

**ILLICIT MOBILITIES AND WANDERING LIVES: INDIGENT  
TRANSCIENCY IN THE MID-ATLANTIC, 1816-1850**

**Thesis submitted for the degree of  
Doctor of Philosophy  
at the University of Leicester**

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**2016**

## **Abstract**

### **Illicit Mobilities and Wandering Lives: Indigent Transiency in the Mid-Atlantic, 1816-1850**

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This dissertation is a social history of indigent transiency, written using the records of criminal justice systems and poor relief infrastructure in order to examine the lives, experiences, and socio-political significance of vagrants and pauper migrants in the Mid-Atlantic between 1816 and 1850. It examines the causes for and consequences of illicit mobilities in this period, and argues that the policing of vagrancy and pauper mobility demonstrate key interpretations of the role of the state in defining and regulating class. It is the first study to link conceptually indigent transiency with the policing of vagrancy, limitations on the movement of African Americans, forced transportation of the wandering poor, and management of the spread of disease in this period.

This study follows the vagrants and pauper migrants whose geographical movements were at odds with settlement laws, state constitutions, and welfare policies. It charts how the itinerant poor were forcibly transported to places deemed by the state to be their legal settlement through the process of pauper removal long after most historians acknowledge removal to have ended. It also considers the ways in which fugitive slaves and runaway servants experienced a transition from the oppression of an unfree labour status to the oppression of poverty after participating in illicit forms of mobility.

This dissertation advances one central argument: that indigent transiency, in its many shapes and through the varied forms of its management, contributed significantly to contemporary understandings of citizenship, community, labour status, freedom of movement, the spread of disease, and the transformation of punishment in the early American republic. It proposes that indigent transiency was among the most important factors in determining how the poor lived, interacted with, and were viewed by local and state governments and their representatives, both under the law and by law enforcement, in this period.

## Acknowledgements

My sincere thanks go to my supervisors Dr. James Campbell and Dr. Elizabeth Clapp for their guidance and support in the research and writing of this dissertation. I am especially grateful to James for his keen understanding of the topic, astute analytical approach, and good cheer in our meetings. I'm grateful to Elizabeth, as well, for meeting and talking about the project with me at conferences across the US and UK over the last few years. This dissertation has been significantly improved by their feedback and comments, as well as those of the departmental annual assessors, Clare Anderson and George Lewis.

While conceptualising, researching, and writing this dissertation, I was fortunate enough to receive essential financial support from the following organisations, through grants, fellowships, and employment: the Peter Parish Memorial Fund awarded by the Association of British American Nineteenth Century Historians, the College of Arts, Humanities, and Law at the University of Leicester, the Society of Historians of the Early American Republic, the Maryland Historical Society, Drexel University, and the Archives of the Pennsylvania House of Representatives.

I am grateful for the assistance of archivists across New York, New Jersey, Pennsylvania, Maryland, and Delaware, who aided a fellow archivist and researcher in locating documents that others considered impossible to locate or, indeed, non-existent. Profound thanks also to all of the historians who kindly shared their time, interest, and enthusiasm at conferences and other events over the last few years, especially at SHEAR and BrANCH. The conversations I was fortunate enough to have with Sarah L.H. Gronningsater, Seth Rockman, Clare Anderson, Christian DeVito, Mike Wise, Debjani Bhattacharyya, Thavolia Glymph, Josh Greenberg, Hilary Miller, Bill Wagner, and Kirsten Wood over the past few years have been challenging, helpful, and have improved my work immeasurably.

My sincere thanks go to friends from Queen's University Belfast, who in many ways shaped my thinking about the topics discussed in this dissertation: Prof. Catherine Clinton, Louise Canavan, and Jonathan Lande. Catherine has offered far more intellectual, academic, and career-related support, not to mention cups of tea and positive chutzpah, than anyone could be expected to, and I remain in her debt.

Abigail Raymond and Christopher Schaeffer, beloved friends conveniently located near the archives in Philadelphia, provided me with countless opportunities to sleep on their Ikea couch and listened to tales of archival woe. Lynne Calamia, Quaker historian and Philadelphia transplant, provided invaluable conversation, emotional support, and vegan cookies from Wholefoods. Sincere thanks also to the Jordies, who provided frequent chances to hug their Boston Terriers, to the Kulfans, who offered unflagging confidence, and, of course, to the O'Brassills, who never doubted me for a second.

Most of all, I am grateful to my husband and comrade Christopher Kulfan for providing life-sustaining cooking, good humour, support, and sanity while I worked on this project. He accompanied me on numerous jaunts to archives and conferences, tolerated my frequent absences, and both enthusiastically and carefully read the full draft. All he asked for in exchange was homemade pizza and lifelong partnership. I intend to continue to provide both.

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## Abbreviations

PCA	Philadelphia City Archives
GPP	Records of the Guardians of the Poor, PCA
EXPA	Examinations of Paupers, Guardians of the Poor, PCA
VAG	Vagrancy Dockets, Philadelphia Prisons System, PCA
MCR	Medical Case Records, GPP, PCA
HTCA	Huntington Town Clerk's Archives, NY
UCCA	Ulster County Clerk's Archives, NY
DPA	Delaware Public Archives
MSA	Maryland State Archives
WCA	Westchester County Archives, NY
MDHS	Maryland Historical Society
NYCM	New York City Municipal Archives
PPL	Philadelphia <i>Public Ledger</i>
PI	Philadelphia <i>Inquirer</i>
LCHS	Lancaster County Historical Society, PA
PH	<i>Pennsylvania History: A Journal of Mid-Atlantic Studies</i>
PMHB	<i>Pennsylvania Magazine of History and Biography</i>

## Chapter 1: Introduction

In 1841, a young Scottish-born woman named Isabella Stewart donned an outfit of men's clothing, walked to Liverpool, and hired on to a ship's crew under the name of 'Billy Stewart.' She passed 'as a sailor boy...dressed in the habiliments, neatly rigged from top to toe' and 'actually performed the duty of a lad on board...for several days' before the crew's suspicions led to the revealing of her identity as 'a healthy, stout female, 16 years of age.' Stewart was punished for her use of false pretences by the captain, A. Turley, with passing the rest of the voyage in steerage wearing 'female apparel.' Newspapers throughout the antebellum United States reported on Stewart's escapades, which appealed to readers for the amusement offered by Stewart's trade on her gender. But underpinning the interest stimulated by the thought of a dainty female performing the hard labour of seafaring was a question of the relationship between subsistence and travel: according to the *National Gazette*, Stewart was 'a destitute girl, who had taken this method to get a passage to America.'<sup>1</sup> Participation in the antebellum Atlantic world's economy of makeshifts sometimes required going to great lengths, and often, as it did for Stewart, great distances.<sup>2</sup>

Stewart's participation in a form of illicit mobility involved a complete revamping of her identity for the sake of increasing her likelihood of cobbling together a living for herself, like so many other would-be Americans. But unlike many single-paragraph nineteenth century newspaper sensations, Stewart's notoriety was not limited to this one dramatic episode. Over a year after her arrival in the United States, she graced headlines in Philadelphia as 'The Sailor Girl' about 'whose adventures...a pretty romantic story' had been told by the press, when the city police reported committing her as a vagrant. The press was counting on the public's remembrance of her exploits by describing her as 'the girl that came a year or two since with Capt. Turley, from England, habited as a sailor.'<sup>3</sup>

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<sup>1</sup> 'A Would Be Sailor', *Niles' Weekly Register* (Baltimore, 1841), vols 59-60, p.368.

<sup>2</sup> This term is used to describe the varying means employed by the poor to make ends meet, notably in S. King and A. Tomkins (eds), *The Poor in England, 1700-1850: An Economy of Makeshifts* (Manchester, 2003).

<sup>3</sup> 'City Police', *PPL*, 6 June 1843.

The public's interest that the *Ledger* inferred likely stretched beyond curiosity at a cross-dressing sailor.<sup>4</sup> Stories of travel and other geographical movement have fascinated readers for centuries, and as Sandra Frink reminds us, for every wealthy traveller in nineteenth century America, 'there were thousands' of transients, mostly poor, 'whose lives were documented not in travelogues but in arrest records.'<sup>5</sup> Upon arrival in the United States, Isabella Stewart joined a subaltern class that prompted frequent and often punitive legislation, incited both the pity and scorn of the public, and drove the evolution of formal local policing.<sup>6</sup> The identities and personal narratives of these peripatetic individuals provide insight into the material realities of poverty experienced by huge swaths of the antebellum labouring classes, from vagrants to European immigrants to runaway slaves and servants. In addition to class, one other key factor bound this otherwise diverse group together: transiency. This combination of poverty and mobility, which I term 'indigent transiency,' was among the most significant factors in determining how the poor lived, interacted with, and were viewed by local and state governments and their representatives, both under the law and by law enforcement.<sup>7</sup> Vagrants, poor migrants, runaway slaves, and wandering beggars all fell under the umbrella of indigent transiency. Despite important differences in how they worked and moved, these groups shared a level of poverty and instability that placed them at odds with authorities.

This dissertation explores these topics by focusing on the relationship between welfare, mobility, crime, and punishment in the Mid-Atlantic region in the early nineteenth century, during the decades when poverty, by Seth Rockman's assessment, was 'the most pressing social issue facing the United States.'<sup>8</sup> In this period, 'commercial expansion and the early stages of industrialization' caused 'an economic crisis for the poor.' This worsened during the depression that began in 1816, the worst

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<sup>4</sup> Actual and fictional accounts of cross-dressing and female sailors were fairly common in the early nineteenth century. See B. Spengler, *Literary Spinoffs: Rewriting the Classics - Re-Imagining the Community* (Frankfurt-on-Main, 2015), pp.182-3.

<sup>5</sup> S. Frink, '“Strangers are Flocking Here”: Identity and Anonymity in New Orleans, 1810–1860', *American Nineteenth Century History*, 11, vol. 2 (2010), p.163.

<sup>6</sup> M.D. Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York, 2005), pp.51-9. D. Montgomery, *Citizen Worker: The Experience of Workers in the United States with Democracy and the Free Market During the Nineteenth Century* (Cambridge, 1995), p.29, p.61. G. SenGupta, *From Slavery to Poverty: The Racial Origins of Welfare in New York, 1840-1918* (New York, 2010), p.97.

<sup>7</sup> For the purposes of this study, the term indigent transiency, defined as repeated or continuous physical mobility by a member of the lower classes, will be used as an umbrella signifier for the variety of relevant groups, actions, and legal classifications discussed here.

<sup>8</sup> S. Rockman (ed.), *Welfare Reform in the Early Republic: A Brief Documentary History* (Boston, 2002).

effects of which were visible in the 1820s and 1830s. Widespread poverty resulting from even longer-lasting economic crises that began in 1819 and 1837 led to mass unemployment, prompting many in the United States to take to the road in search of work and economic stability.<sup>9</sup> These circumstances resulted in making the 1820s-1840s the peak of nineteenth century working Americans' mobility, which in turn led authorities to create new and update old methods for managing the poor and itinerant in law, penal policy, and poor relief.<sup>10</sup> As a result, these years are a prime timeframe in which to consider the nature and experience of transiency and the responses it elicited from local and state authorities.

Analysing the concept of indigent transiency as it was experienced by early Americans illustrates key aspects of how communities were defined by the emergence of capitalism, by class, and by stasis, how the lower levels of government managed the poor, and, in turn, how their role helped to define community membership and by extension, citizenship, at street level.<sup>11</sup> Indigent transiency, then, emerges as a useful framework within which to investigate the systems at work in the lives of the lower classes in the early American republic.<sup>12</sup> It acts as an epistemologically inclusive term to encompass the actions and identities that have variously been used to describe, in the early modern period, vagabonds and idlers, in the eighteenth and nineteenth centuries, vagrants, and in the nineteenth and twentieth centuries, tramps and hoboes.<sup>13</sup> These terms reflect the diverse social contexts in which they were used, as well as changing cultural interpretations of the actions they described. Indigent transiency provides a lens through which to examine the ways in which gender, race, ethnicity, and labour status affected how the state defined and interacted with varying groups among the poor and mobile lower classes in this period.

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<sup>9</sup> G.B. Nash, 'Poverty and Politics in Early American History', *Down and Out in Early America*, ed. B.G. Smith (University Park, PA), p.14, and S. Klepp, 'Seasoning and Society: Racial Differences in Mortality in Eighteenth-Century Philadelphia', *William and Mary Quarterly*, 51 (1994), pp.473-506.

<sup>10</sup> P.F. Clement, 'The Transformation of the Wandering Poor in Nineteenth-Century Philadelphia' in *Walking to Work: Tramps in America, 1790-1935*, ed. E.H. Monkkenon (Lincoln, NE, 1984), p.59. R.A. Mohl (ed.), *The Making of Urban America* (Lanham, MD, 2006), p.8. M.B. Katz, *Poverty and Policy*, pp.157-8. Furthermore, one of the main bases of primary sources utilised in this study, the examinations of paupers, end with the 1840s, creating a logical end point.

<sup>11</sup> These issues have been discussed in M. Abramovitz, *Regulating the Lives of Women: Social Welfare Policy from Colonial Times to the Present* (Boston, 1988), p.137, J.U. Hannon, 'Poverty in the Antebellum Northeast: The View from New York State's Poor Relief Rolls', *Journal of Economic History* 44, no. 4 (1984), pp.1007-16, and K.J. Winkle, *The Politics of Community: Migration and Politics in Antebellum Ohio* (Cambridge, 2002), p.2, pp.60-1, p.175.

<sup>12</sup> J.D. Schmidt, *Free to Work: Labor Law, Emancipation, and Reconstruction, 1815-1880* (Athens, GA, 1998), pp.62-5.

<sup>13</sup> T. Cresswell, *The Tramp in America* (London, 2001), pp.9-10, 12.

This dissertation's main argument is that indigent transiency was a central factor in meting out poor relief, drawing boundaries around communities, defining citizenship, and shaping the role of the penal system in the early American republic. It is the first study to link conceptually indigent transiency with the policing of vagrancy, limitations on the movement of African Americans, forced transportation of the wandering poor, and management of the spread of disease in this period. These processes occurred in a dynamic space that connected diverse communities and crossed state lines. As such, in a study of a form of geographical movement, a regional scope is most useful to effectively reflect the extent and diversity of mobility that was occurring. Notably, the states that comprise the Mid-Atlantic region (New York, New Jersey, Pennsylvania, Delaware, and Maryland) included the most bustling ports, greatest population diversity, and evolving systems of poor relief and criminal punishment in the early nineteenth century United States.<sup>14</sup> This is not to suggest uniformity of law or experience across the whole region, but rather that there was a shared conception of indigent transiency – as well as efforts to diminish and control it – across these states in the early republic. What follows here is a study that utilises both qualitative analysis and quantitative data to investigate the lives of indigent transients and the nature of poor relief policies, vagrancy laws, and incarceration in the early nineteenth century.<sup>15</sup>

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<sup>14</sup> The term 'Mid-Atlantic' is frequently used by scholars to denote the states that lie between New England and the Upper South. It is a generally descriptive term for the region that has tended to carry less meaning than others do, as Randall Miller and Beverly Tomek have argued. Scholars, they note, 'agree that the Mid-Atlantic lacks the social and cultural cement of a self-conscious regionalism that holds people to place and each other as it does elsewhere.' Still, when *PH* published a special issue of the journal devoted to defining the term in 2015, it featured a description of the function of the Mid-Atlantic as an analytical category based on the following characteristics: within the region, cities were the 'central agents for...development...much more so than either New England or the South, both of which lacked the ports that facilitated trade and thus dictated settlement patterns in the colonial and early national periods. Once established as key agents of growth along the Atlantic hinge with Europe, New York and Philadelphia especially in foundational years and later Baltimore and Washington, DC, linked maritime trade to their hinterlands', solidifying their importance and integral place in the geography of the nation. Ill-defined yet widely used by scholars, the term 'Mid-Atlantic' is useful for this study because there is a sense, in the early nineteenth century, of shared legal culture and pace of social change among the states that comprise it. Additionally, the transients at the centre of this study circulate primarily through and within this 'motley middle', reinforcing the notion of connectivity in this region, at least in the early republic. R.M. Miller and B.C. Tomek, 'Defining the Mid-Atlantic Region', *PH*, 82, no. 3 (2015), pp.257-9. H. Gillette, Jr. 'Defining a Mid-Atlantic Region', *PH*, 82, no. 3 (2015), pp.373-80. P. Swirski, *All Roads Lead to the American City* (Hong Kong, 2007), pp.100-103. R. Lane, *Violent Death in the City: Suicide, Accident, and Murder in Nineteenth-Century Philadelphia* (Columbus, OH, 1999), pp.1-2.

<sup>15</sup> This approach is in keeping with much new social history and new 'history from below' in the past few decades (combining approaches from the *Annales* school, Marxist, and social history). See F.G. Couvares, *Interpretations of American History*, 1 (New York, 2000), pp.18-20 and T. Hitchcock, 'A new history from below', *History Workshop Journal*, 57 (2004), pp.294-8.

Approaching these topics from this perspective also raises the question of the extent to which indigent transiency and the ideas and systems associated with it can be classified as uniquely American. Most of the relevant laws and definitions at play on the topic of indigent transiency have a root in early English jurisprudence, and there was a shared transatlantic culture linked to indigent transiency. But the implementation of these laws and imposition of these categories on the population of the United States were influenced by factors unique to the nation, especially on points where race and labour distribution were key. And the nature of the founding of the United States has meant that, as Tim Cresswell has asserted, mobility has been construed ‘as a right – as a geographical indicator of freedom...intertwined with the very notion of what it is to be a national citizen – to be American,’ because the ‘ideology of America as uniquely mobile is a very powerful one.’<sup>16</sup> Significantly, on this topic, the findings laid out here suggest, while there were many similarities across the Mid-Atlantic in authorities’ approaches to dealing with poverty, mobility, and vagrancy, a completely unified stance did not exist. This was a result of the weakness of the federal apparatus in the early American republic, which essentially delegated management of poor relief and geographical movement sometimes to state but mostly to local governments.<sup>17</sup> This led to a variety of different management approaches and lent significant discretionary power to lower level authorities who interacted directly with indigent transients.<sup>18</sup> In this context, the rhetorical use of the phrase ‘the state’ is intended to refer to the varied authorities that managed municipal, county-level, regional, and state governments.

By analysing applicable laws, discourse, and quantitative data, this study considers the following questions: what does it say about the nature of poverty and divisions of class in the early American republic that settlement and removal systems were the primary vehicles to relieve and control the poor? To whom were these laws applied, and upon whom were these systems imposed? Who were the vagrants and indigent transients experiencing the fruits of the authorities’ labours? What can the details of their lives, choices, and experiences reveal about the nature of vagrancy and the understandings of class and geographical movement in the early American republic?

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<sup>16</sup> T. Cresswell, *On the Move: Mobility in the Modern Western World* (New York, 2006), p.51.

<sup>17</sup> Jen Manion argues that ‘the excessive enforcement of vagrancy laws reflected local rather than state or national values of punishment. Constables and watchmen filled the prison with people to get them off the streets.’ J. Manion, *Liberty’s Prisoners: Carceral Culture in Early America* (Philadelphia, 2015), p.118.

<sup>18</sup> A. Steinberg, *The Transformation of Criminal Justice, Philadelphia, 1800-1880* (Chapel Hill, 1989), p.276.

Historians of class in the early United States, such as Jacqueline Jones, Seth Rockman, and Billy G. Smith, have constructed a powerful narrative about the un-severable link between capitalism and labour, about the subsistence methods employed by the labouring classes.<sup>19</sup> These have generally been studies that are rooted in place and in the identity of a built environment.<sup>20</sup> But so many of the members of this subaltern class were far from rooted, and it was their *mobility* that defined the law. In turn, then, this project asks, what defined their mobility? And what can it tell us about community, citizenship, and the physical experiences of poverty and subsistence in the early republic?

At the dawn of the transportation and industrial revolutions, the experience of poverty was defined by transiency, and its relief by persistence. Desires to curb the migration of indigents across international, state, and even municipal borders drove legislation relating to the poor. In Maryland, justices of the peace and constables were authorised to seek out the poor and monitor their movements in order to, as an 1811 law stipulated, ‘restrain poor people from going...from one county to another.’<sup>21</sup> Those who did not comply with such laws were to be arrested as vagrants, and in many cases, vagrancy was the very action which brought the individual into contact with authorities in the first place. The driving theme behind these laws and convictions was the transiency of the indigent. As Seth Rockman notes, vagrancy laws ‘polic[ed] people for the needs of a capitalist market system,’ as legal devices to force the idle or unemployed into productive activity.<sup>22</sup> This effective system was developed because, as Jen Manion has noted, ‘poverty and its attendant life circumstances (homelessness, unemployment, living on streets, illness, begging, relying on religious or public charity)...threaten[ed] the American experiment more than the British military ever could.’<sup>23</sup>

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<sup>19</sup> See J. Jones, *American Work: Four Centuries of Black and White Labor* (New York, 1999), S. Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore, 2009), B.G. Smith, *The ‘Lower Sort’: Philadelphia’s Laboring People, 1750-1800* (Ithaca, 1990), *Down and Out in Early America* (University Park, PA, 2010), and B.G. Smith and S. Middleton, *Class Matters: Early North America and the Atlantic World* (Philadelphia, 2008).

<sup>20</sup> The work of Marcus Rediker, Peter Linebaugh, and David Montgomery is an exception. Much of their work has been constructed from the perspective that because the lower classes themselves could not be constricted and uniformly mapped, neither should studies of them. See P. Linebaugh and M. Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, 2000) and Montgomery, *Citizen Worker*.

<sup>21</sup> ‘Act for the relief of the poor within the several counties therein mentioned’, *The Laws of Maryland* (Baltimore, 1811).

<sup>22</sup> S. Rockman, ‘Work, Wages, and Welfare at Baltimore’s School of Industry,’ *Maryland Historical Magazine*, 102 (2007), pp.572-607.

<sup>23</sup> Manion, *Liberty’s Prisoners*, p.15.

Towns, cities, counties, and states expended huge proportions of their municipal budgets in providing for the emergency and maintenance needs of the indigent. Payment into these budgets was considered an obligation of taxable citizens and, generally, only residents were eligible. Priscilla Ferguson Clement has estimated that in Philadelphia, 'roughly one-quarter of the population' was classified as labouring poor, paying only 'the minimum amount of taxes.'<sup>24</sup> Transients often paid no taxes: one of the common rules in the complex settlement qualification process was the payment of, at least, poor taxes, which were seen as a way for paupers to balance out the use of resources for their care. This provided the basis for the pauper removal system: individuals who had not paid poor tax to a town, or earned a residence by some other means that contributed to the local economy, such as labour or indenture, were to be sent back to the last place where they had done so, rather than drain the resources of a district to which they had not paid in.

Non-residents – strangers, wanderers, and immigrants, especially African Americans and the Irish – were viewed as threats to the fiscal responsibility of communities, as they might draw on those funds in an emergency without the ability or intention to ever pay back into community coffers as taxpayers.<sup>25</sup> Thus, indigent transiency was managed and, more pointedly, controlled, by authorities in the early nineteenth century north in two important ways: the punishment of vagrancy and the distribution of poor relief. This had a significant impact on the lower classes because, as Christine Stansell has noted, 'the local and migratory poor incorporated relief into their survival patterns; poor relief was, for many, not simply a recourse in a catastrophe but a structural element of subsistence.'<sup>26</sup> Laws and prosecution related to legal settlements and residency governed how poor relief was administered throughout American history. Scholars such as Ruth Wallis Herndon, Cornelia H. Dayton, and Sharon V. Salinger have charted the early practices of warning individuals to leave a given residential district to prevent them from becoming a drain on public relief budgets (an important touchstone for understanding early New England communities, in

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<sup>24</sup> P.F. Clement, *Welfare and the Poor in the Nineteenth-Century City* (Cranbury, NJ, 1985), p.36.

<sup>25</sup> These groups were feared as economic burdens, interlopers who would degrade local communities, and threats to the physical and physiological well-being of others. K. M. Brown, *Foul Bodies: Cleanliness in Early America* (New Haven, 2009), p.284.

<sup>26</sup> C. Stansell, *City of Women: Sex and Class in New York, 1789-1860* (New York, 1986), p.33.



particular) from being fundamental and actual in the seventeenth century, to symbolic and calculating in the eighteenth century.<sup>27</sup>

Historians have generally agreed that by the 1770s, warning no longer served as a legal mechanism by which to extricate an individual from a district but rather as a means to protect the limited available funds of public relief, allowing the wandering poor to be present in a district, but not to receive public aid.<sup>28</sup> But this assumption has prevented scholars from investigating occurrences of removal after that date. On this point, the distinction between the regions in the New England states and further south, in the Mid-Atlantic States, is clear. In the latter, this dissertation argues, removal remained a key component in the management of indigent transients, and poor persons were forcibly physically removed to their place of legal settlement with regularity into the 1830s, and more occasionally as recently as the 1930s.<sup>29</sup> The goals, functions, and consequences of pauper removal will be discussed in detail.

Economic downturns have generally been the most common impetuses for widespread geographical movement by white Americans. This was especially true in the years immediately following the War of 1812, when some estimates suggest that as many as one-third of labourers in Philadelphia were unemployed. Time brought little relief. Unemployment remained high, at roughly one fifth of the city's residents, about 20,000 in a population of 100,000.<sup>30</sup> Dire straits drew many to the city, where better economic opportunities were perceived to lie, which meant that Philadelphia, as Gary B. Nash notes, 'function[ed] as a catchment for an area stretching from the West Indies to New England' as 'new infusions of outsiders continued' in the first decades of the nineteenth century. African Americans were especially vulnerable in these decades of economic distress, and from 1815 through the 1820s, 'the proportion of blacks in the almshouse outstripped their share of the population.'<sup>31</sup>

It is estimated that around one tenth of the population of New York City received poor relief in 1820, prompting grave concerns over provisions for the poor and

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<sup>27</sup> R.W. Herndon, *Unwelcome Americans: Living on the Margin in Early New England* (Philadelphia, 2001), C. Dayton and S. Salinger, *Robert Love's Warnings: Searching for Strangers in Colonial Boston* (Philadelphia, 2014).

<sup>28</sup> This argument is put forward in Dayton and Salinger, *Robert Love's Warnings*, p.15, p.65, p.166.

<sup>29</sup> *Porter Township vs Susquehanna Township*, Supreme Court of Pennsylvania, 1935.

<sup>30</sup> P.F. Clement, 'The Philadelphia Welfare Crisis of the 1820s', *PMHB*, 105, no. 2 (1981), p.151.

<sup>31</sup> G.B. Nash, *Forging Freedom: The Formation of Philadelphia's Black Community, 1720-1840* (Cambridge, MA, 1988), p.214.

the sustainability of offering aid to such large numbers of the needy. There, as William Trattner has written, ‘destitution was widespread; beggars and vagrants stalked the streets’ throughout the early decades of the nineteenth century.<sup>32</sup> With greater unemployment came greater transiency, as more people moved in pursuit of work. Well into the 1840s, New York City authorities estimated that about one in seven persons who were in the city on a given day were part of the ‘floating’ population of vagrants and transients, totalling about 50,000 individuals.<sup>33</sup> Even counting only those who were actually convicted of vagrancy or incarcerated in the vagrant cellars of the almshouse yields a figure of nearly 2% of the entire city population in Philadelphia in the 1820s.<sup>34</sup> And yet, throughout the antebellum era, as Jen Manion notes, ‘those suffering greatly under the volatile economy of the early republic were targeted as the source of a social problem rather than result of an economic one.’ Historians discuss this decade as the time when many Americans began to turn ‘against the poor.’<sup>35</sup>

This study of indigent transiency is situated at the intersection of numerous distinct lines of historiographical enquiry. From the legal history of vagrancy law to the social and cultural histories of vagrancy, poverty, and mobility to historical epidemiology and the critical study of carceral practice, each of these threads intervenes in the narrative of indigent transiency in the early nineteenth century United States. Todd DePastino noted the interconnectivity at work in the study of vagrancy in his 2003 monograph *Citizen Hobo: How a Century of Homelessness Shaped America*, stating that the subject ‘brings together a great many discrete historiographies...of previous scholarship in the history of race, poverty, gender, sexuality, social welfare, migratory labor, and urban culture.’<sup>36</sup> As will be shown here, the inclusive historiography of indigent transiency has consistently emphasised law and has also been skewed toward investigations in the later nineteenth and early twentieth centuries. The topic has received scant historiographical attention in studies of the early republic,

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<sup>32</sup> W.I. Trattner, *From Poor Law to Welfare State, 6th Edition: A History of Social Welfare in America* (New York, 2007), p.68.

<sup>33</sup> K.A. Scherzer, *The Unbounded Community: Neighborhood Life and Social Structure in New York City, 1830–1875* (Durham, NC, 2014), p.87.

<sup>34</sup> Using an average from Clement’s data on the vagrant population in the Philadelphia Prison from three sample years: 1823, 1825, and 1826, combined with data from the Philadelphia Almshouse census counting inhabitants of the vagrant cellars, the overall population figure hovers between 1.25 and 1.7%. Clement, ‘Transformation,’ 66. Almshouse Weekly Census, Alms House Records, GPP.

<sup>35</sup> Manion, *Liberty’s Prisoners*, p.15, p.92; Clement, ‘Philadelphia Welfare Crisis,’ A.M. Zachary, ‘Social Disorder and the Philadelphia Elite Before Jackson’, *PMHB*, 99, no. 3 (1975), p.288-308.

<sup>36</sup> T. DePastino, *Citizen Hobo: How a Century of Homelessness Shaped America* (Chicago, 2003), p.7.

despite a general acknowledgement of how widespread pauper migration was in these years.

Yet, as Marie-Eve Sylvestre has observed, ‘the regulation and criminalization of homeless people shows remarkable historical continuity,’ and thus can be linked throughout the history of the Atlantic world.<sup>37</sup> The more Americans moved, the more important stasis and residency became. The strain placed on the poor relief system and the shift toward intensified punitive policies against the itinerant poor was partially the result of the inadequacy of colonial and early national poor law systems for dealing with the crisis brought on by the rise in capitalism by the 1820s.<sup>38</sup> The events of the nineteenth century amplified this as the decades passed – from the African American experience of Reconstruction to the tramp scare of the 1890s. The roots of these phenomena lie in the 1820s, when many thousands of Americans were hungry, cold, and placeless. Their stories belie the definition of national citizenship, and, as Jeffrey Adler notes, were a contemporary challenge to ‘the delicate web of mutual obligation that provided relief for the poor,’ because they moved too frequently to meet tax requirements or to gain legal settlements that would entitle them to aid.<sup>39</sup>

Stephan Thernstrom and Peter R. Knight’s landmark 1970 study of nineteenth century Americans’ mobility was arguably the first concerted effort to determine why geographical movement was such a defining feature of life for the lower and middling classes. They asserted that, for the labouring classes and indigent transients, spatial mobility was not a one-way move, but rather, was a continual feature of their lives, part of an ongoing search for employment, safety, and community. Indeed, the study to follow here confirms Thernstrom and Knights’ assertion that ‘long distance or leapfrogging mobility seems to have been more common than short-distance movement in the antebellum period.’<sup>40</sup> Their findings challenged the idea of the ghettoisation of the poor in slum neighbourhoods, allowing further work to point out that the poorest

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<sup>37</sup> M. Sylvestre, ‘Crime and Social Classes: Regulating and Representing Public Disorder’, in *Criminalization, Representation, Regulation: Thinking Differently about Crime*, ed. D. Brock, et al (Toronto, 2014), p.229. For more on trends in how the homeless and transient have been viewed, which continued to remain similar through the twentieth century, see F.T. Higbie, *Indispensable Outcasts: Hobo Workers and Community in the American Midwest, 1880-1930* (Champaign, IL, 2003), p.11.

<sup>38</sup> Abramovitz, *Regulating the Lives of Women*, p.137; Hannon, ‘Poverty in the Antebellum Northeast’, pp.1007-16; Winkle, *The Politics of Community*, p.2, pp.60-1, p.175.

<sup>39</sup> Adler, ‘Analysis of the Law’, p.214.

<sup>40</sup> S. Thernstrom and P.R. Knights, ‘Men in Motion Men in Motion: Some Data and Speculations about Urban Population Mobility in Nineteenth-Century America’, *Journal of Interdisciplinary History*, 1, no. 1 (1970), p.32.

were often the most mobile. This discovery has received little historiographical follow-up, and indeed, scholarly perceptions of poverty are still skewed by community-based studies, where the privilege of stasis and residency are not often accounted for. In 1979, Charles Stephenson made this very assertion in asking the question ‘Who ruled?’ in the nineteenth century polity. His answer: ‘those who stayed in the town.’<sup>41</sup> This statement is profoundly true, as the challenges faced by transients in the nineteenth century, especially indigent transients, clearly show. This underscores the importance of considering those who populated the in-between spaces – those who travelled between towns – when questioning the operation of the antebellum polity and distribution of power. These transients, as Marcus Rediker and Christopher Hill remind us, were ‘carrier[s] of information and ideas between different groups of labouring people’ and other members of the lower classes.<sup>42</sup> On this subject, the research presented here is in conversation with recent work published by Ruth Wallis Herndon and Amilcar E. Challú, which suggests that, though ‘scholars have long recognized that poor people were attracted by the early American city,’ it has not been acknowledged that ‘they continued to be mobile after they arrived,’ which classifies continued transiency and exchange, not just one-way migration, as a key fixture in the lives of the poor.<sup>43</sup>

Thernstrom and Knights describe indigent transients as a floating proletariat, essentially a mobile mass of wage labourers.<sup>44</sup> But as Michael B. Katz and Bryan Wagner have pointed out, the itinerant poor and vagrants of the first half of the nineteenth century were rather more of a ‘classic lumpenproletariat.’<sup>45</sup> For Wagner, the term lumpenproletariat takes on even greater importance than just social designation: it becomes a material embodiment of the physical features of a person, the very features that criminalise them and their actions. In the German from which the term is derived, ‘lumpen’ translates literally to ‘rags and tatters.’ Since ‘vagrancy has no empirical

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<sup>41</sup> C. Stephenson, ‘A Gathering of Strangers?’: Mobility, Social Structure, and Political Participation in the Formation of Nineteenth-Century American Workingclass Culture’, *American Workingclass Culture: Explorations in American Labor and Social History*, ed. M. Cantor (London, 1979), p.41.

<sup>42</sup> M. Rediker, ‘“Good Hands, Stout Heart, and Fast Feet”: The History and Culture of Working People in Early America’, *Labour/Le Travail*, 10 (1982), pp.141-2. C. Hill, *The World Turned Upside Down: Radical Ideas during the English Revolution* (New York, 1972), pp.48-51.

<sup>43</sup> R.W. Herndon and A.E. Challú, ‘Mapping the Boston Poor: Inmates of the Boston Almshouse, 1795-1801’, *Journal of Interdisciplinary History*, 44, no. 1 (2013), pp.62-3.

<sup>44</sup> When Marx defined the lumpenproletariat in 1852, he referred to existing European populations comprised of ‘vagabonds, discharged soldiers, discharged jailbirds...ragpickers, beggars.’ Many of these terms are obviously derogatory, but are apt in light of the contemporary language. K. Marx, *The Eighteenth Brumaire of Louis Bonaparte* (New York, 1987), p.75.

<sup>45</sup> M.B. Katz, *Poverty and Policy*, p.163.

reference' per se, it is the 'rags' that 'stamp the vagrant as a vagrant by rendering all other properties irrelevant.'<sup>46</sup> If the vagrant class in the nineteenth century, then, was a *floating lumpenproletariat*, a term which in its origin encompassed dozens of diverse categories of individuals among the lower classes (who Peter Linebaugh and Markus Rediker have described as 'motley...dressed in rags,' 'multitudinous,' and 'mobile') there is an opportunity to point out this diversity, with the aim of giving voice to the many varied experiences among this little-represented group, and further interrogating the materiality and corporeality of historical vagrancy.<sup>47</sup>

On the subject of indigent transiency, legal history was the earliest and most dominant field of scholarly output. In an influential 1956 article, Caleb Foote drew on the long legacy of the English poor law's effect on the American homeless to argue against the state control and punishment of the movements of the poor, and, importantly, to link vagrancy prosecution to settlement and removal laws. William Chambliss took this stance a step further with his 1964 article 'A Sociological Analysis of the Law of Vagrancy.' In this incisive Marxist study of the fourteenth century English origins of vagrancy law, Chambliss argues that statutes controlling the movements of serfs came about out of an elite effort to protect class power as feudalism began to wane. Even with the shift to capitalism and later, industry, Chambliss argued, vagrancy laws were transformed from codified indemnity for wealthy landowners into a means of protection for commercial economic interests.

A later generation of legal historians favoured social and cultural approaches over a materialist approach. Jeffrey Adler asserted that while some of Chambliss' arguments ring true in relation to the continuity of vagrancy law as a means of preserving a primarily economic status quo, in actuality it was likely that the evolution of such statutes came about more as a means of controlling labour and morality than modes of production. According to Adler, it was 'widespread poverty and pauperism, not crimes against property [that] shaped the development of vagrancy law.'<sup>48</sup> Adler

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<sup>46</sup> B. Wagner, *Disturbing the Peace: Black Culture and Police Power after Slavery* (Cambridge, MA, 2009), p.40.

<sup>47</sup> Joan Crouse has argued the same for approaching the study of homelessness during the Great Depression, stating that an 'almost indiscriminate classification of a diverse aggregate of individuals' were included under the category of vagrancy during that period. See J. M. Crouse, *The Homeless Transient in the Great Depression: New York State, 1929-1941* (Albany, NY, 1986), p.12 and P. Linebaugh and M. Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston, 2000), p.332.

<sup>48</sup> Adler, 'A Historical Analysis', p.213.

describes ‘the twin scourges of poverty and migration’ as impetuses for lawmakers to strengthen vagrancy laws from the sixteenth to nineteenth centuries in Europe, and concludes that the same was true in the United States until the social impacts of industrialisation transformed the vagrant population to ‘the criminal, not the poor, the homeless, or the unemployed’ by the later nineteenth century.<sup>49</sup>

This dissertation demonstrates that the interpretations of scholars like Chambliss and Adler are not mutually exclusive. While excessive poverty and mobility were certainly the prime movers behind the regulation of vagrancy in early America, authorities’ and elites’ desires to maintain social order and community boundaries via the exclusion of poor migrants indicate that concerns for the preservation of property and class power, also played a role, as Chambliss suggested. Linking these two critical perspectives answers the call of new labour historians and scholars of the relationship between class and capitalism to recognise the social and material relationship between poverty and the marketplace.<sup>50</sup>

James Schmidt’s 1998 monograph *Free to Work: Labor Law, Emancipation, and Reconstruction, 1815-1880* echoes William Chambliss to some extent, in its Marxist analysis of vagrancy laws as a means of labour control. Schmidt asserts that ‘the state’s regulation of vagrancy’ was ‘aimed primarily at establishing bourgeois culture.’<sup>51</sup> The evidence used in this study is at odds with Schmidt’s assessment, arguing, rather, that the intent was to foster a conception of citizenship within a narrowly-defined frame of labour and civic participation, which had the effect of criminalising lower class identity. Loosely tied to material determinism here is the brief but significant connection drawn to the study of material culture, extending from Schmidt’s articulated association of vagrancy with ‘pestilence.’<sup>52</sup> Schmidt’s purpose does not lie in further elucidating contemporary collusions of poverty and disease, nor in probing the material possibilities in a cultural history of the vagrant, but his observations provide an excellent starting point for further research on the relationship between vagrancy and disease.

It is in this historiographical gap that I situate a narrative of the continuum of

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<sup>49</sup> Adler, ‘Vagging the Demons’, p.18.

<sup>50</sup> S. Rockman, ‘Class and the History of Working People’, *Journal of the Early Republic*, 25, no. 4 (2005), p.528.

<sup>51</sup> Schmidt, *Free to Work*, p.53.

<sup>52</sup> *Ibid.*, p.57.

transient homelessness in early nineteenth century America, through examinations of the connections between the patterns of geographical movement among indigent travellers, beliefs among the general public regarding health, illness, and epidemiology. As Erin O'Connor describes in her 2000 book *Raw Material: Producing Pathology in Victorian Culture*, cholera was linked in the popular imagination to social problems, especially poverty. Most importantly, cholera was said to 'follow the lines of human traffic,' progressing along major thoroughfares, creating new victims on its path.<sup>53</sup> As a result, the vulnerable individuals who traversed those lines and fell ill became associated with the spread of the disease. Vagrants, in particular, stood at the nexus of social distrust, fear, and blame as they embodied poverty, criminality, and during the so-called 'cholera years,' pestilence, as well.<sup>54</sup> This dissertation engages with these connections with a view toward expanding the literature on contemporary understandings of the health of vagrants, their perceived and actual roles in the transmission of disease, and their relationship with the public more broadly.<sup>55</sup>

Though the 'linguistic' analytical turn in cultural and social histories is often downplayed in structuralist scholarship, word choice is still an important consideration for scholars in writing the lives of vagrants as well as in their readings of contemporary sources. As Jeffrey S. Adler asserted in his study of economic growth and vagrancy in antebellum St. Louis, 'although nineteenth century lawmakers and law enforcers often drew a sharp distinction between vagrants and tramps, historians have frequently assumed that the terms were used interchangeably.'<sup>56</sup> This is detrimental to efforts to create a whole historical picture of the phenomenon, and elides the unique experiences of a diverse population into a homogenous group. The historiography of vagrancy emphasises the rail-riding tramps and hoboos of the later nineteenth to early twentieth centuries, who have been discussed extensively by historians like, most recently, Mark Wyman and Frank Tobias Higbie.<sup>57</sup> Human geographer Tim Cresswell's *The Tramp in America* goes furthest in considering the cultural generation of the late Victorian and Depression-era tramp in American society, with the goal of articulating what forms of

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<sup>53</sup> Erin O'Connor, *Raw Material: Producing Pathology in Victorian Culture* (Durham, NC, 2000), pp.27-35.

<sup>54</sup> Cresswell, *Tramp in America*, pp.22-6.

<sup>55</sup> C. Rosenberg, *The Cholera Years: The United States in 1832, 1849, and 1866* (Chicago, 1962).

<sup>56</sup> Jeffrey S. Adler, 'Vagging the Demons and Scoundrels: Vagrancy and the Growth of St. Louis, 1830-1861', *Journal of Urban History*, 13, no. 1 (1986), p.4.

<sup>57</sup> See Mark Wyman, *Hoboos: Bindlestiffs, Fruit Tramps, and the Harvesting of the West*, (New York, 2010) and Higbie, *Indispensable Outcasts*.

knowledge *created* the tramp as a social and cultural category.<sup>58</sup> This linguistic approach provides insight into the characteristics of the chronology of vagrancy as both a culturally-created and culturally agent category in the late nineteenth century United States. In a 2005 review essay, Todd McCallum claimed that ‘the tramp is back,’ observing that the cultural histories of indigent transiency written by Todd DePastino, Higbie, and Cresswell, published between 2001 and 2003, signified an historiographical revival of literature about tramps and tramping. He argued that ‘the transient worker was one of the most significant economic and cultural figures in North America in the period from the first ‘tramp scare’ of the 1870s to the great Okie migrations of the 1930s.’<sup>59</sup> Despite this topical focus, and perhaps because of this chronological focus, indigent transients in earlier periods have still received limited attention.

Kenneth Kusmer’s *Down and Out, On the Road: The Homeless in American History*, published in 2002, could be added to the list of publications that comprised the few brief years of resurgence of literature on vagrancy, homelessness, and tramps at the turn of the twenty first century. Like the other authors mentioned, Kusmer’s focus is the late nineteenth and early twentieth centuries. The single chapter in the book devoted to homelessness before 1865, however, leaves many questions unanswered. Kusmer argues that ‘the 1850s witnessed a genuine prelude to the massive vagrancy problem of the 1870s,’ noting the increase in vagrancy arrests nationwide in the years leading up to the Civil War.<sup>60</sup> He explains that vagrancy became more widespread after the Panic of 1819, and it was not until mid-century that governments began to make concerted efforts to address it. The history of vagrancy in these intervening years is scarcely examined, and Kusmer’s study leaves open-ended questions of identity among the homeless in this period.

As described above, the historiography of American vagrancy has been skewed toward the late nineteenth and early twentieth centuries. Perhaps the clearest example of this is in the work of Amy Dru Stanley on postbellum labour contracts and laws against beggars, which acknowledges American vagrancy laws as an ‘inheritance’ from early modern England, but moves from this colonial legacy directly into the Civil War and

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<sup>58</sup> Cresswell, *Tramp in America*, pp.10-1.

<sup>59</sup> T. McCallum, ‘The Tramp is Back’, *Labour/Le Travail*, 56 (2005), pp.237-8.

<sup>60</sup> K. Kusmer, *Down and Out, On the Road: The Homeless in American History* (New York, 2002), p.25.



Reconstruction.<sup>61</sup> Stanley argued that in the tumultuous Reconstruction period, ‘devices such as vagrancy laws and compulsory contracts’ were tools used ‘to mediate the transition from slavery to freedom.’<sup>62</sup> As the evidence presented in this dissertation suggests, the same can be said of the era of gradual manumission in the antebellum period. Then, as recurred in the postbellum period, fear and the desire to ‘protect’ communities from mobile black labourers incapable of providing for themselves in the absence of the so-called provisions of bondage drove the use of vagrancy statutes and laws limiting the geographical movement of free and recently emancipated blacks, as well as others whose labour was viewed as owed as a safeguard against beggary and the need for poor relief.<sup>63</sup> This dissertation argues that the transition to white authorities’ reliance on vagrancy laws and codified limitations of movement and residence based on race and class, which Stanley points to in the aftermath of slave emancipation at the close of the Civil War, began across the north where piecemeal and gradual emancipations instigated huge shifts in populations and policies.

The literature on the early nineteenth century would benefit from analysis of the impact of vagrancy laws in the antebellum era similar to that which Stanley and others, such as Mary Farmer-Kaiser and William Cohen, have provided for the postbellum era.<sup>64</sup> The work which most closely addresses these issues has generally included studies of early nineteenth century welfare and reform. The earliest of these is Priscilla Ferguson Clement’s highly localised study of antebellum vagrancy, ‘The Transformation of the Wandering Poor in Nineteenth-Century Philadelphia.’ Her research, focusing on Philadelphia’s indigent transient population between 1820 and 1860, sets a precedent to read non-resident almshouse inmates as vagrants, shedding light on aspects of the record that may have been missed, and which can provide clearer

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<sup>61</sup> A. Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge, 1998), p.99.

<sup>62</sup> Stanley, *From Bondage*, p.132. Jacqueline Jones, too, has noted that, immediately following the end of the Civil War, many plantation owners and overseers prosecuted the formerly enslaved for exercising ‘liberty of locomotion’ by leaving ‘the plantation without permission.’ Jones, *American Work*, p.245.

<sup>63</sup> P. Finkelman, ‘Rehearsal for Reconstruction: Antebellum Origins of the Fourteenth Amendment’, *The Facts of Reconstruction: Essays in Honor of John Hope Franklin*, ed. E. Arnesen (Baton Rouge, LA, 1991), pp.8-9.

<sup>64</sup> See Stanley, *From Bondage*, M. Farmer-Kaiser, ‘“Are they not in some sorts vagrants?”: Gender and the Efforts of the Freedmen’s Bureau to Combat Vagrancy in the Reconstruction South’, *Georgia Historical Quarterly*, 88, no. 1 (2004), pp.25-49. William Cohen is one of the few historians to acknowledge the full impact of antebellum racialised vagrancy legislation redeployed to punish recently emancipated slaves after the Civil War. He notes that ‘the prewar laws of North Carolina, Delaware, and Maryland dealing with free Negro vagrants bear a close resemblance to the southern vagrancy laws of 1865 and 1866.’ W. Cohen, *At Freedom’s Edge: Black Mobility and the Southern White Quest for Racial Control, 1861-1915* (Baton Rouge, LA, 1991), p.34.

glimpses of their experiences of poverty.<sup>65</sup>

Clement's study of antebellum vagrancy in Philadelphia was later supplemented both chronologically and theoretically by Simon P. Newman. In his book *Embodied History: The Lives of the Poor in Early Philadelphia* and article 'Incarcerated Innocents' in *Buried Lives: Incarcerated in Early America*, co-authored with Billy G. Smith, Newman considers the importance of agency and bodily experience of vagrants incarcerated in the city in the 1790s.<sup>66</sup> Similarly, as recently as 2015, Jen Manion has also turned to the relationship between poverty and crime in early Philadelphia, arguing that scholars of prisons and imprisonment have shown 'how incomplete our understanding of state authority has been without attention to the actions, thoughts, and experiences of those subjected to its reach' in a 'triangulation of authority, resistance, and imprisonment.'<sup>67</sup> Her own work has demonstrated that vagrants were viewed 'as a threat to democracy,' and the 'expansive application of vagrancy laws...solidif[ied] the criminalization of poverty.'<sup>68</sup> In the process, the sorts of subsistence techniques that were utilised by poor Philadelphians and then enumerated as criminal actions by antivagrancy legislation, have gained a place in the social history of the lower classes in the early American republic.

The fallout of the criminalisation which Manion diagnoses is only beginning to be considered in depth by historians, as Ruth Wallis Herndon's incredibly detailed work on poverty and warning out systems *Unwelcome Americans: Living on the Margin in Early New England* demonstrates. Herndon, in an approach similar to Priscilla Ferguson Clement's regarding residential examinations of paupers, uses residence-determining warning out interviews to reconstruct the lives of the poor, paying particular attention to issues of gender and race in writing the social history of the 'marginal' and 'burdensome.' This dissertation has in part utilised a similar methodological approach as Herndon's in *Unwelcome Americans*, owing to the similarities of the primary source bases, each consisting in large part of examinations of paupers and settlement testimonies. Despite the efforts of the historians whose work has been outlined here, indigent transiency, the nature of vagrancy, and the processes and experiences of

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<sup>65</sup> Clement, 'Transformation'.

<sup>66</sup> S. Newman, *Embodied History: The Lives of the Poor in Early Philadelphia* (Philadelphia, 2003) and S. Newman and B.G. Smith 'Incarcerated Innocents,' eds M.L. Tarter and R. Bell, *Buried Lives: Incarcerated in Early America* (Athens, GA, 2012), pp.60-84.

<sup>67</sup> Manion, *Liberty's Prisoners*, p.6.

<sup>68</sup> *Ibid.*, pp.86-93.

vagrant incarceration in the early American republic remain under-documented and analytically skewed. To remedy this, this project aims to restore vagrancy from discussions of petty criminality to the historiography of class, primarily through exploring the element of mobility.

In this study, the roads and footpaths of the early republic are cast as loci for interrogating the relationship between poverty, labour, and control in the lives of the poor.<sup>69</sup> It charts the narratives of transients' lives with a view to reconstructing their geographical mobility. Testimonies such as those of convicted vagrant Samuel Gantdrone, who 'walked the whole distance from the Bay to the Keystone State...in search of employment' in 1837 and of Rachel Johnson, whose husband had travelled from Philadelphia 'to the state of New York, whence he came on a raft' in 1830, make it possible to explore the material realities of indigent transiency and vagrancy, in the early republic.<sup>70</sup>

Few efforts have been made to interrogate the meanings of the mobilities described in sources created by or centred on vagrants' lives. But it is possible to use the available sources (e.g. vagrancy dockets, settlement interviews, prison and almshouse descriptive registers) to write what Clare Anderson has called a 'subaltern prosopography' that documents indigent transients' lives, mobility, and interactions with the state.<sup>71</sup> For some cities and regions, these available sources are rich and can sustain robust enquiry, while others offer significantly less insight to the researcher. As such, I have allowed the strength of the archives to guide the enquiry and analysis in this project, making the most of the sources that are available and, where possible, constructing links across the gaps in the record.

The Mid-Atlantic region provides a fruitful framework within which to locate itinerant individuals who passed between almshouses and jails in multiple states, finding employment and temporary shelter along the way, on the most frequently

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<sup>69</sup> This is in a similar fashion to how historians have previously used the notoriously impoverished slum neighbourhood of Five Points in Manhattan to investigate poverty in nineteenth century America. See T. Anbinder, *Five Points: The Nineteenth-Century New York City Neighborhood That Invented Tap Dance, Stole Elections, and Became the World's Most Notorious Slum* (New York, 2012). Five Points, New York was 'a national symbol of the worst slum conditions... a symbol of poverty and squalor' and 'disorderly street life', as described in D. Ward, *Poverty, Ethnicity and the American City, 1840-1925: Changing Conceptions of the Slum and Ghetto* (Cambridge, 1989), p.16.

<sup>70</sup> 'City Police', *PPL*, 2 September 1837. J. Peirsol to Directors of Poor of Bucks County, 11 February 1830, Letter Book, GPP.

<sup>71</sup> C. Anderson, *Subaltern Lives: Biographies of Colonialism in the Indian Ocean World, 1790-1920* (Cambridge, 2012), p.6-7.

travelled paths and roads in early nineteenth century America. Most records related to transients, however, are rooted spatially and temporally, so certain incredibly well-documented cities, particularly Philadelphia, are better-represented in the source base. Fluidity of geographical focus is an essential component to studying the fluidity of movement undertaken by the indigent transients with whom this study is concerned, but naturally some areas receive more coverage based on source availability and analytical significance. Certainly, one city cannot stand in for an entire region, nor can several cities; wherever possible, I note legal and practical differences between cities, counties, and states within the Mid-Atlantic, while acknowledging the analytical value to be gained from looking at trends across and circulations throughout the region.

Drawing primarily from settlement testimonies, this dissertation examines the transiency that often accompanied poverty in the early nineteenth century. These sources, along with vagrancy dockets, prison registers, and a variety of almshouse system-generated documents, point to relationships between poverty, labour, and control that profoundly affected the lives of the poor in this period.<sup>72</sup> Attempting to view a highly mobile group through a static analytical lens is a challenge compounded by concerns about viewing subalterns through the lens of the architects of the archive: institutional authorities. One single source base both illuminates and complicates these approaches to indigent transiency: the biographies and cartographies that were generated by the recording of interviews to determine the legal settlements of the poor, referred to as ‘examinations of paupers’ or ‘settlement examinations,’ a discussion of which will follow here. As Joanne Pope Melish has noted, the ‘system of transient examination was designed to elicit information from people who knew their personal history and were known in some other community to which they rightfully ‘belonged.’’<sup>73</sup> Conducted most often by guardians of the poor and justices of the peace, these interviews acted as legal depositions of transient individuals ‘with uncertain

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<sup>72</sup> **Marxist legal historians and sociologists have long acknowledged these relationships in the context of vagrancy. See W.J. Chambliss, ‘A Sociological Analysis of the Law of Vagrancy’, *Social Problems*, 12, no. 1 (1964); C. Foote, ‘Vagrancy-type Law and its Administration’, *University of Pennsylvania Law Review*, 104, no. 5 (1956); and J. Skolnick, ‘Reflections on Caleb Foote on Vagrancy-Type Laws’, *Berkeley Journal of Criminal Law*, 12, no. 2 (2007).**

<sup>73</sup> J. Pope Melish, *Disowning Slavery: Gradual Emancipation and ‘Race’ in New England, 1780–1860* (Ithaca, 2000), p.116.

economic prospects' wherein transients were 'compelled to recite an account of their travels' in order to justify their presence in a given locality.<sup>74</sup>

These examinations have their limitations as windows into transients' experiences, as Ruth Wallis Herndon, whose book *Unwelcome Americans* utilises them extensively, reminds readers: 'the information contained in them was coerced, extracted from people who had little control over the interrogation. They are the result of people being forced to remember (or invent) their lives when confronted by the power of the state, when the 'wrong answer might result in disaster for themselves and their families.'<sup>75</sup> Furthermore, as Clare Anderson has noted, 'it is impossible to separate biographers from the biographies that they write.' Still, these sources, for the purposes of this project, are the closest to an internal perspective on indigent transiency from within the largely illiterate group, and can be read with the caveats of mediation and coercion in mind. These examinations depict an interconnected geographical region, wherein the stateless, unsettled, and poor, as well as institutional knowledge relevant to them, travelled in swirls and eddies. From the curves of these trajectories and the nature of their interactions with the state and its subsidiaries, 'individual texts and cultural contexts are mutually constituted,' making it possible, in this context, to chart both personal efforts at subsistence and the impact of the State on the individual.<sup>76</sup> In this way, the 'archive of vagrancy,' which, in the context considered here, consists of a combination of prison dockets, settlement examinations, police reports, government debates, court records, certificates of manumission, and almshouse records, can be used to construct a subaltern prosopography of indigent transients.<sup>77</sup>

A few historians of the United States, notably Herndon, Melish, Clement, and Robert E. Cray, have utilised records related to the settlement and removal process to interrogate poverty and transiency. Clement's 'Transformation of the Wandering Poor,' in particular, is the only published account of the narratives of thousands of indigent transients recorded in Philadelphia in the first half of the nineteenth century.<sup>78</sup> Nearly a thousand examinations are extant, of which Clement's work drew on about a third. Her brief study provides a tantalising glimpse as to how the poor of Philadelphia fit into the

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<sup>74</sup> R.E. Cray, *Paupers and Poor Relief in New York City and its Rural Environs, 1700-1830* (Philadelphia, 1988), p.144.

<sup>75</sup> Herndon, *Unwelcome Americans*, p.23.

<sup>76</sup> Anderson, *Subaltern Lives*, pp.16-7.

<sup>77</sup> Nicolazzo, 'Henry Fielding's *The Female Husband*', p.339.

<sup>78</sup> Clement, 'Transformation'.

wider scope of the social milieu and experiences of vagrants and other indigent transients in the antebellum United States. The research for this dissertation casts a wider net in this same source base, doubling the number of examinations utilised, with the intention of drawing out the narratives of mobility that infuse these transients' testimonies, and linking them to a broader array of institutional, governmental, public, and cultural sources to reach a clearer understanding of indigent transiency in the early nineteenth century Mid-Atlantic. These examinations comprise the largest base of extant records available that record the voices of vagrants and pauper migrants in this period, though smaller collections utilised throughout this dissertation, such as vagrants' habeas corpus petitions and statements recorded in police reports, achieve a similar purpose. Taken together, these records point to the overlap between vagrant and pauper populations that reflected the relationship between the two in life as well as in law.

The first of the six main chapters, Chapter 2, provides an overview of the laws that governed the mobility of the lower classes, especially in their most potent form – the regulation of vagrancy. A discussion of the ways in which residence, transiency, and poverty shaped the construction of citizenship in the United States follows, in order to establish the legal landscape on which the poor and mobile lived and to argue that indigent transients, and particularly vagrants, were central to the formulation of citizenship in the early republic. It also argues that vagrancy and settlement laws ought to be viewed in concert with each other in order to assess the significance of indigent transiency.

Chapter 3 charts the geographical landscape of indigent transiency in the nineteenth century, utilising the written narratives that resulted from authorities' examinations of paupers to determine their legal residences. In so doing, it looks at demographic trends among and corporeal experiences of mobility in this population in order to explore what shaped them and what impacts their geographical mobility may have had.<sup>79</sup> It makes a methodological argument that studies of movement benefit from the use of non-fixed sources, and that for this time and place, settlement examinations are perhaps the most revealing base in considering population mobility and stasis. This chapter also argues that, on several levels, indigent transients were markedly different demographically in the early republic than later in the nineteenth century.

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<sup>79</sup> See Manion, *Liberty's Prisoners*, p.16, for illustration of the relevance of looking at demographic trends in historical studies of this nature.

