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Actors, Fornicators, and Other Transgressors of Law

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I. Introduction

In December 1597, An Acte for punishment of Rogues Vagabonds and Sturdy Beggars (39 Eliz I cap 4) was given the royal assent. Included in the proscribed list of offenders were ‘cômon Players of Enterludes abroade, (other then Players of Enterludes belonging to any Baron of this Realme, or any other honorable P[er]sonage of greater Degree, to be auctoryzed to play …)’. So, other than the privileged members of acting companies patronised by the nobility (for example, Essex’s Men, Leicester’s Men, Pembroke’s Men, and Sussex’s Men), to be an actor was to be an outlaw. On 19 February 1598, the Privy Council sent a letter to the Master of the Revels and the Justices of Middlesex and Surrey, granting licences for the public performance of plays to the Lord Chamberlain’s Men (of which Shakespeare was a ‘sharer’ or part-owner) and the Lord Admiral’s Men. This was less to satisfy the commercial imperatives of the acting companies or the demand of the theatre-going public, than:

\[\text{to use and practise stage playes, whereby they might be better enhabled and prepared to shew such plaies before her Majestie as they shalbe required at tymes meete and accustomed, to which ende they have bin cheefelie licensed and tolerated as aforesaid ...}^{1}\]

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1 Quoted in EK Chambers, The Elizabethan Stage, 4 vols (Oxford, Clarendon, 1923) 4: 325, Appendix D.
An unnamed, third acting company, ‘having neither prepared any plaie for her Maiestie nor are bound to you, the Masters of the Revelles’, was to ‘be suppressed and none suffered hereafter to plaie but these two formerlie named belonging to us, the Lord Admyrall and Lord Chamberlaine’. Thus the state maintained its stern control over the performance of plays and those who performed them. Suppression and surveillance were key to management and maintenance of a relatively new phenomenon: the public playhouses of London, situated in the city’s Liberties. As far as the government was concerned, licensed acting companies provided a useful function (as the above letter makes clear), as a highly visible, ornamental ancillary of the royal court: not only as a readily available source of theatrical entertainment in the royal palaces, but also as a sign (especially to visiting, foreign dignitaries) of English civility and culture.

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2 Ibid. In 1602, a third company, Worcester’s Men, was granted a licence to perform in London: see J Clare, ‘Art made tongue-tied by authority’: Elizabethan and Jacobean Dramatic Censorship (Manchester, Manchester University Press, 1999) 81.


4 As Berry notes, ‘The national government issued decrees against playing, but to regulate (not obliterate) it’: H Berry, ‘The First Public Playhouses, Especially the Red Lion’ (1989) 40 Shakespeare Quarterly, 133; see also, R Dutton, Mastering the Revels: The Regulation and Censorship of English Renaissance Drama (Basingstoke, Macmillan, 1991) 24-25.
It is the purpose of this article to examine the treatment of actors (and other ‘outlaws’) by the state in the late Elizabethan and early Jacobean period, with the intention of exploring the general theme of ‘otherness’ and the particular role of the legal institution in regulating and reforming the image of the citizen or subject of law in post-Reformation, English society. I refer throughout to seminal, primary sources on the subject (especially) of theatre. I draw on several contemporaneous, polemical works, most of which demonstrate an iconoclastic attitude towards the theatrical image, consonant with devout Protestant opposition to idolatry. Whereas the icon was understood to be an image of truth, directing the viewer to comprehension of eternal, invisible concepts (notably, in the present context, the Godhead and divine law: the source of all municipal law), the idol was an image of falsehood: the repulsive embodiment of a lie. In the second half of the article, I examine prevailing and pressing concerns surrounding plague and disease, which I interpret as metaphors for a diseased and decaying society, in urgent need of reform. As in the first half of the article, theatre is the predominant cultural medium through which I examine contemporaneous social and juridical mores. I make extensive reference here to Shakespeare’s Measure for Measure, and its thinly veiled allusions to the social and political ills of Jacobean society. I conclude with the observation that Shakespeare’s Vienna provides a depiction of an ossified state, in which the plight of the underprivileged, the poor, and the oppressed is ignored by an autocratic and self-serving ruler. The parallels with Jacobean society and its magistracy are compelling.

II. School of Abuse: Elizabethan Theatre and the Outlawed Actor

It is worth placing the ‘cõmon Players of Enterludes’ in the context of other offenders, as the government cast its net wide. Players were listed in An Acte for punishment of Rogues Vagabonds and Sturdy Beggars, alongside: ‘Schollers going about begging’; ‘Seafaring-men
p[re]tending losses of their Shippes or Goods on the Sea going about the Country begging’; ‘all idle p[er]sons going about in any Country eyther begging or using any subtile Crafts or unlawfull Games and Playes’; ‘Fencers’; ‘Bearewards’ [Bearkeepers]; those ‘fayning themselves to have knowledge in Physiognomye Palmestry or other like crafty Scyence, or p[re]tending that they can tell Destenyes Fortunes or such like fantastical Ymagynacõns’; ‘all Juglers Tynkers Pedlers and Petty Chapmen [itinerant sellers of cloth and other wares] wandring abroade’;⁵ ‘all p[er]sons that be or utter themselves to be Proctors P[ro]curors Patent Gatherers or Collectors for Gaoles Prisons or Hospitalls’; ‘all p[er]sons delivered out of Gaoles that beg for their Fees’; ‘and all such p[er]sons not being Fellons wandering and p[re]tending themselves to be Egipcyans, or wandering in the Habite of Attyre of counterfayte Egipcians’.⁶

In the early modern English legal institution, the word ‘Egyptians’ (from which the dialectical word ‘gypsies’ derived) was used generically to describe any people of dark-skinned appearance, who lived nomadically and earned money by allegedly deviant means (bands of Irish vagrants fell into this category). The *Egyptians Act 1530* (22 H VIII cap 10) attempted to address the problem of Egyptians, who:

> have cõmen into this Realme, and gone from shire to shire, and place to place in great companies, and used great subtiltie and crafty meanes to deceive people, bearing them in hande that they by Palmistrie could tell mens and womens fortunes, and so many times by craft and subtiltie have deceived the people of their money …

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⁶ An *Acte for punishment of Rogues Vagabonds and Sturdy Beggars* (39 Eliz. cap. 4), clause 2.
Although the *Egyptians Act 1530* sought to expel the ‘outlandish people, calling themselves Egyptians’, it failed in its objective. The migratory nature of their lives made them elusive targets for the authorities, as they were in a continual state of movement from shire to shire, evading arrest as they passed from one local jurisdiction to another. The ‘otherness’ of Egyptians was defined not only by their appearance and their transient lifestyle, but also by their irreligious conduct. In 1554, another *Egyptians Act* (1 & 2 Philip & Mary cap 4) entered the statute book, legislation being justified on grounds that Egyptians ‘have come over againe into this realme using their olde, accustomed, devilish & naughtie devises, with such abominable living, as is not in any christian realme to be permitted’. It is highly unlikely that Egyptians such as these had ever left England, and therefore they had not ‘come over againe into this realme’: itinerants of all types were a fixture in the realm, albeit that they were in a continual state of movement. The difficulty of enforcing the statute may have been the primary reason why the authorities offered some incentive to abandon these migratory habits. The statute allowed Egyptians to avoid prosecution provided that they renounced their ‘naughtie, idle and ungodly life & company, & be placed in the service of some honest & able inhabitant … or that shall honestly exercise himself in some lawfull worke or occupation’. Their actions would be easier to control and regulate if they were confined to one place of employment: the capacity for effective surveillance was key to monitoring and therefore restricting their activities. This exception did not apply to those Egyptians currently serving prison sentences: they were to be deported ‘out of this realme within xiii. days next after his or their delivery out of prison’.8

