The bastardy controversy of nineteenth-century Britain.

Diane M. Davison

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THE BASTARDY CONTROVERSY
OF
NINETEENTH-CENTURY BRITAIN

by
Diane M. Davison

A Thesis

Presented to the Graduate Committee
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10/11/82

Professor in Charge

Chairman of Department
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In 1834 the British Parliament reformed the Poor Law system established by the Acts of Elizabeth, 1597-1601. Concern over the rising cost of the Poor Law was the primary reason behind this revision.

Laws concerning unwed mothers and their illegitimate children were part of this system and the changes affecting them were among the most unpopular. Prior to 1834 unwed mothers had been legally entitled to receive support from the fathers of their children. After 1834 the avenues of attaining support were, for all practical purposes, cut off and the unwed mother could receive aid only by entering the workhouse. The advocates of the reforms asserted that the new laws would act as a deterrent to bastardy. They believed that a woman would be less likely to engage in pre-marital sexual relationships if she knew she would be ultimately solely responsible for the support of the resultant child. The Poor Law Commissioners who investigated the bastardy issue reported numerous cases of abuse and recommended the abolition of the system entirely.

The passage of the bastardy bill through Parliament created a storm of controversy. The opponents of the measure condemned it as being unfair and inhumane. They pointed out that two parties were responsible for the birth of an illegitimate child and, therefore, two parties
should be held accountable for its support. Despite the protests, the bill became law after some minor modifications. The situation facing unwed mothers, which had always been grim, now became desperate.

The new laws did not result in the expected reduction of the bastardy ratio. In some parts of the country the incidence of bastardy increased. Furthermore, there was much concern that the new law had stimulated an increase in cases of infanticide and abandonment. The harshness of the Act created a public outcry. Petitions flooded Parliament and rioting occurred in Wales. There was fear that the uproar over the bastardy clauses would endanger the entire New Poor Law. This concern caused Sir James Graham to introduce a reform bill in 1844 which substantially altered the principles of the 1834 Act and separated the Bastardy Laws from the general Poor Law system. Other reform measures followed until, by the end of the century, the Bastardy Laws bore little resemblance to those passed in 1834.
INTRODUCTION

This thesis examines the bastardy problems in nineteenth-century Britain. Attention is focused on contemporary attitudes toward the treatment of pauper bastards and the legislative solutions which were adopted, particularly the radical reform of 1834. The first four chapters deal respectively with the extent of illegitimacy in the eighteenth and nineteenth centuries, the provisions of the Old Poor Law concerning bastards, the origins of the 1834 bill, and its passage through Parliament. The fifth chapter deals with the plight of unwed mothers in Victorian Britain and the sixth with bastardy legislation after 1834. The final chapter draws some tentative conclusions concerning the rationale behind the various reforms and the failure of the New Poor Law to cope with the problems.
CHAPTER I: STATISTICS OF ILLEGITIMACY

Statistics of nineteenth-century illegitimacy are rare and those that do exist are neither precise nor complete. This chapter argues that the figures that were compiled constitute only the tip of the iceberg. It refutes the common idea that the 1834 reforms resulted in a decrease in illegitimate births. A decrease did occur in the second half of the century, but this was the result of factors independent of the legislative changes.

Modern scholars have noted certain trends in the area of illegitimacy. J. D. Chambers estimates a 5% rate of illegitimate births in England from Elizabethan to Georgian times.¹ This low rate rose substantially after 1750 in England and throughout Europe. Edward Shorter refers to this trend as a "revolution in sexual behavior" which took place in Europe between the middle of the 18th and the end of the 19th centuries.² Illegitimacy rates began to turn upwards in the cities first, spreading to the villages later. England was unusual in this regard because its


illegitimacy ratios were often lower in the towns than in the countryside. As Shorter says,

In London, for example, illegitimacy in 1859 was an unbelievably low 4% of all births. (In Vienna in 1864, illegitimate births exceeded legitimate.) Either something about English cities, such as their great prostitution, made them reasonably different from their continental counterparts, or many births were not being registered as bastards — something that could easily have happened in English vital statistics registration.³

Another explanation of this wide discrepancy is that in European cities where the illegitimacy rate was very high (Munich 50%, Vienna 50%, Madrid 20%, Paris 25%), there was a large number of hospitals where unmarried women could give birth to their children with anonymity, thus allowing a more accurate set of statistics. The official rate in London of 3% applied only to the registered illegitimate births which were undoubtedly much less numerous than the unregistered.⁴

In France, illegitimate births formed only a miniscule number of registered births before 1750 with rates of 1% or 2%. By the end of the 18th century an illegitimacy

³Ibid., p. 252.

ratio of 5% was common, but by the middle of the 19th century, levels of 10% and 20% were the norm and some are even higher. It is estimated that one-third of all children born in Paris in the years between 1815 and 1848 were born to unwed mothers. Chambers believes that the low incidence of bastardy recorded in France prior to the nineteenth century was the result of especially strong clerical influence. The decline of ecclesiastical control is seen as one of the prime factors in the growth of illegitimacy in England as well. According to Chambers,

By the middle of the 18th century the role of marriage in the gathering tempo of economic advance was changing. The factors of restraint which constituted its essential character were being weakened with important results on fertility and the birth rate. . . . One factor was the erosion of ecclesiastical influences on the relations of the sexes, reflected in a rise in the proportion of bastardy and premarital conception. In the course of the century, the incidence of the latter probably doubled, but the evidence suggests that unrecorded bastardy might have risen four or five times in the same period.

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6 Chambers, p. 44.
7 Ibid., p. 58.
That the actual record of illegitimate births does not show this dramatic increase is believed to be the result of defects in the registration process which are also attributed by Chambers to the weakening of ecclesiastical control. 8

In addition to the work of modern scholars, we also have two nineteenth century reports on the statistics of illegitimacy which were presented to the London Statistical Society by Lord William Acton in 1859 and Lord W. G. Lumley in 1862. Both authors point out that the only figures available for use in their studies, those supplied by the Registrar General, reflect only registered births and therefore cannot be considered comprehensive.

Acton presented a paper entitled "Observations on Illegitimacy in the London Parishes of St. Maryleborne, St. Pancras and St. George's, Southwark, during the year 1857." He was a member of the Royal College of Surgeons and a Fellow of the Medico Chirurgical and Statistical Societies. He regarded illegitimacy as one of the major social evils of the day and decried the fact that so little attention had been paid to it by statisticians and medical men.

I have looked through the lately published catalogue of our library, and failed to find mention of the word.

8 Chambers, p. 73.
With the exception of some few books relative to Foundling Hospitals, I experience the same plentiful lack of information when I consult the libraries of the Royal College of Surgeons and the Royal Medico Chirurgical Society.9

He points out that, according to the Registrar General's Statistics, 42,651 illegitimate children were born in England and Wales in 1856 and 2,761 in Scotland in 1858. Dr. Acton was concerned not only with the birth of illegitimate children, but also with their deaths—a major factor which shall be discussed in detail later. He felt that it was on the basis of these statistics of violent death that the "complete revision of the Bastardy enactment (1834) is called for."10 In fact, Acton's article is primarily a demand for revision of the 1834 Poor Law legislation on the grounds that the destitution of unwed mothers was the primary cause of infanticide.

He includes two interesting tables (see Appendix IA) showing the occupations of unmarried mothers in the three districts studied as well as those of the alleged fathers. Of the 339 mothers interviewed in 1857 over $\frac{1}{3}$ (57%) were


10Ibid., p. 492.
domestic servants. The situation of these women was especially grim as they were sure to be turned out without references. Only four of the 339 women in question married after becoming pregnant. An analysis of the occupations of the fathers of 180 illegitimate children born in the workhouse of Marylebone revealed that the highest number were laborers followed by domestics, but six gentlemen, one surgeon, and one solicitor are also recorded (see Appendix IB).

The most disturbing section of Acton's analysis concerns the mortality rate of illegitimate infants. He compiled his figures by examining the death certificates of children under five years of age. Those whose certificates contained only the names of their mothers were illegitimate. By this method he arrived at a total of 392 illegitimate children who died in the three London parishes in 1857. Equally disturbing were the causes of death. Of the 392 children in his study only sixteen showed signs of specific disease (e.g., syphilis). Acton also includes a table showing the causes of violent deaths of babies in England and Wales in 1856 (Appendix IC). 846 babies are recorded officially as hanged, strangled, and suffocated. There are no records as to what proportion of these children were illegitimate, but Acton assumes that
these were in the majority. 11 Acton's paper was largely a request for legislation to assist the unwed mother in raising her child. He believed that the practice of putting children out to nurse, as well as the fear and destitution of unwed mothers, was the primary cause of infanticide. These issues will be discussed in more detail in Chapter V.

Acton's statement was answered by W. G. Lumley, Barrister, Assistant Secretary of the Poor Law Board and Secretary of the Statistical Society, whose paper was entitled "Observations on the Statistics of Illegitimacy." Lumley's central point was that illegitimacy was not as widespread in England as Lord Acton intimated. He showed through numerous tables that the illegitimacy rate for Great Britain was much lower than that of most other countries in Europe. His figures are drawn from the reports of the Registrar-General, who, he asserted, gave full and accurate accounts from 1842 to 1859, although he does admit, in contradiction, that many illegitimate births were not registered. His report can be compared to another contemporary article entitled "Foundlings and Infanticide" which included a table from the Quinquennial Report of the

11 Ibid., p.p. 501-502

10
Registrar General of Births showing the number of illegitimate children registered in certain years up to 1863:

<table>
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<tr>
<th>Year</th>
<th>England &amp; Wales</th>
<th>Metropolis</th>
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<tbody>
<tr>
<td>1847</td>
<td>33,125</td>
<td>2,702</td>
</tr>
<tr>
<td>1852</td>
<td>42,491</td>
<td>3,354</td>
</tr>
<tr>
<td>1857</td>
<td>43,022</td>
<td>3,748</td>
</tr>
<tr>
<td>1862</td>
<td>45,222</td>
<td>4,320</td>
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These numbers agreed with Lumley's, but the author of the article stressed that they referred only to children born in workhouses or lying-in hospitals. He assumed that the number of illegitimate children born each year was closer to 60,000. Even this estimate was probably conservative. 12

Lumley also downplayed the reports of high levels of infanticide among illegitimate children. He cites figures compiled by the Home Office and published under the title "Criminal Returns." For these three years the totals come to 391 crimes committed, 365 persons apprehended, and 300 committed or bailed for trial. For each of these three years the number of illegitimate children registered was upwards of 43,000. The weakness

12 Harold King, "Foundlings & Infanticide," Once A Week, (Sept. 9, 1865), p. 335.
of these statistics is obvious. Illegitimate births which resulted in infanticide or abandonment were unlikely to be registered. Furthermore, it was very difficult to prove a case of infanticide, and most of these deaths were passed off as being of natural causes and were never investigated or brought to trial. This issue will be discussed in more detail later, but it can be pointed out here that, contrary to Lumley's findings, infanticide was an issue of some magnitude in nineteenth century Britain.

The problem was obvious enough to prompt Thomas Cram, a retired sea captain, to establish the London Foundling Hospital in 1741. He took this action because he "was depressed by the daily sight of infant corpses thrown on the dust heaps of London."13 A survey of the British press in the 1860s reveals the frequent findings of dead infants under bridges, in parks, in culverts and ditches, and even in cesspools. In 1862 The Standard referred to the "execrable system of wholesale murder" while the Morning Star in 1863 asserted that "this crime is positively becoming a national institution." A member of Parliament declared that the country seemed to be revelling in a "carnival of infant slaughter, to hold every year a

W. L. Langer writes,

Disraeli was only one of the most famous of several writers who maintained that it (infanticide) was hardly less prevalent in England than on the banks of the Ganges. Dr. Lankaster, one of the coroners for Middlesex, charged that even the police seemed to think no more of finding a dead child than of finding a dead dog or cat.

Lumley's statistics, then, do not seem to correlate with the hue and cry raised by the press, politicians and members of the medical profession. Obviously, statistical data which relied upon registered births and proven cases of murder did not reflect the true scope of the problem. But even if the statistics were accurate and the infanticide rate were as low as 3%, there would still be cause for concern and examination. As one contemporary put it,

As usual, statistical authorities are found ready to explain that the percentage of illegitimate births and the rate of mortality amongst babies not born in wedlock are lower in England than in continental countries. But to do ourselves justice, we care very little about statistics; and the national conscience is not satisfied by

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14 Ibid., p. 361.
15 Ibid., p. 360.
learning that infanticide is more common in China or Chile than in Great Britain.¹⁶

A large part of Lumley's paper is devoted to an attempt to find the one definitive cause of illegitimacy. He does this by examining statistics on marriage rates, density of population, distinctions between town and rural populations, level of education, ages of mothers, and even race and religion of populace. No single factor stands out in this analysis, but some slight trends are shown. According to his findings, illegitimacy tended to be more common in areas of sparse population and where the inhabitants were more highly educated and tended to marry at a later age, as in Scotland (8.8% in 1858). The illegitimacy rate also seemed somewhat higher in countries of mixed religions. An understandably high rate of illegitimacy occurred in agricultural areas and among domestic servants. In the case of the former, it was common practice for the woman to become pregnant before the wedding. In fact, with the high premium placed on children as field hands, a man was considered foolish to marry a woman before she proved herself capable of reproducing. It is recorded that,

Vicar Lynn (rector of the parish of Coldbeck in Cumberland from 1814-1855) had small success in curbing the hard drinking of his parishioners or in changing their other customs, among them that pregnancy had to precede marriage. Not a man would have held himself justified in marrying before the woman had proven her capacity for becoming a mother.17

In rural areas marriage automatically wiped out any stigma. If the man refused to marry her, a girl could sue him for seduction or breach of promise. These actions were usually successful and would be settled for damages of £25, £50, or sometimes £100.18 The case of domestics was quite different. They were unable to marry and retain their positions. Furthermore, maids were frequently considered fair game by the gentlemen of the house. These factors combined to put the highest percentage of unwed mothers in the servant class.

