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'Ill-Liver of Her Body:' A Legal Examination of Prostitution in Late Medieval Greater London

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“ILL-LIVER OF HER BODY:”
A LEGAL EXAMINATION OF PROSTITUTION
IN LATE MEDIEVAL GREATER LONDON

A Thesis
Presented to
the Graduate School of
Clemson University

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
History

by
Lauren Marie Martiere
May 2016

Accepted by:
Dr. Caroline Dunn, Committee Chair
Dr. Lee Wilson
Dr. Emily Wood

ABSTRACT

The following study endeavors to synthesize and enhance knowledge of what has previously been an under-represented field in the study of English medieval prostitution. It examines a variety of primary sources documenting the laws, punishments, and regulations concerning sexual commerce and reaches conclusions about the marginalization of prostitutes and the diverging systems of prostitution control implemented in the City of London and the Bishop of Winchester's manor in Southwark.

First, women, especially prostitutes, were marginalized in medieval English society. The prostitutes' inability to play an active role in either the secular or religious life of English communities cemented their position as outsiders. A lack of legal definition for prostitution placed all women's sexual reputations in vulnerable positions; therefore it was necessary to place women under male authority. Those who lacked husbands, fathers, or spiritual vows were placed under male authority via civic or ecclesiastical authorities. Since prostitution was illegal, but tolerable under certain circumstances, by the Roman Catholic Church, male authority came in the form of laws, punishments, and economic regulations.

Second, in London, the municipal heart of England, civic authorities implemented a prohibitive system to target prostitution. As sexual commerce proliferated throughout the city and unguarded female sexuality increased, city officials enacted numerous laws aimed first at the toleration of prostitution, to a degree, but progressed to the complete eradication of the trade. Londoners used the burgeoning English common law system to

enact, enforce, and convict those working within sexual commerce. Through an analysis of cases that relied upon communal law, we can see the marginalization of prostitutes in the medieval capital. Londoners attempted to promulgate a vision of London as a bulwark for morality and urbanization, through their laws and punishments.

In contrast to the City of London, the Bishop of Winchester in his Southwark Manor, which was located across the Thames from the City of London, enacted a regulative-system of prostitution control. Consecutive bishops took that stance of the Catholic Church that prostitution played an important function in the moral and public safety of the community and therefore should be tolerated. In doing so, the bishops wrote and implemented a customary that governed the sanctioned brothel-system that flourished in the manor. The regulations placed strict economic and private restrictions on all those employed in the sex trade. Through an examination of the customary regulations and the ramifications of an ecclesiastically sanctioned brothel-system, I have found that prostitutes were not only marginalized in Southwark, but were also exploited.

DEDICATION

For those I love, those I've lost, and those I've yet to meet.

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I also must acknowledge my family: my father, mother, grandparents, and my significant other. Without their unrelenting support, encouragement, and love this study and the completion of my degree would not have been possible. In finality, I would like to thank my friends and my cohort, past and present. Our time spent together will be cherished, reminisced, and loved for years to come.

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CHAPTER ONE

INTRODUCTION

There is no smallest difference, truly,
Between a wife who is of high degree,
If of her body she dishonest be,
And a poor unknown wench, other than this-
If it be true that both do what's amiss-
The gentle woman, in her state above,
She shall be called his lady, in their love;
And since the other's but a poor woman,
She shall be called his wench or his leman,
And God knows very well, my own dear brother,
Men lay the one as low as lies the other.¹

This passage from Chaucer's *The Manciple's Tale* demonstrates the English attitude toward women and sexuality. All women regardless of station could be deemed whores within society.² The prestigious woman who used her body for sexual pleasure was considered a lover, while the woman of lower station who exploited her body was labeled a wench. The former places her station and reputation at risk in sexually exploiting her body, for she will be placed as low (in respectability and station) as the wench. Chaucer further exemplifies the connection between females, sexuality, and greed with the

¹ Geoffrey Chaucer, *The Canterbury Tales*, ed. D. Laing Purves (MacMay, 2007), Kindle Edition, 6355.

² Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England* (Oxford: Oxford University Press, 1996), 94.

character of the Wife of Bath. The wife boasts about exchanging goods from her husband(s) for sexual favors, “Till he had paid his ransom unto me; then would I let him do his nicety.”³ Her behavior can be likened to that of a prostitute. The Wife sells her merchandise, her body, to her husband in exchange for possessions, just as the prostitute sells her merchandise for monetary compensation.⁴ In so placing these versions of women within his work, Chaucer was exemplifying the woman’s place, position, and function within medieval English society. To control the woman’s sexuality and greed she should be placed under the authority of a male. She must sell herself (either commercially or within marriage) thereby placing her under a form of male supervision, either through her husband or commercial regulations. Through Chaucer and other writers of popular literature we can see the “mental world of past cultures” and we can determine the “concerns and preoccupations” of society.⁵ To further suppress women, the writings of authors like Chaucer were read and discussed by the literate members of society: upper class and bourgeoisie men and members of the clergy. Therefore, only those men who maintained power and determined the structure of society enjoyed the deeper meanings found within popular culture. Whatever influenced the mentality of these men affected the way in which society was structured and women were viewed.⁶ The structure of society in later medieval England, in respect to a woman who engaged in sexual relations outside of marriage, is the basis for this study. I will be examining how women—specifically prostitutes—were placed under male authority and marginalized in

³ Chaucer, *Canterbury Tales*, 3806.

⁴ Karras, *Common Women*, 92.

⁵ Ibid, 88-89.

⁶ Ibid, 89.

London and Southwark, despite the divergent legal practices seen in these two adjacent areas of Greater London.

Historiography of Medieval Prostitution

The study of prostitution and sexual offenses was not widely researched until the larger subjects of women's and gender history attracted interest in the 1970's. As a larger number of feminist historians entered the field of gender history a new focus on the marginalized in society surfaced. Investigations into the medieval sex trade inherently are centered on women's history and religious history, though many historians have expanded their examinations to cover the social, economic, political, and legal elements of prostitution in medieval society.

Bronislaw Geremek began the study of women's marginalization in society by examining prostitution in medieval Paris. *The Margins of Society in Late Medieval Paris* examines those considered outside the respectable confines of society: vagabonds, criminals, and prostitutes.⁷ By examining the position of these groups from below, Geremek was able to ascertain how and why they were set apart from legitimate society in medieval Paris. Geremek surmises that Parisian prostitutes' "way of life, if not their moral code, placed them outside the structures of society."⁸

The notion of large groups, including both men and women, being marginalized within medieval society was continued by Frank Rexroth in his monograph, *Deviance*

⁷ Bronislaw Geremek, *The Margins of Society in Late Medieval Paris*, trans. Jean Birrell (Cambridge: Cambridge University Press, 1987).

⁸ Ibid, 241.

and Power in Late Medieval London. Rexroth holds that marginalized people, including the poor, were placed under legal and social scrutiny by municipal authorities. He argues that the marginalized within medieval London made up the “nocturnal underworld.”⁹ It was within this location, an imagination of municipal authorities, that the marginalized thrived. Within London, and to a greater degree England, those on the fringes of society were purposefully placed and kept within that position, according to Rexroth. Therefore, Rexroth answers the question that Geremek leaves open, that the marginalized were forced there by their contemporaries.

Ruth Mazo Karras, the leading authority on English prostitution, expanded the notion of marginalization to encompass all medieval women. Within *Common Women: Prostitution and Sexuality in Medieval England*, Karras argues “that prostitution deeply affected gender relations because its existence fostered the connection of feminine sexuality with venality and sin, and thereby justified the control of all women.”¹⁰ Because prostitution had no set legal definition within England or within Ecclesiastical law any female that was not under the direct authority of a male (either father, husband, master, or God) could be labeled as a whore or a prostitute. Karras holds that societal position did not exclude upper-class women from being categorized as loose, as seen in the *Manciple’s Tale*. If any woman engaged in non-marital sexual activity, she was marginalized and ultimately exploited through male authorities. Karras uses prostitution

⁹ Frank Rexroth, *Deviance and Power in Late Medieval London*, trans. Pamela Selwyn (Cambridge: Cambridge University Press, 2007), 51.

¹⁰ Karras, *Common Women*, 3.

as an avenue to express and understand the attitudes toward women in the medieval period.

Leah Lydia Otis challenges the notion of marginality in her study of the institutionalized brothels in Languedoc. Otis argues that prostitutes were not limited to the margins of French society; instead they held a valuable and necessary position within economic and urban life. Thus civic authorities upheld prostitutes' position within society by institutionalizing brothels. It was not until the sixteenth century, when Protestantism and Catholicism jockeyed for Christian supremacy, that prostitutes became marginalized.¹¹

James Brundage, a leading authority on approaches of ecclesiastical law toward prostitution and sexuality, traces the developments of church theory regarding sex and sexual offenses from its Roman origins to the early modern period. He argues that the Church, during the medieval period, held prostitution to be a necessary evil. Although these women played a public function, they and their acts were nonetheless seen as sinful. Therefore, prostitutes and all women participating in non-martial sex were marginalized; they were confined, controlled, and placed under the authority of men through laws, brothels, or the Church.¹²

Unlike Otis but agreeing with Geremek, Rexroth, Karras, and Brundage, I hold that women, namely prostitutes, were marginalized or removed from the respected

¹¹ Leah Lydia Otis, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago: Chicago University Press, 1985), ix.

¹² James Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: Chicago University Press, 1987).

segments in English society. Their respectability and status were wholly dependent upon a man. Women not under male control necessitated strict constraints on their social, personal, and economic lives. Women in England who participated in sexual commerce (either by force, economic constraints, or general will) were placed under various methods of control by both secular and ecclesiastical authorities. English courts cited those women (prostitutes) as “common women” due to the mentality that if she was not under the authority of a particular man she was therefore the property of all men. Because England did not have vast numbers of legalized brothels-systems (such as those seen in France, Spain, Germany, and Southern Italy) the prostitute, herself, did not play a vital urban role; instead she was continuously codified as an outsider and placed under civic control.

Terminology of the Medieval Sex Trade

To understand the medieval sex trade, the terminology of illicit sexual behavior and actions must be defined. We must keep in mind that the modern connotations and definitions that are attributed to sexual acts and to those who professionally perform them did not exist in the medieval period. Sexuality and sexual commerce were different in the religious, social, political, and economical contexts of the Middle Ages, especially for females.

Women of the medieval period were categorized into four main groups: virgin, wife, widow, or single woman (an independent unmarried woman).¹³ The only two respectable conditions for a woman to find herself in were that of virgin or wife. Either of these categories positioned women under the authority of socially, economically, and/or morally superior males: fathers, husbands, or the state. Under this authority, it was hoped, the female's natural lustiness and sexual nature were either suppressed or directed toward procreation.¹⁴ Widows and single women were often suspected of wrong doing, for they were under no direct male control. These women were feared for their seeming independence—the possibility of holding power equal to or above that of a man.¹⁵ Widows and single women risked becoming women of ill-repute: prostitutes, bawds/procuresses, brothel-keepers, fornicators, and harlots. It was thought that without the authority of a man these women would acquire money by any means necessary; there was no one to stop them from acquiring money by using their bodies or selling someone else's. This sentiment, personified by the character of the Wife of Bath, furthered the wariness of the “lusty widow.”¹⁶ Unguarded, unsuppressed female sexuality presented a threat to manliness and to society at large. As a result, the prostitute's inability to conform to moral and societal norms required her to be placed under the power of the

¹³ Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing Unto Others* (New York: Routledge, 2005), 132.

¹⁴ Brundage, *Law Sex, and Christian Society*, 427.

¹⁵ Karras, *Sexuality*, 114.

¹⁶ See Jennifer Panek, *Widows and Suitors in Early Modern English Comedy* (Cambridge: Cambridge University Press, 2004); James Brundage, “Widows and Remarriage: Moral Conflicts and their Resolution in Classical Canon Law,” in *Wife and Widow in Medieval England*, ed. Sue Sheridan Walker (Ann Arbor: University of Michigan Press, 1993), 17-31; Joel Rosenthal, “Fifteenth-Century Widows and Widowhood: Bereavement, Reintegration, and Life Choices,” in *Wife and Widow in Medieval England*, ed. Sue Sheridan Walker (Ann Arbor: University of Michigan Press, 1993), 81-108.

government and Church-dominated laws regarding sex.¹⁷ According to Ruth Mazo Karras, “women’s sexuality threatened medieval men in many ways: they might be temptresses and lure men into fornication or worse sins, they might behave in masculine ways with each other and so usurp male gender privilege.”¹⁸ Society, therefore, labeled and positioned women who had questionable reputations into discrete categories of prostitutes, concubines, and bawds.

Prostitution, while a commonly-cited offense in manorial and ecclesiastical courts, in actuality had no official definition in English or canon law.¹⁹ Instead, the term “prostitute” signified a woman’s status and was used to identify a woman of ill-repute. The terms “prostitute” and “whore” were used interchangeably within ecclesiastical and manorial court records. Often the same word was used for both terms: *meretrix*.²⁰ This confusion, from our modern definition of the terms, stems from the fact that medieval people were incapable of understanding a sexually active unmarried or unspoken for female.²¹ Therefore, those deemed prostitutes might also include women who engaged in sexual intercourse for pleasure, rather than money. The number of sexual partners also must not define a prostitute. Medieval manorial and canon law throughout Europe could not agree on a specific number of partners that made a woman a prostitute. Regulations

¹⁷ See Michel Foucault, *The History of Sexuality, Vol. 1: An Introduction*, trans. by Robert Hurly (New York: Random House, 1978) for an in-depth study of the relationship between sex and power.

¹⁸ Karras, *Sexuality*, 151.

¹⁹ Karras, *Common Women*, 14.

²⁰ *Meretrix* translates to whore in medieval ecclesiastical court records, see Ruth Mazo Karras, “The Latin Vocabulary of Illicit Sex in English Ecclesiastical Court Records,” *The Journal of Medieval Latin; a publication of the North American Association of Medieval Latin* 2 (1992): 2.

²¹ Karras, *Sexuality*, 132.

ranged from two to 23,000 sexual partners.²² The reputation of the woman in question outweighed the exchange of money or the number of customers. In the study that follows, I categorize as a prostitute any woman who carried a sexual, lustful reputation who used her body for sex, either for monetary gain and/or pleasure, and who had intercourse with at least three or more men. This classification includes those women who were accused of prostitution in the later Middle Ages, whether they were whores (sexually active single females), prostitutes, or others involved in sexual commerce. The number of sexual partners has been set low as a catch-all to include those labelled “whores” and “fornicators” who were, in modern terms, adulterers.

Another issue that plagues medieval discourse on sexuality was that of women who were raped. Those who were sexually assaulted sustained a substantial blemish upon their reputation. These women were often seen as the cause of the assault—a position in contrast to our modern understanding of sexual assault. Victims of sexual assault were seen as complicit because they allowed themselves to be raped, rather than fight to preserve their virtue.²³ Due to their blemished reputations, these women often were unable to keep respectable jobs or find husbands. Therefore, they were pushed into morally questionable positions. If assaulted women began to exhibit promiscuous behavior or they engaged in consensual non-marital sex they would quickly be labeled as whores or prostitutes.

²² Ibid.

²³ Karras (Ibid, 61) discusses a medieval exemplum of a woman who accused a man of rape who was later chastised for her preservation of her monetary reward than her virginity.

The prostitute must be differentiated from the concubine, a separate medieval sub-category for women. The concubine was a female who had a long-standing sexual relationship with one man without a pre-contract, pre-consent, or held any preconceived notions of marriage.²⁴ This definition followed canon law. In modern terms, the concubine played the role of a modern-day “girlfriend.” Concubines were usually single females, although the male partner might not be unattached. If the male in question was married, then the concubine would fill the role of “mistress.”²⁵ Lay concubinage was practiced widely throughout Europe. The Spanish, in particular, considered these unions to be licit sexual behavior because they placed women under men’s authority, thereby upholding the tradition of female subservience.²⁶ For many families, concubinage was a reasonable alternative to marriage. Poor families that lacked money for dowries found concubine positions for their daughters. Though these relationships were legal, women who opted to leave these positions were seen as socially suspect.²⁷ Concubinage became even more problematic when priests engaged in the behavior. Priests, due to vows of chastity, were forbidden from sexual relationships; nonetheless, the practice of religious concubinage rose during the medieval period. These unions were deemed illicit by canon law, but were considered licit in secular jurisprudence in many countries. Ample records of religious concubinage, marriage, and clerical incontinence can be found across

²⁴ Jeffery Richards, *Sex, Dissidence, and Damnation: Minority Groups in the Middle Ages* (London: Routledge, 1994), 118.

²⁵ Karras, *Sexuality*, 127.

²⁶ Eukene Lacarra Lanz, “Changing Boundaries of Licit and Illicit Unions: Concubinage and Prostitution,” in *Marriage and Sexuality in Medieval and Modern Iberia*, ed. Eukene Lacarra Lanz (New York: Routledge, 2002), 163.

²⁷ Ibid.

Europe.²⁸ Despite the fact that in some circumstances concubinage was accepted and even considered legal, women who participated in these unions were commonly cited as whores, and faced many of the same consequences as their prostitute counterparts.

The bawd was someone who found customers for the prostitutes in exchange for a portion of their earnings, effectively acting as medieval pimps. Procurers profited by obtaining women, through legal and illegal means, to either sell to a brothel or use for their own monetary gain. The Spanish law codes of King Alfonso X, *Las Siete Partidas*, broke down the profession into five categories: those profiting from brothels, those receiving payment to lie with women on their own premises, those paid by the women they housed, those who pimped their wives, and those that were paid to organize assignations.²⁹ Across Europe these delineations can be seen and provided various avenues for someone to profit from the sex trade, either legally or illegally. Procurers followed general patterns, typically forcing women into rape or fornication situations through kidnapping or exploiting servants.³⁰ The roles of bawd and procurer were quite frequently interchangeable. In law courts they were equally accused and seen as villains.

²⁸ For further information on religious concubinage see Jennifer Thibodeaux, "The Defense of Clerical Marriage: Religious Identity and Masculinity in the Writings of Anglo-Norman Clerics," in *Religious Men and Masculine Identity in the Middle Ages*, eds. P.H. Cullum and Katherine J. Lewis (Woodbridge, Suffolk, UK: The Boydell Press, 2013), 46-63; Marie Kelleher, "Like Man and Wife: Clerics' Concubines in the Diocese of Barcelona," *Journal of Medieval History* 28:4(2002):349-360, doi: 10.1016/S0304-4181(02)00041-6; Michelle Armstrong-Partida, "Priestly Wives: The Role and Acceptance of Clerics' Concubines in the Parishes of Late Medieval Catalunya," *Speculum* 88.1(2013):166-214, doi: 10.1017/S003871343000535; Janelle Werner, "Promiscuous Priests and Vicarage Children: Clerical Sexuality and Masculinity in Late Medieval England," in *Negotiating Clerical Identity: Priests, Monks, and Masculinity in the Middle Ages*, ed. Jennifer Thibodeaux (Hampshire, UK: Palgrave Macmillan, 2010), 159-184.

²⁹ Lanz, "Changing Boundaries," 172.

³⁰ Karras, *Common Women*, 59-60. See Chapter 2 for the case of Elizabeth Moryng who fraudulently enticed women into the sex trade. Karras (Ibid, 58) discusses the story of Christina Swynowe, who was

Many accused of these two crimes were female, specifically older females, and “accusations against female procurers confirm the powerful literary motif of the old woman who corrupts young girls.” Indeed, “literary representations and court prosecutions worked together to construct an image of the bawd that reflected a deep distrust of the sexual nature of older women.”³¹ Depictions in popular literature, upheld by the misogynistic court system, reinforced a mistrust of all women who were not under the direct authority of a male. It is unclear whether women were targeted for practicing bawdry or procuring as a result of this stereotype or, because they were actually the ones most involved. As the historian, one can begin to understand the medieval stigma attached to single women; when not only the court but citizens felt it necessary to restrict their freedom and imagined power by placing strict controls upon any woman who usurped the misogynistic power of the government and, the Church.

Medieval Theories of Sexuality

The progression of sexual theory and the acceptance of prostitution in most of Europe went through numerous challenges and concessions. Medieval English culture was characterized by a complex system of municipal governments as well as by the overarching regulations of the Catholic Church. The Church’s view on sex in practice depended upon a given cleric’s interpretation of canon law and theology. Even sexual intercourse within marriage was subject to clerical scrutiny, pulling from the fourth-

enticed by Nicholas Crook and taken to the Southwark stews and was forcibly and monetarily compelled to fornication, leaving her in the stews.

³¹ Ibid, 62.

century theories of St. Augustine on moral responsibility.³² Sexual desire, lust, and sexual gratification were sins or results of larger sins; the physical act of sexual intercourse was stigmatized. Therefore, coitus without the intent to procreate was a sin. According to James Brundage, “marital sex was permissible, but only provided that the partners brought the proper intentions to the act. Marital relations required forethought, deliberations, and conscious reflection if one wished to avoid serious sin.”³³ While many in the Church held this stance, others, especially physicians, held that sexual intercourse was healthy to both men and women. In addition, the level of sin varied according to individual clerical interpretations. Some thought pleasurable, non-procreative sex was a grievous sin; others held that it was venial.³⁴ Lay people, mostly illiterate, were unable to read ecclesiastical arguments. Therefore, they were forced to rely on the oral teachings of their local priest or monk, undoubtedly leading to confusion, although the moral staunchness of medieval life would, for most, ensure their cooperation with the rigid sexual rules for Christian marriage.

Sexual practices outside of marriage varied from those inside marriage. Women were considered sexually insatiable and had to hold themselves to a higher moral standard than men. This notion can be seen in the writings of Pope Innocent IV (1243-1254), who argued,

Men were like Christ, who was joined first to the synagogue and then to the Church. Thus no harm was done if a man ‘divided his flesh’ between several

³² St. Augustine, *The Complete Works of St. Augustine: The Confessions, on Grace and Free Will, the City of God, on Christian Doctrine, Expositions on the Book of Psalms,...*, trans. Marcus Dods, Rose Elizabeth Cleveland, J.F. Shaw, ed. Philip Schaff (Kindle Edition: 2008), 12996.

³³ Brundage, *Law, Sex, and Christian Society*, 450.

³⁴ *Ibid*, 463-465.

women. But women, were like the Church, which always remained a virgin, at least mentally, and hence a woman who ‘divided her flesh’ between several men betrayed her symbolic archetype.³⁵

This sentiment solidified continued female subjugation in a male-dominated society.

Men, it was determined, could stray from their marriage beds or have sexual relations with women before marriage with no harm to their reputations. Women, in contrast, had to uphold an archetype of virtue and virginity. A blemish upon this archetype could forever harm or taint their reputations in society, government, and the Church. An example of this mentality can be seen in a story in *Les Cent Nouvelles Nouvelles*. A young apprentice impregnates a woman while away on business. The woman follows him to his hometown after being turned out by her family, to find him engaged and at his wedding. The story continues to describe how the young woman was ill-treated for her misdeeds, but not the man. Furthermore, the man’s future wife admits to fornication with another man; therefore she is also left by the apprentice.³⁶ The story provides anecdotal support to the notion that fornication by men was to be expected, while women were expected to be chaste.

Greater church laxity of norms governing sexual morals after the plague brought forth an increase in the establishment of institutionalized brothels across Europe. Common people and authority figures alike held two general views on extramarital sex in the aftermath of the Black Death.³⁷ First, sex was a comfort that was necessary to those

³⁵ Ibid, 427.

