

Trying Portia

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Abstract Extraordinary in itself, the 2016 performance of *The Merchant* in the Venetian Ghetto produced an equally extraordinary collateral performance. Staged in the Scuola Grande di San Rocco, a 'Mock Appeal in the Matter of Shylock v. Antonio' was heard by a bench presided over by Ruth Bader Ginsberg. A curious aspect of the Appeal was that Portia was made an appellee. This essay investigates the decision to try Portia. What cultural, political, religious needs were served by bringing Portia into court? Thinking about Justice and Mercy, law, bonds, and love, this essay asks: when the verdict was pronounced, was antisemitism recuperated by misogyny?

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1 Summoning Astraea

Extraordinary in itself, the performance of Shakespeare's *The Merchant of Venice* in the Venetian Ghetto in July 2016 produced an equally extraordinary side-show. It was staged in the Scuola Grande di San Rocco beneath Tintoretto's vast ceiling paintings which unfold over visitors' heads the Old Testament's accounts of God's encounters with mankind while below, on the Scuola's walls, visitors are surrounded by Tintoretto's bold representations of the New Testament's re-encounters. In this place, which privileges both Jews and Christians, an audience assembled to hear the 'Mock Appeal in the Matter of Shylock vs Antonio'. The case was heard by a judicial bench presided over

by Ruth Bader Ginsburg, Associate Justice of the US Supreme Court. It presented Shylock (proxied by his *avvocato*) appealing against the sentence handed down to him in Act 4 of Shakespeare's play, arguing that "the judgment be reversed *en toto*" and that "all the estates formerly" Shylock's be "returned". A curious aspect of this 'Appeal', ostensibly a matter between Shylock and Antonio, was that Portia, though "not a named defendant in the lower court", was made an appellee in the case, called into court to defend the role she had played in reaching the original verdict.¹ But why try Portia? What cultural, political, religious needs were being served by bringing Portia (via her attorney) into court in 2016?²

Of course, many of today's spectators of Shakespeare's play find Portia trying. Specifically, they indict her of failing to offer Shylock the very "quality of mercy" she proposes he "must" render Antonio (4.1.180). But this, I suggest, signally misrepresents her actions in Shakespeare's court while misunderstanding, first, how mercy can be applied as mitigation (and by whom) and second, what relationship mercy has to justice. In preliminary remarks from Fabrizio Marrella, Professor of International Law, Ca' Foscari University of Venice, the packed audience at the 'Appeal' were invited to think about Justice and Mercy. *The Allegory of Misericordia* is pictured on Tintoretto's ceiling, and as Marrella reminded us, the story told in Ovid of Astraea (a.k.a 'Justitia', virgin daughter of Zeus and Themis) is built into the very stone fabric of Venice. She might be said to preside over the city, her figure standing atop the Palazzo Ducale. And she is also ubiquitous in manuscript and print, written into the Republic's self-defining civic myth by its chief early modern chronicler, Pietro Contarini. The last of the immortals to live on earth among men through the ages called 'Gold' and 'Silver', Astraea (according to Ovid) finally fled, sickened by man's slide into brutishness, a brutishness figured in the

1 All quotation of the *avvocati* is taken from the program document, *Mock Appeal*, prepared for the event. Manfredi Burgio represented Shylock; Mario Siragusa, Antonio; Jonathan Geballe, Portia, with additional quotation of Geballe from personal communication. Quotation of Justice Ginsburg is transcribed from the RAI5 documentary film, *Perché Shylock?*. See <https://www.raisplay.it/programmi/percheshylock/>. In the final edit made for broadcast, this film cut Portia's presence from the proceedings, thereby cutting both her defence and the bench's verdict. It is, of course, notable in this line-up (and indeed, across the entire casting of the 'Mock Appeal', including its 'academic experts' and the actor who came on to confront the audience with an aggressive rendering of "Hath not a Jew eyes") that there was no English voice heard: neither to represent the English law of the period which Shakespeare was manipulating so audaciously nor to represent the "little dramatist from Stratford" himself, as Patrice Pavis makes him (Kennedy 1993, 286-7). Notable, too, was that the single judge to dissent from Justice Ginsburg's sentence on Portia was the only other woman performing in the 'Appeal', Professor Laura Picchio Forlati of the law faculty in the University of Padua.

2 I gratefully acknowledge input in this essay from Paul Raffield (law), Ryan Service (theology), and Ben Fowler (performance).

death of human love, when, in the Age of Iron, “all proper affection lay vanquished” (Innes 1995, 33). (These metallic ages: are they not uncannily reminiscent of three caskets?) Ovid gives a blunt record of her flight from earth in the opening book of *Metamorphoses*: “Terras Astraëa reliquit” (1.150). The longed-for return of Astraëa, however, would signal the apocalyptic restoration of the Golden Age. Might something like that return happen, our host ventured, in the course of the ‘Appeal’ being staged in the Scuola Grande? Might Astraëa be summoned back to earth? Might affection ‘proper’ to humanity be restored? Might Astraëa preside amongst us wearing the robes of justice – perhaps as a woman?

