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Marlowe's *Faustus*: Contract as Metaphor?

DANIEL YEAGER

In *Law and Literature: A Misunderstood Relation*,¹ Judge Richard Posner writes that “legal matter in most literature on legal themes is peripheral to the meaning and significance of the literature” and that “legal knowledge is often irrelevant to the understanding and enjoyment of literature on legal themes.”² This is the case, he says, at least of knowledge of “lawyer’s law,” because it is too temporary and local to be converted into great literature, and because it tends to have only metaphorical value for author and reader.³ In the same passage, Posner makes an exception for Marlowe’s *Doctor Faustus*,⁴ a play about a restless man who sells his soul to the devil for a finite period of infinite power and pleasure.⁵ Posner’s subsequent discussion of *Faustus*, however, not only fails to persuade the reader of the importance of the legal aspects of the play, but also closes (contrary to his promise) by consigning the

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1. Richard A. Posner, *Law and Literature: A Misunderstood Relation* (Harvard, 1988).

2. *Id.* at 15.

3. *Id.*

4. Around 1480, Georg Faust was born in the small town of Knittlingen. The self-styled ‘Doctor’ wandered restlessly through Germany practicing, among other things, medicine, alchemy, and magic. Faust was flamboyant, seedy, and probably a serious student of the natural sciences. After his death in 1540 or 1541, rumors and crude anecdotes about his magical powers (e.g., teaching Homer by raising the ghosts of his characters) swelled into legend. Faust’s predecessors include Prometheus, Icarus, Adam and Eve, St. Cyprian of Antioch, Theophilus of Adana, and Simon Magus (believed to be the founder of Gnosticism). His successors appear in Byron’s *Don Juan*, Cervantes’s *Don Quixote*, Goethe’s *Faust*, John Hersey’s *Too Far To Walk*, Mann’s *Doctor Faustus*, Sartre’s *Le Diable et le Bon Dieu*, Valery’s *Mon Faust* and Yeats’s *The Countess Cathleen*.

5. Posner, *Law and Literature* at 15 (cited in note 1). All references herein to the play are to Christopher Marlowe, *Doctor Faustus* (Sylvan Barnet, ed, Signet, 1969), a hybrid of the 1604 or “A” text, and the 1616 or “B” text.

renowned contract with the devil to the role of a “metaphor for commitment.”⁶ While I am in substantial agreement with Judge Posner on the usually peripheral role of law in literature, I hope here both to strengthen the case for the importance of law in *Faustus* and to disagree with his decision ultimately to relegate the Faustian contract to merely metaphorical status.

Critics have thoroughly treated questions about *Faustus*'s author,⁷ date,⁸ and text,⁹ plus a variety of Reformation concerns;¹⁰ they have debated over what the play means by “hell”¹¹ and “spirit”;¹² whether the play is tragedy¹³ or not,¹⁴ morality,¹⁵ quasi-morality,¹⁶ inverted morality,¹⁷ inverted

6. Posner, *Law and Literature* at 99-101 (cited in note 1).

7. See William Empson, *Faustus and the Censor: The English Faust-Book and Marlowe's Doctor Faustus* (John Henry Jones, ed, Basil Blackwell, 1987); W. W. Greg, ed, *Marlowe's Doctor Faustus, 1604-1616: Parallel Texts* 97-139 (Oxford, 1950); J. T. McNeely, *The Integrated Design of Doctor Faustus: An Essay in Iconoclasm*, 41 *Cahiers Elisabethians* 1, 9-10 (1992); Charles Nicholl, *The Reckoning: The Murder of Christopher Marlowe* (Jonathan Cape, 1992); Gerald M. Pinciss, *Marlowe's Cambridge Years and the Writing of Doctor Faustus*, 33 *Stud Eng Literature 1500-1900* 249 (1993); Wilbur Sanders, *The Dramatist and the Received Idea: Studies in the Plays of Marlowe and Shakespeare* 205-42 (Cambridge, 1968).

8. See Greg, ed, *Parallel Texts* at 1-14 (cited in note 7); J. B. Steane, *Marlowe: A Critical Study* 117-26 (Cambridge, 1964).

9. See Fredson Bowers, *The Text of Marlowe's Faustus*, 49 *Mod Philology* 195 (1951-52); Greg, ed, *Parallel Texts* at 15-97 (cited in note 7); Michael J. Warren, *Doctor Faustus: The Old Man and the Text*, 11 *Eng Literary Renaissance* 111 (1981).

10. See Max Bluestone, *Libido Speculandi: Doctrine and Dramaturgy in Contemporary Interpretations of Marlowe's Doctor Faustus*, in Norman Rabkin, ed, *Reinterpretations of Elizabethan Drama* 33 (Columbia, 1969); Lily B. Campbell, *Doctor Faustus: A Case of Conscience*, 67 *PMLA* 219 (1952); Pauline Honderich, *John Calvin and Doctor Faustus*, 68 *Mod Lang Rev* 1 (1973); Douglas Cole, *Suffering and Evil in the Plays of Christopher Marlowe* 191-243 (Princeton, 1962); Clifford Davidson, *Doctor Faustus of Wittenberg*, 59 *Stud Philology* 514 (1962); Paul H. Kocher, *Christopher Marlowe: A Study of His Thought, Learning, and Character* 104-19 (North Carolina, 1946); Gerald Strauss, *How to Read a Volksbuch: The Faust Book of 1587*, in Peter Boerner and Sidney Johnson, eds, *Faust through Four Centuries: Retrospect and Analysis* 27 (Max Niemeyer Verlag, 1989); Robert H. West, *The Impatient Magic of Dr. Faustus*, 4 *Eng Literary Renaissance* 218 (1974).

11. See Jeffrey Burton Russell, *Mephistopheles: The Devil in the Modern World* 108-16 (Cornell, 1986); Harry Levin, *The Overreacher: A Study of Christopher Marlowe* 138-40, 154-59 (Peter Smith, 1974).

12. See T. W. Craik, *Faustus' Damnation Reconsidered*, 2 *Renaissance Drama* 189, 190-92 (1969); A. L. French, *The Philosophy of Doctor Faustus*, 20 *Essays Criticism* 123, 136-41 (1970); W. W. Greg, *The Damnation of Faustus*, 41 *Mod Lang Rev* 97, 103-04 (1946); Frank Manley, *The Nature of Faustus*, 66 *Mod Philology* 218 (1969); West, 4 *Eng Literary Renaissance* at 234-35 (cited in note 10).

13. See Cole, *Suffering and Evil* at 192 (cited in note 10); Erich Heller, *Faust's Damnation: The Morality of Knowledge*, in Erich Heller, *The Artist's Journey into the Interior and Other Essays* 3, 8, n* (Harcourt Brace Jovanovich, 1959); John S. Mebane, *Renaissance Magic and the Return of the Golden Age: The Occult Tradition and Marlowe, Jonson, and Shakespeare* 118 (Nebraska, 1989); Irving Ribner, *The Complete Plays of Christopher Marlowe* xxxvi-xl (Odyssey, 1963); William Rose, ed, *The Historie*

Pascalian wager,¹⁸ satire,¹⁹ or allegory;²⁰ and have written impressive histories of the Faust legend.²¹ In his introduction to a Marlowe symposium in 1968, Brian Morris explained that the failure there of any of the papers to study *Faustus* might have been due to the fact that prior efforts had "exhausted invention."²² Although Morris's comment did not slow production of *Faustus* scholarship, that scholarship still lacks a study of the sale of Faustus's soul that is sufficiently attentive to its legal aspects, which *do* illuminate what is permanent, essential, and general. Others' efforts to interpret Faustus's contract, including those of Max Bluestone, Cleanth Brooks, Douglas Cole, Sara Munson Deats, A. L. French, Walter Greg, J. W. Smeed, and Robert West provide only glimpses of its workings.

