

## AN EARLY TUDOR POOR LAW

By G. R. ELTON

WHILE the secularization of poor relief was one of the outstanding achievements of the sixteenth century in most of Western Europe, England stood out because she developed machinery for administration and enforcement to which there was no parallel elsewhere. The basic problems were much the same everywhere: economic causes were producing unemployment and in consequence vagrancy, and traditional methods of relieving the needy were proving insufficient. Since the problem was a general one, the solutions put forward and adopted also had many points in common. The need to relieve the real poor, the desirability of putting the unemployed to work, insistence on organized collection of alms (whether voluntary or compulsory), in short, the responsibility of the lay power for the less fortunate of its subjects—all these appear in the legislation of continental towns like Augsburg or Rouen or Ypres, in the thought of reformers like Luther or Zwingli, in the schemes of theorists like John Major or Juan Luis Vives.<sup>1</sup> This general and natural agreement makes it very difficult to trace the influence of one scheme on another, or even to speak with much confidence of influence being exercised. Like problems tended to produce like answers, and English thought often arrived independently at much the same ideas as those evolved on the Continent.

In the end England produced the only really effective national system of poor relief—the great Elizabethan code of 1597 and 1601. It is generally agreed that nothing much was done until the reign of that queen, though acts were passed under the early Tudors. Some municipal authorities produced workable schemes in the first half of the sixteenth century, but the government took no serious action beyond repressing vagrancy by savage punishments.<sup>2</sup> 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; as Professor Tawney has put it: ‘After three generations in which the attempt was made to stamp out vagrancy by police measures of hideous brutality, the momentous admission was made that its cause was economic distress, not merely personal idleness.’<sup>3</sup> The indignation behind this view deserves respect, even though it probably ignores the existence of the genuinely workshy whom temporary experience of the easier life of the roads taught the permanent advantages—such as they were—of vagrancy; that famous Elizabethan underworld of cozeners and coney-catchers was not entirely populated by the innocent victims of economic distress.<sup>4</sup> Nor should it be forgotten that theorists and statesmen were aware from an early date of the part played in the creation of wandering bands of beggars by such phenomena as enclosure, depopulation, and industrial slumps. Legislation against these evils, however, proved ineffective, and relief measures were slow in coming.

<sup>1</sup> For continental poor relief, cf. F. R. Salter, *Early Tracts on Poor Relief* (1926); W. J. Ashley, *Economic History and Theory* (1888–92), II, 340 ff.; R. Doucet, *Les institutions de la France au XVI<sup>e</sup> siècle* (Paris, 1948), II, 810 ff.

<sup>2</sup> E. M. Leonard, *Early History of English Poor Relief* (Cambridge, 1910), p. 61: ‘Before 1569 no effective system of poor relief had been established, but many experiments had been made.’

<sup>3</sup> *Religion and the Rise of Capitalism* (repr. 1948), pp. 262 f.

<sup>4</sup> Cf. F. Aydelotte, *Elizabethan Rogues and Vagabonds* (Oxford, 1913).

There were two stages in this legislation for relief. From the reign of Richard II to 1531, little more was done than to punish vagrants and talk piously about the need for charity to the genuinely poor. Begging was to be controlled, not prohibited or replaced by organized relief. The act of 1531 marked an advance of sorts.<sup>1</sup> It is still not admitted that vagabondage and poverty may be due to anything but idleness ('the mother rothe of all vyces'), but the body of the act makes a clearer distinction between those able to work (who are to be whipped) and those unable, and for the first time attempts to regulate the relief due to the latter by allowing them to beg under licences enrolled by the justices of the peace. But this licensing system was likely to break down over the simple impossibility of keeping a constant check on beggars; nothing had been laid down about the way in which work was to be found for those capable of doing it, and opinion was altogether turning against public begging. Thus another act was passed in 1536<sup>2</sup> which has generally been taken as marking the beginning of the real Tudor poor law.<sup>3</sup> It was framed on new principles of which the three most important were these: work must be provided for those who cannot find it; begging is wrong and the helpless must be a charge on the community; the parish is to be the organization responsible for the task, and the justices of the peace must supervise it. The subsequent history of the poor law down to 1834 is the development of these principles and their application in practice.

However, at the outset of this new era there stood, not the somewhat ineffectual act of 1536, but a discarded draft of vastly greater scope, ingenuity, and originality.<sup>4</sup> It is the chief purpose of this article to rescue from oblivion a document which includes matter so revolutionary that it was never put into practice, as well as points which found their way into immediate and later legislation. It was written after the appointment of the commission which compiled the *Valor Ecclesiasticus* (30 January 1535);<sup>5</sup> indeed, the words of the draft, in speaking of the 'late Comysioners appoynted for the valuacion of spiritualities',<sup>6</sup> are strong suggestion that the return had by then been made. This would put the date of composition into the autumn of 1535.<sup>7</sup> That it was intended for the session of 27 Henry VIII, which opened on 4 February 1536, is twice mentioned in the document itself.<sup>8</sup> Nothing except a full transcript

<sup>1</sup> 22 Henry VIII, c. 12. It is possible that at this time, or a little earlier or later, poor relief provisions of some interest (including the setting up of poor boxes and the collection of an assessment) were put into a draft act 'for spiritual causes'; unfortunately, the document listed in *Letters and Papers of Henry VIII*, v, 50, cannot now be traced at the Record Office, while the abstract is quite insufficient.