Lumley believed that the 1834 Poor Law changes resulted in a decrease in the number of illegitimate births. He included a table from the third report of the Poor Law Commissioners which shows the difference between the number of bastards affiliated when the Poor Law of 1834 was introduced and those affiliated later (Appendix IIA). The


18 Ibid., p. 201.
number dropped from 12,381 in March of 1835 to 4,408 in March of 1837, a reduction of 65%. It is possible that what had occurred was a reduction in registered births, with a corresponding increase in abortions and concealments. Furthermore, the new laws practically did away with outdoor relief and required mothers seeking assistance to enter the workhouse. This factor alone would account for a decrease in chargeability. Lumley saw the restriction of aid to workhouse relief as something which would act as a check on women which prevented their "submission to illicit intercourse which now brings...most irksome restrictions if they seek relief from the poor rate." He did not consider the possibility that these restrictions might not affect the number of illegitimate conceptions and births, but rather might cause the mother to avoid seeking aid and hence notice. He also felt that this situation somehow worked to control the passions of the father—although he does not explain how.

In 1835 the Poor Law Commissioners had reported that the number of illegitimate births had decreased since the passage of the act. One of the several pieces of testimony attesting to this trend was presented by Mr. Gulson, 19

the assistant overseer of St. Giles, Oxford. Referring to the decrease in bastardy in his parish, he knew "no other cause for this but 'the fear of the new law', which makes the girls cautious."\textsuperscript{20} However, the statistics do not seem to bear out this interpretation of events. Henriques notes that, according to the census reports, illegitimate births in 1830 averaged one in twenty in England and one in thirteen in Wales. In 1840 they averaged one in seventeen in England and one in ten in Wales. The Registrar General criticized the census returns of 1830 as lacking in uniformity because many ministers stated the number of children baptized without determining the number actually born. These figures would, therefore, underestimate the number of illegitimate births. The Registrar did not discuss the Census of 1840 (the returns were not published until 1845), but these presumably suffered from the same defects as those of 1830. A comparison of census figures with those of the Registrar General reveals great discrepancies. For example, in Lancashire and the West Riding the Registrar's figures more than double that of the Census. The Sixth Annual Report of the Registrar General in 1844 contains a tentative estimate of 11,300 more

\textsuperscript{20} Poor Law Commissioners, \textit{Annual Report of the Poor Law Commissioners}, (London: Clowes & Sons, 1835), p. 57.
illegitimate births in 1842 than in 1830. 21 This figure reflects just the number of live registered births. Even more disturbing was the conclusion that the Registrar General came to:

This difference may, perhaps, among other causes, be ascribed to an annual increase in the proportion of illegitimate children during the operation of that important change in the Poor Law, which threw the charge of maintaining their illegitimate offspring upon the mothers. To whatever cause the increase might be ascribed, the relative numbers of legitimate and illegitimate births and baptisms returned in 1830 and 1842, show in the latter years a relative as well as an absolute excess of illegitimate children. 22

The exact figures of the Census and the Registrar General's report are unreliable for a variety of reasons. Cases of concealment, infanticide and abortion are obviously not reflected here. These figures would only swell the already alarming statistics. Henriques writes,

The Sixth Annual Report of the Registrar General amounted, by implication, to an indictment of the 1834 Bastardy Clauses and the emotional loose thinking behind them... The Registrar made it abundantly clear to his contemporaries his belief that there had

22 Ibid., p. 123.
been a rise in the bastardy rate, and that if the clauses could not be proven responsible for it they had entirely failed to prevent it.\textsuperscript{23}

David Levine presents an interesting theory which suggests that the 1834 Poor Law Amendment Act in general might have caused an increase in illegitimacy. He sees illegitimate births as resulting from frustrated marriage plans caused by economic hardship rather than as the result of promiscuity. He feels that illegitimacy can be regarded as an "unfortunate outcome of sexual anticipation of marriage."\textsuperscript{24}

His study of the villages of Bottesford and Terling shows a common trend in economic well-being and illegitimacy ratios. In both villages the fluctuation of grain prices after 1750 caused economic instability among the laboring class. In both villages the practice of subsidizing wages and restricting settlement were common and "consequently the shock of the 1834 Poor Law Amendment Act was severe." In both Terling and Bottesford the incidence of illegitimacy jumped after 1834. In Bottesford it rose from 3.1% before 1835 to 6.4% after 1840. In Terling the rate rose

\textsuperscript{23}Ibid., p. 125.

from 2.4% before 1835 to 5.2% after 1840. Levine concludes,

The 1834 Poor Law Amendment Act... significantly changed conditions of rural employment. With wages no longer subsidized laborers began to scramble for available employment, and underemployment gave way to unemployment. This change was reflected in sexual behavior--people continued to anticipate marriage, but its economic underpinnings were no longer steady... Marriage frustrated rather than promiscuity rampant? Certainly this suggestion receives strong backing when these women's predicaments are viewed in the context of a bridal pregnancy rate of almost 50%.

In other words, it was not a case of more unmarried women becoming pregnant, but rather more women were becoming pregnant in anticipation of a marriage which did not take place because of economic uncertainty.

A true decline in the rate of illegitimacy was not noticed until around the middle of the century. Modern authors have noted a drop in legitimate birth rates as well occurring about this time. Shorter maintains that there was an enormous rise in illegitimate and pre-marital pregnancies in the years of the French and Industrial Revolutions. As noted above, the rate skyrocketed late in

25 Ibid., pp. 135-
26 Ibid., pp. 133-134.
the eighteenth century in practically every European community, often reaching three or four times the previous level. Shorter regards this as one of the central phenomena of modern demographic history. The rate of out-of-wedlock conceptions—at least those leading to illegitimate births—plummeted starting about 1850 as did that of legitimate births. "The simultaneity in the timing of marital and nonmarital fertility downslide is so close as to suggest that contraception caused the drop in nonmarital conceptions as well."27 Sheila Ray Robinson puts the beginning of the decline of the illegitimate birth rate in the 1860s, "a full decade before the decline in marital fertility" but well after the Poor Law legislation of 1834. She writes that "no substantial explanations for this trend have yet been developed, but clearly the control of illegitimate fertility must have more to do with the restrictions of premarital sexual behavior and/or the increasingly effective use of birth control outside marriage, than with rational calculations about the cost of raising children."28

27 Shorter, p. 245.

In contrast, Duncan Crow attributes the decline in births to changing economic forces. It resulted, he says, from the attitude that progress was no longer inevitable and therefore "one must limit one's inelastic equipments. Bulking large among these were children, because one of the implications of a linear line of progress was that one's children's future chances must be no less bright than one's own had been." 29

The statistical evidence, unreliable as it is, does show certain trends. The most obvious is that English women continued to produce illegitimate children after the passage of the 1834 legislation. Furthermore, there was a decided increase in illegitimacy ratios in England and throughout Europe in the eighteenth and nineteenth centuries. This trend changed in the second half of the nineteenth century when both the legitimate and illegitimate birth rates dropped. The statistical evidence also shows that illegitimacy was a problem of some magnitude in nineteenth-century Britain. It shows that the 1834 legislation failed in its goal to reduce illegitimate births and, according to Levine, might actually have been directly responsible for an increase. Since the eventual decline in illegitimate and legitimate births occurred almost simultaneously, it can be assumed that this was due more to birth control practices than to social restrictions.

29 Crow, p. 273.
CHAPTER II: DEVELOPMENT OF BASTARDY LAWS

This chapter focuses on the development of the Bastardy Laws as part of the general Poor Law system. The Poor laws were a response to social and economic changes which resulted in the dislocation, both geographically and economically, of large numbers of people. The poor and infirm had always been a problem, but prior to the sixteenth century their welfare had been outside of the realm of state responsibility. In the feudal period in England poor relief was the province of monastic orders, private foundations and individual charity. The decline of the feudal system, combined with the growth of cities, trade, money economies, and international relations forced large numbers of people into social chaos. In the sixteenth century, this was aggravated by the practice of enclosure, which forced peasants from the land and dislocated them from their means of support. The problem became so acute that the state took over responsibility for paupers. The Elizabethan poor laws of 1597-1601 laid down a broad framework within which each locality could develop its own solution to its individual problems. This system worked fairly well as long as the population remained fairly stable and predominantly rural. However, population growth and urbanization imposed great strains upon it in
the latter half of the eighteenth century. According to J. D. Marshall, it suffered from four principal defects.

First, and most importantly, it relied on the parish as a unit of government and hence on unpaid, non-professional administrators. This had both drawbacks and benefits. On the negative side, the overseer could rule as a petty tyrant over his territory. On the positive side, the face-to-face relationships of the village could also lead to greater humanity. The second defect was the principle that the parish was to be responsible for its own poor. It was believed that this would provide social stability. In fact, the ultimate consequence was the creation of a vast, rather inefficient system of social welfare. The third was the tendency to rationalize repeatedly what had been done in practice for a number of years. The Acts of Parliament as they were written in the statute books did not necessarily relate to what was done in the localities. The fourth is the absence of any consistent policy of practice between 1601 and 1834.**30** The Webbs also see no real manifestation of government policy during this period.**31** The Old Poor Law was both

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**31** Sydney & Beatrice Webb, English Local Government & Poor Law History: Part I The Old Poor Law (London: Longmans, Green & Co., Ltd., 1927), p. 34.
inconsistent and adaptable. There were broad shifts of opinion and policy reflecting varying social attitudes toward the poor.

The treatment of unwed mothers and their children was part of this system. Prior to 1576 there was no legal provision regarding the maintenance of bastards. Howard Eliofson explains,

The initial view of English law was that neither parent had the right to custody or guardianship of the bastard child. Since the right of custody was correlative with the duty of maintenance, the bastard child had no right of support from either of his parents. The child was therefore legally turned upon the parish for support.32

The law held a parish responsible for the welfare of a legitimate or illegitimate child if it was the child's birthplace or if the parents had established residence by living there for more than one year. By the first half of the seventeenth century jurisdiction over bastardy cases had changed hands. According to W. J. King,

Although the offence of bastardy could be adjudicated in both Church and secular courts, the seriousness of that offence for a society with limited economic resources dictated

that lay courts, who alone regularly imprisoned offenders and dispensed severe punishments, adjudge the cases. Ecclesiastical courts, on the other hand, retained jurisdiction over fornication, adultery and incest.\textsuperscript{33}

This change indicates that financial support of bastards had become a serious problem.

The duty to support bastards was imposed upon the parents for the first time in 1576 (18 Eliz. c.3). This act contained three major provisions. First, it empowered two J.P.s to enforce criminal sanctions against the mother and father of a bastard child. Second, it provided that the justices could charge both the mother and the father for the support of the child. Finally, it provided that the court could imprison either or both parents for failure to make support payments. The preamble emphasizes that the act had been passed not to benefit the mother or child, but rather because these children had previously been kept "to the great burden of the same parish, and in defrauding of the relief of impotent and aged true poor of the same parish, and to the evil example and encouragement of lewd life."\textsuperscript{34} The legislation was seen as a means of indemnifying the parish and discouraging vice.


\textsuperscript{34} 18 Elizabeth c.3, 1576.
Apparently this attempt to impose financial responsibility upon the parents was not successful, for it was followed in 1609 by much harsher legislation (7 Jac. I c4 s8). This was aimed directly against the mother of an illegitimate child and it provided for mandatory criminal sanctions against her if her child became chargeable to the parish. She was to be admitted to a House of Correction for one year. Second offenders were to be jailed indefinitely until they could provide sureties for their good behavior.\(^{35}\) Here, the moral rationale for punishment was dropped entirely, for only an unwed mother whose child was chargeable to the parish was subject to imprisonment. W. J. King writes, "In short, it was pauper bastardy and not bastardy per se which was intolerable."\(^{36}\) This was true as far as the statute books were concerned. But in practice a different picture emerged. King cites as an example the situation of Warwickshire during the years 1625 and 1660. Here J.P.s imprisoned 28.4% (21 out of 74) of unwed mothers with non-chargeable bastards and only a slightly higher 31.4% (16 out of 51) of mothers with chargeable bastards. He concludes that, in practice, "it cannot be stated that J.P.s punished only or mostly

\(^{35}\) James 1 c.4, s.8, 1609.

\(^{36}\) W. J. King, p. 134.
mothers of chargeable bastards. . . [on the parish level] women were punished for moral reasons, and not because of the chargeability of their illegitimate children." 37 This confirms the point made earlier that what was on the statute books did not necessarily relate to what was done in the parishes.

The Act of 1609 brought to light a serious problem. There was concern that women were murdering their newborn infants and then declaring that they had been born dead in order to escape the punishment attached to chargeability. In order to circumvent this possibility, Parliament passed a statute in 1623 (21 Jac. I c. 27) which imposed the death penalty upon the unwed mothers of dead children unless they could prove with the aid of at least one witness that the infant had been born dead. 38 Punishment for bastardy was also mandated at the parish level. J. D. Chambers writes that in some parishes "notorious mothers of bastards were ducked and whipped. . . . There are examples of overseers and constables being bound over for such offences as removing a woman in her labor and dropping a sick woman in the highway." 39 But punishment

37 W. J. King, p. 144.
38 21 James 1 c.27, 1623.
39 Chambers, p. 74.
was not directed solely against the mother. King notes an interesting trend in this regard relating to economics. He finds that male and female unwed parents were directly punished about equally when punishment consisted of whipping and/or stocking (32 males to 40 females in Warwickshire), but unequally when punishment was imprisonment (8 males to 50 females). What was the reason for this discrepancy? King theorizes:

> When punishment consisted of whipping or stocking both mothers and fathers could be punished without affecting the chances that parents would maintain their bastards. But when punishment consisted of imprisonment, fathers escaped punishment because, in theory and in law, they were considered more economically responsible for their bastards than were mothers.40

The rationale behind the penalties for producing an illegitimate child emerges as two-sided. On the one side is the issue of morality, and on the other that of economics. While both parents were to have been held equally culpable, punishment, when meted out at all (it was used in only about 20% of the cases), varied.41 King concludes:

> Undoubtedly both economic and moral factors entered into decisions about whom to punish and how to punish.