7 W Rastall, *A collection in English, of the statutes now in force* (London, T Wight, 1603) 144v.

It is evident from the above extracts, that *An Acte for punishment of Rogues Vagabonds and Sturdy Beggars* placed travelling players in the same, proscriptive category as other travelling entertainers, such as swordsmen, bear-baiters, and jugglers; charlatans, such as palmists, clairvoyants, and chiromancers; peripatetic traders, such as pedlars, tinkers, and chapmen; fraudulent, displaced seamen; officials exercising clerical roles (and their counterfeits), begging as a sideline to their main sources of income; released felons; Egyptians (and counterfeit Egyptians); vagrant scholars (it is likely that this category included not only charlatans, posing fraudulently as scholars; but also, genuine scholars who were not in the employ of the two English universities and so sought to peddle their intellectual wares on a private, itinerant basis);\(^9\) and idle beggars (a catch-all category): all of them, strangers to English law. Counterfeits and frauds were writ large in the above list of offenders; but so too, through no fault of their own, were those who coincidentally or through misfortune, transgressed state-prescribed norms. Common players were lumped together with idlers, feigners, and fantastics. The question to be asked should be, why? Actors were not (by virtue only of their profession) idle, false, and fantastical. They performed a simple function, which was to perform and entertain. But the process of acting was perceived by some to be demonstrable evidence of falsehood and proof that actors, like fortune-tellers, were possessors

\(^9\) It is possible that this provision was intended to satisfy the governing bodies of the Universities of Oxford and Cambridge, which exercised a duopoly over the provision of university education in England. I am indebted to Stephen Connelly for his insightful comments on the working life of Benedict de Spinoza: between 1659 and 1663, Spinoza held private lectures at his home in the village of Rijnsburg, near Leiden, attended by students of natural philosophy at Leiden University, who skipped their official lectures to learn the “new philosophy”. Connelly argues that it is likely that Spinoza gained a modest income in this way: S Connelly, *Spinoza, Right and Absolute Freedom* (Abingdon, Routledge, 2015) 68.
of ‘fantasticall Ymagynacôns’. An ironical, and therefore unintended, consequence of *An Acte for punishment of Rogues Vagabonds and Sturdy Beggars* was that it may have provided the inspiration for a play written by John Marston, entitled *Histrio-Mastix. Or, The Player Whipt*, in which a group of tradesmen and artisans (‘Belch the Beard-maker’, ‘Gutt the Fiddle-string-maker’, ‘Incle the Pedler’, and ‘Maister Posthast the Poet’) decide to ‘make up a company of Players, / For we can all sing and say, / And so (with practice) soone may learne to play.’¹⁰

Punishments for breaches of *An Acte for punishment of Rogues Vagabonds and Sturdy Beggars* were severe: in accordance with the statute, offenders would be ‘stripped naked from the middle upwards and shall be openly whipped untill his or her body be bloudye’; then the offender was returned to the parish in which they were born, or if the location were unknown, to the parish where they last lived, ‘there to put him or her selfe to labour as a true Subject ought to do’.¹¹ But if offenders appeared to be dangerous, ‘or otherwyse be such as will not be reformed of their rogish kind of life’, then they could be committed to a house of correction or to the county gaol, there to remain until the next Quarter Sessions, at which time they may be ‘banysshed out of this Realme’ by the Justices of the Peace. If a convicted idler were to return

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unlawfully (that is to say, without licence or warrant) from banishment, then this was a felony: an offence of such serious proportions that it attracted the death penalty.\footnote{And if any such Rogue so banished as aforesaid shall return again into any part of this Realme or Dominion of Wales without lawfull Lycence or Warrant so to do, that in every such case such Offence shalbe Felony, and the Party offending therein suffer Death as in case of Felony.}{Acte for punishment of Rogues, clause 4.} Soon after his appointment on 30 June 1606 to the office of Chief Justice of the Common Pleas, Sir Edward Coke addressed the jury at the Assizes in his home city of Norwich, on 4 August 1606. In his speech he referred to An Acte for punishment of Rogues Vagabonds and Sturdy Beggars (which had been re-enacted by 43 Eliz I cap 9, in 1601), requesting ‘that you will carefully put in execution the Statute against Vagarants [sic].’ He stated that, since the enactment of the statute, ‘I have found fewer theeves, and the Gaole lesse pestered then before’,\footnote{E Coke (Sir), The Lord Coke His Speech and Charge. With a Discoverie of the Abuses and Corruption of Officers (London, Christopher Pursett, 1607) sig H2r.} although it should be emphasised that he provided no empirical evidence for the claim that the statute had this deterrent effect. And his comment calls into question the purpose of the statute: was it to deter theft, to relieve the poor, or to maintain public order and thereby eliminate the causes of sedition and rebellion? The answer is uncertain, although the fear of disorder, caused by disruptive forces, seems to inform his thesis. There is an underlying tone throughout the speech of obsessive consternation, as though it were a diatribe directed at an indeterminate stranger, one who was set to undermine and ultimately to destroy the common-weal through his opposition to state-endorsed norms. Among these shadowy forces of disorder, Coke included the ‘severall officers, whose actions not beeing sufficiently looked into, many abuses are committed, which do passe unpunished.’\footnote{Ibid, sig G3r.} These ‘officers’ were officials appointed...
by the King, who took advantage of their positions egregiously to exploit unwitting subjects. They included ‘escheators’, employed by the crown in every county to establish rightful ownership of land, where the owner had died, apparently without an heir. In such instances, the legal interest in the land might revert to the crown (escheat could also apply where the owner of the land was convicted of a felony). The escheator was commissioned by the crown to empanel a jury, which held an inquisition post mortem to determine who (if any) was the legal heir. But as Coke states, the crown ‘looketh only to Manors, Lands, and Tenements of great value, without having respect to such petty things’ (by which he meant ‘every particular acre of ground which he [the owner] hath’). By such means, many heirs lost their rightful inheritance because ‘many particular pieces [of land] are oft included in one evidence, without being distinguished by severall names.’ The escheator took as payment his ‘parte, in the spoile’. In a humorous aside, Coke suggested that the corrupt escheator, seeking profit for himself at the expense of landowners, should ‘change his name, taking unto himselfe the two last syllables, only with the Es left out: and so turne Chetor.’

Coke warned the Norwich jury also of other notable extortionists, including the ‘Clarke of the Market’, who accepted bribes from unscrupulous merchants found to have intentionally deceived consumers. Coke told his audience that ‘It was once my hap to take a Clarke of the market in these trickes: But I advanst him higher then his fathers sonne; by so much as from the ground to the toppe of the Pillorie.’ Other extortionists in public office included:

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15 Holdsworth notes the material benefits that accrued to the Crown through forfeiture for treason, commenting also that convictions for treason were more easily obtained than those for ‘more precisely defined felonies’, WS Holdsworth, A History of English Law, 17 vols (London, Methuen, 1924) 3: 290.


17 Coke, The Lord Coke, sig G4r.
‘pursuers’, who served warrants on landowners, unlawfully demanding timber from their land ‘for the Kings use’;¹⁸ and the ‘Salt-peter man’ (salt-peter was used in the manufacture of gunpowder), who ‘will make plaine and simple people beleeve, that hee will without their leave, breake up the floore of their dwelling house, unlesse they will compound with him to the contrary.’¹⁹ Coke warned his audience of four other types of extortionist: ‘a Concealer, who is indeed little better then a plaine Cosiner … a Promoter, a Monopolitan, and an Alcumist’.²⁰ The principled opposition of Coke to monopolists (‘Monopolitans’) and the grant of monopolies is well-documented. Monopolies were adjudged by him to be prejudicial, not only against others in the same trade as the monopolist, but to all subjects of law, ‘for the end of all these monopolies is for the private gain of the patenlee’s.’²¹ To these various offenders against God and common law (all of them Godless and lawless), cited by Coke in his Norwich speech, he added one more category, that of common players or unlicensed actors: ‘The abuse of [by] Stage players, wherewith I find the Countrey much troubled, may easily be reformed: They having no Commission to play in any place without leave: And therefore, if by your willingnesse they be not entertained you may soone be rid of them.’²²

¹⁸ Ibid, sig G4v.
¹⁹ Ibid, sig Hr.
²⁰ Ibid.
²² Coke, The Lord Coke, sig H2r.
Of course, for extreme Protestants of the late sixteenth century, actors offended on religious grounds. They were, *ipsa facta*, both idolaters and idols: worshippers of false images and simultaneously the incarnation of falsehood. For example, the Elizabethan pamphleteer Phillip Stubbes complained in *The Anatomie of Abuses* that plays were ‘being used as now commonly they be it to the prophanation of the Lord his Sabath, to the alluring and inveigling of the people from the blessed word of God preached, to theatres and unclean assemblies’.23 He went on to assert that ‘ALL Stage-playes, Enterluds and Commedies, are either of divyne, or prophane matter: If they be of divine matter, than are they most intollerable, or rather Sacrilegious’.24 But the issue was more complicated than this and was not confined solely to matters of religion. Even Stubbes, a writer of well-publicised, extreme Protestant sentiment,25 was conflicted. In his preface to the first edition of *The Anatomie of Abuses* (first published in 1583), he conceded that ‘some kind of Playes, tragedies and enterludes in their own nature are not only of great ancientie, but also very honest and very commendable … being used and practysed in most Christian common weales’. Such plays were written and performed ‘for the

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25 See for example, P Stubbes, *The theater of the Popes monarchie wherein is described as well the uncleane lives of that wicked generation, as also their Antichristian government, and usurped kingdome: togetheer with their horrible superstition, and blasphemous religion, as it is now used at this present, where Antichrist the Pope & his members do beare rule* (London, T Dawson, 1585): the comprehensive title of the book is indication enough of the author’s extreme, anti-Catholic inclination.
godly recreation of the mind, for the good example of life – they are very tolerable exercises.’

