

ART. XVII. – *Vagrancy in later eighteenth-century Westmorland: a social profile*

By Dr AUDREY ECCLES

THE earliest laws against vagrancy date from the reign of Richard II, and during the sixteenth and seventeenth centuries vagrancy was seen as one of the most serious social problems of the age. The important studies of Beier and Slack<sup>1</sup> dealt with this earlier period, and a comparison of their evidence with that for later eighteenth-century Westmorland suggests that, although the law continued to use the same rhetoric, the nature of vagrancy itself and the response to it at local level had changed considerably. This paper offers a descriptive account of vagrants in Westmorland from 1748 to 1800, compares them briefly with those in the earlier period, and offers some interpretations of the differences.

This study is based on the cases of 297 adult vagrants and two child vagrants<sup>2</sup> found in the Westmorland Quarter Sessions records<sup>3</sup> between 1748 and 1800. There were also 48 other adults who were spouses travelling with these 297, and at least 194 children.

Quarter Sessions rolls should in theory contain a complete record of all vagrants apprehended, because the 1740 Vagrancy Act made it obligatory to take vagrants before a justice to be examined, and for the justice to forward a duplicate of the examination and vagrant pass to be filed at Quarter Sessions. In practice it is easy to demonstrate there was some shortfall, but not to estimate its probable extent. There was of course a “dark figure” of vagrants who were either never apprehended or treated as casual poor, and also vagrants passing through the county who had been apprehended elsewhere, and who mostly appear only in High Constables’ accounts as items of expenditure.

This social profile therefore is of those vagrants who were apprehended within the county, and is complicated by the inclusion of 27 cases where travelling poor people appear to have been processed as vagrants for financial reasons (see pp. 254-6).

In the pre-Restoration period vagrancy was seen as a serious threat to the social order chiefly because vagrants in those days were for the most part single able-bodied men – “masterless men”. The authorities believed that there was always work for those who would do it, and although this was never entirely true, the punitive nature of the vagrancy laws partly stemmed from this idea. Not only were persons travelling without proper licences or certificates thought to be idle, and likely to take to begging and thieving, but the government also feared they might band together and commit violent crime, riot and sedition. Three categories of vagrant were defined, idle and disorderly persons, rogues and vagabonds, and incorrigible rogues; these categories partly related to repetition of vagrancy offences, and partly to offences such as unlicensed playing of interludes, playing unlawful games and so forth, which were assigned to one of these categories and punished accordingly on an ascending scale of severity.

In the pre-Restoration period vagrancy was very severely punished, with at least a whipping, and at various times by boring through the ear, slavery, branding, transportation and even hanging. Nor does it seem that these draconian punishments were never imposed, though they were rare.<sup>4</sup> Settled poor on the other hand, under the Elizabethan

poor law, had to be found work by their own parish, or if unable to work, to be given relief.

This parish-based system probably worked reasonably well, but those who left their own parish, perhaps to look for work, join the army, or escape domestic problems, found themselves disadvantaged by it.

The Settlement Act of 1662 and subsequent amending Acts attempted to give more people settlement rights, but since this ran counter to the desire of those rated to the poor not to be rated to any more poor than absolutely necessary, it may have proved in some ways counter-productive. Servants for example had always been a mobile group, but after hiring and service for one whole year became grounds for settlement it seems likely that far from large numbers of servants gaining settlements under this clause, employers simply refused to hire them for more than short periods and they became more at risk of being moved on and possibly sinking into vagrancy than they were before.

Two women in the sample had been hired servants dismissed on becoming pregnant but in the case of Hannah Longfellow the circumstances are explicitly stated. She was settled in Kendal and then hired in Underbarrow but was turned off before the year on the advice of the curate for fear she should gain a settlement. She was no doubt pregnant at that time, since she was later apprehended and delivered of a bastard child at Shap. Female servants pregnant with bastards were at especially grave risk of being thrown out, because the Settlement Acts decreed that bastard children should be settled in their place of birth, and so the crafty curate had rid Underbarrow of not one but two potential settled paupers.<sup>5</sup>

Indeed this was such a common occurrence that by the Vagrancy Act of 1744 the settlement law was changed to prevent bastards born on the road from gaining settlement by birth, and to make their mother's settlement responsible for them.

The reluctance of parishes to accept incomers who might possibly become chargeable led to restrictive interpretations of the settlement laws and tended to create a class of persons, such as female servants, ex-soldiers, unsupported women, who were commonly moved on and at risk of becoming permanent vagrants. Soldiers' wives were removed particularly frequently, since soldiers were paid so little, that their dependents almost always became a charge on the poor rate,<sup>6</sup> and although militia men's families were legally supported by the county, regular soldiers' were not.

Scotch and Irish people furthermore did not fall within the settlement provisions.<sup>7</sup> Indeed a woman ran considerable risk in marrying a Scotch or Irish husband; the settlement law decreed that wives must always take their husbands' settlement, and although a woman previously settled in England could revert to her former settlement when her Scotch or Irish husband died, if he deserted her she could not.

