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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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. 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.

Page
I.—ACCOUNTS:
1. Constables' Expenses—Law Bills 49
2. Examination of by Guardians—Carnarvon Union 50
II.—APPRENTICESHIP: Power of Guardians to apprentice Orphan who is not a Pauper—Preston Union... 51
III.—CLERK: Whether bound to attend to give evidence in Settlement cases—Marlborough Union 51
IV.—CONTRIBUTION: Levy of, upon Overseers' goods—Newport (Monmouth) Union 51
V.—CORONER: Claim of, to Fees out of the Poor-rates ... 51
VI.—ELECTION OF GUARDIANS:
1. Definition of Art. 29 of the General Election Order of January 27th, 1845—Circular 52
2. Nomination Papers—Cheltenham Union 52
3. Owners' Claims—Northampton Union 52
4. Qualification of Guardian, whose name is omitted in rate-book—Sheppey Union 52
5. Time for declaring newly-elected Guardians—Reading Union 52
VII.—GUARDIAN:
1. High Constable eligible for the office 53
2. Liability of Guardian, for supplying Goods to Relieving Officer for the use of the Poor, to a penalty—Worcester Union 53
3. Power of, to require production of Minutes of Vestry—Payment of remuneration to Guardian for serving office—Cardigan Union 53
VIII.—LUNATIC: Reception of wandering Lunatic into Workhouse 54
IX.—MEDICAL OFFICER OF WORKHOUSE:—Whether entitled to Fees for post-mortem examinations, by order of Coroner 54
X.—MEDICAL ORDER: Mode of Charging fees payable under—Devizes Union... 55
XI.—OVERSEERS: Liability of for the Default of Assistant Overseer in payment of contributions, &c.—Bury (Lancaster) Union... 55
XII.—PARISH COTTAGES: How to obtain possession of... 56
XIII.—PAUPERS:
1. Employment of, in oakum-picking—Romsey Union 57
2. Refusal to leave the Workhouse and accept work, for want of a residence in the parish 57
XIV.—POOR-RATE:
1. Whether Guardians can pay Poor-rates for permanent Paupers—Chertsey Union 57
2. Delay in making Poor-rate, and borrowing money to meet calls—Thrapstone Union 58
3. Dividing parishes for the purposes of rating—Parish of Callington 58
4. Publication of Poor-rate on Church doors, &c.—Wigan Union 58
XV.—PROPERTY AND INCOME TAX: Cost of maintenance of Workhouse officers to be assessed—Stone Union 59
XVI.—RATING:
1. Railway and appurtenances 59
2. Rent-charge—Deductions for Curates' stipends—Cardiff Union 60
XVII.—RELATIONS: Liability of step-son for the support of his father and step-mother—Uckfield Union
XVIII.—RELIEF: Of able-bodied—Discretion of Relieving Officers, &c., to give orders for the Workhouse—Southwell Union... 60
XIX.—REMOVAL:
1. Cost of maintenance, pending appeal against orders of—Towcester Union 60
2. Expenses under order of—Martley Union 61
XX.—SETTLEMENT:
1. Removal of child of married woman by a former husband—Stokesley Union... 61
2. —— Of a bastard child whose mother afterwards married—Wareham and Purbeck Union 62
3. —— Of wife of transported felon, and of her children by re-marriage—New Forest Union... 62
XXI.—VAGRANCY: Neglect to maintain family—Proof of chargeability—Meriden Union 63
XXII.—VAGRANTS:
1. Payment of inspector of vagrants' lodging-houses—St. Chad's, Shrewsbury 63
2. Person deserting family, discharged by Justices, on giving security for repayment of relief—Sheffield Union 63
XXIII.—VESTRY MEETINGS: Qualification of voters—Proxy—Cardigan Union 64
XXIV.—WORKHOUSE: Examination of visitors to—Prohibition of articles being carried into 64

(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

by such constables within their parishes. The magistrates, when they approve of any such bills, sign them, and make an order upon the parish officers, to pay them; but the auditor refuses to allow any charges that may not be for parish business. The guardians are of opinion that the auditor has not taken a correct view of the statute. In parish appeals, also, the auditor refuses to pass any solicitor's bill, that has not been taxed by the clerk of the peace. The board of guardians are of opinion that it is optional for the parish or the solicitor to have the bill taxed by the clerk of the peace, and that when it is not taxed it is the duty of the auditor himself to strike out anything that may be objectionable, and to allow the remainder; but this he refuses to do, and the parish officers, having paid the bills, are without any remedy.

Ans.—In reference to the question of constables' expenses, the Commissioners direct attention to Number 30 of the *Official Circular*, p. 164, which contains the opinion of the late Sir Wm. Follett and Mr. Tomlinson, upon a case submitted to them by the Commissioners respecting the construction of the Parish Constables' Act, 5th & 6th Vict. c. 109, sec. 17, as to what fees could be properly paid to parish constables out of the poor-rates under that section. It will be seen that the purport of such opinion is, that the fees or allowances to constables out of the poor-rates under that Act, are not limited to those cases in which the constable's services have been required in a matter of parochial concern. The Commissioners, when applied to on this subject, have always suggested that the view expressed in that opinion should be acquiesced in by overseers, auditors, and others. Upon the second point adverted to, the Commissioners do not see that the auditor can insist on the taxation of an attorney's bill, which has not been taxed, when the account containing the payment comes before him. It is bills which are due to any solicitor or attorney in respect of business performed on behalf of any parish or union which are to be taxed by the clerk of the peace on application, (see sec. 39, 7 & 8 Vict. c. 101.) But when any such account has been paid by an overseer, without taxation, (and it must have been paid before the charge can appear in the accounts,) then it is no longer a bill "due to any solicitor or attorney." Where a bill is not taxed previously to its discharge by the overseers or guardians, the auditor will very properly exercise his judgment with respect to the bill, and judge for himself of the reasonableness and legality of the charges; and his decision (as the 39th section of 7 & 8 Vict. c. 101, shows,) is final in such case. In such case, any deduction made from the bill by the auditor will be the loss of the officer who has paid the account, and, for his own protection, therefore, he should previously insist upon the taxation of the bill by the competent authority.

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2. Examination of accounts by guardians.

February 3rd, 1846.

Clerk of Carnarvon Union—Inquired, what is the duty of the guardians in reference to the examination of the union accounts; and to what extent, as to time, their attention should be directed to them.

Ans.—The Commissioners presume, that this inquiry has reference to the regulation in Article 14 of their General Order on the Proceedings of Boards of Guardians, which directs (*inter alia*) that the guardians "shall examine all books and accounts relative to the relief of the paupers of the union." The books and accounts more especially referred to by that Regulation, are those mentioned in the following Articles of the General Order on the Duties of Officers, namely: Article 19, No. 3, which directs the treasurer to render an account of all monies received and paid by him, as such treasurer, when required of the guardians to do so. This must, in fact, be done at every meeting, as entries of all money transactions should appear on the minutes. Article 19, No. 3, which directs medical officers to make a weekly return to the board of guardians, in Form B, annexed to the General Order. Article 20, No. 11, which requires the relieving officer to keep a separate, full, and true account of all monies received and disbursed by him, for, or on account of, the relief of the poor of each parish in the district for which he acts; to balance such account weekly, and submit the same to the guardians at every ordinary meeting of the board for their approval. Article 74, No. 17, of the General Workhouse Rules, which requires the master of the workhouse to submit all books of accounts which he is required to keep, to the board of guardians at their meetings. With respect to the extent, as to time, to which the guardians should devote their attention to this part of their duties, the Commissioners cannot lay down any definite rule; it is a matter on which the guardians must act on their own judgment and discretion, according to circumstances. The Commissioners would merely remark, that it

is (as the guardians are, doubtless, aware) a point of great importance, with a view to the interests of both the ratepayers and the paupers, and to ensure a correct discharge of their duties by the respective officers, that the books and accounts of the latter should be regularly and carefully examined and checked by the guardians, at short intervals. They are on the spot, and are cognizant of all the details which enable them at the moment to clear up any doubtful point, and correct any inaccuracy. When the clerk inspects the books of the officers, as required by Article 20, No. 11, of the Order on the Duties of Officers, and Section II. No. 12, of the General Order of Accounts, he should point out any errors or false entries which he may discover, to the board of guardians at their next meeting.

