

# **Bastardy and the New Poor Law: Redefining the Undeserving**

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Enacted in 1834, the New Poor Law set the stage for a new era of welfare in England. Widespread discontent with the inefficiency and costs of the Old Poor Law created the impetus for its successor. The New Poor Law instated new terms for poor relief, creating a structure of indoor relief based on the principle of less eligibility. Included in the New Poor Law was the Bastardy Clause, which overturned the existing bastardy laws. The Bastardy Clause was, at its core, an absence of charity. Charity or poor relief were no longer the rights of the poor, but privileges to be attained through the new liberal, free market system. Both the Whigs and the Tories had been critical of the Old Poor Law, and the New Poor Law, which was designed and implemented by the Whigs, received support from both Tories and Radicals. However, the Bastardy Clause did not receive such support, and was “described by contemporaries as provoking ‘the most violent opposition’ of all New Poor Law features.”<sup>1</sup> The discourse among Whigs and Tories, and more broadly, liberals and radicals, demonstrates a fundamental shift in how British politicians had begun to think about poverty and charity. Existing scholarship focuses on the economic and political debates surrounding the conception of the Bastardy Clause. Exploring this debate is essential to understanding how the relationship between capitalism and charity was transforming at this moment in time, impelled by new conceptions of who was deserving of charity and who should provide it. Born of an emphasis on economic individualism, the Bastardy Clause labeled unwed mothers a category of the undeserving poor.

## **I.**

Broadly speaking, by the beginning of the 19th century, the conditions of charity had greatly evolved. Charity was increasingly institutionalized, and its objectives had fundamentally

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<sup>1</sup> Lisa Forman Cody, “The Politics of Illegitimacy in an Age of Reform: Women, Reproduction, and Political Economy in England's New Poor Law of 1834,” *Journal of Women's History* 11, no. 4 (2000): 131-156.

changed. Considering earlier conceptions of charity is requisite to understanding why the New Poor Law marks the codification of new thinking about poor relief.

The English poor laws were first developed in the 16th century and remained in existence until the 20th century. Voluntary charity also existed outside of the poor laws. However, over time, “the priorities of state and society shifted towards more, not less, public welfare,” and charity became increasingly part of the state’s agenda.<sup>2</sup> Although more informal efforts to target poverty existed during the 14<sup>th</sup> and 15<sup>th</sup> centuries, the Poor Law of 1597-1601 laid the groundwork for a national system. In 1601, the Act for the Relief of the Poor—commonly known as the Elizabethan Poor Law—created a formal system by which “each parish was to be responsible for the maintenance of its own poor.”<sup>3</sup> The law created the position of “Overseers of the Poor of the same Parish.” These overseers were responsible for

“Setting to work the Children of all such whose Parents shall not by the said Churchwardens and Overseers, or the greater Part of them, be thought able to keep and maintain their Children: And also for setting to work all such Persons, married or unmarried, having no means to maintain them, and use no ordinary and daily Trade of Life to get their living by.”

The law distinguishes between outdoor and indoor relief, two different methods of allocating charity. The above provision refers to the sanction of indoor relief. The overseers were also required to collect “competent Sums of Money for and towards the necessary Relief of the Lame, Impotent, Old, Blind, and such other them being Poor, and not able to work.”<sup>4</sup> Thus, the Old Poor Law offered relief to several categories of the poor: the deserving and able-bodied, as well as the impotent. One of the major attributes of the old poor laws was its “reliance on the parish as a unit of government.”<sup>5</sup> Indeed, the Old Poor Law was far more local than its replacement, and its operations depended on the leadership of local Justices of the Peace. This parish-based system of aid prioritized the poor within a community. The poor laws would eventually transform into a system that implicated the government in more nuanced ways.

The Elizabethan Poor Law does not specifically address the question of bastardy, which was regulated in subsequent legislation. The Bastardy Law of 1733 stated that “any Single woman [who] shall be delivered of a Bastard Child which shall be chargeable or likely to become chargeable’ was to be brought by the parish to be examined on oath before two magistrates.” The putative father of a bastard child was required to pay a weekly sum toward the care of the child. The mother would also pay a lesser sum “so long as the said bastard child shall be chargeable to the said parish.”<sup>6</sup> The legislation of 1733 can be said to have “reflect[ed] formally what had

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<sup>2</sup> Alan J. Kidd, *State, Society, and the Poor In Nineteenth-Century England*, (Houndmills, Basingstoke, Hampshire: Macmillan Press, 1999), 66.

<sup>3</sup> J. D. Marshall, *The Old Poor Law, 1795-1834*, 2nd ed. (Houndsmills, Basingstoke, Hampshire: Macmillan, 1985), 10.

<sup>4</sup> “An Act for the Relief of the Poor,” (1601). <http://www.workhouses.org.uk/poorlaws/1601act.shtml>.