2 Mock – or Mockery

All of Shakespeare’s staged trials are show trials. They are hybrids gesturing at but not conforming to any juridical practice recognised in early modern England. As hybrids, they are positioned in the play to do work far beyond a lawyer’s clerkly office. To subject them, then, to the scrutiny of a mock trial four hundred years later is bound to be problematic. So it was in Shylock’s ‘Appeal’. For one thing, the advocates found it nigh impossible to decide whether, representing their clients, they were arguing from history – ‘real’ law of the 1590s – or from the present – bringing to bear on the case Holocaust memory and modern human rights legislation; whether they were arguing from Venice – and judicial practice belonging to the early modern Republic – or from Shakespeare’s London and its fictive law practice. Shakespeare in his own time was evidently familiar with the business of the Inns of Court (not least, perhaps, because law students were avid playgoers). He was capable of playing fast and loose with legalisms whose entanglements he had been both staging and mocking since, in one of his earliest plays, *Dick the Butcher*, Jack Cade’s truculent side-kick, proposes launching a new popular order in England with swingeing legal reforms: “The first thing we do, let’s kill all the lawyers” (4.2.72). For after all, according to Dick’s preposterous logic, lawyers are the greatest criminals. It is lawyers who, with ingenious (but disingenuous) arguments, arrange for lambs – early modern legal documents being written on parchment made of lambskins – to hang men.

Negotiating tricky positional contradictions, and faced with the sheer mass of contested evidence Shakespeare’s play presents, the Shylock ‘Appeal’ advocates on occasion understandably lost their grip on the plain facts of Shylock’s original hearing. One advocate wrongly claimed that Portia never addressed Shylock by name but always as *the Jew* and that Shylock left the court “deprived of all his fortune”. Another imagined wholly fanciful “commercial practices in London in

the last decades of the sixteenth century” when he proposed that tensions in the play were rooted in anxieties “Londoners felt” about “the financial success that the Jews” were achieving there “in the money lending business”. Elsewhere, they alleged motivations that surely should have been challenged (but were not), for example, that Portia in the trial was “simply playing a sadistic game, cruelly deceiving Shylock until such moment she decided to annihilate him”. They applied promiscuously the concept of presumption, “what Shylock” acting in the scene (or Shakespeare writing it) “must have known”. The “Alien Statute”, for instance, sprung on Shylock with “Tarry, Jew” (4.1.342) must have been fraudulent, one advocate argued, a subterfuge, nobody in Venice seeming to have heard of it before, not even the “alien” Jew. But by that logic, the further claim should have been rejected, that Shylock’s case turns on a mere quibble, “the forfeiture (the blood)” being “an implied term of the bond” which “the parties had surely taken into account”. Shylock is a Jew conversant in scripture. “Surely” he must have known Genesis 9,4-6 and Leviticus 17,10-14, where ‘flesh’ and ‘blood’ are separated terms, where the distinction between ‘flesh’ and ‘blood’ is no quibble but defined, laid down as law.

Of course, even with the best legal will in the world, an advocate who reads Shakespeare’s trials forensically is bound to come to grief. The ‘facts’ of the matter simply do not stack up. Inconsistencies abound. Gaps yawn. Arguments collapse down narrative rabbit holes. Take the defence made by Portia’s ‘Appeal’ lawyer (accurately quoting one scene of the play) that she “had training” in law “from her cousin, Dr Bellario”. “We know” this, said Counsel, “from Dr Bellario’s letter read aloud in court”. That letter introduces a “young doctor of Rome” as Bellario’s stand-in and assures the court that “Balthazar” is thoroughly “acquainted [...] with the cause in controversy”; that, having “turn’d o’er many books together”, he is “furnished with my opinion” (4.1.150-163 *passim*). But how can that be? Portia – if she is the one meant in that pseudonym – did not visit Bellario. It was her servant – another (perplexingly named) “Balthazar” – whom Portia sent (in an *earlier* scene of the play) hotfoot first to Padua to Bellario to collect “notes and garments” then to “the trajet, to the common ferry | Which trades to Venice” to rendezvous with herself and Nerissa (3.4.45-84 *passim*). So, is Bellario’s letter a forgery? Who wrote it? Or is the venerable lawyer in Padua complicit in a legal scam? Teased into asking such questions – by facing the fact that to put such forensic pressure on details that expose inconsistencies in the writing, and that indeed, to treat a theatrical fiction as if it were reality, are fundamentally flawed projects – a mock trial flirts with mockery.

