University of Alberta

An Archaeology of Tudor Poor Law

by

Michael Walter Rutherford

A thesis submitted to the Faculty of Graduate Studies and Research in partial fulfillment of the requirements for the degree of Master of Arts.

in

History

Department of History & Classics

Edmonton, Alberta
Fall 2002

University of Alberta

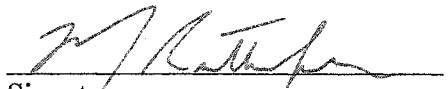
Library Release Form

Name of Author: Michael Walter Rutherford

Title of Thesis: An Archaeology of Tudor Poor Law

Degree: Master of Arts

Year this Degree Granted: 2002



Signature

June 18, 2002

Date submitted to the Faculty of Graduate Studies and Research

467 Rooney Crs. Edmonton, Alberta T6R 1E1

University of Alberta

Faculty of Graduate Studies and Research

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research for acceptance, a thesis entitled 'An Archaeology of Tudor Poor Law' submitted by Michael Walter Rutherford in partial fulfillment of the requirements for the degree of Master of Arts. in History.

Dr. Julian Martin (*supervisor*)

Dr. David Gay

Dr. Richard Connors

Dr. Lesley Cormack (*chair*)

12/06/02
Date

'If we debar tillage, we give scope to the depopulater, and then if the poor being thrust out of their houses go to dwell with others, straight we catch them with the statute of inmates, if they wander abroad and be stubborn, they are within the danger of rogues; if they be more humble and vagrant beggars, then they are within this statute of the poor to be whipped and tormented.'

Sir Robert Cecil, Principal Secretary,
House of Commons, 1601
Townshend's Journal

The overseer is an eye to the magistrate.

Anonymous,
An Ease for Overseers of the Poor, 1601

Abstract

This thesis applies the methods of analysis and concepts derived from Michel Foucault to the scrutiny of Tudor poor law. It includes an overview of the literature on Tudor poor law, a discussion of the relevant insights of Foucault and an analysis of the statutes, proclamations, handbooks, journals and census that relate to poor relief and poor discipline in this period. I examine these sources to unearth the relationships upon which poor relief and poor control mechanisms functioned. I conclude that poor relief (for example, poor rates, distribution of alms) and poor control (for example, whipping, houses of correction) were not only closely related activities, but were parallel structures within a single discursive formation.

For Jill,

Via Vitae

Table of Contents

I Introduction

In sixteenth-century England, the relationship between society and its poorest members was fundamentally altered. Old institutions and technologies were adopted for novel tasks: to search, to inquire, to classify, to discipline and to relieve.

* * *

In 1570, the city of Norwich, in response to a recent political crisis (the Northern Rebellion, 1569) undertook the monumental task of identifying the number and kind of poor persons within their jurisdiction. The result was that they were able to identify and catalogue over twenty-three hundred men, women and children. In the following year, the city magistrates then published a book of orders for the poor that were to take effect after the Feast of St. John (June 24, 1571).[1] The preamble is clear. These orders were "for the better provision of the poor, the punishment of vagabonds, the setting on work of loiterers and other idle persons, the expelling of strong beggars, the maintaining of the indigent and needy, and the practising of youth to be trained in work, in learning, in fear of God, so as no person should have need to go begging nor be suffered to beg within this said city."[2] 'Better provisioning' meant instituting a whole new poor-relief regime. Previously, poor persons simply went from door to door begging for alms, which they received from citizens "without inquiry from where they came."[3] The result had been that the number of poor persons in Norwich, who were attracted by the generous nature of its citizens, increased. The 1571 order was unusually graphic in its description of some of the persons found begging in Norwich:

---

[1] 'Records of the City of Norwich,' R.H. Tawney, and Eileen Power, eds., *Tudor Economic Documents*, vol. 2 (1924; London: Longmans, 1951) 316-28.
[2] *Ibid.*, 316.
[3] *Ibid.*

> So cared they [beggars] not for apparel, though the cold struck so deep into them, that what with diseases and want of shelter their flesh was eaten with vermin and corrupt diseases grew upon them so fast and so grievously as they were past remedy, and so much charges (by this means) bestowed upon one that would have sufficed a great sort came all to waste and consumption, not withstanding their church gathering (sometimes two or three in a day) so grieved the inhabitants that they earnestly called for reformation alleging the common collection, the charges at their door to be very excessive.[4]

It was bad enough that the old system of poor relief was haphazard and wasteful but, even worse in the eyes of the city fathers, was that many of those who received relief did not deserve it. The orders alleged that many idle persons wiled away their days in alehouses, cursing God, swearing and gambling. The problem in the minds of the magistrates was that the generous and prolific alms-giving of Norwich citizens had discouraged many from finding employment and had inculcated idleness.

A blanket order was thus given forbidding any person from begging either in the streets or door to door. The penalty was six strokes of a whip. Conversely, citizens were also forbidden to give alms to any person at their own door. A house was to be established in which men and women could be sent to perform various exercises such as spinning and weaving. At this "working place," residents were to be "kept as prisoners to work for meat and drink for the space of twenty and one days at the least, and longer if cause serve."[5] Once in this house or "Bridwel," residents were to be made to adhere to a strict schedule.

> Which persons shall begin their works at five of the clock in summer... and end their works at eight of the clock at night, and in winter to begin at six of the clock... and to end at seven of the clock or half an hour past, with the

[4] *Ibid.*, 317.
[5] *Ibid.*, 319.

> allowance of one half hour or more to eat and a quarter of an hour to spend in prayer.[6]

Anyone who refused to work in the house was to be whipped at the discretion of the warden. The mayor and aldermen themselves were to head committees responsible for the bridewell and for various wards within the city. These committees, in the name of the mayor, had authority upon "every person unto any office to the poor pertaining, or for any that pays or levies money to that use, to allow and disallow, command, correct, reform [and] place and displace."[7] Any poor person who had not resided there for three years was to be sent away, presumably to the place of his or her birth. Vagabonds and beggars were to be whipped, children apprenticed and deacons appointed in every ward for the "oversight of the poor."[8]

Norwich's poor laws were hardly unique to Tudor England, since they built substantially on parliamentary statutes that dated back as far as 1531. Houses of correction, or bridewells, were a London import first developed in the 1550s. Still, Norwich's foray into poor law can be distinguished by its ferocious invective and by the unusual zeal displayed by the city magistrates. The orders themselves are thorough, comprehensive and sophisticated. It followed on the heels of a massive census that recorded such information as names, ages, occupations, incomes, dependents and their incomes.

In fact, Norwich's aggressive new approach to vagrancy, begging, labour and idleness is part of a larger series of developments in the area known as 'poor law.' Historians have traditionally divided the study of poor law into two periods, the 'Old

---

[6] *Ibid.*, 320.
[7] *Ibid.*, 322.
[8] *Ibid.*

Poor Law' (1601-1834) and the 'New Poor Law' (post-1834). Both years are marked by the passage of important pieces of legislation. The passage of major legislation at the end of Elizabeth's reign in 1601 is thought to have provided a base-line for poor relief mechanisms down to the nineteenth-century. In 1834, parliament radically altered England's poor laws and thus historians have referred to post-1834 developments as the 'New Poor Law.' But where does that leave the history of Tudor poor law? The truth is that as an area of study Tudor poor law has traditionally formed an awkward prelude to the 'Old Poor Law,' since the topic does not seem to properly belong either to the history of medieval poor law or to the history of Stuart or Hanoverian poor law.

Putting aside the question of the merits of these narrative patterns, the scholarly result of this indecision has been predictable. While large numbers of scholarly works have been written on the 'Old Poor Law,' there is only one major scholarly work that focuses solely on Tudor poor law.[9] If we broaden the category to include works that in addition to Tudor materials also deal with Stuart and Hanoverian poor law, then we are able to add a few more works to the list.[10] If we also include works that focus primarily on poverty in the sixteenth-century, but which discuss poor law as a related topic, then we can add even more works.[11] Furthermore, Tudor poor law appears as the topic of a

---

[9] E.M. Leonard, *The Early History of English Poor Relief* (1900; London: Frank Cass, 1965).

[10] T.W. Fowle, *The Poor Law* (1881; London: MacMillan, 1906); Sydney and Beatrice Webb, *English Local Government: English Poor Law History: Part I. The Old Poor Law* (London: Longmans, 1927); Paul Slack, *The English Poor Law 1531-1782* (London: MacMillan, 1990).

[11] John Pound, *Poverty and Vagrancy in Tudor England* (London: Longman, 1971); A.L. Beier, *The Problem of the Poor in Tudor and Early Stuart England* (London: Methuen, 1983); Beier, *Masterless Men: The Vagrancy Problem in England 1560-1640* (London: Methuen, 1985); Paul Slack, *Poverty and Policy in Tudor and Stuart England* (London: Longman, 1988).

number of articles[12] and also as a minor topic in a diverse number of unrelated scholarly works.[13]

Despite the great differences in age, these works share many characteristics. One of these is a similar set of explanatory narratives. For the sake of convenience I have followed Paul Slack's formulation, which identifies three major strands of thinking on poor law.[14] The first is the "high-pressure interpretation."[15] Developments in poor law are directly linked to rising population and, more specifically, to rising poverty. Often implicit in this explanation is the critique that older forms of poor relief were somehow inadequate. Since both population and poverty were on the rise in this period, this explanation has provided a convenient framework for understanding Tudor poor law.[16] The second explanation is that sixteenth-century England witnessed a kind of intellectual revolution in the way its citizens think about poverty and the poor. Depending on the historian, this change is credited to Protestantism, Puritanism or humanism, or some

---

[12] e.g. C.S.L. Davies, 'Slavery and Protector Somerset: The Vagrancy Act of 1547,' *Economic History Review*, 2nd series, 19 (1966), 533-49; G.R. Elton, 'An Early Tudor Poor Law,' *Economic History Review*, 2nd series, 6 (1953), 55-67; John Pound, 'An Elizabethan Census of the Poor,' *University of Birmingham Historical Journal*, 8 (1962), 135-161.

[13] e.g. G.R. Elton, *Reform and Renewal: Thomas Cromwell and the Common Weal* (Cambridge: Cambridge UP, 1973); Penry Williams, *The Tudor Regime* (Oxford: Oxford UP, 1979); A. Hassel Smith, *County and Court: Government and Politics in Norfolk, 1558-1603* (Oxford: Oxford UP, 1974); Steve Hindle, *The State and Social Change in Early Modern England, c. 1550-1640* (New York: St. Martin's, 2000).

[14] Slack, *The English Poor Law*, 11-21.

[15] *Ibid.*, 11.

[16] "The earlier years of the sixteenth century began a period of great changes in the position of the poorer classes, and these changes soon resulted in a series of attempts to reform and reorganize the whole system of poor relief," Leonard, 11; "The failure [of traditional poor relief institutions] may have seemed to some in great part due to the decay of Christian charity, and the slackening of almsgiving; or, as others may have thought, merely to the increasing inadequacy of such an unsystematic distribution of doles to cope with the recurrent destitution of an ever-increasing, multitude of free wage-labourers no longer protected by manorial custom," Webb, 42; "The legislation of 1598 and 1601 was passed at a time when the problem of poverty was unusually severe. The harvests of 1596 and 1597 were among the worst of the period, and the medium-term economic trend was adverse. The population of England had been increasing since at least the 1520s, possibly since the 1470s, and so had food prices. Food supplies and employment opportunities did not keep pace. So far as we can tell, the real value of wages fell to its lowest point in the years around 1630.... It is not difficult to see why poverty seemed a threat and improved policing a necessary response in the later sixteenth and early seventeenth centuries," Slack, 11-12.

combination thereof.[17] In the absence of hard details concerning the genesis of much of the poor law legislation, historians have often relied on words such as 'tradition' and 'influence' to explain the causal relationship between the two. Third, Slack identifies (rather ambiguously) the processes of both the central and local governments as instigators of reform. Certainly the works of Geoffrey Elton have established that the 1530s, for instance, was a period of unusually active governance.[18] But more importantly, it was the very nature of Tudor government that directed and moulded the development of poor law.

But more interesting than shared narrative patterns is that buried deep within each author's analysis is a kind of *moral* critique of Tudor poor law, which surfaces in strange and surprising ways. Sometimes this critique is negative, usually in the form of a condemnation of sixteenth-century attitudes towards poverty.[19] Sometimes this critique is

---

[17] "It was, however, neither to Luther or Zwingli, nor to John Major or his colleagues of the Sorbonne, that England owed its penetration with the new statecraft on the laws relating to the poor; but, as we imagine, to a brilliant Catholic humanist, Juan Luis Vives," Webb, 35; "But it is not the particulars of humanistic studies that relate to the poverty issue; rather their implicit message and application. The humanists' studies were founded upon the belief that people could be improved, morally and intellectually, through the study of the classics. This principle in theory respected no barriers of class or sex: the poor might be educated and even rise to positions of authority.... Their critique upon poverty was perhaps the single most important influence upon policy-makers in early modern Europe," Beier, 17-18; "As we shall see, the protestant Reformers were certainly active in the area of poor relief; however, their sources of inspiration in the area of social theory, as in their doctrine of the family, were the Catholic humanists. The poor relief schemes developed by Christian humanists are characterized by discriminating, rationalized and secular administration; innovative methods of attacking the causes of poverty; the enforcement of discipline and industry on the poor; and faith in the corrective power of education," Margo Todd, *Christian Humanism and the Puritan Social Order* (Cambridge: Cambridge UP, 1987) 136-37; "The intellectual inheritance was much the same for all governments: Christian charity and civic humanism dictated similar programmes for the welfare of the poor all over Europe," Slack, *Poverty and Policy in Tudor and Stuart England*, 114.

[18] *The Tudor Revolution in Government: Administrative Changes in the Reign of Henry VIII* (1953; Cambridge: Cambridge UP, 1962); *Reform and Renewal.*

[19] "No attempt was made by the state to accept responsibility for [the impotent poor], but they were at least allowed to beg officially, albeit only in their own community. No allowance whatsoever was made for the able-bodied man who was unemployed but genuinely wanted to work. It was assumed as a matter of course that employment was available for all who sought it, and the government acted accordingly," Pound, 39.

positive as when Leonard refers to English poor relief as a point of public pride.[20] But the most far-reaching element of this moral 'shading' is the implicit identification of modern methods of 'poor relief' with those of the early modern period. Paul Slack occasionally refers to poor law as "social welfare"[21] and Steve Hindle refers not only to "welfare," but even calls parishes "welfare republics."[22] Certainly both historians must realize the implication of referring to poor law as 'welfare.' The term is hardly neutral, either politically or historically.

I mention these features because they immediately caught my attention when I first began delving into the literature. I was suspicious of terms such as "influence" and "tradition" when they were employed to explain the development of Tudor poor law.[23] There seemed to be no connection between humanism and poor law, except for a vague resemblance. I was even more suspicious of the term 'welfare' and all that that term implied about Tudor poor law. By using that modern term, Slack and Hindle implicitly ascribe to the sixteenth century the features of our own welfare-system – its purposes

---

[20] "But, in regard to the relief of the poor, we have adopted an opposite policy [to Western Europe]. Since the reign of Charles I, Englishmen have made themselves responsible for the maintenance of those who are destitute. All, who cannot obtain food or shelter for themselves or from their nearest relatives, have a right to relief from compulsory rates levied upon the rest of the community," Leonard, 1.

[21] "The drive to use new methods of social welfare to achieve a moral and social reformation was powerful throughout this period," *Poverty and Policy in Tudor and Stuart England*, 205.

[22] "The energies of local historians have, accordingly, demonstrated that individual parishes might operate effective welfare regimes almost in isolation of their neighbours," *The Birthpangs of Welfare: poor relief and parish governance in seventeenth-century Warwickshire* (Hertford: Dugdale Society Occasional Papers, 2000) 4; "Because these parishes were virtually contiguous, the nature and scale of relief in a large number of these welfare republics can be compared and contrasted....," *Ibid.*, 9.

[23] "Take the notion of tradition: it is intended to give a special temporal status to a group of phenomena that are both successive and identical (or at least similar); it makes it possible to rethink the dispersion of history in the form of the same; it allows a reduction of the difference proper to every beginning, in order to pursue without discontinuity the endless search for origin; tradition enables us to isolate the new against a background of permanence, and to transfer its merit to originality, to genius, to the decisions proper to individuals. Then there is the notion of influence, which provides a support – of too magical a kind to be very amenable to analysis – for the facts of transmission and communication; which refers to an apparently causal process (but with neither rigorous delimitation nor theoretical definition) the phenomena of resemblance or repetition; which links, at a distance and through time – as if through the mediation of a medium of propagation – such defined unities as individuals, *oeuvres*, notions, or theories," Michel Foucault, *The Archaeology of Knowledge*, trans. Alan Sheridan (Paris: 1969; London: Tavistock, 1972) 21.

(relief of poverty) and its methods (centralized taxation, wide scale redistribution of resources). I was reminded of Michel Foucault's (d. 1984) critique of intellectual historians:

> If the history of thought could remain the locus of uninterrupted continuities, if it could endlessly forge connections that no analysis could undo without abstraction, if it could weave, around everything that men say and do, obscure synthesis that anticipate for him, prepare him, and lead him endlessly towards his future, it would provide a privileged shelter for the sovereignty of consciousness. Continuous history is the indispensable correlative of the founding function of the subject: the guarantee that everything that has eluded him may be restored to him; the certainty that time will disperse nothing without restoring it in a reconstituted unity; the promise that one day the subject – in the form of historical consciousness – will once again be able to appropriate, to bring back under his sway, all those things that are kept at a distance by difference, and find in them what might be called his abode. Making historical analysis the discourse of the continuous and making human consciousness the original subject of all historical development and all action are two sides of the same system of thought. In this system, time is conceived in terms of totalization and revolutions are never more than moments of consciousness.[24]

Foucault's comments go right to the heart of the matter. These historians of poor law have done two things. One, they have assumed that the human subjects of their inquiries are engaged in a relentless and continuous process of evolution. In this case, it is the evolution of 'welfare': the endpoint of which is some system that looks more or less like our own. Two, they have assumed that there is indeed a referent: some sort of ideal and eternal view/conception/object of poor persons, of poverty, of employment and of relief. As a result, the recognition of the 'impotent poor' in a piece of legislation is merely the recognition by the subject of an object that already exists. Likewise the non-recognition

[24] *Ibid.*, 12.

of the 'labouring poor' is simply the inability of the subject to recognize an object that already exists. Thus historians of Tudor England have made poor law one of those sheltered places of human consciousness. It is stages in the evolution of the human consciousness. It is a kind of social evolution, whose endpoint, whose final revelatory conclusion, is merely ourselves. Historians of poor law have spoken to these documents; they have heard not the voices of the past, but echoes of their own.

So, having rejected this scholarship, the task that I set for myself was necessarily very basic. I wished to understand some of these historical objects – 'impotent person,' 'vagabond,' 'beggar' – as they appeared in various legislative documents. But where to turn? Since Foucault had led me to abandon the scholarship on poor law, it seemed logical that the works of Foucault might provide a possible starting point.

Foucault's *oeuvre* (a term I use loosely) is certainly imposing; it consists of a dozen major works and includes collections of essays and interviews. His published works span four decades and cross numerous historical sub-disciplines. He studied the history of psychology, medicine, prisons and sexuality. In many instances, he *brought* history to those areas, thereby, in a very real sense, historicizing fields of knowledge that had ardently refused to acknowledge that they had been produced by historical circumstances. These facts alone make any concise explication of his works difficult. But more difficult yet is that Foucault actively thwarted attempts to label him. Sometimes he did this explicitly ("Do not ask me who I am and do not ask me to remain the same"), but often he managed to accomplish this by employing novel vocabulary and sometimes ambiguous writing. Foucault could be a startling clear writer, when he chose. But it may

well be that his place as a public intellectual depended on his ability to eschew traditional labels, to always seem to be on the 'cutting edge,' so to speak, of public life.

Furthermore, how does one summarize the *oeuvre* of a person who believed that the *oeuvre* was not, and should not, be a unit of analysis? One does not. And I have not tried to do so. Instead I will present some of the features of what I believe to be his most important methodological work: *The Archaeology of Knowledge*. It is unfortunate that this work should also be the most ignored. It is only rarely cited and then only by specialists. Perhaps scholars have just not known what to do with it. *Archaeology* is often thought to be a kind of methodological companion to *The Order of Things*. And indeed it is; Foucault attempts to clarify misunderstandings, to revise older positions and to set forth a particular method of historical inquiry, which he calls 'archaeology.' What follows is not a page-by-page gloss of *Archaeology*, since that task would be longer than the book itself, but merely a quick foray into some of Foucault's thoughts, methods and terminology. I believe that these methods will be useful in an analysis of Tudor poor law.

