missioner, Mr. Hall, has been consulted on the subject; and it appears from papers communicated to him, that more than 1030 paid officers have signified their assent to the formation of a superannuation fund on the principle of deduction from their salaries; and that 22 boards of guardians have passed resolutions in favour of such an arrangement. We also perceive from the printed votes of both Houses of Parliament, that several petitions have been presented, praying the Legislature to facilitate the establishment of such a fund. We observe that in the Act to amend the Laws for the provision and regulation of Lunatic Asylums in Counties and Boroughs, (8 and 9 Vict. c. 126,) it is provided in the 43rd section, that such superannuation annuities, payable out of the county rates, may be granted by the justices to any officers of such lunatic asylums, on their becoming incapacitated from confirmed sickness, age, or infirmity, as they (the justices) may in their discretion think proportionate to their merits and time of services, not, however, exceeding in amount two-thirds of the salaries payable to them at the time of their retirements. We refer to this provision as evidencing the disposition of Parliament in favour of the general principle of granting superannuation allowances to incapacitated officers on their retirement from situations, being similar to those of officers concerned in the administration of the relief of the poor. The particular manner which we are prepared to approve would, in its principles and details, resemble rather the system of the Police Act than that of the Lunacy Act; and we advert to the subject on this occasion, in order to express our readiness to assist in the preparation of any such measure, believing that it would be for the advantage of the paid officers and the rate-payers, as well as that of the recipients of relief.

We have the honour to be,
Sir,
Your very faithful and obedient Servants,
(Signed) GEORGE NICHOLLS,
GEORGE CORNEWALL LEWIS,
EDMUND W. HEAD,
E. T. B. TWISLETON.

[*The portion of the Report which relates to "Proceedings in Ireland," is omitted.*]

AMOUNT of MONEY Levied, and Received from other Sources in aid of POOR'S RATE, and expended for the RELIEF and MAINTENANCE of the POOR, and for other Purposes, in England and Wales, during the Years ended 25th March, 1834 to 1845, with the Average Price of Wheat per Quarter in each Year.

Years ended at Lady-day.	Receipt. Amount of Money levied by Assessment.	Received from all other Sources in aid of Poor's Rate.	Total Amount of Money received as Poor's Rate.	Expenditure. Amount of Money expended in Relief, &c. of the Poor.*	Amount of Money expended in Law Charges (Parochial and Union.)	Amount of Fees paid to the Vaccinators under the Vaccination Act.	Payments on account of the Registration Acts, viz. Fees to Clergymen and Registrars, Outlay for Register Offices, Books and Forms.	Payments under the Parochial Assessments Act. (for Surveys, Valuation, &c.) and Loans repaid under the same.	Enumeration & other Payments made under the Act for taking an Account of the Census of 1841.	Payments for or towards the County or Borough Rate.	Payments for or towards the County & Local Police Forces (if any), and if not paid out of the County or Borough Rate.	Money expended for all other purposes.	Total Parochial Rates expended.	Medical Relief.	Average Price of Wheat per Quarter in each year, ended at Lady-day.
	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	£.	s. d.
1834†	8,338,079	... ...	... ...	6,317,255	258,604	...	...	... ...	...	691,548	.. ...	1,021,941	8,289,348	...	51 11
1835	7,373,807	... ...	... ...	5,526,418	229,527	...	... ...	... ...	...	705,711	... ...	935,362	7,370,018	...	44 2
1836	6,354,538	... ...	... ...	4,717,630	172,132	...	... ...	... ...	...	699,845	... ...	823,213	6,413,120	...	39 5
1837	5,294,566	... ...	... ...	4,044,741	126,951	...	... ...	... ...	...	601,203	... ...	637,045	5,412,938	...	52 6
1838	5,186,389	... ...	... ...	4,123,601	93,982	...	35,662	25,680	...	681,842	... ...	507,929	5,468,699	136,775	55 3
1839	5,613,939	273,139	5,887,078	4,406,907	63,412	...	52 306	56,846	...	741,407	... ...	493,703	5,814,581	148,652	69 4
1840	6,014,605	227,966	6,242,571	4,576,965	67,020	...	51,228	49,963	...	855,552	... ...	466,698	6,067,426	151,781	68 6
1841	6,351,828	226,984	6,578,812	4,760,929	69,942	11,661	53,728	43,157	...	1,026,035	... ...	527,717	6,493,172	154,054	65 3
1842	6,552,890	201,514	6,754,404	4,911,498	68,051	33,744	52,379	40,178	57,111	1,003,651	227 067	318,092	6,711,771	153,481	61 0
1843	7,085,595	219,006	7,304,601	5,298,027	84,730	16,425	53,896	30,420	...	1,051,878	243,738	346,007	7,035,121	160,726	54 4
1844	6,817,295	219,592	7,066,797	4,976,093	105,304	16,950	56,094	30,083	...	1,111,236	245,221	359,106	6,900,117	166,257	51 5
1845	6,791,(06	218,505	7,009,511	5,039,703	95,397	25,905	57,388	22,877	...	1,046,412	233,550	336,170	6,857,402	174,330	49 2

* Including in-door and out-door relief and establishment charges; and since the passing of the Poor Law Amendment Act, in addition thereto, building and emigration loans repaid, furnishing of Union Workhouses, &c.

† The last parochial year previous to the passing of the Poor Law Amendment Act.

NOTE.—The above results are obtained from the Annual Poor Rate Return received from the Clerks of Unions and Overseers of the Poor.

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. 60.] CIRCULAR ISSUED JULY 1, 1846.

Poor Law Commission Office, Somerset House, July 1st, 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.—AUDITOR—WHETHER PRINTING AND POSTAGE EXPENSES OF, SHOULD BE PAID BY THE UNIONS.

April 21*st*, 1846.

Clerk of ——— *Union*—Inquired whether the guardians are bound to pay a proportionate share of the printing and postage expenses of the district auditor, who has sent in a small account of that kind for the past year, which the guardians do not object to pay, provided the Commissioners think it should be paid by the union.

Ans.—The Commissioners consider that the district auditor should pay the expenses of any printing which may be incurred by him, as also of stationery; but he need not pay postage, and it is better therefore that the guardians should pay it, to prevent double postage.

II.—BASTARDY—LIABILITY OF PARISH FOR EXPENCES OF APPREHENDING PUTATIVE FATHERS.

April 28*th*, 1846.

Mr. ——, *Glanford Brigg Union*—A girl, living in the parish of H., but not belonging to it, having affiliated her bastard child to a man residing in a distant parish, and he having absconded, the justices issued a warrant for his apprehension, and placed it in the hands of a constable, who apprehended the man and lodged him in gaol. The constable has now brought a bill, of upwards of £3, with a justices' order for payment, against the overseers of the parish of H. Inquired whether they are bound to pay the bill.

Ans.—The Commissioners consider the question as subject to doubt, but, on the whole, they incline to think that the payment for executing the warrant of the magistrates in the case to which you advert may be charged to the poor-rate.

III.—BURIAL.

1. FEES ON BURIAL OF ROMAN CATHOLIC PAUPERS.

June 6*th*, 1846.

The Roman Catholic Pastor of ———, —Inquired, whether the Poor Law Act allows him to have the Catholic paupers buried in his own churchyard, adjoining the Roman Catholic chapel, at the parish expense; and whether he can demand the usual fee paid to the Protestant clergyman on the burial of paupers.

