housekeeper, and received as wages four guineas per annum. She now applies for relief. Inquired therefore whether she gained a settlement in that parish by hiring and service; or, whether she is settled in her late husband's parish.

Ans.—The mere circumstance of the woman referred to being a widow, would not prevent her from acquiring a settlement by hiring and service. The words of the statute 3 Will. and Mary, c. 11, s. 7, are, "If any unmarried person, not having a child or children," &c. These words would certainly apply to a widow; and in the case of R. *v.* Hensingham, (Cald. 206) a widow was held to be within the statute. The Commissioners presume from your statement that a contract of hiring took place, and that there was a year's service under it prior to the 14th August, 1834, (see Poor Law Amendment Act, ss. 64, 65.)

XVIII.—VACCINATION.

March 7th, 1845.

Clerk of —— Union—Inquired whether the guardians would be justified in withholding relief from all paupers having children who have not been vaccinated, as a means of compelling them to have their children vaccinated.

Ans.—The guardians would not be justified in withholding relief from paupers on this ground, inasmuch as to constitute a valid claim for relief and an obligation on the authorities to grant all necessary relief, it is only required that the party applying be destitute and resident within the Union, or casually destitute therein. The Commissioners think that as so few persons have been vaccinated in the Union during the past year, as compared with the number of births, it would be advisable for the guardians to direct the vaccinators, as opportunities may offer to them, to visit the houses of the humbler classes, where they know there are unvaccinated children, and endeavour to obtain the consent of the parents of such children to their being vaccinated.

XIX.—VAGRANT ACT.

REFUSAL OF MAN TO MAINTAIN HIS FAMILY.

Clerk of —— Union—In November, J. O. was convicted as an idle and disorderly person, under the Vagrant Act, for refusing to maintain his wife and family, then and now in the workhouse; the conviction, however, being quashed on appeal. The wife and family were admitted into the workhouse in consequence of J. O. having been committed to prison on a charge of stealing corn from his master, of which charge he was subsequently acquitted. During this time his master, who was also his landlord, distrained upon his goods for rent. J. O. is in work at twelve shillings per week, and has a house, but it is believed little or no furniture. He refuses either to take his family out of the workhouse, or to provide for them in any way. Inquired whether the guardians should at once discharge the wife and children from the workhouse; or whether they should direct the overseer of the parish to which the paupers are chargeable to take them from the workhouse, and convey them in a cart to J. O.'s residence; or whether they should proceed against J. O. for refusing to maintain his family.

Ans.—Assuming the circumstances of the case to remain unaltered, it appears to the Comissioners that the guardians would be justified in discharging J.O.'s wife and family from the workhouse, as it appears that J. O. is in receipt of sufficient wages to enable him to maintain them, and is also provided with a habitation. If this course is taken, it would be advisable that the family should be conveyed (if the distance requires it) and delivered to J. O. If he still refuse, or neglect, to discharge his legal obligation with respect to his family, and in consequence of such refusal it should be necessary to re-admit the family, the case should then be dealt with under the Vagrant Act, sec. 3. It would perhaps be sufficient to sustain a conviction, under that Act, if the guardians caused a notice to be given to J. O. that his wife and family were chargeable, and required him to contribute to their support, and he should then make a default in doing so, and should also neglect or refuse to remove his family from the workhouse. But the former course will avoid any question which might possibly be raised under the 3rd section, as to whether the chargeability arose from the refusal to maintain.

XX. WORKHOUSE CHAPEL, LICENSING.

Jan. 16th, 1845.

Clerk of the Isle of Thanet Union—Inquired whether it was customary for chapels belonging to Union workhouses to be licensed by the diocesan.

Ans.—It is not usual for workhouse chapels to be licensed by the diocesan; and if no other persons than the paupers and inmates of the workhouse be admitted, the Commissioners apprehend that it is not necessary that a workhouse chapel should be registered and certified according to the provisions of the 52 Geo. 3, c. 155, s. 2.

LONDON:
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AN

OFFICIAL CIRCULAR

OF PUBLIC DOCUMENTS AND INFORMATION:

DIRECTED BY THE POOR LAW COMMISSIONERS TO BE PRINTED, CHIEFLY FOR THE USE OF THE MEMBERS AND PERMANENT OFFICERS OF BOARDS OF GUARDIANS, UNDER THE POOR LAW AMENDMENT ACT.

No. 50. CIRCULAR ISSUED AUGUST 1ST, 1845.

THE Poor Law Commissioners directed that the following documents be printed and circulated for the information of Guardians and Officers of the several Unions, viz.

(Signed) By Order of the Board,
EDWIN CHADWICK, *Secretary*.

I.—BASTARDY—ORDERS IN.

March 27th, 1845.

Clerk of —— Union—Inquired whether the guardians will be justified in paying the clerk to the justices of the sessions the sum of 2*s.* 6*d.* for each duplicate order in bastardy delivered to the board in pursuance of the

7th and 8th Vic. c. 101, sec. 5; and if they are bound to make the payment, to what fund the same is to be charged.

Ans.—The statute adverted to simply imposes upon the clerk to the justices the duty of sending the duplicate order to the guardians, but makes no provision for remunerating him for the service. It is not information furnished to the guardians on their request, or in reference to any application in which they are parties concerned. The Commissioners apprehend, therefore, that the justices' clerk has no claim in law upon the guardians for the fee in question.

II.—BURIAL—OF PAUPERS.

Clerks of Wareham and Purbeck Union—Inquired to which parish the funeral expenses of a pauper should be charged, in a case where such pauper has been residing and has also died in one parish, but has been relieved at the cost of another parish, within the same Union. And whether the board of guardians have the power, under sections 31 and 56 of the 7 and 8 Vic. c. 101, of charging the funeral expenses of a pauper who has died in the workhouse, either to the parish in which such workhouse is situate, or to the parish to which he was chargeable.

Ans.—The alternative words in the 31st section of 7 and 8 Vic. c. 101,—"charge the expense thereof (*i. e.*, of burial) to any parish under their control to which such person may have been chargeable, or in which he may have died, or otherwise in which such body may be,"—do not, in the opinion of the Commissioners, give the guardians the discretion of charging the expenses to whichever of the three parishes they may think fit. These words are to be taken *reddendo singula singulis*, and as applicable singly to each of the several cases which are distinguished. The Commissioners, therefore, conclude that when a person has been chargeable to a parish, the cost of his interment should be charged to that parish, in two cases—1st, whenever the person may have died within the Union; 2nd, whenever his body may, after his decease, be brought within the Union. Where the deceased person was *not chargeable* in his lifetime, the cost of the burial should be charged to the parish within the Union in which he may have died, if such parish be known. But if such parish be not known, and the body may nevertheless be found within the Union, or where, though it may be known that the death did not occur within the Union, the body may, nevertheless, be brought within it, (as sometimes occurs in the cases of persons found drowned or accidentally killed,) the body should be buried at the charge of the parish where such body may be; that being *ex necessitate* the only parish having any concern in the burial. The Commissioners would add, that though the guardians are clearly authorised, by section 31, in the case of a person dying in the Union workhouse but chargeable to a different parish, to direct (in the absence of any wish expressed by the deceased person in his lifetime or by his relations) that the body shall be buried, either in the parish in which the death actually occurred, or in the parish of the chargeability, (in which, by operation of section 56, it may be considered as having constructively occurred,) the guardians have not, in the opinion of the Commissioners, the power in such case to charge the former parish with the cost of the burial.

III.—COUNTY-RATE.

ASSESSED UPON TOWNSHIPS SEPARATED FROM ONE, AND ADDED TO ANOTHER, COUNTY.

Clerk of Bromsgrove Union—At the general quarter sessions of the peace, held for the county of Salop, on the 14th of October, 1844, a county-rate of three-farthings in the pound was made upon all parishes and places within the county, comprising the townships of Hunnington and Rowsley, within this Union. These townships, which at that time were detached parts of the county of Salop, though locally situate within the county of Worcester, were, on the 21st of October, declared to form part of the latter county, under the 7 and 8 Vic. c. 61. The warrants or precepts to collect this rate were not issued until the 12th of November. The precept to the guardians of this Union, requiring them to pay the amount assessed upon the two townships above named, to the treasurer of the county of Salop, before the 30th of December following, was not received by the clerk to the guardians until the 16th of November. Inquired whether the guardians can, under the circumstances, legally pay the amount thus demanded of them.