Several observations, however, must first be made. Foucault continually strives to remove the human subject as a topic of historical inquiry, "by which one tries to restore to man everything that unceasingly eluded him for over a hundred years."[25] In fact, one of Foucault's great historical projects is to ask how it was that 'man' became the object of scientific discourses. This means that historical actors cannot be evaluated by their experiences, their actions, their utterances or their conscious intentions. Why? It is because they are the playthings of historical circumstance. It should be noted that Foucault came of age in a very different intellectual environment than that of the 1960s and 1970s. Jean-Paul Sartre (d. 1980) and existentialism and also phenomenology, in

[25] *Ibid.*, 14.

addition to Marxism, dominated French intellectual thought during the 1940s and 1950s. As a student, Foucault was exposed to the works of Hegel through his instructor, Jean Hippolite (d. 1968). Both strands were predicated on a particular view of the human subject and of history. But Foucault rejected the teleology of the Enlightenment and of history as the evolution of rationality (i.e. the evolution of the human subject through history).[26] This is precisely why he chose to study madness: because it exists at the edge of reason, it is the thing that reason could not account for. Certainly this rejection of the subject as the focus of historical inquiry has prompted many to label him, not entirely incorrectly, a 'structuralist.'

Foucault believes that "there is a negative work to be carried out first: we must rid ourselves of a whole mass of notions, each of which, in its own way, diversifies the theme of continuity."[27] Specifically, he opposes – or at least is opposed to their unquestioning use – terms such as 'tradition,' 'influence,' 'development,' 'evolution,' and 'spirit' because they obscure other connections and relationships. But he also opposes more familiar "divisions and groupings" such as science, politics and religion.[28] Foucault even goes so far as to question the unities of the book and *oeuvre* – "it is a node

---

[26] "Is there not a danger that everything that has so far protected the historian in his daily journey and accompanied him until nightfall (the destiny of rationality and the teleology of the sciences, the long, continuous labour of thought from period to period, the awakening and the progress of consciousness, its perpetual resumption of itself, the uncompleted, but uninterrupted movement of totalizations, the return to an ever-open source, and finally the historico-transcendental thematic) may disappear, leaving for analysis a blank, indifferent space, lacking in both interiority and promise?" *Ibid.*, 39.

[27] *Ibid.*, 21.

[28] "We are not even sure of ourselves when we use these distinctions in our own world of discourse, let alone when we are analysing groups of statements which, when first formulated, were distributed, divided, and characterized in a quite different way: after all, 'literature' and 'politics' are recent categories, which can be applied to medieval culture, or even classical culture, only by a retrospective hypothesis, and by an interplay of formal analogies or semantic resemblances; but neither literature, nor politics, nor philosophy and the sciences articulated the field of discourse, in the seventeenth or eighteenth century, as they did in the nineteenth century," *Ibid.*, 22.

in a network."[29] These terms are not the safe, self-evident categories that we have traditionally taken them for, but products of our own historical discourses. Of course, one must start somewhere and older unities such as psychopathology provide as convenient a place as any to begin work. But such unities will be quickly broken down and "an entire field [will be] set free."[30] In one sense, what remains is a mass of statements, detached from the traditional unities imposed upon them. How are these statements to be organized? Better yet, how are these statements *not* to be organized? They are not to be organized on the basis of similar objects,[31] nor by a particular style,[32] nor by organizing groups of statements by permanent concepts. Rather Foucault proposes that

> instead of reconstituting *chains of inference* (as one often does in the history of the sciences or of philosophy), instead of drawing up *tables of differences* (as the linguists do), it would describe *systems of dispersion*. Whenever one can describe, between a number of statements, such a system of dispersion, whenever between objects, types of statement, concepts, or thematic choices, one can define a regularity (an order, correlations, positions and functionings, transformations), we will say, for the sake of convenience, that we are dealing with a *discursive formation*.... The conditions to which elements of this division (objects, mode of statement, concepts, thematic choices) are subjected we shall call *rules of formation*. The rules of formation are conditions of existence (but also of coexistence, maintenance, modification, and disappearance) in a given discursive division.[33]

Thus Foucault proposes the term 'discursive formation,' instead of other overly-burdened terms such as 'science' or 'theory,' to describe these new groupings of statements.

---

[29] *Ibid.*, 23.
[30] *Ibid.*, 26.
[31] "It would certainly be a mistake to try to discover what could have been said of madness at a particular time by interrogating the being of madness itself, its secret content, its silent self-enclosed truth; mental illness was constituted by all that was said in all the statements that named it, divided it up, described it, explained it, traced its developments, indicated its various correlations, judged it, and possibly gave it speech by articulating, in its name, discourses, that were to be taken as its own," *Ibid.*, 32.
[32] "If there is a unity, its principle is not therefore a determined form of statements...," *Ibid.*, 34.
[33] *Ibid.*, 38.

One of *Archaeology*'s key insights is that objects should not be the organizing principle of analysis. So how does the historian identify and arrange objects of similar relation? In the case of psychopathology, Foucault believes that "we must map the first *surfaces of their emergence*: show where these individual differences, which, according to the degrees of rationalization, conceptual codes, and types of theory, will be accorded the status of disease, alienation, anomaly, dementia, neurosis or psychosis, degeneration, etc., may emerge, and then be designated and analyzed."[34] In other words, in what social areas do these objects first appear? In the case of psychopathology, the answer is the family, the work place and the church. Next, the historian must "describe the authorities of delimitation."[35] In the nineteenth century, it was the medical profession, the law and the church which "delimited, designated, named, and established madness as an object."[36] Finally, the historian "must analyse the *grids of specification*."[37] By this, he means the manifestations, divisions and classifications of a particular object. Foucault returns to nineteenth-century psychology to illustrate his point:

> If, in a particular period in the history of our society, the delinquent was psychologized and pathologized, if criminal behaviour could give rise to a whole series of objects of knowledge, this was because a group of particular relations was adopted for use in psychiatric discourse. The relation between planes of specification like penal categories and degrees of diminished responsibility, and planes of psychological characterization. The relation between the authority of medical decision and the authority of judicial decision. The relation between the filter formed by judicial interrogation, police information, investigation, and the whole machinery of judicial information, and the filter formed by the medical questionnaire, clinical examinations, the search for antecedents, and biographical accounts. The

[34] *Ibid.*, 41.
[35] *Ibid.*, 41.
[36] *Ibid.*, 42.
[37] *Ibid.*, 42.

> relation between the family, sexual and penal norms of the behaviour of individuals, and the table of pathological symptoms and diseases of which they are signs. The relation between therapeutic confinement in hospital (with its own threshold, its criteria of cure, its way of distinguishing the normal from the pathological) and punitive confinement in prison (with its system of punishment and pedagogy, its criteria of good conduct, improvement, and freedom). These are the relations that, operating in psychiatric discourse, have made possible the formation of a whole group of various objects.[38]

Discursive formations may seem ephemeral because there are no *stated* rules for the historian to examine. But they are real enough because they are dispersed through non-discursive areas in the forms of relations, practices and objects. Those *are* there for the historian and it is the task of 'archaeology' to excavate, so to speak, some of these unconscious rules, these relations and practices that organize and authorize knowledge.

Foucault distinguishes archaeological analysis from the traditional methods of the historian of ideas in four ways. One, archaeology has a different relation to historical sources; it does not treat discourse as a document, "as a sign of something else," but rather as a monument.[39] It does not seek an even deeper meaning in the historical record, but rather it takes as an object of inquiry the very surface of the monument as the thing to be studied. Two, archaeology does not attempt to relate the emergence of objects and concepts to the things that they will become at some future point, but rather to situate them in their specific discursive rules at the time of their emergence. Three, archaeology does not try "to grasp the moment in which the *oeuvre* emerges on the anonymous horizon."[40] The *oeuvre* is simply not a relevant category for Foucault. Finally,

---

[38] *Ibid.*, 44.
[39] *Ibid.*, 138.
[40] *Ibid.*, 139.

archaeology does not seek to re-establish in any meaningful way the experience of the subject, but merely seeks the "systematic description of a discourse-object."[41]

It is my intention to apply some of these ideas and methods to the study of Tudor poor law to see whether different relations, different unities, will emerge from these 'monuments.' Broad questions will be considered. What were the surfaces of emergence (i.e. the social and cultural areas) in which discourses and objects emerge in Tudor England? What are the authorities of delimitation (i.e. institutions which possess the authority)? What were the grids of specification (i.e. the systems by which it is possible to distinguish between different kinds of poor persons)? And, finally, what 'rules of formation' was poor law subject to? This is a very different kind of historical enterprise than others that have been attempted previously. In part, it is my wish to excavate discourses, relationships, patterns and objects (whether conscious or unconscious) that governed the relief and punishment of poor persons. Most of all, it is my wish to present poor law as a 'complex social phenomenon' – one that operated in many different sectors of society and that possessed (as we shall see) both positive and negative effects.

* * *

The rest of the paper follows thus: Section II is a brief discussion of the nature of poverty in the sixteenth century. Strictly speaking, it does not really belong to my 'archaeological' inquiry. But Tudor poor law developments *did* happen within a particular social and economic context and I feel that it is important to present this context to the reader. Section III is an analysis of Tudor acts and proclamations referring to the relief or punishment of various kinds of poor persons. Section IV extends the

[41] *Ibid.*, 140.

analysis from acts and proclamations to handbooks, journal entries and census. Section V concludes the paper with remarks on Tudor poor law as a discursive formation.

II Poverty in Tudor England

This chapter will provide a background to poverty in Tudor England. The first part will examine the causes of poverty in sixteenth-century England. It will present both the traditional, structural causes and the many emerging factors that contributed to impoverishment in this period. The second part will analyze the consequences for the poor in Tudor society.

Causes

In *The Tudor Regime*, Penry Williams notes that the "glamour and brilliance of Tudor court and Elizabethan theatre shine against a backdrop of dark suffering for the majority of the population."[42] Whether this is indeed the case is open to debate. However, the methodologies that underlie any such claims deserve our attention. How do we historians grapple with social structures and categories such as those encountered in the study of Tudor and Stuart England? In the case of poverty, the task is especially difficult. How can we define and measure 'poverty'? On the one hand, we could try to construct an absolute definition of poverty. It would measure wages X versus cost-index Y of certain goods and services. However, our very measuring tools are predicated upon culturally-conditioned notions of need and subsistence.[43] On the other hand, we could construct a relative measurement of poverty vis-à-vis the wealth of the society as a whole. One is relatively absolute and the other is absolutely relative. One way out of this conundrum is to employ contemporary categories and measurements. There is, however, danger in this. Contemporary opinion may vary widely depending on context and as a measuring tool it

---

[42] *Tudor Regime*, 214.

[43] Slack notes that the "problem of a definition follows from the obvious fact that poverty is a relative and not an absolute concept," *Poverty & Policy in Tudor & Stuart England*, 2.

is often wildly inaccurate. For instance, the estimates of the number of vagrants in England during Elizabeth's reign vary from 10,000 to 200,000.[44] The best suggestion that may be offered is that by playing off both constructions – ours' and theirs' – against each other, we may come to some kind of middle ground that allows us to recapture 'poverty' in its sixteenth-century context.

Like any pre-modern society, Tudor England possessed the usual general conditions that produced poverty on a massive scale. It had large numbers of poor because it was primarily an agricultural society, because it lacked centralized mechanisms to manage limited resources, and because it lacked the modern equivalents (and benefits) of either an efficient marketplace or a medical infrastructure. These are the general conditions that led to impoverishment. But English society also suffered in this period from a number of specific problems that aggravated these general conditions and, indeed, the whole of English society.

Of these specific factors, the two most important were population increase and inflation. England experienced a steady rise in population throughout the sixteenth century. Estimates vary, but we may reasonably state that the population rose from approximately 2.77 million in 1541 to 4.11 million in 1601 – an increase of nearly 40 percent.[45] In fact, this increase was part of a much larger demographic trend of decline and resurgence found across Europe and which spans the entire early modern period. By the early thirteenth century, England's population may have been between 5 and 6 million. As a result of harvest failures (1315-17) and the Black Death (1348-49), the population had been reduced to between 2.5 and 3 million by the 1370s. Continued

[44] "Contemporaries' estimates of vagrant numbers are nearly worthless," Beier, *Masterless Men*, 14.
[45] R.S. Schofield, and E.A. Wrigley, *The Population History of England 1541-1871: A reconstruction* (London: Edward Arnold, 1981) Table A3.1, 528.

declines meant that by the middle of the fifteenth century, the population may have been as low as 2 million.[46] A period of stagnation ensued and was followed by a gradual increase; by the turn of the century, the number of inhabitants may have been nearly 2.3 million. By 1631, England's population had stabilized at approximately 5 million, signalling the end of the country's long demographic upsurge.[47] Thus England's population essentially doubled during the Tudor period.

The causes of this demographic increase are still little understood. They were not uniform either through time or through space. It seems that the upturn consisted of a series of spurts and plateaus with the most significant increases occurring in the years 1520-1540 and 1580-1630.[48] There were also wide regional variations with some counties nearly doubling their populations in the Elizabethan era and others experiencing little or no growth at all. The debate has focused primarily on mortality and fertility rates in the sixteenth century. A lower mortality rate is perhaps the simplest and most likely explanation.[49] Outbreaks of epidemic diseases were not only less likely to occur but also less lethal. If fertility rates remained constant, then simply more people living longer would have led to the one percent per annum increases witnessed in the sixteenth century. Furthermore, it seems that plague tended to hit children and young adults harder than it did other age groups. A reduction in plague might have had the result of reinforcing the

[46] C.G.A. Clay suggests that this continued decline through most of the fifteenth century was due, in part, to changing patterns of marriage. It seems that England in this century adopted a 'West-Europe' pattern of marriage in which partners married in their mid- to late-twenties; *Economic Expansion and Social Change: England 1500-1700*, vol. 1, (Cambridge: Cambridge UP, 1984) 13-14.
[47] *Ibid.*, 2-4.
[48] *Ibid.*, 2.
[49] Keith Wrightson, *English Society 1580-1680* (London: Hutchinson, 1982) 121-25.

"effects of rising fertility [rates] in progressively changing the age structure in such a way as to bring about a steady increase in the birth rate."[50]

The situation, however, is complicated by the unique influence of London, which was larger than the next fifty towns combined. In this period, London's growth continued to outstrip the national average; in the 1520s London had perhaps 60,000 inhabitants and by 1600 this figure had tripled to approximately 200,000.[51] Since death rates always exceeded birthrates in London, its rapid growth can only be attributed to massive immigration from the countryside.[52] Thus London acted as a population sink. Young men and women, who had no resources and no kin, emigrated there. John Howes declared in the 1580s: "It is not the poor of London that pestereth the city, but the poor of England."[53] Emigration most likely had the effect of maintaining a kind of demographic equilibrium in the countryside – an equilibrium that sheltered rural society from the worst of the demographic increases of the century. What happened to these men and women once in London? The story is not a pretty one, as a parish register makes clear:

> Edward Ellis a vagrant who died in the street.
> A young man not known who died in a hay-loft.
> A cripple that died in the street before John Awsten's door.
> A poor woman, being a vagrant, whose name was not known, she died in the street under the seat before Mr. Christian Shipman's house called the Crown... in the High Street.
> A maid, a vagrant, unknown who died in the street near Postern.
> Margaret, a deaf woman, who died in the street.
> A young man in white canvas doublet... being a vagrant and died in the street near Sparrow's corner being in the precinct near the Tower.

---

[50] Clay, 15.
[51] *Ibid.*, 20.
[52] Schofield and Wrigley, Table 6.4, 167.
[53] Cited from Slack, *Poverty and Policy*, 69.

> A young man vagrant having no abiding place... who died in the street before the door of Joseph Hayes... He was about 18 years old. I could not learn his name.[54]

Perhaps the most disturbing aspect of poverty in this period is its stark anonymity.

But what did this population increase mean for the inhabitants of Tudor England? In very general terms, a rising population put increasing pressure on a resource base that failed to grow as quickly.[55] This resource base, however, included more than simply food; it included fuel, clothing, housing and arable land. Increasing demand found its outlet in steadily increasing prices. The worst increases were for agricultural products. For instance, the real price of grains and other arable crops rose by nearly 500% from the ten-year periods of 1500-09 to 1600-09.[56] It would be an exaggeration to call it a Malthusian crisis, although in times of dearth it could reach crisis proportions. It was, rather, a slow-boiling Malthusian pot in which most of England's inhabitants found themselves.

Inflation was aggravated also by a host of other factors. Imports of European silver at the end of the fifteenth century and of South American silver (after 1545) almost certainly played some role, since the amount of money in circulation increased faster than the output of goods.[57] A combination of factors would thus seem to explain the inflationary pressures of the sixteenth century. Inflation was spurred by growing demand

---

[54] Cited from Beier, *Masterless Men*, 46.

[55] That is not to say that the resource base did not grow at all. Clay estimates that between 1500-1700 England increased the amount of land under cultivation by approximately 25 percent. However, this new land tended to be low-yield due to its relatively poor quality. More important were increases in productivity stimulated by the rise of commercial (as opposed to peasant) farming that allowed for greater capital investment in agricultural operations; Clay, 102-25.

[56] Joan Thirsk, ed., *The Agrarian History of England and Wales 1500-1640* (Cambridge: Cambridge UP, 1967) Table VIII, 857.

[57] Clay, 32.

and increased economic activity, which was facilitated by larger amounts of money in circulation.

Worse from the perspective of the poor in Tudor England were the debasements of the currency between 1544 and 1551. Debasement took two forms. The government either ordered coins to circulate at a higher face value but with the same precious metal content or issued coins with a precious-metal content lower than that of the face value.[58] The poor, of course, were only hurt by such developments since real wages never kept pace with inflationary pressures. How could they not be adversely affected, when boroughs routinely set *maximum* wages for their inhabitants?[59] The problem was corrected in the first few years of Elizabeth's reign when William Cecil and others convinced the queen to re-establish the silver and gold content of the currency to pre-1542 standards.[60] The damage, however, appears to have already been done. As a general rule, it seems that the poor were the first to be hard hit by rising prices. Their wages would be the last to increase, and they were the last to benefit from a restoration since it mainly helped those who dealt in larger denominations – primarily merchants and financiers – rather than those who dealt with smaller denominations.

The debasement was at least partially responsible for the dramatic mid-century increase of prices. For instance, the average price of all grains nearly doubled in a single year from 1548 to 1549. Further, in the two-year period of 1555-7, the average price of grain was four times higher than it had been in 1548. Although prices fell afterwards,

---

[58] D.M. Palliser, *The Age of Elizabeth: England under the later Tudors 1547-1603* (London: Longman, 1983) 139.
[59] Williams, 177.
[60] It is a testament to Tudor economic thought that the rectification of the currency was considered Elizabeth's third greatest achievement – *moneta ad iustum valorem reducta* – after the religious settlement and the maintenance of peace. Palliser, 139.

they never returned to their pre-1548 levels. This is an interesting case because we can see a convergence of factors dramatically pushing up prices. Successive governments had been steadily devaluing the currency (especially silver) from 1544-1551, forcing domestic creditors to accept debased currency as payment. Meanwhile, there were two disastrous harvests in 1555-6 and 1556-7. The result was widespread dearth. Agricultural prices were stratospheric because of the combination of debased currency in circulation and of diminished grain supply.[61]

As a corollary to inflation, real wages fell dramatically throughout this century. For instance, median day wages in southern England for agricultural services (e.g. hedging, ditching, spreading dung) rose more than twofold from 4d. in 1500-09 to 8.66d. in 1600-09.[62] However, the purchasing power of those same wages fell by approximately half.[63] This was due to inflation, in part, but it was also due to a surplus of labour. Employment opportunities did not match demographic increases and it produced a 'buyer's market' for employers. A feature of poverty in this period is not just unemployment but also chronic under-employment.

