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—L. 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 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. 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.

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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.

Ans.—The Commissioners have had occasion to consult counsel on a similar case, and were advised by him that, although a guardian might have rendered himself liable to a penalty for supplying goods for his own profit, the auditor had no authority to disallow the payments made to him by the guardians for goods which they had actually received, on the ground of the illegality of the supply. The auditor, therefore, appears, in the present case, to have taken the proper course in allowing the items.

II.—BAPTISMS—REGISTRATION OF, IN THE CASES OF CHILDREN BORN IN THE WORKHOUSE.

July 7th, 1846.

Chaplain of Horncastle Union — Inquired whether it is necessary to insert the baptisms which take place in the union workhouse in the Horncastle parish register-book of baptisms, as well as in the register-book provided for that purpose at the workhouse.

Ans.—Article 74, No. 15, of the Commissioners' general workhouse rules, applies to the registration of births of children born in the workhouse. The Commissioners do not contemplate baptisms in the workhouse, except in cases of emergency, where the child might be baptized in a private house. It appears to the Commissioners that the minister of the parish should deal with the baptisms of children in the workhouse exactly as he does with those of other children in the parish. The register of births does not dispense with the register of baptisms.

III.—BASTARDY.

1. ORDER OF MAINTENANCE UNDER 7 & 8 VICT. c. 101.

August 16th, 1846.

Clerk of Lancaster Union—A question has arisen as to whether the justices in a case where the mother of a bastard child has been confined in a workhouse, and has been attended by the workhouse medical officer, are empowered to comprehend in their order on the putative father, made under the 3rd section of the Act, 7 & 8 Vict. c. 101, the weekly payments from the date of the child's birth, and include also in the order the medical officer's fee for attending the confinement. It has been suggested that the relief granted to the mother might be granted by way of loan, to be recovered under the Poor Law Amendment Act, or that she might repay the same voluntarily. Requested the Commissioners' opinion on the point.

Ans.—The Commissioners are of opinion that the justices are empowered, on application made to them, under the 3rd section of the 7 & 8 Vict. c. 101, to make an order on the putative father to pay a weekly sum, to be calculated from the birth of the child, although the woman should be attended in her confinement at the charge of the union or parish. If the woman receive the money ordered to be paid by the justices, she is under no obligation to pay the amount over to the guardians or overseers. There is certainly nothing to prevent her doing so voluntarily, but whether the guardians can recover the amount from her under the power contained in the 4 & 5 Wm. 4, c. 76, sec. 58, in return for relief supplied to her, depends upon whether the Commissioners had authorised relief to be given to such woman in the particular union by way of loan, which does not appear in the case. The Commissioners cannot give any opinion as to the propriety of the justices making the order on the putative father. The above observations only apply to the expenses of the midwife. The Commissioners refer the guardians to the 7th sec. of the 7 & 8 Vict. c. 101, which renders it unlawful for any officer of a parish or union to receive any money in respect of a bastard child under an order of petty session.

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2. ENFORCEMENT OF ORDER OF MAINTENANCE IN BASTARDY, THE MOTHER BEING DEAD.

July 16th, 1846.

Clerk of Tetbury Union — Some months since an order of filiation and maintenance was made upon R. P., then a resident in Tetbury, whereby he was ordered to pay to E. P., the mother of a bastard child, the weekly sum of 1*s*. 6*d*. R. P. paid such weekly sum up to the time of the death of E. P.; but he has made no payment since that time, and the child has become chargeable to the parish of S——, in the Tetbury Union. That parish officers wish to enforce the order of maintenance against R. P., pursuant to sec. 7 of the 7 & 8 Vict. c. 101, but they are unable to procure a suitable person to take charge of the child for the weekly sum directed to be paid by the order. The justices' clerk is of opinion, that a person must be appointed to take charge of the child before proceedings can be taken against the putative father, and that the person so appointed, and not the guardians, should make the application for the enforcement of the order. Requested the Commissioners' opinion as to the recovery of the arrears due from R. P., and the enforcement of the order.

Ans.—It appears to the Commissioners, that unless a person be appointed by the justices to have the custody of the child, pursuant to sec. 5 of the 7 & 8 Vict. c. 101, the power given to the guardians by sec. 7 to make application to the justices for the enforcement of the order does not come into operation, inasmuch as it is provided that the payments made in pursuance of such application are to be made to the person appointed by the justices. In the absence of such appointment there is no person authorised to receive the money, and no payments can therefore be due under the order. No appointment can be made but with the consent of the person selected; accordingly, if from the smallness of the weekly sum to be contributed by the reputed father under the order, or for any other cause, no person can be induced to undertake the custody of the child, the result will be, that the child must, from the necessity of the case, continue chargeable to the parish. Certainly, it would not be competent to the guardians to make from the poor-rates any addition to the weekly sum paid by the reputed father; their doing so would, in fact, prevent the enforcement of the order against the reputed father (sec. 7.) Assuming, however, that the difficulty as to the appointment of a guardian for the child can be got over, the point whether during the interval between the decease of the mother and the appointment of the person to the custody, anything can be recovered from the reputed father under the order certainly arises. It appears, that in the case put in your letter, the putative father has not in fact during such period continued to make the weekly payments for the child's support, though the order was duly performed up to the time of the decease of the mother. The Commissioners are disposed to consider that no arrears are legally due from the reputed father. The order in this case was, it would seem, made since the passing of the 8 & 9 Vict. c. 10, (8th May, 1845:) such order, therefore, it is to be presumed, is in the form given by the schedule to that Act (No. 8), and in conformity with the 7 & 8 Vict. c. 101, sec. 3; if so, the order only required a weekly sum to be paid to the mother so long as she should live, or to the person who might be appointed to have the custody of the child. Now it is clear that the obligation imposed by the order towards the mother terminates with her life; and, until a person be appointed by the justices to have the custody of the child, nothing can be due to such person. In short, it appears to the Commissioners, that in the interval occurring between the decease of the mother and the appointment of the guardian, or person to have the custody of the child, there is no one to whom the weekly payments are due, or can be made; and, consequently, there are no arrears. It is true, that the guardians, by the 7th sec. (*i.e.*, where the child becomes chargeable) "may make such application for the enforcement of the order as might have been made by the mother of such bastard child if alive." Possibly, therefore, if at the time of the mother's decease, any payments were in arrear, the guardians might recover the amount; inasmuch as the mother, if alive, might have made an application for the recovery. But the guardians can have no claim in a case where it has been shown that by the terms of the order imposing the obligation on the putative father, nothing is due to the mother, or any other person. The Commissioners have only to add, that it appears to them that where an appointment is made in pursuance of sec. 5, that the person appointed must (*i.e.*, if the child be not chargeable) make application for the recovery of the payments, and that such person is alone entitled to apply. If, however, the child be chargeable, such person has no longer power to apply for the enforcement, but the guardians can alone do so under sec. 7, although some practical difficulty appears to arise in carrying this provision into effect.

IV.—BURIAL.

1. IN ROMAN CATHOLIC BURIAL GROUND.

July 21st, 1846.

The Roman Catholic Pastor of ———Inquired, whether the guardians are bound to bury a Roman Catholic pauper in a burial ground of that persuasion, if there should be one in the parish, and he has made a request that he might be buried there.