Ans.—The question raised in your letter is not clear of legal difficulty, although the course for the guardians to adopt is plain. The Commissioners, however, will state their views of the

whole of the difficulty, in order that the guardians may communicate to the officers of the townships of Hunnington and Rowsley suggestions of the course which those officers should pursue. When the rate was made in quarter sessions, on the 14th October, the townships of Hunnington and Rowsley being within the county of Salop and the jurisdiction of the justices of the county for the purpose of making county-rates, it appears that there was at least an inchoate, if not a perfect, right in the county to enforce the rate in those townships. The obligation, however, on those townships to pay was not complete while the precepts remained unissued. Consequently, their obligation to pay was not completed while they remained within the jurisdiction of the justices of Salop. Under these circumstances, the power of the justices of Salop to enforce payment by their warrant, appears to have ceased when the townships were included in the county of Worcester. This remedy failing, it is questionable whether the Court of Queen's Bench would issue a mandamus to the township officers to pay; inasmuch as the right of the county of Salop, even if sustainable in strict law, could not be enforced without a hardship on those townships; for it is to be presumed that the county of Salop had already in hand funds sufficient for the purposes of the county up to the time when, by the justices' precept, payment was required, viz., till the 30th of December. If this be so, the townships of Hunnington and Rowsley would have already paid, by anticipation, to the county of Salop their fair shares of contribution for several months subsequent to their severance from that county. As the enforcement of the strict right of the county would not, under these circumstances, be equitable, it may be anticipated that the Court of Queen's Bench would not issue its writ of mandamus for that purpose. It therefore appears to the Commissioners, that the guardians should use their legal option, so as to leave to the townships the opportunity to raise the question, if the justices of Salop should think it right to urge their claim. The guardians can do this by refusing to pay the sums assessed by those justices on the townships of Hunnington and Rowsley. The justices can then claim, if they think proper, those sums of the officers of those townships; and the whole question may thus be raised for the decision of the proper tribunal.

IV.—DESERTERS OF FAMILIES.

1. CONSTRUCTION OF SEC. 59 OF 7 AND 8 VIC. C. 101.

June 30th, 1845.

Clerk of Oakham Union—The overseers of B—having been directed by the guardians, in the month of March last, to take the necessary proceedings to apprehend a pauper belonging to that parish, for neglecting to maintain his wife and family and leaving them chargeable to their parish, a reward of £1 was offered for his apprehension, which was effected. This sum, and £2. 6*s.* the constable's expenses attendant upon the apprehension and committal of the pauper, were allowed by the parishioners in assembled vestry, and charged in the overseers' accounts; but the auditor has disallowed the payments on the ground that, under the 59th section of 7 and 8 Vic. cap. 101, they could only be made by the guardians out of the funds in their hands, *and that they should be charged to the establishment.* The guardians think the auditor is right as to the payment being made by them, but they consider that the section adverted to renders it necessary to have the Commissioners' approval, as to whether the expenses shall be charged to the common funds of the Union, or to the parish concerned. Requested the Commissioners' opinion upon the matter, for the guidance of the guardians in this and similar cases.

Ans.—The Commissioners concur in the view expressed by the auditor, that the expenses of prosecuting persons charged with offences under the Vagrant Act, when the proceedings are instituted under the direction of the guardians, should be paid by the guardians, and charged by them in the mode which the 59th section of 7 and 8 Vic. c. 101, contemplates. Where a constable is employed in any case of this kind to apprehend an offender, the Commissioners do not mean to say that, in default of payment by the guardians of his (the constable's) costs, he might not include them in his accounts against the parish for which he acts, pursuant to 18th Geo. 3, c. 19, s. 4, (see Reg. *v.* Churchwardens of Chelmsford, 3 Gale and Dav. 357.) The Commissioners would add, that the guardians are correct in their impression that the 59th section renders it necessary that the Commissioners should first approve of the mode of charging the expenses incurred in any particular case, to render the charge by the guardians a valid one. With respect to the principle which

should regulate the charging of the expenses of prosecuting persons who neglect to maintain their families, and suffer them to become chargeable, (whether to the common fund, or to any particular parish,) the Commissioners desire to observe, that the proceeding in this case is partly of a penal, and partly of a remedial nature; for, in the conviction and punishment of the offender, one of the objects (if not the chief) sought to be effected, is the discharge or performance for the future, of the person's legal obligations towards his family, and as a consequence, the relief of the parish from the charge of maintaining the family. This ground will, therefore, generally justify the charging the costs to the parish immediately interested in the conviction of the offender. But there may, nevertheless, in some cases, exist strong reasons for making the costs of the apprehension and conviction an establishment, or common, charge; and it will be seen, that such a mode of charging the costs is contemplated by the 59th section.

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2. LIABILITY OF WIFE OF MARINE TO BE PROSECUTED FOR DESERTING HER FAMILY.

Clerk of Honiton Union— Inquired whether the guardians can take proceeding against S. P. the wife of a marine, for having deserted her children, who are now chargeable to the parish. The husband, when last heard of, was either on board ship off Ireland or in that country.

Ans.—It does not appear from your letter to be distinctly known where the husband of S. P. is *at the present time;* and unless it can be shown that he is "beyond the seas," the case does not seem to be one to which the 25th section of the 7 and 8 Vic. c. 101 would apply. If, however, he is *now* in Ireland, or on board ship off its coasts, the Commissioners believe that, according to the legal meaning of the phrase, he is "beyond the seas," and that his wife is liable accordingly under the above-mentioned section.

V.—GUARDIANS.

EX-OFFICIO—POWER OF TO HEAR APPLICATIONS FROM PARISHES IN THEIR OWN UNION.

Clerk of Romney Marsh Union—Inquired—1st, whether justices of the peace for the town of Lydd, who are also guardians of the Romney Marsh Union, can hear an application for, and make an order of affiliation on the putative father of the bastard child of a woman residing in the parish of Lydd. 2nd. Whether a justice of the peace for the town of Lydd, who is a paid officer of the Romney Marsh Union, can join in hearing a like application, and make a like order. 3rd. Whether two justices of the peace for the town of Lydd, being rated inhabitants of the parish of Lydd, can, within the liberty of such town, take the examination of a person chargeable to that parish, as to his settlement, and make a valid order of removal.

Ans.—In reply to your first inquiry, the Commissioners desire to point out that the obtaining of orders in bastardy, under the 7 and 8 Vic. c. 101, is not a matter in which the guardians of Romney Marsh Union are interested as such guardians; the remedy against the putative father, provided by that statute, being a personal remedy, in favour of the mother—not of the parish or union. The Commissioners, therefore, do not see that an ex-officio guardian of the union would have, in that character, any such interest in the matter, as would prevent his acting as a justice of the peace, in making an order on a putative father under the above-named statute. In reply to your second inquiry, the Commissioners would state that they do not perceive anything in the 7th section of the 7 and 8 Vic. c. 101, to prevent a paid officer of Romney Marsh Union from acting as a justice of the peace, in making orders in bastardy, under the provisions of that statute, in cases occurring in that union. You will observe that the prohibitions in that section apply only to the receiving of money under the order, the conducting of applications for making or enforcing the order, and the interfering to cause the application, or to procure evidence in support of it. The prohibitions do not extend to receiving the application, or hearing evidence, or making the order. And the Commissioners do not see that a paid officer of a union has any such interest, as such officer, in the obtaining of the order, as would prevent his acting as a justice of the peace in making it. With reference to your third question, the Commissioners direct your attention to the 16 Geo. 2, c. 18, which enables any justice of the peace to act in matters connected with the relief, maintenance, and settlement of the poor, &c., notwithstanding he may be a rate-payer in the parish concerned in such acts.

VI.—JUSTICES.

POWER OF JUSTICES OF COUNTY OF A TOWN TO HOLD SPECIAL SESSIONS.

Feb. 15th, 1845.