<sup>2</sup> 27 Henry VIII, c. 25. Miss Leonard stated that this act 'was probably drawn up by the king himself' (*op. cit.* p. 54). She gives no evidence for this assertion, and I think it must be wrong. It cannot be shown that Henry drew up any acts at all in his reign, though very occasionally he corrected one. That the statute emanated from the government need not be in doubt, but we know from many a draft who the man in charge of government legislation was at this time. Thomas Cromwell perhaps was behind this act, but certainly not the king.

<sup>3</sup> Cf. W. S. Holdsworth, *History of English Law* (1945), iv, 392 ff.

<sup>4</sup> The draft is in the British Museum, Royal MS. 18. C. vi (hereafter cited as 'draft'). It is not calendared in *Letters and Papers*; the Royal MSS. were first properly catalogued in 1921, and the draft was not listed in the older catalogues. Its only mention, as far as I am aware, before this is in G. Schanz, *Englische Handelspolitik* (Leipzig, 1881), I, 478 n. Schanz describes the draft well enough, but his deductions and comment are sadly astray; he also misled Ashley (*op. cit.* II, 358), who added some imaginative embroidery of his own.

<sup>5</sup> *Letters and Papers*, VIII, 129 (1).

<sup>6</sup> Draft, fo. 6b.

<sup>7</sup> The *Valor* was generally completed by June, though some returns did not come in till September (J. Hunter, in his introduction to the *Valor Eccl.*, Record Commission, p. 25).

<sup>8</sup> Draft, fos. 10, 10b.

could altogether convey its special air of competence and completeness, but its length—thirty-three folios written on front and back—precludes an operation which would also involve much tiresome repetition. It is hoped that relevant quotations, lengthy at times, will supply an acceptable compromise.

The preamble must be given in full. It represents a thorough and logical classification of the poor, and its language is remarkably free both from the sentimentality which sees only innocent victims and the brutality which sees nothing but idle knaves.<sup>1</sup>

*Forasmoe* as the Kynges Maiestie hathe full and perfite notice that ther be within this his Realme aswell a right grete multitude of strong valiaunt beggers, vacabundes, and idle persones of bothe kyndes, men and women, which—though they myght well labour for ther livyng if they wolde—will not yet put themself to it as dyuers other of his true and faithfull subiectes do, but geue themself to lyue idly by beggyng and procuryng of Almes of the people to the high displeasure of almyghty god, hurte of ther owne soules, euyl example to other, and to the grete hurte of the comen welthe of this Realme; as also dyuers other olde sicke lame feble and impotent persones not able to labour for ther livyng but ar dryuen of necessite to procure thalmes and charite of the people. And his highnes hathe perfite knowlage that som of them haue fallen into such pouertie onely of the visitacion of god, through sickenes and other casualties, and some through ther owne defaulte, wherby they haue come fynally to that poynte that they coulede not labour for any part of ther livyng, but of necessite ar driven to live holy of the charite of the people. And that some haue fallen to such mysery through the defaulte of ther maisters which haue put them out of seruyce in tyme of sickenes and left them hooly without relief or comforte. And some be fallen therto through default of ther frendes which in youthe haue brought them vp in ouermoeche pleasure and idlenes and instructed them not in any thyng wherwith they myght in age gett ther livyng. And some haue set such as haue ben vnder ther rule to procure ther livyng by open beggyng euen from childehod, so that they neuer knewe any other waie of livyng but onely by beggyng—And so for lacke of gode ouersight in youthe many live in grete mysery in age. And some haue comen to such myserie through ther owne defaulte, as through slouthe pride negligence falsehod and such other vngraciousnes, wherby ther maisters louers and ffrendes haue ben driven to forsake them, and fynally noman wolde take them to any seruyce, wherby they haue in processe of tyme lyen in the open stretes and fallen to vtter desolacion. And dyuers other occasions haue brought many to such pouertie, which wer very long to reherse here. But whatsoeuer thoccasion be, charite requyreth that some waie be taken to helpe and socour them that be in such necessite, and also to preuent that other shall not hereafter fall into like mysery.

Here, for once, we see the sixteenth century looking with open eyes at the failures of its society. The workshy are separated from the willing and helpless, and the latter are classified into the victims of circumstance (and act of God), of a faulty or vicious upbringing, and of their own folly. There are points missing which are obvious to the modern student, surveying the business four hundred years later, but at least there is here no moralizing on idleness; this preamble reveals a thoughtful economist of common sense and compassion.

Diagnosis was one thing—later statutes were to be nearly as plain about it as this draft; but no statute ever succeeded as this did in evolving machinery for dealing with sturdy vagabonds. That those who can work should be set to work was and is a commonplace, and the great Elizabethan statutes provided for such

<sup>1</sup> *Ibid.* fos. 1–2 b. Throughout I have modernized the punctuation and extended abbreviations; the spelling remains unchanged.

employment locally and on local responsibility. But this draft was much bolder. It proposed to solve the problem of unemployment by a comprehensive, though short-term, scheme of public works. A body called the 'Councell to aduoid vacabundes', consisting of eight members, five at least to be a quorum, was to be set up to superintend

certeyn comen workes, aswell for makyng of the Hauen of Douer, renouacion and reparacion of other hauens and harbours for shippes, as for makyng of the comen high waies and ffortresses, skowryng and clensyng of watercourses through the Realme.