There is some evidence that women who had "lost" their settlement in this way were not always rejected; Magdalen Angus, apprehended in Ravenstonedale in 1752, although married to a Scotch soldier, was passed not to Scotland but to Kirkland, where her first husband had been settled. Doubtless the parish officers' opinion of the woman's character, the circumstances of her former settlement, and the likely cost influenced their actions; but the legal position was that "a wife can gain no settlement separate and distinct from her husband during her coverture".<sup>8</sup>

If the officers refused relief in such a case the only hope lay in a petition to Quarter Sessions. Thus Mary Ma'Conel petitioned for relief in 1764, stating that she was formerly

legally settled in Kirkland but having "by fate married a man belonging to Ireland" was now destitute with two small children. The overseers of Kirkland refused relief and sent her to the workhouse (in Kendal parish) where the Master "instead of relieving me and my Children threatened to take my life". Such a woman might be removed to Ireland, where she had never been and would be unlikely to get relief, or end up on the road, and indeed the court rejected Mary Ma'Conel's petition, although what happened to her then is not recorded.

Although Slack found a number of old and sick vagrants who were relieved rather than punished, especially in Westmorland, he noted that "those apprehended and punished were commonly young able-bodied adults. They were also single and largely male".<sup>9</sup> In my eighteenth-century sample those punished were also mostly single males, but far fewer were actually punished, and the proportion of women, children and sick vagrants had greatly increased.

Slack gives no figures for children accompanied by adults, but notes the rarity of family groups with children. In my sample on the other hand, half the couples had children with them, and more women travelling without their husbands had children with them than not (Tables 1 and 2). Not surprisingly men travelling without their wives were almost never burdened with small children; of the three men travelling without wives, but with children, one was with a fifteen-year-old son who had been at sea with his father and only two were with young children. The children were not always the vagrants' own, there were step-children, a couple with a niece, a woman with a small granddaughter, and a soldier's wife with three nurse-children. There were not usually more than two children with a woman or couple, although in two cases there were six.

The groups in which vagrants travelled, when they had any companions at all, were almost always family groups, usually nuclear but sometimes extended family groups, such as a couple with the husband's father and his daughter by a previous marriage, a mother-in-law and daughter-in-law, or siblings travelling together.

A few had other companions; soldiers' wives and tinkers seem to have travelled together more often than any other groups; on two occasions soldiers' wives were apprehended together who had been widowed at the same time when their husbands died in barracks in Ireland. In a small minority of cases vagrants had partners in crime; Elizabeth Watson, convicted of theft in 1772, was with another woman, a tinker, and "a little girl with a red cloak" at the time, and at Heversham in 1785 Tamar Wiseman and Sarah Wilson went thieving shifts together from several people's bleaching grounds.

Although in earlier days vagrants were, with some truth, described as "a promiscuous generation"<sup>10</sup> there were only two cases of consensual unions, if indeed Catherine Howd, who was over sixty, and Henry Scot were such a pair; Michael Young, a tinker, said he "joined with" Jane Miller some months previously. Jane Miller had previously been married twice, her first husband died, and about six months afterwards she married Jacob Miller, who deserted her. The breakdown of marriage and desertion are a common feature in the biography of women vagrants.

There was also a woman who said she was married "at Barnard Castle, upon the Bridge, in the Evening, by a person called a lawless Priest but she knows not his name", and another who was "married" without banns or licence. The second of these two was given her maiden name and sent to her father's settlement, so the court clearly did not believe she was legally married. The Sarah Wilson who stole shifts was named "Sarah

Wilson alias Wiseman alias Heslop” and although the case papers relating to the theft give no relevant detail the most likely explanation is that she had been “married” to men by these names.

There is very little evidence that there were regular places of resort for Westmorland vagrants, although apparently unconnected vagrants were apprehended simultaneously “at the house of Richard Hetherington” in Bongate in 1765, and in the same parish Elizabeth Workman in 1765 and Margaret Leech in 1799 were each fined 10s. for harbouring vagrants. Probably these were alehouse-keepers. There is no evidence for gangs of able-bodied young men grouping together, however; the largest all-male group was three, on one occasion only.

Where were these vagrants coming from, and where were they going to? Since they were invariably sent to their settlement, regardless of where they were originally going, it is not usually possible to say where they were heading, and although their settlement is normally given, that could be a place where they had not been for years. Indeed some had never been there, like Ann Hedges, born and married in America to a British soldier and widowed four months previously, who had landed at Leith six weeks before with her two children, both since dead; she was apprehended, seven months pregnant and lame, at Brough on her way to Oxford where her late husband was settled.

Mary Peal, apprehended at Bampton in 1751, stated she was going to Carlisle, where she believed her husband was – presumably at the Castle since he had been taken up for a deserter. A seaman working coastal ferries out of the port of Liverpool was going from Liverpool to his settlement at Whitehaven; a soldier’s wife was going to Nottingham where her husband was on a recruiting party; a cattle drover had been taken ill at Brough Hill Fair and needed a cart pass to get home, and so forth.

Those vagrants who gave any reason for travelling almost all claimed to be going to their settlements, or on their way to or from relatives; this seems to have been a “respectable” reason, and in some cases, especially where the vagrant was travelling by pass, or had fallen sick or lame and approached the authorities of his own volition, was certainly true. There was however no point in saying anything else, since vagrants were virtually never passed to any destination other than their legal settlement, even if they had other legitimate destinations originally. Nevertheless a few claimed to be going to work, generally harvest work, and others were pedlars or tinkers or marching with the army. There were even a few who admitted to wandering and begging as a normal lifestyle.