At least in part, the issue was one of intellectual discernment, which implied a level of learning (and by implication, rank) on the part both of performers and audience.

In The Schoole of Abuse (graphically subtitled: Contayning a pleasanta invective against Poets, Pipers, Players, Jesters, and such like Caterpillers of a Common-wealth), published in 1579, the anti-theatrical polemicist and Anglican cleric Stephen Gosson inveighed against the misuse of the poetic, musical, and dramatic arts. He associated the appreciation of licit artistic ventures with learning and gentility: his pamphlet was, he claimed, ‘A discourse as pleasanta for Gentlemen that favour learning, as profitable for all that will follow virtue.’

A tone of remorse pervades the preface to The Schoole of Abuse, as Gosson admonishes himself for being the author of plays before he experienced his personal epiphany: ‘mine owne works are daily to bee seene upon stages, as sufficient witnesses of mine owne folly’. But he is repentant and has reformed, and claims to shed tears when he sees his plays performed, and to sweat blood when he remembers them, insisting that ‘you would not so much blame me for misspending my time, when I knew not what I did.’

None of Gosson’s plays is extant, but he refers in The Schoole of Abuse to Catilins Conspiracies, describing it as ‘a Pigge of mine owne Sowe’. His stated aim in writing the play was apparently honourable, serving a didactic purpose: ‘to show the rewarde of traytors in Catilin, and the necessary government of learned

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29 Ibid, ‘To the Reader’.
men, in the person of Cicero’. It seems that Gosson and Stubbes were not opposed to plays and players on religious grounds alone, although Protestantism was a major, doctrinal reason for their hostility. Gosson claims that plays such as *Catilins Conspiracies* ‘are good playes and sweete playes, and of al playes the best playes and most to be liked’, but he goes on to state that their performances should be limited, implying that the ‘common’ people should not be permitted to see them; they are ‘not fit for every mans dyet: neither ought they commonly to be showen.’ He believed that an elevated level of education, based upon thorough acquaintance with the canonical texts of ancient Greek and Roman literature (notably, the works of Plato, Aristotle, Cicero, and Ovid), was necessary in order to attain a proper understanding of the political themes embedded in Senecan tragedy.

Gosson reserves his harshest criticism for comedies, confessing to have sinned in writing them himself, ‘I have sinned, and am sorry for my faulte: he runnes farre that never turnes, better late than never.’ Comedy implied levity, the rejection of legitimate authority (both temporal and spiritual), and the subversion of established mores. In socio-political terms, comedy represented a liberation of sorts (for a limited period) from the bonds of servitude, and in this respect it was the equivalent of medieval carnival, which Mikhail Bakhtin evocatively described as ‘the people’s second life, organized on the basis of laughter.’

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30 Ibid, sig D2v.

31 See RJ Tarrant, ‘Senecan Drama and Its Antecedents’ (1978) 82 Harvard Studies in Classical Philology 213. Berry argues that ‘some denunciations [of plays] were curiously equivocal because the denouncers had read Terence and Seneca in school and so believed that plays were a source of literary culture’: Berry, ‘The First Public Playhouses’, 133.

32 Gosson, *Schoole of Abuse*, sig D3r.

33 M Bakhtin, *Rabelais and His World*, (tr) H Iswolsky (Bloomington, Indiana University Press, 1984) Introduction, 8. As Goodrich noted in his study of satire and the law, satirical legal studies aim to link
invokes the Christian injunction to the forgiveness of sin, he seems equally if not more concerned with the issue of public order: the ‘mischiefe’ caused by players, and ‘the abuses that growe by their assemblyes.’\textsuperscript{34} Stubbes was more explicit than Gosson, in naming the felonious ‘mischiefs’ and ‘abuses’ that were acquired or ingested by watching plays:

\begin{quote}
if you will learne to murther, slaie, kill, picke, steale, robbe and roue: If you will learn to rebel against Princes, to comit treasons ... you need to goe to no other schoole, for all these good Examples, may you see painted before your eyes in enterludes & playes.\textsuperscript{35}
\end{quote}

In the opinion both of Stubbes and Gosson, the criminality which was the inevitable consequence of commoners watching plays was implicitly linked with the falsehood and idolatry of the players. Thereby, the two writers imagined an indivisible link between the secular injunction against crime and disorder and the Biblical commandment against graven images and likenesses. Stubbes argued that ‘if you wil learne falshood, if you will learn cozenage: if you will learn to deceive: if you will learn to play the Hipocrit: to cog, lye and law and life, and in order to achieve that end ‘the satire must attach itself to a figure or a person … it needs a narrative and specifically it requires dramatization, actors, and action’: P Goodrich, ‘Satirical Legal Studies: From the Legists to the “Lizard”‘ (2004) 103 \textit{Michigan Law Review} 397–517, 422; see also G Leung, ‘The Efflorescent Nihilism of Laughter: An Existential Supplement to Satirical Legal Studies’ (2010) 4 \textit{Law and Humanities} 275–89.

\textsuperscript{34} Gosson, \textit{Schoole of Abuse}, sig D3v.

\textsuperscript{35} Stubbes, ‘Of Stage-playes and Enterluds, with their wickednes’ in \textit{Anatomie of Abuses} (1583 ed), sigs L8v–Mr. On Gosson and Stubbes, see L Levine, ‘Men in Women’s Clothing: Anti-theatricality and Effeminization from 1579 to 1642’ (1986) 28 \textit{Criticism} 121.
falsifie’, 36 all of which sins are learned by watching plays, then (he continues) you will learn to murder, thief, and commit treason. Gosson expressed the same thoughts on falsehood, but (with unintentional irony, given that he was railing against poets) in more poetic style than Stubbes:

… pul off the visard that poets maske in, you shall disclose their reproch, bewray their vanitie, loth their wantonnesse, lament their folly, and perceive their sharpe sayings to be placed as Pearles in Dunghils, fresh pictures on rotten walles, chaste Matrons apparel on common Curtesans. These are the Cuppes of Circes, that turne reasonable Creatures into brute Beastes … 37

Gosson and Stubbes wrote their anti-theatrical, polemical texts more than a decade before the building of the public playhouses on London’s Bankside from the late 1580s to the late 1590s: The Rose in 1587, The Swan between 1594 and 1596, and The Globe in 1599. North of the Thames, The Theatre (1576) and The Curtain (1577) had been extant only for two or three years before The Schoole of Abuse was published in 1579, and the opening of these two playhouses antedated the publication of The Anatomie of Abuses in 1583 by between six and seven years. In the preface to his later polemic against theatre, published in 1582 and entitled Playes Confuted in Five Actions, Gosson admitted to writing two plays (neither of which is extant), in addition to Catilins Conspiracies: ‘… since my publishing the Schole of

36 Stubbes, ‘Of Stage-playes and Enterluds, with their wickednes’ in Anatomie of Abuses (1583 ed) sig L8v.

Abuse, two playes of my making were brought to the Stage: the one was a cast of Italian devises, called *The Comedie of Captaine Mario*: the other a Moral, *Praise at parting*. He referred to ‘penning Tragedies, and Comedies in the Citie of London’. If they were performed ‘in the Citie of London’, this would probably have been at either The Theatre or The Curtain, which opened their doors to the public several years before *Playes Confuted* was published. Both theatres were built in the Liberty of Holywell, at Shoreditch, just outside the jurisdiction of the City of London, in the north-east of the capital. The Red Lion, at Whitechapel in East London, opened its doors to the paying public in 1569, but played host only to visiting companies of players, unlike the purpose-built playhouses, which operated a repertory system, in which plays were performed by the same company of players (such as the Lord Chamberlain’s Men and the Lord Admiral’s Men).

