

# THE AMERICAN "TRAMP" QUESTION AND THE OLD ENGLISH VAGRANCY LAWS.

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THE "Tramp" question is eternal. No age or country has been able to solve it satisfactorily, for the idle of each age and nation more or less adapt themselves to surrounding conditions. At the very start the matter requires differentiation: to separate those who are by nature idle from those who are poor by circumstance. It may be of some service to compare, with regard to this matter, the circumstances of England before and up to three centuries ago with those existing to-day in the United States of America. Up to the middle of the sixteenth century rural England was very much in the same circumstances as rural America to-day. We must, of course, leave out the facilities of movement, which are very different; but this latter advantage is largely in favor of the vagabond. According to Froude, the population of England was in the middle of the sixteenth century somewhere about a million persons. In this he probably underestimated to a great degree, but his statement will serve as an illustration; the figures really do not matter. The population was scattered largely amongst little villages and hamlets; of these many were mere clusters or groups of small houses far apart from similar congeries, and were cut off from one another by dense forests and imperfect roads. There was in the country no police force as we understand it now; but little, if any, organized local protection. Such protection as nominally existed was in the King or the great nobles who up to Wolsey's time held courts of their own and, under feudal tenure, controlled troops. The change of Sumptuary laws made by Wolsey, for the purpose of furthering trade and in order to bring the nobles round the King, had the effect of enlarging the groups of houses from villages to towns and cities.

Up to that time the Sumptuary laws were prohibitive and repressive: what individuals and classes might *not* do or wear, rather than helpful to trade and manufacture; but under his clever statesmanship—exercised mainly on behalf of the King—the nature of these laws changed and trade and manufactures increased. But for a long, long time villages and towns were practically far apart; and in the wide spaces between the smaller communities were still under the old conditions.

Whilst this state of things existed, it was vitally necessary that wandering persons—who being without home were not easily made responsible—should be under some overt restraint, or at any rate, suspicion. The very word finally applied to such persons in the Acts of Parliament is in itself illuminative.

The first Vagrant statute recorded is that in the XXIII year of Edward III (1349). It runs as follows:

“Item because that many valiaunt beggers, as longe as thei maie live of begginge, do refuse to labour, gevinge them selfe to idlenes and vice, and sometye to thefte and other abominations: None upon the saide peine of imprisonmente shall, under the colour of pitee or almes geve any thinge to suche, which maie labour, or presume to favour them towards their desyres, so that therby thei maie be compelled to labour for their necessary lyvinge. Wherefore our saide Sovereaine lorde the Kyng, the xiii daie of June, the xxiii yere of his reigne, hath commanded to all the shiryffes of Englande by divers writtes, that thei shall do openly to be proclaimed and holden, all and singular the premisses in the counties, boroughs, marchaunt townes, sea portes, and other places in their bailywekes, where to them shall seme expedient: And that thei do therof due execucion, as afore is saide.”

This Statute XXIII Edward III was called the “Statute of Laborers” and was ordained to enforce the necessary labor required, “because a great part of the people, and especially of workemen and servauntes late died in pestilence.” In this condition of things those remaining often refused to work except at wages unknown in those ages of political economy. In fact, the whole purpose was directly to insure a sufficiency of labor, or, at any rate, to secure such as existed. By means of the carrying out of the statute there would be a sort of registry of labor—certainly of the rebellious side of it. Its practical force was to bind every worker to his own town or tything.

In the next session of Parliament XXV Edward III this Statute was re-enacted, but with greater detail.

This purpose was still further maintained in a later Act—XXXIV Edward III, Cap. 1—wherein power was given to arrest and imprison laborers unwilling to work as well as all guilty or even suspected persons and such Englishmen as "have been pillours and robbers in the partyes beyond the sea; and be nowe come agayne and goeth wanderynge and will not labour as they were wonte in times past."