40 W. J. King, pp. 143-144
41 Ibid., p. 135.
However, the evidence suggests that social attitudes directed J.P.s to incarcerate unwed mothers for whom bastardy was a moral misadventure, while economic considerations discouraged them from committing unwed fathers for whom bastardy was a financial liability.42

He feels further that, while concern for morality was frequently on the minds and lips of legislators, local officials and tax payers, it was concern over the economics of bastardy which was of paramount importance. In some parishes, officials even forbade inhabitants from accepting pregnant women as boarders out of fear that they might die or run off after giving birth, leaving the burden on the parish.43 The difficulty of obtaining regular weekly payments for an illegitimate child is the subject of an act of 1662 (14 Charles II c. 12). This act was passed because "the putative father and lewd mothers of bastard children run away out of the parish and sometimes out of the country, and leave the bastard children upon the charge of the parish where they are born." The solution was to allow churchwardens and overseers to attach the goods and chattles of the parents.44 Obviously this act

42 W. J. King, p. 139.
43 Ibid., p. 138.
44 14 Charles II, c.12, 1662.
only applied when the parents had goods and chattles to attach. Frequently this was not the case.

The issue was addressed again in 1733 when an act for the first time gave the mother of a child the right to impose the duty of support upon the father (2 Geo. IIC. 21 s.1). She was now able to charge him before a J.P. If her testimony was accepted, the father was required to pay support to the parish. A man who did not give security upon being apprehended was to be committed to jail.45 The apprehension and jailing of a man upon the oath of a woman became an important point of contention in 1834. However, this act is somewhat remarkable in that it places the woman in the role of the accuser for the first time and allows her to secure damages. Also, about this time, bastardy proceedings became a matter of routine and the question of punishment, at least in the corporal sense, seems to have been ignored. The relaxation of administrative sanctions reflects a growing incidence of recorded bastardy.46

This system continued in a haphazard manner until the revisions of the Poor Law in general in 1834. Eliofson states that, by the nineteenth century, the general philosophy as to the bastard child and his mother had changed. With the repeal of previous laws, the mother was

45 Chambers, p. 74.
46 Eliofson, p. 320.
no longer considered a criminal. Bastards had progressed from having no legal basis for sustenance, to being the responsibility of the state and, in a sense, of the parents. The system was greatly flawed and its administration was in the hands of some 15,000 separate parishes in England and Wales.

Between 1795 and 1834 the whole rickety structure of the Poor Law was forced to adapt to rapid social and economic changes which made the flaws in the fabric all the more evident. J. D. Marshall writes that, at this time, "very few public men had any precise idea of the true situation throughout their nation, over and beyond one salient fact; it was generally felt that the cost of poor relief was increasing...on an unprecedented scale."\(^{47}\)

\(^{47}\) Marshall, p. 12.
CHAPTER III: REASONS FOR REFORM

The tremendous rise in the cost of the Poor Law system was the central reason for the 1834 reform. Costs are estimated to have risen from £2 million in 1784 to £4 million in 1803 to £6½ million in 1813 and to £8 million in 1818.  One reason for this was the Speenhamland system. This system of subsidizing wages had been instituted to alleviate poverty without increasing wages. It became widespread during the Napoleonic Wars and met with little criticism as long as the wars lasted. The end of hostilities brought both an economic and attitudinal change. According to Marshall,

The ensuing social and political unrest brought a profound reaction in attitudes to the poor, and there was a marked resurgence of the belief that any kind of charity, over and beyond relief in cases of dire necessity, tended to encourage idleness and vice.  

By the 1830s the importance of the autonomy of the individual and his responsibilities for his actions had become a dominant theme. There was a feeling that catering to idleness could only increase that vice. These attitudes

48 Webb, p. 5.
49 Marshall, p. 15.
produced a growing sensitivity towards the Poor Law. While people had talked about abolishing it before, there had been no considerable expression of public opinion until after the peace of 1815. As the Checklands say,

The prevailing view in the England of the 1830s...was basically individualistic and moralistic. It rested upon the notion of personal autonomy through self-help. It was the world view that derived from the age of emergent industrialization, of relatively small scale enterprise in which the owner-manager was common.

Arguments against the Poor Law now stressed the importance and superiority of voluntary charity and faith in the "natural order of society." It was believed that relief did not diminish the miseries of the poor, but only created broader misery and a self-perpetuating cycle. Dependence on the "doles" sapped initiative and ambition and was, in the minds of nineteenth century savants, habit forming.

In the early 19th century many aspects of the poor laws needed reform. The growth and scope of poor relief was seen as threatening to the very structure of society. It was generally accepted that paupers could not be left

50 Webb, p. 12
52 Webb, p. 21.
to starve because this might drive them to acts of despera-
tion. However, pauperism must not be allowed to spread and infect the honest working man. The Speenhamland
system in particular was seen as undermining the independ­ence of agricultural workers. The arguments against this system strengthened the case for a system of poor relief in which outdoor payments to the able-bodied would be abolished. People seeking relief would be offered mainte-
nance inside the workhouse where conditions were harsh and would be accepted by only the most desperate. This plan became known as the "test of less eligibility" and it was seen as a self-acting test of destitution. Those who were genuinely in dire need would accept the workhouse rather than starve. 53 James Treble writes,

One of the cardinal objectives of the 1834 settlement was, through the twin doctrines of "less eligibility" and the workhouse test, to wean the able-bodied away from reliance upon "doles" and from the poor rate in areas or occupations where there was a pool of underemployed labor. In their stead was to be placed the goal of self-sufficiency which would be achieved either through a rise in the 'natural' rate of wages, once the burden of the poor rate had been lightened, or through migration to towns and cities where labor shortages were reputed to exist. 54

Concern over the Poor Laws resulted in the appointment of a Royal Commission to investigate the system in 1832. It was presided over by Charles Blomfield, Tory Bishop of London. The other outstanding members included: J. B. Sumner, Bishop of Chester; Sturges Bourne, Chairman of the 1817 Poor Law Commission; Nassau Senior, a Malthusian and opponent of the Poor Laws; and Edwin Chadwick, a devout Benthamite.

It has been pointed out by Rose that the Commissioners concentrated too much of their attention upon the single problem of the able-bodied unemployed, especially in rural areas. They paid too little attention to those who were destitute because of physical or mental ill health, old age or loss of parents, although these probably constituted the largest proportion of those on relief. Furthermore, the commissioners focused their attention on the problem of rural poverty and neglected that of urban poverty which would have so much future impact. In the words of Marshall,

Lacking the data to look forward with hope, and therefore with humanity, the commissioners looked backward and condemed. It was not in fact difficult to make a convincing-seeming case which appealed to rate payers, landowners and many middle-class savants. The phrase 'Act of Elizabeth', representing
antiquity and irrelevance, became more and more pejorative.55

The Commission was biased from the start. Its members were influenced by Malthusian concern for overpopulation and Benthamite efficiency and utility joined with a centralizing tendency. In addition, they shared the new ethos of self-help which strongly biased them against a liberal provision for the poor. They entered their enquiry with the expectation of finding certain evils rampant rather than with a sense of objectivity and open-mindedness.56 There was no quantitative study of the problem. Thus, Nassau Senior theorized in his report that there were one million able-bodied people and their families on relief. In contrast, the Webbs have calculated that there were 100,000 people relieved indoors and 900,000 relieved outdoors in 1834. Of these, between 100,000 and 300,000—including families—were able-bodied.57

The commissioners' methods of gathering data left much to be desired. Three questionnaires were drawn up,

55 Marshall, pp. 43-44.
56 Checkland, pp. 29-30.
two to be circulated in rural districts and one in towns. The questionnaires soon proved to be inadequate both in quantity and quality. Just over 10% of the parishes replied (about 1/5 of the population). The questions were difficult to interpret because of ambiguity in wording. As a result, it was decided to send out assistant commissioners directly to the parishes. Since they could not visit every one, they were told to use their own discretion in making their choice. The topics which they were to inquire into rested on their own view of what was important.58

It is interesting to note that in all the reports relating to the bastardy clauses there is not one statement supporting the old laws. Since even the most unpopular of statutes finds a supporter somewhere, it is probably not unfair to surmise that a certain amount of bias was present in the reporting of this information. The commissioners interrogated parish officers and clergy, and in some cases the evidence presented was not based upon direct inquiry, but rather on hearsay, as in the statement made by the assistant commissioner, Mr. Richardson, who quoted information which he had heard "from the brother of a clergyman living at a parish which I had not time to visit."59

58 Checkland, p. 30.
59 Ibid., p. 268.
The arguments against the old bastardy laws can be broadly grouped into four general categories: expense, forced marriage, inducement to promiscuity and false swearing on the part of the mother. In the expense category, it was argued that the payments to the mother of an illegitimate child made it more profitable to have a bastard than to have a child born in wedlock. The assistant commissioner, Mr. Cowell, reported that a bastard child was 25% more valuable to a parent than a legitimate one and that men actually considered it profitable to marry a woman with two or more bastards. The basis for this argument was that an unwed mother tended to receive more income than a widow with children. The amount allowed per child varied greatly from parish to parish. However, as an example, in a parish where a widow would receive 2s per week for a child an unwed mother might receive 2s 6d. This larger allowance was granted because it was to be paid by the father.

The conclusion drawn by the assistant commissioners was that the payment and treatment of unwed mothers constituted "a direct encouragement to vice." One of the assistant commissioners, Mr. Majendie, stated that,

If a young woman gets into trouble she is probably taken into a workhouse,

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60 Checkland, p. 265.
where she is better lodged and fed than at any period in her former life, and maintained perhaps for a year in perfect idleness; it is not wonderful then that she comes back under the same circumstances; hence the bastardy debt sometimes amounts to 500£ or 600£ in agricultural parishes; not more than 1/5 of the expense is recovered from the father, and that subject to the deduction of heavy law expenses.61

While the image of the workhouse experience presented above was less than realistic, recovery of the cost from the father was indeed a problem as will be shown below. The crux of the argument here was that reimbursing mothers of illegitimate children seemed tantamount to rewarding them as well as burdening the parish.

A related argument was that women who did not really need the money were receiving it. Mr. Sefton, the collector of the poor rates at Lambeth, reported a case in which 8s had been awarded to a woman who had subsequently married and was "living respectably" while still receiving her allotment.62 Mr. Dodgson of the parish of Bewcastle, Cumberland, reported that his parish was supporting two children whose mothers had landed property of their own.63 There were no provisions in the Old Poor Law for withholding relief from landed women or those who remarried.

61 Checkland, p. 264.
62 Ibid., p. 266.
63 Ibid., p. 263.
The overriding argument here was that some women took advantage of the system to the point where they, as unwed mothers, were better off than married women. John Kirkham, Assistant Overseer of South Lincolnshire, who was in charge of six parishes, reported:

With respect to the women, in the course of my personal acquaintance with those parishes I have to manage, as well as from extensive enquiry, I find that there are numbers in most parishes who have from two to four children, receiving different sums of money with each according to the ability of the putative father, so that the sum the woman receives with the whole of the children, and what the mother can earn enables them to live as comfortably, or indeed more so, than most families in the neighborhood.64

Finally, it was argued by Mr. Wilson of Sunderland, that the women did not necessarily use the money they received for the benefit of the children. He remarked, "They don't in reality keep the children; they let them run wild and enjoy themselves with the money."65

Another aspect of this problem, not mentioned in the commissioner's report, was corruption among parish officials. The Webbs cite a case which was recorded in the vestry minutes of Chelsea, Middlesex. During the period from 1822 to 1824 the total amount credited to the parish

64 Checkland, p. 262
65 Ibid., p. 267.
as receipts on account of bastards amounted to no more than £124 for 26 cases. The committee examined two of the 26 cases and found that, in these two alone, £131 had been paid to the officers. In 1834 similar embezzlement was discovered in the parish of Lambeth and it was believed that this was a very widespread problem. 66

Clearly, the reporting parties were outraged that women who had violated the mores of society should be compensated or even allowed to profit from their transgressions. There was not one report listed by the commissioners of a real hardship case for whom the financial support of the parish was necessary, if not essential. This fact alone must cause one to question the selectivity of the commissioners. With the emphasis of the reports exclusively upon abuse and fraud, the analysis and conclusions drawn from the data were destined to be geared towards the extreme. As the Webbs say,

The bane of all pauper legislation has been the legislating for extreme cases. Every exception, every violation of the general rule to meet a real case of unusual hardship, lets in a whole class of fraudulent cases by which that rule must in time be destroyed. 67

66 Webb, p. 311.
67 Ibid., p. 69.
The second area of criticism involved the subject of forced marriage. The procedure, as reported before the House of Commons in 1831 by Mr. Simeon, was as follows. After the woman made a claim against a man he was brought before a magistrate and if found liable told that he had three choices. He could marry the woman, pay support for the child or go to prison. He used the example of a poor laborer who could not afford to pay 2s a week, and did not want to go to jail. He would therefore marry the woman regardless of his feelings for her. He especially criticized the practice of not investigating the woman to see if she had had relations with any other man. The male was fairly powerless to defend himself and, in theory, any man was fair game for false swearing on the part of an unprincipled woman. But even worse than this, according to Simeon, was the effect that the law had on women themselves:

You say to a woman 'As long as you continue virtuous and modest you have no chance of getting a husband because, in the present state of things, the men are cautious about marrying; but if you will be intimate with any person you please, the law will oblige him to marry you.'

He went on to assert that 3/4 of the women who had bastard children would not have been seduced without the certainty
of an enforced marriage.\textsuperscript{68} The assistant commissioner, Mr. Power, also referred to this practice and asserted that, in many cases, it made the woman the corruptor and the male—he refers especially to "boys under 20"—the victim.\textsuperscript{69}

The method by which these marriages took place was also brought under scrutiny. Mr. Wolcott spoke on the procedure in Wales:

On the subject of improper marriages it may be observed that where the female is of a different parish to the male, the officers of her parish, upon default in payment under the order of maintenance...sometimes take the woman in one hand and a warrant in the other, and gives the man the option of going to church, or to gaol. An aggravated case of this sort was related to me by a clergyman, where a man to whom a child had been affiliated by a woman of loose character, in order to avoid the imprisonment with which he was threatened, consented to marry her; but lest he should change his mind and abscond before a special licence was obtained, he was put under lock and key, and ultimately led handcuffed to the church door.\textsuperscript{70}

Mr. Wolcott admitted in the course of his narrative that this was an "aggravated case" and that he had not actually

\begin{footnotes}
\item[68] Checkland, p. 271
\item[69] Ibid., p. 267.
\item[70] Ibid., p. 269.
\end{footnotes}
witnessed it, but the effect of his testimony was surely no less profound.