Of more consequence to Shylock’s ‘Appeal’ and its verdict than any of this, however, was the agreement reached in a pre-trial hearing to “pare down the controversy”, as Justice Ginsburg put it, by accepting – “although he thinks by right he should have the pound of



Figure 1 Justice Ruth Bader Ginsburg presides over Shylock's 'Mock Appeal'. © Alessandro Grassani

flesh" - Shylock's decision "to relinquish that demand". "Very sensibly", Ginsburg concluded, calling the "pound of flesh" forfeiture "a jest, a merry sport". With one stroke of the judicial pen, then, Ginsburg struck out the specific term, the flesh forfeiture, that gives meaning to Shylock's bond in the symbolic logic of Shakespeare's play (of which more, later). The "controversy" was reduced to a commercial dispute over property and 3,000 ducats whose outcome, once bodies and flesh were no longer at stake, could hardly entail imposing religious conversion on the Jew. Unsurprisingly, then, Ginsburg's court reached a unanimous verdict: Shylock's property was returned, the 3,000 ducats repaid, the conversion nullified. The verdict on the "pound of flesh", that it was "a jest", mere "sport", stood, despite arguments from Counsel that Shylock possessed the *"mens rea*, the mental disposition" - which must be demonstrated in early modern English law for conviction - to exact his forfeiture; that he entered the court with a pre-history of "revenge in mind" - as evidenced by 1.3.37-48 and summarised at 3.1.60-66 - and that, in court, he was "prepared to do the murderous deed", as shown by his response to Bassanio's "Why dost thou whet thy knife so earnestly?":

To cut the forfeiture from that bankrupt there.
(4.1.120-21)

Some "jest".

Where was Portia in all this? Justice Ginsburg had opened the proceedings summarising Shylock's claims, indicating that "After Shylock's Counsel speaks, we will hear from Counsel for Antonio and the Republic of Venice". Only "finally" did Ginsburg notice Portia, remarking that "although we question whether she" – Portia – "has standing to be a party to this proceeding", "Counsel for Portia" would be "indulged". *Indulged*. A curious term, given that Portia had been *summoned* to appear, summoned, according to her Counsel, to defend against accusations of "raising and enforcing questionable Venetian 'laws' which punished Shylock and turned a civil trial into a criminal conviction" and of "perpetrating a hoax on the judiciary by pretending to be a judge".

Counsel addressed these accusations succinctly, observing: that Portia "refrain[ed] from defending [...] the conversion requirement" (it not being her ruling), which in any case was "not enforceable" and should be "declared null and void"; that, nonetheless, "Shylock's motive was reasonably ascribed to an attempt to seek the life of a citizen"; that Portia "fully satisfied the requirements necessary to qualify as a judge in sixteenth century Venice"; that her rulings were "not reversible based on claims of [...] her application of strict law" for, having found the parties at an "impasse", both insisting "on the law", she first "drew on the doctrine of equity" – the legal term for 'mercy' – "to satisfy the bond while avoiding bloodshed". Only when "stymied at applying equity" had she moved, as Shylock demanded, to "the other doctrine: strict law".

Counsel refrained from noticing that it was Shylock himself who directed "Balthazar's" attention to the strict reading of the bond and to the distinct categories of 'flesh' and 'blood' inscribed within it when, having answered the court that he did indeed have to hand scales "to weigh" Antonio's "flesh", he declined to provide a surgeon "To stop his wounds, lest he do bleed to death" (4.1.251-254 *passim*). "Is it so nominated in the bond?" he queried, evidently searching the document ("I cannot find it") before persisting, "'tis not in the bond" (4.1.255-258). Shylock's "It". That is the sort of unspecified contractual term a lawyer pounces upon – and perhaps "it" pricks up Portia/Balthazar's ears. Is "it" a "surgeon"? Or is "it" to "bleed to death"? The bond does not provide for a surgeon. But neither does it provide for bleeding to death. "It" provides for flesh – but "it" does not provide for blood.

Ginsburg's court had some questions for Portia's Counsel. Why had his client gone to Venice, passing herself off as a "young doctor of Rome"? Why get involved in Shylock vs Antonio? Counsel hesitated. Shakespeare's play does not say. Portia in 3.4 issues instructions left, right, and centre; dispatches her just-married husband, settles her household, makes saucy jokes about wearing men's clothes, but never discloses her reasons. Counsel improvised: she had to go to

Venice, he said, because the men had made such a hash of things that only a woman could sort them out.

Sitting in the Scuola audience, it came to me: in the court in Venice, dressed as a man, Portia was actually Astraea's proxy.

Ginsburg's court did not see it that way. Unanimous on Shylock's appeal (which entirely vindicated him, the audience responding with vigorous applause), its verdict on Portia, pronounced last, was split, the majority declaring Portia "a liar and a hypocrite" who failed to render Shylock the mercy she requires him to give Antonio, and sentencing her for criminal imposture. (Thus, Ginsburg's court turned this civil hearing into a criminal case - with, evidently, staggering hypocrisy, since such a "turning" was one of Ginsburg's allegations against Portia's "fraudulent" action in Venice.) Her penalty? She was condemned to enrol in a course in law at the University of Padua.

