



DRAGON GENEALOGY
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Begotten by Fornication: Illegitimacy in England

"The bastard, like the prostitute, thief and beggar, belongs to that motley crowd of disreputable social types which society has generally resented, always endured. He is a living symbol of social irregularity" Kingsley Davis, 'Illegitimacy and the social structure' (reprinted 1964), p.21.

Children born out of wedlock have been known by many names over time: Illegitimate, Baseborn, Begotten by Fornication, Son of the people, Bastard, Begotten by adultery, Harvest child, Love child, Natural child, child of single mother are just a few. Latin terms: *Filius adulterinus* (child of an adulterer), *ex fornicatione nata* (born in fornication), *filius fornicatoris* (child of a). There are also terms used in specific localities. The baptism of illegitimate children are normally found in the parish registers of the place of the child's birth, but the names of the putative fathers are rarely recorded there. Possible name of the father might be surmised from entries where a surname is used as a middle name for the child.

England's Statute of Merton (1235) stated, regarding illegitimacy: "He is a bastard that is born before the marriage of his parents". While Scots Law allowed for legitimation if parents subsequently married: English law did not do so until 1926. And this was only as long as the parents could have legally been married at time of child's birth.

Post the dissolution of the monasteries the Church of England parish looked after the people within the parish. They provided for the poor of the parish using monies raised by taxes upon the parish. Illegitimate children and their mothers often became chargeable to the parish if the father did not assume responsibility or if the mother's family were not able to support her. This meant that a number of laws were put into place to ensure that the parish was not responsible for the cost. Ideal scenario is to get the pregnant woman married prior to giving birth thus making her and the child the financial responsibility of the husband. 1576: Provision for punishing mothers and fathers of illegitimate children, enabling offenders to be committed to jail unless a maintenance order was put into place. Vagrant Act of 1575/6 prescribed the responsibilities of the father.

Midwives

Midwives were required to be licenced by the bishop. As part of their oath they had to maintain the highest standard of medical care, make sure all children were baptised Church of England and extract information about the father of illegitimate children. In a number of documented examinations this was done during labour. The midwives were also taught to baptise weak and sickly babies according to the required words. In the 17th century Diocese of London for a midwife to be licenced required six women to testify

under oath as to her expertise. The licence came with a cost and had to be produced at ecclesiastical visitations.

Church courts and manorial courts can also be sources of information in this time period.

1732/3 Act reinforced earlier Act plus imposed on the pregnant mother the responsibility of presenting herself and naming the father – pre-printed forms introduced. Bonds of Indemnity or Bastardy Bonds : bond to pay for the lying-in and subsequent maintenance of the child, indemnifying the parish against any future costs.

1743: A bastard took its place of settlement from the parish in which it was born. This encouraged the removal of pregnant women.

1809-1810: Regularise payments and make the father financially responsible for the child's upkeep. Child still had settlement where born. Fathers could be sent to prison unless they indemnified the parish against the expense or married the mother.

All these laws create documentary trails which can be found within the records of the parish chest: account books of the churchwardens, constables and overseers of the poor, and at the minute books of the vestry of the parish where the child was born.

The records can include (sadly not all survive and not all may have existed for every case):

- Informant Notice
- Examination
- Summons
- Warrant
- Bastardy Bond
- Maintenance or Filiation Order
- Complaint of Arrears
- Summons

In the event the parish is unable to get the matter resolved it can be escalated to the Petty Sessions or the Quarter Sessions courts.

So prior to 1834, parish chest material, Petty Sessions and Quarter Sessions are the place to look if the mother or child become chargeable or have the potential to become chargeable to the parish. Private support still occurred in cases where families supported the mother and more importantly the child, the mother got married (not necessarily to the father) etc This time frame in many ways has the best records, if they have survived and the easiest to find.

The New Poor Law 1834 saw major changes and the implementation of the Poor Law Unions and the Workhouse. A requirement was that all poor relief would only be given in the Union workhouse rather than as previously within the individual parish. This particularly applied to unwed mothers.