Ans.—It is necessary to premise that unless a pauper dies in any workhouse in the occupation or use of the guardians, the guardians are under no legal obligation to inter the body, (Reg. *v.* Steward, 12 A. and E. 773.) The 31st sec. of 7 and 8 Vic. c. 101, gives, indeed, an unrestricted *power* to the guardians to bury the body "of any poor person which may be within their parish or union." But though the guardians may, (*i. e.*, it is lawful for them to do this,) they are not (except in the particular case adverted to) compelled to do so. The Commissioners must, therefore, understand your inquiry,

whether the guardians can be compelled to bury a Catholic in his own churchyard, to apply to a case in which, for the reasons assigned in Reg. *v.* Steward, a duty is cast upon the guardians to bury the body of the deceased person. You will observe, upon reference to the 31st section, that where the guardians adopt the alternative course of burying the body in the parish to which the deceased was chargeable, the interment must, by the provision, take place in the churchyard, or burial ground, of the parish. If, therefore, there be any burial-ground of the parish, the provision certainly allows of the guardians burying the body therein; but it does not justify the burial in any burial-ground situate in the parish of the chargeability, (as distinguished from that in which the body is at the time, or in which the death occurred,) which does not belong to such parish. If, however, the guardians do not adopt the alternative of burying the body in the parish to which the deceased was chargeable, then the section provides that "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 the deceased person, or the husband, or wife, or next of kin, of such deceased person have otherwise desired,) 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 Commissioners understand the effect of the provision to be, that, assuming that the guardians would, where such a desire has been so expressed, be restrained from interring the body in the churchyard, or consecrated burial-ground, in or belonging to the parish referred to, *i. e.*, the parish of the death, (a proposition which may not be admitted to be clearly established,) it is apparently still a matter in the discretion of the guardians, as to where else the body shall be buried, that is, they are not compelled to inter in any particular burial-ground in the parish which the deceased or his relatives may have selected. The Commissioners, however, have no hesitation in stating their opinion, that the guardians would act most advisedly in causing the interment to take place in that burial-ground in the parish which shall be conformable with the feelings of the relatives of the deceased, according as they or such deceased person shall have expressed their wishes, unless indeed in any case it can be shown that such interment would be improper, on grounds wholly irrespective of the particular religious belief or persuasion of the deceased or his relatives.

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2. EXPENSES OF BURIAL OF NON-SETTLED POOR, HOW TO BE CHARGED.

July 18th, 1846.

Clerk of Kingsclere Union—A man residing in parish A. obtained relief from the guardians for the purpose of burying one of his children who had died in that parish. The man was not settled in A., and was not actually chargeable to any parish at the time of his child's death; but during the preceding six months, and whilst residing in A., he was several times relieved by the guardians, at the cost of parish B. The man afterwards died in the former parish, not being at the time in the receipt of relief from any parish. Inquired to which parish, in each case, the burial expenses should be charged.

Ans.—The 31st section of the 7 & 8 Vic. c. 101, enables the guardians to bury the body of any person "which may be within their parish or union respectively, and to charge the expense thereof to any parish under their control to which such person may have been chargeable, or in which he may have died, or otherwise in which such body may be." By the words "may have been chargeable," and by the words "has been chargeable," subsequently used in the same section, the Commissioners think is meant "was chargeable at the time of the poor person's decease." This appears to the Commissioners the only reasonable construction; for if a chargeability occurring some time antecedent to the period of the death of the person would suffice at all, as the foundation for charging the costs of burial to the parish, there is, apparently, no limit to the period. If the guardians could go back a month, then they might go back a year, or any number of years. This could not have been intended, and the Commissioners therefore consider, that the clause does not authorise the guardians to charge a parish with the costs of the burial merely because the pauper, at some time prior to his decease, had been chargeable to such parish, though not so chargeable at the time of his decease. In the cases put, therefore, the Commissioners think that the guardians have no alternative but to charge the cost to the parish in which the death actually took place.

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3. EXPENSES OF BURIAL OF PAUPERS DYING IN THE WORKHOUSE, HOW TO BE CHARGED.

November 27th, 1845.

Clerk of Lymington Union—Inquired whether the cost of the coffin and the burial fees for a pauper dying in the union workhouse should be debited to the establishment account, or be paid by the relieving officer, and debited by him, in the out-relief list, to the parish to which the pauper was chargeable in his lifetime.

Ans.—If the cost of the coffin and burial fees is paid by the relieving officer, it should go into the relief list, and be charged as relief to the head of the family, if the deceased was a child or wife dependent on such head. If a single person, the name of the deceased must be entered as a pauper. If the pauper resided in the union, the relief should be charged to the parish to which he was chargeable, but in no case should it be charged to the establishment account.

V.—CHARGEABILITY—OF RELIEF TO CASUAL PAUPER.

April 15th, 1846.

Clerk of Truro Union—E. T., a widow, with two children, came from the parish of Camborne, in the Redruth Union, on Tuesday, the 6th of January last, and applied at the house of the relieving officer of the Truro Union, which is situate in the parish of Saint Clement, for relief. The relieving officer offered her an order for the workhouse for the night, telling her, at the same time, that he could give her no other relief, but would bring her case before the guardians on the following day. The woman declined to enter the workhouse, and slept at a house in the parish of Kenwyn; which is also in the Truro Union. On the following day she appeared before the board of guardians, in the parish of Saint Mary, when she received an order for the workhouse, where she went and still remains. Assuming the widow to be a casual pauper, inquired to which of the above parishes her relief should be charged; and, whether all casual paupers who apply at the house of the relieving officer, in the parish of St. Clement, for relief, should be charged to that parish.

Ans.—There appears from the statement to be no ground for supposing that the pauper is settled in any parish in the Truro Union. The question of chargeability must be determined, therefore, by considerations wholly irrespective of settlement. The Commissioners conceive, that what occurred on Tuesday, 6th January last, *i.e.*, the application then made by the pauper to the relieving officer in the St. Clement parish, the offer of the workhouse and the refusal of that offer, must be put out of the question in determining the chargeability; and for this reason: As the pauper did not, in fact, accept the relief, it must be considered that she was not in such a condition, at that time, at least, as to require it; indeed, what subsequently took place shows that she had another resource. It seems that she then went to a friend's house at Kenwyn, and slept there on Tuesday night, and on the following day appeared at the meeting of the board in the parish of St. Mary, Truro. It appears to the Commissioners that the liability for the relief given on this second application rests upon one or other of these parishes; and the question is, which parish, under the circumstances, is liable—Kenwyn, where the pauper slept the night preceding the application, or St. Mary, in which the application was actually made and the relief granted. The general rule undoubtedly is, that a pauper is chargeable to that parish in which, being destitute, he applies for, and obtains relief. But the exception to this rule is, where a pauper being destitute in one parish in a union, is compelled by the nature of the union arrangements to go into another parish for the purpose of making the application for the requisite relief, as where the union workhouse, or the relieving officer's residence, is in a different parish. In this case the application, though made in the latter parish, must be regarded as constructively made in the former. If (as seems probable) the pauper were destitute and required relief in Kenwyn, on the morning on which she went to St. Mary to attend the meeting of the board, Kenwyn would, in the opinion of the Commissioners, be liable; though the application was actually made in St. Mary. The Commissioners would observe that the mere fact of sleeping in a parish, the night previous to the application, is not in itself a sufficient ground for charging that parish with the relief. It is the fact of the pauper being destitute in any given parish, not that of his having slept there, which creates the liability to afford relief. It will no doubt sometimes occur, that the pauper is destitute in the parish in which he last slept; and where that is so, as already stated, the fact of the application for the necessary relief being made in another parish, under the circumstances above referred to, will not (in a union) release the

parish in which the sleeping took place, from the obligation of giving relief.

VI.—CLERK TO GUARDIANS—Remuneration of, for duties connected with new valuation of a parish.