Chapter 4 discusses procedures of pauper removal in the early republic Mid-Atlantic as a form of institutional mobility and a continuation of the indigent transiency that many paupers and vagrants who were being removed had experienced long before their contact with institutions of poor relief and punishment. It argues that pauper removal is an important part of the history of poverty, mobility, and institutional reform, and as such, constituted a distinct form of mobility that played an important role in shaping the lives and movements of indigent transients and the management of poor relief.

Chapter 5 explores transiency and vagrancy as by-products of emancipation, and the associated legal protections against vagrancy that were included in emancipation law. It argues that fugitive slaves ought to be written into the historiography of indigent transiency, vagrancy, and homelessness, as participants in a form of illicit mobility, noting overlaps in the legal and social constructions of these actions and experiences, as well as the corporeality of self-emancipation. This chapter also argues that the legal precedent for capture and return of fugitive slaves was set in poor relief, vagrancy, and pauper removal laws, and that communities may have been inured to these practices which shaped their response to the Fugitive Slave Law by 1850.

Chapter 6 focuses on the relationship between indigent transients and the state, looking at the ways in which vagrants and paupers experienced and resisted institutional control. By following individuals through the record who were incarcerated in both prisons and almshouses, it raises questions about what the records of their punishments can say about the criminalisation of poverty in this period. It argues that vagrancy was often both policed and experienced communally, as bystanders played important roles in reporting strangers. This element is significant in its reliance on perceptions of vagrancy, which is especially clear in convicted vagrants' defences of their own character in resistance of prosecution.

The final of the six main chapters, Chapter 7, proposes that vagrants were central to societal understandings of the dissemination of disease, as well as an especial public health concern in their own right, as a population suffering from exposure, hunger, a profound lack of the most basic human necessities, as a direct result of not just their poverty, but their mobility. Utilising the records of prisons and almshouses during the 1832 cholera epidemic, it charts the ways in which vagrants were popularly vilified as carriers of disease, and particularly associated with the spread of cholera. It argues that the pathologisation of poverty extended to the punishment and incarceration

of vagrants, clearly demonstrated during one of the ‘cholera years’, in a case study using Philadelphia’s vagrant prison, Arch Street.

Chapter 8 concludes this study of indigent transiency by considering how the many forms in which it manifested during the early nineteenth century are linked, thus demonstrating the concept’s centrality to the provision of poor relief, the punishment of petty criminals, and the regulation of mobility in this period. It argues that the continuity of certain issues related to the criminalisation of poverty, especially for African Americans, into the twenty first century, reinforces the importance of looking for the historical origins of phenomena like loitering and stop-and-frisk policies.



## Chapter 2: 'She is doubtless a very vagrant': Poverty and Mobility on the Legal Landscape

'What constitutes a vagrant?' asked a headline above a sarcastic anecdote that was reprinted in numerous nineteenth century publications. The story described a vagabond who was met on the street by a magistrate, who accused him of being a vagrant who did not possess visible means of subsistence. When asked to give an account of himself, as was customary, the man extracted from the pocket of 'his tattered coat a loaf of bread, and half of a dried codfish. Holding them up, with a triumphant look and gesture to the magistrate, exclaimed...I'm no vagrant! An't them visible means o' support, I should like to know?'<sup>1</sup> The clause in most vagrancy statutes that rendered the largest number of individuals vulnerable to arrest was the one requiring individuals to have 'visible means of support,' that is, the ability to provide for oneself or one's family the basic necessities of life – food, shelter, clothing. Those who could not do so were liable to punishment under vagrancy law, exactly what the man with the bread and codfish in his pocket was endeavouring to avoid.

Vagrancy has been many things across many centuries and national borders, with perhaps the most profound description defining the concept as the 'disturbing flow of misplaced bodies.'<sup>2</sup> This etymological understanding of the phenomenon of vagrancy draws out one key point: that there was a group of individuals linked by law whose bodily movements were in some way threatening to some authority.<sup>3</sup> As Sarah Nicolazzo and Markus Dubber have argued, 'vagrancy...epitomizes the distinctive function of police power which is not interested in its object's criminal responsibility, but its potential for future threat.'<sup>4</sup> But this definition stretched beyond convicted vagrants, and encompassed the more widely defined population of itinerant workers and the wandering poor – essentially, indigent transients. These persons, on whom this study focuses, traversed not only a physical landscape but one marked by policies and

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<sup>1</sup> 'Editors' Table', *The Knickerbocker*, vol. XII (New York, 1838), p.171; 'Humors of the Day', *Harper's Weekly*, vol. 11, 26 October 1867, p.679. 'Visible Means of Support', *The Book of Modern English Anecdotes* (London, 1872), p.72.

<sup>2</sup> J. Ramos, 'A Citizen Body: Cholera in Havana (1833)', *Dispositio: Subaltern Studies in the Americas*, 19, no. 46 (1994), p.190. Ramos is referring to Cuba's laws against indigent transients in the early nineteenth century which were particularly tied to epidemiological concerns, both figurative and literal, much like the English and American contexts.

<sup>3</sup> Schmidt, *Free to Work*, pp.55-67.

<sup>4</sup> S. Nicolazzo, 'Vagrant Figures: Law, Labor, and Refusal in the Eighteenth-Century Atlantic World', Ph.D. Dissertation, University of Pennsylvania (2014), p.348.

bounded by laws. Since its inception, the United States was a society that embodied a contradiction consisting of two sides of a coin; the one, as Lawrence Friedman has described it, was ‘based on mobility and immigration,’ while the other was ‘suspicious of immigrants and strangers, especially those who were detached and alone, without community or social circle or family, without fixed setting.’<sup>5</sup> To early Americans, ‘strangerhood implied a lack of substantive claim to a residence, any property within it, or a community of such dwellings,’ and as such was regarded as suspect.<sup>6</sup>

This distrust was embodied in law with serious purpose, as Christopher Tomlins has explained. To the English settlers in North America, ‘law was the conceptual structure, the organisational discourse, by which their moves were enabled, the bridge that bore them across the ocean and planted them on the other side.’ It ‘established the context for migrants’ liberty to be mobile by prescribing its extent; that is, the extent of their freedom to depart one place and move and set down elsewhere,’ and in so doing, ‘established the actual conditions and effects of mobility and settlement, influencing who might go where’ in this newly constructed legal territory. Most importantly, Tomlins argues, this conceptualisation of law ‘organised mobile migrating masses into discrete socioeconomic segments with very distinct legal-relational profiles: freemen; households...landowners and the landless; the settled and the wanderers; vagrants and runaways; slaves.’ The transplantation of these social relationships onto the landscape that would become the United States essentially transferred the power of the English monarch to control the mobility or immobility of the population within its jurisdiction ‘according to the best interests of the state,’ which was so often utilised to maintain the boundaries of the socioeconomic categories laid out in law.<sup>7</sup>

This transplantation led to limitations on the physical movements of the poor being written into the founding documents of the United States. Inheriting what Tim Cresswell has called centuries-old ‘moral geographies of roots and rootlessness’ from its European forebears, the new nation was constructed with provisions to ward off wayward travellers who ‘threatened to undo the comforts of place and transgressed... territorialize[d] identities.’<sup>8</sup> From the very conceptualisation of what a confederation of

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<sup>5</sup> L. Friedman, *Crime and Punishment in American History* (New York, 2010), p.158.

<sup>6</sup> Melish, *Disowning Slavery*, p.206.

<sup>7</sup> C. Tomlins, *Freedom Bound: Law, Labor, and Civic Identity in Colonizing English America, 1580-1865* (New York, 2010), p.69-71.

<sup>8</sup> Cresswell, *Tramp in America*, p.16-7.

the former British colonies might look like, interstate travel by the poor and vagrant was banned.<sup>9</sup> In the Articles of Confederation, the proto-constitutional document that comprised the first attempt to unite the states under a centralised government, Article 4 clearly states that ‘the free inhabitants of each of these states, *paupers, vagabonds, and fugitives from justice excepted*...shall have free ingress and regress to and from any other state.’<sup>10</sup> As historians of travel have recognised, in the early republic, the act, circumstances, and process of travel were ‘a central paradigm for imagining the freedoms granted to the citizens of the new nation.’<sup>11</sup> Herein may lie the root of a uniquely American interpretation of the relationship between mobility, class, and citizenship, that at the moment of the so-called founding of the United States, the revocable right to be mobile was tied to class status. By curtailing freedom of travel for certain groups within the United States, lawmakers were making a clear statement about citizenship, delineating the classes who were worthy of participating in its privileges.<sup>12</sup> As the transportation revolution in the early nineteenth century gradually allowed greater segments of the population the ability to move more easily and at greater speeds, efforts to curtail undesirable mobility increased. States who had not already done so went on to legislate their own limits on the ingress of paupers, as Pennsylvania did in 1821, out of a proprietary effort to ‘prevent the increase of pauperism in this Commonwealth.’<sup>13</sup>

Essentially, interstate movement, by any means of transportation, of any impoverished individual, legally recognised pauper, or vagrant, was illegal. As John David Cox has noted, ‘by traveling too freely (and thus subversively), these people,’

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<sup>9</sup> The economic and social threats posed by the poor and vagrant, which were written into their definitions, were clear in this period. Contemporaries defined a pauper as ‘A poor person; particularly, one so indigent as to depend on the parish or town for maintenance’, and a vagrant as ‘An idle wanderer; a vagabond; one who strolls from place to place...one who has no settled habitation, or who does not abide in it.’ N. Webster, *American Dictionary of the English Language: Exhibiting the Origin, Orthography, Pronunciation, and Definitions of Words* (New York, 1830).

<sup>10</sup> Engrossed and corrected copy of the Articles of Confederation, showing amendments adopted, 15 November 1777, Papers of the Continental Congress, 1774-1789; Records of the Continental and Confederation Congresses and the Constitutional Convention, 1774-1789, Record Group 360; National Archives.

<sup>11</sup> J.D. Cox, *Travelling South: Travel Narratives and the Construction of American Identity* (Athens, GA, 2005), p.3.

<sup>12</sup> Kathleen R. Arnold considers this perspective as a holdover from feudalism, when ‘the poor were not considered citizens.’ K.R. Arnold, *Homelessness, Citizenship, and Identity: The Uncanniness of Late Modernity* (Albany, 2004), p.24.

<sup>13</sup> ‘An Act to prevent the increase of pauperism in this Commonwealth’, *A Digest of the Laws of Pennsylvania* (Philadelphia, 1837).

meaning paupers, vagabonds, and fugitives, ‘had lost the right to travel.’<sup>14</sup> In this legal climate, then, any discussion of indigent transients is a discussion of an illicit form of mobility. Such a categorisation could include one pauper’s journey on foot across a bridge from New Jersey to Philadelphia, or from New York to Pittsburgh to Ohio via boat and stagecoach. It could describe the clandestine movement northward of a fugitive slave under cover of night out of Virginia, facilitated by the Underground Railroad, or the relocation of a Marylander following his imprisonment for vagrancy. All of these actions were viewed as disorderly occupations of space. As such, the policing of vagrancy was meant to reorder that space, as government became ‘the administration of bodily movement in labor’s orderly and productive space.’<sup>15</sup>

Vagrancy statutes and settlement laws comprised the dominant means by which this ban on indigent transiency was upheld. In these laws, the distinction between resident and non-resident poor was of utmost importance because, as David Rothman has noted, ‘the most punitive sections’ of states’ poor laws ‘were directed more at vagrants and dependent strangers than at the local poor.’<sup>16</sup> Vagrancy statutes functioned, as noted by Caleb Foote, as forms of anti-migratory policing that contravened the rights of free ingress and regress afforded to residents of the United States. But the pauper and vagabond exemption to the Articles of Confederation provided a window through which law creators and law enforcers were able to control the movements of the unemployed and destitute classes which were not declared unconstitutional until 1940. Even then, the ruling came only after states had mobilised border patrols to keep migrants from entering their territory during the Great Depression.<sup>17</sup> These efforts were slightly more modern versions of the settlement and removal laws, and by extension, vagrancy statutes, that Foote referred to as cities’ and states’ ‘banishment polic[ies].’<sup>18</sup>

In 1942, Edward W. Adams lamented that the laws regulating management of poor populations in the United States had not changed with the times despite the fact that ‘the modern indigent is not to be treated as the traditional pauper.’ Just as early

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<sup>14</sup> Cox, *Travelling South*, p.3.

<sup>15</sup> Ramos, ‘A Citizen Body’, p.190.

<sup>16</sup> D.J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic*, (New Brunswick, NJ, revised edition 2009, original 1971), p.20.

<sup>17</sup> C. Foote, ‘Vagrancy-type Law and its Administration’, *University of Pennsylvania Law Review*, 104, no. 5 (1956), p.616, p.623.

<sup>18</sup> Foote, ‘Vagrancy-type Law’, p.617.

nineteenth century poor laws did not account for the exponentially increasing mobility of the poor, as they were rooted in colonial and even Elizabethan expectations, so too in the early twentieth century, the laws had not been adjusted to reflect the changes the previous century had brought; ‘the present-day settlement laws and their analogies’ were still ‘derived from the old laws.’<sup>19</sup> Regulation of legal settlements was bound up in state poor laws. In Pennsylvania after 1803, one could gain a legal settlement by holding public office for one year, paying public poor taxes for two years, leasing a residence valued at over ten pounds for at least one year, being an unmarried, childless indentured servant serving in the same place for one whole year, or being a woman married to a man or widowed by a man with a legal settlement. Delaware and Maryland’s provisions for gaining legal settlement were very similar, stipulating a year’s residence, property ownership, payment of poor taxes, or service as an indentured servant. In Delaware exclusively, an individual also gained a legal settlement in a district by being born there.<sup>20</sup> New Jersey required only a year’s continuous residence by a property holder, migrant, or indentured servant in order to gain a legal settlement.<sup>21</sup> In New York after 1801, one could gain a legal settlement by holding public office for one year, renting and occupying a residence valued at least thirty dollars for two years, paying public poor tax for two years, or being an indented person serving in a district for at least two years.<sup>22</sup> Adams wrote of early twentieth century amendments to settlement statutes as a result of ‘the increased volume of migration’ that began during the Great Depression. ‘Settlement laws,’ he wrote, ‘have been changed to increase the amount of time necessary to gain a settlement; at the same time...so that settlement can be more easily lost. These changes have been made in part to discourage migration of indigents.’ The intervening century appears to have had little effect on lawmakers’ perspectives; the mobility of the underclasses continued to be viewed as a threat, and it was the indigent who suffered the consequences of stagnant opportunities, lack of relief, and involuntary removal and control of residence.<sup>23</sup>

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<sup>19</sup> E.W. Adams, ‘Constitutional Law: State Control of Interstate Migration of Indigents’, *Michigan Law Review*, 40, no. 5 (1942), pp.715-7.

<sup>20</sup> ‘Act for the relief of the poor within the several counties therein mentioned’, *The Laws of Maryland* (Baltimore, 1811). ‘Act to consolidate and amend the laws for the relief of the poor’, *Laws of the State of Delaware* (Wilmington, 1829).

<sup>21</sup> ‘Act for the settlement and relief of the poor’, *A Digest of the Laws of New Jersey* (Bridgeton, NJ, 1838).

<sup>22</sup> *A Digest of the Laws of Pennsylvania* (Philadelphia, 1831). *Laws of the State of New York* (Albany, 1802).

<sup>23</sup> Adams, ‘Constitutional Law’, pp.715-7.

Legislation managing mobile poor populations throughout much of United States history addressed two forms of indigent transiency: physical homelessness and legal homelessness. Individuals who experienced one or both fell under the purview of vagrancy law as individuals who ‘lodg[ed]...in the open air’ or who did not possess any legal settlement.<sup>24</sup> Vagrancy laws, then, essentially defined homelessness, because, as Tim Cresswell has summarised, ‘vagrancy...is nothing if not a construction of the law... The legal definition of vagrancy...is not free-standing, but linked to the more commonplace definitions based on mobility and work.’<sup>25</sup> The twin figures of mobility and work shaped not only the prosecution of vagrancy, but the distribution of food and fuel to the poor, qualifications for suffrage, and morality in general. Studies of citizenship, identity, and poverty generally look at exclusion of ‘indigent males, women, and racial minorities’ as a denial of ‘membership in political community,’ clearly an important factor in not just the rights afforded these groups but in their experience of civic life. But as the above discussion of the Articles of Confederation illustrates, the state frequently ‘deployed citizenship...to restrict individuals’ access to, or presence within, its territory.’<sup>26</sup> The concrete nature of territory, and theoretical claims to presence on it, meant that, as Kunal Parker has argued, ‘a lack of settlement, rather than a lack of citizenship, resulted in an absence of claims to reside’ within a given district.<sup>27</sup> Debates over the rights of indigent transients to participate in either form of so-called membership – territorial or civic – generally took the stance that citizenship was a laurel to be earned rather than a badge of participation. In order for lawmakers, police, and guardians of the poor to ward off the admission of unworthy individuals to this imagined community, they sought to regulate the physical locations of indigent transients’ bodies.

This chapter will explore these topics in relation to the laws that governed the mobility of the lower classes in the Mid-Atlantic region in the early nineteenth century, the regulation of vagrancy. The primary function of this exploration is to provide necessary legal context for the social, economic, and cultural aspects of indigent transiency as a starting point for the discussion that follows in the rest of this

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<sup>24</sup> *Digest of the Laws of the State of New York* (New York, 1874), p.116. This definition dates back to at least 1802, and remained in effect into the late nineteenth century.

<sup>25</sup> Cresswell, *Tramp in America*, p.55.

<sup>26</sup> K.M. Parker, ‘From Poor Law to Immigration Law: Changing Visions of Territorial Community in Antebellum Massachusetts’, *Historical Geography*, 28 (2000), p.61.

<sup>27</sup> Parker, ‘From Poor Law’, p.66.

dissertation. This chapter argues that vagrancy and settlement laws ought to be viewed in concert with each other in order to evaluate the significance of indigent transiency. It also discusses the ways in which residence, transiency, and poverty shaped the construction of citizenship in the United States, in order to establish the legal and social landscape on which the following events played out and to argue, ultimately, that indigent transients, and particularly vagrants, were central to the formulation of citizenship in the early American republic.

### **Anti-migratory Policies**

The techniques used by lawmakers to manage the lives of the early nineteenth century poor were not new. During the colonial period, vagrancy laws were imported wholesale from England, with poor laws that had been used to curb the movements of and enforce punishments against the mobile poor, beggars, and the homeless since the fourteenth century. When the anticipated prosperity in Massachusetts and Virginia did not meet the needs of all of those colonies' inhabitants, a class of wandering beggars emerged, leading colonial authorities to implement English poor laws in their own territories many of which matched very closely the vagabond code of 1531 and the Vagrancy Act of 1824. Poor laws facilitated the monetary relief and aid in kind to the needy, as well as punishment for inappropriate expressions of said neediness.<sup>28</sup> The Revolutionary War plunged the new nation into an economic crisis, with formerly lucrative British commerce cut off, rampant inflation, and large debts from the war effort.<sup>29</sup> As a result, the 1780s saw the first dramatic upturn in the numbers of the homeless and mobile poor in the new nation.<sup>30</sup> As Jacqueline Jones has stated, in the Revolutionary era, 'one-fifth of all residents of Boston...and New York and Philadelphia...could be classified as the poor.' These cities were filled with 'a hodgepodge of vagabonds, unskilled free Negroes and freed servants, 'the strolling

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<sup>28</sup> The English origins of vagrancy law as applied in the United States are incredibly well established in both American and British historiographies of law and poverty. A.L. Beier's *Masterless Men: The Vagrancy Problem in England 1560-1640* (London, 1985) is arguably the definitive study on the topic. For a brief summary of the application of fourteenth century England's Statute of Labourers and the Old Poor Law in America, see Schmidt, *Free to Work*, p.62-5. For a discussion with more emphasis on the English statutes and their eventual adoption in the colonies, see Tomlins, *Freedom Bound*, and R.B. Morris, *Government and Labor in Early America* (New York, 1965).

<sup>29</sup> T. Bouton, 'Moneyless in Pennsylvania: Privatization and the Depression of the 1780s', *The Economy of Early America: Historical Perspectives & New Directions*, ed. C.D. Matson (University Park, PA, 2006), p.218-35.

<sup>30</sup> Herndon, *Unwelcome Americans*, pp.11-2; Dayton and Salinger, *Robert Love's Warnings*, pp.86-7. D.L. Jones, 'The Strolling Poor: Transiency in Eighteenth-Century Massachusetts', ed. E. Monkkenon, *Walking to Work: Tramps in America, 1790-1935* (Lincoln, NE, 1984), pp.21-2.

poor,' and the chronically unemployed.' This 'highly transient group' became 'a permanent fixture' on the landscape of the young nation.<sup>31</sup>

It was then at the tail end of the eighteenth century that many state legislatures began to revise the colonial poor laws that had governed the needy and disorderly classes up to that point, and thereafter, most did not amend them nor pass new legislation until after the Panic of 1819, when a deep economic recession took hold.<sup>32</sup> In New York and Pennsylvania, the changes that were made in the 1780s were similar and substantive. Both states (Pennsylvania in 1782 and New York in 1784 and 1785), whose poor laws were dominated by the needs of their large cities, restructured the authoritative bodies who administered poor relief to increase administrative efficiency across their jurisdictions. New York also passed, in 1784, a new law requiring residency for poor relief, which Raymond Mohl has described as the effective reimplementing of colonial settlement law, leaving only an individual's legal residence responsible for providing them with relief. New York's revisions also granted local municipalities the ability to manage the disorderly or burdensome poor as they saw fit, which led to a rise in the auctioning of pauper labour 'to the highest bidder' and the forced indenturing of children, all in an effort to recoup the costs of welfare provision and to prevent idleness among the poor.<sup>33</sup> Pennsylvania's 1782 poor law revision similarly provided for forced indenture of those among the undeserving poor who might 'become chargeable' as a result of 'their own lewdness, drunkenness, or other evil practices,' in order to alleviate the financial burden incurred in providing for their maintenance.<sup>34</sup> As John Alexander writes, this law was a 'powerful weapon to keep vagabonds and other undesirables from flocking to Philadelphia.'<sup>35</sup> The swelling poor population in these years also prompted the creation of a system of almshouse administration in Delaware in 1791, which had previously had a limited de facto provision in place to house the homeless indigent among local citizens.<sup>36</sup> Poor laws and statutes regulating relief administration were inextricably linked with vagrancy statutes and often, provisions for the management of vagrants and the disorderly were written into states' welfare laws. This was the case, for

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<sup>31</sup> Jones, *American Work*, p.162.

<sup>32</sup> Cray, *Paupers and Poor Relief*, p.115-8; Mohl, *Poverty in New York*, pp.52-65; J.K. Alexander, *Render them Submissive: Responses to Poverty in Philadelphia, 1760-1800* (Amherst, MA, 1980).

<sup>33</sup> Mohl, *Poverty*, pp.54-5.

<sup>34</sup> 'Poor' (1782), *A Digest of the Laws of Pennsylvania* (Philadelphia, 1818).

<sup>35</sup> Alexander, *Render them Submissive*, pp.106-7.

<sup>36</sup> 'Act for the better relief of the poor', *Laws of the State of Delaware* (New Castle, 1797).



example, in New Jersey, where the vagrancy provisions of colonial welfare statutes survived well into the nineteenth century.<sup>37</sup>

Laws regulating the settlement, movement, and punishment of the poor shared broad similarities throughout the Mid-Atlantic region. Nearly all treated the primary threat of a vagrant's presence to be their class status, as opposed to their race, ethnicity, or gender, though these laws and their implementation were affected by these categories in varying degrees. Vagrancy laws were used to respond to social threats posed by 'anyone who threatened...to move 'out of place' socially, culturally, politically, racially, sexually, economically, or spatially,' as Risa Goluboff notes.<sup>38</sup> But there were some local- and state-specific qualities in the writing and implementation of vagrancy laws. New York's vagrancy laws were descriptively enumerated, as most states' were: a vagrant was an idle, unemployed person or beggar of alms, but also any person 'wandering abroad and lodging in taverns, groceries, beer-houses, out-houses, market-places, sheds or barns, or in the open air, and not giving a good account of themselves.'<sup>39</sup> In Kingston, New York, in 1839, for example, Ann Elmendorff was committed to jail as a vagrant for being 'found...an idle person, not having visable [*sic*] lawful means to maintain herself, and living without employment, and a vagrant within the intent and meaning of the...statute.'<sup>40</sup> Convictions commonly ran in these fashions, with vagrants serving between a few days and two full months in county jails. Punishments for vagrants in New York were slightly harsher than in the other Mid-Atlantic states: the latter stipulated that justices could incarcerate vagrants for up to thirty days, while the former allowed for sixty days, providing justices with the option to determine whether further punishment to ward against recidivism, by sentencing vagrants to serve part of their term on a diet of bread and water, was warranted.<sup>41</sup> In both states, justices were authorised to determine whether a convicted vagrant was better suited to incarceration in the prison or in the almshouse, and in both, justices exercised their personal discretion in making this call. For example, when Joseph

<sup>37</sup> New Jersey's 1774 law dealing with paupers and vagrants was still in effect as of 1838. 'Act for the settlement and relief of the poor', *A Digest of the Laws of New Jersey* (Bridgeton, 1838).

<sup>38</sup> R. Goluboff, *Vagrant Nation: Police Power, Constitutional Change, and the Making of the 1960s* (New York, 2016), p.3.

<sup>39</sup> *Laws of the State of New York*, p.116.

<sup>40</sup> Conviction of Ann Elmendorff, UCCA.

<sup>41</sup> *Ibid.* These tougher punishments for vagrants in New York may have been prompted by the growing volume of poor immigrants who came through the state and travelled onward, especially following the American Revolution and again, the War of 1812, who were viewed as potentially dangerous to the economic health of the state. J. Bergquist, 'Immigration (1790-1860)', *Encyclopedia of Greater Philadelphia* (<http://philadelphiaencyclopedia.org>) [accessed 16 May 2016].

Ruland was convicted of vagrancy in Kingston, New York, in 1839, he was charged with having been ‘found without any visable [*sic*] means of support and sleeping in barns and in the open air,’ and was deemed by the justice of the peace to be ‘an improper person to be sent to the poor-house,’ and was committed to the county jail.<sup>42</sup>

In Pennsylvania, the laws against vagrancy, originating in the colonial period, were reasonably simple: beggars, individuals perceived by a justice of the peace to be non-residents and destitute persons, and individuals considered to be vagabonds – generally open to the interpretation of the justice – were to be arrested as vagrants and incarcerated for a short term of punishment. Penal records associated with vagrancy convictions provide a starkly clear articulation of exactly which aspects of an individual’s mobility, poverty, or appearance were being called out as threatening enough to warrant arrest. For a woman named Unis Maria Quin, arrested on 7 March 1832, it was because she had been found ‘wandering about the streets without a house,’ a common offence recorded by constables in early republic Philadelphia.<sup>43</sup>

Pennsylvania’s poor laws were revised in 1836, after a series of other laws curbing the mobility of the poor had taken effect. The state’s laws applying to vagrants up until this point had been in place since 1767, expanded somewhat by the 1782 law previously mentioned, and were reinforced by the consolidation of power resulting from the constitution of 1790. The 1767 law had granted constables the right to arrest disorderly persons and vagrants and to incarcerate them for up to thirty days; it applied to vagrants, vagabonds, and other disorderly persons, but did not explicitly define who, or what actions, would qualify as such. The murky nature of the late eighteenth century vagrancy statute was clarified by the Pennsylvania legislature with the 1836 revision to the poor law. These changes included the introduction of a detailed, five-part definition of *persons* who would be deemed ‘liable to the penalties imposed by law upon vagrants.’ Rather than listing the actions that would have warranted a criminal conviction as a vagrant, the law described vagrant persons as those ‘who shall unlawfully return into any district, whence they have been legally removed.’ Additionally, individuals who did not ‘have the wherewith to maintain themselves and their families, live idly and without employment,’ those who refused employment offered to them, or who ‘wander[ed] abroad and begged.’ Finally, itinerant strangers

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<sup>42</sup> Conviction of Joseph Ruland, UCCA.

<sup>43</sup> Commitment of Unis Maria Quin, VAG, 1832-1836.

were targeted directly, under the final category of ‘all persons who shall come from any place without this commonwealth to any place within it...and shall follow no labour, trade, occupation, or business, and have no visible means of ‘subsistence,’ and can give no reasonable account of themselves.’<sup>44</sup> These statutory constructions are important for their recognition that vagrancy was viewed not as an act committed in a given moment, in the manner of similarly-punished offences such as petit larceny or swearing, but as an identity-based if not lifelong characteristic of an individual. One state Supreme Court justice ruled that vagrancy was indeed a status crime, and as such, would be demonstrated not in an instant, but as a ‘pattern of behavior displayed over time.’<sup>45</sup>

Of the Mid-Atlantic States, Maryland’s vagrancy laws rank the harshest. A city-specific 1812 law stipulated that anyone convicted of vagrancy in the city of Baltimore was to be sentenced to incarceration in the penitentiary for a full year. It is difficult to determine whether these laws functioned as a behaviour deterrent in any way, though it might be speculated that the subsistence-based nature of actions that most commonly led to vagrancy convictions (sleeping outdoors or begging for food) would have decreased the likelihood of that outcome. At least one contemporary argued that Baltimore’s ‘rigid’ treatment of paupers and vagrants had ‘the effect...of driving the idle, dissolute, vagrant class to other places.’<sup>46</sup> In Maryland, between 1812 and 1819, 186 individuals served the yearlong sentence in the state penitentiary that a vagrancy conviction required.<sup>47</sup>

New York, Pennsylvania, Maryland, and New Jersey all had clear laws providing for the apprehension and punishment of vagrants. Delaware, on the other hand, followed a different model, without writing explicit vagrancy punishments into state law. Some citizens were outraged by this seeming oversight when, by the late 1830s, as gradual manumission was beginning to take effect, free black mobility blossomed. Dozens of petitions were made by concerned white residents, as will be

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<sup>44</sup> ‘An Act to prevent the increase of pauperism in this Commonwealth’, *A Digest of the Laws of Pennsylvania* (Philadelphia, 1837).

<sup>45</sup> *Commonwealth v. Sullivan, Same v. Daniels* (Massachusetts, 1862).

<sup>46</sup> A. Simonds, *Boston Common Council – No. 15, 1835, Report on Almshouses and Pauperism* (Boston, 1835), p.26. This assertion may have had some truth to it, however, in looking at the birthplaces and former residences of Philadelphia’s non-resident paupers in the 1820s-1830s, more hailed from New York, Delaware, and New Jersey than did Maryland (between 1822 and 1831).

<sup>47</sup> Maryland Penitentiary Prisoners Record, 1811-1840, S275-1, MSA.

detailed later, which actually led to the introduction of punitive racialised vagrancy laws in Delaware at a much later date than in neighbouring states.<sup>48</sup>

New Jersey was, however, the only one of these states to legislate and maintain a pass system for vagrants during the first five decades of the nineteenth century.<sup>49</sup> It was instituted under the colonial government in 1774, and remained on the books until at least 1838. Justices were required to issue vagrants who did possess a legal settlement within the colony a document that served as evidence of their legal settlement. This would be used to facilitate their forced removal, from the hands of one town's constable to the next, on the route from the site of their apprehension via 'the readiest way to his, her or their place of settlement.' For vagrants who did *not* have legal settlement within the colony, justices would use this 'pass warrant' to see that 'he, she, or they...be conveyed back by every city...through which they have been suffered to stroll and wander unapprehended, and so to be transported out of this colony, and to be set on shore in that province from which he, she or they strolled and wandered first.' If, after this forced process of removal, a vagrant were to return to the colony, constables were required 'to carry him, her or them to the whipping post, and to strip him her or them to the bare back, and to give them a number of lashes, not exceeding twenty.' Once this was done, the removal process would be repeated, constable by constable.<sup>50</sup> Systems like this, for the removal of indigents and vagrants who did not reside in a given location, were in place throughout the northeast well into the twentieth century, and will be discussed in greater detail in Chapter 4. In practice, they required justices of the peace and overseers of the poor to identify individuals who were not legally settled in their jurisdiction and have them physically removed to the place where they did possess a legal settlement. These laws effectively withdrew the volition of mobility from the paupers and vagrants to whom they were applied.

New York's poor laws provide an excellent vantage point for looking not only at the ways in which high transiency among the poor shaped settlement laws but also vice versa. These laws are an important starting point in considering the connections between poverty and mobility in the nineteenth century. As Caleb Foote has asserted, 'vagrancy laws might be unintelligible if we did not regard them as a supplement to the

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<sup>48</sup> Ranney, *In the Wake of Slavery*, p.17. Essah, *House Divided*, p.116. Jones, *American Work*, pp.110-1.

<sup>49</sup> Delaware introduced such legislation in 1849. Essah, *House Divided*, p.116.

<sup>50</sup> Poor Law Commission, 'United States: New Jersey', *Report from His Majesty's Commissioners for Inquiring Into the Administration and Practical Operation of the Poor-laws*, app. F (London, 1834).

old Poor Laws.<sup>51</sup> In New York, significant legal changes were made in 1784 and 1824. The former effectively created the system that allocated poor relief on the basis of residence. Each city, town, or other district, was responsible for its own poor; one has referred to this as the creation of a patchwork system of assistance.<sup>52</sup> This system was effective in that it provided a clear legal precedent against which all requests for assistance could be checked, giving local officials, responsible for judging whether or not an individual was eligible for relief by formal examination, a direct line to the legal intent of the law. But early penalties for paupers who returned to a location from which they had been formally removed were serious: women could receive up to twenty five lashes, while men could receive up to thirty nine at public whippings.<sup>53</sup> Corporal punishments of removed paupers and other violations by the disorderly poor gave way to arrests under vagrancy statutes by the 1820s.

The amendments made between 1784 and 1824 describe the challenges endured by the institutionalised poor and those charged with their care. One important conversation lawmakers and philanthropists were having was whether overseers of the poor ought to provide aid to sick non-resident paupers as if they were residents, instead of removing them to their place of legal settlement on peril of worsening illness or causing death. This question, which was addressed in an 1821 amendment to the state's poor law, was important for determining how to or not to treat indigent recent immigrants, who had no legal settlement in the United States. The amendment allowed for the removal of immigrants who had arrived in the country via the port of New York to be returned to the city, to be carried out in the same manner as would the removal of a pauper to an actual legal settlement.<sup>54</sup> This policy, as well as the general influx of indigent transients into New York City, concerned many residents. One commentator lamented, 'Why should we support all the vagabonds in our city? It will ruin us.'<sup>55</sup> The overwhelming numbers of indigent transients in New York City defied the use of settlement examinations or pauper-by-pauper removals to stem the tide, as smaller cities were often able to manage. As one concerned citizen claimed, 'the whites and blacks are pouring into our city from all quarters, and unless speedily removed, will get such a

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<sup>51</sup> Foote, 'Vagrancy-type Law', p.603.

<sup>52</sup> Mohl, *Poverty*, pp.58-64.

<sup>53</sup> Mohl, *Poverty*, p.58.

<sup>54</sup> *Ibid.*, p.65. G.L. Neuman, *Strangers to the Constitution: Immigrants, Borders, and Fundamental Law* (Princeton, 2010), p.27.

<sup>55</sup> 'Pauperism', New York *Columbian*, 10 August 1820.

footing by obtaining what is in law called a settlement, that it will be impossible...to get them away.’<sup>56</sup> City officials attempted to prevent this by employing the city’s vagrancy statute, which was, as Marilyn Wood Hill has described, ‘so inclusive’ that it would have made it possible to arrest most of the poor residents within city limits.<sup>57</sup>

It was in 1824 that, as Raymond Mohl notes, the legislature attempted to address the consequences of the relief system’s emphasis on ‘legal settlement of the poor rather than aid....removal rather than relief.’ The new laws included sections for the management of vagrancy, to some extent, within the welfare system; magistrates were authorised to use their own discretion when making arrests of vagrants, whether they ought to be incarcerated in the prison or the almshouse.<sup>58</sup> The problem of vagrancy highlights the fact that identity was at the crux of the issue of poverty in early America. Individual identities have determined how poverty as a concept has been perceived, aided, and maligned in public and legal discourse.

Indigent transiency encompasses a great number of individuals who populated the almshouses, jails, outdoor relief rolls, and roads of the nation throughout the nineteenth century. But the laws and public response to these individuals in the early decades set the tone both figuratively and legislatively for how migrants, paupers, the unemployed, vagrants, tramps, and hoboes would live in America until well into the twentieth century. As Linda K. Kerber notes, the American lower class is and historically has been bound by a duty to work, which harkens back to the Protestant work ethic.<sup>59</sup> Kerber argues that there are two civic obligations shared by all inhabitants of the United States, resident or alien, are the obligations to pay taxes and to ‘avoid vagrancy.’<sup>60</sup> Scholars Amy Dru Stanley and Tim Cresswell argue that there exists this culturally American duty to work that illustrates an aspect of vagrancy and its

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<sup>56</sup> *Ibid.*

<sup>57</sup> M. Wood Hill, *Their Sisters Keepers: Prostitution in New York City, 1830-1870* (Berkeley, CA, 1993), p.114.

<sup>58</sup> Mohl, *Poverty*, p.64.

<sup>59</sup> M. Weber, *The Protestant Ethic and the Spirit of Capitalism*, trans. Talcott Parsons (New York, 1958), ch. 5. and R. Stott, ‘British Immigrants and the American ‘Work Ethic’ in the Mid-Nineteenth Century’, *Labor History*, 25 (1984), pp.86-102, cited in Schmidt, *Free to Work*, p.244. Johanna Innes’ description of the sixteenth century English perception of a duty to work appears to be an origin point, as well: ‘the rationale of bridewell punishment...in no way depended on a vision of labour as the source of wealth... it was necessary only that a duty to labour should be considered a distinguishing mark of the poor.’ J. Innes, ‘Prisons for the Poor: English Bridewells 1555-1800’, *Labour, Law and Crime: an Historical Perspective*, eds F.G. Snyder and D. Hay (London, 1987), pp.42-122.

<sup>60</sup> L.K. Kerber, *No Constitutional Right to be Ladies* (New York, 1998), p.51.

prosecution that may be unique to the United States.<sup>61</sup> According to Stanley, vagrancy laws were perceived to have ‘rescued beggars’ who would otherwise be seen as pathetic with-holders of their labour ‘from the abject status of taking favors without rendering an equivalent.’ In the increasingly capitalistic nation, a term of incarceration settled the proverbial bill incurred by a vagrant’s criminality.<sup>62</sup> This obligation to avoid vagrancy was central to conversations about citizenship in the antebellum United States because to be a vagrant was viewed as an action that voided civic privileges, as demonstrated by the exclusions in Article 4 of the Articles of Confederation. But this perspective amounted to more than de facto perception and prosecution; it was codified in settlement laws and suffrage exclusions.<sup>63</sup>

### **Vagrants, Citizenship, and Voting Rights**

Settlement laws governed the movements of the poor, their access to welfare, and in some cases even the jobs that they could work. This was for primarily economic reasons: to protect districts from paying to care for or punish individuals who did not have a legal claim in their territory. But there were ideological reasons, as well, and many states and individual districts inhibited non-residents from participating in political life. For many, especially among the lower classes, the combined forces of rootlessness and residency restrictions for voting limited the impact of migrants on political life in the nineteenth century United States. As Kenneth Winkle has noted, ‘election laws...disfranchised migrants’ because every time an individual ‘moved across a political boundary he lost his right of suffrage,’ often for up to a year.<sup>64</sup> Kathleen R. Arnold argues that migrants, vagrants, and the homeless ‘suffer the most in a wide range of exclusions’ from civic life as a result of their lack of rootedness, because ‘home marks the distinction between access to democratic power and rights and the complete denial of this.’<sup>65</sup> Kathryn Hansel claims that because ‘economic independence is an essential component of citizenship’ in the American context, ‘a lack of economic

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<sup>61</sup> Internationally, Amy Dru Stanley argues that ‘the sanctions against dependency and the labor compulsions that accompanied the American triumph of freedom were more extreme’ than had been experienced by the British as the originators of such policies. Tim Cresswell also emphasises the unique context of American vagrancy statutes and poor laws, arguing that while tramp scares in the United States ‘share[d] many features with the moral panics surrounding vagrancy in Europe’, there were ‘some important differences’ brought on by the sheer size of the United States and the accessibility of movement across its expanse. Stanley, *From Bondage*, p.131; Cresswell, *Tramp in America*, p.19.

<sup>62</sup> Stanley, *From Bondage*, p.137.

<sup>63</sup> As David Rothman argues, ‘safeguards against vagrants, not a fear of all dependents, stimulated harsh and rigid legislation.’ Rothman, *Discovery of the Asylum*, p.22.

<sup>64</sup> Winkle, *Politics of Community*, p.175.

<sup>65</sup> Arnold, *Homelessness, Citizenship, and Identity*, p.19.

independence coupled with a total exclusion from political and national identity results in non-citizenship, leaving vagrants ‘essentially stateless.’<sup>66</sup> These assessments played out clearly in Pennsylvania’s debates over suffrage in the antebellum era, which illustrate the relationship between citizenship and vagrancy, and the impact of vagrants’ presence in the public sphere and on policy.

In the late 1830s, Pennsylvania revised its poor laws and its state constitution, redefining participation and exclusion from state citizenship. These amendments were largely in response to the growing population of free blacks in the Commonwealth, which expanded exponentially during the antebellum era, whom many lawmakers wanted to prevent from gaining a voice in the state’s political and civic business.<sup>67</sup> The legacy of Pennsylvania’s revised 1838 Constitution was the disenfranchisement of African American males who had technically possessed legal suffrage rights prior to that point, though in practice very few had been permitted to exercise them. A closer look at the convention’s proceedings reveals that much of the argument surrounding suffrage at the convention was actually rooted in a discussion of class and mobility, as well as race. At the meetings where the constitutional amendments were discussed, ‘vagrants’ and ‘wandering’ paupers were described as the antithesis of the informed voter, and held up as explanations in favour of limiting the voting rights of Pennsylvanians. The manner in which vagrants were discussed by the Commonwealth’s representative body elucidates many contemporary perceptions of the homeless and transient, as well as ‘appropriate’ political engagement of the populace. That in the first few months of the meetings, conveners were issuing detailed descriptions of vagrants as unfit for the franchise points to a larger conversation that had been going on in the region since around 1820, as the poor population began to grow substantially. The dialogue that ensued in the state legislators’ attempts at constructing a new Constitution to better reflect the Commonwealth’s population and the contemporary zeitgeist reveals what is often only an implicit process, which Hansel has described as ‘constitutional othering.’<sup>68</sup> By casting the actions of vagrants as actions

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<sup>66</sup> K. Hansel, ‘Constitutional Othering: Citizenship and the Insufficiency of Negative Rights-Based Challenges to Anti-Homeless Systems’, *Northwestern Journal of Law and Social Policy*, 6 (2011), p.445.

<sup>67</sup> G.G. Eggert, ‘Two Steps Forward, A Step-and-a-Half Back’: Harrisburg’s African American Community in the Nineteenth Century, *PH*, 58, no. 1 (1991), pp.1-36. E.L. Smith, ‘The End of Black Voting Rights in Pennsylvania: African Americans and the Pennsylvania Constitutional Convention of 1837-1838’, *PH*, 65, no. 3 (1998), pp.279-99.

<sup>68</sup> Hansel, ‘Constitutional Othering’, p.468.



that contravene the privileges of citizens, the poor were further alienated from not only public discourse but also civic rights.

In 1836, Pennsylvania legislators had revised the Commonwealth's existing poor laws in an effort to increase effectiveness by enumerating the types of persons liable to punishment as vagrants and clarifying various welfare provisions. But James Schmidt argues that, even after the revision, Pennsylvania law's definitions of vagrants retained for the most part their eighteenth century terms, which were imprecise and could be applied to huge swaths of the population.<sup>69</sup> In the course of the debates over the changes to the constitution, lawmakers used some of the most strident rhetoric to discuss the dangers of these individuals, employing 'extravagant descriptions of the evils of vagabonds' to make the case for excluding the publicly poor from civic life.<sup>70</sup> Representative Benjamin Martin asserted that he 'would never consent to bring down the standard of the labouring classes to the standard of the vagrant or of the black man' by allowing either of them to vote.<sup>71</sup> This assertion directly linked the issues of suffrage and race: legislators wished to bar vagrants and African Americans both from voting, and by extension, from citizenship.

Essentially, the call for race-based exclusion from the franchise that has been discussed by historians extensively was, in these proceedings, predicated upon class-based perceptions of the would-be electorate.<sup>72</sup> This was discussed mainly in relation to the most visibly impoverished, those most vulnerable to accusations of vagrancy. Officials and upper-class citizens were outraged that the poor were often found sleeping in public places or along thoroughfares. In the proceedings of the Constitutional Convention, these infractions detailed by the legislators are primarily of sanitary or sartorial 'violations.' Vagrants were described by one convener in 1837 as those who 'slept in the markethouse,' by another as 'those who lie in barns.'<sup>73</sup> Phrases like these, repeatedly used in the proceedings, were especially relevant in the debate over residency clauses in suffrage legislation. Members of the assembly argued that poor

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<sup>69</sup> One early twentieth century historian, in a doctoral dissertation at the University of Pennsylvania, claimed that the 1836 poor law was 'essentially English in character and not drawn in accordance with American ideals and practices', yet 'revision at present seems to be impossible.' W.C. Heffner, *History of Poor Relief Legislation in Pennsylvania, 1682-1913* (Cleona, PA, 1913), p.270.

<sup>70</sup> Schmidt, *Free to Work*, p.63.

<sup>71</sup> *Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania*, vol. 2 (Harrisburg, 1838), p.519.

<sup>72</sup> Smith, 'The End,' pp.279-99. J. Winch, *Philadelphia's Black Elite: Activism, Accommodation, and the Struggle for Autonomy, 1787-1848* (Philadelphia, 1988).

<sup>73</sup> *Proceedings*, vol. 5, p.301.

vagrants could be prevented from voting by requiring, for example, ten days residence in the locality prior to an election in order to have one's vote accepted. The grounds on which the conveners opposed voting rights of the mobile poor were not solely transience, but rather associations of virtue and hygiene with the transient. These statements give insight into how these legislators perceived vagrancy to exist: as such constant mobility that even a ten day residency requirement could prohibit their meeting suffrage standards.

It is important to note that, though vagrancy has tended to imply a lack of steady income, there was little to no conception of unemployment by the official classes in this time period, as the work of Alexander Keyssar has illustrated.<sup>74</sup> Non-working able-bodied men were nearly always considered voluntarily vagrant and thus depraved; women, the ill or elderly, and children, were only occasionally considered above that same level. Supreme Courts had argued that the 'essence of vagrancy' was as a 'pattern of behavior displayed over time' yet 'calling a person a vagrant was actionable in itself.'<sup>75</sup> The mere physical appearance of vagrants was sufficient to arrest and prosecute lower class individuals who looked similar, or could be found in the same locations.

The language used to describe these 'paupers, vagrants, and convicts' places vagrants as potential electors as a danger to respectable society at large: as pestilence itself, or bringers of pestilence. These terms have generally been considered to be figurative, employed by reformers dedicated to 'civic sanitation'. One Representative warned, 'it would be better to get rid of this...before the plague reached the city.'<sup>76</sup> Part of the danger of allowing vagrants to engage in civic life, lawmakers reasoned, was that they may vote against the interests of the ruling elite. Legislators voiced concerns that opening suffrage to more of the population would degrade the more 'industrious' citizens amongst them, and 'confound the honest poor man with the vagabond;' it would, one Representative argued, redefine the word 'freemen' to 'mean...the vile, the vagabond, the idle.'<sup>77</sup>

One member accused then-Adams County Whig Thaddeus Stevens of 'procuring' votes from 'vagrants and vagabonds, such as come from the state of

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<sup>74</sup> A. Keyssar, *Out of Work: The First Century of Unemployment in Massachusetts* (Cambridge, 1986).

<sup>75</sup> *Commonwealth v. Sullivan, Same v. Daniels* (Massachusetts, 1862).

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

Maryland to work on railroads and the like'. The vagrancy acts and poor laws in antebellum Pennsylvania took sleeping in public or wearing dirty clothing as constitutive of vagrancy itself.<sup>78</sup> Representatives at the convention soliloquised on the bodies and physical habits of the vagrants they wished to exclude from civic participation. These bodies, they claimed, wore clothing that had been run through 'mudholes'; vagrants adorned themselves with cravats that had been 'wash[ed] in hog trough.'<sup>79</sup> Statements like these reflect the early nineteenth century belief espoused by most of the middle and upper classes that 'vicious habits' were the cause of poor health. Kathleen M. Brown has described these dominant 'suspicions' that, African Americans, the Irish, and other poor whites 'were inherently dirty', and with this dirt came disease.<sup>80</sup> Physicians published studies finding that 'dirt, debauchery, and idleness led to increased mortality;' thus, the ultimately idle vagrant embodied both the political and social threat of poverty, withdrawal from the economy, and opposition to the ruling elite, as well as the physical danger of illness.<sup>81</sup> As contemporary judges and lawyers deemed an accusation of vagrancy as actionable, this defines the wearing of visibly dirty clothing as an arrestable offence, adding levels of meaning to their references of the visual impact of these mobile and poor individuals.

By the close of constitutional convention in 1838, the state's requirement that an individual be resident for two years before becoming eligible to vote had been decreased to one year, but a ten day minimum residency requirement to vote in a given district had also been introduced.<sup>82</sup> The conflation of citizen-participation, stasis, and socioeconomic status that can be read in the debates of the convention held up the vagrant as one of the ultimate threats to society. By using 'idle vagrants' as the metric for being undeserving of suffrage, Pennsylvania's legislators placed the vagrant at the centre of the antebellum debate regarding citizenship.

Vulnerability to vagrancy arrests was particularly problematic for free blacks, who were frequent targets of local constables as solitary travellers, as well as in large groups, often with even less probable cause than for poor whites. Newspapers from the

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<sup>78</sup> C.E. Rosenberg, 'Social Class and Medical Care in 19th-Century America: The Rise and Fall of the Dispensary', *Sickness and Health in America: Readings in the History of Medicine and Public Health*, eds J.W. Leavitt and R.L. Numbers (Madison, WI, 1997), pp.309-22.

<sup>79</sup> *Ibid.*, p.168. *Proceedings*, vol. 5, p.303.

<sup>80</sup> Brown, *Foul Bodies*, p.284.

<sup>81</sup> J. Downs, *Sick from Freedom: African American Illness and Suffering during the Civil War and Reconstruction* (New York, 2012), p.100-1.

<sup>82</sup> *Proceedings*, vol. 2, p.490.

period printed reports of ‘hordes of worthless negroes’ congregating in huts outside of cities, while sheriffs had legal grounds to arrest any African American in Delaware not carrying proper documentation, or in Pennsylvania if unable to give a solid enough account of themselves.<sup>83</sup> Employment alone was not enough for African American or even white vagrants to defend their status against a vagrancy charge; vagrancy was nearly always an externally-assigned identity. As such, one’s status as a citizen was determined not through an individual’s own actions, but by the ways one was viewed by the prosecutorial, political, and upper classes. Pennsylvania’s 1838 Constitution makes it quite clear who a majority of the elected officials viewed as unworthy of citizenship rights: ‘the vagrant and the black man,’ the ‘pauper’ and the ‘convict.’

### **Vagrancy as Defined and Connnoted**

Vagrancy statutes contained implications of mobility that were rooted in the reality of transiency and instability so closely linked with poverty in the eighteenth and nineteenth century Mid-Atlantic. Mobility, and for some among the static indigent population, homelessness could and did both translate into vagrancy convictions. Such was the case for a Philadelphia woman named Charlotte Palmer, who served a month’s sentence for vagrancy in 1823 for being ‘in the street having no home.’ Not quite two weeks after her release, she was arrested again, this time not for completely static poverty but for being a ‘strolling vagrant.’<sup>84</sup> Vagrancy has historically included an implied element of mobility, but as Todd DePastino notes, antebellum uses of the term encompass a pantheon of actions within a ‘vagrant mode of life;’ not just ‘homelessness per se, but the casual labor that poor city dwellers increasingly pursued...peddling, scavenging, begging.’<sup>85</sup> For some, vagrancy involved local itinerancy as a result of homelessness, while for others it involved traversing numerous states in search of subsistence, or squatting illegally.

For twenty five year old Margaret Caster, arrested as a vagrant in Philadelphia, on 17 March 1823, on the oaths of two city citizens, it was the crime of ‘having no legal residence.’<sup>86</sup> Caster was apprehended by a city magistrate and sentenced to thirty days in the county prison. She served the full length of her sentence, but her situation did not change upon release, nor was this conviction a deviation from her previous lot in life.

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<sup>83</sup> ‘Presentment of the Grand Inquest for the City of Lancaster’, *Lancaster Journal*, 3 September 1819.

<sup>84</sup> Commitment of Charlotte Palmer, VAG, 1822-1825.

<sup>85</sup> DePastino, *Citizen Hobo*, p.xix.

<sup>86</sup> Commitment of Margaret Caster, VAG, 1822-1827.

Almost exactly one year earlier, Caster had entered the Philadelphia Almshouse, homeless and illiterate, unable to sign her own name. She testified to having not lived for a year in ‘any one place, nor kept house.’<sup>87</sup> By February of 1828, little about her circumstances had improved, and she had returned to the almshouse, lacking even wage work to fall back on, nor any residence to shield her from the vagaries of being jobless and homeless in winter. Caster’s story is that of the local pauper vagrant: she did not travel far throughout her life, her residence having been determined as a young child by her parents’ location and then, as an indentured servant from the age of 10, by her master, until she reached adulthood, at which time she relocated to Philadelphia to try her luck in the city.<sup>88</sup> As her conviction record states, it appears that her vagrancy was more a diagnosis of poverty than of movement. This was true for thousands among the populations of convicted vagrants in the nineteenth century United States.

For Samuel Gantdrön, it was a combination of destitution and ‘excessive’ movement that led to his arrest as a vagrant in the summer of 1837. He was described in the Philadelphia *Public Ledger*, a newspaper notorious for printing colourful depictions of wanderers, criminals, and disorderly persons, as ‘a loafer and vagrant from Boston...picked up by one of the city watch.’ But his description of his own affairs included no loafing: he reported having ‘walked the whole distance from the Bay to the Keystone State...in search of employment.’ His appearance and unfamiliar face had been grounds enough to ‘induct’ him ‘into the watch house’ but his testimony was apparently acceptable enough to earn his discharge within hours.<sup>89</sup>

The daily reality for individuals who lacked private means and were not eligible for or were unwilling to request public relief in some form, was an attempt at striking a balance between achieving a legal subsistence, and committing crimes for subsistence. Begging, whether for food, shelter, or money, was illegal in every state. For both the persistent and the transient poor, this posed a serious quandary: requesting the means to access subsistence goods or services (food, clothing, or shelter) could warrant a vagrancy charge for begging, while illegally obtaining the goods could warrant a charge for theft. The result of this conundrum was an environment where these two paths often converged in the policing of the poor. Because settlement and subsistence were twin

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<sup>87</sup> Examination of Margaret Caster, EXPA, 1821-1825.

<sup>88</sup> Examination of Margaret Caster, EXPA, 1826-1831.

<sup>89</sup> ‘City Police’, *PPL*, 2 September 1837. News reports like those detailing Gantdrön’s arrest occasionally provide greater details of vagrants’ transiency than do their conviction records.

driving concepts behind poor relief, individuals who actively sought to reach subsistence for themselves in acceptable ways (generally through consistent work in the same location) were afforded aid in their place of legal settlement. Those who were not able to do so, and pursued unacceptable means of reaching subsistence, were subject to arrest for unlawful activities such as vagrancy, begging, and petit larceny.

In New York City in 1832, a man named James Rogers stole a bag of oats from a market stand. He was convicted of petit larceny, but he did not serve the punishment for theft; rather, he was committed as a vagrant to spend sixty days in the penitentiary.<sup>90</sup> Rogers had participated in an illicit economy of subsistence, as did hundreds of others across the city and thousands across the country that day. Rogers had committed, by his act of food theft, one of the actions of vagrancy: lacking visible means of subsistence. Though this crime was part of the legacy of English laws relating to vagabonds, most states had by the second decade of the nineteenth century developed punishments that were less harsh than those that had developed out of the original laws in England, where punishments for food theft by the 1820s were notoriously harsh. There, petit larceny of small quantities of cheese and bread regularly led to convictions of colonial transportation to convict settlements for terms of seven years, while the same crime in the northern United States involved usually a short term of incarceration.<sup>91</sup>

In Esopus, New York, a small town near the Hudson River, on 7 October 1844, a local justice of the peace created a real life Jean Valjean when he arrested John Cox for ‘stealing one loaf a bread of Patrick McDermot.’ McDermot lived in Eddyville, about 9 miles up the river, and his stolen bread had a ‘value of ten cents.’<sup>92</sup> Cox was convicted five days after committing the act of petit larceny for which he was charged, and sentenced to ‘be imprisoned in the Common Jail’ of Ulster County for ‘fifteen days.’ Lengths of sentencing for petit larceny were not necessarily proportionate to the value of the stolen item. A sample of food thefts processed in Ulster County, New York in the 1830s-1840s shows that while Cox’s loaf of bread was only valued at ten cents and deserving of fifteen days in jail, Lucius Sands’ theft of ‘ten fowls’ valued at \$3.75 warranted ninety days in jail. Meanwhile, Benjamin York’s theft of a half a bushel of

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<sup>90</sup> James Rogers, 1832, Watchmen’s Returns, NYCM.

<sup>91</sup> For examples of such offenses, see *Old Bailey Proceedings Online* ([www.oldbaileyonline.org](http://www.oldbaileyonline.org), version 7.2, 14 June 2016), April 1824, trial of JAMES FRENCH (t18240407-120). Earlier examples are also found in E.M. Ziegler, *Harlots, Hussies, and Poor Unfortunate Women: Crime, Transportation, and the Servitude of Female Convicts, 1718-1783* (Birmingham, AL, 2014), p.15.

<sup>92</sup> Conviction of John Cox, UCCA.

corn, valued at 5 dollars, sent him to jail for thirty days. Small thefts of food like the ones listed above showcase the range of efforts used by the poor to meet the physical needs of themselves and their families.<sup>93</sup>

As the conviction of James Rogers points out, acts of subsistence crime could take many forms: theft of food, necessary winter clothing, or fishing supplies. In looking at even a small sample of petit larceny convictions in the Mid-Atlantic, the material circumstances of food theft cases points to the systematic criminalisation of subsistence efforts.<sup>94</sup> In Kingston, New York during the five year period between 1839 and 1844, 114 convictions were recorded by the justices of the peace, as shown in Table 2.1. Of those records, eighty-eight, about 77%, of the convictions were for actions of criminal subsistence, including theft of food, firewood, or basic clothing items, lodging in the open air, and begging for food or shelter.

**Table 2.1: *Convictions recorded by justices of the peace in Kingston, New York, 1839-1844***

<b>LARCENY</b>	
of non-subsistence items	13
of food	12
of clothing or firewood	7
<b>VAGRANCY</b>	69
<b>OTHER CRIMES</b>	13

*Source: Convictions, Ulster County Clerk's Archives, Kingston, New York.*

Many of the actions listed in vagrancy statutes can be classified as subsistence crimes. The convictions of individuals like James Rogers suggest that for many, vagrancy was not necessarily a voluntary commission of a minor offence, but rather, an act of subsistence. The means used by the poor to meet subsistence level, and the discretion employed by authorities in policing the use of these means, is often revealed in the descriptions included in some convictions for vagrancy. Chief among these was vagrants' choices, or lack of choices, for sleeping quarters. For example, when Unis

<sup>93</sup> Convictions of John Cox, Lucius Sands, and Benjamin York, UCCA.