The council was to take up its duties on the first day of the coming Easter Term (1536), 'and to contynue foreuer'; the works which it appointed were to start on 1 March 1537 and to stop, in the first instance, at Michaelmas 1540. Later clauses empowered the council to make ordinances concerning the works and the administration of relief, to appoint salaries for subordinate officials, and to punish offenders against its orders. Such wide powers of delegated legislation were unusual in scope, though they did not differ in principle from those enjoyed, for instance, by the court of augmentations. What was exceptional was that this council's orders were to be proclaimed in like manner as proclamations made by the king and privy council.<sup>1</sup> Each piece of work was to be in the charge of a deputy appointed by the council. A week before the work was to start, proclamations would be made, and all able-bodied unemployed were to report for duty. They were to receive 'reasonable wages', and the money due ('besides mete and drynke') was to be kept until enough had accumulated to clothe the man. Vagabonds failing to report were to be arrested and brought to the place of work. If the man proved obdurate he was to be taken before a justice of the peace, and being there convicted, on the word of three lawful witnesses

of his refusell to labour, or of his contynuall loitryng, or of any sedition, vnlawfull meane, corrupt counsell, or practice to make murmuration grudge insurrection in and among the rest of the laborers,

he was to be gaoled until the next market day. Then he was to be publicly burned in the ball of the right thumb, 'as Clerkes that take ther bokes for felonye ben on the lefte honde', and discharged. If branded vagabonds were apprehended who could not prove that they had been engaged on the public works during the preceding four weeks or could not show some just impediment, they were to be indicted for felony at 'the next Sessions'.<sup>2</sup>

The basis of the draft was, then, a great and astonishing scheme of labour, to be administered by a central board through the direction of local officers responsible to it. The remarkable vision and enterprise of such an idea early in the sixteenth century does not need stressing. Hardly less remarkable is the comparatively mild treatment of strikers, agitators, and incorrigible rogues. They would, in fact, be given two chances of mending their ways, with nothing worse than forcible rounding up and a little light branding to jog their obstinacy; and only if they refused what must, in sixteenth-century conditions, be called the authorities' long-suffering kindness, were they to suffer the rigour of the law. They would not even be proceeded against unless three good witnesses bore testimony, two more than were required to swear a man's life away for treason.<sup>3</sup> For the device of public works to cure unemployment there was no precedent in England, nor has such a step ever been taken under the direction of the

<sup>1</sup> Draft, fos. 29-30b.

<sup>2</sup> *Ibid.* fos. 3-6.

<sup>3</sup> It was only in 1551-2 that *two* witnesses were demanded in treason trials, and even this remained not incontestable until 1696 (Holdsworth, *op. cit.* iv, 499).

central government; the thought proved sterile. No genuine foreign influence seems to be discoverable, either, and one feels that the scheme was the author's own.

That these public works would have to be paid for was not overlooked.

And for the bearyng of the charges of theseid workes and for the relief of theseid vacabundes, *The Kynges* grace, of a specialle zeale and loue that he hathe to the welthe of all his subiectes, will geue to the furtheraunce of theseid workes as by his hignes shalbe thought conuenient.<sup>1</sup>

But, realizing no doubt that to rely exclusively on the royal benevolence would hardly be sound policy, the draft went on to decree an annual<sup>2</sup> levy or graduated income tax. It lists six separate groups affected, though unfortunately the sums to be paid by each are left blank: ecclesiastical dignitaries<sup>3</sup> with an annual income of £100 or over; the same with £20 or over; all temporal lords and laymen with £100 annual income from land ('of enheritaunce or by ffees'), or worth £1000 in moveables; the same with £20 in income; the same with £5 in income or £20 in moveables; all the rest except some exempt persons—femes covert, apprentices, 'such as live of the charges of ther frendes without wages', and any certified by the churchwardens of their parish as unable to pay. It was a comprehensive catalogue, and one would gladly know what percentage of the national income this radical reformer was proposing to distrain for his scheme of social relief.<sup>4</sup> In addition, there was to be a collection of contributions in parish churches appointed for the purpose, a box being set up in the church 'before the sacrament there as nygh as can be reasonably deuysed', with three keys—one to the parson, one to the churchwarden, and one to the local deputy who took charge of the money and gave a bill of receipt to the other two.<sup>5</sup>

The next clause is so extraordinary that it deserves quoting in full.

*It is also enacted* by thauctorite aforeseid that if any such vacabunde and idle persones be sicke, which of likelihood myght well labour if they were hoole, that then theseid deputies shall assigne certeyn Phisicians and Surgeons to loke vnto and remedie ther diseases; And that thesame Phisicians and Surgeons shalbe paid for ther labour and paynes in and about the curyng and helping of the sicke and sore vacabundes and idle persones, as is aboueseid, of theseid moneye and of thother charite of the people; And when such sicke and sore persones ben cured and heled, then they to be put to labour in theseid workes vnder the paynes before expressed.<sup>6</sup>

The poor were to have free medical attention, at the public expense. With its stress on the cure of unemployment and wholesale income taxes and this last amazing provision, the draft would almost seem to have anticipated much of very recent happening, though admittedly its concern in curing the poor was to make them fit for work. But even that was much better than leaving them in diseased idleness.