July 31st, 1846.

Clerk of Ringwood Union—Stated that he has been called upon to advise the overseers of Ringwood, and to attend their meetings, and also to attend special and adjourned meetings of the board of guardians, on the subject of a new valuation of that parish; and that the correspondence, contracts, and other business consequent upon the carrying into effect the resolution of the guardians for a new valuation, will, for a time, add to his duties. Inquired whether he can claim some remuneration for these additional duties.

Ans.—The Commissioners think that you have a right to make a charge against the individuals who have engaged you to advise them as to the legal proceedings necessary for providing a new valuation of the rateable property in the parish of Ringwood; but whether your charges in this respect can be paid by those individuals out of the poor-rates, is a matter for the consideration and the decision of the auditor. So far, however, as you have assisted the board of guardians in the matter, the Commissioners think no extra charge can be made; and that such assistance must be taken to be compensated by your salary as clerk.

VII.—CONSTABLES—Power of justices to order payment of fees to.

June 27th, 1846.

Mr. ———, District Auditor—Some justices in his district contend that they are empowered to direct fees to be paid out of the poor-rates to constables under the Constabulary Act, 5 & 6 Vic. c. 109, for all duties for the discharge of which such constables may fail to obtain payment from any other source; that they alone are the judges in such cases as to what should be paid; and that the district auditor is bound to allow whatever they may order, even when, as they do in some cases, they make orders on the parish officers for payment of gross sums, without any explanation of the business done. Inquired whether such orders of justices for the payment of gross sums are legal orders; and, if not, what course he should adopt in such cases in future; and whether he or the justices are to decide on the legality of the fees claimed by constables.

Ans.—The Commissioners think that the order of the justices in petty sessions is not conclusive upon the auditor, *i.e.*, does not restrain him from entering upon the inquiry, whether the sums directed by the order to be paid to the constable by the overseer, are in accordance with the prescribed Table of Fees and Allowances, and the provisions of 5 & 6 Vic. c. 109. The 17th section of that Act, it will be seen, does not give an unlimited power to the justices to order payment to the constable out of the poor-rates. The power given by the section is, in its exercise, subject to the restrictions, first, that the payment must be in respect of some duty required of the constable; next, that the duty should be one, for the performance of which some fee or allowance shall have been previously settled by the quarter sessions, for which the payment is not by law charged upon the county rates. If, therefore, the justice should include in an order of this kind any payment to the constable not relating to a duty performed by him; or, if in respect of such a duty, if the payment is not in accordance with the prescribed table, they would clearly exceed their jurisdiction, and the order (as the Commissioners are advised) cannot be binding upon the overseers. Where, however, a fee or allowance included in any order of justices, purporting to have been made under the statute, agrees with the table settled by the justices at quarter sessions, and confirmed by the Secretary of State, the Commissioners are of opinion that the auditor cannot properly disallow any such fee or allowance, even though he may doubt whether the case for which the table makes provision be one contemplated by the 17th sec. Generally, therefore, all that it will be needful for the auditor to do when any payment to parish constables is included in the accounts of the overseers, will be to refer to the established table of fees and allowances, to see whether it provides for the cases in which fees or allowances have been ordered by the justices in petty sessions; and, if so, whether the amount accords with the table: where it does so accord, the auditor's duty will be clear, *i.e.* to allow the payment; where it does not, to reject it, or rather so much of it as is not borne out by the table. There will no doubt be cases in which a sum is ordered to be paid to the constable for the performance of some duty or service, which duty is not specifically mentioned in the table, and

no fee or allowance fixed in reference to it, but the amount is claimed under some general words in the table, as "for any other occasional duty performed by order, or with the sanction of the justices." In such a case as this, the auditor's course will be attended with some difficulty, as he may, perhaps, entertain a doubt whether it was, in strictness, a part of the duty of the constable to render the service to which the payment relates. Unless, however, the case is most manifestly one not contemplated by the statute, the Commissioners think the safer course for the auditor to pursue will be to acquiesce in the decision of the justices; as it cannot be doubted that it is properly within the jurisdiction of the justices to inquire and determine whether a duty has been performed by the constable in any case for which he is entitled to payment from the poor rates; though their finding or conclusion, on this point, may possibly be erroneous. With reference to the other questions suggested by your letter, the Commissioners are of opinion that the justices cannot properly make an order under the 17th sec., for the payment of an aggregate amount of fees and allowances without any specification of the separate particulars, and that the auditor would be justified in disallowing a payment made by the overseers under such an order. The statute, indeed, appears to contemplate a separate order for each fee; but if several fees are included in one order, for the sake of convenience, they might certainly be distinctly particularised. So also, there ought to be a separate order in respect of each separate constable. With respect to the kind of fees and allowances which may be paid to parish constables out of the poor rate, under the 5 & 6 Vic. c. 109, s. 17, the Commissioners direct your attention to an opinion on that subject, given by the late Sir William Follett and Mr. Tomlinson, and contained in the accompanying copy of the Official Circular, No. 30. They also inclose a copy of their Official Circular, No. 51, which contains a communication respecting the payment of the expenses of serving the summonses on the putative father in cases of bastardy. (See page 136.)

VIII.—ELECTION OF GUARDIANS—Delivery of voting papers.

March 18th, 1846.

Clerk of Leeds Township—The General Election Order, dated the 16th January, 1845, Article 18, requires the voting papers to be delivered "at the address in each parish of the voter;" but the article bearing the same number in the Election Order of the 22nd February, 1845, addressed to the township of Leeds, requires the voting papers to be left "at the residence in the ward of the voter." In the Official Circular, vol. 4, p. 54, it seems that the Commissioners hold that it is sufficient, if the place of business of a person nominated as guardian is inserted in the column headed "residence of the person nominated." Inquired whether he would be warranted in delivering a voting-paper at the place of business of a rate-payer, in any ward for which an election might be going on, if such rate-payer do not reside thereat.

Ans.—There is some distinction between the 4 & 5 Wm. 4, c. 76, s. 40, and the 7 & 8 Vic. c. 101, s. 21. The former speaks of the *address* of parties claiming to vote; the latter requires the voter to vote in the ward in which he *resides*. The language therefore of the two Orders of the Commissioners relating to the election of guardians differs, and the Commissioners are not prepared to admit that the *place of business* will satisfy their direction for the delivery of the voting paper at the *residence*, if in fact the party does not reside at his place of business. In the late case of Q. *v.* Deighton, 5 Ad. & El. Rep. n. s. 896, the Court of Queen's Bench held that the statement of the place of business of a party nominated as an alderman of a borough, did not satisfy the statute which required his place of abode to be set out.

IX.—GUARDIAN.

1. Withdrawal of refusal to serve as guardians.

April 1st, 1846.

Clerk of Wortley Union—Mr. J., one of the guardians for the parish of E. for the past year, having been nominated for the same office for the present year, sent a letter, (not being aware at the time that he had been nominated,) stating that it was his intention to decline standing again should he be put in nomination; but, being subsequently induced to alter his intention, he wrote another letter, consenting to stand for the office. Inquired whether, under the above circumstances, the first letter is such a refusal to serve the office of guardian as cannot be recalled or withdrawn by the person nominated.

Ans.—In the opinion of the Commissioners Mr. J.'s letter, containing his provisional refusal

to act, was a refusal within the meaning of the 9th section of the 5 & 6 Vic. c. 57; and, consequently, cannot be withdrawn. That section speaks of the refusal of "any person put in nomination for the office of guardian;" and it appears, from your statement, that at the time when Mr. J. wrote the letter in question, he was, in fact, a person put in nomination, although he was not aware of it. The Commissioners therefore think, so far as regards Mr. J., the election ought not to be further proceeded with.