<sup>94</sup> Marcus Rediker refers to subsistence crimes such as these as the 're-appropriat[ion of] the value of...labor through what the legal system called 'theft.' See M. Rediker, 'Review of *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* by Seth Rockman', *William and Mary Quarterly*, 67, no. 1 (2010), pp.164-165. Policies in antebellum New York prevented hunting, fishing, and seaside squatting by non-residents. Cray, *Paupers and Poor Relief*, pp.144-6.

Maria Quin was arrested and charged as a vagrant in March of 1832, the prison docket stated that she had been convicted for ‘wandering about the streets without a house.’ In Philadelphia in the winter of 1823, a woman named Sarah Godfrey reported to police a man named Thomas Cane after she ‘found him...being destitute of a home.’<sup>95</sup> Many indigent transients, like Cane, were led by desperation to find creative solutions to improve their chances at some small comforts. When five men were rounded up together as vagrants for passing the night on the wharf in 1838, the report noted that one Daniel Brewster had been ‘found sleeping on a bed of coal ashes on the wharf,’ while Daniel Livingston had ‘pillowed his head on a cordwood stack.’<sup>96</sup>

The local and long-distance mobility of individuals like Margaret Caster and Samuel Gantdrone led poor relief institutions and law enforcement to work together to maintain a network of communication and transportation that often stretched beyond the boundaries of their jurisdictions. Guardians and Overseers of the Poor, justices of the peace, and other individuals who carried out the business of poor relief and pauper management in the nineteenth century, as a rule, were well-versed in the applicable laws and their roles in applying them. Significantly, they were also aware of individuals at other institutions, possibly quite distant from their own, who undertook similar tasks. By communicating in writing and, when possible or necessary, in person, about procedures for almshouse admittance, offering of relief to paupers, and validating paupers’ residency claims, officials used the channels available to them in their professional and interpersonal networks to carry out their duties in ways that lent an element of intra-institutionality to the poor relief process. This intra-institutionality was complemented by the necessary communications with penal institutions and law enforcers when almshouse residency included an element of punishment. These arrangements also reflected the reality of the lives of the poor during the era of reform that shaped almshouse and magisterial policies toward indigents, in authorities’ attempts to regulate movement by and aid offered to indigent transients. It meant that vagrants and paupers were discussed, treated, and transported across town, county, and state lines.<sup>97</sup> This complicated further the already circuitous definitions of vagrants both in legal terminology and in actual identity. The case of Mary Nelson is an intriguing

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<sup>95</sup> Commitment of Thomas Cane, VAG, 1822-1825.

<sup>96</sup> ‘Northern Liberties Police’, *PPL*, 26 June 1838.

<sup>97</sup> The Guardians of the Poor Letter Book from the Philadelphia Almshouse, held in the Philadelphia City Archives, illustrates the extent this intra-institutional network of poor relief and punishment remarkably. Similar letters are to be found at UCCA, HTCA, MDHS, and presumably elsewhere.



example of this. On 11 March 1828, Philadelphia Guardian of the Poor Jeremiah Peirsol responded to a letter describing her circumstances that he had received from Staats Van Deursen in New Brunswick, New Jersey, presumably the city's overseer of the poor, who had just encountered Nelson. She had apparently been 'brought' there in December 'much intoxicated' along with her child, who 'was in good health and clean' while 'she was filthy' (underlined in original).<sup>98</sup> According to the almshouse officials who admitted her, 'the impression was, that she could not be the mother of the child; but in the absence of evidence, we could not determine.' The officials did not trust Nelson's claims that the child was her own, as the disparity in their level of cleanliness was too great.<sup>99</sup>

In their efforts to determine whether or not she was the rightful parent to the child, Nelson was interrogated: 'The history the woman gave of herself was, in substance, that for several years, she had been living in the Southern States, and had been to St. Augustine, Florida.' The combination of her travels, her destitution, and her filthiness led the managers to determine that she was 'doubtless, a very vagrant, whose residence cannot easily be ascertained.' Lacking clear recourse as to where to send Nelson – which determining her legal residence would have provided – she, along with the child who was presumed not to be her own – were both discharged. Legal guardian or not, Nelson had given the appearance of providing sufficient care for the child, at least prior to their presumed arrival in New Brunswick, for Peirsol to assert that if they 'had witnessed any ill-usage of the child, it is not probable that she would have been permitted to take it hence. Ill treatment, would, most certainly, justify any civil authority in providing for an abused and helpless infant.' Still, Nelson and the child had been allowed to leave the institution together, despite the almshouse managers' clear impression that the child had been kidnapped. To make amends, Peirsol asserted that 'nothing could be more gratifying than to return the child to its parents, if [Nelson] is not the mother' and prompted Van Deursen to consider 'whether describing both in an advertisement, with a request for its republication in all newspapers, would be

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<sup>98</sup> The association of cleanliness with non-vagrants and dirtiness with vagrants is a continuously significant factor in the continuity of historical perspective and legal consideration of the category of vagrancy. In Caleb Foote's important study of the administration of vagrancy laws in the context of 1950s Philadelphia, he notes that a magistrate released a convicted vagrant with the statement: 'You're too clean to be here, you're discharged' (Foote, 'Vagrancy-type Law', p.606).

<sup>99</sup> Jeremiah Peirsol to Staats van Deursen, Esq., 11 March 1828, Letter Book, GPP.

advisable.’<sup>100</sup> The thought process of guardians of the poor in determining eligibility for aid and assignment of status as a vagrant is illustrated in Mary Nelson’s case. While individual watchmen and magistrates had their own definitions of perceived vagrancy, and states’ statutory definitions were not all identical, a sufficiently pervasive concept remained. It was so great that a disparity in cleanliness, coupled with any history of migration, between a self-identified mother and her child was sufficient grounds for the assignation of vagrancy.

## Conclusion

The analysis of vagrancy legislation in this chapter has shown that, as Linda Kerber explains in reference to women’s citizenship throughout American history, it was the obligation of every citizen or would-be citizen in the antebellum era ‘not to be *perceived* as idle and vulnerable to punishment for vagrancy.’<sup>101</sup> Because one of the keys to an individual being perceived as a vagrant was the extent of their mobility, the independent sojourn of a woman such as Mary Nelson in Florida was suspicious, and created the impression that she had neglected her civic obligation.<sup>102</sup> Stories like Nelson’s depict vagrancy as the nexus of actual and legal homelessness, as well as transatlantic-influenced contemporary social and cultural understandings of vagrancy, at the intersection of the legal and physical landscape of early American transiency.

The importance of mobility as an instigator of vagrancy convictions, as well as a determinant of poor relief eligibility, necessitates looking more closely at the physical movements that constituted that mobility, which will be considered in the following chapter. The poor laws and vagrancy statutes that have been discussed to this point generate more questions than they answer about the behaviours that they were designed to regulate and resolve. By investigating the individuals to whom these laws were applied, *de jure* and *de facto*, the circumstances that most often led to their creation become clear. And the result depicts a perspective on the early American republic wherein geographical mobility was often the only choice for an individual to maintain their livelihood, and was simultaneously the primary barrier to resolving their economic need.

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<sup>100</sup> Peirsol to van Deursen.

<sup>101</sup> Kerber, *No Constitutional Right*, p.51.

<sup>102</sup> Adler, ‘Vagging the Demons’, p.9.



### Chapter 3: 'A wandering life': The Physical Landscape of Indigent Transiency

In 1833, Lucy Ann Griffin did not know where her husband had lived and worked prior to meeting her, and she was uncertain whether he 'had a settlement in any part' of Pennsylvania, where she currently resided. Following his criminal conviction in 1832 and incarceration in the state penitentiary, he promised to return to her after his release, and did not. 'All that she could remember from his conversations,' she testified in January of 1833, was 'that he had led a wandering life.'<sup>1</sup> A wandering life, in the early republic Mid-Atlantic, could mean many things. It could describe the choice of a seafarer, going years without spending more than a week at a time in port, or a beggar seeking alms as he or she travelled. It could describe a fugitive slave, seeking refuge in free territory, fearful of staying in one place for too long, or a day labourer traversing from job site to job site. Lifestyles like these became commonplace when, as Douglas Lamar Jones has noted, 'patterns of persistence declined more sharply' at the end of the eighteenth century, and were replaced by increased mobility and 'more volatile rural and urban populations of nineteenth century America.'<sup>2</sup> This mobility was variously voluntary, coerced, prompted by need and want, and occasionally inspired by resistance, as Marcus Rediker has described indigent transients' use of 'their fast feet, their autonomous mobility, against the aggregating powers.'<sup>3</sup>

This chapter aims to lay out, as much as possible, the physical landscape of indigent transiency that accompanied the legal one. States attempted to curb migration of the lower classes by criminalising transiency and disenfranchising the poor and mobile, because geographical mobility by the poor destabilised relief systems and threatened the moral, social, and economic order. Transients' mobility was viewed as a tool for undermining established expectations for labour distribution, charity, and moral conduct.<sup>4</sup> Under this view, geographical fixity constituted a prerequisite for citizenship, which was codified repeatedly in settlement, poor relief, and suffrage

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<sup>1</sup> Examination of Lucy Ann Griffin, EXPA, 1831-1836.

<sup>2</sup> Jones, 'The Strolling Poor', p.26.

<sup>3</sup> Rediker, 'Review of *Scraping By*', pp.164-5.

<sup>4</sup> This had the result of effectively establishing the first police forces. Dubber, *Police Power*, pp.51-9. Tim Cresswell saliently discusses the construction of transients, especially vagrants and tramps, as threatening to established systems of order, a common theme in the historiography on the subject, in *The Tramp in America*, p.14.

regulation. As Linda Kerber points out, the tendencies of providers of poor relief to exercise 'extraordinary caution about entertaining poor strangers,' to be highly 'skeptical of vagrants' and to be insistent 'that each person establish clearly his or her right to legal settlement' reflected contemporaries' tendency to conflate pauper migration with vagrancy.<sup>5</sup> These restrictive and prescriptive laws prompt many questions: in this period, what did the mobility that fell under this legislation look like? How was this transiency experienced? This chapter will begin to answer these questions by examining how authorities viewed indigent transiency in juxtaposition to actual routes travelled by pauper migrants and vagrants. Next, it considers individual testimony and narratives of transiency as sources of knowledge about the identities and geographical movements of transients. Finally, it will argue that key shifts in the demographic makeup of the population of indigent transients throughout the nineteenth century are indicative of profound socioeconomic changes that affected the lowest and most mobile classes in this period.

In eighteenth century England, Henry Fielding presciently observed that 'all laws against vagabonds' might more accurately 'in a synonymous phrase, be called laws against wanderers.'<sup>6</sup> What was true in Fielding's England remained true in nineteenth century America, a young nation living with the legacy of colonial poor laws and vagrancy statutes. As Patricia Fumerton has found, the element of mobility in vagrants' lives had essential importance: in order to understand vagrants, she wrote, 'we must track them in their own space – a space of itinerancy, fragmentation, disconnection, and multiplicity that produces a very different topographical mapping of societal relations than those determined by place.'<sup>7</sup> For Fumerton, individuals who lived in this realm experienced, to some extent, an 'unsettled subjectivity' that instigated and perpetuated their geographical mobility, economic instability, and political transiency.<sup>8</sup> The legal landscape constructed citizenship as geographically determined, but it was superimposed over a physical landscape upon which citizens and 'aliens' alike traversed.

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<sup>5</sup> L. Kerber, *Women of the Republic: Intellect and Ideology in Revolutionary America* (Chapel Hill, NC, 2000), p.142.

<sup>6</sup> H. Fielding, *Enquiry into the Causes of the Late Increase of Robbers* (London, 1751), p.xi, cited in S. Nicolazzo, 'Henry Fielding's *The Female Husband* and the Sexuality of Vagrancy', *The Eighteenth Century*, 55, vol. 4 (2014), p.349.

<sup>7</sup> P. Fumerton, *Unsettled: The Culture of Mobility and the Working Poor in Early Modern England* (Chicago, 2006), p.xiv.

<sup>8</sup> Fumerton, *Unsettled*, p.xxi.

Studies of travel and physical movements tend to ‘subordinate the path to the point,’ as Gilles Deleuze and Felix Guattari have argued, because history is generally ‘written from the sedentary point of view.’ In order to tell the histories of transients, then, scholars must ‘prioritize the trajectory and the space between points,’ as opposed to only the ‘factual necessity’ of fixed points.<sup>9</sup> This chapter will aim to do this by considering the directions chosen by indigent transients as they participated in subsistence migration.<sup>10</sup> These individuals – migrants, wanderers, vagrants – who live in-between, what Fumerton refers to as ‘the interstices’ are often elusive in the historical record. Even when the archival sources can be located, the nature of their mobility and realities of their mobile lives are often subverted by narratives that privilege fixity and stability.<sup>11</sup> In the early American republic, this subversion was written into law, as discussed in the previous chapter, through prohibitions of ingress and regress for the perpetually mobile, criminal, and indigent. This is because, as Tim Cresswell has argued, the ‘moral geography of roots and progress [is] marked by a sedentary metaphysics.’<sup>12</sup> These meanings of stasis and movement combined with populations’ socioeconomic status to create a dichotomy in antebellum travel where class ‘played the decisive role in determining [individuals’] ability to travel,’ even, as Sandra Frink notes, for women, over gender.<sup>13</sup>

The goal of the present chapter is to expand the scope used to analyse these sources in order to consider the population data and narratives of itinerancy in relation to larger historiographical questions about mobility, poverty, labour status, race, and gender. It will do so by drawing from extant settlement interviews and ‘examinations of paupers’ in order to chart the geographic movement of the vagrants, pauper migrants, and other indigent transients whose travels are outlined in them. These sources narrate the movements and subsistence efforts of people like itinerant pauper and free African American Ebenezer Widdington, who testified in 1834 that he had ‘been living about – as best he could’ across the antebellum Mid-Atlantic.<sup>14</sup>

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<sup>9</sup> G. Deleuze and F. Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia*, trans. Brian Massumi (Minneapolis, 1987), p.23, in P. Mitchell, *Cartographic Strategies of Postmodernity: The Figure of the Map in Contemporary Theory and Fiction* (London, 2008), p.86-87.

<sup>10</sup> For a discussion of different types of migration, especially as followed by the middling and lower classes, see Dayton and Salinger, *Robert Love’s Warnings*, p.75.

<sup>11</sup> Deleuze and Guattari, *A Thousand Plateaus*, p.23.

<sup>12</sup> Cresswell, *Tramp in America*, p.56.

<sup>13</sup> Frink, ‘Strangers’, p.161.

<sup>14</sup> Examination of Ebenezer Widdington, EXPA, 1831-1839.

### Cartographies of Transiency

In July 1837, the Philadelphia *Public Ledger* introduced a city police report detailing the arrests of several vagrants with an explanation of the general population of vagrants' seasonal movements. 'The ushering in of this month generally ushers into the Mayorial [sic] office a goodly quantity of loafers, who continue to increase throughout the fall and winter.' These migrants tended to 'travel South,' possibly seeking more temperate weather. For them, that decision would have likely been more than a preference of climate, as it was noted that while some 'make up a residence of thirty days...in Moyamensing prison,' following their arrest as vagrants, 'by far the greater number take up their quarters in the Blockley palace over the Schuylkill.' This tongue-in-cheek explanation of seasonal travel patterns implies that more of these travellers were indigent rather than criminal, more likely to deserve a stint in the Blockley Almshouse than in prison.<sup>15</sup>

Overseers' and trustees of the poor's perceptions of the source of those admitted to almshouses elsewhere confirm these southward migration patterns: officials and philanthropists in New York were concerned about European migrants becoming homeless or transient paupers after arriving in their port, or crossing into the state from the north, having walked overland from 'Lower Canada,' often 'approach[ing] the city through New-Jersey or Connecticut.' One observer claimed that it was at the start of every September that 'all the paupers residing in the small towns of the neighboring counties of this state, New-Jersey and Connecticut, will be moving to this city to avail themselves of an early application for rooms in the Alms House.'<sup>16</sup> Further south, the mayor of Philadelphia reputedly interrogated a convicted vagrant, accusing him of having 'came here two days ago from N. York' because he had 'heard doubtless of the big Alms-house, and comfortable winter quarters, we have here?' The vagrant asserted the contrary, but the mayor remained convinced otherwise, using such a possibility to argue in defence of pauper removal, stating that it was 'enough to be compelled to support those who are already among us, without having all the vagrants of New York to provide for likewise.'<sup>17</sup> But New Yorkers were threatened by northward migration, which one commentator claimed was the result of 'a late law of Georgia' that 'forced away several hundred free blacks, the greater part of which' immigrated to New York.

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<sup>15</sup> 'City Police', *PPL*, 8 July 1837.

<sup>16</sup> 'Pauperism', New York *Columbian*, 10 August 1820.

<sup>17</sup> 'City Police – John Swift Mayor', *PPL*, 19 December 1837.

In the summer of 1820, it was feared that those ‘emigrants from the south [were] now paupers in this city, and will, *no doubt*, in the winter either have to be supported at the public expense, or will support themselves by thieving.’<sup>18</sup> Members of the Philadelphia Society for the Promotion of Public Economy claimed in 1817 that the city provided so effectively for its poor that it was their ‘opinion the charitable institutions induce the poor to come here from all quarters.’<sup>19</sup> Meanwhile, Baltimore almshouse officials were convinced that poor Pennsylvanians had heard of the apparent spaciousness of the facilities and quality of the food provided in this Maryland city and thus elected to walk ‘upwards of one hundred miles’ in order to enjoy the superior comforts of Baltimore’s almshouse.<sup>20</sup> These comments reflect some truths about migration patterns in the early nineteenth century Mid-Atlantic, but are likely more instructive about authorities’ fears of over-accommodating the poor and criminal.

Still, it seems some patterns of pauper migration were notably common. When transient John Devar was interviewed in Philadelphia in 1822, he claimed to have travelled southward from Lower Canada without mentioning a stop in New York. The Guardian of the Poor examining him singled out what he perceived as an omission, making an especial enquiry to this effect. Devar had landed from Ireland in St. John’s in Newfoundland in July of that year, staying for only 5 days before going to Quebec, and ‘from there to Boston,’ where he staid one week, then sailed to Baltimore.’<sup>21</sup> The Guardian’s incredulity seems to suggest that northern transients arriving in Philadelphia rarely came by sea, but more commonly overland through New York City. The patterns of movement by the mobile poor during the height of early nineteenth century pauper transiency were not quite as simple as almshouse authorities in Baltimore and Philadelphia believed. Indigent transiency generally involved both urban and rural destinations, and was predominantly constituted as a form of subsistence migration. But the perceived danger of the movements of this population by authorities led to regionally-determined efforts to manage it.

One contemporary statistician, D.B. Warden, claimed that ‘in the middle states, on the Atlantic coast, the paupers have been estimated at 1 to 230 inhabitants,’ while ‘in

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<sup>18</sup> ‘Pauperism’, New York *Columbian*, 10 August 1820.

<sup>19</sup> *Report of the Library Committee of the Pennsylvania Society for the Promotion of Public Economy* (Philadelphia, 1817), p.20.

<sup>20</sup> Rockman, *Scraping By*, p.209.

<sup>21</sup> Examination of John Devar, EXPA, 1821-1825.



the interior' the figure was only 1 in 350. According to Warden, 'of these a large proportion are foreigners and worn-out negroes.'<sup>22</sup> In 1833, Jesse Hunt, Mayor of Baltimore, addressed the need for his own city to be in communication with 'the Mayors of New York and Philadelphia on the subject of paupers,' as all received a constant flow of nationally and internationally migrant paupers each year. Their concerns, Hunt hoped, could be presented to Congress as a request that the federal government offer assistance in the cities' efforts to manage the populations of 'foreign Paupers' who arrived in their cities in the most deplorable condition.'<sup>23</sup> Coordinated efforts to manage the pauper population across states were rare, but individual guardians and overseers of the poor did maintain nearly constant communication regarding individual paupers' settlement, and relief. In Hunt's case, there does not appear to have been any official response to this request. While perceptions of the extent of foreign pauper immigration were generally inflated, their impact was significant in socio-culturally linking the populations of the United States and Europe, as roughly one quarter of non-resident paupers examined in the Philadelphia Almshouse between 1822 and 1831 had been born outside of the United States.<sup>24</sup>

While immigrant vagrants were especially alarming to authorities, so-called 'native' transients were still unwelcome, as Joseph Gille learned when he was arrested as a vagrant in 1837. He had arrived in Philadelphia from Pittsburgh 'but fourteen days' before his arrest for idleness, having 'not been able to obtain work for more than half [that] time.' Gille's success at finding a full week of wage labour did not prevent the city patrol from viewing him as sufficiently idle to warrant a vagrancy conviction.<sup>25</sup> Levi Holmes, a 'Yankee,' had been in the midst of subsistence migration when he was arrested as a vagrant in 1836. He had evidently 'been employed cutting nails in Essex County, and was making an effort to reach his home in Massachusetts, but was without the means of so doing.' Having not managed to improve 'his fortunes during his sojourn in the Key Stone State...the worthy Mayor adverted to [Holmes'] pedal proportions, hinted their capacity to bear him home.'<sup>26</sup> The anecdotal evidence provided by Holmes and Samuel Gantdrön, who also claimed to have 'walked the whole distance from the

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<sup>22</sup> D.B. Warden, *A Statistical, Political, and Historical Account of the United States of North America* (Philadelphia, 1819).

<sup>23</sup> *Journal of Proceedings of the First Branch City Council of Baltimore* (Baltimore, 1833), p.122.

<sup>24</sup> EXPA, 1821-1831.

<sup>25</sup> 'City Police', *PPL*, 2 September 1837.

<sup>26</sup> 'Mayor's Office', *PPL*, 25 March 1836.

Bay to the Keystone State...in search of employment,' calls into question Priscilla Ferguson Clement's assumption that, because most early nineteenth century indigent transients 'probably journeyed to the city on foot,' 'they could not have come too far.' Furthermore, she argues, a majority 'arrived in [Philadelphia] from destinations one to 100 miles away.'<sup>27</sup> First, of course, necessity could have contravened any preference of conveyance method, and settlement examinations do not generally contain a record of a mode of travel. And at any rate, as Clement notes, the reason that settlement had such carefully-protected currency was that most indigent transiency was intermittent, broken up with varying lengths of stays in certain areas. Indeed, 'most persons moved not direct from farm to city, but from farm to small town and then perhaps to a larger city.'<sup>28</sup> Furthermore, as will be shown later, this pattern was interrupted and supplemented by pauper removal practices that ended up seeing many of these persons returned back to one of the small towns or rural areas which they had left. But many indigent transients did also travel from city to city, and the largest and most populous urban centres with large migrant populations were all within about 100 mile radius of Philadelphia: Baltimore, New York City, and New Castle, Delaware. This skewed the perceived social versus cartographical distances between these capital cities. It is also worth noting that these cities were often only the most recent stop in a long line of locations through which migrants passed. And with greater concentration of opportunities for day labour, many transients travelled between these cities repeatedly.

As a result, many of the narratives in the examinations of paupers taken in the Philadelphia Almshouse read like travelogues. In general, they offer little knowledge about the place where they were recorded and far more about the places through which the pauper had travelled. One transient, for example, Park Cullen, a widower with three children, was interviewed in Philadelphia, but his settlement interview reports that he had travelled from Ireland to New Brunswick in the Canadian Provinces, to Boston to 'various places in the Eastern States,' to New York City and Philadelphia, all in the span of two years.<sup>29</sup> Transiency in the Mid-Atlantic was circulatory in this way: all of the states in the region were well-represented by those interviewed in the Philadelphia almshouse, with individuals who had travelled from New York, Delaware, Maryland,

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<sup>27</sup> 'City Police', *PPL*, 2 September 1837. Clement, 'Transformation', p.76.

<sup>28</sup> Clement, 'Transformation', p.76.

<sup>29</sup> Examination of Park Cullen, EXPA, 1821-1825.

and New Jersey comprising over half of the total between 1822 and 1825.<sup>30</sup> Work in shipping and fishing especially led many workers to cross state lines in the Mid-Atlantic, which labourers commonly referred to as ‘following’ work along the shore, a phrase used in 1822 by William Gore and Samuel Benton, who were both employed on the wharves, the latter in Baltimore, New Jersey, and Philadelphia.<sup>31</sup>

The trajectory of Joseph Robinson, too, who was interviewed as a non-resident pauper in the Philadelphia Almshouse on New Year’s Eve of 1822, was broad and also circulatory. He testified to having been born in Ireland and then migrated to the United States four years previous. He landed in New York, but only stayed three weeks before travelling onward to Philadelphia, where he resided for three months. He kept moving, living in Ohio for nine months, Union County, Pennsylvania for six months, Brownsville for four months, and for some time in Bedford before returning to Philadelphia. Because he had arrived in this country at the port in New York and not gained a legal settlement anywhere else in the meantime, New York was the closest he had to a legal residence, and it was there to which he was removed that day.<sup>32</sup>

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<sup>30</sup> Aggregated data from EXPA, 1821-1825.

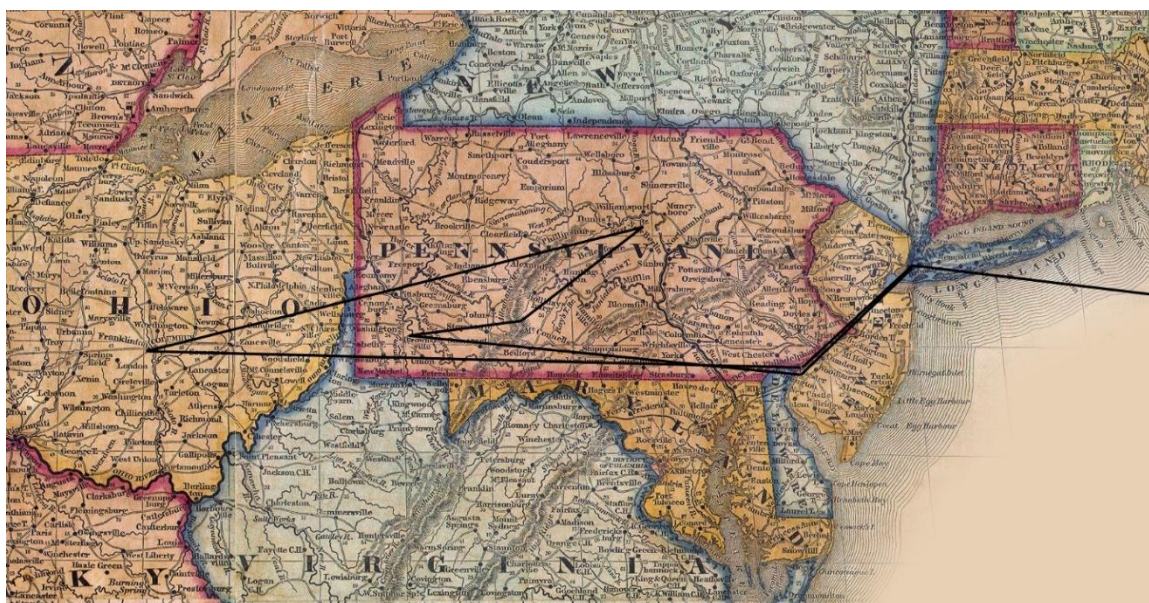
<sup>31</sup> Examinations of William Gore and Samuel Benton, EXPA, 1821-1825.

<sup>32</sup> Examination of Joseph Robinson, EXPA, 1821-1825.

Figure 3.1: Map showing trajectory of indigent transient Joseph Robinson

Source: *Examination of Joseph Robinson, 1822, EXPA, 1821-1825 and Mitchell's National Map of the American Republic or The United States of North America (1845).*

There were countless methods of eking out subsistence from place to place, both in terms of securing labour and wages, but also, of course, physical relocation, much of



which involved regional circulation. In describing these relocations, transients offer instructive details about the modes of transportation available to them, and their descriptions of the timespans they spent in each residence offer insight into the longevity of casual employment arrangements. A woman named Rachel Johnson, when asked about the whereabouts of her husband, who was not with her in Philadelphia, stated that he had ‘returned to the state of New York, whence he came on a raft.’<sup>33</sup> Jeremiah Mahaney, an Irish immigrant who landed in New York, stayed there for four years before travelling ‘to the West Indies’ where he ‘lived 8 months, then returned to New York and lived 2 months, then went to Newark and lived one winter’ before travelling to Philadelphia, where he gave the interview containing this trajectory.<sup>34</sup> Theophilus Grew was more general in describing his transiency when he was examined as a pauper in the Philadelphia Almshouse in 1828. He had been born in Montgomery County and ‘bound an apprentice’ to a nearby shoemaker, but ‘after serving him about six years, he ran away from his master.’ After absconding, he ‘wandered about for

<sup>33</sup> J. Peirsol to Directors of Poor of Bucks County, 11 February 1830, Letter Book, GPP.

<sup>34</sup> Examination of Jeremiah Mahaney, EXPA, 1821-1825.

several years' before settling in Bucks County. There were periods of persistence in his life up until he reached the almshouse at the age of 33, but he was of late unable to find steady employment, and worked as a day labourer for much of 1828.<sup>35</sup> A Virginia-born man named Willoughby Newton Howell had been bound by indenture to a Bedford County Pennsylvania 'sadler.' As soon as he was free, at age twenty one, he compounded his demographic likelihood of becoming transient as a former indentured servant and joined the military. 'He enlisted...in the United States Army for eighteen years' and was discharged in New Orleans in 1815. After leaving the army, he testified in the Philadelphia Almshouse in the spring of 1829, he spent the next fourteen years 'wandering about,' not earning a legal settlement in any of the states he passed through on his journey north. He had only been in Philadelphia for four days when he was examined by the Guardians of the Poor there.<sup>36</sup>

For many transients, both the actual pattern of their behaviour as well as their categorisation under the law travelled with them across state lines. Basel Dobbins was twenty three years old when he was sentenced to serve a yearlong punishment for vagrancy in Maryland's penitentiary on 11 March 1812.<sup>37</sup> He was a labourer who had been born in Baltimore County, and after completing his prison sentence in 1813, he remained there for a few more years. Sometime around 1817, Dobbins left Baltimore and ended up in Philadelphia, where he 'followed labouring...about 2 ½ years.' Shortly thereafter, he enlisted in the army, and was discharged at Fort Scott in Georgia. He returned to Baltimore, and for the next year, Dobbins travelled between Baltimore and Philadelphia until he was again arrested as a 'vagrant and idle disorderly man' in Philadelphia on 5 August 1822. By February of 1823, he was examined as a non-resident pauper in the almshouse, possibly as the result of another vagrancy arrest or for relief.<sup>38</sup> In either case, Dobbins' indigent transiency was recognizable to authorities in both Maryland and Pennsylvania.

Mary O'Neil's path appears to have been similar to Dobbins'. Born in Ireland, she was forty five years old when she was arrested for vagrancy in Baltimore on 17

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<sup>35</sup> Examination of Theophilus Grew, EXPA, 1826-1831.

<sup>36</sup> Examination of Willoughby Newton Howell, EXPA, 1826-1831.

<sup>37</sup> Maryland Penitentiary Prisoners Record, 1811-1840, S275-1, MSA. Penitentiary records list a Basil Tobin, while the almshouse records list Basel Dobbins; the descriptions, testimony, age, and other identifying characteristics, match. The same is true for the woman listed Mary O'Neale in penitentiary records and Mary O'Neil in almshouse records.

<sup>38</sup> Prisoners Record, Basil Tobin, MSA. Commitment of Basel Tubbins. Examination of Basel Dobbins, EXPA, 1821-1825.

June 1818. O'Neil had been working as a house servant in Baltimore prior to her arrest, suggesting that she had either only recently become unemployed, or the actions that led to her arrest for vagrancy may have fallen under categories other than the pauperism clauses of vagrancy statutes.<sup>39</sup> She served her full year's term in the penitentiary, and was released in 1819. In 'the fall of 1821,' she made her way to Philadelphia. When her testimony was recorded in the Almshouse there, it was noted that O'Neil said she did 'not know her age (say abt. 50 years)', but had landed in Baltimore when she was about twelve years old.<sup>40</sup> O'Neil and Dobbins experienced institutional punishment and relief across state lines, as both vagrants and paupers, showcasing the salient characteristics and activities associated with indigent transiency.

Literal cartographies of transiency can be recreated from the settlement interviews of people like Dobbins and O'Neil. Using settlement interviews to reconstruct chronologically from birth to the time of the testimony, the maps below illustrate the overwhelming extent of mobility among these individuals. Figure 3.2 showcases a sampling of the trajectories of fifty indigent transients who were recorded as non-residents in the Philadelphia Almshouse between 1822 and 1831. This map drives home the point that for many of these individuals, transiency began with the first move, voluntary or involuntary; for some this was the transatlantic journey from Europe, for others, forced migration from Africa or the Caribbean. It shows that the Mid-Atlantic was a centre for the circulatory spatial movement of the transient population on the Atlantic coast in this period, growing daily as recently-arrived immigrants joined their ranks. Showing the visually chaotic nature of indigent transiency by clustering spatial data on a contemporary map offers a sense of the general extent of mobility for the overall population of indigent transients, as well as specifically women and African Americans. These maps show that indigent transients moved throughout the entire coastal and inland region of the Mid-Atlantic in the 1820s-1830s, but the extent of these movements was impacted by race and gender. As shown in Figures 3.4 and 3.5, covering the years 1822-1836, African Americans and women of all races exhibited slightly less dramatic geographical mobility than white men. This

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<sup>39</sup> Wood Hill, *Their Sisters Keepers*, pp.113-6; P. Cline Cohen, *The Murder of Helen Jewett* (New York, 1999), pp.65-7; N. Hahn Rafter, *Partial Justice: Women, Prisons, and Social Control* (Piscataway, NJ, 1990), pp.115-6; Rockman, *Scraping By*, p.338.

<sup>40</sup> Mary O'Neale, Prisoners Record, MSA. Examination of Mary Oneil, EXPA, 1821-1825.

was likely as a result of legal restrictions on their movements, especially among free and unfree blacks.

Zooming in on the port cities in the Mid-Atlantic illustrates indigent transients' urban circulations between these points and visually obscures points in favour of depicting trajectories. Far from exclusively travelling between major urban areas, most transients stopped in smaller towns between capitols. Travel times between these cities, even on foot, were generally between a few days and a week in either direction. Testimonies like Samuel Meninger's are representative of this form of migration: he had 'no settled place of residence, but had 'lived for short periods in the states of New Jersey, New York, and Maryland,' followed by Philadelphia.<sup>41</sup> Some transients offered more calculated explanations, like Irish immigrant John China, who had landed in Portland, Maine, staying for eighteen months before moving on to Boston, then to New York, where he 'stayed a few days,' before travelling to Philadelphia, where he 'lived 13 weeks.' He 'then returned to New York' and stayed about eight weeks, before travelling back to Philadelphia yet again.<sup>42</sup>

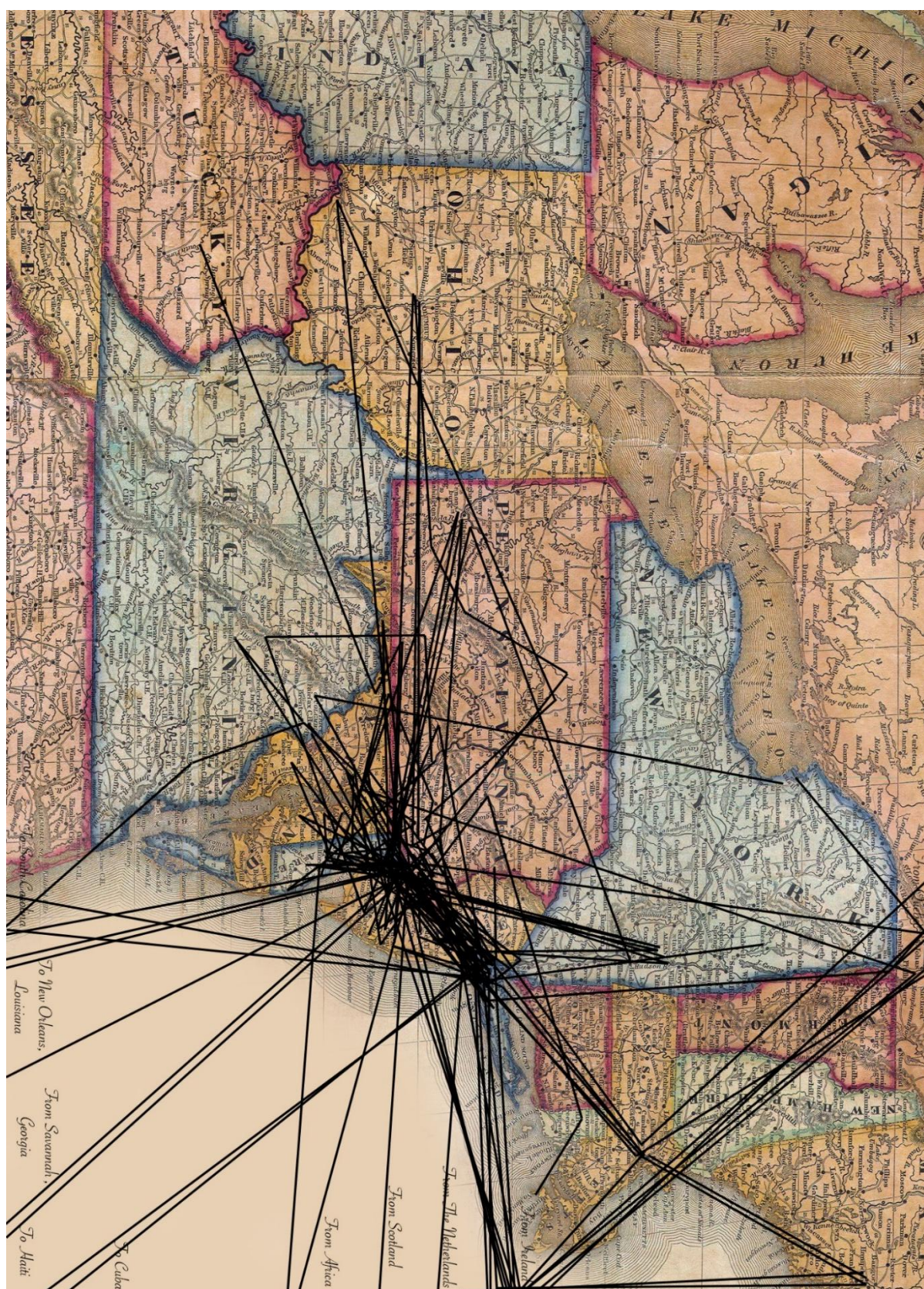
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<sup>41</sup> Examination of Samuel Meninger, EXPA, 1826-1831.

<sup>42</sup> Examinations of John Devar and John China, EXPA, 1821-1825.



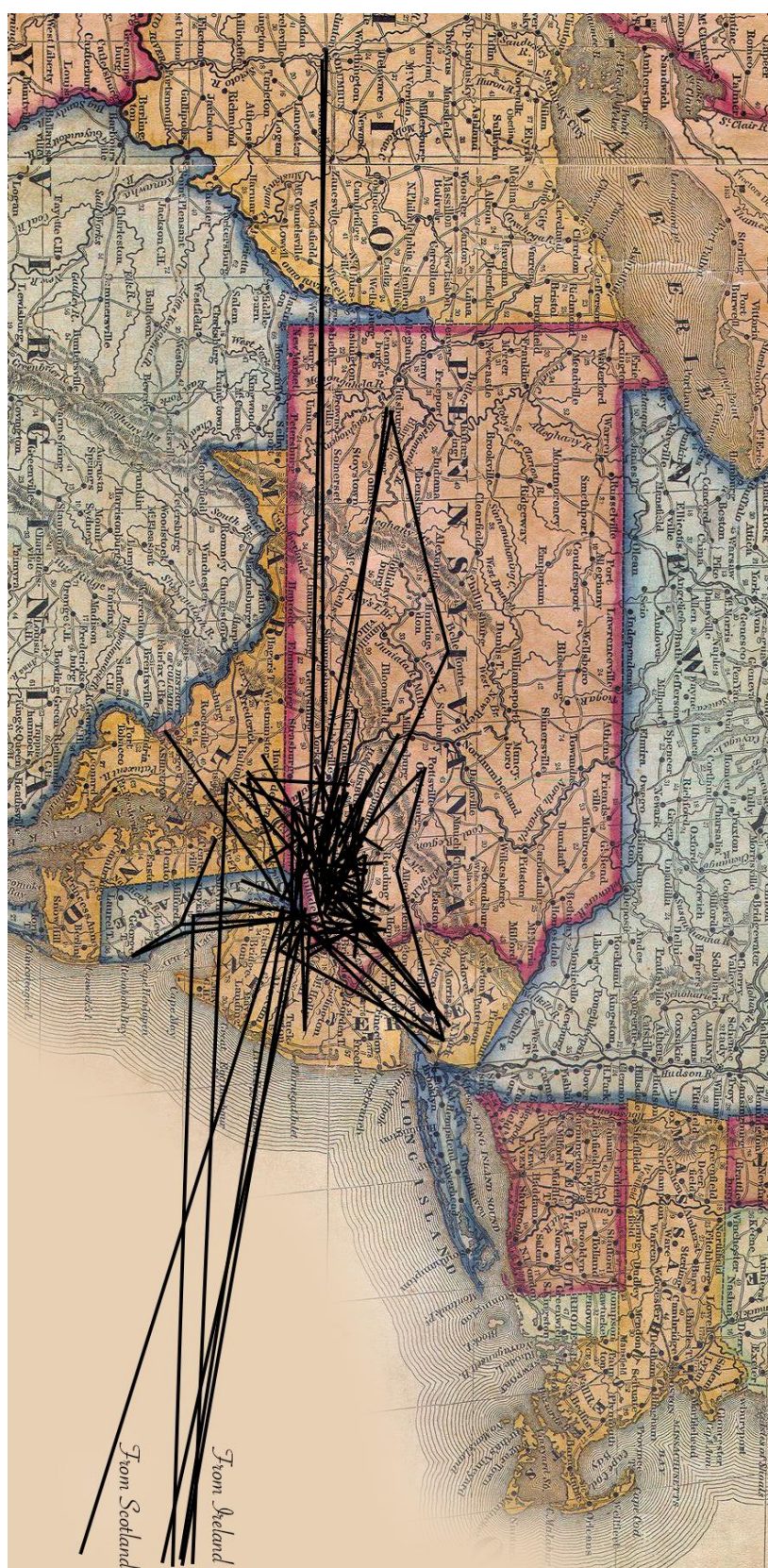
Figure 3.2: *Trajectories of 50 Indigent Transients*



Source: EXPA, 1821-1831 and Mitchell's National Map of the American Republic or The United States of North America (1845).



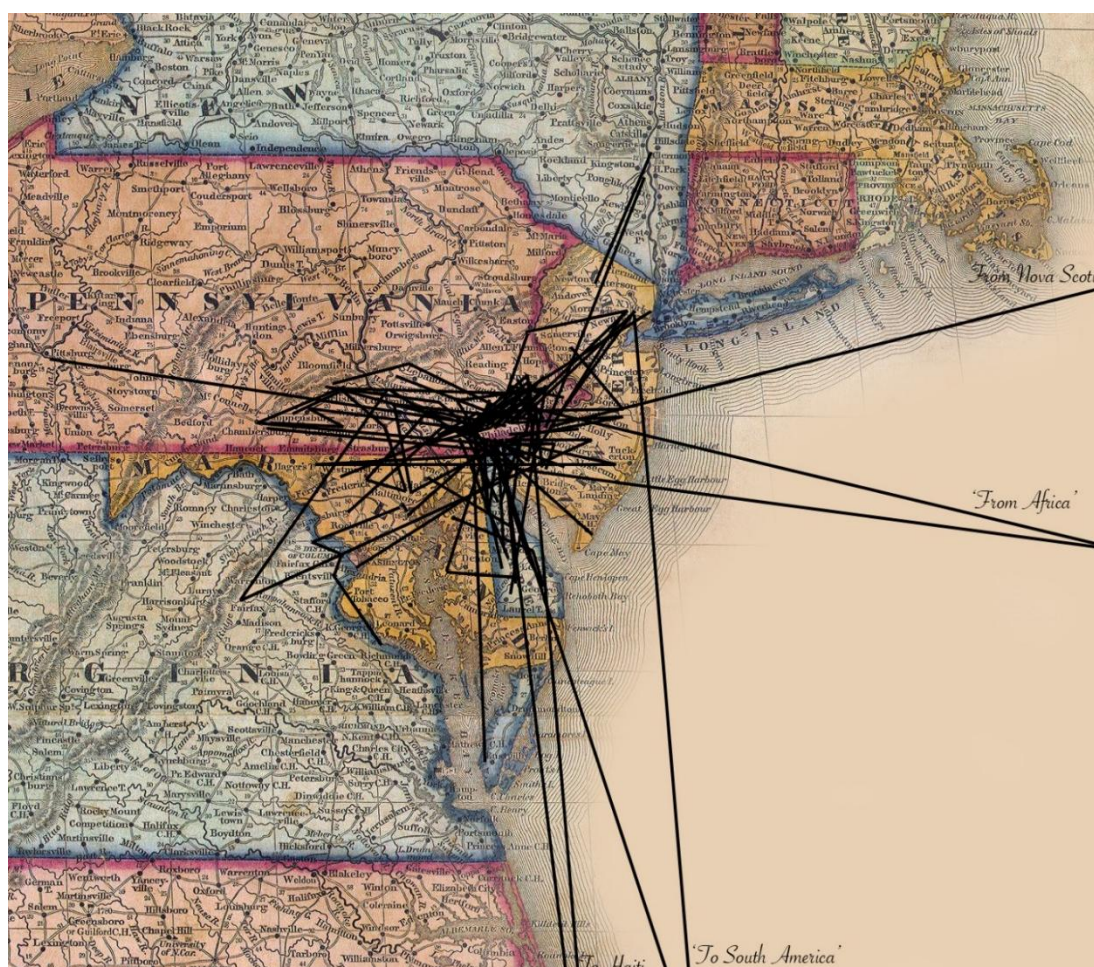
Figure 3.3: Trajectories of 50 Female Indigent Transients



Source: EXPA, 1821-1836 and Mitchell's National Map of the American Republic or The United States of North America (1845).



Figure 3.4: Trajectories of 50 African American Indigent Transients, 1822-1836



Source: EXPA, 1821-1836 and Mitchell's National Map of the American Republic or The United States of North America (1845).

### **‘Real Poverty!!!,’ Spatiality, and Temporality**

Wandering, even in the effort to seek employment, was not only unacceptable when done outside of one’s legal residence, however defined, but prosecutable. But laws against wandering by beggars and job seekers could hardly act as deterrents to frequent or excessive mobility where few if any other options for securing subsistence were available. For unskilled labourers, transience was a repetitious feature of working life; canal-building, road construction, and fishing industries required frequent moves to follow job availability. While that certainly serves to explain some individuals’ patterns of mobility, others evidently had greater periods of instability and lack of work or residence in between than those who, for example, sailed with the United States Navy or merchant marines. 30 year old Isaac Wiley was one such veteran. Born in New York, he began ‘following the sea’ with ‘the U.S. Service’ at age 16. He worked on a canal in Columbia, South Carolina before being ‘hired by the month for 13 months to various places,’ followed by a temporary move back to New York. He then relocated to Philadelphia where he found employment ‘type pounding’ before beginning work on ‘the canal on Schuylkill.’<sup>43</sup> Service in a military capacity or as a private sailor appears to have increased individual likelihood for continued transience long after discharge, with many veterans not only staying on the move but doing so at greater distances than much of the civilian population. This may have been one of the results of the relocation often involved with military service, or a consequence of the economic challenges that so many veterans faced.<sup>44</sup>

Much mistrust surrounded narratives of destitution involving military service or time spent at sea. Indeed, several tropes of false misfortune were singled out as tactics used by the belligerent or unworthy poor to beg alms: ‘playing the old soldier,’ house fires, widowhood, the destitute sailor, and so on. This tendency not to believe the poor was in fact written into New Jersey’s colonial vagrancy and poor laws, that remained in effect in the state well into the nineteenth century, putting constables on guard that ‘all poor indigent persons strolling...about this colony, under pretence of losses by fire, or

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<sup>43</sup> Examination of Isaac Wiley, EXPA, 1821-1825.

<sup>44</sup> For more on the plight of veterans in the early republic, see J.P. Resch, *Suffering Soldiers: Revolutionary War Veterans, Moral Sentiment, and Political Culture in the Early Republic* (Amherst, MA, 2010).

having their goods and effects destroyed...shall be esteemed vagrants and vagabonds.<sup>45</sup> The ubiquity of such suspicions has been documented in Ann Fabian's work on personal narratives and reflects an American cultural tendency to see profiteering where it may or may not exist.<sup>46</sup> Still, an 1839 article in Philadelphia's *Public Ledger* describing the arrest of a veteran as a vagrant and his tales of woe emphasised for readers the veracity of the descriptions to follow with the title 'Real Poverty!!!'<sup>47</sup> George G. Morris was 'an old revolutionary soldier, who had fought under Com. McDonough, and left his leg in the battle on Lake Champlain,' who was now, almost sixty years later, 'poverty stricken.' The article takes an incredulous tone in recording that Morris had approached an alderman and 'requested him to commit him to the County Prison for thirty days as a Vagrant!!'. His motivation in posing 'this singular and strange request' was that he 'had not a cent in the world' for shelter or sustenance. He had survived on nothing for some time, but when he injured his wrist, he was no longer able to bear the way he had spent his previous nights 'lain on the commons in the rear of...Commissioners' Hall, chilled to the bones with cold.' Morris had been denied a government pension because he lacked proper identification documents, and had no other access to money for medical care. The alderman granted Morris' request, and he was sent as a vagrant to the County Prison.<sup>48</sup>

Requests like Morris', while they did not constitute a large number in the antebellum period, were not entirely uncommon.<sup>49</sup> A man listed as 'H. Bigelow' in a police report from 1836 had encountered a watchman one evening, explaining his obvious 'destitute condition' to him by the fact that he 'had not had his liberty,' and when he left prison, 'he had not been furnished with one cent, even to obtain a meal of victuals.' Furthermore, he 'had not yet been able to obtain work.' In response, the mayor offered him 'a trifle...for his immediate relief.'<sup>50</sup> Release from the prison or almshouse often led to such outcomes. When John Ramsay was arrested for disorderly

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<sup>45</sup> 'Act for the settlement and Relief of the Poor', *Acts of the General Assembly of the Province of New-Jersey* (Woodbridge, NJ, 1761).

<sup>46</sup> A. Fabian, *The Unvarnished Truth: Personal Narratives in Nineteenth-Century America* (Oakland, CA, 2002), pp.10-5.

<sup>47</sup> 'Real Poverty!!!', *PPL*, 30 September 1839.

<sup>48</sup> *Ibid.*

<sup>49</sup> Additionally, with the introduction of police lodgings and boarding houses after the 1850s where individuals could essentially voluntarily incarcerate themselves for a night or more, such practices were much more common in the late nineteenth and early twentieth centuries. See Kusmer, *Down and Out on the Road* and Cresswell, *The Tramp in America* for more on these facilities and the people who used them.

<sup>50</sup> 'Mayor's Office', *PPL*, 25 March 1836.

behaviour on 19 March 1836, he was said to have ‘confused ideas of geography.’ He had evidently ‘recently been discharged from the almshouse’ when he was taken up for drunkenness. Ramsay averred that he was ‘entirely guiltless’ of being ‘the worse for liquor’ but rather was ‘subject to epileptic fits.’ Upon leaving the almshouse, he intended to travel to Lebanon, and notwithstanding his lack of apparent knowledge as to its location, his judgment was suspended. A few days later, however, he had yet to leave the city, and one morning, ‘went up to a watchman’ and explained to him ‘that he was nearly perished with cold and hunger,’ and hoped for assistance. According to the report from the Mayor’s Office, ‘the Mayor gave him a small amount to get something to stay the cravings of hunger, and to pay his fare over Schuylkill bridge,’ as he evidently hoped to stop in Chester ‘for his clothes,’ and Ramsay was sent on his way.<sup>51</sup>

For indigent transients, spatiality and temporality were inextricably linked, especially for the institutionalised either in prison or an almshouse: stopping in a city for more than a few days seeking work increased one’s vulnerability to a vagrancy arrest, yet residency claims required the legitimacy of a lengthy term of persistence in a given area. The overwhelming majority of the examinations of paupers from the Philadelphia Almshouse conclude with the testimony of the interviewed individual as to the length of time that had passed since they had lived anywhere long enough to have gained a legal settlement. In the case of Charles Hough, interviewed in 1827, he had not ‘lived more than 6 months with any one person since he left his father in Bucks County.’ He had, instead, lived in Doylestown until he ‘went to New York.’ He ‘remained there 9 months, then went to various places staid but a short time in each.’ Hough’s trajectory was common, ending with a yearlong stay in Philadelphia but without work or his own home, he having never ‘kept house.’<sup>52</sup>

The element of temporality in short-term employment and residence lent punctuation to the lives of many transients. Susan Hall, for example, was described by the Overseers of the Poor as a mulatto when she was examined in the Philadelphia Almshouse as a non-resident on 25 February 1822. There, she testified that she had ‘lived in Philadelphia and Wilmington by terns [sic] ever since she was 10 years old, without every living one whole year at any one time’ in either location, or in any service

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<sup>51</sup> *PPL*, 19 March 1836. A John Ramsey of similar description appears in almshouse records with a settlement in Lebanon County, in February of 1838, but without a given age it is not possible to connect the two.

<sup>52</sup> Examination of Charles Hough, EXPA, 1826-1831.

job. Her first recorded arrest as a vagrant followed this almshouse interview almost exactly one year later, on 3 March 1823, when she was convicted ‘with being a disorderly vagrant.’<sup>53</sup> Her name appears subsequently on the vagrant docket at this time of year, suggesting that perhaps Hall’s journeys between Pennsylvania and Delaware, as the winter weather began to break in early March, drew the suspicion of the magistrates. Examiners recorded transients’ self-reported timescales, as in the case of free African American woman Loraina Butler who had ‘not lived more than 2 months with one person, nor kept a house’ in the previous four or so years. She had been born in Shippensburg and raised as an indentured servant until the age of nineteen, when she ‘went to Pittsburgh,’ where she ‘remained about 2 years, but not more than 5 months with one person.’ She lived, worked, and married in Harrisburg, and then moved on to Philadelphia two years later.<sup>54</sup>

Many settlement examinations also reflect the necessary seasonality of migration and efforts among transients to secure a job placement to carry through the winter. Margaret Hempstead worked as a domestic servant in various families for several months at a time, at John Abbott’s ‘from the fall to the next April,’ then in Nathaniel Trimble’s family ‘from August 1827, till the following Spring.’ In November of 1828, having not secured a position for the cold season, she entered the almshouse.<sup>55</sup> Evan Richardson had been bound by indenture to a West Chester farmer, Thomas Hoopes, and upon release, circulated by season between Philadelphia, where he ‘worked a summer for William Lybrand,’ and winter, when ‘he returned and worked for Thomas Hoopes,’ and again, ‘the next summer he worked again for William Lybrand.’ Richardson testified in the autumn of 1828 that ‘last winter he lived in Wilmington, State of Delaware,’ but by the following November, had entered the almshouse.<sup>56</sup> Hudson Springer’s maritime experience, on the other hand, necessitated seasonal employment. He had ‘followed shalloping’ and also ‘attended ferry for Jos. Bisban 2 seasons,’ before he ‘went to sea and continued to follow the sea’ seasonally, out of ports in New Jersey and Pennsylvania.<sup>57</sup>

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<sup>53</sup> Examination of Susan Hall, EXPA, 1821-1825 and Commitment of Susan Hall, VAG, 1822-1827.

<sup>54</sup> Examination of Loraina Butler, EXPA, 1826-1831.

<sup>55</sup> Examination of Margaret Hempstead, EXPA, 1826-1831.

<sup>56</sup> Examination of Evan Richardson, EXPA, 1826-1831.

<sup>57</sup> Examination of Hudson Springer, EXPA, 1821-1825.

The testimonies of the most destitute, ill, and disorderly reported shared institutional experiences in their examinations. For Richard Mickilravy, this meant that a period travelling between Washington, D.C., Virginia, and the West Indies was followed up with a short stay in an almshouse in Green County, New York. Three months and an intervening journey to Philadelphia later, and he was admitted to the latter city's almshouse.<sup>58</sup> It was not uncommon for transients to end up voluntarily or involuntarily held in several different almshouses either in order to receive medical care or as part of a settlement and removal process. The geographical movements of indigent transients between spaces of institutional confinement can be viewed as forms of institutional mobility.<sup>59</sup> Furthermore, cartographies of transiency were created through the management of poor relief itself, because movement was essential for itinerant paupers to obtain relief even within their region of legal settlement. In counties in upstate New York, paupers seeking relief in their town of settlement would be, when approved, transported to the county seat, where the almshouse was generally located. Park Cullen, an Irish immigrant who had travelled through 'various places in the Eastern States,' spent '4 ½ months in the N. York Hospital' before his time in the Philadelphia Almshouse.<sup>60</sup> Rebecca Benson, an 18 year old African American woman, was born in Delaware and spent her childhood there as an indentured servant, migrating to Philadelphia upon obtaining her freedom. She was removed from the Philadelphia Almshouse back to her legal settlement in New Castle, Delaware, and died in the almshouse there several years later.<sup>61</sup> John Steele 'wandered from New York to Ohio working at his trade,' and shuttled back and forth between almshouses in Lancaster, Philadelphia, and elsewhere in the 1830s.<sup>62</sup>

### **Population Shifts among Nineteenth Century Indigent Transients**

The nineteenth century saw repeated and dramatic changes in the population of vagrants, tramps, and transients that traversed the United States. And though demographic data for indigent transients is often scarce or incomplete, some conclusions can be drawn about the individuals who comprised this group during the early republic. Chief among these are the differences in nativity, gender, and race to be

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<sup>58</sup> Examination of Richard Mickilravy, EXPA, 1831-1839.

<sup>59</sup> Receipt of Paupers, Transportation Book, Pauper and Poorhouse Records and Ulster County Paupers Name Book, UCCA.

<sup>60</sup> Examination of Park Cullen, 1821-1825.

<sup>61</sup> Examination of Rebecca Benson, EXPA, 1821-1825.

<sup>62</sup> Examinations of John Steele, EXPA, 1831-1839 and 1826-1831.

found in geographical and chronological comparisons, which had a profound impact on the options available to individuals and on their perception by authorities.