Herein we get an idea of the cause for such rigid enactments regarding "vagrom men"—to use Dogberry's phrase. Small communities were at times easily terrorized. The cities and towns had sheriffs and bailiffs and constables; but villages having no such official force at command could be easily "held up" by a few men with cross-bows. There had, indeed, been cases on the Continent of Europe where towns had been attacked and sacked by masses of disbanded soldiery. Indeed, wanderers of every kind were harmful; for very often they were thieves or "roberdsmen" or "drawlatches"; and even if they did not commit heinous crimes they were a source of uneasiness and possible loss.

As yet in the history of British legislation, Parliament had only taken note of beggars and rebels against work at statute wage; but in the seventh year of the reign of Richard II an Act (Cap. 5) was passed in which amongst other things is the following:

"And moreover it is ordayned and assented to refrayn the malyce of dyvers people, faytours and wandrynge from place to place reumynge in the countrey more habundauntlie than they were wonte in tymes paste, that from hence forth the Justices of Assyses in theyre cessions the Justices of peace and the shyryffes in every countie shall have power to enquire of all suche vacabundes and faytours and of theyre offences, and upon them to do that the lawe demaundeth. And that as well the iustices and shyryffes, as the mayres, baylyffes, constables and other governours of townes and places where such faytours and vacabundes shall come, shall from henceforthe have power to examyne them diligently and compell them to fynde suretye of theyr good bearynge by sufficient mainpernours, of such as be distreynable, if any defaulte be founde in suche faytours and vacabundes. And if they can not fynde suche suretye they shall be sent to the next iayle, there to abyde tyll the Commynge of the iustices assygned for the deliverance of the iayles, who in suche case shal have power to do upon such faytours and vacabundes so imprysoned that that thereof to them best shall seme by the lawe."

In the above enactment the word "vacabunde" is mentioned for the first time. It is taken from the French through the



low Latin word *vagari*—to wander; wandering beyond bounds. The previous enactments had compelled every man to remain in his own place; this one made the wandering itself from it an offence. We shall see how as time went on this was modified or intensified.

Five years later, by XII Richard II, Cap. 7, the rule against wandering was made more severe.

“Item it is accorded and assented, that of every persone that goeth begging, and is able to serve or labour, it shal be doen of him, as of him that departeth out of the Hundred, and other places aforesaid, without letter, testimonial, as afore is said, excepte people of Religion and Heremites, having letters testimoniall of their ordinaries, and that the beggars impotet [impotent] to serve, shall abide in the cities and townes, where they bee dwelling at the time of the proclamacion of this statute, and if the people of Cities or townes, will not, or maie not suffice to finde them: that then the saied beggars shall drawe them to other townes within the Hundredes, Rape, or Wapentake, or to the townes where thei were borne, within XL daies after the proclamacion made, and there shall continually abide, durying their lives, and that of all them that go in pilgrimage as beggars, and be able to travaille, it shall be doen as if the said servauntes and labourers, if thei have no letters testimoniall of their pilgrimage, under the saied seales. And that the scolers of the Universities that go so begging, have letters testimoniall of their Chaunceler, upon the same pain.”

The Act XI Henry VII, Cap. 2, is intended to be merciful and to spare undue cost to the public. By it “vacaboundes,” instead of being put in jail, are to be given several chances of reformation:

“that the shyryffes, mayres, bayliffes, highe constables, and pety constables, and all other officers of cities, borowghes townes, townshyppes, vyllages and other places, within three daies after this Act proclaymed, make due serche, and take or cause to be taken all such vacaboundes ydle and suspecte persones, lyvyng suspiciously, and them so taken to set in stockes, there to remayne by the space of thre daies and thre nightes and there to have none other sustenance but breade and water. And after the saide thre daies and thre nightes, to be had out and set at large, and then to be commaunded to avoide the towne. If the misdoer ‘eftsones’ be taken in ‘suche defaute in the same town or township he is to be set in the stocks for six days on the same diet; and every one giving him meat or drink or favouring in his misdoing is to be fined in each time to pay a penalty of twelve pence.”