In marked contrast with the findings of Beier and Slack that in the seventeenth century vagrants tended to be within fifty miles of their settlement, especially in Lancashire and Westmorland, and that Scots vagrants were few,<sup>11</sup> in the eighteenth century the place of origin of the vagrants apprehended in Westmorland was more often Scotland than anywhere else. Scots were much less likely to be apprehended in southern counties<sup>12</sup> however. Many of the Scots were soldiers, which suggests a certain desperation, since few joined the army in the eighteenth century unless driven to it. Fig. 1 shows how few vagrants came from southern counties.

The occupations of the vagrants, where stated, show a considerable number had army backgrounds; no fewer than 80 vagrants were, or had been, in the army or navy, or were the wives and daughters of men in that category. This constitutes by far the largest

identifiable group. Several of the ex-soldiers later followed itinerant occupations, but a few had Chelsea pensions.

Table 3 notes present and former occupations of vagrants, their husbands and fathers, represented by more than one example. There was also a barber, whipmaker, saddler, quack doctor, quarryman, shepherd, ship's carpenter, ploughman and herdsman, chair bottomer, unlicensed schoolteacher, merchant's apprentice, cooper, and medicine seller. Several vagrants had more than one occupation and have been included once for each named occupation.

The examinations of vagrants sometimes reveal a long struggle against poverty and insecurity; Andrew Gibbons, a sixteen-year old pedlar apprehended in Bongate in 1765, said his father died when he was four and he was supported by his grandfather who farmed at Kirkclinton, Cumberland; after the grandfather also died he was on the parish and about eighteen months previously was hired as a shepherd at Haltwhistle for half a year, then went into Kirkclinton poorhouse and after a week got some buttons and little matters to sell and travelled, but about a fortnight since fell lame and was now destitute.

Robert Noble, aged 44, was born in Scotland, drove the plough and herded till he was about 18, then he worked in a colliery in Northumberland for three or four years, then travelled about and worked two years in some collieries in Wales, and had since travelled about England and Scotland gathering rags, selling spoons and small wares, maps, pictures and history books, but never worked other than from week to week or gained a settlement. The court was not sympathetic however, he was committed on 12 January 1766 and publicly whipped through Appleby the following Saturday before being passed to Scotland..

Particularly interesting are the tinkers, who seem frequently to have had a long-term vagrant lifestyle. Jane Miller, already mentioned, said she was a tinker and had no other way of earning a living than gathering rags and casting spoons. As a child she travelled with her parents in summer selling hardware, her second husband was a tinker and she was now on the road with another tinker.

Common sense would suggest that the majority of vagrants came from the poor and labouring classes, as indeed they did. Ten vagrants on the other hand had, or once had, "estates". Six of these were Westmorland people, including three who had absconded from their families, and two lunatics. Thomas Wilkinson had inherited a freehold house and stable which he had sold for £120 twenty years ago, but how he was reduced to vagrancy is a matter for speculation. Christopher Wallas had rented a farm at Orton for over two years, but left it some six weeks previous to his apprehension because the house was out of repair. With his wife and six children he was sent by vagrant pass in a cart from Scalthwaiterigg to Orton, but the constable of Scalthwaiterigg ditched the whole family in Docker, and was subsequently fined 1s. for neglecting to convey them to Orton. The vagrant pass in this case was appealed against and eventually quashed. Alexander Cowan, who had farmed an estate of £16 p.a. near Carlisle for six years had been at harvest work in the fen country, where he had contracted the ague and "pissed blood"; he had himself asked for a horse pass to help him get home; his case shows clearly how sickness or accident could precipitate a person in modest circumstances into vagrancy, even if only in a technical sense.<sup>13</sup>

A significant number (98) of the vagrants had some identifiable health problem or physical handicap, as shown in Table 4. It seems likely that many of the ex-soldiers also

had health problems, since although it was usual to discharge surplus men at the end of wars it would clearly be preferable from the army's point of view to discharge the least fit, and the army's record of sickness and mortality (quite apart from casualties) was always much worse than that of the equivalent civilian population.

Seven children died (including five newborn ones) and two women died in childbirth. Among the other deaths were two vagrants who were being passed to their settlements; Jetea Smith had been apprehended in Towcester, Northamptonshire, on 29 March 1764 and had reached Stainmore when she died, and was buried there on 18 April. Peter Richardson, who was over seventy, and had been begging and sleeping in barns for some five weeks before his apprehension, died in the same parish in 1754 while being passed from Sevenoaks in Kent to Rockcliffe in Cumberland. Seven vagrants were found dead, and yet others nearly so, like the unfortunate Ann Griffith "a Strolling Beggar who was taken up in a perishing condition laying in the Turnpike Road Gutter" in Ambleside in 1777.

The most numerous group were pregnant women, half of them soldiers' wives. Thirty-nine women gave birth in parishes in Westmorland where they were not settled, which under the 1744 Vagrancy Act was a crime, but they seem to have been looked after reasonably sympathetically. One of the soldiers' wives even had a man midwife (who was paid 10s. 6d.) and was given 10s. cash on her departure.

