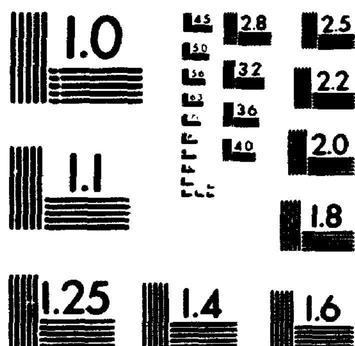


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PERCEPTIONS OF VAGRANCY IN EXTANT LEGAL RECORDS THROUGHOUT THE LATER MIDDLE AGES, 1100-1400.

by

STEPHEN MOORE, B.A.

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Master of Arts

Department of History

Carleton University
Ottawa, Ontario
July 1, 1993
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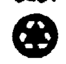

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"PERCEPTIONS OF VAGRANCY IN EXTANT LEGAL RECORDS THROUGHOUT THE LATER MIDDLE AGES, 1100-1400"

submitted by

Stephen D. Moore, B.A. Honours,

in partial fulfilment of the requirements for the degree of Master of Arts

Thesis Supervisor

Chair, Department of History

Carleton University

27 July 1993

**Abstract**

This thesis is an attempt at an initial exploration of vagrancy before the sixteenth-century. But, rather than view vagrancy as a product of economic factors, as has been the tendency in past scholarship, this thesis will attempt to show another origin to the vagabond and vagrant. While an unstable and unfavourable economic situation did play an important part in the creation of a mobile population, legal evidence suggests that the vagrants were deemed vagrants because they were suspicious to the law makers and ruling classes. By utilizing the terminology used to describe vagrants over four hundred years, this thesis will illustrate that the perception of wanderers changed significantly, but always at the heart of the matter was suspicion. Moreover, this thesis will also show why the perception altered and how the perception affected the solutions propopsed. Finally, a link between the later middle ages and the sixteenth century will be drawn to illustrate that the perception of the problem in the sixteenth century was an extension of the problem as it was perceived in the fourteenth century.

# Acknowledgements

There are a number of people who should be thanked. First, thanks to Professor Alan Arthur (Brock) and Stephan Curtis (Carnegie Mellon) for proofreading the material. But most of all, this work was possible because of the support of my mother and father and Alison Reading, who kept me sane through the difficult process of writing this. They never doubted that it could be finished, even though I was uncertain. To all of these people go my greatest and deepest thanks.

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# INTRODUCTION

Many who study vagrancy are convinced of the centrality of economics to the creation of the vagabond. In fact, the majority of the authors who have investigated vagrancy have seen an unstable economic situation as the base from which charges of vagrancy developed. Moreover, it is generally accepted that the conditions necessary to create a large vagrant population only came to exist in the sixteenth century and consequently there has been little impetus to investigate vagrancy before the sixteenth century. Vagrancy before the sixteenth century is assumed to be merely a less significant version of what happened during and following the sixteenth century. Thus, not only is there a great shortage of comment on vagabonds and vagrants in the later middle ages, but sadly no effort has been made to examine the vagabond before the sixteenth century and to expand the scholarship surrounding this problem.

This work will explore vagrancy in the pre-Tudor period. But, while acknowledging the importance of economics in the development of the context necessary to allow vagrancy to occur, this paper will offer a different explanation to account for the development of vagrancy in the later middle ages. Wandering men did exist in the later middle ages and ruling classes appear to have bee.. afraid of them. As will be illustrated later, this seems to contradict the beliefs propounded by the supporters of the economic explanation. How can this contradiction be explained? To understand the development of the charges of vagrancy in the later middle ages and to link the charges of vagrancy in that period to

the sixteenth century, it is necessary to examine the perceptions of wanderers by the ruling classes, particularly the king and parliament, as embodied in legal documents from as early as 1114 to the middle of the sixteenth century. It is from this material that the perception of wandering men and the reasons why the ruling class felt threatened can be illuminated.

Discussions of vagrancy in the past have frequently revolved around economics. In fact, the majority of writers on the topic credit economic instability with the creation of the vagrant population. Frank Aydelotte, for example, has implied that the economic changes that embraced England between 1350 and 1550, particularly those changes in the late fifteenth and early sixteenth centuries, were responsible for the size of the vagabond class and that the rogues and beggars of Elizabethan England were clearly the by-products of this economic progress.[1] In support of this assertion he demonstrates that there was little statutory activity until the early sixteenth century. He notes that there had been "almost no legislation" prior to 1530, with the exception of a few towns and cities which had "already for half a century been wrestling with the problems presented by the increasing numbers of vagabonds."[2] Vagrants, while technically a product of the later middle ages, were most prominent in the early Tudor period, when the economic situation had worsened significantly.

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[1] Frank Aydelotte, *Elizabethan Rogues and Vagabonds* (London: Frank Cass, 1967): 5.

[2] *Ibid.*, 58.

John Pound shares Aydelotte's conclusion. In his book *Poverty and Vagrancy in Tudor England*, he follows Aydelotte's argument. He asserts that as the sixteenth century progressed, "the ranks [of the beggars] were swelled still further by a number of events, some of national, some of local importance."[3] Rapid population growth, enclosures and other less predictable phenomena such as outbreaks of plagues, famines, continental wars, drought, and crop failures could "all cause a sudden falling off in demand and set up a chain reaction resulting in wholesale unemployment for those least able to counteract it."[4] Many of the poor in the sixteenth century, particularly in urban centres and in times of stress, "undoubtedly resorted to begging"[5] and hence became vagrants.

Economic instability, according to adherents of this explanation, forced the lower classes into vagrancy. Underlying the belief in this explanation, therefore, is acceptance of the fact that vagrants formed a class and, as a class, shared characteristics that set them apart from normal society. Aydelotte notes that the vagrant class was a "class which included men of all degrees" who became vagrants and vagabonds by abandoning normal society and assuming the characteristics of the vagrant class. For example, he states that itinerant bands of feudal retainers, who had been a lawless element in the county in which they were

[3] John Pound, *Poverty and Vagrancy in Tudor England* (New York: Longman, 1971): 3.

[4] *Ibid.*, 6.

[5] *Ibid.*, 27.

employed, when gradually dismissed "*became* excellent vagabonds."[6] To Aydelotte, becoming a vagrant was akin to adopting a profession, something that was deliberately chosen and in which, if the desire was there, one could excel and gain a measure of notoriety and perhaps even comfort.

Similarly, Pound does seem to believe that there was a measure of choice involved in becoming a "vagrant" and there was a lifestyle that one could adopt. He restates Aydelotte's point concerning soldiers: soldiers, as a result of their desire to escape the humdrum existence of an artisan, or because they had no job at all, chose vagrancy because they were "persuaded to earn their living another way."[7] Furthermore, asserts Pound, "[m]any people did become vagabonds for the very good reason that there was no alternative employment," although he adds that this did not mean that "they adopted that way of life."[8] Finally, he states that

> the non-vagrant but able poor were placed in an impossible position. Unable to find employment yet forbidden to beg, they had the alternative of breaking the law or facing death by slow starvation. Such men were literally driven into vagrancy.[9]

Pound clearly favours the belief that there was an alternative to the normal ways of society and that some people had chosen the vagrant's way of life and proudly proclaimed themselves vagrants. In addition, there were also those who could not avoid becoming

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[6] Aydelotte, *Elizabethan Rogues*, 15.

[7] Pound, *Vagrancy*, 4.

[8] *Ibid.*, 8.

[9] *Ibid.*, 39-40.

vagrants. They adopted a vagrant's life to save themselves. Overall, Pound implies that vagrants were one of a larger class; they were all poor, being lower than paupers, and shared similar habits and beliefs.

In the eyes of modern authors, all vagrants were by definition poor. Thus to increase the vagrant population significantly required a similar increase in the pauper population. Most authors have implied that only during the sixteenth century was the pauper population large enough to create a substantial vagabond population[10] and consequently that vagrancy cannot be seen as a problem before the sixteenth century. Conversely, there are a number of authors who have asserted that the problem of vagrancy began in the middle ages. Frances Page states that the "'sturdy beggar' and 'such that walk by night and sleep by day were the terror of Plantagenet as well as the Tudor'."[11] William Chambliss dates the origins of the concern for vagrancy in legal codes to the early fourteenth century. In his article, "A Sociological Analysis of the Law of Vagrancy," he states that there is "general agreement among legal scholars" that the first vagrancy statute was passed in 1349.[12] Finally, R. B. Pugh, in the introduction to the *Calendar of London Trailbaston Trials of 1305 and 1306*, states that vagrancy

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[10] See for example Frances Page, "The Customary Poor-Law of Three Cambridgeshire Manors," *Cambridge Historical Journal*, 3 (1930): 125-133; and John Pound, *Vagrancy*.

[11] Page, "The Customary Poor-Law," 125.

[12] See Chambliss, "A Sociological Analysis of the Law of Vagrancy," *Social Problems*, 12 (1965): 68.

was a trespass "at least as old as 1276" but adds that it was not "defined by contemporary or later commentators."[13] These authors' opinions concerning the medieval origins of vagrancy are substantiated by the more than sixty ordinances and statutes promulgated between 1101 and 1500 prohibiting wandering and calling for the punishment of wandering men.[14] Despite the absence of the economic instability necessary, according to some authors, vagrants appear to have been a significant problem for contemporaries in the later middle ages.

Economic factors have been held to be the most important ones in the creation of vagabonds, but vagabonds were perceived by many contemporaries to be flourishing in a period where the economic situation was, according to some modern authors, unfavourable to their development. This leads to one conclusion: The economic situation was not the only factor considered when judges contemplated charges of vagrancy. To discover the reasons for the development of the charge of vagrancy it is necessary to put the economic explanation aside entirely. Rather, the roots of vagrancy must be seen as deriving from the perception of the landed and ruling classes. Authors have only lately turned to the notion that the perception of the landed and ruling classes fuelled charges of

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[13] R. B. Pugh, ed., *Calendar of London Trailbaston Trials Under Commissions of 1305 and 1306* (London: Stationary Office, 1975): 30.

[14] For a discussion of the statutes see C. Ribton Turner, *A History of Vagrants and Vagrancy and Beggars and Begging* (1892; reprint, Montclair: Patterson Smith, 1972): *passim*.

vagrancy. A. L. Beier states that vagrancy charges emerged from disputes between neighbours and concludes that "as with witchcraft, such cases probably reflect community tensions more than anything else,"[15] and even more importantly that "[i]f witch belief provided spiritual explanations for evil, the vagrant supplied common or garden ones."[16] Vagrancy charges appear to have been used by the members of communities to explain extraordinary events and to get rid of people who did not fit into normal community life.

With the wide range of activities that could have been defined as vagrant in this manner,[17] it is hardly surprising that authors have found the legal definition of vagrancy to be rather broad. Beier posits that

> clearly vagrancy was a protean concept. Possibly the law's blanket coverage was intentional, designed to entrap the maximum number of offenders.[18]

The versatility of the charge was intended to capture as many marginal, and hence threatening, people as it could. Wandering men, therefore, seem to have been deemed vagrants according to the

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[15] A. L. Beier, *Masterless Men: The Vagrancy Problem in England, 1560-1640* (London: 1985): 11.

[16] *Ibid.*, 12.

[17] Beier notes that sixteenth-century sources attributed to vagrants five characteristics. He states "first, they were poor, lacking any regular income apart from wages from casual labour. Secondly, they were able bodied--'sturdy', 'valiant' and fit to work. Thirdly, they were unemployed, or in contemporary terms 'masterless' and 'idle'. Fourthly, they were rootless: wandering, vagrant, 'runnagate'. Finally, they were lawless, dangerous, and suspected of spreading vice and corruption." *Ibid.*, 4.

[18] *Ibid.*

fears and suspicions of the ruling classes, and it is clear that men did not become vagrants but were "created" by the society.

Paul Slack echoed this argument in his book, *Poverty and Policy in Tudor and Stuart England*. He states rather bluntly that paupers were "created by the social and political elite" and that they "made them rogues and vagabonds by punishing them and giving them passports."[19] He continues by adding that vagrants and vagabonds were "suspicious" people who fell categorically between the deserving poor and the criminal, and that simple vagrancy was an emotive and elastic concept, which could be used to define any number of character types; simply put, a vagrant could potentially be *anyone* suspected of *any offence*, and in this respect was a concept defined in "the eye of the beholder."[20] Such subjectivity found expression in the laws, which Slack indicates were discretionary, "casting a broad net which allowed for selective enforcement." Consequently, all poor wanderers were not punished as vagrants nor did the shrieval officials punish as vagrants all those who could be charged with another crime.[21] Vagrants were, in fact, a "small sub-group among migrants" labelled at the whims of officials and the charge levied against them may have reflected neither the individual wanderer's characteristics nor his or her

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[19] Slack, *Poverty and Policy in Tudor and Stuart England* (New York: Longman, 1988): 7.

[20] Paul Slack, *Poverty and Policy,* 92. Also see his article entitled "Vagrants and Vagrancy in England, 1598-1664," *Economic History Review,* 2nd Ser., 27 (1974): 362

[21] Slack, *Poverty and Policy*, 92.

intent.

Similarly, Rab Houston, in his article "Vagrants and Society in Early Modern England," argues that vagrants, while indeed more likely to be blamed for moral laxity and other anti-social behaviour, could not be differentiated from the remainder of the population. In short, Houston argues that there was very little difference between the lower classes and those deemed vagrants, stating there is,

> no reason to extrapolate special moral delinquency among vagrants from attributed behavioral patterns which were apparently not unknown among the lower levels of society in general.[22]

A distinction was made, however, between normal society and vagrants. Houston accounts for this by suggesting that "deviance [was] not a characteristic inherent of a particular form of behaviour: it [was] a quality bestowed on certain actions as a means of defining contemporary attitudes."[23] Those deemed vagrant neither chose to become vagrants nor would they have considered themselves such. Rather, vagrants were deemed so by the society around them because they exhibited a number of characteristics that were in a sense undesirable within the context of contemporary society.

Vagrancy was a label imposed to separate people who did not conform to community standards or conducted themselves in a manner deemed suspicious from the remainder of the community. Where this

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[22] Rab Houston, "Vagrants and Society in Early Modern England," *Cambridge Anthropology,* 6 (1980): 24.

[23] *Ibid.,* 29.

separation was expressed most forcefully was in the law. Those deemed suspicious were arrested on charges of vagrancy and the difference between normal society and the vagrant was embodied in the law, both at a local and a national level. The best sources through which to uncover the ruling classes' perception of wanderers are the legal records such as statutes, assizes, ordinances and court rolls, particularly from sessions of peace and eyres, all of which provide insight into how wandering men were regarded. All laws and itinerant courts, particularly the ones mentioned above, originated from three bodies: the king, parliament (a body, consisting of gentry, nobility, and commoners from each borough and shire in England, which, though in its inception was intended as an advisory council to the king, developed in the later middle ages into the chief legislative body)[24] or the king's servants in the shires, who were frequently the same gentry as sat in parliament. Each type of enactment very likely reflects ideas from all over the country and legislation emanating from the king and parliament can be seen as reflecting the biases and ideas that permeated the ruling classes. Law in the middle ages was reflective of the desires, aspirations and biases of these three groups. It is possible to see this bias in the

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[24] James Field Willard, *The English Government at Work, 1327-1336*, Vol. 1, *Central and Prerogative Administration* (New York: Medieval Academy of America, 1940): 13. See also H. G. Richardson, who states that "in the year 1258...parliament takes definite form, and henceforward we have to do with an institution of a distinctive kind." "The Commons and Medieval Politics," *Transactions of the Royal Historical Society*, 4th Ser., 28 (1946): 23.

words chosen to identify suspects in the court rolls and eyres and in the general prohibitions embodied in statutes and assizes.

The key to understanding the perception of vagrants held by the ruling classes is the terminology used to describe and define wandering men in the law. The words used by lawmakers and court scribes not only define wanderers but also illustrate what these particular groups feared, and allows a window into the society's concept of what was criminal. Within the period between 1101 and 1400, there seem to have been three phases in which the terminology developed and was subsequently transformed. The first, beginning in the 1100s and ending early in the fourteenth century, reveals a society initially concerned with wandering men but predominantly concerned with the danger posed by strangers. The second phase, beginning in the thirteenth century and ending in the middle of the fourteenth century illustrates that the definition of what was not acceptable was expanded to include wandering men, who were seen as guilty of breaking cultural and social conventions and were described with words that illustrate a concern with mobility and its association with criminal activity. The final phase began with the promulgation of the Statute of Labourers in 1349 and the concurrent fragmentation of the legal terminology to define wandering men into several forms; it essentially illustrates that the ruling class had become afraid of all types of wanderers and developed a measure of intolerance for wandering men.

The terms and the underlying perceptions did not develop *ex nihilo*. Rather, they seem to have been the product of significant

alteration in the legal context. There are three changes to the law which probably had a significant impact on the perception of the wanderer and which may have led to a change in the perception and subsequently the terminology. These were the introduction of frankpledge, the development of the trespass, and the effects of the enactment of the Ordinance of Labourers, which each in its own manner affected how wanderers were viewed.

The shift in perception can also be demonstrated by examining the solutions entertained by the ruling classes and promulgated in statutes and assizes and enforced at the local level. In each of the three periods, it is evident that the ruling classes, by limiting the interaction of strangers with all communities in the first period, fining and incarcerating wanderers in the second period, and preventing wandering through the imposition of labour and the introduction of the letter patent or passport in the final period, were responding directly to the characteristic of wandering men that they believed the most dangerous.

The law provides the ideal window through which to examine the perception of wandering men by the ruling class. The next chapter will discuss the words used to define and identify wanderers and what they illustrated about perception of wandering men in the later middle ages.

# CHAPTER 1: TERMINOLOGY AND PERCEPTIONS

Most modern authors have accepted that those unfortunate enough to be identified by the terms "vagabond" and "vagrant" were attributed a number of odious characteristics. They were all masterless, idle, seditious and criminal. More importantly, the same authors also seem to have accepted that the history of the perception of the vagabond is static: throughout history the characteristics imputed to the vagrant or vagabond remained the same and the characteristics of the vagabond in the sixteenth century were also the characteristics of the vagabond earlier in the middle ages. In other words, vagrants and vagabonds had always been masterless, idle and seditious.

An examination of the extant legal records of the late middle ages, however, does not lead to this conclusion. Although wandering men were certainly perceived to be a problem before the sixteenth century--and the number of statutes promulgated to counteract the growth of the vagrant population and the significant number of prosecutions in the courts attest to this perception--the lawmakers of the later medieval period did not use the terms "vagrant" or "vagabond". Moreover, unlike the two terms which appeared in the sixteenth century and possessed variant meanings, the later medieval period does not seem to have imputed to all wandering men the characteristics that Beier found commonly attributed to vagabonds in the sixteenth century. Rather, in the later middle ages there seem to have been a number of terms that

were used to describe wandering men in legal records and each of these terms appears to have described a number of particular types of wandering man. Medieval lawmakers were far more specific in their classifications than their successors in the sixteenth century and for this reason it is possible to suggest that they viewed wandering differently.