And also it is ordained by the same authorities that:

“al maner of begers, not able to work, within six wekes next after the proclamacion of this act, go, rest, and abide in that hundred where last he dwelled, or there where he is best knowen or borne there



to remaine and abyde without beggyne out of the saide hundred, upon peine to be punished as is aforesaide."

Then it goes on that no man is to be excused by being a "clerke of one universitee or the other," unless he show letters from the Chancellor of that University; nor is one calling himself a soldier, shipman or travelling man unless he bring a letter from his captain or from the town where he landed "and that he then to be commanded to go the straight high waie into his countrey." If any sheriff or other officer omit to discharge this duty with regard to strangers he is to be fined for each case twenty pence. This regulation is protected by giving the Lord of the Manor or the Alderman of the ward a personal interest in such fines and to secure his reward by distraint. The last clause of the Act runs:

"Provided alwaie that diminucion of punishment of vacaboundes and beggers aforesaide, may and shall be had for women great with chylde, and men and women in extreme sicknes, by him that hath auctoritee to doe the sayde punishmentes, this acte notwithstandinge."

By an Act of eight years later (XIX Henry VII, Cap. 12) the severity of punishment for first offence in vagabondage was reduced to one day and night in the stocks on bread and water; and for a second offence to three days and nights of similar durance. The same penalties are to be enforced on officers neglecting their duties under this Act as in the earlier enactment.

In the first year of Edward VI an Act (I Edward VI, Cap. 3) was passed repealing all former Acts relating to vagabonds. This Act was in turn repealed by another passed in the third year of the same King (III Edward VI, Cap. 16). In the same year another similar Act was passed which was in turn repealed by XIV Elizabeth, Cap. 5. There were other temporary Acts of the time of Edward VI, Queen Mary and Philip and Mary; also Acts I Elizabeth, Cap. 19, and V Elizabeth, Cap. 19. All of these were repealed by XIV Elizabeth, Cap. 5, which was the most elaborate and comprehensive Vagabond Act passed by the British Parliament up to that time, 1572.

This Act of 1572 is much too long to quote, but a survey of its provisions can be interesting. The preamble gives the necessity of its enactment:

"Whereas the parts of this realme of England and Wales be presentlie with roges, vagabonds, and sturdie beggers, exceedinglie pestred,

by meanes whereof daylie happen murders, thefts, and other great out rages, to the high displeasure of Almightye God, and to the great annoy of the common wealth," etc.

Then came the provisions. All persons above the age of fourteen who were in the class of "roges, vagabonds or sturdie beggers" caught begging, vagrant or misordering themselves were to be put in prison and kept there without bail till the next coming sessions. Such persons, being convicted, "he or she shall be adiudged to be grievouslie whipped and burnt through the gristle of the right eare, with a hot yron of the compasse of an inch about, manifested his or her rogish kind of life, and his or her punishment received for the same, whereof entrie shall bee made of records by the clerke of the peace in the same shire, in the recordes of the same sessions, which iudgement shal also presentlie be executed, except some honest person" (here is stated the property qualification of such) "will of his charitie be contented to take such offendour . . . into his service for one whole yeere." Such employer is to be under recognizance to carry out the obligation thus undertaken. And if such offender abscond before the year is out he or she "shall be whipped and burnt thorow the gristle of the right eare with a hot yron, as is aforesaide." Fourteen days' grace are to be allowed to the offender if sanctioned by two justices. Then if the offender fall again within three weeks into the same way of life if he or she be of or over eighteen years of age shall be adjudged a felon and suffer the penalties of such unless some honest person give recognizance (of double the former amount) to keep him or her in his service for two whole years. If the person thus taking service abscond a second time, then "such roge or vagabond shall be taken, adiudged and deemed as a felon in all respectes, and shall in all degrees have, suffer and forfeite as a felon, without allowance or benefite of clergie or sancturie."