This case occurred in 1774 by which time the county was usually prepared to pay. Earlier, and exceptionally, the reluctance of parishes to foot the bill for itinerant poor had led to inhumane treatment.<sup>14</sup> In 1749 Cornelius Knot, a soldier, complained that when his wife fell in labour in Bongate the constable "violently and without compassionating her Circumstances forced her out of Bongate and into Appleby. That the sd' Wife was immediately after brought to Bed by reason of the Violence used by the sd' Constable [and] was in great Danger of losing her Life". The court ordered that the money spent by Knot in medicines should be reimbursed, and it is possible such cases alerted the Bench to the undesirability of laying the financial burden for sick travellers on the individual parish.

Some of the sick vagrants (like Alexander Cowan, already mentioned) had voluntarily approached officers for relief and been "apprehended". There is strong reason for thinking that in many cases this was a legal fiction, and the "vagrant" was probably not seriously at risk of punishment. Already in the seventeenth century parishes had attempted to shift the burden of casual poor on to the county by getting them committed as rogues and vagabonds<sup>15</sup> and it seems that this long-standing stratagem, in later eighteenth century Westmorland, was tacitly condoned by the authorities.

The law made a distinction between vagrants and travelling poor; vagrants were to be punished, but, if they were sick, the parish where they were apprehended could claim the expenses of looking after them on "the vagrant sess" i.e. out of the county rate. Travelling poor, on the other hand, were the financial responsibility of the parish where they fell sick, which, in theory, could claim from their parish of settlement. In practice this seems rarely to have been done, doubtless for practical reasons in a society where bureaucratic procedures and the postal system were undeveloped.<sup>16</sup>

Thus, when in 1751 Shap attempted to persuade the county to reimburse the lying-in expenses of two poor travellers the petition was refused, but when in 1758 Mary Gordon "a vagrant wandering and begging" lay in at Asby the overseers stated that they

“in pursuance of the statute in that case made did after the birth of the said child detain and convey the said Mary Gordon before Ri: Burn clerk one of his majesty’s justices of the peace”. Richard Burn added a postscript “I know the facts in this case to be true. I think there is a settled allowance in the Bottom in such cases of 15sh over and above the court charges”. The court allowed £1 19s. 6d. plus court costs.

This obvious anomaly led to such casual poor being processed as vagrants, although the intention was purely to shift the financial burden. Petitions could be and were refused, but a parish could claim for a vagrant of right.

Moreover, a single case could be disproportionately expensive. When in 1767 Charles Gordon, a negro travelling through Lupton, sustained a compound fracture of the leg necessitating amputation, the surgeon’s bill came to £7 12s. and Thomas Burn’s bill for nursing him for six months to £6 2s. 2d. These large sums were paid by the overseers of Lupton, who were reimbursed by the county. Such a case could significantly increase the normal annual poor expenditure of a rural parish. Charles Gordon was described as a “vagrant” but no pass or examination was filed for him.

Furthermore, the burden of the casual poor and vagrants in Westmorland fell very unevenly, as Fig. 2 shows.

It has been observed that towns tended to attract vagrants, and certainly Kendal and Appleby did so, but in Westmorland, where there was only one road north-south and one east-west (over Stainmore), several poor and thinly-populated parishes lying on those roads also suffered greatly from poor sick travellers.

Shap, in the 1751 case already mentioned, pointed out in support of its petition that the parish was “burthened with a numerous Poor of its own and the Township of Shap by reason of the great Road laying through it is greatly oppressed by poor Travellers, disbanded men and soldjers Wives and their Children and hath often suffered by Accidents of this same Nature”, and again in petitioning for £1 10s. spent on the lying-in and funeral of a Chelsea pensioner’s wife in 1753 stated “misfortunes of this nature has often happened to us, of which the parish it self has borne the whole Expence” – a claim which the fragmentary parish accounts support. This time the claim was allowed, and gradually more and more cases occur where the county reimbursed parishes where strangers who were clearly not vagrants had been unusually expensive; sometimes this was done by petition, sometimes by the legal fiction that they were vagrants.

By 1799 it could be assumed the county would foot the bill, although there had been no change in the legal position – indeed the 1792 Vagrancy Act denounced “abuses” which had been committed in passing people as vagrants without first punishing them. In 1799 however John Burn sent a note to the overseers of Shap to inform them that John Jones, a soldier in the Welsh militia, whose wife lay in at Shap the previous day, had nothing to support her with, that therefore the overseers must do so until she could safely follow the regiment, but that they would presumably be reimbursed by the county. John Jones’ wife was certainly a poor traveller and not a vagrant, but the court allowed the 19s. expended by the overseers (including 5s. cash to John Jones and 7s. 6d. for coach hire).

Vagrancy has been described as a “crime of status” and besides the sick poor travellers just discussed the majority of the vagrants were accused only of crimes under the Vagrancy Act. The Vagrancy Act by now however had come to be used as a ragbag for social problems; giving birth in a strange parish was now a crime under the Act, as was

refusal to support one's family, and returning after being legally removed. Under the vagrancy laws lunatics could be apprehended and incarcerated, in chains if necessary (although they were not supposed to be whipped). Of the seven lunatics apprehended, three were passed and the others committed for varying periods.