The audience gasped - then erupted in raucous laughter.

My blood froze.

I had heard that sort of mob laughter before, indeed, only the night before - in the Ghetto Novo, at the end of the trial scene in Coonrod's *Merchant of Venice*, when Antonio capped his "mercy" to Shylock with a final surprise "favour", that "[h]e presently become a Christian" (4.1.382-383). The gaggle of jurors, hangers on, interested parties that Coonrod had put on stage to witness the trial gasped - then laughed, in derision, in ugly, despising mockery of the Jew; laughter that exposed, that conveyed ridicule, shame, humiliation.³

Now in Ginsburg's court this laughter was turned on the woman. (Elsewhere that summer, Donald Trump was campaigning against Hilary Clinton in the US presidential election he would eventually win. Misogyny was back on the agenda - with a virulent vengeance).

I glanced to where the actor who was playing Portia in Coonrod's production had been sitting - but she was gone. She had a play to put on. What then came to mind was the student who, years earlier, had confessed to me how difficult it was for her, a young black woman, to celebrate the dream of black liberation at the end of Fugard/Kani/Ntshona's *The Island* where men's fantasies of freedom are rendered in the objectification of black women, reduced to "it", to "wet poes", and "you'll fuck it wild!" (Fugard 2000, 220). Sadly, she said, "The last 'niggers' to be freed will be us women". Now, I reflected, was antisemitism to be recuperated in misogyny? Simply trading scapegoats: did that not leave the power structure of the scapegoater still in place?

3 Others heard the laughter differently: "For some", writes Ben Fowler who was present at the 'Appeal', "it may have arisen from the great irony of RBG - an advocate of women's equality on the Supreme Court - issuing this sentence" (personal communication, April 2019).

3 “Which is the Merchant Here? And Which the Jew?”

It was entirely right, for the commemorative purposes Coonrod’s production was serving, that her *Merchant of Venice* should be Shylock’s play. His point of view was privileged, five actors embodying, in the five scenes Shakespeare gives him, aspects of a character that this production showed him constantly reinventing in reaction to the Christians’ latest humiliations. At the end, her five Shylocks got the last line: a speech interpolated from the trial scene, 4.1.39-61, that ends “Are you answered?”. Here, addressed straight to the audience and repeated over and over, that demand had the effect of turning the play *out*, placing the troubling questions Shakespeare’s *Merchant* asks but never answers squarely in the laps of the audience. Without doubt, Coonrod’s project to ‘bring Shylock home’ was a major cultural achievement. But as the actor playing Portia observed of Coonrod’s direction, “You can push a concept only so far. Then Shakespeare’s play asserts itself” (Rutter 2017, 83). And Shakespeare’s play of *The Merchant of Venice* is not Shylock’s play. It is a play about Christians that uses the Jew as a magnifying glass to scrutinise Christian behaviours.

One of the most telling observations James Shapiro makes in his magisterial *Shakespeare and the Jews* is that early modern “England’s fascination” with the Jews had less to do with anxieties about Jews *qua* Jews or with Jewish conversion than with the “crisis of religious identity produced by England’s break with Catholicism”, a break that “brought into question what before this time had been one of the least troubled aspects of [English] social identity: what it meant to be Christian” (1996, 134). Notionally, English Protestants needed to wheel out the “idea of the stubborn Jew” as a kind of prophylactic to settle their queasy doctrinal stomachs, to reassure themselves that they knew “what it meant to be Christian” (134). Just this sort of “stubborn Jew” had functioned in Christopher Marlowe’s *The Jew of Malta* a few years before Shakespeare’s *Merchant* appeared – but not to settle, rather, radically to disturb “what it meant to be Christian”. As religious *agent provocateur* in a world where Christians, Turks and Jews jockeyed for power, Barabas relentlessly satirised Christian “profession” as hollow hypocrisy. In that play, the presiding *genius loci* was “Machiavel”; the playwright’s targets were political. The ‘Christian’ exposed by Marlowe’s “stubborn Jew” was an ideological construct representative of a system of bankrupt “policy”.

Shakespeare in *Merchant* was doing something different. Not writing “savage farce” or “slapstick tragedy” but romantic comedy – a line



Figure 2 Costume design, Portia as Doctor of Law, by Stefano Nicolao. © Andrea Messana

he would pursue.⁴ All of his comedies would be marriage plays that, as such, deal in flesh bonds, that tease out the never less than perplexing, frequently disturbing, nature of love, what 'love is', and that invent theatrical conceits to literalise metaphor: "love is blind" (*A Midsummer Night's Dream*); "madness" (*Twelfth Night*); half "politic reign", half sheer gamble (*The Taming of the Shrew*); a search for "my other self" (*Comedy of Errors*); love will "after kind" (*As You Like It*).

