

Deceived with Ornament: Law, Lawyers and Shakespeare's *The Merchant of Venice**

By Paul M. Perell, L.S.M.
WeirFoulds LLP

The purpose of today's colloquium is to study legal culture, legal history, legal ethics, and the role and responsibilities of law and lawyers in Canadian society. Fulfilling that purpose is part of the mission of the Chief Justice of Ontario's Advisory Committee on Professionalism, whose mission is to maintain those aspects of the law that make it a learned and proud profession. I hope to make a contribution today by speaking to you about Shakespeare's *The Merchant of Venice*.

My thesis is that underneath the literary richness of this play are hidden messages about legal culture, legal history, and legal ethics; about the role of law and lawyers in society; and about the central role of language and interpretation in what we do as lawyers.

The law and the legal process are inherently dramatic and a mirror of human nature and the play illustrates the enormous contribution that legal themes make to the arts. A discussion of the play provides us with an opportunity to reflect upon some fundamental aspects of what makes us a learned and proud profession.

Harold Bloom, the well-known literary critic and Shakespearean scholar begins an essay about *The Merchant of Venice* by writing: "One would have to be blind, deaf and dumb not to recognize that Shakespeare's grand, equivocal comedy *The Merchant of Venice* is nevertheless a profoundly anti-Semitic work."¹

A new movie version of *The Merchant of Venice* premiered at the recent Venice and Toronto Film Festivals, and the movie will open in theatres in December 2004. The movie stars: Al Pacino as the villain, the Jewish

* Paul M. Perell, WeirFoulds LLP, Toronto.

¹ Harold Bloom, *Shakespeare – The Invention of the Human* (New York: Riverhead Books, 1998), p. 171.

moneylender Shylock; Jeremy Irons as Antonio, who is the merchant of Venice; Joseph Fiennes, as Bassanio, the merchant's young kinsman; and newcomer Lynn Collins as Portia, the heroine of the play. Portia, disguised as a lawyer, successfully defends Antonio in the lawsuit brought by Shylock.

I am Jewish, and *The Merchant of Venice* is a difficult play for me and for most Jews. Actors can and have portrayed Shylock as an evil monster and in ways that can and have incited hatred and violence toward Jews. The plot, the language, and dramatic necessity support that interpretation of the text. In the play's famous pound of flesh motif, there are allusions to the blood libel that Jews ritually murder Christians and to the Pauline rejection of circumcision as a sign of a covenant with God. The difference and animosity between Jews and Christians is another motif of the play. Shylock is frequently referred to as the devil, and Antonio is depicted as a Christ figure willing to die for the faults of another.

Contemporary portrayals diminish the fiendish aspects of Shylock, but when I attended a performance of the play at the Shakespeare Festival in Stratford, Ontario, two years ago, I was discomfited by the loud cheers of the audience when, during the trial scene, Shylock is ruined. In his essay, Bloom remarks that "it would have been better for the last four centuries of the Jewish people had Shakespeare never written the play."²

Sadly, *The Merchant of Venice* was Adolph Hitler's favourite Shakespearean play and, before and during the Second World War, Hitler actively encouraged its production throughout Germany. It is hard to watch the play and not think about the Holocaust. Shakespeare wrote the play around 1598 and, although there were very few Jews in England at the time, his depiction of the villain Shylock has raised questions about whether Shakespeare himself was an anti-Semite, as were many Europeans of his time.

However, a sympathetic depiction of Shylock is also supported by the text. Actors can portray Shylock as a tragic figure, so that the audience will have

² *Ibid.*, at p. 190.

sympathy for him and pity, but not hate him. This is particularly true when the leading actors of a generation, such as Douglas Rain, Laurence Olivier or Al Pacino, take on the role.

The plot reveals Shylock to be the victim of xenophobia, bigotry, and discrimination. He is spat upon and kicked by his Christian rivals. The play contains one of literature's most eloquent pleas for our common humanity. It is the famous speech, before the trial, where Shylock says:

I am a Jew. Hath not a Jew eyes? Hath not a Jew hands,
organs, dimensions, senses, affections, passions? Fed with
the same food, hurt with the same weapons, subject to the
same diseases, healed by the same means, warmed and
cooled by the same winter and summer as a Christian is? If
you prick us, do we not bleed? If you tickle us, do we not
laugh?