³⁶ Salle, Antoine de la, ed. *One Hundred Merrie and Delightsome Stories Les Cent Nouvelles Nouvelles*, trans. Robert Douglas, www.gutenberg.org/files/18575/18575-h/18575-h.htm. See also Richards, *Sex, Dissidence*, 36-37.

³⁷ Richards, *Sex, Dissidence*, 104,121.

after the catastrophic losses. But others held that sexual deviance and sexual freeness perpetuated the plague. Immoral behavior caused God to send a terrific pestilence to rid the world of wrong-doing. Those that fell between the two poles upheld the idea of purgatory. Officially recognized in the thirteenth century the idea of purgatory, which was a location for sinners to repent for their earthly sins, grew in popularity and necessity during continued scares of plague. Therefore, persons were able to live less penitent lives; medieval people began to change their moral ideals.³⁸ The changing attitudes toward moral behavior helped precipitate the acceptance and justification behind institutionalized prostitution.

On the Continent, primarily, European societies began to see a marked increase in the toleration of prostitution. Many theologians and governments saw prostitution as an outlet to control public order, but others continued to condemn the practice as sinful.³⁹ After the plague there was increased canonical leniency on sexual matters. Whether these changes occurred because of drastic loss of population or corruption in the Church, there were major changes in the management and toleration of prostitution. The mid fourteenth century saw governments regulating sexual actions and an increase in publicly run and governed prostitution businesses, because they saw an opportunity to exert control and increase revenues. Justification for leniency was found in the fourth-century position on prostitution set forth by St. Augustine: “the public woman is in society what bilge is in [a ship at] sea and the sewer pit in a palace. Remove this sewer and the entire

³⁸ Ibid, 122.

³⁹ Brundage, *Law, Sex, and Christian Society*, 463-464.

palace will be contaminated.”⁴⁰ Indeed, men, lay and ecclesiastical, took this as a justification of prostitution. The prostitute upheld public order; she was a necessary evil for the city. Without the prostitute men lacked an outlet for sexual lust which placed innocent wives, children, and virgins in danger.

The Restriction and Regulation of Prostitution

Throughout Europe most brothel establishments were forced outside the city walls, into “red light districts.” These areas placed the prostitutes outside the social context of the city, exacerbating their condition and the codification of their identification as the “other.”⁴¹ Leah Lydia Otis surmises that

The creation of official red-light districts... was a conscious innovation on the part of certain municipal authorities... and can be seen as the logical culmination of the gradual transformation, in the public mind, of prostitution from a private concern or natural phenomenon to a social matter requiring public intervention and supervision.⁴²

Indeed, the control of public order was the basis on which most regions institutionalized prostitution. The uncontrolled and unregulated prostitute posed harm to the reputation of women of esteem. Furthermore, the salacious business attracted other illicit behavior. Taverns, ale-houses, and inns were frequent sites of illegal behavior (thieving, brawling, and murder) not to mention they were often found in connection with prostitution. Legalizing or regulating brothels and placing them outside the city walls protected legitimate businesses from ruffians and suspicious persons.

⁴⁰ Jacques Rossiaud, *Medieval Prostitution*, (Oxford: Oxford University Press, 1988), 81.

⁴¹ Phil Hubbard, “Sexuality, Immorality, and the City: Red-light Districts and the Marginalization of Female Street Prostitutes,” *Gender, Place, and Culture* 5.1(April 2008), 59, doi: 10.1080/09663699855322.

⁴² Leah Lydia Otis, *Prostitution in Medieval Society*, 25.

The economic benefit of regulation spurred the development of institutionalized brothels. If the brothels were owned municipally, the town would garner the economic benefit of rents and taxes. Personal ownership of brothels was even more lucrative. In Spain the Catholic monarchs, Queen Isabella and King Ferdinand used brothels as political devices. When they were out of land to give to loyal nobles they awarded brothels. Additionally, some nobles were rewarded the right to all the brothels in one territory.⁴³ Towns, institutions, and personal proprietors gained vast amounts of wealth from institutionalized brothels and sanctioned brothel-systems. According to historian Martha Carlin, some proprietors in Southwark, England, became wealthy enough to purchase lands in excess of forty shillings granting them the ability to sit on juries.⁴⁴ In the medieval period, the ability to sit on a jury was a privilege accorded to a select few within the manor or borough. Only men who held substantial propertied wealth were allowed to hear and make judgement on evidence during court cases. In the example of Southwark, the property obtained by brothel owners secured their participation on juries, effectively safeguarding verdicts amenable to their position.

With the establishment of institutionalized brothels, prostitution evolved into four distinct categories. The highest level was the municipal prostibulum, the legalized public brothel. They were municipally owned and were at times built with funds or taxes from

⁴³ Lanz, "Changing Boundaries," 179.

⁴⁴ Martha Carlin, *Medieval Southwark* (London: Hambledon Press, 1996), 218.

the towns. The women who worked there were considered the highest ranking prostitutes within society and received special legal protection working within the brothels.⁴⁵

The second tier consisted of bathhouses or private homes. These locations were privately owned and frequently fronted themselves as common bathhouses, public locations to bathe. In England these establishments became known as stews, found in the Bishop of Winchester's Southwark manor. The term stew derives from two roots. Latin and Old French. *Steuwe* and *estuve* were the root forms of the modern word that denoted both a brothel and a room full of hot steam, or a bathhouse.⁴⁶ In contrast to the Continent, the English stews (the sanctioned brothels) were the highest form of prostitution within English society. Though privately owned, the economic benefit available from the stews enticed wealthy landed members of society to invest or purchase the land for themselves.⁴⁷ The land owners, investors, and renters included nobility, commoners, and often clergymen. If the stews were owned by prominent members of society and located within the proper district then the women who worked there were also afforded select legal protection. Both municipal and stew prostitutes were considered professionals, perfecting their trade, enabling them to charge higher prices for their services.

The third tier of prostitution came in the form of bordellos. Bordellos were small enterprises usually operating out of private homes or inns. The prostitutes that worked

⁴⁵ Brundage, *Law, Sex, and Christian Society*, 521.

⁴⁶ Henry Ansgar Kelly, "Bishop, Prioress, and Bawd in the Stews of Southwark," *Speculum* 75.2 (2000), 351, <http://www.jstor.org/stable/2887582>.

⁴⁷ Brundage, *Law, Sex, and Christian Society*, 521.

out of bordellos were commonly known as strumpets. Bordellos were run by both males and females taking the titles of bawds or madames. Neither the strumpets nor the proprietor received legal security; they were often brought to court on charges relating to sexual deviance.⁴⁸ Bordellos were common in locations where prostitution was prohibited. Therefore, bordellos in the City of London operated by arranging assignments or fronted as legitimate businesses.

The lowest social scale for a prostitute was that of streetwalker. These women worked for themselves or local bawds, taking customers wherever necessary.⁴⁹ Like bordellos, streetwalking was common in locations where prohibitive systems thrived. Prostitutes in the City of London lacked an officially sanctioned location to practice the trade, and therefore were forced into this strata, whereas streetwalkers on the Continent were clandestine prostitutes working against the legalized brothel regulations. They had no established rooms and even less legal protection because they did not have the money to pay fines levied against them. Due to their poverty and low social standing these women were forced to be mobile, moving from towns or districts whenever they were accused of sex crimes resulting in tarnished reputations.⁵⁰ Though strumpets and streetwalkers were the lowest levels of prostitutes, their station and lack of a bawd thus allowed for an increase in freedom of customer choices and number in the occurrence of partners.

⁴⁸ Ibid.

⁴⁹ Rossiaud, *Medieval Prostitution*, 117.

⁵⁰ Karras, *Common Women*, 69.

Prostitutes in England experienced greater fluidity and could easily move from streetwalker/strumpet to professional and then to madame within their careers. Most women who found their way into the trade usually participated in sexual transactions for the majority of their lives.⁵¹ It was the lack of legal definition that accounts for the unique fluidity in English prostitution, since those women accused of prostitution activities were most often technically accused of fornication, adultery, and harlotry.⁵² Numerous women were charged with bawdry and procuring due to the unique system of prostitution controls in greater London. As previously mentioned, the stigma against older women within society was directly seen in the numbers of women accused of these practices. In addition, women were dually charged with solicitation in conjunction with bawdry. Many non-professionals in England were active in both the physical and economical aspects of the trade. Overall, prostitution and brothel-keeping were illegal within English law, as part of the prohibitive system.

Most regions in England developed a different system of prostitution control than the Continent's mass brothel and "red-light district" method. By the time of the late Middle Ages England developed two opposing methods of control: the prohibitive and regulative systems. These various systems allowed for the unique fluidity of prostitution within English society.

The prohibitive system was generally implemented across England. Under this system every act connected with prostitution was illegal and criminalized. Acts of

⁵¹ Ibid, 66.

⁵² Ibid, 66-69.

solicitation, fornication, bawdry, and adultery were common criminal offenses. England's unique court system helps to explain how this emerged. Every borough, if presented with a charter, had the right to implement their own laws and to police accordingly. Borough courts—either Wardmoot, Mayor's Court, Sheriff's Court, or Ecclesiastical—had jurisdiction over commercial, nuisances, and often moral claims.⁵³ Prostitution, as a moral crime, was judged according to the laws of a particular borough, and boroughs typically criminalized prostitution through laws and mandates backed by specific punishments. Laws and mandates, for example, forbade prostitutes or "common women" from practicing, wearing particular clothes and these laws also restricted where they could live. If someone were found guilty of prostitution-related crimes they would face punishments ranging in severity according to the crime and the number of cited offenses against the accused. Convicted prostitutes often faced public shaming, imprisonment, fines, and banishment. The City of London was the most significant example of such a prohibitive system. The metropole of English medieval life, Greater London was the seat of the royal administration of common law that was implemented across the country, but the City of London was also afforded exceptional legal autonomy through various charters which gave Londoners the right and ability to create their own laws and punishments so long as they did not contradict royal common law. This meant that Londoners were responsible for the city's public and moral safety and, in turn, for ensuring that crimes were punished. It was the city's responsibility to ensure criminals were judged. A criminal act of moral indecency was in effect an injury against the

⁵³ Ibid, 13.

community, just as a criminal act against another party was seen as a personal injury. Those convicted of the former required a payment to the city and its officials for the injury, an aspect that developed in regards to sexual commerce throughout the medieval period. It was England's base in communal law which gave rise to the prohibitive system of prostitution. The development, implications, and impact on prostitution will be discussed in Chapter Two.

In contrast to the prohibitive system, the opposing control method was a form of permissive regulation and was widely used throughout the Continent. In permissive systems prostitution and brothels were legal, though generally confined to a distinct "red-light district." Within these systems, prostitution acts were tolerated through the issuance of various regulations placed upon the female, the brothel owner, and the customer. In essence, the regulative system allowed for manorial, or official, control of prostitution.⁵⁴ The locations in England where regulative systems thrived were primarily under the control of manorial courts—leets or views of frankpledge. There were three distinct locations in England where permissive systems thrived: Sandwich in Kent and Southampton in Hampshire (port towns), and Southwark (a London borough) the focus of this study. All three locations were under the jurisdiction of one particular individual or ecclesiastical leader.⁵⁵ The courts were involved when regulations were broken or taxes went unpaid. These offenses usually did not result in physical punishment, but with

⁵⁴ Stephanie A. Limoncelli, "International Voluntary Organizations, Local Social Movements, and State Paths to the Abolition of Regulated Prostitution in Europe, 1875-1950," *International Sociology* 21.1(January 2006), 35, doi: 10.1177/0268580906059290.

⁵⁵ Karras, *Common Women*, 13, 35.

finances. The regulative system in Southwark, particularly the Bishop's Liberty governed by the Bishop of Winchester, will be examined at length in Chapter Three. I will analyze how canon law, developing out of Roman law, held a different stance toward prostitution leading to its toleration. I will further discuss the methods of regulation that reveal Southwark's similarity to the Continental system. The regulative system in Southwark marginalized and exploited the prostitute by placing her under strict commercial and ecclesiastical restrictions.

Though legalized prostitution in England was rare, it did not prohibit women from practicing illicit and clandestine prostitution. England incurred a dramatic loss of population during and after the Black Death from 1348 to 1377. Population losses totaled to nearly 48 percent over the period due to waves of plague, harvest failures, weather, and the inability for younger generations to reproduce.⁵⁶ The population loss from the Black Death has brought forth a debate concerning wage equity experienced by women laborers. PJP Goldberg and Caroline Barron hold to the theory espoused during the nineteenth century that women, especially in urban centers, experienced a "golden-age" after 1348. They argue that women saw increased work opportunities coupled with decreased wage differentiation between men and women.⁵⁷ These factors, according to Goldberg and Barron, delayed marriage age, increased female economic independence,

⁵⁶ Stephen Broadberry, et al. "English Medieval Population: Reconciling Time Series and Cross Sectional Evidence," (2010), 9, <https://www2.warwick.ac.uk/fac/soc/economics/staff/sbroadberry/wp/medievalpopulation7/pdf>.

⁵⁷ Sandy Bardsley, "Women's Work Reconsidered: Gender and Wage Differentiation in Late Medieval England," *Past and Present* 165(1999): 3-4, 9, <http://www.jstor.org/stable/651283>. See also PJP Goldberg, *Women, Work, and Life-Cycle in a Medieval Economy: Women in York and Yorkshire, c. 1300-1520* (Oxford: Oxford University Press, 1992) and Caroline Barron, "The 'Golden-Age' of Women in Medieval London," *Reading Medieval Series* 15(1989): 35-58.

and population stagnation. In contrast, Sandy Bardsley and Judith Bennett argue that there is little documentary evidence for the aforementioned hypothesis. Instead, they surmise that women continued to earn the same approximate wages as before the plague, though their wage earning opportunities, through seasonal work, increased.⁵⁸ If women did experience wage increases it was not equal to that of able-bodied men, but instead equal to “second-rate” male laborers (young, old, or those in ill-health) therefore the period cannot be seen as allowing for wage equity between all male and female laborers.⁵⁹ The distribution of wages did not change for the century succeeding the plague; gender, age, and health continued to be defining factors that determined wage earning.⁶⁰ Women only ever earning wages equal to that of the lowest paid men forced many to commit subversive actions to acquire money.⁶¹ The decrease in population brought forth a delay in the marriage age as women worked toward their economic independence. By the beginning of the middle fifteenth century however, the population began to rebound and the jobs available to women began to disappear.⁶² Job positions and specialized crafts that were generally associated with women began to hire eligible men. In connection with these events, population fluctuations perpetuated the uneven distribution of males and females.⁶³ There were more eligible women than men for

⁵⁸ Ibid, 3-4. See also Judith Bennett, “Medieval Women, Modern Women: Across the Great Divide,” in *Culture and History 1350-1600. Essays on English Communities, Identities, and Writing*, ed. David Aers (London: Harvester Wheatsheaf, 1992), 147-175.

⁵⁹ Ibid. Bardsley surmises that based of wage earnings from Yorkshire that women earned on average 1.5d less than their male counterparts, Ibid, 12.

⁶⁰ Ibid, 25.

⁶¹ Broadberry, “English Medieval Population”, 10; Bardsley, “Women’s Work Reconsidered,” 22.

⁶² Karras, *Common Women*, 51.

⁶³ Ibid, 52.

marriage; therefore larger numbers of women were being forced to find their own economic independence in a constricting professional marketplace. Culturally and demographically, many women faced no other alternative but to turn to the sex trade. Other women, who had licit professions, lacked adequate customers or economic stability to live comfortably and turned to part-time prostitution to supplement their income. Though work openings may have been poor in England they were still better than many Continental locations, providing English women with the ability to practice prostitution on a casual basis. In effect, because of partial workplace availability and decreased moral stringency, English women did not have to rely on prostitution exclusively; therefore the regulative system was rarely instituted in English cities.⁶⁴

Primary Sources: Secular and Ecclesiastical

In examining the legal aspect of prostitution, the scholar faces the unfortunate fact that sources narrating laws and court presentments are not necessarily concurrent. London's secular legal enactments against prostitution survive mainly from the fourteenth century, while court presentments for sexual commerce survive largely from the fifteenth and sixteenth centuries. Therefore, after laws against prostitution became increasingly prohibitive in the fifteenth century, we see a larger number of recorded presentments for sexual offenses. This does not mean that sexual commerce cases were not brought before secular courts prior to the fifteenth century; in many cases the court records do not exist, or the accused were not convicted and therefore detailed records were not retained.

⁶⁴ Ibid, 53.

The larger number of secular court cases for sexual offenses in the fifteenth century may, in part, be due to Church courts relinquishing exclusive jurisdiction over morality.

Therefore, as ecclesiastical prosecution for sexual commerce fell, civic concerns and prosecutions increased.⁶⁵ Londoners wanted convictions for sexual offenses and began seeking justice within secular courts due to their “will to enforce sexual norms.”⁶⁶

Wunderli argues that those in London “were looking for stricter moral discipline and...were looking to secular authorities to provide that discipline.”⁶⁷

London court cases concerning sex trade, those egregious enough to be heard in high secular court, are mostly held within Guildhall Library, now part of the London Metropolitan Archives, and within the Corporation of London Records Office. The secular court cases presented within Chapter Two of this study are a large portion of those I have been able to uncover. Many more might exist and could be discovered through direct access to the aforementioned archives. The cases I was able to find either appear within larger compilations, namely the *Memorials of London and London Life* edited by H.T. Riley, or they were reproduced within various secondary sources. The lack of recorded cases concerning prostitution is most likely attributed to the secular and ecclesiastical courts’ difficulties in trying cases of sexual commerce. Wunderli attributes this difficulty to policing methods and the constant supply of participants, as well as Church toleration of prostitution.⁶⁸

⁶⁵ Richard Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, MA: The Medieval Academy of America, 1981), 96.

⁶⁶ Ibid, 102.

⁶⁷ Ibid.

⁶⁸ Ibid, 98.

Records of presentments for sexual offenses within ecclesiastical courts are sparse for the fourteenth-century as well. Wunderli, in his study of London Church Courts, only found records from the latter half of the fifteenth-century to the sixteenth-century.⁶⁹ Of the 7,247 recorded cases heard within the London commissary courts, 1471-1514, only 377 (5 percent) of cases related to prostitution. Of these 263 (70 percent) did not end with conviction, but instead the accused were either acquitted by compurgation, no citation was issued, or the case was dropped.⁷⁰ Only three presentments ended in excommunication and fifty-six ended in suspension. The direct number of presentments and conviction rates for secular court records of prostitution are unknown, but the rate of conviction may only have been slightly higher, if we keep the same causes that kept Church court convictions down the effect brings about the same result.

The only surviving legal account of prostitution within Southwark is a fifteenth-century customary. The customary provides an idea of how prostitution was regulated and how the manor court leet dealt with sexual commerce.⁷¹ The customary regulations for the Bishop of Winchester's manor in Southwark provide both the ecclesiastical and secular legal enactments against prostitution for the later Middle Ages.

Other records regarding the bishop's manor of Southwark produced within that liberty are now held within the Winchester Dioceses archives in the Hampshire Records

⁶⁹ Wunderli accounts for 377 cases of prostitution within London Church Courts for the years 1471-1472, 1484-1485, 1492-1493, 1497-1498, 1502-1503, 1512-1514. Wunderli, *London Church Courts*, 147; Ruth Mazo Karras, "The Latin Vocabulary of Illicit Sex in English Ecclesiastical Court Records," in *The Journal of Medieval Latin; a Publication of the North American Association of Medieval Latin* 2(1992):1-17.

⁷⁰ Wunderli, *London Church Courts*, 147.

⁷¹ Carlin, *Medieval Southwark*, 213.

Office.⁷² The only surviving Winchester court rolls for the Southwark manor courts exist from the sixteenth-century. Winchester Pipe Rolls, detailing the ownership of brothels and assize rents, are continuous from the fourteenth through the sixteenth-century. It is through these records that I have established the names of brothels, their average rents, and the customary regulations that were often broken. Sexual commerce cases from Southwark outside the bishop's manor only survive from the sixteenth-century. The earliest records from the Archbishop of Canterbury's Southwark manor date from 1504-1511, while the earliest court records from Guildable manor exist from 1539. Due to these limitations it is difficult to ascertain whether Southwark manors saw higher cases of sexual commerce than courts within London proper. In addition, it is impossible to determine whether customary regulations within the bishop's manor were broken in the fourteenth and fifteenth centuries as often as they were in the sixteenth century.

Regardless of the limitations set by primary source availability, it is evident that both the City of London and Southwark placed restrictions on prostitutes in efforts to impose male authority upon them. Contrary to the legalized brothel-systems that Otis argues for in *Prostitution in Medieval Society*, the prostitutes within the legalized stews of Southwark and those working clandestinely in the City of London faced strict commercial regulation and economic regulations. While the two English locations instituted divergent methods for controlling prostitution, they both effectively

⁷² Records pertaining to the Bishop's Southwark manor are found in the Winchester Bishopric Collection, The Winchester Bishopric Estate, 11 M59/E1* the archives were reconfigured in 2012-2013 and the collection pertaining to Southwark is now located within 11 M59/E2, <http://calm.hants.gov.uk/Records.aspx?src=CalmView.Catalog&id=59011&pos=40.htm>

marginalized the prostitute. She was placed upon the fringes of respectable society, and thoroughly exploited by civic authorities for either their abstract societal image or their economic gain. The attitudes towards prostitution seen throughout Greater London are best accounted for by Richard Wunderli's summation, that regardless of whether prostitution was promoted or prohibited, the prostitutes themselves were "scorned and segregated from society."⁷³ By examining the legal systems implemented in the City of London and Southwark, I pose that both common law and ecclesiastical law traditions aided in the marginalization of prostitutes.

In summation, the opposing methods of control implemented in London and Southwark were avenues for the marginalization and exploitation of the prostitute in an effort to produce an idealized image of their location. Further, both locations placed prostitutes under male authority through either laws or commercial regulations without a legal definition for her position. As told in Chaucer's *Maniciple's Tale*, many women were faced with the danger of being labeled as prostitutes and becoming a member of the marginalized.

⁷³ Wunderli, *London Church Courts*, 96.

CHAPTER TWO

LONDON AND PROSTITUTION

The precedent-based legal system known as common law that was implemented in England during the twelfth century was unique. The legal systems on the Continent were influenced by the resurgence in the study of Roman law traditions in universities and the Church's use of Roman law as precedent for their own jurisprudence. English secular courts resisted the Roman law resurgence. Instead, England's common law developed out of traditional customs of Anglo-Saxon jurisprudence and strong administrative government.¹ The reorganization of law that fostered the development of common law over the course of the Middle Ages allowed England's secular legal system to encompass all free people and develop differently than Continental countries that used Roman civil law as the basis for their secular judiciary systems.

Secular law within England held jurisdiction over economic, criminal, and political matters, while the ecclesiastical courts generally held jurisdiction over marriage, probates, and moral offenses.² These jurisdictional lines blurred in regards to prostitution and sexual commerce. This chapter will explore how the common law system was implemented in England's largest city, London, and how it interacted with local legal institutions that were particular to London. In essence, how did the unique and communal nature of London's borough law impact legislation, punishment, and secular

¹ See Alan Harding, *The Law Courts of Medieval England* (London: George Allen & Unwin Ltd, 1973) for the development of English law courts from the Anglo-Saxon period to the later Middle Ages.