II.—APPRENTICESHIP—Power of guardians to apprentice orphan who is not a pauper.

March 22nd, 1845.

Clerk of Preston Union—Inquired whether the guardians have power to apprentice an orphan boy who is not chargeable to any parish in the union.

Ans.—The 43rd Eliz. does not require the child to be chargeable before he is apprenticed, the overseers being empowered to put out as apprentices the children of such parents as they believe to be unable to maintain them. If previous chargeability may be dispensed with in the case of a child whose parents are living, there seems to be no reason why it must be insisted on in the case of an orphan.

III.—CLERK—Whether bound to attend to give evidence in settlement cases.

Jan. 19th, 1846.

Clerk of Marlborough Union—Inquired whether he is bound by any regulation of the Commissioners to attend in order to give evidence, at a distance of between thirty and forty miles, on the examination of a pauper as to his settlement, to prove the fact of relief having been administered to some ancestor of such pauper; and whether he must furnish any books, papers, or accounts, that may be asked for in relation to this case.

Ans.—The Commissioners have issued no order which requires the clerk of the board of guardians to attend as a witness, on any inquiry as to the settlement of a pauper. He is under the same obligation to obey the subpœna in this case as in any other, but no more. It seems clear, from the decision of the court of Queen's Bench, in the Queen *v.* Greenway, and the Queen *v.* Carey, 14 L. J. R. n. s., M. C., 490, that if you are served with a subpœna, *duces tecum*, you must take all such books, documents, and papers as are in your possession.

IV.—CONTRIBUTION—Levy of, upon overseers' goods.

February 27th, 1846.

Clerk of Newport (Monmouth) Union—Inquired whether the landlord of an overseer on whose goods a distress has been levied for the recovery of contributions due to the Union, can distrain on the same goods for rent, and thereby supersede the proceedings of the guardians.

Ans.—The Commissioners think that a distress issued against the overseers under the 2 and 3 Vic. c. 84, for non-payment of a contribution order, is a taking of goods by execution within the statute 8 Anne, c. 14, s. 1, and that such distress is so far controlled by that provision as to give the landlord, if he have a claim for rent, the prior right to have such claim satisfied if it do not exceed one year's rent. The proper course, as will be seen by the provision contained in the statute of Anne, is for the person executing the distress before he removes the goods from the premises to pay the amount of the claim. If, however, one overseer has not sufficient assets, the other overseer or overseers can still be proceeded against for the amount in arrear.

V.—CORONER—Claim of, to fees out of the poor-rates.

Jan. 9th, 1847.

Mr. ————, *District Auditor*—Inquired whether coroners can claim to be paid fees out of the poor-rates for inquests in which verdicts of felo-de-se or manslaughter have been returned; a coroner in his district having claimed such fees under the authority of the 3rd of Hen. 7, c. 1, and the 12th of Geo. 2, c. 29.

Ans.—The statute which ought to have been cited as providing for the payment of the fee to the coroner in such cases, is the 25 Geo. 2, cap. 29, sec. 3, which continues the statute 3 Hen. 7, cap. 1. The latter statute provides that the coroner's fee of thirteen shillings and fourpence shall be paid out of the goods and chattels of the slayer, or, out of the amerciament upon the town-

ship; which amerciament is imposed when the slayer escapes. The act 1 Vict. cap. 68, provides further for the expenses of the coroner's inquest to be paid out of the county rate. But none of the statutes impose any charge upon the poor-rates in respect of such expenses.

VI.—ELECTION OF GUARDIANS.

1.—DEFINITION OF ART. 29 OF THE GENERAL ELECTION ORDER OF JANUARY 27TH, 1845—CIRCULAR.

Poor Law Commission Office,
Somerset House,
March 9th, 1846.

SIR,—I am directed by the Poor Law Commissioners to call your attention to Art. 29 in their General Election Order, which provides that whenever the day appointed therein for the performance of any act shall be a Sunday, such act shall be performed on the day following.

The Commissioners are informed that some misunderstanding prevails as to the extent of this provision, and desire me to point out to you that it is only the act which is to be done on the day which happens to be Sunday in any particular year which is postponed. All the other proceedings must take place on the days specified in the order.

Thus in the present year, as the 15th of March will fall on a Sunday, the notice of the election, if not published before the 16th, may be published on that day, and, as the 5th of April will fall on a Sunday, the voting papers must be delivered on the 6th and collected on the 7th.

I am, Sir, your obedient servant,
W. G. LUMLEY,
Assistant Secretary.

The Clerk to the Guardians.

2. NOMINATION PAPERS.

March 28th, 1846.

Clerk of Cheltenham Union—Has received two nominations of guardians from a parish in the union entitled to elect *two* guardians. One nomination paper contained the names of *two* persons and the other the names of *three* persons. Inquired whether the nomination containing the names of three persons should be treated as a nullity?

Ans.—The Commissioners think that a nomination paper containing the names of a greater number of candidates than there are guardians to be elected for the parish, is void for uncertainty, and should, therefore, be rejected by you.

3. OWNERS' CLAIMS.

February 27th, 1846.

Clerk of Northampton Union—Inquired whether it is necessary that owners registered last year claiming to vote at the election of guardians, should claim and be registered again previous to voting at any subsequent election; the qualification remaining the same. The Commissioners had expressed an opinion, (*Official Circular*, No. 26, p. 102,) that owners need not send in a fresh claim, but that opinion having been given before the passing of the 7 and 8 Vic. c. 101, the inquiry is made with reference to the 15th sec. of that act.

Ans.—The Commissioners do not think it necessary under sec. 15 of 7 and 8 Vic. c. 101, that persons duly registered last year as owners, claiming to vote at the election of guardians, should claim and be registered again to entitle them to vote at the election in the present or any subsequent year, the qualification of such persons to vote as owners remaining the same.

4. QUALIFICATION OF GUARDIAN WHOSE NAME IS OMITTED IN RATE-BOOK.

March 24th, 1846.

A ratepayer, Sheppey Union—Mr. B—., a guardian of the union, was, from some unknown cause, omitted from the poor-rate in the last quarter. In the last rate, however, the overseers rated him again to the same property. Inquired whether Mr. B. is disqualified from sitting as guardian for the parish for the ensuing year, through the omission in the former rate.

Ans.—If Mr. B. is actually rated to the poor-rate in some parish in the union, when the election of guardians for the ensuing year takes place, he will be eligible to be elected a guardian, presuming, of course, that he is rated in respect of hereditaments of the annual value or rental required as a qualification for a guardian of the Sheppey Union. The fact of his name having been omitted from a poor-rate during the last quarter, will not at all affect his eligibility to be elected a guardian, if he is rated as above stated, at the time when the election takes place.

5. TIME FOR DECLARING NEWLY-ELECTED GUARDIANS.

March 21st, 1846.

Clerk of Reading Union—Inquired when, in the

event of there being no contest for any of the parishes in the union, will be the latest period after the 26th March, that he must declare the newly-nominated board of guardians for the ensuing year. A meeting of the board is to be held on the 2nd April for the purpose of examining the bills for the quarter ended 31st March, and for the election of a registrar for one of the districts of the union; and the inquiry is more particularly made with a view to ascertain in whom, under the circumstances, the election of a registrar is vested—in the present board of guardians, or the guardians which may be elected for the ensuing year.