Clerk to the Justices of ——,—The town of A. is a county of itself, independently of the county of B., in which it is locally situated. It has its court of assize and court of quarter sessions, (in which magistrates preside under Her Majesty's Commission,) and its own lord lieutenant and custos rotulorum. In fact, it has all the privileges of a county at large. The magistrates hold petty sessions for the whole of the county of the town, but they hold no divisional petty sessions. They have hitherto held special petty sessions, under the 6 and 7 Will. 4, c. 96, s. 6, to hear and determine appeals against poor-rates; but looking at pages 84, 86, and 288, of the Commissioners' Report on Local Taxation, doubts have arisen, as to the power of the magistrates of the county of the town of A. to hold such special sessions. Inquired whether the view taken by the Commissioners in the above-mentioned report, has been strengthened by any decision of the courts of common law; and whether the Commissioners now see any reason to adopt a different view to that expressed in that report, so far as such view would affect the county of the town of A.

Ans.—The Commissioners were, in the first instance, inclined to the opinion that, wherever petty sessions were, in fact, held, the place for which they were so held was, whether it was the whole district of the jurisdiction of the justices, or a part of such district, a petty sessions division within the meaning of the Parochial Assessments Act. But it was, without any decision being had, or any case being laid, so far as the Commissioners know, before counsel, understood to be the opinion of the profession, and generally the opinion of the magistrates concerned in the question, that the Act only applied where there was a territorial division for the purpose of holding petty and special sessions. This opinion was so far admitted by the mover of the Parochial Assessments Act, and by the House of Commons, that Mr. Poulett Scrope obtained permission to bring in a bill to extend the provisions of the Act to places not divided, and he brought in his bill accordingly, which however was never passed. There can be no doubt that the short and literal construction of the Act accords with the conclusion stated in the Report on Local Taxation, and the Commissioners still remain of the opinion there stated, on the same grounds; but without any decided conviction that that opinion is correct.

VII.—MEDICAL ORDER.

1. DEFINITION OF TERM "COMPOUND FRACTURE."

Clerk of Bridgewater Union—A medical officer having been directed to attend an infirm pauper, aged seventy-nine, who had met with an accident, found, upon examination, that she had broken both bones of the leg about the centre, that the large one had torn and penetrated the surrounding flesh, and that both bones were freely communicating with the external air. He succeeded in setting the fracture, but great constitutional irritation soon came on, increased by her infirm and weak condition, and, in spite of every attention, she died at the end of ten days. Inquired whether the case was one of "compound fracture," as the woman had a sore on her leg previous to the accident, through which the bone protruded, and not through the *skin*.

Ans.—The Commissioners having communicated with an eminent surgeon on the subject received from him the following opinion:—"A fracture is called 'compound' when the end or ends of the bone or bones have penetrated the soft parts, so as to come in contact with the external air, which alters the whole of the processes set up by nature for the cure of a simple fracture; giving rise, at the same time, to such degree of constitutional irritation as usually leads to the death of old people. The case is rather worse, than better, if the sufferer should have no skin, inasmuch as a tear in the skin can sometimes be induced to unite, although rarely, and the case be thus reduced to that of a simple fracture, which I do not apprehend would be the case if muscular and tendinous parts were torn and exposed by the bone without such usual covering."

The Commissioners therefore think that the case referred to must be considered as one of "compound fracture."

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2. DITTO—FEES UNDER ARTICLE 10.

Clerk of Williton Union—One of the medical officers has sent in a claim of £2 to the guardians, under Article 10, No. 7, of the General Medical Order, in the following form; namely, "Reduction and cure of a fracture of the arm in the case of W. V., £1; reducing a dislocation of the radius, a bone of the arm, and case of severe injury of the elbow joint, for the same man, £1." The guardians

are doubtful whether it was the intention of the medical order to allow more than £1 for one and the same accident, although there may be a dislocation of a joint and fracture of a bone of the same arm, arising from such accident. The medical officer contends that, as there is a *fracture* of one bone of the arm, and a dislocation at the elbow joint of the other bone, the cases are distinct, and that he is entitled to the fee of £1 for each case. Requested the Commissioners' opinion on the subject.

Ans.—The Commissioners are of opinion that the fracture and the dislocation, in the case described, are two distinct injuries; for each of which the medical officer is entitled to be paid the fees prescribed by Article 10 of the General Medical Order; namely, £1 in each case. The case is different from a fracture of the same bone in two places.

VIII.—OVERSEER.

Supplying Horses for Pauper Funerals.

May 2nd, 1845.

Mr. —— stated that he had, for several years past, been engaged to supply the board of guardians of the —— Union with horses to convey the deceased paupers to their several parishes for burial; and inquired, (as he is now appointed an overseer of the poor,) whether he can continue to do so, without subjecting himself to penalties.

Ans.—The Commissioners are disposed to consider that such an agreement as you describe, would not be a supply of "goods, materials, or provisions, for the use of any workhouse, or otherwise for the support and maintenance of the poor;" nor a supply of "goods, materials, or provisions, ordered to be given in parochial relief, or for, or in respect of the money ordered to be given in parochial relief;" and that, consequently, your continuing to supply the horses in the cases you refer to, would not subject you to penalties, either under the 55 Geo. 3, cap. 137, sec. 6, or under the Poor Law Amendment Act, sec. 77, notwithstanding your appointment as overseer. The Commissioners, however, consider it doubtful, whether your continuing to do so would not expose you to the penalty mentioned in the proviso to the 31st section of the 7 and 8 Vic. c. 101. That proviso is as follows:—"Provided always, that it shall not be lawful for any officer connected with the relief of the poor to receive any money for the burial of the body of any poor person which may be within the parish, &c., in which the death may have occurred, or to act as undertaker for personal gain or reward in the burial of any such body, or to receive any money from any dissecting school, &c., to whom any such body may be delivered, *or to derive any personal emolument whatever for, or in respect of, the burial or disposal of any such body.*" The Commissioners apprehend that receiving payment for conveying the body to the burial place, is deriving emolument in respect of the burial.

IX.—PAUPERS.

Employment of while under orders of removal.

Clerk of Reading Union—Inquired whether the guardians have power to direct the pauper inmates of the workhouse, who are under orders of removal to their places of settlement, to be set to work.

Ans.—The Commissioners are of opinion, that as long as persons are maintained in the workhouse, they are subject to the rules and discipline of the establishment, and are bound to perform any work or labour required of them suitable to their strength and capacity. This obligation on the part of paupers, to conform, and the power of the guardians to require them to work, appear to the Commissioners to be in no way affected by the consideration that such paupers are under orders of removal, and that the cost of their maintenance in the house may be ultimately repaid by the parishes of the settlement. If the parish primarily charged with the relief of the pauper were credited with the profit derived from the labour of such pauper, (assuming that a profit were made,) instead of the common fund, this might possibly be considered as giving the parish of the settlement a claim to have the cost of relief and maintenance diminished to the extent of the profit realised. But this (assuming the claim to be well founded) would be a question entirely between the removing parish and the parish of the settlement, and could not in any way affect the power of the guardians to set such persons to work in common with the other inmates of the establishment.

X.—POOR-RATES.

1. Charges upon.

Auditor of Pershore Union—Four men committed a breach of the peace in parish C., and were apprehended and conveyed before the justices in petty sessions, by a police constable. The justices directed the police constable, who was appointed under the 2 and 3 Vic. c. 88, to prosecute the offenders; and they were severally convicted of drunkenness, and committed to the

county gaol, in default of finding sureties to keep the peace. The justices intend to make an order upon the overseers of parish C., under the 18th Geo. 3, c. 19, s. 4, for the payment of the expenses incurred by the police constable in the prosecution. Inquired whether such expenses should be allowed in the accounts of the overseers of parish C.

