

The Manipulation of Mercy: Sanctuary in mid to late medieval England and its  
relationship with the people.

Research Thesis

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“Si enim dimiseritis hominibus peccata eorum dimittet et vobis Pater vester caelistis delicta vestra. Si autem non dimiseritis hominibus nec Pater vester dimittet peccata vestra.”<sup>1</sup>

*For if you will forgive men their offences, your heavenly Father will forgive you also your offences. But if you will not forgive men, neither will your Father forgive you your offences.*

Mercy was an essential part of medieval European Christianity. The Christian Church’s very existence was based upon the promise of attaining salvation after death, made possible only by a merciful God. Thus, the Church functioned as the vessel which bridged communication between earthly humans and the divine, serving as an extension of Christ himself and bearing the responsibility of providing mercy to those who needed it. Perhaps the most striking embodiment of this perceived ecclesiastical duty is the case of medieval sanctuary, which flourished throughout the Middle Ages until its abrupt end in the mid-sixteenth century.

Put simply, sanctuary was the ultimate game of tag. If wishing to avoid the consequences of committing a crime, one could race against the pursuit of the hue and cry, or ahead of the county coroner, to the nearest church, and upon touching its doors would have the protection of sanctuary. For the majority of the Middle Ages, the Church’s intended demographic was those who had committed felonies such as robbery or murder, but its privileges were also officially extended to debtors toward the later Medieval period.<sup>2</sup> Once within the Church’s jurisdiction, these felons became ‘sanctuary men,’ meaning that they could exist within the sanctuary’s walls without punishment for a given period. The length of time that one could reside in sanctuary varied, depending on the specific type to which one had fled. Most common, temporary

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<sup>1</sup> Matthew 6:14-15 (Latin Vulgate Version).

<sup>2</sup> R.F. Hunnisett, *The Medieval Coroner*. (Cambridge: Cambridge University Press, 1961), 37.

sanctuaries offered felons a period of forty days' immunity from the law, while a special few sanctuaries offered seekers a permanent, lifelong stay under the Church's protection, namely chartered sanctuaries.

In regular sanctuaries, felons were given the forty-day period to choose whether they wished to abjure the realm or to stand trial and be delivered to jail by the coroner. It was also possible for a sanctuary man to confess to his crimes and request more time to decide his fate; if granted, he was given another forty-days' extension. However, as sanctuary did not house the most altruistic of citizens, many opted to forego the law entirely and use their grace period to formulate escape plans or apply for a pardon rather than make any decision.<sup>3</sup> Regardless of how their borrowed time was spent, sanctuary proved to be a vital element in determining the fates of felons.

In scholarly debate, the beneficiaries of the institution of sanctuary in medieval England are usually identified as being the Church and the Crown. To the Church, governance over sanctuary provided them with an avenue for financial profit and intervention in legal affairs that otherwise belonged to the king's jurisdiction. However, for the King, simply allowing sanctuary to exist was a display of his sovereignty over even the Church, as well as a testament to his royal mercy. Sanctuary only existed because the king allowed it to exist. While it is true that this institution was vital to both the Church and the Crown, a third party has repeatedly been overlooked when analyzing the beneficiaries of sanctuary. In this essay, I will argue that a third party – the people living in England – also relied upon and utilized sanctuary for a diverse and unexpected number of opportunities and protections that it offered, as well as played key roles in

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<sup>3</sup> Hunnisett, *Medieval Coroner*, 38.

the very establishment and operation of such sites. The incorporation of a third party into the pool of beneficiaries has been suggested in recent historiography, such as by Shannon McSheffrey in *Seeking Sanctuary: Crime, Mercy and Politics in English Courts, 1400-1550* (2017), as well as Karl Shoemaker in *Sanctuary and Crime in the Middle Ages, 400-1500* (2011); however, this idea is still in its infancy, and in this essay, I hope to expand upon it. The jurisdiction of the Church was sought out by people of diverse and different backgrounds, for a myriad of reasons: felons, debtors, aristocrats, foreign businessmen, and even members of the royal family took advantage of the unique privileges and opportunities available through sanctuary.

#### *A Brief History of Sanctuary*

The roots of the institution of sanctuary cannot be easily traced back to one definitive source. Evidence of its underpinnings is found dating all the way back to antiquity in Roman penal law. Such law codes demonstrate the importance placed upon intercession and clemency by the Roman aristocracy and emperors. While the protection of sanctuary was not always a guarantee within the laws of temples, it offered itself in other ways - slaves could escape and run to the statue of Romulus for respite from their masters, and instances of fugitives escaping conviction through similar actions also exist.<sup>4</sup> While clear ties to pagan and Roman imperial practices do exist, another possible beginning is also found in Christian sources toward the end of the antique period.

The introduction of sanctuary into the Christian tradition was less due to a recognition of the Church's sanctity, and more due to the ecclesiastical duty of intercession for the accused.

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<sup>4</sup> Karl Shoemaker, *Sanctuary and Crime in the Middle Ages: 400-1500* (New York: Fordham Univ. Press, 2011), 30.

With roots in the New Testament, intercession was considered an act of mercy, one of the central themes of Christianity and therefore, a Christian duty. According to Karl Shoemaker, this tradition existed completely outside of Roman imperial justice, and was considered a form of penitential discipline and correction rather than offering criminals a way to avoid punishment.<sup>5</sup>

This tradition can be found occurring in Christian texts as early as the fourth century CE. Two key examples of laws regulating sanctuary in pre-medieval Christian law are found in the Theodosian Code and the Ten Laws of Constantine. The Theodosian Code was drawn up in 438, outlining specific laws and guidelines on sanctuary, specifically restricting sanctuary privileges from public debtors, Jews, and others fleeing economic or public responsibilities. The Ten Laws of Constantine, while attributed to the first Christian emperor himself, were rather a forgery made in the sixth century. The Ten Laws demonstrate the developing restrictions on who could claim sanctuary and what exactly could be considered a “safe space”, stating that only a consecrated church could provide immunity from the law and only criminals could utilize its benefits.<sup>6</sup> Although the document was not authentic, it displays the position of sanctuary in law at the time and had a profound influence on the medieval view of sanctuary being a Christian practice.

The early medieval period saw even more changes and developments in sanctuary law, with King Alfred implementing multiple rulings on the subject. Prior to the implementation of these laws, sanctuary was able to be claimed simply by touching the cloak of a member of the clergy, as well as fleeing to a graveyard as it was consecrated ground was under the jurisdiction of the church. Alfred’s laws drew rigid lines on what could actually be considered sanctuary, as

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<sup>5</sup> Shoemaker, *Sanctuary and Crime in the Middle Ages*, 27-8.

<sup>6</sup> Shoemaker, *Sanctuary and Crime in the Middle Ages*, 33.

he first decreed that immunity would be granted for three nights and could only be given in a church that was under his direct patronage.<sup>7</sup> These tight restrictions were later amended, as the length of one's stay was extended to seven nights and was valid in any consecrated church and set the precedent for later medieval sanctuary law. Sanctuary could also be used as a sort of waiting room, while the seeker's family gathered ransom money. If he gave up his weapons and his household promised to arrange some sort of settlement within thirty days, the seeker could go free. At this point, the Church was not yet required to provide food or care for the sanctuary men who had to leave its jurisdiction to find food if they grew hungry.<sup>8</sup>

It is also important to understand the history of abjuration, as it developed alongside sanctuary. The process of abjuring the realm began in the Anglo-Saxon period and was solidified into sanctuary law by the twelfth century. As common law developed, the role of the medieval coroner extended to presiding over the sanctuary men and the abjuration process. Felons who claimed sanctuary had the opportunity to choose whether they wanted to abjure the realm at any point during their forty-day stay. If by the end of this period the felon had not made a choice, the coroner was required to seek him out and hear his decision.<sup>9</sup> Should he choose to abjure the realm, it was the duty of the coroner to arrange the felon's departure, and prior to that, to supervise the abjuration ceremony.

The abjuration ceremony in itself was a spectacle headed by the coroner. Prior to the ceremony though, the abjurer was given yet another forty days to secure passage from the country, in which he could remain in sanctuary until the time of his departure.<sup>10</sup> After he had

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<sup>7</sup> Shoemaker, *Sanctuary and Crime in the Middle Ages*, 80-4.

<sup>8</sup> Shoemaker, *Sanctuary and Crime in the Middle Ages*, 81.

<sup>9</sup> Hunnisett, *The Medieval Coroner*, 38.