<sup>1</sup> Draft, fo. 6. The words 'his...conuenient' were substituted for 'theseid Councell shalbe appoynted and thought conuenient'—i.e. that the council would fix the king's contribution! Probably this was only a slip of the pen.

<sup>2</sup> That these sums were to be levied every year and not only once appears solely from a chance remark on fo. 9b.

<sup>3</sup> 'Euery Archebisshop, Bisshop, Abbot, Abbesse, priour, priouresse, Master or warden of College, Maister of hospitall, Archdeacon, Dean, prouost, prebendary, parson, vicar, and euery other persone that hath the office, dignyte, or promociion spirituall...'. The dignitaries with £20-100 naturally do not include bishops or archbishops. The *Valor* was to be used in assessing income.

<sup>4</sup> Draft, fos. 6b-7b.

<sup>5</sup> *Ibid.* fos. 8-8b.

<sup>6</sup> *Ibid.* fo. 9.

A few more clauses concluded this part of the draft. Unlicensed departure from the works was to be felony. The collection of the annual levy was to cease at Michaelmas 1540, 'as the workes aforerehersted do'. All commissions of the peace were to be renewed before 24 June 1536, with an additional clause (given in full and in Latin) ordering the carrying out of the present act and all ordinances to be made 'per Senatum siue Concilium selectum et ordinatum per idem Parliamentum'. (The council was to be appointed by Parliament inasmuch as the names would be listed in the proper act; in the draft they are represented by the letters A to H only.) The document further recites the oath to be taken by all local government officials in shires, cities, boroughs, and towns, swearing to enforce the act and the council's ordinances.<sup>1</sup>

So much for the first and most striking part of the draft. In order to deal with those vagabonds and valiant beggars who were strong enough to work but either could not or would not find employment, the state was to provide useful public works much needed at the time;<sup>2</sup> a special department of state—for that is what it amounts to—was to be set up to administer the scheme, with powers to make administrative orders and appoint local officials; the nation was to pay for it by a graduated income tax; the local magistrates and police officers were to assist in enforcing the duty to work on recalcitrant beggars; and labourers in ill health were to receive attention at the public expense. The scale and scope of the plan are breath-taking, even if they must raise immediate doubts as to its practicability. But there can be no question that the author of this draft believed in going to the root of things and in applying drastic remedies; that he limited the operation of his scheme in the first place to three and a half years does not mean that he did not intend to prolong it before it expired. Possibly, however, he may have hoped to cure unemployment in a few years, or doubted the capacity of the state to find enough roads and harbours to supply work for a longer period. Or again he may have had prudent doubts about his ability to persuade Parliament to vote heavy taxation for more than a few years.

The draft next turned to the other class of poor—those too old, weak, or sick to work, and therefore in need of relief. It recognized that legislation as such would do little good unless it were consistently enforced, and that the justices, mayors, and the like, whom previous acts had made responsible for the little that was attempted, were likely to be too busy on other matters. They were therefore enjoined to meet once a year, starting before Michaelmas 1536, in such convenient places within their jurisdictions as they thought best, and there to appoint two 'Censours or Ouerseers of pouertie and Correctours of Idlenes' for each parish, choosing them from four men presented by the relevant constables.<sup>3</sup> These censors were to be the essential element in the system. To ensure their attention to the work they were to hold no other office and were even freed from jury service.<sup>4</sup> They were answerable to the justices in quarter sessions who could imprison them for neglect, to await punishment by the council to avoid vagabonds.<sup>5</sup> Their duties were many and heavy. Once a month they were to search out all idle vagabonds in their parish and bring them before the justices for punishment.<sup>6</sup> They were to discover and report all the impotent and sick poor whom the justices would then convey to a hospital or other suitable place, if

<sup>1</sup> Draft, fos. 10b–11.

<sup>2</sup> The repairing of harbours and defences, in particular, is a point that often comes up in Thomas Cromwell's notes of things to be attended to (e.g. *Letters and Papers*, vii, 420; viii, 527, 1077).

<sup>3</sup> Draft, fos. 11b–13b.

<sup>4</sup> *Ibid.* fos. 26b–27b.

<sup>5</sup> *Ibid.* fos. 28–28b.

<sup>6</sup> *Ibid.* fo. 14.

necessary at the public expense.<sup>1</sup> Thirdly, their monthly search was to include all those in misfortune—honest men who cannot live on their earnings ‘by reason of multitude of children or other honest cause’, or who have come to extreme poverty through ‘sickenes, fyre, water, robberie, or otherwise’; these were to have assistance in the form of public alms by order of the justices acting upon the censors’ certificates.<sup>2</sup> They were to take all healthy begging children between the ages of five and fourteen and apprentice them to masters, first clothing them suitably out of the poor box; children between twelve and fourteen who proved refractory were to be ‘whipped with rodde’ at the justices’ orders, as often as was necessary.<sup>3</sup>