More importantly, the social bonds – the social security network, if you will – of the medieval and early modern period seem to have been changing. For those who lived or migrated to towns the "city air might make one free of servile bonds, but it could also make one poor."[64] While wages were usually higher in towns, work was often transitory, even in established industrial regions like Yorkshire and East Anglia. And unlike their rural counterpart, the typical urban wage-earner had no means of supplementing that

---

[61] *Ibid.*, Table AI.1, 386-87.
[62] Thirsk, Table XV, 864.
[63] *Ibid.*, Table XVI, 865. (Those measurements are adopted from the Phelps-Brown and Hopkins figures first published in 1956.)
[64] Beier, *The Problem of the Poor in Tudor and Early Stuart England*, 3.

income. These wage-earners were often only a harvest failure away from living below the subsistence level. Poor relief (other than kin networks) was largely dependent on hospitals, monasteries (before 1536), the local parish and alms-giving.

The husbandmen and day-labourers of the country may have been sheltered a little more than his urban counterpart, but they were still subject to the same pressures. Husbandmen (typically those who farmed 50 or fewer acres), who held their tenure by copyhold, were especially hard hit. The commutation of rents from goods to cash, which had so benefited the small farmer in the wake of the Black Death, were now adversely affecting him.[65] Cash payments had the effect of emphasizing leasing as an economic activity (and thus not subject to the usual customs) as opposed to a social one. So even though the price of agricultural produce increased dramatically so too did other associated costs of farming, especially rents. While the wealthy husbandman and yeoman (50 or more acres under cultivation) would be in a position to take advantage of high agricultural prices, the husbandman who farmed between 15 and 50 acres was unable to benefit from similar scales-of-economies.[66] Many succumbed financially in this period to chronic debt, especially those who lacked access to ready markets or who lost rights to common land.

If husbandmen were on the whole faring badly in the sixteenth-century, then the position of the rural day-labourer was much more tenuous. As the label implies, these men were hired to work the farms of their neighbours. The more fortunate of these men

---

[65] "For England's landlords, the gentry and the aristocracy, the demographic and economic trends of the first half of our period presented both a threat and an opportunity. On the one hand, inflation threatened to erode their incomes and undermine their standard of living. On the other hand, their control of land presented splendid opportunities for those of them possessed of sufficient initiative to profit from both the land hunger and the rising prices of the time," Wrightson, 130.

[66] *Ibid.*, 130-32.

might have owned as much as 5 acres of land, which could supplement their incomes. Still, a rising population meant that that land was subject to further and further sub-divisions as the century progressed. It was this rural class more than any other that suffered most over the course of the century. They were also most likely to be adversely affected by enclosure and, to a more limited degree, engrossing. Enclosure refers to two different processes. In this context it is understood to mean the seizure of traditionally communal grazing land by a landlord.[67] Fences and hedges were usually erected to prevent trespassing. Households that depended on a portion of their income from livestock suffered greatly.[68] The second form of enclosure is the conversion of cultivated land to pasture. By converting cultivated land, operators could raise sheep cheaply and export the wool to Flanders at a high profit. This was considered to be a social evil by many contemporary writers because it reduced both agricultural production and labour outlays.[69] Engrossing, on the other hand, refers to the process of amalgamating demesnes into single unit farm operations – a process that was hardly new to the sixteenth century. However, it too could be singled out by angry villagers and anxious commentators as a cause of rural depopulation and poverty.

---

[67] Thirsk, 200-12.

[68] "Serious disagreements between villages did not arise for centuries, often not until the Tudor age, when the diminishing waste and the growth of population taught people to look at first anxiously, and then angrily, at the slightest new encroachment on their commons. They learned at last, by bitter practical experience, that the commons were not unlimited, and that their diminution beyond a certain point could pose grave economic problems," *Ibid.*, 202.

[69] John Pound believes, however, that the "picture [of rapacious landlords] is considerably overdrawn, and takes into account only part of the problem," *Poverty and Vagrancy in Tudor England*, 8; This kind of enclosure appears to have been intensely centred only in the Midlands, leaving the rest of the country relatively unscathed.

Consequences

The overall effect of these conditions and changes was an increase of poverty (however we choose to define the term) both absolutely and relatively throughout the sixteenth century. Prices rose across the economic spectrum and real wages fell. Pound estimates that between one quarter and one third of the population lived below the status of 'wage-earner.' They were

> ...workers subjected to the vicissitudes of the cloth trade; men too poverty-stricken to take up apprenticeship and thus compelled to work under restrictive conditions; the survivors of dying occupations; men in new trades that had either failed or were yet to make their mark; itinerant poor, attracted perhaps, by the misplaced generosity of the local merchants and disinclined to move on; displaced rural workers; former monastic servants; returning soldiers and sailors; a miscellaneous flotsam that at best maintained the existing situation and at worst made it so bad that even the most apathetic of local authorities were compelled to take action.[70]

In the towns and cities, this heterogeneous group tended to congregate in certain quarters of towns, usually the slums. In the countryside they might gravitate to woodland areas or wasteland. In either case, this group eked out a subsistence level existence with meagre shelters and income. The next class were the wage-earners, which might constitute another third to a half of an urban population. Generally speaking, they had regular employment and income, which protected them from living below the subsistence level. Their rural counterpart was a little better off, but not by much. In total, these groups might have constituted between 50 and 60 percent of the population.[71]

One consequence of these developments in the sixteenth century, hitherto not mentioned, was the growth of vagrancy. Beier estimates that there may have been

---

[70] Pound, 25.
[71] Beier, *The Problem of the Poor in Tudor and Early Stuart England,* 7.

approximately 15,000 vagrants circulating throughout England during Elizabeth's reign.[72] Of course, vagrancy was hardly new to the sixteenth century, but there are indications from contemporary views and from more empirical sources (e.g. arrest records) that the problem worsened throughout the late sixteenth and early seventeenth centuries. It resulted from the great internal migrations of the period. Young men and women migrated to towns in search of better employment opportunities. Migration was actually a fairly common phenomenon in the early modern period with the poorer migrating further than the wealthier. It is defined by the intention of moving to establish a permanent or semi-permanent residence.[73] In general, these migrants tended to move from north and west to south and east, from highland areas to lowland areas and from the countryside to towns. In truth, though, these new areas (especially the cities) offered no better escape from poverty than did their place of origin. Vagrants, on the other hand, "lived in a state of almost perpetual motion."[74] Moving from parish to parish and from county to county, they possessed no kin networks, no regular employment and no place of residence. They survived through charity and poor relief, through irregular work and sometimes through crime. Early modern England was a tightly woven society connected through horizontal and vertical social ties. In a very real sense, vagrants lived outside this society. As shall be seen, they were a near-constant source of concern by officials.

We should be careful, however, of overestimating the 'problem' of poverty. 'Poverty' (or poor relief) was but one component of a series of social ills that a magistrate, such as a Justice of the Peace or constable, might deal with at any given time. Alehouses, bad behaviour (e.g. scolding, eavesdropping, sexual licentiousness), bastardy

[72] Beier, *Masterless Men*, 14.
[73] *Ibid.*, 29.
[74] *Ibid.*, 29.

and crime were all social problems that a magistrate had to deal with on a regular basis.[75] Furthermore, our best records for the period detail the *front* end of social and economic life (e.g. incomes, prices). The *back* end of these relationships, such as public and private charity, gifts and hospitality, are much more difficult to detail. It has the effect of making life in Tudor England appear bleaker than it might otherwise have been.

In addition, during the sixteenth century the average population increase was approximately one percent per annum. This is a very gradual increase when compared to the modern experience of developing nations. Even the average inflation of the Tudor period pales in comparison with some of the inflationary trends witnessed in some modern Western countries. In other words, poverty was a *manageable* and *managed* problem in Tudor England. "In comparison to other countries in Europe, however, poverty in England was shallow rather than deep, and respectable rather than disorderly."[76] Indeed, it was specific short-term factors that usually led to rioting or other forms of social disorder with harvest failures producing the most serious crisis. But even this needs to be qualified. The country could survive a single poor harvest, but it was consecutive harvest failures, such as those seen in 1555-7, that produced tragic consequences (e.g. widespread malnutrition, starvation or death) and aggravated social relations. It is remarkable, then, that it was only very late in her reign that Elizabeth faced

---

[75] The 'Ephemeris' of William Lambarde, a Justice of the Peace in Kent, reveals the variety of problems with which a magistrate might deal: "20 August [1583] The Lord Cobham and I took order for the whipping of Marie Rice and of Halle, both of Cobham, for a bastard woman child there born of her and begotten by him, and that either of them should pay 8d. by the week towards the finding thereof and the discharge of that parish. The same day we sent to the house of correction at Maidstone Marie Grafton, for refusing to serve according to her covenant etc. A little before, the said Lord and I took order that they of the parish of Meophan should not expel James Butler, who had been conversant there by the space of four years before and live of honest labor," 'An Ephemeris of the Certifiable Causes of the Peace, from June, 1580 till September, 1588, 30 Elizabethae Reginae,' Conyers Read, ed., *William Lambarde and Local Government.* (Ithaca, NY: Cornell UP, 1962) 30.

[76] Slack, *Poverty and Policy in Tudor and Stuart England*, 113.

this kind of crisis. There were poor harvests in 1573-4, in 1585-6 and in 1590-1. But these were dwarfed by four consecutive bad harvests in 1594-8.[77] It is no coincidence that the major poor law legislation of the period (1598-1601) was passed immediately after the end of one of the worst famines of the century.

[77] Palliser, Table AI.1, 386-87.

III Tudor Poor Laws: Proclamations and Statutes

When historians discuss the 'Poor Law' or the 'poor laws' of the Tudor period, to what are they actually referring? If it is the former, then they are usually referring to a comprehensive set of laws regulating poor relief that was passed by parliament in 1598 and 1601. If it is the latter, they might be referring to any number of local or national laws; these laws might deal with poor relief or they might deal with vagrancy, begging, labour or charity. The variety of possible answers attests to the methodological and conceptual morass of the topic. Not only do historians of Tudor poor law not present a clear definition of their topic, they do not even make the attempt. After all, is it not obvious that 'poor law' simply refers to laws relating to the poor? In fact, it is not. For a modern historian, it seems logical to examine certain legislative objects such as 'poverty,' 'vagrancy,' 'begging' and 'labour' as a single unity, usually under the imprecise rubric of 'social policy.' But this is only because we have been conditioned by our own discourses to think of these objects as related. We must not assume that these objects, which certainly did exist in the sixteenth-century, were governed by the same discursive rules or reveal the same unities as do our own. As Foucault concluded from his studies of madness:

> The unity of discourses on madness would not be based upon the existence of the object 'madness,' or the constitution of a single horizon of objectivity; it would be the interplay of the rules that make possible the appearance of objects during a given period of time....[78]

Thus I will attempt to excavate some of the relations that allowed a whole series of objects of knowledge to appear in the sixteenth century as revealed by Tudor proclamations and statutes.

---

[78] *Archaeology of Knowledge*, 32-33.

But first, a few explanations and observations should be made on the nature of these sources. First, what makes statutes and proclamations valued sources for this topic? It is a truism of historical research that the historian is guided not by what he or she would want, but by what remains. All of the public acts passed and many of the proclamations issued from the Tudor period remain as monuments for the historian.[79] But the fact that they possess a certain convenient density does not in itself justify their use in this enterprise. One might say that, since the topic is 'poor law,' it stands to reason that these are obvious sources to employ. But the topic is not 'poor law' *per se*, but rather the discourses that governed these laws. It is the difference between asking, "What law was passed in what year?" "What does this law concern?" and "How does this law relate to other laws of similar concerns?" versus "What discourses allowed this law to be created?" "What discursive rules allowed the knowledge contained within this law to be true?" and "How do we place this document – this monument – within a discursive field?" Foucault demonstrated in *Discipline and Punish* that laws produced by the centre are not necessarily the best source for revealing discursive formations, or at the very least, they function and develop in complex ways.[80] While Foucault's caveat cannot be ignored, it does not apply to sixteenth-century England in the same ways as it applies to

---

[79] *The Statutes of the Realms: 1225-1713*, 11 vols, (1819; London: Dawsons of Pall Mall, 1963); The definitive collection of Tudor proclamations is Paul L. Hughes, and James F. Larkin, eds., *Tudor Royal Proclamations*, 3 vols (New Haven: Yale UP, 1964-1969).

[80] On the relationship between legal reformers and technologies of power in France, circa 1800: "The true objective of the reform movement, even in its most general formulations, was not so much to establish a new right to punish based on more equitable principles, as to set up a new 'economy' of the power to punish, to assure its better distribution, so that it should be neither too concentrated at certain privileged points, nor too divided between opposing authorities; so that it should be distributed in homogenous circuits capable of operating everywhere, in a continuous way, down to the finest grain of the social body. The reform of criminal law must be read as a strategy for the rearrangement of the power to punish, according to modalities that render it more regular, more effective, more constant and more detailed in its effects; in short, which increases its effects while diminishing its economic costs and its political costs. The new juridical theory of penalty corresponds in fact to a new 'political economy' of the power to punish," *Discipline and Punish*, trans. Alan Sheridan (Paris: 1975; New York: Vintage, 1995) 80-81.

nineteenth-century France. Modern society operates under a number of parallel institutions each of which may be organized by very different power relationships. For instance, the mechanisms of criminal prosecutions (i.e. the juridical) and of imprisonment (i.e. administrative) may operate according to different rules as they do today. Early modern England, however, lacked the same institutional differentialization of modern society. From the Crown, Privy Council, parliament, and court, to the assize judges and then to the Justices of the Peace in the counties there existed in Tudor England a single political community.[81] When parliament passed a bill that stipulated the exact wording of a license to be issued to a beggar, it did so with the intention that Justices of the Peace, sheriffs, mayors and bailiffs would follow that wording to the letter. More to the point, that command was directed towards their own kin, friends and peers. How well that Act may have been followed is a separate discussion.[82] But the point is that the relationship between this legislative body and its juridical/administrative (they are the same)

[81] "Nor were there many regional institutions interposed between the central government and the shires. Such as did exist – the justices of the Principality of Wales, the wardens of the Scottish border, the Councils of the North and in the Welsh Marches – were essentially agents of the King, used by him to extend the reach of royal power. The realm of England had none of those barriers to national unity erected by provincial estates and *parlements* in France, by the Cortes in the kingdoms of Spain, or by the towns and provinces of the Netherlands. Unity was fostered by the relatively small size of the population, especially of the political nation. Perhaps 2,000 families really counted in the government of the country and of its shires at the end of the fifteenth century," Williams, 11; Hindle suggests a different, though not necessarily contradictory, formulation of the Tudor state: "First, and most obviously, the early modern state is not to be understood in narrowly institutional terms: it did not begin and end with Elton's 'points of contact'. Court, Privy Council and parliament were only the highest institutional expressions of state authority.... a definition of the early modern English state which expanded to include provincial or localized institutions (quarter sessions, petty sessions, borough courts, perhaps even manorial courts) is too limited.... Consequently a working definition of the early modern English state would have to stretch not only as far as local individual magistrates, but beyond: to head constables, petty constables, churchwardens and overseers. These officers in their individual hundreds, wapentakes, parishes and townships stood at the 'interface' of the state and society," *The State and Social Change in Early Modern England*, 21.

[82] "Keeping abreast of legislative requirements was evidently very difficult, since although the 'printed statute book' was sent out to the localities, so many of the channels of communication about parliamentary initiatives were informal, through reports to corporations, private correspondence and newsletters. In 1614, one lawyer MP commented that 'few' magistrates 'knew fifty' of the requisite statutes, and in the late 1620s the author of a revision of the magistrates' handbooks by Lambarde and Dalton was worried by his own inability to discover which pieces of legislation they discussed were still active," *Ibid.*, 11.

apparatus was much closer than in modern times. This means that these sources are crucial for revealing discursive formations that governed Tudor poor law.

One last critique is that we often do not have much more than the statute or proclamation itself to answer questions such as who was responsible for bringing the law forth, who said what about it, what was the immediate impetus for it, and so on. But these questions reflect the concerns of a different kind of historical method. While it would undoubtedly be useful to have such information, it is not necessary for this particular mode of analysis. Foucault is often accused of decentring the subject and the object and this is certainly true. Discourse flows through people and creates its own objects. As such, it is our task to determine some of these 'rules of formation' rather than to determine who said what and where. One way to formulate this enterprise is to say that the issue for this study is not the impetus for action, but rather the possible forms of action.

There is a very large historiography devoted to delineating the exact constitutional nature of both statutes and proclamations (and by extension their respective institutions).[83] Fortunately for this study, it is possible to avoid those kinds of problems since the important features of this legislation are, once again, the discourses that governed their creation. Statutes were bills passed by parliament, which means with the consent of the Crown, the House of Lords and the House of Commons. Because of this,

---

[83] For parliaments see J.E. Neale, *The Elizabethan House of Commons* (Oxford: Alden Press, 1949); Neale, *Elizabeth I and her Parliaments*, 2 vols. (1957; New York: Norton, 1966); Conrad Russell, *The Crisis of Parliaments: English History, 1509-1660* (Oxford: Oxford UP, 1972); G.R. Elton, *The Tudor Constitution: Documents and Commentary*, 2nd ed. (Cambridge: Cambridge UP, 1982); Elton, 'Tudor Government. The Points of Contact. I Parliament,' *Transactions of the Royal Historical Society*, 5th series, (24) 1974; Michael A.R. Graves, *The Tudor Parliaments: Crown, Lords and Commons, 1485-1603* (London: Addison Wesley Longman, 1985); for proclamations see *TRP*; R.W. Heinze, *The Proclamations of the Tudor Kings* (Cambridge: Cambridge UP, 1976); Frederic A. Youngs Jr., *The Proclamations of the Tudor Queens* (Cambridge: Cambridge UP, 1976).

they were considered the highest law in the country. Statutes that had broad implications were called 'public' and those that had narrower implications were called 'private.' Parliament, however, sat irregularly in this period and thus statutes were only ever passed intermittently. Proclamations, on the other hand, were issued whenever the king and his council felt the need to address a particular issue. There has been much quibbling over what exactly constituted a proclamation. Youngs has defined them as a "royal command, normally cast in a distinctive format, which was validated by the royal sign manual, issued under a special Chancery writ sealed with the Great Seal, and publicly proclaimed."[84] They were usually very brief and focused on particular issues such as announcing political developments (e.g. ascensions, wars, marriages), regulating coinage, mustering troops or preserving hunting grounds. Often a proclamation was issued to 'remind' officials of older statutes that the monarch believed were not being enforced. Proclamations could be issued at any time and, thus, provide the historian with a source which is somewhat more responsive to political and economic change than are statutes.

What then can we say about early Tudor poor law as shown by an examination of proclamations and statutes? For one thing, there were no 'poor' laws before 1536.[85] There was a single reference to provisioning for the poor from Church benefices in 1391 (15° Ric. II. c.5).[86] There were a few proclamations issued during the reign of Henry VIII for the provision of victuals for the city of London and for limiting the exportation of

---

[84] Youngs, 9-10.

[85] This is hardly surprising since it was the Church that administered much of the poor relief in the Middle Ages, primarily through one of the 8,000 parishes found in England. Brian Tierney believes that despite widespread accusations of corruption, the majority of priests or vicars were actively engaged in almsgiving. Hospitals, monasteries and lay fraternities also administered poor relief to some degree and begging was a well-established practice for those who could not or would not work; see his *Medieval Poor Law: A Sketch of Canonical Theory and Its Application in England* (Berkeley: California Press, 1959) Chap. V.