<sup>10</sup> HunniThe *Medieval Coroner*, 43.

secured passage, the entire town was called to attend the ceremony, in which the felon publicly confessed his crimes and took an oath of abjuration, promising to never return to England again. The coroner then would read to him the consequences of returning after his departure and escort him to the port.

And it has been granted and enacted that such fugitives shall not stay in the church for more than forty days, and should they do so, food shall thereafter be denied them, so that they shall go forth voluntarily and seek what formerly they have refused with scorn, and in this event they are denied the privilege of abjuration. And he who supplies food to them after forty days shall be treated as the king's enemy and a reckless breaker of the peace and deservedly shall be so esteemed. Should a man, however, beg leave to go forth within the forty days, the coroners shall come, and before them he must confess his misdeed and ask that, on account of his felony, he may be allowed to abjure the realm. And when he has acknowledged his misdeed, he shall swear as follows: Hear this, ye coroners and other men, that I, so-and-so, for such and-such a deed that I have wickedly committed, will go forth from the realm of England, and hither will I not return again without leave of the king and his heirs. So help me God etc.<sup>11</sup>

When the time came, the abjurer was made to carry a wooden cross and wear a sack fashioned for him by the townspeople, so that all who crossed his path knew he was a criminal. If the criminal was ever seen back on English land, it was the responsibility of the people to apprehend him and execute him.<sup>12</sup>

Before the fifteenth century, abjurers generally left through the port of Dover, but more options proliferated over time as abjuration became less uniform and abjurers were increasing left up to their own devices.<sup>13</sup> In fact, the number of felons seeking to abjure the realm grew so much that statutes were passed allowing them to avoid exile and instead be sent to a chartered

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<sup>11</sup> H. G. Richardson and G. O. Sayles, *Fleta* (London: B. Quaritch, 1955), 76-77.

<sup>12</sup> Hunnisett, *The Medieval Coroner*, 44.

<sup>13</sup> J. Charles Cox, *The Sanctuaries and Sanctuary Seekers of Medieval England*. (London: George Allen & Sons, 1911), 25.

sanctuary.<sup>14</sup> Abjuring the realm was often the best choice for a convicted felon, as it allowed him to avoid execution. However, in the fourteenth century, the development of the chartered sanctuary offered felons the opportunity to save their necks and remain in their home country.

Chartered sanctuary differed from its predecessor in that those who claimed it were offered permanent asylum, rather than a temporary reprieve. The first permanent sanctuaries appeared in the late fourteenth century due to the conflation of the various forms of jurisdictional immunity that ecclesiastical liberties, specific exemptions to legal processes held by members of the clergy, developed over the twelfth through fourteenth centuries, according to McSheffrey.<sup>15</sup> The admission procedure, however, was more complex than in temporary sanctuaries, as felons had to swear to obey the laws of the sanctuary, register a valid reason for their flight, and pay entrance fees.<sup>16</sup> Additionally, the seekers had to provide guarantors for their good behavior; if they committed another felony after entrance into sanctuary, they were to be handed over to the king's bench to face trial.<sup>17</sup>

Logistically, sanctuary made sense prior to the late medieval era, as the legal system was less elaborate, and its existence allowed people to arrange for compensation of crimes rather than lashing out in retaliatory violence. However, by the fourteenth and fifteenth centuries, state justice replaced this precedent of informal conflict resolution with a more formalized court system, meaning that the protections offered by the Church no longer had a necessary role in law. Theoretically, Shannon McSheffrey argues, sanctuary should have died out alongside the

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<sup>14</sup> Shannon McSheffrey, *Seeking Sanctuary*, 1<sup>st</sup> ed. (Oxford: Oxford University Press, 2017), 7-8.

<sup>15</sup> McSheffrey, *Seeking Sanctuary*, 28.

<sup>16</sup> *Seeking Sanctuary*, 10.

Some chartered sanctuaries prohibited specific types of felons, including forgers, sexually misbehaving men, strumpets, and bawds. If any of these people claimed sanctuary, they were put on a pillory each day to face humiliation until they decided to leave.

<sup>17</sup> *Seeking*, 9.



church's declining legal power, but it didn't. In fact, it experienced a revival during the Tudor era.<sup>18</sup>

This revival can be attributed to the increasing secularization of sanctuary law, beginning in the fifteenth century. After the Black Death, few felons opted for sanctuary as felony prosecution was rather infrequent.<sup>19</sup> Around this same time, secular forces - the most acknowledged of which being the king but as I will argue, the people themselves also contributed - began to shift sanctuary toward an existence as a common law practice and away from canon law. McSheffrey appears to suggest that sanctuary's secularization was not a mere coincidence, as the decreased presence of sanctuary in canon law after the Black Death allowed the crown the perfect opportunity to wield its authority over the privilege.

During the Tudor regime of the fifteenth century, sanctuary actually began to be referred to as the "king's privilege," and was increasingly being run by laymen working under the crown but acting as stewards of the Church, rather than monks and priests.<sup>20</sup> As the number of those seeking sanctuary began once more to climb, it also indicates that the Tudor kings were once again beginning to increase prosecution and execution as displays of royal authority. The king allowed sanctuary's incorporation into common law and protected it as a practice because it functioned as a strategy of reining in the ambition of those who might seek to undermine the crown and keeping criminals off the streets, while allowing the king to display his royal and Christian mercy.<sup>21</sup>

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<sup>18</sup> McSheffrey, *Seeking Sanctuary*, 11.

<sup>19</sup> *Seeking Sanctuary*, 11.

<sup>20</sup> *Seeking Sanctuary*, 190.

<sup>21</sup> *Seeking*, 15.

However, by the advent of the English Reformation in the sixteenth century, sanctuary found itself hanging in a precarious position. Protestant authorities and political leaders alike such as Thomas Cromwell, called for the absolute destruction of all sanctuaries and enacted the dissolution of monasteries.<sup>22</sup> Somewhat in agreement, Henry VIII, now in the later years of his reign, found it inconvenient to allow his political opponents to utilize sanctuary's benefits. Yet, he also acknowledged its benefit of allowing him to maintain his reputation as a godly king. Thus, he drafted a statute in 1540 that allowed him to create loopholes that would restrict the types of people who could utilize sanctuary's privileges, while not entirely dismantling it as an institution.

McSheffrey highlights portions from this statute, titled "Concerning Sanctuaries", demonstrating the king's qualms with sanctuary "idle and evil-disposed persons" who benefitted from the privileges of sanctuary offered in instances of "great sundry and detestable murders, robberies, as also other great and heinous privileges". However, this statute also continues to demonstrate the king's insistence that the institution carries on administering its privilege to very specific cases. "It also declared, however, that the king did not wish for the 'utter abolishing [and] extinguishment of all sanctuaries and the privileges of the same,' since they were "very expedient and convenient to be had and continues in every common wealth by the laws of mercy for some causes and offences."<sup>23</sup>

The statute passed successfully through parliament and might have allowed for the continued, albeit severely limited, existence of sanctuary - had it actually been enacted. For some reason unknown to modern day historians, the statute failed when put into place, and

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<sup>22</sup> McSheffrey, *Seeking Sanctuary*, 194.

<sup>23</sup> *Seeking Sanctuary*, 194.

evidence of actual sanctuary seekers after its passing is virtually nonexistent. However, it can be assumed that the increasing influence of the Reformation during the period prior to the seventeenth century certainly took its toll on the function of sanctuary, as it was officially abolished in 1624 under the jurisdiction of King James.<sup>24</sup>

### **Criminals, Shoemakers, etc., – the forgotten beneficiaries of sanctuary**

#### *Felons*

Sanctuary was utilized by a vast demographic of people in England throughout the medieval period, meaning that this wide array of seekers all benefited from its privilege, disproving the theory that the Church or the Crown were its sole beneficiaries. The first, and perhaps the most obvious, group of people who benefited from its privilege were felons. Felons were the intended demographic of sanctuary seekers and could use sanctuary as an opportunity to avoid execution through staying in a chartered sanctuary or abjuring the realm, as is evident in the laws on outlawry found in the legal treatise *Fleta*, which states: “If a man who has sought the protection of the church ask leave to abjure the realm, for therefore he may not be exacted in the county court.”<sup>25</sup>

Not only could felons benefit from sanctuary’s existence as a means of punishment, but they could also use it as a means of avoiding justice altogether. While sanctuary was meant only to be available to a seeker for forty days, the legal and religious implications of forcing a felon out seemed much graver than allowing him to go unpunished.

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<sup>24</sup>McSheffrey, *Seeking Sanctuary*, 197.