2. QUALIFICATION FOR THE OFFICE OF GUARDIAN.

April 2nd, 1846.

Clerk of Llanelly Union—H. W. has been nominated for the office of guardian for one of the parishes of the union. The annual value of the property for which he is rated is £15; but his wife, who lives apart from him, is assessed to the poor-rate, in her own name, for the house in which she resides, and the annual value of the two houses would give him a qualification. Inquired whether H. W. has a sufficient qualification for the office of guardian under the circumstances above stated.

Ans.—The point appears to the Commissioners to admit of considerable doubt; but they are, on the whole, disposed to consider that, as H. W. is not, in point of fact, assessed to the poor-rate in respect of the house occupied by his wife, the value of that house cannot be included in the calculation of his qualification. If you consider that H. W. is not duly qualified, you should pursue the course pointed out in the 12th Article of the Election Order.

X.—LUNATIC PAUPERS—DUTY OF MEDICAL OFFICER AS TO VISITING AND MAKING RETURNS OF.

June 22nd, 1846.

Mr. ——, *Bury Union*—Inquired, with reference to the recent statutes relating to pauper lunatics,—1st, Whether idiots are to be included in the quarterly returns of the medical officers of Unions. 2ndly, Whether such medical officers are bound to visit, once a quarter, the pauper lunatics belonging to parishes in their respective districts, but resident out of the Union.

Ans.—The Commissioners have had occasion to communicate with the Commissioners in Lunacy on the second point raised in your letter, and the Commissioners in Lunacy seem to be of opinion that the requisitions of the statute will be satisfied if non-resident paupers, receiving relief through the agency of the officers of the Union in which they live, are visited by the medical officer of such Union: consequently, you will not be required to go out of your district to visit non-resident pauper lunatics in such cases. The Poor Law Commissioners apprehend, with reference to your first question, that, according to the meaning given to the word "lunatic," by the interpretation clause, 8 & 9 Vic. c. 126, s. 84, it is the duty of the medical officer to visit, under section 55, every pauper who may come within the description in that section, and who is either an "insane person," or an "idiot," or a "lunatic," or a person of "unsound mind."

XI.—MEDICAL RELIEF.

TO ABLE-BODIED MEN'S WIVES IN CONFINEMENT.

Dec. 21st, 1844.

Clerk of Ringwood Union—The guardians experience great difficulty in deciding upon the applications of able-bodied men for medical relief during their wives' confinement. The guardians are aware that the decision in each case ought, and in fact must, depend upon the particular circumstances of such case, and it is their practice to refuse the relief applied for where the husbands are in regular employment, and have less than four children; but, at the same time, they think that some general rule should be adopted for the guidance of the relieving officers when applied to for medical relief in such cases. Requested the Commissioners' opinion upon the subject.

Ans.—The Commissioners are of opinion that it is impossible to regulate this matter by general rule. The discretion as to whether or not an order shall be given, as the guardians very truly state, must be exercised in the individual cases by the guardians themselves and their relieving officers. It is conceivable that the urgency of a case may outweigh all considerations of how many children the man has, and what he ought to have saved out of his earnings for this purpose. The difficulty of such cases is a difficulty inherent in all detailed administration of a poor law, whatever may be the system pursued, or the constitution of the authorities to whom the discretion to give the order is entrusted.

March 28th, 1846.

Clerk of Ringwood Union—I. Application has been made to the guardians for an order

on the medical officer to attend the wife of an able-bodied bricklayer, who generally earns 18*s*. per week, but is now out of work, and has a wife and four children dependent upon him for support. 2. A single woman, aged 19, has applied for an order for the medical officer to attend her, and has been offered admission into the workhouse, where she will receive medical attendance, but she refuses to accept the offer made to her. Requested some explicit instructions for the guidance of the guardians in the first case; and, as regards the second, to be informed whether the guardians would be justified in refusing the order for the medical officer to attend at the applicant's lodgings, she being in a condition to go, or be removed, to the workhouse.

Ans.—With respect to the first case, the Commissioners refer the guardians to the above letter of Dec. 21st, 1844. The Commissioners are unable to add anything to the opinion (which they still hold,) expressed in that letter, except to remark that in any such case in which there may be a doubt as to the destitution of the applicant, the Commissioners think that the guardians might direct that the medical relief be given by way of loan; in which case, it is necessary that the relief be declared to be a loan, at the time it is given, and that the pauper be at the same time so informed. With respect to the second case above-mentioned, (in which the inability of the applicant to procure the necessary medical attendance for herself appears to be admitted,) the Commissioners are of opinion that an offer of an order of admission into the workhouse, where the pauper would receive the attendance of the medical officer in her confinement, is a sufficient offer of relief, so long as the pauper is in a fit state to go, or be removed, to the workhouse. If, however, in such a case, the pauper persist in refusing to avail herself of the offer of admission to the workhouse, and an order for the attendance of the medical officer on the pauper at her lodgings be withheld, the guardians should direct the relieving officer carefully to watch the case; as, if the application for medical relief be renewed, or the guardians or relieving officer are otherwise aware of the destitution of the applicant, at a later period, when she might be in an unfit state to be removed to the workhouse, it would then become the duty of the relieving officer to give an order for the attendance of the medical officer at the pauper's lodgings, and this notwithstanding her previous refusal of an order of admission to the workhouse. The Commissioners desire to add that the guardians will observe that the second exception to art. 1 of the general prohibitory order leaves it to the discretion of the guardians to grant relief out of the workhouse, where a person shall require relief on account of any sickness, &c., affecting such person or any of his family.

XII.—MIDWIVES—EMPLOYMENT OF TO ATTEND PAUPERS.

May 8th, 1846.

Clerk of Isle of Wight Incorporation—Inquired if the guardians are acting illegally in giving out relief to paupers for the payment of midwives; and in paying fees to their medical officers to instruct such midwives in their duties, so as to enable them to attend the wives of paupers during their confinement.

Ans.—The Commissioners are of opinion that there is nothing in the provisions of the general law, or of the local act, relating to the administration of relief to the poor within the Isle of Wight, which makes it imperative on the guardians to employ their medical officers in cases of women in labour, or which prevents the guardians from employing midwives to attend in such cases. The Commissioners, moreover, see no objection to the employment of midwives in cases of ordinary labours, provided that the persons employed in that capacity be competent to discharge properly the duty which they undertake. To ensure this, as far as practicable, they should be selected with care; and the guardians would do well to ascertain from the medical officers of the respective districts, whether they are aware of any objection to the particular persons proposed to be employed. The guardians should impress upon the midwives who may be employed by them that the medical officer is to be called in in all cases of emergency. With respect to the guardians paying fees to their surgeons for instructing and qualifying midwives to attend the wives of paupers, the Commissioners are not aware of any provision of the law which will authorise them in saying that such fees can be legally paid out of the poor-rates.

XIII.—OVERSEERS.

1. EXCESSIVE RATE MADE BY OVERSEER, REMEDY OF RATE-PAYERS.

June 16, 1846.

Clerk of ——— *Union*—The guardians of

the parish of ——— have complained to the board of guardians that the overseers of that parish have made a rate which will leave in their hands a balance of £50, after paying all demands upon the parish for the present quarter. He has advised the board of guardians that they have nothing to do with the matter, and that the only remedy for the rate-payers is by appeal to the justices. Requested the Commissioners' opinion on the subject.