Moreover, there appear to be three discernible phases in which the terminology developed. The first phase was characterized by a concern for the danger posed to society by "strangers". The second phase can be distinguished by the predilection for bringing charges against those wandering men who were suspicious and appeared to have a criminal intent, while allowing others, particularly wandering scholars, mendicant friars and labourers, to continue their itinerancy without incurring the suspicion of the members of communities or shrieval officials. The third and final phase is typified by the fragmentation of the terminology required to describe a number of wandering men and the growth in the definition of the people whose mobility was now considered a problem, a list which, by 1400, included labourers, mendicant friars and scholars. In fact, by this time, wandering itself was seen as suspicious. By the end of the final phase there were at least three different terms that were used to describe different types of wandering men and most types of mobility were seen as a definite threats.

The first phase began early in the twelfth century with the first mention of "vagrants" in the laws of Henry I. For example, chapter eight, paragraph five of the *Leges Henrici Primi* states,

> Nemo ignotem uel uagantem ultra triduum absque securitate detineat uel alterius hominem sine commendante uel plegiante recipiat, uel suum a se dimittat, sine prelati sui licentia et uicinorum testimonio, quietum etiam in omnibus in quibus fuerit accusatus.[1]

This pronouncement was reiterated in Henry II's Assize of Clarendon (1166). It states,

> Et prohibet dominus rex ne aliquis vaivus, id est vagus vel ignotus, hospitetur alicubi nisi in burgo, et ibi non hospitetur nisi una nocte, nisi ibi infirmetur, vel equus ejus, ita quod monstrare possit monstrabile essonium.[2]

Clearly, wandering men, classified both as "strangers" and "wanderers", existed and they were, from the king's point of view, a potential source of trouble.

Similarly, the Justices of the Eyre often discovered troublesome wanderers at the local level who, because they were not members of a view of frankpledge and could not provide surety,[3] had

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[1] "No one shall keep a stranger or vagrant for more than three days without promise of loyal conduct, or shall receive the man of another without his commendation or the provision by him of security, nor shall the lord send his own man away as being quit of all charges of which he has been accused, without granting his formal permission and obtaining the witness of the man's neighbours." L. J. Downer ed., *Leges Henrici Primi* (Oxford: Clarendon Press, 1972): 103-104.

[2] This article forbids that any vagrant (vaivus), wandering man (vagus) or stranger (ignotus) be given shelter unless in a borough and never for more than one night. William Stubbs ed., *Select Charters and other Illustrations of English Constitutional History From the Earliest Times to the Reign of Edward the First, Ninth Edition,* 9th ed. (Oxford: Oxford Univ. Press, 1913): 172. For a complete translation see, David C. Douglas and George W. Greenaway eds., *English Historical Documents, 1042-1189* (London: Eyre and Spottiswoode, 1953), II:410.

[3] For the purpose of this chapter it is necessary to know that frankpledge was a system through which the peace could be maintained. It involved the organization of all men in a community into groups ranging from eight to twelve, and making each member in the group responsible and accountable for the actions of the

committed a crime. For example, the Justices of the Eyre at Worcester in 1221, investigating the murder of one William of Ditchford, outlawed Henry le Poher of Lower Lemington for the crime and declared that "Henricus fuit itinerans et non habuit catalla nec fuit in franco plegio."[4] Similarly, at Coventry in 1221, Walter, a charcoal burner, was outlawed for murdering Richard Joie and William le Westreis and was described by the court as having no chattels "nec fuit in aliquo franco plegio quia itinerans."[5]2 It would appear that public peace was threatened by wandering men and their lack of any connection to the mechanisms created for the maintenance of the peace made them even more dangerous.

Mobility appears to have been perceived as a problem before 1230. But despite decrees against the *vaivus* and the indications that problems were caused by the *itinerans*, and the ostensible connection between wanderers and strangers that had been common since the *Leges Henrici Primi*, legislation after 1176 and up to the

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others. It was quite an effective system. Frankpledge will be discussed in greater detail below in chapter 3. The Bedfordshire Coroner Rolls are replete with cases of vagrants and strangers not in tithings who have committed crimes. See R.F. Hunnisett, *Bedfordshire Coroner Rolls* (Luton: Bedfordshire Record Society, 1960): *passim.*

[4] "Henry was a wanderer, and neither had chattels nor was he in a frankpledge." Doris Mary Stenton, ed., *Rolls of the Justices in Eyre Being the Rolls of Pleas and Assizes for Lincolnshire 1218-9 and Worcestershire 1221* (London: Bernard Quartich, 1934): 581.

[5] "nor was he in any frankpledge because he was a wanderer." Doris Mary Stenton, ed., *Rolls of the Justices in Eyre Being the Rolls of Pleas and Assizes for Gloucester, Warwickshire and Staffordshire 1221, 1222* (London: Bernard Quartich, 1940): 335. This case seems to be unique, however, as many of those arrested for being out of a tithing when they committed a crime were termed *extranei, ignoti,* or strangers.

Statute of Westminster (1285) in general tended to avoid the label of "wanderer" and emphasized the dangers that arose from the harbouring of *extranei* and *ignoti*--"strangers." For example, the Assize of Northampton, drafted in 1176, a mere ten years after the Assize of Clarendon, stated that,

> [i]tem nulli licet neque in burgo neque in villa hospitari aliquem extraneum, ultra unum noctem, in doma sua, quem ad rectum habere noluit, nisi hospitatus ille essonium rationabile habuerit, quod hospes domus monstret vicinis suis.[6]

Anonymity seems to have replaced mobility as the characteristic most feared by the lawmakers. The result was that all strangers, regardless, it seems, of intent, were regarded as suspects.

The emphasis on the stranger seems to have affected the representation of the wandering man in legal documents. In many cases, a number of the words used to identify wanderers disappeared. For example, *vaivus* seems to have fallen into disuse within the 100 years after the Assize of Clarendon[7] and *itinerans* was not used to identify wanderers in legal documents and seems to have disappeared after 1236.[8] Thus, while wandering had been a problem previously the courts seem to have stopped labelling anyone

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[6] "Item, let no one either in a borough or in a vill entertain in his house for more than one night any stranger for whom he is unwilling to be responsible, unless there be a reasonable excuse for his hospitality, which the host of the house shall show to his neighbours." For the Latin original, see Stubbs, *Select Charters,* 179, and for the translation, see Douglas, *English Historical Documents,* 411. For further information, see also 12 Edward I, C. 1.

[7] R. E. Latham, ed., *Revised Medieval Latin Word-List* (London: Oxford Univ. Press, 1965): 519.

[8] *Ibid.,* 261.

"wanderer."

While not the focus of the charge, however, it seems possible to see wandering as an integral characteristic of the stranger. First, to be perceived as strangers, the suspects would have had to come from elsewhere, probably from outside of the tithing. In other words they would have had to wander in from another place. Implicitly, therefore, all strangers were likely wanderers. Despite this, though, the problem with these particular wandering men was that no one knew who they were, they were "strangers", and, not being part of the system of frankpledge, there was no control over them. They could commit a crime, then escape with no threat of retribution or punishment. If no one was willing to account for the stranger's actions, that is ensure that restitution was done if damage was perpetrated by the stranger, they were a threat to public peace. Their anonymity was a threat to the community simply because they were accountable to no one. Courts therefore would not have arrested them for their wandering. Rather, anonymity was the problem and it was on this account that they were arrested.

To the middle of the twelfth century anonymity made wandering men suspicious and a potential threat to all communities. By the end of the thirteenth century, however, a shift in perception, heralded by a shift in terminology and reasons for indictment, occurred. Around the late thirteenth century[9], another word, *vacabundus*, emerged that implied that the problem with wandering

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[9] According to Latham, the word first appears in England around 1300. *Ibid.*, 504.

men was not their anonymity but rootlessness. For example at a session of the Norwich Leet Court in 1287-88, Robert Pikot was accused of being "vacabundus noctanter et habent ipsum suspectum et quod est contra pacem."[10] The charge here was centred on the suspiciousness of Robert's wandering at night. This certainly represents a shift from the period before.

The new label, however, was further used to identify men who were, for all intents and purposes, potentially criminal.[11] For example, a case in front of the Norwich Leet Court of 1287-88 identified Henry of Campesse as being

> fur et habent ipsum suspectum et quod est contra pacem et quod bene vestitur et nescitur unde et semper noctanter vacabundus est.[12]

The label of *vacabundus* pertained directly to Robert's and Henry's habits of wandering at night, when others presumably would have returned to their homes. But note that both were under suspicion for a crime that neither seems to have committed. Henry is

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[10] "Robert Pikot is a night-rover and they hold him in suspicion and to be contrary to the peace." William Hudson, ed., *Leet Jurisdiction in the City of Norwich During the Thirteenth and Fourteenth Centuries With a Short Notice of its Later History and Decline* (London: Bernard Quartich, 1892): 10.

[11] Those individuals who were not seen as criminal were likely identified with a derivative of the word *vagus*, which had been the normal Latin adjective for wandering, or *mendicantes*. According to Latham, *vagans, vagantes,* and *vagus* were first used in English documents, both legal and literary, between 1250 and 1300. Latham, *Medieval Latin Word List,* 504.

[12] "Henry du Campesse is a thief and they hold him in suspicion and [say] that he is against the peace and clothes himself well and nobody knows what from, and that he is always roving about at night." Hudson, ed., *Leet Jurisdiction in Norwich,* 5.

assertively called a thief in his indictment, but is not directly charged with theft. Rather, it is assumed that he stole; implicit in the indictment is the question, "how could he afford good clothes?" Similarly in the case of Robert Pikot, he had committed no particular crime but was under suspicion of breaking the peace. These cases illustrate that wandering, particularly at night, and not anonymity, was the problem. Anonymity, in fact, was not an issue. Both seemed to have been known by their fellow townsfolk, who knew them well enough to identify their habits for the court. Henry, for example, always clothed himself well but also wandered at night and it seems that his fellow townspeople could not rationalize the two. This suggests that these two individuals were members of the community and that their abnormal behaviour, that is, their penchant for wandering at night and, in Henry's case, his inability to account for his lavish dress, made the townsfolk suspicious and this may have convinced the other members of the community that they were criminal. This suspicion served to marginalize them and eventually criminalize them. In both cases, though, anonymity seems to have fallen by the wayside and their wandering seems to have been perceived as suspicious and potentially threatening.[13]

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[13] This does not mean, however, that the problem of strangers disappeared. R. B. Pugh found that strangers were still a significant problem. For example, Ralph Hardel was indicted for "leasing his house to harlots who commonly received strangers by night who withdrew before day" and Bydan de Cos who was indicted for "commonly harbouring strangers by night against the custom of the city whereby homicides, robberies, and other evils are done in parts where they abide and cannot be known or enquired into." Pugh, ed., *Calendar of London Trailbaston Trials,* 51, 58.

*Vacabundus* was a term used to identify wanderers who were suspicious and were, in the eyes of the other members of the community, particularly the sheriff and the jurors, likely, but not necessarily, criminal. Many were guilty of crimes but most were only suspected of being capable of committing a serious crime. *Vacabundi* were also perceived by the king and his ministers as having the intention of committing a crime. This is illustrated in an entry in the *Patent Rolls* which states that the justices of labourers must adjudicate in matters concerning violations of the Statute of Labourers so that the king

> melius sciri poterit, qui vagabundi et alii aggregata sibi ingenti multitudine malefactorum et pacis nostre perturbatorum alligaciones, confederaciones et conuenticula illicita tam infra libertates quam extra de die et nocte facientes in comitatu predicto vagantur et discurrunt.[14]

While no specific crimes are connected to the apparent threat posed by wandering men, it is obvious that *vagabundi* were suspected of

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Similarly, both Marjorie McIntosh and Eleanor Searle have discovered that strangers were seen as a very big problem at the local level in the 1460s. Searle, in fact, notes that "*extranei mendicantes*" were particularly troublesome. See Marjorie K. McIntosh, "Local Change and Community Control in England, 1465-1500," *Huntingdon Library Quarterly*, 49 (1986): 230; Eleanor Searle, *Lordship and Community: Battle Abbey and its Banlieu, 1066-1538* (Toronto: Univ. of Toronto Press, 1974): 393. Finally, the word used to describe strangers, that is *extranei*, did not disappear until 1609, which indicates that there was still a problem with strangers. See Latham, *Medieval Word List*, 182.

[14] "so that he will better be able to know who are vagabonds and others who join themselves into huge multitudes of evildoers and so collected disturb our peace, and who join into confederations and illicit conventicles, as much within their rights as without, and by day and night wander and run about." Quoted in Bertha Haven Putnam, *The Enforcement of the Statutes of Labourers During the First Decade After the Black Death, 1349-1359* (1908; reprint, New York: AMS Press, 1970): Appendix, 24.

organizing into groups and, as an army, threatening society. Moreover, by grouping themselves into "illicit conventicles" they appeared to be "evildoers," capable of committing any crime. Like the indictments above, this entry in the Patent Rolls is particularly vague. There is no crime attached to those labelled *vagabundi*, other than the rather non-committal "disturbing our peace", but there appears to be a remarkable amount of suspicion and fear. Vagabonds, to lawmakers in the early 1300s, were not necessarily criminals, therefore, but were likely to be involved in some form of crime.

Over the next half century, particularly after the 1360s, another shift in terminology occurred. The suspicion with which many wandering men were regarded was retained and wandering, particularly moving around in search of the highest wage, became criminal. The impetus for this change came from one piece of legislation promulgated in 1349 called the Ordinance of Labourers. It was specifically enacted to prevent the wandering of particular types of people, that is, peasants and labourers seeking higher wages away from their home area. No longer were these wanderers suspected of any type of crime, or capable of committing any crime, but they were now guilty of a specific crime. Moreover, while there appears to be little common ground connecting the wanderer of the early fourteenth century with this particular type of wanderer, these wanderers were deemed *vacabundus*. The label that had been generically used previously was narrowed to define those who would not work and in doing so violated the newly enacted Ordinance of

Labourers. The consequence of the narrowing of the scope of the term *vacabundus* was, however, the creation of a vacuum in the legal terminology surrounding wanderers deemed suspects as a result of their itinerancy. To fill this vacuum, it appears as though established words were seconded to define those wanderers who were suspicious but not guilty of any crime. What seems evident, though, is that the Ordinance of Labourers unwittingly forced a diversification in the legal language and as a result forced a differentiation between those who seemed guilty of violating the Ordinance of Labourers and those who were merely suspects. Moreover, this ordinance begins a period of greater sensitivity and a reduced tolerance for wanderers of all types.

The first and most obvious alteration was to the word *vacabundus* itself. It was altered to define narrowly those wandering men who had broken a contract or were unwilling to work. For example, Richard Rote was in the stocks for being a "vacabundum pro eo quod noluit seruire per annum."[15] Similarly,

> Willelmus de Kele de Magna Cotes nunc manes in Scarthow...apud Magnum Cotes erat vacabundus et extra quolibet servicum et requisitus fuit per Iohanem Alas baliuum Edmundi Iperound ad seruiendo ei in officio carucarij. Qui quidem Willelmus arestatus fuit per constabularium predicte ville de Magna Cotes qui quidem Willelmus devillavitet fregit arestum.[16]

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[15] "Richard Rote is a vagabond, who would not serve by the year." Rosamund Sillem, ed., *Some Sessions of the Peace in Lincolnshire, 1360-1375* (Lincoln: Lincoln Record Society, 1937): 211.

[16] "William of Great Cotes, now living in Scartho, a vagabond at Great Cotes and out of work, was requested by John Alas, bailiff of Edward Imperound to serve as ploughman. The said William was arrested by the constable of Great Cotes but he left the village

Furthermore,

> Iohannes Cotu de Snartford requisit Matillem (finem) filiam Ricardi Nevyll (finem) de Snartford tanquam vagibundam ad serviendem ei in officium filatricis apud Snartford...et predicta Matillis intravit in servicium dicti Iohannis et per procuracionem Iohannis Schipman de Lincoln skynner predicta Matillis recessit a servicio dicti Iohannis de Cotu infra terminium predictum contra statutum et intravit in servicium dicti Iohannis Schipman.[17]

The label *vacabundus* seems to have been applied to these individuals because they had no intention of staying in one place or fulfilling their contracts.

Moreover, the label of *vacabundus* was also used to describe those who, while remaining in the same place, had no intention of working. For example,

> Willelmus Brette de Iouis...optulit servicium Willelmo Myln' vacabundo ad serviendum ei in officio carucarij apud Bordeby sicut solebat servire et dictus Willelmus recusant.[18]

Similarly,

> Iurati presentauerunt quod Iohannes Moy de Escrik' est vacabundus et non uult operari nisi per dietas, ubi solebat seruire in officio carucarii et carectarii per

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and broke arrest." Elisabeth Kimball, ed., *Some Sessions of the Peace in Lincolnshire, 1381-1396* (Lincoln: Lincoln Record Society, 1955), II:66.

[17] "John Cotu of Snarford asked Matilda daughter of Richard Nevill of Snarford, as she was a vagabond, to serve him as spinner, at Snarford for a year. Matilda entered his service but left it before the end of the year by the procuration of John Shipman for her services." *Ibid.*, 50.

[18] "William Brett hired William Myln, vagabond, to serve him as ploughman and carter as William ought to serve, but he refused." *Ibid.*

annum.[19]

Essentially, *vacabundus* seems to have defined only those people who were guilty of labour offenses as enumerated by the Ordinance of Labourers. They would not work when they were capable of doing so and consequently they were criminal.

The impact of such a narrow and specific denotation continued well into the fifteenth century. In Leicestershire in 1410, the Justices of the Peace were informed of the,

> statuta et ordinaciones ibidem et apud Canter' de venatoribus operarijs artificibus seruitoribus hostellarijs mendicantibus et vagabundis ac alijs hominibus qui se nominant trauelyngmen.[20]

The statute implied here is of course the Statute of Labourers, and the inclusion of *vagabundus* in with this list of occupations "named travelling men" indicates that "vagabundus" was used to identify and perhaps even define those people guilty of a crime related to labour.

Similarly, at Nottingham in 1487, the records of the sessions stated,

> Et dicunt, quod Robertus Stele de Notingham, in Comitatu

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[19] "John of East Creek is presented to the jury because he is a vagabond and will not work unless it is by the day, when in the past he was in the habit of working as a ploughman or cart driver by the year." Bertha Haven Putnam, ed., *Yorkshire Sessions of the Peace, 1361-1364* (York: Yorkshire Archeological Society, 1939): 24. See also case no. 97, *Ibid.,* 25.

[20] "statutes and ordinances made in the same places [Northamptonshire, Wynton and Westminster] and at Canterbury concerning hunters, workers, artisans, servants, barkeepers, mendicants and vagabonds and all other men who are named travelling men." Bertha Haven Putnam, ed., *Proceedings Before the Justices of the Peace in the Fourteenth and Fifteenth Centuries: Edward III to Richard III* (London: Spottiswoode, Ballantyne, 1938): 88.