Ans.—The Commissioners observe that, in the case of Reg. *v.* Chelmsford, part of the expenses in question consisted of fees paid to the justices' clerk in respect of drunkards, (12 L. J. R., n. s., M. C. 139.) But as Lord Denman, in delivering judgment, did not advert to these, but confined his remarks exclusively to the charges for vagrants, the Commissioners presume that the point raised in your letter cannot be regarded as directly decided by that case, though it may be affected by it indirectly. The Commissioners are disposed to think that the costs of prosecuting vagrants, and those of prosecuting drunkards, stand upon a similar footing. By the 6th section of the Vagrant Act, the constable, or other peace officer of the place, is bound to take into custody offenders against that Act; and by the 7th section of the 4th Jac. 1, c. 5, the constables, &c. are required to present the offences contrary to that statute. In Reg. *v.* Chelmsford, the circumstance of the constable's being bound to apprehend the vagrants, and being consequently unable to avoid the attendant expenses, seems to have formed a prominent part of Lord Denman's argument. The like obligation, and the like consequence, occur with regard to drunkards. By a similar analogy, the expenses in question, in the present case, though incurred by a county or district constable appointed under the 2nd and 3rd Vic. c. 93, and 3rd and 4th Vic. c. 88, would appear to be payable by the parish and not by the division. The Commissioners observe that the expenses specified in your letter are not restricted to justices' clerks' fees. They incline to think, however, that the decision in Reg. *v.* Chelmsford, supposing it to justify inferentially the payment of any such costs at all, would authorise the payment of all such costs in the matter as the constable unavoidably incurs. How far the payments to the witnesses are, under the circumstances of the particular case, expenses of this kind, the Commissioners express no opinion. But they apprehend that the item described "Paid to the Police 8*s.*," is not the reimbursement of an expense, but the payment of a remuneration to the constable. If so, it would not come within the scope of the 18th Geo. 3, c. 19, s. 4.

2. Enforcement of Poor-Rate against Out-going Tenants.

Auditor of —— District—Inquired what course he should pursue in regard to the collection of poor-rates from persons who have been assessed thereto, but who leave their houses a few days after the rate has been allowed; an opinion prevailing amongst collectors of poor-rates that it would be unreasonable to require payment from persons who leave their occupations within a day or two after the making of the rate.

Ans.—The general law for the division of the rate between out-going and in-coming tenants is contained in the 17th Geo. 2, c. 38, s. 12. That law only provides in terms for the case where a tenant succeeds the out-going tenant. On a strict construction the case is not provided for where no tenant succeeds during the currency of the rate in force when the out-going tenant leaves; and it might, therefore, be held that, in such a case, the previous law, that an occupier was liable prospectively for the whole rate,—remains in force. Still it is not probable that the courts would give so strict a construction to the statute, but would uphold the extension of its principle to all cases where an occupier leaves during the currency of a rate. This construction would make it the duty of the overseers to obtain, in all cases, a part of the rate, proportionate to the term during which the occupier was in occupation. When, however, the proportionate part would be so small as not to justify a resort to the justices, in case of dispute, it would appear to be a fair case for the auditor's consideration, whether the abandonment of the rate, with a view to avoid greater expense in making application to the justices, and enforcing payment, be, or be not, under the circumstances of such case, a reasonable course.

3. Publication of Poor-Rate.

Clerk of Cardigan Union—Inquired whether the suspension of the rate-book itself on the church-door, during the hours of Divine service, on the first Sunday after the allowance of the rate by the justices, is a sufficient publication thereof.

Ans.—As regards the publication of the poor-rate, the Commissioners direct your attention to the 1 Vic. c. 45. The Commissioners think that the mere suspension of the rate-book itself on the door of the church would not be a sufficient compliance with that statute.

4. RECOVERY OF POOR-RATE.

Assistant Overseer of Hitchin, Hitchin Union —Inquired whether he is bound, as assistant overseer, to execute personally distress warrants which he may obtain against rate-payers for non-payment of their poor-rates; or whether he can employ, at his own cost, a bailiff, to distrain upon the goods of such defaulters; as the cottagers lock their doors to prevent the execution of such warrants by him.

Ans.—The 4th section of the 43rd Eliz. c. 2, provides as follows:—"That it shall be lawful, as well for the present as subsequent churchwardens and overseers, or any of them, by warrant from two justices of peace as is aforesaid, to levy . . . the said sums of money, and all arrearages, of every one that shall refuse to contribute according as they shall be assessed, by distress and sale of the offender's goods, . . . rendering to the parties the overplus; and in defect of such distress, it shall be lawful for any such two justices of the peace to commit him or them to the common jail of the county, there to remain without bail or mainprize, until payment of the said sum," &c. Under this provision, therefore, the distress is to be made, under the warrant of the justices, by the churchwardens and overseers. Whether you have the same powers and duties in this particular matter as overseers, depends upon the terms of your appointment as assistant overseer. The Commissioners are not aware of anything to prevent overseers from employing a bailiff to distrain on their behalf, whose costs would be recoverable, according to the provisions of the statutes 57 Geo. 3, c. 93, and 7 and 8 Geo. 4, c. 17; and it appears to be the common practice for overseers to employ persons duly licensed to act as brokers, for the purpose of making such distresses. You will perceive that the statute provides for commitment to "prison in defect of such distress." The Commissioners believe that where access to the premises cannot be obtained, there is such a defect of the distress as would come within the meaning of the statute. In a case of non-payment of rent, it was held by Lord Tenterden that the words "no sufficient distress" must mean "no sufficient distress which can be got at. In this case," (his Lordship observed,) "the doors are locked up, so that the landlord cannot get at the premises to distrain; there is, consequently, no sufficient distress, for there is no available distress." (Doe *v.* Dyson, Mood and Malk. 77.) The Commissioners also direct your attention to the provisions of the 17 Geo. 2, c. 38, 33 Geo. 3, c. 55, and 54 Geo. 3, c. 170, relative to distraints for poor-rates beyond the limits of the particular parish concerned.

XI.—RATING.

1. HOUSES IN CERTAIN CASES.

Overseer of Newton Abbott Union — Inquired, first, whether a house unoccupied, but having furniture, is assessable to the poor-rate; secondly, whether a house occupied by a servant to take care of it, but having no furniture in it except the servant's, is assessable to the poor-rate; and thirdly, whether a house occupied by a gentleman only during the winter, he residing in another house during the summer, is assessable to the poor-rate, both houses continuing furnished during the proprietor's absence.

Ans.—Where a house is occupied merely for its preservation, or for the purpose of answering inquiries, in the intervals of letting, by persons lodging there solely for that purpose, the Commissioners are of opinion that there is no such beneficial occupation of the property as would render it rateable. But where a house is left by the proprietor, or tenant, in the intervals of his own residence therein, the house remaining furnished, and in the care of servants, the Commissioners think that the proprietor or tenant still continues, during such intervals, to be the beneficial occupier, and is rateable accordingly.

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2. RATING ALMS-HOUSES.

Overseer of Ringwood—Six alms-houses, to which are attached an acre and forty perches of land, have recently been erected in the parish of Ringwood; and are occupied by twelve inmates, who are allowed 2*s.* a-week each. Inquired whether these alms-houses are rateable to the relief of the poor.

Ans.—Having regard to the decisions in R. *v.* Green, 9 B. and C. 203, and R. *v.* Munday, 1 East 584, it seems most probable that, notwithstanding the charitable nature of the institution, the inmates of the alms-houses to which you allude would be held rateable to the roor-rate, as beneficial occupiers of the property.

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3. RATING SALT AND SULPHUR SPRINGS, &c.

Overseer of Rhosferrig, Builth Union —Inquired — whether salt and sulphur springs are rateable to the poor-rate; and also whether "fishing in different rivers, and shooting over different farms, all of which produce rent for a few months

in the year, during the time when each is in season, being occupied by young single men having neither house nor harbour in the parish, but living in lodgings out of it"—are rateable to the poor-rate.

Ans.—Where the value of any land is increased by sulphur, salt, or other springs, the land is rateable according to such increased value, (See R. *v.* New River Company, 1 M. and S. 503; R. *v.* Miller, 3 Cowp. 619.) With regard to the "fishing in different rivers, and shooting over different farms, all of which produce rent for a few months in the year, during the time each is in season, ... and are occupied by young single men having neither house nor harbour in the parish," the Commissioners conceive that, where any land may let at an increased rent by reason of a right of fishing, or killing game, the occupier of such land would be rateable for the value at which the land with these advantages would let. If he grant the mere privilege of fishing or shooting to some other person for a consideration, the Commissioners consider that he would still be rateable on the above principle, and that such other person would in no case be liable to assessment, simply on account of the right of fishing or license to shoot.

