parish. It rests with the overseers of the poor, on their own responsibility, to assess every rate-payer at such amount as they think right, having due regard to the requirements of the law. The commissioners do not mean to say that the overseers may not derive very material aid from the vestry in forming their own opinions on the points alluded to; but they are bound to state that the vestry has no legal power to control the overseers in the matter. With regard to your question whether any other business besides that of granting a poor's rate can lawfully be transacted at a vestry meeting convened in the manner described, the Commissioners desire to observe that it would not come within their province to express any opinion thereon, unless the "other business" you advert to, be connected with the administration of the poor laws.

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2. PUBLICATION OF NOTICES.

Clerk to Guardians of —— Union—It is proposed by the guardians to recommend the inhabitants in vestry, to appoint the collector of poor-rates for this parish, to act as assistant overseer, but it is expected that obstacles will be thrown in the way of the appointment. Inquired whether notices for calling the vestry should be published on the doors of the dissenting chapels, as well as of those of the established church, as stated in a late number of The Justice of the Peace.

Ans.—Having regard to what the Commissioners believe to be the ordinary legal meaning of the word "chapel," and to what appears to be the general tenor of the statute, 1 Vic. cap. 45, the Commissioners are disposed to consider that the chapels referred to in that statute are chapels belonging to the established church, and not places of worship used by dissenting congregations. The Commissioners do not concur in the view taken by the "Justice of the Peace," (in the article to which you refer,) as to the effect of the decision in Reg. *v.* Whipp, (4 Ad. and Ell. n. s. 141, 3 Gal. and Dav. 372.) It is true that the existence of dissenting chapels in the parish, is mentioned as one of the facts in that case, but there is nothing in the judgment, as reported, to show that this circumstance had any effect upon the decision of the court, which might, for aught that appears, have proceeded upon the ground that the rate was not published in all the "churches and chapels" belonging to the established church. At the same time, if any question on the point is likely to be raised in any instance, the Commissioners see nothing to prevent the publication at the dissenting chapels, so as to guard against any subsequent dispute.

Printed by Order of the Poor Law Commissioners, by BLACKBURN AND PARDON, 6, Hatton Garden, and Published by CHARLES KNIGHT and Co., 22, Ludgate Street, Publishers to the Poor Law Commissioners.

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. 57. CIRCULAR ISSUED MARCH 2ND, 1846.

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.—ACCOUNTS.

1. SEPARATE ACCOUNT OF IN-MAINTENANCE OF SICK, &c.

Oct. 18th, 1845.

Clerk of the Hay Union.—The guardians are desirous of classifying and charging the cost of in-maintenance in the following manner—1st class, Actual cost of in-maintenance of the sick, aged, and infirm; 2nd class, Actual cost of those on the ordinary dietary. The alteration appears the more necessary because it has been the practice to crowd the house with the aged, infirm, and sick, the cost of whose maintenance ranges considerably higher than that of the other classes of inmates, and consequently raising the average. The average cost per head per week for all classes, including extras, being about 2*s.*, whilst the average cost under the ordinary dietary would be about 1*s.* 6*d.* The object of the guardians is not to diminish the extras or comfort allowed to the aged, but to avoid the increase in the cost of maintenance of the younger classes which the present system of averaging effects.

Ans.—One principle laid down in the order of accounts is, that the cost of maintenance charged should be regulated in each case by the actual number of days during which each parish has had paupers in the workhouse; but it does not follow necessarily that the cost of each such pauper should be the same. If the guardians, therefore, think that they can satisfactorily separate the extras from the ordinary expenses of maintenance, so as to correctly distinguish the actual cost of maintaining each of the classes of paupers, the Commissioners would offer no objection to that course.

2. APPLICATION OF BALANCE RECOVERED FROM PAST OVERSEER.

November 8th, 1846.

District Auditor—(*Ashbourne Union*)—Inquired, whether the amount of balance certified by him to be due from the late overseers of one of the parishes in the union, and which had been paid over by them to the union treasurer, could be appropriated by the present overseers towards the payment of the next call made upon them by the board of guardians.

Ans.—The 23nd sec. of the 7th and 8th Vic., cap. 101, after directing that the money certified by the auditor to be due from any person shall be paid to the treasurer of the union, if there be one, proceeds to enact that "in case of a union, such money shall be applied by the guardians to the use of all or any of the parishes included in such union, according as all or any of such parishes may be interested in the sum so paid." Consequently, the sum paid over by the late overseers of ———— to the treasurer of the Ashbourne Union, now lies at the disposal of the guardians of the union, and not of the present overseers of the parish. It must be applied by the guardians to the use of such parish, and may insofar diminish the amount of contribution which it may be requisite for the guardians to demand of the present overseers; but it cannot be applied by those overseers, to the payment of any sum demanded of them by the guardians.

3. AUDIT.—DUTY OF OVERSEERS TO ATTEND AUDIT AT THE PLACE APPOINTED.

February 21st, 1846.

Clerk of the Alton Union—Some overseers thought that the legislature intended by sec. 33 of 7 and 8 Vic. c. 101, to relieve them from attending any audit not held within their respective parishes, and to prevent their coming from a distance. Inquired the Commissioners' opinion whether, under that clause, the overseers are compelled to attend any audit out of their parishes.

Ans.—The auditor is not required by the statute, 7 and 8 Vic. c. 101, to attend in every parish in his district to audit the overseers' accounts; but it is the duty of the overseers to attend at the place appointed by the auditor for the purpose.

4. COST OF CLOTHING, HOW TO BE CHARGED.

February 27th, 1846.

Clerk of the Falmouth Union.—The guardians purchased a quantity of cloth at a cost of £69, and placed it in stock with a view to its being expended as occasion required. Several of the guardians consider that some parishes would be prejudiced by the cost of the cloth being charged under the head of clothing, and that it should be borne by the establishment. The object of making the purchase was to provide an uniform dress for the pauper inmates. Requested the Commissioners' opinion.

Ans.—The amount paid for the cloth in question should be debited to the clothing account in the ledger, but it would obviously not be equitable to charge the whole of this amount against the parishes happening to have paupers in the workhouse during the quarter in which the expenditure was incurred. The most simple mode of distributing the cost of clothing amongst the several parishes in a union, and that which is most commonly adopted, is to charge against the parishes whose paupers have been in the workhouse during the quarter, the cost of all *new clothing given out of store* during that quarter.

II.—APPRENTICESHIP.

JUSTICES' CERTIFICATE OF SATISFACTION ON THE INDENTURE.

October 23rd, 1845.

Clerk of the Whitechapel Union.—Inquired whether it was necessary in case of apprenticeship under the Commissioners' general order of the 31st December, 1844, that the justices should certify at the foot of the indenture, that the Commissioners' regulations had been complied with, and whether the indenture would be valid without such certificate.

Ans. The Commissioners consider it is not necessary that the justices should so certify. The 31st sec. of the Poor Law Amendment Act provides, that the justices are to certify in such form and manner as the Commissioners, by any orders, or regulations issued by them, may have directed. Though the Commissioners have, by the order referred to in your letter, regulated the mode of apprenticing poor children by the guardians, in the Whitechapel Union, they have not thought it necessary to prescribe any form in which the justices are to certify that the regulations have been complied with by the guardians. The absence of the certificate will not, therefore, in the opinion of the Commissioners, invalidate the contract, or indenture of apprenticeship. The Commissioners would add, for the information of the guardians, that since the allowance or assent of justices to the indenture of apprenticeship, is expressly dispensed with by the 12th sec. of 7th and 8th Vic., cap. 101, it seems to the Commissioners, that there are no longer any justices who can certify under the 61st section of 4th and 5th Wm. 4, cap. 76. The justices who are to certify under that section as to the observance of the Commissioners' regulations, are (it will be seen) the same justices who assent to the binding and allow the indentures; but in the case of bindings by the guardians, there are no justices who can so assent and allow, and it follows, therefore, there are none who can certify.