The fear expressed by Stubbes in *The Anatomie of Abuses* and by Gosson in *The Schoole of Abuse*, regarding less elevated forms of theatre than ‘honest’, ancient tragedy, was evident also in *An Acte for punishment of Rogues Vagabonds and Sturdy Beggars*, concerning the threat posed to social order by idlers. Stubbes described these wastrels as ‘ydle persons doing nothing but playing and loitering, having their lyvings of the sweat of other mens browes’. He was referring here to ‘common players’. Parasites such as these he likened to drones, ‘devouring ye sweet honie of the poore labouring bees’. This was an intrinsically secular argument, which is not to argue that the instinctive mistrust and criminalisation of

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38 S Gosson, *Playes Confuted in Five Actions, Proving that they are not to be suffred in a Christian common weale* (London, for T Gosson, 1582) ‘To the Reader’, unpaginated.

39 Ibid, sig Br.

40 On the construction between 1567 and 1614 of the public, amphitheatre playhouses in London’s suburbs, see Gurr, *Playgoing*, 14-26.

common players and other ‘idlers’ did not have its doctrinal and practical origins in the religious institutions of the medieval period.

While, in the above passage from *The Anatomie of Abuses*, the invective employed by Stubbes was directed towards ‘common players’ (that is to say unlicensed, itinerant troupes of actors), in *Playes Confuted*, Gosson’s criticism is explicitly aimed at the licensed, public playhouses. If, as seems likely, the three plays which he is supposed to have written - *Catilins Conspiracies*, *The Comedie of Captaine Mario*, and *Praise at Parting* – were performed at The Theatre or The Curtain, then of course he would have observed at first-hand the effect that his plays and their actors had on the audience. By his own account, the effect was presumably to engender and incite disorder: ‘The Gentlemen Players [licensed companies] in the citie of London, are growen in such a heate, that by their foming, their fretting, their stamping, my frendes do perceive how their harts woorke’. Gosson claimed to have witnessed ‘such a Gordians knot of disorder in every play house as woulde never bee loosed without extremitie’. Of course, as an extreme Protestant he opposed the performance of plays on religious grounds, expressing the hope that ‘no Christian wilbe so shame-lesse to say that the doctrine & invention of the Devill, is to bee suffered in that common weale’. Protestant doctrine on the evil of idolatry is (unsurprisingly) an obvious feature of his polemic: ‘playes were consecrated by the heathens to ye honour of their gods … whatsoever was consecrated to the honour of the Heathen Gods was consecrated to idolatrie’. He presents arguments both temporal (the threat to public order) and spiritual (the irreligious worship of idols), but it is noteworthy in this respect that the book was dedicated to Sir Francis Walsingham, principal secretary to Elizabeth

43 Ibid, sig Br.
44 Ibid, sigs B3v-B4r.
from 1573 until his death in 1590. In ‘The Epistle Dedicatorie’, Gosson pledged ‘to dedicate both this & my selfe unto your honor, that your wisdome might be a countenaunce to my study, your authoritie a buckler unto my life.’ 46 Indeed, it appeared that the exalted, temporal authority of Walsingham did act as a ‘buckler’ to the subsequent life of Gosson. Walsingham was an extreme Protestant, but he was also a Privy Councillor, and was popularly known as Elizabeth’s ‘spymaster’. 47 In April 1584, only two years after the publication of Playes Confuted and without any obvious explanation, Gosson enrolled at the English College at Rome (his name was registered in the Pilgrim Book), the seminary at which Jesuit priests trained before departing on their perilous missions to convert Protestant England to Roman Catholicism. 48 Given Gosson’s Protestantism, this decision was (in the understated words of his biographer Arthur F Kinney) ‘a strange turn’. He stayed in Rome for only two months before resigning, ostensibly on grounds of poor eyesight. As Kinney suggests, ‘The only satisfactory explanation is that Gosson was acting as an agent for Walsingham’. 49 This seems likely, especially when it is noted that immediately after his return from the English College at Rome he embarked upon a career as an Anglican cleric in London, close to the centre of government; first as lecturer at St Martin Ludgate (near St Paul’s Cathedral), and soon after as lecturer at St Dunstan and All Saints, Stepney.


The Anatomie of Abuses by Stubbes takes the classical form of a dialogue between two characters, Philoponus and Spudeus. The former relates to the latter his experiences while travelling through the fictional realm of Ailgna: ‘a certaine famous Ilãd, once named, Ainabla, after, Ainatirb: but now presently called Ailgna’; better known to readers by the anagrammatic title of Anglia or England (Ainabla/Ainatirb or Britania, looks back to the mythical nation-state of Britain, allegedly founded by Brutus of Troy). According to Philoponus, Ailgna is a ‘pleasant and famous Iland, immured about with the Sea, as it were with a wall’. The conceit of the fortified island as a Utopian idyll was utilised by Elizabethan jurists. For Coke, England was ‘at the first Olbion, or the happy island in Greek’: happy because it was protected by the sea from predatory, continental neighbours. The trope of insularity was artfully employed by the Elizabethan scholar of heraldry (and member of the Inner Temple) Gerard Legh to describe the autonomous island of English law, the Inner Temple, as a microcosmic city-state, metaphorically washed by the inspirational waters of the Hippocrene. Legh heralded the birth of a new empire of laws in the west; a sovereign English state, independent from Rome and Roman law, which embraced rather than denied its classical forebears. According to Legh, the Hippocrene ‘washte over tholde forworen Temples, dedicate to Godes, as places meete for Pallas Muses’, and the Inner Temple was an ‘Iland, wherein are the store of Gentilmen of the whole Realme, that repaire thither to learne to rule, and obeye by lawe, to yeele there fleece to there prince and common weale’.

50 Stubbes, Anatomie of Abuses (1583 ed) sig Biiiv.
51 Ibid, sig Bvr.
52 Coke, 3 Reports (1602) 2: ‘To the Reader’, xb.
Legh’s visit to the Inner Temple in December 1561 coincided with a period of institutional expansion at the Inns of Court, in which the building of permanent boundary walls was a notable feature. For example, at the Inner Temple: ‘The Wall betwixt the Thames and the Garden, was begun in 16 H.8 [1524]’; and ‘In 31 Eliz. [1589] two sides of the Garden were inclosed with a brick wall’. Sir George Buck (Master of His Majesty’s Office of the Revels in the reign of James I, and a Middle Templar) noted of Lincoln’s Inn that since the accession of Henry VIII, ‘it hath beene much enlarged, and beautifyed with goodly buildings’. Enlargement and beautification were coextensive with a sense of permanence, immutability, and legitimacy. The whole of the post-Henrician sixteenth century witnessed unprecedented levels of building works at the Inns of Court, many of which served to enforce and enable a sense simultaneously of exclusivity and inclusivity (depending on which side of the walls and gates the subject found himself). Legh was welcomed into the Inner Temple and invited to the Inn’s grand feast, even though, as he admits, ‘I was a straunger’. This was not strictly correct, as Legh was a member of the Inner Temple, but the pretence of being a stranger suited the fictionalised version of his visit, in which he describes himself as a newly-arrived traveller

54 W Dugdale (Sir), Origines Juridiciales or Historical Memorials of the English Laws (London, F and T Warren, 1666) 146, 147.
56 Legh, The Accedens, fo 120a.
from ‘the Easte partes of thunkowen world’. Usually, the stranger was unwelcome at the Inns of Court: he was excluded from the confines and rituals of the legal community. It was customary for commons to be attended only by members of the Inn, and it is noteworthy that records emphasise the exclusion of non-members from the sacred rite of dining. For example, at the Inner Temple there was a requirement ‘That no stranger be suffered to stand in the Skreen in Meal-times’. By implication, strangers were excluded from citizenship of the wider common-weal, beyond the newly fortified walls of the Inns. Just as the governing bodies of the Inns sought to fortify their communities against strangers, so the state legislated (in laws such as An Acte for punishment of Rogues Vagabonds and Sturdy Beggars) to protect the realm from the perceived threat of disorder and sedition posed by various categories of strangers. A particular threat, identified by Stubbes et al, was the threat posed by emissaries of Rome, the idolatrous form of which could take various shapes, which included common players. According to Stubbes, idolaters such as these: ‘who so ever abuseth this word of our God on stages in playes and enterluds, abuseth the Maiesty of GOD in the same, maketh a mocking stock of him, & purchaseth to himselfe, eternal dânation.’