An example of the first shift can be seen over just a few short years among the poor in Philadelphia. In 1817, a fatally cold winter prompted several prominent Pennsylvania philanthropists to investigate the extent of poverty among Philadelphia's lower classes and propose a solution for their relief, so that the crisis they faced that winter might not be repeated. This effort, led by the Society for the Promotion of Public Economy, involved conducting extensive surveys among the city's population. What they discovered was that almost half, 540 of the 1239 (44 percent) individuals who received poor relief that year, were non-residents.<sup>63</sup> Among them, the majority were foreign-born, predominantly Irish and English, and only a small number had come from other states in the Union. Poverty worsened over the next decade, owing largely to the fallout of the Panic of 1819, which had completely destabilised the American economy.<sup>64</sup> In the years that followed, the characteristics of the population of indigent transients in the city changed dramatically. The marked differences between this group in 1817 and a sample from settlement interviews taken with non-resident paupers from ten years later in 1827 by the Guardians of the Poor stands as a reference point for how the geographic mobility of the poor in this region also changed in those intervening years. As shown in Table 3.1, while in 1817, most of the non-resident paupers receiving aid in Philadelphia were from Europe, predominantly Ireland, by the 1820s, paupers from other states, especially in the Mid-Atlantic, were found in triple the numbers that European-born paupers were.<sup>65</sup> Indeed, as the nation's second largest city until 1840, Philadelphia received several times the national average of immigrants each year.<sup>66</sup> This change does not seem to be explained by a shift in foreign immigration into Philadelphia, as the city's port saw a significant increase in the number of migrants entering between 1819 and 1851.<sup>67</sup> Beyond these considerations, in Philadelphia, the

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<sup>63</sup> *Report of the Library Committee of the Pennsylvania Society for the Promotion of Public Economy*, p.16-8.

<sup>64</sup> D.S. Dupre, 'The Panic of 1819 and the Political Economy of Sectionalism', *The Economy of Early America: Historical Perspectives & New Directions*, ed. C.D. Matson (University Park, PA, 2006), p.263-93.

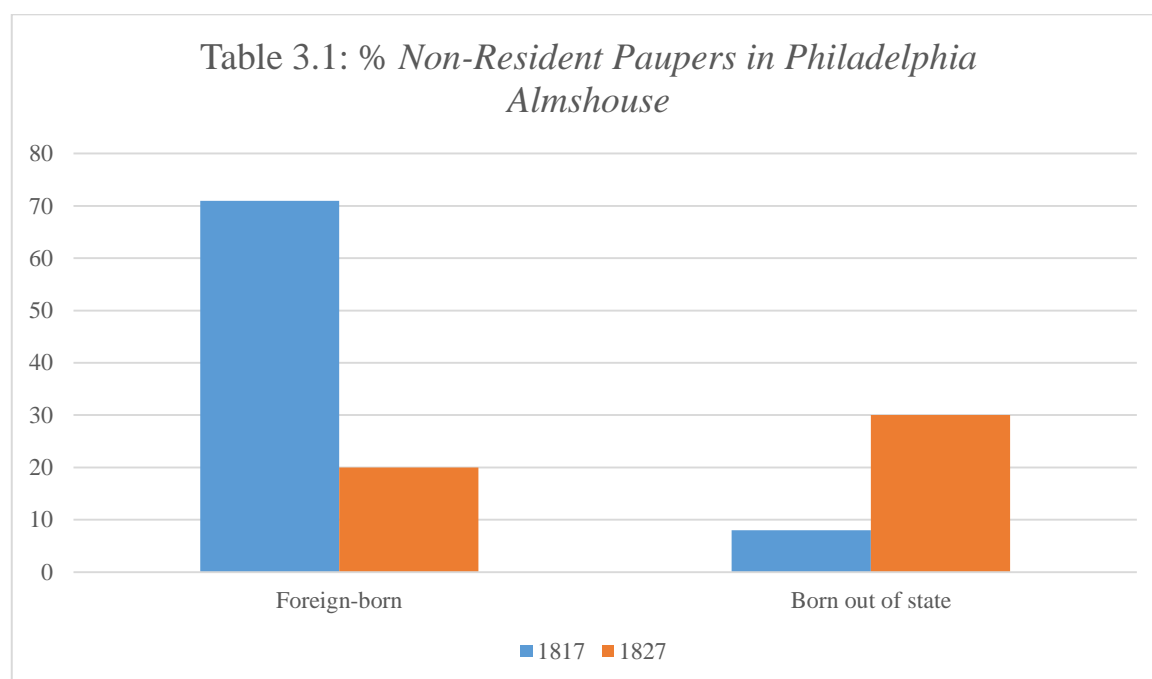
<sup>65</sup> *Report of the Library Committee*, pp.16-8. Aggregated data for 1827 extracted from EXPA, 1827.

<sup>66</sup> R. Lane, *Violent Death in the City: Suicide, Accident, and Murder in Nineteenth-Century Philadelphia* (Columbus, OH, 1979), p.1; F. Miller, 'Philadelphia: Immigrant City', Balch Online Resources, Historical Society of Pennsylvania: [http://www2.hsp.org/exhibits/Balch%20resources/phila\\_ellis\\_island.html](http://www2.hsp.org/exhibits/Balch%20resources/phila_ellis_island.html) [accessed March 2015].

<sup>67</sup> W.J. Bromwell, *History of Immigration to the United States...from September 30, 1819 to December 31, 1855* (New York, 1856).



high point of indigent transiency in the entire nineteenth century was 1826, when it is estimated one in every hundred persons in the city was a convicted vagrant, and the rate of indigent transients was probably even higher once those who went unpunished are considered.<sup>68</sup>



*Source: 1817 data extracted from Report of the Library Committee of the Pennsylvania Society for the Promotion of Public Economy (Philadelphia, 1817), pp.16-20.*

*Aggregated data for 1827 extracted from EXPA, 1827.*

The shift in regionally-transient versus internationally-transient migrants receiving aid in Philadelphia between 1817 and 1827 may provide insight into the nature of this surge in mobility among the poor in the late 1820s. The economic depression that followed the Panic of 1819 led many Americans to take to the roads in search of work in neighbouring counties and states.<sup>69</sup> During these years, internal migration within the northeast increased dramatically, causing the populations of non-resident paupers to swell, and in turn, prompting investigations by state legislatures and local governments into the ‘increase in pauperism’ in their jurisdictions.<sup>70</sup> This could

<sup>68</sup> Clement, ‘Transformation’, p.60. This figure, which appears in Clement’s work as 11 vagrants for every 1000 Philadelphians, could be misleading; population figures for antebellum American cities are skewed toward residents and taxpayers – which vagrants, by and large, were not.

<sup>69</sup> S. Rezneck, ‘The Depression of 1819-1822, A Social History’, *American Historical Review*, 39 (1933-1934), pp.28-34.

<sup>70</sup> ‘An act to prevent the increase of pauperism in this commonwealth’, *Laws of the Commonwealth of Pennsylvania* (Philadelphia, 1822), p.480. ‘Annals of Pauperism’, *Hazard’s Register of Pennsylvania*, vol.

point to one of the impetuses for reform efforts ramping up in this period, and most certainly led to New York's poor relief overhaul in 1824, which allowed transients to be relieved in situ rather than only in their place of legal residence.<sup>71</sup> In the 1820s, a number of investigations were conducted to inquire into the 'condition of the poor and the administration of relief' through legislative committees and beneficent groups in an effort to diagnose the cause of this dramatic rise in pauperism.<sup>72</sup> Pennsylvania overhauled its poor laws over a decade later, in 1836, including a new provision to allow for the punishment as vagrants of paupers who had been removed, as non-residents, from a jurisdiction where they did not possess legal settlement, presumably in response to a larger number of individuals doing just that.<sup>73</sup>

The dominant image of the indigent transient in American culture is the young, white, male tramp of the 1890s.<sup>74</sup> Michael B. Katz studied the tramp population of the 1870s, assessing its demographic makeup using surveys sent to almshouses and police departments across the State of New York in 1875. He gleaned information that, when compared with the evidence presented in this study, clearly illustrates the changes that took place among the mobile poor in the first three quarters of the century. The individuals whom Katz refers to as tramps were almost entirely men, about 94% of the roughly 5,000 surveyed and even more predominantly white, almost 98%. Over half were under the age of thirty, and just over half had been born outside of the United States.<sup>75</sup> And in Philadelphia during this same time period, data from similar institutions – almshouses and prisons – confirms that men comprised over three quarters of the vagrant population in the prison, among whom over 95% were white.<sup>76</sup> But these characteristics did not match those of the typical indigent transient of fifty years earlier. Both, of course, were characterised by a necessity or tendency, as many nineteenth century Americans understood, to 'sleep nowhere...and pay for [their] lodgings with nothing at all.' But stark differences are found between the two.<sup>77</sup> In the postbellum

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2 (Philadelphia, 1829). Clement, 'Philadelphia Welfare Crisis', p.151. B.D. Coll, 'The Baltimore Society for the Prevention of Pauperism, 1820-1822', *American Historical Review*, 61, no.1 (1955), pp.77-87.

<sup>71</sup> 'Act providing for the establishment of county poorhouses', *Laws of the State of New York* (Albany, 1824), and J. Cummings, *Poor-laws of Massachusetts and New York* (New York: 1895), pp.95-6.

<sup>72</sup> Rothman, *Discovery of the Asylum*, p.157.

<sup>73</sup> W.C. Heffner, *History of Poor Relief Legislation in Pennsylvania, 1682-1913* (PhD Dissertation, University of Pennsylvania, 1913).

<sup>74</sup> See Cresswell, *The Tramp in America*, for an in-depth discussion of the tramp as a cultural category in the United States.

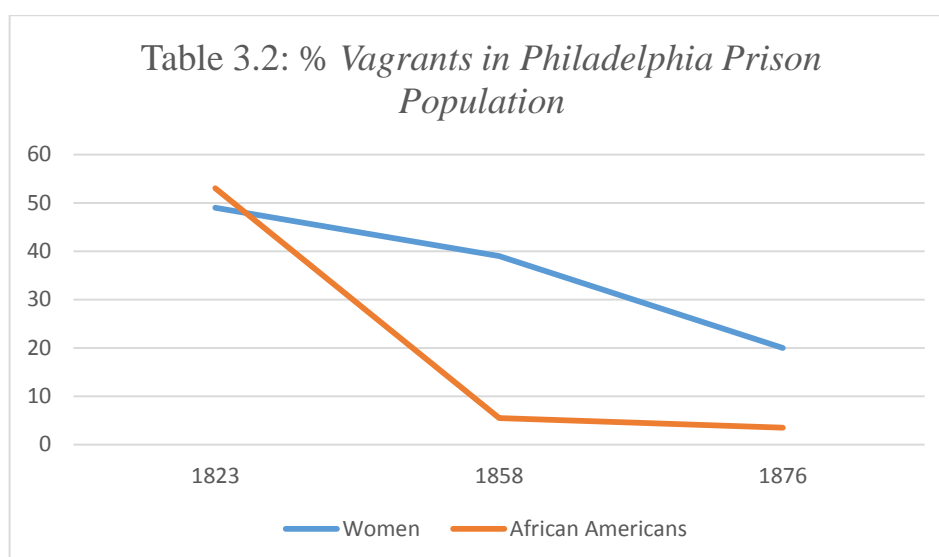
<sup>75</sup> M.B. Katz, *Poverty and Policy in American History* (New York, 1983), pp.166-71.

<sup>76</sup> Clement, 'Transformation', p.66.

<sup>77</sup> 'Northern Liberties Police', *PPL*, 9 June 1838.

United States, indigent transiency was often voluntary, an expression of masculinity or entrepreneurial spirit. Tramping, as such, was less common earlier in the nineteenth century.<sup>78</sup>

One of the largest samples of demographic data for vagrants in the earlier period, from Philadelphia, paints a picture of a distinctly different population. As shown in Table 3.2, during the 1820s, among vagrants incarcerated in the Philadelphia Prison, consistently half were black, while barely under half were women.<sup>79</sup> Between 1823 and 1899, the overall representation of both groups in the vagrant population in the Philadelphia Prison decreased significantly.<sup>80</sup> While in 1825, 49% of vagrants incarcerated there were women and 53% were black, by 1876, only 20% were women, and 3.5% were black.<sup>81</sup>



*Source: P.F. Clement, 'The Transformation of the Wandering Poor in Nineteenth-Century Philadelphia' in Walking to Work: Tramps in America, 1790-1935, ed. E.H. Monkkonen (Lincoln, NE, 1984), p.66.*

<sup>78</sup> Katz's data come from a larger sample – roughly 5,000 entries derived from police and almshouse records, covering the entire state of New York, while my data comes from a complete set of 668 entries derived from almshouse records, but covers only the city of Philadelphia. Clement's article 'The Wandering Poor in Philadelphia' uses incomplete selected data (a sample size of 300) from the Philadelphia Prison that largely affirms Katz's figures for the later 1870s, and confirms my figures for the 1820s (In 1823, 460/966 vagrants, or 48%, were women, and 450/966, or 47%, were African Americans). Clement, 'Transformation', p.66.

<sup>79</sup> 1823: 44% women, 51% black. 1825: 41% women, 53% black. 1826: 46% women, 46% black.

<sup>80</sup> 'Returns received from the Arch Street Prison', *The Register of Pennsylvania*, vol. 1, ed. S. Hazard (Philadelphia, 1828), p.240, p.244.

<sup>81</sup> Clement, 'Transformation', p.66.

To hone in more closely on the indigent transients for whom the most information is available, population data can be extracted from the testimonies offered in settlement examinations. Among 668 indigent transients interviewed for settlement in the Philadelphia Almshouse between 1822 and 1831, 40% were women, and 25% were African Americans.<sup>82</sup> In a collection of just over 100 extant non-resident examinations in Huntington, New York, on Long Island between 1811-1841, 26% were women, 25% were African Americans, while only 7% were foreign born and 13% were not local to Long Island.<sup>83</sup> And in Baltimore's Calverton Almshouse in the 1830s, nearly half of the relieved paupers were long distance migrants, with 36% foreign born and a further 10% born out of state.<sup>84</sup> The necessity of using sparse data sets to make these estimates undoubtedly leaves calculations of their import as tenuous at best, especially in using both populations of relieved paupers and punished criminals to estimate the size of a single population of indigent transients. The homogeneity of their geographical trajectories and narratives of employment and poverty, however, suggests that the connections between these groups were not just perceived but at least in some cases, completely tangible. This is especially seen, as will be addressed later, in the testimonies of individuals who crossed these distinctions in their own lives as vagrant paupers.

The racial composition of the indigent transient population circulating throughout the Mid-Atlantic was also significantly different in the earlier decades of the nineteenth century than it was to become as the antebellum era wore on. In Philadelphia, African Americans represented four to five times their proportion in the city population in the prison's vagrant docket between 1823 and 1826, and by 1850, were represented in proportion to their numbers in the overall population.<sup>85</sup> During those same years, African Americans comprised two and a half times their proportion in the city in the non-resident pauper population at the Almshouse. Demographic breakdowns from other regional institutions confirm the same: African Americans were overrepresented among the indigent transient population in the 1820s, and almost completely absent by 1850. African Americans comprised 26% (44/172) of the vagrants incarcerated in New York City's Bellevue Penitentiary in 1820, nearly three times their

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<sup>82</sup> Katz, *Poverty and Policy*, pp.166-9. EXPA, 1821-1825 and 1826-1831.

<sup>83</sup> EXPA, Public Assistance Folders, Town Clerk's Records, HTCA.

<sup>84</sup> Monthly Census Data Calverton Almshouse, Baltimore City and County, MDHS.

<sup>85</sup> Kusmer, *Down and Out*, p.24; Clement, 'Transformation', pp.69-70.

total population in the city (8.8%, or 10,886/126,706).<sup>86</sup> In the New Castle County Almshouse in Delaware, the percentages of non-resident African Americans were similar to Philadelphia, at roughly a quarter among that group, from 1822-1827. By 1855, no African Americans are recorded among non-resident paupers in that almshouse.<sup>87</sup> In Huntington, New York, well over a third of the extant settlement examinations taken between 1811 and 1829 are for African Americans (26/72), while the records indicate only one African American examined as a transient between 1830 and 1841 (1/34).<sup>88</sup> This dramatic drop off in African American indigent transients can be attributed to the simultaneous rise in racially-motivated violence from the 1830s-1850s, especially in border regions. With increasingly open hostility expressed by whites in the Mid-Atlantic and, after 1850, the passage of the Fugitive Slave Act, by the later antebellum period, the risks of transiency may have been too great to prompt many blacks from participating voluntarily.<sup>89</sup>

The gender composition of the indigent transient population circulating throughout the Mid-Atlantic mirrored the decrease in African Americans in the same group, albeit at a slightly slower pace (see Table 3.2). A variety of factors influenced their transiency and other life choices that were specific to their gender. Catharine Shaw, a 28 year old Irish-born married woman with two children testified in 1823 that she ‘don’t know where her husband is, he left her six weeks ago.’ They had migrated together from Ireland to New York in 1821, and by the end of 1822, he had abandoned Catharine and their two children. She left New York three days after Christmas and travelled to Philadelphia. She was removed on 16 January 1823, likely back to New York. Martha Erwin had been born in Washington, D.C., and after marrying, moved

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<sup>86</sup> Bellevue figures appear in ‘Penitentiary System’, *Niles’ Weekly Register*, vol. 19 (Baltimore, 1821), p.296. New York population figures appear in C. Gibson and K. Jung, ‘Historical Census Statistics On Population Totals By Race, 1790 to 1990, and By Hispanic Origin, 1970 to 1990, For Large Cities And Other Urban Places In The United States’, Working Paper 76, Population Division, United States Census Bureau, 2005.

<sup>87</sup> New Castle County Almshouse, Trustees of the Poor, DPA. In addition to this chronological change, Timothy Lockley notes geographical variation of the racial distribution among public poor relief recipients, as fewer African Americans are recorded as having received aid the further south an institution was situated. T.J. Lockley, *Welfare and Charity in the Antebellum South* (Gainesville, FL, 2007), p.39.

<sup>88</sup> EXPA, HTCA.

<sup>89</sup> S. Lubet, *Fugitive Justice: Runaways, Rescuers, and Slavery on Trial* (Cambridge, MA, 2010), p.2-21. S.N. Roth, ‘The Politics of the Page: Black Disfranchisement and the Image of the Savage Slave’, *PMHB*, 134, no. 3 (2010), p.209. T.P. Slaughter, *Bloody Dawn: The Christiana Riot and Racial Violence in the Antebellum North* (New York, 1991), pp.40-2.

with her husband to New York, but ‘he abandoned her, 6 mos after they got’ there, joining the army. Harriott Davis was born in Cape May, New Jersey, and ‘left there for the first time 3 years ago & came to Philad.’ after ‘her husband deserted her at the town of Cape May.’ Elizabeth Sammons, a ‘mulatto, married woman’ had been born in Camden, Delaware, and lived there with her husband and child until ‘her husband deserted her’ there, and she ‘came to Philad.’ with her young son, Joseph.<sup>90</sup> The first steps taken by many younger wives after desertion by their husbands were more inclined toward travel and transiency than immediate public aid-seeking. Some may have taken to the road in search of their husbands, or to join other family members. These choices could have been based on the varying material means available to individuals, but could also reflect a view of mobility as a means to subsistence that was, perhaps, for some, preferable to institutional poor relief. There was also a longstanding tradition of widows relocating to urban areas where, with greater diversity of employment opportunities usually available, they would be more likely to be capable of creating some semblance of subsistence for themselves.<sup>91</sup>

There were regional differences in the gender divide of indigent transiency in the early decades of the nineteenth century as well. In New Orleans, Louisiana, in the mid-1820s, vagrants were a common sight, with convictions just as normative: 36% of all arrests made in the city were for vagrancy, but almost none of those were women.<sup>92</sup> Timothy J. Lockley has found similar gender distribution among the incarcerated in antebellum Georgia, where very few women were imprisoned in this period. The ones who were, however, were predominantly committed for minor crimes including ‘vagrancy and disorderly conduct.’<sup>93</sup>

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<sup>90</sup> Examinations of Catharine Shaw, Martha Erwin, Harriott Davis, and Elizabeth Sammons, EXPA, 1821-1825.

<sup>91</sup> The tendency of widows to choose to reside in cities is discussed in K.A. Wulf, *Not All Wives: Women of Colonial Philadelphia* (Ithaca, NY, 2000), pp.15-6, and the prevalence of female-headed and widow-headed households in early republic Baltimore is discussed in Rockman, *Scraping By*, p.165. Jacqueline Jones describes urban widows as ubiquitous: ‘As the hubs of colonial and new-nation commerce, the seaport cities beckoned to widows and children left homeless by military conflict, to sons lacking an inheritance of land, and to the ‘wandering poor’ warned out of towns.’ Jones, *American Work*, p.161.

<sup>92</sup> In New Orleans between 1823 and 1824, 36% (187/491) of all arrests in the city were of vagrants. See Frink, ‘Strangers’, p.167.

<sup>93</sup> The descriptions of the conduct of Georgia’s female vagrants is nearly identical to northern vagrant women in the same period, from ‘idle’ immorality to unemployment to lack of property. T.J. Lockley, ‘Survival Strategies of Poor White Women in Savannah, 1800-1860’, *Journal of the Early Republic*, 32 (2012), pp.428-9.

In Baltimore in the 1830s, trustees of the poor estimated the number of ‘strangers,’ indicating those without legal residency, in the Calverton Almshouse to be just shy of a tenth of the overall pauper population. Among these indigent transients, an average of just 13% were women.<sup>94</sup> The root of disparities like this one may lie in how individual cities policed gendered crime, especially prostitution. It is well-known that prostitutes were routinely arrested as vagrants in New York City and the same was common in Philadelphia until the early years of the nineteenth century. By then, punishment of prostitution was being processed independently, dramatically decreasing the likelihood that a vagrancy conviction would be the punishment for sexual deviance in that city.<sup>95</sup> This suggests, at least in some contexts, the potential for vagrancy arrests to signify the ‘ungendering of poverty’ through the arrests of men and women for being ‘unpoliced and peaceless,’ as Mark Kann argues.<sup>96</sup> The policing of sexual activity in the nineteenth century was in flux and likely affected the representation of women among the vagrant population whose ‘sexual misconduct’ would occasionally be considered as disorderly conduct.<sup>97</sup>

The cause for the dramatic drop off in the numbers of women among the transient poor may have been a gradually growing pool of available work for women throughout the nineteenth century. Or, as Kenneth Kusmer has argued, the general absence of women from the tramp population after the 1870s may have been ‘a consequence of the gender ideology of the Victorian era.’<sup>98</sup> This raises the question, then, why the impact of Republican mother and separate spheres ideologies were insufficient to diminish the population of earlier nineteenth century homeless women. Each of these sociocultural trends was constructed within a middle-class milieu, and likely had little application for women in the lower classes. In general, social historians have understood the role of gender in geographical transiency within the framework of the larger demographic shift that occurred in the nineteenth century in the transient population. By the 1890s, Eric Monkkonen writes, indigent transients ‘no longer represented the most oppressed persons in American society,’ but rather voluntary,

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<sup>94</sup> Monthly Census Data, Calverton Almshouse, Baltimore City and County, MDHS.

<sup>95</sup> Lyons, *Sex Among the Rabble*, pp.339-40.

<sup>96</sup> M. E. Kann, *Taming Passion for the Public Good: Policing Sex in the Early Republic* (New York, 2013), p.88.

<sup>97</sup> Hahn Rafter, *Partial Justice*, p.115. M. Wood Hill, *Their Sisters Keepers*, pp.113-6; Cline Cohen, *Murder of Helen Jewett*, pp.65-7; E.B. Freedman, *Their Sisters' Keepers Women's Prison Reform in America, 1830-1930* (Ann Arbor, MI, 1984), p.10; Kann, *Taming Passion*, p.21, p.156.

<sup>98</sup> Kusmer, *Down and Out*, pp.10-1.

working class tramps. During the early republic, they were still ‘the traveling poor...nuclear families, women, children,’ moving ‘about in search of work.’<sup>99</sup>

Part of this change may be explained by the dramatic expansion of private relief agencies in the first half of the nineteenth century, a large proportion of which were specifically designed to aid women and children.<sup>100</sup> As Anne Boylan and Christine Stansell have noted, the provision of support for the poor was under constant scrutiny, as some believed that ‘philanthropy bred poverty.’ Still, many private and some public organizations provided aid for ‘deserving’ women and men throughout the century.<sup>101</sup> Indigent transients’ lives were significantly affected by changes in how public and private welfare was distributed, and a rise in the latter could have precipitated a decline in the likelihood of women to seek opportunities elsewhere when aid existed where they were. For the most part, however, private relief providers exercised greater discretion in providing aid because it was generally believed that ‘private poor relief should aid the worthy poor’ who were willing to conduct themselves in a way that portrayed that they were satisfactorily ‘industrious’ and ‘deferential.’<sup>102</sup> Women were often seen as more suitable recipients of relief than men because of their status as dependents who were potentially vulnerable to the neglect or abandonment of male providers and protectors. For some women, a dedication to reforming their sexual conduct and abandoning prostitution or other licentious activities was a prerequisite to receiving assistance in places like Magdalen asylums, which may have affected a small proportion of female indigent transients.<sup>103</sup>

## Conclusion

The social geography of the roads in the nineteenth century Mid-Atlantic was marked by subsistence migrants circulating between major capital cities and small market towns, travelling as long or as frequently as was necessary to find or keep work or locate other assistance. The individuals undertaking this form of migration changed dramatically near the middle of the century, as the population of white, male indigent transients grew, and fewer women and African Americans were to be found on the road.

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<sup>99</sup> Monkkonen, *Walking to Work*, pp.13-4.

<sup>100</sup> Clement, *Welfare*, p.141.

<sup>101</sup> K.D. McCarthy, *American Creed: Philanthropy and the Rise of Civil Society, 1700-1865* (Chicago, 2003), p.168. L.D. Ginzberg, *Women and the Work of Benevolence: Morality, Politics, and Class in the Nineteenth-Century United States* (New Haven, CT, 1992), p.5. A. Boylan, *Sunday School: The Formation of an American Institution, 1790-1880* (New Haven, 1988). Stansell, *City of Women*.

<sup>102</sup> Alexander, *Render them Submissive*, pp.140-1.

<sup>103</sup> Clement, *Welfare*, p.145.



Populations of indigent transients in almshouses as relief-seekers and prisons as incarcerated vagrants were reflective of the larger patterns of mobility among a class in which distinctions between these groups were often unclear. The ‘wandering lives’ that many paupers and vagrants led threatened the stability of community boundaries and marked their activities for punishment.

‘Too many persons,’ one Guardian of the Poor wrote in 1829, arrived in the city ‘from the country,’ from a wide variety of regional occupations and locations, ‘canals,... railroads, farms, and towns.’ Cities, he warned, needed to ‘take some measures of self-defense, or permit’ their organisations ‘to be run down’ by indigent transients.<sup>104</sup> Throughout the early decades of the nineteenth century, this concern remained relevant as economic stability continued to prove elusive, especially following the Panic of 1837 which instigated another period of instability, which some scholars consider to have been the nation’s ‘first great depression.’<sup>105</sup> The severity of the impact of the economic depressions of the 1820s-1840s was most pronounced and protracted for the lowest classes, especially the transient. One of the ‘measures of self-defense’ that was available to guardians and overseers was the use of settlement and removal laws to forcibly eject indigent transients from their jurisdictions, which contributed to the dramatic amount of movement being undertaken in the early American republic, as will be discussed in the following chapter.

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<sup>104</sup> Jeremiah Peirsol to Directors of the Poor of Bucks County, 23 September 1829.

<sup>105</sup> For more context regarding the Panic of 1837, see J.M. Lepler, *The Many Panics of 1837: People, Politics, and the Creation of a Transatlantic Financial Crisis* (Cambridge, 2013), and A. Roberts, *America's First Great Depression: Economic Crisis and Political Disorder after the Panic of 1837* (Ithaca, NY, 2013).

## Chapter 4: 'The removal of so many human beings...like felons': Institutional Mobility and the Poor

Poverty and movement have a complex relationship: the former is often the primary reason that one either *must* or *cannot* participate in the latter. In the early American republic, the connection between the two was of paramount importance. Forced transportation of the transient poor, generally referred to as pauper removal, was a ubiquitous and legally-sanctioned method by which state and local authorities exerted control over the movements of the poor and limited fiscal liability for the care of poor individuals and families who had no claim on their district through residency or the payment of poor taxes.<sup>1</sup> Toward the end of the nineteenth century, pauper removal became an especially unwieldy option, as general populations, and along with them, the numbers of indigent transients, grew exponentially. But throughout the first half of the nineteenth century, many paupers' physical networks were dramatically altered in this way after institutional contact was made. This commonly occurred in two ways: as voluntary relocation based on poor relief options or settlement laws, or through forced removal and transportation by police or almshouse officials.

There is very little historiographical coverage of settlement law outside of English and New England contexts.<sup>2</sup> Some scholars have argued that settlement and removal laws, and early New England warning policies, should not be taken literally as laws promoting the banishment of indigent transients, but rather as 'disclaimers of responsibility.' In fact, Dayton and Salinger argue that 'the great bulk of warned strangers' in colonial Boston were actually 'welcome to stay', emphasizing that physical removal was viewed as too costly by town officials in this period to be used widely. In the Mid-Atlantic states, however, the physical removal of paupers was common, as will be documented here.<sup>3</sup>

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<sup>1</sup> *A Digest of the Laws of Pennsylvania*, (Philadelphia, 1831); *Laws of the State of New York* (Albany, 1802). 'Act for the settlement and relief of the poor', *A Digest of the Laws of New Jersey* (Bridgeton, NJ, 1838). 'Act for the relief of the poor within the several counties therein mentioned', *The Laws of Maryland* (Baltimore, 1811). 'Act to consolidate and amend the laws for the relief of the poor', *Laws of the State of Delaware* (Wilmington, 1829).

<sup>2</sup> In Robert Cray's detailed study of New York's pauper populations and poor relief system during this period, removal of paupers is cursorily discussed. The longest work to treat it directly is Herndon's *Unwelcome Americans*. Cray, *Paupers and Poor Relief*, pp.54-6, p.76.

<sup>3</sup> Dayton and Salinger, *Robert Love's Warnings*, p.64.

The history of pauper removal in the United States, as adopted from English law, began with the warning systems of eighteenth century New England, early manifestations of settlement and removal laws that allowed town officials to escort indigent transients outside the boundaries of their jurisdiction in order to prevent them becoming ‘chargeable’ to the town for poor relief.<sup>4</sup> In Rhode Island, as Herndon has documented, this process was the result of interrogation, coercion, and the overwhelming potential for personal disaster, as transients were forced to leave or were forcibly removed to their place of legal settlement.<sup>5</sup> This process was not uniform, however, as a contemporaneous warning system in Boston, as documented by Dayton and Salinger, reveals that, ‘for most, the warning ritual was a fairly benign and inevitable aspect of sojourning’ in the region, and did not often result in actual removal.<sup>6</sup>

New York and Pennsylvania’s settlement and removal processes were more similar to Rhode Island’s than Massachusetts’. As Raymond Mohl observed, for most northern states in the late eighteenth century ‘the statewide welfare structure emphasized legal settlement of the poor rather than aid... removal rather than relief.’<sup>7</sup> David Montgomery has argued that by the 1820s, the ‘numbers of homeless poor in major cities had reached crisis proportions,’ leading incarceration in almshouses and prisons to ‘replace...expulsion’ as the favoured means to manage the vagrant population.<sup>8</sup> There is truth to this claim: The state legislature of New York, in 1824, effectively abolished the removal of transient paupers between counties, stipulating that relief was to be provided to the mobile poor wherever they happened to require it, request it, or come under police jurisdiction. And the law had teeth: overseers of the poor or justices of the peace who would violate the removal policy could be fined or imprisoned for noncompliance.<sup>9</sup> Transportation of paupers continued after 1824, but under less punitive terms. New York was unique in its effort to limit removals, as it appears that all other northern states retained the laws that allowed for and regulated the

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<sup>4</sup> S. Rapalje and R.L. Lawrence, *A Dictionary of American and English Law*, vol. 2 (Jersey City, NJ, 1888), pp.974-5.

<sup>5</sup> Herndon, *Unwelcome Americans*, p.4, p.23.

<sup>6</sup> Dayton and Salinger, *Robert Love’s Warnings*, p.64.

<sup>7</sup> Mohl, *Poverty*, p. 64. Crouse, *Homeless Transient*, pp.29-30.

<sup>8</sup> Montgomery, *Citizen Worker*, p.63.

<sup>9</sup> ‘Act providing for the establishment of county poorhouses, *Laws of the State of New York* (Albany, 1824), and J. Cummings, *Poor-laws of Massachusetts and New York* (New York, 1895), pp.95-6.

practice throughout the antebellum years.<sup>10</sup> In fact, it was not until 1969 that the United States Supreme Court declared that laws requiring an individual to have residency in a given location in order to receive relief were unconstitutional.<sup>11</sup> Throughout much of the rest of the northeast in the nineteenth century, settlement and removal laws, coupled with vagrancy statutes, continued their same general function to ‘counter the threat of an industrial poor gathering...during economic downturns hoping for relief.’<sup>12</sup>

Beyond simply balancing the relief accounts or shifting fiscal responsibility for the poor, removal undercut the voluntary spatial transiency of the lower classes and replaced it with an institutional form of mobility. These methods of policing vagrants’ and paupers’ spatial movements are instructive of cultural understandings of mobility in the antebellum Mid-Atlantic, in which rootlessness and transiency among the lower classes were seen as criminal, and pauper removal was configured as a form of vagrancy policing. Pauper removal may have been a theoretical fixture on the legal landscape, but indigent transients were also physically moving and being moved on a literal landscape, the experience of which was shaped by their race, gender, and labour status. The pauper removal process, as a whole, demonstrates the longevity of the impact that incarceration and policing could have on the poor and depicts a network of communication surrounding indigent transiency that crossed state lines and factored into regional perceptions of population and movement. The state-coerced movement of the mobile poor embodied what was essentially a reversal of volition for those who experienced it.

### **Law and Process in Pauper Removal**

In most states, generally from the 1780s into the early twentieth century, an individual was only eligible to receive public aid in their place of legal settlement.<sup>13</sup> This was not the same location as their residence necessarily, but rather, the location where they had worked for the same employer for a given length of time, owned land or

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<sup>10</sup> ‘Act for the settlement and relief of the poor’, *A Digest of the Laws of New Jersey* (Bridgeton, NJ, 1838). ‘Act for the relief of the poor within the several counties therein mentioned’, *The Laws of Maryland* (Baltimore, 1811). ‘Act to consolidate and amend the laws for the relief of the poor’, *Laws of the State of Delaware* (Wilmington, 1829).

<sup>11</sup> *Shapiro v. Thompson* 394 U.S. 618 (1969).

<sup>12</sup> Cresswell, *Tramp in America*, p.51.

<sup>13</sup> The frequency of the practice ebbed and flowed throughout this roughly 150 year period, with the greatest discussion of, and possibly recourse to the practice as well, in the antebellum years. Removal became a greater concern again during the Great Depression. See Crouse, *The Homeless Transient*, pp.60-2.

paid poor tax, served an indenture, or rented a home for a given length of time.<sup>14</sup> Requirements varied from state to state, and the qualifications were tweaked by legislators throughout the period in order to control allocation of poor relief and certain privileges, such as suffrage. In the Mid-Atlantic region, New York and Pennsylvania's records on pauper removal are the strongest, though Delaware, New Jersey, and Maryland also enforced procedural pauper removal as a means of managing the population of itinerant poor.<sup>15</sup> The infrastructure and transportation routes into and out of New York City and Philadelphia made the two cities especial hubs for voluntary migration by paupers and increased the feasibility of authorities' efforts of forced removal. In general, almshouses were bound by common understanding to provide shelter, food, and medical care to persons in dire need, regardless of residence. But doing so placed a strain on poor relief budgets and, at least in New York, the practice may have been a point of contention.<sup>16</sup> Some almshouses provided shelter or medical treatment to non-residents by using means besides the allocated local poor tax funds, such as state appropriations, profits of residents' labour, or charitable donations. Still, for immigrants as well as regional migrants whose place of legal settlement was inaccessible to them, obtaining relief if they became indigent could be a challenge. And if they did gain admission to an almshouse to receive that relief, circumstances could move beyond their control quite quickly.

The most effective method for guardians of the poor to manage the size of their pauper populations as well as their accounts was pauper removal: physical relocation of the non-resident indigent by a law enforcement officer. It functioned, as Jeffrey Adler has noted, as a way to limit the impact of the 'challenge' that indigent transients posed to the 'delicate web of mutual obligation that provided relief for the poor.'<sup>17</sup> Other options were less reliable. In some cases, the overseers of the poor in the pauper's present location could contact the overseers in the pauper's place of legal settlement in order to request payment for their maintenance. Whether or not payment would be

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<sup>14</sup> See details of settlement acquisition as cited in Chapter 2.

<sup>15</sup> 'Act for the relief of the poor within the several counties therein mentioned', *The Laws of Maryland* (Baltimore, 1811). 'Act to consolidate and amend the laws for the relief of the poor', *Laws of the State of Delaware* (Wilmington, 1829). 'Act for the settlement and relief of the poor', *A Digest of the Laws of New Jersey* (Bridgeton, NJ, 1838). *A Digest of the Laws of Pennsylvania* (Philadelphia, 1831); *Laws of the State of New York* (Albany, 1802). The practice was ubiquitous in New England as well. See Herndon, *Unwelcome Americans*, Melish, *Disowning Slavery*, and Dayton and Salinger, *Robert Love's Warnings*.

<sup>16</sup> Mohl, *Poverty*, p.59.

<sup>17</sup> Adler, 'Historical Analysis', p.214.

forthcoming was unpredictable at best. If, on the other hand, a pauper's legal residence was easily ascertained, a constable could readily be hired to transfer the pauper directly to the care of the responsible overseers of the poor. These decisions seem to have been made entirely without the input of the pauper, beyond their initial answering of questions during an interview or settlement 'examination,' but the records of some of the examination and removal processes provide the pauper's perspective on the experience of transportation. The frequency of resistance during the removal process in the records examined here for New York and Pennsylvania suggests that paupers were afforded at most a minimal role in determining the timing or location of their relocation, in complying with providing information about their legal settlement. Much of transportation of transients, though it is difficult to quantify exactly how much, was an involuntary result of a criminal conviction. In both New York and Pennsylvania, individuals became almshouse residents either via sentencing by magistrates for vagrancy and other socially disorderly activities or by requesting admission for medical aid or shelter. Vagrants and the non-resident indigent were all vulnerable to removal processes.<sup>18</sup>

In New York, when a district's Overseers of the Poor determined that a pauper had no legal claim to aid in their district, they contacted two of the local justices of the peace. Even after New York technically abolished pauper removal in 1824, transportation continued. Justices would issue 'a warrant for transporting Paupers to their last legal residence' by completing a fill-in-the-blank form (the very existence of which can perhaps be seen as an indicator of how common the practice was), addressed to 'any constable of the town' where the pauper was being relocated. In the 1827 case of a New York pauper woman named Elizabeth Colley, justices of the peace of Huntington in Suffolk County were requesting the attention of constables in Brookhaven in the same county. As Colley was, at the time of the request, 'now delivering a child,' she was considered 'likely to become a charge.' The justices 'command[ed]' the constables 'to convey the said Elizabeth Colley from and out of our said town of Huntington to the town of Brookhaven.'<sup>19</sup> These forms, completed by constables and justices, were to

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<sup>18</sup>The cases examined here include records of removal for both, and any non-resident who entered an almshouse, whether involuntarily or voluntarily, was, according to law, subject to removal. 'Poor', *A Digest of the Laws of Pennsylvania* (Philadelphia, 1818), pp.525-57; *Laws of the State of New York* (Albany, 1802).

<sup>19</sup> Order of Removal of Elizabeth Colley, 10 May 1827, HTCA.

accompany the pauper to their destination as evidence that examinations had proven that the individual had a claim to legal settlement in that place.<sup>20</sup>

The geographical movement, in both urban and rural areas, that resulted from pauper removal was not exclusively unidirectional. Incarcerated vagrants and individuals who were subject to forcible transportation often resisted confinement by utilising mobility, and this often resulted in them returning to the location from which they had been removed. When an African American man from Ulster County, New York named Johnathan Shaylor absconded from the almshouse where he had been incarcerated as a vagrant, the overseers sought him out, travelling 18 miles before they found him so that he might be ‘brought back.’<sup>21</sup> In the 1830 case of Mary Miller, a justice of the peace arrived at the Philadelphia Almshouse to collect Miller and her young child in order to escort them to the city docks. The night before, an order of removal had been left with an agent of the Almshouse that required Miller and her child to board a boat that would transport them down the Schuylkill River to Reading, Pennsylvania, about seventy five miles away, the next morning. When the justice attempted to carry out the order, Miller refused to comply. She resisted until it was ‘too late – the boat was gone.’ Simply put, as the Guardians of the Poor lamented, she stood firm that she ‘would not’ go. But by the next day, through persuasion, change of heart, or force, the justice of the peace had Miller’s compliance, and she and her child were removed from the city of Philadelphia.<sup>22</sup> The laws that shaped the document that authorised their removal stipulated that if she were to return to the city, she would be vulnerable to arrest as a vagrant.<sup>23</sup> Miller was born in Berks County, and had lived in Schuylkill County as a child. She had worked as a domestic servant in Orwigsburg and later in Reading and Philadelphia. She found herself in the almshouse in 1830 as a single mother who had ‘not worked for any one person for a year since she left Orwigsburg.’<sup>24</sup> Having travelled away from her home and not possessing the means to sustain herself, Miller had become an indigent transient, vulnerable to punishments

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<sup>20</sup> Similar paperwork was used in Rhode Island in the early republic period. Herndon, *Unwelcome Americans*, p.8-9.

<sup>21</sup> Receipt of Paupers, Transportation Book, Pauper and Poorhouse Records, UCCA.

<sup>22</sup> Jeremiah Peirsol to George Boyer, Esq., 21 April 1830.

<sup>23</sup> Act of 29th March 1803, *Abridgment of the Laws of Pennsylvania* (Philadelphia, 1811).

<sup>24</sup> Examination of Mary Miller, EXPA, 1826-1861.

designed to simplify public welfare that had the effect of penalising the geographical movement of persons like herself.<sup>25</sup>

In 1824, officials representing Rockland County, New York orchestrated the removal of 62 year old Benjamin Pierson, who was residing within the county at the time in Clarkstown and deemed likely ‘to become chargeable’ to the town. Pierson was apparently issued an order of removal by local justices of the peace to return to his place of legal residence in Huntington and ‘refused to comply.’ Clarkstown constables were alerted that he was to be remanded into custody and that they were held responsible to ‘convey [him]...out of the said town Clarkstown to the city of New York and deliver him in charge of a constable there and so from constable to constable by the nearest and most convenient route to the town of Huntington.’<sup>26</sup> While most indigent transients had very little, if any, role in determining how they were treated, relieved, or punished by authorities, some clearly found ways to resist. The commonality of resistance to pauper removal such as was used by Pierson and Miller, and by the numerous other paupers who eloped before removal could be undertaken, is illustrative of how at least some indigent transients experienced removal – as involuntary, forced transportation.

It was not only indigent transients held in almshouses who were subject to removal processes. Transient vagrants whose residence could be determined during their incarceration in a local jail or prison were also subject to removal. Benjamin Smith was arrested for vagrancy in 1819 in Philadelphia and sentenced to be held for ‘one month unless sooner removed to Salem New Jersey where he belongs.’<sup>27</sup> James Gurum, too, arrested on 17 March 1819 for being a ‘vagrant...having no legal residence,’ was sentenced to spend one month in a Philadelphia prison or however long it took until he could be ‘removed to Princeton, New Jersey by the Guardians of the Poor.’ This evidently required some time; he had already served five days beyond his thirty days’ sentence when he was sent to the almshouse on 22 April 1819 to await removal to his legal settlement.<sup>28</sup>

Even when cooperation was not a factor, efforts to find the most appropriate location to seek provisions for needy non-residents were often ineffectual. In some cases, when almshouse officials were unable to transport a pauper back to their place of

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<sup>25</sup>Jeremiah Peirsol to George Boyer, Esq., 21 April 1830.

<sup>26</sup> Order of Removal of Benjamin Pierson, HTCA.

<sup>27</sup> Commitment of Benjamin Smith, VAG, 1817-1822.

<sup>28</sup> Commitment of James Gurum, VAG, 1817-1822.



legal residence, an intermediate location would be selected, or, in the case of immigrants, individuals might be returned to the port city where they had first arrived in the United States.<sup>29</sup> Twenty three year old white man Edward Armstrong was born in Boston and testified to having lived his whole life there until he reached Philadelphia. Boston remained his legal residence, but when he was removed from the Philadelphia Almshouse on 16 January 1823, he was sent to New York.<sup>30</sup> It may have been intended to act as a midpoint, whence the Overseers of the Poor in New York could send him further north, or the decision may have reflected an economical choice on the part of the Philadelphia Overseers to spare the expense of a constable's supervision over Armstrong the whole way to Massachusetts. Single, white, thirty three year old man Thomas Cochrane, on the other hand, had been transported in the reverse direction: born in Mifflin County, Pennsylvania, he spent his childhood in Pittsburgh before being 'bound under indenture' and later relocating to 'the State of Ohio and subsequently various other places' until 'on the 29<sup>th</sup> of November he was sent by the Directors of the Poor of the City of New York to Philadelphia.' It is not clear what motivated the directors to make this decision, as no settlement for Philadelphia is listed in Cochrane's records, unless it was perceived that better medical treatment would be available to Cochrane in Philadelphia, as he testified that 'for the last two months...he has been in a bad state of health and is yet very feeble.' Immediately upon arriving from New York, 'the evening of the same day,' Cochrane was 'admitted to the Hospital of the Philadelphia Almshouse – Blockley.'<sup>31</sup>

Similarly, Ann Sharp, a twenty eight year old African American woman, had lived in New York with her husband John Sharp until 'he was taken sick in October last,' at which point 'she supposes that he either went or was sent from New York home.' She, meanwhile, 'was sent from New York to Philadelphia Wednesday last by Mr. Hunter, Guardian of the Poor.' Sharp had lived and worked in Pennsylvania for about 6 years as an adult but she could have also had claims to settlement in her birthplace, Wilmington, Delaware or at her husband's legal residence in New York, which was apparently 'about 150 miles from New York, up the East River.' It does not appear that Sharp was removed an additional time after her examination in Philadelphia on 19 March 1827, as she remained there a few months later, in June, when she was

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<sup>29</sup> Mohl, *Poverty*, p.61.

<sup>30</sup> Examination of Edward Armstrong, EXPA, 1821-1825.

<sup>31</sup> Examination of Thomas Cochrane, EXPA, 1831-1839.

delivered of a 'legitimate child,' a daughter she named Sarah.<sup>32</sup> Families were occasionally separated by orders of removal, as John and Ann Sharp discovered. Whether or not kin were removed together depended on a variety of factors: the legality of their marriage, dependent children, and the discretion of the magistrate or overseer of the poor.

The laws of settlement and removal were gendered in their inclusion of coverture law in determining the legal residences of married women. As Linda Kerber notes, 'a married woman could have no settlement separate from her husband.' For the poor, then, 'the law of vagrancy', and its attendant exclusions of non-residents, 'was shaped by the custom of coverture to the woman's disadvantage.'<sup>33</sup> A married woman's settlement was determined not by residence factors of her own choosing, but by her husband's; married women who were being removed as non-resident paupers would be taken to their husband's place of legal settlement.<sup>34</sup> Feminist and political commentator Clarina Howard Nichols argued against coverture in her home state of Vermont and was in favour of divesting married women's legal identities from their husbands' specifically to eliminate the 'inhumanity of a system that could remove a native-born woman from her home.'<sup>35</sup> And pauper removal was, indeed, a gendered issue, as Howard Nichols demonstrated: the removal of entire families 'from among friends, to the care of strangers, at an expense which would have gone far to make them comfortable where they were, and at the risk of life too' might be avoided if, rather than legal settlements only being determinable by men, who might be intemperate or incapacitated, 'if the authorities who make laws had secured to [wives their] own earnings.'<sup>36</sup>

Even a widow could be removed to the district where her late husband had established a legal residence, as was the case with Elizabeth Lee. She and her husband, James Lee, had been born and married in Ireland, migrating together to Quebec around 1820. They made their way to Pittsburgh and settled there when her husband found work at his trade as a glassblower. They rented a house from his employer, and stayed

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<sup>32</sup> Examination of Ann Sharp, EXPA, 1826-1831 and Almshouse Weekly Census, 1827-1835.

<sup>33</sup> Kerber, *Women of the Republic*, p.142.

<sup>34</sup> The application of coverture law for indigent married female transients is important to Herndon's analysis in *Unwelcome Americans*, p.17, pp.28-47, p.127, p.143. M.S. Blackwell, 'The Paupers' Removal': The Politics of Clarina Howard Nichols', *Vermont History*, 75, no. 1 (2007), p.24. See also H. Hartog, *Man and Wife in America: A History* (Cambridge, 2000), pp.128-30.

<sup>35</sup> Blackwell, 'The Paupers', p.4.

<sup>36</sup> *Ibid.*, p.17.

there for over three years while he held that job until ‘two or three years after her husband left the employment of Mr. Bakewell, he died.’ In those intervening years, the couple had become destitute and, it appears, separated. James Lee ‘died beyond the Monongehela [sic] river...where he had resided...to the time of his death.’<sup>37</sup> He had spent the same length of time he had held a job, paid rent and poor taxes, living hand to mouth outside the city of Pittsburgh, and had left his wife. But when she, now a widow, found herself hundreds of miles away, in the Philadelphia almshouse in the dead of winter in 1830, the legal settlement recognised by the guardians of the poor was her husband’s, ‘in consequence of the rent & taxes paid’ by him in Pittsburgh. Rather than remove her in January’s weather, Philadelphia’s guardians would ‘charge her maintenance to’ the directors of the poor in Pittsburgh. As she was ‘destitute of a home and not very well able to provide for herself,’ they saw fit to allow her to remain, at Pittsburgh’s expense, until such time as she might be able to manage on her own.<sup>38</sup>

What constituted ‘providing for oneself’ was a discretionary determination made by justices of the peace and overseers of the poor. A young Irishman named Timothy Gribbins had been deemed capable of carrying out his own, seemingly informal, removal when he was sent from the New York City Almshouse to Philadelphia with enough cash for the trip. He testified that “in August last the Overseers of N York gave him 6/4 cents and sent him on to this city.” It is not improbable that New York almshouse administrators may have seen greater potential for labourers finding work outside of New York City; Gribbins had worked ‘on the road’ and at other odd jobs since coming to the United States prior to his admission to the almshouse in 1822.<sup>39</sup> The situation of thirty nine year old James Ray was similar when he entered the Philadelphia Almshouse on Christmas Eve in 1827. He had been born a slave in York County, Pennsylvania under the Gradual Abolition Act, and after his emancipation at age 28, he had worked there for some time and had also ‘been to sea.’ His work as a sailor was likely what landed him on Long Island prior to finding himself unemployed for the winter and sent by ‘the Overseers of the Poor of Brooklyn, Long Island’ to Philadelphia, despite not having a legal settlement in the city.<sup>40</sup> Informal removals such as Gribbins and Ray experienced were not uncommon among individuals considered

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<sup>37</sup> Examination of Elizabeth Lee, EXPA, 1826-1831.

<sup>38</sup> Jeremiah Peirsol to Directors of Poor of Pittsburgh, 18 January 1830.

<sup>39</sup> Examination of Timothy Gribbins, EXPA, 1821-1825.

<sup>40</sup> Examination of James Ray, EXPA, 1836-1831.

capable of providing for themselves, but with the very ill, pregnant women, and vagrants, all of whom posed a greater threat of expense or disorder, compliance with poor laws was of greater concern.

The nature of the jobs available for unskilled labourers often required an element of itineracy, which contributed to the instability many poor workers experienced. John Steele, a house carpenter, was something of a familiar face in the Philadelphia Almshouse during the 1830s. He was first examined in 1829 at age 50. Having been born in Ireland, he migrated with his family via Wilmington, Delaware in 1803 and for a few years, had been able to make a living, renting a house for his wife and children in Lancaster County. During the War of 1812, Steele enlisted in the Army, and, it seems, did not return to his family after that time. 'He was discharged from the Army in 1817,' he testified, but had since 'wandered from New York to Ohio working at his trade.' As it was late November with winter advancing, the Guardians of the Poor waited until February, when the weather broke, to issue an Order of Removal for himself and 'three others...to the Almshouse of Lancaster County.' He did not remain long, but travelled to nearby Chester County for seasonal work, and when the following winter came, he was admitted again into the Lancaster almshouse. 'He remained all winter and left there last March,' he testified, moving on to travel to 'various places in pursuit of employment.' This pursuit brought him back to Philadelphia yet again, and he spent the next several years moving between Philadelphia, Lancaster, Chester, and Lycoming Counties, working occasionally when weather permitted, and wintering in almshouses.<sup>41</sup> Henry McCluer, a fifty nine year old Irish immigrant, had followed a similar pattern. He had settled for over twenty years in Delaware, lived in Maryland, and travelled extensively with the army. Over the next 17 years, he did not rent a house or establish a residence anywhere. After travelling to Philadelphia, McCluer, destitute, was removed to New Castle County, Delaware on Christmas Day in 1822.

Orders of removal, though legally binding, could be cancelled, and often were in cases where residency or subsistence responsibility was questioned. This was an especially common, not to mention fraught, occurrence in cases concerning enslaved and manumitted blacks. As maintenance of paupers who had formerly been enslaved was debated in court, so, too, were removals of slaves who had become paupers. The

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<sup>41</sup> Examinations of John Steele, EXPA, 1831-1839 and 1826-1831.

Supreme Court of New Jersey heard a case between two towns' Overseers of the Poor, South Brunswick and East Windsor, in 1824, over the removal of 'a negro man named Jack.' Jack's identity before the courts was simultaneously that of pauper and of slave. His legal owner, John Mount, had moved out of the state of New Jersey to settle in New York in 1802 and left Jack in New Jersey, presumably to provide for himself. When Jack found himself destitute in South Brunswick, the justices of the peace of that township issued an order of removal to East Windsor, where Jack had resided with Mount some twenty years previous, as a slave. The court ruled that transferring an owner's place of legal settlement to a slave was only valid in cases of manumitted slaves. If South Brunswick did not wish to pay for Jack's maintenance, the law left them one option: 'seek out the owner' to cover costs, as his legal responsibility required him to do for destitute slaves or manumitted former slaves, unless he was insolvent. As for South Brunswick, the Supreme Court reprimanded its overseers, reminding them that 'the township must provide for a pauper needing assistance, though he may have no other claim than his poverty on their bounty. So in case of a slave.' The order of removal 'was quashed' and Jack was allowed to return to South Brunswick if he wished.<sup>42</sup> Slaves earned residency in the district in which they had been enslaved, which could, if one required poor relief, prove an asset after obtaining freedom. But it also reinforced a lifelong association with one's enslavement.<sup>43</sup>

### **Settlement, Removal, and Vagrancy**

Evidently, individuals' places of legal settlement were not always readily uncovered by city authorities. In 1829, Philadelphia received a request for payment of a supposed city resident named James Caldwell who was under the care of the Guardians of the Poor for Pottsville, Pennsylvania with apparently insufficient evidence. Further investigation was requested by the guardians, as according to almshouse officials in Philadelphia, 'the order of removal proves nothing as to settlement' and guardian of the poor Jeremiah Peirsol asserted that the Guardians would consistently 'abandon claims where there is not clear evidence of settlement in a place.'<sup>44</sup> It is likely that many efforts to remove itinerant paupers, as with Caldwell above, remained incomplete if investigations were unsatisfactory, or when health or death intervened. An 1820 report

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<sup>42</sup> *Overseers of the Poor of South Brunswick v. Overseers of the Poor of East Windsor*, November Term, 1824, 8NJL.64.

<sup>43</sup> Melish argues that for free African Americans during the years of gradual emancipation, 'legal settlement' was 'either an empty concept or a threatening one.' Melish, *Disowning Slavery*, p.117. Herndon also looks at similar cases for early Rhode Island. Herndon, *Unwelcome Americans*, p.57.

<sup>44</sup> W. Blockton for J. Peirsol to James Bright, Esq., 27 November 1829.

issued by the Society for the Prevention of Pauperism (SPP) in New York outlined the difficulties in managing indigent transients within the pauper removal system, declaring it practically ‘inoperative.’ With an increasing number of immigrants arriving in New York City’s port in the 1820s, as well as the seasonal system of rural labour (which favoured the resident but not the itinerant worker, with no winter safety net but the almshouse in the city), a marked ‘increase of paupers, by the ingress of such persons’ was a grave concern for city officials and philanthropists at this time. Such laments were commonplace in the nineteenth century United States, but the members of the SPP were especially concerned not only for the effects that ‘such persons’ could have on residents, crime, and economy, but that there may be no legal recourse available to them to fend off these paupers. Many indigent transients could not be removed because had ‘no last place of residence’ to be removed *to*. Or, it went on, ‘if they have, their approaches to the city cannot be ascertained,’ which complicated efforts to follow the law’s stipulation that a pauper be accompanied ‘constable by constable’ back on the route that they had previously taken.<sup>45</sup> This report advocated for a system similar to that of Massachusetts’, which designated non-resident paupers in need of poor relief as being under the coverage of the *state*’s budget rather than the responsibility of the pauper’s place of legal settlement. But the SPP presciently described in 1820 what soon became even more pronounced: that so many of the American poor could not be easily categorised within the system that was in place to assist them. With poor relief determined by residence, individuals without a legal settlement had no recourse to public aid. Itinerant paupers, the report argued, were ‘no more the poor of the city of New-York, than they are the poor of the city of Albany, or the county of Chetauque. They have no residence in the one place, more than in the other.’ New York’s pauper removal system as it stood, the managers of the SPP argued, as a result of the incoming tide of poor migrants from England and Ireland, was ‘but little less objectionable, than that which Great Britain forced upon us by her transportation laws, while we were her colonies.’<sup>46</sup> As is often the case when nations are resistant to immigration out of fear of

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<sup>45</sup> *The Second Annual Report of the Managers of the Society for the Prevention of Pauperism in the City of New-York* (New York, 1820), pp.60-1. New York’s policies regarding pauper removal stipulated that constables escort ‘strangers’ from their district to the next, and pass their custody to the constable in the next district, until the pauper’s legal settlement was reached. There was much debate among lawmakers and justices about exactly how this was to be carried out. As one lawyer argued, it was ‘repugnant to good order’ for ‘constables...[to] be roaming over the state with paupers, seeking for some place of settlement.’ J.A. Dunlap, *The New-York Justice* (New York, 1815), pp.338-43. See also *The New-York City-hall Recorder*, ed. D. Rogers (New York, 1819), p.44.

<sup>46</sup> *Second Annual Report*, p.61.

economic degradation, incidents of what some historians refer to as ‘pauper dumping’ were greatly exaggerated. Still, this exaggeration is instructive, as it was the perceived threat of being overrun by destitute migrants – in actions sanctioned by their home nations – that motivated American authorities to construct exclusive settlement systems.<sup>47</sup> Migration and movement, voluntary or involuntary, when involving the poor, often evinced a transformation of the status an individual held in the eye of much of the public. Whether conducted with charitable or punitive intentions, pauper removal was a method of carrying out legal proscription of transiency for the poor by linking class status with legality of presence.