<sup>5</sup> Marshall, *The Old Poor Law, 1795-1834*, 9.

<sup>6</sup> From 6 George II c. 31, *An Act for the Relief of Parishes and other Places from such Charges as may arise from Bastard Children Born in the same* (1733), as quoted in Nutt, 337.

probably always existed as a de facto gendered division of parental labour: mothers as primary carers, and fathers as financially responsible.”<sup>7</sup>

From the 16th to the 18th century, “public relief” was largely available to those who were unable to work. In 1782, Gilbert’s Act allocated relief to the “able-bodied” by making it so that they did not have to enter the workhouse. The 1795 Speenhamland system attempted to diminish poverty by supplementing wages. By and large, the old poor laws did not enforce consistent rules; their application varied by locality due to “differences in trade, industry or agriculture.”<sup>8</sup> Some historians believe that the local nature of the poor laws may have led to “greater humanity, and sometimes to more extensive, well-meant and indiscriminate granting of relief to individuals.”<sup>9</sup> By 1795, the administration and effectiveness of the poor laws was increasingly called into question, a fact which would, in the eyes of the state, necessitate the reform that was to be implemented in 1834.

Traditionally, women were disproportionately favored by relief efforts. In the village of Campton and the town of Shefford between 1770 and 1834, aid was largely tied to life-cycle poverty. Women were more likely to receive relief than almost any other category of people, with exception of the elderly.<sup>10</sup> In Campton and Shefford, “broken families”—those that were composed of widows and their children or unmarried mothers—were more likely to receive aid than “complete families.”<sup>11</sup> The overseers’ efforts to support unwed mothers suggests that they “showed less sympathy to the poverty of couple-headed families than to lone parent ones.”<sup>12</sup>

Gendered notions of work had existed for millennia before the poor laws, well-documented in ancient texts including the Bible. In the 19th century, as the period of industrial revolution altered the English economy, the gendered division of labor became ingrained in the development of English capitalism. Women were expected to participate in the economy and earn their own wages. Technological innovations created new roles for women in the factory, though women had been important economic players in the 18th century prior to industrialization. However, “the gendered distribution of work was the outcome neither of the requirements of capitalism nor of economic forces.”<sup>13</sup> In the 19th century, this gendered division of work—that which designated women to the home and men to the workplace—became a sustaining factor of capitalism. It became “relevant to the stability both of the industrial capitalist system and of society more generally.”<sup>14</sup> Despite the fact that industrialization and factory employment opportunities enabled women to become more independent by earning their own salary, they could not subsist on their wages alone, but only on their wages in combination with some other supplement.<sup>15</sup>

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<sup>7</sup> Thomas Nutt, “Illegitimacy, Paternal Financial Responsibility, and the 1834 Poor Law Commission Report: The Myth of the Old Poor Law and the Making of the New,” *The Economic History Review* 63, no. 2 (2010): 337.

<sup>8</sup> Marshall, *The Old Poor Law, 1795-1834*, 12.

<sup>9</sup> *Ibid.*, 9-10.

<sup>10</sup> Samantha Williams, *Poverty, Gender and Life-Cycle Under the English Poor Law, 1760-1834*, (Woodbridge, Suffolk: Boydell Press, 2011), 124-125.

<sup>11</sup> Williams, *Poverty, Gender and Life-Cycle Under the English Poor Law, 1760-1834*, 125.

<sup>12</sup> *Ibid.*, 164.

<sup>13</sup> Katrina Honeyman, *Women, Gender, and Industrialisation In England, 1700-1870* (New York: St. Martin's Press, 2000), 52.

<sup>14</sup> Honeyman, *Women, Gender, and Industrialisation In England*, 53.

<sup>15</sup> *Ibid.*, 54.

The old poor laws were largely regarded as problematic and ineffective. This was inevitable, given that the poor laws had been designed for a paternalistic economic system by which the government regulated economic activity.<sup>16</sup> By the end of the 18th century, poverty had become a genuine societal problem in England. Charity was no longer simply about helping the poor, but about alleviating a social issue. In 1832, the Poor Law Commission was charged with investigating the current state of the poor laws. The *Poor Law Commissioners' Report* was completed in 1834, and in it, the commissioners proposed that: "All relief whatever to able-bodied persons or to their families, otherwise than in well-regulated workhouses [...] shall be unlawful."<sup>17</sup> This limited, government-imposed conception of charity differs greatly from what was envisioned under the Old Poor Law. The economic changes that took place over these few hundred years can account for why thinking about the ideas of giving and receiving transformed.