> villae Notingham', yoman, et Henricus Rowley, de eisdem villa et Comitatu, yoman, xij.die Augusti, anno regni Regis Henrici Septimi secundo, ac aliis diebus et vicibus, communiter et usualiter, hic apud Notingham, sunt communes vacabundi et vadunt cotidie otiosi in villa praedicta et nolunt laborare, licet potentes sint in corpore ad laborandum, etc.[21]

*Vacabundus*, as mentioned above, had previously been used for those people who wandered at night and were suspected of having criminal intentions. With *vacabundus* applying from 1360 onwards solely to those who were guilty of labour offenses, other words were required to identify people who were suspected of other transgressions. To fill the gap it seems that old words, in particular, *vagans* and *vagus* following 1360 were adopted and adapted by the courts to identify those wandering men who had not violated the labour laws but rather violated conventions or other more specific laws, much as *vacabundus* had done previously. Furthermore, these wanderers were sub-divided into smaller and more precise groupings, dependent upon the times that they wandered; those that wandered through the night were distinguished from those who were perceived to wander all of the time.

The first category, those who were wanderers by night, were generally identified by the label *noctivagus*. Many of the charges

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[21] "And they say that Robert Steel, of Nottingham , yeoman, and Henry Rowley, of the same town and county, yeoman, on the twelfth day of August, in the second year of the reign of King Henry the Seventh, and upon other days and occasions , commonly and usually, here at Nottingham, are common vagabonds, and go daily unemployed in the town aforesaid and will not work, although they be able in body to work, etc." *Records of the Borough of Nottingham, Being A Series of Extracts from the Archives of the Corporation of Nottingham, Volume III* (London: Bernard Quartich, 1885): 10.

against individuals who were labelled *noctivagus* included a comment on their reputations; generally, these individuals were of *mala fama*, of bad reputation. For example, "Robertus Rasch est noctivagus in Lincoln et suburbio eisdem et de mala fama."[22] And

> Willelmus de Hacthorn (plegij dicti Willelmi de suo bono gesto Iohannes de Dunham Simon Lovelaunce) captus per indictamentum super ipsum factum eo quod est noctivagus in Linc' et in suburbio et de mala fama.[23]

Furthermore, in addition to having poor reputations, many who were labelled night-wanderers also seemed to have been disturbers of the peace. For example,

> Iohannes de Glenteworth' Iohannes de Ottelay et Hugo Hogesthorp sunt communes noctivagantes et perturbatores pacis.[24]

Similarly, "Iohannes Kellok iunior est noctivagus et perturbator pacis"[25] and "Thomas Goldsmyth (fecit finem) est communis noctivagus et perterbator pacis."[26] As with *vacabundus* before

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[22] "Robertus Rasch wanders at night in Lincoln and its suburbs and is of ill-repute." E. G. Kimball ed., *Sessions of the Peace in the City of Lincoln 1351-54 and the Borough of Stamford 1351* (Lincoln: Lincoln Record Society, 1971): 5.

[23] "William of Hacthorn (pledges for good behaviour, John of Dunham and Simon Lovelance), was apprehended under indictment for wandering at night in Lincoln and its suburbs and being of ill-repute." *Ibid.*, 29.

[24] "John of Glentworth, John of Ottelay, and Hugo of Hogsthorpe are common wanderers at night and disturbers of the peace." *Ibid.*, 15.

[25] "John Kellok junior is a night wanderer and disturber of the peace." *Ibid.*

[26] "Thomas Goldsmith (made a fine) commonly wanders at night and disturbs the peace." E.G. Kimball ed., *Rolls of the Warwickshire and Coventry Sessions of the Peace, 1377-1397* (London: Dugsdale Society, 1939): 52.

1350, *noctivagus* seemingly applied to those who disrupted the normal affairs of the community.

Many times other transgressions were identified that, while not "criminal", were violations of customary conventions. For example,

> Ricardus Schether de parochia sancti Cuberti in Linc' est communis noctivagus et explorator nocturnus per hostias et fenetras vivinorum.[27]

and, "Willelmus de Mere capellanus est communis noctivagus cum vi et armis."[28] As with *vacabundus* in the late thirteenth century, *noctivagus* described those individuals that, through their wandering and other acts, such as listening at windows and being armed, violated social convention and custom. They were not criminal but were annoying and their habits distinguished them from the remainder of the population. Their marginality served to criminalize them.

Furthermore, at times, although uncommon, those who were given this label by the courts were suspected of committing crimes seemingly more serious in nature. For example,

> Iohannes de Northiks cordwaner una nocte fecit hamsok' vi et armis super duos duchemen in domo Johannis Disse minans eis ad verberandum et interficiendum per quod dicti duchemen fugerunt civitatem et dictus Johannes depredatus fuit dictis duobus hominibus extra Nedhamgates

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[27] "Richard Schether of the parish of St. Cuthbert in Lincoln is a common night wanderer and a nocturnal peeper through doors and windows." Kimball, *Sessions of the Peace in Lincoln*, 39.

[28] "William of Mere, chaplain, commonly wanders at night armed." *Ibid.*, 40.

> viij d. ob. et est communis noctivagus et mala fama.[29]

Similarly,

> Walterus Quell capellanus furatus fuit de Johannes Longespy lanam pretii vij...et asportavit et insuper cepit vi et armis lectum suum in domo dicti Johannis arestatum et asportavit. Idemque Walterus elongavit de Roberto de Costeseye uxorem dicti Roberti per tres vices cum bonis et catallis suis et noctanter fregit clausam dicti Roberti et dictum Robertum postea inde eiecit de domo sua vi et armis per tres noctes continuas et dicunt quod est noctivagus communis et male fama.[30]

Finally,

> Ricardus de Spaldynge...in Lincoln (vi et armis) ostia et fenestras domus willelmi de Byle (de Linc) fregit et dictam domum contra voluntatem dicti Willelmi intravit et unde (blank) de Roderham ancillam dicti Willelmi periacuit et alia dampna eidem Willelmo fecit ad dampnum ipsius Willelmi de xls et est communis malefactor et continue noctivagus et de mala fama.[31]

In such cases, however, the addition of "*noctivagus*" served not only to illustrate the accused's habit of wandering at night but

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[29] "John of Northwick, cordwainer, one night made hamsoken by force and arms on two Dutchmen in the home of John Diss, threatening to beat and kill them, whereby the said Dutchmen fled from the city, and the said John robbed them of 7 1/2 d. outside Nedham gates, and he is a common night-rover and of ill-fame." Hudson ed., *Leet Jurisdiction in Norwich,* 64.

[30] "Walter Quell, chaplain, stole from John Longspy wool worth 7 s....and carried it off; and moreover he seized by force and arms in the house of the said John his bed which had been taken in distraint and carried it off. And the said Walter carried away from Robert de Cotessy Robert's wife three times with his goods and chattels, and by night he broke into the close of the said Robert, and afterwards ejected him from his house by force and arms for three whole nights, and they say he is a common night-rover and of ill fame." *Ibid.,* 67.

[31] "Richard of Spalding in Lincoln (with force and arms) broke the doors and windows of William of Byle, entered his house against William's will, lay with his servant and did other damage to the amount of 40 s.; he is a common offender and nightwalker and of ill-repute." Kimball, ed., *Sessions for the City of Lincoln,* 5.

also showed that this person harboured criminal intent and by thus labelling him, the court rationalized or justified the suspect's actions. It was more than anything further proof of this person's marginality and criminality and it became far easier to prosecute and punish him.

As with *vacabundus*, *noctivagus* continued well into the fifteenth century. An inquisition at Southants in 1474 identified Robert Morfeld as a

> communis noctivagus per vicos plateas et fenestras ad audiendem consilia et secreta vicinorum suorum sub fenestris suis.[32]

Those that broke social conventions or rules were, therefore, still deemed *noctivagus* over one hundred years after its first appearance.

The word *noctivagus* only narrowly described those wanderers who roamed about at night. To differentiate those who were more committed to a wandering life, required another set of terms. Concurrent with the appearance of *noctivagus* appeared another group of words that described a different type of wandering man--one that was not limited to wandering at night but rather roamed about all of the time. Evidence from court rolls indicates that wanderers were grouped into two sub-categories and differentiation was indicated by the form of the word used to describe the wanderers. There appear to have been two types of terms used. The first term, generally expressed in the form of a verb or participle, appears to

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[32] "common night-walker by many streets and openings listens to the plans and secrets of his neighbours under their windows." Putnam, ed., *Proceedings before the Justices of the Peace*, 239.

have indicated that the person in question was merely wandering while he committed or after he had committed a crime. For example, this terminology was used to refer to a person like Robert Hacche who, while Sheriff in Devon, stole five draft animals from Robert of Noys and, since no one could attach him, that is arrest him and place him in bonds, he escaped to be subsequently described as "vagans in comitatu Somers'".[33] Similarly, Richard Notting was described as a "communis affraiator et vagans in patria."[34] In Bedfordshire, a number of people were described "vagantes et discurrant contra pacem."[35] Moreover, a case before the Justices of the Peace in Devon around 1352 indicates something similar. It reads,

> Iohannis Chalfam...cum Dauid Carkelond' Willelmo Colyn Stephano Nortwyk' Thoma Hilleman et pluribus aliis sagitariis et aliis armatis ad estimacionem quadraginta hominum per viam manutenencie, et ibidem in pleno mercato incesserunt et vagarunt armati et minas mortis predicto Ricardo de Wibbury.[36]

What separated these individuals from the rest is that their wandering neither added to their crimes, nor was it seen as

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[33] "wandering through the county of Somerset." *Ibid.*, 77.

[34] "a common affrayer of the peace and wandering through the land." Kimball, ed., *Sessions of the Peace in Lincolnshire, 1381-96*, II:28.

[35] "wandering about and disturbing the peace." E. G. Kimball, ed., *Sessions of the Peace for Bedfordshire 1355-1359, 1363-1364* (London: Bedfordshire Historical Record Society, 1969): 36, 65.

[36] "John of Chalfam...with David Carkland, William Colin, Stephan Northwick, Thomas Hillman and a number of archers and other armed men to an estimated forty men in total by way of maintenance in a full market wandered about armed and threatened the life of Richard of Wibbury." Putnam, *Proceedings Before the Justices*, 71.

criminal. They were merely mobile as they committed or after they had perpetrated their crimes. But, again, as with *vacabundus* prior to 1350, this suggests criminality and the intent if not the reality of criminal behaviour. It seems to follow in the tradition of the label of *vacabundus*.

The other form in which the word appeared, in the form of a noun, was different. As with the label *noctivagus*, the fact that these people were wanderers lent credence to the charge faced by the accused. First, by using the word in this form, the courts were purposefully separating the people they were dealing with from the rest of society and categorizing them as their own group. This suggests that they felt that the suspects had adopted a significantly different life. Moreover, these people were generally recorded as wandering all day and all night, certainly an oddity, as they contravened both the Statute of Labourers and social conventions. Furthermore, they were usually indicted for more serious crimes, such as assault or murder. For example,

> Thomas Acry de Clopton' Johannes filius eius et Hugo de la Grene vi et armis insultum fecerunt cuidam Ricardo filio Hugonis. noctanter et sunt vagantes de die quam de nocte ad verberandos quam plures. in perturbacione pacis.[37]

Also,

> Thomas Burray de Elnestowe et Willelmus Taillour quondam

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[37] "Thomas Acry of Clopton, John his son, and Hugh of the Green by force and arms assaulted by night a certain Richard son of Hugh, and they are wanderers by day and by night with the intent to beat many people in breech of the peace." See Marguerite Gollancz, ed., *Rolls of the Northamptonshire Sessions of the Peace: Roll of the Supervisors, 1314-1316; Roll of the Keepers of the Peace, 1320* (Kettering: Northamptonshire Record Society, 1940): 24.

> seruiens Iohannis Phelpot de Elnestowe sunt vagantes de die in diem et de nocte in noctem et habent in awayt Iohannem Beydon' et ipsi manifeste minantur de vita et membris contra pacem.[38]

Interestingly enough, William Taylor had been indicted earlier in the sessions before the justices and was described as merely "wandering about and disturbing the peace."[39] Not only was he a repeat offender but this second indictment, which included the threats of harm to John Beydon, served to convince the court that he had crossed the line and become a dangerous and committed "vagrant." This, in turn, satisfied the court that William was a repeat offender and convinced them that he warranted the more serious label.

By the end of the fourteenth century, the development of a vocabulary to identify wandering men illustrates that the problem had developed into a complex one. *Vacabundus* was narrowed to designate those individuals who were guilty of labour violations, rather than identifying men who were suspected of committing crimes. The restriction of the definition in turn created a vacuum in the legal language with respect to the description of other types of wanderers. Consequently, to fill this void, words that had previously only loosely defined wanderers or the act of

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[38] "Thomas Burray of Elstow and William Taylor, former servant of John Phelpot of Elstow, are vagrants night and day; they waylaid John Baydon and threatened him with life and limb." See E. G. Kimball, ed., *Sessions of the Peace in Bedfordshire*, 80. Both of these men, according to recent literature should have been poor, but both made a fine for 40d. This indicates that they were hardly poor but rather well-to-do.

[39] *Ibid.*, 36.

wandering in general, were altered to define specific kinds of wanderers and their crimes. Similarly, those who were perceived as physically dangerous or threatening were distinguished from those who were guilty of labour crimes. It is likely that regional variation in the use of these terms accounts for some differentiation in the terminology. For the most part, however, there is an unequivocal theme by 1400, illustrating that wandering had become more of a threat to the ruling classes and this had provoked a more complex and thorough system of classification of wanderers.

## CHAPTER 2: THE STIMULUS OF CHANGE: ALTERATIONS TO THE LEGAL CONTEXT

The words chosen by the lawmakers were descriptive and intended to define a particular type of wanderer, and were reflective of their underlying perceptions of and assumptions about wandering men. These perceptions were shaped and altered by three shifts in the legal system that significantly altered the legal context of the society in the late middle ages and certainly had a profound impact on the perception of wanderers. First, there was the development of frankpledge in the twelfth century. While "wanderers" seem to have been a concern before 1166, the frankpledge system, with its system of tithings and its adjunct *mainpast* actively pursued from the middle of the twelfth century, technically made defining anyone as a "wanderer" unnecessary. Moreover, the desire to keep "strangers" out of the society created a gulf between those who were a part of society and those who were perceived as outsiders. This imposed segregation would retain its efficacy, both in practice and in perception, through the sixteenth century. Secondly, the development of the trespass, a category of crimes below felony, the most serious criminal designation, allowed the courts to prosecute wanderers for a breach of the king's peace and focused the attention away from the anonymity of the wanderer to their mobility. Finally, the event that had perhaps the greatest impact on the development of the terminology and the solutions devised was the effect of the promulgation of the Ordinance of Labourers in 1349. Not only did it bring the

awareness of a problem to the national level, but it unwittingly forced a change in both the perceptions of the poor and, by association, wanderers. All three changes had a direct and lasting impact upon the perception of the wanderer.

The wanderer was certainly a problem for the author of the Assize of Clarendon. But as shown in the second chapter, the terminology used to identify wanderers seems to have disappeared before the middle of the thirteenth century. To account for the change it is necessary to examine the development of the system of frankpledge from its inception in the late twelfth century to its peak in the thirteenth century. The origins of frankpledge have been the topic of much discussion. Its origins were rooted in late Anglo-Saxon England[1] and according to W. L. Warren, every male over twelve[2], freeman or serf, had to be in a policing unit, called a tithing. Members of these tithings were responsible for the policing of a substantial area of land, perhaps something approaching the area occupied by a number of small hamlets[3] and the members were "to bring justice to erring kinsmen and neighbours."[4] To be a member of a tithing required residence in an area for one

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[1] For further discussion of the roots see, William A. Morris, *The Frankpledge System* (London: Longman, Green, 1910) and D. A. Crowley, "The Later History of Frankpledge," *Bulletin of the Institute of Historical Research*, 43 (1975): 1-15.

[2] Cnut, king of Anglo-Saxon England in the early tenth century, made membership in a tithing compulsory for all men over twelve. See Crowley, "Later History of Frankpledge," 1.

[3] W. L.. Warren, *The Governance of Norman and Angevin England, 1086-1272* (London: Edward Arnold. 1987): 40.

[4] Crowley, "Later History of Frankpledge," 1.

year and a day, essentially the time between successive views of frankpledge.[5]

In addition to the tithing, all men had to be in *borh*, that is able to provide sufficient pledges, likely numbering between ten and twelve, who could vouch for their innocence in all court appearances. In Anglo-Saxon times, collective *borh* was termed *friborg*, and as long as the *borh* created conformed to the stipulations and the directives of the local court, known as the hundred court, members were allowed to join in *borh* with whomever they preferred. This choice allowed members of the *borh* to refuse to pledge for those of ill-repute and to maintain groups in which they felt comfortable.

The Normans adopted this bifurcated system when they succeeded in conquering England, but unified it and called it frankpledge.[6] The *Leges Henrici Primi*, which date from the first decade of the twelfth century, indicated that the mechanics of the system would be largely left intact. In its description of England, the *Leges* indicated that England was divided into "two archbishoprics, many (15) bishoprics, and 32 shires" and that each shire was further divided into "*centuriae* and *sipessocna*: *centuriae* or hundreds are divided into *decaniae* or tithings, and sureties on the part of the

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[5] Morris, *Frankpledge*, 71. The View of Frankpledge was merely the bi-annual meeting of all members of tithings to present members who were not in tithing and duly induct them.

[6] Warren believes that the Normans gallicized the Anglo-Saxon word, *friborg*, or "free-pleage", as *francpledge*. See Warren, *Norman and Angevin England*, 41.

lords."[7] Moreover, it continued,

> [i]t has been laid down for the common good by judicious provision that every person who wishes to be held worthy of his wergeld or of compensation by way of *wite* or of the rights of a freeman shall be in his twelfth year in a hundred and a tithing or frankpledge.[8]

Despite functional similarities, there was one significant difference between the Anglo-Saxon and Norman methods of peace-keeping. Unlike the Anglo-Saxon system, the Normans did not leave an element of choice to the individuals when choosing their associations. The Normans placed everyone[9] in a hundred and further arbitrarily subdivided these hundreds into tithings. The members of the tithings were responsible for each other, regardless of the level of trust between members of their particular tithing.

There were some people who could not be members of a tithing because they did not fulfil the residency requirement. To account for these people, there evolved another method of providing surety and pledges, known as *mainpast*. Derived from the word *manupastus*, literally translated "those who are fed by one's own hand", this method aimed to account for followers, labourers, servants and

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[7] Downer, ed., *Leges Henrici Primi*, 97.

[8] *Ibid.*, 103.