Ans.—The matter is not one within the control of the board of guardians. The law requires the overseers to raise by rate sufficient funds for the relief of the poor, but they are not, therefore, justified in making an excessive rate. The rule is thus stated by Lord Kenyon in the case of Durant *v.* Boys, 6 Term. Rep. 580. "A rate may be made prospectively, not indeed *wantonly*, but such as is adapted for the probable exigencies of the parish." The Commissioners apprehend that the remedy for an excessive rate is by appeal against it. But the overseers are also punishable by indictment for any abuse of their office: for instance, if the overseer do not provide for the poor he is indictable, (Tawney's case Viner's ab. title Poor, p. 415,) and it would seem equally an offence to tax the ratepayers improperly and without a sufficient reason for so doing. It must, of course, be shown, in a case of this kind, that the overseer acted wilfully: an error in judgment, or mere inadvertence, would not expose him to an indictment.

2. ERECTION OF PARISH STOCKS.

Aug. 25th, 1846.

Mr. ———, *Pontypool Union*—Inquired whether the overseers of ——— can provide new stocks for that parish, in the place of the old stocks which have been removed for the purpose of erecting buildings on the ground on which they stood.

Ans.—It is not the duty of the overseers of the poor to provide and maintain the stocks, as they are not liable for payments chargeable at common law on parishes. The liability for the provision and maintenance of the stocks appears to the Commissioners to be a matter of some obscurity; but probably it may be considered as an obligation resting on the constable. If he incur any expense in discharging this obligation, he may introduce that expense into his accounts, and submit it to the vestry in accordance with the provisions of the 18 Geo. 3, c. 19, sec. 4; and if passed by them, it will be payable by the overseers, but not otherwise.

XIV.—PARISH—PERAMBULATION OF BOUNDARY OF.

August 1st, 1846.

Mr. ———, *Ringwood Union*—Inquired whose duty it is to perambulate the boundary of a parish; how often it should be done; and from what fund the expenses are to be paid.

Ans.—The Commissioners are not aware of any provision of law which requires any particular parish officer to perambulate the parish at any time—still less at any particular time. But the 7 & 8 Vict. c. 101, s. 60, provides that "all expenses properly incurred by the same officers (*i.e.* the parish officers) on the perambulation of the parish, and in setting up and keeping in proper repair the boundary stones of the parish, provided that such perambulations do not arise more than once in every three years," shall be paid and allowed to the parish officers out of the poor-rates of the parish.

XV.—PAUPERS.

1. CUTTING THE HAIR OF, ON ADMISSION INTO THE WORKHOUSE.

July 9th, 1846.

Master of Workhouse, Aylesbury Union—Inquired, whether the Commissioners have issued any order with respect to the cutting of the hair of paupers (adults and children) who come into the workhouse with their heads in a dirty state, and infested with vermin; and requested the Commissioners' advice and instructions for his guidance.

Ans.—The master of a workhouse is not justified in law in forcibly cutting the hair of any adult pauper against his or her expressed wish. It was held in the case of Ford against Skinner, (4 Carr and Payne's Reports, p. 239,) that an overseer could not justify the cutting of a pauper's hair in the workhouse by force. On the ground of this decision the Commissioners, some years back, directed proceedings to be taken against the master of the Croydon Union workhouse for having used undue violence in cutting a pauper's hair immediately before he left the workhouse. On the other hand, the Regulations of the Commissioners prescribe that a pauper should be *thoroughly cleansed* on admission into the workhouse; and, if a pauper refuse to submit to anything *absolutely necessary* to cleanse his person, he is guilty of a breach of the rules; and would be punishable as disorderly, he being thereby guilty of misbehaviour within the meaning of the Act of 55 Geo. 3, c. 137. Cutting the hair is not, however, the only mode of cleansing the

head, nor is it (except in very rare cases) absolutely essential to that operation. With regard to children, the Commissioners think that the guardians may cause their hair to be cut whenever it may be necessary or proper.

2. CLAIM TO PROPERTY OF DECEASED PAUPERS.

March 5th, 1846.

Mr. ——— *St. Leonard's, Hythe*—A widow, named R., having died in 1832, and apparently without any kin, the overseers of St. Leonard's Hythe buried her and took possession of her effects, which they sold, and, having paid the expenses of her funeral out of the proceeds, there remained a balance of £5. 2*s.* 1½*d.* This balance was placed to the general account of the parish, in order that it might be paid to any lawful claimant who should subsequently come forward to demand it. The widow's son, who was absent from England at the time of her death, has now made application to be paid the amount of the balance, and the Commissioners' advice is requested upon the subject.

Ans.—The Commissioners collect from your statement that the overseers of 1832 brought the money which is now claimed by the son of the widow R., into the general account of the parish, pursuant to the resolution of the vestry; that is, they used it for the purposes of that year. Now the parish had no claim whatever to this balance, and the overseers of the period, therefore, certainly acted without legal authority in so applying the money. It seems to the Commissioners that the present overseers have no concern with the claim now made; neither can the present rate-payers (who had no benefit from the application of the money) be called upon to pay the amount claimed in this case.

3. PUNISHMENT OF PAUPERS.

Dec. 15th, 1845.

Clerk of Rochford Union—1. A female pauper, who has an illegitimate child, having been guilty of great indecency in the workhouse, was put on an allowance of bread and water for twenty-four hours by the master, and desired to pick a small quanty of oakum. When the time of punishment expired, the pauper refused to do the work assigned to her, and she was in consequence taken before a justice of the peace as a refractory pauper and committed to the house of correction for seven days. She was sent to prison in the union clothes; and the master having learned that she committed the offence for the purpose of being sent to gaol, in order that when the term of her imprisonment expired, she might quit the place and leave her child in the workhouse, applied for instructions to the guardians, who directed him to attend at the gaol at the expiration of the pauper's imprisonment for the purpose of receiving her from the gaoler and restoring her to her duties in the workhouse. Requested the Commissioners' opinion as to the legality of the course pursued by the master in compliance with the guardians' directions. 2. The justices for the petty sessional division in which the Rochford Union is situate, object to hear any complaint against a pauper brought from the workhouse unless such complaint be made in writing, by the master or matron, and a summons served upon the pauper in the usual manner. Inquired whether a summons is necessary in such cases.

Ans.—1. The Commissioners think that neither the guardians nor the master of the workhouse, acting under their directions, had any authority to hold the pauper in custody, and to require her return to the workhouse upon her discharge from gaol at the expiration of the term for which she was imprisoned. It is entirely in the discretion of the pauper, in such case, whether she will return or not. It is altogether a different question, whether if, after her discharge she allowed her child (for whose support she was legally liable) to continue chargeable in the workhouse, she having the ability in whole or in part to maintain such child, she could be punished under 5th Geo. 4, c. 83, for the neglect to maintain it. The Commissioners think she could be so punished. 2. If the pauper is guilty of the refusal to work, or any other of the offences to which section 5 of 5th and 6th Vic. c. 57 applies, then it is not necessary, either that there should be a written complaint, or that a summons should precede the hearing of the case. Any person offending under the section cited, is to be deemed to be an idle and disorderly person within the meaning of the Act 5th Geo. 4, c. 83—An Act for the punishment of idle and disorderly persons, and rogues and vagabonds, *i.e.*, that the offender is punishable in the same manner as offenders under 5th Geo. 4, c. 83, are punishable. Now as regards such persons, the 6th section of that Act provides "that it shall be lawful for any person whatsoever to apprehend any person who shall be found offending against this Act, and forthwith to take and convey him or her before some justice of the peace, to be dealt with

in such a manner as hereinbefore directed." The master might, therefore, as the Commissioners consider, take any inmate persisting in his refusal to perform his appointed task of work, at once before the justices, without the intervention of a summons or a warrant. The case may be, and the Commissioners are inclined to think is, different where it is sought to punish a pauper for misbehaviour in the workhouse under the 55th Geo. 3, c. 137, sec. 5. There is no power given by that Act to the master to apprehend the pauper, and he cannot, therefore, compel his attendance before the justices until furnished with a summons or warrant. But the Commissioners are not satisfied that in such a case the complaint upon which the summons or warrant might be founded need be in writing.