<sup>25</sup> *Fleta*, 72.

But what if he refuses to leave it; may he not be dragged out forcibly by the lay power? No, as is evident, for to do so would be abominable and impious. It seems therefore that the ordinary of the place, the archdeacon or his official, dean or parson, may and ought to do so, that is, compel him to come out, for sword ought to aid sword nor does the execution of the law constitute a wrong. Since he has refused to come out unless compelled there is a strong presumption as to his guilt <especially if he is a known thief> and to protect him in the church (at least after he has been there for one night or more) will be to act contrary to the peace and the king himself, who ought to safeguard the peace for the security of all. And if he cannot be compelled to come out he may then keep himself there for forty days or for a year or two, [and] if this is what the wrongdoer intends what shall then be done, since ordinaries fear the charge of irregularity and laymen excommunication? I see no remedy except that food be denied him, that he may come forth voluntarily and seek what he has scornfully refused, and that he who supplies food to him be deemed the king's enemy and one contemptuous of the peace. And let the same be done with respect to those who ought to abjure the realm and be sent into exile.<sup>26</sup>

Rather than dragging a felon to justice, the guidelines outlined in Bracton's legislation titled, "That a wrongdoer ought not to stay in a church for forty days, and if he attempts to do so what is then to be done," dictate that he may dwell in sanctuary for *years*, not days, for fear of impiety and sinfulness in the eyes of God and church that could result in a clergy member's own excommunication. That this legal treatise makes a very clear exception to the previously acknowledged law shows just how much potential power existed within sanctuary as an institution, and how this power could be exploited, and this privilege manipulated by those who claimed it.

One further note of relevance is that sanctuary claims made by felons were an overwhelmingly male occurrence. Theoretically, female felons had the same rights to sanctuary as males did, but statistically, they account for approximately one percent of all seekers who

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<sup>26</sup> Henry de Bracton, *Bracton on the Laws and Customs of England. De Legibus Et Consuetudinibus Angliae*, ed. George E. Woodbine, trans. Samuel E. Thorne (Cambridge, MA: Harvard University Press, 1968), 383.

were fleeing felonies.<sup>27</sup> The reasoning behind this absence of women from sanctuary is difficult to determine, but it is likely due to a conflation of multiple different factors. First, as McSheffrey notes, medieval courts held the general assumption that felons were more likely to be male than female. Additionally, the prospect of abjuration may not have been seen by women as the same escape from death as it was men. Culturally, women were prohibited from traveling unaccompanied, and it is possible that these restrictions made the journey considerably more dangerous, and less enticing to female felons. Yet, even in chartered sanctuaries, women are sparse within the records, suggesting once again, that the path sanctuary offered was a dangerous one, and also that there were few means of supporting oneself available to women.<sup>28</sup> The Church did not discourage women from utilizing sanctuary, either, but for some unknown reason sanctuary was simply an inherently gendered space.

In past historiography, felons were the most acknowledged demographic of people who utilized sanctuary, yet statistically, it appears that they rather made up a relatively small percent of seekers in general. Beyond this intended and acknowledged demographic, a vast array of people, both English and foreign, found themselves racing toward the sanctuary door.

### *Debtors*

As felons made up only a small grouping of those who sought sanctuary, the next group of beneficiaries made up a rather large amount of seekers, so much so that their use of sanctuary privilege was eventually written into law. Debtors were the second group of people who utilized sanctuary as respite from justice, and their existence within sanctuary's privilege caused a great

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<sup>27</sup>McSheffrey, *Seeking Sanctuary*, 20.

<sup>28</sup>McSheffrey, *Seeking Sanctuary*, 21.

deal of controversy in comparison to felons. While felons claimed sanctuary as a means of escaping execution, debtors found sanctuary to be a means of avoiding paying fines for which they were being pursued.

According to McSheffrey, the practice of debt litigation developed in the fourteenth century, and alongside it the practice of debtors fleeing to sanctuary to escape lawsuits brought on by their creditors. She identifies Westminster Abbey and St Martin le Grand, another powerful chartered sanctuary in the city of London, as being leaders in the administration of permanent sanctuary privileges to debtors. She notes that “the two houses were named in a 1377 statute regulating the practice as paradigmatic amongst the ‘privileged places’ of the realm that offered refuge to debtors.”<sup>29</sup> The act of offering a permanent reprieve from debt while residing in the church’s precincts grew from the idea of ecclesiastical immunity existing within church property. It was only after the establishment of chartered sanctuary for debtors that felons were granted similar immunities.

However, the promise of an escape from a lawsuit was not always a guarantee. In some cases, debtors could actually be removed from sanctuary and made to face the suits of their creditors. Allowing men to remain in sanctuary with the possibility of their debts never being repaid was vehemently opposed by parliament beginning in the fourteenth century, and a 1379 statute from Westminster legislated the circumstances of such a removal. While uncommon, it appears that the majority of these instances were after the debtor made feigned conveyances of their goods and property to others so as to avoid having to turn it over to their creditors.<sup>30</sup>

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<sup>29</sup> McSheffrey, *Seeking Sanctuary*, 30.

<sup>30</sup> *The Statutes of the Realm*, vol. II. (Buffalo: W.S. Hein, 1993), 12.

According to the legislation found in the second volume of *The Statutes of the Realm*, the deceptive debtor was allowed the forty-day period in sanctuary, but during that time he would be reminded by a weekly proclamation from the sheriff that his debt would not go unpaid. After the forty-day period was over, the sheriff was granted a writ to forcibly remove him from the protection of the church, and he was made to face King's Bench.<sup>31</sup>

What is so striking about this statute is that it highlights one of the only lawful scenarios in which sanctuary's privilege could be overridden and revoked, relinquishing the seeker to the hands of the law once more. Sanctuary must only be granted to those who truly had nothing to give; it was not there for those utilizing it for deception. Even so, it is evident that the Church's mercy still had some authority over the situation, as the sheriff could not lawfully remove the debtor until five weeks after he had fled.

While certain cases did call for the removal of debtors from sanctuary, those who sought sanctuary in good faith often remained there for life.<sup>32</sup> However, choosing a life in sanctuary did not come without a price. Seekers were encouraged, sometimes even required, to find work in the precinct.<sup>33</sup> It is significant that the privilege of permanent reprieve offered by chartered sanctuaries became available to debtors before they were even available to felons and also unlike their more dangerous counterparts, these seekers could leave the sanctuary's jurisdiction at any time and return for a fee, which demonstrates not only its benefit to the seeker, but also how it functioned in ways which attempted the rehabilitation of its beneficiaries.<sup>34</sup>

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<sup>31</sup> *The Statutes of the Realm*, 12.

<sup>32</sup> McSheffrey, *Seeking Sanctuary*, 30.

<sup>33</sup> *Seeking Sanctuary*, 10.

<sup>34</sup> *Seeking*, 9.

*Feuding Families*

While felons and debtors were the only groups of people explicitly eligible for sanctuary according to common law, as its power grew, people from an enormously diverse number of backgrounds found themselves seeking the mercy of the Church. Peculiarly, members of feuding families were one such group of people who manipulated sanctuary to fit their prerogative. In his article, “Feud, Vengeance, and Violence in England from the Tenth to Twelfth Centuries,” John G. H. Hudson defined the medieval feud as being a process that was not solely confined to two families, but also intrinsically intertwined with the law. While there was no medieval rulebook defining the line between just vengeance and unnecessary violence, it is clear that this line did exist and that those in power were not keen on its being crossed. Beginning in the Anglo-Saxon period, roughly around the seventh century, kings issued countless laws on blood vengeance, attempting to restrict its happening but never completely prohibiting it. Later, in the twelfth century, kings began to make efforts to prevent those appeals which they believed to be brought “from hatred and malice”, as appellants utilized the courts to seek the violence of their retribution through official punishment rather than enacting personal vengeance.<sup>35</sup>

Past and current historiography suggest that it was solely either the Church or the Crown who benefited from sanctuary’s involvement in the blood feud. The Church used sanctuary to display its dominance over the law, and in turn, the King, while the Crown benefited through a decreased level of violence brought on by sanctuary’s inclusion as a viable end to conflict in written law on blood feuds. As Karl Shoemaker writes,

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<sup>35</sup> John G.H. Hudson, “Feud, Vengeance, and Violence in England from the Tenth to Twelfth Centuries,” in *Feud, Violence and Practice: Essays in Medieval Studies*, 43.