[9] There were a number of people exempted from membership in a tithing. Britton suggests that all men, with the exception of "persons in religion, clerks, knights and their eldest sons, and women" were to be in tithings. See *Britton*, trans. by Francis Morgan Nichols (Holmes Beach: W. M. Gaunt and Sons, 1983), I:49. Despite these exemptions, all other men, including freemen, had to belong to a tithing, and as Morris points out, frankpledge was not "exclusively villain." Morris, *Frankpledge*, 77. It appears as though frankpledge was an all-inclusive method of maintaining the peace and an effective method of preventing trouble from within the community.

guests and other members of a household. Theoretically, they were all under the control of the master of the house and thus were seen to be, technically, no threat to the public peace. *Mainpast*, however, dictated that the master of the house was responsible for any crime committed by a member of the household, including guests and strangers. A law of Edward the Confessor, re-enacted in 1180, indicated that, according to the rules governing *mainpast*, when strangers who had been harboured fr two nights committed an offence the host would not incur a penalty, that is the host would not be held accountable for the guest's actions. However, the stranger, after three nights of hospitality, became a member of the host's household. Britton comments that,

> everyone shall answer for his guest that he shall have harboured more than two nights together, so that the first night he shall be deemed a stranger and uncouth, the second night a guest, and the third a hoghenhine.[10]

Once a member of the household, the host became fully responsible for the "stranger." Edward the Confessor's law stated,

> in such a case [if the stranger committed a crime after remaining in the house for three days] [and the host] shall not be able to produce him to justice, then he shall have the space of a month and a day. And if the offender shall be found, he shall make amends for the injury he has done, and shall make good the same, even with his body...But if the offender shall not be able to make good the injury he has done, then the host shall make it good, and shall pay a fine.[11]

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[10] Uncouth translates to unknown in this case, and hoghenhine, from the Anglo-Saxon *agen hina*, means of his own kind, of his household. See *Britton*, 49.

[11] Quoted in C. J. Ribton-Turner, *A History of Vagrants and Vagrancy and Beggars and Begging* (1910; Montclair: Patterson Smith, 1972): 27.

*Mainpast* allowed the authorities to be sure that everyone was adequately policed.

But there were men who could not be offered either type of surety. "Strangers", along with clerks, according to William Hudson, remained legally outside the system of frankpledge, and were not necessarily covered under someone's *mainpast*.[12] They could remain in a city indefinitely, unless they became *suspectus*, suspected, at which point they would require surety and pledges.[13] What about wanderers? As previously stated, they were certainly a problem before 1166. What happened? William Morris has stated that the wanderer's "vagrant" lifestyle would have left him open to suspicion, and no one would have dared pledge for him. They were excluded from both tithings and *mainpast* and consequently, absent from the view of frankpledge, no record of such people would exist. It is not, in fact, that simple. Morris's assertion is plausible only if strangers and wanderers were separated by contemporaries into two mutually exclusive groups. Again, as argued above, the stranger and the wanderer seem to have been one and the same and the majority of the laws promulgated by kings in the late twelfth and thirteenth century, demonstrate this. For example, the Assize of Northampton indicated that when leaving, strangers were to leave "in the presence of the neighbours and by day."[14] Wandering was

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[12] Hudson ed., *Leet Jurisdiction in Norwich,* lxvii. The exclusion of the stranger from frankpledge is not surprising as they would likely be unable to meet the residency requirement.

[13] *Ibid.*, lxvii.

[14] Assize of Northampton (1176)

something that "strangers", that is, people not from the locality, were assumed and, in fact, encouraged to do. The insularity[15], almost to the point of xenophobia, of communities made the presence of strangers most uncomfortable and, as a result, they were ushered on their way with alacrity.

Anonymity and mobility seem to have been bound together in the "stranger." But anonymity seems to have been the most feared characteristic. Why were wandering men called *extranei* and not *vaivus* or *mendicantes*? As indicated in chapter 3, the problem with the people who were not in tithing or in *mainpast* was that they were not in any way responsible to the members of the community. Their lack of attachment to the community and the inability of the members of the community to identify the stranger could encourage the stranger to commit crimes at will without fear of punishment. Thus, their wandering was inconsequential, and indicting them for wandering would have been pointless. For obvious reasons there was no need in the legal language for the term "wanderer". If not a member of a particular tithing or in someone's *mainpast*, the most appropriate designation used to describe the person in legal documents was "stranger", the characteristic deemed most dangerous.

This may have had an important side-effect. "Strangers" were not and could never be a part of the society. By legally excluding them, and punishing them as "strangers", the system of frankpledge

[15] See Henry Summerson, "The Structure of Law Enforcement in Thirteenth century England," *American Journal of Legal History*, 23 (1979): 314, who calls life in a vill a "claustrophobic business".

defined the borders of society and consequently a gulf between "society" and people perceived to be beyond that boundary developed. Some communities formalized such a boundary by automatically considering strangers criminal. Raftis states that strangers from neighbourhood villages were often associated with outlawed natives and further adds that "if a stranger had not taken the time to acquire legal residence he would also be treated as an outlaw whom no one might receive."[16] Itinerant strangers were separated from the rest of society because the lawmakers felt that they were potentially dangerous, perhaps even criminal, and to prevent any trouble it was deemed best to marginalize them. This marginalization and segregation would be significant in the development of the concept of the wandering man and his role in society and this perception of the wanderer remained from the twelfth to the sixteenth century.

Before the fourteenth century, therefore, the system of frankpledge and the resulting inapplicability of the term wanderer seem to have shaped the perception of wanderers. By the end of the thirteenth century a term, *vacabundus*, had surfaced in the itinerant courts[17] that indicated a problem with wandering. As the system of frankpledge was still in operation, although weakening, and would not really disappear until the middle of the

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[16] See J. A. Raftis, *Tenure and Mobility: Studies in the Social History of the Medieval English Village* (Toronto: Univ. Toronto Press, 1964): 133.

[17] See above, p. 17.

fourteenth century,[18] the change cannot be attributed to the disintegration of the system of frankpledge, tithings or surety. But the shift in label, from "stranger" to "wanderer", is significant. The key to the change in perception is the development of an amorphous category of offenses known as trespasses. The structure of the legal system during this period is by no means straightforward and the history of the development of the trespass is itself rather convoluted. However, a number of authors, including Frederic Maitland and Alan Harding have attempted to chart the development of the trespass.[19] Maitland in the *Forms of Action at Common Law,* suggests that trespass originated around 1250.[20] Alan Harding sees the genesis of the procedure beginning in the early thirteenth century, although he too places the actual date of the beginning of the trespass as following 1250.[21] Certainly by the middle of the thirteenth century, there had developed a category of crimes that were known as trespasses.

Before the thirteenth century, criminal charges heard by the king's justices were few: only the felony came to their attention.

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[18] For the decline of Frankpledge see Morris, *Frankpledge,* 151-166 and Crowley, "The Later History of Frankpledge," 1-15.

[19] See F. W. Maitland, *The Forms of Action at Common Law: A Course of Lectures,* ed. by A. H. Chaytor and W. J. Whittaker (Cambridge: Cambridge Univ. Press, 1962); Alan Harding, ed., *The Roll of the Shropshire Eyre of 1256* (London: Selden Society, 1981): xxxii-lviii.

[20] Maitland, *Forms of Action,* 65.

[21] Harding, *Shropshire Eyre,* xxxvi.

These were crimes, including theft, murder, arson, rape, and treason, that were seen to have contravened the king's peace. According to Maitland, the felony had, before the thirteenth century, been brought before the justices by an aggrieved party, through an appeal, with which the appellant accused the appellee of a deed of violence and demanded the penalty of death or mutilation.[22] Following the Assize of Clarendon, however, felonies were presented to the itinerant justices by indictment. Cases were investigated by local courts and the local juries were mandated to present all serious crimes to the visiting itinerant justices. Rather than private suits, therefore, many felony cases arose from communal indictments.

The felony, even after the development of the idea of the jury in 1166, was punished by a trial by battle or ordeal. The appellant and the accused would be required to fight to determine the guilty party. The decision of guilt was left to God, who, it was believed, would never allow a guilty man to win. Before the thirteenth century, moreover, a charge of felony also allowed, if battle indicated guilt, for the compensation for the injuries caused by the offence. By the thirteenth century, this seems to have changed. Harding notes that the appeal became a "specifically criminal action by which the appellant could get no compensation as

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[22] Maitland indicates that the form of an appeal commonly took was "*fecit hoc*(the particular felony)*nequiter et in felonia, vi et armis et contra pacem Domini Regis.*" See Maitland, *Common Forms of Action*, 49.

a private person."[23] For those crimes that were not considered felonious, the punishment was likely amercement, basically a small fine of no more than forty shillings, with threepenny amercements being common in most courts.[24] Thus the charge of felony was not particularly satisfying to the appellant. He would have to fight and, if victorious, could not be compensated for his losses.

It is in the appeal of felony, and the inability to gain compensation from such an appeal after the beginning of the thirteenth century, that the origin of the charge of trespass lies. It seems to have developed from such a complaint of injury and, as with the felony, was couched in terms of a breach of the king's peace.[25] The actions defined under the rubric of the trespass included a number of civil injuries from breach of contract, personal assault, defamation, negligence and trespass on another's land.[26] But more than this, it came to define an extensive number of crimes, both civil and criminal, many unrelated, that did not amount to felony but were deemed criminal or contrary to the king's peace. Consequently, all charges of trespass were brought to the justices either through the suit of an individual who felt his belongings, his person or his land in some way violated by the

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[23] Alan Harding, *The Law Courts of Medieval England* (London: George, Allen and Unwin, 1973): 57.

[24] Sir Frederick Pollock and F. W. Maitland, *The History of English Law Before the Time of Edward I*, 2nd ed. (Cambridge, Cambridge Univ. Press, 1968), II: 514-515.

[25] Harding ed., *Shropshire Eyre of 1256*, xxxvi, and Maitland, *Forms of Action*, 65.

[26] See Harding, *Law Courts of Medieval England*, 76.

accused or by communal indictment, from a community who felt that the king's peace had been violated by the individual in question.

More importantly, the charge of trespass, both by suit and indictment, as it was not a felony, allowed the appellant to seek compensation for the crime committed against him. Compensation generally amounted to allowance for the cost of the goods taken or damaged, or damage inflicted upon a person. In addition to compensation, however, the defendant, if found guilty, was also fined and punished by imprisonment. Maitland indicates that this was probably quite popular because of the "stringent process against defendants."[27] Moreover, for a trespass to have been committed there needed only to be excessive force used on the victim's land, goods or person. What constituted excessive force, however, appears to have been much less than what would be expected. Maitland indicates that "a wrongful step on his land, a wrongful touch to his person or chattels was held to be force enough."[28]

The charge of trespass, therefore, particularly in it's inception, seems to have been more of a private civil suit than anything else.[29] Modelled on the appeal used for felony, the trespass could have been used by members of a community to punish those they felt had wronged them, were capable of wronging them or

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[27] *Ibid.*

[28] *Ibid.*, 50.

[29] See Frederick G. Kempin, Jr., *Legal History: Law and Social Change* (Englewood Cliffs: Prentice-Hall, 1963): 71.

those against whom they harboured suspicion, gain compensation and exact a measure of revenge. Moreover, the growth of the trespass, especially with respect to broken contracts and violated land and property, could have had quite a significant effect on landed class perception of the wanderer. Well within the scope of the trespass was the charging of people with breach of contract or a trespass based on a "wrongful step" on a neighbour's land. Following 1250, it was possible to sue a person for merely transgressing the border of a plot of land. Moreover, communities could indict those who disturbed the king's peace by acting in ways that did not conform to community standards or expectations--for example, being awake at night and wandering around, as Robert Pikot had the habit of doing.[30] His wandering at night violated the normal behaviour of the town and he was, therefore, seen as suspicious. His actions and similar actions by others, from 1250, were prosecuted as trespasses.[31]

The charge of trespass still retained the emphasis on the locality that was evident in the system before 1300. More important, the charge of trespass seems to have diverted attention from the "stranger" and focused attention on the new classification of "wanderer", as strangers were not the only ones to be indicted

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[30] See above, pp. 18-19.

[31] Many of the wanderers charged with a trespass were also charged with another crime. It is difficult to determine, therefore, for which crime they are being punished. What is certainly important, though, is the assertion that these people were wanderers while the committed their "criminal" act. See Pugh ed., *Calendar of London Trailbaston Trials*, 30-31.

for these crimes. The final development involved the issuing of the Ordinance of Labourers in 1349. While it certainly had a tremendous impact on this system of classification, the Ordinance was not created *sui generis*. Rather, it was an expression of the despair and dismay of the nobility that grew out of the situation that followed in the wake of the Black Death. In essence, it was part of an attempt by the ruling classes to "halt the clock" to prevent the changes that were occurring in society as a result of the Black Death. The Ordinance itself can be seen as attempt to deal with the flexibility of the new society and as an attempt to prevent the breakdown of the old, more static society. To understand the Ordinance, therefore, it is necessary to examine the impact of the Black Death on society and how this influenced the promulgation of the Ordinance of Labourers.

To begin with, a discussion on the exact number of people who died in the plague of 1348-49 would be futile. A number of scholars have attempted such a feat only to be unsuccessful because of a lack of evidence.[32] For the purposes of this paper, it is necessary to use the generalities that have emerged from the work of these authors. There is little consensus on the actual number of people that perished, or the number that remained following the

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[32] See A. R. Bridbury, "The Black Death," *Economic History Review*, 2nd ser., 26 (1973): 577-592, J. M. W. Bean, "Plague Population and Economic Decline in England in the Later Middle Ages," *Economic History Review*, 2nd ser., 15 (1962-63): 423-437, M. Postan, "Some Economic Evidence of Declining Population in the Later Middle Ages," *Economic History Review*, 2nd ser., 2 (1950): 221-246, Phillip Ziegler, *The Black Death* (London: Collins, 1969) and see especially F. A. Gasquet, *The Black Death of 1348 and 1349*, Second Edition (London: George Bell, 1908).

crisis. Gasquet offers a rather high figure of fifty percent where Russell believes that twenty percent was closer to reality. Ziegler balances in the middle asserting that the loss in population was no greater than forty-five percent but certainly no less than one-third.[33] Lately the agreed compromise seems to be one-third of the population. While compelling, it is important to remember that such numbers are purely conjectural and it must suffice to say that a significant proportion of the population died during the first outbreak of the plague.

Such an immense demographic catastrophe had multifarious effects on English society. Economically, for the first decade after the Black Death, England was affected severely. In particular, there seems to have been a significant drop in the amount of land cultivated.[34] While the surplus population filled the places of those who died, and freeholders expanded their current holdings by absorbing their neighbour's land,[35] there still remained a significant proportion of English soil left uncultivated. This in turn affected the output of produce and as a result, prices rose. Most important, however, was the impact of

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[33] All of these figures are taken from an historiographical analysis performed by Ziegler in *Black Death,* 228.

[34] Gasquet estimates that one-third of the land cultivated before the plague was left uncultivated afterwards. Gasquet, *Black Death,* 231.

[35] For example, John Atte Grene's son was permitted to expand his holdings within Cuxham after the Black Death, taking over two messuages and a half-virgate. P. D. A. Harvey, *A Medieval Oxfordshire Village: Cuxham, 1240-1480* (Oxford: Oxford Univ. Press, 1965): 137.

the plague on wages. There had been a surplus of labour before the plague struck, but this was destroyed by 1350. The severe shortage that existed following the plague favoured the labourers. In a number of areas, wages doubled, although it must be admitted that in others, probably due to the surplus that existed before the plague and the number of readily available replacements, the wages remained static.[36] Overall, however, wages tended to rise, and labourers, to exploit fully the situation, moved around and sought the situation most beneficial to them.

While many authors have made a great deal of this new mobility, it was not a new phenomenon. As Raftis has stated, medieval history is not "geographically static."[37] Labourers had moved about before the plague, women migrated to new towns after marriage[38] and itinerant merchants constantly moved about England.[39] In fact some of the Ramsey Abbey villagers were, for a nominal fee of one or two chickens, given permission to be abroad provided they maintained their tithing obligations.[40] Medieval

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[36] See Ziegler, *Black Death,* 236-237.

[37] J. A. Raftis, "Geographical Mobility in Lay-Subsidy Rolls," *Mediaeval Studies,* 29 (1967): 398.

[38] See Raftis, *Tenure and Mobility,* 173.

[39] See J. J. Jusserand, *English Wayfaring Life in the Middle Ages,* trans. by Lucy Toulmin Smith, (Chatham: W. and J. Mackay, 1950): 120-140.

[40] Edwin B. DeWindt, *Land and People in Hollywell-cum-Needingworth: Structure of Tenure and Patterns of Social Organization in an East Midland Village, 1252-1457* (Toronto: Univ. Toronto Press, 1972), 176 n. 35 and Raftis, *Tenure and Mobility,* 139.

English society was replete with people, only a small minority of whom were outside the law, who were transient.[41] Such movement, moreover, as one author has asserted, was rarely limited to short distances. Raftis has illustrated that 46 families of 151 newcomers to Ramsey moved forty or more miles from their place of origin.[42] The root of the Ordinance of Labourers does not lie merely in a concern for the greater mobility of labourers.

Historians of the Ordinance and the Statute have seen both enactments as the landlords' reactions to the loss of labour and the inability to get work done on their lands.[43] The ordinance recognized the "necessity of masters [and] the great scarcity of servants" who would not serve unless they received "excessive wages."[44] Moreover, it recognized that there were many labourers who would rather "beg in idleness than...labour to get their

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[41] See Jusserand, *English Wayfaring Life*, pp. 141-158.

[42] J. A. Raftis, "Geographical Mobility in Lay-Subsidy Rolls," 403. Raftis has elsewhere asserted that there was no great pressure to restrict villein movement in order to keep them at home. See Raftis, *Tenure and Mobility*, 141.

[43] One such author is R. H. Hilton who indicated that in the past, the landlords had used their seigniorial rights to ensure a supply of cheap labour. After 1350 they used their positions as justices of the peace or labourers to do somewhat similar things. Hilton, *The Decline of Serfdom in Medieval England*, 2nd ed., (London: Macmillan, 1983), 38; also see, for example, E. Cheyney, "Disappearance of English Serfdom," *English Historical Review*, 15 (1900): 29-32; and C. Foote, "Vagrancy Type Law and its Administration," *University of Pennsylvania Law Review*, 104 (1956): 615 who states that the anti-migratory policy behind vagrancy legislation began as an essential complement of the wage stabilization legislation which accompanied the break-up of feudalism.

[44] 23 Edw. III 1349, Preamble, *Statutes of the Realm*, 1: 307.

living."[45] To rectify this situation the Ordinance stated that,

> every man and Woman of our realm of England, of what condition he be, free or bond, able in body, and within the age of threescore years, not living in Merchandise, nor exercising any craft, nor having of his own whereof he may live, nor proper land, about whose tillage he may himself occupy, and not serving any other, if he in convenient service, his estate considered, be required to serve, he shall be bounden to serve him which so shall him require.[46]

Moreover, to ensure that all men did serve, the Statute of 1351 stated "and that the same servants be sworn two times in the year, before Lords, Stewards, Bailiffs and constables of every town, to hold and do these ordinances."[47] It is not surprising that the landlords, feeling the productivity of their land, and hence their profits, falling as a result of the dearth of labourers, reacted, through Parliament, with a statute that made service mandatory.

But, there may be more to the landlords' reaction than simply the dearth of labourers. The language used in both the ordinance and the statute suggests that both king and parliament were concerned with the problem of the broken contracts that seemed to be occurring more frequently. The ordinance stated that any servant who left before the term of contract had ended was to be imprisoned[48], and the statute followed by stating that all "servants, as well Men as Woman, should be bound to serve,

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[45] *Ibid.*

[46] 23 Edw. III, c. 1. *Statutes of the Realm,* 1: 307.