Ans.—Under the 31st section of the 7 and 8 Vic. c. 101, Roman Catholic paupers may undoubtedly be buried at the parish expense. That section empowers the guardians to bury the body of any poor person at the charge of the poor-rate; and it draws no distinction whatever, in this respect, between paupers of different religious persuasions. With regard to the *place* of burial, the same section enacts that if the guardians do not direct the body to be buried in the parish to which the deceased was chargeable, the body shall (unless the deceased, or the husband, or wife, or next of kin, desire otherwise,) "be buried in the churchyard, or other consecrated burial ground, in or belonging to the parish, &c., in which the death may have occurred." In the section adverted to, there is a clause specially providing for the payment of burial fees, on the interment of paupers. That clause, however, only authorises the payment of such fees to the persons who, by the custom of the place, or by Act of Parliament, may be entitled to receive them. The Commissioners are advised that these terms appear to point exclusively to the incumbent of the living, or other person standing in his place, or in an analogous position in relation to the Established Church; and that a custom certainly cannot, and probably no local act does, recognise any person as entitled to burial fees, but a minister of the Established Church. The Commissioners, however, think it right to add that, although a Roman Catholic priest or dissenting minister has no such claim to burial fees under this particular clause of the section, as a clergyman of the Established Church derives from it, yet it appears to them that, where the body of a pauper is buried, under the directions of the guardians, in the burial ground of a Roman Catholic or dissenting chapel, the sums claimed by the priest or minister, or the proprietor of the ground, as the condition of the interment, may be considered as forming part of the necessary expenses of the funeral, (inasmuch as the guardians have no power to insist that the body shall be buried there,) and may accordingly be paid by the guardians under that clause of the 31st section, which authorises them to charge on the poor-rate the expenses of the burial of paupers.

2. THE PARISH OF BURIAL.

June 25*th*, 1846.

Clerk of Bodmin Union—Inquired whether the Commissioners concur in the view of the law, relating to the burial of paupers, stated to have been recently expressed by the Archdeacon of ——, namely, that clergymen are required to authorise the burial of paupers who may die in union workhouses, in the respective parishes of such paupers, and not, as heretofore, in the parishes in which they happen to die.

Ans.—The Commissioners do not quite understand what is meant by the words "required to authorise." It will probably be sufficient if they state their own view of the operation of the Act apparently alluded to. The recent provision of 7 and 8 Vic. c. 101, sec. 31, undoubtedly authorises that the bodies of paupers who die in one parish of a union, but are chargeable to some other parish, in the same union, should be buried in the latter, where the guardians may so direct. The Commissioners conceive it is a matter wholly in the discretion of the guardians, and dependent upon the direction they may give respecting the interment. The 31st section provides, that "unless the guardians, in compliance with the desire expressed by such person in his lifetime, or by any of his relations, or for any other cause, direct the body of such poor person to be buried in the churchyard, or burial ground, of the parish to which such person has been chargeable, (which they are hereby authorised to do,) every dead body which the guardians, or any of their officers duly authorised, shall direct to be buried at the expense of the poor-rates, shall (unless, &c.) be buried in the churchyard, or other consecrated burial ground, in, or belonging to, the parish, division of parish, chapelry, or place, in which the death may have occurred." The ordinary rule laid down is clearly, that a body is to be buried in the churchyard of the parish where the death occurred; the burial in the parish of the chargeability, is made the exceptional case, *i.e.*, where the guardians, for any of the specific reasons assigned in the section, or other sufficient cause, may see fit to direct, or authorise that course. The Commissioners apprehend that the clergyman of the parish in which the death actually occurs, whether it occur in or out of the workhouse, cannot legally refuse to bury the body. His obligation so to inter is, the Commissioners consider, sufficiently apparent both from the terms of the canon, (68,) and the requirements of the 31st section, already referred to.

IV.—CLERK TO GUARDIANS.

1. DUTY OF, TO MAKE CALCULATION REQUIRED BY GUARDIANS OF COST PER HEAD OF PAUPERS.

May 9*th*, 1846.

Clerk of —— *Union*—Inquired whether it forms part of his duty to make the calculation required in the following order of the guardians, namely, "The clerk is requested to furnish to the board of guardians, at their next meeting, a return of the cost per head, for the year ending the 25th of March, 1846, on the population of each separate parish, for the maintenance of the poor."

Ans.—It appears to the Commissioners that the order referred to is a lawful order of the guardians, applicable to the clerk's office; and one which you are, therefore, bound to obey under Article 17, No. 11, of the General Order of the Commissioners on the Duties of Officers.

2. DUTIES OF CLERKS, AS TO EXAMINING TRADESMEN'S BILLS.

April 21*st*, 1846.

Clerk of ——· *Union*—Some of the guardians contend that it forms a part of his (the clerk's) duty to examine the tradesmen's bills in order to test the propriety of the charges made therein, (as, for instance, the prices charged for stationery, &c., not supplied by contract,) which would require a knowledge of the prices proper to be charged by various tradesmen, with the nature of whose business he has not the slightest acquaintance. It is also asserted that he is bound personally to examine the accounts with the vouchers; that it is not sufficient for him to produce such accounts and vouchers previously checked by his clerk, whom he considers fully competent to perform that duty, and who keeps the union books under his superintendence. Inquired what is the precise extent of the duties of the clerk in relation to the matters above adverted to.

Ans.—The only order in force in the ——— Union which bears upon the point is the General Order respecting the Duties of Officers, Art. 17. In this, there is nothing imposing upon the clerk the duty of examing invoices of goods supplied to the union, (not upon contract,) to ascertain whether the charges are correct. That duty rather lies upon the guardians themselves. As to discharging the duty of examining the accounts with the vouchers, personally, the Commissioners consider that it is not required so long as the clerk is personally responsible for the examination being correct, which is the case in the present instance. Adverting, however, to No. 11 of Art. 17 of the order above referred to, the Commissioners are not prepared to say that, if the guardians should direct

the clerk to discharge the duties personally, such duties would not be "applicable to his office," except so far as regards a technical knowledge of the prices of the goods.

3. RIGHT OF CLERK TO A FEE FOR CERTIFICATES OF CHARGEABILITY.

April 17th, 1846.

Clerk of Dorchester Union—He has of late been required by several parishes to grant certificates for the purpose of proving the chargeability of paupers previous to their removal; and, as such certificates are given to save the expense of witnesses at the examination, as well as at the hearing of an appeal; he requested the Commissioners' opinion as to his right to demand a fee for such certificates.

Ans.—If the certificates to which you refer are those authorised by the 5 & 6 Vict. c. 57, they are to be issued by the board of guardians, and you only countersign them as the officer of the guardians; consequently, your filling up the certificate, and transmitting it to the parties applying are part of your official duties, for which no extra fee is payable.

V.—CLERKS TO JUSTICES—PAYMENT OF FEES TO.

May 23rd, 1846.

Mr. ——, District Auditor—The clerk to the justices has been in the habit, in addition to his duties as such clerk, of going journeys to make inquiries respecting the settlement of paupers, and also of transacting other business usually done by attorneys and assistant overseers. Inquired whether any charge for payment to him as justices' clerk, beyond what the table of fees allowed by the judges sanctions, should be allowed in the overseers' accounts.

Ans.—You would certainly not be justified in allowing in the overseers' accounts any payment made to a clerk of the justices, for services rendered by him as such clerk beyond what may be authorised by the established table of fees. If the same individual affords to the overseers any advice or assistance as an attorney, his payment by them, and the allowance of such payment in their accounts, will, of course, depend upon the same considerations that would govern the compensation of any other attorney in the like case. Whether his services in any instance have been rendered to the overseers in his character of clerk to the justices, or in that of attorney, is a question that must be decided according to the particular circumstances. The Commissioners desire to add that, if he is paid for doing any duty as an assistant overseer, the legality of the payment will, in the first place, depend upon the question, whether he is duly appointed to that office.

VI.—CLOTHING—ALLOWANCE OF TO BASTARD CHILDREN BORN IN THE WORKHOUSE, ON QUITTING SAME.

May 25th, 1846.

Clerk of Bideford Union—Inquired, whether the guardians can legally refuse to permit able-bodied women, who have been delivered of bastard children in the workhouse, on quitting, to take with them the clothing with which such children have been supplied therein.

