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## Pauper Agency and Negotiation Under the Old Poor Law

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sullo sfondo dello spazio metropolitano che fornì il laboratorio per l'organizzazione delle prime forze di polizia professionale: il contesto urbano e portuale di Londra, vulnerabile ai furti e ai disordini e perciò precoce teatro di pattugliamenti polizieschi volti a mettere in sicurezza la circolazione di ricchezza commerciale di cui la capitale era ormai diventata uno snodo di rilevanza globale.

Nella *vagrancy* urbana di Londra si trovavano inclusi anche quei *black poor* (lealisti afroamericani fuggiti dal Nordamerica rivoluzionario e *lascars* indiani impiegati sulle navi della East India Company) destinati a diventare loro malgrado l'oggetto dei piani filantropici di deportazione in Sierra Leone. Ciò introduce il tema attorno a cui ruotano gli ultimi due capitoli: la razzializzazione del vagabondaggio a scapito dei colonizzati e degli schiavizzati di origine africana. Il capitolo 4 esamina lo scollamento, nel Nordamerica coloniale e postcoloniale, tra la criminalizzazione della fuga da schiavitù e servitù e della resistenza dei nativi contro l'abbandono forzato dei propri territori da un lato, e la mitizzazione della *vagrancy* quando riportata all'interno della narrazione eccezionalistica della mobilità dei coloni bianchi attraverso la frontiera dall'altro. Il quinto e ultimo capitolo, infine, fa luce sulle radici atlantiche e coloniali della *black-*

*ness* come condizione di vulnerabilità all'imprevedibilità della violenza poliziesca concentrandosi sul racconto autobiografico di Olaudah Equiano, in balia – a dispetto del suo stato formale di libertà e dei suoi continui appelli alla protezione della legge – del processo di risemantizzazione della mobilità dei neri (schiavi e liberi) come *vagrancy* in quanto sfida all'ordine razzializzato dello schiavismo.

L'affascinante storia transatlantica della polizia che Nicolazzo ricostruisce con rigore documentario e un avvincente stile argomentativo insiste dunque sulle forze globali – capitalismo, colonialismo, schiavismo – che ne hanno determinato le trasformazioni nel solco del suo legame a filo doppio col vagabondaggio (248). Mentre ciascun capitolo valorizza singole soggettività letterarie, nel suo complesso il libro invita a non dimenticare come la giurisprudenza poliziesca della *vagrancy* abbia storicamente rinnegato tanto l'individuo quanto il soggetto di diritto, plasmando non una tassonomia precisa e definita quanto piuttosto un elenco collettivo, spersonalizzato e programmaticamente in espansione di »figure«, uomini e donne senza padrone resi oggetto non di studio e conoscenza, bensì di sospetto e anticipazione. ■

**Victoria Hooton**

## Pauper Agency and Negotiation Under the Old Poor Law\*

*Navigating the Old English Poor Law*, by Peter Jones and Steven King, offers a compilation of valuable primary sources relating to the administration of the Old English Poor Law system in the early to mid-19th century. Jones and King have uncovered meticulously preserved correspondence, comprised of nearly 600 letters, between dependents of poor relief in the north of England

and the overseer of the poor in Kirkby Lonsdale, a market town in Cumbria. The completeness of the Kirkby Lonsdale correspondence is what the editors refer to as »a matter of historical serendipity« (2) that is only possible due to the conscientious record-keeping of Stephen Garnett, Kirkby Lonsdale's officer for poor relief. The aim of this volume is to collate letters that provide a compre-

\* PETER JONES, STEVEN KING (eds.), *Navigating the Old English Poor Law: The Kirkby Lonsdale Letters, 1809–1836*, Oxford: Oxford University Press 2020, 400 p., ISBN 978-0-19-726681-6

hensive view of the life-cycle of welfare dependency during the later years of the Old Poor Law. They enable the reader to witness the establishment and development of longstanding, even life-long, relationships between relief claimants and the administrators of poor relief. The volume demonstrates the intricacies of the system before it was ultimately reformed with the New Poor Law in 1834. The editors note (2) the rarity of preserved correspondence that allows such an impression of the lives of the poor, despite the existence of numerous collections of parish correspondence dating from the time of the Old Poor Law. Thus, the collection in this book provides something new and valuable to scholars interested in this area of legal and social history, as well as complementing existing volumes on pauper collections in Essex and Norfolk by Thomas Sokoll and Joseph Harley, respectively.

The editors' introduction explains the contents of the collection and presents overarching themes that can be gleaned from the collected letters. Maps are provided to visualise the geographical reach of the documents and the broader parish archive collections from which they originate. The book presents twenty sets of letters sent by relief claimants and their families (or a person writing on their behalf) to the Kirkby Lonsdale Parish. The correspondence also includes accounts submitted by the parishes hosting these families to the Kirkby Lonsdale poor relief office, denoting sums owed for poor relief granted by the former, and any notations made on the received letters by Stephen Garnett. The collected sources and the analysis offered by Jones and King in their thorough introduction offer four valuable insights for legal historians interested in the administration of poor relief in the period covered.