That the Church was strong enough to interject its sanctuary privilege into the world of the blood feud has been viewed as one of the early medieval church's triumphs in a world rife with private violence. What is more remarkable than the fact that sanctuary protections sometimes served to arrest violence is that many legal texts presented sanctuary as one of the several platforms upon which lawful violence might be brought to a peaceful and honorable conclusion... To the extent that medieval legal traditions speak of crime and punishment, they seem committed to the view that breaches might be restored, wrongs righted, feuds resolved, and sins atoned.<sup>36</sup>

However, arguments such as Shoemaker's fail to consider another, arguably more important, group that benefited from sanctuary's inclusion in feuds. In ending blood feuds, sanctuaries did not solely benefit the church or the crown – it also provided those involved with a legal, and more importantly, *honorable* end potentially generations-long violence. It allowed members of the families involved to keep their lives and save both money and resources that would have otherwise been wasted on the feud.<sup>37</sup> By claiming the Church's protection, further violence upon the individual would not only be prevented, but the feud in its entirety could be ended. As the Church's sanctity could not be trifled with, the families were left with no choice but to settle their conflict with words and agreements rather than fists and knives. The honor in this conclusion came as amends were made in the sight of God, and the mercy shown through ending the violence was more powerful than any promise of vengeance ever could be. Yet, simply ending the feud was not the only way in which those involved benefitted from sanctuary's involvement.

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<sup>36</sup> Shoemaker, *Sanctuary and Crime in the Middle Ages*, 50.

<sup>37</sup> While enmity between two families very well could exist among any social or economic group, feuds most frequently occurred amongst members of the landed nobility and aristocracy. Feuds could last a very long time, and often involved the aggregation of many men from both sides, making them rather expensive endeavors. Hudson, *Feud, Vengeance, and Violence*, 44.

Those who had brought their desire for blood vengeance to the court and were denied, as mentioned by Hudson, became criminals in the eyes of the law. It was in these instances that sanctuary became a pawn in the hands of those involved in illegal blood feuds. Individuals who had dirtied their hands could claim sanctuary as a means of avoiding both legal justice and retribution from the other side. The Church was one of the only places where feuds were suspended, and a breach of its peace resulted in hefty fines. Hudson cites one such instance, in which sanctuary was used as immunity from revenge.

According to a miracle collection, a group of knights in the early eleventh century broke the peace of King William by killing two other knights. The slain knights were apparently nephews of the Abbot Scotland of Saint Augustine's in Canterbury, and their killers feared the retribution of this holy man. They fled to the shrine of Saint Dunstan in Canterbury cathedral, seeking its protection as they "feared that the death of the slain men would be paid for by their own death". However, the abbot refused to enact his rightful vengeance, and the supposed appearance of a vision of Saint Dunstan caused all others who might have sought retribution to think twice.<sup>38</sup>

While one cannot say for certain that St. Dunstan was truly the reason that Scotland's family did not take vengeance on the knights, *something* obviously stopped their retribution. Perhaps, less fantastically, it was the mere notion of the consequences of breaching sanctuary's peace that made Scotland's kin, who would have understood very well the sanctity of the church being related to an abbot, think twice about enacting revenge. Sainly apparitions and miracles

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<sup>38</sup> Hudson, "Feud, Vengeance, and Violence," 44.

aside, situations like the one described by Hudson demonstrate once more that sanctuary was used and manipulated for the benefit of those outside solely the Church and the Crown.

Of course, the Church's sanctity was not always at the forefront of the average medieval person's mind, especially not one whose blood ran hot with vengeance. Cases of violence in sanctuary, albeit infrequent, did arise – and when they did, the consequences of such a breach were dire. In 1285, after wounding a man named Ralph Crepyn, Laurence Duket fled to the church of St. Mary le Bow in London hoping to avoid retribution. However, his pursuers, led by Crepyn's rage-blinded mistress, followed the man inside and killed him in the steeple. He was hanged in a window so as to deceive the coroner when he made his inquest by having him think Duket had died by suicide, and for a time, it worked.

The verdict was released as a *felo de se*, or self-killing, and Duket was buried in a ditch outside of the city. However, the medieval church was no desolate place. As it happened, another soul invoked the church's mercy that night and came forward to present that which he had witnessed, and the highest form of justice was served. All those who were suspected of being involved were apprehended, with sixteen individuals being hanged and Crepyn's mistress burnt at the stake. All those who had been imprisoned on suspicion of the murder were only released upon payment of hefty fines, and the church was placed under interdict. As for Duket, his remains were disinterred and laid to rest in the churchyard, granting salvation to his soul.<sup>39</sup>

The medieval justice system did not appear to relish in dispensing execution sentences, offering many means to avoid such a fate for fear of wrongful conviction and the consequences

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<sup>39</sup> "The French Chronicle of London: Edward I," in *Chronicles of the Mayors and Sheriffs of London 1188-1274*, ed. H T Riley (London: Trübner, 1863), 237-248. *British History Online*, accessed November 3, 2022, <http://www.british-history.ac.uk/no-series/london-mayors-sheriffs/1188-1274/pp237-248>.

that would ensue in the afterlife. Thus, that sixteen people were hanged and one even burnt alive demonstrates just how abhorrent a breach of sanctuary's peace was considered to be.

Whether for an understanding of the consequence a breach of sanctuary had on the soul (like in the case of the Abbot Scotland), or that of the physical body (exemplified by Duket's killers), something prevented vengeance from being carried into the church. Cases like Duket's show up so rarely in legal records or chronicles, proving just how useful a tool sanctuary could be for those involved in a feud.

### *Enemies of the Crown*

Another demographic who benefited from the safety offered by sanctuary was those who fell from the Crown's good graces: political dissidents, aristocrats, and even members of the royal family. The use of sanctuary as a form of political asylum became rather common during the later Middle Ages, especially with the onset and the tumult of the Wars of the Roses in the mid to late-fifteenth century. Additionally, this is the scenario in which the most female seekers can be found. While women seekers were very few in number – making up only one percent of seekers - the majority of those that did find themselves utilizing its privileges were members of the aristocracy.<sup>40</sup> However, these women were generally not avoiding prosecution, they were most commonly seeking asylum for a variety of reasons.<sup>41</sup>

Sanctuary became perhaps the only place a murderer and an aristocrat could be found residing side by side, even though the circumstances which brought them there could not be more

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<sup>40</sup> McSheffrey, *Seeking Sanctuary*, 20

<sup>41</sup> *Seeking Sanctuary*, 21.

different. A number of aristocrats from both the York and Lancastrian sides of the dispute claimed sanctuary, fleeing tyranny. In fact, even members of ex-royal families were known to dwell within the Church's jurisdiction, including Elizabeth Woodville, who claimed sanctuary to protect her son Edward V against Lancastrian forces after her husband, Edward IV's death.

Then may no man, I suppose, take my ward from me out of sanctuary without the breach of the sanctuary. And if my privilege could not serve him, nor he ask it for himself, yet sith the law committeth to me the custody of him, I may require it for him—except the law give a child a guardian only for his goods and his lands, discharging him of the cure and safekeeping of his body, for which only both lands and goods serve. I fear to put him in the protector's hands, that hath his brother already, and were, if both failed, inheritor to the crown. The cause of my fear hath no man to do to examine. And yet fear I no further than the law feareth, which, as learned men tell me, forbiddeth every man the custody of them by whose death he may inherit less land than a kingdom. I can no more, but whosoever he be that breaketh this holy sanctuary, I pray God shortly send him need of sanctuary when he may not come to it. For taken out of sanctuary would I not my mortal enemy were.<sup>42</sup>

This account from Woodville herself demonstrates one of the few instances of sanctuary's use by a woman, as well as that of a member of a royal family. Not only does this show sanctuary as a method of asylum, but her letter also demonstrates its use as a breathing and regrouping space for political opponents of whoever held the throne.<sup>43</sup> The use of sanctuary by such powerful and influential figures gave charters a more secure position in the political and legal structure of fifteenth century England and demonstrates yet another group who benefited from its existence.

### *Foreign Merchants*

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<sup>42</sup> Thomas More and George M. Logan, *King Richard the Third*. (Bloomington: Indiana University Press, 2005) 45-46.

<sup>43</sup> McSheffrey, *Seeking Sanctuary*, 46.