III.—AUDITORS.

1. DUTY OF—IN EXAMINING RATE-BOOKS.

October 20th, 1845.

A Guardian of the Clifton Union—Inquired whether the auditor is to call for the rate-books of the respective parishes to inspect them and see that the amount of the rate is accounted for by the collector, and if necessary to make a thorough examination of the rate.

Ans.—The Commissioners consider the auditor will not properly discharge his duty under the order of accounts unless he examine the rate-books in such a manner as will show whether the rate is duly accounted for. It will thus be necessary that he should see that the entries are duly made in the appropriate column, and that the columns are correctly cast up. By this means the rate will be balanced, *i. e.*, it will be made to appear on the face of the rate, what portion of the rate as originally made and allowed, has been obtained, and what portion still remains to be accounted for. Upon this subject, the Commissioners would direct your attention to an opinion expressed by them in answer to a somewhat similar inquiry, and which will be found at page 35 of the *Official Circular*, No. 23.

2. REPAYMENT OF POSTAGE PAID BY AUDITORS ON ACCOUNT OF PARISHES.

December 24th, 1845.

Auditor of the ———— District—Inquired Commissioners' opinion with respect to the repayment to the auditor of expenses incurred by him for postage, on account of the several parishes comprised in the unions in his district.

Ans.—As you are not bound to pay the postage of the notices sent by you, to the parish officers, of the day of audit, the Commissioners think the charge is not one which you are liable to bear. But as the charge will be double, if the letters are not prepaid, the Commissioners think it better that you should, in the first instance, pay the postage, and that the amount should be refunded to you, and debited to each parish, either by the clerk in the union accounts, or by the overseers.

IV.—BASTARDY.

ORDERS CANNOT BE ENFORCED THROUGH THE INABILITY OF MOTHERS OF BASTARDS TO PAY JUSTICES' CLERK'S FEES.

February 24th, 1846.

Clerk of Hayfield Union—Two young women, each having a bastard child, have entered the workhouse, not being able to maintain themselves and children. Orders have been made upon the putative fathers, who are well able to pay the amount ordered, but the women cannot pay the fees charged by the clerk to justices for making out the orders and summonses, and therefore

the orders will not be given up to the women, and they cannot, in consequence, take proceedings against the putative fathers. He was not aware of any way in which he could use the duplicates of the orders, which he held under sec. 5, of 7 and 8 Vic. c. 101. Inquired what course he should pursue in relieving the parishes from the burden of maintaining in the workhouse the women and their children.

Ans.—The Commissioners do not see that the guardians can lawfully interfere to assist the mothers in procuring the orders. To advance the means to pay the demand of the clerk to justices would probably not be an offence under the 7th sec. of 7 and 8 Vic. c. 101, seeing that the orders have been made; but the advance of such moneys from the poor's-rate would clearly be an illegal application of that fund. Neither do the Commissioners see that the duplicates of the orders which the guardians hold, under sec. 5 of the Act cited, would be available for the purpose of securing the payment of the sums mentioned in the orders, seeing that the putative fathers have not been served with the orders made on them by the justices. Upon the whole, the Commissioners see no remedy unless the mothers are able, themselves, to provide the means for paying the demand of the clerk to the justices. The necessity for payment of fees to justices' clerks, is incident to every species of complaint thus pursued. The proceeding is, at any rate, the simplest and cheapest known to the law of this country.

V.—CONTRACTORS.

Remedy against contractor supplying bread of an inferior quality.

December 6th, 1845.

Clerk of the Honiton Union—Inquired as to the best mode of proceeding, in cases where the bread delivered by the contractors appeared, at first to be good, but after a space of twenty-four hours, proved to be of inferior quality, it being almost impossible to return the bread, as some of it had been consumed, and nearly all distributed to the various paupers.

Ans. The better course would appear to be that the guardians should ascertain the quality of the bread, and get good evidence on the subject, and being satisfied that it is not of the quality contracted for, should employ some other person to supply the bread, according to the provisions of the contract, at the cost (if the price exceed that contracted for with the original contractor,) of such contractor, and in case he fails to pay this difference, to sue him and his sureties on the contract.

VI.—CONTRIBUTION.

Re-payment of loan to parish officers for the purpose of meeting call for contribution.

October 7th, 1845.

Late Auditor of ——— *Union*—Pending a dispute as to making a rate for the use of the poor, in consequence of the recent new valuation of ——— parish not being satisfactory, the parish officers applied to the magistrates as to providing funds for the parish, and especially to pay £150 to the treasurer of the union, in pursuance of the contribution warrant of the guardians, until a rate was made and allowed by justices. The magistrates advised the parish officers to borrow £200 until a rate was made. The loan was procured, and the parish officers gave their note of hand for the amount. As it is now proposed to repay the amount of the loan out of the poor's-rate, inquired whether, as auditor, he would be warranted in allowing the same in the accounts.

Ans.—Payments to the guardians, by the overseers, in pursuance of the orders of the former, are made in anticipation of expenditure by the guardians. A payment at the end of a year in compliance with a demand of the guardians during that year, and for their purposes during the following year, is not like a payment made for the purposes of the expiring year, and does not appear to the Commissioners to come within the principle of Tawney's case, 2 Salk. 531, 2 Ld. Raymond, 1009, which decided in effect, that the rates of one year could not be applied to the payment of debts incurred in a preceding year. The real question which arises in the present case, is, whether the contribution required by the guardians of the ——— Union of the overseers of ———, (to meet which the sum of £200 was borrowed of the bankers,) was for the purposes of the past or the present year. If for the latter, there would be no legal difficulty in discharging the debt incurred by the overseers out of the rates of the present year. In like manner, if part of the contribution only were required for the purposes of the present year, the power to discharge the debt would apply to such part. On the other hand, if the contribution were required for the purposes of the year ended 25th March last, of course the principle of Tawney's case would apply, and there would, as the Commissioners consider, be a legal obstacle to the charging any portion of the sum borrowed upon the present rate-payers, seeing that the overseers of the last year failed to turn over a balance sufficient to meet the debt. The Commissioners perceive that the order of the guardians was made on the 21st of February last, and was not operative on the overseers until the 19th of March. The probability, therefore, is, that it was required for the most part to meet the demands of the ensuing year.

VII.—CONTRIBUTION ORDERS.

1. Form of making—liability of churchwardens to obey.

Oct. 13th, 1845.

Clerk of the Wellington (Salop) Union—Inquired—1. Whether the names of the overseers need be specified in the contribution order, and whether the churchwardens are to be included in and served with the order? 2. Whether, in case it is necessary to enforce the order, the churchwardens, as well as the overseers, should be summoned? 3. Whether succeeding overseers or churchwardens are liable to orders made during the term of office of their predecessors? 4. Whether the proof of service upon each overseer, &c., of the order, is necessary on the hearing of summons before justices, especially where any payment has been made to the treasurer on account of such order.