The money obtained by the general levy and the triple-locked chest in the parish church was only designed to pay for the public works; as regards the needs of the sick and unfortunate, the author came out strongly against indiscriminate charity as an encouragement to open begging. He made it an offence punishable by a fine of 40s. to give, ‘in money, mete, drynke, or clothynge’, to sturdy beggars, though apparently he permitted some assistance to the genuine poor.<sup>4</sup> Since men were in any case averse to charity towards vagabonds and only paid them blackmail under duress, a clause which punished the victim rather than the source of intimidation was not likely to prove effective. Ordinarily, however, alms were to be administered by the authorities. Every week the censors were to appoint one to three poor men, to go round the parish ‘with a Maunde or basket and a Tankerd or pot, knockyng at euery doore’, to collect spare food and drink for the poor. Even these men were given an official title—‘bedelles of the pouertie within the parisshe of A’. The stocks, bread and water, and finally the withdrawal of the dole and compulsory labour—by these means the overseers were to make sure of their beadles’ honesty and efficiency.<sup>5</sup>

As for alms of money, there was first to be some vigorous encouragement of charitable feelings among the people. To this intent, the ‘Ordynaries of euery Diocesse’ (the bishops, that is) were to supply to every parson, before Michaelmas 1536,

a compendious sermon or collacion wherin the manyfold vertues of charite, and how meritorious it is in the sight of god, And what guardon or rewarde is prepared for such as vse thesame; And also the manyfold vertues of labour and occupacion, and howe highly it is commended by scripture, And how holsome it is for the body, and on thother side how odious the vice of slouth and Idlenes is in the sight of god, And how pernicious it is to the carnall body [are set out].

This sermon the parish priest was to read on Sundays and holidays ‘in the high masse tyme’, improving the occasion as best he could, and exhorting the people to almsgiving. He was to appoint two ‘honest persones of the parisshe’ to collect alms in the church; they were to hand them for immediate distribution to the overseers (who had charge also of all money left to charity by testament), and provision was made for failure on anybody’s part to carry out these complicated instructions.<sup>6</sup> Ordinary alms would never, therefore, have to be accumulated, since it was thought that the censors would make assignment on each occasion; yet there was to be an alms box in the church, double-locked with a key each to parson and overseers, to store the half of each 40s. fine levied on

<sup>1</sup> *Ibid.* fos. 14b–15.

<sup>2</sup> *Ibid.* fos. 15–15b.

<sup>3</sup> *Ibid.* fos. 20b–21.

<sup>4</sup> *Ibid.* fos. 19–20. He excepted ‘the power sicke sore aged impotent and feble neighbours, and such as be not able to get ther living holy by labour’.

<sup>5</sup> *Ibid.* fos. 17b–18b.

<sup>6</sup> *Ibid.* fos. 16–17, 18b–19.

those who continued to practise private charity towards the undeserving poor.<sup>1</sup> The draft has no inkling of a compulsory poor rate to replace all private charity; compulsion is applied only to the financing of the public works, while poor relief proper continued to depend on private conscience and voluntary alms, even though much organized pressure is exerted.

There now remain only a few odd points to mention. Shipwrecked mariners<sup>2</sup> were to be given food and lodging for one day and one night, after which (unless they wished to find work locally) they were to return to their place of birth or proper residence, being passed from town to town at the expense of 'the comen Treasure or Chamber of euery such Citie borough or Towne'.<sup>3</sup> Justices, mayors, and so forth, were empowered to permit the victims of natural disasters, robbery, and sickness 'to make and procure asmany games of shotyng for his & ther relief and furtheraunce as shalbe thought expedient'; all other such games were forbidden, unless a justice of the peace was present.<sup>4</sup> The last clause but one seems to have wider application than the relief of poverty. It orders that

euery persone and persones that herafter shalbe before any whatsoeuer Iusticiar delyuered for suspicions of felonye by proclamacion, or be acquted of any felonye by verdyt or by the Kynges generall pardon

shall be discharged immediately and without payment of any fee to any officer, sheriff, clerk of the peace, or anyone else.<sup>5</sup> While it is possible that only such people were meant as were charged under the ordinances of the council to avoid vagabonds, the clause suggests that a remedy was provided for a more general grievance; bribery may often have been necessary before even an acquitted man could regain his freedom.

The draft concludes with a list of various kinds of people to be included among the vagabonds punishable under the act, a list which is both so interesting in itself and so strikingly phrased that it deserves extended quotation:

seruyng men comenly called Ruffelers which be retayned in no man his wages but lyve idley in Cities and Townes (and namely in the Citie of london), procuring and makyng assaultes and affraies, hauntyng and frequentlyng the Tauerne and vicious places; Scolers of the vnyuersitees of Oxforde and cambridge that go about beggyng without sufficient autorite; Shipmen pretendyng naufrages or hurt in the Kynges wares or seruyce. . . ; proctours and pardoners goyng about and not autorized by the Kinges highnes; and all other persones. . . vsyng and practisyng dyuers and subtyll craftes and vnlawfull games, that is to seye, dise, cardes, bowles, Closshe, tenes, or other new inuented or to be inuented games,<sup>6</sup> which cannot dispende yearly of fee, inheritaunce, or by his wages, fyue poundes, or is not worthe in mouable goodes xl li'; And such as pretende knowlege and conyng in physik, surgery, phiysnamye, palmestrie, destenyess, or other craftie sciences wherby the poore rude and innocent people is disceived; Syngle women lvyng by thabomynable vice of Lechery which shalbe founde loitryng in the Contrey; And generally all and euery persone and persones which shall contynue out of seruyce by the space of xl daies. . .