This was reinforced in the laws governing individuals who might return to a location from which they had been removed as a pauper. In the state of New York’s *New Conductor Generalis*, the manual for the use of justices of the peace, overseers of the poor, and other local officials, pauper removal was designed in such a way that it both diagnosed and sought to prevent vagrancy.<sup>48</sup> Paupers who returned to a location from which they had been removed were to be convicted as vagrants, and punished accordingly as disorderly persons. In an explanation of what constituted such an illegal return, the manual clarified that ‘an order of removal only prevent[ed] a return in a state of vagrancy.’<sup>49</sup> It may be assumed that the guidelines which removed paupers were expected to follow were made known to them by a justice or constable at the time of their removal. But the discretionary nature of vagrancy and disorderly charges would likely have not made it clear to a removed pauper what a return ‘in a state of vagrancy’ may look like to a constable. Furthermore, justices required only the oath of one reliable witness to sentence a pauper to the punishment for recidivist vagrants in New York: sixty days in the local jail or workhouse at hard labour. In New York’s official management of pauper removal, the often implicit connection between pauperism, especially mobile paupers, and vagrancy, is made explicit.<sup>50</sup> For those who experienced the process of pauper transportation in this period, it may have been painfully clear that the same system that provided relief to the indigent, sick, and elderly also served as a

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<sup>47</sup> Parker, ‘From Poor Law to Immigration Law’, p.73.

<sup>48</sup> *A New Conductor Generalis* (Albany, 1819). This book served as a manual that elaborated upon applicable laws to provide officials with guidance in carrying out their duties.

<sup>49</sup> *New Conductor Generalis*, pp.367-8.

<sup>50</sup> New Jersey similarly took measures to prevent the return of vagrants as well as paupers into districts in which they had been arrested for vagrancy or from which they had been removed as paupers through repeated removal and incarceration. T.F. Gordon, *The History of New Jersey* (Trenton, NJ, 1834), pp.59-60.

penal institution for convicted criminals and paupers. The latter category were primarily vagrants, who, following conviction for vagrancy by a constable, were ordered by a justice of the peace to be transported to the county almshouse and held for thirty days at hard labour. The line between vagrant and pauper is especially blurred in these cases, as with forty-two year old Stephen Kelsey, an apparently intemperate Ulster County 'pauper, under the Vagrant Act,' sentenced by a Kingston justice of the peace and transported eighteen miles to his punishment in the almshouse.<sup>51</sup> Written into New York State's poor law was a provision wherein a justice was to determine whether a vagrant might be better suited to serving the punishment of 30 days confinement in the poorhouse or in the jail.<sup>52</sup> Recidivist vagrant Cornelius Ylverston was variously incarcerated in the jail and the almshouse, well into old age.<sup>53</sup> In cases where the latter was chosen, the conviction contained language that specified if it 'appear[ed]...that the said [vagrant] is an improper person to be sent to the poor-house I do therefore adjudge and determine that the said [vagrant] be committed to the common jail of said county' for a specified length of days. Severity of punishments varied, and some vagrancy sentences stipulated that the vagrant be put to hard labour, while others did not; others, like Joseph Ruland, had bespoke sentences; in his case, he was to serve a total of twenty days to the common jail, ten of which he was 'to be kept on bread and water only.'<sup>54</sup>

The scale and cost of New York's pauper removal system was large enough to prompt a legislative investigation, led by Secretary of the State John Van Ness Yates, who found that the state spent upwards of \$25,000 in removing paupers in 1822 alone.<sup>55</sup> The Yates report, delivered to the legislature in 1824, emphasised the importance of reforming pauper settlement and relief provision procedures, painstakingly detailing 'the expenses and operations of the laws for the relief and settlement of the poor,' considering specifically the efficacy of pauper removal as opposed to almshouse aid. The report calculated that in the state of New York in 1822, 1,796 paupers considered as state residents 'were removed...to different parts of the state.' The researchers noted that 320 of these paupers were women, and 600 were children. It appears that this figure

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<sup>51</sup> Receipt of Paupers, Transportation Book, Pauper and Poorhouse Records, UCCA.

<sup>52</sup> *Laws of the State of New York*, 1821.

<sup>53</sup> Conviction of Cornelius Ylverston, UCCA.

<sup>54</sup> Conviction of Joseph Ruland, UCCA.

<sup>55</sup> 'Report of the Secretary of State in 1824 on the Relief and Settlement of the Poor', *Journal of the Assembly of the State of New-York at their 47<sup>th</sup> Session* (Albany, 1824), pp.387-90. For a more detailed discussion of the significance of the Yates report in broader debates about poor relief and welfare provision, see M.B. Katz, *In the Shadow of the Poorhouse: A Social History of Welfare in America* (New York, 1996), pp.18-22.



included legal fees for 127 court cases in which orders of removal were appealed, dramatically increasing the total cost.<sup>56</sup> The authors of the report lament the expense of litigating these removal appeals, which was met from already stretched poor relief budgets, noting that the method described to paupers ‘‘from constable to constable,’ till he arrives at his place of destination, gives rise to great expense and trouble, to say nothing of its cruelty.’<sup>57</sup>

‘The removal of so many human beings,’ the report continued, ‘like felons, for no other fault than poverty, seems inconsistent with the spirit of a system professing to be founded on principles of pure benevolence and humanity.’<sup>58</sup> This empathy for the poor was not afforded to able-bodied vagrants, as noted earlier in the report, who could falsely appear to officials as ‘the poor and infirm,’ and thus, mischievously, be able to ‘partake of the same bounty’ reserved for the truly needy. In proposing amendments to the poor law system then in effect, Yates advised the cessation of including ‘healthy vagrant[s]’ in the removal process, opting instead to ‘command’ vagrants ‘to return to the county where [they] belong.’<sup>59</sup> If a vagrant were not to comply, she or he would be punished by a term in the workhouse. This proposal would remove one route from the map of transiency that so many paupers and vagrants used. It is important to recall that distinctions between the ‘healthy vagrant’ and the ‘poor and infirm’ were not always readily discernible in practice. The names of convicted vagrants appear in the almshouse as indigents, not only incarcerated petty criminals. Justices of the peace and overseers of the poor frequently encountered individuals whose identities were likely to be seen as ‘healthy vagrant’ in the summer, when work along the shore was available and provisions accessible, and ‘poor and infirm’ come January, when temperatures had dropped and the money had run out. The report’s figures distinguish permanent paupers from occasional paupers, estimating that about a third were ‘the *permanent* poor,’ while two thirds were only temporarily receiving relief ‘chiefly in the autumn or winter.’<sup>60</sup> Ultimately, Yates’ report swayed the legislature, and led to the abolition of removal practices in favour of an expanded almshouse system that would provide care to indigent transients as well as residents.<sup>61</sup>

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<sup>56</sup> ‘Report of the Secretary of State’, pp.387-90.

<sup>57</sup> *Ibid.*, pp.393-4.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*, p.395.

<sup>60</sup> *Ibid.*, p.387.

<sup>61</sup> Mohl, *Poverty*, pp.62-4, p.215. Schmidt, *Free to Work*, p.69.

The states surrounding New York did not undertake the same reform process for their poor relief systems. In Philadelphia between 1822 and 1825, one quarter (69/275) of the non-resident paupers, indigents or vagrants, in the almshouse who underwent examination to determine their settlement were subsequently removed.<sup>62</sup> Removals may have become less common after 1825 due to the increasing numbers of needy non-residents, or the recording method may have changed, but no examinations bear the note 'removed' in the record after that time. In the correspondence of the overseers of the poor, however, discussion of removal of paupers with overseers in their place of legal residence continue. By 1829, the influx of itinerant labourers working on canals and railroads had caused the already substantial population of seasonal farm hands and other workers to increase dramatically. The city of Philadelphia was viewed by much of the rest of the state as capable of providing for these individuals, but the city's guardians of the poor were not pleased with the conduct of surrounding counties' overseers, who repeatedly sent 'too many persons...from the country – some from canals, some from railroads, farms, & towns' to 'run down...this House.'<sup>63</sup> It was often difficult to locate the legal settlements of these persons, who were primarily itinerant labourers not maintaining employment in any one location long enough to gain official residence. The guardians' concerns were echoed by the city's mayor, John Swift, who advocated strict enforcement of removal laws, commonly ordering the individual vagrants who were brought before him for sentencing to be sent 'to the Guardians of the Poor' so that, as in the case of one man who had been in Philadelphia for only two days, they could 'send him back to N. York where he belongs.' Large cities like New York both generated, received, and attracted so many thousands of indigent transients that it became a target for criticism. In 1837, the mayor stated publicly that 'the paupers of that city' who were entering Philadelphia 'in shoals' needed to be deterred. 'A stop must be speedily put to these inroads,' he wrote, 'or we shall be overrun with the vermin.'<sup>64</sup> Concerns were shared throughout the region, and in 1835, a bill was considered by New Jersey's Legislative Council that would 'regulate the removal of paupers between the States of New-Jersey, Pennsylvania, and New-York,' in recognition of the need for

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<sup>62</sup> Sixty nine out of 275 pauper examinations (or 25%) taken between 1822 and 1825 in the Philadelphia Almshouse had a note of 'removed' listed below their record. EXPA, 1821-1825.

<sup>63</sup> Jeremiah Peirsol to Directors of the Poor of Bucks County, 23 September, 1829.

<sup>64</sup> 'City Police – John Swift Mayor', *PPL*, 19 December 1837.

communication between the states that exchanged so many transients across their borders. The Council passed the bill, but the House voted it down.<sup>65</sup>

Orders of removal could be issued without an individual's direct involvement with the poor relief system (e.g. a stint in an almshouse or a vagrancy conviction), because any individual who *appeared* to be *likely* to become chargeable to the state could be apprehended by a justice of the peace and formally removed to their last legal settlement. In 1819, a case examining the legal grounds for and methods of execution of pauper removals came before the New York City Court of Sessions. The previous year, a pauper named Philip Thompson, who possessed legal settlement in Quebec had, according to officials, 'neglected to' return to Quebec, his 'last legal settlement.' Thus, the 'commissioners therefore commanded...any constable of the city of New York to convey and transport the pauper from and out of the city...and so from constable to constable, by the nearest and most convenient route, to the said town of Quebec, in Lower Canada, and there deliver him to the overseers of the poor,' with the understanding that the overseers in Quebec would be required by law to provide for Thompson.<sup>66</sup> The court declared this pauper-constable procession to be unlawful, as an act regulating pauper removal that was passed in 1813 did not allow for the burdening of each town that a pauper may be removed through with the expense of a constable's accompaniment and provision, when that pauper was not a legal resident of the state. 'In the case of a foreign stranger,' the court ruled, paupers that the city wished to remove were to be sent back on the path that brought them to their present location in New York.<sup>67</sup> Justices were instructed to 'direct the pauper to be transported to the next city, or the first town in the adjoining county through which such stranger shall have been suffered to wander unapprehended.' The court considered in detail the routes that were likely to have been taken by 'every pauper who came here from Canada' and had been assumed to 'wander through these towns.' Constables should be required to describe the route to be taken in removals of paupers, as 'Canadians may, and do often...approach the city through New-Jersey and Connecticut' as well as through towns in Westchester, Kings, and Richmond Counties.<sup>68</sup> Essentially, the authorities were aware of the varying paths chosen by vagrants and paupers in their travels, and

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<sup>65</sup> *Journal of the Proceedings of the Legislative Council of the State of New-Jersey* (Somerville, NJ, 1836).

<sup>66</sup> D. Rogers, *The New-York City-Hall Recorder for the Year 1819* (New York, 1819), pp.43-4.

<sup>67</sup> *Ibid.*, pp.44-5.

<sup>68</sup> *Ibid.*, p.45.

argued against punishing, as it were, those towns elected as thoroughfares by those whose actions they deemed actually worthy of curbing: the paupers and vagrants themselves.

The law, then, seemed to understand two varieties of pauper movement: unapprehended travel, and supervised forced transportation. New York saw a large number of poor migrants travelling south from Lower Canada, while Pennsylvania received Marylanders travelling north, both seeking work. With at least a dozen paupers transported each week in Ulster County from the 1820s-1840s and the consistent removal of paupers out of the almshouse in Philadelphia, a common sight on Mid-Atlantic roads must have been bedraggled paupers, escorted under the watchful eye of a constable, on a path of forced migration, whether it was to the other side of the county or across an entire state and into international territory. Indeed, New York's Court of Sessions discussed with familiarity processes of pauper migration and removal. The Thompson case was considered in 1819, at the start of the dramatic economic downturn that vastly increased the population of unemployed, homeless, and transient work-seekers in the United States, especially in the early-industrial northeast. These removal practices greatly affected the lives of the paupers they directly involved, and shaped populations and patterns of movement as thousands of paupers in the region. The location where the pauper Philip Thompson ended up is not made clear, though much of the case centres on his requiring medical care for a broken arm in the town of Kinderhook, which, when the next town north refused to convey him onwards, provided for him until the issue could be resolved. Thompson was not convicted of a crime, as far as is discussed in this case, nor is he described as a vagrant or recipient of poor relief. He is said to have been removed from New York City for a combination of being *likely* to become chargeable and of lacking of residence. And still, his transiency and poverty led to months of forced transportation by constables to a location that he had likely intentionally left to seek different prospects.

The provision in poor laws for treating as vagrants removed paupers who returned to the location from which they had been forced out implies that compliance was not always easily won. In the first recorded examination of Jacob Merkel in the Philadelphia Almshouse, in January of 1827, he admitted to having been there previously, in 1825, when he had 'sworn...to his legal settlement being in Lancaster County,' and had apparently been removed there. Since then, he had 'been at different

places but the longest time which he has lived in any one place was about 3 months.’<sup>69</sup> Merkel returned again in January of 1835, but still had not lived or worked anywhere long enough to gain a new settlement, and for whatever reason he remained unable or unwilling to remain and subsist in Lancaster County. Though Merkel had signed his own name to his previous testimony, he merely made his mark this time, perhaps indicating some loss of mental acuity or physical injury in the intervening years.<sup>70</sup> It was less than a year until he again found himself in the Philadelphia Almshouse, when he hinted that it had been the death of his wife that had brought on his transiency. After living in Lancaster for many years, it was after she died that he left, after which time he ‘sometimes followed boating’ and ‘visited some of the counties of the state.’ He had lived in Philadelphia periodically, but had not worked for anyone for one whole year since he left Lancaster over fourteen years previous. The Guardians of the Poor were legally required to remove Merkel back to his legal settlement if he were well enough to travel, and though orders of removal for him do not seem to be extant, it is possible that it was returning to Philadelphia after his first removal that brought him to the almshouse under a magistrate’s sentence.<sup>71</sup>

### **Experiencing Pauper Removal**

The distances of travel that were involved in removing paupers to their places of legal settlement contributed to the physical challenges that many indigent transients experienced, from illness to separation. As indicated by Table 4.1, the majority of paupers who were removed from Philadelphia during the 1820s were forced to travel at least fifty miles, usually in the company of the enforcing constable or justice of the peace.<sup>72</sup> The data depicted here may suggest that transients who had travelled longer distances prior to their involvement with Philadelphia authorities were more likely to be subject to removal. Or it may point to a more common trend of longer distance mobility as opposed to local movement among indigent transients who came through Philadelphia in this period.

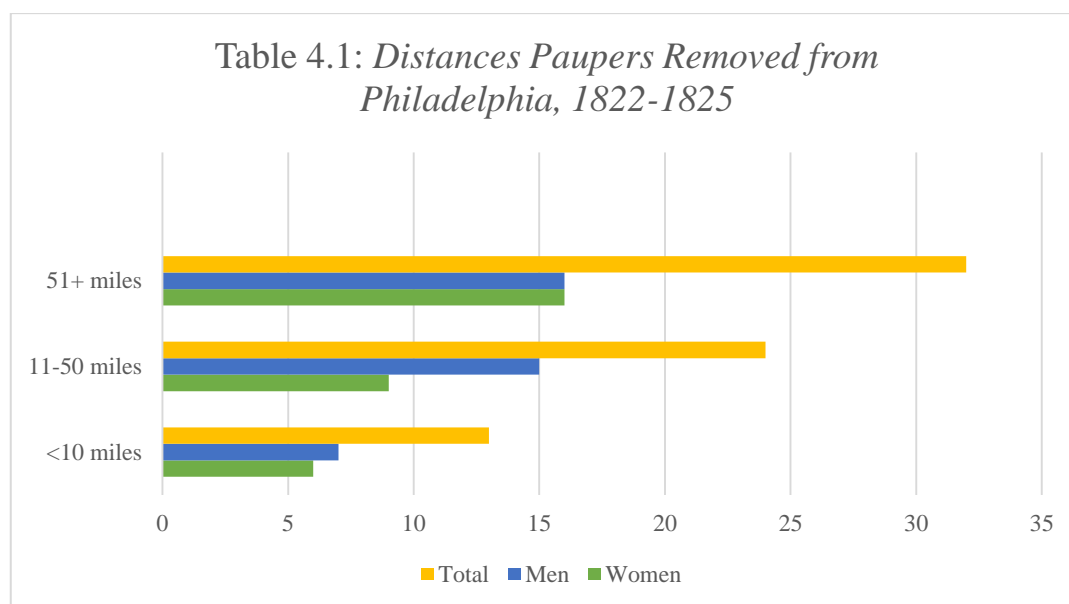
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<sup>69</sup> Examination of Jacob Merkel, EXPA, 1826-1831.

<sup>70</sup> Examinations of Jacob Merkel, EXPA, 1831-1839.

<sup>71</sup> Examinations of Jacob Merkel, EXPA, 1831-1839.

<sup>72</sup> EXPA, 1821-1825 and Letter Book, 1824-1829, GPP.



*Source: EXPA, 1821-1825 and Letter Book, 1824-1829, GPP.*

Individuals who were contracted to convey paupers overland usually signed a binding agreement, such as the one David Taylor signed in the summer of 1828 to transport a man named Theodore McKenzie, by ‘order of removal...to Pittsburgh.’ The physical circumstances of removals were important to Guardians of the Poor and other law enforcement and almshouse officials involved in the process. This particular contract specified that McKenzie was to be well-cared for on the journey, and part of Taylor’s twenty-five dollar remission was to enable him to ‘furnish [McKenzie]...with sufficient food and lodging on the road.’ The removing institution was to cover costs for the full distance to their destination, or, in ‘the case of escape, or death...in proportion to the distance’ travelled.<sup>73</sup> He was received in Pittsburgh, and remained at least a few days, despite lacking settlement. Transient paupers did appear to have some control over how their cases were handled by authorities in at least some situations.

In a plethora of cases, the state of health of a pauper determined the course of action taken with regard to removal practices. This was manifest in a very material way in terms of available modes of transportation: Eleanor Dicky’s place of legal settlement was Philadelphia, but she found herself under the charge of the Franklin County Directors of the Poor in 1826. Her removal was planned, but Philadelphia’s Guardians deferred to those with a view of her current state ‘to judge if her health should encourage the hope that she would be able to provide for herself.’ If this was the case,

<sup>73</sup> Statement of David S. Taylor, Letter Book, GPP.

she was to be discharged at will; if not, Philadelphia would see to her care, provided that the Franklin Directors would ‘send her down in a wagon at as little expense as possible.’<sup>74</sup>

Destitute and ill, rather than disorderly, itinerant paupers were sometimes trusted with their own removals. In the same letter addressing Eleanor Dicky’s removal, the journey of ‘Michael Reed and his daughter Ann Reed’ from Philadelphia back to Franklin County was described. They were apparently ‘so far recovered ...that they might make their way back to your county on foot. They were therefore discharged from this house with a good stock of provisions.’ Father and daughter had apparently been in the almshouse for two and a half weeks, as Franklin County was charged with their board for that length of time, totalling \$10 in expenses. Neither of them had been examined for legal settlement, so little more is likely to be known about what brought them to the almshouse in Philadelphia, or what happened to them after their 150-mile journey on foot across Pennsylvania.<sup>75</sup>

Pauper removals to rural areas in the sparsely-settled regions often proved challenging. The removal of Mary Craig from Philadelphia to Kiskiminitas in Westmoreland County required careful coordination. The Guardians of the Poor enlisted a physician to make a certified pronouncement as to the state of her health and its prevention of her removal: ‘to be removed two or three hundred miles,’ he wrote, would not be possible unless accommodation was made for her in a ‘vehicle, and short stages...of a kind’ suited to her present condition, as she was ‘somewhat paralyzed.’<sup>76</sup> In September of 1831, she was to be sent ‘by a wagon owned by David Loye’s, of Morrison’s Cove, Bedford County’ by a driver named Mr. Berry. Berry was to ‘take her to Greensburg,’ which was still nearly thirty miles from the township expected to take her in, but apparently transportation connections in that area were so weak that she could not be sent ‘in any other way, nor nearer to you.’ Craig was to be accompanied by an adult daughter who does not appear to have been in the almshouse with her mother, but who was also ‘a poor woman.’ The daughter may have been travelling with her

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<sup>74</sup> Jeremiah Peirsol to Directors of the Poor for Dauphin County, 25 July 1826, Letter Book, GPP.

<sup>75</sup> Peirsol to Directors of the Poor for Dauphin County.

<sup>76</sup> Jeremiah Peirsol to Peter Claason, Esq., 19 June 1828.

mother as a means of transport as well as familial care, as she thought she might go, 'perhaps, to Ohio, at her own expense.'<sup>77</sup>

As David P. Delaney has summarised, 'it is through mobility: as permitted, coerced or prohibited, that justice and injustice may be concretely realized – in the flesh.'<sup>78</sup> The materiality of indigent transients' experience can be examined by considering the significance of a single series of tangible objects: articles of clothing. Clothes played a prodigious role in determining not only the physical experience of transiency in terms of comfort and propriety, but of course held important signifiers of class and need to poor relief and criminal justice officials, social commentators, and the general public. According to contemporaries, most vagrants were 'covered only by a few rags' when they were jailed and were provided no additional clothing during their incarceration.<sup>79</sup> In Philadelphia's carceral facility for vagrants, the Arch Street Prison, it was a 'long-standing practice' to leave 'vagrants and prisoners for trial nearly naked.' The availability and appearance of clothing could determine eligibility for forced removal, as it did repeatedly in the Philadelphia Almshouse. John Kirby, in the winter of 1829, was set to be removed to Chester County on a given day, but the guardians postponed his removal, having 'found when too late, that he had no clothing.'<sup>80</sup> Henrietta Johnson, a young woman born in Pittsburgh, was only 17 when she entered the almshouse. She was examined in the winter, having left Carlisle, where she lived with her grandfather, only a week previous, in late November 1826.<sup>81</sup> By mid-December, her removal back to Carlisle was imminent, when the guardians realised that the woman with whom she had travelled to Philadelphia, 'the first night after their arrival...took all her clothing and absconded from her.'<sup>82</sup> Her removal was delayed, as she appeared to be completely 'destitute of clothing.' A week later, the Guardians were eager to have Johnson out of the almshouse, and since 'her situation [was] such as would render it inappropriate to discharge her,' her removal was arranged for her. It is unclear whether she wished to remain in Philadelphia or return to Carlisle, but

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<sup>77</sup> Jeremiah Peirsol to Overseers of the Poor of Washington Township, 22 September 1831.

<sup>78</sup> D.P. Delaney, 'Laws of Motion and Immobilization: Bodies, Figures and the Politics of Mobility' (paper delivered at the Mobilities Conference, Gregynog, Newtown, Wales, 1999), p.3, cited in Cresswell, *On the Move*, p.151.

<sup>79</sup> Manion, *Liberty's Prisoners*, p.181 and, cited within, 'Female Convicts and the Efforts of Females for Their Relief and Reformation', *Pennsylvania Journal of Prison Discipline & Philanthropy*, 1, no. 2 (1845), p.112.

<sup>80</sup> Jeremiah Peirsol to Directors of Poor of Chester Co., 24 December 1829, Letter Book, GPP.

<sup>81</sup> Examination of Henrietta Johnston, EXPA, 1826-1831.

<sup>82</sup> Jeremiah Peirsol to Overseers of the Poor of Carlisle, Penna., 18 December 1826.



nevertheless ‘a passage in the stage’ was ‘procured her’ and she was ‘furnished...with such articles of clothing as were absolutely necessary.’ For this 125-mile trip in December weather, she was provided with one ‘lousy frock,’ one pair of shoes, one pair of stockings, a bonnet, and a shawl.<sup>83</sup>

## Conclusion

Residency restrictions for poor relief – and the pre-emptive policing of non-residents that accompanied them – demonstrate how integral state conceptions of indigent transiency were to implementing poor laws and welfare policies. Pauper removal became less common later in the nineteenth century, but remained on the books well into the twentieth. Throughout the nineteenth century, pauper removals enforced a patriarchal mobility upon married and widowed women, and subjugated the choices and movements of the poor to state control and state-approved transportation. In their efforts to limit the mobility of the lower classes through forced migration, the voluntary spatial transiency of the lower classes was criminalised and replaced with an institutional form of mobility.

Rosetta Hill was a non-resident pauper in the ‘coloured ward for sick women’ of the Philadelphia Almshouse in 1834 when the steward of the institution declared her to be ‘incapable of earning a subsistence.’ She had spent the first twenty eight years of her life enslaved in Lancaster County until, after a brief period of service following her emancipation under the provisions of Pennsylvania’s 1780 Gradual Abolition Act, she travelled to Philadelphia to seek a new beginning. But before long, having fallen ill and received ‘injudicious treatment,’ she was unable to provide for herself as overseers of the poor arranged her care and began the process for removing her as a non-resident pauper back to the county in which she had been enslaved.<sup>84</sup>

Former slaves like Rosetta Hill who were legally recognised as destitute were not exempt from the procedures of pauper removal. This process held greater implications for most African Americans, as law enforcement officials, legislators, and

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<sup>83</sup> Jeremiah Peirsol to Directors of Poor of Carlisle, Penna, 21 December 1826. While possession of clothing determined likelihood of forced removal for the transient poor, it was, of course, a matter of life and death for the persistent poor, too. When Peter Dougherty was unable to pay his house rent in late September 1835, he filed an insolvent debtor’s petition, stating that the only real or personal property he possessed was his and his family’s ‘wearing apparel’, which, looking ahead to the winter to come, ‘he asks the court to allow him, as the inclemency of the weather at this season of the year especially requires that he should use it.’ The Petition of Peter Dougherty, Philadelphia Court of Common Pleas Insolvency Records, PCA.

<sup>84</sup> Samuel Fisher to Directors of the Poor of Lancaster County, 21 December 1834, Letter Book, GPP. For definition and context of the Gradual Abolition Act of 1780, see Nash, *Forging Freedom*, pp.60-3.

regional overseers of the poor sought to control their movements and labour, and for whom the concept of ‘legal settlement’ was either...empty’ or ‘threatening.’<sup>85</sup> As a result, many free blacks ensnared in the settlement and removal system shaped their testimonies to more effectively achieve their goals. As Joanne Pope Melish has noted, ‘some transient blacks representing themselves as free had never been legally emancipated,’ but for the sake of freedom, protection, or privacy, appropriated the examination process to assert their personal status.<sup>86</sup>

As James Gigantino has documented, ‘the ejections’ of emancipated blacks, usually to districts where they had been held as slaves, via the legal channels of pauper removal have been viewed by scholars of abolition and emancipation as a procedure that ‘became routine across the North’ as a means to ‘limit [whites’] exposure to abolition’s products.’<sup>87</sup> This ascription of motivation is supportable, but it is important to place these efforts within the larger system of settlement and poor relief, which had controlled the residency, welfare provision, and mobility of the poor from the late eighteenth throughout the nineteenth century. Still, former slaves within this system almost certainly experienced a more prejudiced version of poor relief administration. In many cases, welfare distribution restrictions were used to hold free but indigent blacks and their children in bondage. These poor laws functioned as vehicles to maintain the statuses of slavery even into the years of legal abolition.<sup>88</sup>

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<sup>85</sup> Melish, *Disowning Slavery*, p.117.

<sup>86</sup> *Ibid.*, p.133.

<sup>87</sup> J.J. Gigantino II, *The Ragged Road to Abolition: Slavery and Freedom in New Jersey, 1775-1865* (Philadelphia, 2014), p.135.

<sup>88</sup> *Ibid.*, p.136.

## Chapter 5: ‘Since he was free’: Vagabondage, race, and emancipation

In December of 1826, an African American man named James Huston was admitted to the Philadelphia Almshouse. Huston had been born a slave in Delaware around 1786 and at some point ‘left his master,’ escaping across the border into Pennsylvania, using a pseudonym to avoid detection. Once there, he gained his freedom, sacrificing it only temporarily to work as an indentured servant for a few years at various places in Delaware County, Pennsylvania. With the ‘consent of his master,’ he then went ‘to Hayti as a sailor’ for a year, earning enough money to pay off the remainder of his indenture. Since that time, he had ‘lived at various places, but not a year together with any one person.’ For Huston, freedom was costly, and it led him to the almshouse at age 40, homeless and sick.<sup>1</sup>

The ‘vagabondage’ of the emancipated – whether the movement of the illegally self-emancipated, like Huston, or that of one recently freed following legal manumission processes – was an active exertion that has been insufficiently explored in the context of regulated free and unfree labour in the antebellum era. But indigent transiency was a frequent by-product of emancipation. Cultural and social historians agree that, as Jean Lee Cole asserts, ‘the notion of mobility infused the African American consciousness’ in the first half of the nineteenth century.<sup>2</sup> Specifically, as Kelly Marie Kennington argues, mobility defined in large part how slaves and African Americans interacted with the state, which reflects ‘the importance of movement for determining personal status in antebellum courts,’ and some of the ‘many ways that people of African descent used...the law to determine personal status.’<sup>3</sup> For many, ‘the ability to move through space, but also among different classes and races [was] a fundamental aspect of freedom.’<sup>4</sup> As Edlie Wong notes, under slavery, ‘mobility and

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<sup>1</sup> Examination of James Huston, EXPA, 1826-1831. Huston was considered ‘sick and unable to be removed’, Jer. Peirsol to Directors of the Poor of Delaware Co., Penna, 13 December 1826.

<sup>2</sup> J.L. Cole, ‘Theresa and Blake: Mobility and Resistance in Antebellum African American Serialized Fiction’, *Callaloo*, 34, no. 1 (2011), pp.158-9.

<sup>3</sup> K.M. Kennington, ‘Law, Geography, and Mobility: Suing for Freedom in Antebellum St. Louis’, *Journal of Southern History*, 80, no. 3 (2014), p.578, p.595, p.603.

<sup>4</sup> Cole, ‘Theresa and Blake’, p.165. African Americans throughout the nation were immured in ‘a system of law that held their physical movements through the city as latently criminal and their presence in public spaces intrinsically suspicious.’ One of the reasons for whites’ fears of black mobility lay in uprisings and rumours of uprisings, was because they ‘crystallized white...fears of unregulated black mobility.’ R. Gamble, ‘African Americans, Mobility, and the Law’, *The Junto: A Group Blog in Early American History*, 11 May 2015.

stasis emerge[d] as two powerfully intertwined forces' for African Americans.<sup>5</sup> Later in the nineteenth century, as Carter G. Woodson argued in *A Century of Negro Migration*, immediately following the Emancipation Proclamation freed slaves across the south 'did wander about thoughtlessly, believing that this was the most effective way to enjoy their freedom.'<sup>6</sup> This impulse shaped the next centuries of 'African American life and cultural expression.'<sup>7</sup> According to Woodson, this choice was not unique to the United States, but rather 'such vagrancy has always followed the immediate emancipation of a large number of slaves.'<sup>8</sup> Emancipation of enslaved persons and bonded labourers around the world has frequently involved legal efforts to retain labour control via vagrancy statutes that inhibited mobility. During abolition debates in England in 1792, one commentator claimed he foresaw a potential future in which emancipation would lead 'the Negroes from all parts of the world' to 'flock' to Britain, thus 'increas[ing] the number of crimes and criminals, and mak[ing] Britain the sink of all the earth, for mongrels, vagrants, and vagabonds.'<sup>9</sup>

In the antebellum United States, many communities attempted to curb the migration of newly freed slaves by restricting settlement to African Americans who could 'register their certificates of freedom at a county clerk's office,' and, in many cases, put up 'bonds ranging from \$500 to 1,000' to guarantee their ability to provide for themselves and abide by the law.<sup>10</sup> Massachusetts and New Jersey had legislated this process for their whole states since the late eighteenth century, and Massachusetts' law was especially concerned with preventing vagrancy by African Americans. Free blacks in Virginia after 1801 were effectively banned from leaving the county in which they resided without evidence of 'honest employment' on pain of being 'deemed and treated as a vagrant.'<sup>11</sup> As Paul Finkelman has noted, this law was the result of 'a

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<sup>5</sup> E. Wong, *Neither Fugitive Nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel* (New York, 2009), p.10. Stasis was an essential and often elusive goal for many in the antebellum lower classes, especially African Americans, in that it lent itself to greater economic independence. But local laws applied to residents still hindered this activity.

<sup>6</sup> R.L. Hall, *Making a Living: The Work Experience of African Americans in New England: Selected Readings* (Boston, 1995), p.309.

<sup>7</sup> Wong, *Neither Fugitive*, p.10.

<sup>8</sup> Hall, *Making a Living*, p.309.

<sup>9</sup> J. Scattergood, *An antidote to popular frenzy, particularly to the present rage for the abolition of the slave-trade* (London, 1792), p.24.

<sup>10</sup> D.M. Johnson and R.R. Campbell, *Black Migration in America: A Social Demographic History* (Durham, NC, 1981).

<sup>11</sup> E.D. Katz, 'African-American Freedom in Antebellum Cumberland County, Virginia - Freedom: Personal Liberty and Private Law', *Chicago-Kent Law Review*, 70, no. 3 (1995), p.944. In the Deep South, however, vagrancy appears to have been of less concern as a possible outcome for both

stereotyped belief that free blacks and fugitive slaves were less capable than whites of supporting themselves.’<sup>12</sup>

The long emancipation that began with late eighteenth century gradual manumission laws in the United States reorganised labour systems and class structures on exponentially larger scales.<sup>13</sup> As Woodson reminds us, the dramatic reconstitution of labour in the south at the close of the war prompted transiency among whites, too, who Woodson notes ‘were also roaming and in some cases constituted marauding bands.’<sup>14</sup> But these mobilities had been at work for decades prior to the Emancipation Proclamation, as runaways, the unemployed, and strangers navigated the shifting landscape of the antebellum labour market. The coexistence of racial slavery, indentured servitude, and wage labour in time and place as well as within industries, as workers of varied races and ethnicities negotiated their voluntary and involuntary labour, effectively racialised lower class status.<sup>15</sup> This process reacted with pre-existing poor laws and laws regulating movement to create an environment where poverty and mobility were racialised. This is especially clear in Joanne Pope Melish’s example from Providence, Rhode Island, where, in the first decades of the nineteenth century, the town council forced to enter into labour contracts ‘blacks of all descriptions’ as well as ‘transient white people in poor circumstances’ against their will.<sup>16</sup> This shared class status extended, often, to the means used to define contractual labour as well as freedom from bondage for blacks and whites with one profoundly important common tool: geographical mobility.

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manumission and migration of former slaves. Laws regulating manumission in the south focused on age (in consideration of a slave’s potential remainder of usefulness to the owner) and, in antebellum New Orleans, ‘honest conduct.’ A slaveholder could not manumit a slave, nor could an enslaved person purchase their own freedom, if they had attempted to run away or had committed any other crime. While manumission was possible in Louisiana and other southern states, the presence of and migration by free blacks was limited by requirements for free black migrants and recently emancipated slaves to leave the state or face penal punishments. See J.K. Schafer, *Becoming Free, Remaining Free: Manumission and Enslavement in New Orleans, 1846-1862* (Baton Rouge, LA, 2003), pp.1-6.

<sup>12</sup> Finkelman, ‘Rehearsal for Reconstruction’, pp.8-9.

<sup>13</sup> Extended definitions of this term and arguments found in I. Berlin, *The Long Emancipation: The Demise of Slavery in the United States* (Cambridge, MA, 2015).

<sup>14</sup> C.G. Woodson, *A Century of Negro Migration* (New York, 1918), p.120. His aim was to directly challenge that blacks were somehow inherently migratory, and that mobility, for them, was a product of racial identity.

<sup>15</sup> As Stephen Germic has explained, ‘The black or immigrant is essentially condemned to lower-class status while at the same time class as a social category becomes imperceptible and race obvious. Class difference is reinforced by racial invention.’ S. Germic, *American Green: Class, Crisis, and the Deployment of Nature in Central Park, Yosemite, and Yellowstone* (New York, 2001), p.35.

<sup>16</sup> Melish, *Disowning Slavery*, pp.85-6.

There is a two-pronged juxtaposition of labour and mobility at work here: the frequency of transiency following release from bonded labour, on the one hand, and the common recourse by the poor to geographical movement as a means to achieve subsistence, on the other. Together, these connections led to the implementation of vagrancy and pauper removal laws to regulate labour, economic contributions, and public budgets. The independent, voluntary movement of individuals whose labour is of necessity to the owners of the means of production, in these cases, is seen to have instigated, in response, what Christian DeVito has referred to as the ‘coerced spatial mobilisation of labour.’<sup>17</sup> This was done punitively via vagrancy law or under the guise of humanitarian aid via settlement-based poor relief. The figures of the fugitive slave and of the vagrant are at the nexus of this coercion and punishment, where both were subject to ‘locodescriptive policing.’<sup>18</sup> Some historians have referred to these patterns as the ‘lessons of emancipation employed against the poor,’ though many have missed the antebellum origins of such efforts. As Ira Berlin asserts, the roots of the postbellum black codes – chief among them, restrictive vagrancy laws – were not to be found in slavery, but in antebellum laws governing free, and particularly *mobile*, free African Americans.<sup>19</sup>

This chapter will begin with the proposal that fugitive slaves should be counted among the populations of homeless and vagrant Americans in the antebellum era as a result of legal as well as experiential commonalities, to be detailed here. Evidence supporting this argument is found in laws endorsing the recapture of fugitive slaves and the shared visual presentations of poverty and criminality inherent in vagrancy law, as demonstrated by *Prigg v. Pennsylvania* in 1842. It will then chart the transiency that former slaves as well as black and white former indentured servants often undertook after leaving bondage, going on to consider associations between race and transiency and subsequent criminalisation of the freedom of movement for African Americans in varying stages of bondage. This casting of vagrancy as a racial characteristic is then seen in the enactment of manumissions processes that emancipated individuals through

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<sup>17</sup> C.G. DeVito, ‘Labour flexibility and labour precariousness as conceptual tools for the historical study of the interactions among labour relations’, *On the Road to Global Labour History* (Leiden, 2016).

<sup>18</sup> This term, loosely defined as a description of or in relation to a particular locality, adroitly illustrates the contextual nature of vagrancy convictions, where the visual characteristics and geographical location of an individual contributed significantly to their status as policed. Nicolazzo, ‘Vagrant Figures’, p.94.

<sup>19</sup> I. Berlin, ‘Southern Free People of Color in the Age of William Johnson’, *Southern Quarterly*, 43, no. 2 (2006), p.10. See also E. West, *Family or Freedom: People of Color in the Antebellum South* (Lexington, 2012), p.4-5.

the vehicle of documents that disclaimed their likelihood to become vagrant. In addressing these topics, this chapter aims to highlight the relationship between personal status and vagrancy, and the ways in which individuals contested these designations and struggled to define their own identities.

### **Fugitive Slaves as Vagrants**

Early American roads were a vital space for wanderers, runaways, and recent migrants crossing rivers and state lines in search of work and independence. Fugitive slaves were possibly the most vulnerable population on the road. In recent years, the historiography of the mobility of the emancipated has begun to address this. Roberta Ann Johnson has argued that runaway slaves have been left out of dominant narratives on the subject of homelessness to the detriment of the field, and ought to be counted as part of the early American homeless population.<sup>20</sup> For slaves, Johnson explains, ‘although their living conditions were woefully deficient,’ residency and housing were not a concern, because they ‘were considered part of the ‘community’ (by the Whites), and, therefore, they were *not* considered homeless. On the other hand, Whites generally considered free Blacks to be homeless and suspect.’<sup>21</sup> The transition to freedom, for many African Americans, introduced them to a new category of criminality under which they could be policed and punished. Free, and especially mobile free blacks, were assumed to be runaway slaves.<sup>22</sup> Many were, of course, and, as Johnson argues, this ‘large number of runaway slaves should be considered an early example of American homelessness.’ The African Americans who ‘organized to live in the forests, mountains, and swamps of the south’ and in ‘freedom in the North’ were often homeless, often mobile, for days, weeks, months, and years, as they sought safe solutions in life outside of bondage. As a result, as Johnson notes, ‘runaway slaves represent an important chapter in America’s homeless history.’<sup>23</sup> This analysis affirms, in its historiographical perspective, David Roediger’s assertion that the act of running away was one of the most important means by which the illegally self-emancipated ‘performed freedom.’<sup>24</sup>

Considering runaway slaves as indigent travellers and as a statistically significant portion of the nineteenth century homeless population opens up new avenues

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<sup>20</sup> R.A. Johnson, ‘African Americans and Homelessness: Moving Through History’, *Journal of Black Studies*, 40, no. 4 (2010), pp.83-605.

<sup>21</sup> Johnson, ‘African Americans and Homelessness’, p.584.

<sup>22</sup> *Ibid.*, and K. Hopper and N. Milburn, ‘Homelessness among African Americans: A historical and contemporary perspective’, *Homelessness in America*, ed. J. Bauhmohl (Phoenix, AZ, 1996), p.124.

<sup>23</sup> Johnson, ‘African Americans and Homelessness’, pp.584-5.

<sup>24</sup> D. Roediger, *Seizing Freedom: Slave Emancipation and Liberty for All* (London, 2014), pp.44-5.

of intellectual enquiry on the mobile poor and suggests new ways of using records that document fugitive slaves. Both under the law as well as on the road, runaways, pauper migrants, and vagrants, shared much by way of identity and occupation. These individuals used their bodies as means of resistance, sometimes by running away, and sometimes by presenting their bodies to the law as evidence of their perceived identity. By seeing fugitive slaves as part of the larger homeless and poor migrant populations, with all the attendant issues of race, some narratives gain additional meanings. One such example is in the examinations of paupers taken by guardians of the poor in Philadelphia. For the testimonies of African Americans in these examinations, it is admittedly difficult to identify who may have been a runaway among the population of self-identifying free blacks, as most were naturally keen to maintain their alibis as free persons, at least to officials. Admitting to having been a runaway slave, as James Huston did in his testimony above, could have led to harsh physical punishment and resale into slavery. But in using historians' estimates of the numbers of runaway slaves, somewhere around *50,000 each year* by the late 1850s, cross-referenced with sources such as these examinations of paupers, we can begin to see the cracks through which fugitives may have slipped.<sup>25</sup>

Such was the case of Samuel Burton. In 1829, Burton testified to the Philadelphia Board of Guardians that he had been born in Delaware County and worked there until he went travelling, ending up a year later in Philadelphia. When the Guardians inquired with officials in Delaware County as to Burton's circumstances, the truth came out: his examination record was never signed, as his testimony was found to be 'false,' and his case closed with the statement 'This man is a runaway.'<sup>26</sup> The efforts of the Guardians of the Poor to secure legal and residentially-appropriated poor relief for Burton thwarted his attempt at passing as a free labourer. In cases of poor relief, officials often had little more evidence to corroborate a pauper's claim other than their word, but that did not prohibit them from passing judgments of accuracy. Race complicated officials' assumptions of veracity in paupers' testimonies even further. A young woman named Mary Ann Smith had been admitted to the Philadelphia Almshouse and believed she may have a legal settlement in Lancaster County. She testified that 'her father was black & her mother white,' and at the time, in 1829, she was about 19 years old. The Guardians describe her as 'a colored girl' with 'an

<sup>25</sup> J.H. Franklin and L. Schweninger, *Runaway Slaves: Rebels on the Plantation* (New York, 1999), p.282.

<sup>26</sup> Examination of Peter Burton, EXPA, 1826-1831.



exceedingly impudent face.’ Most intriguing is the description offered of this young woman in the *Guardians*’ effort to ‘enable you to identify her.’ They went on to note that her origins were unconvincing to him, because ‘she looks rather more like an Indian than a Mulatto. Her hair is longer than the Mulatto’s, generally, & straighter.’<sup>27</sup>

From the 1790s onward, free blacks utilised scant available opportunities to create subsistence for themselves, establish communities, and make important strides in northern race relations. As Gary B. Nash notes, ‘of all migrant groups entering the city, blacks were the most vulnerable to arrest for vagrancy because Philadelphia was the destination of many runaway slaves, and dark skin gained one no favors in an era of increasing hostility toward blacks.’ Despite this social environment, during these years, ‘blacks represented no more than their share of the population’ among those arrested for vagrancy in Philadelphia. Runaway slaves did raise the numbers of the illicitly mobile, but it is still noteworthy that it was not until the 1820s when blacks began to be targeted more effectively as vagrants.<sup>28</sup> In Philadelphia, the largest numbers of institutionalised transient African Americans came in the 1820s, when 25% (166/668) of aid recipients in the Philadelphia Almshouse were African Americans, double the population in the city at large. The disparity was even greater in the city’s vagrant and debtor prison, Arch Street: during the same years, approximately 48% (2325/4848) of the convicted vagrants incarcerated there were African American.<sup>29</sup>

In reading for gaps in examination narratives, glimpses into the experiences of African American mobile paupers are found: in 1828, for example, one man named Samuel Reason testified that he had been born in Harford County, Maryland, and upon arriving in Pennsylvania, had no home and held no job to speak of for four years, before finding work with a rye manufacturer in the city.<sup>30</sup> Pennsylvania law targeted out of state migrants like Reason, in an effort to stem the tide of fugitive slaves and poor immigrants travelling onward from ports in Delaware or New York. In 1820, Pennsylvania passed a ‘law to prevent the increase in pauperism in the Commonwealth’, which held individuals who brought African Americans into the state who could be considered likely to become destitute responsible for their care, thus freeing the

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<sup>27</sup> Jeremiah Peirsol to Directors of the Poor of Lancaster County, 7 October 1829.

<sup>28</sup> Nash, *Forging Freedom*, p.157.

<sup>29</sup> VAG, 1822-1827, and EXPA, 1821-1831. ‘Report on Punishments and Prison Discipline’, *Register of Pennsylvania*, 19 April 1828, 1, no. 16 (Philadelphia, 1828), p.244.

<sup>30</sup> Examination of Samuel Reason, EXPA, 1826-1831.

overseers of the poor from providing for them. For African Americans who did not have such a sponsor if a magistrate was not satisfied with their 'account of themselves' they were to be prosecuted as vagrants.<sup>31</sup>

Fears of roving bands of vagrants and fugitive slaves motivated social commentary, preventative policing, and legislative action. Citizens and lawmakers in the antebellum Mid-Atlantic sought to curb the movements of what was seen largely as a homogenous group of idle black non-labourers. This was especially pertinent in the southern border areas of the region. A grand jury convened at the Mayor's Court in Lancaster, near the Maryland-Pennsylvania border, just before the 1820 law went into effect, decried transient African Americans as a 'source of well-founded apprehension of danger to the well-being of the city.' The grand jury pinpointed what they saw as the source of this danger: 'the numerous hordes of worthless Negroes congregated in huts about the suburbs of the city, who spend their time in idleness.' The solution, they argued, was to 'be vigilant in punishing such suspicious characters, black or white, who do not work and have no visible way of living, by committing them to prison as vagrants.'<sup>32</sup> As Bryan Wagner explains, vagrants bore 'characteristics that would have been recognizable' in the bodies of 'fugitive slaves and free blacks... from blackface entertainments and narrative representations.'<sup>33</sup>

As Wagner argues, in nineteenth century drama and verse, as in life, vagrants were common characters, often used to represent lifestyles that suggested that 'itinerancy...threatened to inculcate popular disregard for legitimate public culture' in their association with idle low-lives. John Greenleaf Whittier used vagrants in his writings to depict the danger of the 'other.' As Michael C. Cohen notes, Whittier's 'vagrant peddler' in his essay 'Yankee Gypsies' is 'pure 'outside,' and as such, 'destabilizes the insularity of the home.'<sup>34</sup> William Wordsworth's poetry often invoked vagrants as beggarly objects for sympathy.<sup>35</sup> Cultural representations of vagrants also antagonised perceptions of race, as in the blackface minstrel performance *Bone Squash Diavolo* by Thomas Rice of Jim Crow fame. Performed in New York, Philadelphia, and

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<sup>31</sup> 'Law to prevent the increase in pauperism in the Commonwealth', *Laws of the Commonwealth of Pennsylvania* (Philadelphia, 1822), p.480.

<sup>32</sup> 'Presentment of the Grand Inquest for the City of Lancaster', *Lancaster Journal*, 3 September 1819.

<sup>33</sup> Wagner, *Disturbing the Peace*, p.37.

<sup>34</sup> M.C. Cohen, *The Social Lives of Poems in Nineteenth-Century America* (Philadelphia, 2015), p.38, pp.17-9.

<sup>35</sup> Q. Bailey, *Wordsworth's Vagrants: Police, Prisons, and Poetry in the 1790s* (Farnham, 2011), pp.154-9.

New Orleans in 1835 and 1836, the play displayed ‘the motley conventions of Atlantic urban street scenes,’ most notably through its protagonist, Bone Squash, a black ‘class-crossing vagrant’ in a cast with all black characters except for one: a ‘white Yankee devil.’<sup>36</sup> And many depictions of Jim Crow himself mirrored early nineteenth century visuals of vagrants.<sup>37</sup> W.T. Lahmon, Jr. argues that through the ‘distinctive outcast voice of the Jim Crow songs and plays,’ mobility itself found expression. This voice of mobility articulated the challenges of economic instability and social estrangement, the mobility that was associated with ‘the lumpenproletariat.’<sup>38</sup> In this cultural climate, as Wagner notes, ‘the vagrant became the subject of intense scrutiny in public debates about the meaning and impact of slave emancipation in the United States.’<sup>39</sup>

The relationship between these two figures – that of the fugitive slave and of the vagrant – was not limited to proverbial association. As Jen Manion argues, ‘vagrancy laws provided the legal justification for the imprisonment of runaways.’<sup>40</sup> In the landmark federal Supreme Court case *Prigg v. Pennsylvania*, which, in 1842, strengthened the federal laws allowing for the return of runaway slaves to their masters, the legal status of the vagrant was used to justify states’ rendition efforts. The Court ruled that there could be ‘no doubt whatsoever that the States...possess full jurisdiction to arrest and restrain...runaway slaves, and to remove them from their borders.... as they *certainly* may do in cases of idlers, vagabonds, and paupers.’<sup>41</sup> In other words, the increasingly empowered fugitive slave laws introduced in the United States during the antebellum years were predicated on the traditional function of vagrancy laws. The legal grounds that took the *Prigg* ruling from one that authorised slaveholders to capture their runaway slave property to one that authorised states to physically eject runaway slaves using public resources were settlement and removal laws. States were not only viewed by the court as having the authority to ‘arrest and restrain runaway slaves’ but also ‘to remove them from their borders and otherwise to secure themselves against their depredations’ on the grounds of their legal capacity to pursue the same actions with paupers and vagrants. Peleg W. Chandler, a prominent Massachusetts attorney,

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<sup>36</sup> P. Reed, *Rogue Performances: Staging the Underclasses in Early American Theatre Culture* (New York, 2009), p.147.

<sup>37</sup> S.M. Schweik, *The Ugly Laws: Disability in Public* (New York, 2010), pp.185-6.

<sup>38</sup> W.T. Lahmon, Jr., *Jump Jim Crow: Lost Plays, Lyrics, and Street Prose of the First Atlantic Popular Culture* (Cambridge, MA, 2003), p.16.

<sup>39</sup> Wagner, *Disturbing the Peace*, p.37.

<sup>40</sup> Manion, *Liberty's Prisoners*, p.25.

<sup>41</sup> *Prigg v. Pennsylvania*, 41 U.S. 539 (1842).

spoke publicly about the connections between removals of paupers and of fugitive slaves, decrying both as abandonment of the government's duty to protect public welfare. The illogical conclusion of such laws, he wrote, would leave 'every vagrant arrested in our streets...transported to, and abandoned in, the streets of Savannah.'<sup>42</sup>

But the justifications of removal embedded in *Prigg*, built upon the protective basis of quarantine and police protection, were strong. The rights of a state to enact legislation governing the removal of the poor and criminal were expressly stated in *New York v. Miln* of 1837, which reflected and provided a legal, if hyperbolic, basis for anti-pauper sentiment. In this case, which lays out clearly the functions of the police power of the states, the Supreme Court asserted that it was 'as necessary for a state to provide precautionary measures against the moral pestilence of paupers, vagabonds, and possibly convicts as it is to guard against the physical pestilence which may arise from unsound and infectious articles imported or from a ship.'<sup>43</sup> By extension, then, according to the court, states were given the power to 'prevent [their] citizens from being oppressed by the support of multitudes of poor persons who come from foreign countries without possessing the means of supporting themselves.'<sup>44</sup> Poor migrants, then, whether foreign or from another state in the union, as well as their children, who could 'be deemed liable to become chargeable on the city' were subject to the mayor's power to order 'the removal of such person...without delay to the place of his last settlement.'<sup>45</sup> The legal language of maintenance and removal links the policing of vagrants, fugitive slaves, and paupers.<sup>46</sup> The policing of vagrancy and pauper mobility in the antebellum north set the legal stage for the 1850 Fugitive Slave Law, and as this evidence suggests, may have contributed to northerners' acceptance of fugitive slave capture and rendition as a function of government.<sup>47</sup>

Scholars who have studied the relationship between race and police power in the nineteenth century have noted the importance of this connection. In the words of Bryan Wagner, in the 'antebellum courtroom,' one 'baseline that remains consistent... is the

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<sup>42</sup> *The Monthly Law Reporter*, ed. P.W. Chandler, vol. 9, Boston, 1847, p.369; J.R. Mulkern, *The Know-Nothing Party in Massachusetts: The Rise and Fall of a People's Movement* (Lebanon, NH, 1990), p.103.

<sup>43</sup> *New York v. Miln*, 36 U.S. 11 Pet. 102 102 (1837), pp.142-3.

<sup>44</sup> *New York v. Miln*, p.142.

<sup>45</sup> *New York v. Miln*, p.105.

<sup>46</sup> The assertions made in *Miln* and *Prigg* were upheld again, expressly with reference to removal on the grounds of the prevention of 'oppression' by vagabonds and paupers, in relation to fugitive slaves, in *Moore v. People of the State of Illinois* 55 U.S. 13 (1852).

<sup>47</sup> I am indebted to Kirsten Wood for raising this important question while offering comment for a panel at the 2015 Society for Historians of the Early American Republic annual meeting.

warrant that says statutes governing fugitives are legitimate whenever they can be analogised to vagrancy statutes....Even before the fugitive slave, the vagrant was imagined in antebellum courtrooms as a self-sufficient cause for police action.<sup>48</sup> The line drawn connecting these two conditions effectively rendered the slave as a police object.<sup>49</sup> It is clear that in the courts as well as to legislators, racial distinctions that may have otherwise distinguished poor whites and runaway slaves were occasionally seen as separate from the defined vagrant identity that sent them on the road: In 1837, at Pennsylvania's Constitutional Convention, one Representative placed the two groups on equal footing, declaring both undeserving of suffrage, saying he 'would never consent to bring down the standard of the laboring classes to the standard of the vagrant or of the black man.'<sup>50</sup>

The legal language used to define vagrancy is found again and again, often verbatim, in regional petitions for the removal of runaway slaves and anti-abolitionist rhetoric. The actions described in vagrancy statutes highlight the experience of illicit mobility: visible destitution, the wearing of rags, travelling from place to place in pursuit of subsistence. Runaway slaves shared, largely, the same characteristics and goals, in addition to their pursuit of freedom. John Hope Franklin has written extensively about the experiences of fugitive slaves on the road, summing it up as 'a harsh and precarious existence, living from day to day, hiding and running, fearful of discovery and capture, always worried about food and shelter.'<sup>51</sup> Runaway slaves and, to a lesser extent, runaway indentured servants, were among the most conspicuous travellers in antebellum public space, because their race, class, status, and social identity were readily visually readable. Both vagrant dockets and almshouse registers were populated by former and escaped bondspersons and white wanderers. One young black woman, Hannah Thompson, entered the Philadelphia Almshouse with her daughter, Sarah Sammons, in January of 1830. She testified that she had been 'born, in Baltimore County, Maryland, a slave in the family of Samuel Noward.' Thompson was sold to a Pennsylvania farmer as a teenager, where her servitude was then subject to gradual manumission law, and she was emancipated at age twenty eight. 'About a year' after her manumission, she 'was delivered of a child in the Lancaster County poor house.'

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<sup>48</sup> Wagner, *Disturbing the Peace*, p.38.

<sup>49</sup> *Ibid.*, p.75.

<sup>50</sup> *Proceedings and Debates of the Convention of the Commonwealth of Pennsylvania*, vol. 2 (Harrisburg, 1838), p.519.

<sup>51</sup> Franklin and Schweninger, *Runaway Slaves*, p.282.

For Thompson, mobility was not an immediate course of action upon gaining her freedom, but it did lead her east to Philadelphia not long after, where she encountered further destitution.<sup>52</sup>

In the interviews recorded with transient African Americans in the Philadelphia Almshouse, former slaves were often reluctant to admit to an earlier bonded status: out of a sample of almost 700 non-resident pauper examinations spanning 1822-1844, only a few examinations include self-description as formerly enslaved. Venus McClintock, a 'Black married woman' in the Philadelphia Almshouse in 1828, 'was born, in Strasburgh, Lancaster County...a slave in the family of John Freezer, who sold her when she was 14 years old, to George Withers of the City of Lancaster, to serve him till she was 28, which service she performed and was then free.' Her first act of geographical freedom was travel to Philadelphia, where she was married. Her husband, Stephen McClintock, had also come to the city from further west, having been born and raised in Harrisburg. Neither was able to find stable work in the two short years of their marriage, and Venus was alone when she was interviewed in October of 1828.<sup>53</sup> Possessing knowledge of Pennsylvania's gradual manumission law gave some former slaves the legal grounds to assert their previous and present labour statuses. But some may have depended upon the level of awareness or compliance of their masters to share the parameters of their bondage with them.

Some examination records reveal more that hints at the material wealth of the African Americans who were admitted to or incarcerated in antebellum almshouses. One woman, a presumed former slave listed as 'Virgin Mary, black,' possessed at her death one coat and one single shoe stocking. A black man named John Williams, who died shortly after arriving at the Almshouse, owned little more: one pair of shoes, a vest, two handkerchiefs, a coat, and a hat – which were noted as 'all very much worn and ragged.'<sup>54</sup> The illicitly mobile in the early nineteenth century travelled on foot year round, leading many to almshouse hospitals for treatment of frostbitten extremities. One group, reportedly wandering through the Coderus Hills in Pennsylvania, was described by the *York Gazette* as a dangerous 'corps of vagrants...said to consist of four or five persons, one or two of whom are coloured people', who despite their supposed threat of

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<sup>52</sup> Examination of Hannah Thompson, EXPA, 1826-1831.

<sup>53</sup> Examination of Venus McClintock, EXPA, 1826-1831.

<sup>54</sup> Inmates' Property at Death, 1844-1849, GPP.

‘degradation [sic],’ were apparently destitute, ‘badly clothed...scarcely covered with any thing but nakedness.’<sup>55</sup>

While the narratives of some African Americans’ transiency are localised and limited to the movements imposed by servitude or slavery, others chose or experienced more dramatic mobility. William Johnson was ‘born in Africa’ and ‘sold’ upon arrival in New Castle, Delaware ‘to Welley Murry, and lived 9 months with him, then removed with his master to Harrisburg and lived 5 years there. Said master then went to McConnellsburgh three months after. His master died, then he was free.’ Johnson testified that he had ‘lived in Virginia, New Jersey, and everywhere hath not lived one year in any one place.’<sup>56</sup> For Johnson, and many other freed blacks, the narrative of his transiency was the narrative of his bondage, but also of his voluntary movement.