[86] All references to public statutes are from *The Statutes of the Realm.*

grain.[87] There were also a number of proclamations that concern enclosing and engrossing.[88] But this was the closest that the early Tudors came to a 'social policy' as modern historians would understand the term.[89]

Of greater interest for this study are the relatively numerous proclamations published in the reign of Henry VII and the first half of the reign of Henry VIII that concern vagrancy. In 1493, Henry VII issued a comprehensive proclamation entitled 'Enforcing Statutes against Murder, Decay of Husbandry, Robberies, Vagabonds, Beggars, Unlawful Games.'[90] The proclamation enforced statutes extending back to the reign of Edward III, while modifying some features. Despite the lengthy title, the proclamation is almost solely concerned with murderers, vagrants and beggars:

> The King our sovereign lord is informed that full heinous murders, robberies, thefts, decays of husbandry, and other enormities and inconveniences daily increase within this his realm, to the great offence unto God, displeasure to his highness, hurt and impoverishing, vexation, and trouble of his subjects by the means of idleness; and specially of vagabonds, beggars able to work, and by fautours, some excusing themselves by color of pilgrimage, some excusing themselves by that they were taken by the king's enemies upon the sea, some by that they be scholars..., some that they be hermits and so begging by color of feigned devotion and many other suspicious and vicious livings thus used in this realm....
> ...if a murder be done in a town by day, the township is bound to arrest the murderer and his accessories.... And in like wise, the justices of the peace have power to inquire of the said murders and escapes; and to the intent that murders

---

[87] *TRP* 70 'Providing Victual for London,' Patent Rolls, Public Records Office (C66/619/10*d*); *TRP* 86 'Providing Victual for London,' London Journals (12, 158); *TRP* 94 'Prohibiting Grain Export,' Chancery Warrants, Public Records Office (C82/524).
[88] *TRP* 75 'Prohibiting Enclosure and Engrossing of Farms,' Acts of the King's Council (HM Ellesmere 2655, 10); *TRP* 110 'Ordering Enclosures Destroyed and Tillage Restored,' British Museum Library (MS Harl 442, 42); *TRP* 114 'Ordering Recognizes for Enclosures,' BM (MS Harl 442, 52*v*).
[89] Slack suggests that it was these 'social policies,' characterized by an activist central administration, of Wolsey and then Cromwell that laid the foundations for later developments of Tudor poor laws; *Poverty and Policy*, 116.
[90] *TRP* 30, PR (C66/574/4*d*).

> should be punished speedily, such as be indicted without delay to proceed to their deliverance within the year at the King's suit....
> And for avoiding of idleness by the means of vagabonds, beggars, fautours, and other suspect persons afore rehearsed, it is ordained by a statute of Richard II that justices of the peace, sheriffs, mayors, bailiffs, constables, and other places within this realm to have power to examine all vagabonds and fautours of their misbehaving and evil deeds, and to compel them to find sufficient surety of their good living, and to answer to all defaults against them to be alleged; and if the same vagabonds find no such surety, then they to be committed to the next jail....
> ...considering also the great charges that should grow to his subjects for bringing said vagabonds to the jails and the long abiding of them therein, whereby by likelihood many of them should lose their lives by murdering.
> Of the said statute, his highness hath ordained that where such misdoers should by the said examination be committed to the common jail, there to remain as is above said... so taken to remain in stocks, there to remain for the space of three days and three nights... and set at large and then to be sworn to avoid the town....
> Also his highness chargeth and commandeth that all manner of beggars not able to work, within six weeks next after this proclamation made, go, rest, and abide in his hundred where he last dwelled, or there where he is best known, or born, there to remain and abide, without begging upon pain to be punished as above said....

At first glance, the juxtaposition of murderers, robbers, vagabonds and beggars is jarring because the modern analog of the vagrant or beggar is the homeless person, who is routinely viewed as a victim of some circumstance such as a social injustice, a drug addiction or a mental illness. The modern homeless person is a pitiable and benign figure. This historical object, however, is not a victim of poverty or any other injustice. If he suffers from anything, it is excessive idleness. He could work, but does not. He is devious, demonstrated by the numerous disguises he takes, and he is prone to evil deeds. An earlier proclamation published in 1490 ('Expelling Scottish Vagabonds from

Northern Shires) refers to "all manner of such strangers, suspect, and idle persons."[91] One feature of this object is that it is *inclusive* as opposed to *exclusive*. The vagrant is defined by a series of characteristics that could be applied to anyone of nearly any occupation or rank. A vagrant could be a beggar, a foreigner (literally a stranger), a hermit, a gypsy, a student, a soldier or a sailor. The beggar on the other hand is defined by a particular action. And yet these two objects were almost always used together. In fact, it might be more accurate to speak of a single object, 'vagrants and beggars,' as opposed to 'vagrants' and 'beggars.' This is hardly surprising since there is a large amount of overlap between the two. Nearly every vagrant must have begged at one time or another and settled beggars (i.e. those who begged regularly in the same place) could be forced to migrate periodically.

Is it an accident that murderers, robbers, vagrants and beggars appear together in the same proclamation? Hardly. In fact, these objects are products of a similar set of juridical and administrative relationships. When faced with a murder, the proclamation states that a justice of the peace has the power of inquiry, of arrest and of imprisonment. Likewise a justice of the peace when confronted with a vagrant has the power of examination, of arrest, of imprisonment and of punishment. The severity of the crime might differ, but the modality and the techniques of control are the same. These relationships produced a vagrant and beggar very different from our modern analog: the vagrant or beggar as a criminal, whose existence is an affront to king and to society.

This proclamation is dwarfed, however, by 'An Acte concnying punysshement of Beggers & Vacabunds' (22° Hen. VIII. c.12) passed in 1531. The title of the Act is

[91] *TRP* 22, PR (C66/570/21*d*).

deceptive since it possessed, in addition to negative (i.e. punitive) results, many positive ones. The Act's preamble comments on the "daily increase" of vagabonds and beggars and notes that from "idleness, mother and root of all vices... springs continual thefts, murders and other heinous offences."

It then commands "justices of the peace, mayors, sheriffs, bailiffs and other officers" to make from "time to time... diligent search and inquiry of all aged poor and impotent which live or of necessity be compelled to live by alms... abiding within every hundred, rape, wapentake, city, borough, parish, liberty or franchise." They are to search, identify and record aged and impotent persons, who are to be "certified before the Justices of the Peace at the next [Quarter] sessions." The records are to "remain under the keeping of the Custos Rotulos." The purpose was to license (literally set "limits" on) beggars. In addition to searching and recording them, it limited who could beg and where one could do it. Anyone begging outside his or her "limit" was to be put in the "stocks by the space of two days and two nights" and ordered to return to the place "where they be authorized to beg in." Any impotent person discovered begging without a license was to be either whipped or set in the stocks for three days and nights and then ordered to leave the jurisdiction.

Vagrants, who were defined as "persons being whole and mighty in body and able to labour," caught begging or practicing unlawful crafts and having no master were to be arrested. Such a person was to be brought to the proper local official and the vagrant was to be "tied to the end of a cart naked and beaten with whips... until his body be bloody." Afterwards the vagrant was to be ordered to return to his place of birth or the last place in which he had dwelt for three years and there to find labour "like as a true man."

There are subtle differences between the discursive practices evident here from those of the above proclamation. There is also a new object emerging: the poor impotent person. Again, we see a clear association between begging and vagrancy and "thefts and murders"; furthermore begging and vagrancy are to the "displeasures of God... damage of the King... and marvellous disturbance of the Commonwealth." For the sake of clarity: vagrants and unlicensed beggars are criminal objects of the juridical and administrative (i.e. discursive) practices of early Tudor society. But what are we to make of this "impotent person?" We could take an 'objective' view and list the various persons who could be labelled impotent (e.g. the old, the blind, the widow, the very young child, the mutilated soldier). In fact, there is some justification for this since the statute makes explicit reference to the "aged and poor." But in the context of the substratum within which this object appears, such a method yields little. Let us reverse the analysis, keeping in mind that discursive practices create objects and not vice versa. What if we said that the object of the 'impotent person' exists here, not because there are large numbers of mutilated soldiers in the streets, but because it is the product of the same discursive rules that govern the formulation of 'vagrant' and 'beggar'? The Act itself does not distinguish between the unlawful beggar and the impotent person. Rather it distinguishes between the unlawful beggar and the licensed (and therefore, lawful) beggar. And who can be a licensed beggar? Answer: an impotent person.

Does this mean that the licensed beggar or impotent person is akin to a criminal such as a vagrant, a thief or a murderer? On the contrary; although it was possible for a licensed beggar to commit a crime by begging outside of his designated areas, he is an explicitly legal ("authorized") entity. The point, which is affirmed by the observation that

the same administrators are employing the same techniques to distinguish, to divide and to record beggars, is that the same relationships created an *illegal* beggar and a *legal* beggar (i.e. the impotent beggar). One feature of discourse is that it is one-way; it imposes itself. And indeed the objects of 'vagrant' and 'beggar' are imposed upon a diverse group of people such as students, scholars, sailors and fortune-tellers. There are in theory many ways of thinking about these groups, but this discourse blankets them with a single term. Unlike language, which may provide an unlimited number of possibilities, discursive practice provides only limited or, rather, provides specific possibilities for new knowledge.

What distinguishes this particular statute from previous Acts and proclamations is the elaborate regulations it attempts to establish for the execution of its provisions. It includes instructions for the justices to "inquire of all mayors, bailiffs, constables and other officers and persons that shall be negligent in executing this Act" and to access fines for non-compliance. Furthermore, the Act stipulates fines for harbouring a vagabond or a beggar. But among the most interesting of these regulations are the eight articles of the Act that concern the method of licensing a beggar (to beg) or a vagrant (to return to his place of birth). It stipulates the exact purpose of a license, who is to cover the expense of a license and who is to sign a license. The license was to be a uniform method of identifying, recording and ordering those issued one. Interestingly, discharged prisoners were also to receive the same license as beggars and vagrants allowing them either to return home or to beg. The Act states that any discharged prisoner "who begs not having the said letter sealed in form above said, or beg contrary to the tenor of the same letter, that he shall be taken, ordered and whipped... as appointed for strong

beggars and that to be done and executed by such as be above limited to do the same upon strong beggars."

To summarize: under the title of an Act to punish vagabonds and beggars, we find diverse material. There are references not only to vagrants and beggars, but also to impotent persons, soldiers, students, fortune-tellers and prisoners. There are references to the administrative apparatus and to mechanisms of control and punishment. There is even, tucked away at the back of the Act, a brief article confirming the right of certain privileged institutions to continue alms-giving so long as their actions are not in violation of this Act. What is emerging, then, are discursive rules that are creating a field of interrelated objects that include the vagrant, the beggar, the impotent person and the prisoner. Fourteen years later, in 1545, when parliament passed an Act for the continuation of this and other statutes (37° Hen. VIII. c.23) it was described thus: "an Act was made and established declaring and concerning as well how aged poor and impotent persons compelled to live by alms should be ordered and used, and also how vagabonds and mighty strong beggars should be whipped and punished."

In the year 1536 parliament considered two bills for the management of vagrants and beggars. One was passed and the other was discarded. Both deserve our attention for what they contained and for what historians have thought about them. The bill that parliament passed in that year was entitled 'An Acte for the punysshement of sturdy vagabonds and beggars' (27° Hen. VIII. c.25). Like the 1531 Act, it contains not only punitive measures but also positive ones. After reiterating some of the measures of the 1531 Act, the preamble notes that:

> And forasmuch as it was not provided in the said act how and in what ways the said poor people and sturdy

> vagabonds should be ordered at their repair and at their coming into their counties, nor how the inhabitants of every hundred should be charged for the relief of the same poor people, nor yet for the setting and keeping in work and labour of the aforesaid valiant vagabond at their said repair into every hundred of the realm, It is therefore now ordered... that all and every mayor, alderman, sheriff, bailiff, constable, householder, and all other head officers and ministers... shall most charitably receive and order the same in manner and form... shall not only succour find and keep all and every of the same poor people by way of voluntary and charitable alms....

Here, then, is one of the first instances of legislation that explicitly discusses relief. In fact, parishes which did not comply were to be fined 20 shillings each month.

How can we account for this new development? What allows these new regulations to take this particular form? And other forms *were* possible, as will be seen shortly. One clue is that the statute states that alms should be distributed "in such ways as none of them of very necessity shall be compelled to wander idlely and go openly begging to ask alms." And further that "the said sturdy vagabond and valiant beggar to be set and kept in continual labour, in such ways as by their said labours they and every of them may get their own living with continual labour of their own hands." One explanation, I suppose, is that here is a piece of truly enlightened legislation – one that recognizes unemployment as a root of poverty and attempts to do something about it. Indeed, much has been made of the fact that early Tudor government did not recognize the differences between those unable to work (the impotent) and those able to work but who could not (the unemployed).[92] To accept such an explanation, however, would be to

[92] "No allowance whatsoever was made for the able-bodied man who was unemployed but genuinely wanted to work," Pound, 39; "Severe censures have been passed on the statesmen of the reigns of Henry VIII and Edward VI for their apparent failure to realize that a man might be poor and workless through no fault of his own," Elton, 'An early Tudor Poor Law,' *Studies in Tudor and Stuart Politics and Government:*

ignore the discourse within which this development is situated. My alternative explanation is that, as with the "impotent person" from the 1531 Act, certain discursive rules are governing the formation of these objects. The impotent person emerges congruently with the criminal object of the unlawful beggar. Likewise, voluntary alms and 'continual' labour are emerging congruently with vagrancy and begging. Let us explore the point from another direction for the sake of clarity. In our own day, the government directs an analogous form of poor relief with certain *positive* goals in mind (e.g. relief, employment). In this piece of legislation, the Tudor parliament directs the collection and distribution of alms for certain *negative* goals (e.g. suppression of begging, idleness, vagrancy). In fact, these directions have much in common with the related command that all beggars and vagrants should return to their place of birth, which was also intended to accomplish a negative goal.

Again we find references to diverse groups of people. Officials, who discovered children ages five to fourteen "begging or idle," are "to appoint them to masters of husbandry or other crafts or labours to be taught, by the which they might get their livings when they shall come to age." Those children between the ages of twelve and sixteen, who refused service or departed without reasonable cause, were to be whipped. Any official who refused to inflict the punishment was to be set in the stocks for two days. Lepers and the bed-ridden were not to be "compelled to repair to their counties." No one was to maintain an "open playing house" for unlawful games such as dicing. Rufflers, who were "persons calling themselves servingmen," and every person "having no master" were to be included in the Act and were to be ordered and punished

---

Papers and Reviews 1946-1972, vol. 2. (Cambridge: Cambridge UP, 1974) 137-38; originally published in *Economic History Review*, 2nd series, 6 (1953), 55-67.

accordingly. For a first offence, rufflers and vagabonds were to be whipped. For a second offence, they were to be whipped again and "have the upper part of the gristell of his right ear clean cut." For a third offence, they were to be charged as felons and, if convicted, "to suffer the pains and execution of death."

Administration of the Act appears to have two distinct, but related, components. First officials were to "once in every month or oftener if need shall require, command a private or secret search to be made within every city, ward, town, hundred, parish and hamlet of this realm... to threaten that all rufflers, sturdy vagabonds and valiant beggars and other suspect persons may be by such means apprehended." These same men with the cooperation of the churchwardens were also to be in charge of ensuring the collection the "charitable and voluntary alms." These funds would then be employed to suppress begging and keep the "sturdy vagabond" in continual, albeit unspecified, labour. Furthermore, parliament decreed that no one was to give alms except to the "common boxes and common gatherings." The penalty was a fine ten times the sum given. The money was to be collected on Sundays and holidays and churchwardens were to keep accounts of the money collected.

This is certainly a sophisticated piece of legislation. But before we come to any conclusions about its nature, it would be useful to examine a discarded Tudor poor law from the same year.[93] Elton believes that this bill was drafted in the autumn of 1535 and intended for the session of 27° Hen. VIII that opened the following February. In fact, he believes that the 1536 Act was actually modeled on this draft, that it was prepared by a reformer named William Marshall, and that it was supported by both Cromwell and

[93] Elton published the definitive analysis of this bill in an article in 1953. Unfortunately the extant copy of the bill has not been published. The copy is located at the British Museum, Royal MS 18 C. vi; *Ibid.*, 139, n. 2.

Henry VIII. Such was the government's interest in the bill that Henry himself appeared in the House of Commons on March 11 to speak for it. Opposition, however, was so great that it was immediately withdrawn and replaced with another bill that would eventually become 27° Hen.VIII. c.25.[94] The preamble begins with the usual sentiments about idleness and vagrancy (an "evil example"), but then goes on to express some rather remarkable sentiments:

> And his highness has perfect knowledge that some of them have fallen into such poverty only of the visitation of god, through sickness and other casualties, and some through default, whereby they have come finally to that point that they could not labour for any part of their living, but of necessity are driven to live wholly of the charity of the people. And that some have fallen to such misery through default of their masters which have put them out of service in time of sickness and left them wholly without relief or comfort. And some be fallen thereto through default of their friends which in youth have brought them up in overmuch pleasure and idleness and instructed them not in any thing wherewith they might in age get their living. And some have set such as have been under their to procure their living by open begging even from childhood, so that they never knew any other way of living but only by begging. And so for lack of godly oversight in youth many live in great misery in age.... But whatsoever the occasion be, charity requires that some ways be taken to help and succour them that be in such necessity, and also to prevent that other shall not hereafter fall into lie misery.[95]

While the draft and Act share a common vocabulary (e.g. 'begging,' 'idleness'), it is plain from the context that these are very different objects. Here the beggar is seen as a social victim – downtrodden, unable to find employment. Elton states, "for once, we see the sixteenth century looking with open eyes at the failures of its society."[96] But the question that should be asked is what discourses governed the draft's creation. If the

[94] Elton, *Reform and Renewal*, 122-24.
[95] Cited from Elton, 'An early Tudor Poor Law', 140.
[96] *Ibid.*, 140.

author of the draft was indeed William Marshall, a member of Cromwell's circle, then we might say with some degree of certainty that the draft emerges out of a particular humanist/reforming tradition, which really forms an alternative discourse on poverty throughout this period. These reformers appear not only in London in the 1520s and 1530s, but also in cities such as Augsburg, Rouen and Ypres, which were implementing their own poor relief schemes.[97]

More radical than these new sentiments were the means by which they were to be alleviated. The draft proposes to alleviate unemployment by creating a massive public works program for "making of the Haven of Dover, renovation and reparation of other havens and harbours for ships, as for making of the common highways and fortresses, skowering and cleansing of watercourses through the realm."[98] A central board would oversee the schemes and ensure local enforcement. This new machinery was to be financed by a graduated tax on annual income and assets. Vagabonds and other able-bodied unemployed were to report to the necessary local official. They would receive not only fair wages but also, amazingly, free medical attention. The draft proposes a three-year 'sunset clause,' but it must certainly have been the intention of the drafter that this new machinery would continue on perpetually. As in the 1536 Act, indiscriminate charity was strictly forbidden; charity was to be funnelled through the local parish, which would distribute it according to the principles of the draft.

---

[97] "A new era dawned in the social policies of many European towns in the first half of the sixteenth century. Almost everywhere magistracies had made attempts to introduce a centrally administered system of relief in their city.... All Protestant systems of poor relief had certain points in common: all were based upon the idea of a 'common chest,' which was financed by funds that were taken from the formerly Catholic hospitals and charitable institutions, from monastic properties, from gifts and endowments, and from current collections in the Church," Robert Jutte, *Poverty and Deviance in Early Modern Europe* (Cambridge: Cambridge UP, 1994) 105-6.

[98] Elton, 'An early Tudor Poor Law,' 141.

What is the relation between this draft and the Act that was eventually passed? Elton believes that the

> poor law of 1536, the law which inaugurated the era of real poor relief, was thus based on the draft which we have discussed at some length. From the draft the act took all that was new in its principles, but it dropped all the new machinery which alone gave reality to good intentions.[99]

Elton is certainly correct to note that the 1536 Act resembles this draft quite closely at certain points. For instance, article VI of the 1536 Act on apprenticing children into the service of a master resembles a corresponding article in the draft. Does this mean that the draft 'influenced' the Act that was eventually passed as Elton suggests? I do not believe so. The question that must be asked here is not just what phrases are common to both documents but rather how do those same phrases function within each document? Another way of tackling the problem would be to ask why certain phrases were adopted and not others? The article on apprenticing children exists within a specific discursive field, governed by a particular series of established practices related to the suppression of vagrancy and begging. It is clear from the exposition given by Elton that the articles in the draft on apprenticing children exist within a different field of objects. If the Act did indeed adopt a particular phrasing, it did so because that phrasing was in some way congruent with the discursive practices that governed its creation. Furthermore, Elton is in error to state that the 1536 Act adopted the principles but not the machinery of the draft. The Act adopted neither. How it could it, when both are products of very different discourses?

To summarize: the year 1536 witnessed a unique – indeed, radical – draft presented to parliament for poor relief. It was rejected almost immediately. In its place,

[99] *Ibid.*, 150.

parliament passed an Act that has some superficial similarities to the draft, but in fact strongly resembled the Act of 1531. The 1536 Act is situated within the same series of relationships as its predecessor. Its objects – vagrant, beggar, ruffler, apprentice – emerge within a similar discourse of illegality and criminality. Perhaps the largest difference between the two Acts is that the latter is more *extensive* than its predecessor in pursuing its stated objectives of suppressing begging and vagrancy (e.g. banning indiscriminate alms-giving, apprenticing children, providing labour in the parish).