The loss of his family, his fortune, and his faith seem cruel. A more sympathetic portrayal of Shylock blunts the attack that Shakespeare was a racist. With a sympathetic portrayal, Shylock becomes more than a set-piece villain in a comedy with its dramatic arch of happiness threatened and then restored. He remains an evil villain, but he is a human one, not a fiend.

A close reading of the play reveals that Shakespeare's treatment of the themes of bigotry, xenophobia, alienation, and the clash between religious cultures was nuanced and profound. It is appropriate to discuss these themes at a colloquium that has, amongst its purposes, a study of the role of law and lawyers in society. It is appropriate to discuss these themes in our post 9/11 world, where the fear of strangers threatens tolerance and respect for differences. A discussion of *The Merchant of Venice* would complement a discussion of the topics of all of the other speakers at this colloquium. I hope you will have that discussion. However, I chose to speak about *The Merchant of Venice* primarily for other reasons that bring us closer to matters that concern what lawyers do in the practice of law.

In addition to the themes of discrimination and inequality before the law, the play contains other themes, which are of much interest to lawyers. The interpretation of words, conduct, and character; the ability of words and actions to convey certain meanings; the role of language in private contracts and in public laws; the sanctity of oaths; the role of rhetoric or persuasive speech in finding the truth and in administering justice; the interrelationship of revenge and law; the relationship between law and equity; and the relationship between justice and mercy are all enduring and timeless themes that are explored in *The Merchant of Venice*. It is very much a play about law and lawyers. It is little wonder it has become part of the canon of the growing law and literature movement in law schools.

What I intend to do today is to analyze the play for you to reveal some of the many themes and ideas that are of such interest and importance to lawyers. I think this analysis can contribute to our colloquium today about the legal profession. I am not a literary critic or a scholar of literature, but you and I can bring our training as students of the law to the text of the play to disclose some of its combined legal and literary treasures. In the context of this colloquium about professionalism in the legal profession, this analysis of *The Merchant of Venice* will provide some insights about law, about what lawyers do, and about the wonders of the use and power of language, which is a lawyer's stock-in-trade.

For my analysis, I must begin by asking you to reflect very briefly about some of what lawyers do as a matter of their profession, and then I must retell the story of the play.

As a matter of etymology or the source of words, "law" is an English word borrowed from the Norse word "lagu", which means "to lay down in good order".³ The *Merriam-Webster Dictionary of Law*⁴ defines the word "lawyer" as a "noun meaning one whose profession is to advise clients as to their legal rights and obligations and to represent clients in legal proceedings".

³ John Ayto, *Dictionary of Word Origins* (New York: Arcade Publishing Inc., 1990).

⁴ 1966, Merriam-Webster Inc.

As part of their profession, lawyers lay down the law in good order by using language to draft wills, contracts, and statutes. As part of their profession of advising clients, lawyers interpret the meaning of those wills, contracts, and statutes. This requires finding the meaning of private or public laws while understanding the circumstances of their clients. This, in turn, requires interpreting the meaning of facts and applying the law to those facts.

Lawyers represent clients in legal proceedings by making arguments about the meaning of facts and of laws. The ultimate goals for the legal proceedings are truth and justice. To find truth, lawyers must correctly interpret the facts, including the facts of human character and conduct. To find justice, lawyers and judges must correctly interpret and apply the law to the facts. Interpretation, the act of finding meaning, is central to what lawyers and judges do.

I ask you to keep in mind these thoughts and one other thought about what lawyers do as I retell the story of *The Merchant of Venice*. The other thought is that, to succeed in advising clients outside of the courtroom and in representing them in court, the lawyer must be persuasive. The lawyer finds meaning in facts and in laws but must do it convincingly. Whether solicitor or barrister, we are advocates, and advocacy is the art of persuasion.

Bassanio, a young Venetian playboy, has wasted his fortune, and he hopes to more than restore it by marrying the wealthy heiress, Portia, who lives in Belmont. Bassanio wishes, quite literally, to win Portia, who, under her late father's will, is the prize of a lottery. Under the will, her right to marry depends upon a suitor interpreting messages on caskets of gold, silver, and lead and correctly choosing the casket that contains Portia's portrait. If the suitor chooses correctly, he wins Portia. If he chooses wrongly, he accepts chastity.

