

Canaletto, The Grand Canal with the Fabbriche Nuove of Rialto on the left (1725)

Museum of Fine Arts. Montreal. Canada.

The Fabbriche Nuove, designed by Sansovino in 1556 was the seat of the Venetian Law Courts where commercial cases were judged.

It still houses the Law Courts, now for Civil and Penal Cases.



**The Italian Legal System in *The Merchant of Venice* - the Single Bond:
how the play demonstrates the author's intimate knowledge of Venetian Law**

by Dr Noemi Magri

It appears that Shakespeare's treatment of the Italian/Venetian legal system in *The Merchant of Venice* has not been convincingly explained from the point of view of the dramatist's source of knowledge, nor from that of his interpretation of the legal terms and allusions to Venetian institutions. Commentators argue that principles of Law in this play are specific to Italian/Venetian Law and not to the English legal system; therefore a deeper inquiry into it is necessary in order to establish Shakespeare's accuracy in dealing with this subject matter and especially to clarify the meaning of a legal term used in the play: ***the single bond***.

The author of *The Merchant*, whoever he was, could have written the play, as we have it now, only through direct experience of Venetian life and Italian legal procedures. And Edward de Vere, 17th Earl of Oxford, spent several months in Venice.

The single bond

One of the themes of the play is the 'flesh-bond' made between Antonio, the merchant, and Shylock, the Jew. The play reaches its climax in Act IV, sc.i, the trial scene, in which Shakespeare displays his knowledge of the legal proceedings in the Venetian law courts. Indeed, the force of the Venetian laws, stronger than the Duke's power itself (IV.i.214-5), - as it was in reality - is many times stressed here.

In the play the word ***bond*** is used with different meanings:

- a) 'obligation, binding agreement'. Shylock says of Antonio, 'let him look to [attend to, take care of] his bond', III.i.42ff;
- b) 'what is due' as following previous agreement. Shylock to Antonio who has been declared bankrupt, 'I'll have my bond', III.iii.4ff;
- c) 'forfeit' i.e. the thing to be given as a penalty as stipulated by contract. Shylock to Bassanio in Court, 'I would have my bond', IV.i.87;
- d) 'deed' (figurative sense), Shylock to Gratiano who is inveighing against the Jew, 'Thou canst rail the seal from off my bond', IV.i.139;
- e) 'signed agreement, written document'. Portia to Shylock, 'I pray you let me look upon the bond' 'here it is', VI.i.221.2.

As to ***single bond***, incorrect interpretations have been made.

At the beginning of the play, after Shylock has complied with Bassanio's request to lend Antonio 3,000 ducats (I.iii.1-139), the Jew says to Antonio.

*Go with me to a notary, seal me there
Your single bond, and (in a merry sport)
If you repay me not on such a day
In such a place, such sum or sums as are
Express'd in the condition, let the forfeit
Be nominated for an equal pound
Of your fair flesh, to be cut off and taken
In what part of your body pleaseth me. (140-147)*

Here, Shylock wants their verbal agreement to be ratified and asks Antonio to seal the bond in the presence of a notary; in other words, in order to protect his rights he must obtain a formal written acknowledgement of a verbal agreement. Shylock knows (and Shakespeare, too) that only ratification of the agreement will guarantee his rights.

Under Italian Private Law, a deed was (and still is) void if it was (and is) not validated by a signature. Also, even though a verbal agreement is legally valid, still its execution is very difficult to prove in Court if the debtor has not met his obligation. That is why Shylock makes his wary and specific request in order to safeguard his money: Shakespeare was well aware that a deed drawn up in the presence of a notary was the only effective evidence of the execution of an agreement.

The word *single* has been variously interpreted: Arden edition (1994, p.29) reads, ‘W.L.Rushton (*Shakespeare’s Testamentary Language*, 1869, p.51) distinguished between a “single bond” and one with a condition’. But neither kind of bond is explained by that distinction. ‘It has been suggested that Shylock used the term craftily, to make his condition seem a mere nothing or “merry sport”’.

It is true that single may mean ‘mere’ (see *O.E.D.*) but a ‘mere bond’ does not mean a ‘mere nothing’. Scene iii, act I, makes clear that Shylock means to take revenge on Antonio who has ‘rated’ him about his ‘moneys and usances’ and has ‘spit upon his Jewish gaberdine and ‘did void his rheum upon his beard’. The Jew’s words do not show any intent to be merry: on the contrary, they express a bitter feeling of reproach.

The phrase ‘in a merry sport’ better fits the Jew’s revengeful character if it is interpreted as ‘in my own sport, to my great joy and satisfaction’: in both Ff and Qq it is printed in brackets as if it were an aside: if it were acted with a wolfish grin it would express the Jew’s mind. By saying ‘in a merry sport’, Shylock is thinking that now it is his turn to laugh, he is looking forward to the pleasure he will take in Antonio’s downfall; he is well aware of the dangers of the sea (I.iii.19-23) and is sure that Antonio will forfeit.

