is no power in Venice  
 Can alter a decree established  
 'Twill be recorded for a precedent,  
 And many an error by the same example  
 Will rush into the state. It cannot be.

4.1.217-21.

135. This vision of Venice is rooted in contemporary historical accounts of the city: Of especial importance to *The Merchant of Venice* was the city's reputation for far-flung trade; if Shakespeare exaggerates its extensiveness, which by then was in decline, her reputation as a great maritime power nevertheless was commonly accepted. So was her reputation for fairness in dealing with foreigners, which had contributed to making her a great maritime power. Her vaunted impartiality was seconded by the severity of her justice. Fynes Moryson, who journeyed to Venice in 1593-94, saw two young sons of senators mutilated and then executed for singing blasphemous songs and for other misdemeanors. Speaking of the Venetians, Lewis Lewkenor notes “the greatness of their Empire, the gravity of their prince, the majesty of their Senate, the inviolableness of their laws, their zeal in religion, and lastly their moderation and equity.”

Jay Halio, *Introduction to WILLIAM SHAKESPEARE, THE MERCHANT OF VENICE* 1, 25-26 (Jay Halio ed., 1993).

136. 3.3.26-31.

137. The Alien Statute, of course, is an exception to this rule.

138. See 4.1.308-11.

139. GREBANIER, *supra* note 13, at 269 (quoting RUDOLPH VON IHERING, *THE STRUGGLE FOR LAW* 411 (n.p. 1872)).

point: A quibble is all that is needed, given that the Christians hate the Jew.

The tight parallelism between the trial scene and the casket scene warns us that there is no law in the play that is not inflected with equity. In the casket scene, Bassanio is favored over the other suitors insofar as he may choose amidst music that guides him, as if hypnotized, to the correct casket. In the trial scene, Shylock, like the unwanted suitors in the casket scene, must choose amidst silence, most particularly silence about his criminal liability under the Alien Statute. For it is only after he has locked himself into the position of saying that he will be satisfied by nothing but the pound of flesh that Portia states:

Tarry Jew!

The law hath yet another hold on you.  
It is enacted in the laws of Venice,  
If it be proved against an alien  
That by direct or indirect attempts  
He seek the life of any citizen,  
The party 'gainst the which he doth contrive  
Shall seize one half his goods; the other half  
Comes to the privy coffer of the state;  
and the offender's life lies in the mercy  
Of the Duke only, 'gainst all other voice.<sup>140</sup>

Surely if Shylock had been told of the criminal liability that he faced under the Statute, he would have torn his bond and left the court. But he did not have the benefit of that knowledge, and so was forced to choose without the guidance of Portia's voice.

What is disturbing about equity in both the casket scene and the trial scene is that it is suspiciously congruent with Portia's will. Just as Portia is able to lead Bassanio to the correct physical casket of lead, she is able to persuade Shylock away from the correct rhetorical casket of mercy. The fact that neither the explicit terms of her father's will nor the explicit terms of Shylock's contract are able to stop her from insinuating the result she wants into the minds of others leaves us to wonder whether any rule could ever fetter her will. While Portia admonishes Aragon that "[t]o offend and judge are distinct offices / And of opposed natures,"<sup>141</sup> we see her continually arbitrating cases in which she has an interest—literally as the legal doctor in the trial scene and figuratively throughout the play.

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140. 4.1.345-55.

141. 2.9.60-61.

## V.

Let us not overstate the case. Portia is not always persuasive. In the casket scene, while she may be able to persuade Bassanio to release her from her predicament, she cannot overcome the will of her father directly. When she attempts to forestall Bassanio from making his choice (remember that if a suitor chooses incorrectly, he must leave immediately after his election),<sup>142</sup> she lapses into momentary incoherence that touchingly reflects a consciousness fragmented by her love for Bassanio.

Beshrow your eyes!

They have o'erlooked me and divided me;  
 One half of me is yours, the other half yours—  
 Mine own I would say; but if mine then yours;  
 And so all yours! O these naughty times  
 Puts bars between the owners and their rights!  
 And so, though yours, not yours. Prove it so,  
 Let fortune go to hell for it, not I.  
 I speak too long, but 'tis to peize the time,  
 to eche it and to draw it out in length,  
 To stay you from election.<sup>143</sup>

Here Portia's vaunted power to preside over the controversies between binaries breaks down, as the integrity of her own self fractures into segments whose boundaries are by no means controlled by her. She is a creature divided—of two minds about whether to cheat or not to cheat, about whether to assert the part of her ego that favors Bassanio or the part of her ego that defers to her father. The relationship between her ability to demarcate boundaries and her ability to persuade manifests itself here in its negative form. When she is not able to demarcate boundaries, she suffers a concomitant loss in her powers of persuasion. She notes that she “speak[s] too long,” exhibiting a self-consciousness about her own failed rhetoric, and also realizes that she will not be able to accomplish the immediate goal of her argument—to stay Bassanio from election.<sup>144</sup>

Yet as I have attempted to demonstrate, this moment is the exception that proves the rule. Before and after this moment, Portia

142. 2.9.15.