In *Merchant*, he is complicating his design. The master plot is the marriage plot, Portia's destiny, which is presented as the play's original 'trial', played out three times across the sequence of suitors tested and tried as each one faces those 'sentences' fixed to the three caskets and makes his choice. In this plot, love is a "lottery" (1.2.28). The risk love requires of you is, terrifyingly, nothing less than to put your life on the line: "Who chooses me must give and hazard all he hath" (2.7.16). (We should notice, given the terms of the casket test – that is, who "choose[s] wrong" must "swear" "[n]ever to speak to lady afterward | In way of marriage" (2.1.40-42) – that Morocco and Arragon exit the play to personal and dynastic extinction. They're dead men walking.) In marriage, the "contract" is rendered as an "eternal bond of love" (as *Twelfth Night* puts it, 5.1.152), a contract Portia seals in a flesh bond. She gives her "self", who was "but now" "Queen o'er my self", to Bassanio, metonymically in a ring that carries a fearsome forfeit clause: should he "part from, lose, or give [it] away", it will "presage the ruin of [his] love". Bassanio instantly raises the stakes on this contract, making it a reciprocal flesh bond: "when this ring | Parts from this finger, [...] | [...] be bold to say Bassanio's dead" (3.2.169-173, 183-185).

So far, so complicated. But then Shakespeare adds to this congeries another layer of complication, the issue of confessional difference – Jew vs Christian – as it stakes out positional attitudes toward 'love'. Christians, of course, are supposed to have 'Chosen People' status as far as love is concerned. Their chief rabbi, while he was still preaching in Jerusalem, a Jew talking to other Jews, cut through masses of rabbinical debate to answer a Scribe's query about legal precedence. He selected from Deuteronomy 6 and Leviticus 19 salient verses to condense the whole law into three love relationships: "Thou [...] shalt love the Lord thy God with all thy heart [...] soul [...] mind [...] strength"; "[t]hou shalt love thy neighbour as thyself" (Mark 12,29-31). God. Neighbour. Self. His final commandment to his followers (as the 1599 Geneva New Testament translates John 15,12) was an

⁴ The first is T.S. Eliot's phrase in *Selected Essays*. London: Faber & Faber, 1932, 123, the second, Arthur Lindley's in "The Unbeing of the Overreacher: Proteanism and the Marlovian Hero". *Modern Language Review*, 84, 1989, 1-17.



Figure 3 Portia (Linda Powell) disguised as Doctor of Law. © Andrea Messana

instruction to “love one another”⁵ His death on a Roman cross he offered as a gift of love in fulfilment of a flesh bond: “Greater love than this hath no man, when any man bestoweth his life for his friends” (John 15,13).

The problem with Christians in the play, however (and more generally, in audiences both then and now), is that they do not really ‘get’ love. They do not comprehend its generosity, its unconditionality, its bottomless Bay of Biscay capacity (as Rosalind in *As You Like It* puts it), its kinship to usury (what you give, what you take: the accounts never balance; there is always ‘interest’ on top), the way it asks you to “give and hazard all”. The rabbi had tried to explain. He told a story of a prodigal son (Luke 15,11-31). Who takes his inheritance. Squanders it in the flesh-pots of Egypt. (One thinks about a daughter on the razzle in Genoa, squandering some of her stolen inheritance on a monkey.) Bankrupt, finds himself eating pig-swill. (Have Lorenzo and Jessica run through the whole bankroll when they fetch up in Belmont?) Then decides to take a risk. A *massive* risk. He decides to go home. He will say to his father he is not worthy to be his son and ask to have a place in his house as a servant. What does he expect of the father? Revenge? Flat renunciation of the flesh bond? What happens is astonishing. Seeing the prodigal son coming a long

⁵ Throughout, my quotation of the English Bible cites the Geneva version of 1599, accessible online at <https://www.biblegateway.com/versions/1599-Geneva-Bible-GNV/>.

way off, the father orders a home-coming party, a feast. The older son complains. He has kept his nose clean. Kept the patriarchal law, his filial contract, followed the house rules, been a dutiful lad – and dad never slaughtered the fatted calf for him. *It's not fair!* The father's answer is an instruction in love: "Son, thou art ever with me, and all that I have is thine". But "It was meet that we should make merry, and be glad: for this thy brother was dead, and is alive again: and he was lost, but he is found" (Luke 15,31). The dutiful son, the prodigal son: both are vindicated in 'unrespective' love.

This parable, along with the one about the lost sheep (Luke 15,4-7) was a cornerstone of Protestant teaching in Elizabethan England. It is quoted in one of the 'daily sentences' at the top of the morning office in the book of Common Prayer that schoolboys like William Shakespeare heard every day of their lives (right up there next to the 'sentence' Marlowe has Dr. Faustus quote in Latin, "If we say that we have no sin...": interesting to consider two schoolboy minds shaped by their attention to these two 'sentences').⁶ Of course, how anyone interprets the parable depends entirely on with whom one identifies. The wastrel? Or the law-abiding son who does 'no wrong'? And it depends on whether one can accept that love – as the rabbi taught it – does not discriminate. Love makes nonsense of 'what is fair'. Like mercy, it drops alike on those who deserve – and those who do not.