Bassanio desires to enter the lottery, but he requires 3,000 ducats to finance the voyage from Venice to Belmont. Bassanio goes to his friend and relative Antonio, who is the Venetian merchant of the title of the play. However, with his fortune committed to ventures at sea, the melancholy Antonio does not

have any money to lend. He offers instead to act as a surety for a loan, and he directs Bassanio to find another lender.

Bassanio goes to the Jewish moneylender, Shylock, who is Antonio's rival and enemy. Antonio has cursed both Shylock and his religion. Moreover, Antonio has assaulted Shylock and also undercut his livelihood by making loans without charging interest. Shylock sees in the transaction with Bassanio an opportunity for revenge.

Shylock negotiates the terms of the surety bond directly with Antonio, who is unrepentant in his disdain for Shylock but prepared to do business with him. Shylock agrees to make the loan without charging interest but with Antonio agreeing to sign a most unusual bond as the security or guaranty for repayment of the loan. Under the bond, if the loan is not repaid within three months, Antonio must forfeit a pound of his flesh. While the dialogue of the play suggests that this penalty term may be made banteringly as a joke, it is, in truth, intended by Shylock to be a death sentence. He desires a pound of flesh near Antonio's heart. Shylock swears a solemn oath that he will enforce the bond: "Cursed be my tribe if I forgive him."⁵

The money is lent and, accompanied by his rowdy and rude friend Gratiano, Bassanio travels to Belmont. Meanwhile, Launcelot, Shylock's servant, disloyally quits his employ to join Bassanio's service. And Lorenzo, another friend of Bassanio and another fortune hunter, elopes with Jessica, Shylock's beautiful daughter. She escapes by disguising herself as a boy who will be a torchbearer for Lorenzo in his night-time revelries. In her flight, she steals Shylock's money and some precious jewellery. She callously exchanges for a pet monkey the ring that her late mother gave to Shylock. To Shylock's horror and dismay, Jessica converts to Christianity.

These events provide Shylock with new and intense reasons to hate Antonio, the merchant of Venice, and his Venetian friends. The embittered

⁵ William Shakespeare, *The Merchant of Venice*, The Pelican Shakespeare, A.R. Braunmuller (ed.), I.3, 49.

Shylock has reasons to passionately hope that there will be a forfeiture of the bond and the satisfaction of his desire for revenge.

In Belmont, the contest for Portia proceeds. The gold casket has the inscription: "Who chooseth me shall gain what many men desire." The silver casket has the inscription: "Who chooseth me shall get as much as he deserves"; and the lead reads: "Who chooseth me must give and hazard all he hath." Bassanio picks the lead casket. Unlike the Princes of Morocco and Arragon, who earlier in the play proved to be unsuccessful suitors, Bassanio is able to interpret the riddle of the messages, and he selects the lead casket with Portia's portrait, winning the right to marry her.

To mark their engagement, Portia gives Bassanio a ring, which he vows upon his life to keep. At the same time, Bassanio's friend Gratiano announces his plans to marry Nerissa, Portia's maidservant. The couples' joy, however, is short-lived. Salerio, a messenger from Venice, arrives with news that with Bassanio not having repaid the loan, Shylock is insisting on the enforcement of Antonio's bond. But Antonio's merchant ships have been lost at sea, and he is unable to repay the debt.

The couples hurriedly wed, and Bassanio and Gratiano return to Venice. Portia, who has ample wealth to repay the loan, secretly makes plans to save her new husband's friend, Antonio. Portia disguises herself as a man. As the young legal scholar Balthasar, a name she borrows from her own household servant, she goes to Venice. As the lawyer Balthasar, Portia has been retained to provide legal advice to the Duke of Venice, who will preside at the trial. Nerissa, who is disguised as a male law clerk, goes with her to Venice.

At the trial, the disguised Portia cross-examines Shylock. She confirms that Shylock will not accept a late payment or an overpayment of the loan. He requires the strict enforcement of the bond without mercy: "I crave the law, the

penalty and forfeiture of my bond.”⁶ She baits him to ready his knife for cutting Antonio’s flesh. He chooses to take a pound of flesh near Antonio’s heart.

