

Reassessing 27 Henry VIII, c.25 and Tudor Welfare: Changes and Continuities in Context

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The English Parish Rate for the relief of the poor was first instituted by statute in 1536. Scholars of English welfare have seen in this a great discontinuity with the statute of 1531, and have suggested the 1536 Act was the product of humanist thinking about the nature of poverty. Humanist features have long been attributed, in particular, to a draft bill of 1535, seemingly bolstering this argument. The bill was seen as ahead of its time, explaining the Act's apparent failure. This article revises these interpretations of the 1530s legislation, seeking to align scholarly understanding of the 1530s legislation with continental scholarship of welfare reforms, scholarship of English humanism, and the growing body of research that shows continuities in local practices and attitudes from the late medieval period regarding poverty and the poor. It does this through a revision of the broader legislative context, and through situating the 1535 draft in closer relationship to the legislation passed and contemporary repair works underway at Dover harbour.

In 1536, King Henry VIII personally presented the burgesses of the English Parliament with a bill proposing that vagabonds be put to work and the poor relieved through a national system of taxation and charitable collection.¹ Among other objectives, it would both fund the repair of Dover harbour and provide a labour force for that endeavour. The project, as far as Henry seems to have intended it, was not to be. The Act of 1536, 27 Henry VIII, c.25, which first established a statutorily sanctioned system of parochial collection for the indigent, bore little direct similarity to the bill in its surviving draft form, and the specific connection with Dover harbour was absent.² Geoffrey Elton informed scholars of the draft bill over half a century ago when he examined it in some detail, dating its drafting to mid 1535. The bill has subsequently taken a prominent place in explaining government attitudes and actions regarding poverty and the poor.³ Two subsequent articles explicitly focused on the draft bill and its relationship with the 1536 Act, other 'poor relief'

¹ *Letters and Papers, Foreign and Domestic, Henry VIII*, eds J. S. Brewer, R. H. Brodie, and James Gairdner, 21 vols (London: H.M.S.O., 1862–1932) (hereafter *Letters and Papers*), x, no. 462, p. 190.

² The bill is London, British Library (hereafter BL), MS Royal 18 CVI.

³ G. R. Elton, 'An Early Tudor Poor Law', *Economic History Review*, new ser., 6 (1953), 55–67.

legislation, and the intellectual context. Neil Kunze used both draft and Act to propose that the 1536 Act marked ‘the beginning of a new legislative era in English economic and social history’, refocusing scholarship away from the Elizabethan codifications of 1598–1601, and back towards the 1530s legislation.⁴ He argued for ‘a sudden and dramatic change in the Henrician poor law policy’ between 22 Henry VIII, c.12 of 1531, which he believed essentially continued ‘the same repressive policies of earlier statutes’, and that evidenced by the 1536 Act’s introduction of ‘a positive program for the relief of economic and social distress’.⁵ Kunze also drew attention to the dissimilarities between the draft and the 1536 Act, although he felt ‘it still retained the essential principles’.⁶ Kunze’s argument reiterated much of what Elton had already proposed, with a firmer analysis of the details of draft and Act, and a stronger argument for legislative discontinuity in a specifically poor relief context.⁷

Following Elton and Kunze’s argument that 1535/6 marked a distinct break with the social policy past, Paul Fideler sought to examine the ‘intellectual influences on the statute’ of 1536.⁸ Elton had suggested that in the draft bill some of the ‘terms [used] suggest the tongue and mind of the humanist’.⁹ It was this that led him to propose that William Marshall, a clerk and pamphleteer with some reformist leanings, could have been the author of the draft, an argument bolstered by the fact that in 1535, Marshall published an English translation of the poor relief scheme of the city of Ypres.¹⁰ But Elton also suggested that it is ‘difficult to trace the influence of one scheme on another, or even to speak with much confidence of influence being exercised’, thus downplaying the role of humanism and continental models on English developments.¹¹ Fideler’s critique emphatically addressed this, arguing that ‘Elton makes the Christian humanist influence ... on Henrician policies unnecessarily ephemeral’.¹² So much was Fideler’s initial argument intended as a counter to Elton, that a line mid-way through Elton’s paper that

⁴ Neil L. Kunze, ‘The Origins of Modern Social Legislation: The Henrician Poor Law of 1536’, *Albion*, 3 (1971), 9–20 (p. 9).

⁵ Kunze, p. 10.

⁶ Kunze, p. 17.

⁷ Elton (p. 67) saw the Act as a side-story in a wider programme of Cromwell-driven government reform.

⁸ Paul A. Fideler, ‘Christian Humanism and Poor Law Reform in Early Tudor England’, *Societas*, 4.4 (1974), 269–85 (p. 269).

⁹ Elton, p. 65.

¹⁰ Elton, p. 66.

¹¹ Elton, p. 55.

¹² Fideler, ‘Christian Humanism’, p. 281.

'there is not the slightest link between this draft and More's *Utopia*', was used as the structural basis for Fideler's contribution to the scholarship of this bill and Act: an appraisal of humanist 'theories of poverty and attitudes towards the poor' in *Utopia*, the 1535 draft, and 1536 Act, in which he explicitly argued that '[b]oth the draft poor law of 1535 and the enacted statute of 1536 contain evidence of Christian humanist reform perspective'.¹³ Fideler would in fact come to characterise the initiatives of 1535/6 as deriving from 'bold humanist theorising' about the nature of poverty, suggesting that humanism had a significant causal role in explaining both the initiatives and their conceptual features.¹⁴ Whereas for Kunze 1535/6 marked a shift from repression to poor relief, for Fideler it marked the advent of humanist-inspired poor relief in England.

There are two core premises of this body of scholarship, however, that this article seeks to revise. The first, which has become widely accepted, is the discontinuity thesis of 1530s English social welfare. It is a thesis perhaps most influentially articulated by Paul Slack in *Poverty and Policy in Tudor and Stuart England*, where he dated the first of two 'changes in perceptions of poverty' (a 'hardening of an existing discriminatory distinction') to the 1530s.¹⁵ Slack presented the bill of 1535 as 'too radical for the English parliament' and characterised the 1536 Act as a lame duck.¹⁶ But he nonetheless saw these initiatives as marking the commencement of a broader period of legislative poor relief experimentation, albeit characterised by a legislative instability that was only resolved a few decades later. Subsequently, scholars have in general followed Slack's narrative, clearly informed by the Elton-Kunze-Fideler construction, including Marjorie McIntosh's recent *Poor Relief in England, 1350–1600*, which well illustrates this same position through chapter division and title: 'New ideas and new policies, c. 1530–1553'.¹⁷ However, the degree to which the 1535/6 initiatives can be thought of as new has come under serious question of late. Historians, including McIntosh, have increasingly come to see the parish as central to much pre-Reformation

¹³ Elton, p. 66; Fideler, 'Christian Humanism', pp. 270, 285.

¹⁴ For the argument, see Fideler, 'Christian Humanism'; and for a reiteration and the quotation, see Paul A. Fideler, 'Poverty, Policy and Providence: The Tudors and the Poor', in *Political Thought and the Tudor Commonwealth: Deep Structure, Discourse and Disguise*, eds Fideler and T. F. Mayer (Oxford: Routledge, 1992), pp. 194–222 (p. 203).

¹⁵ Paul Slack, *Poverty and Policy in Tudor and Stuart England* (London: Longman, 1988), p. 32.

¹⁶ Slack, *Poverty and Policy*, pp. 118–22.

¹⁷ Marjorie K. McIntosh, *Poor Relief in England, 1350–1600* (Cambridge: Cambridge University Press, 2012), p. 115.

charitable activity.¹⁸ Christopher Dyer in particular has demonstrated that ‘villages and towns had been taking on responsibilities and developing their procedures for two centuries before 1536, and the Tudor state was drawing on that experience’.¹⁹ Yet despite this, the fundamental understandings of the laws and central government policy have not been seriously challenged since the early 1990s, and in light of new scholarship in favour of conceptual and practical continuities, the idea of legislative discontinuity needs modification.