XII.—REGISTRATION FEES.

ON BIRTHS AND DEATHS IN WORKHOUSES.

Clerk of Clifton Union — By the 7 and 8 Vic. cap. 101, sec. 56, it is enacted that "all fees for registering births and deaths in any such workhouse or building, shall be charged, by the guardians, to the parish or union to which the person dying, or the mother of the child respectively, is chargeable." The workhouse for the able-bodied paupers in this union is situate in the parish of St. Philip and Jacob, and the registrar, in making out his bill of fees for paupers dying in that workhouse, charges all parties dying therein to the parish of St. Philip, and refuses to make any memorandum, at the time of registering the death, of the parish to which such person was chargeable, so that, in making out his account, he may state to what parish each fee is to be charged. Inquired what course should be pursued under the above circumstances.

Ans.—It appears to the Commissioners that, as section 56 of the 7 and 8 Vic. c. 101, directs the guardians to charge the fees above referred to to the parish to which the person dying, or the mother of the child, is chargeable, it is necessary for the guardians to ascertain, first, what cases have actually been registered from the workhouse; and, secondly, to what parishes the parties were chargeable, in such cases respectively. It seems to the Commissioners that the requisite information on both these points may be obtained by the guardians, from the registers of births and deaths required to be kept by the master of the workhouse. (Order of Accounts, Sched. C, Forms No. 16 and No. 17.) As to the first point, it would, no doubt, be convenient for the guardians to receive from the registrar (in addition to, and as a check upon, the workhouse master's statement) a specification of the particular cases actually registered from the workhouse. But looking to the terms of the 29th sec. of the Registration Act, relating to the registrar's quarterly account, the Commissioners think that the registrar is not bound to give this detailed information, and that it rests with him to do so or not, as he may think fit. As to the second point, some doubt may perhaps arise from the heading of one of the columns in the workhouse master's register of births, and also in his register of deaths. The heading here referred to is in these terms: "To what parish *belonging*;" which should be read as meaning, "To what parish *chargeable*." The Commissioners think that the statements made in these columns, of the parishes of the chargeability, in the cases of births and deaths occurring in the workhouse, should be examined and verified by the clerk to the guardians, before the guardians proceed to distribute the charge of the registration fees among such parishes. The Commissioners certainly consider that it does not, in any way, belong to the registrar to specify the parishes of the chargeability; and indeed, that, if he voluntarily does so, it would not be proper to rely upon his statement, as it is obvious that he has no direct means of ascertaining the facts. To the foregoing general remarks, however, the Commissioners think that one exception must be made. The 29th sec. of the Registration Act provides for two classes of payments to the registrar; viz., half-a-crown for each of the first twenty entries in the year, and a shilling for each of the remaining entries. In distributing the charge of the registration fees on cases arising in the workhouse, among the parishes indicated by the 56 sec. of the 7 and 8 Vic. cap. 101, it is clearly indispensable that the guardians should know whether such cases form part of the first twenty entries or not; in other words, whether the fees

to be charged upon the above-mentioned parishes are half-crown or shilling fees. The guardians cannot well ascertain this point from any one but the registrar himself; and the Commissioners accordingly consider that the registrar should specify in his account the particular cases registered from the workhouse (if there be any such) which form part of the first twenty entries. The trouble involved in this necessary statement must be so slight, that the Commissioners do not suppose that any registrar will refuse to perform the duty; but if any difficulty should occur in the Union on the subject, the Commissioners would be prepared to take the matter into their further consideration.

XIII.—REGISTRATION.

Recovery of Expenses of from Parishes under Gilbert's Act.

Clerk of Hinckley Union—The parishes of —— and ———, which are under Gilbert's Act, have, since the year 1837, been united to the several parishes in the ——— Union, for registration purposes; but the guardians have been unable to recover any portion of the fees paid to the district registrar from the former parish since the above year, and from the latter during the last four years. Inquired by what means the guardians can recover the money so advanced on behalf of these parishes.

Ans.—Under the 29th section of the 6th and 7th Wm. 4, c. 86, the registrar is to be paid by "the guardians or overseers of the parish, township, or place, in or for which he shall be registrar." The general tenor of the statute shows that the guardians here mentioned are guardians appointed under the Poor Law Amendment Act. As the parishes of ——— and ——— are managed under the provisions of Gilbert's Act, and not of the Poor Law Amendment Act; and as the guardians of ——— Union, therefore, whatever may be the arrangement of the registration districts, are not, in fact, guardians of the abovementioned parishes, it appears to the Commissioners that the registrar "in or for" those parishes is to be paid (according to the 29th section of the Registration Act) not by the guardians of ——— Union, but by the overseers of such parishes respectively; but having regard to the terms of the 7th section of the 22nd Geo. 3, c. 83, which seem completely to place the guardians appointed thereunder in the room of the overseers, except as to making and collecting rates, the Commissioners presume that the payment might properly be made, not by the overseers of the said parishes, but by the guardians appointed for such parishes under the provisions of Gilbert's Act. The Commissioners would add that, whichever of these may be the proper parties to satisfy the claim of the district registrar, the Commissioners apprehend that, in the event of a refusal to pay, the claim can only be enforced by mandamus.

XIV.—RELATIONS.

Liability of Apprentice to support his wife and child.

Clerk of Sheffield Union—E. H., aged twenty-two, has applied to the guardians, for relief for herself and infant child, on the ground that she cannot procure a maintenance from her husband, who is a minor, is apprenticed to a mechanic in Sheffield, and is in the receipt of no wages. Inquired what course the guardians should pursue under these circumstances.

Ans.—The husband is liable to all the same consequences of the relief to his wife and child, as if he were not an apprentice; and therefore, if he have the means of supporting them, and neglect to do so, he is liable to be punished under the Vagrant Act. Whether he have any such means, is a matter of fact which in this case appears doubtful; and if he have none, his remaining under his articles of apprenticeship, though it should involve his absence from his family, and his not providing for them by his labour, would constitute a wilful neglect or desertion of his family.

XV.—RELIEF.

To a person possessed of a cow and heifer.

Clerk of Llandilo Union—Application having been made to the guardians for an increase of the out-relief granted to E. S., aged eighty-two, it was discovered during the discussion that she was in possession of a cow and a heifer. Inquired whether the guardians will be justified in continuing the allowance of out-relief to the pauper while she is possessed of the above property.

Ans.—The Commissioners are of opinion that, as a general principle, persons possessed of property cannot be considered as proper objects for relief, not being in that destitute condition which constitutes the title to relief; cases may, however, occur in which persons may have an interest in property, and yet, being incapable of labour, may be without the means necessary for their support. In such cases it is for the board

of guardians to exercise their discretion as to giving relief. The question is, whether the property possessed by a person in such a case is available for the supply of the wants which such person applies to the guardians to relieve; and of this the guardians must judge according to the circumstances of the case. They, however, cannot compel the pauper to sell the cow and heifer, although they might refuse to afford relief. But, in a case where the person is notoriously without the means of maintaining himself or herself, and is unwilling to dispose of the property, the Commissioners think that the guardians might incur a serious responsibility by refusing relief, supposing the necessities of such person to be urgent, until the property were disposed of.

XVI.—RELIGIOUS INSTRUCTION.

Clerk of Isle of Thanet Union—Inquired whose duty it is to prepare the pauper children in the Union workhouse, and to give them certificates to present to the bishop, for the purpose of confirmation.

Ans.—The Commissioners consider the religious instruction of those children in the workhouse who are members of the Established Church, to be under the direction of the chaplain, (see Workhouse Order, Art. 76, No. 2.) It is competent to the schoolmaster, or schoolmistress, to assist in the religious instruction of these children, under the guidance and control of the chaplain; for example, to teach them the Church Catechism, or to explain the verbal meaning of passages in the Bible, (see Workhouse Order, Articles 22 and 77, No. 1.) With regard to certificates for confirmation, the Commissioners think that these ought to be given by the chaplain, as being best acquainted with the religious proficiency of the children. The Commissioners, however, do not doubt that the incumbent of the parish in which the workhouse is situate might properly give these certificates if he thought fit to do so. The decision, however, as to what certificate would be deemed sufficient must necessarily rest with the bishop.