Samuel Scott was held as a slave by a lifelong legislator in both the Pennsylvania Senate and House of Representatives, Gabriel Hiester. Born in Delaware County, Scott ‘belonged to John Ferguson, who sold him to Edward Tilghman of Philadelphia, who gave him to William Graham, Esq. of Old Chester.’ Scott spent most of his childhood with Graham, but when he was nineteen, he was ‘sold to Doctr. Arthur May of Lancaster’ and after eighteen months, sold again, this time to Gabriel Heister, ‘with whom he served 7 ½ years when he became free by the laws of the State.’ Having been shuttled around southeastern Pennsylvania as a young enslaved man, Scott, now free and in search of work, amped up his transiency. He ‘lived at various places’ after his manumission, ‘but not a year together with any one person,’ and, by 11 December 1826, held in the cells at the Philadelphia Almshouse, he had never ‘kept a house.’<sup>57</sup>

Alfred Kennedy was described by Philadelphia Guardians of the Poor in 1830 as a ‘yellow, single man,’ about ‘22 years old’ who had been born a slave in Hunterdon County, New Jersey. He was sold ‘when he was a child to a man...living in Princeton, N. Jersey.’ The final sale of his enslavement was to a man named John Chapman in Bucks County, Pennsylvania, from whom he was to be free at the age of twenty one. During the year between his emancipation and his arrival in the Philadelphia Almshouse, Kennedy testified, he had ‘not worked a year for any one person...since he

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<sup>55</sup> ‘From the *York Gazette*, July 15’, *Lancaster Journal*, 20 July 1819.

<sup>56</sup> Examination of William Johnson, EXPA, 1821-1825.

<sup>57</sup> Examination of Samuel Scott, EXPA, 1826-1831.

was free.’<sup>58</sup> As the examinations of Johnson, Scott, and Kennedy illustrate, slavery and emancipation both created different forms of mobility that shaped the lives and trajectories of slaves and free blacks.

The sight of runaway slaves on the road and in urban centres in the Mid-Atlantic was common and powerful enough to have become a trope, conjured in sarcastic police reports about the locales frequented by urban vagrants. An 1831 article in the *Philadelphia Inquirer* described a scene in which, late one night, ‘a colored man, barefoot, and very shabby dressed, applied to Mr. Jones, a respectable citizen, for some money or clothes.’ The man asserted that ‘he was a runaway slave, from the south.’ He told Jones that he ‘had thrown his shoes, which were worn out with walking so far, from the bridge into the Schuylkill’ and hoped to acquire new clothes so that he could ‘disguise himself.’ Despite his ‘pitiful tale of his oppression,...Mr. Jones conceiv[ed] it his duty to have him arrested.’ Between Jones and the magistrates, the man was deemed ‘an impostor, known to use the same and other devices, to obtain charity,’ with a reputation among the city’s ‘wharf-rats,’ and was convicted as a vagrant with the usual prison term.<sup>59</sup> Whether this unnamed vagrant’s story was genuine, or had been fabricated to elicit charity, it reveals the ubiquity of fugitive slaves identifying and being identified by others as indigent transients, and describes the material circumstances perceived to be associated with the act of illicit mobility: barefoot, poorly clothed, and eager to go unnoticed. As the encounter with Mr. Jones demonstrates, indigent transients, including fugitive slaves, were not just recipients of laws regulating their behaviour and movement, but their identity narratives also played a role in how these laws were enforced.

### **Geographies of Servitude**

Narratives of indigents’ movements contribute to the historical construction of both non-citizen white and ‘Black geographies.’ These reflect what Teresa Zackodnik has described as the ‘imagined, material, represented, and philosophical spaces and trajectories’ that both groups occupied and employed.<sup>60</sup> These spaces were not so clearly demarcated for the lowest classes of both races, as complications of the historiography of race and bonded labour in recent years have demonstrated, pointing to

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<sup>58</sup> Examination of Alfred Kennedy, EXPA, 1826-1831.

<sup>59</sup> ‘Items’, *PI*, 18 November 1831.

<sup>60</sup> T. Zackodnik, ‘Indigenous and Black Geographies in Letters to the Editor’, *Common-Place: The Journal of American Life* 15, no. 2 (2015), p.5.



the colouring of class. Occupation and labour status were, of course, central determinants in the nature of poor individuals' mobility. And for free blacks in many northern states, indentured servitude often functioned as a replication of the circumstances of enslavement, albeit for limited terms. James Huston, after his self-emancipation into Pennsylvania, used his newfound right to enter into contracts to sell his labour under indenture as a strategic move toward a more complete freedom. But for many others, entering an indenture was not necessarily voluntary nor strategic.

Ebenezer Widdington, an African American man who was born in Philadelphia around 1817, was bound by his father 'as an indented servt. to Samuel Brinkley, D.D. of Chester Co' when he was about twelve years old.<sup>61</sup> The circumstances of servitude precluded much liberty, but in Widdington's case, living at service with an established minister may have offered more physically sustaining surroundings than his previous circumstances. Records indicate that Widdington, along with his father and namesake, had been travelling, presumably together, or attempting to establish themselves somewhere new, in Delaware, when the physical vagaries of winter overcame them.<sup>62</sup> Both were admitted to the almshouse in New Castle County, Delaware in 1826 as non-residents, though they are not listed in the admissions register together. The father is described as age '39, African,' admitted for having 'frozen feet.' His son's race was not noted by almshouse officials, only that he was just twelve years old and had 'frosted feet.'<sup>63</sup> The father remained in the almshouse for about a month, while the son stayed on for nearly two months; this is presumably when Widdington, Jr. was 'bound by his father.' But after serving 'under indenture for 5 years' and securing release from his master, he again found himself as an indigent traveler, 'living about – as he best could,' until in the winter of 1834, when he entered the Philadelphia Almshouse as a non-resident.<sup>64</sup>

The same year in upstate New York, a twenty three year old white man named John Joseph was found unconscious on a public road. On 16 August 1834, he submitted to a 'voluntary examination' by the overseers of the poor for Huntington, New York.

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<sup>61</sup> Examination of Ebenezer Widdington, EXPA 1831-1839.

<sup>62</sup> Spellings of these individuals' names does vary, but not beyond recognition; I have chosen to use the spelling to which the younger of the men signed his mark under examination at the Philadelphia almshouse, though other variations include Whittington and Ebinezar. The Philadelphia Almshouse records for Widdington, Jr. bear the 'B.' that was used to notate that officials viewed the individual in question as Black.

<sup>63</sup> Admission and Discharge Records, 1822-1832, New Castle County, Trustees of the Poor, DPA.

<sup>64</sup> Examination of Ebenezer Widdington.

Joseph testified that he ‘was born in Scotland, brought to America when an infant into New York.’ When he was nine years old, ‘the Almshouse Commissioners of New York bound him out’ to a man in Delaware County, New York. He fulfilled his duties until, when he was about eighteen years old, ‘his master failed in business, and gave him his freedom.’ Joseph scraped by on what he could earn as he ‘worked about’ in Delaware County for a couple of years until beginning to travel through southern New York State, starting with Ulster County, where he ‘worked...for about three months.’ From then on, his transiency was measured in months, then weeks, then days: he went on to Dutchess County ‘and there resided about four months and from thence he came to New York.’ While in the city, he became ‘unwell and was taken into the Alms House until he recovered.’ In late March of 1834, ‘he was sent by the commissioners of the Alms House over to Long Island to work upon the farm belonging to them.’ He remained on the poor farm there for just shy of two months, when he ‘left and went to work in Springfield in Kings County a few days,’ to Buckram, Queens County and ‘worked there about ten days’ until he reached Huntington, New York. At some point on this trek, he must have again become ill: it was on 15 August 1834 that he had been ‘found lying in the road, sick’ by Huntington resident Alexander Sammis and ‘brought to the Poor House.’<sup>65</sup> The first five years of Joseph’s life after indentured servitude had brought him at least three times to almshouses, across at least ten New York State counties, working dozens of daily, weekly, and monthly jobs as a wage labourer. He was far from unique in these experiences. Indeed, a man was apprehended for the same offence Joseph had committed, just a few counties further north a few years later because ‘he did lie in the public street in a condition unable to help himself,’ and had apparently also been doing some illegal begging. This man, Isaac Norman, was convicted as a vagrant and, deemed ‘an improper person to be sent to the poor house,’ was ‘confined in the common jail for thirty days.’<sup>66</sup>

The stories of Ebenezer Widdington and John Joseph, whose transiency and poverty quite literally stopped them in their tracks, magnify the experiences of many former indentured servants. They participated in a process followed by thousands of fugitive and emancipated slaves, indentured servants and former apprentices in this period, who comprise a key subcategory among the class of indigent transients in the

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<sup>65</sup> Examination of John Joseph, Public Assistance Folders, HTCA.

<sup>66</sup> Conviction of Isaac Norman, Convictions, UCCA.

first half of the nineteenth century in the United States.<sup>67</sup> Jen Manion notes that ‘vagrancy records themselves did not distinguish clearly between servant and slave when recording instances of runaways,’ and that ‘the ambiguity of status in the records challenges us to think more carefully not only about the blurred boundaries between the two but also about the limits of freedom more broadly for both groups.’<sup>68</sup> The nature of indentured servitude in this period has been called into question by historians, with some debate over its prevalence in the labour market after the late eighteenth century.<sup>69</sup> Indentured servitude was on a legal decline in the post-Revolutionary period, with states gradually limiting its applicability to certain groups. It was during this time that national opinion over the issue of consent in bound labour began to shift; under the eighteenth century model, non-slavery servitude in the colonies and in the early republic was assumed to be voluntary. The post-Revolutionary economy was better suited to wage labour, and as the number of contracts for indenture waned, the use of indentures as labour security mechanisms began to shift. In 1788, New York limited legal contracts of indentured servitude to only foreign-born adults and children. The legislatures of Pennsylvania and Massachusetts echoed this in 1793 and 1795 respectively, though Pennsylvania’s consideration of whether the indenturing of a child constituted involuntary servitude carried on for several years. Robert J. Steinfeld notes that while immigrant indentures remained legal in the 1810s, there was an abrupt drop-off in the number of redemptioners arriving in the United States during and after the 1820s.<sup>70</sup>

Within indigent transients’ narrative records, however, indentured servitude looms large as one of the most important driving forces in the lives of poor workers, especially in relation to their mobility. There is strong evidence to suggest that lifelong

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<sup>67</sup> Regarding distinctions between indentured servitude and apprenticeship, Karin Zipf notes, the two ‘shared a few characteristics, but otherwise...were really quite different.’ Individuals in both circumstances were unpaid labourers who received temporary physical provisions such as ‘food, clothing, and shelter’. Both involved varying degrees of freedom and unfreedom, depending on the age, class, and race of the labourer. Individuals in both categories often entered contracts voluntarily and others involuntarily. In general, for both, court-ordered arrangements tended to be involuntary. Both also frequently ended with the labourer absconding from service. K.L. Zipf, *Labor of Innocents: Forced Apprenticeship in North Carolina, 1715--1919* (Baton Rouge, LA, 2005), p.10-1.

<sup>68</sup> Manion, *Liberty’s Prisoners*, p.26.

<sup>69</sup> See A.E. Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607-1776* (Chapel Hill, NC, 1947) and D.W. Galenson, ‘Labor Market Behavior in Colonial America: Servitude, Slavery, and Free Labor’, *Markets in History: Economic Studies of the Past*, ed. D.W. Galenson (Cambridge, 1989), p.67, in which Galenson argues that ‘indentured servitude dwindled to quantitative insignificance in the late eighteenth and early nineteenth centuries.’

<sup>70</sup> R.J. Steinfeld, *The Invention of Free Labor: The Employment Relation in English and American Law and Culture, 1350-1870* (Chapel Hill, NC, 1991), p.164.

transiency and, for many, vagrant destitution, was part of the legacy of release from slavery and indentured servitude. Kenneth Kusmer has noted that at the end of the eighteenth century, ‘among the working class, former indentured servants were particularly likely to become homeless.’ Indeed, it has been estimated that approximately 80% of former servants in Pennsylvania during the last decades of the eighteenth century ‘received public assistance’ at some time.<sup>71</sup> And this segment among the American homeless population did not disappear with the turn of the century. Among the non-resident paupers examined in the Philadelphia Almshouse between 1822 and 1831, about a third (191/668) had served time as an indentured servant at some point in their lives.<sup>72</sup> Comparable sources from Huntington, New York give figures that are much lower, about one-eighth (13/106) of the paupers examined there between 1811 and 1841.<sup>73</sup>

Native-born paupers were significantly more likely than recent immigrants to have served as indentured servants (only 11/191 were foreign born, while about 90% of transients former indentured servants examined in the Philadelphia Almshouse during the 1820s were native-born), and many left immediately for the nearest urban area upon release from indenture.<sup>74</sup> Jonathan Smith was born in Huntington County, Pennsylvania, where he was bound to a shoemaker. As soon as he was ‘free,’ he travelled roughly 200 miles ‘direct to Philad. for the purpose of procuring work.’ When he arrived, though, he had the misfortune to fall ill, and was admitted to the almshouse for treatment as a non-resident under emergency circumstances.<sup>75</sup> Most indentured servants earned a legal settlement in the town or county where their indenture was served, as dictated by settlement law. But many former bondspersons chose instead to seek new opportunities in unfamiliar locations, possibly as a result of weak employment prospects in their place of settlement. This could have contributed to the larger numbers of the formerly indentured among the indigent transient population, as the residence system of poor relief would have decreased their chances at receiving aid outside of the location where they had served. It also highlights a major flaw in the residency-based poor relief

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<sup>71</sup> Kusmer, *Down and Out*, 15-16.

<sup>72</sup> EXPA, 1821-1831, PCA. These figures are distinct from those who report having been an apprentice, which were recorded separately.

<sup>73</sup> Settlement examinations taken from paupers in Huntington, New York (1811-1841), HTCA.

<sup>74</sup> Among the 191 documented formerly indentured transients examined in the Philadelphia Almshouse between 1822 and 1831, only eleven were born outside of the United States. EXPA.

<sup>75</sup> Examination of Jonathan Smith, EXPA, 1831-1839.

system, because the places where the lower classes were more likely to find work so often differed from the places where the needy had earned the right to draw on relief.

While some indentured servants entered into bondage contracts of their own volition, others were involuntarily contracted as orphans or as part of a parent's punishment for vagrancy.<sup>76</sup> Reading backwards into the lives of the individuals among these children can partially excavate some of the means of subsistence and types of experiences that the formerly indentured encountered. Irish-born Robert Caldwell came to the United States with his parents through Delaware. He was 'bound by indenture to James Stephenson,' a tailor in Norristown, Montgomery County, 'at the age of eleven years' for a nine year term. His indenture was transferred locally after a few years, and as soon as he was 'free, he came to this city,' Philadelphia, working as jobs were available, spending several years at sea. After his indenture, Caldwell didn't live a single year in any one location until at least the age of forty six.<sup>77</sup> Young James Nixon was described by the Guardians of the Poor in Philadelphia as a 'yellow single man' who had been born in Bucks County and indentured at the age of eight to a farmer in Delaware County. He served there until the age of eighteen, when his indenture was sold to an attorney in Montgomery County. Reaching freedom around age 20, he travelled to Philadelphia, but for the past three years had not 'worked for any one person one year on wages, nor...rented a house.'<sup>78</sup> This is a common description for life after bondage for young indentured servants: transitory residences, employment, and often, life. Compounding that transiency further, Caldwell's failure to gain a legal settlement in Philadelphia by the time he entered the almshouse there in 1827 led to his forced removal to Montgomery County, the last place of which he had been a legal resident. John Holson, a young African American man, had also been bound by indenture in Montgomery County before he entered the Philadelphia Almshouse in December of 1827. He had only been in the city for four weeks before he and Caldwell were both sent back to Montgomery County, together. Holson had only been legally free for a few months before his mobility was again curtailed through this involuntary relocation.

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<sup>76</sup> Laws allowing for this were in effect at least in New Jersey and Washington, D.C. applicable to all vagrants, and in Pennsylvania and New York, applicable at least to vagrants held in almshouses if not also ones held in prisons. 'Act providing for the binding out...the children of drunkards, vagrants, and paupers', *Laws of the Corporation of the City of Washington* (Washington, DC, 1833). L.Q.C. Elmer, *Practical Forms of Proceedings Under the Laws of New Jersey* (Bridgeton, NJ, 1839), p.411.

<sup>77</sup> Examination of Robert Caldwell, EXPA, 1826-1831.

<sup>78</sup> Examination of James Nixon, EXPA, 1826-1831.

It was routine for poor children to be bound out by overseers of the poor, family members, or other guardians, regardless of their possession of living parents, usually without their consent, as a means of survival.<sup>79</sup> The methods in which contracts for their service were drawn up demonstrate that in cases of the involuntary indenturing of paupers, vagrants, and their children, an individual's destitution stood in the way of their ability to consent to a particular labour placement.<sup>80</sup> For many, the only means of registering non-consent was through resistance. William Lynch was 'about 9 years old' when he was 'bound to Col. Jeremiah Moser' by indenture in Lancaster, Pennsylvania for a twelve year term. When he was fourteen years old, 'he ran away from his master.' For about the next seven years, he 'followed the seas out of various ports,' only once out of Philadelphia. It may have been on the return from that journey that he found himself destitute and was admitted to the Philadelphia Almshouse and examined in September of 1828.<sup>81</sup> Mary Ann Jane McMahon was bound out of the Philadelphia Almshouse as a child to Charles Knox in Montgomery County. She lived with him for about a year and a half 'when she ran away,' and relocated herself to Philadelphia. Soon after absconding from her master, she served 'twelve months in the penitentiary.'<sup>82</sup> William Lytle was born in Franklin County, Pennsylvania, around 1802, where he was bound to a stonemason named Hoaks. Once he was 'free,' he travelled between Cincinnati, New Orleans, Baltimore, and Philadelphia, generally working a few months in each city before moving on.<sup>83</sup> Rebecca Benson was an eighteen year old 'black, single woman' when she was admitted to the Philadelphia Almshouse in the winter of 1823. She was born in New Castle, Delaware, and 'served her time there with Sarah Hayte' as an indentured servant. She 'left' in 1821, whether after completing her term of indenture or absconding is unclear, but she made her way to Philadelphia, where she did not work 'one year in the employ of any one person since here.' She was apparently pregnant, and either charged to the Trustees of the Poor of New Castle County, or

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<sup>79</sup> For a solid basis on the frequency of the binding out of pauper children in early America, see J.E. Murray and R. Wallis Herndon, 'Markets for Children in Early America: A Political Economy of Pauper Apprenticeship', *Journal of Economic History*, 62, no. 2 (2002), pp.356-82, wherein the authors describe the involuntary bondage of poor children as a 'widespread phenomenon in early America' (p.357) and F. Grubb, 'Babes in Bondage? Debt Shifting by German Immigrants in Early America', *Journal of Interdisciplinary Studies*, 37 (2006), pp.1-34. Thousands of children across the nation were bound out in this fashion, from Massachusetts to South Carolina and beyond.

<sup>80</sup> This formulation is owed to Sarah L.H. Gronningsater, whose analysis of the roles that the poor played in the processing of indentures helpfully shaped this discussion.

<sup>81</sup> Examination of William Lynch, EXPA, 1826-1831.

<sup>82</sup> Examination of Mary Ann Jane McMahon, EXPA, 1826-1831.

<sup>83</sup> Examination of William Lytle, EXPA, 1826-1831.

removed to their jurisdiction. She did end up back in New Castle, and apparently her circumstances had not improved. She died in the New Castle Almshouse on 9 March 1829.<sup>84</sup>

Phoebe Stull was born in Deerfield, New Jersey around 1800, and bound as an indentured servant to a man in Salem County for eleven years. When she reached the age of majority, she left New Jersey for Philadelphia, and remained there for about three years, until admitted to the almshouse there during the winter of 1822. She was determined by the Guardians of the Poor not to have obtained a legal residence in Philadelphia, indicating that she must not have held steady work during her three years in the city. Stull's settlement was deemed to be Salem County, where she had served under indenture; it is unclear whether she was forcibly removed or requested to return to her legal settlement, but she was discharged from the almshouse following her examination.<sup>85</sup> Nearly eight years later, it appears that her poverty was again affirmed by Philadelphia authorities when she was convicted of 'being a vagrant' on 21 June 1830. Her brief institutional footprint reveals a correlation between servitude and subsequent transiency, and the perennial connection between poverty and vagrancy.

As the cases of individuals like Phoebe Stull demonstrate, the poor were not necessarily spared the infelicities of indentured servitude merely by not entering into a contract for service, or even after completing one to full term. Between class-structured labour laws, vagrancy statutes, and a class- and race-based penal system, as Linda Kerber explains, 'even 'free' individuals could be obliged to work.' They lived under 'constraints about where they lived, what was available for them to eat and wear, and what they might do during their limited leisure time.' In considering the trajectories of the formerly indentured described above, it is important to remember that 'indentured servitude was not an outcropping on the landscape, but the landscape itself.'<sup>86</sup> And for African Americans, the terrain grew increasingly rocky in the first half of the nineteenth century.

The shared aspects of identity between vagrants, fugitive slaves, and runaway servants, both on the road and in the law books, were on the minds of contemporaries, who often conflated these identities. In 1817, the *Lancaster Journal* printed an

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<sup>84</sup> Examination of Rebecca Benson, EXPA, 1821-1825; New Castle County Almshouse Admissions and Discharge Register, 1829, DPA.

<sup>85</sup> Examination of Phoebe Stull, EXPA, 1821-1825.

<sup>86</sup> Kerber, *No Constitutional Right*, p.53.

advertisement for a runaway servant by the name of John Rubenthal, who was ‘supposed to have been enticed away’ from his master, printer William Hamilton by a journeyman ‘of a dark complexion’ named Edward McKenzie. The advertisement offered \$20 reward for the apprehension of each man. In the repeated coverage of their flight, the headline ‘Fresh Intelligence!’ was printed preceding a discussion of the tracking of the ‘westwardly course’ that ‘the above vagrants’ were said to have taken. The advertisement refers to the ease with which one could reinvent one’s identity in this period; noting that ‘McKenzie passes for a shoemaker and Rubenthal as a taylor.’<sup>87</sup> The notation of McKenzie’s ‘dark complexion’ may also suggest racial passing, as well. By assuming a new name and a new set of clothes (whether owned, begged, borrowed, or stolen), runaway servants and fugitive slaves alike were able to reinvent their identities as soon as sufficient distance had been placed between themselves and their masters. But as soon as they embarked on the journey to carry them across that distance, in addition to whatever identity they assumed for themselves, they were also assigned another: that of the vagrant. In McKenzie and Rubenthal, the conflicted identity of the vagrant is clear. Presented to the public as simultaneously recognizable as vagrants and also ‘passing’ under differing personas with the aid of visual changes – clothing, shoes, beards. This contradiction highlights the imposition of personal status that was created by the category of vagrancy, at the intersection of individuals defining their own identities and being defined by the laws they encountered.

### **Perceptions of Black Transiency**

The realities which former slaves and servants embodied as indigent transients were both a product of and an impetus for the law to codify racially-charged discretionary policing. These efforts manifested as much in economic policing as in criminal, as Sarah Nicolazzo has demonstrated, in that vagrancy solidified a ‘racialized economic position...to legally bind blackness to a precarious and provisional economic personhood.’<sup>88</sup> Throughout the antebellum era, public protests expanded the realm in which this was done from legislative hall to rural roads and city streets. This policing was especially racialised in the southern and border states like Virginia, Maryland, and Delaware. From 1796, the Maryland legislature limited the legal rights and privileges of free blacks, tightening existing vagrancy laws to include provisions for resale into

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<sup>87</sup> ‘40 Dollars Reward’, *Lancaster Journal*, 4 July 1817.

<sup>88</sup> S. Nicolazzo, ‘A Crosscultural Vagabondage:’ Postcolonial Theories of Diaspora and Colonial Theories of Labor’, paper delivered at Scenes of Labor and Instruction Panel, Intersections Conference, University of Pennsylvania (2011), p.6.



servitude.<sup>89</sup> The population of free blacks grew in the following decades as the economy weakened, providing fewer job opportunities. In response, the legislature expanded laws allowing blacks convicted on criminal charges, as well as insolvent debtors and under-employed vagrants, to be punished with a term of forced servitude. Maryland's legislative trajectory for curtailing the ingress and regress of free blacks echoed Virginia's 1801 law forbidding the presence of any free black in a territory within the state where they were not registered with a legal residence, rendering the individual with 'no honest employment...a vagrant.'<sup>90</sup> The state also required free blacks to carry passes stating they were free, at all times when travelling outside of their place of legal settlement.<sup>91</sup> Further south, too, such measures were proposed as means of 'reenslaving' the free black population, and controlling white 'vagabonds' and 'idlers' lacking any 'visible means of support' in the later antebellum period.<sup>92</sup> In 1826, the Delaware legislature implemented a nuisance law requiring all free blacks (who comprised 75% of the population of colour in the state at that time) to carry passes.<sup>93</sup>

Of course, with the conspicuous nature of racial identity, being required to carry a pass to state that one's visible race did not define one's freedom does not translate evenly to being required to carry a certificate stating one's labour and criminal status. For African American vagrants, the legal dangers of mobility were many. Legislation was introduced in Maryland in 1839 that required constables 'to take special oath to take up vagrant blacks and their neglected children.' If any free black vagrant was found 'to be without the necessary means of support and not of good and industrious habits he or she would be sold at auction as a slave for the current year.'<sup>94</sup> The events that transpired as slave populations declined and free black populations rose in these two states during the antebellum era foreshadowed what was to come in the rest of the south following full emancipation at the close of the Civil War.<sup>95</sup> Between Delaware's racialised restrictive labour laws and Maryland's truculent punishments against poor

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<sup>89</sup> B.J. Fields, *Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century* (New Haven, 1985), p.35. P. Essah, *A House Divided: Slavery and Emancipation in Delaware, 1638-1865* (Charlottesville, VA, 1996), p.111.

<sup>90</sup> W.W. Hening, *The New Virginia Justice* (Richmond, VA, 1810), p.550.

<sup>91</sup> Fields, *Slavery and Freedom*, 63-89; Essah, *House Divided*, pp.109-11.

<sup>92</sup> Jones, *American Work*, p.202.

<sup>93</sup> *Ibid.*, pp.110-1.

<sup>94</sup> J. R. Brackett, *The Negro in Maryland: A Study of the Institution of Slavery*, vol. 6 (Baltimore, 1889), 219.

<sup>95</sup> J.A. Ranney, *In the Wake of Slavery: Civil War, Civil Rights, and the Reconstruction of Southern Law* (Westport, CT, 2006), 17.

African Americans, the centrality of vagrancy to white authorities' efforts at economic and spatial control is clear.

Especially in states where enslaved and free African Americans coexisted in substantial numbers, anti-abolitionist factions saw emancipation as a wellspring of vagrancy. Anti-abolitionists expressed in rhetoric and legislation a fear of roving, transient former slaves, free blacks, and others perceived as threats to safety or labour, including white vagrants and paupers. The result, as Kerber summarily explains, was that 'for African Americans...the legacy of slavery merged with the legacy of medieval England to create a heightened obligation to appear to be working, a special vulnerability to punishment as vagrants, even when they were working.'<sup>96</sup> By the late 1830s, increasing abolitionist and anti-abolitionist pressures were coming to a head and the results of the United States Census of 1840, which documented larger numbers of free blacks, sent some into a fury. An 1843 article in *The Southern Literary Messenger*, described a feared potential future wherein the absence of the so-called benevolent force of slavery and resulting population of former slaves lacking the paternal care of a master would turn American roads into rivers filled with the destitute, diseased and criminal. The author pointed to the effect that a large population of free blacks was having on the city of Philadelphia, where residents were 'perishing from want.' Multiply these numbers, the article continued, and 'where should we find penitentiaries for the thousands of felons? ... The number of negroes would have a powerful effect in increasing their suffering. Pestilence and famine would rage among them with uncontrolled fury.' If, as was assumed, African Americans grew 'more vicious in a state of freedom...would it be possible to live in a country where maniacs and felons met the traveller at every crossroad?'<sup>97</sup>

Dozens of legislative petitions written by concerned citizens in this period articulated concerns over not just the presence of large groups of free blacks but also of vagrants and fugitive slaves. In some of these documents, concerns about slavery and abolition were linked with vagrancy. One petition to the Pennsylvania legislature suggested that the law should harshly punish and arrest *as vagrants* those who would go 'prowling through the country calling themselves abolitionists, without any visible

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<sup>96</sup> Kerber, *No Constitutional Right*, 55.

<sup>97</sup> 'Reflections on the Census of 1840', *The Southern Literary Messenger*, vol. 9 (Richmond, VA, 1843), pp.346-7.

means of support, stirring up discord and dissension among the people.’<sup>98</sup> Anti-abolitionists vilified abstention from labour as a racial characteristic that was believed to be allowed free reign among African Americans when not in bondage. By extension, they argued, abolitionists, in their support of vagrant free blacks, were participating in vagrant actions. In 1841, an identical petition was introduced ten times from different individuals across the State of Delaware, from all counties, with a total of 386 signatories. This united effort has been credited to former Governor of Delaware Charles Polk, Jr., who was then serving as a state senator.<sup>99</sup> The petition described a population of ‘lazy, irresponsible, lawless, and miserable free negroes and mulattoes’ who were ‘by their indigence rendered irresponsible to the obligations of a contract,’ and posed a threat to the stability of the manual labour force.<sup>100</sup> The problem, as these citizens saw it, was that free blacks would not stay in one place and provide farmers with their labour consistently, as they had done under slavery. Race and ethnicity have been associated with transiency throughout American history in varying ways. Todd DePastino notes an association between Irish immigrants and transiency later in the nineteenth century when, he argues, ‘the equation of Irishness and tramping became even more pronounced.’<sup>101</sup> According to Stephen Germic, in the antebellum north, ‘prosperity and community’ were seen as ‘attributes of whiteness,’ while ‘Irishness’ and ‘blackness’ were ‘only perceived according to images of poverty, including filth and transience.’<sup>102</sup> The petitioners’ complaints echoed the language of vagrancy statutes, describing African Americans as ‘a migratory tribe, without fixed abode, alternately roving from city to country, compelled to mete out a scanty subsistence.’ The petitioners requested that the legislature create laws that would ‘be more efficient in correcting and restraining the idle and roving habits of the negroes and mulattoes’ through compulsory wage labour contracts.<sup>103</sup>

A few years later, twenty-four Delaware petitioners directly blamed this tendency toward movement on the influence of ‘the Abolitionists of the East...making our State the Theatre of their action and abusive language, incendiary to the laws of our

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<sup>98</sup> *Journal of the House of Representatives of the Commonwealth of Pennsylvania*, 1836-1837, vol. 1, 770.

<sup>99</sup> C.E. Hoffecker, *Democracy in Delaware: The Story of the First State's General Assembly* (Wilmington, DE, 2004), pp.102-3.

<sup>100</sup> Records of the General Assembly, Legislative Papers, Petition 10383501, 31 January 1825 and Petitions 10384101-10384111, Record Group 1111, DPA.

<sup>101</sup> DePastino, *Citizen Hobo*, p.15.

<sup>102</sup> Germic, *American Green*, p.35.

<sup>103</sup> Records of the General Assembly, Legislative Papers, Petition 10383501, 31 January 1825 and Petitions 10384101-10384111, Record Group 1111, DPA.

State.’ Legislative action, they insisted, was needed ‘to prevent our being overrun by vagrant negroes as well as slaves who are well known to be harbouring among us...without any apparent business or means of support.’<sup>104</sup> This relationship between race, vagrancy, and abolition continued into the Civil War itself, at which point, David Roediger notes, free blacks and abolitionists were both seen as synonymous with vagrants.<sup>105</sup> It is important to note, as Joseph A. Ranney points out, that Maryland and Delaware’s statutes that inhibited the mobility and labour sovereignty of free blacks were not stop-gap measures but rather permanent solutions, as ‘many whites hoped they would encourage freed blacks to move elsewhere.’<sup>106</sup> And as has been well-documented, this desire frequently manifested in both north and south, in the form of race riots, mob violence, and personal as well as community attacks.<sup>107</sup>

### **Regulating Indigent Transiency through Manumission**

Beliefs that vagrancy, idleness, and mobility were racial characteristics, coupled with the very real necessity of many former slaves and free blacks to draw on public poor relief to meet basic needs, shaped processes of manumission. As a result, indigent transiency, especially in the form of vagrancy, was tied up with emancipation in several ways, both legally and experientially. The states of New York and New Jersey addressed concerns about the poverty and transiency that were often results of emancipation by crafting laws that addressed those concerns within the manumission process. In these states, in the first decades of the nineteenth century, emancipation of slaves was carried out through the apparatus of the poor relief system. The process generally required that the enslaved person be subject to an interview, and that the slaveholder file the paperwork of emancipation through the guardians of the poor or justices of the peace. These officials were obliged to interview and physically examine the enslaved person in order to determine whether she or he was likely to become chargeable to the town, county, or state, or if the individual had any latent vagrant tendencies that may become revealed upon manumission. Their goal was to ascertain whether or not the individual in question would be likely to be able to provide for themselves, in an effort to safeguard against a proliferation of formerly bound vagrants.

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<sup>104</sup> Records of the General Assembly, Legislative Papers, Petition 10384503, 15 February 1845. Record Group 1111, DPA.

<sup>105</sup> Roediger, *Seizing Freedom*, p.28.

<sup>106</sup> Ranney, *In the Wake of Slavery*, p.17.

<sup>107</sup> For a few examples, see Lubet, *Fugitive Justice*, Roth, ‘The Politics of the Page’, and Slaughter, *Bloody Dawn*.

Both New York and New Jersey required a manumitting slaveholder to consult the Overseers of the Poor for the town in which he or she resided prior to manumission. New York's 'act concerning slaves and servants' containing this stipulation was passed in 1801, while New Jersey followed similar practices during this period, which were confirmed in a Supreme Court case in 1824.<sup>108</sup> The system was designed to protect public funds by mandating that the care of any former slave who may have become a pauper was to be paid for by the former owner or their heirs until the former slave's death. If a slaveholder wished to manumit a slave, New York state law would recognise this manumission if the slave were under the age of 50, but the owner was required to 'obtain a certificate signed by the overseers of the poor of the city or town where such owner shall reside...certifying that such slave...[was] of sufficient ability to provide for himself or herself.'<sup>109</sup>

These laws echo the language of vagrancy laws in their utilisation of personal industry as a prerequisite for freedom. Statutes throughout the north defined as vagrants all individuals who had 'no visible means with which to maintain themselves and their families,' who 'live[d] idly and refuse[d] to work', or who went 'from door to door, or frequent[ed] the streets and wander[ed] abroad begging; and...those who [went] from one place to another...following no trade, occupation, or business...unable to give a reasonable account of themselves.'<sup>110</sup> Furthermore, the manumission processes in these states render starkly literal Kerber's negatively-termed legal obligation 'not to be perceived as idle and vulnerable to punishment for vagrancy.'<sup>111</sup> They effectively required that slaveholders, slaves, justices of the peace, and guardians of the poor all agree that the slave being manumitted was capable of self-maintenance and thus not likely to become a vagrant. These provisions can be seen as both protection against and facilitation of relief for indigent former slaves as well as a guarantee that the individual being manumitted would be capable of contributing their labour to the local economy. As Robert J. Steinfeld has explained, this is because workers' labour was viewed 'as a common resource to which the community had rights.' In exchange, workers, bound and free, 'had legal obligations to make that resource available to community members

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<sup>108</sup> *Township of Chatham vs. Executors of Samuel Canfield*, Supreme Court of Judicature of New Jersey, September Term, 1824. 8 N.J.L. 52.

<sup>109</sup> 'An Act Concerning Slaves and Servants', *Laws of the State of New York passed at the Session of the Legislature held in the year 1801* (Albany, NY, 1887).

<sup>110</sup> 'An act relating to the support and employment of the poor, 1836', *A Digest of the Laws of Pennsylvania* (Philadelphia, 1837), pp.823-4.

<sup>111</sup> Kerber, *No Constitutional Right*, p.52.

on terms and conditions the community prescribed.<sup>112</sup> Non-workers, then, were participants in idle vagrancy. As Joanne Pope Melish has argued, for recently freed African Americans, this perceived obligation contributed to the climate of what famed abolitionist and former slave Frederick Douglass referred to as the transformation from individuals being held as personal slaves into ‘slaves of the community.’<sup>113</sup>

Thousands of slaves were manumitted as part of this process, and the certificates of manumission created to document it contained variations on the theme of self-sufficiency to bolster descriptions of slaves’ fitness for emancipation.<sup>114</sup> In Gloucester County, New Jersey, thirty nine certificates of slave manumission, filed between 1788 and 1825, are extant.<sup>115</sup> For Hunterdon County, New Jersey, extant records indicate that more than 500 slaves were manumitted via such certificates from the years between 1787 and 1856.<sup>116</sup> For the town of Warwick in Orange County, New York, the records of 103 slave manumissions through the overseers of the poor are extant, covering the years between 1799 and 1827.<sup>117</sup> More survive throughout both states, and the language used by the overseers of the poor in these locations to justify the manumission of these slaves is consistent throughout, and generally asserted the same baseline of independent subsistence, with some regional variations. Delving more deeply into these records is beyond the scope of this project, but would be a valuable source for future research. A sense of the nature of these documents can be gotten from the 1824 case of Jim Hall and Beth Seigers, two slaves whose master, Richard Westcot, had written their manumission into his will. Hall and Seigers were examined in Gloucester County by two Overseers of the Poor and two Justices of the Peace, they were declared ‘sound in mind and not under any bodily incapacity of obtaining a support.’<sup>118</sup> This declaration may have been made at least in partial reference to the health of a slave, clearly an important consideration for legislators and overseers, who limited the window of years wherein a slave could be legally manumitted in New Jersey, between the ages twenty-one and forty (raised from

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<sup>112</sup> *Ibid.*, p.52, citing Steinfeld, *Invention of Free Labor*.

<sup>113</sup> F. Douglass, ‘The Work of the Future’, *Douglass' Monthly*, November 1862, cited in Melish, *Disowning Slavery*, p.86.

<sup>114</sup> James Gigantino has used manumission records in his discussion of free blacks’ economic opportunities in antebellum New York and New Jersey, but without explicit reference to the broader poor law origins of legal proceedings like these. See Gigantino, *Ragged Road to Abolition*.

<sup>115</sup> Certificates of Manumission, Clerk’s Office of Gloucester County, New Jersey.

<sup>116</sup> Manumissions of Slaves, 1788-1826, Clerk’s Office Records, Hunterdon County, 1977.013, 2005.008, New Jersey State Archives.

<sup>117</sup> Slave Births and Manumissions, Town of Warwick, Historical Society of the Town of Warwick, NY.

<sup>118</sup> Certificate of Manumission of Beth Seigers and Jim Hall, 1824. Certificates of Manumission, Clerk’s Office of Gloucester County, New Jersey.

thirty five as stipulated in a 1786 law to forty in 1798).<sup>119</sup> When Phillis Wheeler was manumitted in Warwick, New York in 1825, she was deemed by the Overseers of the Poor to be ‘capable of procuring her own maintenance.’<sup>120</sup>

The function of manumitting through the Overseers of the Poor provided a legal record, maintained by the city or county, of all of the manumissions which they facilitated. This enabled them to seek out the former owner of any indigent free black within that district in order to request payment for services rendered to their former slave. In New York and New Jersey, even slaveholders who manumitted slaves who had been declared capable of maintaining themselves through the appropriate channels could still be pressed to pay for the care of their former slaves who became indigent, providing an extra layer of security for free blacks as well as the managers of poor relief funds.<sup>121</sup> As James Gigantino, has noted, it was in part through this combination of poor laws and manumission provisions that many free blacks were held in vulnerable legal positions.<sup>122</sup>

The process of manumitting through the overseers of the poor could also produce situations where the ability of a slave to provide for themselves was defended by the slaveholder and upheld by the court. A 1790 law in New York made it possible for slaveholders to seek permission to manumit slaves from the Court of General Sessions if the overseers of the poor had declined to issue a certificate of manumission.<sup>123</sup> An 1809 case in Westchester County involved an enslaved woman named Nancy and a slaveholder named Benjamin Morgan who, as he testified in his petition to the court, was ‘averse to slavery and moved with compassion to liberate and manumit’ Nancy. He had made several attempts to release Nancy through the overseers of the poor unsuccessfully, because the overseers ‘did refuse to sign’ the certificate of manumission. His assertions that Nancy did ‘appear to be under the age of fifty years

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<sup>119</sup> New Jersey Society for Promoting the Abolition of Slavery, *The Constitution of the New Jersey Society, for Promoting the Abolition of Slavery* (Burlington, NJ, 1793), pp.10-1. H.S. Cooley, *A Study of Slavery in New Jersey* (Baltimore, 1896), p.457.

<sup>120</sup> Certificate of Manumission of Phillis Wheeler, 1825. Slave Births and Manumissions, Historical Society of the Town of Warwick, NY.

<sup>121</sup> ‘An Act Concerning Slaves and Servants’, *Laws of the State of New York*, 1801.

<sup>122</sup> Gigantino, *Ragged Road to Abolition*, p.136.

<sup>123</sup> A.J. Northrup, *Slavery in New York: A Historical Sketch* (New York, 1900), p.291.

and of sufficient ability to provide for herself' proved sufficient guarantee to the court, and Morgan's petition for Nancy's manumission was granted.<sup>124</sup>

The same records that were created to circumscribe manumission and limit the public's responsibility in providing for former slaves, make it possible to chart their mobility as they came in contact with authorities outside of the districts in which they had been emancipated. There were marked regional differences in the movement of free blacks within northern states as a result of the landscape of abolition that had emerged at the end of the eighteenth century. Among the twelve formerly-enslaved non-resident paupers who were examined for relief in Huntington, New York in the 1820s, most had been born or bound in nearby towns on Long Island. Two had come from out of state, both from New Jersey, and four had come from further distances in the large state of New York. The proximity of freed blacks' residences to the locations of their former bondage is not dramatically different from the persistence of whites who were examined for poor relief in Huntington during the same period, among whom only just over one tenth were not local. Settlement laws, of course, could have served as incentive for these poor residents to remain near districts where they may have been entitled to relief.<sup>125</sup>

While New York and New Jersey were the only states in the Mid-Atlantic to write protections against vagrancy directly into their manumission laws, the practice was not unheard of elsewhere.<sup>126</sup> In the petitions for legal residency made by African Americans in southern states that legislated the expulsion of manumitted slaves, similar language is found. As Emily West notes, petitioners, in their formal requests for residency, argued that 'free blacks' economic 'industriousness,' as well as their 'respectability and 'usefulness' ought to act as justification for their legal right to remain denizens of their state.<sup>127</sup> While states requiring these antivagrancy provisions in their manumission certificates sought to limit their liability in the likelihood of the former slave becoming impoverished, poverty and dire material circumstances motivated many petitioners for residency to ameliorate their situations. Vagrancy was

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<sup>124</sup> Petition of Benjamin Morgan to Manumit a Female Slave, 24 May 1809, Court of General Sessions, WCA.

<sup>125</sup> Examinations for Settlement, Public Assistance Folders, HTCA.

<sup>126</sup> In colonial Zanzibar at the turn of the twentieth century, historians have noted the significance of the effect upon the process of emancipation of the inclusion in the 'abolition decree' of a requirement 'that any slave freed under its provisions 'shall be bound on pain of being declared a vagrant, to show that he possesses a regular domicile and means of subsistence.' See F. Cooper, 'Contracts, Crime, and Agrarian Conflict: From Slave to Wage Labor on the East African Coast', eds F. Snyder and D. Hay, *Labour, Law, and Crime: An Historical Perspective* (London, 1987), p.236.

<sup>127</sup> West, *Family or Freedom*, pp.60-1.



fully tied up in the process of emancipation throughout the United States, even where legal provisions against slaves' likelihood to become vagrants were not written into manumission law. Legal distinctions in the lived experience of race and labour status in the antebellum United States did differ regionally, but throughout, race, class, and labour status were used to control and curb mobility.

## Conclusion

In the antebellum Mid-Atlantic, emancipation (both legal and illicit, of slaves and of servants), prompted mobility. In turn, this mobility was racialised by law and coloured by class, creating a legal and social environment in which the movements of fugitive slaves and servants were affected not only by their status as bonded labourers but also by the criminalisation of indigent transiency and the institutionalisation of poverty. The analogy employed by the Supreme Court in *Prigg v. Pennsylvania* that justified runaway slave capture and rendition on the grounds of states' abilities to 'arrest and restrain, and to remove... idlers, vagabonds, and paupers' demonstrates a perceived shared identity between paupers, vagrants, and slaves. It expands our understanding of fugitive slaves' and paupers' experiences in this period and raises new questions about the impacts of settlement and removal laws on indigent current and former slaves.

Did these punitive welfare laws inure northerners to the prospect of fugitive slave removal? What does it mean that the *Prigg* decision, by legally joining the categories of pauper, vagrant, and fugitive slave, casts slaves as members of the lumpenproletariat, categorised by and prosecuted on the prima facie evidence of poverty? It certainly points to Roberta Ann Johnson's call for scholars not to exclude fugitive slaves from studies of antebellum homelessness. And the enumerated group concocted in law did, in fact, share many corporeal experiences. The product of the legal precedent for managing the circumstances of the 'massive dislocation experienced by former slaves' during the long emancipation process was found in almshouses.<sup>128</sup> The seeds of the labour and settlement policies in the postbellum south can be seen in the laws and legislative petitions directed at free black workers and paupers described above.

Poor relief, vagrancy, pauper removal, fugitive rendition, and manumission were all linked by a context of the legal imposition of stasis on categories of persons deemed potentially harmful to communities, broadly defined. Vagrancy statutes, poor laws, and

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<sup>128</sup> Downs, *Sick from Freedom*, pp.168-9.

the regulation of manumission came together at an intersection where people both shaped their own identities and were shaped by the laws they encountered. And in the archives, the implicated individuals were rendered literally as strangers, blurring the lines between the homeless pauper, idle vagrant, and runaway slave.

## Chapter 6: ‘Punishment for their misfortunes’: Discretion, Incarceration, and Resistance

In August of 1841 in Columbia, Pennsylvania, a woman named Cassey Newman was arrested for being an ‘idle’ and ‘lazy’ vagrant. She was convicted on the grounds that she ‘[would] not work for her living...[would] not work as other persons do and as she ought to.’ To commit the act of living without employment was an offence under the vagrancy statute, which held that ‘all persons who...live...without employment, and refuse to work for the usual and common wages given to other labourers in the like work’ were subject to 30 days of incarceration.<sup>1</sup> The language used implies that any labourer who negotiated her terms of service may be engaging in vagrant activity. Vagrancy was a visual state; conviction rested upon another individual’s recognition that one had no *visible* means of subsistence. This of course, allowed for much leeway in constables’ and justices’ determinations of who should be identified as a vagrant, but average citizens, too, participated in the process. Commitments had to be made on the oath of an individual, the justice or member of the public, making the process highly susceptible to inaccuracies or personal vendettas. In Cassey Newman’s case, it was the latter; her conviction, as well as those of two other women, Sarah Thomas and Elizabeth Thomas, was thrown out. Elizabeth Thomas had been convicted for refusing to accept ‘work when work is offered to her,’ while Sarah, too, was imprisoned because she reputedly would ‘not work for her living as she ought to do,’ and further, did not have ‘visible means to support her[self].’ The three women were each granted the writs of habeas corpus they had requested, and Judge Samuel Dale, upon review of their cases, ruled in their favour. ‘The complainant’s wife,’ it appeared, had had a ‘quarrel’ with the accused women, which led to the complainant’s reporting of uncommitted crimes. ‘The prisoner has a fixed place of residence, and complainant has no knowledge but that she earns her living by labour,’ the judge wrote of both Sarah and Elizabeth Thomas.<sup>2</sup> Furthermore, though the judge asserted that he was duty-bound to withhold from weighing in on the ‘merits of the proceedings of the justice,’ he could state, in indirect chastisement of the official, that ‘the summary proceedings against vagrants, under the provisions of the Acts of Assembly, should be conducted, strictly, according to the

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<sup>1</sup> Cassey Newman, Habeas 1841 F009, LCHS.

<sup>2</sup> Sarah Thomas, Habeas 1841 F007, LCHS. Elizabeth Thomas, Habeas 1841 F008, LCHS.

requisitions of those acts. An adherence to the principle is essential to the due protection of personal liberty.’<sup>3</sup>

Judge Dale’s acquittal of Newman and the Thomases recognised the function of the law in punishing vagrancy, whilst simultaneously acknowledging how easy it was for a law based on perception to be abused. Public involvement in the policing of disorderliness, vagrancy, and related crimes, was a central facet of criminal justice for small communities, urban neighbourhoods, and early police forces. This method for managing the actions of communities compounded already far-reaching, vague, and enumerative laws that criminalised the subsistence methods of the poor and migrant, leaving thousands vulnerable to criminal charges. It resulted, as some scholars, including James Schmidt, have argued, from an increasingly ‘contractual vision of free labor.’<sup>4</sup> For Schmidt, free labour was shaped by a cultural or nationalistic ‘duty to work’ that arose as a distinct form of compulsion to replace forced labour. This concept was derived from the origins of vagrancy laws in early modern England, as Robert Steinfeld has noted, with labour viewed ‘as a common resource to which the community had rights.’ Because workers ‘had legal obligations to make that resource available to community members,’ those who disobeyed – that is, who did not provide their services to the public either at all or through acceptable means – were punished as vagrants.<sup>5</sup>

This chapter explores the function of the communal policing of vagrancy in the early nineteenth century Mid-Atlantic by charting the experiences of convicted vagrants from arrest to incarceration to release. The breadth of actions and statuses that fell under vagrancy laws included not only indigent transiency but also other subsistence activities such as begging, scavenging, and petty theft. Constables – to whom private citizens reported vagrants for conviction – were relied upon for their power of discretion in sentencing, with little to no further judicial process. This chapter argues that the nature of vagrancy as a crime chargeable on prima facie evidence increased the potential impact of the public’s involvement in policing the poor. Not only could this lead to highly subjective sentencing for known individuals with unsavoury reputations or in

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<sup>3</sup> *Ibid.*

<sup>4</sup> Schmidt, *Free to Work*, p.53.

<sup>5</sup> Steinfeld, *Invention of Free Labor*, p.60. Schmidt argues that this communal policing was carried out via ‘class-based, paternalist’ efforts at ‘reformation’ of the lower classes, whose disorderliness was legally and visually connected with their poverty. The result, then, for vagrants, was that they were rendered ‘legal children, stripped of their full rights as members of the Jacksonian polity’. Schmidt, *Free to Work*, p.67.

cases with personal vendettas at play, but it also placed transients, as strangers, at a further disadvantage. Because transients were less likely to be familiar to locals, their status as unfamiliar left them vulnerable to their strangerhood being interpreted by private citizens and constables as vagrancy.<sup>6</sup>

The reporting arrangements for vagrancy rested on individuals' abilities to define a vagrant's identity. This was complicated by indigent transients' frequent circulations between penal and aid-based institutions, as well as the quantitative and qualitative overlap between the groups that populated these institutions. Many individuals 'moved between the almshouse and the prison, reflecting a cycle of poverty and imprisonment with no clear way out.'<sup>7</sup> The distinction between pauper and criminal pauper – often a vagrant or other perpetrator of subsistence crime – is explored prosopographically in this chapter, by looking at the contrasting placements of indigent transients in almshouses and jails. Finally, the chapter will consider ten case studies consisting of the writs of habeas corpus that convicted vagrants' used to assert their innocence and lobby for release from jail. Using the records from their cases, this chapter explores the arguments they used to proclaim their innocence and thus define what qualities justified one as a non-vagrant. When defending themselves against charges of vagrancy in court, the convicted used the language of the law to refute charges of idleness and immorality, and construct arguments that seem to affirm historians' assessments of the social and cultural value of industriousness in antebellum communities.

## Public Justice

Constables' authority rested in part upon the involvement of the public. While constables had an occupational and legal 'especial duty' to preserve order, the public was also charged with the duty of preserving the peace. In Washington, D.C., for example, constables were asked to be proactive in their policing of vagrancy with the aid of the public. They were instructed to actively 'endeavor to find out whether there be any such vagrants' within their jurisdiction, in addition to complying with a

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<sup>6</sup> Nayan Shah has emphasised 'strangerhood' as 'a crucial ingredient' for considering how transients and vagrants were perceived in public spaces, noting that 'vagrancy policing ratcheted up the vulnerability of the poorest and most transient members of society and thwarted their ability to use public space without police harassment and interference.' N. Shah, *Stranger Intimacy: Contesting Race, Sexuality and the Law in the North American West* (Oakland, CA, 2012), Ebook, Ch. 2. As David Rothman has noted, 'vagrants and dependent strangers' were the focal points of 'the most punitive sections' of states' poor laws, rather than the local poor.' Rothman, *Discovery of the Asylum*, p.20.

<sup>7</sup> Manion, *Liberty's Prisoners*, p.66.

provision which declared it 'lawful' for 'any other person or persons' to compel any individual 'they may esteem vagrants...before a justice of the peace for examination' so they 'may be dealt with' appropriately.<sup>8</sup> This sort of citizen vigilantism actually came with a monetary reward in Delaware, where individuals were incentivised by state legislatures to inform authorities about the presence of presumed vagrants. In 1849, Delaware passed a law requiring county justices of the peace in the state to arrest any 'free negro or mulatto, male or female...residing or staying' in his jurisdiction 'without visible means of support' – effectively, any vagrant African Americans – for the purpose of forcibly binding them to an involuntary labour contract. Though individuals bound out under this law were considered servants, not slaves, the law created a de facto, if not de jure, return to slavery for some. Successful informants who alerted justices to the presence of such persons were to receive a reward of three dollars for each report.<sup>9</sup>

Charitable goals also motivated the citizen policing of vagrants. The New York Association for Improving the Condition of the Poor (NYAICP), founded in response to the economic devastation that followed the Panic of 1837, aimed to 'put an end to street begging and vagrancy' by discouraging philanthropic donations to the undeserving poor. Members investigated the would-be alms recipients and ranked their worthiness of aid against social and moral characteristics like industry and virtue. If an individual who did not possess the proper level of morality were to request alms from a member of the NYAICP, as one promotional letter for the organisation asserted in 1847, the philanthropist would then find it her 'duty to report [them] as a vagrant.' The threat of this possibility, the letter argued, would be enough to cure one of their 'begging and vagrant propensities.'<sup>10</sup>

Because vagrancy statutes required only prima facie evidence to convict a person of vagrancy, any witnessing of the actions enumerated under a vagrancy statute whether on the word of a constable, magistrate, or passer-by, could lead to prosecution. In Philadelphia, each time the conviction or commitment of a vagrant was recorded on the prison docket by a justice or magistrate, the grounds of the arrest were justified 'on

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<sup>8</sup> 'Laws of the District of Columbia', *Congressional Series of United States Public Documents*, vol. 231 (Washington, D.C., 1832), p.283.

<sup>9</sup> Essah, *House Divided*, p.116.

<sup>10</sup> *First Annual Report of the New York Association for the Improvement of the Condition of the Poor: Nos. 1-10, 1845-1853*, ed. D.J. Rothman (New York, 1971), pp.13-7.

the oath of' either a reporting individual or informant, or the law enforcement official themselves. The extent of public or community policing is difficult to measure, but in the records of cities like Philadelphia, where the names of watchmen and magistrates are available, and most were thorough in their record-keeping, it is possible to estimate how frequently passers-by, neighbours, or victims reported vagrants to the authorities. There, spot checks of the prison's vagrancy commitment dockets indicate that approximately one third of such commitments were reported by citizens; from January to February of 1823, approximately fifteen out of forty five commitments were from non-police reports. A similar sample in 1832 reveals a comparable frequency of citizen reporting of vagrancy.<sup>11</sup>

Some cities authorised constables to search suspicious properties, including houses, for vagrants and other disorderly persons. This option likely afforded officials the ability to seek out squatters on private property and to remove drunks from disorderly houses. In practice, according to Allen Steinberg, this gave aldermen the option to search out the indigent on private property and have them 'taken from their homes and committed as vagrants.'<sup>12</sup> This practice was, as with most nineteenth century policing, both gendered and racialised: women suspected of prostitution were often rounded up in this way.<sup>13</sup> Similarly, black women and men found in suspicious or illegal establishments such as dance halls or taverns were often extracted from the premises and convicted as vagrants.<sup>14</sup>

The legal privilege of aldermen to remove suspected vagrants even from private property put those in precarious denizenship in a vulnerable position. In the case of a vagrant by the name of Baldwin, the Philadelphia City watchmen brought him to the mayor to state his case after he had been 'found by the watch after 10 o'clock...in some house towards the southern border of the city, where he was staying much against the will of the occupants.' It does not appear that the occupants initiated his arrest, however, but that he was discovered by a watchman. Thus apprehended, Baldwin 'stated that he

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<sup>11</sup> VAG, 1832-1836.

<sup>12</sup> Steinberg, *Transformation*, p.276.

<sup>13</sup> S.M. Spencer-Wood, 'Feminist Theoretical Perspectives on the Archaeology of Poverty: Gendering Institutional Lifeways in the Northeastern United States from the Eighteenth Century through the Nineteenth Century', *Historical Archaeology*, 44, no. 4 (2010), pp.115-6. For detailed discussion of the relationship between prostitution and vagrancy, see the previously cited Wood Hill, *Their Sisters Keepers*, Cline Cohen, *The Murder of Helen Jewett*, and Hahn Rafter, *Partial Justice*.

<sup>14</sup> J. Dabel, *A Respectable Woman: The Public Roles of African American Women in 19th-century New York* (New York, 2008), p.99.

had no home – no residence in the city.’ When the mayor asked him point blank where he lived, he responded ‘no where,’ having arrived in Philadelphia two days earlier from New York.<sup>15</sup> Squatting, or even indeed legally occupying a residence, in some cases, was insufficient protection against a vagrancy charge. Prison inspectors commonly found incarcerated persons ‘sentenced as vagrants, who, in legal contemplation, are not such.’ One report discussing the efficacy of prosecution asserted that while ‘a vagrant is a person without a home or visible means of subsistence...yet wives, husbands, children living with their parents, are sometimes sentenced as vagrants.’<sup>16</sup> The visual and public nature of vagrancy, wherein a witness’s word was enough to convict a vagrant, lent itself to easy convictions as well as mistaken prosecutions.<sup>17</sup>

Public participation in the policing of an entire class of persons underscores the fact that vagrancy was a legal concept entrenched in social perceptions in the early republic. Average citizens were seen as reliable sources for the accusation of vagrants, and were regularly engaged in the process of prosecuting disorderly and vagrant persons. Of course, before the advent of ubiquitous professional police forces in the mid-to-late nineteenth century, members of the public were commonly engaged in a culture of public reporting, and most crimes would have been witnessed by average citizens. But public involvement takes on different meaning in the context of the policing of vagrancy, and may point to the theory of ‘mimetic corruption’ that was central to nineteenth century theories on criminality. As Michael Meranze has noted, nineteenth century Americans were wary of onlookers replicating witnessed criminality, and the prosecution of drunkenness, prostitution, profanity, and other disorderly behaviours can be seen as an effort to protect the morality of the public sphere.<sup>18</sup> Further, public participation in vagrancy policing solidified the visual signifiers of poverty, emphasising distinction between the informer and the informant, as signifiers of class. As James Schmidt has noted, this structure made it possible for the law itself to become ‘a text for the expression and realization of class power,’ in which average

<sup>15</sup> ‘City Police’, *PPL*, 19 December 1837.