Other than being on the road without any certificate or licence, what other offences were these vagrants committing? Apart from giving birth on the road, begging was the commonest offence mentioned, and it seems likely that many poor travellers begged from time to time, especially if sick or burdened with small children, and in many cases were relieved by sympathetic householders without being apprehended. It is possible there were proportionately even more sick vagrants, crippled ex-soldiers, heavily pregnant women and so forth travelling about than are revealed in this study, for this reason. The authorities complained that the common people had not a right appreciation of the crime of vagrancy and tended by ill-advised alms-giving to thwart attempts to stamp it out.<sup>17</sup>

"Wandering and begging" may often have been a common-form charge, but in some eighteen cases additional evidence supports it; several vagrants admitted to having been in a state of vagrancy for some time, others said they had been obliged to beg because of illness. Only two of this group of self-confessed beggars were punished however, the others apparently were merely passed. These two, both men, were committed to the house of correction and whipped; indeed one of them, described as a "sturdy beggar", who had also illegally returned after removal and was evidently felt to be a flagrant offender, was whipped four times at intervals of one week.

Seven of the vagrants were indicted for theft – not many, considering the temptation to lift a shirt from a hedge or a chicken from a coop while passing through, and the tendency of vagrant crime to be reported more than that committed by residents.<sup>18</sup> Some capital thefts may have been remanded to the Assizes, but there is no evidence that any were. There was also a family of vagrants, two men and two women, who were "suspected of felonious practices" and sent to the house of correction; the father was whipped and the son detained pending enlistment.<sup>19</sup> Another vagrant got 20 weeks' solitary with hard labour in the house of correction, but he was clearly suspected of some much graver crime, since his description was sent to "Sr S. Wright in Bow Street, London"<sup>20</sup> and also circulated in the Leeds and Newcastle newspapers. A suspicion arises that sometimes the expense and trouble of a formal trial for minor thefts, when they were committed by vagrants, was avoided by simply whipping or committing the suspect under the vagrancy laws instead.

James McDonald on the other hand, who admitted to being an escapee from Morpeth gaol, where he was serving a sentence for stealing "an old surtout coat" from a gentleman's stable, was not sent back to gaol but merely passed. One of the seven vagrants indicted for theft was acquitted but the other six, including five women, were convicted, sent to the house of correction and whipped. Two of the women were whipped twice, and one sentenced to six months' solitary before she was whipped. These were the only women in this study who were definitely whipped, although in theory (until 1792 when the whipping of females was abolished) almost all could have been.

None of the thirty-nine women who gave birth on the road was whipped, but twelve were committed. The 1744 Vagrancy Act however directed all such women should be committed, and could, at the justices' discretion, also be whipped. Possibly this was

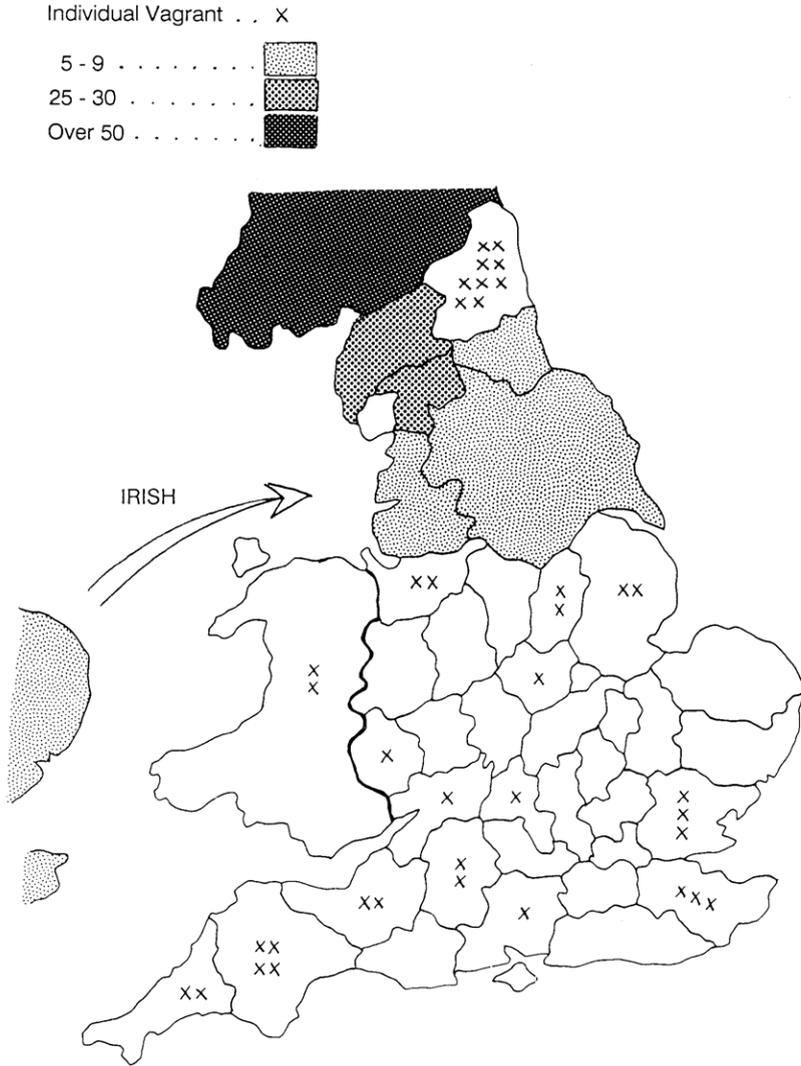


FIG. 1. - Settlement of Vagrants.