One last point on the 1536 Act must be made. Elton states that the Act inaugurated the real era of poor relief. But that statement has to be modified in light of the fact that the Act may never have been in effect. The Act was to be renewed in the following June session, but that appears not to have been done. Instead it seems that the House of Lords refused to pass a Continuance bill, which included both the 1531 and 1536 Act, until the 1536 Act was removed.[100] Furthermore, it seems that the government never tried to renew the Act. Elton suggests two possibilities for this sequence of events. First, the Lords feared that the 1536 Act would be a prelude to some of the more onerous provisions of the original draft such as the income tax. And second, Cromwell never pushed for a renewal because he intended at some later date to present the rejected draft to parliament.[101] Both suggestions are based on shrewd, but unsubstantiated, deductions. So it would seem that between 1531 and 1547 there was only one poor law in effect (22° Hen. VIII. c.12). Although given that many justices seem to have operated in a continual state of statutory misinformation, it might well be that some officials enforced the 1536 Act and were ignorant that it had lapsed. But since the 1536 Act resembles so closely the

[100] Elton, *Reform and Renewal*, 124-25.
[101] *Ibid.*, 125-26.

1531 Act, it hardly seems to matter which one parliament (or the justices for that matter) chose to endorse and execute.

Certainly the enforcement of statutes posed a major challenge for Tudor lawmakers and this is reflected not only in continuance Acts but also in proclamations. A significant minority of proclamations were concerned with enforcing statutes that were still on the books. Proclamations were issued enforcing laws against vagabonds and beggars in 1517, 1527, 1531 and 1546.[102] The 1531 proclamation is particularly interesting since it was proclaimed to enforce an Act that had only just been passed three months prior. It may well be that the legislative strategy of the government, when they were serious about a problem, was to issue proclamations in conjunction with statutes to ensure maximum enforcement. Although proclamations could sometimes include novel instructions such as that published in 1541,[103] which ordered all vagabonds to leave the court, and in 1545,[104] which ordered vagabonds to the galleys. The latter ordered

> For reformation whereof, like as his most royal majesty hath thought convenient and doth determine to use and employ all such ruffians, vagabonds, masterless men, common players, and evil-disposed persons to serve his majesty and his realm in these his wars in certain galleys, and other like vessels which his majesty's highness intends to arm forth against his enemies before the first of June next coming.

There were too many idle people about in London and the king needed people in his galleys. Two problems could thus be solved with the same piece of legislation.

---

[102] *TRP* 80 'Enforcing Statutes on Apparel, Vagabonds, Laborers,' AC (HM Ellesmere 2655, 11); *TRP* 118 'Prohibiting Grain Engrossing; Enforcing Statutes against Vagabonds, Unlawful,' BM (MS Harl 442, 62); *TRP* 131 'Enforcing Statutes against Beggars and Vagabonds,' *Letters and Papers... Henry VIII* (5, 332); *TRP* 274 'Enforcing Statutes of Sewers, Vagabonds,' BM (MS Harl 442, 181).

[103] *TRP* 204 'Ordering Vagabonds to Leave Court,' Exchequer of the Treasury Receipts, Public Records Office (E36/231/190).

[104] *TRP* 250 'Ordering Vagabonds to the Galleys,' Society of Antiquaries Library (2, 151).

The next major piece of poor law regulation was passed in 1547 ('An Act for the Punishment of Vagabondes and for the Relief of the poore and impotent Parsons.' 1° Edw. VI. c.3) and, according to C.S. Davies, it was the "most savage act in the grim history of English vagrancy legislation, imposing slavery for the refusal to work."[105] Understandably historians, especially those who emphasize Tudor poor law as a precursor to modern social welfare, have had a great deal of difficulty interpreting this particular piece of legislation. Pound referred to it as an "act of unexampled savagery" and Slack as "eccentric."[106] Interest in the Act, however, has usually gone no further than the implications that it may or may not have on the character of Somerset.

The Act itself begins, like its predecessors, with the observation that "idleness and vagrancy is the mother and root of all thefts, robberies and all evil acts and other mischief." The preamble refers to previous attempts to suppress idleness and vagrancy and notes that "it hath not had that success which hath been wished." The next section deserves a full citation:

> But partly by foolish pity and mercy of them which should have seen the said godly laws executed, partly by the perverse nature and long accustomed idleness of the persons given to loitering, the said godly Statutes hitherto hath had small effect, and idle and vagabond persons being unprofitable members of rather enemies of the commonwealth has been suffered to remain and increase and yet so do, who if these should be punished by death, whipping, imprisonment or with other corporal pain it were not without their desserts for the example of others and to the benefit of the commonwealth. Yet if they could be brought to be made profitable and do service it were much to be wished and desired....

[105] 'Slavery and Protector Somerset: The Vagrancy Act', 533.
[106] Pound, 41; Slack, *The English Poor Law*, 69.

The Act thus acknowledges that previous attempts to suppress vagrancy and begging had failed. It then stipulates that all other statutes for the punishment of vagabonds and beggars are to be revoked. With the exception of the lame or the impotent, any person without an income, or without a master or without a job is to be considered a vagabond. If they decline work that is offered to them by a master, they are to be marked by the Justices of the Peace with a 'V' on their breast and the vagrant is to be enslaved to that master for two years. A slave who flees is to be punished by enslavement for life and marked with a 'S'. A second offence is punishable by death. Children of beggars or vagrant children are also to be rounded up and apprenticed to a master "to bring the same child up in some honest labour or occupation till he or she come to the age of twenty years." If a child flees his master, he or she is to be enslaved to that master.

A master had considerable authority over his slaves. He could "let sell bequeath or give the service and labour of such slaves... to whom so ever he will... after such like sort and manner as he may do of any other his movable goods or cattle." Slaves did have some rights since, under a master's authority, a slave was to receive shelter and a daily allotment of food. In addition, any slave that inherited or received property was to be immediately discharged from his servitude.

Execution of the Act naturally fell to the Justices of the Peace and other local officials, who were "bound by virtue of this act not only to inquire of all such idle persons, but also if they do spy any such vagabonds or idle persons or if any such be detected unto them, to examine him or her." Once a person had been identified as 'vagrant' or 'idle' and had been marked by a 'V,' they were to be returned either to their place of birth or to the place in which they had last resided for three years. The convicted

vagrant was to receive a form authorizing him or her to return to that place and turned over to the local constable. The constable would then "safely convey them to the next constable, and so from constables to constables and other head officers until he or she be brought to the place to which he or she had named themselves to be born in." At that place the vagrant was to be handed over to their respective city, town, hamlet or parish, which would be responsible for their servitude. The suggested activity for newly acquired slaves was highway maintenance.

Corporations, however, were not simply responsible for slaves but also for relieving "aged and impotent persons." Those classified as impotent were also to return to the place of their birth where they would become the responsibility of their corporation. Mayors were instructed to make monthly examinations of their local beggars to ensure that each one was begging within the proper jurisdiction. Impotent persons able to work were to be found work by their corporation; those impotent who declined work were to be beaten. With the exception of voluntary alms given at church, the Act does not make mention of the financial mechanisms necessary to carry out such a scheme.

Unlike previous bills, we know a little more about the passage of this Act from a few details provided by the *Lords Journal*. It appears that four separate vagrancy bills were submitted for consideration in 1547: three in November and one in December. Out of these four, a bill quickly emerged that was passed into law by the end of the month. Although why the vagrancy issue was felt to be particularly acute in 1547 as opposed to any other year is something of a mystery. The harvest of that year was particularly good, although it followed on the heels of an especially poor harvest from the preceding year. It may also be that there were large numbers of discharged soldiers and sailors from Henry

VIII's last war in London and throughout southern England. These men were notoriously difficult to integrate back into society, since they were not only organized but also possessed weapons training. It was not uncommon for these men to start minor rebellions.

One reason that this Act has not attracted the attention that it deserves is that it was in effect for less than three years. In 1550 ('An Acte towchying the Punyshment of Vacabonds and other ydle Parsons,' 3° & 4° Edw. VI. c.16), parliament repealed the 1547 Act and, among other things, reinstated the 1531 Act (22° Hen. VIII. c.12). Thus given its radical solution to vagrancy and its short lifespan, it has been tempting for historians to view this Act as a legislative aberration. And so the 1547 Act continues to remain an anomalous legal document in the field of Tudor history. The problem is that historians have placed too much emphasis on the label of 'slave,' while simultaneously ignoring its relationship to other objects in the Act.

But first, as a whole what is radical about this Act? Like previous Acts, it ordered all vagrants and beggars to their place of birth, it ordered them to find work, it provided a mechanism to punish those who would not work, it stipulated that children should be apprenticed to a master and it provided for the distribution of voluntary alms to the impotent. All of this was to be accomplished by the administrative apparatus of Tudor society. Again we note that, despite different punishments for vagrancy, officials are to employ the same kind of investigative techniques: searching, examining, recording and licensing. It is indeed radical that the Act stipulates slavery – a near total loss of rights – for vagrants, but that comment needs to be modified in the light of two factors. As I have demonstrated above, vagrants and beggars exist as criminal objects in legislative

discourse. Enslavement exists, like whipping, mutilation and hanging, as a corrective to those crimes. Thus enslavement was a congruent alternative to those other punishments, a solution that was governed by the very same rules of formation.[107] And secondly, despite the onerous loss of rights, slavery in this Act sounds very much like 'forced-apprenticeship.' A conclusion that can be substantiated through two observations. One, the 1547 Act (as in the 1536 Act) stipulates that idle children should be apprenticed to a master. Two, the causes of enslavement (refusal of work) and the primary overseer of a slave (the master) revolve around the same thing: labour.

In general, then, we may conclude from this that slavery and apprenticeship are similar methods of vagrancy suppression – that is both exist in this document as analogous techniques of control. Thus the most radical aspect of this Act is not enslavement *per se* but the forceful emergence of labour as a discursive object. In this context, labour does not refer solely to economic activities (e.g. finding a cheap labour supply), although the preamble to the Act does refer to 'profit.' Rather it refers to a

[107] Davies, while he notes that the 1547 Act had parallels both in other techniques (apprenticeship) and in other Acts (1536), presents an alternative explanation: "Even so the theory of penal servitude [as formulated by Thomas More and Thomas Starkey] is a far cry from enslavement to an individual. But the transition was helped by legal doctrine. The law of villeinage is the key here. Under the influence of Roman law in the twelfth and thirteenth centuries the doctrine had been formulated that there were no degrees of personal unfreedom. Naturally in practice a villein was distinct from a slave; courts themselves softened the doctrine which had excluded serfs from their benefits, until it was held that the villein was free vis-à-vis all men except the lord.... The legal doctrine of serfdom was, then, very strong in the sixteenth century; and the law, failing to distinguish theoretically between serf and slave, facilitated rather than prevented the introduction of a concept of slavery as punishment," 542; although slavery was "an innovation contrary to the Common Law's traditions," it was not to the Civil Law. "Somerset himself, of course, attempted to further the study of the Civil Law in the universities.... Humanists in general tended to favour the Civil Law, as classical and logical, as against the 'Norman barbarities' of the Common Law," 543; "Within the Common Law, the theory of slavery existed [through villeinage], though normally submerged by practical qualifications; it was strong enough to make it possible for Common Lawyers to accept slavery as a solution when, presumably, other measures failed. Its acceptance by the government may have been due to the influence of radical social reformers, humanists and Civil Lawyers who had little respect for the traditions of the Common Law, a considerable interest, legal or otherwise, in the institutions of the ancient world, and an impatience with the practical difficulties of the real world. The passing of the Act becomes in these circumstances readily explicable," 545.

method of suppressing crimes and integrating every person into society. Labour emerges congruently with vagrancy, just as in the 1536 Act.

Why was this Act revoked three years later? For one, the Tudor regime lacked the coercive abilities to enforce it. Vagrants would not only have to be tried, convicted and transferred but also monitored continually. In fact the 1550 Act makes reference to the laws "not being put in due execution." It also refers to the "extremity of some whereof have been occasion that they have not been put in use" – a possible reference to a shortage of prospective masters. It would have been, after all, not only a great deal of work for a Justice to monitor slaves, but also a huge burden for the master. The free labour was probably not worth the expense and trouble of monitoring a potentially dangerous individual who most likely possessed few skills.[108] Thus a combination of inability and unwillingness would seem to explain this short-lived experiment in mass slavery. However, just because the Act was short-lived does not mean that it should be dismissed. After all, it too was a product of the same discursive practices that governed the creation of its predecessors.

Besides, the 1547 Act survived largely intact in the 1550 Act. Slack states that "When it [the 1547 Act] was repealed in 1550 and the elementary provisions of 1531 restored, little was salvaged beyond a clause, like that of 1536, allowing compulsory employment of poor children."[109] But he is incorrect on this point. The 1531 Act (22° Hen. VIII. c.12) was indeed revived but so were a number of other articles from the 1547

[108] "Doubtless, moral scruples could have been overcome if slavery had been practical and profitable. As far as employment of slaves by individuals was concerned, this could hardly be expected. Slave-ownership, after all, involves a specialized technique.... In Tudor England, dealing with a single slave or with a small number, and those taken from social groups who were, by definition, least ready to work, slavery would have been utterly uneconomic; the constant driving, the continual need to check the work done, the impossibility of trusting the slave with anything, the ease of flight and the difficulty of recapture, easily outweigh any advantage that might be gained from 'cheap labour,' *Ibid.*, 548.
[109] *Poverty and Policy*, 122.

Act. The 1550 Act stipulated that "such common labourers being able in body, using loitering and refusing to work... shall be punished as strong and mighty vagabonds." It ordered lame or aged persons, who were able to work, to be employed by their respective parish or town. And it commanded parishes to provide for "aged and impotent persons" unable to work. Rather than saying that the 1550 Act simply reinstated the 1531 Act, it would be more appropriated to say that the 1550 Act was really the 1547 Act minus the clauses on slavery.

To summarize: Edward's short reign produces some remarkable statutes for suppressing vagrancy and begging. Both the 1547 and 1550 Acts are governed, like their predecessors, by discursive relations and practices that create certain objects. Some of these objects are explicitly criminal (e.g. 'vagrant,' 'beggar,' 'idle,' 'slave') while others are explicitly legal (e.g. 'relief,' 'licensed beggar,' 'aged or impotent person,'). The 1547 Act, which was repealed three years later, punished vagrants with enslavement. And yet despite the abandonment of slavery as a punishment, the 1550 Act retained many of the former's clauses and reproduce in a similar pattern the same objects, especially the relationship between labour and crime.

One further point must be made. Poor law history in the Tudor period neither 'progressed' nor 'evolved,' but it did expand considerably by a series of tiny accretions. Throughout the entire mid-century 22° Hen. VIII. c.12 (1531) provided a baseline for this kind of legislation. In 1555, for instance, parliament passed 'An Acte for the Reliefe of the Poore' (2° & 3° Phil. & Mar. c.5), which begins by reaffirming both the 1531 Act and the 1550 Act. The Act itself stipulates that each parish

> having in a register or book as well all the names of the inhabitants and householders as also the names of all such

> impotent persons..., shall elect nominate and appoint yearly two able persons or more to be gatherers and collectors of the charitable alms of the residences of the people inhabiting within the parish whereof they be chosen Collectors for the Relief of the Poore.

These collectors were to collect alms from their neighbours and distribute them "to the said poor and impotent persons" and to "put in such labour" those who were able to do some work. In towns that possessed too many poor for normal relief mechanisms, Justices of the Peace were instructed to license impotent persons to beg. It would be easy to see this Act, which deals only with the relief side of the vagrant/beggar problem, as something distinct from previous Acts. But by affirming the 1531 and 1550 Acts, which embody a whole series of discursive practices (e.g. identification and punishment of vagrants and beggars, punishment for refusal to work, apprenticing children, licensing beggars), this Act firmly positions itself within that series of relationships. Thus the 1555 Act should be properly considered an amendment. In fact, the only new practice that it institutes is the weekly collection of alms by designated collectors – a practice that may already have been widespread in this period.

Likewise Elizabeth's first poor law ('An Acte for the Relief of the Poore,' 5° Eliz. c.3) from 1563 follows this pattern very closely. It affirms the 1531 and 1550 Acts and adds a few details on the collection of voluntary alms. However, collectors were ordered to report those who would not contribute to the local bishop who "shall send for him [the obstinate person] to induce or persuade him by charitable means to extend their charity to the poor." If that failed, the person was to appear before the Justices at the next sessions where he would be, if still obstinate, sent to prison. Naturally, this raises the question of just how 'voluntary' these voluntary alms were supposed to be.

In relation to poor law, the first decade and a half of Elizabeth's reign seems to have been rather tranquil. With the exception of the above Act and a single proclamation ordering vagabonds from court in 1561,[110] there were no more legislative efforts in the field of poor law until 1572 ('An Acte for the Punishement of Vacabonds, and for the Releif of the Poore & Impotent,' 14° Eliz. c.5). Although it is usual to consider the poor laws of 1598 and of 1601 to be *the* 'Poor Law,' substantial parts of that legislation were actually passed during the 1572 parliament. As a result of a wider variety of sources, we know a little more about the passage of this massive piece of legislation than we do of previous ones. The impetus seems to have been the rebellion of 1569. In its wake the government ordered searches for suspicious vagabonds and towns such as York and Norwich introduced new municipal legislation for surveying and directing the poor.[111]

The Act begins with the repeal of the 1531 and the 1550 Acts, which had directed the means of vagrant-control and poor relief for the past two decades to prevent "confusion" (although the 1572 Act actually builds substantially on them). One unique feature is that unlike any other Act this one actually provides a definition for vagabonds, beggars and rogues (considered to be the same thing):

> And for the full expressing what person and persons shall be intended within this branch to be rouges, vagabonds and sturdy beggars, to have and receive the punishment aforesaid for the said lewd manner of life; it is now published and declared... that all and every such person and persons that be or utter themselves to be proctors or procurators, going in or about any country within this realm, without sufficient authority... and all other idle persons... using subtle craft and unlawful games or plays, and some of them saying of themselves to have knowledge of physiognomy, palmistry or other abused sciences...; and all and every person and persons being whole and mighty

[110] *TRP* 430 'Expelling Vagabonds and Idle Persons from Court,' Steele 549.
[111] Slack, *Poverty and Policy*, 124.

> in body and able to labour, having not land or master, nor using any lawful craft... and can give no reckoning how he or she does lawfully get their living; and all fencers, bear wardens, common players, minstrels, jugglers, peddlers, tinkers and petty chapmen [that] shall wander abroad and have not license of two Justices of the Peace...; and all common labourers using loitering and refusing to work for such reasonable wages... and all counterfeiters of licenses passports and all users of the same...; and all scholars of the universities of Oxford and Cambridge...; and all shipmen pretending losses by sea...; and all persons delivered out of jails that beg for their fees or do travel about their county, not having license from two justices of the peace... shall be taken adjudged and deemed a rouges vagabonds and sturdy beggars.

As with its predecessors, one is astounded by the variety of social groups to which this law might apply. There can certainly be no doubt that Tudor poor laws functioned as a legislative dredge that trawled the lower classes of society.

Like previous Acts, this one relies heavily on licensing for its successful execution. For instance, those who "give... any relief to any rogue, vagabond or sturdy beggar, either marked or unmarked, not having such license," would be fined 20 shillings. There were, however, a number of exceptions made for those travelling about the country legally (e.g. mariners, victims of robberies). In theory, then, it should have been impossible for a vagrant or beggar to receive any kind of aid if he bore the mark of punishment (mutilation of the right ear) or failed to produce a license. This applied not only to indiscriminate charity such as almsgiving but also to hospitals, which were instructed to continue their relief efforts except for "anything herein contained to the contrary in anyways not withstanding."