The second premise to be revised concerns proposed causal relationships between intellectual currents and welfare reforms. Drawing on Slack’s narrative sequence of a too-ambitious bill, watered down, passed as the 1536 Act, and then neglected, Fideler has consistently argued, in a number of publications subsequent to his original article, that the bill and Act’s objectives and characteristics were derived from humanism. Although no new evidence was proffered, Fideler would come to claim that ‘William Marshall ... was the author of ... a Christian humanist-inspired proposal to rescue the realm’s poor by means of government policy’.²⁰ The project was framed as the product of ‘years of bold humanist theorizing and statute drafting’.²¹ This humanist thesis in turn subsidised the logic of the discontinuity thesis, as Fideler presented ‘the traditional anti-vagrancy statute of 1531’ as the antithesis of the ‘remarkable bill, Christian humanist in its operation’ which is how he read the 1535 draft.²² This notion persists in more recent scholarship. McIntosh, for example, presented government action and attitudes of the 1530s and 1540s as dominated by ‘the social/moral emphases of humanist or commonwealth thinking and Protestant theology’.²³ Yet if discontinuity

¹⁸ J. M. Bennett, ‘Conviviality and Charity in Medieval and Early Modern England’, *Past & Present*, 134 (1993), 19–41; J. M. Bennett, ‘Conviviality and Charity in Medieval and Early Modern England: Reply’, *Past & Present*, 154 (1997), 235–42; Marjorie K. McIntosh, ‘Local Responses to the Poor in Late Medieval and Tudor England’, *Continuity and Change*, 3 (1988), pp. 209–45 (p. 220); B. Tierney, *Medieval Poor Law: A Sketch of Canonical Theory and its Application in England* (Berkeley: University of California Press, 1959).

¹⁹ Christopher Dyer, ‘Poverty and its Relief in Late Medieval England’, *Past & Present*, 216 (2012), 41–78 (p. 78); Christopher Dyer, *An Age of Transition? Economy and Society in England in the Later Middle Ages* (Oxford: Clarendon Press, 2005), p. 240.

²⁰ Fideler, ‘Poverty, Policy and Providence’, p. 202 (emphasis added).

²¹ Fideler, ‘Poverty, Policy and Providence’, p. 203.

²² Paul A. Fideler, *Social Welfare in Pre-Industrial England* (Houndmills: Palgrave Macmillan, 2006), pp. 57–58.

²³ For McIntosh (*Poor Relief in England*, p. 138), the main shift in welfare practice concerns parish activities pre- and post-1547, another discontinuity thesis that can be revised somewhat in light of reinvestigation of the 1530s legislation. For a full revised sequence of the beggary, vagrancy, and poor relief laws and the significance of the 1547 anomaly, see Nicholas Dean Brodie, ‘Beggary, Vagabondage, and Poor Relief: English Statutes in the Urban Context, 1495–1572’ (unpublished doctoral thesis, University of Tasmania, 2010).

is overstated, then what role actually remains for humanism in explaining legislative features?

This article is essentially a case study of relationships. Firstly, of those between the 1531 Act, the 1535 draft bill, and the 1536 Act; and secondly between these three documents and their wider political, religious, economic, and legislative contexts. It serves to destabilise some of the certainties that have developed about statutory discontinuity and queries the direct impact of humanist thinking.²⁴ It proposes broader counter-arguments focused on conceptual stability embedded in the legislation, which was also subjected to fewer technical and conceptual discontinuities than generally believed. In a very particular way, exploring the connections between the draft bill and contemporaneous works for the repair of Dover harbour helps resituate the legislation in a less abstracted setting. At Dover, the proposals, the laws passed, the economic context, and various desired outcomes can be seen in greater relief, and therefore the interrelationships between these things, which contemporaries would have recognised, become clearer. Kunze drew attention to the correlation between the timing of the bill and works for the repair of Dover harbour, but further analysis of this connection has been wanting.²⁵ Exploring these relationships helps to reconceptualise the wider legislative schema of the Tudor age with regard to vagabonds, beggars, and the poor.

I. Statutes for Beggars and Vagabonds

Historians have generally approached the 1536 Act and the 1535 draft from a social policy and poor relief perspective. Yet, it is a field weighed down by considerable historiographical baggage. The very idea that the 1536 Act marked a very major development, which was later characterised as a failure, belongs to the way that early histories of the English poor laws were written by nineteenth-century law reformers like George Nicholls and the social(ist) activists Sidney and Beatrice Webb who intentionally sought teleological narratives of development.²⁶ Nichols mistakenly believed the

²⁴ Fideler, 'Christian Humanism', pp. 283–85; Fideler, 'Poverty, Policy and Providence', pp. 195, 203, 215; this construction is also evident in Marjorie K. McIntosh, 'Poverty, Charity, and Coercion in Elizabethan England', *Journal of Interdisciplinary History*, 35 (2005), 461–62; and Paul Slack, *The English Poor Law, 1531–1782* (Cambridge: Cambridge University Press, 1995), pp. 6–7.

²⁵ Kunze, 'Origins of Modern Social Legislation', pp. 14–15.

²⁶ George Nicholls, *A History of the English Poor Law*, 2 vols (London: John Murray, 1854; repr. 1967); Sidney Webb and Beatrice Webb, *English Local Government: English Poor Law History: Part I, The Old Poor Law* (London: Longmans, Green, 1927).

1536 Act repealed that of 1531, for example.²⁷ This theme of conceptual antagonism between the two 1530s laws was further explored by the Webbs, who popularised this perception of a distinction between a repressive penal statute (1531) and one principally concerned with the provision of relief for the poor (1536), a characterisation that has largely stuck.²⁸ Similarly, E. M. Leonard's *The Early History of English Poor Relief* was not a dedicated study of the poor laws as such, and therefore presented the details of the legislative sequence, including the failure of the 1536 Act, in much the same way as other texts had done.²⁹ Leonard's urban experimentation model, whereby statutory developments followed urban initiatives, relied on an assumption that the 1536 Act had little impact on local poor relief measures.

This characterisation of the two statutes as conceptually divergent, and the attachment of a sense of failed good intentions to the second was, however, partly a product of misinterpretations of the sequence of statutory law. Generally, the early scholars said little on the particular operational history of these statutes, which like many others of the period, required repeated continuation by subsequent Parliaments. A succinct corrective is possible through close reading of the text of the statutes themselves. This reveals that because of its provided commencement date, the 1536 Act did not require continuation again in 1536. The 1531 Act was explicitly continued in 1536, and continued repeatedly and consistently until 1547. The 1536 Act was allowed to lapse, but this was in 1540, which is striking for exactly paralleling the intended duration of the version recorded in the 1535 draft, not a few weeks after its passing as has been commonly assumed since the 1970s.³⁰

It was the 1536 Act which empowered centralised parochial and urban charity of a sort seen in York in 1538.³¹ The York government explicitly relied upon the authority of the 1536 Act for instituting relief collections, asserting 'that the Kings statute of beggars shalbe put in due execution with effect'.³² Similarly, the decision of the corporation of Norwich to undertake poor relief collections in 1536 only weeks after the 1536 Act's passing, hints at what may be a much wider implementation of the charitable provisions of 1536 than is

²⁷ Nicholls, I, 120–21. Nicholls (I, 130) then contradicts himself by later suggesting the two operated in conjunction.

²⁸ Webb and Webb, pp. 44–45.

²⁹ E. M. Leonard, *The Early History of English Poor Relief* (Cambridge: Cambridge University Press, 1900), pp. 53–58.

³⁰ Brodie, 'Beggary', pp. 86–93.

³¹ 27 Henry VIII, c.25, *The Statutes of the Realm (1225–1713)*, 11 vols (London: Eyre and Strahan, 1810–22), III, 558–62.

³² Angelo Raine, ed., *York Civic Records, Vol. VI* (York: Yorkshire Archaeological Society, 1948), p. 30.

generally assumed to have been the case.³³ Norwich left no other record of the collections in 1536, but late 1540s references to collections in Norwich memoranda, which have been cited as proof of local experimentation, actually read like standard revisions of contributions from later in the century, and do not provide a definite commencement moment for collections in that city.³⁴ More common mid-century references to urban collections indicate a greater survival of requisite urban memoranda with which to see consistent application of centralised urban collecting, not necessarily more collecting.³⁵ The 1536 Act was certainly no failure. It contained most of the key attributes of the collection systems statutorily enacted in the decades following, and was clearly connected to the earliest corporate collections in England. If a simplified local experimentation model is to survive, the experimentation has to be found before 1536.

At first glance this might seem to bolster the case of a 1531/1536 discontinuity thesis, and in one sense it does, as there is no doubt that the urban and parish rates were a major administrative innovation. However, historians have yet to fully explore in detail the relationship between the Acts of 1531 and 1536 in a way that does justice to their continuities. In early 1536, *An Acte concerning punysshement of Beggars & Vacabunds* of 1531 was the main statute addressing what historians in hindsight consider to have been social and poverty issues.³⁶ This 1531 Act was very long lived in that, excepting the short period in which it was replaced by the infamous 1547 Slavery Act, it was in force until 1572, and formed one of the conceptual foundations for many of the old poor law provisions over following centuries.³⁷ Principally, it authorised the physical punishment of beggars and vagabonds through whipping, facilitated the expulsion of foreign beggars and vagabonds to their home localities after such punishment, and made provision for the authorisation of beggary in a number of forms. In this, the 1531 Act bore a striking resemblance to the Acts of 1495 and 1504, albeit with a more rigorous documentary procedure,

³³ William Hudson and John C. Tingey, eds, *The Records of the City of Norwich*, 2 vols (Norwich: Jarrold & Son, 1906–10), II (1910), 167.