Finally, there was a definite concern that forced early marriage accounted for an increase of population among the poor. Mr. Simeon, in his report before the House of Commons, declared that the increase in population was caused "almost entirely" by the bastardy laws. He therefore recommended that no orders should be placed against the father or the parish and that the burden be put entirely upon the woman. His reasoning was that unless women refrained from giving their consent "the population must go on increasing." 71

The view expressed by Mr. Simeon was not unique. It typifies a common misinterpretation of Malthus' theory as presented in his first Essay on the Principles of Population. U. R. Henriques writes:

The inspiration behind the attack on the old bastardy laws, both direct and indirect, was obvious, although the commissioners never acknowledged it. . . . The language of the commissioners and of their Parliamentary supporters was full of echoes of Malthus. But his arguments were misunderstood and possibly misapplied. Malthus was accounting for the greater social disgrace attached to unchastity in women, from which grew the existing law. He did not propose

71Checkland, p. 272.
to throw the entire economic consequences of illegitimacy upon them.  

As far as the commissioners were concerned, social disgrace was not sufficient to deter women from producing bastards. They felt that the financial rewards and chance for marriage were enough incentive to cause women to become pregnant out of wedlock.

This leads to the third argument against the old bastardy laws, which was that they constituted an inducement to promiscuity. The fact that the country seemed to be sliding into a period of moral lassitude was a cause of great concern. Of all the factors which contributed to this condition the effects of the bastardy laws were the easiest to isolate as well as the simplest to legislate against. It was believed that women were less inclined to be concerned about their chastity when they were certain of being provided for by the parish. Col A'Court, the J.P. of Castleman in Berks, testified to the commissioners that the state maintenance of bastards "tends to remove those checks to irregular intercourse which might otherwise operate were they in such cases left more dependent upon the honor and ability of men to support them in such difficulties." Other witnesses went so far as to state

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72Henriques, p. 109.
73Checkland, p. 262.
that women deliberately encouraged relations with men out of wedlock. Edward Tregaskis, a vestry clerk from Cornwall, reported:

We know and are satisfied from long and serious observation and facts occurring that continued illicit intercourse has, in almost all cases, originated with the females; many of whom, under our knowledge, in this and neighboring parishes, do resort to it as a source of support, taking advantage of the kindness of the provisions for the nurture of the offspring from their own known inability to contribute.74

As proof of this theory, assistant commissioner Wolcott reported an incident which occurred in the parish of Machymulth. According to his report, in 1823 the overseer of this parish proclaimed that he would punish any single woman who became pregnant. His method of punishment was not reported, but for the following two years not one case of bastardy occurred in his parish. However, in the third year, when his reign of terror had abated, the problem of bastardy returned.75

Simeon, testifying before the House of Lords in 1831, expressed the opinion of many of his colleagues:

The Bastardy Laws proceed upon the principle of indemnifying the parish by

74 Checkland, p. 263.
75 Ibid., p. 271.
throwing the onus of the bastard upon the father. Now I rather believe that we shall never be able to check the birth of bastard children by throwing the onus upon the man, and I strongly feel convinced that until the law of this country is assimilated into the law of nature and to the law of every other country, by throwing the onus more upon the females, the getting of bastard children will never be checked.

Simeon and his colleagues based their arguments upon the need to indemnify the parish while being seemingly oblivious to the need of caring for the child in question. The fate of these children will be discussed later. Here it should be pointed out that nowhere in the reports of the commissioners was there any mention or expression of concern for the children involved. Rather, the adjustments in the law were viewed as a means of punishing one or the other of the adults.

Finally, there was the issue of false swearing by the mother. As was mentioned before, when a woman accused a man of fathering her child, no effort was made to determine whether or not that man was responsible. In this particular area there was undoubtedly a certain amount of abuse and falsehood. Captain Chapman of Totness reported that

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76 Checkland
It was a matter of general noteriety that such persons receive money from those with whom they may have had intercourse, to induce them not to affiliate upon them, but to swear to some poor man who is frequently paid, and from whom nothing can be recovered, and who can only be sent to the treadwheel for a short time. But I heard of no instance of punishment for perjury, and believe that they are of very rare occurrence.77

The commissioners implied that any man could be a victim of a woman of dissolute character. They saw in the methods used to determine fatherhood a whole world of abuse and corruption. In some cases, abuse in this regard was not instigated by the woman involved, but rather by parish officials. It was proved that the deputy constable of Manchester in 1794 had been terrifying citizens into paying considerable sums for the support of children of whom they were alleged to be the fathers. It was even proved that a number of men had been applied to for "hush money" as the fathers of the same child.78

There was certainly room for improvement in this aspect of the bastardy legislation, but the reaction of the commissioners was to advocate throwing out the procedures entirely. Their final verdict was as follows:

With respect to the Bastardy Laws, the evidence shows that as a general rule

77 Checkland, pp. 263-264.
they increase the expense which they were intended to compensate, and offer temptations to the crime which they were intending to punish and that their working is frequently accompanied by perjury and extortion, disgrace to the innocent and reward to the shameless and unprincipled, and all the domestic misery and vice which are the necessary consequences of premature and ill-assorted marriage. We advise, therefore, their entire abolition.79

They went on to recommend that every illegitimate child born after the passage of the act should follow its mother's settlement until the age of 16. They recommended that, "as a further step towards the natural state of things," the mother be totally liable for the support of the child and that any relief be considered relief to the parent. Furthermore, if the woman were to remarry, the liability for the child should pass to her husband. Finally, they recommended that the second section of 18 Elizabeth c.3 and all other acts which punish or make liable the putative father of an illegitimate child should be repealed.80 They also recommended that any relief to able-bodied persons (which would include unwed mothers) should be restricted to relief inside the workhouse.81 This

79 Checkland, p. 475.
80 Webb, pp. 60-61.
81 Ibid., p. 58.
meant that the fathers of illegitimate children would no longer have any responsibility for their support. The mothers would be totally liable for all their financial needs. If they were unable to find employment or to be employed while caring for small children, their only recourse would be to enter the workhouse. Any man willing to marry them would also have to be willing to support their child.

These regulations were proposed in the name of morality and with a view to the rising costs of the Poor Law system. But Henriques sees a different motive behind the conclusions of the commissioners. She feels that they were not concerned primarily with morality, nor even with bastardy. Their main concern was with the multiplication of an impoverished population. She quotes George Taylor who was one of the assistant commissioners, as well as an avowed Malthusian. Taylor concluded that bastardy and improvident marriages had identical effects:

For though true policy and true morality can never in a comprehensive view, be separated, yet, for the convenience of classification and argumentative distinction, it is necessary to consider the immediate political consequences; and these with regard to Bastardy and improvident Marriages, are, in the present state of the Poor Laws, the same; namely, the
throwing on the parochial funds, in the first instance, an infantile population, and ultimately an adult one. 82

The commissioners' recommendations were based upon two major concerns. These were the cost to the parish for the support of bastards and the increase of an undesirable sector of the population as the result of forced marriages. In short, the economics of the situation were of paramount importance. Their view was simplistic, based on faulty data, and lacking in compassion for true cases of hardship and the helpless children involved.

82Henriques, p. 111.
CHAPTER IV: THE BASTARDY LAW OF 1834

The bill presented to Parliament in 1834 was based on the commissioners' recommendations. It stipulated the repeal of all laws enabling a woman or a local authority to charge a man with being the father of an illegitimate child, and enabling a magistrate to charge him, arrest him, or attach his goods and chattels. Persons held in custody pending affiliation or for non-payment of maintenance could be discharged. The acts for imprisonment of unwed mothers with chargeable bastards were repealed. Liability for the maintenance of an illegitimate child was placed on the mother, if single, and upon her husband if she married. If she should die or was unable to maintain her child, liability devolved upon her parents. Any relief granted to the child was considered as relief to the parent. 83

On the way through Parliament the bill was modified. The House of Commons insisted on giving the parish a right to get a magistrate's order against the father indemnifying the parish for any expense to which it was put. This ruling was generally accepted in the House of Lords, but it was weakened, on the motion of the Duke of Wellington, by requiring the application of the overseers against

83 Henriques, p. 111.
the father to be made to the Quarter Sessions instead of to any two magistrates and also by making necessary at least some corroborative evidence on the part of the mother. Furthermore, any sums recovered would be retained by the parish and not paid to the mother herself.\textsuperscript{84} The bill no longer repealed the acts for imprisoning "lewd women," but it removed the liability of the mother's parents for maintenance of her child. In the words of Henriques, "the bill had become an illogical jumble."\textsuperscript{85}

The bastardy clauses were tidied up in a series of resolutions, again proposed by the Duke of Wellington, a supporter of the New Poor Law as a means of ending the allowance system. The acts for the imprisonment of "lewd women" disappeared for good. The child's settlement was to follow the mother's until it was sixteen. Affiliation actions were retained, but transferred to Quarter Sessions, where the mother's evidence had to be corroborated. The maintenance payments were not to exceed the actual cost to the parish of maintaining the child and to stop when it was seven. If a parish failed to obtain an order, it was to pay the full costs of the action, and the man could not be imprisoned for failing to pay. No money recovered from

\textsuperscript{84}Webb, p. 98.

\textsuperscript{85}Henriques, p. 113.
the father was to go to the mother or to be applied to her maintenance. If destitute, she could go to the workhouse. Henriques sums up the result of these clauses:

On the whole, the commissioners could claim a victory. A deserted woman no longer stood to gain anything by an affiliation order. The man who married her would have to support her children as well as his own; and any action by Quarter Sessions proved (as the commissioners intended) difficult, costly and hazardous.86

The passage of the Bastardy bill through Parliament created some very lively and heated debates. The arguments over the proposed legislation were charged with emotion, though occasionally an objective opinion was expressed—and ignored.

The champion of the proposed changes in the Bastardy Laws was the Bishop of London, Bishop Blomfield. R. A. Soloway theorizes that his advocacy of these clauses resulted from personal morality and adherence to Malthusian logic. Blomfield believed that under no circumstances should a woman be rewarded for her indiscretion. Reward would only lead to repetition. She should be denied both spiritual and material comfort and the workhouse experience

86Henriques, p. 114.
would reinforce society's--and the law's--disapproval. His stand was sharply criticized as being not only inhumane, but also un-Christian. He defended his position with the argument that the improved morality and happiness of the laboring poor would justify his policies. He also pointed to a study by the Scottish clergymen, Thomas Chalmers, entitled *Christian and Civic Economy in Large Towns*, in which it was shown that the denial of parish aid to unwed mothers instantly checked bastardy. He pointed out that even the "friendly societies" of the poor themselves denied aid to unwed mothers.

His arch-rival in the debates was Bishop Phillpotts, Bishop of Exeter. Phillpotts deplored the practice of political economists meddling with the affairs of established parochial society. He especially attacked the plan to have the mothers of illegitimate children bear the responsibility alone. He questioned the assumption made by the commissioners that female promiscuity was the cause of the bastardy problem and pointed out that illegitimate children were the result of a union of two parties, both of whom should be held responsible. Phillpotts had no patience with the arguments concerning the difficulty of

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88 Ibid.
locating fathers and protecting innocent men. His over­
riding concern was for mutual accountability. 89 He es­
pecially stung Blomfield by charging that changes in the
law would violate "divine responsibilities." Since
Blomfield could find no express law on the subject in the
Scriptures, he asserted that it was right to enact laws
most consistent with God's desire to check immorality. 90
Soloway describes the essence of Blomfield's arguments in
the following manner:

Worthy sentiment though it was, human
law could not always be based on divine
law; human nature and human passions
made it impossible. Some comfort was
at least found in the knowledge that a
mother, by nature, must always suffer
more than the father of her child. In
that sense, the bishop reflected, the
bastardy clauses were merely an exten­
sion of natural law. 91

The members of Parliament, in general, found them­
selves debating an issue charged with emotionalism and
lodged between moral responsibility and accountability on
one hand and morality and expediency on the other. The
principal arguments against the bastardy laws as they

89 R. A. Soloway, Prelates and People, (London: Rout­
90 Ibid., p. 173.
91 Ibid., p. 174
stood before 1834 is fairly well summed up by Lord Althorpe:

The effect of the (existing) Bastardy laws was to produce the greatest evils, to diminish all inducement to chastity to the greatest possible degree and to bring about a general demoralization. There was no doubt that the effect of the present laws was to shelter, and even to hold out advantages to females of an abandoned character, and consequently to counteract that moral feeling which otherwise might preserve their chastity.

He asserted further that it was "incumbent upon them to consider what was the state of the working classes under the existing bastardy laws; it was necessary to consider whether these laws had the effect of deteriorating the morals of those classes."92

The proposed amendment to the law was ostensibly seen by its supporters as a deterrent. This line of reasoning was strongly supported. Blomfield even cited statistics from the United States to prove his point. He noted that where no relief was affixed in America, there were minimal illegitimate births (Boston 10, Salem 2 per year). Where relief was given, however, illegitimacy was high (Philadelphia 272 per year). He also expressed concern over the issue of false swearing. In his view, the support payment

92 Hansard, House of Commons, June 18, 1834, cc. 523-524.
allocated to unwed mothers could only encourage perjury:

It was very true that if it was possible to fix upon the actual father, it would be proper to legislate with a view to impose upon him a certain pecuniary penalty; but there was no security for fixing the offence upon the real offender. . . . when an unfortunate woman ceased to blush, she had no scruple in making shame her trade, and fixing without remorse upon a man who might be. . . . perfectly innocent.93

This charge was attacked by Mr. Bennett in the House of Commons. He pointed out that the amount awarded to unwed mothers was hardly enough to tempt a woman to commit perjury:

Those clauses proceeded on the principle that women would perjure themselves for the small premium of 1s per week; for Magistrates in the country districts usually allowed them 1s to 1s 3d a week for the support of a child. . . . Gentlemen might say no to that statement, but he spoke from his own experience as a magistrate, which had been pretty long. He now heard it stated, that 2s and 2s 6d a week were allowed to women to support a child. Were they then to assume that these poor women would perjure themselves for half a crown?. . . . In the whole course of thirty years of practice as a magistrate, he had never reason to suspect, that any woman who had sworn her child before him. . . . had perjured herself.94

93 Hansard, House of Commons, June 18, 1834, c. 530.
94 Ibid., c. 601.
Mr. Bennett might have been an extremely trusting individual, but he had a point. This point seems to have been generally lost on his colleagues.