[47] Statute of Labourers, 25 Edw. III, *Statutes of the Realm,* I, 311.

[48] 23 Edw. III, c. 3, *Statutes of the Realm,* 1:307.

receiving salary and wages, accustomed to places where they ought to serve." Locally, in the itinerant courts, a number of cases came before the sessions of the peace which indicated that a servant had broken a contract without just cause.[49] Many times the departure had caused former employers loss and frequently, entire villages were the victim. For example, Richard Hardbene was asked by the constable of East Barkrith to reap at a reasonable rate, but rebelled and left the village in search of higher wages. This caused the village "serious damage."[50] Many of these cases arose from the labourer's desire for higher wages. For example, Thomas Wright, a carpenter, refused to work either for the parson or other men in the town, but in the autumn "he left town in the 46th and 47th years to live elsewhere in order to get higher wages."[51] Landlords were certainly concerned with the maintenance of their

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[49] There are a plethora of such cases in Kimball, ed., *Sessions of the Peace in Warwickshire*, case nos. 65, 125 and in Sillem, ed., *Sessions of the Peace in Lincolnshire*, case nos. 1, 6, 64, 83, and Kimball, ed., *Sessions of the Peace in Lincolnshire*, case nos. 11, 15, 43, 50, 81, 95, 115, 168, 204.

[50] "Ricardus Hardbene de Estbarkword' communis laborator fuerat requisitus per Robertum Bonnay constabularium villate de Estbarkword ad deserviendum vicinis de Estbarkword ad metendum et facaldum pro competente salario...Dictis vero Ricardus tamquam rebellis precepti constabularij exiuit villam pro supradicti ad grave dampnum tocius villate de Estbarkword." Kimball ed., *Sessions of the Peace in Lincolnshire*, II: 78.

[51] "Thomas, filius Robertus Wrighte de Toft carpentarius non uult deservire nec artificium suum exercere villa de Toft licet sepius requistus fuerat per Hugonem personam ecclesie de Toft et alius homines euisdem ville sed recessit ab eadem villa ad commorandum alibi per patriam pro excessiuo salario capiendo videlicet annis regni regis nunc xlvj et xlvij." Sillem ed., *Sessions of the Peace in Lincolnshire*, 69.

contracts with their labourers.[52]

This concern is not surprising given that certain contracts, particularly the one that had developed historically between the landlords and their tenants, were central to the development and stability of English society. From the Norman invasion in the late eleventh century, contracts[53], *per se*, bound men to men, men to women, and society together. The *Mirror of Justices* stated,

> And there are divers kinds of contracts respecting fees, such as gift, sale, exchange, lease, all of which can be made either for a time, or for ever, either free and discharged of all obligation and burden of serfage, or charged therewith...And it was after the likeness of this contract that the aforesaid contracts were made by our first conquerors, when the counts were enfeoffed of counties, the barons of baronies, the knights of knights'

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[52] When speaking of these labourers, it is useful to keep in mind that only a small percentage of them were free. The majority of them were attached to a lord by custom; they were serfs or villeins. See H. L. Gray, "The Commutation of Villein Services in England Before the Black Death," *English Historical Review*, 29 (1914): 628. Many of them according to Henri Pirenne, were cottars or bordars, serfs who held a "mere patch of ground" who were employed as labourers. See Henri Pirenne, *Economic and Social History of Medieval Europe* (New York: Harvest, 1937): 62. As late as the sixteenth century a majority of all tenants (61.1%) were customary tenants, that is serfs, villeins, cottars and other small holders. In comparison only 19.5% were freeholders. See R. H. Tawney, *Agrarian Problems of the Sixteenth Century* (1912; reprint, New York: Harper, 1967): 25. They were able to perform other labour services for a couple of reasons. First, they may have commuted a portion of their week work, work performed for the lord on the lord's demesne. Second, their own plots of land may have been very small and thus would have had a great deal of opportunity and, in fact, need to labour on other people's land to survive. See H. S. Bennett, *Life on the English Manor* (1937; reprint, Cambridge: Cambridge Univ. Press, 1980): 65-66.

[53] Many authors would likely balk at the suggestion that this was a contract, particularly considering today's narrow definition of what such an agreement is. For the purposes of this essay the definition of a contract will be considered an agreed "contraction or a limiting of one's general freedom of action." See D. N. Pritt, *The Substance of the Law* (London: Lawrence, 1972): 43.

> fees, the serjeants of serjeantries, the villains of villainages...whereof some received fees absolved from all obligation in respect of past services, or in pure alms, some received fees to hold by homage and service for the defence of the realm, some to hold by villain customs to plough, lead loads, drive droves, weed, reap, mow, stack, thresh or to do similar services, and sometimes without receiving food for this.[54]

At base, therefore, English society was a series of contracts that evolved between men and between classes. The propertied classes, or those with aristocratic pretensions, bound themselves to one another through vassalage, the submission of one man to a stronger man, presumably a military leader. To become a vassal required a formal and "genuine contract"[55] between two men, in which one man swore fealty[56], that is a promise of faithfulness[57], and this agreement defined the roles of both men. Each was bound by the terms of the pact that they had agreed to and the consequences of breaking such a pact were severe indeed.

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[54] W. J. Whittaker, ed., *The Mirror of Justices* (London: Selden Society, 1895): 80.

[55] Bloch quotes Beaumanoir as stating, "as much as the vassal owes his lord of fealty and loyalty by reason of his homage, so much the lord owes his vassal." See Marc Bloch, *Feudal Society,* trans. by L.A. Manyon. (Chicago: Univ. Chicago Press, 1961): 228. There seem to have been a number of consequences, moreover, to lords who did not perform their duties properly. See *Ibid.,* 228-229.

[56] Pollock suggests that the underlying idea of the oath of *Fides* was "As I here deliver myself to you by my right hand, so I deliver myself to the wrath of *Fides*...if I break faith in this thing." *Fides* seems to have been the minion of God and the oath was sworn to him. See Pollock, *History of English Law,* 188. The appeal to the divine was what solidified the contract until the thirteenth century at least and probably later. To break it meant alienating oneself from the mercy of God, that is eternal damnation.

[57] Bloch, *Feudal Society,* 146.

Although such a contract seems to have predominated in the upper classes[58] the lower orders, according to Paul Hyams, were also bound by fealty in villeinage.[59] Villeinage tied men to a lord and, in return for a plot of land, obligated them to perform a number of services for their lord.[60] In return, at least in the eleventh century, the lord offered protection and following the thirteenth century the villein was offered protection by custom in the manor courts. Unlike the oath of fealty between members of the upper classes, which required that a new oath be drawn with each new individual,[61] the agreement that bound a man into villeinage also seems to have bound his successors into it as well. A

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[58] *Ibid.,* 147.

[59] Fealty given by villeins only seems to appear in the court rolls when a landlord was attempting to prove ownership of a particular villein. Ownership was proven by illustrating that fealty had been given. See Paul R. Hyams, *Kings, Lords and Peasants in Medieval England: The Common Law of Villeinage in the Twelfth and Thirteenth Centuries* (Oxford: Clarendon Press, 1980): 10-12.

[60] Much of the work performed by villeins had to do with the cultivation of the lord's land. Duties such as ploughing and reaping, particularly around the time of harvest in autumn, were in addition to any duties that were required on their own land and in fact took precedence. Many times the villein would not know the duties they were to perform in the next day until the night previous. See Pollock, *History of English Law,* 371. In addition to the performance of these manual tasks, villeins were required to pay a number of monetary charges under certain circumstances. They were to pay *merchet* when a child was married and were to pay *heriot* when a member of the family died. These fines have been linked to the lord's ownership of the villein's body, that is the villein was the lord's property. See Hyams, *Kings, Lords and Peasants, passim.* See also Raftis, who remarks that the "contractual relationship in land between lord and tenant marks no doubt a sharp line of contrast between the economic status of slave and that of manorial villager." Raftis, *Tenure and Mobility,* 15.

[61] See Bloch, *Feudal Society,* 147.

customary contract arranged by an ancestor was reason enough to continue the contract.[62] These contracts were based on fealty, which by custom had been forced on the villein.

Such links were the key to society. The violation of this contract, and the breaking of fealty was criminal, according to the prosecutions in the courts of the sessions of the peace. One case in particular, from 1371, illustrates that fealty was still considered important. The case stated,

> To the justices of the lord king for keeping the peace in the parts of Kesteven, Walter, chaplain of the parish of Barrowby, and John Sire, proctors of the said church, complain against Robert Taskere of Londonthorpe in a plea of breach of covenant, that the said Robert was hired by the said Walter and John...in the 44th year of King Edward III to thresh all their corn, of whatever kind, as demanded by his fealty [*fide*]. Robert, in consideration of higher wages given and promised to him, departed from service.[63]

By leaving and ignoring the duties demanded "by fealty", Robert Taskere had broken a bond between himself and the proctors of the church, a contract that had likely governed Taskere and his ancestors for years. He had broken a contract that essentially defined his position in society and by doing so had rejected his

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[62] In fact, there were only a few ways in which to escape villeinage. The first, manumission, required the lord's acquiesence. He had willingly to annul the contract that bound the villein to him. Second, the serf could run away and stay in a chartered town or similar place for one year and one day. This granted the serf the status of a free man. Finally, the villein could be granted free-holder status if it could be proven conclusively in the king's court that his ancestors were not tied to the lord or were villeins. If this could be proven the serf was freed. For more information on the conditions under which labourers could leave see, Putnam, *Enforcement of the Statute of Labourers*, 192.

[63] Sillem, *Sessions of the Peace in Lincolnshire*, 154.

role in society and had therefore rejected society.

The Ordinance of Labourers can be seen as a reaction to disintegration of the bonds of society, as conceived by the propertied and ruling classes and an attempt, through legislation, to retain the customary contracts that bound the lower classes in servility to the ruling class. Anyone working against this goal was labelled *vacabundus*, and were perceived as inimical to the social order. That they posed a threat to the social structure can be seen in the terminology used to indict them in the local courts. John Walker of Little Cotes, Lincolnshire, for example, left town in search of higher wages, in spite of the protests of the constable, and consequently, Walker was deemed a "rebel against the constable."[64] Likely more distressing was the case of a number of common labourers who broke "the attachment [to their neighbours] in the manner of rebels, and refused to submit to the law of the crown."[65] The breaking of contracts severed the bonds of society and were seemingly seditious. Couched in such terms, *vacabundi* were guilty of crimes bordering on treason and it is not difficult to understand the concern and fear that the wandering labourer generated following the Black Death. Moreover, it is much easier to understand the reaction, particularly the branding of the wanderers called for by Edward III. In a number of ways, wandering labourers were dangerous to society, particularly the propertied

[64] Kimball, *Sessions of the Peace in Lincolnshire*, II, 153.

[65] Sillem, *Sessions of the Peace in Lincolnshire*, 6.

classes. The designation of wandering labourers as dangerous would have tremendous repercussions when the English language became the dominant legal language and the numerous Latin words were amalgamated into the two English terms, vagabond and vagrant. This is quite likely the root of the vagabond as part of a seditious anti-society that would become a prevalent idea in the middle of the sixteenth century.

Both the Ordinance and Statute of Labourers unwittingly caused another change that would have a profound impact on the perception and punishment of wandering men. The Ordinance stated:

> Because that many [valiant] beggars as long as they may live of begging, do refuse to labour, giving themselves to idleness and vice, and sometime to theft and abominations; none upon the said pain of imprisonment shall, under the colour of pity or alms, give anything to such, which may labour, or presume to favour them [towards] their desires, so that thereby they may be compelled to labour for their necessary labour.[66]

This was unprecedented. Never before had state law made a distinction between the deserving poor and beggars. This had two repercussions. First, it legally redefined who was able to receive alms[67] and threatened to punish those who did give alms to the able-bodied. Second, as a result, it may have redefined the perception of wandering men, particularly labourers and certainly would have altered the almsgiving patterns of the English people.

The distinction between able-bodied beggars and the deserving

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[66] 23 Edward III, c. 7, *Statutes of the Realm*, 1: 308.

[67] Both Beier and Slack believe this redefinition to have been instrumental in the creation of the problem of vagrancy. See Beier, *Masterless Men*, 3-4, Slack, *Poverty and Policy*, 22-23.

poor was not new. Canon law had made the distinction centuries before[68] and it seems as though the state, with the Ordinance, was merely restating the church's canon law that had developed earlier.[69] In fact, it was not uncommon for the church and writers of religious tracts to quote lessons on the able-poor from the ancient past. The *Glossa Ordinaria* to the *Decretum* quoted Augustine, who had stated "the church ought not to provide food for a man who is able to work,...for strong men, sure of their food without work, often do neglect justice."[70] This was the tone of the majority of such writings on the subject. Conversely, there were situations in which the able-bodied could be given alms. John Chrysostom's principle of indiscriminate aid followed in general terms the same line as Augustine had but indicated that even the wilfully idle were to be fed if their need was desperate.[71]

But as already indicated, the state had never made, or for that matter entertained, these distinctions. While there was interest in the poor and a poor law, successive parliaments had

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[68] Tierney states that "medieval men were quite capable of distinguishing between holy poverty and idle parasitism." Brian Tierney, *The Medieval Poor Law: A Sketch of Canonical Theory and Its Application in England* (Berkeley: Univ. California Press, 1959): 11.

[69] *Ibid.*, 6.

[70] Augustine quoted in *Ibid.*, 58. Langland seems to sympathize with this point of view in *Piers the Ploughman*. He states "For Charity does not dwell with vagrants or with roving hermits, nor with anchorites who carry alms-boxes. These are all impostors--away with such men and all who encourage them." William Langland, *Piers the Ploughman* (Harmondsworth: Penguin, 1966): 185. The Penguin edition is based upon the B-Text.

[71] Tierney, *Medieval Poor-Law*, 60.

realized that this was traditionally the bailiwick of the Church and consequently considered it no further.[72] But the problem of the wandering labourer after 1350 made Parliament and the landlords certainly more interested in the definition of the "poor" and the distinction within that amorphous category. This attempt to clarify the distinction between the able-bodied and the undeserving may have had a few repercussions. First, by equating "valiant" beggars with wandering labourers, a suspicion for those who would not work developed.[73] Moreover, those who acted in ways that indicated they had no intention of labouring were seen as suspicious. For example, in Warwickshire, John Trymmon Jr., his brother, and two other friends were under suspicion because "they were vagrants continually on various occasions awake by night and asleep by day."[74] The wilfully idle were potentially dangerous and as a result were seen with suspicion.

What provoked this suspicion was the state of idleness all wanderers seemed to be in. Both the ordinance and the Statute place a great deal of emphasis on labour. It was the proper activity for those in the servile classes. The converse, idleness,

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[72] *Ibid.*, 129.

[73] John Hadwin states that when the population pressure was low and hence employment was readily available, "social attitudes to those who claimed inability to find work were distinctly suspicious." Hadwin, "The Problem Of Poverty in Early Modern England," In Thomas Riis, ed., *Aspects of Poverty in Early Modern Europe* (Florence: European Universities Publications, 1981): 225.

[74] "fuerunt wacrarantes vigillantes per noctes et dormientes perdiem continue per diversas vices." Kimball ed., *Warwickshire and Coventry Sessions, 1377-1397*, 164.

was greeted naturally with disparagement. The ordinance imputed the "grievous incommodities" suffered by the propertied classes to be the fault of labourers given to idleness.[75] The statute was no less kind. From the view of the lawmakers, it was the malice of idle servants that was at the root of the problem.[76] Much of the focus of both pieces of legislation, therefore, was the extirpation of idleness and its effect on society. Idleness, like poverty, was not a new phenomenon. *Acedia*, or sloth as it was commonly translated, seems to have become a cardinal sin around the fourth century. It referred to a listlessness in the worship of God. A book of vices and virtues, penned around 1200, illustrates the essential character of this sin. It stated:

> Again, this deceptive sin [sorrow] has a sister, who is called *accidia*, that is sloth, who has deceived me many times through my negligence. It has made me heavy and slow in God's works through idleness; it has often caused me to consume other people's sore toil quite unearned. Often it has made me sleep where I ought to have been awake in God's service by day and night.[77]

The character of Sloth in *Piers the Ploughman* offers further insight into the perception of this sin. He was unable to keep his mind on his duties to God and when he was to say the Rosary, his mind was elsewhere. He concluded by stating that "I spend every day, holy days and all, gossiping idly at the pub--sometimes in

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[75] 23 Edw. III, *Statutes of the Realm*, 1: 307.

[76] 25 Edw. III, *Statutes of the Realm*, 1: 311.

[77] F. Holthausen, ed., *Vices and Virtues Being a Soul's Confession of its Sins with Reason's Description of the Virtues: A Middle-English Dialogue of about 1200 A. D* (1888; reprint, Oxford: E.E.T.S., 1967): 2.

church--and I never give a thought to the passion of Christ."[78] In its earlier ecclesiastical manifestations, therefore, sloth had nothing to do with physical lethargy, but rather spiritual languidness.

The emphasis on preaching that arose in the early thirteenth century, aimed at "removing ignorance and combatting [the] vice" of the laity in both the towns and villages,[79] and properly to communicate the nature of the sin to the people, the preachers were forced to popularize the sin. Rather than reflecting a state of the mind, *acedia*, while retaining connotations of spiritual sin, became closely associated to bodily vices and sins of the flesh, particularly idleness.[80] A book of virtues and vices written in France in the late thirteenth century and translated into English in the fourteenth century, subdivided sloth into six branches, one of them being idleness. Of idleness, it stated,

> ydelnesse, that is a synne that doth moche harm, as holye books tellen; for whan a man is ydele and the deuel fyndeth hym ydele, he him set-a-swith to werke, and maketh hym first thenke harm, and after to desire foule harlotries, as lecheries.[81]

Idleness drove men into both carnal and spiritual sin.

Idleness, moreover, was equated with the sin of neglecting

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[78] Langland, *Piers Ploughman,* 73.

[79] Siegfried Wenzel, *The Sin of Sloth: Acedia in Medieval Thought and Literature* (Chapel Hill: Univ. North Carolina Press, 1967): 69.

[80] *Ibid.,* 89-90.

[81] *The Book of Vices and Virtues: A Fourteenth Century Translation of the Somme Le Roi of Lorens D'Orleans,* Ed. by W. Nelson Francis (Oxford: E. E. T. S., 1986): 27.

work associated with one's status. Thomas Brinton, bishcp of Rochester in the late fourteenth century, stated that

> Since man is by nature born to work, the army of Christians, which chiefly consists of three degrees, namely the prelates, the religious, and workers, must in hope of the kingdom of God be constantly occupied: either in the works of active life (which are the works of mercy, such as feeding the poor, clothing the naked, visiting the sick, and similar things,)...or in the works of human servitude (such as digging, plowing, sowing, reaping, and working with one's own hands).[82]

Idleness induced one to neglect one's status, purpose in life, and those smitten with this sin were typified by an unwillingness to perform the "worldly duties and activities" that God had ordained for them within the three orders. Those that were idle "deprived themselves, by divine justice, [of access to] the kingdom of God."[83] Idleness was, therefore, both spiritually and physically destructive.