What a picture, not unfamiliar though it is, of the roads of Merrie England—with its brawlers and drunkards, its wandering but far from innocent scholars, its pardoners, its cheats and quacks and prostitutes! No one can deny them

<sup>1</sup> Draft, fos. 20–20b.

<sup>2</sup> Victims of 'naufrage'.

<sup>3</sup> Draft, fos. 21b–23.

<sup>4</sup> *Ibid.* fos. 23–23b. I confess that I do not understand how a game of archery (if that is what it was) could assist in poor relief, unless a man could earn money by arranging one.

<sup>5</sup> *Ibid.* fos. 31–31b.

<sup>6</sup> Similar lists of forbidden games are found in earlier legislation, e.g. 12 Henry VII, c. 12.

colourfulness, but to-day, when we are no longer in danger of having our heads broken or our purses cut by them, it is fatally easy to grow sentimental over these ruffians. One may prefer to take a contemporary's word for it, believing that the criminal classes at least existed before 'the rise of capitalism'.

It is plain, of course, that even this draft made no attempt to deal with the deeper economic and moral evils from which pauperism sprang—evils it so competently diagnosed in the preamble. But that could hardly be its purpose: other legislation was required (and existed) to prevent depopulation and the like, and this act was intended to cure symptoms only. Apart from the notable scheme of public works, it is the administrative machinery provided in the draft which strikes one as most impressive. Through the whole of it there runs a deliberate preoccupation with organization and the means of enforcement, and the author is in no way afraid of creating office after office. At the head of the whole scheme he puts his council, a virtual ministry of social welfare, empowered to legislate and enforce its decrees, and charged with the supervision of both public works and public relief. Under them there are, on the one hand, the deputies commanding individual works—purely administrative officials, these. On the other hand, there are the justices of the peace and equivalent borough officials who have to see to the local enforcement of the orders received from the council as well as of the act itself. Furthermore, as there are executive officers in charge of the works, so permanent executive officers are required for the relief of the impotent poor and the searching out of vagrants. Thus we have the censors or overseers on whom in practice the effectiveness of the act depends even more than it does on the other officials mentioned. They in their turn appoint the beadles who collect spare food and drink, while they are associated with the clergy responsible through collectors (sidesmen) appointed by them for the collection of alms which the overseers distribute.

The creation of suitable machinery has already been mentioned as the specific achievement of the English poor law. This draft sets the tone very determinedly, inventing much more boldly than the Elizabethan acts were prepared to do. It also embodied all the rest of the principles which were to govern future action—the responsibility of the lay power, the need to provide work, the prohibition of begging, the parish organization. Its general levy foreshadowed the later poor rate which was also in the first place intended to make possible the purchase of materials for the unemployed to work on. In nearly all its provisions it either went as far as the completed poor law was to go, or very much farther than any English government ever found itself able to go. The appointment of parish overseers and the effective supply of work, which are supposed to make the acts of 1572 and 1576 a new departure,<sup>1</sup> are here worked out; the least one can say is that the statesmen of Elizabeth's reign are more likely to have learned these principles from this draft than from the practice of local authorities or the precepts of continental reformers at work in Edward VI's England, both of which have been invoked for this purpose.<sup>2</sup> Some of the phrases listing classes of rogues, which close the draft, recur almost word for word in the Elizabethan poor law;<sup>3</sup> it does not look as though the draft failed to attract notice in the second half of the century.

<sup>1</sup> 14 Eliz. c. 5; 18 Eliz. c. 3. Cf. Leonard, *op. cit.* pp. 70 ff.

<sup>2</sup> *Ibid.* pp. 61 ff.; C. Hopf, *Martin Bucer and the English Reformation* (Oxford, 1946), pp. 116 ff. (for a cautious view).

<sup>3</sup> E.g. 39 Eliz. c. 4, sect. ii.

Of more immediate importance, however, is its relationship with the act actually passed in 1536, the act which apparently took the place of the draft and therefore needs a little closer attention. Although ostensibly passed to deal with the question of men out of work, it devotes little time to them, only declaring that local officials must find work for the unemployed. Its main concern is with a new way of relieving the needy: open begging is forbidden, town officers and churchwardens are to make a collection of alms every Sunday and holiday, and the money is to be put in 'common boxes' in the parish church.<sup>1</sup> The sole exceptions to the general rule against private almsgiving are private charity within a man's own parish and alms to prisoners (sect. xxi); the exceptions added in a separate schedule (sects. xxiv-xxviii) must be ascribed to changes made in Parliament under pressure from the Houses since they make mention of friars and monasteries who were already condemned to extinction in the plans of the government. On the large lines, therefore, the act as passed is very similar to the draft: work is to be found for the unemployed, and voluntary charity is to be organized in each parish so as to abolish indiscriminate almsgiving. The resemblance of act and draft appears even more clearly from some of the details. Sect. vi orders local officials to apprentice pauper children to masters and to give them 'a raiment to entre into suche service' from the alms; older children refusing to work are to be whipped. This clause is so like the corresponding provision in the draft that it seems to be based upon it. In sect. ix the clergy are exhorted to take every opportunity to preach in favour of alms; the draft is more specific, but the idea is the same. Vagabonds found idle a second time are punished with whip and ear-cropping; a third offence makes them felons (sects. x-xi). The details vary a little from the draft; the principle is the same. Every week some of the poor are to be appointed to collect surplus meat and drink (sect. xvi); these are the beadles of the draft. There are, of course, differences, and in one or two points the act is more precise than the draft.