Ans.—As the guardians cannot separate the child from its mother, if the latter gives notice to leave the workhouse, and has no clothes for her child, (the child having been born in the workhouse,) the case appears to the Commissioners to be one of such urgency as would bring it within the 1st Exception to Article 1 of the Out-Relief Prohibitory Order. The Commissioners assume that the mother is able-bodied and in health. If, however, in any case, the circumstances should not be such as would render it one of sudden and urgent necessity, the guardians might give the relief under Article 6 of the Order, and report the same to the Commissioners within fifteen days. The relief, if approved by the Commissioners, would then be lawful. With reference to the inquiry of the guardians, whether they can legally refuse the allowance of such relief, I am to state that if the mother has no other means of providing clothing for her child, the allowance of at least some covering for the child appears to be necessary. But the guardians are the judges of the necessity in this as in all other cases of relief. The Commissioners refer the guardians to the observations on the subject contained in their last Annual Report, par. 22. See Official Circular, No. 59.

VII.—COLLECTOR—APPOINTMENT OF AS OVERSEER.

June 18th, 1846.

Clerk of Chorlton Union—T. R., collector of poor-rates for the township of Chorlton-upon-Medlock, has been appointed overseer for that township, but he has not resigned his former office. How far are the two offices compatible?

Ans.—The offices of collector of poor-rates and overseer of the poor of the same parish are incompatible; or, in other words, cannot legally be held by the same person at the same time. An overseer of the poor is bound by law to discharge the duties of his office without remuneration, and one of those duties is certainly the collection of the poor-rates. If, therefore, he were to be paid as collector for the discharge of a duty which he is bound as overseer to perform gratuitously, it is obvious that such an arrangement would be a mere evasion of the law. Moreover, by the 61st section of 7 & 8 Vict. c. 101, every such collector is bound to obey the directions of the majority of the overseers; and, if he were at the same time one of the overseers, he would of course stand in the anomalous position of being subordinate to himself. On the whole, therefore, the Commissioners consider that the two offices cannot be held together; and that as his appointment to the office of overseer has been made and acted upon by him, such appointment to it must be considered as vacating that of collector. Under these circumstances, it appears to the Commissioners that T. R. has ceased to be a collector of poor-rates for the parish of Chorlton-upon-Medlock, and cannot be re-appointed to that office so long as he continues overseer of that parish.

VIII.—CONSTABLE.

REFUSAL OF OVERSEER TO PAY BILL OF CONSTABLE FOR REMOVING VAGRANTS.

May 2nd, 1846.

Clerks to Justices, Maidstone—A complaint has been made to the justices of the East Aylesford Bench, by W. M., a constable appointed for the parish of B., under the Parish Constables Act, (5 and 6 Vic. c. 109,) that the overseers of that parish refuse to pay him his bill, amounting to £1. 18*s.* 4*d.*, for moving vagrants out of the parish. The bill has been presented to the inhabitants in vestry, in pursuance of the 18th Geo. 3, c. 19, s. 4, and allowed by them, but the overseer has refused to pay it, on the ground that the auditor had, on a previous occasion, refused to pass a similar account, unless it was allowed by the justices. The justices to whom the complaint was preferred in this instance, finding that the inhabitants had allowed the bill, considered that they had, in consequence thereof, no jurisdiction in regard to the question; their interference only arising in case the inhabitants had disallowed it; but, thinking the case one of hardship, they wish the Commissioners' attention to be directed to it.

Ans.—The Commissioners think it probably admits of question whether a constable appointed under 5 & 6 Vic. c. 109, for whose remuneration special provision is made, (sec. 17,) is entitled to claim, under 18th Geo. 3, c. 19, sec. 4, to be reimbursed any sums which he may expend on account of the parish or township. The view which the Commissioners are disposed to take is that, so far at least as the fees or allowances contemplated by sec. 17, of 5 & 6 Vic. c. 109, are within the 18th Geo. 3, c. 19, sec. 4, the latter statute may be considered as virtually repealed, but that where the table of fees and allowances settled under the 5 & 6 Vic. c. 109, makes no provision for the case, and a constable appointed under the latter Act is put to charge in doing the business of the parish or township, his right to reimbursement under 18th Geo. 3, c. 19, s. 4, is preserved. With respect to the particular case to which your letter immediately relates, in which the constable of B. has made a claim under the last-mentioned Act on the overseers, it appears to the Commissioners that the vestry cannot, by their acquiescence in, or approval of the account of the constable, make it a lawful charge on the poor-rates, if the sums entered in the account be not in their nature such as the 18th Geo. 3, c. 19, warrants. The Commissioners conceive, however, that where the account containing items in their nature lawful has been allowed by the vestry, the statute makes it incumbent on the overseers to discharge the bill. In the account of the constable of B. an item or charge of 1*s.* 3*d.* "for moving vagrants on the hill" frequently occurs. The Commissioners do not at present see that this is warranted by 18th Geo. 3, c. 19, s. 4. It is unquestionably the duty of the constable to relieve the parish from the burden of vagrants, but this duty does not consist in moving them on, or sending them into the next parish, but in apprehending them and taking them before a magistrate. A claim upon the parish for any expenses which the constable might actually be put to in performing this duty would be a legal demand, under 18 Geo. 3, c. 19, sec. 4, (see Reg. *v.* Churchwardens of Chelmsford, 3 Gal. & Dav. 357,) *i.e.*, assuming no provision is otherwise made for the case by the table of fees and allowances settled under the Parish Constables Act. Moreover, the charge of 1*s.* 3*d.* does not appear to be an expense which the constable

incurs, but a recompense for the service: on this ground also the item is not warranted by 18th Geo. 3, c. 19, s. 4, which, as the Commissioners are advised, contemplates only the reimbursements of the constable the sums which he actually disburses on account of the parish or township. The Commissioners would further observe, that (assuming the propriety of the items) they do not see that the justices have jurisdiction in the case to order payment of the account. It is only where the bill or account is not approved by the inhabitants in the vestry that the justices (on the application of the constable) are to determine what is to be paid to him. The case does not appear to the Commissioners to be one in which they can give directions as to the payment of the constable. The payment depends entirely upon the legal considerations applicable to the case, and not upon any approval or sanction of the Commissioners.

IX.—DESERTION—THE HUSBAND LIVING IN ADULTERY AND THE WIFE LEAVING HIS HOME IN CONSEQUENCE.

May 28th, 1846.

Chairman of Bridgnorth Union—Requested the Commissioners' advice with reference to the case of a man against whom the guardians are about to take proceedings for deserting his wife, who has left his house and become an inmate of the workhouse in consequence of her husband having brought home a woman with whom he is now living in a state of adultery.

Ans.—The Commissioners think that the husband, under the circumstances described in your letter, is liable to be proceeded against for the refusal or neglect to maintain his wife, by which refusal or neglect it appears she is now chargeable to the parish. The Commissioners collect from your statement that there is no imputation on the wife, but that she has been compelled to leave her husband's roof for a reasonable cause, *i.e.*, his conduct, or rather mode of living, has rendered his home unfit for a modest woman to reside in it. It was held in Aldis *v.* Chapman, 1 Selwyn N. P. 281, (and to the same effect are the subsequent cases: see Houliston *v.* Smith, 3 Bing. 127; 10 Moore 482; 2 C. and P. 22,) that where a husband, by bringing another woman under his roof, renders his house unfit for the residence of his wife, and she, thereupon, removes and lives apart from him, he is bound to provide her with necessaries during the separation. Such treatment on the part of the husband is equivalent to turning his wife out of the house, (per Lord Kenyon in the case of Hodges *v.* Hodges, 1 Esp. N. P. C. 441.) The question, however, is, whether the husband, under such circumstances, is criminally answerable under 5th Geo. 4, cap. 83, sec. 3; in other words, whether his civil obligation and his criminal liability stand on the same footing. The Commissioners consider that they do, and that the ground in both cases is "the legal obligation to maintain." The case of Rex *v.* Flinton, 1 B. and Adol. 227, appears to establish thus much. The husband there was held not to have committed an offence under sec. 3 of 5th Geo. 4, cap. 83, because the obligation to maintain his wife was not made out, she having left him without sufficient cause, and having committed adultery. Had the case been otherwise, *i.e.*, had the husband been civilly liable for his wife's contracts, it would seem that the conviction would have been upheld. Justice Littledale observes: "I do not see the distinction attempted between the parish and an individual supplying necessaries. If the husband is not obliged to answer for his wife's contracts, or to receive her into his house, it cannot be said that he is legally bound to maintain her." The inference from this is, that if the husband had been liable for his wife's contracts, and bound to receive her, he would have been equally bound to have maintained her, within the meaning of 3 Geo. 4, cap. 83. The Commissioners entertain some doubt whether the husband could be proceeded against under sec. 4 of 5th Geo. 4, cap. 83, for the offence of desertion. It, probably, could not be made out that he had run away, and left his wife. The terms of the 3rd section are different, and apply simply to a neglect to maintain.