As always, the burden of execution rested on the Justices of the Peace *et al.* Stage one: they and all local officials were ordered "to make diligent search and inquiry of all

aged poor and impotent persons born within their said divisions and limits [groups of hundreds to be patrolled by one or two Justices] or which they were dwelling within three years next before the present parliament, which live or be compelled to live by alms." Stage two: they were ordered to keep the first and last names of the people found in a "Register Book," which would "remain with the said Justices, mayors, bailiffs or other head officers." Stage three: having identified and recorded those who deserved relief, find places for them to abide either within their current parish or in another. Stage four: local officials "shall by their good discretion tax and access all and every the inhabitants, dwelling within their said limits... towards the relief and sustenance of the said poor people. The tax was to be collected, as it had been stipulated in the 1563 Act, by specially designated 'collectors,' who would then dole out the money to those identified as eligible recipients. Furthermore, "overseers of the said poor people" were to be appointed, although for what exact purpose the legislation is unclear. It is probable though, given the context within which the position is mentioned, that their primary duty was to aid in identification and surveillance of the poor. Which brings us to stage five: officials were instructed to "within all and every the said shires in England and Wales in all and every such abiding places within their hundred, limit and precincts as shall be appointed to settle the poor people in, shall once every month next... make a view and search of all the aged, impotent and lame persons within their precincts and jurisdictions." Of course, they were not simply looking for poor people to relieve. Anyone they found, who was not born there or who had not resided there for three years, was to be "conveyed on horseback in cart... to the next constable, and so from constable to constable the most direct way... to his abiding place." There the person was to become the responsibility of

that parish, either for his subsistence or for his employment or punishment. What happened to those who refused to go or who fled? They were to be "accompted a rogue or a vagabond, and to suffer as a rogue or a vagabond." This Act really marks a culmination of a series of administrative practices towards the poor. It erected mechanisms for searching, identifying, classifying, and recording the poor as while as for employing, relieving, moving and punishing them. Moreover, it was intended that observation of the poor should be a constant and continual process.

As always, there was more than one way to become a vagabond or rogue. Those who were able to work but did not, "shall be by the overseers of their said abiding place appointed to work, if they refuse then in form aforesaid to be whipped and stocked." Punishments for vagabonds and beggars were hardly different. A person "being above the age of fourteen," who was caught begging, was to be committed to a jail. He or she would then be delivered to the next quarter sessions, at the expense of the parish where the beggar had been arrested, and tried before the Justices as a vagabond. If convicted, he or she was "to be grievously whipped and burnt through the gristle of the right ear with a hot iron." The exception to this punishment was the intervention of an "honest householder" to take the convicted person into service for one year. A second offence resulted in conviction as a felon, unless once again an "honest" person was willing to take the convict into their service. The law was a little softer on rogues under the age of fourteen; they were only to be placed in the stocks. Afterwards, they were probably apprenticed to a master, like other children of beggars between the ages of five and fourteen.

To ensure compliance at all levels of administration, the legislation establishes an elaborate series of fines for non-compliance. Collectors who "refused the said office" or who neglected could be fined 40 shillings. Moreover, constables who refused to fine collectors for neglect could be sued for five pounds. They could also be fined 6 shillings and 8 pennies for failing to apprehend a vagabond in their town or parish. Overseers who refused the post could be fined 10 shillings. Justices who failed in their stipulated duties could be fined five pounds (half of which would go to poor relief) by an assize judge at a General Sessions. And of course those who "refused to give towards the help and relief of the said poor people" might find themselves in the local jail. One feature of these kinds of practices is that they affect not only those who are the object of them, but also bind their practitioners.

As a result of the survival of a few diaries of the period, we have a handful of tantalizing snippets of the debate that took place on this bill.[112] The bill, which had originated in the Lords, was first read in the House on May 20, 1572. The diary of Thomas Cromwell relates the first reading.[113] One member, Mr. Sampole, tried to amend the Act because "Rogues generally appointed to prison without bail, which he thought not reasonable, considering there is diversity of rogues. Small felons may be bailed, but not greater." Another member, Mr. St John, complained that rogues were building cottages on commons and asked for an amendment that new cottages must have three or four acres attached. The treasurer complained that "The bill the rather to be liked, because the last parliament [1571] it went from us [to the Lords], and is now returned to us by the Lords. This ridiculous jesting he liketh not in the House." Mr Sackford thought that Justices

[112] T.E. Hartley, ed., *Proceedings in the Parliaments of Elizabeth I: 1558-1581*, vol. 1. (London: Leicester UP, 1982).
[113] *Ibid.*, 366-67.

already "have sufficient authority" but was willing to support the bill anyway. Sergeant Loveles stated that

> Of all people vagabonds are the worst. Impiety to give them anything. They have such devices to deceive men, and their clamours be so great, as it moves many to pity them, and yet most of them are none other than thieves.

Apparently one issue that aroused the great protest was the inclusion of minstrels in the definition of a vagabond. According to Fulk Onslow's journal:

> Sir Francis Knowles made report how he with others had travelled in reforming part of this bill against vagabonds, which was read, wherein in the new alteration of these words "minstrels," whether they should be contained within the said bill or not, great argument rose.... In the end it was agreed by the more number they should be within the bill so the House broke up.[114]

Certainly one characteristic of the debate is that it was varied. No doubt much more was said that has been lost to us. But the diaries do reveal a plethora of opinions, some of which are expected (rogues are thieves) and some which are unexpected (Justices already have sufficient authority). It may be that both diaries record somewhat insubstantial comments because there was general agreement in the House on the main provisions of the bill.

In the previous year, however, the same bill, which had been passed by the House but rejected by the Lords, stirred more interesting debate. A Mr Saunders "endeavoured to prove this law for beggars to be over sharp and bloody" and that with "some travail had by the Justices to relieve every man at his own house and to stay them from wondering."[115] The treasurer stated that he would like a "Bridewell in every town." Dr. Wilson, the Master of the Requests, "argued thus, that poor of necessity we must have,

---

[114] *Ibid.*, 312-13.
[115] *Ibid.*, 219.

for so Christ hath given until his latter coming; and as that is true, so said he also that beggars by God's word might not be among his people, *ne sit mendicus inter vos*." Certainly old habits and beliefs on the value of almsgiving died hard in the sixteenth-century, which partly explains the resistance to forced collections for the poor.

Four years later, Elizabethan legislators were amending the 1572 Act in some rather novel ways ('An Acte for the setting of the Poore on Worke, and for the avoyding of Ydlenes,' 18° Eliz. c.3). The preamble states that the Act is for "some better explanation and for some needful additions to the statute concerning the punishment of vagabonds and the relief of the poor." The first deficiency to be dealt with was bastardy – a problem hitherto not mentioned in this context. The Act states that bastard children are a "great burden of the same parish and in defrauding of the relief of the impotent and aged true poor of the same parish and to the evil example and encouragement of lewd behaviour." Justices were ordered to charge the mother and the reputed father "with the payment of money weekly" for the maintenance of the child.

The most important article of the Act dealt with employing the poor who were able and willing to work, but who could not find employment in their parish. Previous Acts had stipulated that parishes were to employ their able-bodied poor as a means of relief. But it must have been the case in many parishes that it was simply easier for the local official to give a cash dole as opposed to going to the trouble of finding work for the poor person. However, it was the opinion of the legislators that "youth maybe accustomed and brought up in labour and work, and then like to grow to be idle rogues, and to the extent also that such as be already grown up in idleness and so rogues at this present, may not have any just excuse in saying that they cannot get any service or work."

Thus employment emerges here, as elsewhere, as a technique for poor control both positively (moral reform) and negatively (vagrant suppression). To that end, parliament stipulated that "in every city and town corporation within this realm, a competent store and stock of wool, hemp, flax, iron or other stuff... shall be provided." The same was also to be done in the counties. The purpose was clear: under the direction of the appropriate officer, who was to manage the store, any poor person unable to find work could use the resources productively. The refined products would still be the property of the town or parish, but the person would receive a payment from the official in charge of the stocks.

What happened to those who refused this labour? The Act is clear that for those who refused work and for those whom "the minister and churchwardens of the parish and collectors and governors of the poor, or the more part of them shall think the same person not meet to have any such work delivered" (i.e. their character was judged not capable of this kind of program) should be sent to a house of correction. The houses of correction were the other major innovation in this statute. Every town and county was ordered to erect one or two within their jurisdictions. They were to be governed by a kind of overseer "called a censor or warden" and financed by local taxes. Each one "shall be provided... [with] stock and store and the implements to be in like sort also provided for setting on work and punishing." These houses, then, were to be governed by the practices of labour and punishment, which is hardly surprising since these are the practices that emerge everywhere in Tudor poor law. We might say that these houses represented a kind of discursive distillation of poor law practices.[116]

[116] A discussion of these houses, bridewells and assorted innovations is reserved for the next chapter.

The 1576 amendment was to be the last major innovation in Tudor poor law until the crisis years of 1594-8 prompted government action. The 1572 and 1576 Acts were continued in 1584, 1586, 1588 and 1593. The 1593 Act ('An Acte for Contin of diverse Statutes' 35° Eliz. c.7) even softened some of the penalties on vagabonds by forbidding boring through the ear and conviction as a felon. It instructed instead that vagabonds and sturdy beggars should be whipped as per 22° Hen. VIII c.12 (1531). That two decades should pass before parliament took up the issue again is not surprising. Vagrants and poor relief were very much a secondary issue in Tudor England and times were relatively good during much of Elizabeth's reign.

That is not to say that the issue prompted no action in the latter half of Elizabeth's reign.[117] The government was forced to act in 1589 after the failed expedition to Portugal. Returning soldiers were disbanded in southern England and allowed to keep their weapons and uniforms, which they were supposed to sell as reimbursement for outstanding wages owed. Most of these men found their way to London where approximately five hundred threatened to loot Bartholomew Fair. It took two thousand London militiamen to disperse them.[118] In response a proclamation was issued in November of that year commanding "mayors and other principal officers in corporate towns, and the justices of the peace in the several counties, shall, upon the repair unto them of any the said soldiers, mariners, vagrant persons, and masterless men, deliver unto them passports... for their repair to the place where they were born or last resident,

[117] "The royal proclamations against vagabonds fall into two distinct categories. One series enforced the statute of 1572, allowing a few days grace period for rogues and masterless men to leave London before the full rigour of the law would be invoked. The others, issued in the years 1589-98, were of primary importance in the government's attempts to meet the problems which followed on the demobilization of returning soldiers," Youngs, 73-4.
[118] Pound, 4-5.

according to the said statute [14° Eliz. c.5, 1572]."[119] It also ordered officials to ensure that "masters with whom the said persons have last served shall receive them again into their service" and that parishes should supply relief to these returning men. The situation was dealt with by treating these soldiers as vagrants, which then made them the object of certain discursive relationships and practices. Or rather we should say that these discursive practices dictated their identification as 'vagrants' and thus the form of the treatment that these soldiers eventually received.

Early in 1594, the government acted again by issuing another proclamation, ostensibly because the Justices were being lax in their duties.[120] Therefore "her majesty straightly commandeth all justices and officers to have better regard hereto and to appoint upon certain days in the week monthly watches and privy searches in places needful, and thereby to attach and imprison such idle vagabonds, and to send the lame and maimed into their countries according to the statute [14° Eliz. c.5, 1572]." The proclamation was also concerned with "a great multitude of wandering persons... whereof some are men of Ireland" and thus probably up to no good. So "no manner of person born in Ireland except he be a householder known in some town... shall remain in this realm... upon pain of imprisonment and punishment as a vagrant."

On the heels of the most disastrous harvests in living memory, parliament did pass two Acts in 1598 for relieving the poor and punishing vagrants ('An Acte for the Reliefe of the Poore,' 39° Eliz. c.3; 'An Acte for punyshment of Rogues, Vagabonds and Sturdy Beggars,' 39° Eliz. c.4). Despite the fact that parliament chose to pass two Acts instead of

[119] *TRP* 716 'Placing Vagrant Soldiers under Martial Law,' LJ (22, 345*v*).
[120] *TRP* 762 'Ordering Arrest of Vagabonds, Deportation of Irishmen,' State Papers Domestic, Public Records Office (12/247/66).

one, they are still a part of the same discourse. Both of these build substantially on the 1572 and 1576 Acts. In the first Act, four overseers of the poor were appointed annually to each parish under the authority of two Justices of the Peace. Overseers were

> for setting to work of children... whose parents shall not by the said persons be thought able to keep and maintain their children, and also all such married or unmarried as having no means to maintain them, use no ordinary and daily trade of life to get their living by; and also to raise weekly or otherwise (by taxation of every inhabitants and every occupier of land in the said parish in such competent sums of money as they shall think fit) a convenient stock of flax, hemp, wool, thread and iron and other necessary ware and stuff to set the poor on works, and also competent sums of money for and towards the necessary relief of the lame, impotent, old, blind and other such among them being poor and not able to work, and also for the putting out of such children to be apprentices.

Thus one of the major innovations of this Act would seem to have been that the position of overseer had now become the locus of Tudor discursive practices. Under the express supervision of two justices, the overseer had the authority to raise taxes and distribute them (i.e. they were now do the task formerly given to collectors) and, furthermore, he was responsible for apprenticing children to masters and for employing those able to work with constructive tasks. Overseers were obliged in conjunction with the Justices to remand into the custody of a house of correction anyone "as shall not employ themselves to work." But the Act had more wide-ranging consequences. Parishes, for instance, were obliged not only to help neighbouring parishes with their relief work, but they could be held liable for the funds required to maintain any prisoner in jail belonging to their corporation.

The second Act for punishing vagabonds follows, like its sister-Act, the 1572 and 1576 statutes. It begins with a command for Justices to erect in their counties houses of

correction "for the doing and performing whereof, and for the providing of stocks of money and all other things necessary for the same, and for raising and governing of the same, and for correction and punishment of offenders thither to be committed." It also repeated (almost verbatim) the definition of a vagabond from the 1572 Act. It included a fairly extensive list of peoples such as scholars, sailors, players and minstrels. Vagrants and beggars "shall be openly whipped until his or her body be bloody" and sent to the parish of his or her birth. Vagrants thought to be especially dangerous and "such as will not be reformed of their roguish kind of life" were to be placed in a house of correction or a jail until the next Quarter Sessions. There the vagrant could face banishment from the realm (to where the Act does not specify) or imprisonment on a galley. All proceeds from fines garnered from negligent officials were to be forwarded to local houses of correction for their maintenance. One novel administrative refinement is an article that stipulates that the Lord Chancellor has the right to establish, at any time, a commission of inquiry to investigate the accounts of any house of correction – a possible indication that the government was worried about abuses.

The final poor relief Act of Elizabeth's reign was 'An Acte for the Releife of the Poore' (43° Eliz. c.2). With the exception of stipulating two overseers for each parish (instead of four) and a few minor procedural refinements, it added almost nothing new. Which raises the question of why historians have chosen to focus their attention so much on the 1598 and 1601 legislation? After all, the discursive practices that governed their creation were the same as those that created previous Tudor poor laws. A few reasons suggest themselves. The first is that because the 1598 and 1601 Acts were passed at the end of the Tudor period, it has simply been more convenient for historians to use them as

a 'starting-point' for their studies of Stuart and Hanoverian poor law. Another explanation is that because these Acts were passed after an especially devastating series of harvests, that they are presumed to represent the best legislative efforts of the Tudors to tackle social problems such as vagrancy and relief. In one sense, then, the scale of the 1594-8 crisis has cast an aura over the poor law legislation that succeeded it, despite the fact that these Acts add almost nothing new and faithfully embody the discursive practices of the previous seventy-five years of Tudor governance.

IV Local Administration

This chapter will continue the 'excavation' begun in the previous section, but with slightly different materials such as journal entries, handbooks and census-records. The first part will outline the offices charged with carrying out the duties stipulated by statute. The second section presents a brief overview of houses of correction, which were one of the more novel developments of the century.

Justices of the Peace and Overseers of the Poor

The administration of Tudor acts and proclamations was nearly always enforced through the machinery of local government. Unlike a modern state, the Tudor regime lacked the coercive abilities to enforce its statutes by fiat. However, Tudor Kings and Queens employed a variety of political, economic and cultural tools that allowed them to exercise effective power over their subjects. These methods included doctrines of authority, cultural and religious symbols, courts of law (e.g. parliament, assize courts, county benches, King's Bench, Starchamber) and patronage, an activity at which Tudor ministers excelled.[121] Successful enforcement of any statute throughout any county meant ensuring some degree of compliance from local officials. Most of all it meant ensuring the compliance of each county's Justices of the Peace.

Justices of the Peace were the lynchpin of Elizabethan government and administration in the counties.[122] While there were certainly other local officials that the central regime might call on such as sheriffs and mayors, it was ultimately the Justice of the Peace upon which the regime primarily depended. Justices were appointed by the

[121] See Williams, *Tudor Regime*, Chap. IX.
[122] See Smith, *County and Court*, Chap. V.

Privy Council and were usually drawn from the ranks of the local gentry. Sometimes local lawyers or wealthy merchants might be appointed and often the Privy Council would appoint members to the county bench who were not from that county. County administration typically revolved around six annual gatherings: the biannual assizes and the quarterly sessions of the peace. Twice a year twelve judges (two for each of England's six circuits) were sent out from London to preside over felony charges in the counties and, among other things, to keep tabs on local Justices.[123] Quarter sessions, on the other hand, were strictly the affair of local officials. There a grand jury would listen to indictments brought by Justices (to decide if there was grounds for trial) and make presentments (to draw the bench's attention to any relevant county issue). Those indictments that went forward would then be judged by a petty jury and punishment meted out by the Justices.

One of the best-known Justices of his time was William Lambarde (d. 1601), a gentleman from Kent, who published a series of his charges to the juries. Between 1580 and 1588, Lambarde kept a semi-regular journal of the duties he executed while he was in office.[124] Most of the entries included actions taken in conjunction with his father-in-law, George Moulton, another Justice of the Peace. Although it is not explicit from the journal, it appears that Lambarde and his father-in-law were responsible for a 'division' or 'limit,' an administrative unit that is mentioned in the 1572 Act. Divisions were a series of hundreds grouped together and which were usually overseen by a pair of Justices. Lambarde's *Ephemeris* contains diverse, albeit brief, references to routine

[123] See J.S. Cockburn, *A History of English Assizes: 1558-1714* (Cambridge: Cambridge UP, 1972).
[124] 'An Ephemeris of the Certifiable Causes of the Peace, from June, 1580 till September, 1588, 30 Elizabethae Reginae.' Conyers Read, ed., *William Lambarde and Local Government.*

administrative matters such as alehouses, bastardy and crime. Poor relief itself is never explicitly mentioned but there are a handful of references to houses of corrections.

On August 20 1583, Lambarde and his father-in-law sent "to the house of correction at Maidstone Marie Grafton for refusing to serve according to her covenant."[125] On December 24 of the same year, they ordered Margaret Dutton and Abigail Sherwood each to be whipped and conveyed to a house of correction for bearing bastard children. The reputed father of Sherwood's child, however, was sent to an ecclesiastical court for trial since Sherwood had "confessed herself to have been carnally known of many men."[126] In the subsequent March [1584], Sherwood was released from the house of correction, but only after Lambarde was assured by William Poldishe, a painter, and Michael Colgate, a fletcher, "that she should presently be taken into honest service."[127] Margaret Dutton was not as fortunate; she had to wait until July before an employer was willing to take her into service for a year. In December 1584, Lambarde sent Jane Cowper to the house of correction "at the complaint of the better sort of the parish."[128] The substance of the complaint was not recorded. In October 1585, a man named John Mansell was sent to a house of correction for begetting a bastard with a widow. Edward Long was remanded to a house of correction "for offering fear to such as dwelt alone."[129] This may mean that Long threatened a person who lived alone but unfortunately Lambarde does not elaborate on this further. Margery White was sent to a house of correction in April 1586, both "for a bastard child and for refusing to work."[130]

---

[125] *Ibid.*, 30.
[126] *Ibid.*, 31.
[127] *Ibid.*, 32.
[128] *Ibid.*, 36.
[129] *Ibid.*, 42.
[130] *Ibid.*, 43.

The last reference made in this notebook was December 3 1587, when he "sent to a house of correction Thomas Bachelor and David Smith of this shire, wandering minstrels, etc., for six days."[131]

Two questions present themselves. First, why are there so few references to the other components of poor law administration? Secondly, what are we to make of the references that are made? As to the first question, we cannot legitimately make inferences about objects and practices that are *not* alluded to. In theory, Lambarde should have been enforcing the 1572 and 1576 Acts, which commanded Justices to oversee a variety of offices such as collectors and overseers as well as activities such as searching, licensing and apprenticing. It could be that Lambarde never bothered himself with the minutiae of poor law administration. It also could be that he was indeed involved in directing collectors and overseers, but never recorded the details. Finally, it is possible that the only components of the poor law that were being enforced in Kent in the 1580s were precisely those that revolved around the house of correction.