<sup>16</sup> ‘The County Prison’, *PPL*, 21 August 1838.

<sup>17</sup> Occasionally it was guardians of the poor who reported indigent transients to the watchmen, as opposed to the other way around. When George Shealds was arrested for vagrancy on 6 November 1819, he was ‘convicted on oath of William Brook – one of the Overseers of the Poor’ of Blockley for being a disorderly person and vagrant, with ‘no business to support himself.’ Some misjudgment may have occurred in determining Shealds’ neediness or appropriateness for sentencing to the prison rather than the almshouse, as he must have been ill: he died in prison the next day. Commitment of George Shealds, VAG, 1817-1822.

<sup>18</sup> M. Meranze, *Laboratories of Virtue: Punishment, Revolution, and Authority in Philadelphia, 1760-1835* (Chapel Hill, NC, 1996), p.8.



citizens could and did shape and perpetuate distinctions of class by identifying individuals as vagrants and reporting them to the authorities.<sup>19</sup> There were a few clear factors which increased an individuals' likelihood of facing arrest for vagrancy. These varied regionally and from person to person, but unfamiliarity, race, and destitute family groups were among the most common. The participation of onlookers in the policing of unknown non-residents further alienated the indigent and transient from civic life. Excluded from political life due to their rootlessness, transients, especially the poorer among them, were further excluded from communal life by policies that redefined passers-by as impromptu justices.

As has been discussed in detail, vagrancy laws were notoriously susceptible to varying interpretations by those enforcing them – from justices to judges to jailers. In Allen Steinberg's study of nineteenth century Philadelphia's court-centred criminal justice system, he details the use of often-inconsistent magisterial discretion in apprehension and sentencing of vagrants. According to Steinberg, rather than arresting everyone 'who could have been committed as vagrants,' non-residents were often instead 'told to leave the city,' in an impromptu form of pauper removal.<sup>20</sup> A cursory look at watchmen's returns in New York City's municipal records reveals a similar practice: individuals' arrests were recorded, and it appears in some cases persons were held overnight in jail but then, as in the case of John Green in 1825, 'discharged to leave the city.' Similarly, that same year, Julia Freeman was arrested with the intention of being sent to 'the commissioners of the almshouse' in New York but was instead 'discharged to sail for Baltimore this day.'<sup>21</sup> These informal warnings-out served to support not vagrancy laws but settlement laws, by policing denizenship through the removal of potential drains on poor relief or penal budgets. If Steinberg's assessments are correct, then the actual population of vagrants in antebellum Philadelphia and its environs may be much higher than written records would indicate.

Some scholars, including Steinberg, have taken the position that vagrancy law in both theory and practice served as a safety net for the homeless, and that 'cases of common vagrancy reflected the main utility and original intent of the law as a device for providing temporary shelter.'<sup>22</sup> Vagrants did, on occasion, request imprisonment as a

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<sup>19</sup> Schmidt, *Free to Work*, p.67.

<sup>20</sup> Steinberg, *Transformation*, p.124.

<sup>21</sup> Julia Freeman, 1825, Watchmen's Returns, NYCM.

<sup>22</sup> Steinberg, *Transformation*, pp.123-5.

means of obtaining food and shelter, a practice that became more common in the later nineteenth century as police shelters proliferated.<sup>23</sup> But as early as the 1820s, watchmen's records from New York City note individuals who apparently told watchmen that they 'wish[ed] to be sent to the penitentiary,' like John Ward, arrested on 8 November 1825 as a vagrant, 'sick, no means of support,' asking 'to be sent to the penitentiary;' he was given six months. William Hurley, too, just a few days before Christmas that year, was booked as a vagrant with 'no means of support' and 'a sore leg,' because he 'wish[ed] to be sent to the penitentiary.'<sup>24</sup> But in the wider archive of vagrancy for the early nineteenth century, Steinberg's assertion that humanitarian efforts were dominant prompts and factors in the implementation of these laws is not supported.

Noting the presence of accepted signifiers of class highlights the ease with which individuals' identities could be read, and misread, visually, by the public and by watchmen and justices. One of the most important consequences of this can be seen in interpersonal relationships: just as poor families of paupers were admitted to almshouses or placed on outdoor poor relief, whole families were frequently arrested together as vagrants. Jeffrey Adler notes that this happened 'routinely,' in his particular study of mid-nineteenth century Missouri and beyond, leading to frequent arrests of 'homeless children and pregnant newcomers, particularly women unaccompanied by their husbands.'<sup>25</sup> As Mark Kann has written, while public officials attempted to control women on the grounds of protecting public morality, 'itinerant women...presented a more difficult challenge.' Kann confirms Adler's assessment, and echoes other historians, including Ruth Wallis Herndon, in claiming that vagrant, especially pregnant women or women with children, were more vulnerable to warning and pauper removal practices throughout the entire antebellum period, because they represented the potentiality of entire families of needy relief-seekers.<sup>26</sup>

The nature of vagrant family relationships is often not expressly stated in the limited records that touch on the identities of the convicted. But across state lines and through decades, married couples, parents and children, and siblings appear together on

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<sup>23</sup> See Cresswell, *The Tramp in America* and Kusmer, *Down and Out, On the Road* for more detailed discussion of later nineteenth century police station housing for vagrants and tramps.

<sup>24</sup> John Ward and William Hurley, 1825, Watchmen's Returns, NYCM.

<sup>25</sup> Adler, 'Analysis of the Law of Vagrancy', p.221.

<sup>26</sup> Kann, *Taming Passion*, p.119. Kann cites specific examples in New York, Maine, and Indiana in assessing a broad trend. Herndon, *Unwelcome Americans*, pp.17-8.

jail dockets. Groups of relatives did not comprise a large proportion among convicted vagrants, but their arrests were not exactly rare, either. Since the institution of early colonial vagrancy laws, the crime was not a single man's game (as it became at the end of the nineteenth century). Throughout the late colonial and early national periods, entire family units were convicted together: one early example from New Jersey in 1774 involved the arrest of 'Catherine Land and her three children' on the same charge by a justice 'as vagrants, strolling about, without any visible means of livelihood.'<sup>27</sup> In some cases, the conviction of families resulted from a constable's view that each member had participated in the crime, or to avoid separating family members. In others, the law of coverture may have been interpreted to include a wife in her husband's punishment, or, for a husband to serve a punishment in lieu of his wife doing so.<sup>28</sup> Theoretically, as Mark Kann has explained, because wives had no 'legal will,' under coverture, they could not be 'held liable for criminal acts.'<sup>29</sup> But in practice, married women were repeatedly convicted and punished in the early republic, especially for status and non-violent crimes, including vagrancy.<sup>30</sup>

The contexts in which families were charged as vagrants points to the process of policing indigent transients in the antebellum Mid-Atlantic in showing which actions and circumstances were more likely to catch the attention of a constable. A roundup in deep winter in 1825, for example, of nine individuals in Philadelphia, arrested together for 'being idle disorderly vagrants following no visible means for a support,' points to the formal and informal kinship ties that were established when the homeless banded together in subsistence efforts. These individuals' names do not appear in the records of transient examinations nor elsewhere on the vagrancy docket, so inferences are all that can be made about the family relationships or constructed kinship ties that may have brought this group together to be routed out and arrested for their homelessness.<sup>31</sup> The

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<sup>27</sup> 'Overseers of Trenton Appellants against Overseers of Maidenhead', *Reports of Cases Argued and determined in the Supreme Court of New Jersey* (Trenton, 1816).

<sup>28</sup> M.E. Kann, *Punishment, Prisons, and Patriarchy: Liberty and Power in the Early American Republic* (New York, 2005), p.80.

<sup>29</sup> *Ibid.* See also 'Crime and Punishment,' *Women in Early America: Struggle, Survival, and Freedom in a New World*, ed. D.A. Mays (Santa Barbara, CA, 2004), pp.92-94, and M. Salmon, *Women and the Law of Property in Early America* (Chapel Hill, NC, 1986).

<sup>30</sup> S. Branson, *Dangerous to Know: Women, Crime, and Notoriety in the Early Republic* (Philadelphia, 2013), p.61.

<sup>31</sup> Dozens of vagrants with apparent kinship relationships appear together on Philadelphia and New York City prison dockets in the early nineteenth century. Attempts at quantifying the familial relationships that appear in police records are generally unreliable, but their presence should be noted; it reinforces other evidence that indigent transiency, vagrancy, and criminal pauperism were often family affairs, with crime often an extension of familial subsistence efforts. VAG and Watchmen's Returns, NYCM.

names of the vagrants were as follows: William Palmer, Samuel Nickum, Thomas Nickum, James Murter, Charles Baker, Pamela Amber, Rose Ann Amber, Deborah Locker, and Sarah Ann Seers. Samuel and Thomas Nickum were both released together by the arresting magistrate Frederick Wolbert on the same day they were committed; Pamela and Rose Ann Amber were released together after serving the full sentence. Others among the group were released by Wolbert gradually throughout the next several weeks.<sup>32</sup>

### **Vagrants in the Almshouse, Vagrants in the Prison**

Even following institutionalisation, vagrants and other indigent transients were still singled out and rendered distinct from the general population of the propertyless and needy. While institutionalised bodies are often understood to be docile bodies – even when compelled to work – the statutory definitions and societal perceptions of the transiency that led many women and men to their incarceration branded them as active bodies by nature of their occupying a position of threat. These threatening bodies, then, were considered to be in need of being confined by spatial separation and distinction from other inmates.<sup>33</sup> Female and male vagrants in the Philadelphia Almshouse were housed separately from the rest of the inmates, in separate rooms listed on the institution's weekly censuses as 'vagrants' cellars; these cellars were further separated by sex, except in the case of children.<sup>34</sup> Vagrant children were held in the women's cellar. Highlighting this category of vagrancy prosecution serves to illustrate pervasive antebellum ideologies about labour obligations – and that they could extend to children expressly – as well as the deep-rooted nature of the legal class definitions that classified poor families as arbiters of social and economic unrest. This subjective incarceration, as Keri Leigh Merritt has dubbed it, was an extension of the subjective prosecution that generally preceded imprisonment for vagrancy.<sup>35</sup> This underscores the fact that the instability that defined the status of most indigent transients did not only affect

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<sup>32</sup> Commitments of William Palmer, Samuel Nickum, Thomas Nickum, James Murter, Charles Baker, Pamela Amber, Rose Ann Amber, Deborah Locker, and Sarah Ann Seers, 1825, VAG, 1822-1827.

<sup>33</sup> M. Foucault, *Discipline and Punish: The Birth of the Prison*, trans. A. Sheridan (New York, 1977, 1995), p.136.

<sup>34</sup> Vagrant and black inmates shared the distinction of being housed in cellars, though separately, in the Philadelphia Almshouse, where one prominent physician reported hearing some of the basest 'broad slang and low vulgar tales' of his life. 'Miscellaneous Intelligence', *The Western Journal of the Medical & Physical Sciences*, vol. 7 (Cincinnati, OH, 1834), p.636.

<sup>35</sup> K.L. Merritt, 'A Vile, Immoral, and Profligate Course of Life: Poor Whites and the Enforcement of Vagrancy Laws in Antebellum Georgia', ed. S. Delfino, *Southern Society and its Transformations, 1790-1860* (Columbia, MO, 2011), p.29.

dependents through residency or income, but through criminal punishment and incarceration.

New Jersey-born Catharine Morrison was ‘about 28 years old’ when she entered the Philadelphia Almshouse in the winter of 1822. The testimony she provided in her settlement examination was a tale of widowhood and loss. When she reached the age of twenty, she left New Jersey and found herself in Philadelphia. She married a local man named William Morrison, and they remained in the city together for about three years. Together, they moved to New York City, where they either rented or purchased a house, in which they lived for almost two years until her husband died ‘of the Yellow Fever in the summer of 1820, and the house was consumed by fire.’ Morrison, now a widow, chose to return to Philadelphia some months later. She had been in the city for about a year when she entered the almshouse, apparently in need of medical care, as she was examined in the surgical ward. On 14 February 1822, she was removed, presumably to either New Jersey, where she may have had legal settlement from her youth, or to New York, where her husband’s property ownership or employment may have earned them legal settlement.<sup>36</sup> Whatever the case, the removal was not lasting; on 7 March 1823, Morrison was arrested for being a ‘strolling vagrant,’ sentenced to ‘one month or GP,’ meaning thirty days in jail or in the almshouse under the care of the Guardians of the Poor.<sup>37</sup> Either a magistrate, judge, or the mayor, all of whom had the legal capacity to decide how her punishment should be carried out, determined her as slightly more disorderly than needy, and she served her full sentence in prison.

Morrison’s story is representative of the circumstances of a vast number of indigent transients in this period. In almshouse records, convicted vagrants like her are indistinguishable from the other non-resident paupers in the examinations taken by the overseers of the poor for legal settlement. Further, intra-institutionality was a common feature of poor relief and punishment in the antebellum Mid-Atlantic. Still, the internal processes at work during vagrants’ imprisonment are something of a mystery, and few records give any idea of how the ‘warehousing [of] marginal Americans’, as Mark Kann has referred to it, functioned on the inside.<sup>38</sup> Taking a prosopographical approach to the population reveals few distinctions between vagrants punitively confined or philanthropically detained. Of course, individuals often vacillated between a city or a

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<sup>36</sup> Examination of Catharine Morrison, 1822, EXPA, 1821-1825.

<sup>37</sup> Commitment of Catharine Morrison, 1823, VAG, 1822-1827.

<sup>38</sup> Kann, *Punishment, Prisons, and Patriarchy*, pp.208-9.

county's jail and its almshouse, and since at least mid-eighteenth century, 'the names of the same men and women often stud[ded] the intake records' of almshouses and jails.<sup>39</sup>

The extant records pertaining to institutionalised vagrants in Philadelphia are more complete than for many other northern antebellum cities. As such, they facilitate a unique and detailed case study of what punitive detention looked like for indigent transients from behind closed doors. The penal institution where Philadelphia incarcerated its vagrants was a purpose-built building that, according to contemporaries, was 'never considered sufficiently safe or well constructed to house prisoners.'<sup>40</sup> This facility, Arch Street Prison, which was in use for less than three decades, was designed to hold the overflow of the city's older Walnut Street Prison, which was by 1803 filled beyond capacity. According to a report on the sale of Walnut Street, criminal convicts would continue to be incarcerated there, while the 'denomination of prisoners for trial, vagrants, runaway or disorderly servants and apprentices, and all other descriptions of persons (except convicts)' would be held instead at Arch Street.<sup>41</sup> Construction on the new prison began in 1804 and continued for several years while disputes over funding and allocations between the state, city, and prison inspectors in charge of overseeing penal facilities muddled the process and, records indicate, the structure itself. Sometime around 1816, Arch Street began to receive the first arrivals of the debtors and witnesses, and by 1823, vagrants and prisoners awaiting trial. For Arch Street's vagrant inmates, the punishment of incarceration in this institution usually followed some form of movement or mobility. Over a thousand persons were sentenced to serve time there each year for the crimes of 'strolling' and 'wandering,' being persons 'having no residence,' and 'being destitute of a home.'<sup>42</sup>

Members of the internationally renowned Prison Discipline Society observed in 1830, that the 'Prison on Arch Street [was] another New York Bridewell' (an assessment that would have been cause for alarm, as New York City's carceral facility where vagrants were held had a reputation for filth, destitution, and desolation).<sup>43</sup> The

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<sup>39</sup> Tarter, *Buried Lives*, p.9-11.

<sup>40</sup> S. Hazard, ed., *The Register of Pennsylvania* (Philadelphia, 1831), p.100. S. Hazard, *Hazard's Register of Pennsylvania* (Philadelphia, 1836), p.160. 'Arch Street Prison Minutes', Historical Society of Pennsylvania, <http://hsp.org> [accessed July 2015]. J.F. Watson, *Annals of Philadelphia and Pennsylvania, in the Olden Time* (Philadelphia, 1879), p.181-2.

<sup>41</sup> 'Sale of Walnut Street Prison', *Hazard's Register of Pennsylvania*, vol. 7, (Philadelphia, 1831), p.99.

<sup>42</sup> *Ibid.* H.E. Barnes, *Evolution of Penology in Pennsylvania: A Study in American Social History* (Indianapolis, 1927), p.137. VAG.

<sup>43</sup> *Annual Report of the Board of Managers of the Prison Discipline Society*, vol. 1 (Boston, 1830), p.362.

most significant difference was that hundreds of debtors were also incarcerated at Arch Street – 817, according to the Society, were held there during an eight month period spanning 1829-1830. Beyond that, the prison's defining characteristic was that it held 'vagrants and untried prisoners, of all colors and degrees of crime...assembled in one common room,' where prisoners were kept 'with privations so great as to form a severe punishment for their misfortunes and poverty.'<sup>44</sup> Throughout 1823, according to the Inspectors, 3,582 inmates had been incarcerated there. Of this number, fully 'two thirds...were vagrants, disorderly persons, and disturbers of the peace.'<sup>45</sup> These individuals were receiving punishments 'dealt out,' as one observer noted, 'not to convicts, but to men whom the law holds as innocent, they not having received a trial by a jury of their peers' and to vagrants, men and women alike.<sup>46</sup> An annual average of 2,000 vagrants, debtors, and untried prisoners were held at Arch Street. While the prison contained a separate apartment to confine debtors, the rest of the prisoners mingled, with the result that 'the reputed pirate and murderer' might be found 'seated beside a youth confined for a drunken brawl.'<sup>47</sup> Legislators and reformers had condemned intermingling of prisoners at Arch Street's predecessor facilities, and the prisoners' shared confinement in space contributed to calls for a separate system that might not breed, as it was feared, further crime.

And yet, strong distinctions were drawn by prison inspectors between criminal convicts and Arch Street's non-criminal prisoners. Authorities claimed that convicts held in Philadelphia's high profile Eastern State Penitentiary were 'of a different class,' possessing 'higher intelligence,' better social habits, and better hygiene than the average 'miserable vagrant' confined in the Arch Street Prison.<sup>48</sup> The conditions in the two institutions reflected this perception. In 1824, a Philadelphia Grand Jury found that 'the arrangements made for the safety and health of the convicts [at Walnut Street Prison] are as well calculated for those objects as the extreme scarcity of room in the...apartments of the vagrants and untried prisoners.' Discomfort was a design feature for the punishment and housing of vagrants and debtors as a deterrent against

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<sup>44</sup> *Annual Report of the Board of Managers of the Prison Discipline Society*, pp.362-3.

The infamy of New York City's bridewell has been discussed in Cray, *Paupers and Poor Relief* and J. Miller, *Abandoned: Foundlings in Nineteenth Century New York City* (New York, 2008).

<sup>45</sup> H. Niles, 'Sept. 29, 1832 - Cholera in Arch Street Prison', *Niles' Weekly Register* (Baltimore, 1833), p.71.

<sup>46</sup> *A Tale of Horror! Giving an Authentic Account of the Dreadful Scenes that took place in the Arch Street Prison* (Philadelphia, 1832).

<sup>47</sup> *Annual Report of the Board of Managers of the Prison Discipline Society*, vol. 5 (Boston, 1830), p.363.

<sup>48</sup> *PI*, 9 November 1832.

recidivism.<sup>49</sup> A legislative committee investigating the issue in 1833 questioned whether offering greater ‘provisions and comforts’ to incarcerated vagrants would encourage ‘idleness and profligacy,’ yet asserted that they were entitled to be treated at ‘least upon an equal position with the convicts.’<sup>50</sup> According to Peter Coleman’s calculations, during the 1820s, as much as three-eighths of the population of Philadelphia were jailed for debts owed at some point. With such high proportions of the population subject to debt imprisonment, the institution’s visibility, and thus, social distaste for it as an outmoded and cruel imposition, grew in the 1820s and 1830s. As public opinion began to turn in the late 1820s, the number of releases from petty debts owed increased. Records indicate that as many as 3,000 debtors had their obligations discharged by courts in Philadelphia over just a four year period, between 1827 and 1830.<sup>51</sup> If this is the case, then 3,000 more insolvent and indigent persons were at liberty in the city in those years than previously, possibly contributing to the increase in the number of vagrants incarcerated in the almshouse in that period. Most states were slow to adopt any dramatic limitations on imprisonment for debts, and this affected the labour market in myriad ways. Not only was the ability of the incarcerated individual to contribute his or her labour circumscribed, but parents – especially free men of colour – often resorted to offering their children as indentured servants to work off their debts.<sup>52</sup>

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<sup>49</sup> *Annual Report of the Board of Managers of the Prison Discipline Society*, vol. 5, p.363.

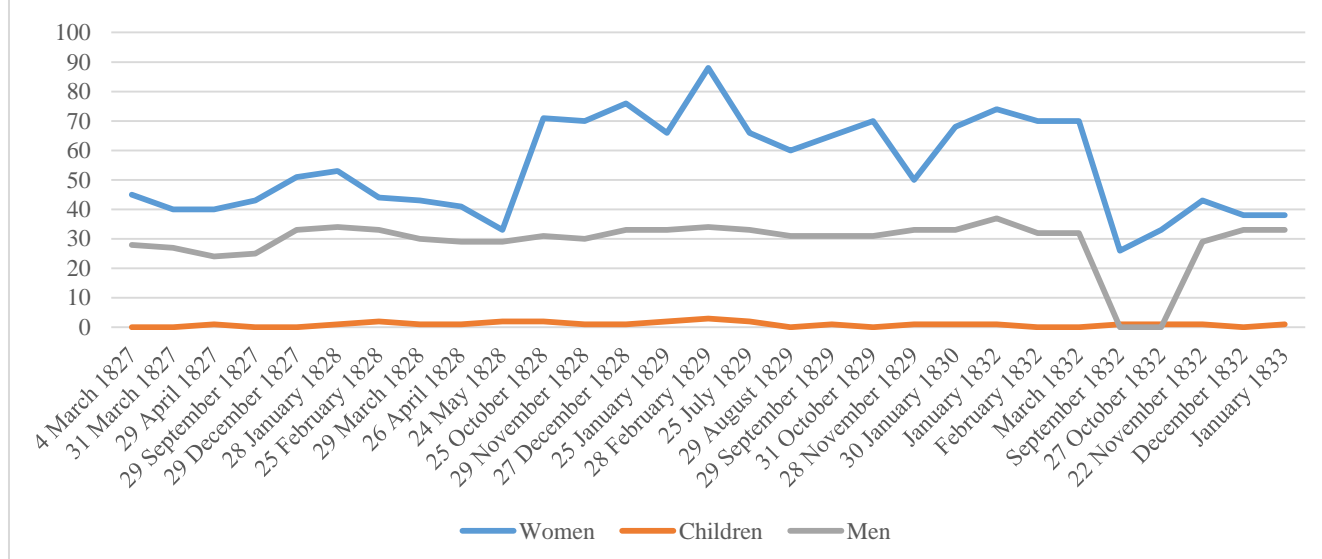
<sup>50</sup> ‘On the apartment for Criminals and untried Prisoners in the Arch Street Jail’, *Annual Report of the Board of Managers of the Prison Discipline Society* (Boston, 1826), p.200.

<sup>51</sup> P.J. Coleman, *Debtors and Creditors in America: Insolvency, Imprisonment for Debt, and Bankruptcy, 1607-1900* (Madison, WI, 1974), p.xii, pp.286-7. For more on the history of debt imprisonment in the United States, see Mann, *Republic of Debtors*, and R.M. Braeger, ‘American Debtors’ Prison: The Rise of the New York Citizen as a Commercial Participant during the Early American Republic, 1800-1836’, Master’s Thesis, Utah State University (2013).

<sup>52</sup> According to Coleman, this was especially common in Delaware after 1827. Coleman, *Debtors and Creditors*, p.210.



Table 6.1: *Monthly Census of Vagrants in the Philadelphia Almshouse, 1827-1833*



Source: *Almshouse Weekly Admissions and Census, 1827-1833, GPP.*

In regular monthly censuses taken in the Philadelphia Almshouse between 1827 and 1833, vagrants comprised around one tenth of the total population.<sup>53</sup> They were held in two separate areas of the facility, in cellars segregated by sex, and young children regardless of sex were placed in the female vagrants' cellar. As shown in Table 6.1, out of twenty nine censuses, the number of female vagrants surpassed the number of male vagrants in all but one. No more than three children are listed as part of the almshouse's vagrant population at any given time, and this small number was housed with the women. This low number may be a result of the frequency with which the children of vagrants and paupers were forcibly apprenticed or bound out under indenture, rather than held in the almshouse for an extended period.<sup>54</sup> The highest figures are found over the winter of 1829, when as many as 125 vagrants were confined together in the two cellars. During these years, the vagrant population differed significantly from the general population of almshouse inmates: the proportion of men in the latter was higher than that of the women for the whole period between 1800 and 1850, and while the number of women remained largely stagnant, there was greater fluctuation among the proportion of men, converse to that of the vagrant population of the almshouse. As Priscilla Ferguson Clement has explained, the large proportion of

<sup>53</sup> Almshouse Weekly Admissions and Census, 1827-1833, GPP.

<sup>54</sup> R. H. Bremner, *Children and Youth in America: 1600-1865* (Cambridge, MA, 1970), p.64. Murray and Herndon, 'Markets for Children in Early America. Grubb, 'Babes in Bondage?'.

men may be due to ‘the fact that city officials routinely denied men outdoor cash aid, so that the only substantial form of public assistance available was institutionalization.’<sup>55</sup>

As shown in Table 6.1, the summer of 1832 was not recorded, likely as a result of the cholera epidemic that raged along the east coast throughout that season. By September, as anxiety over the disease began to abate, it appears that only the bare minimum of vagrants were accepted into the almshouse: twenty six women and one child, but no men. Vagrants were seen as disease carriers, and newspapers were crediting a vagrant with introducing the epidemic to the city. During the years for which monthly census figures for the almshouse have been included, the average number of vagrants convicted and delivered to the city’s prison in a given month was somewhere around twenty persons.<sup>56</sup> Among those twenty, at most one or two were sentenced to serve their terms in the almshouse (which often happened after several days or a week had already been served in the prison). Meanwhile, the average number of vagrants in the almshouse cellars during this period was significantly higher, over eighty persons in a given month.<sup>57</sup> This implies that, at least in Philadelphia in the 1820s-1830s, more convicted vagrants were sentenced to almshouse incarceration each month than incarceration in the prison. Since these vagrants could have found themselves in the almshouse cellars in a number of ways and sparse record-keeping obscured their identities, little more than inferences can be made about the individuals who were counted in this census, except in a few cases.

The cases of Isaiah White and Alexander Bishop illustrate that the result of discretionary policing was discretionary incarceration: White was a transient, veteran, vagrant, and pauper. He was first arrested with three other men for ‘being idle vagrants’ on 1 December 1827.<sup>58</sup> Of this group, one man was released on bail or indenture after only two weeks, while one other served his full sentence and was discharged after thirty days. On 28 December, during a visit by ‘the visiting inspectors,’ White and the other remaining man, Alexander Bishop, were ‘sent to [the] almshouse’ on the inspectors’ order.<sup>59</sup> Arriving there as vagrants, White and Bishop would have been counted among

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<sup>55</sup> Clement, *Welfare*, pp.110-1.

<sup>56</sup> VAG, 1822-1832.

<sup>57</sup> Almshouse Census, 1827-1833 and VAG, 1827-1833. ‘1145 persons were committed to jail in Philadelphia, in 1827, as vagrants, and for profane swearing and intoxication’, *Hazard’s Register of Pennsylvania*, vol. 1 (Philadelphia, 1828), p.240.

<sup>58</sup> Commitment of Isaiah White, VAG, 1827-1833.

<sup>59</sup> Commitments of Isaiah White and Alexander Bishop, VAG, 1827-1833.

the thirty three men listed in the census on 29 December 1827. To the inspectors, they must have appeared more like paupers than like vagrants; suffering from illness, perhaps, or exposure after weeks in the cold. But neither Bishop nor White were examined for settlement once they arrived in the almshouse; at least until White found himself there again, possibly as a result of a further vagrancy conviction, in 1837. He testified that he had been a bound apprentice until the age of twenty one, around 1785, when he went to work for his father, a store owner, in Chester County, on wages. He later lived for a time in Harrisburg, and identified as a 'weaver and gardener.' He 'enlisted in the army' in 1811 and 'remained in it...stationed the whole of the time in the state of Louisiana.' After he was discharged, he 'continued labouring about in Louisiana' wherever he could find work, until he returned to Pennsylvania in 1827. It is plausible that it was upon his return to the north, likely through Philadelphia, that he was arrested as a vagrant. His transiency continued when he 'went to the state of Ohio,' then back to Chester County, where he was apparently employed on wages at the Chester County Poorhouse as a gardener. Employment in an almshouse apparently did not pay enough to keep one out of the almshouse as a resident, however. White left there and made his way to Philadelphia, where he 'worked about until harvest time' before applying and obtaining admission to the 'Hospital of the Philadelphia Almshouse.'<sup>60</sup>

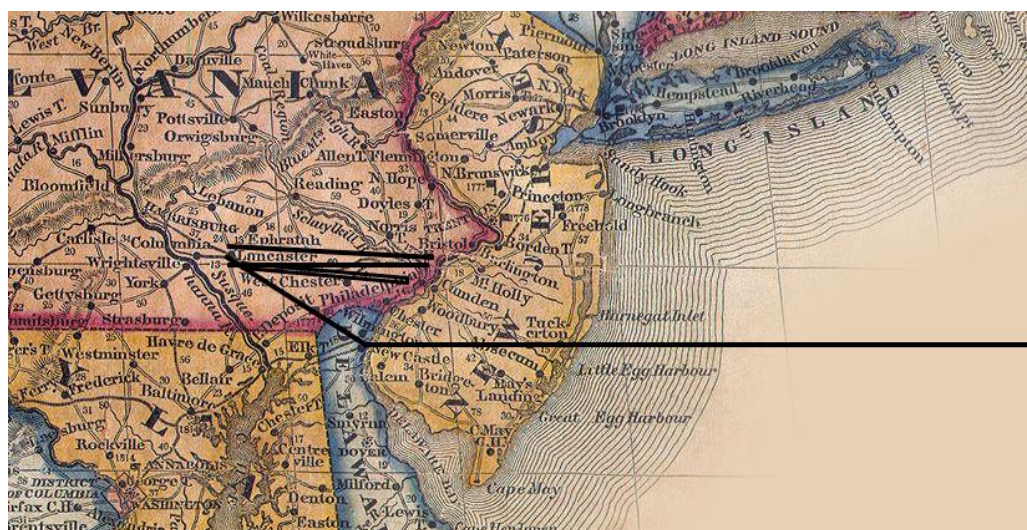
The ease with which White and Bishop were externally defined and redefined as vagrants and as migrant paupers is a testament to the interrelation and flexibility of the two categories. Many indigent transients spent time in Philadelphia's almshouse and jail before continuing to move. Others were more locally transient – still lacking in the stability of home and permanent residence, but drawn or kept to one location by other factors. Such was the case with Mary Porter, whose travels are shown in Figure 6.1. She was repeatedly arrested as a vagrant in Philadelphia throughout the 1820s, and was well-known in the almshouse. Born in Ireland, she had migrated to Delaware as a child with her family, but they had remained in New Castle only a few days. The family spent six years in rural Lancaster County before moving to the City, where they remained for about seven years. Around the age of twenty, she relocated to Southwark, where she met and married Irish-born John Porter. The couple lived 'for a few weeks' in Southwark, and then for '7 or 8 months' in Moyamensing, before settling in Lancaster

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<sup>60</sup> Examinations of Isaiah White, EXPA, 1831-1839.

for five years. When her husband died sometime around 1822, she left Lancaster with their two children, and went to Philadelphia, likely in search of work or a former contact.<sup>61</sup> It was after this time that she was found on the street ‘having no residence’ on 25 February 1823. She was admitted to the almshouse as a non-resident and examined on 13 March 1824, when her legal residence was determined as Lancaster. If this information, and the likelihood of her removal, was made known to her, it could explain why she ‘eloped’ that same day. Two weeks later, she was again arrested as a vagrant.

*Figure 6.1: Map showing indigent transient Mary Porter’s repeated removals*



*Source: Examinations of Mary Porter, EXPA, 1821-1825, Letter Book, GPP, and Mitchell’s National Map of the American Republic or The United States of North America (1845).*

Porter re-entered the almshouse in the winter of 1825 but ‘was removed from the Philadelphia to the Lancaster Almshouse on the 22<sup>nd</sup> of February.’ By this time, she is no longer described by officials as a ‘widow with two children,’ and it is possible that her children were bound out during her first stay in the Philadelphia Almshouse. In 1826, she was again admitted there, and an order of removal was issued to send her back to Lancaster, ‘but she eloped.’ She didn’t return until the following autumn, when another removal attempt was made. Whether or not it was successful, Porter managed to return to the city again, and was arrested as a vagrant on 23 October 1827.<sup>62</sup> Porter’s activities cease to be recorded in the vagrant docket and examination books after this, so her fate is unclear, but as a previously removed pauper, she would have been vulnerable

<sup>61</sup> Examinations of Mary Porter, EXPA, 1821-1827.

<sup>62</sup> Commitments of Mary Porter, VAG, 1822-1827.

to harsher sentencing for frequently returning to a city 'in a state of vagrancy' from which she had been formally removed, as the law stipulated.<sup>63</sup>

### **Legal Resistance**

Mary Porter's choice to elope repeatedly, absconding from the custody of justices and guardians, can be read as resistance to the policing of her movements. Resistance was a common feature of vagrancy prosecution. During a vagrancy sweep by New York City magistrates in 1825, a man named John Johnson, apprehended alongside six others for 'living idle without employment and having no visible means of supporting themselves,' resisted arrest to the point of 'a fall' which 'injured his knee.' One repeat offender from Philadelphia must have refused to reveal her identity strongly enough for the constables to record her identity on the vagrant docket as 'I got no name' twice in one week, with the comment 'alias Henrietta Blake' inserted later after further questioning.<sup>64</sup>

Prosecution and incarceration for indigent transiency was a means by which many of the poorest members of antebellum society came in direct contact with institutional processes, as their own identities, described in the terms of the law, became institutionalised. In a legal system where indigent transients were regularly convicted and incarcerated on prima facie evidence, with no witnesses, with few other actions resembling due process involved, and with short prison terms, it is somewhat remarkable that any number of vagrants were able to use the law to appeal their charges. But some did manage to defend themselves in the courts. In fact, it could be argued that it was the discretionary nature of vagrancy policing that aided their defence, as will be explored in this section, by highlighting the subjectivity of their sentencing. The dominant means of release which incarcerated vagrants who believed themselves to be wrongfully convicted could pursue was by petitioning for writs of habeas corpus.

When individuals appealed their charges, they were able to articulate, through the language of the law as well as their own expression, the criminalisation of poverty. The defences offered up by convicted vagrants on their own character emphasise that they perceived that personal industry was what distinguished their own actions from a vagrant's actions. In order to refute a vagrancy conviction, they struck at one of the key

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<sup>63</sup> *New Conductor Generalis*, pp.367-8.

<sup>64</sup> Commitments of Henrietta Blake, VAG, 1822-1827.

features of the crime: idleness. The following case study explores the definitions and redefinitions of identity that emerge in the habeas corpus petitions of vagrants.

Between 1836 and 1841, at least ten convicted vagrants in Lancaster, Pennsylvania pursued writs of habeas corpus in hopes of ending their incarceration.<sup>65</sup> These documents are particularly valuable for social historians because their nature necessitates inclusion of the testimony of the convicted petty criminal that is so often silent in the historical record. In the case of vagrancy, especially, with its myriad definitions, clauses, and applications, habeas corpus petitions serve as an articulation of why their actions did not amount to vagrancy, or why their identities belied a conviction as a vagrant. Unfortunately, because these convictions occurred below the lower courts, detailed records are rare for this period. Aldermen, constables, and justices of the peace were largely independent actors in the carrying out of their duties, and justices in particular generally worked out of their homes. As such, dockets or arrest records were not often maintained in a central location. The few that are extant afford a closer look at the proceedings of vagrancy convictions and absolutions of convictions. At least nine of the ten petitions were successful; in the other case, the record of the petition's outcome has not survived.

John Harkins was arrested for vagrancy on 11 June 1836, and he remained in jail for three days before his release was secured.<sup>66</sup> Harkins was convicted by Justice of the Peace Thomas Lloyd, who asserted, upon delivering him to the constable for removal to the common jail, that he was 'an idle and disorderly person and a common vagrant,' and should be sentenced to hard labour for one month. As was the case for formally charged vagrants at the time, he 'had no opportunity of defence.' Harkins may have requested an audience with a lawyer or made some written pleas while incarcerated in order to orchestrate his request for a writ of habeas corpus. In the next two days, he managed to secure the writ on the grounds that he had been unjustly 'restrained of his liberty' and his case was brought before an alderman for the City of Lancaster. Harkins, the alderman recorded, believed his incarceration 'to be... altogether unjust, illegal, and suppressive.' His case was heard by two judges from the Court of Common Pleas on 14 June, where he testified that the Justice had proffered the charge of vagrancy against him, though 'he had been taken upon an execution...for debt.' Before the court, three

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<sup>65</sup> Habeas Corpus Papers, County Papers, LCHS.

<sup>66</sup> John Harkins, Habeas 1836 F003, Habeas Corpus Papers, LCHS.

<sup>459</sup> J. Purdon (ed.), *A digest of the laws of Pennsylvania* (Philadelphia, 1837), pp.823-4.

‘respectable witnesses’ testified in favour of Harkins’ character and against the claim that he was a ‘common vagrant,’ on the grounds that he was known ‘to be an industrious man, and possessed of a trade and means of sustenance.’ He was discharged that day.<sup>67</sup>

John Harkins did not make a lasting impact on the historical record, but the nature of his defence says much about laws pertaining to vagrants in this period, as well as to the lives of vagrants who may have met the standards of the law more than he himself did. To assert that he was ‘industrious’ was to refute the statute’s accusation of idleness; the same was true of possessing means of subsistence, and knowledge of a trade. The latter, of course, did not guarantee employment or income. Since the exact circumstances of Harkins’ arrest are unknown, we can only speculate what led to his arrest as a vagrant. It could be that he was having difficulty getting sufficient work at his trade, and had neglected to pay a creditor, or, perhaps, he merely looked to the justice like a debtor, or ‘idle’ man.<sup>68</sup> As William Novak has explained, ‘the adjective ‘common,’ as used to describe Harkins, was frequently listed on commitment records prior to vagrant, prostitute, or drunkard, and ‘implied that one need not commit specific illegal acts to be guilty.’<sup>69</sup> Allen Steinberg, in his study of criminal justice and police power in nineteenth century Philadelphia, discovered that ‘each year the number of vagrancy commitments easily exceeded the number of arrests,’ possibly suggesting what he describes as ‘an aldermanic penchant for committing people arrested on other charges as vagrants.’<sup>70</sup> It’s possible that what Steinberg describes for Philadelphia was happening in Lancaster as well, in Harkins’ case.

On 28 October 1837, Martha Ann Ramsey was convicted with the same language of the vagrancy statute as John Harkins had been: for ‘being an idle and disorderly person and a common vagrant.’ She was sentenced, as Harkins had been, to thirty days imprisonment in the Common Jail, at hard labour. She spent about a week in jail before her case was heard before the county Court of Common Pleas. Deliberations were minimal; Ramsey was presented before the court as an industrious housewife, and

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<sup>67</sup> John Harkins, Habeas 1836 F003, LCHS.

<sup>68</sup> Debt imprisonment was still practiced in some states in the 1830s, despite having been federally banned in 1833. Many debtors would request declarations of insolvency from a city court in lieu of incarceration (see Insolvent Debtors Petitions, PCA).

<sup>69</sup> W.J. Novak, *The People’s Welfare: Law and Regulation in Nineteenth-Century America* (Chapel Hill, NC, 1996), p.168.

<sup>70</sup> Steinberg, *Transformation*, p.123.

the judge found that there was sufficient ‘proof that the defendant is industrious and not a vagrant’ and discharged her.<sup>71</sup>

Many women like convicted vagrant Martha Ann Ramsey were defined first as idle vagrants and then redefined as industrious defendants. Many women were externally assigned the role of disorderly vagrant, a role that was summarily contradicted once they had managed to prove that she possessed a ‘dwelling’ to call home, which they managed as ‘industrious housekeeper[s].’<sup>72</sup> This conflict of identity is important on a cultural level, in recognising that antebellum authorities exercised control over the lives of the lower classes, by compelling individuals to provide evidence that they were not impoverished to the point of homelessness or begging. This compulsion to prove an individual’s innocence as opposed to guilt is indicative of the tone of early nineteenth century policing, and is far from a revelation. But in the steps that followed the initial interaction with authority described here, that is, arrest and the assignment of carceral punishment, the distinction between the criminal vagrant and the pauper vagrant is highlighted.

Most convictions for vagrancy in this period, as in Ramsey’s case, were for idleness and disorderliness, and most of the actions listed under the list of arrestable offences as vagrant actions in the 1836 Pennsylvania Poor Law could be grouped together as ‘idleness.’ Beyond that, however, part of the law’s revision that year involved the formal designation of beggars as vagrants; and of course, as has been discussed, any individual who did not possess ‘visible means’ of subsistence was liable for arrest as a vagrant. So, too, were loiterers and the unemployed. The broad definitions of disorderly conduct employed in this period covered activity far beyond modern understandings of the term, and were used to describe appearing drunk in public, the wearing of expensive-looking clothes by black men, or women walking down the street without chaperones.<sup>73</sup> As Novak notes, ‘in addition to open-ended definitions and proofs of criminality, vagrancy statutes also advocated summary judicial

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<sup>71</sup> Martha Ann Ramsey, Habeas 1837 F013, LCHS.

<sup>72</sup> *Ibid.* Similar cases are found in New Orleans, where in 1855, a woman named Mary Ann Norman ‘successfully refuted a charge of vagrancy’ by proving ‘that she had a place to live and, moreover, that she could support herself by honest means.’ *Norman, praying for a writ of habeas corpus*, no. 10,498, First District Court of New Orleans, 25 July 1855 (cited in J.K. Schafer, *Brothels, Depravity, and Abandoned Women: Illegal Sex in Antebellum New Orleans* (Baton Rouge, LA, 2011), Ebook).

<sup>73</sup> Steinberg, *Transformation*, p.128; Wood Hill, *Their Sisters' Keepers*.



procedures patterned after the latitude granted English justices of the peace over the poor.<sup>74</sup>

Whatever the specific offence, occasionally, constables sentenced vagrants to lesser terms. On 11 September 1837, three women were arrested together, and sentenced to ten days of incarceration each, at hard labour, in the County Jail. The convictions of Eliza Henry, Martha Loney, and Mary Brown, are identical. While Harkins and Ramsey had been convicted on the oath of the justice of the peace himself, Henry, Loney, and Brown, were convicted before the justice on the oaths of three men: James Shantridge, Robert Chalfant, and Jonathan Figelo ‘with being disorderly vagrant[s].’ The women spent the night in jail, but filed a petition for a writ of habeas corpus the very next day, stating ‘that they have each been committed to the jail...and sentenced as disorderly vagrants’ unjustly, ‘request[ing] and pray[ing]’ that a writ of habeas corpus be granted to enable the petitioners to present their cases to the court, ‘that they may be dealt with as to right and justice belong.’ The writ was granted them, and the judge, ‘on hearing proof that all had dwellings and families and were industrious housekeepers and not vagrants,’ released them on the same day.<sup>75</sup> The actions that led to the arrest of these women are unclear, but the offences for which women faced vagrancy convictions often involved activities akin, at least in the public eye, to prostitution.

Assumptions of such activity, however, were sometimes deemed unfounded even by contemporary courts. When Elizabeth Fasnacht, a woman arrested as a vagrant in the winter of 1837, requested a writ of habeas corpus, a prominent local attorney got involved in her defence. But the justice of the peace who had sentenced her was so adamant that she deserved to be jailed for her behaviour that he wrote to the attorney requesting that her case be reconsidered. ‘There has been complaints at different times respecting this woman keeping a tippling house, and a house of the most infamous character,’ he wrote. There had been previous offences that he had allowed to ‘rest,’ because of ‘Elizabeth having an infant....but since that, [her] conduct was so intolerable that the people in their neighbourhood would bear with it no longer.’ He accused Elizabeth of selling liquor, bawdy activity, fighting, and having ‘almost every night...men and women, white and black, of the most abandoned characters’ in her

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<sup>74</sup> Novak, *The People's Welfare*, p.168.

<sup>75</sup> Eliza Henry, Martha Loney, Mary Brown, Habeas 1837 F009, LCHS.

home. These activities were offences in their own right, but the justice of the peace had chosen to arrest Fasnacht for being an 'idle, disorderly vagrant.' It may be this inaccuracy that afforded the courts the grounds for releasing her, or it may be that the accusations were, in fact, wholly inaccurate. In Fasnacht's explanation of her wrongful incarceration, she objects explicitly to the fact that the charges she was brought up on were criminal in nature, asserting that she was 'unjustly confined...for some...supposed criminal matter' with which she had not been involved. The judges of the Common Pleas court may have agreed, as they chose to discharge Fasnacht on 14 February, because 'from other testimony produced it appears that the said Elizabeth has a home and is a regular working woman and does not come under the meaning of the vagrant act.'<sup>76</sup>

The connections between vagrancy and illicit sexual activity have been documented extensively by historians such as Christine Stansell, Patricia Cline Cohen, Nicole Hahn Rafter and Marilyn Wood Hill, especially concerning New York City, where vagrancy laws were designed to cover 'five classes of people— prostitutes, habitual drunkards, beggars, 'loafers,' and the diseased.'<sup>77</sup> In New York, in 1838, one convicted vagrant's habeas corpus petition led to a state Supreme Court case, *Emma Sands vs. The People*. According to Hill, Sands was 'arrested as a prostitute' but 'convicted as a vagrant.' She filed for and was granted a writ of habeas corpus, and her conviction was overturned. The presiding judge declared that the vagrancy law that had allowed her incarceration, which had been passed by the New York state legislature in 1833, was unconstitutional. But even without New York's legal conflation of vagrancy and prostitution, the behaviour of women, sexual and otherwise, was closely monitored by male citizens and regulated by law enforcement. The moral proscriptions of the law linked 'poverty and 'immoral' behaviors, including prostitution', rendering 'prostitutes, homeless, and 'immoral women'...synonymous' under the umbrella of vagrancy laws. For women, the sorts of immoral actions most commonly punished under vagrancy law included sexual activities but also the association 'with men in public places,' the wearing of 'flashy dress' or the not wearing of a hat, but, most commonly for poor and homeless women: walking 'across men's public sphere alone,' especially at night.<sup>78</sup> As

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<sup>76</sup> Elizabeth Fasnacht, Habeas 1837 F001, LCHS.

<sup>77</sup> Hill, *Their Sister's Keepers*, p.118. See also Cline Cohen, *Murder of Helen Jewett* and Hahn Rafter, *Partial Justice*.

<sup>78</sup> Spencer-Wood, 'Feminist Theoretical Perspectives', pp.115-6.

Stansell notes, lower class 'women in public,' regardless of their activities, were 'only a scant step removed from prostitution.'<sup>79</sup>

Convicted vagrant Sarah Cooper was categorised as a vagrant because, like Cassey Newman, and Sarah and Elizabeth Thomas, her control over her own labour was not manifest in a way that was read by law enforcement as compliance. Cooper claimed that her conviction 'as a common vagrant,' had occurred not by being 'apprehended on the streets as an idle person,' but rather, being 'induced under the hope of procuring employment to go to the house of one of the constables of the City of Lancaster by whom she was immediately arrested and carried to gaol.'<sup>80</sup> The result of Cooper's petition is unknown, but her statements corroborate scholars' claims of constables' manipulation of sentencing, release, and resentencing to add to their own fees, which would increase their incomes with each commitment.<sup>81</sup> Samuel Waits, the constable who convicted Cassey Newman, charged 37 cents for 'bringing prisoner before justice,' another 37 cents for her commitment, and 72 cents for mileage, totalling \$1.47.<sup>82</sup> If Cooper's claims were valid, they could be evidence of authorities' utilisation of their knowledge of the desperation of the poor to make a day's wage for themselves.<sup>83</sup>

Within the space of one conversation with a stranger on the street, or a city constable, the poor, isolated as a separate class of 'persons...liable to...penalties,' could be redefined as criminals.<sup>84</sup> In vagrants' habeas corpus petitions, definitions of personal identity are articulated by individuals who have been rendered vulnerable by the state. In the testimonies presented before the courts in these cases, the singular fact of not being homeless serves as sufficient evidence to warrant release from jail. These cases, then, allow the circumstances of arrests that would otherwise be recorded as little more than two lines on a jail docket to illustrate individuals' interactions with the social manifestation of vagrancy law. Their cases indicate both the sorts of actions that early police viewed as vagrant as well as the means of tactical resistance used by the convicted.

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<sup>79</sup> Stansell, *City of Women*, p.100.

<sup>80</sup> Sarah Cooper, Habeas 1837 F008, LCHS.

<sup>81</sup> Steinberg, *Transformation*, p.125.

<sup>82</sup> Having covered a distance of 12 miles, this amounts to a rate of approximately 6 cents per mile.

<sup>83</sup> Cassey Newman, Habeas 1841 F009. The motivation for such manipulation is clear, with the average daily wage for unskilled male laborers and artisans estimated to have remained well under one dollar around 1850 (the year for which much extensive data is available).

<sup>84</sup> Purdon, *Digest*, pp.823-4.

The defences put forward by these accused vagrants in Lancaster were not exceptional. When John Kennedy was arrested for vagrancy in Philadelphia in 1819, after several days in jail, a man named John Holliday came forward to testify on oath that Kennedy was ‘in general a sober industrious man, maintaining himself by his own industry.’ This testimony convinced the Mayor, Robert Wharton, and Kennedy was released.<sup>85</sup> Free black man Henry Davis was eighteen years old when he successfully presented a case for his freedom to the Orphan’s Court of Baltimore County, Maryland, in 1848. He had been indentured as an apprentice to Thomas Knighton, according to Davis, ‘under the auspices of an act of 1793 that allowed ‘the child or children of any pauper or vagrant, or the child or children of lazy indolent, and worthless free negroes’ to be bound out as apprentices.’ Davis argued that Knighton was effectively forcibly stealing his labour, as he did not fall under the intention of that law, and he denied that he was a vagrant, asserting that he ‘was regularly and industriously employed and earning a competent and sufficient livelihood.’ It appears that Davis’ initial petition went unresolved in the spring of 1848, but by summer, Knighton had apparently sold Davis’ services to a man named Dr. Benjamin Bird so that he might ‘more effectually conceal the fraud.’ Davis argued that this action was an admission of Knighton’s guilt, and as a result, he ought to be ‘released from the unjust and oppressive servitude’ in which Knighton held him. Davis’ petition was granted on 27 June 1848.<sup>86</sup>

## Conclusion

The habeas corpus cases discussed in this chapter show vagrants resisting the definitions assigned to them by both police and the penal system, tactically manoeuvring within the context of state control over their physical movements and actions in order to assert their own, self-defined identity. That surviving samples of instances where accused vagrants refuted their assignments in court of law in the antebellum period seem to have been fairly successful demonstrates that there was a limit to the power of discretionary policing that rested with the judiciary. But because most vagrancy cases did not include direct judicial involvement, the characteristics and actions that led to the arrest of indigent transients continued to circumscribe their freedom. This underscores what Ruth Wallis Herndon has argued, that for many Americans in the early nineteenth century, poverty was proven to be a ‘constraint...as

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<sup>85</sup> Commitment of John Kennedy, VAG, 1817-1822.

<sup>86</sup> Petition of Henry Davis, Register of Wills, 1820-1851 (Petitions and Orders), MSA.

effective as legal slavery.’<sup>87</sup> The most effective means of combatting these constraints, as this chapter has shown, was the designation of oneself as industrious, as a full participant in the labour force.

The stories presented here – from street-level arrests to incarceration in almshouses to imprisonment in jails to the resistance of vagrants through the legal system – complicate how we understand the management and punishment of the nineteenth century poor. Laura F. Edwards has found that the language and legal culture that built and upheld vagrancy laws invited the public to engage with the law intimately in a similar fashion in South Carolina as had occurred in Pennsylvania. This is evident in her discussion of an 1834 South Carolina vagrancy case in which a man was suspected of idleness by men with whom he only occasionally engaged in business. When one neighbour issued a formal complaint against Woodruff, the court handling the case investigated, asking community members about the level of Woodruff’s industry. According to the testimony of nearby housewives, the claims against Woodruff were true: he must have been providing insufficiently for his family, as his wife had recently petitioned neighbours for food so that she and their children would not starve. Woodruff was convicted of vagrancy based on this testimony that he lacked the industrious character to follow through on his duties as husband and father. Edwards’ analysis of Woodruff’s case demonstrates that, even when comparing communities as starkly different as antebellum Spartanburg County, South Carolina and Lancaster County, Pennsylvania, the power of the legal culture surrounding concepts of vagrancy transcended geographical and cultural borders.<sup>88</sup>

Keri Leigh Merritt asserts that ‘class functioned as the only universal among southern vagrants,’ and this argument is clearly applicable across the Mid-Atlantic states analysed in this dissertation.<sup>89</sup> Vagrancy prosecution carried out the systematic designation of pauperism as a criminal status. As Merritt argues, vagrancy laws were used ‘to lock away anyone who posed a threat’ to what she describes as ‘the southern

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<sup>87</sup> Herndon, *Unwelcome Americans*, p.57. And in New York, vagrants’ rights to defend themselves were eroded over time, as it was ruled in an 1855 Court of Common Pleas’ case that the document committing an individual as a vagrant served as the proof that the individual was a vagrant, so long as the convicting magistrate was acting within his jurisdiction when he carried out the arrest. *A Digest of New York Statutes and Reports* (New York, 1884), pp.567-8; A. Abbott and B.V. Abbott, *Reports of Practice Cases, Determined in the Courts of the State of New York* (New York, 1855), pp.210-3.

<sup>88</sup> L.F. Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-revolutionary South* (Chapel Hill, NC, 2009).

<sup>89</sup> Merritt, ‘Vile, Immoral, and Profligate’, p.28.

system.’ Arguably, it was not a southern value system that vagrancy laws upheld, but rather a longstanding Anglo-American tradition of legally reinforcing class distinctions and the punitive management of the lower orders. Imprisonment for vagrancy, both in the south and in the north, was a ‘type of subjective incarceration’ that ‘depriv[ed]’ the poor of ‘personal freedom and bodily liberty’ as though it were ‘a second degree of slavery,’ in which ‘class – not race – dictated who could be enslaved.’<sup>90</sup> This analogy exaggerates the restraints placed on the personal liberty of criminal paupers, and draws a false equivalency between the incarceration of vagrants for periods of time from days (throughout most of the north) up to a few years (in some southern states) with permanent lifetime chattel status. Still, it raises the important consideration of how the state, writ large, conceived of its power over the poor, and the foregoing discussions illustrate the ways in which state apparatuses were used to control the labour and movement of the poor and transient.

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<sup>90</sup>*Ibid.*, p.29.

## **Chapter 7: ‘It was amongst the vagrant class...that cholera was most fatal’: Mobility, poverty, and disease**

‘There is one class of people who have no provision for cleanliness whatever - namely, the vagrants,’ wrote John Snow, the English physician often referred to as the ‘father of modern epidemiology,’ about the cholera epidemic of 1832. ‘They are notorious for contracting fevers, and carrying them about from place to place,’ he wrote, because ‘nothing assists the communication of disease more than the want of personal cleanliness.’<sup>1</sup> To Snow, vagrants were both the greatest victims and the greatest perpetrators in the spread of disease. Snow’s knowledge and experience as a pioneer anaesthetist and epidemiologist, who had developed the first theory to pinpoint an organic source to explain the contagious nature of cholera, were sought after around the world, including in the United States, throughout the nineteenth century. In his treatise on the disease, *On the Mode and Communication of Cholera*, he asserted that vagrants were so susceptible to cholera because of the ‘crowded state’ in which they were generally held in almshouses and prisons. Studying the communicability of the disease years later, Snow noted that, during the 1831-1832 epidemic in England, cholera had made its first appearances in ‘the courts and alleys to which vagrants resort for a night’s lodging.’<sup>2</sup> By the time the epidemic had waned that year, Snow wrote, it had been ‘amongst the vagrant class...that cholera was most fatal.’<sup>3</sup>

Snow’s statements were not merely hyperbolic descriptions of the havoc wreaked by disease among the poorest communities with the least sanitary conditions. Nor were they limited to England’s experience of the epidemic. In the 1830s, germ theory was all but meaningless, contagion was far from understood, and an individual’s health was viewed by the general public as a by-product of their social class and socioeconomic stability. Within this climate, vagrants had a complicated relationship with disease and health in general, the interrogation of which can provide valuable insight into the corporeality of poverty and mobility. Indigent transients comprised an especial public health concern, as a population suffering from exposure, hunger, and a profound lack of the most basic human necessities, as a direct result of not just their

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<sup>1</sup> J. Snow, *On Continuous Molecular Changes, More Particularly in their Relation to Epidemic Diseases* (London, 1853), p.28.

<sup>2</sup> J. Snow, *On the Mode and Communication of Cholera* (London, 1855), p.10-1.

<sup>3</sup> Snow, *On the Mode*, p.18.

poverty, but also their transience. In the nineteenth century Atlantic World, they were also central to societal and medical understandings of the dissemination of disease and the relationship between poverty, criminality, and health in the period where epidemiologists began to make their most profound discoveries. Like the disease itself, ideas about cholera travelled from continental Europe, to England, and then to North America. On both sides of the Atlantic during and following the 1832 cholera epidemic, researchers, physicians, writers, and the general public covered reams of paper and spent hours debating the origin, movement, and devastation of cholera. This process resulted in increased governmental regulation of health, enhanced urban planning, and contributed to efforts at community sanitation that continue into the twenty first century. Explanations for the epidemic's targeting of specific demographics – vagrants, the poor, non-whites, recent immigrants – revealed competing modes of scientific and moralistic thinking that narrate the changing social climate of the nineteenth century.<sup>4</sup>

Scholars such as Charles Rosenberg have documented the attention paid by contemporaries to the trajectory of nineteenth century cholera epidemics across Europe to England and onward to North America.<sup>5</sup> With the knowledge of the spread of the disease came understandings of contagion, of course, but also identification and prevention techniques that affirmed pre-existing perceptions of connections between morality, class, and physical well-being. As Kenneth T. Jackson has noted for New York City, the 1832 cholera epidemic palpably exposed class divisions.<sup>6</sup> This chapter explores those connections throughout the Mid-Atlantic, charting the ways in which, as Snow discussed, vagrants were pinpointed as carriers of disease, and particularly associated with the spread of cholera, as evidence of a shared transatlantic culture surrounding indigent transiency. The continuity of definition and response contributes to the potent colonial and cultural legacy of British influence on American vagrancy law, poor relief, and epidemiology.

This chapter begins by looking at the physical impacts of indigent transiency, as outlined in transients' medical case files, almshouse records, and newspaper coverage in order to investigate the root of contemporary perceptions about their wellness and

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<sup>4</sup> Charles Rosenberg claimed that 'there was no doubt in the minds of most observers; the Irish and Negroes seemed its foreordained victims.' Despite this, few believed that 'the Negro had any racial affinity for the disease.' Rosenberg, *Cholera Years*, p.59.