XVII.—REMOVAL—Chargeability.

1. Of family of imprisoned vagrant.

June 9th, 1845.

Clerk of Wimborne and Cranborne Union—On the 12th March last, S. W. C. was committed to the house of correction at Dorchester, for deserting his wife and family, leaving them chargeable to the parish of Wimborne Minster. On the 16th May, orders were obtained for the removal of the wife and two children, of the ages of ten and eight years, to the parish of Melcombe Regis, and on the same day the execution of the orders was suspended on account of the dangerous illness of the wife. The orders were served on the 23rd May; on the 25th May the wife died. The overseers of Melcombe Regis refused to receive the children until after the expiration of the twenty-one days from the service of the order. As the term of S. W. C.'s imprisonment will expire on the 11th of June, and the children cannot be legally removed before the 13th of June, it is possible that he may return to Wimborne Minster, and take the children under his care without their being further chargeable. Inquired, 1st, whether, in the event of his doing so, the overseers of Wimborne Minster would be justified in removing the children to Melcombe Regis against the consent of the father. 2nd. Whether relief given to the children during the father's imprisonment is a sufficient chargeability of the father to justify the magistrates in compelling him to be examined for the purpose of removing him to his settlement, without a fresh chargeability arising after the expiration of his imprisonment; and would the circumstance of the children ceasing to reside in the removing parish affect this question. 3rd. Whether it would be sufficient to treat the vagrancy as the actual chargeability under 5 Geo. 4, c. 83, s. 20, and whether in that case, a certificate of the conviction must be obtained from the clerk of the peace. It is presumed that, to render him liable to be removed on this ground, he must return to and reside in the parish. 4th. Whether after issuing a summons to the father to attend at a petty sessions to be examined as to his settlement, and he disobeys it, two magistrates would be justified in granting a warrant to bring him to petty sessions for that purpose, and in case of his refusing to be examined, to commit him; (R. v. Jackson and another, 1 J. R. 653.)

Ans.—1. Assuming that the order of justices for the removal of S. W. C.'s wife and children was in the first instance a valid order, (and the Commissioners see nothing in your statement of the case to show that it was not,) the Commissioners consider that it would still continue to be a valid and effective order, notwithstanding the return of S. W. C. himself to the parish of Wimborne Minster, and that consequently it might be duly executed by the overseers of that parish, notwithstanding any objection which might be made by S. W. C. to its execution. The Commissioners are not aware

of any ground for supposing that such return or objection on the part of the father would affect the validity of the justices' order, or necessarily render it inoperative. At the same time, the Commissioners apprehend that the overseers of Wimborne Minster would not be bound to receive the children if in their discretion they should think fit to abandon the order; see Reg. *v.* St. Pancras, (12 L. J. R. n. s. M. C. 42,) in which Lord Denman observed, "An order of removal is merely a warrant to enable the officers to remove the paupers, but they are not obliged to carry it into effect." 2. The Commissioners do not think that S. W. C. could be removed to Melcombe Regis, in respect of the chargeability of his children to Wimborne Minster, during his imprisonment at Dorchester. It is true that, under the 56th sec. of the Poor Law Amendment Act, the relief given to the children would render him constructively chargeable to Wimborne Minster: but the 1st sec. of the 35 Geo. 3, c. 101, requires that a pauper, in order to be removable, shall be chargeable to the parish in which he shall be then inhabiting; and certainly S. W. C. while in prison at Dorchester, was not inhabiting in Wimborne Minster. If, however, the children should continue to be chargeable to the last-named parish, after S. W. C.'s return there, the case would obviously be different. 3. The Commissioners think that S. W. C.'s case comes within the 20th sec. of the Vagrant Act, but they feel some difficulty in construing that section, with regard to the parish of the pauper's residence. The terms of the section are—"Every person, &c. shall be deemed to be actually chargeable to the parish, &c. in which such person shall reside." It does not clearly appear to what time such residence is to have relation; but the Commissioners consider that the statute must be understood to mean the parish in which the party is resident at some time subsequent to the conviction. Whether this applies simply to the parish where the vagrant concludes his term of imprisonment, or generally to any parish in which he may subsequently reside, is by no means free from doubt: a certified copy of the conviction obtained from the clerk of the peace, under 5 Geo. 4, c. 83, sec. 17, will be sufficient evidence of the conviction. 4 and 5. With respect to your last inquiries, the Commissioners direct your attention to the cases of Ware *v.* Stanstead (2 Bott. 816,) and R. *v.* Wykes, (2 Bott. 819,) in addition to that of R. *v.* Jackson, to which you allude. In Ware *v.* Stanstead, it was said by Gould, J.—"The statute directs, and the practice is, to make complaint to one justice, and then he grants his warrant to bring the poor man before two justices, and then those two justices are to examine and remove."

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2. REMOVAL OF A PAUPER WITHOUT AN ORDER.

Clerk of Merthyr Tydvil Union—Some time ago, M. H. an aged woman was brought by her granddaughter from the parish of A. in the —Union, where her husband then lived and still lives, to the parish of B. in this Union. It appears that, after residing some time with her granddaughter, in the parish of B. she was sent to the house of her son-in-law, in the same parish, who, being unable to support her, applied to the relieving officer of the district in which the parish of B. is situated for relief, which was granted, and M. H. has continued chargeable to the parish of B. ever since. The guardians are aware of the liability of M. H.'s husband under the 56th section of the Poor Law Amendment Act, and they believe he is open to proceedings under the Vagrant Act; but as he is very aged, and very likely to be either a pauper on the parish of A. or a pensioner on a benefit club, they are not disposed to take proceedings against him. Inquired whether there would be any objection to the guardians providing means for conveying M. H. to the residence of her husband, in the parish of A.; as, if all the formalities required by law for her removal are to be adopted, difficulties present themselves to the guardians which appear insurmountable.

Ans.—If A. is the parish of M. H.'s husband's (and consequently of her own) settlement, the Commissioners see nothing in your statement of the case to prevent her removal, under an order of justices, from B. to A. If there is some difficulty as to the woman's settlement, it is possible she might be removed to her husband by an order of justices made under the general power described in 2 Nolan's P. L. 245. The Commissioners, however, can hardly advise that recourse should be had to a power which is scarcely ever exercised, and is very imperfectly defined.

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3. REMOVAL OF THE WIFE WITHOUT THE HUSBAND.

Clerk of Wem Union—On the 28th of March, 1843, an order was made by the magistrates for the borough of ——— for the removal of W. G. and his wife from the parish of M. to the parish of W., which order was on the same day

suspended, on account of the illness of the pauper's wife. On the 11th of March, 1845, the suspension was taken off, and £26. 10*s.* 2½*d.* ordered to be paid by the parish of W. for the expenses under the suspension. On the 9th of May, 1845, (nearly two months after the suspension was taken off,) the pauper's wife was removed to W. by, or by the direction of, M. parish, without her husband, it being then stated by the officer who brought her, that the husband could not be found; and she has ever since continued in the ——— Union workhouse. The wife's mother came over to the workhouse to see her daughter, and states that when the relieving officer of M. was about removing her daughter to W., and indeed several times before that period, she apprised him, and also the other relieving officer, that her husband was residing at Y., eighteen miles from M., he having left her about twelve months back, and that the officer *said that when they removed the wife, W. parish would see after the husband.* Inquired whether the removal of the wife without the husband was legal; and if not, whether the £26. 10*s.* 2½*d.* is recoverable by M. parish from W. parish.

Ans.—The Commissioners are of opinion that the order of removal referred to might, under the circumstances stated in your letter, be lawfully executed as regards the wife alone; and that the overseers of W. would have rendered themselves liable to a penalty, under the 3rd W. and M. c. 11, sec. 10, had they refused to receive her. The Commissioners, therefore, consider that the overseers of W. cannot lawfully refuse to obey the order of justices, as to the payment of the costs incurred by the suspension of the order of removal, solely on the ground that the wife was removed without the husband, both being included in the order of removal.