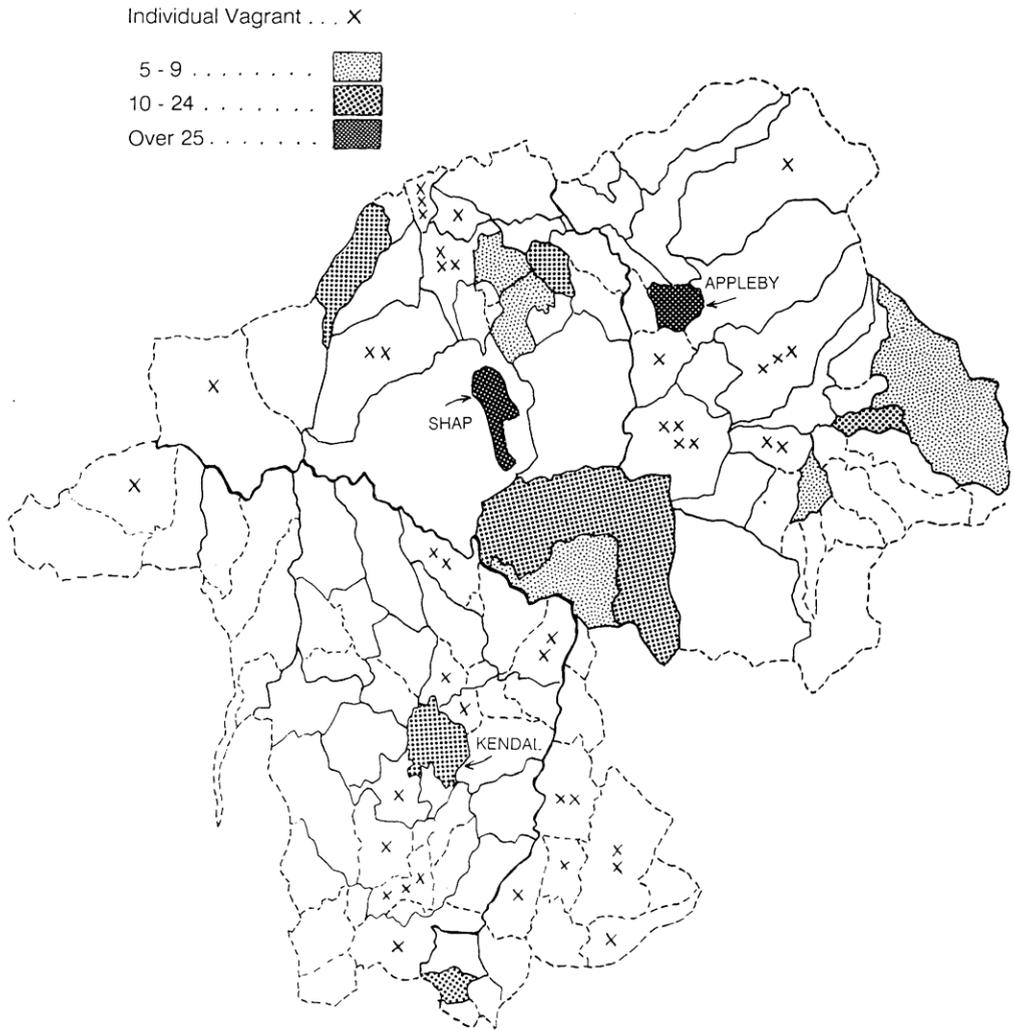


FIG. 2. - Parish of Apprehension.

because so many were soldiers' wives, and were really casual poor being processed as vagrants. Those who were committed spent periods from a week to three months in the house of correction.

Persons deserting, threatening to desert, or refusing to maintain their dependants were deemed to be "incorrigible rogues" under the 1744 Vagrancy Act but although at least twenty families were deserted during the half century, apparently in only three instances was any attempt made to catch the absconder. In the case of three who had estates the overseers obtained a writ of distraint to enable them to support the deserted dependents. In another case a warrant was issued but the offender apparently never caught. One man and one woman however were sent to the house of correction under this clause, and the man whipped and kept to hard labour as well. Enforcement of this clause seems to have been particularly lax in Westmorland however, and very many more people were punished in other counties.

Yet another crime under the Act was to return to a parish after having been legally removed. There were six such cases; one was the "sturdy beggar" already mentioned, one woman was merely passed back again, three people were sent to the house of correction, and a family of five was ordered to leave Ambleside within fourteen days on pain of committal and "due punishment".

Four vagrants were apprehended as unlicensed pedlars, but two were evidently substantial men infringing the monopoly of the market, and were fined £10 (one on two occasions). Such a fine would clearly be inappropriate for vagrants in the narrower sense. The other two were itinerant pedlars, but were merely passed. One vagrant was committed for refusing to sign his examination (he died a few weeks later in the house of correction) and three were "dummerers" (persons pretending to be dumb) who were all committed, and two also whipped. There was also a female fortune-teller who was remanded to the house of correction for one week, and a man who was whipped for threatening a woman who refused him beer and breaking her windows. He said he was "in liquor" at the time of the offence but his is the only case where drink clearly played a part.