Then, Portia springs the traps that she has set. She persuades the court that, strictly interpreted, the bond allows Shylock a pound of flesh, but the bond does not allow Shylock to draw blood. Moreover, she argues that Shylock, as a non-citizen, is guilty of a breach of the Venetian law against directly or indirectly threatening violence against a citizen.

Shylock is now subject to the death penalty and the forfeiture of his wealth, half going to the state and half going to Antonio. The Duke and Antonio, however, agree to waive these penalties, if Shylock agrees to pay half of his wealth to the state, to bequeath his property to Lorenzo and Jessica, and to convert to Christianity. Defeated, Shylock agrees to the forced conversion. He exits the stage and does not reappear in the play.

After the trial, the grateful Bassanio, not seeing through Portia’s disguise, offers to pay her a reward for the legal services. She initially declines, but then she tempts Bassanio to offer his ring in payment. Antonio persuades Bassanio that he can and should breach his oath about keeping the ring, and Portia accepts the ring. Similarly, the disguised Nerissa tricks her husband Gratiano to break his oath, and he gives up his ring and, like Bassanio, none the wiser that he has actually returned the ring to his wife.

Bassanio and Gratiano leave for Belmont where the couples are reunited. Nerissa questions Gratiano and Portia questions Bassanio about the absent rings. Portia accuses Bassanio of infidelity, which he denies. However, he confesses that he broke his oath, but all is forgiven when Portia reveals herself to have been the legal scholar. The play ends with the good news that Antonio’s mercantile ventures have turned out to be a success after all.

Shakespeare had training in rhetoric, which until the 16th century was the body of knowledge that studied public speech before law courts and legislative

⁶ *Ibid.*, IV.1, 204.

assemblies. The curriculum of rhetoric was a study of the means of persuasion and of the devices of written and spoken eloquence. In discussing *The Merchant of Venice*, commentators, including lawyers and legal scholars, have debated whether Shakespeare also had training as a lawyer and about the extent of his knowledge of the law.

The play is rich in its exploration of the ambiguous nature of justice and the complex relationship between law and equity. Shakespeare uses the characters to symbolize these relationships. Shylock stands for the strict law. He is described as cruel and without pity or mercy and, despite pleas and objections, he is obdurate in demanding the strict enforcement of the law. He wishes to use the law as a surrogate to revenge himself on Antonio. Portia stands for equity. She recognizes that mercy or equity tempers but does not negate the strict law. During the trial, to Shylock's delight, she firmly rejects as a dangerous precedent Bassanio's plea that the strict law should be ignored to "do a great right, do a little wrong."⁷ Equity is not raw, unprincipled discretion and it follows, but does not abrogate, the strict law.

Lawyers watching or reading the play can appreciate, perhaps more than others, the allusions that Shakespeare makes as to how the law develops and the role it plays in society. We see notions that society moves from justice-as-vengeance and private acts of revenge to justice in the public enforcement of strict laws and then to the more sophisticated justice of the law tempered by equity. These ideas are just below the surface of the plot about Shylock's plans to enforce his bond.

Shakespeare clearly knew a great deal about law, but he did not let legal correctness get in the way of dramatic imperatives. From a substantive legal perspective, under English law, Shylock's demand for strict performance of the bond was unenforceable because a bond of that nature would never have been legal in the first place or because equity would have denied forfeiture and would have allowed a late payment of the debt.

⁷ *Ibid.*, IV.1, 214.

Even assuming the enforceability under English law of this most peculiar bond, Portia's interpretative argument as the legal scholar Balthasar is wrong, because under normal principles of contract interpretation, a right to draw blood would not be precluded but, rather, it would be an implied term of the contract connected to the right to extract a pound of flesh. Shylock's possible rebuttals to Portia's arguments are not made.

Moreover, from a procedural point of view, a civil claim could not have become a capital criminal case against the plaintiff during the course of the civil trial.