This is not to suggest that literature's susceptibility to technical legal interpretation determines its quality. The addition of legal themes may make literature more complex, but not necessarily better. In most instances, legal knowledge will not lead a reader to insights that knowledge of a different kind would not. *Faustus*, however, is outside this general rule.

A lawyer's reading of the complex relations between Faustus, Lucifer, and his agent Mephostophilis²³ makes the play more expressive in that the appli-

of the Damnable Life and Deserved Death of Doctor John Faustus 1592 45 (Broadway Translations, 1963); Honderich, 68 *Mod Lang Rev* at 13 (cited in note 10); J. W. Smeed, *Faust in Literature* 16 (Oxford, 1975); J. B. Steane, ed, *Christopher Marlowe: The Complete Plays* 25 (Penguin, 1976).

14. See French, 20 *Essays Criticism* at 135 (cited in note 12); Goethe, *Goethe's Faust* 16-17 (Walter Kaufman, trans, Anchor, 1990).

15. See Steane, *Critical Study* at 156-57 (cited in note 8).

16. See Leo Kirschbaum, *Marlowe's Faustus: A Reconsideration*, 19 *Rev Eng Stud* 225, 229 (1943).

17. See Nicholas Brooke, *The Moral Tragedy of Doctor Faustus*, 5 *Cambridge J* 662, 668-69 (1952); Catherine Minshull, *The Dissident Subtext of Marlowe's "Doctor Faustus,"* 39 *Eng 193*, 202-05 (1990); Steane, *Critical Study* at 365-69 (cited in note 8); Robert Ornstein, *Marlowe and God: The Tragic Theology of Dr. Faustus*, 83 *PMLA* 1378, 1384 (1968); Cole, *Suffering and Evil* at 241 (cited in note 10); John Jump, ed, *Marlowe: Doctor Faustus, A Casebook* 11-21 (Macmillan, 1969) (summarizing early twentieth-century criticism that adopts a similar line).

18. See Michael Hattaway, *Marlowe and Brecht*, in Brian Morris, ed, *Mermaid Critical Commentaries: Christopher Marlowe* 95, 106 (Ernest Benn, 1968).

19. See Lawrence Danson, *The Questioner*, in Harold Bloom, ed, *Christopher Marlowe* 183, 205 (Chelsea House, 1986).

20. See James Smith, *Marlowe's "Doctor Faustus,"* 8 *Scrutiny* 36, 38 (1939).

21. See Cole, *Suffering and Evil* (cited in note 10); Erich Kahler, *Doctor Faustus from Adam to Sartre*, 1 *Comp Drama* 75 (Summer 1967); Mebane, *Renaissance Magic* (cited in note 13); Wolfgang F. Seiferth, *The Concept of the Devil and the Myth of the Pact in Literature Prior to Goethe*, in Eric Bockstael, ed, *Lives of Doctor Faust* 209 (Wayne State, 1976); Smeed, *Faust in Literature* (cited in note 13); Steane, ed, *Complete Plays* (cited in note 13).

22. Morris, ed, *Christopher Marlowe* at v, v-vi (cited in note 18).

23. On the morphology of the devil's servant's name, see Russell, *Devil in the Modern World* at 61 (cited in note 11).

cation of legal knowledge allows us to see more clearly that the contract celebrates the assertion of self against servitude to God. Such an inverted, unorthodox, or blasphemous reading of *Faustus* presupposes the existence of devils and of hell, a commodifiable soul, and an enforceable scheme of contract remedies. To reject these presuppositions, or to view the contractual relations solely as metaphorical, makes the contract needlessly lengthy and distracting, and the play comparatively uninteresting.

I. Devils, Hell, and the Soul as Commodity

A half-century ago Dorothy Sayers wrote that, to supply “some kind of human interpretation of a supernatural legend” like *Faust*, we must accept magic, witchcraft, and pacts with the devil as possible, and for this “we must contrive to put ourselves back in spirit to the opening years of the sixteenth century.”²⁴ J. W. Smeed added that “[m]ost men of the sixteenth century, Catholic and Protestant, educated and uneducated, believed that an alliance or pact with the Devil was possible, that the Devil and those in league with him had the power to transform themselves into all manner of shapes and to plague men through magic.”²⁵

Smeed does give Marlowe partial credit for making the devil less literal; that is, for rejecting an objective devil in favor of a subjective one.²⁶ Lawrence Danson concurs. While some sixteenth-century demonologists spoke of spirits with a “circumstantiality not consonant with their own knowledge,” he notes, “the minds of men had no images of them any more than of abstract good and evil.”²⁷ Robert West, conversely, believes that the Elizabethan devil is no abstraction.²⁸ Consistent with the scholastic view dominant in the West since Aquinas, West posits that the Elizabethan, Marlovian devil approaches man, whether visibly or invisibly, as man's sins attract him, and all arts that profess to coerce the devil are false.²⁹ West concedes that Mephostophilis feels affinity for human evil, but his companionability to *Faustus*'s mind does not create Mephostophilis or make him only a symbol of it.³⁰

Ultimately it makes little difference whether Marlowe's devils were objective or whether they were, in Cleanth Brooks's words, “mirrors of the inner states of the persons to whom they appear.”³¹ The devil can be objective or subjective, without or within, concrete or abstract. What matters is that for Elizabethan and contemporary audiences alike, the devil exists.

24. Dorothy L. Sayers, *The Devil To Pay* 7 (Victor Gollancz, 1939).

25. Smeed, *Faust in Literature* at 90 (cited in note 13).

26. *Id.* at 51.

27. Danson, *Questioner* at 202 (cited in note 19).

28. West, 4 *Eng Literary Renaissance* at 223-24 (cited in note 10).

29. *Id.* at 224.

30. *Id.*

31. Cleanth Brooks, *The Unity of Marlowe's "Doctor Faustus,"* in Bloom, ed, *Christopher Marlowe* at 97, 105 (cited in note 19).

Just as devils are real whether abstract or concrete, a pact with the devil is possible whether hell is geographical or conceptual. For John Cutts, Mephostophilis's hell is conceptual; Faustus's is geographical.³² Harry Levin says "Marlowe's inferno is a genuine but unlocalized phenomenon," although the credulous members of Marlowe's audience, he adds, saw hell as a place.³³ Cole, too, sees in the play "little stress on . . . hell as a lurid place of grotesque physical tortures, and much stress on the spiritual loss and suffering."³⁴ While the hell that Cole describes "may exceed our crude picturization," it is more than symbolic.³⁵

If Marlowe's hell is ambiguous or contradictory, if it moves between the real and the symbolic,³⁶ still his dual conception of hell is no dramaturgic impediment. Not only is the spectrum of hell broad enough to accommodate both tastes,³⁷ but a hell that is at once real and symbolic is in fact quite Christian.³⁸

For law to add anything to a reading of Faustus, we must accept the existence not only of devils and of hell, but of a commodifiable soul. I do not mean to argue here that the soul *is* a commodity, only that we could treat it as one. The soul, not the body or the body and soul together, well may *be* the person;³⁹ and whether or not that is the case, there are good reasons for believing we should not be *allowed* to sell ourselves or any non-fungible aspect of our "personhood," be it our soul, our body, our body parts, or even our vote.⁴⁰ But that Faustus or anyone else would believe that you can sell what is yours, or even what is you, is by no means outlandish.

