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Strikers and the Right to Poor Relief in Late Victorian Britain: The Making of the *Merthyr Tydfil* Judgment of 1900

Andy Croll

Abstract Did late Victorian strikers have a right to poor relief? Historians have suggested they did not. Scholars point out that nineteenth-century strikers rarely turned to the Poor Law for assistance, and when they did, during a colliers' strike in South Wales in 1898, Poor Law officials were taken to court by disgruntled coal companies. In the subsequent High Court ruling known as the *Merthyr Tydfil* judgment of 1900, the Master of the Rolls decided that the policy of relieving the strikers had indeed been unlawful. However, it is argued in this article that the judgment has not been properly understood by historians. Contemporaries did not think it obvious that the giving of poor relief to strikers was illegal. On the contrary, in 1898, there was widespread agreement that Poor Law officials had no choice but to support destitute strikers; the Poor Law *demanded* they relieve the men and their families, a point confirmed in an earlier High Court ruling in 1899. Thus, Poor Law scholars should view the *Merthyr* judgment as a notable innovation in Poor Law policy. Labor historians should see the ruling as part of the employers' counteroffensive against the labor movement of the 1890s and 1900s. *Merthyr* came out of the same febrile atmosphere that produced the *Taff Vale* judgment. That its true significance has been forgotten can largely be explained by the labor movement's unease at having a striker's right to poor relief confirmed in 1899. Respectable workers, union leaders averred, should not be supported out of the poor rates.

The question of whether or not paupers in England and Wales had a meaningful right to poor relief has long been a matter of historical debate. Many historians acknowledge that Poor Law authorities had a legal responsibility to look after their poor but doubt whether, in practice, it necessarily amounted to much. Steve King, for instance, recognizes that, under the Old Poor Law, "each parish or township had a generalized *duty* to relieve the poor." But in his estimation, the ability of parochial officials "to define poverty" as they wished was ultimately of more significance than any technical legal entitlement of the poor to relief. Legal principles were all well and good, but the poor constantly came up against niggardly overseers who made decisions that worked against their

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interests. For King, the result was that the Old Poor Law "was not the guarantee of welfare at times of crisis" that some historians have averred.[1]

Capricious Poor Law officials could certainly undermine an impoverished person's entitlement to relief, but as Lynn Hollen Lees has shown, belief in that entitlement was remarkably resilient. The Poor Laws had been set up in the late Tudor period. By the eighteenth century, there was a strong conviction among the poor that they had a right to relief. According to Lees, this idea drew nourishment from a broader acceptance of the customary rights of the poor. Armed with this sense of entitlement, the poor entered negotiations with Poor Law officers emboldened. They were aided in their quest for relief by the legitimacy of the Poor Laws. The better-off in a community might not always have liked paying poor rates, but they mostly recognized the need to do so. Customary rights were not immutable, however, and, as attitudes toward the poor and pauperism hardened in the late eighteenth and early nineteenth centuries, there were increasing calls for the reform—and even abolition—of the Poor Laws.[2] The introduction of the New Poor Law in 1834 was the most obvious manifestation of this tougher approach. With its grim workhouses, its emphasis on the virtue of hard labor, and an entrenched belief that paupers should be "less eligible" than the independent laborer of the lowest class, it was a much harsher regime than the Old Poor Law that preceded it.[3]

For Lees, the poor's entitlement to relief rested largely "on notions of legitimacy and custom."[4] Legal scholar Lorie Charlesworth takes a very different approach. Charlesworth contends that that right to relief was based on altogether firmer foundations: it was enshrined in the Poor Laws themselves. She emphasizes how a battery of Poor Law statutes and a common law presumption that everybody was "settled" somewhere ensured that almost all of the destitute poor were legally entitled to relief. Some of those in need were pushed to the margins. Vagrants, foreigners, and other assorted unfortunates were left outside the pale. But the settled poor, those who could prove they had settlement in a parish in England or Wales, had a legal claim on parochial relief if they fell into destitution. According to Charlesworth, their right to relief even survived the transition from the Old Poor Law to the New, albeit suffering some injuries along the way. The passing of the Poor Law Amendment Act of 1834 "left settlement unrepealed."[5] However, the act was an early example of a more generalized "juristic shift" from common law (with its emphasis on rights) to administrative law (more concerned with bureaucratic control of the poor), and Charlesworth finds that by the 1860s, the personal rights of the poor to relief were less important to many Poor Law administrators than "that the right forms were filled, the reports were correct and all reflected the smooth running

[1] Steve King, "Poor Relief and English Economic Development Re-appraised," *Economic History Review* 50, no. 2 (1997): 362–63. Emphasis in the original. For an overview of the "right to relief" debate, see Lorie Charlesworth, *Welfare's Forgotten Past: A Socio-Legal History of the Poor Law* (Abingdon, 2010), chap. 4.

[2] Lynn Hollen Lees, *The Solidarities of Strangers: The English Poor Laws and the People, 1700–1948* (Cambridge, 1998), chap. 3.

[3] For a survey of the Poor Laws—old and new—see Anthony Brundage, *The English Poor Laws, 1700–1930* (Basingstoke, 2002).

[4] Lees, *Solidarities of Strangers*, 82.

[5] Charlesworth, *Welfare's Forgotten Past*, 61.

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of the union."[6] Just how fragile the poor's entitlement to relief had become was demonstrated during the infamous "Crusade against Out-relief" of the 1870s, in which one-third of paupers on outdoor relief were swiftly thrown off relief lists as guardians throughout England and Wales engaged in a concerted effort to reduce expenditure.[7] It is little wonder that at the close of the nineteenth century working-class hatred of the Poor Laws was stronger than it had ever been.[8]

Nevertheless, this article argues that the legal principle that the destitute poor had a right to relief still had great purchase in the late Victorian period.[9] The point is illustrated through an examination of the position of strikers under the late Victorian Poor Law. It has been widely assumed that strikers had no entitlement to poor relief under the New Poor Law. Having refused to work, strikers immediately forfeited any entitlement they might have had to assistance from the poor rates. This assumption is in keeping with our picture of a deterrent Poor Law. Moreover, it seems to have been confirmed in 1900 by a High Court ruling known as the *Merthyr Tydfil* judgment. The Master of the Rolls, Lord Lindley, decided against the Merthyr board of guardians. The board had, during the South Wales "coal war" of 1898, paid out tens of thousands of pounds in poor rates to striking colliers over many months. One of the largest ratepayers in the Merthyr union, the Powell Duffryn Coal Company, objected to the relief policy and took the guardians to court. Lindley declared the Merthyr board had been wrong to relieve the strikers.

As a "leading decision," *Merthyr* has caught the attention of scholars. Academic lawyers have pondered the legal implications of the ruling, while welfare historians have noted how the case framed subsequent debates about the legality of relief payments to strikers.[10] Labor historians have shown how the issues behind the case were revivified during the great disputes of the 1920s.[11] However, there has been no detailed examination of the circumstances that led to the ruling. This is to be regretted, for it has led to a distorted appreciation of *Merthyr*'s importance. Lindley's judgment has been understood as little more than a moment of clarification. The Merthyr guardians, it is assumed, deviated from accepted Poor Law practice in 1898 by relieving the strikers, and Lindley put them right on the point. But it will be shown here that this is an erroneous reading of events. Late Victorian strikers did have legal rights to poor relief, and those rights were taken seriously. It was this conviction that governed the formulation of relief policy in Merthyr (and other Poor Law unions) in South Wales in 1898. Significantly, the central Poor

[6] Ibid., 21, 151.

[7] See, for example, Elizabeth T. Hurren, *Protesting about Pauperism: Poverty, Politics and Poor Relief in Late-Victorian England, 1870–1900* (Woodbridge, 2007).

[8] Lees, *Solidarities of Strangers*, chap. 9.

[9] As Lorie Charlesworth puts it, "the fundamental legal right of the poor to be relieved continued even if now within a union workhouse" because of the "overarching legal authority of the 1601 Act," which remained undiminished by the passing of the Poor Law Amendment Act of 1834. *Welfare's Forgotten Past*, 65.

[10] W. Ivor Jennings, "Poor Relief in Industrial Disputes," *Law Quarterly Review* 182, no. 46 (1930): 225–34; K. D. Ewing, *The Right to Strike* (Oxford, 1991), 91–94; Ross Cranston, *Legal Foundations of the Welfare State* (London, 1985), 206–9. Also see Laura Lundy, "From Welfare to Work? Social Security and Unemployment," in *Social Security Law in Context*, ed. Neville Harris (Oxford, 2000), 291–325.

[11] Sian Rhiannon Williams, "The Bedwellty Board of Guardians and the Default Act of 1927," *Llafur* 2, no. 4 (1979): 65–77.

Law authority—the Local Government Board—was fully complicit in the decision to assist the famished strikers.