Ans.—If there is no contest in any of the parishes of the Reading Union, *i.e.*, if no more persons are put in nomination than there are persons to be elected for the parishes, of course the persons nominated (if otherwise qualified) will be the elected guardians for the ensuing year. Their election is complete under the order on the 26th March, the last day on which nominations can be received. The necessary notification to the guardians elected should, therefore, be made as soon after the 26th instant, as it can be done. Upon the supposition that there is no contest, the newly-elected guardians will be entitled to sit at the meeting of the board on the 2nd April. If, however, there is a contested election in any of the parishes, the declaration of the election generally should be delayed until such contested elections are brought to a close.

VII.—GUARDIAN.

1. HIGH CONSTABLE ELIGIBLE FOR THE OFFICE.

March 21st, 1846.

Mr. ————,—Inquired whether a person serving the office of high constable, and receiving his whole salary from the county rates, is eligible to be a guardian within the union he is resident in.

Ans.—There is nothing in the circumstance of a person serving the office of high constable, and receiving a salary from the source stated in your letter, which renders him legally ineligible for the office of guardian.

2. LIABILITY OF GUARDIAN, SUPPLYING GOODS TO RELIEVING OFFICER FOR THE USE OF THE POOR, TO A PENALTY.

Jan. 30th, 1846.

Chairman of Worcester Union—It frequently occurs that relieving officers are obliged to purchase a little tea and sugar, or a small quantity of meat, for the families of paupers in cases of urgent want. Inquired whether a guardian of the union would render himself liable to the penalty imposed by the 77th section of the Poor Law Amendment Act, if he supplied such articles to the relieving officer, for the purpose above adverted to.

Ans.—The terms of section 77 of the Act 4 & 5 Wm. 4, c. 76, clearly extend to, and include, a guardian of the poor. Whether, however, the fact of a guardian supplying the relieving officer with goods or provisions, under such circumstances as are described in your letter, would be an offence against the provision, is a point not free from doubt. If the relieving officer, in any case, gave a written or printed order on the guardian, to supply the pauper with provisions on the account, or credit, of such relieving officer, such a case would be directly within the provision cited, and the guardian would be liable to the penalty. But where, as in the case put, no such order is given, but the relieving officer himself purchases the provisions, with the intention of applying them in the relief of some destitute person, and the provisions are so given, or applied, it is certainly by no means clear that the guardian, by supplying the goods, would be offending against the statute; unless the circumstances should show that, at the time of the purchase, the guardian had a knowledge that the articles purchased were to be given in relief. It is certainly difficult to suppose a case in which a guardian would not know something as to the intended application of the provisions purchased under such circumstances by a relieving officer, if, indeed, such a knowledge on his part is not, by reason of the office he fills, in all cases to be presumed. Seeing, therefore, the doubt which exists, the Commissioners could not advise that articles required in cases of sudden and urgent necessity, should be purchased by the relieving officer of a person who fills the office of guardian or overseer of the poor.

3. POWER OF GUARDIANS TO REQUIRE PRODUCTION OF MINUTES OF VESTRY—PAYMENT OF REMUNERATION TO GUARDIAN FOR SERVING OFFICE.

September 19th, 1845.

Cardigan Union—The Commissioners having received a protest against Mr. ——— acting as guardian for the parish of A., on the ground that he received £20 per annum for executing the officer of guardian, overseer, and surveyor of

highways, caused a letter to be written to the guardians, requesting information on the subject. The guardians replied that they were unable to give the information asked for, in consequence of the Vestry Minute Book of the parish of A. being in the custody of the person against whom the protest had been made as overseer of that parish, and of his refusal to produce it to the guardians.

Ans.—(*To the Clerk*)—The guardians certainly have no means of compelling the production of the Vestry Minutes, which are officially in the possession of an overseer, and are, moreover, documents with which the functions of the guardians may be in no wise concerned. It is not alleged that Mr. —— is an assistant overseer. If he be not an assistant overseer, he does not appear to be disqualified from being guardian, on account of anything apparent in the protest of Mr. ——. For Mr. —— cannot be lawfully a paid overseer; nor can he be lawfully paid as a guardian, and any money he may affect to take from the poor's rate as remuneration for the execution of either of those offices or of surveyor of highways is recoverable from him, and is in no sense a payment of salary or emolument to him, and cannot, therefore, disqualify him under the 5 & 6 Vict. c. 57, s. 14.

VIII.—LUNATIC—RECEPTION OF WANDERING LUNATIC INTO WORKHOUSE.

March 10th, 1846.

——, —Two police constables found a person *wandering about* the town of C., in a "high state of insanity," whom they conveyed to the workhouse, two miles off, and the master, under the apprehension that they would leave him "raving" at the gates, was induced to take him in. Inquired whether the master acted rightly, as it is conceived that he was under no obligation to relieve the police from the custody of a madman.

Ans.—The master of the workhouse can, upon his own authority, admit a pauper who may be brought there in a destitute state, *i. e.*, if the case be that of a sudden and urgent necessity; and, therefore, when the occasion arises, it is his duty so to admit. In the present case the Commissioners are not prepared to say that the master did wrong in admitting the man brought to the workhouse in the mode described, though "he was in a high state of insanity." Speaking generally, the workhouse is not a fit place for the reception of dangerous lunatics, but under some circumstances, it may be the only available course, there may be no other place to which the lunatic can with safety be taken. Whether the police ought not to have taken the man elsewhere, is not a question for the Commissioners. Of course the master in any such case would do right in giving notice at once to the relieving officer, who, under section 48 of 8th and 9th Vic., c. 126, should bring the case before the justice, to be dealt with under that provision.

IX.—MEDICAL OFFICER OF WORKHOUSE—WHETHER ENTITLED TO FEES FOR POST MORTEM EXAMINATIONS, BY ORDER OF CORONER.

March 18th, 1846.

Medical Officer of —— Union Workhouse—Inquired, Whether in his capacity of medical officer to the union workhouse, it is part of his duty, by order of the coroner, to make *post mortem* examinations of bodies, and give evidence at inquests, without being paid the fees allowed by law to medical men in general for such services. A young woman was brought into the workhouse labouring under symptoms of poisoning by arsenic, the drug having been secretly taken several hours before her admission, and from the effects of which she died. He was ordered by the coroner to inspect the body, and give evidence at the inquest, both of which orders he obeyed. The coroner informed him that no remuneration was allowed by law to medical officers of union workhouses, for performing autopsies, and attending at inquests; that they came under the same denomination as surgeons of gaols, lunatic asylums, hospitals, &c.

Ans.—The Commissioners are not aware that the medical officer of the workhouse, when required by the coroner to make a *post mortem* examination of the body of a person dying in the union workhouse, is by law restrained from demanding or receiving the fees which, by 6 & 7 Wm. 4, c. 89, are directed to be paid by the coroner to medical practitioners ordered to make such examinations. The Commissioners think it probable that the coroner may have grounded his refusal to order payment of the usual fees in the case referred to, upon the following provision in the statute cited, sect. 5: "And be it enacted, that when any inquest shall be holden on the body of any person who has died in any public hospital or infirmary, or any building or place belonging thereunto, or used for the reception of the patients thereof, or who has died in any county or other lunatic asylum, or in any public infirmary, or other public medical institution, whether the same be supported by endowments, or by voluntary subscriptions, then, and in such case, nothing herein contained shall be construed to entitle the medical officer whose duty it may have been to attend the deceased person as a medical officer of such institution as aforesaid to the fees or remuneration herein provided." If this be so, the Commissioners can only say, that they do not concur in the construction which would extend the provision to the medical officer of a union workhouse. A union workhouse does not appear to be a public hospital or infirmary, within the meaning of the statute. It appears probable, that, in considering whether a public institution comes within the description of the statute, the general character and object of such institution should be looked at, and not the use which is incidentally made of it. By the word "infirmary," is meant a place established for, and applied to, the reception and medical treatment of persons infirm through sickness, and to such persons only. A workhouse, on the other hand, is intended for the reception and employment of destitute persons. It is true, that persons who are sick as well as destitute are admitted, but it is because they are destitute, and not because they are sick.

X.—MEDICAL ORDER—MODE OF CHARGING FEES PAYABLE UNDER.

March 2nd, 1846.