Houses of correction had been mandated by the 1576 Act for those who either refused work or were judged incapable of it. And, indeed, there are two incidents in which Lambarde ordered women to a house of correction for refusing to work. But all other references about those he sent to a house of correction have no apparent legal basis, at least not by the legislation of the 1576 Act. He sent two wandering minstrels there in 1587. In fact, he ought to have whipped them and then had them conveyed by the constables in each parish to the place of their birth where they would be employed or imprisoned by their respective corporations.[132] Yet that might be an expensive endeavour

---

[131] *Ibid.*, 49.

[132] This assumes that these "wandering" minstrels were not actually residents of this community.

and the house of correction was probably a more convenient punishment. This conclusion is strengthened by the fact that Lambarde deliberately sent them there for a short and definite period of time, whereas the others seem to have been sent for an indefinite period of time. Another was sent there for "giving fear," but this was almost certainly a misdemeanour that should have been settled either by fine or by jail. Yet most strikingly, the majority of those sent were women whose transgression was bearing bastard children. Bastardy and houses of correction emerge together for the first time in the 1576 Act. It is clear that both inhabit the same discursive field. But the degree to which the two might intermingle is not clear from the statute. The Act stipulated that both parents should provide for bastard children, while houses of correction are legislated for vagrants, beggars and others who refused to work. Lambarde, however, routinely uses the house of correction as a punishment for women bearing bastard children. In one sense, the practices of punishment have mutated. But this should not really be surprising. I have already demonstrated that the poor law had the potential to 'trawl' many different sectors of society because the same discursive formations ordered them in particular ways. It was only a small step to apply a practice meant for one object to that of another. In fact, this is exactly what occurred in yet another instance of legislation imitating life. In 1610, parliament passed a bill that stipulated exactly such a punishment for "lewd women" (7° Jac. c.4). They were "to be committed to the said House of Correction as aforesaid, and there to remain until she can put in good sureties for her good behaviour, not to offend so again." Likewise the same statute stated that mothers and fathers who abandon their families "shall be taken and deemed incorrigible rogues, and endure the pains of incorrigible rogues."

Michael Dalton's *The Country Justice* (1619), essentially a 'handbook' for Justices of the Peace, provides some more insight into poor law administration.[133] Dalton discusses in separate sections both the 'Poore' and 'Rogues and Vagabonds.' Many of the practices he stipulates for Justices are distilled from statutes, especially those of 1598 and 1601. Justices are to supervise the work of churchwardens and overseers in the execution of their duties (e.g. taxing, distributing alms, apprenticing children). Dalton also provides a brief sketch of the three kinds of poor who deserve (or do not deserve) relief. The first was the "poor by impotency," which includes the aged, the fatherless infant and the physically or mentally infirm.[134] The second category was the "poor by casualty," which includes the maimed soldier, the householder who has been robbed and the poor man "overcharged by children."[135] The last category was the "thriftless poor," which includes the drunkard, the dissolute, the slothful and the vagabond. Dalton believes that "for all these last, the house of correction, or common gaol is fittest."[136]

The daily administration of poor law, however, was devolved through the Justices of the Peace to constables and, after 1572, to overseers of the poor. The constables (headboroughs, tithingmen, or borsholders depending on the jurisdiction) were major local officials both in the Middle Ages and in Tudor England.[137] They were traditionally appointed by each village and were generally men of some substance and reputation in their communities. One of their primary duties was law enforcement, which was often executed in close association with Justices of the Peace. They had some flexibility in

---

[133] *The Country Justice*, ed., P.R. Glazebrook (1619; London: Professional Books, 1973).
[134] *Ibid.*, 87.
[135] *Ibid.*
[136] *Ibid.*
[137] On constables see Joan Kent, *The English Village Constable, 1580-1642* (Oxford: Clarendon P, 1986) Chap. 2 & 3.

dealing with misdemeanours but "were very much the servants of higher officials, and particularly the justices of the peace."[138] Constables also formed a link between Justices and the local churchwarden and overseers of the poor whom they were obliged to bring annually before the Justices so that they might render accounts. Statutes had given the constable authority to whip vagrants and illegal beggars and then send them on their way. As the century progressed, constables were saddled with more and more duties related to poor law administration such as supervision of collectors and overseers.

The anonymous author of *An Ease for Overseers of the Poore* described an overseer as "he which has the charge of employing by work, relieving by money, and ordering by discretion, the defects of the poor."[139] According to this manual, overseers should be substantial men in their community, diligent, wise and respected. The *Ease* states that the office of an overseer "extends far, but it consists specially in taxing contributions for the relief of the poor, and in the discreet disposition and ordering thereof."[140] Furthermore, taxes were raised for three purposes: "a stock to set the poor on work, the relief of the impotent and the putting of forth of apprentices."[141] But the author indicates that an important preliminary step must first be taken:

> The multitude of the poor must be reduced to number: for in some places they be very few, in many places they swarm, and therefore as no martialist can make proportional provision for war without a just stock must be ordered according to the multitude of the poor, for which cause the statute enjoins a book of record to be kept, that the names, numbers, and necessities of the poor may be seen and considered with the charge.[142]

---

[138] *Ibid.*, 25-6.
[139] *An ease for overseers of the poore: abstracted from the statutes, allowed by practise, and now reduced into forme, as a necessarie directorie for imploying, releeuing, and ordering of the poore* (London: 1601).
[140] *Ibid.*, 14.
[141] *Ibid.*, 16.
[142] *Ibid.*, 17.

Fortunately for contemporary readers (and for historians), the author provided 'A ready form for a speedy inspection of the poor.' The form itself is a dichotomous table that consists of twelve columns. Anyone who was deemed "chargeable and burdenous" should have eventually found their names listed on such a table. In addition to names, the table includes other information that the overseer needed to collect: residence, age, defect, occupation, weekly income, employer, dependences, weekly allowance (if any), and licenses. For instance, the table (filled out with fictitious names) tells us that Joan lives in the east ward, is nineteen years of age, knits, earns 8d. per week, works for W. True, is fit for service to John Gott, has no dependents and has a weekly allowance of 10d. per week. Census of the poor had, in fact, already been carried out. The largest was the one conducted in Norwich in 1570, but there were others.

In Ipswich in 1597, a table similar to that presented in the *Ease* was employed by local officials to count and classify the poor.[143] It records by parish: name, condition, age, employment, wage, wants and their children's ages and employment. In the parish of St. Matthew's, for instance, local officials recorded the names of Sam Sterie and his wife, both able.[144] He was forty-seven years old and a painter who earned 2s. 6d. per week. His wife was thirty-eight and a rock spinner who earned 4d. They had four children ages eleven, eight, five and two. The two oldest were both spinners earning a total of 7d. They needed fire, clothing for the children and relief. Also resident in St. Matthews was an able-bodied man named William Wilbie. The local officials recorded in the column of 'Wants': "discipline for him and relief for the rest."[145] Although the census does not

[143] John Webb, ed., *Poor Relief in Elizabethan Ipswich*, (Ipswich: Suffolk Records Society, 1966) 119-140.
[144] *Ibid.*, 129.
[145] *Ibid.*, 130.

elaborate on the exact meaning of 'discipline,' we can infer from context that it is a probable reference to a house of correction. Hence the Ipswich census simultaneously identifies individuals for both relief and punishment.

The *Ease* also provided the reader with precise instructions for setting the poor to work with the 'stocks' (i.e. the raw materials gathered by the overseers such as hemp, wool, iron). Any person or their child who is able to work, but not currently employed, "must be set to work."[146] The author divides this group into four categories: the willing, the wilful, the negligent and the fraudulent. The author urges the prospective overseer to be wary of the last three. The "willing and tractable" were fit to work in their own houses, but

> The wilful and incorrigible must be constrained to work in the house of correction, that by applying labour and punishment to their bodies, their forward natures may be bridled, their evil minds may be bettered, and others terrified by their example.[147]

Work for the willing was to be given based on a number of criteria such as sex, physical condition and skill set. The overseer had a difficult job ahead of him "for most are so by nature given to ease, that it is as hard to bring their bodies to labour, as the ox that has not been used to the yoke."[148] The program of voluntary labour required the constant vigilance of the overseer; he had to ensure not only the utilization of the stocks but also that the poor person himself was 'utilized' properly. Labour emerges here (as it does in the 1547, 1550 and 1572 Acts) as the natural corrective to idleness and, thus, to such objects as vagrants and beggars.

---

[146] *Ease*, 18.
[147] *Ibid.*, 19.
[148] *Ibid.*, 20.

Another important duty recognized by the author was apprenticing the children of poor persons. In this matter, the overseer had to keep in mind three characteristics: inclination, placing, and necessity. The author stated that "as a twig will best bend when it is green, so children are fittest to be bound when they are young."[149] If their children are not trained properly, then "they will have wandering and unstayed bodies, which will sooner be disposed to vagrancy than activity, to idleness than to work."[150] Prospective masters, of course, should themselves possess good characters (i.e. they possess honesty, faculty, ability). Finally, as a general rule, if a child is able to earn an income (no matter how small) for the family, then that child should not normally be removed. The *Ease* concluded with a series of admonitions for the prospective overseer. He should not be too hard, but neither should he be too lenient "for where the officer has not a countenance mixed with some authority the poor will presume too much of liberty."[151]

A topic that is mentioned in only a few places, and then only briefly, is the treatment of vagrants and beggars. Should we assume, then, that the archetypical overseer never dealt with them or that they form part of a separate discourse? Fortunately, from other sources we know that the corollary to all these searches was not just the identification and observation of the poor, but also the identification and punishment of vagrants and beggars. Thus the census taking – the continual searching and surveillance of the poor – cut both ways because it identified those whose character or situation warranted either 'relief' or 'discipline' (to borrow the terms used by the census-takers of Ipswich). In general, it seems that the relief side fell within the jurisdiction of the overseer and churchwarden and the punitive side within that of the constable and Justice.

---

[149] *Ibid.*, 27.
[150] *Ibid.*
[151] *Ibid.*, 28.

Certainly the 'dividing' feature of this particular practice emerges at other points. After all, anyone who proved himself incapable of labouring to the satisfaction of the overseer might find himself in a house of correction. It is this constant and continual process of surveillance and evaluation that was the most notable practice of overseers.

Houses of Correction

In 1552, the council of London sent a suit to the King for his palace at Bridewell.[152] The royal palace had been built by Henry VIII in 1522 for a visit by the Emperor Charles V, but since that time it had fallen into decay. The suit, itself, is essentially a 'business plan' for the refurbishing of the palace into a new kind of urban hospital. The suit provides details on its purpose, on its administration and on its financial base. It begins with the observation:

> And first, may it please your honors to understand, that it was too evident to all men that beggary and thievery did abound. And we remembering how many statutes from time to time have been made for their redress of the same, and little amendment hath hitherto followed, thought to search the cause hereof, and after due examination had, we evidently perceived that the cause of all this misery and begging was idleness: and the mean and remedy to cure the same must be by its contrary, which is labour. And it hath been a speech of used of all men, unto the idle, work! work! even as though they would have said, the mean to reform beggary is to fall to work.[153]

As in the national legislation, we see certain patterns of objects. Beggars are associated with thieves, both of which are associated with idleness. In fact, the entire enterprise was justified by the belief that the "present remedy to reform idle life shall be always the

[152] 'Extracts from the Records and Courtbooks of Bridewell Hospital,' *TED*, vol. 2., 306-11.
[153] *Ibid.*, 307.

house of labour and occupations."[154] After long deliberation, the council had identified three groups that should be the focus of the municipality: "the succourless poor child, the sick and impotent, the sturdy vagabond, or idle person."[155] The child should "be harboured, clothed, fed, taught and virtuously trained up."[156] The sick and impotent should be removed from the streets and treated by physicians. For the third group, the council wished to erect a "house of occupation." Within a house of correction, the sturdy and the idle were, upon conviction (supposedly as a vagrant or unauthorized beggar at the quarter sessions), to be set to labour.

This house of occupation was envisioned as a cluster of micro-industries. The suit suggested, for instance, that "the making of caps, which shall be made as good, as well dressed and well dyed, and more substantial than any made in France; and yet afforded at as low a price, or lower, than the French caps are."[157] Other tasks such as spinning and weaving were also mentioned. In part, it was hoped that the profits gained from these ventures would offset the costs of administration. But the primary goal of the suit's authors was to keep the occupants in a state of continual labour. It was hoped that certain "godly citizens will deliver matter in stock, whereof the idle shall be set on work… and thus shall there never lack matter whereon the idle shall be occupied."[158] The hospital was to be administered by thirty men, six aldermen and twenty-four citizens. One of these was to be appointed the treasurer. Ordinary officers were to be hired to "take the charge

[154] *Ibid.*, 311.
[155] *Ibid.*, 307.
[156] *Ibid.*
[157] *Ibid.*, 308.
[158] *Ibid.*, 309.

of every man's task and proportion of work that shall be daily limited and appointed for them to do; and these shall have the power to correct and punish."[159]

But this was not London's first experiment with this new kind of hospital. Bridewell was actually the fifth of five such hospitals established during the 1550s. The previous four hospitals had been erected for the sick and the very poor. Bridewell, on the other hand, was to be a novel departure since its purpose was to inculcate habits associated with labour. But this institution was not unique to London. In other economically-advanced regions such as Holland and northern Germany, similar schemes were being put forth. Thus one modern view of bridewells is that they functioned as a means of producing a pliable labour supply.[160] But as with slavery in the 1547 Act, 'labour' occupies a different place in this document. Profit is mentioned by the authors of the suit only as a means of recouping operating costs and 'production' is measured only by the number of reformed individuals.

Despite the high hopes of the draft's authors, Bridewell and its imitators never really achieved the results desired. As a mechanism for removing non-productive citizens from the streets, it was no doubt successful in its way. By the 1560s, over 400 men and women had been committed and by 1600 approximately 800 persons were sent there

---

[159] *Ibid.*, 310.

[160] Joanna Innes observes that one "line of interpretation is presented in some of the general European literature. Bridewells and similar institutions are suggested to have been instruments of distinctively *capitalist* social policies, the object of such policies being, first, to bring a submissive workforce into existence and, second, to maintain it in a condition of dependence and subordination.... The attractions of such accounts are that they are bold and schematic; that they promise to impose intelligible order on a complex history; and furthermore, that they appear to provide a framework within which developments in numerous different countries can be simultaneously considered and understood.... In every country hovering on the brink of capitalist development, where employers have been seized by the sense that great new opportunities are opening up before them, bridewell institutions might be expected to appear (the story seems to run) to assist in the task of carving a wage-dependent labour force out of recalcitrant human material.... Bridewells were simply the English variant of a standard institutional type," 'Prisons for the poor: English bridewells, 1555-1800,' *Labour, Law and Crime: An historical perspective*, eds., Francis Snyder & Douglas Hay (New York: Tavistock, 1987) 44-45.

annually.[161] But committing persons to a bridewell may have had an outcome opposite to the desires of its founders. Bridewell was supposed to instil the values of labour thereby making inmates more amenable to employment. However, the mere act of bringing someone to Bridewell for investigation could bestow upon that person the stigma of a 'rogue,' which might harm their chances for future employment. Thus Bridewell could function as an institution that reinforced notions of criminality.[162] But Bridewell suffered from other problems. It was chronically under-funded, having no secure endowment. Its governors were sometimes grossly corrupt. In 1602, for instance, it was discovered that some of its officials were operating a brothel out of the hospital.[163] Yet despite these difficulties, Bridewell survived, in various forms, into the twentieth-century.

[161] *Ibid.*, 57.
[162] *Ibid.*, 56.
[163] Edward O'Donoghue, *Bridewell Hospital: Palace, Prison, Schools* (London: John Lane the Bodley Head, 1923) 190-91.

V Conclusion

This concluding chapter consists of two parts. In the first I will attend to some loose ends. Many questions emerged in the preceding sections that I chose not to answer because I felt that they would interrupt the flow of an analysis that had little to do with them. These questions concern the causes of poor law development, enforcement and the place of labour. In the second part I will present a more integrated synthesis of the results of my research with Foucault's theories.

Impetus, Enforcement and Labour

Although this essay is more concerned with the form of action rather than with its impetus, I would be remiss not to offer a few comments on it. It is often difficult, if not impossible, to discern from the internal evidence of a statute or proclamation the reason for its issuance. The preamble of a statute almost always states that incidents of vagrancy and begging "do daily increase." Proclamations almost always complain about lax officials not enforcing statutes. It might well be true that in any given year incidents of vagrancy were increasing and that local officials were not executing the laws. But the constant repetition of these stock phrases should make us wary of accepting those explanations at face value.

Crisis could certainly prompt the government to act quickly, as in 1572 and in 1598, when fear of widespread revolt spurred the central administration into action. In the case of the former, it was the Northern Rebellion of 1569 and, in the case of the latter, it was a grain riot in Oxfordshire in 1596.[164] Certainly authorities in 1598 had other things to fear as well, such as an increased number of vagrants and beggars. This may well have

[164] Slack, *Poverty and Policy*, 126.

been the case in 1531, since there were three bad harvests between 1527-29.[165] But it could equally be the case that the 1531 and 1536 Acts were part of a larger reforming thrust on the part of the government, led by men such as Thomas Cromwell in one of the most politically turbulent decades of the century. Perhaps the greatest mystery is the origin of the 1547 Act that instituted slavery. The most likely explanation is that the new regime and parliament were nervous and that this was aggravated by discharged soldiers from Henry's last war. However, the worst famine of the mid-century (1555-57) prompted no new statutes or proclamations on the topic.

At this point a basic truth of Tudor poor law emerges (if it had not already): *there is precious little connection between poverty and poor law*. Despite all the new practices and objects, poor law never developed as a salve or remedy for poverty *per se*, which would explain why it has been so difficult for historians to tie Tudor poor law to the increasing amount of poverty in this period. The only connection that we can draw between poverty and poor law is an indirect one. Increasing levels of poverty almost certainly meant an increased number of vagrants, beggars, bastard children and other assorted misfits congregating in certain cities and regions, which certainly *did* impel the government to action.

So if poor law was not concerned primarily with poverty, then what was it concerned with? At the beginning of the century, we know that vagrants and beggars were criminal objects of juridical practices. Whatever developments occurred throughout the century, that one fact never changed. As we have seen, this series of relationships and practices spawned new objects of knowledge such as the licensed beggar, the impotent person, the apprentice, and the slave as well as such things as labour, houses of correction

[165] *Ibid.*, 118.

and overseers. In one sense, the history of sixteenth-century poor law is a history of new 'discoveries' about the poor – new ways of associating old objects. But why should this have been so? Why does poor relief emerge in a field of criminal objects? Not just, why these objects? But why this discourse and not another? Why these rules of formation and not others? The answer I offer may be simplistic, but I believe that it is the most accurate. The Henrician Reformation had a deep impact on English society and on poor relief in general. The dissolution of the monasteries was only the most visible act in a series of wide-ranging disruptions to poor relief mechanisms. The result was that secular authorities co-opted an entire area of policy previously administered, either directly or indirectly, by the church. What emerged in its place were the discursive practices associated with criminals such as vagrants and beggars. Nothing is so symbolic of this transformation as the development of 'hospitals,' such as that of Bridewell, into 'houses of correction.'

Does this mean that we should conclude darkly that everything associated with Tudor poor laws was simply about criminality and punitive mechanisms of suppression and control? Yes and no. Poor laws certainly did have morally positive effects. It provided mechanisms to provide relief for those who most needed it and tried to supply work to those who could not find it. We also know that legislators raised objections to penalties considered too harsh. On the other hand, there can be no doubt that poor law was, by and large, about poor *control*. Slavery was obviously the most extreme manifestation of this. But it emerges in commands that all vagrants, beggars, soldiers and able-bodied unemployed return to the parish of their birth, in commands for impotent beggars to be licensed, in commands for children to be apprenticed to masters, in

commands for continual searches, and (most of all) in commands for the erection of houses of correction in which inmates would be subjected to the twin technologies of labour and punishment. It also emerges in the 1589 proclamation that commanded masters to take back into service discharged soldiers. Certainly it seems inappropriate – even grotesque – to refer to Tudor poor law simply as 'welfare.'