When set against this context, Lord Lindley's ruling takes on a very different appearance. Far from clearing a fog of confusion in 1900, the judge was actually departing from long-held beliefs about a destitute striker's legal entitlement to help from the poor rates. Accordingly, *Merthyr* should take its place alongside other important High Court cases of the 1890s and 1900s that were brought by anti-union employers intent upon constraining a labor movement thought by many to be troublesome and overly self-assured. An "employers' counteroffensive" was unleashed as a response to the strikes and the increased militancy that characterized the new unionism of the late 1880s and 1890s. Many late Victorians found the sight of semi- and unskilled workers—including dockworkers and female match workers—organizing and engaging in successful industrial action too unsettling. As John Saville has put it, "[A] hostility developed towards trade unionism in general and new unionism in particular that bordered at times on the hysterical."[12] Just how hysterical became obvious in the North Wales slate dispute of 1900–1903, in which Lord Penrhyn showed himself willing to endure huge losses in his battle to extirpate a union from his quarries. That the union concerned was in fact a moderate Lib-Lab organization was of little consequence to the intransigent baron. His use of blackleg labor and troops turned him into the darling of the "free labor" movement.[13] It was out of this febrile atmosphere that famous antiunion court rulings such as *Quinn v. Leathem* and *Taff Vale* came.[14] It is argued here that *Merthyr* should be seen as yet one more product of the employers' counterattack.

THE "GUARDIANS ARE BOUND TO RELIEVE THEM": DESTITUTE STRIKERS AND LATE VICTORIAN POOR LAW

Despite the attention of scholars in other fields, the *Merthyr* judgment has historically occupied but a footnote in the scholarly accounts of the Poor Law. So scant has been the attention that it is barely possible to talk of an "orthodox" account of the ruling and the events that led to it. In answering questions about the relationship between Victorian strikers and the New Poor Law, we are forced to rely on speculation and anecdotal evidence. In a study of the 1926 lockout, Patricia Ryan suggested that the position of strikers under the Poor Law was "unclear" in the nineteenth century. She thought, however, that it was unlikely that guardians would look favorably on any application from a striker: "[I]t would perhaps not be unfair to assume that Boards [of Guardians] dominated by small tradesmen,

[12] John Saville, "Trade Unions and Free Labour: The Background to the Taff Vale Decision," in *Essays in Labour History, 1886–1926*, ed. Asa Briggs and John Saville (London, 1971), 317–50.

[13] R. Merfyn Jones, *The North Wales Quarrymen, 1874–1922* (Cardiff, 1981), 175–266, 271–73.

[14] For more on the legal position of the unions, see Kenneth D. Brown, "Trade Unions and the Law," in *A History of British Industrial Relations, 1875–1914*, ed. Chris Wrigley (Brighton, 1982), 116–34; Michael J. Klarman, "The Judges Versus the Unions: The Development of British Labor Law, 1867–1913," *Virginia Law Review* 75, no. 8 (1989): 1487–602. James Thompson, "The Genesis of the 1906 Trades Dispute Act: Liberalism, Trade Unions, and the Law," *Twentieth-Century British History* 9, no. 2 (1998): 175–200.

businessmen and rate-payers would not be sympathetic to strikers."[15] Although not based on primary research, Ryan's assessment has the virtue, first, of chiming with our understanding of the deterrent Poor Law and, second, of signaling the importance of class antagonisms in the shaping of relief decisions. And it fits neatly in a labor historiography that is replete with accounts of lengthy disputes in which strikers seem never to have been supported out of the poor rates. When legal scholar K. D. Ewing cast his eye over the pre-*Merthyr* landscape, he noted just one example of strikers receiving poor relief—that of the colliers in the Merthyr union in 1898.[16]

Yet it is possible to find a counterview in the literature. As far back as 1930, academic lawyer W. Ivor Jennings declared that it was "usual practice" for guardians to relieve destitute strikers in the days before the *Merthyr* judgment. Unfortunately, he cited no evidence to support his claim.[17] More helpfully, Chris Grover has recently offered up an example of striking colliers in Wolverhampton being given poor relief in 1842. In this case, central Poor Law authorities insisted that guardians put aside their political sympathies when faced with the destitute strikers. When the guardians asked the Poor Law Commission to confirm the correctness of their relief policy, the advice they received underlined the need for the Poor Law to remain neutral: "With disputes between masters and workmen," the commissioners noted, "the Guardians have nothing to do. It is not the object of the poor rates to aid either class in their struggle against each other." Grover, perceptively, infers from this that "at the central level the state was often concerned with ensuring that destitution was relieved within the parameters of the law, rather than taking sides in industrial disputes." However, he also concurs with Ryan's suggestion that "local practice was not particularly sympathetic to those workers involved in industrial disputes."[18]

Thus, our understanding of strikers' rights under the Poor Law is full of uncertainties and contradictions. Interpretations range from it having been "usual" to relieve strikers in the pre-*Merthyr* era to it having been unusual for relief to be offered. In some renderings, the autonomy of middle-class guardians to decide, apparently on a whim, their response to working-class strikers is underscored. In others, the advising role of the central Poor Law authorities is emphasized. We have a few isolated instances of assistance being offered to men on strike, although why guardians would choose to do so remains unexplained. Historiographically, the question of guardians' motivation in supporting strikers is rendered largely irrelevant, given the small number of cases in which strikers are noted to have received poor relief. Indeed, many late Victorians *did* assume that Poor Law officials and strikers would rarely cross paths. As a Poor Law inspector observed in 1892 on the occasion of eighty thousand miners having gone on strike in Durham, even if the strikers began to experience "real privation," "under no circumstances is it likely that their

[15] Patricia Ryan, "The Poor Law in 1926," in *The General Strike*, ed. Margaret Morris (Harmondsworth, 1976), 358–78.

[16] Ewing, *The Right to Strike*, 92.

[17] Jennings, "Poor Relief," 225.

[18] Chris Grover, *The Social Fund 20 Years On: Historical and Policy Aspects of Loaning Social Security* (Farnham, 2011), 59.

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[*sic*] will be any applications appreciable in number from them for relief from the rates."[19] His confidence was borne out by subsequent events.[20]

But the inspector's missive repays careful reading. He was certain that it was unlikely that impoverished strikers would ask for poor relief. But he did not state that they would be turned away if they did apply for help. This is an important distinction. Most Victorian strikers did not choose to apply for poor relief. Some, however, did. How were guardians to react when confronted by able-bodied men who had struck work? The work of Charlesworth and Grover reminds us that Poor Law officials had a legal responsibility to relieve destitution. This point, which has been overlooked in the discussion of strikers' relationship with the Poor Law, needs to be fully registered. For there was a consensus in the late Victorian period on the matter: guardians were legally obliged to relieve destitute strikers.

This principle was articulated lucidly by James Stewart Davy in 1888, when he gave evidence before a House of Lords Select Committee on Poor Relief. An experienced Poor Law inspector, Davy had worked in the great industrial districts of Wales, Lancashire, and Yorkshire. He was sure that guardians had a legal duty to relieve destitute strikers. Poor Law guardians were "bound to relieve them" because they were "bound" to relieve "distress as they find it." Indeed, they were already dispensing relief to strikers. He shared with their lordships his recollections of a miners' strike in Yorkshire in 1885, during which strikers had successfully applied to local guardians to have school fees paid for their children. The guardians paid the fees not out of sympathy with the miners' cause (on the contrary, "they thought the men ought not to have been on strike and that they should have saved enough to pay their own children's school fees") but because it was their legal obligation to do so. The politics of a dispute were completely irrelevant when viewed from a Poor Law officer's perspective. As Davy explained it, you could not have "guardians of the poor deciding whether a strike was a right strike or not; whether the masters were right or the men were right," for that "would be a most dangerous thing for any body having to administer public funds to do." All that mattered, Davy argued, was that guardians be "satisfied of the poverty of the applicant, never mind how it arose."[21]

Davy, we should note, was no maverick. He was well known as a "stickler for the principles of 1834."[22] Interpretations of those principles varied over the course of the nineteenth century.[23] Nevertheless, we can be certain enough what they meant to Davy. He supported a stringent welfare system based on the principle of deterrence. The poor should not be allowed to starve, but neither should they be made so comfortable that they settled down to a life on poor relief. Punishing tasks of labor in a forbidding workhouse should be the lot of those able-bodied paupers who were destitute because of their own moral failings. Davy proudly described himself as "a great adherent of the workhouse test." Unsurprisingly, perhaps, he was no enthusiast for the new unionism. He told of his fears that, one day, trade union leaders might try to influence Poor Law elections and use the relief system to their own advantage. The law, he trusted,

[19] Letter from W. E. Knollys to C. T. Richie, 8 April 1892, the National Archives (TNA): MH 32/98, 13.

[20] Inspector Dawson, Annual Report for 1892, TNA: MH 32/98.

[21] *Report from the Select Committee of the House of Lords on Poor Law Relief*, 363 (1888), 101, 102.

[22] Brundage, *English Poor Laws*, 137.

[23] Felix Driver, *Power and Pauperism: The Workhouse System, 1834–1884* (Cambridge, 1993), 33.

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would be the first safeguard against such an undesirable outcome.[24] We can be quite confident that Davy's was the voice of Poor Law orthodoxy in the late 1880s.