His intransigence and hatred is so strong that it does not allow for any ‘merry sport’ as will be evident when he is ready and anxious to cut a pound’s flesh off Antonio’s body. And when he mentions ‘this merry bond’ (I.iii.169) he is not joking: he is sure the bond will be something ‘merry’ to him, it will be a source of joy for him: having an outlook for his revenge, he has even given up his interests (136-7).

Arden quotes the Clarendon edition (1883), ‘An alternative meaning is “a bond with your own signature attached to it, without the names of sureties”’. But no sureties were (or are) required to stand for the ratification of a bond at a notary’s.

Arden also says, ‘Schmidt compared *Tempest* I.ii.432 for a non-legal sense of “mere, simple”’.

On the contrary, the term does have a legal meaning which is here attached to the word single for the first time by Shakespeare.

A specific obligation in Italian Law

According to Italian Law, a single bond is (and was in the past) a particular contractual obligation by which only one of the contracting parties, the obligated (here Antonio), binds himself to the other party, (Shylock), to fulfil an obligation. Only Antonio is bound to accomplish something, that is, to return the 3,000 ducats, whereas Shylock, once he has lent the 3,000 ducats, has no obligation towards Antonio and becomes a creditor by right.

Shylock himself points this out when he says, ‘seal me there your single bond’: even though it has been Shylock’s request to go to a notary, here the Jew specifies that the bond regards Antonio only, not himself.

By Italian Law, which is derived from Roman Law and, as concerns its fundamental juridical principles, has remained unchanged¹, such a contract is called ‘unilateral’ (*unilaterale*)². The word ‘unilateral’ did not exist in English at that time (first recorded use 1802, *OED*), so Shakespeare used ‘single’ which, to him, best defined the nature of this particular contract.

On the basis of the tentative explanations given so far by critics, it appears that such an obligation did not exist in England in the second half of the 16th century. It follows that it becomes very hard for Stratfordians to identify Shakespeare’s source of knowledge: inn-talks with Italian merchants is no sound surmise.

The notary

Under the Italian legal system of both the Renaissance and the present time, anyone who wants a deed or a will for himself or a written agreement between himself and one or more parties to be attached, consigns it to a notary, a public officer appointed by the State. The notary has a duty to keep deeds in custody. He also draws up the deeds themselves with the possible exception of a will, which may be drawn up by the testator.

Shylock, sarcastically showing his 'kindness' (willingness, readiness), proposes to go to a notary where Antonio will sign the bond.

It remains to find out whether notaries with the same tasks and duties as they had (and still have) in Italy, existed in England in Shakespeare's time. If there was no such public officer, the reference to a notary in *The Merchant* further proves the dramatist's familiarity with Italian customs.

The hearing at the Court of Justice (V.ii.170-396)

According to the past and present Italian legal system, a contract between two or more parties has the force of law³. A written deed is the most enforcing means on which evidence is based - even more so if the deed is drawn up by a notary or another public officer.

It proves to be so essential and effective that, once the parties have acknowledged that it is not a forgery (Portia to Antonio, 'Do you confess the bond?' 'I do', 177), the law establishes that no witnesses need be examined by the judge in Court in order to prove the truthfulness of its content. Only what is written in the document has official power and judicial authority.

So, the narrow legality of Venetian laws (Portia to Shylock, 'the Venetian law Cannot impugn you as you do proceed', 174-5) and Shylock's strict adherence to what is written in the bond ('Is it so nominated in the bond?' 255) - regarded as a negative element in the play and at the same time a counterpoint to Antonio's generosity - simply mirrors the relevance of the written document in a legal case.

In dramatising the trial scene, Shakespeare appears to show he was acquainted with the fact that parole evidence (testimonial proof) was (and still is) inadmissible in such a legal case as the one in question: Portia-Balthazar-doctor of laws examines Antonio and Shylock only, that is, the two contenders ('Which is the merchant here? and which the Jew?', 170). She does not call any witness. She just replies to Bassanio who has intervened in the hearing to offer to pay 'twice the sum' (206). Shakespeare does not make the other characters give evidence. Gratiano speaks only to burst out with joy, Nerissa to comment briefly on her husband's wish. Salerio is present but in silence. Solanio does not appear in this scene.

Such parallels with the actual Italian/Venetian legal system cannot be explained as coincidence.

The Duke/Doge

In the list of characters printed in Q3 (1637), the character named 'the Duke of Venice' ranks first. But he is not one of the main figures in the play; actually, he is only mentioned a few times before he appears in the trial scene (IV.i) and, after the sentence has been passed on the Jew, he leaves the stage. One may even question the reason for his being present at all.