## II.

Reformer Edwin Chadwick and political economist Nassau Senior were the two primary authors of the 1834 *Poor Law Commissioners' Report*, though seven other royal commissioners contributed to its authorship.<sup>18</sup> Though scholars have cautioned against overestimating the role of "theorists and officials" in the formation of the New Poor Law, the influence of Chadwick and Senior remain paramount in that they advanced "a powerful and principled hostility to the practice of paternalism, and an optimism about the ability of a free economy to secure the social order of the countryside in its stead."<sup>19</sup>

Though there were variations in their views, both Chadwick and Senior ascribed to laissez-faire views of the economy and of welfare. Senior believed that the "scope of governmental interference [...] must be limited to activities which would not diminish 'industry, forethought, and charity,' but he acknowledged that the government played a necessary role in intervening where public welfare was overtly threatened."<sup>20</sup> The Whigs' understanding of economics and policy was greatly influenced by Benthamites—those who had adopted the theories and ideas of Jeremy Bentham.<sup>21</sup> Indeed, Chadwick was a devout Benthamite, and Bentham's utilitarian views can thus be said to have shaped Chadwick's thinking about poor relief. Chadwick sought serious reform of the poor laws. He aspired toward a system that would work to the advantage of the independent

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<sup>16</sup> Kidd, *State, Society, and the Poor*, 14.

<sup>17</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment, chiefly drawn from the evidence and reports of the Poor-Law Commissioners* (London: C. Knight, 1834), 262.

<sup>18</sup> Peter Mandler, "Tories and Paupers: Christian Political Economy and the Making of the New Poor Law," *The Historical Journal* 33, no. 1 (1990): 81.

<sup>19</sup> *Ibid.*, 82.

<sup>20</sup> Nicholas C. Edsall, *The Anti-Poor Law Movement, 1834-44* (Manchester, Eng.: Manchester University Press, 1971), 5.

<sup>21</sup> The Benthamites were "an older generation of utilitarians" who ascribed to Bentham's theory of utility. The axiom most commonly associated with Bentham's utilitarianism is that "the greatest happiness of the whole community ought to be the end pursued in all human actions." This principle was applied on a societal level by the Benthamites, who believed that that which benefitted the majority was best for society. For a more detailed description of Bentham's theory, see Atkinson, Charles Milner, *Jeremy Bentham; His Life and Work*. London: Methuen & co., 1905.

laborers and, more broadly, the labor market.<sup>22</sup> Thomas Malthus' theories are also evident in the text of the Commissioners. A contemporary of the poor law Commissioners, Malthus himself was an outspoken opponent of the Old Poor Law. In his 1795 book *An Essay on the Principle of Population*, he wrote,

“The poor laws of England tend to depress the general condition of the poor in these two ways. Their first obvious tendency is to increase population without increasing the food for its support. [...] Secondly, the quantity of provisions consumed in workhouses upon a part of the society that cannot in general be considered as the most valuable part diminishes the shares that would otherwise belong to more industrious and more worthy members, and thus in the same manner forces more to become dependent.”<sup>23</sup>

Malthus believed that the poor law depressed the conditions of society without actually relieving the struggles of the poor. In their 1834 report, the Commissioners state that:

“It is now our painful duty to report, that in the great part of the districts which we have been able to examine, the fund, which the [Elizabethan Poor Law] directed to be employed in setting to work children and persons capable of labour, but using no daily trade, and in the necessary relief of the impotent, is applied to purposes opposed to the letter, and still more to the spirit of that Law, and destructive to the morals of the most numerous class, and to the welfare of all.”<sup>24</sup>

They echo Malthus' statements that the poor laws are opposed to the “welfare of all.” Evident is a greater concern for the organization and stability of society.

Like Malthus, Senior was preoccupied by the economic factors that could limit population growth. In 1850, he would publish *Political Economy*, “an outline of the Science which treats of the Nature, the Production, and the Distribution of Wealth.”<sup>25</sup> Senior believed that the “Science of Political Economy” rested on four main propositions, the second of which was that “the Population of the world, or, in other words, the number of persons inhabiting it, is limited only by moral or physical evil, or by fear of a deficiency of those articles of wealth which the habits of the individuals of each class of its inhabitants lead them to require.”<sup>26</sup> Senior cites Malthus, who had determined that there were both preventative and positive checks to population growth: “The first are those which limit fecundity, the second those which decrease longevity. The first diminish the number of births, the second increase that of deaths.”<sup>27</sup> Senior's agreement with Malthus suggests that concerns about population size were at the forefront of debate surrounding the Old and New Poor Laws.

The *Poor Law Commissioners' Report* was informed by the testimony of poor-rate collectors, vestries, and overseers from across the country. These overseers provided the evidence

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<sup>22</sup> Edsall, *The Anti-Poor Law Movement*, 6-7.

<sup>23</sup> Thomas Robert Malthus, *An Essay on the Principle of Population* (1798; reprint, Harmondsworth, England: Penguin, 1970), 34-35.

<sup>24</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment*.