Davy's interpretation rested upon the fact that the Poor Law authorities had a legal duty to intervene in cases of sudden or urgent necessity. Failure to do so could leave a guardian open to a charge of manslaughter if a destitute applicant was turned away and subsequently died.[25] It was this legal principle that meant the decision to relieve a striker did not depend on support for his (or her) cause, nor even did it imply that they were "deserving." As one guardian from Kent told the 1888 Select Committee, he was in favor of providing outdoor relief to the "honest, industrious men" who had temporarily fallen on hard times. But this did not include those who refused to work for a fair wage or strikers; they should be offered the workhouse only. Despite its obvious condemnatory intent, this was an argument that still admitted that destitute strikers should be relieved.[26]

The *Economist*, hardly a close friend of organized labor, also took it for granted that starving strikers had to be helped if they applied to the Poor Law. Alarmed at the rise of the new unionism, it ran a series of articles in the 1890s that examined the growing problem of strikes. One was devoted to the issue of "Strikes and the Poor Law." Strikers, it noted, were already turning to the Poor Law and being "maintained in idleness at the public expense." The situation was only likely to worsen. Labor was becoming more organized, and "there is no adequate protection against the abuse of the power which that organisation has placed in the hands of the few men by whom it is controlled." These unscrupulous union leaders could bring out hundreds of thousands of workers, knowing that the Poor Law would be there to assist them when they became destitute. Tellingly, the *Economist* pinned the blame on union leaders, not on the Poor Law or its interpretation by officials. Reassuringly, there was already a legal mechanism in place for dealing with these pauper-strikers. The Vagrancy Act of 1824 enabled guardians to prosecute an able-bodied person who refused to work yet threw himself upon the mercy of the parish. However, "[p]ublic sentiment," the periodical decided, "would not permit of this punishment being inflicted." Instead, the editorial advised guardians to consider giving relief to destitute strikers by way of a loan (as permitted under the terms of the Poor Law Amendment Act of 1834), and then recovering the loan from their wages via the county court (allowed by a subsequent act–11 and 12 Vict., c. 110, s. 8) if need be.[27]

What is most revealing about the *Economist*'s musings in 1890 is the degree to which the paper viewed the question purely as a matter of law. If irresponsible union leaders tried to involve the Poor Law in their wrongheaded disputes, the provisions of the Poor Law itself could be used to rectify matters. There was no suggestion that guardians or other Poor Law officials should ever refuse to relieve destitute strikers. That was beyond their legal competence. The *Economist* seemed to share Davy's view that guardians were above—or, at least, beyond—the politics of a

[24] *Report from the Select Committee of the House of Lords on Poor Law Relief*, 104.

[25] Sidney Webb and Beatrice Webb, *English Poor Law History: Part 2, The Last Hundred Years* (London, 1929), 1:239. Under sect. 215, rule 6 of the Consolidated Orders of the Poor Law Commissioners relieving officers were directed "in every case of sudden or urgent necessity, to afford such relief to the destitute person as requisite," in or outside the workhouse.

[26] *Report from the Select Committee of the House of Lords on Poor Law Relief*, 399.

[27] *Economist*, 22 March 1890, 359–60.

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dispute. Poor Law historians might reasonably object that such a position was at best naive and at worst downright disingenuous; Poor Law officials were clearly able, and willing, to refuse to relieve strikers. Guardians in the Merthyr union had done just that during the winter of 1895–96 when nearly three thousand employees of a local iron company were locked out by the management. Four of the workers applied for assistance, explaining that they were "quite destitute and had no provisions in the house. They were aware that by receiving relief they would lose their votes, but they were willing to sacrifice that for something to eat." A number of guardians wanted to grant relief, but one of their numbers, T. H. Bailey, argued that because work was available to the men, the applications should be refused. The motion to offer relief was defeated by twelve votes to eleven.[28] Guardian Bailey, it should be noted, was the manager of the ironworks concerned.

The messy realities of the Poor Law need, therefore, to be admitted. Legal principles could be distorted, ignored, and even broken by any number of self-serving, heartless, or incompetent officials. But the legal principle of the obligation to distribute poor relief remained the bedrock upon which the Poor Law was based. As Charlesworth has argued, we forget that the "Poor law was law" at our peril, not least because we can lose sight of the fact that the destitute, settled poor enjoyed a legal entitlement to poor relief.[29] This right, under certain circumstances, even extended to able-bodied workers involved in an industrial dispute. The case of the four Merthyr ironworkers shows how local political interests could override legal principle, but we miss a bigger point if we stop our analysis there. According to the interpretation of the law articulated by the likes of Davy, the guardians' decision not to relieve the locked out men was actually unlawful. The applicants were destitute and therefore entitled to relief. This sense of entitlement could strengthen the resolve of applicants to appeal when decisions went against them. In 1893, for instance, striking miners from St. Helens, outraged at their guardians' decision not to provide them with outdoor relief, threatened to march en masse on the workhouse and "demand" relief. In the end, only a deputation was sent, but relief was, eventually, forthcoming to those cases of "sudden and urgent necessity." Justice, Poor Law style, was seen to be done, on that occasion at least.[30]

The right of destitute strikers to poor relief was recognized by the very highest legal experts in the land. This was demonstrated in the High Court in 1899, just a year before the *Merthyr Tydfil* judgment was delivered. The *Merthyr* case was brought by a South Wales coal company who objected to the payment of poor rates to striking colliers in 1898. Lord Lindley only pronounced on the illegality of the guardians' actions after the case had been heard by Lord Justice Romer in the Chancery Division. Romer decided in favor of the guardians. This was not due to any incompetence on the part of the barristers, who put their case robustly enough. They explained to Romer how the strikers had willfully implicated the Poor Law in a dispute between masters and men. Tens of thousands of pounds of ratepayers' money had been spent maintaining them. "Support us while we choose to continue to be out of employment," the colliers had said, "and the Guardians

[28] *Merthyr Express*, 29 February 1896 and 28 March 1896.
[29] Charlesworth, *Welfare's Forgotten Past*, 1.
[30] Local Government Board, *Twenty-Third Annual Report, 1893–4*, C. 7500 (1894), appendix B, 129.

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chose to do it."[31] Never mind any legal considerations; this, they implied, was morally wrong. The defense barristers, for their part, rarely strayed from their central legal argument, which was that under the terms of the Poor Law, guardians were "bound to relieve any one who was reported to them as being in want of relief." Not to do so, the Queen's Counsel pointed out, left the guardians vulnerable to a manslaughter charge if an applicant subsequently died from starvation: "[I]t had never been the law of England that idleness was a capital crime punishable by starvation. If a man was in fact destitute the Guardians were bound to relieve him." What would have happened, the defendants' barristers asked, if the Merthyr guardians had turned away the strikers? "If a hundred men," they argued, "had been found dead the next day, what an outcry there might have been, and there might have been a second Peterloo."[32] A second Peterloo? Maybe. A manslaughter case against the guardians? Certainly.

J. S. Davy would have found nothing to disagree with in this interpretation of the Poor Law. Neither, as it turned out, did Lord Justice Romer. Romer acknowledged that, ordinarily, an able-bodied man was not entitled to poor relief if he could get work and earn sufficient money to keep himself and his family. But there was an important exception to this general rule. Guardians had to act if an applicant or his family "be starving and might die or be seriously injured unless relief be immediately given." Relief had to be given in all cases of "sudden and urgent necessity," even when the destitute person in question was a striker who had refused to work. As Romer put it, in the eyes of the Poor Law, "a workman on strike is in no better or worse position than any other subject of Her Majesty who, for reasons which seem to him sufficient, will not work." Furthermore, the punishment of a striker's willful refusal to work "ought not to be the death or serious injury of the man, still less of his family." If guardians withheld relief, "they might render themselves liable to serious consequences." Romer, happy that the relieving officers in Merthyr had thoroughly investigated the circumstances of each applicant and only relieved those who were destitute, ruled that no law had been broken by the guardians and dismissed the case against them. In reaching his decision, Romer did not suggest that strikers had an automatic right to poor relief. If the Merthyr guardians had offered the colliers "permanent relief" in 1898, Romer thought he "might have seen [his] way to giving some assistance to the plaintiffs." But the guardians had not done that. They had relieved only cases of destitution. Strikers had no entitlement to relief simply because they had struck work; their entitlement became meaningful the moment they fell into "temporary urgent necessity."[33]

Romer's decision provoked much press comment. Many observers were scandalized by the scenes in South Wales in 1898. The prospect of more "state-aided strikers" in the wake of Romer's judgment filled them with dread.[34] Nevertheless, what is most noteworthy about the debate that followed the High Court ruling of 1899 is the universal acceptance of Romer's interpretation of the Poor Law. Commentators might have been appalled at the implications of the learned judge's ruling, but they agreed that he was right to make it. The Cardiff-based Tory

[31] *Manchester Guardian*, 23 February 1899.
[32] *Ibid*.
[33] Attorney General v. Guardians of the Poor of the Merthyr Tydfil Union [1900] 1, ch. 516.
[34] For the phrase "state-aided strikers," see *Free Labour*, 15 April 1899.

Western Mail, friend of the South Wales coal owners, lambasted the unmanly colliers of South Wales for not providing for their dependants during the coal war, but conceded that Romer's judgment was "a very masterly and lucid one."[35] Similarly, *The Times* lamented the strikers' willingness to turn to the Poor Law in 1898, but found nothing to quibble with in the ruling itself. Indeed, it thought that the decision was "not likely to be reversed."[36] The rabidly antiunion *Free Labour* (a paper that stood "[f]or the Unity of Capital and Labour, trade without restraint, and industry without restriction") complained that it was "a distinct fraud on the ratepayers that they should be called upon to rescue from starvation a man who deliberately refuses to work for good wages." Yet even so, it told its readers that "Lord Justice Romer is *obviously right* when he declares that a starving striker, and especially his starving wife and children, ought to be relieved, as a case of urgency, by the guardians of the poor."[37]

The High Court ruling of 1899 and the public discussion that followed it reveals just how widely accepted the belief was that guardians had no choice but to relieve hungry strikers who threw themselves upon the Poor Law. One might have the severest misgivings about strikers funding their battles out of the rates, but the legality of the payment of poor relief to destitute strikers and their families was, post-Romer, clear.