X.—ELECTION OF GUARDIANS.

1. DUTY OF CLERK WHERE HE BELIEVES A NOMINATION PAPER TO BE A FORGERY.

April 2nd, 1846.

Clerk of —— Union—Inquired what course he should pursue in the case of a nomination for the office of guardian, in which he has some doubts whether the signature to the nomination paper is that of the person purporting to have signed it; whether he can call upon the person whose signature it purports to be, to speak to the fact,

or allow an objection to be taken on the point at any stage of the election.

Ans.—The Commissioners think that if you are satisfied that the signature attached to a nomination paper is a forgery, it will be your duty to treat such nomination as invalid. The Commissioners consider, however, that the proper time for taking the objection is before the day arrives for issuing the voting papers. With regard to the evidence of the supposed forgery, the Commissioners can only say that you must satisfy yourself upon the point by the best testimony you can obtain.

2. QUALIFICATION TO VOTE OF PERSONS ON THE RATE-BOOK, BUT WHOSE RATES ARE PAID BY THEIR LANDLORDS—NON-RESIDENT VOTER.

April 1st, 1846.

Clerk of Lutterworth Union—Requested the Commissioners' opinion on the following points, with reference to the election of guardians; namely,—1st, Whether occupiers of cottages, whose names appear in the rate-book, the rates, however, being paid by the landlord, are entitled to vote. 2ndly, Whether the incumbent of the parish, who is non-resident, can authorise his agent (who pays the rates for him) to receive his voting paper, and fill it up and sign it; or, if not, can the agent send the paper to the incumbent to fill up, and, on its return, deliver it to the person appointed to receive the voting papers, and thus secure the incumbent's vote.

Ans.—1st. The 40th section of the Poor Law Amendment Act requires, as the condition of voting as rate-payer, that the person should have been rated for a given period (a year), and should have paid the rates for such period. The payment here required is undoubtedly either a direct payment by the party himself, or by some one who can be considered as his agent for the purpose. The circumstances of the case, as stated by you, are very similar to those in Reg. *v.* Inhabitants of South Kilvington, in which it was held, that a payment of the rate by the landlord was not a payment by the tenant within the meaning of the 3rd and 4th William and Mary, c. 11, s. 6. The Commissioners cannot, however, undertake to advise as to the sufficiency of the payment in the present case, as a payment by the occupiers, or parties assessed, unless informed more particularly of the facts of the case, and the precise nature of the arrangement which may have been entered into between such occupiers and the landlords. 2nd: A voter who can write cannot authorise an agent to sign the voting paper for him. A voter who does not reside in the Union may name a place of address in the parish at which the voting paper may be delivered. The paper, when delivered at such address, might be transmitted to the voter for signature, and returned by the latter in sufficient time to allow of the paper being given to the person authorised to call at the place of address for the same. If a non-resident voter does not name a place of address, he may himself apply to the clerk for a voting paper in the manner provided by Article 19 of the Order of Election.

3. VOTING: CHANGE OF RESIDENCE FROM ONE WARD TO ANOTHER.

March 30th, 1846.

Clerk of Leeds Township—It frequently happens that rate-payers remove out of one ward to another between the periods at which a poor-rate may have been made and the time at which an election of guardians may occur. By the Commissioners' Election Order for Leeds, which divides the township into wards for the election of guardians, it is directed under 7 & 8 Vic. c. 101, that such ward shall, for the purposes of the election of guardians, be considered as a separate parish, so that, for the purposes of such election, a person who has removed his residence into another ward since the half-yearly, November, poor-rate for 1844 was laid, will not now have been rated in such other ward for the twelve months required by law. The election order requires the voting paper to be delivered at the residence in the ward of the voter, which cannot be done if a person who is qualified to vote for the north ward only, removes his residence before the day of election into the west ward, or any other ward of the township, in which he has not previously been rated. Inquired whether a person thus circumstanced would be entitled to vote in the ward into which he may have removed, or from which he may have removed: whether a person who may have so removed is bound to give the notice prescribed by sec. 21 of 7 & 8 Vic. c. 101, in order to preserve his right to vote in the ward from which he has removed: whether also he would be bound to give the like notice before he could vote in the ward into which he has removed, in the event of the right of voting enuring to him notwithstanding such

removal. Further, whether a rate-payer is entitled to nominate in a ward in which he is not entitled to vote.

Ans.—Looking to the language of the 7 & 8 Vic. c. 101, sec. 21, it appears that no person can vote in any other ward than that in which he resides, unless, being entitled to vote in respect of property in such other ward, he have given the notice required to enable him to exercise the right in such other ward. It also appears that the qualification in any ward must be in respect of property in that ward. Consequently, it seems to the Commissioners, that a party who has not been rated in respect of property in the ward in which he resides at the time of the election, cannot vote as rate-payer in that ward. If a party, being qualified in respect of property in any ward, removes into another ward before the time of election, he may, in some cases, continue to be qualified in the former ward, as he may be still on the rate in respect of the property for which he had been rated; and in this case, if he give the notice prescribed by the 21st sec., he would be entitled to vote in the ward where he was so qualified. But if he were off the rate, in respect of that property at the time of the election, then he would not be entitled to vote in that ward although he give the notice. It appears, therefore, that no person can vote out of the ward in which he resides, except he give the notice referred to, and that no such notice will be available except where the party continues to be qualified in respect of property in the ward to which the notice applies up to the time of the election. Where there is not a right to vote there is not a right to nominate. Consequently, where the vote would be disallowed the nomination by the same person is invalid.

XI.—GUARDIANS.

1. APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN.

April 14th, 1846.

Clerk of Lincoln Union—Inquired whether the guardians were authorised in making the appointment of a chairman and vice-chairman of the board for the ensuing year at their last meeting, a contest for the election of a guardian in one of the parishes in the union being then pending.

Ans.—The Commissioners direct your attention to their General Order of the 20th of April, 1842, which provides that "the guardians shall *at the first meeting after every annual election of guardians*, elect out of the whole number of guardians a chairman and a vice-chairman." It appears to the Commissioners that, under the circumstances mentioned in your letter, the annual election of guardians for the Lincoln Union for the present year was not complete on the first of April; and that, consequently, the meeting held by the guardians on that day was not the first meeting after such election, within the meaning of the order. The Commissioners, therefore, consider that the appointments referred to are altogether null and void.

2. WHETHER A GUARDIAN, WHO IS AN ATTORNEY, CAN CONDUCT PAROCHIAL BUSINESS.

May 19th, 1846.

Messrs. ———, Solicitors—Inquired, whether their firm, one of its members being a guardian of the ——— Union, can legally conduct professional business for the overseers of a parish in the union.

Ans.—The Commissioners are not aware of any legal objection to a guardian of a union being retained as the attorney for one of the parishes in that union, in conducting appeals, or other similar matters, which relate solely to the affairs of the parish.

XII.—JUSTICES—THEIR POWER TO ACT IN CASES IN WHICH THE UNIONS, OF WHICH THEY ARE EX-OFFICIO GUARDIANS, ARE INTERESTED.

May 23rd, 1846.

Clerk of Bakewell Union—Can justices acting as ex-officio guardians in this union, and as justices in the Bakewell division of the union, legally commit, under the Vagrant Act, a man resident within the union who has deserted his family.