This parable is also one of the foundational texts in *The Merchant of Venice*. It is lodged in the play's citational substructure, insinuated when Bassanio confesses how he has "disabled" his "estate" with habits "something too prodigal"; picked up in Antonio's reference to his "uttermost", the notion that Bassanio might make "waste of all I have"; taken further when Shylock sheds Launcelot Gobbo onto "one that I would have him help to waste | His borrowed purse" (1.1.123, 129, 156-157; 2.5.48-49). The moment he collects his (latest) loan, Bassanio starts wildly spending it, upholstering his retinue from top to bottom with "rare new liveries" (says Gobbo, dazzled by such "outward show", 2.2.102). Of course, this prodigality is an exorbitant waste: Bassanio does not need "the means | To hold a rival place" with Portia's other suitors (1.1.173-174). The 'trial' she embodies is not that sort of 'show'-y test. Later, Shylock makes prodigality generic of credulous Venetian fools: "The prodigal Christian" is a term that can be applied to the whole lot of them (2.5.15) before it settles on Antonio, the merchant who "squandered" his "ventures [...] abroad" and now has wound up "a bankrupt, a prodigal" (1.3.20; 3.1.39-40). But there is also a suggestion that, more than individual acts of exorbitance, prodigality is built into all human "ventures". Musing sen-

⁶ Quotation of the English Book of Common Prayer is from the 1559 version accessible at: http://justus.anglican.org/resources/bcp/1559/BCP_1559.htm.

tentiously on Lorenzo's failure to show up on time for his assignation under Jessica's window where he has instructed his gang of masked bully-boys to assemble to help him steal a wife, Gratiano considers how "[a]ll things that are | Are with more spirit chased than enjoyed":

How like a younger or a prodigal
The scarfed bark puts from her native bay -
Hugged and embraced by the strumpet wind!
How like the prodigal doth she return
With over-weathered ribs and ragged sails -
Lean, rent, and beggared by the strumpet wind!
(2.6.13-20)

"One touch of nature", it appears, "makes the whole world kin": in all our endeavours, we are prodigals (*Troilus and Cressida*, 3.3.175). Thus, what started out as a way of figuring the mystery of unconditional 'Christian' love now provides the term for the Christians' shabbiest mercenary practices.

When their actions are held up against the instruction in love that the story of the prodigal son offers them, the Christians' hypocrisy 'in love' is devastatingly exposed. Antonio does not "love his neighbour"; he reviles him, spits on him, "spurn[s]" him like "a stranger cur" (1.3.114). (We remember that in response to further questioning, the rabbi told his Jewish congregation that their "neighbour" was not just the 'kind'-ly Jew who lived next door but the hated 'stranger' Samaritan.) Bassanio makes Shylock (even as he holds out his hand to take his money) a "villain"; Launcelot calls his master "a kind of devil", the Duke, in the trial scene, "stony [...] inhumane", Gratiano, "thou damned inexorable dog" (1.3.175; 2.2.21; 4.1.3,127). As bad, the Christians turn love into a commercial transaction. For Bassanio, the "pilgrimage" to Belmont to get a wife is a scheme to "get clear of all the debts I owe", "adventuring" as Antonio "ventures" his "merchandise" (1.1.120, 134, 41, 44).⁷ For Antonio, it is "business" that Bassanio should not "[s]lubber" (2.8.39). For Lorenzo, getting a wife is a shifty post-prandial walk around the block, "slink[ing] away in supper-time, | Disguis[ing] [...] and return[ing] | All in an hour". It is playing the thief, taking from "her father's house" not just the daughter but the "gold and jewels she is furnished with", revelling in those "ducats" and cynically mocking the flesh bond he is violating ("If e'er the Jew her father come to heaven...") (2.4.1-3, 31-32, 34). Love, for

⁷ It is, of course, one of the most challenging ironies of this play that Bassanio's history of prodigality is precisely what equips him to choose the right casket. He is the man who is prepared to "risk and hazard all": see as evidence of this preparation that screwball story of schoolboy "adventuring" told at 1.1.140.

these Christians, is about enrichment bankrolling consumption. No wonder Shylock would prefer that “any of the stock of Barabas” had been his daughter’s “husband, rather than a Christian” (4.1.292-293).