Clerk of Devizes Union — Requested to be informed of the grounds on which the Commissioners think that the fees, payable under Articles 10, 12, and 13, of the General Medical Order, should be charged to the respective parishes to which the paupers belong, instead of to the establishment.

Ans.—The provisions which must govern the Commissioners and guardians in this matter are, first, the declaration in section 26 of the Poor Law Amendment Act, that each parish in a union shall be separately chargeable with the expense of its own poor; and, secondly, the definition in section 28, of the purposes for which charges may be made on the common fund, the material parts of which are the terms, "for the payment, or allowance of the officers of the union, and for any other expense to be incurred for the common use or benefit, or on the common account of the parishes." As to the first provision, there seems to be no doubt that the fee of the medical officer, for a service to any pauper, is an expense of one of the poor of the parish to which such pauper is chargeable; and is, therefore, under the 26th section, (unless the 28th section alters the effect) to be charged to the particular parish, and as regards the 28th section, all the purposes enumerated, are purposes in which the share of the expense of each parish cannot be, at the time of payment, defined or ascertained. They are all strictly *common purposes*, the respective shares in which are (without the adoption of an arbitrary rule,) indefinite. The words "payment or allowance of the officers of the union," are used in the singular, and imply one payment or allowance for the whole service,—not distant payments for each particular service; and the context, which relates only to aggregate payments for common purposes, strengthens this implication. For these reasons, the Commissioners think that the 28th section does not affect the requirements of the 26th in this respect, and that, in accordance with the latter section, the fees referred in your letter should be charged to the respective parishes, and not to the establishment or common fund.

XI.—OVERSEERS—LIABILITY OF, FOR THE DEFAULT OF ASSISTANT OVERSEER IN PAYMENT OF CONTRIBUTIONS, ETC.

March 23rd, 1846.

Clerk of Bury (Lancaster) Union—In the year 1841 the ratepayers of a township in the union appointed W. W., a small farmer, as assistant overseer, at a salary of £8 a year, and the duty of collecting the rate, and paying the various calls, and other parochial business, have devolved wholly upon him, with scarcely any superintendence. No bond was required on his appointment to the office. Some time ago application was made to the overseers for payment of the calls due to the board of guardians, and upon the assistant overseer informing the other overseers that part of the money had been paid, and that the remainder would be attended to, no further notice was taken of the subject until a warrant of distress was issued against the overseers' goods. On the overseers getting possession of the books, they found that the sum of £200 was unaccounted for by the assistant overseer, besides smaller sums, which he had received and not debited himself with. The overseers also found that, on the 26th January last, their assistant obtained from one of the principal ratepayers the sum of £17, under the pretence that a new rate had been made on the

23rd of that month. Inquired, 1st. As a warrant of distress had been issued against the overseers, for the non-payment of their calls, whether the guardians have the power under that warrant to sell the assistant overseer's effects. 2. Whether the overseers could and ought to proceed against the assistant overseer for embezzling the money of the township. 3. Whether money obtained under pretence of a new rate, when there really was no such rate, was a fraud upon the township, or should the loss fall upon the party making the payment.

Ans.—Whether the effects of the assistant overseer are liable, in common with those of the overseers, to be distrained under the warrant, for non-payment of the contribution, depends upon circumstances which are not stated in your communication. An assistant overseer has only such duties and powers as are expressed in the warrant for his appointment. It does not follow necessarily that it is a part of the duty of the assistant overseer to pay the calls made by the guardians, so as in case of non-payment to render his goods liable to be distrained under a proceeding taken under 2 & 3 Vict. c. 84. Before the Commissioners could answer the inquiry put, it would be necessary to know the precise terms of W. W.'s appointment as assistant overseer. Whether the contribution order was addressed to him by name, as well as to the overseers, and whether in the proceedings taken for the recovery of the amount, he was summoned, and if so, whether he is included in the warrant. 2. The Commissioners are not able to say whether a charge of embezzlement could be established against W. W. If the offence do not amount to embezzlement, it would certainly seem that there has been a misapplication of the moneys of the township, within the meaning of the 97th sec. of the Poor Law Amendment Act, and the Commissioners think that if the overseers are prepared with evidence to prove the alleged misapplication by W. W., they should lose no time in proceeding to obtain a conviction under that section. It will be seen, that a person convicted under that section, is liable to pay for the offence, a sum not exceeding £20, and also treble the amount or value of the money, goods, or chattels, purloined, embezzled, wasted, or misapplied. 3. It appears to the Commissioners, that the money obtained from a ratepayer, under the pretence of a new rate, when in fact there was no such rate, was not a fraud upon the township, but upon the party who paid the money, who has his remedy (either criminal or civil) against W. W.

XII.—PARISH COTTAGES—How to obtain possession of.

Jan. 7th, 1846.

Mr. ———.—The overseers have for some years hired certain cottages joining each other, but without internal communication, which appear to have been used for some of the purposes of a workhouse. In one of these cottages, consisting of but one room, and a sort of cellar at the back, the overseers have allowed a man of the name of F., aged from 50 to 55, and his daughter, who is blind and slightly paralytic, aged 29, to live rent free, for the last four years. The overseers have done this to afford relief to F. and his daughter, but they have given them no other assistance. The little furniture in the cottage belongs to the inmates. The occupation of the cottage by the paupers can, it is apprehended, be put an end to at any moment, inasmuch as they have none of the rights of tenants, their occupation being merely parochial relief, liable to be terminated at the discretion of the authority giving it. The guardians took upon themselves the administration of relief in the union, on the 25th December last, up to which day it had remained with the overseers of the several parishes and townships. F.'s case will come before the board at its first meeting, the 8th instant, in order that the guardians may, as far as they have authority, remove him from the cottage. No question will arise as to the relative legal rights of the overseers and the guardians in the cottages over the occupiers, but all that the board will have to do will be to refuse to continue to the paupers the kind of relief they have been receiving, viz. residing in the cottage in question, and to substitute for it some other description of assistance.

Ans.—It appears that these persons occupy the cottage free of rent, and consequently, to that extent, receive relief from the township. The guardians may forthwith give directions that relief shall not be given to these persons in the shape of allowing them to occupy the house rent-free, and therefore the overseers would be bound to require the parties to pay rent for the house, and, if such rent be refused, then summary proceedings may be taken under the 59 Geo. 3, c. 12, for the recovery of the possession of the

cottage. That statute requires a month's notice to be given, and a demand of possession to be made before these proceedings can be taken. If the overseers decline to take these steps, the auditor will probably feel himself bound to charge them with the amount of the rent which ought to be received for the property.

XIII.—PAUPERS.

1. Employment of, in oakum-picking.

February 14th, 1846.

Clerk of Romsey Union—The guardians being desirous of introducing the picking of oakum as employment for the in-door paupers, requested the Commissioners' sanction thereto, and to be furnished with any information the Commissioners were able to give on that kind of employment.

Ans.—The Commissioners see no objection to the employment of the inmates of the workhouse in picking oakum as the guardians propose. The Commissioners have had occasion to make inquiry as to the terms upon which junk for picking is purchased, and the amount obtained for the oakum, and they learn that when the junk is sent by the dealers to be picked, they pay the guardians from £3. 10*s.* to £4. 10*s.* per ton for picking it. When the junk is bought by the guardians, the price usually obtained for the oakum is about that amount, plus the cost price of the junk. The Commissioners believe that an able-bodied man, if accustomed to the work, may pick four pounds per diem, and women from two to three pounds per diem.

2. Refusal to leave the workhouse and accept work, for want of a residence in the parish.

March 17th, 1846.

Overseers of ———.—W. H., an able-bodied man, at present (with his wife and four children under sixteen years of age) an inmate of the union workhouse, has been offered work for himself, at which other men are earning from 9*s.* to 10*s.* per week, and also for his wife (an able-bodied woman) at which she might earn from 4*s.* to 5*s.* per week. The children are of an age that they do not require the constant care of their mother. W. H. refuses to leave the workhouse, and alleges that he cannot get a residence in his own parish, which is believed to be correct, but there are many houses unoccupied in a town which is only two miles from the spot where he has been offered employment. Inquired as to the best means of compelling the pauper to support himself and family.