In addition to the preventive aspect of the new legislation, there was also a punitive factor. Some members of Parliament displayed a definite sexual bias in their appraisal of illegitimate relations. This attitude is expressed by Lord Althorpe speaking in the House of Commons in 1834:

Common sense dictated that though want of chastity was a crime, a sin in man, it was still greater in a woman, whose error corrupted society at its very root. Would any noble lord deny, that the sin of incontinence was not greater in an unmarried female than in an unmarried man? Would any man hesitate to say, that if he saw his daughter in a house of ill fame he would not hold her in a very different light from that in which he would regard his son if he discovered him in the same situation.  

The opponents of the proposed legislation were every bit as vehement as its advocates. They stressed the unfairness of placing all the blame on one party when, obviously, two were culpable. Mr. Robinson, speaking in the House of Commons, voiced the dominant objection to the bill.

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95Hansard, House of Commons, June 18, 1834, c. 607.
In the 71st clause he found, to his astonishment as a man and a Christian, that the liability which was removed from the father was placed on the mother of an illegitimate child, and that she was bound to support it.96

Another clause which caused great concern was the 55th. This made any man who married a woman having a bastard child chargeable for the maintenance of that child. In the view of the opponents of the bill, this meant that the woman's chances of marriage were greatly reduced. Phillpotts was especially vehement in his opposition to this part of the legislation.

Now what did the bill contemplate doing? A poor woman was got with child, and after the child was produced, she would be compelled to labor for its support as long as she was able; but if she ultimately comes to the parish, what was to become of her according to this bill? Why she was to be consigned to the Poor House. What then was to become of her? She could have no hope of every marrying for this humane law put that out of the question altogether. No man would marry a woman so circumstanced, because his doing so would entail upon him the maintenance of her bastard, and therefore to such a woman the workhouse would be like the "Inferno of Dante" and might very properly have over the gate the inscription "Who enters here leaves hope behind". . . . While they pursued this strange

96Hansard, House of Commons, June 18, 1834.
sort of moral rigour against the female, were any pains taken to enforce morality on the part of the male? None whatever.  

Phillpotts saw the bill as denying the unwed mother any hope of salvaging her life through marriage. The supporters of the bill insisted that these harsh regulations would make a woman think twice before engaging in an illicit union. Mr. Robinson attacked this theory and also brought up another major concern.

It had been said that if you threw upon the woman the burden of maintaining her bastard child, you would lessen her disposition to indulge in licentious passions. . . . He was anxious to learn from the supporters of the bill, on what principle they proposed to relieve the man, who was the most guilty party, from the consequences of his misconduct, and to charge them all upon the unfortunate woman?. . . . He was afraid that the enactment of these bastardy clauses would lead to the concealment of the birth of children, and to infanticide—offences which were already too rife among us. If the restraint which this clause contemplated should be found to fail in practice. . . . it was impossible to conceive that, with all the shame which they must undergo, and with all the struggles which they must encounter to support their offspring, they would not often be driven to commit infanticide.  

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97 Hansard, House of Lords, July 28, 1834, cc. 611-612.  
98 Ibid., cc. 522-523.
The fear that unwed mothers would resort to infanticide as the only alternative left to them was a major component of the arguments against the bill.

Lord Radnor argued against the supposedly preventive effect of the bill by asserting that freeing the father from all consequences of his actions would cause illegitimacy to increase with dire consequences: "He would remind their Lordships that as great as was the crime of inconstancy, still that of infanticide was a much more serious offence." Mr. Hughes went so far as to state that the title of the bill should be changed to "An Act for the promotion of pauperism, prostitution, and infanticide." The supporters of the bill responded to these remarks by stating that they were merely trying to return the situation to its "natural state." In the word of Blomfield, they would put their trust in "those checks only, which Providence has imposed upon licentiousness, under the conviction that all attempts of the legislature to increase their force, or to substitute artificial sanctions have tended only to weaken and pervert them." Phillipotts responded to this statement by pointing

99 Hansard, House of Commons, July 28, 1834, c. 604.
100 Hansard, House of Lords, August 11, 1834, c. 1214.
101 Hansard, House of Commons, July 28, 1834, c. 589.
out that a further step towards the natural state of things "would be to have both the mother and the father required to support the child." 102 But Blomfield argued that the bill did not in any way deny the duty of the father, but rather admitted that the existing means of enforcing this duty was inconvenient and "leads to results infinitely more detrimental to the morals of the community than would be the case if the matter were left entirely to the course of nature." 103

Lord Althorpe answered the charges against the bill and condensed the case of its proponents with the following statement:

The question for their Lordships was one of expediency - namely, in what manner it was possible to legislate to prevent bastardy, and to prevent bastard children from becoming burthensome to the parish in which they might be born. It was not the object of this measure to do honour to female virtue and chastity. . . . It had been objected to the bill that it introduced a principle which went to punish the female who gave birth to an illegitimate child and not the father. Now. . . such was the law of the land already, and such was the principle on which all moralists had proceeded and on which Parliament proceeded every day in the year; and last of all, it was the principle upon which the laws of society at present stood. 104

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102 Hansard, House of Commons, July 28, 1834, c. 590.
103 Hansard, House of Lords, August 8, 1834, c. 1078.
104 Hansard, House of Commons, July 18, 1834, c. 605.
Despite the vehement arguments against them, the Bastardy Clauses passed through Parliament and became law. It is interesting to note that, although the Bishop of London was the leading advocate of the changes, the only other ecclesiastic who sided with him was the Bishop of Hereford. Nine other prelates joined the Bishop of Exeter against the clauses. Nevertheless, any woman who found herself with child and without husband after 1834 faced a very serious situation.
CHAPTER V: SOCIAL CONTEXT

The bastardy provisions of the 1834 statute aggra-
vated the deplorable circumstances of most unwed mothers by removing one of the few recourses available to them. This chapter is concerned with the plight of such women. It treats, in turn, prevailing attitudes towards them, their opportunities to obtain work and charitable relief, and the problem of infanticide.

In the 19th century a single woman who became preg-
nant was almost guaranteed complete ostracism and destitu-
tion. As Crow says,

For a woman the dangers of dalliance were great. If she was found out she was ruined. Unlike a man, a woman got no second chance.105

This attitude was deeply engrained in the Victorian psyche and remnants of it remain with us today. It was part and parcel of the "respectable" image so cherished in the nineteenth century. Crow theorizes that

As part of the grand strategy for civilizing society so that it became safe for the rising middle classes it was deemed necessary to tame the savagery of sex. . . . The way to

105 Crow, p. 53.
achieve this most effectively was to ban sex as far as possible from everyday life and to enlarge to its fullest extent the interpretation of the 6th Commandment so that it brought social anathema and hell-fire not only on adultery but on all lewd thoughts and fumblings.¹⁰⁶

The presence of an unwed mother in such a society was like a vestige of former barbarism and a threat to all that was considered right and sacred. She represented that aspect of human nature which the Victorians least liked to face. She was a flawed creature, marred by traits of weakness and frivolity. A contemporary commentator wrote:

The women who lose their chastity lost it either in a gust of sudden and uncontrollable passion or after long deliberation. They sin either because they have vehement emotions which they cannot always command, or because they love idleness and pretty bonnets, which a life of honest labor cannot always get them.¹⁰⁷

To the minds of the advocates of the 1834 changes, supporting such women through the Poor Rates would only encourage and prolong their weaknesses. It was the stated belief of the commissioners that these women, if forced to, would be able to earn their own support and that of their children

¹⁰⁶ Crow, p. 25.

as well. They cited cases of women who were able to "struggle on without aid."\textsuperscript{108} They chose not to consider other cases, such as that of Mary Furley. Her situation was brought up in the House of Commons on April 9, 1844. It appeared that, being in a state of "appalling destitution," she threw herself into the Thames with her child in her arms. She was pulled out of the water, but the child drowned. For this she had been tried, found guilty and sentenced to death. Intercession in reversing the sentence was requested.\textsuperscript{109}

It was extremely difficult for a woman in the 19th century to "struggle on without aid." The task became even more difficult when the care of a young child had to be considered. The most obvious difficulty was the totally inadequate training of women for the workforce. Cast out on their own, women were generally unable to support themselves and totally without skills. Victorian ideology lurked behind this state of affairs as it did behind her social ostracism. Women were not encouraged to learn a useful trade. A successful woman was one who secured a husband to support her. There was no middle ground between success and failure. Marriage was considered the

\textsuperscript{108} Checkland, p. 273.

\textsuperscript{109} Hansard, House of Commons, April 9, 1844, c. 106.
only truly respectable business for a woman and if she failed in marriage, she failed in business. This was especially the case with the expanding middle class. A young woman "in trouble" who was abandoned by her family and lover and had to make her own way faced overwhelming obstacles stemming from her lack of training.

The standard of education of the middle class girl, largely because of the emphasis on "accomplishments", was indeed so low that unless something could be done to improve it, there was little hope of expanding employment opportunities for those women who needed them. It is probable in fact that the standard was below that of the working classes at this period.\footnote{10}

It has been theorized that the Victorians discouraged any improvement in the lives of women that would encourage them to become independent. Childlike traits of innocence and simplicity were favored. "They were brought up to be clinging and dependent and their relatedness to the world was a highly dependent one."\footnote{11} The few occupations open to women, especially those with children, were notoriously low paying and often injurious to health. One of these was dressmaking. The


\footnote{11}{Peter Cominus, "Late Victorian Sexual Respectability and the Social System," International Review of Social History, 8 (1963), p. 161.}
pathetic situation of the 19th century seamstress with her failing eyesight is well known. Some women minded other people's children or took in washing. There was little more available.\textsuperscript{112} James Treble describes the employment situation for women in the 19th century:

In most instances the income derived from this type of work (laundress, charwoman, dressmaker, etc.), even where augmented by assistance from kin, private charity and/or poor relief, could not remove the shadow of poverty which hung so heavily over the families of widows and deserted wives whose children were too young to enter the labor market on a full-time basis. This outcome was in part the product of those social assumptions which were accepted by middle class and working class men as justification for the low levels of earning accruing to unskilled female labor. The most important of these tenets was the belief that female wages were solely for the upkeep of the single girl, living at home, until her marriage, thereby conveniently overlooking the crisis of widowhood, desertion and or the married woman compelled to become the principal breadwinner.\textsuperscript{113}

The problems were compounded by the fact that women operated in the worst paid and most glutted sectors of the labor market where regular employment was difficult to

\textsuperscript{113}Treble, pp. 99-100.
obtain and seasonal patterns of work were the norm.

Women with young children who had to work outside of the home faced double difficulties. If there were no willing relatives to care for the child, it would have to be let out to be hand nursed, often with disastrous results. According to Crow,

Children left in the care of young girls or old women while their mothers were at work suffered a high mortality rate from accidents and underfeeding. This was the cause of the setting up in 1871 of a Select Committee to consider the Best Measures of Protecting Infants put out to nurse. Many children were also drugged to death. The use of laudenum was responsible for many deaths. In 1891 a clause was included in the Factory and Workhouse Bill making it illegal for any employer to "knowingly" employ a woman within 4 weeks of her confinement.114

This serious problem also affected poor married women who had to work, but it struck particularly hard in the case of single mothers.

One profession was, of course, opened to all women and required little training. The world of prostitution acquired many adherents from the ranks of the single mother. "The double standard and the stern unforgiving attitudes toward unwed motherhood frequently left no other choice

114Crow, pp. 105-106.
to a woman than to sell herself on the street."115

A young unwed mother who was unable to find work and who was unwilling to enter the oldest profession, might seek refuge in a charitable institution. Here again, her choices were few and unattractive. The 1834 legislation left her the option of acquiring state relief, but only by entering the workhouse. The workhouse has come down to us as a place of misery, squalor and utter hopelessness. This is a valid appraisal, judging from contemporary reports. It could hardly be considered a suitable refuge for a young woman with any shred of dignity or a place to raise a child. A commentator of the period describes the situation of one young woman who refused this shelter. She had been seduced as a child and given £50 by her seducer then deserted. She supported herself and her child after the money ran out by working in a factory. She lost her job and the child starved to death. She then became a prostitute.

She shunned the workhouse which might have done something for her and saved the life of her child; but the repugnance evinced by every woman who has any proper feeling for a life in a workhouse or hospital can hardly be

imagined by those who think that, because people are poor, they must lose all feelings, all delicacy, all prejudice and all shame.116

The provisions of the 1834 act kept outdoor relief to the barest minimum. One commentator remarked, "They might starve outside it, or they might enter within and receive food in return for work."117 Parishes were to unite and set up "union" workhouses to serve the whole district. The local workhouse was often referred to as the Union after this. The Webbs point out a major deficiency in the workhouse system which was that no policy existed with regard to the 1000 or so babies under one year old, and of the 10,000 other infants under five years of age. There were no stipulations regarding their care other than that, as children under seven, they were to be separated from, and without communication with, the two classes of women over sixteen, including their mothers.118

Furthermore, since no child could be received in the union unless its mother followed it there, the mother gave up any hope of salvaging her life. One contemporary writer suggested that wards be set up for children whose mothers would then be free to work and pay a weekly fee.

116 Crow, p. 225.
117 Avery, p. 211.
118 Webb, p. 302.
He felt that such a system would "quickly lessen the ghastly labors of the coronor." Remarkably, there were those who felt that even workhouse relief should be abolished. Lord Wharncliffe expressed his opinion on the subject before the House of Lords in 1834:

Now, one strong objection to this clause (69th) in his mind was this - that it still put into the hands of the woman a remedy, of which it was the principle of the Bill to deprive her. When she found herself pregnant, she might say to the partner of her guilt, "If you don't marry me, I shall go to the workhouse and show you up," and thus would be continued one of the strong motives which now led to the commission of a crime, and it removed one of its strongest inducements against its perpetration - namely the shame and disgrace which ought to be its concomitants.