Ans.—1. The names of the overseers as well as the churchwardens should be specified in the order of contribution, and a copy of such order should be served on each of such officers. 2. In any proceedings taken to enforce the order, the churchwardens as well as the overseers should be summoned. 3. The Commissioners are of opinion that succeeding overseers are not liable in respect of orders of contribution made upon their predecessors; and such orders cannot be enforced against such succeeding overseers. 4. The Commissioners are advised that it is proper that all the churchwardens and overseers should be personally served, though, possibly, in a case where the order had been in part satisfied and payments in respect of it made to the treasurer of the union, the proof of service as regards the overseers making the payments, would be unnecessary.

2. Power of justices, where overseers disobey.

February 14th, 1846.

Clerk of the Walsingham Union.—The guardians have great difficulty in obtaining the contributions from one of the parishes in the union, and on a recent occasion, proceedings were taken against them before justices. The justices would have issued a distress warrant against the goods of the parish officers, but the latter produced the receipt of the treasurer, by which it appeared that they had paid him the contribution, the day previous to the hearing of the complaint. The justices, thereupon, adjudged that the overseers should pay a fine of £5, under the provisions of 4 and 5 Wm. 4, cap. 76, sec. 95, but it was objected, that as no separate complaint had been made in writing against the overseers, at the instance of the board of guardians, they could not enforce payment of the fine, and further, that the parish officers had not wilfully disobeyed the legal and reasonable orders of such justices *and* guardians. That to give the justices jurisdiction, there must be a separate complaint in writing exhibited, and proof on the hearing, that the parish officers had not obeyed the legal and reasonable orders of the justices and guardians, and, therefore, that although the parish officers had been summoned for non-payment of the contribution, the justices had no power to enforce the penalty, as *no order* had been made *by them*, by reason of the parish officers having paid the treasurer the contribution, the day before the hearing, which was several weeks after it should have been paid, and several days after the service of the summonses. Requested the Commissioners' advice as to the best mode of dealing with the parish officers, who were likely to treat future orders in the same manner.

Ans. The Commissioners collect that the proceeding taken against the overseers, was under the 2nd and 3rd Vic., c. 84, for the recovery of money in arrear. If so, the Commissioners conceive the objection taken at the hearing of the case, namely, that the justices could not without a separate complaint, or information, proceed to convict the overseers of an offence under the 95th sec. of the Poor Law Amendment Act, is a valid objection. Of course the justices in a proceeding under the former of these statutes, are prevented from issuing their warrant against the goods of the overseers, where, on the hearing of the complaint, evidence is given of the previous payment to the treasurer of the union, of the money

called for by the guardians. But though no warrant can issue under such circumstances, as the overseers have been guilty of the offence of disobedience to the orders of the guardians, proceedings under the 95th sec. could still be taken, but as before stated, there must be a distinct complaint, and a summons must issue to the overseers to answer such complaint. The Commissioners entirely dissent from the view that, to support a conviction under that section, evidence must be given that the overseers have disobeyed the order of the justices and guardians, meaning by that, the joint order of such justices and guardians. The Commissioners were advised by the late Attorney General (Sir J. Campbell,) and are themselves of opinion, that the words, "orders of such justices and guardians," in the 95th sec., are to be taken distributively, *reddendo singula singulis*—as referring to the orders which the justices and guardians respectively, but not conjointly, are enabled to make. This, indeed, is the only reasonable interpretation; any other construction would render the provision inoperative, there being no case in which, as far as the Commissioners are aware, the justices and guardians are empowered or required to concur in making an order on the overseers.

VIII.—GUARDIANS.

1. POWER OF COMMITTEE OF GUARDIANS TO EXAMINE BOOKS OF THE UNION.

February 11th, 1846.

A Guardian of the Wellington (Salop) Union—Inquired, whether the finance and visiting committee of the guardians have a right to call for the minute book and ledger, to enable them to compare tradesmen's bills and vouchers,—in effect, to audit the accounts, including the balance sheet, previous to the payment of the officers' salaries.

Ans.—The committee of the guardians have not the power to call for and examine the books described, unless the board of guardians expressly authorise such committee so to do. The guardians cannot, however, confer any authority to audit the accounts in the sense of finally allowing or disallowing items.

2. PROCEEDINGS OF.—ENTRY OF GUARDIANS' PROTESTS ON THE MINUTES.

February 26, 1846.

A Guardian of the ——— Union—Inquired whether the dissent of individual guardians in disputed points can be claimed to be entered on the minutes of the proceedings of the board.

Ans.—The minutes of the guardians being a record of the proceedings of the board, and as the protest of individual guardians do not form a part of such proceedings, the Commissioners think that the guardians protesting cannot require their protest to be entered on the minutes.

IX.—JUSTICES.

JURISDICTION OVER PARISH SITUATED IN TWO COUNTIES.

October 24th, 1845.

Clerk of the Wimborne and Cranborne Union—Part of the parish of Hampreston, in this union, is situate in the county of Southampton, and the remainder, in the county of Dorset. The parish church is in Dorset, and the magistrates of that county have always appointed the overseers, who act for the whole parish, and assess all the property in one poor-rate. In the Poor Law Commissioners' orders, the parish has been treated as if wholly in Dorset. The parish contributes to the county rates of both counties. A question has arisen, whether the magistrates of Dorset have jurisdiction to make an order for the removal of a pauper living in that part of the parish, which is in Hants, or to take proceedings for the recovery of rates assessed on property in that part. He is aware of the provision in section 9 of the 43rd Elizabeth, cap. 2, but cannot find any decision since R. *v.* Merryman, in Hilary Term, 1770. Requested to have Commissioners' opinion for the guidance of the parish officers, who are desirous of proceeding to recover some arrears of poor-rates.

Ans.—The Commissioners think it clear that the justices of Dorset are not empowered to take proceedings for the recovery of poor-rates in that portion of the parish of Hampreston which is in Hants. In cases where a parish extends into more counties than one, sec. 9 of 43rd Elizabeth, c. 2, only enables justices to intermeddle in so much of the parish as may be within their respective jurisdictions. To this extent each set of justices may grant warrants of distress for non-payment of poor-rates. As regards, therefore, persons who are rated, and who reside in that part which is in Dorset, application should be made to the justices of Dorset, and the like application should be made to the justices of Hants, in respect to the persons in Hants. With respect to the making of orders of removal, the Commissioners would observe that they have not been able to find the case of R. *v.* Merryman, cited in your letter, nor indeed anything in point. The case is obviously not met by the provisions in the 43rd Elizabeth, above referred to, as the power to remove poor persons to their settlement was not given until 13th and 14th Charles 2nd. The Commissioners, however, do not at present see anything to prevent the justices of Dorset making an order of removal in respect of a pauper chargeable to Hampreston, but residing in that part of the parish which is in Dorset. If this be so, a like power could be exercised by the justices of Hants, in respect of persons residing in Hants. As the overseers act for the whole of the parish, there can be no doubt of their power to make the necessary complaint of chargeability, in whichever portion of the parish the pauper to be removed may reside. The Commissioners would observe, further, that the order of removal should, in their opinion, be made to conform to the facts of the case, *i.e.*, it should be stated that the pauper resides in that portion of the parish which is in the county for which the removing justices act.

November 15th, 1845.

Same writer—Inquired further, whether, as the poor-rate for Hampreston parish is allowed by magistrates of Dorset only, the justices of Hants could enforce it as regarded property in that county, or should the rate be allowed by justices of both counties? Also, if able-bodied paupers residing in that part of Hampreston which is in Hants, became chargeable to that parish, and were admitted into the union workhouse at Wimborne, Dorset, could the magistrates of Dorset remove them to their place of settlement?