III. Plague and Prejudice

57 Ibid, fo 119a.
58 Dugdale, Origines Juridiciales, 287. At the Middle Temple in 1612 legislation was enacted, ‘forbidding any Gentleman to lodg any Stranger in his Chamber’: ibid, 192.
59 On the theme of social exclusion, Goodrich notes ‘the concept of the foreign in common law, the antirrhetic or antiportrait of those outside the “ligeance” of social legitimacy, kinship, or common identity’: Goodrich, Oedipus Lex, 213.
60 Stubbes, Anatomie of Abuses (1583 ed), sig Lvv.
That for avoydinge of great concourse of people, which causeth increase of thinfection, yt were convenient, that all Playes, Beare-baytinges, Cockpittes, common Bowling alleys, and such like unnecessary assemblies should be suppressed during the tyme of infection …

The above extract from Articles submitted to the Privy Council in 1594 is typical of the many official documents which banned the performance of plays during outbreaks of the plague. One of the most severe epidemics was in 1603, a vivid contemporaneous account of which was provided by Thomas Dekker in *The Wonderfull Yeare*: ‘As first, to begin with the Queenes death, then the Kingdomes falling into an Ague upon that. Next, followes the curing of that feaver by the holesome receipt of a proclaymed King.’

The new king issued several ‘plague orders’ at the start of his reign, with titles such as:

*Orders, thought meete by his Maiestie, and his Privie Counsell, to be executed throughout the counties of this realme, in such townes, villages, and other places, as are, or may be hereafter infected with the plague, for the stay of further increase of the same.*

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61 ‘c. 1594, July-Oct. Extract from Articles submitted to the Privy Council against the increase of the plague and for the relief of poor people’ in Chambers, *Elizabethan Stage*, 4: 315, Appendix D.


63 *Orders, thought meete by his Maiestie, and his Priuie Counsell, to be executed throughout the counties of this realme, in such townes, villages, and other places, as are, or may be hereafter infected with the plague* (London, R Barker, 1603).
The playhouses of London were closed between March 1603 and April 1604, due to a severe outbreak of plague. It was during or soon after this epidemic that Measure for Measure was written. That it was, is evident from the prominent motifs of disease, decay, and corruption which dominate the play. The earliest recorded reference to a performance of Measure for Measure is contained in the ‘revels accounts’ for entertainment at the royal court during the Christmas festivities of 1604, on 26 December: 'By his Matis plaiers: on St Stivens night Mister Shaxberd ... A play Caled Mesur for Mesur'; although critics agree that the play was almost certainly first performed at the Globe, when the playhouse reopened in the late summer of 1604. The performance on St Stephen’s Day, attended by James I, took place at the Banqueting House in Whitehall. For its title alone, it is at least arguable that Measure for Measure is the most singular of all Shakespeare’s plays. The title is the only of Shakespeare’s plays to derive from the Bible: ‘Judge not, that ye be not judged. For with what judgment ye judge, ye shall be judged: and with what measure ye mete, it shall be measured to you again. And why beholdest thou the mote that is in thy brother’s eye, but considerest not the beam that is in thine own eye?’ (Matthew 7.1–3). The ‘measure for measure’ passage recurs in Luke 6.38.

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64 On plague and the playhouses, see Gurr, Shakespearean Stage, 78; Chambers, Elizabethan Stage, 4: 345–51, Appendix E.


and is followed by the parable of the ‘mote’ and ‘beam’, blinding the hypocrite to his own faults (Luke 6.41–42).  

The theme of forgiveness in Measure for Measure flatly contradicts the retributive stance propounded by Gosson and Stubbes, as discussed above. The play projected religion, corruption, and societal disfunction into the public arena at a time when the state authorities had prohibited any plays which sought to address the themes of religion or sedition. As early as the second year of her reign, in 1559, Elizabeth I had issued a Proclamation, ordering all the municipal mayors and lieutenants of the shires to prohibit the performance of plays in which ‘either matters of religion or of the governaunce of the estate of the common weale shalbe handled or treated’, on grounds that these issues were the sole domain of ‘menne of aucthoritie’.  

And some years later, in 1574, an Act of Common Council declared that no play might be performed ‘within the liberties of the Cittie, whearin shalbe uttered anie wourdes, examples, or doynges of anie unchastitie, sedicion, nor such lyke unfytt and uncomelye matter’.  

In 1599, the Bishops’ Ban extended the same restrictions to the printed word. On 1 June 1599, the two most prominent prelates of the Anglican Church, John Whitgift (Archbishop of Canterbury) and Richard Bancroft (Bishop of London) issued a Proclamation, prohibiting the Stationers’ Company from publishing any satirical works without the prior approval of the

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68 Chambers, Elizabethan Stage, 4: 263, Appendix D.

69 Ibid, 274.
two bishops. The ban included a list of satires, already published, which were to ‘bee presentlye broughte to the Bishop of London to be burnte’.

It seems only reasonable to suggest that Measure for Measure unequivocally engages with and represents all of the above ‘uncomelye’ matters: ‘unchastitie’ drives the entire plot, while fear of lawlessness, of which sedition is an extreme example, prompts the Duke to authorise the enforcement of the ‘strict statutes and most biting laws’ (1.3.20), which have lain dormant for too long, with the result that ‘Liberty plucks Justice by the nose’ (1.3.30). The word ‘liberty’, and its meaning, haunts the play, as it does (or ought to) the meaning of law. If liberty is synonymous with freedom, and justice is synonymous with law, then should not law guarantee freedom, as well as define its boundaries? Despite the religious fervour of certain extreme Protestants, and their clamorous demand for the criminalisation of fornication and adultery (including even the mere thought of fornication or adultery: of especial relevance to Angelo in Measure for Measure), sins of the flesh remained firmly in the jurisdiction of the ecclesiastical courts, the punishment for which was public penance, humiliation, and a fine. But adultery and fornication were never subject to the jurisdiction of common law, and nor were they criminalised by statute. Constables were empowered to arrest any person suspected of ‘baudrie’ and to bring them before a Justice of the Peace, who could then demand from them

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71 All quotations from the play are from W Shakespeare, Measure for Measure, (ed) B Gibbons (Cambridge, Cambridge University Press, 2006).
a surety for good behaviour.\textsuperscript{72} But the concern here was with preserving the Queen’s peace, rather than with punishing the offender’s sin.

That \textit{Measure for Measure} was permitted to be performed at the Globe Theatre in the summer of 1604 indicates that the licensing authorities (in the form of the Lord Chamberlain and his executive officer, the Master of the Revels) were less concerned with the theatricalisation of ‘matters of religion’, ‘unchastitie’, and ‘baudrie’, all of which are central to the plot of the play, than they were with enabling plays to be written and performed that were likely to be deemed worthy entertainment for the royal court, when they were subsequently performed there. As Richard Dutton notes: ‘There must always have been a degree of complicity, as much as of antagonism, between the actors and those in power over them; they were mutually useful to one another.’\textsuperscript{73} It would have helped, no doubt, that many of these playing companies had patrons among the nobility and aristocracy. Leading players and sharers, such as Richard Burbage (leading actor of the Lord Chamberlain’s Men), Edward Alleyn (leading actor of the Lord Admiral’s Men), and Shakespeare, were not ‘rogues and vagabonds’. They were, to all intents and purposes, members of the establishment: a coat of arms was granted to ‘Shakespear the Player’ in 1602.\textsuperscript{74} And upon the death of Burbage in 1619, William Herbert, Third Earl of Pembroke, wrote in a letter that he could not bring himself to attend a play, ‘which I being tender harted could not endure to see so soone after the loss of my old acquaintance’.\textsuperscript{75} He was referring to Burbage. Two actors from the King’s Men, Henry

\textsuperscript{72} W Lambard, \textit{The Duteties of Constables, Borsholders, Tythingmen, and such other lowe and Lay Ministers of the Peace} (London, Thomas Wight, 1602) 12.

\textsuperscript{73} Dutton, \textit{Mastering the Revels}, 25; on the Revels Office, see Chambers, \textit{Elizabethan Stage}, 1: 71-105.