Another member speaking in 1844 also objected to putting unwed mothers, or at least "first offenders", in the workhouse, but for different reasons. He felt that the workhouse environment would be detrimental to their morals and that they would be better off on out-door relief and "home with their mothers". Both of these arguments were voted down.

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119 King, p. 136.
120 Hansard, House of Lords, July 31, 1834, cc. 780-781.
121 Hansard, House of Lords, August 8, 1844, cc. 1918-1919.
Aside from the workhouse, there were few places where a destitute woman with a child could find relief. While a variety of charitable organizations had set up shelters of sorts, they were both inadequate in the number of people they could take and often difficult to get into. It was estimated that less than 5% of the approximate 4,000 women per year in London who produced illegitimate children could be accommodated in refuges. This percentage becomes even lower when it is remembered that the figure of 4,000 per year applies only to registered illegitimate births and that the actual number was probably much higher. Furthermore, one factor which was very important to unwed mothers—anonymity—was often disregarded by refuges. For example, London Penitentiary required a petition stating the name, address and position of the applicant.122

Crow has divided the societies whose purpose was to help "fallen women" into 3 categories. The first and largest is the "reformative." There were approximately 21 agencies in London dedicated to the "rescue and reformation of fallen women." Ten were connected with the Church of England and the remainder were evangelical or unsectarian. The Female Temporary Home, the Trinity Home, and the Home of Hope restricted their clientele to the better

educated or higher classes. The London Society for the Protection of Young Females took in girls under the age of 15. The Maryleborne Female Protection Society catered exclusively to girls who had "recently been led astray." The second category is labeled "curative." This included the various religious missions, temperance societies, and associations to help women belonging to certain trades, such as dressmakers, milliners and needlewomen. The third category is the "repressive and punitive." These were occupied in crusades against prostitution.123

It is interesting to note that almost all these associations were established within a few years after the passage of the Poor Law Act of 1834. One of the exceptions was the Magdalen Hospital, founded in 1758. This was the oldest and best known institution for unwed mothers in Britain. It was established by Robert Dingley, a shipper, At the end of its first year of operation there were 344 applications of which 146 were accepted. The regulations of admittance were strictly adhered to and the applicant had to go before a committee of men for examination.124 Women were carefully screened with inquiries made into their health, upbringing, and circumstances leading to

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123 Crow, pp. 227-231.
their downfall. Pregnant women were not admitted or was any woman who had more than one illegitimate child. Most inmates were under 20, and as a rule, only those between the ages of 16 and 25 were accepted. Inmates adhered to a strict routine and schedule. Upon entering, they were placed in the probationary ward for a brief time. Afterwards they were promoted to one of 6 intermediary wards where they engaged in laundry work. They also were involved in a number of other activities ranging from making children's toys to gardening. Their work day began at 9:30 AM and ended at 7:00 PM. Their final training took place in one of two finishing wards where they stayed for about 4 months. Here they received training in domestic work and religion. They left to assume positions found for them by the hospital.

By 1848 a number of institutions similar to the Magdelan Hospital existed, but their number of inmates was small. An article in the London Quarterly Review lists them as: Magdelan 110, London Female Penitentiary 100, Society for the Protection of Young Females 70, Pentonville Home for Penitent Females 50, Westminster Penitent

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126 Ibid., p. 175.
Female Asylum 27, Lock Hospital Asylum 20, British Female Refuge 31, and the Guardian Society 53.\footnote{127 Ibid., p. 91.} It should be noted that most of the helping agencies were the residential sort of institution typified by the Magdalen Hospital. There was almost no out-of-door relief for the woman who wanted to keep her child.

Many women who found themselves in a destitute situation were forced to part with their offspring. This is grimest specter of the bastardy situation. It was the one area which proponents of the 1834 legislation chose to ignore, while the opponents of the bill referred to it consistently.

There were a number of institutions set up to care for young children, but these appear to have been as inadequate and unattractive as were the homes for the mothers. The one state-sanctioned and the most famous of these homes was the London Foundling Hospital.

When it opened in 1741, it was intended for the reception of London children only, but the pressure for admission became so great as to give rise "to the disgraceful scene of women scrambling and fighting to get to the door, that they might be of the fortunate few to reap the benefit of the Asylum." In 1756 Parliament opened the Hospital to all comers, but it became so deluged that in
1760 Parliament reversed itself and again restricted entry to Londoners. By 1850 it had only 460 children in residence and admitted only 77 annually.\textsuperscript{128}

The Foundling Hospital enforced strict rules of admittance. Children could only be received upon personal application of the mother. This application had to include the state of her case and could not be filed before birth of the child nor after the child was 12 months old. One very peculiar rule of the Hospital was that no child would be admitted unless the committee was satisfied that the mother was a person of previous "good character who was in dire necessity, that she had been deserted by the father, and that the reception of the child would replace the mother in the course of virtue, and the way of an honest livelihood."\textsuperscript{129} The committee would not consider a child if the mother had had an illegitimate birth previously. One contemporary author wrote:

\begin{quote}
The Foundling Hospital in London is in no sense what its name would indicate; it is rather a place for the maintenance and education of a certain number of illegitimate children, whose mothers are perfectly well known, and whose position is carefully investigated by the governors, committees, etc. It is generally affirmed that it
\end{quote}

\textsuperscript{128}Langer, pp. 359-360.

\textsuperscript{129}King, p. 334.
requires a good deal of interest, and many applications before a child can even obtain a presentation.\textsuperscript{130}

The children who were accepted into the Foundling Hospital were hardly better off than those outside it. The primary reason for the high death rate among babies in foundling institutions, both in England and throughout Europe, was that infants were sent out to the country to be nursed. Here there was little supervision and the results were tragic. Langer writes, "the majority soon succumbed either through neglect or more positive action on the part of their wet nurse."\textsuperscript{131} Even the best run of all the foundling hospitals in Europe--that of St. Petersburg--experienced an extremely high mortality rate. Despite the excellent management and professional efforts of this institution, 30\% to 40\% of the children died during the first six weeks and hardly one third reached the age of six.\textsuperscript{132}

The foundling hospitals came under attack in the nineteenth century, but not because of the high mortality rate of the inmates. Rather, the argument that relief to unwed mothers would encourage promiscuity was extended to include institutions which tried to care for the babies

\textsuperscript{130} "Illegitimacy & Infanticide," p. 337.

\textsuperscript{131} Langer, p. 356.

\textsuperscript{132} Ibid., p. 358.
of these women. One commentator referred to the foundling hospitals as "the ruinous experiment." His reasoning was rather remarkable:

(Foundling hospitals) might abate the murders, at the price of destroying chastity among the lowest, and impairing in all the sense of a natural obligation existing in parents for the maintenance and training of their children while still young.\textsuperscript{133}

The murders mentioned in the above statement refer to the cases of infanticide which appear to have been prevalent in nineteenth century Britain. Contemporary reports are full of these incidents. Infanticide was not always committed by the mother, nor was it limited to illegitimate births. Poor married women also turned to this option. However, infanticide seems to have been most prevalent among illegitimate children and, therefore, constitutes an important aspect of the bastardy controversy. This aberration took many forms.

The practice known as "baby farming" was responsible for much infanticide. Pathetically, these cases were usually the results of women trying to do what was best for their children. A single mother who could not find a refuge where she could keep her child, or one who had to dispose of the evidence of her indiscretion and

\textsuperscript{133} "The Judges Opinion Upon Child Murder," \textit{The Spectator}, July 12, 1890, p. 44.
could not avail herself of the foundling institutions, had few alternatives. Seemingly, the most attractive one for women who wanted to see their babies cared for was to "board them out." One major advantage of this system was that few questions were asked. The mother was assured that her baby would be given good care in return for a few shillings a week or "adopted" for a flat one time fee. Papers of the day were full of advertisements for children. While some of the ads were legitimate requests by childless couples who sincerely wanted a child (there was no formalized adoption procedure in England until 1914) many of the advertisers were merely interested in the payment which would accompany the children. The child itself was a liability. In the words of one commentator:

There is not the slightest difficulty in disposing of any number of children, so that they give no further trouble, and never be heard of, at £10 a head ... There are however, many who will 'adopt' a child for £5, trusting to their skill in the management of infants for its disposal.134

The British Medical Journal was extremely concerned with this practice and did some investigative reporting on the subject. The journal ran an advertisement of a baby for

adoption and then investigated the responses. While some responses proved to be legitimate, many were not. One would-be "adopter" aroused the suspicion of the investigator enough to cause him to check the death register for the district in which she lived. His examination revealed seven deaths of infants in her care during a two year period. The cases were reported as follows:

1. Eleven days old - jaundice - legitimate
2. Fourteen days old - marasmis - illegitimate
3. Three months old - marasmis - illegitimate
4. Six months old - diarrhea, convulsions - illegitimate
5. Six months old - congestion of the lungs - registered as the son of a baronet
6. Ten months old - convulsions - illegitimate
7. Twelve months old - dentition, convulsions - illegitimate

One obvious conclusion from this investigation is that the majority of these babies were illegitimate. Another important point is the vagueness of the illnesses which claimed them. These babies were not usually the victims of outright murder. Rather, they were subjected to the far more hideous procedure of deliberate neglect.

Because of the horrible consequences of this system,

\[135\text{Ibid., p. 302.}\]
an attempt to control and monitor it was established by the Infant Life Protection Act of 1872. This required houses caring for more than one child under the age of one year to be registered, to meet certain regulations and to be inspected on a regular basis. The system proved to be inadequate and came under the scrutiny of Select Committee investigations. The controversy over these regulations is beyond the scope of this paper. But the tragic consequences of the boarding out system which is referred to by Edward Shorter as "one of the remarkable phenomena of European social history" were an important factor in the bastardy issue because of the predominence of illegitimate children in this situation.

Investigations of the conditions in which children in these establishments were kept tell of appalling filth, malnutrition and total neglect. Ironically, the so-called "wet nurses" who took in children were likely to be dry. Those who had neither a cow or a goat would give their charges "pap"—a mixture of flour, water and sugar which was devoid of any proteins or vitamins and which introduced starches into their systems at too early an age. Furthermore, the babies were deprived of any natural immunities they might have received from human milk.136 It

was this diet which resulted in the "convulsions and diarrhea" which so often appeared on the death certificate. But even worse than the inadequate diet and the filth and cold was the almost total indifference of the nurse to her charges. The lack of concern for their welfare resulted in life threatening practices as described by Shorter.

Yet if we are to trust the scandalized 19th century rural doctors who practiced among these people, neglect and indifference were the norm ... Impatience, weariness and indifference finally led the nurses to try to silence bawling infants with alcohol, or with such opium based tranquilizers as 'Godfrey's Cordial,' a mixture of treacle, laudenum and sassafrass.\textsuperscript{137}

These women eventually became known as "killer nurses" or "angel makers." By 1860 the practice of baby farming was the subject of lively agitation.

It seems incredible that a mother with her child's interest at heart would consider leaving it in what must have been an obviously deplorable situation. However, Benjamin Waugh pointed out that the baby farmer had evolved a rather sophisticated system of subterfuge. There was usually a person who acted as a go-between for the baby farmers. She was called a procurer. She appeared, as a rule, clean, genteel and respectable. She would make an appointment to receive the child at a rail-

\textsuperscript{137} Ibid.
way station. The mother was reassured by her appearance and left her child feeling certain that it would be well taken care of. The procurer promptly deposited the baby with the real caretakers. Waugh described one such situation which he considered typical:

It was the back room of a tumble-down laborer's cottage, scarcely fit for a coal place, about 12 feet square. Crouching and sprawling on the floor, in their own excrement were 2 of them. Two were tied in rickety chairs, one lay in a rotten bassinet. The stench of the room was so abominable that a grown man vomited on opening the door of it. Though three were nearly 2 years old, none of them could walk, only one could stand up by the aid of a chair. In bitter March there was no fire ... All were yellow, fevered skin and bone. None of them cried, they were too weak. One had bronchitis, one curvature of the spine, and the rest rickets. ... There was not a scrap of children's food in the house ... And a man and wife sat watching them die, so making their living.¹³⁸

Waugh asserted that it was the baby farmer who was responsible for the terrible death rate among illegitimate children. He places this rate at 100% greater than amongst all other children.¹³⁹

The victims of baby farming were not restricted to the illegitimate children of the poor. The upper classes were not immune from illegitimacy and were in a better

¹³⁹Ibid., p. 711.
position to pay the required premium as well as being the most desperate for anonymity. Babies picked up at train stations were often described as dressed in attractive and expensive costumes which would be beyond the means of a lower class woman. One large and lucrative baby-hunting ground was police affiliation court where people of "quality" tried to settle their cases. ¹⁴⁰ The statistics regarding the death rate of these hand-nursed children are variable and certainly not precise, but they are uniformly high. Information presented before a Select Committee to study the Infant Life Protection Act in 1896 contained the following statistics. The mortality rate of babies under 1 year of age in England and Wales was between 15% and 16%. That of hand-nursed children was 40% in rural areas and 70%-90% in large towns. It was also noted that approximately 95% of the children kept in these homes were illegitimate. ¹⁴¹

It is obvious from all reports that children, whether legitimate and put with someone other than the mother for long periods of time or illegitimate and "hired out" or "adopted" suffered remarkably high death rates. But there was an even darker issue which, while not limited exclusively to illegitimate children, certainly seemed to

¹⁴⁰ Ibid., p. 709.
¹⁴¹ British Parliamentary Papers (1896) Select Committee for the Infant Life Protection Act, p.68.
affect this group profoundly.