Before signing the contract, Faustus justifies binding his soul to Lucifer by declaring his right to dispose of it as he wishes.⁴¹ Cutts calls this Faustus's

32. John P. Cutts, *The Left Hand of God: A Critical Interpretation of the Plays of Christopher Marlowe* 129 (Haddonfield House, 1973).

33. Levin, *Overreacher* at 131 (cited in note 11).

34. Cole, *Suffering and Evil* at 207 (cited in note 10).

35. West, 4 *Eng Literary Renaissance* at 224 (cited in note 10).

36. See French, 20 *Essays Criticism* at 136-37 (cited in note 12); Danson, *Questioner* at 202 (cited in note 19).

37. See S. Nagarajan, *The Philosophy of Dr. Faustus*, 20 *Essays Criticism* 485, 486 (1970).

38. See Kocher, *Christopher Marlowe* at 117-18 nn 19-20 (cited in note 10) (citing the works of Aquinas and other Christian intellectuals).

39. See Plato, Alcibiades I, in 2 *The Dialogues of Plato* §§ 129-34, 733, 763-71 (B. Jowett, trans, Random House, 1937); Plato, Phaedo, in 1 *Dialogues* §§ 105-08, 489-92 (B. Jowett, trans, Random House, 1937).

40. See Margaret Jane Radin, *Property and Personhood*, 34 *Stan L Rev* 957, 986 (1982) ("A general justification of property entitlements in terms of their relationship to personhood could hold that the rights that come within the general justification form a continuum from fungible to personal. . . . The more closely connected with personhood, the stronger the entitlement."); id at 986 n 101 (contracts to sell oneself into slavery are clearly unenforceable, while contracts to sell one's child or one's kidney are harder cases); Margaret Jane Radin, *Market-Inalienability*, 100 *Harv L Rev* 1849 (1987).

41. Marlowe, *Doctor Faustus* II.i.69 (cited in note 5).

“crowning ignorance” because Christian doctrine preached that the soul was transitory, dwelling temporarily in man's body and longing to be reunited with God its maker.⁴² Likewise, Marlowe's sourcebook—P. F.'s *English Faust Book* (*EFB*), an anonymously translated version of an anonymously written German tract—twice chastises Faustus for having forgotten the soul's immortality.⁴³ Indeed, as Ian Watt has argued, “[e]ven a century after Marlowe, the immortality of damned souls was a dangerous doctrine to contest, so that notable . . . dissenters from orthodoxy on this point, such as John Locke and Isaac Newton, did not express their opinions openly.”⁴⁴ Unlike Cutts and the *EFB*, Watt at least attempts to connect the soul's immortality to its inalienability. He calls the soul a “hostage” in which God and Devil have interests that are superior to those of the person in whom the soul resides.⁴⁵ Felix Bosonnet criticizes Faustus for failing to see that he is not free to dispose of his soul, but does not say what prevents him.⁴⁶ Bluestone says Faustus's relation to his soul is paradoxical—his soul is his own and not his own at once—but Bluestone's proof lies only in the tension between the mysterious appearance of “*Homo Fuge!*” on Faustus's arm and Faustus's response, “Yet shall not Faustus fly!”⁴⁷ (II.i.82).

The soul thus makes an unlikely and discomfiting commodity, but not an impossible one. Law's ambivalence about whether to recognize rights in a corpse (which may or may not be what we mean when we say “soul” or “person”) is an example of how what may be non-fungible aspects of a person are somehow commodified, however awkwardly. For obvious reasons, a corpse is not considered property in the core legal sense, but law sometimes treats it as such by affording rights and remedies in cases of, for example, disinterment, disturbance of corpses, and organ donation.⁴⁸

42. Cutts, *Left Hand of God* at 133-34 (cited in note 32).

43. Rose, ed, *Damnable Life* at 81, 90 (cited in note 13). P. F. Gent[leman]'s English work, titled *The Historie of the Damnable Life and Deserved Death of Doctor John Faustus*, was published in 1592. It was based on a German work published by Johann Spies five years earlier. P. F. relied on Spies, but Marlowe was likely acquainted only with P. F. In 1925, William Rose published an updated and improved translation of Spies. For an astonishingly detailed history and excellent translation of the sourcebook, see John Henry Jones, ed, *The English Faust Book* (Cambridge, 1994).

44. Ian Watt, *Faust as a Myth of Modern Individualism: Three of Marlowe's Contributions*, in Boerner and Johnson, eds, *Four Centuries* at 41, 49 (cited in note 10).

45. Id at 49.

46. Felix Bosonnet, *The Function of Stage Properties in Christopher Marlowe's Plays* 68 (Francke Verlag Bern, 1978).

47. Bluestone, *Doctrine and Dramaturgy* at 47 (cited in note 10).

48. See Note, *Personalizing Personalty: Toward a Property Right in Human Bodies*, 69 *Tex L Rev* 209, 225-31 (1990). English law has long resisted classifying corpses as property but nevertheless requires a father of sufficient economic means to pay for his child's burial and criminalizes disinterments or disturbances of corpses. Id. American law has followed a similar path and goes so far as to recognize a “quasi-property right” in a mishandled corpse in order to compensate the deceased's family members for mental anguish. Id. Organ donation cases where organs are removed from a family member's corpse

Commodifiable souls also appear in Nicolai Gogol's great unfinished epic, *Dead Souls*,⁴⁹ in which a rogue, Chichikov, travels to five separate landowners in the countryside of the provincial town of N., where he pursues the delicate project of buying from them those dead serfs whose deaths had not yet been registered.⁵⁰ The Russian population was counted only once in a decade, and landlords were required to pay poll taxes for any male souls who died between visits from the census-taker. Chichikov plans to purchase such dead souls on the cheap and obtain a big mortgage on them at the State Landlord's bank. The publicization of Chichikov's plan causes a riot of suspicion in the wake of which Chichikov skips town unenriched,⁵¹ but not before we get the impression that anything—even the souls of human beings—can be commodified.⁵² Even worse than Faustus, who sells his own soul, Chichikov's landowners presume to sell the souls of others.⁵³

Through imaginative literature like *Dead Souls* we can conceive of pacts

over the family's dissent are similarly disposed of. *Id.* In one exotic case, the Australian High Court held that a doctor who preserved a pair of stillborn Siamese twins in spirits and kept them as a curiosity had acquired a property right in the corpse by his own ingenuity, which had so differentiated the corpse from others that it became property. *Id.* at 228 (citing *Doodeward v Spence*, 6 CLR 406 (Austral 1908)).

49. Nicolai V. Gogol, *Dead Souls* (George Reavey, trans, W. W. Norton, 1971).

50. Although "dead souls" once was a stock expression in the bureaucratic language of serfdom, to us and to at least one of Chichikov's landowners (Korobochka), *id.*, when used in the context of exchange transactions the expression conveys a blasphemous use of "death" and "soul" in their absolute, religious, human, and divine sense. See Dmitry Merezhkovsky, *Gogol and the Devil*, in Robert A. MacGuire, ed, *Gogol from the Twentieth Century* 55, 86 (Robert A. McGuire, trans, Princeton, 1974). The censors in Moscow saw the book in a similar vein. Henri Troyat, *Divided Soul: The Life of Gogol* 248-49 (Nancy Amphoux, trans, Doubleday, 1973). Susanne Fusso says that the term "dead souls" is enigmatical, and understandable as "metaphysical paradox, as promise of a ghost story, but perhaps most powerfully in its literal sense, as 'dead serfs.'" Susanne Fusso, *Designing Dead Souls: An Anatomy of Disorder in Gogol* 67 (Stanford, 1993). Jesse Zeldin sees nothing metaphysical whatsoever about the souls. Jesse Zeldin, *Nikolai Gogol's Quest for Beauty: An Exploration into His Works* 96 (Kansas, 1978) (arguing that Manilov, a landowner, "buys nothing, and by transferring the dead souls to Chichikov, he gains by saving taxes" and that another landowner, Korobochka, is not cheated by Chichikov because "there can be a cheat only when there is a loss, but there is none here").