"And if such roge or vagabond after fortie dayes next after he or she shall be two severall times taken into-service as is aforesaide, doe either in the sayde Countie, or else where eftsoones the third time fall againe to a kinde of rogish or vagabond trade of life: that then such roge or vagabond shall be adiudged and deemed for a felon, and suffer the paynes of death, and losse of landes and goods as a felon, without allowance or benefite of clergie or sanctuarie."

The stringency of this Act is fortified by laying heavy penalties on any person harboring or aiding a rogue or vagabond

"marked or not marked" travelling without a license from the justices; and by heavily punishing negligent constables.

There are in the Act some clauses of thoughtful benevolence. Certain travelling persons, shipmen, soldiers having licenses, are exempt. So also the following: "any cockers or harvest folks . . . either corne harvest, or hay harvest, if they do worke and labour accordinglie, neither yet to any that happeneth to be robbed or spoyled by ye way"; nor serving-men turned away or who have lost master or mistress by death. The Lord Chancellor's license is to go everywhere. Young persons under the age of fourteen are exempt from all consequences—except whipping or stocking—as by former Acts. Hospitals are empowered to harbor and help aged and impotent persons. Certain "abyding places" are to be appointed locally in every shire, etc., in which the poor are to live and be provided for; but any poor person refusing to live in such place is to be deemed a rogue for the first refusal, and for the second to "suffer as a roge or vagabond in the last degree of punishment set forth by this acte in all points." The same punishment is to be meted to "aged and impotent persons, not being so diseased lame or impotent, but that they may worke in some manner of worke" who refuse to do such work as the overseers appoint them to.

There is a special clause to the effect that in case of "any begger's childe," being above the age of five years and under fourteen years, being male or female, "who may be liked of by any subject of this realme of honest calling," such may be taken by them into service. This must be done under bond, and the master is bound to keep them till a stated age—twenty-four in the case of a male and eighteen in the case of a female.

This statute was the mother statute of many vagabond Acts or portions of Acts which lasted down to 1822 and became in certain ways the guiding legislation in the establishment of poors' houses and reformatories. Of course as time went on and social conditions changed the provisions had to be altered. As towns multiplied, bringing more constant and easier communication from place to place, the mere fact of being an unlicensed traveller ceased to be in itself an offence. In a populous country with much trade and many manufactures and industries it would be quite impossible to "keep tab" of all vagrants. But till this day those who will not work are practically regarded as a more



or less dangerous class. Indeed, the passing of the "habitual criminals" Act has a common basis. When certain persons—or classes of persons—are manifestly dangerous to more peaceful and better-ordered classes of communities it is the essence of good government—indeed, a necessary duty to responsible officials—to keep them in restraint, or certainly under observation. In both civil and rural communities they are dangerous; in America as in England; to-day as well as in the time of "Good Queen Bess." In cities they are practically rogues; in the country vagabonds and sturdy beggars, whose presence is attended with fear if not with danger.

"It is the germ of the future which we seek in the past"—to use the luminous phrase of Victor Cousin. Why not apply this historical lesson to existing conditions? The reign of Queen Elizabeth was an enlightened time; and benevolent and tolerant ideas did not lack. If then the statesmen of that expansive and formative period found it necessary to rule tramps with so heavy a hand that cumulative penalties beginning with "ear-marking"—which was the name applied to the branding in the ear—and ending with the extremest possible punishment, death, were ordained, why might it not be wise to adopt some drastic measure, though one necessarily more in accord with the humanitarian development of three centuries? If it was found necessary in the earlier period to put on the ill-doer some mark of which he could not divest himself, why should we not repeat the custom in some fashion in accord with the spirit of the times? If it was then found necessary to keep tramps within districts where they were personally known to officials, why not now keep them within certain bounds? If it was worth while then to try to break them in to the practice or habit of labor, why not repeat the benevolent enterprise?