Ans.—The 15th sec. of the 5 & 6 Vic. c. 57, removes any doubts as to the competency of justices to act as such, at petty, special, or quarter sessions, in matters in which the guardians of the union are complainants or are otherwise interested or concerned, merely on the ground that they are ex-officio members of the board of guardians so complaining, interested or concerned in such matter, and have acted as ex-officio members of such board. In the case put in your letter, (namely, in a proceeding under the Vagrant Act for desertion of family,) the Commissioners do not see any reason to doubt the power of the justices, being ex-officio members of the board of guardians of the Bakewell Union, to entertain and adjudicate in the matter.

XIII.—INQUEST—EXPENSES OF WITNESSES AT.

February 28th, 1846.

Clerk of Mitford and Launditch Union—A pauper belonging to the parish of Great Dunham, in this union, was found drowned in a pond under suspicious circumstances. A very minute investigation was made both by the coroner and the magistrates, which required the attendance of several witnesses for some days. As there is no public fund from which the expenses incurred in the investigation can be paid, requested the Commissioners' sanction to their being paid out of the poor-rates of the parish.

Ans.—The Commissioners do not see that the poor-rates could be lawfully applied to the payment of the expenses attending the inquiry by the coroner and magistrates in the case described by you, or that the sanction of the Commissioners, if given, would give validity to such a payment. The circumstance of the person whose death was inquired into being a pauper did not alter the character of the inquiry, which was apparently instituted for the simple purpose of furthering the ends of justice, and such as would, therefore, have taken place had not the deceased been chargeable to the parish in his lifetime. However proper and necessary such an inquiry may have been, the Commissioners are not aware of any authority which would justify the proposed payment out of the poor-rates.

XIV.—LUNATIC PAUPER.

1. DUTY OF MEDICAL OFFICER WITH REGARD TO.

June 10th, 1846.

Medical Officer, Linton Union—Inquired whether he is bound, under the 8 and 9 Vic. c. 126, to visit and report to the clerk of the peace, upon the case of a pauper lunatic, whom he is not attending.

Ans.—The 55th section of the 8 and 9 Vic. c. 126, requires every pauper lunatic, chargeable to any parish, not in an asylum, hospital, or licensed house, to be visited and reported on by the medical officer of the parish, or union, to which such pauper belongs. If, therefore, the pauper lunatic in question be chargeable to one of the parishes comprised in your district, it is your duty to visit and report such lunatic, without any order from the relieving officer, or the board of guardians.

2. SERVICE OF ORDERS OF MAINTENANCE OF LUNATICS, UNDER SEC. 62, OF 8 & 9 VIC. C. 126.

April 27th, 1846.

Clerk of Erpingham Union—Inquired whether the orders made under the 62nd section of the 8 & 9 Vic. c. 126, for repayment of the costs of the maintenance of pauper lunatics, should be served by the post, or personally, upon the boards of guardians and overseers to whom they are directed.

Ans.—The Commissioners find no provision in the statute referred to for the service of orders or other documents, though there is such a provision in the Act 8 & 9 Vic. c. 100. The Commissioners believe, therefore, that the service of such an order by the post will not suffice, and that personal service is, in strictness, necessary. Section 68 contemplates that the officer shall have *due notice* of the order before he can be made responsible for any neglect in obeying it. It may be sufficient in the first instance to send by post a copy of the order, and if the union or parish upon which it is made will not recognise or obey it, a copy of the original order must be served personally on the party to whom it is addressed.

XV.—MEDICAL RELIEF.

1. ORDERED BY OVERSEER, WITHOUT REPORTING IT TO RELIEVING OFFICER.

February 6th, 1846.

Clerk of ——— Union—The guardians' attention has been called to three cases entered in the book of the medical officer of the workhouse, in which the overseer of ——— had given orders for medical relief, without reporting the same to the relieving officer. Requested the Commissioners' opinion on the matter, with a view to protect the medical officer from being called upon to attend to cases in which the overseers are not, in the opinion of the guardians, empowered to order medical relief; and to be informed whether the overseer alluded to has not rendered himself liable to the penalty imposed by the 98th section of the 4 & 5 Wm. 4, c. 76, for improperly ordering the relief in question.

Ans.—If any proceedings are taken against the overseer in question in reference to this matter, the Commissioners think it should be for not reporting the cases in which he had given orders for medical relief to the relieving officer, or to the board of guardians under Article 1 of the General Order of the Commissioners on the Duties of Overseers, dated 22nd April, 1842. The omis-

sion of that article from the printed copy of the overseer's instructions given to him by the magistrates on his appointment to the office is immaterial as affecting his liability to report under the Commissioners' General Order above mentioned. With regard to the hardship on the medical officer in being called upon to attend upon such cases, the Commissioners think, that if the overseer has given orders which he was not empowered to give, the medical officer might, no doubt, recover the cost of his attendance, &c., from the overseer.

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2. Whether bound to attend, on the order of an assistant overseer, persons who are not destitute.

May 8th, 1846.

Clerk of ——— Union—One of the medical officers of the union has informed the guardians that he had received an order (which he attended to) from an assistant overseer in his district, to visit the sick wife of an able-bodied man, who rents a house of £10 a year, and who keeps two cows, and is in constant work at wages of 10*d.* per day. Inquired whether the medical officer is bound to attend to cases similar to the one alluded to if directed to do so by persons duly authorised.

Ans.—It is the duty of the medical officer to attend cases such as that alluded to by you if so directed by the board of guardians, or by the overseers, or relieving officers. The board of guardians are, however, the judges of the destitution of the person, and if satisfied that he is not in a condition to need medical relief at the expense of the ratepayers, the guardians may, and ought, to direct the medical officer not to attend the person on their account.

XVI.—OVERSEERS.

1. Hiring of room by overseers for transaction of parish business.

February 20th, 1846.

Overseers of Edgbaston, King's Norton Union—Requested the Commissioners' sanction to the payment of a sum of £20 per annum, for the rent of a room in which to transact the general business of the parish.

Ans.—Seeing that the statutes relating to the inspection of Poor Rates, the Parochial Accounts, &c., apparently contemplate other places besides the vestry or the overseers' house, in which such inspection may be made, (see 17 Geo. 2, c. 38, s. 13; 7 & 8 Vict. c. 101, s. 33,) the Commissioners are disposed to think it may be lawful under certain circumstances, to provide, at the expense of the poor-rates, a place or room suitable for the purpose, and which would likewise be available for the transaction of other business incident to the office of overseer. It will, of course, always be a question in each case whether there is an actual necessity for providing such a place; and, if so, whether the expense proposed to be incurred for the object be reasonable; though these are points upon which it will be necessary for the auditor to decide.

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2. Duty of overseers under lighting and watching act.

May 16th, 1846.

Overseers of Penrith—Are the overseers of the poor bound to collect the lighting and watching rate when ordered to do so by the inspectors appointed under the 3 & 4 Wm. 4, c. 90, (the Lighting and Watching Act.) The overseers think, that as the Poor Law Amendment Act was passed subsequently to the above-mentioned Act, their duties were changed by being placed under the authority of the Poor Law Commissioners, who have from time to time issued rules for their guidance, and it did not appear that they had to collect any other rates than those required for the relief of the poor. Inquired the Commissioners' opinion as to the overseers' duty under the Act.

Ans.—The duties of overseers in regard to the collection of lighting and watching rates under the 3 & 4 Wm. 4, c. 90, are not in any way altered by the Poor Law Amendment Act, 4 & 5 Wm. 4, c. 76. The overseers are still bound to comply with the orders of the inspectors, issued under the 32nd section of the Lighting and Watching Act; and are still subject to be proceeded against in case of default, as described in the 38th section.

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3. Whether duty of assistant-overseer to collect lighting-rate.

May 19th, 1845.

Assistant Overseer, Penzance Union—Inquired whether it is part of his duty to collect the lighting-rate for the town and parish for which he acts as assistant-overseer, his appointment having been made by the guardians, and his bond specifying the usual duties, with the following addition; namely, "to perform all such of the other duties of overseers of such of the said parishes for which they shall be respectively appointed assistant-overseers as relate

to the administration of the laws for the relief of the poor."