³⁴ Hudson and Tingey, eds, *Records*, II, 173.

³⁵ Brodie, 'Beggary', pp. 271–74; Nicholas Dean Brodie, "'The names of all the poore people": Corporate and Parish Relief in Exeter, 1560s–1570s', in *Experiences of Poverty in Late Medieval and Early Modern England and France*, ed. Anne M. Scott (Farnham: Ashgate, 2012), pp. 107–31. This can be seen in Exeter in particular, where collections in parishes occurred concurrently with urban collections.

³⁶ 22 Henry VIII, c.12, *Statutes of the Realm*, III, 328.

³⁷ For a full history of the place of the 1531 Act, see Brodie, 'Beggary', pp. 82–83, 94–101.

and more details about administrative duties.³⁸ The most particular changes were the introduction of whipping, and the requirement that all beggars allowed to beg have documentation authorising their beggary.

Notional discontinuity has in part derived from the 1536 Act itself. In its opening lines, the 1536 Act outlined the provisions of the 1531 Act: that ‘valeante’ beggars and vagabonds were to be whipped and sent home, and the poor and impotent were to go home and remain there.³⁹ After reciting these key tenets of the 1531 Act, the preamble of the 1536 Act then noted that

forasmoch as it was not p[ro]vided in the saide acte howe and in what wise the said pore people and sturdie vacabundes shuld be ordered at thir reparaunce and at theyr coming into thir countreys, nor howe thinhabitauntes of ev[er]y hundred shuld be charged for the reliefe of the same pore people, nor yet for the setting and keeping in worke and labour of the aforesaid valiaunt vacabundes at theyr said reparaunce into ev[er]y hundred of this Realme.⁴⁰

There has been a scholarly tendency to see this as a parliamentary acknowledgement that the 1531 Act did not go far enough, that its provisions failed to address the problems of beggary and poverty, and that it did not set and keep people at work.⁴¹ Yet, while the 1536 Act did build on the 1531 Act, this was not intended to replace that earlier Act, but rather to operate in conjunction with it. The 1536 Act said as much when it indicated how it was to commence operation ‘with the forsaid formare Acte’.⁴² Similarly, the 1536 Act gave ‘the Knight Marshall ... full power and auctoritie [to implement] as well of the foresaid formar Acte as of this p[re]sent Acte’ illustrating their inherent interconnectedness.⁴³

So, as framed, the 1536 Act was not intended to mark a major conceptual breach with 1531, but rather an administrative expansion. When specific legislative connections between the 1531 and 1536 Acts are explored, the overriding theme is one of added administrative detail, not broad conceptual departure. In its second paragraph, the 1536 Act detailed how constables were to relieve beggars who had been whipped and/or sent home under the provisions of 1531, reiterating the obligations of the former statute.⁴⁴ The third paragraph made ‘ruffelers’ (pretend soldiers) subject to punishment

³⁸ 14 Henry VII, c.2, *Statutes of the Realm*, II, 569; and 19 Henry VII, c.12, *Statutes of the Realm*, II, 656–57.

³⁹ 27 Henry VIII, c.25.1, *Statutes of the Realm*, III, 558.

⁴⁰ 27 Henry VIII, c.25.1, *Statutes of the Realm*, III, 558.

⁴¹ See, for example, Slack, *English Poor Law*, p. 9.

⁴² 27 Henry VIII, c.25.20, *Statutes of the Realm*, III, 561.

⁴³ 27 Henry VIII, c.25.12, *Statutes of the Realm*, III, 560.

⁴⁴ 27 Henry VIII, c.25.2, *Statutes of the Realm*, III, 558.

under both Acts.⁴⁵ Paragraphs ten and eleven added further punishments for persons punished under the provisions of 1531 who continued to misbehave, including the specific mention that they were ‘to suffer peynes and execucion of dethe as a felon’.⁴⁶ Even those aspects generally treated as conceptual departures, like the provision for parish and urban collections, really only added mechanics for fulfilling the conceptual requirement of the 1531 Act that the local indigent would be cared for locally.⁴⁷ With hindsight, the parish rate is a significant addition, but it was an addition that built upon longstanding canon law principles, fitted within a broader framework of liturgical reform, and may well have modelled itself on ancient and recent Christian almsgiving practices.⁴⁸ It was not simply a social welfare initiative. Its timing with the dissolution of the monasteries is surely not accidental, and it is probably just as important to see in it an intentional affirmation of the right and capacity of King and Parliament to regulate religion. It would be wrong to characterise this as a process of the secularisation of what was previously a religious sphere (poor relief), for in the context of the Reformation Parliament it is probably better to read in this the sacralisation of civil government. The 1536 Act does mark major discontinuities, but these are less about policies towards the poor, and more about the nature of law and government in Tudor England. Indeed, the major administrative discontinuities in Tudor approaches to the poor lie elsewhere than between 1531 and 1536.

In 1495, Henry VII enacted a statute for beggars and vagabonds.⁴⁹ On a strict interpretation, it is the first comprehensive statute to deal with the subject of beggary and vagabondage together, and this is a major shift in lawmaking practice, if not much in terms of actual policies and concepts. In 1504, it was replaced with another, a verbatim copy of the first with a few extra paragraphs added at the end.⁵⁰ Looking forward to the later ‘poor relief’ statutes of the 1550s, 1560s, and early 1570s, such replacements with minor additions were a common phenomenon. The Act of 1555 is the Act of 1552 with a few extra lines or modifications.⁵¹ That of 1563 is the same again with a few extra lines or modifications.⁵² While, to the historian looking at change over time, these are separate statutes, contemporaries were

⁴⁵ 27 Henry VIII, c.25.3, *Statutes of the Realm*, III, 559.

⁴⁶ 27 Henry VIII, c.25.10, 11, *Statutes of the Realm*, III, 560.

⁴⁷ 27 Henry VIII, c.25.4, *Statutes of the Realm*, III, 559.

⁴⁸ Tierney, *Medieval Poor Law*, pp. 128–33; Brodie, ‘Beggary’, pp. 232–91.

⁴⁹ 11 Henry VII, c.2, *Statutes of the Realm*, II, 569.

⁵⁰ 19 Henry VII, c.12, *Statutes of the Realm*, II, 656–57.

⁵¹ 5&6 Edward VI, c.2, *Statutes of the Realm*, IV, 131–32; 2&3 Philip & Mary, c.5, *Statutes of the Realm*, IV, 280–81.

⁵² 5 Elizabeth I, c.3, *Statutes of the Realm*, IV, 411–14.

aware that these were in essence the same statute. In the 1550s, there were two statutes for beggars, vagabonds, and poor relief. There was the 1531 Act and whatever complementary one was current at the time, and so the 1536 Act is important for instituting the period of multiple dedicated beggar and vagabond statutes. When in 1572 Parliament replaced the 1531 and 1563 Acts with a single statute, it was following a tradition of building on the existing legislative structure, but in a way that can lead the historian to perhaps think too closely about the cause and nature of change. Despite a lot of historiographical attention to context, the key context that these documents were legal instruments seems sometimes to have been under recognised.

This ‘legislative lens’ is important for any detailed reading of the 1535 draft, just as it is for any of the statutes actually passed into law. When the legislative drafters of 1535 were crafting their bill, they may not have intended to build on the 1531 Act by writing a complementary Act like that for 1536, but nor did they intend to replace it with something entirely different. The 1535 draft contains a number of the features of the 1531 Act that demonstrate the retention of legislative concepts and construction, suggesting that like in 1495 and 1572, it reflected in part a process of collecting administrative features under a single law. While the summary whipping of vagabonds was replaced with a requirement that they work or suffer a two-stage punishment process that resulted in death as a felon, the summary whipping of 1531 was itself a relatively new a concept only three years old.⁵³ Gaoling before trial at sessions was the traditional means of dealing with vagabonds prior to 1531, with summary use of stocks as a deterrent from 1495 onwards to avoid the inconvenience for officers of administering the gaoling process.⁵⁴ In terms of punishment provisions, the 1535 bill looked to an earlier legislative history only recently departed from. The use of stocks featured in the 1535 bill as a means of punishing the poor ‘bedells’ who begged outside of the limit of their authority.⁵⁵ The construction of the punishment – three days and nights on bread and water – was the same as the punishment for begging without authority in 1495 and 1504.⁵⁶ Contrary to being so novel that it was

⁵³ Brodie, ‘Beggary’, pp. 184, 192–94.