The court scene in Act IV is bad law but good theatre. And Shakespeare's liberties with the law do not detract from the value of the play as a way to discuss its universal themes. Although 400 years old, *The Merchant of Venice* is a play that is decidedly postmodern about the prospects of finding integrity, truth, justice, and the true meaning of legally significant documents and acts. There is much interpretation but little certainty in the meaning of words, actions, and character. There is much oath- and promise-making but little oath- and promise-keeping. The play is about how truth is hidden, about the falsity of appearances, and about the illusiveness of finding the meaning of words, characters, actions, and justice.

The themes of the uncertainty of interpreting words, conduct, and character, which are enduring questions for lawyers and judges, resonate throughout the play. The most famous lines from the play sound out the theme that interpretation of words, conduct, and character are unstable and problematic.

- The devil can cite Scripture for his purpose.⁸
- All that glisters is not gold.⁹
- O, what a goodly outside falsehood hath!¹⁰

⁸ *Ibid.*, I.3, 96.

⁹ *Ibid.*, II, 65.

¹⁰ *Ibid.*, I.3, 99.

- The world is still deceived with ornament.¹¹
- In law, what plea so tainted and corrupt
But, being seasoned with a gracious voice
Obscures the show of evil?¹²

A central motif and theme of the play is that of deception and disguise; we are deceived by ornament. The outward appearance of people, ideas, laws, and objects hide the truth. The theme of deception is played out by the plot, the language, and the trial advocacy in the play. Symbolically, this theme is shown by the deceptive gold, silver, and lead caskets and by Portia, Nerissa, and Jessica all donning disguises. This theme is played out in the characterization of the minor and major characters of the play. For example, Bassanio asks Gratiano to hide his rowdiness while they are in Belmont else it undermine his courtship of Portia.¹³ The genuine character of the main characters as heroes or villains is contentious.

In the negotiations for the loan between Bassanio and Shylock, Shakespeare plays with the multiple meaning of words and shows the uncertainty of interpretation that will eventually play out in the trial scene. Shakespeare's wordplay is very clever. Bassanio offers Antonio as his "surety". Shylock says that he is "assured", that is to say, "comforted", because he will be "assured", that is to say, "secured", by Antonio's bond.

During the negotiations, Shylock agrees with Bassanio that Antonio is "a good man", but Shylock makes it clear that he means "sufficient" for a surety¹⁴ and which is not the meaning intended by Bassanio—that Antonio is "virtuous". Shylock, however, would not have agreed that Antonio is "a good man" in the moral sense, because Shylock hates Antonio and has been victimized by him.

¹¹ *Ibid.*, III.2, 74.

¹² *Ibid.*, III.2, 75–77.

¹³ *Ibid.*, II.2, 168–176.

¹⁴ *Ibid.*, I.3, 14–26.

This is an example of the ambiguity of equivocation where the meaning of a word shifts and changes during the discourse.

After Shylock has sarcastically observed that Antonio seeks to borrow money from one he has called a dog, Antonio suggests that Shylock should find it preferable to lend to an enemy “who if he break, thou mayst with better face exact the penalty”.¹⁵ In what the audience knows must be a lie, Shylock immediately denies enmity and responds: “I would be friends with you and have your love.”¹⁶ He offers to lend without charging interest, and he disingenuously describes the terms of the penalty for the forfeiture of the bond as a “kindness”.

However, the suspicious Bassanio observes: “I like not fair terms and a villain’s mind,”¹⁷ and the audience realizes that terms of forfeiture that involve the violence of surgery are hardly kindness or brotherly love but hatred and a harbinger of revenge. Shakespeare’s neat turn of language here is that “kindness” means to treat in kind and Shylock means to return evil for the evil treatment he has suffered.

During the negotiations, there is an exchange between Antonio and Shylock about usury and, here again, Shakespeare reveals multiple meanings suggesting that interpretation is a matter of persuasion and not of certain meanings. In the discussion of usury, Shylock recites the bible story of Jacob, who profited from tending his Uncle Laban’s sheep. Shylock seems to be relying on the story as a justification for charging interest. Antonio’s famous response, one of several in the play about the manipulations and arbitrariness of interpretation and the power of rhetoric to deceive, warns that “the devil can cite Scripture for his purpose”.¹⁸

During the play of the lottery for Portia, Shakespeare provides an example of the ambiguity technically known as “accent”, where the meaning of a statement is ambiguous because the speaker is actually speaking ironically or

¹⁵ *Ibid.*, I.3, 132–34.