However, he does have a function in the play, which is to summon the Court of Justice; preside over it; 'dismiss' it (104) if for the moment no agreement can be reached between the two contending parties; summon a 'learned doctor' (105) who may help to settle the legal dispute, and finally, ratify the judge's statement and use his power to grant the Jew his 'pardon' (365-8). All this is in respect to the laws of Venice, strictly as they were.

The reason for needing to include this character is that the function of the Duke in the play does correspond to that of the Doge of Venice. It is a striking parallel which has not been given its due relevance.

It has been pointed out that the Doge had no power. It is true that by the end of the 16th century the authority of the Doge had been limited in order to prevent him from wielding absolute power or transforming the Republic into an absolute hereditary monarchy. But it is a fact that, as the symbol of the State, he was entitled to preside over the meetings of all the Government Boards such as the *Maggior Consiglio* (Major Council, composed of about 800 patricians), the Senate, the Council of the Ten, and all the other councils, including the Criminal Courts.

Sometimes he even acted too despotically. Girolamo Priuli wrote in his *Diaries* in the first decade of the 16th century,

*It is common opinion that the prince of Venice is exclusively a symbolic figure and that he cannot do anything without the approval of his Counsellors of the Collegio (the Senate Cabinet) or the Councils. On the contrary, I wish to affirm that the Venetian prince does what he wants [...] provided that he does not offend the honour and dignity of the State.*⁴

If the Doge opposed a bill, the *Maggior Consiglio* did not usually pass it. So the proposal would undergo modifications until the Doge's approval was given. Besides, the Doge had the privilege of proposing bills to all the Councils, except the

Senate, without any previous discussion and ratification of the bills themselves made by the Minor Consiglio (the Council formed by the Doge and his six Counsellors).⁵

The Venetian aristocrats - members of the various councils or boards - did their best to gain and maintain the favour of the Doge, which implied that they would vote for his proposals, trying not to show strong opposition. His presence at the sessions was so essential that in some cases if he was unable to preside at the meetings owing to his bad health - only Dogi in their 70s or 80s were elected, with a few exceptions - the Councils would fall into chaos. Because of his physical inability, Doge Antonio Grimani (1436-1523), elected in 1521 at the age of 85, was asked to abdicate but he refused. (He died a week after his refusal to resign.)

In 1567, in order to avoid chaos, it was decreed that the Doge should be present at all the sessions of the Maggior Consiglio.⁶ The Doge was the first to propose a motion to the Councils, and his role in directing the Government decisions and affairs was not only crucial but also essential to the order and stability of the Republic.⁷ If he did not take part in all the Councils' sessions including those of the Criminal Courts it was because they were concomitant.

It may appear strange that a Jew, however rich he might have been, may have appealed to the Duke at night-time, following his daughter's elopement with all his gold and jewels, and received his attention. One may think that the Republic's supreme authority had more important concerns than redressing a Jew's wrongs. But history proves that it was the Doge's duty to control the judiciary and administrative offices, and to guarantee the government's honesty and expertise.

Doge Marco Barbarigo (d. 1486) established weekly audiences in order to listen to complaints of faulty or bad administration.⁸

Doge Leonardo Loredan (b.1438, Doge from 1501 to his death,1521), in order to administer justice, intervened in civil and penal cases resolving matters by his own vote, contrary to what was established by the law.⁹

The famous diarist and chronicler of the Republic, Marino Sanuto, reports that Doge Andrea Gritti (1523-1538) summoned the *Quarantia al Criminal* (the Forty Judges of the Supreme Court of Appeal for Penal Cases) in order to pass judgement in a case regarding a nobleman's offensive behaviour.¹⁰

These are only a few examples. In some cases, the Doge acted as an ombudsman¹¹, to whom

people appealed for redress and justice. Therefore, Shylock's applying to the Duke for help corresponds to the reality of Venetian life.

Strangers in Venice

The dramatist also shows that he was well informed about the privileges which strangers (that is, those who did not belong to Venetian aristocracy or were not native citizens, descendants of the Romans) enjoyed in Venice.

Antonio after his arrest says to Solanio,

*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 (III.iii.26-31).*

Strangers were protected and their rights defended by the laws of Venice because much of the prosperity of the city lay in the welfare of 'all nations', that is, of all the different nationalities living and present there.

All those who were not citizens of the Venetian Republic were foreigners. Foreigners in Venice used to live in their own areas. (See: *Calle dei Bergamaschi*, Street of the people from Bergamo, *Calle dei Tedeschi*, Street of the Germans, *Fontego dei Turchi*, Lodging and Warehouse of the Turks: these are just a few examples.)¹² Shylock was a stranger, 'an alien' says Portia (IV.i.345) and therefore the Duke would not allow any wrong to be done to him.