Ans.—1. The Commissioners are disposed to think that the rate for Hampreston parish should have the consent or allowance of the justices of both counties, *i.e.*, of Hants and Dorset, and that a rate could not be enforced by the justices of the former county, as regards the property in that county, where it had been allowed by the justices of Dorset only. 2. The workhouse for the purpose of removal is deemed to be situated in the parish to which the poor person to be removed is or has been chargeable (sec. 56, 7th and 8th Victoria, c. 101.) A person in the workhouse, may, therefore, be removed in the same manner, as if he were actually in the parish which is charged with his relief. It is not indeed clear that the ordinary place of residence of the pauper is material in this case. Still it would be better, for the avoidance of all dispute, to obtain the warrant of removal from justices acting for the county in which the ordinary residence of the pauper is situate.

X.—LAW BILLS.

INCURRED IN FORMER YEARS, HOW TO BE DISCHARGED.—CLAIM OF JUSTICES' CLERKS TO PROFESSIONAL FEES FROM PARISHES.

September 13th, 1845.

Clerk of ——— Union—Law bills extending over a period of nearly six years, (commencing in 1839,) have been delivered by Mr. ——— to the overseers of a parish in the union. The charges in the bills are all for attendance and advice upon questions of settlement, which have been given (with very few exceptions) at the place where Mr. ——— has been at the same time acting as clerk to the magistrates. The overseers, when they have been referred to Mr. ———, by the magistrates, were not aware that they were consulting him as an attorney, but in his official capacity as magistrates' clerk. As similar bills have been delivered to every parish in the union which has had any business to transact with Mr. ———, inquired how far the parish is liable for the payment of such bills, under the circumstances above described.

Ans.—As the bills were not incurred during the period of office of the present overseers, they are under no legal obligation to satisfy the demand of Mr. ———. Assuming the claim to be a lawful and proper one in other respects, the present overseers of ——— would be justified in discharging (though they could not be compelled) so much of the claim as was incurred during the period of office of their immediate predecessors, if the latter left a balance in money, or arrears of rates, sufficient to meet this, and all other liabilities incurred by them, but not satisfied when they left office. But with regard to such of the bills as were incurred before the period last mentioned, it seems to the Commissioners, that the present overseers have no authority to discharge such bills out of the current rates. The rule of law, established in Tawney's case, and recognised in numerous recent decisions, shows that the present rate-payers cannot be called upon to pay the debts incurred at former periods. The charges contained in the bills appear to be of two kinds, first, the amount of fees claimed in the several cases as clerk to the justices. Second, charges for advising the parish officers professionally, in the same cases. Upon

the first of these points, there is no doubt that Mr. ——— was entitled to be paid by the overseers such fees as the table of fees sanctioned, but the Commissioners do not understand that any objection is raised to the bills in this regard. On the second point, as to the claims for professional advice, the Commissioners think that Mr. ———'s title is not so clear. Generally it may be observed, when overseers come to a justices' clerk, they may fairly presume that he is able to form a good notion of what evidence will support the justices' order. When the clerk is a professional man, there can be no good reason to presume that in taking his advice, the overseers separate his character of clerk, from that of a professional man, and seek to avail themselves of his judgment in the latter capacity. If in any of the cases to which the bills relate, the overseers sought the advice of the clerk before the time of meeting, and at another place than where acting as clerk to the justices, there would be reason to consider them as consulting him professionally.

XI.—LUNATICS.

REMUNERATION TO CLERK TO GUARDIANS FOR PREPARING ANNUAL LUNATIC RETURN.

February 16th, 1846.

Clerk of the ——— Union—Inquired whether he was intitled to make a charge for filling up the necessary forms of returns of lunatics.

Ans.—In the opinion of the Commissioners, the clerk of a union cannot make any charge for this additional duty which the legislature has thought fit to cast upon him.

XII.—MEDICAL RELIEF.

PAYMENT OF MIDWIFERY FEE, WHERE ORDER GIVEN BY OVERSEERS.—MEDICAL TICKETS, HOW FAR AVAILABLE.

October 11th, 1845.

Clerk of the Scarborough Union—A medical officer of the union has been refused payment by the board of guardians of the midwifery fee, for attendance on the wife of an able-bodied labouring man, under the written order of an overseer. The board considered that the overseer ought not to have given the order, as the husband was in such employment, as, with ordinary frugality, would have enabled him to pay for medical attendance. Inquired. 1st. Whether the guardians are bound to pay all the orders given by the overseers for medical attendance in labour cases. 2nd. Whether, when the husband has a medical ticket for himself, or any of his family, the medical officer is required to attend the wife during labour, and entitled to his fee for so doing.

Ans.—1st. Where the overseer is legally qualified to make the order, that is, in cases of sudden and urgent necessity, the guardians are bound to pay the fee, under Article 12 of the General Medical Order. But if the guardians think the overseer was not legally authorised to give such order, they may decline to pay the fee, and the overseer will then make the payment himself, and include the same in his accounts, subject to the allowance or disallowance of the item, by the auditor. 2nd. The medical tickets provided for by Articles 17 and 18 of the General Medical Order, are intended to be given only to aged and infirm persons, or persons permanently sick, or disabled. The Commissioners are of opinion that, for attendance on the wife of any pauper in childbirth, a separate order should be given to the medical officer. At the same time, if the wife's name is inserted in the medical ticket, and the medical officer has attended her in childbirth without any further order, the Commissioners think that looking to the terms of Article 18, which provides that the medical officer, on the exhibition to him of the ticket, and an application made on behalf of the party to whom the ticket was given, shall be held responsible for affording advice, attendance and medicines "in the same manner as if he had received in each case a special order," the medical officer would be entitled to the payment of a fee for his attendance.

XIII.—OVERSEERS.

1. SUPPLY OF GOODS TO WORKHOUSE BY.

October 27th, 1845.

Clerk of Whittlesey Union—The guardians being about to contract for stoves and other fixtures required for the union workhouse, and the only ironmonger in the town of any note being the overseer for the current year,—inquired whether the board of guardians would be considered *criminis particeps* if such party were contracted with.

Ans.—I am to call your attention to the exception contained in section 6 of 55th Geo. 3rd, cap. 137, as to the case where there is no person (other than an overseer) to be found within a convenient distance from the workhouse, competent and willing to supply goods required for the use of the workhouse, in which case justices are authorised by certificate to permit an overseer

to contract for the supply of the goods. The Commissioners cannot undertake to say whether the circumstances of the present case are such as to bring it within that exception—this is a point to be determined by the justices. The Commissioners would observe, however, that if the justices do not think fit to give the overseer the express benefit of the exception in the statute, there can be no doubt that he would be subjecting himself to the penalties provided by the former part of the section referred to, if he were concerned in the supply of the goods required; and the guardians would be participating in an unlawful act in entering into a contract with such overseer for the supply.

2. WHERE PARISH DIVIDED BETWEEN TWO OVERSEERS FOR COLLECTION OF THE RATES,—REMEDY AGAINST ONE OVERSEER OMITTING TO ACCOUNT FOR RATES COLLECTED.

January 12th, 1846.

A Guardian of the ——— Union—The non-payment by the overseers of the parish of ——— of the money ordered by the board of guardians, has caused great trouble to the guardians. The parish being divided into two parts for the convenience of collecting, one of the overseers, who has always readily paid the full amount of the rates of his division (being the west side) of the parish, frequently has had to advance money of his own, to make up the deficiency of the other overseer, who collects the east side of the parish, and who holds a balance of about fifty pounds. It is believed that the board of guardians could not proceed against the defaulting overseer without involving the other, and the late auditor was not able to render the assistance required. Inquired what proceedings can be taken to compel the defaulting overseer to account for the balance due from him to the overseer who is in advance; and also if any means can be used to deter the defaulting overseer from collecting the rate for the ensuing quarter of the year, so that the other overseer may collect the whole, and thereby be enabled to pay the treasurer of the union, according to the order of the board of guardians.