Another topic that deserves some attention is the matter of enforcement. To what degree do these laws actually reflect practice? It would be naïve to assume that these laws were enacted uniformly across England at the moment of their promulgation. The vast number of proclamations 'reminding' officials to enforce statutes should alone convince us of that. Northern parishes were especially notorious for their non-compliance with the statutes of 1598 and 1601.[166] In some jurisdictions (London, Kent), poor rates proceeded statutes while in others (Sussex, Lincolnshire) poor rates were only being collected in the 1630s. Furthermore, it seems that it was often convenient to exercise new policies through churchwardens and constables rather than through the new position of overseer.[167] As it turns out, the greatest administrative headache for Justices was the continual appeal for reassessment of rates either by whole parishes or by individual ratepayers.[168] In addition, the 1576 Act had stipulated that every town and county should have a house of correction. Yet, like other directives of Tudor poor law, this one was also enacted piecemeal. London had established five houses in the 1550s; Norwich had one by the end of the 1570s; approximately one quarter of counties had at least one around 1600,

---

[166] "The dilatoriness of northern parishes in particular in appointing overseers was probably a function not only of the relative poverty of ratepayers, but also of the inconvenient size of the parishes themselves.... On the whole, reliance on unwieldy parishes impeded the efficiency of Poor Law administration," Hindle, *The State and Social Change*, 154.
[167] *Ibid.*
[168] *Ibid.*, 156.

including Kent, Hampshire, Shropshire, and Suffolk. However, it was not until the 1630s that nearly every county had one.[169]

I do not mean to suggest, however, that we should view Tudor poor law in terms of the mechanical application of a theory (i.e. parliamentary statutes) to a problem or in terms of 'theory and practice.' That would be antithetical to the very nature of my undertaking. Many poor law historians have been intrigued by the question of whether it was the municipalities or the central government that led the way in poor law innovations. But this is a question posed by a different kind of historical inquiry. The question that should be asked, and never is, is whether these laws are part of the same discursive relation. Do they stipulate and reveal similar relationships and practices? By its very nature, the law is an authorizing agent. But in this case, at least, the formal laws of statutes, of proclamations and of city orders are also 'operational instructions' for the continual procedural refinement of poor relief and punishment. Handbooks for Justices and overseers likewise provide a similar kind of function.

One of the more interesting developments of Tudor poor law history is the emergence of 'labour' as an object of discursive practices in 1547. Labour had been mentioned briefly in the defunct 1536 Act, but it had never been more than an after thought. But after 1547, labour becomes an important technology against vagrancy. Which raises the question: was Tudor society looking for a cheap labour supply? The answer is most likely no. Of all the ways to view labour in this discourse, this may be the least helpful. Sixteenth-century England already had a cheap labour supply and, besides, they had their opportunity in 1547 and had passed on it. Whatever the poor were being organized for, it was neither for production nor profit. Labour in this context seems to

[169] *Ibid.*, 164.

have a few related meanings: first, it is a remedy for idleness and thus for the reformation of character; secondly, the person would no longer have cause to engage in criminal activity; thirdly, it meant that a master or employer was now responsible for that person. Labour referred to a kind of moral productiveness quite apart from any economic value it may have had.

This raises the question of whether labour laws are part of this discourse that I have been describing. Certainly it has been usual to view poor laws and labour laws together. In *The Tudor Regime*, Williams has a chapter entitled 'Poverty, Labour, and Dearth.'[170] He is able to approach the topic in that manner because of his belief that

> the impact of government upon the problem of poverty can only be fully assessed if they are considered alongside the control of wages, the prevention of enclosure and depopulation, and the supply of food. Moreover, a full understanding of the treatment of the poor is impossible unless one also considers municipal schemes and private charity.[171]

The assumption is that poverty presented itself to Tudor legislators as a 'problem' and that all these pieces of legislation form a comprehensive 'social policy' directed against that problem. The question should really be: are these laws subject to similar rules of formation? The most comprehensive labour law of the century was 5° Eliz. c.4, which was passed in 1563. It allowed Justices to set wages within their respective counties and regulated the relationship between master and labourer and master and apprentice. These rules included minimum terms of service (one year), guidelines for hiring and dismissing servants as well as for apprenticing children. There is certainly no doubt that poor law and labour law intersected at several points. After all, the ostensible purpose of all this

---

[170] *Tudor Regime*, 175-215.
[171] *Ibid.*, 177.

searching, recording and classifying was employment, whether it was real (e.g. apprenticing), artificial (e.g. common stocks) or inflicted (e.g. houses of correction). But having acknowledged that, it does seem that the idle person was caught up in a different series of relationships than that of the wage-labourer. The idle person, the vagrant, the beggar and even the unemployed were subject to a distinct series of techniques. They were not only identified but classified, judged (both legally and morally), sometimes relieved and sometimes punished. Taking a structural-functionalist view, one might argue that poor laws and labour laws *function* together to provide Justices with a set of administrative tools. After all, at any given time a majority of the population must have fallen under one set of laws or the other. If a Justice was confronted with a runaway apprentice, then he dealt with that person according to established labour laws. If that same Justice was confronted with a transient, then he dealt with that person by another set of laws relating to relief and punishment. Having delineated these relationships a little more clearly, we can finally come to some sort of conclusion about the mysterious 1547 Act. Its real intention was mass employment, which would shift the burden of all this observing and policing from local governments unto employers.

Poor Law as a Discursive Formation

I have made great claims for Foucault's 'archaeological' method and it is now time to present a synthesis of this discursive formation that I have been describing and analysing at length. Foucault gave us three ways of charting the dispersion of objects.

The first is to map their *surfaces of emergence*. In what social and cultural areas do these objects first appear? 'Vagabond' and 'beggar,' for instance, appeared not only in

city slums but also on the street corner, the hospital, the parish church, the court house and the house of correction. Likewise, 'rogue' appeared in a similar number of areas. As the century progressed, the family and the home became areas in which 'rogue' emerged, along with a host of other objects such as the 'idle person' and the 'impotent person.'

What are the *authorities of delimitation*? The law and the courts were the true authorizing agents in this discourse. If not through the formal mechanisms of prosecution at the quarter sessions, then through the actions of the Justices, constables and (later) the overseers to whom the courts devolved routine decision-making. It was they who possessed the requisite knowledge to distinguish various objects. The church too continued to play some subsidiary role. Although their authority does not stem from any independent juridical status in this matter, it came through the nature of the respected position of vicars and churchwardens in parish governance.

What are the *grids of specification*? How were different systems of objects "divided, contrasted, related, regrouped, classified [and] derived from one another."[172] Dalton for instance distinguished four different kinds of "poor by impotency"[173]: the aged, the infant, the infirm and the sick. Likewise the anonymous author of the *Ease* distinguished between the "wilful and incorrigible" and the "willing and tractable."[174] Thus objects such as 'impotent poor' and the 'poor by casualty' were subject to further subdivisions. One division was physical: how much work can this person do? No work? Some work? Another was moral: was this person capable of performing work? The last is technical: of what kind of work was this person capable? Does he possess skills? If so, how can they be put to use? Sixteenth-century officials were engaged in a massive and

[172] Foucault, *Archaeology of Knowledge*, 42.
[173] Dalton, 87.
[174] *Ease*, 19.

continuous effort to identify, classify and judge their poorer neighbours. But more important were the broader divisions that divide the rogue, the vagrant, the beggar and the idle from the impotent and the unfortunate. Poor law distinguished not only different kinds of impotent persons but also different kinds of legality.

This is not the end of our archaeological project. It is not enough to simply list objects. We must discover what relations existed between them and what allowed them to be true in Tudor society. How was it possible for a census-taker in Ipswich to say that one person wanted discipline while another wanted relief? I have already emphasized the importance of juridical relations in poor law execution and, indeed, I think that they really form the core of a set of relations between authorities and the poor in the sixteenth-century. Justices and constables had for centuries been engaged in the task of policing vagrants and beggars. As the century progressed, these policing relations and practices were gradually extended in novel ways. Certainly, ecclesiastical law recognized a number of different 'poor-related' objects, as did Tudor legislators. But they were organized along different relations, according to different 'rules of formation.' In Tudor England, it was the Justice, the constable and then the overseer who were responsible not only for punishment but also for relief. It is hardly surprising, then, that Tudor poor relief was organized along similar quasi-juridical lines. Punishment, labour and relief emerged as interlocking technologies in the policing and ordering of the poor, which was administered and authorized by related institutions. The creation of an overseer of the poor is the example *par excellence*, since so many poor law practices were concentrated in that position (e.g. observation and recording, collecting and distributing funds, finding work, apprenticing children). Likewise the houses of correction functioned as analogous

institutions in which were concentrated the discursive practices of labour and punishment.

* * *

We are now a long way from where we began. Other studies treated Tudor poor law as a prelude to Stuart and Hanoverian poor law developments. Tudor poor law was fitted into a teleology of welfare, in which developments, or non-developments, were measured against our own ideas of poverty and our own systems of poor relief. This teleology was often accompanied by moral sign-posting; 'good' developments were praised (e.g. the discarded 1536 bill and the 'recognition' of the labouring poor) and 'bad' developments were condemned (e.g. the 1547 act and corporal punishment). By approaching the topic differently, we are now able to see that the sixteenth century witnessed a major transformation in poor relief mechanisms, that these mechanisms were organized very differently than those of the Middle Ages or of the modern period, that these new relationships produced new objects of knowledge and that this 'discursive formation' had many wide-ranging effects, both positive and negative.

Bibliography

Beier, A.L. *The Problem of the Poor in Tudor and Early Stuart England*. Lancaster Pamphlets. London: Methuen, 1983.

-------. *Masterless Men: The Vagrancy Problem in England 1560-1640*. London: Methuen, 1985.

Braddick, Michael J. *The Nerves of State: Taxation and the financing of the English state, 1558-1714*. Manchester: Manchester UP, 1996.

Clay, C.G.A. *Economic Expansion and Social Change: England 1500-1700*. 2 vols. Cambridge: Cambridge UP, 1984

Cockburn, J.S. *A History of English Assizes: 1558-1714*. Cambridge: Cambridge UP, 1972.

Dalton, Michael. *Countrey Justice*. 1619. [STC 6206] Ed. Glazebrook, P.R. London: Professional Books Limited, 1973.

Davies, C.S.L. 'Slavery and Protector Somerset: The Vagrancy Act of 1547.' *Economic History Review*, 2nd series, 19 (1966), 533-549.

Davis, Natalie Zemon. 'Poor Relief, Humanism, and Heresy.' *Society and Culture in Early Modern France*. Stanford: Stanford UP, 1979.

An ease for overseers of the poore: abstracted from the statutes, allowed by practise, and now reduced into forme, as a necessarie directorie for imploying, releeuing, and ordering of the poore. London: Printed by Iohn Legat, printer to the Vniuersitie of Cambridge, 1601. [STC 9494.9]

Elton, G.R. *The Tudor Revolution in Government: Administrative Changes in the Reign of Henry VIII*. 1953. Cambridge: Cambridge UP, 1962.

-------. *Reform and Renewal: Thomas Cromwell and the Common Weal*. Cambridge: Cambridge UP, 1973.

-------. *The Tudor Constitution: Documents and Commentary*. 2nd ed. Cambridge: Cambridge UP, 1982.

-------. 'An Early Tudor Poor Law.' *Economic History Review*, 2nd series, 6 (1953), 55-67.

-------. 'Tudor Government. The Points of Contact. I Parliament.' *Transactions of the Royal Historical Society*, 5th series, 24 (1974).

-------. *Studies in Tudor and Stuart Politics and Government: Papers and Reviews 1946-1972*. Cambridge: Cambridge UP, 1974.

Fletcher, Anthony. *Reform in the Provinces: The Government of Stuart England*. New Haven: Yale UP, 1986.

Fletcher, Anthony, and John Stevenson, eds. *Order and Disorder in Early Modern England*. Cambridge: Cambridge UP, 1985.

Foucault, Michel. *The Archaeology of Knowledge*. Trans. A.M. Sheridan Smith. London: Tavistock, 1972. Trans. of *L'Archéologie du savoir*. Paris: Editions Gallimard, 1969.

-------., *Discipline and Punish: The Birth of the Prison*. Trans. Alan Sheridan. New York: Vintage, 1995. Trans. of *Surveiller et punir*. Paris: Editions Gallimard, 1975.

Fowle, T.W. *The Poor Law*. 1881. London: MacMillan, 1906.

Gleason, J.H. *The Justices of the Peace in England 1558 to 1640*. Oxford: Clarendon P, 1969.

Graves, Michael A. R. *The Tudor Parliaments: Crown, Lords and Commons, 1485-1603*. London: Longman, 1985.

-------. *Elizabethan Parliaments 1559-1601*. 2nd ed. London: Addison Wesley Longman, 1996.

Hartley, T.E, ed. *Proceedings in the Parliaments of Elizabeth I: 1558-1581*. 3 vols. London: Leicester UP, 1982-1995.

Hasler, P.W. *The House of Commons 1558-1603*. 3 vols. London: Her Majesty's Stationary Office, 1981.

Heinze, R.W. *The Proclamations of the Tudor Kings*. Cambridge: Cambridge UP, 1976.

Hindle, Steve. *The Birthpangs of Welfare: poor relief and parish governance in seventeenth-century Warwickshire*. Dugdale Society 40. Hertford: Stephen Austin and Sons, 2000.

-------. *The State and Social Change in Early Modern England, c. 1550-1640*. New York: St. Martin's, 2000.

Hoskins, W.G. *The Age of Plunder: King Henry's England, 1500-1547*. London: Longman, 1976.

Hughes, Paul L., and James F. Larkin, eds. *Tudor Royal Proclamations*. 3 vols. New Haven: Yale UP, 1964-1969.

Innes, Joanna. 'Prisons for the poor: English bridewells, 1555-1800.' *Labour, Law, and Crime: An historical perspective*. Eds. Francis Synder, and Douglas Hay. London: Tavistock, 1987.

Jutte, Robert. *Poverty and Deviance in Early Modern Europe*. Cambridge: Cambridge UP, 1994.

Kent, Joan R. *The English Village Constable 1580-1642. A Social and Administrative Study*. Oxford: Clarendon P, 1986.

Lambarde, William. *Eirenarcha or the Office of Justices of Peace*. 1589. Ed. P. R. Glazebrook. London: Professional Books Limited, 1972.

--------., 'An Ephemeris of the Certifiable Causes of the Peace, from June, 1580 till September, 1588, 30 Elizabethae Reginae.' *William Lambarde and Local Government*. Ed. Conyers Read. Ithaca, NY: Cornell UP, 1962.

Lander, J.R. *English Justices of the Peace, 1461-1509*. Gloucester: Alan Sutton, 1989.

Leonard, E.M. *The Early History of English Poor Relief*. 1900. London: Frank Cass, 1965.

McIntosh, Marjorie Keniston. *Controlling Misbehavior in England, 1370-1600*. Cambridge: Cambridge UP, 1998.

Neale, J.E. *The Elizabethan House of Commons*. Oxford: Alden Press, 1949.

--------., *Elizabeth I and her Parliaments*. 2 vols. 1957. New York: Norton & Company, 1953-1957.

O'Donoghue, Edward. *Bridewell Hospital: Palace, Prison, Schools*. 2 vols. London: John Lane the Bodley Head, 1923.

Palliser, D. M. *The Age of Elizabeth: England under the later Tudors 1547-1603*. London: Longman, 1983.

Pound, John. *Poverty and Vagrancy in Tudor England*. Seminar Studies in History. London: Longman, 1971.

--------. 'An Elizabethan Census of the Poor.' *University of Birmingham Historical Journal*, 8 (1962), 135-161.

Russell, Conrad. *The Crisis of Parliaments: English History, 1509-1660*. London: Oxford UP, 1972.

Salgado, Gamini, ed. *Cony-Catchers and Bawdy Baskets*. London: Penguin, 1972.

Schofield, R.S, and E.A. Wrigley. *The Population History of England 1541-1871: A reconstruction*. London: Edward Arnold, 1981.

Sheridan, Alan. *Michel Foucault: The Will to Truth*. London: Tavistock, 1980.

Slack, Paul. *Poverty and Policy in Tudor and Stuart England*. London: Longman, 1988.

-------. *The English Poor Law 1531-1782*. London: MacMillan, 1990.

Smith, Hassell A. *County and Court: Government and Politics in Norfolk, 1558-1603*. Oxford: Oxford UP, 1974.

The Statutes of the Realm: 1225-1713. 12 vols. 1819. London: Dawsons of Pall Mall, 1963.

Tawney, R.H., and Eileen Power, eds. *Tudor Economic Documents*. 3 vols. 1924. London: Longmans, 1951.

Thirsk, Joan, ed. *The Agrarian History of England and Wales 1500-1640*. Cambridge: Cambridge UP, 1967.

Tierney, Brian. *Medieval Poor Law: A Sketch of Canonical Theory and Its Application in England*. Berkeley: University of California P, 1959.

Todd, Margo. *Christian Humanism and the Puritan Social Order*. Cambridge: Cambridge UP, 1987.

Webb, John, ed. *Poor Relief in Elizabethan Ispwich*. Suffolk Records Society, 9. Ipswich: W.S. Cowell, 1966.

Webb, Sydney, and Beatrice Webb. *English Local Government: English Poor Law History: Part I. The Old Poor Law*. London: Longmans, 1927.

Whiting, J.R.S. *A House of Correction*. Gloucester: Alan Sutton, 1979.

Williams, Penry. *The Tudor Regime*. Oxford: Oxford UP, 1979.

Wrightson, Keith. *English Society 1580-1680*. London: Hutchinson, 1982.

Youngs Jr., Frederic A. *The Proclamations of the Tudor Queens*. Cambridge: Cambridge UP, 1976.

Appendix A: List of Statutes

1531 - 'An Acte concnying punysshement of Beggers & Vacabunds'
(22° Hen. VIII. c.12)

1536 - 'An Acte for the punysshement of sturdy vagabonds and beggars'
(27° Hen. VIII. c.25)

1547 - 'An Act for the Punishment of Vagabondes and for the Relief of the poore and impotent Parsons' (1° Edw. VI. c.3)

1550 - 'An Acte towchying the Punyshment of Vacabonds and other ydle Parsons'
(3° & 4° Edw. VI. c.16)

1555 - 'An Acte for the Reliefe of the Poore'
(2° & 3° Phil. & Mar. c.5)

1563 - 'An Acte for the Relief of the Poore'
(5° Eliz. c.3)

1572 - 'An Acte for the Punishement of Vacabonds, and for the Releif of the Poore & Impotent' (14° Eliz. c.5)

1576 - 'An Acte for the setting of the Poore on Worke, and for the avoyding of Ydlenes'
(18° Eliz. c.3)

1598 – 'An Acte for the Reliefe of the Poore'
(39° Eliz. c.3)

1598 - 'An Acte for punyshment of Rogues, Vagabonds and Sturdy Beggars'
(39° Eliz c.4).

1601 - 'An Acte for the Releife of the Poore'
(43° Eliz. c.2)

Appendix B: List of Proclamations

1490 - 'Expelling Scottish Vagabonds from Northern Shires' (30)[175]

1493 - 'Enforcing Statutes against Murder, Decay of Husbandry, Robberies, Vagabonds, Beggars, Unlawful Games' (32)

[175] Indicates *TRP* catalogue number.

1517 - 'Enforcing Statutes on Apparel, Vagabonds, Laborers' (80)

1527 - 'Prohibiting Grain Engrossing; Enforcing Statutes against Vagabonds, Unlawful,' (118)

1531 - 'Enforcing Statutes against Beggars and Vagabonds' (131)

1533 - 'Ordering Vagabonds to Leave Court' (141)

1541 - 'Ordering Vagabonds to Leave Court' (204)

1545 - 'Ordering Vagabonds to the Galleys'(250)

1546 - 'Enforcing Statutes of Sewers, Vagabonds' (274)

1550 - 'Ordering Vagabonds to Leave London' (356)

1551 - 'Enforcing Statutes against Vagabonds, Rumor Mongers, Players, Unlicensed Printers, etc.' (371)

1553 - 'Expelling Vagabonds from Court' (396)

1554 - 'Expelling Vagabonds from London and Westminister' (416)

1558 - 'Expelling Vagabonds from London and Westminister' (445)

1561 - 'Expelling Vagabonds and Idle Persons from Court' (483)

1587 - 'Enforcing Statutes against Vagabonds and Rogues' (692)

1589 - 'Placing Vagrant Soldiers under Martial Law' (716)

1591 - 'Enforcing Statutes against Vagabonds and Rogues' (736)

1594 - 'Ordering Arrest of Vagabonds, Deportation of Irishmen' (762)

1596 - 'Enforcing Statutes against Vagabonds and Rogues' (777)

1598 - 'Placing London Vagabonds under Martial Law' (796)

1601 - 'Placing London Vagabonds under Martial Law' (809)