² J.H. Baker, *An Introduction to English Legal History* (Oxford: Oxford University Press, 2005), 129.

court proceedings dealing with prostitution and prostitution-related crimes? Though the act of prostitution itself generally fell under the purview of ecclesiastical courts, the secular independent courts of London increasingly began to hear cases involving sexual commerce by the fourteenth-century.³ Prostitution had become a secular matter, as Londoners came to believe that women and men who practiced sexual commerce were committing secular as well as moral crimes. Secular authorities in London (including the mayor, sheriff, and ward alderman) adopted a progressively prohibitive stance on prostitution and sexual commerce, and the offense was increasingly tried in secular courts.

In order to explore laws and legal processes relating to prostitution in London, I will first examine London's specific municipal structure and analyze charters granted to the City of London, local officials, and their respective courts. Second, I will investigate the various statutes enacted against prostitution and sexual commerce. These laws developed over the later medieval period and took an increasingly prohibitive stance on the institution of sexual commerce. Third, the punishments enacted against those that broke the laws will be analyzed. Castigations, while not obviously physical, were meant to embarrass and harass common women. Further, the repercussions of these punishments will be evaluated. In conclusion, I will examine in depth two court cases and one interrogation, in which women (and men) were accused of prostitution-related crimes. I will extract the precedents of communal law found in these trials to conclude

³ John Bellamy, *Crime and Public Order in England in the Later Middle Ages* (London: Routledge & Kegan Paul Ltd, 1973), 13.

how the prohibitive stance against prostitution was enacted in London. I will prove that prostitutes in medieval London were marginalized through the increasingly prohibitive laws and by severe economic and public punishments.

Structure and Governance in the City of London

Part of the success of common law was due to the structure of English society and the early medieval division of land. Land division was re-organized and strengthened in the twelfth century to accommodate the existence of manorial and municipal local courts within the establishment of a national court system. These various local courts sprang from feudal lord courts and communal schemes. The legal landscape of England was divided into shires or counties.⁴ These constituted the largest administrative jurisdictions. Shires were subdivided into hundreds. The hundreds were accountable to the hundredman. Inhabitants of the hundred met monthly to handle community business, and met bi-yearly at the “view of frankpledge.”⁵ Frankpledge insured that all freemen had sworn to good behavior and criminal cases were adjudicated. Boroughs were a separate land division, similar to the hundred, but were restricted to areas of larger populations. The general assembly of the borough was the boroughmoot, which played a similar function to that of the view of frankpledge in the hundred.⁶

⁴ Baker, *English Legal History*, 7.

⁵ See W.A. Morris, *The Frankpledge System* (London: Longmans, Green, and Co., 1910) for in-depth analysis on views of frankpledge and the evolution of frankpledge from Anglo-Saxon to Anglo-Norman England.

⁶ Baker, *English Legal History*, 7.

The legal landscape of London, England's largest borough, took unique form, which allotted for the deviation in municipal structure and governance. The titles of land districts were different in London than elsewhere in England. London, as a whole, was incorporated into the larger shire of Middlesex. Middlesex held the position of what we would now call an administrative county. Today, it still incorporates a majority of greater London. London wards replaced the county hundreds, with their own general assembly—the wardmoot.⁷ Presided over and judged by the alderman, the wardmoot decided if cases were Crown pleas, summoned cases, and helped maintain public order.⁸ Wardmoots were held when deemed necessary, but at least one was held annually.⁹ The unique character of London districts derived from the size of the city, charters, liberties given to the burgesses of the city, and its importance as an epicenter of the monarchy.

As the king continued to centralize power through common law, land units were generally stripped of their autonomy as they were placed under the jurisdiction of agents of the king. The City of London was one of the only locations within England to retain its legal autonomy. Londoners wanted self-governance and turned to the king to achieve their goal which was granted in 1130 by Henry I.¹⁰ The city was allotted judicial privileges as long it adhered to the stipulations set forth in royal charters, did not commit egregious crimes against the Crown, and ensured law and order were upheld.¹¹ The

⁷ Ibid.

⁸ Caroline Barron, *London in the Later Middle Ages: Government and People 1200-1500* (Oxford: Oxford University Press, 2004), 139-140.

⁹ Ibid, 122.

¹⁰ Ibid, 34.

¹¹ Ibid, 35.

charters could be revoked if they broke one of the regulations or in times of war. The city was allowed to create their own laws (although royal, common law superseded), elect sheriffs, aldermen, and mayors, and to create their own distinct secular court system. London's autonomy came from the Charters of the City of London, going back to the liberties granted by Edward the Confessor during his reign, 1042-1066. These laws and customs were reconfirmed by William I (the Conqueror) upon his Norman conquest of England in 1066. Though the citizens knew the liberties for London existed, they wanted an affirmation from Henry I, which they received in 1130.¹²

Henry's charter did not recreate the existing liberties, but redefined particular liberties that were in question. The citizens of London received full liberty in all matters except taxation, which the King held for himself. Thus, the 1130 Charter of Henry I acknowledged the right of London citizens to elect the positions of sheriff and keeper of the pleas of the crown. It moreover determined that only elected men were allowed to judicially preside over the men of London.¹³ In addition, London's citizens were awarded the ability to plead their cases only within London's walls. Therefore, if they were charged with a crime outside of London, their case would be moved back to the city for pleading. Due to this liberty, many accused outside of London probably never saw trial.

¹² P. Meadows, ed., "The Charter of Henry I," in *A Source Book of London History from the Earliest Times to 1800* (London: G. Bell and Sons, Ltd, 1914), 8-30, Elfinspell.com/PrimarySource1130.html

¹³ Ibid.

The charter further stipulated when the mercantile courts would be held. The Hustings, the London development of the Shiremoots, would develop into the London merchant court. The 1130 Charter stipulated that “...there shall be no more miskenning in the husting, nor in the folkmote, nor in any other pleas within the city, and the hustings may sit once a week, that is to say on Monday...”¹⁴ Henry’s stipulation of when the Hustings was allowed to meet necessitated the development of the Mayor’s court, since Mayor’s court would hear cases that could not wait for the weekly Hustings.¹⁵ Henry encouraged the City of London to grow and become prosperous. The prosperity of the city would encourage commerce and, in return, increase tax revenue for the Crown.

London’s royal charter was reconfirmed by succeeding kings. Richard I issued his own charter to the City of London in 1193, which confirmed the liberties of London that “they had in the Time of king Henry, grandfather to Henry our father...”¹⁶ Richard enshrined the meeting time of the Hustings, the moral character of city officials, and special legal privileges held by Londoners set forth in previous charters.

The liberties of London were an issue for those whose agitation led to the invocation of Magna Carta. The abuses of the Crown during the reigns of Richard and John forced the barons and other vested interests to call for a royal affirmation of their legal rights and ensure that the king stayed true to promises and charters. The barons wanted assurances for the safety of their persons, land, and wealth against the arbitrary

¹⁴ Ibid.

¹⁵ See pages 39-40 for the evolution of the Hustings and Mayor’s Court.

¹⁶ John Noorthouck, *A New History of London Including Westminster and Southwark* (London: R Baldwin, 1773), 773-779, <http://www.british-history.ac.uk/no-series/new-history-london>.

whims of the king.¹⁷ London merchants wanted to protect their liberties, which they achieved. Indeed, Magna Carta stated that, “The city of London shall enjoy all its ancient liberties and free customs, both by land and by water.”¹⁸ Magna Carta also ensured that, “we will appoint as justices, constables, sheriffs, and other officials, only men that know the law of the realm and are minded to keep it well.”¹⁹ The latter confirmation attempted to ensure that the king could not appoint men to positions of power who held no true knowledge of the law, thereby ensuring that all men were judged equally.

The need to reaffirm the liberties of London was expressed again during the reign of Henry III, 1216-1272. It was paramount for Londoners and Englishmen to ensure that the new king reissue and reinstate Magna Carta before Henry could manipulate royal powers for himself.²⁰ Accordingly, the Charters of Henry III are some of the first granting liberties to the City of London after the official establishment of a judiciary system that extended across England under Plantagenet King Henry II. Evidence of the growing power and structure of common law are apparent in many of Henry III's Charters to the City of London, confirmed in 1225 at the reinstatement of Magna Carta by Parliament. Henry granted five charters to the City of London in exchange for fifteen percent of their collective wealth.²¹

¹⁷ Nigel Saul, ed., *The Oxford Illustrated History of Medieval England* (Oxford: Oxford University Press, 1997), 99.

¹⁸ Runnymede, trans., *Magna Carta* (British Library, 1215), Cotton MS Augustus ii.106, <http://bl.uk/collection-items/magna-carta-1215>.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Noorthouck, *A New History of London*, 43.

The first charter allowed the citizens of London to elect a sheriff. This charter goes into greater detail than that of Henry I. It outlines exactly where the sheriff's jurisdiction would lie and, for the first time, instructed the elected sheriff to present himself to the Exchequer twice a year with the money obtained from his duties.

Know ye, that we have granted, and by these presents do grant and confirm, unto the citizens of London, the sheriffwick of London and Middlesex, with all the customs and things to the same sheriffwick belongings, within the city and without, by land and by water...at two times a year, that is to say, at Easter exchequer, one hundred and fifty pounds; and at Michaelmas exchequer.²²

In this passage the King confirmed the customs that dictated the duties and privileges of the sheriff. These traditional customs were incorporated with the newly established branches of government, in which the sheriff presented himself to the Exchequer and provided the Crown with revenue. The Charter further granted the citizens the ability to dictate the length of office for the Sheriff, so long as he presented himself to the Exchequer and answered questions posed to him by the Crown's offices. The Charter thus incorporated long-standing custom and borough law with new foundations for a judicial system under monarchical control. The Charter even accounted for corrupt sheriffs; if the sheriff was to be found guilty of crime, it promised that he would be judged by the office of the Exchequer.²³

In the following charter Henry granted the barons of London the ability to elect the Mayor of London. London, as a municipal powerhouse, was allotted the governmental position of mayor, an officer who supervised the administration of the city.

²² Ibid, 779-784.

²³ Ibid.

The election of mayor was reserved for “barons,” or respectable London merchants, at an annual meeting.²⁴ Because mayoral duty was complex and it necessitated a learned man who could adequately conduct the administration of such a large city, such a candidate would be best known and elected from those merchants who were seen as respectable in the eyes of the London citizenry. Much like the sheriff, the mayor was to be elected annually on 13 October, but the barons retained the right to either continue the existing mayor’s post or elect anew.²⁵ The Charter explicitly stipulated that the elected mayor be faithful to the Crown, “who may be to us faithful, discreet, and fit for the government of the city...he may be presented unto us, or our justices.”²⁶ Ensuring that the elected official proved faithful to the Crown was made necessary after the revolts of the masses and barons in preceding years and was an update to the 1215 stipulation that officials would be men learned in the law of the realm. The mayor held the highest civic position within medieval London; Caroline Barron likens his position to that of a king “with many of the powers and some of the prestige of that office.”²⁷ Londoners were given authority to choose their own mayor, but the person chosen had to be an alderman and someone who had previously served as sheriff, which allowed him to practice governance.²⁸ The mayor’s overall responsibility to the City of London and to the kings was to ensure peace.

²⁴ Barron, *London in the Later Middle Ages*, 148.

²⁵ *Ibid*, 147.

²⁶ Noorthouck, *A New History of London*, 779-784.

²⁷ Barron, *London in the Later Middle Ages*, 147.

²⁸ *Ibid*, 147.

Further he ensured that trade followed civic ordinances, he oversaw all civic officials, played the role of judge, and a leading role in all civic and religious rituals.²⁹

The requirement to pay homage to the Crown was added in Henry's charter of 1265.³⁰ The Charter remitted the payment of twenty-thousand marks to the citizens of London, who had paid the amount for their crimes committed against the crown (due to their support and participation in Simon de Montfort's efforts in the Second Barons' War). The Charter reinstated all the previous liberties that had been allotted to the City of London and simultaneously showed the power of the central government and national judicial system. While London was seemingly allowed autonomy, it could be revoked and stripped according to the interests of the King, especially during times of war. Therefore, it was in the best interests of Londoners to abide by the restrictions set forth in Charters: citizens should behave amiably to the Crown, and elected officials should pledge fealty to the Crown. If Londoners were able to abide by these stipulations, then they would have the authority and royal confirmation to govern the city as they pleased; assigning them the ability to create their own laws concerning municipal matters and continued control over the secular courts of London.

Three main municipal, secular courts operated in the City of London during the Middle Ages. Each particular court had its own function, administration, and jurisdiction. The Hustings, as previously mentioned, developed out of the municipal folkmoot and frankpledge system. This court dated back at least to the twelfth century

²⁹ Ibid, 153.

³⁰ Noorthouck, *A New History of London*, 55.

because it was mentioned in Henry I's Charter to the City of London in 1130. The Hustings heard all types of pleas (cases) except those designated as pleas of the crown.³¹ In later medieval London, the Hustings would grow into the court that dealt with merchants, land, and rent issues. The court proceedings were to be held once a week, usually on Monday. If the proceedings could not be decided in one day then the Hustings was allowed to meet the following morning.³² The Hustings became the court of record and the premier judicial court within London, and the keeping of records became increasingly serious as the number of presentments grew.³³

The Mayor's court developed during the thirteenth century, later than the Hustings or Sheriff's court, but it quickly grew in importance. Pleas that were usually heard in the Hustings but which could not wait for the following week necessitated a separate court that met on a more regular basis. The Mayor's court specialized in rapid judgement, and records indicated that some cases were handled within one day.³⁴ Due to the wide variety of cases heard at the Hustings, the Mayor's court dealt solely in cases dealing with commercial debts, broken contracts, suits between citizens, equity, and disturbances of the peace.³⁵

³¹ Barron, *London in the Later Middle Ages*, 128; Suzanne Meade, "Medieval Prostitution in Secular Law: The Sex Trade in Medieval London, Paris and Toulouse" (MA thesis, McMaster University, 2001). Pleas of the Crown are the pleas or actions of which the crown claimed exclusive jurisdiction, as opposed to Common Pleas which constituted all suits in which the king had no interest. Baker, *English Legal History*, 38.

³² For the appointment of the day see Meadows, "The Charter of Henry I". For the continuation of proceedings see Noorthouck, "Appendix", Charter XX.

³³ Barron, *London in the Later Middle Ages*, 128.

³⁴ Ibid, 154.

³⁵ Ibid.

The Sheriff's court was one of the busiest municipal courts in London. This court was based upon the function that the sheriff played within the city as both a royal agent and civic official. Court Sessions were held twice a week at either the Counters (specialized prisons) or Guildhall (the seat of the Mayor and borough law).³⁶ It was the sheriff's responsibility to bring indicted men/women to court or trial, empanel the jury, and carry out the verdict.³⁷ Due to the immense responsibility of the sheriff, his tenure, background, and role were limited through the aforementioned royal charters. The position of sheriff was unpaid; therefore he had to have income from another source during his tenure.³⁸ This ensured that the sheriff be of a higher tier of society, one in which income was not an issue. Generally, sheriffs were elected from the ranks of knights or esquires under the influence or protection of a noble.³⁹ John Bellamy has theorized that the sheriff's gentrified background would positively affect his diligence and principle when carrying out his duties. In more general terms, "a member of the gentry became sheriff because the office gave status to the holder and was a recognized stage in the local *curus honorum*."⁴⁰ Regardless of background, tenure as sheriff was typically limited to one year in an effort to curb local power. This precedent was set by Henry II and further stipulated by succeeding kings. The fourteenth century saw the

³⁶ Ibid, 161-163. See page 56 for an analysis of the London Counters.

³⁷ Ibid, 161.

³⁸ Bellamy, *Crime and Public Order*, 13.

³⁹ Ibid, 93.

⁴⁰ Ibid.

establishment of the concrete one year appointment.⁴¹ The sheriff stood at the head of his court and dealt with minor city law cases and city law infractions.⁴²

Prostitution and the Legal Process

It was the mayor's secular court that heard the most egregious cases of prostitution in medieval London. Prostitution, as a municipal matter, fell under the jurisdiction of first the ward alderman and then the mayor. Shannon McSheffrey argues that since the thirteenth century, authorities in particular London wards believed the criminal acts of prostitutes, fornicators, bawds, and adulterers to be under their secular jurisdiction.⁴³ Women and men accused of sexual commerce were apprehended by the constable and brought to either of the London Counters.⁴⁴ From there the accused was either sent to ecclesiastical courts while others faced an inquest by the wardmoot. It was then up to the "inquest" of the wardmoot on whether to present the case to the mayor's court in Guildhall.⁴⁵ The written presentments of the mayor's court are labeled as the "borough court" but they do typically indicate in which ward the offense and "inquest" were originally handled. From surviving inquest presentments it can be inferred that arrests for sexual commerce were ample, but that many of those arrested were not presented to the mayor at Guildhall.⁴⁶ Cases that could be handled by the wardmoot or that were directed

⁴¹ Ibid, 13.

⁴² Meade, "Medieval Prostitution in Secular Law," 85

⁴³ Shannon McSheffrey, *Middle Ages Series: Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia: University of Pennsylvania Press, 2006), 158.

⁴⁴ The constable was responsible for the arrest of accused persons and then ensured the culprit was imprisoned to await collection by either the sheriff or bailiff. Bellamy, *Crime and Public Order*, 93.

⁴⁵ McSheffrey, *Marriage, Sex, and Civic Culture*, 158-159.

⁴⁶ Ibid, 159.

to the London ecclesiastical courts could account for the lack of written presentments to Guildhall.

The majority of London sexual offense cases were heard within the ecclesiastical courts of the London bishop or in the various courts of the London archdeacons.⁴⁷ The most common cases heard within London ecclesiastical courts were for adultery, fornication, and defamation.⁴⁸ Due to a lack of policing methods and the perpetual existence of prostitutes within the city, Church courts found it difficult to prosecute prostitution cases. Of Richard Wunderli's 377 cases of prostitution heard within the bishop's consistory court, for the years 1471-1514, approximately seventy percent of cases did not see conviction and therefore no punishment, either economic or spiritual.⁴⁹ Wunderli's text includes an excerpt from the case of Joan Lynton who was brought to consistory court after being apprehended by a city constable. Upon arrival in court, Joan was able to use compurgation to purge herself successfully and her case was dismissed.⁵⁰ The use of compurgation and subsequent dismissal of cases, like that of Joan, were common in London ecclesiastical courts and "pointed to a need by secular authorities to prosecute prostitutes in their own courts."⁵¹ The inability of Church courts to litigate sexual offenses and their insistence on issuing fines and spiritual penance for charges prompted Londoners to lose confidence in ecclesiastical courts. They increasingly turn to

⁴⁷ See Chapter 3 for an analysis of ecclesiastical land jurisdiction, types of courts, and adjudication of sexual offenses.

⁴⁸ Richard Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, MA: The Medieval Academy of America Press, 1981), 84-103.

⁴⁹ Ibid, 147.

⁵⁰ Ibid, 101.

⁵¹ Ibid.

secular courts, authorities, and laws to punish and eradicate the practices of sexual commerce.⁵²

As Londoners were looking for stricter moral controls over sexual offenses, they began to look toward secular authorities to provide moral discipline.⁵³ Therefore, a council of alderman along with the mayor, and to an extent the sheriff, increasingly became responsible for creating laws, ordinances, and punishments for sexual offenses within London, in an effort to maintain public order and thereby safeguard their legal autonomy.⁵⁴ Administrators in London took a progressively prohibitive stance against prostitution and sexual commerce. Officials actively attempted to distinguish, limit, confine, and remove those involved in sexual commerce, placing them under male authority and codifying their place in society. The reason for a prohibitive stance may have stemmed from an effort to keep the city of London free of indecency. As the metropole of medieval life, law, and royal authority, the city attracted vast numbers of foreigners, dignitaries, and travelers. Removing salacious behavior and people would make the city of London outwardly more attractive and promulgated a moral atmosphere in the royal city. London administrators may also have been actively attempting to place the burden of responsibility onto other locations through expulsion, rooting out clandestine prostitutes, and the closure of brothels and stew houses. These sentiments

⁵² Ibid, 101-102; L.R. Poos, "Sex, Lies, and the Church Courts of Pre-Reformation England," in *The Journal of Interdisciplinary History* 25:4(1995), 587, <http://jstor.org/stable/205771>.

⁵³ Wunderli, *London Church Courts*, 102.

⁵⁴ Barron, *London in the Later Middle Ages*, 35. Essentially the alderman acted as the representative of the king and shire leader; in London the alderman took on the function of ward leader. It was his duty to preside over municipal law courts and wardmoots.

and actions along with the progressively prohibitive stance toward sexual commerce can be determined through the various laws and ordinances established by administrative officials during the later Middle Ages. These laws must be seen in degrees of toleration, beginning with sumptuary regulations and developing further to confront the growing problem of prostitution and the need to prohibit the actions and movements of common women.

The least harsh and most widespread laws enacted against common women were sumptuary laws. These laws dictated clothing options for prostitutes. Sumptuary regulations were originally established to force women to dress according to their rank in society, but developed into protecting chaste women from being identified as common whores.⁵⁵ In the medieval period, before London instituted actions to eradicate, sumptuary laws also secured the protection of esteemed women from being accosted by men in the streets. It was thought that men would focus their attentions on women who bore the prostitutes' insignia, therefore leaving maidens and married women unmolested. Karras hypothesizes that in the fourteenth and fifteenth centuries sumptuary laws were implemented to prohibit the dressing styles of prostitutes for fear that honest women might want to imitate their fashion.⁵⁶ In actuality, sumptuary laws allowed for the harassment of women who wore the materials or insignia of the whore. These laws not only allowed for the easy identification of common women, but ensured that women of

⁵⁵ Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval England* (Oxford: Oxford University Press 1996), 20.

⁵⁶ *Ibid*, 21.

ill-repute would be treated as such and be the subject of ridicule, embarrassment, and humiliation.⁵⁷

The ordinance for sumptuary regulation was established in 1351 and ordered by the Mayor, Sheriffs, and Aldermen of the City of London.⁵⁸ The city administration recounted that common women being located in the city were found wearing the vestments of respectable women including:

any kind of vesture trimmed with fur, such as meneyver, grey, purree, of stranyng...or any other noble lining...but let every such common lewd woman...go openly with a hood of cloth of ray, single, and with vestments neither trimmed in fur not yet lined with lining, and without any manner of relief; that so all folks, natives and strangers, may have knowledge of what rank they are⁵⁹

This ordinance forbade common women from wearing hoods made of expensive materials or lined with extravagant materials, including furs and silks. Hoods were an important aspect of medieval apparel; they protected women from elements and were a fashion piece. Moreover, materials denoted station. Religiously, head coverings were a sign of morality. Indeed, the Church felt that loose hair was immoral and required that women wear hoods or head coverings in efforts to remove temptation.⁶⁰ The regulation

⁵⁷ Ibid, 22.

⁵⁸ These sumptuary laws were recorded in two books. John Carpenter and Richard Whiting, *Liber Albus: The White Book of the City of London*, trans. H.T. Riley (London: Richard Griffin and Co., 1861), 247. <http://archive.org/details/liberabluswhite00rilegoog> and Henry Thomas Riley M.A., *Memorials of London and London Life in the XIIIth, XIVth, and XVth Centuries. Being a Series of Extracts, Local, Social, and Political from the Early Archives of the City of London. A.D. 1276-1419*, trans. H.T. Riley (London: Longmans, Green, London, 1868), 226-229. Found in Letter-Book F. fol.ccviii. <http://www.british-history.ac.uk/no-series.memorials-london-life>. Both documents are extracts from fol.208 within city archives.

⁵⁹ Riley, *Memorials of London and London Life*, 226-229. Letter-Book F. fol. ccviii. John Carpenter, *Liber Albus*, 247.