51. Fusso, *Designing Dead Souls* at 20 (cited in note 50).

52. Troyat, *Divided Soul* at 270 (cited in note 50) ("The ancient tradition of serfdom has . . . prepared [the landowners] for the idea that everything in a man can be sold, both body and soul. They find nothing ghoulish or excessive in a contract that prolongs a serf's slavery beyond the grave."); compare John Pope, *Medicaid Unit: Trips Not Made; Transit Firm's Owner Arrested*, *New Orleans Times Picayune* A1 (July 22, 1994) (fictitious services rendered to the dead were fraudulently submitted to Louisiana Medicaid).

53. Commentators have seen traces of *Goethe's Faust* in Gogol's *Dead Souls*. See Katherine Lahti, *Artificiality and Nature in Gogol's Dead Souls*, in Susanne Fusso and Priscilla Meyer, eds, *Essays on Gogol: Logos and the Russian Word* 143, 151 n 22 (Northwestern, 1992); Vsevolod Setchkarev, *Gogol: His Life and Works* 213 (Robert Kramer, trans, Peter Owen, 1965).

with the devil, but Elizabethan audiences actually believed in them.⁵⁴ The possibility of a pact remains today, although contemporary audiences prefer a subjective devil, a devil who is “in the mind,” like Ivan Karamozov’s or Adrian Leverkühn’s.⁵⁵ To be sure, the realm of what qualifies as Faustian has expanded considerably in the four hundred years since Marlowe; nonetheless, what originally made the Faust story credible remains so today: Faustus’s pact with the devil could be an elaborate fiction, but we never know for sure.⁵⁶

II. The Contract for the Sale of Faustus’s Soul

The contract by which Marlowe’s Faustus barter his soul in exchange for power and pleasure begins with Faustus’s conjurings in the woods, where he claims to “dedicate himself” to the devil.⁵⁷ He instructs Mephostophilis:

Go bear these tidings to great Lucifer:
 Seeing Faustus hath incurred eternal death
 By desperate thoughts against Jove’s deity,
 Say he surrenders up to him his soul
 So he will spare him four and twenty years.

(I.iii.86-90). At this point Faustus has asked for nothing in return because he believes he already is damned, and thus he is in no position to be making demands. But he demands anyway, and Mephostophilis, who is feeling generous, or is less certain of Faustus’s damnation than Faustus is, gives in. Soon after, in Faustus’s study, Faustus and Mephostophilis hammer out the following five conditions, which Mephostophilis must perform for twenty-four years in order to obtain “title” to Faustus:

First, that Faustus may be a spirit in form and / substance.

Secondly, that Mephostophilis shall be his servant / and be by him commanded.

Thirdly, that Mephostophilis shall do for him / and bring him whatsoever.

Fourthly, that he shall be in his chamber or house / invisible.

Lastly, that he shall appear to the said John Faustus / at all times in what form or shape soever he / please:

I, John Faustus of Wittenberg, Doctor, by these / presents, do give

54. Strauss, *How to Read a Volksbuch* at 30-32 (cited in note 10).

55. Smeed, *Faust in Literature* at 51 (cited in note 13).

56. See Manley, 66 *Mod Philology* at 221 (cited in note 12). Our pact with the devil may be no pact at all but instead may be a “succumbing to one side of oneself, . . . which is normally suppressed or subservient.” Eric A. Blackall, “*What the devil?!?*”—*Twentieth-Century Fausts*, in Boerner and Johnson, eds, *Four Centuries* at 197, 200 (cited in note 10). We no longer have Tempters who offer us illimitable power in exchange for our futurity. But we do throw away our lives, and for our own desires we barter our existence, risking years of anguish. George Henry Lewes, *The Life and Works of Goethe* 321-22 (David Nutt, 1855).

57. Marlowe, *Doctor Faustus* I.iii.56 (cited in note 5).

both body and soul to Lucifer, / prince of the east, and his minister Mepho- / stophilis, and furthermore grant unto them that, / four and twenty years being expired, and these / articles above written being inviolate, full power / to fetch or carry the said John Faustus, body and / soul, flesh, blood, or goods, into their habitation / wheresoever. By me John Faustus.

(II.i.97-117).

Mephostophilis then consults Lucifer and agrees to “wait on Faustus . . . [s]o he will buy my service with his soul.” (II.i.31-32). Lucifer is a stickler for detail, adds Mephostophilis, and wants Faustus's soul given over “solemnly,”⁵⁸ by “deed of gift with thine own blood,” and set for a time certain; otherwise Lucifer would lack sufficient “security.” (II.i.34-37, 49-52, 61). After some light cajoling, Faustus tells Mephostophilis “I'll give it him.” (II.i.48).

Mephostophilis's insistence on formalities reveals his doubt about the validity of the contract, which he knows repentance can defeat. Faustus, contrastingly, believes the contract is inviolable. Before⁵⁹ and after⁶⁰ memorializing the pact in blood, Faustus expresses his certainty about the bargain by referring to its terms in the past tense. More ritual—which by this point is superfluous—follows when, after briefly considering and rejecting thoughts of repentance in favor of thoughts of accumulation, Faustus presents Mephostophilis with the five-part scroll of conditions set forth above. After both parties swear to perform their parts, the agreement is read aloud by Faustus, then delivered to and accepted by Mephostophilis. Although the agreement really is no “deed of gift” since the transfer of Faustus's soul is not absolute but conditioned on Mephostophilis's performing his end of the deal, still we know what they mean by the term, although it remains unclear throughout the play precisely what the parties think about the enforceability of the bargain they have struck.⁶¹

Critics who have evaluated the bargain uniformly believe it is a fraudulent, broken promise on the part of Mephostophilis, or at the very least, an obviously lousy deal. While I agree that the pact with the devil turns out to be self-defeating, my admittedly legalistic reading of the bargain makes my conclusions comparatively tentative and ultimately aligned with inverted,

58. Id II.i.34-35. This could be a reference to Aquinas, who distinguished between a simple vow (as in betrothal), which is merely a promise, and a solemn vow (as in marriage), which is actual surrender of power over oneself. Thomas Aquinas, 3 *Summa Theologica* 2751-52 (Fathers of the English Dominican Province, trans, Benziger Brothers, 1948). See also James Gordley, *The Philosophical Origins of Modern Contract Doctrine* 13 n 14 (Clarendon, 1991).