"STRICTLY IN ACCORDANCE WITH THE INSTRUCTIONS LAID DOWN BY THE LAW": THE PAYMENT OF POOR RELIEF DURING THE SOUTH WALES MINERS' STRIKE OF 1898

Thus far, it has been argued that the legal position of strikers under the Poor Law was clear enough in the late nineteenth century. While the majority of strikers did not approach relieving officers for assistance, some did, and whatever the situation in earlier times, the development of the new unionism in the late 1880s had given commentators plenty of reasons to think about strikers' rights under the Poor Law. Many who were disgruntled about the idea of paying destitute strikers out of the rates saw no alternative to relieving them. The basic guiding principle of the Poor Law that the destitute should not be allowed to starve was widely held to be sacrosanct.

The extent of late Victorians' commitment to this principle was demonstrated most fully in the Poor Law unions of the South Wales coalfield in 1898. By any measure, what happened during the coal war was astonishing. Over one hundred thousand colliers stayed out for a full five months, making it "perhaps the most exhausting of all the great coal strikes of the decade."[38] Exhausting it was. The workers were ill prepared for a drawn-out battle, strike funds were limited, and within just a few days, stories of distress in many coalfield communities began to circulate. A relief operation overseen by local philanthropists proved to be insufficient, and strikers began applying for poor relief in various coalfield unions. Labor yards

[35] *Western Mail*, 28 March 1899.
[36] *The Times*, 29 March 1899.
[37] *Free Labour*, 15 April 1899 (emphasis added).
[38] H. A. Clegg, Alan Fox, and A. F. Thompson, *A History of British Trade Unions since 1889* (Oxford, 1964), 124.

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were opened and able-bodied male applicants were set to work breaking stones. Such yards had long been employed in times of exceptional distress as a means of ensuring that paupers were subjected to a labor test when the workhouse was unable to accommodate all the applicants.[39] The yards became a familiar part of the landscape in many Poor Law unions in South Wales in 1898.[40]

So extraordinary was the turn to the Poor Law during the stoppage that some contemporaries went as far as to suggest that the "disastrous" coal strike had been responsible for a rise in the overall incidence of pauperism in England and Wales, although this report was exaggerated.[41] Pauper numbers did increase throughout the country in 1898, but no other Poor Law unions came close to Bedwellty or Merthyr in terms of rising poor relief expenditure. In Bedwellty, the cost of outrelief rocketed from £5,499 in the half year to Michaelmas 1897 to £16,917 in the equivalent period in 1898.[42] Merthyr experienced an even greater pressure on its resources. An average August in the 1890s saw its guardians relieve approximately 2,700 outdoor paupers a week; during the first week of August 1898, relieving officers in Merthyr had 25,631 outdoor paupers on their books—an increase of 950 percent.[43] Merthyr ratepayers had to grapple with a relief bill that had grown by 467 percent (from £6,664 to £32,182). These figures, in turn, fed through to the totals for South Wales and Monmouthshire. South Wales saw its Poor Law expenditure inflated by some 32 percent, while Monmouthshire witnessed an increase of 56 percent in relief costs. The next largest increases in expenditure were measly in comparison: the North Riding of Yorkshire, Warwick, and Derby experienced rises in relief costs of between 6 and 9 percent.[44]

This unprecedented use of Poor Law resources during the strike of 1898 was a testament to the faith placed in the principle that the destitute—even those on strike—should not be allowed to starve. It was the basic assumption that informed the dealings between the guardians in the strike-affected unions and the central Poor Law authorities. It forced reluctant Poor Law officials, many of them deeply antagonistic to the strikers, to run up thousands of pounds of debts, and it allowed the colliers to prolong their struggle with the coal companies by many months.

The chief architect of the relief policy followed by the guardians in South Wales in 1898 was the Poor Law inspector for Wales, F. T. Bircham. He toured the coalfield tirelessly during the stoppage and attended countless guardians' meetings, which he reported back assiduously to his superiors in London. He was present at all the critical meetings at which relief policy was decided by the guardians. When Merthyr guardians met to consider what to do with the first applications from destitute strikers, Bircham was there to ensure that poor relief was distributed "strictly in

[39] Webb and Webb, *English Poor Law History*, 1:365.

[40] *Glamorgan Gazette*, 29 April 1898 and 1 July 1898; *Glamorgan Free Press*, 7 May 1898; "J.A. Shepard to Local Government Board," 4 May 1898, TNA: MH 12/8022.

[41] *Financial Times*, 2 November 1898.

[42] *Return of Statement of the Amount Expended for In-Maintenance and Out-Door Relief in … 1898*, 348C, 1898, 7.

[43] *Twenty-Eighth Annual Report of the Local Government Board, 1898–99*, [C. 9444], 1899, appendix B, 175.

[44] *Return of Statement of the Amount Expended for In-Maintenance and Out-Door Relief in … 1898*, 348C, 1898, 7.

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accordance with the instructions laid down by the law."[45] The clerk "gave the legal position of the guardians, and his remarks were endorsed by Mr. Bircham, the Board being told that they could only relieve able-bodied men by opening a labour yard or by offering them the house."[46] Bircham proceeded to commend the yards to the guardians: "[H]e hoped that as a mode of relief to workmen labour yards could be opened at once, if necessary, and that the women and children would not be neglected in any way."[47] Once the stone yards were opened, he made it his business to ensure they were run efficiently and in accordance with the rules laid down by the Local Government Board.[48] That board officials were content that the correct procedures were being followed in South Wales during the strike is clear. They approved all of the weekly returns that the guardians were obliged to send them.[49]

It is significant that the suggestion of invoking the labor test came from the Poor Law inspector and not from the guardians, but it is not entirely surprising. Ryan's "unsympathetic" guardians were to be found aplenty in the Merthyr union. As an official later recalled, guardians "representing the employers for the most part resented strongly the opening of any Labour Yards for men who could, if they chose, obtain work."[50] One such was Rees H. Rhys. A guardian since 1847, eighty-one-year-old Rhys was on the friendliest terms with various coal owners in South Wales, including Sir W. T. Lewis, chair of the Coalowners' Association.[51] Rhys was a vociferous critic of the strikers throughout the dispute. While sitting as a magistrate at the local police court, he was astounded "to find people spending so much on drink" when "they heard of so much distress, and thousands of people starving."[52] On a separate occasion, when a destitute striker was summonsed to show why he should not contribute toward the maintenance of his son at the Truant School, Rhys told him bluntly, "You like to be idle."[53] He continued to criticize the colliers in the guardians' meetings. In May, Rhys claimed that some 70 percent of the strike pay given out in the Rhondda was spent in a public house opposite the pay station.[54] At the end of July, he averred that there were "hundreds" of stone breakers "who had money invested and were also possessed of house property."[55] His frequent allegations that the colliers were not really destitute enabled him to suggest that the yards might be closed. This made him deeply unpopular with the strikers and their families. After one guardians' meeting, he was confronted by a crowd of angry women. Notwithstanding his age and his blindness, Rhys was hooted and pelted with stones, and it was found necessary to organize police protection for him.[56]

[45] *Glamorgan Gazette*, 6 May 1898.
[46] *Merthyr Express*, 30 April 1898.
[47] *Aberdare Times*, 30 April 1898.
[48] See, for example, *Western Mail*, 25 April 1898 and *Aberdare Times*, 4 June 1898.
[49] *Merthyr Express*, 6 August 1898.
[50] Webb and Webb, *English Poor Law History*, 2:836.
[51] After Rhys' death in 1899, W. T. Lewis erected a tablet "in affectionate remembrance of his old friend and colleague" in Aberdare parish church. See Charles Wilkins, *The History of the Iron, Steel, Tinplate and Other Trades of Wales* (Merthyr Tydfil, 1903), 167–70.
[52] *Aberdare Times*, 25 June 1898.
[53] *Aberdare Times*, 6 August 1898.
[54] *Aberdare Times*, 28 May 1898.
[55] *Aberdare Times*, 30 July 1898.
[56] *Merthyr Times*, 29 July 1898 and 5 August 1898; *Labour Leader*, 6 August 1898.

Rhys was exceptional among Merthyr guardians in his outspoken opposition to the relief policy. But he was quite typical in terms of his propertied connections. The Poor Law had undergone a process of democratization in the early and mid-1890s.[57] Female guardians had been the most obvious beneficiaries of the reduction of property qualifications and the overhaul of the electoral system, but labor activists were hopeful that working-class guardians would be returned in large numbers too.[58] Yet in South Wales, as elsewhere, progress on this front was painfully slow. In the election of 1894, only one seat fell to a workingman—Augustus Davies, a collier—and he came second in his ward to a manager of a local coal company. Four other labor candidates were beaten by colliery managers, dental surgeons, grocers, justices of the peace, and schoolmasters.[59] By the time of the 1898 dispute, of the fifty-five guardians in the Merthyr union, there were just three working-class representatives on the board: two check-weighers and one former collier.[60] The situation in Bedwellty was little different. There, the election of March 1898 saw the return of four working colliers, a miners' agent, and a grocer who had formerly worked as a miner. But the remaining twenty-seven seats were in the hands of the middle classes. Included among the latter were five representatives from local coal companies.[61]

Of course, a guardian's class position might be a poor indicator of where his or her political sympathies lay during a strike. But given the predominance of the propertied classes (including representatives of the coal companies) on the boards, we might expect there to have been some debate about the appropriateness of Bircham's suggested relief policy. In fact, there was nothing of the kind. When the Merthyr board members met to vote on the motion to open the yards, they passed it unanimously.[62] Significantly, the representatives of the coal companies—including E. M. Hann, general manager of the Powell Duffryn Company—absented themselves from the meeting.[63] Why did they not try to argue against the giving of relief to the strikers? Because there were no grounds upon which to build such an argument. Bircham had made it clear that the guardians had to relieve all cases of "sudden or urgent necessity," and relieving officers were already reporting a large number of cases of "extreme urgency."[64] In such a situation, the best that guardians such as Hann could do was absent themselves in order to avoid the embarrassment of being directly implicated in the decision to relieve the strikers.