<sup>25</sup> Nassau William Senior, *Political economy* (London: J.J. Griffin, 1850), 1.

<sup>26</sup> *Ibid*, 26.

<sup>27</sup> *Ibid*, 31.

upon which the Commissioners based their conclusions about the severity of bastardy. Some of these overseers had given testimony before the House of Lords' Committee on Poor Laws in 1831. Others had provided written evidence to the Commissioners on the state of bastardy in their towns. One source of such evidence was Absalom Barnett—the assistant overseer of St. Mary's parish in Nottingham—who submitted his report to the Commissioners in 1833.<sup>28</sup> In it, he ventures to record the causes of pauperism as he observed them. Barnett devotes an entire chapter to bastardy, “the most prolific of all the causes productive of the pauperism in large towns.” “The pauperism of bastardy is generally the result of vicious indulgence, essentially degrading in its character, and permanent in its effects,” Barnett writes.<sup>29</sup> He emphasizes the burden placed on parishes. Barnett's text is one contemporary example of why bastardy was perceived as such an enormous social issue. As he describes it, the bastardy laws were a cause of poverty themselves: as a provision of welfare, they had accomplished the opposite of what they were intended to do. Scholars have debated the validity of these claims, pointing out that the report lacks quantitative corroboration for the anecdotal evidence included.<sup>30</sup>

Similarly, in a letter to both houses of Parliament entitled “Consequences Resulting from the Poor Laws in England,” an anonymous author speaks of the “disgrace” upheld by the poor laws.<sup>31</sup> This author refers to himself as “A Friend to the Industrious and Oppressed,” and, aside from criticizing the old bastardy laws, speaks to the “erroneous notions of charity” established by the poor law.<sup>32</sup> Perhaps the most powerful aspect of his letter is its epigraph, which reads: “Among a multitude embarked in the same vessel, there are several that, in a tempest, would rather perish than work.” The author of the epigraph is Joseph Addison, an English poet and essayist who occupied government positions under the Whigs in the 18th century. The epigraph condemns the idle, those who would “rather perish than work.” This sentiment recurs later in the letter, where the author writes,

“The Poor's Rate in England is a bounty on population, and equally so on idleness. The higher, or even middle classes, do not marry if portionless, because it would aggravate the evil. Paupers have no such forbearance; matrimony is to them the direct road to parochial provision. [...] The finger of contempt and scorn is justly pointed at those who may

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<sup>28</sup> Absalom Barnett is known as one of the Nottinghamshire Reformers. Also from Nottingham was George Nicholls, one of the poor law commissioners. Barnett is described as a “stern critic of the Old Poor Law and one who was not inclined to minimize any social evils that might have been thought to flow from its applications.” According to scholar J. D. Marshall, Barnett “became known as one of the pioneers of less eligibility.” For more information on Barnett and the Nottinghamshire Reformers, see Marshall, J. D. “The Nottinghamshire Reformers and Their Contribution to the New Poor Law.” *The Economic History Review*, New Series, 13, no. 3 (1961): 382-96. Accessed December 13, 2020. doi:10.2307/2599510.

<sup>29</sup> A. Barnett, *The poor laws and their administration, being an enquiry into the causes of English pauperism and the failure of measures intended for its relief: also practical suggestions to reduce the amount of parochial assessments and improve the condition of the poor* (London: Simpkin and Marshall, 1833), 21.

<sup>30</sup> Mark Blaug, “The Myth of the Old Poor Law and the Making of the New,” *The Journal of Economic History* 23, no. 2 (1963): 177.

<sup>31</sup> Though the identity of this author is unknown, his text was very clearly addressed to the Poor Law Commissioners.

<sup>32</sup> Friend to the industrious and oppressed, *Consequences resulting from the poor laws in England* (London: T. Flint, 1830), 3.

publicly seek assistance from this eleemosynary fund; and should a man prosper there in trade, or otherwise, whose ancestor to the almonry for pecuniary aid, it is remembered to his reproach, that some of his progenitors had been mean enough to claim public charity.”<sup>33</sup>

Though this author does not specifically address the issue of bastardy, he exposes the stigma surrounding poverty and charity. Dependence on the eleemosynary, or *charitable*, fund is scornful. The author differentiates the rich from the poor: for paupers, marriage is a path to assistance. Dependence on this aid is something that follows a person: “it is remembered.” The text links idleness to poverty, which was an important connection given the growing emphasis on work and productivity in England’s industrialized economy. It also bears some marks of utilitarian thinking. The paupers help to “aggravate the evil” resulting from the poor rate, whereas the high and middle classes refrain from doing so. The poor are depicted as a group that, under the system of the Old Poor Law, did not help to maintain the prosperity of the whole of society.