XVI.—POOR-RATES.

1. AUDITOR'S DUTY WITH REGARD TO.

June 13th, 1846.

Mr. ——— *District Auditor*—Inquired what is his duty with respect to passing poor-rates which have not been signed by the churchwardens or overseers, or allowed by the justices; and to the correction of errors contained in such rates.

Ans.—Where a rate or assessment has not been allowed by justices, and is not capable, therefore, of being enforced, all that will be necessary on your part as auditor will be to debit the overseers in their accounts with the sums which they collect on such rate or assessment, the overseer being accountable for all moneys professedly raised as poor-rate, and applicable to the relief of the poor. You cannot, however, hold the overseer responsible for what they do not collect under such an informal rate, as not being binding upon the persons included in it, there is no power of recovery. Where a rate is duly signed by the overseers, allowed by the justices, and published, though defective in some particulars, you have no power, as the Commissioners consider, to correct errors in the amounts entered in the column "Rate at—— in the £—," or where there may be an omission to insert in that column the amount assessed on any property, to supply such omission. If, however, the totals of that or any other column be incorrectly cast up or calculated, you can, and, indeed, should, correct the error, as such a correction is obviously not an alteration of the rate, *i.e.*, of the sum or proportion assessed on any occupier.

2. WHETHER THE COST OF ERECTING A "DEAD-HOUSE" MAY BE CHARGED ON POOR-RATES.

May 6th, 1846.

Mr. ————.—The rector of W. has given notice of his intention to prevent dead bodies, cast ashore in that parish, being removed to a place called the "bone-house," situate in the churchyard, and has called upon the churchwardens and overseers to erect a suitable place for the reception of such bodies. Inquired whether the expenses of erecting such a building can be paid out of the poor-rates.

Ans.—The Commissioners are not aware of any authority under which the overseers of W. could lawfully apply the poor-rates of the parish to the erection of such a building as you advert to, however desirable it may be that such a building should be available for the use of the parish.

XVII.—RATING.

1. TITHE RENT-CHARGE—DEDUCTIONS FOR PAYMENTS TO PERPETUAL CURATES.

July 10th, 1846.

Clerk of Wells Union—Inquired whether, in assessing the tithe rent-charge of a parish to the poor-rate, deductions should be made therefrom on account of payments which the vicar is bound to make to the perpetual curates of three chapels of ease in the parish.

Ans.—The Commissioners think these payments do not form part of the deductions which can be lawfully made or allowed for in such case. These payments are nothing more, apparently, than a division of the net value of the tithe or rent-charge, between the tithe-owner, (the vicar) and other persons to whom he thinks proper, or may have been, in some peculiar manner, liable to pay them. The cases establish the principle that the overseers, in assessing the poor-rate upon any property, are to look to those who immediately receive the whole profit or value, without reference to the subsequent distribution of that profit, or value, amongst different persons. In the case of Rex *v.* Woking, 4 Adol. and Ellis 40,) it was held that, in estimating the profits of a canal for the purposes of the poor-rate, the compensation made to certain persons out of the profits derived by the company were not deductable before the rate was assessed, as such compensations were "in the nature of a rent charge." The principle of that decision seems applicable to the present case, and the Commissioners desire to refer you to it accordingly, and to the judgment of Lord Denman.

2. RATING TOLL HOUSES.

August 26th, 1846.

Mr. ——— *District Auditor*—Toll-bar keepers, who are generally paid a small sum for their services, (often not more than five shillings per week,) live in the toll-houses rent-free, and are permitted to carry on any trade, avocation, or employment, for their own profit, provided it does not take them away from their attendance on the gate. Inquired whether this employment carried on by the toll-bar keepers for their own profit, creates a beneficial occupancy distinct from the exemption given in the 4 Geo. 4, c. 95, s. 31; and whether it renders these houses liable to be rated, if not to their full value, at least to a reduced amount, according to circumstances; and further, whether the exemption in the above-cited Act extends to any garden or land attached to such toll-houses.

Ans.—Your inquiries seem to relate generally to toll-houses of every description on turnpike roads; but the 4 Geo. 4, c. 95, s. 31, to which you allude, has reference exclusively to "any house or building erected or used by the trustees of any turnpike-road for the residence or accommodation of persons appointed for weighing any waggons or other carriages." Under this enactment, the Commissioners are disposed to think that the houses and buildings thus described, are exempted absolutely from the rate; and that, while they are used for the residence or accommodation of the persons appointed for weighing waggons, the fact of their being also applied to some other use would not render them rateable. But the Commissioners think it possible to construe the 51st section of the 3 Geo. 4, c. 126, somewhat differently. That enactment provides, that no toll-house erected, or to be erected, for the purpose of collecting the tolls on any turnpike-road, shall be assessed. So far, therefore, as such toll-houses are erected for the sole purpose of collecting the tolls, they are exempt; but it seems to the Commissioners that, if such houses afford any accommodation beyond what is fairly required for the collection, the occupiers might be rateable for such excess of accommodation, on the principle of the decision in R. *v.* Terrott, (1 Bott. 213; 3 East. 506.) The Commissioners are of opinion that neither the 3 Geo. 4, c. 126, sec. 51, nor the 4 Geo. 4, c. 95, s. 31, has the effect of releasing any garden or other land (not used for the purpose of weighing, or the collection of tolls) attached to the toll-houses, from the rate.

XVIII.—RELIEF.

1. POWER OF RELIEVING OFFICER AND OF GUARDIANS IN THE CHARGING OF.

August 11th, 1846.

Clerk of Colchester Union—If a pauper, residing in parish A., applies to the relieving officer for relief, stating that he belongs to B., can that officer debit the latter parish with the relief given in the case? Can the guardians transfer the cost of the relief of a pauper from parish A. to parish B., with the consent of the officers of the latter parish, who, at the time they give such consent, believe the pauper to belong to their parish?

Ans.—The relieving officer has no authority finally to determine the relative liabilities of parishes in a union in respect of relief given to paupers who become destitute in such union. Where persons are relieved by the relieving officer in the intervals of the weekly meetings of the board of guardians, it is the duty of the relieving officer, when he reports to the guardians the fact of the relief, and seeks their confirmation of his act, also to take their instructions as to the charging of the relief; the relieving officer may indeed make a provisional entry of the relief as against some parish, but it must await the confirmation of the guardians, whose province it is to determine the parish liable for the relief—having regard to the facts and the law of the case. The law does not, however, invest the guardians with any power to determine or adjudicate questions of settlement; and if in any case, therefore, it be proposed to charge the relief of a pauper to a parish on the ground of a presumed settlement in such parish, an admission of the settlement in such parish, and the concurrence of such overseers in the proposed charge must be first obtained.

2. POWER OF JUSTICE TO ORDER RELIEF TO SICK PERSONS.

July 30th, 1846.