Maternal infanticide, whether committed directly or indirectly (as through abandonment or the efforts of another person), was a frequent enough occurrence to cause great alarm and consternation in nineteenth century Britain. One commentator, writing in 1862, stated bluntly that two facts were clear: "Child murder is becoming more frequent and convictions for it grow more rare; a very large proportion of the infants murdered, probably 3/4 of them, are the children of poverty or shame."\textsuperscript{142}

The practice of doing away with the unwanted offspring of unwed mothers became a sideline of business for some midwives who "for a pittance, not only performed an abortion or delivered a child, but would also undertake to care for it, it being fully understood that the mother would not need to worry further about it. Starvation or a dose of opiates would settle the child's fate in a matter of days."\textsuperscript{143}

The Poor Law Commissioners refused to accept the concern that their legislation would induce more women to commit infanticide. In the recommendations listed at the conclusion of their 1834 report they made the following statement:

\textsuperscript{142}"Infanticide & Illegitimacy," pp. 330-331.
\textsuperscript{143}Langer, p. 357.
One objection, however, may be made to our plan... It may be said that throwing on the woman the expense of maintaining the child will promote infanticide. It appears from Mr. Wolcott's report that infanticide, and in one of its worst forms, is promoted by the existing law; but we do not in fact believe that we have to choose between two dangers: we do not believe that infanticide arises from any calculation as to expense. We believe that in no civilized country, and scarcely in any barbarous country, has such a thing ever been heard of as a mother's killing a child in order to save the expense of feeding it.144

The testimony of Mr. Wolcott, referred to in the above statement, amounted to his "opinion" that abortion and infanticide would decline after the 1834 changes because there would be fewer cases of illegitimacy and because "the man who in most instances is now the first to suggest these crimes... and to assist in their execution would no longer have an interest in doing so; and the female left to herself, from maternal feelings and natural timidity, would seldom attempt the destruction of her offspring."145 Mr. Wolcott was wrong on all counts.

A very different view on this subject was expressed by Harold King, a social commentator, writing in 1865:

She is abandoned to be pointed at by the finger of scorn, to be cast out from every avenue of honest industry; and in the frenzy of her anguish it is astounding that she curses the

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144 Checkland, p. 483.
145 Ibid., p. 270.
offspring that thus aroused society against her, and in a moment of madness becomes an infanticide ... Society is indeed to blame; it is cruel, it is murderous in its prudery, and until it has learnt to judge the mother less severely, and to make the father participate in the support of the child, this Juggernaut practice must go on.146

The laws of 1834 were seen by many as a prime factor in the increase of infanticide. It was stated in the House of Commons in 1872 that, in the 35 years since the laws went into effect, the rate of infanticide had increased.147

A committee was established in 1872 to deliberate on the issue of infanticide in relation to the existing laws. It reported to the House of Commons in 1872 and recommended that the bastardy laws be amended for the better protection of infant life. The main object of the resultant bill was to enlarge the discretion of the magistrates in granting bastardy orders and to increase the time during which proceedings could be taken against the father. It also intended to increase the maximum payment which could be awarded to the mother. As Mr. Charley pointed out,

By the existing law a hard and fast line was fixed with reference to the amount to be awarded to the mother of the bastard child (2s 6d per week); but the evidence

146 Harold King, "Foundlings & Infanticide," Once A Week, (Sept. 9, 1865), p. 335.
before the committee showed that it was quite impossible to maintain an infant for a week on such a small sum, and that rigid limitation led to infanticide. (The mother) could not maintain the child and so she destroyed it. 148

Statistics show that infanticide was rife among illegitimate children. These figures are understandably hard to come by, for the birth and death of illegitimate children often went unnoticed and unrecorded. However, King cites figures that were compiled by Dr. Bachoffner of the parish of Maryleborne in 1862. 1,109 illegitimate children were born in the rectory district; 820 were born in the workhouse of whom 516 died (46%). In three other districts the findings were: 145 births and 87 deaths (53%); 223 births and 209 deaths (93%); 140 births and 129 deaths (87%). Even given the generally high mortality rate of infants, these figures were remarkable. The outraged author wrote:

Surely ... we shall have no occasion to go to the days of Herod for a picture of the Murder of Innocents; and yet we are told that all this is as it should be; that these are the checks which Providence has imposed on licentiousness. On whose licentiousness? Not the child's certainly; not the father's, for he is free of the consequence. On the licentiousness of the mother? Amidst this maddening reflection she has one consolation

149 H. King, p. 335.
left; namely, that the Savior of the world was not a political economist.149

The desperation of women who took the lives of their own children or had others do so was not entirely lost on the people of nineteenth century England. While the unwed mother was reviled and scorned there seems to have been an underlying sympathy for her situation. It is reflected in some of the above quotations and, more concretely, in the law courts.

One great cause of concern at this time was that the crime of infanticide was rarely prosecuted and, when it was, the defendant was frequently let go. The lack of prosecution was often the result of the lack of evidence. Women were sometimes able to conceal their pregnancies (hence the legal term "concealment") and then to give birth in isolation and to kill or abandon their infants who would turn up later without clues as to the identity of the mother. One writer, aghast at the inadequacies of the legal system, describes the procedure:

This is its usual course--an extremely simple one ... The girl conceals her sin, sometimes from modesty, but--in many cases, at least--for another purpose. In the latter contingency she has made up her mind to the emergency. She hides her shame, not because it is a shame . . . but because she has already

149 H. King, p. 335.
begun to contemplate the murder of her child . . . She becomes a mother without a single shriek; and after depositing her "birth strangled babe" in the nearest dunghill or well, or concealing it under the matress, she goes about her work as if nothing had happened . . . now we are asked to believe that all this is not murder, for juries will not convict girls of any crime under these circumstances. Medical men also take the "merciful view." They pretend to entertain grave doubts. 150

It is true that it was very difficult to obtain a conviction for infanticide in the nineteenth century. The harsh law enacted in 1623 (21 Jac.I c. 27), which stipulated that when an illegitimate child was found dead the mother had to prove that it was born dead or face the death penalty, had proved inoperative. Juries were hesitant to convict given the penalty. In 1803, an alteration was made in this law. A woman charged with the murder of a bastard child would be tried by the same rules as those used in ordinary murder cases. An important provision was introduced here. When evidence of murder was absent, the fact that the mother had concealed her pregnancy constituted an offence punishable by two years imprisonment for the crime of concealment. However, if concealment were not an issue, there was another law which required that "it must be proved that the entire body of the child has actually been born into the world in a living state, and the fact of its having breathed is not conclusive proof thereof. There

must be independent circulation in the child before it can be accounted alive. 151 This meant that it was not considered infanticide if a child was strangled while the lower part of its body was still in the mother. The evidence required for these cases was all but impossible to obtain. These provisions were not changed until the enactment of the Infant Life Protection Act of 1929 which made "child destruction" a crime.

Even when the evidence of infanticide appeared to be obvious, juries were hesitant to convict and punishment, when meted out, was usually mild. The following cases from the year 1856 illustrate the point:

July 14: M. A. Jones at Aylesbury overdosed her infant with laudenum - conviction of manslaughter - one month in jail.

July 16: Barratts at Aspley Guise convicted of starving a step-daughter to death. Found guilty, but recommended mercy.

July 26: Hannah Adams stabs her 3 month old infant. Case ruled morbid action of the brain - not guilty.

July 30: The illegitimate child of Eliza Davies of Hereford is found dead in a well. Doctor believes child might have died without drowning - not guilty.

151 Langer, p. 360.
Aug. 1: A similar case in Calstock against M. A. Roberts - not guilty. On the same day two other women in Birmingham are acquitted of an obvious murder. But the most remarkable of all these cases must be one that occurred in Truro. Here the father of an illegitimate child tried immediately after birth to strangle it by putting his finger in its throat for five minutes. Failing that, he held its head in a bucket of water until it drowned. The verdict was manslaughter.¹⁵²

Judging from the reports of contemporaries, it was concern for the mother that prompted juries to leniency. One writer stated:

Our present system, by which mothers are expected to be deterred from killing their children by fear of the gallows, is an utter failure. The practical good sense of this country knows so much allowance must be made for the temptations of shame, distress, and poverty, which cause 99 child murders out of 100, that this crime cannot justly be treated as an equivalent to homicide. The consequence is that our juries will resort to almost any quibble sooner than bring in a woman guilty of willful murder in cases of the kind alluded to.¹⁵³

Another author wrote:

For the girl who destroys the evidence of her shame in the wild hope of preserving her


¹⁵³"Infanticide Amongst the Poor," p. 271.
reputation; for the despairing woman who, having neither bread to feed herself nor hope of procuring sustenance for her child, flings it into the nearest canal, there are indeed some considerations to be urged, not in justification, but in extenuation.\textsuperscript{134}

That infanticide did exist in nineteenth century Britain is an irrefutable fact. That infanticide was usually the result of illegitimacy was generally accepted. That the situation for unwed mothers was further aggravated by the passage of the 1834 Poor Law was a major contention of the opponents of the Act. However, its supporters continued to stress the moral issue of promiscuity which, they alleged, the laws before 1834 had encouraged. The Bishop of London went so far as to state that it was not starvation and destitution which caused an unwed mother to kill her child, but rather the shame in going before a public tribunal for affiliation. He felt that if she were no longer able to do that "there will be a door left open to her for repentance and reformation."\textsuperscript{155}

Remarkably, there were some who were unaffected by the issue of infanticide. Malthus supported the closing of the Foundling Hospital, which he believed encouraged promiscuity, even if the closing led to an increase in in-

\textsuperscript{134}"Infanticide & Illegitimacy," p. 328.
\textsuperscript{155}Hansard, House of Lords, August 8, 1834, C. 1085.
Fortunately, such feelings were in the minority. Most nineteenth century social commentators decried the situation and the conditions leading to it. One commentator placed the blame squarely on society. My own belief is, the only real remedies for infanticide are of a social character. To a household servant in a respectable family, or to an unmarried woman in any employment . . . it is almost ruin to be known to have an illegitimate child. If ever there should be such a change in English feeling that the fact of being an unmarried mother should not tell against a girl's chance of getting a situation, servant maids and shop girls will have far less temptation to conceal the fact of pregnancy.157

The government responded to public concern by an investigation into infant mortality in 1871 which resulted in the Infant Life Act of 1872. This act affected only one segment of the problem by requiring the licensing of many baby farms. Even in this one area the law proved ineffectual because of weakness and loopholes and, for the rest of the nineteenth century, the tragedy of infanticide continued.

157 "Infanticide Amongst the Poor," p. 271.
The changes in the bastardy laws in the latter part of the nineteenth century were in accordance with the arguments voiced by the opponents of the 1834 bill. These changes demonstrate that the 1834 legislation was inappropriate and that the anticipated preventive aspect of the bill had failed. This chapter will show how the legislation of 1834 was gradually altered until, eventually, a Parliamentary about-face was reached.

The bastardy clauses proved to be among the most unpopular in the whole of the Poor Law Amendment Act. In the four years following the passage of the 1834 legislation a steady stream of petitions flowed into Parliament. Concern over the bastardy clauses shared equal billing with complaints about separation of families in workhouses. A typical petition was signed by 882 inhabitants of the parish of Tiverton, Devon in 1835. They saw the clauses as "a measure of great injustice and revolting to humanity. The great increase of the crime of infanticide in various parts of the Country, bear out your Petitioners in praying for an immediate repeal of the Clauses."\(^{158}\)

Henriques notes that the petitions were impressive

because they revealed a spontaneous expression of public feeling. There was no sign that they had been inspired by an organized pressure group. These petitions voiced the two universal objections to the bastardy clauses: they were inequitable in thrusting the whole burden upon the woman and the parish, when it did support the mother and child, could not recover any of the expense. Six months after the passage of the act the Nottinghamshire magistrates appealed to Home Secretary Althorp with their objections to the new procedure. These included the expense of getting witnesses to the Quarter Sessions which were held only in a few towns, the difficulty of obtaining corroborative evidence to the woman's statement, the unequal provisions for costs, and the impossibility of compelling unpropertied men to pay. They advocated returning the cases to the Petty Sessions and restoration of the power to imprison for arrears. 159

As a result of public pressure, the Select Committee was reconvened in 1838. It supported the 1834 changes as having ended false swearing and force marriages. However, it admitted that affiliation actions in Quarter Sessions were both costly and offensive to public decency and suggested that the legislature should consider some

159 Ibid., pp. 115-116.
means of inflicting punishment for the crime of sedu-
tion.\footnote{160} What this amounted to was a reconsideration of the very essence of the 1834 legislation. Returning af-
filiation cases to the Petty Sessions, and hence making it once again possible--although still difficult--for women to have recourse, amounted to the exact antithesis of what the 1834 reformers had campaigned for. The members of the 1838 Select Committee were, in fact, admitting that women deserved a fair opportunity to hold the other party involved in their dilemma accountable. This is precisely what Bishop Phillpotts had argued for. By noting the need for some form of judicial process to deal with cases of seduction, they were admitting that this was a significant issue. Their findings hardly amount to a turn around in philosophy, but they do signify the first sign of conscious awareness that perhaps the wrong road had been taken.