The association between idleness and immorality is established in other texts. Written in 1822 by an unknown author<sup>34</sup>, one text on the topic of the “injustice, immorality, and inhumanity of the present system” states the following:

“Morality is outraged, in every shape, by the present system; not only are improvidence and idleness universally encouraged, and the earnings of prosperity consumed in riot and debauchery, but from the absurd plan, too generally adopted, of equalising the wages of labor from the poor rates, all idea of character, or of motive for its preservation, is set aside; skill and industry are superseded by ignorance and idleness...”<sup>35</sup>

The author disparages the Old Poor Law. According to this author, morality can be understood as the antithesis of “improvidence” and “idleness.” The author juxtaposes idleness with “skill and industry,” two traits of a burgeoning capitalist system. The author continues to describe how bastardy exists as a result of the Old Poor Law:

“Not only are the most improvident marriages daily contracted, but bastardy, with all its numerous evils, is legally encouraged, inundating the country with a degraded and vicious population. The girl of marriageable age, who brings no other burthen than herself on the parish, boasts of it as an instance of great merit, or of good fortune; [...] and the lower orders of society, having lost all respects for the sacred rights of property, claim and demand on every emergency, whatever may have been their improvidence or misconduct, adequate support for themselves and families.”<sup>36</sup>

Bastardy was considered a problem of the poor, and it was one that degraded society by reproducing an impoverished population. There was concern across England about the legality of illegitimacy. The Commissioners argued that by supplying parish aid to those women who were the mothers of illegitimate children, they were encouraging the behavior.

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<sup>33</sup> Friend to the industrious and oppressed, *Consequences resulting from the poor laws in England*, 12.

<sup>34</sup> There is very little information on this source, other than the fact that it was published in Barnet, a borough of London, in 1822. It helps to elucidate popular attitudes toward the poor law in 19th century England.

<sup>35</sup> *Poor laws: the injustice, immorality, and inhumanity of the present system: and an account of the great success of some new modes of diminishing paupers and pauperism- 5th ed.* (Barnet: Printed and sold by J.J. Cowing, 1822), 2.

<sup>36</sup> *Poor laws: the injustice, immorality, and inhumanity of the present system: and an account of the great success of some new modes of diminishing paupers and pauperism- 5th ed.*, 2.

The Commissioners cited two main problems with the bastardy laws: that they incentivized women to have more illegitimate children in order to earn a profit off of poor relief, and that they encouraged improvident marriages, whereby women could convince men to marry them after becoming pregnant. In the text of the Commissioners' report, women are predominantly defined and treated as daughters, wives, or widows: women were either accessories to men or were categorized by the absence of men. Inherent in this definition is an understanding that women were not independent actors in societal or economic terms. In the text of their report, the Commissioners describe bastard children as a "great burden [to the] parish," referring to the parish in which the child was born. They continue to recount that under the existing law—the Old Poor Law—the relief of bastard children has caused the "defrauding of the relief of the impotent and aged, true poor of the same parish."<sup>37</sup> The Commissioners distinguish the deserving from the undeserving, citing the "true poor" as those who have been transgressed by the bastardy laws. The Commissioners stress that the existing laws cause more harm to society by obliging the "guilty": "the mode in which they oppress the innocent, revolting as it is, is far less mischievous to society than that by which they punish the guilty."<sup>38</sup> The mothers of illegitimate children were taking unfair advantage of a system that was created to benefit them. This portion of the report is evidence of how Bentham's utilitarianism found its way into the reform efforts of the 19th century. The Commissioners are much more concerned with the threat that the poor posed to the rest of society than with the condition of the poor. The Commissioners even go so far as to allude to the notion of legality, insinuating that the Bastardy Laws have made illegitimate mothers and fathers "guilty."

The old bastardy laws implicated both men and women. The alleged father of a bastard child was required to pay a sum of money for the care of the child: an average of about 2s. or 3s., but ranging from 1s. to about 7s. or 8s., a week.<sup>39</sup> Under the Old Poor Law, parochial authorities served as intermediaries between men and women with the power to "enforce paternal financial responsibility."<sup>40</sup> When the father of a bastard child was unable to pay the sum he owed, the parish "pays to the woman the sum, whatever it may be, that has been charged on the man, whether paid by him or not."<sup>41</sup> According to the Commissioners, "in most cases the sum is as great, in many it is greater, than that for which a child can be put out to nurse, or than that which would be allowed by the parish if it were legitimate and its father dead."<sup>42</sup> The sum provided to mothers of illegitimate children was thought to have exceeded that which was provided for widows or mothers of legitimate children, and because of this, the Commissioners believed that some women felt inspired to mother illegitimate children: "To the woman, therefore, a single illegitimate child is seldom any expense, and two or three are a source of positive profit."<sup>43</sup> Thus, though both fathers

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<sup>37</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment*, 165.

<sup>38</sup> *Ibid.*, 167.

<sup>39</sup> *Ibid.*, 169.