143. 3.2.14-24.

144. The Duke of Belmont's wisdom may be seen again in his decision to leave the observance of his will to Portia's own conscience. She thus becomes the advocate for the arguments for and against cheating. Her fractured consciousness in this scene shows that she finds herself a worthy adversary; indeed, insofar as we can tell from the play, the only one who can constrain Portia's persuasiveness is Portia herself.

masters both rhetoric and boundaries, knowing and getting her mind. Indeed, her assumption of the robes of the legal doctor seems less an act of disguise than an act of revelation, because she merely gives outward manifestation to the role she has played all along—the role of the judge who speaks about the proper boundaries between different spheres. Moreover, we can see that when she assumes that role, she inhabits it with authority. Remembering that Portia cross-dresses as a man as well as a judge, note the contrast between Portia's metamorphosis and Jessica's diffident conversion into a page:

*Jessica.* For I am much ashamed of my exchange.

But love is blind, and lovers cannot see  
The pretty follies that themselves commit;  
For if they could, Cupid himself would blush  
To see me thus transformed to a boy.

*Lorenzo.* Descend, for you must be my torchbearer.

*Jessica.* What, must I hold a candle to my shames?  
They in themselves, good sooth, are too too light.  
Why, 'tis an office of discovery, love,  
And I should be obscured.<sup>145</sup>

Portia suffers no such shyness. She presides over the male/female binary as she has presided over all the others, using it deftly to her advantage. As she says to Nerissa:

I'll hold thee any wager,  
When we are both accoutered like young men,  
I'll prove the prettier fellow of the two,  
And wear my dagger with the braver grace,  
And speak between the change of man and boy  
With a reed voice, and turn two mincing steps  
Into a manly stride, and speak of frays  
Like a fine bragging youth; and tell quaint lies . . . .  
And twenty of these puny lies I'll tell,  
That men shall swear I have discontinued school  
Above a twelvemonth.<sup>146</sup>

While Jessica begs for obscurity, Portia craves scrutiny. Portia is so confident about her role virtuosity that she believes she can dupe an audience even if she is its cynosure.<sup>147</sup>

When we fully comprehend Portia's persuasiveness, we must ask how much we as readers trust her. While Portia is constantly able to

145. 2.6.35-44.

146. 3.4.62-69, 74-79.

147. The irony, of course, is that both Jessica and Portia were breeches parts, which would have been played by boys on the Renaissance stage. In Jessica's case, the boy actor would have been expressing shame and diffidence about cross-dressing in the attire appropriate to his sex.

deceive those around her in order to shape the contours of the various spheres in which she operates, we can forgive her subterfuges because we are privy to them. Portia early draws us into the circle of her confidence by allowing us to listen to what she says to Nerissa, her waiting woman.<sup>148</sup> As a number of commentators have noted, Portia's relationship to Nerissa is a privileged one in the play, given that many confidences withheld from other characters are shared with the maid. We know about the ring trick all along, and know that it is meant to bolster the fidelity of Bassanio and Gratiano. We also know that, because Portia is the judge in the trial scene, Antonio will not die. Finally, we know about the transvestism of Portia and Nerissa, and therefore hear all the double entendres in the final scene. All of these pieces of knowledge are shared only by Portia, Nerissa, and us.<sup>149</sup>

But as the play draws to a close, we realize that Portia closes us out of that confidence. The issue of Portia's trustworthiness becomes more fraught as we realize that we are less like Nerissa in the last act of the play than we are like Antonio, less the consummate insiders we thought we were and more the consummate outsiders we wish we weren't. When Portia welcomes Antonio to Belmont, she says that he is "welcome notwithstanding"<sup>150</sup> the fact that "he is the subject of these quarrels."<sup>151</sup> As Nancy Hodge notes, "[Antonio] is welcome to Belmont, notwithstanding the fact that he represents the problem remaining to be solved, the cause of misalignment in this particular

148. See 1.2.

149. That confidence is never complete, because there are other things that Portia does not confess. Prime among these, perhaps, is whether she "cheated" during the casket scene, but there are other instances. Take, for example, Portia's speech to Bassanio after he chooses the correct casket:

But the full sum of me  
Is sum of something—which, to term in gross,  
Is an unlessoned girl, unschooled, unpracticed,  
Happy in this, she is not yet so old  
But she may learn; happier than this,  
She is not bred so dull but she can learn;  
Happiest of all, is that her gentle spirit  
Commits itself to yours to be directed,  
As from her lord, her governor, her king.