Ans.—The former part of the additional clause referred to by you is very general in its terms, and would, but for the words in the concluding part, certainly impose upon the assistant-overseer the obligation of performing any duty which, by law, is cast upon an overseer of the poor. Those words, however, clearly contain a limitation, and define the duties as those "which relate to the administration of the laws for the relief of the poor." The Commissioners cannot say that the collection of the lighting-rate, though a duty expressly cast upon the overseers by the 3 & 4 of Wm. 4, c. 90, "relates to the administration of the laws for the relief of the poor." The lighting rate is a distinct rate from the poor-rate, and cannot, unlike some other rates, (the county-rate, for instance,) be collected as a part of the poor-rate. Moreover, a distinct and separate account is required to be kept and yielded of the moneys raised under it. The Commissioners, therefore, think that, under the terms of your appointment, it is no part of your duty to collect the lighting-rate.

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4. Whether a blind man can be appointed to the offices of churchwarden or overseer.

April 9th, 1846.

Mr. ———, Cardigan Union — Inquired, whether a blind man can be appointed to serve the office either of churchwarden or overseer of a parish.

Ans.—The appointment of fit persons for the discharge of the office of overseer, is a discretionary power, vested in the justices, who are to select such householders as they may think most proper, having respect to the circumstances of the place and the condition of the individual. The law requires that they should be substantial householders. A blind person does not certainly seem a very fit one for the office, even though he should be a substantial householder; for, there are many duties imposed upon an overseer of the poor, which a person who is blind could scarcely perform. The Commissioners will not say that such an appointment would be void, but the choice, they think, would be improper, if there were other substantial persons in the parish capable of serving the office; and, possibly, the quarter sessions, on appeal, would quash such an appointment. As regards churchwardens, they are chosen usually, one by the parishioners, and one by the clergyman. As regards the persons to be selected, the same objections that would apply to the appointment of a blind person to the office of overseer would equally apply to that of churchwarden. If, however, an unfit person be chosen by the parishioners, there appears to be no remedy.

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5. Duty of overseers of places where there are no poor to submit accounts to auditor.

May 25th, 1846.

Mr. ——, District Auditor—Several townships and extra-parochial places separately liable to maintain their own poor, avoid contributing to the general fund of the union by inserting the words, "no poor" in the columns of the declared averages. They respectively return a guardian whose qualification must of necessity be, an assessment for the relief of the poor, but the replies of the overseers are, "no poor, no account," and consequently refuse to render any account. The county rate is paid by them on the order of the guardians to the union treasurers, some part of which is supposed to be for the relief of poor prisoners. Inquired whether the overseers should be required to submit their accounts for audit.

Ans.—You should summon the overseers of every parish or other place within your district, to attend you at the audit. If any of such overseers, when so in attendance, decline to produce to you any accounts, on the ground that they have none to render, the question will arise, how far that is a valid excuse under the circumstances of the particular case. If it should appear, on due inquiry, that they have no accounts to render, because, in point of fact, nothing has occurred in respect of which they would be liable to account, then, of course, there would be an end of the matter. But, if their excuse be not a true one, it will be your duty to make such inquiry into the circumstances, as may enable you to deal effectually with the case. Upon so general a statement as that contained in your letter, the Commissioners find it difficult to express any precise opinion. They will observe, however, that the mere circumstance of there being "no poor" in any parish, in any half year, would not necessarily exonerate the overseers of that parish from the obligation to submit their accounts to you for such half year.

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6. APPOINTMENT OF OVERSEERS.

April 13, 1846.

Mr. —— inquired whether the list of persons nominated for overseers made by the vestry, or that made by the outgoing overseers, should be submitted to the justices.

Ans.—By the statute of the 43rd Eliz. c. 2, s. 1, the power of appointing overseers is vested in the justices alone. It is not competent, either to the outgoing overseers or to the vestry, to make any selection which shall be binding on the justices; though there is nothing to prevent their making suggestions to the justices on the subject.

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7. EXPENSES OF OVERSEERS BEFORE REVISING BARRISTER.

April 17th, 1846.

Clerk of Kendal Union—At the last court held by the barrister appointed to revise the Lists of Parliamentary Voters, application was made by the overseers of the different townships for the usual certificate of expenses, which the revising barrister declined to give, on the ground that the auditor would allow such expenses without a certificate; but the auditor refuses to do so, and the revising barrister now states that he has no authority to sign certificates after the last day of October. Requested that the Commissioners will, if they have the power, direct the auditor to allow the charges made by the overseers on the usual scale.

Ans.—The Commissioners think that the auditor was right in law in requiring the production of the certificate of the revising barrister, as the condition of the allowance by him of any expences incurred by the overseers in carrying into effect the statute 6 & 7 Vict. c. 18. The Commissioners apprehend that the poor-rates cannot be lawfully charged for the purpose, except where the sum has been certified by the revising barrister in the manner provided by section 57 of that statute. Whether it is open to the revising barrister in this case, now to certify upon an investigation of the several claims, the Commissioners will offer no opinion; but if it is not, the refusal of the barrister to certify in accordance with the express direction of the statute when applied to by the overseers, has certainly inflicted a great hardship upon them. The Commissioners have, as they believe, no discretion in the matter, and their sanction would not render the payment lawful if otherwise unlawful.

XVII.—POOR-RATES.

1. PROCEEDINGS TO ENFORCE PAYMENT OF.

April 19th, 1845.

The Rev. —— *J. P.*—The overseers of ——— having summoned several small holders for the nonpayment of poor-rates, inquired whether, in the event of the magistrates authorising the overseers to pay the costs of the proceedings, the same could be allowed in their accounts; and, if not, whether a distress will be legal if made for the precise amount of rate and a given sum for the costs up to the time of distraining, and also for those afterwards incurred for the holding and selling.

Ans.—The Commissioners entertain no doubt that the costs incurred previously to the issuing of the warrant of distress for nonpayment of poor-rates, may, in all cases where the rates sought to be recovered are legally due, be paid by the overseers, and by them charged in their accounts. But no order of justices appears necessary to enable the overseers to do this. It must be considered as established by several decisions, that the expenses incidental to the discharge of an official duty (where the public officer has exercised reasonable skill and prudence in its discharge) are such as he is entitled to be reimbursed out of the funds which he administers. This applies with full force to such a case as the present, it being the unquestioned duty of the overseers to take proceedings for the enforcement of a valid poor-rate. It is to be observed with regard to the costs incurred previously to the distress, that they are incurred at the instance of the overseers and on their application; the claim of the justices' clerk would, therefore, in the first instance be against the overseers. But the Commissioners understand the recent case of Skingley *v.* Surridge, 11 Meeson & Welsby, 503, to decide that the justices, in circumstances such as those stated in your letter, are empowered to award costs to the overseers under the 18 Geo. 3, c. 19, s. 4, as a party injured. The justices have, therefore, the means, where they may think the circumstances call for it, to relieve the parish, in fact, from the payment of the costs by ordering the party complained against (the person in arrear) to pay as costs, an amount to the overseers equivalent to that which the latter have incurred in the recovery of the rate. The Commissioners further understand the effect of the above decision to be, that the costs so awarded ought not to be included in the warrant for the recovery of the rate itself. It was there observed by Mr. Baron Parke, "it was urged that this

sum [11*s.* 6*d.* admitted in the preceding part of the judgment to have been due under 18 Geo. 3, c. 19] could not be recovered by distress under the statute of Elizabeth, nor could it; nor could the distress for it be justified under the general form given by that statute, which is equally true." The Commissioners apprehend that where there is an intention to award costs, the statute, 18 Geo. 3, c. 19, s. 4, must be pursued, and there must be a distinct award of costs (see the form) and a distinct warrant for their recovery. With respect to your question, therefore, "Can a distress be considered legal when made for the precise amount of rate, and a given sum for the costs up to the time of distraining, and also for those costs afterwards incurred for the holding and selling?" the Commissioners apprehend the correct answer is, that, as regards the former costs, the distress (if levied by warrant) would not be lawful, but, as regards the latter, it would; although the former would be recoverable by a separate process as already pointed out.

