Who’s the Father? Finding the Fathers of Illegitimate Children in England

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OVERVIEW
Virtually every pedigree line will include illegitimacy in a direct line family as illegitimacy ratios from 1580 to 1837 averaged about 3.6%. From 1837 to 1965, the ratio is between 4 and 7 percent. This course will put the issue of illegitimacy in its historical context, prepare you for the search, and lead you through the most relevant sources for learning the name of the father.

HISTORICAL CONTEXT
In a genealogical context, illegitimacy usually deals with children born out of wedlock. Historically, opinions of legal systems, cultures and religions have varied, but children labeled “bastards” or illegitimate often suffered discrimination, persecution, stigmatization and legal disability. They were often barred from schools, birth in hospitals, orphanages and, as adults, certain professions and legal rights.

Under English common law, a child was considered legitimate if: 1) It was conceived and born in a valid marriage; 2) It was conceived before marriage but the parents entered into a valid marriage before it was born; or 3) It was conceived in a valid marriage but born after the marriage ended. The child was considered illegitimate if the parent’s marriage was not valid or the father was proved to be someone other than the mother’s husband.

At times, common law also deemed a child to be filius nullis meaning “no one’s child” therefore having no legal relatives and no right to parent’s names or inheritance. The estate of an illegitimate person who died unmarried and intestate (meaning without a will) was forfeited to the crown.

Church of England involvement with bastardy was both a moral and social issue. As a social issue, the church had primary responsibility for caring for the poor and illegitimate children often required parish support, so determining the parish of settlement or residence was critical. This parish could be determined by birth, apprenticeship, taxes and property rental, among other

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4 Ibid. page 4.
5 Ibid. pages 3-4.
things. The marriage of a woman to the man would change her parish of settlement to her husband’s and perhaps dump the burden on another parish. As a moral issue, the Church was concerned with saving souls and children born out of wedlock involved either fornication or adultery. The parish or diocese often investigated the “worthiness” of the mother and father to evaluate their standing in the Church.

KEY DATES

<table>
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<tr>
<th>Year</th>
<th>Event</th>
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<td>1576</td>
<td>Justices empowered to order the father of an illegitimate child to pay support.</td>
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<td>1610</td>
<td>A woman unable to maintain an illegitimate child could be imprisoned for up to a year.</td>
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<td>1662</td>
<td>The parent’s property could be taken if they left a child chargeable to the parish.</td>
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<td>Pre – 1732</td>
<td>Unwed pregnant women were encouraged to give birth elsewhere to remove the burden of caring for the poor out of the parish.</td>
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<td>1732 – 1742</td>
<td>Unwed mothers-to-be required to give the name of the father under oath with failure to do so punishable by imprisonment.</td>
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<td>Pre – 1742</td>
<td>An illegitimate child’s settlement was that of the mother.</td>
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<td>1742 – 1834</td>
<td>The child belonged to the parish in which they were born because they were “no one’s child”. The parents had no obligation to care for the child or to compel a mother to identify the name of the father of “no one’s child”.</td>
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<td>1834</td>
<td>New poor law resulted in the creation of poor law unions usually made up of many parishes and of workhouses and took the burden from individual parishes. Also, this ended “no one’s child” and placed the “burden” of the child directly on the mother. If chargeable, poor law authorities could take away the mother’s rights and promote the child being raised in a more wholesome environment.</td>
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<td>1844</td>
<td>Affiliation Proceedings introduced in which a maintenance order could be applied for up to a year after the child’s birth at the petty session division or other local (to the mother) court. This procedure remained relatively unchanged to the 1900’s.</td>
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RESEARCH STRATEGY

The most common clue that a child is illegitimate is that the birth or christening record lists only the name of the mother. In many cases, terms such as spurious, baseborn, bastard, or natural child will be used, which make it clear the child is considered illegitimate. Also do not assume that because the name of a father is entered, it is the correct one. Rely on original records but gather all possible evidence.

The time period from 1834 to 1844 is probably the most difficult for finding the name of the father. Check poor law records by learning the name of the Poor Law Union (see below).

For the time period before 1834, start your search with the parish poor law records. Check first

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for bastardy orders or bonds. Then search court records next starting with Petty Sessions and then Quarter Sessions. Remember, private arrangements for care of an illegitimate child were often made.

If the child was born after 1844 into a relatively poor family, the first step after locating the civil registration birth certificate and parish register christening is to find a maintenance (affiliation) order from the petty sessions. The survival of such records is poor, however. Next, try records of the local Board of Guardians or if the child was tied to a private institution, than to the records of that institution.

Also, check for poor law or bastardy indexes online (Access to Archives aka “A2A” is excellent [http://www.nationalarchives.gov.uk/a2a/]) and in the Family History Library Catalog using keywords such as “poor law”, “index”, “bastard(y), and the county name.