59. Marlowe, *Doctor Faustus* II.i.33 (cited in note 5).

60. Id II.i.76.

61. The formalities behind them, Faustus wants to talk about “the place that men call hell.” Id II.i.121-22. The ensuing discussion betrays Faustus's shifting view of his fate. His doubt as to whether he “shall be damned” at all surprises even Mephostophilis, who points to the scroll as evidence of his fate. Id II.i.136-37.

unorthodox, or blasphemous interpretations that see Faustus as tempted and thwarted by God, not by the devil.⁶²

A. L. French looks at the very first condition of the agreement—"that Faustus may be a spirit in form and substance"—as an instance of Mephostophilis's prompt breach.⁶³ If, as French says, Faustus is *not* immediately made a spirit, then Faustus has been duped, which makes him crassly stupid. If Faustus *is* immediately made a spirit, which French implies he is not,⁶⁴ then it would be absurd for the Good Angel and the Old Man, who represent the heavens, to ask Faustus to mend his ways. For if the first condition is fulfilled, French continues, then the twenty-four years of earthly dalliance are nonsense if experienced by a spirit or devil, not a man: Faustus would already be in hell, since that is where spirits dwell. On this point Walter Greg agrees. Only if Faustus's soul remains human, he observes, could heavenly counsel or any of the events of the rest of the play mean anything.⁶⁵ Even the Bad Angel agrees that it is Faustus's inability to bring himself to repent, not his status as a spirit, which forecloses God's pity.⁶⁶

Robert West also is convinced that Mephostophilis breaches the first article of the bond. Despite the "fast travel" that Mephostophilis gives Faustus, West argues, Mephostophilis does not separate Faustus from his body. West concludes that "[t]he discrepancy between the undertaking and the performance suggests both a limit to hell's power and the fraudulence of its contracts."⁶⁷

I disagree. Neither Lucifer nor Mephostophilis lies to Faustus—there is nothing fraudulent about the contract. The familiar catch in the pact typical of deals with the devil is absent here: no fine print, no vanishing jewels, no tricks based on place names (like Rome or Jerusalem) or a stipulated number of deadly sins (one of which the soul-seller never realizes is the sale itself), or on the devil's claim to halve his required period of service on the ground that he has worked for Faustus day and night.⁶⁸ The father of lies may be a party to the contract, but he does not lie here; quite the opposite.⁶⁹ This melancholy devil is uncharacteristically candid with the erudite Faustus, who enters this transaction at arm's length and open-eyed.⁷⁰

62. Posner, *Law and Literature* at 139 nn 13-14 (cited in note 1) (citing sources that discuss Faustus as a "courageous" and "magnificent villain[]"). See also C. L. Barber, *The Form of Faustus' Fortunes Good or Bad*, in Paul A. Bates, *Faust: Sources, Works, Criticism* 157, 158 (Harcourt, Brace & World, 1969).

63. French, 20 *Essays Criticism* at 136-39 (cited in note 12).

64. *Id.* at 136-38.

65. Greg, 41 *Mod Lang Rev* at 103-04 (cited in note 12).

66. Marlowe, *Doctor Faustus* II.ii.13-16 (cited in note 5).

67. West, 4 *Eng Literary Renaissance* at 234 (cited in note 10).

68. Smeed, *Faust in Literature* at 85-89 (cited in note 13); see also *Bedazzled* (Stanley Donen Enterprises, 1967) (hilarious film in which the devil grants a Faust character seven wishes, but the devil's literalism continually inverts the outcomes Faust has in mind).

69. See Cole, *Suffering and Evil* at 241 (cited in note 10). But see Davidson, 59 *Stud Philology* at 516 (cited in note 10).

70. Greg, West, and Mebane disagree. Since "[w]ho but a Fool, . . . would dream that

Once the bargain is struck, Mephostophilis *does* perform the first article, despite the ambiguity of the meaning of the word "spirit." Unlike the other four conditions, the first one is stated permissively. Faustus *may* be a spirit in appearance and essence,⁷¹ whereas the other four conditions use the auxiliary verb "shall," which is mandatory.⁷² Indeed, it is not until the second papal scene in Act III that Faustus exercises this permissive right when he asks Mephostophilis to "charm" him so that he "may walk invisible to all / And do whate'er I please unseen of any." (III.ii.11-13). With this power Faustus punches the Pope.⁷³

Faustus permanently becomes a spirit at the play's close. But the delay is not because Mephostophilis has defrauded Faustus. A law-sensitive interpretation of the first condition makes the power contained therein one that Faustus must elect, not a self-executing change of form. Thus the excellent work of T. W. Craik, Helen Gardner, Walter Greg, Frank Manley, and Robert West on Marlowe's use of the word "spirit" misreads the contract to the extent that it claims to resolve whether Mephostophilis performed the first article of the bond.

Some critics argue that Mephostophilis also breached the second or third conditions, which may be discussed together since they are overlapping if not redundant. They require, respectively, "that Mephostophilis shall be his servant / and be by him commanded," and "that Mephostophilis shall do for him and / bring him whatsoever." (II.i.99-102). Critics find evidence of the breach of these conditions in several scenes, including II.ii when, after Mephostophilis's discourse on astronomy, Faustus asks him "who made / the world?" (II.ii.71-72). Mephostophilis refuses to answer on the ground that the question asks for an answer that is "against our kingdom." (II.ii.77). Curiously, this refusal comes from the same spirit who earlier talked freely of God, the Scriptures, Christ, and the Trinity.⁷⁴ Faustus is frustrated by Mephostophilis's non-responsiveness, so he makes a move toward redemption after hearing the Good

any power but evil could be won by a bargain with evil, or that truth could be wrung from the father of lies," Greg, 41 *Mod Lang Rev* at 100 (cited in note 12), any agreement that would claim to ignore this is fraudulent—a trap for the unwary. West, 4 *Eng Literary Renaissance* at 226-27 nn 17-18 (cited in note 10); Mebane, *Renaissance Magic* at 122 (cited in note 13) ("[T]he devil complies with the requests of a conjurer only insofar as such compliance enables Satan to ensnare the soul of one so foolish as to imagine that he or she can attain superhuman power.").

71. The *English Faust Book* says Faustus "might" be a spirit. Rose, ed, *Damnable Life* at 73 (cited in note 13).

72. See Juan A. Prieto-Pablos, "What Art Thou Faustus?": *Self-Reference and Strategies of Identification in Marlowe's Doctor Faustus*, 74 *Eng Stud* 66, 70 (1993) ("The use of 'shall' might lead to the assumption that the actions or situations alluded to by the lexical verb feature a degree of inevitability that would make Faustus a mere recipient of the actions of Fate. . . .").

73. Marlowe, *Doctor Faustus* III.ii.87 (cited in note 5).

74. Id II.ii.77; French, 20 *Essays Criticism* at 136 (cited in note 12).

and Bad Angels argue the merits of that move.⁷⁵ Mephostophilis brings in Lucifer, who claims that Faustus “call’st on Christ contrary to thy / promise.” (II.ii.97). Faustus apologizes, then vows never to make the same mistake again.⁷⁶

Cole calls this vow a “renewed submission”—a reversal under which Faustus makes himself an “obedient slave” to the spirits whom the second article of the bond would force to obey Faustus’s every request.⁷⁷ Deats adds that Faustus, contrary to the article meant to give him “dominion over spirits,” instead is “demonically manipulated” in a psychological sense.⁷⁸ Wilhelm Wagner complains that Faustus gets nothing for his soul and, particularly, “never becomes the master of the Spirit who has sworn to serve him.”⁷⁹ For Nicholas Brooke, whom Clifford Davidson joins on this point,⁸⁰ Mephostophilis’s refusal to answer Faustus’s question about creation “cheated [Faustus] in his bond,”⁸¹ although neither points to any specific provision.