Thus far, I have amassed what would appear to be a host of dangerous men who should have left sanctuary full to the brim: potential murderers, thieves, powerful political dissidents, and debtors all raced for the church doors for its mercy. However, in the case of Saint Martin le Grand, one of the two largest and most renowned chartered sanctuaries in London, these groups in reality only made up a very small portion of sanctuary's residents. Rather, it was a host of lowly shoemakers and goldsmiths who truly occupied Saint Martin's streets. Unlike almost every aspect of medieval society, which was stratified socially, economically, and ethnically, the mercy of the Church was not limited only to those who were born and raised on English soil. As such, the exciting and recently discovered group of foreign merchants found favor in the universality of Christian mercy. Shannon McSheffrey's research on the precinct of Saint Martin le Grand in London introduced this new group of seekers and the controversy that followed their admission into sanctuary. In the entire precinct of Saint Martin le Grand, only about twelve true seekers resided there at any given point in time. McSheffrey found that the rest of the precinct was inhabited by foreign artisans from mainly the Netherlands and France. As mentioned in the case of debtors, some sanctuaries had established rental markets, and Saint Martin le Grand was one such location. However, as such a small number of true seekers resided in the precinct, the rest of the stores and homes were sublet by these foreign artisans, numbering over five hundred in the first half of the sixteenth century.<sup>44</sup>

According to McSheffrey, the arrival and rise in foreign merchants residing in sanctuary began in the late fifteenth century and was no mere coincidence. In the city of London, only English merchants and artisans could join guilds, essentially forming a monopoly on trade by prohibiting their foreign counterparts from setting up storefronts in town. Thus, faced with a

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<sup>44</sup> McSheffrey, *Seeking Sanctuary*, 117.

closed system and with nowhere else to turn, these foreign craftsmen took to the Church, as its jurisdiction was the only place the guilds' monopoly did not extend. The London guildsmen complained often and loudly about the poor quality of product crafted and sold by these sanctuary men, but unfortunately for these native competitors, sanctuary actually seemed to help aid in the success of the businesses that existed within it.<sup>45</sup>

As residents of Saint Martin le Grand were subtenants to the abbot of Westminster, this technically made them subtenants of the Church itself. Subsequently, this relationship came with its own series of benefits. By paying to live in the Church's jurisdiction, the tenant was simultaneously paying for sanctuary privileges, including financial immunities. Those who resided within Saint Martin's were not subject to the bishop of London's ecclesiastical courts or even civic courts. The precinct established its own spiritual and temporal courts that took care of any disputes that might arise involving its residents, and the abbot of Westminster even had his own coroner to conduct inquests when homicides did occur.<sup>46</sup> This allowed the businessmen to completely forgo the lengthy and often expensive legal process to which they would have otherwise been subject. Perhaps most importantly, however, these foreign shoemakers found themselves exempt from the statutory ban on the production of fashionably long, pointed shoes.<sup>47</sup>

As such a great number of protections and exemptions existed for those craftsmen who resided in Saint Martin's, the precinct became the mecca of stylish footwear and superior goldsmithing. According to McSheffrey, the popularity of the shoes made in Saint Martin's Lane was explosive for years surrounding the fifteenth century.<sup>48</sup> Saint Martin's was listed in a

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<sup>45</sup> McSheffrey, *Seeking Sanctuary*, 119.

<sup>46</sup> *Seeking Sanctuary*, 119.

<sup>47</sup> *Seeking*, 118.

<sup>48</sup> McSheffrey, *Seeking Sanctuary*, 118.

London shopping guide as the best place to buy shoes, and men like Samuel Pepys wrote that the precinct was the only place to find boots of the highest and most stylish quality. Similarly, Dutch goldsmiths on Saint Martin's Lane were regarded as producing goods superior to that of even English smiths.<sup>49</sup>

However, these immunities and protections which allowed for the considerable success of foreign artisans, in turn caused a good deal of resentment among the guildsmen in London. Subsequently, the holy precinct of Saint Martin le Grand became a rather violent place, racking up six homicides in one decade.<sup>50</sup> Although the sources and reasons for this rather frequent violence are unknown, it is clear from records that both true sanctuary men and the foreign artisans were involved in the unrest. Additionally, McSheffrey cites that at least three major riots occurred in London against the permitting of foreign artisans into Saint Martin's in the latter half of the fifteenth century.<sup>51</sup>

Regardless of violence or public opinion on foreign artisans' residence in sanctuary, the mere fact that *so* many businesses existed within Saint Martin's and were successful at that, demonstrates just how beneficial sanctuary was to yet another enormous demographic of people. Perhaps the privileges and exemptions to the law within Saint Martin's can be used to attest to the power of the Church over the Crown, but this success would not be so vast if it were not for the merchants themselves. It was the merchants' success that drew so much attention and so many visitors to the precinct, thus stabilizing and bolstering sanctuary's existence and necessity to English society.

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<sup>49</sup> *Seeking Sanctuary*, 119.

<sup>51</sup> *Seeking*, 124.



*Legal 'Innocents'*

The final group of people that benefited from sanctuary's existence, I will be including under the umbrella of "legal innocents," or those who have committed no crime and have no other conceivable reason for claiming sanctuary privilege. These legal innocents are comprised of two parts: (1) those who have committed no crime but have still been accused of felony, and (2) the community living in the vicinity of the sanctuary as a collective. Examples of innocent men who fled to the Church after being accused of carrying out a crime they did not commit are rife throughout medieval trial records. Claiming sanctuary and residing there for the forty-day period gave these men the time needed to clear their name, or in some cases, to simply wait for the truth to come out. The use of sanctuary as a legal waiting room is acknowledged in *Fleta*.

There are, however, certain timid men who seek the protection of the Church, although they have not committed a felony. In this event they will be well advised to acknowledge that they have slain someone whom they will be able to produce afterwards alive and well, so that they may be in a position to sue for the king's grace should they require it, and therefore diligent examination is necessary in abjurations and voluntary acknowledgements of felonies, lest they be actuated by fear or despair of life. Those who commit sacrilege should not be protected by the Church, but they must be judged and degraded by the clergy. And the same is to be said of apostate clerks who, upon conviction, shall be straightway degraded by the clergy and then burnt by the lay power.<sup>52</sup>

This legislation demonstrates how sanctuary provided the opportunity to avoid the sometimes-fatal consequences of a justice system still in its adolescence and was as such an instrumental part of medieval English law.

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<sup>52</sup> *Fleta*, 77.

Also under the umbrella of ‘legal innocents,’ I have included the entire community in which a given sanctuary was located as being the beneficiaries of its existence. More interestingly, this group did not even have to officially ‘claim’ sanctuary in order to reap its benefits. As community members, they were the ones responsible for the maintenance and guarding of sanctuary. They were clearly familiar with the Church’s administration of mercy and found various ways to use it to their advantage. One such personal benefit came through the promise of safety for all that resided on holy ground, including livestock and inanimate objects. As such, people began relocating their animals and personal goods of value to Church grounds if they feared its burglary or general safety.<sup>53</sup>

In a similar vein to the protection offered to those involved in violent feuds, sanctuary grounds became a common place for the settlement of disputes of any kind. The sanctity of holy ground offered community members the promise of conflict management without the unsettling prospect of an escalation to violence.<sup>54</sup> Finally, sanctuary’s very existence offered a rather convenient opportunity for the completion of the Seven Christian Corporeal Works of Mercy. The Seven Works offered by Jesus in chapter twenty-five of the Gospel of Matthew were of the utmost important to the general practicing Christian. These acts include feeding the hungry, visiting the imprisoned, burying the dead, sheltering the homeless, clothing the naked, visiting the sick, and giving water to those who were thirsty; and they were meant to be feasible for any person, regardless of sex, means or status. As the common peasant was born with no predisposition to holiness, the completion of the Seven Works of Mercy offered anyone the possibility of gaining eternal life after death. The importance of the Seven Works was captured

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<sup>53</sup> Gervase Rosser, “Sanctuary and Social Negotiation in Medieval England,” in *The Cloister and the World: Essays in Medieval History in Honor of Barbara Harvey*, eds. John Blair and Brian Golding. (Oxford, 1996), 63.

<sup>54</sup> Rosser, “Sanctuary and Social Negotiation,” 63.

in the following folk song by an unknown author, which I have translated for a better understanding.

When thou from hence away art past,  
Every nighte and alle,  
To Whinny-muir thou com'st at last;  
And Christe receive thy saule...

*(When you have passed away from here  
Every night and all  
You come at last to the thorny moor  
And Christ receives your soul...*

If hosen and shoon thou ne'er gav'st nane  
Every nighte and alle,  
The whinnes sall prick thee to the bare bane;  
And Christe receive thy saule.