\textsuperscript{75} Quoted in E Nungezer, \textit{A Dictionary of Actors and of other persons associated with the public representation of plays in England before 1642} (New Haven, Yale University Press, 1929) 73.
Condell and John Heminges, returned the compliment four years later, in 1623, by dedicating the First Folio edition of Shakespeare’s plays to Pembroke and his younger brother Philip, Earl of Montgomery, whom they described in ‘The Epistle Dedicatory’ as ‘the Most Noble and Incomparable Paire of Brethren’. The dedication starts with the fulsome assurance that ‘we studie to be thankful in our particular, for the many favors we have received from your L.L’. They explicitly acknowledged the crucial importance of aristocratic patronage, when they admitted that ‘There is a great difference, whether any Booke choose his Patrones, or find them: This hath done both.’ Condell and Heminges had good reason to be thankful to the Earl of Pembroke, who by this time had attained the office of Lord Chamberlain, and therefore determined whether or not the King’s Men should continue to enjoy the patronage of and privileged access to the royal court.

Action taken by the government regarding the playhouses and playing companies was by no means always of a retributive or punitive nature. There are records of the government intervening on behalf of the playing companies to order the local justices to permit the building of new playhouses. In April 1600, the Privy Council sent one such order to the Justices of Middlesex, allowing Edward Alleyn and his company ‘to erect a newe house’ in Finsbury. This was to become the Fortune Playhouse (noted for its acclaimed productions of ‘city comedies’, by Thomas Dekker and others), situated in the parish of St Giles, Cripplegate, north of London Wall. As I note above, Alleyn was neither a rogue nor a vagabond; rather, he was a highly successful actor and entrepreneur, who found favour with the Queen. The letter from the Privy Council to the Justices of Middlesex reminded them that the Queen had ‘been well pleased

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76 Mr. William Shakespeares Comedies, Histories, & Tragedies. Published according to the true Originall Copies (London, Isaac Iaggard and Ed. Blount, 1623) ‘The Epistle Dedicatory’, sig A2r.

77 Ibid, sig A2v.

78 See Dutton, Mastering the Revels, 220-21.
heeretofere at tymes of recreacion with the services of Edward Allen and his Companie’. And therefore the letter (whose signatories included Robert Cecil and Alleyn’s patron, the Lord High Admiral: Charles Howard, First Earl of Nottingham) required the justices (who were notoriously proactive in suppressing the performance of plays and had hitherto resisted attempts to build a new playhouse in their domain) ‘to permit and suffer the said Edward Allen to proceede in theffectinge and finishing of the same Newe howse, without anie your let or interrupcion’.79 It is evident that patronage by the nobility, and preferably by the Queen herself, was key to exemption from censure by the local justices of the peace. In May of the same year, the Privy Council intervened again, this time requiring the Justices of Surrey, on the south bank of the Thames, to permit Peter Bromvill, ‘recommended unto her Majestie from her good brother the French Kinge and hath shewed some feates of greate activity before her Highnes’, to use ‘the Swann, in old Parys Garden’ as a space for his unspecified ‘feates of activitye’. The letter included the one proviso that Bromvill was not permitted to ‘exercyse upon any Sabothe day.’80 It seems that the government paid lip-service to the religious demand for prohibition, while facilitating the commercial imperative of entitlement.

Of course, a level of protection from state censorship was provided to Shakespeare for most of his career as a playwright by the fact that he wrote the plays exclusively for performance by the Lord Chamberlain’s Men, which upon the accession of James I in 1603 became known as the King’s Men, effectively elevating the company to the status of members of the royal household (each member of the newly promoted King’s Men was given, along with other members of the royal household, four and a half yards of red cloth, with the probable intention that they should march in procession for the King’s entry into London, in May


80 Ibid, 4: 329.
1604). Measure for Measure was the first play to be written by Shakespeare in the reign of James I. It appears that the play was not subject to censorship, and in this respect it probably helped that the play is set, ostensibly at least, in Vienna. The location may have given the initial, superficial (and completely misleading) impression to its audience that this was therefore a world alien to Protestant England and the Protestant English. The Duke of Vienna, Vincentio, presides over an obviously Catholic realm, in which nuns and friars are highly visible: demonstrably and clearly (or so it seems), we are not in post-Reformation England. The reference near the start of the play, made by Lucio, to the Duke's diplomatic mission to the King of Hungary (1.2.1-5) alludes to a visit made in 1604 by the Duke of Holst (brother of Queen Anne of Denmark, wife of James I), to shore up the support of the Holy Roman Empire against the Turks.

It has not gone unnoticed by critics that the character of the Duke bears more than a passing resemblance to James I. The earliest hint of an allusion to the King comes in the first

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82 Although Anne was brought up a Lutheran, there is strong evidence that at some point during her marriage to James, she converted to Catholicism: see DH Wilson, King James VI and I (London, Jonathan Cape, 1956) 95.


scene of the play, when the Duke informs Angelo that ‘I love the people, / But do not like to
stage me to their eyes: / Though it do well I do not relish well / Their loud applause and aves
vehement’ (1.1.67-70). Prior to the coronation procession in 1604, James had secretly visited
the Royal Exchange in order to observe the preparations for his triumphant arrival in London.
Writing about the event, Gilbert Dugdale noted that the King was spotted by ‘the wylie
Multitude’ and the doors of the Royal Exchange were slammed shut in order to keep out the
crowd. James contented himself instead with spying on ‘the Marchantes from a Windowe all
below in the walkes not thinking of his comming’. The decision of the Duke to disguise
himself throughout the play and to spy on his subjects has a precedent in the advice the King
gave his eldest son Henry in Basilikon Doron, published in 1599, and republished in London
and Edinburgh in 1603. There, he counselled his son to ‘delite to haunt your Session, and spie
carefully their proceedings’ and to ‘let it be your owne craft, to take a sharpe account of every
man in his office’. Indeed, it is possible that the Duke’s chosen disguise as ‘a true friar’
(1.3.49) prompted James I (in a speech made in March 1610 to Members of the two Houses of

85 For an eyewitness account by Thomas Dekker of the coronation procession on 15 March 1604, see T
Dekker, The magnificent entertainment given to King Iames, Queene Anne his wife, and Henry
Frederick the Prince, uppon the day of his Maiesties triumphant passage (from the Tower) through his
honourable cittie (and chamber) of London, being the 15. Of March. 1603 [1604], (Edinburgh, T
Finlason, 1604).

86 G Dugdale, The Time Triumphant (London, R Blower, 1604) sig Bv; Gibbons notes that Robert
Armin, a member of Shakespeare’s company, claimed to have written The Time Triumphant and that
he based it on Dugdale’s observations: Gibbons (ed), Measure for Measure, Introduction, 22.

87 James I, ‘Basilikon Doron’ in JP Sommerville (ed), King James VI and I: Political Writings
Parliament) to say that ‘I must conclude like a Grey Frier, in speaking for my selfe at last’. There is another echo of the Duke in the King’s famous remark in the same speech that ‘Kings Actions (even in the secretest places) are as the actions of those that are set upon the Stages’. In the Duke’s propensity for theatrical gesture, it is at least arguable that King James I may have recognised a parallel with his own, singular form of kingship.