But whether Faustus’s renewed submission means Mephostophilis is a breacher is not so easily decided. While the Faustus of the *EFB* promised “that he would be an enemy to all Christian people” and that he “would deny his Christian belief,” (IV.71), Marlowe’s Faustus made no such promises, although his renewed submission indicates his willingness to include them. If he had made such promises, then there would be nothing wrong with Mephostophilis’s attempting to obtain Faustus’s reassurance that he would comply with the terms of the agreement, given Faustus’s threats to repent.⁸² Since Faustus made no such promises, the correct question (which I take up later) is not whether the servant became the master, but whether the servant became the master by violating the original agreement.

Another putative breach by Lucifer arises shortly after Mephostophilis accepts the agreement, when Faustus asks for a wife. What Faustus gets is a “woman Devil with fireworks.” (II.i.149). Faustus rejects her, and then at Mephostophilis’s request, abandons his interest in marriage altogether.⁸³

75. Marlowe, *Doctor Faustus* II.ii.82-90 (cited in note 5).

76. Id. II.ii.101-05.

77. Cole, *Suffering and Evil* at 213 (cited in note 10).

78. Sara Munson Deats, *Doctor Faustus: From Chapbook to Tragedy*, 3 Essays Literature 3, 9-10 (1976).

79. Wilhelm Wagner, *Christopher Marlowe’s Tragedy of Doctor Faustus*, in Jump, ed, *Doctor Faustus, a Casebook* at 33 (cited in note 17); Helen Gardner, *The Theme of Damnation in Doctor Faustus*, in Jump, ed, *Faustus Casebook* at 97 (cited in note 17). Gardner says the fact that “the obedient servant becomes the master” violates the third condition, not the second. Id.

80. Davidson, 59 *Stud Philology* at 516 (cited in note 10).

81. Brooke, 5 *Cambridge J* at 679 (cited in note 15).

82. See UCC § 2-609 (1990) (“When reasonable grounds for insecurity arise with respect to the performance of either party the other may in writing demand adequate assurance of due performance and until he receives such assurance may if commercially reasonable suspend any performance for which he has not already received the agreed return.”).

83. Marlowe, *Doctor Faustus* II.i.152-56 (cited in note 5).

By citing the marriage episode as a breach of contract on the part of Mephostophilis,⁸⁴ Cole,⁸⁵ Deats,⁸⁶ French,⁸⁷ and Posner⁸⁸ mistakenly view the exchange in what contracts scholar Ian Macneil would call a "discrete" rather than "relational" fashion. Discrete transactions

are contracts of short duration, involving limited personal interactions, and with precise party measurements of easily measured objects of exchange, for example, money and grain. They require a minimum of future cooperative behavior between the parties and no sharing of benefits and burdens. They bind the two parties tightly and precisely. The parties view such transactions as deals free of entangling strings. . . . If trouble is anticipated at all, it is anticipated only if someone or something turns out unexpectedly badly. . . . A modern example [of a discrete transaction] is a purchase of nonbrand name gasoline in a strange town one does not expect to see again.⁸⁹

Ongoing or relational transactions, on the other hand,

are of significant duration (for example, franchising). Close whole person relations form an integral part of the relation (employment). The object of exchange typically includes both easily measured quantities (wages) and quantities not easily measured (the projection of personality by an airline stewardess). . . . Future cooperative behavior is anticipated (the players and management of the New York Yankees). The benefits and burdens of the relation are to be shared rather than entirely divided and allocated (a law partnership). The entangling strings of friendship [and] interdependence . . . are integral parts of the relation (a theatrical agent and his clients . . .). Trouble is expected as a matter of course (a collective bargaining agreement). Finally, the parties never intend or expect to see the whole future of the relation as presentiated at any single time, but view the relation as an ongoing integration of behavior to grow and vary with events in a largely unforeseeable future (a marriage; a family business).⁹⁰

The contract between Faustus and Mephostophilis is a clear and high example of a relational exchange: eternity is a long time, participation and cooperation were necessary, and trouble certainly was anticipated. To say that Mephostophilis breached by refusing to answer one question, or by asking

84. Ornstein joins in when he says "the terms of this ridiculous bargain are not honored," but he supports his point only with his general observation that Faustus never attains the powers or the knowledge that magic promised. Ornstein, 83 PMLA at 1380 (cited in note 17).

85. Cole, *Suffering and Evil* at 211 (cited in note 10).

86. Deats, 3 *Essays Literature* at 9-10 (cited in note 78).

87. French, 20 *Essays Criticism* at 137 (cited in note 12).

88. Posner, *Law and Literature* at 100 (cited in note 1).

89. Ian R. Macneil, *Contracts: Exchange Transactions and Relations* 12-13 (Foundation, 2d ed 1978).

90. *Id.* at 13.

Faustus not to talk against the devilish kingdom is to ignore the fluid, relational nature of the exchange that they had entered into. The same can be said of a reading of the marriage episode that views Faustus's acceptance of the "fairest courtesans" in place of a wife as a response to Mephostophilis's breach.⁹¹ Unlike the *EFB*'s Faustus,⁹² Marlowe's did not originally promise not to marry. His Faustus cares little about enforcing his request for a wife, which he prefaces by describing himself as "wanton and lascivious." (II.i.147). Mephostophilis rightly interprets these desires as easily fulfilled outside of marriage. Indeed, Mephostophilis had no more breached his contract than would a spouse breach a marriage contract (a highly relational exchange) simply by refusing to empty the garbage.

This is not to say that the devil could trick or brow-beat Faustus into entering or modifying the contract, or into refraining from repentance. Law would afford Faustus a remedy in any event, whether the case arose in late sixteenth-century England or Germany, or in contemporary America.⁹³ There is insufficient evidence, however, to demonstrate that Faustus was coerced into originally entering the contract. That evidence consists of an apostrophe in the contract-signing scene in which Mephostophilis admits that there is little he would not do to obtain Faustus's soul,⁹⁴ plus Mephostophilis's confession at the play's end to having "led" Faustus's eye away from the scriptures.⁹⁵ The weight of the evidence is to the contrary and demonstrates that Faustus gets himself into the contract; in fact, at times Mephostophilis even tries to talk him out of it.⁹⁶

Unlike his decision to *enter* the contract, Faustus's failure to repent as a way out of his obligations follows a greater constraint on his will. Mephostophilis admits to Faustus of having "Damned up thy passage" to heaven. (V.ii.100-01). And twice Faustus is warned that if he tries to repent rather than obey his bond, devils will tear him to pieces.⁹⁷

The first gory threat comes immediately before, and well may excite, the renewed submission that forces Faustus backwards and downwards from heavenly thoughts to cosmography, to statecraft, to a small circle of friends, and finally, to a world that contains only himself.⁹⁸ Indeed it is hard for a

91. Nagarajan properly describes this substitution as a counter-offer, the voluntary acceptance of which makes the contract binding. Nagarajan, 20 *Essays Criticism* at 487 (cited in note 37).

92. Rose, ed, *Dammable Life* at 79-82 (cited in note 13).

93. See Gordley, *Modern Contract Doctrine* at 49-67 (cited in note 58).

94. Marlowe, *Doctor Faustus* II.i.73-74 (cited in note 5).

95. *Id.* V.ii.99-103.

96. *Id.* I.iii.63-81 ("Think'st thou that I who saw the face of God / And tasted the eternal joys of heaven / Am not tormented with ten thousand hells / In being deprived of everlasting bliss? / O Faustus, leave these frivolous demands / Which strikes a terror to my fainting soul!").

97. *Id.* II.ii.87, V.i.73.