3.2.157-62. As Lisa Jardine notes, this speech is a tissue of lies:

Portia is not "unschool'd," "unlesson'd" (the plot hinges on her learning); she does not submit her "gentle spirit" to Bassanio's direction (she continues to act with authority, and without his knowledge or permission); and as her accounting imagery reminds us, she retains full control of her financial affairs (even the servants continue to answer to her).

Lisa Jardine, *Cultural Confusion and Shakespeare's Learned Heroines: "These are old paradoxes,"* 38 SHAKESPEARE Q. 1, 17 (1987).

150. 5.1.239.

151. 5.1.238.

court.”<sup>152</sup> Later, Portia solves this problem by pensioning him, and us, off:

Antonio, you are welcome,  
 And I have better news in store for you  
 Than you expect. Unseal this letter soon;  
 There you shall find three of your argosies  
 Are richly come to harbor suddenly.  
 You shall not know by what strange accident  
 I chanced upon this letter.<sup>153</sup>

With these words, Portia excludes us from the charmed circle as well as Antonio, including us in the “You” of “You shall not know.” Like the rest of Venice, we have been duped by the gossip on the Rialto that trumpeted that all of Antonio’s ships had been lost. Like Antonio, we are amazed at this turn of events, but the play will close without an explanation of them. Indeed, we are demoted beneath even the other characters, who are going inside to learn more of Portia.<sup>154</sup> Solitary as Antonio, we have no place in the coupled world of Belmont, which now begins to close its circle against us.

## VI.

The physical act of reading resembles that of looking at oneself in a mirror; the open book held close to the face is nothing so much as an instrument designed to reveal to the holder some aspect of herself. What else can explain the rapt attention of the reader, whose gaze is held by this inanimate object before her, who strains her eyes to see what is contained within it? This physical metaphor, of course, is deeply abetted by the intellectual and spiritual reflections reading stimulates.

The similarity ends when we realize that while mirrors are mostly fungible, texts are not. While the choice of mirror is not a crucial one, the choice of text is. Into which texts do we gaze to see who we really are? For lawyers, *The Merchant of Venice* is that most trusted mirror, the work to which every lawyer with a serious interest in literature ultimately makes her pilgrimage. The reflection we see in it differs

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152. Nancy E. Hodge, *Making Places at Belmont: “You Are Welcome Notwithstanding,”* 21 SHAKESPEARE STUD. 155, 165 (1993).

153. 5.1.273-79.

154. As Portia states:

It is almost morning

And yet I am sure you are not satisfied  
 Of these events at full. Let us go in,  
 And charge us there upon inter’gatories  
 And we will answer all things faithfully.

5.1.295-99.

radically for each of us, such that the play has assumed an almost uncanny ability to sustain contradictory readings about the lawyer's proper role.

While the capacity of the text to sustain such contradictory readings may make it seem like a Rorschach blot onto which we each project our fantasies, I have tried to argue that at least one thing can be said with certainty about the play, which is that Portia is central in arbitrating between the various antinomies posited by the work. Does she draw the right line between money and love? Does she draw the right line between law and equity? These questions may yield different answers, but they both assume that Portia possesses the power to draw that line.

In assuming that role, Portia becomes a figure for the lawyer. The lawyer is the one who can argue that black is white, or that black and white exist along a continuum, or that black is different from but in harmony with white. As Bassanio notes: "In law, what plea so tainted and corrupt, / but being seasoned with a gracious voice, / Obscures the show of evil?"<sup>155</sup> Portia is the one we fear for her ability to season everything with a gracious voice, and thereby shape our realities against our better judgments. While commentators have long debated whether the play is about the Merchant of Venice or the Jew of Venice,<sup>156</sup> in the end, for legal commentators, the play appears to be about the Lawyer of Belmont. The Lawyer of Belmont is that strange personage who through her persuasive powers wins victory after victory for the conscribed romantic world in which she lives, at great pain and cost to those outside that charmed circle. And whether we as legal commentators view ourselves as living inside or outside this circle, she persuades us to consider the hardest questions about the profession.

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155. 3.2.75-77.

156. The debate goes back to the early history of the play. "To be sure, the original entry in the Stationers' Register for 1598 refers to the play as 'a booke of the Marchaunt of Venyce, or otherwise called the Jewe of Venyce'; and by 1701, Lord Lansdowne had quite rewritten it as *The Jew of Venice*." Fiedler, *supra* note 80, at 64; see also C.L. Barber, *The Merchants the Jew of Venice*, in SHAKESPEARE: *THE MERCHANT OF VENICE*, *supra* note 38, at 176, 177 (making similar point). Modern commentators have debated the relative importance of Shylock and Antonio in the play. See, e.g., E.E. Stoll, *Shylock*, in WILLIAM SHAKESPEARE'S *THE MERCHANT OF VENICE*, *supra* note 31, at 15, 15 ("[W]e [should] forget Sir Henry Irving's acting, and remember that the title—and the hero—is not the *Jew of Venice* as he would lead us to suppose.").