Ans.—The overseer of the east side of the parish in question cannot be prevented from collecting the rates, if he thinks fit to do so: indeed, it is clearly his duty, under the circumstances stated in your letter, to collect the rates with all possible speed. At the same time, the officer who collects for the other division of the parish, (the west side,) is entitled to collect in the east side, and on refusal to pay by any rate-payer, he is empowered to take proceedings to compel payment, there being nothing in the existing arrangement as to the division of the parish for collection, which, in any way, deprives the overseers of their authority over every part of the parish. If in any proceedings that the guardians may think fit to take against the overseer who is in default, they should wish to protect the other overseer of the parish, "who is in advance," it would be easy to do so. If on a summons for default to the order of the board of guardians, it was shown by him, and admitted by them, that he had done his share of the duty of collecting the rate, and that the default arose entirely from the neglect of the other overseer, the distress might be levied solely on the other overseer.

XIV.—PAUPERS.

1. CHARGED WITH FELONY—DETENTION OF, IN WORKHOUSE.

October 10th, 1845.

Clerk of the West London Union.—Three of the male inmates of the workhouse have been given into the custody of the police, charged with an act of felony, committed in the workhouse. The magistrate, before whom they were taken, adjourned the hearing to a future day, and directed that in the mean time the persons charged should be taken back to the workhouse, and there confined in the black-hole, or refractory ward. This was accordingly done. The master of the workhouse, however, feeling some doubt, whether such a proceeding on the magistrate's part was sanctioned by law, and whether he was legally justified in obeying such a direction, applied to the clerk for advice upon the subject. Inquired the Commissioners' opinion, whether the proceeding referred to was legal, or whether the remand ought not to have been made, as is ordinarily the case, to a prison within the jurisdiction of the magistrate.

Ans. After the expiration of the twenty-four hours, during which a pauper inmate of a workhouse may be confined, for an offence, or misbehaviour, under the 54th Geo. 3, cap. 170, s. 7, it is not lawful to detain such pauper longer in the workhouse against his will. The Commissioners think that in such a case as the one you refer to, the remand of the paupers would not constitute an authority to the master of the workhouse to detain them—although it would do so to a peace officer, or a jailor.

2. DESERTION FROM WORKHOUSE WITH UNION CLOTHING.

October 14th, 1845.

Clerk of the South Stoneham Union—Inquired whether a pauper inmate who absconded from the workhouse with the union clothing, which he was then wearing, and returned, after three months' absence, bringing back a part only of the clothing, alleging that the remainder was worn out, was punishable, and by what proceeding.

Ans.—The Commissioners think the case falls directly within the 2nd section of 55th Geo. 3, cap. 137, that is to say, that there was both such a desertion from the workhouse, and such a carrying away of the union property, as that provision contemplates. The Commissioners do not think it is necessary to show that there was such a conversion of the property upon the part of the pauper to his own purposes, as would be necessary to establish a case of felony against him.

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3. OVERSEERS PROVIDING PAUPERS WITH COTTAGES IN OTHER UNIONS — POOR'S-RATES THEREON.

February 24th, 1846.

Clerk of the Carnarvon Union—Inquired, what remedy the guardians have against overseers of parishes in other unions taking houses for their paupers in this union, and not providing them with the means of paying their poor's-rates.

Ans.—The Commissioners do not see that the law affords any remedy which the guardians themselves can resort to in such cases. The overseers of parishes in other unions would certainly be acting unlawfully in furnishing paupers residing in the Carnarvon Union with the means of paying their poor's-rates.

XV.—POOR'S RATE.

ABANDONMENT OF RATE ON ACCOUNT OF NEW VALUATION OF PARISH BEING MADE.

January 20th, 1846.

Overseers of St. Giles, Durham Union.—A rate of 6*d.* in the pound was made, and signed by the justices in October last, but a valuation of the parish being in progress at the time, the overseers, to avoid dissatisfaction on the part of the ratepayers, omitted to collect that rate. The new valuation was completed in November, and a rate of 1*s.* in the pound was made upon it in December. Part of the last-named rate was collected, but some of the ratepayers objected to pay it, offering to pay the former rate of 6*d.* in the pound. Requested the Commissioners' advice as to the course the overseers should pursue.

Ans.—The Court of Queen's Bench has expressly decided that a poor rate, when duly made, allowed, and published, cannot be abandoned by the overseers. (R. *v.* The Justices of Cambridge, 2 A. and E. 370.) If, therefore, the October rate referred to in your letter was duly made, allowed, and published, it is your duty to collect it, and you will be accordingly responsible for the neglect of that duty. If it was not duly made, allowed, and published, of course the case would be different.

XVI.—PROPERTY AND INCOME TAX.

ASSESSMENT OF WORKHOUSE THERETO—WORKHOUSE OFFICERS' SALARIES.

November 10th, 1845.

Clerk of the Cambridge Union—Referred to the Commissioners' Circular of the 24th June, 1843, relating to the assessment of workhouses, under the Property and Income Tax Act, wherein it was stated, that "if the total income of the officers occupying apartments in such workhouse is under £150 (including the value of such occupation) the assessment may be altogether discharged."—(Vide *Official Circular*, No. 26, p. 111.) The workhouse of the Cambridge Union has been assessed at the sum of £400, against which the board of guardians intend to appeal, and requested the Commissioners' opinion whether the aggregate amount of the salaries of all the officers of the workhouse may be considered as making such assessment, or whether it is necessary that the salary of one of the officers should amount to that sum to render the workhouse liable to be assessed.

Ans.—The Commissioners are of opinion that by the above words, quoted from their circular, must be understood the aggregate amount of the income of all the officers of the workhouse, and not the amount of the income of any single officer. They also presume, that income must be held to mean the salary of the officers, including the annual value of the apartments occupied by them in the workhouse. The Commissioners desire to add that the matter appears to them to be one for communication with the Commissioners of Stamps and Taxes, at Somerset House, rather than for appeal under the statute.

XVII.—RATING.

1. TITHE OF HOPS.

September 22nd, 1846.

Mr. ————, *East Relford Union*—Inquired

whether, in making a valuation for a parish, he should assess the vicar for parochial rates, upon the sum received by him as extraordinary rent-charge upon hops, over and above the sum received by the tithe owners as for arable land.

Ans.—The Commissioners are not aware of any reason for supposing that the vicar is not liable to be rated for his tithe of hops, and the Commissioners do not see that the distinction between the ordinary and extraordinary charge required by the Act 6 and 7 Wm. 4, c. 71, s. 42, to be made in the commutation of such tithe, in any way affects that liability. The 69th sec. of that Act expressly provides, that every rent-charge payable instead of tithes shall be subject to all parochial, county, and other rates, in like manner as the tithes commuted for such rent-charge have previously been subject.

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2. EASTER OFFERINGS, WHERE COMMUTED.

Jan. 22nd, 1846.

Vicar of ————.—It is stated to be the intention of the overseers of ————, to assess him to the poor's-rates for the rent-charge, in lieu of Easter offerings, which were commuted; but as he had never paid rates for such offerings before commutation, nor been considered liable to do so by the parish authorities, he considers he is exempted by the 69th section of the Commutation Act, (6 and 7 Wm. 4, c. 71.) Requested the Commissioners' opinion thereon.