Firstly, the letters demonstrate the difference between the black letter Poor Law as it was constructed and the law as it was practiced on both sides of the relief system. The 1601 *Act for the Relief of the Poor* placed a legal obligation on parishes in England and Wales to care for their poor. In 1662, a reform of the Act created the system of settlement that would determine who belonged to which parish, and set out the scope of parochial responsibility for poor relief. Settlement was the legal gateway to relief, and those without it risked being sent back to their parish of settlement in the event that they required relief. Jones and King note that the administration of removal became inefficient

as migration increased within England, and thus a system of »out-parish« relief emerged in the late 18th century, where the poor were provided for by their settlement parish but could remain in their parish of residence. The authors discuss various theories as to why settlement was not enforced, and show that decisions to grant out-parish relief were influenced by various factors. What the evidence presented in the book can demonstrate is the potential longevity of out-parish relief which could be negotiated by the poor, despite the potential for removal under the settlement system.

As well as non-enforcement of settlement, the letters demonstrate the negotiating skills of the poor, which they employed instead of formal routes of appeal. The obligations placed on the parish by the Old Poor Law were not prescriptive, so who received relief, and what they would receive, was left to poor relief officials to decide. Whilst the Old Poor Law allowed the poor to appeal to magistrates should a disagreement arise as to the provision of relief, this was not often relied upon. The editors point out, and the letters demonstrate, a preference for diplomacy and conflict avoidance among the poor, with threats of appeal or threats to come »home« and be fully dependent on the parish being used when more polite appeals had failed. According to Jones and King, that the formal appeal system was seldom utilised by the poor was not a result a lack of awareness among them, but due to their reliance on informal means to gain access to poor relief. However, the letters demonstrate a level of legal literacy about the appeal system that aided their informal requests. The quasi-discretionary nature of the old relief system, the realities of parish migration, and the avoidance of legal avenues of redress in favour of communication and negotiation revealed by the collected letters highlight the more nuanced workings of the Old Poor Law system that legal historians may miss without the aid of pauper correspondence.

Thirdly, the letters offer insights into the lived experience under the regime. Appeals for relief give the reader an insight into the reasons for hardship experienced by the poor. Old age, illness, accident, disability, work scarcity, and the paucity of parish relief already received are some of the reasons given for appealing to the Kirkby Lonsdale parish. The descriptions of hardship demonstrate the poor's understandings of the »yardsticks of deservingness« (14) under the parish relief system.

The correspondence also illustrates a level of advocacy for the poor, or at least for the provision of relief to them, by officials from their parish of residence, doctors, or even landlords writing to collect rent from the Kirkby Lonsdale parish. Thus, this collection not only portrays the voices of the poor at this time, but also of others around them who were invested in their appeals for aid.

Finally, the editors demonstrate the agency of the poor in their requests for out-parish relief under the Old Poor Law system. Whilst remaining cautious about ascribing agency to the poor, Jones and King rightly assert that it is difficult to find powerlessness in their correspondence. The letters give an insight into the rhetorical devices utilised to gain access to poor relief, such as references to »nakedness«, »starvation« or the writer's belonging within their parish of residence, and the relative success of these devices. By mapping the use of

rhetoric, friendliness and familiarity in appeals to the Kirkby Lonsdale Parish, Jones and King show that the poor were not just passive objects of the Poor Law system, but actually had a »formidable armoury of sentiment, linguistic sophistication and community support in their negotiations for relief« (3).

Overall, this collection provides thought-provoking insights into the workings of the Old Poor Law. Jones and King have curated an interesting and comprehensive set of primary sources that not only offers value to those studying the administration of the law, but also offers valuable evidence as to the agency, knowledge and experience of those seeking poor relief, and of the familiarity between those dependent on that relief and those administering it.



## Emily Kadens

### Commerce Between Law and Practice\*

Legal scholars today talk about contracting in the »shadow of the law«. In other words, contracting parties know that they draw up their private rules against a background of default sales law and remedies that courts will reference and enforce. But in his magisterial study of English commerce and commercial law between 1830 and 1970, Ross Cranston demonstrates that during this formative period of modern commerce, the description needs to be reversed. Lawmaking through courts and legislation happened in the shadow of contract.

While this is a book about commercial law, it centers on the participants in trade. Lawyers and judges and legal doctrine play subsidiary roles serving commodities exchanges and contracting parties.

Cranston's main argument is that commercial law (in its broadest sense) was made through the

private ordering of contracting parties and the exchanges that supported and to some extent lightly regulated them. In a legal, political, and cultural atmosphere privileging party autonomy, merchants, agents, producers, manufacturers, and retailers went about their business, developing customs and usages that regularized ordinary trade and innovating to meet new situations. Commodities exchanges eventually used that accumulated practice to draft standard form contracts. Most of this activity was done without reference to the formal law.

Lawyers acted as occasional advisors, whose advice was freely ignored if inconvenient. Courts provided guardrails addressing fraud, protecting vulnerable consumers, or sorting out risk of loss in the event of a party's insolvency. Otherwise, the period was characterized by a largely judicial *laissez*

\* ROSS CRANSTON, *Making Commercial Law Through Practice, 1830–1970*, Cambridge: Cambridge University Press 2021, 483 p., ISBN 978-1-107-19889-0