Ans.—The law has undoubtedly invested the guardians with full power to withhold relief from the man, if they are satisfied he is not destitute, and has the means to maintain himself, and those dependent upon him, or uses an "ordinary and daily trade of life to get his living by," (see 43rd Eliz. cap. 2, sec. 1.) It must however be added, that the inability to obtain a dwelling is one species of destitution, and may entitle the person so circumstanced to relief. It does not appear to the Commissioners to be material that such dwelling should be in the same parish as that in which work is offered, if it be within a reasonable distance of the employment. The Commissioners are of opinion, therefore, that in point of law, if a pauper be offered work, suitable to his strength and capacity, at wages sufficient to afford the means of providing for the support and *lodging* of himself and family, and refuses to accept such offer, he would be liable to be dealt with under the 3rd section of the Vagrant Act. The guardians are clearly under no obligation, and, in fact, have no power, to provide a habitation for the pauper under such circumstances. If the pauper alleges his inability to procure maintenance and lodging for his family at the wages offered to him, the case will remain for the decision of the justices on the facts before them, if proceedings be taken against the pauper, under the Vagrant Act. The Commissioners think it more advisable, in general, to adopt proceedings under the Vagrant Act, after making the man a definite offer of work at specific wages, than discharging him and his family from the workhouse.

XIV.—POOR-RATE.

1. Whether guardians can pay poor-rates for permanent paupers.

March 6th, 1847.

Clerk of Chertsey Union—When a rate is made in a parish in the union, the relieving officer, at the request of the overseers, makes out a list of the permanent paupers belonging to that parish, with the amount of rate due from each pauper. This list is submitted to the guardians, and if approved of, the rates are paid to the overseers by the relieving officer, and charged against the respective parties in the out-relief list. Requested the Commissioners' opinion on the legality of this proceeding.

Ans.—The Commissioners are of opinion that the practice described in your letter is not authorised by law. The guardians are not empowered to advance, from the funds at their disposal, to any rate-payer (though such rate-payer may be in the permanent receipt of relief from the parish) the means of paying the sums assessed on him as poor-rate. It certainly may be that persons who are recognised as permanent paupers are not in a condition to pay rates; but of their inability to do this, the law has constituted the justices, in conjunction with the parochial authorities, the judges; and to the former belongs the exclusive power of ordering a discharge from the payment.

2. DELAY IN MAKING POOR-RATE, AND BORROWING MONEY TO MEET CALLS.

March 26th, 1846.

Overseer of Titchmarsh, Thrapstone Union—In consequence of the difficulty in assessing a railway passing through the parish, and not previously assessed to the poor's-rate, it was determined to postpone making a rate; and in order to meet the calls for contribution to the relief of the poor, and for county and police expenses, the vestry agreed to obtain a loan for the purpose. Requested the Commissioners' sanction, which he had been informed by the auditor was necessary before such loan could be legally obtained.

Ans.—If the law does not authorise an overseer to borrow money and to charge the poor-rates with interest, the Commissioners could not by any assent or sanction of theirs render the proceeding lawful. The Commissioners think the auditor's view that as an overseer is not authorised in his official character to borrow money at interest, he is not intitled to enter the transaction in his account, is legally correct. Such a transaction is altogether of a private nature, and it is not one of the matters or things of which the overseer is to give an account to the parish. Of course any payments for parochial objects which an overseer may make out of any monies which he may obtain on loan, he is entitled to enter in his accounts, and if at the end of his year of office, it should appear from the account that he has advanced money to the parish, the succeeding overseers may collect the arrears of rates turned over by such overseer, and out of such arrears reimburse him the sums which he has laid out.

3. DIVIDING PARISHES FOR THE PURPOSES OF RATING.

June 16th, 1845.

Mr. W. Snell, Callington—There being a great distinction in the amount of the poor-rate levied in the parish of Callington as between the town and agricultural parts of the parish, inquired, 1. Whether the Commissioners are empowered to divide parishes for the purposes of rating. 2. What proportion of the rate should be borne by the house property and the farms.

Ans.—The law has not invested the Commissioners with any power to divide parishes for the purposes of rating. Such an object (assuming it to be desirable in any case) could only be now effected by a special enactment for the purpose. It seems to the Commissioners that the law, as it at present exists, is calculated to secure equality of assessment, even in parishes in the situation of Callington. All property is by law rateable on the same principle, viz., at what it may be worth to let from year to year for the particular purpose or use to which it is adapted (see the 1st s. of 6 & 7 Wm. 4, c. 96.) If this principle be equally applied both to houses and farms, neither description of property will contribute in a greater proportion than the other to the burdens of the parish. If, however, practically one description of property is rated at its net annual value as defined by the statute cited, while another is assessed only on a portion of that value, no doubt an injustice is thereby effected. But for this the law provides a remedy, as it enables the justices to correct the inequality on appeal against the rate.

4. PUBLICATION OF POOR-RATE ON CHURCH DOORS, ETC.

March 18th, 1846.

H. Shaw, Esq. J. P.—Wigan Union—In the township of Ashton there are two churches of the establishment, St. Thomas and Holy Trinity Church, with several chapels belonging to different denominations. Notice of a poor's rate, signed by himself and another county magistrate, was placed upon a board, and exhibited from some time before the commencement, until the conclusion of the morning service on the following Sunday, on the outer door of St. Thomas' Church only. At the conclusion of the service the notice was removed, on the ground, that having been exhibited for one hour, it was a sufficient publication. Inquired what is the duty of overseers

with reference to the directions of the Act 1 Vic. c. 45, s. 2, and whether, under the circumstances stated, the justices could sign warrants of distress for non-payment of the rate so published.

Ans.—Having regard to the ordinary legal meaning of the word "chapel," and to what appears to be the general tenor of the 1 Vic. c. 45, the Commissioners consider that the chapels referred to in that statute are chapels belonging to the Established Church, and that consequently it is not necessary, in order to give due publication to a poor rate, that notice of it should be affixed on places of worship used by dissenting congregations. At the same time the Commissioners think it clear that the notice must be "affixed on or near to the doors of *all* the churches and chapels" of the Established Church, within the parish or place. In the case referred to, there are two churches in the township, St. Thomas and Holy Trinity, and the notice was posted on St. Thomas's only. The Commissioners think that this was not a sufficient publication of the rate within the meaning of the 17 Geo. 2, c. 3, s. 1, and 1 Vic. c. 45, s. 2, and that therefore the rate in question cannot legally be enforced by warrants of distress. (See Reg. *v.* Whipp, 4 Ad. & Ell. n. s. 141.) The notice of a poor's rate, when duly affixed on or near to the doors of all the churches and chapels in the parish, ought not to be removed, but should be allowed by the officers to remain there until at least the occasion for the notice has passed away. The statute, 1 Vic. c. 45, expressly directs that the notice shall be so "affixed;" but it is silent as to its removal. It may be inferred that the notice was intended to remain so long as the occasion for it continued.

XV.—PROPERTY AND INCOME TAX.

COST OF MAINTENANCE OF WORKHOUSE OFFICERS TO BE ASSESSED.

March 22nd, 1846.

Clerk of Stone Union—Inquired, with reference to the Commissioners' Circular on the assessment of workhouses to the Income Tax, (*Official Circular*, No. 25, page 111,) whether by the words "total income of the officers occupying apartments," the cost of maintenance should be added and considered with the salary as the total income in question.

Ans.—In estimating the income of workhouse officers, for the purposes of the Income Tax, the Commissioners understand that the cost of maintenance of the officers should be added to and considered, with the salary, as the total income of the officers, derived from the union.

XVI.—RATING.

1. RAILWAY AND APPURTENANCES.

March 6th, 1846.