In all, seventy-six of the vagrants were committed to the house of correction, mainly for short periods pending hearing of their case, but fourteen of these had committed or were suspected of committing other crimes. Only nineteen vagrants were whipped, and eight of these were in the group suspected of other crimes. No woman was whipped for vagrancy offences only. Compared with the wholesale whippings of vagrants of both sexes in earlier times, in the later eighteenth century in Westmorland, the authorities were positively indulgent.

Vagrants, even in the sixteenth and seventeenth centuries, were never entirely the idle lawless rabble the government imagined and the popular "cony-catching" literature of the day depicted, and there was always a grey area where travelling poor overlapped with mendicant and criminal vagrants. Nevertheless the element of able-bodied rootless single males was considerably more prominent than it became by the later eighteenth century.

Vagrancy had certainly decreased numerically by the eighteenth century (chiefly because of economic changes) and the tendency of vagrants to belong to certain categories, already becoming evident in the seventeenth century,<sup>21</sup> had increased to the point where it was largely confined to these groups. Wars and colonization absorbed many fit

single men. In particular, increasing industrialization and urbanization provided new employment opportunities, but contributed to the breakdown of a parish-based system of poor relief. Emigration from Scotland, however, where poverty remained endemic and poor relief inefficient,<sup>22</sup> now assumed far more importance than it had previously.

The Settlement Acts had decreased vagabondage overall, but had also created it among particular groups, such as female servants, ex-soldiers and soldiers' dependents.<sup>23</sup> The creation of a *de facto* standing army,<sup>24</sup> available to quell disorder, lessened the fear of vagrancy and in the short term provided a recourse for poor men unable to find employment, but in the long term increased vagrancy among soldiers' dependents and among discharged soldiers.<sup>25</sup>

Stuck in a time-war where vagrancy was thought to be *chosen* by idle and dangerous persons, and not perceived to be the inevitable result of socio-economic factors, central government continued to adopt a punitive stance towards vagrants,<sup>26</sup> while totally failing to address the defects of a parish-based system of relief run by reluctant unpaid amateurs, or to accept more than token responsibility for the fate of men and their families who had served it in war.

At parish and county level however, where it was evident that most of the vagrants were not criminals but victims of these failures of the system, the aggressive policies of former times were falling into disuse.<sup>27</sup> Before the Settlement Act some parishes were adopting a system of shifting responsibility for itinerant poor to their parish of birth, which eventually the government encapsulated in law,<sup>28</sup> and now again they were taking the lead in devising mechanisms for spreading the burden of the travelling poor to a wider tax base.

The legal fiction of processing poor travellers as vagrants was tacitly accepted in Westmorland by the end of the eighteenth century, although central government ignored the problem until the New Poor Law of 1834 created Poor Law Unions, with a broader financial base than the parish, and with a wider responsibility including travelling poor.

In the debates which preceded the enactment of the New Poor Law, witnesses singled out many of the factors we have seen operating in eighteenth century Westmorland as in need of remedy. Vagrancy was blamed on "fluctuations of commerce and manufactures, on our naval and military operations, on our settlement law", and the inhumanity of treating poor sick travellers as vagrants and putting them in gaols and houses of correction condemned.<sup>29</sup>

Although the New Poor Law was far from perfect, gradually as these evils were redressed the numbers of women and children and poor working men declined and vagrancy was reduced to that small hard core who for reasons of mental instability, addiction, or inability to form relationships are still with us today.<sup>30</sup>

## Appendix

TABLE 1. Status of Vagrants

[N.B. 'alone' means without husband or wife]

	Men alone	Women alone	Couples	Children alone	Sex unknown
17th cent*	561	254	80	21	
18th cent	114	131	48	2	4

[\* Lancashire and Westmorland 1634-8 (Slack 366)

My figures Westmorland only 1748-1800].

TABLE 2. Composition of vagrant groups

	<i>Couples</i>	<i>Men</i>	<i>Women</i>
With children	27	3	80

TABLE 3. Occupations of vagrants

Army and navy	80
Pedlars and hawkers	13
Tinkers and rag-gatherers	13
Labourers, husbandmen and farmers	12
Servants	19
Entertainers	4
Harvest workers	9
Textile and clothing trades	27
Building trades	5
Merchant seamen	6
Miners	6
Metal workers	4
Butchers	2
Drovers	2

TABLE 4. Health problems of vagrants

<i>Pregnancy &amp; birth</i>	<i>Illness</i>	<i>Injury</i>	<i>Lunacy</i>	<i>Infirmity &amp; old age (70+)</i>	<i>Death adults</i>	<i>Death children</i>
43	14	5	7	19	19	7

(This represents 98 cases since some had problems in two categories)

## Notes and References

- <sup>1</sup> A. L. Beier: *Masterless men: the vagrancy problem in England 1560-1640* (Methuen, 1985); P. H. Slack, "Vagrants and vagrancy in England 1598-1644", *Econ. Hist. Rev.* 27 (1974), 360-79.
- <sup>2</sup> For the purpose of this paper children were defined as under sixteen. Legally of course a person was an "infant" until twenty-one, but it seems vagrants of sixteen or over were usually examined as separate individuals, and were quite often leading independent lives.
- <sup>3</sup> The Quarter Sessions records used in this study included rolls and order and indictment books. In the rolls, passes and examinations, petitions, warrants, gaol calendars, coroners' claims for expenses (after 1752), informations and case papers, and high constables' accounts where individual vagrants were mentioned, have all been used [Cumbria Record Office Kendal].
- <sup>4</sup> E. M. Leonard: *The early history of English poor relief* (CUP, 1900) 70.
- <sup>5</sup> The plight of pregnant servants is described in D. Marshall: *The English poor in the eighteenth century* (Routledge, 1926), 210-12.
- <sup>6</sup> J. M. Brereton: *The British soldier, a social history from 1661 to the present day* (Bodley Head, 1986) 8-9;