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4. RECOVERY OF EXPENSES UNDER SUSPENDED ORDER OF REMOVAL.

Clerk of Hartley Wintney Union—About seven years ago a suspended order of removal was served by the parish officers of Chester upon the parish officers of Heckfield, for the removal of a pauper named E. H. No removal under this order has taken place, but once a year the parish officers of Chester have been in the habit of sending a letter to the overseers of Heckfield, containing an account of the money expended in the relief of E. H., and stating that she was still too ill to be removed. The total amount is now very considerable. No order, or allowance of magistrates, for these sums has been furnished. The parish officers of Heckfield do not dispute the settlement of the pauper, but they do not like the accumulation of debt, and have therefore applied to the guardians for advice, and the guardians are desirous of having the Commissioners' opinion of the case.

Ans.—The 2nd section of the 35 Geo. 3, c. 101, does not enable the justices to order repayment of the charges incurred by the suspension of an order of removal, in any other event than the removal or the death of the paupers. (Rex. *v.* Clagford, 4 B. & A. 235.) As E. H. has not yet been removed, and is still living, the justices have at present no power to order the overseers of Heckfield to repay the charges hitherto incurred on her account by the parish officers of Chester. The Commissioners, however, are not aware of anything to prevent the overseers of Heckfield from making such repayment, or from continuing to repay, from time to time, the expenses which may arise hereafter, if the overseers think fit to do so. The points for consideration are these:—On the one hand, the parish officers of Chester, so long as the pauper is living and unremoved, cannot enforce the repayment, and the overseers of Heckfield are under no legal obligation to make it; on the other hand, the debt is accumulating against the parish of Heckfield, and in the event of the removal or death of the pauper, may some day fall with undue weight upon the rate-payers of the particular year in which such event occurs. With these remarks the Commissioners leave it for the guardians of Hartley Wintney Union and the overseers of Heckfield to decide upon the course which ought to be pursued, bearing in mind, however, that immediate payment will deprive the parish of the advantage of the proof on oath, and the opportunity to appeal, as to the amount of the charges, which are provided by the statute for the protection of the parish liable to repay.

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5. VALIDITY OF ORDER OF REMOVAL.

Clerk of Northallerton Union—G. F., a pauper belonging to B., in the ——— Union, but residing at C. with his four children, having been committed to gaol for deserting his family, an order was taken out for the removal of himself and his family to B., but was *suspended* on the ground, as therein stated, that "G. F. is unable to travel by reason of his *confinement in the House of Correction at W.*" After G. F. was released

out of prison, the suspension was taken off, and an order made directing the overseers of B. to pay the overseers of C. £3. 12*s.* 6*d.* "*for charges necessarily incurred by the township of C., by the suspension of the said order of removal.*" On the 23rd day from the date of the order of removal, the paupers were removed to N., and left there with the relieving officer, who gave an order for their admission into the workhouse. The four children were in the workhouse at C. at the time the order of removal was made, and remained there until removed with their father. No demand has yet been made upon the overseers of B. to pay the £3. 12*s.* 6*d.*; but the guardians being of opinion that the order of removal could not be legally suspended on the ground stated therein, and, consequently, that payment of the £3. 12*s.* 6*d.* ought not to be submitted to, (although it may be enforced by distress if not paid within three days after demand thereof, or notice of appeal given within the same time, under the 35 Geo. 3, c. 101, s. 2,) requested the Commissioners' opinion, whether the order for suspension, and the subsequent order, for payment of the charges alleged to have been incurred thereby, are legal.

Ans.—The terms of the 2nd section of the 35 Geo. 3, c. 101, obviously do not authorise the suspension of an order of removal, on the ground of the pauper being in prison at the time. The object of that section is distinctly defined by the terms of the preamble, "And whereas poor persons are often removed or passed to the place of their settlement, *during the time of their sickness, to the great danger of their lives. For remedy thereof*, be it further enacted," &c. And the substantive enactment is limited, in like manner, to cases in which "it shall appear to the justices that such poor person *is unable to travel, by reason of sickness or other infirmity*, or that it would be *dangerous* for him or her so to do." The Commissioners think, therefore, that under the circumstances described by the clerk in the case of G. F., the suspension of the order of removal and the subsequent order for costs were simply nullities, being made by the justices without any authority whatever; and that, consequently, the overseers of B. should pay no regard to them. If the overseers of C. endeavour to enforce the order of costs by distress, they will do so at their own peril. It would clearly not be proper for the overseers of B. to appeal against an order which is wholly null and void; but it does not appear that the order of removal itself was in any way invalid; and as the suspension was simply a nullity, such order will stand on the same footing as other common orders of removal. The 79th section of the Poor Law Amendment Act provides that no pauper shall be removed under an order until twenty-one days after a notice in writing of his chargeability, accompanied by a copy of the order for his removal, and a copy of the examination on which such order was made, shall have been sent to the overseers of the parish of his alleged settlement. You state that the order in the present case was made on the 24th of July last; but you do not mention when the notice of chargeability, &c. was sent to the overseers of B. The order, it appears, was executed on the 16th of August, twenty-three days after its date. The Commissioners think that, under the 84th section of the same Act, the costs of maintenance during the twenty-one days from the sending of the notice of chargeability, &c., may be recovered from the parish of B.

6. WHEN ORDER OF REMOVAL SHOULD BE SUSPENDED.

Clerk of Tunstead and Happing Incorporation—The parish authorities of Great Yarmouth having obtained an order, on the 2nd Dec., 1843, for the removal of a pauper to the parish of Witton, in the Tunstead and Happing Incorporation, gave notice of their intention to remove such pauper after the expiration of twenty-one days, but on the same day that the order was obtained it was suspended, and the pauper was not removed until the 11th Jan. 1844; when a charge of £4. 9*s.* 6*d.* was made for his maintenance, and for the expenses incurred in the suspension of the order. The guardians have no objection to make to the charge for the maintenance of the pauper; but they think that the order ought not to have been suspended until the twenty-one days had expired. Requested the Commissioners' advice as to whether the parish of Great Yarmouth can enforce payment of the above sum of £4. 9*s.* 6*d.*

Ans.—The suspending of the order before the expiration of the twenty-one days, or receipt of an admission of settlement, is entirely unnecessary; inasmuch as the officers are already prohibited from executing the order, and there is no reason apparent that the execution will be injurious to the paupers at the end of twenty-one days. As far, therefore, as the expense of such suspension at the time of obtaining the order is concerned, the Commissioners think that it could be successfully resisted. It is more doubtful whether the

suspension is altogether void; and the Commissioners would not (except with a view to try the question, where any parties were desirous of doing so) advise that expenses incurred in maintaining a pauper after the time of execution (*i. e.* twenty-one days) under colour of such suspension, should be resisted. In the present case the part of the £4. 9*s.* 6*d.* expended during the twenty-one days would be payable under the order, independently of the suspension; and this part, whatever it may be, should in any case be tendered.

XVIII.—SETTLEMENT.

June 30th, 1845.

————, *Dover Union*—R. R., residing in the parish of St. Mary, Dover, during the years 1831, 1832, 1833, 1834, 1835, was acknowledged to belong to, and to have received relief from, the parish of Hurstmonceux now in the Hailsham Union, during two of those years, viz., 1832, 1833: he occupied a house, at a rent of £8. 15*s.*, and land, at a rent of £1. 7*s.*; together, £10. 2*s.*; both situate in the parish of St. Mary, Dover. R. R. is now become chargeable to that parish, and the parish of Hurstmonceux declines to acknowledge him. St. Mary, Dover, has therefore sought to have the pauper's examination taken, but the justices refuse to examine him, because they have no doubt that he has gained a settlement in St. Mary's, by hiring, notwithstanding that he received relief, subsequently to such hiring, from the parish of Hurstmonceux. Inquired, to which of the parishes the pauper belongs; and also, whether the magistrates were justified in refusing to take his examination.