*If you never gave hose and shoes  
Every night and all  
The thorns shall prick you to the bare bone  
And Christ receives your soul.*

From Whinny-muir when thou may'st pass,  
Every nighte and alle,  
To Brig o' Dread thou com'st at last;  
And Christe receive thy saule.

*When you pass on from the thorny moor  
Every night and all  
You come at last to the Bridge of Dread  
And Christ receives your soul.*

From Brig o' Dread when thou may'st pass,  
Every nighte and alle,  
To Purgatory fire thou com'st at last;  
And Christe receive thy saule...

*When you pass on from the Bridge of Dread  
Every night and all  
You come at last to the Purgatory fire  
And Christ receives your soul...*

If meat or drink thou ne'er gav'st nane,  
Every nighte and alle,  
The fire will burn thee to the bare bane;  
And Christe receive thy saule.<sup>55</sup>

*If you never gave meat or drink  
Every night and all  
The fire will burn you to the bare bone  
And Christ receives your soul.)*

This excerpt from *The Lyke-Wake Dirge (the Whinny Moor Song)* demonstrates the notion that the execution of the Seven Works of Mercy was imperative to salvation. With such a level of importance, it was also necessary that there was an ample number of people in need of this mercy, and sanctuary provided just that. Christians seeking to offer their Christian mercy could visit the sanctuary men at their local Church and give them food, clothes, or water.

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<sup>55</sup> "A Lyke-Wake Dirge," in *The Oxford Book of English Verse, 1250-1900*, ed. Arthur Quiller-Couch. (Oxford: Oxford University Press, 1900), 361-2.

Sanctuary had no shortage of uses or opportunities, and the general population realized that. It was the community's close involvement with sanctuary that helped keep it alive and well, both justifying and benefiting from its existence. The mere idea that one did not need to explicitly claim sanctuary in order to find personal profit supports the argument that it most certainly was not just the Church or Crown who reaped its benefits, while simultaneously suggesting that perhaps the power over sanctuary was not as firmly in the hands of one or the other as previously thought. It is with the notion that the community had some hand in the operation and establishment of sanctuary that I approach my second argument in this essay – that this third party played an equally vital role in the existence of sanctuary as did the Crown and Church themselves.

*Creating, Guarding, and Undermining – the community's silent sovereignty over sanctuary*

On June 1, 1319, Reginald Underwood was hanged for stealing twenty shillings-worth of goods from Richard de Lyndon. After imparting his justice, the executioner carried Underwood's body to the Conventual Church of Peterborough for burial. However, it was at this church that the perceivably dead criminal drew his breath of revival. As he arose upon consecrated grounds, Underwood was granted the immunities of sanctuary, and was thus permitted to confess his crimes once more before the coroner, Henry de Tichmarsh. The coroner pronounced that Underwood should abjure the realm, granting him an extraordinary second chance at life. After de Tichmarsh's ruling, Underwood was summoned by the eyre justices who

declared his abjuration illegal, since he was an outlaw; but their summons arrived too late. Underwood had successfully evaded death not once, but twice.<sup>56</sup>

Instances like Underwood's, while generally less extraordinary, of sanctuary men escaping justice frequent: in London, of the thirteen felons who fled to sanctuary in 1276, nine of them are recorded as having escaped. Historians have previously attributed the high probability of escape to two general possibilities. R. F. Hunnisett blames the neglect of those set to guard church property, claiming the lengthy forty-day stay allowed to sanctuary men meant guards became bored and failed to carry out their duties diligently. Meanwhile, J. Charles Cox believes it was the absence of a uniform guard system which caused disorganization and the subsequent escape of felons from sanctuary.<sup>57</sup> While both of these arguments are plausible explanations for some escapes, the sheer number of escapees cannot be so easily explained by negligence or disorganization. Perhaps there was a level of intent and agency involved that contributed to the frequent escape of sanctuary men. In this section, I will argue that the lay community held an unexpectedly strong stake in both the very establishment and authenticity of a sanctuary, as well as in determining the fate of those who claimed its privileges.

While it is true that general regulations regarding sanctuary were made at both the state and ecclesiastical level, the actual creation and carrying out of sanctuary operations were entirely reliant upon the community living within the parish. Laws stipulating that sanctuary privileges would only be recognized at consecrated churches or shrines began to emerge in the eighth century, and with them the involvement of the lay community in sanctuary processes.<sup>58</sup> The

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<sup>56</sup> R. M. Serjeantson, "Sanctuary Seekers in Northamptonshire," in *Associated Architectural Societies Reports and Papers*, Part II, vol. xxxii (Northampton: Northampton & Oakham Architectural & Archaeological Society, 1914), pp. 423-485, 464.

<sup>57</sup> Cox, *Sanctuaries and Sanctuary Seekers*, 19.

<sup>58</sup> Rosser, "Sanctuary and Social Negotiation," 61.

authenticity and ability of these sites to grant immunity were determined largely in part by the community, as was the decision to have a church at all.

A local lord could call for the construction of a church if he was approached by the community, and Gervase Rosser suggests that this often grew from a perceived need for protection. He provides an example of how this process worked, writing those areas in south-east Wales and the western Marches in England built consecrated cemeteries “not for burial but to provide sufficiently spacious areas of sanctuary around local chapels for the protection of the local community in times of disturbances.”<sup>59</sup> What is so significant about the construction of churches and cemeteries for protection is that it is a display of the community’s vital role and power in the creation of the spaces that would later be disputed as being demonstrative only of the power of the Crown or the Church. Without the action of the lay people, there would be significantly less space for the Church to display its extra-legal mercy and power over the law, and likewise for the Crown to display *its* power over the Church.

Already, it is clear that the community was a key component in the creation and establishment of sanctuary as an institution, but the part that the general population played in the operation of these sites reinforced the power that they wielded, allowing them to influence and interfere with the legal process. Local community members most likely had a hand in the many instances of felons avoiding punishment, whether through turning a blind eye or even aiding in their escapes from sanctuary, or by using their ability to sit on juries to agree to abjurations. Conversely, I will argue that this ability to sit on juries also allowed the community to further

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<sup>59</sup> Rosser, “Sanctuary and Social Negotiation,” 63.

interject its influence over both common and canon law, by convicting seekers who might be otherwise immune, often leading to conflict with clerical powers.

Across England, the surveillance of sanctuary boundaries was delegated to members of the general lay community.<sup>60</sup> However, the decision of who stood guard and when was not guided by a hard-and-fast rule. Rather, this choice was left in the hands of various township officials such as the coroner, sheriff, or bailiff, which led to different warding customs between every town.<sup>61</sup> Guarding sanctuary was no easy task; aside from being the first line of attack from the potential murderers within, attempts to break seekers out of sanctuary also were known to occur, putting the guards in positions of danger with no clear benefit to themselves.

One such event occurred in 1311, when John Alesaundre took sanctuary in the church of Segeford in Norfolk after he had been indicted for larceny and robbery, among other felonies. When Alesaundre had reached the forty-day limit of his stay, the county coroner came to hear his abjuration, but was suddenly stopped as, “divers persons obstructed him in the discharge of his office.” These men then proceeded to forcibly break Alesaundre out of the church and beat both the coroner and the men who were set to guard him. On November 27, the King sent commissioners to investigate the matter, and “doubtless the good people of Segeford had to suffer for their breach of sanctuary.”<sup>62</sup>

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<sup>60</sup> William J. Whittaker, ed., *The Mirror of Justices* (London: Quaritch, 1895), 34.

*The Mirror of Justices* cites the township’s responsibility of guarding sanctuary as being implemented by King Henry III at Clarendon, but Shoemaker disputes this assertion, claiming that laws concerning the community’s role in guarding sanctuary can be traced back to the Anglo-Saxon period.

<sup>61</sup> Hunnisett, *The Medieval Coroner*, 43.

<sup>62</sup> R. M. Serjeantson, “Sanctuary Seekers in Northamptonshire,” in *Associated Architectural Societies Reports and Papers*, Part I, vol. xxxii (Northampton: Northampton & Oakham Architectural & Archaeological Society, 1914), pp. 179-229, 186.

As in this case, the assumption can be made that only the promise of hefty fines on the entire township in the event of an escape kept the guards at their post. Yet, given the high rate of escape, it appears that even the township's amercement was not enough to keep the guards vigilant. Through leaving the unwelcome and dangerous task of guarding sanctuary up to the community, it is likely that many cases of escape from sanctuary were permitted, if not aided by the involuntary wards, like in the case of Simon Gwythorp, noted by Shoemaker.