The strong sense of inevitability that surrounded the opening of the labor yards was reflected in the press coverage of the guardians' decision. One searches the newspapers—local, regional, or national—in vain for any adverse reaction to the opening of the stone yards. The only significant talking point in late April was whether it was right that the men in the yards should have to suffer the full stigma of pauperism. Specifically, many observers objected to the fact that the strikers would be

[57] Anthony Brundage, "Reform of the Poor Law Electoral System, 1834–1894," *Albion* 7 (1975): 210.

[58] For more on women guardians in the South Wales coalfield, see Catherine Preston, "'To do good and useful work': Welsh Women Poor Law Guardians, 1894–1914," *Llafur* 10, no. 3 (2010): 87–102.

[59] *Merthyr Express*, 22 December 1894.

[60] *Merthyr Express*, 19 March 1898.

[61] "Lists of the names of the guardians,", BG/B/Miscellaneous Papers 0034, item 128, Gwent Records Office (GRO).

[62] "MBG minutes," 26 April 1898, U/M 1/25, GRO.

[63] Ibid.

[64] *Merthyr Times*, 29 April 1898.

disenfranchised as a consequence. The *Western Mail*, the coal owners' ally, found this unacceptable: "If this is the law, it is an enactment which opens the way to appalling jobbery and abuse. It is easy to see with what facility such a law might be twisted to the practical disfranchisement of a working-class community."[65] And even Rees H. Rhys, scourge of the pauper-strikers, suggested the guardians should petition Parliament in order to save applicants from losing their rights of citizenship.[66] No one was in any doubt about the legality of the relief of destitute strikers in April 1898.

CHOOSING PAUPERISM AND "WELFARE BARGAINING" IN 1898

One explanation for the lack of public outrage that accompanied the opening of the labor yards may be found in the general expectation that few strikers would be tempted by the prospect of stone breaking in a Poor Law labor yard. Notwithstanding the warnings of Davy and the *Economist* all those years before, disputes had come and gone with no great turn to the Poor Law. F. T. Bircham, for one, was confident that few strikers would apply for poor relief in 1898. Most would be put off by the stigma attached to pauperism, the backbreaking nature of the task work, and the unenviable reputation the stone yards had for attracting only the worst sort of pauper.[67] Bircham was encouraged by the experience of nearby Abersychan, where the opening of the labor yards had attracted just nine applicants for poor relief.[68] Elsewhere, in Bridgend and Pontypridd, "the numbers [of applicants] were sufficiently small to permit Guardians to tide over the emergency by various devices and evasions, without opening the Labour Yard."[69] It was taken for granted that an intense dislike of pauperism on the part of the working class would act as a major brake on applications. Years of a deterrent Poor Law had, it seemed, worked their disciplinary magic. But in Merthyr and Bedwellty things were very different. Within the first week, there were 850 applications for relief in the Merthyr ward alone. Another 500 applied from nearby Dowlais.[70] By the end of the dispute, some 3,700 colliers had been employed in the Merthyr stone yards.[71] The deterrent mechanism had failed spectacularly.

Why, in some unions, did so many striking colliers decide to apply for parochial relief in 1898? There is no direct evidence that allows us to answer this important question with certainty. Undoubtedly, there was real hardship in the mining valleys of South Wales. We catch a glimpse of the straitened circumstances of some of the applicants in a collection of notes made by a Bedwellty relieving officer. He told how he had met strikers who had exhausted their savings, sold their furniture, and gone without eating for days.[72] The situation was no better in the Merthyr union.

[65] *Western Mail*, 16 May 1898. Some 6,000 miners were disenfranchised as a consequence of receiving poor relief during the strike (*Manchester Guardian*, 20 September 1898).
[66] *Merthyr Times*, 3 June 1898.
[67] Webb and Webb, *English Poor Law History*, 1:374.
[68] *Merthyr Times*, 13 May 1898.
[69] Webb and Webb, *English Poor Law History*, 2:836, n.1.
[70] *Aberdare Times*, 30 April 1898.
[71] *Merthyr Express*, 1 April 1899.
[72] "Bedwellty Union Audit: Report on Representative Cases of Colliers Relieved," BG/B/Miscellaneous Papers 0034, item 15, GRO.

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By the third week of the dispute, the relieving officers were complaining of being "overwhelmed with work." Guardians listened to "harrowing descriptions of the dreadful poverty" encountered by the officers "in most of the houses that they had to go to, there being an absence of a particle of food, and in many cases the people having had to dispose of bed clothing and other things for the purpose of avoiding absolute starvation."[73]

But hungry strikers and their famished dependants were a common feature of many late Victorian disputes. Hunger might be a necessary condition behind any large-scale turn to the Poor Law in 1898 but it is not a sufficient one. A determination to hold out against the coal owners, at almost any cost, was also clearly important—but again, there had been plenty of bitter industrial disputes that had not resulted in a surge in Poor Law applications. Whatever lay behind the decision of thousands of colliers to ask for the ratepayers' support, it is clear that they had reasoned that pauperization was preferable to surrender on the coal owners' terms. If union leaders were in favor of the use of Poor Law funds to support the strikers, they did not say so publicly. As far as we can tell, this was a spontaneous, yet well-organized movement from below.

This organization was crucial in 1898. Recent Poor Law historiography has drawn attention to the manner in which relief decisions were often the outcome of complex negotiations between paupers and Poor Law officers. Applicants presented their cases as carefully as they could in letters and in person, they bargained with relieving officers and overseers, and they sometimes broke the law in an effort to get their cases heard by a higher judicial authority.[74] Most of these examples of "welfare bargaining" involved individual paupers requesting relief. During the strike of 1898, there was a much greater collective element to the negotiations. The strikers' bargaining skills were instrumental in transforming a legal entitlement to relief into hard cash.

Right up until the moment that they voted to open the labor yards, Merthyr guardians were actively exploring other options with Bircham. These included making an approach to the district council to see if it would start a public works scheme for the men. But even as they searched out alternatives, a "tremendous crowd" of between two thousand and three thousand strikers and their families gathered outside the workhouse. "Such a scene," proclaimed one observer, had "never before been witnessed at Merthyr."[75] Under the gaze of a contingent of police officers, a deputation from the crowd was admitted to the boardroom where they "stated their position." They were, in turn, informed that the law only allowed the guardians to give outrelief to able-bodied men if they were sick but the workhouse was open to the destitute if they were without work. Almost as an aside, the men were told that the "Boards of Guardians however were empowered when circumstances rendered it necessary to establish Labour Yards."[76]

This was confirmation that the guardians would open the labor yards "when circumstances rendered it necessary." Fully acquainted with the legal situation, the

[73] *Merthyr Times*, 29 April 1898.

[74] On the importance of "negotiation," see, for example, David R. Green, *Pauper Capital: London and the Poor Law, 1790–1870* (Farnham, 2010), chap. 5; Thomas Sokoll, *Essex Pauper Letters, 1731–1837* (Oxford, 2001); King, "'Stop this overwhelming torment.'"

[75] *Aberdare Times*, 30 April 1898.

[76] "MBG minutes," 23 April 1898, U/M 1/25, GRO.

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impoverished strikers made sure that the guardians found it necessary to invoke the labor test. In the following week, there were over eight hundred applications for special relief made to the Merthyr relieving officers.[77] Such an overwhelming response made it impossible for guardians to confine those relieved to the workhouse; they had to give them outdoor relief. The destitute strikers had actively chosen pauperism and made sure it was offered to them on terms that were acceptable to them.[78] By exercising what little agency they possessed, the strikers played a decisive role in the evolution of relief policy.

Once the yards were opened, negotiations between the strikers and the Poor Law officials were ongoing. The strikers' requests ranged from the relatively trivial—including a petition asking for a half-day holiday on the forthcoming Bank Holiday—to the more substantial.[79] Some of the most impressive examples of collective welfare bargaining were undertaken by single men. Under the terms of the Poor Law regulations, the stone yards were reserved for male heads of families or for single men with dependants. In contrast, unmarried men without dependants were deemed ineligible for outrelief and had to make do with the workhouse. At mass meetings throughout the coalfield, strikers registered their disquiet with this policy but to no avail. According to one commentator, when single men in Dowlais had approached a relieving officer for help, he had told them "there was the workhouse, or, if not satisfied with that, they 'might graze on the mountain side.'"[80] Unhappy with such treatment, strikers seized the initiative by staging successful "runs" on the workhouse.