Ans.—With regard to the first question asked by you, viz., "To which parish the pauper belongs," the Commissioners do not feel that the statement of facts contained in your letter is sufficiently complete to enable them to answer the inquiry. It may be remarked, however, that the tenement in respect of which a settlement may be acquired need not be one entire tenement; a house and land, hired of the same or different landlords, may be made contributory to a settlement. The tenement in the present case, appears to have been rented (*i. e.* the land and the house taken together) for the sum of £10 a-year, and if the other conditions were complied with by the pauper, that is, if the tenement was actually occupied by the person hiring it, if £10 of the year's rent was paid by the person hiring it, and if the party resided forty days in the parish of St. Mary, Dover, during the year's occupation, then a settlement was undoubtedly acquired in that parish. Then, presuming the acquisition of a settlement by the pauper in 1832 and 1833, in St. Mary, Dover, the fact of the pauper having subsequently received relief from Hurstmonceux will not defeat or supersede the settlement gained in St. Mary, Dover. The fact of a parish giving relief to a pauper residing out of it, only shows the opinion of the parish giving the relief that the pauper is settled in such parish. But this, at the utmost, is only *primâ facie* evidence of a settlement in such parish, and does not conclude it: it is open to the overseers to show that the relief was given under a misapprehension (see Reg. *v.* Bedingham, 8 Jurist 378, also Burn's Justice by Chitty, 1845, vol. iv. p. 1132.) With respect to the second question, "Are the magistrates justified in refusing to take the pauper's examination?" the Commissioners would refer you to the case of Reg. *v.* Rogers, 12 Law Journal Reports, new series (magistrates' cases) p. 50. The Commissioners collect from that decision, that justices are not justified in refusing to take the examination of a pauper as to his settlement, if applied to do so; and that the court of Queen's Bench would issue a mandamus in any case where the justices might perversely refuse to take the examination, though the court (as the case shows) will not compel justices, when they have taken the examination, to make the order of removal.

2. SETTLEMENT—MARRIAGE AT GRETNA GREEN.

Rev. ——, *Bolton Union*—H. S., a pauper belonging to the parish of Caton, and M. B., a pauper belonging to the township of Bolton, were married while "on tramp" at Gretna Green, on the 19th of March last, "after the manner," as the printed certificate states, "of the Church of England, and agreeably to the laws of Scotland." M. B. had, previous to this marriage, three unaffiliated illegitimate children, maintained at the cost of Bolton. Inquired—1st. Will the woman gain a settlement in H. S.'s parish by the marriage? 2nd. Will the burden of maintaining the children fall upon the township of Caton, or upon the parish of Bolton, H. S. being unable to maintain them?

Ans.—The Commissioners apprehend, that if H. S. and M. B. were really married (as the certificate states) at Gretna Green, "agreeably to the laws of Scotland," their marriage would be

held by the English courts to be valid, (see Rogers's Eccles. Law tit. Marriage.) The Commissioners think that the woman would consequently acquire her husband's parochial settlement in England, according to the usual rule. With regard to the woman's bastard children, it is not stated whether they were born before or after the passing of the Poor Law Amendment Act. If born subsequently to the passing of that Act, the 71st section would confer upon them the settlement acquired by their mother through her marriage, (Reg. *v.* St. Mary, Newington; 2 Gale and Dav. 686.) The Commissioners presume that the children were born in England.

XIX.—VAGRANT ACT.

CONSTRUCTION OF SECTION 4.

Clerk of Eton Union—Inquired whether able-bodied women, deserted by their husbands, are punishable, under the Vagrant Act, for discharging themselves from the workhouse and leaving their children chargeable to the parish.

Ans.—The Commissioners understand the effect of the 25th sec. of the Act 7 and 8 Vic. c. 101, in enabling (in the cases to which that section applies) the relief to be given, "to the wife in the same manner, and subject to the same conditions as if she were a widow," to subject her to the provisions of the Vagrant Act (sec. 4,) if she run away and leave her children chargeable to the parish. But the mere desertion of the husband (where he is not beyond the seas) would not bring the case within the 25th section.

XX.—VAGRANTS.—PUNISHMENT OF.

Clerk of Wolverhampton Union—Some weeks since the guardians made an order that every able-bodied vagrant casually relieved with lodging for the night and a breakfast in the morning, should break a certain quantity of stones in return for such relief. On a recent occasion, three vagrants so relieved refused to perform the required task of work. As the guardians' order has not been reported for the Commissioners' sanction, a question arises, as to whether vagrants refusing to obey it can be punished by the magistrates, under 5 and 6 Vic. c. 57, s. 5, which authorises the guardians to make such an order "subject always to the powers of the Poor Law Commissioners." If not, can they be punished under any other enactment? And can they be dealt with by the workhouse master in the same manner as refractory paupers who are not casual poor?

Ans.—The power of the guardians to prescribe a task of work does not require the express sanction of the Commissioners; but if the Commissioners judge it proper, they can, in any case, regulate the exercise of the power of the guardians. If the Commissioners do not regulate such power, the disobedience of the guardians' prescription is a complete offence under the 5th sec. of the Act referred to, and the punishment of course legal. But the provision in the 5th sec. is a cumulative provision, which adds to the previous powers of the guardians and liabilities of paupers relieved. Before that provision, a pauper relieved in any workhouse was liable, whether settled or not settled, resident or vagrant, ordinary or casual, to be imprisoned for twenty-one days, with hard labour, for refusing to do any work suited to his age, strength, and capacity, 55 Geo. 3, c. 137, s. 3. This provision is in full force, as is also the provision of the Vagrant Act, 5 Geo. 4, c. 83, s. 3, under which it has been the general practice to commit persons who refused to earn their maintenance, wholly or partly, according to their ability, by doing such work as the guardians or parish officers set to them. In ordinary cases where the pauper receives relief of any kind, and does not require to quit the workhouse, or to go away before his task is done, the above provisions, particularly that in 55 Geo. 3, c. 137, are sufficient for the purpose of punishing all paupers refusing to work. The purpose of the recent enactment was to give the guardians a power to prescribe a task of work absolutely so, that the pauper could not lawfully require to leave the workhouse before it is completed, the period of detention not exceeding four hours after breakfast on the day succeeding that of his admission. This enactment therefore, though applicable to the cases where paupers are maintained in a workhouse, is more particularly applicable to the cases of vagrants and other paupers who would otherwise be at liberty to leave the house before there was time to complete the task. There seems to be no other difference between the vagrant and the resident and settled poor to be observed in the cases described, except that it will be more economical to cause the vagrants who offend to be proceeded against before justices, inasmuch as the power to restrain or punish that class by the discipline of the workhouse would very rarely be found sufficient.

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AN

OFFICIAL CIRCULAR

OF PUBLIC DOCUMENTS AND INFORMATION:

DIRECTED BY THE POOR LAW COMMISSIONERS TO BE PRINTED, CHIEFLY FOR THE USE OF THE MEMBERS AND PERMANENT OFFICERS OF BOARDS OF GUARDIANS, UNDER THE POOR LAW AMENDMENT ACT.

No. 51. CIRCULAR ISSUED SEPTEMBER 1, 1845.

Poor Law Commission Office,
Somerset House, Sept. 1st, 1845.

THE Poor Law Commissioners directed that the following documents be printed and circulated for the information of Guardians and Officers of the several Unions, viz.

(Signed) By Order of the Board,
EDWIN CHADWICK, *Secretary.*

I.—APPRENTICING POOR CHILDREN.

1. CIRCULAR ON THE MODIFICATION OF THE GENERAL ORDER.

Poor Law Commission Office,
Somerset House, May 5th, 1845.

SIR,—The Poor Law Commissioners have had under consideration certain Objections made to the Order relating to the Apprenticeship of Poor Children, recently issued by them, and they propose, in consequence of the representations made to them, to modify the Provisions contained in Articles 2 and 18 of that Order.

The Commissioners intend to make the alterations in question before the end of the month of June, and they will be ready, before that time, to consider any observations which the Board of Guardians may be desirous of offering upon these, or any other Articles in the Order.

The Regulations which it is proposed to modify are the following:—

Article 2.—"No premium other than clothing for the apprentice shall be given upon the binding of any person above the age of *fourteen,* unless such person be maimed, deformed, or suffering from some personal bodily infirmity, so that the nature of the work or trade which such person is fit to perform or exercise is restricted."

Proposed Alteration—For "fourteen," insert "sixteen."