⁵⁴ 11 Henry VII, c.2.1, *Statutes of the Realm*, II, 569; 19 Henry VII, c.12.1, *Statutes of the Realm*, II, 656.

⁵⁵ BL, MS Royal 18 C VI, fol. 18. These ‘bedells’ (beadles) were officers appointed to collect alms on behalf of the poor, and were themselves supposed to have been drawn from them. The term was widely used for various local officers in medieval towns, which again points to the continuation of existing English traditions, and highlights a relative dearth of classical or specifically humanist terminology or practices.

⁵⁶ 11 Henry VII, c.2.1, *Statutes of the Realm*, II, 569; 19 Henry VII, c.12.1, *Statutes of the Realm*, II, 656.

rejected by Parliament, elements of this draft bill were very conservative, even regressively so.

Yet there are also elements of the 1535 draft bill that clearly echo the 1531 Act. The construction of how persons in need away from their homes were to be given documentation, direction, and sustenance for their journey home is strikingly similar to that of 1531.⁵⁷ Similarly, while applied to generally miscreant persons who ‘fyght, chide, disquiet, brawle or scolde wt ther neighbors’, rather than specifically to vagabonds or beggars, the secondary punishment of whipping was taken verbatim from the 1531 Act: ‘ther to be tied to thend of a Carte naked and to be beten wt whippes through out thesame market Towne or other place tyll his or her body be blody by reason of such whippyng’⁵⁸ The lines immediately before and after these, which concerned bringing the offender to town for the whipping and sending them home, are also verbatim from the 1531 Act. The only textual change was the inclusion of the words ‘or her’ in a case of Tudor gender-inclusiveness later matched in the punitive mechanics of the 1547 slavery Act.⁵⁹ It seems clear that the drafters of the 1535 bill may well have had the 1531 Act in front of them while drafting the new document. A large chunk of text was simply transferred into the new document, even though in this instance placed in a new section. While not a straightforward copy of an Act it was replacing, as with most other Tudor legislative replacements of the period, neither was the 1535 bill a blank sheet legislative exercise. In three very important conceptual senses, the 1535 bill brought nothing new. Its three central themes, as with Acts from 1495, 1504, 1531, 1536, and 1572, and others, were: punishment of vagabonds and unauthorised beggars; the principle that those able should work for their living; and the principle that the local poor should be cared for locally. It is in fact an exemplar of that broad conceptual continuity which crossed the medieval-early modern divide showing complete disregard for modern academic period specialisations.

What has made the 1535 bill so interesting and at the same time perplexing for commentators is the scope of its proposals and the degree to which the 1536 Act is different from it. There are many similarities. Both, for instance, have injunctions concerning ‘ruffelers’ and unlawful games.⁶⁰ Most significantly, they share a parish-based scheme of fund collection, even

⁵⁷ BL, MS Royal 18 C VI, fols 21^r–23^r.

⁵⁸ BL, MS Royal 18 C VI, fol. 24^r; 22 Henry VIII, c.12.3, *Statutes of the Realm*, III, 329. There are very slight spelling differences between the two. The bill is quoted.

⁵⁹ 1 Edward VI c.3.1, *Statutes of the Realm*, IV, 5; on gender equality and vagabond punishment, see Brodie, ‘Beggary’, pp. 186–88.

⁶⁰ BL, MS Royal 18 C VI, fol. 32^r; 27 Henry VIII, c.25.3, 10, 11, *Statutes of the Realm*, III, 559–60.

to the point of both having injunctions about sermons in support of them.⁶¹ However, the ‘poor relief’ attributes of 1535 and 1536 can be overstressed when reading them from a perspective that encompasses centuries of the old poor law and parish relief. In both documents, those elements do not dominate their constituent text and detail. Both the draft bill and the 1536 Act had mechanisms specifically making repeat offences or recalcitrance a felony.⁶² The 1536 Act generally referred to by historians as concerning poor relief was titled *An Acte for punysshement of sturdy vacabundes and beggers*.⁶³ The first Act containing the phrase ‘for the Relief of the poore’ as part of its title was 1 Edward VI, c.3.⁶⁴ That 1547 Act made slavery a punishment for vagabondage and did not include any of the statutory elements of the parish collection later associated with Acts of Parliament containing such a phrase about poor relief in their titles.⁶⁵ It is too easy to assume that the centuries-long tradition of parish welfare was what was intended in 1536 simply because that was what happened in subsequent decades and centuries: the assumption needs to be abandoned. In part, the 1535 bill can help achieve this, as the revenue-raising scheme planned to support the Dover works evident in the 1535 bill was only supposed to be around until 1540.⁶⁶ And while the 1536 Act did lapse, it was not in 1536 as commonly assumed, but in 1540.⁶⁷

II. The Dover Works and John Thompson

No place but Dover was specifically mentioned in the 1535 bill. In fact, it is mentioned in the first sentence of the enactment section of the bill:

ffirst it is enacted by thauthorite aforesaid that certain comen works, aswell for making of the haven of douver, renovacon and reparacon of other havens and harbours for shippes, as for making of the co[mm]en high waies and ffortresses.⁶⁸

Dover was clearly a significant project, but a wider programme of harbour repair and the improvement of the realm was also indicated in the bill. Dover was deserving of specific mention because of the fact that a large works programme was already underway there at the time the bill was drafted.

⁶¹ BL, MS Royal 18 C VI, fols 7^r–8^v, 16^r–18^r.

⁶² BL, MS Royal 18 C VI, fols 5^v–6^r; 27 Henry VIII, c.25.11, *Statutes of the Realm*, III, 560.

⁶³ 27 Henry VIII, c.25, *Statutes of the Realm*, III, 558.

⁶⁴ 1 Edward VI, c.3.1, *Statutes of the Realm*, IV, 5.

⁶⁵ 1 Edward VI, c.3, *Statutes of the Realm*, IV, 5.

⁶⁶ BL, MS Royal 18 C VI, fol. 3^v.

⁶⁷ Brodie, ‘Beggary’, pp. 5–93.

⁶⁸ BL, MS Royal 18 C VI, fol. 3^r.

While we may never be sure that the version of the bill which survives is necessarily identical to that actually presented to the burgesses by Henry, thanks to a letter written by Thomas Dorset, we can be confident that Dover featured sufficiently prominently in the actual bill presented to be deserving of mention.⁶⁹ Dover links the surviving 1535 draft to the bill presented.

In 1533, a priest named John Thompson presented a petition for the repair of Dover harbour to the royal government.⁷⁰ This was the culminating and successful cap to a consistent campaign of petitioning of the Royal Government by Dover from early 1532.⁷¹ By 1533, the mouth of the harbour had been completely blocked by the tidal deposition of pebbles and sand, a process that had continued since the completion of the last major harbour works in the late fifteenth or early sixteenth centuries.⁷² As Biddle and Summerson have noted, the government had become interested in remedying the situation by the early to mid-1530s.⁷³ Cromwell, after all, had a 'plate' or map of Dover harbour listed among one of his lists of remembrances for 1532, suggesting a government interest from the earliest petitioning.⁷⁴ With the potential closing of one of England's most important ports, only the royal government had the resources, the political clout, and perhaps not a little kingly hubris, sufficient to attempt to beat back the tides. Yet Thompson's petition is also of interest for marking the probable commencement of his central role in the progress of the Dover harbour works.

Two years after presenting the petition, in 1535, the year of the draft bill, John Thompson was surveyor of the King's works at Dover.⁷⁵ Thompson had been utilised by Cardinal Wolsey throughout the 1520s, seemingly for his skills in prisoner transportation while he was at nearby Rye.⁷⁶ In 1523, a correspondent begged Wolsey 'to remember the many voyages and expenses of ... John Thompson ... undertaken at Wolsey's command'.⁷⁷ In November

⁶⁹ *Letters and Papers*, x, no. 462, p. 190.

⁷⁰ *Letters and Papers*, vi, no. 1472, p. 591.

⁷¹ M. Biddle and John Summerson, 'Dover Harbour', in *The History of the King's Works, Volume IV: 1485–1669 (Part I)*, ed. Howard M. Colvin (London: H.M.S.O, 1975), pp. 729–64 (p. 731).