<sup>40</sup> Nutt, "Illegitimacy, Paternal Financial Responsibility, 337.

<sup>41</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment*, 169.

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

and mothers bore some responsibility for the care of a bastard child, it was women who the Commissioners believed were taking advantage of the system.

According to the Commissioners, the bastardy laws encouraged women to have illegitimate children by providing them with monetary compensation. The Commissioners' concerns about the spread of illegitimacy reflect their attentiveness to the impact of the population on the economy and the rest of society. Malthus argued that the poor laws were increasing dependency by providing a disproportionate amount of relief to the poor. The Commissioners make essentially the same claim: that illegitimate mothers were receiving an inordinate and undeserved amount of relief. The Commissioners believed that if left unchecked under the bastardy laws, this would lead to the overall detriment of society.<sup>44</sup> The Commissioners' invocation of Malthus involves a negative definition of charity; they believed that they would be able to deter women from a particular behavior by withholding monetary assistance.

The aforementioned testimony that the commissioners collected spoke to the "social demoralization" that "flowed from the abuses of existing law and practice."<sup>45</sup> According to the evidence, women would perjure themselves in order to gain money; blackmail men in order to get married; and even lie about pregnancy in order to reap the benefits promised to single women. The Commissioners' use of testimony to confirm these facts erases the stories of women who genuinely depended on this sort of poor relief. They conclude with an excerpt from the evidence provided by Mr. Simeon in 1831 before the House of Lords' Committee on Poor Laws. In response to the question of "What alterations can you suggest in the Bastardy Laws?", Mr. Simeon responds: "By refusing to give any order upon the father for support, or upon the parish even. I would throw the onus entirely upon the woman."<sup>46</sup>

In proposing the enactment of the Bastardy Clause, the Commissioners made clear that poor relief was no longer meant to be a "burden" on society. The individual—in this case, a woman—was responsible for her own relief. The Bastardy Clause thus represents an absence of charity. Nowhere in the Bastardy Clause do the Commissioners reference women's income or economic opportunities; they only state that women should be allowed to take care of their children on their own. The omission of this information suggests a few conclusions: that the Commissioners did not have information about women's incomes, that they deliberately chose to exclude it, or that perhaps they did not consider it necessary to include. Whatever the correct conclusion, there is a major gap in the Commissioners' analysis, as they are unable to prove that poor women would actually be *capable* of raising a child on their own. Whereas under the old bastardy laws women had been aided by the parish, they were now required to support themselves and their children on their own. The Commissioners justified this new form of poor relief—or a lack thereof—on moral

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<sup>44</sup> Scholar Thomas Nutt supports this view of the New Poor Law, and stresses the distinction between the old and new laws: "Whereas the old poor law had for centuries stressed the importance of paternal responsibility, Malthus provided the Commissioners with a theoretical and providential justification for shifting the entire burden of responsibility of illegitimacy onto the mother. This allowed the Commissioners to attack both the moral and the material failings of the poor law, since the shift to maternal responsibility would in theory deprive women of the material incentive to become pregnant outside wedlock" (358).

<sup>45</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment*.

<sup>46</sup> Poor Law Commissioners, *The poor laws, their present operation, and their proposed amendment*, 177.

grounds in addition to economic. In fact, the two are almost inextricably linked: in many ways, the immorality of women's actions stems from the burden placed upon society and the economy.

Regardless of whether the Commissioners believed women were capable of supporting children on their own, it is clear that they did not envision that women would continue to be dependent. This view is supported by historian Anna Clark, who challenges the notion that the New Poor Law ignored women workers: "the commissioners regarded women, like men, as atomistic individuals responsible for their own destiny." This is exemplified by the Bastardy Clause itself, which made it so that Edwin Chadwick, along with the other poor law Commissioners, "assumed that poor single women must earn wages." Chadwick was of the belief that the New Poor Law would raise women's wages.<sup>47</sup> Those who shared Chadwick's views believed that the unregulated market would present women with opportunities for economic gain. This view would change by the late 1840s and 1850s, when the poor law Commissioners "did begin to define single women, not as potential wage-earners, but as dependents who deserved outdoor relief if they could not find a man to support them."<sup>48</sup> Women became implicated in the discourse surrounding liberalism and individualism: "For working-class critics, the new clauses, which laid economic responsibility on the single mother, epitomized the true political logic of the new Liberal regime."<sup>49</sup> The Commissioners believed that the absence of an established religious or social system of relief would best benefit the poor: "relief" would come by way of the market. In fact, it was these older systems that had perpetuated the kind of dependence that the Whigs believed was detrimental to the economic order.<sup>50</sup>

### III

Before the New Poor Law was officially enacted, it was subject to debate in the House of Commons. The Bastardy Clause was heavily debated. Though Whigs were generally proponents of the law, the debate was not divided entirely along party lines. On April 17, 1834, Lord Althorp, a Whig, presented the new law to Parliament.<sup>51</sup> While it was received approvingly in the House of Lords, some politicians in the House of Commons protested the proposed law.<sup>52</sup> At the

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<sup>47</sup> Anna Clark, "The New Poor Law and the Breadwinner Wage: Contrasting Assumptions" *Journal of Social History* 34, no. 2 (Winter, 2000): 267.