⁶⁰ Victoria Sherrow, *Encyclopedia of Hair: A Cultural History* (Westport, CT: Greenwood Press, 2006), 327.

does allow for common women to wear hoods lined with inexpensive fur during the winter months—notably before the Feast of St. Hilary, January 13th.⁶¹ Therefore, women were allowed to wear hoods and coats during colder months, but must discard them after January when the weather warmed on pain of the forfeiture of their clothes and possible imprisonment. While this stipulation did provide some safety from extreme weather, the removal of furs in January still left common women open to the elements for a lengthy period of time. It may be that city officials were attempting to draw women out of the profession by leaving them exposed to the elements and jeopardizing their health. Further sumptuary regulations were passed in 1382 stipulating that common women “should have and use hoods of striped cloth only, and should not wear any manner of budge, ‘perreie’, or ‘revers’”.⁶² This ordinance allowed for the common woman to be easily distinguished due to her hood material and decorations, further marginalizing her in society.

While the 1351 stipulations tolerated the existence of prostitutes, to a degree, succeeding ordinances, like that in 1382, established firmer rules that used the stripped hood marker to root out clandestine prostitutes. It is possible that clandestine prostitutes, or part-timers, did not abide by these regulations and continued to practice in secret. In addition, the 1351 and 1382 sumptuary laws were broad and sweeping in rhetoric, saying that these regulations applied to “all common harlots, and all women commonly reputed

⁶¹ Riley, *Memorials of London*, 226-229, Letter-Book F. fol. ccviii.

⁶² Emilie Amt, ed., *Women's Lives in Medieval Europe: A Sourcebook* (London: Routledge, 2010), 211. Translation in Riley, *Memorials of London*, 455-476, Letter-Book H. fol. cxliii. “Budge” was lamb skin, “perrie/perree” was precious stones, and “revers” were decoration or ‘facings’. Terms found within the *Anglo-Norman Dictionary*, www.anglo-norman.net/cgi-bin/form-s1.

as such.”⁶³ This allowed for officials to place restrictions upon any women they deemed were sexually devious or participated in sexual commerce, even if the only evidence against the women was gossip or defamation, allowing any woman regardless of station to potentially be labeled as such. Together, these ordinances allowed for the harassment, embarrassment, and restriction of common women.

In 1353 the City of London also issued an ordinance against night time walking, most likely aimed at prostitutes, their customers, bawd/procurers, and vagabonds.⁶⁴ The 1353 ordinance stipulated “that no one, on pain of imprisonment, shall be so daring as to go wandering about the City, or the suburb thereof, after the hour of curfew rung...unless he be a man of the City of good repute, or the servant of such.”⁶⁵ This ordinance removed, or attempted to remove, vagabonds from the streets.⁶⁶ It was thought that if prostitutes could not practice their trade under the secrecy of night then sexual commerce could be hindered. In addition, the ordinance against night walking aimed to protect women and pedestrians from abuse or attack. Ultimately the ordinance attempted to eradicate what Frank Rexroth denotes as the “nocturnal underworld,” a place where

⁶³ Ibid.

⁶⁴ The original Anglo-Norman French ordinance can be found in, *Munimenta Gildhallae Londoniensis: liber albus, liber custumarum, et liber horn. Vol. 1*/ed. Editor Henry Thomas Riley (Longman, Brown, and Green, 1862), 275. <http://gallica.bnf.fr/ark:/12148/bpt6k501604/f413.item>. The ordinance was originally entitled “De Wakerantz par Noet.” The Anglo-Norman verb for “to walk around” is wakerer, and ‘noet’ translates to night.

⁶⁵ Riley, *Memorials of London*, 270-273. Letter-Book G. fol. x.

⁶⁶ Frank Rexroth, *Deviance and Power in Late Medieval London*, trans. Pamela Selwyn (Cambridge: Cambridge University Press, 2007), 53.

vagabonds, brothel-keepers, and prostitutes thrived in the imaginations of London's civic government and officials.⁶⁷

The first truly prohibitive regulation that specifically addressed prostitution came in 1393. This ordinance restricted any woman accused of being a common harlot, and practicing sexual commerce, to two areas, "the Stews of the other side of the Thames, and Cokkeslane..."⁶⁸ This ordinance was enacted by order of the Mayor and Alderman and strikingly on "behalf our lord king."⁶⁹ The mention of the king sheds light on the theory that London officials wanted the Royal City to present a façade of morality and decency. Forcing the prostitutes to practice their trade in only one location within the confines of London placed them out of the sight of dignitaries, foreigners, and the nobility that frequented the city.⁷⁰ Cokkeslane was located in the Smithfield ward, northwest of the city center. Its name suggested the occupation of those that were confined to the area. The practice of prostitution remained illegal within London proper, but was tolerated to an extent within Cokkeslane. This ordinance enforced the prohibitive stance on prostitution within the main axes of the city. Forcing prostitutes into confined "red-light" districts segregated them from society and was a further codification of their position.⁷¹ Women found practicing outside the district of Cokkeslane were subject to harsh punishments (as discussed below).

⁶⁷ Ibid, 53.

⁶⁸ Riley, *Memorials of London*, 531-535. Letter-Book H. fol. cclxxxvii.

⁶⁹ Ibid.

⁷⁰ The Stews were located in the Bishop of Winchester's Liberty located in Southwark. The Stews and the toleration of prostitution will be the focus of Chapter 3.

⁷¹ Phil Hubbard, "Sexuality, Immorality, and the City: Red-Light Districts and the Marginalization of Female Street Prostitutes," in *Gender, Place, and Culture* 5.1(April 2008), 59.

In the early fifteenth century the City of London began to actively engage in a prohibitive program against prostitution. The Common Council enacted an ordinance calling for the abolition of all stews within the boundaries of London. In April of 1417 the men of the Common Council and Londoners formulated the law that allotted for the abolition of stews.

[They] did ordain and establish, for ever to hold good, that no man or woman in the City of London, or in the suburbs thereof, should from thenceforth keep any stews within the City of London, or in the suburbs thereof, for lodging therein any men or women by day or by night, on pain of paying five pounds to the Chamber, every time that any one should be convicted of doing to the contrary thereof; and further, of being punished, and of making fine, at the discretion of the Mayor and Alderman.⁷²

They also promulgated a second, complimentary, ordinance prohibiting citizens from receiving or keeping in their houses persons that “carry on the illicit works of their carnal appetites...do suffer them there to waste the said goods and chattels upon the heinous sins aforesaid, and other the most abominable deeds that one may think of or devise.”⁷³

Both of these ordinances explicitly forbade the establishment and continuation of stews and forbade Londoners from keeping “evil” women in their homes. The brothels attracted ruffians and were the hotbed of violent behavior. Therefore it was “necessary to proceed against the men and women who functioned as the centres of these groups.”⁷⁴

Removing the locations of criminal and violent behavior was seen as the most effective method of eradicating not only sexual commerce but violent behavior as well. These

⁷² Riley, *Memorials of London*, 644-660. Letter-Book I. fol. cxcii. Ordinance for the abolition of stews.

⁷³ Riley, *Memorials of London*, 644-660. Letter-Book I fol. cxciv. For the harboring of person of vicious life

⁷⁴ Rexroth, *Deviance and Power*, 53.

ordinances revealed the full force of the London prohibitive policy. Their attempts at semi-toleration were not effective and therefore more decisive actions were necessary.

Perhaps more importantly, the wording of the ordinances indicates that these actions were supported by the commoners of London, not just the officials. The issue of prostitution plagued commoners, as much as it bothered elites. The wording of the ordinances reveals why Londoners believed prostitution had become such a major issue within the city. The first ordinance recounted the various public safety complications that arose from stews:

Whereas heretofore many grievances, abominations, damages, disturbances, murders, homicides, larcenies, and other common nuisances, have oftentimes ensued and befallen in the City of London...by reason and cause of the common resort, harbouring, and sojourning, which lewd men and women, of bad and evil, have in stews belonging to men and women in the City and suburbs aforesaid.⁷⁵

Stews and houses of prostitution lent themselves to other vices: those who frequented the stews were often complicit in other crimes. If the officials and commoners could remove the stews, then theoretically they could remove the incitement to commit other crimes. This would leave the courts and officials open to try more cases, and would also provide stability and safety to commoners and merchants who lived or worked around these areas. It furthered provided security to London's legal autonomy. It was generally acknowledged that the king would revoke the charters if the city descended to anarchy and rampant public disorder.⁷⁶

⁷⁵ Riley, *Memorials of London*, 644-660. Letter-Book I. fol. cxci.

⁷⁶ Barron, *London in the Later Middle Ages*, 35.

Another rationale for the attempt to eradicate prostitution was the concern about the indecency of sexual commerce. Londoners wanted to promulgate a sense of morality and decency, as previously mentioned. This reasoning is present within both ordinances. They both call for abolition of prostitution due to the fact that the profession and those who practice it were acting in the displeasure of God and that it was not morally correct.

drawn and enticed thereto; and there they, as well as other persons, both regular and secular, are permitted to do and carry on the illicit works of their lewd flesh, to the great abomination and displeasure of God, and to the great dishonour and damage of all the City...”⁷⁷ and “...to the very great and abominating displeasure of God, and to the horrible damage and scandal of all the said city.”⁷⁸

Both ordinances claim that the actions of prostitutes and stew-owners was against God and would bring ruin and shame to London. As the city grew in importance and the number of foreign visitors rose it was necessary to show London as a bulwark of Christianity, economic stability, and thriving urban life.

The evolution of prostitution laws in London provide evidence for the movement away from toleration to a firm prohibitive stance. Officials’ attempts to label prostitutes and to curb their availability were not effective. Prostitution continued to overwhelm the city; therefore it became necessary to confine them to particular locations on the outskirts of the heart of the city, Cokkeslane and Southwark. Still, prostitution flourished and brought with it more crime, clogged courts, and it dragged London’s reputation down. It became necessary, not only for legal officials but the commons as well, to stamp out widespread prostitution. In doing so, Londoners and officials were able to promote a safe

⁷⁷ Riley, Memorials of London, 644-660, Letter-Book I. fol. cxci.

⁷⁸ Ibid, 644-660. Letter-Book I. fol. cxci.

and conservative vision of London. Therefore, the keeping of stews, brothels, and practicing prostitution became a substantial crime. Those accused of these actions risked losing their respectable reputations and faced increasingly harsher punishments.

Punishment

Just as several laws and ordinances were geared toward those involved in sexual commerce so, too, were various punishments. The range of punishments varied according to the severity of the case, the number of times the person(s) had been accused, the type of trial, and the general will of the judge. Nuisance cases, centered on defamation or public accusation of immoral behavior, received punishments of fining, but ultimately led to a damning of the defendant's reputation and the possibility for harsher punishments for future accusation of sexual deviancy.⁷⁹ Those accused of being common whores and those accused of bawdry or procuring faced fines that were often combined with physical, emotional, and/or public punishment.

Fining was the most common punishment meted out to those found guilty of sexual commerce or in defamation cases. The insistence on paying fines, especially during the period of semi-toleration, allowed for officials to profit from prostitution while claiming to promote morality. Another aim of fining was to hinder the proliferation of prostitution; some immorality could be tolerated but not an abundance. Those that could afford fines usually continued to practice while filling the coffers of the city. Those that

⁷⁹ Natalie Ciecieznksi, "Defining a community: Controlling nuisance in late-medieval London" (MA thesis, University of South Florida, 2009), 57-58. <http://scholarcommons.usf.edu/etd/1902>.

could not pay typically faced another form of punishment or, in the interests of the city, fled or left the sex trade. The payment of fines for sexually devious behavior dated back to the laws of Athelberht and early Anglo-Saxon kings; fines were a typical method of repayment for injury in communal law. Those who were found guilty of sexual commerce had injured the city and therefore had to pay retribution.⁸⁰

The amount paid in fines ranged widely. There was no pre-determined amount paid, the price varied per individual case. Those that could pay more typically did, whereas those who could not pay high fines usually paid a lesser amount. The fine also fluctuated according to which vice was committed: bawdy, common whoredom accusations, and procuring were all afforded their own typical amounts.⁸¹ Fines for bawdry ranged between sixpence to twenty pence. Charges of adultery saw fines from forty pence to six shillings eightpence. Those charged as common whores were charged some of the highest rates starting at forty pence, though poor women were charged approximately threepence.⁸² In comparison, general women laborers, those that would most likely supplement their income with prostitution, made approximately fourpence per day. After the plague a bushel of wheat would cost, at its lowest, eightpence.⁸³ The prices set for fines were astronomical for the medieval woman to pay on her own. Therefore, women who were active and regular participants in sexual commerce did so

⁸⁰ See Conor McCarthy, ed., *Love, Sex, and Marriage in the Middle Ages A Sourcebook* (London: Routledge, 2004) for laws and ordinances pertaining to sexual offenses of early medieval English kings.

⁸¹ Karras, *Common Women*, 68.

⁸² Ibid.

⁸³ www.medievalcoingage.com/prices/medievalprices.htm, pulled from J Schonhof, *A History of Money and Prices* (New York: G.P. Putnam, 1897) and E.T. Rogers, *History of Agriculture and Prices in England* (Oxford: Clarendon Press, 1866).

because the economic benefit outweighed the damages, or they had wealthy pimps who could support the cost of the fines. The early reliance on fines mirrored the fining of commercial enterprises. Those who broke commercial assize regulations were subject to similar fines, albeit at a lower cost. The fines could be seen as punishments of women who refused to quit the sex trade, but more appropriately as licensing fees. The continued presence of the same offenders prior to 1417 and the manner of recording cases lends itself to the latter.⁸⁴

After the establishment of prohibitive laws in the latter half of the fourteenth-century, fines were most often combined with physical punishment. The combination of physical with economic punishment highlights the end of the ideal of licensed toleration in London and reveals the focus on eradicating prostitution completely. Contrary to popular belief, physical punishment in the Middle Ages did not usually entail dismemberment or death.⁸⁵ Instead, physical punishment should be seen as something that happened corporally instead of economically. The lightest of the physical punishments for sexual commerce was imprisonment. The *Liber Albus* denotes that all those accused of bawdry, whoredom, and whoremongering were “to be taken and carried to prison, there to remain until they shall be cleared by Inquisition, or confronted [?], or otherwise attainted...”⁸⁶ It was then up to the judge, officials, and juries presiding over the case to decide whether to inflict further punishment (physical or economic) or

⁸⁴ Karras, *Common Women*, 22. See Chapter 3 for the evolution and comparison of fining as licensing fees in London and Southwark.

⁸⁵ Bellamy, *Crime and Public Order*, 182

⁸⁶ Carpenter, *Liber Albus*, 394.

continue the defendant's prison sentence, which ultimately allowed for the borough to profit from the prohibition of prostitution.⁸⁷

London was the only location in medieval England where prisons, or gaols, were specialized. The judicial needs of the city necessitated numerous gaols, and therefore they could be specialized for particular crimes. The two largest prisons in London were Newgate and Fleet prison. In the later Middle Ages Newgate became known for housing those accused and convicted of crimes the king took interest in. Fleet prison was the gaol of the Exchequer and Court of Common Pleas. This location quickly became known as the debtors' prison.⁸⁸ The Tower of London was used for the imprisonment of foreign dignitaries and those suspected of treason against the Crown.⁸⁹ There were four gaols that most likely incarcerated those accused of sexual commerce. Ludgate gaol was constructed in 1380 and was used for London freemen. Those incarcerated in this location were accused of modest crimes. There were two Counters (locations used by the Sheriff to hold those accused before trial) in Cheapside and Poultry.⁹⁰ These locations may just have been for holding prisoners before trial or used as overflow when the other London gaols became overcrowded. The Counters held prostitutes who were awaiting the decision of whether they would be sent to ecclesiastical court or go before the

⁸⁷ Barron, *London in the Later Middle Ages*, 167. Those held in prison were charged for prison upkeep. Those held in the Counters were charged 4d. to 12d. a week.

⁸⁸ Bellamy, *Crime and Public Order*, 168.

⁸⁹ Ibid, 169.

⁹⁰ Barron, *London in the Later Middle Ages*, 167. The Counters were also known as Sheriff's prisons.

wardmoot.⁹¹ The gaol in Cheapside would likely have held prostitutes due to the location's use in other punishments related to prostitution.

There was one prison known to have definitely held prostitutes and their customers on a more regular basis. The Tun was a temporary prison for those who violated the curfew that was enacted in 1353.⁹² The Tun was located on Cornhill, which placed it within close vicinity of the Poultry Counter and Lombard St.⁹³ These locations lend credibility to the notion that prisoners were awaiting trial for sexual commerce. Those who were sentenced to longer imprisonment would most likely move to one of the permanent gaols—likely Ludgate because it was specific to Londoners—but they could have been detained in either Newgate or Fleet prison.

While some accused of sexual commerce received only imprisonment, most faced further physical punishments. These punishments were conservative in nature and were focused on “the greatest amount of embarrassment and public ridicule.”⁹⁴ The goal was to warn the citizens of the illicit practice and discourage the perpetuation of the crime. The punishment for those accused of whoredom, whoremongering, and bawdry are outlined in the *Liber Albus* in great detail. The punishment for a whoremonger or male bawd was to have his head and beard shaved, save two inches of fringe, and to sit upon the pillory with minstrels proclaiming their misdeed for a time allocated by the Mayor

⁹¹ McSheffrey, *Marriage, Sex, and Civic Culture*, 158.

⁹² Ibid.

⁹³ Lombardy women were characterized as overly sexual, a typical stigma against foreigners. Lombards were frequently labeled in presentments as bawds, clients, prostitutes, and whores. See Karras, *Common Women*, 61, 63, 73-74.

⁹⁴ Bellamy, *Crime and Public Order*, 183.

and Alderman. The pillory (or the thewe, specifically for females) was a device that forced the guilty party to be bent over with their hands through slots; the device was then locked into place. The position of the body when in the pillory would have been highly uncomfortable, and there were records of prolonged pillory time leading to death.⁹⁵ While most accused of sexual commerce would not have experienced death due to their pillory/thewe exposure, the punishment brought extreme humiliation and most probably physical discomfort. Men who were accused a second and third time were subject to the same punishment with the addition of imprisonment and eventual banishment from the city.⁹⁶

Women accused of whoredom, harlotry, or bawdry, on their first offense, were publically shamed and paraded around the town center. Those found guilty of being a “common courtesan” were first openly brought from prison to the Aldgate holding a white wand and draped in a stripped hood.⁹⁷ They were then to be paraded through town with minstrels proclaiming the crime. The final destination was through Cheapside to Cokkeslane. Once there they were to sit on the cucking stool, or thewe, to have their hair cut.⁹⁸ The use of public shaming was a deterrent to any who might succumb to sexual deviance. It was hoped that women who practiced either full or part-time prostitution would not continue after seeing other women go through such shameful and demeaning punishments.⁹⁹ In addition, the removal of hair allowed guilty women to reflect upon

⁹⁵ Ibid, 184.

⁹⁶ Carpenter, *Liber Albus*, 394-395.

⁹⁷ Aldgate was on the edge of town, near Lombard St. and near Cornhill where the Tun was located.

⁹⁸ Carpenter, *Liber Albus*, 395.

⁹⁹ Karras, *Common Women*, 15.

their crimes. According to Victoria Sherrow, the removal or lack of hair allotted for increased time at prayer, meditation, and spiritual contemplation because it removed the increased concern over one's outward appearance.¹⁰⁰ This punishment also would have explicitly labeled the woman a "common whore" within the entire community. There would have been no escaping the classification.

Second time offenders were subjected to the same punishment of parading and sitting on the thewe. These offenders were also subject to up to ten days' imprisonment. Prison length and time on the thewe were at the discretion of the Mayor and Alderman, but the duration was generally longer for second time offenders.¹⁰¹ A longer time upon the thewe, cucking stool, or pillory would have meant longer periods of ridicule as well as the possibility for physical pain or injury.

Third time offenders were, again, subject to the same public shame punishments, but were then expelled from the city.¹⁰² Banishment entailed leaving the entirety of the City of London, including any suburb that did not have semi-autonomy. Most women who wanted to continue with sexual commerce would move to the Bishop's Liberty in Southwark. Others went to locations away from London where their reputations were not stained.¹⁰³ Some women were able to re-enter London through other city gates where they were unknown and take up residence in a different ward. Banishment precipitated the transient lives that most prostitutes lived. In addition, removing prostitutes allowed

¹⁰⁰ Sherrow, *Encyclopedia of Hair*, 325.

¹⁰¹ Carpenter, *Liber Albus*, 395.

¹⁰² Carpenter, *Liber Albus*, 395

¹⁰³ See the case of Alice Dymmock in Karras, *Common Women*, 68-69.

for the officials to place the burden of trying and punishing prostitutes to other wards or shires. The highly public nature of the punishments allowed for visitors to actively see the citizens and officials in London attacking prostitution. When taken together, the laws and punishments enacted against sexual commerce left a clear impression that London did not tolerate and would not tolerate prostitution within the royal city, for the safety of its inhabitants and for the appeasement of God.

Case Studies

The application of the laws and punishments against prostitution can be discerned through specific court cases involving sexual commerce. In these we can see the practice of common law: how officials in London combined jury trials with communal law practices. On an individual level we can get a sense of the personal expense of prostitution and what the life of a London prostitute might entail. Prostitution in the City of London generally required clandestine practices, monitored actions, and often frequent movement between wards.

The unusual case of Elizabeth Moring was recorded in immense detail within the *Memorials of London and London Life*. Elizabeth faced trial for a litany of sexual commerce crimes on July 27, 1385. By this time, London's stance on prostitution was growing increasingly prohibitive. Specifically, Elizabeth faced charges of bawdry, forced procurement, deceitful commercial practices, brothel-keeping, and common harlotry. Elizabeth took in an apprentice embroidress, named Johanna [Joan], upon the pretext of teaching the girl the trade which she pretended to practice. This was the claim

against Elizabeth for deceitful commercial practices. She was allegedly using her embroidery shop as a front for a brothel and luring young women to apprentice for her—forcing them into prostitution. Elizabeth must have continued this practice for a lengthy period of time. Indeed, the court record indicated, “that she did not follow that craft, but that, after so retaining them, she incited the same Johanna and the other women who were with her, and in her service, to live a lewd life.”¹⁰⁴ Johanna was the first of Elizabeth’s “apprentices” to testify against her, but she must have had a lucrative business if the court record indicated that numerous women were employed by Elizabeth. The record goes on to allege that she forced her “apprentices” to fornicate with clergymen and laymen, alike, in diverse locations around London, including her own home.¹⁰⁵ The testimony that Elizabeth took up assignations within her own home justified the charges of not only procurement and bawdry but brothel-keeping as well.