Other changes to the Act meant

- Sole responsibility of Mother until age 16
- Mother could not claim maintenance for the child
- Only the Poor Law Union officials could claim maintenance for the child
 - money could only be used for the child not the mother

- Jurisdiction of bastardy cases shifted from the petty sessions to the quarter sessions so more expensive
- Parishes became liable for the costs of unsuccessful affiliation cases
- Fathers could no longer be imprisoned for non-payment of costs
- Child's settlement followed that of their mother until age 16

This meant a decrease in insistence on knowing the father and chasing for costs. The only way to get support was to enter the workhouse. The feeling was this would decrease immorality as it was felt that the existing system encouraged licentiousness and promiscuity..

There became increased concern that the new law had stimulated an increase in cases of infanticide and abandonment. There was demand for revision of the 1834 Poor Law legislation on the grounds that the destitution of unwed mothers was the primary cause of infanticide.

1839 Orders were again able to be made at the Petty Session rather than the Quarter Sessions.

The time period 1834-1844 is a difficult time for records though some do exist. Need to look at workhouse, Board of Guardian, Petty Sessions (after 1839) and Quarter Sessions.

Civil registration started 1 July 1837 and for many this is a clue that the parents were not married when there is no father listed. Pay attention to the naming of the child. See who was the informant and where the birth took place, was it a workhouse infirmary? It may say Union (Poor Law Union or may give an address) That leads to workhouse records Always look for a baptism as that may provide further information. Particularly look for surnames used as middle names. Sadly the 1837 Registration Act stated that "it shall not be necessary to register the name of the father of a bastard child". There was some variance as to what happened, some registrar's entered the reputed father's name, some didn't. Some women registered the child as if she was married.

Non-conformist registers and minute books can be useful as often there were disciplinary meetings if the "moral standards" of the congregation were not upheld.

1844 Act 'Little Poor Law' of 1844

Mother could claim 5s week for 6 weeks prior to the birth of the child & two shillings and sixpence a week thereafter. This was not increased until the 1890s then 5 s week for maintenance and education of child and in 1923 £1 a week. After 1844 needed some information about the address of the mother as affiliation orders are likely to be done through the Petty Sessions in the area she lived. There are some issues of survival of Petty Session records so need to check County Archives.

The 1844 Act required Annual Returns Petty Sessions which give the name of the mother, the date of the summons and hearing, the result, the name of the father, and the amount of maintenance to be paid. The place of residence and occupation of the father may also appear, but quite variable. These were required from 1844-1858. Remember that newspapers often report on the Petty Sessions so are a great resource.

Check for time frame before birth and after birth. Sometimes a while after birth as perhaps the father was paying support then stopped. Summons books are often the most useful if the returns have not survived.

1875 Registration Act stated that “ The putative father of an illegitimate child cannot be required as father to give information respecting the birth. The name, surname and occupation of the putative father of an illegitimate child must not be entered except at the joint request of the father and mother and in which case both the father and mother must sign as informants”. If both parents are given as informants in column seven after 1875 you can assume the child is considered illegitimate. Tended to be less issues if the father registered the child.

Workhouses: <http://www.workhouses.org.uk/> the excellent site by Peter Higginbotham has much useful information on workhouses in the United Kingdom. Peter is now also developing the Children’s Homes website <http://www.childrenshomes.org.uk/> There were many orphanages such as the one established in 1739 by Thomas Coram named the Foundling Hospital for the Maintenance and Education of Exposed and Deserted Children. Thomas established it because he "was depressed by the daily sight of infant corpses thrown on the dust heaps of London”.

Check the Board of Guardians records and after 1930 when the responsibilities of Boards of Guardians were handed to the Councils check County Council records. There are likely to be privacy limitations.

Courts

Apart from the maintenance efforts through the courts there was the other side where the mother was considered at fault. The mother (and in earlier times the father) could be brought before the church court, manorial court etc on a charge of immorality. Some of these court proceedings can be quite detailed as are some of the maintenance summons and replies by reputed fathers.

In 1803 it became a crime to conceal a birth for an unmarried woman as it was felt that the thought behind the concealment was to commit infanticide after the birth. The Offences Against the Person Act 1861 made it a crime to conceal the birth of a child by any woman who then secretly disposes of the body of the child.

Informal Adoptions

Informal adoptions had always occurred. These did not give the child any legal right in the new family. A child would often be given to another family member or to another person who wanted a child. Sadly there are not records of these movements. The newspapers of the day would have advertisements looking for children and for people who were offering children. There were also a number of societies both religious and non-religious who endeavoured to find homes for illegitimate children. There were an increase in these societies during and after the First World War.