- M. Trustram: *Women of the regiment: marriage and the Victorian army* (CUP, 1984), 19 states that only Irish agricultural labourers were worse off financially than soldiers.
- <sup>7</sup> R. Burn: *The justice of the peace and parish officer* (1755) 192-4.
- <sup>8</sup> *The laws respecting women . . .* (London, 1777), 99.
- <sup>9</sup> Slack *op. cit.*, 366. Officially there were no exemptions for sick vagrants, but in practice they were often not punished; G. Taylor: *The problem of poverty 1660-1834* (Longmans, 1969), 54.
- <sup>10</sup> Beier *op. cit.*, 51 ff.; J. A. Sharpe: *Crime in early modern England 1550-1750* (Longmans, 1984), 102.
- <sup>11</sup> Slack *op. cit.*, pp. 368-71; Beier *op. cit.*, pp. 71-2 and Table 1, 208-14 (esp. 213).
- <sup>12</sup> Although I have not yet analyzed the results, work done on Lancashire and Cambridge suggests that Scots were far more commonly apprehended in Westmorland.
- <sup>13</sup> F. G. Emmison, "The relief of the poor at Eaton Socon 1706-1834", *Publ. Beds. Hist. Record Soc.* 15 (1933), 1-98, points out how sickness could push settled labourers and petty craftsmen over the poverty line, 71.
- <sup>14</sup> This case is exceptional only in later eighteenth century Westmorland, there is plenty of evidence that officers in other places and at other times behaved very heartlessly, e.g. Marshall see note 5 above; Taylor *op. cit.*, 93-102; K. D. M. Snell, "Parish registration and the study of labour mobility", *LPS* 33 (1984), 29-43, 37 and 43; J. R. Kent: *The English village constable 1584-1642* (OUP, 1986) 204.
- <sup>15</sup> Leonard *op. cit.*, 168.
- <sup>16</sup> Snell *op. cit.*, 36-7 points out that in the late seventeenth century parishes seem generally to have been obliged to pay for the burials of non-settled poor, and that "a prevailing inter-parish mistrust and inchoate postal system" made removal a more practical way of dealing with sick poor than application to the parish of settlement. But he notes that the situation improved somewhat in the eighteenth century. The Kirkby Lonsdale township letters demonstrate that a system of paying allowances to settled poor resident elsewhere might exist, but this obviously did not apply to many of the vagrants, who were not resident anywhere.
- <sup>17</sup> Although vagrants were not usually very popular because of the expense and trouble they caused (J. Brewer and J. Styles (eds.): *An ungovernable people: the English and their law in the seventeenth and eighteenth centuries* (Hutchinson, 1980) 24, there is some evidence that at particular times and places they received public support, and it seems likely the sick and old vagrants especially might do so (Kent, *op. cit.*, 202 and 265).
- <sup>18</sup> Beier *op. cit.*, 127; Sharpe *op. cit.*, 82.
- <sup>19</sup> This is the only instance of the court forcing a vagrant to enlist in Westmorland, although the option had existed for centuries, and in other counties was more commonly used.
- <sup>20</sup> Sampson Wright, later Sir Sampson Wright, registered his property qualification as a Middlesex justice in 1769, and was certainly at Bow Street by 1774. A. Babington: *A house in Bow Street* (Macdonald, 1969) 153. This case occurred in 1790, two years before Wright's death.
- <sup>21</sup> Beier *op. cit.*, 172.
- <sup>22</sup> Leonard *op. cit.*, 282-9.
- <sup>23</sup> Beier *op. cit.*, 173 in concluding that the Settlement Act reduced vagabondage seems to overlook the negative effects it had on particular groups which many historians have pointed out e.g. Marshall *op. cit.*, 162-7; Emmison *op. cit.*, 66-7; R. H. Lightning, "Ealing and the poor: the poor law, the workhouses and poor relief from 1722 to 1800", *Ealing Local Hist. Soc.* (1966), 28.
- <sup>24</sup> Marshall *op. cit.*, 8. Because the idea of a standing army was still politically unpopular the Mutiny Act was passed annually, but in reality the army now existed permanently.
- <sup>25</sup> M. A. Crowther, *The workhouse system 1834-1929* (Batsford, 1981) 92; Trustram *op. cit.*, 30-2, 51.
- <sup>26</sup> Brewer and Styles *op. cit.*, 69.
- <sup>27</sup> Beier *op. cit.*, 171; Lightning *op. cit.*, 9.
- <sup>28</sup> Leonard *op. cit.*, 107-9.
- <sup>29</sup> *Parliamentary Sessions Papers*, XXXVIII (1834), 219, Appendix E, 80-4.
- <sup>30</sup> Crowther *op. cit.*, 247-59.