<sup>5</sup> Rosenberg, *Cholera Years*, p.103; C. McNeur, *Taming Manhattan: Environmental Battles in the Antebellum City* (Cambridge, MA, 2014), p.267.

<sup>6</sup> J. Noble Wilford, 'How Epidemics Helped Shape the Modern Metropolis', *New York Times*, 15 April 2008.



illness. It also utilises the records of prisons and almshouses where vagrants were incarcerated during the 1832 cholera epidemic and reports generated by inspectors and other officials during this period to argue that the punishment and incarceration of vagrants was illustrative of the pathologisation of poverty at work in early nineteenth century social management.<sup>7</sup> With high recurrence of epidemics of cholera and other similarly viewed diseases in later decades, social and cultural understandings of disease transmission became less tenable, just as scientific explanations began to gain more ground. At the centre of this discussion lies the Arch Street Prison, Philadelphia's carceral facility for vagrants, and the site of the highest mortality during the 1832 epidemic.

### **Corporeality of Indigent Transiency**

John Snow's explanations of vagrants' living conditions contributing to their vulnerability to disease addressed only the tip of the iceberg. Daily, and little-considered material struggles defined vagrants' lives, most of which were worsened by transiency. Among the most significant of these was the most basic: environmental exposure. Scholars have often had to rely on the crudest of data when considering the impact of environments on populations in the absence of first-hand accounts, especially when studying the lowest classes.<sup>8</sup> Singular indicators also arise from time to time, as noted in Julie Miller's study of New York City's foundling children which investigated the naming patterns of such infants that often acted as descriptors of their recent origins: one infant discovered out of doors in the harsh winter of 1838 was given the name Frost.<sup>9</sup> Still, statistics that reveal how many suffered or died from exposure in this period are difficult to ascertain, especially because, as Priscilla Ferguson Clement has noted, in Philadelphia, 'coroners' juries...preferred to blame most deaths by exposure in the winter on 'unknown causes' or 'the visitation of God'' to preserve the city's reputation.<sup>10</sup>

Hundreds of transients were admitted to almshouses and public hospitals in the United States each winter suffering from exposure throughout the first decades of the nineteenth century. Their names appear on admissions registers next to the notation of

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<sup>7</sup> Philadelphia suffered through cholera epidemics in 1823, 1832, 1849, and 1866. I have chosen to focus on the 1832 epidemic for the rhetorical clarity that records related to it provide on the pathologisation of vagrancy, and the intensity of the impact it had on the vagrant prison at Arch Street.

<sup>8</sup> Klepp, 'Seasoning and Society', pp.473-506.

<sup>9</sup> Miller, *Abandoned*, p.59.

<sup>10</sup> M. Carey, *Letters on the Condition of the Poor*, 3d ed. (Philadelphia, 1836), p.5, p.7, cited in Clement, *Welfare*, p.9.

their ‘disease,’ often recorded as ‘destitute,’ signifying the pathologisation of poverty at work in this period.<sup>11</sup> Many, still, like the Delaware father and son wanderers Ebenezer Widdington and Ebenezer Widdington, Jr. were admitted with ‘frozen’ or ‘frosted’ feet.<sup>12</sup> In some cases, such causes for admissions to the almshouse are broken down along the division between residents and non-residents. Race and ethnicity, in turn, while still noted in the record, faded next to the category of residence that had a more tangible impact on their admission and treatment. The black and white itinerant poor experienced a shared ‘vulnerability’ to exposure and ‘disease’ ‘as a consequence of spotty nutrition, exposure, and the vagaries of itinerant living.’<sup>13</sup>

In the New Castle County, Delaware almshouse during the 1820s-1840s, the distinction is clear: residents were most frequently admitted for illness, destitution, pregnancy, and injury. Non-residents, meanwhile, were more likely to be admitted with the description of ‘indigent travellers,’ many of them with frostbite. Non-residents tended to spend less time in the almshouse, whether voluntarily, through coercion, or death.<sup>14</sup> One of these non-residents, Harmon Lively, was admitted on 5 February 1826, described as ‘African,’ aged twenty nine, with ‘frozen feet,’ and died two days later. James Fitzgerald and James Criser were admitted together in December of 1835, both with ‘frosted feet;’ Fitzgerald died after eleven days in the almshouse.<sup>15</sup> Similar policies of designating residents and non-residents in almshouse records were followed throughout the Mid-Atlantic.<sup>16</sup>

Incarceration of the poor often, of necessity, involved the provision of health care. Some records note this occasionally reluctant offering. In the prison records for a man named James Coarsey, it is clear that the Philadelphia magistrates who committed him viewed him with contempt. Born in New York, by age 56, he was hunched over from years of labour as a shoemaker and, more recently, from a winter spent sleeping

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<sup>11</sup> In the New Castle County Almshouse, admissions records generally listed information about resident and non-resident admittants separately, but in the following order: name, illness/disease/cause for admission, age, nationality, and length of time spent in the almshouse or else information about release or death.

<sup>12</sup> Admission and Discharge Records, 1822-1832, New Castle County, Trustees of the Poor, DPA.

<sup>13</sup> Downs, *Sick from Freedom*, p.122.

<sup>14</sup> This conclusion was drawn from a comparison of the admissions entries for the various hundreds in Delaware’s counties, compared to each county’s designated sections of entries for ‘non-residenters’ in the admissions ledgers from the 1820s-40s, DPA.

<sup>15</sup> James Fitzgerald and James Criser, Non-Residenter Admissions, Admissions and Discharge Records, 1833-1850, Paupers’ Records, New Castle County Almshouse, DPA.

<sup>16</sup> Baltimore’s Calverton Almshouse designated origins and residency status in its ledgers, as did Philadelphia and New Jersey’s almshouses.

out of doors, exposed to the elements.<sup>17</sup> On 24 January 1823, he was arrested on the oaths of two men for being not only an ‘idle, disorderly vagrant’ but ‘an old convict having no home or visible means to make an honest living.’ He was sentenced to the vagrant’s usual month’s incarceration, but actually remained in the Arch Street prison for several days after his time was up, ‘he having been sick,’ and was released on 28 February.<sup>18</sup> The medical care available in prison was limited, so the detainment of Coarsey beyond his original sentence because he was unwell may suggest an awareness that even less comfort or care would be available to Coarsey on the other side of the prison’s walls.

The sick poor often received medical care in almshouse hospitals. A sample of case studies from the clinical ward of the Philadelphia Almshouse reveals some of the most challenging physical experiences of indigent transients were often the result of basic efforts at survival. One single volume of case records, charting the medical histories of almshouse residents treated from 1824-1825, acts as a window into those episodes. The volume was compiled by the resident physician and attending student physicians, narrating the illnesses and treatments of thirty three patients. Of those thirty three, eleven patients – one third of the cases – were admitted for exposure to cold. In many cases, it was a lack of shelter that led to their infirmity.<sup>19</sup>

One of the eleven patients treated for exposure, Patrick O’Flaherty, was born in Ireland around 1791, and migrated to North America in 1807. He landed in Quebec, and settled briefly there, joining the British Army some time between 1807 and 1811, when he deserted service under the Crown in favour of joining the army of the United States. He was discharged from American military service in 1814 at Sackets Harbor in New York. He travelled onward to Washington briefly, before settling in New York State for ‘about 8 or 9 years.’ He ‘left there in August’ of 1822, and by 25 February 1823, he had been admitted as a non-resident pauper in the Philadelphia Almshouse. His legal settlement was somewhere in New York, but almshouse records do not indicate whether or not an order of removal was issued to return him there.<sup>20</sup> In any case, he left not long after, but was back in Philadelphia and back in the almshouse, this time in the clinical ward, by the end of 1824. The physicians’ notes describe him as ‘Aged 35 years – A

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<sup>17</sup> James Corsey, Prison Receiving Description Register, Philadelphia Prison System.

<sup>18</sup> Commitment of James Coarsey, VAG, 1822-1827. James Corsey, Prison Docket Descriptive Register.

<sup>19</sup> MCR.

<sup>20</sup> Examination of Patrick O’Flaherty, EXPA. Patrick O’Flaherty, MCR.

Labourer.’ The previous month, he ‘took cold from night exposure’ and ‘was treated...before entering this institution,’ but his condition did not improve. He ‘entered the House’ on 13 December 1824 ‘with a cough, pain in breast, expectorations sparing & difficult & breathing extremely laborious.’ Within a week, he had begun to improve, and was continuously treated with mercurial cathartics and opium. O’Flaherty convalesced in the clinical ward of the almshouse hospital until 18 January 1825, when his case record closes with the physicians’ remark ‘this patient is well.’<sup>21</sup> O’Flaherty’s case notes specify that it was exposure to the cold overnight – either spending the whole night or sleeping out of doors – that led to O’Flaherty’s hospitalisation. After receiving treatment, and being released, he would likely have faced yet again the same conditions that had brought him there in the first place.

That same winter, Catharine Shearer fell victim to the elements. She was twenty four years old when she was admitted as a non-resident to the clinical ward of the Philadelphia Almshouse on 10 November 1826. According to the physicians’ notes, she was a ‘native of Pennsylvania’ who was ‘brought up to housewifery and has generally enjoyed good health.’ At the end of October, however, ‘after exposure to wet and cold,’ she was ‘attacked with rigors, followed by pain in the head, back, and stomach, and a well defined paroxysm of fever.’ The fever and other symptoms continued for several weeks until she was admitted to the almshouse. Hugh Thompson, a forty year old shoemaker ‘was taken with fever from exposure to cold, accompanied by pain in breast and a cough.’<sup>22</sup> Another shoemaker, twenty five year old William Kane ‘was for a considerable time exposed to the cold & damp weather’ on an immigrant ship sailing to the United States.<sup>23</sup> Twenty five year old labourer Robert Martin and forty three year old John McGuire were both admitted experiencing ‘severe pain in different parts of [the] body’ following excessive ‘exposure to cold.’ Catherine Riggins had ‘been sick upwards of 3 weeks,’ her ‘indisposition’ attributed to ‘exposure to wet and cold’ before she was taken with the same painful symptoms.<sup>24</sup>

The individuals whose treatment was recorded in these case histories were both resident and non-resident, persistent and transient; exposure was not only a danger faced by the mobile or unemployed, but by the local and employed as well. In urban America

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<sup>21</sup> *Ibid.*

<sup>22</sup> Examination of Catharine Shearer, EXPA. Catharine Shearer, MCR.

<sup>23</sup> Hugh Thompson and William Kane, MCR.

<sup>24</sup> Robert Martin, John McGuire, and Catherine Riggins, MCR.

in the early republic, 'the hard work of being poor' often translated into walking the city searching for day work, taking health-absorbing employment as a washerwoman despite the conditions, or following canal construction to bring in daily wages, and many experienced poor working conditions that endangered their health.<sup>25</sup> Free and poor African Americans were disproportionately affected by such maladies as a result of the subsistence activities, such as collecting bones and picking cloth, to which they were usually limited. Twenty five year old black woman named Susan French, for example, 'had been collecting bones and rags in the street' when she became ill with the symptoms of extended environmental exposure.<sup>26</sup>

This single volume of case histories illustrates the challenges and consequences of transiency and poverty in the early American republic, with such a high proportion of the poor lacking the basic ability to ward off the cold. The current historiography of poverty and welfare does little to help us understand Patrick O'Flaherty's, or Catherine Shearer's, or Susan French's, stories, and less still that of a man identified by the magistrate only as Wilcox, who was 'found' by police in January 1837, 'sleeping upon a snow bank.' According to the watchman, Wilcox was nearly frozen' when he was found. The event that followed is even less explicable: the watchman woke him up, arrested him as a vagrant, and escorted him to the prison, where he would serve a thirty day sentence. The watchman possessed the right of discretion in committing Wilcox to the almshouse or the prison, and elected punitive incarceration. Whether or not indoor imprisonment of either variety may have been somewhat welcome to Wilcox at that stage, with precedent to sentence the man to serve his commitment in the almshouse, his arrest suggests a punitive interpretation of Wilcox's vagrancy on the part of the watchmen, possibly as a result of an interpretation of Wilcox's morality or sobriety resulting from his circumstances.<sup>27</sup> As Kathleen Canning has succinctly argued, 'people's identities form at the intersection of discourses that define various social roles and the bodily 'experiences of desire and deprivation.''<sup>28</sup> The Philadelphia case histories highlight the deprivation that informed societal perceptions of the poor, and

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<sup>25</sup> Rockman, *Scraping By*, p.158. Medical Case Records in the Clinical Ward of the Philadelphia Almshouse, 1824-1825, GPP. For several of the individuals whose case histories are included in this volume, settlement examinations are also extant, making it possible to paint a clearer picture of their lives prior to the almshouse.

<sup>26</sup> Susan French, *Black Women's Cellar*, GPP.

<sup>27</sup> 'City Police', *PPL*, 25 January 1837.

<sup>28</sup> K. Canning, *Gender History in Practice: Historical Perspectives on Bodies, Class and Citizenship* (Ithaca, NY, 2006), p.87 cited in Higbie, *Indispensable Outcasts*, p.19.

demonstrate that, for those struggling to acquire the 'means of subsistence,' the effects of indigent transiency often manifested physically.

### Vectors of Disease

Common wisdom held that the poor were 'inherently dirty,' a conception which, as Kathleen M. Brown has explained, 'coalesced around reports following epidemics of high death rates and squalor in poor urban neighborhoods.'<sup>29</sup> Vagrants were viewed as vectors of disease, as the vehicles that threatened to bring the filth of the slums to the thoroughfares.<sup>30</sup> In times of public health crisis, as Joanne Pope Melish notes in relation to a yellow fever epidemic in Providence, Rhode Island, 'the 'laboring poor' themselves were considered a kind of secondary infection.'<sup>31</sup> Attributions of the spread of cholera to poor migrants confirmed upper class suspicions of the lower sorts that dominated social theory in the early republic.<sup>32</sup> Just as vagrancy laws and the impetus and methods for policing vagrants had been imported to the United States from Britain, so too had associations between poverty, filth, and disease. The consequence of this was a transatlantic trend of using 'metaphors of disease and reproduction' to encourage the arrest of vagrants as 'a form of crime prevention.'<sup>33</sup>

As Alan Bewell notes, throughout the Atlantic world in the early nineteenth century, 'vagrants were commonly viewed as spreading cholera (among other diseases), and urban health authorities established policies to control their movement.'<sup>34</sup> As has been discussed previously, and as Sharon Pickering and Leanne Weber explain, 'the perceived danger of [vagrants'] uncontrolled mobility was met with measures aimed to prevent free movement, justified 'by the belief that poverty, vagrancy, the spread of plague, idleness, immorality, irreligion, and crime were linked together.'<sup>35</sup> Further, 'contemporary knowledge of the link between this disease and filth' was condensed in the image of the vagrant, and indeed, Britain set the precedent for associating vagrants

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<sup>29</sup> Brown, *Foul Bodies*, p.284.

<sup>30</sup> Cresswell, *Tramp in America*, pp.22-6.

<sup>31</sup> Melish, *Disowning Slavery*, pp.131-2.

<sup>32</sup> Also seen in other times and locations, as F.M. Snowden's study of cholera in late nineteenth century Italy demonstrates, with 'heavy mortality from cholera among the 'wandering tribes' of vagrants, huxters, showmen and wayfarers.' F.M. Snowden, *Naples in the Time of Cholera, 1884-1911* (Cambridge, 2002), p.22.

<sup>33</sup> L.C. Feldman, *Citizens Without Shelter: Homelessness, Democracy, and Political Exclusion* (Ithaca, NY, 2006), p.32.

<sup>34</sup> A. Bewell, 'Cholera cured before hand': Coleridge, abjection, and the 'dirty business of laudanum', *Romanticism and History, Volume II of Romanticism: Critical Concepts in Literary and Cultural Studies*, ed. M. O'Neill (London, 2006), pp.351-2.

<sup>35</sup> P. Rawlings, *Policing: A Short History* (New York, 2012), p.45, cited in S. Pickering and L. Weber (eds) *Borders, Mobility, and Technologies of Control* (Dordrecht, 2006), p.5.

with the dissemination of cholera.<sup>36</sup> This association was potent enough to comprise the subject matter of Romantic poet Samuel Coleridge's poem about the 1832 epidemic 'Cholera cured before-hand,' wherein Coleridge addresses cholera as the personification of an 'offal-fed Vagrant.'<sup>37</sup>

The deadly epidemic that killed hundreds of thousands by 1832 was believed to have begun in India the previous year and progressed to Europe through Russia and Poland.<sup>38</sup> When the disease appeared in Edinburgh, Scotland, the first official response by the city was to designate vagrants as enemies of health, and order all magistrates to walk the length and breadth of the city in an effort to 'arrest...all beggars and vagrants' in order to keep them, and the disease they were believed to carry, confined. The English public tracked the movements of vagrants, too, and newspapers carried reports like the following from the Manchester *Guardian*, which claimed that it was 'by means of Irish vagrants from Sunderland' that 'the cholera has been twice brought amongst us.' According to this paper, the fault lay with an 'Irish vagrant' who apparently had gone 'to Sunderland to collect rags and beg.'<sup>39</sup> As David Barrie has noted, it was with the start of the 1832 epidemic in Great Britain that public health administrators and – down the line, law enforcement and the general public – began to identify 'vagrants...as being among the principal means by which disease, and cholera in particular, was spread.'<sup>40</sup>

The news of the spread of disease in Europe, and through maritime networks, on to the British colonies of Lower and Upper Canada, was followed closely with almost daily reports printed in American newspapers.<sup>41</sup> Presses printed editorials bemoaning the lack of preparedness for curtailing the movements of 'persons, who are supposed to contribute greatly to the spread of the disease, beggars and vagrants,' recommending that cities take pains to manage the threat posed by 'hosts of beggars and vagrants.'<sup>42</sup> When cholera finally did reach the United States after months of predictions and fear, American officials reacted similarly to those in British Lower and Upper Canada and

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<sup>36</sup> A. Bewell, *Romanticism and Colonial Disease* (Baltimore, 2003), p.262.

<sup>37</sup> Bewell, 'Cholera cured before hand', p.351-2.

<sup>38</sup> Rosenberg, *Cholera Years*, p.103; McNeur, *Taming Manhattan*, p.267.

<sup>39</sup> 'North Shields, Dec. 25. 1831', Manchester *Guardian*, 31 December 1831.

<sup>40</sup> According to David Barrie, 'prior to 1832 there is little evidence to suggest that the public health risks vagrants posed were an overriding concern...despite recurring epidemics.' D. Barrie, *Police in the Age of Improvement: Police Development and the Civic Tradition in Scotland, 1775-1865* (New York, 2008), p.194.

<sup>41</sup> Philadelphia *National Gazette*, 17 March 1832.

<sup>42</sup> Philadelphia *National Gazette*, 29 March 1832.

Great Britain. After a single case of cholera on Lake Erie, the first course of action taken by the city officials was to increase the number of members of the ‘police committee,’ who were immediately engaged in ‘ferreting out every thing in the shape of nuisance, or anything calculated to increase the danger of the borough, especially vagrant and intemperate persons.’ Five vagrants were arrested on the first day, a product of this ‘vigilance and liberality’ and ‘general purification.’<sup>43</sup>

One observer in Montreal summarised the prevailing view, describing ‘the wandering companies of needy vagrants whose very garments looked as though they might carry infection and death about with them.’<sup>44</sup> In Quebec City, it was anticipated that the presence of ‘wandering companies of...vagrants’ and ‘scores of half clad and worse fed families’ might ‘originate’ cholera in the city, or at least ‘operate as quick conductors of it.’<sup>45</sup> Many ports and river towns enacted quarantines for incoming goods and ships in the lead-up to the disease’s arrival.<sup>46</sup> But the primary concern during the 1832 and 1849 epidemics, as William Baly later argued, was that the early nineteenth century’s burgeoning international commerce made standard quarantine procedures ineffective against the spread of disease, due to the extent of interchange at all levels, from humans to goods. ‘The march of the epidemic is dependent mainly on human intercourse,’ he argued, and cholera was likely to be spread via the ‘bodies of troops, dirty vagrants, and foul clothes.’<sup>47</sup> Information received about the direction in which the disease was moving mingled with perception and fears of outsiders: in Baltimore, it was generally perceived that disease would arrive from ‘the Washington and Philadelphia roads.’<sup>48</sup>

The poorest – whether ‘wandering companies of needy vagrants,’ ‘half clad...families,’ or ‘dirty vagrants’ - wherever cholera appeared, suffered the greatest losses and highest mortality. Cramped conditions, poor sanitation, and poor nutrition were all accurate explanations for the disproportionate impact of the epidemic on this class. But cramped quarters could only explain so much: communicability of the disease relied upon movement, and few groups were more mobile than vagrants. These

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<sup>43</sup> *PI*, 6 July 1832.

<sup>44</sup> C.R. Williams, ‘The Cholera at Quebec’, in *Tales: National and Revolutionary* (Providence, RI, 1835), p.258.

<sup>45</sup> *Ibid.*, p.258.

<sup>46</sup> Rosenberg, *Cholera Years*, p.25.

<sup>47</sup> W. Baly, *Reports on Epidemic Cholera* (London, 1854), p.228.

<sup>48</sup> T.H. Buckler, *A History of the Epidemic Cholera at the Baltimore City and County Almshouse, 1849* (Baltimore, 1851), p.10, p.15.



conditions are especially important in considering how the susceptibility of vagrants to cholera shaped contemporary views of the vagrants' jail in Philadelphia, the Arch Street Prison. The 1832 cholera epidemic was the defining event in the history of that institution.

### **Perpetrators and Victims**

John and Jane Welsh were arrested together as vagrants on 5 August 1832, in the midst of a bacterial and social maelstrom. Committed to the Arch Street Prison on 'the fatal Sunday,' as it was soon referred to, they became characters in 'a tale of horror.'<sup>49</sup> Newspapers were describing piles of bodies lining the streets, with gravediggers unable to keep up with the demand for their services. The epidemic had reached the United States in early summer, and had been raging in Philadelphia for nearly three weeks at the time of their arrest. A month earlier, New York City's Court of Sessions released all misdemeanants who were incarcerated in the city's almshouse, but cities further south had not yet reached the point of crisis to prompt them to do the same.<sup>50</sup> Hundreds in Philadelphia would succumb to the disease by the time the epidemic waned in late August, but not before Jane Welsh, convicted just that morning of vagrancy, died alone in prison; John Welsh, meanwhile, was sent to the hospital, possibly to meet the same fate.<sup>51</sup>

American presses had been printing news of the spread of the disease for months, and fears were abundant. Montreal and New York City had some of the highest mortality rates in North America. Montreal lost around 4,000 residents, while New York City lost 2,782. Baltimore was reported to have lost 853, many of whom were residing in the city's almshouse, where the mortality rate was disproportionately high. The city of Philadelphia had one of the lowest mortality rates of the stricken cities that year, only one in 173 persons, but the mortality at one particular location, the vagrant prison at Arch Street, raises many questions.<sup>52</sup> At Arch Street, the prison where Jane Welsh died that August, it is estimated that one in four persons died of cholera in the

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<sup>49</sup> *A Tale of Horror*.

<sup>50</sup> Rosenberg, *The Cholera Years*, p.29.

<sup>51</sup> Commitments of Jane Welsh and John Welsh, VAG, 1832-1836.

<sup>52</sup> J.B. Osborne, 'Preparing for the Pandemic: City Boards of Health and the Arrival of Cholera in Montreal, New York, and Philadelphia in 1832', *Urban History Review / Revue d'histoire urbaine*, 2, vol. 36 (2008), 37. The death tolls for major northeastern cities were as follows: Montreal: 1 in 14 persons, New York: 1 in 47 persons, Philadelphia: 1 in 173 persons, Philadelphia Almshouse: 1 in 13 persons (C. Reynolds, *Albany Chronicles* (Albany, 1906) and Buckler, *A History of Epidemic Cholera at the Baltimore City and County Almshouse*, p.5).

few short weeks it took up residence there.<sup>53</sup> The narrative constructed around poverty and the cholera epidemic of 1832 has been discussed by historians and scholars of epidemiology in detail, and much of this analysis can be extended to carceral institutions.<sup>54</sup> Compared to the almost completely spared Walnut Street Prison and Eastern State Penitentiary, the significantly higher mortality rates at the Arch Street Prison served as confirmation of contemporary views about the epidemiological ramifications of destitution.

In 1823, a cholera epidemic brought an excessive death toll to Arch Street, with 265 prisoners lost, totalling nearly a tenth of the overall jail population.<sup>55</sup> An 1824 report by the Inspectors of the Prison of the City and County of Philadelphia foreshadowed the disaster that repeated itself with intensity less than a decade later. According to the Inspectors, of the prisoners at Arch Street, ‘two thirds...were vagrants, disorderly persons, and disturbers of the peace.’ It was ‘to this cause’ - the presence of so many vagrants in one institution, as opposed to other varieties of criminals, they argued - that the high ‘quantum of disease’ in that institution was to be attributed.<sup>56</sup> This assessment seems to be delivered as a foregone conclusion without remedy. The fact that similar evaluations were made after the 1832 epidemic suggests a deeply rooted association between the bodies of vagrants and disease. Interrogating these associations further suggests that assumptions about vagrants and other petty criminals played an integral role in how contemporaries constructed their own narratives about cholera, as well as the ways in which vagrants and other indigent transients experienced the physical toll of their poverty and mobility.<sup>57</sup>

According to physicians’ and prison inspectors’ reports, cholera reached Philadelphia in 1832 in the body of a female vagrant. She, who remains unnamed, had ‘only been a day or two in the house’ when she fell ill on 13 July. She was believed to have been among the group ‘who had recently entered the jail’ and were the ones who

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<sup>53</sup> The official report delivered to the legislature after their requested investigation of the mortality in the prison was carried out concluded that around 75 persons died of cholera in Arch Street between 30 July and 10 August 1832. Other reports suggest as many as almost one hundred died in one day, ‘that ever memorable Sunday.’ See *A Tale of Horror*.

<sup>54</sup> Rosenberg, *The Cholera Years*, p.133. Brown, *Foul Bodies*, p.284.

<sup>55</sup> 7% to be exact. ‘American Intelligence’, *The Philadelphia Journal of the Medical and Physical Sciences* (Philadelphia, 1824), p.245. Manion, *Liberty’s Prisoners*, p.182.

<sup>56</sup> ‘American Intelligence’, p.245.

<sup>57</sup> The disproportionate loss of life in the Arch Street Prison during the cholera epidemic was not mentioned by Rosenberg in his seminal study *The Cholera Years*, though the assistance rendered by prisoners there during the crisis was noted. Rosenberg, *Cholera Years*, p.95.

apparently ‘suffered the most.’ They were ‘principally old vagrants, who were constantly in and out of the jail.’<sup>58</sup> The prison’s vagrancy docket lists seven women committed for vagrancy between 10 July and 12 July who may have been the woman in question. Of these seven women, only one of them was listed as a fatality: Eliza Gray was arrested on 12 July, and by 4 August, at the height of the disease’s presence at Arch Street, she had died. But epidemic cholera was known for its unexpected and incredibly swift progression. Death often occurred within hours of a victim showing symptoms, so it may be unlikely that the report pinpointing a female vagrant who had only been in jail a day or two is correct, unless of course she was treated and recovered. Still, within two weeks of the first case, it was reported that ‘the epidemic cholera broke out decidedly in the Arch street jail.’<sup>59</sup>

On 5 August, the grisly situation in the prison led to the authorisation of the warden to release the non-dangerous prisoners. The prison inspectors were called in and determined that ‘the urgency of the case’ warranted this action. Some vagrants and other petty criminals were released upon their word, while the city’s Recorder of Deeds and an attorney for the Court of Quarter Sessions, J.B. Sutherland, ‘released as many from the criminal side, as their powers would admit of.’<sup>60</sup> Formal processes were also followed for the release of the debtors who were held in the prison, for whom ‘some medical gentlemen and others, private citizens, as well as the county commissioners, advanced sums of money to release the debtors.’<sup>61</sup> As a result, it was understood that no deaths occurred ‘in the debtor’s apartment [sic], owing to the humane conduct of several individuals, who by discharging, or becoming responsible for the debts, released the greater part of the inmates on that side of the prison.’<sup>62</sup>

One Philadelphia physician, Dr. Richard Harlan, described what it was like to work with the sick in the Arch Street Prison on one of the highest death-toll days, writing that at least ‘60 were sick at one time, the suffering and agony of the dying wretches was an awful sight.’ According to his count, ‘26 died there that day,’ 6 August, and so far, on the day he was writing, another twenty six had succumbed, but he knew there would ‘probably be more tomorrow.’ His time, he lamented, was

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<sup>58</sup> ‘On the apartment for Criminals and untried Prisoners, in the Arch Street Jail’, *Hazard’s Register of Pennsylvania* (Philadelphia, 1833), p.177.

<sup>59</sup> *Ibid.*, p.177.

<sup>60</sup> ‘A Tale of Horror’, p.5.

<sup>61</sup> ‘On the apartment’, p.177-8.

<sup>62</sup> ‘A Tale of Horror’, p.5.

‘usefully, at least, if not profitably employed, night and day,’ because of ‘cholera, cholera, cholera!!!!’<sup>63</sup> At this time, the almshouse increased its humanitarian efforts, offering admission regardless of residence in acknowledgement of the damage caused by the epidemic. Following its abatement, one representative from the Philadelphia Almshouse began to work through the backlog of correspondence that had accrued during the crisis, writing that one letter ‘would have been given immediate attention were it not for the great press of business at that particular period of time, attributable in a great measure to the prevalence of the epidemic which mired itself over our city.’<sup>64</sup>

When the first female vagrant became a cholera victim in mid-July, there were 310 prisoners incarcerated at Arch Street. The inmates were divided by sex, with 110 women in the female apartment, and 170 men in the male apartment. Since the Arch Street Prison still served as the facility for the incarceration of debtors, an additional 30 prisoners were held in the designated debtors’ apartment.<sup>65</sup> Among those imprisoned at Arch Street during the epidemic, the names of some of the most frequent recidivist vagrants appear on the docket. As has been demonstrated, the line between poverty and vagrancy in this period was especially thin, and many of these individuals left a paper trail in not just prison records but almshouse and settlement examinations, too, making it possible to reconstruct brief biographies for several persons among Arch Street’s cholera victims.

Patrick Cane was an Irish immigrant who arrived in New York in 1817. He stayed there for about two months, but finding insufficient prospects for work, left there, spending two months in Trenton, New Jersey before continuing on to Philadelphia. There, he remained, working ‘for different persons for a few months’ at a time. Cane spent some time in the Philadelphia Almshouse in the winter of 1823.<sup>66</sup> He continued this lifestyle over the next several years until, on 10 July, 1832, Cane was arrested, for ‘being [an] idle vagrant.’ He was sentenced to one month’s imprisonment,

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<sup>63</sup> Richard Harlan to John James Audubon, August 1832, cited in R. Rhodes, *John James Audubon: The Making of an American* (New York, 2004), pp.368-70.

<sup>64</sup> Jeremiah Peirsol to Directors of Poor of Lancaster County, 18 October 1832, GPP.

<sup>65</sup> Though imprisonment for small fines began to be legally phased out around 1800, carceral institutions for those owing significant debts were still a common feature on the landscape of the early nineteenth century United States, and was not banned federally until 1833. For further information about early nineteenth century debt imprisonment and its abolition, see B.H. Mann, *Republic of Debtors: Bankruptcy in the Age of American Independence* (Cambridge, MA, 2009).

<sup>66</sup> Examination of Patrick Cane, EXPA, 1821-1825.

but cholera intervened, and Cane became one of the Arch Street Prison's numerous fatalities that summer.<sup>67</sup>

Another one of these victims, a woman named Susan Hunter, had served prison time for vagrancy convictions repeatedly. In 1830, she spent the month of February timing out her sentence as an 'idle vagrant,' and she later spent the month of March 1832 also jailed for vagrancy.<sup>68</sup> Her last conviction was a death sentence: when she was arrested on 3 August, prisoners at Arch Street had been dying of cholera for three weeks. Two days after her conviction, Hunter became one of the many victims of what was apparently referred to in the prison as 'that ever memorable Sunday' mere hours before prison inspectors began to release some prisoners in an attempt to spare their lives.<sup>69</sup>

An editorial printed in the midst of the crisis decried any efforts to relocate sick transients to the almshouse or elsewhere in order to receive care for fear of 'spreading the contagion.' To the authors, it was clear that the disease would have ripped through the almshouse if cholera-infected patients were brought there. But concern lay also outside of the buildings: there was fear that the residents might return to the vagrant lifestyle that had led them there in the first place and they may 'burst away, and spread around the country, going into the farm houses.'<sup>70</sup> One man who had come in contact with cholera patients while in the Arch Street Prison, and was released by the inspectors as part of their humanitarian efforts, did just that. He apparently began walking in search of work immediately, following the Schuylkill River into Montgomery County, where he joined a crew at the Plymouth Locks. He became ill shortly after his arrival, and was dead by nightfall. In the process, fifteen other people became sick, nine of whom died.<sup>71</sup> The canals were an especially dangerous place to be labouring, as poor hygiene in close working quarters sickened many. Residents of New Jersey blamed canal workers in particular for spreading cholera after the epidemic reached the state via the Delaware and Raritan Canal near New Brunswick. 'Irish laborers' and 'their

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<sup>67</sup> Commitment of Patrick Cane, VAG, 1827-1833.

<sup>68</sup> Commitments of Susan Hunter, VAG, 1827-1833.

<sup>69</sup> 'On the apartment', p.177.

<sup>70</sup> W.E. Watson, et al, *The Ghosts of Duffy's Cut: The Irish Who Died Building America's Most Dangerous Stretch of Railroad* (Westport, CT, 2006), p.91.

<sup>71</sup> Watson, *Ghosts of Duffy's Cut*, p.91. This anecdote is similar to that related to the sensational deaths of along the railroad at Duffy's Cut, where one man supposedly carrying cholera contagion walked 'up to the Valley Creek, near the line of East Bradford and East Caln, where he died.' S. Hazard, 'The Cholera', *Hazard's Register of Pennsylvania*, vol. 10 (Philadelphia, 1832), p.299.

‘shantees,’ in which they lived in close quarters, with ‘their filthy habits and great numbers’ were also held to blame in Somerset County and Trenton.<sup>72</sup> The Irish were consistently associated with dirt, disease, disorder, and transience throughout the nineteenth and into the twentieth century in the United States. As Christopher Muller notes, ‘So tight was the perceived connection between Irishness and disorder that ‘rowdy, undisciplined behaviour in the 1830s was sometimes called ‘acting Irish.’’<sup>73</sup> *Niles' Weekly Register* of Baltimore reported with interest in the epidemic's impact at Arch Street, but with little attention to the class or criminal status of those incarcerated there. Instead, writers from Baltimore focused their narratives of the spread and decimation by the disease on racial distinctions: ‘In all places where persons of color abound, the disease has affected them most severely,’ the Register reported, ‘because of their own imprudence, as the want of attention and necessaries when sick.’ In general, non-white and non-native born Americans were viewed as more likely to succumb to diseases like cholera and thus feared as infectious.<sup>74</sup>

Panic about the spread of cholera was underscored by knowledge of stories like the above, and that the lower, mobile classes were simultaneously the most vulnerable and the most likely to spread the disease. One single disease carrier in the vicinity was enough to stoke the fires of fear up and down the East Coast. One could infect hundreds. Regional newspapers pinpointed individuals as well as groups, citing migrants and ‘sick transient persons’ as the most likely culprits.<sup>75</sup> Recent immigrants and other non-citizens were especially threatening, in part due to their unknown origins and in part due to the fact that cholera indeed had been spread by human movement. With strangers and non-citizens being viewed as impure, citizenship came to signify purification.<sup>76</sup>

There were figurative and literal implementations of this purification process. Prison reformers wrote, in the years following the epidemic, that if arrangements had been made for each vagrant entering Arch Street to ‘take a bath’ as was ‘the first act

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<sup>72</sup> M. Deyrup and M.G. Harrington (eds), *The Irish-American Experience in New Jersey and Metropolitan New York: Cultural Identity, Hybridity, and Commemoration* (Lanham, MD, 2013), p.177.

<sup>73</sup> C. Muller, ‘Northward Migration and the Rise of Racial Disparity in American Incarceration, 1880–1950’, *American Journal of Sociology*, 118, no. 2 (2012), pp.293–4.

<sup>74</sup> ‘Progress of the Cholera’, *Niles' Weekly Register*, 29 September 1832. Rosenberg, *Cholera Years*, p.59.

<sup>75</sup> ‘Progress of the Cholera’, *Niles' Weekly Register*, 29 September 1832.

<sup>76</sup> As Julio Ramos has noted in discussing the importance of state conceptions of vagrancy in understanding the 1833 epidemic of cholera in Cuba, citizenship was the ‘category in which the juridical intersects with the medical and cultural technologies intervening in the construction of subjectivity.’ Ramos, ‘A Citizen Body’, pp.188–189.

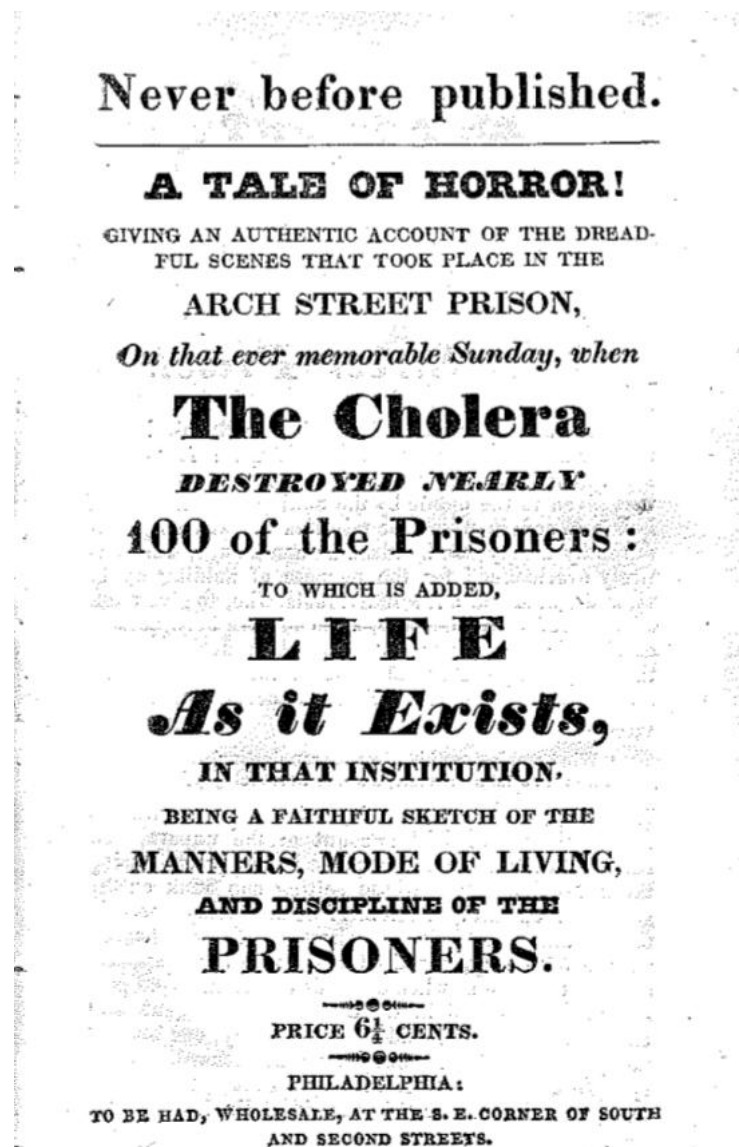
imposed upon a convict as obligatory' at Eastern State, the extent of disease and death at the prison might have been prevented. The dangers of uncleanness were within and without: the author declared that many vagrants were 'sometimes ejected from the prison in a state of more abject filth and destitution' after serving their sentence than they had been upon commitment.<sup>77</sup> The attentiveness devoted to each prisoner under the separate system, in addition to the actual physical separation in confinement, gave some the impression that the convicts held at the Eastern State Penitentiary, were 'of a different class.'<sup>78</sup> With their supposed 'higher intelligence,' better social habits, and better hygiene, some outsiders viewed these inmates with more respect than the average 'miserable vagrant' confined in the Arch Street Prison. One editorial, printed in the *Philadelphia Inquirer* months after the cholera epidemic had ended in the region, argued that some deaths may have been prevented if some of the practices followed at Eastern State had been implemented at Arch Street.

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<sup>77</sup> *PI*, 9 November 1832.

<sup>78</sup> *Ibid.*

Figure 7.1: Pamphlet documenting the events at Arch Street Prison during the 1832 cholera epidemic



*The distinctive experience of Arch Street Prison during the epidemic - and the vagrants within it - were central to the way nineteenth century Philadelphians narrated and remembered the epidemic. 'Tale of Horror,' a sensational pamphlet printed not long after the city had begun to recover. The authors detailed the conditions of the prison and the experiences of its inmates. It offered laments for lives lost, praises for heroic physicians, and recommendations for prison management.*

*Source: A Tale of Horror! Giving an Authentic Account of the Dreadful Scenes that took place in the Arch Street Prison (Philadelphia, 1832).*



Figure 7.2: *Encyclopaedia* entry for 'epidemic cholera' featuring the vagrants in Arch Street Prison



### EPIDEMIC CHOLERA.

This frightful form of Cholera Morbus, which made its appearance on the Banks of the Ganges, in 1817, and successively through various countries and islands of the East, after having crossed to the Western shores of Europe, made its first appearance on our continent, on the Banks of the St. Lawrence, in 1832;—soon afterwards appearing at New York, and speedily extending its ravages to our City. About the middle of July, the vagrants and prisoners in the Arch Street prison (at that time,) located at the corner of Arch and Broad Streets, became suddenly affected with Spasmodic Cholera, and a large number died, within a few hours of the attack. The humanity of many of our citizens, was distinguishingly displayed on that occasion, and JOHN SWIFT, Esq. the late Mayor, deserves to be mentioned, for his courage and fortitude, at that time.

*A few years later, an illustrated historical encyclopaedia of Philadelphia published by Daniel Bowen in 1839, not even a decade after the crisis, places vagrants' experience with the epidemic at the centre of its entry on the disease, emphasising the significance of the crisis at Arch Street in the public mind.*

*Source: D. Bowen, A History of Philadelphia, (Philadelphia, 1839), pp.135-7.*

Months after the epidemic had waned in Pennsylvania, an investigative report was read before the state legislature that largely solidified how cholera would be remembered after 1832. Officials had ordered the investigation out of concern about the excessive mortality rates at the Arch Street Prison and how these losses may have been linked to the ‘sufficiency of the legal provisions for the maintenance of untried prisoners and debtors.’ When the findings of the report, presented by physician and president of the Board of Inspectors for prisons in the state, Dr. J.R. Burden, were read before the House of Representatives on 21 February 1833, the recommendation was made to improve the state’s treatment of vagrants, petty criminals, and sundry untried prisoners who found themselves in Arch Street and other holding cells in the state. So long as providing greater ‘provisions and comforts’ would not encourage ‘idleness and profligacy,’ the committee concluded, what may sound like an ironic pronouncement to modern readers, such individuals were to be placed ‘as least upon an equal position with the convicts.’ Of course, poverty could not be eradicated by a single act of legislation, the committee recognised. But it was also noted that ‘the character of some of our laws, as well as in their mode of administration’ affected ‘disadvantageously, the poorer portions of the community,’ which was within their power to change.<sup>79</sup>

The committee’s acknowledgement was tied directly to both the high concentration of contagious disease within the population of vagrants and untried prisoners, as well as the dissemination of disease by them. The committee implied that lawmakers were partially responsible, as regulations and administration ‘peculiarly expose[d] them at all times to the influences of epidemic disease, and unduly increase the number who tenant the jails.’ The state recognised its role in, at least partially, creating the population of the incarcerated destitute and debtors. But rather than adjusting vagrancy laws or placing tight restrictions on debt imprisonment (as most other nearby states had done by 1833), the recommendation offered by the committee was not to decriminalise the poor, but rather to provision them, when in state custody, as sufficiently as the criminal.<sup>80</sup>

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<sup>79</sup> ‘On the apartment’, p.182-3.

<sup>80</sup> Pennsylvania’s reluctance to abolish imprisonment for debt has at least two potential causes: outright abolition may have seemed inconsequential in light of period adjustments and exemptions introduced to the law in the preceding decades (one of which, for example, banned the imprisonment of women for debts owed), and abolition may have smacked of fraud to mercantilist Pennsylvanians who particularly feared abuse of insolvency declarations by the undeserving. See S.L. Shaiman, ‘The History of

Burden's report summarised many of the interpretations about vagrants' lives, status, and health that comprised contemporaries' received wisdom on the subjects. Burden saw Philadelphia's vagrants through the nineteenth century's two worst cholera epidemics, in 1832 and 1849, reporting to the state on the management of the prison populations following each crisis. In his 1850 report, he noted that 'the experience gained in 1832 was of some avail.'<sup>81</sup> His primary recommendation to the Board to improve responses in future epidemics was to suggest a more attentive means of managing the vagrant population. 'The want of a house of industry,' instead of only an almshouse and jail, 'was very apparent during the prevalence of the epidemic,' he wrote, and could have prevented the disease from spreading within the population most likely to succumb to it. An institution 'where the houseless vagrant might be fed, clothed, worked, and kept the proper length of time' would have, according to Burden, been tremendously beneficial to those providing treatment and indeed, to the population of 'victims of unwholesome diet, and destitute of proper clothing.'<sup>82</sup>

Burden echoed reformers who believed in the benefits of hard labour and penitence for the criminally-inclined, and that while vagrants were not generally considered part of the convict population, length of sentences ought to be one area where they could be treated on par, in order to enable vagrants to more fully imbibe the ameliorative qualities that incarceration had to offer. 'The vagrant is not imprisoned long enough to make that change in his physical constitution by diet, comfort, and work, as will enable him to resist disease,' he wrote.<sup>83</sup> For Burden, longer sentences in a purpose-built institution might remedy that. He described vagrants as significantly more likely to become victims of cholera than convicts, writing that it would be 'fair to presume that' even the few convicted criminals at Arch Street who did contract the disease could have been spared if they had 'been beyond the atmosphere of a vagrant prison.'<sup>84</sup> This sort of institution, according to Burden, was unique because the bodies of vagrants were unique: 'At the approach of an epidemic,' he wrote, 'the vagrant prison is always the cause of deep anxiety; it is the nucleus of diseases. In the time of

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Imprisonment for Debt and Insolvency Laws in Pennsylvania as They Evolved from the Common Law', *American Journal of Legal History*, 4, no. 3 (1960), pp.205-25.

<sup>81</sup> *Third Annual Report of the Board of Inspectors of the Philadelphia County Prison* (Harrisburg, 1850), p.441.

<sup>82</sup> *Third Annual Report of the Board of Inspectors of the Philadelphia County Prison*, pp.441-70.

<sup>83</sup> 'Fourth Annual Report of the Board of Inspectors of the Philadelphia County Prison', *Journal of the Senate of Pennsylvania*, vol. 2 (1851), p.421.

<sup>84</sup> *Third Annual Report of the Board of Inspectors of the Philadelphia County Prison*, p.440.

the cholera in 1832, the mortality was dreadful; whilst at the convict prison, situated at a distance, there was but a solitary case.’<sup>85</sup>

## Conclusion

The identities of convicts and vagrants were so distinctive, for Burden and the rest of the Board of Inspectors, as to warrant incarceration in separate institutions from each other, because of the different ways in which they experienced disease. Their poverty and criminality, then, were defined, on both sides of the Atlantic, as extensions of their bodily dispositions. On this basis, criminals were understood to have greater agency over their actions – illegal or not – and thus, over their susceptibility to disease. Vagrants, meanwhile, clearly the victims of the side effects of poverty and class, lacked the agency to resist contamination.

The consequences of the physical conditions of vagrancy and incarceration were starkly visible in the Arch Street Prison in 1832. Commentators placed the onus for the high death toll at Arch Street on those in charge of treatment in the latter institution, who afforded their charges fewer physical comforts, but also on the social class of the inmates themselves. This disparity could also be seen as a marked distinction between the old and new systems of punishment that emerged in the early American republic. The moniker of the early nineteenth century as the ‘age of the penitentiary’ is markedly ‘less complete and far-reaching’ when considering vagrancy – and not only in policing, but in incarceration, as well.<sup>86</sup>

Vagrancy was a criminal action so deeply connected to social class that those who committed it were not viewed as criminals after their convictions, as the discussion of Arch Street demonstrates. The treatment of vagrancy provides a clear illustration of how early Americans were developing their understanding of what policing could and should, and could not and should not, do. Much of this played out in the debate over imprisonment for debt. In Philadelphia, the presence of debtors in Arch Street during the epidemic heightened concerns over the dangers as well as futility of incarcerating debtors.<sup>87</sup> Even in a city known worldwide for its scientific reputation and its inventive

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<sup>85</sup> According to Burden, ‘in 1848...the influence of the vagrant male apartment operated on the convict apartment; and in the female prison, where convicts and vagrants are under the same roof, the mortality was the greatest.’ ‘Fourth Annual Report of the Board of Inspectors of the Philadelphia County Prison’, *Journal of the Senate of Pennsylvania*, vol. 2 (1851), p.421.

<sup>86</sup> Nicolazzo, ‘Vagrant Figures.’ p.94.

<sup>87</sup> A lot of these debates have been recurring in recent decades, as incarceration for non-payment of court fees and fines reaches new heights. As law professor Alan White described this process, ‘If, in effect,

methods of penal incarceration, Arch Street stood apart, seemingly untouched by the movement toward separation and reform as the methods and goals of imprisonment that was the order of the day. It continues to provide a valuable lens through which to look at the role of vagrancy, and more broadly, class, in the narratives constructed about the 1832 epidemic, as well as the ways in which vagrants and other indigent transients experienced the physical toll of their poverty and mobility.<sup>88</sup>

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people are being incarcerated until they pay bail, and bail is being used to pay their debts, then they're being incarcerated to pay their debts.' K. Drum, 'Debtors' Prison is Back!', *Mother Jones*, 14 December 2011; S. Forsyth, 'Not paying a fine should not mean jail time', *New York Daily Record*, 31 March 2015.

<sup>88</sup> The disproportionate loss of life in the Arch Street Prison during the cholera epidemic was not mentioned by Rosenberg in his seminal study *The Cholera Years*, though the assistance rendered by prisoners there during the crisis was noted.

## Chapter 8: Conclusion

In 1851, Dr. J.R. Burden, the physician who had treated decades' worth of vagrants, paupers, and petty criminals in the Arch Street Prison and elsewhere, argued that vagrants 'deserve the designation of unfortunate rather than of criminal.' Underscoring this point, he asked, 'Why put a man in a cell because he has no home?' <sup>1</sup> This dissertation has, in part, suggested a few possible answers to what Burden intended as a rhetorical question. In the Mid-Atlantic during the early republic, the answer was for purposes of deterrent punishment. In particular, to deter the poor from excessive mobility and idleness, for these practices challenged authorities' perceptions of how the poor should behave, as well as how sources of labour should be allocated and common economic resources managed. <sup>2</sup> The limitations on liberty that penal incarceration imposed in the early republic and antebellum United States classified it as a punishment. But for transients, incarceration held an additional layer of punishment, as a very literal means by which to inhibit movement. This, in turn, reinforced the ideas put forward in settlement laws, state constitutions, and welfare policies that excessive mobility was an illicit activity. Incarceration, even when as short-lived as the sentences resulting from most vagrancy convictions, functioned as an impediment to geographical movement that sent the message that the homeless, transient, and unstable had violated the code of acceptable conduct.

By exploring the relationship between welfare, mobility, crime, and punishment in the Mid-Atlantic during the early nineteenth century, this dissertation has argued that the concept of indigent transiency played a significant role in shaping poor relief, policing, and penal policies in the early American republic. Vagrants and pauper migrants engaged in geographical movements that violated the intentions for inter-state ingress and regress first laid out in the Articles of Confederation. Fugitive slaves and runaway servants used their bodies to participate in illicit forms of mobility that often involved a transition from experiencing the oppression of an unfree labour status to the oppression of poverty. All of these individuals were subject to institutional mobility

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<sup>1</sup> 'Report of the Inspectors of the Philadelphia County Prison', *Journal of the Pennsylvania Senate* (Harrisburg, 1851), p.421.

<sup>2</sup> Schmidt, *Free to Work*, pp.65-6, pp.86-8.

sanctioned by the state that superseded the choices they had made about their own movement and stasis.

This dissertation has traced the evolution of the indigent transient population and shown that there was a stark difference between indigent transients at the beginning and end of the nineteenth century. The proportions of African Americans and women of all races in the populations of indigent transients in almshouses and prisons declined between the 1820s and the 1870s by nearly 60% in the case of women, and more than 90% in the case of African Americans.<sup>3</sup> As this dissertation has explained, the experience and regulation of indigent transiency was shaped by these categories of gender and race in a variety of ways. African American vagrants were targeted as particularly dangerous, especially in Maryland, Delaware, and further south, because contemporaries believed that their race conferred on them a status of not only inherently criminal but also inherently mobile. This relationship is clearly manifest in the use of the precedent of vagrancy laws to justify the punishment of fugitivity among former slaves as discussed in Chapter 5. Furthermore, for indigent transient women, state control of their movements was profoundly patriarchal, as their own choices of where to move and to live were subjugated by authorities' deployment of coverture law to determine their legal settlements, as discussed in Chapter 4.

Indigent transiency was linked, in the first decades of the nineteenth century, with definitions of citizenship, social epidemiology, and the provision of relief to the needy. This study has aimed to tease out these connections using ethical epistemological interpretation and analysis of sources, while acknowledging that many of them are nearly the only historical remnants of indigent transients. It has attempted to represent transients' stories, acknowledging that many of these stories were originally recorded by authority figures and mediated through several layers of power dynamics. Many of the questions addressed in this dissertation have great potential to be explored on a much larger scale. For example, how does the United States' management of indigent transiency compare with other nations that lack strong roots in British jurisprudence? What is the extent to which regional differences between north and south, and the eastern and western territories, might point to uniquely American interpretations of vagrancy? Still, there was clearly a shared legal conception of indigent transiency in this period that was inherited from early modern English poor laws and implemented

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<sup>3</sup> Clement, 'Transformation', p.66.

across the Mid-Atlantic and indeed, much of the rest of the United States, as the examples provided here, from Rhode Island to Maryland to Missouri to South Carolina suggest. More research should be done to investigate, for example, similar conceptions of the relationship between vagrancy and the spread of cholera in the 1830s in Scotland to the United States to Cuba, and the similarities in white fears of vagrancy resulting from slave emancipations from the Americas to Zanzibar.

By recognising the critical role of mobility in the experience and regulation of vagrancy, this study has begun to place vagrants and other indigent transients at the centre of debates surrounding suffrage rights, the emancipation of slaves, and the transmission of cholera in the early nineteenth century Mid-Atlantic. Citizenship, in this period, was construed as a function of residency, leading to the exclusion of transients and other non-residents from community and civic life, and, in turn, from welfare provisions integral to their livelihood. Indigent transients, through pauper removal and forced transportation, were simultaneously punished for their geographical mobility and forced to participate in it further. Subsistence migration was translated into illicit mobility and forced transportation by the state became a form of institutional mobility. Because of this construction of community, transients, their movement, and their instability, as well as others who occupied the interstices of early nineteenth century society, posed a serious challenge to the state. This transiency was guarded against in myriad ways, from requiring the ejection of non-resident paupers from towns where they might deplete poor relief funds in New York, New Jersey, and Pennsylvania, to the inclusion of disclaimers against vagrancy in the certificates of manumission of slaves in New York and New Jersey. This simultaneous construction of criminality and strangerhood for indigent transients was particularly profound in the context of the spread of cholera, a significant fear in the nineteenth century, as many in the Atlantic world linked the mobility of disease with the mobility of the lower classes.

In these ways, state and local legal systems policed the lives of the poor by limiting the movement of their bodies, most potently for African Americans. This reflected the logic of the marketplace, voiced as concerns about vagrancy, dependency, and labour. Under this framework, abstention from labour, either voluntarily or involuntarily, translated into the definition of one's actual freedom by the metric of



one's labour status.<sup>4</sup> Poverty was linked with vagrancy, race was linked with poverty, and vagrancy was linked with criminality. Through these connections, the state determined how, for whom, for how long, and for how much pay individuals laboured, and punished those who did not labour. In the early American republic, personal industry, achieved through an acceptable form of labour or employment, was one of the few characteristics that could protect an individual from a vagrancy conviction.

The findings laid out here point to one central claim: that indigent transiency, in its many forms and through the varied forms of its management, contributed significantly to understandings of citizenship, labour status, freedom of movement, the spread of disease, and the transformation of punishment in the early American republic. These conclusions suggest that historians could do more to find the antebellum precedents of the late nineteenth century phenomena of the tramp and the criminalisation of race.<sup>5</sup> The historiography on these subjects should reach back further chronologically, with deeper analytical intentions, than it has previously done.

The origins of the mobility restriction and labour compulsion of the Black Codes, the response to the 'tramp scare' of the 1890s and the rail-riding hoboos of the 1930s lies in early American poor laws and vagrancy statutes, and even earlier still, colonial and British policies dealing with the poor and mobile. The potency and longevity of their impact can be seen, even in the present, in Baltimore officials' response to the unrest in that city in the spring of 2015, following the death of black Baltimore resident Freddie Gray at the hands of city police. There, as Robert Gamble has argued, the legacy of slavery and antebellum origins of laws limiting the mobility of African Americans, was on full display as a curfew, upheld with 'uneven enforcement for white and black protestors' was put in place to 'curtail unlicensed movements,' especially by African Americans. As twenty first century riot control harkened back to nineteenth century efforts to 'curb the nocturnal movements of African Americans, the 'racially coded ways that movement has been defined and patrolled' in American cities is starkly clear.<sup>6</sup>

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<sup>4</sup> These statements are derived from a comment offered by Richard Kent Evans at the Barnes Club Conference at Temple University in 2016.

<sup>5</sup> This suggestion has been made previously by Ira Berlin in 'Southern Free People of Color', p.10 and in K.G. Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, 2011), pp.1-14, pp.35-87.

<sup>6</sup> Gamble, 'African Americans, Mobility, and the Law', p.2.

Curfews, of course, are not the only remnant of these antebellum efforts at mobility limitation of the poor and non-white. Loitering statutes and stop-and-frisk laws continued to echo the logic behind and language of vagrancy prosecution long after it was declared unconstitutional. Highly discretionary and overtly classed and raced, stop and frisk laws are viewed by some scholars as a direct replacement for vagrancy laws, for a nearly identical purpose. As Risa Goluboff has argued, in the 1960s, ‘the police saw stop and frisk and vagrancy (and similar) laws as alternative ways of apprehending suspects who had not given them probable cause to arrest for other crimes.’ From the mid-twentieth century onwards, vagrancy laws were replaced by stop and frisk policies that replaced the crime prevention aspects of the earlier statutes while policies prohibiting loitering addressed the mobility-curbing and stranger-punishing aspects.<sup>7</sup> The historical roots that prompted indigent transiency and the ways in which it has been treated under the law remain profoundly relevant in the twenty first century. As Americans continue a national conversation about the policing of behaviours and of individuals, there is little doubt that it will continue to remain so.

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<sup>7</sup> Goluboff, *Vagrant Nation*, p.209, p.11.

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