Adoption

Formal adoption did not begin in England and Wales until 1926 (1929 Northern Ireland 1930 Scotland). One Initially in England and Wales the Act was more of an enabling Act. It did give the adopted parents the right to go to court to secure a legal entitlement to keep their adopted child. In the event the parents died intestate the adopted child had no legal right to inherit from their estates. There was no compulsion on the adopters to legally adopt the child. There was a “guardian ad litem” report for the court but there was no regulation of the adoption process before or after the legal proceedings.

There were a number of concerns about the process: even good adoption agencies carried out few checks of the prospective parents, some maternity homes gained were notorious in taking fees from both the biological

mother and the adoptive parents. A number of children were sent overseas, without any safeguards for the child, and some for monetary gain by the organisation. There had been a long history of emigration of children to the British colonies.

A number of organisations held a view about what they considered “best for the child” which looking back from 2021 were not in the child’s best interests. Not all the children were illegitimate, lack of money, no contraception meant some families were unable to look after all their children.

A Departmental Committee chaired by Miss Florence Horsbrugh MP tabled a report in 1937 to Parliament and this resulted in the Adoption of Children (Regulation)Act 1939. The war delayed the implementation but in 1942 after numerous instances of problems with how adoptions were being done, it became law in June 1943.

This regulated the process of adoption. Adoption agencies had to register with local authorities. There needed to be proper processes in place for approving adopters and a probationary period and other safeguards for the child. Financial payments for the child became illegal as did newspaper personal adoption advertisements. Local authorities were to regulate informal adoptions.

Wills and Property

Parents could leave property to the illegitimate child if named in the will. The child was not entitled to claim if not named. The 1796 Estate Duty Act taxed bequests to illegitimate children as though they were bequests to strangers.

Property of a illegitimate person who died intestate without surviving spouse or legitimate issue before 1927 reverted to the Crown.

Access to the Records

Parish chest materials will be in the county archives. Not all parish chest material has survived. Important to also look at the Petty Sessions and the Quarter Sessions records.

Workhouse records will be listed under the Poor Law Union rather than the parish in the Archive records.

FamilySearch has digitised much of the parish chest material. The various pay sites Ancestry, Findmypast, The Genealogist are also digitising this material.

Internet Archive: <https://archive.org/> has Government publications relating to the implementation of the 1834 Act among its many digitised treasures. There are also Registrar General reports. There are also digitised pamphlets relating to social crusades. Many family history societies have indexed court records, workhouse records and parish chest material for their areas. A number of County archives have also name indexed a number of their records. It is always worth using Google to look for records in your area of interest.

DNA

The advent of autosomal DNA testing has been a great tool in determining the paternal lines in a number of cases of no father being listed. Autosomal DNA due to its recombination inheritance is very useful back to about six generations but if looking for an unknown parent generally about three to four generations is the limit as without having access to test results from a number of descendant lines. Ideally test the oldest known generation on the unknown line (not necessarily the oldest living person). It has its limitations the

further back in time but certainly there have been success stories (after many tests and much analysis of results) going back to the mid-1800s.

Useful Books

Annal D and A. Collins *Birth, Death and Marriage Records: A Guide for the Family Historians* Pen & Sword 2012

Blake P. *Discover the Poor Law in England and Wales* Unlock the Past 2018

Burlinson R *Tracing Your Pauper Ancestors: A Guide for Family Historians* Pen & Sword 2013 2nd Ed

Cole A, *An Introduction to Poor Law Records before 1834* FFHS 2000

Fowler, Simon *Poor Law Records for Family Historians* Family History Press 2011

Fowler, Simon *The Workhouse: the people, the places and life behind doors* Pen & Sword 2014

Hawkings David *Pauper Ancestors a guide to records created by the Poor Laws in England and Wales* The History Press 2011

Higginbotham, Peter *Voices from the Workhouse* The History Press 2012

Higginbotham, Peter *The Workhouse Encyclopedia* The History Press 2014

Milner P *Buried Treasure: What's in the English Parish Chest* Unlock the Past 2015

Paley, Ruth *My Ancestor was a Bastard* Society of Genealogists 2011 2nd ed

Tate WE *The Parish Chest* Phillimore 1983