The poor law of 1536, the law which inaugurated the era of real poor relief legislation, was thus based on the draft which we have discussed at such 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. Not only did it discard altogether the scheme of public labour, contenting itself with vague phrases, and the council which would have given to poor relief a more constant and effective attention than the privy council could spare time for; it even discarded the parish overseers. It was naturally this absence of machinery, no less than the voluntary nature of the alms, that rendered the act ineffective. However, it retained enough of the draft to have made it appear ever since the first of a series of enactments which, partly by reincorporating details dropped in 1536, were in the end to give England her remarkable system of poor relief.

Thus this draft is very important in the history of the attempts made by Tudor governments to solve the problem of pauperism. Yet it does not look in the least like a government draft. I have discussed the characteristics of such 'proper' drafts elsewhere;<sup>2</sup> this manuscript, with its small pages, its writing upon both sides of the paper, its clerkly but unfamiliar script, is quite unlike the real thing. Striking proof of its unofficial origin is found in small points like the use of 'senatus' to describe the council for vagabonds, or of 'censors' as an alternative

<sup>1</sup> 27 Henry VIII, c. 25, sects. iv, xiii, xvii-xix.

<sup>2</sup> 'Parliamentary Drafts 1529-40', *Bull. Inst. Hist. Res.*, xxv, 117 ff.

title for parish overseers. These terms suggest the mind and tongue of the humanist; there is nothing like them in the known work of government draftsmen. Yet the document is among the British Museum's Royal Manuscripts and very probably belongs to those which entered that collection from Thomas Cromwell's papers; that is, it found its way into government circles.<sup>1</sup> It was used in preparing the official act of 1536, and its influence can be traced in later legislation. Though it, therefore, came from outside the government, it was known to it; does this offer a clue to its author? The man to fill the bill must be a pamphleteer with an interest in social reform; he ought to be a humanist and—because of his opposition to indiscriminate charity—a reformer in religion;<sup>2</sup> he must have had a connexion with the government, for his plan was either communicated and in part adopted, or (which is more likely) was commissioned when the need for another poor law became apparent. In a shadowy manner the author shows signs of belonging to that circle of clients, servants, and remote followers which grew up round Thomas Cromwell in the 1530's—men who were to him both propagandists and planning staff.<sup>3</sup>

As it happens, there was a man among them who answers the requirements listed to a satisfyingly complete degree. In 1535, Thomas Godfray, printer of London, brought out, under the title *The maner of Subuention of poore people*, a translation of the relief ordinances made in 1525–9 by the town of Ypres. The translation was by one William Marshall, himself a printer on occasion, but like so many of his profession at the time also a pamphleteer and ardent reformer.<sup>4</sup> His chief claims to fame are the reformist *Primer* of 1535 and the translation which he made and printed of Marsiglio's *Defensor Pacis*. This latter work was commissioned by Cromwell who advanced Marshall £20 for the production.<sup>5</sup> That the printer was certainly well acquainted with the minister is also confirmed by another of Cromwell's correspondents who, deploring Marshall's extremism in religion, remarked that 'ye know what Marshall is'.<sup>6</sup> The pamphleteer was something of a stormy petrel. In 1534 he corresponded with a discontented Oxford scholar on the iniquities of heads of houses and the lack of learning in the University, while in 1535 he tried his eager hand at persuading the recalcitrant Carthusians to the right way by distributing copies of Marsiglio.<sup>7</sup> In August 1536, at a time when the government were cautiously advancing towards Lutheranism, Marshall wrote a sententious letter to Cromwell in which he bewailed the fate of poor people persecuted for heresy, warned the lord privy

<sup>1</sup> Cf. *Catalogue of Western MSS. in the Old Royal and King's Collections* (Brit. Museum, 1921), I, xvi, for the fact that some of the volumes in the collection 'evidently' once belonged to Cromwell. Like our draft, the volumes thus identified were omitted from the old catalogues.

<sup>2</sup> Cf. Salter, *op. cit.* pp. 33, 76 ff., on the orthodox judgement of the Sorbonne in 1531. Admittedly the doctors made exceptions to the rule of no unorganized almsgiving, even as the draft does; but they started from the premise that it is lawful and not punishable to give at any time and anywhere, while the draft adopted the 'reformed' opinion that this is not so and allows exceptions only as necessities. On the Lutheran and Calvinist views, cf. Tawney, *op. cit.* pp. 92, 114 f.

<sup>3</sup> Cf. for some light on this group, W. G. Zeeveld, *The Foundations of Tudor Policy* (Harvard, 1948). Mr Zeeveld errs, it seems to me, in seeing in these men originators of ideas rather than disseminators—a source of inspiration for action rather than of comment upon it.

<sup>4</sup> Marshall's translation is conveniently reprinted in Salter, *op. cit.* pp. 36 ff. On the man himself, cf. *D.N.B.*, and E. G. Duff, *A Century of the English Book Trade* (1905), pp. 99 f.