98. G. K. Hunter, *Five-Act Structure in Doctor Faustus*, 8 *Tulane Drama Rev* 77, 82-88 (1964).

man who would make men "live eternally / Or being dead raise them to life again" to do so if he is forced not to talk of God. (I.i.21-23). But this threat does not coerce Faustus into the renewed submission; he voluntarily recalibrates his understanding of the original agreement. I say so not only because the first threat comes from the Bad Angel who, like the Good Angel, is highly allegorical, but also because the Good Angel's optimistic counter-arguments offset the Bad Angel's views on the violent consequences of repentance.

The second gory threat, however, poses a closer question on whether Mephostophilis has breached the contract. It must be this threat to which Faustus refers at the play's end when dedicated students ask him why he had not enlisted their prayers. Faustus's answer is that he would have, "but the / devil threatened to tear me in pieces if I named God / —to fetch me body and soul if I once gave ear to / divinity; and now 'tis' too late!" (V.ii.74-77). That threat comes extremely late in the hour—when death is "almost come!"—and it is followed by another renewed submission of Faustus to the devil.⁹⁹ (V.i.55).

That second threat, Faustus's lack of faith, the lateness of the hour, or a combination of all three conditions keeps Faustus obedient to the pact and away from repentance. In relational exchanges, parties normally rely on informal devices, not legal rules, to respond to changing circumstances as they pursue their own interests through the relationship.¹⁰⁰ But while threats to withhold performance are typical, threats to tear the other party's flesh to pieces are not (although it should come as no surprise to Faustus that the devil would resort to such tactics). No doubt Faustus is frightened by the threat; his acquiescence indicates that he, unlike the Old Man, is more worried about his flesh than about his soul.

By this time Faustus is in the twenty-fourth year of the contract. By now Faustus knows he cannot be "let . . . off scot-free after all those years of grossly immoral behavior."¹⁰¹ Despite the lateness of the hour, Faustus could have avoided the contract—which demanded full performance on the part of Mephostophilis before Faustus's performance was due—by repudiating the contract.¹⁰² In the alternative, Faustus could have avoided the contract by repaying Lucifer the value of the services Mephostophilis actually rendered. Faustus might do this by serving Lucifer for the rest of his earthly life, by having his responsibilities terminate at some fixed point into his afterlife, or by transferring his wealth to Lucifer instead of to Wagner. When the bond is due, however, Faustus's natural life is nearing an end, thus making earthly service insufficient to fully compensate Lucifer, whose time is worth more than Faustus's or any man's.¹⁰³ This does not rule out the other remedies I men-

99. Marlowe, *Doctor Faustus* V.i.74-78 (cited in note 5).

100. Robert Cooter and Thomas Ulen, *Law and Economics* 243-47 (Harper Collins, 1988).

101. Posner, *Law and Literature* at 100-01 (cited in note 1).

102. See J. L. Barton, *Contracts and Quantum Meruit: The Antecedents of Cutter v. Powell*, 8 *J Legal Hist* 48, 49 (1987).

103. See Watt, *Faust as Myth* at 48 (cited in note 42) ("But the contract . . . wouldn't

tion above, which are not meant to aggrandize hypertechnicality, but to demonstrate that a law court would do for Faustus (whether or not he has been coerced into performance) what God would not.

Had Faustus decided to quit, therefore, the devil would not have been denied his due, whether Faustus enjoined Mephostophilis from completing his performance, or whether Faustus repented. Repentance trumps any contract, even one written in blood. After all, only Christ's blood has power over human souls.¹⁰⁴ And even orthodox demonology recognizes that repentance can control the pact as it can any sin.¹⁰⁵ But to avoid the contract one must know it is avoidable. Ironically, Faustus—a Doctor of Divinity—does not understand repentance. To him, if God is merciful, then he is unworthy of that mercy;¹⁰⁶ if God is “singularly without love, a god of terrible justice without mercy,” then his damnation is irreversible.¹⁰⁷

Still, we should not be too puzzled by Faustus's failure to repent. Repentance was not so easy for Reformation-era Christians.¹⁰⁸ An eleventh-hour fear of punishment was a shaky basis on which to seek it, and the circularity of repentance and grace—each was a prerequisite to the other—made saving oneself difficult at best.¹⁰⁹ Luther's revolt against Catholicism, followed by such English theologians as Richard Hooker, yielded a doctrine that made contrition so difficult that at times it seemed unattainable.¹¹⁰ Luther's theory of justification by faith severely depressed those who had placed value in earthly works and deeds,¹¹¹ and his determinism, too, was jarringly pessimistic. Lutheran determinism assigns the faithless to despair; faith, in turn, is a gift, not something one simply decides to have.¹¹²

Faustus's vulnerability to despair has led Lily Campbell, Pauline Honderich, and Wilbur Sanders to view *Faustus* as a Calvinist play,¹¹³ even though

be worth Lucifer's while if he weren't going to take possession of Faustus's soul for an immeasurably longer time than the twenty-four years he had to serve him.”); UCC § 2-716(1) (1990) (“Specific performance may be decreed where the goods are unique or in other proper circumstances.”).

104. D. J. Palmer, *Marlowe's Naturalism*, in Morris, ed, *Christopher Marlowe* at 153, 172 (cited in note 18).

105. See West, 4 Eng Literary Renaissance at 226 (cited in note 10).

106. See Rose, ed, *Damnably Life* at 202-06 (cited in note 13).

107. See Ribner, *Complete Plays* at xxxviii-xxxix (cited in note 13); Brooks, *Unity of Doctor Faustus* at 106 (cited in note 31); Robert Ornstein, *The Comic Synthesis in Doctor Faustus*, in Jump, ed, *Faustus Casebook* at 165 n 171 (cited in note 17); Kocher, *Christopher Marlowe* at 118 (cited in note 10).

108. See Cole, *Suffering and Evil* at 229 n 62 (cited in note 10) (citing Augustine and others).

109. D. Z. Philips, *Through a Darkening Glass: Philosophy, Literature, and Cultural Change* 108 (Notre Dame, 1982); West, 4 Eng Literary Renaissance at 234 (cited in note 10); J. P. Brockbank, *Marlowe: Dr. Faustus* 54 (Edward Arnold, 1962).

110. Levin, *Overreacher* at 132 (cited in note 11).

111. Gerald M. Pinciss, *Christopher Marlowe* 73-74 (Frederick Unger, 1975).

112. Danson, *Questioner* at 203 (cited in note 19).

113. See Campbell, 67 PMLA at 225-32 (cited in note 10); Honderich, 68 Mod Lang

Marlowe's play, like its sourcebooks, was set in Lutheran Wittenberg.¹¹⁴ Calvinist Protestants had to cope with the immense distance of Calvin's God from the worshipper, with God's terrifying, inclusive justice, with the bleak doctrine of predestination (which denied purgatory and thus the possibility of salvation after death), and with a view of man who has free will only to do evil. And Calvinists had to do without the intercession provided by the Roman church, its Holy Mother, its Saints, its Masses, and other works of salvation.¹¹⁵ For Catherine Minshull, Marlowe's attention to these "embarrassing aspects" of Calvinist Protestantism emphasizes the unprecedented harshness of Faustus's fate.¹¹⁶ Pinciss says the play has a more balanced world-view, one which creates a more memorable Faustus. Indeed, he concludes, a Calvinist protagonist who can do nothing to assure his own salvation is merely a victim, while a protagonist who is completely responsible for his damnation will appear merely wicked or foolish.¹¹⁷

Each of these views on the possibility of repentance finds some support in the text. Their variety should come as no surprise, given the uncertain condition of religion in Marlowe's England, which had shifted from Catholicism to Protestantism and back three times within the century.¹¹⁸ And the future of the Church of England hardly was secure with the unmarried, aging Queen Elizabeth on the throne.¹¹⁹ Equally supportable as the views stated above are the views of Bluestone and Greg, who insist that Marlowe leaves the availability of repentance nicely poised in doubt right through Faustus's last words;¹²⁰ of Manley and Gardner, who find the problem of repentance "difficult";¹²¹ and of Ornstein, for whom theology cannot explain why God does not pity Faustus, but the audience, the Old Man, and even Mephistophilis, do.¹²² Indeed, that a law court would relieve Faustus from his threat-induced obedience to the pact makes it easy to see why Faustus and his audience, to whom repentance seemed so remote, would believe that the contract was supreme.