Ans.—Whether oblations are rateable under the law as it stood, before the passing of the Act referred to, (6 and 7 Wm. 4, c. 71,) as constituting a part of "the ability of the parson, or vicar," is a point perhaps not quite free from doubt. It is necessary to bear in mind that parsons and vicars under the statute of Elizabeth, are not rateable in respect of tithe as tithe, but are rateable generally, in respect of their ability, and tithe, as usually constituting the chief source of their ability, is also, by consequence, usually the chief subject of consideration, in rating the clergy. Accordingly before the Tithe Commutation Act was passed, a rent charge in lieu of tithes was rateable. Some authorities also exist for rating the clergy for oblations and offerings, which are said to be liable to the rate (see 1 Nol. 145.) In the case of Rex *v.* Carlyon, 3 Term Rep. 385, it was distinctly said by Lord Kenyon, "oblations and other offerings which constitute the rectorial or vicarial dues are rateable." Assuming that Easter offerings were so rateable, and the Commissioners are disposed (on the authority of the case last referred to) to think they were, they see nothing in the 69th section of the Act cited by you, which operates as an exemption from such liability. That section renders "every rent charge payable instead of tithes, subject to all parliamentary, parochial, and county and other rates, charges, and assessments, in like manner as the tithes commuted for such rent charge have heretofore been subject." It, therefore, confines the liability to the rate, in virtue of that provision, to rent charge payable in lieu of *tithes*,—the case of rent charge payable in lieu of oblations, offerings, or other customary payments is not provided for. The provision, therefore, appears to the Commissioners, to leave the liability of a rector or vicar to be rated in respect of oblations, or offerings, as it stood before the commutation was effected.

XVIII.—REGISTER BOOKS.

COST OF PROVIDING, WHERE CHURCH-RATE REFUSED—POOR'S-RATE NOT LIABLE.

February 23rd, 1846.

Rev. ———— —In the township of which he is incumbent, they had been unable for several years to obtain a church-rate, and, therefore, he had provided the baptismal and burial register books at his own expense, but he could not any longer provide them. There is no other place for interment within the township, and a burial register-book is urgently wanted. Inquired whether the select vestry (under Sturges Bourne's Act,) of the township is empowered to provide register books out of monies coming into their hands, and can they, upon refusal, be compelled to do so. The registrar-general states that "the Act of 6 and 7 Wm. 4, c. 86, s. 1, has repealed so much only of the Act of 52 Geo. 3, c. 146, as relates to the registration of marriages — the second section of that act, therefore, is still in full force, so far as it relates to the registration of baptisms and burials."

Ans. For the purposes of an ecclesiastical register for baptism, (not births) and deaths, the law on the subject, as regulated by 52 Geo. 3, c. 116, has not been altered by the late Act of 6 and 7 Wm. 4, c. 86. The former of these Acts (sec. 2) provides, that books, *i.e.*, registers, in conformity with the forms in the schedules to the Acts, are to be furnished by the church or chapel-wardens, at the expense of the parish or chapelry, whenever required by the rector, vicar,

curate, or officiating minister. The statute, it will be seen, while it throws the charge of providing the books for the register on the parishes concerned, does not go on to specify *any fund* from which the payment is to be made. The question arises, therefore, whether the poor's-rate can be lawfully resorted to for the purpose, and the Commissioners are of opinion that it cannot, and for these reasons:—The object is one wholly unconnected with the relief of the poor, or the administration of the Poor Laws. The persons charged with the duty of providing the books, are ecclesiastical officers. It is true that churchwardens, who are mentioned, are by virtue of their office, overseers of the poor, but it is clear both from the nature of the duty itself, as well as from the terms of the statute, that it is in their character as ecclesiastical officers, that the duty is cast upon the churchwardens. It is possible, therefore, that they might be justified in making the payment out of any church-rate raised in the parish; on this, however, the Commissioners are not called upon to give an opinion. The Commissioners apprehend, that a select vestry appointed under Sturges Bourne's Act, 59 Geo. 3, c. 12, are clearly not bound to provide the register books you speak of, neither are the monies at their control, as a select vestry, available for the purpose. The only fund over which they have a control, is the poor's-rate, and that fund is not, for the reasons already assigned, in the opinion of the Commissioners, liable.

XIX.—REGISTRATION.

DIVISION OF EXPENSE OF ENTRIES IN CERTIFIED COPIES OF MARRIAGES PERFORMED IN PARISH CHURCH, OF PERSONS LIVING IN DIFFERENT TOWNSHIPS.

December 24th, 1845.

Clerk of the —— Union—The parish church of R., is situate in the township of C. At this church, parties have been married who were resident in the different townships in the union, and some of them even out of the union. As persons from townships not in the union, could be married at this church;—inquired whether, in the accounts, he could divide the sum paid to the clergyman for entries in the certified copies of marriages, amongst the several townships in the union, according to the averages, or, as the marriages had all taken place in the township of C., the whole sum should go to the debit of that township; if so, it would be felt as an injustice to the township.

Ans. The 1st Vic., c. 22, provides that "the said superintendent registrar shall pay, or cause to be paid to the said rector, vicar, or curate, the sum of 6d. for every entry contained in such certified copy, which sum shall be reimbursed to the said superintendent registrar, by the guardians or overseers of the union, parish, or place for which he shall be appointed superintendent registrar, as aforesaid, in like manner as by the said act (6 and 7 Wm. 4, c. 86,) is provided for the payment of the registrar, on production of his accounts to the superintendent registrar." This enactment, however, omits to provide for the apportionment of the fees so paid among the places comprised in a union. In ordinary cases there is no difficulty in apportioning the fees amongst the parishes or townships in a union, in respect of which the charges are respectively incurred. In the present case, which is quite anomalous, the apportionment amongst the several townships, cannot be calculated by reference to any principle applicable in ordinary cases. The Commissioners recommend, therefore, that the guardians should pay the money as a common charge, and not attempt an apportionment, which it would be impossible to support.

XX.—RELATIONS.

1. LIABILITY OF GRANDCHILDREN TO SUPPORT GRANDFATHER.

February 17th, 1846.

A. R.—He is seventy-nine years of age, and in destitute circumstances, but having a grandson, who is able to contribute to his maintenance, inquired, whether the grandson was compellable, by law, to make such contribution.

Ans. It is doubtful whether a grandchild is liable, in law, to support the grandfather. The terms of the 7th sec. of the 43rd Eliz., c. 2, impose the obligation upon "children" merely, and it remains to be decided, whether the word "children," as employed in that sec., is to be taken to include "grandchildren." It is true that in Waltham v. Sparks, 1 Bott. 439,—Holt, C. J. said, that the word "children" in this statute, included grandchildren, but there has never been any express decision on the point. The Commissioners desire to add, that if you are destitute, the officers acting on behalf of the parish in which you are residing, will be bound to relieve you, if you apply to them.

2. MAINTENANCE OF STEPMOTHER.

February 23rd, 1846.

Clerk of the Easingwold Union—Stated, that out-relief of 5*s*. per week is granted by one of the townships in the union to a pauper and his wife on account of the age and sickness of the man. Application has been made to the pauper's son for repayment of the relief, but although of sufficient ability, he refused to pay more than 3*s*. per week, being the relief, as he asserts, actually paid to his father, the other 2*s*. being relief given to the wife, who is only step-mother to the son. Inquired whether the son had good grounds for refusing to repay the whole relief, the township contending that the relief of 5*s*. was given to the husband entirely, and proceedings before justices were about to be taken.