More importantly, idleness contributed to the disintegration of the physical and spiritual bonds that bound society together. Furthermore, its ties to sloth, a cardinal sin, meant that, as with all other sin, as a temptation, it could spread. Idleness represented a serious threat, from the state's point of view, to the stability of the society, and in the church's view, a serious threat to the spiritual and physical well-being of the "flock" on Earth. The wandering labourer, rather than being merely an economic threat, was threatening to the stability of society in a number of ways.

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[82] Quoted in Wenzel, *Sin of Sloth*, 91-92.

[83] Brinton quoted in *Ibid.*, 92.

The Ordinance of Labourers illustrates the attitude towards *vacabundi* held by the ruling and propertied classes. Not only were landlords disturbed by the impact that the considerably increased level of mobility had on their profits and yields, but also the ruling class was rather concerned with the potential social rifts that the wandering labourers would create with their flagrant flaunting of the contracts that had existed between the classes from the earliest period in feudal England. Moreover, the belief that the wanderers were avoiding work led to a belief in their will to remain idle, a thought which shocked the members of the ruling class and which threatened to tempt the rest of the society and spin English society headlong into chaos.

The development of the attitudes over four hundred years were also conflated by the amalgamation of the Latin terms into the English terms at the close of the fifteenth century. Wanderers were seen as potentially troublesome in the first period, and consequently the desire to segregate them arose. This was further buttressed in the second period with the belief that wanderers were criminal and that their movements violated the "king's peace." Segregation was again prescribed. But the greatest danger to the propertied classes and the society, in their estimation, came after the Black Death, and this fear and concern is apparent in the promulgation of the Ordinance and the Statute of Labourers. The concentration on the maintenance of contracts and the insistence that all, regardless of rank, be bound to serve in the area that they were accustomed, suggested that the ruling classes were

concerned with not only the labour supply but the stability of society. Furthermore, this stability was further jeopardized by idleness which threatened to spread throughout the society. By the sixteenth century, the wanderer was a potentially seditious, destabilizing influence on society, who, by his very existence, threatened to destroy the very fabric of society. The reaction elicited from the sixteenth-century governments grew from a seed planted at the very latest in the fourteenth-century.

## CHAPTER 3: PERCEPTION AS ILLUSTRATED IN THE SOLUTIONS

Over three hundred years there seems to have been significant change in the perception of wandering men. Further illustration of this shift can be seen in the solutions offered by the landed classes which seem to have mirrored the shift. This is hardly surprising. The solutions were intimately linked to the perceptions of the ruling classes and in fact reflected the concerns of the propertied classes, and in general their solutions aimed at the characteristic that the ruling classes deemed most dangerous. From 1101 until 1349, solutions proposed tended to emphasize the segregation of strangers from the rest of society and urged sheriffs and baliffs to keep strangers moving so they could not cause trouble. The punishments between 1300 and 1350 seem to have differed very little from the previous period but, in addition to the segregation of strangers, those found guilty of "wandering" were fined, in accordance with the practices that developed around the trespass. Finally, the ravages wrought by the Black Death, particularly after 1360, had the most significant impact on the solutions. The expansion of the number of people classified as "wanderers" caused by the enactment of both the Ordinance and Statute of Labourers, increased the number of solutions that were required to quell the problem. The solutions retained the belief that wanderers should be segregated from the rest of society through imprisonment, but also tried to limit movement by requiring a system of letters patent in order to migrate and in 1360, for the

first time, through mutilation and harsher punishments. By 1400, punishments had developed to their harshest and most repressive level.

As indicated in the second chapter, the concern from the early twelfth century to the late thirteenth century centered primarily on the trouble strangers and wanderers could cause at the local level. Consequently the laws aimed at limiting the impact of strangers in any given area. For example, the *Leges Henrici Primi* (1101) directed that,

> no one shall keep a stranger or wanderer for more than three days without a promise of loyal conduct, or shall receive the man of another without his commendation or the provision by him of security.[1]

Both types of individual were perceived as potentially troublesome and the king, to preventing wanderers from disturbing the peace in any particular area, a duty he felt obliged to perform,[2] limited their stays to three days, encouraging them to move on after that period. By moving the wanderer within three days, the law sought to exclude them from interaction at even the lowest levels of society, thus preventing them from disturbing the peace and disrupting the stability of the area.[3]

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[1] "Nemo ignotum uel uagantem ultra triduum absque securitate detineat uel alterius hominem sine commendante uel plegiante recipiat." Downer, ed., *Leges Henrici Primi*, 103.

[2] Warren, *Norman and Angevin England*, 39.

[3] Summerson, "The Structure of Law Enforcement in Thirteenth Century England," p. 315. The tight-knit nature of the communities, or vills, "hostile to privacy and concealment" was more than helpful in the detection of criminals. Strangers and wanderers violated the closeness of the society and would therefore have been asked to move along. *Ibid.*, 314-315

The Assize of Clarendon (1166) followed on this order but decreased the amount of time allowable for the harbouring of "strangers". It directed that they be accommodated for one night and if accommodated for more than one night, they were to be arrested and held until the strangers' lord could provide surety. But unlike Henry I's law, the Assize of Clarendon also punished those who harboured strangers. The person who allowed the wanderer to stay beyond one night was also to be arrested.[4] Both threatened to disturb the king's peace and had to be dealt with in similar fashions.

Similarly, the Assize of Northampton (1176), promulgated in the period that saw the eclipse of the fear of wanderer and the rise of the concern for strangers, reiterated the stipulation that only one day's accommodation be provided but added that when they departed "let [the stranger] leave in the presence of the neighbours and by day."[5] To force them to leave the community was no longer enough. To ensure that they left and did not cause trouble on their way out of town, it was necessary to have their departure witnessed by members of the community. Mobility was no longer the problem. In fact, mobility appears to have been encouraged. This was, as illustrated above, a result of the system of frankpledge which dictated that unless strangers were taken into

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[4] "Et si ibi fuerit plusquam una nocte, capiatur ille et teneatur donec dominus ejus venerit ad eum plegiandum, vel donec ipse habeat salvos plegios; et ille similiter capiatur qui hospitatus fuerit." Stubbs, *Select Charters,* 172.

[5] "Et cum recesserit, coram vicinis recedat et per diem." *Ibid.,* 179.

a household and provided surety by the master of that household, then they could not stay. Thus strangers were prompted to move on, creating a wandering population. Moreover, early legislation seems to have emphasized isolation from the community if around for more than one day and close community scrutiny, in a sense upholding the spirit of the system of tithings for periods of time less than one day.

In order to strengthen and complement the system of frankpledge, which was primarily concerned with members of the tithing and seems not to have legally applied to strangers unless given surety by a member of a tithing, there developed a system of watches. First called for in the Assize of 1233 and reiterated in the Assize of 1242 and the Articles of 1253, the watch, comprised of four watchmen in each vill through out the summer months, was to arrest all strangers who entered the area. Moreover, the Assize of 1233 indicated that no stranger was to be accommodated for more than one night and reiterated the stipulation from the Assize of Northampton which indicated that all strangers harboured for one night should leave during the day.[6] Thus, while this Assize did seem to prevent the movement of the stranger it only did so until proper surety was given and still allowed those who had proper surety to wander.

Even though enacted much later, the Statute of Winchester repeated much of what the Assizes had stipulated over the past one

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[6] See Summerson, "Structure of Law Enforcement in Thirteenth Century England," p. 317. For the complete text of the Writ for enforcing the watch, see Stubbs, ed., *Select Charters,* 362-363.

hundred years. First, it ordered that from the setting of the sun until the sun rising the gates of all walled cities be closed and that no man could stay in the suburbs without his host assuming responsibility. To ensure that no strangers were violating this statute, the bailiffs were to inquire about "all persons being lodged in the suburbs, every week or at least every fifteenth day." and if they found anyone violating the statute they were to "do right therein". One can only presume that this indicated that the violator was to be arrested and held until surety could be found.

Similar to the Assize of 1233 the statute suggested a method by which strangers could be found and arrested and thus in a sense, the number of these wanderers could be controlled. It suggested that,

> in every City [six men shall keep] at every gate, in every borough Twelve men, every town six or four, according to the number of inhabitants of the towns and shall watch the town continually all night from the sun setting to sun rising. And if any stranger do pass by there, he shall be arrested until morning; and if no suspicion be found he shall go quit; and if they find cause of suspicion, they shall forwith deliver him to the sheriff, and the sheriff may receive him without damage, and shall keep him safely, until he be acquitted in due manner.[7]

This statute was obviously preemptive in nature. Strangers were not criminals, but were perceived to be capable of any number of crimes.

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[7] "En chescun cite sis homes, en chescun porte, en chescun burgh par xij homes, en chescunville par vj homes ou iiij solom numbres des gens qi abitent. E facent [la vielle] continuellement tute la nuit del solail recusse jeques al solail levaunt. E si nul estraunge passe par eus seit arestu jeques au matin; et si nul suspecien se seit trove auges quites." 13 Edw. I (1285), *Statutes of the Realm*, 1: 97.

Despite the hundred years separating them, all of these proclamations indicate the same thing. "Strangers", *extranei*, were seen as a problem because of the suspicion their anonymity provoked and not as a result of their mobility. In fact, the ruling classes seemed to have perceived no threat to the social order or their position in that social order, both locally or at the center, from the mobility of these men. Strangers, who had no one to pledge for them, rather were potential sources of mischief and other crimes that would disturb the peace. Consequently, the propertied classes and the king, suspicious of the trouble that strangers could cause, enacted statutes that either isolated strangers from the community at large through imprisonment or ushered them on their way.

While wandering became less of a concern after 1176, the development of the trespass renewed the suspicion of wandering that had existed early in the twelfth century. Moreover, unlike the period between 1176 and roughly 1300, wandering became suspect and liable to punishment as a crime. As a trespass, charges of vagrancy were punishable by the usual means; temporary incarceration, to prevent them from engaging in mischief, followed by the provision of surety, a promise to avoid such crimes in the future and a return to service. But the punishment for trespass included the fine. Rather than merely incarcerating the wanderer and requesting that surety was provided, indictment for trespass allowed fines to be levied against the guilty party.[8] Those

[8] For example 12 Ric. II, c. 9 calls for fines of up to one hundred shillings to be levied against wanderers and those who do not harass them into service.

convicted of vagrancy were to compensate the king for their disturbance of his peace, and dependent upon what the wanderer had done, may have been forced to pay a fine as compensation to another aggrieved party. By doing this, it is possible to suggest that the perception of wandering men changed. By levying a fine upon wanderers, as compensation to the king or another, for wandering, the law and lawmakers made wandering criminal, and anyone who was accused and convicted of it potentially harmful. It seems reasonable to suggest that the development of the trespass and its eventual use to indict wandering men indicates that wandering men were seen as more suspicious, and perhaps more dangerous than they had been previously.

By 1350, therefore, it seems probable that wandering men were seen with greater suspicion because of their wandering than they had been at any time before. They were still regarded as potentially dangerous but now because of their mobility, and, furthermore, criminal, due to the development of the trespass. After 1350, the attitude, while in one manner remaining identical, was significantly altered where wandering labourers were concerned. As indicated in chapter II, the terminology at this time seems to have differentiated between different types of wanderers, primarily those guilty of labour violations and those who were not. For those who had not violated the Statute of Labourers, the punishments imposed upon wanderers were similar to those forced on strangers: surety needed to be found, and if none could be found, then the wanderer was charged with a trespass, imprisoned and

fined. Edward III approved of this approach, encouraging in 1360 the newly created Justices of the peace to "pursue, arrest, take and chastise them according to their trespass or offense."[9] The king and parliament seem to have felt comfortable with the indictment of trespass imposed on these wandering men by the itinerant justices.

Edward felt the need for different tactics where labourers were concerned, however. The serious danger posed by those committing labour violations provoked a much harsher reaction: the enactment of the Ordinance of Labourers, and the subsequent statute, in 1349 and 1351 respectively. Both provoked a change in punishment with respect to those who were guilty of labour violations, that is, those labelled *vacabundus*. While still retaining the practices of the Assize of Clarendon, for example, calling for the imprisonment of all who refused to serve[10] or those who had broken a contract[11], a further stipulation was added. As the "crime" of wandering was linked to the idleness of the criminal

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[9] 34 Edw. III c. 1, (1360-61), *Statutes of the Realm,* 1: 364.

[10] "and if any such man or woman, being so required to serve, will not the same do, that proved by two true men before the Sheriff of the Town where the same shall happen to be done, he shall anon be taken by them or any of them, and committed to the next gaol, there to remain under strait keeping, till he find surety in the form aforesaid." 23 Edw. III (1349), c. 1, *Statutes of the Realm,* 1: 307.

[11] "And if any reaper, Mower or other workman or servant, of what estate or condition that he be, retained in any man's service, do depart from the said service without reasonable cause or license, before the Term agreed, shall have pain of imprisonment." *Ibid.*

and the desire to avoid work, the statute designated that work was to be obtained. To facilitate this the statute ordered that nothing, "under the color of pity or alms", be given to them, so "that they may be compelled to labour for their necessary living."[12] This obviously was an attempt to force the wanderers back into service.

By 1360, Edward discovered that such compulsion, without physical threat, was not nearly enough to solve the problem. In 1360, he took further steps to eliminate the problem of wandering labourers. Edward became far harsher. In the past, those imprisoned for wandering could buy their way out of prison by paying an "exit fee." Edward decreed that wanderers would be placed in jail for 15 days and that the sheriff, jailer or other minister were nct to let them out before. Furthermore, for those

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[12] "sub colore pietatis vel elimosine...ut sic compellant pro vite necessare laborare." c. 7 In accordance with this, a number of sessions, predominantly in Lincolnshire, distributed those guilty of wandering to masters for work. For example,

> Iohannes (ut legatur) filius Henrici de Wykam be Glentham atachius fuit per constabularis villate de Glentham ad serviendum Iohanni Tournay de Cavenby quia inventus fuit vacabundus et sic fuit in servicio dicti Iohannis Tournay per duos dies et die Iouis proximo ante festum purificacionis beate Marie anno regni regio nunc quarto exiuit extra servicium dicti Iohannis contra statutum in contemptum domini regis. (Kimball, *Sessions in Lincolnshire, 1381-1396,* II:186)

Similarly,

> Robertus Wyotson constabularius villate de croft...arestauit Iohannem Hodson vacabundum et eum posuit in seruicio. (*Ibid.*, 228)

The primary goal of the justices in these courts and of the Statute itself was to force men to work and, in doing so, prevent them from wandering further.

who broke a contract and were not apprehended, they were to be outlawed, and the writ of outlawry was to be distributed to all of the sheriffs in the country, seemingly facilitating an easier capture.[13] Following his capture, the wandering labourer was to be imprisoned and, if the former master wished, was to have his forehead burned with a hot iron formed into the shape of a "F".[14] For crimes that in the local courts were deemed trespasses, lesser crimes, and for which the penalty was usually financial, such a punishment was exceedingly harsh and unprecedented. Even felonies, with the exception of treason and only rarely, did not warrant mutilation. This indicated the seriousness of the situation in the eyes of Edward and the parliament. More importantly, however, this represents the initiation of a harsher line with respect to wanderers. Edward's willingness to allow mutilation of labourers created a second option open to following monarchs with respect to their treatment of all criminals, but particularly wanderers. Edward's decision would have serious repercussions in the centuries to follow, especially after 1536.

Despite Edward's harshness, many of the statutes that immediately followed opted for the first type of solution and were concerned more with further limiting the mobility of all members of society, particularly the labouring classes. As before, however, the solutions entertained did not differ a great deal from earlier periods. During Richard II's reign, for example, a number of

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[13] This was reiterated in 2 Hen. V (1414).

[14] 34 Edw. III, c. 10, *Statutes of the Realm.*, 1:367.

statutes were passed that made mobility much more difficult. At first, Richard merely reiterated what had been stated early in Edward III's reign. Predominantly in reaction to the increased number of people wandering around the country engaging in "malice", in 1383, the seventh year of his reign, he granted the Sheriffs and Bailiffs the power "to examine [vagabonds] diligently" and to "compel them to find surety of their good bearing." If the wanderers could not do this, the officials were to send the wanderers "to the next Gaol, there to abide until the coming of the justices assigned for the Deliverance of the Gaols."[15] This, of course, prevented movement and, as with statutes enacted to control strangers, was intended to separate the wanderers from the rest of society but does not appear to have deviated from practices developed three hundred years before.

Five years later, however, Parliament was forced to issue another, more comprehensive, statute that dealt with the problem of wanderers. First, though recognizing the fact that any servant, having fulfilled his contract, could legitimately move about, Parliament issued a decree requiring anyone who was mobile, including servants, labourers, pilgrims and mendicant friars, to carry a letter patent explaining the reason for his movement and the time of his return to his place of origin, if such a return was imminent. Anyone caught without such a letter was to be placed in the stocks and "kept till he hath found surety to return to his

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[15] 7 Ric. II, c. 5. *Statutes of the Realm*, 2:33.

service, or to serve and labour in the town whence he came."[16] This attempt at passports was unprecedented as was the stipulation that wanderers be returned to their place of origin. This was an aggressive attempt to force a solution to the problem that the ruling class perceived to be growing and emphasizes the growing intolerance for wanderers of any sort.

By the end of the fourteenth century the solutions proposed to eradicate the wandering man had reached their most active point. It was possible to mutilate wanderers, although no one can be sure how regularly this punishment was applied, and there was certainly a greater effort to prevent them from moving around. It had not always been this harsh. From their identification as strangers in the twelfth century to their more emotive designation as "vagrants", wandering men were always required to have surety for their actions or face the consequences of the stocks or other imprisonment. The nature of the frankpledge system and the connected system of tithings ensured that such methods were utilised. Even after the downfall of that system, surety was still demanded and imprisonment was always the alternative. Suspicion grew to alarm in the fourteenth century and wandering labourers were the recipients of a harsher punishment from a far more frantic monarch and parliament. As time progressed, the intolerance of the ruling class grew and a greater number of wandering men were classified under the rubric of "vagabond".

There was still a measure of differentiation in the fourteenth

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[16] 12 Ric. II, c. 3. *Statutes of the Realm,* 2:56.

century. Wandering labourers received the harsher punishments and those who had not violated the Ordinance of Labourers were governed by what appears to be a separate set of laws and customs. By the sixteenth century this had changed. The solutions aimed at preventing the spread of wandering labourers was applied to all wanderers, regardless of whether they were wandering labourers or wanderers within a town, who, while employed, made it a habit of idling about. There was no differentiation. To account for this change it is necessary to examine the development of the perception over the fifteenth century and see how this affected both the perceptions and the solutions offered by the king and parliament.

# CHAPTER 4: BEYOND THE MIDDLE AGES

Thomas Harmon claimed in 1564 that the English word "vagabond" did not exist four hundred years previous. But Harmon himself acknowledged the importance of Latin to the birth of the word "vagabond." While vagabond was clearly derived from *vacabundus*, this Latin word did not possess the scope of its progeny. In fact, it was far more limited, and, thus, cannot account for the expansiveness of the definition that resulted in the sixteenth century.