<sup>5</sup> *Letters and Papers*, vii, 422–3; xi, 1355.

<sup>6</sup> *Ibid.* ix, 345.

<sup>7</sup> *Ibid.* viii, 600; ix, 283, 523. Mr Zeeveld's doubts of this story (*op. cit.* p. 133, n. 13) are due to an error he makes in his dates. Marshall's activities did of course take place before the executions, and the evidence offers no difficulty on that score.

seal against flatterers, and sent him a sermon for edification;<sup>1</sup> Cromwell's patience must have been greater than he is usually given credit for. Marshall was, then, a man who held advanced views in religion, translated and published propaganda material, and was employed by Cromwell in his most enterprising pamphleteering venture.

To cap it all: in the very year (1535) when our draft was written, Marshall proved his interest in matters of poor relief by translating a recent continental ordinance on the subject and publishing it with a dedication to Queen Anne Boleyn. It would be convenient if easy parallels could be drawn between the Ypres *Forma Subventionis Pauperum* and the draft, but matters are not arranged with such admirable simplicity. In any case, two points rob such arguments of much force. As has already been said, progressive ideas on poor relief were much the same in a number of places; while, secondly, Marshall especially stressed that he was not putting the Ypres scheme forward as the best available:

Nat that my meaninge is . . . so highly to esteme this maner and forme of subuention and helpynge that none coulde be deuysed so good or better or that I wold haue it obserued and kepte of ineuitable necessitye bycause it lyketh me or yet that I (beyng baren of wytte lernynge and experience) wolde to ostente and bost my selfe and take vpon me to be a prescriber and teacher yea of any man in this behalfe.<sup>2</sup>

He was only publishing the ordinance in order to draw the attention of king and council to the problem. Though deeply interested in the whole question he held no special brief for this particular solution; may one not suppose—despite, or even because of, his mock-modest disclaimer—that his interest was also finding expression in ideas of his own? If Cromwell was engaged upon the preparation of a poor law, either because it was in any case necessary or because the forthcoming Dissolution made it an urgent matter, would he not most likely commission a draft from that one of his pamphleteers who had recently proved his special knowledge by printing a book on the subject?

These are conjectures, though of a kind that ought to carry some weight; unfortunately, little positive evidence is forthcoming to support them. It has already been pointed out how difficult it is to trace influence and derivations in this field. The most one can say is that this draft, which in any case has a good many highly original ideas of its own to contribute, does suggest a general acquaintance with continental solutions of the problem, and that the only Englishman known to have been actively interested in continental poor relief at this time was William Marshall who also had close contacts with the government of Thomas Cromwell. Handwriting is no help: it is neither impossible nor certain that Marshall wrote the draft. Perhaps one had better prevent one ever intrusive King Charles's Head from entering the discussion: there is not the slightest link between this draft and More's *Utopia*.

We cannot, then, be certain of the author of this remarkable document, though Marshall's name is the most likely one to attach to it. However, this after all is not a very important matter. What is certain is that the draft was not written by the official draftsmen—either by Cromwell himself (let alone the king) or by the king's legal counsel—but originated in the fertile brain of a private individual. It is also certain that the draft was written for the government and formed the basis of the official legislation of 1536. In the event, its most striking details were dropped. There is no scheme of public works, no income tax, no council to avoid vagabonds, in the act of 27 Henry VIII. There

<sup>1</sup> *Letters and Papers*, xi, 325.

<sup>2</sup> Salter, *op. cit.* p. 32.

are not even parish overseers of the poor, though these were later to be appointed. With all the new machinery excised, the act proved ineffective. It followed the draft in organizing the relief of the impotent, in acknowledging the need for employing the sturdy, and in fully recognizing the essential difference between the two. But it would not take the necessary steps even to ensure relief. Neither the act nor the draft can be blamed for insisting on voluntary alms rather than a poor rate: it was axiomatic at this time that alms had to be freely given to do good to the giver's soul, a position only reluctantly abandoned when it was seen that most men preferred other ways of doing good to their souls. But the failure to provide effective machinery is surprising, especially because the government of the 1530's did not usually fail when administrative reforms were called for. Yet if it is remembered what the chief business of this session early in 1536 was to be, the explanation suggests itself. A government which was about to embark on the vast and delicate operation of dissolving the monasteries had enough administrative problems on hand without installing new machinery for poor relief. Like Parliament,<sup>1</sup> the author of the draft was not aware of these plans; Cromwell, however, knew well what was coming, so that he found himself forced to substitute for Marshall's plan (if it was his) a mere stop-gap measure of good intentions.

All this allowed for, the achievement of the draft still remains remarkable. It was not still-born: much of its detail became law at once, and more found realization later. It originated new principles and practice; it stood at the beginning of serious and effective legislation to deal with the great social problem of the day. That its most revolutionary suggestions were always to prove beyond the capacity of government, is perhaps a pity. But what ought to stay in the mind is that a scheme of such magnitude and precise detail, so much practical humanitarianism and sound common sense, so much immediate and so much more ultimate effect, grew up in 1535 in the circle of advisers and thinkers who surrounded the government of Thomas Cromwell.

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<sup>1</sup> Cf. above, p. 64.