

## **BASTARDY RECORDS**

Laws concerning provision for the maintenance of illegitimate children were first formulated in the Elizabethan period. As with many of the poor relief laws, the parish formed the basis for any enforcement or relief that was required.

In 1576, an act was passed which included provision for punishing mothers and fathers of illegitimate children, enabling offenders to be committed to jail unless a maintenance order was performed. An act of 1733 decreed that unmarried pregnant women had to declare their condition and name the father of the child: the father had to give security to indemnify the parish, paying a weekly sum to provide for the child.

The **Bastardy Acts of 1809-1810** were an attempt to regularise payments and make the father financially responsible for the child's upkeep. Children were deemed to have settlement (i.e. the right to reside or settle) in the parish in which they were born and fathers could be sent to prison unless they indemnified the parish against the expense or married the mother. Though alleged fathers gave security (promise of a financial payment) to appear at the quarter sessions, affiliation and maintenance orders were decided at the petty sessions. The acts led to complaints of corruption (mainly regarding false accusations of paternity from mothers) and also problems of non-payment by putative fathers.

The Bastardy Acts were repealed by the **New Poor Law** or **Poor Law Amendment Act of 1834**, which made it harder for unmarried mothers to obtain financial maintenance even though they were made liable for the care of their children. Jurisdiction of bastardy cases shifted from the petty sessions to the quarter sessions (and therefore became more expensive to pursue). Parishes became liable for the costs of unsuccessful affiliation cases and fathers could no longer be imprisoned for non-payment of costs. The child's settlement followed that of their mother until they reached the age of sixteen. Ultimately, should support be required, this would be found in the Union workhouse.

Opposition to the bastardy clauses of the New Poor Law (as well as the act in general) led to the '**Little Poor Law**' of 1844. This transferred responsibility back to the petty sessions (though appeals could still be heard at quarter sessions). The act allowed unmarried mothers to apply directly for an affiliation order against the father for the child's maintenance independently of the parish. Mothers were, however, still expected to provide evidence of the child's paternity and many were unable to bring cases before the magistrates without the help of the parish. Putative fathers were expected to pay for the maintenance of their child and were threatened with imprisonment with hard labour or the

removal of goods. The justices in petty sessions were required to make an annual return to the quarter sessions the number of summonses issued, applications heard, orders made and refused.

---

## Records at Warwickshire County Record Office

Records relating to illegitimacy prior to 1844 can be found in parish collections (see Warwickshire Poor Law Index on the Midlands Historical Data website) and quarter session records including:

- **QS 39/1-18**, quarter session minute books.
- **QS 40/1/1-12**, quarter session order books (transcripts in local studies library **A.War**).
- **QS 50/5-6**, 'Certificates granted at the Quarter sessions in cases of Bastardy...', 1816-1839 (available to view and search via [www.ancestry.co.uk](http://www.ancestry.co.uk)).

After 1844, records can be found in petty session application or summons books and court registers as well as quarter session records including:

- **QS 39/19 onwards**, quarter session minute books (for appeals).
- **QS 50/2-4**, returns made by the petty sessions to the quarter sessions.

An index for a selection of the post 1844 records, including petty session returns to the quarter sessions, can be searched on [www.findmypast.co.uk](http://www.findmypast.co.uk).

**Please note that records containing personal information under 100 years old are unavailable for general access. Please contact staff for further details.**

---

## Note on terminology

The term 'bastard' was a contemporary term used widely in legal proceedings referring to illegitimate children born out of wedlock, usually when their mother was financially incapable of supporting them. See glossary on our online catalogue, Warwickshire's Past Unlocked at <http://archivesunlocked.warwickshire.gov.uk/CalmView/>.

---

## Bibliography

Clarke, John J., *Social Administration Including the Poor Laws* (London, 1935).

Henriques, U.R.Q., 'Bastardy and the New Poor Law', *Past & Present*, No. 37 (Jul 1967), p.103-129.

Nutt, Thomas, 'Illegitimacy, paternal financial responsibility, and the 1834 Poor Law Commission Report: the myth of the old poor law and the making of the new', *The Economic History Review (New Series)*, Vol.63 No.2 (May 2010), p.335-361.

Tate, W.E., *The Parish Chest* (Cambridge, 2000).

---