⁷² Biddle and Summerson, pp. 729–31; E. H. Ash, "'A Perfect and an Absolute Work": Expertise, Authority, and the Rebuilding of Dover Harbour, 1579–1583', *Technology and Culture*, 41 (2000), 244–45.

⁷³ Biddle and Summerson, pp. 731–32.

⁷⁴ *Letters and Papers*, v, no. 1548, p. 651.

⁷⁵ *Letters and Papers*, vii, no. 1170 (note the corrected date in the addenda), p. 456.

⁷⁶ *Letters and Papers*, iii, 2, nos. 2922, 3586(6), pp. 1232, 1491; iv, 2, no. 2751, p. 1228; iv, 3, App. 248, p. 3183.

⁷⁷ *Letters and Papers*, iii, 2, no. 2922, p. 1232.

1523, Thompson received a pardon after being attainted for ‘escapes’.⁷⁸ These escapees may have been prisoners nominally in his care, as a few years later it is possible to identify a payment ‘[t]o John Tomson, priest of Rye, for conveying certain Frenchmen to London’.⁷⁹ Similarly, in 1529 Thompson received 26s 8d ‘for carrying two prisoners ... to the Lord Cardinal’.⁸⁰ Who these prisoners were is unknown, as is the reason why a cleric from Rye was involved, but it nonetheless highlights Thompson’s usefulness to a key figure in government during the 1520s. In addition to presenting the petition regarding the harbour, in 1533 Thompson, by then parson of the parish of St James in Dover, was corresponding with Cromwell about the poverty of the town and the presence of houses of Scots.⁸¹

While the Channel tides may have provided the need for a renewal of the Dover harbour, it was John Thomson who seems to have developed the plan to remedy the problem. In essence, the problem was one of silting. Colliding tidal flows in the English Channel near Dover cause sediment to fall.⁸² The same occurs today, just as it did in the sixteenth century. Late fifteenth-century harbour work had created a small haven at the south of the bay, but the construction appears to have accelerated the silting effect, so that by the 1530s major works were deemed appropriate.⁸³ As Biddle and Summerson and Ash have noted, Thompson’s plan appears to have been to extend two sea-walls into the Channel at some length to redirect the tidal waters away from the coast, thus depositing their cargo of sediment safely away from the harbour.⁸⁴ In theory, this was a good proposal, but it was not adopted until the mid-nineteenth century when technology was better suited to the endeavour. Ultimately, Thompson’s works failed to effect a permanent solution and major works were again required under Elizabeth I, although the large Henrician project that started in the mid 1530s dragged on at great expense for many years before the failure was accepted.⁸⁵

Throughout the 1530s and into the 1540s, Thompson was intimately linked with the works scheme. As surveyor of the works from 1535, when the royal initiative commenced, he had responsibility for directing the project and the workforce. In part, Thompson’s involvement may have been

⁷⁸ *Letters and Papers*, III. 2, no. 3586(6), p. 1491.

⁷⁹ *Letters and Papers*, IV. 2, no. 2751, p. 1228.

⁸⁰ *Letters and Papers*, IV. 3, App. 248, p. 3183.

⁸¹ *Letters and Papers*, VI, no. 65, p. 26.

⁸² Biddle and Summerson, ‘Dover Harbour’, p. 731; Ash, “A Perfect and an Absolute Work”, p. 244.

⁸³ Ash, pp. 244–45.

⁸⁴ Biddle and Summerson, p. 736; Ash, pp. 244–45.

⁸⁵ Biddle and Summerson, pp. 745–68.

due to his role as master of the Dover *Maison Dieu*. It had originally been founded to cater for poor pilgrims travelling to nearby Canterbury.⁸⁶ Yet by the 1530s, the position of master of the *Maison Dieu* was one which had become directly involved in harbour maintenance at Dover. Other medieval hospitals frequently had associations with local infrastructure such as bridges and wharves, including those in the other Cinque Ports.⁸⁷ John Clerk, the master prior to Thompson, had been involved in harbour management in about 1495, and was elected as one of the two ‘wardens of the Wyke’ in 1518, a role in which accounts indicate he continued to act until at least 1529.⁸⁸ Thompson’s appointment as master of the *Maison Dieu* seems to correspond with the time at which he was involved in directing the harbour works and may be a direct result of his role in the petition and as a useful ‘government man’. In practice, the office of master of the *Maison Dieu* may have become synonymous with oversight of the harbour through the long period of Clerk’s involvement. This connection between the master of the *Maison Dieu* and the harbour works seems important, given the nature of the institution as a charitable residence, especially when read in connection with a bill that proposed that the idle be put to work. But, when contemporary accusations that Thompson employed idle and weak labourers are added to the equation, the potential connections between Thompson, Dover harbour, and the 1535 bill start to become apparent.⁸⁹

These accusations against Thompson were made by the paymaster of the works, John Whalley, in November 1535. The two men had quite a fraught working relationship, and repeatedly wrote to Cromwell complaining of each other. The principal cause of dispute between the two of them was the size of the required workforce, and therefore the costs involved. As surveyor, Thompson was frequently employing large numbers of men, while as paymaster, Whalley was frequently finding himself unable to pay them, and begging Cromwell for the money to pay wages, and that the workforce be reduced.

In October 1535, shortly before the relationship obviously deteriorated, Whalley indicated to Cromwell that 200 men were being employed.⁹⁰

⁸⁶ The early operation of the Dover *maison dieu* is discussed in Sheila Sweetinburgh, *The Role of the Hospital in Medieval England: Gift-Giving and the Spiritual Economy* (Dublin: Four Courts Press, 2004); see also D. Knowles and N. Hadcock, *Medieval Religious Houses: England and Wales* (London: Longman, 1971), p. 356.

⁸⁷ Sheila Sweetinburgh, *Later Medieval Kent, 1220–1540* (Woodbridge: Boydell, 2010), pp. 124–25.

⁸⁸ Ash, p. 244; Biddle and Summerson, pp. 729, 731.

⁸⁹ *Letters and Papers*, ix, nos. 734, 799, pp. 251, 269.

⁹⁰ *Letters and Papers*, ix, no. 534, pp. 175–76.

The following month, Whalley discharged some of Thompson's workforce whom he described to Cromwell as being 'idle and weak', with the result that Thompson was 'malicious against me'.⁹¹ But the labour force continued to grow, rather than contract, and the problems associated with supporting such a large workforce became increasingly acute. From approximately 200 persons in October 1535, by early January of 1536 there were 380, and by the end of that month there were 480.⁹² Biddle and Summerson's reconstruction of the minimum numbers of men employed at each payday between July 1535 and December 1536 gives a (minimum) peak number of 786 men in the middle of January 1536.⁹³ This was a far cry from the '40 or 50' men whom Whalley had anticipated 'for the winter' in November 1535.⁹⁴

When Whalley discharged some of the men in November 1535, he seems to have felt that the workforce employed by Thompson was hindering the progress of the work, as he described being able to complete 'more work with 120 men than was done before with 180, because he discharged the old and idle'.⁹⁵ But this economising did not last long. Thompson promptly took some twenty or thirty back into employment by claiming Cromwell's authority.⁹⁶ Whalley's suggestion that he could get more work done without Thompson's problematic contingent was part of a justification of his actions, in a circumstance where he may have been unsure as to the real degree of Thompson's authority to re-hire the men. Whalley argued that if Thompson 'suffer the King's money to be spent in vain, he were worthy to be punished'.⁹⁷ Whalley's and Thompson's letters to Cromwell indicate various numbers of workmen throughout January 1536 at 380, 450, and 480 men respectively.⁹⁸ Whalley reported that Thompson did not want to reduce this sizeable workforce, which was very expensive, which in turn gave Whalley concern about his ability to pay them.⁹⁹ By February, Whalley reported to Cromwell that Thompson had 500 men employed.¹⁰⁰ Cromwell had instructed Thompson to reduce his workforce, and Whalley reported that in response Thompson discharged 300 men, but had since rehired 200 of them

⁹¹ *Letters and Papers*, ix, no. 734, p. 251.

⁹² *Letters and Papers*, ix, no. 534, pp. 175–76; x, nos. 1, 98, 146, 214, pp. 1, 33, 55, 75.

⁹³ Biddle and Summerson, p. 734 (table 9).

⁹⁴ *Letters and Papers*, ix, no. 734, p. 251.

⁹⁵ *Letters and Papers*, ix, no. 799, p. 269.

⁹⁶ *Letters and Papers*, ix, no. 799, p. 269.

⁹⁷ *Letters and Papers*, ix, no. 799, p. 269.

⁹⁸ *Letters and Papers*, x, nos. 1, 146, 214, pp. 1, 55, 75.