Rev at 10-13 (cited in note 10); Sanders, *Dramatist and the Received Idea* at 243-52 (cited in note 7). But see Roy W. Battenhouse, *Marlowe Reconsidered: Some Reflections on Levin's Overreacher*, 52 JEGP 531, 538-39 (1953).

114. See William A. Clebsch, *Christianity in European History* 185 (Oxford, 1979) (southern Germany was Catholic, northern Germany was Lutheran, and the Rhineland cities were Reformed). See Davidson, 59 *Stud Philology* at 514 (cited in note 10) (Marlowe was influenced by Wittenberg Lutherans).

115. Barber, *Faustus' Fortunes* at 158 (cited in note 62).

116. Minshull, 39 *Eng* at 202 (cited in note 17). See also Alan Sinfield, *Literature in Protestant England 1560-1660* 7-19 (Barnes and Noble, 1983).

117. Pinciss, *Marlowe's Cambridge Years* at 260 (cited in note 7).

118. See Pinciss, *Christopher Marlowe* at 74 (cited in note 111).

119. *Id.* Things became no more stable in the seventeenth century. See Clebsch, *Christianity in European History* at 187 (cited in note 114).

120. Bluestone, *Doctrine and Dramaturgy* at 52 (cited in note 10); Greg, 41 *Mod Lang Rev* at 104 (cited in note 12).

121. Manley, 66 *Mod Philology* at 223 (cited in note 12) (citing Helen Gardner, *Theme of Damnation*, in Jump, ed, *Faustus Casebook* 95 (cited in note 17)).

122. Ornstein, 83 *PMLA* at 1383 (cited in note 17).

It is hard, however, to see why anyone would believe in a contract that promises such an unequal exchange. Some critics admit the possibility of the bargain,¹²³ but because *all* deals with the devil “lead inevitably to the loss of human dignity and order,”¹²⁴ the bargain is “mad,”¹²⁵ “bad,”¹²⁶ “ridiculous,”¹²⁷ “childish,”¹²⁸ “worthless,”¹²⁹ “trifling,”¹³⁰ “nonsense,”¹³¹ “fool[ish],”¹³² and “empty.”¹³³ For others, it is not so much dealing with the devil that is to blame, but man's attaining god-like power, which will invariably produce “trivia”¹³⁴ and “tricks.”¹³⁵

Anyone who exchanges the essential (knowledge, honor, morals, love, and love of God) for the ephemeral (solipsism, an obsession with results, hubris), the argument runs, is going to lose. According to D. Z. Philips, Faustus tries to transcend restrictions when he should accept them; in other words, he is courageous when he should be patient. Faustus's main problem, in Philips's view, is not that this life has nothing to offer him, but that because of his impatience, Faustus is blind to what it does offer. As intellectual, as lover, as moralist, Faustus desires a result-oriented, bottom-line shortcut that makes him a *Kitsch* scholar who cannot appreciate learning; a would-be lover who wants to possess, not tend; a moralist who cannot distinguish the temporal from the eternal.¹³⁶ In short, for a man who wanted to be a demi-god,¹³⁷ he is not very god-like.

In fairness, one should not say that Faustus sells his soul in order to play practical jokes, even though that is largely what he ends up doing.¹³⁸ Granted, he does nothing particularly grand or evil with his power, and his fantasies about power and pleasure are all over the lot: from the nature of Hell to demanding a wife; from delight in Blind Homer to delight in the farcical seven

123. Hattaway, *Marlowe and Brecht* at 106 (cited in note 18) (“[N]o sixteenth-century audience would ever imagine that Faustus' inverted Pascalian wager would come off, for their ultimate belief in God's omnipotence . . . , as well as the aesthetic expectations aroused by the tragic form, would demand his overthrow.”).

124. Cole, *Suffering and Evil* at 217 (cited in note 10).

125. Douglas Cole, *The Impact of Goethe's Faust on Nineteenth- and Twentieth-Century Criticism of Marlowe's Doctor Faustus*, in Boerner and Johnson, eds, *Four Centuries* 185, 187 (cited in note 10).

126. Levin, *Overreacher* at 142 (cited in note 11).

127. Ornstein, 83 *PMLA* at 1380 (cited in note 17).

128. Cutts, *Left Hand of God* at 130 (cited in note 30).

129. Ribner, *Complete Plays* at xxxviii (cited in note 13).

130. M. M. Mahood, *Poetry and Humanism* 54, 73 (Jonathan Cape, 1950).

131. French, 20 *Essays Criticism* at 138 (cited in note 12).

132. Greg, 41 *Mod Lang Rev* at 100 (cited in note 12).

133. Deats, 3 *Essays Literature* at 9 (cited in note 78).

134. A. Bartlett Giamatti, *The Arts of Illusion*, in Bloom, ed, *Christopher Marlowe* at 109, 119 (cited in note 19).

135. McNeely, 41 *Cahiers Elisabethians* at 10 (cited in note 7).

136. Philips, *Darkening Glass* at 89-112 (cited in note 109).

137. Marlowe, *Doctor Faustus* li.59 (cited in note 5).

138. See Gardner, *Theme of Damnation* at 96-97 (cited in note 79).

deadly sins; from slaying enemies to dressing up students in silk. But “what the human mind desires it desires, and an odd assortment is the inevitable result.”¹³⁹ In twenty-four years Faustus realizes few of his fantasies, so the deal looks much worse than if Faustus, like a true voluptuary, had done the ephemeral really well. At its most inspired, the ephemeral can become the essential, just as the essential on close study can become ephemeral.¹⁴⁰ Faustus's deeds did not match his words, which makes the arguably promising and audacious bargain *end up* vacuous.

III. Conclusion

Taking the contract seriously emphasizes something in *Faustus* that reducing it to metaphorical value does not. It emphasizes that Mephostophilis is not really a cheat: there are no tricks or lies, although he does resort to unlawful stratagems extremely late in the hour. More importantly, if law is more compassionate and forgiving of Faustus (who repeatedly comes exceedingly close to full-blown repentance) than is God, then taking the contract seriously adds support to inverted, unorthodox, or blasphemous readings that see Faustus's real sin as his defection from evil. The contract thus is more than a metaphor for commitment—it *is* a commitment—one that not only permits parties to define themselves in ways that seem numbingly self-defeating, but permits them to call forth legal reinforcement for the uninhibited exercise of that freedom as well.

139. Brooke, *S* Cambridge J at 668 (cited in note 17).

140. See Clement Greenberg, *Art and Culture: Critical Essays* 266, 273 (Beacon, 1989) (“Does not art always make one forget what is literally happening to oneself as a certain person in a certain world?”).