Mr. ——— —A railway runs through the parish of L., which is divided into two hamlets, each hamlet separately maintaining its own poor. Two miles of the railway passes through the middle division, or hamlet, for which the company is rated, but on that line of two miles a weighing machine belonging to the railway is set up, which is not rated to the poor's-rate. The length of railway in this division of the parish is rated at £100 per mile, but the receipts of the whole line, which is eighteen miles in length, is about £7000, or £388 per mile per annum. The weighing machine, however, constitutes a source of profit, the small tolls at which, from casual traffic, amount to about £10 per month. It is composed of a platform placed on the railway, and in a house adjacent is placed a yard, or balance, which determines the weight. Every waggon going over the railway in the neighbourhood of the machine is weighed there, and a certain sum per mile is charged. Inquired, 1, whether the machine is liable to be rated separately from the two miles of railway on which it is set up, or can the assessment be made upon "railway and weighing machine," in the same way as "land and buildings" ordinarily are, and an additional amount charged upon the extent of railway in consequence of having such machine set up thereon. 2. Whether all the miles in the length of railway can be rated alike.

Ans.—The Commissioners do not think that the weighing machine described should be separately assessed to the poor's-rate. It does not appear to them to be a distinct subject of occupation by the company, but to be a part of one entire property occupied by the company for the purposes of the railway,—analogous to the case to which you compare it, of buildings appurtenant to a farm. With reference to the question, whether in assessing the railway "all miles in its length can be rated alike," the Commissioners desire to direct your attention to the following remark made by Lord Denman, in the case of the Queen *v.* the Directors of the London and South Western Railway Company, (1 Adol. and Ell. n. s. 558,) "Another question was raised, as to the mode of measuring the

rate, namely, whether it was to be measured according to the proportion which the mileage of the railway in the parish bears to the whole length of the way, assuming the profits to arise equally through the whole, or according to the actual earnings in the parish. It was conceded ultimately that the *latter* was the proper mode."

2. RENT-CHARGE—DEDUCTIONS FOR CURATES' STIPENDS.

April, 1846.

Rev. ———, *Cardiff Union*—As vicar of the parish of ———, he is entitled to the rent-charge in lieu of vicarial tithes for the parishes of ——— and ———, but there is an annual stipend payable thereout, by endowment, to the respective perpetual curates of those parishes. Inquired whether he is intitled to deduct from the assessment on his rent charge in those parishes respectively the amount of stipend payable out of the rent charge to the curate of each such parish.

Ans.—The case is essentially the same, though it differs in the manner in which the stipend is charged, as the ordinary one, of the payment by the incumbent of a curate's stipend. The incumbent is, in consideration of the living, bound to provide for the service of the church and cure of souls, and is not intitled to any deduction of rate on account of such service. Where the incumbent does not in his own person perform the duties of incumbency, but receives the profits of the benefice, he is rateable for the full amount of the net value of the living, without deduction for any charges incurred in procuring the performance of those duties.

XVII.—RELATIONS—LIABILITY OF STEP-SON FOR THE SUPPORT OF HIS FATHER AND STEP-MOTHER.

February 23*rd*, 1846.

Mr. ——— *Uckfield Union*—Stated that the justices have made an order upon him for the support of his father and step-mother, the former of whom he is willing to maintain, but not the latter. Inquired whether the justices can make a distress upon his goods for the amount which they have ordered him to pay.

Ans.—As the facts are stated by you, the Commissioners are not prepared to say that the justices, in making the order upon you, of which you complain, have exceeded the powers conferred upon them by the 43 Eliz. c. 2, and the 59th Geo. 3, c. 12. Disobedience to an order of justices so made subjects the person disobeying to a penalty of 20*s.* a month, and such penalty can be recovered by distress and sale of the goods of such person. The disobedience is also punishable as a misdemeanour at common law, *i.e.*, by indictment.

XVIII.—RELIEF—OF ABLE-BODIED—DISCRETION OF RELIEVING OFFICERS, ETC., TO GIVE ORDERS FOR THE WORKHOUSE.

March 11*th*, 1846.

Clerk of the Southwell Union—Inquired whether relieving officers or overseers can refuse orders to the workhouse to able-bodied men, when destitute, particularly to those who appear at the time to be under the influence of liquor, or those who have had them previously within a short time, and returned upon their round of vagrancy.

Ans.—It is competent to the overseers to give orders of admission to the workhouse under circumstances of "sudden and urgent necessity." The relieving officers in the intervals between the meetings of the board are empowered to provide medical or surgical relief in cases of sickness or accident requiring such relief, and in every case of sudden and urgent necessity, to afford requisite relief to the destitute person, either by giving such person an order of admission to the workhouse, and conveying him there, or by affording relief out of the workhouse. These are the rules which are to guide the officers, and they must apply them according to the circumstances of each case, on their own judgment and responsibility. Admission to the workhouse should not be refused because the applicant is an able-bodied man, or has recently been an inmate, or that he is under the influence of liquor. The question is that of destitution, and this the officers must decide for themselves. If any person seeking relief is in a state of intoxication, he can be given into the custody of the police and taken before the magistrates, and this would be the proper course.

XIX.—REMOVAL.

1. COST OF MAINTENANCE—PENDING APPEAL AGAINST ORDERS OF.

March 5*th*, 1846.

Parish Officers of Towcester, Towcester Union—About three years ago a family was removed under orders of removal to Towcester, from the parish of S., also in the same union. An appeal was made against the orders, at the ensuing quarter sessions, when the court confirmed them, subject

to the opinion of the Court of Queen's Bench upon a reserved point. The Court of Queen's Bench afterwards reversed the decision of the quarter sessions, and quashed the orders. The paupers, thereupon, became again chargeable to the parish of S., from whence they were removed. Applications have been made to the last-named parish for repayment of the cost of maintenance by the parish of Towcester, pending the trials, amounting to £76. 12*s.* 3½*d.*, but the parish of S. refuses the payment. Inquired whether the parish of S. is liable to repay the cost of maintenance.

Ans.—Sec. 84 of the 4 and 5 Wm. 4, c. 76, provides "that the parish to which any poor person whose settlement shall be in question at the time of granting relief, shall be admitted, or finally adjudged to belong, shall be chargeable with, and liable to pay the cost and expense of the relief and maintenance of such poor person, and such cost and expense may be recovered against such parish in the same manner as any penalties or forfeitures are by this Act recoverable." If, therefore, in the present case, the pauper has been adjudged to belong to S. the remedy against that parish for the costs of maintenance of the paupers pending the determination of the appeal, appears to be that pointed out in the 84th sec. of the Poor Law Amendment Act. Sec. 99 and 101 point out the mode of recovering penalties: any two justices having jurisdiction may be applied to for the purpose.

2. EXPENSES UNDER ORDER OF REMOVAL.

March 28*th*, 1846.

Clerk of Martley Union — Inquired, 1, whether the amount expended under suspended orders of removal, and allowed by justices, is to be paid by the relieving officer of the Union, or by the overseers of the parish to which the pauper is to be removed. 2. Whether under orders of removal not suspended, the amount expended for the twenty-one days from the serving of the order to the removal of the pauper, is to be paid by the relieving officer, or by the overseers. 3. Whether in cases of suspended orders of removal, the charges for taking the examination of the pauper, orders of removal, service of the order, &c. can be charged by the removing parish as part of the expenses incurred by reason of the suspension of the order of removal.

Ans.—1. The amount expended under suspended orders of removal, and allowed by the justices, is to be paid by the overseers of the parish to which the pauper is directed to be removed. By 35 Geo. 3, c. 101, the goods of the overseers are liable to be distrained in case the amount is not paid within three days after demand. 2. In cases of orders of removal not suspended, the amount expended in the maintenance of the pauper during the period of notice (twenty-one days,) is, as in the former case, to be paid by the overseers of the parish to which the order is directed. 3. In cases of suspended orders of removal, only such charges can be recovered by the removing parish, as can be said to be incurred by reason or in consequence of the suspension. The charge for taking the examination of the pauper, and the order of removal itself, cannot be said to be a consequence of the suspension, and cannot therefore be recovered. The cost of effecting personal service of the order when suspended, appears to the Commissioners to be one of the consequences of the suspension, inasmuch as in an ordinary case, transmission by the post would be sufficient, (see sec. 79 of the Poor Law Amendment Act.) Such an expense can therefore be included in the costs ordered to be paid under 35 Geo. 3, c. 101.