Johanna testified that Elizabeth sent her to “accompany the said chaplain at night, that she might carry a lantern before him to his chamber...it being her intention that the said Johanna should stay the night there with the chaplain...”¹⁰⁶ Johanna denied prior knowledge of what Elizabeth expected, and reported that Elizabeth sent her back to the Chaplain nightly until Johanna returned with stolen goods. Elizabeth seemingly required this same “payment” from her other women. “Elizabeth received the like base gains from the same Johanna, and her other serving-women, and retained the same for her own use;

¹⁰⁴ Riley, *Memorials of London*, 483-486. Letter-Book H. fol. cxciv. Moring aka Morying, also evidence to show that Elizabeth Moring was also known as Elizabeth Brouderer.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

living abominably and damnably, and inciting other women to live in the same manner; she herself being a common harlot and procuress.”¹⁰⁷ The accusation of stealing goods and taking clergy as customers would become a precedent in other cases of prostitution, and would necessitate clauses against these practices in the Southwark customary.¹⁰⁸

This case shows the informality of London prostitution, and why officials in London would have found it increasingly difficult to regulate prostitution, ultimately leading them to establish prohibitive laws. There was no fixed price for services, no fixed location, and “employees” seemed not to know the fundamentals of the job.¹⁰⁹ Without these regularities it was difficult for officials to control or stamp out prostitution in certain locations. Elizabeth’s case shows not only the types of sexual offenses that London secular courts heard, but also the way in which women were seen by the courts. All aspects of Elizabeth’s life were suspect partly due to her position within society.¹¹⁰ As a single, unattached female, Elizabeth was not under male authority and therefore personified the stigma against single, older females who were continuously suspected and marginalized in society because there was no supervision over their sexuality.

Elizabeth’s case also constitutes one of the first written descriptions of the punishments meted out to women found guilty of the aforementioned crimes and the procedural elements within a sexual commerce trial. Indeed, Elizabeth’s punishment corresponds to that laid out in the *Liber Albus*, with distinct location names, length of

¹⁰⁷ Ibid.

¹⁰⁸ See Chapter 3, “Customary Regulation” for further analysis on this subject.

¹⁰⁹ Karras, *Common Women*, 59

¹¹⁰ Ibid, 62; Ruth Mazo Karras, *Sexuality in Medieval Europe: Doing Unto Others* (New York: Routledge, 2005), 114.

time upon the thewe, and length of imprisonment. Elizabeth's sentence was to spend one hour in the thewe while the cause of her punishment was proclaimed publically, most probably by minstrels. She was then to be banished from the city, and any return would be punishable by three years imprisonment and a stint on the thewe at the discretion of the Mayor and Alderman, as often as it pleased them.¹¹¹ Because Elizabeth was not charged as a "common whore" her hair was not cut, but she still faced the public shaming and embarrassment that a thewe sentence and banishment entailed. This type of punishment allowed for the communal harassment of a disgraced woman, while also deterred the community from performing further crimes.

Within the trial we see the combination of the London-specific court system and the new jury system combined with older practices of communal law. Elizabeth's case was heard in Guildhall, the seat of the Mayor and where merchant courts were heard; therefore Elizabeth's case was egregious enough to be heard at the Mayor's court. Presiding over the case was "Nicholas Brembre, Knight, the Mayor, the Alderman, and the Sheriffs of London."¹¹² The vestiges of communal law are seen in the fact that her case came to court based upon the testimony of city persons and the personal testimony of Johanna. The main proof of Moring's misdeeds did not come from actual documentation, but instead the word of witnesses, a common feature of local communal law that was adapted to fit borough law as it developed. Elizabeth was also tried by a jury of twelve men, "Upon which day the good men of the venue aforesaid appeared, by

¹¹¹ Riley, *Memorials of London*, 483-483. Letter-Book H. fol. cxciv.

¹¹² Ibid.

Robert Tawyere and eleven others etc; who declared upon their oath, the same Elizabeth to be guilty of all the things above imputed to her...”¹¹³ It was the duty of the jury to not only answer questions, pertaining to the case, but to deliberate on sworn evidence, usually oaths, in court.¹¹⁴ Juries also heard the oaths of compurgators, pseudo character witnesses that proclaimed either the defendant’s guilt or innocence.¹¹⁵ Compurgation required the accused to purge herself by producing a pre-determined number of people to swear to the accused’s version of events. Elizabeth had no compurgators to testify for her, but many witnesses to testify against her behavior—leading directly to a guilty verdict. Elizabeth’s case provides an example of not only the accusations and punishments inflicted upon women charged with sexual commerce, but also how the City of London incorporated communal law into borough law.

The case of Margaret Morgan also presents an interesting description of the life of a London whore.¹¹⁶ Margaret was a compurgator in a marriage case in the London Consistory Court.¹¹⁷ To discredit Margaret’s good character, a second compurgator told the court that Margaret was a common whore within Langbourne ward, and that disqualified Margaret from being a compurgator in the marriage case and precipitated her own trial. Margaret was “of ill fame and in the said parish commonly said, held and reputed an adulteress and a whore.”¹¹⁸ The compurgator further explained that Margaret

¹¹³ Ibid. Moring has also been attributed to being the bawd of one John/Eleanor Rykener, see footnote 128.

¹¹⁴ Baker, *English Legal History*, 75.

¹¹⁵ Karras, *Common Women*, 25-26.

¹¹⁶ Margaret’s case was heard at Guildhall in 1491.

¹¹⁷ Excerpt in Karras, *Common Women*, 69. The Consistory Court was the highest ecclesiastical court in London.

¹¹⁸ Ibid.

was expelled by the Alderman and then moved four times throughout various London wards. During her ventures throughout the wards, Margaret was charged with keeping houses of assignation, whoredom, adultery, and defamation.¹¹⁹ She was consecutively expelled; providing credence to the prohibitive system instituted by London officials, regardless of its efficiency. Karras argues that Margaret's transient life and her foray as a brewster was characteristic of women within the lower ranks of the London prostitution scale.¹²⁰

Margaret's case also provides evidence for the force of defamation and gossip in the marginalization of women in medieval London. Defamation, the injury to another's reputation, abounded in medieval life.¹²¹ L.R. Poos argues: "behind the formal means of regulating sexuality in later medieval England there thus must have lain multiple networks of informing, gossip, rumor, talebearing and, on occasion, lies about neighbors' sex lives" which enabled cases to be brought to the attention of officials and the courts.¹²² Defamation progressed within fifteenth-century society to represent what Sandy Bardsley terms "sins of the tongue," which progressively became entrenched in secular and ecclesiastical courts.¹²³ Due to the prevalence of defamation and gossip, commonly seen

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ See Marjorie McIntosh, *Controlling Misbehavior in England, 1370-1600* (Cambridge: Cambridge University Press, 1998) for a further examination of how English local leaders prosecuted wrongdoers from the medieval to early modern period.

¹²² Poos, "Sex, Lies, and Church Courts," 585.

¹²³ Sandy Bardsley, *Venomous Tongues: Speech and Gender in Late Medieval England* (Philadelphia: University of Pennsylvania Press, 2006), 41.

as female sins, the reputation and honor of women were more vulnerable than men, especially in regards to sexuality.¹²⁴

The 1385 interrogation of a male transvestite, John/Eleanor Rykener, does not provide details regarding common law in the court, but does outline the practice of prostitutes, how they were arrested, and the effect of prohibitive laws on sexual commerce.¹²⁵ Rykener's interrogation took place after he was arrested on two counts of misconduct. John was caught having intercourse with a man, in public, while dressed as a woman. In addition, he was charged with breaking curfew.¹²⁶ During his interrogation John further confessed to taking various priests and clerics as customers, though he cross-dressed as Eleanor during those encounters. John claimed he preferred clerics because they paid more for his services.¹²⁷ John also confessed to stealing clothes from his various customers and blackmailing them for their discreet return, a behavior garnered from his bawd, Elizabeth Brouderer.¹²⁸ John's interrogation records do not state the outcome of his trial, but do indicate that he frequently moved throughout the London wards. This behavior was probably an effort to avoid public punishment, even more so because John was a transvestite and was subject to even harsher punishments for sodomy. The case of John/Eleanor Rykener was unusual due to that fact the John/Eleanor practiced as a transvestite. Nevertheless, John's case provides ample detail of the types

¹²⁴ Poos, "Sex, Lies, and Church Courts," 586.

¹²⁵ David Lorenzo Boyd and Ruth Mazo Karras, "The Interrogation of a Male Transvestite Prostitute in Fourteenth-Century London," in *GLQ: A Journal of Lesbian and Gay Studies* 1(1995): 479, doi: 10.1215/10642684-1-4-459.

¹²⁶ The curfew law was established in 1353 in efforts to curb sexual commerce. Those found out past curfew were detained in the Tun.

¹²⁷ Ibid, 483

¹²⁸ See footnote 104.

or preferable customers, other illegal practices, and methods to avoid the prohibitive London officials that were taken up by late medieval London prostitutes.¹²⁹

The evolution of communal law to common law and the implantation of borough law in the City of London was a gradual and accommodating process. London officials instituted the newer practices of specialized courts, gaols, and ordinances that came with the progression of a centralized judicial system. Through examining the various ordinances, punishments, trials, and interrogations related to sexual commerce we can see their continued reliance upon communal law traditions. Compurgation oaths and witness testimony as evidence for or against immoral behavior combined with public embarrassment and banishment as methods of punishment reinforced the continuation of accepted practices of communal law.

As common law and borough law became more institutionalized and London grew in political and economic significance, the need to enhance public safety and the overall image of the City of London became paramount. Therefore, London officials began to establish increasingly prohibitive ordinances against sexual commerce, which they felt was not only a displeasure to God, but the King and commons as well. It was through the specialized common law court system that Londoners hoped to achieve their goal of creating an image of London as an epicenter for moral character and urbanization by marginalizing the prostitute and placing her under male authority through prohibitive laws and harsh economic and public punishments.

¹²⁹ See Chapter 3 for the implications felt in Southwark due to these practices.

CHAPTER THREE

SOUTHWARK AND PROSTITUTION

In 1473 one Elyn Boteler, prisoner in the Bishop of Winchester's prison, petitioned the Lord Chancellor to hear her case against Thomas Bowde.¹ Within the petition, Elyn recounted how Thomas had lured her into prostitution, debt, and eventual imprisonment. Thomas, an inn-holder within the Bishop of Winchester's Southwark manor, visited London, where he met Elyn, who worked as a servant. He then asked her to accompany him to his home "to see his house upon liking [and so] upon trust and by the means of the said wife."² Thomas was then said to have taken Elyn to his home at the Stews, where he "wold have compelled her to do such service as other his servauntez done there, but this she utterly' refused to do, and had lever dye then to be of that disposicion."³ Upon her refusal to participate within sexual commerce, Thomas issued an indictment (in the bishop of Winchester's court) against Elyn in an effort to place her into excessive debt, thereby forcing her to "applye to the desire of the seid Thomas."⁴ Elyn's imprisonment continued for upwards of three weeks before she was able to petition the Lord Chancellor to hear her case in Chancery.⁵ Elyn's case depicts the increasing need for brothel-keepers to employ women to bolster the sex trade within Southwark. Women, either willingly or

¹ Martha Carlin, *Medieval Southwark* (London: The Hambledon Press, 1996), 222-223.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ It is unknown whether Elyn's appeal was heard by the Lord Chancellor. Carlin was unable to find further documentation of case within London or Southwark court records.

forced, found employment as prostitutes in the Winchester manor, the only location within England to boast a thriving licit brothel system.

This chapter will explore how ecclesiastical law was implemented as secular law within the Liberty of the Bishop of Winchester. In essence, how did the Bishop's ecclesiastical background impact the regulation of sexual commerce and the punishment of those who broke these regulations? First, I will provide a background of ecclesiastical law and how the Church came to deal with offenses of a sexual nature. Second, the ecclesiastical landscape and jurisdiction within England will be examined. I will investigate the structure of ecclesiastical courts and where jurisdictional lines were drawn within the country. Third, I will examine the origins of Southwark and how the Bishop's liberty became synonymous with deviant behavior. I will investigate how the Bishop came to acquire sole jurisdiction and legal autonomy within the region, and the development of the brothel system within Bankside from its Roman origins to its pinnacle in the thirteenth and fourteenth centuries. Fourth, I will examine the fifteenth-century customary that governed the Bankside stews, including its regulations, their overarching meaning, their place within the romano-canonical tradition, and prescribed punishments. In conclusion, I will examine the ramifications of a secular and ecclesiastically-sanctioned brothel system. The Bishop's adherence to canon law theory regarding coitus and working conditions, the procedural system within the Liberty, and the impact on the prostitutes' lives will be examined in an effort to extract how the regulative stance on prostitution was implemented within the Bishop of Winchester's

Liberty. I will further show how prostitutes were marginalized and exploited within Southwark society, even though their trade was deemed licit within the bishop's manor.

Ecclesiastical Law and Sexual Offenses

Ecclesiastical law refers to the substantive law, procedure, and judiciary system of the Roman Catholic Church. The aim of Church law and those who practiced it, canonists, was social and moral control over society. The early Church courts functioned outside the prescribed system of law during the apex of the Roman Empire. Ecclesiastical law began to develop into a coherent and widespread legal system during the twelfth century when both the study of canon law, the official term for ecclesiastical law, and the study of Roman law saw a resurgence. Universities across Europe began teaching and requiring the study of both systems of law for students to receive their degrees and be able to practice. In effect, Roman law and ecclesiastical law became inseparable. Medieval canonists adapted Roman law to fit the distinct needs and customs of medieval society.⁶ In practice canon lawyers aligned more strongly with Roman law theory than with theology.⁷

The development and professionalization of canon law stemmed from the work of the Bolognese law teacher, Gratian. He developed the first comprehensive legal textbook for canon law. Gratian compiled all known legal doctrine of the Church into a six volume work, *Concordia Discordantium Canonum* commonly known as the *Decretum* in

⁶ James A. Brundage, *The Medieval Origins of the Legal Profession* (Chicago: University of Chicago Press, 2008), 6.

⁷ Ibid, 125.

1140.⁸ Gratian was the first to make canon law into a scientific system, attempting to make sense of the myriad contradicting rules that the Church used as the basis for canon law. The *Decretum* pulled from existing councils, letters, penitentials, Roman civil law, and the writings of Church fathers to resolve the inconsistencies found within them, and to establish a system of law that had concrete solutions for presentments.⁹ The publication of Gratian's *Decretum* brought about a complete revolution in the study of canon law and Roman law and constituted a new era in Church law known as the Classical period that would extend from the twelfth-century to the fourteenth-century.¹⁰ His work would become the basis for the entire system of canon law. The new canon law system brought forth new types of legal texts that furthered the development of concrete ideas. Popes issued various decretals, answers or explanations to canon questions, which were then codified into law. Legal professors and practitioners produced glosses, which were written lectures or clarifications on points found in Gratian.¹¹ Taken together, the *Decretum* plus the various aides produced during this time period were commonly referred to as the *ius commune*, and were utilized throughout Christendom.¹² By the end of the classical period in the fourteenth-century ecclesiastical courts began implementing a romano-canonical procedure, which professionalized the courts. When answers could

⁸ J.H. Baker, *An Introduction to English Legal History* (Oxford: Oxford University Press, 2005), 126.

⁹ For further analysis of Gratian and the *Decretum* see Anders Winroth, *The Making of Gratian's Decretum* (Cambridge: Cambridge University Press, 2000); for Gratian and sin within the *Decretum* see Atria Larson, *Master of Penance: Gratian and the Development of Penitential Thought and Law in the Twelfth Century* (Washington, DC: The Catholic University of America Press, 2014).

¹⁰ James A. Brundage, *Medieval Canon Law* (London: Longman, 1995), 46.

¹¹ Brundage, *Legal Profession*, 111.

¹² *Ibid*, 60.

not be found within canon law texts, canonists and clergy found answers in Roman civil law.

The fourteenth-century professionalization of the court system coincided with a canonical laxation regarding sexual matters outside of the marriage bed. Church courts began treating fornication and adultery as a venial sin.¹³ The large number of presentments resulted in changes in the types of punishment prescribed. The Church still frequently used public penance in efforts to “purge the sinners, publicize so that members of the local community could watch out for recidivism, persuade current unknown sinners to desist, and deter potential future sinners from succumbing to sexual temptation.”¹⁴ In addition to public penance, adulterers and fornicators were increasingly subjected to financial penalties in the form of alms or donations.¹⁵ According to Richard Wunderli, ecclesiastical courts usually opted to fine adulterers and fornicators based on wealth instead of the gravity of the crime, as “neither crime was held by the court to be so serious that a simple fine would not suffice as punishment.”¹⁶ This stance allowed Church courts to hear fornication and adultery cases quickly (they were given the same legal weight) while using the money from fines to increase their wealth.

Fourteenth-century canonists and theologians called for the toleration of prostitution, though the act itself was still considered illicit. The prostitute had a public

¹³ James A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1988), 460.

¹⁴ Caroline Dunn, *Stolen Women in Medieval England: Rape, Abduction, and Adultery, 1100-1500* (Cambridge: Cambridge University Press, 2013), 121.

¹⁵ *Ibid.*, 121.

¹⁶ Richard Wunderli, *London Church Courts and Society on the Eve of the Reformation* (Cambridge, MA: Medieval Academy of America, 1981), 85; Dunn, *Stolen Women*, 122.

use and “what was required was to set limits to her practice, rather than to eliminate her from society.”¹⁷ Toleration allowed for the incontinence of men, while providing safety to respectable women. Instead of concerns over whether prostitution was a sin, canonists centered their writings on what drove women to practice sexual commerce, which women should be considered prostitutes, and the economic concerns of the trade.¹⁸ Municipal cities on the Continent and ecclesiastical authorities strove to control activities within brothels rather than controlling the prostitute herself.¹⁹ London, and England more generally, aimed to control the prostitute by prohibiting her movements and outlawing the profession. In contrast, ecclesiastical regulations were enacted to control brothel activities, ownership, living conditions, wage restrictions, and secure the free movement of common women.

The fifteenth century saw very little change in regard to sex laws. Canonists, theologians, and Church courts continued to see sexual commerce in the same light as they did in the fourteenth century, while legal writers continued to see sexual commerce as a social problem. This allowed secular courts to gain some jurisdiction over sexual commerce.²⁰ Further, Church courts found it increasingly difficult to convict professionals within the sex trade. Combined, these elements drove accusers to pursue their claims in secular courts, ones “who had to will to enforce sexual norms.”²¹ While ecclesiastical courts still held primary jurisdiction over morality, the insistence that

¹⁷ Brundage, *Law, Sex, and Christian Society*, 464.

¹⁸ Ibid, 464-465.

¹⁹ Ibid, 467.

²⁰ Ibid, 487.

²¹ Wunderli, *London Church Courts*, 101-102

prostitution was a social problem allowed for the Church courts to parcel out some cases to their local secular equivalents. Londoners (as described in Chapter Two) who actively fought for the prohibition of sexual commerce wanted to ensure that their courts punished those accused, effectively giving jurisdiction to secular courts.²²

The fourteenth and fifteenth centuries saw the “golden age” of legalized prostitution in Europe. As the Church instituted a lax policy regarding the sex trade, municipal and manorial areas began implementing a system of sanctioned brothels. These locations were supported by many secular authorities and in some locations supported by the local ecclesiastical authorities. Authorized houses of assignation prevailed on Continental locations that had strong Roman civil traditions—Spain, Southern France, Northern Italy, and Southern Germany.²³ The sanctioned brothels became so integral to social life in these regions that canonists argued that it was reasonable for the Church to tax prostitutes and the brothel, a step that allowed the Church to openly profit from sexual commerce while stating the revenue was for “religious causes.”²⁴ This precedent paved the way for the ecclesiastical ownership of brothels and/or the ownership of land upon which red-light districts were assembled. In effect, the Church allowed for the promotion and toleration of sexual commerce while continuing to marginalize those involved as lesser members of the Christian and local communities.

²² Ibid, 102.

²³ Brundage, *Medieval Canon Law*, 88.

²⁴ Brundage, *Law, Sex, and Christian Society*, 523.

Though ecclesiastically-owned brothels and red-light districts were common on the Continent, there were very few instances of it within England. There, the most extensively acknowledged sanctioned brothel system occurred within the Liberty of the Bishop of Winchester, located within the London borough of Southwark. In the bishop's liberty, or manor, he held both ecclesiastical and secular authority. Throughout his liberty ecclesiastical law was secular law. The legal system, judiciary system, and spiritual guidance fell into the hands of the Bishop of Winchester, and it was under his lordship that the Bankside stews, the most infamous English red-light district, flourished.

Ecclesiastical Court Structure and Governance

Just as the country of England was separated into particular land units with legal jurisdiction, so too was Christendom. As canon law and Church courts professionalized, it precipitated a need to formulate concrete jurisdictions and delegate to authorities within Christendom. These particular locations and peoples formed a "hierarchy of tribunals" that incorporated the ecclesiastical courts of the various Christian nations.²⁵

The head of the ecclesiastical judiciary system was the pope. He held original and final appellate jurisdiction for all Christian countries and peoples. The pope's judicial and legislative body was the Papal Curia, which functioned as the consistory court. The Curia was dominated by cardinals or judge-delegates learned in both canon and Roman law.²⁶ The Curia, in place of the pope, settled disputes that reached Rome

²⁵ Baker, *English Legal History*, 127.

²⁶ Brundage, *Legal Profession*, 132,136.

either through original or appellate jurisdiction. Papal synods became the audience court of the pope, in which the pope was physically present. The synod functioned as a group meeting of the pope and leading bishops and cardinals. They met to discuss matters of church doctrine and discipline bi-annually.²⁷ It was largely at the synods where popes formulated decretals and answered looming canonical questions. The pope delegated ecclesiastical jurisdiction within each Christian nation to particular clergy members.²⁸

The largest land unit for ecclesiastical jurisdiction was the archdiocese, which heard original presentments, but also were used as courts of appeal. There were two archdioceses within England, that of York and Canterbury. Each archdiocese had an archbishop, styled as either the Archbishop of York or Canterbury, who was the head of all the ecclesiastical courts within his archdiocese.²⁹ The two archdioceses split England, York in the north and Canterbury in the south. The Archbishop of Canterbury played an important role within the history of London and Southwark because these locations fell under his jurisdiction and were near both the capital and his Southwark manor.³⁰

Archdioceses were further split into smaller bishoprics. These locations were under the authority of bishops. The size of a bishopric and its wealth varied. Wealthier bishoprics were situated in regions that held one or more large cities. In addition to their bishopric, a bishop could hold independent land within another diocese. The Bishop of Winchester, the focus for this chapter, held his diocese in south/southwest of London, but

²⁷ Ibid, 128.

²⁸ The names of ecclesiastical positions of authority that follow are in the anglicized form.

²⁹ Wunderli, *London Church Courts*, 18-19.

³⁰ Ibid.

also purchased land within the borough of Southwark thus providing him with authority there. Bishops' courts were the most active during the medieval period and heard a wide range of cases. Moreover, they were the highest court in the diocese. Due to the high number of cases heard within the diocese, bishops delegated their case load to magistrates and officials within two courts. The commissary court was the lower court, and heard smaller cases that focused on compurgation instead of evidence. The commissary-general functioned as the magistrate who heard cases in open court in summary procedure.³¹ Those that failed compurgation were found guilty; compurgation that became difficult or raised questions was presented to the consistory court, the higher court within the diocese.

The consistory courts were highly professional, used a romano-canonical procedure, and met weekly or biweekly depending on the number of cases. By the thirteenth-century, bishops delegated the judiciary authority of the consistory court to their "official."³² It was the bishop's official, not the bishop, who held original jurisdiction, therefore appeals went directly to the archbishop, not the bishop. The appointment of officials was regulated by canonical rules. Men appointed to this position needed to be of morally sound character, twenty-five years of age, legally sane, and be a free status. University-level education in law was not a prerequisite to be appointed as an official, but it increasingly became the norm.³³

³¹ Wunderli, *London Church Courts*, 10.

³² Brundage, *Legal Profession*, 141-143.

³³ *Ibid*, 143.