A particular aspect of James I’s style of governance, worthy of consideration in discussion of Measure for Measure, is his attitude and that of his government toward the licentious excesses of the Liberties in the ‘suburbs’ of London. Near the start of the play, Claudio (sentenced to death for the crime of fornication) admits to his lascivious friend Lucio (described in the dramatis personae as ‘a fantastic’) that the cause of his downfall is ‘too much liberty, my Lucio, liberty.’ (1.2.107) In one sense, the repetition by Claudio of the word ‘liberty’ serves to emphasise its importance to the meta-narrative of the play: what is the meaning of liberty and in particular what does it mean to an individual who has no agency, who has no influence over the governance of the state? But there is another meaning to the word ‘liberty’ in the specific context of Measure for Measure and its performance at the Globe Playhouse in the late summer of 1604: the Globe was situated on the south bank of the Thames, in the Liberty of Winchester, better known as the Liberty of the Clink. An area of approximately 70 acres, the land had belonged since 1149 to the Bishops of Winchester. The Liberty (a local form of manorial jurisdiction, outside the jurisdictions both of the City of London and the Justices of Surrey on the south bank, and the Justices of Middlesex on the north bank of the Thames) was confirmed by King Stephen (reigned 1135-1154), and in 1161 King Henry II permitted the Bishop of Winchester (Henry of Blois) to license prostitutes and brothels within

88 James I, ‘A Speach To The Lords And Commons Of The Parliament At White-Hall, On Wednesday The XXI. Of March. Anno 1609’ (1610), ibid, 203.
89 Ibid, 184.
the Liberty. The prostitutes were known locally as ‘Winchester geese’, a reference to which the diseased, dying Pandarus makes in the apocalyptic epilogue to *Troilus and Cressida*. The granting of licences such as these, as well as those for playhouses, ale houses, bearbaiting, bullbaiting, dogfighting, cockfighting, and numerous other forms of popular entertainment on the south bank of the Thames, obviously provided a highly lucrative source of income for the Bishops. The fact that the Bishop of Winchester was the foremost brothel-owner on Bankside marked a level of hypocrisy and irony that is reflected in *Measure for Measure* by Shakespeare’s treatment of the ‘outward-sainted deputy’ (3.1.88) Angelo: an angel only ‘on the outward side’ (3.2.224).

*Measure for Measure* ushered a thoroughly novel form of social realism into mainstream theatre, and its author deployed the subject of sexual conduct in an unprecedented manner, to depict not only the hypocrisy which infected aspects of organised religion; but also the hierarchical, commercial, social, and religious distinctions of late Elizabethan and early Jacobean society. In the Vienna of *Measure for Measure*, sexual incontinence operates partly as a metaphor for social, moral, and political malaise. Individuals behave corruptly, both in a personal and institutional context; often they do so with impunity, because the state is inefficient and unaccountable, subject only to the prerogative rule of an absolute, ineffectual, and largely absent magistrate. As soon as King James ascended the English throne in 1603, it was apparent that he intended to push the boundaries of prerogative rule to their limits,

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91 Gibbons notes that Philip Henslowe, the theatrical impresario and owner of the Rose Playhouse (home to the Lord Admiral’s Men), ‘owned land and brothels on Bankside, including the triple brothel, the Bell, Barge and Cock’: Gibbons (ed), *Measure for Measure*, Introduction, 23, n 2.
especially through the extensive use of Proclamations. This laid the ground for conflict between crown and common law later in his reign (and even more so during the disastrous reign of his son Charles I) over lawful limits to the exercise of the royal prerogative. As Coke declared in 1610, ‘the King cannot change any part of the common law, nor create any offence by his proclamation, which was not an offence before, without Parliament.’\(^92\) He went on to state that the king might use Proclamations only ‘to admonish his subjects that they keep the laws’.\(^93\)

In *Measure for Measure* a conversation takes place between the brothel-owner Mistress Overdone and her ‘parcel bawd’ (2.1.58) Pompey, in which they discuss the consequences to their business of a recent proclamation:

\begin{quote}
Pompey: You have not heard of the proclamation, have you?  
Mistress Overdone: What proclamation, man?  
Pompey: All houses in the suburbs of Vienna must be plucked down. (1.2.77-80)
\end{quote}

The ‘houses’ or brothels, in the city which adjoins the suburbs, were to be spared because ‘a wise burgher put in for them’ (1.2.83): an allusion to the hypocrisy of the Presbyterian City fathers, who continuously petitioned the government to take a much harsher line in suppressing the licentiousness of the Liberties. For example, in a letter from the Lord Mayor and Aldermen of the City of London to the Privy Council, dated 28 July 1597, the signatories vehemently opposed the licensing of stage plays, on the following grounds:

\begin{quote}
Neither in polite nor in religion they are to be suffered in a Christian Commonwealth, specially beinge of that frame & matter as usually they are, contenting nothinge but
\end{quote}

\(^92\) Coke, *Proclamations*, 12 Reports (1655) 7: 74, 75.

\(^93\) Ibid, 76.
prophane fables, lascivious matters, cozening devises, & scurrilous beaviours, which are so set forth as that they move wholie to imitation & not to the avoydinge of those faults & vices which they represent.

The letter urged the Privy Council to commit to ‘the fynall suppressing of the saide Stage playes, aswell at the Theatre, Curten, and bankside’. The limited response of the Privy Council was to order that the Curtain and the Theatre in Shoreditch were to be ‘plucked downe’, and that no plays were to be performed within three miles of the city ‘untill Alhalloutide next’ (31 October). This was a temporary ban of only three months, and a sensible precaution against the possible spread of plague during late summer, rather than a submission to the extreme Protestants among the City fathers; although the ban was probably intended to give that impression to the complainants. No such punitive action was taken against the playhouses on Bankside.

When Mistress Overdone asks Pompey what will become of her if ‘our houses of resort in the suburbs be pulled down’ (1.2.84-85), Pompey seeks to reassure her by insisting that ‘good counsellors lack no clients’ (1.2.89): good prostitutes, like good barristers (counsellors), never lack trade, wherever they work. A few scenes later, we learn from the inept constable Elbow that Mistress Overdone has moved on, to a place of equal ill-repute: her house was ‘plucked down in the suburbs; and now she professes a hot-house, which I think is a very ill house too.’ (2.1.60-61) The reference by Pompey to a Proclamation, ordering the demolition of ‘houses in the suburbs’ has peculiar consonance with a Proclamation issued by James I in September 1603. The edict specified that ‘no Tenant or Inmate’ be permitted to rent rooms in houses in the city and the suburbs (and those within a four-mile radius), where houses had been

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94 Chambers, Elizabethan Stage, 4: 321, Appendix D.
95 Ibid, 323.
infected by plague. Further, houses with any such rooms (referred to as ‘small and strait roomes’) were to ‘be rased and pulled down’.\textsuperscript{96} The Proclamation was directed at ‘excessive numbers of idle, indigent, dissolute and dangerous persons’, who inhabited these houses, and were likely therefore to become infected.\textsuperscript{97} The minor character of Froth in\textit{ Measure for Measure} was just such an idle and dissolute person (although, from the evidence of the text, it seems he was unlikely to be dangerous), described in the\textit{ dramatis personae} as ‘a foolish gentleman’. Froth appears in only one scene – his own trial, for an unspecified offence involving soliciting and prostitution (2.1) – but he was typical of the clients who frequented the ‘houses of resort’ on Bankside, like those run by Mistress Overdone. In this short and highly comedic scene, Shakespeare provides an effective sketch of the type of client who frequented these establishments. Froth was a man of means: ‘a man of four score pound a year’ (2.1.109-110).\textsuperscript{98} He liked to sit ‘in a lower chair’ (2.1.114) in one of the ‘small and strait roomes’, known as ‘the Bunch of Grapes’ (2.1.114), in Mistress Overdone’s new ‘hot-house’.

The aim of the Proclamation, issued by James I in September 1603, was to contain and control not only the spread of plague, but also the movements of the poor. The Proclamation was not concerned (or at least so it appears from the available evidence) with the enforcement of personal morality. Plague orders were issued, giving medical advice both about how to avoid infection, and how to treat the infection in the event of contamination. The plague order to


\textsuperscript{97} Ibid, 47.

\textsuperscript{98} Gibbons notes ‘that James I required all Englishmen in 1603 who had land worth forty pounds a year to accept a knighthood, or be fined, which shows that they were considered well-to-do, and Froth had twice that income’: Gibbons (ed),\textit{ Measure for Measure}, 113, n to 2.1.109-110.
which I refer above, published in the King’s name in 1603, included advice given by ‘learned’ physicians, ‘Conteining sundry good Rules and easie Medicines, without charge to the meaner sort of people, as well for the preservation of his good Subiects from the Plague’. The learned advice tended towards the homespun and herbal, such as to ‘Take Rosemarie dried, or Juniper, Bay-leaves, or Frankincense, cast the same on a Chafendish, and receive the fume or smoke ther-of’ (some physicians recommended adding lavender or sage to the herbal mix). Such was the nature of ‘physic’ at the start of the seventeenth century. Advice was also offered on the perfuming of apparel, the taking of cordials, the insertion of suppositories (made with boiled honey and powdered salt, and ‘taken in at the Fundament’), and bloodletting. A herbal remedy for those infected with the plague, adjudged especially suitable for the poor, was to boil butterbur, valerian root, and sorrel in a pint of water, strain the liquid, add vinegar and sugar, boil again, and:

let the infected drinke of this so hotte as he may suffer it a good draught, and if hee chance to cast it up againe, let him take the same quantitie straightway upon it, and provoke himself to sweate, and he shall find great helpe.