After fleeing to the church and confessing to being a thief, Simon managed to escape with the help of his guards, "Simon gave [to those guarding him, including at least one cleric] ten pounds for their aid and counsel in helping him to escape from the church."<sup>63</sup> Whether the guards assisted in Simon Gwythorp's escape because they truly cared for his well-being, or because they simply did not wish to suffer the consequences if they refused, is unknown. Nevertheless, that the escape was made possible by the very same men who were supposed to prevent it is significant, as it demonstrates that regardless of motive or reasoning, the actual bringing to justice of felons was left primarily in the hands of the community, not the church, nor the state.

In addition to turning a blind eye, the community could also aid by helping the sanctuary man to avoid a conviction through advocating for his or her abjuration. As juries in medieval England were made up of well-respected members from the closest surrounding communities, it is no stretch of the imagination to assume that the jury members knew the defendant to some extent in their own personal lives.<sup>64</sup> When deciding how to punish a felon, it was necessary to consider the jury's verdict, once more giving the lay community great influence in the fate of

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<sup>63</sup> Shoemaker, *Sanctuary and Crime*, 134

<sup>64</sup> Hunnisett, *The Medieval Coroner*, 41.



their neighbor, the seeker. For this reason, it is likely that many felons sought sanctuary's privilege as a means of buying time while they sought out locals who could vouch for their innocence. In the case of John of Ingleby, it appears he did just that.

According to the Assize Rolls of Derbyshire in the reign of Edward III (1327-1377). John was meant to be outlawed for murdering Laurence Hereford and fleeing directly after and was believed to still be at large. However, upon the inspection of the coroner's rolls, it became apparent that John had fled to Ingleby church prior to his escape. When asked, the jury asserted that John was permitted to claim sanctuary's immunity. He confessed his crimes before the coroner who allowed him to abjure the realm. Conveniently, there was no record of this abjuration on the coroner's rolls.<sup>65</sup>

The case of John of Ingleby is exemplary of the community's power in helping seekers avoid punishment. Even though the jury had to have known that John would be declared an outlaw, they still allowed him to claim sanctuary until the coroner could hear his oath of abjuration, perhaps because they perceived this outlawry as an injustice. Similarly, a case mentioned by Rosser concerning a fornicating chaplain claiming sanctuary demonstrates the lay community's ability to manipulate and override legal processes through its influence over sanctuary.

A Leicestershire chaplain fled to the church for fear of being killed for committing adultery by his lover's father-in-law. He pled with the coroner to abjure the realm but could not be allowed unless he confessed to a felony. Driven by fear, the chaplain confessed to stealing a small sum from the woman and abjured the realm. Later, the chaplain received a pardon for his

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<sup>65</sup> Cox, *The Sanctuaries and Sanctuary Seekers of Medieval England*, 285-86.

abjuration and returned once to the realm.<sup>66</sup> As noted by Rosser, the chaplain should have immediately been handed over to an ecclesiastical court, as he was a clerk. However, the coroner and the jury appeared to take pity on him, providing him with a loophole that they must have known could result in a future pardon.<sup>67</sup>

Once again, the community's ability to interfere with established legal processes for their own intentions and benefit is demonstrated. In this case, both the chaplain and the community benefited, as the chaplain avoided being killed, and the community as a whole avoided further conflict. Yet, as much as the community loved manipulating its power to "save" people from punishment, it could also be used in the opposite manner.

Although the community often used its control of sanctuary to lessen the punishments imposed on sanctuary seekers, the members also had a strong influence in determining the conviction of those outside of their favor. As it was entirely in the community's hands to decide whether to have a church, the control of access to it, the circumstances in which one should leave, and the validity of a claim in general also lay in the hands of its inhabitants.<sup>68</sup>

As told in *The Yearbooks of King Edward III*, when a thief sanctuary, he demanded to be allowed back in, arguing that it was within his rights to claim immunity. The jury warned him that the jury would likely decide that the church had never been consecrated by a bishop, and thus could provide the thief no such protection. Yet, the thief stood firm in his argument that he was a 'good and faithful' man and put himself upon the mercy of the jury. Giving him one last chance to confess, and once again being denied, the justice turned the matter over to the jury.

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<sup>66</sup> Rosser, "Sanctuary and Social Negotiation," 68.

<sup>67</sup> Hunnisett, *The Medieval Coroner*, 45. Pardons were often administered in cases where an oath of abjuration was taken out of fear and was later proved to be innocent of the confessed felony.

<sup>68</sup> Rosser, "Sanctuary and Social Negotiation," 65.

After deliberation, as predicted by the justice, the jury asserted that the church was unconsecrated, inciting the conviction of the thief.<sup>69</sup> Clearly, the justice knew that, for whatever reason, the jury was intent on convicting this thief, and that if he made no concession, the matter was entirely out of the justice's hands. This case once more testifies to the power that sanctuary offered the general community in influencing the outcome of the law.

Both cases of aiding felons like those of John of Ingleby and the chaplain, and of convicting them, like the unfortunate thief, stand to prove that the general population could be just as strong of a third party to the typically assumed Crown and church in matters concerning the law. In fact, it appears that the Church was acutely aware of the community's growing power over sanctuary, which led the community to resist clerical powers.

One such case occurred in 1279 Bristol, when William Lay was arrested by the constable after half of his body was within the boundaries of the church of Saint Philip and Saint James and was executed by the order of the constable of Bristol castle, Peter de la Mare. The general population considered de la Mare's imposition of the law to be sacrilege and began regarding Lay as a martyr. According to an article written by Sara Butler, "Nobody Messes with Godfrey Giffard, Bishop of Worcester: Punishing the Violators of Sanctuary," the bishop found himself struggling to quell rumors circulating that the dead man performed miracles.<sup>70</sup> It took the bishop's ordering of penitential processions and public proclamations to finally bring an end to the public's fervent veneration of Lay as a martyr. That the community openly condemned the

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<sup>69</sup> Alfred J. Horwood, ed., *Year Books of the Reign of King Edward the First* (London: Longman, Green, Longman, Roberts, and Green, 1863), 541.

<sup>70</sup> Sara M. Butler, "Nobody Messes with Godfrey Giffard, Bishop of Worcester: Punishing the Violators of Sanctuary," *Legal History Miscellany*, November 26, 2021, <https://legalhistorymiscellany.com/2021/11/26/nobody-messes-with-godfrey-giffard-bishop-of-worcester-punishing-the-violators-of-sanctuary/>.

actions taken by the church demonstrates their outrage at the breach of power that was considered to be their own.

After learning all the ways in which the community held a stake in the establishment and outcome of sanctuary, recall the case of Reginald Underwood. The key factor that allowed for his escape (and those of many others) should now be decidedly clear. As fortune had it, the “dead” man arose safely within the bounds of the consecrated church, this protection was only possible because the community had determined so. As Underwood was an outlaw, he assuredly should have been extracted from the church, yet it was through the community’s permission that he would not only remain, but a coroner would be summoned. Even as the coroner heard his confession, he should have turned Underwood over for conviction, but the jury decided he would be authorized to abjure the realm. Through this entire process, it was the action and influence of members of the community which allowed for Underwood’s extraordinary evasion of both the law and a second brush with death.

Throughout the entirety of the Middle Ages, it appears that this struggle for power over sanctuary between the Church, Crown, and people was continuous. However, there is one stand-alone instance of the people gaining so much power over sanctuary that it caused a notable shift in the perception of sanctuary as a secular versus sacred institution. This frenzy was brought about by the actions of the Hospitallers’ Order.

The Hospitallers’ Order existed for the better part of the medieval period, coming to prevalence with the advent of the crusades in or just before the 1070s, as The Hospital of Saint John in Jerusalem.<sup>71</sup> It was formed by lay knights who wished to provide medieval care for

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<sup>71</sup> Helen Nicholson, *The Knights Hospitaller*. (Woodbridge: The Boydell Press, 2001), 3.

Christian pilgrims in the Holy Land, and later became a contributor in the Crusades themselves. In the nascent days of the Order, it relied upon monastic institutions to direct and finance their work, but a papal bull in 1113 granting the Hospitallers papal protection and privileges allowed them to break away and become their own autonomous order.