The idea of overwhelming the workhouse in order to wrest concessions from guardians was not new; striking colliers had reportedly "swamped" a workhouse in Barnsley in 1866 and obtained outrelief.[81] Nevertheless, it required organization and was a relatively uncommon phenomenon. However, strikers in Bedwellty and Merthyr proved themselves to be skilled exponents of the workhouse "run." In mid-May, forty-seven able-bodied single men from Rhymney applied at the Tredegar workhouse for relief. Twenty of them were admitted while the other twenty-seven were relieved in kind: "The 20 in the house received their supper and directly afterwards left."[82] As yet, the men were still barred from the stone yards. A fortnight later, another run at Tredegar saw eighty-one men gain admission into the house for a night. All but four discharged themselves the next morning, "complaining strongly of the accommodation at the Workhouse having to sleep on the floor of the Dining Hall &c. (with Beds and Rugs)." After this demonstration of intent, the men held a public meeting and sent a deputation to the guardians. There "they made such representations to the Guardians that they [the guardians] found it was imperative to relieve them under the Outdoor Labour Test Order." Some two hundred single men subsequently presented themselves at the yard.[83] Later, in Merthyr, at a mass meeting on one of the town's many cinder tips, some single

[77] *Aberdare Times*, 7 May 1898.
[78] On the decision to apply for relief as a "choice," see Lees, *Solidarities of Strangers*, 37.
[79] *Merthyr Times*, 3 June 1898.
[80] *Labour Leader*, 30 July 1898.
[81] *Poor Law (Workhouse Inspection)*, 35 (1867), 420.
[82] *Merthyr Express*, 14 May 1898.
[83] "Bircham to Shepard," 3 June 1898, GRO, BG/B/Miscellaneous Papers 0036.

men urged the use of force if the Poor Law officers did not offer them outrelief. In the end, more moderate voices prevailed. It would be enough to "frighten the workhouse officials by marching down in a body. They would then say, 'Good God, we cannot take in all of you,' and then they would give them work" in the labor yard. This proved to be an accurate prediction.[84]

Bircham had explicitly urged guardians to adopt a strict policy with regard to single men and only offer them relief in the workhouse. But the strikers were able to extract relief on terms acceptable to them as a result of a good understanding of their legal rights. At the Merthyr meeting, speakers shared their knowledge of those rights. "[T]he guardians were bound to relieve them" if they were destitute and the house was full, explained one of the strikers.[85] We should note that the threat of violence was also taken seriously by the guardians. The Bedwellty clerk told Bircham that his guardians felt they had no choice but to accede to the men's demands: "The above action of the Guardians was taken after consideration & a full discussion with the men's deputation when it appeared certain that unless relief was given a disturbance in the town would occur."[86] Little wonder that the *Merthyr Times* would later complain, "[T]he colliers have the deciding voice, but the ratepayers find the money."[87] Caught between their legal responsibilities to destitute strikers and the demands of skilled pauper negotiators, the guardians in South Wales must, at times, have wondered whether they had any room for maneuver at all during the great strike of 1898.

REINTERPRETING THE LAW: THE *MERTHYR TYDFIL* JUDGMENT OF 1900

What was certain in 1898—namely, the legitimacy of the Merthyr and Bedwellty guardians' relief policy—was confirmed by Justice Romer in 1899. However, a mere twelve months later, Romer's ruling was overturned by another High Court judge, Lord Lindley. Lindley's decision of 1900, so often viewed as a clarification of the law regarding the relief of strikers, was much more significant than that. The case had been instigated by the Powell Duffryn Coal Company and had been pursued vigorously by them to the court of appeal. As such, it should be seen as yet another episode in the employers' counteroffensive of the 1890s and 1900s.

After a long period in which the legal position of unions had seemed unshakable, certain of the more belligerent employers responded to the threats—real and imagined—of the new unionism by seeking legal decisions that called into question a union's ability to function meaningfully. By the time of the South Wales coal war, cases such as *Temperton v. Russell* (1893) and *Lyons v. Wilkins* (1896) had already weakened the trade unions. Just a year after the *Merthyr* judgment, other famous cases, such as *Quinn v. Leathem* and the *Taff Vale* decision, would do the same. Taken

[84] *Merthyr Express*, 23 July 1898.

[85] *Ibid*.

[86] "Bircham to Shepard," 3 June 1898, BG/B/Miscellaneous Papers 0036, GRO. There were good reasons for taking the threat of unrest seriously. There had been antilandlord riots in Merthyr and hundreds of troops were billeted in the coalfield. One newspaper declared that "something approaching revolution" was not "very far off" (*Merthyr Express*, 4 June 1898; *Merthyr Times*, 3 June 1898).

[87] *Merthyr Times*, 22 July 1898.

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together, these judgments seriously undermined the legal position of trade unions. They hindered the ability of a union to refuse the services of its members. They eroded a union's right to picket legally. They made unions liable for any damages arising out of strike actions. They meant that unions could be charged with conspiring to injure if they tried to persuade others not to deal with an employer with whom they were in dispute.

Given the context of these antiunion cases, it is understandable that *Merthyr* has been left out of the story of the employers' counteroffensive. It, after all, was about Poor Law policy, not trade union rights. The immediate trigger for the case was ratepayers' increasing dissatisfaction at the financial crisis engulfing the Poor Law union in Merthyr. Months of paying relief to destitute strikers had left guardians facing a bill of over £11,000. In early July, it was announced that they were going to have to levy a special rate of a shilling in the pound to meet the costs of the stone yards. Ratepayers were now being asked to find £26,000 to support the strikers.[88] This prompted a letter from Powell Duffryn, giving formal notice that the company, as a large ratepayer, would "at the proper time object to payments made for relief upon the ground that such payments were illegal and would seek to have them disallowed and surcharged against the proper parties."[89]

But, of course, Powell Duffryn was no ordinary ratepayer. It was also a combatant in the coal war. If the directors hoped that their letter would rattle the Poor Law authorities, they were not to be disappointed: it had the immediate effect of scuppering the collection of much-needed funds. The Merthyr overseers refused to collect the special rate until they had taken legal advice for fear of being held liable if a subsequent court hearing decided the policy of relieving the strikers had been unlawful.[90] As a cost-cutting exercise, the Merthyr guardians voted to split the men in the stone yards into two sections and employ them on separate days (thereby halving relief expenditure at a stroke).[91] But the financial crisis worsened when the guardians' bank directors refused to extend their overdraft because, in the words of an exasperated Bircham, they were "frightened at the empty threats of large ratepayers that they won't pay extra rates."[92] Meanwhile, the coal owners were emboldened by the prospect of the cessation of poor relief. On the day that the guardians were finally obliged to withdraw the labor test because of their lack of funds, the masters issued to the strikers what one newspaper correctly interpreted as "an ultimatum": they were no longer prepared to negotiate with the men. The dispute would only end if the colliers accepted a humiliating defeat.[93] The Merthyr stone yards shut on 6 August. By the end of the month, the workers returned to work on the owners' terms.[94]

Powell Duffryn could have let the matter drop at the end of the strike. The mere threat of legal action had broken the deadlock and brought the strike to an end. Alternatively, the company could have graciously accepted Lord Romer's decision in

[88] *Merthyr Times*, 8 July 1898.
[89] "MBG minutes," 16 July 1898, U/M 1/25, GRO.
[90] *Merthyr Times*, 29 July 1898.
[91] "MBG minutes," 16 July 1898, GRO, U/M 1/25.
[92] "Bircham to Knollys," 11 August 1898, 12/8022, TNA: MH.
[93] *Merthyr Express*, 6 August 1898.
[94] The same situation obtained in the Bedwellty union.

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1899. The fact that it did not reveals what was at stake in the aftermath of the events of 1898. Many commentators had been horrified not only by the mass pauperization of strikers in that year but also by the prospect of many more such rate-aided strikes in the future. Their doom-laden predictions were haunted by a bogeyman figure, the aggressive trade unionist, more often than not drunk on socialism and intent upon destroying the very fabric of British civilization. The *Merthyr Times*, a paper that had seen at firsthand just how costly a Poor Law–funded strike could be, summed up the worries of many when it warned that the country faced nothing less than a "Social Danger." It would "be an altogether monstrous state of affairs if militant trade unions had the power of saddling the ratepayers with the expense of supporting the able-bodied men in indolence," the paper thundered.[95] The *Economist* agreed: "[W]e may easily find ourselves face to face with strikes all over the country, and with the wrecking of the machinery either of the Poor Law or of our municipal institutions."[96]

Such concerns were too pressing to allow Romer's decision to stand unchallenged. Powell Duffryn appealed, and Lindley heard the case in 1900. This time, the company got the ruling it wanted. Lindley could not ignore the principle that held that the starving poor—even starving strikers—should be relieved. As such, their entitlement to relief remained theoretically intact. However, the Master of the Rolls offered up an eye-wateringly stringent definition of destitution. The miners in South Wales in 1898, he decided, "were not so weak as to be unable to work, and they were not relieved on the ground that they were physically in that condition. They were relieved before they were entitled by law to relief, and, I suppose, from fear of a disturbance and of violence."[97] In the future, a striker would have to be at death's door before being considered a suitable case for assistance.

This was a much stricter definition of "urgent necessity" than had been applied by Lord Romer. It was also far tougher than the criteria applied by judges in an earlier case, that of *Clark v. Joslin*. In 1873, Millicent Joslin, a homeless and hungry woman, had been refused relief by a relieving officer in Whitechapel. Though not so weak as to have been near collapse, the judges in her case found against the relieving officer on the basis that she "might have starved."[98] This seemed a positively lax formulation when set against Lindley's pronouncement. We might also remember that in 1890 the *Economist* had identified a solution to the threat of rate-aided strikers that required no such radical reinterpretation of the Poor Law. It advocated giving destitute strikers relief in the form of a loan that they would have to pay back upon their return to work. Again, compared to the *Merthyr* judgment, this seemed a moderate approach to the question. The point needs to be underlined: Lindley's ruling was by no means the only viable option open to him in 1900.