⁹⁹ *Letters and Papers*, x, no. 214, p. 75.

¹⁰⁰ *Letters and Papers*, x, no. 347, p. 130.

in contravention of Cromwell's order.¹⁰¹ In March, there were still reportedly 400 men employed on the Dover works.¹⁰² Probably, it was partly in response to these disputes that Thomas Wingfield was appointed as comptroller of works in April 1536.¹⁰³

It appears that on at least one occasion when the pay was in arrears, in March 1536, some labourers had refused to work or disperse until paid.¹⁰⁴ By April of 1536, the wages were one month behind.¹⁰⁵ There were similar complaints of wage arrears in 1537 and 1539 when the labourers were reported to have lost the trust of their creditors and started to complain for money.¹⁰⁶ These highlight the ongoing problems with funding such a large labour force for months at a time, although these later complaints were not as frequent or as intense as the earlier reports. The diminished frequency of complaints about the problem probably derives from a much-reduced workforce.¹⁰⁷ From 1537 onwards, there does not appear to have been a workforce greater than some 150 workers. Signs of labour tension seem to disappear from the record, though whether this represents a resolution or some sort of compulsion is impossible to ascertain.

Interestingly, this heated labour dispute was chronologically coincident with the presentation of the 1535 bill, which was presented to the burgesses of Parliament in March 1536. It was less than a week after the presentation of the bill that the labourers had reportedly refused to disperse. Similarly interesting is the suggestion from Thompson, written sometime in March or April, that the many labourers were advantageous for the realm in that it kept those men so employed from 'idleness and robbery'.¹⁰⁸ A large labour scheme at Dover had, of course, then only very recently been suggested to the burgesses of Parliament as a means 'for the puttyng of the seid vacabunds to labour' in the document that Henry VIII presented.¹⁰⁹ The surviving draft suggested that vagabonds needed to be put to work because

though they myght well labor for ther livyng if they wolde, will not yet put themselves to it as dyvers other of his true and faithfull subiects do but

¹⁰¹ *Letters and Papers*, x, no. 347, p. 130.

¹⁰² *Letters and Papers*, x, no. 537, p. 211.

¹⁰³ *Letters and Papers*, x, no. 649, p. 259.

¹⁰⁴ *Letters and Papers*, x, no. 537, p. 211.

¹⁰⁵ *Letters and Papers*, x, no. 1007, p. 415.

¹⁰⁶ *Letters and Papers*, xii. 2, no. 982, p. 343; xiv. 1, no. 864, p. 401.

¹⁰⁷ *Letters and Papers*, xii. 1, no. 1049 (70 persons), p. 479; xii. 2, no. 397 (120–40 labourers), p. 160; xiii. 1, no. 846 (130 persons), p. 314.

¹⁰⁸ *Letters and Papers*, x, no. 596, p. 236.

¹⁰⁹ BL, MS Royal 18 C VI, fols 3^r, 4^r.

geve themselves to lyve idly by beggyng and p[ro]curyng of Almes of the people to the high displeasure of Almyghty god [etc.].¹¹⁰

Was Thompson parroting Henry VIII? Possibly. But considering that Thompson was so intimately involved with the Dover scheme, that he was a long-time correspondent of Cromwell, that he blamed Dover's poverty on the fact that 'God is not honoured' in 1533, and that he was having a great deal of difficulty with his workforce during the months when the bill was drafted and presented, Thompson may well have had a hand in its drafting.¹¹¹

Elton's assertion that William Marshall was the probable drafter of the 1535 bill was principally predicated on the fact that Marshall had translated and published the Ypres scheme for the poor in 1535, therefore demonstrating an interest in the general topic of poor relief at the right time.¹¹² The dedication of that volume to Anne Boleyn also highlights a royal patron that may have given the draft prominence in royal eyes. Yet the connections between the bill and the Ypres scheme are not so close as the connections between the proposals of 1535 and the actual occurrences in Dover in 1535 and 1536. Most importantly, the key novel element of the 1535 proposal, a large public works programme or programmes centrally administered and funded, simply did not feature in the Ypres scheme.

The 1535 bill presented a scheme of large scale public works that seemed to address many of the problems Thompson and Whalley had been having since mid-1535. In the first place, it provided a large labour force, and spread the cost throughout the realm. As already noted, Whalley was repeatedly having to write to Cromwell for further funds. For instance, on 31 January 1536, Whalley wrote to Cromwell indicating that although £200 had been paid in wages to 480 men, arrears of £106 14s 6d were still owed.¹¹³ Furthermore, he indicated that were the £250 required for the following pay not to arrive, then 'both himself and the master of the [*Maison Dieu*] will be in jeopardy of their lives'.¹¹⁴ In a rare example of collaboration, in March 1536, Whalley and Thompson jointly wrote to Cromwell, indicating that at one point two months of pay owed to 160 men had been in arrears.¹¹⁵ With a workforce in excess of 400 men, Whalley and Thompson were concerned about their ability to pay the workers on the next payday.¹¹⁶ Furthermore,

¹¹⁰ BL, MS Royal 18 CVI, fol. 1r.

¹¹¹ *Letters and Papers*, vi, no. 65.

¹¹² Elton, 'An Early Tudor Poor Law', p. 65.

¹¹³ *Letters and Papers*, x, no. 214, p. 75.

¹¹⁴ *Letters and Papers*, x, no. 214, p. 75.

¹¹⁵ *Letters and Papers*, x, no. 537, p. 211.

¹¹⁶ *Letters and Papers*, x, no. 537, p. 211.

they indicated to Cromwell that because of the constant arrearages of pay, they were unable to 'pay off and discharge loiterers when found idling' and thus had to keep them on the payroll, which was to the king's disadvantage.¹¹⁷ Such problems would not have affected those running the works schemes outlined under the 1535 draft bill, whereby refusal to work could result in branding, and subsequent misbehaviour was to have resulted in being 'arrayned as a felon and an enemy to the co[mm]en welth and to have like iudgement and execuc[i]on as a felon'.¹¹⁸ Money or no money, there was to have been no idleness under the scheme of 1535.

In May 1536 Whalley indicated to Cromwell that most of the 460 men then employed at Dover were owed a month's wages, equalling a total of more than £200.¹¹⁹ Whalley expressed his frustration by suggesting that he was pained as much by his inability to pay the men as by a kidney stone.¹²⁰ The 1535 draft bill had indicated that the vagabonds compulsorily employed were to have had 'reasonable wage[s]' but concerns by paymasters in Whalley's position would have been diminished under such a system since the 1535 draft also indicated that

his wages besids mete and drynke to be kepte to hi[s] use in such maner as shalbe appoynted by the seid Councill or ther deputies till ther shalbe sufficient moneye risyng therof wherwt he may be apparelle[d] And then it to be bestowed on hym by theseid deputi[e].¹²¹

This indicates that the wages were not to have been regularly paid directly to the labourers in the first instance. Some was taken out to cover the expenses of feeding the labourers, while the remainder was held by the payer until a sufficient sum had been raised for the purchase of clothing. This will have had the effect of reducing the amount of cash regularly needed for these works to pay labourers, and may have been inspired by the Dover experience. Not only did the regular arrearages in wages highlight the need for cash liquidity if workers were paid directly, but Thompson's use of the *Maison Dieu* may have provided a model for the notion of channelling charitable funds for the feeding and clothing of labourers. In January 1536, Thompson indicated to Cromwell that '[t]he store in my house is little in comparison with such a multitude', suggesting that the *Maison Dieu* might have been occasionally used to supply the works scheme with victual.¹²² Perhaps Thompson's idle and

¹¹⁷ *Letters and Papers*, x, no. 537, p. 211.

¹¹⁸ BL, MS Royal 18 C VI, fols 5^v–6^r.

¹¹⁹ *Letters and Papers*, x, no. 1007, p. 415.

¹²⁰ *Letters and Papers*, x, no. 1007, p. 415.

¹²¹ BL, Royal MS 18 C VI, fol. 4^r.