How does one then account for this scope? Unlike English, which offered two words to describe the problem of wandering man, there appear to have been a myriad of Latin words used by clerks and lawmakers that sufficiently defined and described a number of different types of wandering men. Not all of these terms existed at the same time, and not all emphasized the same things. In fact, each word was mutually exclusive and defined a particular type of wanderer; some who were merely of ill-fame, some who were felons and some who were plainly idle. By the end of the fourteenth century, there were at least three labels commonly used by law clerks and the courts to categorize different types of wandering men.

But by the end of the fifteenth century, these labels were gone, erased by the ascendancy of English as the chief legal language. The prime consequence of such a shift lay in the conflation of the characteristics defined by the numerous

autonomous Latin terms into two thoroughly interchangeable English terms. The final stage in the development of the terminology used to describe wanderers was contingent on the introduction of vernacular languages, English and French, into legal documents and the impact of the diversification caused by the Statute of Labourers and its demands on these languages.[1] As English superseded both French and Latin as the chief legal language, it adopted the same terminology but subsumed many of the assumptions that had accompanied that terminology of the other two. It seems reasonable to suggest that such a conflation could have been responsible for the proteanism alluded to by A. L. Beier in the first chapter of this work.

As early as the thirteenth century, French words for wanderers appeared in English legal texts. Britton, in a discussion of the purposes of frankpledge, indicated that "wakerours par pays, qi ne sunt de nuly meynpast, de qi suspicien est de mal" were also to be enquired about at the views of frankpledge.[2] Wanderers were Britton's focus. In time, though, strangers were more clearly

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[1] According to Pollock and Maitland, French became the language of the Privy Seal and of wills sometime after 1166. By the end of Edward II's reign French had become the language of the Statutes and was quickly "gaining mastery over the rolls of Parliament." It did not, however, supersede Latin as the chief language of the Royal Chancery or of the court rolls. Later in the fourteenth century, English battled with Latin to become the language of the royal chancery and court rolls and only succeeded in doing so by 1731. But, by the end of Richard III reign, the Statutes and Rolls of Parliament were being written in English and would be written in English from that period on. Pollock and Maitland, *The History of English Law,* II:82-85.

[2] "Wanderers through this country who are not of anyone's mainpast, and are of suspicious character." *Britton,* I:181.

identified. The Statute of Winchester (1285) reiterated the concern for strangers demonstrated in the Assize of Clarendon (1166) but left out any specific mention of vagrants or wanderers. It stated,

> e qe nul home ne herberge en suburbe, ne en forein chief de la ville si de jour noun, ne uncore de jour si le hoste ne voille pur lui respundre; e les Baillfs de villes chescune semaine, ou amiens quinzieme facent enqueste de genz herbergez en suburbes, [e'] en foreins chefs de ville; e sil trovent nul herbergour, [qi resceive ou herberge en autre maniere gout] dunt suspeciun seit ail soient gent countre la pes, si enfacent les Baillfs dreiture...E facent [la ville] continuellement tute la nuit del solail recusse jeqes al solail levaunt. E si nul est se par eus seit arestu jeqes au matin; et si nule suspeciun ne seit troves auge quites...E pur le reteitment de tels estraunges nul ne seit encheneuse.[3]

The Statute for the City of London, promulgated at the same time, does, however, illustrate that wandering strangers were the cause of much crime and mischief. The first paragraph reads,

> Primerement, p' ceo q multz des mals com des murdres, Robberyes, e homicydes ont este fetz ca en arrere deinz la citee de nuyt e de jur, e gentz Batuese mal tretes, e aut's divses aventures de mal avenuz encontre sa pes; defendu est q nul seit si hardi estre trove alaunt ne wacraunt p my les rue de la citee, aps Coeverfu psone a Seint Martyn le g'nt, a eseye ne a bokuyler ne a autre

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[3] "and that no man do lodge in the suburbs, nor in any place out of the town from nine o'clock until day, without his host will answer for him: and the bailiffs of the town every week, or at the very least every fifteenth day, shall make inquiry of all persons being lodged in the suburbs, or [in foreign places] of the town and if they do find any [that have lodged or received any strangers or suspicious persons against the peace] the bailiffs shall do right...And if any stranger do pass by them [the guards at the gates top the city], he shall be arrested until morning; and if no suspicion be found he shall go quit...And for the arrestments of such strangers none shall be punished." 13 Edw. I (1285), *Statutes of the Realm*, 1:97.

arme p' mal fere.[4]

Wanderers were *wacraunt* but, as with the Latin term *vacabundus* before 1300, this seems to have referred only to those who had criminal intentions or who were already suspected of violating a law, in this case the violation of the curfew and wandering armed. Rootlessness and masterlessness in and of itself, as it would be fifty years later, was not perceived as a problem. In fact, the Statute of Winchester, illustrates that the anonymity of the wanderers was far more important, and in doing so, accords well with the perception evident in the Latin terminology.

The problem with strangers remained, as illustrated previously, well into the fourteenth century. Early in his reign, Edward III reiterated his grandfather's concerns in section fourteen of his Statute made at Westminster in 1331. It states,

> q si nul estraunge passe par pais de nuyt, de qi home eit suspicien, soit maintenant arestu & live au viscont & demoerge en gard tant qil soit duement delives.[5]

Thus, at this time anonymity was still seen as more of a problem than wandering. This changed following the Black Death. The Statute of Labourers, as mentioned above, did focus attention on

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[4] "First, whereas many evils, as murders, Robberies and homicides have been committed heretofore in the City by day and night and people have been beaten and evil treated, and diverse other mischances have befallen against the peace; it is enjoined that none be so hardy to be found going or wandering about the streets of the city after curfew tolled at St. Martins le Grand, with sword or buckler or other arms for doing mischief. 13 Edw. I, (1285), *Statutes for the City of London*, 1:102.

[5] That if any stranger pass by the country in the night, of whom any have suspicion, he shall presently be arrested and delivered to the sheriff, and remain in ward till he be duly delivered. 5 Edw. III c. 14, *Statutes of the Realm*, 1:268.

the mobility of the wandering man and many statutes written in the vernacular echoed the sentiments of those in Latin. For example, in 1360, a statute of Edward III ordered the justices,

> auxint de eux enformer & denquere de touz ceux qi ont est pilours et robeours et pties de dela, & sont ore revenuz & vont vagantz & et ne voillent t'vailler come ils soleient avant ces hours.[6]1

*Vagantz* clearly derives from the Latin word *vagantes* and seem to mean much the same thing.

Despite this similarity in meaning, the vernacular terminology was far more diverse than the Latin. Where Latin writers used a number of different words to describe different situations, writers in French used only two--"vagerant(z)" and "vacabonde"--to describe all situations. Furthermore, in French these terms were interchangeable, and each single word described numerous situations that, in the Latin, would have warranted a different word for each situation. For example, the statutes of Richard II enjoin sheriffs and justices of the peace to inquire diligently into the activities of *vagerantz* and to do with them what the "ce q la ley demende."[7] Similarly, in 1402, Henry IV, as a result of the "plusiers diseases & meschiefs qont advenus dev'nt ces heures en la terre de Gales", by "Westours Rymours Minstralx & autre vacabondes" called for the expulsion of such "vacabondes" from the land.[8] Suspicion

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[6] "to inquire of all those who have been Pillors and Robbers in the parts beyond the sea, and be now come again and go wandering and will not labour as they were wont to do in times past." 34 Edw. III, C. 1. *Statutes of the Realm,* 1:364-65.

[7] 7 Ric. II, *Statutes of the Realm,* II:33.

[8] 4 Hen. IV, c. 27. *Statutes of the Realm,* II:140.

drove both monarchs to call for the imprisonment of wanderers, but unlike in Latin where one term would have likely been used to identify the wanderers, two were used here, indicating that in French both words essentially meant the same thing.

Moreover, while modification of these words was possible, it was not common. It is uncommon to find a wanderer described as a "night vagrant" in French. Wanderers were assumed to wander all of the time. This granted these words a much more significant scope and created, in essence, a far more emotive and evocative set of terms, which described one or more characteristics of wanderers simultaneously. It is in this manner that the English terms "vagrant" and "vagabond" can be seen to develop. According to the Oxford English Dictionary, both vagabond and vagrant had entered the English language by 1444,[9] and as with the French, the English terms seem to have encompassed a number of different characteristics simultaneously and also seem to have been interchangeably used. Hence, both were as emotive and evocative as the French terms. For example, the first mention of vagrant appears in the *Rotuli Parliamentorum* in 1444. The passage stated,

> Item, that the Justices of pees by all the Roialme 11 times every year, alle Statute of Labourers, Artificers, Hosterlers, Vitallers, Servaunz and Vagarauntz, afore this time made and not revoked, with this statute openly in their session do to be pronounced.[10]

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[9] "Vagabond" was first used in English in 1426, *Oxford English Dictionary,* 19:392, and "vagrant" first appeared in 1444. *Ibid.*, 396.

[10] *Roturi Parliamentorum,* ed. J. Strachey and others (London, 1767-77) 5:113a

The case immediately following this one is even more explicit. It stated,

> Item, that by colour of tenure of lasse Tentz, tham the Husbondry yerof suffiseth to a mannnes contynuel occupation, no man be excused to serve by the year, upon peyne to be justified as a vagaraunt...like as ye same Jusstices [of the Peace] have power to jusstifie Vagarauntz.[11]

This seems to illustrate that *vacabundus* corresponds to "vagaraunt" in English. Moreover, compare the Latin usage with that in the Statutes enacted in Henry VII's eleventh year. Chapter II, entitled "An Acte agaynst vacaboundes and beggers" orders

> that the Sheriff Maires Baillifs High Constables and Pety Constables and all other Governo: s and Officers of Cities Burghes Townes Townships Villages and other placis, within iij daies after this acte proclaimed, make due serch, and take or cause to be taken all suche vagaboundes idell and suspecte personnes lyvyng suspiciously.[12]

The use of "vagabounde" certainly differed from the Latin term that emerged in the late fourteenth century and describes far more than the term of the late thirteenth century. As with the French terms, the English words vagrant and vagabond adopted meanings far wider in their scope than their original Latin counterparts. This multiplicity of meaning was made more significant by the demise of Latin as the chief language of the law. During the fifteenth century, especially during the middle decades, English became the dominant language of the law, particularly in the statutes. By the end of Henry VII's rule, most legal documents, with the exception

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[11] *Ibid.*, 113b

[12] 11 Hen. VII, c. 2, *Statutes of the Realm,* II:569.

of the plea rolls, were written in English. The effect of this upon the Latin terms to describe wanderers was immeasurable. According to Latham, both *vagans* and *vacabundus* were used for the final time around 1480. Consequently, the English terms which had co-opted the Latin meanings were left as the sole survivors of this four-century development.

This conflation had quite an impact on the perception of those who were deemed vagabonds and vagrants. At the end of the fourteenth century, all vagrants were seen as potentially dangerous, but certain types of wanderers, that is those labelled *vacabundus*, were seen as far more dangerous. Legal terminology separated the potentially dangerous from the truly dangerous. The confluence of the terms blurred this separation and all wandering men became one in the same; they were all truly dangerous. The reasons given by contemporaries in the sixteenth century for the dangerousness of the vagrant are identical to the reasons identified by the ruling class in the fourteenth century. First, vagabonds or vagrants would not work. They were stricken with the disease of idleness and because they persisted in nurturing that disease they threatened to spread it throughout the countryside. Consequently, and perhaps most importantly, vagabonds were seen as inimical to the safety of the citizens of England and the state itself. They were perceived to be trying to destroy English society. The perception of the vagrant differs only in that all vagrants were attributed with the characteristics that would have been applied to a small group in the fourteenth century. Where the

sixteenth century differs fromn the fourteenth century is in the response to vagrancy. The rulers of England, the king and parliament, responded in ways that were far harsher than anything proposed previously. The king and parliament obviously felt that vagabonds should be punished in physically destructive ways to prevent them from spreading their "disease" and to wean them from the wandering lifestyle. In any case, it appears as though the link between the perception of vagrants between the fourteenth and sixteenth centuries lies in the conflation of the terms.

Henry VII began his reign by calling for the moderation of the punishments used on vagabonds.[13] Henry soon perceived, much to his annoyance, that the number of vagabonds within his realm was increasing daily. Henry VII proclaimed that certain "enormities and inconveniences daily increase within his realm," most "specially...vagabonds [and] beggars able to work."[14] Despite attempts by Henry VII to curb this increase, Henry VIII found a similar situation. He stated,

> where in all the places throughe out this realme of

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[13] 11 Hen. VII, c. 2, *Statutes of the Realm,* 2:569. He reaffirmed this in 19 Hen. VII, c. 12. His reasoning for this reaction is unknown. It may have been that he did not feel that the vagabond population was large enough to threaten his position. It may have been that, realizing that a large number of the vagrants in existence were soldiers, he may not have wanted to anger them too much lest he provoke an insurrection that would remove him from the throne. This situation is even more confusing as Henry VII sent a letter to the Borough of Leicester complimenting that city for its past diligence in the punishing of rogues and beggars. See Aydelotte, *Elizabethan Rogues,* 60-61.

[14] Hughes, Paul L. and James F. Larkin eds. *Tudor Royal Proclamations,* Vol. 1, *The Early Tudors, 1485-1553* (New Haven: Yale Univ. Press, 1964): 32.

> England, vacabundes and beggers have of longe time increased and dayly do increase in grete and excessive nombres by the occasion of ydelnesse.[15]

Both monarchs seemed well aware of the increasing number of vagrants within their kingdom. This knowledge was echoed by their subjects. Henry VIII, for example, received a letter from John Bayker, a poor craftsman, restating the essential problem. He wrote,

> fyrst were that your most gratyus nobyll and excelent maiesty haythe ordyned and set forthe many tymes god and holsome statutes and laws for the condynge punyshment off all vagabonds and valyent beggers, that ys to say that none of thaym shall ryne from town to town or place to place without a lawfull lysynys or cause, but that they and all syche shall be taykyne and after your most gratyus laws to be punysshyd, yett never the lesse I cannot perceave but the multytude of thayme doth dayly encrease more and more.[16]

Thus, both governors and the governed believed that the number of vagrants within the realm was increasing. There is no doubt, too, that the greater urgency was expressed during the reign of Henry VIII.

As in the fourteenth century, the anxiety over an ever increasing number of itinerant men in the kingdom was exacerbated by the belief that these men were exceedingly dangerous. It was not uncommon for vagrants and gypsies to be referred to as lewd, immoral, and even more disturbing to the kings of England,

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[15] 22 Hen. VIII c. 12, *Statutes of the Realm,* 3:328.

[16] R. H. Tawney and Eileen Power eds., *Tudor Economic Documents: Being Select Documents Illustrating the Economic and Social of Tudor England* (New York: Longman, Green, 1924): II:302.

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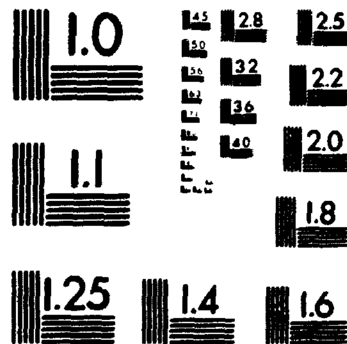


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seditious.[17] More often than not vagabonds were lumped in with other more inherently dangerous groups. For example, when ordering the suppression of the Yorkshire rebels in 1489, Henry VII exhorted his supporters to defend the land in his absence from all "rebellious insurrections and unlawful assemblies of rioters, robbers [and] vagabonds."[18] He was more specific about the problems caused by vagabonds, particularly Scottish vagabonds, the following year when he decreed that the vagabonds,

> being suspect and not well disposed, applying themselves to idleness and begging, leaving their occupations in their countries, forsaking and departing out of those same natural countries, have resorted and yet daily do resort unto this realm...to the great hurt, inquietation, and often disturbances of his poor.[19]

Vagabonds continued to be seen as dangerous well into Henry VIII's reign. In 1538, Henry VIII circulated a letter to his Justices of the Peace enjoining them to "punish spreaders of seditious rumours

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[17] The Council of the North sent Henry VIII a letter explaining the execution of a person who "appeared to be a seditious young vagabond, minding by false tales to move the people to new commotion." *Letters and Papers Foreign and Domestic of the Reign of Henry VIII* (Vaduz: Kraus Reprints, 1905), 12:378.

[18] Hughes and Larkin, *Royal Proclamations*, I:20; vagabonds were more than anything seen as organizing to overthrow normal society. They had developed into an anti-society and were poised to attack normal society with their legions. According to contemporaries, vagrants formed themselves into armies, with leaders and footsoldiers. Every vagrant was part of this army and at any time they were seen as capable of instigating a major rebellion. See John Awdeley, "A Fraternity of Vagabonds," and Thomas Harmon, "A Caveat for Common Cursitors Vulgarly called Vagabondes," both in Gamini Salgado, ed., *Cony-Catchers and Bawdy Baskets* (Harmondsworth: Penguin, 1972): 59-77; 79-154.

[19] *Ibid.*, 23.

and correct all vagabonds and valiant beggars."[20] By their very nature, vagabonds posed a problem to the society at large and it was natural to lump them in with the other problematic groups.

Furthermore, the root of the vagabonds' and gypsies' dangerousness was their idleness, or more importantly their insistence on not working. To Henry VIII, this was the mother of all sins, the fount from which all criminal activity sprang. He deemed it the "chief subverter and confounder of commonweals."[21] Edmund Dudley regarded it as the "verie mother of all vice both in man and whoman"[22] and Thomas Cranmer believed that the chief authors of the tumults that had stricken England in the 1530s were "idle and naughty people."[23] Alexander Barclay, in his translation of Sebastien Brant's *Ship of Fools*, asserted,

> Though that vyle slouth sprenkyld with dedely slomber
> Be destroyer and confounder of mankynde
> And in all vyce constrayneth hym to slomber
> Yet many it folowe, and on it set theyr mynde
> If thou take hede, thou clere and playne shalt fynde
> That damnable slouth is so corrupt a vyce
> That of his foule rote all yllys doth arise.[24]

John Bayker was far more practical when he stated,

> yt causeth men to lye by the hye way syde and thayre to robe, and unto another it causeth allso myche morder and

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[20] *Letters and Papers, Henry VIII*, 13:484.

[21] Hughes and Larkin, *Royal Proclamations*, I:192

[22] Edmund Dudley, *The Tree of Commonwealth*, ed. by D. M. Brodie (Cambridge: Cambridge Univ. Press, 1948): 40.

[23] Henry Jenkyns, ed., *The Remains of Thomas Cranmer* (Oxford: Oxford Univ. Press, 1833): II:247.

[24] Sebastien Brandt, *The Ship of Fools*, trans. by Alexander Barclay (1874; reprint, New York, 1977): 1:185.