After this point, any donations given to the Hospitallers and wealth produced by their lands remained within the organization, rather than being given to a monastic order. As such, the wealth and power of the Hospitallers grew. According to Helen Nicholson, the position and power of the Hospitallers' Order was cemented between 1135 and 1137, when two papal bulls were issued by Pope Innocent II, effectively exempting them from ecclesiastical jurisdiction and tithes on produce while also allowing them to build entire communities when granted deserted land.<sup>72</sup> The Order's popularity exploded, with enormous donations being made by highly influential figures, not so much because they supported its charitable cause, but more likely because this charitable cause won God's favor. One example of such motives is evident in Alfonso VII of Castile's donation of the town of Atapuerca.

...for the redemption of my grandfather, Alfonso the lord emperor, and his wife Queen Constance, and for the souls of my father, viz. the count Lord Raymond, and my mother Queen Urraca, that the Lord Jesus Christ may give them eternal rest and in order that they may sit with Him with His elect in the celestial kingdom, and so that in the present time I may rule with good fortune and in the future time be presented with the same mercy before the face of God.<sup>73</sup>

Clearly, the perceived sacred power held by the Hospitaller's Order was great enough that a member of a royal family would patronize them in hopes of attaining salvation for his family's souls. Such sizable donations not only aided in the growth of the power of the Order,

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<sup>72</sup> Nicholson, *The Knights Hospitaller*, 7.

<sup>73</sup> *Cartulaire general de l'orde des hospitaliers de St Jean de Jerusalem (1100-1310)*, ed. Joseph Delaville le Roulx (Paris, 1894-1906), no. 78.

but also ensured that it would continue to thrive throughout the medieval period. With this knowledge, let us now turn to the role that the Hospitaller's Order played in the struggle for power over sanctuary.

On September 22, 1506, a murdering harpist named Richard Pulham and a returned abjurer by the name of Ralph Toker were brought before the peace sessions at Canterbury. The day came to a close with no decisions made for either case, and the men were returned to the sheriff's custody to be led back to the jail. It was on their journey back that a certain Sir John Rawson, a brother of the Knights Hospitaller crossed their path, and the two men were struck with a grand idea. Breaking away from the sheriff's men, Pulham and Toker raced toward Rawson and placed their hands on his cloak, thus claiming, "the sanctuary and privilege of the prior and brothers of Saint John of Jerusalem in England."<sup>74</sup> Both men were forcibly ripped away from Rawson's cloak and were thus returned to the jail.

When brought back for trial, both men stated that they had rightly claimed the protection of the Hospitallers' Order by grasping Rawson's cloak and thus should be tried no further. The court clearly decided that their claims were invalid, and Pulham was declared guilty of homicide while Toker was still met with indecision from the court. In theory, both men should have been handed over for capital punishment, yet it appears that neither were. Pulham, attempted to claim benefit of clergy, but failed when faced with a reading test, and the court itself suggested that Toker claim the same benefit, as he apparently had it once before. Both men were once again sent back to jail for further deliberation of their case. Once more, Pulham was brought before King's Bench in 1507, miraculously having learned to read, and thus was permitted to claim

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<sup>74</sup> McSheffrey, *Seeking Sanctuary*, 83.

benefit of clergy; Toker returned before King's Bench in 1509 to present a newly obtained pardon from Henry VIII. Thus, Pulham was sent into the custody of the abbot of Westminster, and Toker was set free, both guilty men somehow dodging the Hangman's noose.<sup>75</sup>

Even though Pulham and Toker were barred from accompanying Rawson back to the Hospitallers' property, the case is demonstrative of the power the Hospitallers' Order came to hold over not only common people, but also perhaps the law. While the court's reluctance to sentence either man was not given an explanation, it is very possible that some level of regard was held toward the Order and their cause of mercy, and although the sanctuary immunity it offered was not recognized by the law, the court still respected the criminals' attempt. In fact, the case of Pulham, Toker, and the Hospitaller's cloak was in no way singular for the time: flight to the Hospitallers' property was a relatively common occurrence in the fifteenth century, as was the Order's defense of its protection.

McSheffrey argues that the development of the Order's association with sanctuary was natural, as it had long provided Christian burials for felons on their property, an act of mercy for the otherwise damned souls of the criminals.<sup>76</sup> The establishment of sanctuary privileges within the Order marked a shift not only from the institution's association with sacred powers to secular, but also in the perception of its authority resting with more centralized powers to that of the general populace. The threat of dominance over sanctuary transferring into the hands of lay people was certainly felt by both the Crown and Church, as some of the only extant evidence we have of its existence appears in cases fought by the Order itself for its legitimacy. While instances

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<sup>75</sup> McSheffrey, *Seeking Sanctuary*, 83-5.

<sup>76</sup> *Seeking Sanctuary*, 85.

of felons fleeing to the Hospitallers' protection decline in the records between 1520 and 1539, they still did occur up until the very moment of the Order's dissolution in the 1540s.

Despite the best efforts of the law to hinder and prohibit the sanctuary protection developed by the knights of the Hospitallers' Order, it could not be stopped until the Order in its entirety was brought to an end and the state acquired all its properties.<sup>77</sup> The case of the Hospitallers' Order demonstrates perhaps the only time that the lay community displayed a public autonomy over sanctuary, and the state's reaction is proof enough that the general population posed a viable threat when formally introduced to the ongoing struggle for authority over sanctuary.

### *Conclusion*

It is relatively easy to fall prey to the assumption that power in the medieval world was enacted by those at the top – the church and the crown -- upon the submissive and voiceless majority. Past historiography applied this notion to sanctuary, implying that one of these two centers of power would be the sole agents to both control and reap the benefits of the institution, while the rest of the world passively interacted with it. The King benefited by casting the image that sanctuary only existed because he allowed it to, thus placing him as the sole central power over even the Church while simultaneously allowing him to display his boundless royal mercy. On the other hand, the Church utilized sanctuary to emblazon *its* eminence over the law, and thus the Crown, while still enacting the ever-necessary Divine mercy.

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<sup>77</sup> McSheffrey, *Seeking Sanctuary*, 108.



This argument paints sanctuary as a somewhat perilous and problematic institution, at risk of losing its foothold in the law at any given moment. While both powers did profit uniquely and individually from sanctuary's place in the law, further critical analysis proves they were not the only two beneficiaries. Instead of asserting that sanctuary only benefitted ecclesiastical or state powers, it should be argued that this perceived voiceless and passive majority held just as strong a stake and reaped just as many benefits as the Church and the Crown.

Although in law sanctuary rights were designated only for felons and debtors, in practice a much wider and diverse demographic of people found benefit from the protection of sacred jurisdiction. The violence from generations-long blood feuds could be mitigated and even brought to a peaceable and honorable close by reaching the doors of the church. Political dissidents, ex-royals and other high-ranking enemies of the crown found asylum in the mercy of the church during the Wars of the Roses, regrouping and preparing to strike again. French and Dutch shoemakers and goldsmiths settled within the precinct of Saint Martin le Grand to peddle their goods without fear of ostracization from the market or extra taxation. Even members of the general community found use of sanctuary, meeting to solve minor disputes, storing both their livestock and important personal possessions within its bounds, and completing the all-important Seven Works of Mercy on the seekers which were so conveniently at their disposal.

Not only did sanctuary have its benefits for seemingly all the people in England, but it was the general community who established and operated sanctuary, leaving a great deal of opportunity for its manipulation to fit the majority's opinions and desires. It lay entirely within the hands of the general populace to determine whether or not to erect a consecrated church, meaning the decision to have sanctuary at all rest upon the layman – not the king, nor the

Church. It was members of the surrounding townships who were appointed to guard the sanctuary, meaning there was a likelihood that they knew the seeker on some personal level. Thus, it can be inferred that high escape rates like those from London's sanctuaries in 1276 perhaps may not have been the result of neglectful guards or misadventure.

Similarly, community members also comprised the juries which heard the sanctuary claims of their neighbors, furthering their ability to advocate and win their cause. They could grant mercy to those whom they took pity upon by arranging for abjurations, and convict those they did not; even in scenarios when neither should have been possible like those of Reginald Underwood and the fornicating priest. The power that the lay people held over sanctuary existed without acknowledgement, until the Knights of the Hospitallers' Order lobbied that their properties rightly held the same immunities as consecrated grounds. The Order's charitable cause of mercy allowed for the burial of felons in their churchyards, so the protection of felons should be a natural accompaniment. It took the dissolution of the Order and the returning of its lands to state custody to end the lay harboring of seekers.

Undoubtedly, the people in England proved to be just as much beneficiaries of the existence of sanctuary as the Crown and the Church. Rather than attempting to single out the sole beneficiary in order to justify its otherwise precarious position within society, all who reaped its benefits should be synthesized to place sanctuary as a profitable and stable component of medieval English law.

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