¹²² *Letters and Papers*, x, no. 146, p. 55.

weak contingent was even comprised of some hospital dependents?¹²³ While not provable, it seems likely that the *Maison Dieu* occasionally functioned in a supply role for the works scheme. That this was the case is strongly suggested by the role that the *Maison Dieu* played after its surrender to the King in 1544. Royal officials in that year described a brew-house and bake-house at the *Maison Dieu* ‘which are fair and large and will do wonderful service’.¹²⁴ They lamented that it was not used for the military. Within a year it played just such a role, supplying the navy with what was called ‘Maison Dieu biscuit and beer’.¹²⁵

The 1535 bill also provided ‘safety valves’ for a number of other problems Thompson and Whalley had been having. A key contemporary concern was the rate of absconding workers. Whalley noted in September 1535 that labourers who left the works for the harvest got ‘5d and 6d a daye, mete and drynke’.¹²⁶ When in the same letter, Whalley indicated that he expected a sufficient workforce to have been available to renew work ‘in 10 or 12 days’, this was probably linked to the winding down of harvest operations.¹²⁷ It is certainly a notable coincidence that concerns regarding absconding labourers were expressed in the year that the 1535 bill, which would have provided a means of retaining such a workforce, was being drafted. It also serves to highlight that our modern reading of idleness in the sixteenth century as being about unemployment may have had different contemporary connotations depending on the context. Indications in statutes that contemporary labourers would not work, may have related less to the social historian’s inclination to read this as unemployment, and more to the fact that labourers would not work for certain wages. An unemployed labour force is a problem for employers, not just employees.

Highlighting this reconsideration of contemporary ‘idleness’ is a peculiar incident that provides a scant, but tantalising, illustration of the nature of the problem for the state. Passing through Dover in 1535, Sir William Fitzwilliam wrote to Cromwell in August that ‘[c]ertain lewd persons working on the King’s works here refuse to work any longer except they may have 6d a day’.¹²⁸

¹²³ The limited number of beds recorded by the commissioners in 1544 argues against many permanent poor inmates, but hospitals often supported a number of local poor. M. E. C. Walcott, ‘Inventories of (I.) St. Mary’s Hospital or *Maison Dieu*, Dover; (II.) The Benedictine Priory of St Martin New-Work, Dover, for Monks; (III.) The Benedictine Priory of SS. Mary and Secburga, in the Island of Shepey, for Nuns’, *Archaeologia cantiana*, 7 (1868), 274–80.

¹²⁴ *Letters and Papers*, XIX, 1, no. 724, p. 445.

¹²⁵ *Letters and Papers*, XX, 2, no. 265, p. 116.

¹²⁶ *Letters and Papers*, IX, no. 243, p. 82.

¹²⁷ *Letters and Papers*, IX, no. 243, p. 82.

¹²⁸ *Letters and Papers*, IX, no. 110, p. 31.

They apparently nominated ‘a lord’ and indicated that ‘he that touched one of them should touch them all’.¹²⁹ Fitzwilliam noted that there was a lack of corn in the region due to the purchase of grain by Londoners, which was forcing up the price. However, while he may have hinted at an explanation for the workers’ concerns, he nonetheless dealt with them by having the four ringleaders ‘committed to prison’, two of whom were sent ‘as seditious and naughty persons’ to the Castle prison, ‘and two, who were repentant, to the mayor’s prison’.¹³⁰ Strikingly, the draft bill made provision for the individual who refused to work or incited others not to work. Further punishment by branding was stipulated for ‘his refusell to labor or of his contynnual loitryng or of any seditioun, unlawfull meane, corrupt councell or practise to make murmuracon grudge or insurrection in and among the rest of the laborers’.¹³¹

That the ability to compel labourers to work was a problem at Dover is further illustrated by a superstition alleged to have been entertained by part of the workforce. After the first hint of labour trouble in August 1535, Whalley had noted that some of the labourers recently punished ‘were superstitious and wolde have beytton bothe me and the maister of the Mayson Dew’.¹³² It may have been that the two ‘seditious and naughty’ ringleaders punished by Fitzwilliam were arguing for more than just a pay increase.¹³³ While possibly related to his inability to pay the workforce, Whalley’s comment in October 1535 that he ‘was in danger of his life 12 days past for speaking to them to keep their hours’ may likewise indicate difficulty in getting the labourers to work every day that Whalley and Thompson wanted.¹³⁴ According to a later comment by Whalley, Thompson ‘had them to work in the holydays’, apparently a reference to the Christmas of 1535 and the following weeks.¹³⁵ Therefore it is possible that the labourers’ refusal to work was also tied to traditional religious practices, or at least a belief in certain rights to days free from labour during festival periods. Knowing what had been happening in Dover at the very time the 1535 bill was probably being written, it further appears not to be a product of humanist abstraction, but an administrative response to familiar problems. The intention was not to provide work, but workers.

¹²⁹ *Letters and Papers*, ix, no. 110, p. 31.

¹³⁰ *Letters and Papers*, ix, no. 110, p. 31.

¹³¹ BL, Royal MS 18 C VI, fol. 4^v.

¹³² *Letters and Papers*, ix, no. 142, p. 40.

¹³³ *Letters and Papers*, ix, no. 110, p. 31.

¹³⁴ *Letters and Papers*, ix, no. 534, pp. 175–76.

¹³⁵ *Letters and Papers*, x, no. 1, p. 1.

III. Colliding Tides

The Dover experiences of 1535 and 1536 clearly fed into the proposal drafted in 1535 and presented to the burgesses of Parliament in 1536. Henry had a demonstrable interest in the works.¹³⁶ Thompson continued to be involved at Dover through the 1540s, and was made a king's chaplain in 1543.¹³⁷ The *Maison Dieu* was surrendered to the crown in 1544, and the works appear to have wound down around this time.¹³⁸ The parallels between the draft plan and the Dover works suggest Thompson and Whalley were likely contributors to the 1535 draft, an idea furthered by their regular communication and contact with Cromwell at the time of drafting. This helps reconceptualise some of the particularities of the 1535 bill and destabilise any idea that it was principally the product of a mind responding to abstracted conceptions of poverty and humanity.

The statutes of 1531 and 1536 and the draft of 1535 share essential legislative precepts. And, although the 1535 bill and 1536 Act do suggest new emphases, they also all convey a theologically orthodox picture of *caritas*. It was possibly the combination of theological orthodoxy, legislative continuity, and the paralleling of some extant concepts or behaviours held within towns and parishes that enabled the parish rate to survive as a key element of English welfare beyond 1536. The local care of the poor was a key concept embedded in all three, and in this the 1530s legislation followed ancient precedent. Similarly, the notions that vagabonds should be punished and that those who could should work for their living were both evident through 1531, 1535, and 1536, as well as earlier statutes. The 1536 Act did give power to magistrates to put vagabonds to work; it just did not do so in such an elaborate way as outlined in the 1535 draft. The difference was with local versus central administration, with the concomitant difference being between locally controlled and centrally controlled models of financial control and responsibility.

Fund-raising mechanics also reflect these opposing logics. The 1535 draft bill had two fund-gathering elements: one for the public works; and another for the relief of the parish poor. Sometime between the drafting of the 1535 draft bill and the passing of the 1536 Act, the plan for centrally directed financing of public works was dropped, while the locally controlled financing of poor relief was retained. The principle of the latter was already

¹³⁶ Biddle and Summerson, 'Dover Harbour', pp. 746–48. Henry VIII visited in 1539, 1541, and 1542.

¹³⁷ Thompson was given a commission in 1541 for instance: *Letters and Papers*, xvi, no. 503(23), p. 240; xviii. 1, no. 346 (28), p. 195.

¹³⁸ *Letters and Papers*, xix. 2, no. 728, p. 489.

law in 1531 and earlier, perhaps explaining its ready adoption, and the scheme that passed into law in 1536 with weekly collections can be seen to have been implemented in some major towns in following years. Perhaps with a renewed focus on the impact of the 1536 Act more such evidence of implementation will be uncovered. Certainly proposals for regular, local, parish-centred fund gathering for the local poor can be discerned in schemes developed for Ypres in 1531 and Rouen in 1534, and they may have had some influence on the English model of 1536.¹³⁹ A trajectory for this concept can be followed through the translation of Ypres's scheme in 1535 into English, followed perhaps by the 1535 draft bill and the 1536 Act, to implementation in York in 1538. Yet the basic concept is also evident in the London parish of St Mary at Hill in 1512/13, where there was a 'gadryng of the Almys in the chyrche which shall be reserwed toward beryalles of pure pepull and oyer [i.e., other] dedes of charitie'.¹⁴⁰ Although not apparently regular, nor seemingly undertaken with any statutory or corporate oversight, the principle that local parishes cared for their own poor existed in England prior to 1536, and had been enshrined in statute law for quite some time.¹⁴¹ Just as Henry VIII's bill proposed to fund works at Dover that were then underway, it is possible that the 1536 Act encouraged collections of a sort that were already occurring in some parishes. Singling out the parish rate actually shows that there is great continuity and conservatism at the conceptual level.