> fornycatyon to be wythe in your Reallme.[25]

To avoid idleness, these men were to labour, in a manner Henry VIII believed "trewe men oweth to doo."[26]

Refusing to work immediately placed the idler on the path to a life of crime. This seems to have been a common belief of the time. Thomas More, in his *magnum opus*, *Utopia*, noted, for example, that vagabondage and "habits of lazy service" converted people into the "robbers of the future."[27] This was important to the Tudors because they felt that idleness was not just a personal vice. Rather, it was likened to a potentially harmful disease that could easily infect and spread to all sections of the population. For example, Thomas Starkey, in his *A Dialogue Between Reginald Pole and Thomas Lupset,* stated that idleness was the "mother of many other sickness and grievous diseases in our body politic" because,

> for like as in a dropsy the body is unwieldy, unlusty and slow nothing quick to move, nother apt to meet any manner of exercise, but, sollen with ill humours, lieth idle and unprofitable to all outward labour, so is a commonalty replenished with negligent and idle people.[28]

John Cheke was far more explicit. In *The Hurt of Sedition, How Greueous it is to a Comune Wealth*, Cheke asks;

> But what is a loyterer, a sucker of honeys, a spoyler of corne, a destroyer of fruite? Naye a waster of money, a spolier of vitaile, a sucker of bloud, a breaker of

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[25] Power and Tawney, *Tudor Economic Documents*, 2:303.

[26] 22 Hen. VIII c. 12, *Statutes of the Realm*, 3:329.

[27] Thomas More, *Utopia*. A Norton Critical Edition (New York: Norton, 1975): 16.

[28] Thomas Starkey, *A Dialogue Between Reginald Pole and Thomas Lupset*, ed. by Kathleen Burton (London, 1948): 81.

> orders, a seker of breakes, a queller of lyfe, a basilisk of the comune welth, which by companie & sight doeth poyson the whole contry, and stayneth honeste myndes wyth the infection of this venime, and so draweth the comune welth to deathe and destruction.[29]

Indirectly, vagabonds and vagrants could subvert and perhaps destroy the economic and political wherewithal of the entire kingdom.[30]

Two characteristics distinguished vagabonds from the rest of normal society in both the fourteenth and sixteenth centuries. First, they were idle and would not work. This of course made them suspect. Second, they were dangerous. Idleness, believed to be the impetus behind all of society's ills, prompted men into crime and, more frighteningly, into sedition. As a result, all vagabonds potentially had the ability to disrupt and destabilize society. The similarity in perception between the two centuries is, however, only partially mirrored by the solutions suggested in the sixteenth century, which follow on the precedents set at the end of the fourteenth century. Unlike the fourteenth century, which was not particularly brutal, the sixteenth century became far more violent, sanctioning mutilation and eventually execution for crimes of vagrancy. In general the sixteenth century was far harsher on vagrants than the fourteenth century had ever been.

The perceived threat posed by vagabonds becomes evident when

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[29] Sir John Cheke, "The Hurt of Sedition, Howe Geveous it is to a Comune Welth" quoted in Kitty Anderson. *Treatment of Vagrancy and Poor Relief in the Tudor Period* (PhD diss., Univ. London, 1933): 24

[30] A. L. Beier, *The Problem of the Poor in Tudor and Early Stuart England* (London: Methuen, 1983): 6.

one realizes that throughout the period there were calls for secret searches for vagabonds and other suspected persons. Henry VII commanded all of his ministers and officers of law in every city and borough to "make due search in every suspect house or place in the same city and town for all such vagabonds and all other suspect persons." Henry VIII appears to have used the search to a much greater extent than his father. Most of the extant evidence suggests that early in his reign the search was implemented primarily in London. However, by 1527, evidence suggests that the searches were far more widespread. For example, the Duke of Norfolk wrote to Wolsey of a large search through Suffolk and Norfolk. In the earlier years of Henry VIII's reign there appears to have been a randomness to these searches. They were implemented when the cities felt them necessary. By 1536, this was changed. With the increasing vagrant population, a greater threat was perceived. Henry reacted by decreeing

> [that] officers of the crown shall *once every month* or oftener if need shall require, command a privie or secret search to be made within every citie and town, hundred, parish, and hamlet of the Realme in such time of the night and day as they think convenient. Moreover, all and every person obey, aid, assist and maintain from time to time all and every command of the said Justices of the Peace, for and concerning the working of all said searches and apprehending of all and every of the suspect personnes aforesaid.

Thus, the secret search was a tool to uncover what was seen to be the cause of the increasing idleness. As the threat seemed to grow, the number of searches grew at a concomitant rate. By 1536, therefore, the perceived threat must have been considerable.

Once uncovered, the vagabonds were to be punished. At first,

the Tudors used the methods that had been used in the past. Henry VII decreed that all captured vagabonds were to be placed in the stocks for three days and nights and fed nothing but bread and water and after this period to be let out and "sworn out of the town" to that town where they had been born, and then they were entreated not to beg outside of their home town again. If caught begging again in the same town the length of punishment was to be doubled and the same diet provided.[31] Henry VIII renewed this punishment, almost to the letter, in 1511.[32] This enactment did not differ from that of Richard II in 1388.

By 1530, however, Henry seems to have adopted physically brutal tactics. The punishment of the stocks by itself was no longer deemed sufficient; Henry believed that it was not bringing about a decline in the vagrant population. Henry set about rectifying this situation. The statute enacted in 1530[33] retained the punishment of the stocks but it further stipulated that the vagabond was to be whipped until bloody before being placed in the stocks. This, it appears, was to provide extra incentive to relinquish the life of a vagabond. More importantly, however, this statute was more explicit about what was expected of the vagrant following the completion of his three days in the stocks. After such punishment the vagabond was to be,

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[31] *Calendar of the Patent Rolls*, Henry VII, (1493), 1:434-435; Hughes and Larkin, *Royal Proclamations*, I:33-34.

[32] *Ibid.*, 89-90.

[33] 22 Hen. VIII

> enyoyned upon his othe to return forthwith wythout delaye in the nexte and straighte waye to the place where he was borne, or where he last dwelled before the same punysshement by the space of iij years and there put hymself to laboure, like a trewe man oweth to do.[34]

This oath was enforced by the granting of a license, explaining that the holder had been whipped, forced to submit to an oath, and sent on his way. If arrested again, the wanderer was to be whipped. Despite this increasing ferocity, vagrants were still to be kept in the stocks "till [they] hath found suertie to go to service or else to laboure."[35] The perception that the vagrant population, both the idle, criminally inclined wanderer and the unemployed masses, was growing, disturbed Henry. Henry knew that this apparently growing underclass needed to be controlled and he seems to have felt that all that was required was to force the vagabonds to relinquish the idle life that they had adopted by providing them with work.

Following 1536, the punishments for vagrancy became exponentially harsher. Much of the reason can be attributed to a greater sense of fear provoked by the vagrant and the threat that the vagrant population by its diseased state posed to the rest of society. Many who believed in harsher punishments justified these beliefs with medical metaphors. For example, in 1536, Henry declared it his intention to "cut away those corrupt members that with wholesome medicines will not be recovered and brought to

[34] 22 Hen. VIII, c. 12, *Statutes of the Realm*, 3:329.

[35] *Ibid.*

perfect health."[36] The "Homily of Christian Love and Charity" (1547) reiterated Henry's attitude. It felt compelled to advise the king that he "like a good surgeon" should cut "away a putrefied and festered members for love he hath to the whole body."[37] Such exhortations were common, particularly before the reign of Elizabeth.

Consequently, in 1536 Henry VIII produced a statute which extended further than any other before it. For a wanderer indicted for vagrancy twice in the same area the punishment was not only a whipping but he was to have the "upper part of the gristell of his right ear clear cut off so as it may appear for a perpetual token of that time."[38] For those who still remained idle, they were to be arrested and held in gaol until the next Quarter Sessions came to town, and if they were found guilty of idleness, they were to be executed as felons.[39] This indicates that Henry believed that while some vagabonds could be rehabilitated there were those who were beyond help. Recalcitrant vagabonds presented far too great a danger to the society, in much the same way as thieves and murderers and it was necessary to execute them.

Henry's precedent was followed by the governments of his two

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[36] See Whitney R. D. Jones, *The Tudor Commonwealth, 1529-1559: A Study of the Impact of the Social and Economic Developments of Mid-Tudor England upon Contemporary Concepts of the Nature and Duties of the Commonwealth* (London: Athlone Press, 1970): 16.

[37] *Ibid.*

[38] 27 Hen. VIII, c. 25, *Statutes of the Realm,* 3:560.

[39] *Ibid.*

children, Edward and Elizabeth. The first statute of Edward's reign repealed all preceding acts concerning vagabonds, and commanded that all persons idle or not actively seeking work would be deemed vagabonds, which would,

> imediatelye cawse the saide loyterer to be marked with an whott iron in the brest the marke of a V, and adjudge the saide parsone living so Ideyle to such presentor to be his Slave, to have and to holde the said Slave to him his executors or assignes for the space of twoo years then next following.[40]

In addition, if the slave ran away, it was decreed that the runaway's face would be burned with the mark of and "S", and if caught attempting to flee a second time, was to be executed as a felon.

Elizabeth followed her father's precedent a little more closely than did Edward. 14 Elizabeth, c. 5, enacted in 1572, ordered that all persons above the age of fourteen caught idle or without work were to be committed to gaol until the next sessions. If found guilty at that sessions, they were

> to bee grevouslye whipped and burnte through the gristle of the righte eare with a hot iron of the compasse of an inch about,

unless an honest person would employ them. Furthermore, a person indicted a second time and convicted would be executed as a felon.[41] Even though this act was repealed by Elizabeth in 1593, and replaced with mere whipping, the brutality continued. Elizabeth seemingly concurred with her ancestors and predecessors.

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[40] 1 Edw. VI., c. 3, 1547, quoted in Ribton-Turner, *A History of Vagrants and Vagrancy*, 90.

[41] 14 Eliz., c. 5, in *ibid.*, 106

Vagabonds, because they were a threat to society, must be converted from their idle ways or removed from the society. Only then was society safe from the disease of idleness.

Brutality and mutilation distinguished the punishments of the sixteenth century from those in the fourteenth century. But unlike the solutions of the later middle ages, more productive solutions also surfaced. Unlike previous statutes, Henry VIII's statute of 1536 contained clauses that were far more constructive. For those who complied with the order to return to their home town, the statute ordered that he,

> shall and may be given a competent meat, drink and lodging for one night only and for one meal, and so he shall continue his daily journey of 10 miles until such time as he shall come into the hundred and place whereunto he is assigned to go.[42]

But more importantly, this statute contracted the ministers of every district to "most charitably receive" all vagabonds that were returning to the town and "care and compell all and every the said sturdy vagabond and valiant beggars to be set and kept in continual labour of their own hands."[43] Furthermore, to aid the impotent poor the officers of the city and the churchwardens were enjoined to,

> take such discreet and converient order by gathering and procuring of such charitable and voluntary alms of the good Christian people within the same with boxes every Sunday holy day and other festival day or otherwise among themselves, in such good and discreet ways as the poor, impotent, lame, feeble, sick and diseased people, being not able to work may be provided, helped, and relieved so

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[42] *Ibid.*

[43] *Ibid.*

> that in no ways they nor none of them be suffered to go openly in begging.[44]

Finally, children above the age of five were to be apprenticed to masters of husbandry or other crafts or labours. If they chose not to accept these positions they were to be publicly whipped.[45] This statute was aimed at not only punishing vagabondage but at eradicating the problem of idleness by forcing town officials to ensure that the idle were put to work.

Moreover, this statute represents the first time that officials were ordered to collect alms for the impotent poor. Previously, the towns had merely been the repositories for wayward beggars. After capture and punishment vagabonds were ordered to return to their place of birth. The towns were to deal with their beggars by licensing them to beg or by further punishment. This new statute forced them to care for their beggars. Some towns responded to this call, as well. In York, for example, the city decided that beggars should,

> kepe ther howses and the maister of the beggers with other assignyde to them by maister wardens shall goo about in their wards to gydder the charytie of well dysposyd people and bryng it to the said poore folk in every parishe in the wards.[46]

Regardless of the level of success that this process achieved, it was a step towards the care of the poor and was also hoped to be an effective way of controlling the vagrant population.

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[44] *Ibid.*, 559.

[45] *Ibid.*

[46] Angelo Raine ed., *York Civic Records,* (York: York Archeological Society, 1945), 4:30.

In addition, vagabonds were forced into hard labour on any number of the king's public projects. For example, in 1538, a letter to Henry suggested that he "may assign yearly for repair of highways or other good deeds, whereby valiant beggars may be set to work, 5,000 marks."[47] Moreover, vagabonds were also commanded to a life of hard labour on the king's warships, an extreme, physically destructive punishment, where they would work as slaves. This illustrates that ways of working were being used to remove the vagrants from their life of idleness and force them to work, and prevent the spread of the disease of idleness, the most dangerous of all maladies.

Thus, much of Tudor legislation involved the eradication of idleness as a problem. Vagabonds were beaten as an incentive to forego the wandering life and told to return to their place of birth to assume work. If that was not successful they were mutilated and if that did not produce results they were deemed dangerous to the fabric of society and executed as felons. But as mentioned previously, the problem of vagrancy was perceived to derive not only from the spread of idleness. The negligence of the royal officials and legal officers was also seen as contributing to the growth of the vagabond population.

There appears to be a correlation between the perceived danger and the severity of the punishments that the Tudors implemented. Moreover, it is obvious that as the monarchs realized that their previous statutes and proclamations had little effect

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[47] *Letters and Papers, Henry VIII*, 13:1

they immediately made them far more severe. But, while Henry VIII's statutes were far more brutal than his father's, his statutes also showed glimmers of a social conscience. Forcing the towns to collect alms for the impotent poor, while mostly out of the desire to prevent them from begging, may also indicate that some of Henry's advisors or members of Parliament, but unlikely Henry, believed that punishment was not warranted in every situation. Thus in 1536 they may have been backing away from the idea of punishment. While this is certainly a long way away from the modern day attitude of the welfare state it does in some ways prefigure the Elizabethan and later poor laws.

Many of the characteristics seen by sixteenth century contemporaries as problematic were not products of the sixteenth century. Rather they were products of the later middle ages, particularly the mid-fourteenth century. The vagabond's seditiousness, idleness and dangerousness were all manifest in the late fourteenth century but rarely applied to one individual subsequently. Similarly, the solutions proposed, while not in every respect identical with those proposed in the later middle ages, were remarkably consistent with what had preceded them. The genesis of the perception of vagrancy is rooted in the later middle ages and the English terms "vagrant" and "vagabond" can be seen as products of a one-hundred-year process of linguistic and legal change.

# CHAPTER 5: CONCLUSION

A number of authors have assumed that the perception of the vagabond remained static from its creation in the middle ages to sixteenth century. According to this brief investigation, this cannot be maintained. While the perceptions of contemporaries in the fourteenth and sixteenth centuries are most certainly linked, there are some significant differences that do not allow generalizations to be applied to the concept of vagrancy over its history. Where sixteenth century perception was characterized by the use of two interchangeable words, illustrating that contemporaries viewed all wanderers with equal disapproval, contemporaries before the fifteenth century discussed in this paper did not have such a unified vision. Rather wandering men, when arrested seemed to have been classified according to what local law enforcers and national law makers believed to be the most threatening characteristic.

There were three phases. Before 1300, anonymity was the most feared characteristic, but it was eventually replaced by a fear of criminality inspired by mobility and a lack of place within the society. Often, after 1300, terms that described outsiders such as *vagantes* or *noctivagus* were indications that the court believed the suspects to have criminal intentions and this label allowed them to comprehend and explain the suspects' deviant behaviour, and consequently rationalize the punishment for such behaviour. During this period there was seemingly little perceived threat to the

social order and the position of the ruling classes, and the majority of the pronouncements made by the king expressed a concern for the maintenance of order at the local level. By the end of the fourteenth century, wandering in conjunction with the refusal of labour, was perceived as a threat to the social order and impinged upon the position of the king and the landed classes. Wandering became criminal and the toleration for wanderers dissolved. From 1360, more and more categories of wanderers were created and more and more wanderers were arrested for criminal activity or the suspicion of criminal activity. By the fifteenth century, wanderers were perceived as a tremendous threat to the ruling class.

The terminology shifted with perceptions. The perception was moulded by three very important legal shifts in the period between 1101 and 1400. Frankpledge made wanderers, those without homes, technically impossible by requiring membership in a tithing. Those who were not in a tithing were merely strangers. However, strangers posed a problem to a community that was tightly-knit and depended upon the force of social bonds to maintain the peace. Strangers, because they were not part of society were shunned and pushed to the margins where they were easily criminalized. This separation between the wanderer and society would exist well into the sixteenth century and perhaps even further.

The second social transformation was the introduction of the trespass, a criminal designation less serious in magnitude than the felony, during the expansion of the English legal system by Henry

II. The ccharge of trespass covered an undefinable mélange of "crimes" with little to connect them, except that they were perceived as crimes. It was under this category that convictions for vagrancy fell. Charges of breach of contract, violation of a boundary line, or merely wandering about idle may have been enough to inspire a neighbour to indictment. More importantly, wanderers, generally because of their marginal habits, or behaviour that could not be explained became suspicious and were perceived as threats. Guilty of no discernible felony, the most serious of crimes, but perceived as capable of committing a felony in the near future, the only recourse to prevent the wanderer from doing so was through imprisonment and fines.

The greatest impact on the perception of the wanderer came after the destruction wrought by the Black Death and the promulgation of the Ordinance and Statute of Labourers in 1349 and 1351 respectively. The unwillingness of labourers to work the land caused concern in the landed classes for two reasons. First, they saw their profits declining. Second, and more importantly, they saw the social order that they dominated crumbling in the face of more demanding and assertive labourers who would not work unless paid significantly higher wages. The labourers' penchant for shopping around for the highest bidder, even in the middle of a contract, undercut the way the system had worked over the five hundred years before. To the landed classes wandering became the source for the destabilization of the social system.

The seriousness with which the problem was seen in the later

fourteenth century is evident in the solutions offered by the king and parliament. Prior to the scourge of the Black Death, the harshest punishments tended to be imprisonment and fines. After 1360, however, in addition to imprisonment and fines, wandering labourers could be mutilated. Moreover, all wanderers, regardless of predilection, were prevented from moving about by the use of a system of letters patent. All wanderers were suspicious and all wanderers were to be treated the same way.

This attitude found its final expression in the fifteenth century as English rose to prominence as the chief legal language. The Latin terminology had defined a number of different types of wandering men, each guilty of different "crimes." By the late fifteenth century, all wanderers were perceived in the same way: none would work, all were idle and potentially seditious. The rise of English, and the two interchangeable words to describe wanderers, cemented that perception. As the specificity of the Latin terms gave way to the more general, variable English terms, the differentiation between types of wanderer disappeared. Consequently, punishments seen as efficacious by the ruling classes were applied to all wanderers equally and brutally.

The roots of the problem of vagrancy can be understood through an examination of the perception of wandering men evident in the legal texts over the late middle ages. Vagrants were marginal, permanent suspects, and were treated as such by their contemporaries. They were chastised and arrested because lawmakers, particularly after 1360, viewed them as a significant

threat to their own position. Vagrants were a creation of the people around them; they were made suspicious and even dangerous by the perception of the ruling classes and those who felt social bonds disintegrating with the development of a rootless, masterless group. With a perceived threat came the reaction which was swift and brutal. English lawmakers were afraid of vagrants for a very long time, only this century, almost one thousand years after the problem began, being able to assuage their fears about the intent of a vagrant population.

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