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2. APPLICATION OF POOR-RATE TO THE PURCHASE OF SEED POTATOES FOR THE POOR.

May 23rd, 1846.

Clerk of Carmarthen Union—Stated that the board of guardians purposed taking into consideration the propriety of purchasing a quantity of potatoes to be distributed for seed among the poorer classes in the union, and requested Commissioners' directions thereon.

Ans.—However desirable it may be to supply the poor with seed potatoes, the Commissioners think that, in the present state of the law, the poor-rates cannot legally be applied to such a purpose; the rates being only applicable, except where otherwise expressly provided by statute, to the relief of actual destitution.

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3. PUBLICATION OF POOR-RATE ON DOOR OF CHAPEL OF EASE.

May 4th, 1846.

Overseers of ———, —The overseers having made a rate for the relief of the poor, after allowance duly published it upon the door of the parish church, being the only place where a rate has been published from time immemorial in the parish, an objection was raised in consequence of the rate not having been published on the door of a chapel of ease in the parish; which is distant about two miles from the parish church, and in which service has been performed for several years; although it has never been usual to affix any notice on the door. Inquired whether the rate is, in consequence of the above circumstance, invalid.

Ans.—The 2nd section of the 1st Vict. c. 45, expressly requires the notice of a poor-rate to be affixed on or near to the doors of all the churches and chapels within the parish or place. The Commissioners are disposed to consider that the word "chapels," as here employed, does not apply to places of worship used by dissenting congregations; but they certainly think it includes chapels of ease belonging to the Established Church. As the notice of the poor-rate to which you refer was not affixed at the chapel of ease in the parish of ———, on the Sunday after its allowance, the Commissioners are of opinion that it was not sufficiently published, and, consequently, cannot be collected or enforced, (see 17 Geo. 2, c. 3, s. 1.)

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4. RECOVERY OF POOR-RATE FROM BANKRUPT.

May 13th, 1846.

Clerk of Uppingham Union—A. B. was gazetted as a bankrupt, in the month of November last, but continues to occupy his farm as usual. The overseers of the poor laid a rate to meet the necessary expenses of the parish, in January last, which was allowed by the justices, on the 31st of that month, and duly published; in which rate, A. B. is assessed for the farm he occupies. The rate was demanded of him, when he refused payment. The overseers then summoned him before the justices, to show cause why he should not pay the rate, but the bench dismissed the complaint. The official assignee has been applied to, but he states he has no money in hand. There is stock on the farm, which A. B. deals with, apparently as his own.—Inquired what course should be adopted for the recovery of the rate due on the farm occupied by A. B.

Ans.—It is, of course, a question of fact, whether or not the bankrupt, who, it appears, resides in the farm, and carries on the farming operations as usual, is, or is not, the beneficial occupier. If the assignees were the occupiers of the farm when the January rate was made, (the farming operations being merely carried on by A. B. on their account,) the assignees, and not A. B., should have been rated, and not having been so rated, the rate cannot now be recovered It may be, however, that A. B. is the actual occupier; if so, and if since the fiat was issued, he has become possessed of any goods or effects, it appears to the Commissioners, that such goods and effects could be lawfully

distrained upon for the January rate, in case of its non-payment.

XVIII.—RELIEF.

1. POWER OF GUARDIANS TO PAY THE COST OF MAINTAINING A PAUPER IN A PENITENTIARY.

April 5th, 1846.

Clerk of — Union—E. H. aged eighteen years, a pauper, chargeable to —— parish, in the —— union, has made an application to the guardians to be sent to a penitentiary, or refuge for the destitute, such as that in the Hackney-road, or the Philanthropic Asylum. For the pauper's maintenance at either of those places the guardians would have to pay 7*s.* a week.—Inquired whether the guardians have power to comply with the application, by making an advance by way of loan or otherwise.

Ans.—However desirable it may be, under the circumstances of E. H.'s case, that she should be placed in some asylum, or institution of the nature of those mentioned, the Commissioners are of opinion that the guardians cannot lawfully expend the poor-rates for such a purpose.

2. RELIEF TO THE WIFE AND FAMILY OF A MAN WHO HAS ENTERED THE ARMY.

February 23rd, 1846.

Clerk of Kingston Union—An application has been made to the guardians, by the wife of a man who has enlisted in the army, for relief, on the ground that she and her family are destitute. The guardians have communicated with the War Office, for the purpose of ascertaining whether any part of the man's pay can be set apart for the maintenance of his family; and they wish to have the Commissioners' advice as to the course they should pursue with the woman and her family.

Ans.—Unless the authorities of the War Office can interfere under the circumstances to protect the parish, by requiring a part of the husband's pay to be applied to the maintenance of his family, the Commissioners are not aware that there is any available remedy. The Commissioners have reason to believe that it is not the practice of the War Office so to interfere. The Commissioners are advised that the husband is protected by the provisions of the Mutiny Act from being proceeded against for the offence of deserting his family and suffering them to become chargeable. If the wife have not the means of supporting herself and family, the guardians will do right in giving needful relief. The absence of the husband will not prevent the removal of the wife and family to their place of settlement if not settled within the union, if that step be advisable under the circumstances.

3. RECOVERY OF RELIEF GRANTED TO NON-RESIDENT PAUPERS RELIEVED BY THEIR PARISHES.

May 5th, 1846.

Clerk of Wincanton Union—In a recent account delivered by the guardians of the Shepton Mallet Union, for relief advanced by them to paupers residing in their union, but belonging to parishes in the Wincanton Union, there is a charge for a fee of £1. 10*s.* for medical attendance on a pauper (J. F.) belonging to the latter union. Inquired whether such fees should not be paid by the union or parish in which the paupers are resident.

Ans.—The Commissioners do not understand you so much to raise the question as to the actual liability of the guardians of the Wincanton Union to repay the medical relief under the circumstances of the particular case of J. F., as to inquire generally whether medical relief stands on the same footing as other relief with respect to its repayment and recovery in the cases of non-resident paupers. Where the actual cost of medical relief given in a specific case can be ascertained, the union in which the pauper is settled may undertake to repay it if they think proper, as they may any other non-resident relief which is lawful; but there is no obligation on such union to do so. On the contrary, the obligation to afford medical relief rests, in the first instance, on the union where the pauper resides, and, in most cases, the cost, forming part of the gross salary of the medical officer, cannot be separately stated. Probably in J. F.'s case the liability to repay the cost of medical relief will turn on the question whether the union of her settlement undertook to repay it.

4. RELIEF TO AN ENGLISH PAUPER RESIDENT IN SCOTLAND.

May 29th, 1846.

Clerk of Dartford Union—The guardians for the parish of Bexley, in the Dartford Union, have received a communication from the inspector of the poor for the parish of Cargill, in Scotland, stating that a person named J. D. has become chargeable to that parish. As the pauper belongs to Bexley, and the practicability of giving relief at Cargill is excluded by the Commissioners' Order relating to Non-resident Relief, the guardians wish to know if any mode

is open to them to grant relief to the pauper, at Cargill, on account of the parish of Bexley.

Ans.—The Non-resident Relief Order of the Commissioners does not bear upon the case at all. If J. D. is within the exceptions to Article 3 of the Out-relief Order, it is competent to the guardians to give him relief while resident in Scotland. The Commissioners, however, believe that it has never been the practice for English parishes to give relief to persons resident out of England; and no such system of relief appears to have been contemplated by the statutes.

5. RELIEF BY PURCHASE OF A PAUPER'S GOODS SEIZED FOR RENT.

May 23rd, 1846.

Clerk of —— Union—The guardians feel some difficulty as to the proper course for them to pursue in the cases of paupers, relieved under the Out-door Labour Test Order, whose goods have been distrained for rent, as the workhouses of the union are full, and the order alluded to prohibits the guardians from paying paupers' rents. The guardians perceive no other alternative than purchasing goods for such paupers as have had their goods seized for rent; but they wish to have the Commissioners' advice as to how far they would be justified in buying the goods of the paupers at the sale.