XX.—SETTLEMENT.

1. REMOVAL OF CHILD OF MARRIED WOMAN BY A FORMER HUSBAND.

February 23*rd*, 1845.

Clerk of Stokesley Union—A pauper belonging to Bishop Auckland, but residing at Hutton Rudly, about five years ago married a woman, having a legitimate daughter, eleven years old, and settled in Faceley. The husband being unable to maintain the child, inquired 1. Whether the child can be removed to Faceley according to the decision in R. *v.* Inhabitants of Wendron, 7 Ad. and Ell. 819. 2. Can the child be separated from the mother; or, 3. Can the child be removed with the mother and her husband to Bishop Auckland?

Ans.—The child by the former husband can now be removed to Faceley, assuming that the mother was settled in that parish prior to her marriage with her present husband. The case of R. *v.* Walthamstow 6 A. and E. 301, shows that the children by the first marriage do not gain a new settlement by their mother's second marriage, and that they cannot be removed by order of justices with their mother and her husband to the place of such husband's settle-

ment. In the present case the child is above the age of nurture, and the Commissioners are not aware of any legal hindrance (however objectionable this course may be on other grounds) to the child being removed to its place of settlement, which, as already observed, is unchanged by the marriage. The Commissioners understand this to be the effect of the case referred to, but see the more recent decision of Reg. *v.* Inhabitants of Leeds, Queen's Bench Rep. Vol. 5, part 4, p. 916, in which an order removing a married woman with her four children to the place of her maiden settlement, was confirmed as to the two children above the age of nurture, but quashed as to the wife and children under that age, there appearing to be no sufficient consent on the part of the wife to be removed without her husband.

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2. REMOVAL OF A BASTARD CHILD WHOSE MOTHER AFTERWARDS MARRIED.

February 18th, 1846.

Clerks of Wareham and Purbeck Union—J. H., who was settled in the parish of Corfe Castle subsequently to the passing of the Poor Law Amendment Act, (4 and 5 Wm. IV. c. 76,) married S. S., who was settled in the parish of Steeple, she having at the time a bastard child born since the passing of the above act. The mother is since dead, and J. H. threatens to cease maintaining the child. Inquired, 1st. whether the child belongs to Corfe Castle or Steeple, and until what period. 2nd. With reference to Sec. 71 of the Poor Law Amendment Act, whether an illegitimate child retains its mother's last settlement, (after 16,) acquired by marriage, until it gains a settlement in its own right, or reverts back to its former settlement, supposing it to have had one?

Ans.—The child appears to belong to the parish of Corfe Castle. It was expressly decided, in Reg. *v.* St. Mary, Newington, (2 Gal. and Dav. 686,) that the settlement which the mother of a bastard child may acquire by marriage, presents no exception to the rule laid down in the 71st sec. of the 4 and 5 Wm. 4. c. 76.—that bastard children born after the passing of that Act, shall have and follow their mother's settlement. With reference to your last enquiry, the Commissioners incline to the opinion that the child in question will, on attaining the age of sixteen, retain the last settlement derived from its mother, unless it previously acquire a settlement in its own right. The Commissioners are disposed to consider that the word "have," in the 71st sec. must be construed to mean "take," and that the subsequent limitation ("until," &c.,) has reference to the word "follow," and will not deprive the bastard at sixteen, of a settlement then actually acquired from its mother. The Commissioners admit, however, that the point is not free from doubt.

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3. REMOVAL OF WIFE OF TRANSPORTED FELON, AND OF HER CHILDREN BY RE-MARRIAGE.

February 18th, 1846.

Clerk of New Forest Union—J. D., who was settled in the parish of M. in this union, was transported for felony in 1827, leaving his wife M. D. and four children in England. In 1833 M. D. intermarried with A. B., by whom she had nine children. The youngest and two eldest of these children were born in the parish of M.; and the others in the parish of E., also in this union, the two eldest being born previous to her marriage with A. B. The woman and her children are now residing in and chargeable to the parish of M., between which parish and E. (where A. B. is settled,) there is a dispute as to which is liable for the relief of the woman and her children, M. contending that the paupers take a settlement by the marriage with A. B., whilst the parish of E. disputes the validity of the second marriage, and consequently the legitimacy of the children, who are, therefore, settled in M.—the woman by her marriage with J. D., and the children by their illegitimacy, the two eldest being born in M. prior to the passing of the Poor Law Amendment Act, and the others who were born subsequently, following the settlement of the mother. M. D. was twice removed, whilst pregnant with her two eldest children, from E. to M., and the orders of removal were not appealed against. J. D. was living at the time of his wife's second marriage, as proved by letters received from him, and by a certificate of his being alive in the year 1844, obtained from the Home Office. Inquired the Commissioners' opinion as to the place of settlement of the woman and her children.

Ans.—The children born to M. D. by A. B., being, according to the statement, illegitimate, (the marriage contracted in 1833 being invalid, as M. D.'s husband was then alive) such of the children as were born before the 14th of

August, 1834, are settled in the parish in which they were respectively born, (Whitechapel *v.* Stepney, 2 Bott. 1, Rex *v.* Spitalfields, Lord Raym. 567, Rex *v.* St. Nicholas, Leicester, 2 B. and C., 889,) but such as have been born since that date, and have not by any act of their own acquired a settlement, are settled in the parish in which their mother is now settled, (see 71 sec. of 4 and 5 Wm. 4, c. 76.) M. D. acquired no settlement by the supposed marriage with A. B., (Rex *v.* Lubbenham, 4 T. R. 251,) and unless, therefore, she has herself done some act to acquire a settlement since the date of her removal by order of justices to M., that parish would appear to be the place of her present settlement,—such order (not having been appealed against) being conclusive. If this be so, the illegitimate children born since the 14th August, 1834, are also settled in the parish of M. It is stated that the two eldest children were born before that date, and in the parish of M.—if so, that is their present place of settlement. If letters were received from J. D. subsequently to his wife's marriage with A. B., the case cited (R. *v.* Harborne, 2 A. and E. 540,) would certainly seem to show that such letters must be received as evidence of the existence of the first husband, and therefore establishing the invalidity of the second marriage.

XXI.—VAGRANCY—NEGLECT TO MAINTAIN FAMILY—PROOF OF CHARGEABILITY.

February 10th, 1846.

A Guardian of ———— *Union*—R. T. an able-bodied labourer in good employ, being a widower, with a family grown up, refuses to provide for a daughter, who is ill and destitute, and proceedings are about being taken before magistrates to compel him to support her. The writer applied to the clerk to the guardians for a certificate of her chargeability, who said that such certificate would not be available except in a case of disputed settlement, and that the relieving officer who pays the relief to the daughter must attend. This appeared hard, as the relieving officer lives eight miles from the place where the magistrates meet, and, of course, he would make a considerable charge if he attended. Inquired, whether any remedy can be provided.

Ans.—If it is intended to proceed against R. T. under 5 Geo. 4, c. 83, for the neglect to maintain his family, the Commissioners concur in the view, that the certificate of chargeability which the guardians can make under s. 69 of 7 & 8 Vict. c. 101, would not be sufficient to enable the justices to convict, in the absence of other evidence of the fact of chargeability. In such a case the justices are not empowered to make an order on the person neglecting to maintain, but only to convict him for the offence where the neglect or refusal is proved. The 69th section only provides, "that for the purpose of making any order of removal, or other order, no further or other evidence of chargeability than such certificate shall be required." If, however, the proceeding proposed to be taken against R. T. is for an order of maintenance under 43 Eliz. c. 2, s. 7, then it appears to the Commissioners that the certificate of the guardians as to the chargeability of the party to be maintained (if made in due form) would be available, for the words of the section cited, "or other order," clearly apply to such a case.