Clerk of St. Thomas Union.—A. H., a person in service at Littleham, having become ill, obtained an order upon the Devon and Exeter Hospital for medical assistance, and has been made an out-patient of that hospital, and directed to reside in Exeter, in order that she may have the benefit of frequent attendance on the medical officers. She requires relief, but as it is asserted that she neither belongs to Littleham nor to

Exeter, the former place objects to relieve her, and the latter, if she becomes chargeable, will take steps to remove her to the place in which she is legally settled. A justices' order, made under the Exeter local Act, has been served upon the overseers of Littleham, directing them to pay her 3*s.* 6*d.* a week, which order the overseers refuse to obey, on the ground that she is not settled in that parish. Inquired what steps the guardians should take in this and similar cases.

Ans.—The Commissioners are not prepared to say how far the overseers are justified in resisting the order made on them by the justice in the case of A. H., merely on the ground that they dispute the fact adjudged in the order, that A. H. is legally settled in the parish of Littleham. But the Commissioners are disposed to consider, that the order is not binding upon the overseers upon another ground, and which probably may not have occurred to the justice who made the order. The 54th sec. 4 & 5 Wm. 4, c. 76, it will be seen, gives to the guardians, where they exist, the exclusive ordering, giving, and directing of all relief to the poor of any parish for which such guardians act, (except in the particular instances defined by the section, in which overseers and justices may do so,) and concludes with this proviso, "but it shall not be lawful for any justice, or justices, to order relief to any person or persons from the poor-rates of any such parish, except as hereinbefore provided." Now the cases so provided for are—1. Where the overseer, in a case of sudden and urgent necessity, may have neglected to give relief, then the justice, by writing under his hand and seal, may order the overseer to give such temporary relief, in articles of absolute necessity, as the case may require, but not in money. 2. A justice may give an order for medical relief (only) to any parishioner, as well as out-parishioner, where any case of sudden and dangerous illness may require it. It appears to the Commissioners that in the case of a union, or a parish, otherwise under the control of guardians, the 54th section operates as a repeal of the particular provision in the Exeter local Act, 25 Geo. 3, c. 21, sec. 10 & 11, (under which latter statute the order in the present instance purports to have been made,) and that, as regards any poor person settled in such union or parish, a justice is not now empowered by the local Act, last mentioned, to order out-relief *in money.* There is a manifest repugnancy in the two provisions. The power given to the justice by the local Act, 25 Geo. 3, c. 21, secs. 10 & 11, to order an out-patient of the Devon and Exeter Hospital to be relieved, in such manner as the exigency of his or her case may require, by the overseers of the parish of the settlement, (though such out-patient be residing out of such parish,) is clearly at variance with the latter provision, giving to or vesting in the guardians of such parish, or of the union in which such parish is comprised, the exclusive ordering of relief, and expressly limiting the power of the justices in this respect to certain specified cases, of which the ordering of relief in money to a non-resident pauper is not one. The two powers cannot, as it appears to the Commissioners, subsist together, and they think that the negative or restraining words in the proviso of the 54th sec., already cited, do, in effect, repeal the provision in the local Act. The Commissioners do not see, as the facts are stated in your letter, that the guardians of the St. Thomas Union are called upon to interfere in the case. The order of the justice, supposing it to be legal, is binding upon the parties to whom it is addressed, (*i.e.*, the overseers of Littleham,) and not on the guardians. But if the order cannot be sustained, the guardians, certainly, cannot of their own authority give relief to A. H. while she continues to reside out of the union at the charge of Littleham, as the alleged settlement of the pauper in that parish, is a fact not admitted by the overseers of Littleham.

3. RELIEF ADVANCED BY GUARDIANS OF ONE UNION TO PAUPERS BELONGING TO ANOTHER.

April 2nd, 1846.

Clerk of Boston Union—The guardians of the Boston Union are frequently requested by the guardians of other unions to advance relief to paupers who are about to remove into that union. Inquired whether the Boston guardians can legally advance the relief required; and whether they can recover the amounts so advanced if the auditor should refuse to allow the same in the accounts.

Ans.—So far as the Commissioners are concerned, they are never desirous of raising the point of the legality of an allowance to non-resident poor in the case of the union where it is paid, but in that in which the allowance is ordered. It is for the board of guardians, ordering the allowance, to satisfy the board consenting to act as agents in the matter as to the legality of the relief to be paid. If this is not done, the Boston board of guardians may properly refuse to act as the agents of the board allowing the relief, if they think right to do so. Whether in the case of an illegal allowance the board of guardians acting as agents could recover the money, depends upon the nature of the guarantee under which they act.

XIX.—REMOVALS.

1. MODE OF CHARGING EXPENSES OF REMOVING IRISH POOR.

May 23rd, 1846.

Clerk of West London Union—Inquired whether the expenses incurred in the removal of poor persons to Ireland, under the 8th and 9th Vic. c. 117, should be charged, under the 2nd section of that Act, to the establishment account, or to the account of the particular parish to which such poor person may have been chargeable.

Ans.—The Commissioners are disposed to consider that the terms of the 2nd section of the 8th and 9th 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 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 (*i.e.* the common fund) shall be charged where there is a union, and the parish where there is no union.

2. REMOVAL OF DESERTED WIFE AND CHILDREN TO SCOTLAND.

August 21st, 1846.

Clerk of Louth Union—Inquired whether a woman, whose husband has deserted her, can be removed, with her children, to the place of her birth in Scotland, under the provisions of the 8th and 9th Vic. c. 117; both husband and wife being natives of Scotland, and not having gained a settlement in England.

Ans.—The Commissioners think the question, which depends upon the proper construction of the Act referred to, is by no means free from doubt. The language of the statute does not clearly warrant the removal of the children of a man, except in the case where the man is also removed; and as the removal is an act depriving a party of liberty to a certain extent, the courts would not give any extension to the language of the statute. The Commissioners can only state, therefore, that the justices must satisfy themselves of their authority in the matter, which, to say the least, is open to question.

XX.—SETTLEMENT—BY ESTATE.

July 24th, 1846.

Clerk of Festiniog Union—A. D., whose maiden settlement was in the parish of Beddgelert, resided for several years prior to, and down to the time of her first marriage, with her mother (a widow), at a cottage, in the parish. The cottage was rented in the mother's name, though A. D. paid half the rent, owned most of the furniture, and considered that she had an equal interest in the cottage with her mother. About sixteen years ago A. D. married W. R., who thereupon came to reside with his wife and mother-in-law in the above-mentioned cottage, where he continued to live up to the time of his death (three years subsequently), and paid one moiety of the rent. Three years after W. R.'s death A. D. married J. D., who then came to reside in the cottage with his wife and mother-in-law, the latter dying twelve months afterwards. J. D. paid half the rent of the cottage up to his mother-in-law's death, and some arrears of rent due from her at her death. After this he rented the cottage on his own account, and continued therein for the following twelve months, when he removed to the village of Penmorfa. He stayed there two years, when he removed to Nantmor, in the parish of Beddgelert, where he remained for a year, and then deserted his wife, and went to North America. A. D. continued in the cottage at Nantmor for twelve months after her husband had left her, and received relief during half that time from the parish of Beddgelert. She afterwards went into service in the parish of Llanfrothen, where she continued for two years, and left in May, 1845. She was also in service for several months last year in the parish of Ynyscynhaiarn; from thence she went to Liverpool to see her son-in-law, and after remaining there a fortnight, visited her aunt at Pynllan, in the parish of Dolbenmaen, with whom she continued two or three weeks, and then removed to Llanfrothen, where she stopped a week. She afterwards went to Beddgelert for one night, and then returned to Dolbenmaen, where she resided for a week, but left, in consequence of the guardian of that parish objecting to her longer residence there, and went direct to the workhouse, which is in the parish of Llanfihangel-y-traethau. She

obtained an order for admission into the workhouse, but returned to Dolbenmaen, and on the guardian of that parish again objecting to her residence there she entered the workhouse, where she now is. A. D.'s second husband, so long as he continued with her, resided within ten miles of the parish of Beddgelert, and she has also resided within that distance, except during her journey to Liverpool. Inquired to what parish the cost of the relief of A. D. should be charged.