Ans.—The Out-door Labour Test Order of the Commissioners prohibits the payment of rent, as such, to able-bodied paupers, a practice which often leads to abuse by causing money to be paid from the poor-rates, not as relief to the pauper to provide for his present wants, but as a mode of discharging arrears due to the landlord. But though rent cannot be paid as such, the guardians are, without doubt, bound to make such allowance to a pauper destitute of lodging, as will enable him to procure lodging during such time as the allowance is intended to cover. The Commissioners do not, however, think that the guardians can legally buy in at a sale the goods of persons distrained upon for rent professedly as a means of relieving those persons. If, in consequence of any such distress and sale of the goods, any person become so destitute as to require relief, the relieving officer may be directed to supply any bedding or similar articles which may be found necessary. This should be done out of the stores of the union, and, in many instances, such supply may be made by way of loan.

XIX.—RELIEVING OFFICERS — NOT INCLUDED IN THE WORDS "OTHER OFFICERS" IN 7 AND 8 VICT. C. 101, S. 33.

May 18th, 1846.

Clerk of Merthyr Tydvil Union—Inquired whether the term "other officers," as used in section 33 of the 7 & 8 Vict. c. 101, extends to relieving officers.

Ans.—The Commissioners are of opinion that the term "other officers," as used in the 7 & 8 Vict. c. 101, s. 33, means the parochial officers, and does not extend to the relieving officers.

XX.—REMOVAL—OF SCOTCH AND IRISH POOR.

October 30th, 1845.

Clerk of Newcastle-upon-Tyne Union—1. Inquired whether the expense of removing a poor person, under sections 2 and 3 of the 8 and 9 Vic. c. 117, is to be paid by the parish to which such person is chargeable, or out of the common fund of the union; and by whom the expense of an appeal, under section 6 of the above Act, is to be borne. 2. Whether justices have the power to commit to prison, or otherwise punish, paupers who refuse to be sworn when brought before them for the purpose of being removed to Ireland, &c.

Ans.—1. The Commissioners are disposed to consider that the terms of the 2nd section of the 8 and 9 Vic. c. 117, require the expense of removing a pauper under that section to be borne by *the union*, in the case of a pauper chargeable to a parish within a union, and by the *parish*, in the case of a pauper chargeable to a parish not in a union. The section directs that the 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 alternative 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. The expenses of an appeal, under the 6th section of the Act are, when the warrant of removal is reversed, to be paid *by the guardians or overseers* on whose application such warrant was obtained. In the case of a pauper removed from a parish within a union, the Commissioners apprehend that, as the expenses of his removal will (upon the foregoing opinion) be chargeable to the union, so also will the expenses of the appeal, when required to be paid by the guardians. 2. The Commissioners direct your attention to the case of R. *v.* Jackson (1 Term Rep. 653), which seems to show that justices, where

hey have power to examine, have also the power to commit the party for refusing to be examined.

XXI.—SETTLEMENT.

April 7th, 1846.

Clerk of Calne Union—I. C., a girl aged ten years, has become chargeable to the united parishes of the city of Coventry. She is the illegitimate daughter of H. C., who has been dead about three months, and whose maiden settlement was at Yatesbury, in this union. Subsequent to the birth of the child, H. C. married a man named W., belonging to Leek, who maintained the child up to the mother's death. He has now ceased to do so. The girl is living with her grandmother at Coventry, who is not able to support her. Inquired whether W.'s liability to maintain the child ceased at the death of her mother, and occasioned the child's original settlement at Yatesbury to revive; or, whether the child will take the settlement of W.

Ans.—The Commissioners think that the husband's liability to maintain the child ceased on the death of the mother. The statute which imposes the liability on the husband (4 & 5 Wm. 4, c. 76, s. 57,) defines also the extent or duration of such liability to be, "until such child shall attain the age of sixteen years, or until the death of the mother of such child." The latter of these contingencies has, in the present instance, arisen. As regards the settlement of the child, the Commissioners apprehend, on the authority of Reg. *v.* St. Mary, Newington, 2 Gale & Dav. 686, that it is now settled in the parish in which the husband is settled. That case decided in effect, that the case where the mother acquires a settlement by marriage is no exception to the rule prescribed by section 71 of 4 & 5 Wm. 4, c. 76, viz., "that an illegitimate child born since the passing of that Act shall have and follow the settlement of the mother until such child shall attain the age of sixteen, or shall acquire a settlement in its own right." It is clear from this provision that the illegitimate child, in the case stated, does not now revert to the settlement which the mother had before the marriage with W.

XXII.—STAMPED RECEIPTS.

1. DUTY OF CHIEF CONSTABLE TO GIVE STAMPED RECEIPTS FOR COUNTY RATE.

June 16th, 1846.

Mr. ———, *District Auditor*—Stated that some of the chief constables in his district refuse to give receipts on a stamp for county rate, where the sum paid exceeds £5 in amount; and that at the last audit, he directed several of the overseers to tender the stamp for signature, and demand repayment of the cost of it. This was accordingly done, but repayment was refused.

Ans.—There appears to the Commissioners to be no possible question as to the obligation of the high constable to give a receipt. His receipt is expressly declared to be a discharge of the overseers, &c., (see 12 Geo. 2, cap. 29, sec. 2,) and the overseers are entitled, on tender of a paper duly stamped, to have the receipt or acquittance required, and to be repaid the price of the stamp duty. The high constable refusing to give such receipt, and to repay the stamp duty, is liable to a penalty of £10 under the Act 43rd Geo. 3, c. 126, s. 5.

2. WHETHER WORKHOUSE MASTER SHOULD REQUIRE STAMPED RECEIPTS FROM GUARDIANS FOR MONEY RECEIVED FOR THEM.

May 14th, 1846.

Master of the Workhouse, South Stoneham Union—Inquired, whether he is authorised to require a stamped receipt from the guardians for moneys which he may receive for them from various sources, and which are afterwards credited to the establishment account.

Ans.—The Commissioners think that these sums referred to by the master, should be paid to the treasurer of the union, in which case, the money being paid, not in satisfaction of a demand of the treasurer, but as a sum to be accounted for by him, an acknowledgment of it to that effect is exempt from stamp duty. The same would be the effect if paid to any other officer or person accountable to the guardians. But in all such cases the acknowledgment should be of the receipt of the money "to be accounted for," (see Tomkins *v.* Ashley, 6 B. & C. 542.) In case the sums are paid to the guardians directly, and not to some person accountable to them, there is more difficulty. The money received by the master of the workhouse, is the money or property of the guardians, the property being in them, though the possession is in the master. The transfer from one servant to another of the same owner, or from a servant to his employer, the owner, is not, before some default of the servant, the "payment" or "settlement," "balance," "discharge," or "satisfaction" on a "debt" or "demand." Before any default by the servant, which default has turned that possession which he had for his master into a debt, or demand, it would appear, that the delivery of the money from the servant to the master, is not a case in which a stamped receipt can be required.

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AN

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No. 61.] CIRCULAR ISSUED SEPTEMBER 1ST, 1846.

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

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

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

I.—ACCOUNTS—WHETHER AUDITORS SHOULD DISALLOW ITEMS FOR GOODS SUPPLIED TO A UNION BY A GUARDIAN.

July 8th, 1846.

Mr. ———, —In the accounts of the ——— Union, for the half-year ended the 25th of March last, the following sums have been paid to one of the guardians; namely, £48. 8*s.* 6*d.* for printing, £1. 15*s.* for coffins, and £31. 6*s.* for a wall and gates at the union workhouse. These items were objected to as being illegal. The auditor, although he admitted the impropriety of a guardian supplying goods, &c., to the union for his own profit, did not believe that such a proceeding was illegal, and refused to disallow the items in the accounts. Inquired whether the objection to these items is valid.