XXII.—VAGRANTS.

1. PAYMENT OF INSPECTOR OF VAGRANTS' LODGING HOUSES.

January 27th, 1846.

Assistant Overseer of St. Chad's, Shrewsbury—Inquired whether the salary of a person appointed to visit the small lodging houses for vagrants in that town, could be allowed in the overseers' accounts.

Ans.—If authority could be given to a constable to inspect lodging houses, an arrangement could be made for paying him a salary. But at present the law confers no such authority of visitation, and there is, therefore, no means of attaining the end proposed by you.

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2. PERSON DESERTING FAMILY, DISCHARGED BY JUSTICES, ON GIVING SECURITY FOR REPAYMENT OF RELIEF.

February 23rd, 1846.

Clerk of Sheffield Union—H. B. was committed to prison for neglecting to maintain his family, and on his liberation, went to Ireland, assumed another name, and lived in adultery, his family being left chargeable in Sheffield. Steps were taken for his apprehension, when he was brought back in custody, and taken before justices, who ultimately agreed to discharge the man on payment by him of the expense of apprehending and conveying him back to England, and

on giving a note of hand jointly with two sureties for the payment, by weekly instalments, to the relieving officer of the union of the amount of relief given to his family, when deserted by him. Inquired as to the legality of the order to discharge a prisoner under the circumstances stated, and in case of the non-payment of the instalments secured by the note, whether the guardians could take legal proceedings for the recovery of the amount.

Ans.—In proceedings taken under the Vagrant Act, the law certainly vests a discretion in the justices whether they will convict or not. It is not for the Commissioners (who have not the evidence before them,) to say whether the justices have, or have not, exercised their discretion wisely. Apparently the justices were not satisfied in the present case, that the evidence adduced at the hearing, warranted a conviction. It seems, however, that they discharged H. B., on payment of the expenses of his apprehension, and giving a security for £10. 13*s.*, relief given to his wife and children during his absence. Whether it was competent to the justices to impose a condition of this kind, may, perhaps, admit of doubt; but, however this may be, the arrangement made was much more advantageous to the union or parish, than if there had been a conviction. As regards the note which was given, supposing it to be duly stamped, the Commis ioners see no reason to doubt that the relieving officer (the obligation being to him) is entitled to sue on the note for the instalments due. If the obligation had been to the guardians, they would have been entitled to recover. The guardians may, however, require the relieving officer to sue on the note at their cost, or to allow his name to be used, he being indemnified from costs.

XXIII.—VESTRY MEETINGS—QUALIFICATION OF VOTERS—PROXY.

March 25th, 1846.

Mr. ———, *Cardigan Union*—Inquired, 1. Whether the vote of a blind man is legal at a vestry, and, if not, whether he can legally vote by proxy. 2. Whether a female ratepayer has a vote at vestry meetings, and, if she has, whether she can legally appoint a proxy to vote for her.

Ans.—1. The fact of a ratepayer being blind does not legally disqualify him to vote at a vestry meeting. 2. A female ratepayer is legally entitled to vote at a vestry meeting, equally with male ratepayers. Ratepayers generally are not authorised to vote by proxy in a parish vestry; but where corporations or companies are charged to the rate for the relief of the poor in any parish, they may authorise their clerk, secretary, or agent to be present at any vestry of the parish, and vote on behalf of the corporation or company as the case may be.

XXIV.—WORKHOUSE—EXAMINATION OF VISITORS TO—PROHIBITION OF ARTICLES BEING CARRIED INTO.

February 3rd, 1846.

J. S. an inmate of the ——— *Union Workhouse.* The inmates are prohibited from receiving trifling articles of food, &c., from their friends, and the practice of searching by the porter prevents the friends of the inmates visiting them. Requested the Commissioners to relax the workhouse rules in this respect. Complained also of the practice of searching and of taking away from the inmates such articles on their return to the workhouse after leave of absence, &c.

Ans.—The Commissioners have prohibited articles of food being admitted into the workhouse on the occasion of visits to paupers, because the guardians are empowered and bound to provide everything necessary for the inmates, according to their age and state of health, and to vary that provision from time to time when circumstances may require it. There is no authority given by the workhouse rules for searching persons who present themselves as visitors to inmates. But the porter is authorised to search any pauper whom he may suspect to have possession of any spirits or prohibited articles, and to require all other persons to satisfy him that they have none. This authority is requisite to ensure the observance of the prohibitory rule. The Commissioners are not prepared to vary the regulations in either respect.

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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. 59. CIRCULAR ISSUED MAY 1, 1846.

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

THE Poor Law Commissioners have directed that their Twelfth Annual Report be printed and circulated for the information of Guardians and Officers of the several Unions.

By Order of the Board,
EDWIN CHADWICK, *Secretary.*

TO THE RIGHT HON. SIR JAMES GRAHAM, BART. Her Majesty's Principal Secretary of State for the Home Department.

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

SIR,

Amount of Poor-rate levied and expended in the year ended at Lady-day, 1845.—1. In our last Annual Report we submitted to you an account of the moneys received as poor-rate, and expended for the relief of the poor, and the other purposes to which that fund is applicable, in England and Wales, for the parochial year ending at Lady-day, 1844. We will commence this Report by laying before you a similar account for the parochial year ending at Lady-day, 1845.

An Account of the Receipt and Expenditure of the Poor's Rate for the year ended Lady-day, 1845.

Receipt.	£.
Amount of money levied by assessment	6,791,006
Received from other sources in aid of poor rate	218,505
Total receipt	£7,009,511

Expenditure.	
For relief to the poor	5,039,703
Law charges, parochial and Union	95,397
Expenses before magistrates, and constables' expenses (parochial and Union)	57,988
Payments under the Parochial Assessments Act (for surveys, valuations, &c.) and loans repaid under the same	22,877
Expenses under the Vaccination Act	25,905
Expenses under the Act for Registering Births, Deaths, and Marriages	57,385
Payments for county and borough rate, and for county and local police forces	1,279,962
Costs of voters, burgesses, and jury lists	20,153
Expenses of parish property	14,752
Money expended for all other purposes	243,277
Total expenditure	6,857,402

2. The results exhibited in this statement do not differ materially from the corresponding amounts for the preceding year. In the total amount of moneys received as poor's rate, there has been a diminution of 57,286*l.*; in the total expenditure from the poor's rate, there has been a diminution of 42,715*l.*; in the expenditure for the relief of the poor, there has been an increase of 63,610*l.*

Years ending Lady-day.	Total Amount received as Poor's Rate.
1844	£7,066,797
1845	7,000,511
Diminution	57,286

Years ending Lady-day.	Total Amount expended from the Poor's Rate.	Years ending Lady-day.	Total Expenditure for the Relief of the Poor.
1844	£6,900,117	1844	£4,976,093
1845	6,857,402	1845	5,039,703
Diminution	42,715	Increase	63,610

3. Considering the uncertain and fluctuating nature of the expenditure for the relief of the poor, as well as of most of the other expenses charged upon the poor's rate, these variations are so slight that the receipt and the expenditure may be considered as having been stationary during the two parochial years ending at Lady-day, 1844 and 1845. The expenditure for the relief of the poor in the parochial year 1845, was less than that in the parochial year 1843, but greater than that in each of the years from 1836 to 1842 inclusive. We annex to this Report (page 80) a table, containing a complete statement of the receipt and expenditure of the poor's rate since 1834, from which these and other comparisons can be obtained. As compared with the cost of the relief of the poor in 1834, the parochial year immediately preceding the passing of the Poor Law Amendment Act, the amount for 1844 stands thus:—

Years ending Lady-day.	Total Expenditure for the Relief of the Poor.
1834	£6,317,255
1845	5,039,703
Diminution	1,277,552