99 See text to n 79, above.

100 Orders, thought meete, title page. A similar book of plague remedies, by an anonymous ‘learned physicion’, was Present remedies against the plague: shewing sundry preservatives for the same, by wholesome fumes, drinks, vomits, and other inward receits (London, W Barley, 1594).

101 Orders, thought meete, sig B3r.

102 Butterbur, spelt ‘butter burre’ in the original text, is the herbaceous perennial plant Petasites hybridus, a member of the daisy family Asteraceae, traditionally used as a herbal remedy for headaches, migraine, asthma, wounds, allergies, and gastric complaints.

103 Orders, thought meete, unpaginated.
The disease which afflicts Shakespeare’s Vienna in *Measure for Measure* is not plague, at least not the type of plague that killed thousands of Londoners in the late sixteenth and early seventeenth centuries. Rather, it is venereal disease, to which certain characters in the play refer continuously through their employment of puns, euphemism, and innuendo. Hence, when Lucio admits that he has ‘purchased as many diseases under her roof [Mistress Overdone’s] as come to -’ (1.2.36), the second gentleman completes the sentence for him: ‘To three thousand dolours a year.’ (1.2.39) Here, ‘dolours’ means ‘diseases’, but it is also a pun on the word ‘dollars’ (the dollar was a type of silver coin). So the financial cost to Lucio of ‘purchasing’ venereal disease in Mistress Overdone’s ‘hot-house’ is estimated by the second gentleman to be 3000 dollars. The indivisibility of sex, commerce, and disease in the Viennese ‘stews’ is thus given succinct, comic emphasis. Lucio compounds the imagery of disease when he counters that the cost to himself was more than 3000 dollars: ‘A French crown more.’ (1.2.41) Of course, a French crown was a coin, but in this context it is also a reference to baldness, caused by syphilis: the ‘French disease’. For the English, venereal disease was the unfortunate but inevitable byproduct of relations with their continental neighbours. We traded

104 Gibbons (ed), *Measure for Measure*, 95, note to 1.2.39.
with them, and at various times in our history we have fought wars with and against them. Sexually transmitted diseases (of a distinctly foreign type) were the unfortunate corollary of this liaison, and were specifically of French origin.

Other allusions to syphilis follow in quick succession. Lucio informs the first gentleman that ‘Thy bones are hollow’ (1.2.45): bones being subject to deterioration in the secondary and tertiary stages of syphilis. The first gentleman counters by asking Lucio: ‘which of your hips has the most profound sciatica?’ (1.2.47-48) Sciatica was regarded as being symptomatic of syphilis.\(^{107}\) Having established early in the play that the criminal underbelly of the city is rife with disease and decay, reference is made to the professed treatments for syphilis, notably sweating in hot-tubs. Mistress Overdone laments that her custom has suffered, ‘what with the sweat’ (1.2.67), among other afflictions.\(^{108}\) Later in the play, a more than usually down-at-heel Pompey alludes to the hot-tub, when he informs Lucio that Mistress Overdone ‘hath eaten up all her beef, and she is herself in the tub.’ (3.2.50-51) This is a city in obvious need of social, judicial, and political reform, but none is forthcoming. It has been left to stew in its own infectious juices, by a supreme magistrate who has chosen to desert his subjects, in order to spy on them from a distance, in the guise of a friar.

The imposition and reinvigoration by the Duke of ‘strict statutes and most biting laws’ has very little effect on the sex trade in Shakespeare’s Vienna, which appears to continue, albeit under somewhat straitened circumstances. Escalus insists that ‘the law will not allow it, Pompey; nor it shall not be allowed in Vienna.’ (2.1.195-96) To which Pompey asks the astute,

\(^{107}\) Gibbons (ed), *Measure for Measure*, 95, note to 1.2.48.

\(^{108}\) Thomas Nashe distinguished between sweating sickness, a form of plague, and venereal diseases contracted in brothels: ‘This sweating sicknesse, was a disease that a man then might catch and never goe to a hot-house’, T Nashe, *The Unfortunate Traveller. Or, The life of Iacke Wilton* (London, C Burby, 1594) sig Dr.
albeit impertinent, question: ‘Does your worship mean to geld and splay all the youth of the city?’ (2.1.197-98) Men will always be willing to pay for the services of prostitutes, in which case these women will never lack clients. Pompey’s question to Escalus begs another question: what is the point of enacting a law if it cannot effectively be enforced? Jonathan Dollimore observes of prostitution and prostitutes in *Measure for Measure* that ‘the effects of social crisis are refigured as its causes, and, by a similar reversal, the victim is regarded as the agent.’ In terms purely of institutional control and containment, there is a case to be made for the licensing of brothels. In Jacobean London, the ‘official’ brothels were confined to the Liberties: for example, as I note above, the Bishops of Winchester granted licenses to run brothels in the Liberty of the Clink. In connection with the confinement of brothels to designated, restricted areas, Dollimore cites St Thomas Aquinas, who declared that ‘prostitution in the towns is like the cesspool in the palace: take away the cesspool and the palace will become an unclean and evil-smelling palace’.

IV. Conclusion

Regarding the above argument, that the effects of social crisis in *Measure for Measure* are ‘refigured’ as causes, we need only look to the end of the play to realise that nothing has changed in Viennese society upon the return of the Duke, or at least nothing has been done to address and alleviate the social problems of the city, especially regarding the treatment of the poor and all those who lack agency. Andrew Hadfield accurately described *Measure for Measure* as ‘an anti-Ovidian play, tantalizing the audience with exciting possibilities of change, only to frustrate and thwart such desires’. Shakespeare’s Vienna is an ossified realm. The Duke returns from his sabbatical and dispenses justice of a type through the exercise of his prerogative, but he does nothing to redress the social malaise that has afflicted the realm throughout his reign. Angelo is condemned to death, before receiving a pardon, conditional on his marrying Mariana; Claudio is pardoned of the crime of fornication; Barnadine is pardoned of his capital offences: ‘But, for those earthly faults, I quit them all’ (5.1.476); and Lucio is sentenced to be whipped and hanged, before his sentence is commuted to marriage with the prostitute Kate Keepdown, who has given birth to his child. In his guise as a friar, the Duke observed at close quarters the inadequacies of his political regime (predicated in his dukedom on a juridical rather than a parliamentary model) in dealing with the poor, who are driven (in the case of Kate Keepdown) to a life of prostitution. Mistress Overdone has been sent to prison for being ‘A bawd of eleven years’ continuance’ (3.2.168), but it might at least be argued in mitigation that she has done more to alleviate the suffering of poor women like Kate than has the Duke. From her ‘hot-house’ in the suburbs, Mistress Overdone provided a place of work for Kate Keepdown, and upon the birth of her and Lucio’s child, ‘his child is a year and a quarter old come Philip and Jacob – I have kept it myself’ (3.2.172-74). If she is to be believed,

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Mistress Overdone has provided a roof for the child. If her ‘hot-house’ is shut down, the child and its mother will presumably be made homeless. What alternative provision is made for the care of the child while Mistress Overdone is imprisoned? The answer of course is none.\footnote{Provision of sorts for the poor in England was enacted in 1601 by \textit{An Acte for the Releife of the Poore} (43 Eliz I cap 2), the purported intention of which was correction rather than punishment: the idle poor were to be sent to houses of correction, and pauper children would become apprentices. Those unable to work because of disability were to be cared for in almshouses or poorhouses, while the able-bodied poor were to be sent to work in Houses of Industry. The statute was enforced at a parochial level, by local parishes, rather than by central government. See S Hindle, \textit{The State and Social Change in Early Modern England} (Basingstoke, Palgrave Macmillan, 2000); P Slack, \textit{Poverty and Policy in Tudor England} (London, Longman, 1988).} At the end of the play we are back where we started. There has been no change (much less an Ovidian transformation) in the decayed and diseased society of Vienna. The poor are still with us, still suffering, and still compelled through hardship into lives of crime and degradation. The same might be said of Jacobean society itself, in which the oppression and persecution of actors and other ‘transgressors’ of law can be seen as the defensive response of an inadequate state and its legal institutions to those members of society who held the mirror up to social injustice, despotism, and political persecution.