Ans.—The 7th sec. of the 43 Eliz. c. 2, is held by the courts to apply exclusively to natural relations. It has been decided, for example, that a man is not liable under that sec. to support his mother-in-law, (R. *v.* Munday, 1 Strange, 190,) and the Commissioners apprehend that, on the same principle, he is under no obligation to maintain his step-mother. But of the amount to be paid for the support of the father, the justices are to decide.

3. PROCEEDINGS TO ENFORCE MAINTENANCE BY.

Feb. 28th, 1846.

Clerk of the Alderbury Union.—A poor person became chargeable to the union, who has relatives capable of supporting him, but refuse to do so. Inquired, 1. whether the board of guardians should relieve the pauper and apply for an order of maintenance against the relatives; 2, whether the maintenance ordered to be paid by the relatives should be received by the overseers or by the relieving officer; and 3, whether the board, taking into consideration the sum to be contributed by the relatives, should regulate the amount of relief to be given to the pauper, and leave him to get the deficiency from the relatives.

Ans.—In cases such as you have described, it seems to the Commissioners, that the guardians should give needful relief to the poor person; for, until chargeable to the parish, no order on the relatives under the 43rd Eliz. c. 2, and 59th Geo. 3, c. 12, can be made. The order should be in favour of the churchwardens and overseers of the parish which is charged with the relief, (Reg. *v.* Toke, 8 Adol. and Ellis, 227). It seems to the Commissioners that the person ordered to be maintained, cannot obtain, under the order, from the relatives who are to maintain, the weekly payments directed by the order. The order being in favour of the overseers, or rather of the parish, the overseers can alone enforce the order, after the parish has in fact been charged. Where in a case in which an order has been made, the relatives made liable by such order are willing to make an allowance to the poor relation equal to that named in the order, without the intervention of the parish authorities, all the guardians will have to consider will be—whether the allowance is sufficient for the support of the poor person, and, if not, to supply the deficiency. But where such an arrangement between the parties to maintain and to be maintained respectively cannot be made, but the enforcement of the order becomes necessary, then it will be for the guardians to fix the amount of the relief with reference to the actual necessities of the poor person, without taking into consideration the liabilities of the relatives as regards the parish. This liability, as already explained, will be subsequently enforced by the overseers.

XXI.—RELIEF.

1. OF NON-SETTLED IRISHMAN, CHANGING PLACE OF RESIDENCE.

September 8th, 1845.

Clerk of the Richmond (York) Union—T. C., an Irishman, not having any settlement in England, became chargeable to the parish of Richmond, on account of sickness, and has received relief for nearly three years; a few months ago he left Richmond and went to reside in the township of Hepswell, in the same union, his relief being charged to the parish of Richmond, during part of his residence in Hepswell. The guardians of Richmond now object to the relief being charged to their parish, and Hepswell also object to its being charged to that township. Inquired to which parish or township during the pauper's residence in Hepswell should his relief be charged, both places appearing unwilling to remove him to his own country.

Ans.—As the pauper had no legal settlement in the Richmond union, the only ground which could justify the charging of the relief given to him, to the parish of Richmond in the first instance, was the fact of the pauper having become destitute in Richmond during his residence there, and requiring relief. But this liability on the part of Richmond to afford the relief could not continue longer than the pauper's continuance in

the parish. When the pauper went to reside in Hepswell, and in like manner required relief while there on the ground of destitution, the same reasons which warranted the charging of the relief to Richmond, would warrant the charging of the relief given subsequent to the removal, to Hepswell. It appears to the Commissioners to be immaterial whether on the pauper's leaving Richmond there was an actual interruption to the receipt of relief, or not. If, indeed, there were at this time a cessation of the relief, and a new application were made in Hepswell, the case would be stronger against the latter township, but otherwise the Commissioners think the guardians cannot legally continue to charge Richmond with the relief given while the pauper is in Hepswell; at all events, not without the concurrence of the overseers of Richmond.

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2. OF FEMALE PAUPER COMMITTED TO PRISON AND HAVING A CHILD BORN THEREIN.

January 28th, 1846.

Clerk of the Warminster Union—The governor of the county gaol had, by direction of the magistrates at quarter sessions, applied to the master of the workhouse for baby-linen for a child of which E. P. had been delivered, while a prisoner for the offence of deserting her children, by leaving them in the workhouse. Her term of imprisonment has now expired, and she will be well enough in a day or two to be removed to the workhouse. Inquired the Commissioners' opinion on the case.

Ans.—While the child continues in the county gaol with its mother, it cannot be said to be destitute in the sense of the Poor Laws; and, consequently, the guardians are under no legal obligation to afford relief to the child, or to furnish the clothing or linen which is stated to be required by the mother in her present circumstances. The fact that the mother was committed for the offence of deserting her children and leaving them chargeable to the parish, *i.e.*, for an offence against the Vagrant Laws, is, in the view of the Commissioners, an entirely unimportant circumstance, so far, at least, as it may be supposed to cast a liability on the parish to comply with the present demand, which would not otherwise have existed. That the mother during her term of imprisonment is to be maintained at the charge of the county is sufficiently clear from the 10th section of the 4 Geo. 4, c. 64. And as the child, by reason of its tender years, cannot be separated from the mother, an obligation to provide for its actual wants seems necessarily to rest on the authorities of the gaol. But, however this may be, it appears to the Commissioners that persons while resident in a gaol are in a situation which does not give the guardians any direction or control over them, or the administration of relief to them, or any duties or responsibilities connected with such relief. The Commissioners would add, that if, upon the discharge of the mother, she should become destitute in the parish in which the gaol is situate, or in any other parish of the Warminster Union, it would of course be the duty of the guardians, or their officers, to afford such relief to her or to her child as may be required by the circumstances of her situation.

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3. OF SEAMAN IN THE FOREIGN SERVICE, WHO HAD MET WITH AN ACCIDENT.

February 9th, 1846.

Captain Hamilton, R.N., Admiralty—Transmitted copies of correspondence, relative to the case of a seaman, in a Dutch East Indiaman, which had been driven into an English port, through stress of weather—the seaman having met with a severe accident, by a fall from the fore-yard, it became necessary, in order to save the man's life, that he should be admitted into a hospital, or infirmary, on shore. Inquired whether, if the accident had happened to an English subject, he would have been admitted to the infirmary of a union workhouse, and, also, whether a foreigner would be admissible.

Ans. As far as the right to relief is concerned, a foreigner is in the same condition as an Englishman. If a foreigner is landed in this country and becomes destitute, he is entitled to relief at the charge of the parish in which he is destitute. In such a case as that described, he would be attended by the parish, or union medical officer, and if that were judged by the guardians the most convenient and safe course, he would be received into the workhouse provided for the parish, or union. Until, however, he is landed and within the boundaries of an English parish, and in a condition, therefore, to make the necessary application for relief, no legal obligation, on the part of the parish, or of the authorities, arises, to afford such relief. A foreigner having no settlement in England, is incapable of removal, as in the case of an Englishman having no known settlement. The parish in which, therefore, he first became destitute, on his landing,

would be bound to continue the relief, medical or otherwise, so long as the destitution might continue.

XXII.—REMOVAL.

1. OF MOTHER WITH CHILD BORN AFTER ORDER MADE BUT NOT EXECUTED.

May 8th, 1845.

Clerk of the Buntingford Union—An order was made for the removal of a pauper with his wife and four children, but on the day the removal was to take place, the woman was delivered of a child. Inquired whether under such order if suspended, the removal can take place, or the child being an increase in the number of the family specified in the order, it would be necessary to commence proceedings *de novo*.