Consistory courts were in regular use in England by 1260 and continued to grow in prominence. By the late thirteenth and early fourteenth century consistory courts had grown to have a full bureaucratic staff of “officialities”—judges, officials, notaries, registrars, and bailiffs.³⁴ The staff worked together to hear the high number of cases that fell into their increasing jurisdiction. The bishop’s ecclesiastical jurisdiction covered issues of property, probate, tithes/revenues, defamation, usury, working on Sundays and Holy Days, as well as sexual commerce and adultery. These jurisdictional developments played into the types of cases and regulations that the Bishop of Winchester and his officials heard and implemented within his Liberty in Southwark.

Dioceses were split into archdeaconries under the authority of an archdeacon, or head priest. There were typically numerous archdeaconries within a diocese each with their own archdeacon. For example the diocese of London was split into four archdeaconries—London, Middlesex, Colchester, and Essex.³⁵ These courts operated much like those of higher ecclesiastical jurisdictions. Each location had its own church court, but jurisdiction over matters tended to overlap with those of the diocese. Very little is known about the types of presentments brought before the parish courts or how these courts operated due to a lack of surviving records.³⁶

Further, specific ecclesiastical entities held limited jurisdiction. These “peculiars” included the deans of chapters in cathedral and collegiate churches.³⁷ These locations

³⁴ Brundage, *Medieval Canon Law*, 122.

³⁵ Wunderli, *London Church Courts*, 15.

³⁶ Ibid.

³⁷ Brundage, *Legal Profession*, 150.

were exempt from the bishop's jurisdiction and therefore the authority within these smaller unites held original jurisdiction. Typically monasteries or priories held original jurisdiction for members of their religious communities—for example the priory hospital of St. John of Jerusalem in London.³⁸ In addition, some abbots of monasteries held jurisdiction over parts of a parish in which they owned property; the majority of Southwark was separated into tracts of land held by particular ecclesiastical communities that held these jurisdictional rights.³⁹

Across England, and London in particular, ecclesiastical jurisdiction and secular jurisdiction overlapped and competed. Ecclesiastical courts held pervasive jurisdiction over people's everyday lives. Their jurisdiction covered family matters, wills, sexual offences, defamation, and breaches of faith. Due to jurisdictional similarities many cases were heard in both courts. In London, sexual commerce cases were heard first by a smaller secular court and from there either sent to a higher secular or ecclesiastical court.⁴⁰ Other archdeaconries and dioceses likely followed the same procedure when commercial sex offenses came to the attention of city administrators. Southwark functioned differently than locations under complete secular control. Because the liberty was under the authority of an ecclesiastical official, secular matters and ecclesiastical matters overlapped. All cases were heard in the bishop's consistory court or in the court leet, a manorial court; all regulations for the manor were ordered and enacted by the

³⁸ Wunderli, *London Church Courts*, 17.

³⁹ Brundage, *Legal Profession*, 151.

⁴⁰ Shannon McSheffrey, *Middle Ages Series: Marriage, Sex, and Civic Culture in Late Medieval London* (Philadelphia: University of Pennsylvania Press, 2006), 158.

bishop's officials. The borough of Southwark and the Liberty of the Bishop of Winchester developed a unique blend of both secular and ecclesiastical law which precipitated the regulation of prostitution and a legally sanctioned brothel system. The bishop, as the functioning secular lord, authorized the legalization of prostitution while the practice was still, technically, illegal within canon law; the Church practiced toleration of the sex trade as an alternative to bringing the cases to court.

Southwark: Origins and Development

Southwark developed as an early Roman settlement. As London grew in importance for the Romans, so too did Southwark; the Thames made trade possible between the area and the rest of Roman-occupied England.⁴¹ The area of Southwark quickly developed into a *pomerium* of London, an area around the city that was kept relatively empty in case of invaders. The location was where people sought refuge, asylum, and could engage in illicit activities. Historian E.J. Burford hypothesizes that it was the early distinction of Southwark as a *pomerium* that accounted for its status as a Liberty during the medieval period.⁴² Southwark became a haven for outcasts, criminals, and for sexual commerce. Roman Southwark boasted a bustling prostitution business. Roman soldiers, unable to marry, had a large contingent of camp followers that inhabited the borough and set up structured brothels. Roman prostitutes were slaves to their master, *leno* or *lena*, who required them to register with the local official; the process allowed them some legal

⁴¹ David Johnson, *Southwark and the City* (Oxford: Oxford University Press, 1969), 2.

⁴² E.J. Burford, *The Bishop's Brothels* (London: Robert Hale, 1976), 15.

assurances but placed them under the complete control of their *leno*.⁴³ Many of the abuses and enslavement to owners that were prominent in Roman civil law were actively addressed in the much later customary that regulated the Southwark Bankside brothels within the bishop's liberty.

Southwark waned in importance as Romano-Britain failed in the fifth century, but by the eleventh century Southwark regained its importance. The Domesday Book of 1086 named Southwark as an official borough of London, under the ownership of Bishop Odo of Bayeux, the half-brother of William the Conqueror.⁴⁴ The borough of Southwark was divided between various manors, owned by either secular or ecclesiastical authorities. The ownership of the manors evolved throughout the Middle Ages, usually passing through the hands of kings.⁴⁵ By the later medieval period there were six manors and five parishes in Southwark.⁴⁶ Paris Garden and Guildable manor jurisdiction fell to the larger borough courts. The King's manor, the Great Liberty (the Archbishop of Canterbury's manor), and Clink Liberty (the Bishop of Winchester's manor) all claimed independent jurisdiction from the borough, which also excluded them from the jurisdiction of all shire and hundred courts. The five parishes, St. Margaret, St. Mary Magdalene, St. Thomas, St. Olave, and St. George, also held original jurisdiction although their influence overlapped with the major independent manors.⁴⁷

⁴³ Ibid, 18, 20.

⁴⁴ *Domesday Book*, <http://opendomesday.org/place/TQ3280/southwark/>

⁴⁵ Johnson, *Southwark and the City*, 24-25.

⁴⁶ Carlin, *Medieval Southwark*, 20-21; see Appendix C, p.122.

⁴⁷ Johnson, *Southwark and the City*, 24.

By 1103-1104 the land west of High Street was gifted by Henry I to the Bermondsey Priory.⁴⁸ The priory continued to acquire land from various benefactors well into the twelfth century. The land given to the priory was exempt not only from the laws of London, but the borough as well. The borough, especially the independent land of the Bermondsey Priory, attracted the attention of important governmental and ecclesiastical figures, including the Bishop of Winchester.

Bishop Gifford of Winchester rented land from the Priory to build a manor house in 1107. The bishop paid directly to the Priory for the northern most portion of their land. According to the record books, by 1329 the bishop held ninety acres and a messuage.⁴⁹ The area that the bishop incorporated into his manor house location was known as the Liberty of the Bishop of Winchester, and later as the Clink Liberty.⁵⁰ Upon taking up ownership of the land, the bishop became responsible not only for the ecclesiastical correction and life of those under his jurisdiction, but the secular administration of the manor as well. He moreover acquired control of all fines, rents, and proceeds from the court leet.⁵¹ David Johnson argues that the manors of Southwark were immeasurably important to the administration of the borough, and each manor had its own bailiff who, along with the manor lord, were accountable for manor justice in a tri-weekly court.⁵²

⁴⁸ Ibid, 24. Original land holdings found in C. Johnson and H.A. Cronne (ed.), *Regesta Anglo-Normannorum*, 1066-1154 (Oxford: Oxford University Press, 1956), no.664.

⁴⁹ Johnson, *Southwark and the City*, 25.

⁵⁰ Carlin, *Medieval Southwark*, 36. The stylized term of liberty is synonymous with Manor. The manor became known as the Clink Liberty due to the prison the Bishop kept at his manor, styled the Clink.

⁵¹ Burford, *The Bishop's Brothels*, 37-38.

⁵² Johnson, *Southwark and the City*, 25.

Throughout the thirteenth century successive bishops expanded the land of the liberty to include an area large enough to merit eight pounds in rent to Bermondsey.⁵³ The manor was split into two portions, the bankside area and the demesne lands.⁵⁴ Bankside was separated from the other portions of the liberty by Maid (or Maiden) Lane to the riverside, and from Cardinal's Cap Alley to Bankend on the east side.⁵⁵ The former housed the stews of Bankend, the sanctioned red-light district that flourished throughout the Middle Ages within Southwark.

The row of ecclesiastical-and-secular sanctioned brothels abutted the bankside portion of the Thames. The stews found prominence from the fourteenth century to the middle of the sixteenth century.⁵⁶ The distinct epithet for the location of the Southwark brothels, stews, probably originated due to the presence of fishponds (stewponds) within the manor and the Old French *estuve* meaning bathhouse.⁵⁷ The bishop's liberty was even colloquially called the bishop's marsh during the fourteenth century.⁵⁸ The riverfront side of the brothel was whitewashed with the brothels' emblems painted on top so that they were easily seen from the river.⁵⁹ A large portion of brothel customers

⁵³ Carlin, *Medieval Southwark*, 33.

⁵⁴ John Stow, "Bridge Warde Without [including Southwark]," in *A Survey of London, Reprinted from the Text of 1603*, ed. C.L. Kingsford (Oxford, 1908), 59. <http://www.british-history.ac.uk/no-series/survey-of-london-stow/1603/pp52-69>.

⁵⁵ Carlin, *Medieval Southwark*, 40; Burford, *The Bishop's Brothels*, 75.

⁵⁶ Carlin, *Medieval Southwark*, 213. The brothels were officially closed down by Henry VIII in 1546, see Conclusion page 106; Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval London*, (Chicago: Chicago University Press, 1987), 42; see Appendix B, p.121.

⁵⁷ See page 18 for an explanation of the Latin and Old French roots for the word "stew."

⁵⁸ Carlin, *Medieval Southwark*, 213; Johnson, *Southwark and the City*, 25.

⁵⁹ Martha Carlin, "The Urban Development of Southwark, C 1200-1500" (Ph.D. diss: University of Toronto, 183), 65.

traveled from the London side of the Thames to the Southwark side by boat, making it necessary for easy brothel identification from the river.

The use of the Thames as a commercial port increased the number of sailors that frequented the stews, and the use of the stews and their reputation for rowdiness grew throughout the fourteenth and fifteenth centuries. Popularity and notoriety grew to the point that the stews were mentioned in popular literature of the time. William Langland mentions the stews and those that practiced dishonest trades. Langland mentions “Janet of the stews” with others who practiced the aforementioned trades such as “Denote the bawd, Friar Faker, and Robin the ribald.”⁶⁰ Langland also mentions the prostitute and her venality in the couplet:

Lechery loves not a poor man // for he hath but little silver
Nor does he dine delicately // nor drink wine often.
A straw for the stews! // They wouldn’t stand for long
If they had no other custom // But of poor people.⁶¹

The stews gained notoriety throughout England, enough for writers to reference them in their texts.

During the most prominent period of the stews there were eighteen licensed brothels functioning within the bishop’s liberty. Any that functioned outside of the Bankside region were unlicensed. While all brothels operated on land owned by the

⁶⁰ William Langland, *The Vision of William Concerning Piers the Plowman*, ed. Ben Bryan Wigfield, Passus 9, <http://sites.fas.harvard.edu/~chaucer/special/authors/langland/pp-pass9.html>; Karras, *Common Women*, 35.

⁶¹ Ibid, Passus 17; Karras, *Common Women*, 90.

Bishop of Winchester, his function as landlord did not necessitate his actual ownership of the brothel itself. However, some brothels were owned by other ecclesiastical entities including the nuns of Stratford-at-Bow, most notably the brothel called The Unicorn. Other properties were individually owned or owned by groups of men.⁶² By the end of the fifteenth century the names of the brothels in operation commonly came from animals or called attention to peoples and places nearby: The Castle, The Gun, The Antelope, The Swan, The Bull's Head, The Hart, The Elephant, The Lion, The Hartshead, The Bear, The Rose, The Barge, The Bell, The Unicorn, The Boar's Head, The Cross Keys, The Fleur de Lys, and The Cardinal's Hat.⁶³ There was some discrepancy in names and location throughout the fourteenth and fifteenth century, but generally these were the continuous names of the eighteen licensed brothels that operated.⁶⁴ By the fifteenth century the bishop personally owned only two stew houses; from them and the other locations the bishop exacted vast quantities in rents, fines, and payment for violations.⁶⁵ Karras argues that, "the fact that a churchman owned the most notorious brothels of the late Middle Ages is a sign not of the corruption of the medieval church but rather of the separation of the bishop's function as secular landlord from his religious persona."⁶⁶ It was the Bishop of Winchester's ownership of land outside his diocesan jurisdiction

⁶² Carlin, *Medieval Southwark*, 213 n.23.

⁶³ Burford, *Bishop's Brothels*, 108.

⁶⁴ Carlin, "Urban Development," 63-64. Burford, *The Bishop's Brothels*, 108.

⁶⁵ Karras, *Common Women*, 41. See page 104 for an examination of assize rents and fines garnered from the Southwark stews.

⁶⁶ *Ibid*, 42.

combined with his royal administrative position that gave him the ability to allow legalized prostitution so close to London.⁶⁷

Customary Regulations

The bishop acted as the master and landlord of the stews, but the daily regulation and control of the stews lay with the estate staff of the bishop. Their function was the secular running of the bishop's liberty. Although few court documents survive that outline how the court operated in Southwark, the fifteenth-century customary regulations for the brothels do provide details on the operation of the stews and courts during the medieval period. The customary is a compilation of customs and leet articles which articulated the function and operation of the Bankside Stews.⁶⁸ The customary regulations actively discouraged prostitution while not explicitly barring the practice. Martha Carlin describes the customary and the Southwark practice of regulation as, "a picture of model manorial governance, of public order and strict commercial regulation."⁶⁹ Outwardly, the liberty needed to provide a sense of morality, therefore strict regulations, both moral and commercial, were placed on prostitutes and brothel-keepers. The customary regulations followed the general pattern of municipal regulations for Continental brothel-systems, aiming to maintain public order and to contain male sexuality while placing restrictions on female sexuality by removing her independence and control, marginalizing the

⁶⁷ Many bishops of Winchester held the post of Lord Chancellor to various English kings.

⁶⁸ J.B. Post, "A Fifteenth-Century Customary of the Southwark Stews." *Journal of the Society of Archivists* (1977): 419, doi: 10.1080/00379817709514078.

⁶⁹ Carlin, *Medieval Southwark*, 217.

prostitute.⁷⁰ While the Southwark customary followed Continental patterns, the English view of prostitution came forth more prominently. Prostitution, within the sanctioned area, was to be firmly and pragmatically controlled.⁷¹ The moral aspect of the regulation was an afterthought, an addition that provided the Bishop an explanation for legalizing brothels within his territory. The brothels allowed for prostitutes to operate without harassment from London authorities. At the same time they kept the women confined to a red-light district and removed control from the bawd, forcing owners to abide by particular commercial regulations.

The original manuscript of the customary details that the ordinances were written and prepared for William Corun [Cornu], steward of the Bishop of Winchester's manor at Southwark.⁷² The estate staff used the court leet to place restrictions and regulations on prostitutes and brothel owners working within the Liberty.⁷³ Almost all court leet records from medieval Southwark were destroyed, and therefore the actions and workings of the Bishop's court leet are undeterminable. Only the court roll for 1505 exists, and it shows that twelve of the eighteen functioning brothels were fined for routine breaches of the regulations.⁷⁴ From this it can be ascertained that the regulations set for the brothels functioned as licensing fees, more so than those set up within London.⁷⁵ The Southwark

⁷⁰ Ruth Mazo Karras, "The Regulation of Brothels in Late Medieval England," *Signs* 14.2(1989):405, <http://jstor.org/stable/3174556>.

⁷¹ *Ibid.*, 406.

⁷² The Steward was one of the three official officers (bailiff, constable, steward) who ran and regulated the operation of the stew houses in the Bishop's stead. Henry Ansgar Kelly, "Bishop, Prioress, and Bawd in the Stews of Southwark," *Speculum* 75.2(2000):353, <http://www.jstor.org/stable/2887582>.

⁷³ Post, "Customary," 419.

⁷⁴ *Ibid.*, 419.

⁷⁵ *Ibid.*

brothel regulations allowed the liberty's officials to exploit those working within sexual commerce by placing strict controls on the brothels while increasing their profits.

The customary claims to be written during the reign of Henry II, with the acknowledgement of parliament and the Commons in 1162, but this was a fraudulent claim to add authority.⁷⁶ By all accounts the customary was probably written between the years of 1462 and 1486, though it is undated.⁷⁷ Many brothels existed within the liberty before the customary and therefore the later dating of the document could mean that it was a reproduction of orally-enforced regulations. The wording of the customary gives credence to this notion, stating that “according to the old customs that have been used and accustomed there out of time of mind, which now of late were broken...”⁷⁸ The text of the customary itself is comprised of two undated sequences of articles. In addition, dated fifteenth-century emendations were incorporated into the full document. Sequence A (A₁-A₇) frequently refers to the old customs and therefore is probably written documentation of oral ordinances or translated from a previous customary. Sequence B encompasses a second set of regulations (B₁-B₂₉), followed by a set of questions to be answered by the brothel-keeper (B₃₀-B₄₆), the prostitutes (B₄₇-B₅₇), and officials inspecting the brothels (B₅₈-B₆₅). The overlap in the ordinances between sequences A and B suggest that they were written at different times and compiled together during the

⁷⁶ Both J.B. Post and Ruth Mazo Karras have translated the Customary. Post in Middle English and Karras in modern English. Both translations will be used in the detailed analysis of the customary, while the Karras translation will be used for quotations unless otherwise noted. Post, “Customary,” 422. Karras, “Regulation of Brothels,” 427. Post articulates that the date given in the customary was impossible since Parliament did not yet exist and Theobald (given as the current Archbishop of Canterbury) was dead by the date given. Post, “Customary,” 420.

⁷⁷ Kelly, “Bishop, Prioress, and Bawd,” 353.

⁷⁸ Karras, “Regulation of Brothels,” 427.

fifteenth century when the emendations (C₁-C₆, D₁, E₁, F₁, G₁-G₃, H₁-H₃) were added.⁷⁹ Sequence A has been placed first within the customary, but this does not mean that the A ordinances were written before the B ordinances. The deflation of fines and detail within the B sequence provides further ambiguity regarding which sequence was written first.⁸⁰ Taken together, these ordinances and articles regulated the Bankside Stews. Their aim was to ensure manorial and ecclesiastical governance over the brothels and prostitutes via protection from stew-holder abuse (for prostitutes and clientele), control the sexuality of women, maintain public order, and emphasize tenets of canon law and ecclesiastical theories regarding sexuality. In practice, the customary allowed for prostitutes to be marginalized within the bishop's manor and within the larger borough of Southwark.

Ordinances against stew-holders abusing prostitutes constitute a large portion of the customary. These regulations attempted to prevent exploitation, detainment, and physical harm. They did assure some safety and freedom to the prostitutes, but most were ultimately aimed at insuring the brothels were profitable and that the brothel-system was working under the commercial regulations assigned to them. The preamble to the customary regards the freedom of movement for the prostitute to be of the utmost importance.⁸¹ The freedom of movement was a stipulation of the old customs and was actively reinforced in both sequence A and sequence B. The ordinances restricting the

⁷⁹ Post, "Customary," 420. Two version of the customary manuscript exist the Bodleian manuscript, Bodleian MS. E. mus. 229, is used as the source for both Post and Karras and presents ordinances made by the Court Leet (only ordinances pertaining to prostitution were translated by Post and Karras). The Harleian manuscript, Harleian MS. 1977 contains two articles not found within the Bodleian manuscript. Post details the history, ownership, and duplication of the manuscripts. Post, "Customary," 419-420.

⁸⁰ Ibid, 420.

⁸¹ Karras, "Regulation of Brothels," 427.

stew-holders were meant to ensure women were not kept within the life of prostitution, but did not provide them with an outlet for life after the sex trade.⁸² Instead, the regulations were another method of controlling women, while officially granting them status above a slave.

Ordinances B₁ and B₁₀ restricted who could live within the brothel and where prostitutes could take their meals. B₁₀ explicitly forbade prostitutes from boarding at the stews.⁸³ By enacting this ordinance the manor officials were restricting where the prostitutes could eat,⁸⁴ thereby limiting the ability of the stew-holders to overcharge the prostitute for her food and place her into debt. B₁ regulated that the stews only house the stew-holder, his wife, one female servant, and one male ostler (horse groomer).⁸⁵ Those who broke this regulation faced fines up to one hundred shillings. The high fine might indicate that the ordinance was aimed at rooting out clandestine prostitutes living within the brothels, a method used by stew-holders to illegally increase their profits.⁸⁶ Therefore prostitutes were not allowed to take up residence or eat within the brothels, and were forced to find living quarters and to eat at other locations within the bishop's liberty.

In addition, rent charges were regulated. B₂ set the price of the "working" room at fourteen pence, which was to be paid weekly to the stew-holder.⁸⁷ Fourteen pence was a

⁸² Ibid, 419.

⁸³ Ibid, 429.

⁸⁴ A.L. Mayhew and Walter Skeat, *A Concise Dictionary of Middle English from AD 1150-1580* (Ebook, 2008), <http://gutenberg.com/files/10625/10625-h/10625-h/htm>. The Middle English word 'borde' used within the regulation meant to feed, and does not denote out modern definition of board meaning to house.

⁸⁵ Karras, "Regulation of Brothels," 428.

⁸⁶ Burford, *Bishop's Brothels*, 57.

⁸⁷ Karras, "Regulation of Brothels," 428.

high price for rent, but the rents stew-holders paid for either the land or building were high as well; providing credence to the notion the prostitutes and brothels in Southwark charged high rates for their services. These regulations also kept the stew-holders from over-charging the prostitutes for food, drink, and lodging. Incurring debt would allow the stew-holder to detain the prostitute until her debt was paid, a path that would prevent the free movement of prostitutes.⁸⁸

Ordinance A₅ allowed the manor bailiff to search the brothels quarterly to check for any women that the stew-holder might be holding against their will. If a woman was found, the bailiff or constable would expel her from the manor “without any hindrance or interruption from any great householder or his wife for any man’s actions, cause, or other matter against them...”⁸⁹ Though England, unlike Continental countries, did not have established avenues for retired prostitutes or safeguards for women who left the sex trade, there were enforced regulations within Southwark that enabled women who wanted to leave to have an escape.⁹⁰

Other regulations enacted to protect the women from the stew-holders demonstrated economic motivations. While providing protection they also ensured that the brothels were active in only the trade they were licensed for. Ordinance B₁₃ forbade women from practicing another profession while working as a prostitute. “Item, if any women that lives by her body spins or cards with the stewholder...she shall make a fine

⁸⁸Karras, *Common Women*, 37.

⁸⁹ Karras, “Regulation of Brothels,” 428.

⁹⁰ Otis, *Prostitution in Medieval Society*, 63-76.

of three shillings fourpence.”⁹¹ Ordinance B₂₉ forbade brothels from selling “bread, ale, flesh, fish, wood, coal, candle, or any other victual...”⁹² Outwardly the ordinance prevented stew-holders from abusing their position of authority by forcing their employees to do extra work. Alternatively, the ordinance was a method of ensuring proper commercial practice. A business, particularly one with guilds, was restricted to perform or sell the goods within its licensing agreement.⁹³ Brothels were licensed within the sex trade, and therefore any ordinance forbidding the work or selling of non-licensed products would have gone against commercial regulations. Spinning or selling victuals reduced the time prostitutes could ply their trade, thereby reducing the profits of the brothels. If the brothels were not profitable, the manor, its officials, and the bishop would lose revenue, thereby making a sanctioned red-light district worthless and their model commercial enterprise a failure.