The Master of the Rolls declared that the Merthyr guardians had taken "an erroneous view of their power and duty to grant relief in such a case as this." The guardians had contended that "it was competent for them, and indeed their duty, to grant relief on the ground of emergency." They had been "wrong" to do so.[99] But so, too,

[95] *Merthyr Times*, 30 March 1899.
[96] *Economist*, 1 April 1899, 459.
[97] *Attorney General v. Merthyr Guardians*.
[98] *Law Times* 27, 1 February 1873, 762–65.
[99] *Attorney General v. Merthyr Guardians*.

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were a long list of others. In pointing out the error of the Merthyr guardians' ways, Lindley was also chastising Bircham, the Poor Law inspector who had been the guiding hand behind the relief policy followed in 1898. Behind him stood the numerous Local Government Board officials who had sanctioned every relief payment made by the guardians to strikers. Lindley corrected them as well. He set right all the journalists, Poor Law experts, and commentators who had accepted the opening of the labor yards without comment, and he highlighted the faulty reasoning of Lord Justice Romer.

Everybody, it seemed, had been wrong in their interpretation of the Poor Law during the coal war. It had taken two years of legal wrangling and the intervention of Lord Lindley to set matters straight. Yet there had been such agreement about the legitimacy of the relief policy followed in 1898 that we need to disallow arguments suggesting that the Master of the Rolls was merely clarifying the Poor Law. For there was no confusion in 1898 about a destitute striker's right to relief, nor about the correctness of relieving officers' decisions regarding which strikers were destitute and therefore deserving of assistance. We need to see the *Merthyr* judgment for what it really was: a major reinterpretation of a key aspect of Poor Law policy. The involvement of a High Court judge in policy decisions was itself an important feature of the case. As the *Law Quarterly Review* remarked, it was very unusual for a judge to decide "a matter of high policy." If the case had been brought in France, it would have been ruled out of the court's jurisdiction, the journal opined.[100] Notably, Justice Romer had, in part, based his rejection of the Powell Duffryn case on his belief that a court of law was not a proper place for such a question to be raised. The democratically accountable Local Government Board was the appropriate body to consider any complaints ratepayers might have, he argued. Lord Lindley harbored no such concerns.

RESPONDING TO THE *MERTHYR* JUDGMENT: JUBILANT CAPITAL AND SILENT LABOR

Predictably enough, commentators who had been troubled by Justice Romer's ruling enthusiastically welcomed the *Merthyr* judgment. "Nobody outside the board-room at Merthyr Tydfil—except, of course, those gentlemen who think the industrial affairs of the country are to be conducted on principles of anarchy and coercive terrorism—will be likely to find fault with the decision," crowed the *Free Labour Journal*.[101] The *Pall Mall Gazette* was similarly relieved. The British worker "is such an obstinate striker when he begins that if it were pronounced legal for him to receive relief from the rates we should not be surprised to hear of strikes prolonged to the utter destruction of trade." Romer had kept that option open to the strikers; Lindley had closed it down.[102] Others were encouraged to see the reassertion of the principles of 1834. The *Colliery Guardian* observed that "[i]t was never intended that charitable relief should used as a weapon of industrial war."[103]

[100] *Law Quarterly Review* 16, no. 63 (July 1900): 214.
[101] *Free Labour Journal*, 15 April 1900.
[102] *Pall Mall Gazette*, 7 March 1900.
[103] *Colliery Guardian*, 9 March 1900.

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The fear that a militant labor movement had been poised to take advantage of Romer's confirmation of a striker's right to relief was deep-seated. As the *Colliery Guardian* told its readers, in the wake of Romer's decision, "[T]he trade unions had been rejoicing in the possession of a new and powerful weapon, to be used, when occasion required, against colliery proprietors and employers generally." But such assessments were wildly inaccurate. As the *Guardian* was forced to admit, Lindley had taken the "weapon" of poor relief from the unions "without [it] having been so much as tried since the great coal strike in South Wales."[104] If labor leaders really had been celebrating after Romer's declaration, why had they not embarked on a series of rate-supported strikes? The answer lies in the fact that Romer had confirmed the existence of a right that most workers, and certainly most labor activists, did not actually want. Direct evidence of organized labor's attitude toward rate-aided strikes is difficult to find; in contrast to the pages of the mainstream press, the labor papers had little to say about the legal proceedings that led to the *Merthyr* judgment. But their muted response is itself richly suggestive.

If there was any enthusiasm among workers for the idea of using the Poor Law to support industrial disputes, one would expect to have found it in labor papers' commentary on the Romer decision. Yet there was none. The *Labour Leader* merely reported that "for the moment … in England it is legal for the Guardians to grant relief to men on strike." That was as much "rejoicing" as it allowed itself. The organ of the Independent Labour Party, the *I.L.P. News*, had nothing to say about the outcome of the hearing, nor did the *Ironworkers' Journal*. The *Clarion* devoted a mere two sentences to Romer's pronouncement. It curtly informed readers that "Boards of Guardians are empowered to assist people at times of 'sudden and urgent necessity,' and the assistance may take the form of outdoor relief."[105] The *Cotton Factory Times*, however, expressed a cooler opinion on the subject: "We are sorry that the question has ever been raised. There is no sense in working men striking and then going on the rates. If they cannot fight their own battles, the best plan is to refrain from fighting until they can."[106]

News that the *Merthyr* judgment of 1900 had significantly eroded a striker's right to poor relief provoked no angry response from labor-supporting opinion makers either. The *Labour Leader* let the ruling pass unremarked. Neither the *Clarion* nor *Justice* felt moved to write about Lindley's decision. The *Ironworkers' Journal* recognized that *Merthyr* was an "important legal decision," but after giving the basic facts of the case, it too fell silent.[107] This pattern of silences and half silences is repeated in the papers, pamphlets, and newsletters of the smaller, locally organized socialist groups. Even labor publications in South Wales, a place where memories of the bitter coal war were still fresh, decided not to cover the legal action against the Merthyr guardians. In Cardiff, the *Labour Pioneer* displayed a keen interest in local Poor Law affairs. But it said nothing about the proceedings in the High Court. Similarly, the *Swansea and District Workers' Journal* was attuned enough to local Poor Law developments to note how a newly formed Trades Council in Merthyr had begun agitating for support among the

[104] *Colliery Guardian*, 16 March 1900.
[105] *Clarion*, 8 April 1899.
[106] *Cotton Factory Times*, 31 March 1899.
[107] *Ironworkers' Journal*, April 1900.

town's guardians, yet just a few weeks earlier, it had let the announcement of the *Merthyr* judgment go unnoticed.[108]

How can we make sense of the muted response of the labor press to the legal proceedings and the absence of any "rate-aided" strikes in the months after Romer's ruling? Both can be explained by the working class's hatred of the Poor Law. Lynn Hollen Lees has shown how, at the century's end, "many workers had effectively distanced themselves from the poor laws, both in practical and psychological terms." They "rejected relief," she argues, "because it had come to be seen as stigmatizing." The Poor Law had come to be viewed as a system that "violated workers' subjective sense of themselves and of their dignity."[109] As F. M. L. Thompson has remarked, "Resort to poor relief … came to be equated with the loss of respectability."[110] Other scholars have demonstrated just how important ideas of respectability, self-reliance, and honor were to late Victorian workers. Union leaders constructed a highly moralized image of their members that presented them as hardworking and responsible citizens.[111] Patrick Joyce has noted the great weight that labor leaders placed on concepts such as the "dignity of labour" and "fair play." The language of fairness was often deployed to great effect when mobilizing workers against obdurate employers.[112] But might it not also have meant that workers, too, sympathized with the *Economist*'s complaints about the unfairness of "hardworking people" having to be "rated to the relief of other people who did not choose, rightly or wrongly, to work, and who had made no provision for idleness"?[113] Most workers simply did not think that using the Poor Law to fund a strike was a dignified, honorable way to proceed. As one speaker remarked to a conference of labor activists in Leeds in May 1899 (just a few weeks after Romer's decision):

> We have heard much of the folly, and even the wickedness, of a great and prolonged strike, entailing privation and suffering—homes stripped of their slowly acquired and much prized household necessaries, the cold hearth, and the empty cupboard; but is there not another aspect—a certain heroism, which accepts present suffering for future advantage, which renounces that which is easiest, and which might be turned to the advantage of the individual, for the sake of a common cause and the interest of the class. (Hear, hear.) No such self-renunciation as this is in my experience exhibited by any other class of the community. (Hear, hear.)[114]

There was a manly "heroism" in enduring strike-generated penury; it was more difficult to paint the stone-breaking strikers of 1898 in quite the same light.

Welsh miners' leaders remained tightlipped about the mass pauperization of their strikers in 1898. But one who did venture to discuss the use of the Poor Law was

[108] *Swansea and District Workers' Journal*, June 1900.

[109] Lees, *Solidarities of Strangers*, 294–95, 298.

[110] F. M. L. Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain* (London, 1988), 353.