Ans.—It does not appear to the Commissioners necessary that in the case to which your letter refers, a fresh order of removal should be obtained. The existing order can be suspended, if the mother is unable to travel, and, upon the removal of the suspension, can be executed as to the persons mentioned in it. The child which has been born since the order was obtained cannot be separated from the mother. If the mother is removed, the child must accompany her as a matter of course, though not mentioned in the order.

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2. OF SCOTCH AND IRISH PAUPERS UNDER 8 AND 9 VIC., C. 117.

November 20th, 1845.

Clerk of the Rochdale Union—Inquired by whom and in what way the expences of removals of Scotch, or Irish, &c. paupers, under the Act of last session (including the expences of the magistrate's summons and order) should be paid and charged?

Ans.—The second section of the Act of 8 and 9 Vic., cap. 117, appears to the Commissioners to require that the expense should be borne by the union, in the case of a pauper chargeable to a parish within the union, and by the parish, in the case of a pauper chargeable to a parish not in a union. The section enacts that a pauper shall be removed "at the expense of such union, or parish," and the Commissioners think that these words are not to be read as merely alternate expressions, but that they are to be referred to their antecedents, according to the rule "reddendo singula singulis," so that the union shall be charged where there is a union, and the parish where there is no union.

XXIII.—SETTLEMENT.

1. OF WIFE AND CHILDREN OF IRISHMAN.—ORDER FOR THE REMOVAL OF A WOMAN BEFORE MARRIAGE LOST,—PROOF NECESSARY.

October 11th, 1845.

Overseers of Llanbeblig, Carnarvon Union—Four children, who had been deserted by their parents, had been relieved by the parish for about two years. D. W., the father, is an Irishman, and his wife, A. W., is a Welshwoman, and they had been in the receipt of relief for several years from the parish of Llangeinwen, in this union, being the wife's maiden settlement, in right of her father. About thirty years ago, A. W., when single, was removed by order of justices, as part of her father's family, from Llanbeblig to Llangeinwen, against which order there was no appeal. The order cannot now be found, but proof can be given that it was in existence, and that relief had been granted under it by the former parish officers of Llangeinwen, such relief being continued to D. W. and his wife and children up to the end of 1843, when the parish officers of Llangeinwen discontinued it. Neither D. W., nor his wife, ever held a house, lodging, or room, in the parish of Llanbeblig, but resided there a very few days, in passing from one place to another. Inquired whether the children could be removed to the mother's maiden settlement.

Ans.—If, as is probable, the father, being an Irishman, has no settlement in England, then the children can be removed to the settlement which their mother had prior to her marriage. This is stated by you, to be Llangeinwen. You state, also, that about thirty years since, A. W., while single, was removed by an order of justices from Llanbeblig to Llangeinwen, as a part of her father's family, against which there was no appeal. The order, therefore, is not only conclusive of the settlement adjudicated by it (*i.e.*, as the Commissioners collect from your statement, the settlement of A. W.,) but also, of her children, who derive a settlement from her. (Rex *v.* Catterall, 6 M. and S. 83.) Of course, if the order be in existence, it should be produced before the justices who may now be applied to to remove the parties, together with proof that the order was put in execution; but if the order be really lost, and proof of due search and of the loss be given, other evidence is admissible to prove the making

of the order by the justices, and its due execution by the officers of the parish in whose favour it was made. It will likewise be necessary that the examination should set out, either that the order of removal was produced before the removing justices, or that evidence was given to show that it was lost, or could not be obtained. The Commissioners would add, that relief given by the overseers of one parish to paupers resident in another parish, is evidence of a settlement in the relieving parish, and where (as in the present instance) relief has been so given for a number of years, cogent evidence. It is not, however, conclusive, and it is open to Llangeinwen, the parish which gave the relief to A. W. and her family, while residing elsewhere, to show, if they can, that it was given under a mistake.

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2. BY ESTATE. NECESSITY OF RESIDENCE IN THE PARISH IN WHICH THE ESTATE IS SITUATE.

January 24th, 1846.

Rev. O. J. Humphreys, Corwen Union—A pauper named J. P., chargeable to the parish of Llansantfraid Glyn Ceiriog, in this union, came into possession, on the death of his father, of a small freehold farm in the parish of Llangadwaladr. The farm, being mortgaged, was sold by the said J. P. He never resided at the farm after it came into his possession, and consequently did not pay rates or taxes. He had since become chargeable to the first-named parish, in which he resided. J. P. did not reside in the parish in which the estate was situate, while his interest in the estate continued, but he always resided within two miles of the estate, except on one occasion, that he was imprisoned in Ruthin Gaol, which was above ten miles from the estate. Inquired whether the pauper had acquired a settlement in the parish in which the estate was situate.

Ans.—No settlement has acquired by the mere possession of the property, it being necessary to the acquisition of a settlement by estate that the owner should reside for forty days in the parish in which the estate lies, whilst his interest in the estate continues, (R. *v.* Sowton, Burr, S.C. 125, 2 Bott. 675, R. *v.* St. Nyott's, Burr, S. C. 132.) But had the case been otherwise, had there been such a residence in the parish of Llangadwaladr, as, coupled with the possession of the property, was sufficient to have conferred a settlement by estate, it would appear that the pauper lost it when he was committed to Ruthin Gaol, by which circumstance (though the act of the law,) he ceased to reside within ten miles of the parish in which the estate was situate. (Reg. *v.* Whissendine, 1 G. and D. 560.)

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3. BY ESTATE. ON MARRIAGE, PASSES TO THE HUSBAND.

February 16th, 1846.

Clerk of Chipping Sodbury Union—J. W. built a house on the waste, in the parish of A., about twenty years ago. The lord of the manor afterwards took possession, but granted a lease for lives at a nominal rent. J. W. died, leaving the property to his son, W. W., who also died, leaving his wife with three children, in possession of the property. W. W., the son's widow, afterwards married a man named P., belonging to the parish of B., who resided with the woman in the house. He was in gaol for theft, leaving his wife and children chargeable to the parish in which the property was situate. Inquired whether the man's settlement was transferred to the woman, or the woman's transferred to the man.

Ans.—As the estate referred to was merely a leasehold, in both J. and W. W's. case, and the rental was under £10 a year, neither of these acquired any settlement in respect of it, (6 Geo. 4, c. 57.) For the same reasons, neither W. W.'s widow, nor his children, gained any settlement by the possession of this property. But on the widow's marriage with P., her share of the estate passed to her husband by operation of law, and if he resided within the parish for forty days, he acquired a settlement in respect of such estate accordingly, (R. *v.* North Cerney, 3 B. and Ad. 463.) If he has continued to reside since his marriage, within ten miles of the parish, he still retains that settlement, but otherwise he has lost it (4 and 5 Wm. 4, c. 76, s. 68.) The wife follows her husband's settlement, and therefore, on P.'s acquiring the settlement by estate, such settlement was communicated to his wife, although the estate itself was not such as to confer a settlement upon her before the marriage (see R. *v.* North Cerney, already cited.)

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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. 58.] CIRCULAR ISSUED APRIL 1, 1846.

Poor Law Commission Office, Somerset House, April 1, 1846.

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.—ACCOUNTS.

1. CONSTABLES' EXPENSES—LAW BILLS.

March 17th, 1846.

Clerk of the ———— *Union*—The magistrates, under the recent statute, require the constables to bring before them bills for all business done