Numerous regulations aimed at controlling the sexuality of the prostitutes. Most of these regulations were enforced with fines or prison sentences enacted against the prostitute herself; therefore, they were directly aimed at the women, not the stew-holders. The regulations hindered the private lives of prostitutes and impacted their working careers. Ordinance B₁₂ forbade prostitutes from taking paramours. The offense came with a hefty punishment of three weeks imprisonment, a fine of six shillings eightpence, thewe sentence, and removal from the lordship.⁹⁴ Due to the stringent punishments given

⁹¹ Karras, “Regulation of Brothels,” 430.

⁹² Ibid, 431.

⁹³ Burford, *Bishop’s Brothels*, 56.

⁹⁴ Karras, “Regulation of Brothels,” 430.

to prostitutes found having lovers, the regulation was not aimed at protecting her from the influence of bawds and pimps. More likely the regulations were enforced to restrict the private life of the prostitute. An economic rationale behind the regulation makes the most sense. Time spent on sex for love meant less time spent on sex for profit. Karras articulates the rationale behind B₁₂: “In effect, once she had become public, a woman could have no private life, no say in who her sex partner was to be; she was common property to be shared according to men’s wishes, not her own.”⁹⁵ The prostitute as common property effectively made her a “common woman” for all men. Ordinance B₂₀ is similar in that it forbids women for taking payment and not performing a sexual act.⁹⁶ A brothel prostitute had to perform her trade. If she charged and did not perform the brothel could lose business and therefore the officials and the bishop would lose profit. Once a woman had entered into sexual commerce her body was not her own, she was subject to the will of customers, stew-holders, and manor officials.

Prostitutes and those that lived within the stew houses were forbidden from stealing from the clientele: “if any man comes into the lordship to any stew-house and leave any belongings...he have deliverance of his belongings again at his going.”⁹⁷ The stew-holder was responsible for bringing the accused to prison and also must make “satisfaction” to the injured party. This regulation can be linked to the actions of London prostitutes from previous centuries, and was enacted by manor officials in efforts to

⁹⁵ Karras, *Common Women*, 41.

⁹⁶ Karras, “Regulation of Brothels,” 431.

⁹⁷ Ibid, 429.

eradicate the practice.⁹⁸ Prostitutes were also forbidden from drawing customers into the stews by false advertisement (B₇).⁹⁹ This regulation followed the adopted sumptuary laws. Common women were not allowed to make themselves appear of a higher station. The customary regulation went further though, and forbade particular clothing styles and makeup. The main focus of the regulation aimed at stopping women from “dragging” or “drawing” men into the stews. The prostitute was to sit quietly by the door and wait for customers; any enticement or action toward men walking by was prohibited.¹⁰⁰ Burford argues that these actions must have occurred frequently due to the existence of the ordinance and the large number of cases presented to the Court Leet regarding this matter well after the customary was enacted.¹⁰¹

The wording of the regulation necessitates further analysis. The ordinance used the term “gown” to describe the type of clothing worn by the men that the prostitutes used to drag into the brothels.¹⁰² The gown was the prominent attire for priests, clerics, and men who were members of religious orders. Therefore, this regulation was likely enacted to prevent prostitutes from enticing religious men, who were barred from brothels due to celibacy vows. The interrogation of John Rykener provides further proof that priests and clerics were making use of clandestine prostitutes in fourteenth-century London; it would not be a leap to speculate that the customary writers used B₇ to prohibit

⁹⁸ See discussion of Elizabeth Moring and John/Eleanor Rykener in “Case Studies,” Chapter 2.

⁹⁹ Karras, “Regulation of Brothels,” 429.

¹⁰⁰ Prostitutes in Southwark could not grimace (B₁₄), throw stones, or gesture to potential customers, though it was a common practice of prostitutes on the continent. In addition, Burford points to the mannerisms of those that frequented the Bankside brothels. The brothels were on a dock and therefore customers, inhabitants, and prostitutes most probably acted with dockside manners. Burford, *Bishop’s Brothels*, 55.

¹⁰¹ Burford, *Bishop’s Brothels*, 55.

¹⁰² Karras, “Regulation of Brothels,” 429.

women from enticing high paying clerics into the brothels.¹⁰³ Regulation B₂₈ stipulated that common women were not to wear aprons, and that has caused confusion for historians. Karras suggests that while the apron was the sign of a craftsman, the ordinance referred instead to women wearing the apron to mock the Bishop.¹⁰⁴ Since an apron was a garment worn by the Bishop, the women could have been wearing it to show their employment in one of the Bishop's brothels.

Many of the remaining ordinances ensured that the brothels and prostitutes were abiding by canon law and ecclesiastical theories regarding non-marital sex. By enacting regulations that followed canon law, the bishop and manor officials could justify the existence of the brothels and could maintain public order. Stipulations regarding which days of the year brothels could be open, who could practice prostitution, and the health of the prostitutes fell under the purview of canon law jurisdiction and followed the prescribed theories put forth by Church fathers regarding sexual sin. These ordinances were concessions to the bishop, rules that he needed enacted to cement his position as an ecclesiastical leader, and not simply a secular landlord. For example, regulations A₃, A₄, and B₁₁ prohibited brothels from operating on Holy Days. It also barred prostitutes from the manor on religious holy days from eight to eleven in the morning and from one to five in the evening. During summer, hours were lengthened to six in the morning to noon and one to six in the evening.¹⁰⁵ Canon law prescribed when people were allowed to do

¹⁰³ See Chapter 2 for the interrogation of John Rykener

¹⁰⁴ Karras, *Common Women*, 157 n. 39.

¹⁰⁵ Karras, "Regulation of Brothels," 424-429.

“servile” work, and imposed abstinence on Sundays and Holy Days.¹⁰⁶ It was thought that if work was prohibited it allotted greater time to attend mass, practice private devotionals, and spiritually replenish the community. Brundage states that by the twelfth century there were forty liturgical feast days plus approximately thirty local feast days, totaling about two months of work.¹⁰⁷ The economic constraints would have been drastic for the average worker, but would have certainly caused problems for prostitutes and brothel-owners who relied on hourly income. The inclusion of the ordinance, however, signifies that this law was regularly flouted. Since prostitution was still illegal within canon law (though greatly tolerated in practice), the bishop had to ensure that his brothels were not further breaking prescribed canons. It was therefore necessary that the ordinance be written and enforced by the officials of the city. The punishment for breaking the ordinance for prostitutes was a fine of one hundred shillings and imprisonment for a stew-holder.¹⁰⁸ The heavy punishment and numerous presentments for this offense suggest that this regulation was highly enforced.¹⁰⁹

Prostitutes were also removed from the manor when Parliament sat at Westminster. The customary (B₁₆) stipulated that they should leave the manor “after the sun is gone to rest, the king being at Westminster and holding there either Parliament or council, until the sun is up on the morning.”¹¹⁰ The rationale behind B₁₆ was varied. The manor officials may have used the regulation as a concession to the bishop and the king.

¹⁰⁶ Brundage, *Medieval Canon Law*, 83.

¹⁰⁷ Ibid.

¹⁰⁸ Karras, “Regulation of Brothels,” 424-429.

¹⁰⁹ Ibid, 426, n. 68.

¹¹⁰ Ibid, 430.

While they were in residence brothel activity was halted, providing Southwark with a semblance of good repute.¹¹¹ Burford argues a political rationale behind the ordinance and a long-standing connection between prostitution and politics. He surmises that the brothels were closed at night to prevent parliamentary men from sneaking to the brothels and dismissing their political duties.¹¹² Further, ejecting prostitutes at night would remove brothels as a meeting place for plotters to conspire.¹¹³ These ordinances regulated the working hours of the brothels to follow the prescribed doctrine of canon law and uphold public order, making their existence tolerable in the eyes of the Church.

The customary writers attempted to ensure that ecclesiastical theories regarding sex and sexual acts were followed, again adding canonical legitimacy to the Bankside stews, by dictating the women who were allowed to work in the brothels. Religious women and wives were forbidden from entering brothels.¹¹⁴ Since women in religious orders took celibacy vows and wives were restricted to marital sex, their presence within the stew was unwarranted and would cause suspicion. Forbidding entrance to these women would ensure they did not enter the sex trade as either actors or customers. The sex trade was only legally open to females with no male attachment, ensuring they did not commit adultery or the egregious sin of breaking a celibacy vow to God. Ordinance

¹¹¹ Karras, *Common Women*, 38. In addition to the manor, the Bishop also had his own estate (house) within Southwark. When Parliament was in session, or the Bishop was needed in London, the estate was the location where he most likely stayed.

¹¹² Burford, *Bishop's Brothels*, 56.

¹¹³ B₂₁ forbade brothel-owners from keeping boats on the river-side of the brothel and the *Liber Albus* prohibited the movement of persons by boat to Bankside by night. Karras, "Regulation of Brothels," 431. John Carpenter and Richard Whiting, *Liber Albus: The White Book of the City of London*, trans. H.T. Riley (London: Richard Griffin and Co., 1861), 242. <http://archive.org/details/liberalbuswhite00rilegoog>.

¹¹⁴ Karras, "Regulation of Brothels," 429.

B₂₃ forbade any pregnant women from practicing. A pregnant woman was to give her employer “reasonable warning.” Those who knowingly practiced pregnant or knowingly allowed a pregnant woman to practice were fined six shillings eightpence and twenty shillings respectively. Canonists generally agreed that sex during pregnancy was to be avoided. Some sex during pregnancy was excusable for married couples, but would not be excusable for prostitutes.¹¹⁵ To have sex during pregnancy, it was necessary for couples to copulate in unconventional positions that were morally dangerous; therefore only married couples were given assurances by the Church.¹¹⁶ Those engaging in non-martial sex, whose souls were already morally endangered, were encouraged not to perform these acts. Further, it was in the interests of stew-holders to spare themselves punishments for employing pregnant women when they could easily hire non-pregnant women.

Regulations were also set for women suffering from venereal diseases. Ordinance B₂₅ stipulated that “no stewholder keep any woman within his house who had any sickness of burning, but that she might be put out.”¹¹⁷ There had been a long-standing relationship between prostitutes and diseases. Prostitutes were often connected with both the plague and with lepers, due to their availability to all men and increased number of sexual partners.¹¹⁸ Brothels were routinely closed during outbreaks of contagions, and

¹¹⁵ It was thought that during pregnancy a woman’s libido increased to a dangerous level and therefore, at times, necessary to have coitus for medicinal purposes. Brundage, *Christian Society*, 452.

¹¹⁶ Ibid, 451-452.

¹¹⁷ Karras, “Regulation of Brothels,” 431.

¹¹⁸ Leah Lydia Otis, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago: The University of Chicago Press, 1985), 41. Otis argues that prostitutes were linked to the plague due to it being seen as God’s punishment for sexual sins. By the 1470’s Toulouse city officials

regularly checked for “women with horrible diseases” that might infect customers or other prostitutes.¹¹⁹ Closure during outbreaks and removing infected prostitutes was seen as a public health measure, and these methods were commonly used throughout the Continent in larger red-light districts.¹²⁰ The existence of the Southwark Lock Hospital further supports to the connection between prostitution and venereal disease. The hospital, founded by Edward II in 1321, was intended for lepers.¹²¹ The hospital’s close proximity to the Bankside stews was probably due to the belief that diseases (not necessarily venereal) could be spread through sexual intercourse, including leprosy.¹²² Through these regulations we can see the bishop and the manor officials attempting to place the brothels within the prescribed canons of Church law. If the Bishop of Winchester was to be the ecclesiastical and secular overlord of the Liberty and Bankside stews, he needed to ensure that Church law and sexual theory were followed as closely as possible.

The Bankside brothels were checked quarterly for adherence to customary regulations by the Winchester manor officials, the steward, bailiff, and constable.¹²³ Regulation B₁₇ was enacted against officials concealing their findings, while B₉ forbade any stew-holder or prostitute from hindering the officials from performing quarterly and

closed municipal brothels during periods of plague and forbade prostitutes from “circulating and spreading infection in town.”

¹¹⁹ Karras, “Regulation of Brothels,” 429, 431. Ordinance B₉ ensures that weekly searches of the brothels be allowed without any hindrance. These searches included checks for venereal disease.

¹²⁰ Brundage, *Law, Sex, and Christian Society*, 525.

¹²¹ Burford, *Bishop’s Brothels*, 70. The term lock hospital would come to denote those hospitals that specialized in venereal disease.

¹²² Otis, *Prostitution in Medieval Society*, 41.

¹²³ Carlin, *Medieval Southwark*, 216.

weekly inspections.¹²⁴ It is unclear if these regulations were followed, but it seems apparent that the writers were actively trying to ensure that the brothels were following protocol.

The ordinances within the customary were followed by three sets of questions to be asked about the stew-holder, the prostitutes, and to the officers. The first set of questions were to be asked of the stew-holder.¹²⁵ For example, B₄₄ asked, “does he keep any woman with child?”¹²⁶ There were seventeen questions asked about stew-holders, due to their ultimate responsibility for the maintenance, adherence to regulations, and moral behavior of the prostitutes they employed. Generally, the questions revolved around the stew-holders’ behavior towards the prostitutes and whether they were following the ordinances pertaining to canon law and sexual theories.

The second set of questions were to be asked of the “common women”.¹²⁷ The women were not directly asked the questions; therefore the questions were directed to the stew-holder or persons working within the brothel. Of the eleven questions posed about the prostitutes, over half involve the restrictions placed upon her personal life and sexuality. The remaining questions regard adherence to canon law, and were specifically concerned about pregnancy, venereal disease, and working during restricted hours. Many of the questions posed to the stew-holder and the prostitute were similar, probably in an

¹²⁴ Karras, “Regulation of Brothels,” 429-430.

¹²⁵ B₃₀-B₄₆

¹²⁶ Karras, “Regulation of Brothels,” 432.

¹²⁷ Ibid. B₄₇-B₅₇, These questions were asked about each prostitute working in the brothel.

attempt to find discrepancies and ensure that all within the brothels were adhering to the customary regulations.

The final set of questions were posed to the officials who inspected the stews.¹²⁸ These questions attempted to ensure that there were no fraudulent practices or schemes between officers and stew-holders/prostitutes. The bailiff and steward were already quarterly awarded threepence from prostitutes for “quarterage.” It was therefore feared the some would pay the officials extra to disregard customary infractions.¹²⁹ The first five questions in the set were inquiries pertaining to their capacity to investigate, and involved regulations not addressed in the previous sets of questions.¹³⁰ The final three questions involved practices not mentioned in the ordinances and that affected the community.¹³¹ For example, B₆₃ pertained to counterfeiters: “those who falsely multiple gold and silver.”¹³² This offense was outside the jurisdiction of the Manor’s court leet, and those accused would be handed over to the Crown for presentment. The practice of counterfeiting was common in the medieval period, especially during times of war, turmoil, or contagion. Since the brothels were known to harbor criminals and encourage criminal behavior, the question is not completely out of place.¹³³

¹²⁸ Ibid. B₅₈-B₆₅ these questions were to be answered by the surveyor and twelve men.

¹²⁹ Karras, “Regulation of Brothels,” 430. The practice of paying off manorial officials in Southwark mirrors the practice of prostitutes paying of city watch-men in Dijon, France. See Jacques Rossiaud, *Medieval Prostitution* (Oxford: Oxford University Press, 1988).

¹³⁰ Carlin, *Medieval Southwark*, 217.

¹³¹ These questions were only found in the original Latin, until translated by Ruth Mazo Karras in 1989.

¹³² Karras, “Regulation of Brothels,” 432.

¹³³ Burford, *Bishop’s Brothels*, 50.

The second question alluded to a list of common prostitutes and procurers.¹³⁴ This question has posed a problem for historians because the list was kept of offenses that were legal within Southwark. The list could be another concession to the bishop; though prostitution was legal within his manor, he kept a list of “workers” so that if they left the manor their actions and reputations would follow them, allowing the marginalized status to follow them. This list would probably be given to the Mayor of London and various ward alderman in efforts to keep track of sexually deviant women who might either enter their jurisdiction or to ensure those that had been banished did not reenter the city.¹³⁵ In addition, the list could have been another step in the codification of the prostitute within society. The final question dealt with common scolds or public disturbers.¹³⁶ Stews and brothels were natural haunts of criminals and other deviant characters, therefore establishing an ordinance against those peoples helped officials ensure that public order was upheld.

The customary was used by the bishop to secure his position as the secular and ecclesiastical authority within the manor. His ownership of Bankside and control of the manorial Court Leet allowed him to line his coffers with proceeds, rents, and fines from the stews. His legal control over the brothels was firmly established in ordinance A7, which forced all civil and criminal presentments to be held first within the bishop’s court:

that no man nor woman dwellings within the said lordship and franchise...shall commence or take any action or process against another for no matter or cause in

¹³⁴ Karras, “Regulation of Brothels,” 432.

¹³⁵ See pages 107-108 for the 1460 inquests into the Southwark brothels that could have led to this addition.

¹³⁶ Karras, “Regulation of Brothels,” 432.

any court of the king, but only within the said lord's court, to be determined and ended there.¹³⁷

The only offence that was not under the bishop's jurisdiction was counterfeiting due to the national nature of the crime. In enacting this ordinance, the bishop assumed complete control over the inhabitants of his manor. The bishop's unique political and religious power enabled him to not only legalize prostitution, but to implement complete secular and ecclesiastical control over the liberty. Karras hypothesizes that if these controls had been instituted elsewhere and by another authority figure, either political or ecclesiastical, their power would have been quickly dismantled.¹³⁸ It was the unique positioning of Southwark and the power of the Bishop of Winchester that explained his ability to proclaim his own laws without monarchical intervention.

The provisions of the Southwark customary on the whole were aimed at controlling the prostitute and the stew-holder.¹³⁹ Though the sex trade was legal in the Winchester Liberty, it was severely and routinely regulated. Manor officials ensured that canon law tenets were followed and public order was upheld. These actions were necessary because women's sexuality was seen as a disruptive force in medieval society; the only way to counter-act the upheaval it brought was to keep it within particular boundaries.¹⁴⁰ The aim of the customary was to keep women under tight control while alluding to their protection. "If a woman was not the property of a particular man—husband—her sexual behavior had to be strictly regulated by the (male) civil

¹³⁷ Ibid. 428.

¹³⁸ Karras, *Common Women*, 43.

¹³⁹ Ibid, 40.

¹⁴⁰ Ibid, 41.

authorities.”¹⁴¹ In essence, while London prostitutes were placed under male authority through prohibitive laws and punishments, legal prostitutes in Southwark were placed under male authority through strict regulations that affected every facet of their lives.

As moral stringency increased in the City of London licensing fees for brothels were removed and replaced with prohibitive measures, at the same time fining brothels and brothel-keepers for licensing fees increased in Southwark as officials cemented their policy of toleration. The charges flouted most often were keeping doors open on Holy Days, procurement, physical abuse, and keeping women to board.¹⁴² Carlin theorizes that these regulations were enacted or purposefully made difficult to adhere to so that owners could be fined in essence, the manor officials were commercially exploiting the brothels and prostitutes in the liberty. Generally, between five and ten stew-holders were presented at court yearly for the aforementioned offences.¹⁴³ A Winchester Manorial Court Roll from 1505-1506 placed fines from stews between 40d. and 268d.¹⁴⁴ In that year there were ten stews brought up for fines, with the least expensive fine starting at 40d. The manor was making copious money from ordinance offenses. Assize rents for the brothels from 1503-1504 place rents at most at 210d.; therefore the manor was making substantially more money from infractions than rent, lending credence to Carlin’s hypothesis.¹⁴⁵ The large sum from various infractions must represent the profits made by the brothels. Stew-holders were paying upwards of ten times their rent prices in fines

¹⁴¹ Ibid.

¹⁴² Kelly, “Bishop, Prioress, and Bawd,” 386 Appendix 3.

¹⁴³ Carlin, *Medieval Southwark*, 217.

¹⁴⁴ Kelly, “Bishop, Prioress, and Bawd,” 370. Court held, 13 October 1505-21 and September 1506.

¹⁴⁵ Ibid. The list of rents and tenants was made by Lewis Wynkefeld, bailiff of Southwark.

yearly, clearly indicating that the brothels were immensely profitable and that the majority of this profit was going directly to the Bishop and manor officials.¹⁴⁶

Ramifications: Religious and Secular

The complications of legalized prostitution in an ecclesiastically-controlled manor were felt by the prostitutes, the inhabitants of Southwark, and the inhabitants of London. The lasting effects of a sanctioned brothel-system impacted residents in both religious and secular life. Prostitutes felt the ramifications through monetary fines for breaking ordinances and through their religious life. While the bishop tolerated prostitution within his liberty, common women were refused Christian burial:

that these single women were forbidden the rights of the Church, so long as they continued that sinnefull life, and were excluded from Christian buriall, if they were not reconciled before their death. And therefore there was a plot of ground, called the single womans churchyard, appoynted for them, far from the parish church.¹⁴⁷

John Stow's *Survey of London* is supported by the description of burials within the parish registrar. Buried prostitutes were noted as "Alys a senglewoman" or "Margaret Savage common woman"; however, the occupations of other decedents were rarely noted.¹⁴⁸

The location of the burial ground was probably near the Greyhound Inn, popular during the late eighteenth century, where fragments of a sepulcher have been discovered.

William Rendle suggests the single women's grave yard was named old Cross Bones

¹⁴⁶ The Elephant paid 7d in rents for 1503-1504 and paid 248d in fines in 1505-1506. If the rent prices stayed relatively the same between the 1504 and 1505, the Elephant was incurring fines thirty-five times their rent price, a lofty sum for a location with such a proportionally low rent.

¹⁴⁷ Stow, "Bridge warde without [including Southwark]," 2:54-55.

¹⁴⁸ Carlin, *Medieval Southwark*, 226.

burial ground and was probably in common use by the time of Henry II.¹⁴⁹ In effect, if women practiced within the sex trade or did not repent for their life within the sex trade before death they were barred from the rights of the Church, therefore placing their souls in danger and placing them outside the religious life of the community.

Though women were encouraged to repent for their work in the sex trade before death, there was no efforts to aid women in leaving the profession. Continental locations where sanctioned brothels flourished had methods in place to aid women in the shedding of their deviant reputations and leading them back onto a moral path, usually through the establishment of Magdalen Houses.¹⁵⁰ These institutions did not exist in English society; therefore there was no support system for women who wanted to retire or leave the sex trade. English women who left the Bankside stews often could not find lodging or gainful employment elsewhere, thereby forcing them into clandestine prostitution or other illicit methods of employment causing them to wander about London or nearby shires.¹⁵¹ The lack of concern for the moral safety of the prostitutes was a ramification of the Bankside stews. The Bishop, though tolerating prostitution, could not allow them complete religious immunity for their behavior.

The inhabitants of Southwark and London felt the secular ramifications of the brothel system as well. The stews increasingly lost favor among Southwark inhabitants

¹⁴⁹ William Rendle and Phillip Norman, *The Inns of Old Southwark and their Associations*, (London: Longmans, Green, and Co., 1888), 289.
<https://archive.org/steam/cu31924032404950#page/n327/mode/2up>.