[111] Andy Croll, "Mabon's Day: The Rise and Fall of a Lib-Lab Monthly Holiday in the South Wales Coalfield, 1888–1898," *Labour History Review* 72, no. 1 (2007): 51–54.

[112] Patrick Joyce, *Visions of the People: Industrial England and the Question of Class, 1848–1914* (Cambridge, 1991), esp. chap. 5.

[113] *Economist*, 1 April 1899, 459.

[114] *Ironworkers' Journal*, May 1899.

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John Williams, a miners' agent from Neath. Interviewed by the *Western Mail* just days after Lindley's ruling, Williams insisted that Welsh colliers would never again turn to the Poor Law. They had done so in 1898 merely as a result of their weak and divided unions. "When the miners of Merthyr and other parts of Wales applied for relief there was no proper organisation and no funds," he explained. "Such a state of things would not exist in the future." Now, the miners had a new, powerful union, the South Wales Miners' Federation. Moreover, under the rules of the Miners' Federation of Great Britain, "each collier on strike was entitled to 10s. per week, and 1s. per week for each child. The sum of £30,000 stood to the credit of the South Wales colliers, and if more were required levies could be made throughout Great Britain."[115]

Williams's testimony is important. He subtly distances himself and his fellow miners from the actions of the pauperized strikers of Merthyr and Bedwellty. What had happened in 1898 was exceptional, he said. More than that, he intimated that Lindley's ruling was irrelevant. His miners would never again ask the Poor Law guardians of the coalfield for help, not because Lindley had been made it illegal for them to do so, but because now there was a strong union. Organized labor meant disciplined labor. Ratepayers, in other words, had nothing to fear from a well-run trade union. Miners imbued with notions of the "dignity of labor" and a hatred of the Poor Law did not need the pronouncements of the Master of the Rolls to keep them from the workhouse; they could keep themselves from the humiliating embrace of the Poor Law.

Such attitudes toward pauperism help explain labor's subdued reaction to the court cases that led to the *Merthyr* judgment of 1900. *Merthyr* was about a legal right that the working class was quite frankly embarrassed to have, namely, the right of destitute strikers to claim poor relief. That is why there was no great "rejoicing" among the ranks of labor when Romer decided against the employers, nor any howls of protest when Lindley overturned Romer's decision. Notwithstanding the ease with which labor newspapers could have portrayed the *Merthyr* judgment as one more antilabor ruling from the High Court, they preferred instead to maintain a dignified silence in the hope that the commotion over "state-aided strikers" would quickly die down. The whole episode had allowed critics to portray unionists as having clamored for the right to fund their strikes out of the poor rates whereas, as we have seen, the labor movement had wanted no such thing.

CONCLUSION: REPOSITIONING *MERTHYR*

This article has sought to pluck *Merthyr* from its relative obscurity. The case should be viewed as a key moment in the history of the employers' counteroffensive and in the history of the late Victorian Poor Law. The story of the counterattack, as conventionally told, concentrates on the attempt to undermine the unions' legal position. *Merthyr* is left out of this narrative for the obvious reason that it was related to the Poor Law. But Lindley's ruling of 1900 reminds us that the employers' counteroffensive was more than just about the trade union's legal rights. It was about containing a labor movement that was seen to have overreached itself. In 1898, the Poor Law had become entangled in the battle between capital and labor; the legal proceedings that followed were aimed at removing a potentially important source of support for strikers.

[115] *Western Mail*, 12 March 1900.

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The legal proceedings were undoubtedly as important to the forces of capital as any of their other courtroom victories in the 1890s and 1900s. Why else did the Powell Duffryn Coal Company pursue the case even after Romer had pronounced so clearly on the legality of poor relief to strikers in 1899? The coal war of 1898, with its scenes of mass pauperization and tens of thousands of pounds of ratepayers' money being paid to strikers, deeply unsettled the employers and antiunion commentators. They wrongly feared that this was the beginning of a new phase in industrial relations, one in which militant unions would stop at nothing in their efforts to defeat their opponents. Romer's decision was a setback for the employers, but because of their persistence and Lindley's readiness to overturn Romer's ruling, it was only a temporary one.

Romer's finding in favor of the Merthyr guardians in 1899 deserves a more prominent place in our Poor Law histories. He confirmed what had been the conventional wisdom in Poor Law circles for years—that destitute strikers were entitled to poor relief. Poor Law inspector F. T. Bircham was certain of it, the Local Government Board officials in London were certain of it, and so too were those guardians in Merthyr and Bedwellty who voted to open the stone yards in the belief that they had no alternative. All those commentators who bitterly regretted the implications of Romer's decision were also convinced that strikers were entitled to relief. With this established, we see Lindley's pronouncement in a new light. The *Merthyr Tydfil* judgment should not be characterized as a benign attempt to bring clarity to a confused situation. There was no confusion. *Merthyr* was a piece of judge-made law—a major reinterpretation of the Poor Law—and contemporaries recognized it as such. As *Free Labour* noted in the days after Romer's pronouncement, given the soundness of the judge's interpretation of the Poor Law, "the only way out of the injustice of making the State support the striker in his folly and wickedness, would be to amend the law."[116] That is precisely what happened in 1900.

In 1901, jurist Frederic Harrison cast a critical eye over the two most recent cases that had gone against the trade unions: *Taff Vale* and *Quinn v. Leathem*. Lindley had been involved in both cases. Harrison declined to say that High Court judges were "prejudiced," but suggested instead that "the social and political tone of the time invariably colours the bias of all courts of law," which were "constitutionally conservative and see all things through the eyes of Property and Power." Justice Romer, for one, might have argued with Harrison on this last point. But few involved in the events that precipitated the *Merthyr* judgment would have dissented from Harrison's view that the "tone of the time"—set by the new unionism and the employers' counteroffensive—had decisively influenced Lindley's interpretation of the Poor Law in 1900. Lindley's "antiunion bias" has been remarked upon by one legal scholar. Michael Klarman has noted that the Master of the Rolls had, in various court cases, argued that unions were incapable of striking effectively without breaking the law. He was of the opinion that unions had much abused the law on picketing, and he thought that they were simply unable to persuade by peaceful means.[117] Whether or not we are swayed by arguments about Lindley's alleged antipathy to organized labor, many late Victorian commentators would have agreed with

[116] *Free Labour*, 15 April 1899.
[117] Klarman, "The Judges versus the Unions," 1585, n. 558.

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Harrison when he averred that "these cases would not have been decided in exactly this way between 1870 and 1890."[118]

The full ramifications of the *Merthyr* judgment were not felt until the 1920s. Given how greatly late Victorian workers hated the Poor Law, the ruling was symbolically important but practically irrelevant when it was delivered in 1900. Trade unionists were keen to distance themselves from the events of 1898 in South Wales. There would never be a repeat of the mass pauperization of strikers, they said. However, in the altered circumstances of the 1920s, Merthyr came into its own. By then, working-class attitudes to state welfare had undergone a considerable transformation. Older worries about the stigmatizing effect of poor relief had begun to recede. As one observer commented in 1934, "The problem of public assistance today is vastly different from that of twenty or even ten years ago, and that legacy from 'Dickens's days,' the so-called 'stigma' of [the] poor law, has almost disappeared."[119] Socialist guardians were now a reality in a number of Poor Law unions and they had already shown themselves able to manipulate the machinery of the Poor Law so that it better served the needs of their poverty-stricken communities.[120]

During the great industrial disputes of the 1920s, civil servants and government ministers became alarmed at what they considered to be an "overtly political use of the Poor Law," especially in the mining districts.[121] The numbers on poor relief rocketed during the seven-month miners' lockout of 1926. At the start of May, there were about a million recipients of outdoor relief in England and Wales; by the end of that month the figure stood at 2.1 million.[122] The Conservative Minister of Health Neville Chamberlain went so far as to claim that working-class guardians were guilty of "open and unabashed corruption."[123] Others argued that they were simply responding to an increase in destitution. Lindley's ruling of 1900 became an important weapon in government attempts to curb Poor Law spending. Circulars were issued reminding guardians of the legal restrictions placed on them by the *Merthyr* judgment, and legislation was hurried through Parliament that enabled the government to replace elected guardians with nonelected commissioners in unions suspected of being too lax in their interpretation of the rules. The Board of Guardians (Default) Act was enforced in Chester-le-Street, West Ham, and Bedwellty, and citizens in those places found themselves without elected representatives.[124] One historian has remarked that the act "was a violent and much resented corruption of the English tradition that the care of the poor was the responsibility of the locality."[125] It is perhaps fitting that the *Merthyr* judgment played a key supporting role in the attack on locally elected guardians in the aftermath of the 1926 dispute. After all, as a piece of judge-made Poor Law and the direct product of the employers' counteroffensive of the 1890s, its democratic credentials had always been suspect.

[118] Frederic Harrison, "The End of Trades Unionism," *Positivist Review* 105, no. 1 (September 1901): 181.

[119] Anne Digby, "Changing Welfare Cultures in Region and State," *Twentieth-Century British History* 17, no. 3 (2006): 319.

[120] John Shepherd, *George Lansbury: At the Heart of Old Labour* (Oxford, 2002), chap. 11.

[121] Ryan, "Poor Law in 1926," 369.

[122] Grover, *The Social Fund*, 6–64.

[123] Ibid., 65.

[124] Digby, "Changing Welfare Cultures," 303.

[125] Bentley B. Gilbert, *British Social Policy, 1914–1939* (Ithaca, NY, 1970), 222.

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