Conclusion

It is here argued that only someone having direct experience of Venetian life, as Lord Oxford had, could have written the trial scene of *The Merchant*.

The explanations given above draw on the Italian legal system, which is derived from Roman Law (as are the French and German ones), and which was, in its fundamental principles, common to all the Italian States of Renaissance times.

It appears that no written documentation of it existed in England in Shakespeare's time. It is highly improbable - and certainly, not proved - that Shaksper from Stratford could have acquired such specific and exact knowledge from hearsay. Besides, the Roman Code of laws had not been adopted as the basis of any English law code as, on the contrary, it had on the Continent.

It would be interesting to find out whether

and to what extent the Italian legal system, as referred to in *The Merchant*, corresponds to the English system of the time.

I leave this to English commentators - lawyers, magistrates or experts in English jurisprudence - to establish.

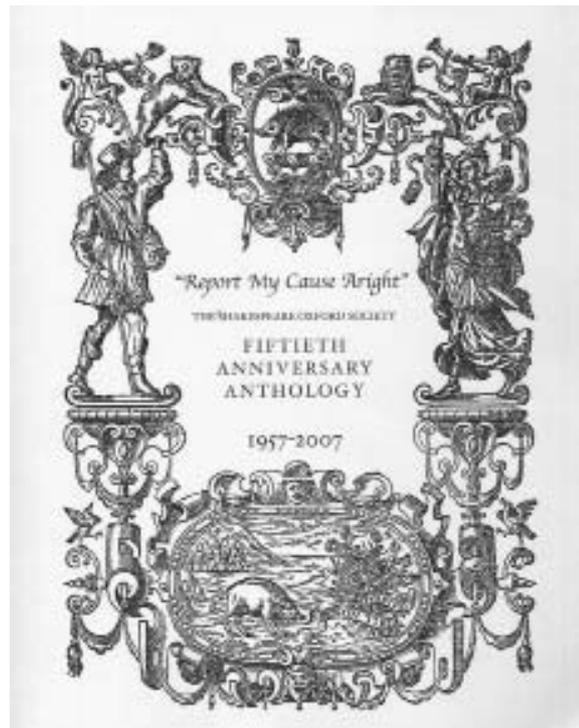
NOTES

1. Di Marzo, S., *Istituzioni di Diritto Romano*. Milano. 1946. p. 347-8.
2. De Ruggiero, R. - Maroi, F., *Istituzioni di diritto privato*, Milano. 1954. Vol.2, p. 152-5. A 'bilateral' contract is the one by which the two contracting parties bind themselves to each other to perform an obligation, for example, a buying and selling contract.
3. Ferrara, F., *Teoria dei Contratti*. Napoli. 1940.
4. Priuli, G., *Diarii*. Vol.2, p.394.
5. Maranini, G., *La Costituzione di Venezia*. Firenze. 1974. Vol.2, p. 290.
6. Archivio di Stato, Venezia. Maggior Consiglio. Deliberazioni, Liber Angelus Reg. 29, fol. 29v.
7. Da Mosto, A., *Dogii di Venezia nella vita pubblica e privata*. Firenze. 1977.
8. Malipiero, D., *Annali veneti dall'anno 1457 al 1500*. Firenze, 1843-44. Vol. II, p.680.
9. Archivio di Stato, Modena. b.II, cap. 96, letter of Bartolomeo Carrari to the Duke of Ferrara, dated 10th October 1502.
10. Sanuto, M., *Diari*, 34, 229; 41, 84; 50, 417.
11. Finlay, R., *Politics in Renaissance Venice*. New Brunswick, USA. 1978.
12. Tassini, G., *Curiosità veneziane*. Venezia. 1988.

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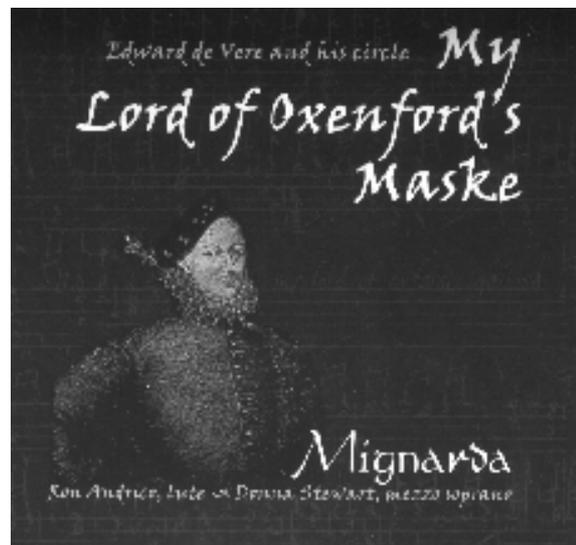


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