The result of the Select Committee's report was a bill which passed through the House of Commons almost without discussion. Affiliation cases were returned to Petty Sessions on the condition that the requirement of corroborative evidence be kept and that the proceeds recovered would not go to the woman. An appeal process to Quarter Sessions was accepted. This bill did not by any

\footnote{160}Ibid., p. 117.
means solve, or even in reality lessen, the problems of unwed mothers. But it did mark the beginning of a trend. The problem of the bastardy clauses surfaced in Parliament in 1844. Once more, it was the opposition of public opinion which caused legislators to take another look at their work. One particular instance which led to this reassessment were the so-called "Rebecca Riots" which occurred in Wales. The Welsh were especially indignant over the bastardy clauses. In 1844 a Commission of Inquiry for South Wales was appointed to study the causes of the unrest. Witnesses reported to the Committee cases of young starving mothers and their abandoned children. One witness mentioned a chapel school master writing a "Rebecca Letter" to Mr. ___________, who was very well off, because there was a poor woman starving who was the mother of his child." Another had seen two girls with bastard children who would not go into the workhouse and could not filliate the children for lack of corroborative evidence. The children were in a state of starvation. There were reports of babies deserted in increasing numbers, or left at the workhouse door, because their mothers could not take them into service. The following statement of a countrywoman of Havorfordwest was noted: "As, Sir, it is a fine time for the boys now, it is a bad time for the girls, Sir, the boys have their own way."¹⁶¹

¹⁶¹Ibid., p. 119
In the evidence gathered by the Commission of Inquiry for South Wales, the Welsh indignantly repudiated the charge that their women committed perjury. Reverend Henry Davies of Norberth stated that perhaps English women were so hardened that they would charge a child to a man they never met, "but it is not so here; not one woman in ten thousand will take a false oath." ¹⁶²

As a result of its inquiry, the Commission denounced the bastardy laws. These laws, they said, had "altogether failed of the effect which sanguine persons calculated they might produce on the caution or moral feelings of the weaker sex." ¹⁶³ In the face of this report, a new bill was introduced by Sir James Graham in 1844. The resultant act took affiliation maintenance out of Poor Law hands. Now any woman, either before the birth of her illegitimate child or within one year after its birth, could bring a bastardy action against the putative father. Support would now be paid directly to the mother and the court had the power to order confiscation and sale of the father's property if he neglected or refused to pay. If he had no property, he would be committed to prison. Graham did not support a reversion to the pre-1834 Poor Law. Rather, his

¹⁶² Ibid., p. 118.
¹⁶³ Ibid.
plan was to dissociate the bastardy laws from the Poor Laws by giving the mother an independent civil remedy.\textsuperscript{164}

Despite these apparent concessions, grave problems still existed and the 1844 legislation fell under criticism almost equal to that against the 1834 reforms. While it appeared that unwed mothers now had a greater chance for recourse, they were, in reality, little better off for a number of reasons. They were required to pay a summons fee and the expenses of the summoning officer if they wished to issue a paternity suit. This made it virtually impossible for a poor woman to even consider an attempt to secure relief. When relief was won by the mother, it was, as noted above, minimal. Harold King, writing in 1865, summed up the situation:

\begin{quote}
The law as it originally stood when passed in 1834, threw the whole burden of support on the mother. The iniquity of this bargain was soon evidenced by the flagrant evils produced by it; in 1844 an attempt was made to rectify the wicked clauses by making the father contribute towards the support of the child, but the allowance authorized is a simple mockery, while the difficulties thrown in the way of a woman's proving her case are almost insuperable by reason of legal barriers erected to screen the man. It has been suggested that as there is a Divorce Court for the rich, so there should be an affiliation court for the poor... The Magistrate's tribunal is a farce.\textsuperscript{165}\end{quote}


\textsuperscript{165}H. King, p. 336.
One particular remaining point of contention was the necessity that the mother produce corroborative evidence. Bishop Phillpotts pointed out that a woman who was a victim of seduction could hardly comply. He suggested making the requirement for corroborative testimony an option of the magistrates. His proposal was voted down.166

It was now largely understood that the avowed purpose of the 1834 legislation—prevention of bastardy—had not been realized. Lord Wharncliffe was one member who had changed his opinion in the ten years since the passage of the act.

He was one of those who had thought that if the evil of bastardy was to be corrected at all, it must be by improvements in the conduct and behavior of the women, and for this purpose it was recommended by the Poor Law Commissioners, that the whole burthen of supporting the bastard should fall upon the mother, under the idea that it would tend to enforce chastity upon her. But in that he, and those who brought in the Bastardy clauses of the present act, were deceived, for though in some parts of the country bastardy had decreased, it had on the whole increased.167

However, there were still those who supported the measure and condemned the 1844 efforts to change the ruling. The Earl of Radnor expressed his opinion in the House of Lords:

166 Hansard, House of Lords, Aug. 6, 1844, C. 1839.
By the dispensation of Providence, all the pain and hardship of childbearing were sustained by the woman, but the Legislature, thinking itself wiser than Providence, held out a remuneration to her for the commission of crime.168

Another area of dissension in 1844 involved the right of appeal. Should a single mother win her case, the putative father had the right to appeal the decision. However, if the woman lost the case, all rights of appeal were cut off. When this practice was questioned in the House of Commons, Graham argued that feelings were against having a woman produce testimony confirming her shame in a crowded courtroom. Mr. Escott stated that since the punishment was one-sided—on the father—he deserved the right to appeal. Mr. Wakley challenged this argument by pointing out that if a woman did not support her child, she was liable to be treated as a rogue and vagabond under the act of George III, and that, therefore, she deserved the right of appeal. He added that leaving the woman destitute resulted in infanticide. Another point argued by Mr. Denison was the fact that if the man did appeal, the woman was responsible for the cost of defending herself.169 Despite these arguments, the clause regarding appeal stood.

168 Hansard, House of Commons, Feb. 10, 1844, C. 482.
There is one significant positive feature of the 1844 act which should not be overlooked. Now, for the first time, support, when it was granted, went directly to the woman so that she could retain custody of her child. This meant that the child's status was changed from being a ward of the parish. While, theoretically, this feature showed a genuine improvement in attitude, in actual practice the effect was minimal because of the obstacles which still stood in the way of the woman's ability to secure relief.\textsuperscript{170}

Henriques sums up the significance of the 1844 act:

The new act of 1844 meant that, in theory, public opinion had won and the Commissioners had lost. However, in reality the new law had small effect. Few working class women would, without the intercession of parish officers, start their own actions before the magistrates. The majority were probably unaware that they could. The sums recovered by individual parishes varied greatly, and covered about 1/2 the cost of keeping the child. In any case the vast majority of unwed mothers did not and never had resorted to affiliation orders.\textsuperscript{171}

The 1844 act was followed by the Bastardy Act of 1845 which simply clarified the procedures of 1844. Then in 1868 an act was passed enabling the Guardians to initiate proceedings to attach money paid to the mother under a bastardy order for relief of the rates.

\textsuperscript{170}Eliofson, p. 321.

\textsuperscript{171}Henriques, pp. 119-120.
The turning point came with the Bastardy Laws Amendment Act of 1872 (35, 36 Victoria c. 65). One of the great criticisms of the 1844 changes was that the woman was required to initiate proceedings and to carry the cost. The 1872 act allowed the Guardians to initiate proceedings. This act also increased the amount which could be paid to the mother. Furthermore, payments could continue until the child was 16 and also if the mother married. The avowed purpose of this bill was to decrease infanticide by allowing the mother to receive outdoor relief so that she could leave the child in someone's care and go out to service. It was also said that it would reduce immorality by requiring the seducer to pay for his illegitimate offspring and "penalties upon the seducer were more likely to discourage immorality than severe and oppressive laws upon the seduced."172 The arguments of 1834 had been turned upside down. The House passed the bill without a division.

Although these changes represented a marked change of opinion in Parliament and removed some of the barriers, they still fell far short of assuring illegitimate children a life that was much more than nasty, brutish, and, most of all, short. The main problem remaining was the amount of support awarded to a mother. While this amount was increased in 1872 on the statute books, the amounts actually

172 Ibid., p. 120.
awarded remained minimal and varied according to the condition of the father and the whims of the individual magistrates. The Webbs point out that, during the period from 1848 to 1908, when outdoor relief was given, there was no special provision made for maternity.

An expectant mother, if granted Outdoor Relief at all, was seldom given more than 2s or 3s a week, no consideration given to the special needs of her condition. . . When the infant was born, the Outdoor Relief granted was usually only 2s or 3s a week—often indeed only 1s or 1s 6d a week for the child and nothing for the mother.173

In fact, despite the legislative turn around, little had changed in the day to day life of unwed mothers and illegitimate children. While they were now able to acquire relief, the amount that they usually received was so small as to be almost negligible. But even more importantly, they were still considered outcasts of a society which offered them little hope to recoup their lives. The situation existing at the end of the century was summed up by one writer in 1899:

It is impossible to get rid of sexual irregularities. . . What we have to do is find out how they can be prevented from leading to more serious evils. . . While public opinion is ready to lay all the blame on the man, both law and public opinion lay all the punishment on the woman. The man is not only subject to

173 Webb, p. 301.
no kind of moral stigma, but can escape from all legal responsibility . . . by payment of a sum so trifling as to be ridiculous. The law absolves the father from responsibility, the State refuses to take any responsibility upon itself.174

CONCLUSION

The motive behind the 1834 Poor Law revision was economic. Previous legislation was interpreted as an encouragement to the growth of a non-productive segment of the population which sapped the scanty resources of society. The bastardy clauses were considered especially culpable in this respect. However, as Henriques points out, population control was hardly a question which would appeal to the general public. So the controversy turned on the question of illegitimacy and the improvement of morals. 175

The system of bastardy relief was indeed in need of improvement. However, the commissioners who studied the matter chose to discard the system entirely rather than to work on correcting its flaws. Their attitude was biased, their data inadequate, and their reasoning faulty. The 1834 Act did not result in a decrease of illegitimate births. Illegitimacy seemed to have increased after 1834. It is highly probable that the new legislation did aggravate the aberrations of infanticide and abandonment. The inability of women to function with economic independence contradicted the commissioners' belief that they would be able to get by without aid. The ultimate failure of the

175 Henriques, p. 121.
1834 reforms is reflected in the subsequent legislation passed by the end of the century.

The supporters and opponents of the Act had in mind a similar goal—the ultimate good of society. The difference between them lay in the realm of primary concern. The supporters of the 1834 legislation were concerned for society as a whole. Their opponents were concerned with the individuals that made up society. It was a matter of perspective.

The supporters of the Act could see no cure for what must have appeared as a creeping malaise, which threatened to run right up the social ladder, other than to cut off the contaminated members to save the whole. Their opponents, on the other hand, saw the problem originating in society and affecting its individual members who were helpless to fight it off. They blamed the squalor and the poverty at the bottom of the industrialized culture and the indifference and hedonism at the top. They saw the victims of illegitimacy—and doubtless many other social ills—as powerless to avoid their predicament and unable to get out of it. They were victims in every sense of the word and society, which created their problems to begin with, owed them relief.

The Act of 1834 is a classic example of the kind of legislation which blames the victim of society's ills for
his situation. It is an example of the irritant method of social welfare, based on the belief that people will improve their own lives if conditions are made sufficiently unpleasing. This attitude was apparent in all parts of the 1834 Poor Law, but it is perhaps most blatant in the bastardy clauses. Here the feeling was that unwed mothers were obviously personally responsible for their situation and therefore should be held personally responsible for rectifying it. This was a harsh and punitive attitude which overlooked the very real barriers, both economic and social, faced by women who were adrift in nineteenth century society. These women were truly victims of society's shortcomings. They were reared to be dependent and submissive and were denied the opportunity to develop the skills to survive on their own. Their situation can be regarded as a microcosm of the dilemma facing the poor in general. Those who did not succeed in life—according to the prevailing standards—were viewed with contempt. A statement made by Thomas MacKay in 1854 illustrates this attitude:

Those who accept the present constitution of society as representing, fundamentally at all events, the irreversible verdict of the civilized world, believe that the existing industrial economy has an illimitable power of absorption, and that it is highly impolitic to create a rival principle of existence, and to give too liberal guarantee
of maintenance to those whose only success is the acquisition of a character indisputable incompetent.176

The 1834 Bastardy Act was turned around by the end of the century because it failed to produce the results predicted by its supporters. Illegitimacy rates seemed to rise instead of dropping. In the meantime, public criticism of the Act was keen, as reflected in the petitions which flooded Parliament. Henriques points out that the intense unpopularity of the clauses endangered the whole Poor Law. Graham introduced the 1844 Act in order to separate the Bastardy Clauses from the New Poor Law so that the main body of that law could be kept intact.177 Perhaps the most serious indictment against the Act was that it seemed to have upset a delicate machinery of social balance, especially in rural areas where pre-marital pregnancy was the accepted norm. Henriques writes,

Perhaps the Old Bastardy Laws, with all their abuses, to some extent weighted the scales in favor of the woman in search of a husband, and ensured that wooing customs did not disrupt local society. Perhaps through affiliation orders they also provided an endurable solution for the casualties of class structure or of the imbalance of the sexes.178

176 MacKay, p. 6.
177 Henriques, p. 126.
178 Ibid., p. 129.
The reason for the public failure of the Act might be found in Levine's theory that the New Poor Law itself caused an increase in the illegitimacy ratio while at the same time denying help to unwed mothers.
SELECTED BIBLIOGRAPHY

BOOKS


Compston, H. F. B. *The Magdalen Hospital.* 1917.


PROCEEDINGS

Proceedings of Select Committee on Infant Life Protection, March-July 1891.

Hansard Parliamentary Debates.


ARTICLES


Select Committee Report on Contagious Diseases Act, April 30, 1896.

Statutes at Large of Great Britain.
APPENDICES

London Parishes of St. Marylebone, St. Pancras and St. George's Southwark in 1857

IA

Occupations of Unwed Mothers

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IB

Occupations of Fathers of Children of Single Women

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IC

Causes of Violent Deaths of Babies in England
And Wales in 1856

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<td>Opium</td>
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<td>11</td>
<td>40</td>
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<td>16</td>
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<td>103</td>
<td>206</td>
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<td>Suffocated, overlaid</td>
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<td>Injury (how or what kind)</td>
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### Number of Bastards Affiliated Before & After Poor Law Revision of 1834

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<th>Number of Bastards Affiliated in the Year ended March 25, 1837</th>
<th>Number of Orders in Bastardy, made in the Year 1857</th>
<th>Population in 1841</th>
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121
### IIA (Continued)

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<th>Counties</th>
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<th>Number of Bastards Affiliated in the Year ended March 25, 1835</th>
<th>Number of Orders in Bastardy, made in the Year 1857</th>
<th>Population in 1841</th>
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<td><strong>648</strong></td>
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<td><strong>15,906,741</strong></td>
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VITA

Diane Marian Davison was born in Bethlehem, Pennsylvania on December 26, 1949, the daughter of Michael J. & Louise (Connor) Holenchik. She graduated in 1967 from Bethlehem Catholic High School. She majored in history at Muhlenberg College (Allentown, PA) and received her B.A. degree with high honors in history in 1975. While at Muhlenberg Ms. Davison was a member of Phi Alpha Theta. She was awarded the Phi Alpha Theta prize in 1975 for her senior honors thesis: Renaissance Women.

She is married to Paul E. Davison, Jr. They reside, with their daughter, Whitney, in Easton, Pennsylvania.