Ans.—If, as the Commissioners suppose, A.D. was sole next of kin, and was in possession of the cottage in Beddgelert when her mother died, it would seem, according to the decisions, that on such death taking place—though letters of administration were not taken out by A. D., she had such an estate in the property as is recognised by the law as one which would have conferred a settlement. This estate being an interest in a term of years vested in her husband by operation of law, and therefore it seems that he gained a settlement by forty days' residence upon it. But J. D. certainly lost the settlement so acquired when he ceased to inhabit within ten miles of the parish; and the question arises, did A. D. lose her settlement also? The Commissioners are disposed to think that she did; not, however, by the operation of the 68th section, but of the general law. In Reg. *v.* Wendon, 2 Gale & Dav. 394, the 65th section was held only to extend to a settlement gained by the party's own possession of the property in the parish, and not to a derivative settlement. Now the settlement which A. D. had in Beddgelert was derived from her husband. The mere fact of her ceasing to inhabit within ten miles of Beddgelert did not in itself, according to the decision referred to, affect or destroy her settlement. But the rule of law established by a series of decisions (and to which the Commissioners are aware of no exception) is, that where a man has a known settlement, that is, the settlement of his wife, a wife cannot gain a settlement separate and distinct from her husband during the coverture. J. D. having lost his settlement in Beddgelert by non-residence, is referred by the 68th section to the settlement which he acquired by his inhabitancy in Beddgelert. The case, as regards him, is as though he never gained a settlement in that parish. The same, in the opinion of the Commissioners, holds as to the wife, who cannot retain what her husband has lost, otherwise she would have a settlement distinct from her husband; a position for which the Commissioners know of no authority, and which is at variance with the tenor of the decisions and opposed to the policy of the law. The Commissioners, on the whole, think that A. D., if chargeable to any parish in the Festiniog Union, is removable to the parish to which the husband, if chargeable, could be removed, and to that parish only. With respect to the parish liable for the relief of A. D. by her admission into the workhouse, the Commissioners are disposed to consider that, as the facts are stated, Dolbenmaen is liable. The pauper, it seems, was residing there, and apparently was destitute in that parish, inasmuch as it seems she went direct from that parish to the union workhouse, situate in Llanfihangel. Her only object in going to Llanfihangel was to obtain the relief which she stood in need of while in Dolbenmaen, in which latter parish the application would, no doubt, have been made, if the union arrangements had allowed of it; *i. e.* if the workhouse had been situate, or the relieving officers of the district had resided therein. If, however, on further inquiry, the facts should show that the pauper was not destitute in Dolbenmaen, but was destitute for the first time when she came to Llanfihangel, the latter parish would be liable as the parish in which both the destitution occurred and the application for relief was actually made.

XXI.—VACCINATION—Charging cost of to parishes to which paupers belong.

July 6th, 1846.

Clerk of Hungerford Union—Requested to be referred to an authority (if any such exists,) for charging the cost of vaccinating the pauper inmates of the workhouse to the several parishes of the union, to which such paupers respectively belong.

Ans.—Although perhaps the vaccination of a pauper in the workhouse might possibly have been considered as relief to such pauper, and if so, the cost would, according to the 56th section of the Act 7 & 8 Vic. c. 101, be chargeable to the parish to which the pauper relieved is chargeable, yet the Act 4 and 5 Vic. c. 32, sec. 2, expressly declares that it shall not be deemed to be parochial relief. The Commissioners therefore see no ground for charging the cost in question "to the parishes to which the inmates vaccinated are chargeable."

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SUPPLEMENT.

RETURNS RELATING TO THE ADMINISTRATION OF THE POOR LAW, MADE TO PARLIAMENT DURING THE SESSION OF 1846.

Andover Union.—Report of the Select Committee appointed to inquire into the administration of the Poor Laws in the Andover Union, and into the management of the union workhouse, and into the conduct of the Poor Law Commissioners, and their late Assistant Commissioner, Mr. Parker, with reference to the two investigations held at Andover, and into all the circumstances under which the Poor Law Commissioners called upon Mr. Parker to resign his Assistant Commissionership; and who were instructed to inquire into all the circumstances under which Mr. Day was called upon to resign his office of Assistant Poor Law Commissioner; and who were empowered to report the minutes of evidence taken before them, together with their observations and opinions thereupon, to the House. (H. of C. 663.) Ordered to be printed 20th Aug. 1846.

Andover Union.—A copy of the depositions taken before Mr. Pigott, the Assistant Poor Law Commissioner, at the late investigation into the conduct of Mr. M'Dougall, jun., the schoolmaster of the Andover Union. (708.) Moved for by Mr. Etwall. Presented 28th Aug. 1846.

Atcham Union — Compulsory resignation of Relieving Officer.—Copies of all correspondence of the Poor Law Commissioners relative to the compulsory resignation of Mr. Forester Cross, formerly a relieving officer of the Atcham Union. (429.) Moved for by Mr. Christie. Presented 19th June, 1846.

Barrow-upon-Soar Union—Treatment of Aged Paupers in Workhouse.—Copies of the depositions taken by Mr. Weale, Assistant Poor Law Commissioner, in an inquiry into the treatment of aged paupers in the Barrow Workhouse, and of Mr. Weale's Report, and of Correspondence of the Poor Law Commissioners on the subject. (430.) Moved for by Mr. Christie. Presented 19th June, 1846.

Bone-Pounding in Workhouses.—Copy of any letter and general rule issued by the Poor Law Commissioners relative to the employment of paupers in pounding, grinding, or otherwise breaking bones, or in preparing bone-dust, with copies of any answers from the several boards of guardians remonstrating against such general rules. (75.) Moved for by Captain Pechell. Presented 20th February, 1846.

Bone-Pounding in Workhouses.—Copy of the minute recording the dissent of one of the Poor Law Commissioners to the issue of the order of the 8th day of Nov. 1845, prohibiting the employment of paupers in workhouses in pounding bones.

Copy of a Report of the secretary of the Poor Law Commissioners on bone-crushing. (432.) Moved for by Captain Pechell. Presented 16th June, 1846.

Bromley Union—Dietary Table.—A copy of the diet table now in use in the Bromley Union Workhouse, stating the quantity of meat in the meat pudding allowed once a week to the able-bodied labourer:—Also a copy of any correspondence between the guardians and Commissioners on the subject of increasing the diet. (554.) Moved for by Mr. Wakley. Presented 30th July, 1846.

Cerne Union—Dismissal of Workhouse Master.—Copies of the minutes of the board of guardians of the Cerne Union, in the county of Dorset; and all correspondence of the Poor Law Commissioners relative to the dismissal of the late master of the union workhouse at Cerne. (549.) Moved for by Mr. Sheridan. Presented 30th July, 1846.

Clothes for Infants on leaving Workhouse—Cricklade and Wootton Bassett Union.—Copy of letter written by the Poor Law Commissioners to the guardians of the Cricklade and Wootton Bassett Union, on the subject of allowing clothes for infants born in the workhouse, on their leaving, if otherwise unprovided. (234.) Moved for by Mr. Christie. Presented 23rd April, 1846.