For it is necessary to accustom the long-idle to labor by gentle exercise. The muscles, almost atrophied by disuse, cannot all at once either adapt themselves to or continue in strenuous work. I remember some years ago making a round of the police "shelters" in New York; those most thoughtful refuges for the not, or not-yet, criminal poor. Two rooms, one for either sex; well warmed and furnished, with only plank beds and a can of cold water and tin cup. The weather was dreadfully cold, and that night the various shelters must have saved many lives. In one

station the kind-hearted old sergeant of police took me into both rooms. It was a lesson to remember. In either room were as many persons as could find resting-place. Almost all of them had taken off all their poor rags, which they had hung to dry on lines stretched from wall to wall overhead. The smell of them was noisome. I had been talking to the sergeant of the possibility of reforming tramps and getting them to work. In the men's room he said to me:

"That will bear out what I told you, sir. Look at that man's muscles. He *can't* work. Not all at once, at any rate. His legs are all right, for he uses them. But mind his arms! Why, they're like those of a child of twelve. It would take him a couple of months, beginning easy, before he could use a spade, or chop wood!"

He was quite right. The man's arms were almost of skeleton leanness; and there was no rigor in the muscles at any moment.

In England the corresponding class to the American tramp is that of the "bone-idle" who live nearly all their lives in the so-called workhouses. These men never work. When they are brought to book for refusing to work they go to gaol.

The time is fast coming when something *must* be done regarding the wilfully-idle class. Already in Germany if they refuse to work they must starve. The result is that they work enough to keep them from the latter alternative. In England the working-classes are beginning to lose patience with the idle. The feeling has become more or less acute, now that a system of old-age pensions has come over the horizon. Naturally enough, the workers and earners are not satisfied with a scheme of pensioning at a certain age all who require it. They say that it is not fair that they who have lived honestly and worked hard—and in so doing have helped to gather the money required for the scheme of pensions—should be treated in the same way as the habitually-idle. Or they put it in a more reasonable form that the habitually-idle should not be given the same consideration as those habitually-industrious.

In America the class of "tramp" is a perpetual menace; and that not merely to individuals. The lesson of the "Coxey" army of tramps who gathered in thousands and made their way to Washington should not be forgotten. As they took their way the public on the route were so fearful of some excesses being committed that they bribed them with food and help to pass on from

their own district. It was just such armies, only better equipped and trained to arms, which made the vagabond Acts from Edward III down a necessity of British Government.

How, then, could this historical lesson be applied?

If the "tramp" of the twentieth century be so dangerous, or at best a source of fear or embarrassment—as was the "Roge" or "Vagabond" or "Sturdie Beger" of the sixteenth; and as he was in the former age treated in such a way as to minimize his harmfulness, why not repeat the treatment, suitably altered to meet the new conditions! As ear-marking with a "hot yron" be treatment of a drastic quality not acceptable to a less rude age, surely the resources of science are equal to some method of personal marking of an indelible quality. This step achieved, all idle persons, wandering and obviously undesirable to any ordinary intelligence, might in the first instance be arrested and tested as to the existence of modern ear-marking. If unable to show license or to account for themselves in any reasonable way they might be sent to a Labor Colony set far away in the heart of some fastness, there to be detained for a sufficient time to learn to be industrious in some form, and to have their physique brought by degrees up to the standard requisite for such work. It could be made apparent that there was no spirit of unkindness in such precautionary, and ultimately benevolent, doing.

The first relegation might be for a year; after which the re-organized tramp could, if considered to be physically suitable, allowed to go free. Such would be in the routine of the old law. If a second time he were sent back to the labor colony he should have to pass two years in the service—again fulfilling the old conditions. By this time it would be known and proved whether he was simply a loafer or one who wished to do well. He had had his two chances and he could ask no more. The third period of duress would match the last stage in this eventful history. In this age we do not, and could not kill, because of mere idleness. But the offender could be given a life sentence. In England a life sentence really means twenty years. At the expiration of such times, if reformation were possible, it would be seriously undertaken now. If the intention of reform were not now apparent he could remain where he was—not dangerous, even if inefficient.

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