Is putting the Jew in this play a way of throwing into relief the spiritual bankruptcy, the hypocrisy of the Christians?⁸ Another foundational story is narrated – at length, perhaps because Shakespeare’s audience would not have known it as immediately as they did the parable of the prodigal son – and it is as definitive of Shylock’s Jewishness as the other is (supposedly) of Christianity. It is the story Shylock launches with “When Jacob grazed his uncle Laban’s sheep”: a marriage story, a story about flesh bonds; of using your noodle to renegotiate a transaction when what has been “compromised” is compromised by sharp practice; a story that ends with a moral, “[t]his was a way to thrive, and [Jacob] was blest | And thrift is blessing if men steal it not” (1.3.67, 85-86). Shylock’s “well-won thrift” is precisely what Antonio “rails” against, calling it “interest” (1.3.46-47). “Thrift” vs “interest”: how words are interpreted defines difference in this play. Of course, the Jew knows all about flesh bonds: “father Abram” gets a couple of mentions from Shylock (1.3.68, 156). The story of Abraham’s obedience, a trial God brings him to in the command to sacrifice his only son – Isaac, a type of Christ – was still being performed in the mystery cycles that survived into Shakespeare’s lifetime. While, crowing about themselves as “Jasons” in Belmont having “won the fleece” (3.2.240), the Christians make light of love’s flesh bond (until it gets terrifyingly real in Act 4), the Jew values it so uncompromisingly that, when it is violated, he turns murderous. When his “own flesh and blood” rebels, when his daughter steals and is stolen, when Jessica turns “prodigal”, he enacts the failure of forgiveness. He plays the older brother’s part in the parable of the prodigal son: he stands by the contract. He wants retribution. Lacking Jessica’s body on which to enact revenge (“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”, 3.1.80-82), and receiving a stinging ‘prodigal’ account of her (“Your daughter spent in Genoa, as I heard ...”) twinned with thrilling news of Antonio “wrack[ed]”, “an argosy cast away coming from Tripolis”, is it any wonder that Shylock finds in the body of Antonio a substitute forfeit (3.1.98, 92)?

Given the claims on both sides, is it any wonder that Shakespeare’s Act 4 brings the play to impasse?

⁸ Kent Cartwright astutely notices this irony in how the Christians draw down on their ‘love accounts’: “Antonio fails to love his neighbour but is willing to lay down his life for his friend: a miser in one direction, a prodigal in another” (personal communication).

4 “A Man Withe Owte Mercye”

Philip Henslowe - entrepreneur, businessman, speculator, pawnbroker (one who charged interest on loans), builder of the first Elizabethan playhouse on London's Bankside, once thought the prototype for Shylock - was a scribbler. He used the cover of his accounts book to practice his signature, write out plague remedies, alchemical diagrams, mnemonics (“when I lent I wasse A frend & when I asked I wasse vnkind”). The word “mersey” appears over and over, alone and in rhyme:

A man with owte mercye of Mersey shall myse
& he shall haue mersey y^t Mersey full ys
(Foakes 1977, f. 1)

One way of reading this is as sententious jingle-jangle, ‘mercy’ carrying the instructive force of ‘a stitch in time saves nine’. But another way is to see in those scribbled repetitions how present in early modern people's minds - even businessmen's like Henslowe - the idea of mercy was, framed (not insignificantly) as a calculated transaction, but also (like those plague ‘receipts’) one ‘proved’: you could count on mercy. If you gave it, you would get it.

Still, the giving is *hard*, because mercy is in the gift of the wronged, and the instinct of the wronged is revenge. In that other play that argues “justice” vs “mercy” to a standstill - set in Venice, before Shakespeare was forced by politics to relocate *Measure for Measure* to Vienna - “mortality” stands opposite “mercy” (1.1.44), suggesting that without mercy, there is going to be death. The same idea hovers around Prospero's gloating: “This hour lies at my mercy all mine enemies” (4.1.263). In the former case Angelo, representing the government, can render mercy to Claudio for wrongs he committed against the state. In the latter, Prospero can choose revenge or mercy in response to wrongs against his person. When Portia-as-Balthazar in the Venetian courtroom looks at the bond, confirms that “the Venetian law | Cannot impugn” Shylock as he “proceed[s]”, and that Antonio, “confess[ing] the bond”, thus “stand[s] within” Shylock's “danger”, she makes the leap from “mortality” to “mercy”: “Then must the Jew be merciful” (4.1.174-175, 176, 178, 179). “Must?”, asks Shylock. “On what compulsion must I?”. Portia, instead of fixing on the modal verb he's echoed and interpreting it in the sense of “the only option here, to avoid death, is forgiveness”, follows the sense of Shylock's “compulsion” to retort, “The quality of mercy is not strained” (4.1.180), “strain”, that is, in OED v¹8: “To force, press, constrain (to a condition or action)” or (even more suggestively) v¹9b: “To extort (money, confessions, etc.)”.