Having redressed the discontinuity thesis, we can turn more fully to the intellectual context. Specifically, humanism has diminished in importance as an explanatory framework for sixteenth-century welfare initiatives and reforms in the wider historiography, and this needs integration into studies of the English context. In 1983, A. L. Beier's assertion that humanists' 'critique of poverty was perhaps the single most important influence upon policy-makers in Europe' reflected a growing consensus at the time.¹⁴² However, recent scholarship does not support such a unifying theory of sixteenth-century welfare continuities and changes in Continental Europe. Looking at Italy, Nicholas Terstra argued that welfare reforms 'did not spring full-blown out of the teaching of a humanist' and that 'Vives and other humanists were

¹³⁹ William Marshall, *The forme and maner of subue[n]tion or helping for pore people deuysed and practysed i[n] the cytie of Hypres in Flaunders* (London, 1535); F. R. Salter, ed., *Some Early Tracts on Poor Relief* (London: Methuen, 1926), p. 115.

¹⁴⁰ Henry Littlehales, ed., *The Medieval Records of a London City Church, Part 1*, EETS, o.s. 125 (London, 1904), p. 284 (italics in original).

¹⁴¹ See, for instance, 12 Richard II, c.7, *Statutes of the Realm*, II, 58 and 15 Richard II, c.6, *Statutes of the Realm*, II, 80; 11 Henry VII, c.2, *Statutes of the Realm*, II, 569 and 19 Henry VII, c.12, *Statutes of the Realm*, II, 656–57, discussed in Brodie, 'Beggary', pp. 75–82, 233–35.

¹⁴² A. L. Beier, *The Problem of the Poor in Tudor and Stuart England* (London: Methuen, 1983), pp. 18–19.

not speaking into a vacuum'.¹⁴³ Brian Pullan has charted a useful framework for seeing differences between Catholic and Protestant expressions of institutional relief, building on a wealth of studies dealing with confessional expressions of welfare reform, but English studies yet lack this nuance.¹⁴⁴ Pointedly, A. A. Alves's study of Vives's, Calvin's, and Loyola's welfare ideas remains one of the few to primarily grapple with the differences between intellectual contexts and welfare constructions across different currents of thought that specifically included humanism.¹⁴⁵ It is particularly interesting in the context of England to note that Alves questioned the degree to which Vives affected welfare reform in his homeland, suggesting instead that the only certainty is 'that Vives's ideas reflected those of part of his culture'.¹⁴⁶ This danger of reducing a broad intellectual context to a particular ideological programme has been recognised by scholars actually focused on English experiences and expressions of humanism. Jonathon Woolfson introduced the essays in *Reassessing Tudor Humanism* by noting that 'the humanist experience in Tudor England was genuinely wide-ranging and can be restricted to a narrow group of areas or commitments only with a considerable amount of historical distortion'.¹⁴⁷ Considering that scholars of English humanism question the idea of a unifying humanist agenda or programme generally, the notional link between humanism and 1530s welfare reform needs revision.

The idea that the administrative details of the 1536 Act can be definitively identified as 'humanist' needs abandoning in light of the manifold continuities of concept and detail, and the absence of any considerable conceptual novelty. To see the parish rate as a humanist idea ('relatively compassionate [with a] meliorative thrust', as Fideler characterised it) is to gloss over local practice and legislative tradition, and significantly downplays the intersection of canon and secular law that the 1536 Act reflects.¹⁴⁸ This is not to say that there was no humanist element or influence in inspiring or framing government policy, rather that the case has been more often repeated than made, and that on the balance of current evidence the significance of anything clearly identifiable as humanist seems limited. Of the laws passed in the Tudor period, the English

¹⁴³ Nicholas Terpstra, 'Apprenticeship in Social Welfare: From Confraternal Charity to Municipal Poor Relief in Early Modern Italy', *Sixteenth Century Journal*, 25 (1994), 101–20 (pp. 119–20).

¹⁴⁴ Brian S. Pullan, 'Catholics, Protestants, and the Poor in Early Modern Europe', *Journal of Interdisciplinary History*, 35 (2005), 441–56.

¹⁴⁵ A. A. Alves, 'The Christian Social Organism and Social Welfare: The Case of Vives, Calvin and Loyola', *Sixteenth Century Journal*, 20 (1989), 3–22.

¹⁴⁶ Alves, p. 14.

¹⁴⁷ Jonathon Woolfson, 'Introduction', in *Reassessing Tudor Humanism*, ed. J. Woolfson (Basingstoke: Palgrave Macmillan, 2002), pp. 1–21 (p. 13).

¹⁴⁸ Fideler, 'Christian Humanism', p. 278.

Act with the best humanist credentials with terms and concepts demonstrably drawn from antiquity is actually 1 Edward VI, c.3, the infamous 'slavery' Act. Yet even that is not so simply characterised.

What then of the draft bill? Even if authored by a humanist, that does not make it a humanist document. In fact, the only named person associated with the bill by contemporaries was Henry VIII. This was not Marshall's bill, it was Henry VIII's. Conceptually, Fideler's characterisation of the 1535 scheme as about work for the unemployed does not easily fit with the demand for a compliant and constant labour force at Dover, nor is it sufficiently different from longstanding legislative requirements and injunctions. In its details about persons and fees, boxes and key-holders, duties of officers, and even a Latin clause for Commissions of the Peace with a corresponding oath, the surviving document reflects sixteenth-century legalese.¹⁴⁹ That sections were borrowed from the 1531 Act furthers this sense that it was embedded in an existing legal framework.

Even the language of remedy has a long-neglected legislative context. Samuel Cohn has challenged the persistent view that European post-Black Death labour regulations were natural responses to changed social and economic conditions, and a similar revisiting of a response-to-circumstances model of 1530s vagrancy legislation in England is long overdue.¹⁵⁰ The notion that the statutes were responses to social and economic conditions prejudices analysis of their intentions and impacts. Whether reflective of reality or not, the preamble to the 1531 Act made the increase of beggars and vagabonds a legal fact, facilitating the change in law as a legal remedy to that legal fact. For legislators, its actuality was irrelevant. The idea that the 1531 Act failed to solve the problem of poverty is a historiographical construct taken at face value from the legislative logic of need and remedy. This is dependent in part on taking small portions of the 1536 Act too literally, and assessing both Acts out of their wider parliamentary and statutory context. Increased legislation generally, the 'secular' power legislating on 'religious' matters (like 'charity'), and the specific identification and punishment of groups of people or behaviours, mark the 1531 and 1536 Acts as very much products of their historical moments. Even more specifically, the 1536 Act's injunctions about parish-centred charity neatly align with a contemporary agenda to downplay the significance of images and relics, both in theme and timing, and

¹⁴⁹ Most scholars have worked from Elton's paper, not the original manuscript.

¹⁵⁰ Samuel Cohn, 'After the Black Death: Labour Legislation and Attitudes towards Labour in Late Medieval Western Europe', *Economic History Review*, 60 (2007), 457–85. For some preliminary commentary on English economic malaise in the 1520s and 1530s and the evidentiary–statutory–historiographical relationship, see Brodie, 'Beggary', pp. 23–72.

there are suspiciously timed clauses about Friars' begging.¹⁵¹ This was never wholly about welfare.

Restoring a greater awareness of continuities between 1531 and 1536, and both with 1535, helps better contextualise a wider picture. The 1536 Act marked no major conceptual departure in practice, although it did in terms of authority and responsibility, themselves linked to the Reformation Parliament. Its administrative regulations proved very (perhaps unintentionally) successful, forming the basis for later legislation and the collections in larger towns, but this speaks more to effect than intent. Henry VIII personally showed an interest in the statutory administration of provision for the poor, in a very public manner, in the very session of Parliament that the dissolution of the monasteries was commenced. He had not shown much particular interest in the poor before, but it is clear that he was very keen on Dover harbour being put right. A large works scheme was proposed to 'remedy' idleness and vagrancy while hundreds of pounds were flowing towards the already sizable, yet problematic, Dover workforce. While it is not known how or whether the 1535 draft bill became the 1536 Act, only a relatively small portion of either document was concerned with specifying details of the collections for the poor. Historians tend to think of it as the poor law because of present research interests and the benefit of hindsight. How much did the government seriously intend the collections to be widely implemented and how much was Reformation Parliament political spin? No proclamations seem to have followed to encourage its implementation. Without its capacity to fund Dover, was the scheme of little interest to the king? Is it possible, therefore, that one of the world's longest-lived and most significant charitable apparatuses, the English parish collection, was an accident of tidal deposition off the coast of Dover, a surviving statutory deposit from a much bigger storm?

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¹⁵¹ G. W. Bernard, *The King's Reformation: Henry VIII and the Remaking of the English Church* (New Haven, CT: Yale University Press, 2005), p. 292.