¹⁶ *Ibid.*, I.3, 136.

¹⁷ *Ibid.*, I.3, 178.

¹⁸ *Ibid.*, I.3, 96.

sarcastically. After the Prince of Morocco, another suitor, extols his own virtues, Portia tells him: "Yourself, renowned prince, then stood as fair as any comer I have looked on yet for my affection."¹⁹ The Prince thanks Portia for what he mistakenly understands is a compliment, but the audience knows that Portia has disguised her true meaning and she has nothing but contempt for the suitors, whom she has privately mocked in earlier conversations with Nerissa.

The contest for Portia requires correct interpretation of the caskets. Meaning is once again disguised, this time by riddles. One of the suitors, the Prince of Morocco, is deceived by the messages on the caskets, which he attempts but fails to correctly interpret. He picks the gold casket and, instead of the picture of Portia, he finds a note with the famous warning that: "All that glisters is not gold."²⁰ He departs with the lesson that many are taken in by appearances.

The Prince of Morocco is followed by the Prince of Arragon, who makes another interpretation of the messages on the caskets. This prince selects the silver casket. It, too, is the wrong choice. In contrast to these two unsuccessful princes, Bassanio realizes that the outward appearance and the show of value may be deceptive. Bassanio warns himself that "The world is still deceived with ornament."²¹ In words that allude to an ancient criticism of rhetoric and of its major practitioners, advocates and preachers, Bassanio states:²²

In law, what plea so tainted and corrupt,
But, being seasoned with a gracious voice,
Obscures the show of evil: In religion,
What damned error, but some sober brow
Will bless it and approve it with a text,
Hiding the grossness with fair ornament?

¹⁹ *Ibid.*, II.1, 20–22.

²⁰ *Ibid.*, II.7, 65.

²¹ *Ibid.*, III.2, 74.

²² *Ibid.*, III.1, 75–82.

There is no vice so simple but assumes
Some mark of virtue on his outward parts.

Bassanio picks the lead casket, whose “paleness moves me more than eloquence”.²³ The selection is the right one, and the enclosed message confirms the dangers of relying on appearance as a measure of truth: “You that choose not by the view, chance as fair and chose as true!”²⁴

Shakespeare, however, has another deception for the audience to ponder. Bassanio proves himself the best interpreter, but a close reading of the dialogue in the play raises the question whether Portia and Bassanio have cheated. A key word in the message on the lead casket, which Bassanio chooses, is “hazard”, and when he is first introduced to Portia, she uses this word in her first sentence to Bassanio: “I pray you tarry: pause a day or two before you hazard; for, in choosing wrong, I lose your company.”²⁵ She is giving Bassanio a clue.

That there has been cheating is foreshadowed in Act I by Bassanio’s description of Portia to Antonia. Bassanio says: “Sometimes from her eyes I did receive fair speechless messages.”²⁶ It is also suggested by an exchange between Portia and Bassanio before the lottery. The topic is telling truth under torture. Bassanio says: “Oh happy torment, when my torturer [Portia] doth teach me answers for deliverance!”²⁷ If answers for deliverance have been passed, then Portia has circumvented the directive of her father’s will.

If this, too, is correct, then there is the further meta-irony that the communication of the clue to solve the riddle is no less an interpretative act. Bassanio must still interpret the clue. Shakespeare is very clever and very subtle. There is no escaping interpretation of word or of action.

²³ *Ibid.*, I.1, 106.

²⁴ *Ibid.*, III.1, 131–32.

²⁵ *Ibid.*, III.1, 1–3.

²⁶ *Ibid.* I.1, 163–64.

²⁷ *Ibid.*, III.1, 37–38.

In between the interpretation of the casket messages in Act III and the interpretation of the bond at the trial in Venice in Act IV, there is a scene between the servant Launcelot, Shylock's daughter Jessica, and her lover Lorenzo that is all wordplay and double meanings. Lorenzo pleads for Launcelot to understand him as a "plain man in his plain meaning"²⁸ but Lorenzo complains "how every fool can play upon the word!"²⁹ Shakespeare is giving a clue that plain meaning is elusive to everyone.