PRIMARY SOURCES

Civil Registration Birth/Marriage Certificate, post-1837

1. Pay attention to the informant and residence information for clues. Maybe the residence was a workhouse or other than the mother’s normal residence.
2. Birth may be registered in the wrong quarter. Parents had 6 weeks to register a birth without penalty. Birth registration not required until 1876.
3. The 1837 Act of Parliament that introduced civil registration stated “that it shall not be necessary to register the name of any father of a bastard child”. By 1850, the reputed father could not be named and in 1875, the reputed father was not to be named except by joint request of the parents and, in this case, both were to sign as informants.

Church Parish Registers and Bishop’s Transcripts

1. Church of England parish registers and Bishop’s Transcripts (note: some parishes kept separate registers for illegitimates, though this is extremely rare).
2. Non-conformists (search churches beyond the normally attended church). Congregations often punished mothers for having an illegitimate child.
3. LDS Records - Endowment Index (TIB) and Patriarchal Blessing Card Index

Poor Law before 1834

1. Bastardy Bonds – may or may not exist, rarely indexed.
2. Churchwarden’s Accounts – may show lump sum payments of fathers to churchwardens.
3. Vestry Minutes – Handled multiple issues including bastardy.
4. Settlement Examinations and Removal Orders – deal mostly with poor, including unwed mothers.

Poor Law from 1834

1. Variety of records will include some or all of the following:
   a. Applications for Affiliation, Boards of Guardians minutes, workhouse registers of admissions, discharges, births, baptisms, deaths, applications for out-relief, registers of pauper children admitted to poor law or other schools, registers of children boarded out with foster parents, registers of emigrating children, and adoption agreements
2. To identify the Poor Law Union, use Gibson’s Poor Law Union Records. The reference information is found in the Further Information section at the end of this syllabus.
3. Records are typically in local record offices, but many unions crossed county boundaries so they may be found in a neighboring county.

Affiliation Orders (after 1844)

1. Need to know the mother’s address at the time of application to determine the petty sessional court.
2. Petty sessional records usually at local county record offices.
3. Records may include application for summons (may be in two series) against the alleged father, a record that the summons was issued and an adjudication.
4. Court minute books may also exist.
5. Many records do not survive until later 1800’s.
6. There may also be local newspaper reports of petty sessional hearings.

Bastardy Returns, 1844-1858

1. Required from each petty sessions (police court)
2. Gave the name of the mother, the date of summons, date of hearing, the result of application and name of father.
3. Annual lists of appeals also compiled.
4. Records are most likely found in the local county record office with records of the quarter sessions.

Church Courts

1. Church courts or “office cases” were often heard during a Bishop’s visitation. Some of these have been published.
2. Records are typically found in diocesan archives which are often combined with county record offices. Check The records of the established church in England excluding parochial records by Dorothy M. Owen for indications as to their whereabouts.

Civil Court

1. Primary courts of interest are Petty Sessions and Quarter Sessions. Records are found at local record offices.
2. Review Gibson’s Quarter Sessions Records for time period, location, and availability.
3. Records may be found in other criminal courts such as the Assize Court, but success is less likely.

SECONDARY SOURCES

1. Adoption – legal beginning in 1927. Records begin at this time.
2. Apprenticeship – best found in parish vestry papers, apprenticeship indentures for pauper children. The National Archives index to apprenticeships from 1710 to 1811 will not help.
3. Census Records
4. Law Reports – published in a series titled English Reports, made for lawyers by lawyers and used to pinpoint specific legal issues. Some available on CD-Rom though not at FHL. Use Google to search for them.
5. Manorial Records – May be helpful for earlier time periods. Check Manorial Documents Register at www.nationalarchives.gov.uk.
6. Newspapers – if the illegitimacy was potentially scandalous, there may be a newspaper report. The Gentleman’s Magazine (FHL# 942 B2g) and London Times have good
indexes and are places to start. The London Times can be found on the patron computers at the FHL or through the Godfrey Memorial Library link, also at the FHL.

7. Probate Records – Though illegitimate children are rarely mentioned in them, wills can be important because of the relationship between illegitimacy and inheritance rights. Also, the term “natural” child can be used to indicate legitimacy or illegitimacy but can be a clue nonetheless.

WHEN THE FATHER CANNOT BE FOUND

- Look for a subsequent marriage of the mother. A marriage and several legitimate children may indicate that these same parents simply had their first child before marriage. At least it may indicate a more stable home environment for the child.
- Census and probate records may also indicate the name of the dominant male figure in an illegitimate child’s life.

FURTHER INFORMATION


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