<sup>48</sup> Clark, "The New Poor Law and the Breadwinner Wage: Contrasting Assumptions," 268.

<sup>49</sup> Cody, "The Politics of Illegitimacy."

<sup>50</sup> The work of historian Peter Dunkley proved to be influential in shaping my understanding of this topic. He writes that the New Poor Law "promised virtually to eliminate individual judgement in the crucial matter of arbitrating appeals of the poor for aid" (142). He develops the idea that the New Poor Law constituted a major departure from earlier forms of charity in that it mirrored the development of the free market: "Not only was reformed relief administration founded on efforts to substitute universal sanctions for those that had been circumscribed and variable under the old system; but their operation was seen as essentially mechanical and impersonal, much like the market constraints they were designed to uphold" (148). The path to a liberal economy necessitated a change in thinking about charity, and the Bastardy Clause was necessarily a product of this change. For more information, see: Dunkley, Peter. *The Crisis of the Old Poor Law In England, 1795-1834: An Interpretive Essay*. New York: Garland Pub., 1982.

<sup>51</sup> Lord Althorp held the office of Chancellor of the Exchequer until 1834.

<sup>52</sup> Cody, "The Politics of Illegitimacy."

June 18th sitting of the House of Commons, bastardy was the chief subject debated. Mr. George Robinson, a Whig, was the first to speak.<sup>53</sup> He asks, “What would the situation of the unfortunate mother then be?” and “he maintained that, in nineteen out of twenty cases, in which a female gave birth for the first time to a bastard child, it would be found that she was not able to maintain herself and child.” Placing the economic burden on women would ultimately be unsuccessful. He refers to the proposed clause as “monstrous” and challenges the notion that it would reduce licentious behavior. He believes that,

“If you were to hold out to persons who were seduced under promise of marriage, that they should not receive any support from the fathers of their children for those children, but that they should find it for them themselves, it would not prevent licentiousness among the lower classes of society. Prudential considerations might suspend for short periods, but they never could annihilate the natural desires of woman.”<sup>54</sup>

Mr. Robinson’s view does not reflect some enlightened, moral view of women, unlike some of the other members of Parliament. Instead, he believes that the Bastardy Clause will not solve the problem it was created to address, and that sexual immorality will persist. Later in the session, Mr. Robinson expresses that he thought the burden of caring for a child should not fall solely on the woman, but on the husband or the grandparents as well. He emphasizes that “He feared that such a law would have the effect of demoralizing and brutalizing the people, and tend to pauperize those who would otherwise be industrious and independent.”<sup>55</sup> In the absence of charity, the condition of the poor would be made worse. Mr. Robinson’s statements reflect the more conservative reasoning that called for protecting the weak.

Lord Althorp was among those who defended the law, stating that:

“it was necessary to consider whether those laws had had the effect of deteriorating the morals of those classes; and whether, by the proposed alteration, they might not anticipate some correction of the evils of the existing system, and some improvement both in the morals and the conduct of the classes to which he had referred.”<sup>56</sup>

Lord Althorp raises the question of morality: the issue of bastardy is depicted as a moral issue that might be ameliorated by the new law. Later in his speech before Parliament, Lord Althorp expands his argument to say that the current bastardy laws are actually an “inducement” against female “chastity and morality.”<sup>57</sup> Another Whig Mr. Charles Buller underscored the belief that the law was an incitement to perjury. Others echoed his concern and added that “It was perfectly clear, that the present Bastardy-laws not only were destructive of chastity and other female virtues, but also tended, in an alarming degree, to encourage perjury.”<sup>58</sup>

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<sup>53</sup> At the time when the New Poor Law was debated in the House of Commons, Robinson was a member of Parliament for the city of Worcester. Robinson was registered as a Whig in 1826.

<sup>54</sup> Parl. Deb. (June 1834) 522-523.

<sup>55</sup> Ibid, 542-543

<sup>56</sup> Ibid, 524.

<sup>57</sup> Ibid, 525.

<sup>58</sup> Ibid, 529-530.