But it is not just words that cause problems and that must be interpreted. As lawyers well know, conduct must also be interpreted. In the opening scene of the play, Antonio is sad, but he does not know why. His friends, Salarino and Salanio, suggest that Antonio is sad because he is worried about his merchant vessels, which are all at risk on their voyages around the world. Antonio denies Salarino and Salanio's explanation for his sadness, as quickly as he does their suggestion that he is in love. Salarino's rejoinder is that it is then entirely arbitrary whether Antonio chooses to be happy or sad. Conduct and character are also elusive matters of interpretation and argument.

The Venetian minor characters, Salarino and Salanio, who are later joined in the play by the minor character Salerio, are indistinguishable and almost identically named. Their synonymy is a clever, dramaturgical example of uncertainty, even in identity and personality.

This point about the uncertainty of defining identity is revealed furthered by the deceptions played by all the female characters in the play, who disguise themselves as men to achieve their goals. And the point is made again in an encounter between another two minor characters, the old and blind servant Gobbo, who encounters his son Launcelot, but does not recognize him because of the beard on Launcelot's face.

The son asks for Gobbo's blessing. Gobbo, however, is unsure that Launcelot is his son. Here, Shakespeare is alluding to the Bible story of the old

²⁸ *Ibid.*, III.5, 50–51.

²⁹ *Ibid.*, III.5, 39.

and blind Isaac, who is deceived by his youngest son Jacob. Jacob steals the blessing due to Esau, his firstborn twin brother, by disguising himself as Esau, who was a hairy man.

This second allusion to the bible story of Jacob is doubly telling because just as Jacob deceived his father, Jacob, in turn, is deceived by mistaken identity. His Uncle Laban tricks Jacob into marrying Laban's eldest daughter Leah and not the younger daughter Rachel, whom Jacob sought. Shakespeare is leaving very subtle clues about the extent to which humans deceive each other and how they deceive themselves by relying on appearances.

The final Act of the play is saturated with the ironies and ambiguities of word, conduct, and character. Portia and Nerissa, in possession of the rings given to them while disguised as Balthasar and his law clerk, falsely accuse Bassanio and Gratiano of infidelity and of having given the missing rings away to their lovers. The wives vow that they will not sleep with their husbands until they see the rings. The audience, but not the deceived husbands, know that this is one of the few oaths made in the play that can and will be honoured.

The husbands plead for pardon and make a new oath of honesty, to which, remarkably, given everything that has happened, Antonio, who has been saved from surety of his flesh, now offers the surety of his soul. In a response, that is ironic on many levels and perhaps sarcastic, Portia says "Then you shall be his surety."

Portia and Nerissa reveal the rings, momentarily leaving their now doubly confused husbands with the idea that they have been cuckolded by Balthasar and his law clerk. The truth is finally revealed, but all these exchanges reinforce the idea that nothing is as it appears. The play ends with the news that the reports of Antonio's losses at sea were false. We are left to ponder whether any of the circumstances or characters were as bad or as good as they had been presented.

The play is deep in the problems of interpreting the truth of human character. The apparently magnanimous Antonio, the merchant of Venice, is mean-spirited and melancholy, and he is saved, rather than being a saviour. His forced conversion of Shylock is revengeful and cruel. He is no hero.

Much of the historic notoriety of *The Merchant of Venice* centres on the anti-Semitism of Antonio and other characters, particular Gratiano and his stereotypical portrayal of Jews as wolfish, greedy, malevolent, menacing, and evil. Shylock is evil. He is motivated by hatred and by the need to satisfy his desire for revenge. Shylock refuses to turn his cheek from the cruel treatment he has suffered at the hands of the Christians of Venice. He accuses them of hypocrisy. He says that they have set the standard of being ruthless in pursuing revenge when wronged: "Why, revenge, the villainy you teach me, I will execute, and it shall go hard but I will better the instruction."³⁰ Cold bloodedly, Shylock makes the point that if the law is not strictly and faithfully enforced for citizens and aliens alike, then Venice's reputation and status as a trade centre will be undermined.