¹⁵⁰ Eukene Lacarra Lanz, "Legal and Clandestine Prostitution in Medieval Spain," *Bulletin of Hispanic Studies* 79:3(2002), 269, doi: 10.3828/bhs.79.3.1

¹⁵¹ Carlin, *Medieval Southwark*, 227.

outside the Bishop's manor by the fifteenth century. Prostitution and brothel-keeping brought with it disorderly behavior, criminals, and the upward movement of brothel-keepers in society. Southwark inhabitants, plagued by these issues, petitioned parliament in 1433 to complain that stew-holders were purchasing property (worth forty shillings) outside the manor, allowing them to sit upon juries. They also complained that they turned their new properties into brothels.¹⁵² Further, the Southwark inhabitants petitioned for a law mandating that no known brothel-keepers be allowed to purchase, operate, or rent taverns or inns within the larger Southwark borough. By keeping stew-holders out of the larger borough, citizens ensured that the stew-holders could only sit on juries and inquests within the Bishop's manor.¹⁵³ Southwark citizens were concerned that brothels outside the manor would damage the reputable nature of the larger borough, increase the number of false arrests, and the probability of empaneled juries. Though prostitutes and stew-holders were tolerable within the Bishop's manor, they were not loved or wanted within the larger borough itself.

The Southwark citizens and those in London, including the King in efforts to expand his jurisdiction, further attempted to curb the spread of brothels within Southwark in 1460. Henry VI led an inquest into Southwark prostitution on the grounds of increased criminal behavior, especially homicide, within the borough. Women within the

¹⁵² Ibid, 218.

¹⁵³ Ibid.

Winchester Liberty who were singled out by the liberty officials as non-compliant with church penalties were also expelled.¹⁵⁴ Henry sanctioned the process by claiming,

Though the minister and officers of the church have cited such and others supporting their sins to the correction of their souls according to canonical sanctions, yet they continue in sin because the church cannot compel them to appear for their crimes by ecclesiastical censure only.¹⁵⁵

The focus of the inquest was the larger borough portion of Southwark. Within the Bishop's manor it would be hypocritical to single out particular prostitutes.¹⁵⁶ Therefore, either the inquest was geared solely to the area outside the manor, presenting the bishop with a greater monopoly on prostitution and brothel-keeping, or it also targeted women who practiced clandestinely and/or did not abide by the customary regulations, who were given over to the London authorities during the inquest.¹⁵⁷ These attempts by the citizens of Southwark and of London to root out mass prostitution and vagrancy within the Southwark borough were short-lived. Multiple petitions to Parliament and royal inquests show the matter of prostitution and brothel-keeping in Southwark was routine. Regardless of enactments, the sex trade continued to flourish in Southwark, both within the manor and without, well until the sixteenth century.

Both ecclesiastical and secular court records from surrounding borough manors show numerous presentments for prostitution, brothel-keeping, and procurement.

Presentments were common during the fourteenth century, but continued after the 1433

¹⁵⁴ *Calendar of Patent Rolls Preserved in the Public Records Office: Henry VI, 1422-1461*, (London: HMSO, 1910), 6:610. <http://babel.haithitrust.org/Record/011983740>.

¹⁵⁵ Ibid.

¹⁵⁶ Karras, *Common Women*, 41.

¹⁵⁷ Ibid.

regulation against brothel ownership and the 1460 inquest to remove prostitutes. Surviving records from the Archbishop of Canterbury's Southwark manor provide numerous presentments of brothel-keeping, housing dangerous persons, and prostitution. Magdalena Dochewoman was presented to the Archbishop's court as an "ill-liver of her body," in addition to allowing prostitutes to frequent her house.¹⁵⁸ Ultimately it was decided that she was to leave the borough in accordance with the 1460 inquest.

Presentments within the secular manor of Guildable followed similar patterns. The surviving court record from 1539 saw seventeen men accused of brothel-keeping under the terminology "pety hostry" and/or "lupanarium."¹⁵⁹ The men were charged fines amounting from threepence to five shillings. Other men were charged with being "common bawds who kept bawdry in their houses."¹⁶⁰ One of the men was fined and the others expelled from the borough. Men commonly cited as brothel-keepers and bawds were alehouse-keepers, while the alehouse itself became a common haunt for prostitutes once brothels were forcibly outlawed within the borough in 1433.¹⁶¹ From the various court records from the other manors within Southwark we can see how the legalization of brothels within the bishop's liberty proliferated throughout the entire borough. Due to the petitions and inquests brought forth by citizens we can infer that many of the presented brothel-keepers and prostitutes began in the bishop's liberty. They either spread their locations throughout the borough in efforts to increase profits or were

¹⁵⁸ Carlin, *Medieval Southwark*, 223-224.

¹⁵⁹ Ibid, 224-225. The view and court were heard on 20 October, 1539.

¹⁶⁰ Ibid.

¹⁶¹ Twelve of the seventeen men presented to the court as brothel-keepers and procurers in 1539 were alehouse-keepers.

expelled from the liberty and continued within the sex trade in the borough. In all, the ramifications of the bishop's legalized brothels affected all those living, working, or running the borough through ecclesiastical means or secular ones.

The sanctioned brothel-system that functioned within the Bishop of Winchester's Liberty presented a unique occurrence in medieval England. While the practice of prostitution was illegal or increasingly prohibited within the secular and ecclesiastical courts of the City of London (and generally across the entirety of England), the courts of the Bishop of Winchester's manor allowed for the sex trade to flourish. The manor operated under the secular and ecclesiastical jurisdiction of the bishop, and therefore followed romano-canonical procedure that dictated the laws, punishments, and courts that operated within the manor.

Through the fifteenth-century customary regulation for the brothels we can see the bishop and his officials actively using canon law and ecclesiastical theory to govern the stews. They followed the pattern set forth by the ecclesiastically sanctioned brothel-systems on the Continent, but amended with regulations specific to English prostitution. Unlike Continental locations, Bankside did not pay particular attention to the morality of prostitutes, the trade was a secular and economic foundation of the manor. Instead, the bishop focused on ensuring that the brothels were licensed and operated under the tenets of Church theories regarding sexual intercourse and prostitution.

As the professionalization and specialization of canon law evolved so too did the organization of the bishop's manor. The bishop authorized his officials, learned in canon

and Roman law, to run the manor during his absence, but also entrusted them to write and enforce the customary regulations for the brothels, the aim of which were to economically and personally control the prostitutes and brothel-owners leading to their marginalization and exploitation within the manor.

The Bankside stews developed into profitable businesses under the authority of the bishop and his officials. The history of Southwark always had a deep connection to prostitution and illicit behaviors, a history that the bishops used to their advantage. As the Church grew increasingly lenient regarding prostitution and non-marital sex, the Bishops of Winchester used their ecclesiastical and political position to develop the brothels into flourishing commercial enterprises, all while collecting the vast profits. It was the unique ability of the bishops to combine their secular and ecclesiastical power, while effectively separating their ecclesiastical position from their secular position of landowner, which allowed the Bankside stews to rise to prominence and notoriety.

CONCLUSION

The age of institutionalized brothels and tolerated prostitution came to an end during the sixteenth century. The Bishop of Winchester's manor saw the first instances of enforced widespread brothel closures with a royal proclamation in 1546.¹ The legal autonomy of Southwark had come to an end around 1529, after the fall of Cardinal Wolsey who bequeathed his Southwark property to Henry VIII, providing the king with legal control over the liberty. The royal control of the liberty was further cemented by Stephen Gardiner (who replaced Wolsey as Bishop of Winchester) in 1531, in efforts to placate the monarch in his efforts to consolidate control of the country.²

Increased zeal for the abolition of prostitution and brothels was due, in part, to the fervor against sexual offenses, but more so against criminal activities associated with brothels that constituted the basis for closure.³ On 12 April 1546, Henry VIII, by royal proclamation, suppressed the stews within the bishop's liberty. Stow outlines the enactment:

This row of stews in Southwarke was put downe by the kings commandement, which was proclaimed by sounde of Trumpet, no more to be priuiledged, and used as a common Brothel, but the inhabitants of the same to keepe good and honest rule as in other places of the realme.⁴

¹ Ruth Mazo Karras, *Common Women: Prostitution and Sexuality in Medieval Europe*, (Oxford: Oxford University Press, 1996), 36, 42.

² David Johnson, *Southwark and the City* (Oxford: Oxford University Press, 1969), 98-99.

³ Martha Carlin. *Medieval Southwark* (London: Hambledon Press, 1996), 226.

⁴ John Stow, "Bridge Warde Without [including Southwark]," in *A Survey of London, Reprinted from the Text of 1603*, ed. C.L. Kingsford (Oxford, 1908), 55. <http://www.british-history.ac.uk/no-series/survey-of-london-stow/1603/pp52-69>.

The proclamation cited moral concerns (“[they] provoke God’s wrath and the corruption of youth”) and anxieties about public order (“the [stews] led to assemblies of evil-disposed persons who daily conspired to spoil or rob the true laboring and well-disposed men”) as reasons that the Bankside stews were to be suppressed.⁵ The prostitutes were to leave the manor by the following Easter (April 25), or face fines and imprisonment. Bawds and brothel-keepers were also forced to leave the manor by Easter. Any tavern-keepers or ale-houses were to close until Easter, and could only reopen after the owner and/or renter had presented himself unto the king’s council to swear to not allow assignations or prostitution within their businesses.⁶ Furthermore, all former brothel owners, land-lords, or renters were not to lease out the property, unless the lesee’s name was presented to the king’s council and he took the same oath as victuallers of the manor.⁷

The closure of the stews in 1546 thoroughly expelled most professional prostitutes from the manor, and from Southwark in general. Carlin states that burials for “single” or “common” women within the borough all but disappeared by 1547. Further presentments for sexual offenses in Guildable manor were reduced significantly after the 1546 closure; presentments for brothel-keeping subsided by 1547 and for procuring after 1550.⁸

⁵ Paul Hughes and James Larkin, *Tudor Royal Proclamations*, vol. 1 (New Haven and London, 1964-9), 365-366; Carlin, *Medieval Southwark*, 226-227.

⁶ Hughes, *Tudor Royal Proclamations*, 365-366.

⁷ Ibid.

⁸ Carlin, *Medieval Southwark*, 288.

Historians put forth three main reasons for the dramatic closure of the brothels. The first was the spread of venereal disease. There had been a long standing connection between prostitutes and disease.⁹ Brothels were closed during outbreaks of plague and women who had diseases were forced to leave the brothels for the protection of the patrons. Syphilis, brought to Europe from the New World, represented the basis for dismantling brothels because of disease. This reason, known as the “syphilis theory.” has been all but disproved by modern historians, primarily because it does not follow the chronological timeline of brothel closures. If brothels were to experience mass closure due to venereal disease then they would have closed in the 1490s when the syphilis epidemic was at its pinnacle.¹⁰

Worries about public order constituted the second supplied reason for brothel closures. The concern over public order was a driving factor behind the institution of brothels and legal prostitution, but by the sixteenth century another demographic development changed the view on public order and its connection with prostitution. The sixteenth-century saw another population boom that increased the number of poor people living within larger communities. Prostitutes swelled in numbers with more women from the lowest ranks of society. Their sexual actions and brothels’ association with criminal behavior changed the social view.¹¹ Prostitutes went from being seen as tolerated sexual

⁹ Otis, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago: Chicago University Press, 1985), 41.

¹⁰ Ibid.

¹¹ Ibid. 42.

outlets, to criminals that brought other peoples of devious intentions to respectable areas of town.

The final reason put forth by historians for the closure of brothels was the development of Protestantism and the Counter-Reformation. This theory has been seen as the ultimate cause for closure across Europe by most historians. Many other theories can find their basis in these two movements. Luther and other prominent leaders of the Protestant movement were firmly against prostitution. The Protestant faith proposed a new sexual morality that denounced all types of non-marital sexual intercourse.¹² For centuries men had enjoyed a double-standard allowing and encouraging pre-marital sex; under Luther the double-standard experienced a decisive blow. To combat the revolutionary Protestant faith the Catholic Church had to impose stricter sexual morality upon their followers. The overall moral beliefs of society changed during the sixteenth century for peoples of both faiths.

The new moral code had no room for the legalized fornicator, effectively causing the closure of brothels across Europe. The spread of Protestantism correlated to the timing of closures in England, France, and Spain. By the 1530's England had begun the transformation into a reformed church, clarifying why England had the earliest closure dates. Through the written accounts of the 1546 brothel closure and the force of the English Reformation it can be seen that public order and increased concern for morality

¹² Ibid. 43.

played the largest roles in the closure of the Southwark brothel-system and London prostitution.

The primary aim of this study has been to assess how the legal system and attitude toward prostitutes within London and Southwark perpetuated the way these locations wanted to be seen; the City of London as a bulwark for moral character and urbanization, and Southwark as a sound commercial success. Further, the actions taken by these locations to ensure their imagined societal image placed women under direct male authority through laws and commercial regulations, respectively. These methods firmly placed the prostitute on the margins of society, removing her from the respected confines of both communities. The prohibition or promotion of prostitution was based on more than the morality of the issue; both secular and ecclesiastical institutions had their own agendas behind their method of controlling prostitution.

London implemented a progressively prohibitive system. During the fourteenth century we can see London tolerating prostitution to a degree, but into the fifteenth and sixteenth centuries prostitution developed into a criminal offense. Prostitution was no longer seen in degrees of toleration, but only as a practice in need of eradication. The City of London was able to achieve prohibition through the issuance of secular laws and punishments. In their favor was the growing tide to see sexual offenses tried in secular court over ecclesiastical court—thereby giving civic authorities direct jurisdiction over the prostitute and sexual commerce.

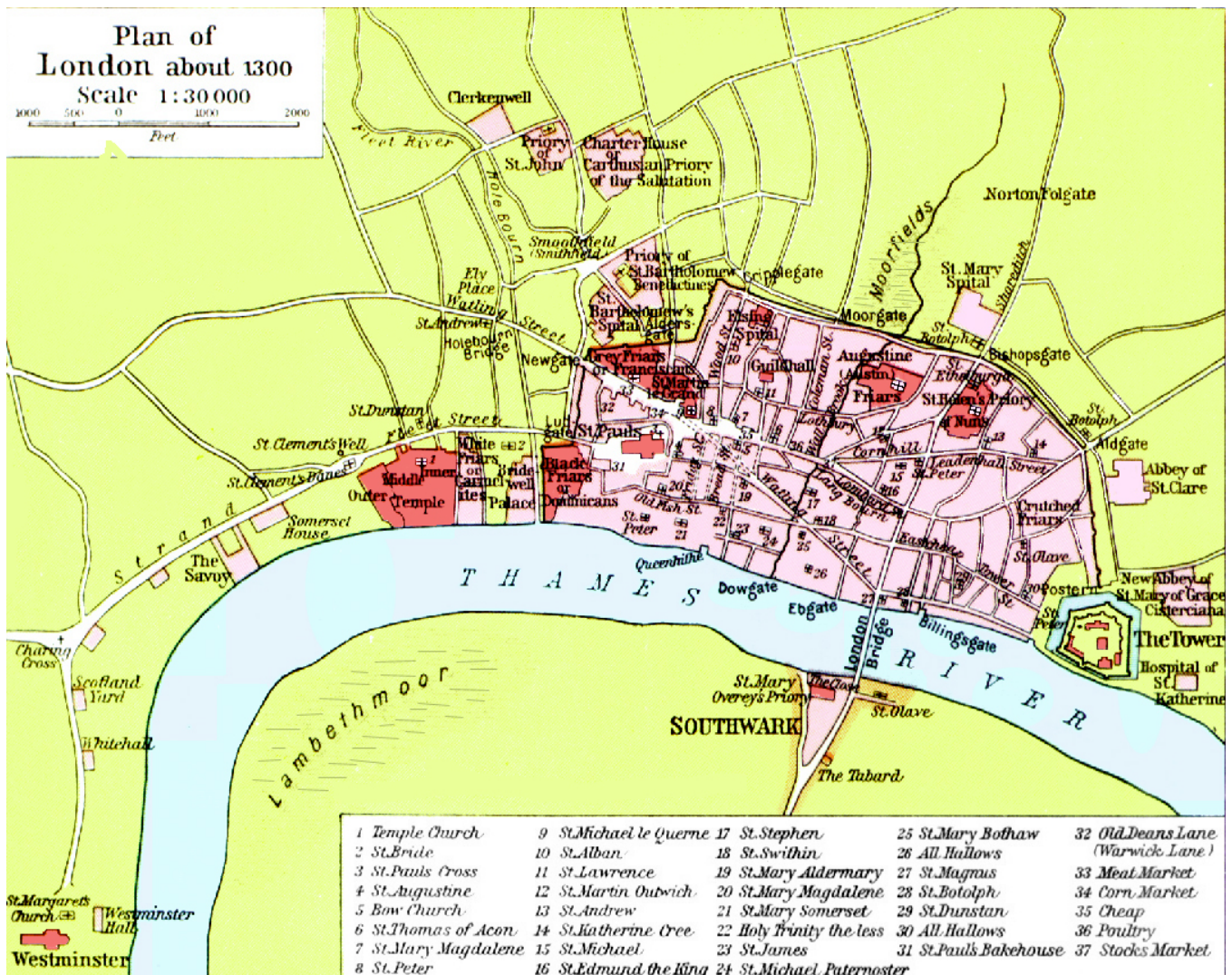
Southwark employed a regulative system, one in which prostitution was promoted and tolerated. The Bishop of Winchester, as manor lord, legalized prostitution on a secular foundation. Though the act was still illegal within ecclesiastical law, he chose to tolerate sexual commerce within his liberty, following the Church's notion that prostitution was a necessary evil and therefore should be tolerated. In that manner, the bishop was able to separate his function as secular lord and ecclesiastical authority. The bishop's manor was able to actively regulate prostitution through the fifteenth-century customary that placed strict commercial regulations upon sexual commerce. The system of promotion and toleration through the customary regulations promulgated the view of the stews as model commercial enterprises. The Southwark prostitutes were thereby placed under male authority through commercial regulations and the sexual theories of the medieval Church. Even though prostitution was legal on a secular front and tolerated on an ecclesiastical basis, in Southwark the prostitute herself was still marginalized. The brothels played a vital role in the urban and economic development of Southwark, but the prostitute did not. She was still seen as sinful, and was restricted from the secular and ecclesiastical life of the manor community.

By examining prostitution as a microcosm of society's attitudes toward women, it is clear that authorities in medieval England placed severe limitations upon their lives, sexuality, and economic abilities. Without clearly defining who was deemed sexually deviant, any woman, regardless of class, could fall suspect. Through a legal examination of prostitution in the City of London and Southwark, I determine that the respective legal system for each location, in regards to prostitution, allowed them to put forth their

idealized vision of their community to the world. This idealized view placed prostitutes under direct male control, effectively marginalizing and exploiting the prostitute through either laws or commercial restrictions.

APPENDICES

APPENDIX A: Map of Greater Medieval London, c 1300



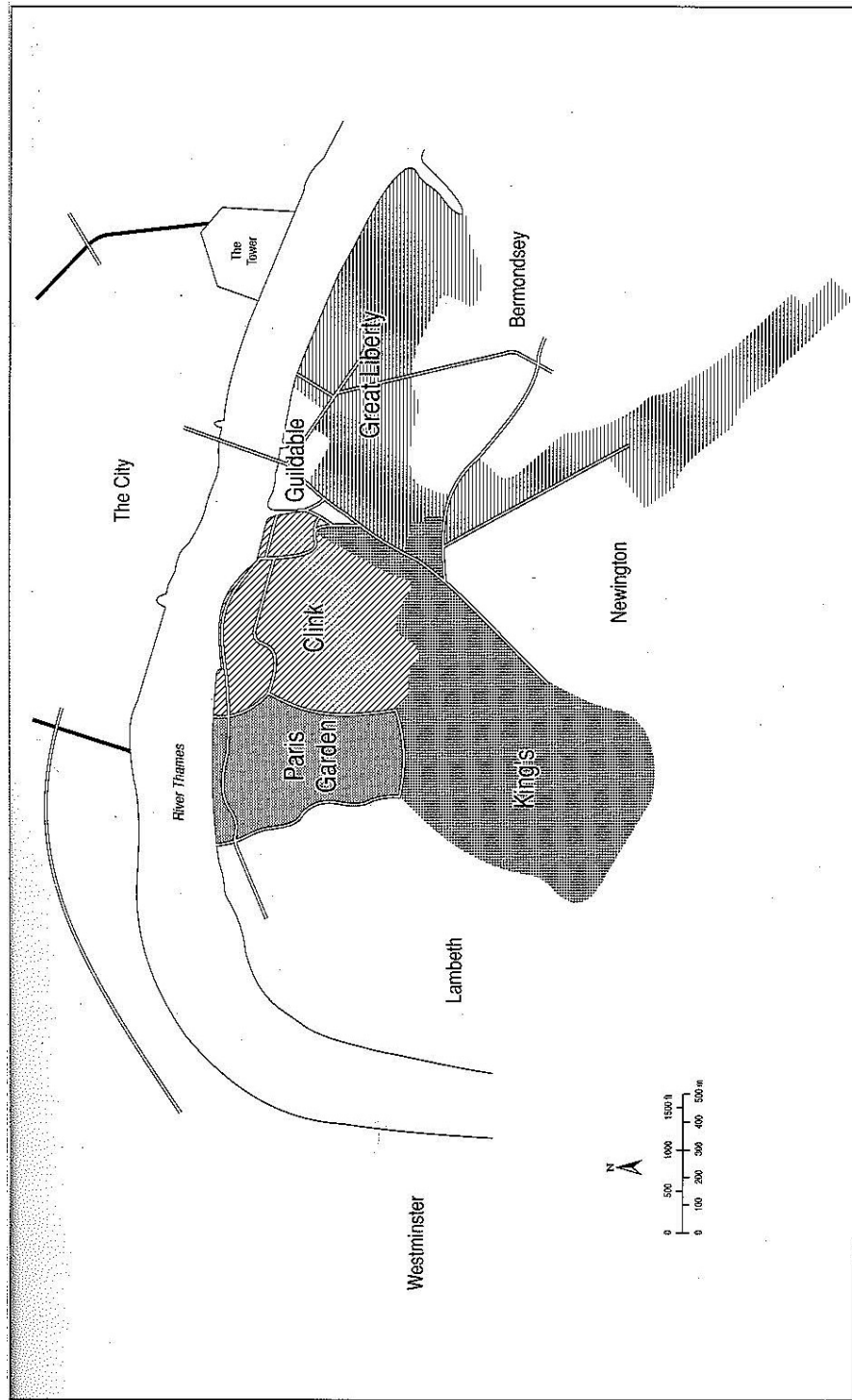
Source: William R. Shepherd, "Map of London, ca 1300" in *Historical Atlas* (New York: Henry Holt and Company, 1911), 75.

www.medart.pitt.edu/images/England/London/Maps-of-London/London-Maps.html.

The map is a detailed historical plan of Winchester, showing the River Thames flowing through the center. To the north of the river is Winchester Palace, with a Churchway (Park Street) leading to it. To the south of the river is Winchester Park, with Maiden Lane running through it. Various streets and alleys are shown, including Clink Street, Rose Alley, Smith's Herbs, Bear Garden, Land of the prioress of Stratford-at-Bow, Land of Richard Bronde, 1470, Land of Wm. Newbought, 1470, Banaster's Garden, Queen's Garden, Paris Garden, and the River Thames. The map also shows the site of mills, the site of a millpond, and the site of a mill. A scale bar (0 to 300 ft / 0 to 100 m) and a north arrow are included in the bottom right corner.

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APPENDIX C: Manors of Southwark, c. 1550



Source: Martha Carlin, *Medieval Southwark* (London: Hambledon Press, 1996), 21.

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