There follows what Howard Jacobson (elsewhere in this volume) calls Portia's “Sunday School sermonising” - a speech another prom-



Figure 4 'Tarry Jew'. Portia (Linda Powell) stops Shylock #5 (Ned Eisenberg) from taking his forfeit. © Andrea Messana

inent British Jew of Jacobson's generation, Jonathan Miller (neurologist, theatre director, atheist) heard very differently. When he was preparing *The Merchant of Venice* for the Old Vic with Laurence Olivier as Shylock in 1970, "hearing certain speeches in [his] mind's ear", he "saw" in his "mind's eye" an "argumentative" Portia, no sentimentalist or Sunday school teacher, but a "Portia leaning impatiently across the table to say 'The quality of mercy is not *strained*' as if having laboriously to explain what should have been self-evident to someone too stupid to understand" (Miller 1986, 107). Because, of course, although "justice" is Shylock's "plea", he, as a Jew, should not need any instruction in "mercy". Indeed, to align the Jew with Law, the Christian with Mercy is to create a false binary in *Merchant*. "Hesed" appears 250 times in the Hebrew Bible, its semantic range so vast that it would need a team of lawyers to winkle out its exact translation in any single instance (Whitley 1981, 519). The English Bible starting with Coverdale (1535) tried to cover its connotations by translating "hesed" as "mercy", "loving kindness" - which picks up the persistent etymological troping in Shakespeare's play of "kin", "kind", "kindness"; but also "reciprocal love", "mutual assistance", "loyalty according to the covenant" and "strength". In Shakespeare's Act 4 "mercy" is poised against "justice" - thirteen instances of "mercy" and "merciful" against nine of "justice" - in a kind of echo chamber of irreducible claims.

But if these claims are irreducible, how does the play break the deadlock? In *Measure for Measure* the "law" vs "mercy" impasse finds

a “remedy” that mimics the terms of the controversy. The crime of fornication is ironically answered in the bed trick. Just as ironically, *Merchant* takes the same route of mimicry. The obdurate insistence on the strict reading of the law is ‘remedied’ in the prosecution of another law that inserts strict reading into the case, that turns things really nasty – and that swivels the focus onto the Christians, *putting them on trial*. Given the “remedy” of strict forfeiture, what will they do? The Duke renders the “mercy” Portia/Balthazar tells Shylock he must “beg” from the state before Shylock asks for it (4.1.365). But once the state’s claim is settled, there’s still the “wrong” done to Antonio to be answered, the attempt “contrived” on his “life” (4.1.88, 356). “What mercy can you render him, Antonio?” (4.1.374) is a test. Will the merchant who spat upon the Jew, spurned him as a dog, take revenge?

Antonio gives “mercy”. Did Elizabethan audiences hear that mercy as a ‘saving grace’?⁹ To audiences today, it feels bitter. In Conrod’s production, when Antonio added the conversion clause initiating a new series of male-authored contracts, deeds, and forfeiture clauses, Portia and Nerissa traded shocked looks. The city men were at it again. It was time to go home.

It should be noted of Portia/Balthazar’s actions in the trial scene that to object (as Jacobson does) that she does not show mercy is to misunderstand the term. Only the wronged can apply the remedy of mercy. For herself, the test she puts to Antonio in 4.1 is deferred to 5.1 when it is discovered that Bassanio has given away the ring that he was contractually bound – his life at stake – to keep. So now in 5.1 Portia is on trial. What will she do? Stand for law? Her “bond”? Show mercy? In Act 5, if there is a happy ending to *The Merchant of Venice* it depends on the play’s final trial, the trial of Portia – and the choice she makes.

5 Among Schoolchildren

Another collateral event attached to the *Shylock In and Beyond the Ghetto* project was a conference, *Hard Words for Children: Shakespeare, Translation and “The Merchant of Venice”*, that wanted to explore whether a children’s version of the play could be created without oversimplifying or neutralising its complex issues, its extreme feelings, its ‘hard words’. Laura Tosi’s magnificent translation – considered elsewhere in this book – was the centrepiece of the

⁹ Thomas Coryate, who visited the Ghetto in 1610 and embroiled himself in a heated theological argument with a Venetian rabbi that was fuelled by the Christian’s fear for the eternal salvation of Jewish souls, perhaps would have heard it so. He recorded this encounter in *Coryats crudities* (1611, 234-6).

conference. In preparation for hosting it, I took various re-tellings of *Merchant* for children around my Warwickshire hamlet, asking 7- and 8-year-olds to read the story to me.¹⁰ One of them, a lad who owns his own pint-sized shotgun and goes deer culling with his dad, got to the bit about the “pound of flesh” but not a “drop of blood”. He looked at me, incredulous, to ask, “How’s he supposed to do that?”. When a second lad got to the end of the trial scene, I asked him, “Do you think Portia tricked Shylock?” “Yes”, he answered firmly – no question. “And what do you think about that?” “It was a good trick”. “Why?” “Because it meant that Shylock did not kill anyone”.

Such verdicts as these on Shakespeare’s ‘hard words’ can, I think, stand alongside Justice Ginsburg’s.

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