Mr. John Benett, a representative of Wiltshire South, spoke adamantly against the law. Though he was a Whig, he did not align politically with the reformers. He attested that “in the whole course of thirty years’ practice as a Magistrate, he had never reason to suspect, that any woman who had sworn her child before him acting as a Magistrate had perjured herself. [...] he never knew them [...] to commit perjury for the purpose of obtaining support for their bastard children.” Benett challenged the claims of other members of Parliament, who believed that perjury was a motivating factor to overturn the existing bastardy laws. He continues, professing “he did not see why the punishment, in the shape of being burthened with the maintenance of the child, should be thrown upon one party, and that party the most defenceless, and the most exposed to the seductive influence and power of the other.”<sup>59</sup> Mr. Benett describes the Bastardy Clause as a punishment. Not only had it removed a source of poor relief, but it had imposed a new economic burden on those who were the “most defenceless.” Mr. William Cobbett, a Radical, spoke in agreement with Mr. Benett. He, too, referred to the Bastardy Clause as a punishment: “It was the custom to speak of the poor as immoral, and profligate, and guilty of all sorts of crimes for having bastards; and it was gravely proposed, that punishment should be inflicted on them for such a heinous offence.” Mr. Cobbett raises a key consideration in the debate. He questions why the poor should be punished for having illegitimate children when the issue of bastardy is not restricted to the least fortunate. “Poverty was here the cause of all the crime,” he said. “To adopt a proper remedy, it should be applied to the cause of the evils complained of, and not to the effects.”<sup>60</sup> Mr. Cobbett argues that bastardy was a symptom of a larger societal issue. At the June 18<sup>th</sup> meeting of the House of Commons, Mr. Cobbett was the only member of Parliament to direct address the correlation between poverty and bastardy.

On July 28, the debate in the House of Commons continued. The Bishop of London, Charles James Blomfield, spoke in support of the law, believing that “the community at large would be greatly benefited” by its passing.<sup>61</sup> Blomfield’s view is reflective of how traditional moral arguments still survived. The arguments of those in favor of the law show that moral concerns remained—alongside material calculations—central to deciding who was deserving of charity: unwed mothers were not deserving because they were abusing the sustenance of the parish, but also because their actions were perpetuating immorality. As a result, it seems that “immorality” refers not only to sexual deviance, but to the impact that a woman’s actions had on society. By mothering an illegitimate child, a woman was placing an undue burden on society and increasing its poverty, which were also “immoral.”

The shifting language around welfare is apparent in these debates. The poor no longer had a right to assistance, but a *duty* to care for themselves and their children without government aid. Liberals believed that women’s promiscuity was not only the source of their own misfortune, but of the growth of poverty and societal destruction. Far more members of Parliament spoke in support of the law than against it. Opponents feared that women, the most defenseless sector of

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<sup>59</sup> Parl. Deb. (June 1834), 531-532.

<sup>60</sup> Ibid, 532.

<sup>61</sup> Ibid.

society, would be unable to support themselves. They were becoming victims of a new system, a system which would punish them by assigning them economic responsibility. Critics and supporters of the law disputed the “rights and responsibilities” of single mothers. Some members of the opposition “defended paternalism and the old bastardy provisions because they saw women disadvantaged as childbearers and caretakers trying to survive in a gendered marketplace. Not only were women’s wages significantly lower than men’s, [...] but bastardbearers also had the added burden of caring for their children while trying to earn a living.”<sup>62</sup> Economic questions were central to the debates on the Bastardy Clause. These opponents were concerned with the place of women in a changing economic system, as evidenced by members of Parliament like William Cobbett. To them, bastardy was merely a consequence of poverty, the true evil.

#### IV

The New Poor Law is a distinct example of the shift from paternalism to liberalism, a transition that had occurred over the course of centuries in the English economy. Unlike ever before, capitalism’s virtues—individualism, labor, and competition—became affiliated with government action. As such, the state’s conception of poor relief was subject to change. This is reflected in the Bastardy Clause, which charged unwed women, like all other members of society, with the responsibility of supporting themselves and their children without the aid of the parish. Existing scholarship has firmly positioned the political debate surrounding the New Poor Law and its Bastardy Clause in the context of economic history. This paper has ventured to explain how this political debate reflected not only shifting views on the economy, but on charity itself. In resolving that illegitimate mothers were no longer deserving of poor relief, the Commissioners of the New Poor Law situated them among the undeserving. Bastardy was not solely an economic problem but a moral and social evil, one that reproduced an impoverished population and encouraged degenerate behavior among women. The Commissioners believed that withholding aid would diminish these issues. But as evidenced by the parliamentary debates, the issue at hand was not bastardy, as the Commissioners suggested, but poverty. What the Commissioners did not consider was that deprived of poor relief, unwed mothers might resort to abortion or infanticide to appease their suffering.

The New Poor Law manifested a new attitude toward charitable giving. The state, which had long occupied a paternalistic role, would no longer provide aid to those who should be capable of earning for themselves. Ultimately, the Bastardy Clause was subject to much reform in the decades that followed, but its impact posed lasting questions about who was deserving and undeserving of poor relief.

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<sup>62</sup> Cody, “The Politics of Illegitimacy.”

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