Shylock, however, is a more complex character, and he has both reasoned and emotional justifications for his conduct. His response to Portia's question of why he would reject late payment or overpayment of the debt and take instead Antonio's worthless pound of flesh may stand on his strict legal rights and that he is not required to provide an explanation. Shylock's responses reveal that he is motivated by the inhumane treatment he has suffered at the hands of Antonio and his friends. Famously, Shylock asks: "If you prick us, do we not bleed?"³¹ He has made a formal oath to enforce the bond, and unlike the other characters, he takes an oath seriously.

The most villainous character in the play, Shylock, although portrayed as heartless and cruel, is as much a victim as a perpetrator of evil. His forced conversion to Christianity by the Venetians denies genuine Christian values. His

³⁰ *Ibid.*, III.1, 65–67.

³¹ *Ibid.*, III.1, 59–60.

daughter's conversion and her sale of the ring gifted to Shylock by her mother shows her to be heartless and, if this is what it means to be Christian, once again, it mocks genuine Christian values.

The heroine, Portia stands for mercy as a modifying force in the application of the strict law. Hers is the famous speech about the quality of mercy.

The quality of mercy is not strained
It droppeth as the gentle rain from heaven
Upon the place beneath. It is twice blest;
It blesseth him that gives and him that takes.
'Tis mightiest in the mightiest; it becomes
The thronèd monarch better than his crown.³²

However her actual conduct is marked by inconsistencies that reveal stains on her heroic character. She speaks as if she is smitten with Bassanio, but one wonders how she can have fallen genuinely in love with a selfish profligate prepared to put his friend's life at risk to pursue his own fortune hunting. Portia sets her legal traps in a way that verges on entrapment. Once the trap is sprung, she is inflexible. Shylock begs simply for the return of his money without interest. She will have none of it: "He shall have merely justice and his bond."³³ While she stands for mercy, she is without pity and uncompromising. The most virtuous character in the play turns out to cunning, manipulative—if not ruthless—and perhaps a cheat. The beautiful Portia has an ugly side.

We may be deceived by ornament. I repeat the famous lines of warning from the play:

³² *Ibid.*, IV.1, 182–203.

³³ *Ibid.*, IV.1, 326.

- The devil can cite Scripture for his purpose.³⁴
- All that glisters is not gold.³⁵
- O, what a goodly outside falsehood hath!³⁶
- The world is still deceived with ornament.³⁷
- In law, what plea so tainted and corrupt
But, being seasoned with a gracious voice
Obscures the show of evil?³⁸

As lawyers, we can respond with cynicism and doubt to these themes of the play that challenge the certainty of interpretations of words, conduct, and character and that undermine the prospects of finding truth and justice. Or, we can respond as did the philosopher Aristotle to the challenge of his teacher Plato that the tools of eloquence and persuasion in public speech hides the truth, are a form of flattery and are contemptible. Aristotle countered that rhetoric was morally neutral and that speakers needed tools to persuade others of the truth of their views and to defend truth. Aristotle held that words could be used either for good or for evil purposes. He said:³⁹

And if it be argued that great harm can be done unjustly using the power of words, this objection applies to all good things except for virtue, and most of all good things, like strength, health, wealth, and military strategy; for by using these justly one would do the greatest good and unjustly the greatest harm.

As lawyers, it falls on us to be aware of the great power of our words and of our arguments and to use them justly to do the greatest good.

³⁴ *Ibid.*, I.3, 96.

³⁵ *Ibid.*, II, 65.

³⁶ *Ibid.*, I.3, 99.

³⁷ *Ibid.*, III.2, 74.

³⁸ *Ibid.*, III.2, 75–77.

³⁹ Aristotle, *On Rhetoric – A Theory of Civic Discourse*, translated by G.A. Kennedy (New York: Oxford University Press, 1991), I.1.13.

Shakespeare was a gifted rhetorician, and *The Merchant of Venice* can be seen as a contribution to an ancient and continuing debate about the role of language and about the role of interpretation of laws, facts, and character in the pursuit of truth and justice. Simply from the famous quotes from the play, one might conclude that in the disguise of a comedy, Shakespeare has come down on the tragic and cynical side of the debate.

But this is not the case. The final irony that comes from an analysis of the play is that as much as Shakespeare warns against the goodly outside, the gracious voice, and the fool's gold of language and of interpretation, the great lessons of the play emerge from Shakespeare's own eloquence and incomparable command of words.